



## MEMORANDUM

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

**TO:** Mark Washington, Director of Civil Service

**FROM:** Art Acevedo, Chief of Police

**DATE:** October 21, 2013

**SUBJECT:** Temporary Suspension of Police Officer Leonard Wheeler #3900  
Internal Affairs Control Number 2013-0724

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 Officers' Civil Service Commission, I have temporarily suspended Police Officer Leonard Wheeler #3900 from duty as a City of Austin, Texas police officer for a period of seven (7) days. The temporary suspension is effective beginning on October 22, 2013, and continuing through October 28, 2013.

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

On April 25, 2013, after completing a prior subject stop, Officer Wheeler repositioned his vehicle from a parked position with overhead lights activated in the 500 block of E. 7<sup>th</sup> St. at the intersection of 7<sup>th</sup> St. and Red River St. Officer Wheeler observed a male subject stopped in the crosswalk, arms raised in the air and appearing to speak to Officer Wheeler. Officer Wheeler's actions and conduct during the encounter was not in accordance with the Department's expectations and policy.

By these actions, Officer Wheeler 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 321.3.1: Care and Transport of Prisoners: General Guidelines**

**321.3.1 General Guidelines**

- (f) While transporting a prisoner in a vehicle equipped with an MAV device, officers shall have the rear seat camera activated, or the front camera activated and faced toward the prisoner.
- (g) Prisoners will be transported without unnecessary delay. Officers shall use the MDC to change their status when transporting

prisoners to a jail/detention facility or police station, and again upon arrival.

➤ **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, or social or ethnic background.

- (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.

By copy of this memo, Officer Wheeler 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) calendar 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 Wheeler 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.

AC [Signature] 2170  
ART ACEVEDO, Chief of Police

10-21-13  
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.

[Signature] #3900  
Police Officer Leonard Wheeler #3900

10 - 21 - 13  
Date