

# CITY OF HOUSTON

INTER OFFICE CORRESPONDENCE

TO: Police Officers'  
Civil Service Commission  
Of the City of Houston

FROM: Charles A. McClelland, Jr.  
Chief of Police

DATE: June 23, 2010

SUBJECT: **Indefinite Suspension  
Andrew T. Blomberg  
Police Officer  
Employee #  
Westside Division  
Issue #36612-2010**

In accordance with the provisions of the TEX. LOC. GOV'T. CODE, Chapter 143 (formerly Art. 1269m), commonly known as the Fire Fighters' and Police Officers' Civil Service Act, you are hereby advised that as of the close of business on the date stated above, I have indefinitely suspended **Andrew T. Blomberg, Police Officer**.

**Andrew T. Blomberg, Police Officer**, has been indefinitely suspended for acts and conduct in violation of Rule V, Section 6, Subsections (b) and (k) of the City of Houston Police Officers' Civil Service Commission's (the "Commission") Rules Governing Members of the Houston Police Department (the "Department"), which reads as follows:

## "SECTION 6 - CAUSES FOR REMOVAL OR SUSPENSION

"No classified employee shall engage in, or be involved in, any one of the following acts or conduct and the same shall constitute cause for the disciplinary or indefinite suspension of a classified employee:

- "(b) violations of a municipal charter provisions;
- "(k) violation of an applicable police department rule or special order."

Additionally, by his conduct, as detailed below, **Andrew T. Blomberg, Police Officer** has violated the Houston Police Department's General Orders and the Texas Penal Code. Compliance with the General Orders is required of all members of the Houston Police Department, and violation thereof is grounds for disciplinary action as provided in Rule V, Section 6, Subsection (k) of the Commission's Rules, quoted above.

The following facts served as a basis for the indefinite suspension of Officer Blomberg.

On April 23, 2010, the Department received in the mail a surveillance video taken on March 23, 2010, from a law firm in Dallas that represents a local business, Uncle Bob's Self Storage. The video captured the arrest of four burglary suspects at 12300 Wellington Park. The video served as the basis of a complaint by the Chief of Police regarding the use of excessive force against several Houston Police officers. Officer Andrew Blomberg was among those officers.

An Internal Affairs Division investigation revealed that, on or about, March 23, 2010, Officer Andrew Blomberg was involved in the investigation of several burglaries. Officers of the Westside Division Tactical Unit and Gang Unit observed several suspects in the act of committing a burglary of a residence. The four suspects left the scene of the burglary in a white pickup truck, followed by Houston Police units. The suspect vehicle stopped in the 12300 block of Wellington Park, and two suspects in the bed of the truck fled on foot. One of those suspects was Chad Holley, a juvenile. The video received by the Houston Police Department shows Mr. Holley running along a chain link fence in an attempt to evade arrest. Officer P. N. Bryan attempted to block Mr. Holley's escape by driving his police vehicle over a curb. As a result, Officer Bryan's police vehicle struck a chain link fence, causing minor damage to both the vehicle and the fence belonging to Uncle Bob's Self Storage. Mr. Holley unsuccessfully attempted to hurdle the hood of the police vehicle, and he fell to the ground on the other side of the vehicle. The video clearly shows that Mr. Holley subsequently lay on the ground and placed his hands behind his head and neck area, in an obvious position of surrender.

Officer Blomberg approached Mr. Holley as he lay prone on the ground with his hands behind his head. The video evidence clearly shows Officer Blomberg stomping down on the back of Mr. Holley's head or neck area with a great deal of force. Officer Blomberg's actions fell outside the scope of training within the Houston Police Department and are a clear violation of departmental policy and Texas state law, as his use of force was excessive and unnecessary considering Mr. Holley's position of surrender.

In his administrative statement, dated May 21, 2010, Officer Blomberg states, "I was concerned because the suspect's hands were not down behind his back. I then kicked at him to put them down behind his back." Also, he stated, "I kicked at Holley's hands and arm area a few times with my foot to get him to move his hands." It is clear by this admission that Officer Blomberg was improperly utilizing force in order to get Mr. Holley to comply with his requests to put his hands behind his back. Houston Police Officers are not trained to kick suspects' hands in an effort to have the suspects move their hands. Further, Officer Blomberg failed to follow established procedure when he neglected to ensure that his use of force was

properly documented in an incident report or supplement report, as required by departmental policy.

Officer Blomberg's decision to viciously stomp on Mr. Holley's head and neck area after he was lying on the ground with his hands behind his head demonstrates a severe lack of sound judgment. Police officers are faced every day with tense and volatile situations and must keep their emotions reined in. Failure to do so erodes the confidence the community has in the police department, and makes every police officer's job harder. Officer Blomberg's actions have brought discredit, reproach, and embarrassment to the department.

The General Orders and the specific provisions of said Texas Penal Code violated by Officer Blomberg are as follows: General Order 200-08 - Conduct and Authority, 500-20 - Treatment of Prisoners, Suspects, and Other Citizens, 600-17 - Use of Force, and Texas Penal Code, Section 39.03 - Official Oppression. Officer Blomberg was previously furnished copies of these General Orders.

