



MEMORANDUM

TO: Joya Hayes, Director of Civil Service
FROM: Joel G. Baker, Fire Chief
DATE: January 11, 2019
SUBJECT: Temporary Suspension of Fire Captain Roger Scarcliff
Professional Standards Office Case Number 18-111

Human Resources Dept

2019 JAN 14 PM 1:06

City of Austin

Received

Pursuant to the provisions of Chapter 143 of the Texas Local Government Code, Section 143.052, and Rule 10, Rules of Procedure for the Firefighters', Police Officers', and Emergency Medical Services Personnel Civil Service Commission, I have temporarily suspended Fire Captain Roger Scarcliff from duty for a period of one (1) day. The suspension will be served on January 17, 2019.

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

- E. Discourtesy to the public or to a fellow employee while the fire fighter or police officer is in the line of duty
- L. Violation of any of the rules and regulations of the Fire, Police or EMS Departments, or of special orders, as applicable

The following are the specific acts committed by Captain Scarcliff in violation of Rule 10.03:

Captain Scarcliff is assigned to the AFD Medical Operations Division. On the morning of October 30, 2018, Captain Christine Jones, who was assigned to Education Services, led a review of the AFD Harassment Prevention and Family Relationship policies as directed by a memorandum from Interim Fire Chief Tom Dodds. Captain Scarcliff attended this policy review. Later that day, Captain Jones observed a small group of firefighters, including Captain Scarcliff, gathered around a computer looking at car videos and talking about cars. According to Captain Jones, Captain Scarcliff asked her if she would rather talk about hair, makeup, or clothes. According to Captain Jones, Captain Scarcliff then

made additional comments that included women should be doing the cleaning and dusting. Captain Jones also alleges that later that same day, Captain Scarcliff made a comment to a Lieutenant referencing the television show "The Office" and said something to the effect of, "Have you ever told a harassing story one day and then the very next day turned around and taught a school on harassment. And tomorrow she's going to teach us a class on the difference between a bitch and a whore."

When interviewed by the Professional Standards Office (PSO), Captain Scarcliff did not deny making these statements but attempted to explain, and put into context why he said those things. Captain Scarcliff stated that these comments were not directed at Captain Jones because of her gender, but rather, it was inter-office joking and banter among the staff and intended to make Captain Jones feel included in the camaraderie of the group. Captain Scarcliff stated that the statement about "The Office" was actually from the day before. Finally, Captain Scarcliff stated that Captain Jones has used profanity in the workplace, which undermined his efforts to address the use of profanity in the workplace.

If I believed that Captain Scarcliff's comments were intended to harass or create a hostile work environment for Captain Jones based upon her gender, the discipline in this matter would be significantly harsher, including potentially an indefinite suspension. I believe that Captain Scarcliff did not act with malice or with the intent to discriminate against Captain Jones due to her gender, but rather, I believe this behavior is more appropriately characterized as horseplay among co-workers. Finally, I believe Captain Scarcliff's apology to Captain Jones was sincere when he realized he had offended her. Despite these acknowledgements, the fact remains that Captain Scarcliff failed to treat a co-worker with respect. This behavior in the workplace, especially in front of subordinates, is unacceptable for any firefighter, let alone a Captain. Even if Captain Jones used profanity in the workplace, that does not give Captain Scarcliff the license to also do so.

Captain Scarcliff is hereby put on notice that any future behavior that leads me to question his leadership may result in disciplinary action, up to and including indefinite suspension or a recommendation of demotion to a non-supervisory rank.

By these actions, Captain Scarcliff violated Rule 10.03 (E) and (L) by violating the following rules and regulations of the Austin Fire Department:

➤ **Austin Fire Department Policies and Procedures: E201: Code of Conduct:**

V. Procedure

- B. Members shall in no way hinder the orderly, efficient operation of the Department, and shall exert the authority vested in them to uphold its Policies and Procedures.
- D. Whether on or off duty, members shall conduct themselves in a manner that will bring credit to themselves and the Fire Department.

Initials 

By copy of this memo, Captain Scarcliff 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) calendar days after receipt of a copy of this memorandum, a proper notice of appeal in accordance with Section 143.010 of the Texas Local Government Code.

By copy of this memorandum and as required by Section 143.057 of the Texas Local Government Code, Captain Scarcliff is hereby advised that such section and the Collective Bargaining Agreement Between the City of Austin and the Austin Firefighters Association, Local 975, 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.



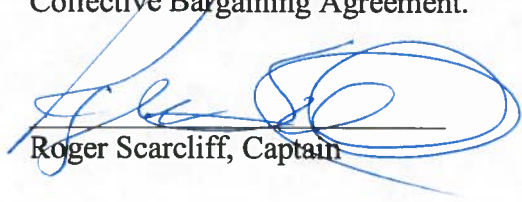
Joel G. Baker, Fire Chief

11 Jan 2019 3:45 pm

Date & Time Issued

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) calendar 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. After considering my options, I hereby affirm that I have agreed to accept this one (1) day suspension and have agreed to waive my right to appeal this suspension to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and agree that I may not file a grievance under Article 20 of the 2017-2022 Collective Bargaining Agreement.



Roger Scarcliff, Captain

1-11-19

Date & Time Received