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8 *the Arizona Conference of Police and*  
9 *Sheriffs, Inc.*

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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Juan Hernandez, individually and the Arizona  
Conference of Police and Sheriffs, an Arizona  
nonprofit corporation,  
  
Plaintiffs,  
  
v.  
  
The City of Phoenix, a municipal corporation;  
Jeri Williams, in her official capacity as Chief  
of Police of the Phoenix Police Department;  
and Shane Disotell, in his official capacity as  
the Commander of the Phoenix Police  
Professional Standards Bureau,  
  
Defendants.

NO.

**COMPLAINT AND PETITION  
FOR A TEMPORARY  
RESTRAINING ORDER,  
PRELIMINARY INJUNCTION,  
AND PERMANENT INJUNCTION**

Plaintiffs Juan Hernandez and the Arizona Conference of Police and Sheriffs  
("AZCOPS") (collectively where appropriate the "Plaintiffs") for their Complaint against  
the City of Phoenix, Jeri Williams and Shane Disotell, (collectively where appropriate the  
"Defendants") allege as follows:

**JURISDICTIONAL ALLEGATIONS**

1. Jurisdiction is appropriate pursuant to 28 U.S.C. §1331 because Plaintiffs  
bring this action pursuant to 42 U.S.C. §1983 and the First and Fourteenth Amendments  
of the United States Constitution. This Court also has supplemental and/or pendent  
jurisdiction over state constitutional, common law and statutory claims pursuant to 28  
U.S.C. §1367.

2. This Court has jurisdiction of Plaintiffs' federal law claims pursuant to 28

1 U.S.C. §1331 and 42 U.S.C. §1988. Additionally, this Court has jurisdiction over  
2 Plaintiffs' state and federal claims pursuant to Article 6, Section 14 of the Arizona  
3 Constitution. Plaintiffs seek injunctive relief.

4 3. Venue is proper in this Court pursuant to A.R.S. §12-401 and 28 U.S.C.  
5 §1391 as the parties are residents and entities of Maricopa County and Pima County and  
6 the events underlying this lawsuit occurred in Maricopa County, an area wholly within the  
7 District of Arizona. All parties are residents of and/or are doing business in Arizona.

8 **GENERAL ALLEGATIONS**

9 4. Plaintiffs reallege and incorporate, by this reference, their claims, facts and  
10 allegations in the paragraphs above as if set forth fully herein.

11 5. Defendant City of Phoenix is a governmental entity that acts through its  
12 employees, agents and independent contractors, including Defendants Jeri Williams and  
13 Shane Disotell.

14 6. Defendant Jeri Williams is the duly-appointed Police Chief of the City of  
15 Phoenix and the head of the Phoenix Police Department ("Phoenix PD"), with ultimate  
16 authority and responsibility to establish policy, practices, customs, procedures, protocols  
17 and training for the Phoenix PD as an official policymaker. Her actions and/or inactions in  
18 his official capacity constitute actions of the Phoenix PD and the City of Phoenix is  
19 vicariously and directly liable for her wrongful conduct as alleged herein. As the  
20 appointed Police Chief, Williams has official, vicarious, direct and supervisory liability  
21 for the Phoenix PD's officers, agents and employees.

22 7. Defendant Shane Disotell is the duly-appointed Commander of the City of  
23 Phoenix Police Department's Professional Standards Bureau. In this role, he transmits  
24 reports and recommendations to Chief Williams and other officials in the City of Phoenix,  
25 who rely upon his actions and recommendations in deciding on disciplinary actions and  
26 policy interpretations. His actions and/or inactions in his official capacity constitute  
27 actions of the City of Phoenix and the City of Phoenix is vicariously and directly liable for  
28 his wrongful conduct as alleged herein.

1           8.       Plaintiff AZCOPS is a statewide organization dedicated to fair  
2 representation of law enforcement officers located around the State of Arizona. Plaintiff  
3 Hernandez is an AZCOPS member, and AZCOPS therefore provides Plaintiff Hernandez  
4 with legal representation and incurs costs and fees associated with this representation.

5                           **ALLEGATIONS COMMON TO ALL COUNTS**

6                   **Juan Hernandez's Employment with the Phoenix Police Department**

7           9.       Plaintiff Juan Hernandez is a Phoenix Police Sergeant and a state-certified  
8 peace officer.

9           10.     Since prior to September 30, 2013 through today, Hernandez maintained a  
10 Facebook profile.

11          11.     Plaintiff Hernandez's Facebook postings, at all times relevant to this  
12 Complaint, were made exclusively in his private, personal capacity.

13          12.     At no time relevant to this Complaint did Plaintiff Hernandez serve as a  
14 Phoenix Police or City of Phoenix spokesman.

15          13.     As an employee of the Phoenix Police Department, Plaintiff Hernandez is  
16 responsible for obeying any lawful City of Phoenix Administrative Regulations and any  
17 lawful Phoenix Police Operations Orders.

18          14.     On or about August 14, 2012, Plaintiff Hernandez posts a news article  
19 opening with the sentence "Recent VIOLENCE against peaceful pro-life demonstrators  
20 are BURIED by the news media in favor of coverage for Tom Cruise and Katie Homes'  
21 divorce." This posting is attached to this Complaint as Exhibit 1, and incorporated as if  
22 fully set forth herein.

23          15.     On or about September 12, 2012, Plaintiff Hernandez posts a news article  
24 titled "Islamists Drag Dead Body of US Ambassador in the Streets." This posting is  
25 attached to this Complaint as Exhibit 2, and incorporated as if fully set forth herein.

26          16.     On or about August 1, 2013, the Phoenix Police Department's Social Media  
27 Policy (the "PD policy") goes into effect. The PD policy is attached to this complaint as  
28 Exhibit 3, and incorporated as if fully set forth herein.

1           17.     On September 30, 2013, Plaintiff Hernandez posts a meme, beginning with  
2 the statement “The Most Common Name for a Convicted Gang Rapist in England  
3 is...Muhammed.” This posting is attached to this complaint as Exhibit 4, and incorporated  
4 as if fully set forth herein.

5           18.     On October 8, 2013, Plaintiff Hernandez posts a meme titled “You just got  
6 to love the Brits.” This posting is attached to this complaint as Exhibit 5, and incorporated  
7 as if fully set forth herein.

8           19.     On December 24, 2013, Plaintiff Hernandez posts a meme titled “Recent  
9 Contributions to Science by Muslims.” This posting is attached to this complaint as  
10 Exhibit 6, and incorporated as if fully set forth herein.

11           20.     On January 1, 2014, Plaintiff Hernandez posted a news article titled “Real  
12 Footage – Cops Shoot Thug in the Head.” There appears to have been a picture in the  
13 initial posting, but it does not appear in the reposting or in the Phoenix PD’s investigation.  
14 This posting is attached to this complaint as Exhibit 7, and incorporated as if fully set  
15 forth herein.

16           21.     On January 1, 2014, Plaintiff Hernandez posted a news article titled  
17 “Congress Throws Veterans Under the Bus for Illegal Immigrants.” This posting is  
18 attached to this complaint as Exhibit 8, and incorporated as if fully set forth herein.

19           22.     On January 9, 2014, Plaintiff Hernandez posted a news article titled “The  
20 End of Christians in the Muslim World.” This posting is attached to this complaint as  
21 Exhibit 9, and incorporated as if fully set forth herein.

22           23.     On January 9, 2014, Plaintiff Hernandez posted a news article titled  
23 “Military Pensions Cut, Muslim Mortgages Paid by US.” This posting is attached to this  
24 complaint as Exhibit 10, and incorporated as if fully set forth herein.

25           24.     On February 7, 2014, Plaintiff Hernandez posted a news article titled  
26 “Young Christian Girl Repeatedly Raped by 15 Muslims Then Murdered.” This posting is  
27 attached to this complaint as Exhibit 11, and incorporated as if fully set forth herein.

28           25.     On March 27, 2014, Plaintiff Hernandez posted a news article titled “Two

1 Christians Beheaded in New Jersey by Muslim Man: Media, Silent!” This posting is  
2 attached to this complaint as Exhibit 12, and incorporated as if fully set forth herein.

3 26. On or about June 1, 2019, the Plain View Project releases social media posts  
4 made by selected police officers onto a public website – accessible at the time of this  
5 complaint at [www.plainviewproject.org](http://www.plainviewproject.org)

6 27. The Plain View Project’s website, at all times relevant to this complaint,  
7 includes the following language: “To be clear, our concern is not whether these posts and  
8 comments are protected by the First Amendment. Rather, we believe that because  
9 fairness, equal treatment, and integrity are essential to the legitimacy of policing, these  
10 posts and comments should be part of a national dialogue about police.”

11 28. Exhibits 1-2 and 4-12 were included in the Plain View Project’s database  
12 published on the Plain View Project website.

13 29. On or about June 3, 2019, the Phoenix Police Department’s Professional  
14 Standards Bureau initiated an internal investigation (the “PSB investigation”).

15 30. Upon information and belief, prior to the Plain View Project publication, no  
16 member of the Phoenix Police Department had faced significant discipline (suspension,  
17 demotion and/or termination) based upon the PD policy as applied to private postings on  
18 any social media platforms.

19 31. Despite the fact that the Facebook posts were online for *years*, prior to the  
20 Plain View Project publication, no one from the Phoenix Police Department or the City of  
21 Phoenix ever identified Plaintiff Hernandez’s postings as alleged violations of any PPD or  
22 Phoenix policy.

23 32. On or about June 5, 2019, Plaintiff Hernandez received a Notice of  
24 Investigation alleging that he violated the PPD Social Media Policy.

25 33. On or about the same date that Plaintiff Hernandez received the Notice of  
26 Investigation, he set his Facebook profile to “private” and, fearing potential additional  
27 disciplinary action, he ceased reposting any news articles.

28 34. On or about June 20, 2019, Plaintiff Hernandez was interviewed, as a

1 condition of his employment, as part of the PSB investigation. A copy of the transcript of  
2 the interview is attached to this complaint as Exhibit 13, and incorporated as if fully set  
3 forth herein.

4 35. During his interview, the PSB investigation only focused on four of Plaintiff  
5 Hernandez's Facebook posts – those identified in this complaint as Exhibits 4, 5, 6 and 10.

6 36. During his interview, Plaintiff Hernandez explained that he was simply  
7 reposting content that he felt involved matters of public concern.

8 37. The PSB investigators did not provide any information as to why these  
9 particular posts were alleged to have been a violation of the PD policy, when the posts  
10 contained in Exhibits 1-2, 7-9, and 11-12 were not.

11 38. Exhibit 4 includes information that was widely covered in mainstream  
12 media discussing shifting demographics (and common male names in the United  
13 Kingdom) as demonstrated in Exhibit 14.

14 39. Exhibit 6 includes information that was widely covered in mainstream  
15 media discussing statements issued by certain prominent individuals, as demonstrated in  
16 Exhibit 15.

17 40. Exhibit 10 is a link to an article discussing government spending priorities, a  
18 quintessential example of a matter of public concern.

19 41. For all Facebook posts related to this matter (Exhibits 1-2 and 4-12),  
20 Plaintiff Hernandez did not “comment” on or “create” the content at issue. He simply  
21 reposted content that he identified as part of ongoing public dialogue on matters that he  
22 wanted to discuss further with his friends, family and associates.

23 42. On August 17, 2019, the Phoenix PD transmitted a “draft investigation” that  
24 would sustain Plaintiff Hernandez for violating the PD Policy with a “Class III”  
25 disciplinary classification contemplating a suspension of 40, 80, or 240 hours without pay,  
26 and/or demotion/termination.

27 43. After receiving the draft investigation, on or about August 26, 2019,  
28 Plaintiff Hernandez, through counsel, advised Defendants that attempting to discipline

1 Plaintiff Hernandez for discussing matters of public concern has a chilling effect on  
2 Plaintiff Hernandez and members Plaintiff AZCOPS, and that proceeding with discipline  
3 could result in legal action.

4 44. On or about September 4, 2019, and “investigative review process” meeting  
5 was held with Plaintiff Hernandez and his representatives (who are members of Plaintiff  
6 AZCOPS) and Defendant Disotell and other members of the PSB investigation team.

7 45. Lt. Brian Thatcher, a member of Plaintiff AZCOPS and a union  
8 representative of Plaintiff Hernandez, asked pre-prepared questions (attached as Exhibit  
9 16 and incorporated as if fully set forth herein) and subsequently authored a  
10 contemporaneous memo documenting the answers received by Defendant Disotell and  
11 other members of the PSB investigative team (attached as Exhibit 17 and incorporated as  
12 if fully set forth herein).

13 46. At the investigative review process meeting, Defendant Disotell  
14 acknowledged that the discipline contemplated for Plaintiff Hernandez was based  
15 exclusively on PD policy, not on the Phoenix Administrative Regulation addressing social  
16 media use.

17 47. Defendant Disotell further stated that the disciplinary finding that Plaintiff  
18 Hernandez brought “discredit to the [Phoenix Police] department” used to justify the  
19 imposition of discipline was based upon the collective impact of the Plain View Project,  
20 and not exclusively on Plaintiff Hernandez’s Facebook posts.

21 48. Defendant Disotell and other PSB personnel present at the investigative  
22 review process meeting were not familiar with the implications or balancing tests related  
23 to free speech from public employees on matters of public concern.

24 49. Defendant Disotell and other PSB personnel present at the investigative  
25 review process meeting were unable to provide any examples of any situations in which  
26 Plaintiff Hernandez acted without “moral integrity” or failed to “work cooperatively,  
27 courteously, but firmly with all segments of the public” (quotations from the discipline  
28 investigation) other than the Facebook posts that were the focus of the investigation.



1           50. When asked if the conclusions contained in the PSB investigation were  
2 based on individual posts or a broader assessment of the Plain View Project, Defendant  
3 Disotell and other PSB representatives present stated that the Plain View Project cases  
4 were viewed as a collective and that the determination to discipline and the degree of  
5 discipline was based upon the collective impact of all of the posts from all of the impacted  
6 employees.

