



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

Received
City of Austin
2017 MAR 31 PM 1:40
Human Resources Dept

TO: Joya Hayes, Director of Civil Service

FROM: Brian Manley, Interim Chief of Police

DATE: March 31, 2017

SUBJECT: Temporary Suspension of Police Officer Jesse Lane #7705
Internal Affairs Control Number 2016-1253

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 temporarily suspended Police Officer Jesse Lane #7705 from duty as a City of Austin, Texas, police officer for a period of ten (10) days. The suspension is effective beginning on April 1, 2017 and continuing through April 10, 2017.

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

On November 11, 2016, Officer James Maufrais, followed by Officer Jesse Lane, responded as backup officers to a traffic stop initiated by Officer Wheeler. Officer Wheeler provided information via radio about an unknown male in the vicinity of his traffic stop and was not sure of the motive of the unknown male's presence. While Officer Wheeler dealt with the subject of the traffic stop, Officer Maufrais arrived as the first backup officer and immediately approached the unknown male, later identified as Phillip Turner.

Officer Maufrais approached Mr. Turner to determine his motives and observed Mr. Turner video recording Officer Wheeler's traffic stop. Officer Maufrais shined his flashlight into Mr. Turner's camera and asked why he was filming. Mr. Turner produced a second camera, and Officer Maufrais used another flashlight to obstruct that recording device. Officer Maufrais advised Mr. Turner to vacate the area and engaged in an adversarial dialogue with Mr. Turner. Officer Lane joined the verbal exchange between Officer Maufrais and Mr. Turner, while also shining his flashlight into Mr. Turner's camera.

During the verbal exchange, Mr. Turner asserted he had a lawful right to record and even advised the officers that their actions were in violation of Austin Police Department policy. Mr. Turner then attempted to reposition himself to record the traffic stop, however, Officer Maufrais and Officer Lane followed Mr. Turner around the traffic stop and continued to obstruct him from filming.

Officer Lane was interviewed by Internal Affairs investigators for his actions during this incident. Officer Lane was remorseful and acknowledged he was unfamiliar with this particular departmental policy and the state of the law on a citizen's right to record a traffic stop within a safe and reasonable distance. Officer Lane acknowledged it was an error on his part to be unfamiliar with this policy and the byproduct of his lack of knowledge and subsequent actions on this stop with Mr. Turner brought discredit to the Austin Police Department.

By these actions, Officer Lane 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 301.2(c): Responsibility to the Community: Impartial Attitude and Courtesy**

301.2(c) Impartial Attitude and Courtesy

Employees are expected to act professionally, treat all persons fairly and equally, and perform all duties impartially, objectively, and equitably without regard to personal feelings, animosities, friendships, financial status, sex, creed, color, race, religion, age, political beliefs, sexual orientation, gender identity or gender expression or social or ethnic background.

- (c) Employees will make every effort to be courteous and respectful toward all persons

➤ **Austin Police Department Policy 302.2(c): Public Recording of Official Acts: Interaction with Community**

302.2(c) Interaction with Community

- (c) As long as the photographing or recording takes place in a setting at which the individual has a legal right to be present and does not interfere with an officer's safety or lawful duties, officer's shall not inform or instruct people that photographing or recording of police officers, police activity or individuals who are the subject of police action (such as a Terry stop or an arrest) is not allowed; requires a permit; or requires the officer's consent. Additionally, officers shall not:
 - 1. Order that person to cease such activity;
 - 2. Demand that person's identification;
 - 3. Demand that the person state a reason why he or she is taking photographs or recording;
 - 4. Detain that person;
 - 5. Intentionally block or obstruct cameras or recording devices;
or
 - 6. In any way threaten, intimidate or otherwise discourage an individual from recording officer's enforcement activities.

➤ **Austin Police Department Policy 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.

(b) Employees who do not understand their assigned duties or responsibilities will read the relevant directives and guidelines, and will consult their immediate supervisor for clarification and explanation.

(c) A lack of knowledge of an APD written directive is not a defense to disciplinary action.

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

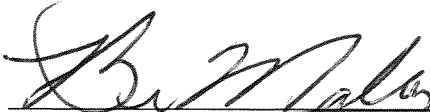
Since the conduct of personnel both on-duty or off-duty may reflect directly upon the Department, employees must conduct themselves at all times in a manner which does not bring reproach, discredit, or embarrassment to the Department or to the City.

- (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.

By copy of this memo, Officer Lane 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 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 Lane 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.

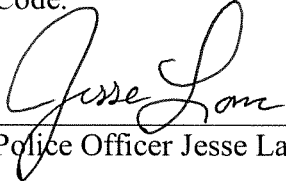
By copy of this memo, Officer Lane is hereby advised that this temporary suspension may be taken into consideration in my determination as to whether a valid reason may exist to bypass Officer Lane for promotion in accordance with Austin Police Department Policy 919.


BRIAN MANLEY, Interim Chief of Police

3.31.17
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) 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.

 #7705

Police Officer Jesse Lane #7705

03/31/2017

Date