



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 5, 2020

SUBJECT: Indefinite Suspension of Police Officer Daniel Castelline #8656
Internal Affairs Control Number 2020-1041

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 indefinitely suspended Police Officer Daniel Castelline #8656 from duty as a City of Austin, Texas police officer effective November 5, 2020.

I took this action because Officer Castelline 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 Castelline in violation of Rule 10:

The Austin Police Department's (APD) Special Investigation Unit (SIU), along with the Travis County District Attorney's office (TCDA), conducted a criminal investigation in the spring of 2020. During their investigation and at the direction of the TCDA, SIU obtained and executed a search warrant, which uncovered a text thread between three people, including Officer Daniel Castelline. The thread of messages, which was not germane to the criminal investigation, were dated from March 12 to March 23, 2020.

The text thread, which SIU turned over to the TCDA, contained text messages and/or memes that are offensive and/or inconsistent with the respect and dignity required of the APD. SIU generated a complaint memorandum requesting that an Internal Affairs (IA) investigation be conducted to determine if APD policies or procedures were violated by the officers involved in sending and receiving this thread of messages.

The Text Thread

Officer Castelline: *We're definitely getting corona. And it 'll be that bastard phuc pham.*

Former Officer 1: *Lol Yup! he's the one that actually started it*

Former Officer 2: *Hmm Racist much??*

Former Officer 1: *No just being truthful*

Former Officer 2: *Kind of afraid of catching the corona. A Lot of Slants over here.*

Officer Castelline then responded to the last message by sending a meme of the actor George Takei with his hands on his face and the text, "Oh my" within the image.

The original text thread was initiated by Officer Castelline then remained dormant for nine days until it was revived on March 23, 2020 when Officer Castelline sent another meme. The meme was that of a young African-American male wrapped in white sheets, with earbuds in his nostrils, made to appear as if he were a patient using an oxygen cannula in a medical environment. The meme also depicts a USB port, attached to the male's arm like an IV. The meme included the text, "Admin – We need Detectives to work the road to supplement patrol. Detectives -." This meme drew the following retorts.

Former Officer 2: *That's not funny. That man has suffered enough through institutionalized racism and fought hard to rise above it and make something for himself and his family only to have the white devil Castelline put him back in chains.*

Former Officer 2: *I'm calling IA*

Former Officer 1: *Whoa ummmmmm new phone who dis.*

Officer Castelline IA Interview

IA interviewed all of the participants of the text thread, including Officer Castelline. IA presented the thread to Officer Castelline and his counsel for their review before his interview. IA asked Officer Castelline about the purpose and intent of his initial text message: *"We're definitely getting corona. And it'll be that bastard phuc pham."* Officer Castelline replied:

So there's a gentleman that lives in the area of Lamar and Kramer named Phuc Pham. I believe he's a homeless individual, but he goes to this one shopping center where there's a bunch of Asian restaurants and he gets called all the time - or called in on for criminal trespass. But some of the restaurants feed him so he returns to the place. He also sometimes will relieve himself in his pants and so, just, ah, yeah. So, at the time, I guess I was thinkin' that he, I don't - I don't know why I was thinking about him at the time, but I mean, I was sayin' that if we were gonna get it, it would probably be dealin' with him.

IA asked Officer Castelline if it was known or suspected that Mr. Phuoc Pham (correct spelling) had the coronavirus, and Officer Castelline replied, *"No, sir."* Officer Castelline then accepted minimal responsibility, only conceding that it was wrong of him to call Mr. Pham a *"bastard."* Officer Castelline tried to advance the position that it was merely coincidental that the *"gentleman"* he associated as having the coronavirus was of Asian descent. Officer Castelline also tried to advance the position that he was off-duty for most of the derogatory thread that he prompted, and therefore, his participation was intended to be private and thus not a violation of APD General Orders, ICARE values, or the expectations of an APD officer.

The common theme in Officer Castelline's interview is that he claimed to be shocked by the texts from "Former Officer 2," repeatedly blaming "Former Officer 2" for most, if not all, of the thread that he started on March 12, 2020. Despite his assertion that he was shocked by these texts, Officer Castelline did not confront the former officers or report the comments.

Moreover, counter to his assertion that he was shocked and did not want to be part of the text thread anymore after "Former Officer 2" used the highly derogative term *"slants,"* Officer Castelline then revived the text thread nine days later, by sending an additional message that prompted further inappropriate dialogue.

Officer Castelline was asked about his revival of the thread nine days later, when he sent the meme depicting the African-American male in a staged medical environment with the text *"Admin – We need Detectives to work the road to supplement patrol. Detectives -."* IA asked Officer Castelline what he meant by this message and he replied,

"[T]his was also when there was talk about backfill and stuff and I found a meme that seemed appropriate to it on, I guess Facebook and, I shared it. It's just making fun of detectives ... just makin' fun of detectives havin' to come and work patrol."

IA then asked Officer Castelline about the message sent by "Former Officer 2" that read,

"That's not funny. This man has suffered enough through institutionalized racism and fought hard to rise above it and make something for himself and his family, only to have the white devil Castelline try to put him back in chains."

