



## **MEMORANDUM**

### **Austin Police Department *Office of the Chief of Police***

**TO:** Susan Sinz, Director of Civil Service

**FROM:** Lisa Davis, Chief of Police

**DATE:** December 13, 2024

**SUBJECT:** Indefinite Suspension of Police Officer Phillip Sparkman #7795  
Internal Affairs Control Number 2024-0659 and 2024-1132

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 Phillip Sparkman #7795 from duty as a City of Austin, Texas police officer effective December 13, 2024.

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

## Internal Affairs Control Number 2024-0659

On June 22, 2024, the Austin Police Department (APD) received information that Ofc. Phillip Sparkman had been arrested by Round Rock Police Department (RRPD) for Driving While Intoxicated (DWI) and Unlawful Carrying Weapons (UCW) in Round Rock, Texas. On June 25, 2024, APD Internal Affairs (IA) received an Internal Complaint Memorandum from Ofc. Sparkman's Chain of Command (COC).

The Internal Complaint Memorandum written by his Lieutenant reads, in part:

*"On 6/22/24, at about 5:09am, Officer Phillip Sparkman, 7795, was pulled over by Round Rock Police Department in the 3500 block of N. Mays Blvd (RRPD Case 24-06220007) for traffic violations. SFSTs were administered and Officer Sparkman was arrested by RRPD for Driving While Intoxicated (Class B Misdemeanor) and Unlawful Carrying Weapon (Class A Misdemeanor). It is alleged that Officer Sparkman may have violated APD Policy and State Law during this incident."*

Separate from the RRPD criminal case, Ofc. Sparkman's Lieutenant requested the APD Internal Affairs Division (IA) conduct an administrative investigation to determine if Ofc. Sparkman's conduct complied with Department policy, Civil Service Rules, and State Law.

### IA Investigation

During their investigation, IA reviewed the following materials:

- Round Rock Police Department Sworn Affidavit - Driving While Intoxicated
- Round Rock Police Department Sworn Affidavit - Unlawful Carrying Weapons
- Round Rock Police Department Sworn Affidavit - Blood Search Warrant
- Texas Dept. of Public Safety Toxicology Laboratory Report [REDACTED]
- Round Rock Police Department Incident Report #24-0622-0007
- Round Rock Police Department Call Notes #24-0622-0007
- Round Rock Police Department Law Enforcement Advanced DUI/DWI Reporting System (LEADRS DWI Case Report)
- Round Rock Police Department Property/Evidence voucher
- Round Rock Police Department Axon videos (Car/BWC) #24-0622-0007
- Round Rock Police Department seized firearm photos #24-0622-0007

This review confirmed that on June 22, 2024, at 5:09am, Ofc. Sparkman was observed by RRPD operating a vehicle and that he was subsequently arrested for DWI, pursuant to Texas Penal Code Sec. 49.04 DWI, a Class B Misdemeanor. The responding officers conducted an on-scene investigation. The RRPD report and/or sworn affidavit concludes:

*"Based on the totality of the circumstances, I deemed there was sufficient probable cause to believe The Defendant had lost the normal use of their mental or physical faculties due to the introduction of alcohol and/or other drug into their body. Due*

*to the fact the Defendant was intoxicated while operating a vehicle in public, I took the Defendant into custody for Driving While Intoxicated.”*

After Ofc. Sparkman was placed under arrest for DWI, RRPD conducted an inventory of his vehicle. During the inventory RRPD officers located a black Smith & Wesson M&P Shield handgun, two fully loaded magazines, and a gun holster. These items were seized, and Ofc. Sparkman was also charged with UCW due to his possession of the weapon in conjunction with the evidence that resulted in his DWI arrest, pursuant to Texas Penal Code Sec. 46.02 UCW, a Class A Misdemeanor.

