



DATE: August 7, 2020
TO: Matthew Dages, Police Officer
FROM: Walt Vasquez, Chief of Police
SUBJ: Final Notice of Discipline

After carefully considering your oral response on August 6, 2020 to the Notice of Intent to Discipline letter dated July 21, 2020, I have decided that it is appropriate to proceed with the action terminating you from your job of Police Officer effective immediately.

On July 22, 2020, I received notice from your attorney requesting a Skelly hearing. The hearing took place on August 6, 2020, and I was the Skelly Officer. You and your attorney presented your perspective of the events that occurred during your contact with Mr. [REDACTED] at the Grossmont MTS Trolley Station on May 27, 2020. During the discussion, your attorney, Kasey Castillo, admitted that you violated Department Rule and Regulation 3.17- Courtesy and Civility and that your violation of Department Instruction 631, Body Worn Cameras, was due to human error and not intentional. As presented during the hearing, you and Ms. Castillo disputed the findings of dishonesty and the findings that you exceeded your authority. It was also stated that you genuinely believed you witnessed Mr. [REDACTED] smoking, and after he denied it, you transitioned into a possible MTS fare violation by Mr. [REDACTED]. Your attorney also said that you believed that the entire property near the Grossmont Station was part of the Fare Paid Zone. Ms. Castillo stated that your basis for detaining Mr. [REDACTED] was not manufactured. Your attorney also acknowledged that your report could have been written better, but that there was no intent to deceive in your official police report. As stated by Ms. Castillo, you are seeking a reduction of penalty.

Neither you nor your attorney presented any new information, arguments, or issues during the Skelly Hearing that I had not already considered in proposing termination. I have decided to uphold my decision to terminate your employment as a Police Officer effective immediately for the reasons stated below.

THIS ACTION IS BASED ON THE FOLLOWING LISTED GROUNDS:

Department Rules and Regulations Section 5.0 Disciplinary Policy - 5.02 Disciplinary Standard

"19. The falsification of records, the making of misleading entries, or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any useful Department or City record, book, paper, document or electronic data."

"26. Work related dishonesty, either verbally or a failure to disclose material facts or the making of any false or misleading statement on any application, examination form, or other official document of the City."

"23. Any knowing or negligent violation of the provisions of the Department Instructions or Department Rules and Regulations. (Employees shall familiarize themselves with the above.)"

"27. Failure to take reasonable action while on-duty and when required by law, statute, resolution, or approved Department practices or procedures."

"31. Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct."

"36. Knowingly making false or misleading statements in the course his/her duties."

Department Instruction Number 631: Body Worn Cameras and Evidence.com - Section V. Procedure

Subsection H. When and Where to Record

"It is the intent of the La Mesa Police Department to record all law enforcement related contacts and other contacts that are deemed appropriate."

"Unless it is unsafe, or impractical to do so, or mechanical issues impeding the use of the device are present, officers shall activate their BWCs to record all law enforcement contacts."

"The recording should be started prior to the actual contact with the citizen, or as soon as safely possible thereafter, and continue recording until the contact has concluded. Officers should begin recording prior to arrival on an incident if the call has the potential to involve immediate enforcement action upon their arrival."

and,

Subsection H. 1. Law Enforcement Related Contacts

"a. Law enforcement related contacts are any investigative or enforcement activities which include, but are not limited to, the following: radio calls, consensual encounters in which the officers is attempting to develop reasonable suspicion on the subject of the encounter, detentions, field interviews, traffic stops, pedestrian stops, arrests, prisoner transports, courtesy transports, or Code 3 emergency vehicle responses including vehicle pursuits."

Officers shall record any contact that becomes confrontational or adversarial after the initial contact in a situation that would not otherwise require recording. Officers should record any event he or she believes the recording would protect the interests of the officer or the Department."

