



Memorandum

To: Commander Michael McIntosh
Cc: Professional Standards Initial Investigation
From: [REDACTED]
Date: August 12, 2020
Re: Off Duty Behavior by OIT Garcia

On August 12, 2020 I, [REDACTED], was asked by [REDACTED] to speak with him in reference to OIT Garcia and conduct that occurred during his off days that he needed to report.

[REDACTED] was asked to meet with me at the PD to discuss OIT Garcia's conduct. [REDACTED] is currently the FTO for OIT Garcia. At the beginning of their shift OIT Garcia divulged that during his off days he was checking emails and found that he had been granted access to Accurint and Lumen. While OIT Garcia was at home and on a non PD computer he entered Lumen. OIT Garcia advised he wanted "practice" to see how the system worked and he did a search of himself and his ex-girlfriends, receiving results for both. OIT Garcia advised that he stopped when he realized the searches were wrong to do.

[REDACTED] continued and told me OIT Garcia told him that he also visited an Asian message parlor in our city. He paid using his own money and nothing sexual occurred. The masseuse did however touch his buttocks.

During their time together [REDACTED] had mentioned to OIT Garcia about a possible future investigation at [REDACTED] (possible prostitution). OIT Garcia advised that he went in looking for cameras, condoms in the trash and other things that could assist with an investigation. [REDACTED] told me that he never directed or gave OIT Garcia the idea that he should visit the establishment on his off time.

[REDACTED] provided me with the following memo, which reads as follows:

To: [REDACTED]

Date: 08/12/2020

Re: OIT Garcia

[REDACTED],

The purpose of this memorandum is to document behavior committed by OIT Garcia as reported to me by OIT Garcia. On 08/12/2020, at approximately 1200 hours and beginning of shift, OIT Garcia told me he received access to Lumen and Accurint over his days off. OIT Garcia said, in order to get "practice," he logged into Lumen and conducted a search of both himself and his ex-girlfriend. OIT Garcia said he stopped because he realized it was wrong.

OIT Garcia further told me on his days off between 08/06/2020 and 08/12/2020 he, without direction or approval, went to the [REDACTED] located in Louisville CO. OIT Garcia paid out of pocket with his own money to receive a massage with prior knowledge that the parlor was under investigation for possible prostitution. OIT Garcia detailed how he checked for cameras, looked in trash bins, and spoke about his massage with me. OIT Garcia did not describe anything amounting to a criminal act.

I spoke with OIT Garcia about the policy violation of conducting CCIC/NCIC and other law enforcement database searches outside the scope of his duties. OIT Garcia and I also spoke about off duty conduct, liability, and his status as an officer in training.

Sincerely,

[REDACTED] (End of Memo as written)

OIT Garcia violated several polices of the Louisville Police Department to include but not limited to:

102.5 CANONS OF ETHICS

STANDARD 4.4 Law enforcement officers shall maintain a level of conduct in their personal and business affairs in keeping with the high standard of the peace officer profession. Officers shall not participate in any incident involving moral turpitude.

STANDARD 4.8 Law enforcement officers shall not engage in any activity which would create a conflict of interest or would be in violation of any law.

STANDARD 4.9 Law enforcement officers shall at all times conduct themselves in a manner which does not discredit the law enforcement officer profession or their employing agency.

319 STANDARDS OF CONDUCT

319.2 POLICY

The continued employment or appointment of every member of the Louisville Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

319.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and Colorado 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.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

319.5.1 LAWS, RULES AND ORDERS

Violation of federal, state, local or administrative laws, rules or regulations.

319.5.2 ETHICS

g. Any other failure to abide by the standards of ethical conduct.

319.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

a. Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this department.

c. The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief of Police or the authorized designee.

319.5.8 PERFORMANCE

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

319.5.9 CONDUCT

- 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.

320.4.4 OFF-DUTY USE

Members shall only use technology resources provided by the Department while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email or any other "off the clock" work-related activities. This also applies to personally owned devices that are used to access department resources.

805.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Louisville Police Department policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

It is my belief that we should conduct a Class 1 Professional Standards Investigation immediately against OIT Garcia as his conduct does not uphold our Mission, Essence, Values or Philosophy for the Louisville Police Department.

This investigation should include obtaining the information that OIT Garcia obtained while accessing Lumen. [REDACTED] should be able to access this information and verify that OIT Garcia only accessed information on himself and his ex-girlfriend. We should also interview OIT Garcia about his conduct.