



OFFICE OF POLICE OVERSIGHT

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August 19, 2024

TO: Robin Henderson, Interim Chief, Austin Police Department
FROM: Gail McCant, Director, Office of Police Oversight
SUBJECT: OPO Recommendation, OPO Case # 2024-0348 and 2024-0604
Sergeant Scott Gunter, AP8062

Dear Chief Henderson,

On Thursday, March 28, 2024, Austin Police Department (APD) Police Officers assigned to the Henry 700's at the East Substation notified Sergeant Scott Gunter that they detected what they believed was an odor of an alcoholic beverage emitting from Corporal (Cpl.) Jonathan Pax's, AP7623, person. Sgt. Gunter is Cpl. Pax's immediate supervisor. Corporal Pax was on duty as a sworn APD police officer assigned to patrol at the time and date these police officers made these observations of him and notified Sgt. Gunter. Sgt. Gunter failed to address these police officer's observations when they brought it to his attention. Sgt. Gunter was scheduled to go on his days off when he was notified by these police officers of their concerns about Cpl. Pax. Sgt. Gunter made the decision to address these police officer's concerns when he returned to work following his scheduled days off, despite his knowledge that Cpl. Pax would be working patrol and serving as the Acting Sgt. while he was on his scheduled days off.

On Monday, April 1, 2024, Sgt. Gunter reported to work for his assigned shift with Henry 700. Cpl. Pax also reported to work on this day. Sgt. Gunter met with Cpl. Pax to discuss work-related business. Sgt. Gunter during his interaction with Cpl. Pax detected what he believed was an odor of an alcoholic beverage emitting from Cpl. Pax's person. Sergeant Gunter, based on his observation of Cpl. Pax, initiated the appropriate steps in accordance with APD's General Orders and notified his chain of command.

On Thursday, April 4, 2024, Commander (Cmdr.) Patricia Cruz, AP4262, requested APD's Internal Affairs Division (IAD) conduct an Administrative Investigation (2024-0348) on Sgt. Gunter for failing to make the appropriate notifications on March 28, 2024, when he was notified about Cpl Pax's condition. The IAD file reflects that Cmdr. Cruz's request to IAD was as follows:

"Commander Cruz requested IA initiate an Administrative Investigation to determine if Sergeant Gunter's conduct complied with department policy. IA reviewed the following



APD General Orders in relation to these allegations: 900.1.1 Responsibility to Know and Comply 900.2 Required Reporting of Violations 900.4.3 Neglect of Duty.”

On Friday, August 2, 2024, the Office of Police Oversight (OPO) received IAD’s completed Investigative Summary. OPO staff monitored and participated in the IAD interviews of Sgt. Gunter and witness police officers throughout the investigation. The investigative summary outlined the following facts:

- *On Tuesday, March 26, 2024, at 3:27 A.M., Cpl. Pax arrived on scene of a collision, alongside numerous officers, including APD Police Officers Ryan Seweryn and James Wise.*
- *On Thursday, March 28, 2024, at approximately 6:00 A.M., Police Officers Seweryn and Wise met with Sgt. Gunter in his office at the East Substation and alerted him to the fact that they both detected the odor of alcohol emitting from Cpl. Pax while on the scene of the collision, two days prior.*
- *Officer Wise also mentioned to Sgt. Gunter that another officer on the shift, Miguel Campos, had also detected the odor of alcohol emitting from Cpl. Pax at another time.*
- *Sgt. Gunter was scheduled to be off duty, on vacation, the night of Thursday, March 29, 2024. Cpl. Pax was scheduled to be acting sergeant in his absence.*
- *Sgt. Gunter notified his chain of command on Monday, April 1, 2024, after he made his own observations about Cpl. Pax possibly being under the influence.*
- *Sgt. Gunter told IA, in part, he did not believe he needed to make any notifications, since the incident (Officers Seweryn and Wise’s detection of alcohol) occurred approximately 48 hours prior, and he felt he needed to conduct his own investigation before notifying his chain of command.*
- *Sgt. Gunter was Cpl. Pax’s corporal on the Henry 800’s from August 2020 to January 2021.*
- *Sgt. Gunter was Cpl. Pax’s Sgt. on the Henry 700’s from October 2023 until Cpl. Pax resigned on May 8, 2024.*

