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MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Joseph Chacon, Chief of Police

DATE: July 12, 2022

SUBJECT: Temporary Suspension of Police Sergeant Jesse Sanchez #4139
Internal Affairs Control Number 2022-0096

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 Jesse Sanchez #4139 from duty as a City of Austin, Texas police officer for a period of five (5) days. The temporary suspension is effective beginning on July 13, 2022 and continuing through July 17, 2022.

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

The following are the specific acts committed by Sgt. Sanchez in violation of Rule 10:

On January 23, 2022, at 3:07 am, an individual contacted the Austin Police Department (APD) regarding a male who was down in the roadway at an intersection in Southeast Austin. Two APD officers (hereafter Officer #1 and Officer #2) responded to the call at 3:19 am. Officer #1 responded to Seton Medical Center located on Red River Street, where Emergency Medical Services (EMS) transported the male before officers arrived on scene.

While at the hospital, EMS and Austin Fire Department (AFD) personnel specified to Officer #1 where they found the male lying on the ground at the intersection. Officer #1 was advised that it was unknown if the male was a victim of an assault or was struck by a vehicle. The assigned physician pronounced the male deceased at 3:38 am. Medical staff advised that the male victim had hair clenched in his fists and advised Officer #1 that the victim had trauma to his head and no other trauma on his body.

Officer #2 responded to the intersection where the male had been located by EMS/AFD. The intersection had been washed down by AFD after the victim was transported to the hospital and prior to Officer #2's arrival. At approximately 4:05 am, Homicide Sgt. Jesse Sanchez was paged to contact Officer #1 regarding the deceased male. Sgt. Sanchez spoke with Officer #1 and advised him to release the scene, and Sgt. Sanchez indicated that detectives would not be responding to the scene. At approximately 4:28 am, Officer #2 contacted Sgt. Sanchez and informed Sgt. Sanchez of the following information regarding the scene:

- There was blood on scene and possibly brain matter, but he did not know for sure.
- There was a van with a broken window.
- There was blood splatter that extended towards the van.
- There was a stick with blood splatter on it.
- There was a notebook and other debris on the ground.

Sgt. Sanchez also advised Officer #2 that no detectives would not be responding and directed Officer #2 to clear the scene. Officer #2 cleared the scene shortly after his conversation with Sgt. Sanchez. At approximately noon on that same day, Sgt. Sanchez sent detectives to the scene of the incident.

Ultimately, it was determined that the decedent was a victim of a homicide and a suspect confessed, was arrested, and was charged with the murder of the decedent. That case is currently pending.

On February 9, 2022, Internal Affairs (IA) received an internal complaint memorandum advising that Sgt. Sanchez may have failed to properly have a crime scene processed. The internal complaint requested that IA initiate an administrative investigation to determine if

Sgt. Sanchez committed any violation of departmental policy, Civil Service rules, or state law.

At the conclusion of the IA investigation, Sgt. Sanchez's Chain-of-Command, including his Commander and the Assistant Chief over the Homicide Unit, concluded that he violated 900.4.3 Neglect of Duty General Order, specifically subsection "c," which states:

- (c) Failure to take appropriate action on the occasion of a crime, disorder, investigation or other condition deserving police attention.

Specifically, they concluded that Sgt. Sanchez should have immediately sent the On-Call Homicide Detectives and the Crime Scene Unit to the scene to seek out and secure any potential evidence. Moreover, his Chain-of-Command also concluded that Sgt. Sanchez released the crime scene without having the scene properly processed, which could have impacted the prosecution of this case. I concurred with their conclusion and their recommendation to me that he should be sustained for and disciplined for violating the Neglect of Duty General Order.

While I agree that the scene was compromised by the washdown, Sgt. Sanchez's own statements and actions suggest that he should have known to immediately send the On-Call Detectives and the Crime Scene Unit to the scene. In determining the level of discipline, I considered the fact that Sgt. Sanchez has no previous discipline, his lack of improper motive, and the fact that he initially made an error in judgment that he tried to rectify by sending out detectives in the early afternoon. Moreover, I also considered the fact that at the conclusion of his disciplinary hearing, he accepted responsibility for his actions.

By these actions, Sgt. Sanchez 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 900.4.3: General Conduct and Responsibilities: Neglect of Duty**

900.4.3 Neglect of Duty

Employees will satisfactorily perform their duties. Examples of unsatisfactory performance include, but are not limited to:

- (c) Failure to take appropriate action on the occasion of a crime, disorder, investigation or other condition deserving police attention.
- (d) Failure to respond to any call or to perform any police duties assigned to them by appropriate authorities.
- (h) Failure to follow department standardized training and tactics when it was objectively reasonable to do so.

Sgt. Sanchez 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. Sanchez 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, Sergeant Sanchez 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.

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Joseph Chacon *7/12/2022*
JOSEPH CHACON, Chief of Police 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.

Jesse Sanchez *4,39* *7/12/22*
Police Sergeant Jesse Sanchez #4139 Date