

**SAN DIEGO POLICE DEPARTMENT**  
**SWORN EMPLOYEE DISCIPLINARY PACKAGE CHECKLIST**

**DATE OF INCIDENT (when SDPD became aware of incident):** 08/20/2023**WRITTEN ADVANCE NOTICE MUST BE GIVEN WITHIN ONE YEAR OF THE INCIDENT DATE OR DISCOVERY OF INCIDENT:** EEO 2023-009

1. Prepared by: [Redacted] 5257 3/14/24  
Signature, ID # and Date Prepared
  2. Concurrence of 2nd Level: [Redacted] 03/14/24  
Signature, ID # and Date Forwarded to C.O.
  3. [Redacted] Officer: 51 03/14/24  
Signature, ID # and Date Approved
  4. Human Resources: [Redacted] 3/15/2024  
Signature & Date Reviewed  
Date Forwarded to Legal: 3/15/2024
  5. [Redacted] 6/3/2024  
Signature & Date Approved
  6. Date Returned to C.O.: 6/3/2024
  7. Advance Notice of Adverse Action: [Redacted]  
Date Served: 4/2/24
  8. Results of Skelly Meeting and Notice of Departmental Appeal Rights:  
Date Served: WAIVED
  9. [Redacted] Assistant Chief: 05/22/24  
Signature & Date Approved  
Modification, if any, from Advance Notice:  
N/A
  10. Appeal Filed: Y N  
Date Filed: N/A
  11. Department Appeal Results:  
Date of Hearing: N/A  
Findings: WAIVED
  12. Review of Final Notice:  
Human Resources: 5/23/24  
Signature & Date Reviewed
  13. Review of Final Notice:  
Legal Advisor: [Redacted] 5/30/24  
Signature & Date Reviewed
  14. Final Notice Approved by Executive Assistant Chief:  
[Redacted] 5369 6/3/24  
Signature & Date Approved
  15. Final Notice Signed by Chief of Police:  
[Redacted] 6/3/24  
Signature & Date Signed
  16. Final Notice – Date Served: 6/4/24 [Redacted]  
(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 14, 2024  
TO: David Nisleit, Chief of Police  
FROM: Manny Del Toro, Captain, Northwestern Division  
SUBJECT: Supervisor's Pre-Disciplinary Review

---

1. **There is an IA Investigation.** [ Y ]  
If yes, see attached.  
I reviewed IA # EEO 2023-09 [ Y ]
2. **There is an EEO Investigation.** [ Y ]  
If yes, see attached.  
I reviewed EEO # 2023-009 [ Y ]
3. **I reviewed the officer's personnel files (HR and Divisional).** [ Y ]

[REDACTED] [REDACTED]  
I recommend appropriate discipline.  
[REDACTED]

Manny Del Toro  
Captain

Attachments: See Advance Notice of Suspension and Disciplinary Transfer for Sgt. David Ramirez



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: April 02, 2024

TO: David Ramirez, Sergeant, ID #6702

FROM: Manny Del Toro, Captain, Northwestern Division

SUBJECT: Advance Notice of Adverse Action – **Suspension and Disciplinary Transfer**

---

This is to notify you that I am recommending to the Chief of Police that you be suspended from your position as a Police Sergeant for one (1) working day (10 hours). In addition to your suspension, a disciplinary transfer is recommended in the interest of the department. I am proposing that your suspension and disciplinary transfer be made effective at the earliest convenience of the Department, given your right to appeal my recommendation.

This recommendation for your suspension and disciplinary transfer is based on the fact that on August 20, 2023, at about 3:45 pm, you sent an Instagram message to a group chat that consisted of you, Officer [REDACTED] and Officer [REDACTED]. The Instagram message you sent had a video meme of an elephant with a large penis with the caption that read "Sometimes you get more than you originally wanted," followed by a laughing emoji. Officer [REDACTED] was offended by the message due to its penis reference. Officer [REDACTED] interpreted the meme to be some sort of sexual message from you. [REDACTED]

During your Internal Affairs interview on September 20, 2023, with Det. Sgt. Nielsen (#2023-009), you were asked, "Did you think it was funny?" to which you replied, "I was shocked. It was more of like an impactful thing." Moreover, you indicated that you understood the focal point of the video, and what the caption overlaying the video was referencing, was the elephant's penis. Further, you stated you did not see the video as a joke, despite the "laughing out loud" emoji at the end of the caption. You chose to share the video because you were impacted by the video being an elephant with its penis erect.

