

AGREED SUSPENSION

AUG 7 '18 9:38AM

CITY OF

SAN ANTONIO HR

INTRODUCTION:

This is an agreement, pursuant to Article 28, Section 16 of the CBA, between The City of San Antonio, and SAPD Officer Crystal Estrada, Badge No. 0071, in connection with Case Number IA2018-0057.

DEFINITIONS:

"The City" as used herein refers to the City of San Antonio acting by and through Chief of Police William McManus;

"Off. Estrada" as used herein refers to SAPD Officer Crystal Estrada, Badge No. 0071;

"The Parties" as used herein refers to The City, and Off. Estrada;

"SAPD" as used herein refers to the San Antonio Police Department;

"The CBA" as used herein refers to the Collective Bargaining Agreement between the City and the SAPOA, Ordinance No. 2016-09-01-0639, effective from September 1, 2016 through September 30, 2021;

"Civil Service Rules" as used herein refers to 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);

"Civil Service Commission" as used herein refers to the Firefighters' and Police Officers' Civil Service Commission for the City of San Antonio;

"This Agreement" as used herein refers to the Agreed Suspension.

STIPULATIONS:

It is expressly agreed and stipulated by the Parties that:

Off. Estrada violated the Civil Service Rules as set forth in more detail in Sections 1 and 2 below;

Off. Estrada violated the Rules and Regulations of the San Antonio Police Department and/or the SAPD General Manual Procedure as set forth in more detail in Sections 1 and 2 below;

Off. Estrada was served with a Contemplated Thirty (30) Day Suspension on June 28, 2018;

Off. Estrada met with the Chief of Police regarding the Contemplated Thirty (30) Day Suspension as provided for in the CBA; and

LEGAL ADVISOR'S OFFICE

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The City and Off. Estrada, have agreed to a resolution of this disciplinary matter.

**THEREFORE, FOR AND IN CONSIDERATION OF THE AGREEMENTS
CONTAINED HEREIN THE PARTIES AGREE AS FOLLOWS:**

SECTION 1. Off. Estrada agrees that she violated Rule XIII(C) (12) of the Civil Service Rules and/or Rule 3.04 of the Rules and Regulations of the San Antonio Police Department and/or Procedures 309.06 and/or 802.05 of the San Antonio Police Department General Manual in effect on August 19, 2016.

SECTION 2. The factual basis for the Contemplated Thirty (30) Day Suspension is as follows:

On or about January 27, 2018, Off. Estrada received a call for a welfare check at 13627 Bluff Circle. After contacting and interviewing the caller, Ms. Kirsten Kloppe, and visiting and talking with Ms. Kloppe's mother who lived in the house next door, Officer Estrada made the decision to take Ms. Kloppe into custody for an Emergency Detention. After becoming aware of the pending detention, Ms. Kloppe ran upstairs and out of view of Officer Estrada. Officer Estrada eventually found Ms. Kloppe, who had barricaded herself behind an attic or closet door. Shortly after Officer Estrada discovered Ms. Kloppe's location, Officer Roland Pacheco and Cadet Ricardo Neri arrived at the location to assist Officer Estrada. While searching for a tool to unlock and/or pry open the closet/attic door, Officer Estrada discovered a handgun magazine. Nevertheless, Officer Estrada and Officer Pacheco decided to force their way through the barricaded door where they found Ms. Kloppe holding a handgun. Officer Pacheco immediately attempted to grab the handgun to disarm Ms. Kloppe. During their struggle for the weapon in the small and tight space, Officer Estrada ordered and/or told Cadet Neri to help Officer Pacheco disarm Ms. Kloppe. Officer Estrada, fearing for Officer Pacheco and Cadet Neri's safety, fired a single gunshot into Ms. Kloppe's left torso. Ms. Kloppe eventually succumbed to the gunshot to her torso and was pronounced dead at the hospital later that afternoon.