## **GENERAL ORDERS**

**Conduct and Authority**, Order No. 200-08, dated September 28, 2005, states in part, but is not limited to:

### **1 CONDUCT AND BEHAVIOR**

#### **Sound Judgment**

Employees' behavior will be limited to conduct which is reasonable and prudent. No employee will commit any act on-duty or off-duty in an official or private capacity that tends to bring reproach, discredit, or embarrassment to the department. Employees are expected to exercise sound judgment at all times.

### **3 OBEDIENCE TO LAWS AND RULES**

Employees will abide by the laws of the jurisdiction they are in. Employees will also abide by the laws and rules of the various governmental entities that have jurisdiction over affairs in which the employees are engaged (e.g., Civil Service Commission and TCLEOSE).

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**Treatment of Prisoners, Suspects, and Other Citizens**, Order No. 500-20, dated September 5, 1996, states in part, but is not limited to:

**POLICY**

Employees of the Houston Police Department will treat all prisoners, suspects, and citizens in a humane and lawful manner.

**1 GUIDELINES**

Employees will avoid unnecessary physical contact with all prisoners, suspects, and other citizens. Unnecessary contact may include, but is not limited to, pushing, shoving, dragging, punching, kicking, etc.

**Use of Force**, Order No. 600-17, dated January 4, 2008, states in part, but is not limited to:

**POLICY**

When dealing with citizens, suspects, and prisoners, employees will limit their use of force and physical contact to only the amount reasonably necessary to protect themselves or others, to effect an arrest, or to bring an incident under control.

**DEFINITIONS**

***Bodily Injury.*** An injury causing physical pain, illness, or any impairment of the function of any bodily member or organ.

**1 USE OF FORCE**

Employees who use force against any person must be able to state in detail the specific reasons for using force.

The circumstances justifying the initial use of force may change during the course of an event. It is the duty of all employees to constantly assess the situation and adjust the use of force accordingly.

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5 REPORTING AND DOCUMENTING USE OF FORCE BY AN EMPLOYEE

Documentation

Except as noted in General Order 200-16, section 2, *Outside City of Houston*, an incident report will always be completed when any of the following occur:

- Any form of force is used resulting in any type of bodily injury.

Incident reports will contain the following:

- c. The employee's specific reasons for using force.
- d. The part of the person's body receiving the strike, hit, spray, or injury.
- e. Location on the person's body of any known injury, even if the injury was not obtained as part of the incident.

**TEXAS PENAL CODE**

Chapter 39. Abuse of Office

Section 39.03. Official Oppression.

- (a) A public servant acting under color of his office or employment commits an offense if he:
  - (1) intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;

In making my decision to indefinitely suspend Officer Blomberg, I considered his complete history with the Houston Police Department, both positive and negative. In addition, I considered what is in the best interest of the citizens of the City of Houston and Officer Blomberg's fellow officers. I also contemplated the severity of Officer Blomberg's conduct and the impact his actions have had and will continue to have on the relationship between the community and the police department. Additionally and pursuant to all applicable statutory and case law, on June 15, 2010, Officer Blomberg was given an opportunity to meet and explain

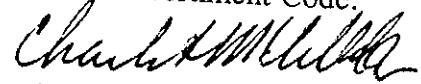
Police Officers'  
Civil Service Commission  
Of the City of Houston

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Indefinite Suspension  
Andrew T. Blomberg  
Police Officer  
Employee # 100

the above events to me. After listening to Officer Blomberg and his attorney's comments and explanation, and weighing them against the evidence documented in the Internal Affairs investigation, I have decided that Officer Blomberg must be indefinitely suspended.

Officer Blomberg is hereby reminded of his right to appeal my decision and is informed that he has 15 days after receipt of a copy of this memorandum within which to file a written appeal to the Police Officers' Civil Service Commission, located at 611 Walker, 4<sup>th</sup> Floor, Houston, Texas 77002. Officer Blomberg is informed that pursuant to Section 143.1016 of the Texas Local Government Code, he may elect to appeal to an independent third party hearing examiner instead of to the Commission. If Officer Blomberg elects to appeal to an independent third party hearing examiner, he waives all rights of appeal to a district court except as provided by Subsection (j) of Section 143.1016 of the Texas Local Government Code.



Charles A. McClelland, Jr.  
Chief of Police

cam/adw

cc: Andrew T. Blomberg  
Police Officer

MA/365A

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THE STATE OF TEXAS §  
COUNTY OF HARRIS §

### RECEIPT OF LETTER OF INDEFINITE SUSPENSION

This is to acknowledge that I, **Andrew T. Blomberg**, employee .. employed in the City of Houston Police Department as a Police Officer, have on this day received a copy of a letter of an **Indefinite Suspension** from Charles A. McClelland, Jr., Chief of Police, to the Police Officers' Civil Service Commission of the City of Houston. By this letter, I am informed of the reasons for my indefinite suspension and that I may appeal my suspension in accordance with all applicable provisions of TEX. LOC. GOV'T. CODE, Chapter 143. I have been further advised that I have fifteen (15) calendar days from the date shown on this receipt in which to appeal my indefinite suspension.

SIGNED this the 23 day of JUNE, 2010.

  
WITNESS

  
Andrew T. Blomberg

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