Commission on Peace Officer Standards and Training
Peace Officer Standards Accountability Division
860 Stillwater Road, Suite 100
West Sacramento, CA 95605
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NOTICE OF DETERMINATION

CASE NO.: POST2300853 **SUBJECT OFFICER:** Francisco Javier Garcia, Jr.

POST ID: C45-I81 **EMPLOYING AGENCY:** Tulare Police Department

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POST INVESTIGATOR: Christina Moore

NOD DATE OF ISSUANCE: 12/3/2025

ALLEGED MISCONDUCT: PC § 13510.8 (b)(6)/11 CCR § 1205(a)(6) – Acts that Violate the Law, PC § 13510.8(b)(1)/11 CCR § 1205(a)(1) – Dishonesty

EXECUTIVE SUMMARY:

On June 23, 2022, driving a fully marked, take-home patrol vehicle, Francisco Javier Garcia Jr., hereinafter "Respondent," responded to the Tulare Police Station at approximately 0545 hours and began his regularly scheduled patrol shift. At approximately 1430 hours, a civilian reported to Tulare Police Department (TPD) that she observed a police officer asleep in his patrol vehicle, attempted to wake him, but he did not respond. The civilian provided a photograph of the police officer, and the Lieutenant identified the police officer as the Respondent. The Respondent was directed to return to the station.

Upon his arrival, the Lieutenant confronted the Respondent about sleeping on duty, which he denied, and smelled the odor of an alcoholic beverage emitting from the Respondent's person. The Respondent also denied drinking alcohol on duty, claiming the odor came from his vape pen. The Lieutenant contacted the California Highway Patrol (CHP) to conduct a criminal investigation into driving under the influence of alcohol.

At approximately 1600 hours, CHP responded to the Tulare Police Station, contacted the Respondent, observed objective signs and symptoms of intoxication, to include a Preliminary Alcohol Screening (PAS) device breath sample of 0.200 percent BAC, and determined the Respondent had been driving a motor vehicle while under the influence of alcohol. At 1736 hours, the Respondent provided a chemical blood test with results of 0.18 percent BAC, was cited for California Vehicle Code (CVC) section 23152(a), *Driving Under the Influence of Alcohol (DUI),* and 23152(b), *DUI with a Blood Alcohol Concentration (BAC) over 0.08%,* and was released to his wife.

The Tulare Police Department conducted an internal investigation and sustained numerous policy violations. The Respondent was served with a Notice of Proposed Discipline –

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Termination and, following a Skelly Hearing, the Respondent was terminated on October 7, 2022.

The Respondent appealed his termination. On April 15, 2023, the appeal was denied.

Analysis of the criminal evidence, witness statements, the Respondent's statements during an internal affairs interview, and the Respondent's interview with the Division, establish clear and convincing evidence the Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(6) and Title 11, CCR 1205(a)(6) – *Acts that Violate the Law,* was sufficiently egregious as to be inconsistent with a peace officer's obligation to uphold the law, and committed serious misconduct during both the administrative and criminal investigations into his misconduct as defined in Penal Code §13510.8(b)(1) and Commission Regulation 1205(a)(1) – *Dishonesty.*

ANALYSIS/FINDINGS:

1. **The alleged misconduct violated Penal Code section 13510.8(b)(6) and Commission Regulation 1205(a)(6) – Acts that Violate the Law**

Penal Code section 13510.8(b)(6) and Commission Regulation 1205(a)(6) defines as serious misconduct "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."

Analysis of criminal evidence, witness statements, the Respondent's statements during an internal affairs interview, and the Respondent's statements during an interview with the Division, establish clear and convincing evidence the Respondent violated the law in a sufficiently egregious manner when he operated a patrol vehicle, while on duty working in the capacity as a peace officer, while under the influence of alcohol, several hours into his patrol shift.

The Respondent drove his take-home patrol vehicle to the Tulare Police Station and arrived at approximately 0545 hours. The Respondent completed eight (8) calls for service from 0700 hours to approximately 1300 hours.

