



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

CITY OF AUSTIN
CIVIL SERVICE OFFICE

RECEIVED

4/22/20

4:18 pm

TO: Joya Hayes, Director of Civil Service

FROM: Brian Manley, Chief of Police

DATE: April 22, 2020

SUBJECT: Indefinite Suspension of Police Officer Christina Branscum #7085
Internal Affairs Control Number 2019-1268

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 Christina Branscum #7085 from duty as a police officer for the City of Austin, Texas effective April 22, 2020.

I took this action because Officer Branscum 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 specific acts committed by Officer Branscum in violation of Rule 10:

As will be discussed in greater detail below, Officer Branscum was scheduled to attend a 40-hour Mandatory Intermediate Crisis Intervention Team (CIT) training course from November 4, through November 7, 2019. The course was being taught at the Austin State Hospital, and scheduled to begin at 7:00 a.m., and end at 5:00 p.m. each day. Officer Branscum wrote her initials on the Texas Commission on Law Enforcement (TCOLE) sign-in roster for each of the four days of training. The TCOLE sign-in roster is considered a governmental record.

Officer Branscum did not attend the Wednesday, November 6, 2019, training course day, yet she documented to TCOLE that she attended the complete training course, including documenting that she attended November 6, 2019. That act alone is a violation of the APD honesty general order and warrants an indefinite suspension per the APD disciplinary matrix. That act is also a violation of the following Texas Penal Code Section(s): 37.10. TAMPERING WITH GOVERNMENTAL RECORD. “(a) A person commits an offense if he: (1) knowingly makes a false entry in, or false alteration of, a governmental record; and/or (5) makes, presents, or uses a governmental record with knowledge of its falsity.

Thereafter, Officer Branscum’s time sheet was completed by her supervisor, Corporal Teresa Jester, with her belief and understanding she attended all four days of training. The time sheet is also considered a governmental record. However, a fellow APD officer, who is assigned to the same shift as Officer Branscum, also attended the same training. On Wednesday, November 13, 2019, the shift-mate informed Sergeant Charles Rohre that Officer Branscum had not attended every day of the training and had been late to class on more than one occasion. Sergeant Rohre and Corporal Jester met with Officer Branscum on November 14, 2019, to discuss her attendance during the week of CIT training.

During this meeting, Officer Branscum initially stated she had attended class each day, but later stated she was late on several days during the week of training. She ultimately admitted she missed one day of the training in its entirety, along with missing another half day of training, along with being late on multiple days. Officer Branscum had not discussed her tardiness or being absent from the training with Sergeant Rohre until that meeting, and after he had already submitted her time sheet that unbeknownst to him contained inaccurate information regarding her hours worked that week. Officer Branscum was ordered to submit a memorandum about this matter, to rectify the time sheet issue. After receiving the memorandum, Corporal Jester submitted a corrected time sheet to Human Resources on November 14, 2019. As will be noted, the memorandum contained and/or further showed Officer Branscum provided false information and/or omitted pertinent and material information about her attendance at the CIT training.

This matter was investigated by the Internal Affairs Division and a criminal referral was made to the Special Investigations Unit (SIU). SIU conferred with the Travis County District Attorney’s Office, which chose not to pursue criminal charges against Officer Branscum for the offense of Tampering with a Governmental Record. The decision not to pursue criminal charges has no bearing on whether Officer Branscum violated the Civil Service Rules.

The CIT Training Course:

On May 28, 2019, Officer Branscum was notified by her Corporal that she was scheduled to attend the CIT training course on June 17-20, 2019. On June 6, 2019, Officer Branscum sent an e-mail to her Corporal requesting to be in the November 4-7, 2019 CIT course instead. Her request was granted. On October 31, 2019, Officer Branscum received a reminder email from the instructor of the CIT training course about the upcoming November 4-7, 2019, course. On November 1, 2019, Officer Branscum sent an e-mail to her Corporal regarding her participation in the November 4-7, CIT course. A response to that email was not provided by her Corporal until November 3, and by her Sergeant on November 4, 2019. Nonetheless, there is no dispute that Officer Branscum understood that she was to attend each day of the CIT training course, and that her signature on the TCOLE sign-in roster affirmed her attendance for both TCOLE and APD purposes (including her City of Austin time sheet).

Officer Branscum was interviewed by SIU on January 14, 2020. Officer Branscum said in hindsight she "*messed up*", she doesn't know why she would do that (initial the TCOLE sign-in roster when she did not attend the training on November 6th) or what she was thinking because she loves her job as a police officer, and regrets her decision. Officer Branscum admitted to SIU she wrote her initials on the TCOLE roster to reflect she attended class on Wednesday, November 6, 2019, when in fact she did not attend the CIT training that day. Officer Branscum told SIU if she could put herself back in that mindset, she believes she initialed the TCOLE roster because she arrived on campus for a couple of minutes, and by being on premise, she could say she was there that day. It is not reasonable or credible for any officer to think or believe that he/she could show up for a few minutes, sign-in, and that constituted attending the training for that day entitling him/her to TCOLE credit and a full day's pay.

