

Stephen G. Larson
Direct: 213.436.4864
slarson@larsonllp.com

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VIA E-MAIL AND U.S. MAIL

Mayor Debbie Stone
(dstone@ci.upland.ca.us)

Councilmember Rudy Zuniga
(rzuniga@ci.upland.ca.us)

Councilmember Janice Elliot
(jelliott@ci.upland.ca.us)

Councilmember Bill Velto
(bvelto@ci.upland.ca.us)

CITY OF UPLAND CITY COUNCIL
460 N. Euclid Avenue
Upland, CA 91786

Re: Chief Darren Goodman

Dear Mayor Stone and Councilmembers Elliott, Zuniga, and Velto:

Larson O'Brien LLP represents Chief Darren Goodman in connection with certain legal affairs related to his employment with the City of Upland. Due to the recent and seemingly expedited escalation of a campaign to undermine Chief Goodman and force him out of his position, and after failing to even be afforded a meeting by your City Attorney to discuss this process, we feel compelled to bring to the City Council's attention the discriminatory, unscrupulous, unethical, and illegal conduct that has interfered with the Chief's ability to do his job, and to expose the petty and meritless allegations being leveled against him.

To put it bluntly, the ongoing investigation of Chief Goodman, and the act of publicly placing him on administrative leave, is the result of a blatantly vindictive and retaliatory campaign against his credibility and character—a campaign that we, and many other good citizens of Upland with whom we have spoken, believe is being driven by Martin Thouvenell and Mayor Stone's anger for Chief Goodman's refusal to play their political games; indeed, he has steadfastly resisted their efforts to make him a mere figurehead responsive to their personal directions and catering to their instructions.

As you are well aware, Chief Goodman began his position as Chief of the Upland Police Department in July 2018, becoming the first black Chief of Police in the City's history. The appointment of a person of color to such a position in the City was long overdue, and Chief Goodman is more than qualified for the honor of his position. To this day, Chief Goodman is extraordinarily well respected and liked, both in the community and in his Department.

During his time as Chief of Police, Chief Goodman has worked hard to better the Police Department's impact and influence in the community. For example, Chief Goodman launched the IMPACT Team, dedicated to enhancing the quality of life for residents and business, and he represented a departure from the well-known racist protocols and history of the Department. Such racist protocols included the use of the call-sign "NIU," which stands for "N*****s in Upland," that was used to alert other police officers when there were black persons in the City—not that the black persons were doing anything suspicious or illegal, but simply that they were present in Upland.

The Chief has also focused on diversifying the Department to reflect the population, hiring the only other black police officer currently in the Department and recruiting the only black cadet currently in the Police Academy. The Chief's goal has been to cultivate an environment where his officers feel safe in fulfilling their role in the community, and to make sure that his Department is acting appropriately and with respect to *all* citizens—not just those who have won favor with Thouvenell and Mayor Stone.

Unfortunately, in fulfilling his role, Chief Goodman has undergone unprecedented scrutiny and criticism as the City's first black Chief of Police when compared to his white counterparts. Regrettably, this is not uncommon. As our society begins to open its eyes to the entrenched systemic racism in our workplaces—including in law enforcement—we can no longer afford to ignore the fact that such unfair and unbalanced treatment of black employees compared to white colleagues remains a recognized and common occurrence.

Just one example of such disparate treatment is the City Manager's inappropriate monitoring of Chief Goodman's time. Chief Goodman's door access records have been examined to monitor when he was arriving and leaving the office, and his pay has been docked or adjusted on more than one occasion for not being present in the office for certain hours in the day. One such occasion was when Chief Goodman came into the office two hours later than his usual time because he was up sick the night before. Chief Goodman also stayed two hours later than his usual time that day, but he was nevertheless ordered to account for two-hours of sick time. Of course, as an exempt employee and Chief of Police, Chief Goodman does not have a set schedule—he merely chooses to maintain a regular schedule for the benefit of his officers. Requiring him to take sick leave when he chose to vary that schedule was a violation of California law. On another occasion, Chief Goodman left his office a few hours earlier than usual to pick up his son from school, and his pay was docked. Again, Chief Goodman is an exempt employee. It is a violation of the Fair Labor Standards Act to dock an exempt employee's time for missing anything less than a full day in a workweek for

personal reasons. The combined pettiness and illegality of these incidents speaks volumes as to what is afoot.

