



## MEMORANDUM

### **Austin Police Department** *Office of the Chief of Police*

**TO:** Mark Washington, Director of Civil Service

**FROM:** Art Acevedo, Chief of Police

**DATE:** May 29, 2013

**SUBJECT:** Indefinite Suspension of Police Officer Frank Corpus #6630  
Internal Affairs Control Number 2012-1086

Pursuant to the provisions of Chapter 143 of the Texas Local Government Code, Section 143.052, and Rule 10, Rules of Procedure for the Firefighter's and Police Officer's Civil Service Commission, I have indefinitely suspended Police Officer Frank Corpus #6630 from duty as a police officer of the City of Austin, Texas, effective May 30, 2013.

I took this action because Officer Corpus violated Civil Service Commission Rule 10.03, which sets forth the grounds for disciplinary suspensions of employees in the classified service, and states:

No employee of the classified service of the City of Austin shall engage in, or be involved in, any of the following acts or conduct, and the same shall constitute cause for suspension of an employee from the classified service of the City:

- L. Violation of any of the rules and regulations of the Fire Department or Police Department or of special orders, as applicable.

The following are the specific acts committed by Officer Corpus in violation of Rule 10:

On October 21, 2012, Officer Frank Corpus was off-duty and at Westgate Theater in Austin, Texas [REDACTED]. Officer Corpus walked up to the Westgate Theater ticket booth window, showed his official police identification card to Ms. Page, an employee of the theatre, and asked whether the theatre offered free or discounted tickets to police officers. Assistant Manager Aleman, who was standing in the ticket booth with Ms. Page, asked Officer Corpus, "Do you work here?" Officer Corpus nodded his head up and down to indicate yes. Mr. Aleman agreed to allow Officer Corpus [REDACTED] into the movie theater for free based on Officer Corpus' representation that he worked at the theatre. Mr. Aleman instructed Ms. Page to have Officer Corpus sign the "pass log" to document the free movie tickets.

Mr. Aleman and Ms. Page began to investigate whether or not Officer Corpus was an employee of Westgate Theater because neither Mr. Aleman nor Ms. Page recognized Officer Corpus as an officer working security at the theatre. By reviewing the signature on the pass log, they were able to determine the officer's first name was "Frank," but were unable to read his last name. Mr. Aleman contacted the security contract holder, Austin Police Department Officer Lonnie Radabaugh, and asked if there was anyone by the name of "Frank" on the contract at Westgate Theater. Officer Radabaugh confirmed that there was not anyone by the name of "Frank" on the contract, and instructed Mr. Aleman to get the officer's last name and more information about him. Ms. Page located Officer Corpus in the theater, and asked him again to write his name on the pass log. When Officer Corpus' second signature was still not legible to her, Ms. Page asked him to tell her his name. In addition to providing his name and employer, Officer Corpus also told Ms. Page that he had worked at the theatre ten years ago. Officer Corpus was eventually asked to return to the ticket window to pay for the tickets because he was not a current employee at the theater.

Officer Radabaugh reported the incident to his supervisor and both the Special Investigations Unit and the Internal Affairs Unit of the Austin Police Department investigated Officer Corpus' conduct for potential criminal and policy violations. During the investigation, Officer Corpus admitted that he was not truthful when he told the Westgate Theatre employees that he had previously worked at the theatre but denied that he was intentionally trying to deceive or mislead them into providing him with free movie tickets. Contrary to the statements provided by both Mr. Aleman and Ms. Page, Officer Corpus denied that he only nodded affirmatively to the question regarding whether he worked at the theatre, and instead contends that he both nodded and verbally responded that he worked for the Austin Police Department. Both Mr. Aleman and Officer Radabaugh stated that they believed that Officer Corpus was intentionally deceptive in his attempt to obtain free movie tickets.

By these actions, Officer Corpus violated Rule 10.03(L) of the Civil Service Rules by violating the following rules and regulations of the Austin Police Department:

➤ **Austin Police Department Policy 900.1.1: General Conduct and Responsibilities: Responsibility to Know and Comply**

**900.1.1 Responsibility to Know and Comply**

The rules of conduct set forth in this policy do not serve as an all- inclusive list of requirements, limitations, or prohibitions on employee conduct and activities; employees are required to know and comply with all Department policies, procedures, and written directives.

- (a) Employees will maintain a working knowledge and comply with the laws, ordinances, statutes, regulations, and APD written directives which pertain to their assigned duties.

**To Wit:**

**Texas Penal Code Section 31.04(a)(1): Theft of Service**

- (a) A person commits theft of service if, with intent to avoid payment for service that he knows is provided only for compensation:
  - (1) he intentionally or knowingly secures performance of the service by deception, threat, or false token

➤ **Austin Police Department Policy 900.3.1: General Conduct and Responsibilities: Honesty**

**900.3.1 Honesty**

Honesty is of the utmost importance in the police profession. Employees are expected to be truthful at all times in the performance of their duties.

