



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Mark Washington, Director of Civil Service

FROM: Art Acevedo, Chief of Police

DATE: July 18, 2013

SUBJECT: Temporary Suspension of Police Lieutenant Vincent Hernandez #2567
Internal Affairs Control Number 2013-0418

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 Lieutenant Vincent Hernandez #2567 from duty as a City of Austin, Texas police officer for a period of ten (10) days. The temporary suspension is effective beginning on July 19, 2013 and continuing through July 28, 2013.

I took this action because Lieutenant Hernandez 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 Lieutenant Hernandez in violation of Rule 10:

On January 25, 2013, Lieutenant Hernandez provided the link to an Internal Affairs case to the subject of the investigation, and directed the subject officer to draft his own Notice of Allegations and sign Lieutenant Hernandez' name to it.

By these actions, Lieutenant Hernandez 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.

➤ **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:

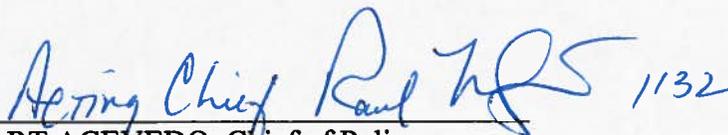
- (a) Lack of knowledge of the application of laws required to be enforced.
- (b) Unwillingness or inability to perform assigned tasks.

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

In determining the appropriate discipline, I took into consideration the potential negative impact that Lieutenant Hernandez' actions may have had on both the specific administrative investigation assigned to him, and to the integrity of the administrative investigation process in general. As a lieutenant, Lieutenant Hernandez should know what law, Austin Police Department policies and procedures, and the terms of contract require of investigators in administrative investigations. Not only did Lieutenant Hernandez fail to satisfactorily perform his assigned duties, but he also failed to lead by example when he instructed the subject officer to take actions in violation of policy.

By copy of this memo, Lieutenant Hernandez 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, Lieutenant Hernandez 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.

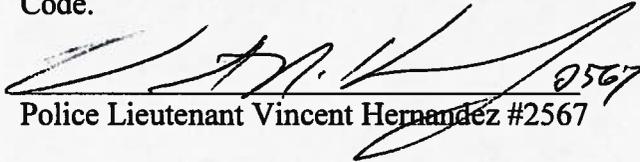

ART ACEVEDO, Chief of Police

7/18/13

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) 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.

 2567
Police Lieutenant Vincent Hernandez #2567

7-18-2013
Date