7           51. On October 2, 2019, Plaintiff Hernandez was notified that a Discipline  
8 Review Board would be convened to review the results of the PSB investigation and to  
9 make a discipline recommendation to Chief Williams. The Discipline Review Board is set  
10 to consider this matter on October 15, 2019

11           52. The Discipline Review Board is led by an assistant chief, and is also  
12 composed of commanders, peers (sergeants) and civilians.

13           53. The Discipline Review Board reviews the written investigation, is briefed  
14 by PSB personnel and union representatives, and is allowed to ask questions of  
15 investigators and union representatives.

16           54. Without this Court's intervention, members of the Discipline Review Board  
17 will be instructed that Plaintiff Hernandez's posts are not protected and are the proper  
18 basis for discipline.

19           55. Because the vast majority of PPD Sergeants and Lieutenants are members of  
20 Plaintiff AZCOPS, this instruction, as part of an official disciplinary process, would have  
21 a further chilling effect on the ability of AZCOPS members to exercise their First  
22 Amendment rights to comment on matters of public concern (see, e.g. attached Exhibit 18,  
23 Declaration of Lt. Mark Schweikert – incorporated as if fully set forth herein).

#### 24                           **The City's Administrative Regulation**

25           56. Defendant City of Phoenix instituted Administrative Regulation 2.38 –  
26 Social Media and Networking (AR 2.38) – on or about January 12, 2015. A copy of AR  
27 2.38 is attached as Exhibit 19 and incorporated as if fully set forth herein).

28           57. Unlike the PD policy, AR 2.38 specifically contemplates that “Nothing



1 contained in this A.R. shall be construed as denying employees their civil or political  
2 liberties as guaranteed by the United States and Arizona Constitutions.”

3 58. Upon information and belief, Defendant City of Phoenix intended to revise  
4 the PD policy after the implementation of AR 2.38 to ensure it met both Federal and  
5 Arizona constitutional concerns, but this revision never took place.

### 6 **Damages to Plaintiffs**

7 59. Plaintiff Hernandez suffered and continues to suffer chilling effects on his  
8 right to speak regarding matters of public concern.

9 60. Plaintiff AZCOPS spent thousands of dollars in legal costs and fees to  
10 represent Plaintiff Hernandez in an improper internal affairs investigation that does not  
11 respect the Federal and Arizona constitutional rights of its members.

12 61. Plaintiffs fear that, without this Court’s intervention, Defendants will  
13 continue to inflict harm upon them by wrongfully disciplining Plaintiff Hernandez without  
14 respecting his constitutional rights to speak on matters of public concern.

### 15 **COUNT I**

#### 16 **42 U.S.C. §1983 – Violation of Federal Constitutional Rights**

17 62. Plaintiffs reallege each and every allegation set forth in the paragraphs  
18 above and incorporate each allegation by this reference.

19 63. Plaintiff Hernandez has the constitutional right to be free from a deprivation  
20 of a protected interest (his right to speak on matters of public concern) without due  
21 process of law.

22 64. The PD policy at issue is unconstitutional on its face, as it is overbroad and  
23 has the purpose and effect of chilling otherwise protected speech by public employees on  
24 matters of public concern, with no consideration of the balancing test required before a  
25 public employer can restrict the speech of a public employee on matters of public concern.

26 65. The PD policy at issue is unconstitutional on its face, as it is impermissibly  
27 vague, and has the purpose and effect of chilling otherwise protected speech by public  
28 employees on matters of public concern. Employees reading the policy would have no

1 discernable standard as to which posts would violate the policy – resulting in a chilling  
2 effect far greater than what is permissible under the United States Constitution.

3 66. The PD policy at issue is unconstitutional as applied, as Defendant’s  
4 analysis of Plaintiff Hernandez’s posts is arbitrary, with no discernable standard as to  
5 what posts will be permitted and what could relate in discipline. The arbitrary nature of  
6 Defendants’ enforcement of the PD policy creates an impermissible chilling effect on  
7 Plaintiff Hernandez’s participation in speech related to matters of public concern, and also  
8 chills the participation of members of Plaintiff AZCOPS.

9 67. Unless otherwise specified, Defendants were at all material times acting  
10 under the color of law and in their capacity as officials and agents of their respective  
11 government agencies.

12 68. Defendant Williams intentionally or recklessly allowed an investigation and  
13 proposed discipline action against Plaintiff Hernandez that deprived Plaintiff Hernandez  
14 of the ability to contribute to conversations related to matters of public concern.

15 69. Defendant Disotell intentionally or recklessly allowed an investigation and  
16 proposed discipline action against Plaintiff Hernandez that deprived Plaintiff Hernandez  
17 of the ability to contribute to conversations related to matters of public concern, and failed  
18 to consider or understand the First Amendment and Arizona Constitution Art. 2 §6 right to  
19 freedom of speech on matters of public concern.

20 70. The City of Phoenix intentionally or recklessly permitted an investigation  
21 against Plaintiff Hernandez without ensuring that Plaintiff Hernandez received proper  
22 protections related to his rights under the United States Constitution.

23 71. Plaintiffs Hernandez and AZCOPS will face further damages and chilling  
24 effects if Defendants are allowed to proceed with a Discipline Review Board and  
25 continued enforcement of the PD policy.

26 72. The lack of a meaningful consideration of the Federal constitutional  
27 concerns will cause actual damages to Plaintiffs in the form of time and money that will  
28 be expended to defend against a procedurally deficient process and investigative result.

73. Defendants wrongful conduct as referenced in this Complaint constitute violations of the United States Constitution including, but not limited to, Amendments I and XIV, in that Plaintiffs were deprived of privileges and immunities guaranteed to all citizens of the United States by being categorically deprived of their ability to participate in speech related to matters of public concern, without proper cause, with an unconstitutional motive and malice, without equal protection and without substantive and procedural due process.

74. Defendants' wrongful conduct both actually and proximately caused damage to Plaintiffs in the form of attorneys fees in an amount to be determined by the Court.

## **COUNT II**

### **Arizona Constitution Art. 2, §6 and A.R.S. §38-1101 *et. seq.***

75. Plaintiffs reallege each and every allegation set forth in the paragraphs above and incorporate each allegation by this reference.

76. Unless otherwise specified, Defendants Williams and Disotell were at all material times acting under the color of law and in their capacity as officials and agents of their respective government agencies.

77. Defendants Williams and Disotell initiated and took part in the internal investigation against Plaintiff Hernandez.

78. The internal investigation against Plaintiff Hernandez failed to consider his right to participate in speech related to matters of public concern, and contained no analysis of the protections contemplated in the Arizona Constitution – particularly Art. 2 §6 – which states – “Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.”

79. The internal investigation against Plaintiff Hernandez seeks to sustain discipline against him based, in part, on speech by others contained in the Plain View Project database – and not exclusively based upon the content and effect of Plaintiff Hernandez's own postings.

80. Plaintiff Hernandez is a nonprobationary sergeant, and is entitled to the processes outlined in the Arizona Peace Officers' Bill of Rights (A.R.S. §38-1101 *et. seq*).

81. Peace officers covered under the Peace Officers' Bill of Rights may not be subject to disciplinary action except for just cause (A.R.S. §38-1103(A)).

82. Just cause means the employer informed the law enforcement officer of the possible disciplinary action resulting from the officers conduct...such that the officer should have reasonably known disciplinary action could occur (A.R.S. §38-1101(7)(a)).

83. The disciplinary actions proposed by Defendants against Plaintiff Hernandez range from a 40-hour suspension to possible termination, and are not reasonably related to the seriousness of the alleged "offense" of speaking, in his private capacity, on matters of public concern.

84. Defendants' wrongful conduct both actually and proximately caused damage to Plaintiffs in the form of attorneys fees in an amount to be determined by the Court.

### **COUNT III**

#### **42 U.S.C. §1983 and State Law – Unconstitutional and/or Unlawful Customs, Policies and Failure to Train**

85. Plaintiffs reallege each and every allegation set forth in the paragraphs above and incorporate each allegation by this reference.

86. Unless otherwise specified, Defendants Williams and Disotell were at all material times acting under the color of law and in their capacity as officials and agents of their respective government agencies.

87. Defendants Phoenix and Williams failed to train Defendant Disotell in the appropriate, lawful and constitutional policies, procedures and protocols for investigating, processing, handling and managing internal investigations under his control.

88. Defendants Phoenix and Williams provided either no training or such inadequate training that the lack of training was the moving force behind Plaintiffs' injuries.



1 pursued.

2 97. Defendants breached their duties by conducting an incompetent and illegal  
3 investigation into Plaintiff Hernandez.

4 98. Defendants breached their duties by continuing the illegal investigation after  
5 they were advised, in writing, that this investigation had a chilling effect on Plaintiff  
6 Hernandez's rights to speak on matters of public concern.

7 99. Defendants breached their duties by recommending discipline based, even in  
8 part, on the speech of others (other officers listed in the Plain View Project) and/or on  
9 speech that is otherwise protected (i.e. reposting of articles and facts that are the subject of  
10 legitimate public concern).

11 100. Defendants' breach both actually and proximately caused damage to  
12 Plaintiffs in the form of attorneys fees in an amount to be determined by the Court.

13 **PETITION FOR A TEMPORARY RESTRAINING ORDER**

14 101. Plaintiffs reallege each and every allegation set forth in the paragraphs  
15 above and incorporate each allegation by this reference.

16 102. Upon information and belief, Defendants intend to proceed with a  
17 Discipline Review Board based upon the allegations against Plaintiff Hernandez on or  
18 about Tuesday, October 15<sup>th</sup>, 2019. The Discipline Review Board members include peers  
19 of Plaintiff Hernandez who are members of Plaintiff AZCOPS, and recommending  
20 discipline based upon an unconstitutional and illegal process would cause irreparable  
21 harm to Plaintiffs.

22 103. The continued enforcement of the PD Policy related to social media has an  
23 immediate, continued, and therefore irreparable chilling effect on the rights of Plaintiff  
24 AZCOPS' members, and therefore should be immediately enjoined.

25 104. Without an immediate relief, Plaintiffs would incur substantial hardship,  
26 including additional costs, the exposure of legal strategies, and a deficient appeal process  
27 that would materially harm their protected interests.

28 105. For these reasons, Plaintiffs respectfully request that the Court enjoin

Defendants from taking any further adverse actions against Plaintiff Hernandez or any member of Plaintiff AZCOPS until the Court can address the procedural, substantive, and statutory concerns raised in this Complaint, and consider further interim relief after both parties have the opportunity to be heard.

106. Although legal service of this Complaint and Petition is pending, Defendants were provided with actual electronic copies of the Complaint and Petition via email immediately after this document was filed with the Court.

107. Plaintiffs' counsel is available for an immediate hearing regarding Plaintiffs' request for a Temporary Restraining Order at any time after 2pm on Friday, October 11, 2019.

### **PRAYER FOR RELIEF**

Plaintiffs pray for judgment against the Defendants as follows:

- (a) For attorneys fees arising from Procedural Due Process violations in an amount to be determined by the Court;
- (b) For attorneys fees arising from Substantive Due Process violations in an amount to be determined by the Court;
- (c) For attorneys fees arising from violations of state statutory rights in an amount to be determined by the Court;
- (d) For attorneys fees arising from Unconstitutional Customs, Policies and Failure to Train in an amount to be determined by the Court;
- (e) For attorneys fees arising from Negligence in an amount to be determined by the Court;
- (f) For attorneys fees arising from Negligent Hiring, Training and Supervision in an amount to be determined by the Court;
- (g) General damages in an amount to be proven at trial, including but not limited to damages to reputation, emotional distress, lost profits, deprivation of constitutional rights, humiliation and attorneys' fees;
- (h) Costs and attorneys' fees as may be allowed by law and 42 U.S.C. §1988



- 1 (i) Interim and permanent injunctive relief to remedy past violations and to  
2 prevent further violations of Plaintiffs' rights; and  
3 (j) Such other and further relief which is just and reasonable.  
4

5 **NO JURY DEMAND**  
6

7 Plaintiffs request a trial by judge.  
8

9  
10 RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of October, 2019.  
11

12 **STEVEN J SERBALIK, P.L.C.**  
13

14 By: /s/Steven J. Serbalik  
15 Steven J. Serbalik  
16 4925 E. Desert Cove Ave #116  
17 Scottsdale, Arizona 85254  
18 *Attorney for Plaintiffs Juan Hernandez and the*  
19 *Arizona Conference of Police and Sheriffs, Inc.*  
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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

**Civil Cover Sheet**

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

**The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.**

**Plaintiff(s):** **Juan Hernandez ; Arizona  
Conference of Police and Sheriffs**

**Defendant(s):** **City of Phoenix ; Jeri Williams ;  
Shane Disotell**

County of Residence: Maricopa

County of Residence: Maricopa

County Where Claim For Relief Arose: Maricopa

**Plaintiff's Atty(s):**

**Defendant's Atty(s):**

**Steven J Serbalik  
Steven J Serbalik PLC  
4925 E Desert Cove Ave #116  
Scottsdale, Arizona 85254  
480-269-1529**

**II. Basis of Jurisdiction:**

**3. Federal Question (U.S. not a party)**

**III. Citizenship of Principal**

**Parties (Diversity Cases Only)**

**Plaintiff:- 1 Citizen of This State**

**Defendant:- 1 Citizen of This State**

**IV. Origin :**

**1. Original Proceeding**

**V. Nature of Suit:**

**440 Other Civil Rights**

**VI.Cause of Action:**

**42 USC 1983**

**VII. Requested in Complaint**

**Class Action: No**

Dollar Demand:  
Jury Demand: **No**

VIII. This case is not related to another case.

---

**Signature:** /s/ Steven J Serbalik

**Date:** 10/10/19

**If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.**

Revised: 01/2014

# Exhibit 1

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**Juan Johnny Hernandez** shared a photo.  
August 14, 2012 · 🌐



**Media Research Center**  
August 14, 2012 · 🌐

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Recent VIOLENCE against peaceful pro-life demonstrators was BURIED by the news media in favor of coverage for Tom Cruise & Katie Holmes' divorce...

Something tells us if protestors for LIBERAL causes were attacked, the media would have been all over it!

