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MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Mark Washington, Director of Civil Service

FROM: Art Acevedo, Chief of Police

DATE: January 17, 2013

SUBJECT: Agreed Temporary Suspension and Voluntary Demotion of
Sergeant William Lefebvre #4051
Internal Affairs Control Number #2012-0833

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 Officers' Civil Service Commission, I have temporarily suspended Sergeant William Lefebvre #4051 from duty as a City of Austin, Texas police officer for a period of sixty (60) days. The temporary suspension is effective beginning on January 18, 2013, and continuing through March 18, 2013.

I took this action because Sergeant Lefebvre 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.

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The following are the specific acts committed by Sergeant Lefebvre in violation of Rule 10:

On August 8, 2012, Sergeant Lefebvre was involved in a Level 3 response to resistance. Sergeant Lefebvre failed to promptly and accurately report the incident or designate an appropriate supervisor to conduct a force inquiry as required by Austin Police Department policy. During the investigative and disciplinary processes, Sergeant Lefebvre admitted that he did not use objectively reasonable force that appeared necessary under the circumstances in violation of APD policy and further admitted that he did not comply with APD's response to resistance policies on reporting.

By these actions, Sergeant Lefebvre 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 200.2: Response to Resistance: Response to Resistance Policy**

200.2 Response to Resistance Policy

While the type and extent of force may vary, it is the policy of this department that officers use only that amount of objectively reasonable force which appears necessary under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

- (a) Given that no policy can realistically predict every situation an officer might encounter, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate response to resistance in each incident.
- (b) Circumstances may arise in which officers reasonably believe that it would be impracticable or ineffective to use any of the standard tools, weapons, or methods provided by the Department. Officers may find it more effective or practicable to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must still be objectively reasonable and used only to the extent which reasonably appears necessary to accomplish a legitimate law enforcement purpose.
- (c) While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an officer to actually sustain physical injury before applying objectively reasonable force.
- (d) Any complaint by a subject that an officer caused pain or injury shall be treated as a response to resistance force incident, except complaints of minor discomfort from unresisted handcuffing.

- **Austin Police Department Policy 200.4: Response to Resistance: Reporting the Response to Resistance**

200.4 Reporting the Response to Resistance

Any response to resistance by a member of this department shall be documented promptly, completely and accurately in an appropriate report as prescribed by Policy 211 (Response to Resistance Inquiry, Reporting, and Review).

- **Austin Police Department Policy 211.5: Response to Resistance Inquiry, Reporting and Review: Designation of Supervisor to Conduct Inquiry**

211.5 Designation of Supervisor to Conduct Inquiry

The supervisor of the employee involved in the force incident shall typically be the primary supervisor conducting the force inquiry. The following exceptions apply:

- (b) A supervisor involved in a force incident shall not review the incident. A supervisor who is at the scene and witnesses the incident, but is not directly involved in the force incident, may conduct the inquiry.
- (c) If an employee the rank of sergeant or above is involved in a Level 2 or 3 force incident, another supervisor the rank of the involved employee or higher shall conduct the inquiry.

- **Austin Police Department Policy 902.4.1: Administrative Investigations: Cooperating with Assigned Investigators**

902.4.1 Cooperating with Assigned Investigators

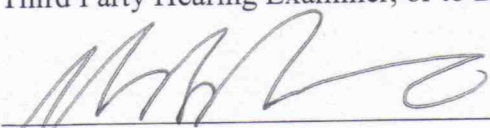
- (a) Employees will cooperate with any assigned investigator as if they were addressing the Chief. Employees who fail or refuse to cooperate with an assigned investigator will be subject to disciplinary action, up to and including indefinite suspension.
- (b) Honesty is of the utmost importance in the police profession. Employees are expected to be truthful at all times during interviews with investigators as outlined in Policy 900 (General Conduct).
 - 2. There may be cases where officers have not been truthful but the dishonesty does not constitute a false official statement. In those situations, the Chief shall consider each case on a fact specific basis

and may decide that corrective action other than indefinite suspension is warranted as outlined in the Discipline Matrix ("Neglect of Duty - Misleading Statements").

In addition to this agreed temporary suspension, Sergeant Lefebvre agrees to the following terms and conditions:

1. Pursuant to Section 143.054(e) of the Texas Local Government Code, Sergeant Lefebvre agrees to a voluntary demotion to the rank of Detective/Corporal to be effective on January 18, 2013 and further agrees to be removed from the current Lieutenant's promotional eligibility list. Additionally, Sergeant Lefebvre agrees that he will not be eligible to take the next scheduled promotional examination for the rank of Sergeant. Sergeant Lefebvre understands that pursuant to APD Policy 919.2, this suspension can be considered to determine whether a valid reason exists to bypass him for a promotion for a period of five (5) years from the date of its issuance and agrees to meet with his chain of command to discuss promotional eligibility prior to taking a promotional examination prior to the end of this period.
2. Sergeant Lefebvre is required to be evaluated by a qualified professional approved by the Chief of Police. Should this professional recommend a program of counseling, Sergeant Lefebvre must successfully complete that program of counseling, as determined by the professional administering the program. The failure to comply with this evaluation and/or successfully complete the program of counseling will be considered an act of insubordination for which Sergeant Lefebvre agrees that he will be indefinitely suspended without the right to appeal that suspension to the Civil Service Commission, an Independent Third Party Hearing Examiner, or to District Court.
3. Sergeant Lefebvre agrees to a probationary period of one (1) year, with the additional requirement that if, during that probationary period, he commits the same or a similar act of misconduct for which he is being suspended for 60 days, he will be indefinitely suspended without the right to appeal that suspension to the Civil Service Commission, an Independent Third Party Hearing Examiner, or to District Court. The one year period begins on the day Sergeant Lefebvre returns to duty after completing his 60 day suspension.
4. Sergeant Lefebvre is put on notice that should he commit the same or similar act of misconduct for which he is being suspended for 60 days, but that act occurs after the expiration of the one year period referenced in paragraph 3, he will be indefinitely suspended but retains the right to appeal that suspension as provided for in Chapter 143 and the Meet and Confer Agreement.

By signing this Agreed Temporary Suspension and Voluntary Demotion, Sergeant Lefebvre understands and agrees that I am forgoing my right to indefinitely suspend him for the conduct described above and that by agreeing to the suspension and voluntary demotion, Sergeant Lefebvre waives all right to appeal this disciplinary action and voluntary demotion, including the additional terms and conditions cited herein, to the Civil Service Commission, to an Independent Third Party Hearing Examiner, or to District Court.

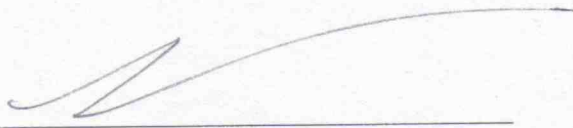


Art Acevedo
Chief of Police

11/17/2013
Date

TO WHOM IT MAY CONCERN:

I acknowledge receipt of the above and foregoing Memorandum of Agreed Temporary Suspension and Voluntary Demotion and I understand that by entering into this disciplinary agreement and voluntary demotion, the Chief forgoes his right to indefinitely suspend me for the conduct described above and that by agreeing to the suspension and voluntary demotion, I have no right to appeal this disciplinary action, voluntary demotion or the additional terms and conditions cited herein, to the Civil Service Commission, to the District Court, or to an Independent Third Party Hearing Examiner.



Sergeant William Lefebvre #4051

1-17-13
Date