



ICMS: 2019-1308

Date of Complaint: 11/26/2019

Complaint:

Per an anonymous complaint received by the Office of Police Oversight (OPO) on November 26, 2019, Assistant Chief Jennifer Stephenson may have violated Austin Police Department (APD) policy.

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

Additional Information:

The anonymous complaint received by the OPO is quoted below:

“City of Austin Office of Police Oversight, and Austin City Manager Spencer Cronk,

The past two weeks have delivered the department some much needed focus on racism and discrimination within higher ranks, particularly the Chiefs Office. Chief Manley has afforded Assistant Chiefs and the Chief of Staff benefits, options, and even discipline that the lower ranks never receive. It has also been known, one should never question the “5th Floor” for fear of retaliation or even worse, becoming a target and jeopardizing your career. This new focus from the OPO and City Manager Cronk has allowed an opportunity for me to describe how yet another Assistant Chief has made racist comments and discriminated against a minority without repercussions.

Assistant Chief Stephenson was a Sergeant over a narcotics unit at the East Substation during a period of 2011-2012. During this time, Detective Ricardo Pelayo was assigned to this unit. On one occasion, Sgt. Stephenson exited her office and entered the open bay area where all the detectives for this team conducted daily duties. Sgt. Stephenson, focused on Detective Pelayo and in the presence of numerous other detectives, informed Pelayo that the Chief (then Acevedo) had dropped the recruiting standards for APD. Acevedo had removed the college requirement. Sgt. Stephenson further informed Pelayo that “Maybe now more of your people (hispanics) can get a job since college is no longer a requirement”. Detective Pelayo was obviously embarrassed, but being newly assigned to this elite unit, he obviously knew not to complain. Sgt. Stephenson continued to degrade Pelayo by constantly making remarks of his job performance. Pelayo finally relocated to another unit within the Organized Crime Unit. Ironically Detective Pelayo returned to a narcotics unit with success. Sgt. Stephenson displayed racist behaviors to a Hispanic subordinated which were both offensive and degrading.

During a period between 2013 and 2016, numerous employees brought allegations against the city for racism and discrimination. I was later informed that Pelayo gave statement in



deposition in the presence of Austin Police Department representatives and the Austin City Legal attorneys referencing the racist comments of Sgt. Stephenson and the fact he was offended by them.

The department as a whole knows that the Chiefs Office is continually briefed about all I.A. cases, and City Legal advises on all issues that come through their office. The Chiefs Office, at the time of deposition when Pelayo made it known the racist comments were offensive, should have opened an I.A. investigation and gave closure to the victim. Instead, knowing the background, Chief Manley later promoted Stephenson to assistant chief. It is disgusting the Chiefs Office is allowed to deny and play ignorant to all of the recent allegations. Hopefully nothing will slip through the cracks anymore, and officer will be reassured their jobs are safe from racism, discrimination, and retaliation.”

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.
- (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.

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.

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.

900.3.4 Personal Conduct

(c) While on-duty or on the premises of City facilities, employees will not:

1. Use loud, indecent, profane, harsh, derogatory language, or use belittling term [*sic*] in any communication.
2. Ridicule, mock, taunt, embarrass, humiliate, or shame any person, nor do anything that might incite that person to violence.

900.5 Responsibility to Coworkers

Cooperation among employees of the Department is essential to effective law enforcement.

- (a) Employees are expected to treat each other with respect.
 1. Employees will be courteous and civil at all times in their relationships, perform their duties in a cooperative and supportive manner, and not threaten, display physical aggression toward, or use insolent or abusive language with one another.
 2. Employees will address one another by proper use of rank or title when on-duty and in the presence of the public.

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.

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.