The City has also interfered with and micromanaged Chief Goodman in his handling of police business from the moment he took office. In one instance, the City even tried to circumvent his statutory authority to handle investigations into alleged incidents of police misconduct. The City Manager informed Chief Goodman that she was launching her own investigation and demanded that he turn over bodycam video. She made this demand even after Chief Goodman informed her that, in launching her own investigation, the City would be in violation of the Peace Officer Bill of Rights. It was only after the Upland Police Officers' Association's representative sent a cease and desist letter to the City that the City Manager rescinded her request.

The City has also seized on various opportunities to undermine Chief Goodman rather than work with him to serve the needs of the public. In two separate incidents involving community disputes, the City assumed that Chief Goodman had mishandled the situation—only to later learn that the City's interpretation of the incidents were grossly inaccurate. And when Councilmembers were informed of the Mayor's conduct in rushing to wrongfully condemn the Chief of Police, Mayor Stone tried to deflect attention from her own mistakes by accusing the Chief of using the incident as leverage in contract negotiations. As far as Chief Goodman is aware, he and former Chief Brian Johnson—the only Asian-American Chief in the City's history—are the only Chiefs to be subjected to such scrutiny and micromanagement.

In addition to undergoing unprecedented scrutiny, Chief Goodman has had to fight off political influences as he tries to serve his community. Immediately upon Chief Goodman taking on his role, former City Manager and former Chief of Police Thouvenell—at the time, acting *only* as a city consultant—introduced himself to Chief Goodman and began attempting to interfere with his authority. Thouvenell made it clear throughout his various interactions with Chief Goodman that, to remain Chief of Police, Chief Goodman had to acquiesce to certain political and improper expectations dictated by Thouvenell, Mayor Stone, and then Deputy City Manager and later City Manager Jeannette Vagnozzi.

The following are just a few examples of Thouvenell's attempts to control and interfere with Chief Goodman and the Police Department:

- (1) Bill Manis was the City Manager at the time that Chief Goodman became Chief of Police. Almost immediately, however, Thouvenell directed Chief Goodman *not* to communicate with Manis and to report only to Thouvenell and Vagnozzi, who was Deputy City Manager at the time.
- (2) Thouvenell directed Chief Goodman to break the chain of command and call Mayor Stone every day to keep her informed as to what happened in the City and in the Department. To be clear, the Chief's job is to report to the City Manager and keep

him/her informed. Chief Goodman maintained the chain of command, rather than report behind the City Manager's back.

- (3) Thouvenell directed Chief Goodman to publicly vocalize support for Vagnozzi as acting City Manager solely because Mayor Stone liked Vagnozzi. In other words, if Chief Goodman wanted to remain on the Mayor's good side, he needed to publicly support her friends in City positions. Chief Goodman refused to voice support simply because it would please the Mayor.
- (4) Thouvenell directed the Chief to reopen a case and conduct a criminal investigation into Steve Bierbaum, a member of the Upland Coalition of Concerned Citizens ("UCCC"), a City of Upland watchdog group. This directive was issued after the District Attorney had elected not to pursue a case against Bierbaum. Thouvenell told Chief Goodman that Thouvenell did not like Bierbaum because he was a "troublemaker."
- (5) Thouvenell directed Chief Goodman not to talk to or develop relationships with persons within the UCCC. Chief Goodman was told that he needed to align himself with the Mayor and Thouvenell and against the UCCC. Vagnozzi also cautioned the Chief about his interactions with the UCCC and told him not to appear to cater to the UCCC.
- (6) When Chief Goodman voiced gratitude on Twitter to UCCC members because they dropped off doughnuts to the Department, Thouvenell called Chief Goodman to let him know that Mayor Stone had seen the tweet and that it was "not good" because Mayor Stone now believed that Chief Goodman was trying to win favor with UCCC. Prior to this instance, the Mayor would call the Chief directly about certain business affairs. After the Chief's tweet thanking the UCCC, the Mayor would not deal with the Chief directly.
- (7) Thouvenell would consistently come into the Upland Police Department using a key card that he was not authorized to have and had no reason to possess. Thouvenell would then interfere with the various officers' and staffs' daily tasks and assignments, asking them for information about Police Department activities. Thouvenell even went so far as to call Police Department personnel directly and request (or order) them to send patrol units to various locations, including to remove campaign signs. Upon learning about this interference with the Police Department's operations, Chief Goodman requested that Thouvenell refrain from acting as if he was still the Chief of Police. Chief Goodman then took possession of Thouvenell's keycard.
- (8) Thouvenell also attempted to interfere with personnel decisions within the Department. For example, he directed Chief Goodman not to promote Lieutenant Cliff Matthews because he was "lazy" and "worthless." Chief Goodman refused to be swayed by this

