

To: Rocky Jackson
From: Nancy Graber, J.D.
Re: Andrews Complaint/Granato
Date: April 13, 2009

At the request by your law office, I have completed an independent investigation into the above complaint filed by Stacey Andrews.

The following individuals were interviewed regarding the Stacey Andrews complaint regarding Chief Sam Granato: Stacey Andrews, Mark Andrews, Sgt. Tony Bennett, Meshell Bradley, Mike Costello, Dulce Diaz, Sharon Dupuis-Vasquez, Chief Sam Granato, Les Henderson, Nicole Henning, Gabe Morales, and Captain Jeff Schneider.

Complaint

This complaint stems from a personal statement made by Stacey Andrews on January 23, 2009 (but dated incorrectly, January 23, 2008). The complaint alleges sexual harassment/retaliation by Chief Granato. To summarize the complaint began with the personal relationship with the Chief and his family which Stacey tried to extricate herself from once she decided to apply to the Police Academy to become a police officer with the City of Yakima. Her allegations include that while she had a close relationship with the Chief and his family initially, she tried to back off from this relationship and the Chief did not allow this to occur. He continued to try to continue the personal relationship. She alleges that he continued contacting her either directly or indirectly, confronting her at different times or also making a specific comment to her at the El Mirador restaurant in late '04 or the first half of '05. This comment was essentially repeated in the August '05 e-mail from the Chief. Stacey also believes that the Chief continued to try to maintain contact with her by having officers contact her to tell her that the Chief was looking for her. She believes that he specifically arranged to be at a gang conference in Leavenworth in May of 07 because he knew she would be there and to confront her while there. She also alleges more recently that the Chief has been seen near or around Davis High School. She transferred to a SRO position at Davis High School partially because she wanted to get away from the Chief. She also believes that the Chief has retaliated against her husband, Mark Andrews because he was not returned to the City County Narcotics Unit (CCNU) after resigning from it due to a dispute involving his boss, Mike Costello and then requesting to return to the unit.

Fact Finding

Stacey Andrews was hired by the County of Yakima in 1994 and worked at the juvenile court. In 1996 she moved into the probation department. Until she applied and was hired by the Yakima Police Department, she worked as a Juvenile Liaison Officer, stationed at the Yakima Police department. This job was a link or liaison between the probation department and the City Police Department. She was stationed at the Yakima Police Department and sat in close proximity to Chief Granato's office.

Chief Sam Granato was hired in September of 03. Some time during the fall of 03, Chief Granato introduced himself to Stacey Andrews (then Caden). He spoke to her about her work with gangs as he had a background in that area as well. It was a common interest that they both had. Between 2003 and 2005, Stacey worked in this capacity and saw the Chief fairly regularly at work given that their offices were located near each other. Stacey was flattered by the Chief's attention in recognizing her expertise in gang work.

Also, during this time frame, Stacey and the Chief became ~~personal friends~~ outside of the workplace. Stacey became friends with the Chief's family and visited the Granato family at the Chief's house on a number of occasions including mentoring the Chief's daughter and taking care of the house when the Chief and his wife Esmer were out of town on occasion. Stacey also occasionally attended parties at the Chief's house. At some of these parties, other officers were present. Drinking was prevalent and officers were told they could stay over if they became too intoxicated to drive home.

In the Spring of '04, Stacey decided to apply to the Police Academy to become a police officer in the City of Yakima. She took the civil service test, physical fitness test, and all other requirements for the application process. The Chief was aware of her application and believed she would be a good candidate for this position. He supported her desire to become a police officer.

Stacey was told by other officers that rookies should not associate with the Chief or other high level officers in the department. Upon applying, Stacey began hearing rumors about her relationship/friendship with the Chief. She brought the rumors forward to the chief. He did not see any reason for a change in their relationship. Stacey believed that she should begin to pull back on the relationship with the Chief and his family. She was hired in April of '05 and began the Academy in May of '05.

