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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:** May 5, 2017

**SUBJECT:** Indefinite Suspension of Police Officer Carlos Mayfield #5148  
Internal Affairs Control Numbers 2016-1294

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 indefinitely suspended Police Officer Carlos Mayfield #5148 from duty as a City of Austin, Texas police officer effective May 5, 2017.

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

On November 18, 2016, at 3:06 a.m. Ms. X contacted the Austin Police Department (APD) to report an alleged sexual assault perpetrated by Mr. Y. APD Officers immediately responded to the scene, but were unable to locate Mr. Y. A detective from the APD's Sex Crimes Unit also responded to the scene and interviewed Ms. X. During this interview Ms. X declined to submit to a Sexual Assault Forensic Exam (SAFE).

Just days later, on or about November 21, 2016, Ms. X received a series of alarming text messages from Mr. Y regarding/referencing the un-released secure police report in her sexual assault allegation. One text, time stamped 11:42 a.m., stated *"If I raped you why didn't you go to the hospital and get a rape kit done on you?"* While a second message, time stamped 11:59 a.m. stated, *"The police report told me exactly what happened."*

This exchange prompted Ms. X to contact the APD Victim Services counselor assigned to her case to alert the APD of the potential breach of secure information only contained in the APD police report. The Victim Services counselor and a detective from the APD Sex Crimes Unit began investigating APD's database for the potential breach or leak of information connected to the alleged sexual assault. Their inquiry revealed Officer Carlos Mayfield accessed the police report on November 18, 2016, at approximately 1:30 p.m.

Since Officer Mayfield had no police involvement and no apparent justifiable work related reason to access the reports, additional probing was conducted to discern his motivation for the inquiry. APD's Sex Crimes Unit later discovered Officer Mayfield was a Facebook "friend" of a Ms. B, and that Ms. B was the mother of the suspect, Mr. Y.

On November 22, 2016, the APD Sex Crimes Unit submitted a complaint to APD's Internal Affairs (IA) Unit to conduct an investigation into Officer Mayfield's apparent privacy/security breach, and associated policy violations. APD's Special Investigations Unit (SIU) also launched a criminal investigation into Officer Mayfield's actions.<sup>1</sup>

When investigators confronted Officer Mayfield with the APD records during his initial interviews, Officer Mayfield confirmed that he accessed the numerous records, on his day off, at the behest of Ms. B, and that he had no authorized reason to do so. Officer Mayfield also confirmed that he revealed specific details from APD's police reports to Ms. B and Mr. Y.

Investigators also discovered Ms. B was a convicted felon. Officer Mayfield confirmed he was aware of Ms. B's felony status when he revealed to her and Mr. Y the secured/private information regarding the felony investigation into Mr. Y for sexual assault. Officer Mayfield advised investigators that he revealed the information to Ms. B and Mr. Y because he wanted the truth to come out. Officer Mayfield's chain of command found this stated motive, amongst other statements to be insincere, unbelievable and not credible. As a result, Officer Mayfield's chain of command issued subsequent complaints for alleged

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<sup>1</sup> As of May 5, 2017, the criminal investigation is still pending. A criminal indictment and/or conviction could result as a basis for further administrative action.

dishonest statements to investigators, and for associating with a known felon, which is explicitly prohibited by APD policy.

More specifically, investigators discovered phone records showing that Ms. B contacted Officer Mayfield on November 18, 2016, at 9:45 a.m. In the face of these records, Officer Mayfield confirmed Ms. B contacted him to look into the allegations levied against her son. Officer Mayfield further acknowledged that after this initial twenty-one minute conversation, with Ms. B, he then traveled to the APD main headquarters building to access Versadex, APD's incident reporting system.

Records show Officer Mayfield then conducted approximately 19 different searches about Ms. X from 1:38 p.m. to 2:01 p.m. on November 18, 2016. While conducting these searches, Officer Mayfield simultaneously had a sixteen-minute conversation at 1:52 p.m. on November 18, 2016, with Ms. B's telephone number. Officer Mayfield admitted to investigators that he read from and revealed specific confidential details of the sexual assault report to Ms. B and Mr. Y during the conversation. These revelations gave Ms. B and Mr. Y insight into the strengths and weaknesses of the allegations levied against Mr. Y by Ms. X.

