



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 22, 2012

SUBJECT: Temporary Suspension of Sergeant Michael Brown #4028
Internal Affairs Control Number 2011-1389

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 temporarily suspended Sergeant Michael Brown #4028 from duty as a police officer of the City of Austin, Texas, for a period of eight (8) days. The temporary suspension is effective beginning on May 23, 2012 and continuing through May 30, 2012.

I took this action because Sergeant Brown 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 Sergeant Brown in violation of Rule 10:

On or about December 2, 2011, Lieutenant Leverenz was approached by a pedicab operator who told him about an unconscious, intoxicated female at 4th Street and Trinity Street. Lieutenant Leverenz referred her to Officers Kaiser and Shaw who were standing nearby. Lieutenant Leverenz noticed that the pedicab operator walked away looking disappointed soon after speaking with Officer Kaiser. Four officers, including Sergeant Michael Brown, were present and none of the four officers left where they were standing after speaking with the pedicab operator. Lieutenant Leverenz then approached Officers Kaiser and Shaw and instructed them to ride their police bicycles to check the area. Sergeant Brown later admitted that he had directed Officer Kaiser and Officer Shaw not to respond to the flag down at that time due to bar closing time approaching.

By these actions, Sergeant Brown 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 900.4.3: General Conduct and Responsibilities: Neglect of Duty**

900.4.3 Neglect of Duty

Employees will satisfactorily perform their duties. Examples of unsatisfactory performance include, but are not limited to:

- (c) Failure to take appropriate action on the occasion of a crime, disorder, investigation or other condition deserving police attention.

In determining the appropriate discipline, I took into consideration the priority of the call and the potential negative consequences that could have resulted from Sergeant Brown's failure to act. Unconscious persons calls are usually handled as "urgent" by the Austin Police Department and should be responded to as quickly as possible. Not only did Sergeant Brown neglect his duties but he also failed to lead by example when he directed officers not to respond.

By copy of this memo, Sergeant Brown is hereby advised of this temporary 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, Sergeant Brown 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.



Art Acevedo
Chief of Police

MAY 22, 2012

Date

TO WHOM IT MAY CONCERN:

I hereby acknowledge receipt of the above and foregoing memorandum of temporary 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.



Sergeant Michael Brown #4028

5/22/12

Date