

April 1, 2014

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

By personal, hand-delivery

Sirs:

Through this letter I wish to formally protest Mr. Maciel's remarks at the March 18, 2014 City Council meeting, in which he accused me of telling "half-truths" regarding my alleged claim that he had refused to talk to me about my concerns with City staff. Mr. Maciel went on to say that it was half-true, because he told me that "since you had made formal personnel complaints against staff members, it would be inappropriate for me to discuss that with you."

While I did not have a clear recollection of saying that Mr. Maciel had refused to talk to me, my records indicate that, indeed, over three years ago on Feb. 15, 2011 I said: "Mr. Maciel, you have stated that this is a personnel issue and that you will not discuss it."

In fact, my statement was fully consistent with Mr. Maciel's version of the incident. The only half-truth, or un-truth, was Mr. Maciel's description of my remarks as half-true. I'd like to remind Mr. Maciel that when he makes such careless and inaccurate comments, as a former Captain in the Tracy Police Department, his remarks reflect poorly on the department as a whole.

I'd also like to clarify for the record the circumstances of Mr. Maciel's refusal to discuss City staff misconduct. I actually twice attempted to provide Mr. Maciel with information related to staff misconduct, and on both occasions he refused to meet with me, stating that "I should not and will not" discuss personnel matters. This all sounds very fine and proper, but in reality it is absurd. This Council has direct supervisory authority over the City Manager, and in the case of potential misconduct by the City Manager, to fail to listen too or receive the evidence is a direct violation of the trust of the people of Tracy. It is a willful choice not to see the evidence of misconduct. I attach my written communication with Mr. Maciel on this matter, and his response, for the record.

Mr. Maciel also said that he had referred me to the Grand Jury, so "Don't say you've never been referred." This was fully accurate, and I consequently need to clarify that my remark during the March 18 meeting that "I wasn't referred to any of these people" was with specific reference to Mr. Hampton's claim that I had been referred to the District Attorney's office and to the State Attorney General's office and his statement that "it's not that we don't refer people." I am quite certain that Mr. Hampton's statement was false on both of these counts. I went to the District Attorney and Attorney General on my own.



Paul Miles
Tracy

RE: Meeting request

Subject: RE: Meeting request
From: "Michael Maciel" <Michael.Maciel@ci.tracy.ca.us>
Date: 2/10/2011 4:27 PM
To: "Miles Family" <catch-all@6miles.us>

Dear Mr. Miles,

As I stated during our conversation after a recent council meeting, at this point I believe it is inappropriate for me, as an elected official, to become involved in the issues you have raised. With many of your concerns involving personnel matters, I should not and will not discuss them. I again urge you to present your concerns to the San Joaquin County Grand Jury. I believe their number is 209-468-2827.

Sincerely,

Michael Maciel

From: Miles Family [mailto:catch-all@6miles.us]
Sent: Wednesday, February 09, 2011 8:27 PM
To: Michael Maciel
Subject: Meeting request

Dear Mr. Maciel,

I have now received Mr. Churchill's response to my complaints against the Tracy Police Department, which you will find attached. Contrary to Mr. Churchill's statements, there is unimpeachable documentary information supporting the allegations, from which one must conclude that both the investigators within the TPD and whoever investigated the complaint against Chief Thiessen have submitted false reports.

I would like to repeat my earlier request that you make the time to meet with me to individually review this information. I anticipate that a meeting of less than 1 hour will be sufficient.

I am not seeking any commitment or action from you, but only wish to provide you with the accurate information you require for the proper governance of the City.

Sincerely,

Paul Miles

Day: 925 294-1512

Evenings: 209 832-4659

e-mail: paul@6miles.us

April 1, 2014

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

By personal, hand-delivery

Sirs:

I was disappointed to see that the Powerpoint presentation that I submitted to this Council on the topic of Citizen Police Review Boards on March 18, 2014 was not made available to the public.

The presentation was highly critical of City Staff, the City Council, and the Police Department. It also documented inconsistencies in the police complaint statistics presented by Mr. Hampton and highlighted contradictions between the City's interpretation of the law and the concrete examples of Citizen review that exist in other cities.

Nevertheless, there is no legal basis for denying the general public equal access to these materials. To do so would be a violation of the Brown Act. I am accordingly submitting these materials again with the request that they be included in the Handouts of tonight's meeting.



