

# 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**  
**Lewis M. Childress**  
**Senior 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 **Lewis M. Childress, Senior Police Officer**.

**Lewis M. Childress, Senior 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, **Lewis M. Childress, Senior Police Officer** has violated the Houston Police Department's General Orders. 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 Childress.

It is specified that, while assigned to the Westside Division, **Lewis M. Childress, Senior Police Officer**, failed to comply with Houston Police Department rules and regulations regarding **Investigation of Employee Misconduct, Sound Judgment, Treatment of Prisoners, and Use of Force**.

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 Childress was among those officers.

An Internal Affairs Division investigation revealed that, on or about, March 23, 2010, Officer Childress 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.

Further investigation revealed through video evidence that Officer Childress approached as some officers delivered unnecessary or excessive force to Mr. Holley as he lay prone on the ground. Officer Childress then delivered two light kicks with his foot in an attempt to get Mr. Holley to release his arms. Officer Childress's actions fell outside the scope of training within the Houston Police Department and are a clear violation of departmental policy, as his kicks to Mr. Holley were unnecessary.

Officers are taught to administer pain compliance strikes to suspects when situations allow for them. Officer Childress approached the scene with no urgency and saw his fellow officers delivering force to the suspect and struggling with the suspect. Instead of attempting to grab the suspect's arms, he decided to lightly kick the suspect twice in order to get him to comply

with another officer's commands. Officer Childress's actions fell outside the boundaries of his training, and are made more egregious by the fact that he had time to assess the situation prior to delivering the two kicks. Finally, Officer Childress should have known that the kicks he administered were improper and would not assist in completing the arrest.

In his administrative statement, dated May 21, 2010, Officer Childress states, "I made contact with Holley two times with my right foot on his left arm in an attempt to get him to comply with Officer Bryan's orders to give him his hands." Further, Officer Childress failed to follow established procedure when he neglected to ensure that his use of force against Mr. Holley was properly documented in an incident report or a supplement report, as required by departmental policy.

Officer Childress's decision to use his foot in an improper manner on Mr. Holley after he was lying on the ground 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 Childress's actions have brought discredit, reproach, and embarrassment to the department.

Furthermore, the preponderance of the evidence shows that Officer Childress was aware that unnecessary or excessive use of force was being used against Mr. Holley yet Officer Childress failed to protect Mr. Holley or report the incident to his immediate supervisor as required by departmental policy. The video clearly shows Officer Childress calmly walking towards the group of officers surrounding Mr. Holley. Although Officer Childress states that he was scanning the entire scene and therefore was not completely aware of the actions of the officers around Mr. Holley, it is inconceivable, based on the evidence, that he could be altogether unaware that Mr. Holley was receiving unnecessary or excessive use of force by some employees. Officer Childress was in the best position of anyone at the scene to observe the circumstances surrounding the arrest of Mr. Holley. Officer Childress therefore had a duty under departmental policy to take action to protect Mr. Holley from mistreatment and to report the unnecessary or excessive use of force to his immediate supervisor. The failure of a police officer to report improper or excessive use of force is the type of conduct that will not be tolerated by this department.

The General Orders violated by Officer Childress are as follows: General Orders 200-03 - Investigation of Employee Misconduct; 200-08 - Conduct and Authority, 500-20 - Treatment

of Prisoners, Suspects, and Other Citizens, and 600-17 - Use of Force. Officer Childress was previously furnished copies of these General Orders.

It has been determined that, by his actions, **Lewis M. Childress, Senior Police Officer**, not only violated the Rules of the Civil Service Commission, to wit: Rule V, Section 6, Subsections (b) and (k), as quoted above, but that he also violated the following:

### **GENERAL ORDERS**

**Investigation of Employee Misconduct**, Order No. 200-03, dated March 20, 2007, states in part, but is not limited to:

#### **2     EMPLOYEE PROCEDURES**

Employees who receive information about or observe incidents involving unnecessary or excessive use of force, misconduct, violations of criminal statutes, or abuse of authority by any other employee will first take immediate action to protect the citizen. Employees who receive such information will report the incident to their immediate supervisor.

**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).

**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.

#### 2 REPORTING REQUIREMENTS

Employees are reminded of their duty to ensure the safety of all suspects and prisoners. Mandatory reporting requirements are set out in General Order 200-03, **Investigation of Employee Misconduct**, regarding the mistreatment of prisoners, suspects, or citizens. Failure to report even minor mistreatment of any person will result in disciplinary action.

**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.

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.

In making my decision to indefinitely suspend Officer Childress, 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 Childress' fellow officers. I also contemplated the severity of Officer Childress' 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 Childress was given an opportunity to meet and explain the above events to me. After listening to Officer Childress and his attorney's comments and explanation, and weighing them against the evidence documented in the Internal Affairs investigation, I have decided that Officer Childress must be indefinitely suspended.


Officer Childress 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 Childress 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 Childress elects to appeal to an independent

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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/jri/bam

cc: Lewis M. Childress  
Senior Police Officer

MA/367A

2012 JUN 28 10 00 AM

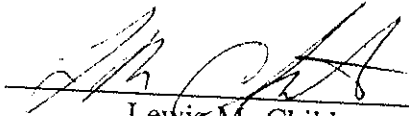
THE STATE OF TEXAS §

COUNTY OF HARRIS §

### RECEIPT OF LETTER OF INDEFINITE SUSPENSION

This is to acknowledge that I, **Lewis M. Childress**, employee *100* employed in the City of Houston Police Department as a Senior 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.

  
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Lewis M. Childress

  
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WITNESS

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