CIVIL SERVICE COMMISSION

City of Tucson **Minutes**

Stacey Lee
Appeal of Demotion
Tucson Police Department
July 8, 9, 2015

A quorum of the Civil Service Commission of the City of Tucson met at 9:10 a.m. on Wednesday, July 8, 2015, and 9:30 a.m. on Thursday July 9, 2015, at the Community Resources Center, Sentinel Building, 320 S. Commerce Loop Park in Tucson, Arizona for an Appeal of Demotion filed by Stacey Lee from the Tucson Police Department.

Present were Chair Max Parks, Commission Members David Flaugher and Malcom Pavey. Staff present: Barry Corey, Legal Counsel; Tameron Collins, Human Resources Deputy Director; and Armida Saufley, Executive Assistant of Human Resources (Recording Secretary).

Mr. Michael Storie represented Ms. Stacey Lee; Ms. Sivan Korn, Principal Assistant City Attorney, represented the Tucson Police Department. Police Chief Roberto Villasenor was present for a majority of the hearing and Assistant Chief John Leavitt concluded the attendance.

Per Exhibit A, the actions and behaviors of Detective Stacey Lee #47227 are fully documented in Office of Internal Affairs Investigative file #14-0797 and incorporated herein, providing just cause for a demotion and are synopsized as follows:

I. Behavior Detective Lee knew or reasonably should have known would result in disciplinary action.

On October 10, 2011, Detective Lee was assigned as the primary investigator to a reported sexual assault of a 12-year old female child in which the suspect's identity was unknown. The child met the suspect at a nearby convenience store the day before and corresponded with him via text messaging. They arranged to meet at the hotel where he was said to be staying, the same hotel where the assault occurred. The suspect was associated with a music group also staying at the hotel. Detective Lopez, the secondary investigator, was assigned to process the scene and speak to witnesses while Detective Lee monitored the child's interview conducted at an advocacy center. Although Detective Lee never responded to the scene, she was tasked with the responsibility of overseeing and conducting the necessary investigative steps critical to reaching a resolution.

In November 2014, the supervisors assigned to the Family Youth Services Division conducted an audit of the "Closed for Forensics" cases and learned Detective Lee failed to take any investigative steps in or around June 2012 when she was notified by the Crime Lab of a DNA match identifying the suspect in this case. An internal investigation was subsequently conducted. The Chain of Command review of this OIA investigation determined Detective Lee not only failed to act on DNA evidence identifying the suspect,

but also failed to take other critical investigative steps to potentially identify and apprehend the suspect. This included her failure to review surveillance and phone data collected the day of the assault. Furthermore, Detective Lee sought no further information related to the suspect's known phone number or to a possibly related sexual assault case naming the same suspect. Her documentation of this case was also found to be lacking.

After his analysis of this matter, Lieutenant Danny Denogean wrote: *"Detective Lee clearly failed to conduct necessary follow up in this investigation. She failed to follow up on the CODIS hit which, names a suspect. Detective Lee had viable leads to identify the suspect from the very beginning, such as the suspects phone number and the connect up case information that she did not follow up on. Her inaction clearly places the potential for a major adverse impact (sexual assault on a 12 year old) on public safety and the professional image of the department."*

II. Violations of Department Policy and General Orders.

The investigation of OIA #14-0797 established that Detective Lee was in violation of Tucson Policy Department policy. A review conducted by Detective Lee Chain of Command has determined that Detective Lee violated the following General Orders:

1330.4 General Responsibilities and Requirements
All members shall perform their duties as required or as directed by law, the Constitutions of the United States and the State of Arizona, Department General Orders, Department policies and procedures, City Administrative Directives, or order of a superior officer...

1143.7 Authority of Detectives and Police Officers
Detectives and Police Officers are responsible for carrying out the basic functions of the Department including protection of life and property, preservation of the public peace, prevention of crime, arrest of violators of the laws, and the proper enforcement of all laws and ordinances. They shall investigate all incidents assigned to them consistent with Department procedures.

2452 Reporting Requirements
All members are responsible for properly and adequately documenting official investigations and actions in the appropriate format as the circumstances may dictate. This includes personnel not directly assigned as the case officer (e.g., back up officers, investigators, forensics personnel, etc.).

