

Town of Quartzsite Police Department

NOTICE OF INVESTIGATION AND INTENT TO INTERVIEW

Heriberto Dominguez
Stephen Frakes
James C. Kemp
Michelle Norris
William Ponce
Felipe Rodriguez
Alejandro Ruvalcaba
Ruben Villafana
Herlan Yeomans

NATURE OF THE INVESTIGATION

The nature of the investigation is an investigation into an alleged Town of Quartzsite Personnel Policy violation.

IDENTITY OF THE INVESTIGATOR

This investigation is being conducted by Assistant Town Manager Al Johnson.

OFFICER'S ROLE IN INVESTIGATION

You are one of the subjects under investigation.

POTENTIAL RESULT(S) OF THE INVESTIGATION

The investigation may potentially result in termination of employment pursuant to Section 1506 of the Quartzsite Personnel Policy, any and all lesser forms of discipline or no discipline at all.

ALLEGATION OF FACTS

You are hereby given notice that an official administrative investigation is being conducted into allegations of possible violations of Town of Quartzsite or Quartzsite Police Department policies, procedures, rules and/or regulations concerning the following incident:

Engaging in any conduct, on or off the job, that might bring discredit to the Town, in violation of Quartzsite Personnel Policy Section 1502(O).

On or about between May 10, 2011 and May 26, 2011, you are alleged to have signed a document under the letterhead of the Quartzsite Police Officers Association subscribing to and claiming authorship of a letter presented to the Arizona Police Officer Standards and Training board (AZPOST) on or about May 11, 2011.

In your letter to AZPOST, you allege that Chief Jeff Gilbert advised you of an investigation conducted by the Arizona Department of Public Safety (DPS) into Chief Gilbert's conduct. In your letter to AZPOST, you allege that Chief Jeff Gilbert advised you that Chief Gilbert had a copy of DPS report.

Chief Gilbert alleges that, during this discussion he was cleared of any wrongdoing.

In your letter to AZPOST, you allege that Chief Gilbert "accrues 'sick' and 'vacation' time but when he chooses to take time off, which is a substantial amount of the time, he doesn't report the time. He never uses any of his 'sick' or 'vacation' time. He doesn't even complete a time sheet, if he does complete one, it has only been recently."

In the DPS report referred to in your letter to AZPOST, an identical allegation of misconduct, i.e., taking time off from work without reporting it as vacation or sick time and not completing a time sheet, was investigated. The DPS report concluded that, pursuant to the town's contract with Chief Gilbert, Chief Gilbert is an unclassified exempt employee having the privilege of both not submitting a time sheet and of taking time away from work without being assessed sick or vacation leave deductions at the discretion of the Town Manager.

In your letter to AZPOST, you made an allegation against Chief Gilbert which you knew or had reason to know was baseless given your knowledge of the existence of the prior DPS investigation, the results of the prior DPS investigation and the existence of a copy of that investigation residing with Chief Gilbert.

By recklessly making this false allegation against Chief Gilbert, you have defamed and caused to be defamed the integrity and reputation of the Town of Quartzsite, its chief of police, its town manager and its common council.

YOU HAVE THE RIGHT

1. To written notice regarding the alleged facts that are the basis of the investigation.
2. To written notice regarding the nature of the investigation.
3. To written notice of your status in the investigation.
4. To written notice of the specific acts of misconduct to be addressed during the interview.
5. To written notice that you may have a representative present at the interview.
6. To be provided with a copy of all complaints that contain the alleged facts underlying the investigation.

REPRESENTATION

1. You have the right to have a representative with you during the interview.
2. You must bear the cost, if any, associated with having a representative.
3. Your representative must be available with reasonable notice.
4. Your use of a representative must not unreasonably delay the investigation.
5. Your representative may not participate in the interview.

6. Your representative must either be an employee of the Quartzsite Police Department who is not a subject of this investigation or a member of your professional membership organization.
7. Your representative cannot be an attorney.
8. You will not be subject to discipline or retaliation for choosing to have a representative.
9. Your representative will not be subject to discipline or retaliation for serving as your representative.

OTHER RIGHTS

1. You have the right to take reasonable breaks of limited duration to consult telephonically or in person with others, including an attorney, who are immediately available.
2. You have a right, following the interview, to briefly consult with your representative and may make a statement, not to exceed five minutes, to address the specific facts or policies related to the interview.
3. You are entitled to have this document and any attachments hereto with you throughout the entire course of the interview.

OFFICERS' OBLIGATIONS DURING THE INTERVIEW

1. You do not have the right to refuse to answer questions because:
 - a. You are being compelled to truthfully answer questions relating to your duties/conduct, and you can be disciplined up to and including dismissal for refusing to answer these questions;
 - b. Questions, tests, or examinations will be narrowly and specifically related to your performance of duties and fitness for office;
 - c. Any compelled statements, tests, or examination results can only be used against you in a disciplinary/administrative/civil proceeding, and will not and cannot be used against you in any subsequent criminal action related to the scope of this investigation. However, false statements made by you during the interview can be used in other criminal actions, such as perjury;
 - d. Any sustained false, deceptive, or misleading statements you make can lead to additional discipline up to and including dismissal, as well as possible suspension or revocation of your AZPOST Peace Officer Certification (R13-4-109).
2. During the course of the investigation, you have the responsibility to bring to the attention of the investigator any witness information or mitigating or exculpatory evidence you believe is relevant to the investigation. You may do this yourself, through your representative or in memorandum form.


OTHER RESPONSIBILITIES

1. You are required to submit to a polygraph under certain circumstances if requested.
2. You are required to be truthful in all answers to investigator questions.
3. This notice constitutes a direct order not to discuss this notice, this investigation or your interview with any person other than the investigator, your attorney, the person, if any,

who will serve as your representative during the investigation and interview, and your spouse.

ADMINISTRATIVE LEAVE

You are hereby, and effective upon receipt, placed on paid, administrative leave until such time that you are told otherwise or until your employment is terminated. You are required to remain at your place of residence between the hours of 8:00 a.m. and Noon and between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday. Failure to be present at your residence during those hours without express prior approval from the investigator, Assistant Town Manager Al Johnson, shall be considered dereliction of duty and may result in additional disciplinary action, including dismissal.



Al Johnson, Assistant Town Manager

7/20/11

Date

Approved at to form:



Martin Brannan, Town Attorney

Served upon:

Heriberto Dominguez

Date

By: _____

Stephen Frakes

Date

By: _____

James C. Kemp

Date

By: _____

Michelle Norris

Date

By: _____

William Ponce

Date

By: _____

Felipe Rodriguez

Date

By: _____

Alejandro Ruvalcaba

Date

By: _____

Ruben Villafana

Date

By: _____

Herlan Yeomans

Date

By: _____