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Human Resources Dept

MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Interim Director of Civil Service

FROM: Art Acevedo, Chief of Police

DATE: October 16, 2015

SUBJECT: Temporary Suspension of Officer Trissey Padro #5328
Internal Affairs Control Number 2015-0476 and 2015-0477

Pursuant to the provisions of Chapter 143 of the Texas Local Government Code, Section 143.052, and Rule 10, Rules of Procedure for the Firefighters', Police Officers' and Emergency Medical Service Personnel's Civil Service Commission, I have temporarily suspended Police Officer Trissey Padro #5328 from duty as a City of Austin, Texas police officer for a period of 20 days. The temporary suspension is effective beginning on October 17, 2015 and continuing through November 5, 2015.

I took this action because Officer Padro violated Civil Service Commission Rule 10.03, which sets forth the grounds for disciplinary suspensions of employees in the classified service, and states:

No employee of the classified service of the City of Austin shall engage in, or be involved in, any of the following acts or conduct, and the same shall constitute cause for suspension of an employee from the classified service of the City:

- L. Violation of any of the rules and regulations of the Fire Department or Police Department or of special orders, as applicable.

The following are the specific acts committed by Officer Padro in violation of Rule 10:

Internal Affairs Case 2015-477

Officer Trissey Padro worked in the Court Services Unit during the relevant periods of April through June 2015. Officer Padro was scheduled to work a regular eight hour shift on both Thursday April 30, 2015 and Friday May 1, 2015 from 11a.m. to 7:00p.m.. Officer Padro called in sick on that Thursday but worked her regular shift on Friday. However, her supervisor erroneously wrote the wrong information on Officer Padro's weekly timesheet by inversely notating eight regular hours worked on Thursday April 30, 2015 and eight sick hours on Friday May 1, 2015.

In addition to her regular assignment, Officer Padro agreed to work a ten hour patrol overtime assignment from May 1, 2015 at 6:30p.m. to May 2, 2015 until 4:30a.m. with a different unit. After being off sick on Thursday, Officer Padro contacted her supervisor on May 1, 2015 to request an adjustment of the eight sick hours she took on April 30, 2015 to reflect eight compensatory hours, to qualify her for the overtime rate for this added assignment.¹ Her supervisor advised Officer Padro that he submitted her timesheet to Human Resources (HR), and since he was off on May 1, 2015, he would accommodate her and change the timesheet from sick to reflect compensatory time when he returned to work on Monday May 4, 2015.

However, Officer Padro went to HR on May 1, 2015 and located her timesheet, where she noticed her supervisor had inverted her work status for Thursday April 30, 2015 and Friday May 1, 2015. Officer Padro subsequently corrected her timesheet to reflect that she did work eight regular hours on Friday May 1, 2015 without changing the parallel Thursday error. Officer Padro then took her time sheet to a different supervisor and had her initial the correction to Friday May 1, 2015 without specifically pointing out the unchanged corresponding Thursday error. Essentially, Officer Padro turned in a timesheet showing eight daily regular hours for every day of her work week for a total of 40 regular hours worked, when in fact she only worked 32 regular hours.

A few weeks after submitting this time sheet, her supervisor discovered some irregularities and an Internal Affairs (IA) complaint was filed against Officer Padro. During the IA investigation, Officer Padro admitted that she knowingly agreed to the overtime assignment in spite of a 30 minute overlap between her two assignments that day.² Nonetheless, Officer Padro admitted to IA that she notated ten hours on her overtime sheet, even though she did not work the full ten hours. In addition, she was compensated for the 30 minute overlap in time for both assignments even though this is impermissible per policy and she did not perform both obligations during the overlapping period.

Officer Padro also acknowledged to IA that she presented an inaccurate timesheet to a different supervisor to sign off on and that she subsequently re-submitted an erroneous

¹ Sick time is considered non-productive time per policy. Changing her sick time to compensatory time would get her weekly hours at the necessary threshold to make her overtime rate compensable at a rate of time and a half.

