



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Joseph Chacon, Chief of Police

DATE: May 20, 2022

SUBJECT: Agreed Temporary Suspension of Police Officer Robert Brady #7594
Internal Affairs Control Number 2021-1130

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 Robert Brady #7594 from duty as a City of Austin, Texas police officer for a period of ninety (90) days. The agreed temporary suspension is effective beginning on May 21, 2022, and continuing through August 18, 2022.

I took this action because Officer Brady 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 Officer Brady in violation of Rule 10:

On November 6, 2021, at approximately 6:17 pm, two Austin Police Department (APD) officers responded to a *Disturbance Urgent* call for service, in the south part of Austin, Texas. Officers made contact with a 14-year-old male (hereafter the "juvenile"), who had called 9-1-1 at approximately 6:07 pm. The juvenile advised that he had taken a package from a front porch on a dare—and then someone approached and confronted him at the home of a nearby neighbor. The juvenile sustained minor injuries during this confrontation. Additionally, the neighbor's garage door sustained damage during this incident.

Officers were able to determine the identity of the subject who confronted the juvenile as off-duty APD Officer Robert Brady. Officers were able to do so as Officer Brady had previously exchanged his contact information with the juvenile's older brother and asked him to pass it along to his father. Officer Brady also texted the father in an attempt to speak to him. He also exchanged information with the neighbor of the damaged garage door in the immediate aftermath of this incident and agreed to pay for the damage to the garage from this incident. After all parties exchanged information, everyone left the scene.

Once officers came in contact with Officer Brady, he explained to them that he did confront the juvenile and "*an altercation ensued*". Officer Brady advised he confronted the juvenile because he was trying to get his property back. He told the juvenile he had seen him on their Nest camera stealing the package, just prior to spotting him in the neighborhood. Officer Brady also explained to officers he and his [REDACTED] were [REDACTED] and they had just suffered a [REDACTED]. The stolen package was a [REDACTED] [REDACTED] a monthly subscription service that provided customized items which coincided with the progression of his [REDACTED] [REDACTED].

While the facts of the altercation are not in question, Officer Brady's viable affirmative "*defense of property*" ultimately led me and the Chain of Command to not sustain him for the Responsibility to the Know Comply General Order. Ofc. Brady did however admit to IA that he violated APD General Order 364.4.2 Incidents of Personal Interest at took full responsibility for violating this General Order. If fact he stated:

"In instance of personal interest, I should have called uniformed officers to handle the theft and once I identified the suspect, I should have called uniformed officers to identify the suspect. Um, that would have circumvented being able to handle it at a lower level than. But I still think that calling officers would have been the most appropriate way to have handled it."

The Chain of Command and I gave weight to Officer Brady's remorse and acceptance of full responsibility during his Disciplinary Review Hearing. Officer Brady explained he has sought and has been participating in treatment program(s) to address the issues that have plagued him due to his personal tragedies, including his [REDACTED] diagnosis and the recency of the [REDACTED] in relation to the timing of this event.

The Chain of Command and I gave weight to the extremely unique personal circumstances which impacted Officer Brady's state of mind in addition to his explanation that this was "out of character."

Ofc. Brady explained the source of his emotional state:

"I had never taken time to recognize the grief I was going through and I think it all kind of boiled over at the same time... it just really sucked. It really hurt...A loss of [REDACTED]...it's my [REDACTED] that's the reason why my [REDACTED] has to go through this pain."

"I was acting out of emotion. I really wasn't thinking clearly. If I had a plan it wouldn't have - not- none of this would have happened if I had, had a plan."

"that's when I made the determination that I needed to seek help."

"I've never behaved like this before, this is a - that's the reason why the - the best way I can describe it is extremely uncharacteristic."

Last and certainly not least, the Chain of Command and I also gave significant weight to the wishes of the homeowner of the damaged garage door and of the juvenile's family, who all advocated for Officer Brady. In fact, the juvenile's stepfather stated:

"I hope things turn out well for this officer, because once again, very, very personal items and I don't want him to get any serious consequence that's going to affect him even worse, you know? But I don't know him personally...I've dealt with officers like that, too. Like, 'Hey, man, you don't need to be wearing a badge, man. You got anger issues.' But if this is an isolated event, hey, man, it happens."