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After the shooting, on January 27, 2018, an evidence technician performed an ammunition count on Officer Estrada's duty weapon used in the shooting and discovered one live round in the chamber and thirteen live rounds in the magazine. In Officer Estrada's two spare duty magazines, one magazine had fifteen rounds and the other had fourteen rounds. Based on the fact that Officer Estrada had fired one round into Ms. Kloppe's torso, there should have been only one round missing from her duty weapon, and fifteen live rounds in each of her two spare magazines.

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Upon administrative review of Officer Estrada's actions on January 27, 2018, as described in the foregoing, it is determined: Officer Estrada failed to use sound judgment when she ordered and/or told Cadet Neri, an unarmed civilian, to enter a dangerous situation; Officer Estrada failed to identify the situation of Ms. Kloppe barricaded behind a door/attic after

finding a handgun magazine in the hallway as a critical incident; and Officer Estrada failed to keep her duty weapon and two spare magazines fully loaded.

SECTION 3. Off. Estrada stipulates and agrees that the conduct described in Section 2, above, violates the following SAPD Rules and Regulations and/or provisions of the SAPD General Manual:

SAPD Rules and Regulations:

RULE 3.04— Individual Responsibilities; 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.

PROCEDURE 309 – Weapons; .06 – General Rules for Carrying Firearms: Sworn Officers; (A) – Uniformed Officers – (1) (b & c):

A. Uniformed Officers: Officers wearing the regulation uniform or the officer's unit-specific uniform shall conform to the following:

1. The Department-issued S&W M&P40 is the only approved primary handgun for uniformed officers to carry:
 - b. The S&W M&P40 will be carried with a round in the chamber and the magazine fully loaded.
 - c. Two fully-loaded magazines will be carried in a magazine pouch on the equipment belt.

PROCEDURE 802 – Unusual Occurrences and Critical Incidents; .05 – Initial Responders; (A) – Critical Incident; (1)(a-k):

1. Officers, as initial responders to critical incidents, have several important functions essential to the successful resolution of the incident. Depending on the situation, these responsibilities include:

- a. Quickly recognize the potential or existence of a critical incident;
- b. Request additional support and supervisory personnel through the dispatcher;
Note: Radio/cellular transmissions from a situation involving the threat or existence of explosives may trigger the device.
- c. Seek positions of safety from where the situation may be contained within the smallest possible area;
- d. Isolate non-participants from the threat;
- e. Evacuate bystanders and/or injured persons, if necessary;

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- f. Request EMS and Fire Rescue, if necessary;
- g. Notify the Communications Unit of established safe entrance and exit routes for emergency vehicles and personnel;
- h. Attempt to establish communication with the suspect, hostages, and/or witnesses to help assess the situation;
 - (1) Do not attempt to negotiate with the suspect; negotiating is the responsibility of crisis negotiators;
 - (2) Do not use threats or intimidating gestures; and
 - (3) Maintain a calm, even disposition when conversing with the suspect.
- i. Communicate information to the responding units through the dispatcher (i.e., number, names, actions, and descriptions of suspect(s) and hostages(s), weapons involved, etc.);
- j. Maintain maximum firearms discipline at all times; and
- k. Properly document all pertinent information and remain at the scene until released.

SECTION 4. Pursuant to Article 28, section 16 of the CBA, the City agrees to reduce the 30 day suspension, and Off. Estrada agrees to accept, an agreed disciplinary suspension without pay from the SAPD for a period of seven (7) days, beginning on August 14, 2018. The Disciplinary suspension will commence on August 14, 2018 and end on August 20, 2018. Off. Estrada waives any right to appeal this Agreed Disciplinary Suspension and agrees no administrative or judicial body shall have power to review this agreed disciplinary suspension or alter the terms of this agreement as per Article 28, Section 16 of the CBA.

