

SAN DIEGO POLICE DEPARTMENT
SWORN EMPLOYEE DISCIPLINARY PACKAGE CHECKLIST

DATE OF INCIDENT (when SDPD became aware of incident): _____**WRITTEN ADVANCE NOTICE MUST BE GIVEN WITHIN ONE YEAR OF THE INCIDENT DATE OR DISCOVERY OF INCIDENT:** June 21, 2024

1. Prepared by: _____

Signature, ID # and Date Prepared

#5282

1/10/2024

2. Concurrence of 2nd Level: _____

Signature, ID # and Date Approved

to C.O.

1/11/2024

3. Approval by Executive Assistant Chief: _____

Signature, ID # and Date Approved

4. Human Resources:

Signature & date reviewed

1/2/24

1/18/24

Signature & date Reviewed

Date Forwarded to Legal: 1/18/24

5. Legal Advisor:

Signature & Date Reviewed

2/14/24

Signature & Date Reviewed

6. Date Returned to C.O.: 3/16/24

7. Advance Notice of Adverse Action:

Date Served: 5375 3-12-24

8. Results of Skelly Meeting and Notice of Departmental Appeal Rights:

Date Served: WAIVED 3-14-24

9. Approved by Assistant Chief:

Signature & Date Approved

Modification, if any, from Advance Notice:

Appeal Filed: Y N

Date Filed: WAIVED 3-14-24

Department Appeal Results: _____

Date of Hearing: _____

Findings: _____

Review of Final Notice: _____

Human Resources Signature & Date Reviewed

3/4/24

Review of Final Notice: _____

Legal Advisor: Signature & Date

3/19/24

Final Notice Approved by Executive Assistant Chief: _____

Signature & Date Approved

Final Notice Signed by Chief of Police: _____

Signature & Date Signed

3/19/24

- 16.

Final Notice – Date Served: 3-20-24
(Hand-carry discipline package to HR immediately.)**DISCIPLINE PACKAGE ROUTING:**

| | |
|---|------------|
| Suspension: | ALL Steps* |
| Reduction in Compensation: | ALL Steps* |
| Demotion: | ALL Steps* |
| Termination: | ALL Steps* |
| Disciplinary Transfer: | ALL Steps* |
| (In conjunction with Suspension, Demotion or Reduction in Compensation) | |

DO NOT SEND DISCIPLINE PACKAGES
THROUGH INTEROFFICE MAIL TO HUMAN
RESOURCES OR LEGAL.



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: MARCH 20, 2024

TO: Mark Askew, POII, #6986

FROM: [REDACTED] David Nisleit, Chief of Police

SUBJECT: Notice of Suspension and Additional Training

This memo is being hand delivered to advise you that you are being suspended from your position as a Police Officer II for four working days (40 hours) effective MARCH 25, 2024. You will be receiving additional training to be determined by the Department's Training Division on Department Procedure 4.01: Stop/Detention and Pat Down Procedures along with Department Procedure 6.20: Mental Health Procedure. The training shall not exceed ten hours and will be completed on city time.

Prior to making this decision, you were given written notice of the grounds for this action by Captain Takeuchi on March 12, 2024. On March 14, 2024, you verbally waived your appeal rights to include a Skelly Meeting and a Chief's appeal to Captain Takeuchi.

Your suspension and additional training is based on the following:

On June 22, 2023, at 1845 hours, you responded to a 415V radio call involving roommates fighting and someone reportedly swinging a golf club at Pershing Avenue and University Avenue. Upon your arrival [REDACTED] was already detaining a possible suspect [REDACTED]. You walked over and handcuffed [REDACTED] had injuries to his head and right arm and stated that he had been assaulted by his roommate [REDACTED]. You requested medics to evaluate [REDACTED] injuries.

During the detention, medics arrived to treat [REDACTED] for his injuries. It was believed that [REDACTED] was a victim of 245(a)(1) PC (Assault with a Deadly Weapon). You and the other officers on scene were unsure if [REDACTED] was a suspect of 245(a)(1) PC or 594 PC (vandalism) since the other roommate had fled the location.

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Mark Askew, POII, #6986

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[REDACTED] ultimately refused to be transported to the hospital by ambulance. You told [REDACTED] that he did not have a choice in receiving treatment. You told [REDACTED] he would either be going to the hospital by ambulance or in the back of a patrol vehicle. [REDACTED] signed an AMA waiver (Against Medical Advice) and refused medical transport by ambulance. Medics advised you that [REDACTED] had the right to refuse transport. You transported [REDACTED] to the hospital handcuffed.

