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March 20, 2009

Mr. Jeff Philpot
Acting City Administrator
City of San Luis
P.O. Box 3720
1030 E Union Street
San Luis, Arizona 85349-3720

Re: SAN LUIS POLICE DEPARTMENT ADMINISTRATION

Dear Mr.Philpot:

As you know this firm represents the San Luis Police Officers Association ("SLPOA") and serves as general counsel to the SLPOA's parent union, the Arizona Conference of Police and Sheriffs, Local 7077 ("AZCOPS"). The SLPOA and AZCOPS have asked us to write you to share their deepening concern with the slumping performance of the Police Department Administration and to propose solutions to this serious problem.

PROBLEMS IN THE POLICE DEPARTMENT

1. LACK OF ADEQUATE WRITTEN POLICIES

We assume that by now you have reviewed the hearing officer's report in the Lugo case. One of his principal findings was that the Department failed to create and follow uniform written policies. We understand the Department has recently issued some policies, but those policies fail to address many, many critical areas in law enforcement. Certainly, you understand that a modern police department must have management that understands the critical nature of written policies and the need to follow those policies. We see no movement in this direction by your current Department Administration.

2. FAILURE TO FOLLOW POLICIES IN PROMOTIONAL PROCESS

Last week the Department, without any announcement or competitive testing process, promoted two employees; one to lieutenant and another to sergeant. The Police Department Administration completely ignored the San Luis promotional policies HR-2.01(A), HR-2.02(A)(3) and HR-2.08(A), - all which call for fair and competitive hiring and promotional practices.

The norm in public employment, and especially in police departments, is to: (1) announce the openings, (2) have a competitive process, and (3) award the position to the best qualified candidate. Your PD Administration did none of these things and instead picked “favorites” without any fair and objective process. As a former law enforcement officer you are in a position to fully understand how cronyism and the promotion unqualified “favorites” will devastate the moral of the police department. This failure to follow even basic human resources policies is a severe shortcoming in the Police Administration which must be addressed.

3. DISPARATE DISCIPLINE / RETALIATION

Yesterday your “acting Chief” decided to discipline two officers. Each received 5 days of unpaid suspension, six months of disciplinary probation and suspension from off-duty/overtime jobs. This discipline was for an extremely minor practical joke that would have been more properly addressed by a verbal reprimand.

Contrast this harsh discipline with the relatively mild discipline for another officer a few months ago. You will recall that San Luis police officers tracked down and arrested a felon who had broken into a house and robbed a female victim. One of the officers on the call was responsible for preparing a police report so the suspect could be tried. The officer failed to prepare the report. As a result of the officer’s failure to prepare a report, the felon was released. The felon promptly returned to the home of his victim and further threatened her with bodily harm. The discipline for completely failing to do his job and exposing a citizen to a second violent criminal attack?– A three day suspension!

These disciplines are disproportionate and can only be reconciled when you consider retaliation as the motive for the harshness of the recent discipline. The two officers recently disciplined have been very active in the SLPOA union. This discipline also comes on heels of Sergeant Lugo’s successful appeal hearing in which one of the officers gave testimony that was very damaging to the City’s position.

4. CONCERNS WITH CAPTAIN NUNO

In addition to his retaliatory conduct, we also have serious concerns with Captain Nuno’s integrity. You will recall Captain Nuno recommended Sergeant Lugo’s dismissal, in part, because two criminal tickets had been dismissed. We now know that, in reality, the two criminal tickets had never been dismissed and that the criminals paid their fines.

However, you now have the transcript of Captain Nuno’s testimony and can see where he testified, on cross examination, that he did not know that two of the tickets had **not** been dismissed. His testimony, under oath, is squarely contradicted by what he earlier told the City’s investigator. Captain Nuno told the investigator that two of the tickets had been paid.

Our point is that either Captain Nuno deliberately lied about the tickets to get Lugo fired or he just failed to grasp that if a ticket is paid, it means the ticket was not dismissed. Either scenario should give the City significant concern with the Captain and his abilities.

PROPOSED SOLUTIONS

1. LAW ENFORCEMENT AUDIT

We understand that you may dispute our position on the various issues regarding the competence of Captain Nuno and his prior conduct. And we do not expect you to take our word for it. Accordingly, we propose that the City engage a firm to conduct a “law enforcement audit”.

This will involve retaining a neutral, third party to analyze the department, its operations and policies. At the conclusion of the analysis an unbiased report will be provided you and the City Council. We believe that this is a fair way to assess the Department and correct the shortcomings our members experience on a daily basis. We will gladly provide you with a list of auditors or would suggest you contact the Town of Apache Junction which obtained just such an audit a few years ago.

2. CALEA ACCREDITATION FOR POLICE DEPARTMENT

We also propose that the Police Department also be directed to proceed with certification through the Commission on Accreditation for Law Enforcement Agencies, (“CALEA”) As you know, the purpose of CALEA’s Accreditation Program is to improve the delivery of public safety services, primarily by maintaining a body of standards. Specifically, CALEA’s goals are to:

- * Strengthen crime prevention and control capabilities;
- * Formalize essential management procedures;
- * Establish fair and nondiscriminatory personnel practices;
- * Improve service delivery;
- * Solidify interagency cooperation and coordination; and
- * Increase community and staff confidence in the agency.

Every major police department in the State is either CALEA accredited or is moving toward that goal. Frankly, we are stunned that Captain Nuno, as the acting chief, has utterly failed to move in the direction of CALEA accreditation.

SLPOA and AZCOPS believe that the citizens of San Luis are entitled to the highest quality of law enforcement. We believe that eliminating rampant cronyism, following City Rules and bringing the San Luis Police Department up to the CALEA standards, will go a long way in giving the citizens the quality law enforcement they deserve.

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Please feel free to contact me if you have any questions or concerns.

Best regards,

BIHN & MCDANIEL, PLC

/s/ Martin Bihn

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