Officer James Turner, the course instructor, received the only notification regarding attendance from Officer Branscum via email on the morning of November 4, 2019, at 6:12 a.m., advising him she was going to be late because of [REDACTED] issues. He recalled seeing Officer Branscum in class Monday, November 4, 2019, but he could not provide a specific time. Officer Turner explained Officer Branscum never informed him at any point she missed class on Wednesday, November 6, 2019. She never informed Officer Turner she wrote her initials in the TCOLE roster indicating she was there that day. Officer Turner told IA there is not any way of verifying if an officer attended class other than the TCOLE roster, and it is reliant upon the integrity of the officer when they write their initials down.

At no time did Officer Branscum advise her chain of command that she would be late to any of the training. At no time did she advise her chain of command that she did not attend the training on November 6, 2019, or that there were any personal circumstances that excused her attendance. At no time did Officer Branscum advise her chain of command that her time sheet inaccurately reflected 40-hours worked by attending the CIT training, when in fact she did not attend at least 15 of the 40 hours of CIT training. Officer Branscum was paid for 15 hours of training that she did not attend or was excused from attending.

During her Internal Affairs interview, Officer Branscum attempted to mitigate and divert her true culpability by blaming her chain of command for singling her out for disparate treatment. This Internal Affairs investigation did not support that claim. The investigation

determined that there have been numerous incidents of Officer Branscum failing to meet standards on things such as inspections and weapon readiness. Officer Branscum was routinely late to work, and she demonstrated a pattern of avoiding calls. Sergeant Rohre explained they were routinely having conversations that were documented about Officer Branscum's performance. Sergeant Rohre confirmed that he offered resources to Officer Branscum to assist her with any personal issues she was dealing with as it was negatively affecting her job performance. Officer Branscum did not take advantage of the assistance available to her as an APD and City employee.

IA asked Sergeant Rohre if he believed Officer Branscum intentionally withheld information with the intent to be deceptive. Sergeant Rohre replied:

"Yes, because it -she had a limited amount of sick and vacation time available, I believe that, she didn't want to tell me this, because she was afraid that it would come back come in some form of negative pattern, and she had just come off of the r- restricted duty only recently. I believe that she did it, I believe she withheld information, so she wouldn't face any negative penalty"

When Officer Branscum was interviewed by SIU and Internal Affairs, she stated that the first day of the CIT course was on Monday, November 4, 2019. Officer Branscum told SIU she was in a bad place mentally when she arrived at the campus. Officer Branscum stated she sat in her car for a couple of hours before going inside.

On Tuesday, November 5, 2019, Officer Branscum arrived a little late for class, but stayed the entire day. IA asked Officer Branscum what occurred on Wednesday, November 6, 2019, the day in question. She replied that [REDACTED] were vomiting all night, so:

"I left, um, right to the class and then I entered through the civilian door I went down the hallway and I just I - I couldn't do it, I felt, um, this pull to go back to [REDACTED]; um, [REDACTED] he - when he's sick he doesn't really handle it very well and, um, I just didn't feel that leaving [REDACTED] with him, I couldn't take [REDACTED]; um, so there was that and then there were incidents leading up to that day I was not in a good mental headspace. Um, I just I - I wasn't in a good space and I needed to be home."

Officer Branscum attended class on Thursday, November 7, 2019. She completed a written test and participated in practical exercises. On the same day Officer Branscum told IA she wrote her initials on the TCOLE roster indicating she attended class on Wednesday, November 6, 2019 (this act constitutes Tampering with a Governmental Record). Officer Branscum did not tell the instructor teaching the course about her absence on Wednesday, November 6, 2019. IA asked Officer Branscum if she had an opportunity to inform her chain of command that she missed class on Wednesday, November 6, 2019, when she returned to work the following week. She replied she did have the opportunity to do so and wanted to, but:

"Um, yes sir I did, um, but given the environment it - it didn't feel like the best open line of communication, um, so there was definitely a lot to consider there, um, when I went to tell them and be judged and probably in trouble again, um, going above

them to lieutenant isn't acceptable, um, you know there - there was a lot going on so...I did want to tell them, um, that I failed to go Wednesday, I failed to notify anybody I - I knew I messed up, um, and it was weighing heavily on me, um, and I - I would've told them if they hadn't confronted me about it either Tuesday or Wednesday I just - I didn't know how to I didn't feel like they were approachable in that manner, um, not that it matters but that that was - that was the reasoning."

