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BEFORE THE
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JUSTIN RAYMOND RAMIREZ** **Basic Certificate No. 184287** **Intermediate Certificate No. 140935** **Advanced Certificate No. 124388** Respondent.	Case No. 2308479 **ACCUSATION**

Complainant alleges:

PARTIES

1. Manuel Alvarez, Jr. (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the California Commission on Peace Officer Standards and Training (Commission).

2. On August 22, 2016, the Commission issued Basic Certificate Number 184287 to Justin Raymond Ramirez (Respondent). On July 4, 2019, the Commission issued Intermediate Certificate Number 140935 to Respondent. On January 15, 2021, the Commission issued Advanced Certificate Number 124388 to Respondent (collectively "Certification"). The Certification was in full force and effect at all relevant times to the charges brought herein.

However, on August 10, 2023, Complainant ordered the immediate temporary suspension of Respondent's Certification under Penal Code section 13510.8, subdivision (d), because, following Respondent's separation from employment as a peace officer during a pending investigation into allegations of serious misconduct, Complainant determined that the temporary suspension was in the best interest of the health, safety, and welfare of the public.

JURISDICTION

3. This Accusation is brought before the Commission under the authority of the following laws. All section references are to the Penal Code (Code) unless otherwise indicated.

4. Code section 830 states:

> Any person who comes within the provisions of this chapter and who otherwise meets all standards imposed by law on a peace officer is a peace officer, and notwithstanding any other provision of law, no person other than those designated in this chapter is a peace officer. The restriction of peace officer functions of any public officer or employee shall not affect his or her status for purposes of retirement.

5. Code section 830.1, subdivision (a), states that "[a] sheriff, undersheriff, or deputy sheriff, employed in that capacity, of a county . . . is a peace officer…."

6. Code section 13510.1 states:

> (a) The commission shall establish a certification program for peace officers described in Section 830.1, 830.2 with the exception of those described in subdivision (d) of that section, 830.3, 830.32, or 830.33, or any other peace officer employed by an agency that participates in the Peace Officer Standards and Training (POST) program. A certificate or proof of eligibility issued pursuant to this section shall be considered the property of the commission.
>
> (b) Basic, intermediate, advanced, supervisory, management, and executive certificates shall be established for the purpose of fostering professionalization, education, and experience necessary to adequately accomplish the general police service duties performed by peace officer members of city police departments, county sheriffs' departments, districts, university and state university and college departments, or by the California Highway Patrol.
>
> . . .
>
> (e) The commission shall assign each person who applies for or receives certification a unique identifier that shall be used to track certification status from application for certification through that person's career as a peace officer.
>
> (f) Notwithstanding any other provision of law, the commission shall have the authority to suspend, revoke, or cancel any certification pursuant to this chapter. This authority extends to any certificate or proof of eligibility issued by the commission

including, without limitation, any certificate or proof of eligibility that is invalid, inactive, expired, or canceled.

. . .

(i) As used in this chapter, "certification" means any and all valid and unexpired certificates issued pursuant to subdivision (b), including basic, intermediate, advanced, supervisory, management, and executive certificates or any proof of eligibility issued by the commission pursuant to this section.

7. Code section 13510.85, subdivisions (a) and (b), state:

(a)(1) When, upon the completion of a serious misconduct investigation conducted pursuant to subdivision (c) of Section 13510.8, the division finds reasonable grounds for the denial, revocation, or suspension of a peace officer's certification, it shall take the appropriate steps to promptly notify the peace officer involved, in writing, of its determination and reasons therefore, and shall provide the peace officer with a detailed explanation of the decertification procedure and the peace officer's rights to contest and appeal.

(2) Upon notification, the peace officer may, within 30 days, file a request for a review of the determination by the board and commission. If the peace officer does not file a request for review within 30 days, the peace officer's certification shall be suspended or revoked, consistent with the division's determination, without further proceedings. If the peace officer files a timely review, the board shall schedule the case for hearing.

(3) The board shall meet as required to conduct public hearings, but no fewer than four times per year.

(4) At each public hearing, the board shall review the findings of investigations presented by the division pursuant to paragraph (1) and shall make a recommendation on what action should be taken on the certification of the peace officer involved. The board shall only recommend revocation if the factual basis for revocation is established by clear and convincing evidence. If the board determines that the facts and circumstances revealed by the investigation warrant a sanction other than revocation, it may recommend that a peace officer's certification be suspended for a period of time. The board shall issue a written decision explaining its reasons for decertification or suspension.

