



## MEMORANDUM

**TO:** Karen Sharp, Director of Civil Service

**FROM:** Acting Fire Chief Jim Evans

**DATE:** May 23, 2008

**SUBJECT:** Indefinite Suspension of Lieutenant Michael Pooler

Pursuant to the provisions of Chapter 143 of the Texas Local Government Code, Section 143.052 (b), and Rules 10.01 and 10.03 of the Rules of Procedure for the Civil Service Commission of the City of Austin, and Austin Fire Department Rules and Regulations and Policies and Procedures, I have this day indefinitely suspended Lieutenant Michael Pooler from his position and duties as a firefighter for the City of Austin.

I have taken this action because Lieutenant Michael Pooler violated Civil Service Commission Rule 10.03, which 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.

Specifically, he violated rule 10.03 (D):

"Neglect of duty"

And rule 10.03 (L)

"Violation of any of the rules and regulations of the Fire Department"

Lieutenant Pooler violated Rule 10.03 by violating the following AFD Rules and Regulations:

Article III, Division 2, Sections:

2.02

Whether in uniform or not, members shall conduct themselves in a manner that will bring credit to themselves and the Fire Department.

2.07

Members shall comply with all lawful orders of supervisors and other approved authorities; perform all orders as requested and directed in a prompt and efficient manner; not unreasonably question or fail to perform work as requested.

2.35

No member shall neglect or omit any activity it is his/her duty to perform; nor shall any member be inept or incompetent in the performance of any required duty. Such activity, whether by act or omission, shall be considered neglect of duty.

The following are the specific acts committed by Lieutenant Michael Pooler in violation of Rule 10.03 and are the acts complained of on the part of the Fire Department:

On or about January 4<sup>th</sup>, 2008 Lt. Pooler delayed Engine 21's response to an alarm (Type: Respiratory Code 3) by walking away from Fire Station 21 after the time the alarm was dispatched. Specifically, Lt. Pooler walked away from the fire station and purchased food from a restaurant that was located adjacent to Fire Station 21. Lt. Pooler's neglect to immediately respond caused an unnecessary response delay to a potentially life threatening situation: a code 3 respiratory distress alarm.

Lt. Pooler's actions show a shocking neglect of duty. Immediate response to 911 calls is the very essence of what it means to be an Austin Firefighter. Since Lt. Pooler is a Lieutenant, thereby in charge of an engine company, this act was not only a neglect of duty, but also a failure of leadership and supervisory judgment. When a citizen calls 911 and requests emergency help, that citizen rightfully expects emergency personnel to drop everything and to respond immediately. Quick response is our core duty to the citizens; it is our job number 1.

On the day in question, Lt Pooler chose to put his personal comfort above a citizen's need. That is unacceptable behavior for a Firefighter. The 911 call in question was a respiratory distress call. Lt. Pooler's actions caused a two minute delay in responding to that call. For a person in respiratory distress, two minutes can seem like an eternity. For a person in respiratory distress, two minutes can

mean permanent brain damage or the difference between life and death. Lt. Pooler had absolutely no right to put his own personal needs above his service to others and to make a judgment call about the seriousness of the 911 call in question. Because of his selfish and highly unprofessional actions, he has no right to remain an Austin Firefighter. His actions erode and violate the public's trust in the Austin Fire Department and thereby bring discredit to the department.

By copy of this memorandum, I have informed Lieutenant Pooler of this indefinite suspension. I have also advised Lieutenant Pooler that he has the right to appeal the indefinite suspension to the Civil Service Commission, or to an independent third party hearing examiner, and that such appeal must be submitted in writing to the Director of Civil Service within ten (10) days of his receipt of a copy of this memorandum. I have informed him that if he elects to appeal to a hearing examiner, he will waive all right of appeal to a District Court, except as provided by subsection (j) of Section 143.057 of the Texas Local Government Code. This subsection states that a district court may hear an appeal of a hearing examiner's award 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. Lieutenant Pooler has also been informed that if he wishes to appeal to a hearing examiner, he must submit to the Director of Civil Service a written request to that effect as part of the original notice of appeal stating his decision to appeal.

At 1345 hours today, I informed Lieutenant Pooler of my decision and the contents of this memorandum, at which time I also provided him a copy of this memorandum, which he received and signed as indicated below.

  
\_\_\_\_\_  
Acting Fire Chief Jim Evans

5/23/08  
Date

To Whom It May Concern:

I acknowledge receipt of a copy of the above memorandum to Karen Sharp, Director of Civil Service, dated May 23, 2008 and entitled "Indefinite Suspension of Lieutenant Michael Pooler." I have also been made aware that I have ten (10) days from this date to file a written appeal to the Civil Service Commission.

  
\_\_\_\_\_  
Lieutenant Michael Pooler

5.23.08  
Date