



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

Received
City of Austin
2017 JAN - 6 AM 10: 56
Human Resources Dept

TO: Joya Hayes, Director of Civil Service

FROM: Brian Manley, Interim Chief of Police

DATE: January 6, 2017

SUBJECT: Agreed Temporary Suspension of Police Officer Richard Spitler #7950
Internal Affairs Control Numbers 2016-0937

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 Richard Spitler #7950 from duty as a City of Austin, Texas police officer for a period of twenty (20) days. The temporary suspension is effective beginning on January 7, 2017 and continuing through January 26, 2017

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

On July 15, 2016, Officer Spitler and Officer Martin responded to a 911 call of a suspicious person located at Wood Hollow Drive. Officers Spitler and Martin arrived at the complex and located the male subject. The male subject was detained during which time it was determined he was intoxicated. The male subject was released from detention and allowed to walk to his residence which was located within the apartment complex. As the male subject walked away, he stopped approximately 50 yards away from the Officers, turned around and threw his right arm into the air and called the Officers “assholes.” Officer Spitler then reacted to the subject’s actions by initiating an arrest of the male subject for public intoxication. A physical struggle ensued, which required several officers to assist Officer Spitler in restraining the male subject.

By these actions, Officer Spitler 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: Responsibility to the Community: Impartial Attitude and Courtesy**

301.2 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.

- (a) Employees will not express or otherwise manifest any prejudice concerning race, religion, national origin, age, political affiliation, sex, or other personal characteristics in the performance of their duties.
 - 1. Employees will respect the rights of individuals and will not engage in discrimination, oppression, or favoritism whether by language, act, or omission.
 - 2. The use of racial or ethnic remarks, slurs, epithets, words or gestures, which are derogatory or inflammatory in nature to or about any person or group of persons is strictly prohibited.
- (b) Employees will be tactful in the performance of their duties, control their tempers, exercise patience and discretion, and shall not engage in argumentative discussions even in the face of extreme provocation.

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

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

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

By signing this Agreed Discipline, Officer Spitler 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, Officer Spitler waives all right to appeal to this agreed suspension to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and he may not file a grievance under Article 20 of the Meet and Confer Agreement.




BRIAN MANLEY, Interim Chief of Police

1-6-17

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 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.



Police Officer Richard Spitler #7950

01/06/17

Date