



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Mark Washington, Director of Civil Service

FROM: Art Acevedo, Chief of Police

DATE: June 6, 2013

SUBJECT: Temporary Suspension of Police Sergeant Kenneth Conner #2087
Internal Affairs Control Number 2013-0260

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 Sergeant Kenneth Conner #2087 from duty as a police officer of the City of Austin, Texas, for a period of fifteen (15) days. The temporary suspension is effective beginning on June 13, 2013, and continuing through June 27, 2013.

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

On March 8, 2013, Sergeant Conner responded to a glass break alarm at W. Stassney Lane. Upon his arrival, Sergeant Conner immediately spotted a potential suspect outside the business. Sergeant Conner detained and handcuffed the suspect, and then passed him to Officer Moreno who secured the suspect in the back seat of Officer Moreno's patrol car. The suspect became physically disruptive in the patrol car by kicking and banging around. At one point, the suspect kicked the interior door of the patrol car. Officer Moreno decided to place the suspect in hobble restraints to prevent him from further disruptive behavior. Sergeant Conner assisted Office Moreno by holding the suspect's leg up against his buttock area. After the suspect was placed in hobble restraints, Sergeant Conner had him sit in an upright position and secured him with the seat belt. As Sergeant Conner was backing out and away from the interior of the patrol car, the suspect spat in his direction. In response to the suspect's behavior, Sergeant Conner grabbed the suspect's neck, throat, and chin area, and yelled obscenities at him.

By these actions, Sergeant Conner 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 200.2: Response to Resistance: Response to Resistance Policy**

200.2 Response to Resistance Policy

While the type and extent of force may vary, it is the policy of this department that officers use only that amount of objectively reasonable force which appears necessary under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

- (a) Given that no policy can realistically predict every situation an officer might encounter, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate response to resistance in each incident.

➤ **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.

In determining the appropriate discipline, I took into consideration Sergeant Conner's willingness to obtain additional counseling for as long as deemed necessary and to attend mandatory training as ordered by his chain of command.

By copy of this memo, Sergeant Conner 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) 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, Sergeant Conner 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

6/6/2013
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) 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.

Kenneth Conner 2087
Police Sergeant Kenneth Conner #2087

JUNE 6th 2017
Date