Of significant note, Officer Mayfield acknowledged that revealing to Mr. Y the fact that a SAFE exam was not completed on Ms. X compromised the viability of the sexual assault investigation and possible charges. Disclosing this fact, which would otherwise never be disclosed to a suspect during the early stages of a police investigation, is unfathomable. Crucially, Officer Mayfield admitted "*evidently he [Mr. X] got it [the SAFE exam information] from me*"... as "*there's no other way he [Mr. X] could have got it.*"

Thereafter, Officer Mayfield's conversation and security breach apparently prompted Mr. Y to request APD officers to come to his mother's residence on November 18, 2016, at approximately 2:41 p.m. where Mr. Y then gave his account of the allegations. At 4:13 p.m. that same day, Ms. B and/or Mr. Y updated Officer Mayfield, after Mr. Y gave his account to unwary officers. Any potential effort by Sex Crimes Investigators to interrogate Mr. Y and discern to the truth were compromised by Officer Mayfield's actions.

IA questioned Officer Mayfield in a second interview and confronted him about his dubious motives. While acknowledging he was wrong, Officer Mayfield still maintained that his "sole purpose" when revealing information from the confidential police report to Ms. B and Mr. Y was to convince Mr. Y to take responsibility for his actions. Officer Mayfield even advised IA that he knew Ms. B was a convicted felon by the middle of 2016, well before November. Nonetheless, Officer Mayfield knowingly violated policy by continuing to associate with, and by giving confidential information to a felon and her son, the suspect in the reported felony crime.

Therefore, I concur with Officer Mayfield's chain of command and find his statement that he wanted Mr. Y to take responsibility to be untruthful and or misleading on its face. Records reveal Officer Mayfield not only looked up the sexual assault report, but he also looked up historical reports involving Ms. X that had nothing to do with Mr. Y.

Particularly, Officer Mayfield acknowledged he searched for a report about Ms. X, where she may have been untruthful, which impugns her credibility. By confirming the existence of this report and revealing that information to Mr. Y and/or Ms. B, Officer Mayfield armed them with more information that potentially compromised the sexual assault investigation.

I also find Officer Mayfield's contention that he did not know the nature of the allegation or the ramifications of his malfeasance on November 18, 2016, to be unbelievable and not credible. Officer Mayfield advised IA he was unaware that this was a sexual assault case, as he believed it was "only" a "family disturbance." Yet he admitted to reading the report, which had the title "Aggravated Sexual Assault." Officer Mayfield also admitted he told Mr. Y that Ms. X alleged that he forced his penis in her mouth, bit her, and choked her. These are obviously allegations of sexual assault. Regardless of the complaint, Officer Mayfield's breach and actions in this case are reprehensible and a blatant violation of policy.

Officer Mayfield confirmed he and Ms. B are currently friends and were romantically involved in the past. Officer Mayfield confirmed he was aware of Ms. B's felony arrest during the time they dated, which was while he worked for the APD. Officer Mayfield advised IA that he has looked up secure reports for Ms. B dating back to 2014, including other reports involving her sons. Officer Mayfield also confirmed he knows at least two of Ms. B's three sons, including Mr. Y. While those events are apparently outside of the 180-window for discipline, and are not the basis for this disciplinary decision, this nonetheless shows a pattern of behavior on the part of Officer Mayfield.<sup>2</sup>

Ultimately, on February 8, 2017, the assigned Sex Crimes Detective staffed the November 18, 2016 case with a Travis County Assistant District Attorney (ADA). The ADA declined prosecution of the compromised sexual assault case. However, the ADA authorized the Sex Crimes Detective to file charges against Mr. Y for assault with injury.

By revealing the information contained in the police report, Officer Mayfield tainted the investigation and compromised the sexual assault case. Officer Mayfield harmed Ms. X and/or benefited Mr. Y. Officer Mayfield's violations, had the effect of victimizing Ms. X a second time and likely provided Mr. Y with critical assistance averting serious sexual assault charges.

Officer Mayfield not only violated APD policy, he breached the public's trust, particularly that of Ms. X, and from an administrative standpoint he violated Texas Penal Code 39.06 (b) (1) (2) - Misuse of Official Information, a felony of the third degree. Moreover, by virtue of his past and current actions of providing Ms. B and/or Mr. Y with information, particularly in this sexual assault case, my opinion is that he was complicit in facilitating Ms. B and Mr. Y in their own possible commission of violations of Texas Penal Code 39.06 (c), which are also felonies of the third degree.

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<sup>2</sup> Officer Mayfield also revealed he has utilized the APD Versadex system to review numerous unauthorized reports for his own personal use, which were also outside the 180-time frame for discipline.