--> <http://bit.ly/Phsj9x>

'LIKE' and 'SHARE' if you are OUTRAGED over the media's refusal to TELL THE TRUTH!

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## SEARCH RESULTS

## Post Data

City: Phoenix Posted: Aug 14, 2012  
Screenshot: May 12, 2018

## Author Data

**Hernandez, Juan**

11 Posts, 0 Comments

Uid:	Bluejman2	Title:	Sergeant
Salary:	\$103,916.80	Status:	Current

# Exhibit 2



HOME

ABOUT

DATABASE

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**Juan Johnny Hernandez** shared a link.

September 12, 2012 · 🌐

### ISLAMISTS DRAG DEAD BODY OF US AMBASSADOR IN THE STREETS! | The Gateway Pundit

You may use these HTML tags and attributes: `<a href="" title=""> <abbr title=""> <acronym title=""> <b> <blockquote cite=""> <code> <del datetime=""> <em> <i> <q cite=""> <strike> <strong>`

THEGATEWAYPUNDIT.COM

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#### SEARCH RESULTS

## Post Data

City: Phoenix

Posted: Sep 12, 2012

Screenshot: May 12, 2018

Media: [ Article ]

## Author Data

**Hernandez, Juan**

11 Posts, 0 Comments

Uid: Bluejman2

Title: Sergeant

Salary: \$103,916.80

Status: Current



# Exhibit 3

<b>SOCIAL MEDIA USE POLICY</b>	<b>Operations Order 3.27</b>
<b>PHOENIX POLICE DEPARTMENT</b>	New 08/13 <b>PAGE 1</b>

1. **POLICY STATEMENT**

Social media provides a potentially valuable means of assisting the Department and its personnel in meeting community outreach, problem-solving, investigations, crime prevention, and related objectives. This policy identifies potential uses of social media that may be explored or expanded upon as deemed reasonable by administrative and supervisory personnel. The Department also recognizes the role these tools play in the personal lives of some Department personnel. The personal use of social media can have bearing on departmental personnel in their official capacity. As such, this policy provides information of a precautionary nature as well as prohibitions and directives on the use of social media by Department personnel. Department personnel are also expected to comply with the City's rules and Administrative Regulations (AR) related to the use of social media.

2. **PURPOSE**

The Department endorses the secure use of social media to enhance communication, collaboration, and information exchange; streamline processes; and foster productivity. This policy establishes the Department's position on the utility and management of social media and provides guidance on its management, administration, and oversight. This policy is not meant to address one particular form of social media but rather the use of social media in general.

3. **SCOPE**

- A. This policy applies to **ALL** employees of the Department. Exceptions are listed in following sections of this order and are in relation to an employee's official duties pertaining to social media as a promotional or investigative tool, and are specifically addressed in this policy.
- B. This policy applies to all forms of interactive or non-interactive social media as listed in section 5 of this order, as well as future technologies of a similar nature. The policy is not intended to be limited to popular social media outlets only but should be construed to cover all such sites and technologies even those of an obscure nature.
- C. If employees are found to be in violation of this policy or the City's ARs, they will be subject to the appropriate disciplinary action, up to and including termination.
- D. The Department reserves the right to inspect, to the extent necessary, any and all files and data stored in any area of the City's network, on City owned or leased computers, on City phones, or any other City devices. The Department also reserves the right to inspect any personally owned devices used to conduct City business. Employees shall allow inspection of any such device by the appropriate City authority upon request. The failure to allow inspections may be grounds for disciplinary action, up to and including termination (refer to AR 1.63 for more information).

4. **GENERAL INFORMATION**

A. **Authorization for Department Related Social Media Usage**

- (1) The Public Affairs Bureau (PAB) commander or authorized designee approves all social media use which officially represents the Department, its subsidiaries (bureaus, precincts, units, details, etc.), and Department personnel in their official capacity.
- (2) The Department will have one (1) Facebook page and one (1) Twitter account. Exceptions to this policy must be approved by the City's Public Information director prior to the creation of any new social media pages. The request will be made to the PAB commander or authorized designee through the chain of command.
- (3) Requests for social media access shall be submitted to the PAB commander or authorized designee through the chain of command.

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4. B. Official Social Media Designees

- (1) PAB personnel (to include the Media Relations Unit and Web Media Detail), as assigned by the PAB commander or authorized designee, are the official social media designees.
- (2) Precinct/bureau commanders may designate personnel as social media representatives for the precinct/bureau who may utilize those social media outlets previously approved by the PAB commander or authorized designee.
- (3) Department personnel representing the Department via social media outlets shall do the following:
  - Conduct themselves at all times as representatives of the Department and, accordingly, shall adhere to all Department and City standards of conduct and observe conventionally accepted protocols and proper decorum. They shall maintain the professional and dignified demeanor expected of employees of the Department in their posts, comments, shared files, videos, graphics, and/or photographs.
  - Identify themselves as a member of the Department. Posts and comments should not be made as if they are from members of the community.
  - Not make statements about the guilt or innocence of any victim, witness, suspect, or arrestee; not make comments concerning pending prosecutions; not post, transmit, or otherwise disseminate confidential information, including photographs or videos; not comment upon Department training, activities, or work-related assignments without express written permission.
  - Not engage in any political activities or private business.
  - Not make critical or disparaging comments about the Department or Department policies, activities, or personnel.
  - Not make any comments concerning any civil or criminal cases in which the employee is or will reasonably be a witness.
  - Respect the copyrights, trademarks, service marks and intellectual property of others.
  - Comply with City ARs
  - Comply with Operations Order 2.15, Micro Computers.
- (4) Any Department authorized use of social media must be performed during normal working hours unless authorized by the designee's chain of command. Overtime is not approved for social media usage outside of normal working hours unless prior approval has been granted by the designee's chain of command. Designees may not engage in official use of social media on personal time, even when related to the Department; any such use is not authorized for overtime.

C. Web postings containing proprietary images or materials belonging to the City or the Department are prohibited except where authorized by official designees of the Department or City. This includes but is not limited to the following:

- The City trademark (City bird)
- Department trademarks (PHXPD logo, badge, and shoulder patches) in graphic or physical form
- Web site banners or graphics from official City or Department web sites

D. The Department strategy for using social media should promote the Department and its interests.

- (1) Each social media page shall include an introductory statement clearly specifying the purpose and scope of the agency's presence on the website.
- (2) If possible, the page/s shall link to the Department's official web site.

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4. D. (3) Department social media accounts shall refer to the City's Official Social Media Terms of Use.
- (4) Social media page/s shall be designed for the target audience/s such as youth, potential police recruits, media, target communities, or the community as a whole.
- (5) Use of social media should not promote a single individual's interests except where those interests also serve the Department as a whole and **only** when the Department has specifically authorized the promotion of that individual's interests.
- (6) Department personnel authorized to use social media must manage the posts they make on their pages as well as any comments made and/or deleted on their pages. Refer to the City's Records Retentions Schedule for detailed information regarding records maintenance and handling.
- (7) When using any form of media or social media on duty, in an official capacity, or as a representative of the Department, employees must adhere to all state laws governing the release of information and records.
- (8) As public employees, Department personnel are cautioned that work-related speech (any speech made pursuant to their official duties and owing its existence to the employee's professional duties and responsibilities) receives much less protection under the First Amendment than purely personal speech and may form the basis for discipline if the speech is deemed detrimental to the Department.

## 5. **DEFINITIONS**

<b>A. Blog</b>	A self-published diary or commentary on a particular topic that may allow visitors to post responses, reactions, or comments. The term is short for "Web log."
<b>B. Comment</b>	A remark in text or video expressing an opinion or reaction to information presented on a web page such as in response to a news article or other post
<b>C. Data Extraction</b>	The process of finding and extracting useful data from various social media and internet related sources. This is often used as an investigative tool as suspects often post information about their crimes on social media web sites.
<b>D. Follow</b>	On the Twitter web site "following" someone means you will see their tweets (Twitter updates) in your personal timeline. Twitter lets you see who you follow and also who is following you. Followers are people who receive other people's Twitter updates.
<b>E. Off Duty</b>	Any time an employee is not on duty as defined in 5.F below (also defined in Operations Order 1.3)
<b>F. On Duty</b>	Any time an employee is actively engaged in the performance of regularly assigned duties, when in the performance of a special mission for the Department, or when involved in any incident requiring the employee to act in the capacity of a police officer (also defined in Operations Order 1.3)
<b>G. Page</b>	The specific portion of a social media website where content is displayed and managed by an individual or individuals with administrator rights
<b>H. Post</b>	Content an individual shares on a social media site or the act of publishing content on a site. Profile: Information that a user provides about himself or herself on a social networking site.
<b>I. Re-Tweet</b>	To repost another user's message on the social networking website Twitter
<b>J. Social Media</b>	A category of internet-based resources that integrate user-generated content and user participation. This includes, but is not limited to, social networking sites (Facebook, MySpace, Google+), microblogging sites (Twitter, Nixle), photo and video sharing sites (Flickr, YouTube), wikis (Wikipedia), blogs, and news sites (Digg, Reddit). Social Networks: Online platforms where users can create profiles, share information, share files, share videos, share video clips, and socialize with others using a range of technologies.
<b>K. Social Networking</b>	The development of social and professional contacts; the sharing of information and services among people with a common interest

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5. **DEFINITIONS** (Continued)

<b>L. Speech</b>	Expression or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, photographs, videotape, or related forms of communication
<b>M. Tweet</b>	A posted message on the social networking website Twitter
<b>N. Vlog</b>	Similar to blog except it is presented as a video instead of text
<b>O. Web Page</b>	See 5.G above
<b>P. Web Site</b>	A site (location) on the world wide web (www). Each web site contains a home page, which is the first document users see when they enter the site. The site might also contain additional documents and files. Each site is owned and managed by an individual, company or organization. This is a broadly used term generically covering the various social media sites as well as news, information, and other similarly organized locations on the world wide web.
<b>Q. Wiki</b>	Web page/s that can be edited collaboratively. Wikipedia is a well known example but wiki can be dedicated to any topic.

6. **PUBLIC AFFAIRS BUREAU USE**

- A. Official social media designees who are authorized to use social media on behalf of the Department must use Department-issued, City-issued, or authorized personal devices when posting, commenting, or engaging in any type of social networking. The use of unauthorized personal devices is strictly prohibited.
- B. Social media can be used for community outreach and engagement by:
- Providing crime prevention tips (burglary prevention, Block Watch, drowning, drug awareness, etc.)
  - Offering online-reporting opportunities
  - Sharing crime maps and data
  - Soliciting tips about unsolved crimes (Silent Witness)
- C. Social media can be used to make time-sensitive notifications related to:
- Road closures
  - Special events (community meetings, Coffee with a Cop, press conferences)
  - Weather emergencies (monsoon, dust, heat, etc.)
  - Missing or endangered persons
  - Police incidents that might affect the surrounding community
- D. Any other Department related information of general interest to the community, such as:
- Commander rotations
  - Changes to precincts (boundaries, additions, events)
  - Awards and commendations or other positive recognition received by the Department or employees that reflects well on the organization as a whole
  - Line of duty incidents

7. **OTHER AUTHORIZED USE**

- A. Those units authorized by PAB to use social media for community outreach and engagement are limited to the following use:
- Special events (community meetings, Coffee with a Cop, G.A.I.N., etc.)
  - Non-criminal traffic related incidents (road closures due to non-criminal related accidents, downed power lines, etc.)
  - Weather emergencies (monsoon, dust, heat etc.)

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## 8. INVESTIGATIVE USE

- A. Social media is a valuable investigative tool when seeking evidence or information about:
- Missing persons
  - Wanted persons
  - Gang participation
  - Graffiti
  - Crimes perpetrated online (cyber-bullying, cyber-stalking, fraud, etc.)
  - Photos or videos of a crime posted by a participant or observer.
- B. Social media use by investigators of a public nature must be approved by the PAB commander or authorized designee. Social media use of an investigative or undercover nature must receive prior approval through the precinct/bureau commander/administrator.
- C. Social media use not of a public nature (data extraction, undercover work) must comply with Operations Order 2.15.10.B related to using the internet as an investigative tool. For example, if an investigator wished to use the Department's social media presence to request information about a crime from the community, it requires approval from the PAB commander or authorized designee. However, if an investigator wishes to use a social media site to obtain evidence of a crime through investigative work, it does not.
- D. Employees are prohibited from using personal cell phones or any personally owned recording device of any type, other than those pre-approved by the Department, to record, upload, transfer, or share crime scene photographs or any other items of evidence obtained in the course of their duties, except in furtherance of an authorized departmental criminal or internal investigation.
- E. Employees are reminded any personal electronic devices used on duty and/or in an official capacity may be subject to review, subpoena, discovery, public records requests, and/or impound for possible evidentiary value.

## 9. PERSONAL USE

- A. Department personnel are cautioned their speech and related activity on social media sites may be considered a reflection upon their position, and, in some instances, this Department.
- (1) When using social media, Department personnel should be mindful their speech becomes part of the worldwide electronic domain. Therefore, adherence to City and Department policies is required in the personal use of social media. Employees are prohibited from using social media in a manner that would cause embarrassment to or discredit the Department in any way.
  - (2) Employees are responsible for their social media postings if they are found to be in violation of any City or Department policy.
  - (3) Employees may not use social media to harass, discriminate, bully, retaliate, etc.
- B. Personal social media activity must not interfere with work duties or the operation of the Department.
- (1) Employees are prohibited from posting on any networking or internet site any photographs, video, or audio recordings taken on Department property and/or in the performance of official duties (including official Department training, activities, or work specific assignments) that are detrimental to the mission and functions of the Department, that undermine respect or public confidence in the Department, could cause embarrassment to the Department or City, discredit the Department or City, or undermine the goals and mission of the Department or City.

