



## **MEMORANDUM**

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

**TO:** Mark Washington, Director of Civil Service

**FROM:** Art Acevedo, Chief of Police

**DATE:** May 6, 2010

**SUBJECT:** Indefinite Suspension of Police Officer Leonardo Quintana # 4426  
Internal Affairs Control Number 2010-0033

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 Officer's Civil Service Commission, I have indefinitely suspended Police Officer Leonardo Quintana # 4426 from duty as a police officer of the City of Austin, Texas, effective May 6, 2010.

I took this action because Officer Quintana 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 Officer Quintana in violation of Rule 10:

On January 11, 2010, while off-duty, Officer Quintana went out with friends to several different locations where he drank alcoholic beverages. First he went to a Sushi bar and then went to a Gentlemen's Club. Despite knowing that he had consumed several alcoholic beverages and should not be driving, Officer Quintana then drove from the Gentlemen's Club to a residence in Leander, Texas, about a 45 minute drive, where he consumed more alcoholic beverages. Despite knowing that he was intoxicated and should not be operating a motor vehicle, Officer Quintana chose to disregard an offer to sleep at the residence and instead decided to drive home with a female he met that night.

At approximately 4:51 am on the morning of January 12, 2010, while driving to his residence with the female passenger, Officer Quintana's vehicle struck a traffic control circle at the intersection of Osage and Saddle Blanket, in Leander. Officer Quintana attempted to extricate the vehicle from the traffic control circle but could not do so. The Leander Police Department responded to a 911 call and conducted field sobriety tests on Officer Quintana. The officers determined that Officer Quintana was intoxicated and he was arrested for the offense of Driving While Intoxicated. Officer Quintana was booked into the Williamson County Jail. Officer Quintana refused to provide the Leander Police with a sample of his breath or blood for analysis and as a result, on April 1, 2010, his driving privileges were suspended for 180 days. Officer Quintana was issued an occupational driver's license by the Court on April 8, 2010 that is valid for the period that his driving privileges are suspended.

The Austin Police Department's Internal Affairs Unit was notified of the arrest and checked Officer Quintana out of the jail at 9:55 am in order to have a blood alcohol analysis test performed. The blood was drawn at 10:45 am and the test results showed a blood alcohol content of .088. Extrapolating the BAC, Officer Quintana's BAC at the time of the crash was .192.

Officer Quintana admitted to Internal Affairs and to me during his Dismissal Review Hearing on May 3, 2010, that he drank alcohol at several different locations the night of January 11<sup>th</sup> and the morning of January 12<sup>th</sup>. He admitted that he was intoxicated and should not have been driving. He admitted to me at his DRH that he was well aware of the Department's efforts to eradicate drunk driving, including our no refusal blood draw initiative. Had Officer Quintana been able to extricate his vehicle, and had it been drive-able, he would have continued driving in an intoxicated state with potentially tragic consequences. Officer Quintana was also in possession of a firearm while intoxicated. Most disturbing is the fact that Officer Quintana admitted to me that his drinking to excess and his decision to drive intoxicated the morning in question was not a result of stress but rather a conscious decision made with the intent and desire to engage in a sexual liaison with his female passenger. By doing so, not only did Officer Quintana abandon all sense of good judgment, he also violated the ethics he subscribed to when he

took his oath of office. Officer Quintana's actions have brought discredit upon himself, the Austin Police Department, and the City of Austin.

By these actions, Officer Quintana 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 General Orders, Policies and Procedures  
A201a.01(A)(1): Compliance Required**

**.01 Compliance Required**

A. Responsibility to Know and Comply

1. Employees will maintain a working knowledge and comply with the laws, ordinances, statutes, regulations, and written directives which pertain to their assigned duties.

**To Wit:**

**Texas Penal Code Section: 49.04: DRIVING WHILE INTOXICATED**

Sec. 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.

(b) Except as provided by Subsection (c) and Section 49.09, an offense under this section is a Class B misdemeanor, with a minimum term of confinement of 72 hours.

➤ **Austin Police Department General Orders, Policies and Procedures  
A201a.02(B)(1): Acts Bringing Discredit upon the Department**

**.02 Individual Responsibilities**

B. Acts Bringing Discredit upon the Department

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

1. Employees, whether on-duty or off-duty, shall 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.

In deciding the appropriate discipline, I considered Officer Quintana's prior disciplinary history. [REDACTED]

[REDACTED] On November 4, 2009, Officer Quintana was suspended for 15 days for a violation of the Department's MVR policy. Officer Quintana acknowledged during his DRH that he knew I did not want to see him before me again for disciplinary action, yet he was unable to avoid yet another instance of exercising poor judgment. Officer Quintana's arrest for DWI and his admission that he was driving while intoxicated creates a credibility issue for him in front of a judge and jury in light of the requirement that the prosecutor disclose potentially exculpatory information to the defense.


In light of the fact that Officer Quintana had recently been suspended, he should have conducted himself in a manner above reproach. He knew that his actions were being highly scrutinized and any further misconduct on his part would reflect poorly upon him, the Department, and the City. Instead, Officer Quintana exercised extremely poor judgment and chose to drink to excess and operate a motor vehicle thereby endangering his life and the lives of others motorists, pedestrians, and the life of his passenger. Should Officer Quintana be convicted of DWI or accept some form of deferred adjudication/prosecution, that fact will bring further discredit upon himself, the Department, and the City, and will likely result in the temporary or permanent revocation of his peace officer license.

Finally, Officer Quintana has engaged in other behavior that demonstrates an ongoing pattern of poor judgment. [REDACTED]

[REDACTED] When taking into consideration the totality of the circumstances, including the fact that I do not believe there is a position within the Austin Police Department that I can place Officer Quintana where his judgment will not be an issue, I have concluded that indefinite suspension is appropriate.

By copy of this memo, Officer Quintana 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.

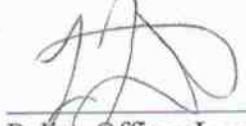
By copy of this memo and as required by Section 143.057 of the Texas Local Government Code, Officer Quintana is hereby advised that such section and the Agreement Between the City of Austin and the Austin Police Association provide for an appeal to an independent third party hearing examiner, in accordance 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

5/6/20  
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) 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 Leonardo Quintana # 4426

050610  
Date