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March 3, 2021
5:07 p.m.



MEMORANDUM

Austin Police Department Office of the Chief of Police

TO: Joya Hayes, Director of Civil Service

FROM: Brian Manley, Chief of Police

DATE: March 3, 2021

SUBJECT: Agreed Temporary Suspension of Police Officer Thomas Griffin #6778
Internal Affairs Control Number 2021-0004

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 Thomas Griffin #6778 from duty as a City of Austin, Texas police officer for a period of forty (45) days. The agreed temporary suspension is effective beginning on March 4, 2021 and continuing through April 17, 2021.

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

On August 8, 2020, Officer Griffin was assigned to the Austin Police Department (APD) Region III Metro Tactical unit. This Metro Tactical unit was working operations intended to suppress crime and avoid property damage and other violent incidents that had occurred during protests throughout the summer months.

On this occasion, Officer Griffin's unit was developing a plan to arrest an individual (Mr. D) who had been observed walking in and out of the roadway at or near the intersection of Congress Avenue and 4th Street, interrupting or attempting to control the flow of traffic. Officers had seen Mr. D armed with a pistol carried in a holster on his right hip. Officers had information indicating that Mr. D had fired shots at the occupant of a vehicle involved in the homicide of a protestor that had occurred approximately two weeks prior. Officers planned to arrest Mr. D for unlawful carrying of a weapon.

During the pre-arrest planning (which is typical before an arrest of a high-risk person known to have a firearm) at least one officer's body-worn camera (BWC) was recording video and audio. As officers provided a detailed description of Mr. D's clothing and appearance Officer Griffin exclaimed: "*Faggot Ass.*" Officer Griffin's remark is overheard on the BWC recording.

After receiving an internal complaint, the APD Internal Affairs Division initiated an investigation to determine whether Officer Griffin violated APD General Orders with his remark.

IAD interviewed Officer Griffin on January 11, 2021. IAD investigators asked Officer Griffin to whom he was referring with his comment. Officer Griffin denied that he was referring to Mr. D. Officer Griffin further responded:

That was just me - me speaking out of term [sic]. It was a lapse of judgment and pretty much that was - and - and if you notice in the video I more or less, ah, didn't say it in a manner to where I blurted it out. I realized I was making a mistake and I - it was too late for me to take it back.

Officer Griffin repeatedly acknowledged and admitted that the slur he used was derogatory and inappropriate, that he was wrong to say it, that he was embarrassed for having said it, and that he made a mistake he would not repeat. He further acknowledged that using the term would lead others to believe that he held discriminatory views towards the LGBTQ community. Officer Griffin denied having any such discriminatory views against the people in that community or anyone else.

By these actions, Officer Griffin 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 301.2: Responsibility to the Community: Impartial Attitude and Courtesy**

301.2 Impartial Attitude and Courtesy

Employees are expected to act professionally, treat all persons fairly and equally, and perform all duties impartially, objectively, and equitably without regard to personal feelings, animosities, friendships, financial status, sex, creed, color, race, religion, age, political beliefs, sexual orientation, gender identity or gender expression or social or ethnic background.

- (a) Employees will not express or otherwise manifest any prejudice concerning race, religion, national origin, age, political affiliation, sex, or other personal characteristics in the performance of their duties.
 - 1. Employees will respect the rights of individuals and will not engage in discrimination, oppression, or favoritism whether by language, act, or omission.
 - 2. The use of racial or ethnic remarks, slurs, epithets, words or gestures, which are derogatory or inflammatory in nature to or about any person or group of persons is strictly prohibited.
- (b) Employees will be tactful in the performance of their duties, control their tempers, exercise patience and discretion, and shall not engage in argumentative discussions even in the face of extreme provocation.
- (c) Employees will make every effort to be courteous and respectful toward all persons.

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

- 1. Officer Griffin shall attend any training specified by his chain of command.
- 2. Officer Griffin 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 Griffin returns to duty after completing his agreed suspension. Should Officer Griffin commit the same or similar violation

outside the one year period, he will be indefinitely suspended but retains the right to appeal that suspension.

3. Officer Griffin 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 919.1.
4. Officer Griffin 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.
5. Officer Griffin 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 Griffin 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 Griffin 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.


BRIAN MANLEY, Chief of Police

3-3-21
Date

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.

 6778
Police Officer Thomas Griffin #6778

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Date