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## MEMORANDUM

### Austin Police Department *Office of the Chief of Police*

**TO:** Joya Hayes, Director of Civil Service

**FROM:** Joseph Chacon, Interim Chief of Police

**DATE:** August 27, 2021

**SUBJECT:** Temporary Suspension of Police Officer Justin Scott #8224  
Internal Affairs Control Number 2021-0318

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 Justin Scott #8224 from duty as a City of Austin, Texas police officer for a period of ONE (1) days. The temporary suspension is effective beginning on August 28, 2021 and continuing through August 28, 2021.

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

On March 6, 2021, while on patrol duty, Officer Justin Scott was dispatched to a “Crash Hot Shot” between the 1000 and 1400 block of East Anderson Lane. While traveling on the inside shoulder of the roadway to reach the scene, and intermittently using his lights and siren, Officer Scott caused a minor crash by driving too close to a Home Depot truck. Specifically, Officer Scott drove his patrol car close enough to the truck to strike its driver side mirror with his patrol unit’s passenger side mirror.

Despite the collision, Officer Scott continued to the original call for service. Officer Scott did not make contact with the driver of the truck and he did not immediately notify his supervisor.

After completing his responsibilities at the dispatched incident, Officer Scott returned to his sector and notified his immediate supervisor of his collision with the Home Depot truck. This notification prompted the supervisor to initiate an investigation into the collision, including locating the driver of the Home Depot truck. Ultimately, the crash investigation showed the APD patrol unit’s passenger side mirror sustained damage, while the other vehicle did not sustain any damage. Furthermore, no injuries were sustained. Officer Scott’s actions, including his failure to immediately stop and exchange information with the other driver and notify a supervisor, were referred to Internal Affairs for investigation for any violations of APD General Orders.

Officer Scott advised Internal Affairs investigators that he was immediately aware that he was involved in, and at fault in, the collision with the Home Depot Truck. Despite these facts, Officer Scott admitted that he did not think to notify a supervisor right away. Moreover, he acknowledged that he failed to immediately stop, as required by state law, to exchange information with the driver of the Home Depot truck. Officer Scott also admitted that he violated APD Policy 804.2(a), *General Operations of Department Vehicles*. Officer Scott explained his response, stating, “*Cause in the manner that I drove the vehicle I obviously was involved in a collision. That was my fault.*”

Officer Scott stated if he encountered this situation again, he would handle it differently:

*“Main thing is I woulda got on the radio given that circumstance. Obviously I was in a roadway or an area that was more open and maybe the crash wasn’t a bad crash it was a fender bender or whatever then I would have put that as not of high a priority as dealing with my incident that occurred. But if I could relive that thing over that whole scenario over again the main thing especially after watching the video is just letting my supervisor know over the radio. Just slipped my mind unfortunately. But I had all intentions the whole entire time even when my back-up eventually came my first words to him were that I hit my mirror and needed to call my Corporal. So I wasn’t trying to be sneaky or anything. I was just I was gonna wait ‘til the crash was over to do it.”*

By these actions, Officer Scott 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 804.2(a): Department Vehicles: General Operation of Department Vehicles**

**804.2(a) General Operation of Department Vehicles**

- (a) Employees will operate Department vehicles in a careful and prudent manner within the guidelines of the law and Department General Orders. Unsafe or negligent driving is prohibited.
  - 1. Vehicles will be operated in such a manner and at a rate of speed that the driver, by use of ordinary care, can avoid colliding with another vehicle, object, or person.
  - 2. Employees will wear a seatbelt in the front or back seat while operating or riding inside of a Department vehicle unless there is an operational, tactical, or medical need to be unsecured.

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

**900.1.1(b) Responsibility to Know and Comply**

The rules of conduct set forth in this order 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.

- (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.

By copy of this memo, Officer Scott 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, Officer Scott is hereby advised that such provides for an appeal to an independent third party hearing examiner. 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.

In addition, if this disciplinary suspension is for three (3) days or less, Officer Scott is advised of the following provisions of Article 18, Section 1, of the Meet and Confer Agreement:

*The parties agree that when an officer is suspended for 1, 2, or 3 days the officer may choose one of two methods of dealing with the suspensions as listed below.*

- a) **Suspensions that may not be appealed.** *The officer may choose to use vacation or holiday time to serve the suspension with no loss of paid salary and no break in service for purposes of seniority, retirement, promotion, or any other purpose. The officer must agree that there is no right to appeal if this method of suspension is chosen.*
  
- b) **Suspensions that may be appealed.** *The officer may appeal the suspension to arbitration or the Civil Service Commission. If the officer chooses to appeal the suspension, the arbitrator or Civil Service Commission's authority is limited to ruling on whether or not the charges against the officer are true or not true. If the arbitrator or Civil Service Commission finds the charges to be true, there is no authority to mitigate the punishment. If the arbitrator or Civil Service Commission finds the charges to be not true, the officer shall be fully reinstated with no loss of pay or benefit.*

**Arbitration Costs on Appealable Suspensions**

*In the event that an officer appeals a 1, 2 or 3 day suspension to arbitration, it is agreed that the party that loses the arbitration shall be responsible for all costs of the arbitrator, including travel and lodging if necessary.*

*To facilitate such payment on the part of the officer he shall submit, at the time of appeal, a signed payroll deduction agreement that if the arbitrator rules in favor of the City he authorizes up to one hundred dollars (\$100.00) per month to be deducted from his regular pay until such time as what would usually be the City's portion of the arbitrator's costs have been satisfied.*

(For)  3851  
JOSEPH CHACON, Interim Chief of Police

  
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) 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.

Justin Scott #8224  
Police Officer Justin Scott #8224

08/27/2021  
Date