



MEMORANDUM

Austin Police Department *Professional Standards* *Internal Affairs*

TO: Human Resources
FROM: Internal Affairs
DATE: March 5, 2024
SUBJECT: Temporary Suspension

Received
City of Austin
2024 MAR -5 PM 3:17
Human Resources Dept.

The following employee has been placed on a temporary suspension:

Officer/Employee	Emp #	Effective Date of Suspension	Number of Days Suspended
Samuel Travis	7257	3/6/2024	90



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

Human Resources Dept

2024 MAR -5 PM 3:18

City of Austin

Received

TO: Rebecca Kennedy, Interim Director of Civil Service

FROM: Robin J. Henderson, Interim Chief of Police

DATE: March 5, 2024

SUBJECT: Agreed Temporary Suspension of Police Officer Samuel Travis #7257
Internal Affairs Control Number 2023-0817

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 temporarily suspended Police Officer Samuel Travis #7257 from duty as a City of Austin, Texas police officer for a period of ninety (90) days. The agreed suspension is effective beginning on March 6, 2024 and continuing through June 3, 2024.

I took this action because Ofc. Travis 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 Ofc. Travis in violation of Rule 10:

On September 16, 2023, at 5:57 am, the Austin Police Department (APD) received a 911 call from a complainant who reported that she had been physically assaulted by her girlfriend. The call was initially dispatched as a *Disturbance Hot Shot* call but was downgraded to a *Disturbance Urgent* call when it was discovered the parties were separated. At 6:23 am, Ofc. Samuel Travis and another officer (hereafter, Ofc. #2) responded to the area. Their actions were captured on Body Worn Camera (BWC).

When officers arrived, the complainant reported that she had been physically assaulted by her girlfriend, whom she resided with, in a one-sided unprovoked attack. The complainant had visible scratches on her shoulder. As she stood outside after fleeing from the suspect, the complainant told both officers that her shoulder and forearm were areas where she sustained injury/pain from the assault. Her blouse was also ripped during the assault. Ofc. #2 then asked her, in Ofc. Travis' presence, if she was physically or emotionally hurt, and she replied "*Both.*" She also stated that her girlfriend [the suspect] was inside the residence. Ofc. #2 then walked away from the complainant and Ofc. Travis to his patrol vehicle to get paperwork.

The complainant then expressed a reluctance to pursue charges to Ofc. Travis. She also expressed a desire to secure her belongings and to depart in a hired ride. Ofc. Travis subsequently walked over to Ofc. #2's patrol vehicle and relayed to him the complainant's wishes to not pursue criminal charges against the suspect. Ofc. Travis also said that he wanted to oblige her request. Ofc. #2, who deferred to Ofc. Travis as the primary officer, expressed to Ofc. Travis a reluctance to accommodate the complainant's request. Ofc. #2 expressed his objection to not arresting the suspect due to APD policy and state law, which both mandate an arrest be made if probable cause exists of a Family Violence assault with an associated complaint of pain and/or injury, regardless of a victim's desire not to pursue charges.

Later on, the officers entered the residence to assist the complainant in safely securing her belongings. While in the residence, corroborating evidence of the assault was discovered by Ofc. #2 and Ofc. Travis. The officers also encountered the suspect. Ofc. #2 then reiterated to Ofc. Travis that he believed they should arrest the suspect regardless of the complainant's wishes. Ofc. Travis, nonetheless, reiterated to Ofc. #2 the complainant's desire to not have her girlfriend arrested and reiterated his intention to not make the arrest in light of her request. Shortly thereafter, the officers provided the complainant with the case number and a pink pamphlet¹ and she left the scene in a hired ride. Ultimately, although the suspect was on scene, she was not questioned, and no arrest was made. Moreover, no Assault Victim Statement form was offered to the complainant, nor was one filled out on her behalf.

¹ The "pink pamphlet" is a victim informational form that provides helpful contact information for victims for legal, counseling, shelters, etc., including references to crime victim's statutes, rights, and citations. Providing this form to victims is required by The Texas Code of Criminal Procedure Chapter 5 Article 5.04. Duties of Peace Officers (b) and required by APD Policy 418.3.1 Assault Victim Statement.

Thereafter, Ofc. #2 prompted Ofc. Travis to contact their supervisor. Similar to some of his dialogue with Ofc. #2, Ofc. Travis initially made some misleading statements to his supervisor, including about the complainant's injuries. His supervisor then ordered Ofc. Travis to come to the police station. In a subsequent dialogue with his supervisor, Ofc. Travis was forthcoming and acknowledged the truth and took responsibility for his actions, including his misplaced failure to arrest the suspect.

A few days later, on September 19, 2023, APD Internal Affairs (IA) received an Internal Complaint Memorandum from Ofc. Travis' Commander, to determine if Ofc. Travis' conduct complied with Department policy, Civil Service Rules, Municipal Service Rules, and State Law. The complaint read:

On 09-16-23 Ofc. Travis responded to a Disturbance call [in East Austin]. The initial on-scene investigation indicated a potential assault (Family Violence) had occurred. However, the suspect was not arrested at the scene. Officer Travis' actions may have violated department policy.

The IA investigation showed the above-mentioned facts. Ultimately Ofc. Travis had a Disciplinary Review Hearing (DRH) with me and his Chain-of-Command. During his DRH, Ofc. Travis took responsibility for his actions and inactions in this case, including misleading his peer and supervisor. While considering several factors in coming to my conclusion not to indefinitely suspend Ofc. Travis for his policy violations, including misleading his peer and supervisor, I gave considerable weight to the fact that Ofc. Travis accepted responsibility for not arresting the suspect and for immediately self-correcting himself in his conversations with his supervisor.