Department Rules and Regulations Section 3.0 General Rules for All Personnel - 3.17 Courtesy and Civility

"Courtesy and civility toward the public and each other is demanded, and department of members shall be civil and orderly. Employees shall at all times be attentive and zealous in the discharge of their duties controlling their tempers and exercising the upmost patience and discretion. They must at all times refrain from using coarse, violent, profane, or insolent

language. They shall be civil and respectful toward each other.

Employees are required to be courteous in their contact with the public. Attitudes of affrontery, egotism, and superiority by officers in such contacts will not be tolerated.

A member of the Department shall give all proper information to persons requesting the same carefully, courteously, and accurately, avoiding all unnecessary conversation or controversy. They shall give their name and identification number, and other information in a respectful manner to any person who may request it.

Employees should remember that tact and consideration will be of great value in any work that is to be done and they should cultivate the ability to meet and speak with people easily."

THE ABOVE GROUNDS ARE BASED ON THE FOLLOWING ACTS OR OMISSIONS:

On May 27, 2020, Officer Julie Jensen coordinated an MTS Trolley Fare Compliance operation at the Grossmont MTS Trolley Station. You participated in the operation along with Officers Amanda Georgi and Ricardo Razcon. During the MTS Trolley Fare Compliance operation, you contacted and arrested [REDACTED] [REDACTED] for Penal Code Sections 148 (Resist, Delay, or Obstruct a Peace Officer in the Performance of their Duty) and 241(c) (Assault on a Peace Officer).

On June 8, 2020, the City of La Mesa hired an independent investigation firm, Norman A. Traub & Associates LLC (NATA), to conduct an investigation to evaluate the manner in which you used force and interacted with Mr. [REDACTED] during his contact, detention, arrest, and release to determine if there were any violations of La Mesa Police Department policies. NATA investigators Sean Conroy and Brock Avery conducted the investigation. I have reviewed their investigation, and concluded the following:

A. You unlawfully detained Mr. [REDACTED] without reasonable suspicion that he was engaged in any illegal activity

In your police report of your May 27, 2020 arrest of Mr. [REDACTED] you stated that you detained Mr. [REDACTED] because you determined that he was illegally smoking.¹ However, the preponderance of the evidence indicates that you did not actually determine, let alone form a reasonable suspicion, that Mr. [REDACTED] was illegally smoking.

Even if you initially had thought you observed Mr. [REDACTED] (from approximately 76 yards away) to bring a lit object or smoking device to his mouth, that preliminary observation was insufficient to form a reasonable suspicion that Mr. [REDACTED] was illegally smoking. During your administrative interview, you admitted that from your vantage point on the platform (about ¾ of a football field's distance away from Mr. [REDACTED] you could not see what he was smoking. You also acknowledged that as you approached Mr. [REDACTED] you did not observe him smoking. You also admit that upon making contact with Mr. [REDACTED] you did not find any evidence of him smoking. You did not observe any cigarettes or

¹ You also appear to have told colleagues afterwards that illegal smoking was the reason you detained Mr. [REDACTED]. Officer Jensen stated: "Officer Dages said he had walked over. He thought maybe the kid was smoking or something." Officer Razcon said: "He (referring to you) said he thought he (Mr. [REDACTED]) was smoking. That's what I do remember. He thought he was smoking and then that's when he approached him. And it was kind of vague, I guess, the explanation (of Officer Dages)." Officer Geogi reported: "He (referring to you) said, 'Oh, I saw him over here smoking or something.'" Officer Rost remembered: "He (Officer Dages) said that he (Mr. [REDACTED]) was smoking in the MTS area." Officer Goddard recalled: "I asked Officer Dages what had transpired through that contact, and then he proceeded to tell me that he had initially detained Mr. [REDACTED] for smoking in the area, which is a violation."

smoking devices on the ground. You did not find any other indicia of smoking, such as smoke or a vapor plume exhaled by Mr. [REDACTED] or even smell the scent of smoke.