During his contact with the three RRPD officers, Ofc. Sparkman identified himself as an APD officer, as captured on Body Worn Camera (BWC). RRPD notified the APD of Ofc. Sparkman's arrest immediately. While in custody, RRPD asked Ofc. Sparkman to submit to a breathalyzer test or provide a blood sample. Ofc. Sparkman declined, prompting RRPD to secure a search warrant from a judge to order a blood sample be taken from him. A blood sample was collected at a local hospital at approximately 10:34am and submitted to a laboratory. As of this writing, the DWI and UCW charges against Ofc. Sparkman are pending in a Williamson County Court.

#### **Chronological post-arrest administrative steps taken by the APD**

After his arrest, on June 22, 2024, APD placed Ofc. Sparkman on paid restricted duty (PRD), pending further developments in his criminal and/or administrative cases. Ofc. Sparkman's supervisor served him with (and he signed) a memorandum that ordered him to comport to the requirements of his PRD status. The memorandum stated that while assigned to PRD status, Ofc. Sparkman was required to remain at his residence during his duty hours from Tuesday to Friday (6am-4pm), unless on approved leave.

On July 19, 2024, IA gave Ofc. Sparkman an order pursuant to APD General Order (GO) 902.4.1, which *“requires employees to cooperate fully with their assigned Internal Affairs (IA) investigator.”* The order required him to provide a timeline of events leading up to his DWI arrest, including what he consumed in the hours leading up to his arrest.

On July 23, 2024, Ofc. Sparkman responded that he had not consumed any food since around 4:00pm on June 21, 2024, which was 12 hours prior to being stopped at 5:09am on June 22, 2024. This also would have been 17 hours before his blood sample was collected around 10:34am on June 22, 2024. More notably, Ofc. Sparkman wrote that he had not consumed any alcoholic beverages in the 24-hour period leading up to his arrest. Those assertions were consistent with what he stated to RRPD on scene on June 22, 2024.<sup>1</sup>

However, on August 13, 2024, IA received a copy of the Texas Department of Public Safety Toxicology Laboratory Report [REDACTED] of the blood sample taken from Ofc. Sparkman on June 22, 2024. The report showed that Ofc. Sparkman had alcohol in

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<sup>1</sup> Ofc. Sparkman later testified in a September 18, 2024, IA interview that he had not consumed any alcoholic beverages for at least a week or two before his arrest. That claim will be addressed later in this memorandum.

his system from the sample collected 5 hours and 25 minutes (5.41 hrs.) after he was observed driving. It showed his Blood Alcohol Content (BAC) was [REDACTED] which was inconsistent with his assertion that he consumed no alcohol prior to his arrest. This discrepancy resulted in Ofc. Sparkman's COC filing a second complaint against him on August 28, 2024, for allegedly violating APD GO 900.3.1 Honesty and/or 902.4.1 Cooperating with Assigned Investigators.

The August 28, 2024, complaint stated in part:

*"Officer Sparkman was ordered to produce a timeline of events for IA Case 2024-0659. On 07/23/2024, Officer Sparkman emailed his response to APD Internal Affairs containing his written timeline of events, including stating that he had not consumed any alcohol. Officer Sparkman's response to this order may not have been completely accurate, and/or he may have omitted pertinent information, and/or may not have fully cooperated with Internal Affairs, who are acting on behalf of the Chief of Police. Officer Sparkman may have violated policy with this written response to APD IA."*

#### **Ofc. Sparkman's IA interview**

Thereafter, on September 18, 2024, IA interviewed Ofc. Sparkman and confronted him with some of the following evidence and conclusions in the RRPD case files, including the results of the Texas Department of Public Safety Toxicology Laboratory Report:

- 1) The RRPD officer who initiated the traffic stop notated several improper or erratic driving actions by Ofc. Sparkman, prompting the initiation of the stop:
  - *momentarily drive south in the northbound lanes of Eagles Nest St.*
  - *swerve within his lane as he approached the intersection of Eagles Nest St. and Cypress Blvd.*
  - *then he observed [Ofc. Sparkman] disregard a stop sign as he turned right onto Cypress Blvd.*

IA asked Ofc. Sparkman about his erratic driving. He claimed that he was driving poorly because he was searching for his wallet while driving. His following explanation, nonetheless, confirmed RRPD's observation of his erratic driving:

