



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

Received
City of Austin
2017 APR 18 PM 12: 19
Human Resources Dept

TO: Joya Hayes, Director of Civil Service
FROM: Brian Manley, Interim Chief of Police
DATE: April 17, 2017
SUBJECT: Agreed Temporary Suspension of Police Sergeant Steve Urias #2103
Internal Affairs Control Numbers 2016-1185

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 agreed to temporarily suspended Police Sergeant Steve Urias #2103 from duty as a City of Austin, Texas police officer for a period of sixty (60) days. The agreed temporary suspension is effective beginning on April 18, 2017 and continuing through June 16, 2017.

I took this action because Sergeant Urias 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 Sergeant Urias in violation of Rule 10:

On October 25, 2016, Officer Michael Cuellar reported for duty at the East Substation at 5:45 a.m. After show up, Officer Cuellar drove a patrol vehicle to Travis County Central Booking to perform an Intoxilyzer Operator (IO) practice test on himself, a requirement for maintaining his certification. The test results indicated Officer Cuellar's blood alcohol concentration (BAC) was 0.064/0.065. Officer Cuellar drove back to the substation and reported the BAC results to his supervisor, Sergeant Steve Urias. Sergeant Urias ordered Officer Cuellar to remain out of service for four hours and then repeat the IO test, to verify the absence of any alcohol in his system before returning to service.

However, Sergeant Urias admittedly violated policy by failing to notify Officer Cuellar's commander and failing to request another supervisor in accordance with policy. In fact, Sergeant Urias acknowledged he did not inform anyone in his chain of command on October 25, 2016, including Lieutenant Duane Peed, who was on duty throughout the duration of the events. Sergeant Urias only notified his chain of command of Officer Cuellar's policy violations after Lieutenant Blake Johnson discovered this oversight and contacted him and the chain of command on October 28, 2016. Sgt. Urias' additional oversight included failing to author a memorandum to the Chief of police, prior to Lieutenant Johnson's notification.

By these actions, Sergeant Urias 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 900.1.1: General Conduct and Responsibilities: Responsibility to Know and Comply**

900.1.1 Responsibility to Know and Comply

The rules of conduct set forth in this policy do not serve as an all-inclusive list of requirements, limitations, or prohibitions on employee conduct and activities; employees are required to know and comply with all Department policies, procedures, and written directives.

- (a) Employees will maintain a working knowledge and comply with the laws, ordinances, statutes, regulations, and APD written directives which pertain to their assigned duties.
- (b) Employees who do not understand their assigned duties or responsibilities will read the relevant directives and guidelines, and will consult their immediate supervisor for clarification and explanation.
- (c) A lack of knowledge of an APD written directive is not a defense to disciplinary action.

➤ **Austin Police Department Policy 900.2(b)(a): General Conduct and Responsibilities: Required Reporting of Violations**

900.2(b)(a) Required Reporting of Violations

Employees have an obligation and responsibility to report all facts or credible information they know regarding any criminal activity by other employees or any breach of APD written directives.

(b) Suspected Policy Violations

- (a) Employees will report any employee known or believed to be guilty of any violation of a rule, regulation, or order issued by the Department to their immediate supervisor.

➤ **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:

- (c) Failure to take appropriate action on the occasion of a crime, disorder, investigation or other condition deserving police attention.

➤ **Austin Police Department Policy 916.5.2: Drug and Alcohol Free Workplace: Procedures for Reasonable Suspicion Testing**

916.5.2 Procedures for Reasonable Suspicion Testing

- (a) Supervisors who reasonably suspect an employee to be under the influence of a drug or alcohol will:
1. Immediately remove the employee from performing regular duties, and, when possible, bring the employee to a private area away from the observation of coworkers and/or the public.
 2. Notify the employee's commander, or if after normal office hours the Duty Commander.
 3. Document in a memorandum addressed to the Chief detailing factors and any observations leading to the reasonable suspicion.


4. Immediately request another supervisor to witness and record their observations of the employee in a memorandum to the Chief.
5. Place the employee on restricted duty. Arrangements will be made for the employee to be taken home unless a decision is made to immediately conduct a drug test.
 - (a) The Chief, an assistant chief, Duty Commander, or DTC may order the employee to take an immediate drug test. If testing is ordered:
 1. Supervisors will be notified and the DTC will arrange for the test.
 2. Supervisors will notify the affected employee of the test and prepare a memorandum instructing the affected employee to submit to the test.
 3. Supervisors will accompany the employee to the testing site and remain at the site until the testing is complete.
 - (b) If there is probable cause to believe a crime has been committed appropriate arrest procedures will be followed.

In addition to this agreed suspension, Sergeant Urias agrees to the following additional terms and conditions:

- 1) Sergeant Urias will not be able to sit for the Lieutenant's promotional examination for 24 months calculated from the date he returns from serving this suspension.
- 2) Sergeant Urias agrees to a one (1) year probationary period to begin on the day he returns to duty after serving this agreed suspension. Sergeant Urias agrees that if during that one year period the Chief of Police sustains another violation involving the same or similar conduct (Sergeant Urias 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) Sergeant Urias 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) Sergeant Urias 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.


- 5) Sergeant Urias agrees to waive any claims he may have against the City or its employees related to this investigation and suspension, including but not limited to claims under Title VII, the ADA, or the FMLA.
- 6) Sergeant Urias acknowledges that he had the opportunity to discuss this agreed suspension and additional terms and conditions set forth herein with the attorney of his choice prior to signing his acceptance where indicated below.

By signing this Agreed Discipline, Sergeant Urias 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, Sergeant Urias 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
4-17-17

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 Sergeant Steve Urias #2103
4/17/2017
Date