

LEGAL ADVISOR OFC
NOV 20 2012
CITY ATTORNEY'S OFFICE
SAN ANTONIO, TEXAS

Officer Michael Garza, #0092
San Antonio Police Department
San Antonio, Texas

Fire Fighters' and Police Officers' Civil Service Commission
111 Soledad, Suite 123
San Antonio, Texas 78205

Commissioners and Officer Michael Garza:

Under and by virtue of the authority vested in me by Title 5, Subtitle A, Chapter 143 of the Local Government Code, V.T.C.S., said chapter entitled "Municipal Civil Service", I do hereby suspend Officer Michael Garza from paid duty with the San Antonio Police Department, indefinitely, without pay, from his position as an officer of the San Antonio Police Department, effective immediately.

Officer Garza has violated Subsection C of Rule XIII of the City of San Antonio Fire Fighters' and Police Officers' Civil Service Commission Rules, said rules having been adopted on February 23, 1998, and thereafter from time to time amended, by the Fire Fighters' and Police Officers' Civil Service Commission as the Civil Service Rules for the Fire and Police Departments of the City of San Antonio. The particular civil service rule violated by Officer Garza and ground for suspension is as follows:

- (12) Violation of an applicable fire or police department rule or special order.

The Rules and Regulations of the San Antonio Police Department which Officer Garza has violated are as follows:

RULE 3.02 - TRUTHFULNESS OF MEMBERS: Members shall speak the truth at all times. Reports and written communications from any member shall also reflect the truth.

RULE 3.04 - RESPONSIBILITY TO SERVE THE PUBLIC: Members shall serve the public through direction, counseling, assistance, and protection of life and property. Members shall also respect the rights of individuals and perform their services with honesty, sincerity, courage, and sound judgment. (C) CONDUCT AND BEHAVIOR: Members, on-duty or off-duty, shall be governed by the ordinary and reasonable rules of good conduct and behavior, and shall not commit any act tending to bring reproach or discredit on themselves or the department.

RULE 3.11 - USE OF INTOXICANTS: (A) DRINKING ON DUTY: Members shall not drink intoxicating beverages while on-duty. No member shall report for duty exhibiting the odor of

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intoxicants, or any of the elements or appearance of intoxication. The exception shall be for a member to accomplish a specific police assignment or mission, when approved by a supervisor.

RULE 3.18 - CITY EQUIPMENT/PROPERTY: (E) WASTE OR CONVERSION: Members shall not willfully waste or convert to their own use any city owned supplies, equipment, or services.

PROCEDURE 313 – USE OF CITY VEHICLES (.04) AUTHORIZED USE (A) Members operate only those city vehicles assigned to them and only for the accomplishment of assigned duties. **(B)** Members transport only authorized persons in a city vehicle. **(2)** Approval to transport off-duty members or non-members must be received from the unit supervisor.

The factual basis for the instant disciplinary suspension is as follows:

On or about the evening of July 26, 2012, Officer Michael Garza was working his regular 7:00 pm to 3:00 am assignment as a plain clothes patrol officer assigned to the Gang Unit. As part of his assignment, Officer Garza drove an unmarked city-owned 2008 Dodge Ram truck.

During his shift, Officer Garza exchanged numerous text messages with Abigail Hernandez, a female friend with whom Officer Garza had an ongoing sexual relationship. He also consumed alcoholic beverages during the shift without approval of his direct supervisor. At around 10:30 pm, Officer Garza transported Ms. Hernandez from her apartment, located at 8205 Micron, to the “Thirsty Horse Saloon,” a nightclub located at 2335 Northwest Military Highway. Later, during the same shift at about 2:00 am, Officer Garza picked up Ms. Hernandez at the Thirsty Horse Saloon and drove her back to her apartment.

When they arrived at Ms. Hernandez’ apartment, Officer Garza and Ms. Hernandez were confronted by Alfredo Aragon, who was Ms. Hernandez’ former boyfriend and the father of her child. A verbal confrontation began between Ms. Hernandez and Mr. Aragon, stemming from multiple phone calls and text messages between them earlier that evening. Mr. Aragon produced a 9mm handgun and began firing at the Ram truck being driven by Officer Garza with Ms. Hernandez in the front passenger seat.

Officer Garza fled the apartment complex, pursued by Mr. Aragon, who was driving a white Chevy HHR. Mr. Aragon continued firing at the Ram truck, hitting it with twelve rounds, and

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wounding Ms. Hernandez in the right arm and abdomen. As shown by radio transmissions, witness statements, and a bank surveillance video, Officer Garza began to follow Mr. Aragon's vehicle for a distance of about 1.7 miles until both vehicles stopped in front of Mr. Aragon's home located at 2350 Field Wood.

According to Officer Garza, Mr. Aragon made aggressive movements toward him and would not follow Officer Garza's commands to stop and show his hands. Mr. Aragon then began moving toward the front door of his home. Officer Garza fired nine rounds from his city-issued Glock handgun at Mr. Aragon, striking Mr. Aragon in the right foot, right arm and back. Mr. Aragon was pronounced dead at the scene near the front door of his home.