Furthermore, an MTS employee stated that she observed Mr. [REDACTED] from about 36 feet away immediately before and after you contacted him. Although she was close enough to cross paths with you, she was emphatic that she did not see Mr. [REDACTED] smoking at any point. Surveillance footage from the MTS garage showed that Mr. [REDACTED] does not appear to be smoking when he parked a vehicle and exited the MTS garage on foot. Surveillance footage from the Grossmont Trolley platform also does not appear to show that Mr. [REDACTED] was smoking.

During your administrative interview, different than what you wrote in your report, you gave Mr. [REDACTED] the "benefit of the doubt" that he was not smoking. In reality, you did not give him the benefit of the doubt because you detained him, arrested him, and then wrote in your police report that you determined that he was illegally smoking.

Your report also noted that you determined that Mr. [REDACTED] did not possess a valid trolley or bus fare and had committed a fare evasion. However, as confirmed by MTS personnel, the Fare Paid Zone is limited to the area outlined by yellow pavers on the trolley station platform. Mr. [REDACTED] was not on the station platform. He was across the street, and he was not standing at a bus stop. Mr. [REDACTED] was not moving towards the platform or otherwise making any moves to suggest he was going to board a trolley or bus without the required fare.

Even assuming that you subjectively believed you had the power to stop Mr. [REDACTED] your subjective belief was objectively unreasonable and would demonstrate a profound lack of judgment. A person walking in that location could walk on the sidewalk to Fletcher Parkway in either direction and not see any signs that they must possess bus or trolley fare to be on or near the sidewalk. A person driving on Trolley Court from Fletcher Parkway would see signs directing them to restaurant and trolley parking in the same area that Mr. [REDACTED] was standing. It is quite clear that one does not need to have a trolley or bus fare to be in the location where Mr. [REDACTED] was standing. One could reasonably believe that a person might wait for their friends in that location before going to nearby shopping or restaurants. I believe you knew better.²

Based on the preponderance of the evidence, I have concluded that you fabricated the basis for detaining Mr. [REDACTED]. Because you lacked a reasonable suspicion to justify your detention of Mr. [REDACTED] you exceeded your lawful peace officer powers. Unfortunately, some of the worst consequences of an illegal detention were subsequently realized. You arrested Mr. [REDACTED] for resisting you, and the detention and arrest predictably garnered substantial negative attention depicting the La Mesa Police Department and the City of La Mesa in a negative light that tends to undermine public confidence in how we serve our community.

B. You unjustifiably failed to activate your Body Worn Camera (BWC) before making an enforcement contact with Mr. [REDACTED] on May 27, 2020

A factor in determining that you manufactured the reasonable suspicion for detaining Mr. [REDACTED] is your inexplicable failure to record your contact with him until it was too late. You had the time, motive, and means to record the contact, yet did not do so, further indicating that you did not want to do so, most likely because any video would have contradicted your stated observations.

The Department BWC policy very simply states:

"Unless it is unsafe, or impractical to do so, or mechanical issues impeding the use of the device are present, officers shall activate their BWCs to record all law enforcement

² You specifically told the investigators that you did not detain Mr. [REDACTED] for loitering.

contacts."

Accordingly, the other officers participating in the May 27, 2020 Fare Compliance Operation all had their BWCs operating in the record mode. Even you understood the policy and explained the policy to investigators as follows: *"That it should be activated as soon as reasonably possible and within, not compromising any officer's safety."*

You initiated a law enforcement contact with Mr. [REDACTED] and, therefore, should have recorded the entirety of it. There was no excuse not to record it. Your BWC was operational; that is, it recorded when you activated it. You had the time and safe opportunity to record, *i.e.*, your contact with Mr. [REDACTED] did not happen suddenly and deprive you of the opportunity to activate your recorder. It was safe for you to activate your recording well before you stood in close physical proximity to Mr. [REDACTED]

You have contended: *"I activated it as soon as reasonably possible."* That is not accurate.