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9. B. (2) Employees are prohibited from posting any information or commenting about ongoing criminal investigations, administrative investigations, criminal cases, civil lawsuits, or police incidents involving the City on any media site, website, or the internet without prior approval from their commander/administrator.
- (3) Any employee using the City's network for personal use does so at the employee's own risk. Use of the City's network for personal purposes to the extent that such use compromises security or impedes City business in any manner, including a decrease in employee productivity, may subject the employee to disciplinary measures up to and including termination.
- (4) Employees have no expectation of privacy for any personal communications or information sent or received via the City's network or City's devices.
- (5) Employees who work in undercover operations shall not post any form of visual or personal identification
- (6) Department personnel are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of this Department, are detrimental to the mission and functions of the Department, that undermine respect or public confidence in the Department, cause embarrassment to the Department or City, discredit the Department or City, or undermine the goals and mission of the Department or City.
- (7) Department personnel may not divulge information gained while in the performance of their official duties; make any statements, speeches, appearances, and endorsements where the employee is acting or appearing to act in an official capacity or as an official representative of the Department or City; or publish materials that could reasonably be considered to represent the views or positions of this Department without express authorization.
- C. For safety and security reasons, Department personnel are cautioned not to disclose their employment with this Department. As such, Department personnel are cautioned not to:
  - Display Department logos, uniforms, or similar identifying items on personal web pages.
  - Post personal photographs or provide similar means of personal recognition that may cause them to be identified as an employee of this Department.
- D. Department personnel should be aware privacy settings and social media sites are constantly in flux, and they should never assume that personal information posted on such sites is protected. Personnel are reminded even the strongest privacy settings cannot prevent an approved "friend" or authorized recipient from independently choosing to forward or re-post the information worldwide.
- E. Department personnel should expect any information created, transmitted, downloaded, exchanged, or discussed in a public online forum may be accessed by the Department at any time without prior notice.

10. **RELATED POLICIES, STANDARDS, AND PROCEDURES**


- AR 1.61 – Records Management Program
- AR 1.63 – Electronic Communications and Internet Acceptable Use
- AR 1.90 – Information Privacy and Protection
- AR 1.92 – City Presence on the Internet
- AR 1.95 – Privacy Program
- Information Technology Standard (s) 1.2.1 – Requesting Access to Blocked Web Sites
- s1.10 – Collaborative Web Technologies Usage



# Exhibit 4

The Plain View Project
HOME ABOUT DATABASE DONATE

September 30, 2013



THE MOST COMMON NAME FOR A CONVICTED GANG RAPIST IN ENGLAND IS...

# Muhammad

Note to the British media - these gangs are not comprised of "Asians"; they are Muslims

Ban Sharia Law in Your State-U.S.
Like Page

## Post Data

City: Phoenix Posted: Sep 30, 2013  
Screenshot: May 12, 2018

## Author Data

Hernandez, Juan 11 Posts, 0 Comments

Uid:	Bluejman2	Title:	Sergeant
Salary:	\$103,916.80	Status:	Current

# Exhibit 5



HOME

ABOUT

DATABASE

DONATE



October 8, 2013 · 🌐

### You just got to love the Brits.



A devout Muslim entered a black cab in London. He curtly asked the cabbie to turn off the radio because, as decreed by his religious teaching, he must not listen to music because, in the time of the prophet, there was no music, especially Western music which is the music of the infidel.

The cab driver politely switched off the radio, stopped the cab and opened the door. The Arab Muslim asked him, "What are you doing?" The cabbie answered, "In the time of the prophet, there were no taxis, so piss-off and wait for a camel!"

██████████ is with ██████████  
October 1, 2013 - Amphoe Muang Khon Kaen, Thailand

## Post Data

City: Phoenix

Posted: Oct 8, 2013

Screenshot: May 12, 2018

## Author Data

Hernandez, Juan

11 Posts, 0 Comments

UId: Bluejman2

Title: Sergeant

Salary: \$103,916.80

Status: Current

# Exhibit 6



HOME

ABOUT

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DONATE

[Back to search](#)
[Share](#)
[Tweet](#)


Juan Johnny Hernandez shared a photo.

December 24, 2013 ·



ConservativeGuy

December 23, 2013 ·

[Like Page](#)

7th century religion breeds 7th century 'science' lol

[Share](#)

SEARCH RESULTS

## Post Data

City: Phoenix

Posted: Dec 24, 2013

Screenshot: May 12, 2018

## Author Data

Hernandez, Juan

11 Posts, 0 Comments

Uid: Bluejman2

Title: Sergeant

Salary: \$103,916.80

Status: Current

# Exhibit 7





HOME

ABOUT

DATABASE

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[◀ Back to search](#)

Share

Tweet


**Juan Johnny Hernandez** shared a link.

January 2, 2014 · 🌐



### Real Footage – Cop Shoots Thug in the Head

MIDWEST CITY, Okla. – Police in Oklahoma are speaking out about a hostage situation at a local Wal-Mart where a 2-year-old girl was held at knife-point by a man, until police shot and killed the su...

[READYCHIMP.COM](http://READYCHIMP.COM)

Share

3

#### SEARCH RESULTS

## Post Data

City:	Phoenix	Posted:	Jan 1, 22014
Screenshot:	May 12, 2018	Media:	[ Video ]

## Author Data

**Hernandez, Juan**

11 Posts, 0 Comments

Uid:	Bluejman2	Title:	Sergeant
Salary:	\$103,916.80	Status:	Current

# Exhibit 8

[◀ Back to search](#)[Share](#)[Tweet](#)

Juan Johnny Hernandez shared a link.

January 3, 2014 · 🌐



### Congress Throws Veterans Under The Bus For Illegal Immigrants

I have a column up at Breitbart called, Congress Throws Veterans Under The Bus For Illegal Immigrants. Here's an excerpt from the column. In Washington, it is often said...

[RIGHTWINGNEWS.COM](http://RIGHTWINGNEWS.COM)[Share](#)

#### SEARCH RESULTS

## Post Data

City: Phoenix

Posted: Jan 3, 2014

Screenshot: May 12, 2018

Media: [\[ Article \]](#)

## Author Data

**Hernandez, Juan**

11 Posts, 0 Comments

Uid: Bluejman2

Title: Sergeant

Salary: \$103,916.80

Status: Current

# Exhibit 9

[← Back to search](#)[f Share](#)[t Tweet](#)

Juan Johnny Hernandez shared a link.

January 9, 2014 · 🌐

**The End of the Christians in the Muslim World**

By Dr. Guy Bechor (Translation from Hebrew: Avishai Zonnenberg, Arik Klein) The numbers are truly staggering: In Iraq of 2003, until the fall of Saddam Hussein, there were 1.5 million Christians, bu...

THEMINORITYREPORTBLOG.COM

[🔗 Share](#)[👍 1](#)

## SEARCH RESULTS

## Post Data

City: Phoenix

Posted: Jan 9, 2014

Screenshot: May 12, 2018

## Author Data

**Hernandez, Juan**

11 Posts, 0 Comments

Uid: Bluejman2

Title: Sergeant

Salary: \$103,916.80

Status: Current

# Exhibit 10



HOME

ABOUT

DATABASE

DONATE

[◀ Back to search](#)
[f Share](#)
[t Tweet](#)



**Juan Johnny Hernandez** shared a link.
 

January 9, 2014 · 🌐



**Military Pensions Cut, Muslim Mortgages Paid By US!**  
 The Obama Administration cut Military pensions but found 300 million to send to Muslim's overseas to help pay for their mortgages  
 THEMINORITYREPORTBLOG.COM

 Share

## SEARCH RESULTS

## Post Data

City: Phoenix

Posted: Jan 9, 2014

Screenshot: May 12, 2018

## Author Data

Hernandez, Juan

11 Posts, 0 Comments

Uid: Bluejman2

Title: Sergeant

Salary: \$103,916.80

Status: Current

# Exhibit 11



[← Back to search](#)[f Share](#)[t Tweet](#)

Juan Johnny Hernandez shared a link.

February 7, 2014 · 🌐

**Young Christian Girl Repeatedly Raped By 15 Muslims Then Murdered [READ HERE]**

Mr. Conservative is the top website for news, political cartoons, breaking news, republican election news, conservative facts and commentary on political elections

MRCONSERVATIVE.COM

[↗ Share](#)

## SEARCH RESULTS

## Post Data

City: Phoenix

Posted: Feb 7, 2014

Screenshot: May 12, 2018

## Author Data

**Hernandez, Juan**

11 Posts, 0 Comments

Uid: Bluejman2

Title: Sergeant

Salary: \$103,916.80

Status: Current

# Exhibit 12



HOME

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Juan Johnny Hernandez shared a link.

March 27, 2014 ·



### Two Christians Beheaded in New Jersey By Muslim Man: Media, Silent!

by Steve Foley While the national media covers the Oscar Pistorius murder case wall to wall, the gruesome murder and beheading of two Coptic Christians by a Muslim has...

GOPTHEDAILYDOSE.COM

Share

1

1 Share



Wow! That's insane!

4y

SEARCH RESULTS

## Post Data

City: Phoenix

Posted: Mar 27, 2014

Screenshot: May 12, 2018

## Author Data

Hernandez, Juan

11 Posts, 0 Comments

Uid: Bluejman2

Title: Sergeant

Salary: \$103,916.80

Status: Current

# Exhibit 13

This transcript was exported on Aug 19, 2019 - view latest version [here](#).

Sgt. Robinaugh: All right, we all ready?

Male: Mm-hmm (affirmative).

Sgt. Robinaugh: All right, it's June 20, 2019 at, uh, 08:29 hours. We're at 17 S. Second Avenue, the PSB building. I'm Sergeant [Robinaugh 00:00:15]. I'm here with Sergeant Murphy. We're interviewing Sergeant Juan Hernandez and we're here with Bryan Thatcher. We'll start with the NOI, I'll read this to you.

Sgt. Robinaugh: Uh, it is alleged you violated the Phoenix Police Department's social media policy, operations order 3.27.9.b.6, which states, "Department personnel are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of this department, are detrimental to the mission and functions of the, the department, that undermine respect or public confidence in the department, cause embarrassment to the department or city, discredit the department or city, or undermine the goals and mission of the department or city."

Sgt. Robinaugh: Okay, and this NOI has been previously, uh, initialed and signed by, uh, Sergeant Hernandez on June 5, 2019. Um, Garrity?

Bryan Thatcher: Uh, yeah, it's understood that this interview is, uh, compelled as a condition of employment and therefore the protections of Garrity versus New Jersey would be applied.

Sgt. Robinaugh: Very good. Okay. Uh, before we get into the, uh, post, we'll just go over general, uh, questions about your account and then, uh, we'll proceed from there. Um, so first question, uh, do you have a Facebook account?

Juan Hernandez: Yes, I do.

Sgt. Robinaugh: Okay. And do you post on your account?

Juan Hernandez: Yes, I do.

Sgt. Robinaugh: And what name is used when you post?

Juan Hernandez: Juan Johnny Hernandez.

Sgt. Robinaugh: Okay. And that's consistent with, uh, what's on the posts?

Juan Hernandez: Correct.

Sgt. Robinaugh: Okay. Uh, is your account set to private?

Juan Hernandez: Um, it is now. I'm not sure it was before.

This transcript was exported on Aug 19, 2019 - view latest version [here](#).

Sgt. Robinaugh: Okay. Uh, do you know when, approximately, you put it to a private status?

Juan Hernandez: A week or two ago.

Sgt. Robinaugh: Okay (laughs).

Juan Hernandez: I, I went back and reviewed everything I thought was, uh, might have been public. I tried to change everything to private.

Sgt. Robinaugh: Okay.

Bryan Thatcher: And Facebook, I think, does up- sometimes update the privacy settings and that's why they encourage people to periodically check and reset and reconfigure. That's why it- it might have changed over time.

Sgt. Robinaugh: Okay.

Bryan Thatcher: It's a possibility.

Sgt. Robinaugh: Uh, have you inputted or posted any pictures or texts identifying yourself as a police officer?

Juan Hernandez: Uh, I believe I have.

Sgt. Robinaugh: Okay, do you remember what that was, or ...

Juan Hernandez: Just, um, I mean, I'm involved in a lot of community events and just pictures of, uh, with characters and stuff.

Sgt. Robinaugh: Okay. Um, and so, this is, uh, like a wor- work-related event or ...

Juan Hernandez: Yes.

Sgt. Robinaugh: Okay. What, and where do you work right now?

Juan Hernandez: Uh, comm- well, I worked in community relations and then I work in South Mountain as an SRO sergeant.

Sgt. Robinaugh: Okay, so this is back during community relations?

Juan Hernandez: Correct.

Sgt. Robinaugh: Okay. And then, the posts, were they to promote the department or something like that?

Juan Hernandez: Yeah, it was-

This transcript was exported on Aug 19, 2019 - view latest version [here](#).

Sgt. Robinaugh: Okay.

Juan Hernandez: ... a positive thing.

Sgt. Robinaugh: Okay. Okay, uh, we'll go into these. Uh, first one we're gonna speak about, uh, this is dated December 24, 2013. It's a meme, it's titled "Recent contributions to science by Islam" and it dep- depicts, uh, looks like, uh, figures within the Islamic community, uh, in quotes that they are saying, more or less. You had time to review this?

Juan Hernandez: I did.

Sgt. Robinaugh: Okay, and, uh, why did you post that?

Juan Hernandez: Again, um, I- I can't really remember why I posted it. This was over six years ago. Um, it's been a long time. Um, when I post, I- I- I repost stuff, so articles I read I repost just to, just to generate public discussion. Um, I- I never offer an opinion. Uh, I've never commented on any of my posts. Um, and that's just, uh, trying to drive, um, the- our- the discussion about, uh, assimilation to other countries. I know that, uh, around this time, [5:00] there was a lot of ISIS activity in the Middle East and I know a lot of refugees were coming to Europe especially, but I know the United States was taking a lot of them and, uh, it was just to drive discussion about assimilation.

Sgt. Robinaugh: Okay, um, what race, or I'm sorry ... Uh, religion is being depicted in those posts?

Juan Hernandez: Um, it appears to be Muslim. Islam is, specifically.

Sgt. Robinaugh: Okay, uh, and does the post hinder or help with relationships within the Islamic community?

Juan Hernandez: I don't know if it helps or hinders. Again, it drives discussion. Um, and again, when I post stuff, it's for people to decide on their own. I never offer my opinion, I never have.

Sgt. Robinaugh: Okay.

Bryan Thatcher: Can I ask a couple followup questions [crosstalk 00:06:11]?