When asked if she knew placing her initials on the TCOLE sign-in roster on November 7th, affirming that she attended the training on November 6th, Officer Branscum admitted that she knew doing so was wrong, but she did it anyways:

BRANSCUM: *"To an extent yeah, um, but my state of mind wasn't - it wasn't normal, um, I knew it was wrong I regret it, um, but yeah I - I understood the meaning of it."*

WILSON: *"Okay so when you, just so we're clear, so when you placed your initials on there you - at the time were you aware of what you were doing at that particular time?"*

BRANSCUM: *"Um, not as aware as I am now, um, but given the mindset I was in that week, uh, but yeah I was aware."*

With respect to the initial conversation with Sergeant Rohre and Corporal Jester, Officer Branscum was untruthful and attempted to conceal, divert, or mitigate her true culpability by claiming Sergeant Rohre *"jumped all over the place."* Sergeant Rohre told Internal Affairs his questions were very pointed and clear. There was no confusion what he was asking.

Honesty

Not only was Officer Branscum outright dishonest, she also engaged in acts of dishonesty that were intended to conceal, divert and/or mitigate her true culpability. She also omitted pertinent and material information during her conversation with Sergeant Rohre and the memo he ordered her to produce. The dishonesty includes but is not limited to the following:¹

- Officer Branscum knowingly and intentionally entered her initials on a TCOLE training roster confirming that she was were present for the training on Wednesday, 11/06/2019, when in fact she was absent for the training on that day. Officer Branscum acknowledged the information that she documented did not reflect the truth.
- On Thursday, 11/14/2019, Sergeant Rohre asked Officer Branscum about her attendance at the training, and if she saw a specific shift-mate. Sergeant Rohre's questions were very specific and he asked Officer Branscum about each separate

¹ Not intended to be an all-inclusive list of every false statement.

training day. Her initial response, that she saw her shift-mate and attended the training every day, Monday, 11/04/2019, through Thursday, 11/07/2019, sat with him, and arrived on time for class each day, except for Monday, 11/04/2019, was untruthful.

- After making these statements, Sergeant Rohre asked Officer Branscum again about her attendance. In her second response, she changed her statement, and admitted she was probably two or more hours late on Monday, 11/04/2019, a few minutes late on Tuesday, 11/05/2019, a few hours late on Wednesday, 11/06/2019, and an unknown amount of time late on Thursday, 11/07/2019. She knowingly and intentionally omitted the pertinent fact that she did not actually attend the training session on Wednesday, 11/06/2019.
- In her memorandum to Sergeant Rohre, Officer Branscum stated that on Monday, 11/04/2019, she did not go into the classroom until almost noon. On Wednesday, 11/06/2019, she wrote that she arrived at the location but left before going into classroom and did not attend the training. These varying responses [oral/written] could not both be truthful.
- On Monday, 11/04/2019, Officer Branscum sent an email to training instructor Officer Turner in which she stated she was going to be late in part because she had to “arrange [REDACTED].” During her Internal Affairs interview on 02/12/2020, she had a built-in [REDACTED] facility that she would and/or could drop [REDACTED] off at as early as 6:00 a.m., on a daily basis. In fact, Officer Branscum utilized this facility that day and during that week and/or weeks preceding this particular week. So, while she expressed being late was due in part to that factor, it was discovered via GPS records that she was at Summer Moon, in Cedar Park, around approximately 9:45 a.m. to 9:55 a.m. When confronted with GPS records, she admitted to Internal Affairs she was getting breakfast and coffee at that time, even though she claimed to arrive at the facility at 10:00 a.m., when in fact she did not arrive until closer to 10:20 a.m., but more importantly did not enter the class until closer to noon. She also attributed to Internal Affairs that being late on Monday, 11/04/2019, was because she was in a bad place mentally when she arrived at the Central Austin location.
- During her Internal Affairs interview, Officer Branscum stated that a prior Internal Affairs investigation of her involving dishonesty had been cleared as “Unfounded.” A memorandum dated 12/06/2019, addressed to her stated the results of the investigation into 900.3.1 Honesty was “Inconclusive”, not “Unfounded”.
- While Officer Branscum blamed her bad “mental state,” she nonetheless was able to attend class on Thursday, 11/07/2019, and pass the required test, which was the same day she intentionally and knowingly chose to falsify that she attended the training on Wednesday, 11/06/2019. Moreover, on her return to her normal patrol duties on Tuesday, 11/12/2019, she failed to notify her chain of command and/or omitted telling them the pertinent information that she missed approximately 15 or more hours of the 40 hour training from the week before [approximately 5 hours on Monday, 11/04/2019, and the full day on Wednesday, 11/06/2019, along with arriving late the other day(s)]. Before it was discovered and corrected by her chain of command, her time sheet from the previous week reflected that she would be compensated for a 40 hour work week, due to the fact that she did not notify anyone, including but not limited to her chain of command and/or the training instructor that she did not in fact attend 40 hours of training.