At some time between November '04 and May of '05¹, the Chief called and asked Stacey to meet him for dinner at the El Mirador restaurant. Stacey thought there would be others there as well but it was only the Chief. The Chief told Stacey that he had been having an argument and difficulties with his wife because his wife was concerned with the time/attention the Chief was spending with Stacey. The Chief made some comment to his wife, which was repeated to Stacey at the El Mirador indicating that he wished the rumors about Stacey and the Chief were true and then his wife could be angry.² This

¹ Chief Granato believes that this meeting took place at the El Mirador sometime late fall of '04 or early '05. Stacey believes that this took place between April and May of '05. The distinction both want to make is whether she was an employee of the city or not. Prior to April '05, she was still a county employee. She was hired in April '05 by the City of Yakima as a new police recruit (to attend the academy). This investigator doesn't believe the distinction is critical given that she was working at the Police Department as the liaison, seeing the Chief every day. While he was not her supervisor, there was a professional relationship which included the Chief paying for Stacey to go to a gang conference/workshop in New Jersey in the spring of '04 while she was still a County employee. Additionally at the time of the El Mirador incident, the Chief knew that Stacey had applied to become a Yakima Police employee and had supported her in this endeavor.

² Stacey's version is slightly different in that she indicates that the Chief said regarding the rumors involving Stacey and the chief, "if I had the opportunity to do that, I would". The essence of the two versions is the same though. It was interpreted by Stacey as a change in the relationship. This appears to be

comment when repeated to Stacey was interpreted as a desire by the chief to have a sexual/romantic relationship with her. She left soon thereafter. The Chief admits that her demeanor changed but didn't think she was upset by the comment. Apparently no food was purchased and ingested.

In August of '05 in e-mails between Chief Granato and Stacey Andrews, Stacey wrote to the Chief about a rumor at the YPD regarding the Chief and Stacey having an affair. Chief Granato wrote back a day later and said: Well I heard that rumor from you back then. Too bad it was not true, but makes for an interesting place to work." At this time, Stacey was a Yakima Police Department employee attending the police academy.

In May of '06, Stacey Andrews' father passed away. The Chief went to the funeral. He talked to Stacey alone after the service and asked her why she wasn't coming around.

Between August and October '06, the chief began setting up one-on-one meetings with officers. Stacey indicated to her supervisor that she would not meet with the Chief in a one-on-one meeting. The Chief met with about 29 officers including Dulce Diaz. While meeting with Dulce, the Chief asked her how Stacey was and asked why he didn't hear from Stacey anymore. All parties concur that the Chief questioned Dulce about Stacey.

Between May of '06 and May of '07, the Chief saw Stacey on two occasions. One time was at the Yakima County State Fair when the Chief and his wife were walking by and saw Stacey and Mark Andrews. The Chief indicated that Stacey ignored both the Chief and his wife and just walked by. This upset the Chief. Also the Chief was at Fred Meyer's in Yakima at one point during this time period when he called for backup regarding an incident he observed. Stacey was part of that backup. The chief asked her if she was still having a tough time and she indicated "every day." No other conversation took place at this time.

In May of 07, Stacey attended a Northwest Latino Gang Conference/Workshop in Leavenworth. She checked the program to ascertain who would be speaking and that the Chief was not on the program. She put in the request to attend and it was approved. The Chief approved all training requests. She attended the conference and learned that the Chief was there. She told her friends that she didn't want to be left alone as she didn't want to talk to the Chief at all. Stacey had the perception that the Chief was at a conference on the West side and traveled to Leavenworth for this conference. The Chief was actually at a conference in Wenatchee and traveled to Leavenworth.

While walking to the bathroom, with her friends, the Chief came up to her and said to one of her friends: "It is ok, you don't have to leave." He asked Stacey, "how come you are mad at me?" Stacey indicated that she told him she wanted to know why he was asking her about Mark Andrews (who she had been dating at the time and is now married to).

a reasonable interpretation given the conversation, the fact that they were alone and the fact that she had discussed rumors circulating around the police department in the past with the Chief. Additionally the disparity in their two positions must be considered; his being the highest level individual in the police department and she being either a brand new recruit or an applicant to become a city employee.

This conversation upset her. She was very uncomfortable with the encounter. The Chief did speak briefly at the conference and she did not see him again.

In late 08 or early 09, Stacey heard from a security guard at Davis High School that the Chief was seen around Davis High school. Another individual told Mark Andrews that he had seen the Chief parked near Davis High School on a number of occasions. Mark and Stacey believed that the Chief was parked there so he could see Stacey. There are many reasons why the Chief might be near Davis High School or that another vehicle similar may have been parked there. At no time did the Chief talk to Stacey during this period of time.

City of Yakima- Sexual Harassment Policy

The Sexual Harassment policy in effect at the time Stacey filed this complaint was PER HR 1800 effective date 12/26/06. This policy has since been replaced by PER 1800 effective date 2/1/09. Because the former policy was in effect at the time of the alleged events, it is the policy which this investigator will rely on in determining whether it has been violated or not.

