Attachment A
San Bernardino Police Department Report,
Case No. 2023-00134638, November 27, 2023

CASE CONTAINS	SAN BERNARDINO POLICE DEPARTMENT	1. CASE NUMBER
FOLLOW UP ☐ WRITTEN ☐ TAPED ☐ TYPED ☐ EVIDENCE ☐ PROPERTY SHEET ☐ SUSPECT ☐ DIAGRAM ☐ CITATION # _____	CA0361000 710 N. D STREET (P.O. BOX 1559) SAN BERNARDINO, CA 92401 (909) 384-5742	2023-00134638 2. DATE / TIME REPORTED 11/27/2023 13:38

3. LOCATION OF OCCURRENCE	4. FROM DATE / TIME	5. TO DATE / TIME	6. AREA
W HIGHLAND N E	11/27/2023 13:38	11/27/2023 13:38	

7. CODE SECTION(S)		8. CRIME(S)
2800.2(A) VC-F	☐ ATTEMPT	EVADING A PEACE OFFICER: RECKLESS DRIVING
2800.4 VC-F	☐ ATTEMPT	EVADING A PEACE OFFICER: WRONG WAY DRIVER

VICTIM / WITNESS / INVOLVED PARTY

9. PERSON OR FIRM NAME (LAST, FIRST, MID.)	10. SEX	11. RACE	12. AGE	13. DOB	14. EMAIL ADDRESS	15. CODE
STATE OF CALIFORNIA,						VIC

16. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

17. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

18. PERSON OR FIRM NAME (LAST, FIRST, MID.)	19. SEX	20. RACE	21. AGE	22. DOB	23. EMAIL ADDRESS	24. CODE

25. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

26. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

27 PERSON OR FIRM NAME (LAST, FIRST, MID.)	28. SEX	29. RACE	30. AGE	31. DOB	32. EMAIL ADDRESS	33. CODE

34. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

35. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

36. PERSON OR FIRM NAME (LAST, FIRST, MID.)	37. SEX	38. RACE	39. AGE	40. DOB	41. EMAIL ADDRESS	42. CODE

43. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

44. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

45. PERSON OR FIRM NAME (LAST, FIRST, MID.)	46. SEX	47. RACE	48. AGE	49. DOB	50. EMAIL ADDRESS	51. CODE

52. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

53. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

54. PERSON OR FIRM NAME (LAST, FIRST, MID.)	55. SEX	56. RACE	57. AGE	58. DOB	59. EMAIL ADDRESS	60. CODE

61. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

62. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

63. PERSON OR FIRM NAME (LAST, FIRST, MID.)	64. SEX	65. RACE	66. AGE	67. DOB	68. EMAIL ADDRESS	69. CODE

70. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

71. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

72. PERSON OR FIRM NAME (LAST, FIRST, MID.)	73. SEX	74. RACE	75. AGE	76. DOB	77. EMAIL ADDRESS	78. CODE

79. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

80. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

81. PERSON OR FIRM NAME (LAST, FIRST, MID.)	82. SEX	83. RACE	84. AGE	85. DOB	86. EMAIL ADDRESS	87. CODE

88. STREET ADDRESS (RESIDENCE)	CITY	STATE	ZIP CODE	PHONE NUMBER

89. STREET ADDRESS (BUSINESS)	CITY	STATE	ZIP CODE	PHONE NUMBER

90. REPORTING OFFICER	91. ID #	92. DATE	93. OTHER INVOLVED OFFICERS	94. RECORDS BAR CODE
Victorio	51391	11/27/2023		

95. REVIEWED BY	96. DATE	97. FURTHER ACTION	98. RECORDS PROCESSING BY
Blackwell, Mark	11/27/2023	☐ NO ☒ YES	

ASSIGNMENT/OBSERVATIONS:

On Monday, November 27th, 2023, Officer G. Rodriguez and I were working uniformed patrol in the city of San Bernardino. I was the driver and Officer Rodriguez was my front passenger. We wore an approved San Bernardino Police Department uniform which identified us as Police Officer's. I drove a fully marked San Bernardino patrol unit, with functioning overhead lights and sirens.

At about 1338 hours, we were conducting proactive patrol enforcement in the area of N. E Street and W. Highland Avenue. I was making a southbound turn onto the number one lane of N. E Street from W. Highland Avenue when I observed a gold Kia Optima in the number one lane of N. E Street. The Kia was stopped at the intersection of N. E Street and W. Highland Avenue at a red light. The Kia did not have a front license plate, I looked through my rear view mirror as I was driving southbound and noticed it also did not have a rear license plate.

I conducted a U turn and got into the number two lane of N. E Street to position myself for a traffic stop on the Kia for being in violation of California Vehicle Code 5200 (a) - Display of license plates. The signal for northbound traffic on N. E Street turned green and instead of the Kia proceeding northbound on the number one lane of N. E Street the vehicle made an unsafe turn (CVC 22107 - unsafe turn) into the left hand turn lane (to go westbound) of N. E Street.

I made a westbound turn onto W. Highland Avenue and initiated a traffic stop by activating my overhead lights and sirens. The Kia at this point was in the number two lane of W. Highland Avenue and failed to yield. My over head lights and sirens remained on during the entire pursuit and my department issued body worn camera was on during the pursuit.

Based on my experience with vehicle pursuits, suspects that fail to yield either have firearms, narcotics, stolen vehicles or outstanding warrants. Based on my physical encounters with subjects that are under the influence of alcohol or narcotics they tend to be abnormally strong and resistant to pain. Not once have I been able to control someone under the influence of alcohol or narcotics without the assistance of another Officer.

INVESTIGATION:

The suspect, later identified as, Victim (DOB: PII - Civ. Code sec. 1798.24) was approaching the intersection of W. Highland Avenue and N. G Street which had multiple vehicles stopped at a solid red light. Victim attempted to squeeze in between the vehicle in the number two lane and the north curb line of W. Highland Avenue almost striking the vehicle in the number two lane. As a result of Victim squeezing in between the vehicle stopped at the red light, the Kia Victim was driving scraped against the north curb line of W. Highland Avenue.

Victim made a northbound turn onto N. G street without signaling (CVC 22108 - failing to signal 100 feet prior) going approximately 30 miles per hour on the number one lane of N. G Street. Victim continued on N. G Street until making an eastbound turn onto W. 27th Street. Victim then made a southbound turn onto N. F Street and immediately made an eastbound turn onto W. Courtland Drive without signaling (CVC 22108 - failing to signal 100 feet prior). Victim continued

REPORTING OFFICER	ID #	DATE	FURTHER ACTION	REVIEWED BY	DATE
Victorio	51391	11/27/2023	Y - YES	Blackwell, Mark	11/27/2023

on W. Courtland Drive until failing to stop at the stop sign at the intersection of W. Courtland Drive and N. E Street (CVC 22450 (a) - stop sign violation) making a northbound turn (CVC 22108 - failing to signal 100 feet prior) onto N. E Street.

Victim continued northbound on N. E Street switching in and out of the number one and number two lane of N. E Street. Victim 's speeds varied from 50 miles per hour to 80 miles per hour while traveling on N. E Street. Once Victim got to the intersection of N. E Street and W. 30th Street, Victim blew past the solid red light (CVC 21453 (a) - failure to stop for red signal) and continued northbound on N. E Street.

Once Victim reached the intersection of N. E Street and W. Marshall Blvd, Victim once again failed to stop at the red signal (CVC 21453 (a)) and was driving approximately 60 miles per hour being in violation of CVC 22350 - Basic speed. Once Victim reached the intersection of N. E Street and W. Kendall Drive, Victim went into opposing lanes of travel (CVC 2800.4 - Evading officers, wrong way driver) for a brief second almost causing a collision on the southbound lanes of W. Kendall Drive. Victim then merged back into the northbound lanes of W. Kendall Drive and continued at approximately 70 miles per hour (CVC 22350 - Basic speed) as the road began to curb.

Once Victim arrived to the intersection of W. Kendall Drive and N. H Street, Victim drove past another solid red signal (CVC 21453 (a) - failure to stop for red signal) going approximately 90 miles per hour. Victim continued westbound on W. Kendall Drive until running a the red signal (CVC 21453 (a) - failure to stop for red signal) at N. Shandin Hill Circle still going approximately 90 miles per hour (CVC 22350 - Basic speed).

Victim continued driving westbound on W. Kendall Drive going approximately 100 miles per hour (CVC 22350 - Basic speed) for approximately 1.86 miles until slowing down at the intersection of W. Kendall Drive and N. University Parkway. Victim drove past the intersection and drove into opposing lanes of traffic on W. Kendall Drive at which point he began making erratic turning movements in what I believe was an attempt to deceive Officers.

Victim made a northbound turn into the parking lot of Farmer Boys (1766 Kendall Drive) and CVS (5200 University Parkway) going approximately 40 miles per hour. Victim drove through the backside of the businesses in the Campus Crossroads shopping center and made a northbound turn onto N. University Parkway for southbound traffic (CVC 2800.4 - Evading officers, wrong way driver). Victim continued on opposing lanes of N. University Parkway for approximately 1,000 feet while oncoming traffic was moving out of our way.

Once Victim approached the intersection of N. University Parkway and W. Northpark Blvd, Victim made an eastbound turn onto the westbound lanes of W. Northpark Blvd. Once again Victim was on opposing lanes of travel (CVC 2800.4 - Evading officers, wrong way driver). Victim continued eastbound on the opposing lanes of travel and ran the red signal (CVC 21453 (a)) at the intersection of N. Little Mountain Drive and W. Northpark Blvd going approximately 90 miles per hour (CVC 22350 - Basic speed).

Victim continued eastbound on the westbound lanes of W. Northpark Blvd going approximately 100 miles per hour until slowing down at the intersection of W. Northpark Blvd and N. Electric Avenue. Victim drove on the opposing lanes of travel on W. Northpark Blvd for approximately 2.4 miles while vehicles were continuously moving out Victim 's. Victim made a southbound turn onto N. Electric Avenue and quickly made an eastbound turn onto W. 50th Street and collided into electrical pole (#827391E) on the south curb line of W. 50th Street just east of N. Electric Avenue.

I believed Victim was either under the influence of alcohol or narcotics based on him having no

due regard for the public. Victim demonstrated this by his excessive speeds, not stopping at multiple stop signs, not stopping at solid red traffic signals, almost causing multiple traffic collisions with his erratic driving and driving on the opposing lanes of traffic for approximately 2.4 miles. Victim posed a serious threat to the community and based on all the factors just listed, I believed him to be possibly armed and dangerous.

I immediately came to a stop and observed the driver side door of Victim's vehicle come open. I believed Victim was attempting to flee the scene so I immediately exited my unit and began to sprint to the vehicle. As soon as I began to approach the driver side door, I observed Victim on the floor with a blunt object in his right hand.

Victim's head was in an upright position and his knee's were slightly bent in which I believed he was attempting to get back onto his feet. I immediately went down onto a knee and attempted to disorient Victim by placing my hand on his head and striking Victim in his upper torso area and inadvertently struck him in the head.

I observed Victim's arms on the top of his head and his elbows pressed off the ground, I believed he was trying to create space between the ground and him to possibly stand up. In an attempt to prevent that from happening, I struck his upper back twice with my right hand. I observed Officer Rodriguez attempting to gain control of Victim's left wrist he was unable to so, I delivered an additional strike to Victim's upper back area with my right hand. I then observed Officer Rodriguez attempting to gain control of Victim's right wrist and was unable to. In fear Victim was over powering Officer Rodriguez, I attempted to strike Victim with my right knee in the left shoulder and inadvertently struck Victim twice in the head due to Victim continuously pulling his arms away.

The strikes appeared to be ineffective due to Officer Rodriguez still being unable to control Victim's left arm. In an attempt to gain compliance from Victim I struck Victim with my right hand in the facial area but it was ineffective due to Officer Rodriguez still not being able to control Victim's right arm. I then struck Victim in the left shoulder but my punched slipped past his shoulder and nicked the top of his head. Once again the strikes appeared to be ineffective due to Officer Rodriguez being unable to place Victim's right arm behind his back.

I observed Officer Rodriguez gain possession of Victim's right arm but was unable to control it so I delivered two knee strikes to Victim's head. The strikes appeared to be ineffective due to Officer Rodriguez being unable to control Victim's right arm. I delivered an additional strike with my right hand to Victim's facial area and it appeared to be effective due to Victim placing his left hand his back and finally allowing Officer Rodriguez to place handcuffs on Victim Officers escorted Victim to the back of the unit.

Officers conducted a records check on the vehicle and it came back stolen out of Yucaipa. Officers attempted to contact the owner of the vehicle and were unable to get a hold of them.

See Officer Wilcox report for the traffic collision. See Forensic's report for photographs of the vehicle and scene. Paramedics arrived on scene and evaluated Victim for his injuries. Officers transported Victim to Arrowhead Regional Medical Center to be further evaluated for his injuries (for further details see Officer Rodriguez for further details.)

Sgt. M. Blackwell was notified of the incident.

This would conclude my investigation.

ARREST:

Victim was transported to the Central Detention Center where he was booked and lodged for being in violation of California Vehicle Code 2800.2 (a) - reckless evading, California Vehicle Code 2800.4 - evading Officer wrong way driver, California Vehicle Code 10851 (a) - vehicle theft and Penal Code 496D(A) - possession of a stolen vehicle.

SUSPECT STATEMENT:(Victim (DOB:PII - Civ. Code sec. 1798.24)

On 11-27-2023, at about 1721 hours, I interviewed the suspect (Victim I began the interview by advising Victim of his Miranda rights from my SBPD issued Miranda waiver rights card. When asked if he understood his rights, Victim said “yeah”.

Victim stated he fled from Officers because he was trying to get gas. Victim also stated he was aware he did not stop at stop signs. At this point in time Victim stated he no longer wanted to talk about the incident.

I was going to ask about about the stolen vehicle but Victim refused to answer anymore questions. This concluded my interview with Victim

Attachment D
Photograph of Victim's Left Eye,
dated November 27, 2023


PHOTOGRAPHED BY
CASE#

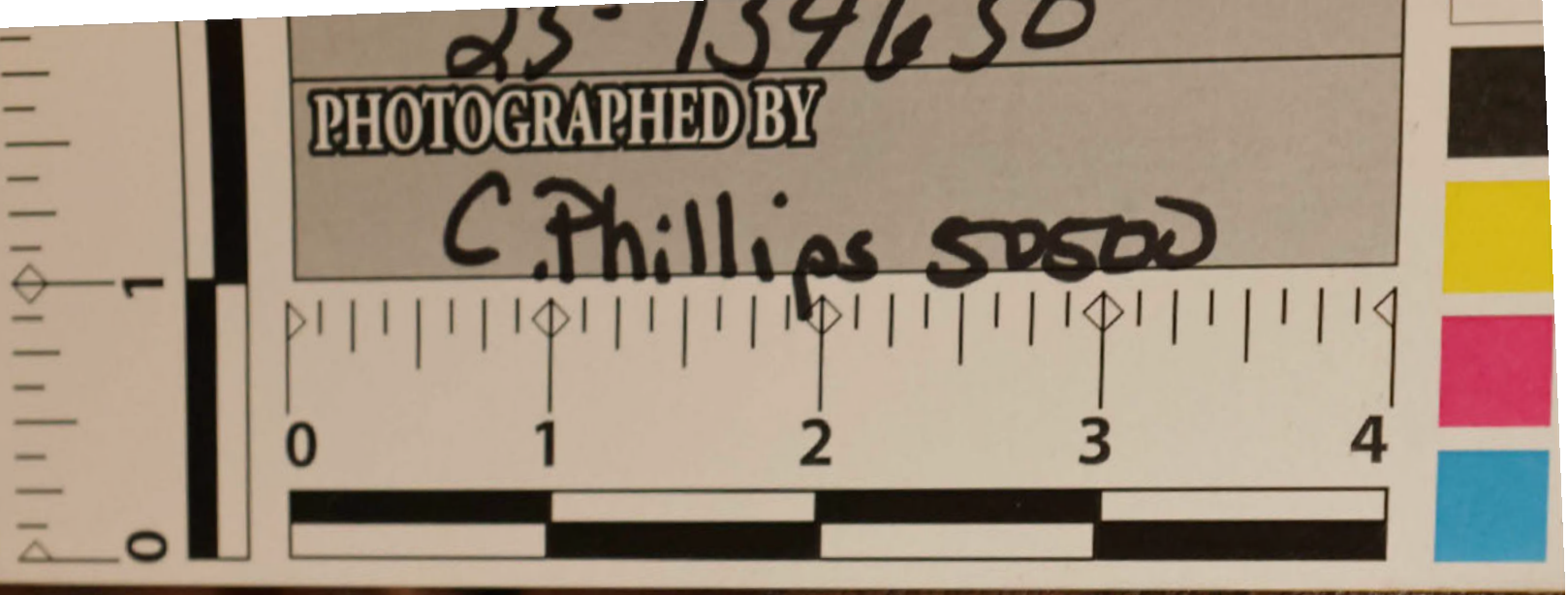
Attachment E
Photograph of Victim's Left Eye 2,
dated November 27, 2023

1
2
3
4
Cyan
Magenta
Yellow

Attachment F
Photograph of Victim's Mouth, dated November 27, 2023



Attachment G
Photograph of Right Side of Victim's Face,
dated November 27, 2023


25-134650
PHOTOGRAPHED BY
C. Phillips SDSO
0
1
2
3
4
1
0

Attachment H
Photograph of Victim's Chipped Teeth,
dated November 27, 2023


1
2
3

Attachment K
San Bernardino County District Attorney's Office Memorandum, dated January 17, 2024

CONFIDENTIAL
INTERAGENCY MEMORANDUM

DATE: 01/17/2024

FROM: Lisa Crane
Deputy District Attorney
San Bernardino Office

TO: Bureau of Investigation
ATTN: Investigator R. Hellstrom

NOTICE-CRIMINAL CHARGES NOT FILED

Suspect(s): Hector [redacted] Victorio
Report No: 2023-12-173SI
DA Case No: 2024-00-0001344
Victim(s): Victim [redacted]
Charges: PC149

I have reviewed this case submitted by your agency, and based upon the information submitted, I am of the opinion that criminal charges should not be filed for the following reason(s):

B - Lack of Sufficient Evidence
01: Insufficient evidence to prove guilt beyond a reasonable doubt.

Additional Comments:

If you have any questions, call me at 9093823800.

Should additional information come to your attention, and you desire to resubmit this case, please return it to me for further consideration. Please attach a copy of your investigation report, the additional information, your agency report number, and the District Attorney number.

Attachment L
San Bernardino Police Department, Manager's Review, Report, Case No. 23PSB-082, February 7, 2024

CITY OF SAN BERNARDINO
POLICE DEPARTMENT
INTEROFFICE MEMORANDUM

TO: Captain Adam Affrunti

FROM: Lieutenant Albert Ramirez

SUBJECT: Manager's Review 23PSB-082

DATE: February 7, 2024

COPIES:

Allegations:

Unreasonable Force
-Officer Hector Victorio

Improper Tactics
-Officer Hector Victorio

Unbecoming Conduct
-Officer Hector Victorio

Summary:

On November 27, 2023, Officer Hector Victorio and Officer Gabriel Rodriguez were patrolling the area of North "E" Street and West Highland Avenue, when Victorio observed a KIA with no front plate which is a violation of CVC 5200(a) (two plates required) through his rear-view mirror. Victorio got behind the KIA and observed the driver (Victim) make an unsafe left turn which was a violation of 22107. Victorio initiated a traffic stop by activating the lights and sirens on his marked police vehicle, and the driver failed to yield, and a pursuit ensued.

The pursuit came to an end when the driver crashed into a telephone pole at a high rate of speed. Officers contacted Victim and used force against him. Victim was arrested for CVC 2800.2(a) (Evading a Peace Officer: Reckless Driving) and CVC 2800.4 (Evading a Peace Officer: Wrong Way Driver).