At a minimum, Officer Mayfield's conduct violated Texas Penal Code 38.15(a) (1) – Interference with Public Duties, by compromising the APD Sex Crime Unit's investigation. By these actions Officer Mayfield brought significant discredit to the APD, particularly in the eyes of Ms. X, who would justifiably be reluctant to call on law enforcement in the future, in light of Officer Mayfield's inexplicable and callous actions. Officer Mayfield was not authorized by anyone, including his chain of command, to access or release confidential information. Even if Officer Mayfield's actions were not criminal, they show he cannot be entrusted to continue as a police Officer with the APD.

By these actions, Officer Mayfield 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 116.7: Security and Release of Records and Information: Privacy and Security of Records**

**116.7 Privacy and Security of Records**

Austin Police Department employees shall not access, view, distribute, or allow anyone else to access, view, or distribute any hard copy or electronic record, file, or report, except in accordance with Department policy and with a legitimate law enforcement or business purpose, or as otherwise permissible by law.

All reports including, but not limited to, initial, supplemental, follow-up, evidence and property reports, shall be maintained in a secure manner accessible only to authorized APD personnel.

➤ **Austin Police Department Policy 900.1.1: General Conduct and Responsibilities: Responsibility to Know and Comply**

**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.

**To Wit:**

**Texas Penal Code §38.15(a)(1) – Interference with Public Duties**

- (a) A person commits an offense if the person with criminal negligence interrupts, disrupts, impedes, or otherwise interferes with:
  - (1) a peace officer while the peace officer is performing a duty or exercising authority imposed or granted by law;

**Texas Penal Code §39.06(b)(1)(2) – Misuse of Official Information**

- (b) A public servant commits an offense if with intent to obtain a benefit or with intent to harm or defraud another, he discloses or uses information for a nongovernmental purpose that:
  - (1) he has access to by means of his office or employment; and
  - (2) has not been made public.
- (c) A person commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he solicits or receives from a public servant information that:
  - (1) the public servant has access to by means of his office or employment; and
  - (2) has not been made public.
- (d) In this section, "information that has not been made public" means any information to which the public does not generally have access, and that is prohibited from disclosure under Chapter 552, Government Code.
- (e) Except as provided by Subsection (f), an offense under this section is a felony of the third degree.
- (f) An offense under Subsection (a) (3) is a Class C misdemeanor.

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

**900.3.2 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.
- (b) Employees will refrain from being a party to any malicious gossip, rumor, report or activity, whether written or oral, that would tend to bring discredit to the Department or any member thereof.
  - 1. "Malicious gossip, rumor, report or activity" includes statements made with knowledge of their falsity or made without regard to whether the statements are true or false.
- (c) Employees will not engage in any activity in which there is a potential for conflict of interest or the appearance of a conflict of interest with the lawful duties of the employee.
  - 1. "Conflict of interest" includes any activity which would tend to influence a decision, create a bias or prejudice, or create a gain or loss for any person or agency which would favor one side or the other in conflict with the employee's official duties, or which conflicts with the accomplishment of the Department's mission or goals.

➤ **Austin Police Department Policy 900.3.3: General Conduct and Responsibilities: Prohibited Associations**

**900.3.3 Prohibited Associations**

- (a) Employees will not establish an external social relationship with a known victim, a known witness, or a known suspect of a crime while such case is being investigated by this Department or prosecuted as a result of such an investigation.
- (b) Employees will not establish social and/or business dealings with persons they know, or should know, are likely to adversely affect the employee's or Department's credibility. Employees will not

associate with convicted felons. Provisions of this section do not apply to association based on kinship or the discharge of official duties.

➤ **Austin Police Department Policy 900.3.1: General Conduct and Responsibilities: Honesty**

**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.

- (a) Employees will speak the truth at all times and reflect the truth in all reports and written communications. Any statement or omission of pertinent or material information which intentionally misrepresents facts or misleads others through an official statement will be considered a false official statement.
- (c) Employees will not attempt to conceal, divert, or mitigate their true culpability in a situation, nor will they engage in efforts to thwart, influence, or interfere with an internal or criminal investigation.

By copy of this memo, Officer Mayfield is hereby advised of this indefinite 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, Officer Mayfield 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.



BRIAN MANLEY, Interim Chief of Police


5-5-17

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 Officer Carlos Mayfield #5148  
5/5/17  
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Date