During his review of the investigation, Sergeant Dietsch noted the following: *"Clearly Detective Lee failed to conduct necessary follow up in this investigation. This lack of follow up allowed a potential predator to remain on the street to reoffend. Her documentation was lacking, and there was little or no communication between her and her secondary detective that was assigned to assist her."*

Captain McShea stated the following: *"There was no substantial work done on the case for three years after the offense as a result of Detective Lee's failure to conduct the follow up investigation."*

In addition, Captain McShea stated: *"This case should have received a very high priority for follow up investigation. The investigation reveals that Detective Lee failed to follow up on investigative leads, and also failed to ask for help. There were investigative procedures that she admitted she did not know how to accomplish, but she did not ask for the guidance necessary to overcome her lack of knowledge."*

III. Prior Discipline

Detective Lee's discipline history contains the following:

- Sustained Type B/Corrective Action for a violation of General Orders 1330.8 (Expected Conduct Toward the Public) that occurred on July 11, 2014. This was investigated under OIA #14-0464 due to Detective Lee not returning Next of Kin phone calls.

IV. Disciplinary Action

Based on a review of the Tucson Police Department Management, the Chief of Police has concurred Detective Lee committed a Type D/Level 6 violation resulting in a sanction of Demotion. Due to Detective Lee's failure to investigate this case appropriately, the listed violations constitute just cause for demoting Detective Lee from the rank of detective to the rank of officer.

This appeal was held in Open Session; however, the rule was invoked. With agreement from all parties, Assistant Chief Leavitt remained present for the entire hearing.

Witnesses present were sworn:
Roberto Villasenor
John Leavitt
Michael Dietsch
Stacey Lee

9:15 – 9:30 Ms. Korn's opening statement

9:30 – 9:50 Mr. Storie's opening statement

9:50 – 10:05 Ms. Korn moved to admit City's Exhibits

City's Exhibits Admitted

Exhibit A Tabs 1 – 4 Admitted with No Objection

Tab 1 – Notice of Intent to Discipline dated March 18, 2015
Tab 2 – Exhibit A
Tab 3 – PARF dated April 2, 2015
Tab 4 – Appellant's Notice of Appeal dated March 26, 2015

Exhibit B Tabs 1 – 10 Admitted with No Objection

Tab 1 – Cpt. James McShea's TPD Personnel Report dated February 23, 2015 and Chain of Command concurrence in discipline recommendation re: OIA File No. 14-0797
Tab 2 – Lt. Danny Denogean's TPD Personnel Report dated February 17, 2015 re: OIA File No. 14-0797
Tab 3 – Sgt. Michael Dietsch's TPD Personnel Report dated February 11, 2015 re: OIA File No. 14-0797
Tab 4 – OIA File No. 14-0797 re: Detective Lee (Bates Stamps COT000233 – COT 000345)
Tab 5 – OIA File No. 14-0797, Interview Sgt. John Carlson (Bates Stamps COT000346 – COT000353)
Tab 6 – OIA File No. 14-0797, Interview Sgt. Jennifer Turner (Bates Stamps COT000354 – COT000360)
Tab 7 – OIA File No. 14-0797, Interview Mary Kay Slyter (Bates Stamps COT000361 – COT000365)
Tab 8 – OIA File No. 14-0797, Interview Sgt. Chris Widmer (Bates Stamps COT000366 – COT000378
Tab 9 – OIA File No. 14-0797, Interview Det. Lisa Lopez (Bates Stamps COT000379 – COT000404)
Tab 10 – OIA File No. 14-0797, Interview Det. Stacey Lee (Bates Stamps COT000405 – COT000446)

Exhibit C Tabs 1 – 8 Admitted with No Objection

Tab 1 – City Administrative Directive Sec. 2.02-5
Tab 2 – TPD Matrix
Tab 3 – TPD General Orders §1330.4
Tab 4 – TPD General Orders §1330.8
Tab 5 – TPD General Orders §1330.7
Tab 6 – TPD General Orders §2452
Tab 7 – "Just Cause" definition, Civil Service Rules and Regulations, Rule X, Sec. 10-3

Tab 8 – City of Tucson Police Detective, job definition

Appellant's Exhibit Admitted

Exhibit 1 – Not Admitted as evidence
Exhibit 2 – Not Admitted as evidence
Exhibit 3 – Stacey Lee Performance Evaluation for the period of 06/21/010 – 06/20/11, admitted with no objection