The San Bernardino District Attorney investigators initiated a criminal investigation against Officer Victorio for California Penal Code 149 (Color of Authority). On January 17, 2024, Deputy District Attorney Lisa Crane reviewed the case and decided not to file the charge of PC 149 against Officer Victorio because the case lacked sufficient evidence.

Findings:

Officer Victorio:

Personnel File:

I reviewed Officer Victorio's personnel file and training file. I learned that the San Bernardino Police Department employed Officer Victorio as a Law Enforcement Trainee on September 16, 2021, and as a police officer on March 14, 2022.

Training File:

Victorio participated in the field training program from March 14, 2022, until September 8, 2022. Victorio had been assigned to patrol for approximately one year and two months, when the incident occurred on November 27, 2023.

Department Training:

Victorio has attended over twenty-five hours of use-of-force-related training that was provided by the San Bernardino Police Department, for further details see chart.

Date Completed	Training	School Attended	Hours
April 5, 2022	Defensive Tactics	San Bernardino Police Department	8
April 5, 2022	Strategic Communication	San Bernardino Police Department	2
April 6, 2022	Use of Force	San Bernardino Police Department	4
April 7, 2022	Tactical Firearms	San Bernardino Police Department	5
February 6, 2024	De-Escalation Awareness and Communication	Perfomix Course # 1487-20185	4
February 6, 2024	Advanced De-Escalation Awareness and Communication	Performix Course # 1487-20186	4
		Total	27 Hours

District Attorney's Office Investigation:

I obtained the County of San Bernardino, Office of the District Attorney Investigator's report, and the district attorney's turndown letter. The assigned investigator was Investigator Ralph Hellstrom.

Investigator's Report:

I reviewed Investigator Hellstrom's report and found that he provided a summary of Victorio's report, a summary of his investigation which included interviews with Witness [redacted] (Eye Witness), Sergeant Mark Blackwell, and Victim [redacted] (Suspect). Additionally, Hellstrom's report included a review of Victorio's file with POST and the San Bernardino Police Department, where he found that Victorio had no history of allegations of excessive force against him. Hellstrom reviewed Officer Victorio's, Officer De LA Cruz', and Sergeant Blackwell's BWC. Officer Rodriguez' BWC was not activated and fell off his person at the time of the incident. Hellstrom also reviewed the mobile video footage that Witness [redacted] recorded.

Investigation:

On December 6, 2023, at about 1208 hours, Hellstrom requested training records and any possible records of misconduct for Officer Victorio, from the California Commission on Peace Officers Standards and Training (POST). For further details reference request #R000406-120623. Hellstrom found POST had no records indicating a complaint, charge, or allegation of conduct against a peace officer employed by the agency that could render a peace officer subject to a suspension or revocation of certification by (POST) pursuant to Penal Code §13510. Additionally, he had Investigators Chavez and Blanco review Victorio personnel files for any misconduct similar to the crime that was being investigated and found there were no additional excessive use of force complaints in Victorio's file.

Hellstrom BWC analysis of Victorio's BWC Footage:

Hellstrom reviewed the BWC footage and provided his rendition of his observations of the BWC analysis.

Witness **Mobile Phone Video Review:**

Hellstrom observed both officers were wearing their police uniforms and when the video began Victim was on the ground on his stomach, while Rodriduez was on top of Victim and Victorio was on the left side of Victim trying to control his left arm.

Hellstrom observed Victorio deliver a knee strike to the upper torso/head area of Victim He delivered a strike with his right hand in the same area. Victorio delivered a right-hand strike that struck the left side of Victim 's upper back/shoulder area. Finally, Victorio delivered a right-hand strike to the back of Victim 's head. Rodriguez gained control of Victim 's right arm as he leaned forward and incidentally blocked one of Victorio's strikes.

Victorio delivered two knee strikes to the left side of Victim 's head which caused Victim to raise his head and turn his face to the right. Victorio delivered a right-hand strike to the right side of Victim 's head. At that point, Rodriguez and Victorio were able to gain control of Victim 's arms and place handcuffs on him.

Statements:

Hellstrom attempted to interview Witness ; however, she refused to provide a statement. Hellstrom interviewed Sergeant Mark Blackwell and Victim .

Mark Blackwell Interview:

On December 5, 2023, at about 0806 hours, Sergeant Mark Blackwell was interviewed by Hellstrom at the District Attorney's office (303 West 3rd Street, Officer 412, San Bernardino, California). Blackwell informed Hellstrom that he was the supervisor who responded to the incident and advised Hellstrom that an administrative investigation

would be conducted and ultimately forwarded to the Professional Standard Bureau. Blackwell informed Hellstrom that he did not use force against Victim and he did not witness the force used by Rodriguez and Victorio. Blackwell did not provide any further details relevant to this investigation.

Victim Interview:

On December 12, 2023, at about 0730 hours, Hellstrom and Investigator Wolfe interviewed Victim at the District Attorney's officer (303 West 3rd Street, San Bernardino, California). The following is a summary of Victim's statement to Investigators.

Victim indicated the pursuit concluded when he crashed into a telephone pole. Victim retrieved his cellular phone and a five-dollar bill because he did not want to lose it. Victim said he laid on the ground on his stomach because he knew he was going to be detained for not stopping his vehicle (failure to yield). Victim said his chest was flat on the ground with his arms parallel to his head, and his hands were flat on the ground. Victim said he wanted to make it easy for the officers to detain him. Victim told investigators he was "giving up" because he was done.

The officers approached him without saying anything to him and struck him. Victim believed the strike was delivered by the driver of the police vehicle (Victorio). Victim indicated he was struck several times before officers attempted to control his arms and before they began to give him commands. Victim could not identify who delivered each strike.

District Attorney Turndown:

A memorandum was drafted on January 17, 2024, advising Investigator Hellstrom that charges of Penal Code 149 would not be field against Officer H. Victorio because the investigation lacked sufficient evidence to prove guilt beyond reasonable doubt.

BWC Review:

I reviewed Officer H. Victorio's BWC video footage. There was no other BWC footage recorded that was relevant to this investigation.

Officer H. Victorio's BWC:

Officer Victorio was involved in a lengthy pursuit that involved unsafe driving movements during daylight hours. The pursuit concluded when the suspect vehicle collided with a telephone pole.

Victorio exited the police vehicle and said, "get on the fucking ground." Victorio approached the vehicle and Victim 's body was facing the ground, the tips of his toes

were touching the ground, his arms were touching the ground; however, his head was upright, and his palms were off the ground. The vehicle was against the telephone pole. Victim was holding a cellular phone and money in his right hand. As Victorio closed the distance, Victim advised officers, "I'm on the ground. I'm not resisting." Victorio placed his left on the back of Victim 's head and Victim grunted and placed his left hand against his face. Victorio then placed his right hand on Victim 's back while maintaining his left hand on the back of Victim 's head.

Commented [AA1]: Left what?

Rodriguez placed his hands on Victim 's lower back and transitioned to a top mount position, attempting to gain control of Victim 's right arm with his hands. As this occurred, Victorio delivered a strike with his right fist. It impacted the back of Victim 's neck. At this point of the altercation, Victim was moving and appeared to be covering up from the strike.

Rodriguez moved his left hand and placed it on Victim 's left wrist as Victorio delivered another strike with his right fist to Victim 's left shoulder. Victorio moved his left hand and attempted to gain control of Victim 's left wrist as well. Victorio placed his right hand on Victim 's left wrist. Victorio momentarily pinned Victim 's left arm against the ground.

Victorio transitioned, using a pressure point technique by placing his right thumb against Victim 's left ear. Rodriguez transitioned his hands to focus on controlling Victim 's right arm. Victorio moved his right hand and placed it on Victim 's back. At this point, Victim had his hands against his head.

Victorio placed his left hand on Victim 's left wrist and delivered a right-hand strike to the left side of Victim 's head where Victim 's hand was located, as he moved his left hand from Victim 's left wrist. Rodriguez was able to gain control of Victim 's right arm and Victorio was able to move Victim 's left hand from his face. As Victorio removed Victim 's left hand from his face, Victorio delivered a closed right fist strike against the left temple of Victim 's head.

Victorio moved his left hand from Victim 's left wrist to the back of Victim 's head, held it momentarily, and released it as he delivered another closed right fist strike to Victim 's head. Victorio placed his right hand on the back of Victim 's head and placed Victim 's left hand on the ground. Victorio delivered two knee strikes to Victim 's head that caused him to raise his head and face it to the right.

At this point, Rodriguez had control of Victim 's right arm. Victorio placed his left hand on the back of Victim 's head and Victorio struck the right side of Victim 's head with his closed right fist. Rodriguez lost control of Victim 's right arm. Victim immediately moved his right hand against the right side of his head. Rodriguez re-gained control of Victim 's right arm. Sergeant Blackwell arrived on scene and Victim was taken into custody.

Throughout the encounter, officers repeatedly told Victim to stop resisting and to place his hands behind his back. Also, throughout the encounter, Victim advised officers he was not moving, and he was done. Victim apologized once the officers gained control of his arms and placed handcuffs on him.

Witness **Video Recording:**

I reviewed Witness's cellular phone video recording, and it was consistent with Hellstrom's analysis.

Officer Victorio's Report:

I reviewed Victorio's report, and it was consistent with the BWC footage. The following is an excerpt from Victorio's police report related to the use of force.

> *I immediately came to a stop and observed the driver side door of* Victim's *vehicle come open. I believed* Victim *was attempting to flee the scene so I immediately exited my unit and began to sprint to the vehicle. As soon as I began to approach the driver side door, I observed* Victim *on the floor with a blunt object in his right hand.*
>
> Victim *'s head was in an upright position and his knee's were slightly bent in which I believed he was attempting to get back onto his feet. I immediately went down onto a knee and attempted to disorient* Victim *by placing my hand on his head and striking* Victim *in his upper torso area and inadvertently struck him in the head.*
>
> *I observed* Victim *'s arms on the top of his head and his elbows pressed off the ground, I believed he was trying to create space between the ground and him to possibly stand up. In an attempt to prevent that from happening, I struck his upper back twice with my right hand. I observed Officer Rodriguez attempting to gain control of* Victim *'s left wrist he was unable to so, I delivered an additional strike to* Victim *'s upper back area with my right hand. I then observed Officer Rodriguez attempting to gain control of* Victim *'s right wrist and was unable to. In fear* Victim *was over powering Officer Rodriguez, I attempted to strike* Victim *with my right knee in the left shoulder and inadvertently struck* Victim *twice in the head due to* Victim *continuously pulling his arms away.*
>
> *The strikes appeared to be ineffective due to Officer Rodriguez still being unable to control* Victim *'s left arm. In an attempt to gain compliance from* Victim *I struck* Victim *with my right hand in the facial area but it was ineffective due to Officer Rodriguez still not being able to control* Victim *'s right arm. I then struck* Victim *in the left shoulder but my punched slipped past his shoulder and nicked the top of his head. Once again the strikes*

appeared to be ineffective due to Officer Rodriguez being unable to place Victim *'s right arm behind his back.*

I observed Officer Rodriguez gain possession of Victim *'s right arm but was unable to control it so I delivered two knee strikes to* Victim *'s head. The strikes appeared to be ineffective due to Officer Rodriguez being unable to control* Victim *'s right arm. I delivered an additional strike with my right hand to* Victim *'s facial area and it appeared to be effective due to* Victim *placing his left hand his back and finally allowing Officer Rodriguez to place handcuffs on* Victim *.*

Officer Rodriguez' report:

I reviewed Rodriguez' report, and it was consistent with the BWC footage. The following is an excerpt from Rodriguez' police report related to the use of force.

I began to look in the immediate area for Victim *however, I did not observe him. I heard Officer H. Victorio giving* Victim *commands not to move. I ran around the pole the vehicle had collided into. As I continued to run towards Officer H. Victorio I observed* Victim *on the ground in between the opened driver side door and the vehicle itself.* Victim *was laying on his stomach with his hands on the ground near his head. I observed* Victim *to be holding an unknown object clinched into his right hand. In fear* Victim *was going to use that object as a weapon. I ran towards* Victim *and placed my hands onto his back and pushed his body down towards the ground while placing my knee against the right side of his body. This was effective as* Victim *was not able to get up and he no longer had the object in his hand. At this point* Victim *had placed his right hand underneath his face and his knees were slightly bent, in fear* Victim *was going to begin to push himself up and off of the ground. I grabbed* Victim *'s right hand with my right hand as I placed my left leg over* Victim *'s body to obtain a top mount position, this would give me the position of advantage to use my body weight to keep* Victim *pinned against the ground. I used my left hand to grab* Victim *'s left wrist and placed my right forearm against* Victim *'s back in order to obtain a firm grip of his hand, however, I was unable to maintain control his hand due to him pulling away from me.*

Officer H. Victorio grabbed Victim *'s left wrist and I observed* Victim *'s right hand was free, in fear* Victim *was going to be able to strike Officers I grabbed* Victim *'s right wrist with my left hand. I shifted my body weight forward and placed my left forearm onto the ground to the right side of his head while forcing* Victim *'s right wrist towards the ground to limit his ability to move it. I used my elbow to push* Victim *'s head to the left as I used my right hand to extend* Victim *'s right arm away from his body and pinned it towards the ground. I commanded* Victim *multiple times to give*

me his hand and to place them behind his back, however, he refused and continued to pull away from me. I grabbed Victim *'s right wrist with my right hand and placed my left hand onto his back and pushed it towards the ground. I pulled* Victim *'s right hand towards his lower back and attempted to pin it against his lower back with both of my hands.* Victim *was extremely strong and was able to pull his arm away from me even though he was only using one arm and I was using two. Based on my training and experience those that are extremely strong and are able to pull away from multiple Officers are under the influence of a controlled substance. Subjects under the influence of a controlled substance or substances do not feel pain and are able continue to fight or resist for an extended amount of time.*

Victim *began to place his right hand onto the ground near his head, I once again feared* Victim *was going to attempt to push himself off the ground in order to gain a position of advantage. It should be noted due to the tight quarters and close proximity between me and my partner, I felt the use of a taser, OC spray, or a baton would not be reasonable in this circumstance.*

I commanded Victim *to stop resisting and I placed my left forearm on his upper back and grabbed his right arm with my left hand. I shifted my weight forward onto* Victim *'s back and pulled his hand behind his back and pinned it against his lower back.* Victim *brought his right hand to his lower back and I was able to place handcuffs onto* Victim *'s wrist. At this point I observed Sergeant blackwell had arrived on scene.*

Statement:

Witness's **Interview**

On December 1, 2023, at about 1302 hours, I interviewed Witness by telephone. The interview was recorded with her knowledge. I advised her that I was conducting an administrative investigation. The following is a summary of Witness's statement.

Witness was leaving her residence to go to the store. Witness was going to place her daughter in her car seat when she heard what sounded like a vehicle accident. Witness picked up her cellular phone from the passenger seat. Witness began to record the incident. Witness would not provide further because she said everything was in the recording. Witness added that she did not know if the suspect was strong, if he was resisting, or any details about what occurred during the arrest. Witness believed based on her observation of the incident, the officer should not lose his job. Further, Witness was adamant that she did not want to speak to anyone about the incident because the incident was overwhelming.

Policy Review:

San Bernardino Policy

§300.2.2 FORCE OPTIONS

(a) Persuasion

1. The presence of a confident uniformed police officer displaying professional demeanor coupled with good verbal communication will generally convince a resistant subject to submit to your authority without the necessity of an escalation in force. Good verbalization may be advising, admonishing, warning, or persuading a subject to submit to your authority without the use of profanity or derogatory language. Officers should use verbal techniques to deescalate confrontations.

(b)Compliance Control Techniques

1. Compliance techniques consist of the physical application of force in the form of joint manipulations, blocks, pain compliance, and take-downs. These empty handed techniques should be coupled with a police officer's verbal commands.

(c) Intermediate Force

1. Chemical Agents (Policy Manual § 308)

(a)Police personnel may use chemical agents as an intermediate level of force for controlling or subduing combative persons. Chemical agents are defensive control weapons used to control or subdue subjects who are physically resisting arrest. Chemical agents should not be used indiscriminately and should not be used against non-combative persons. Chemical agents should not be used against a subject who is under restraint unless that subject is physically assaulting officers or others.

2. Conducted Energy Device (Policy Manual § 309)

(a) The Conducted Energy Device (CED) is a device which may be used to subdue physically combative persons in violent or potentially violent situations, when the suspect poses an immediate threat to officers or other persons. The CED may be used if other apprehension methods or restraints have failed or are deemed impractical and there is a reasonable expectation that it would be hazardous for personnel to approach and physically contact the subject/s, thus lessening potential for injury to the subject/s or officers involved.

(d) Impact Weapons

(a) Impact weapons are methods of subduing physically combative persons or immediately impeding the threatening actions of a violently resistant subject with physical strikes to the subject's body. These physical strikes shall be directed to those areas which are easily accessible, effective for quickly subduing the subject/s, and unlikely to cause serious injury. Other self-defense techniques, kicks or arm strikes, could be used at this level in lieu of a baton. Other authorized police equipment may be used as an impact weapon in exigent circumstances.

§300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved or authorized tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

§300.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, officers should consider actions that may increase officer safety and may decrease the need for using force:

(a) Summoning additional resources that are able to respond in a reasonably timely manner.
(b) Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
(c) Employing other tactics that do not unreasonably increase officer jeopardy.

In addition, when reasonable, officers should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)). Such alternatives may include but are not limited to:

(a) Attempts to de-escalate a situation.

(b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

§340.3.2 Conduct

(k) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.

§340.3.5 Performance

(m) Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual and be responsible for compliance with each of the policies contained herein.

(aa) Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.

§340.3.6 SAFETY

(f) Violating departmental safety standards or safe working practices.

San Bernardino Policy and Procedure:

§3.01 General Behavior

Employees shall at all times act in a manner so as to reflect credit to the Department. Any conduct which adversely affects the morale or efficiency of the

department and any conduct which has a tendency to adversely affect, lower, or destroy public respect and confidence in the department and the employee shall be considered unbecoming conduct. Conduct unbecoming an employee shall include any conduct which brings the Department into disrepute or reflects discredit upon the employee or the Department. It also includes any conduct which impairs the operation or efficiency of the Department or of any employee.

3.02 Obedience to Laws, Regulations, and Orders

B. Employees shall conform to and abide by the following: Charter of San Bernardino, rules and regulations of Civil Service, and the rules and regulations of the Department.

C. When assigned to duty with other personnel of the Department, employees shall be jointly responsible for compliance with rules and regulations and proper performance of duty.

D. Employees who violate any rule, regulation, or policy of the Department shall be subject to disciplinary action. The commission or omission of any other act contrary to good order and discipline shall also be the subject of disciplinary action.

§3.03 Conduct Towards Others

All personnel shall observe the following rules of conduct:

B. Personnel when issuing citations, conducting investigations and interrogations or handling other official business shall proceed in a courteous, fair, and impartial manner. They shall scrupulously avoid displaying an officious or overbearing attitude and shall not use coarse, profane or insulting language designed to belittle, ridicule, or embarrass an individual or group.

§4.01 Performance of Duty

While on duty employees shall:

1. *Devote their time and attention to the service of the City and shall direct and coordinate their efforts in a manner which will establish and maintain the highest standards of conduct.*

§4.02 Neglect of Duty

Employees may be deemed incompetent and subject to discipline when they: fail to properly perform their assigned duties; act in a manner tending to bring discredit to themselves or the Department; or fail to assume responsibility or exercise diligence, intelligence, and interest in the pursuit of their duties.

Conclusion:

On November 27, 2023, Officer H. Victorio and Officer G. Rodriguez were involved in a high-speed pursuit where the suspect made several unsafe driving movements including driving on the opposite side of the road during daylight hours, driving through a school zone area at a high rate of speed. After the pursuit, officers used force to apprehend the suspect.