attempted interference; instead, he promoted Matthews to Captain, finding him to be intelligent, professional, and someone who consistently went beyond what was required. Chief Goodman is still unaware of what Captain Matthews did to draw Thouvenell's animus.

In short, Thouvenell has repeatedly sought to pressure Chief Goodman into supporting the political agenda of Thouvenell and his allies, including Mayor Stone, and to do Thouvenell's bidding rather than independently serving the City as Chief of Police. To his credit, Chief Goodman has consistently resisted this pressure, as he was and is adamant that he remain uninfluenced by City politics and instead continue to operate independently from the well-known Thouvenell crew. This independence is critical to Chief Goodman's ability to adhere to his oath to serve *all* citizens of the City of Upland.

Unfortunately, true to the both Thouvenell's and Vagnozzi's warnings, because of Chief Goodman's unwillingness to play Thouvenell's political games and simply be a figurehead, he has not "won favor," and instead a campaign to undermine him has been launched.

This retaliatory campaign has now come to a head with the City's response to the recent complaint submitted by Executive Assistant Luz Barrett. Barrett began working for the Police Department when Thouvenell was Chief of Police. It is well-known that Barrett maintains a close relationship with Thouvenell—or, the "Godfather," as she calls him—and provides information to him about what is going on within the Department.

Shortly after his arrival to the Department, Chief Goodman promoted Barrett to Executive Assistant at the insistence of certain colleagues who felt that the length of her time with the Department warranted her promotion. Barrett's probationary period expires in July 2020. After working closely with Barrett, however, Chief Goodman quickly realized that Barrett lacked necessary skills to fulfill the role. As a result, Chief Goodman took it upon himself to encourage better performance and provide constructive criticism because that is the role of a manager. Recognizing that Barrett was not improving, Chief Goodman began working with the Human Resources Department in March 2020 to return Barrett to her former classification upon the termination of her probationary period. Barrett's performance issues are well documented.

The day before Chief Goodman was to inform Barrett about her return to her former classification, Barrett went out, unexpectedly, on leave. Chief Goodman believes that Barrett overheard his conversation with the Human Resources Representative about the final plans to implement the demotion and may have gone through papers for her demotion that were left out on his desk—the papers had been shuffled through even though the Chief locked his office, and Barrett has the only other key. Two weeks later, Barrett submitted a draft civil complaint to the City, threatening to file it in state court. This draft complaint includes a litany of false accusations of misconduct against Chief Goodman.

To be clear, not one allegation would hold any water in a fair and impartial investigation, let alone warrant a finding that Chief Goodman has subjected Barrett to a hostile work environment under the law. Given the City's swift conduct against Chief Goodman after the his initial interview, in which he was ambushed with different and new information not previously provided to him, and given that a second interview has not been scheduled, as required under the Government Code, only one conclusion can be drawn—the City's goal is not to vet the truth of the allegations, but create a narrative that allows it to terminate Chief Goodman. This conclusion is further supported by the fact that the City is apparently ignoring that Ms. Barret's credibility has been undermined in ongoing litigation between the City and other police officers for wrongful discharge.

Apart from the baseless allegations of harassment, there is a lone allegation that Chief Goodman sent Barrett on a personal errand on Department time. It is important to note that since Barrett worked as the Chief's Executive Assistant, Chief Goodman recognized the benefit in developing a friendly relationship with Barrett. A friendly relationship assists in ensuring that constructive criticism is interpreted as just that, and it is important that the Chief of Police develops trust with his Executive Assistant for obvious reasons. To that end, Chief Goodman and his family assisted Barrett with certain personal matters on numerous occasions, including giving her money to help her when she was surprised with unexpected expenses—we will not disclose all these instances here.