*"I knew I was - I wasn't driving the best. I knew that that's why I was, uh, I wasn't paying attention fully to the road. So I knew that, uh, in my head I'm like, all right I'm not gonna hit the curb or something I'm just gonna stay kind of in the middle while I'm putting my head down looking for my stuff. So I knew I wasn't, like, driving the best... I was looking for my wallet."*

- 2) Three RRPD officers, each of whom came in contact with Ofc. Sparkman on-scene, independently notated in their report/supplement words to the effect:

*"they smelled an odor of metabolized alcohol emitting from [him]."*

Ofc. Sparkman could not offer a reasonable explanation for these observations, which are strong indicators of intoxication:

- 3) As notated in the RRPD report, and captured on BWC, Ofc. Sparkman failed the Horizontal Gaze Nystagmus (HGN) portion of the standardized field sobriety test (SFSTs) by exhibiting 6 of 6 clues:
  - *Lack of Smooth Pursuit (2 clues observed)*
  - *Distinct and Sustained Nystagmus at Maximum Deviation (2 clues observed)*
  - *Onset Nystagmus prior to 45 Degrees (2 clues observed)*
  - *Total clues observed (6 out of 6)*
  - *Vertical Gaze Nystagmus (Not observed)*
  
- 4) As notated in the RRPD report, and captured on BWC, Ofc. Sparkman failed the Walk and Turn portion of the SFSTs by exhibiting 3 clues:
  - *Misses Heel-to-toe*
  - *Uses Arms to Balance*
  - *Steps Off Line*
  - *Total clues observed (3)*
  
- 5) As notated in the RRPD report, and captured on BWC, Ofc. Sparkman failed the One Leg Stand portion of the SFSTs by exhibiting 2 clues:
  - *Sways while balancing*
  - *Puts Foot Down*
  - *Total clues observed (2)*
  
- 6) The initial RRPD officer also notated in their report that Ofc. Sparkman exhibited:
  - *watery and glassy eyes*
  - *speak with a thick tongue*
  - *slow to process the question I was asking him*
  - *delayed cognitive responses*

Ofc. Sparkman could not offer a reasonable explanation for the observations made during his interaction with the RRPD officers, including his failure of the SFSTs. Ofc. Sparkman complained of physical pain, including a rib injury during his interaction with the RRPD. Divergent with those assertions, Ofc. Sparkman engaged in excessive stretching, including doing squats, during his interaction with the RRPD. During the performance of the SFSTs, RRPD officers suggested or implied to Ofc. Sparkman that they sensed that he was engaging in subterfuge or that he was trying to deceive them. RRPD officers prodded Ofc. Sparkman that he should know what is expected of him since he likely has directed others

on how to perform SFSTs in the performance of his duties as an APD officer. It is important to note that Ofc. Sparkman, as are all APD officers, was trained in the administration of SFSTs. This training includes instruction on how to physically demonstrate to others how to perform the test by performing the test.

As further evidence of his intoxication, Ofc. Sparkman repeatedly questioned RRPD officers about items that had been explained to him moments earlier. By way of example, after the conclusion of the of the SFSTs, one RRPD officer handcuffed Ofc. Sparkman and advised him that he was being placed under arrest for DWI. About one minute later, Ofc. Sparkman asked another officer what he was being arrested for.

7) A second RRPD officer wrote in their report that during the SFSTs they observed:

- “[you] to be swaying and had glossy eyes.”

As previously mentioned, they also noted smelling an odor of alcohol emanating from him.

8) After the SFSTs, the initial responding RRPD officer administered the DIC-24 (specimen request) and asked Ofc. Sparkman to voluntarily submit a breath or blood sample for analysis. Ofc. Sparkman refused to provide a voluntary sample and was later transported to RRPD headquarters for further processing. He expressed a complaint of pain to his ribs due to an injury he claimed that he suffered a week prior.

