CITY OF
TORRANCE

OFFICE OF THE CITY MANAGER

Aram Chaparyan
City Manager

Danny E. Santana
Assistant City Manager
310/618-5880
DSantana@TorranceCA.Gov

October 4, 2022

Officer Brian Kawamoto
[redacted]

RE: LETTER OF FINDINGS

Dear Officer Kawamoto:

Upon the authority of the City Manager, I am the designated Administrative Conference Chair in this matter. The purpose of this letter is to inform you that I concur with the recommendation of the Police Chief that you should be terminated. Your termination is effective October 4, 2022.

I. AUTHORITIES UPON WHICH THE DISCIPLINE IS BASED

I concur with the Chief's recommendation that your employment be terminated based on your violation of the following rules, regulations, orders, and/or policies, any of which, standing alone, or in combination with any other, would be sufficient to warrant your termination:

A. RULES THAT APPLY REGARDLESS OF DATE CONDUCT OCCURRED

1. Torrance Municipal Code, Chapter 4, Article 47, Section 14.47.1

A department head, with approval of the City Manager, for misconduct, incompetency, inefficiency, failure to perform duties or to observe the rules and regulations of his [or her] department or of the City: c) May discharge any such employee.

2. Law Enforcement Code of Ethics, Policy 104

I WILL keep my private life unsullied as an example to all…

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.

3. City of Torrance Anti-Harassment Policies, Procedures, Protocols, and Events

a. 34.10a- Protected Classifications

> …Harassment can consist of virtually any form or combination of verbal, physical, visual or hostile work environment conduct. It need not be explicit, nor even specifically directed at the victim…

b. 34.10d- Visual or Written Harassment

> The display or circulation of offensive or derogatory visual or written material related to race, religious creed, color, national origin, ancestry, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age for individuals over 40 years of age, military and veteran status, and sexual orientation. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.

c. 134.05- Anti-Harassment Procedure

> All persons shall immediately report any evidence of discriminatory harassment or complaints regarding sexual harassment made to them or which they have directly observed, whether or not reported by the employee who is the object of the harassment to their supervisor, manager, or to the Human Resources Division…

d. 134.15- Employees' Responsibilities

> Report any conduct which fits the definition of discriminatory harassment to their immediate supervisor or appropriate authority figure.

B. RULES APPLICABLE TO CERTAIN CONDUCT OCCURRING ON OR BEFORE APRIL 7, 2019

1. General Order 1.10 – Policing Philosophy

a. 1.10.3(B)- Service to the Community

The rules and regulations of the Department regarding police service in general, and public contact specifically, shall be as follows:

2. A police department employee shall maintain a professional attitude and demeanor that will not in any manner communicate any personal prejudices.

4. Members of the Department shall avoid behavior which would tend to bring about criticism of the Department. Conduct, whether on or off duty, shall be such as to merit the respect and confidence of the public.

2. General Order 2.01.1(A) – Employee Rules and Regulations

It is the duty of all employees to familiarize themselves with and abide by Department rules and regulations. Employees who fail to comply are subject to disciplinary action up to and including termination. Department employees shall:

4. Conduct themselves in a manner that does not create a conflict of interest with or is detrimental to the Department.

3. General Order 2.33 – Social Media

a. 2.33.1(D)- Prohibited Speech, Expression, and Conduct

To meet the Department's safety, performance, and public-trust needs, the following is prohibited unless the speech is otherwise protected…:

2. Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Torrance Police Department and tends to compromise or damage the mission, function, reputation, or professionalism of the Torrance Police Department or its employees.

3. Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination, or illegal behavior.

5. Speech or expression that is contrary to the Mission Statement or Core Values of the Torrance Police Department.

C. RULES APPLICABLE TO CERTAIN CONDUCT OCCURRING ON OR AFTER APRIL 9, 2019

1. Standards of Conduct (General Standards) Policy 319.4

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California Constitutions and all applicable laws, ordinances and rules

enacted or established pursuant to legal authority. Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

2. **Standards of Conduct (Causes for Discipline) Policy 319.5.1(a) – Laws, Rules and Orders**

   (a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in department or City manuals.

