

MEMORANDUM

Austin Police Department *Office of the Chief of Police*

Received
City of Austin
2016 SEP -9 AM 11:38
Human Resources Dept

TO: Joya Hayes, Director of Civil Service

FROM: Art Acevedo, Chief of Police

DATE: September 9, 2016

SUBJECT: Agreed Temporary Suspension of Police Officer Vanessa Jimenez #7611
Internal Affairs Control Number 2016-0795

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 Service Personnel's Civil Service Commission, I have agreed to temporarily suspended Police Officer Vanessa Jimenez #7611 from duty as a police officer for the City of Austin, Texas for a period of 20 days. The agreed temporary suspension is effective beginning on September 10, 2016 and continuing through September 29, 2016.

I took this action because Officer Jimenez 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 Jimenez in violation of Rule 10:

On March 17, 2016, Officer Jimenez was working the Caritas Downtown Area Command (DTAC) booking facility. An arrestee for public intoxication was brought in for processing in handcuffs and was subsequently placed in a set of belly chain handcuffs. The arrestee was directed to sit in a chair designated for holding prisoners and initially complied.

Later the arrestee stood up from his chair, argued with several officers, and refused to comply with orders to remain seated. A struggle ensued during which Officer Jimenez deployed her Taser and discharged one five second pulse at the conclusion of the struggle.

During her Disciplinary Review Hearing, Officer Jimenez admitted her use of the Taser was not objectively reasonable as there were lesser means available to control the subject. In hindsight, Officer Jimenez acknowledged she should have used other available options to handle the circumstances, while expressing sincere regret and contrition.

By these actions, Officer Jimenez 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 208.4.1: Taser Devices Guidelines: Application of the Taser Device**

208.4.1 Application of the Taser Device

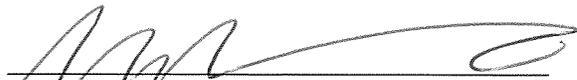
Authorized personnel may use the TASER Device when circumstances known to the officer at the time indicate that such application is objectively reasonable to control a subject in any of the following circumstances:

- (a) Apprehend a subject fleeing lawful arrest or detention.
- (b) A violent or physically resisting subject.
- (c) There is reasonable expectation that it will be unsafe for officers to approach within contact range of the subject.
- (d) A subject who by words or action has demonstrated an intention to be violent or to physically resist and who reasonably appears to present the potential to harm officers, himself, or others.
 - 1. Officers should give a verbal warning of the intended use of the TASER Device followed by a reasonable opportunity for the subject to voluntarily comply, when practicable.
 - 2. Officers must be able to articulate their use of the TASER Device in an incident report.

In addition to this agreed suspension, Officer Jimenez agrees to the following additional terms and conditions:

1. Officer Jimenez shall attend any training specified by her chain of command.
2. Officer Jimenez shall assist the cadet training academy staff as determined by her chain of command and the academy staff.
3. Officer Jimenez agrees to a one (1) year probationary period to begin on the day she returns to duty after serving this agreed suspension. Officer Jimenez agrees that if during that one year period the Chief of Police sustains another violation involving the same or similar conduct (Officer Jimenez agrees that the Chief of Police has the final decision whether the conduct is the same or similar and that decision is not subject to review or appeal), she will be indefinitely suspended without the right to appeal that indefinite suspension to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and she may not file a grievance under Article 20 of the Meet and Confer Agreement.
4. Officer Jimenez understands that this temporary suspension may be taken into consideration in the Chief's determination whether a valid reason exists to bypass her for a future promotion in accordance with APD Policy 919.
5. Officer Jimenez may not appeal this agreed suspension or any of these additional terms and conditions to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and she may not file a grievance under Article 20 of the Meet and Confer Agreement.

By signing this Agreed Discipline, Officer Jimenez understands and agrees that I am forgoing my right to indefinitely suspend her for the conduct described above and that by agreeing to the suspension, Officer Jimenez waives all right to appeal to this disciplinary action, as well as the additional terms and conditions included herein, to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and she may not file a grievance under Article 20 of the Meet and Confer Agreement.


ART ACEVEDO, Chief of Police


Date

TO WHOM IT MAY CONCERN:

I acknowledge receipt of the above and foregoing memorandum of agreed temporary suspension and I understand that by entering into this disciplinary agreement the Chief forgoes his right to indefinitely suspend me for the conduct described above. I further understand and agree that by entering into this agreement, I have no right to appeal this suspension or the additional terms and conditions included herein to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to the District Court, and I may not file a grievance under Article 20 of the Meet and Confer Agreement.

Vanessa A. Jimenez #7611
Police Officer Vanessa Jimenez # 7611

9/9/16
Date