At approximately 1400 hours, a civilian, who was passing through the area selling meat products, observed a patrol vehicle parked in a downtown parking lot. The civilian approached the patrol vehicle with the intent of asking the officer if they wanted to purchase meat products. The civilian observed the police officer sleeping in his patrol vehicle and attempted to wake the officer by tapping on the patrol vehicle window. When the officer did not wake, she took two (2) photographs. One photograph was of a police officer, who was seated in the driver's seat, with his head leaning back on the headrest, with his eyes closed,

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and the second was a photograph of the patrol vehicle unit number. After taking the photographs, the civilian drove to the Tulare Police Station to report the incident. The Lieutenant directed a Corporal to attempt to locate the patrol vehicle, however the exact location was unknown as the civilian was not familiar with the city of Tulare. After being presented with the photographs, the Lieutenant recognized the police officer as the Respondent and directed a Corporal to call the Respondent and have him to return to the station with the intention of counseling the Respondent for sleeping on-duty.

Upon his arrival, the Lieutenant confronted the Respondent for sleeping on duty, which the Respondent denied. After being presented with the photograph, the Respondent maintained he was not sleeping and was just resting his eyes. While speaking with the Respondent, the Lieutenant smelled an odor of an alcoholic beverage. The Lieutenant confronted the Respondent, asking if he had consumed alcohol, to which Responded chuckled, denied it, and claimed he had not had anything to drink since last week. The Lieutenant asked the Respondent what was humorous, and the Respondent explained he was not laughing and thought it was awkward that he was asking him if he had been drinking on duty. The Lieutenant informed the Respondent he smelled a fruity alcohol smell on his breath, to which the Respondent explained the odor was from his vape-pen. The Lieutenant directed the Corporal to take the Respondent to a smaller room for further evaluation.

Once in the Sergeant's office, the Corporal directed the Respondent to blow in his face. The Respondent performed what the Corporal described as half breaths while turning his head away from the Corporal, despite being directed to blow in his face. On the third attempt, the Respondent performed as directed and the Corporal confirmed he smelled the odor of an alcoholic beverage emitting from Respondent's breath.

The Corporal left the station to respond to an officer in distress. As a result, the Lieutenant directed Respondent to "*stay here*." The Respondent walked outside of the station to his patrol vehicle, which was parked on the street, and returned chewing gum.

When the Lieutenant and Corporal returned, the Respondent was asked why he left the room when he was directed not to. The Respondent explained he interpreted the order as not to leave the station, not the specific room, and explained he was checking to make sure his patrol vehicle was locked. While speaking with the Respondent, the Lieutenant noticed something was in his mouth. When asked, the Respondent initially said, "*nothing*," then, when asked again, he stated, "*gum*." The Respondent was directed to spit out the gum, and after approximately 15 minutes was administered the PAS device. At 1546 hours, the Respondent provided breath sample results of 0.238 percent BAC and 0.225 percent BAC. The Lieutenant immediately notified the Respondent he would be placed on administrative leave and contacted the CHP to conduct a criminal investigation.

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At 1608 hours, CHP Officer E. James and CHP Sergeant M. Donnelly arrived at the Tulare Police Station. Officer James contacted the Respondent, immediately noticed the Respondent's eyes were bloodshot, asked him a series of Pre-Field Sobriety Test (FST) questions, to which the Respondent indicated he drank Red Bull and accidentally swallowed a "*swig*" of mouthwash.

Officer James administered a series of FSTs to the Respondent which he was unable to perform as explained and demonstrated. At approximately 1700 hours, the PAS device was administered, and the Respondent provided breath sample results of 0.200 percent BAC and 0.193 percent BAC. Officer James formed the opinion the Respondent had been driving a motor vehicle while under the influence of alcohol and placed him under arrest at 1705 hours. At 1736 hours, the Respondent provided his chosen chemical blood test, which resulted in a blood alcohol level of 0.18 percent BAC. Officer James cited the Respondent for CVC 23152(a) and 23152(b), and released him to his wife.

The TPD initiated an internal investigation, the patrol vehicle was searched, and inside they located four (4) bottles of Jack Daniels Whiskey, Listerine, eyedrops, a vaping device, and medication (Ondansetron – generic for Zofran, used for nausea and vomiting). One (1) nearly empty bottle, one (1) half empty bottle, and one (1) full bottle of Jack Daniels Whiskey were located in the Respondent's open-top patrol organizer in the front passenger seat. One (1) nearly empty bottle of Jack Daniels Whiskey was in a large plastic tote, located in the trunk of the patrol vehicle, which contained miscellaneous departmentally owned and personally owned items.

On June 24, 2022, the following day, the Respondent spoke to the Tulare Police Chief and admitted he had a substance abuse problem, which he said had been brought on by traumatic events that occurred during the course of his duties and was referred to workers' compensation.

During the internal investigation, two (2) officers who had worked with the Respondent on calls of service on June 23, 2022, were interviewed and reported that they had not noticed anything unusual about the Respondent that day.

