

CITY OF ATLANTA
CIVIL SERVICE BOARD
FINDINGS OF FACT AND ORDER

APPEAL NO. 2019-035AP

Effective Date: August 29, 2019

APPELLANT: **Angela Blue**

Hearing Date: October 24, 2019

City of Atlanta ("City")
Atlanta Police Department ("APD")

ACTION:

HEARING OFFICER/BOARD:

Two Day Suspension

Sterling P. Eaves, Chair and DWB

APPEARANCES

City of Atlanta's Representatives:

Joshua Foster, Esq.
Nikkina Speaks, Litigation Support Clerk

City/Respondents/Witnesses:

Lt. Hajredim Zenelaj, APD
Inv. Arthur Nixon, APD

Appellant Counsel/Representatives:

Stephanie A. Mutti, Esq., SEIU/NAGE

Appellant's Respondents/Witnesses:

Adrienne Wright, Special Events Manager, City Dept. of Parks and Recreation
Ret. Lt. Johnny Hall, Zone 3, Criminal Investigation Division, APD
Sgt. Angela Blue, Appellant

Observers:

Robert Hawkins, Incoming CSB member
Carl Touchstone, Incoming CSB member

STATEMENT OF AUTHORITY

Under the authority and provisions of Chapter 114, Article VI, Division 3, §114-546 through 556 of the Atlanta City Code (“Code”), a hearing in the above-referenced case was held before the above-named hearing officers of the Atlanta Civil Service Board (“Board”) on the date set forth above in Conference Room 2174 of the City Hall Tower located at 68 Mitchell Street, Atlanta, Georgia 30303.

EXHIBITS

City of Atlanta:

- C-1. City of Atlanta APD Notice of Final Adverse Action (“NFAA”), employee Angela Blue, issue date August 26, 2019, 2 pages
- C-2. City of Atlanta APD Notice of Proposed Adverse Action (“NPAA”), employee Angela Blue, issue date August 19, 2019, 2 pages
- C-3. APD Policy Manual, APD.SOP.2010, Work Rules, 4.2.33 Conformance to Directives, 1 page
- C-4. Partial APD email stream, Re: Last minute CASH extra job, dated May 29, 2019, 2 pages
- C-5. APD Internal Correspondence, Office of Professional Standards, Internal Affairs Unit, to Major C. Tyus, from Lt. H. Zenelaj, re: Investigation and Disposition OPS File #19-I-0234-SOP, dated June 17, 2019, 40 pages
- C-6. City of Atlanta Disciplinary history of 6050 Department Employee’s Duties with Regard to Information, run date October 21, 2019 at 0916 by SPO Glenn Cone, 1 page

Appellant:

- A1. APD Policy Manual, APD.SOP.6050, Department Employees’ Duties with Regard to Information Technology, undated, pages 6 of 16, 14 through 16 of 16, 4 pages
- A2. Email from Angela Blue to Adrienne Wright, Johnny Hall, subject Atlanta Caribbean Festival Carnival.pdf with attachments Atlanta Caribbean Festival Carnival.pdf; ATT000001.txt, dated May 23, 2019, 43 pages
- A3. Email stream from Toya R. Young to Adrienne Wright, subject Re: Caribbean Festival/Security Coordinator, dated May 24, 2019, 4 pages
- A4. Email from Brian Wilkes to Adrienne Wright, Ricardo Vazquez, Antonio Clay, Justin W. Strom, Angela Blue, Johnny Hall, subject FW:Atlanta Caribbean Festival APPROVAL with attachments Atlanta Caribbean Festival APPROVAL.pdf dated May 24, 2019, 2 pages

- A5. Email stream from Adrienne Wright to Antonio Hall, Patricia Henry, subject RE: Amended GATED PARK EVENT PERMIT: Atlanta Caribbean Carnival (with new security coordinator), dated May 26, 2019, 3 pages

Stipulations:

None

VIOLATIONS

APD Work Rule 4.2.33 Conformance to Directives, 6050, §§B, D, and F.

INFRACTION/CHARGES

“Conformance to Directives, 1. Employees are required to familiarize themselves with, and conform to, the rules, regulations, directives, and standard operating procedures of the Department.

SPECIFICALLY: On or about May 27, 2019, you used the City’s email system improperly in your communication to Sergeant Barry Gardner (and APD employees), when you emailed the statement,

“You should know! You are known for your dirty underhanded extra job practices. For the record WE were instructed to do the festival because YOU dropped the ball at the last hour. Don’t come for me because you are not ready for this!” (Emphasis added)

Your email was in response to Sergeant Gardner’s email, “all money isn’t good money!” Sergeant Gardner was making reference to pay and staffing concerns relating to the extra job for the Atlanta Caribbean Carnival Festival at Central Park.

Your actions as described above are in violation of said listed work rule 4.2.33/APD.SOP.6050 Department Employee’s duties with Regard to Information Technology 4.5 and Electronic Mail 4.5.4 Electronic Mail (E-Mail).

1. E-mail is not a private or protected form of communication. E-mail shall be used for business purposes and the following restrictions apply:

- A. The message cannot contain language that would be considered offensive due to sexual or graphic content by any reasonable member of the public or employee of the Department.
- B. The message content shall not bring discredit to any employee or the APD as a whole.
- C. Transmitted mail must not contain attached files that would violate any part of this policy.
- D. employees shall not transmit chain email or similar messages through the City’s mail server.
- E. It is the user’s responsibility to purge materials that violate e[sic] this police[sic, policy].
- F. Messages must be written in a professional, business-like manner.”