Upon arriving at the hospital, multiple nurses and staff members stated you were demanding [REDACTED] be placed in an examination room. You also demanded that [REDACTED] be given X-Rays and CT scans. Medical staff heard you say you had transported [REDACTED] to the hospital after [REDACTED] refused medical transport. They also heard you say that if [REDACTED] attempted to walk away, you would place [REDACTED] on a 5150 W&I hold.

Medical staff asked several times if the patient was under arrest or on a 5150 W&I hold. Medical staff overheard you say multiple times that he was not under arrest and not on a 5150 W&I. Medical staff later asked the question again to gain further clarification on why the officers were at the hospital and they heard you say, "He is under arrest now." Based on the subsequent investigation by Internal Affairs Detective Sergeant Doherty, allegations were sustained for an unlawful arrest and conduct unbecoming based on your discourteous and disruptive behavior towards hospital staff.

Therefore, based on the information available to me, I believe a suspension from duty and additional training is appropriate for the following reasons:

You have violated Civil Service Rule XI, Section 3(d) and Section 3 (i) in that you have violated the following lawful or official regulations and engaged in conduct unbecoming an officer.

- a. **SDPD Department Procedure 4.01, IV, C: Stop/Detention and Pat Down Procedure, revised August 27, 2021, states in part:**

C. Detention

A detention, also referred to as a "stop", occurs when officers use their authority to compel a person to halt, to remain in a certain place, or to perform some act, such as walking to a nearby location. Courts have used the terminology "investigative stop" for a detention. A detention is allowed so an officer may have a reasonable amount of time to investigate a person's possible involvement in actual or perceived criminal activity, allowing the officer to make an informed decision whether to arrest, or to release, the subject. If the persons have been told they are not free to leave the officer's presence, a detention has occurred. When conducting a detention, the officer shall notify the subject contacted that he or she is no longer free to leave.

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Mark Askew, POII, #6986

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However, officers are not required to make such a notification if it would hamper an investigation or jeopardize the officer's safety.

1. If an officer reasonably suspects that a person has committed, is committing, or is about to commit any crime, the authority to detain that person exists. Courts have used the terminology "Criminal activity is afoot" to describe these circumstances. The officer may exercise this authority in any place that the officer has the right to be. Both pedestrians and persons in vehicles may be detained. A detention is warranted if there is a reasonable suspicion by the officer that:
 - a. Some activity relating to crime has taken place, is presently taking place, or is about to occur; and,
 - b. The person to be stopped or detained is involved in that activity.

4. Detention vs. Arrest

- a. If not handled properly, a "detention" could become an "arrest" which, if not supported by "probable cause" to arrest, would be illegal.
- b. General Rule: The least intrusive means should be used during a detention.
- c. The following list contains some factors that could cause a detention to turn into an arrest:
 - (1) Numerous officers involved;
 - (2) Display of weapons;
 - (3) Use of handcuffs;
 - (4) Person is placed in back of a patrol car;
 - (5) Encounter is in non-public setting;
 - (6) The officer's authoritative manner and actions imply that compliance is compelled; and,

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Mark Askew, POII, #6986

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- (7) The officer did not advise the detainee of his right to terminate the encounter.

Note: The use of handcuffs or weapons or placing someone in a patrol car do not automatically make the contact an arrest if the actions are seen as reasonably necessary under the circumstances (person attempts to flee, officer safety concerns) and the person is told that they are only being detained, as opposed to arrested.

5. Proper justification for a detention does not permit unreasonable conduct during the detention. All police activity during a detention shall be done in a reasonable manner. The courts, in determining whether the detention was reasonable and lawful, will consider every phase of a detention.

a. Duration of the Detention

A person stopped pursuant to this procedure may be detained for a reasonable amount of time under the circumstances. Officers should detain a person only for the length of time necessary to determine if the person should be arrested or released.

b. Scope of the Detention

A reasonable on-the-scene investigation is all that is authorized by law during a detention. Therefore, an officer shall not move a detainee unless:

- (1) The officer obtains the detainee's consent to be moved;
- (2) The officer has probable cause to arrest the detainee;
- (3) A victim cannot, for valid reasons, be brought to the scene of the detention;
- (4) The movement is for a reasonable distance and facilitates the completion of the investigation (i.e., securing the detainee in a patrol car while completing an investigation); or,
- (5) The movement is for the safety of the officer or the detainee.

c. Explanation to a Detained Person

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Officers shall act with as much restraint and courtesy towards the detained person as is possible under the circumstances.

