

City of Memphis

TENNESSEE



Jim Strickland – Mayor

DIVISION OF FIRE SERVICES
Gina Sweat – Fire Chief

"Teamwork with Commitment to Excellence, Compassion, and Immediate Community Protection"

January 30, 2023

Lieutenant Michelle Whitaker
Employee ID # 4083
Engine 55, A-Shift
Division of Fire Services

Subject: Termination

Dear Lieutenant Whitaker:

On 07 January 2023 you were the lieutenant on Engine 55. Engine 55 was dispatched on an assault call at Raines Rd. and Ross Rd. Once there, you were informed that the patient was at Ross Rd. and Castlegate Lane. Due to all the MPD vehicles on scene, the engine had to be parked on Ross Rd. approximately a block away from the patient. You instructed the two privates, EMT Robert Long and AEMT JaMichael Sandridge, to go to the patient and treat him. Per your IDC, "I stayed with the pumper and informed Pvt R. Long (EMT-B) and Pvt J. Sandridge (AEMT) to contact me on the radio talk group if they needed me." Pvt. Long requested a unit to be dispatched to the scene to transport the patient.

[REDACTED] That is when you got out of the pumper and went to your crew and the patient. [REDACTED]

The ePCR was completed by AEMT Sandridge after the incident and patient was transported to the hospital. You stated that you did not sign your name to the ePCR.

Based upon the facts presented above, you were charged with violating the Division of Fire Services Operations Manual articles, City of Memphis Policies and Procedures articles, and Tennessee EMS rules and regulations listed below:

Division of Fire Services Operations Manual, Volume 100, Rules and Regulations

Section 102.01, Page 1, Paragraph #2

Officers who fail to carry out responsibilities, fail to uphold and maintain standards of conduct and/or discipline, or fail to recommend action commensurate with violation(s), shall be cited for failure to perform one's duties, which may subject one to disciplinary action.

Section 102.02, Page 8, Paragraph 52

Members shall be knowledgeable of the duties and responsibilities of the position to which they are assigned. Exert their greatest energy and full ability in the performance of their duties; shall not neglect or fail to take proper action regarding the situation involved; nor fail to perform any portion of their duty as required by rule, regulation, order, common practice, or training. Employees who fail to perform accordingly shall be considered lacking the qualities for effective action, inadequate to perform, or unsuitable for the performance of the duties required, which may lead to disciplinary action for incompetence.

Section 102.11, Page 2, Paragraph #12

Company Officers shall remain with their respective units, supervise and assist with work and keep the company personnel intact.

Section 102.11, Page 3, Paragraph 17

Officers shall take all precautionary action to safeguard members under their command.

Section 103.01, Page 2, Paragraph #11(h)

Major Violations: Note that the violations listed below are not all inclusive. Any action may be defined as a Major Violation notwithstanding the examples listed.

h) Neglect of duty or negligence.

Section 402.01, Page 14, Paragraph 7

All EMS Providers are expected to perform their duties in accordance with local, state, and federal guidelines.

EMS General Rules 1200-12-01.17, Page 73, Paragraph #3

Failing to take appropriate action in safeguarding the patient from incompetent health care practices of emergency medical services personnel.

Section 402.02, Page 6, Paragraph III. 2.

It is crucial and mandatory that all personnel on the First responding company assist the EMT and the Unit personnel on the scene of an emergency call. It is the responsibility of the officer in charge of the First responding company to see that all of their "manpower" is utilized as the situation demands.

Section 402.02, Page 7, Paragraph III. 2.(b)

ALL MEMBERS OF THE DIVISION OF FIRE SERVICES WILL WORK AS A TEAM IN PROTECTION OF LIFE AND PROPERTY.

Section 402.02, Page 10, Paragraph x. 1.

All resources and skills shall be utilized in an appropriate manner consistent with the needs of the patient. Personnel should be aggressive in the care and treatment of all patients.

City of Memphis Personnel Manual

PM 38-02, Section 38-00, Page 4, Paragraph 30

A supervisor, who has knowledge that an employee under their supervision has violated any policies set forth by City of Memphis Government, and who fails to take appropriate action, shall be subject to disciplinary action up to and including termination.

PM 30-01, Section 30-00, Page 9, Paragraph G

City employees, as integral members of the City of Memphis Government, shall adhere to acceptable business principles in matters of personal conduct and behavior and must exhibit a high degree of personal integrity. This not only involves respect for the rights and feelings of other City employees, but demands that City employees refrain from any conduct or behavior that is criminal or illegal, or that might be personally harmful to co-workers, members of management, customers, vendors or visitors of the City of Memphis Government or that could be viewed unfavorably by the public at large. Therefore, City employees are expected to behave in a professional manner by conducting themselves in a way that best represents City Government and to exercise appropriate conduct and judgment at all times.