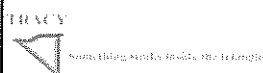
Paul Miles
Tracy

Considerations Relevant to Civilian Oversight of the Tracy Police Department

Overview:

- Do we need oversight?
- Types of oversight
- Implementation Issues

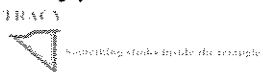
March 18, 2014



Does Tracy Need Civilian Oversight?

- Three-fourths of the largest cities in the United States have established some form of citizen law enforcement review. **This represents a de facto public finding that civilian oversight is appropriate and necessary.**
- Police departments throughout the nation are plagued with problems. To believe that "it can't happen here" is naïve
- The total number of complaints is unimportant:
 - What is important is how these complaints are investigated/handled
 - New procedures seem designed to keep the reportable complaint count down (TPD 1020.3(f))

"In the long run, only an independent investigative body can allay public suspicions of the police and render a convincing exoneration of police who have been accused of misconduct."



Professors Jerome Skolnick and James Fyfe (a former Deputy Commissioner for the NYPD)

Examples of Complaints that were "Not Sustained"

TPD Definition of "Not Sustained" (J-16): "The investigation failed to disclose a preponderance of the evidence to prove or disprove the allegation"

Jan 1, 2011 Allegations against ex-Chief J. Thiessen:

Allegation: "No response to (formal police) complaints was made, in a violation of Penal Code §832.7"

Evidence: The response does not exist; Penal Code §832.7 requires a response

If the TPD is unable to produce the response, this allegation *must* be sustained.



There are multiple similar allegations that were not sustained despite equally clear-cut evidence

A Second "Not Sustained" Example

Oct 22, 2009 Allegations against Prof. Standards Officer A. Sheneman

Allegation: Sheneman's report falsely stated that "an independent review of the traffic collision was conducted by the California Highway Patrol."

Evidence: Sheneman's report; letters from the CHP (twice) denied a review

Allegation: Sheneman falsely reported witness testimony regarding vehicle speed; speed was never discussed in Mr. Sheneman's interview. Sheneman omitted contradictory testimony from a second witness

Evidence: Digital recordings of Witness testimony directly contradict Sheneman's report

Allegation: Sheneman elicited testimony and established that elements of a police report were false, but concealed this information and re-affirmed the report.

Evidence: Sheneman's report, digital recordings of Witness/Party testimony

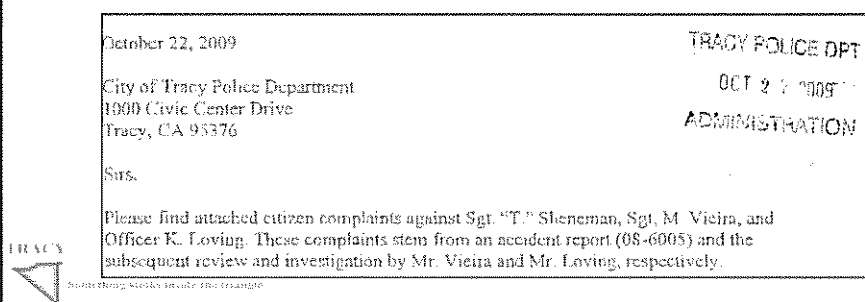


The evidence is clear and indisputable, and the law is unambiguous. Mr. Hampton's signature is on the notification of disposition.

What do the complaint statistics say?

Year	Citizen Complaints (CC)	Administrative Inv. (AI)	Interactions
2009	0	7	61,422
2010	5	4	59,227
2011	10	4	54,115
2012	5	3	59,005
2013	4	6	60,164
Total	24	24	293,933

Zero complaints in 2009? I filed 3, plus an additional complaint against the Chief with the City Managers office



Smoke & Mirrors?

- “Likewise, the infrequent necessity to convene an Administrative Investigation supports the assertion that the Tracy Police Department holds its personnel to the highest professional standards...” or that the TPD simply doesn't do enough administrative investigations
- “Because Tracy is a general law city, any review or advisory panel/board ... must be created in an advisory capacity only” Charter Cities *do* have greater freedom to hold *public* hearings, but I am unaware of any statute restricting civilian investigations/reviews in general law cities (review panels/auditors exist for general law cities Davis & National City)
- “California GC § 38630 gives control of the police department specifically to the chief of police who has the sole responsibility for investigating citizen complaints against members of the police department” GC § 38630 says nothing about who will perform investigations. This is defined by policy per PC § 832.5



At the least, you need more information!

