

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Robert Sapien, Jr.

**SUBJECT: FIRE DEPARTMENT
INTERNAL AFFAIRS
INVESTIGATION OF INCIDENT
AT THE PINK POODLE**

DATE: April 25, 2023

Approved



Date

4/25/2023

INFORMATION

The City has been conservative with information regarding findings from the investigation initiated on October 7, 2022, involving an emergency response vehicle positioned in front of The Pink Poodle out of respect for the due process rights of involved personnel. In light of significant public inquiries related to the video published on social media on October 6, 2022, and subsequent investigation, the following provides additional information on the matter beyond my prior [memorandum](#) dated March 10, 2023.

On October 5, 2022, the crew assigned to a Fire engine company transported an unauthorized, male passenger from a fire station to his place of employment at The Pink Poodle located at 328 S. Bascom Avenue. The fire engine left the fire station at approximately 9:00 p.m. and arrived at The Pink Poodle at approximately 9:06 p.m.

While stopped in front of The Pink Poodle, an unauthorized, female climbed into the cab of the fire engine and requested a ride-along. The crew first declined to provide the female with a ride-along; however, she persisted and was driven partially around the block and returned to The Pink Poodle at approximately 9:10 p.m.

The fire engine departed The Pink Poodle at approximately 9:10 p.m. and traveled to an industrial area and stopped at 1111 Auzerais Avenue in the vicinity of AJ's Restaurant and Bar at approximately 9:14 p.m. The fire engine remained at this location for approximately two minutes and departed at approximately 9:16 p.m. before returning to the fire station at approximately 9:20 p.m.

The use of a City vehicle to transport unauthorized passengers violated City and Fire Department policies, including the City's [Code of Ethics](#) and [Use of City and Personal Vehicles](#) policies as well as the Fire Department's Ride-Along Program. Additionally, taking the fire engine outside of the area to which it is assigned without being dispatched to a call for service violated City and Department policies, including the Fire Department's Policies and Procedures for Leaving First-In Response Area.

The City has taken appropriate disciplinary action and now considers this matter closed as all required due process has been completed as no appeal of the discipline has been filed. Pursuant to my March 10, 2023, memorandum, I have initiated dialogue sessions with senior and middle management to reinforce professional conduct expectations, a process that will continue through all department ranks. The City Manager has reminded all City employees of the importance of adhering to all City policies, including the Code of Ethics. The City's Code of Ethics solidifies the most basic expectation that "City employees and

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officials are expected to demonstrate the highest standards of personal integrity, honesty and conduct in all activities in order to inspire public confidence and trust in City employees.”

For informational purposes, the chart below provides a general overview of the City’s investigation and discipline process:

Step	Description
1	Complaint Raised
2	Investigation Conducted a. Supporting documentation/evidence gathered b. Interviews of all pertinent witnesses conducted
3	Investigative Report Written
4	Department recommends level of discipline to the City Manager or the City Manager’s Office of Employee Relations (OER) a. City Manager or OER approves level of discipline b. When appropriate, the investigation is provided to the City Attorney’s Office (CAO) and assigned to a litigator to review prior to serving to the employee
5	Employee is served with the following: a. Notice of Intended Discipline including the recommended level of discipline, charges, and right to request a pre-disciplinary conference; b. Copy of the investigative report; and c. Copy of all materials relied upon in recommending the level of discipline.
6	Employee may request a conference (a pre-disciplinary meeting)
7	Final level of discipline is determined
8	Employee is served with a Notice of Discipline, which contains: <ul style="list-style-type: none">• Discipline to be imposed;• Effective date of discipline;• Final charges; and• Notice of appeal rights.
9	Employee requests appeal to Civil Service Commission (or to arbitration for employees represented by the POA or IAFF)
10	Appeal is scheduled
11	Appeal decision is issued

/s/
ROBERT SAPIEN, JR.
Fire Chief, Fire Department

For questions, please contact Robert Sapien, Jr., Fire Chief, at robert.sapien@sanjoseca.gov or (408) 794-6952.