EMS General Rules 1200-12-01

Section 1200-20-01-.17, Page 73, Paragraph 3

Failing to take appropriate action in safeguarding the patient from incompetent health care practices of emergency medical services personnel.

Tennessee Code 68-140-311(2019)

Page 2, Paragraph 6

Abandoning or neglecting a patient requiring emergency care, following assumption of duty;

An administrative investigation was conducted, and a hearing was held at the Office of Emergency Management at 1000 hours January 25, 2023. The Investigative Committee consisted of Division Chief Debbie Patterson (Presiding Officer), Division Chief Kevin Spratlin, and Division Chief Maurice Tolliver. Also in attendance were IAFF representatives Thomas Malone and Todd Conklin, and yourself.

During the Administrative Hearing, you were asked several questions. You were asked why you decide to remain in the pumper instead of going to the patient. Your answer was that you felt it was something they could handle, and you felt comfortable sending them up there alone. You also stated that "as an officer I can delegate and I delegated them to take care of the patient." When Engine 55 got to Ross Rd. and Raines Rd., you were directed to a different location for the patient. You stated, "nothing else was sent or changed so it was a continuation of the same call." You stated that you remained sitting in the pumper until Unit 28's driver came back to the unit in a "hurried step". [REDACTED]

[REDACTED] At that time, you decided to go to where your crew and the patient was located. You stated that the pumper was parked approximately 3 houses from where the patient was located. When asked if you could visualize your crew from the pumper, you answered no you could not and also stated that you knew you were in charge of scene safety. Due to all the officers on scene you thought your crew was safe. You were asked if you had ever seen Pvt. Long or Pvt. Sandridge ever treat a pepper sprayed patient. Your response was "No I haven't but I assumed they knew how to treat. Sandridge rides BLS units and assume he has treated a pepper sprayed patient."

Discussing the signing of ePCRs, you explained that once you get back to the station that you don't think about signing the ePCR. You knew you were supposed to sign every ePCR created. You stated that you do not tell them to sign your name and they take it upon themselves to sign your name. "I don't think or tell them to sign. I would expect them to come find me to sign it when they see my name. I don't do EMS tickets. I don't assess the patients" was your response about documentation.

If you could have done things differently you said you have gone up to the patient based on what I know now. You said that you didn't know if you could have done more. "I don't know if the outcome would have been different. I didn't know how bad he was. No one told me he had gotten beaten up. I don't do the patient assessments and I do my own little assessment." You continued to reiterate the point about not having more information given to you. When asked what were other ways you could have gotten more information, you answered by the radio and could have walked up to the patient and seen what was going on.

Based on the essential facts of the case, the preponderance of evidence provided in the administrative hearing, and your violations of city policies, Memphis Fire Department policies and protocols and State of Tennessee EMS rules. It is my decision with the concurrence of the Investigative Committee members that you are terminated effective 30 January 2023 at 1500 hours. An on-duty Battalion Chief will arrange the return of all fire department issued property and all equipment provided by the Fire Division, pickup any personal property and any severance payments made in accordance with City policy; final paycheck and any other due compensatory benefits.

Be advised that you may appeal this decision through the grievance procedure as outlined in the Memorandum of Understanding or through Civil Service. If you choose to appeal this decision through the Civil Service Commission, you have ten (10) calendar days after receipt of written notification of the actions taken to file an appeal with the Civil Service Commission. *"You have ten (10) calendar days after receipt of this written notification to file an appeal with the City of Memphis Civil Service Commission. You may also contact Brooke Hyman at (901) 636-6777."*

Sincerely,

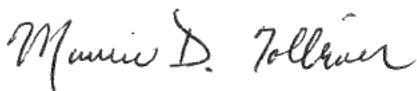


Debbie Patterson
Division Chief of EMS Operations

CONCURRENCE



Kevin Spratlin
Division Chief of EMS Administration



Maurice Tolliver
Division Chief 1-A

cc: Gina Sweat, Fire Chief
Hope Lloyd, Assistant Fire Chief of Administration
Colin Burress, Assistant Fire Chief of Operations
Robbie Franks, Deputy Chief of Logistics
Markus Smith, Deputy Chief of Operations
Angie Sullivan, Deputy Chief of Emergency Medical Services
Christopher Wilson, Deputy Chief of Technology
Kenneth Newton, Division Chief of Administration
Debbie Patterson, Division Chief of EMS Operations
Kevin Spratlin, Division Chief of EMS Administration
Maurice Tolliver, Division 1-A
John Pillsbury, Division 2-A
Debra Lee, Fire Project Analyst
Fire/City Personnel File
Labor Relations
Local 1784
File