

**DAYTONA BEACH POLICE DEPARTMENT
OFFICE OF PROFESSIONAL STANDARDS**



**INTERNAL INVESTIGATIVE REPORT
IA2016-001**

February 23, 2016

Investigator(s)

James Chirco, Sergeant, Office of Professional Standards
Thomas Monaco, Detective, Office of Professional Standards

Employee(s)

Joseph Sellix, Sergeant, Delta Platoon, District One

Complainant(s)

Michael J. Chitwood, Chief of Police

Allegation(s)

- 200.6 Professional Conduct and Responsibilities
- 200.12 Professional Conduct and Responsibilities
- 204.10 Canon of Ethics
- 1216.51 Conduct during Extra Duty Employment

Daytona Beach Police Department

Office of Professional Standards

MEMORANDUM

TO: Michael J. Chitwood, Chief of Police

FROM: Thomas Monaco, Detective, Office of Professional Standards *TM*

SUBJECT: Project No: 102-IA2016-001

DATE: February 23, 2016

Synopsis

On February 11, 2016 Deputy Chief Craig Capri was contacted by Paul Barnett, assistant director of public safety at Daytona State College (DSC). Barnett advised Deputy Chief Capri that he received a complaint from two female physical therapy students in reference to Sergeant Joseph Sellix, who was working the Daytona State College detail on February 10, 2016 from 1330 hours to 2000 hours. Barnett stated that the complaint was in reference to, what the students described as "inappropriate, unprofessional, and overall creepy behavior" by Sergeant Sellix.

On February 11, 2016, Deputy Chief Craig Capri contacted Detective Thomas Monaco, Office of professional Standards, in reference to this incident. Detective Monaco was instructed to respond to Daytona State College for the purposes of an audio recorded interview with the parties involved. Upon arrival, Detective Monaco contacted the two witnesses, as well as an additional witness physical therapy student who did not witness Sergeant Sellix's alleged behavior, but was contacted by the other two students after the alleged incident. Detective Monaco interviewed all three parties at that time.

Due to the updated information and alleged recurring events, Deputy Chief Capri spoke with Chief Chitwood who advised to place Sergeant Sellix on administrative duty, pending the outcome of an internal investigation, which Chief Chitwood authorized.

Sergeant Sellix was placed on administrative duty and served with a Notice of Investigation on February 12, 2016.

Dana Lyon (Civilian Witness)

On February 11, 2016 at approximately 1510 hours, Detective Thomas Monaco responded to Daytona State College at 1200 West International Speedway Boulevard for the purposes of a recorded audio interview. Upon arrival, Detective Monaco contacted Dana Lyon. Lyon read and signed the internal investigation witness pre-interview notification, which she stated that she understood. Lyon was then sworn in by Detective Monaco. Lyon stated that on February 10, 2016, she was contacted by two of her classmates, Shannon Quintero and Laura Bazzell. Quintero and Bazzell told Lyon that they had just been involved in an incident that made them uncomfortable. They went on to tell Lyon that they were contacted by a male that appeared to be a Police Officer on campus, but could not tell for sure. They stated that they were contacted by Sellix while studying on the fourth floor of building 320. Sellix stated that they were looking for a missing child at that time. They told Lyon that Sellix continued to speak to them and say, "I wish I was doing what you guys were doing" and "you guys can hold my gun belt and my badge." Lyon also stated that they told her that Sellix made a comment about Quintero's ethnicity, stating that he would give the gun belt to Bazzell but not to Quintero because "he wouldn't give it to the Cuban." They told Lyon that the conversation was weird and uncomfortable. Bazzell and Quintero left the building at that time and went to the Lemerand Center to see Lyon. As they did so, Sellix walked in behind them. They immediately pointed out Sellix to Lyon as the Officer they were just speaking to her about. Lyon told Bazzell and Quintero that if they felt that uncomfortable about the incident that they should report to campus safety, which they did. Lyon stated that she did not necessarily have specifics with regards to the conversation between Sellix and the students, just what she was told by Quintero and Bazzell.