(5) The commission shall review all recommendations made by the board. The commission's decision to adopt a recommendation by the board to seek revocation shall require a two-thirds vote of commissioners present and shall be based on whether the record, in its entirety, supports the board's conclusion that serious misconduct has been established by clear and convincing evidence. In any case in which the commission reaches a different determination than the board's recommendation, it shall set forth its analysis and reasons for reaching a different determination in writing.

(6) The commission shall return any determination requiring action to be taken against an individual's certification to the division, which shall initiate proceedings for a formal hearing before an administrative law judge in accordance with the Administrative Procedure Act (Chapter 5 (commencing

with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), which shall be subject to judicial review as set forth in that act.

(b) Notwithstanding Section 832.7, the hearings of the board and the review by the commission under this section, administrative adjudications held pursuant to paragraph (6) of subdivision (a), and any records introduced during those proceedings, shall be public. These public records may, in the discretion of the division, be redacted for the reasons set forth in paragraphs (6) and (7) of subdivision (b) of Section 832.7. This subdivision does not preclude the board or the commission, or both, from reviewing the unredacted versions of these records in closed session and using them as the basis for any action taken.

8. On October 13, 2023, pursuant to its authority under Code section 13510.8, subdivision (c), the Peace Officer Standards Accountability Division found reasonable grounds for a disciplinary action against Respondent's Certification. Respondent was properly notified and timely requested a review of the determination under Code section 13510.85, subdivision (a)(2). On December 14, 2023, pursuant to its authority under Code section 13510.85, subdivision (a)(4), the Peace Officer Standards Accountability Advisory Board (Board) determined that clear and convincing evidence existed for a disciplinary action against Respondent. On March 7, 2024, pursuant to its authority under Code section 13510.85, subdivision (a)(5), the Commission found that the Board's determination was supported by clear and convincing evidence. Pursuant to Code section 13510.85, subdivision (a)(6), this Accusation is filed to initiate proceedings for a formal hearing before an administrative law judge in accordance with the Administrative Procedure Act, as prescribed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

STATUTORY PROVISIONS

9. Code section 13510.8 states:

(a) (1) A certified peace officer shall have their certification revoked if the person is or has become ineligible to hold office as a peace officer pursuant to Section 1029 of the Government Code.

(2) A peace officer may have their certification suspended or revoked if the person has been terminated for cause from employment as a peace officer for, or has, while employed as a peace officer, otherwise engaged in, any serious misconduct as described in subdivision (b).

(b) By January 1, 2023, the commission shall adopt by regulation a definition of "serious misconduct" that shall serve as the criteria to be considered for ineligibility for, or revocation of, certification. This definition shall include all of the following:

. . .

(6) Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the commission.

. . . .

REGULATORY PROVISIONS

10. California Code of Regulations, title 11, section 1205, states:

(a) Serious Misconduct is:

. . .

(6) Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the Commission.

. . .

11. California Code of Regulations, title 11, section 1212 states:

(a) The Commission shall have the authority to suspend, revoke, or cancel any certification issued pursuant to Chapter 1 of Title 4 of Part 4 of the Penal Code.

(b) At the hearing, conducted by the Commission, to review a recommendation made by the Peace Officer Standards Accountability Advisory Board (the "board"):

(1) The Commission's decision to adopt a recommendation by the board to seek revocation shall require a two-thirds vote of Commissioners present.

(2) The decision shall be based on whether the record, in its entirety, supports the board's conclusion that serious misconduct has been established by clear and convincing evidence.

(3) The Commission may conduct deliberations in closed session.

(4) In any case which the Commission reaches a different determination than the board's recommendation, it shall set forth its analysis and reasons for reaching a different determination in writing. A copy of the written decision shall be provided to:

(A) The board,

(B) The Peace Officer Standards Accountability Division (the "division"), and

(C) The involved peace officer or designated representative.

(c) The Commission shall return any determination requiring action to be taken against an individual' s certification to the division, which shall initiate proceedings for a formal hearing before an administrative law judge in accordance with the Administrative Procedure Act.

(1) After the hearing, the Commission will receive the proposed decision from the administrative law judge.

(2) The proposed decision shall be reviewed by the Commission in accordance with Government Code Section 11517(c)(2).

