



CITY OF HOUSTON

Fire Department

Interoffice

Correspondence

To: Firefighters' & Police Officers'
Civil Service Commission of the
City of Houston

From: Rick Flanagan
Acting Fire Chief

Date: 9-7-10

Subject: Indefinite Suspension
Firefighter/Paramedic Ryan J. Smith
Employee #
Case #OIG 2010-272

CIVIL SERVICE
COMMISSION
HOUSTON, TEXAS

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In accordance with the applicable provisions of the Texas Local Government Code, Chapter 143, you are hereby notified that as of the close of business on the date stated above, I have indefinitely suspended Firefighter/Paramedic (FF/P) Ryan J. Smith, Employee # [redacted]. Firefighter/Paramedic Smith has been employed by the City of Houston Fire Department since May 1, 2006.

Firefighter/Paramedic Smith has been indefinitely suspended for his acts and misconduct pursuant to Rule 13, Section 6, Subsections (d), (f), (k), (n), and (o) of the City of Houston Civil Service Commission Rules Governing Members of the Fire and Police Departments, which read as follows:

SECTION 6 - CAUSES OF DISMISSALS AND SUSPENSIONS

No Fireman or Policeman shall engage in or be involved in any one of the following acts or conduct and the same shall constitute cause for the removal from service or the suspension of a Fireman or Policeman.

(d) That the employee has violated any of the provisions of the Charter of the City of Houston or has violated any of the provisions of the Firemen's Civil Service laws, or the rules and regulations of the Civil Service Commission, or the rules or special orders of the Fire and Police Departments;

(f) That the employee has been guilty of incompetency or inefficiency in the performance of the duties of his position;

(k) That the employee has been guilty of any conduct unbecoming to an officer or employee of the City of Houston;

(n) That the employee has been guilty of neglect of duty; and

(o) That the employee has been guilty of conduct which was prejudicial to good order of the Fire and Police Departments or the City of Houston.

By his misconduct hereinafter detailed, FF/P Smith has also violated certain provisions of the Rules and Regulations of the City of Houston Fire Department (HFD) which have been adopted by the Civil Service Commission of the City of Houston and made applicable herein under Rule 13,

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Section 6, set forth above, of the City of Houston Civil Service Commission Rules Governing Members of the Fire and Police Departments. Firefighter/Paramedic Smith had access to a copy of the City of Houston Civil Service Commission Rules Governing Members of the Fire and Police Departments. He also had access to a copy of said rules and regulations and was required to have read and conducted himself by, and in accordance with, said guidelines.

The specific provisions that FF/P Smith has violated include, but are not limited to:

**HOUSTON FIRE DEPARTMENT GUIDELINES - RULES AND REGULATIONS,
Volume I, Reference 1-01:**

6.01 - Obedience to Rules of Conduct: Members shall be governed by the following Rules and Regulations. No plea of ignorance of any rules or regulations will be accepted as an excuse for improper conduct. Violation of any of these rules shall be considered sufficient cause for dismissal, demotion, suspension or other disciplinary action.

6.02 - Responsibility to Read, Understand, and Comply: Members are required to read, sign, understand, and comply with all departmental rules/regulations, guidelines, orders, bulletins, and other directives as issued. These will be read at roll call or morning meetings and placed in the appropriate binders for all members to sign and reference.

6.03 - Abide by Laws: Members shall abide by the laws of the United States, the State of Texas, the ordinances of the City of Houston, the rules of the Civil Service Commission, the general orders, and the rules of conduct of the Fire Department.

7.05 - Performance of Duty: Members shall perform all lawful duties as may be required of them by competent authority regardless whether or not such duties are specifically assigned to them in any rules or duty manuals.

7.11 - Truthfulness: Members are required to speak the truth at all times whether under oath or not, in giving testimony, or in connection with any legal official order received, or in connection with official duties.

8.01 - Racial, Ethnic and Gender Slurs: Members shall not verbally, non-verbally, or illustratively utilize racial, ethnic, or gender slurs or connotations towards another member. A slur is defined as a remark, language, illustration, or other media including, but not limited to, jokes and pornography, which degrade an individual's race, gender, or national origin. Members shall not create an intimidating, hostile, or offensive work environment by such conduct. Violations of this guideline are subject to disciplinary action up to and including discharge. Any member, who believes they have been the subject of a racial, ethnic, or gender slur, shall report the act immediately to their supervisor or manager and to HFD Staff Services. Supervisors or managers who fail to act on allegations or evidence of discrimination based on race, ethnicity, or gender shall be considered for disciplinary action.