Shannon Quintero (Civilian Witness)

On February 11, 2016 at approximately 1521 hours, Detective Thomas Monaco responded to Daytona State College at 1200 West International Speedway Boulevard for the purposes of a recorded audio interview. Upon arrival, Detective Monaco contacted Shannon Quintero. Quintero read and signed the internal investigation pre-interview notification, stating that she understood it. Quintero was also sworn in by Detective Monaco. Quintero stated that she and Bazzell were studying in building 320 when Sellix entered and contacted them stating, "What are you guys studying?" Quintero stated that she "heard something about a mother" on Sellix's police radio. Sellix then stated that they were looking for a missing child on Mason Avenue. Quintero stated that Sellix then turned down his police radio and stated that he was "more interested in what they were studying." Quintero thought that Sellix's comments were "weird". Quintero stated that Sellix hung around for approximately fifteen minutes in an attempt to stay interested in

what they were doing and then left. Quintero stated that she had her name tag visible when Sellix contacted them but quickly took it off after he left because she felt so uncomfortable by his behavior. Quintero stated that a few minutes later, Sellix returned to the area and began to stare at them. Quintero stated that they were both uncomfortable with Sellix and began to carry on a conversation between them in an attempt to show Sellix that they were not interested in conversing with him. Quintero stated that Sellix again approached them stating that he would really like to trade places with them and would give them his gun belt and badge. Quintero said that would not be a good idea. Sellix then stated that he would give the gun belt and badge to Bazzell but "not to the Cuban," referring to Quintero and her ethnicity. Quintero stated that she took Sellix's comment as a "racial joke." Quintero then contacted Lyon to tell her about the incident, which she then reported to campus safety. Quintero stated that Sellix was attempting to speak to them for approximately fifteen minutes, instead of walking around doing his job, which she felt inappropriate. Quintero describes Sellix's behavior as "pretty creepy." Quintero stated that she did not feel that Sellix was "coming onto her" or being flirtatious in nature. Quintero stated that she was a little offended by Sellix's overall behavior.

Laura Bazzell (Civilian Witness)

On February 11, 2016 at approximately 1532 hours, Detective Thomas Monaco responded to Daytona State College at 1200 West International Speedway Boulevard for the purposes of a recorded audio interview. Upon arrival, Detective Monaco contacted Laura Bazzell. Bazzell read and signed the internal investigation witness pre-interview notification, stating that she understood it. Bazzell was also sworn in by Detective Monaco. Bazzell stated that she and Quintero were studying when Sellix approached them and asked them, "hey ladies, what are you doing?" Bazzell told Sellix that they were studying for an exam. Sellix then continued to ask questions to Bazzell and Quintero. Bazzell stated that Sellix said, "I would sit here and study with you guys." Sellix again mentioned that there was a missing child in the area, but never went into detail. Bazzell felt that Sellix was more interested in speaking to them than locating the missing child. Bazzell stated that they were studying genetics for the exam, when Sellix stated, "you are two white young ladies." Bazzell stated that Sellix stood there for approximately ten to fifteen minutes. Bazzell stated that the longer Sellix stood there, the more uncomfortable she became. Bazzell stated that Sellix left at that time and which time she and Quintero began to discuss how uncomfortable the incident was. Bazzell then stated that Sellix came back and was leaning on a wall behind them. This made Bazzell very uncomfortable and she was hoping that Sellix would just leave the area and not re-contact them. Sellix re-contacted them and stated, "I wish I could trade places with you guys, I would give you my gun and badge if I could get the chance to study with you." Quintero then stated, that was not a good idea, to which Sellix responded, "I would give it to you, but not the Cuban." Sellix was referring to Quintero's ethnicity, which she found to be disrespectful and a "racial joke." Bazzell stated that she stopped conversing at

that time so Sellix would leave the area, as she felt uncomfortable by his behavior. Both students then left the area and ran into Lyon and told her about the incident. At that time, Sellix entered the same building that they were in. They left the building shortly after and responded to campus security to report the incident. Bazzell stated that the incident was "beyond uncomfortable." Bazzell stated that the incident between all parties was not police related, it was strictly social and unwanted. Bazzell stated that she was "taken back by everything that was coming out of his mouth." Bazzell stated that she felt like she could not walk away because Sellix was a Police Officer, even though she wanted to. Bazzell stated that it did not appear that Sellix was "coming onto them" or flirtatious. Bazzell stated that she would not feel comfortable running into Sellix again.

