

Steven J. Serbalik, P.L.C.



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December 2, 2014

Daniel Garcia
Chief, Phoenix Police Department
620 W. Washington St.
Phoenix, Arizona 85003

Daniel Brown
Phoenix City Attorney
200 W. Washington St.
Phoenix, Arizona 85003

Milton Dohoney, Jr.
Assistant City Manager
200 W. Washington St.
Phoenix, Arizona 85003

Harry Markley
Assistant Chief, Phoenix Police
Department
620 W. Washington St.
Phoenix, Arizona 85003

Joseph Knott
Commander, Professional
Standards Bureau
111 W. Monroe St.
Phoenix, Arizona 85003

Larry Lockley
HR Liaison, Police
135 N. 2nd Ave.
Phoenix, Arizona 85003

Dear Sirs:

As you are aware, I represent Officer David Hough related to an employment matter (Please see the letter dated November 14, 2014, enclosed here for your reference). I write to update you on Officer Hough's situation.

Today, Chief Markley called Officer Hough and Chief Markley ordered Officer Hough to report to Headquarters tomorrow morning (December 3, 2014) at 10am to sign Officer Hough's disciplinary notice. Officer Hough asked Chief Markley if Officer Hough would be required to sign a "last chance agreement," and Chief Markley stated "yes."

It is my understanding that ordering an officer to sign a "last chance agreement" forces that officer to waive his or her rights to an appeal. As both Officer Hough and I have made clear on multiple occasions, Officer Hough is not willing to waive his rights to appeal. We believe that Chief Garcia's decision to multiply the presumptive penalty recommended by his employees (a 24-40 hour suspension) by 3-5 times (for a 120-hour suspension, not contemplated by the PPD Discipline Matrix) is excessive.

I am particularly concerned by the fact that other City officials apparently signed off on this decision. It is my understanding that PLEA brought this issue to the attention of the City Manager, and that the City Manager directed the Director of Human Resources to conduct a review.

While I have not yet read and reviewed the "last chance agreement" referenced by Chief Markley, if it forces Officer Hough to waive his rights to appeal this matter (otherwise guaranteed under state law and City ordinance), Officer Hough will decline to sign. And then, based upon Chief Markley's earlier statements, Officer Hough will then be terminated.

Recently, I have read, watched and listened to a number of media appearances made by Chief Garcia. While I disagree with the Chief on a number of issues, I do agree that the Police Department should stand for "Democracy and Justice." But here, the Chief cancelled Officer Hough's Discipline Review Board hearing (depriving Officer Hough of the opportunity to have this matter heard by a panel including citizens and his peers), exceeded the Department's own discipline matrix in imposing a 120-hour suspension (this number is not even referenced in the Operations Orders, nor is the concept of a "last chance agreement"), and is now, apparently, telling Officer Hough that he either needs to give up his rights to have an independent fact-finder review this discipline or face termination. This sequence of events is both undemocratic and unjust.



Officer Hough intends to appeal this action, and looks forward to a full and fair review of these issues. I write with the intention of providing you, the apparent decision-makers, with an opportunity to reconsider your position. I hope you will consider principles of due process, fairness, and the effect that your actions will have on Officer Hough and his family.

Regardless of your decision, Officer Hough and I look forward to finally, after months of unnecessary uncertainty, receiving a written disciplinary notice and filing an appeal with the Civil Service Board.

Sincerely,

Steven J. Serbalik, Esq.

CC: Officer David Hough
PLEA
Mr. Ed Zuercher
Ms. Cindy Bezaury