Sgt. Robinaugh: Oh, yeah, you bet.

Bryan Thatcher: Um, so, you referred to the, uh, the time period that this post occurred that there was a, um, I guess you could say a conflict in the Middle East revolving around ISIS?

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Juan Hernandez: Correct.

Bryan Thatcher: And what is the I in ISIS stand for, do you know?

Juan Hernandez: Islamic.

Bryan Thatcher: So, there's concern that the people involved in the conflict were Islamic and then the refugees that were coming out-

Juan Hernandez: Were, yeah, Islamic, uh, refugees coming into the European and [crosstalk 00:06:46]

Bryan Thatcher: And your concern was that they weren't assimilating in the cultures that were adopting them in Europe and elsewhere, is that?

Juan Hernandez: I mean, that's, yeah, my- my thoughts on that.

Bryan Thatcher: Do you have any personal experience with assimilation as an immigrant or for immigrants?

Juan Hernandez: Well, my- my grandparents assimilated, you know, uh, to this country from Mexico. Obviously, they came in, um, my grandparents thought that education was important and they, um, everything that we have, I think is now American culture. I mean, we just assimilated to it and- and- and moved on. I think that's what, uh, I was trying to drive that discussion towards it. It would be nice if everybody assimilated to our culture. We have a great culture and a great country.

Sgt. Robinaugh: Okay. Anything else?

Bryan Thatcher: Um, so at the time, there was concern that people were fleeing the conflict in the Middle East going to Europe and also to the United States, so you were just commenting on that ongoing migratory pattern and what consequences that might have for government, society, so on?

Juan Hernandez: Correct, yes. That was my- my thoughts.

Bryan Thatcher: You view that as a matter of public concern?

Juan Hernandez: I do.

Bryan Thatcher: Okay. That's all I got.

Sgt. Robinaugh: Okay. All right, second one. This is dated September 30, 2013. Uh, it's a meme. On the bottom it says "Mohammad" in big letters, uh, and there's a note. It



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says, "The most common name for a convicted gang rapist in England is," and then it states, "Mohammad." All right, why did you post this one?

Juan Hernandez: Again, um, to get the public discussion going. There was, uh, a time at this time, again, ISIS was big, refugees were coming into the European Union. Uh, we, there was discussion about No Go Zones, where only Muslims could go. Um, they were talking about crime waves, terrorism was- was big. Um, my only point was that, uh, again, if these people assimilate, they need to, that's what they need to do and, uh, accept our culture, I think, and that was the- the issue back then in my- my opinion. And, uh, people needed to see that and I thought they needed to discuss that.

Sgt. Robinaugh: Okay. Um, again, the religion being referred to?

Juan Hernandez: Um, it- it refers to a name. Um, and I hear it's as a Muslim.

Sgt. Robinaugh: Okay. And, uh, does this post hinder or help with relationships in the Islamic community?

Juan Hernandez: Well, again, it drives discussion. I don't know that it hur- you know, the, goes either way, and that's my only point or thought was to, uh, to drive that discussion. Again, I don't, I don't comment, and I let people form their own opinions.

Sgt. Robinaugh: Okay.

Bryan Thatcher: So, then, [00:10:00] um, your concern, again, at the time was that there was an influx of refugees or migration from the Middle East to European countries, um, and then, I think you said ... I might have been, I might be mistaken ... that you were c- there was concern that there might be an influx of-

Juan Hernandez: Yeah.

Bryan Thatcher: ... criminals or [crosstalk 00:10:17]?

Juan Hernandez: Criminals is- is the big part of this. Um, I know that ISIS, uh, there was talk of ISIS infiltrating refugee groups, uh, and there was talk of bringing those refugee groups to the United States. And I think my concern, or what I wanted to get out there, was that people need to be aware that if we start bringing in lots of refugees that this is gonna, this may be a problem that we run into.

Bryan Thatcher: And this post is specific to England and you mentioned at the time that London had what were called No Go Zones?

Juan Hernandez: Correct.

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Bryan Thatcher: Because of ...

Juan Hernandez: Just, um, again, people that refused to assimilate and wanted to keep their culture that they brought from their country and impose it on other people in other countries.

Bryan Thatcher: And were there public safety concerns associated with that?

Juan Hernandez: Absolutely. Absolutely. There was reports of violence in those areas, uh, for non-Muslims.

Bryan Thatcher: Okay, and you view that as a matter of public concern?

Juan Hernandez: I do.

Bryan Thatcher: Okay. We're good.

Sgt. Robinaugh: Okay. All right, next one. Uh, January 9, 2014, uh, looks like there once was a picture there not posted here. Uh, states, "Military pensions cut, Muslim mortgages paid by US." And why did you post that?

Juan Hernandez: Again, this is to drive the discussion in the United States. Um, our military at this time, again, was involved in- in the conflict in the Middle East. Uh, ISIS was big and, um, I just have a respect for our- our military. I think, um, they don't get nearly enough the recognition, they don't get, uh, paid enough, and I think that, uh, cutting their military pensions was, uh, a slap in the face to them. I've never served in the military. I have family members that have served in the military, the serve in the military currently, and, uh, I just wanted to drive the discussion about the military pensions and we need to protect them and their pensions.

Sgt. Robinaugh: Okay. Um, do you think that depicts any certain religion?

Juan Hernandez: Again, Muslim is the, um, the one that's out in the, in the headline of it, uh, on there.

Sgt. Robinaugh: Okay. And, uh, does this post hurt or hinder relationships within Islamic community?

Juan Hernandez: Again, I d- I don't know that, uh, it does or not ... You know, this one, I- I'm going to say that probably it [inaudible 00:12:45] does. Um, um, looking back, I probably, that's probably one that I would consider not posting. I'm not posting anything anymore. I mean, if their objective was to silence us, they did it. I'm not posting anything anymore.

Sgt. Robinaugh: Okay, why- why would you say that?

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Juan Hernandez: Um, we just, uh ... You know, you're picking one group over another one and we just need to treat everyone fairly, looking back.

Sgt. Robinaugh: Okay.

Bryan Thatcher: There's a saying in politics that politics is the, uh, utilization of a finite amount of resources to solve an infinite amount of problems. So, do you view this as commentary on where limited resources should be spent?

Juan Hernandez: Definitely. I, yeah, again, uh, when we talk about limited resources, I think, um, our military deserves most of, you know, everything we can give them and more. Um, they're definitely, um, always, in my opinion, get the short end, and especially veterans. Um, we have, uh ... I read articles all the time about all the homeless veterans and I think we need to do more for them.

Bryan Thatcher: Okay, so you view the care and support of US military veterans as a matter of public concern?

Juan Hernandez: I do.

Bryan Thatcher: Okay.

Juan Hernandez: Very much so.

Sgt. Robinaugh: Okay. And our last one, dated October 8, 2013. It's a picture of a, looks like a English taxi. Um, the narrative depicts a conversation between the taxi driver and his, uh, Muslim passenger. Um, you had time to review that one?

Juan Hernandez: I did.

Sgt. Robinaugh: Okay, and um, why did you post that?

Juan Hernandez: Again, this one is from six years ago. Um, um, the only thoughts I had is about assimilation. I think this one just, um, their refusal to accept, uh, Western culture and this was in England, um, Great Britain, um, and just to drive the- [00:15:00] the discussion about, uh, assimilation again. Having been, um, you know, a grandson of, uh, of migrants, we came to the country and assimilated, um, and we keep doing that, education and so forth, and, uh, accepting the culture here is what we need to, or that I was trying to drive to, anyway.

Sgt. Robinaugh: Okay, and does this depict a certain religion?

Juan Hernandez: Um, it mentions a- a devout Muslim is on the first line.

Sgt. Robinaugh: Okay. And does this hurt or, um, help build relations with the Muslim community?

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Juan Hernandez: Again, I- I can't offer that opinion. Um, it drives discussion and it- it would help them if, uh, if it got the word out that they, you know, if the discussion was assimilation-

Sgt. Robinaugh: Mm-hmm (affirmative).

Juan Hernandez: ... uh, into it.

Sgt. Robinaugh: Okay. Um, before we get to the pride statement and, uh, [crosstalk 00:16:02]

Speaker 4: Yeah, I just got a couple questions. On a lot of these, um, just is it fair to say that a lot of them it's political? Your political stance?

Juan Hernandez: Yes.

Speaker 4: Um, and these are a conservative guy, that's a, that's a news ... It's a ... These are news articles.

Juan Hernandez: Correct.

Speaker 4: So, have you looked in to see ... I mean, this, to me, seems like fact. Is ... This is a news article that said that, that, um, the most common name for a convicted gang rapist in England is Mohammad. Do you know, have you vetted that to see if that was true?

Juan Hernandez: I did not.

Speaker 4: But that was an article that you just reposted?

Juan Hernandez: Right.

Speaker 4: Okay. And the last one here, this was obviously a title of an article. That's the title of the ar- that's not anything you posted?

Juan Hernandez: Correct.

Speaker 4: You just-

Juan Hernandez: Those are all ar- ar- all articles. I don't, and I don't write anything on them. I don't offer my opinion. People, again, people need to decide for themselves.

Speaker 4: And just for the record, did you ever, on the posts that we talked about, um, identify yourself as a City of Phoenix employee or a Phoenix police officer?

Juan Hernandez: Um, not that I know of, no.

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Speaker 4: Okay. And then, um, I don't do Facebook, but on the profile page, do you have, like, occu- ... Does it say occupation, Phoenix Police officer or City of Phoenix employee?

Juan Hernandez: My page says City of Phoenix.

Speaker 4: Just "City of Phoenix"?

Juan Hernandez: For employer.

Speaker 4: Okay. And just to confirm that if you did post a photo of you in uniform, it was more at a, like a community engagement meeting?

Juan Hernandez: Correct.

Speaker 4: And it was public relations positive for the department.

Juan Hernandez: Correct. [crosstalk 00:17:45] A lot of characters like, uh, like, uh, Baxter from the Diamondbacks, uh, a couple of um, uh, stormtroopers, um, um, I took one with princesses, the Cardinals bird, those kind of- of pictures.

Speaker 4: Are you familiar with the logo, like the- the world symbol? I've learned a lot over Facebook over the last couple of weeks as far as what's private, what's public?

Juan Hernandez: No, I- I don't-

Speaker 4: Like the two indivi- the two- two people is private and the world is public. Did you know anything about that as far as how to-

Juan Hernandez: I did not know that. That's something new to me.

Bryan Thatcher: I didn't know, either.

Speaker 4: Yeah, yeah, how to set your privase- privacy settings? Okay. So, you did not intend for this to be public?

Juan Hernandez: No. It's for my family and my group.

Speaker 4: Have you ever received a complaint from a Islamic, Muslim person saying you've failed to provide the proper service?

Juan Hernandez: Never. Never.

Speaker 4: I don't have anything else.

Sgt. Robinaugh: Okay, and you've been SRO sergeant for how long?

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Juan Hernandez: (laughs) I don't want to go on the rec- I think it's been, like, eight years.

Sgt. Robinaugh: Well, approximate. Okay.

Juan Hernandez: Yeah, I think it's about that, about eight years. I haven't ... I've been in the program a long time.

Sgt. Robinaugh: Okay. Your, uh, these, you said, y- you uploaded images as you as an officer in reference to community events. How long ago was that did you say?

Juan Hernandez: I- I don't recall. I- I haven't posted any in- in a while.

Sgt. Robinaugh: It's been a long time?

Juan Hernandez: Yeah.

Sgt. Robinaugh: Okay. All right, um, and all of these are 2013 or just barely 2014? Okay. So, these were some time a while ago.

Juan Hernandez: Yes.

Sgt. Robinaugh: Um, this, uh, Plain View Project just came out recently. Our research is showing like what they gathered, uh, data in, like, 2018-ish area. Um, you have no posts from 2018 all the way to 2014 that they submitted or at least that we're looking at. Have you posted anything like this recently?

Juan Hernandez: No, [00:20:00] I have not.

Sgt. Robinaugh: Okay. All right, um, all right, so, pride statement. You had time to-

Juan Hernandez: I did.

Sgt. Robinaugh: ... review this? Okay. Um, these posts, all four of them, um, uh, according to the pride statement, do they, do they support our pride statement?

Juan Hernandez: I think the pride statement guides how we work and I support the pride statement 100%. Um, in my job, when I'm work, I treat everybody the same, equally, I've never had complaints about how I treat people. Uh, I respect everybody's, um, everybody as a person, uh, their religion, their preferences, um, that's how I view the pride statement. And yeah, I support it 100%. Do these, um, articles support that? Again, that's a matter of, uh, someone's opinion. Um, I just put that stuff out there for discussion.

Sgt. Robinaugh: Okay, anything else? Okay, anything else, gentlemen?

Bryan Thatcher: I think we're good.

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Sgt. Robinaugh: Okay. All right. End of recording.

# Exhibit 14



# Mohammed retakes top spot in English baby names



By **Richard Allen Greene**, CNN

Mohammed reclaimed its place as the most popular name for baby boys born in England and Wales in 2011 - convincingly ahead of Harry, in second place, according to data released by the government this week.

The government declared that Harry was the most popular boy's name, but if you add up the five most popular different spellings of Mohammed, that name comes top.

Mohammed is also the most popular boy's name of the past five years for England and Wales, ahead of Oliver and Jack. It came first or second every year since 2007, the only name to do so.

And it could become even more popular in 2012, given the adulation around long-distance runner Mo Farah, who won two gold medals for Britain at the Olympics.

The popularity of the name comes as Britain's Muslim population is expected to double in the next 20 years.

The country, which was about 2% Muslim in 1990, grew to 4.6% Muslim in 2010, with nearly 2.9 million followers of the faith, according to analysis by the Pew Forum on Religion & Public Life.

By 2030, the United Kingdom will be just over 8% Muslim, with more than 5.5 million adherents, the Washington-based think tank projected in a 2011 report, "The Future of the Global Muslim Population."

Mohammed first became the most popular boy's name in England in 2009, then was knocked back into second place the next year as Oliver enjoyed a huge surge in popularity.

Harry, the name of Prince William's younger brother and J.K. Rowling's boy wizard, leaped into second place in 2011, with 7,523 boys given the moniker, topping the 7,007 Olivers.