Sergeant Joseph Sellix (Subject Officer)

On February 16, 2016 at approximately 1600 hours, Sergeant Joseph Sellix responded to the Office of Professional Standards for the purposes of a recorded audio interview. Upon arrival, Sellix read and signed the internal investigation pre-interview notification, stating that he understood it. Sellix was also sworn in by Sergeant James Chirco. Sellix stated that he was working the Daytona State College detail on February 10, 2016. Sellix stated that he engaged in conversation with a couple of females in building 320. Sellix stated that they were discussing genetic diseases. Sellix stated that he has a special interest in genetic diseases, as his sister is autistic. Sellix stated that he did mention that fact that there was a call for service regarding a missing child. Sellix stated that he was walking past the females and they appeared to "have a curious look on their faces." Sellix stated that he never made any mention of the females being Caucasian or "white", however he stated they brought up the fact that he was a white male. Sellix stated that they began to discuss different genetic diseases that were race specific. Sellix stated that Quintero volunteered the information that she was of Cuban decent. Sellix went on to say that Quintero even made a comment that because she is Cuban, people think that she "floated over on a raft and eats bananas." Sellix stated that he did not comment on that, as he did not want to be offensive. Sellix stated that he was conversing with them for approximately 10 minutes, before walking off. He patrolled some more of the building before returning to where the females were studying. Sellix stated that he came back and saw the females again, at which time they "looked agitated". Sellix stated that the females began to complain to him because they had to study. Sellix told them that it could be worse, they could have his "stuff" and they could walk around the campus all night and he would study. Sellix stated that they declined and he left the area again, continued his patrol and moved on to the next building, the Lemerand Gymnasium. While walking through that building Sellix stated that it was mere coincidence that they saw him again, as it was the next building on his rotation. Sellix stated that he never made a comment related to Quintero's ethnicity, being Cuban. Sellix did admit that he made a comment stating that he would give his "stuff", meaning his gun belt and badge to Bazzell but not Quintero, but denied any mention of ethnicity. Sellix stated Quintero

seemed too "eager" to carry his gun and that is why he said he wouldn't give it to her, not because she was of Cuban descent. Sellix stated that he does not believe that he was unprofessional or disrespectful by his comment. Sellix stated that his contact with the females was a "consensual encounter" and "part of community policing." Sellix stated that he does not know the females names and hasn't seen them since. Sellix also stated that he has had no contact with the females since that date.

Investigative Summary

On February 11, 2016, Paul Barnett, Assistant Director of Public Safety at Daytona State College, received a complaint from two students involving Sergeant Joseph Sellix. The complaint was in reference to Sergeant Sellix's behavior being described as "inappropriate, unprofessional and overall creepy".

Detective Monaco interviewed witness Lyon on February 11, 2016 at approximately 1510 hours at DSC. Lyon was not present for the conversation between Quintero, Bazzell and Sergeant Sellix. Lyon was told after the fact by Quintero and Bazzell however, she was present with them in the gymnasium as Sergeant Sellix walked through. Lyon was advised that Sergeant Sellix advised Quintero and Bazzell that they could hold have his gun belt and badge. He would give it to Bazzell but not to Quintero, the "Cuban". She was also told that the entire contact with Sergeant Sellix made Quintero and Bazzell uncomfortable.

Detective Monaco interviewed witness Quintero at DSC on February 11, 2016 at approximately 1521 hours. Quintero stated that she was studying with Bazzell on the fourth floor of building 320. Sergeant Sellix contacted them and inquired as to what they were studying. She heard something about a "mother" on Sellix's radio and he turned it down stating that he was more interested in what they were studying. She thought his comment was weird and he hung around for at least fifteen minutes. She had her name tag on but quickly removed it when Sellix walked away the first time, so he would not gather her name. Sellix returned a few minutes later and she stated he stared at her and Bazzell. He approached them again and engaged them in conversation. She stated he said that he would like to trade places with them and would give them his gun belt and badge. She stated she replied that that would not be a good idea, and Sellix replied that he would give his gun belt and badge to Bazzell but not to the Cuban. Quintero took this comment as a racial joke which made her even more uncomfortable, however she laughed it off to move on. She described Sellix's behavior as "pretty creepy".

