



Susan Pamerleau

Sheriff

Bexar County, Texas

**NOTICE OF PROPOSED SUSPENSION**

TO: Officer Michael Smith, Badge #4226, Detention  
DATE: July 26, 2013

You are hereby notified that the Bexar County Sheriff's Office is proposing to suspend you for Thirty (30) Days from the position of Detention Officer.

According to PSI Investigation 13-112, you have violated the Bexar County Sheriff's Civil Service Rules, said rules having been adopted on March 14, 1985 and thereafter from time to time amended by the Bexar County Sheriff's Civil Service Commission.

The particular Civil Service Rules violated by you are as follows:

**Chapter IX, Section 9.02:**

- K. Physical or verbal abuse of a person in custody of the Sheriff's Office
- M. Violation of any statute, Civil Service Rule or regulation
- P. Conduct which has proven to be detrimental or has an adverse effect on the Sheriff's Office

In addition, you have violated the following Bexar County Sheriff's Office and Detention Policies and Procedures:

**5.30 CONDUCT UNBECOMING**

A Deputy Sheriff shall always conduct himself in a manner which reflects most favorably on the Division, whether such employee shall be in a duty or off-duty status. Unbecoming conduct includes unjustified behavior which brings the Division into disrepute, discredits a member of the Division, impairs the operation of the Division, or has an adverse effect on the Division.

**5.52 VIOLATION OF LAWS**

No employee of this Division shall knowingly or willfully violate any federal statute; law of the State of Texas or any other state of the Union; or ordinance of Bexar County, any other county or any municipality of this state or any other state in the Union.

**9.05 USE OF FORCE**

**A. USE OF NON-DEADLY FORCE**

1. As already stated, whenever an officer reasonably believes it necessary to use non-deadly force to achieve a lawful police objective, it shall be incumbent upon that employee to exhaust every reasonable means of employing the least amount of force to effect the purpose. However, nothing in this rule or

✓ 13-866 (ML/LM)

Chapter shall be interpreted to mean that an employee is required to engage in prolonged hand-to-hand combat or struggle or use lesser methods which are impractical under the circumstances, rather than resort to that method which will most quickly and safely bring the actor under control.

**BC No: 900.13 Use of Force and Restraint Plan**

**VI. UNNECESSARY AND EXCESSIVE FORCE PROHIBITED:** To use unnecessary or excessive force on an inmate (prisoner) constitutes a civil rights violation in violation of 42 U.S.C. Section 1983. Excessive force shall not be tolerated and shall lead to disciplinary action and/or criminal charges. Staff shall only use justifiable force.

**The factual basis for the instant disciplinary action is as follows:**

On about February 3, 2013, you were involved in a shakedown in unit 3C was conducted by the SERT Probe Team. During the shakedown, Use of Force was used against Inmate Justin Cox. Inmate Cox suffered from a concussion, trauma to the eye, as well as hemorrhaging to his eye and facial lacerations. You state in your report that you struck the inmate on the face several times and caused his injuries for him to bleed. You further state that you went into an automatic mode and the assault against the inmate was a blur. The excessive force against inmate Cox was severe due to the extent of injuries on or about the head and face area.

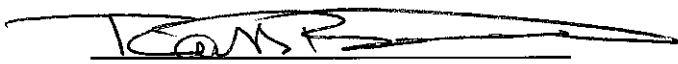
**Persons with knowledge of these incidents:**

Deputy Chief Raul Banasco, Jail Administrator  
Deputy Chief Mark Thomas, Assistant Jail Administrator  
Sgt. Yvonne Vann #520, Professional Standards and Integrity Division  
Ofc. Michael Smith, Badge #4226  
Ofc. Rodney Rangel, Badge #2968  
Cpl. Stephanie Vega, Badge #4009  
Cpl. Sabrina Magallanes, Badge #2902  
Ofc. Wendell Busby, Badge #1232

**Corrective action:** In the future, you will conduct yourself in a professional manner and adhere to all departmental policies cited above and will not deviate from policy. You will restrain yourself from using excessive force against an inmate which constitutes a Civil Rights Violation. Be advised that persistence in the behavior, which resulted in this Notice of Proposed Suspension, may result in a more serious disciplinary action, which may include dismissal from the Sheriff's Office.

You are advised that you may respond to this Notice of Proposed Suspension to the undersigned, in person or in writing, to explain or countervail said specific charges. Your written response, if submitted, must be received and time stamped by Sheriff's Administration no later than the fifth (5<sup>th</sup>) business day following receipt of this document.

If you have any questions on your rights under the Bexar County Sheriff's Civil Service Commission, you may contact the Director of the Civil Service Commission, Ms. Andrea San Miguel, at 210-335-2688.

  
Deputy Chief Raul S. Banasco,  
Jail Administrator

cc: 1) Original -Personnel file 2) Employee 3) administrative file

The foregoing Notice of Proposed Suspension was served upon Michael Smith on 31 day of July 2013.

Robert GARZA 680  
Printed Name and Badge of Server

Sgt R. Garza  
Signature of Server

I acknowledge receipt of this document:

Michael Smith  
Employee's Signature