- “California state law also specifically regulates the process for receiving, investigating, reporting and maintaining records of citizen complaints filed against peace officers” ... also defined by policy per PC § 832.5
- “Therefore, duties that cannot be transferred from the purview of the Police Chief ... include ... the review of police officers’ personnel files”
This statement does not seem to follow from any point of law, but rather from the idea that the union won’t like it...

If there is a basis for these statements, cite the case law!



Examples of the Need for Policy Oversight

- Written policy complaints regarding surreptitious recording of Citizens suspected of no crime, in the privacy of their own homes, received no response.

The Tracy Police have failed to identify any legal basis for this practice

- Current complaint policy removes the requirements:
 - For timely investigations (old: 30 days; new: undefined)
 - To treat the complainant with courtesy
 - Not to discourage complaints
 - To keep the complainant informed
- Complaints that are not sustained are not in the personnel file
- Weak definition of “not sustained” (not “fully” exonerated)



Examples of the failure of city officials to provide effective oversight

- Failure to investigate/respond to complaints for over 15 months
- Explicit refusal to comply with California law by City Manager Churchill and City Attorney Sodergren
- False reports of investigations by Churchill and Sodergren
- Failure to follow procedures mandated by statute in later investigations
- City Council repeatedly ignored requests for intervention
- City leaders falsely stated that disciplinary action against Churchill/Sodergren had been taken
- Public denial of misconduct by City leaders despite clear evidence in their possession



(behavior recently repeated in the matter of Mr. Churchill's credit card abuse)

Nothing sticks inside the triangle

What about other oversight bodies?

"The Tracy Police Department is currently subject of [sic] oversight by the following independent external bodies:"

Local

- City Manager's Office X
- Civil Courts X
- City Council X
- County Grand Jury
- District Attorney X
- Special Interest Groups ?
- Criminal Courts X
- Media X

State

- Attorney General X
- DMV (??) X
- Appellate courts X

Federal X

- Federal Bureau of Investigations
- United States Attorney Office
- Federal Courts
- Federal Grand Jury



Nothing sticks inside the triangle

Arguments for Police Oversight

- Powers of law enforcement officers make it imperative that members of the public have a means of redress
- External, community-based review will promote positive behavior, ensure greater accountability, and deter malpractice.
- Improved public perception of police accountability
- Provides law enforcement feedback from those who are not part of the system
- Educates the public about law enforcement work
- Percentage of sustained complaints increases
- Exoneration of accused officers is convincing



Some things, some things inside the triangle

Arguments Against Police Oversight

- Citizens without intimate knowledge of law enforcement procedures not qualified to review
- Professional law enforcement administrators remain above the political fray (we haven't seen this in Tracy)
- Financial and human costs may be burdensome
- Potential negative impact on morale
- Examples of dysfunctional programs are plentiful
- No substitute for good Internal Affairs units and ethical leadership
- Reviewers may be handpicked and will not operate independently

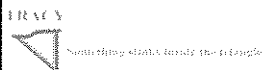


Some things, some things inside the triangle

Small California Cities with Civilian Oversight (pop.)

Berkeley	(115,400)	Claremont	(35,500)
Davis	(66,000)	National City	(59,400)
Novato	(53,300)	Palo Alto	(66,400)
Richmond	(106,500)	Santa Cruz	(62,000)
Sausalito	(7,000)	Tulare	(60,900)

*Tracy is **not** too small*



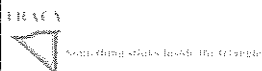
Political Reality

Approximately 80% of the American public favors civilian review

Even police organizations acknowledge the desirability of oversight:

"Granted that some form of citizen review is probably politically desirable, the central question for law enforcement now essentially concerns the best type of citizen review board"

The Police Chief, vol. 70, no. 10, October 2003



Types of Civilian Oversight

- **Autonomous review commissions**
 - Citizen board handles each step of a complaint investigation
 - Generally opposed by police officers; Expensive
- **Citizen board for oversight with review of investigations as needed**
 - Most prevalent solution
 - Review could be optional except for allegations of force/bias (Tulare)
 - Must have subpoena power
 - Provides an appeal mechanism
 - Can make policy recommendations
- **Citizen appeal board**
 - Must have subpoena power
 - Does not protect the timid/uneducated
- **Citizen advisory committees**
 - Does not provide for appeal/redress
- **The individual auditor**
 - Low overhead
 - Greater potential for bias



