



## City of Phoenix

**To:** Integrity Committee

**Date:** December 12, 2008

**From:** Randy Spenla  
City Auditor

A handwritten signature in black ink that reads "Randy Spenla".

**Subject:** APPEARANCE OF FAVORITISM ALLEGATION

### INTRODUCTION

We researched an allegation that the City's Public Safety Manager created an appearance of favoritism when he reduced disciplinary action against a Police Department sergeant. The appearance of favoritism was alleged because the sergeant previously participated on the Police Pension Board that approved the Public Safety Manager's eligibility for Public Safety Pension Retirement System (PSPRS) benefits he accrued as the City's Police Chief prior to his appointment as Public Safety Manager.

The Public Safety Manager reduced disciplinary action against the sergeant from an eight hour suspension to a written reprimand. The sergeant was disciplined for having inappropriate images on a City computer and displaying inappropriate images to the complainant, a former City police officer (Complainant) who resigned from the Police Department.

The complaint contains other allegations and background information. These other allegations are not within the scope or responsibility of the Integrity Committee.

### OBSERVATION

We interviewed the Public Safety Manager, Complainant, other City personnel, and we reviewed all relevant documentation.

As a result of our research, we noted:

- The sergeant participated on a Police Pension Board that voted four to one in October 2006 to allow the Public Safety Manager's eligibility to receive PSPRS benefits he accrued as the City's Police Chief prior to his

appointment as Public Safety Manager. The sergeant voted with the majority.

- In March 2008, the Police Disciplinary Review Board recommended an eight hour suspension as disciplinary action against the sergeant for having inappropriate images on a City Computer and displaying inappropriate images to Complainant. The Public Safety Manager subsequently reduced the eight hour suspension to a written reprimand.
- The Public Safety Manager indicated to us that he reduced the discipline because of the sergeant's exemplary service during his tenure with the Police Department, and because the sergeant was planning to retire soon. He indicated that the sergeant's vote to approve his eligibility to receive pension benefits was not even considered in his decision to reduce the sergeant's disciplinary action. The Public Safety Manager indicated that he has reduced numerous disciplinary recommendations in the past when he believed the circumstances warranted a reduction.
- We reviewed other cases where the Public Safety Manager had in fact reduced the discipline recommended by the Disciplinary Review Board.

## **CONCLUSION**

**There was no evidence that the Public Safety Manager reduced the sergeant's discipline because of the sergeant's role on the Police Pension Board and his vote on the Public Safety Manager's eligibility to receive pension benefits.** The question is could the reduction of discipline be interpreted as an appearance of favoritism to the sergeant? Appearance of favoritism is a very subjective determination. In this case, although a fairly significant amount of time (16 months) had elapsed, we believe that the reduction of discipline could be viewed as an appearance of favoritism. In retrospect, the better business practice would have been for the Public Safety Manager to recuse himself from this disciplinary decision to avoid any possible question of favoritism and we recommend he not be involved with future disciplinary issues concerning this sergeant.

In our review of this matter we do believe that the question of appearance of favoritism is mitigated (though not eliminated) because the original discipline did not appear very harsh to begin with. The eight hour suspension would not appear to amount to a significant financial burden, though we do understand the one day suspension can affect future promotional opportunities which would not likely be relevant in this case, as it is reported the sergeant is nearing retirement.

cc: Frank Fairbanks, City Manager  
Jack Harris, Public Safety Manager