The TPD investigators contacted Liquor Store, the closest liquor store to the Respondent's residence, showed the clerk a picture of the Respondent, and the clerk confirmed the Respondent frequents the store both on and off duty. When asked what type of liquor the Respondent purchases, the clerk showed the investigators the exact same bottle of Jack Daniels Whiskey which was located in his patrol vehicle.

On July 29, 2022, during his internal affairs interview, the Respondent initially denied drinking on duty but when confronted with the toxicology results, he acknowledged he must have been drinking and stated he did not remember it. Similarly, the Respondent denied

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sleeping on duty but acknowledged he must have been and stated he did not remember it. In response to the alcohol located in his patrol vehicle, the Respondent provided inconsistent statements alleging he obtained them off a transient person two (2) months prior.

After his employment was terminated, on October 11, 2024, a bench warrant was issued when the Respondent failed to appear for his criminal court proceedings related to his DUI.

On November 24, 2024, the Respondent was subject to an enforcement contact by CHP for failing to maintain his lane and no taillights activated. The CHP observed signs of impairment and conducted an investigation of driving under the influence. The Respondent was arrested for driving under the influence and his bench warrant from his previous DUI and provided a chosen chemical breath test with results of 0.40 percent BAC.

On May 28, 2025, the Respondent's two (2) criminal cases were consolidated. The Respondent plead "*nolo contendere*" to one (1) count of CVC 23152(b), *DUI with a BAC over 0.08 percent BAC,* and CVC 23538(b)(2), *Enhancement: Over 0.20 percent BAC.* During the court proceedings the Respondent was:

- Placed on four (4) years of summary probation.
- Ordered to serve 60 days in custody (credit for 5 days served).
- Permitted to complete jail time at SCRAM monitor program.
- Ordered to pay a fine in the sum of $2,075.
- Required to attend required 18-month DUI program and enroll by 9/15/25.
- Required to follow DMV directive regarding installation of an Ignition Interlock Device (IID).
- Required to obey all federal, state and local laws. No like violations.
- Do not drive a vehicle with any measurable amount of alcohol in blood.
- Do not drive unless validly licensed, unless validly insured, and do not refuse a blood, breath, or urine test by any peace officer.
- Ordered to return to court on 9/8/25 at 8:30 AM in Department 20 to review proof of completion of SCRAM program and may appear via ZOOM.

On August 12, 2025, the Respondent was sent a Notice of Investigation from the Division.

On September 8, 2025, the Respondent failed to appear for his criminal court proceedings and his summary probation was revoked. A bench warrant was issued but stayed until October 6, 2025.

On October 6, 2025, the Respondent appeared in court, the bench warrant was recalled, but the Responded failed to submit proof of the SCRAM program. As a result, the Respondent was ordered to return to Court on October 10, 2025, to provide proof of completion of the SCRAM program.

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On October 9, 2025, the CHP published a law enforcement "Be On The Look Out" for the Respondent, who had responded to the Tulare County Sheriff's Office, Porterville Police Department, Tulare Police Department, and Farmersville Police Department creating public disturbances related to his termination of employment, which noted the Respondent had become more vocal and aggressive in each encounter.

On October 10, 2025, the Respondent failed to appear his criminal court proceedings and a bench warrant was issued for his arrest.

On October 14, 2025, the Respondent was arrested for his warrant by Farmersville Police Department, posted bail, and was released.

Commission Regulation 1213(a) requires the Commission to consider the following factors applicable to this case when considering whether to take action against a peace officer's certification:

- The nature and severity of the act or omission.
- 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.
- 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.
- The proximity or remoteness in time since the conduct occurred.
- Any mitigating or aggravating factors and/or evidence of rehabilitation.
- 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.
- The motives of the peace officer that resulted in the conduct.
- The clarity with which the peace officer was on notice of any rules that were violated in committing the offense.
- The extent to which the act or omission was done intentionally, willfully, or maliciously.
- The likelihood of recurrence.

The Respondent contacted the Division with concerns regarding his ability to "defend" himself. Despite multiple conversations and emails with Division regarding the investigation process and the fact no determination has been made, the Respondent's tone has become increasingly agitated.

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During an interview with the Division, the Respondent spoke rapidly, displayed paranoid tendencies, provided inaccurate timeframes, discussed tangents rather than answering the questions posed, and took no responsibility for any of his actions. The Respondent denied recollection of his on-duty DUI, stated he had an "*alcoholic blackout*," that he has been sober for three (3) years, with the exception of a single relapse when he was arrested for his second DUI, claimed all bench warrants issued were due to "*clerical error*."