Something works better. The Triangle

Small Cities with Citizen Boards for Oversight

- **Berkeley:** 8 appointed members plus Mayor
- **Claremont*:** 7 members
- **National City*:** 8 members, one is non-voting representative of POA
- **Novato*:** 5 member board
- **Richmond:** 9 member commission, empowered to conduct hearings
- **Tulare:** 8 members, one is non-voting representative of POA

See Appendix A for examples of resolutions creating these boards



Something works better. The Triangle

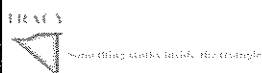
* General law city

Small Cities Employing Independent Auditors

- Davis* : Independent auditor
- Santa Cruz Independent auditor
Contract group out of Pasadena: OIRgroup.com
- Palo Alto Independent auditor

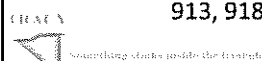
See Appendix B for details

* General law city



Implementation Issues

- Can be minimized by modeling policies in other California Cities
- Crucial elements:
 - Mission (goals) and Authority must be clearly defined
 - Subpoena power
 - Discipline recommendations?
 - Implementation details defined
 - Funding
 - Qualifications of board members/auditors
 - Training requirements
 - Measures of effectiveness
- Important to establish working relationship with police leadership
- Balance between privacy rights and government transparency
 - Details of sustained complaints should be released (80 Cal.App.3d 913, 918)



Characteristics of a successful oversight program

- Addresses barriers to accountability:
 - Shortcomings in recruitment, training, and management are common to all Cities
 - Officers who repeatedly commit ethical violations are a small minority but are protected by silence and by flawed systems of oversight, and accountability.
- Absolutely unimpeachable standard of independence, objectivity, and fairness.
- Treats every complainant and witness with dignity and respect
- Does more than identify single acts of misconduct. Focuses on preventing recurrence
- Mandatory response to policy recommendations



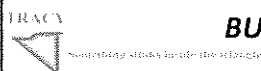
Summary

- We have a clear, documented history of police and city official negligence in the City of Tracy.
 - Complaints go uninvestigated
 - Disposition of complaints not consistent with evidence
 - Policies discourage accountability
- We can't do this half-heartedly. If you form a powerless panel you will waste everyone's time and money

"In the end, one must trust the integrity and competence of officers and the leadership of the chief. To depend too much on formal review systems... is to be dangerously shortsighted"

The Police Chief, vol. 70, no. 10, October 2003

**CITIZEN REVIEW IS ONLY ONE
BUILDING BLOCK OF ACCOUNTABILITY**



April 1, 2014

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

By personal, hand-delivery

Sirs:

I write to document the recent unprofessional and unacceptable behavior of the City of Tracy Chief of Police Gary R. Hampton. Two weeks ago, during the March 18, 2014 discussion of the potential formation of a Citizen Board to provide for reviews of police complaint investigations, Mr. Hampton made a number of false, misleading, and defamatory statements. In what follows I am correcting, for the record, just two of those statements.

The first statement had to do with my response to Mr. Maciel's indication that the Tracy Police Department never claimed to have had a formal review of a collision report performed by the CHP, contrary to the clear statement in then Professional Standards Officer Sheneman's report "...an independent review of the collision investigation was conducted by the California Highway Patrol." During the March 18 meeting I stated: "I wrote them a letter and said hey, did you review this? It can't be right. And they wrote me back and said 'No'." "And then Chief Thiessen wrote to the CHP, telling them she wanted a letter on letterhead saying that they had reviewed this [report], and the response she got back was a copied letter to me, emphatically denying such a review."

At this point Mr. Hampton interrupted me, stating: "Mr. Miles is not only inaccurately [*sic*], but outright being dishonest in his testimony before the City Council. I'm sitting here looking at the investigation with letters from CHP that just is contrary to what he just said."

I submit for the record relevant communications between myself and the CHP [Attachments 1-4] and Ms. Thiessen's August 19, 2009 e-mail to CHP Lt. Mangan [Attachment 5]. Ms. Thiessen's e-mail states in relevant part: "I would like to request a brief letter ... on CHP letterhead that he did, in fact, review this collision at the request of Sgt. Sheneman." The letter I received from the CHP, dated August 26, states: "The Tracy CHP Area *did not* provide a formal review of the investigation, but merely discussed the definition of a School Zone, applicable Vehicle Code Sections, and relative [*sic*] elements of the CHP Collision Investigation Manual."

