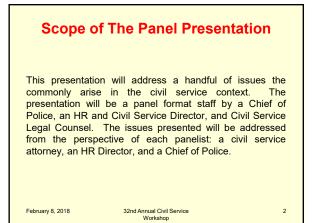
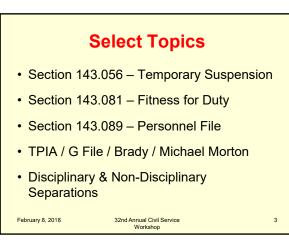
CIVIL SERVICE 101 COMMON PITFALLS CHAPTER 143 A PANEL DISCUSSION

Ric J. Navarro Denton, Navarro, Rocha, Bernal & Zech P.C. Linda Spacek Human Resource Director – San Marcos, Texas Chase Stapp Chief of Police – San Marcos, Texas





Temporary Suspensions Under 143.056, TLGC

Leave Status; 143.056(a)

>(a) If a fire fighter or police officer is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the department head may temporarily suspend the person with or without pay for a period not to exceed 30 days after the date of final disposition of the specified felony indictment or misdemeanor complaint.

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Temporary Suspensions Under 143.056, TLGC

Leave Status; 143.056(b)

≻(b) The department head shall notify the suspended fire fighter or police officer in writing that the person is being temporarily suspended for a specific period with or without pay and that the temporary suspension is not intended to reflect an opinion on the merits of the indictment or complaint.

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Temporary Suspensions Under 143.056, TLGC

Leave Status; 143.056(c)

>c) If the action directly related to the felony indictment or misdemeanor complaint occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the department head may, within 30 days after the date of final disposition of the indictment or complaint, bring a charge against the fire fighter or police officer for a violation of civil service rules 32nd Annual Civil Service Workshop

Temporary Suspensions Under 143.056, TLGC

Leave Status; 143.056(d)

d) A fire fighter or police officer indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the department head with civil service violations <u>directly related</u> to the indictment or complaint <u>may delay</u> the civil service hearing for not more than 30 days after the date of the final disposition of the indictment or complaint

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Temporary Suspensions Under 143.056, TLGC

Leave Status; 143.056(e)

• e) If the department head temporarily suspends a fire fighter or police officer under this section and the fire fighter or police officer is not found guilty of the indictment or complaint in a court of competent jurisdiction, the fire fighter or police officer may appeal to the commission or to a hearing examiner for recovery of back pay. The commission or hearing examiner may award all or part of the back pay or reject the appeal.

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Temporary Suspensions Under 143.056, TLGC

Leave Status; 143.056(f)

>(f) Acquittal or dismissal of an indictment or a complaint does not mean that a fire fighter or police officer has not violated civil service rules and does not negate the charges that may have been or may be brought against the fire fighter or police officer by the department head.

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Civil Service Pitfalls - Panel Discussion

Temporary Suspensions Under 143.056, TLGC					
Leave Status; 143.056(g)					
≻(g) Conviction of a felony is cause for dismissal, and conviction of a Class A or B					

action or indefinite suspension.

misdemeanor may be cause for disciplinary

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Temporary	y Sus	pens	ions	Under
143	.056 (h), Tl	_GC	

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Deferral Based on Criminal Investigation

(h) The department head may order an indefinite suspension based on an act classified as a felony or a Class A or B misdemeanor after the 180-day period following the date of the discovery of the act by the department if the department head considers delay to be necessary to protect a criminal investigation of the person's conduct. If the department head intends to order an indefinite suspension after the 180-day period, the department head must file with the attorney general a statement describing the criminal investigation and its objectives within 180 days after the date the act complained of occurred

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Temporary Suspensions Under 143.052, TLGC

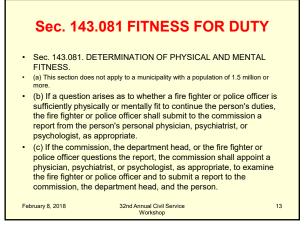
Limitations Period; Criminal Activity

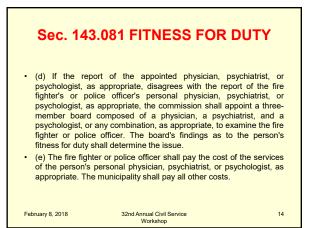
> h) [180 day rule] ... If the act is allegedly related to criminal activity including the violation of a federal, state, or local law for which the fire fighter or police officer is subject to a criminal penalty, the department head may not complain of an act that is discovered earlier than the 180th day preceding the date the department head suspends the fire fighter or police officer. The department head must allege that the act complained of is related to criminal activity

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Personnel Files Under 143.089 (a) (f) and (g), TLGC

- (a) The director or the director's designee shall maintain a personnel file on each fire fighter and police officer. The personnel file must contain any letter, memorandum, or document relating to:
 Commendation; Misconduct, etc.
- (f) The director or the director's designee may not release any information contained in a fire fighter's or police officer's personnel file without first obtaining the person's written permission, unless the release of the information is required by law

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Civil Service Pitfalls - Panel Discussion

Personnel Files Under 143.089 (a) (f) and (g), TLGC

 g) A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use, but the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

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Disciplinary and Non-Disciplinary Separations

- Disciplinary separations turn on a rule violation that requires a factfinding process and a charging instrument that pleads a case that must be proven if appealed. Disciplinary separations are appealable.
- Non-Disciplinary separations depend on the loss of some objective qualification or condition precedent to hold the appointment.
- Non-Disciplinary separations are not appealable under civil service. They do not prevent or preclude a lawsuit alleging some other violation.

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