

RECEIVED
Civil Service Office

NOV 25 2020

4:21 pm



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Brian Manley, Chief of Police

DATE: November 25, 2020

SUBJECT: Temporary Suspension of Police Officer Ryan Seweryn #8593
Internal Affairs Control Number 2020-1079

Pursuant to the provisions of Chapter 143 of the Texas Local Government Code, Section 143.052, and Rule 10, Rules of Procedure for the Firefighters', Police Officers' and Emergency Medical Service Personnel's Civil Service Commission, I have temporarily suspended Police Officer Ryan Seweryn #8593 from duty as a City of Austin, Texas police officer for a period of **TEN (10) days**. The temporary suspension is effective beginning on November 26, 2020 and continuing through **December 5TH, 2020**.

I took this action because Officer Seweryn violated Civil Service Commission Rule 10.03, which sets forth the grounds for disciplinary suspensions of employees in the classified service, and states:

No employee of the classified service of the City of Austin shall engage in, or be involved in, any of the following acts or conduct, and the same shall constitute cause for suspension of an employee from the classified service of the City:

- L. Violation of any of the rules and regulations of the Fire Department or Police Department or of special orders, as applicable.

The following are the specific acts committed by Officer Seweryn in violation of Rule 10:

On May 30, 2020, Austin Police Department (APD) Officer Ryan Seweryn was assigned to the Mobile Field Force (MFF) at APD headquarters. APD deployed its assigned MFF in response to a large number of protesters located outside of APD headquarters. While standing in front of the building on the front steps, Officer Seweryn referred to a protester as: *"That gay dude with the short shorts in the black shirt."* The protester allegedly had a laser pointer and was using it to shine a beam of light on the Air One helicopter. Shining a laser pointer at an aircraft is potentially dangerous and could be a criminal act. Officer Seweryn's statement was recorded by his body-worn camera (BWC).

On November 13, 2020, Internal Affairs (IA) received a Complaint Memorandum from Commander Brian Jones, requesting an administrative investigation to determine if Officer Seweryn violated APD General Orders, Civil Service Rules, or state law.

Officer Seweryn IA Interview

IA interviewed Officer Seweryn during their investigation. During his interview, Officer Seweryn explained that while working in the MFF, he recalled describing the individual who was shining a laser at the helicopter circling above in the following manner: *"I described the individual as a gay individual with umm ... a gay dude with ... black short shorts."*

He went on to elaborate his reasoning for using this description by stating:

"Uh.. if..if there was a male in feminine clothing I would describe that individual as gay.. uhhh in order to for uhh my fellow officers to identify the individual."

Counterintuitively, Officer Seweryn then stated that he does not assume a person's sexual orientation based on how an individual is dressed. He elaborated that he had described the individual in question as gay because the individual's clothing was consistent with the clothing styles that he believed people wore at Gay Pride parades. IA also specifically asked Officer Seweryn if he had ever met the person he was referring to on the night in question. He replied, *"No sir."* Officer Seweryn was asked if he knew for a fact that the person whom he described was gay; he replied, *"No sir."*

Based on that explanation, the IA investigator asked Officer Seweryn how he would be able to tell if someone is gay in a crowd of people. He reiterated, based on the clothing, in this particular case, that the person was wearing short black shorts, and his dress was consistent with what is seen in Gay Pride parades. Officer Seweryn was asked if he had ever seen a person who is not gay wear short shorts; he replied, *"Yes sir."* IA circled back to ask Officer Seweryn how he would be able to identify the person in this case as gay based on short shorts, to which Officer Seweryn stated:

"I wouldn't be able to identify that was a gay person based on short shorts."

Officer Seweryn stated that he believed it was an accurate description to use in this case, but he agreed that there are better descriptions that could have been used. Officer Seweryn explained he was not making an assumption that the person was gay based on the style of clothing he was wearing.

The IA investigator asked Officer Seweryn to clarify how he knew that the person was gay.

I uhh...the...again the clothing he was wearing...he was wearing short Shorts...I believe he was wearing a low-cut shirt. uhh...you know these are uhh...a physical style, that is similar to that...uhhh...that, uhh that's worn by the community...uhh LGBTQ community...there's a male in feminine clothing as well.

The IA investigator followed up by asking Officer Seweryn how the word “gay” is a physical description. Officer Seweryn replied: “*It's a description of the clothing of the person, not a physical description of the person themselves.*” Officer Seweryn also explained that he did not simply describe the individual’s clothing because there were hundreds of people at the protest, and he wanted to provide a description that stood out in a sea of white males in black shorts. Officer Seweryn stated that he used “gay” as a descriptor because the style of clothing the subject had on was consistent with what he understood to be that style. Officer Seweryn admitted that he has never used the term “*the straight dude*” when describing a subject.

IA asked Officer Seweryn if the APD Training Academy teaches cadets to use the term “gay” as a descriptor for subjects. He replied, “*Not as a description, no sir.*” IA asked Officer Seweryn if he would be comfortable providing that description over the radio. He replied, “*No sir.*”

IA also asked Officer Seweryn if he would do anything differently, to which he responded:

Uhh...I would use uhh...uh..the...the...description of the uhh...of the clothing themselves rather than any other than any other uh...stylistic or terms in order to portray my point.

In spite of his unprofessional and inappropriate comment, Officer Seweryn concluded his IA interview by stating that he did not feel like he violated APD General Orders.

