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SFPD Statement Regarding Internal Affairs Investigation

March 31, 2016 | 6:16 PM

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Yesterday, Chief Suhr received a letter from District Attorney Gascon confirming receipt of information provided by the Department to the District Attorney's Office in late 2015 related to the criminal investigation of Officer Jason Lai. Officer Lai was charged last Tuesday with six misdemeanor counts for unlawful access and/or use of criminal and motor vehicle data bases. The information delivered to the District Attorney's Office was uncovered by SFPD Internal Affairs Investigators during the investigation into the sexual assault allegation made against the officer while off-duty.

As part of that criminal investigation, the Department searched cell phone records of the involved members and determined that four of those members had sent text messages containing reprehensible racial and homophobic remarks. The Department acted immediately in suspending officers involved in these texts messages and referring the matter to the Police Commission for discipline up to and including termination.

Since that time, two of the members have separated from the Department. As stated above, Officer Jason Lai, has been charged with six misdemeanor counts for unlawful access and/or use of criminal and motor vehicle data bases. Lai still faces an administration investigation for violation of Department policies. The fourth

officer has an open case pending before the Police Commission where he faces discipline up to and including termination.

The investigation also revealed that three other officers had each received single questionable text messages from Officer Lai. These officers underwent an administrative investigation that determined that they had received a text message but did not send any questionable messages. The investigation concluded that there was insufficient evidence to bring charges against the officers.

Chief Suhr has been clear on his position that anyone who is capable of such behavior (sending and exchanging racist and/or homophobic text messages) clearly falls below the minimum standard for being a San Francisco Police Officer. Chief Suhr appreciates that the District Attorney supports his position on such conduct. Chief Suhr wants to reassure the public that upon discovery of these text messages, the Department took immediate action in removing the officers from public contact, bringing charges before the Police Commission and notifying the District Attorney's Office so that they could take appropriate steps in reviewing criminal case files.

Below is a letter sent to DA Gascon on the afternoon of March 31, 2016 regarding the investigation into the text messages:



EDWIN M. LEE
MAYOR

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO

HEADQUARTERS
1245 3RD STREET
SAN FRANCISCO, CALIFORNIA 94158



GREGORY P. SUHR
CHIEF OF POLICE

March 31, 2016

The Honorable George Gascón
District Attorney
San Francisco District Attorney's Office
850 Bryant Street
San Francisco, CA 94103

Dear DA Gascon: *GEORGE,*

I am in receipt of your letter dated March 30, 2016, in which you appear to confirm receipt of information provided to you by the San Francisco Police Department (Department) with regard to racist and homophobic text messages that surfaced during a criminal investigation involving San Francisco police officers. Rest assured, I am well aware of the text messages to which your letter refers.

Your letter rightfully demonstrates that the Department notified you in a timely manner of the alleged conduct to ensure the fair administration of justice. As I have repeatedly stated publicly, I have no tolerance for discrimination within my department, and I will fully investigate any allegation of racist or homophobic conduct or speech. As such, I initiated an immediate investigation into the incident you described in your March 30, 2016, letter on August 8, 2015.

Once the Department identified the officers involved, I immediately placed these officers on suspension. We repeatedly notified your office of the existence of the text messages on September 21, 2015, October 6, 2015, November 2, 2015, and in January 2016. For your information, these contacts and notifications are documented in the chronological record of investigation, as well as emails. Since the discovery of the text messages, two of the members involved in exchanging messages have separated from the Department, and two members are currently facing termination at the Police Commission level. As you are well aware, one of the members is also facing criminal charges brought by your office arising out of a separate, unrelated matter.

As background information, the Department became aware of the alleged racist and homophobic text messages through our criminal investigation of a sworn officer on August 8, 2015. On August 11, 2015, both our offices met to discuss the alleged criminal conduct. On September 21, 2015, the Department provided your office with the criminal investigative materials, including the text messages. Your office has been in possession of the text messages since that time.

On October 6, 2015, we provided you with a criminal case for one of the members and for another member on November 2, 2015. The files on both those cases contain the text messages. We also notified a member of your staff in early October 2015 that the Department was aware of certain text messages that could have administrative implications.

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In addition to providing your office with the information through the Department's criminal investigation process, your office was provided with the information through the Brady notification process. On October 16, 2015, and in January 2016, my Brady Unit notified your Brady Unit of pending Brady material. Once the Department's full Brady Committee has reviewed the cases, we will notify you of the Committee's final determination and provide all applicable materials to your office.

For you to suggest that you discovered the text messages through your own criminal investigation would be disingenuous. This is not new information as our offices have been working closely on this case with at least three members of your staff to ensure the fair administration of justice. My Department is fully committed to the fair administration of justice, and to that end, has provided information and materials relating to the allegations during this cooperative effort.

In your letter you make statements that warrant clarification. You stated "while your Internal Affairs Division (IAD) is aware of this conduct, I am notifying you to avoid the problem we had last year wherein you stated that IAD and members of your command staff did not notify you of the racist and homophobic text messages." While you fail to clearly articulate the case you refer to or to accurately describe the factual circumstances surrounding that incident, I would like to refresh your recollection regarding some key aspects of that case. First, that case stemmed from a Federal criminal investigation. Second, the Federal Government prohibited members of my Internal Affairs Criminal Unit from disclosing the information to anyone including me. I must stress that my command staff notified me immediately upon learning of the racist and homophobic text messages upon the conclusion of the Federal trial. Clearly, the factual situation which you claim prompted today's letter, is entirely different to the present case.

I have been very clear on where I stand with regard to demonstrated intolerance on the part on any of my officers. Such conduct clearly falls below the minimum standard required of a police officer and will not be tolerated. I appreciate your continued support of my position.

Sincerely,



GREGORY P. SUHR
Chief of Police

GS/ac/cf

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