There is no dispute that you sent the video, which was received by Officer [REDACTED] since Officer [REDACTED] was part of the group thread in which the video was sent. The message was unwelcomed by Officer [REDACTED] who at that point in time was only receiving work-related communications from you. Officer [REDACTED] who was at work at the time, was offended by the sexual nature of the video and reported the incident to his command. Based on the totality of the circumstances, and regardless of whether Officer [REDACTED] was an intended recipient of the video message, it was reasonable for Officer [REDACTED] upon seeing the video to believe he experienced sexual harassment.

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

You have violated Civil Service Rule XI, Section 3(d), in that you have violated the following lawful or official regulations:

- a. Department Policy 5.03 – Equal Employment Policy (updated 3/10/2022), which states in part:

*Members shall be permitted a work atmosphere free from discrimination and sexual harassment. Members shall not discriminate against, nor sexually harass other members. It shall be the responsibility of all supervisors to assure a non-discriminatory work environment. (Refer to Department Procedure 5.03.)*

You violated this policy when you sent the Instagram message or a video meme of an elephant with a large penis with the caption that read, “sometimes you get more than you originally wanted” with a laughing emoji to the chat group which Officer [REDACTED] was part of the group thread. The message was unwelcomed by Officer [REDACTED] who at that point in time was only receiving work-related communications from you, as a supervisor. Officer [REDACTED] who was at work at the time, was offended by the sexual nature of the video content.

- b. Department Procedure 5.03 – Equal Employment Opportunity (updated 9/02/2021), which states in part:

V. POLICY STATEMENT

- A. *Members shall be permitted a work atmosphere free from discrimination and harassment of any form. Members shall not discriminate against, nor harass other members. It shall be the responsibility of all supervisors to ensure a nondiscriminatory work environment exists.*

- 4. *Federal and state law makes it illegal to discriminate on the basis of race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition (history of cancer), pregnancy, disability, transgender status, or sexual orientation. The Department’s EEO policy builds upon this foundation and extends to every employee our commitment to provide a workplace that is consistent with the law and actively supports and implements behavior that reflects our Vision, Values and Mission Statement.*

## VI. DISCRIMINATION AND HARASSMENT

### A. Equal Treatment

*All employees shall be treated equally without regard to race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition (history of cancer), pregnancy, disability, transgender status, or sexual orientation in all employment matters, including, but not limited to, promotions, transfers, job rotation, training, work assignments, hiring, merit increases, overtime, awards, and discipline.*

### B. Harassment-free Work Environment

- 1. All employees shall be provided a work environment free from harassment. Behavior constitutes harassment, as defined by this policy, when it is unwelcome and unsolicited, offends or otherwise causes distress, and is undertaken because of a person's race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition, disability, pregnancy, transgender status or sexual orientation. Examples include the use of derogatory comments, slurs, jokes, or derogatory pictures, cartoons, or posters.*
- 2. The City of San Diego and the Police Department have a 100% Response Policy regarding harassment. The Department prohibits any harassment of employees, as defined above, and actively responds to all allegations of violations of this procedure. Such inappropriate conduct may be in violation of this policy and result in discipline the first time such behavior occurs. Prior incidents of harassment can be considered when assessing the facts and circumstances of a later complaint.*
- 3. Whether an alleged action constitutes harassment, as defined above, will be determined on a case-by-case basis by assessing the entire record and the totality of the circumstances. Factors, such as the nature of the behavior and the context in which the alleged incidents occurred, will be considered in assessing the allegations and in determining the appropriate resolution.*

### C. Impact vs. Intent

- 1. Whether or not harassment occurred depends not on whether the act was intended to cause harm, but the impact of the act on the individual's employment or work environment. For example, a person who teases in a sexual or racial manner, or tells sexual or racial jokes, may create an offensive work environment for another worker even though the person intended such action merely to be "good fun." This applies to the field, as well as office positions. If one's behavior is harassing to an individual or a group of individuals, it will not suffice that the harasser failed to recognize the behavior as harassing.*
- 2. It is not a requirement that the complainant be the intended target of the offensive conduct. Witnessing offensive behavior between other employees may be grounds for complaint.*



