

Officer Gary J. Donovan, #0355
San Antonio Police Department
San Antonio, Texas

Fire Fighters' and Police Officers' Civil Service Commission
111 Soledad, Suite 123
San Antonio, Texas 78205

LEGAL ADVISOR'S OFFICE
DEC 14 2016
SAN ANTONIO POLICE DEPARTMENT

AGREED SUSPENSION AND SETTLEMENT AGREEMENT

Commissioners and Officer Gary J. Donovan:

WHEREAS, Officer Gary J. Donovan, pursuant to Article XXVIII, Section 2 of the Collective Bargaining Agreement by and between the City of San Antonio and the San Antonio Police Officers' Association, was served on September 19, 2016, with a contemplated indefinite suspension; and

WHEREAS, pursuant to said contract, Officer Donovan was given an opportunity to rebut those charges being brought against him to Police Chief William P. McManus; and

WHEREAS, said opportunity was exercised by Officer Donovan; and

WHEREAS, Officer Donovan and Chief McManus have agreed to reduce the discipline in this matter to a ten-day suspension without pay; **NOW THEREFORE**:

The undersigned parties hereby enter into this suspension agreement wherein it is provided that Officer Donovan shall be suspended without pay from the San Antonio Police Department for a period of ten days, commencing on January 17, 2017 and ending on January 26, 2017. This suspension is being delayed because Officer Donovan has filed papers to retire in January 2017 and by that date, he will have earned sufficient leave in order to cover the ordered suspension days. In consideration of this reduced suspension, Officer Donovan hereby agrees that he will retire from the SAPD effective January 27, 2017.

Officer Donovan waives any rights to appeal this Agreed Suspension and agrees no administrative or judicial body shall have power to review this Agreed Suspension or alter the terms of this agreement.

Officer Donovan has violated Subsection C of Rule XIII of the City of San Antonio Fire Fighters' and Police Officers' Civil Service Commission Rules, said rules having been adopted on February 23, 1998, and thereafter from time to time amended, by the Fire Fighters' and Police Officers' Civil Service Commission as the Civil Service Rules for the Fire and Police Departments of the City of San Antonio. The particular civil service rules violated by Officer Donovan and grounds for suspension are as follows:

- (12) Violation of an applicable fire or police department rule or special order.

The Rules and Regulations and Procedures of the San Antonio Police Department which Officer Donovan has violated are as follows:

RULE 3.04 - RESPONSIBILITY TO SERVE THE PUBLIC: Members shall serve the public through direction, counseling, assistance, and protection of life and property. Members shall also respect the rights of individuals and perform their services with honesty, sincerity, courage, and sound judgment. (C) CONDUCT AND BEHAVIOR: Members, on-or off-duty, shall be governed by the ordinary and reasonable rules of good conduct and behavior, and shall not commit any act tending to bring reproach or discredit on themselves or the department.

RULE 3.25 - TRAFFIC STOPS WHILE NOT IN UNIFORM (B) ON-DUTY: On-duty officers, not in uniform, may make traffic stops only when their assignment requires such traffic stops and when such traffic stops are approved by their division commander in writing. In such cases, the vehicle used in making the traffic stop shall have an emergency light prominently displayed and a siren as required for emergency vehicles by the Texas Motor Vehicle Laws.

PROCEDURE 309 - WEAPONS (.09) GENERAL INFORMATION FOR PERSONALLY-OWNED HANDGUNS OR SHOULDER WEAPONS (A) All personally-owned firearms, carried on or off-duty by officers, must be approved by the FPCO, and registered with the Department prior to the officer carrying the firearms. Officers shall register personally-owned firearms with the FPCO or his designee by completing SAPD Form #60-RCF, Request to Carry Firearm.