Detective Monaco interviewed witness Bazzell at DSC on February 11, 2016 at approximately 1532 hours. Bazzell stated that she and Quintero were on the fourth floor, of building 320, studying. Sellix approached them and stated "hey ladies, what are you doing?" Bazzell advised they were studying for an exam. Bazzell advised that Sellix said he would sit and study with them and again

mentioned something about a missing child. She felt he was more interested in speaking with them than locating the missing child. (Note: Missing child call was active during this encounter but nowhere near Sergeant Sellix's location). Bazzell stated that they were studying genetics and Sellix made a comment like "you are two white young ladies". She stated Sellix stood there for ten to fifteen minutes and the longer he stood there, the more uncomfortable she became. He finally left and she and Quintero spoke about how uncomfortable they were. Sellix then returned and leaned on a wall behind them. He then contacted them again and stated "I wish I could trade places with you guys, I would give you my gun and badge if I could get the chance to study with you". Quintero stated that was not a good idea and Sellix responded, "I would give it to you, but not the Cuban", meaning Bazzell and not Quintero. Bazzell stated she stopped conversing at this point in hopes that Sellix left the area. Sellix ultimately left again and she and Quintero contacted Lyon in the gymnasium and advised her of the incident. While speaking with Lyon, Sellix entered the same building. No contact was made during this sighting of Sellix. Bazzell stated that overall she was "beyond uncomfortable" and was "taken back by everything that was coming out of his mouth". She wanted to walk away but felt she couldn't because Sellix was a police officer. Bazzell was so scared that she called her husband while leaving DSC property.

Sergeant Chirco interviewed Sergeant Sellix on February 16, 2016 at approximately 1600 hours. Sellix stated that he in fact was working the DSC detail on February 10, 2016 from 1330-2000 hours. He did engage in conversation with a couple of females in building 320. The women were discussing genetic diseases and he was interested because of family history. The women had a "curious" look on their faces as he stopped, almost wondering what he was doing there. He never made a comment about them being Caucasian or white but they brought up the fact that he was a white male. He stated that as they were discussing genetic diseases, Quintero brought up the fact that she was of Cuban descent. She even made a statement about her ethnic background, which according to Sellix he made no comment. They spoke for a few minutes and he left to continue his patrol. He came back a few minutes later and stated the women "looked agitated". He stated they complained that they had to study. He stated it could be worse, they could have his "stuff" and they could walk around campus all night and he would study. Sellix stated they declined and he left the area again. Sellix stated that he never made a comment about Quintero's ethnic background. Sellix did admit that he made a comment stating that he would give his "stuff", meaning his gun belt and badge, to Bazzell but not to Quintero, but denied any mention of ethnicity. He stated Quintero seemed too "eager" to carry his gun and that is why he said he wouldn't give it to her, not because she was of Cuban descent. Sellix does not feel he was disrespectful or unprofessional and does not see how his comments could have been taken that way.

Findings

These are the findings of the Office of Professional Standards regarding the allegations against Sergeant Joseph Sellix:

- 1. 200.6 Professional Conduct and Responsibilities:** *Employees shall not engage in any conduct which constitutes neglect of duty or which is likely to adversely affect the discipline, good order or reputation of the department, including, but not limited to, conduct prohibited by this directive.*

Sergeant Sellix engaged two women in conversation instead of patrolling the Daytona State College Campus, which was his duty for the outside detail. His comments and behavior were unprofessional and disrespectful and made both women extremely uncomfortable. He broke the initial contact and contacted them again minutes later, even after he stated they had an "agitated" look on their faces. He explains that look they expressed was because they were frustrated from studying. Both women stated they didn't want further contact with him. This allegation is therefore;