An investigation was conducted and what was uncovered was the lack of experience by the officers. The lack of experience between Rodriguez and Victorio was evident. When Victorio authored his report he wrote he believed the suspect was a danger to them; however, Victorio's actions did not prove this because he could have initiated a felony traffic stop and gathered additional resources to de-escalate the situation. Instead, Victorio immediately closed the distance and began to give commands.

Victorio observed Victim on his stomach facing the ground with arms extended in a non-threatening manner holding a blunt object. Victorio perceived Victim to be a threat and decided to strike Victim without deploying hand control techniques, bypassing the force options outlined in the policy; therefore, the strike was unreasonable. Additionally, Victorio's lack of experience did not allow him to accurately access the threat. Further, Rodriguez recognized the threat, and he deployed hand control holds to overcome Victim 's resistance.

Victorio deployed hand and knee strikes to Victim 's head, which is against policy. It was evident that the techniques used by Victorio were improper and ineffective. These strikes used by Victorio could have led to injury and could have created a dangerous situation for himself and Rodriguez. Moreover, it was evident that Victorio's misinterpretation of Victim 's actions was attributed to Victorio's lack of experience because Victorio described Victim 's actions as resistance when in fact Victim was reacting to the strikes he received.

Although these policy violations are serious, these violations occurred because of Victorio's lack of experience (14 months since the date of hire as a police officer), and training. Further, this incident was investigated by the District Attorney's office which found the act was not criminal. Moreover, Victorio has no history of allegations of excessive force against him.

In this case, Victorio's actions were not malicious, intentional, or acting under the color of authority; instead, he acted in a manner where he made a bad decision and used bad

judgment, which can be corrected through training and experience. Since the incident, Victorio has attended 8 hours of de-escalation technique training.

Victorio violated Department Policy §300.2.2 (b), §300.2.2(c), §300.2.2(d), §300.3, §300.3.4(a), §300.3.4(b), §300.3.4(c), §340.3.2(k), §340.3.5 (m), §340.3.5,(aa), §340.3.6 (f), and Policy and Procedures, §3.01, §3.02 (B), §3.02(c), §3.02 (D), §3.03(B), §4.01, and §4.02.

Recommendations:

I recommend the allegation of **Improper Tactics** against **Officer Hector Victorio** be **Sustained.**

I recommend the allegation of **Unbecoming Conduct** against **Officer Hector Victorio** be **Sustained.**

I recommend the allegation of **Unreasonable Force** against **Officer Hector Victorio** be **Sustained.**

I recommend Officer Victorio receive a forty-hour suspension with no pay and that he attends forty hours of formal training related to the subject matter of de-escalation techniques and use of force. Further, the Professional Standards Bureau will audit Officer Victorio's use of force incidents for a twelve-month period.

Attachment M
Settlement Agreement in Case No. 23PSB-082
between the City of San Bernardino and
Hector Victorio, dated March 11, 2024

SETTLEMENT AGREEMENT

This Settlement Agreement and Appeal Waiver ("Agreement") is entered into as of March 11, 2024, by and between the City of San Bernardino ("City") and Hector Victorio ("Employee") (collectively, the "Parties").

RECITALS

WHEREAS:

A. On September 16, 2021, Employee was hired by the City in the position of Police Officer within the City's Police Department ("Department");

On December 1, 2023, the Employee was notified about an internal investigation regarding his actions of unreasonable force, unbecoming conduct, and improper tactics, after an arrest on November 27, 2023 (San Bernardino Case #2023-134638).

Subsequently, the employee through his legal representation, advised that he wanted to bypass the disciplinary appeal process. Further, the Employee indicated he was willing to admit to unreasonable force, unbecoming conduct, and improper tactics on November 27, 2023, when he failed to follow the department's policy during an arrest of a citizen.

B. Specifically, the employee admits to violating San Bernardino Policies §300.3, §300.3.4(a), §300.3.4(b), §300.3.4(c), §340.3.2(k), §340.3.5 (m), §340.3.5,(aa), §340.3.6 (f), and Policy and Procedures, §3.01, §3.02 (B), §3.02(c), §3.02 (D), §3.03(B), §4.01, and §4.02.

C. As a result, the Parties have since agreed to disciplinary action as follows: An imposition of a (40) forty-hour suspension, which consists of (20) twenty-hour suspension without pay and (20) twenty-hours held in abeyance upon successful completion of forty hours of de-escalation techniques and use of force training within one year from the date of signed agreement. Further, the Professional Standards Bureau will audit Officer Victorio's use of force incidents for a twelve-month period. This is done with the understanding that Employee waive any right he may otherwise have had to contest, or appeal this instant discipline.

AGREEMENT

NOW, THEREFORE, in consideration for the mutual promises and undertakings of the Parties as set forth below, the City and Employee hereby enter into this Agreement and agree as follows:

1. Incorporation of Recitals. The recitals set forth above are true and correct and are hereby fully incorporated into this Agreement by this reference.

2. No Admission of Liability. This Agreement shall in no way be construed as an admission by the City that it, the Department, or any officer, employee, or agent thereof, has acted wrongfully with respect to Employee. The City specifically disclaims any liability to or wrongful

acts against Employee on the part of the City, the Department, or any officer, employee, or agent thereof.

3. No Precedent. This Agreement is in no way intended, and shall in no way be construed, to restrict any rights guaranteed to the City under local, state, or federal law, rule, or policy or by private agreement, or to establish a precedent in this or any other matter, now or in the future.

4. Pending Disciplinary Action. The City and Employee agree that in return for valuable consideration—i.e., the City's non-adversarial, early and efficient resolution of this disciplinary action, and the Employee's non-adversarial, early and efficient resolution of this disciplinary action, that the Employee agrees to accept and abide by all of the terms specified in this Agreement.

5. Employee's Promises.

a) Concurrent with the execution of this agreement, Employee agrees that he will not file any appeal, claim, or lawsuit relating to the subject incident or acts referenced in this agreement **(23PSB-082).**

b) Employee agrees to an imposition of a (40) forty-hour suspension, which consists of, (20) twenty-hour suspension without pay and (20) twenty-hours held in abeyance upon successful completion of forty hours of de-escalation techniques and use of force training within one year from the date of signed agreement. Further, the Professional Standards Bureau will audit Officer Victorio's use of force incidents for a twelve-month period. Any noted deficiencies will be reviewed/investigated independent of this Agreement.

c) Employee agrees to waive any and all pre-discipline rights and any and all post-discipline rights that he may have to appeal, grieve, litigate, or otherwise contest the imposition of the discipline set forth in subdivisions a, b, c, and d of this section, above, under any provision or principle of local, state, or federal law, or under any contract or agreement written or oral, express or implied, including but not limited to, a collective bargaining agreement, a MOU, or any future "for cause" provisions of any employment agreement with the City, as may be further applicable, in any forum whatsoever, to the fullest extent permitted by law;

d) Employee agrees to comply with each and every one of the rules, regulations, and/or policies applicable to employees of the City in the Department, including from the date of the execution of this Agreement through the duration of the Employee's employment with the City;

6. Employee's Misconduct and/or Unsatisfactory Behavior. Employee admits to failing to perform his duties while arresting a citizen on November 27, 2023, as specified in department policy. Employee agrees and acknowledges that the aforementioned misconduct and unsatisfactory behavior constitute(s) a violation(s) of §300.3, §300.3.4(a), §300.3.4(b), §300.3.4(c), §340.3.2(k), §340.3.5 (m), §340.3.5,(aa), §340.3.6 (f), and Policy and Procedures, §3.01, §3.02 (B), §3.02(c), §3.02 (D), §3.03(B), §4.01, and §4.02.

7. Not a Limit on Future Actions. This Agreement in no way limits the City's ability to discipline Employee for other conduct by him that may violate City rules, policies, or regulations and/or terms of any applicable Memorandum of Understanding or standards of behavior. Moreover

a) Nothing in this Agreement shall limit the City's right to use or make reference to matters described in this Agreement, as a basis, in whole or in part, to justify a decision to discipline or to discharge Employee for any conduct arising or newly discovered subsequent to the execution of this Agreement, except to the extent limited by a City rule or policy or by a negotiated agreement or MOU with the employee's authorized and recognized representative; and

b) The City may place a copy of this Agreement in Employee's official personnel file, and Employee hereby consents to the City doing so and waives any and all rights to respond to and/or appeal the placement of this Agreement in his personnel file.

7. Voluntariness. Employee acknowledges that, prior to signing this Agreement, he was provided with an opportunity to consult with a representative and/or attorney of his own choosing and that he is voluntarily, knowingly, and intelligently entering into this Agreement with sufficient awareness of the relevant circumstances and likely consequences of this Agreement, on the advice of his own chosen counsel, and without reliance on any representations made by the City, the Department, or any officer, employee, or agent thereof, except as provided in this Agreement. Employee further acknowledges that he was given reasonable and sufficient time and opportunity to negotiate the terms of this Agreement and to consider the execution thereof under the terms set forth herein

8. Entire Agreement. The Parties acknowledge that this Agreement constitutes a signed integrated agreement expressing the entire agreement between the Parties and fully superseding any and all prior or contemporaneous oral or written agreements, understandings, promises, or representations between the Parties pertaining to the subject matter of this Agreement. Moreover, no subsequent agreement concerning the subject matter of this Agreement or modification to this Agreement shall be binding unless it is signed by both Parties.

9. Governing Law and Venue. This Agreement shall be governed by and interpreted under the laws of the State of California applicable to contracts made and to be performed within the State. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, California.

10. Interpretation and Severability. The Parties agree that the customary rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. The Parties further agree that, should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable for any reason, such determination shall not affect the validity of the remaining parts, terms, or provisions hereof, or of the offending provision in any other circumstance.

11. Authority. The persons signing this Agreement on behalf of the Parties hereto hereby warrant and represent that they are duly authorized to execute this Agreement on behalf of said Parties and that, by doing so, the Parties hereto are hereby formally bound to the provisions of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR SETTLEMENT AGREEMENT AND APPEAL WAIVER

PLEASE READ THIS AGREEMENT CAREFULLY. IT INCLUDES A WAIVER OF DISCIPLINE APPEAL RIGHTS AND A RELEASE BY THE CITY EMPLOYEE OF ANY AND ALL KNOWN AND UNKNOWN CLAIMS THAT HE MAY HAVE AGAINST THE CITY, THE DEPARTMENT, OR ANY OFFICER, EMPLOYEE, OR AGENT THEREOF. IN REFERENCE TO THE SUBJECT INCIDENT OR ACTS REFERENCED IN 23PSB-082.

IN WITNESS HEREOF, the Parties have executed this Agreement as of the date first written above.

CITY:

Approved By:

Darren Goodman
Chief, San Bernardino Police Department, City of San Bernardino

EMPLOYEE:

Approved By:

Officer Hector Victorio

Attachment N
Victim's Settlement Agreement with City,
dated July 31, 2024

Docusign Envelope ID: BEA665C6-6610-4122-9A25-F2C06F2BBAA8

SETTLEMENT, MUTUAL AGREEMENT AND GENERAL RELEASE OF CLAIMS

THIS SETTLEMENT, MUTUAL AGREEMENT, AND GENERAL RELEASE OF CLAIMS ("Agreement") is made and entered into by and between Victim [redacted] ("Claimant"), the City San Bernardino, Officer Hector Victorio, and Officer Gabriel Rodriguez (collectively "San Bernardino"). Claimant and San Bernardino are referred to collectively at times herein as the "Parties."

RECITALS

A. Claimant served a claim for damages against the San Bernardino on or about January 12, 2024 (the "Dispute");

B. The Dispute arises out of a high-speed pursuit involving Claimant occurring on or about November 27, 2023, in the City of San Bernardino;

C. Recognizing the costs and uncertainties involved in any litigation, the Parties now desire to settle fully and finalize all differences between them arising from the Dispute;

D. The Parties intend, by this Agreement, to settle any and all claims in connection with the Dispute, or otherwise existing between the Parties as of the execution of this Agreement, whether alleged or unalleged, for the total sum of Four Hundred and Fifty Thousand Dollars ($450,000);

E. This Agreement does not constitute an admission of any liability or wrongdoing whatsoever on the part of any of any of the Parties hereto.

AGREEMENT AND RELEASE

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Payment. Payment is contingent upon the execution of this Agreement. San Bernardino, shall make best efforts, within 15 days of receipt of this fully executed Agreement by all parties and a W-9 from Claimant's counsel, Joseph L. Richardson, make the settlement payment of Four Hundred Fifty Thousand ($450,000), made payable to Claimant's counsel of record as follows: "MCCUNE LAW GROUP, CLIENT TRUST ACCOUNT." The check shall be mailed to Mr. Joseph L. Richardson, via overnight mail to McCune Law Group, 31 W. Stuart Avenue, Suite 300, Redlands, CA 92374, signature required.

2. Notice. All notices to be given pursuant to this Agreement, shall be in writing and shall be delivered to the following addresses, or such other addresses as the Parties may later designate in writing:

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If to Claimant: Such notice shall be mailed to Mr. Joseph L. Richardson, Esq., at 31 W. Stuart Avenue, Suite 300, Redlands, CA 92374.

If to San Bernardino: Such notice shall be mailed to James R. Touchstone, Esq., at Jones Mayer, 3777 N. Harbor Blvd., Fullerton, California 92835.

3. Release by Claimant. Claimant, individually, and on behalf of himself, his heirs, successors, grantees, assigns, principals, agents, employees, consultants, representatives, attorneys, bonding companies, lien holders, and insurers fully and forever release and discharge the City San Bernardino, Officer Hector Victorio, and Officer Gabriel Rodriguez, as well as their respective successors, heirs, assigns, principals, agents, departments, employees, former employees, the City's elected officials, appointed officials, consultants, vendors, representatives, attorneys, bonding companies and insurers from any and all liability in connection with all claims, damages, attorney's fees, costs, liens, expenses, losses, suits, demands, rights, liabilities and allegations arising from or in any way related to the City of San Bernardino or its employees, officers or elected officials existing at the time of execution of this Agreement, whether made or unmade, known or unknown, asserted or unasserted, stated or unstated or that could have been stated, and of any kind whatsoever.

4. Claimant Responsible for All Liens: Claimant and Claimant's counsel represent and acknowledge that they bear full responsibility for any and all liens that may exist, such as attorney liens, medical liens, Medi-Cal liens, Medicare liens, or any other liens in connection with the Dispute. Claimant and Claimant's counsel shall be solely responsible for any and all liability associated with any such liens and shall indemnify and defend all defendants for any lawsuits, demands, claims or other legal actions of any sort whatsoever attempting to collect on said liens.

5. Civil Code section 1542 Release. The Claimant are aware of all rights that may be granted to them pursuant to Civil Code section 1542, which section reads, in pertinent part, as follows:

> **"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."**

Claimant nevertheless waives all rights granted to him by Section 1542, and any similar statute, code, law or regulation of any state of the United States, or of the United States, and assumes all risks for claims arising in the Dispute, heretofore or hereafter arising, known or unknown, from the subject matters of this release. Furthermore, Claimant agrees that the facts on which the release under which this Agreement is based, may turn out to be different from the facts now known or believed to be true in respect to the matters referred to above. Nevertheless,

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the Claimant accepts and assumes the risk that such facts may turn out to be different and agrees that the terms of the release in this Agreement shall in all respects be effective and not subject to termination, rescission, modification by an such difference in the facts.

6. Competency. In consideration of the above-described settlement and as an inducement therefore, Claimant represents, covenants and agrees that Claimant is competent to sign on his behalf.

7. No Admission of Liability. The Parties understand and agree that this Agreement is not to be construed as an admission of liability whatsoever on the part of the City of San Bernardino, or any other San Bernardino employee or department, and that this Agreement is made solely for the purpose of avoiding the burden that would be imposed upon the Parties by further litigating the Dispute.

8. No Assignment. Claimant represents and warrants that he has not assigned or transferred, or purported to assign or transfer, and shall not hereafter assign or transfer, any obligations, liabilities, demands, claims, costs, expenses, debts, controversies, damages, actions, and causes of actions released under this Agreement.

9. Consultation With Attorney. Each Party declares that prior to the execution of this Agreement, he/she/it has consulted with his/her/its attorney in order that he/she/it may intelligently exercise his/hers/its own judgment in deciding whether to execute this Agreement.

10. Authority to Execute Agreement. Each Party declares that he/she/it has read this Agreement and understands and knows the contents thereof, and represents and warrants that each of the Parties executing this Agreement is empowered to do so and hereby binds the respective Party, and all of its successors, assigns, principles, agents, employees, consultants, representatives, attorneys, bonding companies and insurers to the terms hereunder.

11. Counterparts. This Agreement may be executed in counterparts, and all so executed shall constitute an agreement binding on the Parties hereto. The Parties further agree that a facsimile and/or scanned copy of the executed counterparts shall have the same force and effect as an original.

12. Enforcing Agreement. This Agreement shall in all respects be interpreted, enforced and governed under the laws of the United States or the State of California, as applicable, and this Agreement is fully enforceable pursuant to California Code of Civil Procedure section 664.6, or its federal counterpart. The Parties agree that the Court shall retain jurisdiction to enforce the terms of this Agreement.

13. Jurisdiction and Venue. This Agreement is intended to be construed pursuant to the laws of the State of California. Each Party hereto agrees that the proper venue for any action arising out of the breach or the interpretation of this Agreement or other documents delivered pursuant to any provision thereof, shall be the San Bernardino County Superior Court of the State of California.

Docusign Envelope ID: BEA665C6-6610-4122-9A25-F2C06F2BBAA8

14. Entire Agreement. This Agreement constitutes the entire understanding between and among the Parties hereto. Each Party acknowledges that no Party, agent or representative of the other Party has made any promise, representation or warranty, express or implied, not expressly contained in this Agreement, which induced the other Party to sign this document. Both Parties agree that this Agreement shall not be amended or modified, except in writing signed by each Party, and shall not be construed against any Party because that Party's representative drafted the Agreement or any portion of it.

15. Additional Acts. The Parties agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary or appropriate to carry out this Agreement.

16. No Other Promise or Warranty. No promise or warranty shall be binding on any Party except as expressly contained in this Agreement.

17. Not Binding on Any Third Party. This Agreement is not for the benefit of any person or party who is not a signatory hereto or specifically named or referred to herein.

18. If Any Provision Is Void. If any provision of this Agreement shall be determined to be invalid, void or illegal, such provision shall be construed and amended in a manner which would permit its enforcement, but in no event shall such provision affect, impair or invalidate any other provision hereof.

19. Agreement Binding on Successors. It is agreed that this Agreement, together with the releases, shall be binding upon and inure to the benefit of the heirs, executors, administrators, personal representatives, successors in interest and assigns of the respective Parties hereto.

20. Attorneys' Fees. The Parties shall each bear their own attorney's fees and costs incurred in litigation of the Dispute. However, should either Party initiate any action at law or in equity to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and costs.

21. Gender and Number. Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

Docusign Envelope ID: BEA665C6-6610-4122-9A25-F2C06F2BBAA8

22. Effective Date. This Agreement shall be effective as of the last date set forth below.

WHEREFORE, the undersigned having read the foregoing Settlement and Release Agreement, and fully understanding it, and agreeing to its terms, hereby execute this Agreement and make it effective on the date of the last signature hereto.