Other Recent Discipline (Case IA Case # 2020-0362)

On or about March 24, 2020, APD Officer Ryan Seweryn sent a text message image, commonly referred to as a “meme,” to two officers on his shift. The image was a booking photograph (with added captions) of a current APD officer, which was taken when the current officer was 17 years old and arrested for a low-level crime. One of the officers who received the meme informed a supervisor and expressed to the supervisor that they found the image and message to be inappropriate and disrespectful. On March 26, 2020, Sergeant Michael Joseph signed an internal complaint memorandum directing APD Internal Affairs (IA) to conduct an Administrative Investigation to determine if any violation of APD policy, Civil Service Rules, or state law had been committed by Officer Seweryn.

IA interviewed several witnesses during the course of their investigation, including Officer Seweryn. Throughout his interview, Officer Seweryn acknowledged that he violated the following General Orders: 900.3.4 (Personal Conduct), 900.5 (Responsibility to Coworkers), and 116.8 (Privacy and Security of Records). Moreover, Officer Seweryn acknowledged that this failed attempt at "humor" was unwarranted, unprofessional, and discourteous to his co-worker. Officer Seweryn also recognized that he should not have accessed the records, and he also acknowledged that his usage of the booking photograph, his comments, and sharing the photograph with at least one other person caused embarrassment to a co-worker.

As a result of his actions in this case, Officer Seweryn received a 10-day suspension on September 3, 2020.¹

Conclusion

Unlike in his previous above-mentioned case, Officer Seweryn did not take responsibility for his conduct in this case involving his inappropriate comment about a protester. While he acknowledged that his conduct is inconsistent with APD training and expectations, he did not accept that there was anything wrong with the assumptions, description, and stereotype he made. He repeatedly denied making any offensive assumptions solely based upon the subject's clothing. Yet when repeatedly given a chance by IA to explain what other factors contributed to his decision making, Officer Seweryn maintained his denial as he stumbled through his explanation, only to reiterate the same inappropriate basis for the description. Rather than take full responsibility and acknowledge that he did anything wrong, Officer Seweryn demonstrated that he not only needs to receive discipline in this case, but he needs to go through additional training to gain an understanding of the expectations of APD's ICARE values and the impartial attitude and courtesy he must show to members of the entire community, within or outside of their presence.

By these actions, Officer Seweryn violated Rule 10.03(L) of the Civil Service Rules by violating the following rules and regulations of the Austin Police Department:

➤ **Austin Police Department Policy 301.1: Responsibility to the Community: Purpose and Scope**

301.1 Purpose and Scope

All persons deserve protection by fair and impartial law enforcement and should be able to expect similar police response to their behavior wherever it occurs. Employees will serve the public through direction, counseling, assistance, and protection of life and property. Employees will be held accountable for the manner in which they exercise the authority of their office or position. Employees will

¹ This case is currently scheduled for appeal.

respect the rights of individuals and perform their services with honesty, sincerity, courage, and sound judgment.

➤ **Austin Police Department Policy 301.2: Responsibility to the Community: Impartial Attitude and Courtesy**

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.

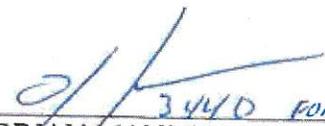
- (a) Employees will not express or otherwise manifest any prejudice concerning race, religion, national origin, age, political affiliation, sex, or other personal characteristics in the performance of their duties.
 - 1. Employees will respect the rights of individuals and will not engage in discrimination, 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.
- (b) Employees will be tactful in the performance of their duties, control their tempers, exercise patience and discretion, and shall not engage in argumentative discussions even in the face of extreme provocation.
- (c) Employees will make every effort to be courteous and respectful toward all persons.

Officer Seweryn is advised that this suspension may be considered by the Chief of Police in a future promotional decision pursuant to General Order 919.

By copy of this memo, Officer Seweryn is hereby advised of this temporary suspension and that the suspension may be appealed to the Civil Service Commission by filing with the Director of Civil Service, within ten (10) days after receipt of a copy of this memo, a proper notice of appeal in accordance with Section 143.010 of the Texas Local Government Code.

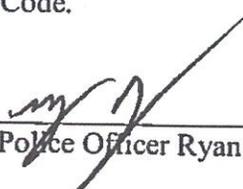
By copy of this memo and as required by Section 143.057 of the Texas Local Government Code, Officer Seweryn is hereby advised that such section and the Agreement Between the City of Austin and the Austin Police Association provide for an appeal to an independent

third party hearing examiner, in accordance with the provisions of such Agreement. If appeal is made to a hearing examiner, all rights of appeal to a District Court are waived, except as provided by Subsection (j) of Section 143.057 of the Texas Local Government Code. That section states that the State District Court may hear appeals of an award of a hearing examiner only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction, or that the order was procured by fraud, collusion or other unlawful means. In order to appeal to a hearing examiner, the original notice of appeal submitted to the Director of Civil Service must state that appeal is made to a hearing examiner.

 3440 FOR CHIEF MANLEY
BRIAN MANLEY, Chief of Police Date 11/25/2020

TO WHOM IT MAY CONCERN:

I hereby acknowledge receipt of the above and foregoing memorandum of temporary suspension and I have been advised that if I desire to appeal that I have ten (10) calendar days from the date of this receipt to file written notice of appeal with the Director of Civil Service in accordance with the provisions of Chapter 143 of the Texas Local Government Code.

 8593
Police Officer Ryan Seweryn #8593 Date 11/25/2020