SUSTAINED

- 2. 200.12 Professional Conduct and Responsibilities:** *Employees shall always be courteous civil and orderly in their contacts with each other and with the public in general. They shall refrain from the use of profane or disrespectful language or adopting an attitude of officiousness or superiority.*

Sergeant Sellix made a racial comment to Quintero, referring to her Cuban background, as witnessed by Bazzell. Sergeant Sellix was disrespectful and unprofessional. This allegation is therefore;

SUSTAINED

- 3. 204.10 Canon of Ethics: CONDUCT TOWARD THE PUBLIC:** *Law enforcement officers, mindful of their responsibility to the whole community, shall deal with the individuals of the community in a manner calculated to instill respect for its laws and its police service. Law enforcement officers shall conduct their official lives in a manner such as will inspire confidence and trust. Thus, they will be neither overbearing nor subservient, as no individual citizen has an obligation to stand in awe of neither them nor a right to command them. Officers will give service where they can, and require compliance with the law. They will do so neither*

from personal preference or prejudice, but rather as duly appointed officers of the law discharging a sworn obligation.

Sergeant Sellix made both women feel very uncomfortable and he did not inspire confidence and trust. They were offended by his comments and behavior. Quintero took her name tag off so Sellix could not gather her name and Bazzell stated she would not feel comfortable running into Sellix again. This allegation is therefore;

SUSTAINED

- 4. 1216.51 Conduct during Extra Duty Employment:** *When working an extra duty employment, a member is required to conduct himself/herself in a professional manner consistent with his/her regular duty status.*

Sergeant Sellix spoke with two women while on his detail. According to both women, Sellix made inappropriate comments and made them both feel uncomfortable. Sergeant Sellix made a racial comment to Quintero, referring to her Cuban background, as witnessed by Bazzell. Sergeant Sellix was disrespectful and unprofessional. This allegation is therefore;

SUSTAINED

Witnesses/Interviews

The following individuals were interviewed concerning this investigation:

- Dana Lyon (Civilian Witness)
- Shannon Quintero (Civilian Witness)
- Laura Bazzall (Civilian Witness)
- Sergeant Joseph Sellix (Subject Officer)

Exhibits

- Memoranda
- Interview Transcripts
- Miscellaneous Investigative Documents
- Audio Recordings
- Telestaff Roster

Daytona Beach Police Department Operations Bureau-District One

MEMORANDUM

TO: Michael J. Chitwood, Chief of Police

FROM: Captain Jakari Young, District One Commander *JY*

SUBJECT: Level One Complaint: Sergeant Joseph Sellix (IA2016-001)

DATE: March 05, 2016

I have reviewed the attached investigation that was completed by the Office of Professional Standards regarding a complaint filed by Chief Michael Chitwood on the behalf of two female Daytona State physical therapy students against Sergeant Joseph Sellix. As a result of this investigation the following alleged department directive violations were sustained against Sergeant Sellix.

- 200.6 Professional Conduct and Responsibilities
- 200.12 Professional Conduct and Responsibilities
- 204.10 Canon of Ethics: Conduct toward the public
- 1216.51 Conduct during Extra Duty Employment

Upon further review of the investigation I concur with all findings made by the Office of Professional Standards. This is not Sergeant Sellix's first offense regarding this type of behavior. Sergeant Sellix has served a (12) hour suspension for making contact with a female on Facebook that he came in contact with reference a domestic disturbance, and making reference to the size of his penis to a female subordinate. He currently has a pending (24) hour suspension for making unwanted and unwelcomed offensive/inappropriate comments to a female subordinate. In fact, I had a meeting with Sergeant Sellix in regards to this behavior after he was disciplined the second time. I told him in no uncertain terms that if I saw another documented complaint outlining this type of behavior that I was going to recommend his termination. He said that he understood that this was my final warning.

The current investigation demonstrates Sergeant Sellix's propensity to continue such inappropriate behavior even after the Department's attempts at taking corrective action and my clear and final warning to him. Therefore, after considering Sergeant Sellix's disciplinary history and the sustained findings against him in this current incident, I recommend his termination from employment.

