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CIVIL SERVICE OFFICE
March 8, 2021
3:05 p.m.



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Brian Manley, Chief of Police

DATE: March 8, 2021

SUBJECT: Temporary Suspension of Police Detective Adrian Duran #2748
Internal Affairs Control Number 2020-1665

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 Detective Adrian Duran #2748 from duty as a City of Austin, Texas police officer for a period of fifteen (15) days. The temporary suspension is effective beginning on March 9, 2021 and continuing through March 23, 2021.

I took this action because Detective Duran 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.

2. The employee is responsible for notifying the appropriate supervisor two (2) hours prior to the 16th hour of the 24-hour period. The name of the approving supervisor will be noted on the employee's overtime assignment form.

(b) Employees shall not work in excess of 76 hours of any combination of regular duty, department overtime, or LERE hours within a work-week without the approval of a lieutenant or above for sworn employees, or the employee's supervisor/manager for civilian employees.

➤ **Austin Police Department Policy 949.7.4(a): Secondary Employment: Required Reporting of Overtime and LERE Hours Worked**

➤ **949.7.4(a) Required Reporting of Overtime and LERE Hours Worked**

(a) An electronic copy of from PD0036D Overtime Log will be maintained by the employee's supervisor in a network group folder designated by their chain of command. When an employee works overtime (this does not include mandatory/emergency holdovers, late calls, and overtime related to workload), they will complete an overtime log on form PD0036D and save it to the network location within one week of the assignment to include actual locations, dates, and times of LERE hours worked each week. The employee's supervisor will maintain the overtime log according to the City's retention policy. The logs will include all LERE hours worked by the employee that week including actual court overtime (time reported on court sign in/out log) and estimated hours worked as a courtesy officer.

1. This log will be reviewed and approved by the employee's immediate supervisor on a weekly basis by electronically initialing the form.
2. Changes to LERE hours worked subsequent to having been reviewed by the supervisor will require the employee notifying their supervisor and an additional electronic initial by the supervisor.

Detective Duran is advised that this suspension may be considered by the Chief of Police in a future promotional decision pursuant to General Order 919.

By copy of this memo, Detective Duran 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

The following are the specific acts committed by Detective Duran in violation of Rule 10:

On November 5-6, 2020, an audit was conducted by the Austin Police Department (APD) Human Resources on Detective Duran's time sheets. The audit encompassed pay periods from December 22, 2019, through October 24, 2020. The audit revealed Detective Duran may have violated policy regarding the limitation on law enforcement related employment hours worked (LERE), amongst other General Orders (GO). Thereafter, Detective Duran's chain of command submitted multiple complaints requesting that Internal Affairs conduct an administrative investigation to determine if any violation of Departmental Policy, Civil Service rule, or state law had been committed by Detective Duran.

Investigators discovered that Detective Duran had worked more than 16-hours in a single day on over 10 different occasions within the last six months, without authorized approval from anyone in his chain of command. When presented with a spreadsheet of this information, Detective Duran conceded to the spreadsheet's accuracy and was apologetic for not seeking prior approval from anyone in his chain of command, including his Lieutenant or Commander. Detective Duran further acknowledged that he had exceeded the 16-hour time limit, without approval, on over 30 occasions during the past 12 months.

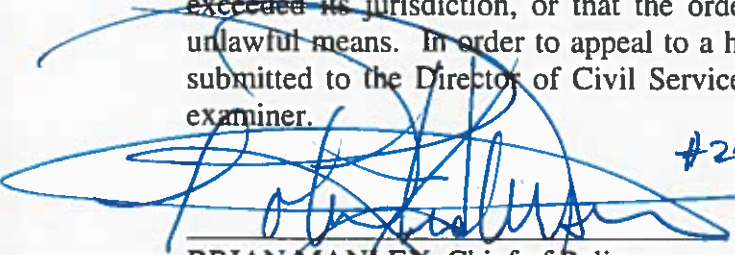
In conclusion, Detective Duran acknowledged that he violated APD GO 949.7.3 Limitation on LERE Hours Worked. Further, Detective Duran stated that he failed to properly document all of his overtime hours. Therefore, he acknowledged that he violated APD GO 949.7.4 Required Reporting of Overtime and LERE Hours Worked. While Detective Duran offered that he had an unforeseen financial hardship arising due to circumstances beyond his control that motivated his excessive over time work, he nonetheless indicated this did not excuse him for not adhering to policy by seeking authorized approval, nor his failure to properly document his overtime hours.

By these actions, Detective Duran 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 949.7.3(a)(b): Secondary Employment: Limitations on LERE Hours Worked**
- **949.7.3(a)(b) Limitations on LERE Hours Worked**
 - (a) Employees shall not work more than 16 hours of any combination of regular duty department overtime, or LERE hours within a consecutive 24-hour period without the approval of a lieutenant or above for sworn employees, or the employee's supervisor/manager for civilian employees.
 1. A 24-hour period is any consecutive 24-hours, regardless of the time the work started.

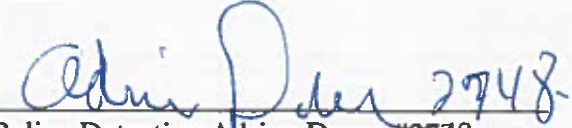
proper notice of appeal in accordance with Section 143.010 of the Texas Local Government Code.

By copy of this memo and as required by Section 143.057 of the Texas Local Government Code, Detective Duran 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.

 #2441
BRIAN MANLEY, Chief of Police
AC Henderson BEHALF OF CHIEF MANLEY
Date 02/08/21

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.

 2748
Police Detective Adrian Duran #2748
Date 3-8-21