Driving under the influence of alcohol, while on-duty, and operating a patrol vehicle, and responding to calls for service, puts the public at risk and is egregious behavior in direct contradiction with a peace officer's responsibility to the public and constitutes serious misconduct. The Respondent's subsequent arrest 2 ½ years later for operating a motor vehicle with a 0.40 percent BAC, his subsequent erratic behavior, failure to comply with probation terms or appear in court, and lack of accountability suggests a significant likelihood of reoccurrence.

2. The alleged misconduct violated Penal Code section 13510.8(b)(1) and Commission Regulation 1205(a)(1) – Dishonesty

Penal Code section 13510.8(b)(1) and Commission Regulation 1205(a)(1) defines as serious misconduct "Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data recorded by a body-worn camera or other recording device for the purposes of concealing misconduct."

On July 29, 2022, during his internal affairs interview, the Respondent initially explained, "*yeah so every time I 25 with the guys um it's a bad habit of mine I always tilt my head back and close my eyes um I I don't remember anyone trying to get my attention I don't remember anyone knocking on my window or anything like that the only thing I remember is I I wasn't asleep uh I didn't fall asleep um but I remember there was a car that pulled up and honked I looked and almost simultaneously is when Corporal Muller called me…"* When shown the photograph of him with his eyes closed and after being told the civilian knocked on his patrol vehicle window, he stated, "*No, I was not asleep."* When asked if he was not asleep, then how did he not hear the civilian knocking on his patrol vehicle window, he stated, *"I agree 100%. I didn't hear her. I did not hear her. I'll take the hit for that. That's horrible officer safety, I agree, but I'm telling you I was not asleep. I'm telling you I was not asleep. It was bad officer safety absolutely, but I was not asleep."*

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The Respondent's denial of sleeping on duty was highly probable to be dishonest based on the following clear and convincing evidence:

- An independent witness provided photographic evidence of the Respondent parked, seated in the driver's seat of his patrol vehicle, with his head tilted back, his eyes closed, and jaw relaxed.
- An independent witness explained that she knocked on the patrol vehicle's window, and the Respondent did not wake up.
- After being presented photographic evidence, the Respondent changed his statement when he stated, "*Yes so ok so the whole sleeping thing, I honestly don't remember sleeping ok if I was asleep then I was asleep right I'm I'm not that picture looks horrible it looks like I was asleep and if I was asleep then I was asleep.*"
- The Respondent ultimately explained, *"if that lady knocked on my window I made a I made a mistake I made a huge mistake I see I see the picture if I fell asleep I fell asleep I made I messed up I fell asleep however I don't remember falling asleep I don't even remember I don't even remember if when Corporal Muller called me and my phone even ring I remember talking to him so maybe yeah it looks like I I did fall asleep but I don't remember I don't remember falling asleep."*

During the incident and during the internal affairs interview, it is established with high probability the Respondent was dishonest when he denied drinking on duty:

- When the Lieutenant and Corporal confronted the Respondent with sleeping on duty, the Lieutenant smelled the odor of an alcoholic beverage emitting from his person and asked the Respondent if he had been drinking. The Respondent chuckled and stated he had not had anything to drink since last week. When the Lieutenant told the Respondent he smelled a fruity alcoholic beverage odor coming from his breath, the Respondent related it was his fruity flavored vape-pen.[1]
- When CHP was conducting the criminal investigation, the Respondent was asked a series of pre-FST questions and was asked, "*What have you been drinking?"* and the Respondent stated, "*I had a Red Bull earlier and some mouthwash about an hour ago"* and *"I did drink a little bit of mouthwash."* When asked, "*How much?"* the Respondent stated, "*Ah it was an accident.*" The Respondent was asked again, "*Like how much mouthwash?"* and the Respondent stated, *"I mean I don't know, I took a swig, I swallowed some of it and spit out the rest.*"
- During the internal affairs interview, the Respondent made the following statements:
  - *". . .we were in the Sergeant's Office and that's when I'm talking to Corporal and he says he over there I do actually smell alcohol in you on your breathe*

[1] Statements made during the preliminary administrative investigation are based on the Lieutenant and Corporal's recollection of events. With the exception of the civilian interview, there is no BWC recordings leading up to CHP's arrival.