Review

MJC

3-7-16

*CONCUR 03/07/16
SAC JY CADRI*



Please type or print in black or blue and use capital and small letters for names, titles, and address

OFFICER

1. Social Security Number: [REDACTED]
2. Officer's Name: Selix Joseph Eric
Last First MI
3. Officer's Last Known Address: [REDACTED] [REDACTED] [REDACTED] [REDACTED]
Street City State Zip Code
4. Officer's Telephone Number: [REDACTED]

AGENCY

5. Agency ORI: FL 0640100 6. Agency Name: Daytona Beach Police Department
7. Agency Contact Person: Sergeant James Chirco 8. Agency Contact Person's Telephone Number: 386-671-5121
9. Agency Fax Number: 386-671-3308

VIOLATION - ALLEGATION

10. Nature of Allegation(s): 200.6 Code of Conduct/Professional Conduct and Responsibilities (Sustained), 200.12 Code of Conduct/Professional Conduct and Responsibilities (Sustained), 204.10 Canon of Ethics/Conduct Toward the Public (Sustained) and 1216.51 Conduct During Extra Duty Employment (Sustained)
11. Agency Disposition: Sustained - (Violation of Section 943.13(4) or (7) or Rule 11B-27.0011, F.A.C.
Sustained - (Violation of Agency Policy): Not Sustained: Unfounded: Exonerated:
12. Limitation Period for Disciplinary Action: Date Internal Investigation Initiated: 02-11-16 Date Internal Investigation Completed: 04-05-16

Exception to limitation period for disciplinary action: Place a check mark by the exceptions to limitations that apply	Days Tolloed
<input type="checkbox"/> Written waiver of limitation by officer	_____
<input type="checkbox"/> Ongoing criminal investigation or criminal prosecution	_____
<input type="checkbox"/> Officer incapacitated or unavailable	_____
<input type="checkbox"/> Multi-jurisdictional investigation	_____
<input type="checkbox"/> Emergency or natural disaster as declared by the Governor	_____

13. Criminal Charges Filed: N/A
14. Agency Disciplinary Action: Termination
15. If the allegation has been sustained and determined to be a violation of Section 943.13(4) or (7), F.S. or Rule 11B-27.0011, F.A.C., attach and forward the following documentation to the Florida Department of Law Enforcement.
- Summary of the Facts Internal Investigation Report Name and Address of Witness
Witness Statement/Disposition Certified Court Documents Other Supportive Information

NOTICE: Pursuant to Section 943.1395(5), F.S., an employing agency must conduct an internal investigation when having cause to suspect that an officer it employs is not in compliance with Section 943.13(4) or (7), F.S. or Rule 11B-27.0011, F.A.C. If the investigation is sustained, the employing agency must forward a report to the Commission as specified by Rule 11B-27.003.

16. Agency administrator's signature

04-06-16
17. Date signed


Michael J. Chitwood, Chief of Police
18. Agency administrator's name and title

Daytona Beach Police Department

Michael J. Chitwood, Chief of Police

MEMORANDUM

TO: Sergeant J. Sellix

FROM: Michael J. Chitwood, Chief of Police 

SUBJECT: Notice of Discipline: Termination (#IA2016-001)

DATE: March 22, 2016

Disciplinary History

01/26/2016	<u>Suspension: 2 Days</u> <u>Chief of Police</u>	Directive 200.7: Code of Conduct/Ethics, Professional Conduct and Responsibilities Directive 200.13: Code of Conduct/Ethics, Professional Conduct and Responsibilities Directive 1220.2: Harassment/Violence in the Workplace, Command/Supervisory Responsibilities
12/15/2015	<u>Suspension: 3 Days</u> <u>Chief of Police</u>	Directive 200.1: Code of Conduct/Ethics, General Responsibilities Directive 200.6: Code of Conduct/Ethics, Professional Conduct and Responsibilities Directive 200.13: Code of Conduct/Ethics, Professional Conduct and Responsibilities Directive 518.4: Traffic Stops, Citizen Contacts and Data Collection, General Citizen Contact Procedures
07/29/2015	<u>Suspension: 1 Days</u> <u>Chief of Police</u>	Directive 200.7: Code of Conduct/Ethics, Professional Conduct and Responsibilities Directive 200.6: Code of Conduct/Ethics, Professional Conduct and Responsibilities Directive 1234.2: Social Media Policy Directive 1234.3: Social Media Policy
09/11/2014	<u>Written Reprimand</u> <u>Chief of Police</u>	Directive 1236.8: Tardiness and AWOL, Absence Without Official Leave