Every word I said during the March 18 meeting is completely supported by the written documentation. If Mr. Hampton would like to argue that discussing definitions and applicable code sections constitutes a review, and if he wishes to explain why glaring factual errors in the report were not corrected, then we can have that conversation. However, Mr. Hampton's claim that I was inaccurate and outright dishonest, and that the CHP letters contradicted my statements, was both knowingly false and a willful act of defamation.

Mr. Hampton's second false statement related to my description of the history of my complaints, which I described as follows: "...[T]he first one was: this is a problem; this report was not accurate. I didn't even

ask for it to be changed. What I got back was a supplemental report that made it worse...it's kind of snowballed from there."

Mr. Hampton responded to this with the statement: "I'm also looking at letters from him back in 2008, requesting a change in a traffic collision report so that he could recoup the \$2000 in medical."

Accordingly, I am submitting for the record my first complaint, dated Oct. 4, 2008 [Attachment 6], in which I made no request for action of any kind, but merely pointed out that the "report neither serves justice nor promotes safer motoring" and that "it has seriously damaged the credibility of the Tracy Police Department." To avoid any possible claim of confusion, I also submit my remaining letters to the Tracy Police Department from 2008 [Attachments 7 and 8]. Nowhere do I request a change in the collision report. I received no response to either of these letters.

It wasn't until February 15, 2009 [Attachment 9], after 4 ½ months of negligence, dishonesty, delay, and violation of law and policy on the part of the Tracy Police that I contacted then newly hired Chief Thiessen requesting that she "take responsible, visible action to ensure that citizen complaints are acted on appropriately in the future, and correct the factual errors and false statements made in the above referenced reports."

With his second statement, it was Mr. Hampton who again engaged in outright public dishonesty in his testimony before this Council. Mr. Hampton has also publically accused me of libel, on more than one occasion. Yet he has never submitted a single bit of evidence to support this. On the contrary, the attached documents, demonstrate clearly that Mr. Hampton has engaged in defamation.

There are multiple additional examples of public dishonesty on Mr. Hampton's part that I will address in future communications. For now it is sufficient to note that you have selected a man with a documented history of dishonesty related to public official misconduct to investigate and audit potential financial misconduct on the part of other City staff. This is hardly the way to regain the public's trust in City Government.

It is likewise ridiculous to expect that Mr. Hampton can instill an ethic of honesty and integrity into the Tracy Police Department. An effective Chief of Police must lead by example.



Paul Miles
Tracy

27 June, 2009

Attachment 1

California Highway Patrol
Inspector General Operations, Office of Investigations
P.O. Box 942898
Sacramento, CA 94298-0001

Dear Sirs,

I am writing to draw your attention to an abuse of the office and reputation of the California Highway patrol (CHP) in an effort too conceal and/or legitimize misconduct on the part of officers of the Tracy Police Department (TPD).

In connection with a complaint I filed with the TPD, the CHP was asked to review local police report 08-6005, dated June 26, 2008. Tracy Police Sgt. "Tony" Sheneman was the officer in charge of reviewing the report. My two substantive complaints were that:

- 1) The statement of W-1 was misrepresented, and demonstrates the falsity of Sgt. M. Vieira's statement in the supplemental report: "I also found there to be a contributing factor of vision obscurement for P-2 created by the position of W-1's vehicle location..." A copy of the witness's signed statement is appended for your reference.
- 2) The posted speed limit was incorrectly cited as 40 mph. The accident occurred within a clearly posted 25 mph school zone, school was in session, and children were entering the school (classes started at 8:15, the accident occurred at 7:49).

In the summary letter I received from Tracy Police Chief J. Thiessen, she stated that your review concurred with the original report. It is not plausible that the CHP would have validated this report had they been provided with the actual posted speed limit and supporting data, along with an accurate rendition of the witness statement. If accurate facts and statements were not provided to the CHP, then engaging your organization to lend legitimacy to this report was a deception.

It is my hope that your organization will take steps to ensure that similar abuses do not occur in the future.

Sincerely,

Paul Miles
1397 Mansfield St.
Tracy, CA 95376

cc: CHP Tracy Field Office
385 W. Grantline Road
Tracy 95376-2547

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

P. O. Box 942898
Sacramento, CA 94298-0001
(916) 843-3060
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)

Attachment 2



July 7, 2009

File No.: 006.14419.12710.2009-078

Mr. Paul Miles
1397 Mansfield Street
Tracy, CA 95376

Dear Mr. Miles:

Commissioner Santiago received your correspondence dated June 27, 2009, and asked me to respond on his behalf. In your letter, you expressed your dissatisfaction with the California Highway Patrol (CHP), Tracy Area. Specifically, you believe that the Tracy CHP attempted to "conceal" misconduct on the part of the Tracy Police Department. Additionally, you believe that your traffic collision report (#08-6005), conducted by the Tracy Police Department, was reviewed by the Tracy CHP.