This complaint of pain prompted RRPD officers to contact Emergency Medical Services (EMS) to respond to the scene. EMS subsequently arrived and they checked out Ofc. Sparkman and medically cleared him back to the custody of RRPD. Ofc. Sparkman was eventually transported to the RRPD, whereby he again complained of injury, and again requested medical attention. EMS personnel were again called out and checked out Ofc. Sparkman, this time at the RRPD. Ofc. Sparkman was again medically cleared by EMS. Ofc. Sparkman yet again complained of pain after EMS departed. RRPD officers, in abundance of caution, chose to transport Ofc. Sparkman to a local hospital before booking him in Williamson County jail. Eventually, Ofc. Sparkman was cleared by hospital personnel to the custody of RRPD and he was booked in the Williamson County jail for the aforementioned charges.

Ofc. Sparkman's COC and I share the RRPD's perception that he engaged in subterfuge, as shown on RRPD BWC. Although only Ofc. Sparkman knows his motivations, it seems reasonable that he repeatedly complained of pain and insisted on medical care for the purpose of delaying RRPD's efforts to obtain a blood sample. As a peace officer, Ofc. Sparkman knew that alcohol is eliminated from the body over a period of time and his exaggeration or feigning of injury was likely a deliberate attempt to delay RRPD from obtaining that blood sample. Through these actions, Ofc. Sparkman interfered with RRPD's criminal investigation and hindered their ability to timely obtain evidence that could have been more incriminating to him with each passing minute and or hour regarding his impairment/intoxication.

In fact, Ofc. Sparkman admitted in his IA interview that he had just come from a friend's home, minutes before his arrest, where he had participated in physical activities. Moreover, Ofc. Sparkman advised IA that he worked a full shift within several hours of the stop. APD records show he worked as an APD officer during the night and day leading up to this arrest in a full duty capacity. Also, APD has no records of Ofc. Sparkman notifying APD of any health issues in the weeks leading up to his arrest, necessitating him to be on less than full duty. Ofc. Sparkman also just finished a week of being "on call" for SWAT. SWAT officers have to meet a rigorous training metrics to be on SWAT and they must maintain this fitness to remain on SWAT. In fact, APD training records show that less than 3 weeks prior to being arrested, Ofc. Sparkman participated in two days of SWAT tryouts, on June 3-4, 2024, whereby he did the following activities:

- 250 pounds deadlifts (3 repetitions)
- A Sled push in 15 seconds or less with a Torque M-4 sled
- 6 weighted pull-ups with a 20-pound vest
- Power throw of 6 yards or over with a 20-pound medicine ball
- Farmers carry with two 90-pound dumb bells over 50 yards
- 300-yard shuttle run in one minute and 20 seconds or less.

9) While being treated at a hospital, RRPD secured a search warrant from a judge (over 5 hours after the stop) to obtain a blood sample from Ofc. Sparkman. The lab results from the sample showed that:

Ofc. Sparkman still had a BAC of [REDACTED] (even after all of the delays).

It is important to note that National Highway Traffic Safety Administration (NHTSA) show that based upon established standards, alcohol leaves the body at an average rate of 0.015g/100L/hour, which is the same as reducing ones BAC level by 0.015 per hour.

- Based upon a 0.015 reduction in BAC per hour, Ofc. Sparkman's BAC would have been approximately a minimum of [REDACTED] at the time the RRPD observed him driving erratically ( $5 \times 0.015 = 0.075 + [REDACTED] = [REDACTED]$ )
- Or as much as approximately a maximum of [REDACTED] ( $5.41 \times 0.015 = [REDACTED] + [REDACTED] = [REDACTED]$ ) at the time the RRPD observed him driving erratically.
- Even taking the lower of the two extrapolated numbers [REDACTED], his BAC would have been over the legal limit of [REDACTED] as prescribed by the Texas Penal Code.