DATED: July 31, 2024

CITY OF SAN BERNARDINO

By: _____
Rochelle Clayton
Acting City Manager for CITY OF SAN BERNARDINO

DATED: July ___, 2024

Victim 7/2/2024

APPROVED AS TO FORM AND CONTENT:

DATED: July 3, 2024

MCCUNE LAW GROUP

By: _____,
Joseph L. Richardson, Esq.
Attorney for Asa Carraway

DATED: July 3, 2024

JONES MAYER

By: _____
James R. Touchstone, Esq.
Attorney for City of San Bernardino

Attachment P
San Bernardino Police Department Internal Affairs Investigation Case No. 24PSB-006, dated August 1, 2024

CITY OF SAN BERNARDINO
POLICE DEPARTMENT
INTEROFFICE MEMORANDUM

TO: Captain A. Affrunti

FROM: Detective J. Vega

SUBJECT: Internal Complaint Investigation (24PSB-006)

DATE: August 1, 2024

COPIES:

SYNOPSIS:

On Thursday, February 22, 2024, I was assigned to investigate this Internal Complaint (24PSB-006). I was made aware that San Bernardino County Assistant District Attorney Robert Brown had concerns regarding a statement captured on body-worn camera (BWC) footage for San Bernardino Police Department (SBPD) case number 2023-0122237. Officer H. Victorio was captured on BWC telling the suspect, Arrestee (DOB: PII - Civ. Code sec. 1798.24), "Your so fucking lucky there's people here, I'd beat the fuck out of you for taking away from me." Officer 1, who was standing near Officer Victorio and Arrestee, covered his BWC with his hand and muted his BWC within seconds of Officer Victorio's comment. No force was used during the detention and subsequent arrest of Arrestee

The arrest of Arrestee stemmed from a burglary investigation. On Saturday, October 28, 2023, at about 0720 hours, San Bernardino Police Dispatch received a transfer call from the Riverside County Sheriff's Department regarding a suspicious circumstance call at Incident location (Incident location.) in the City and County of San Bernardino. The reporting party (RP) was watching a live surveillance stream of the business and could see subjects taking property from the business.

This call generated a significant police response. A total of 3 Sergeants, 2 Corporals, 13 Officers, a Forensic Specialist, and a San Bernardino County Sheriff's Department helicopter (40 King) responded to the call. Three suspects (including Arrestee were arrested for burglary during the investigation.

During a review of BWC footage, Arrestee was observed being detained by Officer 1 while riding an electric scooter and wearing a black backpack on his back. Arrestee also had a black shirt in his possession when detained. The shirt was resting on Arrestee shoulder and not worn.

During a search of Arrestee Officer 1 removed a clear plastic bag from Arrestee which contained a white substance he suspected was methamphetamine.[1] During the detention, Officer 1 also removed some suspected marijuana[2] from Arrestee Officer Victorio was observed on BWC placing the clear plastic bag containing the suspected narcotics inside the backpack. Officer 1 was observed placing the suspected marijuana in the backpack. An additional clear zip lock bag containing suspected marijuana was observed in the backpack when Officer Victorio searched the backpack.

While Officer Victorio searched the backpack, some "1MORE" brand earphones were observed inside the backpack. The same brand of earphones in a similar box was observed on Officer R. Navarro-Garcia's BWC footage when he and the victim inventoried some of the stolen/recovered property at the victim's warehouse.

The backpack also contained other miscellaneous personal property which included cell phones, a USB cord, a screwdriver, lighters, and a wallet (which had no visible contents). During the investigation, the victim identified the scooter as belonging to him. The scooter was returned to the victim. Officer Victorio determined that Arrestee black shirt had been used as a mask during the burglary. Officer Victorio placed the black shirt in evidence.

Arrestee was arrested and jailed on felony charges. San Bernardino County Sheriff's Department booking records did not show Arrestee was booked with a backpack, any cell phones, or a wallet. No record of the backpack being tagged as evidence or safekeeping at the SBPD was found. No record of the narcotics was found indicating they were submitted for analysis or destruction.

A review of police reports found that neither the backpack, its contents, nor the narcotics were mentioned. BWC footage shows the last officer to have the backpack with evidence and narcotics was Officer Victorio. The BWC footage captured Officer Victorio placing the backpack with evidence and narcotics in the backseat floorboard of Unit #5.

Sergeant F. Fuentes (Witness Officer) was directed to complete a memorandum during the investigation. Sergeant Fuentes was on the initial burglary call and was the next officer assigned to use Unit #5 after Officer Victorio. He recalled responding to the call and assisting with clearing the building. Sergeant Fuentes did not recall encountering Arrestee or taking possession of his property. He was "confident" that he conducted a pre-shift inspection of Unit #5 as part of his routine. Sergeant Fuentes did not locate any property, backpack, or narcotics in Unit #5 during the pre-shift vehicle inspection.

[1] The substance Officer 1 recovered will be referred in this investigation as "suspected methamphetamine" because it was not laboratory tested.

[2] The marijuana Officer 1 recovered will be referred in this investigation as "suspected marijuana" because it was not laboratory tested.

Officer V. Trejo (Witness Officer) was interviewed during the investigation. Officer Trejo assisted with the burglary investigation by transporting the suspect Arrestee to jail. Officer Trejo was asked if she was provided a backpack that Arrestee had when he was detained. She replied, “That I recall, no.” Officer Trejo was asked if she knew what happened to the backpack and any of the additional property that he had. Officer Trejo replied, “I do not know.” She was asked if she was aware if Arrestee had any narcotics when he was contacted and detained. Officer Trejo replied, “I do not recall.”

Officer R. Navarro-Garcia (Witness Officer) was interviewed during the investigation. He recalled that on 10/28/2023, he responded to Rialto Street and E Street as part of a burglary investigation and conducted the infield lineup with the victim, Victim and that the line-up was conducted for the suspect, Arrestee Officer Navarro-Garcia was asked if he recalled the victim identifying his scooter during the line-up. He replied, “Yes.” I asked Officer Navarro-Garcia if any other property, including headphones, was shown to the victim. Officer Navarro-Garcia said he could only recall the “scooter” that the suspect had.

Officer Navarro-Garcia was asked if he was aware of what happened to a backpack, suspected narcotics and other property Arrestee had in his possession. He replied that he did not recall any other property Arrestee had other than the scooter. I asked Officer Navarro-Garcia again if he was aware of any suspected narcotics Arrestee had in his possession. He replied, “Until now, no sir” and added he did not know anything about narcotics. I asked Officer Navarro-Garcia if he had taken possession of any of Arrestee property, other than the scooter Victim took possession of. He replied, “No, only the scooter, nothing else sir.”

Officer 1 (Focus Officer) was interviewed during the investigation. Officer 1 was assisting with a burglary investigation at Incident location when he heard Officer Victorio broadcast that a suspect was fleeing from him on a scooter. He said he detained Arrestee who was riding a scooter and had a backpack at the Transit Center. Officer 1 said he located what he believed was methamphetamine in Arrestee pocket and placed the methamphetamine on top of a wall. During a secondary search, he located marijuana on Arrestee and believed he put the marijuana on the roof of his unit.

Officer 1 said he did not complete a report for the investigation. Officer Victorio told him that he (Officer Victorio) was going to “cover it” referring to documenting the incident because it was the end of Officer 1’s shift. Officer 1 said the scooter and backpack Arrestee possessed had been placed in the back of Officer Victorio’s unit. Officer 1 did not take any evidence or property with him when he left the scene. Officer 1 said he was not responsible for going to the station to tag any evidence.

Officer 1 initially said he was not sure what happened to the suspected methamphetamine and suspected marijuana because when he went back, both were gone. After reviewing BWC footage during the interview, Officer 1 said he was

confident that he was not responsible for tagging in any evidence and that the narcotics remained with Officer Victorio.

Officer Victorio (Focus Officer) was interviewed during the investigation. Officer Victorio stated he had not initially been dispatched to the burglary call but was listening to the radio and heard there was an ongoing “459” and that two possible suspects had not been accounted for. Officer Victorio observed a Hispanic male suspect near Rialto Avenue and E Street. The subject matched the suspect's description that officers at the burglary scene had provided. Officer Victorio said he was wearing a department-approved uniform. He exited his marked police vehicle and turned on his overhead lights. Officer Victorio yelled to the suspect; the suspect looked back at him. Officer Victorio tried to call the suspect to him, but the suspect began to flee on a scooter. Based on the suspect description provided by his partners, Officer Victorio believed the subject was “involved with the commission of the crime.”

Officer Victorio said Officer 1 arrived on the scene and he told Officer 1 what direction the suspect was going. Officer 1 went in that direction while Officer Victorio tried to catch up. Officer Victorio said the suspect was riding westbound, through the train station. Officer 1 detained the suspect, and Officer Victorio later confirmed it was the person who had fled from him.

Officer Victorio said Arrestee had a black backpack that contained hygiene products, an alcoholic beverage, lighters, and some tools including a screwdriver. Officer Victorio remembered Officer 1 locating suspected cocaine on Arrestee that was in a clear plastic bag. Officer 1 placed the suspected cocaine on the ledge of a wall. Officer Victorio said he collected everything that was on the ledge of the wall and placed the items inside the backpack.

When asked what happened with the backpack, Officer Victorio said, “Looking back at it now” and after reviewing all the documents that had been provided to him, he thought he had tagged the backpack in for evidence because that is what he would typically do. He continued and said after reviewing the “PR1” he noticed he did not tag it in. Officer Victorio then said, “I know” that he had “tossed it.” Officer Victorio said he believed he threw away the backpack and its contents, including the possible cocaine, at the police station.

Officer Victorio said he recognized the substance as suspected cocaine from his training and experience, but that the substance was not tested. Officer Victorio did not remember the suspected marijuana being in the backpack.

Officer Victorio collected evidence during the case and placed a shirt in evidence. Officer Victorio completed a report during the investigation and said he did not mention the backpack and cocaine in his report. Officer Victorio said since he had the suspect on a felony charge and was not going to charge the misdemeanor, he “got rid of it” referring to the suspected cocaine.

When asked why would have tagged the t-shirt and not the backpack, Officer Victorio remembered the backpack was “disgusting” and was not sure if the alcoholic beverage had “leaked” in the backpack. Officer Victorio continued and said the first time he checked the backpack was a “safety sweep” to ensure no weapons were inside. Officer Victorio said the second time he went through the backpack he had gloves on. Officer Victorio described the backpack as having an odor and being “sticky.” Officer Victorio continued and stated that we (officers) do not tag in lighters or alcoholic beverages. Officer Victorio then said, “I just didn’t see me tagging it for like safekeeping or evidence.”

Officer Victorio was shown his BWC footage during the interview. Officer Victorio confirmed the backpack and possible cocaine seen in the footage were the items being referred to during the interview.

Officer Victorio was asked if it was “common practice” to throw items of evidence or property belonging to citizens away. Officer Victorio replied, “No sir.”

Officer Victorio was asked in “hindsight,” what would have been the appropriate disposition of the property that Arrestee possessed. Officer Victorio replied, the “cocaine” even though he was not going to charge him with it, he could have tagged it in for “destruction.”

Officer Victorio continued and said he could have removed all the items he could not tag in from the backpack and thrown those items away. Officer Victorio said he could have tagged the personal belongings in the backpack as “safekeeping.”

FINDINGS:

BWC REVIEW (Tab 06)

I located a total of 34 BWC recordings for this incident. The following officers had BWC footage found not to be relevant to this investigation:

Sergeant A. Reyna (4) BWC clips of footage from the station and the initial crime scene.

Corporal J. Burgher (1) BWC clip of footage from the initial crime scene.

Corporal M. Valenzuela (1) BWC clip of footage from the initial crime scene.

Officer K. Birkett (1) BWC clip of footage from the initial crime scene.

Officer C. Oropeza (3) BWC clips of footage from the station, initial crime scene, and county jail (CDC).

Officer J. Ortiz (1) BWC clip of footage from the initial crime scene.

Officer J. Madrid (1) BWC clip of footage from the initial crime scene.

Officer R. Miars (1) BWC clip of footage from the initial crime scene.

Officer G. Rodriguez (3) BWC clips of footage from the station and the initial crime scene.

Officer J. Tubbs (1) BWC clip of footage from the initial crime scene.

Officer S. Wilcox (1) BWC clip of footage from the initial crime scene.

Officer M. Vuicich (1) BWC clip of footage from the initial crime scene.

The following Officers had BWC footage found to be relevant to this investigation:

Officers Officer 1, V. Trejo, and H. Victorio had direct contact with Arrestee. BWC footage for Officer Navarro-Garcia was also found to be relevant due to the footage showing property items (earphones) that the suspects stole and property (electric scooter) Officer Navarro-Garcia took possession of from Officer Victorio.

Officer H. Victorio had four BWC recordings for this investigation. The following is a summary of the footage:

Officer Victorio BWC #1 - Date: 10/28/2023 - Time: 07:42:18 - Length 17:19

The footage began with Officer Victorio driving north on E Street approaching Rialto Avenue. This was determined by visible street signs. At about 07:42:48, Officer Victorio exited a marked SBPD "Supervisor" vehicle (Unit #5) and stated to [redacted], "Hey bro, come here." Officer Victorio repeated, "Come here." [redacted] was visible in the footage and was riding an electric scooter. [redacted] did not comply and rode away from Officer Victorio on the scooter. The overhead emergency lights were activated on the police vehicle.

At about 07:43:12, Officer Victorio told another officer in a marked SBPD vehicle that [redacted] was "taking off," and directed the officer to "cut him off".[3] Officer Victorio (1Adam16) broadcasted to dispatch that [redacted] was taking off west through the train tracks. Officer Victorio drove his vehicle to the transit center and entered the transit center by driving south on F Street from Rialto Avenue. At about 07:44:32, Officer Victorio located [redacted] taking [redacted] into custody at the transit center. [redacted] had already handcuffed [redacted] when Officer Victorio arrived. Officer Victorio confirmed with [redacted] that [redacted] was the person who fled from him.

Officer Victorio assisted in searching [redacted] and was seen removing (07:44:49) a black, unknown make, touch screen cell phone from [redacted] right front pant pocket. Officer Victorio was also seen removing (07:44:54) a black wallet from [redacted] right rear pant pocket. These items were placed on top of a block wall. BWC footage (07:46:33) later showed the wallet did not contain any visible contents. At about 07:45:07, Officer Victorio told [redacted] "Your so fucking lucky there's people here, I'd beat the fuck out of you for taking away from me."

Officer Victorio searched [redacted] black backpack. Inside the backpack was a box of "1MORE" earphones (07:45:28).[4] A second black cell phone (07:45:49) was also seen in the backpack. Officer Victorio collected [redacted]' property from the block wall and placed the items inside the backpack. Officer Victorio collected a clear plastic bag tied in a knot that contained a white substance (suspected cocaine or methamphetamine) that [redacted] previously removed from [redacted] Officer Victorio placed the substance in the backpack. Officer Victorio secured the backpack in the backseat of his police vehicle.

At about 07:52:50, Officer Victorio removed the backpack from his backseat, placed the backpack on the ground, and again searched the backpack. Officer Victorio placed the contents back into the backpack which included the suspected narcotics and a zip lock back containing suspected marijuana. The backpack was again secured in the backseat of Officer Victorio's vehicle. This BWC footage ended as the scooter and a black shirt were placed in Officer Victorio's vehicle by both [redacted] and Officer Victorio.

[3] . [redacted] was determined to be the responding officer after further BWC review.
[4] The "1MORE" earphones were later found to match stolen earphones from the business.

Officer Victorio BWC #2 - Date: 10/28/2023 - Time: 08:04:17 - Length 6:30

This BWC footage captured Officer 1 driving away. Arrestee was left with Officer Victorio near Rialto Avenue and E Street. Per Officer Victorio's police report, officers relocated to this location to allow the train station to resume normal operations. Officer V. Trejo arrived within a minute of Officer 1 leaving. Arrestee was secured in the backseat of Officer Trejo's unit. Most of this BWC footage was muted.

Officer Victorio BWC #3 - Date: 10/28/2023 - Time: 08:43:40 - Length 4:16

This BWC footage began near the tail end of the infield line-up involving Arrestee Officer Victorio was assisted by Officer Trejo. After Arrestee was placed back into Officer Trejo's vehicle, Officer Victorio removed the electric scooter from his vehicle. The victim, whom Officer Navarro-Garcia transported, identified the scooter as his property. Officer Victorio photographed the scooter with a RIPA phone and placed the scooter in Officer Navarro-Garcia's vehicle with the victim. The backpack was seen on the floorboard behind the driver's seat in Officer Victorio's vehicle. Photographs of the scooter were found in DIMS.

Officer Victorio BWC #4 - Date: 10/28/2023 - Time: 08:49:29 - Length 3:50

This BWC footage began with Officer Victorio photographing Arrestee' tattoos with a RIPA phone. Photographs of Arrestee tattoos were found in DIMS. Officer Victorio read Arrestee his Miranda rights. Arrestee denied stealing anything during the interview.

Officer 1 had one BWC recording for this investigation. The following is a summary of the footage:

Officer 1 ***BWC - Date: 10/28/2023 - Time: 07:30:36 - Length 33:23***

This BWC footage began with Officer 1 assisting in clearing a vehicle that had been stopped during the investigation. Officer 1 assisted with establishing a perimeter of Incident location. At about 07:42:18, Officer 1 began running to his patrol car. Officer 1 drove his patrol vehicle, and then exited his vehicle at the transit center and ran after Arrestee Officer 1 pointed his duty weapon at Arrestee Arrestee dismounted the scooter and was handcuffed and detained by Officer 1. The audio on the BWC was muted during the detention of Arrestee

Officer 1 helped Arrestee stand up and escorted him to a nearby block wall. Officer 1 began searching Arrestee At about 07:44:54, Officer 1 turned on the audio to his BWC. At about 07:44:58, Officer 1 removed a bag of suspected narcotics (white substance) from Arrestee left front pant pocket. Officer 1 placed the substance on top of the block wall.

At about 07:45:07, Officer Victorio stated, “Your so fucking lucky there’s people here, I’d beat the fuck out of you for taking away from me.” At about 07:45:08, Officer 1 muted his BWC.

Officer 1 escorted Arrestee to his patrol vehicle. During another search of Arrestee Officer 1 located some US currency and a clear plastic bag containing suspected marijuana (07:46:26) in Arrestee right front pants pocket. It appeared that Officer 1 immediately placed the money back into Arrestee ’ pocket. The suspected marijuana was placed on top of his patrol vehicle. Officer 1 placed Arrestee in the backseat of his patrol vehicle. Officer 1 obtained Arrestee name and birth date and conducted a computer records search for Arrestee in his police vehicle.

At about 07:51:47, Officer 1 returned to the area Arrestee dismounted the electric scooter. Officer 1 collected the scooter and a black shirt, which was on the ground by the scooter, and he set the items by the SBPD patrol vehicles.

At about 07:55:20, Officer 1 retrieved the bag of suspected marijuana from the top of his vehicle. Officer 1 walked to Officer Victorio’s vehicle and placed the suspected marijuana inside a zippered portion of the backpack.

At about 07:59:19, Officer 1 assisted Officer Victorio in loading the scooter in the backseat of Officer Victorio’s patrol vehicle. Officer 1 left the black shirt in Officer Victorio’s vehicle.

Officer 1 drove his vehicle from the transit center and parked on Rialto Avenue, west of E Street. At about 08:03:59, Officer 1 turned off his BWC.

Officer V. Trejo had two BWC recordings for this investigation. The following is a summary of the footage:

Officer Trejo BWC #1 - Date: 10/28/2023 - Time: 08:43:02 - Length 00:52

This BWC footage began with the infield line-up involving Arrestee Officer Trejo assisted Officer Victorio with the line-up on Rialto Avenue, west of E Street. Officer Trejo turned her BWC off as Officer Victorio placed Arrestee in the backseat of Officer Trejo's police vehicle.

Officer Trejo BWC #2 - Date: 10/28/2023 - Time: 08:56:16 - Length 06:15

This BWC footage began as Officer Trejo was driving her police vehicle east on Rialto Avenue towards D Street.[5] Officer Trejo spoke with Arrestee while she was driving. Officer Trejo arrived at the intake parking lot of the county jail (CDC) and turned off her BWC while she was sitting in the driver's seat of her vehicle.

Arrestee nor any of his property were observed on this BWC footage.

[5] This was determined by street signs and landmarks.

Officer R. Navarro-Garcia (8) BWC clips of footage from the station, initial crime scene, and infield line-up of Arrestee. Most of his BWC footage was not relevant to this investigation. The BWC footage captured Victim taking possession of the scooter Arrestee was riding when he was detained.

