



ICMS: 2019-1195

Date of Complaint: 10/30/2019

Complaint:

Per an anonymous complaint received by the Office of Police Oversight (OPO) on October 30, 2019, Chief of Police Brian Manley was allegedly informed of racist language allegedly used by an Assistant Chief to describe African Americans. Chief Manley may have violated Austin Police Department (APD) policy when he allegedly agreed to keep this behavior a secret. Additionally, based on the complaint, Chief Manley may have also agreed to keep alleged homophobic sentiments a secret.

The OPO recommends an independent investigation into the allegations listed in this Notice of Formal Complaint against Chief Manley.

Additional Information: The anonymous complaint received by the OPO is quoted below:

“An assistant chief admitted to chief manly [*sic*] that he has made numerous derogatory comments about African Americans prior to the Dusterhoft arbitration. Manly [*sic*] agreed to keep it a secret as long as it did not come out in the arbitration, for the good of the department. Chief manly [*sic*] has also supported Assistant Chief Gay in forcing his ■■■■■ to attend Christian gay conversion therapy. There was also a fear that this anti-gay mindset would come out in the Dusterhoft arbitration, but if it didn't it would remain a secret for the good of the department.”

Administrative Policies to Review:

301.2 Impartial Attitude and Courtesy

Employees are expected to act professionally, treat all persons fairly and equally, and perform all duties impartially, objectively, and equitably without regard to personal feelings, animosities, friendships, financial status, sex, creed, color, race, religion, age, political beliefs, sexual orientation, gender identity or gender expression or social or ethnic background.

- (a) Employees will not express or otherwise manifest any prejudice concerning race, religion, national origin, age, political affiliation, sex, or other personal characteristics in the performance of their duties.
 - 1. Employees will respect the rights of individuals and will not engage in discrimination, oppression, or favoritism whether by language, act, or omission.
 - 2. The use of racial or ethnic remarks, slurs, epithets, words or gestures, which are derogatory or inflammatory in nature to or about any person or group of persons is strictly prohibited.

328.2 Racial or Bias-Based Profiling Policy

The Department strives to provide law enforcement services to our diverse community while respecting the racial, cultural, or other differences of those we serve. It is the policy and practice



of the Department to provide law enforcement services and to enforce the law equally, fairly, and without discrimination toward any individual or group.

Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability, or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement services or the enforcement of the law.

While the practice of racial or bias-based profiling is strictly prohibited, it is recognized that race or cultural differences may be legitimately considered by an officer in combination with other legitimate factors; to establish reasonable suspicion or probable cause (e.g., subject description is limited to a specific race or group), to establish relevant elements of a crime (e.g. exploitation of an elderly or disabled individual), or to gather evidence relevant to enhanced punishment due to offenses committed because of bias or prejudice.

328.4 Supervisor Responsibilities

Supervisor's shall monitor those individuals under their command that may conflict with the purpose of this order and shall handle any alleged or observed violation of this order in accordance with the Administrative Investigations general order.

- (a) Supervisors will discuss any issues with the involved officer and his/her supervisor in a timely manner.
- (c) Supervisors will initiate investigations of any actual or allege violations of this order.

900.3.2 Acts Bringing Discredit Upon the Department

Since the conduct of personnel both on-duty or off-duty may reflect directly upon the Department, employees must conduct themselves at all times in a manner which does not bring reproach, discredit, or embarrassment to the Department or to the City.

- (a) Employees will not commit any act which tends to destroy public confidence in, and respect for, the Department or which is prejudicial to the good order, efficiency, or discipline of the Department.
- (c) Employees will not engage in any activity in which there is a potential for conflict of interest or the appearance of a conflict of interest with the lawful duties of the employee.
 - 1. "Conflict of interest" includes any activity which would tend to influence a decision, create a bias or prejudice, or create a gain or loss for any person or agency which would favor one side or the other in conflict with the employee's official duties, or which conflicts with the accomplishment of the Department's goals.

900.4.3 Neglect of Duty

Employees will satisfactorily perform their duties. Examples of unsatisfactory performance include, but are not limited to:

- (a) Lack of knowledge of the application of laws required to be enforced.
- (b) Unwillingness or inability to perform assigned tasks.
- (c) Failure to take appropriate action on the occasion of a crime, disorder, investigation or other condition deserving police attention.



- (d) Failure to respond to any call or to perform any police duties assigned to them by appropriate authorities.
- (e) Absence without approved leave.
- (f) Repeated poor evaluations.
- (g) Written record of repeated infractions of rules, regulations, directives or orders of the Department.
- (h) Failure to follow department standardized training and tactics when it was objectively reasonable to do so.
- (i) Employees are expected to be truthful at all times in the performance of their duties, However, there may be instances where, initially, the employee has not been truthful; but, before the investigation is complete, the employee provides an accurate and detailed accounting of their true culpability in a situation, and accepts full responsibility for their actions. In those cases, the Chief may consider each case on a fact-specific basis.

900.5.1 Supporting Fellow Employees

- (a) Employees will not knowingly aid, abet, or assist another Department member in violating any Department directive or order.

914.3.1 Discrimination

- (a) Discrimination is any act or omission of an act which would create a hostile work environment, or exclude any person from employment or promotional opportunities because of creed, color, national origin, sex, gender identity or gender expression, age, religion, veteran status, disability, or sexual orientation.
- (c) Discrimination includes, but is not limited to, derogatory comments, slurs or jokes, pictures, cartoons or posters and actions that result in an employee being offended or insulted.

914.4.1 Supervisor Responsibility

Each supervisor and manager shall:

- (a) Ensure that the work environment is free from all types of unlawful discrimination, including sexual harassment.
- (b) Take prompt, appropriate action within the work units to avoid and minimize the incidence of any form of discrimination.
- (c) Ensure subordinates attend any required training on discrimination and harassment.

914.5 Investigation of Complaints

- (a) The Chief has the authority to order Internal Affairs to conduct an investigation alleging discrimination/harassment regardless of whether the conduct involves sworn/non-sworn employees.

900.1.1 Responsibility to Know and Comply



The rules of conduct set forth in this order do not serve as an all-inclusive list of requirements, limitations, or prohibitions on employee conduct and activities; employees are required to know and comply with all Department policies, procedures, and written directives.

- (a) Employees will maintain a working knowledge and comply with the laws, ordinances, statutes, regulations, and APD directives which pertain to their assigned duties.
- (b) Employees who do not understand their assigned duties or responsibilities will read the relevant directives and guidelines, and will consult their immediate supervisor for clarification and explanation.
- (c) A lack of knowledge of an APD written directive is not a defense to disciplinary action.

Recommended Classification:

The OPO is not recommending a classification as it is not applicable to Austin Police Department executive staff.