Officer Castelline stated it was uncalculated on his part that the person depicted in the meme was African American. He also reverted to placing blame on "Former Officer 2," stating:

"I saw it as - I mean, ["Former Officer 2"] turning the - the - my meme into something that it wasn't intended to be, by turning it into a race thing...[B]ecause I'm white and he's talking about the African American gentleman in the meme suffering through racism."

Officer Castelline concluded by reiterating that none of his messages had any racist connotation, and the only thing he did wrong was to *"speak ill of Mr. Pham at all and certainly shouldn't have continued to participate in the conversation - after- [Former Officer 2's] text, referrin' to folks as slants. Um, shoulda confronted him about it."*

Conclusion

During his interview, Officer Castelline acknowledged that his participation in the dialogue was a violation of APD General Orders, particularly General Order 900.3.2(a)(b) (*Acts Bringing Discredit Upon the Department*). He also understood that these text messages already have been turned over to the TCDA's office as part of the current criminal investigation and very likely will be distributed throughout the TCDA's office to meet their ethical and lawful disclosure requirements in future cases handled by their office.

Officer Castelline also recognized that the text thread may constitute *Brady, Morton*, or *Giglio* material which could be disclosed to the defense during the current criminal case and/or future cases in which he could be called to testify. Officer Castelline further understood that these text messages could affect the assessment of his credibility and the weight given to his testimony as a witness in a court of law, where the standard of proof is often beyond a reasonable doubt. Officer Castelline also recognized these text messages, if made public beyond the TCDA office, could bring further discredit to the Austin Police Department.

A strong theme of Officer Castelline's interview was the acceptance of little responsibility, while laying blame on "Former Officer 2" for the use of the highly derogatory term *"slants"* and his mocking of members of the African American community. While I agree with Officer Castelline's expressed dismay in regard to "Former Officer 2's" behavior, I find his blame and purported dismay to be disingenuous, particularly since he prompted

the thread, made jokes within the thread, revived the thread, failed to report the thread, and attested that the comments made in the thread were acceptable because they were intended to be private in nature.

Officer Castelline's position regarding the appropriateness of disparaging members of the community, whether privately or publicly, is incorrect. His lack of acceptance of full responsibility is very troublesome to me, his chain of command, and the expectations set by APD's ICARE values, General Orders, and training. Calling Mr. Pham a "*bastard*," whether it be to his face or behind his back, is unacceptable behavior and shows a complete disregard for the impartial attitude and courtesy that APD officers are required and expected to show to all persons. Moreover his comments and inferences can also be seen as insolent and abusive towards Detective coworkers and coworkers of Asian and African American decent.

Moreover, the chain of command and I find that Officer Castelline's assertion that he coincidentally chose an Asian-American person experiencing homelessness, as opposed to another individual of another race or nationality, is not credible. Likewise, with Officer Castelline's decision to use a meme with an Asian-American actor. Officer Castelline's after-the-fact rationalization is another example of his failure to accept responsibility for his actions. His negative comment and/or the clear negative inference about Mr. Pham will cast doubt on Officer Castelline's credibility in all future testimony and/or interaction with the homeless community and/or the Asian American community.

Calling a specific member of the community a derogatory term and/or participating in acts or dialogue that are disparaging to any group, race, nationality, gender, color, or creed, whether it be direct or via inference, is cause for significant concern for the fitness of any officer and compromises the officer's credibility to testify in the future. Moreover, Officer Castelline's failure to accept full responsibility, the discredit that he has brought to APD, and the harm that this thread will cause in the trust and faith of APD, particularly in the eyes of persons experiencing homelessness, Asian-American, African-Americans, and criminal justice communities, are other factors that I weighed heavily in my decision.

In sum, I as Chief of Police would be remiss in my duties and responsibilities to the community if I allowed such an Officer to continue to be bestowed the power to serve members of the Greater Austin community that he felt so comfortable to privately disparage. In addition, the Department has provided Office Castelline with training on cultural diversity. Yet, in spite of receiving that training, Officer Castelline's conduct demonstrates his inability to recognize the gravity of his comments and potential adverse impacts those comments may have on individuals within the community. Therefore, after careful deliberation and consideration of all of these factors, I have made the decision to indefinitely suspend Officer Castelline effective immediately.

By these actions, Officer Castelline 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 301.2(a)(1): Responsibility to the Community: Impartial Attitude & Courtesy**

301.2(a)(1) Impartial Attitude & 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.
- (c) Employees will make every effort to be courteous and respectful toward all persons.

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

900.3.2(a)(b) 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.
- (b) Employees will refrain from being a party to any malicious gossip, rumor, report or activity, whether written or oral, that would tend to bring discredit to the Department or any member thereof.

1. "Malicious gossip, rumor, report or activity" includes statements made with knowledge of their falsity or made without regard to whether the statements are true or false.

➤ **Austin Police Department Policy 900.5(a)(1): General Conduct and Responsibilities: Responsibility to Coworkers**

900.5(a)(1) 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.

By copy of this memo, Officer Castelline is hereby advised of this indefinite 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 Castelline 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.


BRIAN MANLEY, Chief of Police

11-5-2020
Date

TO WHOM IT MAY CONCERN:

I hereby acknowledge receipt of the above and foregoing memorandum of indefinite 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.



Police Officer Daniel Castelline #8656

11/5/2020

Date