After confronting Ofc. Sparkman with some of the above evidence, including but not limited to the fact that he had a BAC of [REDACTED] and an odor of alcohol emanating from his person during the traffic stop, Ofc. Sparkman still denied drinking any alcohol prior to his arrest, including the week or two before his arrest. Ofc. Sparkman then offered the following response:

*"I don't have an explanation. Uh, I know from talking to my lawyer that there's medical factors that can play a part in it and there's medical conditions that I could have that play a part in it, so, um, that's all I know. I don't..."*

Ofc. Sparkman then told IA that he was in the process of seeking medical attention to determine if he had a medical condition that may have caused the presence of alcohol in his blood, stating:

*"I'm still in the, like, the process is - it kind of is long process especially if you use the VA and stuff like that so it takes longer to, uh, get appointments and stuff like that... And they want to do like individual things so and I got a bunch of things that are going on so, like, it's harder to get everything done at once, if that makes sense. It's like they want to treat this medical condition before I even talk about this one type deal. So it's just a process that I'm just trying to deal with."*

As a result of his assertion, on October 24, 2024, APD offered to help Ofc. Sparkman expedite the process of getting him an appointment to see a physician/specialist to do testing at APD's expense to help discern if he had a medical condition that impacted what BAC level he emitted and/or his body's emission of an odor of alcohol.

On Tuesday November 5, 2024, IA attempted to contact Ofc. Sparkman during his mandated PRD working hours (Tuesdays-Fridays 6am-4pm). Although he was required to remain available to IA and his COC, IA was unable to reach him. IA attempted to contact Ofc. Sparkman in part for the purpose of determining whether he intended to meet with APD's medical specialist. IA could not reach him in spite of numerous calls.

The inability to contact Ofc. Sparkman resulted in significant alarm and concern for his well-being and safety, and the triggering of numerous resources and people attempting to discern his whereabouts, including but not limited to his COC, Executive Staff, Peer Support, shift co-workers, neighbors, and legal representatives. It also resulted in APD filing a Missing Person's report with RRPD on or about November 5, 2024.

On November 6, 2024, the APD discovered that Ofc. Sparkman traveled to Bogota, Colombia on October 24, 2024, ultimately returning on November 11, 2024. He went on this unauthorized trip without approved leave from his supervisor. Ofc. Sparkman's unauthorized absence resulted in a complaint being filed against him by his COC and the initiation of IAD case 2024-1132.

#### **Internal Affairs Control Number 2024-1132**

On November 6, 2024, Ofc. Sparkman's COC issued a third complaint that stated in part:

*"On 11/5/24, around 2:23pm, I was notified that Officer Sparkman was not able to be reached by Internal Affairs during his scheduled workdays (Tues - Fri 6am - 4pm). I called and found his phone went directly to voicemail and he was not located when officers went to his residence. On Wednesday 11/6/24, I learned that he was actually in Columbia and had lost his phone. It was reported to me that he left for Columbia on 10/24/24 and would not be returning until 11/11/24. I contacted his Sergeant, who stated that Officer Sparkman did not request any vacation or notify his chain of command at all about his travel. Further, Officer*

*Sparkman is on restricted duty and signed a memo on 6/22/24 stating that he will report to [his Sergeant] before he leaves his residence during his assigned work hours. During the time he was in Columbia, his UKG Timecard continued to reflect that he was on Paid Administrative Duty, and not on any other type of approved leave. Officer Sparkman may have violated APD Policy in taking leave without approval and doing so while on Restricted Duty."*

On November 19, 2024, Ofc. Sparkman confirmed in a second IA interview that he went to Bogota, Colombia on a "spur of the moment trip" the same day that APD offered to facilitate a medical appointment for him in IAD case 2024-0659.<sup>2</sup> He also conceded that he knew this trip was unauthorized, as he did not seek or gain approved leave from his supervisor to leave the country. Ultimately, Ofc. Sparkman conceded to IA that he violated:

- GO 110.4.4 Insubordination
- GO 955.2 (a) General Attendance Guidelines
- GO 959.3 (c) 2 (c) Duty Restrictions.

Ofc. Sparkman chose to unilaterally make himself unavailable to IA for more than two weeks (19 days or 10 workdays). By his actions, Ofc. Sparkman's COC and I also concluded that he violated:

- G.O. 902.4.1 Cooperating with Assigned Investigators.