Officer Navarro-Garcia BWC #3 - Date: 10/28/2023 - Time: 08:33:38 - Length 30:21

At about 08:40:03, Officer Navarro-Garcia admonished the victim regarding the infield line-up involving Arrestee During the infield line-up, the victim identified his scooter and the suspect's clothing. Officer Victorio told Officer Navarro-Garcia that he would photograph the scooter and put it in his (Officer Navarro-Garcia's) vehicle. At about 08:51:14, the victim exited the rear of Officer Navarro-Garcia's vehicle with the scooter. The backpack was not seen. Officer Navarro-Garcia continued with his investigation at the warehouse.

Officer Navarro-Garcia BWC #7 - Date: 10/28/2023 - Time: 10:23:43 - Length 21:38

This BWC footage captured Officer Navarro-Garcia continuing with his investigation at the warehouse. At about 10:29:10, Officer Navarro-Garcia was conducting an inventory of property the suspects removed from the warehouse. Some of the earphones "1MORE" brand appeared to be the same as the box of earphones Arrestee had in his backpack.

This concludes the BWC review.

REPORTS REVIEW (Tab 03)

I located a total of 14 police reports in Mobile Client for this incident.

- Officer Navarro-Garcia completed CR1.1, CR2, PR1, and PR1 Evidence reports. The CR1.1 referenced the suspect on the scooter. The CR2 identified the suspect who fled on the scooter as Arrestee [redacted]. Arrestee was identified via surveillance footage and an infield line-up. The scooter was identified as belonging to the victim and had been taken from inside the business. Officer Navarro-Garcia's report stated that Officer Victorio located Arrestee on the scooter.

- Officer Navarro-Garcia's PR1 Evidence report listed the item as a "CD" with footage of the burglary. The PR1 report listed (19) separate stolen and recovered items. Two of the items were listed as "1MORE" brand headphones/earphones, which was the same brand of earphones seen in Arrestee backpack.

- Officer G. Rodriguez completed CR2 and CR3 Arrest reports. The CR2 stated that one of the suspects arrived on a black scooter. The CR3 contained information for another suspect.

- Officer Victorio completed CR2 and PR1 Evidence reports. Officer Victorio described responding to the call and that one of the outstanding suspects was a bald Hispanic male wearing a white hoodie. Officer Victorio stated he located Arrestee who was a bald Hispanic male wearing a white hoodie and riding an electric scooter. Arrestee fled from him. He added Officer 1 [redacted] arrived on the scene and "intercepted" Arrestee at the train station and was detained. Officer Victorio's report stated Arrestee had a black shirt on his person.

- Officer Victorio's report also stated he viewed a brief portion of the video surveillance and noticed Arrestee used the shirt to cover his face during the crime. Officer Victorio stated Arrestee was identified during an infield line-up as one of the suspects. He added that the electric scooter was released to the reporting party at the scene. Officer Victorio had an "EVIDENCE" heading in his CR2 that listed the black shirt recovered, which was assigned tag number 23-12095. His PR1 Evidence report listed the same tag number and item as a "black shirt."

The following officers completed CR2 reports not relevant to this investigation: Officer C. Oropeza, Officer R. Miars, and Officer M. Vuicich.

Officer Oropeza also completed a CR3 Arrest report for another suspect. Officer Trejo completed a CR3 Arrest report for the suspect, Arrestee [redacted].

Laserfiche stored 6 sets of reports for this investigation. One set of records was a copy of the Booking Application and Probable Cause Declaration for Arrestee The other records were not relevant to this investigation.

- Forensic Specialist A. Lugo completed a Forensic Report. The report was not relevant to this investigation.

During a review of the police reports, there was no mention of Arrestee having any suspected narcotics or having a backpack that contained earphones. No reports indicated what happened to the backpack or the suspected narcotics.

This concludes the Report(s) review.

FOLLOW-UP INVESTIGATION

SBPD Property / Evidence Room

On Tuesday, 2/27/2024, I went to the SBPD Property Room after learning of the missing narcotics and backpack. Property Technician E. Sanchez researched case number 2023-122237 for any items that had been placed into evidence or safekeeping during the burglary investigation. Property Technician Sanchez informed me that only the following items had been tagged into evidence: A black shirt - Evidence Tag Number 23-12095 by Officer H. Victorio, and a CD – Evidence Tag Number 23-12125 by Officer R. Navarro-Garcia. Photocopies of the 2023 Evidence Tag Log for the Property Tagging Room and B-Building Bulk Storage were later made covering the date of 10/28/2023 (Tab 09).

Central Detention Center

On Tuesday, 2/27/2024, I went to the San Bernardino County Sheriff's Department (SBCSD) - Central Detention Center (CDC). A Custody Specialist located Arrestee [redacted] "Money and Personal Property Receipt" for when he was booked on 10/28/2023. I was provided a copy of the receipt (Tab 09) which indicated Arrestee was not booked with his backpack, any cell phones, wallet, or suspected controlled substances.

Scientific Investigations Division

On Tuesday, 2/27/2024, I went to the SBCSD – Scientific Investigations Division (SID). I was assisted by Property Technician Ceballos, who researched SBPD case number 2023-122237. The only items that had been submitted to SID under the case number were latent prints that had been lifted by Forensic Specialist A. Lugo. No narcotics had been submitted for analysis or destruction under the SBPD case number.

SBPD Narcotics Unit

On Tuesday, 2/27/2024, I went to the Narcotics Unit and was assisted by Criminal Investigation Officer (CIO) Officer 2 to review the Narcotic Unit logs. The date the suspected narcotics were located was on 10/28/2023 (Saturday). Any narcotics submitted to the SBCSD – SID for analysis or destruction would have been sent over on Monday, 10/30/2023.

The destruction log for 10/30/2023 contained case numbers 23-122449, 23-122566, and 23-121924. Case numbers 23-122449 and 23-121924 were found to be unrelated to this investigation. Electronic copies of the narcotics logs were obtained (Tab 09).

Case number 23-122556 contained a PR2 report that Officer E. Hill had completed. The PR2 indicates that 0.5 grams of suspected cocaine had been located on top of a marked San Bernardino police unit. The unit number is not identified in the report. The

location of the incident was listed as 205 S. Pershing Avenue (City fuel pumps). After interviewing Officer Victorio, the narcotics Officer Hill located will not be related to this investigation.

No narcotics destruction logs were found for 10/31/2023 or 11/1/2023. The narcotics analysis log ("LRN Log") for 10/30/2023 and 11/1/2023 did not contain the suspect name for this investigation. No narcotics analysis log was found for 10/31/2023.

SBPD Unit #5

On 2/27/2024, I located Unit #5 parked in its assigned parking space at the police station. I searched the vehicle and did not locate any narcotics or backpack in the vehicle. The Vehicle Inspection Log for Unit #5 (Tab 09) was in the Watch Commander's office. The log indicated that Officer Victorio used the vehicle on 10/28/23. Sergeant Fuentes was also listed on the log as using the vehicle on 10/28/23. The vehicle was not used on 10/29/23. Sergeant Passo used the vehicle on 10/30/23.

SBPD Station Cameras

On 2/27/2024, I searched the police station camera system (Genetec) for any footage from 10/28/2023. The earliest camera footage on the system was from 1/28/2024. All the previous (older) footage had been purged from the system.

Interview with [redacted] - Victim (Tab 05)

On 3/5/2024, at about 1142 hours, Sergeant M. Block and I responded to Incident location [redacted] and spoke with the victim, Victim [redacted] Victim was asked if he received a backpack when he was given the scooter. There was a slight language barrier and one of Victim's employees assisted me by translating to Victim what a backpack was. Victim replied in English, "I can't remember."

I told Victim that we were trying to find the backpack for the guy who was riding the scooter. I told Victim that I was aware his scooter had been returned to him. Victim said he had the scooter. However, he said no officers gave him a backpack. Sergeant Block and I told Victim that the backpack had headphones inside. Victim responded and said, "No, I don't have that one."

Victim said he found some headphones in the warehouse that he had already given to police officers. Victim also confirmed he had some headphones that the suspects tried to steal. I showed Victim two images of the headphones that had been seen in Arrestee [redacted] backpack and asked him, "They looked like this?" I obtained the images from BWC footage from Officer Victorio. After viewing the images, Victim stated, "Yeah, yeah, we have a lot of this."

Victim recalled and described conducting the infield line-up of the suspect. Victim saw the scooter and did not remember if the suspect had a backpack.

Transit Center Cameras – Dylan Firth (Omnitrans Security Specialist)

On 3/14/2024, Sergeant Block sent Firth an email requesting video footage of this incident. Firth replied to the email and indicated his system only retains footage for 90 days, and that he did not see any downloaded footage for the requested date. No video footage was obtained from Omnitrans.

CDC Cameras

On 3/14/2024, Lauren OdebraIski, a CDC employee, provided me with surveillance footage (Tab 08) that captured Arrestee booking process. Sergeant Block had requested the footage. I reviewed the footage and did not see Arrestee being booked with the black backpack. The footage did not capture Officer Trejo in possession of the backpack.

Review of Ring Camera Footage

On 4/25/2024, Sergeant Block obtained a CD that had been placed into evidence by Officer Navarro-Garcia under tag number 23-12125. The CD contained two Ring Camera video surveillance clips depicting the burglary. I reviewed the footage recorded on the CD, which recorded both audio and video. Below is a description of what the footage captured.

Ring Clip #1 - Date: 10/28/2023 - Time: 07:18:10 - Length 1:12

This footage captured an unknown suspect (suspect #1) removing some property from the business through an exterior door. The suspect can be heard talking to someone else who is out of camera view and presumably inside the building. The visible suspect is wearing a black baseball cap, a white face mask, a black long-sleeve shirt, light-colored jeans, red gloves, and white/black shoes. No officers were seen or heard contacting the suspect(s).

Ring Clip #2 - Date: 10/28/2023 - Time: 07:23:27 - Length 1:18

This footage captured a second burglary suspect moving property with suspect #1. This suspect is wearing a white hooded sweatshirt, a black T-shirt covering his face, dark gloves, blue jeans, and black and white shoes moving property. Based on the clothing, it is believed the second suspect is Arrestee No officers were seen or heard contacting the suspects.

DIRECTED MEMORANDUM (Tab 05)

On Tuesday, 3/26/2024, I notified Sergeant F. Fuentes he needed to prepare a memorandum in response to several questions regarding this investigation. Sergeant Fuentes was provided with all police reports for this investigation, a CAD report, and a copy of the Unit #5 Vehicle Inspection Log. Sergeant Fuentes was given until 4/15/2024 to complete the memorandum and was asked to answer the following questions:

1. How long have you been a police officer with the City of San Bernardino?

    a. Do you have any prior law enforcement experience? If so, with what agency and how many years of service?
    b. What is your current shift and assignment?
    c. In October 2023, what was your shift and assignment?

2. On 10/28/2023, at about 0751 hours, you responded to Incident location for a burglary call. During the burglary investigation, Arrestee was detained and subsequently arrested for burglary and conspiracy. Arrestee had in his possession a black backpack and electric scooter. Did you have any contact with Arrestee during the investigation? If so, did you take possession of any of his property?

3. Were you aware that suspected narcotics were recovered from Arrestee If so, do you know why no narcotic-related charges were listed on his booking application?
4. Are you aware of what happened to the narcotics Arrestee possessed?

5. Do you know what was done with the black backpack Arrestee possessed?

6. Do you know what was done with the property inside the black backpack Arrestee possessed?

7. In the evening hours (Graveyard Shift) of 10/28/2023, you were assigned San Bernardino Police Department Supervisor Vehicle Unit #5. Did you perform a pre-shift inspection of the vehicle?

8. As part of the vehicle inspection, did you search the interior of the vehicle before putting the vehicle in service? Why or why not?

9. Can you explain what the purpose of the search is?

10. Did you locate drugs or a black backpack in the vehicle? If so, what did you do with the property?

11. Are you aware of any additional information that may be relevant to this investigation? If so, please provide the additional information.

DIRECTED MEMORANDUM RESPONSES (Tab 05)
Sergeant F. Fuentes (Witness Officer)

On Monday, 4/15/2024, I received a memorandum from Sergeant Fuentes.

Sergeant Fuentes has been a police officer for about 16 ½ years with SBPD. Before becoming a police officer with SBPD, he was a Correctional Officer for about 7 years. Sergeant Fuentes is currently a patrol sergeant assigned to the dayshift weekend schedule. In October of 2023, he was assigned to the graveyard weekend schedule, working Friday to Sunday, from 1930 to 0800 hours.

Sergeant Fuentes recalled responding to a burglary call at Incident location and assisting with "clearing the building". He had no recollection of encountering Arrestee or taking possession of his property.

Sergeant Fuentes did not recall if any narcotics were recovered from Arrestee He added that "depending on the totality of a given circumstance" would determine if someone would be charged for having narcotics. Sergeant Fuentes said that depending on the amount of narcotics discovered would determine if it was consistent with possession or possession for sales. He also stated that the narcotics would be "articulated in the police report" and regardless of whether the subject was charged or not, the narcotics would be placed into evidence.

Sergeant Fuentes was not aware of any narcotics Arrestee possessed or any belongings he may have had.

Sergeant Fuentes said he was "confident" he would have conducted a pre-shift inspection of Unit #5 as part of his routine and before leaving the station. He inspects his assigned unit before his shift for unreported damage, that the equipment functions properly, that it contains necessary equipment, and that there is no property belonging to the prior operator, such as contraband, narcotics, weapons, or items of evidence. Sergeant Fuentes did not locate any property, backpack, or narcotics in Unit #5 during the pre-shift vehicle inspection.

Sergeant Fuentes was unaware of any additional information that may be relevant to the investigation.

INTERVIEWS (Tab 05)
Officer V. Trejo (Witness Officer)

On Thursday, 4/25/2024, at about 0702 hours, Sergeant M. Block and I interviewed Officer Trejo in the SBPD PSB Interview Room. The interview was audio recorded. The following is a summary of the interview. Officer Trejo did not have a representative with her. Officer Trejo reviewed her BWC and the documents I provided her before the interview. She was not aware of any additional recordings or documents that she had authored and wished to review.

At about 0705 hours, I read Officer Trejo her Miranda Rights. She said she understood her rights and was not willing to speak to me. At about 0706 hours, I read Officer Trejo the Lybarger Advisement and ordered her to provide a statement and answer questions.

Officer Trejo will reach her 5-year mark as a police officer with the City of San Bernardino in May of 2024. She does not have prior law enforcement experience. Officer Trejo is currently assigned to the “Patrol Division”, in the Adam District (Western Area). Officer Trejo works the 4 – 10 schedule, which consists of working Monday through Thursday, from 0600 hours to 1500 hours. In October of 2023, she was assigned to the “Patrol Division”, in the “David Beat” (Southern District) and worked the “three twelves”. Officers who work the 3 – 12 schedule work Friday through Sunday. In October of 2023, the dayshift start time began at 0700 hours and ended at 1930 hours.

I asked Officer Trejo if she received training regarding the chain of custody for evidence and she replied, “Yes.” I asked her to summarize her knowledge of how the chain of evidence is handled.

Officer Trejo said if someone is detained or arrested, their personal property, such as a phone or wallet that is small and will fit when booked, can be booked with the suspect at a detention center. Any items that do not fit are usually taken to the station and stored as “Safekeeping.” Officer Trejo said the items are tagged together, itemized, and placed into a locker. I confirmed with Officer Trejo that this was the process for the suspect's personal property.

I asked Officer Trejo what she would do with a gun used by a suspect during a robbery that had been recovered as evidence. Officer Trejo said, “ID” (Forensic Technicians) would take pictures and then she would take possession of it. The gun would be test-fired at the police station, and then taken to the evidence room. The gun and ammunition would be stored separately.

I used as an example of a ski mask or screwdriver as items used to commit crimes and asked Officer Trejo if she would store the items herself at the police station. She replied, “Yes, I would take that as evidence.” I asked if it was her experience that she completed both processes where someone had bulk property or she recovered crime evidence. Officer Trejo replied, “I’ve done it multiple times.”

I asked Officer Trejo how she assisted with the investigation after responding to Rialto Avenue and E Street on 10/28/2023 as part of the burglary investigation stemming from Incident location in San Bernardino. Officer Trejo replied that she responded because “transportation” was needed for the suspect in custody. She said when she arrived, she met with Officer Victorio, the suspect was in the backseat of Officer Victorio’s patrol unit. Officer Trejo said the investigation had not yet been completed. She waited there until the investigation was “fully done” to transport the suspect to “CDC.”

I asked Officer Trejo if it was “clear” to her that she was going there to be a transport officer. She replied, “Yes.” She also confirmed she was not responding to investigate the actual burglary. Officer Trejo stated she was only with Officer Victorio at Rialto Street and E Street, but that Officer Navarro conducted an infield line-up and brought the victim to the location.

Officer Trejo did not recall the suspect's name. I showed Officer Trejo the booking application and probable cause declaration (SBPD Case # 23-122237) for the suspect, Arrestee (DOB: PII - Civ. Code sec. 1798.24) to refresh her recollection. She viewed the booking application first and confirmed the form was completed in her writing. Officer Trejo confirmed that Arrestee was the suspect she transported. She confirmed that Arrestee was the suspect Officer Victorio had detained in his vehicle and Arrestee was the suspect viewed in the infield line-up.

Officer Trejo said she transported Arrestee to the “Central Detention Center”. I asked her what property she booked Arrestee with. Officer Trejo did not recall booking Arrestee with any property. I asked if Arrestee had a bicycle and she replied, “No.” I asked Officer Trejo if he had a backpack and she replied, "That I recall, no.”

Sergeant Block pointed out that the booking application listed Arrestee being booked with $1.28 and asked if she was inferring that he did not have any property or if she was inferring that he did not have any property that stood out that she could recall that would be unusual. Sergeant Block confirmed with Officer Trejo that the suspect's property goes into a small plastic bag. Sergeant Block began to state that if the suspect's property did not fit in the bag, Officer Trejo interjected and said she would have to take the property to the station and book it there. Sergeant Block then asked if the property could be left with a family member. Officer Trejo responded, “Yes.”

Sergeant Block asked Officer Trejo what property if any, including the $1.28, she booked Arrestee in with. Officer Trejo said she did not recall what items she booked Arrestee other than the money listed on the booking application.

I asked Officer Trejo if she was provided with a backpack that Arrestee had when he was detained. She replied, “That I recall, no.” I asked her if she knew what happened to the backpack and any of the additional property that he had. Officer Trejo replied, “I do not know.”

I asked Officer Trejo if she was aware if Arrestee had any narcotics when he was contacted and detained. Officer Trejo replied, “I do not recall.”

I asked Officer Trejo if she recalled having any conversations with Officer Victorio about any narcotics or backpack Arrestee may have had. She replied, “I do not recall.”

I stated to Officer Trejo that she had completed the booking application and probable cause declaration, and the forms stated Arrestee had been charged with burglary and conspiracy and then asked Officer Trejo if she knew why Arrestee had not been charged with a controlled substance charge. She replied, “I don’t.”

I asked Officer Trejo if it was fair to say that she was not made aware that he needed to be charged with that or if she just didn’t remember. Officer Trejo responded that the “lead investigator” of the case, advised her that Arrestee was only going to be charged with those two charges, burglary and conspiracy. She was not advised of any other charges as she did not have the “full investigation” of this case. She did not recall which officer gave her this information.

I asked Officer Trejo how she came up with the information needed to fill out the probable cause declaration. She stated that Officer Navarro was the lead investigator and that the information she obtained was from Officer Navarro. Officer Trejo did not have first-hand knowledge of the information and had to contact Officer Navarro. I asked her if it was a common practice to obtain information from someone else to book somebody. She replied, “Yes, when you’re not the lead investigator, yes.”

