

Officer Mark H. Walaski, #0707
San Antonio Police Department
San Antonio, Texas

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CITY OF SAN ANTONIO
HUMAN RESOURCES DEPT
2017 APR 20 AM 9:20

LEGAL ADVISOR'S OFFICE
APR 19 2017
SAN ANTONIO POLICE DEPARTMENT

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

AGREED SUSPENSION

Commissioners and Officer Mark H. Walaski:

WHEREAS, Officer Mark H. Walaski, 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 April 18, 2017, with a three-day contemplated suspension; and

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

WHEREAS, Officer Walaski and his captain, Vidal Resendez, have agreed and Chief McManus has approved of settling this matter with a three-day suspension without pay; **NOW THEREFORE**:

The undersigned parties hereby enter into this suspension agreement wherein it is provided that Officer Walaski shall be suspended without pay from the San Antonio Police Department for a period of three days, commencing on May 9, 2017, and ending on May 11, 2017. Officer Walaski 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 Walaski 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 Walaski 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 Walaski has violated are as follows:

PROCEDURE 401 - OFFENSE/INCIDENT/SUPPLEMENTAL
REPORTS (.04) THE PRELIMINARY INVESTIGATION - The
Offense Report is prepared and submitted when the preliminary

investigation reveals any of the following: (G) Other incidents including: (1) Found Property.

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COMMUNITY RESOURCES DEPT

PROCEDURE 710 – PRELIMINARY DRUG IDENTIFICATION
(.03) PROBABLE CAUSE IDENTIFICATION - SUSPECTED
FELONY DRUG OFFENSES (D) In the event the probable cause
identification is inconclusive or there is no trained member
available to perform the probable cause identification: (1) The
individual is not booked for the suspected offense; (2) The
substance is placed in the Property Room for laboratory testing by
the Bexar County Medical Examiner's Office; (3) The officer
prepares an offense report, with the offense classification listed as
"Found Property," with the details of the stop, a description of the
suspected substance, his disposition of the substance, the
identification and disposition of the person, and the findings of any
probable cause identification. The officer makes a copy of the
offense report and routes the copy to the Narcotics Unit; and (4) In
the event the substance is later identified as a controlled substance
or a dangerous drug, a criminal charge is filed against the
individual by the Narcotics Unit. (.04) PROBABLE CAUSE
IDENTIFICATION - SUSPECTED MISDEMEANOR DRUG
OFFENSES (D) In the event the visual/physical comparison is
inconclusive, officers handle the suspect and substance in
accordance with Subsection .03D.

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

On or about October 25, 2016, Officer Mark H. Walaski is seen on BWC (body worn camera) searching an individual who he discovered to be in possession of what Officer Walaski referred to as "cush." Officer Walaski placed the individual under arrest and later released him. After he released the individual, a second BWC video showed the officer crushing the substance he referred to as "cush" with his fingers and discarding it out the driver's side window. The officer placed an N-Code 13 – Disturbance/Miscellaneous on the call with no details other than three names and DOB's. No offense report was found (reference CFS SAPD-2016-1115782). On the same date, Officer Walaski had two suspects handcuffed before the BWC was activated. Officer Walaski referred to a substance as "cush" as the reason for arresting one of the individuals. Officer Walaski later released the individual and explained a warrant would be issued for his arrest once the Medical Examiner's office tested the substance. The officer placed an N-Code 13 – Disturbance/Miscellaneous on the call, listing only an SP and three witnesses with no details of what occurred. No offense report was found (reference CFS SAPD-2016-1116019). A check of the FileOnQ database shows no substance was placed into the property room by Officer Walaski on or about that date, October 25, 2016.

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

AGREED TO BY:

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

2017 APR 20 AM 9:29

DATE

04/19/17

WALASKI Mark
OFFICER MARK H. WALASKI, #0707
SAN ANTONIO POLICE DEPARTMENT

4-19, 2017 12:50
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 the instant 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.

WALASKI M 707
OFFICER MARK H. WALASKI, #0707
SAN ANTONIO POLICE DEPARTMENT

WITNESSED BY:

[Signature] 3150
Karen M. Falks

TIME: 1250

DATE: 4/19/17

TIME: 1253

DATE: 4/19/17

FILED on this the 20th day of April, 2017, with the Fire Fighters' and Police Officers' Civil Service Commission.

Yvette Rangel Sr
DIRECTOR, FIRE FIGHTERS' AND POLICE
OFFICERS' CIVIL SERVICE COMMISSION