

DISCIPLINE RECOMMENDATION

To: Chief Lisa Davis, Austin Police Department

From: Director Gail McCant, Austin Police Oversight

Date: May 14, 2026

Subject: **2025-0965 Discipline Recommendation**

Dear Chief Davis:

On May 16, 2025, Assistant Chief Michael Chancellor signed an internal complaint directing the Austin Police Department Internal Affairs Division (IAD) to conduct an Administrative Inquiry to determine if any violation of Department policy, Civil Service Rules, or state law had been committed by APD Police Officers Jake Pitcher (AP 9862) and Ryne Kirchberg (AP 9241) regarding an officer-involved shooting that occurred on May 7, 2025.

Disposition by APD Chain of Command

The Administrative Inquiry was on hold pending litigation in the Travis County District Court, which was settled on April 20, 2026, when charges against each officer were declined with a No Bill.

On May 12, 2026, APO was notified by IAD that the investigative case file had been forwarded to the officers' chain of command for disposition. At the time of this memo, no Notice of Sustained Allegation (NOSA) or Control Sheet was available for APO review.

The Administrative Inquiry involved the investigative review of the following General Order:

- APD Policy 202 Firearm Discharge Situations

APO Disposition Recommendation: Administrative Closure

Upon reviewing the investigative file, I believe SIU and IAD conducted a straightforward, unbiased investigation, collecting and analyzing pertinent information regarding the incident.

The investigation confirms that Officers Pitcher and Kirchberg were involved in the use of force involving the discharge of their handgun. Officers became involved with the suspect during a traffic violation stop. The suspect was the front passenger in the vehicle. During the stop, Officer Kirchberg contacted the suspect. Officer Kirchberg asked the suspect to exit the vehicle, and the suspect complied. Officer Kirchberg told the suspect he was going to frisk him for weapons. As Officer Kirchberg attempted to pat the suspect down, the suspect pivoted away from him (Kirchberg) and began running away. The suspect ran a short distance and reached toward his waistband as if to retrieve something. He began to turn toward Officer Kirchberg, at which time Officers Kirchberg and Pitcher observed the frame of a handgun in the suspect's waistband.

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Officers Pitcher and Kirchberg shot at the suspect, striking him. The suspect sustained multiple gunshot wounds.

The Administrative and Special Investigations Unit investigation revealed that Officer Kirchberg used deadly force against the suspect by discharging his firearm four (4) times towards the suspect. During his IAD statement, Officer Kirchberg stated that when the suspect ran away, he thought, “At that point, I did suspect that he had a weapon because he didn't want to be frisk. *Then, you know, people that evaded out warrants, they're obviously engaging in illegal activity. He started to evade, and I'm like, I've been in numerous foot pursuits. My intentions were to go hands-on, try to tackle him, but as soon as I was trying to go hands-on, that's when he turned around towards me, kinda in an aggressive stance, reached in his waistband, started to retrieve a firearm.*” Officer Kirchberg continued by stating, “As soon as he turned around and faced towards me and reached in his waistband and started to pull up, I could see the firearm. And at that point, that's when I knew he was trying to shoot me. It was - it was under his shirt, but I believe when he went to grab it, I could just see his hand on something, a good, firm grip. Then I could see him. I could see the barrel inside his pants. He was - he was pulling it up. He was trying to pull it up. I just saw the upwards motion. And at that point, I just knew I had to disengage. He was - it was very clearly that he was trying to pull the gun face towards me, and his intentions were clear.”

Officer Kirchberg said he was concerned for his safety and the safety of others by stating, “He was facing towards me, and again I have the duty to protect myself and others, and I thought he was trying to shoot me but also, he's placing Officer Pitcher and also an infant and a woman in danger. I mean she's in the line of his fire, so he starts shooting all those people's lives are in danger.” When asked by IAD if he believed his actions were objectively reasonable and within policy, Officer Kirchberg responded, “Yes, sir. Again he, he turned towards me. Displayed his intentions clearly. He was trying to kill me. He placed not myself, but Officer Pitcher, the woman and kid and I had to at that point eliminate the threat before he injured or killed one of us.”

The Administrative and Special Investigations Unit investigation revealed that Officer Pitcher used deadly force against the suspect by discharging his firearm eleven (11) times towards the suspect. During the IAD interview, Officer Pitcher said he stopped the vehicle for failing to use its turn signal. He stated suspicious activity was detected, “*Its need to get away from me, to get behind me, to deviate path off a normal driving path. I know normal, like normal peop- I don't wanna say normal people, but, like, it's just not normal behavior for someone driving on the road.*” Officer Pitcher stated he believed Officer Kirchberg asked the suspect to exit the car for officer safety reasons. Officer Pitcher stated he heard Officer Kirchberg ask the suspect if he (Kirchberg) could pat him down for weapons, and the suspect pushed away from Officer Kirchberg and began running.

Officer Pitcher stated the suspect ran a few feet, turned around toward them, and “squared up” like in a shooting stance. Officer Pitcher stated, “So, I first observed the imprint of the gun and then as he, like, fully stopped, I was able to see his hand about to grip, what I believe to be like - the, like,

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magwell of the hand grip of a pistol.” Officer Pitcher stated he believed the suspect’s intent was to shoot him and Officer Kirchberg.

Officer Pitcher stated to IAD that he believed his actions were objectively reasonable and within policy when he fired his weapon. He stated, *“Cause I was presented, deadly threat. I believe that if I did not do what I did at that current point that either myself or Officer Kirchberg would have been severely injured.”*

I believe the actions of the Officers were within policy, as deadly force was utilized to stop a suspect from pulling the gun from his waistband and shooting at them. The suspect's actions on BWC footage show noncompliance with the officer's commands prior to the use of force. The suspect could have complied with commands to indicate he was not a threat to the officer's safety or that of nearby citizens.

I also believe the officers did not have the opportunity to initiate additional de-escalation tactics. The armed suspect immediately became a threat. Based on the aforementioned factors, I recommend **Exoneration** for each officer and the administrative closure of the case.

In compliance with Section 2-15-5(B) of the City Code, I request that the Chief “provide a detailed public, written explanation if the Chief does not follow a recommendation of the Office of Police Oversight to impose discipline.”

Sincerely,

Gail McCant

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Gail McCant
Director
Austin Police Oversight