The Department realizes in matters dealing with the outcome of accident investigation reports, there sometimes will arise a difference of opinion between the investigating agency and the party involved. Upon reviewing your correspondence; however, the CHP does not have traffic investigative authority within the city of Tracy, or the authority to review your traffic collision report. A member of my staff confirmed that the Tracy Area CHP did not review or assist the Tracy Police Department with regards to your traffic collision report.

I understand that you are still dissatisfied with the findings of your report. Perhaps, the best way for you to now proceed is to advance your concerns to the Department of Justice (DOJ). For your convenience, I have included their contact information below:

Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550
(916) 322-3360

Sincerely,

A handwritten signature in black ink, appearing to read "E. J. Barkley".

E. J. BARKLEY, Captain
Commander
Office of Investigations

Safety, Service, and Security

16 August 2009

E.J. Barkley, Captain
Office of Investigations
California Highway Patrol
PO Box 942898
Sacramento, CA 94298-0001

Re: File No.: 006-14419.12710.2009-078

Dear Captain Barkley.

In response to your July 7, 2009 letter, I would like to thank you for your clarification of the authority and level of involvement of the CHP in reviewing my son's traffic collision report.

I would also like to clarify one misunderstanding. In my original 27 June 2009 letter, I did not intend to imply dissatisfaction with or misconduct on the part of the Tracy area CHP. My concern was that the CHP had been manipulated by the City of Tracy Police Department through the provision of false or incomplete data.

Sincerely,

Paul Miles
1397 Mansfield St.
Tracy, CA 95376

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

P. O. Box 942898

Sacramento, CA 94298-0001

(916) 843-3060

(800) 735-2929 (TT/TDD)

(800) 735-2922 (Voice)



Attachment 4

August 26, 2009

File No.: 006.14419.12710.2009-078A

Mr. Paul Miles
1397 Mansfield Street
Tracy, CA 95376

Dear Mr. Miles:

I received your correspondence dated August 16, 2009, regarding clarification my staff provided to you concerning your son's traffic accident report (#08-6005) conducted by the Tracy Police Department (PD), and the level of involvement of the California Highway Patrol (CHP), Tracy Area.

The initial information I received was that the Tracy CHP Area did not review your son's accident report. Since that time; however, I have been informed that the Tracy CHP Area Accident Investigation Officer informally reviewed collision information, including a supplemental, with Tracy PD investigators. The Tracy CHP Area did not provide a formal review of the investigation, but merely discussed the definition of a School Zone, applicable Vehicle Code sections, and relative elements of the CHP *Collision Investigation Manual*.

Should you have any further concerns regarding this matter, you may contact the Tracy Area directly at (209) 835-8920.

I appreciate the opportunity to be of assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "E. J. Barkley".

E. J. BARKLEY, Captain
Commander
Office of Investigations

cc: Valley Division
Tracy Area
Tracy Police Department

Safety, Service, and Security

Janet Thiessen

Attachment 5

From: Janet Thiessen
Sent: Wednesday, August 19, 2009 11:47 AM
To: 'amangan@chp.ca.gov'
Subject: FW: Police misconduct
Attachments: CHP.pdf

Lt. Mangan,

It was very nice to meet you this morning at the San Joaquin County Chiefs meeting. I look forward to working with you and continuing to work with the staff of the Tracy office of the California Highway patrol.

I am sending you this email and requesting your assisting in clearing up a misperception with a citizen here in Tracy. Earlier this year, I was contacted by Mr. Paul Miles who expressed concerns about the manner and findings in a traffic collision that involved his son in 2008. The collision report is filed as a Tracy Police Department report #08-6005. Mr. Miles' son was riding a bicycle at the intersection of Schulte and Lauriana in the city of Tracy when he collided with a passenger car travelling west on Schulte. The investigating officer found Mr. Miles' son to be at fault.

I assigned the case to my Professional Standards Unit investigator for review and advised Mr. Miles that we would conduct an independent review of the case. Sgt. Tony Sheneman from Tracy PD contacted CHP Officer Robert Rickman to ask for assistance. Officer Rickman put Sgt. Sheneman in touch with Officer Dave Slate and they reviewed the collision report together due to there being several factors in dispute. My understanding is that Officer Stone concurred with our agency's assessment of the factors involved in assigning fault.