This friendly relationship appeared to be reciprocal. On one occasion, Barrett even offered to assist the Chief in translating what Chief Goodman was trying to convey to his Spanish-speaking housekeeper. Barrett told the Chief that she would be willing to help out and translate whenever he needed it. Seeing this as friendly and generous offer, Chief Goodman did in fact ask Barrett to translate a number of times over the phone. Barrett's conversations with Chief Goodman's housekeeper occurred sparingly over only four months of Barrett's and Chief Goodman's working relationship. To avoid any perception of impropriety or a violation of Department Policy, Chief Goodman compensated Barrett via Zelle payments for her telephonic translations. At no time did Chief Goodman indicate that Barrett was required to translate as a condition of her employment.

Barrett's complaint submitted to the City, however, alleges that Barrett was required to travel to San Diego on Department time to translate with the housekeeper in person. The date identified in the complaint was a Sunday. Chief Goodman does recall a Sunday in which he asked Barrett to meet him down in San Diego to meet with the housekeeper and translate for him. As a thank you, Chief Goodman provided her a week-stay at his vacation home free of charge. Chief Goodman asked Barrett not to tell anyone at the Department about this because he did not want others to know that he was allowing anyone to use his vacation home free of charge; Chief Goodman does not even let family members stay free of charge. He also wanted to protect Barrett from coworkers becoming jealous.

During his interview, Chief Goodman was provided an incomplete text chain, without a date, and was told that the date of the alleged incident was different than the date alleged in the complaint.

Being surprised with and questioned about this information violated Chief Goodman's rights. Chief Goodman nonetheless insisted that the day that Barrett went down to San Diego was a Sunday, which he based on his review of his wife's notes regarding the vacation home, and that he did not recall ever asking her to go down during the week to help translate a conversation with his housekeeper. Regardless, Chief Goodman would not have had Barrett go down on Department time. And, assuming she did go down during the week upon his request, he would have expected her to "schedule adjust," which she commonly did.

Barrett now alleges that she forged a time card for this alleged incident at Chief Goodman's directive. However, Chief Goodman never once told Barrett to misrepresent her time on her timesheet, and he certainly would not have signed off on such a timesheet. As evidence, Barrett somehow gained possession of her timesheet, and presented it to the investigator. Notably, however, the signature on the timesheet is a stamp of Chief Goodman's signature—not his physical signature. Chief Goodman has made it his practice to personally review and sign Barrett's timesheets. The use of his signature stamp demonstrates that he did not review and sign the timesheet in question—which would only be consistent with a scenario in which Barrett avoided showing him the timesheet and instead added his stamped signature so that he would not know that she failed to schedule adjust for the alleged San Diego trip. To be clear, Chief Goodman did not and would never direct a subordinate to violate Department policy, nor did he or would he ever violate Department policy by requiring his Executive Assistant to run his personal errands.

The foregoing is obviously not intended to be, nor is it, a complete recitation of the relevant facts. Nonetheless, what is clear based on these facts alone is that the City Manager and Mayor's placement of Chief Goodman on administrative leave, and the referral of his file to the District Attorney based on the petty and false allegations brought by Barrett, is nothing more than the City using Barrett's false allegations to retaliate against Chief Goodman for refusing to do the Mayor's and Thouvenell's political bidding. It is imperative that the City Councilmembers closely examine the claims above and root out the corruption that is infesting the City ranks.

Of course, to the extent the City is intending to proceed with any further disciplinary actions based on these false allegations, we trust the City will comply with all notice and procedural requirements under the Brown Act and the Peace Officer's Bill of Rights. All such notices and any other communications should be directed to my office.

Finally, Chief Goodman reserves all rights, both in regards to any potential claims or actions against him, and in regards to his existing and potential claims against the City of Upland and all individuals involved.

Sincerely,



Stephen G. Larson

cc: Via Email

Rosemary Hoerning, City Manager (*rhoerning@ci.upland.ca.us*)
Steven Flower, Esq. (*sflower@rwglaw.com*)