*D. Sexual Harassment*

- 1. Sexual harassment is a form of illegal gender discrimination. It is defined by law as unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature when:*
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;*
  - b. Submission to, or rejection of, such conduct is used as the basis for employment decisions affecting that employee; or,*
  - c. Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.*
- 2. Unwelcome is used in the sense that the offended employee did not solicit or incite the conduct and regarded it as undesirable or offensive.*
- 3. The following are examples of sexual harassment. Behavior that constitutes sexual harassment as defined by this policy is not limited to these examples:*
  - a. Verbal harassment – sexual innuendo, sexually suggestive comments, jokes, teasing of a sexual nature, discussing sexual exploits, spreading rumors of a sexual connotation, or continued requests for social or sexual contact.*
  - b. Physical harassment – unwelcome contact, touching, or impeding movement.*
  - c. Visual harassment – sexually suggestive or derogatory posters, videos, cartoons, drawings, documents, writings, electronic mail, texting, staring, or leering.*
  - d. Sexual favors – unwanted sexual advances or conditioning an employment benefit on an exchange of sexual favors.*

You violated this procedure when you sent the Instagram message or a video meme of an elephant with a large penis with the caption that read, “sometimes you get more than you originally wanted” with a laughing emoji to the chat group which Officer [REDACTED] was part of the group thread. Officer [REDACTED] stated he was at work and on duty when he received the video meme from you. Officer [REDACTED] said he was “in shock” when he first viewed the video and saw it as being “sexual in nature.” Officer [REDACTED] said he took the message “sexually” and interpreted it to mean that you were going to engage Officer [REDACTED] in a sex act.

Based on the totality of the circumstances, and regardless of whether Officer [REDACTED] was an intended recipient of the video message, it was reasonable for Officer [REDACTED] upon seeing the video to believe he experienced sexual harassment.

Advance Notice of Adverse Action – Suspension and Disciplinary Transfer

David Ramirez, Sergeant, ID #6702

Page 5

[REDACTED]

Before any action is taken on this recommendation to suspend you from duty and impose a disciplinary transfer, 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 4/16/24 (10 days from service). 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.

[REDACTED]

Manny Del Toro  
Captain

This Advance Notice of Adverse Action was handed to me in the presence of

LT. DEANA DE LOS REYES on APRIL 2, 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] DAVID A. RAMIREZ 4/2/24  
d A. Ramirez Date

[REDACTED] 04-02-24  
Witness Signature Date

Attachment documents

1. Internal Affairs Internal Investigation EEO 2023-009.







THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: April 8, 2024  
TO: David Ramirez, Sergeant, ID #6702  
FROM: David Nisleit, Chief of Police  
SUBJECT: Notice of Suspension

---

This memo is being hand delivered to advise you that you are being suspended from your employment with the City of San Diego for the period of (1) working day~~s~~ (10-hours) effective April 12, 2024.

Prior to making this decision, you were given written notice of the grounds for this action by Manny Del Toro, Captain on April 2, 2024. You were further given an opportunity to respond to these charges.

On April 8, 2024, you notified Captain Del Toro that you waived your opportunity to respond to these charges.

Additionally, you were given an opportunity for a Chief's Appeal. On April 8, 2024, you notified Captain Del Toro that you waived your right to the appeal.

Your suspension is based on the following:

On August 20, 2023, at about 3:45 pm, you sent an Instagram message to a group chat that consisted of you, Officer [REDACTED] and Officer [REDACTED]. The Instagram message you sent had a video meme of an elephant with a large penis with the caption that read "Sometimes you get more than you originally wanted," followed by a laughing emoji. Officer [REDACTED] was offended by the message due to its penis reference. Officer [REDACTED] interpreted the meme to be some sort of sexual message from you. [REDACTED]

During your Internal Affairs interview on September 20, 2023, with Det. Sgt. Nielsen (#2023-009), you were asked, "Did you think it was funny?" to which you replied, "I was shocked. It was more of like an impactful thing." Moreover, you indicated that you understood the focal point of the video, and what the caption overlaying the video was referencing, was the elephant's penis. Further, you stated you did not see the video as a joke, despite the "laughing out loud" emoji at the end of the caption. You chose to share the video because you were impacted by the video being an elephant with its penis erect. There is no dispute that you sent the video, which was received by Officer [REDACTED] since

Officer [REDACTED] was part of the group thread in which the video was sent. The message was unwelcomed by Officer [REDACTED] who at that point in time was only receiving work-related communications from you. Officer [REDACTED] who was at work at the time, was offended by the sexual nature of the video and reported the incident to his command. Based on the totality of the circumstances, and regardless of whether Officer [REDACTED] was an intended recipient of the video message, it was reasonable for Officer [REDACTED] upon seeing the video to believe he experienced sexual harassment.