Sergeant Block asked Officer Trejo when she spoke with Officer Navarro, did she have any information that Arrestee at any time possessed controlled substances or stolen property. She replied, “Controlled substances, no.” She added that the stolen property information was obtained by Officer Navarro and Officer Victorio. Sergeant Block asked if she was aware that Arrestee had stolen property in his possession and she replied, “Yes.”

Sergeant Block asked Officer Trejo if she had ever seen Arrestee in possession of a controlled substance. She replied, “I don’t recall.”

I asked Officer Trejo if she recalled what specific stolen property Arrestee possessed. She replied that it was an “electric scooter.”

The recording was paused and we went off the record at 0719 hours. We went back on the record at 0721 hours. Officer Trejo was asked if anyone had asked her any questions while the recordings were stopped. She replied, “No.”

I summarized the interview with Officer Trejo. I stated to her that back in October or 2023, she was a “David Beat” officer working dayshift patrol and responded to Rialto Avenue and E Street. She assisted in transporting Arrestee to jail and had no part in the burglary investigation but was made aware that he had a stolen electric

scooter. I further stated that she was told what information to put on the probable cause declaration. I asked Officer Trejo if this was a fair summary of what we had discussed and she responded, “Yes.”

I showed Officer Trejo a San Bernardino County Sheriff's Department form titled, “Money and Personal Property Receipt.” The form contained the name of [redacted] Arrestee Officer Trejo said this was the “first time” she had this form. I explained to her that this is a form used by the county to itemize property for someone who was booked. I asked Officer Trejo to review the form. She then began nodding her head up and down and I asked her if this was an indication that she had read the form. Officer Trejo responded, “Yes” and added that she read it.

After reviewing the form, I read the items listed on the form for the listed property which included money, a necklace, a belt, paperwork, a watch, an earring, and a bracelet. I asked Officer Trejo, based on the form, if it was an accurate depiction of what she recalled and what property Arrestee was booked with. She responded, “I don’t recall” and added that it was due to the “timeframe.”

Officer Trejo did not have any questions for Sergeant Block and me.

The interview with Officer Trejo ended at 0726 hours.

Officer R. Navarro-Garcia (Witness Officer)

On Thursday, 4/25/2024, at about 0747 hours, I interviewed Officer Navarro-Garcia in the SBPD PSB Interview Room. The interview was audio recorded. The following is a summary of the interview. Officer Navarro-Garcia did not have a representative with him. Officer Navarro-Garcia reviewed his BWC and the documents I provided him before the interview. He was not aware of any additional recordings or documents that he authored and wished to review.

At about 0750 hours, I read Officer Navarro-Garcia his Miranda Rights. He said he understood his rights and was not willing to speak to me. At about 0751 hours, I read Officer Navarro-Garcia the Lybarger Advisement and ordered him to provide a statement and answer questions.

Officer Navarro-Garcia has been a police officer with the City of San Bernardino for almost 5 years and has no prior law enforcement experience. He currently works patrol on the 3 - 12 ½ shift on the weekend and is assigned to the David Beat (Southern District). Officer Navarro-Garcia's hours are from 0600 to 1830 hours Friday to Sunday. Every four weeks he works a "buy back" day on a Thursday. In October of 2023, his shift and assignment were also in the David Beat, on the same shift and days off.

I asked Officer Navarro-Garcia if he had received training for the chain of custody for evidence. He replied, "Yes sir." I asked him to explain what the chain of custody of evidence was. Officer Navarro-Garcia explained if he took "possession of something", he would maintain it in his possession. If he handed it to someone else, he would document that he transferred custody of the property to the other person.

I asked Officer Navarro-Garcia what the process would be if he collected a knife as evidence that had been used in a stabbing. He stated that he would maintain it in his possession and once done at the scene, he would take it to the San Bernardino Police Department and place it in evidence. In the evidence room, he would use envelopes to cover the blade due to the sharpness. Officer Navarro-Garcia would then put it in another envelope, seal it, and place his initials on the seal to show it wasn't tampered with. He would then place a tag on it to show it was tagged under a certain tag number.

Officer Navarro-Garcia said he had tagged in evidence before. I asked Officer Navarro-Garcia if it was a "normal practice" for evidence to be collected, maintained, and brought to the station to tag in. He replied, "From what I taught, yes sir."

Officer Navarro-Garcia said he has arrested suspects in his 5-years of experience. I asked him if it had been his experience that he arrested subjects with "bulk property" such as a bicycle, a laptop, or a large duffel bag that the jail would not accept. He replied, "Yes it has."

I asked Officer Navarro-Garcia what the procedure was for property that is not evidence of a crime but belongs to somebody. Officer Navarro-Garcia said "bulk property" is

something too large to put in with the subject in jail, it is “safekeeping” if it is not considered evidence. The subject would then have a number of days to collect it when released from jail.

I asked Officer Navarro-Garcia how “safekeeping” works in the field and used the example of someone having a bicycle. He said if he took possession of the bicycle, it would be a “chain of custody” and keep possession of it until arriving at the police department. He would put a tag somewhere on the bicycle so that it identifies that it belongs to a certain person who was arrested, based on a certain case number.

I asked Officer Navarro-Garcia if he recalled on 10/28/2023, he responded to Rialto Street and E Street as part of a burglary investigation and conducted the infield lineup with the victim, Victim , and that the line-up was conducted for the suspect, Arrestee He replied, “Yes sir.” I asked him if he recalled the victim identifying his scooter during the line-up. He replied, “Yes.”

I asked Officer Navarro-Garcia if any other property, including headphones, was shown to the victim. Officer Navarro-Garcia said he could only recall the “scooter” that the suspect had. I asked him if he could recall what officers were with the suspect at Rialto Avenue and E Street. He recalled Officer Victorio and Officer Trejo were there when he arrived with the victim.

I asked Officer Navarro-Garcia if he was aware of any other property, other than the scooter, that Arrestee had when he was contacted by officers. He stated during “pretrial” he was made aware that the suspect had a black shirt that was used as a face covering. I asked him how he learned of that information. Officer Navarro-Garcia stated he reviewed reports, and property reports before going to pretrial and learned of the other evidence. I asked him if he recalled seeing the black shirt at the scene. Officer Navarro-Garcia did not recall seeing it at the scene. Officer Navarro-Garcia confirmed that he saw the scooter at the scene.

I asked Officer Navarro-Garcia if he was aware of what happened to a backpack, suspected narcotics and other property Arrestee had in his possession. He replied that he did not recall any other property Arrestee had other than the scooter. I asked Officer Navarro-Garcia if he had spoken with Arrestee He replied, “No sir.” Officer Navarro-Garcia said he knew who Arrestee was, but only viewed him for infield purposes.

I asked Officer Navarro-Garcia again if he was aware of any suspected narcotics Arrestee had in his possession. He replied, “Until now, no sir” and added he did not know anything about narcotics.

I asked Officer Navarro-Garcia if he had taken possession of any of Arrestee property, other than the scooter Victim took possession of. He replied, “No, only the scooter, nothing else sir.”

I asked him if Victim had shown him what property the suspects had removed or tried to remove from the warehouse. Officer Navarro-Garcia recalled Victim showing him "box crates" of his merchandise in the backseat of the suspect's vehicle.

I asked Officer Navarro-Garcia if he had been shown what had been tampered with in the warehouse during his investigation. He said he walked through the warehouse with the victim who pointed out certain boxes on the floor, and the "entry point" where the suspects on a previous day had gone through, as well as additional boxes and crates that had been tampered with as well as moved toward the exit by the suspects. Officer Navarro-Garcia also mentioned he viewed a video during his investigation.

I asked Officer Navarro-Garcia if he had determined that earphones/headphones had been stolen during his investigation. He was aware that "a lot" of headphones and earphones were recovered from crates when looking at the crates with the victim. I asked him if any officer had shown him any box of earphones/headphones during the investigation. He did not recall being shown any type of earphones or headphones.

I asked him if he knew why Arrestee was not charged with possession of any controlled substances. Officer Navarro-Garcia replied, "No sir, I did not know there was any narcotics to begin with."

I stated to Officer Navarro-Garcia that Officer Trejo transported Arrestee to the jail, however, she was not part of the initial call and asked him if he talked to her and gave her a summary of what had occurred to book Arrestee He said it was "possibly" Officer Trejo whom he had given the information for the "PC Dec and booking app" and added it was a lengthy investigation. I asked Officer Navarro-Garcia if it was a common practice for an officer to tell the transport officer what information to include on the probable cause declaration. He replied, "I would say yes" and added the other officer might not have all the facts.

The recording was paused and we went off the record at 0804 hours. We went back on the record at 0806 hours. I asked Officer Navarro-Garcia if anyone asked him any questions regarding this case while the recordings were stopped. He replied, "No sir."

I summarized with Officer Navarro-Garcia what we had discussed and stated the following to him: In October of 2023 when he responded to the burglary investigation, he was the investigating officer. I asked him if that was correct and he replied, "Yes sir." I continued and added that at some point he was made aware that a suspect, Arrestee had been detained at Rialto Avenue and E Street. Officer Navarro-Garcia responded and said "Yes." I then asked Officer Navarro-Garcia how he was made aware of that. He recalled that before he made it to the scene, Officer Victorio already had a suspect in custody who was determined to be Arrestee

I continued and asked Officer Navarro-Garcia when he went to the burglary investigation that stemmed from Athol Street, where he went first. Officer Navarro-

Garcia said he was first on a perimeter at Athol Street and D Street and later contacted the victim. He also mentioned that this was near the suspect vehicle.

I asked Officer Navarro-Garcia how the determination to conduct the infield came about. He said after the scene was secure and everyone was in custody, from what he recalled it was "between us and the sergeants on scene." Officer Navarro-Garcia added that even though they had a video, they wanted to ensure the victim could "positively identify everybody."

I then stated that he went to Rialto Avenue and E Street to conduct the infield, and there he encountered Officer Victorio and Officer Trejo, who had the suspect, [redacted] Arrestee detained. Officer Navarro-Garcia stated, "Yes sir." I further stated that during the infield line-up, the victim saw Arrestee and at some point, Victim was shown the scooter the suspect had been using and that he observed that process. Officer Navarro-Garcia stated, "Yes", and added the victim identified it as belonging to him.

I confirmed with him that he had no part in detaining the suspect. I also confirmed with Officer Navarro-Garcia that during the line-up he was shown a scooter, but no additional property including a backpack and drugs. I asked Officer Navarro-Garcia if this was accurate. He responded, "Not that I can recall, no other property other than that scooter."

I then mentioned that we had discussed that he likely provided Officer Trejo with the information for the probable cause declaration and booking application because he was the investigating officer and that there was no mention of narcotics. I asked Officer Navarro-Garcia if it was because he was not aware of that at the time. He responded, "Yes sir, I was not aware of any narcotics."

I stated that later at "pre-trial" he learned the suspect had additional evidence, but that it was a black t-shirt as part of the case that had been tagged in. Officer Navarro-Garcia said this was how he recalled it.

Officer Navarro-Garcia did not have any questions for me. The interview concluded at about 0810 hours.

Officer 1 ***(Focus Officer)***

On Thursday, 4/25/2024, at about 1245 hours, I interviewed Officer 1 in the SBPD PSB Interview Room. The interview was audio recorded. The following is a summary of the interview. Officer 1 did not have a representative with him. Officer 1 reviewed his BWC footage and the documents I provided him before the interview. He was not aware of any additional recordings or documents that he authored and wished to review.

At about 1248 hours, I read Officer 1 his Miranda Rights. He said he understood his rights and was not willing to speak to me. At about 1249 hours, I read Officer 1 the Lybarger Advisement and ordered him to provide a statement and answer questions.

Officer 1 Pen. Code sec. 832.7 - peace officer personnel records

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I stated that on 10/28/2023, he responded to incident location in San Bernardino to assist with a burglary in progress call. During the call, he detained Arrestee. I asked Officer 1 what information led him to contact Arrestee. He stated that he heard "over the radio," Officer Victorio providing a description of a suspect fleeing from him on a scooter, going through the transit station on Rialto Avenue. I asked him if this caused him to respond to the general area. He replied, "Yes sir." Officer 1 said he responded from Athol Street.

I asked Officer 1 what happened when he arrived at the general area. Officer 1 said it was "broadcasted" that the suspect was going "westbound through the transit station," so he went to the main entrance off Rialto Avenue and observed the subject on the electric scooter riding westbound on the sidewalk/curb area. Officer 1 said he exited his patrol vehicle and detained the subject without further incident.

I asked Officer 1 what property Arrestee had in his possession, besides the scooter. He replied that he had a "large backpack on," which he believed was dark in color and that he could "see right away." Officer 1 detained Arrestee and placed handcuffs on him. He escorted Arrestee to a wall, removed a backpack from him, and searched his pockets.

I asked Officer 1 if he had located anything when he searched Arrestee. He replied, "I did." I asked Officer 1 what he found. He located a "small baggie" of what he suspected to be "possibly methamphetamine." I asked Officer 1 if in his training and experience, he had seen methamphetamine before. He replied, "Yes." Officer 1 also received training in the recognition of methamphetamine and other street drugs. Based on his experience and observation of the item, Officer 1 concluded the item was possibly methamphetamine.

I asked Officer 1 to describe how the methamphetamine was packaged and appeared. He stated if he could "recall correctly," that it was a "small bindle in a clear baggie." Officer 1 said it was a cellophane bag which he believed was removed from Arrestee left pant pocket. Officer 1 placed the methamphetamine on a brick wall that was in front of him. Officer 1 could see through the baggie and it was apparent to him it contained methamphetamine.

I stated to Officer 1 it appeared (this was based on BWC footage I reviewed) that he later pulled marijuana out of Arrestee right front pocket. Officer 1 said, "Yes." He believed it happened when he walked Arrestee to his unit. He explained that he commonly checks a partner's work before placing someone in his vehicle. Officer 1 said as he was searching the left side of Arrestee Officer Victorio searched Arrestee right side. Officer 1 said he removed another baggie that contained suspected marijuana. He suspected the substance was marijuana from his training and experience.

I asked Officer 1 if he knew what he did with the suspected methamphetamine and marijuana. He stated he placed the suspected methamphetamine on the wall where he did the initial search. Officer 1 said when he transported Arrestee to his unit, he removed the baggie from the right side and believed he placed the baggie on the roof of his patrol unit and then placed Arrestee in his unit. Officer 1 said when he came back out, he noticed both the substances were gone.

I asked Officer 1 if he knew what happened to the substances. He said, "No." He added it was common for partners to "pick up the slack" and look out for each other. When he did not see the methamphetamine on the wall, he assumed that his partner recovered it. Officer Victorio was the only other officer there at that time. I asked Officer 1 if he had conversations with Officer Victorio about the suspected methamphetamine, he had recovered that was now missing. He replied, "No," and added that the only conversation he and Officer Victorio had was that Officer Victorio intended on taking over the "in custody of the suspect" and transporting the suspect, "and everything else" because it was the end of his shift and beginning of Officer Victorio's shift.

I asked Officer 1 if he and Officer Victorio discussed what portions of the investigation needed to be documented and by whom. Officer Victorio told him that he was going to "cover it" due to it being the end of Officer 1 's shift.

I asked Officer 1 if Officer Victorio was "aware" of the suspected methamphetamine and it was "clear" that he (Officer 1) had located suspected methamphetamine on Arrestee Officer 1 said he was not too sure if it was "clear" and had not made a verbal announcement to Officer Victorio that there was suspected methamphetamine on the wall.

I asked Officer 1 what he and Officer Victorio determined would happen with the backpack and electric scooter. Officer 1 said he did not make any statements telling him what to do or how to handle his job. Officer 1 added that he assumed that if he was going to take over the investigation, Officer Victorio would do it in accordance with "policy." Officer 1 continued and included to tag in "bulk property" and "methamphetamine" or "narcotics." I stated to Officer 1 that it was his "assumption" that Officer Victorio was going to handle the arrest, any subsequent evidence found, and any property the suspect was in possession of. I asked Officer 1 if that was a fair statement and he replied, "Yes sir."

I asked Officer 1 if Arrestee property, including the narcotics, remained on scene when he left the call. Officer 1 said he recalled placing the scooter and the backpack in the back of Officer Victorio's unit. I stated, "You left the scene, didn't take anything with you." He replied, "Not that I recall, no." Officer 1 said he was not responsible for going to the station to tag in any property. I asked Officer 1 if he was aware of what happened to the suspected narcotics and he replied, "No sir."

I asked Officer 1 if he was aware of what charges Arrestee was ultimately charged with. He replied he would just "imagine the burglary." I asked him if he knew why no narcotics charges were added. Officer 1 replied, "No sir."

The recording was paused and we went off the record at 1302 hours. We went back on the record at 1316 hours. Officer 1 was asked if anyone asked him any questions regarding this investigation while the recordings were stopped. He replied, "No they did not."

I asked Officer 1 if methamphetamine was a dangerous substance in his opinion. He replied, "It can be, yes." I asked if marijuana was a dangerous substance in his opinion. He replied that it could be if it were laced with something, but "commonly no." I asked him if the transit center, where the incident occurred, was a well-used area with a lot of foot traffic and vehicle traffic. Officer 1 replied, "Absolutely yes."

I asked him if the suspected methamphetamine had been a gun, would he have placed the gun on the wall and "not safeguarded it." He replied, "No, I would have safeguarded the firearm."

I then informed Officer 1 that methamphetamine is dangerous, that it was a busy area, and that I wanted to cover the importance of safeguarding evidence. I continued and reminded him that earlier he said he wasn't sure if his partner had recovered the suspected methamphetamine, and he assumed his partner had taken it. I told Officer 1 that we have a duty and obligation to safeguard evidence.

I asked Officer 1 if he was required to complete a report for this investigation. He replied that "looking back," he probably should have completed a supplemental report, but he did not complete a supplemental report because Officer Victorio said he was "going to cover it."

I spoke with Officer 1 about Officer Victorio covering the arrest, and pointed out that he was not sure how much Officer Victorio knew of the "dope." He responded, "That's correct." I made the statement that for "court purposes, that's an issue." I used an example of shaved keys found in a stolen car but it never gets documented. I asked Officer 1 if he recognized that that was a problem and he replied, "Yes sir."

I asked Officer 1 if I showed him BWC footage, would it refresh his recollection of some of the events that occurred? He replied, "Yes sir."

Detective D. McCarthy entered the interview room and assisted me with the laptop and TV to show Officer 1 his BWC footage of Arrestee arrest.

I showed Officer 1 some of his footage and asked if he could see what he was retrieving from the roof of his patrol unit. Officer 1 replied that it was "Maybe the weed right there." As the footage played on, the bag of marijuana came into view again and Officer 1 stated, "Oh there it is."

I made Officer 1 aware that he was opening the backpack and putting the marijuana into the backpack. I asked Officer 1 if he recalled that now that we were viewing his BWC footage. He replied, "Yes sir." I asked Officer 1 if the black backpack on his BWC footage was the backpack that Arrestee had when he initially detained him. He replied, "Yes sir."

I showed Officer 1 another video clip from Officer Victorio's BWC footage. The footage showed the plastic bag on the wall containing the suspected methamphetamine. I asked Officer 1 if this was the bag he recalled "collecting." Officer 1 replied, "Yes sir." He then corrected me and said, "Removing," because I had said he collected it.

As I played additional footage from Officer Victorio's BWC, the footage showed Officer Victorio placing the suspected methamphetamine into the backpack, I asked Officer 1 if it looked familiar. Officer 1 replied, "Yes sir." I showed Officer 1 additional BWC footage from Officer Victorio which showed Officer Victorio conducting a secondary search of the backpack. The footage showed Officer 1 standing in front of Officer Victorio who was kneeling on the ground. I asked Officer 1 if he could see the bag (containing suspected methamphetamine) in Officer Victorio's hand and he replied, "That's correct, yes." I asked Officer 1 if he remembered any of that. Officer 1 replied that he did not remember Officer Victorio specifically pulling the suspected methamphetamine out of the backpack but did recall Officer Victorio searching the backpack. Officer 1 pointed out that he was distracted by his phone as seen on BWC.