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and I'm like that's impossible I haven't drank and I that was the truth you know…"

- *". . . I don't drink liquor…"*
- *"…I don't remember drinking I don't know how it looks cause I think there were some alcohol bottles in my unit I got those off of a transient like 2 months before coming into work…it looks horrible right like I was probably drinking the liquor on duty I don't touch liquor the closest I've been to touching liquor is my brother's got a house here in town and I bought him a handful of time like some tequila bottles or you know some like like little liquor bottles for like a housewarming type thing that's the closest I've been to liquor I don't touch that stuff that's what happened that's what I remember…"*
- *"…whatever happened that day that was a mistake of the mind not of the heart right I would never ever drink on duty ever and I know that's how it looks and I know that's how it looks and I meant it when I told you when I looked you in the eye and I told you I haven't drank since the weekend I meant that had I known I would drank I would have never even came to work it's a simple call in you know…"*
- *"If any alcohol that was in my system didn't happen on duty I don't know how much I could have drank the night before but obviously it was a lot I don't remember any of that I don't remember…"*

- When asked what had had been drinking during this period of time he did not recall, referred to by the investigators in the interview as a "*blackout episode*," the Respondent indicated he did not know. The Respondent was then asked if he drank the open alcohol bottles located in his patrol vehicle and he stated, "*I promise you, can we swab those for DNA?"* and, "*…yeah no."*
- When investigators confronted the Respondent that they believe he was being dishonest and he was confronted with the fact he had "*swore on* [his] *children's lives*" that he had not been drinking on duty, the Respondent stated, "*Yeah, I don't remember drinking that's why I told you I looked you in the eye and I told you that."*

The Respondent's denial of drinking alcohol on duty was highly probable to be dishonest based on the following clear and convincing evidence:

- The Respondent's Lieutenant and Corporal smelled the odor of alcohol emitting from his person.
- The Respondent's actions were consistent with impairment to include evasiveness, not forthcoming, not breathing fully into the Corporal's direction, using Listerine and chewing gum for possible masking purposes.
- The Respondent possessed two (2) nearly empty and one (1) full bottle of Jack Daniels Whiskey in the back pocket of his personally owned open-top patrol organizer situated on the front passenger seat of his assigned take-home patrol

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vehicle. The Respondent possessed one (1) nearly empty bottle of Jack Daniels Whiskey in a tote located in the trunk of his assigned take-home patrol vehicle.

- The Respondent began his patrol shift at 0545 hours and at 1546 hours, the Respondent provided breath sample results to the of 0.238 percent BAC and 0.225 percent BAC to the Lieutenant. Based on an average elimination rate of 0.02 percent per hour, the Respondent would have to be between 0.425 BAC and 0.438 BAC when he reported to the Tulare Police station at 0545 hours. If he arrived at work at that level of intoxication, it would be highly improbable that no co-workers noticed any signs or symptoms of intoxication.
- The CHP observed objective signs and symptoms of impairment upon their arrival at approximately 1600 hours.
- At 1700 hours, the Respondent provided PAS breath sample results of 0.200 percent BAC and 0.193 percent BAC to CHP.
- The Respondent was unable to perform a series of Field Sobriety Tests as explained and demonstrated.
- At 1736 hours, the Respondent provided his chosen chemical blood test, which resulted in a blood alcohol level of 0.18 percent BAC.
- The CHP formed the opinion the Respondent had been driving a motor vehicle while under the influence of alcohol and placed him under arrest at 1705 hours.
- The CHP cited the Respondent for CVC 23152(a) and 23152(b).
- The Respondent changed his statement from denying he drank on duty to he did not recall, when he further explained, "*yeah yeah I I honestly honest to God I don't remember drinking I don't remember drinking on duty."*
- The Respondent changed his statement and explained, *"yes sir I don't remember drinking but clearly I was drinking look at the numbers they don't lie."*
- The Respondent admitted, *"I I had alcohol in my system I was clearly drinking on duty clearly there's no way around it no one sp speedballs (inaudible) alcohol right but I don't remember it."*

During the internal affairs interview, it was established with high probability that the Respondent was dishonest when he claimed the bottles of Jack Daniels Whiskey located in his patrol vehicle were confiscated from a transient two (2) months prior, when he stated the following:

- *"...I don't remember drinking I don't know how it looks cause I think there were some alcohol bottles in my unit I got those off of a transient like 2 months before coming into work...*
- The Respondent explained his contact with the transient when he stated, "…*it was before the 23rd so May early May*…." The Respondent was "*coming into work*," and the transient was on "*San Joaquin and E.*" The Respondent related, "…*the guy was like his feet were hanging out by the road kinda I can't remember his name um he's one of our usual's though he was there there were 2 other transients like right next to him and they kinda walked off when I stopped and said hey get out of the road and*

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that's when I saw the empty bottles right next to him and I was like awe this you guys are drinking so I grabbed them I threw them I left one there and I grabbed the other 3 in my unit he kinda was in and out of it I thought he was like done down he was just sleeping so I told him get out of here cool whatever he walked into the yard at that house that was it and I went to work."