But the name of the Muslim prophet was given to 7,907 baby boys, according to CNN analysis of Office of National Statistics data. Mohammed, Muhammad and Mohammad were all among the top 100 most popular names, with Muhammed and Mohamed also coming in the top 200.

A total of 37,564 babies have been given a variation of the name in the past five years. Some 36,653 Olivers and 36,581 Jacks were born in England and Wales since 2007. The British government keeps separate statistics for Scotland and for Northern Ireland, the other two nations that make up the

United Kingdom.

The 2011 British census had an optional question about religion. Results are expected in November.

At least four different spellings of the name Mohammed are among the 1,000 most popular American boys' names in 2011, according to the Social Security Administration.

Mohamed is the top, in 428th place, with Muhammad in 480th, Mohammed in 562nd and Mohammad in 609th.

The United States is about 0.8% Muslim, with about 2.6 million adherents, the Pew Forum calculates.

# Exhibit 15

ISLAMABAD: Until now, police have relied heavily on DNA tests to determine cases of rape. The Council of Islamic Ideology (CII), however, has declared that DNA tests are not admissible as the main evidence in rape cases.

In a meeting of the council on Wednesday, religious scholars observed that while the tool could aid investigation into rape complaints, it could not be taken as evidence. It could, at best, serve as supplementary evidence but could not supersede the Islamic laws laid out for determining rape complaints.

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THE EXPRESS TRIBUNE PAKISTAN

# Rape cases: DNA tests not admissible as main evidence says CII

By Umer Nangiana Published: May 30, 2013

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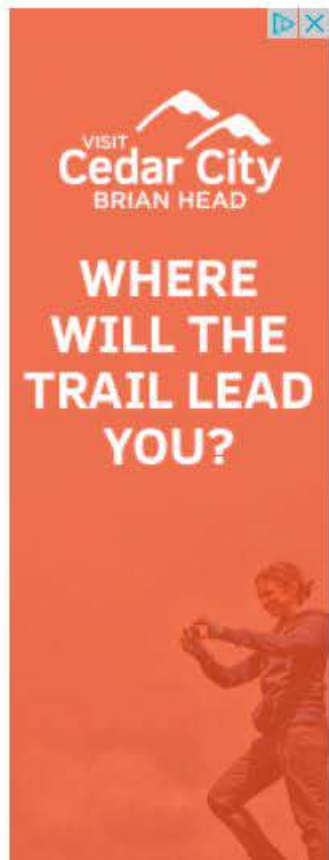
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Driving a car damages women's ovaries and means they have children with "clinical problems", according to one of the most senior conservative clerics in Saudi Arabia.

Sheikh Saleh al-Lohaidan, who made the comments ahead of a protest calling for women to be allowed to drive in the country, is one of the 21 members of the Saudi Senior Council of Scholars.

He is jointly responsible for advising the government of King Abdullah, has a large and loyal following among other influential conservatives, and is capable of issuing fatwas, or religious edicts.





News > World > Middle East

# Driving a car 'damages women's ovaries and leads to children with clinical problems', according to a senior Saudi cleric

As debate over the ban on women drivers in Saudi Arabia intensifies, one of the country's most influential conservative religious leaders weighs in citing 'physiological medical studies'

**Adam Withnall** | @adamwithnall | Monday 30 September 2013 17:44 |



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## Iranian cleric blames quakes on promiscuous women

**Women who wear revealing clothing and behave promiscuously are to blame for earthquakes, an Iranian cleric says.**

Hojjat ol-islam Kazem Sediqi, the acting Friday prayer leader in Tehran, said women should stick to strict codes of modesty to protect themselves.

"Many women who do not dress modestly lead young men astray and spread adultery in society which increases earthquakes," he explained.

Tens of thousands of people have died in Iran earthquakes in the last decade.

Mr Sediqi was delivering a televised sermon at the Tehran University campus mosque last Friday on the need for a "general repentance" by Iranians when he warned of a "prevalence of degeneracy".

"What can we do to avoid being buried under the rubble? There is no other solution but to take refuge in religion and to adapt our lives to Islam's moral codes," he said.



More than 25,000 people died in the Bam quake

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The earth is flat. Whoever claims it is round is an atheist deserving of punishment.

That is a well-known religious edict, or fatwa, issued two years ago by Sheik Abdel-Aziz Ibn Baaz, the supreme religious authority of Saudi Arabia. The blind theologian's status gives his fatwas great weight, though his opinions have often raised eyebrows or embarrassed worldly Saudis.

The New York Times

# Muslim Edicts Take on New Force

By Youssef M. Ibrahim

Feb. 12, 1995



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# Exhibit 16



1300

**Hernandez IRP Notes:**

- The Plain View Project identified eleven social media postings that it attributed to Sergeant Hernandez.
  - Two posts preceded the Phoenix Police Department's Social Media Use Policy e.g. Operations Orders 3.27 and would be precluded from the imposition of discipline due to the concept of ex post facto regulations. The Professional Standards Bureau (PSB) investigators did not ask questions regarding these posts.
  - In addition, there were five other posts that were not included in the PSB investigation.
  - PSB investigators ultimately questioned Sergeant Hernandez related to four of the eleven posts identified by the Plain View Project and those posts became the basis for the sustained allegation against him.

- Who was involved in creating the criteria for this investigation as to which posts subjected an employee to discipline? *PAGONE - A LOT OF DIFFERENT PEOPLE*

*CITY LEGAL - "EVERYBODY"*

- What were the criteria used to make that determination?

*PAGONE**EVERYONE'S MINDSET CAME TOGETHER*

- Was this case also evaluated in the context of Administrative Regulation 2.38 - Social Media & Networking, which contemplates constitutionally protected speech? *"WE STUCK w/ 3.27"*

- How were those criteria applied to each individual post in this case?

- Were the initial posts flagged by investigators reassessed in the aftermath of Sergeant Hernandez's interview to determine the degree to which they related to matters of public concern? *I'M SURE THOSE DISCUSSIONS TOOK PLACE*

*CITY LEGAL WAS INVOLVED IN DISCUSSIONS*

- How was the decision as to where to classify Sergeant Hernandez's posts on the discipline scale made? *SUPERVISORS HELD TO HIGHER STANDARDS*  
*CONTENT OF THE POSTS*

- Was the "discredit to the department" used to justify the imposition of discipline in this case based upon the collective impact of the dozens of employees and hundreds of posts identified by the Plain View Project or an individual assessment of Sergeant Hernandez and the four posts that were selected for investigation by PSB? *BOTH*

*\* AFTER INTERVIEW, INFO WAS SHARED WITH 4TH FLOOR AND LEGAL.*

# Exhibit 17

**This memorandum was drafted by Lieutenant Thatcher contemporaneous to the IRP Conference related to Internal Investigation #19-0070 involving Sergeant Hernandez which was conducted at the Phoenix Police Department's Professional Standards Bureau (PSB) on 9/4/19 at 1300 hours.**

Attendees:

Commander Disotell (PSB)  
Commander Diponzio (SMP)  
Lieutenant Pagone (PSB)  
Sergeant Robidoux (PSB)  
Lieutenant Leuschner (PPSLA)  
Lieutenant Thatcher (PPSLA)  
Sergeant Hernandez (SMP)

The meeting began with Lt Thatcher reading through a list of questions which is included in the case file for reference.

When PSB investigators were asked to elaborate on who created the criteria used to evaluate various social media posts related to the Plain View Project (PVP), the response from Lt Pagone was "everybody." He then continued that "a lot of different people" were involved in evaluating the content. He confirmed that City Legal was one of the entities consulted but did not elaborate further on their involvement.

When PSB investigators were asked to elaborate on the criteria used to evaluate the individual posts, Lt Pagone responded, "Everyone's mindset came together." He indicated that there was consensus about which posts would be investigated and which would be cast aside but did not give any indication of what objective criteria were used to support that determination.

When asked if investigators based their analysis on Operations Orders 3.27 or if they also considered Administrative Regulation 2.38, Cmdr Disotel indicated, "We stuck to 3.27."

Given that there were no articulated objective criteria for evaluating the posts, investigators did not respond to the question regarding how the criteria had been applied to individual posts.

When asked if the posts flagged by investigators during their initial assessment were reviewed following the interview with Sergeant Hernandez, Lt Pagone responded, "I'm sure those discussions took place." He indicated that City Legal would have been involved in those discussions.

When asked to explain how individual posts were classified on the discipline scale, the original response from Lt Pagone was that "supervisors are held to a higher standard" and that is why their posts were Class III violations. Cmdr Disotell then added that not all supervisors were

classified as Class III and pointed out that Sgt Stefani Gombar's post was classified as a Class II violation. He added that the classification was primarily based upon the content of the posts. When asked if the "discredit to the department" used to justify the imposition of discipline was based upon the collective impact of the Plain View Project or the content of each individual post, the answer was that the emphasis was the collective impact of all the posts from all the implicated employees.

We then reviewed the draft investigation focussing on the comments made by PPSLA.

PSB acknowledged that none of the cited news articles referenced Sgt Hernandez specifically but several of them linked to the PVP website which would have enabled readers to view his social media posts.

Investigators seemed unfamiliar with the concept of free speech from public employees related to matters of public concern.

PSB investigators were unable to provide an example of a situation in which Sergeant Hernandez acted without "moral integrity" or failed to "work cooperatively, courteously, but firmly with all segments of the public" other than the social media posts that were the focus of this investigation.

When asked if the conclusions were based on individual posts or a broader assessment, PSB investigators reiterated multiple times that the Plain View Project cases were viewed as a collective and that the determination to discipline and the degree of discipline was based upon the collective impact of all the posts from all the impacted employees.



# Exhibit 18

**DECLARATION OF MARK SCHWEIKERT**

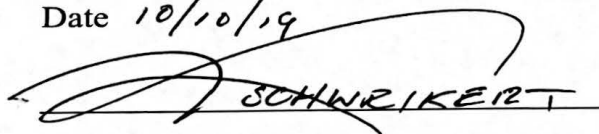
Mark Schweikert, pursuant to 28 USC §1746, and under penalty of perjury, declares and says:

1. I have not been convicted of a felony in any jurisdiction.
2. I am over 18 years of age.
3. I am employed as a Phoenix Police Lieutenant.
4. I was actively involved, in my private capacity, in posting to Facebook.
5. I am familiar with Operations Order 3.27 – the Phoenix Police Department's Social Media Policy.
6. I also am familiar with the "Plain View Project" and the subsequent internal investigation that the Phoenix Police Department launched after the Plain View Project database went public.
7. Prior to the Plain View Project Internal Investigation, I believed that I could exercise my legal right to speak, in my private capacity, on social media related to matters of public concern without the fear of disciplinary action.
8. I learned that the Phoenix Police Department is now disciplining some members of the Department under Operations Order 3.27 – and is considering sanctions ranging from suspension up to potential termination.
9. After reading the social media policy, I am not able to discern what posts the Department would consider a violation of its social media policy.
10. The Department's decision to attempt to discipline officers and supervisors for participating in conversations related to matters of public concern has made me reluctant to post information related to politics and certain news stories.
11. I have refrained from exercising my constitutional rights to speak on social media related to politics and certain news stories because I believe that the Department would attempt to discipline me for this type of speech.

The information contained in this declaration is based upon my own personal knowledge. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on:

Date 10/10/19

A handwritten signature in black ink, appearing to read 'SCHWEIKERT', is written over a horizontal line.

Mark Schweikert

# Exhibit 19



## City of Phoenix

<b>ADMINISTRATIVE REGULATION</b>  <b>SUBJECT</b>  <b>SOCIAL MEDIA AND NETWORKING</b>	A.R. NUMBER
	2.38 NEW
	FUNCTION Human Resources and Payroll 1 of 8
	EFFECTIVE DATE January 12, 2015
	REVIEW DATE

### I. PURPOSE

To address the fast-changing landscape of the Internet and the way people communicate and obtain information online, the City of Phoenix uses social media tools to reach a broader audience. Communicating with our diverse audiences is important to the City, and we recognize the value of using social networking to enhance the way we engage with our customers, build new relationships, and initiate conversations about City services. The City encourages the use of social media to further the goals of the City and the missions of its departments, where appropriate.

Social media sites allow anybody to post anything, and anything posted on the Internet can stay online forever. The City has an overriding interest and expectation in deciding what is communicated on behalf of the City on social media sites. This policy establishes procedures for the use of social media, guidelines for referencing the City on social media platforms, and addresses social media in general.

Nothing contained in this A.R. shall be construed as denying employees their civil or political liberties as guaranteed by the United States and Arizona Constitutions.

Nothing contained in this A.R. shall be construed as interfering with the rights of employees and employee organizations under the City's Meet and Confer Ordinance.

In addition, nothing contained in this A.R. shall be construed as interfering with the rights of employees and employee associations under the City's Meet and Discuss Ordinance.

### II. APPLICABILITY

This A.R. provides information to all employees. Additional direction is provided to employees who are authorized to speak on behalf of the City of Phoenix; however, all employees should be aware of the City's guidelines regarding use of social media for official City business

Some departments, such as City Clerk, Fire, Law, Municipal Court, and Police, may have policies with additional provisions and requirements. Employees should check with their management with questions or concerns about their policies.

### III. DEFINITIONS

**App** – An application that can be downloaded for use on a desktop or mobile device.

**City** – Refers to the City of Phoenix.

**City Business** – All work performed that has a direct relation to the City's operation and activities. City business also includes authorized activities of labor unions and labor associations in coordination with management.

**City Spokespersons** – City employees who are authorized by the City Manager's Office to speak on the City's behalf. Includes City department and function heads and their designees.

**Comment** – A response that is provided as an answer or reaction to a post or a message on social media sites.

**Personal Site** – A profile created on a social media platform by an individual for personal use and to share personal communication with friends and acquaintances. Personal sites do not include social media sites of labor unions, labor associations, or groups and organizations of City employees.

**Platform** – The software or technology that helps users to build, integrate or facilitate community, interactive and user-generated content. For example, a blog or a wiki is a social media tool, but the technology used to create and host them, such as Facebook or Twitter, is considered the platform.