3. **Standards of Conduct (Performance) Policy 319.5.7(i) – Actions that Discredit Torrance Police Department**

   Any act on or off duty that brings discredit to this department.

4. **Standards of Conduct (Conduct) Policy 319.5.8**

   (f) Discourteous, disrespectful, or discriminatory treatment of any member of the public or any member of this department or the City.

   (g) Use of obscene, indecent, profane, or derogatory language while on-duty or in uniform.

   (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency, or morale, or tends to reflect unfavorably upon this department or its members.

5. **Employee Speech, Expression, and Social Networking Policy 1021.4 [1]-- (Prohibited Speech, Expression and Conduct)**

   (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Torrance Police Department and tends to compromise or damage the mission, function, reputation or professionalism of the Torrance Police Department or its employees.

   (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.

[1] From January 14, 2020 – May 5, 2020, this policy was re-numbered as 1022.4. All text remained identical.

(e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Torrance Police Department.

II. FACTS SUPPORTING THE CHARGES

Between February and March 2020, detectives from the Torrance Police Department (TPD) conducted an investigation into a vandalism report filed by an individual whose vehicle was vandalized in the process of being impounded. Detectives determined that two TPD officers - Cody Weldin and Christopher Tomsic - were suspects for the vandalism. On March 3, 2020, the investigation was reassigned to Crimes against Persons Sergeant J. Masalcas who was assisted by Special Investigations Unit Sergeant J. Taylor. During Sergeant Masalcas' investigation, he obtained a search warrant for the contents of the personal cellphones of Weldin and Tomsic. Upon the successful extraction of information from the phones, Sergeants Masalcas and Taylor found evidence implicating both officers in the vandalism incident. Detectives submitted the completed criminal investigation to the Los Angeles District Attorney's Office and requested the filing of criminal charges on both officers.

On or about August 16, 2021, the Los Angeles County District Attorney's Office ("LADA") notified TPD that concerning electronic messages were discovered on officers' cellphones. Allegedly, multiple TPD officers exchanged these concerning electronic messages. The LADA's analysis revealed approximately 390 messages containing or referencing discriminatory topics, including but not limited to anti-Semitic, racist, homophobic, and transphobic remarks. The LADA identified you as one of the officers involved in the exchange of these messages. TPD subsequently opened an administrative investigation into the LADA's concerns.

The data revealed that during the period from approximately March 2019 through February 2020, while both on and off duty, you sent or interacted with (for example, by 'liking', commenting upon, or otherwise reacting to) approximately sixteen text messages that contained biased, discriminatory, racially/ethnically insensitive, and otherwise inappropriate text messages to other members of TPD. The texts were as follows:[2]

3/25/2019	Officer Cody Weldin texted you saying he "Just had a shooting". You responded, "Fuck" and "I trust y'all have them moon crickets in custody in no time!"
4/19/2019	You sent a YouTube video titled "MeowMewNig" to Officers Weldin and Tomsic, where the person in the video yells, "*meow meow nigga*".

[2] I agree that this does not represent an exhaustive list of the text messages that you exchanged or that are inappropriate on multiple levels. This is however a list of messages that were most clearly inappropriate and in which you actively participated.