The investigators established a timeline using a security camera surveillance video from the trolley platform that captured you as you walked from the platform to Mr. [REDACTED] location and made the initial enforcement contact. The investigators established that from the initial contact to the point where you activated your BWC, 57 seconds of time elapsed.

You contended you activated your BWC when Mr. [REDACTED] was walking away from you from the point of contact at the wall of the MTS parking garage. You said: *"Yeah, it was after he was attempting to walk away from me, which is when I had initially activated it."* That is not accurate. The video evidence establishes that you were already involved in a physical altercation with Mr. [REDACTED] before you activated your BWC. The evidence shows Mr. [REDACTED] struck you in the arm and was being physically restrained by you as you activated your BWC to the recording mode.

In your administrative interview, the investigators asked you why you did not activate your BWC during your relatively long walk over to contact Mr. [REDACTED]. The investigators suggested it would have been to your advantage to activate your BWC and capture Mr. [REDACTED] in the act of smoking to solidify your "reasonable suspicion" for the violation of the Penal Code Section prohibiting smoking on MTS property (in compliance with Department BWC policy, subsection H 1-*developing reasonable suspicion*). Investigator Conroy asked: *"If you're approaching him for smoking, don't you want to have it on video that he was smoking?"* You answered: *"Would I like to do that? Yes, I would."*

You offered the following unsatisfactory explanation for why you did not operate your BWC in the record mode for your enforcement contact with Mr. [REDACTED]: *"So, it's not typical for us (officers) to record throughout like a trolley detail like that. And like I had said, previously, we make a lot of interactions with people, many of them very quick. So, at the time that I contacted Mr. [REDACTED] my intention was to make that a very quick interaction. Once the interaction became extended, I automatically activated my BWC."*

But your assertion that *"it's not typical for us to record throughout, like, a trolley detail"* is misleading. The BWC policy does not state that expectations are different in conducting special operations. Under the policy, the SRT Commander and the Supervisors of Specialized Units are allowed to modify the BWC policy in the context of certain special operations. (BWC Policy H. 1. c. and d.) Moreover, the May 27, 2020 Fare Compliance Operation essentially was not a special operation; it was a team of patrol officers carrying out a patrol function. The fact that all of the other officers had their BWC operating per Department Policy as they were conducting enforcement contacts undermines your credibility.

Likewise, your statement that you intended to *"make [the contact with Mr. [REDACTED]] a very quick interaction"* does not relieve you of your responsibility to operate your BWC per policy. The policy applies equally to quick and extended contacts.

You are responsible for using your BWC in compliance with policies that have been adopted by the La Mesa Police Department to provide better, accountable, and transparent policing services with the objective of building more trust with the community. The officers interviewed during this investigation all recognized and embraced the value of the BWC in the performance of their duties and the protections that an accurate record of their activities provides them. Your failure to adhere to the BWC policy tends to undermine the confidence the citizens of La Mesa have in their Police Department and damages the reputations of all the professional La Mesa Police Officers who serve the community.

C. You engaged in work-related dishonesty by making false and misleading statements in your police report

You prepared a police report (Police Report # 20-15071) memorializing the events that led to the May 27, 2020 arrest of Ms. [REDACTED] including a recommendation that charges against Mr. [REDACTED] be sent to the San Diego District Attorney's Office for review and prosecution. You included multiple false statements in your police report.

- In the Synopsis section, you falsely wrote: "I observed [REDACTED] smoking as he stood on MTS property, a violation of 640(a)(3) PC and also the La Mesa Municipal Code 7.27.035.
- In the Investigation section, you falsely wrote: "I determined³ that [REDACTED] was smoking, a violation of 640(a)(3)PC and also La Mesa Municipal Code 7.27.035. . ."
- In the Investigation section, you also falsely wrote: "In order for me to successfully take enforcement action on the violations I had witnessed, I needed to identify [REDACTED] which I was unable to do because of his unwillingness to provide me with his name and date of birth."