SECTION 5. In further consideration for the City's agreement(s) to reduce the 30 Day suspension of Off. Estrada to an agreed seven (7) day suspension as set forth herein, Off. Estrada agrees to the following:

- A. Following the execution of this Agreement, Off. Estrada shall begin or continue any program of counseling, mentoring, or training ordered by the Chief of Police.
- B. Prior to returning to regular duty, Off. Estrada shall satisfactorily complete any training classes or programs through the SAPD Training Academy or elsewhere as deemed necessary and ordered by the Chief of Police.
- C. Upon return to active duty after serving the agreed disciplinary suspension as set forth in this Agreement, Off. Estrada will be placed on Administrative Duty until such time as she is given a permanent assignment by the Chief of Police.
- D. The Chief of Police shall have the discretion to assign Off. Estrada to any position based upon the operational needs of the SAPD and may impose additional duty restrictions.

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SECTION 6. This Agreement in no way limits the SAPD's ability to discipline or indefinitely suspend Off. Estrada for conduct arising before or after the date of this Agreement not addressed herein. This Agreement does not limit the SAPD's right to use or make reference to this Agreement or any other prior discipline to justify a decision to discipline or indefinitely suspend Off. Estrada for any conduct arising during, before or after the execution of this Agreement.

SECTION 7. The filing of this Agreement with the Civil Service Commission will notify them of this agreement and the factual basis for this Agreement and Off. Estrada agrees that the notice and filing requirements of Chapter 143 of the Local Government Code and/or CBA have been fulfilled.

SECTION 8. In consideration of the agreements set forth herein, Off. Estrada agrees that she has no right to appeal the suspension referenced above, and that she must, as a term of her employment, comply with the other requirements of this Agreement, as set out above.

SECTION 9. It is further agreed and understood that by execution of this Agreement, Off. Estrada does hereby relinquish and waive any right to appeal said suspension to the civil service commission, a third-party arbitrator, the district court, or any other court having competent jurisdiction and that this Agreement is intended to be a full and final settlement of any and all claims, demands, causes of action, whether known or unknown, whether asserted or not having yet been asserted, arising out of the aforesaid agreed disciplinary suspension. Off. Estrada further agrees that she will not contest this Agreement or contest the validity of this agreement in any proceeding whatsoever, including, but not limited to, an administrative proceeding before the civil service commission, a proceeding before an arbitrator or hearing examiner, or a proceeding before a court of law.

SECTION 10. OFF. ESTRADA, FOR HERSELF, HER HEIRS, EXECUTORS, AND ASSIGNS, DOES HEREBY RELEASE, DISCHARGE, AND ACQUIT THE CITY OF SAN ANTONIO, TEXAS, ITS SUCCESSORS, ASSIGNS, OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES, ITS HEIRS, EXECUTORS, ASSIGNS, AGENTS, SERVANTS, AND EMPLOYEES, AND WILLIAM P. MCMANUS., HIS HEIRS, EXECUTORS, ASSIGNS, AGENTS, SERVANTS, AND EMPLOYEES FROM ANY AND ALL ACTIONS, CAUSES OF ACTION, INCLUDING THOSE ARISING OUT OF CHAPTER 554 OF THE TEXAS GOVERNMENT CODE, CLAIMS, OR DEMANDS FOR DAMAGES, COSTS, EXPENSES, COMPENSATION, OR CONSEQUENTIAL DAMAGES, KNOWN OR UNKNOWN, ASSERTED OR NOT, ARISING OUT OF THE AFORESAID SUSPENSION.

CITY OF

SECTION 11. Off. Estrada acknowledges that she has relied upon her own judgment and that of her attorney, Robert Leonard, in negotiating this Agreed Suspension and Last Chance Agreement and that she has carefully read the agreement, that she knows and understands the contents of the agreement, and that she is satisfied with the contents of the agreement.

SECTION 12. This agreement may not be introduced into evidence or used for any purpose in any legal proceeding, arbitration, or grievance hearing before a court,

arbitrator, panel or the Civil Service Commission as evidence of disparate treatment, nor as evidence relating to the appropriateness of any disciplinary suspension imposed on any SAPD officer other than Off. Estrada.

