



## **MEMORANDUM**

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

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

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

**DATE:** December 2, 2021

**SUBJECT:** Temporary Suspension of Police Detective Juan Mata #5354  
Internal Affairs Control Number 2021-0747

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 Juan Mata #5354 from duty as a City of Austin, Texas police officer for a period of Ten (10) days. The temporary suspension is effective beginning on December 3, 2021 and continuing through December 12, 2021.

I took this action because Det. Mata 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 Det. Mata in violation of Rule 10:

On May 25, 2021, Austin Police Department (APD) officers responded to a disturbance at a duplex in East Austin. The call text stated that an unknown male and female were involved in a physical disturbance. Officers identified the two subjects involved in the disturbance. Officers conducted interviews, took photographs, and documented the events from this night in a report titled "*Assault w/Injury Family/Dating Violence.*" The officers concluded that they did not have probable cause to make an arrest on the night of the incident, but they provided the victim with contact information to follow up with the APD Domestic Violence Unit.

On June 10, 2021, at 1:58 P.M., Detective Juan Mata designated himself as the lead investigator for this case. At 3:31 P.M. on the same day, Det. Mata added a supplemental report titled Case Review, writing "*case suspended – declined prosecution.*"

On July 20, 2021, the APD Internal Affairs (IA) received a Notice of Formal Complaint from the Office of Police Oversight (OPO). The complaint was submitted by the female victim of the above-mentioned Family/Dating Violence incident. She alleged in part that Det. Mata did not properly investigate her allegations against her husband.

### **IA Investigation**

IA reviewed the criminal case file, including reports, supplements, audio, and video files. IA also interviewed available witnesses to the Family Violence incident. Additionally, IA interviewed the investigators (Det. Mata and another detective assigned in place of Det. Mata) as well as the Assistant County Attorney (ACA)—who originally declined prosecution of the Family Violence incident, when Det. Mata presented it to her—and who later approved an arrest warrant for Assault with Injury Family Violence – Class A Misdemeanor, when it was presented to her by the subsequently assigned detective.

IA established the following timeline of events:

#### **June 10, 2021**

- The victim called to check the status of her case and Det. Mata answered the Domestic Violence main line. (During this conversation, the victim mentioned the name of a potential witness. Det. Mata did not ask for this potential witness's contact information, nor did he ever contact this person.)
- @ 1:35 P.M. the victim emailed Det. Mata additional photos depicting her injuries. These pictures showed more developed bruises than the ones taken by the on-scene officers. (The ACA indicated that Det. Mata never shared these photos with her, and told IA that she did not think Det. Mata had access to these photos since the victim ultimately sent them directly to her in July.)
- @ 1:37 P.M. Det. Mata called/spoke to the ACA for approximately fifteen minutes.
- @ 1:58 P.M. Det. Mata self-assigned himself to the case as the lead investigator.
- @ 3:31 P.M. Det. Mata added a supplement to the case stating what material he reviewed and final determination that the prosecution was declined/the investigation was suspended.

- @ 3:51 P.M. Det. Mata added a supplement stating that the case had been staffed with the ACA and after her review the ACA declined prosecution. (Det. Mata admitted to IA that he received approval for the "*declined prosecution*" from the ACA even though he never reviewed the Body Worn Camera (BWC) footage from the immediate aftermath of the incident. The newly assigned detective and the ACA both advised IA that they deemed this BWC footage to be significant. The BWC footage was one of several pieces of evidence that Det. Mata failed to provide or apprise the ACA of.)

#### **June 15, 2021**

- Det. Mata called the victim and they spoke for approximately fifteen minutes. During this conversation, the victim informed Det. Mata of a recording of her husband admitting to committing the Family Violence. (Det. Mata admitted to IA that he never listened to this recording nor did he share it with the ACA).<sup>1</sup>
- Det. Mata called two of the potential witnesses and he spoke to one of them for approximately five minutes and the other for approximately ten minutes.