Mr. Miles' contacted the CHP office in Sacramento who advised that the Tracy office did not review or assist with regards to the collision report. If the CHP office only looked at logs for the day of the collision in June 2008, this would hold true. However, our contact with the Tracy office of the California Highway Patrol took place in the spring of 2009. I would like to request a brief letter from Officer Slate on CHP letterhead that he did, in fact, review this collision at the request of Sgt. Sheneman.

Your assistance and that of your personnel would be greatly appreciated as I work toward resolving Mr. Miles concerns about the Tracy Police Department.

Sincerely,

Janet M. Thiessen
Chief of Police
Tracy Police Department
1000 Civic Center Drive
Tracy, CA 95376
209-831-6575 office
janet.thiessen@ci.tracy.ca.us

From: Sharon Davis **On Behalf Of** Council
Sent: Wednesday, August 19, 2009 8:44 AM
To: Brent Ives; Michael Maciel; Steve Abercrombie; Suzanne Tucker
Cc: Leon Churchill; Janet Thiessen; Daniel Sodergren
Subject: FW: Police misconduct

From: Miles Family [mailto:catch-all@6miles.us]
Sent: Tuesday, August 18, 2009 7:52 PM
To: Council
Cc: leon.churchill@ci.tracy.ca.us; efirpo@tracypress.com

9/21/2009

4 October 2008

Mr. David Krauss, City of Tracy Chief of Police
1000 Civic Center Drive
Tracy, CA 95376

Dear Mr. Krauss,

My purpose in writing is to draw your attention to omission of facts and a lack of objectivity in police report 08-6005, describing an automobile accident that occurred on 26 June 2008 between my son Dev Miles (a bicyclist) and Ms. Leslie L--- (a motorist).

There are two crucial omissions in this report:

First, my son told the responding officer that he entered the intersection on a yellow signal, a statement that is not inconsistent with the statements of any of the other parties or witnesses. However, the report records that he stated that he entered the intersection when the light was "not green," wording that seems designed to mislead. The report goes on to conclude that the cause of the accident was violation of VC 21453(a) by my son—a red signal violation. There is no physical evidence or other reason to reach this conclusion, and an objective consideration of the statements of all parties would lead to quite the opposite conclusion: that Ms. L--- was in violation of VC 21451(a)—by failing to yield the right-of-way to other traffic lawfully within the intersection, even though she had the green signal.

Second, irrespective of an unequivocal determination of who had the right-of-way, the physical evidence strongly points to careless and inattentive vehicle operation on the part of Ms. L---. Given reasonable estimates of my son's speed and Ms. L---'s stated speed, she traveled over 150' (half the length of a football field) from the time my son entered the intersection until she struck him broadside. Because the intersection where the accident occurred is entirely free of visual obstructions (see the attached photo), it is difficult to imagine that this would be possible had she exercised due regard for the safety of others. The report makes no indication that inattentiveness was a factor, nor were the obvious implications of the physical evidence considered.

I do not deny that my son shares responsibility for this accident. Nevertheless, an unbiased assessment of the facts leads me to assign the bulk of the responsibility for this accident to Ms. L---.

Your department has a responsibility to impartially report facts and to reach objective conclusions. This report neither serves justice nor promotes safer motoring. Moreover, in my view, it has seriously damaged the credibility of the Tracy Police Department.

If you feel that my understanding of the facts is flawed, or that my assessment of this report is not valid, it is my hope that you will contact me and offer further clarification. I will be happy to meet with either you or the responding officer at your convenience.

Respectfully,

Paul Miles
1397 Mansfield St.
Tracy, CA 95376

9 November, 2008

Chief of Police
1000 Civic Center Drive
Tracy, CA 95376

Dear Sir,

In response to Mr. Krauss's letter of 20 October 2008, Sergeant Michael Vieira has indeed contacted me regarding the concerns I expressed regarding bias and inaccuracy in police report 08-6005, which describes an accident between a motorist and my son, a bicyclist. Mr. Vieira has been generally courteous and prompt in his responses to my enquiries. However, he has by no means appropriately addressed my concerns. After carefully considering our interaction, I conclude that with respect to every substantive issue, Mr. Vieira has misrepresented the law, made no attempt to verify facts, or evaded the issue.

