



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Rebecca Kennedy, Interim Director of Civil Service

FROM: Joseph Chacon, Chief of Police

DATE: May 12, 2023

SUBJECT: Temporary Suspension of Police Detective Christopher Thomas #5191
Internal Affairs Control Number 2022-1134

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 Detective Christopher Thomas #5191 from duty as a City of Austin, Texas police officer for a period of one (1) day. The temporary suspension is effective beginning and ending on May 13, 2023.

I took this action because Det. Thomas 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 Det. Thomas in violation of Rule 10:

On December 6, 2022, the Investigations 2 Detectives Unit received an email advising their assigned date and time to sign up for upcoming patrol backfill would begin on December 9, 2022, at 12pm. On December 6, 2022, Det. Christopher Thomas requested permission to sign up before his designated time. This request was denied on December 7, 2022, by Det. Thomas' Chain of Command, for internal "fairness" and equity purposes. Det. Thomas was also given a direct order on December 7, 2022, by his Sergeant not to sign up before his designated time of December 9, 2022, at 12pm. Det. Thomas, nonetheless, signed up for backfill on December 9, 2022, at 9:11 am, a few hours before his unit's designated time. This discovery was made by a Lieutenant from another shift, who notified Det. Thomas' Chain of Command.

This resulted in an Internal Affairs (IA) investigation being initiated by Det. Thomas' Chain of Command. During the investigation, all of the witnesses interviewed by IA, including members of his Chain of Command, concurred that Det. Thomas understood the direct order given to him and that he violated the order from his Chain of Command. Moreover, Det. Thomas took full responsibility for his actions during his IA interview and during his Disciplinary Meeting with his Chain of Command. In fact, he stated:

"There is no why...obviously I violated 'cause I signed up early for the backfill when my supervisor told me not to sign up early."

Det. Thomas elaborated on his remorse, by stating:

"I made a mistake. I signed up early. I shouldn't did it. At the time, it's not an excuse, but the facts was that I was in a situation where I panicked and wasn't a good judgment on my call looking forward or in the future, it won't happen again. And I'm just sorry for everybody who went through that or whatever consequences that somebody had to get us here today."

By these actions, Det. Thomas violated Rule 10.03(L) of the Civil Service Rules by violating the following rules and regulations of the Austin Police Department:

➤ **110.4.3 OBEDIENCE TO ORDERS**

The Department is an organization with a clearly defined hierarchy of authority. This is necessary because obedience of a superior's lawful command is essential for the safe and prompt performance of law enforcement operations. Austin Police Department Policy

(c) Employees will promptly obey any lawful order from a supervisor of higher rank, regardless if the supervisor is outside of the employees' chain-of-command.

By copy of this memo, Det. Thomas 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, Det. Thomas 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.

In addition, if this disciplinary suspension is for three (3) days or less, Det. Thomas is advised of the following provisions of Article 18, Section 1, of the Meet and Confer Agreement:

The parties agree that when an officer is suspended for 1, 2, or 3 days the officer may choose one of two methods of dealing with the suspensions as listed below.

- a) **Suspensions that may not be appealed.** *The officer may choose to use vacation or holiday time to serve the suspension with no loss of paid salary and no break in service for purposes of seniority, retirement, promotion, or any other purpose. The officer must agree that there is no right to appeal if this method of suspension is chosen.*
- b) **Suspensions that may be appealed.** *The officer may appeal the suspension to arbitration or the Civil Service Commission. If the officer chooses to appeal the suspension, the arbitrator or Civil Service Commission's authority is limited to ruling on whether or not the charges against the officer are true or not true. If the arbitrator or Civil Service Commission finds the charges to be true, there is no authority to mitigate the punishment. If the arbitrator or Civil Service Commission finds the charges to be not true, the officer shall be fully reinstated with no loss of pay or benefit.*

Arbitration Costs on Appealable Suspensions

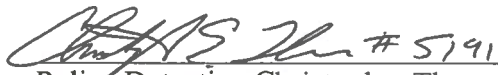
In the event that an officer appeals a 1, 2 or 3 day suspension to arbitration, it is agreed that the party that loses the arbitration shall be responsible for all costs of the arbitrator, including travel and lodging if necessary.

To facilitate such payment on the part of the officer he shall submit, at the time of appeal, a signed payroll deduction agreement that if the arbitrator rules in favor of the City he authorizes up to one hundred dollars (\$100.00) per month to be deducted from his regular pay until such time as what would usually be the City's portion of the arbitrator's costs have been satisfied.

 #4647 for Chief Chacon 5.12.23
JOSEPH CHACON, Chief of Police 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.

 #5191 5/12/23
Police Detective Christopher Thomas #5191 Date