City called first witness, Assistant Chief John Leavitt
10:05 – 10:45 AC Leavitt gave testimony
10:45 – 11:20 AC Leavitt was cross examined
11:20 – 11:30 AC Leavitt gave testimony on redirect; the Commission asked clarifying questions and witness was excused
11:30 – 11:40 Break

City called second witness, Chief of Police Roberto Villasenor
11:40 – 11:50 Chief Villasenor gave testimony
11:50 – 12:00 Chief Villasenor was cross examined and witness was excused

12:00 – 1:00 Lunch Break

City called third witness, Sergeant Michael Dietsch
1:00 – 1:35 Sgt. Dietsch gave testimony
1:35 – 1:48 Sgt. Dietsch was cross examined
1:48 – 1:53 Sgt. Dietsch was cross examined and witness was excused

City re-called witness, Chief of Police Roberto Villasenor
1:55 – 1:56 Chief Villasenor gave testimony
1:56 – 2:00 Chief Villasenor was cross examined

2:00 – 2:05 Break

City called fourth Witness, Lieutenant Danny Denogean
2:05 – 2:15 Lt. Denogean gave testimony
2:15 – 2:19 Lt. Denogean was cross examined
2:19 – 2:21 Lt. Denogean gave testimony on redirect and witness was excused

City called fifth Witness, Captain James McShea
2:23 – 2:41 Cpt. McShea gave testimony

2:41 – 2:43 Cpt. McShea was cross examined
2:43 – 2:45 Cpt. McShea gave testimony on redirect and witness was excused

2:45 City Rests

Appellant called first Witness, Officer Stacey Lee
2:47 – 2:49 Ofcr. Lee began her testimony, which was out of order, until the second witness became available.

Appellant called second Witness, Detective Shane Barrett
2:52 – 3:10 Det. Barrett gave testimony
3:10 – 3:16 Det. Barrett was cross examined; gave testimony on redirect; the Commission asked clarifying questions and witness was excused

Appellant called third Witness, Mary Catherine Slyter
3:18 – 3:34 Ms. Slyter gave testimony
3:34 – 3:42 Ms. Slyter was cross examined and witness was excused

Appellant re-called Witness, Officer Stacey Lee
3:43 – 4:20 Ofcr. Lee continued with her testimony

3:49 Appellant moved to admit Appellant's Exhibit 3, which was admitted with no objection

4:21 – 4:52 Ofcr. Lee was cross examined; the Commission asked clarifying questions and witness was excused

4:52 The Civil Service Commission adjourned the hearing to resume for day two on Thursday, July 9, 2015 at 9:30 a.m.

9:30 Thursday, July 9, 2015

A quorum of the Civil Service Commission of the City of Tucson met at 9:30 a.m. on Thursday, July 9, 2015, at the Community Resources Center, Sentinel Building, 320 S. Commerce Loop Park in Tucson, Arizona for an Appeal of Demotion filed by Stacey Lee from the Tucson Police Department.

Present were Chair Max Parks, Commission Members David Flaugher and Malcom Pavey. Staff present: Barry Corey, Legal Counsel; Tameron Collins, Human Resources Deputy Director; and Armida Saufley, Executive Assistant of Human Resources (Recording Secretary).

Mr. Michael Storie represented Ms. Stacey Lee; Ms. Sivan Korn, Principal Assistant City Attorney, represented the Tucson Police Department. Police Chief Roberto Villasenor was present for a majority of the hearing and Assistant Chief John Leavitt concluded the attendance.

9:30 – 9:51 City Closing Argument

9:52 – 10:28 Appellant Closing Argument

10:28 – 10:36 Rebuttal Argument

10:37 – 10:41 Break

During the hearing, the Commission went into Executive Session for legal advice from Legal Counsel Barry Corey pursuant to A.R.S. §38-431.03(A)(3).

At 10:41 p.m. Commissioner Pavey made a motion to go into Executive Session, the motion was seconded by Commissioner Flaugher and the Civil Service Commission went into Executive Session. The Commission resumed the open meeting at 10:56 a.m.

10:56 – 11:25 Civil Service Commission Deliberations

In open session, at the conclusion of closing statements, based on the testimony presented and the exhibits admitted into evidence, Commissioner Flaugher made a motion to deny the appeal of Stacey Lee and uphold the demotion for the reason that there was just cause for the disciplinary action imposed. Commissioner Pavey seconded the motion. The vote was unanimous.

Hearing Adjourned at 2:40 p.m.

08/12/15

Max Parks, Chair
Civil Service Commission

Date