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## ARIZONA DEPARTMENT OF ADMINISTRATION

### HUMAN RESOURCES DIVISION

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### ARIZONA GAME AND FISH FINAL REPORT ADMINISTRATIVE INQUIRY October 20, 2015

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#### BACKGROUND INFORMATION

On October 5, 2015 Diana Shaffer, Human Resources Branch Chief for the Arizona Game and Fish Department, requested that the Arizona Department of Administration, Human Resources Division, conduct an administrative inquiry into allegations made by Game and Fish [REDACTED] related to employee misconduct on the part of Game and Fish Officer Robert Fink. Officer Fink is alleged to have violated Game and Fish Department Policy C1.3 Non-discrimination/Anti-harassment, State of Arizona Standards of Conduct Personnel Rule R2-5A-501.A and AZPOST Rule 13-4-109.9.

Officer Fink serves in a supervisory capacity for the department as a Wildlife Regional Supervisor and has been with the agency since 1993. [REDACTED] serves in a non-supervisory capacity and began with the agency as an [REDACTED]

Officer Fink was the subject of a Department of Administration investigation in November 2014. At that time, allegations were substantiated that Officer Fink arranged for and stayed in the same motel room on multiple occasions at the State's expense with a female Game and Fish Department Intern in violation of the Standards of Conduct set forth in the Arizona Administrative Code. It was also substantiated that Officer Fink brought discredit to the agency and to the agency's Intern program by showing preference to female Interns and flirting, giggling, etc. with a female intern, giving the appearance of preferential treatment for sexual reasons. Officer Fink was suspended for 16 hours without pay in January 2015 as a result of that investigation.

#### SUMMARY OF FINDINGS

A record of vile comments, including Officer Fink telling [REDACTED] to "*f... off cunt*" and telling her to "*go get stoned and f--- your truck driver*" were produced as evidence by [REDACTED] in a string of text messages sent between Officer Fink and [REDACTED] on August 23-24, 2015 and were substantiated. Both employees were working on a project in southern Arizona regarding the removal of unwanted prairie dogs from private property when this occurred.

Officer Fink also threatened ██████████ by stating in his text message, *"And if you are thinking of making trouble for me, remember what I know about ██████████ by both of you, (referring to ██████████ and her boyfriend). He goes on to text, "That would be bad for a state employee and a guy with a CDL."*

Officer Fink alleged that ██████████ had said in previous text messages that he could *"f... off,"* however, when the investigator welcomed the production of a record of these alleged text messages Officer Fink was unable to produce them. As of the writing of this report, Officer Fink has not produced evidence to support his allegations.

Substantiated by the text message record, ██████████ also made a threatening comment to Officer Fink, stating, *"Do what you want. I have sh... on you, too. It would look really bad for someone who has been investigated for sexual harassment and misconduct to have been involved in ██████████"*

Officer Fink has a pervasive pattern of getting involved in personal and sexual relationships with young, female Game and Fish Department staff. This practice dates back to 2007 and includes a minimum of four substantiated relationships, including the one with ██████████ who was married at the time of their affair prior to her ending the relationship with Officer Fink in 2013 following a divorce. Officer Fink, age ██████████, is now involved and lives with a ██████████ year-old Game and Fish female employee in ██████████

Officer Fink's actions are a violation of the State of Arizona's Standards of Conduct, including abuse of authority and sexual harassment, and the AZPOST Code of Ethics. His failure to report potentially dangerous behavior of ██████████ was also substantiated.

#### WITNESSES

The following Game and Fish staff was consulted as part of this inquiry:

██████████  
Officer Robert Fink, Wildlife Program Manager  
Diana Shaffer, Human Resources Branch Chief  
██████████

A file review was also conducted on complaints, investigations and disciplinary actions for Officer Fink.

#### REQUESTED RESOLUTION

██████████ has requested that she have no contact with Officer Fink and that what she perceives as pervasive sexual harassment and hostile work environment behaviors on the part of Officer Fink cease.

## ALLEGATIONS AND FINDINGS

### Allegation:

██████████ alleged that Officer Robert Fink sent her unsolicited text messages on August 23-24, 2015 on her personal cell phone that contained inappropriate and sexually offensive and degrading language.