Plainclothes officers making a detention shall identify themselves as law enforcement officers as soon as it is appropriate. At some point during the detention, the officer should give the detainee an explanation of the purpose of the stop, unless such an explanation would jeopardize officer safety or hamper an investigation.

f. **Tactical Options**

Officers should strive to maintain a position of advantage (POA) and place the subject(s) contacted at a disadvantage whenever possible. Three techniques are: placing a subject on the curb, on the patrol vehicle's push bumper, or in the back seat of a patrol vehicle. While officer safety is of primary concern, curb sitting was not designed to be a standard practice in all situations and officers recognize that community members find this tactic disrespectful.

If a situation justifies having a subject sit on the curb, the subject should be removed from that position once the threat has been mitigated (i.e., additional officers arrive on scene). This technique is only appropriate under circumstances where officer safety is threatened.

On June 22, 2023, at 1845 hours, the detention of [REDACTED] was initially lawful and appropriate given the information you had received while enroute to the radio call. However, the detention quickly became an arrest when you used an authoritative manner to compel compliance from [REDACTED] in order to transport him to a hospital against his will. Using a combination of tactics to include being placed in handcuffs, being placed in the back of a patrol vehicle, being transported away from the scene, as well as [REDACTED] statements of saying he felt like he was being treated like a criminal quickly elevated this detention into an arrest. Additionally, you used threats of placing [REDACTED] on a 5150 W&I in order to compel compliance. In doing so [REDACTED] civil rights were violated causing this arrest to be unlawful.

b. **SDPD Department Policy 9.06: Unbecoming Conduct Policy, revised January 01, 2004, states:**

Officers shall conduct themselves, both on and off duty, in such a manner as to reflect favorably on the Department. Officers shall not conduct themselves in any manner that could bring the Department into disrepute or reflects discredit upon the officer as a member of the Department or impairs the operation and efficiency of the Department or officer.

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Members shall not engage in any conduct that is unbecoming an employee of the Department, nor which impairs the operation of the Department.

SDPD Department Policy 9.20: Courtesy Policy, revised September 30, 2015, states:

Members shall be courteous to all persons. Members shall be tactful in the performance of their duties, shall control their tempers, exercise the utmost patience and discretion, and shall not engage in argumentative discussion even in the face of extreme provocation. Except when necessary to establish control during a violent or dangerous situation, no member shall use coarse, profane or violent language. Members shall not use insolent language or gestures in the performance of his or her duties. Members shall not make derogatory comments about or express any prejudice concerning race, religion, politics, national origin, gender (to include gender identity and gender expression), sexual orientation, or similar personal characteristics.

On June 22, 2023, at 1845 hours, you violated these policies when you were repeatedly discourteous towards hospital staff and made demands on the patients' medical treatment and evaluation which was highly inappropriate given your training, experience, and job classification. Your behavior was deemed to be not only discourteous but disruptive and a distraction to the overall operations of the hospital which affected numerous employees. Your behavior and actions reflected poorly on the San Diego Police Department and is not reflective of the behavior expected from our officers.

In addition, you showed a lack of understanding of laws by falsely arresting [REDACTED] and then by continuing to threaten to place [REDACTED] on a 5150 W&I hold to a point where hospital staff attempted to intervene on behalf of [REDACTED]. Your actions placed the Department in disrepute as your behavior was witnessed by multiple hospital staff members. Your discourteous and poor conduct had the potential to damage the Department's long and established relationship with Scripps Mercy Hospital.

c. **SDPD Department Policy 9.15: Performance of Duty Policy, revised January 26, 2004, states:**

Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by, but is not limited to, a lack of knowledge of the application of laws required to be enforced, an unwillingness or inability to perform assigned tasks, or the failure to conform to work standards established for the member's rank, grade or position.

Officers shall not fail to take appropriate action on the occasion of a crime disorder or other condition deserving police attention or be absent without leave or be unnecessarily absent from their assigned area during a tour of duty.

The following will be considered *prima facie* evidence of unsatisfactory performance for all members: repeated poor performance evaluations or a written record of repeated infractions of the Department's policies, procedures, directives, or orders.

City of San Diego Employee Performance Plan (Rank of POII), states in part:

Makes timely, sound decisions based on available information and experience.

Displays tact, courtesy and good judgment when dealing with:

- citizens;
- co-workers;
- supervisors.

Establishes and maintains rapport and communication with other units/divisions, City departments, other agencies and community-related groups.

Maintains effective, cooperative relationships with personnel at all levels by:

- securing cooperation of others without unnecessary friction;
- willingly helping others;
- working effectively with others in team efforts;
- listening to and attempting to understand the viewpoints of others;
- making constructive efforts to resolve problems in working relationships.

