

City of Navasota Response:

Dear Mr. Barragan,

The City of Navasota and the Navasota Police Department appreciates the opportunity to offer comments in response to the information you shared with us concerning the article the Dallas Morning News anticipates publishing in the near future.

First, the proposed article implies that the Navasota Police Department terminated for “sexual misconduct.” That is not accurate; the March 9, 2009 termination letter from Police Chief Myatt documented that Mr. Yohner was originally terminated for violating Navasota Police Department Policy No. 3-02.3 Unbecoming Conduct, specifically: 1) Insubordination; and 2) Crime involving Moral Turpitude – made a false statement under oath during the internal investigation.

Second, you state that Mr. Yohner’s “record was left without a blemish under that agreement.” The “Resignation Agreement and General Release” entered into by the City of Navasota and Stephen Yohner in 2009 provides that Mr. Yohner’s separation from the Navasota Police Department be categorized as a “General Discharge,” more accurately described as follows: “Retired or resigned through mutual agreement with the governmental entity and agency [and] is not eligible... to reapply.” The separation agreement was retained as part of Mr. Yohner’s employment record, available for inspection by any and all prospective employers when evaluating whether to hire Mr. Yohner.

This General Discharge verbiage was also contained in the employment termination report filed with the Texas Commission on Law Enforcement (“TCOLE”) (formerly known as TCLEOSE) in 2009. A hiring law enforcement agency, when performing the mandated background check on an applicant for a police officer position, is required to obtain a copy of the police officer’s termination report(s) on file with TCOLE, and would be aware if an applicant was not eligible to reapply with a previous employer.

A TCOLE termination report and a separation agreement between the City and a former employee stating that former employee “is not eligible to reapply” normally serves as a warning sign to prospective employers. A prospective law enforcement employer, in the course of properly performing the required background check on an applicant, would be aware of such a designation in a police officer’s personnel file and TCOLE records.

Section 1701.451 of the Texas Occupations Code further requires the hiring agency to contact each of an applicant police officer’s previous law enforcement employers, which are required to make the applicant police officer’s employment records available to the hiring agency on request. The Navasota Police Department was and is aware of its obligation to make Mr. Yohner’s employment records available to any law enforcement agency on request, and complied with all requests for access to Mr. Yohner’s records.

The Navasota Police Department (“NPD”) has record of the following law enforcement agencies inquiring about information and records regarding Mr. Yohner’s employment with the Navasota Police Department:

City of Bremond (Fax to NPD dated 10/29/2009) - Bremond reviewed Yohner's employment records in Navasota.

Hearne Police Department (Letter to NPD dated 2/11/2011) – Hearne PD did not review Yohner's NPD records; Hearne PD called Navasota on 2/22/2011 and was informed of Yohner's dates of employment with NPD, Yohner's hourly rate of pay on his date of separation from employment with the NPD, and that Yohner was not eligible for rehire by the NPD.

City of Rockport (Document dated 2/14/2011 – unknown when received by NPD) - Rockport reviewed Yohner's employment records in Navasota.

Taft Police Department (Fax to NPD dated 9/10/2018) – Taft reviewed Yohner's employment records in Navasota.

Note: In 2017, the Texas Rangers also visited Navasota to review Mr. Yohner's NPD employment records.

Mr. Yohner's records remain available and accessible to any hiring law enforcement agency as provided by Section 1701.451, Texas Occupations Code. Furthermore, any person can at any time submit a written request to view or obtain a copy of Mr. Yohner's employment records, except for certain records that are made confidential by law (Social Security number, home address, etc.).

Finally, the Texas Legislature has created a system whereby it is difficult for smaller cities to address the "gypsy cop" problem. Local decisions concerning police personnel decisions concerning F-5 termination report designations can be appealed to TCOLE, which then refers the appeals to the State Office of Administrative Hearings ("SOAH") for adjudication by an administrative law judge. It is often cost-prohibitive for a smaller city to expend legal fees to prepare for and conduct the SOAH hearing concerning the F-5 appeal. As a result, many cities simply agree to not oppose the F-5 appeal in exchange for the police officer agreeing to settle the personnel dispute. This is an issue the Texas Legislature should address to ease the onerous financial burden incurred by Texas cities when holding problematic peace officers accountable.

=====