The shooting of Mr. Aragon is under separate investigation by SAPD'S Homicide Unit. The following Administrative violations (listed in chronological order) were identified during the Department's Internal Affairs investigation:

1. Procedure Violations—Use of City Vehicles. On or about the evening of July 26, 2012 and into the morning of July 27, 2012, SAPD Officer Michael Garza used his assigned city vehicle for a purpose other than for the accomplishment of his assigned duties: Officer Garza picked up Ms. Abigail Hernandez from her apartment located at 8205 Micron and transported her at around 10:30 pm to the "Thirsty Horse Saloon," a nightclub located at 2335 Northwest Military Highway. Officer Garza then picked up Ms. Hernandez from the Thirsty Horse Saloon and transported her to her apartment located at 8205 Micron at around 2:00 am. This was all done without approval from his unit supervisor.

2. Responsibility to Serve the Public—Conduct and Behavior. On July 27, 2012, at approximately 1:30 am, on-duty Officer Michael Garza brought discredit and reproach on himself when he texted to Ms. Abigail Hernandez before going to pick her up at the Thirsty Horse Saloon, "*Ok ma. I got half of crown n seven. Guna chug. B der in bout 13 mins and 27 seconds.*"

3. Use of Intoxicants—Drinking on Duty. Officer Michael Garza consumed intoxicating beverage(s) during his assigned duty hours of 7:00 pm and 3:00 am on July 26-27, 2012, without approval of his direct supervisor. On July 27, 2012, while Officer Garza was on duty, he had the odor of intoxicants on his breath, as observed by Sergeant Marshall Campbell at approximately 3:30 am.

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4. Truthfulness of Members. On July 30, 2012, Officer Michael Garza was untruthful when he provided a sworn statement to Homicide Detective Richard Richardson regarding the events that led up to the Officer Involved Shooting that took place at 2350 Field Wood on July 27, 2012. In his statement, Officer Garza reported, *"At approximately 0125 hours (1:25 am) Ms Hernandez contacted me asking if I could pick her up from the "Thirsty Horse". I texted her back telling her that I was working on something and that it could be a while. If I took too long I believed she would get a ride from someone else."* Officer Garza's statement is in conflict with his text messages regarding the same conversation obtained from Ms. Hernandez' cell phone.

5. Responsibility to Serve the Public—Sound Judgment. On July 27, 2012, at approximately 2:52 am, Officer Michael Garza failed to use sound judgment when, after being fired upon and having a wounded civilian (Ms. Hernandez) in his city vehicle, Officer Garza engaged in a vehicle pursuit of the actor (whose identity was known) rather than disengaging the threat and waiting for on-duty officers and medical assistance to arrive or driving to a nearby fire/police station (located two blocks away).

6. Truthfulness of Members. On July 30, 2012, Officer Michael Garza was untruthful when he provided a sworn statement to Homicide Detective Richard Richardson regarding the events that led up to the Officer Involved Shooting that took place at 2350 Field Wood on July 27, 2012. In his statement, Officer Garza reported that he was being pursued by Mr. Aragon from the 7200 block of Culebra to a point just before arrival at Mr. Aragon's home located at 2350 Field Wood. This statement is in direct conflict with the Homicide audio interview of Abigail Hernandez, a bank surveillance video, and San Antonio Police Department radio transmissions which detail, by Officer Garza's own words, that he was following (pursuing) Mr. Aragon from the 7200 block of Culebra to Mr. Aragon's home at 2350 Field Wood.

7. City Equipment/Property. On July 26th and 27th, 2012, during his eight (8) hour tour-of-duty, Officer Michael Garza used his city-issued cellular phone for his own personal use. Officer Garza exchanged over one hundred thirty (130) cellular phone text messages during the hours of 7:00 pm on July 26th and 3:00 am on July 27th that do not appear to be police related. Officer Garza was also found to be using his city-issued cellular phone as his home phone number, as shown on his information page of the San Antonio Police Department mainframe computer.

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A copy of the instant disciplinary suspension order is being filed with the Fire Fighters' and Police Officers' Civil Service Commission.

WILLIAMS
WILLIAM P. MCMANUS, CHIEF OF POLICE
SAN ANTONIO POLICE DEPARTMENT

NOV 20 2012
DATE

I hereby acknowledge receipt of the original of the foregoing indefinite suspension. I acknowledge having received notification that I have fifteen days from the date of receipt of the instant suspension during which to file a written appeal of this suspension with the Personnel Director of the City of San Antonio requesting either arbitration or the hearing of my appeal by the Fire Fighters' and Police Officers' Civil Service Commission. I acknowledge that I have been informed that if I appeal to a hearing examiner/arbitrator, I waive all rights to appeal to a district court except as provided by subsection 143.057(j) of the Texas Local Government Code. I also acknowledge that I have been informed that my right to appeal the decision of a hearing examiner/arbitrator to district court pursuant to section 143.057 of the Texas Local Government Code may have been modified by the provisions of article 28 of the Collective Bargaining Agreement by and between the City of San Antonio and the San Antonio Police Officers' Association.

[Signature]
OFFICER MICHAEL GARZA, #0092
SAN ANTONIO POLICE DEPARTMENT

11/20, 2012 1315
DATE TIME

WITNESSED BY:

[Signature] #330
[Signature] #3260

DATE: 11/20/12 TIME: 1:58 pm
DATE: 11/20/12 TIME: 1:59 pm

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FILED on this the 20th day of November, 2012, with the Fire Fighters' and Police Officers' Civil Service Commission.

[Signature]
for DIRECTOR, FIRE FIGHTERS' AND POLICE OFFICERS' CIVIL SERVICE COMMISSION