FINDINGS OF FACT

1. The Appellant works for the APD as a Sergeant.
2. The Appellant was, at the time of this incident, a City employee with sixteen and one-half (16 and 1/2) years tenure.
3. The Appellant was previously disciplined by the City for violating APD Work Rule 4.2.33 Conformance to Directives, 6050 ("6050"), the same work rule with which she is now charged, and she received a one (1) day suspension in the previous discipline.
4. The City approved the permits for the Atlanta Caribbean Festival Parade and Gated Park Event, for May 25-26, 2019 to be held in Central City Park with limited surrounding street closure for the parade portion.
5. APD Ret. Lt. Johnny Hall was assigned to be the security coordinator for both the Parade and the Event.
6. Sgt. Barry Gardner was assigned to solicit and obtain the required number of off-duty APD sworn personnel to work approved extra job hours providing event security for the Parade and Event.
7. On May 24, 2019, Sgt. Gardner notified APD command that he would not be performing the duties for the Parade and Event.
8. The Appellant was then assigned to perform all duties that Sgt. Gardner had earlier been assigned to perform.
9. The Appellant sent an authorized email at 0610 on May 25, 2019 through the APD email system soliciting officers to work the Parade and Event ("Solicitation Email"). Sgt. Gardner was included in the recipient list on that email.
10. On May 27, 2019, at 1559, Sgt. Gardner sent an email through the APD email system to the Appellant in response to her solicitation email ("Gardner Email").
11. Within fourteen (14) minutes of Sgt. Gardner's email being sent to the Appellant responded to Sgt. Gardner at 1613 and she copied the same group of APD recipients as her Solicitation Email ("Response Email").

DISCUSSION

The Response Email said:

“You should know! You are known for your dirty underhanded extra job practices. For the record WE were instructed to do the festival because YOU dropped the ball at the last hour. Don’t come for me because you are not ready for this!” (Italics added)

The definition of a “chain email” is not given in 6050. Therefore, the ordinary and common use definition is where the sender of an email, requests that the recipient forward the email to others or something bad will happen to the recipient. Since the Appellant was conducting APD approved business in her Solicitation Email nor was she sending a chain email in her Response Email, the Appellant did not violate 6050 §D.

Between the first Solicitation Email and the Gardner Email, three (3) days had elapsed. The Parade and Event had been over for more than one (1) day. And yet the Appellant was emotional enough to nearly immediately respond to the Gardner Email and to do so with not only a potentially terroristic threat but she used the opportunity to “call out” Sgt. Gardner. If that wasn’t bad enough, she copied all sworn law enforcement officers below the level of Major in APD. The Appellant testified that when she sent the Response Email, she simply hit reply and that therefore she was not responsible when it came to whom the email was sent.

Unfortunately, whether the Appellant unwittingly or intentionally included most of APD’s sworn officers on the Response Email is irrelevant. The point is that she did hit the enter key to send it. Noteworthy is that the email stream introduced into evidence as C-4 did not support the contention that she had simply responded to whoever Sgt. Gardner sent his email. The Gardner Email in the C-4 exhibit did not include the original message headings so that all other recipients, including those he may have copied, were shown. Therefore, this evidence does not support the Appellant’s contention and therefore does not aide her on this point.

Also in her defense, the Appellant introduced APD’s record of discipline dispensed for the violation of 6050 over a ten (10) year period. She argues that her current discipline is more than all other discipline meted for the violation of 6050 over the report’s 10 year span. But it should be noted that the report was not run until two (2) weeks before the appeal hearing or nearly two (2) months after the effective date of the discipline issued in this case. Moreover, since the report pulled data from the time period of Oct. 2009 until Oct. 2019, two (2) of the thirteen (13) discipline cases were in fact the discipline the Appellant has received. But even if this report displayed pertinent data, there was no explanation given by the Appellant as to why the data would be relevant here. There was no evidence that the Appellant’s command staff was required to consider the data in its discipline decision much less that the data was even available to them for that purpose. So this exhibit and argument has no substance.

The tone and words of the Appellant in her Response Email was angry and as she testified, there was some lingering and unexplained bad blood between Sgt. Gardner and herself. But no matter the reason, no private business or public entity, most especially a law enforcement agency, could allow its personnel to send personal emails, with or without insults or threats on its email system not designed or intended for that purpose. Otherwise, there could potentially be a crash of that email operating system because of the potential volume of emails being constantly sent and received.

The Response Email was not approved law enforcement business but simply the airing of petty, personal grievances harbored by the Appellant. There is little worse discredit that could be brought on the APD than one of its long tenured Sergeant's sending an angry personal email to another APD Sergeant on the APD email system. In sum, the Response Email clearly brought discredit on the entire department and the Appellant in particular and it goes without saying that it was not written in the required business-like manner. The Appellant did, therefore, violate 6050 §§B and F in her Response Email.

Confronted with the duty to discipline the Appellant, command staff found itself with a range of progressive discipline anywhere from an oral reprimand to 3-day suspension. Because this was the Appellant's second violation of the same 6050 policy, the progressive discipline range increased for the second infraction. In the 2015/first infraction, the Appellant received a one (1) day suspension because on the first violation of 6050, the progressive discipline range was an oral reprimand and up to two (2) day suspension.

After considering all the evidence presented to it, the Board considers the meted discipline as to violation of 6050 §§ B and F is predictable and reasonable.

ORDER

This Board **DENIES THE APPEAL** and confirms the discipline of the Appellant.

This the 21st day of November, 2019.

Signed:


Sterling P. Eaves, Chair and DWB