I find Mr. Vieira's supplemental report particularly troubling. He chose not to correct known errors and omissions of material facts (that the accident took place in a school zone, that the speed limit cited in the report was incorrect, that the motorist exceeded the speed limit, that motorist inattention was a major contributing factor), yet fabricated and included in his report a theory of vision obstruction to excuse the motorist's inattention. This theory cannot be supported by the facts in the original report and is directly contradicted by the description of the incident recounted to me by Witness 1. Needless to say, Mr. Vieira's review has done little to restore my confidence in the objectivity or integrity of the Tracy police department. Moreover, in light of §125, I believe his supplemental report constitutes a violation of §118.1 of the California penal code.

My original complaint likewise involved a possible penal code violation, and merited far more serious attention than it received. Submission of accurate and unbiased reports is also a civil duty. In breaching this duty, the Tracy police department has denied me the opportunity—short of litigation—to obtain a fair settlement to cover my son's medical costs. Beyond breach of duty, the original report may have also violated sections 1709-10 of the California civil code. Finally, I believe that any reasonably supported report of bias in the actions of a peace officer is a red flag warning of possible subornation. Failure to appropriately investigate such a report is a breach of duty to the entire community.

Accordingly, I am requesting that you provide a good-faith review of my original complaint, as well as an investigation of Mr. Vieira's supplemental report. To justify the statements I have made above, and to assist with your reviews, I have attached a summary of each of the major issues I had with the original report and Mr. Vieira's response to these issues.

I have no desire to make any false or unsubstantiated statements, and will welcome any correction to my understanding of the facts or clarification of the applicable law that you can provide. To this end, I will be happy to meet with you or your representative at your convenience. I can be contacted by telephone at 832-4659 (after 6:00 PM) or by e-mail sent to paul@6miles.us.

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

15 February, 2009

Janet M. Thiessen
City of Tracy Chief of Police
1000 Civic Center Drive
Tracy, CA 95376

Dear Chief Thiessen,

I have previously contacted Mr. R. Golphin on 9 November 2008 and again on 18 December 2008 regarding a biased, inaccurate police report (08-6005) and the subsequent actions taken by the Tracy traffic supervisor, M. Vieira. Mr. Vieira failed to conduct a good-faith review of my initial complaint, misrepresented several aspects of the law, and filed a supplemental report that did not correct factual errors, omitted additional material facts, and contained a demonstrably false, apparently retaliatory "finding." In my 18 December letter, I also requested a copy of the Tracy Police Department (TPD) procedure for investigating citizen complaints, which §832.5 (a) (1) of the California penal code requires to be made available to the public.

I have received no response acknowledging the receipt of my complaint, much less its disposition, as is required by §832.7 (e) (1). Likewise, my request for a copy of the investigative procedure has been ignored.

At this point, all of the evidence available to me suggests the following:

- 1) There is no responsible, functional internal review system in place within TPD to hold its officers accountable for their actions
- 2) The highest leadership of the TPD has chosen to disregard or failed to enforce the requirements of California law
- 3) The TPD believes they have no duty to correct reports submitted by their officers that contain false statements and omit material facts, even when these reports are prejudicial to citizens

My main objective in pursuing this complaint is to ensure that the officers and the leadership of the TPD are held responsible for their actions and to remind them that they, also, are subject to the law. I do not wish to impede the efficient functioning of the TPD or to divert resources from everyday law enforcement. However, there is no justification for failing to appropriately investigate or respond to citizen complaints alleging officer misconduct—or for breaching the duty to submit accurate, unbiased reports. I have accordingly requested that the Attorney General's office review the above referenced reports and the actions of the past TPD leadership for compliance with California law.

My request of you is that you take responsible, visible action to ensure that citizen complaints are acted on appropriately in the future, and correct the factual errors and false statements made in the above referenced reports.

If you believe that resolution of my complaint will be facilitated by personal discussion, please do not hesitate to contact me. If my concerns are met with reasoned, factual discussion rather than deception and denial, I think you will discover that I can be receptive. I can be reached during the day at (925) 294-1512, in the evenings at (209) 832-4659, or by e-mail at paul@6miles.us.

Sincerely,

Paul Miles
1397 Mansfield St.
Tracy, CA 95376

TEEN EMPOWERMENT OPEN HOUSE

Tell your friends and family about this event

WHERE

CPFSJ, Family Resource Center, Healthy Connections
35 E. 10TH ST. TRACY CA 95376

TIME

4pm-6pm

DATE

April 11, 2014

**FOR MORE
INFO CALL**

(209)229-4926