**Post** – Content a person shares on a social media site or the act of publishing content on a site.

**Professional Networking** – A type of social media service that is focused solely on interactions and relationships of a business and professional nature rather than including personal, non-business interactions. Professional networking sites allow users to make connections through which they can find jobs, and also allow other users and possible employers to view profiles and share recommendations. Additionally, these sites allow professionals from different fields of interest to ask questions and share opinions and knowledge. LinkedIn is an example of a professional networking site.

**Profile** – Information provided about a person or an entity on a social media site. A person's social media profile is generally created by that individual.

**Public Record** – A record made or maintained by a City employee in the performance of that employee's job, to memorialize official transactions, or as required by law.

**Repost** – Content an individual shares on a social media site that is created or generated by someone else or the act of publishing content on a site that is created or generated by someone else.

**Social Media** – Refers to the interaction among people in which they create, share, and/or exchange information and ideas in virtual communities and networks. Social media is the

collective of online communication channels dedicated to community-based input, interaction, content-sharing and collaboration. Websites and applications dedicated to forums, blogging, social networking, professional networking, and wikis are among the different types of social media. Social media includes social networking and professional networking sites.

**Social Networking** – The practice of expanding social contacts by making connections through individuals. A social networking service is a platform to build social networks or social relations among people who may share interests, activities, backgrounds or real-life connections. A social networking service consists of a representation of each user (often a profile), social links, and a variety of additional services. Social networking allows individuals to create a profile, create a list of users with whom to share connections, view and cross the connections within the system, and share information, photos, links, and items of interest. Examples include Facebook, Google+, Instagram, Pinterest, Tumblr, Twitter and YouTube.

#### IV. ROLES AND RESPONSIBILITIES

1. Employees are responsible for understanding and complying with this A.R.
2. Department Directors and Function Heads are responsible for authorizing official City spokespersons for their departments and for notifying the Public Information Director about these employee assignments.
3. Department Directors and Function Heads are responsible for ensuring their employees comply with this A.R.
4. The City Clerk Department is responsible for the City's Records Management Program, including retention requirements related to social media.
5. The Human Resources Department is responsible for providing guidance regarding appropriate employee behavior on social media.
6. The Public Information Office is responsible for providing guidance on how social media is used to represent the City.

#### V. POLICY STATEMENTS – All Employees

1. **Personal Social Media Presence.** Employees may express themselves as private citizens on social media sites. An employee's use of any social media site must comply with copyright laws, data security and privacy regulations, criminal laws, and any other applicable federal, state, and local law.
2. **Privacy and Social Media.** Social media and Internet use should not be considered anonymous. Employees should be aware that privacy settings for social media sites are constantly in flux, and they should not assume that personal information posted on such sites is protected. Published social media content may be explored, transmitted, stored, and archived by external entities. Even the strongest privacy settings cannot prevent an approved friend or authorized recipient from independently choosing to forward or repost the information. There is no such thing as a "private" social media site.



For example, while personal social media privacy settings may be adjusted so only friends or authorized individuals can view content, those same individuals can forward comments, posts, and pictures to anyone, or they could take screenshots of what is posted. As a result, what is posted on a personal social media site may be forwarded to co-workers and supervisors, which could negatively impact the work environment or have consequences in the workplace. Personal social media postings that relate to co-workers, other City employees, supervisors, or management, or activities that occur at work, can be considered as part of human resource or equal opportunity investigations and Notices of Inquiry.

Keep the “headline test” in mind when posting content or pictures to social media sites. Use your best judgment – if it is not something you would feel comfortable seeing in the media, or being seen by co-workers, other City employees, supervisors, or management, do not post it.

3. **Speaking on Behalf of the City.** Only those employees specifically authorized by City management may speak on behalf of the City. Employees must not mislead the public to believe the employee is an official City spokesperson if they are not authorized to function in this capacity.
4. **Identification of City Employment in Social Media.** Employees who participate in social networking and professional networking sites may decide to include information about their work with the City of Phoenix as part of their personal profile, as it would relate to a typical social conversation. This may include:
  - a. work information included in a personal profile, to include City name, job title, and job duties;
  - b. status updates regarding an employee’s own job promotion or other professional or work-related advancements, achievements, and honors; and
  - c. personal participation in City-sponsored events, including volunteer activities.
5. **Perception.** With social media, the lines between public and private, personal and professional can be blurred. Employees identifying themselves as working for the City should be mindful that they may be creating perceptions about themselves and about the City by customers, business partners, and the general public, and perceptions about themselves by co-workers, other City employees, supervisors, and management.

Employees must not represent or speak on behalf of the City on their personal social media sites when they are not authorized to do so. Employees must not give the *appearance* that they are speaking on behalf of the City or posting comments as an official City representative on personal social media sites, when they are not authorized to speak on behalf of the City. This perception may be avoided by choosing to not post work-related information, featuring themselves while wearing a City uniform or displaying the City logo, public safety patches, badges, or City vehicles on a personal site – especially in profile images. These actions could cause people to believe employees are posting as authorized City spokespersons, official City representatives, or on behalf of the City of Phoenix.

Permitted and prohibited uses of City of Phoenix logos and symbols is set forth set forth in A.R. 1.87, entitled “Use of the City of Phoenix Corporate Symbol.”

6. **City Business, City Time, and City Resources.** Employees must be engaged in City business while at work or while on City time. Accessing and posting to a personal social media site while at work or while on City time is not appropriate.

Employees should not use their City of Phoenix e-mail addresses for communication on their personal social networking sites.

7. **Reposting.** Employees may repost official City information and posts on their personal social media sites on their own time and using their own devices. Employees may choose to share and repost City news, events, and information from the City's website, pages, and social media sites or choose to become a fan of the various City and Department Facebook pages, Twitter accounts, and other social media sites. Employees also may visit the City's "Current City News" page for a comprehensive list of daily news headlines and social media sites. Linking directly to the City's website is the most effective way to share complete information.

8. **Confidential or Proprietary Information.** Social media postings that contain proprietary images or materials belonging to the City are prohibited except where authorized by official designees of the City. This includes, but is not limited to, Personal Identifying Information of individuals, Restricted City Information, and information about City business development, partnership negotiations and projects, investigations, or procurements. Examples and definitions of Personal Identifying Information and Restricted City Information are set forth in A.R. 1.90, entitled "Information Privacy and Protection."

Employees may not disclose information on any social media network that is confidential to the City or its employees or that is protected by data privacy laws.

Employees may not post any nonpublic images of City premises and property, including floor plans.

9. **Decorum and Electioneering.** City employees must be mindful of policies and procedures regarding City elected officials or candidates running in a City Election.

City employees may not engage in political activities involving City of Phoenix municipal elections, including recall elections, for Mayor and City Council except as set forth as "Permitted Activities" in A.R. 2.16.

Permitted Activities for City elections include: registering and voting in any City election; privately expressing an opinion on candidates for Mayor and City Council; and being politically active in connection with a charter amendment, bond issue, referendum, or issue of similar character. These activities are permitted for an individual on his or her own time, but are not permitted while on duty, on any City property, or when the individual is in a uniform normally identified with the City of Phoenix.

City employees may not participate in any way whatsoever in campaign activities for candidates for the Mayor and City Council. Examples of Permitted Activities and Prohibited



Activities for City Elections, as well as National, State, and County Elections are set forth in A.R. 2.16, entitled "Political Activity – Time Off to Vote."

## VI. POLICY STATEMENTS – City Spokespersons

In addition to the policies that apply to all employees, City spokespersons must also abide by the following standards:

1. **Privacy Expectations and Records Management.** In accordance with Arizona's Public Records Law, the public may request information made or received by City employees in the performance of their jobs. Therefore, employees must consider all information, including social media postings, open to public view. Additionally, employees must comply with all records retention policies when posting to social networking forums and sites.
2. **Social Media Account Management.** Employees authorized to speak on the City's behalf must follow City standards when creating and managing City and department social media accounts.
3. **Preserving the Public Trust.** Posts made on social networking sites on the City's behalf directly reflect the City. Employees authorized to speak on the City's behalf must:
  - a. not use their official roles to disparage the City organization, City elected officials, or fellow employees;
  - b. not endorse or disparage any commercial products, services, entities or political candidates;
  - c. promptly correct and acknowledge errors made in any posts;
  - d. not delete any posts unless they clearly violate the City's Social Media Terms of Use;
  - e. document unique, non-duplicative posts per the City's Records Management Program overseen by the City Clerk Department. Posting information on social media that is already part of another public record does not require documentation. However, any substantive response to any posting should be documented;
  - f. ensure information is approved by the appropriate supervisor or manager prior to posting;
  - g. use appropriate grammar and style when posting;
  - h. not conduct personal business on City and/or department social media sites or through City and/or department social media accounts; and
  - i. only post on electronic media that reflects the City's high standard of ethical behavior.
4. **Respecting Intellectual Property.** Employees authorized to speak on the City's behalf must comply with all laws and City policies related to intellectual property. This includes all copyright and trademark laws regarding use of the City bird logo, for posting electronic media to City social media sites, and for providing attributions for third party content.
5. **Guarding Against Privacy and Security Breaches.** Employees authorized to speak on the City's behalf should exercise caution when downloading or using apps on City social media sites. These apps may contain malicious software, collect excessive information about employees, or ask for more permissions than are needed to run. Be wary, regularly

check app permissions, only download apps from legitimate app sources, and only use apps that benefit the City.

6. **Learning and Following Terms of Use.** Employees authorized to speak on the City's behalf are responsible for learning and following corporate policies, such as "terms of use," on social media platforms to ensure an official City account is set up properly within the platform's environment.
7. **Using City Social Media Only During Working Hours.** Hourly employees authorized to use social media on behalf of the City must do so during normal working hours unless otherwise authorized by their supervisor. Overtime is not approved for social media usage outside of normal working hours unless prior approval has been granted by the supervisor.

## **VII. PUBLIC RECORDS REQUESTS AND RECORDS RETENTION**

City departments and functions are responsible for handling public records requests for the comments posted on their social media sites. Additionally, departments and functions are responsible for working with their Law, Human Resources, City Clerk, and Public Information Office representatives, as needed, before making the records available to the public.

If a new public record is created, its content must be maintained per its specific retention schedule. Input received on a policy or service must be saved and kept per its retention schedule. Refer to the City's Records Retention Schedule for detailed information regarding records maintenance and handling.

## **VIII. COMPLIANCE**

Violation of this A.R. may result in disciplinary action, up to and including termination of employment.

## **IX. RELATED POLICIES, STANDARDS AND PROCEDURES**

- a. A.R. 1.60 – Public Records Request Processing
- b. A.R. 1.61 – Records Management Program
- c. A.R. 1.63 – Electronic Communications and Internet Acceptable Use
- d. A.R. 1.87 – Use of the City of Phoenix Corporate Symbol
- e. A.R. 1.90 – Information Privacy and Protection
- f. A.R. 1.92 – City Presence on the Internet
- g. A.R. 1.95 – Privacy Program
- h. A.R. 2.16 – Political Activity - Time Off to Vote
- i. A.R. 2.35(a) – Sexual Harassment
- j. A.R. 2.35(b) – Protected Category Harassment
- k. Citywide IT Standard - s1.10 Collaborative Technologies
- l. Citywide IT Standard Operating Procedure - s1.2.1 Access to Blocked Sites

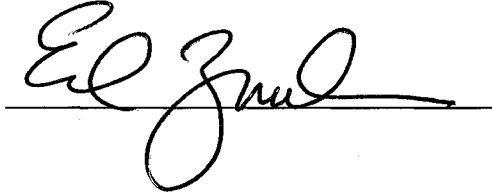
- m. Employee Manual
- n. Ethics Handbook
- o. Department Social Media Policies

## **X. QUESTIONS**

Questions regarding this Administrative Regulation (A.R.) and appropriate employee behavior on social media may be directed to the Human Resources Department at 602-262-6608.

Questions regarding City social media sites and how social media is used to represent the City may be directed to the Public Information Office at 602-262-7177 or [socialmedia.pio@phoenix.gov](mailto:socialmedia.pio@phoenix.gov).

By: ED ZUERCHER, City Manager

A handwritten signature in black ink, appearing to read "Ed Zuercher", is written over a horizontal line.

# Exhibit 20



## City of Phoenix

**To:** Jeri L. Williams  
Police Chief

**Date:** October 9, 2019

**From:** Shane A. Disotell, Commander  
Professional Standards Bureau

**Subject:** INTERNAL INVESTIGATION – PSB19-0070

**Internal Investigators:** Lieutenant Eric Pagone (Investigative Review)  
Sergeant Jason Robidoux (Primary Investigator)  
Sergeant Todd Murphy (Secondary Investigator)

**Allegation #1:** It is alleged, between September 30, 2013, and January 9, 2014, Sergeant Juan Hernandez violated Social Media Use policy when he posted inappropriate content on his personal Facebook account.

**Findings:** Sustained

**Employee/s Involved:** Sergeant Juan Hernandez #4551  
South Mountain Precinct

**Complainant:** Department Initiated  
(Plain View Project)

**Attachments:** See Attachments Section

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### **SUMMARY OF INVESTIGATION:**

Between September 30, 2013, and January 9, 2014, Sergeant Juan Hernandez violated the Department's Social Media Use policy when he posted inappropriate content on his personal Facebook account. The Facebook posts contained religiously insensitive innuendos related to Muslims and the Islamic religion. The posts were discovered by the Plain View Project (PVP) and released to the public and various media outlets on June 1, 2019. Sergeant Hernandez' Facebook posts caused major reputation damage to the Phoenix Police Department, exposed himself and the Phoenix Police Department to public mistrust, and violated basic Department values.

