



OFFICE OF POLICE OVERSIGHT

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June 25, 2024

TO: Robin Henderson, Interim Chief, Austin Police Department
FROM: Gail McCant, Director, Office of Police Oversight
SUBJECT: OPO Recommendation, Case # 2024-0207
Officer Kyle Miller #9376

Dear Chief Henderson,

On March 1, 2024, Austin Police Department's (APD) Internal Affairs Division (IAD) initiated an investigation on Officer Kyle Miller, AP9376 for violating their General Orders Sexual Harassment and Harassment. The IAD investigation revealed that Officer Miller initially became acquainted with Officer [REDACTED] when he was assigned to Adam Sector but worked overtime in the Frank Sector from May 22, 2022 to March 12, 2023. On March 12, 2023, Officer Miller transferred to the Frank Sector and had a shift that overlapped with Officer [REDACTED]. Officer Miller and Officer [REDACTED] initially had a professional working relationship even though Officer Miller had intended to establish a dating relationship.

Between February 2023 to March 2023, Officer [REDACTED] stated through text messages she was not interested in a romantic or dating relationship with Officer Miller.

In March of 2023, Officer Miller sent numerous messages to Officer [REDACTED] through text and social media, attempting to schedule out of work activities and get to know her that she did not reply to. During this time, Officer Miller also reached out to Officer [REDACTED] friend through social media attempting to get to know Officer [REDACTED] through her friend. Most attempts to contact Officer [REDACTED] focused on Officer Miller's attempt to initiate a dating relationship with her. In April 2023, Officer [REDACTED] blocked Officer Miller's cellphone number and his social media accounts to prevent him from contacting her.

On February 27, 2024, Officer [REDACTED] received a text message from an unknown number that spoke about her on going Internal Affairs cases. Officer [REDACTED] asked a friend about the unknown number, and it was discovered to belong to Officer Miller. On February 29, 2024, Officer [REDACTED] informed her chain of command that she was uncomfortable because of Officer Miller's actions.

On May 16, 2024, IAD interviewed Officer Miller regarding Officer [REDACTED] allegations. Officer Miller was asked to clarify the following message he sent to Officer [REDACTED] on March 15, 2023:

"Honestly, it just gets a wee bit tiring asking if you'd be free to do something with you Always being busy, which is absolutely no fault of you at all."



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Officer Miller stated:

"Just having been told no a couple times, I guess. And then -well, having been told that she was busy a couple times. And then never really being able to line anything up. That was the tiring part because she would say that - because I had suggested doing different things such as like volunteering. And she would say yes that she was interested. And then I got to get on something different or like of a time frame. And she would say she was busy. So she would say she was interested in doing certain activities. But then anytime I would go to set something up, that's when she'd be busy with something else."

OPO's review of Officer Miller's interview demonstrates that he acknowledged Officer [REDACTED] had told him on prior occasions that she wasn't interested in entering a dating relationship with him, but he continued to pursue one with her.

APD's General Orders, Sexual Harassment, Chapter 900, Section 914.3.3. Harassment Section 914.3.2. reads:

APD's General Orders, Chapter 900, Section 914.3.3, Sexual Harassment reads:

(a) Sexual harassment is any unwelcome sex or gender-based comments and/or conduct that occurs when:

- 1. Submission to such conduct is made either openly or by implication a term or condition of an individual's employment;*
- 2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting that person; or*
- 3. Such conduct unreasonably interferes with the individual's work performance or creates an intimidating, hostile, or offensive working environment.*

APD's General Orders, Chapter 900, Section 914.3.2, Harassment reads:

(a) Harassment is unwelcome verbal or physical conduct toward an individual or a group because of a protected class. Harassment can create a hostile work environment when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or otherwise adversely affects an individual's employment opportunities. Examples of prohibited conduct that constitute harassment include, but are not limited to:

- 1. Use of epithets, innuendos, names, comments, foul language or slurs because of an individual's protected class;*
- 2. Jokes, pranks or other banter, including stereotyping based on a protected class;*
or,



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3. Distribution, display, viewing, downloading or discussion of any written or graphic material, including online content, voicemail, e-mail, text-messages, calendars, posters and cartoons, that are sexually suggestive or show hostility toward an individual or group based on a protected class.

(b) Employees shall not engage in conduct which could reasonably create a hostile work environment at any time while on duty or on City premises, or even if not on duty, but participating in any work-related setting outside the workplace, such as traveling on City business or attending professional conferences

Based on OPO's participation in IAD's Internal Investigation of Officer Miller, review of IAD's investigative summary, and evidence, that Officer Miller did pursue a dating relationship with Officer ██████ despite her refusal in violation of APD's General Orders Sexual Harassment and Harassment policy. OPO recommends APD impose discipline in accordance with APD's Disciplinary Matrix for the aforementioned General Orders violations that Officer Miller's Chain of Command sustained.

Regards,

Gail McCant
Director
Office of Police Oversight