Your statements that you determined Mr. [REDACTED] was illegally smoking were false. At most, you may have initially observed him to possibly raise what appeared to you may be a lit object or a smoking device to his mouth from a distance of approximately 76 yards away. But you never actually determined he was smoking and cannot say that you, in fact, observed him smoke. After you searched Mr. [REDACTED] you found no tangible evidence tending to support your allegation that he was smoking. An MTS employee, whom the investigators found to be a credible witness, stated that she did not witness Mr. [REDACTED] smoking.

Regarding the statements in your report indicating that Mr. [REDACTED] committed a fare violation, Mr. [REDACTED] was located across the street (or, as you put it on the "north curb") outside the Fare Paid Zone leaning against a wall in front of the District Apartments. You referenced a sign stating that the area was inside the Fare Paid Zone, but that sign is across the street on the "south curb" near the entrance of the Grossmont Trolley Station platform. Your report gave the false impression that Mr. [REDACTED] was located within the Grossmont Station Fair Paid Zone when you made contact with him. As confirmed by MTS personnel, the Fare Paid Zone is the area within the yellow pavers in very close proximity to the platform. I know of no Departmental policy, order, or training stating that police officers can stop persons in the general vicinity of an MTS facility for a fare inspection or suspicion of fare evasion.

During your interview, you acknowledged that the District Apartments and a parking garage are very close to where you detained Mr. [REDACTED]. You also stated that you would not normally issue a fare evasion citation to someone who parked their car in the garage to visit a friend in the apartment buildings (just as Mr. [REDACTED] did). Thus, you must clearly understand that not all persons in that area intend to use the Trolley or Bus and have not committed fare evasion if they have no proof of a paid fare. As you noted in your report, Mr. [REDACTED] told you that he was not using the trolley and was instead waiting for his friends to pick him up. Indeed, his friends arrived to pick him up just after you detained

³ According to the Merriam-Webster Dictionary, "determined" means: "having reached a decision; firmly resolved."

him. One of his friends in the vehicle told you, as you detained Mr. [REDACTED] that he lived at the District Apartments and was picking up Mr. [REDACTED]. Therefore, whatever basis for suspecting that Mr. [REDACTED] had committed fare evasion dissipated after he stated that he was not taking the trolley and plainly upon the arrival of Mr. [REDACTED] friends to pick him up. Based on all available information at the time you prepared your report, it was clear that your statement that Mr. [REDACTED] had committed fare evasion was knowingly false and misleading.

You also made the following false statements to describe the threat posed by Mr. [REDACTED]

- In the Synopsis section, you wrote: "[REDACTED] became irate, balled his fists, and showed pre-assaultive behavior."
- In the Investigation section, you wrote: "[REDACTED] then took a bladed stance, took a step forward inching towards my face and began moving both of his arms back and forth."
- In the Investigation section, you also wrote: "[REDACTED] then lifted both his arms up towards his chest and began to ball his fists and suddenly leaned his body toward me."

As noted in the investigative report, the investigators reviewed the video recorded by a civilian, and the footage shows that although Mr. [REDACTED] hands were near his chest, he did not ball his fists or take a bladed stance. Your statements that Mr. [REDACTED] balled his fists and took a bladed stance are not merely mistaken. I conclude, based on the totality of the circumstances, that you intentionally gave the false and misleading impression that Mr. [REDACTED] was "pre-assaultive" and resistive to justify your arrest of and use of force on Mr. [REDACTED]

D. You engaged in work-related dishonesty by making false and misleading statements in your administrative interview

I have also concluded that you made false statements to the investigators. Specifically, you acknowledged that your initial contact of Mr. [REDACTED] was not consensual, meaning he was not free to leave, *i.e.*, he was detained on the false premise that you observed him smoking. You said: "I approached him with the knowledge that he was in violation and was not free to leave once I had determined that he was smoking." As the investigators noted, you told your fellow officers on-scene immediately after the incident that you stopped Mr. [REDACTED] for smoking. However, when the investigators informed you that there was no evidence to corroborate that Mr. [REDACTED] was smoking, and that an MTS employee disputed it, you denied ever detaining Mr. [REDACTED] for smoking.