You have violated Civil Service Rule XI, Section 3(d), in that you have violated the following lawful or official regulations:

- a. Department Policy 5.03 – Equal Employment Policy (updated 3/10/2022), which states in part:

*Members shall be permitted a work atmosphere free from discrimination and sexual harassment. Members shall not discriminate against, nor sexually harass other members. It shall be the responsibility of all supervisors to assure a non-discriminatory work environment. (Refer to Department Procedure 5.03.)*

You violated this policy when you sent the Instagram message or a video meme of an elephant with a large penis with the caption that read, “sometimes you get more than you originally wanted” with a laughing emoji to the chat group which Officer [REDACTED] was part of the group thread. The message was unwelcomed by Officer [REDACTED] who at that point in time was only receiving work-related communications from you, as a supervisor. Officer [REDACTED] who was at work at the time, was offended by the sexual nature of the video content.

- b. Department Procedure 5.03 – Equal Employment Opportunity (updated 9/02/2021), which states in part:

V. POLICY STATEMENT

- A. *Members shall be permitted a work atmosphere free from discrimination and harassment of any form. Members shall not discriminate against, nor harass other members. It shall be the responsibility of all supervisors to ensure a nondiscriminatory work environment exists.*

4. *Federal and state law makes it illegal to discriminate on the basis of race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition (history of cancer), pregnancy, disability, transgender status, or sexual orientation. The Department’s EEO policy builds upon this foundation and extends to every employee our commitment to provide a workplace that is consistent with the law and actively supports and implements behavior that reflects our Vision, Values and Mission Statement.*

VI. DISCRIMINATION AND HARASSMENT

A. Equal Treatment

*All employees shall be treated equally without regard to race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition (history of cancer), pregnancy, disability, transgender status, or sexual orientation in all employment matters, including, but not limited to, promotions, transfers, job rotation, training, work assignments, hiring, merit increases, overtime, awards, and discipline.*

B. Harassment-free Work Environment

- 1. All employees shall be provided a work environment free from harassment. Behavior constitutes harassment, as defined by this policy, when it is unwelcome and unsolicited, offends or otherwise causes distress, and is undertaken because of a person's race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition, disability, pregnancy, transgender status or sexual orientation. Examples include the use of derogatory comments, slurs, jokes, or derogatory pictures, cartoons, or posters.*
- 2. The City of San Diego and the Police Department have a 100% Response Policy regarding harassment. The Department prohibits any harassment of employees, as defined above, and actively responds to all allegations of violations of this procedure. Such inappropriate conduct may be in violation of this policy and result in discipline the first time such behavior occurs. Prior incidents of harassment can be considered when assessing the facts and circumstances of a later complaint.*
- 3. Whether an alleged action constitutes harassment, as defined above, will be determined on a case-by-case basis by assessing the entire record and the totality of the circumstances. Factors, such as the nature of the behavior and the context in which the alleged incidents occurred, will be considered in assessing the allegations and in determining the appropriate resolution.*

C. Impact vs. Intent

- 1. Whether or not harassment occurred depends not on whether the act was intended to cause harm, but the impact of the act on the individual's employment or work environment. For example, a person who teases in a sexual or racial manner, or tells sexual or racial jokes, may create an offensive work environment for another worker even though the person intended such action merely to be "good fun." This applies to the field, as well as office positions. If one's behavior is harassing to an individual or a group of individuals, it will not suffice that the harasser failed to recognize the behavior as harassing.*
- 2. It is not a requirement that the complainant be the intended target of the offensive conduct. Witnessing offensive behavior between other employees may be grounds for complaint.*

*D. Sexual Harassment*

- 1. Sexual harassment is a form of illegal gender discrimination. It is defined by law as unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature when:*
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;*
  - b. Submission to, or rejection of, such conduct is used as the basis for employment decisions affecting that employee; or,*
  - c. Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.*
- 2. Unwelcome is used in the sense that the offended employee did not solicit or incite the conduct and regarded it as undesirable or offensive.*
- 3. The following are examples of sexual harassment. Behavior that constitutes sexual harassment as defined by this policy is not limited to these examples:*
  - a. Verbal harassment – sexual innuendo, sexually suggestive comments, jokes, teasing of a sexual nature, discussing sexual exploits, spreading rumors of a sexual connotation, or continued requests for social or sexual contact.*
  - b. Physical harassment – unwelcome contact, touching, or impeding movement.*
  - c. Visual harassment – sexually suggestive or derogatory posters, videos, cartoons, drawings, documents, writings, electronic mail, texting, staring, or leering.*
  - d. Sexual favors – unwanted sexual advances or conditioning an employment benefit on an exchange of sexual favors.*

[REDACTED]

[REDACTED]

You are hereby notified that any further instances of misconduct or poor performance 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 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.**

David Nisleit  
Chief of Police

This Notice of Suspension was handed to me in the presence of

PAUL YANG, LT on APRIL 8, 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.

