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CIVIL SERVICE OFFICE
APRIL 19, 2023
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RECEIVED COMPLETE MEMO
APRIL 27, 2023
8:30 AM



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Joseph Chacon, Chief of Police

DATE: April 10, 2023¹

SUBJECT: Temporary Suspension of Police Officer Phillippe Bohn #5604
Internal Affairs Control Number 2022-0948

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 Phillippe Bohn #5604 from duty as a City of Austin, Texas police officer for a period of (4) days. The temporary suspension is effective beginning on April 10, 2023 and continuing through April 13, 2023.

I took this action because Officer Bohn 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:

¹ Although this suspension is effective more than 180 days after the date of the underlying incident(s), it complies with the mandates of Local Government Code (LGC) 143.052 (h) and Article 18, Section 8 of the 2018-2022 Meet and Confer Agreement. APD did not discover this potential criminal violation (Texas Penal Code §39.06-b Misuse of Official Information and/or various Government Code violations), until on or about October 22, 2022. Therefore, APD has/had until April 11, 2023, to impose discipline.

- 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 Ofc. Bohn in violation of Rule 10:

On October 14, 2022, Mr. M was served a civil citation advising him that he was being civilly sued by Austin Police Department (APD) Ofc. Phillippe Bohn. Mr. M believed that Ofc. Bohn filed the lawsuit in response to Mr. M having previously filed a complaint of misconduct with the Office of Police Oversight (OPO) against Ofc. Bohn in 2020. In fact, on October 22, 2022, Mr. M filed another complaint with OPO against Ofc. Bohn whereby he specifically alleged:

“he was served with a lawsuit from Officer Phillippe Bohn. Officer Bohn, with the Austin Police Department, is listed as the plaintiff and is suing the complainant for a previously filed complaint. The complainant alleges the language he was served with states he intentionally and knowingly made false statements from an incident that occurred in 2018 when he filed a complaint with The Office of Police Oversight (OPO) in 2020.² The complainant also believes the officer who filed the lawsuit against him used his official capacity to find his address and have him served. The complainant states he has no idea who this officer is-he said there were multiple officers in the 2018 incident and that he did not identify any of them himself. The complainant believes this is retaliation by the officer for the complainant filing the 2020 complaint.”

Investigation(s) were initiated to determine if Ofc. Bohn’s conduct complied with APD Policy, Civil Service Rules, Municipal Civil Service Rules, and/or State Law.

Internal Affairs (IA) investigation

IA confirmed that on August 5, 2022, Ofc. Bohn filed a civil lawsuit against Mr. M with the Travis County Justice of the Peace, Precinct 3. IA also discovered that on August 6, 2022, Ofc. Bohn used a city issued computer to access Versadex and locate Mr. M’s personal information. Ofc. Bohn queried Mr. M by name and date of birth in a Versadex National Crime Information Center (NCIC) search on August 6, 2022, at 11:45am, 11:52am and 12:13pm. Ofc. Bohn also queried Mr. M by name and date of birth in a Versadex Person search on August 6, 2022, at 11:44am, 11:45am and 12:13am.

A Travis County Judge then signed the civil citation on August 10, 2022, and issued it to a constable for service. The constable attempted to serve Mr. M at the address listed on the citation. However, it was determined Mr. M did not reside at that listed address. Ofc. Bohn emailed the court on September 7, 2022 and provided the clerk with additional home and business addresses associated with Mr. M. The constable served Mr. M with the citation

² Mr. M did not file the complaint about the 2018 encounter until the end of 2020. Records show the investigation into his original complaint was completed in 2021.

on October 14, 2022, at an address provided by Ofc. Bohn. After being served with the lawsuit, Mr. M filed the abovementioned complaint with the OPO on October 20, 2022.

IA was also able to confirm that on August 8, 2018, APD officers made contact with Mr. M after being informed he possessed a firearm. Two years later, on August 10, 2020, Mr. M filed a complaint with the OPO regarding this contact, but he did not specifically name any officers in the complaint. Nevertheless, IA was able to identify the officers who had made contact with Mr. M, including Ofc. Bohn. Ofc. Bohn and other responding officers became subjects of the investigation in a subsequent IA investigation. The case was investigated and closed with no negative findings towards any officer, including Ofc. Bohn, on December 14, 2021.

Following receipt of Mr. M's 2022 complaint, IA interviewed Ofc. Bohn. In his interview Ofc. Bohn expressed remorse for utilizing departmental resources by stating:

"I would just like to reiterate that I regret that I looked up the information in the manner that I did for non-law enforcement use. I would just like to say that I'm looking to make myself whole and this was the only means at my disposal in which to do it. I'd just like to reiterate to ya'll and my chain of command that this will never happen again. I will not use department resources as I did for non-law enforcement function."

Conclusion

I agree with Ofc. Bohn's Chain-of-Command (COC), who concluded in a Notice of Sustained Allegations issued to Ofc. Bohn on March 23, 2023, that he violated the following APD General Orders (GOs):

- 1) 900.4.(k) Requirements of Duty**
- 2) 972.4(g) Prohibited Speech, Expression and Conduct**

Specifically with respect to GO 900.4 (k) the COC concluded:

"On August 6, 2022, Ofc. Bohn, utilized a city issued computer to access information (Versadex name and date of birth search). The information obtained by him...(specific addresses), were later provided via email on September 7, 2022, to the Justice of the Peace Court 3, regarding a personally initiated civil lawsuit. The addresses provided by Ofc. Bohn were used by a Travis County Deputy Constable to serve legal documents to an individual named in the lawsuit. Ofc. Bohn did not receive expressed authorization from the Chief of Police or his designee to use department resources to conduct the Versadex search or disclose the information obtained in the search in a personally initiated civil lawsuit."

Specifically, with respect to GO 972.4(g) Prohibited Speech, Expression and Conduct, the COC concluded that Ofc. Bohn did not adhere to policy as:

“Ofc. Bohn did not write a memorandum to the Chief through his Chain-of-Command before filing claims for damages or entering into legal compromises or settlements regarding events connected with the performance of duty.”

Lastly, it is important to note that Ofc. Bohn is not being disciplined for exercising his right to file a lawsuit, but he is being disciplined for not completely adhering to the specific GO’s listed in this memorandum.

By these actions, Ofc. Bohn 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(k): General Conduct and Responsibilities: Requirements of Duty**

900.4.(k) Requirements of Duty

Employee conduct will always be consistent with the Department's values, vision, mission, and any supervisor's instructions.

- (k) Employees will write a memorandum to the Chief through their chain-of-command before filing claims for damages or entering into legal compromises or settlements regarding events connected with the performance of duty.

➤ **Austin Police Department Policy 972.4(g): Employee Speech, Expression, and Social Networking: Prohibited Speech, Expression and Conduct**

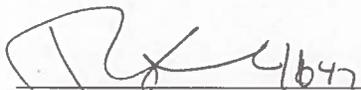
972.4(g) Prohibited Speech, Expression and Conduct

To meet the Department's safety, performance, and public-trust needs, the following is prohibited:

- (g) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department for financial or personal gain, or any disclosure of such materials without the expressed authorization of the Chief of Police or designee (Tex. Penal Code § 39.06(a)(1)).

By copy of this memo, Ofc. Bohn 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, Ofc. Bohn 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.



JOSEPH CHACON, Chief of Police

Jeff Greenwalt for Chief Chacon

4-11-23

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.



Police Officer Phillippe Bohn #5604

4/10/23

Date