Demonstrates the ability to conduct a thorough criminal investigation by:

- routinely making appropriate attempts to identify and locate witnesses, victims and suspects;
- accurately identifying all elements of the crime;
- conducting thorough interviews and interrogations;
- properly protecting crime scenes; correctly identifying, gathering and processing evidence

On June 22, 2023, at 1845 hours, you violated this policy when you, as described in allegations 1 and 3, detained and took custodial custody of [REDACTED] and obtained his statement which was documented via BWC. You relayed to [REDACTED] and [REDACTED] that [REDACTED] was uncooperative, however BWC contradicts this information. While [REDACTED] was not entirely forthcoming regarding his involvement in the crime, he did provide valid and good statements which should have been recorded by you.

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[REDACTED] statement in conjunction with witness statements provided verification that a felony crime had occurred, and [REDACTED] was the victim of that crime. You, however, became fixated on transporting [REDACTED] to the hospital and passing the investigation off to [REDACTED] instead of evaluating the crime and the facts presented to him. In taking shortcuts, you erroneously relayed that [REDACTED] was uncooperative. [REDACTED] was only argumentative with you when you wrongly told [REDACTED] he had to receive medical treatment and had to be transported to a hospital.

You stated in your interview that you were working extension of shift overtime to assist with backfilling patrol staffing. You stated, [REDACTED] became the case agent because it was late in the shift (1900 hours), and you were working overtime, and [REDACTED] would have been working later than you. You stated you never completed a report because [REDACTED] had "the detainment covered." You acknowledged that you had spoken to [REDACTED] the longest and [REDACTED] stated he never obtained a statement from [REDACTED]. Knowing this information, you should have at a minimum completed an ARJIS-9 for your involvement in this case.

You transported [REDACTED] to the hospital where you failed to display tact, courtesy, or good judgement when dealing with hospital staff. You acknowledged that you were involved in several arguments with staff. Hospital staff discussed how you made them feel uncomfortable and that you were disruptive to the operations occurring at the hospital.

Finally, you showed a lack of knowledge of laws as applied to 5150 W&I, a lack of understanding the application of detention vs. arrest and were wrong in assessing that you could force someone to receive medical treatment when they are cognizant and able to make decisions for themselves. You stated in your interview that you believed you could use 5150 W&I to overrule highly trained medical professionals if you didn't agree with their assessment.

You stated in your interview you felt the medics and the hospital staff were liable for not wanting to transport or treat [REDACTED]. You failed to recognize that by law patients have that right to refuse treatment and transport. The medical waiver which [REDACTED] signed, takes away the liability from the ambulance company. Instead of honoring the patients right to refuse, you unnecessarily took on additional liability when you falsely arrested [REDACTED] and transported him to the hospital after he signed the medical waiver.

Based on the totality of the circumstances, you did not meet the highest standards of efficiency in carrying out the functions and objectives of the Department. You showed a lack of knowledge in laws, showed an unwillingness to perform tasks, and failed to adhere to work standards as specified in the performance plan.

Previous disciplinary actions include:

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Mark Askew, POII, #6986

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[REDACTED]

You are hereby notified that any further instances of misconduct may result in more serious disciplinary action, including termination.

In accordance with Civil Service Rule XI, you have the right to appeal your suspension to the Civil Service Commission. If you wish to make this appeal, it must be done within the five (5) working days after receipt of this notice. Your request for appeal must be in writing and must be delivered to the Personnel Director or his/her designated alternate within the five (5) day appeal period. The Personnel Director's Office is located on the ninth floor of the City Administration Building, 202 "C" Street, San Diego, CA 92101.

A failure to submit said written demand to the Civil Service Commission within five (5) working days after receipt of this Notice shall result in the waiver of your right to appeal and the forfeiture of all your rights to a hearing in the case before the commission.

You also have the right to prepare a written rebuttal and have it placed with this Notice of Suspension in your personnel file. Any rebuttal must be submitted to the Police Human Resources Unit within 30 calendar days of the receipt of this notice.

Effective immediately upon your suspension, you are required to turn in your Department-issued gun, badge, flat badge (if applicable), and your police identification card. At the completion of your suspension, these items will be returned to you. You are reminded that during your suspension, you do NOT have police powers.

[REDACTED]
David Nislein
Chief of Police

This Notice of Suspension and additional training was handed to me in the presence of

[REDACTED] #5093 on 3-20-2024 [REDACTED]

[REDACTED] #5375

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Mark Askew, POII, #6986

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I have been given a full explanation as to my right of appeal and instructions on how to proceed.

Receipt of this memorandum is acknowledged.