#### **June 16, 2021**

- @ 12:32 P.M. Det. Mata added a witness supplement documenting the contact with the two aforementioned witnesses.
- @ 1:00 P.M. Det. Mata called a number associated with the victim for forty-four seconds. Det. Mata indicated this is the conversation where he informed the victim that the charges were still declined by the ACA. (Det. Mata claimed to IA that he also spoke to the ACA before this conversation, where the ACA "*declined prosecution*" a second time. He stated it was his practice to document his conversation(s) with an ACA in a supplement, but he failed to do so in this case.)

#### **June 29, 2021**

- @ 8:25 A.M. the victim sent an email to Det. Mata asking for the identity of the ACA who declined to prosecute her allegations.
- @ 8:39 A.M. Det. Mata responded by providing the name and email address of the ACA who rejected the charges. Unfortunately, he transposed an extra "s" to the ACA's name and email address.
- @ 11:15 A.M. Det. Mata received a call from the ACA on his City-issued cell phone for approximately fifteen minutes.
- @ 2:41 P.M. the victim attempted to send an email to the ACA using the email provided by Det. Mata and carbon copied (CC'ed) Det. Mata on the email. The email contained the time stamp injury photos taken by one of the potential witnesses. The ACA never received the email because the victim used the incorrect email provided by Det. Mata.

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<sup>1</sup> She also identified additional potential witnesses. On this particular occasion, Det. Mata asked for the contact information for the potential witnesses and put the victim in contact with a Victim Services counselor.

#### **July 14, 2021**

- The victim contacted the ACA by phone and then sent numerous emails to the ACA's correct email address (including the injury photos that the victim first sent to Det. Mata on June 10 & June 29).

#### **July 15, 2021**

- The ACA sent an email to Det. Mata's supervisor with the subject, "*Help on pending case.*" The ACA told Det. Mata's supervisor in the email that the victim was uncomfortable with Det. Mata. In part, the ACA stated, "*...for reasons I don't quite understand the victim is uncomfortable with Mata.*" The ACA continued, "*I had agreed with Mata's assessment of this case. All of the information that changed my mind on this case Det. Mata never had access to.*" (Det. Mata ultimately admitted to IA that he did indeed have access to the information that "*changed*" the ACA's assessment of the case.)

#### **July 16, 2021**

- Det. Mata's supervisor emailed another detective in the Domestic Violence Unit and asked him to contact the ACA and look into this case.

#### **July 27, 2021**

- The newly assigned detective presented the information to the ACA and then wrote a supplement documenting his review of this case. The newly assigned detective presented a Probable Cause (PC) Affidavit to a presiding Judge and an arrest warrant was approved and issued for Assault with Injury Family Violence – Class A Misdemeanor.
- The subject self-surrendered to the Travis County Jail on the same day to satisfy the warrant.

#### **Detective Mata's October 14, 2021 IA Interview**

During his IA interview, Det. Mata stated he generally does a thorough job of notating or documenting everything he does in a case, by doing "*a supplement for every little thing that I do.*" However, in this particular case, he not only admitted to failing to meet his own expectations, but more importantly failing to meet the expectations of the Domestic Violence Unit.

Specifically, Det. Mata acknowledged that he failed to upload all of the interviews he completed in this case into the APD Versadex reporting system. He also acknowledged that he failed to write multiple supplements for some of the steps and interviews he performed in this case, including getting a second "*declination*" from the ACA and the information he provided her that led to the second "*declination.*"

Det. Mata also acknowledged that he failed to notate pertinent information provided to him by witnesses within the supplements that he did write. Moreover, Det. Mata stated that the victim provided him with the name of a potential witness in his initial conversation with her, yet he failed to ask the victim for the witness's contact information, nor did he try to

locate that person. Det. Mata was not able to offer an explanation as to why he deviated from his normal practice or why he failed to take multiple follow-up steps. He did at least indicate that he “*should*” have done each of them.

Surprisingly, Det. Mata stated he generally does not review BWC footage from the incidents that he investigates. This is entirely unacceptable to me and his Chain-of-Command, particularly in this case, where Det. Mata overlooked useful information that factored into the ACA’s initial decision not to prosecute the suspect and into her later decision to prosecute the suspect. Moreover, Det. Mata acknowledged that he failed to review an audio recording provided to him by the victim, in which she claimed that she elicited a confession from the suspect.<sup>2</sup> This too is unacceptable. Yet again, Det. Mata could not offer a reasonable explanation for why he failed to review these materials.

