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April 7, 2022 1:01 p.m.

MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Joseph Chacon, Chief of Police

DATE: April 7, 2022

SUBJECT: Temporary Suspension of Police Sergeant Jeffrey Dwyer #3435
Internal Affairs Control Number 2021-1244

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 Sergeant Jeffrey Dwyer #3435 from duty as a City of Austin, Texas police officer for a period of ten (10) days. The temporary suspension is effective beginning on April 8, 2022 and continuing through April 17, 2022.

I took this action because Sgt. Dwyer 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 Sgt. Dwyer in violation of Rule 10:

On or about October 14, 2022, one of Sgt. Jeffrey Dwyer's subordinates ("complainant") informed him that he wanted to make a formal complaint against another officer under Sgt. Dwyer's supervision ("Ofc. X"). The complainant informed Sgt. Dwyer of a comment made by Ofc. X that the complainant found to be offensive in nature. The complainant expressed his desire to file a formal complaint against Ofc. X with Internal Affairs (IA).¹

Sgt. Dwyer was asked by IA about this conversation with the complainant. Sgt. Dwyer's recollection of his response, in part, to the complainant regarding his desire to file a formal complaint was as follows:

"[I] want to make sure you understand the repercussions of you doing that... there are people that are already making complaints against you [complainant]."

The complainant's account of what Sgt. Dwyer stated to him, in part, was similar in nature. He recalled that Sgt. Dwyer stated the following:

"You're letting people in our house. Things will come up for example, multiple people have come to me and told me that you come in tired from working overtime..."

Sgt. Dwyer also documented this conversation in his personal "notes" that he provided to IA. His notes corroborate both his and the complainant's recollections. Sgt. Dwyer also told IA, *"I was disappointed he's not allowing the chain of command to look into it [the complaint]."*

The complainant expressed to IA that he felt re-victimized by Sgt. Dwyer, as he perceived Sgt. Dwyer was trying to dissuade him from filing a complaint, which he stated would serve to protect Ofc. X at his expense and result in a failure to hold Ofc. X accountable.

Sgt. Dwyer expressed to IA that he had no intention of dissuading the complainant from filing a complaint. He claimed that, instead, his intention was to protect the work environment of the small *"tightknit"* Bomb Squad Unit from dissension. Sgt. Dwyer elaborated that he was focused on the *"bigger picture."*

In sum, by being focused on the *"bigger picture,"* Sgt. Dwyer seemingly did not properly assess the impact that his reaction would have on the complainant, nor did he see the ramifications of how his conduct may have directly or indirectly impacted the complainant. By focusing on the *"bigger picture,"* Sgt. Dwyer only alienated the complainant even further than the complainant had already been alienated by the initial comments by Ofc. X.

Moreover, all of these statements, including the ones Sgt. Dwyer recounted to IA, could have deterred the complainant from making a formal complaint. These statements were not supportive of an employee requesting assistance and violate City policy and APD General

¹ Ultimately, a formal complaint was filed against Ofc. X by a lieutenant in the chain of command. After the completion of the IA investigation, Ofc. X received discipline.

Orders (GO). These statements are also inconsistent with the expectations that I and the City have of all employees, particularly ones in a supervisory capacity.

Bomb Unit Call Out

In a separate incident, on November 11, 2021, at approximately 9:28 pm, Sgt. Dwyer called the complainant during a Bomb Unit call out.² During that conversation, Sgt. Dwyer used loud, abusive, and profane language, including twice telling the complainant to “*shut the fuck up.*” This action was observed by other subordinates in the Unit as well as others outside of the organization. These statements are unacceptable under all circumstances and are also inconsistent with the expectations that I and the City have of all employees, particularly ones in a supervisory capacity.

Sgt. Dwyer accepted responsibility for the way he addressed the complainant on this day by stating the following during his IA interview:

It's not a shiny moment in my career. It's not something I do on a regular basis. I've known [the complainant] for 20 years. It's not a common occurrence. It's first and foremost, I took my frustrations out on [the complainant]. I used language that were just rude and unprofessional. I own it 100 day - 100 times down the road, own it. I apologized to him the following day. He was okay with it. He accepted my apology. It's the first time I ever did it. It's the last time I ever did it. And in a course of 20 years, I'm comfortable with [the complainant]. I consider him a friend.

By these actions, Sgt. Dwyer 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 900.5(a)1: General Conduct and Responsibilities: Responsibility to Coworkers**

900.5(a)1 Responsibility to Coworkers

Cooperation among employees of the Department is essential to effective law enforcement.

(a) Employees are expected to treat each other with respect.

1. Employees will be courteous and civil at all times in their relationships, perform their duties in a cooperative and supportive manner, and not threaten, display physical aggression toward, or use insolent or abusive language with one another.

² A Bomb call out is when the unit gets called out to investigate a report of a possible explosive device.

➤ **Austin Police Department Policy 900.5.1(b): General Conduct and Responsibilities: Supporting Fellow Employees**

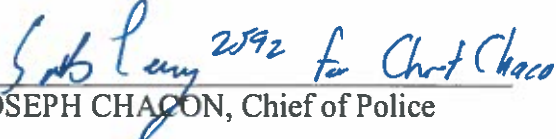
900.5.1(b) Supporting Fellow Employees

- (b) Employees will cooperate, support, and assist each other at every opportunity.

Sgt. Dwyer is advised that this suspension may be considered by the Chief of Police in a future promotional decision pursuant to General Order 919.

By copy of this memo, Sgt. Dwyer 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, Sgt. Dwyer 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.


JOSEPH CHACON, Chief of Police

4-7-22
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) calendar 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 Sergeant Jeffrey Dwyer #3435

4-7-22
Date