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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: September 5, 2022

SUBJECT: Temporary Suspension of Police Officer Lawrence McIntosh #8416
Internal Affairs Control Number 2022-0584

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 Lawrence McIntosh #8416 from duty as a City of Austin, Texas police officer for a period of two (2) day. The temporary suspension is effective beginning on September 8, 2022 and Ofc McIntosh will return to work on September 10, 2022.

I took this action because Ofc. McIntosh 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 Ofc. McIntosh in violation of Rule 10:

On March 17, 2022, Ofc. Lawrence McIntosh, while on duty, was involved in a traffic accident with another vehicle. The accident caused damage to his patrol vehicle and the other vehicle. Ofc. McIntosh did not sustain any injuries, but the driver of the other vehicle sustained minor [REDACTED] Both vehicles were rendered inoperable. Ofc. McIntosh was determined to be at fault in this accident. This matter was also referred to Internal Affairs (IA) .

The IA investigation revealed that just prior to the collision, Ofc. McIntosh was returning from out of his sector, where he went to offer backup to another officer. Once he was advised that his assistance was no longer needed, Ofc. McIntosh proceeded to return to his sector. Traveling back to his sector, and not responding to a call, Ofc. McIntosh drove his patrol vehicle in the far-right lane, which later turned into a right turn only lane. As Ofc. McIntosh approached an intersection, he turned on his lights and sirens with the intent to continue northbound on the frontage road. As Ofc. McIntosh attempted to cross the intersection at a red light, another vehicle travelling eastbound on Cesar Chavez collided with his vehicle, which then collided with a traffic light box, causing the traffic lights to flash red in all directions.

Ofc. McIntosh conceded to IA that he turned on his "lights and sirens" in an unauthorized fashion, as he "was just trying to get around the traffic and get back to my sector in a timely manner- I wasn't responding to a call or anything." He also told IA he had a red light as he entered the intersection to head northbound. Ofc. McIntosh also admitted to IA that he did not believe he stopped at the intersection before proceeding through. Ofc. McIntosh further advised IA that a member of the public would have had the perception that he was responding to an emergency call, due to this unauthorized activation of his lights and sirens.

IA asked Ofc. McIntosh if he believed he violated APD General Order 400.2 Emergency Response and Vehicle Operations. Ofc. McIntosh admitted that he did, stating: "I was not responding to an emergency call." IA asked Ofc. McIntosh if he violated APD General Order 804.2 General Operations of Department Vehicles. Ofc. McIntosh admitted that he did and stated: "I did not operate my vehicle in a careful and prudent manner."

By these actions, Ofc. McIntosh 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 400.2.1: Officer Response to Calls: Code 3 (Emergency Operation)**

400.2.1 Code 3 (Emergency Operation)

Code 3 is used to describe the operation of a vehicle while the emergency lights and siren are activated.

- (c) Officers should only respond Code 3 when so dispatched or when circumstances reasonably indicate an emergency response is required.

➤ **Austin Police Department Policy 804.2(a)(1): Department Vehicles: General Operation of Department Vehicles**

804.2(a)(1) General Operation of Department Vehicles

- (a) Employees will operate Department vehicles in a careful and prudent manner within the guidelines of the law and Department General Orders. Unsafe or negligent driving is prohibited.
 - 1. Vehicles will be operated in such a manner and at a rate of speed that the driver, by use of ordinary care, can avoid colliding with another vehicle, object, or person.

By copy of this memo, Ofc. McIntosh 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, Ofc. McIntosh 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.

In addition, if this disciplinary suspension is for three (3) days or less, Ofc. McIntosh is advised of the following provisions of Article 18, Section 1, of the Meet and Confer Agreement:

The parties agree that when an officer is suspended for 1, 2, or 3 days the officer may choose one of two methods of dealing with the suspensions as listed below.

- a) **Suspensions that may not be appealed.** *The officer may choose to use vacation or holiday time to serve the suspension with no loss of paid salary and no break in service for purposes of seniority, retirement,*

promotion, or any other purpose. The officer must agree that there is no right to appeal if this method of suspension is chosen.

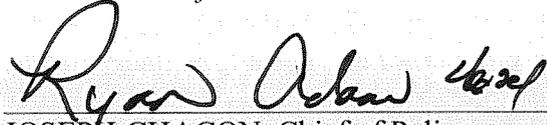
- b) Suspensions that may be appealed. The officer may appeal the suspension to arbitration or the Civil Service Commission. If the officer chooses to appeal the suspension, the arbitrator or Civil Service Commission's authority is limited to ruling on whether or not the charges against the officer are true or not true. If the arbitrator or Civil Service Commission finds the charges to be true, there is no authority to mitigate the punishment. If the arbitrator or Civil Service Commission finds the charges to be not true, the officer shall be fully reinstated with no loss of pay or benefit.

Arbitration Costs on Appealable Suspensions

In the event that an officer appeals a 1, 2 or 3 day suspension to arbitration, it is agreed that the party that loses the arbitration shall be responsible for all costs of the arbitrator, including travel and lodging if necessary.

To facilitate such payment on the part of the officer he shall submit, at the time of appeal, a signed payroll deduction agreement that if the arbitrator rules in favor of the City he authorizes up to one hundred dollars (\$100.00) per month to be deducted from his regular pay until such time as what would usually be the City's portion of the arbitrator's costs have been satisfied.

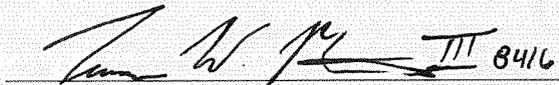
Sign for
Chief Chacon


JOSEPH CHACON, Chief of Police

9/5/22
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 Officer Lawrence McIntosh #8416

09/05/22
Date