Lastly, during the November 19, 2024, IA interview, investigators again reminded Ofc. Sparkman of APD's offer to facilitate an expedited medical appointment for him. Ofc. Sparkman again did not take APD up on its offer, stating:

*"I haven't thought about it yet... And I'm thinking about a lot of things. I'm tryin' to get everything in order. And I - and right now, this is what's going on, so I'm not really thinking about that right now."*

### **Conclusion**

I concur with Ofc. Sparkman's COC's recommendation to me that he be sustained by a preponderance of the evidence administrative standard of proof for every GO violation notated in the December 3, 2024, Notice of Sustained Allegations (NOSA) issued to him in IAD Control Number 2024-0659 and 2024-1132. I also concur with Ofc. Sparkman's COC's recommendation to me that he be indefinitely suspended.

Ofc. Sparkman provided me ample individual reasons to indefinitely suspend him. It is important to note that I would have made the decision to indefinitely suspend him for any of the following GO violations in IAD 2024-0659, independent of each of the other:

- 1) 900.1.1 Responsibility to Know and Comply-to wit: DWI (TPC 49.04/49.01)

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<sup>2</sup> He later advised IA that he believed that he booked the ticket a week prior to leaving for Colombia.

- 2) 900.1.1 Responsibility to Know and Comply-to wit: UCW (TPC 46.02)
- 3) 364.3 (d) Firearms

The above-mentioned reasons all warrant an indefinite suspension because of the criminal component of each offense and the severity of the conduct. Moreover, APD has had a well-documented zero-tolerance DWI policy that has been in place since 2015. Every APD officer has been placed on notice as to this policy and it can be found in APD GO's and APD's disciplinary matrix, along with published video messages viewed by all officers. Every officer who has been arrested for DWI since the implementation of that GO/policy has either been indefinitely suspended by the then Chief of Police or the officer resigned in lieu of termination.

- 4) 900.3.1 Honesty
- 5) 902.4.1 Cooperating with Assigned Investigators (by being dishonest with IA)

APD also has a well-trained, published and documented zero-tolerance policy when it comes to a single violation of GO 900.3.1 Honesty and/or GO 902.4.1 Cooperating with Assigned Investigators. Therefore, any one of the following individual violations of the above GO's would have resulted in my decision to indefinitely suspend Ofc. Sparkman independent of any other violation in this memorandum:

- A) His on-scene statement to one or more RRPD officers that he had not consumed any alcohol on the day of his arrest.
- B) His written or verbal assertions to the assigned IA investigator that he did not consume any alcohol prior to his arrest, including during the preceding weeks.

The conclusion that his above-mentioned statements about not consuming "any" alcohol prior to his arrest were deemed not credible is supported by the fact that lab results showed that he had a BAC of [REDACTED] over 5 hours after his arrest. The conclusion that Ofc. Sparkman was dishonest is also supported by the multiple indicators of intoxication observed by RRPD officers on the scene, including him smelling of alcohol and failing the SFSTs. It is important to note that had I concluded that the preponderance of the evidence did not support that Ofc. Sparkman committed a DWI, the COC and I, nonetheless would have sustained him and indefinitely suspended him for violating APD GO 900.3.1 Honesty and/or Cooperating with Investigators (RRPD and/or IA investigators).

- 6) 902.4.1 Cooperating with Assigned Investigators (by being unavailable for IA)

Even if I did not conclude that Ofc. Sparkman was dishonest, in violation of GO 900.3.1 and/or 902.4.1, I would have nonetheless indefinitely suspended Ofc. Sparkman for his failure to fully cooperate with the assigned IA investigator, who was acting on my behalf, as explicitly spelled out by policy. By leaving the country for 19 days in an unauthorized capacity, Ofc. Sparkman made himself unavailable to IA, in spite of a direct order from his supervisor and in spite of what is explicitly spelled out to all officers in GO 902.4.1.