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**DETAILS OF INVESTIGATION:**

On June 1, 2019, the PVP released a collection of Facebook posts to the public and various media outlets. These Facebook posts were compiled from, what was believed to be, verified Facebook profiles of Phoenix Police Officers as well as officers from seven additional jurisdictions. According to the PVP website, the posts were comprised of excerpts from officers' public Facebook activity. All posts collected by the PVP were considered to possibly undermine public trust and confidence in police. The PVP website states, "The posts and comments are open to various interpretations. We do not know what a poster meant when he or she typed them; we only know that when we saw them, they concerned us."<sup>1</sup>

On June 1, 2019, the PVP published information on their searchable website which resulted in a wide array of negative local and national media coverage involving the Phoenix Police Department. The exposure from the officers' Facebook posts by the PVP were subsequently used by the media in local headlines that damaged the reputation of the Phoenix Police Department (see Attachments Section).<sup>2</sup> Some of the headlines read as follows:

- June 3, 2019, "Phoenix officers exposed for racist, violent Facebook posts,"  
<https://www.abc15.com><sup>3</sup>
- June 3, 2019, "Phoenix Cops Bash Muslims, Immigrants, and Black People Online...,"  
<https://www.phoenixnewtimes.com><sup>4</sup>
- June 4, 2019, "Phoenix Police investigating 'embarrassing and disturbing' posts...,"  
<https://www.12news.com><sup>5</sup>
- June 5, 2019, "Plain View Project brings police under fire for 'shameful' web posts,"  
<https://www.azcentral.com><sup>6</sup>

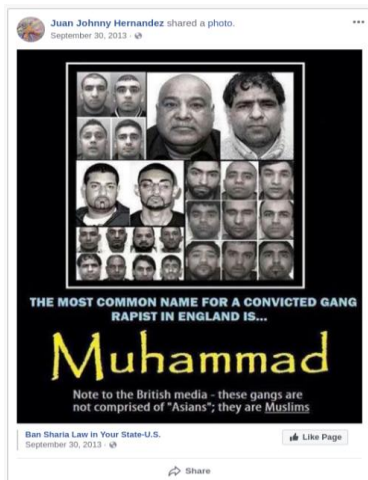
On June 3, 2019, the Professional Standards Bureau (PSB) initiated an internal investigation concerning the Phoenix Police Officers listed on the PVP website. PSB investigators reviewed the PVP database via [www.plainviewproject.org](http://www.plainviewproject.org). During the review it was discovered Facebook posts by user "Juan Johnny Hernandez" were recorded on the website.<sup>7</sup> The Plain View Project listed Sergeant Juan Hernandez as the author of the posts that were considered a matter of public concern.

Sergeant Hernandez' name along with eleven (11) of his personal Facebook posts were recorded on the website.<sup>8</sup> All of Sergeant Hernandez' posts were reviewed, and he was questioned on four (4) of them.<sup>9</sup> It was determined these posts which contained religiously insensitive innuendos referencing Muslims and Islam were potentially inappropriate and/or unprofessional.

PSB Interview with Sergeant Juan Hernandez #4551:

Sergeant Hernandez was interviewed by PSB investigators on June 20, 2019. Sergeant Hernandez told investigators he did have a Facebook account with the user name "Juan Johnny Hernandez" when he made the posts between the dates of September 30, 2013, and January 9, 2014. Sergeant Hernandez said when he made the posts his Facebook account was not set to private. Sergeant Hernandez said he set his account to private approximately two weeks prior to the PSB interview. Sergeant Hernandez also said he posted pictures of himself in uniform with various characters like the Baxter mascot and Star Wars storm troopers. Sergeant Hernandez said the pictures were taken over the years when he worked in the community as a School Resource Sergeant. He said he posted the pictures as he thought they were positive for the department.

Sergeant Hernandez was asked about the Facebook post, identified as Facebook post #1.



Sergeant Hernandez said his post was to get public discussion going. He said, during that time, ISIS was big and there were refugees coming into the European Union. Sergeant Hernandez referenced "no go" zones and crime waves due to terrorists being among the refugees. Sergeant Hernandez said his point was to encourage discussion about assimilation. PSB investigators asked Sergeant Hernandez what religion the post referred to. Sergeant Hernandez said it was Muslim. Sergeant Hernandez was asked if the post hindered or helped with relationships in the Islamic community. Sergeant Hernandez stated, "Again, it drives discussion. I don't know that it hurts...it goes either way, and that's my only point or thought, was to drive discussion. I don't comment, I let people form their own opinions."<sup>10</sup>

Sergeant Hernandez was asked about the Facebook post, identified as Facebook post #2.



Sergeant Hernandez said the post was about assimilation. Sergeant Hernandez said he was the grandson of migrants and that his family also assimilated. Sergeant Hernandez said the post referenced Muslims. He said he thought the post could help with building relationships within the Islamic community if it drove discussion.



Sergeant Hernandez was asked about the Facebook post, identified as Facebook post #3.



Sergeant Hernandez said he could not remember why he made the post because he posted it six years prior. Sergeant Hernandez stated, "Articles I read I repost just to generate public discussion. I never offer an opinion. I've never commented on any of my posts. It's just trying to drive the discussion about assimilation into other countries. I know that around this time there was a lot of ISIS activity in the Middle East and I know a lot of refugees were coming to Europe especially, but I know the United States was taking a lot of them. It was just to drive discussion about assimilation."<sup>11</sup> Sergeant Hernandez said he was concerned Islamic refugees weren't assimilating into society. Sergeant Hernandez spoke of his grandparents who were Mexican immigrants and how they assimilated to American culture.

Sergeant Hernandez was asked about the Facebook post, identified as Facebook post #4.



Sergeant Hernandez said the post was to drive the discussion about the military's involvement in the Middle East. Sergeant Hernandez said he respected the military and cutting their pensions was a slap to them. Sergeant Hernandez was asked if the post hurt or hindered relationships within the Islamic community. Sergeant Hernandez stated, "Looking back, that's probably the one I would consider not posting...We just need to treat everyone fairly, looking back." <sup>12</sup> Sergeant Hernandez stated military veterans deserve more support than they get.

Sergeant Hernandez described his posts as articles. Sergeant Hernandez said he never commented and did not intend for the posts to be public.

Sergeant Hernandez was asked if his posts supported the Phoenix Police Department's Purpose Statement and Guiding Values. Sergeant Hernandez stated, "I think the Pride Statement guides how we work. I support the pride statement 100% in my job. When I'm at work I treat everybody the same; equally. I have never had complaints about how I treat people. I respect everybody as a person, their religion, their preferences. That's how I view the pride statement and, yeah, I support it 100%. Do these articles support that? Again, that's a matter of someone's opinion. I just put that stuff out there for discussion."<sup>13</sup>

The job description for the classification of Police Sergeant (job code 62220)<sup>14</sup> has numerous distinguishing features of the class, essential functions, and required knowledge. The "fundamental" reason the classification exists is to supervise and participate in the activities of sworn and civilian personnel without rank. Performance is evaluated by, "results obtained," as well as observation and oral and written reports. Essential functions include, but are not limited to, serving as a witness in court, investigating alleged misconduct, participate in community

activities and make verbal presentations to groups and demonstrate “superior” integrity. Sergeants are expected to have knowledge of, “General social problems and cultural diversity of citizenry,” in addition to modern police methods, practices and procedures. Two of the primary abilities listed in the classification of Police Sergeant are to, “Maintain moral integrity,” and, “Work cooperatively, courteously, but firmly with all segments of the public.”

At the time of this Facebook post, Sergeant Hernandez was assigned to a specialty position in the Community Resources Bureau as a School Resource Sergeant; who is responsible for supervising several School Resource Officers in various schools in their assigned work areas. Sergeants in these positions are required to maintain close working relationships with not only the officers under their direct supervision, but also to develop and maintain internal and external partnerships with the various educational institutions, as well as members of the community, to include students, parents, and caregivers. These goals and expectations were outlined in the Performance Management Guide (PMG) for Sergeant Hernandez as a School Resource Sergeant (SRS). This same PMG also requires Sergeant Hernandez to “lead by example, holding yourself” accountable while demonstrating forward focus.

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## **CONCLUSION:**

In August 2013, the Phoenix Police Department’s Social Media Use policy became effective. As described in Operations Order 3.27.9.A.(1)(2), “When using social media, Department personnel should be mindful their speech becomes part of the worldwide electronic domain. Therefore, adherence to City and Department policies is required in the personal use of social media. Employees are prohibited from using social media in a manner that would cause embarrassment to or discredit the Department in any way. Employees are responsible for their social media postings if they are found to be in violation of any City or Department policy.”

Between September 30, 2013, and January 9, 2014, Sergeant Juan Hernandez shared four (4) posts on his personal Facebook account which contained negative racial and religious context directed at the Islamic religion and Muslims, which are inconsistent with the Department’s Purpose Statement and Guiding Value to respect and honor the inherent dignity of all people.

In the days following the release of the PVP on June 1, 2019, and the subsequent New Times article a short time later, media outlets and members of the community interpreted the officers’ posts as “racist, violent, embarrassing, disturbing and/or shameful.”<sup>15</sup> The stories pertaining to

the Facebook posts by members of the Phoenix Police Department were widely circulated within Phoenix, as well as throughout the country. This overwhelming media coverage resulted in major reputation damage to the Phoenix Police Department.<sup>16</sup> Sergeant Hernandez' Facebook posts contained insensitive language and could potentially spread fear and hatred towards people of Middle Eastern descent, as well as those practicing the Muslim faith. In addition, Sergeant Hernandez' Facebook posts potentially reduced or contributed to the erosion of public trust, were inflammatory to certain groups, and/or created dissension in the community by promoting hate, violence, racism, bias, or beliefs inconsistent with the Phoenix Police Department's Purpose Statement and Guiding Values.

Sergeant Hernandez' Facebook posts are not compatible with the expectations of the City of Phoenix and the requirements set forth within the description for the job classification of Police Sergeant. Police Sergeants are expected to maintain superior integrity, participate in community activities, have knowledge of general social problems and cultural diversity of our citizenry. In addition, Police Sergeants are expected to work cooperatively and courteously with all segments of the public. Additionally, Police Sergeants are required to present legal testimony, a task that is complicated if a sergeant is found to have engaged in behavior that demonstrates bias. The Facebook postings made by Sergeant Hernandez, now public, do not meet the expectations of the community or the City, and do not align with the distinguishing features, essential functions and required knowledge as outlined in the City of Phoenix classification for a Police Sergeant.

Therefore, the allegation that Sergeant Hernandez violated the Department's Social Media Use policy when he posted inappropriate content on his personal Facebook account is sustained.

This investigation has concluded that Sergeant Hernandez' actions are in violation of the following policies:

- Operations Order 3.27.9.B.(6), (New 08/13), which states, "Department personnel are free to express themselves as private citizens on social media sites to the degree that their speech does not impair working relationships of this Department, are detrimental to the mission and functions of the Department, that undermine respect or public confidence in the Department, cause embarrassment to the Department or City, discredit the Department or City, or undermine the goals and mission of the Department or City."

- Operations Order 1.1.2.B.(3), which states, “Responsibility and Respect: We respect and honor the inherent dignity of all people, including ourselves, and pledge fair and equal treatment for all.”

Accordingly, the applicable discipline for the most significant policy violation outlined above is designated in Operations Order 3.18, Addendum A, 3.D.(1)(p), “As defined in the Classification Guidance Criteria, section 4, of this addendum,” and further defined in Operations Order 3.18, Addendum A, subsection 4.C.(4), where, “The employee’s actions violated the oath of office or basic Department values.” This is a Class III violation, which requires referral to the DRB for a possible demotion and/or 40, 80, or 240 hours suspension, or termination or referral to the Police Chief (or designee) for a Loudermill Hearing.

**CLOSING:**

This Professional Standards Bureau investigation is complete. The investigation was reviewed by the involved employee. This investigation will be retained in the Professional Standards Bureau in accordance with retention policies/law.

**Endnotes:**

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- <sup>1</sup> Not attached; reference [www.plainviewproject.org](http://www.plainviewproject.org)
  - <sup>2</sup> "PVP Phoenix news," Google search
  - <sup>3</sup> Attachment; "plain view project phoenix news," Google search
  - <sup>4</sup> Attachment; "plain view project phoenix news," Google search
  - <sup>5</sup> Attachment; "plain view project phoenix news," Google search
  - <sup>6</sup> Attachment; "plain view project phoenix news," Google search
  - <sup>7</sup> Not attached; reference [www.plainviewproject.org](http://www.plainviewproject.org)
  - <sup>8</sup> Attachment; Sergeant Hernandez (7) FB posts – Did not violate OPS 3.27
  - <sup>9</sup> Attachment; Sergeant Hernandez (4) FB posts – Interviewed for violation of OPS 3.27
  - <sup>10</sup> PSB Interview with Sergeant Hernandez, Begin: 9:33
  - <sup>11</sup> PSB Interview with Sergeant Hernandez, Begin: 4:28
  - <sup>12</sup> PSB Interview with Sergeant Hernandez, Begin: 12:31
  - <sup>13</sup> PSB Interview with Sergeant Hernandez, Begin: 20:19
  - <sup>14</sup> City of Phoenix Job Description for Police Sergeant – see attachment
  - <sup>15</sup> Attachment; "plain view project phoenix news," Google search (07/09/2019)
  - <sup>16</sup> Attached; ENS (06/03/2019) – Message from the Chief – Employee Social Media Use

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*Attorney for Plaintiffs Juan Hernandez and  
the Arizona Conference of Police and  
Sheriffs, Inc.*

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

Juan Hernandez, et. al,  
  
Plaintiffs,  
  
v.  
  
The City of Phoenix, et. al,  
  
Defendants.

NO.

**CERTIFICATION OF COUNSEL  
RELATED TO PLAINTIFFS  
MOTION FOR A TEMPORARY  
RESTRAINING ORDER,  
PRELIMINARY INJUNCTION,  
AND PERMANENT INJUNCTION**

Pursuant to F.R.C.P. 65(b)(1)(B), Steven J Serbalik, movants' attorney, certifies that the Complaint, Exhibits, and Motion for a Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction will be immediately emailed to the official City of Phoenix email addresses of Defendant Jeri Williams, Defendant Shane Disotell, and the City Attorney of Defendant City of Phoenix. Upon information and belief, Defendants and their representatives regularly check their email addresses, and will have immediate, actual notice of the Complaint and Motion.

RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of October, 2019.  
**STEVEN J SERBALIK, P.L.C.**

By: /s/Steven J. Serbalik  
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