(3) The Commission's decision shall be considered final 30 days after the date of service of the decision upon the involved peace officer or their legal representative. A copy of the written decision shall be provided to:

(A) The board,

(B) The division,

(C) The involved peace officer or designated representative, and

(D) The head of the agency that employs or employed the involved peace officer.

(d) The commission shall publish the names of any peace officer whose certification is suspended or revoked and the basis for the suspension or revocation on the POST website.

(e) The commission shall notify the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training of any peace officer whose certification is suspended or revoked and the basis for the suspension or revocation.

12. California Code of Regulations, title 11, section 1213 states:

(a) In considering whether to take action against a peace officer's certification, and in considering whether a revocation or suspension is appropriate in light of the facts of the particular case, the Commission shall consider any of the following factors:

(1) The nature and severity of the act or omission.

(2) The circumstances surrounding the conduct and the extent to which the act or omission caused any actual or potential harm to or impact upon the victim, the public, other peace officers, the employing agency, or the law enforcement profession.

(3) Whether the involved peace officer is currently employed as a peace officer.

(4) Whether the alleged conduct was committed under the color of authority or while the peace officer was acting in the capacity of a peace officer.

(5) The peace officer's prior conduct, discipline and service record, and any prior instances of misconduct.

(6) The proximity or remoteness in time since the conduct occurred.

(7) Any mitigating or aggravating factors and/or evidence of rehabilitation.

(8) The degree of accountability and cooperation with the investigation evidenced by the peace officer.

(9) The extent to which discipline, or forbearance from discipline, would impact the best interests of the public, the public service, the employing agency, and/or the law enforcement profession.

(10) The motives of the peace officer that resulted in the conduct.

(11) Consistency of the penalty with those imposed upon other peace officers for the same or similar offense.

(12) The clarity with which the peace officer was on notice of any rules that were violated in committing the offense.

(13) The extent to which the act or omission was done intentionally, willfully, or maliciously.

(14) The likelihood of recurrence.

(15) Any other aggravating or mitigating factors relevant to the Commission's determination.

(b) A suspension shall not exceed three years.

(c) A peace officer whose certification has been suspended may not be assigned duties which include the exercise of peace officer powers.

FACTUAL ALLEGATIONS

13. Beginning on January 16, 2015, Respondent was employed as a deputy sheriff with the Orange County Sheriff's Department (OCSD). As of September 2, 2022, Respondent was assigned to Mission Viejo as a School Resource Officer (SRO),[1] which in relevant part involves protecting students and serving as a role model for them. The OCSD's Mission Statement is, "To enhance a safe atmosphere in our community's schools, foster a positive relationship with our community's youth, and develop strategies to resolve problems affecting our youth."

14. On September 2, 2022, Respondent was working as an SRO at Trabuco Hills High School in Mission Viejo. During the school's lunch break, while in full uniform and seated in an OCSD patrol vehicle, Respondent was approached by a group of freshman students. When they asked about his job, Respondent used his cell phone to show the students—all of whom were 14 or 15 years old—videos and photos of crimes or incidents involving sex acts, graphic violence, murder, illicit drug use, and severe and fatal injuries. A second group of freshman students

[1] "The [OCSD] School Resource Officer Program provides law enforcement services and law-related education to the schools serviced by the [OCSD]." OCSD Policy Manual, Policy 415.4. Every OCSD SRO receives training, and is familiar with the OCSD's SRO policies.

approached Respondent after hearing about what he had shown the first group, and Respondent also showed them the same inappropriate material. The media that Respondent showed the freshman students included the following:

a. A video depicting a man and woman engaging in sexual intercourse. During the video, another man enters the room with a knife and stabs both people repeatedly, apparently killing at least one of them. The video shows graphic nudity and visible blood.

b. A video showing an apparently transient man smoking street drugs through a small pipe before exhaling the drug smoke directly into the rectum of another transient man.

c. Photographs of a woman's deep, open wounds, which had been inflicted by a police dog.

d. A photograph of a young woman, the victim of a traffic collision, lying on the street with a fatal open head wound and exposed cerebrum.

15. On September 5, 2022, one of the freshman victims told her mother what had happened and her mother called the OCSD. The OCSD commenced an investigation, but Respondent resigned from employment with the OCSD on or about December 14, 2022, prior to his administrative interview. The OCSD investigation ultimately sustained the allegations. The OCSD reported this matter to the Commission on May 18, 2023, as mandated by Penal Code section 13510.9.

