

Received

City of Austin

2018 MAY -4 PM 12:47

Human Resources Dept



MEMORANDUM

Austin Police Department *Office of the Chief of Police*

TO: Joya Hayes, Director of Civil Service

FROM: Brian Manley, Interim Chief of Police

DATE: May 4, 2018

SUBJECT: Agreed Temporary Suspension of Police Sergeant Andrew Romero #4427
Internal Affairs Control Number 2017-1380

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 Sergeant Andrew Romero #4427 from duty as a City of Austin, Texas police officer for a period of twenty (20) days. The temporary suspension is effective beginning on May 5, 2018, and continuing through May 24, 2018. In addition Sergeant Romero has agreed to accept a voluntary demotion to the rank of Corporal/Detective effective May 5, 2018.

I took this action because Sergeant Romero 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 Sergeant Romero in violation of Rule 10:

On November 9, 2017, the Austin Police Department (APD) and Austin Police Association (APA) held their annual Distinguished Awards Gala at the Austin City Limits Live at the Moody Theater located in Austin, Texas. While attending the event Austin Police Sergeant Andrew Romero made statements and exhibited actions, while intoxicated, that brought discredit upon the APD.

Specifically, Sergeant Romero consumed “*around ten drinks*” of alcohol and became intoxicated during the Police gala. Sergeant Romero was unhappy with decisions made by the venue staff and he proceeded to curse and yell at them and fellow APA personnel. Sergeant Romero also threatened to call the Chief Executive Officer (CEO) of the facility, in an effort to persuade the staff to meet his demands.

Additionally, Sergeant Romero made unwarranted physical contact with Mr. DP and Mrs. VE during their separate interactions. On site APD security received complaints regarding Sergeant Romero’s actions and behavior. Security was able to intervene and quell the situation and the case was referred to the APD’s Internal Affairs division.

Internal Affairs interviewed several eye witnesses including members of the APA. The testimony, facts, and evidence were verified and undisputed by all accounts, including that of Sergeant Romero. These undisputed facts demonstrate that Sergeant Romero violated APD’s responsibility to know and comply general order, and that his actions brought discredit to the APD. His actions and behavior failed to meet the standards of the APD.

Sergeant Romero took full responsibility for his actions, admitting to Internal Affairs that his actions “*embarrassed myself and, therefore, the Department.*” To Sergeant Romero’s credit, he apologized via email the day after this incident. The November 10, 2017, apology email to Mr. DP and the CEO of the venue from Sergeant Romero reads as follows:

“On a night that was supposed to highlight the good that officers do every day. I did not live up to that theme. You have my sincere apology for my behavior last night. Thank you for being professional even when I was not.”

By these actions, Sergeant Romero 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 900.1.1: General Conduct and Responsibilities: Responsibility to Know and Comply**

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 written 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.

TO WIT:

Texas Penal Code Chapter 22: Assaultive Offenses § 22.01. Assault

§ 22.01. Assault

- (a) A person commits an offense if the person:
 - (3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.
- (c) An offense under Subsection (a) (2) or (3) is a Class C misdemeanor

➤ **Austin Police Department Policy 900.3.2: General Conduct and Responsibilities: Acts Bringing Discredit Upon the Department**

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.

In addition to this agreed suspension, Sergeant Romero agrees to the following additional terms and conditions:

1. Sergeant Romero shall be evaluated by a qualified substance abuse professional designated by the Chief of Police.
2. If the qualified professional recommends a program of counseling, Sergeant Romero must successfully complete that program of counseling.
3. If a program of counseling is recommended, said program will be completed on Sergeant Romero's off-duty time, unless the Chief approves the use of accrued vacation leave.
4. Sergeant Romero shall be responsible for paying all costs of the program of counseling that are not covered by his health insurance plan.
5. If Sergeant Romero fails to successfully complete the program of counseling, the Chief may, at his sole discretion, indefinitely suspend him without right of appeal to the Civil Service Commission, to an Independent Third Party Hearing Examiner, or to District Court, and Sergeant Romero may not file a grievance under Article 20 of the Meet and Confer Agreement.
6. If this evaluation and/or the program of counseling raises a question whether Sergeant Romero is sufficiently mentally or physically fit to continue his duties as a police officer, it could trigger the fitness for process set forth in Texas Local Government Code Chapter 143.081.
7. Sergeant Romero will accept a voluntary demotion to the rank of Corporal/Detective effective May 5, 2018, and shall within 48 hours of signing this Agreement send written notification of that voluntary demotion to the Civil Service Director.
8. Sergeant Romero will not be able to sit for the Sergeant's promotional examination for 24 months calculated from the date he returns from serving this suspension.
9. Sergeant Romero agrees to a one (1) year probationary period to begin on the day he returns to duty after serving this agreed suspension. Sergeant Romero agrees that if during that one year period the Chief of Police sustains another violation involving the same or similar conduct Sergeant Romero agrees that the Chief of Police has the final decision whether the conduct is the same or similar and that decision is not subject to review or appeal, and he will be indefinitely suspended without the right to appeal that indefinite suspension to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and he may not file a grievance under Article 20 of the Meet and Confer Agreement.
10. Sergeant Romero understands that this temporary suspension may be taken into consideration in the Chief's determination whether a valid reason exists to bypass him for a future promotion in accordance with APD Policy 919.
11. Sergeant Romero may not appeal this agreed suspension or any of these additional terms and conditions to the Civil Service Commission, to an Independent Third Party Hearing Examiner, to District Court, and he may not file a grievance under Article 20 of the Meet and Confer Agreement.

12. Sergeant Romero agrees to waive any claims he may have against the City or its employees related to this investigation, suspension, and voluntary demotion, including but not limited to claims under Title VII, the ADA, or the FMLA.


By signing this Agreed Discipline, Sergeant Romero understands and agrees that I am forgoing my right to temporarily suspend him for the conduct described above and that by agreeing to the suspension, Sergeant Romero waives all right to appeal to this agreed suspension to the Civil Service Commission, to an Independent Third Party Hearing Examiner, or to District Court, and he may not file a grievance under Article 20 of the Meet and Confer Agreement.


BRIAN MANLEY, Interim Chief of Police

5-4-18
Date

TO WHOM IT MAY CONCERN:

I acknowledge receipt of the above and foregoing memorandum of agreed temporary suspension and I understand that by entering into this disciplinary agreement the Chief forgoes his right to indefinitely suspend me for the conduct described above. I further understand and agree that by entering into this agreement, I have no right to appeal this suspension to the Civil Service Commission, to an Independent Third Party Hearing Examiner, or to the District Court, and I may not file a grievance under Article 20 of the Meet and Confer Agreement.


Police Sergeant Andrew Romero #4427

5-4-18
Date