[REDACTED] #6986

Mark Askew

03/20/24

Date

[REDACTED] 75893

Witness Signature

03-20-2024

Date

Below is a list of all reports and discipline applicable to this action which were already given or made available to you:

1. Internal Affairs Investigation 2023-0345
2. [REDACTED]



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: MARCH 12, 2024

TO: Mark Askew, POII, #6986

FROM: Shawn Takeuchi, Captain, Mid-City Division

SUBJECT: Advance Notice of Adverse Action – Suspension and Additional Training

This is to notify you that I am recommending to the Chief of Police that you be suspended from your position as a Police Officer II for four (4) working days (40 hours). I am proposing that your suspension be made effective at the earliest convenience of the Department, given your right to appeal my recommendation. I am also recommending you receive additional training to be determined by the Department's Training Division on Department Procedure 4.01: Stop/Detention and Pat Down Procedures along with Department Procedure 6.20: Mental Health Procedure. The training shall not exceed ten hours and will be completed on city time.

This recommendation for your suspension is based on the fact that on June 22, 2023, at 1845 hours, you responded to a 415V radio call involving roommates fighting and someone reportedly swinging a golf club at Pershing Avenue and University Avenue. Upon your arrival [REDACTED] was already detaining a possible suspect [REDACTED]. You walked over and handcuffed [REDACTED] had injuries to his head and right arm and stated that he had been assaulted by his roommate [REDACTED]. You requested medics to evaluate [REDACTED] injuries.

During the detention, medics arrived to treat [REDACTED] for his injuries. It was believed that [REDACTED] was a victim of 245(a)(1) PC (Assault with a Deadly Weapon). You and the other officers on scene were unsure if [REDACTED] was a suspect of 245(a)(1) PC or 594 PC (vandalism) since the other roommate had fled the location.

[REDACTED] ultimately refused to be transported to the hospital by ambulance. You told [REDACTED] that he did not have a choice in receiving treatment. You told [REDACTED] he would either be going to the hospital by ambulance or in the back of a patrol vehicle. [REDACTED] signed an AMA waiver (Against Medical Advice) and refused medical transport by ambulance. Medics advised you that [REDACTED] had the right to refuse transport. You transported [REDACTED] to the hospital handcuffed.

SUSPENSION AND TRAINING

Upon arriving at the hospital, multiple nurses and staff members stated you were demanding [REDACTED] be placed in an examination room. You also demanded that [REDACTED] be given X-Rays and CT scans. Medical staff heard you say you had transported [REDACTED] to the hospital after [REDACTED] refused medical transport. They also heard you say that if [REDACTED] attempted to walk away, you would place [REDACTED] on a 5150 W&I hold.

Medical staff asked several times if the patient was under arrest or on a 5150 W&I hold. Medical staff overheard you say multiple times that he was not under arrest and not on a 5150 W&I. Medical staff later asked the question again to gain further clarification on why the officers were at the hospital and they heard you say, "He is under arrest now." Based on the subsequent investigation, Internal Affairs Detective Sergeant Doherty, sustained the allegations. You were sustained for violating [REDACTED] civil rights with an unlawful arrest. You were also sustained for conduct unbecoming based on your discourteous and disruptive behavior towards hospital staff.

Therefore, based on the information available to me, I believe a suspension from duty is appropriate for the following reasons:

You have violated Civil Service Rule XI, Section 3(d) and Section 3 (i) in that you have violated the following lawful or official regulations and are guilty of conduct unbecoming an officer.

- a. **SDPD Department Procedure 4.01, IV, C: Stop/Detention and Pat Down Procedure, revised August 27, 2021, states in part:**

C. Detention

A detention, also referred to as a "stop", occurs when officers use their authority to compel a person to halt, to remain in a certain place, or to perform some act, such as walking to a nearby location. Courts have used the terminology "investigative stop" for a detention. A detention

is allowed so an officer may have a reasonable amount of time to investigate a person's possible involvement in actual or perceived criminal activity, allowing the officer to make an informed decision whether to arrest, or to release, the subject. If the persons have been told they are not free to leave the officer's presence, a detention has occurred. When conducting a detention, the officer shall notify the subject contacted that he or she is no longer free to leave. However, officers are not required to make such a notification if it would hamper an investigation or jeopardize the officer's safety.

1. If an officer reasonably suspects that a person has committed, is committing, or is about to commit any crime, the authority to detain that person exists. Courts have used the terminology "Criminal activity is afoot" to describe these circumstances. The officer may exercise this authority in any place that the officer has the right to be. Both pedestrians and persons in vehicles may be detained. A detention is warranted if there is a reasonable suspicion by the officer that:
 - a. Some activity relating to crime has taken place, is presently taking place, or is about to occur; and,
 - b. The person to be stopped or detained is involved in that activity.

