

RECEIVED
CITY OF AUSTON
CIVIL SERVICE OFFICE
MARCH 11, 2022 1:02pm



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Joseph Chacon, Chief of Police

DATE: March 11, 2022¹

SUBJECT: Agreed Temporary Suspension of Police Officer Wesley Belcher #9160
Internal Affairs Control Number 2021-0883

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 Wesley Belcher #9160 from duty as a City of Austin, Texas police officer for a period of ninety (90) days. The agreed temporary suspension is effective beginning on March 12, 2022, and continuing through June 9, 2022.

I took this action because Officer Belcher 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), its imposition complies with the mandates of LGC 143.052 and Article 18, Section 8 of the 2018-2022 Meet and Confer Agreement, including an extension Officer Belcher and his representatives agreed to on February 17, 2022. APD has/had until March 22, 2022, to impose discipline, including an indefinite suspension.

- 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 Belcher in violation of Rule 10:



the Kyle Police Department (KPD) responded to Officer Belcher's residence three times for disturbances. It was brought to the attention of an Austin Police Department (APD) Assistant Chief of Police, on or after August 24, 2021, that Officer Belcher may have committed criminal offenses related to some of these incidents.

At the conclusion of an IA investigation into the allegations, I concluded that the evidence did not bear out that Officer Belcher committed the alleged criminal offenses by the preponderance of the evidence standard. However, I concurred with Officer Belcher's self-assessment that his actions in these incidents brought discredit to the APD. In deciding the discipline in this case, I gave significant weight to the fact that Officer Belcher admitted that he had an alcohol consumption problem that contributed to the discredit he brought upon himself and the APD. More importantly, Officer Belcher has voluntarily sought and has been participating in treatment program(s) to address the issues that have plagued him in his personal life.

By these actions, Officer Belcher 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 900.3.2: 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.

In addition to this agreed temporary suspension, Officer Belcher agrees to the following terms and conditions:

1. Officer Belcher shall be evaluated by a qualified substance abuse professional designated by the Chief of Police.
2. If the qualified professional recommends a program of counseling, Officer Belcher must successfully complete that program of counseling.
3. If a program of counseling is recommended, said program will be completed on Officer Belcher's off-duty time, unless the Chief approves the use of accrued vacation leave.
4. Officer Belcher shall be responsible for paying all costs of the program of counseling that are not covered by his health insurance plan.
5. If Officer Belcher fails to successfully complete the program of counseling, the Chief may, at his sole discretion, indefinitely suspend him without right of appeal to the Civil Service Commission, to an independent third-party hearing examiner, or to District Court, and Officer Belcher may not file a grievance under Article 20 of the Meet and Confer Agreement.
6. If this evaluation and/or program of counseling raises a question as to whether Officer Belcher is sufficiently mentally or physically fit to continue his duties as a police officer, it could trigger the fitness for duty process set forth in Texas Local Government Code Chapter 143.081.
7. Officer Belcher agrees that he will be subject to random alcohol testing while on duty during the one-year probationary period at the discretion of his Chain-of-Command.
8. Officer Belcher agrees that if he has any detectable amount of alcohol in a blood or urine sample, he will be indefinitely suspended without the right to appeal that suspension to the Civil Service Commission, an independent third-party hearing examiner, or to District Court.
9. Officer Belcher agrees to a probationary period of one (1) year, with the additional requirement that if, during the probationary period, he commits the same or a similar act of misconduct to the one for which he is being suspended, he will be indefinitely suspended without the right to appeal that suspension to the Civil Service Commission, an independent third-party hearing examiner, or to District Court. (Ofc. Belcher agrees that the determination of whether an act is the same or similar to the misconduct for which he is being suspended is solely within the purview of the Chief of Police and is not subject to review by the Civil Service Commission, an independent third-party hearing examiner, or district court.) The one-year period begins on the day that Officer Belcher returns to duty after completing his agreed suspension. Should Officer Belcher commit the same or similar violation outside the one-year period, he will be indefinitely suspended but retains the right to appeal that suspension.
10. Officer Belcher understands that this temporary suspension may be taken into consideration in the Chief's determination of whether a valid reason exists to bypass him for a future promotion in accordance with APD Policy 919.11.

11. Officer Belcher agrees that he, and all others claiming under him named herein or not, fully discharge, release, and waive any and all known or unknown claims or demands of any kind or nature whatsoever that he now has, or may have in the future, including without limitations, claims arising under any federal, state or other governmental statute, regulation, or ordinance relating to employment discrimination, termination of employment, payment of wages or provision of benefits, Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act of 1990, as amended, the Family and Medical Leave Act, the Fair Labor Standards Act, and the Texas Commission on Human Rights Act, against the City of Austin, the Austin Police Department, or their respective agents, servants, and employees, arising from the above-referenced incident, and any actions taken as a result of that incident, including but not limited to, the negotiation and execution of this agreed temporary suspension.
12. Officer Belcher acknowledges that he had the opportunity to discuss this agreed suspension and additional terms and conditions set forth herein with a representative of his choosing prior to signing his acceptance where indicated below.

By signing this Agreed Discipline, Officer Belcher 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 Belcher waives all right to appeal this agreed suspension and the additional terms and conditions to the Civil Service Commission, to an independent third-party hearing examiner, and to District Court.



Joseph Chacon, Chief of Police

3/11/2022
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 and that by agreeing to the suspension, I have no right to appeal this disciplinary action, as well as the additional terms and conditions, to the Civil Service Commission, to an Independent third-party hearing examiner, and to District Court.



Police Officer Wesley Belcher #9160

3/11/22
Date