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## MEMORANDUM

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

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

**FROM:** Brian Manley, Chief of Police

**DATE:** February 21, 2020

**SUBJECT:** Agreed Suspension of Police Detective Frank Wilson #5382  
Internal Affairs Control Numbers 2019-1032

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 agreed to temporarily suspended Police Detective Frank Wilson #5382 from duty as a City of Austin, Texas police officer for a period of sixty (60) days. The temporary suspension is effective beginning on February 22, 2020, and continuing through April 21, 2020.

I took this action because Detective Wilson 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 Detective Wilson in violation of Rule 10:

On March 5, 2019, an APD officer took a report for a leaving the scene collision. The suspect vehicle was a silver Cadillac. The passenger in the vehicle was able to take a photograph of the suspect vehicle and license plate as the vehicle drove away. Both victims of the collision described the driver of the silver Cadillac as a white male, older in his 40's, bald shiny head, light facial hair, pale skin, and heavy set. This case was assigned to Detective Wilson on March 7, 2019 to investigate. On August 29, 2019, Detective Wilson submitted an affidavit to obtain a warrant of arrest for an individual (hereafter referred to as Mr. X) to Judge Garcia, Magistrate Court for the City of Austin. The warrant request was for Failure to Stop and Render Aid – 3<sup>rd</sup> degree felony. A warrant was issued by Judge Garcia for the arrest of Mr. X on September 4, 2019. Mr. X voluntarily surrendered on September 7, 2019, was booked into the jail, and released on bond the same day. Further review showed that Mr. X was not the suspect in this crime or any other crime. Detective Wilson was neglectful in his duties in that he failed to properly investigate the case and failed to document his actions, including the basis for the warrant. Of note is the fact that Detective Wilson had been issued a Conduct Counseling Memo (CCM) that he signed on August 21, 2019, related to his investigations. Furthermore, he was offered assistance by his immediate supervisor concerning his cases but declined the assistance.

By these actions, Detective Wilson 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 & 900.4.3: General Conduct and Responsibilities: Acts Bringing Discredit Upon the Department & Neglect of Duty**

**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.

**900.4.3 Neglect of Duty:** Employees will satisfactorily perform their duties. Examples of unsatisfactory performance include, but are not limited to:

- (a) Lack of knowledge of the application of laws required to be enforced.
- (b) Unwillingness or inability to perform assigned tasks.

(c) Failure to take appropriate action on the occasion of a crime, disorder, investigation or other condition deserving police attention.

(d) Failure to respond to any call or to perform any police duties assigned to them by appropriate authorities.

In addition to this agreed temporary suspension, Detective Wilson agrees to the following terms and conditions:

1. Detective Wilson 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 for which he is being suspended (the determination whether an act is the same or similar 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), he will be indefinitely suspended without the right to appeal that suspension to the Civil Service Commission, 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. The one year period begins on the day Detective Wilson returns to duty after completing his agreed suspension. Should Detective Wilson commit the same or similar violation outside the one year period, he will be indefinitely suspended but retains the right to appeal that suspension.
2. Detective Wilson 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.
3. Detective Wilson is currently a candidate on the Sergeant's Promotional Eligibility List. Detective Wilson agrees that his name shall be permanently be removed from that list and he is not eligible for promotion to Sergeant from that eligibility list.
4. Detective Wilson agrees that he may not sit for and is not eligible to take the next Sergeant's promotional examination.
5. Detective Wilson 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, Detective Wilson understands and agrees that I am forgoing my right to indefinitely suspend or recommend his demotion for the conduct described above and that by agreeing to the suspension, Detective Wilson waives all right to appeal to this agreed suspension (the additional terms and conditions are not subject to appeal) 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, Chief of Police

  
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 or recommend my demotion for the conduct described above and that by agreeing to the suspension, I have no right to appeal this disciplinary action (the additional terms and conditions are not subject to appeal) to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and I may not file a grievance under Article 20 of the Meet and Confer Agreement.

Frank Wilson #5382  
Police Detective Frank Wilson # 5382

2/21/20  
Date