### Findings:

██████████ produced a written record of text message exchanges that did occur on August 23-24, 2015 between her and Officer Fink. Officer Fink, when read some of the content of the messages by the investigator, admitted he had sent the messages after initiating a work-related exchange regarding the removal of prairie dogs from private property in the Sonoita, Arizona area. ██████████ serves as the ██████████ for Game and Fish and coordinates ██████████

On August 27, 2015 ██████████ met with her supervisor, ██████████ to report the misconduct she had allegedly experienced from Officer Fink. ██████████ subsequently contacted the Game and Fish Human Resources Branch Chief, Diana Shaffer, to discuss the complaint. ██████████ indicated to Ms. Shaffer that ██████████ was very upset and was crying about the contents of the text messages.

The following day, August 28, 2015, Ms. Shaffer met with ██████████ and her supervisor. ██████████ disclosed at that time that she and Officer Fink had a personal and sexual relationship for approximately 3 years, beginning in 2010. ██████████ was ██████████ at the time and Officer Fink was ██████████ when the relationship commenced. ██████████ indicated that her relationship started with Officer Fink as professional but then turned personal, and then into "boyfriend/girlfriend."

Officer Fink, when interviewed as part of this investigation, stated he and ██████████ were "close friends." A written statement, dated October 14, 2015 and provided to the investigator by Officer Fink at the start of his in-person investigative interview states, "*At this point it is important to disclose that ██████████ and I had previously been close friends for an extended period of time, and as a result of the circumstances ending that friendship, our relationship has become one of mutual resentment.*" Officer Fink goes on to say, "*In the course of working and recreating together over the previous several years, our interactions were routinely a mixture of personal and Department business, as would be the case with any coworkers who were engaged in a friendship.*" When pressed regarding the sexual nature of their "friendship," Officer Fink did admit that ██████████ and he were involved sexually for several years. Officer Fink also responded that he was aware that ██████████ indicated that she broke off the relationship with Officer Fink in 2013 and that he was angry and felt rejected. She pointed to his comments during the text exchange in question. Officer Fink wrote, "*Maybe eventually you will learn that when you totally betray people who loved you, the relationship can never be what it was, work wise or otherwise. I doubt that other people that work with you professionally feel hate for you the way that I do,*" and "*get stoned and f... your truck driver.*"



Earlier in the exchange that [REDACTED] submitted as evidence, Officer Fink and [REDACTED] argued back and forth regarding the prairie dog removal project. Several times during the exchange Officer Fink gets personal with [REDACTED] and [REDACTED] attempts to draw the conversation to the work-related business at hand. Her texts reveal comments such as, *"I am trying to talk about work. I would feel this way if anyone was moving prairie dogs without coordinating with me,"* and, *"Everything I have said has been professional and you keep taking shots at me."*

Due to the past relationship between the two, Officer Fink was instructed by agency management in the past not to be an integral part of the prairie dog removals. Officer Fink admitted that he only was involved with prairie dogs for "incidental things – mostly reporting problems." [REDACTED] did defend Officer Fink at one point during her interview, however, stating that she *"fought to keep him on the project"* due to his competence and follow through. [REDACTED] stated that the *"new guy is lazy and does just the minimum."*

[REDACTED] stated that the comment where Officer Fink told her to *"F...off(f)(sic) cunt..."* caused her to become extremely offended. *"That is the worst thing you can say to a woman,"* she said when interviewed.

Officer Fink indicated that in the past [REDACTED] had told him to *"f... off"* via text message, as well. However, he was unable to produce any evidence to support his claim. In his prepared response, however, (see Exhibit A) Officer Fink details by the minute certain text messages sent and received between the two of them during the exchange on August 23-24, 2015. For example, Officer Fink writes in his statement: *"At 1:33 p.m., [REDACTED] sent another text refusing to provide information regarding the prairie dogs and again condemning me for not coordinating with her..."* He goes on throughout his statement to detail by the minute the interaction: *"Conversation then remained silent until 11:42 a.m."* [REDACTED] stated that Officer Fink had been vile to her numerous times since their break up, but she said she did not have a record of the former texts because she had recently gotten a new phone so historical texts were no longer available. The investigator questioned how Officer Fink was able to compile a detailed record of the interaction, minute by minute, but was not able to produce the text message record.