The factual basis for the instant disciplinary suspension is as follows:

On or about June 27, 2016, Officer Gary J. Donovan was on duty, in plainclothes, and was traveling to the San Antonio Police Training Academy in his personal vehicle when he became involved in a "Disturbance (gun involved)." Officer Donovan came to a stop in the fast lane of traffic, causing the driver of an 18-wheeler to stop in the traffic lane as well. Officer Donovan exited his vehicle, brandished a Colt .357 caliber revolver, and detained the driver at gunpoint; first in an active lane of traffic on the highway, and then along the left shoulder of the roadway, until uniformed law enforcement officers arrived on the scene." Officer Donovan's actions violated a number of rules and procedures of SAPD:

1. This action on Officer Donovan's part constituted a prohibited traffic stop;
2. Officer Donovan was not authorized while on duty, to carry the Colt .357 caliber revolver in his possession;
3. Officer Donovan failed to use sound judgment, and by his actions during the incident, placed himself and others at an unreasonable risk of harm;

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4. Officer Donovan's conduct and actions during the incident brought reproach or discredit on himself and the department.

A copy of the instant disciplinary suspension order is being filed with the Fire Fighters' and Police Officers' Civil Service Commission.

AGREED TO BY:

WILLIAM P. MCMANUS
WILLIAM P. MCMANUS
CHIEF OF POLICE
SAN ANTONIO POLICE DEPARTMENT

12-14-16
DATE

GARY J. DONIVAN #0355
OFFICER GARY J. DONIVAN, #0355
SAN ANTONIO POLICE DEPARTMENT

12-14, 2016 1400
DATE TIME

I hereby acknowledge receipt of the original of the foregoing Agreed Suspension. I acknowledge having received notification that I have fifteen days from the date of receipt of this suspension during which to file a written appeal of this suspension with the Personnel Director of the City of San Antonio requesting either arbitration or the hearing of my appeal by the Fire Fighters' and Police Officers' Civil Service Commission. I acknowledge that I have been informed that if I appeal to a hearing examiner/arbitrator, I waive all rights to appeal to a district court except as provided by subsection 143.057(j) of the Texas Local Government Code. I also acknowledge that I have been informed that my right to appeal the decision of a hearing examiner/arbitrator to district court pursuant to section 143.057 of the Texas Local Government Code may have been modified by the provisions of article 28 of the current Collective Bargaining Agreement by and between the City of San Antonio and the San Antonio Police Officers' Association. I further acknowledge that in light of my entry into this Agreed Suspension, I shall have no right to appeal said suspension nor will any administrative or judicial body have power to review same or alter its terms. I do hereby waive any and all rights to appeal said suspension and no administrative or judicial body shall have power to review same or alter its terms.

GARY J. DONIVAN #0355
OFFICER GARY J. DONIVAN, #0355
SAN ANTONIO POLICE DEPARTMENT

WITNESSED BY:

JF 4008
James S. Sandoval
3018

TIME: 1404

DATE: 12/14/16

TIME: 1405 Hrs

DATE: 12-14-16

FILED on this the 16th day of December, 2016, with the Fire Fighters' and Police Officers' Civil Service Commission.

Susan Davis for
DIRECTOR, FIRE FIGHTERS' AND POLICE
OFFICERS' CIVIL SERVICE COMMISSION

CITY OF SAN ANTONIO
NOTICE OF SUSPENSION

LEGAL ADVISOR'S OFFICE
DEC 14 2016
SAN ANTONIO POLICE DEPARTMENT

OFFICER MUST SIGN THIS FORM EVEN IF FORFEITING TIME

EMPLOYEE NAME: Officer Gary J. Donovan, #0355

ACTIVITY NO. AND NAME: 17-02-05 Police

JOB CLASS NO. AND TITLE: 0600 Police

TRANS NO/TYPE 1 4	SOCIAL SECURITY NUMBER 5	TRANS DATE 14 16 18 MO DA YR	BEGIN DATE 20 22 24 MO DA YR	END DATE 26 28 30 MO DA YR
P50 3		12 13 16	01 17 17	01 26 17

NUMBER OF 32 DAYS 30	LAST PAY 35 INDIC	TYPE 36	REASON 37 39
10			022

NARRATIVE REMARKS: Agreed Ten-Day Suspension

AUTHORITY: Written Order of the Chief of Police

 #0355
EMPLOYEE

12-14-16
DATE


DEPARTMENT HEAD

CITY MANAGER

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