IA asked Officer Branscum if she violated APD Policy 942.8 Training Procedures- Attendance Section A-2 and Section B- 1, 2, 3, & 4. She Replied: "Yes sir." IA asked Officer Branscum if she violated APD Policy 900.3.1 General Conduct- Honesty She Replied: "Yes sir." It bears repeating, prior to Officer Branscum speaking to her chain of command, her act of falsely documenting that she attended the Wednesday, November 6, 2019, training, when she did not, alone is a violation of the APD honesty general order and warrants an indefinite suspension. That act by at least the preponderance of the evidence is also a violation of the following Texas Penal Code Section section(s): 37.10. TAMPERING WITH GOVERNMENTAL RECORD. "(a) A person commits an offense if he: (1) knowingly makes a false entry in, or false alteration of, a governmental record; and/or (5) makes, presents, or uses a governmental record with knowledge of its falsity. This singular administrative offense of the penal code also warrants an indefinite suspension. Therefore, I concur with her chain of commands' unanimous recommendation to indefinitely suspend Officer Branscum.

By these actions, Officer Branscum violated Rule 10.03(L) by violating the following rules and regulations of the Austin Police Department:

- **Austin Police Department General Order 900.1(a) 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.

To wit: Texas Penal Code - Sec. 37.10. TAMPERING WITH GOVERNMENTAL RECORD

Sec. 37.10. TAMPERING WITH GOVERNMENTAL RECORD. (a) A person commits an offense if he:

- (1) knowingly makes a false entry in, or false alteration of, a governmental record;
- (2) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;
- (3) intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;
- (4) possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;
- (5) makes, presents, or uses a governmental record with knowledge of its falsity;

(c)(1) Except as provided by Subdivisions (2), (3), and (4) and by Subsection (d), an offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony.

➤ **Austin Police Department General Order 900.3.1(a) & (c): General Conduct and Responsibilities: Honesty**

900.3.1(c) 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":

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.

(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 General Order 942.8: Training Procedures [Attendance]**

942.8 TRAINING PROCEDURES For purposes of attendance, all training is considered on-duty and thus falls within compliance for time and attendance.

(a) Employees assigned to attend training shall attend unless excused by their immediate supervisor. Excused absences from mandatory training should be limited to:

1. Court appearances.
2. Approved personal leave.
3. Sick leave.
4. Physical limitations preventing the employee's participation.
5. Emergency situations.

(b) Employees unable to attend a mandatory training shall:

1. Notify their supervisor as soon as possible, but no later than one hour prior to the start of training.
2. Notify the course instructor or Training Academy/APD-HR, if possible.
3. Make arrangements through their supervisor and the Training Division/APD-HR to attend an alternate date.
4. Update their attendance status for any missed training.

➤ **Austin Police Department General Order 900.4.3(b) & (e): 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,
- (e) *Absence without approved leave.*
- (f) Repeated poor evaluations.
- (g) Written record of repeated infractions of rules, regulations, directives or orders of the Department.
- (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.

With respect to the dishonesty charge, Officer Branscum was dishonest with her immediate supervisor (both verbally and in her written memorandum) when he inquired about accounting for her time, and was also dishonest in allowing him to submit her time sheet that she knew contained false information (that she attended all 40 hours of the CIT training). Those false statements are considered an official false statement, which calls for an indefinite suspension under the Department's Disciplinary Matrix. Likewise, she also made false statements to IA, whether by act or omission, which are considered False Official Statements, the penalty for which is also an indefinite suspension under the Matrix. All officers are initially apprised of this policy (also known as "general orders") in the Training Academy and are regularly reminded of APD's stance on dishonesty. If an officer demonstrates that she cannot or will not give a truthful account of an incident, especially one in which she falsifies a governmental record, I, as Chief of Police, would be remiss in my duties and responsibilities if I allowed such an Officer to be bestowed the power to continue to have the duties and responsibilities that are designed to protect and serve the public. Furthermore, a single dishonest act or statement impugns an officer's credibility and would have to be disclosed to the defense pursuant to Brady v. Maryland and the Michael Morton Act. In addition, the fact that Officer Branscum falsified a governmental record, is also a dishonesty violation, and undermines her credibility and would also have to be disclosed. Therefore, after careful consideration and deliberation with Officer Branscum's chain of command, I have concluded that indefinite suspension is appropriate.

Note: Either the dishonesty or tampering with a governmental record, by themselves or in combination, justify an indefinite suspension.

By copy of this memo, Officer Branscum 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, Officer Branscum 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.


BRIAN MANLEY, Chief of Police

4-22-2020 2:10 PM
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.

 7085
Officer Christina Branscum #7085

4-22-20 3:04 PM
Date