4. Detention vs. Arrest

- a. If not handled properly, a "detention" could become an "arrest" which, if not supported by "probable cause" to arrest, would be illegal.
- b. General Rule: The least intrusive means should be used during a detention.
- c. The following list contains some factors that could cause a detention to turn into an arrest:
 - (1) Numerous officers involved;
 - (2) Display of weapons;

- (3) Use of handcuffs;
- (4) Person is placed in back of a patrol car;
- (5) Encounter is in non-public setting;
- (6) The officer's authoritative manner and actions imply that compliance is compelled; and,
- (7) The officer did not advise the detainee of his right to terminate the encounter.

Note: The use of handcuffs or weapons or placing someone in a patrol car do not automatically make the contact an arrest if the actions are seen as reasonably necessary under the circumstances (person attempts to flee, officer safety concerns) and the person is told that they are only being detained, as opposed to arrested.

5. Proper justification for a detention does not permit unreasonable conduct during the detention. All police activity during a detention shall be done in a reasonable manner. The courts, in determining whether the detention was reasonable and lawful, will consider every phase of a detention.

a. Duration of the Detention

A person stopped pursuant to this procedure may be detained for a reasonable amount of time under the circumstances. Officers should detain a person only for the length of time necessary to determine if the person should be arrested or released.

b. Scope of the Detention

A reasonable on-the-scene investigation is all that is authorized by law during a detention. Therefore, an officer shall not move a detainee unless:

- (1) The officer obtains the detainee's consent to be moved;
- (2) The officer has probable cause to arrest the detainee;
- (3) A victim cannot, for valid reasons, be brought to the scene of the detention;
- (4) The movement is for a reasonable distance and facilitates the completion of the investigation (i.e., securing the detainee in a patrol car while completing an investigation); or,
- (5) The movement is for the safety of the officer or the detainee.

c. Explanation to a Detained Person

Officers shall act with as much restraint and courtesy towards the detained person as is possible under the circumstances. Plainclothes officers making a detention shall identify themselves as law enforcement officers as soon as it is appropriate. At some point during the detention, the officer should give the detainee an explanation of the purpose of the stop, unless such an explanation would jeopardize officer safety or hamper an investigation.

f. Tactical Options

Officers should strive to maintain a position of advantage (POA) and place the subject(s) contacted at a disadvantage whenever possible. Three techniques are: placing a subject on the curb, on the patrol vehicle's push bumper, or in the back seat of a patrol vehicle. While officer safety is of primary concern, curb sitting was not designed to be a standard practice in all situations and officers recognize that community members find this tactic disrespectful.

If a situation justifies having a subject sit on the curb, the subject should be removed from that position once the threat has been mitigated (i.e., additional officers arrive on scene).

This technique is only appropriate under circumstances where officer safety is threatened.

On June 22, 2023, at 1845 hours, the detention of [REDACTED] was initially lawful and appropriate given the information you had received while enroute to the radio call. However, the detention quickly became an arrest when you used an authoritative manner to compel compliance from [REDACTED] in order to transport him to a hospital against his will. Using a combination of tactics to include being placed in handcuffs, being placed in the back of a patrol vehicle, being transported away from the scene, as well as [REDACTED] statements of saying he felt like he was being treated like a criminal quickly elevated this detention into an arrest. Additionally, you used threats of placing [REDACTED] on a 5150 W&I in order to compel compliance. In doing so [REDACTED] civil rights were violated causing this arrest to be unlawful.

b. **SDPD Department Policy 9.06: Unbecoming Conduct Policy, revised January 01, 2004, states:**

Officers shall conduct themselves, both on and off duty, in such a manner as to reflect favorably on the Department. Officers shall not conduct themselves in any manner that could bring the Department into disrepute or reflects discredit upon the officer as a member of the Department or impairs the operation and efficiency of the Department or officer.

Members shall not engage in any conduct that is unbecoming an employee of the Department, nor which impairs the operation of the Department.

SDPD Department Policy 9.20: Courtesy Policy, revised September 30, 2015, states:

Members shall be courteous to all persons. Members shall be tactful in the performance of their duties, shall control their tempers, exercise the utmost patience and discretion, and shall not engage in argumentative discussion even in the face of extreme provocation. Except when necessary to establish control during a violent or dangerous situation, no member shall use coarse, profane or violent language. Members shall not use insolent language or gestures in the performance of his or her duties. Members shall not make derogatory comments about or express any prejudice concerning race, religion,

politics, national origin, gender (to include gender identity and gender expression), sexual orientation, or similar personal characteristics.

