



MEMORANDUM

The City of OKLAHOMA CITY Police Department

TO: Maurice Martinez, Sergeant Santa Fe Division
FROM: John Scully, Deputy Chief Operations Bureau / Metro
DATE: June 24, 2011
SUBJECT: Pre-determination Hearing Notification

An investigation has been conducted by the Oklahoma City Police Department arising from your actions while off-duty. The investigation resulted in multiple allegations of misconduct against you. The allegations are as follows:

- 1. S B was under your foster care beginning in July of 2006. You sexually abused S B at your home, in late August or September, 2006. B was 17 years-old at the time of the abuse. The sexual abuse was the act of you masturbating B.
2. You sexually abused your 16 year-old adopted son, E M, while in your home, located at 5222 S. Anderson Rd., in Oklahoma City, OK, between the dates of August 15, 2009 to October 31, 2010. S B witnessed you put your mouth on the penis of E M.
3. On January 20, 2011, your home, located at 5222 S. Anderson Rd., in Oklahoma City, OK, was secured by a search warrant to investigate the occurrence of criminal activity in the residence. Between January 20 and January 21, 2011, you conspired with Thomas Salazar to break into your home. This break-in occurred while the home was secured under a search warrant, and items in the home were removed and tampered with, which obstructed a criminal investigation into your conduct.
4. Custody of E M was taken from you on January 19, 2011, by court order in case number JD-2011-024, in Oklahoma County District Court. The court order directed you to have no contact with your children, directly or indirectly.

In violation of the court order on January 25, 2011, you were present and had contact with E M during a videotaped recording by E M, while E recanted allegations of sexual abuse against you. The direct contact took place in a Jack-in-the-Box restaurant, located at 7085 SE 29th, in Midwest City, OK.

Again, in violation of the court order, on or about April 11 or 12, 2011, you traveled to Tooele City, Utah and came into contact with E M. You then accompanied

Erin M. [redacted] on a trip to Las Vegas, NV with Simon Shaw, Tiffany, Sha [redacted] B [redacted] and Christina Toney.

5. Between the dates of March 18, 2011 and April 15, 2011, you interfered with a criminal investigation into your conduct by paying another individual to hide Erin M. [redacted] in Tooele City, Utah. You were aware Erin M. [redacted] was a necessary witness for criminal prosecution against you in the District Court for Oklahoma County.
6. Custody of L. M. [redacted] was taken from you on January 19, 2011, by court order in case number JD-2011-024, in Oklahoma County District Court. The court order directed you to have no contact with your children, directly or indirectly. On April 14, 2011, you were in contact with your adopted son L. M. [redacted] in the car you were driving, at the 7-11 store at 4861 SE 44<sup>th</sup> Street in Oklahoma City.

If these allegations are true, you may be in violation of the following City of Oklahoma City Personnel policies, OCPD policies, OCPD procedures, and OCPD rules, including but not limited to:

### POLICIES:

#### 205.0 STANDARD OF CONDUCT (Revised 9/95)

Success within the community is dependent upon each employee of the Oklahoma City Police Department exemplifying excellence, integrity, honesty and character. The combination of these traits should reflect the highest moral principles in all phases of public service. By uniting the integrity and commitment of each employee, the Oklahoma City Police Department shall reflect a positive image to the citizens.

It is the policy of the Oklahoma City Police Department to provide an employment and business environment free of disruptive, disorderly, abusive, discriminating, or harassing conduct, any unwelcome sexual advance or any other form(s) of verbal or physical conduct that would constitute sexual harassment as defined and prohibited by state and federal statutes.

The Law Enforcement Code of Ethics is adopted as a general standard of conduct for employees of the Oklahoma City Police Department. All employees of the Department shall adhere to the personnel rules and regulations of the City and the policies, procedures and rules of this Department.

#### 205.10 LAW ENFORCEMENT CODE OF ETHICS

As a law enforcement officer, my fundamental duties are to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my Department. Whatever I see or hear of a

confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it, as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.