4/19/2019	You sent a YouTube video titled "The cat behind the slaughter" which depicts photos of sets of cats with multiple uses of the "N" word to describe each set based on their characteristics.
5/2/2019	Officer Weldin texted you saying "If it's any consolation, I like sober 'beating-up-savage monkeys' Brian, and I also like drunk 'hood-rat-shit-with-my-friends' Brian". You replied, "Well I appreciate that lol"
7/18/2019	Officer Weldin texted you a photo of a small Black child in a fish tank, with the caption "Pet niguana $50 Detroit, MI (48202) This must go. Today. HMU," with a comment, "Brian, looks like a pet monkey can be affordable for you." You replied, "Oh Omar lol," "I mean Christopher." And shortly after followed up with, "Hahahaha … the best part is she didn't learn it from me!"
9/10/2019	You texted Officers Weldin, Tomsic, and Alonso a photo of coffins saying, "This is from the coffin display at rice mortuary. Look at the one on the bottom." Weldin responded, "For all them nigglets we put down." You then replied, "Haha yeah. I got a water heater box that's just as good I can sell you for half the price if you're interested though."
9/12/2019	Officer Weldin texted you and Officers Tomsic and Alonso a cartoon that referenced racial stereotypes and depicted a Black male stabbing a white female and stealing her purse. You responded with a gif of the actor Jack Nicholson laughing.
10/7/2019	Officer Weldin texted you a video involving different photos of Johnny Depp, where the narrator uses the "N" word to describe each photo. The "N" word is used over a dozen times in the video. You replied, "Johnny has a lot of hits."
10/12/2019 (on-duty)	You sent a photo to Officers Tomsic, Weldin, and Alonso saying, "I, (and a ninja face in the shape of a heart) ninjas." On the photo the "n" and the "j" are crossed out and below them is a double "g" handwritten in to spell out the word "nigga." Weldin responded "my man" and you reply, "Hahahaha, never pass up an opportunity like dat."
10/18/2019 (on-duty)	Officer Weldin texted you and Alonso "Got this nigga". You 'liked' the text.
11/5/2019	You texted Officer Weldin saying, "Nigga C-dub, you need anything for your party? Should be available, my nigga…"
11/10/2019	You texted Officer Weldin, "Nigga, you got Netflix?"
11/19/2019	You texted Officer Weldin, "Happy birfday, nigga!" Weldin responded, "Just making sure you don't go to that location due to the fact they have 7 fewer

	employees now to serve up some spicy chicken sandwiches." You texted back, "Good call. What's the game plan for your birthday?" Weldin responded, "Make money, beat niggas." To which you replied, "I know nothing puts a bigger smile on yo grill."
11/21/2019	Officer Weldin texted you, "Happy Birthday big nigga. Hope yo day is filled with collard greens, fights over the last Popeyes spicy chicken sandwich, and all the government cheee yo big black heart desires." You texted back, "I appreciate it, brotha. The seal on the henny is already broken!"
12/24/2019	You texted Officers Tomsic, Weldin, and Alonso a photo with a star, a Christmas ornament, a candy cane, and a picture of an African American person. The image title stated, "Which one doesn't belong?" and at the bottom of the image stated, "That's right. You don't hang the star." You sent an additional text message that read, "Happy Kwanza."
2/17/2020	You texted Officer Weldin stating, "I believe the word I used was "unruly mob" followed by "You can't say savages in a report lol."

Investigators interviewed you on April 1, 2022. You admitted that you sent electronic communications, including texts and photos, which include discriminatory content based on race, ethnicity, religion, and/or sexual orientation to Officers Alonso, Weldin and Tomsic. You also admitted you received electronic communications, including texts, WhatsApp messages, and photos, which include discriminatory content based on race, ethnicity, religion, and/or sexual orientation from Officers Weldin and Tomsic. After receiving the inappropriate text messages, you did not speak out against or otherwise report the behavior to a superior.

Regarding the 3/25/2019 text message listed above, you admitted that the term "moon crickets", which you said that you learned when you attended a cultural awareness training, is a phrase used to refer to Black individuals that could be disparaging. You stated that even though you did not know the race of the individual involved in the shooting, based on your use of the term "moon crickets" you may have been stereotyping that the individual involved in the shooting was Black.

Regarding the 5/2/2019 text message listed above, you also admitted that the phrase "beating up savage monkeys" appeared to you to refer to beating up Black people, which you interpreted as "predatory, unruly Black people or whatever." Specifically, you stated that the use of the term "monkeys" led you to believe that Officer Weldin was referring to Black people. You admitted that the message was not appropriate, even if used jokingly, and could be disparaging to Black people.