On June 22, 2023, at 1845 hours, you violated these policies when you were repeatedly discourteous towards hospital staff and made demands on the patients' medical treatment and evaluation which was highly inappropriate given your training, experience, and job classification. Your behavior was deemed to be not only discourteous but disruptive and a distraction to the overall operations of the hospital which affected numerous employees. Your behavior and actions reflected poorly on the San Diego Police Department and is not reflective of the behavior expected from our officers.

In addition, you showed a lack of understanding of laws by falsely arresting [REDACTED] and then by continuing to threaten to place [REDACTED] on a 5150 W&I hold to a point where hospital staff attempted to intervene on behalf of [REDACTED]. Your actions placed the Department in disrepute as your behavior was witnessed by multiple hospital staff members. Your discourteous and poor conduct had the potential to damage the Department's long and established relationship with Scripps Mercy Hospital.

c. **SDPD Department Policy 9.15: Performance of Duty Policy, revised January 26, 2004, states:**

Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner that will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by, but is not limited to, a lack of knowledge of the application of laws required to be enforced, an unwillingness or inability to perform assigned tasks, or the failure to conform to work standards established for the member's rank, grade or position.

Officers shall not fail to take appropriate action on the occasion of a crime disorder or other condition deserving police attention or be absent without leave or be unnecessarily absent from their assigned area during a tour of duty.

The following will be considered prima facie evidence of unsatisfactory performance for all members: repeated poor performance evaluations

or a written record of repeated infractions of the Department's policies, procedures, directives, or orders.

City of San Diego Employee Performance Plan (Rank of POII), states in part:

Makes timely, sound decisions based on available information and experience.

Displays tact, courtesy and good judgment when dealing with:

- citizens;
- co-workers;
- supervisors.

Establishes and maintains rapport and communication with other units/divisions, City departments, other agencies and community-related groups.

Maintains effective, cooperative relationships with personnel at all levels by:

- securing cooperation of others without unnecessary friction;
- willingly helping others;
- working effectively with others in team efforts;
- listening to and attempting to understand the viewpoints of others;
- making constructive efforts to resolve problems in working relationships.

Demonstrates the ability to conduct a thorough criminal investigation by:

- routinely making appropriate attempts to identify and locate witnesses, victims and suspects;
- accurately identifying all elements of the crime;
- conducting thorough interviews and interrogations;
- properly protecting crime scenes; correctly identifying, gathering and processing evidence

On June 22, 2023, at 1845 hours, you violated this policy when you, as described in allegations 1 and 3, detained and took custodial custody of [REDACTED] and obtained his statement which was documented via BWC. You relayed to [REDACTED] and [REDACTED] that [REDACTED] was uncooperative, however BWC contradicts this information. While [REDACTED] was not entirely

forthcoming regarding his involvement in the crime, he did provide valid and good statements which should have been recorded by you. [REDACTED] statement in conjunction with witness statements provided verification that a felony crime had occurred, and [REDACTED] was the victim of that crime. You, however, became fixated on transporting [REDACTED] to the hospital and passing the investigation off to [REDACTED] instead of evaluating the crime and the facts presented to him. In taking shortcuts, you erroneously relayed that [REDACTED] was uncooperative. [REDACTED] was only argumentative with you when you wrongly told [REDACTED] he had to receive medical treatment and had to be transported to a hospital.

You stated in your interview that you were working extension of shift overtime to assist with backfilling patrol staffing. You stated, [REDACTED] became the case agent because it was late in the shift (1900 hours), and you were working overtime, and [REDACTED] would have been working later than you. You stated you never completed a report because [REDACTED] had "the detainment covered." You acknowledged that you had spoken to [REDACTED] the longest and [REDACTED] stated he never obtained a statement from [REDACTED]. Knowing this information, you should have at a minimum completed an ARJIS-9 for your involvement in this case.

As described in allegation 3, you transported [REDACTED] to the hospital where you failed to display tact, courtesy, or good judgement when dealing with hospital staff. You acknowledged that you were involved in several arguments with staff. Hospital staff discussed how you made them feel uncomfortable and that you were disruptive to the operations occurring at the hospital.

Finally, you showed a lack of knowledge of laws as applied to 5150 W&I, a lack of understanding the application of detention vs. arrest and were wrong in assessing that you could force someone to receive medical treatment when they are cognizant and able to make decisions for themselves. You stated in your interview that you believed you could use 5150 W&I to overrule highly trained medical professionals if you didn't agree with their assessment.

You stated in your interview you felt the medics and the hospital staff were liable for not wanting to transport or treat [REDACTED]. You failed to recognize that by law patients have that right to refuse treatment and transport. The medical waiver which [REDACTED] signed, takes away the liability from the ambulance company. Instead of honoring the patients right to refuse, you

unnecessarily took on additional liability when you falsely arrested [REDACTED] and transported him to the hospital after he signed the medical waiver.

