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Human Resources Dept

MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Brian Manley, Interim Chief of Police

DATE: March 31, 2017

SUBJECT: Agreed Temporary Suspension of Police Officer James Maufrais #7432
Internal Affairs Control Number 2016-1253

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 James Maufrais #7432 from duty as a City of Austin, Texas, police officer for a period of twenty (20) days. The temporary suspension is effective beginning on March 31, 2017 and continuing through April 19, 2017.

I took this action because Officer Maufrais 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 Officer Maufrais in violation of Rule 10:

On November 11, 2016, Officer Maufrais responded as a backup officer to a traffic stop initiated by Officer Wheeler. Officer Wheeler provided information via radio about an unknown male in the vicinity of his traffic stop and was not sure of the reason or motive of the unknown male's presence. While Officer Wheeler dealt with the subject of the traffic stop, Officer Maufrais arrived as the first backup officer and immediately approached the unknown male, later identified as Philip Turner.

Officer Maufrais approached Mr. Turner to determine his motives and observed Mr. Turner video recording Officer Wheeler's traffic stop. Officer Maufrais shined his flashlight into Mr. Turner's video camera and asked why he was filming. Mr. Turner then produced a second video camera prompting Officer Maufrais to use another flashlight to obstruct that recording device. Officer Maufrais directed Mr. Turner to vacate the area and the two engaged in an adversarial exchange. During this dialogue, Mr. Turner asserted he had a lawful right to record and advised Officer Maufrais that his actions were in violation of Austin Police Department policy. Mr. Turner then attempted to reposition himself to record the traffic stop, however, Officer Maufrais and another officer followed Mr. Turner around the area and continued to obstruct him from filming.

Officer Maufrais was interviewed by Internal Affairs investigators for his actions during this incident. Officer Maufrais was remorseful and acknowledged he was unfamiliar with the state of policy and the law on a citizen's right to record a traffic stop within a safe and reasonable distance. Officer Maufrais acknowledged it was an error on his part to be unfamiliar with this policy and the byproduct of his lack of knowledge and subsequent actions on this stop with Mr. Turner brought discredit to the Austin Police Department.

By these actions, Officer Maufrais 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 301.2(c): Responsibility to the Community: Impartial Attitude and Courtesy**

301.2(c) Impartial Attitude and Courtesy

Employees are expected to act professionally, treat all persons fairly and equally, and perform all duties impartially, objectively, and equitably without regard to personal feelings, animosities, friendships, financial status, sex, creed, color, race, religion, age, political beliefs, sexual orientation, gender identity or gender expression or social or ethnic background.

- (c) Employees will make every effort to be courteous and respectful toward all persons

➤ **Austin Police Department Policy 302.2(c): Public Recording of Official Acts: Interaction with Community**

302.2(c) Interaction with Community

(c) As long as the photographing or recording takes place in a setting at which the individual has a legal right to be present and does not interfere with an officer's safety or lawful duties, officer's shall not inform or instruct people that photographing or recording of police officers, police activity or individuals who are the subject of police action (such as a Terry stop or an arrest) is not allowed; requires a permit; or requires the officer's consent. Additionally, officers shall not:

1. Order that person to cease such activity;
2. Demand that person's identification;
3. Demand that the person state a reason why he or she is taking photographs or recording;
4. Detain that person;
5. Intentionally block or obstruct cameras or recording devices; or
6. In any way threaten, intimidate or otherwise discourage an individual from recording officer's enforcement activities.

➤ **Austin Police Department Policy 900.1.1 Responsibility to Know and Comply**

The rules of conduct set forth in this policy 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.

(a) Employees will maintain a working knowledge and comply with the laws, ordinances, statutes, regulations, and APD written directives which pertain to their assigned duties.

(b) Employees who do not understand their assigned duties or responsibilities will read the relevant directives and guidelines, and will consult their immediate supervisor for clarification and explanation.

(c) A lack of knowledge of an APD written directive is not a defense to disciplinary action.

➤ **Austin Police Department Policy 900.3.2: General Conduct and Responsibilities: Acts Bringing Discredit Upon the Department**

Since the conduct of personnel both on-duty or off-duty may reflect directly upon the Department, employees must conduct themselves at all times in a manner which does not bring reproach, discredit, or embarrassment to the Department or to the City.

- (a) Employees will not commit any act which tends to destroy public confidence in, and respect for, the Department or which is prejudicial to the good order, efficiency, or discipline of the Department.

In addition to this agreed suspension, Officer Maufrais agrees to the following additional terms and conditions:

- 1) Officer Maufrais shall attend any training specified by his chain of command.
- 2) Officer Maufrais agrees to a one (1) year probationary period to begin on the day he returns to duty after serving this agreed suspension. Officer Maufrais agrees that if during that one year period the Chief of Police sustains another violation involving the same or similar conduct (Officer Maufrais agrees that the Chief of Police has the final decision whether the conduct is the same or similar and that decision is not subject to review or appeal), he will be indefinitely suspended without the right to appeal that indefinite suspension to the to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and he may not file a grievance under Article 20 of the Meet and Confer Agreement.
- 3) Officer Maufrais understands that this temporary suspension may be taken into consideration in the Chief's determination whether a valid reason exists to bypass him for a future promotion in accordance with APD Policy 919.
- 4) Officer Maufrais may not appeal this agreed suspension or any of these additional terms and conditions to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and he may not file a grievance under Article 20 of the Meet and Confer Agreement.


By signing this Agreed Discipline, Officer Maufrais understands and agrees that I am forgoing my right to indefinitely suspend him for the conduct described above and that by agreeing to the suspension, Officer Maufrais waives all right to appeal to this agreed suspension to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and he may not file a grievance under Article 20 of the Meet and Confer Agreement.


BRIAN MANLEY, Interim Chief of Police

3.31.17
Date

TO WHOM IT MAY CONCERN:

I acknowledge receipt of the above and foregoing memorandum of agreed temporary suspension and I understand that by entering into this disciplinary agreement the Chief forgoes his right to indefinitely suspend me for the conduct described above. I further understand and agree that by entering into this agreement, I have no right to appeal this suspension to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to the District Court, and I may not file a grievance under Article 20 of the Meet and Confer Agreement.

 #7432
Police Officer James Maufrais #7432

3/31/2017
Date