***The allegation that Officer Fink sent [REDACTED] unsolicited text messages on August 23-24, 2015 on her personal cell phone that contained inappropriate and sexually offensive and degrading language was substantiated.***

#### **Allegation:**

[REDACTED] alleges that Officer Fink threatened her via text message regarding her and her boyfriend's illegal drug use on personal time.

#### **Findings:**

During the text exchange on August 23-24, 2015 outlined above, Officer Fink becomes increasingly aggravated with [REDACTED] and says, *"Your refusal to cooperate is unbelievable. And if you are considering making trouble for me, remember what I know about illegal drug use by both of you. That would be bad for a state employee and a guy with a CDL."*

Officer Fink stated during his interview that he had been to [REDACTED] house on numerous occasions and observed [REDACTED] and her roommate, (later turned boyfriend after [REDACTED] ended her relationship with Officer Fink) smoking marijuana illegally. In Officer Fink's written statement he says, "*In the course of our extensive previous personal friendship, I became aware of the frequent illegal use of marijuana by [REDACTED] and her roommate. I found her roommate's use of marijuana to be particularly disturbing because I knew he was employed in the operation of a semi-tractor pulling a car carrier trailer, with a gross vehicle weight of up to 80,000 pounds.*" Officer Fink goes on to say that [REDACTED] boyfriend would "*sit on the couch and smoke marijuana and drink beer until a few hours after he stated he needed to leave*" on a trip hauling the tractor and car carrier. Officer Fink indicated he could not be certain if the boyfriend immediately drove after the alcohol and drug use, but he "*strongly suspected*" he did. When asked if he ever joined [REDACTED] and her roommate in smoking marijuana he emphatically responded "*no.*"

[REDACTED] admitted to "*drinking beer and smoking marijuana on the weekends.*" She did not allege that Officer Fink ever smoked marijuana with her. The text messages she produced contained a response to Officer Fink's threat that said, "*Do what you want. I have shit on you too. It would look really bad for someone who has been investigated for sexual harassment and misconduct to have been involved in an affair.*"

***Both parties in this exchange made threats to the other regarding personal behaviors that had occurred in the past. Officer Fink, a sworn peace officer in the State of Arizona, stated he was concerned for the public's safety but failed to report the illegal activities he observed to the Arizona Department of Public Safety or local law enforcement.***

### SUMMARY

- *Substantiated were the facts that Game and Fish Officer Robert Fink engaged in unwanted, inappropriate and sexually harassing behavior towards his former girlfriend and Game and Fish staff member [REDACTED]*
- *Both [REDACTED] and Officer Fink threatened each other via text message regarding the potential to disclose past events that had occurred during their former relationship.*
- *Officer Fink failed to disclose unlawful behavior that he perceived to be a serious threat to public safety by not reporting [REDACTED] boyfriend's drug and alcohol use before operating a tractor trailer car carrier.*
- *Unsubstantiated were Officer Fink's allegations that [REDACTED] had told him to "F... off" in other text communications. Although Officer Fink had detailed, down to the minute details of the text exchange under investigation, he was not able to produce his own records as [REDACTED] did.*

Officer Fink is a sworn peace officer and supervisor and has exhibited a pattern of behavior with females at the Arizona Game and Fish Department that constitutes a violation of the State System Personnel Rule, Standards of Conduct R2-5A-501(2) and (4), which states:

- A. Required conduct. A state employee shall at all times:
1. Comply with federal and state laws and rules, statewide policies and employee handbook, and agency policies and directives;
  2. Maintain high standards of honesty, integrity, and impartiality, free from personal considerations, or favoritism;
  3. Be courteous, considerate, and prompt in interactions with and serving the public and other employees, and
  4. Conduct himself or herself in a manner that will not bring discredit or embarrassment to the state.

Additionally, Officer Fink's actions are a violation of the AZPOST Peace Officer Code of Ethics that state, "I will never take selfish advantage of my position and will not allow my personal feelings, animosities or friendships to influence my actions or decisions. I will exercise the authority of my office to the best of my ability, with courtesy and vigilance, and without favor, malice, ill will, or compromise.

admitted during the investigation that she continues to use marijuana recreationally in violation of state law. may have come forward sooner with her complaint against Officer Fink but she was aware of his knowledge of her marijuana use and it was not until he threatened her with this knowledge that she reported his actions.

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