Based on the totality of the circumstances, you did not meet the highest standards of efficiency in carrying out the functions and objectives of the department. You showed a lack of knowledge in laws, showed an unwillingness to perform tasks, and failed to adhere to work standards as specified in the performance plan.

Previous disciplinary actions include:

[REDACTED]

Before any action is taken on this recommendation to suspend you from duty, you have the opportunity to respond and to present any information you wish as to why this action should not take place. You have the right to be represented and may respond either orally or in writing to me by 3-26-2024. A failure to respond will be deemed a waiver of your opportunity to respond.

Attached are copies of all reports and discipline applicable to this action. These reports are listed below.

1. Internal Affairs Investigation 2023-0345

[REDACTED]

Shawn Takeuchi
Captain

This Advance Notice of Adverse Action was handed to me in the presence of [REDACTED] #5093 on 3-12-2024. I have been given a full explanation as to my right of appeal and instructions on how to proceed.

Receipt of this memorandum is acknowledged.

[REDACTED]

#6986

Mark Askew

03/12/24

Date

[REDACTED]
Witness Signature

5093

3-12-24

Date





THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: March 20, 2024

TO: Shawn Takeuchi, Captain, Mid-City Division [REDACTED]

FROM: Mark Askew ID #6986, Police Officer II, Mid-City Division

SUBJECT: Waiver of Skelly Meeting and Appeal Rights

By my signature below, I hereby confirm that I knowingly and voluntarily waive my right to a Skelly hearing and any other appeal that may arise from the Advance Notice of Suspension and Additional Training which was served to me on March 12, 2024.

This Skelly Meeting and Appeal Rights waiver was witnessed by

[REDACTED] #5093 on
3-20-2024

[REDACTED] #6986
Mark Askew ID #6986

3/20/24

Date

[REDACTED] #5093
Witness Signature

03-20-24

Date

Takeuchi, Shawn

From: Askew, Mark
Sent: Thursday, March 14, 2024 2:03 PM
To: Takeuchi, Shawn
Subject: Re: Discipline

Sir,

I am accepting the discipline and waiving my right to appeal in order to expedite the process and get back to "full duty" as soon as possible and move past this.

Thank you

Mark Askew

From: Takeuchi, Shawn <[REDACTED]>
Sent: Thursday, March 14, 2024 1:57 PM
To: Askew, Mark <[REDACTED]>
Cc: Turner, Todd <[REDACTED]>
Subject: Discipline

Mark-

I wanted to write this email so that you and I have clear understanding of the conversation we had today at 0930 hours.

I understand you are accepting the discipline that I recommended and notified you about on March 12, 2024. You agree to the four day (40 hour) suspension along with training to be determined by the Training Division on procedure 4.01 and 6.20. The training will not exceed 10 hours and will be completed on city time.

I also understand that you are waiving your right to a Skelly Hearing along with the Chief's Appeal.

I have processed the necessary paperwork and will be heading to headquarters today. I have requested an expedited review so that you can serve your suspension starting on March 25, 2024 through March 28, 2024. I cannot guarantee the paperwork will be completed by then however I will do what I can and will not allow unnecessary delays.

Please respond to this email letting me know if the facts above correctly summarizes our conversation.

Shawn Takeuchi



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: January 11, 2024

TO: Christopher Knighten, Captain, Mid-City Division

FROM: Jack R. Pearson Name, Title, Division

SUBJECT: Supervisor's Pre-Disciplinary Review

-
1. There is an IA Investigation. [X] [N]
If yes, see attached.
I reviewed IA # 2023-0345 [Y] [N]
2. There is an EEO Investigation. [Y] [X]
If yes, see attached.
I reviewed EEO # _____ [Y] [N]
3. I reviewed the officer's personnel files (HR and Divisional). [X] [N]
4. There is prior similar discipline. [Y] [X]

I recommend appropriate discipline.

Jack R. Pearson
Lieutenant

Attachments: IA Report #2023-0345



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: March 21, 2024

TO: [REDACTED] Payroll Supervisor

FROM: Shawn Takeuchi, Captain, Mid-City Division [REDACTED]

SUBJECT: Notice of Suspension – Officer Mark Askew, ID #6986, City ID #
301472

Officer Mark Askew, ID #6986, City ID # 301472, is suspended without pay for four (4) working days (40 hours) effective March 25, 2024. Officer Mark Askew is assigned to Mid-City Division.

[REDACTED]
Shawn Takeuchi
Captain

