

AUG 13 2019



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Brian Manley, Chief of Police

DATE: August 12, 2019

SUBJECT: Temporary Suspension of Police Sergeant Christopher Keen #2769
Internal Affairs Control Numbers 2019-0508

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 Christopher Keen #2769 from duty as a City of Austin, Texas police officer for a period of ten (10) days. The temporary suspension is effective beginning on August 13, 2019 and continuing through August 22, 2019.

I took this action because Sergeant Keen 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 Sergeant Keen in violation of Rule 10:

On February 20, 2019, Sergeant Christopher Keen learned a subordinate on his patrol unit, Officer Jordan Wagstaff, was involved in an external social relationship with a victim of a stalking case that the Austin Police Department (APD) was investigating. The Detective assigned to investigate the stalking case notified Sergeant Keen at the behest of an Assistant Travis County District Attorney. On or about February 25, 2019, Sergeant Keen and his Corporal then met with and directed Officer Wagstaff to discontinue any investigative steps and not to have anything to do with the suspect concerning the stalking investigation. However, Sergeant Keen failed to notify Internal Affairs or his own chain of command of the circumstances.

On March 3 or 4, 2019 Officer Wagstaff notified his Corporal that the Detective assigned to investigate the stalking case requested he voluntarily turn over text messages between him and the victim of the stalking case. This prompted the Corporal to apprise Sergeant Keen. The Corporal also suggested to Sergeant Keen that they should consider notifying their Lieutenant of the circumstances. Sergeant Keen and his Corporal met with Officer Wagstaff again, but Sergeant Keen declined to notify his Lieutenant and/or Internal Affairs.

On March 7, 2019, Sergeant Keen's supervisors became aware of Officer Wagstaff's external social relationship through other means. Upon learning this information Assistant Chief of Police Richard Guajardo initiated an Internal Affairs investigation concerning Officer Wagstaff and his external social relationship with a known victim.¹ A separate case was initiated to investigate whether Sergeant Keen failed to report a policy violation.

During his Internal Affairs interview Sergeant Keen took full responsibility for his action/inaction. Sergeant Keen told Internal Affairs *"at that time I had no idea that it was even a policy violation..."* but- *"I should have known, I mean, it's my job, my responsibility. It clearly states... it's my responsibility to know all the policies and procedures and directives... and I feel like...I should have known. I'm responsible to know and I didn't know."*² So, if I would do it differently it would definitely be going straight to the lieutenant and saying, *"Here's what we got, sir, how do we need to handle this?"*

I considered the aforementioned facts including Sergeant Keen's acceptance of responsibility along with guidance from APD General Order 902.9.3, "Factors to Consider in Determining Discipline" to include but not limited to the nature and seriousness of the offense, Sergeant Keen's supervisory role in the APD, his current and previous assertion of not knowing policy, and the expectation that I would have of a supervisor to either know policy, look up policy if unsure as to policy, and/or notify a supervisor and/or Internal Affairs, particularly under the circumstances of this case.

¹ Sergeant Keen's failure to know policy or take appropriate action in no way absolves Officer Wagstaff of his own responsibility to know and comply with the policy prohibiting an officer from establishing an external social relationship with a crime victim while the case is being investigated by APD, especially after Officer Wagstaff was informed by a fellow officer that this relationship violated policy and he then chose to continue the relationship. Officer Wagstaff was indefinitely suspended for his collective actions.

² Sergeant Keen had been previously disciplined as a Detective, where part of his asserted defense was that he did not know policy at the time of his indiscretion.

By these actions, Sergeant Keen 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 900.1.1: General Conduct and Responsibilities: Responsibility to Know and Comply**

900.1.1 Responsibility to Know and Comply

The rules of conduct set forth in this order do not serve as an all-inclusive list of requirements, limitations, or prohibitions on employee conduct and activities; employees are required to know and comply with all Department policies, procedures, and written directives.

- (a) Employees will maintain a working knowledge and comply with the laws, ordinances, statutes, regulations, and APD written directives which pertain to their assigned duties.
- (b) Employees who do not understand their assigned duties or responsibilities will read the relevant directives and guidelines, and will consult their immediate supervisor for clarification and explanation.
- (c) A lack of knowledge of an APD written directive is not a defense to disciplinary action.

➤ **Austin Police Department Policy 900.2: General Conduct and Responsibilities: Required Reporting of Violations**

900.2 Required Reporting of Violations

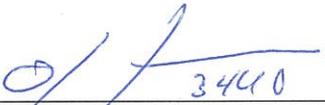
Employees have an obligation and responsibility to report all facts or credible information they know regarding any criminal activity by other employees or any breach of APD written directives.

- (b) Suspected General Order Violations
 1. Employees will report any employee known or believed to be guilty of any violation of a rule, regulation, or order issued by the Department to their immediate supervisor.
 2. Supervisors will immediately take action as outlined in General Order 902 (Administrative Investigations) when a violation of a directive comes to their attention, regardless of the supervisor's or violator's assignment or rank within the Department.

By copy of this memo, Sergeant Keen 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 Keen is hereby advised that such provides for an appeal to an independent third party hearing examiner. 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, Sergeant Keen 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 Sergeant Keen for promotion in accordance with Austin Police Department Policy 919.



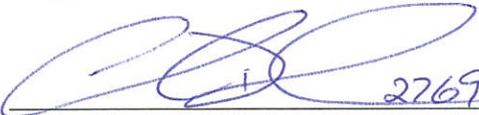
BRIAN MANLEY, Chief of Police
FOR CHIEF MANLEY

8/12/19

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 Christopher Keen #2769

8/12/19

Date