² She notated nine and a hours on her overtime log form because of this overlap.

timesheet for HR approval. Her explanation to IA that it was her supervisor's responsibility to change the Thursday error does not absolve her of her own responsibility per policy. Moreover, since the errors were interconnected, Officer Padro needed to either make both corrections or allow her supervisor to make all the changes and corrections himself.

Additionally, Officer Padro admitted that she not only denoted an inaccurate amount of time for her overtime assignment, but she also admitted violating the Secondary Policy by working an excessive amount of time within a 24 hour period.

Therefore, with respect to IA Case 2015-477, Officer Padro violated APD Policy 955.2.1: Attendance and Leave: Timesheets and APD Policy 949.5.3: Secondary Employment: Limitation on LERE Hours Worked.

Internal Affairs Case 2015-476

Officer Trissey Padro was scheduled to work the evening shift for the Court Services Unit on both May 20, 2015 and May 21, 2015. However she had an opportunity to take a trip to Las Vegas, Nevada on those days. Officer Padro contacted an officer on her shift to find out what steps she needed to take to get approval to change her schedule. Her fellow officer advised and explained to Officer Padro that she needed to take two steps: 1) to swap her night shift for a day shift; and if she accomplished the first step; she then needed to 2) request time off from a supervisor.

Officer Padro completed the first step and was able to swap her two night shifts with a day shift officer for two day shifts. However, she did not submit a written request for time off from her supervisor. Nonetheless, Officer Padro went to Las Vegas without written approval from her supervisor.

During the IA investigation, Officer Padro eventually admitted she did not submit a request form for the time off. She acknowledged going on the trip to Las Vegas, and to being absent from work without prior written approval from anyone including her supervisor on May 20, 2015 and May 21, 2015.

Moreover, Officer Padro was served with a "Notice of Allegations" and more relevantly a "Do Not Discuss" (DND) order on June 3, 2015 advising her that an IA case was filed against her by her chain of command. In spite of this order, Officer Padro separately corresponded with three of the witnesses in this case via text messages on or about June 8, 2015. When Officer Padro was confronted by IA about these disconcerting insubordinate actions, she admitted to corresponding with three different officers on her shift about the case after receiving the DND order, and that admitted that she knowingly violated policy in an attempt to exonerate herself.

Therefore, with respect to IA Case 2015-476, Officer Padro violated APD Policy 955.2: Attendance and Leave: General Attendance Guidelines and APD Policy Policy 955.3:

Attendance and Leave: General Leave Guidelines and APD Policy 110.4.4: Organizational Structure and Responsibility: Insubordination.

Officer Padro's Disciplinary Review Hearing (DRH) was held on October 16, 2015. During the DRH Officer Padro openly accepted responsibility for her actions and showed contrition and appreciation for the severity of her indiscretions. And as part of this agreement Officer Padro agrees to be precluded from working any overtime assignments for the next 12 months.

By these actions, Officer Padro violated Rule 10.03(L) of the Civil Service Rules by violating the following rules and regulations of the Austin Police Department.

➤ **Austin Police Department Policy 955.2.1: Attendance and Leave: Timesheets**

955.2.1 Timesheets

In order for the Department's payroll records to be properly and accurately maintained it is necessary that weekly timesheets be submitted to APD HR for each employee. Employees are responsible for the accurate recording of their own time on the weekly timesheet.

- (a) Attendance records will be based on a work week that begins at 12:00 am on Sunday and ends at midnight on Saturday.
- (b) Within each section, an employee may be designated as timekeeper to ensure completion and proper submission of weekly timesheets.
- (c) All timesheets shall be:
 - 1. Completed in ink; and
 - 2. Signed and dated by the employee to attest to accuracy; and
 - 3. Signed by a supervisor to indicate timesheet approval.
- (d) Completed and signed timesheets must be turned in to APD HR no later than 4:00 pm on Thursday of each week. In the event the City calls for an earlier payroll deadline, APD HR will send notification to all sections on the deadline to turn in timesheets.
- (e) Employees are responsible for submitting a corrected timesheet to the immediate supervisor if work hours or leave type changes after a signed timesheet has been submitted. Failure to do so may be considered falsification of an official City document. Any corrections to a timesheet must be initialed by an employee's supervisor.