- You falsely stated in your interview: "So that's why I asked him if he was smoking. And that's why I posed that question. Once he said, 'No', I gave him the benefit of the doubt and moved forward with the other PC⁴ for the stop, which was what I detained him for, which was not having that trolley fair, which is what I listed on my report."
- You similarly falsely said that when you wrote that Mr. [REDACTED] was smoking in the report it "was made prior . . . asking him [Mr. [REDACTED] if he was, and then once he told me he wasn't and I had no, nothing in front of me and he wasn't smoking in my face. I then asked about his trolley fair."

A preponderance of the establishes that you engaged in multiple instances of work-related dishonesty by making false and misleading statements during your administrative interview with the Investigators to justify your actions and avoid consequences for your misconduct.

E. You directed profane, insolent language, and made discourteous comments to Mr. [REDACTED]

You referenced PC ("probable cause") for the stop, but you only needed reasonable suspicion that Mr. [REDACTED] was engaged in criminal activity.

on May 27, 2020

The analysis of your BWC video revealed you made comments to Mr. [REDACTED] that violated LMPD policy. Your comments to Mr. [REDACTED] occurred on May 27, 2020 at about 2:35 p.m. when you were transporting Mr. [REDACTED] to the La Mesa Police Station in a marked LMPD patrol vehicle. Mr. [REDACTED] was in custody and sitting in the right rear passenger seat of the patrol vehicle. During the drive from the location where Mr. [REDACTED] was arrested, you and Mr. [REDACTED] were making comments to each other about the circumstances surrounding the arrest. Your BWC captured the conversation.

- At 4:32 on the counter on the video player for your BWC footage, Mr. [REDACTED] told you that he would see you in court. At 4:35 on the counter on the video player for your BWC footage, you commented to Mr. [REDACTED] "I will be there and I will be getting paid over." and "I'll get . . ."

During the review of the BWC video with you in your administrative interview, Investigator Avery asked you if you intended to say overtime, i.e. "I will be there and I will be getting paid overtime." You replied that you wanted to say you would be in court. However, you could not recall where the word "over" fit into your comment to Mr. [REDACTED]. When asked if you were going to use the word "overtime," You said: "Possibly, but I can't tell you exactly. Like I said, what the remainder of the sentence was, he continued to speak over me throughout any conversation that we had." Later during the administrative interview, you made the following statement: "The overtime court comment was something that I probably was going to say and finish. Although, I stopped myself from finishing it as it shows on the video, just because I did not want to... I knew it was inappropriate to say that. And probably not the best situation. Not the best thing I could do to de-escalate that situation. Or it wasn't worth getting down to that level"

Asked if you thought telling someone you would be getting paid overtime is a damaging statement, you said: *"Some people could see that as an insult, I guess"*

- At 5:54 on the video player counter, you said to Mr. [REDACTED] "Because you're fucking dumb."

During your administrative interview, Investigator Avery played the BWC footage of your comment. Investigator Avery asked you if you thought your comment "you're fucking dumb" was an appropriate comment to make to Mr. [REDACTED]. You said, "Probably not" and "Insulting anyone's intelligence is derogatory". Later in your administrative interview, you said the following about your comment: "And then the remark, when I reacted to something that he said, and I called him fucking dumb was inappropriate and out of line."

- After Mr. [REDACTED] asked you why he was not issued a ticket: *"No, I couldn't because you wanted to act like a fool. So, you can walk back to the... your friend's apartment"*

When asked during the administrative interview, if you thought telling someone they were a "fool" was demeaning, you said: *"A fool, not necessarily"*. However, Merriam-Webster defines a fool as a person who lacks good sense or judgment. Microsoft Word Thesaurus provides the following synonyms for fool: "chump" and "sucker". The word "fool" tends to have derogatory characterizations, and the context in which you used the comment, the preponderance of the evidence supports the comment lacking courtesy.

