



City of Phoenix

To: Jack F. Harris
Public Safety Manager

Date: March 15, 2010

From: Blake A. McClelland, Assistant Chief
Professional Standards Division

A handwritten signature in black ink, appearing to be 'BAM'.

Subject: INTERNAL INVESTIGATION - PSB PSB09-0169

Internal Investigators:

Commander Jeffeory Hynes
Lieutenant Ben Henry (Investigative Review)
Detective Ann Hughes (Primary Investigator)
Sergeant Gabe Lopez (Interviews)

Allegation #1:

On May 15, 2009, Officer Michael Fernandez #7809 accessed Ms. Angela Moya's and Ms. Ophelia Velasquez's criminal justice records for personal reasons.

Findings:

Sustained

Allegation #2:

On March 19, 2009, and May 15, 2009, Officer Michael Fernandez #7809 neglected his duties when he failed to arrest his friend, Ms. Angela Moya for an outstanding misdemeanor warrant.

Findings:

Sustained

Allegation #3:

On November 5, 2009, Officer Michael Fernandez #7809 accessed the criminal justice record of Ms. Arlica Hernandez for personal reasons.

Findings:

Sustained

Allegation #4:

On November 5, 2009, Officer Michael Fernandez's #7809 conduct was unprofessional when, while on-duty, he asked Ms. Arlica Hernandez to show him her breasts and then touched them with his hands.

Findings:

Unresolved

Allegation #5:

On November 5, 2009, Officer Michael Fernandez's #7809 conduct was unprofessional when he transported

Ms. Arlica Hernandez in his marked patrol vehicle to 7500 West Camelback Road and had sexual contact while on duty.

Findings:

Sustained

Allegation #6:

On November 6, 2009 Officer Michael Fernandez's conduct was unprofessional when he kissed Ms. Arlica Hernandez while on duty at 2000 North 83rd Avenue.

Findings:

Sustained

Allegation #7:

On November 6, 2009, Officer Fernandez neglected his duties by allowing Ms. Arlica Hernandez to operate a motor vehicle while under the influence of alcohol.

Findings:

Unresolved

Employee/s Involved:

Officer Michael Fernandez #7809
Division: Patrol Operations South Division
Precinct: Maryvale Precinct
Squad: 81J
Schedule: 2030-0630/S,Su,M
Date of Hire: 10/28/2002

Complainant:

Arlica Hernandez
H/F [REDACTED], 501 / 150
[REDACTED]
[REDACTED]

Civilian Witnesses:

See Civilian Witness section

Photographs:

See Photograph section

Attachments:

See Attachment section

SUMMARY OF INVESTIGATION:

On November 24, 2009, Investigators from the Professional Standards Bureau learned of allegations of misconduct on behalf of Officer Michael Fernandez #7809. Ms. Arlica Hernandez told investigators that she met Officer Fernandez on November 5, 2009 while he was on duty and engaged in sexual contact with him. She said she met him at a gas station at 75th Avenue and Indian School Road where he asked to see her breasts. Ms. Hernandez said, with two of

her friends present, she removed her shirt and exposed her bare breasts to Officer Fernandez. She said he touched them, and then used his cellular phone to take a picture of her exposed breasts. Ms. Hernandez said they exchanged phone numbers, and a little while later he picked her up, in a fully marked patrol vehicle, from their mutual friend's house. She said Officer Fernandez then transported her in the backseat prisoner area of his patrol car to an isolated location where they engaged in consensual kissing. Ms. Hernandez also said Officer Fernandez touched her breasts while kissing in the backseat of his patrol car.

On November 6, 2009, Ms. Hernandez said she met again with Officer Fernandez while he was on duty and in his police uniform. Ms. Hernandez said they again engaged in similar sexual contact. She said on this occasion, she was under the influence of alcohol and advised Officer Fernandez that she was "buzzed," but he allowed her to drive away without attempting to stop her.

Officer Fernandez admitted to kissing and touching Ms. Hernandez's breasts on the November 5, 2009, meeting behind the 7-11 gas station, but denied the allegation that Ms. Hernandez exposed herself while in the presence of her two friends. Officer Fernandez also denied taking a picture of Ms. Hernandez's breasts. The two friends that were present at the time of the alleged incident failed to cooperate in the internal investigation. Officer Fernandez told investigators Ms. Hernandez did advise him that she had been drinking when he met with her on November 6, 2009. Officer Fernandez said he performed the Horizontal Gaze Nystagmus (HGN) test on her to determine if she was impaired. Officer Fernandez said, while he was never trained or certified to perform HGN, he did not receive any cues; therefore, he did not believe Ms. Hernandez was impaired. Ms. Hernandez arrived home safely, without any contact from any other law enforcement officials.

During the course of the internal investigation, it was discovered that Officer Fernandez used his Mobile Data Computer (MDC) to access Ms. Hernandez's personal information for his personal use, as well as the personal information of their mutual friend, Angela Moya, and her mother, Ophelia Valesquez. Officer Fernandez admitted to investigators that he did not have a law enforcement purpose for accessing their information.

It was also discovered that when he accessed Ms. Moya's personal information, he learned that she had an outstanding misdemeanor warrant for her arrest. Officer Fernandez neglected his

duty when he failed to arrest Ms. Moya for her warrant on two occasions. Officer Fernandez told investigators he did not arrest Ms. Moya because she was his friend, and he figured the warrant was only a traffic related warrant.

