



## MEMORANDUM

### **Austin Police Department** *Office of the Chief of Police*

**TO:** Joya Hayes, Director of Civil Service

**FROM:** Joseph Chacon, Chief of Police

**DATE:** June 9, 2022

**SUBJECT:** Temporary Suspension of Police Officer Christopher Kohl #8922  
Internal Affairs Control Number 2022-0397

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 Christopher Kohl #8922 from duty as a City of Austin, Texas police officer for a period of three (3) days. The temporary suspension is effective beginning on June 13, 2022 and continuing through June 15, 2022.

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

On or about February 25, 2022 Ofc. Christopher Kohl was assisting with a Metro Tactical narcotics investigation. Several subjects were detained and frisked during the incident. Ofc. Kohl detained a vehicle with two passengers, one male and one female, who were suspected of being involved in narcotics transactions. While Ofc. Kohl searched the vehicle, another officer had the female detained. The other officer was having difficulty maintaining control of the female, who was pulling away from his grasp. Ofc. Kohl walked over to assist the other officer to gain control of the female. Ofc. Kohl's efforts to assist with detaining the female passenger fit the definition of a Response to Resistance (R2R). Officer Kohl failed to notify his supervisor of his R2R. Moreover, he failed to document his R2R and his involvement in the investigation.

Ofc. Kohl's chain of command submitted the R2R for review to the Force Review Unit. The Force Review Unit concluded, *"After review and evaluation of the available and apparently relevant evidence, the Force Review Unit concluded the Officers' Responses to Resistance comply with law and departmental policy. However there may be Policy Issues associated with the reporting process. Further review by the Officers' Chains of Command are necessary for Follow-Up."*

During the follow-up investigation, Ofc. Kohl acknowledged that he failed to follow APD General Orders when he: 1) failed to notify his supervisor of the R2R; 2) failed to document the R2R; and 3) failed to document his involvement in the investigation.

By these actions, Officer Kohl 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 211.4: Response to Resistance, Inquiry, Reporting, and Review: Employee Responsibilities For All Force Level Incidents**

#### **211.4 Employee Responsibilities For All Force Level Incidents**

The following outlines the required responsibilities of involved employees, employees that witness an incident, and employees designated to assist at the scene of any response to resistance incident. If a juvenile is in custody related to the incident, the juvenile should not be interviewed unless the juvenile has been brought before a magistrate.

- (a) Involved employees shall notify their supervisor as soon as practicable of any force incident or allegation of use of force.

➤ **Austin Police Department Policy 402.1.1: Incident Reporting and Documentation: General Guidelines**

**402.1.1 General Guidelines**

An incident number will be assigned and all required fields completed during documentation anytime an employee observes or receives any information concerning the following, but not limited to:

- (a) Criminal or suspected criminal offenses, regardless of the victim's level of cooperation.
- (b) Citizen complaints of non-criminal incidents requiring action by the police.
- (c) Self-initiated stops
- (d) When Crime Scene personnel are assigned to an incident that was first initiated or responded to by sworn personnel and no tele-serve report has been made.
- (e) Crashes involving bicyclists will be investigated and reported as defined in Section 346.3 Crash Investigation. Non-crash events involving a bicyclist will be documented in a Versadex report using title code 4311 under the following circumstances:
  - 1. The incident occurred on a public place
  - 2. At least one of the involved subjects sustained bodily injury; and
  - 3. The incident occurred as a result of a potential criminal act, violation of the Transportation Code, violation of a City Ordinance, or the actions of another party.
- (f) Any other situation where documentation is required by law or another section of departmental general orders.

If in doubt as to whether an incident should be documented, employees shall confer with a supervisor. For the purpose of this order, Corporals may function as the designated supervisor.

By copy of this memo, Ofc. Kohl 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. Kohl 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. Kohl 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.*

  
JOSEPH CHACON, Chief of Police  


6.9.2022  
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.

  
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Police Officer Christopher Kohl #8922

06/09/2022  
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Date