

Officer David A. Turner, Jr., #0029
San Antonio Police Department
San Antonio, Texas

DEC 04 2015
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Fire Fighters' and Police Officers' Civil Service Commission
111 Soledad, Suite 123
San Antonio, Texas 78205

AGREED SUSPENSION

Commissioners and Officer David A. Turner, Jr.:

WHEREAS, Officer David A. Turner, Jr., 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 November 19, 2015, with a contemplated indefinite suspension; and

WHEREAS, pursuant to said contract, Officer Turner 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 Turner; and

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

The undersigned parties hereby enter into this suspension agreement wherein it is provided that Officer Turner shall be suspended without pay from the San Antonio Police Department for a period of fifty days, commencing on December 28, 2015, and ending on February 15, 2016. Officer Turner 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 Turner 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 Turner 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 Turner 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

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respect the rights of individuals and perform their services with honesty, sincerity, courage, and sound judgment.

PROCEDURE 507 – DWI ARRESTS (.04) PROBABLE CAUSE FOR DWI OR DUI (A) Officers establish probable cause for arresting drivers for Driving While Intoxicated (DWI) or for Driving Under the Influence of Alcohol by Minor (DUI) by relying on personal knowledge and training, including: (1) Personal observation of drivers involved in traffic accidents and or traffic violations; (2) Reasonable suspicion based on information provided by individuals who are witnesses to traffic violations and or traffic accidents involving the person suspected of being intoxicated or under the influence; or (3) Personal observation of drivers stopped for the purpose of providing them with information (i.e., road conditions ahead).

PROCEDURE 507 – DWI ARRESTS (.04) PROBABLE CAUSE FOR DWI OR DUI (B) After a traffic stop or arrival at a traffic accident scene, the officer shall: (1) Remove the driver to a place of safety if he/she is suspected of being intoxicated. (2) Conduct the standardized field sobriety test. Officers operating vehicles equipped with an on-board video camera will record the administering of the standardized field sobriety test. The video recording will be collected for evidence if the suspect is arrested. (3) Record the observations on SAPD Form #24-FSC, *Officer's Field Sobriety Checklist*. (4) Other sobriety tests that an officer may conduct are: (a) Reciting of the alphabet; and (b) The numerical count. (5) A field sobriety test may be impractical when it would jeopardize the safety of the officer or the suspect. (6) If after conducting the standardized field sobriety tests the officer has determined that a minor is not intoxicated, but has a detectable amount of alcohol in his system, the minor will be processed for DUI in accordance with Section .05 of this procedure. (7) Drivers suspected of being intoxicated and who are refusing to perform field sobriety tests are transported to the DWI Testing Room to be processed in accordance with Sections .09, .10, .11 and .12 of this procedure.

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

On or about July, 9, 2015, Officer David A. Turner, Jr. was dispatched to IH 35 N. & Binz Engleman Road to investigate a report of a tractor trailer truck driving recklessly, weaving across lanes of traffic, and driving off the roadway. Officer Turner contacted the driver of the tractor trailer truck at the entrance to Fort Sam Houston on Binz Engleman Road, but failed to recognize signs of impairment. Officer Turner also spoke with two witnesses who reported they believed the driver of the tractor trailer truck was intoxicated.

Instead of acting on this information, Officer Turner determined the driver was lost and offered a police escort to the driver's destination. The driver actually was impaired and shortly thereafter was involved in a major crash documented under SAPD Case No. 15145828. A second minor crash reported under SAPD case number 15149747 occurred when the driver of the eighteen-wheeler backed the tractor trailer truck into Officer Turner's marked patrol vehicle.

Officer Turner failed to act upon reasonable suspicion present at the initial scene which supported a Driving While Intoxicated charge prior to the crash.

Officer Turner then failed to use sound judgment when he allowed an intoxicated individual to operate a motor vehicle and when he failed to report the entire circumstances of the accident to his supervisor. When Officer Turner then had to arrest the driver for Driving While Intoxicated following the crash, he failed to follow standardized DWI arrest procedures. Officer Turner failed to inform his supervisor of the circumstances involving the initial contact with the driver of the eighteen-wheeler, the decision to escort the eighteen-wheeler to its destination, the major crash during the police escort endangering the public, and when he failed to inform his supervisor of the likelihood of civil liability against the City of San Antonio.

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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 12/4/15
WILLIAM P. MCMANUS DATE
CHIEF OF POLICE
SAN ANTONIO POLICE DEPARTMENT

David A. Turner, Jr. 12-4, 2015 1043
OFFICER DAVID A. TURNER, JR., #0029 DATE TIME
SAN ANTONIO POLICE DEPARTMENT

On this 4th day of Dec, 2015, 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.

David A. Turner, Jr.
OFFICER DAVID A. TURNER, JR., #0029
SAN ANTONIO POLICE DEPARTMENT

WITNESSED BY:

Solanta Black TIME: 10:44 am DATE: Dec. 4, 2015

[Signature] 3160 TIME: 1044 DATE: 12/04/2015

FILED on this the 07 day of December, 2015, with the Fire Fighters' and Police Officers' Civil Service Commission.

Suzanne Dow For
DIRECTOR, FIRE FIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION

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