- 7) 900.3.2 (a) Acts Bringing Discredit Upon the Department (in IAD 2024-0659)

Additionally, on June 22, 2024, when Ofc. Sparkman was arrested, he identified himself as an APD officer to the three RRPD officers, as captured on BWC. Therefore, not only are members of the RRPD and Williamson County EMS aware of his arrest, but members of the criminal justice system, including a Williamson County Court judge and/or their staff, are aware of his arrest for the aforementioned charges.

- 8) 110.4.4 Insubordination, 955.2 (a) General Attendance Guidelines, and 959.3 (c) 2 (c) Duty Restrictions.

I also would have indefinitely suspended Ofc. Sparkman for his above-mentioned violations in IAD 2024-1132, independent of the already mentioned GO violations. It would be an inexcusable affront to the silent majority of officers who follow APD GOs on a daily basis, to have any tolerance for the actions that Ofc. Sparkman consciously chose to take while under investigation and on paid restricted duty, as a result of his arrest and pending charges. While his peers were working the streets of Austin during a staffing crisis, Ofc. Sparkman merely had to stay home during designated hours and collect his full pay and benefits. Yet, during this time, he chose to go to Colombia, sparking alarm and concern for him and the use of time and resources by the APD. His actions are not only shocking and disappointing, but they violated a multitude of APD GOs, including GO 110.4.4 Insubordination, 955.2 (a), and 959.3 (c) 2 (c).

Moreso, with respect to APD GO 110.4.4 Insubordination Ofc. Sparkman conceded he knew he was supposed to be available and at his designated work location in the ten (10) actual working days that he went AWL. Thus, he was knowingly insubordinate with the directive given to him by his COC on 10 different working days. This is noteworthy because a single act, let alone a single day of being Insubordinate warrants a four (4) to fifteen (15) day suspension, pursuant to APD's disciplinary matrix. Whereas a second offense or second day of insubordination calls for an indefinite suspension pursuant to APD's disciplinary matrix. Here, Ofc. Sparkman far exceeded the two days of being insubordinate by knowingly and consciously choosing to make himself Insubordinate for (10) different days rather than notify or seek permission from his supervisor to have approved leave.

- 9) 900.3.2 (a) Acts Bringing Discredit Upon the Department (in IAD 2024-1132)

Lastly, Ofc. Sparkman's unexplained and unexcused absence prompted his COC to file a missing person's report with RRPD on November 5, 2024. Ofc. Sparkman not only brought discredit to APD for his arrest on June 22, 2024, but he did so again by leaving for Colombia on October 24, 2024, prompting the filing of the missing person's report with the same agency that arrested him.

For the above-stated individual and/or collective reasons, Ofc. Sparkman leaves me with no choice but to indefinitely suspend him.

By these actions, Ofc. Sparkman 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 order 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.
- (c) A lack of knowledge of an APD written directive is not a defense to disciplinary action.

**To Wit:**

**Texas Penal Code Section 49.01. DEFINITIONS. In this chapter:**

- (1) "Alcohol concentration" means the number of grams of alcohol per:
  - (B) 100 milliliters of blood; or
- (2) "Intoxicated" means:
  - (A) not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; or
  - (B) Having an alcohol concentration of 0.8 or more.

**To Wit:**

**Texas Penal Code Section 49.04: Driving While Intoxicated**

- (a) A person commits an offense if the person is intoxicated while operating a motor vehicle in a public place.

**To Wit:**

**Texas Penal Code Section 46.02: Unlawful Carrying Weapons**

- (a) A person commits an offense if the person:
  - (1) intentionally, knowingly, or recklessly carries on or about his or her person a handgun;

➤ **Austin Police Department Policy 364.3(d): Off-Duty Law Enforcement Actions: Firearms**

**364.3(d) Firearms**

Officers of this department may carry firearms while off-duty in accordance with federal and state law and department general orders.

- (d) Firearms shall not be carried by any officer who has consumed an amount of an alcoholic beverage, or taken any drugs, that would tend to adversely affect the officer's senses or judgment.

