

May 19, 2023

VIA EMAIL & U.S. MAIL

City Council
City of Antioch
City Hall
200 H Street
Antioch, CA 94509

**Re: Police Officer Texting Investigation and Recent Public Statements by Mayor
Thorpe and Vice Mayor Tamisha Torres-Walker**

Dear Members of the Antioch City Council:

As you are aware, this Firm serves as General Counsel to the Antioch Police Officers Association (APOA) and all of its individual members. We represent all of the officers who have been recently placed on administrative leave pending an investigation of text messaging which occurred between approximately 2019 and 2022 by Antioch police officers which were described and discussed (in many instances inaccurately and in a misleading fashion) in two reports prepared by Contra Costa County District Attorney Inspector Larry Wallace.

Frankly, it is a tragedy that the City, the Police Department and the public have been “fed” misleading and what we believe highly partisan reports prepared by the District Attorney’s Office for reasons we hope to discern in future litigation, but which have resulted in widespread but undeserved condemnation of many police officers for engaging in “racist” or “sexist” texting when no such texting by many such officers, in fact, ever occurred.

By all accounts, the Mayor and Vice Mayor are ecstatic to condemn the entire police department for the “sins of few” and place themselves in the glare of the public spotlight, which has most recently shined down on both of them proclaiming that all of the officers on administrative leave should be fired and, in essence, the Police Chief should “start over” and hire an entire crop of new recruits to replace the mass of racists and sexists who were formerly employed.

Of course, it is not either unusual or uncharacteristic of either the Mayor or the Vice Mayor to be displaying ignorance or indifference to the law or acting inappropriately, such as the Vice Mayor’s previous profanity – laden, public tirade against the police that, standing alone, should have resulted in her removal from the Council; or the Mayor’s demonstrated disregard of

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the laws concerning sexual harassment of females and the laws prohibiting drunken driving. In other words, neither the Mayor nor the Vice Mayor are what most would recognize as “role-models” that a constituency should rely upon for receiving factual and accurate information or advice.

However, the very pinnacle of irresponsibility on the part of the Mayor and Vice Mayor are their recent synchronized chorus to the public and media for the Chief to fire all of the police officers who have placed on administrative leave on the texting case. Neither the Mayor nor the Vice Mayor truly understand the “facts” of this case, or they would know and explain to the public that the admittedly highly inappropriate texting that they “smear” *every officer* with was engaged in by only three or four. The officers who are on leave, for the most part, were simply included, without their knowledge at the time, or their wishes in most cases, on “text chains” between 20 and 30 officers which have been in existence for months if not years. In many cases, the officers on the text change were off-duty and asleep when the texting occurred and did not even take the time to review the content of text messages upon quickly determining that they involved matters of no importance or interest to them.

Perhaps the Mayor and the Vice Mayor do, in fact, know the truth – that the texting which essentially the entire department has now been condemned for is the product of a few. To our knowledge, the Mayor, perhaps in an unholy alliance with the City Attorney, has now excluded the Police Chief from directing the “outside” administrative investigation of the officers on leave. Instead, despite the fact that our Office has continually attempted to schedule interviews of virtually all of the officers we represent who have been placed on leave without a factual or legal basis, the outside investigators have rejected our request to interview our clients, telling us that they have only gotten authority from “the City” to set dates for interviews of four of the officers on leave.

Thus, before the administrative investigation has even determined whether the vast majority of the officers on leave can be subjected to discipline for misconduct, the Mayor and Vice Mayor attempt to incite “mob justice” by calling for the immediate mass firing of officers who have done absolutely nothing to deserve discipline. This may further the “spotlight” which the Mayor and Vice Mayor appear to enjoy, but it deprives the citizens of Antioch of the services of somewhere near 20 additional police officers who cannot, and will not, under established law regarding employee discipline, be terminated.

We have no doubt that, even if the Mayor and Vice Mayor had even a “passing familiarity” with the law concerning “just cause” for the discipline of public employees (which is clear they do not), they would simply urge the Police Chief, who under City rules and procedures will make the decision concerning discipline of his police officers, to disregard those laws or try to incite the public to condemn the Police Chief if he dared to apply the facts established by a thorough and objective investigation to the existing law, and not impose termination.

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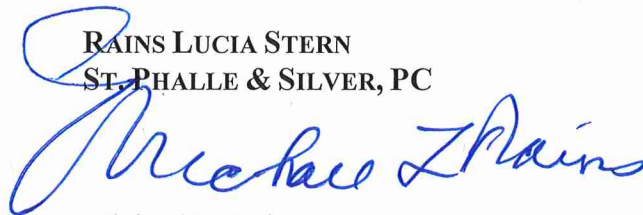
By refusing to direct the City's retained investigators to immediately schedule and conduct interviews of all of the officers on administrative leave, while simultaneously condemning those officers publicly and demanding their firing, the Mayor and Vice Mayor have deprived every member of the community of the additional police officer resources available to them to make Antioch a safer community. Instead, the "City's" very clear disinterest in insisting that all of these officers be interviewed and receiving a report from the retained outside investigator, which will undoubtedly clear most, if not all, of any misconduct, allows the Mayor and the Vice Mayor to continue to appear under the spotlight they covet, and sell the public a lie about the facts of the case, hoping, no doubt, that good police officers, tired of being unfairly maligned by these two irresponsible "public servants" will simply quit. It is clear that neither the Mayor or Vice Mayor have any sincere interest in the investigation of all these officers to be completed, and the truth really known.

To the extent that the public, the police department, the media and all of us have been forced to make conclusions of what officers said or meant in text messages, or deprived of the understanding of the context in which text messages occurred or the identity of the person who was the "object" of the texting at the moment, as a result of the misleading and distorted report of DA Inspector Wallace, we have all been fed a "bill of goods" to begin with.

Nevertheless, the irresponsible manner in which the "City", under the direction of Mayor Thorpe and Vice Mayor Torres-Walker have "engineered" an intentional delay in having officers interviewed in order to be cleared of any wrong doing, while simultaneously calling for their mass termination, is a clear demonstration of their indifference to ethical behavior and their disregard of allowing their highly experienced, knowledgeable and ethical Police Chief to make the decisions he should be making concerning both the work status of his officers and the progress of the "outside" investigation supposedly underway.

Very truly yours,

**RAINS LUCIA STERN
ST. PHALLE & SILVER, PC**



Michael L. Rains

Lamar Thorpe, Mayor
Tamisha Torres-Walker, Vice Mayor
Michael Barbanica, Council Member
Lori Ogorchock, Council Member
Monica Wilson, Council Member

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Cc: Julia Fox
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Rick Hoffman, POA President
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