Notice of Discipline: Termination (#IA2016-001)

March 22, 2016

Current Incident

On March 10, 2016 you signed for and received a Notice of Proposed Discipline. The Notice of Proposed Discipline indicated my tentative decision to assess the penalty of termination for the violations described. You were given an opportunity to submit any comments and/or concerns to my office within ten days regarding this investigation.

On March 18, 2016 I received your written correspondence. At this time I have arrived at my final decision in this matter.

Rules Violated

I find you in violation of **Departmental Standards Directive 200.6 – Code of Conduct/Ethics, Professional Conduct and Responsibilities** which states, *"Employees shall not engage in any conduct which constitutes neglect of duty or which is likely to adversely affect the discipline, good order or reputation of the department, including, but not limited to, conduct prohibited by this directive."*

I find you in violation of **Departmental Standards Directive 200.12 – Code of Conduct/Ethics, Professional Conduct and Responsibilities** which states, *"Employees shall always be courteous civil and orderly in their contacts with each other and with the public in general. They shall refrain from the use of profane or disrespectful language or adopting an attitude of officiousness or superiority."*

I find you in violation of **Departmental Standards Directive 204.10 – Oath and Canon of Ethics, Canon of Ethics, Conduct towards the Public** which states, *"Law enforcement officers, mindful of their responsibility to the whole community, shall deal with the individuals of the community in a manner calculated to instill respect for its laws and its police service. Law enforcement officers shall conduct their official lives in a manner such as will inspire confidence and trust. Thus, they will be neither overbearing nor subservient, as no individual citizen has an obligation to stand in awe of neither them nor a right to command them. Officers will give service where they can, and require compliance with the law. They will do so neither from personal preference or prejudice, but rather as duly appointed officers of the law discharging a sworn obligation."*

I find you in violation of **Departmental Standards Directive 1216.51– Extra Duty and Off Duty Employment, Conduct During Extra Duty Employment** which states, *"When working an extra duty employment, a member is required to conduct himself/herself in a professional manner consistent with his/her regular duty status."*

Page 3

Notice of Discipline: Termination (#IA2016-001)

March 22, 2016

Penalty

For violating the aforementioned rules and regulations and in consideration of your disciplinary history, you are hereby terminated from employment.

Appeal Procedures

Should you decide to appeal this decision you will be guided by the Grievance and Arbitration Procedures outlined in the current Collective Bargaining Agreement with the City of Daytona Beach.

MJC/ss
100.2016.6590

Personnel File: Sergeant J. Sellix

TO: Michael J. Chitwood, Chief of Police


From: Greg T. Forhan, attorney for Sergeant Joseph Sellix

Subject: Predetermination Statement Of Sgt. Joseph Sellix In IA#2016-001

Date: March 18, 2016

In a Memorandum dated March 8, 2016, which was served on Sergeant Joseph Sellix on March 10, 2016, you have made the tentative decision to terminate Sgt. Sellix based upon the findings made in IA#2016-001. On behalf of Sgt. Sellix I request you consider the following points and reverse your tentative decision to terminate.

1. Captain Young and other members of your command staff concur with the decision to terminate because of Sgt. Sellix's "... propensity to continue such inappropriate behavior." and his "disciplinary history", that is a result of that prior behavior. The idea that continued misconduct of a similar nature is the guiding principle of progressive discipline. But in this case, the application of progressive discipline is unjust. The other prior acts of misconduct, for which Sgt. Sellix has been disciplined, all involved sexually inappropriate statements or actions. Neither of the complainants in the current case ever accused him of making any form of sexually inappropriate statements or actions. In fact both complainants affirmatively stated in their interviews that they did not believe Sgt. Sellix was flirting with them or trying to "come on" to them.

