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CIVIL SERVICE OFFICE
March 11, 2021
12:43 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 11, 2021

SUBJECT: Temporary Suspension of Police Detective Charles Riley #4640
Internal Affairs Control Numbers 2020-1506

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 Detective Charles Riley #4640 from duty as a City of Austin, Texas police officer for a period of 2 Days. The temporary suspension is effective beginning on March 12, 2021 and continuing through March 13, 2021.

I took this action because Detective Riley 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 Detective Riley in violation of Rule 10:

Unrelated to his employment with the Austin Police Department (APD), Detective Charles Riley is actively involved with a local school district as a volunteer. On or about September 12, 2020, Detective Riley posted a Facebook Live social media video statement directed at the parents of students of the local school district (a Kids First Facebook group). Detective Riley recorded the video statement inside an APD interview room while wearing his APD patrol uniform. At the beginning of his video statement, Detective Riley stated that he was an employee of the APD, but declared he was not on duty while recording the video.

Detective Riley recorded the video in response to a YouTube video posted the previous day by a teacher at a high school within the district that Detective Riley served as a volunteer. In broad terms, the teacher's video advocated for virtual learning in place of in-person classroom instruction during the pandemic. Detective Riley's video, in broad terms, took the opposite side of the debate. In essence, concerned parties voiced their differing views or concerns on in-person versus virtual learning in light of the COVID-19 pandemic.

Detective Riley was asked by Internal Affairs if he had any regrets in how he went about making the post and he stated the following:

RILEY: Um, I regret that, um, I did it wearing the uniform of the Austin Police Department. Um, and I regret that, um, it came across as p- apparently to [the teacher] as being, um, you know, intimidating to her or that she felt that I was somehow attacking her. Um, I was simply disagreeing with her. Um, and I should've waited 'til I took the uniform off.

Internal Affairs asked Detective Riley if he encountered the situation again, how he would handle it differently. Detective Riley indicated, "... I would, express my opinion, without identifying where I work, either through wearing uniform or outwardly saying where I work." In retrospect, Detective Riley expressed remorse, acknowledging that he violated APD's General Order 801.6 Political Activities, Endorsements, and Advertisements. He also assured his chain of command that he would not repeat this infraction.

By these actions, Detective Riley 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 801.6: Equipment and Uniform Regulations: Political Activities, Endorsements, and Advertisements**

801.6 Political Activities, Endorsements, and Advertisements

Unless specifically authorized by the Chief of Police, Austin Police Department employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, a photograph as an employee of the Austin Police Department in order to:

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support, or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or non-profit publication, or any motion picture, film, video, public broadcast or on any website.

By copy of this memo, Detective Riley 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, Detective Riley 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.

In addition, if this disciplinary suspension is for three (3) days or less, Detective Riley 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.

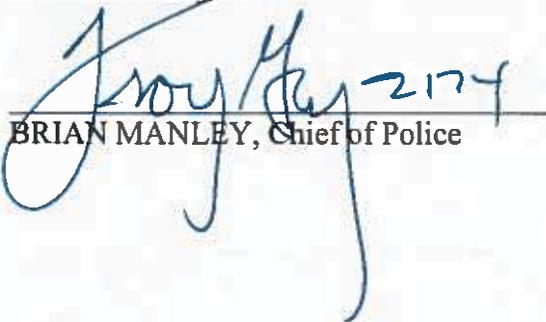
- a) **Suspensions that may not be appealed.** *The officer may choose to use vacation or holiday time to serve the suspension with no loss of paid salary and no break in service for purposes of seniority, retirement, promotion, or any other purpose. The officer must agree that there is no right to appeal 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.

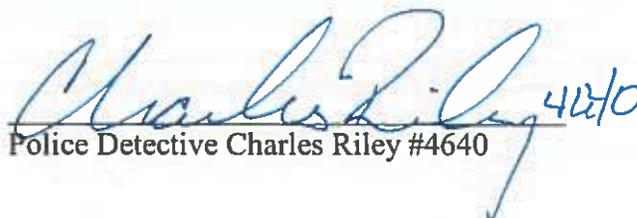
To facilitate such payment on the part of the officer he shall submit, at the time of appeal, a signed payroll deduction agreement that if the arbitrator rules in favor of the City he authorizes up to one hundred dollars (\$100.00) per month to be deducted from his regular pay until such time as what would usually be the City's portion of the arbitrator's costs have been satisfied.


BRIAN MANLEY, Chief of Police

3-11-21
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) 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 Detective Charles Riley #4640

03/11/2021
Date