After reviewing the BWC footage, I asked Officer 1 if he was "confident" that he was not responsible for tagging any evidence before clearing the scene. Officer 1 replied, "Yes, I'm confident."

The recording was paused and we went off the record at 1327 hours. We went back on the record at 1330 hours. Officer 1 was asked if any questions were asked while the recording was paused or when I stepped out of the room. He replied, "No."

I summarized the interview with Officer 1 and told him that I did not want a misunderstanding on what he told me. I stated that he had responded to a burglary on Athol Street and at some time during that heard a broadcast at Rialto Avenue and E Street from Officer Victorio that he had a potential suspect.

I continued and stated that he responded to the area and encountered Arrestee [redacted] riding a scooter and wearing a backpack at the Transit Center. I added that he detained him and found what he believed to be methamphetamine in Arrestee [redacted] left pocket and placed the suspected methamphetamine on a wall. I further said that he took him to his unit and during a secondary search, he located some suspected marijuana. Officer 1 [redacted] then stated, “Yes sir.”

I continued and stated that initially, he was not sure what happened to those items because when he went back, they were gone. After playing the BWC footage, he was confident that the suspected marijuana and suspected methamphetamine remained in Officer Victorio’s possession. I asked Officer 1 [redacted] if what I said was correct. He replied, “That’s correct.”

I then stated that he had not completed the report and that it was his understanding that because he was getting off work and had worked all night, Officer Victorio was going to complete the investigation as it pertained to Arrestee [redacted] and dispose of the items of evidence and that he (Officer 1 [redacted]) had no responsibility for that as well. I asked Officer 1 [redacted] if this was also accurate and he replied, “Yes.”

Officer 1 [redacted] did not have anything to add to the investigation or have any questions.

The interview with Officer 1 [redacted] concluded at 1333 hours.

Officer H. Victorio (Focus Officer)

On Thursday, 4/25/2024, at about 1430 hours, Sergeant M. Block and I interviewed Officer Victorio in the SBPD PSB Interview Room. The interview was audio recorded. The following is a summary of the interview. Officer Victorio was represented by his attorney, Kasey Castillo of Castillo Harper.

Officer Victorio had reviewed his BWC footage and the documents I had provided him before the interview. He was not aware of any additional recordings or documents that he authored and wanted to review.

At about 1433 hours, I read Officer Victorio his Miranda Rights. He said he understood his rights and was not willing to speak to me. At about 1434 hours, I read Officer Victorio the Lybarger Advisement and ordered him to provide a statement and answer questions.

Officer Victorio has been a police officer with the City of San Bernardino for over 2 years and has no prior law enforcement experience. Officer Victorio is currently assigned to Shift 3, the weekend shift in the Western District (Adam Area). The weekend shift is Friday through Sunday 1400 to 0230 hours. In October of 2023, he was assigned to Shift 1, also on the weekends. Officer Victorio also worked the Adam Area but from 0700 to 1930 hours. The weekend schedule works the occasional buyback Thursday.

Officer Victorio was asked if he participated in the Field Training Program and he replied, “Yes sir.” Officer Victorio received training regarding report preparation in the Field Training Program and in the academy. I asked him if he received training regarding evidence collection and replied, “Yes sir.” I asked Officer Victorio to briefly explain some of the training for report writing and evidence collection.

Officer Victorio said report writing would summarize the investigation and document the facts. For evidence tagging, Officer Victorio said anything that could be used as evidence would be tagged into the evidence room. I used a TV remote control that was on the table as an example and asked Officer Victorio what the process would be for tagging in the remote control at the station if I had used it to hit someone.

Officer Victorio said he would photograph the remote control, collect it, take it to the evidence room, fill out the property sheet, obtain a tag for the remote control (fill out the tag and describe the item), and then tag it in and create a “PR1” and submit it. I asked Officer Victorio if it was something he had conducted during his experience as a police officer. He replied, “Yes sir.” I asked him if it was something he had seen his partners do during their times as police officers. Officer Victorio responded that if he was ever helping them out, “Yes sir.”

I asked Officer Victorio if he remembered trying to detain Arrestee [redacted] near Rialto Avenue and E Street after responding to assist with a burglary in progress call that occurred at Incident location [redacted]. He replied, “Yes sir.” I asked Officer Victorio what

information led him to try and contact Arrestee Officer Victorio said he had not initially been dispatched to the call and was on his way to Loma Linda for a relief call. Officer Victorio said he was listening to the radio and heard there was an ongoing “459” and that two possible suspects had not been accounted for.

Officer Victorio was listening for the descriptions and as he was driving southbound on E Street and passing Rialto Avenue, he observed a Hispanic male who matched the description. Officer Victorio said he broadcasted that he would be with one subject matching, possibly related to the burglary. Officer Victorio said he exited his vehicle and turned on his lights. Officer Victorio said he yelled out to him and the suspect looked back at him. Officer Victorio said he tried to call the suspect to him, but the suspect began to flee. I stated, “He didn’t comply with you.” Officer Victorio replied, “No sir.”

Sergeant Block asked Officer Victorio where he heard the “description,” if it was a “suspect description” and if so, what the suspect was a suspect of. Officer Victorio replied the suspect was the suspect in a burglary that was “a couple of blocks down in the direction that he was coming from.” Officer Victorio said the suspect was described as a Hispanic male. He could not remember the exact description and did not want to mess up the description, but at that time the suspect matched the description that had been given out by officers who were on scene. Officer Victorio added that the description had been provided by the business owner (victim) who had a “live feed to the business.” This information is what led Officer Victorio to contact the suspect.

I summarized what Officer Victorio had provided. I stated that he was driving and had been assigned to go to Loma Linda, but was conscious of what was going on, he heard the call, saw the suspect in the broadcast, and tried to contact him. Officer Victorio said, “So I tried to contact him, yes sir.” I also stated that the suspect did not comply with him. Officer Victorio said, “Correct.” Sergeant Block asked Officer Victorio if he believed the suspect was responsible for the burglary at that time. Officer Victorio replied, “I did.”

I asked Officer Victorio what the suspect was doing when he first saw him. He replied that he was riding a scooter, northbound on E Street, and was coming from the direction of the burglary. The direction the suspect was coming from along with the description, made him believe that he may be related, so he tried to contact him. I stated from what the suspect was wearing and the proximity to the burglary. Officer Victorio said, “Yes sir.” Sergeant Block asked Officer Victorio when he used the term “related,” did he think he was responsible for the burglary or what he meant by the term “related.” Officer Victorio replied that based on the description provided by his partners, he believed the suspect was “involved with the commission of the crime.”

I asked Officer Victorio if he was in a marked black and white police vehicle when he said he exited his vehicle and the suspect did not comply. He replied, “Yes sir,” and added that he was in a black and white police vehicle, with the overhead lights on (red and blue) and was wearing a “department-approved uniform.” I confirmed that the lights were “flashing” and were on and he said, “Yes sir.”

Officer Victorio continued and said he yelled out to the suspect, who looked back in his direction. He remembered calling out to the suspect who disregarded his command and started fleeing in the opposite direction. Officer Victorio said he fled on the scooter. He said he was going to give chase but did not know how fast the scooter could go. Officer Victorio said Officer 1 arrived on the scene and he told Officer 1 what direction the suspect was going, at which point Officer 1 went in that direction while he tried to catch up. Officer Victorio said the suspect was riding westbound, through the train station.

I asked Officer Victorio if Officer 1 detained Arrestee in the Transit Center. He replied, “Yes sir” and added that it was in the westernmost portion. Officer Victorio responded. Officer Victorio saw the person Officer 1 detained and confirmed it was the person who fled from him.

I asked Officer Victorio what property Arrestee had with him when he initially arrived to assist Officer 1. Officer Victorio said Arrestee had a black backpack and the electric scooter he fled on. I asked Officer Victorio if at some point he observed what was inside the backpack. He replied, “Yes sir.” I asked Officer Victorio if he remembered what those items were. He said, “hygiene products”, an alcoholic beverage, lighters, and some tools including a screwdriver.

I stated that he and Officer 1 conducted a physical search of the suspect and a “white substance” was found in his pocket. I asked Officer Victorio if he remembered the substance. He replied, “I do.” I asked Officer Victorio if he remembered what it was. Officer Victorio said from his training and experience he believed it was a “cocaine substance.” He added that he did not “physically pull it out” but that he did recall seeing it. I asked Officer Victorio if he had seen cocaine before and he replied, “I have.”

I asked Officer Victorio how the cocaine was packaged and appeared. He said it appeared to be in a clear plastic container, “possibly like a sandwich bag.” I stated that it was the typical dope in a bag and Officer Victorio replied, “Yes sir.” Officer Victorio could see through the bag.

I asked Officer Victorio if he remembered conducting a secondary search of the backpack. He replied, “Yes sir.” I asked Officer Victorio if he remembered collecting the cocaine. He replied, “Yes sir.” Officer Victorio said Officer 1 placed the cocaine on a “ledge” when the suspect was being searched and said he collected everything that was on top of the ledge and put them into the backpack. Officer Victorio added that the second time he searched the backpack, all the same contents were inside.

I asked Officer Victorio if he knew what happened with the backpack. Officer Victorio said, “Looking back at it now” and after reviewing all the documents that had been provided to him, he thought he had tagged the backpack in for evidence because that is what he would typically do. He continued and said after reviewing the “PR1” he noticed he had not tagged it in.

Officer Victorio then said, “I know” that he had “tossed it.” I asked Officer Victorio if he remembered where he “tossed it.” Officer Victorio said he did not remember exactly where but that it was at the station. Officer Victorio then said, “Typically I would do it in the back lot” because that is where he parks his car. He continued and said if he has “trash” that he doesn’t tag in for evidence, he throws his trash away in the trash bin. He identified the trashcan (blue bin) as being near the pedestrian gate (on the west side of the fence) where the mobile command post had been parked. Officer Victorio said this is where he believes he “threw away the backpack.”

I asked Officer Victorio if he tested the substance (cocaine) and he said, “No sir.” I then said that he was basing it being cocaine from his training and its appearance. He replied, “Yes sir.”

I mentioned marijuana and cocaine and asked Officer Victorio if those substances were in the backpack when he threw it away. Officer Victorio said that “pertaining to marijuana” he did not recall coming in contact with marijuana and just remembered the cocaine itself. Officer Victorio added, “The possible cocaine was inside of the backpack.”

I asked Officer Victorio if he remembered collecting evidence in this case. He replied, “Yes sir” and added that it was a shirt that he (the suspect) used across his face as a mask. I stated, “You tagged that in.” Officer Victorio replied, "Yes sir.” I asked him if he followed the same procedures when we talked about the remote being used as a weapon and he replied, “Yes sir.”

Officer Victorio confirmed that he completed a report for this investigation. He replied, “Yes sir.” I asked him if he mentioned the items in his report and he replied, “I did not sir, no.” Sergeant Block asked Officer Victorio if he knew why he did not mention the items in his report. He replied, “Yes sir.” Officer Victorio continued and stated that in his “eyes,” he had the suspect in custody for a “felony,” and was not going to charge him for a “misdemeanor” when he had the burglary charge and said he “got rid of it.” Officer Victorio continued and said looking back, that he understood it was not the correct way of “getting rid of that substance or possible substance.” He stated he was already “tagging in the shirt”, so he should have tagged in the substance correctly.

I asked Officer Victorio if he remembered an infield line-up was conducted during the investigation with the victim, Victim , and Officer Navarro. He replied, “Yes sir.” Officer Victorio confirmed the victim was shown the scooter and took possession of the scooter. I asked Officer Victorio if any of the backpack contents were shown to the victim. Officer Victorio did not remember if he did or did not show the contents.

I asked Officer Victorio if he knew that items had been stolen during the burglary. Officer Victorio said he did not know and never got a list of the stolen property. He added he knew the scooter was stolen because when the victim arrived, he identified the scooter as belonging to him. Officer Victorio said the victim took possession of the scooter.

I told Officer Victorio that he briefly mentioned the items that were in the backpack and I tried to confirm the items from memory. I mentioned “hygiene items”, and Officer Victorio interjected “lighters.” I mentioned “tools.” Officer Victorio said it could have been a “flathead” screwdriver. Officer Victorio continued and said, “An open alcoholic container” that was “circular”. I asked Officer Victorio if he remembered any other contents. Officer Victorio said there was a “big box” but did not remember what the box was. Officer Victorio remembered the box was made of cardboard. Sergeant Block asked Officer Victorio if he remembered the color of the box or what the box contained. Officer Victorio said, “No sir” and added it may have been a darker colored box. Officer Victorio did not remember what was inside or if he even opened the box.

I repeated the list of items in the backpack and added that he mentioned the “cocaine” was inside the backpack. Officer Victorio said, “Yes sir.”

Sergeant Block told Officer Victorio that he said he realized he likely “tossed the backpack” when he reviewed the documents for this case. Sergeant Block asked when he realized he had “tossed the backpack”. Officer Victorio replied, “To be completely honest with you” and then added, “Maybe an hour ago.” Officer Victorio continued and said he had not looked at the “PR1 specifically.” Officer Victorio continued and said, “Typically, I tag all that stuff in” so when he was reviewing the PR1 today for the interview with his attorney, he noticed the backpack was not on the PR1. Officer Victorio said it was “odd” to him because he normally tags everything in, and that’s when he found out. Sergeant Block asked, “That’s when you realized it?” Officer Victorio replied, “Yes sir.”

Sergeant Block asked Officer Victorio if he could think of a reason why he would have tagged in the t-shirt but not the backpack. Sergeant Block added, “Do you know what happened there?” Officer Victorio replied, “Yes sir.” Officer Victorio remembered the backpack was “disgusting” and was not sure if the alcoholic beverage had “leaked” in the backpack. Officer Victorio continued and said the first time he checked the backpack was a “safety sweep” to ensure no weapons were inside. Officer Victorio said the second time he went through the backpack he had gloves on. Officer Victorio described the backpack as having an odor and being “sticky.”

Officer Victorio continued and stated that we (officers) do not tag in lighters or alcoholic beverages. Officer Victorio said, “I just didn’t see me tagging it for like safekeeping or evidence.” As Sergeant Block began asking Officer Victorio what he meant by “we” don’t tag in lighters, Officer Victorio interjected and stated, “I, Officer Victorio didn’t see, a purpose to tag it in,” and added because it was “moist” and “sticky” and contained a residue of an unknown substance.

Sergeant Block asked Officer Victorio if he was aware of any San Bernardino Police Department policies that prevented him from tagging in alcoholic beverages or flammable objects such as a lighter. Officer Victorio stated he could not read back the policy “verbatim” but knew there was a policy and that was the main reason he did not want to tag in the backpack. Officer Victorio said there were a lot of things in the

backpack that he knew should not have been tagged in. Officer Victorio said he could not give the policy but knew one existed.

Sergeant Block confirmed with Officer Victorio that he did not recall seeing a substance consistent with marijuana.

Sergeant Block told Officer Victorio that we were planning on taking a break and asked Officer Victorio if he had anything he wanted to ask or say before the break and we "go off the record." Initially, Officer Victorio replied, "No sir." Officer Victorio continued, saying, "I understand what I said to the suspect at the time wasn't the right thing to do." Officer Victorio continued and said he had since attended training on "de-escalation."

The recording was paused and we went off the record at 1454 hours. We went back on the record at 1510 hours. I asked Officer Victorio if any questions were asked of him while the recordings were paused. Officer Victorio replied, "No sir."

I showed Officer Victorio footage from his first BWC clip of this case. I pointed out a shirt and the black backpack on the screen and asked Officer Victorio if this was the backpack Arrestee had. I informed Officer Victorio that at this point in the footage, Arrestee had already been detained and that Officer 1 was with Arrestee I asked Officer Victorio if that was a fair assessment of what I was seeing. Officer Victorio replied, "Yes sir."

As the footage continued, Officer Victorio was seen grabbing the backpack that was on the ground. Again, I asked if this was the backpack we were referring to. Officer Victorio replied, "Yes sir." As the footage continued, the footage showed Officer Victorio opening the zippered areas of the backpack and removing a box of earphones from the backpack. I asked Officer Victorio if that was the box he had described. Officer Victorio replied, "Yes sir." Officer Victorio next pulled a red colored drink from the backpack. Officer Victorio confirmed this was the alcohol.

As the footage continued, I pointed out that I could see some tools and a lighter (handle of what appeared to be a screwdriver and BBQ flame lighter). Officer Victorio is seen placing what appears to be a cell phone on top of the box for the earphones. I made Officer Victorio aware that the footage caught a glimpse of the cell phone on the top of the box. I asked Officer Victorio if he recalled this. Officer Victorio said after he reviewed his BWC footage, he realized he had removed the phone.

The footage showed Officer Victorio appearing to wipe his hands on his pants. I asked Officer Victorio if this was what he was referring to when he said it was "sticky" and something had spilled. Officer Victorio said it was "nasty."

I informed Officer Victorio that after this in the BWC footage, he secured the backpack in his vehicle. I then moved forward in the same video (BWC clip #1). Officer Victorio wiped his hands with wipes and moved his arms from side to side. I stated that it appeared to me that he was drying his hands. I pointed out Officer 1 in the

background and stated that was the scooter and shirt Arrestee had. Officer Victorio replied, “Yes sir.”

After putting gloves on, I stated that it looked like he did a “secondary search” of the backpack. Officer Victorio replied, “Yes sir.” During the search, Officer Victorio removed a clear plastic zip lock bag from the backpack that contained an unknown green substance, possibly marijuana. I asked Officer Victorio if he saw it and he replied, “Yes sir.” I informed Officer Victorio that this was the substance I had referred to.

Officer Victorio searched another pouch of the backpack and was seen removing a black wallet and a clear plastic bag that contained an unknown white substance. I stated that it appeared the item was the same item he collected from the wall that looked like the cocaine. I told Officer Victorio that I wanted to make sure we were referring to the same item. I asked Officer Victorio if he saw the substance in his hand. Officer Victorio replied, “Yes sir.” I told Officer Victorio that it appeared the wallet had no contents. Officer Victorio could not remember if there were any contents in the wallet and said he likely looked in the wallet for Arrestee ’ “ID.”

During the secondary search, Officer Victorio was seen removing a box commercially packaged for earphones, a functioning cell phone, a lighter, a small green pouch, a small floral print pouch, the alcohol container, hand sanitizer, a USB cord, an unknown small white device, hygiene items, and a black sock.

After pausing the video, I asked Officer Victorio if it was the backpack we were referring to and if the substance was the substance he believed was cocaine. Officer Victorio replied, “Yes sir.” Officer Victorio said he did not remember the possible marijuana seen in the video.

I asked Officer Victorio if he and Officer Navarro had any conversations regarding the items that had been stolen during the burglary. Officer Victorio replied that he did not remember. Officer Victorio said he remembered the scooter was taken because the victim had pointed out it was his property.

I asked Officer Victorio if it was “common practice” to throw items of evidence or property belonging to citizens away. Officer Victorio replied, “No sir.”

I asked Officer Victorio how he documents in his reports items found at scenes that are deemed as items of evidence. Officer Victorio replied that he “typically” documents his reports in “chronological order.” Officer Victorio then stated that if I was referring to the “possible cocaine,” he did not document the possible cocaine because he was not going to charge Arrestee with the cocaine because he had Arrestee in custody for the “felony.”

I stated that he had the “shirt” that he deemed had “evidentiary value” and documented that. Officer Victorio replied, “Yes sir.”

I asked Officer Victorio in “hindsight,” what would have been the appropriate disposition of the property that Arrestee possessed. Officer Victorio replied, the “cocaine” even though he was not going to charge him with it, he could have tagged it in for “destruction.”

