



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Mark Washington, Director of Civil Service

FROM: Art Acevedo, Chief of Police

DATE: September 13, 2012

SUBJECT: Agreed Temporary Suspension of Police Officer William Stewart # 4858
Internal Affairs Control Number 2012-0458

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 Officer's Civil Service Commission, I have agreed to temporarily suspend Police Officer William Stewart # 4858 from duty as a police officer of the City of Austin, Texas, for a period of sixty (60) days. The agreed temporary suspension is effective beginning on September 14, 2012 and continuing through November 12, 2012.

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

On April 27, 2012, Officer Stewart went back in service after his lunch break and was dispatched on a call at 11:51 am. Officer Stewart remained in the restaurant for another 38 minutes after being dispatched on the call which required another officer to handle the call. Officer Stewart's actions constitute neglect of duty.

On May 4, 2012, Officer Stewart undocked his MDC for approximately 23 minutes, thereby disengaging the ability to track his vehicle through the GPS system. Officer Stewart initially provided false and misleading statements before admitting to Internal Affairs that he intentionally undocked his MDC without his supervisor's approval in violation of Austin Police Department policy.

By these actions, Officer Stewart 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 900.4.3: General Conduct and Responsibilities: Neglect of Duty**

900.4.3: Neglect of Duty

Employees will satisfactorily perform their duties. Examples of unsatisfactory performance include, but are not limited to:

- (d) Failure to respond to any call or to perform any police duties assigned to them by appropriate authorities.

➤ **Austin Police Department Policy 305.2: Radio and Mobile Data Computer Use: Mobile Data Computer Use Guidelines**

305.2: Mobile Data Computer Use Guidelines

- (c) The MDC will remain docked and the docking switch will be in the locked position when the vehicle is in motion or if the MDC is left unattended unless otherwise approved by a supervisor.
- (d) Employees will not intentionally disrupt the GPS signal.

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

902.4.1: Cooperating with Assigned Investigators

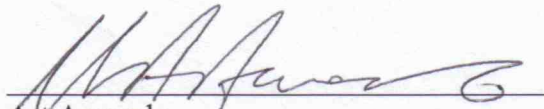
- (b) Honesty is of the utmost importance in the police profession. Employees are expected to be truthful at all times during interviews with investigators as outlined in Policy 900 (General Conduct).
- 2. There may be cases where officers have not been truthful but the dishonesty does not constitute 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, Officer Stewart agrees to the following terms and conditions:

1. Officer Stewart is required to be evaluated by a qualified professional designated by the Chief of Police. Should this professional recommend a program of counseling, Officer Stewart must successfully complete that program of counseling, as determined by the professional administering the program. If the evaluation and/or counseling occur during the period of suspension, Officer Stewart will not be entitled to compensation. The failure to comply with this evaluation and/or successfully complete the program of counseling will be considered an act of insubordination for which Officer Stewart 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.
2. Officer Stewart 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, 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 Officer Stewart returns to duty after completing his 60 day suspension.
3. Officer Stewart is put on notice that should he commit the same or similar act of misconduct for which he is being suspended, but such conduct or failure occurs after the expiration of the one year probationary period, 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.

4. Officer Stewart acknowledges that he had the opportunity to discuss this agreed suspension and the additional terms and conditions set forth herein with an attorney of his choice prior to signing his acceptance where indicated below.


By signing this agreed temporary suspension, Officer Stewart 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 Stewart waives all right to appeal this disciplinary action, 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

9/13/2012
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 and that by agreeing to the suspension, I have no right to appeal this disciplinary action 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.


Police Officer William Stewart # 4858

9-13-12
Date