In the interview, the investigator also discussed with you several messages that utilized the "N" word. You admitted that oftentimes you and certain coworkers would use the word "Ninja" as a play on words, instead of using the "N" word because the "N" word can be

offensive. You also admitted that you received departmental training on cultural diversity, and that you understood the "N word" is inappropriate, offensive, and should not be used professionally. Notwithstanding your training, you stated that the "N" word was used colloquially and as a term of endearment (akin to "brother" or "man"), and that in context, you took it as a joke. You stated that you did not know at the time that you were doing something wrong and/or violating applicable policies.

One exception was regarding Officer Weldin's use of the term "nigglets," which you assumed referred to Black children. You stated that you felt that term was offensive even when you initially received the text from Weldin, but you did not report it to anyone. You also acknowledged that with regard to the 11/21/2019 text sent by Weldin, "[i]n hindsight, I probably should have [reported it]. As the older guy, as a senior officer, I should have said something to him. It didn't personally offend me, so I just let it ride and I shouldn't have, sir."

In reference to the 9/12/2019 text message cartoon depicting a Black male stabbing and robbing a white female, you admitted your perception of the cartoon was to affirm "the stereotype's true that Black people commit crimes". You admitted that while it is potentially offensive to a lot of people, you did not report or attempt to curtail it because it was not personally offensive to you.

Regarding the 12/24/2019 meme comparing a Black person to winter holiday decorations that you "hang", you admitted to sending the photo because you thought the others receiving the text "might find it funny", even though you understood that the premise of the meme was a reference to lynching.

III. ANALYSIS

In *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194, the California Supreme Court stated that the "overriding consideration" when addressing whether a public employer has imposed an appropriate level of discipline is "the extent to which the employee's conduct resulted in, or if repeated, is likely to result in, 'harm to the public service.'" (*Id.* at 218.) "Other relevant factors include the circumstances surrounding the misconduct and the likelihood of its recurrence." (*Id.*) In your particular case, the principles set forth in *Skelly* amply support your proposed discipline. In fact, the period between April 2019 and February 2020 establishes an ongoing pattern of misconduct and policy violations.

A. YOU ENGAGED IN INEXCUSABLE MISCONDUCT

Your involvement in discriminatory text messaging with other TPD officers demonstrates a lack of sound decision-making and unbecoming conduct that calls into question your fitness for duty as a police officer. You sent, received, and otherwise interacted with/responded to over a dozen blatantly discriminatory text messages from other members of TPD over the course of eleven months. By your own admissions, these messages were offensive, inappropriate, and unprofessional. You referred to Black people as "savage monkeys", used the "N" word in conversation with your colleagues, and laughed at "jokes" involving the violent, extrajudicial execution of Black people.

The casual use of these discriminatory terms between you and the other officers indicates that this type of conduct was not unusual between you. Such racist language has no place in this Department. Whether or not you intended these messages as "jokes" does not exempt them from the City's harassment policies. In fact, the policy clearly defines visual/ written harassment as "The display or circulation of offensive or derogatory visual or written material related to race, religious creed, color, national origin, ancestry…" among other protected classifications, and expressly enumerates "cartoons, drawings, … computer graphics or electronic transmissions."

The content of the text messages in question here clearly falls within these parameters. By engaging in these messages, you engaged in inappropriate speech and unprofessional conduct in violation of multiple City policies, including Policy Nos. 319.5.1(a), 319.5.7(i), 319.5.8(f),(g), (m), and 1021.4(b) and then-current General Orders 1.10.3(B), 2.01.1(A), and 2.33.1(D). This conduct also violated the City's Anti-Harassment Policy. Once again, by your own admission, you should have reported the discriminatory messages you received from a fellow officer as soon as you received them.

This Department relies on its officers to uphold the highest standards of conduct to maintain positive relationships and preserve the trust we have with the community we serve. You demonstrated bias here that erodes that trust and smears the reputation of this Department. This Department already experienced the damage to its reputation when the news media published what were then unverified accounts of these text messages starting in August 2021. Now that the investigation has substantiated at least some of the allegations, the breach in community trust is cemented.