- In regards to the bottles he claimed he confiscated, the Respondent explained, "*I left them on my floorboard and when I got to the PD I grabbed them out and put them in the back of my patrol bag.*"
- When asked to explain his reasoning, the Respondent stated, "*I don't know honestly I don't know I should of thrown them I should of thrown them out right then and there is what I should have done*."
- When confronted by the investigators that they verified with a clerk at a liquor store near his residence that the Respondent purchased alcohol at that location and identified the exact same bottle of Jack Daniels Whiskey found in his patrol vehicle, the Respondent said, "*I've bought that before yes but that's not what I buy on a regular on a daily basis I bought that I bought that maybe 3-4 times tops that that little pint."* The Respondent had previously indicated he does not drink liquor, and the last time was when he purchased liquor was tequila for his brother's housewarming gift. When confronted with these inconsistencies in his statements, specifically having claimed to purchase tequila and now indicating it was Jack Daniels, the Respondent said, "*no no no no no when I buy those when I've bought those it was off duty and when I bought them I took them to my brother it was a housewarming gift it was like 3 or 3 or different 3 or 4 times I bought that one but 2 other times…and I've bought tequila so I've bought him I've bought him a couple of times."*

The Respondent's claim that the bottles of Jack Daniels Whiskey located in his patrol vehicle were confiscated from a transient was highly probable to be dishonest based on the following clear and convincing evidence:

- After the Respondent was found to be driving under the influence of alcohol on duty, open containers of alcohol were found in his open-top patrol organizer located on the front passenger seat.
- On June 24, 2022, the following day, the Corporal responded to the Respondent's residence to return his personally owned property, the Corporal related the Respondent made the following spontaneous statement, "*you know there was Jack Daniels from* name redacted *in there."* Name redacted is a known transient with a substance abuse problem.
- During this internal affairs interview, the Respondent denied the transient was Name redacted Name redacted Name redacted Name redacted Name redacted.
- During his internal affairs interview, the Respondent changed his statement indicating he confiscated the bottles from a transient but could not recall his name.

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- The Respondent confirmed there was no documentation of the incident.
- The Respondent confirmed he did not notify dispatch of this contact.
- The Respondent admitted to having purchased Jack Daniels Whiskey in the past.
- The clerk from Liquor Store confirmed the Respondent purchased the exact same bottle of Jack Daniels Whiskey.

The Respondent initially denied sleeping on duty and drinking alcohol on duty, but after being presented with evidence, the Respondent changed his statement and claimed to not remember. It is implausible the Respondent would not remember drinking alcohol on duty. The Respondent also claimed to have confiscated the bottles of alcohol located in his patrol vehicle from a transient but there was no evidence to substantiate this occurred. Further, if this had occurred, the Respondent had no reasonable explanation for moving the bottles from the floorboard of his patrol vehicle to his patrol bag rather than disposing of the bottles. An independent witness confirmed the Respondent purchased the exact same size and brand of alcohol located in his patrol vehicle.

FINDINGS

The Peace Officer Standards Accountability Division has determined by clear and convincing evidence the Respondent committed serious misconduct, as defined in Penal Code section 13510.8(b)(6) and Commission Regulations 1205(a)(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.*

The Peace Officer Standards Accountability Division has determined by clear and convincing evidence Respondent committed serious misconduct, as defined in Penal Code section 13510.8(b)(1) and Commission Regulation 1205(a)(1) - *Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of, or investigation of misconduct by, a peace officer or custodial officer.* For purposes of this report, clear and convincing evidence means "evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. The evidence need not establish a fact beyond a reasonable doubt."

Based on its investigation and the consideration of factors enumerated in Title 11, California Code of Regulations 1213(a), the Peace Officer Standards Accountability Division has determined that reasonable grounds exist to seek suspension or revocation of the Respondent's certifications, in accordance with Penal Code section 13510.85.