



## MEMORANDUM

### **Austin Police Department *Office of the Chief of Police***

Received  
City of Austin  
2016 JUN 20 AM 8:29  
Human Resources Dept

**TO:** Joya Hayes, Interim Director of Civil Service  
**FROM:** Art Acevedo, Chief of Police  
**DATE:** June 20, 2016  
**SUBJECT:** Temporary Suspension of Officer Bryan Menduni #4910  
Internal Affairs Control Number 2016-0127

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 Bryan Menduni #4910 from duty as a City of Austin, Texas police officer for a period of one (1) day. The temporary suspension is effective on June 24, 2016

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

On February 3, 2016, Officer Menduni phoned his supervisor prior to the morning briefing stating he had left his required equipment behind and would have to return home to retrieve it, causing him to be over an hour late for his shift. Prior to February 3, 2016, Officer Menduni had received numerous warnings regarding his tardiness.

By these actions, Officer Menduni 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: General Conduct and Responsibilities: Requirements of Duty**

**900.4 Requirements of Duty**

Employee conduct will always be consistent with the Department's values, vision, mission, and any supervisor's instructions.

- (a) Employees will maintain themselves in such a physical condition as to be able to handle the requirements of their assignment.
- (b) Employees will not exhibit cowardice or shirk their duty in case of danger.
- (c) Employees will consider themselves available for duty in any emergency situation.
- (d) Employees will report for all duty assignments, including assigned court appearances, at the time and place required by assignment or orders and be properly prepared and equipped to immediately assume their duties.
- (e) Employees will remain at their assignment and on-duty until properly relieved by another employee or until dismissed by proper authority.
- (f) Employees are considered on-duty while on authorized breaks.
- (g) Employees will remain alert and observant while on-duty and devote their time and attention to the business of the Department. Any exceptions require supervisor approval.
- (h) Employees will not engage in any strike, work slowdown or stoppage, concerted failure to report for duty, or any other action which interferes with the efficiency or integrity of the

administration of criminal justice or departmental discipline, nor will any employee encourage, coerce or conspire with any other individual to do so.

- (i) Employees assigned to investigate an incident where the complainant and/or suspect is considered a friend or relative will contact their supervisor; supervisors will reassign the incident to another employee.
- (j) Unless otherwise authorized by law, City policy, or Department directive, employees will not go outside of the Department in an attempt to resolve police-related matters until appropriate Department procedures have been followed.
- (k) Employees will write a memorandum to the Chief through their chain-of-command before filing claims for damages or entering into legal compromises or settlements regarding events connected with the performance of duty.
- (l) Employees will not serve civil process or render assistance in civil cases except when:
  - 1. The City is a party; or
  - 2. There is a statutory duty to do so; or
  - 3. A court order requires assistance; or
  - 4. Authorized by a supervisor.

By copy of this memo, Officer Menduni 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, Officer Menduni 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.

In addition, if this disciplinary suspension is for three (3) days or less, Officer Menduni is advised of the following provisions of Article 18, Section 1, of the Meet and Confer Agreement:

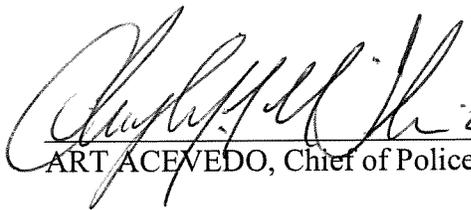
*The parties agree that when an officer is suspended for 1, 2, or 3 days the officer may choose one of two methods of dealing with the suspensions as listed below.*

- a) **Suspensions that may not be appealed.** *The officer may choose to use vacation or holiday time to serve the suspension with no loss of paid salary and no break in service for purposes of seniority, retirement, promotion, or any other purpose. The officer must agree that there is no right to appeal if this method of suspension is chosen.*
  
- b) **Suspensions that may be appealed.** *The officer may appeal the suspension to arbitration or the Civil Service Commission. If the officer chooses to appeal the suspension, the arbitrator or Civil Service Commission's authority is limited to ruling on whether or not the charges against the officer are true or not true. If the arbitrator or Civil Service Commission finds the charges to be true, there is no authority to mitigate the punishment. If the arbitrator or Civil Service Commission finds the charges to be not true, the officer shall be fully reinstated with no loss of pay or benefit.*

**Arbitration Costs on Appealable Suspensions**

*In the event that an officer appeals a 1, 2 or 3 day suspension to arbitration, it is agreed that the party that loses the arbitration shall be responsible for all costs of the arbitrator, including travel and lodging if necessary.*

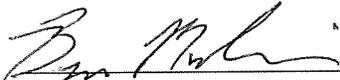
*To facilitate such payment on the part of the officer he shall submit, at the time of appeal, a signed payroll deduction agreement that if the arbitrator rules in favor of the City he authorizes up to one hundred dollars (\$100.00) per month to be deducted from his regular pay until such time as what would usually be the City's portion of the arbitrator's costs have been satisfied.*

  
ART ACEVEDO, Chief of Police FOR CHIEF ACEVEDO

6-20-16  
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. I also acknowledge the options set forth in this memorandum of temporary suspension, including my right to waive an appeal of a suspension of three (3) days or less, and my financial and contractual obligations under the Meet and Confer Agreement if I elect to appeal a suspension of three (3) days or less and do not prevail.

 #4910  
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Police Officer Bryan Menduni #4910

6-20-16  
\_\_\_\_\_  
Date