The policy indicates that Sexual Harassment is prohibited if it is *unwelcome, because of sex and affects the terms and conditions of the victim's employment.*

It goes on to define sexual harassment as: *deliberate or repeated behavior of a sexual nature which is unwelcome and unwanted. It can be verbal, non-verbal or physical and includes behaviors such as unwanted sexual comments, suggestive looks or leering, and pats, squeezes or repeatedly brushing up against someone's body.*

Sexual harassment negatively affects morale, motivation and job performance and results in increased absenteeism, turnover, inefficiency and loss of productivity. It is inappropriate, offense and illegal and will not be tolerated.

The policy also has an anti-retaliation provision protecting any employee who files a complaint or participates in the investigation of a complaint.

Summary

The critical portion of Stacey Andrews' complaint occurred in late 2004 or by May of '05 at the El Mirador restaurant with a continuation in the e-mail in August of 2005. While I believe the conduct was unwelcome and also because of sex, it did not affect the terms and conditions of Stacey's employment. Therefore this investigator cannot say the conduct alleged rises to the level of a hostile work environment.

As to the credibility of the witnesses, there was not a lot of substantive disparity or disagreement as to what was said, when it was said, done etc. among the primary witnesses interviewed (Stacey Andrews and Chief Granato). Stacey appears credible. She indicated that she did not bring the complaint forward at the time it initially occurred

because she was a new employee or an applicant to become a new employee³ and the Chief was the Chief of Police. While she should have brought it forward in a timelier manner, it is understandable that she did not given the disparity in the power of the relationship and the perception that the chief could impact her ability to pass the academy and remain employed with the YPD. The one inconsistency which is troublesome is the lengthy e-mail Stacey wrote to Chief Granato where she complains about the rumors. It is personal in nature and does not indicate an overall concern with his behavior.

The allegations of retaliation against Stacey, is that she had to take the job of the SRO to avoid the chief. There is no indication that the Chief tried to retaliate against her in any way. If she took this job to get away from the Chief, it was not clearly supported from the witness testimony.

The concerns that the chief retaliated against Mark Andrews by not putting him back into the CCNU after he requested to be transferred out, and then back in, is not supported from the witness testimony.

The facts do outline a breach of professional conduct crossing many venues, which created the perception of harassment and retaliation accentuated by Mr. Granato's position as Chief of Police of the Yakima Police Department as outlined below.

1. The Chief and his wife held parties at their house. Inviting subordinate officers to parties where alcohol is consumed in enough quantity that the Chief suggests that those who are too inebriated stay over, creates a situation where problems not only can occur but where lines of authority and appropriateness may be crossed or have the appearance of being crossed.
2. The personal relationship with Stacey Andrews as a county employee, who was the liaison to the Yakima Police Department, sat in an office space near the Chief's office and then as a police officer, seems to cloud the boundaries of authority in the department. It was unclear to the investigator as well as to other city employees as to whether this relationship was a mentor/mentee, father like/daughter, friend or something beyond. In any case, being close personal friends with new employees who indirectly report to you is problematic and created many of the problems from which this complaint stemmed. As the Chief of Police, or any leader of an organization, one must be aware of professional boundaries. From the comments at the El Mirador to the e-mails that followed, it appears the Chief does not understand his role and the power that comes from it when approaching a new employee with anything which appears to suggest a sexual relationship.
3. After the El Mirador incident and the e-mails, the Chief continued to seek out Stacey and to determine why she wasn't interested in continuing the relationship with him and his family. At this point she was clearly an employee. He did this at

³ Even if the investigator believes the Chief's date vs. Stacey's regarding the El Mirador incident, she had already applied to the academy and was in the process of the application, testing, etc.

the funeral for her dad, in the one-on-one with Dulce Diaz, by asking his Captains' to set up a meeting with Stacey, and by approaching her at the Leavenworth Conference.

4. In the fall of '08, the Chief was involved in a kissing incident with another City employee who did not report to him and was not in his department. The Chief explained to the investigator that this incident was really just a cultural issue and that kissing someone on the lips was common place in South Texas. This again demonstrates that the Chief's boundaries, whether cultural or lacking in perception, are skewed and inappropriate.
5. Chief Granato and Mr. Morales both informed the investigator they had a conversation regarding the Leavenworth speaking engagement prior to my interview with Mr. Morales. This created a concern that the facts were being shaped.

Although this investigator could not corroborate the allegations of sexual harassment and/or retaliation, the above pattern of behavior is troublesome for a person in Chief Granato's position within the Yakima Police Department and within the Yakima community.