➤ **Austin Police Department Policy 949.5.3: Secondary Employment: Limitation on LERE Hours Worked**

949.5.3 Limitation on LERE Hours Worked

- (a) Employees shall not work more than 16 total regular-duty, department overtime, and LERE hours within a 24 hour period without approval from their commander/manager.
 - 1. A 24 hour period is any consecutive 24 hours, regardless of the time the work started.
 - 2. The employee is responsible for notifying the appropriate supervisor two (2) hours prior to the 16th hour of the 24 hour period. The name of the approving commander/manager will be noted on the employee's overtime assignment form.

➤ **Austin Police Department Policy 955.3: Attendance and Leave: General Leave Guidelines**

955.3 General Leave Guidelines

When reviewing leave requests, supervisors will consider the needs of the Department and availability of other personnel before approving the requests.

- (a) Employees requesting to use any personal leave (e.g., vacation, compensatory, personal holiday) shall submit the appropriate leave request form to their immediate supervisor for approval.
 - 1. Leave requests will not be approved when the leave will create the need for backfill unless exigent circumstances exist.

➤ **Austin Police Department Policy 955.2: Attendance and Leave: General Attendance Guidelines**

955.2 General Attendance Guidelines

- (a) Employees will not be absent from work without prior approval from an immediate supervisor.
 - 1. Unless a different notification is required by a Unit SOP, employees have the responsibility of notifying an immediate supervisor at least one (1) hour prior to the scheduled work start time if they are going to be absent.

2. Employees who fail to report to work at the assigned place and time, or who leave work or an assignment without proper authorization will be subject to disciplinary action.
3. Employees may not work in excess of 76 hours of any combination of regular duty, department overtime or LERE assignments within a work week without the approval of a Lieutenant or above.
4. Employees may not work any more than 16 hours of any combination of regular duty, department overtime, or LERE assignments within a consecutive 24 hour period without approval of a Lieutenant or above.
5. Employees will advise their immediate supervisor when they will exceed or have reason to believe they will exceed 16 hours in a workday no later than 2 hours prior to reaching the end of the 16th hour.

➤ **Austin Police Department Policy 110.4.4: Organizational Structure and Responsibility: Insubordination**

110.4.4 Insubordination

Employees will not be insubordinate. The willful disobedience of, or deliberate refusal to obey any lawful order of a supervisor is insubordination. Defying the authority of any supervisor by obvious disrespect, arrogant or disrespectful conduct, ridicule, or challenge to orders issued is considered insubordination whether done in or out of the supervisor's presence.

By copy of this memo, Officer Padro is hereby advised of this temporary suspension and that the suspension may be appealed to the Civil Service Commission by filing with the Director of Civil Service, within ten (10) days after receipt of a copy of this memo, a proper notice of appeal in accordance with Section 143.010 of the Texas Local Government Code.

By copy of this memo and as required by Section 143.057 of the Texas Local Government Code, Officer Padro is hereby advised that such section and the Agreement Between the City of Austin and the Austin Police Association provide for an appeal to an independent third party hearing examiner, in accordance with the provisions of such Agreement. If appeal is made to a hearing examiner, all rights of appeal to a District Court are waived, except as provided by Subsection (j) of Section 143.057 of the Texas Local Government Code. That section states that the State District Court may hear appeals of an award of a hearing examiner only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction, or that the order was procured by fraud, collusion or other unlawful means. In order to appeal to a hearing examiner, the

original notice of appeal submitted to the Director of Civil Service must state that appeal is made to a hearing examiner.

By copy of this memo, Officer Padro is hereby advised that this temporary suspension may be taken into consideration in my determination as to whether a valid reason may exist to bypass Officer Padro for promotion in accordance with Austin Police Department Policy 919.



ART ACEVEDO, Chief of Police

10/16/2015
Date

TO WHOM IT MAY CONCERN:

I hereby acknowledge receipt of the above and foregoing memorandum of temporary suspension and I have been advised that if I desire to appeal that I have ten (10) days from the date of this receipt to file written notice of appeal with the Director of Civil Service in accordance with the provisions of Chapter 143 of the Texas Local Government Code.



Police Officer Trissey Padro #5328

10/16/15
Date