 DAVID RAMIREZ  
David Ramirez #6702

4/8/24  
Date

 \_\_\_\_\_  
Signature

4/8/24  
Date

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

1. Internal Affairs Internal Investigation EEO 2023-009.







THE CITY OF SAN DIEGO

MEMORANDUM

DATE: April 8, 2024

TO: Manny Del Toro, Captain, Northwestern Division

FROM: David Ramirez, Sergeant, ID #6702

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 (1) day suspension and disciplinary transfer on April 2, 2024.

This Skelly Meeting and Appeal Rights waiver was witnessed by:

[REDACTED] on APRIL 8, 2024

[REDACTED] DAVID RAMIREZ 4/8/24  
[REDACTED] rez #6702 Date

[REDACTED] 4/8/24  
[REDACTED] Date



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: June 4, 2024  
TO: David Ramirez, Sergeant, ID #6702  
FROM: [REDACTED] David Nisleit, Chief of Police  
SUBJECT: Notice of Suspension and Disciplinary Transfer- ADDENDUM

---

This memo is being hand delivered to advise you that you are being suspended from your employment with the City of San Diego for the period of (1) working day (10-hours) and transfer to Eastern Division effective April 12, 2024.

Prior to making this decision, you were given written notice of the grounds for this action by Manny Del Toro, Captain on April 2, 2024. You were further given an opportunity to respond to these charges.

On April 8, 2024, you notified Captain Del Toro that you waived your opportunity to respond to these charges.

Additionally, you were given an opportunity for a Chief's Appeal. On April 8, 2024, you notified Captain Del Toro that you waived your right to the appeal.

Your suspension and disciplinary transfer is based on the following:

On August 20, 2023, at about 3:45 pm, you sent an Instagram message to a group chat that consisted of you, Officer [REDACTED] and Officer [REDACTED]. The Instagram message you sent had a video meme of an elephant with a large penis with the caption that read "Sometimes you get more than you originally wanted," followed by a laughing emoji. Officer [REDACTED] was offended by the message due to its penis reference. Officer [REDACTED] interpreted the meme to be some sort of sexual message from you. [REDACTED]

During your Internal Affairs interview on September 20, 2023, with Det. Sgt. Nielsen (#2023-009), you were asked, "Did you think it was funny?" to which you replied, "I was shocked. It was more of like an impactful thing." Moreover, you indicated that you understood the focal point of the video, and what the caption overlaying the video was referencing, was the elephant's penis. Further, you stated you did not see the video as a joke, despite the "laughing out loud" emoji at the end of the caption. You chose to share the video because you were impacted by the video being an elephant with its penis erect. There is no dispute that you sent the video, which was received by Officer [REDACTED] since

Officer [REDACTED] was part of the group thread in which the video was sent. The message was unwelcomed by Officer [REDACTED] who at that point in time was only receiving work-related communications from you. Officer [REDACTED] who was at work at the time, was offended by the sexual nature of the video and reported the incident to his command. Based on the totality of the circumstances, and regardless of whether Officer [REDACTED] was an intended recipient of the video message, it was reasonable for Officer [REDACTED] upon seeing the video to believe he experienced sexual harassment.

You have violated Civil Service Rule XI, Section 3(d), in that you have violated the following lawful or official regulations:

- a. Department Policy 5.03 – Equal Employment Policy (updated 3/10/2022), which states in part:

*Members shall be permitted a work atmosphere free from discrimination and sexual harassment. Members shall not discriminate against, nor sexually harass other members. It shall be the responsibility of all supervisors to assure a non-discriminatory work environment. (Refer to Department Procedure 5.03.)*

You violated this policy when you sent the Instagram message or a video meme of an elephant with a large penis with the caption that read, "sometimes you get more than you originally wanted" with a laughing emoji to the chat group which Officer [REDACTED] was part of the group thread. The message was unwelcomed by Officer [REDACTED] who at that point in time was only receiving work-related communications from you, as a supervisor. Officer [REDACTED] who was at work at the time, was offended by the sexual nature of the video content.