CAUSE FOR DISCIPLINE

(Serious Misconduct – Acts that Violate the Law)

16. Respondent has subjected his Certification to disciplinary action on the grounds of serious misconduct under Code section 13510.8, subdivision (b)(6), and section 1205, subsection (a)(6), of title 11 of the California Code of Regulations, because he committed acts that violate the law and were sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as alleged above in paragraphs 13-15 and as follows:

17. Penal Code section 313.1 prohibits exhibition of "any harmful matter" to a minor. Harmful matter is defined as "matter, taken as a whole, which to the average person, applying contemporary statewide standards, appeals to the prurient interest, and is matter which, taken as a whole, depicts or describes in a patently offensive way sexual conduct and which, taken as a whole, lacks serious literary, artistic, political, or scientific value for minors." (Penal Code, § 313, subd. (a).) Respondent's conduct violated this section of the Penal Code, violated the trust placed in him as a deputy sheriff and SRO, and was inconsistent with the obligation of a peace officer to uphold the law and respect the rights of members of the public.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Commission issue a decision revoking the Basic, Intermediate and Advanced Certificates issued to Respondent Justin Raymond Ramirez, or taking other appropriate disciplinary action according to evidence.

DATED: 5/20/2024

Signature on File

Executive Director
Commission on Peace Officer Standards and Training
State of California
Complainant

SD2024301595

BEFORE THE
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JUSTIN RAYMOND RAMIREZ** **Basic Certificate No. 184287** **Intermediate Certificate No. 140935** **Advanced Certificate No. 124388** Respondent.	Case No. 2308479 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On May 20, 2024, Complainant Manuel Alvarez, Jr., in his official capacity as the Executive Director of the Commission on Peace Officer Standards and Training, filed Accusation No. 2308479 against Justin Raymond Ramirez (Respondent) before the Commission on Peace Officer Standards and Training (Commission). (Accusation attached as Exhibit A.)

2. On August 22, 2016, the Commission issued Basic Certificate Number 184287 to Respondent; on July 4, 2019, the Commission issued Intermediate Certificate Number 140935 to Respondent; and on January 15, 2021, the Commission issued Advanced Certificate Number 124388 to Respondent (collectively "Certification"). On August 10, 2023, Complainant ordered the immediate temporary suspension of Respondent's Certification under Penal Code section 13510.8, subdivision (d), because, following Respondent's separation from employment as a peace officer during a pending investigation into allegations of serious misconduct, Complainant

determined that the temporary suspension was in the best interest of the health, safety, and welfare of the public.

3. On May 22, 2024, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2308479, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to California Code of Regulations, title 11, section 1215, is required to be reported and maintained with the Commission. Additionally, a courtesy copy was sent via First Class Mail to Respondent's counsel, Robert L. Baumann, Esq., Ferrone Law Group, 4333 Park Terrace Dr., Ste. 800, Westlake Village, CA 91631.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. Government Code section 11506, subdivision (c), states:

> The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense . . . and the notice shall be deemed a specific denial of all parts of the accusation . . . not expressly admitted. Failure to file a notice of defense . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

6. The Commission takes official notice of its records and the fact that Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 2308479.

7. California Government Code section 11520, subdivision (a), states:

> If the respondent either fails to file a notice of defense . . . or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent . . . .

8. Pursuant to its authority under Government Code section 11520, the Commission finds Respondent is in default. The Commission will take action without further hearing and, based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter, finds that the charges and allegations in Accusation No. 2308479, are separately and severally, found to be true and correct by clear and convincing evidence.

///

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Justin Raymond Ramirez has subjected his Certification to discipline.

2. The Commission has jurisdiction to adjudicate this case by default.

3. The Commission is authorized to revoke Respondent's Basic, Intermediate and Advanced Certificates based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet:

a. Serious Misconduct, in violation of Penal Code section 13510.8, subdivision (b)(6), and California Code of Regulations, title 11, section 1205, because he committed acts that violate the law, specifically Penal Code section 313.1 (exhibition of "any harmful matter" to a minor), and were sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public.

ORDER

IT IS SO ORDERED that Basic Certificate Number 184287, Intermediate Certificate Number 140835, and Advanced Certificate Number 124388 issued to Respondent Justin Raymond Ramirez, are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The Commission in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on 9/12/2024.

It is so ORDERED 9/12/2024

signature on file

FOR THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
STATE OF CALIFORNIA

84591668.DOCX/SD2024301595

Attachment: Exhibit A: Accusation No. 2308479