At the conclusion of his IA interview, Det. Mata only acknowledged that he violated APD General Order 402.2 Incident Reporting. However, I agree with Det. Mata’s Chain-of-Command that he not only violated APD General Order 402.2 Incident Reporting, but he also violated 900.4.3 Neglect of Duty and 403.2 Follow-Up Investigations General Orders.

In sum, but for the persistence of the victim, this Family Violence case would not have been properly vetted and prosecuted by the ACA because of Det. Mata’s neglect. Det. Mata admittedly failed to review all of the potential evidence and take necessary steps, including properly reviewing and documenting all of the evidence in his reports and/or supplements. He also did not provide all of the relevant information or potential evidence to the ACA during his review of this Family Violence case. This misinformation and potential evidence that the ACA was not privy to impacted the ACA’s decision to initially decline charges in the incident. The case then had to be re-assigned to another detective and charges were ultimately filed after the newly assigned detective provided information to the ACA that Det. Mata neglected to provide. This demonstrates to myself and the Chain-of-Command that Det. Mata was in a position to better inform the ACA at the initial assessment of the case and that his mistakes impacted the decision to pursue charges from the onset.

By these actions, Det. Mata 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 900.4.3: General Conduct and Responsibilities: Neglect of Duty**

**900.4.3 Neglect of Duty**

Employees will satisfactorily perform their duties. Examples of unsatisfactory performance include, but are not limited to:

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<sup>2</sup> While the audio recording did not have the stated evidentiary value, that still does not excuse Det. Mata’s neglect.

- (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 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.

➤ **Austin Police Department Policy 402.2: Incident Reporting and Documentation: Incident Reporting**

**402.2 Incident Reporting**

A well-written report can help make a case just as easily as a poorly written report can ruin a case. Employees have the responsibility to write clear, factual, and complete reports.

➤ **Austin Police Department Policy 403.2: Follow-Up Investigations**

**403.2 Follow-Up Investigations**

Follow-up investigations may include, but are not limited to:

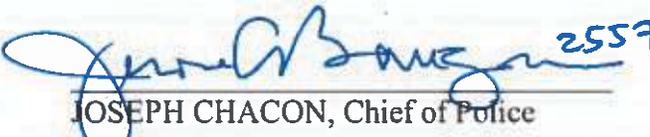
- (a) Reviewing and analyzing preliminary reports.
- (b) Reviewing Department records and databases.
- (c) Seeking additional information from complainants, witnesses, neighbors, informants, officers and Department employees.
- (d) The incident may require contact with the victim(s) and witness(es) by the assigned personnel to obtain information not uncovered during the preliminary investigation.
- (e) Upon request and without jeopardizing case security, the assigned personnel or designee shall advise the victim(s) of the status of the case.

- (f) Conducting interviews and interrogations. Arranging for the dissemination of information, as appropriate.
- (g) Soliciting assistance and/or information from other Units within the Department and/or outside law enforcement agencies.
- (h) Planning, organizing and conducting searches.
- (i) Collecting physical evidence.
- (j) Identifying and apprehending suspects.
- (k) Follow-up on emergency mobile phone request court orders and related paperwork within 48 hours of first request.
- (l) Checking suspects' criminal histories.
- (m) Determining the involvement of suspects in other crimes.
- (n) Reviewing the results of laboratory examinations.
- (o) Preparing cases for court presentation.
- (p) Assisting in the prosecution.
- (q) Documenting entry, modification, validation or cancelation of TCIC/NCIC records.

Det. Mata is advised that this suspension may be considered by the Chief of Police in a future promotional decision pursuant to General Order 919.

By copy of this memo, Det. Mata 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, Det. Mata 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.

 2557  
JOSEPH CHACON, Chief of Police

12/2/2021  
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 Detective Juan Mata #5354

12-2-21  
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Date