- (a) Employees will speak the truth at all times and reflect the truth in all reports and written communications. Any statement or omission of pertinent or material information which intentionally misrepresents facts or misleads others through an official statement will be considered a false official statement. The following are examples of an "official statement":
  1. Documents prepared by an officer in connection with their official duties, including but not limited to incident reports or supplements, sworn affidavits, and citations.
  2. Verbal or written statements made by an officer in connection with their official duties to:

- (a) An investigator conducting an administrative or criminal investigation of the officer or another person's conduct.
  - (b) A supervisor conducting an inquiry into the officer's use of force.
  - (c) A fact finder in an administrative, civil, or criminal proceeding in which the officer testifies.
- (b) Employees who obtain their employment by willful misrepresentation or false statements may be dismissed from the Department.
  - (c) Employees will not attempt to conceal, divert, or mitigate their true culpability in a situation, nor will they engage in efforts to thwart, influence, or interfere with an internal or criminal investigation.
  - (d) Employees will not use any improper or dishonest means to affect the outcome of any official test, process, or procedure.
  - (e) Employees will not falsely report themselves ill or injured, or otherwise deceive or attempt to deceive the Department as to the condition of their health.

➤ **Austin Police Department Policy 900.3.2: General Conduct and Responsibilities: Acts Bringing Discredit Upon The Department**

**900.3.2 Acts Bringing Discredit Upon The Department**

Since the conduct of personnel both on-duty or off-duty may reflect directly upon the Department, employees must conduct themselves at all times in a manner which does not bring reproach, discredit, or embarrassment to the Department or to the City.

- (a) Employees will not commit any act which tends to destroy public confidence in, and respect for, the Department or which is prejudicial to the good order, efficiency, or discipline of the Department

➤ **Austin Police Department Policy 900.3.5: General Conduct and Responsibilities: Use of Badge of Office or Affiliation with The Department**

**900.3.5 Use of Badge of Office or Affiliation with The Department**

- (a) Employees will not intentionally use their affiliation with the Department to influence another into offering a gift, gratuity, free or discounted service, reward, or special consideration. This includes:
1. For the personal benefit of self, family, friends, or associates.
  2. For the financial gain of self, family, friends, or associates.
  3. Obtaining privileges not otherwise available to them, except where necessary in the performance of their duty.
  4. Avoiding the consequences of illegal acts.

In determining the appropriate discipline, I took into consideration not only the potential criminal character of Officer Corpus' actions but the serious policy violations committed by him. Officer Corpus inappropriately used his affiliation with the Austin Police Department to seek to obtain a free service in violation of APD policy. Further compounding this policy violation, Officer Corpus knowingly deceived the Westgate Theatre employees regarding his current employment at the theatre after realizing that his status as a police officer was not enough to obtain free movie tickets. Even after being caught in his deception, Officer Corpus again failed to be truthful and told the employees that he worked at the theatre ten years ago. Officer Corpus was given many opportunities to tell the truth about his actions both during the incident itself, and during the investigations into his conduct, and he failed to do so. As stated in APD's policy, honesty is of the utmost importance in the police profession and dishonesty is a serious policy violation for which indefinite suspension is mandated by the Discipline Matrix. Additionally, Officer Corpus' use of his affiliation with APD in his deceitful actions is an embarrassment to and brings discredit to the Department.

Officer Corpus, having been found to be dishonest, can no longer be a credible witness for the prosecution of criminal cases, and therefore can no longer serve the citizens of Austin as a police officer. Consequently, under all of the facts and circumstances of this case, indefinite suspension is warranted and appropriate, and is the chain of command's unanimous recommendation to me.

By copy of this memo, Officer Corpus is hereby advised of this indefinite suspension and that the suspension may be appealed to the Civil Service Commission by filing with the Director of Civil Service, within ten (10) days after receipt of a copy of this memo, a

proper notice of appeal in accordance with Section 143.010 of the Texas Local Government Code.

By copy of this memo and as required by Section 143.057 of the Texas Local Government Code, Officer Corpus is hereby advised that such section and the Agreement Between the City of Austin and the Austin Police Association provide for an appeal to an independent third party hearing examiner, in accordance with the provisions of such Agreement. If appeal is made to a hearing examiner, all rights of appeal to a District Court are waived, except as provided by Subsection (j) of Section 143.057 of the Texas Local Government Code. That section states that the State District Court may hear appeals of an award of a hearing examiner only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion or other unlawful means. In order to appeal to a hearing examiner, the original notice of appeal submitted to the Director of Civil Service must state that appeal is made to a hearing examiner.

  
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ART ACEVEDO  
Chief of Police

5/29/2013

\_\_\_\_\_  
Date

TO WHOM IT MAY CONCERN:

I hereby acknowledge receipt of the above and foregoing memorandum of indefinite suspension and I have been advised that if I desire to appeal that I have ten (10) days from the date of this receipt to file written notice of appeal with the Director of Civil Service in accordance with the provisions of Chapter 143 of the Texas Local Government Code.

  
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Police Officer Frank Corpus #6630

5-29-13

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Date