By these actions, Ofc. Travis 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 418.2.1(a)(1): Family Violence: Arrest Requirement for Assaultive Offenses**

418.2.1 Arrest Requirement for Assaultive Offenses

- (a) Officers are required to make an arrest for incidents involving family violence when:
 - 1. An assault has occurred that resulted in a minimum of bodily injury or complaint of pain; or where an officer can articulate facts from which a reasonable person could infer that the victim would have felt pain due to:
 - (a) The manner in which the suspect made contact with the victim, or
 - (b) the nature of observable physical marks on the victim's body allegedly caused by the suspect's contact with the victim, and

2. The suspect is still on-scene; and
3. The assault meets the definition of "family violence" or "dating violence."

To Wit:

Texas Penal Code 22.01 – Assault

Sec. 22.01. ASSAULT (a) A person commits an offense if the person:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;
- (2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or
- (3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

➤ **Austin Police Department Policy 418.3.1: Assault Victim Statement**

418.3.1 ASSAULT VICTIM STATEMENT

- (a) An Assault Victim Statement (AVS) form shall be completed on every incident involving family violence, regardless of whether an arrest is made. This includes, but is not limited to, any assault offense involving family violence with the exception of assault by contact and assault by threat offenses.
- (b) Officers shall advise victims of their right to obtain an emergency protective order (EPO) and ask them if they wish to file one. The required guidelines for filing an EPO are outlined later in this order.
- (c) Victims of family violence are to be given the opportunity to complete the AVS and sign it.
 1. Victims should be advised that the AVS may be used to file charges.
 2. In the event the victim refuses to complete and sign the AVS, the reporting officer shall complete the form and sign it under the signature refused section with a witness to the refusal, if possible.
 3. The AVS form must be reviewed for completeness by the officer prior to leaving the scene.

➤ **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:

- (b) Unwillingness or inability to perform assigned tasks.
- (c) Failure to take appropriate action on the occasion of a crime, disorder, investigation or other condition deserving police attention.
- (d) Failure to respond to any call or to perform any police duties assigned to them by appropriate authorities.
- (h) Failure to follow department standardized training and tactics when it was objectively reasonable to do so.
- (i) Employees are expected to be truthful at all times in the performance of their duties. However, there may be instances where, initially, the employee has not been truthful; but, before the investigation is complete, the employee provides an accurate and detailed accounting of their true culpability in a situation, and accepts full responsibility for their actions. In those cases, the Chief may consider each case on a fact-specific basis.

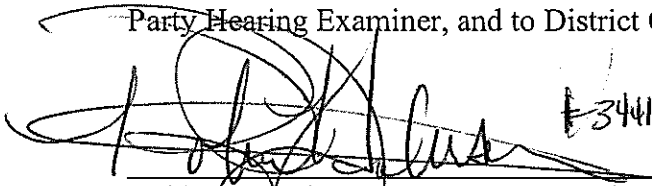
In addition to this agreed temporary suspension, Ofc. Travis agrees to the following terms and conditions:

1. Ofc. Travis shall attend any training specified by his Chain-of-Command.
2. Ofc. Travis agrees to a probationary period of one (1) year, with the additional requirement that if, during the probationary period, he commits the same or a similar act of misconduct for which he is being suspended (the determination whether an act is the same or similar is solely within the purview of the Chief of Police and is not subject to review by the Civil Service Commission, an Independent Third Party Hearing Examiner, or District Court), he will be indefinitely suspended without the right to appeal that suspension to the Civil Service Commission, an Independent Third Party Hearing Examiner, and to District Court. The one-year period begins on the day Ofc. Travis returns to duty after completing his agreed suspension. Should Ofc. Travis commit the same or similar violation outside the one-year period, he will be indefinitely suspended but retains the right to appeal that suspension.
3. Ofc. Travis 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 919.11.
4. Ofc. Travis agrees that he, and all others claiming under his named herein or not, fully discharge, release and waive any and all known or unknown

claims or demands of any kind or nature whatsoever that he now has, or may have in the future, including without limitations, claims arising under any federal, state or other governmental statute, regulation, or ordinance relating to employment discrimination, termination of employment, payment of wages or provision of benefits, Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act of 1990, as amended, the Family and Medical Leave Act, the Fair Labor Standards Act, and the Texas Commission on Human Rights Act, against the City of Austin, the Austin Police Department, or their respective agents, servants and employees, arising from the above-referenced incident, and any actions taken as a result of that incident, including but not limited to, the negotiation and execution of this agreed temporary suspension.

5. Ofc. Travis acknowledges that he had the opportunity to discuss this agreed suspension and additional terms and conditions set forth herein with a representative of his choosing prior to signing his acceptance, where indicated below.

By signing this Agreed Discipline, Ofc. Travis 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, Ofc. Travis waives all right to appeal this agreed suspension and the additional terms and conditions to the Civil Service Commission, to an Independent Third-Party Hearing Examiner, and to District Court.

 #3441
Robin J. Henderson #3441, Interim Chief of Police Date 03/05/2024

TO WHOM IT MAY CONCERN:

I acknowledge receipt of the above and foregoing memorandum of agreed suspension and I understand that by entering into this disciplinary agreement the Chief forgoes her 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, as well as the additional terms and conditions, to the Civil Service Commission, to an Independent Third-Party Hearing Examiner, and to District Court.

 #7257
Samuel Travis #7257, Police Officer Date 3/5/24