On Friday, June 7, 2024, Commander (Cmdr.) Jamie Jobes, AP3763, submitted an internal complaint to IAD requesting that they initiate an Administrative Investigation (2024-0604) regarding statements that Sgt. Gunter made to IAD Investigators during his interview on May 2, 2024, regarding Case Number 2024-0348. The IAD file reflects the following information:

“On or about Friday, June 7, 2024, IA received an internal complaint, signed by Commander Jamie Jobes #3763. IA reviewed the following APD General Orders in relation



to these allegations: 900.2 Required Reporting of Violations 900.3.1 Honesty 900.4.3 Neglect of Duty 902.4.1 Cooperating with Assigned Investigators 902.9.3 Factors to Consider in Determining Discipline.”

On Friday, August 2, 2024, OPO received IAD's completed Investigative Summary regarding Case 2024-0604. OPO monitored and participated in IAD's interview of Sgt. Gunter and witness police officers. The Administrative Investigation's summary outlined the following facts:

- *Sgt. Gunter admitted to hearing rumors or jokes of Cpl. Pax's excessive drinking of alcohol when he was the Corporal over the Henry 800's.*
- *Sgt. Gunter denied remembering any conversation with Sgt. Truho regarding Cpl. Pax's alcohol abuse.*
- *When asked if he would do anything differently, Sgt. Gunter stated he would have notified a Lieutenant on the morning of March 28, 2024.*
- *Sgt. Gunter admitted to violating APD Policies 900.2 Required Reporting Violations and 900.4.3 Neglect of Duty.*

OPO recommends a **Classification A** based on IAD's Administrative Investigation findings of Sgt. Gunter in Case Numbers 2024-0638 and 2024-0604 for violating the APD's GOs as noted below and administer the appropriate disciplinary action in compliance with the GO Disciplinary Matrix.

APD Policy 900.1 Responsibility to Know and Comply. The rules of conduct set forth in this order do not serve as an all-inclusive list of requirements, limitations, or prohibitions on employee conduct and activities; employees are required to know and comply with all Department policies, procedures, and written directives.

APD Policy 900.2 Required Reporting Violations. Employees have an obligation and responsibility to report all facts or credible information they know regarding any criminal activity by other employees or any breach of APD written directives.

APD Policy 900.3.1 Honesty. Honesty is of the utmost importance in the police profession. Employees are expected to be truthful at all times in the performance of their duties.

APD Policy 900.4.3 Neglect of Duty. Employees will satisfactorily perform their duties. Examples of unsatisfactory performance include but are not limited to: (a) Lack of knowledge of the application of laws required to be enforced. (b) Unwillingness or inability to perform assigned tasks. (c) Failure to take appropriate action on the occasion of a crime, disorder, investigation, or



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other condition deserving police attention. (d) Failure to respond to any call or to perform any police duties assigned to them by appropriate authorities. (e) Absence without approved leave. (f) Repeated poor evaluations. (g) Written record of repeated infractions of rules, regulations, directives, or orders of the Department. (h) Failure to follow department standardized training and tactics when it was objectively reasonable to do so. (i) Employees are expected to be truthful at all times in the performance of their duties. However, there may be instances where, initially, the employee has not been truthful; but, before the investigation is complete, the employee provides an accurate and detailed accounting of their true culpability in a situation and accepts full responsibility for their actions. In those cases, the Chief may consider each case on a fact-specific basis.

APD Policy 902.4.1 Cooperating with Assigned Investigators. (a) Employees will cooperate with any assigned investigator as if they were addressing the Chief of Police. Employees who fail or refuse to cooperate with an assigned investigator will be subject to disciplinary action, up to and including indefinite suspension. (b) Honesty is of the utmost importance in the police profession. Employees are expected to be truthful at all times during interviews with investigators as outlined in General Order 900 (General Conduct and Responsibilities). 1. Employees who are found to have given a false official statement are subject to indefinite suspension as outlined in the Discipline Matrix ("Dishonesty - False Official Statements"). 2. There may be cases where officers have not been truthful, but the dishonesty does not constitute a false official statement. In those situations, the Chief of Police shall consider each case on a fact specific basis and may decide that corrective action other than indefinite suspension is warranted as outlined in the Discipline Matrix ("Neglect of Duty - Misleading Statements").

Regards,

Gail McCant
Director
Office of Police Oversight