

IA2023-

Cottonwood Police Department

NOTICE OF INVESTIGATION AND OFFICER RIGHTS
YOU ARE THE SUBJECT OF THE INVESTIGATION

Steve Gesell
Employee Name

Date

Time

* You are the Principal in an administrative investigation that is being conducted into allegations of possible violations of City or Department work rules and regulations concerning the following incident(s):

This investigation relates to your alleged conduct on May 9, 2023. That evening, you attempted to attend a confidential executive session after repeatedly being advised that your presence was not required. At approximately 8:30 p.m., following the conclusion of the City Council meeting, you had an interaction with then-Interim City Manager Rudy Rodriguez during which you reportedly expressed agitation at being excluded from the executive session. You are alleged to have been hostile and aggressive when questioning Mr. Rodriguez about your exclusion. You allegedly ignored Mr. Rodriguez's request that you defer the issue until the following morning and, instead, continued to make multiple requests for answers in a demanding tone. You are alleged to have lost control of your temper and yelled at Mr. Rodriguez on the street in front of Council chambers, in the presence of other employees, Council members, and members of the public. This confrontation allegedly ended with you shouting, "This is not over, Rudy."

A copy of the complaint from Mr. Rodriguez as well as a statement from Mayor Tim Elinski is included with this Notice.

The above-referenced conduct may be in violation of the following policies:

City of Cottonwood Employee Manual Section 8 – Corrective Action

- Discourtesy to another employee or to a member of the public
• Insubordination
• Any act, error, or omission detrimental to the mission of the City
• Any action, on or off the job, that brings discredit to the City

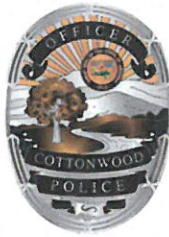
Cottonwood Police Department Policy Manual

- Section 321.5.1(a) – Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.
• Section 321.5.8(e) – Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
• Section 321.5.8(i) – Any Act on-or off-duty that brings discredit to the department.
• Section 321.5.9(f) – Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the City.
• Section 321.5.9(m) – Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

* An administrative investigation is being conducted into the circumstances of your direct involvement in a police shooting, in-custody death, use of force incident, City equipment accident, or pursuit. The incident is described as follows:

Blank lines for incident description

As an employee, you have specific rights and responsibilities in this investigation in accordance with ARS 38-1102 (have the employee initial each one).



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- I am being questioned as part of an investigation by this agency into potential violations of department rules and regulations, or for my fitness for duty.
I have invoked my Miranda rights on the grounds that I might incriminate myself in a criminal matter.
I have been granted use immunity. No answer given by me, nor evidence derived from the answer, may be used against me in any criminal proceeding, except for perjury or false swearing.

- I understand that I must now answer questions specifically, directly, and narrowly related to the performance of my official duties or my fitness for office.
If I refuse to answer, I may be subject to discipline for that refusal which can result in my dismissal from this agency.
Anything I say may be used against me for any subsequent department charges.
I have the right to consult with a representative of my choosing and have him or her present during the interview.
o I choose to decline to have a representative present.
o I choose to have a representative present during my interview.
You are afforded reasonable breaks for consultation with others, including an attorney.

You have the right to mechanically record this interview. The Department reserves the right to transcribe any mechanical recording of this interview for the purpose of verifying the accuracy of the interview. If requested, you shall review the transcription and sign said transcription if it is found to be accurate.

Initials
You are being given a direct order not to discuss this investigation, including your interview, with anyone other than the investigating supervisor(s) or your representative. Privileged communications between the employee and his/her attorney, minister, or spouse are allowed by law.

Handwritten signature of City Manager
Investigating Supervisor Signature

Employee Signature

Date

Employee Representative Print Name

Representative Signature

Date

May 10, 2023

Amanda:

I just wanted to give you a heads up on an incident that happened last night, May 9, 2023, immediately after the conclusion of the Council Special Meeting. At approximately 8:30 p.m., I was met by Police Chief Steve Gesell as I was leaving the City Council Chambers located at 826 N Main Street. He was noticeably agitated when he approached me.

He began by asking why he was not allowed to speak with Councilmembers at the Executive Session of the council meeting. I told him that I would get back to him in the morning, with the hopes that he would calm down overnight. He insisted that I give him an answer several times. Each time carried a more demanding tone.

I finally answered that he was not asked to enter the Executive Session as this was in regards to legal matters being discussed with Council and he would have inserted himself in the conversation and try to lead Council away from acting in the best interest of the City. He said his reputation was on the line and that situations like these are why Police Chiefs leave their employment with communities.