9.02 - Immoderate Language: Members, while in uniform or on duty, shall not use obscene, immoral, profane, or offensive language. Members shall not make any derogatory or otherwise offensive religious, racial, ethnic, or sexual remarks. Members

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who hear, witness, or are informed of such remarks shall immediately report the incident to their immediate supervisor. The supervisor shall investigate and take appropriate action. Harassment of another member or citizen because of race, ethnic group, religion, or sex is strictly prohibited.

9.19 - False Statements: Members making a false statement in any official communication or in conversation with another member or citizen will be subject to strict disciplinary action.

12.02 - Neglect of Duty at an Incident: Insolence, indifference, and evading duty at an incident is forbidden and members found guilty of this offense will be immediately relieved from duty.

HOUSTON FIRE DEPARTMENT PATIENT CARE GUIDELINES, Volume III Reference 1-01:

6.08 - Documentation:

I. Responsibility (according to Texas Department of State Health Services)

1. When members hold similar EMS certifications, both members are equally responsible for complete and accurate documentation of the record.
2. In situations where one member is utilized by the department in a higher EMS certification level, that member is responsible for the complete and accurate documentation of the record.

J. In ALL cases, a copy of the patient care record will be provided to the hospital prior to the unit leaving the hospital property. Patient care records are still to be completed and given to the hospital during periods of resource management.

Mayor's Executive Order No. 1-20: Racial, Ethnic and Gender Slurs (Effective Date 2.16.98):

It is the policy of the city of Houston that employees shall not verbally, non-verbally or illustratively:

- A. Utilize racial, ethnic or gender slurs or connotations towards another employee. A slur is defined as a remark, language, illustration, or other media including but not limited to jokes and pornography, which degrade an individual's race, gender or national origin.
- B. Create an intimidating, hostile or offensive working environment by such conduct.

The facts that serve as the basis for FF/P Smith's indefinite suspension were reported as follows:

An Office of Inspector General (OIG) investigation based on a formal complaint by Senior Captain Brad Curette, found sufficient evidence to conclude that FF/P Ryan J. Smith acted improperly, resulting in the violation of Houston Fire Department Rules and Regulations, when he allowed a racial slur to be placed into the narrative section of Patient Care Record (PCR) 1003070675, and the record containing the slur to be transmitted to the main frame. Additionally, the investigation determined that he was untruthful in answers he gave during the course of the investigation, was

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uncooperative in the investigative process, and took measures to thwart the discovery of pertinent facts regarding the matter under this investigation.

The OIG investigation confirmed that on or about March 7, 2010, FF/P Smith, while serving in the capacity of Engineer/Operator/Paramedic, allowed an entry to be made in the narrative section of PCR 1003070675 that was an offensive racial slur, to wit "Please!". He then allowed this record to be transmitted. Additionally, a copy of PCR 1003070675 was not left at the correct hospital as required by HFD Patient Care Guidelines, and a copy of PCR 1003070604 was left instead.

By his own admission (statement), FF/P Smith acknowledged that he shared responsibility for ensuring that the PCR be true and accurate. He also acknowledged that a printed copy of the PCR is required to be left with the hospital.

The investigation of the incident also concluded that FF/P Smith was not truthful and was uncooperative during the investigation of this matter, that he made a false statement to an investigator regarding his research and preparation for interrogation during this matter, and that he made efforts during questioning to thwart the discovery of facts related to the matter being investigated. This objectionable conduct and behavior violated departmental rules and regulations and was unbecoming of an officer or employee of the City of Houston or a member of the Houston Fire Department. Firefighter/Paramedic Smith's actions brought reproach and discredit upon himself and the department.

The Houston Fire Department is a professional organization that holds its members to a high standard of conduct. Firefighter/Paramedic Smith's failure to follow HFD policy demonstrates an attitude inconsistent with those standards. His misconduct and the circumstances surrounding this incident are so grievous that they must be addressed in the sternest possible manner.

Firefighter/Paramedic Ryan J. Smith was notified of the allegations regarding his indefinite suspension and afforded the opportunity to respond to and explain the foregoing matters to me during a pre-disciplinary meeting. After considering all of the facts and circumstances, I have indefinitely suspended Ryan J. Smith's employment with the City of Houston Fire Department.

Firefighter/Paramedic Smith is hereby informed of his right to appeal my decision and is informed that he has fifteen (15) calendar days from the date of receipt of this memorandum to file a written appeal with the Firefighters' and Police Officers' Civil Service Commission of the City of Houston. He is further informed that, pursuant to Section 143.1016 of Texas Local Government Code, he may elect to appeal to an independent hearing examiner instead of to the Commission. If FF/P Smith elects to appeal to a hearing examiner, he waives all rights of appeal to a District Court, except as provided by Subsection (j) of Section 143.1016.

 7-7-10

Rick Flanagan
Acting Fire Chief

cc: Ryan J. Smith, Employee #
HFD Human Resources