



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Joseph Chacon, Interim Chief of Police

DATE: May 11, 2021

SUBJECT: Police Sergeant Micah Roberts #4499
Internal Affairs Control Numbers 2020-1592

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 Sergeant Micah Roberts #4499 from duty as a City of Austin, Texas police officer for a period of eight (8) days. The temporary suspension is effective beginning on May 12th, 2021 and continuing through May 19th, 2021.

I took this action because Sergeant Roberts 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 Sergeant Roberts in violation of Rule 10:

Sergeant Roberts' Arrest

On the evening of October 14, 2020, Sergeant Roberts' [REDACTED] called 911 regarding an alleged [REDACTED] incident between them earlier that evening. Law enforcement personnel from multiple law enforcement agencies responded to [REDACTED] 911 call. Lampasas Police Department officers, Burnet County Sheriff's Office Deputies, and DPS Troopers all became involved in the ensuing situation. After an on-scene investigation, Burnet County Sheriff's Office arrested Sergeant Roberts pursuant to the evidence available on scene.

When asked by IA whether he believed that he violated General Order 900.3.2 (Acts Bringing Discredit Upon the Department) on October 14, 2020, Sergeant Roberts answered in the affirmative. Sergeant Roberts expressed regret and acknowledged his wrongdoing. Sergeant Roberts stated, *"My conduct that night was contributing to our argument. And just the fact that that caused, you know, several dis- different agencies were called to the Valero and, I mean, I clearly, I mean, that night I embarrassed myself. I embarrassed [REDACTED] my chain of command and I embarrassed this Department 100%. So I take full responsibility of, you know, my actions that night. And calling, you know, getting in a verbal disturbance and even the cops called. I take full responsibility of everything."*

By these actions, Sergeant Roberts 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 900.3.2: General Conduct and Responsibilities: Acts Bringing Discredit Upon the Department**

900.3.2 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.
- (b) Employees will refrain from being a party to any malicious gossip, rumor, report or activity, whether written or oral, that would tend to bring discredit to the Department or any member thereof.
 - 1. "Malicious gossip, rumor, report or activity" includes statements made with knowledge of their falsity or made without regard to whether the statements are true or false.

- (c) Employees will not engage in any activity in which there is a potential for conflict of interest or the appearance of a conflict of interest with the lawful duties of the employee.
 - 1. "Conflict of interest" includes any activity which would tend to influence a decision, create a bias or prejudice, or create a gain or loss for any person or agency which would favor one side or the other in conflict with the employee's official duties, or which conflicts with the accomplishment of the Department's mission or goals.

- (d) Employees will not congregate or loiter in any place or in any manner as to bring discredit to the Department.
 - 1. No more than four (4) officers, uniformed or plainclothes, who are identifiable as officers by the display of badges, police radios, insignias, or any articles of clothing identifying them as police officers, will congregate in a public place except when required by official police duties or as authorized by a supervisor.
 - 2. Except as necessary to perform assigned tasks or as authorized by a supervisor, the following restrictions apply to the number of marked APD police units parked in a parking lot or near a public place at any one time:
 - (a) No more than two (2) between the hours of 6:00 am and 10:00 pm, daily; or
 - (b) No more than four (4) between the hours of 10:00 pm and 6:00 am, daily.

Sergeant Roberts is advised that this suspension may be considered by the Chief of Police in a future promotional decision pursuant to General Order 919.

By copy of this memo, Sergeant Roberts 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, Sergeant Roberts is hereby advised that such provides for an appeal to an independent third party hearing examiner. 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, Sergeant Roberts 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.



JOSEPH CHACON, Interim Chief of Police
FOR CHIEF CHACON

Date 5/11/2021

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.



Police Sergeant Micah Roberts #4499



Date