➤ **Austin Police Department Policy 900.3.1: General Conduct and Responsibilities: Honesty**

**900.3.1 Honesty**

Honesty is of the utmost importance in the police profession. Employees are expected to be truthful at all times in the performance of their duties.

- (a) Employees will speak the truth at all times and reflect the truth in all reports and written communications. Any statement or omission of pertinent or material information which intentionally misrepresents facts or misleads others through an official statement will be considered a false official statement. The following are examples of an "official statement":
  - 1. Documents prepared by an officer in connection with their official duties, including but not limited to incident reports or supplements, sworn affidavits, and citations.
  - 2. Verbal or written statements made by an officer in connection with their official duties to:
    - (a) An investigator conducting an administrative or criminal investigation of the officer or another person's conduct.
    - (b) A supervisor conducting an inquiry into the officer's use of force.

(c) A fact finder in an administrative, civil, or criminal proceeding in which the officer testifies.

(c) Employees will not attempt to conceal, divert, or mitigate their true culpability in a situation, nor will they engage in efforts to thwart, influence, or interfere with an internal or criminal investigation.

➤ **Austin Police Department Policy 902.4.1(b): Administrative Investigations: Cooperating with Assigned Investigators**

**902.4.1 Cooperating with Assigned Investigators**

(a) Employees will cooperate with any assigned investigator as if they were addressing the Chief of Police. Employees who fail or refuse to cooperate with an assigned investigator will be subject to disciplinary action, up to and including indefinite suspension.

(b) Honesty is of the utmost importance in the police profession. Employees are expected to be truthful at all times during interviews with investigators as outlined in General Order 900 (General Conduct and Responsibilities).

1. Employees who are found to have given a false official statement are subject to indefinite suspension as outlined in the Discipline Matrix ("Dishonesty - False Official Statements").

➤ **Austin Police Department Policy 900.3.2(a): General Conduct and Responsibilities: Acts Bringing Discredit Upon the Department**

**900.3.2(a) Acts Bringing Discredit Upon the Department**

Since the conduct of personnel both on-duty or off-duty may reflect directly upon the Department, employees must conduct themselves at all times in a manner which does not bring reproach, discredit, or embarrassment to the Department or to the City.

(a) Employees will not commit any act which tends to destroy public confidence in, and respect for, the Department or which is prejudicial to the good order, efficiency, or discipline of the 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 955.2(a): Attendance and Leave: General Attendance Guidelines**

**955.2(a) General Attendance Guidelines**

- (a) Employees will not be absent from work without prior approval from an immediate supervisor.
  - 1. Unless a different notification is required by a Unit SOP, employees have the responsibility of notifying an immediate supervisor at least one (1) hour prior to the scheduled work start time if they are going to be absent.
  - 2. Employees who fail to report to work at the assigned place and time, or who leave work or an assignment without proper authorization will be subject to disciplinary action.

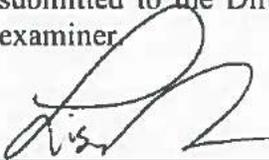
➤ **Austin Police Department Policy 959.3(c)2(c): Attendance and Leave: Duty Restrictions**

**959.3(c) 2(c) Duty Restrictions**

- (c) Any restriction placed upon an employee on restricted duty or administrative leave/duty status will be listed on the written direct order given placing the employee on restricted duty or administrative leave/duty.
  - 2. In addition, a restricted duty or administrative leave/duty order may require employees to:
    - (c) Remain at their designated work station (e.g., on-site, at home) during duty hours unless on approved leave. Employees must report to their designated supervisor if they leave the designated work station for more than reasonable breaks.

By copy of this memo, Ofc. Sparkman 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) 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, Ofc. Sparkman 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.



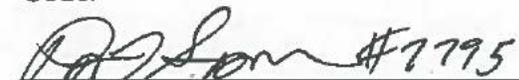
LISA DAVIS, Chief of Police

12-13-24

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.

  
Police Officer Phillip Sparkman #7795

12-13-24

Date