B. YOUR MISCONDUCT WARRANTS TERMINATION OF YOUR EMPLOYMENT

Peace officers are held to the highest standards of conduct. (See, e.g., *Ackerman v. State Personnel Board* (1983) 145 Cal.App.3d 395, 440. Your conduct in this case causes irreparable harm to the public service and reveals that you are unfit to serve as a peace officer.

Torrance Police Department Policy 401.2 notes that it is the policy of this Department to serve the community equally, fairly, and objectively in both the enforcement of the law and provision of law enforcement services. Policy 401.3 strictly prohibits bias-based policing. These provisions are consistent with the growing number of laws being enacted by the California Legislature that also aim to curtail bias in peace officers. Notably, SB 2[3] modifies the definition of "serious misconduct" to include at a minimum, "Demonstrating bias on the basis of any legally protected status, in violation of law or department policy, or in a manner inconsistent with a peace officer's obligation to carry out their duties in a fair and unbiased manner".

Though you stated in your administrative interview that you are not biased against Black individuals, based on the record of text messages you sent, received, and responded to, coupled

[3] Penal Code Section 13510.8(a)(5).

with your own admissions that you sent and received discriminatory messages, your assertion is unreliable at best, and dishonest at worst. As a result, I concur with the Police Chief that the public and the Department can no longer rely on your fitness to serve in a bias-free manner. I further concur with the Chief that serious concerns now exist that there are discriminatory motivations behind all your actions, which could open the Department to liability, and subject innocent members of the public to unfair treatment due to your own personal prejudices. You and certain other officers openly discussed, in dehumanizing terms, beating up and even killing Black individuals, and found humor in racial stereotypes and lynchings.

It is self-evident that messaging like that which you participated in is inconsistent with peace officer employment. You also admitted that you already received cultural awareness training covering this type of conduct, including use of the "N" word, and that your takeaway from the training was, "In a nutshell, it is offensive and shouldn't be used professionally." Notwithstanding the training, you proceeded to engage in discriminatory messaging on numerous occasions throughout an eleven-month period, including making "jokes" at the expense of Black people and perpetuating racial stereotypes. Sadly, you admitted that you actually learned one of the racially inappropriate terms you used- "moon crickets"- *by attending this very cultural awareness training*. This amply demonstrates that lesser disciplinary measures, such as trainings, are inadequate under the circumstances.

Furthermore, the content of these messages damages your credibility as a witness and therefore your usefulness as an officer. An officer who lacks the ability to be a credible witness is unable to perform one of the essential functions of the job, i.e., to testify truthfully and competently in a court of law. Because the records of an officer's bias are potentially discoverable pursuant to a *Pitchess* motion under Evidence Code sections 1043-1045, and even potentially pursuant to a Public Records Act request under Penal Code section 832.7(b)(1)(D), it is reasonable to conclude that your conduct renders you ineffective as a prosecution witness.

In sum, you have breached the public's trust and I concur with the Police Chief that you can no longer be counted on you to engage in professional conduct or to act in an unbiased-manner when carrying out your duties, and that termination is therefore the appropriate level of discipline. You have demonstrated a willingness to engage in inappropriate, unprofessional, and offensive conduct despite admittedly knowing it was a violation of your training.

IV. WORK HISTORY

You were hired by the City on November 17, 2014 as a Police Officer. Your last performance review indicates that your performance has been rated as "outstanding".

V. DISCIPLINARY RECORD

No discipline on file.

VI. EMPLOYEE'S RESPONSE AND ADMINISTRATIVE CONFERENCE CHAIR ASSESSMENT

An in person administrative conference was held on this matter on September 7, 2022. You, your attorney, Maurice Sinsley of the Law Offices of Stone Busailah, LLP, Police Chief Jeremiah Hart, Lt. Charles Fisher and Senior Human Resources Analyst Robert Weinmeister, were all in attendance. At the administrative conference, I offered both you and your attorney an opportunity to provide me with additional information to consider before making my decision. Your attorney provided me with a document entitled *Police Officer Brian Kawamoto - Response To Proposed Dismissal*, which set forth your position regarding this matter. The letter also included several attachments, including performance evaluations and reviews, commendations, and thank you letters from residents and others.

