



MEMORANDUM

Austin Police Department
Office of the Chief of Police

Received
City of Austin
2015 JUL 23 PM 1:40
Human Resources Dept

TO: Joya Hayes, Interim Director of Civil Service
FROM: Art Acevedo, Chief of Police
DATE: July 23, 2015
SUBJECT: Indefinite Suspension of Officer VonTrey Clark #7204
Internal Affairs Control Number 2015-0209

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 indefinitely suspended Police Officer VonTrey Clark #7204 from duty as a City of Austin, Texas police officer effective July 23, 2015.

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

INTRODUCTION:

On February 4, 2015, at approximately 2:00 a.m. the Bastrop County Sheriff's Office located the deceased body of Samantha Dean (Dean) and her unborn child, behind a vacant shopping center at 118 Stephen F. Austin Blvd. in Bastrop County. The deaths were ruled as homicides and a criminal investigation was initiated by the Texas Department of Public Safety Texas Ranger Division and the Bastrop County Sheriff's Office. Austin Police Officer VonTrey Clark was interviewed during the course of their investigation. Officer Clark was placed on restricted duty on February 5, 2015. The criminal investigation is ongoing and the findings are expected to be presented to a Grand Jury in the near future.

CRIMINAL INVESTIGATION:

During his interview, Officer Clark admitted to having an on-again off-again relationship with Dean over the last six or seven years and believed he was the father of Dean's unborn child. Criminal investigators also obtained Dean's journal and statements from her co-workers at the Kyle Police Department. Through this information, investigators learned Officer Clark insisted Dean get an abortion, and told Dean his life would be ruined and he would lose his family if Dean had the baby. The investigation also revealed Dean advised co-workers that if she turned up dead, Officer Clark would be responsible.

Investigators located Dean's phone at the crime scene. Using records from her phone, investigators were able to establish a link between Officer Clark and a Mr. Kevin Watson (Watson), Ms. Kyla Fisk (Fisk), and Mr. Freddie Smith (Smith). Records showed an extensive amount of phone communication amongst the group, in particular 187 phone calls and 884 text messages between Clark and Watson alone.

Investigators believe three pre-paid disposable phones were purchased for the sole purpose of facilitating the murders of Dean and her unborn child. Further investigation revealed that these mobile phones were in the area where Dean was found at the time of the murders, and have not been used since 12:11 a.m. on February 4, 2015. Criminal investigators believe one of the three phones was predominately used by Officer Clark.

On February 8, 2015, a threatening text message was sent from a different mobile phone used in Bastrop to an Austin Police Department civilian employee who was a friend of Dean's. The message stated, "I fucking got her I am going to get him then I am coming for you. I will show you what a crisis is." Investigators were able to identify Watson and Aaron Williams (Williams) as the two subjects who appear on a Wal-Mart in Katy, Texas surveillance video purchasing the phone used to send this message.

On April 14, 2015, criminal investigators learned Officer Clark purchased a new phone, [REDACTED] from a Wal-Mart in Lockhart, Texas. Investigators obtained video from that Wal-Mart showing Officer Clark purchasing the phone, and video showing Officer

Clark using the phone to call Fisk while stopped at the Mustang Travel Center in Mustang Ridge, Texas. In a later intercepted conversation with Fisk on April 29th 2015, Officer Clark agreed to deposit money into a bank account of Watson's father, [REDACTED], the same day Watson was arrested on a felony drug charge.

INTERNAL AFFAIRS INVESTIGATION:

Internal Affairs began a separate administrative inquiry into the relationship between Officer Clark and Dean, the nature and extent of that relationship as it related to her death, and the nature and extent of his relationship or communications if any, with individuals who may be suspects in her death.

In the course of their investigation, Internal Affairs acquired a sworn affidavit, submitted with a search warrant that was publicly released on July 13th, 2015, that substantiates many of the details in this memorandum. Also, internal affairs discovered that Officer Clark was a former roommate of Watson in 2009. Other events that occurred after Dean's death include Fisk being arrested and charged with Tampering with Physical Evidence for disposing of clothing Watson purportedly wore at the time of the murder. Moreover, Williams was arrested and charged with Retaliation for sending the threatening text message where he referenced the murder to a friend of Dean. Internal Affairs also discovered Smith is documented, through the Houston Police Department, as a Hoover Gangster Crip. The investigation also revealed Watson, Fisk, Smith, and Williams all have extensive criminal histories and extensive involvement with the criminal justice system, including convictions.

In furtherance of the Internal Affairs investigation, on June 4th 2015, Officer Clark was given the following orders from Chief of Police Art Acevedo:

You are hereby ordered to provide documentation of all credit and debit card transactions as well as bills for cards issued to you or on which you are an authorized user for the period of June 1, 2014, through June 1, 2015. You are further ordered to provide all bank statements for any checking, savings, and investment accounts held by you as well as any joint accounts on which you are an authorized signer or user, records of all wire transfers, deposits, and cash withdrawals between June 1, 2014, and June 1, 2015. These records will be provided to the Internal Affairs Division on or before June 22, 2015, at 5:00pm. You are further ordered to cooperate fully with Internal Affairs Investigators to obtain this information. You are ordered to cooperate fully and answer all questions completely in connection with a Formal Investigation ordered by Internal Affairs Investigators into allegations of misconduct made against you.

