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City of Austin

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Human Resources Dept



## MEMORANDUM

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

**TO:** Joya Hayes, Director of Civil Service

**FROM:** Brian Manley, Chief of Police

**DATE:** October 24, 2018

**SUBJECT:** Temporary Suspension of Police Officer David Noonan #4297  
Internal Affairs Control Number 2018-0891

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 David Noonan #4297 from duty as a City of Austin, Texas police officer for a period of three (3) days. The temporary suspension is effective beginning on October 26, 2018 and continuing through October 28, 2018.

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

On August 29, 2018, Officer Noonan, while on duty, was driving north bound on IH-35 when he took the Oltorf exit and attempted to cross over three lanes of traffic onto a private drive. He also failed to yield to other vehicles and while still in the center lane, Officer Noonan was struck by a vehicle who had the right-of-way traveling in the center lane.

By these actions, Officer Noonan violated Rule 10.03(L) of the Civil Service Rules by violating the following rules and regulations of the Austin Police Department:

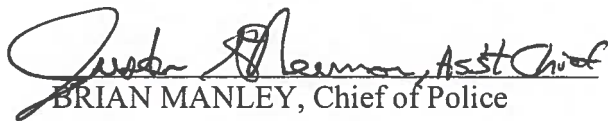
➤ **Austin Police Department Policy 804.2: Department Vehicles: General Operation of Department Vehicles**

**804.2 General Operation of Department Vehicles**

- (a) Employees will operate Department vehicles in a careful and prudent manner within the guidelines of the law and Department General Orders. Unsafe or negligent driving is prohibited.
  - 1. Vehicles will be operated in such a manner and at a rate of speed that the driver, by use of ordinary care, can avoid colliding with another vehicle, object, or person.

By copy of this memo, Officer Noonan 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 Noonan is hereby advised that such section provides for an appeal to an independent third party hearing examiner. 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.

  
BRIAN MANLEY, Chief of Police

10/10/18  
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.

DT Noonan 4297  
Police Officer David Noonan #4297

10-24-18  
Date