

SAN DIEGO POLICE DEPARTMENT
SWORN EMPLOYEE DISCIPLINARY PACKAGE CHECKLIST

DATE OF INCIDENT (when SDPD became aware of incident): 05/13/2023

THE REPRIMAND MUST BE SERVED WITHIN ONE YEAR OF THE INCIDENT DATE OR DISCOVERY OF INCIDENT: 5/13/24

1. Prepared by:

[REDACTED] #6738, 04/17/24

Signature, ID # and Date Prepared

2. Concurrence of 2nd Level:

[REDACTED] Signature, ID # and Date Forwarded to C.O.

3. Approved by Commanding Officer:

[REDACTED] #5375 4-17-24

Signature, ID # and Date Approved

4. Human Resources:

Date Package Received: 4/18/2024

[REDACTED] 9/22/24

Signature & Date Reviewed

9/22/2024 Date Forwarded to Legal:

- 5.

[REDACTED] 7/25/24

Signature & Date Reviewed

6. Date Returned to C.O.: 4/26/24

7. Reprimand – Date Served: 4-30-2024

8. Appeal Filed: Y N

VERBALLY WAIVED APPEAL
WITNESSED BY LT. CABASAL

Date Filed: _____

9. Appeal Results:

Date of Hearing: _____

Findings: _____

(Hand-carry discipline package to HR immediately.)

DISCIPLINE PACKAGE ROUTING:

Reprimand: ALL Steps*

Disciplinary Transfer: ALL Steps*

(In conjunction with Reprimand)

**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: April 4, 2024

TO: Shawn Takeuchi, Captain, Mid-City Division

FROM: Luis Carbajal, Lieutenant, Mid-City Division

SUBJECT: Supervisor's Pre-Disciplinary Review

1. There is an IA Investigation. [Y] [N]

If yes, see attached.

I reviewed IA # 2023-0225

[Y] [N]

2. There is an EEO Investigation. [Y] [N]

If yes, see attached.

I reviewed EEO # _____

[Y] [N]

3. I reviewed the officer's personnel files (HR and Divisional). [Y] [N]

4. There is prior similar discipline. [Y] [N]

I recommend appropriate discipline.

#6778

Luis Carbajal
Lieutenant

Attachments: IA Report # 2023-0225



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: APRIL 30, 2024

TO: Adrian Caballero, POII, #7918
FROM: Shawn Takeuchi, Captain, Mid-City Division
SUBJECT: Notice of Reprimand and Additional Training

This memorandum is being hand delivered to you to advise you of a disciplinary reprimand. You will be receiving additional training to be determined by the Department's Training Division on Department Procedure on general search and seizure laws with a focus on pat-downs. The training shall not exceed four hours and will be completed on city time.

On May 13, 2023, around 2035 hours, you and Officer [REDACTED] stopped [REDACTED] in the west alley of 4100 36th Street for window tint. [REDACTED] passenger was [REDACTED]. Officer [REDACTED] contacted [REDACTED] at his driver's door. You contacted [REDACTED] at her passenger's door.

You had [REDACTED] and [REDACTED] exit the vehicle to perform a vehicle pat-down. You conducted the vehicle pat-down while Officer [REDACTED] conducted the records checks. You stated your legal basis for the vehicle pat-down was solely based on [REDACTED] delay to pull over. [REDACTED] delay was traveling 0.1 miles in 47 seconds. This delay in pulling over is not unreasonable, nor is it unusual. Drivers often delay pulling over out of a variety of reasons to include inattentiveness, fear of stopping in a dark area, and indecisiveness due to being unsure of what to do.

Additionally, you repeatedly demonstrated your lack of understanding of the scope of a vehicle pat-down. The scope of a vehicle pat-down is limited to weapons. The places searched is limited to locations where weapons could be stored and accessible to the vehicle's occupants. You said at the search location, and multiple times in your interview, that you were searching for drugs and weapons. You also said you were looking for any small baggies that might have been concealed between the bills you removed from the center console, a location that could not have concealed a weapon. By searching for drugs between the bills, you exceeded the scope of a vehicle pat-down.

Further, you patted down [REDACTED] purse from the outside. You then unzipped the purse to examine the contents. You stated in your interview that you opened the purse because the items inside prevented you from feeling if there was a weapon inside the purse. However, your BWC video shows that the purse was mostly empty, only containing some small items. It is highly unlikely that the contents of the purse could have made it difficult to determine whether something the size and weight of a weapon was inside the purse. You further exceeded the scope of the search when you removed [REDACTED] identification from the purse.

[REDACTED] obviously did not want you to obtain her identification when she initially refused to tell you her name and then denied having her identification with her.

Your vehicle pat-down was unreasonable and unjustified because you did not have enough information to develop reasonable suspicion that the occupants of the car were in possession of a weapon. Additionally, your search for drugs exceeded the scope of a vehicle pat-down because you did not have a warrant or other legal authority.

Further, you admitted you engaged in argumentative discussion and used coarse language during your interview despite having already had control of the situation.

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

A. **Department Policy San Diego Police Department Procedure 4.01 - Stop/Detention and Pat Down Procedures, Section IV., D., dated August 27, 2021, states:**

A "pat down" is a limited search for the purpose of finding weapons or other instruments that could be used against an officer. A pat down is not a search for DP 4.01 - Stop/Detention and Pat Down Procedures 8/27/2021 11 of 14 evidence or contraband, and, absent consent, officers shall not use a pat down as a pretext to conduct an evidentiary search.