You are hereby ordered to provide records and documentation of any and all telephones owned, used, and/or paid for by you between June 1, 2014, and June 1, 2015. These records shall include billing information, call details, and text messages. These records will be for all telephones, land lines and mobile phones, to include any and all pre-paid and/or pay as you go phones These records will be provided to the

Internal Affairs Division on or before June 22, 2015 at 5:00pm. You are further ordered to cooperate fully with Internal Affairs Investigators to obtain this information. You are ordered to cooperate fully and answer all questions completely in connection with a Formal Investigation ordered by Internal Affairs Investigators into allegations of misconduct made against you.

A review of the materials provided by Officer Clark on June 22, 2015, in response to the direct order, in conjunction with the information revealed in the warrant, shows Officer Clark did not comply with the order. Officer Clark failed to provide Internal Affairs with records of cell phone number [REDACTED]. Officer Clark also failed to provide Internal Affairs with any records of the deposit into Watson's father's bank account.

Officer Clark's entire chain of command and executive staff unanimously agree that his conduct on or before July 13, 2015, specifically his Prohibited Associations and Insubordination, warrants an indefinite suspension. Officer Clark's conduct since that date further justifies this decision.

POST JULY 13, 2015 CONDUCT:

Internal Affairs gave Officer Clark an opportunity to respond to these allegations but he refused to attend an in-person interview that was scheduled for July 18, 2015.¹ If Officer Clark were unable to attend the interview in person, he could have requested that the interview be conducted over the telephone or requested that he be allowed to submit a written response and that request would have been considered, but he chose not to do either. A Dismissal Review Hearing was scheduled for July 23, 2015 and Officer Clark exercised his contractual right not to appear. He also chose not to submit a written statement to me and his chain of command for consideration at the Dismissal Review Hearing. It is important to note that no negative inference is being made by Office Clark choosing to exercise his contractual rights; however, by doing so, the chain and I do not have the benefit of his side of the story and therefore my decision is based solely upon the information before me.

Since July 16, 2015, efforts made by Internal Affairs, APD Human Resources, and Commander Michael Eveleth to directly reach Officer Clark have been unsuccessful. He is in direct violation with his Change of Duty Status requirements dated February 5, 2015, where he listed his residence as his duty assignment location. As one of his Change of Duty Status requirements, Officer Clark was required to report and get permission from his supervisors before leaving his residence. Moreover, he was required to be reachable via the phone number/email address he provided in his Change of Duty Status Order. As of this date Officer Clark is absent without leave (AWOL) for his failure to follow a direct order to contact Commander Eveleth and also in violation of the Neglect of Duty policy.

¹ Officer Clark asserted that he was on FMLA sick leave on the date of the scheduled interview. Officer Clark had applied for FMLA, but was found ineligible. Officer Clark and his attorney were repeatedly notified of Officer Clark's ineligibility.

Further, APD recently obtained information that Officer Clark is currently out of the country without approval from his chain of command. Officer Clark departed the United States on an American Airlines flight from Dallas/Fort Worth to Tokyo, Japan on July 17th 2015, with a final destination of West Jakarta, Indonesia, a country with which the United States does not have an extradition treaty. This is an additional act of insubordination and the department now considers Officer Clark to be AWOL and further justifies the decision to indefinitely suspend Officer Clark.

At this time, no one has been indicted in connection with the murders of Samantha Dean and her unborn child and the criminal investigation is ongoing. Therefore, I am only imposing disciplinary action for administrative policy violations that do not involve possible criminal conduct by Officer Clark in order to maintain the integrity of and not jeopardize the criminal investigation. Should Officer Clark be indicted for a crime associated with Ms. Dean's murder, the appropriate administrative charges will be brought in accordance with the timeline set forth in Chapter 143.

By these actions, Officer Clark 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 110.4.4: Organizational Structure and Responsibility: Insubordination**

110.4.4 Insubordination

Employees will not be insubordinate. The willful disobedience of, or deliberate refusal to obey any lawful order of a supervisor is insubordination. Defying the authority of any supervisor by obvious disrespect, arrogant or disrespectful conduct, ridicule, or challenge to orders issued is considered insubordination whether done in or out of the supervisor's presence.

➤ **Austin Police Department Policy 900.3.3: General Conduct and Responsibilities: Prohibited Associations**

900.3.3 Prohibited Associations

- (a) Employees will not establish an external social relationship with a known victim, a known witness, or a known suspect of a crime while such case is being investigated by this Department or prosecuted as a result of such an investigation.
- (b) Employees will not establish social and/or business dealings with persons they know, or should know, are likely to adversely affect the employee's or Department's credibility. Employees will not associate with convicted felons. Provisions of this section do not

apply to association based on kinship or the discharge of official duties.

- (c) Employees will not knowingly loan money, accept as pawn any item, or enter into any type of business arrangement with a suspect of a criminal violation, a person under arrest or detention, a person known to have a criminal record or unsavory reputation, or a person known to be engaged in, or planning to engage in, criminal activity.

➤ **Austin Police Department Policy 900.4.3 Neglect of Duty**

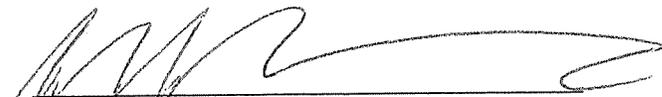
900.4.3 Neglect of Duty

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

- (e) Absence without approved leave.

By copy of this memo, Officer Clark is hereby advised of this indefinite 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 Clark 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.


ART ACEVEDO, Chief of Police

7/23/2015
Date

TO WHOM IT MAY CONCERN:

I hereby acknowledge receipt of the above and foregoing memorandum of indefinite 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.

VonTrey Clark

Officer VonTrey Clark #7204

signed by Nadia Stewart + with permission from Officer Clark

7/23/2015

Date