

December 23, 2024

Law Director Shells-Simmons,

Although the City has failed to notify us of any findings, we learned through media reports on 12/9 that Chief Finley will not face any disciplinary action for his misconduct on 9/6. We can only assume that means the City has closed our HR complaints on the incident. Please allow this letter to serve as formal notification that we are dissatisfied with the resolution and we are appealing for reconsideration.

On 9/6, during what should have been a routine labor management meeting, we informed Chief Finley that EMS training he planned to unilaterally implement would impact our members compensation and hours of work. As such, it was subject to mandatory bargaining under Ohio law. Additionally, ULP settlements in place and our contract both specify EMS as a mandatory subject of bargaining. Chief Finley's response was an unprovoked racist tirade. He became immediately agitated and screamed that he was "tired of us punk ass white boys" always giving him a hard time and that we were "little white bitches" amongst other things. When confronted about his racist comments Chief Finley stated "Yeah, what are you going to do about it? Nothing." The encounter didn't end until Chief Finley physically imposed himself on Jordan Thomas and was ordered to leave the room by Atty Fritz. Chief Finley's behavior that day violated City policies on racial harassment and workplace violence as well as local, state, and federal law.

Chief Finley's violations occurred in the Law Department library and were witnessed by City attorneys. Attorneys who have a legal obligation to report incidents, to enforce laws, and to advocate for victims. Not only has no one advocated for us, but in retaliation for filing these complaints, the City administration has publicly vilified and defamed us in the media with false allegations that we are racists and unsupported claims that Chief Finley is the victim.

Mayor Brown publicly stated that any misconduct committed by Chief Finley has been the result of years of racial discrimination suffered at our hands. You, the Law Director, then seconded that opinion in your summary of findings. You have both knowingly represented those false allegations to the media as factual and they have aired on television newscasts, been printed in newspapers and posted online. They were read by our colleagues, our friends and our families. We have suffered widespread and irreparable damage to our reputations and character because of the statements that you and Mayor Brown have made, which you both know are untrue.

There is no history, evidence or testimony to support your allegations of racism against us. In a combined 33 years of service the City has never received a complaint of racism against either of us, never investigated either of us for racism and never disciplined either of us for racism. Similarly, there is no history, evidence or testimony to support claims that Chief Finley has ever been the victim of racial harassment or discrimination. What happened in that meeting on 9/6 happened because Chief Finley is abusive to his subordinates. The City administration has

ignored his lengthy history of this behavior, and is negligent in defending him and allowing it to continue.

We reached out to a former attorney from the City Law Department who was intimately involved with labor relations between the Union and Chief Finley. We wanted to see if they agreed with how the City has portrayed us in their findings and in the media. That attorney advised that they were surprised to hear the City's allegations against us and that, in their experience, we were always professional. They also confirmed that they had never heard or seen anything racist or bigoted from either of us.

Following our objection to D'Apolito's questionable conclusions on 10/8, you requested to meet with us in your office on 10/16. In that meeting you advised us that you were reopening the investigation because it was incomplete. You promised to fairly and objectively investigate the incident, but you have not done that. Your summary of findings does not describe an investigation. It does not offer any evidence or testimony about the details of the incident. It does not provide any findings of truth as to what happened that day. Your summary of findings is essentially just a PR statement that only describes vague support for Chief Finley from anonymous sources. It exists only to provide justification for Chief Finley's actions, which you don't even dispute happened exactly as we described.

You reach the conclusion that, whatever his actions were, Chief Finley "deserves grace because until this moment, the disrespectful incidents the Chief has experienced OVER THE YEARS have not been addressed," but only one such incident is cited. If there are more incidents, why aren't they listed? Why haven't there been investigations and disciplines related to those incidents? The answer is because those incidents don't exist.

The only example that is given is from 2019. Some firefighters had mugs that said "FBF" on them. Originally, that expression was "FJK." It referenced former Ohio Governor, John Kasich and was popular in 2011 when Ohio's Unions were fighting to repeal Senate Bill 5. We have heard claims that "FBF" has some kind of racial undertones, but that is completely untrue. The "FBF" mugs appeared in the firehouses immediately after Chief Finley closed Station 7 and demoted 9 of our ranking officers. The Union itself did not make, distribute or endorse the mugs. In fact, when former Union President, Charlie Smith, found out about them he immediately ordered that they be destroyed or removed from the stations.. Using this single example, 5 years later, to justify Chief Finley's racial harassment and physical intimidation of 2 subordinates is beyond unreasonable.

What Chief Finley has interpreted to be disrespect, has actually been Union officials, from 3 different Union administrations over 6 years, pleading with him to follow our contract and Ohio collective bargaining law. Sadly, Chief Finley doesn't think he should have to work within those confines and the Union has had to litigate a lot of issues to prove him wrong. A great deal of time and taxpayer money has been wasted by this City repeatedly defending what arbitrators, SERB, and the Courts have all agreed was Chief Finley's illegal conduct.

Your investigation failed to interview all the parties. There were 4 people in the room when the incident occurred and your investigation only contains statements from 3 of them. Atty Fritz was not questioned or referenced in your report. You also failed to interview other members of the Law Department like Adam Buente, who was identified in our statements as having entered the room. Other Law Department staff, who heard or saw portions of the incident from outside the room were also not interviewed. In our 10/16 meeting you told us that you were going to conduct interviews with everyone who was present in the Law Department that day, but you either didn't interview them, or chose not to include their statements in your summary.