- b. Department Procedure 5.03 – Equal Employment Opportunity (updated 9/02/2021), which states in part:

V. POLICY STATEMENT

- A. *Members shall be permitted a work atmosphere free from discrimination and harassment of any form. Members shall not discriminate against, nor harass other members. It shall be the responsibility of all supervisors to ensure a nondiscriminatory work environment exists.*

4. *Federal and state law makes it illegal to discriminate on the basis of race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition (history of cancer), pregnancy, disability, transgender status, or sexual orientation. The Department's EEO policy builds upon this foundation and extends to every employee our commitment to provide a workplace that is consistent with the law and actively supports and implements behavior that reflects our Vision, Values and Mission Statement.*

VI. DISCRIMINATION AND HARASSMENT

A. Equal Treatment

*All employees shall be treated equally without regard to race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition (history of cancer), pregnancy, disability, transgender status, or sexual orientation in all employment matters, including, but not limited to, promotions, transfers, job rotation, training, work assignments, hiring, merit increases, overtime, awards, and discipline.*

B. Harassment-free Work Environment

- 1. All employees shall be provided a work environment free from harassment. Behavior constitutes harassment, as defined by this policy, when it is unwelcome and unsolicited, offends or otherwise causes distress, and is undertaken because of a person's race, color, gender, creed, religion, national origin, age, marital status, ancestry, medical condition, disability, pregnancy, transgender status or sexual orientation. Examples include the use of derogatory comments, slurs, jokes, or derogatory pictures, cartoons, or posters.*
- 2. The City of San Diego and the Police Department have a 100% Response Policy regarding harassment. The Department prohibits any harassment of employees, as defined above, and actively responds to all allegations of violations of this procedure. Such inappropriate conduct may be in violation of this policy and result in discipline the first time such behavior occurs. Prior incidents of harassment can be considered when assessing the facts \_\_\_\_\_ and circumstances of a later complaint.*
- 3. Whether an alleged action constitutes harassment, as defined above, will be determined on a case-by-case basis by assessing the entire record and the totality of the circumstances. Factors, such as the nature of the behavior and the context in which the alleged incidents occurred, will be considered in assessing the allegations and in determining the appropriate resolution.*

C. Impact vs. Intent

- 1. Whether or not harassment occurred depends not on whether the act was intended to cause harm, but the impact of the act on the individual's employment or work environment. For example, a person who teases in a sexual or racial manner, or tells sexual or racial jokes, may create an offensive work environment for another worker even though the person intended such action merely to be "good fun." This applies to the field, as well as office positions. If one's behavior is harassing to an individual or a group of individuals, it will not suffice that the harasser failed to recognize the behavior as harassing.*
- 2. It is not a requirement that the complainant be the intended target of the offensive conduct. Witnessing offensive behavior between other employees may be grounds for complaint.*

*D. Sexual Harassment*

- 1. Sexual harassment is a form of illegal gender discrimination. It is defined by law as unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature when:*
  - a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;*
  - b. Submission to, or rejection of, such conduct is used as the basis for employment decisions affecting that employee; or,*
  - c. Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.*
- 2. Unwelcome is used in the sense that the offended employee did not solicit or incite the conduct and regarded it as undesirable or offensive.*
- 3. The following are examples of sexual harassment. Behavior that constitutes sexual harassment as defined by this policy is not limited to these examples:*
  - a. Verbal harassment - sexual innuendo, sexually suggestive comments, jokes, teasing of a sexual nature, discussing sexual exploits, spreading rumors of a sexual connotation, or continued requests for social or sexual contact.*
  - b. Physical harassment - unwelcome contact, touching, or impeding movement.*
  - c. Visual harassment - sexually suggestive or derogatory posters, videos, cartoons, drawings, documents, writings, electronic mail, texting, staring, or leering.*
  - d. Sexual favors - unwanted sexual advances or conditioning an employment benefit on an exchange of sexual favors.*

[REDACTED]

[REDACTED]

You are hereby notified that any further instances of misconduct or poor performance 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 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.**

  
David Ramirez  
Chief of Police


This Notice of Suspension was handed to me in the presence of

PAUL YANG, LT on APRIL 8, 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.

 DAVID RAMIREZ  
David Ramirez #6702

6/4/24  
Date

  
4/8/2024  
Date



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

1. Internal Affairs Internal Investigation EEO 2023-009.