1. An officer may pat down any person who has been detained when the officer reasonably suspects that the person is carrying a concealed weapon or dangerous instrument and that a pat down is reasonable to protect the officer or others. The pat down may be conducted immediately upon making the stop or at any time during the stop whenever a "reasonable suspicion to pat down" appears.
2. "Reasonable suspicion for a valid pat down" is more than a vague hunch and less than probable cause. If a reasonably prudent officer, under the circumstances, would believe the officer's safety or that of other persons in the vicinity is in danger because a particular person might be carrying a weapon or dangerous instrument, a pat down is justified.

The Fourth Amendment and Search & Seizure, An Update, A Publication of The California Legal Update, Twenty-Third Edition, dated February 2023, Page 305, states:

A traffic stop for an equipment violation in a "high crime" (i.e., gang) area at night is not reasonable suspicion sufficient to justify a detention or pat down for weapons. (People v. Medina (2003) 110 Cal.App.4th 171.)

The Fourth Amendment and Search & Seizure, An Update, A Publication of The California Legal Update, Thirtieth Edition, dated March 2022, Page 1446, states:

The "Protective Search" (or "Patdown") of a Vehicle for Weapons:

General Rule: Whenever, during a lawful contact with an individual, an officer develops a "reasonable belief," based on specific articulable facts, that the suspect's vehicle may contain a weapon, anywhere within the passenger area of that vehicle that a weapon may reasonably be expected to be found may be checked for that purpose. (Michigan v. Long (1983) 463 U.S. 1032, 1049 [103 S.Ct. 3469; 77 L.Ed.2nd 1201]; authorizing a protective search of a vehicle's passenger compartment "when police have a reasonable belief that the suspect poses a danger.").

You violated this policy on May 13, 2023, when you stated your legal basis for the vehicle pat-down was solely based on [REDACTED] delay to pull over. [REDACTED] delay was traveling 0.1 miles in 47 seconds. This delay in pulling over is not unreasonable, nor is it unusual. Drivers often delay pulling over out of a variety of reasons to include inattentiveness, fear of stopping in a dark area, and indecisiveness due to being unsure of what to do.

You repeatedly demonstrated your lack of understanding of the scope of a vehicle pat-down. The scope of a vehicle pat-down is limited to weapons. The places searched is limited to locations where weapons could be stored and accessible to the vehicle's occupants. You said at the search location, and multiple times in your interview, that you were searching for drugs and weapons. You also said you were looking for any small baggies that might have been concealed between the bills you removed from the center console, a location that could not have concealed a weapon. By searching for drugs between the bills, you exceeded the scope of a vehicle pat-down.

Further, you patted down [REDACTED] purse from the outside. You then unzipped the purse to examine the contents. You stated in your interview that you opened the purse because the items inside prevented you from feeling if there was a weapon inside the purse. However, your BWC video shows that the purse was mostly empty, only containing some small items. It is highly unlikely that the contents of the purse could have made it difficult to determine whether something the size and weight of a weapon was inside the purse. You further exceeded the scope of the search when you removed [REDACTED] identification from the purse.

[REDACTED] obviously did not want you to obtain her identification when she initially refused to tell you her name and then denied having her identification with her.

Your vehicle pat-down was unreasonable and unjustified because you did not have enough information to develop reasonable suspicion that the occupants of the car were in possession of a weapon. Additionally, your search for drugs exceeded the scope of a vehicle pat-down because you did not have a warrant or other legal authority.

B. San Diego Police Department Policy 9.20- Courtesy Policy, dated March 20, 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.

You violated this policy on May 13, 2023, based on your BWC videos and your own admissions when you did not remain tactful and engaged in argumentative discussion when you said, "Do you feel cool when you act like that to police? Is that something that is cool to you? Does it make you excited, or like something you can brag to your friends about? Oh, I was talking shit to a cop, blah, blah, blah." Additionally, based on your BWC videos and your own admissions you used coarse language when you said, "So, you guys talk'n a lot of shit for people who have never even been contacted by the police, alright? So, you all need to just relax with that bullshit, alright?" and "Hey, do you want these fucking handcuffs off or no?" despite having already had control of the situation.

Previous disciplinary actions include:

None.

You are hereby notified that any further instances of misconduct or poor performance may result in more serious disciplinary action being taken against you.

You have the right to appeal this Reprimand to the Chief of Police. Appeals must be submitted in writing to the Chief of Police within ten (10) working days of receipt of this notice. Failure to make written appeal within the ten (10) day period will be deemed a waiver of your right to appeal this disciplinary action within the Department.

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

1. Internal Affairs Investigation #2023-0225, dated October 25, 2023.
2. Electronic copy of all attachments from Internal Affairs Investigation #2023-0225

[REDACTED] \$375
Shawn Takeuchi
Captain

This Reprimand has been discussed with me and I have received a copy of it and the above listed documents.

[REDACTED]
Adrian Caballero, ID #7918

4.30.24
Date

[REDACTED]
Witness Signature

UT #6738

04/30/24
Date