Unfortunately, you elected not to make statements or comments to de-escalate or defuse the conversation. You also had the option not to respond to Mr. [REDACTED] comments. Rather, you made the engaged in conversation and admitted to the investigators that some of your comments could insult

a person and are derogatory.

ANALYSIS:

In *Skelly v. State Personnel Board, supra*, 15 Cal.3d at 218, the California Supreme Court held that in considering the propriety of public employee disciplinary action:

the overriding consideration in these cases is the extent to which the employee's conduct resulted in, or if repeated, is likely to result in harm to the public service. Other relevant factors include the circumstances surrounding the misconduct and the likelihood of its recurrence.

The preponderance of the evidence developed in the administrative investigation establishes that there is good cause to terminate your employment with the City.

A. You exceeded your lawful peace officer powers in detaining Mr. [REDACTED] without reasonable suspicion

A preponderance of the evidence establishes that you fabricated the basis for your detention of Mr. [REDACTED]. Beyond the fact that there is no evidence that Mr. [REDACTED] was smoking, there is no evidence to indicate he was doing something that you could have reasonably perceived as smoking. You also had no legal justification for detaining Mr. [REDACTED] for a fare inspection or fare evasion at the location where you detained Mr. [REDACTED]. You also did not inform your fellow officers, or the senior officer in charge, of your intention to contact Mr. [REDACTED] or alert dispatch and you did not record the contact, bolstering my conclusion that you manufactured the basis for the detention. Therefore, I must conclude you violated the following disciplinary standards:

"27. Failure to take reasonable action while on-duty and when required by law, statute, resolution, or approved Department practices or procedures."

"31. Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct."

Police officers, like everyone, can make mistakes. The risk of mistakes increases when officers are called upon to make split-second decisions. Sometimes those mistakes can result in the violation of civil rights. In such cases, we do our best to rectify and then avoid further mistakes. Here, however, I do not believe you merely made a mistake. I believe you acted in bad faith in exceeding your peace officer powers. Under the circumstances, training and discipline short of termination are insufficient. Your behavior reveals you are unfit for continued service as a peace officer with the LMPD. Our community demands and deserves better.

B. You violated Department policy by failing to operate your body-worn camera during your contact with Mr. [REDACTED]

During your enforcement contact with Mr. [REDACTED] you did not activate your BWC per Department Instruction 631, even though you had more than sufficient time and opportunities before and during the enforcement contact with Mr. [REDACTED]. If you had followed the mandatory policy, and you were telling the truth, you would have captured evidence of Mr. [REDACTED] illegally smoking and also recorded the detention of Mr. [REDACTED]. The act of not operating your BWC supports the conclusion that you detained Mr. [REDACTED] under false pretenses. Based on this conduct, I find that you have violated the following disciplinary standards:

"23. Any knowing or negligent violation of the provisions of the Department Instructions or Department Rules and Regulations. (Employees shall familiarize themselves with the above.)"

"27. Failure to take reasonable action while on-duty and when required by law, statute, resolution, or approved Department practices or procedures."

The deployment of BWCs is intended to protect officers from false accusations of misconduct and simultaneously to hold officers accountable for their actions. You elected not to be held accountable. You easily could have but chose not to activate your BWC for key parts of your detention of Mr.

██████████ The fact that you did not bolsters my conclusion that you were acting in bad faith.

C. You violated Department policy by being dishonest

The preponderance of the evidence analyzed in the investigation showed that you wrote false and misleading statements in a police report about the arrest of Mr. ██████████ which is an official document of the City, and a document that prosecutors would review in deciding whether to prosecute Mr. ██████████ criminally.