#### 205.15 OATH OF OFFICE (Revised 2/03)

All personnel prior to assuming sworn status must take and subsequently abide by the following oath of office:

*I do solemnly swear that I will bear true allegiance to the Constitution of the United States, to the Constitution and Statutes of the State of Oklahoma, and to the Charter and Ordinances of the City of Oklahoma City.*

*I further solemnly swear that I will diligently discharge all orders and directions of the present, or future, Chief of Police of Oklahoma City, and other superior officers appointed over me according to the rules and regulations of the Oklahoma City Police Department.*

*I further solemnly swear that I will serve honestly and faithfully in the performance of my duties as a Police Officer and will accept my commission as a symbol of authority and a mark of service to the people of this community.*

#### 210.0 LOYALTY

In the performance of his duty to serve society, an officer is often called upon to make difficult decisions. He must exercise discretion in situations where his rights and liabilities and those of the Department hinge upon his conduct and judgment. An officer's decisions are not easily made and occasionally they involve a choice, which may cause him hardship or discomfort. An officer must be faithful to his oath of office, the principles of professional police service, and the objectives of the Department, and in the discharge of his duty he must not allow personal motives to govern his decisions and conduct.

#### 215.0 CONDUCT UNBECOMING A POLICE EMPLOYEE

A police officer is the most conspicuous representative of government, and to the majority of the people he is a symbol of stability and authority upon whom they can rely. An officer's conduct is closely scrutinized, and when his actions are found to be excessive, unwarranted, or unjustified, they tend to be criticized far more severely than comparable conduct of persons in other walks of life. Since the conduct of an officer or civilian employee, on or off-duty, may reflect directly



upon the Department, each police employee must at all times conduct himself in a manner which does not bring discredit to the employee, the Department, or the City.

### **230.0 INTEGRITY**

The public demands that the integrity of its law enforcement personnel be above reproach, and the dishonesty of a single Department member may impair public confidence and cast suspicion upon the entire Department. Succumbing to even minor temptation can be the genesis of a malignancy, which may ultimately destroy an individual's effectiveness and may contribute to the corruption of countless others. Each Department employee must scrupulously avoid any conduct, which might compromise the integrity of his fellow employees or the Department, and has the obligation to report the dishonesty of others.

### **250.0 ATTENTION TO DUTY**

As most police work is necessarily performed without close supervision, the responsibility for the proper performance of the employee's duty lies primarily with the employee himself. An officer carries with him a responsibility for the safety of the community and his fellow officers. He discharges that responsibility by the faithful and diligent performance of his assigned duty. Anything less violates the trust placed in him by the people and will not be tolerated by the Department.

### **RULES:**

#### **100.0 COMPLIANCE WITH POLICIES, PROCEDURES AND RULES**

All personnel of the Oklahoma City Police Department shall comply with the policies, procedures and rules contained within the Operations Manual.

Employees shall adhere to the Oath of Office, the Code of Ethics, all laws of the United States and the State of Oklahoma, and the Charter and Ordinances of the City of Oklahoma City.

#### **345.0 ON / OFF-DUTY CONDUCT**

Engaging in conduct on or off-duty which adversely affects the morale or efficiency of the Department, or which has a tendency to destroy public respect for the Department or its employees, or to destroy confidence in the operation of the police service is strictly prohibited.

### **CITY PERSONNEL POLICIES:**

#### **Article 1200 Separations and Disciplinary Actions Section 1203 -- Cause for Disciplinary Action or Termination**

Any action which reflects discredit upon the City of Oklahoma City is a direct hindrance to the effective performance of the municipal government function and shall be cause for discipline or termination.

Any discipline, including termination, given to employees covered by a collective bargaining agreement will be for cause. A department recommending termination of an employee must inform the employee of the reason(s) for termination and provide an opportunity to rebut any charges prior to taking final action.

Actions which may result in discipline or termination, include, but are not limited to, those listed below:

**Section 1203.01**

Violation of the Charter, Ordinances, administrative policy, rule, or regulation of the City, department, division, or work section.