Your summary does not address Chief Finley's violation of City policy on workplace violence. A City attorney had to repeatedly order the Fire Chief to leave a routine labor management meeting to prevent him from physically assaulting a subordinate. You conducted an investigation into the incident that did not include a statement from that City attorney and then wrote a summary of findings that does not even acknowledge all the violations that were reported to you.

You state in your summary that you spoke to various ranking officers and firefighters while conducting a ride along with YFD. From those conversations, you summarize the anonymous responses you claim to have collected. Some quoted examples are..

- “they all felt that the Chief was doing a good job”
- “most felt Jon Racco and Jordan Thomas were also at fault”
- “firefighters felt that Chief Finley was very capable of his position”

We followed up with those officers and firefighters and asked if they felt like the responses claimed in your report reflected what they had actually told you. Please find a statement attached from someone present at each encounter you had with our members. They unanimously advise that your representations of our members' statements are completely inaccurate. Some quoted responses include...

- “I could not believe what I read”
- “No. Absolutely not. I would say it was closer to the opposite”
- “Nobody downtown hinted or said we should retain Finley...She didn't listen to a thing we said”
- “I do not agree with her account...we all agreed he was doing a terrible job”
- “I laid it all out...his go to move is physical intimidation, verbal abuse, and retaliatory moves. I sat in on station 1's sit down with her and nothing said was favorable”
- “I think it was a dog and pony show staged by the Mayor”

Also notably absent from your summary is that all these groups told you they believe “it's more likely than not” that Chief Finley will physically assault someone here again.

Lastly, your investigation and summary of findings does not give consideration to Chief Finley's documented history of workplace violence, abusive behavior and racial harassment. Chief

Finley's disciplinary records establish a pattern of behavior that has continued through his entire career. The following discipline and complaint history may not even be all encompassing, this is only the history that the Union has participated in and has documentation of. The City administration is well aware of these incidents and through its inaction, is responsible for enabling this behavior to continue.

Prior to his appointment as Fire Chief

- 2005 **Written reprimand** for getting into a "shoving match" with another Captain. Although both Captains were issued written reprimands, records note that Finley was at fault because he "became enraged quickly."
- 2012 **Suspension (45 days), Last chance agreement, Anger management courses, Forfeiture of promotion Eligibility** for physically assaulting a subordinate in the station because he owed Finley money. Finley lifted a subordinate from his chair and slammed him into 2 walls hard enough to cause damage to the station. The City could have terminated Finley, but the Union negotiated a Last Chance agreement that spared his job.
- 2013 **Suspension (2 Days)** for Insubordination. Fire Chief John O'niell called it "The most indignant display that I have witnessed as long as I've been Fire Chief" and warned that Finley "came dangerously close to violating his last chance agreement" during a confrontation with a superior officer.
- 2013 **Verbal reprimand** for making inappropriate and offensive comments to another firefighter about his wife. Finley offered to pay another firefighter's wife \$4k for sex acts and asked her to meet him in another room.

Since his appointment as Fire Chief

- 2019 **No action taken** - IAFF Vote of No Confidence In Chief Finley detailing verbal abuse / physical threats against subordinates
- 2020 **No action taken** - HR Complaint for verbal abuse / physically threatening a subordinate. Finley told a subordinate "Fuck you", and said "I would have thrown you through a wall"
- 2021 **No action taken** - HR Complaint for verbal abuse / harassment of a subordinate. Finley verbally berated a Captain who followed department policy to report a piece of equipment was in need of repair.
- 2023 **No action taken** - HR Complaints x2 for verbal abuse / physical intimidation of subordinates. Finley verbally berated and threatened to fire 2 subordinates because he believed one of them had notified the media about firefighters being transferred to the

inspection bureau. One reported that Finley rapidly approached where he was sitting until he was 3" from his face and he could feel Finley's breath on him. The other reported he was afraid Finley would have put his hands on him if he had looked at Finley wrong.

- 2023 **No action taken** - HR Complaint for verbal abuse / physical intimidation / racial discrimination and harassment of a subordinate. Finley verbally berated a subordinate while standing over him and smacking one of his hands with the other near the subordinate's face. The subordinate also stated that Finley's face was within inches of his own at one point and that Finley told him he "acts like a little girl" and that he had "grown up white and privileged"
- 2024 **No action taken** - (This Case) HR Complaints x2 for verbal abuse / physical intimidation / racial discrimination and harassment of subordinates. (These complaints)

How the City has handled this incident will be relevant to all City employees. It will also raise a great deal of pertinent questions. Why didn't the City conduct a defensible investigation into this and the other reported incidents? Why would the City administration fabricate vague justification and excuse a department head for this misconduct? Why has the City administration defamed us in retaliation for filing these complaints? After these findings, how can any City employee be held to a higher standard than Chief Finley? How can Chief Finley, who admitted to racially harassing subordinates in his own statement, continue to head a City department without his prejudice being a concern? These are all questions that the City administration will have to answer because it has refused to provide a safe workplace, free from discrimination and harassment.

Respectfully Submitted,

Jordan Thomas
Jordan Thomas

Jon Racco
Jon Racco