By these actions, Officer Brady 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 364.4.2: Off-Duty Law Enforcement Actions: Incidents of Personal Interest**

364.4.2 Incidents of Personal Interest

Unless there is an exigent circumstance, employees shall refrain from handling police incidents of personal interest (e.g., family or neighbor disputes). When practicable, employees should report the matter to 9-1-1 so that an on-duty officer can respond.

- (a) Offenses that may be committed against the employee, members of the employee's family, or a business interest of the employee will be

reported to the Investigative Unit with responsibility for investigation of such offenses. Normal filing procedures will be followed to prevent any potential for abuse of authority.

- (b) Employees shall not maintain continued involvement in any criminal case, nor personally file any criminal charge in a court of law, against any person for criminal offenses committed against the employee, any member of the employee's family, or which involves any business in which the employee has a proprietary interest.

In addition to this agreed temporary suspension, Officer Brady agrees to the following terms and conditions:

1. Officer Brady shall attend any training specified by his chain of command.
2. Officer Brady shall be evaluated by a qualified mental health professional designated by the Chief of Police.
3. If the qualified professional recommends a program of counseling, Officer Brady must successfully complete that program of counseling.
4. If a program of counseling is recommended, said program will be completed on Officer Brady's off-duty time, unless the Chief approves the use of accrued vacation leave.
5. Officer Brady shall be responsible for paying all costs of the program of counseling that are not covered by his health insurance plan.
6. If Officer Brady fails to successfully complete the program of counseling, the Chief may, at his sole discretion, indefinitely suspend him without right of appeal to the Civil Service Commission, to an Independent Third-Party Hearing Examiner, or to District Court, and Officer Brady may not file a grievance under Article 20 of the Meet and Confer Agreement.
7. If this evaluation and/or program of counseling raises a question whether Officer Brady is sufficiently mentally or physically fit to continue his duties as a police officer, it could trigger the fitness for duty process set forth in Texas Local Government Code Chapter 143.081.
8. Officer Brady agrees to a probationary period of one (1) year, with the additional requirement that if, during the probationary period, he commits the same or a similar act of misconduct for which he is being suspended (the determination whether an act is the same or similar is solely within the purview of the Chief of Police and is not subject to review by the Civil Service Commission, an Independent Third Party Hearing Examiner, or District Court), he will be indefinitely suspended without the right to appeal that suspension to the Civil Service Commission, an Independent Third Party Hearing Examiner, and to District Court. The one-year period begins on the day Officer Brady returns to duty after completing his agreed suspension. Should Officer Brady commit the same or similar violation outside the one-year period, he will be indefinitely suspended but retains the right to appeal that suspension.
9. Officer Brady understands that this temporary suspension may be taken into consideration in the Chief's determination whether a valid reason exists

to bypass him for a future promotion in accordance with APD Policy 919.11.

10. Officer Brady agrees that he, and all others claiming under him named herein or not, fully discharge, release and waive any and all known or unknown claims or demands of any kind or nature whatsoever that he now has, or may have in the future, including without limitations, claims arising under any federal, state or other governmental statute, regulation, or ordinance relating to employment discrimination, termination of employment, payment of wages or provision of benefits, Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act of 1990, as amended, the Family and Medical Leave Act, the Fair Labor Standards Act, and the Texas Commission on Human Rights Act, against the City of Austin, the Austin Police Department, or their respective agents, servants and employees, arising from the above-referenced incident, and any actions taken as a result of that incident, including but not limited to, the negotiation and execution of this agreed temporary suspension.
11. Officer Brady acknowledges that he had the opportunity to discuss this agreed suspension and additional terms and conditions set forth herein with a representative of his choosing prior to signing his acceptance where indicated below.

By signing this Agreed Discipline, Officer Brady understands and agrees that I am forgoing my right to indefinitely suspend him for the conduct described above and that by agreeing to the suspension, Officer Brady waives all right to appeal this agreed suspension and the additional terms and conditions to the Civil Service Commission, to an Independent Third-Party Hearing Examiner, and to District Court.



JOSEPH CHACON, Chief of Police

Date

5/20/2022

TO WHOM IT MAY CONCERN:

I acknowledge receipt of the above and foregoing memorandum of agreed temporary suspension and I understand that by entering into this disciplinary agreement the Chief forgoes his right to indefinitely suspend me for the conduct described above and that by agreeing to the suspension, I have no right to appeal this disciplinary action, as well as the additional terms and conditions, to the Civil Service Commission, to an Independent Third-Party Hearing Examiner, and to District Court.



Police Officer Robert Brady #7594

Date

5/20/2022