SECTION 13. Off. Estrada acknowledges that she has waived the right to file an appeal of the disciplinary suspension agreed to herein, and has agreed to limit her right to appeal any future disciplinary suspensions pursuant to the provisions of Chapter 143 of the Texas Local Government Code and the current or past CBA. Off. Estrada further acknowledges that this Agreed Suspension does not violate any provision of the aforementioned current or past CBA, that it does not constitute an amendment to any of those agreements, and that it does not change or alter the standards, privileges and/or working conditions enjoyed by SAPD officers for purposes of Article 8 of the CBA. AUG 7 '18 9:33AM

SECTION 14. It is understood and agreed by the Parties that the terms of this Agreement are considered to be material contractual terms and not merely recitals, and that the terms set forth in this Agreement constitute the entire agreement between the parties. No claimed additions, modifications or amendments to this Agreement, nor any claimed waiver of any of the terms or conditions, shall be effective, unless in writing and signed by all of the Parties. CITY OF SAN ANTONIO HR

AGREED TO BY:


WILLIAM P. MCMANUS
CHIEF OF POLICE
SAN ANTONIO POLICE DEPARTMENT

JUL 26 2018

DATE


OFFICER CRYSTAL ESTRADA, #0071
SAN ANTONIO POLICE DEPARTMENT

7/26/18 1739
DATE TIME

ACKNOWLEDGEMENTS:

I, Off. Estrada hereby acknowledges receipt of the original of the foregoing Agreed Suspension.

I acknowledge having received notification of my right to file, within ten days from the date of receipt of the instant suspension, 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. AUG 7 '18 9:31AM CITY OF SAN ANTONIO HR


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. SAN ANTONIO HR

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.

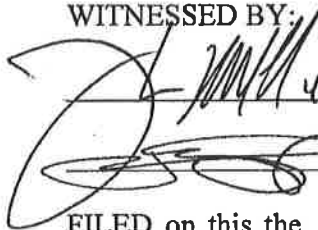
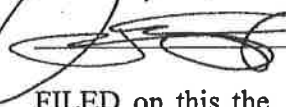
I further acknowledge that in light of my entry into this Agreed Suspension, I shall have no right to appeal said suspension nor will any administrative or judicial body have power to review same or alter its terms.

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.

OFF. ESTRADA HEREBY ACKNOWLEDGES THAT SHE HAS CAREFULLY READ THIS AGREEMENT AND KNOWS THE CONTENTS OF THE AGREEMENT AND AFTER CONSULTING WITH HER ATTORNEY AS TO THE MEANING AND EFFECT OF THIS DOCUMENT, HAS SIGNED IT AS HER OWN FREE ACT AND DEED.


OFFICER CRYSTAL ESTRADA, #0071
SAN ANTONIO POLICE DEPARTMENT

WITNESSED BY:

 4024
 9153

TIME: 1739 DATE: 07/26/18

TIME: 1739 DATE: 7-26-18

FILED on this the 7 day of August, 2018, with the Fire Fighters' and Police Officers' Civil Service Commission.


DIRECTOR, FIRE FIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION

SAN ANTONIO HR

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AUG 7 '18 9:51AM


**CITY OF SAN ANTONIO
NOTICE OF SUSPENSION**

OFFICER MUST SIGN THIS FORM EVEN IF FORGETTING TIME

EMPLOYEE NAME: Officer Crystal Estrada, #0071


UNIT OF ASSIGNMENT: NPB

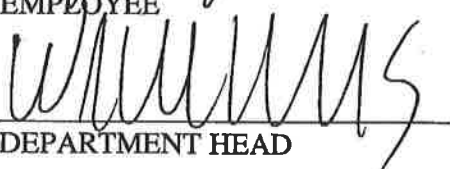
JOB CLASS NO. AND DEPARTMENT: 0600 Police

SAP NUMBER	TRANS DATE	BEGIN DATE	END DATE
	MO DA YR	MO DA YR	MO DA YR
	07 23 18	08 14 18	08 20 18

NARRATIVE REMARKS: Agreed Seven-Day Suspension

AUTHORITY: Written Order of the Chief of Police


EMPLOYEE


DEPARTMENT HEAD

7/26/18
DATE

JUL 26 2018
DATE

SAN ANTONIO HR

CITY OF

AUG 7 10 36 AM