Mr. Sinsley made a number of contentions which began with challenging the warrant that was associated with the origin of the text messages and his concerns that the Police Chief and the Torrance Police Department violated the California Electronic Communications Act. However, my understanding is that all of the arguments raised by Mr. Sinsley were set forth in a Motion to Suppress which was recently denied in its entirety by the Court in *Anthony Chavez, et al. v. Torrance Police Department (Case No. BH014005* Memorandum of Decision). A true and correct copy of the Memorandum of Decision is attached hereto as Attachment A and incorporated by reference herein. In summary, the Court found that Penal Code section 1546.4 does not require suppression of the evidence in this matter, that the search warrant at issue did not violate section 1546.1(d)(1), that the Department's pending administrative investigation does not violate section 1546.1(d)(2), and that the City did not violate Judge Carter's order by reviewing messages or providing the messages to the DA's office. The Court also ruled that Attorney Corey Glave was not entitled to the return of his attorney-client communications which were captured in the search warrant data.[4]

I reviewed the letter and all of the documents presented by Mr. Sinsley in detail. Even if the terms "savages", as used in your 2/17/2020 text to Officer Weldin, is somehow not linked to any protected class (unless, by your admission, used with a qualifier such as "monkeys"), that does not change the fact that you sent and/or responded to numerous other discriminatory messages. Likewise, your own background as a mixed-race individual is not an "extenuating circumstance" that in any way mitigates your conduct; jokes based on racial stereotypes, slurs, and lynchings are not made less offensive by the race of the person making the reference. I therefore am unpersuaded that the recommended termination should be mitigated or overturned.

VII. ADMINISTRATIVE CONFERENCE CHAIR FINDING

Officer Kawamoto, I am wholeheartedly disappointed as the Administrative Conference Chair in rendering this decision in a case involving a Torrance Police Department Police Officer

[4] It should be noted that the Administrative Conference Chair did not rely upon any attorney-client privileged communications in making the decision to terminate your employment.

receiving and responding to discriminatory messaging as well as failing to report discriminatory messaging. In your role as a police officer, the City and the public entrusted you to follow the regulations and policies of the Torrance Police Department, and the City of Torrance. All members of the public, no matter, their race, religion, creed or sexual orientation (among other protected classifications), rely on police officers for assistance in emergencies and life-threatening situations. Your engagement in the above-described behavior calls into question your ability to deliver such services in an unbiased manner. You betrayed the trust placed in you as a Police Officer and displayed a blatant disregard of your duty to uphold values so paramount to law enforcement and basic human dignity. As a Police Officer, you swore to protect and serve not just select members of the Torrance community, but the entire community, all differences aside. Your conduct is unacceptable and unbecoming of a Police Officer. Therefore, I concur with the recommendation of the Police Chief that you be terminated from employment as a Police Officer effective October 5, 2022.

VIII. ATTACHMENT

Attachment A: *Anthony Chavez, et al. v. Torrance Police Department, Case No. BH014005* Memorandum of Decision

IX. APPEAL RIGHTS

You have the right to appeal this decision to the Civil Service Commission pursuant to Section 14.47.8 of the Torrance Municipal Code. A request to have this matter reviewed must be submitted to Ms. Brianne Cohen, Civil Services Manager, in writing within ten (10) days of the date of this letter.

Sincerely,

Danny E. Santana

cc: Jeremiah Hart, Police Chief
Martin V. Vukotic, Captain – Special Operations Bureau Commander (Acting Chief)
Hedieh Khajavi, Human Resources Manager
Brianne Cohen, Civil Services Manager
Maurice E. Sinsley, Attorney for Employee