Specifically, you entered false and misleading statements in your police report to justify the unlawful detention of Mr. ██████████. Your account that you determined that Mr. ██████████ was smoking was false and misleading, given that you later admitted during your interview that there was doubt that Mr. ██████████ had been smoking. During your interview, you also denied detaining Mr. ██████████ because of smoking, even though your report clearly stated that did, and you told fellow officers that you determined Mr. ██████████ was smoking. You falsely stated in your report and told investigators that Mr. ██████████ was in the Fare Paid Zone and that you determined that Mr. ██████████ had committed fare evasion. These false and misleading statements were intended to mislead your supervisors, managers, prosecutors, and judges by presenting the "reasonable suspicion" you used to conduct an enforcement contact with Mr. ██████████ in such a way as to seem justified and adequately documented. Your false statements had the potential of resulting in a miscarriage of justice if Mr. ██████████ had been prosecuted criminally.

You also entered false and misleading statements in your police report intended to show that Mr. ██████████ was more combative and resistive, and posed a more significant threat than was the case. The video taken by a bystander demonstrates that Mr. ██████████ did not ball his fists or take a bladed stance. This was clearly an exaggeration.

The investigators conducted a "credibility assessment" of the people they interviewed during their investigation of this incident. Not surprisingly, the investigators determined that your statements were "not credible." Their assessment of you as "not credible" is alarming, to say the least. You were untruthful to the investigators when you denied that you detained Mr. ██████████ for smoking and could lawfully detain Mr. ██████████ for fare inspection or fare evasion in front of the District Apartments. These actions, statements, and behaviors are unacceptable and grounds for termination.

I have no other choice but to conclude that you committed the following violations of the Department's disciplinary standards:

"19. The falsification of records, the making of misleading entries, or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any useful Department or City record, book, paper, document or electronic data."

"26. Work related dishonesty, either verbally or a failure to disclose material facts or the making of any false or misleading statement on any application, examination form, or other official document of the City."

It is an essential part of your duty as a police officer to be honest in performing your duties, especially when reporting about your detention and arrest of a citizen and responding to questioning about your actions.

D. You treated a citizen with disrespect by using discourteous, profane and insolent language

During the transport of Mr. [REDACTED] from the Grossmont Trolley Station to the La Mesa Police Department, you used profanity and made discourteous comments directed to Mr. [REDACTED]. Your behavior was unprofessional and disrespectful. During your administrative investigation, you even admitted to the investigators that some of your comments to Mr. [REDACTED] could have been perceived as insulting, inappropriate, out of line, derogatory and that it "wasn't worth getting down to that level." Your clear violation of the Courtesy and Civility regulation is violated the following disciplinary standards:

"23. Any knowing or negligent violation of the provisions of the Department Instructions or Department Rules and Regulations. (Employees shall familiarize themselves with the above.)"

"27. Failure to take reasonable action while on-duty and when required by law, statute, resolution, or approved Department practices or procedures."

Being respectful to citizens is a matter of trust too. When officers are disrespectful, then that undermines citizens' confidence in the righteousness of the officers' actions. Disrespectful treatment also threatens officer safety. Instead of bringing calm to chaotic circumstances, disrespectful treatment increases the risk of violent encounters. This Department cannot afford to undermine public confidence and simultaneously increase the risk of violence.

APPEAL RIGHTS:

You have the right to appeal the termination of employment to the Personnel Appeals Board (La Mesa Municipal Code section 3.32.130) within fifteen (15) working days of the effective date of the action for a formal review of the facts of the dismissal.

Any appeal must be made to the City Clerk in writing within the time frame specified. If an appeal is made to the Personnel Appeals Board, such appeal will be scheduled as soon thereafter as possible.

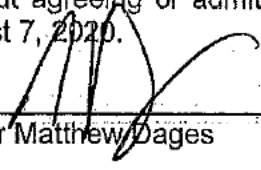
WARNING AGAINST RETALIATION:

This provision is to notify you that it is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding the allegations made against you.

On August 7, 2020, I witnessed the personal delivery of this letter to Officer Matthew Dages.

By: [Signature] #1232

Without agreeing or admitting to any of the statements above, I acknowledge receiving this letter on August 7, 2020.



Officer Matthew Dages