RECEIVED
3/18/16
CAPT  BLANCHETTE

2. The sustaining of the violation of rule 200.6 Professional Conduct and Responsibilities, the prohibition against neglecting one's duty, is without "just cause" because there is no competent evidence to support the claim. The off-duty detail, which Sgt. Sellix was working, did not prohibit officers from engaging citizens in conversation while patrolling the campus, nor did it prohibit officers from standing in one place for short periods of time. The complainants said that they were uncomfortable with the conversation which they believed lasted approximately 10 to 15 minutes. Neither witness had a precise time. Accepting the complainants' claims that they were uncomfortable, it is likely that the conversation lasted no more than 10 minutes, as an uncomfortable conversation always feels like it lasts much longer than it actually does. Standing in one place for 10 minutes and engaging citizens in conversation while on patrol constitutes "community policing", not neglect of duty. Sgt. Sellix may lack the social skills to engage college students in conversation that make the students feel "comfortable", or maybe the students would have felt uncomfortable speaking to any officer in uniform, in either case Sgt. Sellix's actions did not constitute neglect of duty.
3. As to the remaining sustained rule violations, Sgt. Sellix is unable to defend himself because the allegations and conclusions of the investigation fail to provide him with notice as to specifically what statements of his constitute misconduct. (The one exception to this is the allegation of the use of the word "Cuban" as a racial slur. This allegation will be addressed in a later section.) In sustaining a violation

of 200.12 the IA investigator draws the legal conclusion that Sgt. Sellix was “disrespectful and unprofessional”. The IA investigator fails to specifically identify what language was disrespectful and unprofessional. Sgt. Sellix has a due process right to know exacting what language was disrespectful and unprofessional. As Sgt. Sellix’s attorney, I request to know specifically what language was disrespectful and unprofessional. Furthermore, once I am given this information I request the opportunity to respond on behalf of Sgt. Sellix before the decision to discipline is finalized.

4. In sustaining the violation of Canon 204.10 and Rule 1216.512 the IA investigator again reaches unsupported conclusions, such as, “Sergeant Sellix made both woman feel very uncomfortable”, “he did not inspire trust and confidence”, “They were offended by his comments and behavior”, and “Sgt. Sellix made inappropriate comments and made them both feel uncomfortable.” Again, Sgt. Sellix has a due process right to know the specific words and actions that constitute a violation of the Canon or the Rule. Furthermore, he has a right to respond, once provided the specifics of the allegations:
5. As to the allegation that Sgt. Sellix used a racial slur, the Sgt. denies ever making or intending to make any racial slur. For anything said to the complainants, that the complainants interpreted as a racial slur, Sgt. Sellix would like to apologize for the misunderstanding. Sgt. Sellix has not been disciplined in the past for using racial slurs because he does not use racial slurs, and he did not use a racial slur in this instance.

Sgt. Sellix has been disciplined in the past and he has worked to correct his actions. To terminate him in this case would be effectively punishing him again for his prior offenses, because the only thing he did wrong this time was make the mistake of engaging in conversation two college students who aren't "comfortable" talking to a police officer.

Daytona Beach Police Department

Michael J. Chitwood, Chief of Police

MEMORANDUM

To: Sergeant J. Sellix

From: Michael J. Chitwood, Chief of Police *MJC*

Subject: **Notice of Proposed Discipline: Termination (IA#2016-001)**

Date: March 8, 2016

I have reviewed the attached material. I have made a tentative decision that the violations outlined should be sustained, and that the appropriate penalty considering your disciplinary history is **Termination**. However, before making a final determination on this matter, I am providing you an opportunity to review and comment on the investigative material provided.

Your comments and concerns regarding the investigation, findings, and the proposed penalty, must be received in my office prior to **1600 hours, ten days following your receipt of this notice**. All concerns and comments should be directed to me **in writing**. If I determine that an additional investigation is required, I will assign personnel to conduct the investigation and report their findings to me. You will be given a copy of the supplemental investigation prior to imposition of discipline.

Finally, no response from you is required. If no response is received within **ten days following your receipt of this notice** my tentative decision will become final.

MJC/ss

100.2016.6571

Attachments – Level One Complaint Investigation: 102-IA2016-001

Personnel File- Sergeant J. Sellix