As we were talking, Councilmember DeWillis interrupted and extended a handshake with Chief and said he supported him (Gesell). There were several members of Council that passed by while this was going on, however none of the others stopped. After the brief encounter, Chief Gesell walked away, still visibly agitated. As he was leaving, Attorney Christina exited the Council Chamber. I hesitated for a moment before heading to my office as I noticed Chief Gesell slow his pace and turned his face toward Christina. Christina just smiled at me as she headed to her vehicle. I do not believe she noticed Chief Gesell at this point. I hesitated because I was concerned that Chief was going to confront her, however, he did not. He instead crossed the street yelling back at me that "This is a travesty." As he headed further out on E. Pima he continued with "This is not over, Rudy."

I stuck around my office at 827 N Main Street for about 20 minutes to both take a breather as well as ensure that another confrontation would not happen in the dimly-lit City Hall parking lot where my vehicle was parked. I headed straight home from there at approximately 9:00 p.m.



Rudy Rodriguez

Scotty Douglass

From: Tim Elinski
Sent: Friday, May 12, 2023 10:22 AM
To: Rudy Rodriguez; Steve Horton; Scotty Douglass; Amanda Wilber
Subject: Gesell

All,

Rudy asked if I could write up a summary of the events surrounding Chief Gesell's behavior at the special meeting May 9th.

Earlier in the day on Tuesday during our weekly meeting Rudy and I met to discuss the executive session item. I shared my concern that it would probably be best if the Chief were not at the meeting so that he wouldn't try to insert himself into the E Session discussion. My concern is that he may want to rehash the investigation and the findings, which would have been counterproductive in my opinion, as the findings were complete and we just needed to discuss the best legal path forward. When I arrived for the meeting I saw that the Chief and Commander Dowell were in attendance. At the close of our work session, while we took a five minute recess prior to starting our special meeting, Councilmember Kurot leaned over and said she wanted to make sure the Chief and Commander would be in our E Session. I told her they could remain available for any questions if council needed, but no, they would not be invited in at the beginning. Councilwoman DuVernay overheard and said she wanted them both in E Session, too, and I repeated that they could be available if needed. I figured the Chief had already spoken with one or both of these council members, so I decided I should speak directly with the Chief prior to the meeting starting and to try to avoid an uncomfortable situation in open session. I approached the Chief and Commander and said Gentlemen, I want to make sure you both stick around and are available to answer any questions that council may have as we go into E Session, which was my polite way of reinforcing that he was not invited in. The Chief then became irritable and insisted that he be in E Session with council. He said that Rudy was trying to keep him out and that he must be in E Session so that he could tell his side of the story and give council the whole picture. I repeated that he should stick around to be available should we need him, he was very irritated and repeated himself and I stood up and went back to the dais.

Following that, we started the meeting and we all saw the uncomfortable back and forth between council members Kurot, DeWillis and DuVernay where Christina had to step in and keep the Chief from inserting himself in E Session. After our discussion and the conclusion of the meeting I left out the back door to avoid interacting with the Chief, who I figured was outside the Chambers on the sidewalk. The following morning I heard from Horton that the Chief had treated Rudy poorly and I reached out to Rudy to get the story. Rudy explained that the Chief was agitated, verbally abusive and said this is not over yet Rudy. We talked about what the next steps were and I encouraged him to at a minimum let the Chief go home on admin leave and cool off and we could address the situation when Scotty comes on board.

On Thursday morning Rudy called and he let me know that he planned on putting the Chief on paid admin leave. He said he would put Commander Braxton in charge and they'd evaluate everything once Scotty has had a chance to investigate. Rudy said he would send an email to council later in the day letting them know. Around 4:30 I got a call from Kurot wanting to know what was going on and why was Braxton put in charge. She said she had called the Chief to check in, and he told her he couldn't talk with her because he was on admin leave. I told her all this was true and she should discuss with Rudy. We spoke again an hour later and she wanted me to undo Rudy's decision to put Braxton in charge as she felt it would cause a mass exodus from PD. I told her it was a managerial decision, and not something that council can/should control. After Rudy's email went out to council letting them know about Gesell being on admin leave I got a text from DuVernay expressing her frustration and I directed her to Rudy without discussing any context. Later that evening I received a text from Kurot insisting that I call an emergency meeting for Friday (today) to which I replied that Scotty is committed to fixing the problem when he starts on Monday.

That sums up the last couple days. I'm happy to flesh out any details, just let me know what else you need from me.