**Section 1203.03**

Any conduct which is offensive, violates the common decency or morality of the community, or is unbecoming of a City employee.

**OPTIONS:**

You are entitled to a hearing to review your conduct. There are three options available to you:

First, you may appear before a Department Review Board. The Board will be conducted under the attached procedural guidelines and will be chaired by me. The Department Review Board will make findings of fact concerning the alleged violations. Following the Board's deliberation, I will submit a recommendation to the Chief of Police, who shall make the final decision. If you choose this option, you will be notified of the hearing date, time and location.

Your second option is, if you do not desire to appear before the Department Review Board, you may appear before me. This hearing will be conducted utilizing the same attached procedural guidelines. Following the hearing, I will make a recommendation I deem appropriate to the Chief of Police.

*If allegations are sustained, you are advised the appropriate disciplinary action could include a range of discipline up to and including termination of employment from the Oklahoma City Police Department.*

Third, if you wish to admit you violated the aforementioned policies, procedures and rules, you may waive options one and two. In this instance you may discuss the matter directly with the Chief of Police. Should you choose this option, you will be notified in writing of the date, time and location.

You may bring with you an employee representative, regardless of the option you choose.

**You must advise my office of your decision in writing, no later than 5:00 PM, July 1, 2011.**

For further information, you should refer to Procedure 160.10 DEPARTMENT REVIEW BOARD, (Revised 9/01).

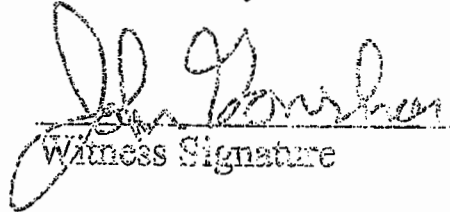
Attachments

### RECEIPT OF PRE-DETERMINATION HEARING NOTIFICATION

I acknowledge the receipt of the Pre-Determination Hearing Notification memorandum dated, 6/23/11, along with a copy of the Procedural Guidelines for the Department Review Board.

  
\_\_\_\_\_  
Employee Signature

6/23/11      1:00  
\_\_\_\_\_  
Date                      Time

  
\_\_\_\_\_  
Witness Signature

6/23/11      1:00  
\_\_\_\_\_  
Date                      Time

Attachment

## DEPARTMENT REVIEW BOARD PROCEDURAL GUIDELINES

The affected employee will be notified in writing of the date and time the Board is to convene and of the allegations to be heard by the Board. Such notification will be made at least 10 days prior to the convening of the Board, and will be in compliance with existing contracts.

The Board is the employee's opportunity to be heard and to be presented with and to respond to the Police Department's evidence. The Board will be conducted under the following general guidelines, which are listed in Procedure 160.10 DEPARTMENT REVIEW BOARD (Revised 9/01).

- A. The Board is an informal administrative hearing board and the rules of evidence prevailing in judicial proceedings are not binding. Any and all documentary, testimonial or other evidence deemed relevant may be received in evidence.
- B. The Board is an administrative board, which the employee has been ordered to attend, relating solely to the employee's performance, ability and fitness as an employee of the Department; statements, information or other evidence obtained solely from this proceeding cannot and will not be used against him in any subsequent criminal proceeding.
- C. The employee will be allowed to be present during the presentation of the Department's evidence, and be allowed to ask questions of the witness and/or to respond to any evidence presented.
- D. The employee will be allowed to present witnesses, documentation and other relevant evidence in his/her own behalf.
- E. Board members will be allowed to ask questions of witnesses with regard to any evidence presented.
- F. After the evidence has been presented, the Board will deliberate in executive session and make findings of fact in determining whether the allegations shall be sustained, not sustained, exonerated, or unfounded.
- G. The Board will report its findings to the Chief of Police in a confidential report. The Chief of Police shall make the final decision on the allegations and disciplinary action.
- H. The employee may appeal any action taken through either the Oklahoma City Personnel Grievance Procedure, the FOP Collective Bargaining Agreement, or the AFSCME Collective Bargaining Agreement, as appropriate.