Officer Victorio continued and said he could have removed all the items he could not tag in from the backpack and thrown those items away. Officer Victorio said he could have tagged the personal belongings in the backpack as “safekeeping.” Sergeant Block asked if he would have discarded items such as the lighter and alcohol would it be appropriate to document in his report that Arrestee had the items but that they were thrown away/destroyed. Officer Victorio replied, “Yes sir.” Sergeant Block added consistent with a cocaine or methamphetamine pipe. Officer Victorio again replied, “Yes sir.”

I then summarized Officer Victorio’s statement to him. I stated that he was on his way to Loma Linda on an unrelated call and heard this burglary call. I continued and said he heard the description and saw a person who matched the description in the area. I stated that he directed Officer 1 to detain the subject. I stated during the detention “possible cocaine” and a backpack were located.

I continued and said at some point the suspect was arrested and taken to jail. I asked Officer Victorio if he remembered who took the suspect to jail. Officer Victorio thought Officer Trejo had taken the suspect to jail. Officer Victorio remembered Officer 1 was at the end of his shift and “specifically remembered” Officer 1 that he “had this” because it was the end of his shift.

I then continued with the summary and said the “cocaine is found” and the “arrest is made” and he documented the arrest. I then said that he “relieved” Officer 1 of any obligation and that he would handle the arrest and the documentation. Officer Victorio stated, “Yes sir.” I added that this was based on the time Officer 1 got off shift. Officer Victorio again said, “Yes sir.”

I added that he did complete a report and documented some of the contact with Arrestee I then said we knew what had happened to the other property.

The interview was concluded at 1520 hours and the recording was stopped.

TIMELINE OF DISCARDED EVIDENCE:



10/28/2023 @ 0744 hours - Officer 1 's BWC

This image is from Officer 1 's BWC and shows him detaining Arrestee at the transit center. The black backpack Officer 1 possessed is on the ground next to Arrestee



10/28/2023 @ 0744 hours – Officer 1 's BWC

The image above shows Officer 1 removing suspected narcotics from Arrestee left front pant pocket. The image below shows Officer 1 placing the suspected narcotics on top of a block wall.



10/28/2023 @ 0746 hours – Officer Victorio's BWC



This image shows Officer Victorio searching the backpack and some of the backpack contents which included some of the following visible items: a cell phone, a box of earphones, a screwdriver, a lighter, an alcoholic beverage, a power cord, and a small pouch.

The image below shows Officer Victorio collecting additional property from the top of the block wall. These items included the suspected narcotics, a black wallet, fingernail clippers, a pen, and another lighter.



10/28/2023 @ 0746 hours – Officer 1 's BWC



This image shows Officer 1 removing money and suspected marijuana from Arrestee right front pant pocket. Officer 1 places the suspected marijuana on the roof of his unit and returns the money to Arrestee pocket.

10/28/2023 @ 0746 hours – Officer Victorio's BWC



This image shows Officer Victorio placing the suspected narcotics into the backpack. The other items from the block wall had already been placed inside the backpack.

10/28/2023 @ 0747 hours – Officer Victorio's BWC



This image shows Officer Victorio placing the backpack inside his patrol unit.

10/28/2023 @ 0753 hours – Officer Victorio's BWC



This image shows Officer Victorio conducting a second search of the backpack. Officer Victorio removes a zip lock containing suspected marijuana. In addition to the previous items seen in the backpack, these additional items were seen: a USB cord, a black sock, a floral print pouch, a white unknown electronic device, hand sanitizer, body wash, and some small boxes.

10/28/2023 @ 0754 hours – Officer Victorio's BWC



After the second search of the backpack, Officer Victorio placed the backpack in the backseat area of his patrol vehicle. The suspected cocaine and suspected marijuana were inside the backpack.

10/28/2023 @ 0755 – Officer 1 's BWC



This image shows Officer 1 putting the suspected marijuana he recovered from Arrestee into the backpack. Officer 1 retrieved suspected marijuana from the roof of his unit before placing it in the backpack. Officer 1 did not remove the backpack from Officer Victorio's unit.

10/28/2023 @ 0844 hours – Officer Victorio's BWC



This image shows Officer Victorio removing the scooter from his vehicle to return it to the victim. The backpack is visible in the backseat of his patrol unit. This was the last time the backpack and its contents were captured on BWC.

ATTACHMENTS:

Tab 01	Investigation
Tab 03	Reports and CAD
Tab 04	Notifications
Tab 05	Interviews / Directed Memorandum
Tab 06	BWC Footage
Tab 07	Dispatch and 911 Audio
Tab 08	Video
Tab 09	Supporting Documentation

Attachment Q
Settlement Agreement in Case No. 24PSB-006 between the City of San Bernardino and Hector Victorio, dated October 24, 2024

SETTLEMENT AGREEMENT

This Settlement Agreement and Appeal Waiver ("Agreement") is entered into as of October 24th, 2024, by and between the City of San Bernardino ("City") and Hector Victorio ("Employee") (collectively, the "Parties").

RECITALS

WHEREAS:

A. On September 16th, 2021, Employee was hired by the City in the position of Law Enforcement Trainee, and sworn in as a Police Officer on March 14th, 2022, within the City's Police Department ("Department").

On March 14th, 2024 the Employee was notified about an internal investigation regarding neglecting his duties during a burglary investigation, which occurred on October 28th, 2023 (San Bernardino Case #2023-122237). During that investigation narcotics, along with evidence, were neglectfully discarded.

Subsequently, the employee advised he wanted to bypass the disciplinary appeal process. Further, the Employee indicated he was willing to admit to substandard conduct, performance, and safety, failing to prepare a detailed report, destruction of evidence, failing to adhere to property booking procedures, failing to adhere to the narcotics and dangerous drugs policy, failing to obey laws, regulations and orders, failing to properly perform his duty, and to neglecting his duty.

B. Specifically, the employee admits to violating San Bernardino Policies §340.3.2 - Conduct, §340.3.5 – Performance, §340.3.6 – Safety, §344.1.1 – Report Preparation, §804.3 – Property Handling, §804.3.1 – Property Booking Procedure, §804.3.2 – Narcotics and Dangerous Drugs, Policy and Procedures, §3.01 – General Behavior, §3.02 – Obedience to Laws, Regulations, and Orders, §4.01 – Performance of Duty, §4.02 – Neglect of Duty.

C. As a result, the Parties have since agreed to disciplinary action as follows: An imposition of a (40) forty-hour suspension without pay, and the imposition of a Performance Improvement Plan (PIP) to assist in correcting stated deficiencies. This is done with the understanding that Employee waive any right he may otherwise have had to contest, or appeal this said discipline.

AGREEMENT

NOW, THEREFORE, in consideration for the mutual promises and undertakings of the Parties as set forth below, the City and Employee hereby enter into this Agreement and agree as follows:

1. Incorporation of Recitals. The recitals set forth above are true and correct and are hereby fully incorporated into this Agreement by this reference.

2. No Admission of Liability. This Agreement shall in no way be construed as an admission by the City that it, the Department, or any officer, employee, or agent thereof, has acted wrongfully with respect to Employee. The City specifically disclaims any liability to or wrongful acts against Employee on the part of the City, the Department, or any officer, employee, or agent thereof.

3. No Precedent. This Agreement is in no way intended, and shall in no way be construed, to restrict any rights guaranteed to the City under local, state, or federal law, rule, or policy or by private agreement, or to establish a precedent in this or any other matter, now or in the future.

4. Pending Disciplinary Action. The City and Employee agree that in return for valuable consideration—i.e., the City's non-adversarial, early and efficient resolution of this disciplinary action, and the Employee's non-adversarial, early and efficient resolution of this disciplinary action, the Employee agrees to accept and abide by all of the terms specified in this Agreement.

5. Employee's Promises.

a) Concurrent with the execution of this agreement, Employee agrees that he will not file any appeal, claim, or lawsuit relating to the subject incident or acts referenced in this agreement **(24PSB-006).**

b) Employee agrees to an imposition of a (40) hour suspension without pay, and the imposition of a Performance Improvement Plan (PIP) to assist in correcting stated deficiencies. Employee agrees to the restriction of any and all overtime compensation, unless authorized by the Chief of Police, during the pay period(s) in which the (40) hour suspension is imposed.

c) Employee agrees to waive any and all pre-discipline rights and any and all post-discipline rights that he may have to appeal, grieve, litigate, or otherwise contest the imposition of the discipline set forth in subdivisions a, b, c, and d of this section, above, under any provision or principle of local, state, or federal law, or under any contract or agreement written or oral, express or implied, including but not limited to, a collective bargaining agreement, a MOU, or any future "for cause" provisions of any employment agreement with the City, as may be further applicable, in any forum whatsoever, to the fullest extent permitted by law;

d) Employee agrees to comply with each and every one of the rules, regulations, and/or policies applicable to employees of the City in the Department, including from the date of the execution of this Agreement through the duration of the Employee's employment with the City.

Employee's Misconduct and/or Unsatisfactory Behavior. Employee admits to neglecting his duties while assisting with case #2023-122237, as specified in department policy. Employee agrees and acknowledges that the aforementioned misconduct and unsatisfactory behavior constitute(s) a violation(s) of San Bernardino Policies §340.3.2 - Conduct, §340.3.5 – Performance, §340.3.6 – Safety, §344.1.1 – Report Preparation, §804.3 – Property Handling, §804.3.1 – Property Booking

Procedure, §804.3.2 – Narcotics and Dangerous Drugs, Policy and Procedures, §3.01 – General Behavior, §3.02 – Obedience to Laws, Regulations, and Orders, §4.01 – Performance of Duty, §4.02 – Neglect of Duty.

7. Not a Limit on Future Actions. This Agreement in no way limits the City's ability to discipline Employee for other conduct by him that may violate City rules, policies, or regulations and/or terms of any applicable Memorandum of Understanding or standards of behavior. Moreover

e) Nothing in this Agreement shall limit the City's right to use or make reference to matters described in this Agreement, as a basis, in whole or in part, to justify a decision to discipline or to discharge Employee for any conduct arising or newly discovered subsequent to the execution of this Agreement, except to the extent limited by a City rule or policy or by a negotiated agreement or MOU with the employee's authorized and recognized representative; and

f) The City may place a copy of this Agreement in Employee's official personnel file, and Employee hereby consents to the City doing so and waives any and all rights to respond to and/or appeal the placement of this Agreement in his personnel file.

8. Voluntariness. Employee acknowledges that, prior to signing this Agreement, he was provided with an opportunity to consult with a representative and/or attorney of his own choosing and that he is voluntarily, knowingly, and intelligently entering into this Agreement with sufficient awareness of the relevant circumstances and likely consequences of this Agreement, on the advice of his own chosen counsel, and without reliance on any representations made by the City, the Department, or any officer, employee, or agent thereof, except as provided in this Agreement. Employee further acknowledges that he was given reasonable and sufficient time and opportunity to negotiate the terms of this Agreement and to consider the execution thereof under the terms set forth herein

9. Entire Agreement. The Parties acknowledge that this Agreement constitutes a signed integrated agreement expressing the entire agreement between the Parties and fully superseding any and all prior or contemporaneous oral or written agreements, understandings, promises, or representations between the Parties pertaining to the subject matter of this Agreement. Moreover, no subsequent agreement concerning the subject matter of this Agreement or modification to this Agreement shall be binding unless it is signed by both Parties.

10. Governing Law and Venue. This Agreement shall be governed by and interpreted under the laws of the State of California applicable to contracts made and to be performed within the State. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, California.

11. Interpretation and Severability. The Parties agree that the customary rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. The Parties further agree that, should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal, or otherwise

unenforceable for any reason, such determination shall not affect the validity of the remaining parts, terms, or provisions hereof, or of the offending provision in any other circumstance.

12. Authority. The persons signing this Agreement on behalf of the Parties hereto hereby warrant and represent that they are duly authorized to execute this Agreement on behalf of said Parties and that, by doing so, the Parties hereto are hereby formally bound to the provisions of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR SETTLEMENT AGREEMENT AND APPEAL WAIVER

PLEASE READ THIS AGREEMENT CAREFULLY. IT INCLUDES A WAIVER OF DISCIPLINE APPEAL RIGHTS AND A RELEASE BY THE CITY EMPLOYEE OF ANY AND ALL KNOWN AND UNKNOWN CLAIMS THAT HE MAY HAVE AGAINST THE CITY, THE DEPARTMENT, OR ANY OFFICER, EMPLOYEE, OR AGENT THEREOF.

IN WITNESS HEREOF, the Parties have executed this Agreement as of the date first written above.

CITY:

Approved By:

Darren L. Goodman
Chief, San Bernardino Police Department, City of San Bernardino

EMPLOYEE:

Approved By:

Officer Hector Victorio

Attachment R
San Bernardino Police Department
Performance Improvement Plan, Case No. 24PSB-006, dated October 28, 2024

CITY OF SAN BERNARDINO
POLICE DEPARTMENT
INTEROFFICE MEMORANDUM

TO: Officer Hector Victorio

FROM: Lieutenant Miguel Cintron

SUBJECT: Notification – Performance Improvement Plan (#24PSB-006)

DATE: October 28th, 2024

COPIES: File

This memorandum serves as a notice to you that based on noted deficiencies in your job performance, you are being placed on a Performance Improvement Plan (PIP). The PIP is intended to provide you with an opportunity to demonstrate an acceptable level of performance, demonstrate your understanding of department policy, and prove your capacity to comply with department standards and practices as a valued employee.

The PIP will begin on 11/1/2024 and remain in effect until 4/30/2025. The PIP may be extended at the discretion of management, or by the amount of time corresponding to any cumulative leave use above 40 hours during the period of the PIP.

Areas of Concern

Over the past 20 months, your performance has not conformed to the policies, procedures, and work rules as specified by Department Policy and the Policy and Procedures Manual. Specifically, the following areas of concern have arisen:

- **Report Preparation:**

  You have failed to complete accurate reports, which include all pertinent information seen, heard, or assimilated by any other sense, and accurately document any actions taken.

- **Driving Practices:**

  You have failed to drive and/or operate your vehicle, while on duty, with due regard and caution for the safety of all persons and property.

- **Standards of Conduct:**

  You have failed to comply with standards of conduct that are consistent with the values and mission of this department.

Previous Noted Deficiencies

- On October 24th, 2024, you received a 40-hour suspension for sustained findings of unbecoming conduct, neglect of duty, and improper tactics.
- On March 11th, 2024, you received a 40-hour suspension for sustained findings of utilizing improper tactics, unreasonable force, and unbecoming conduct.
- On June 27th, 2023, you received a verbal counseling regarding tactical communication and de-escalation.
- On June 12th, 2023, you received a documented counseling for an at-fault, on-duty collision.
- On May 7th, 2023, you received a documented counseling for losing department issued equipment (cell phone).
- On March 30th, 2023, you received a documented counseling for an at-fault, on-duty traffic collision.

How to Improve Your Performance

You are required to complete your reports in compliance with the guidelines of Department Policy 344. Additionally, those reports should be properly formatted, contain accurate information, and have few, if any, grammatical or spelling errors. When report errors are brought to your attention by a supervisor, you are to make the recommended corrections, and resubmit the report once all corrections have been made. These reports shall be completed in the time frames required by Department Policy.

You will be given time to complete your reports during normal working hours. Under normal circumstances, you will have an opportunity to request time after briefing and/or prior to the end of your shift. You are required to request that time from a supervisor or the watch commander.

Your direct supervisor will conduct audits on your reports and body worn camera footage to ensure you are complying with department policy. All of your reports shall be submitted to, and held for your direct supervisor, or any designated supervisor in their absence. This shall continue for the duration of the PIP.

While on duty, you shall drive your assigned patrol vehicle with due regard and caution for the safety of all persons and property in compliance with department policy and the California Vehicle Code. Your direct supervisor will monitor and conduct audits regarding your driving and vehicle pursuit practices.

You are required to adhere to the established standards of conduct outlined in Department Policy 340. Your conduct will remain consistent with the values and mission

of this department. You shall familiarize yourself with Department Policy 340 and are responsible for the compliance with each. Should you need clarification and/or guidance in the event of any perceived ambiguity or uncertainty it will be your responsibility to notify your direct supervisor.

If you believe you need additional assistance to meet the goals of this PIP, it is your responsibility to notify your direct supervisor so they can decide as to whether the requested assistance is appropriate. If the requested assistance is appropriate, the necessary arrangements will be made to obtain the assistance requested. Any request for assistance should be submitted in writing.

Regular Meetings, Assistance, and Guidance

Your direct supervisor will meet with you monthly to discuss your progress on the PIP and written progress evaluations will be provided. Following each meeting, Your direct supervisor will provide feedback to Lieutenant John Echevarria. Your performance will be fully evaluated at the conclusion of the PIP.

Failure to Improve

If you have not adequately achieved the work performance objectives and assignments as set forth in this plan, and your work performance does not improve to comply with the minimum job requirements during the term of this PIP, the PIP may be continued or disciplinary actions up to and including termination for neglect of duty may be applied.

You are required to make immediate, significant, and sustained improvements during the period of the PIP, and you are required to maintain that improvement after the completion of the PIP. Failure to improve will merit formal discipline up to and including termination.

X _____ Date: 11/7/24

By signing, I acknowledge I have received a copy of this Performance Improvement Plan (PIP) and fully understand its contents.

Attachment S
San Bernardino Police Department Internal Affairs Investigation Case No. 25PSB-093, dated September 17, 2025

CITY OF SAN BERNARDINO
POLICE DEPARTMENT
INTEROFFICE MEMORANDUM

TO: Captain Adam Affrunti

FROM: Detective Mario Molina

SUBJECT: 25PSB-093

DATE: September 17, 2025

COPIES: File

Synopsis:

On Tuesday, May 6, 2025, the San Bernardino County Sheriff's Department's Professional Standards Bureau (PSB) received a complaint from Complainant. After an initial review, the Sheriff's Department determined that the matter involved officers from the San Bernardino Police Department.

On Wednesday, May 21, 2025, the complaint was forwarded via U.S. mail from the San Bernardino County Sheriff's Department to the San Bernardino Police Department's PSB for further review and action.

In Complainant written statement, Complainant alleged that Officers H. Victorio and Pen. Code sec. 832.7 stopped her on April 28, 2025. According to her allegations, during the traffic stop, the officers deactivated their body-worn cameras while she was detained. Complainant further claimed that, following a conversation between the officers, one officer informed her that if she consented to a search of her residence, her vehicle would not be towed, and she would not be arrested.

The complaint further alleged that the officer involved transported Complainant to her residence and conducted a search while she remained in the patrol unit. During this search, the officer reportedly recovered approximately five bullets from Complainant's residence. Complainant was then returned to her vehicle and released at the scene with a citation for her suspended CDL.

On May 29, 2025, the complaint was formally referred to the appropriate Division for investigation, review, and disposition. Following a preliminary inquiry, the matter was forwarded to the Professional Standards Bureau for a full administrative investigation, and this investigation was assigned to me.

During the course of my investigation, I learned that on April 28, 2025, at approximately 2113 hours, Officer Victorio activated his body-worn camera (BWC) while conducting a traffic stop in the area of State Street and Hanford Street, in the City and County of San Bernardino. The vehicle stopped was a 2014 Dodge Charger, California license plate [redacted] occupied solely by the driver, Complainant [redacted].

Officer Victorio told Complainant she had been stopped for a violation of CVC 26708 (tinted windows). Upon request for her California Driver's License (CDL), Complainant said she had a prior gun-related offense. A CDL inquiry confirmed her license was suspended. Complainant was directed out of the vehicle, and a search of her person and vehicle was conducted.

BWC footage confirmed that no contraband or illegal items were located during the search of Complainant or her vehicle. After completing the vehicle search, Officer Victorio told his partner, Officer Pen. Code sec. 832 "You can cut off," and both officers deactivated their BWCs.

Several minutes later, Officer Victorio reactivated his BWC, at which time he was at Complainant's residence, Complainant's address. Complainant remained seated, handcuffed, and unsupervised in the rear of Officer Victorio's police unit as Officer Victorio walked away.

BWC footage showed Officer Victorio approached the front door of Complainant's residence, which appeared to have been opened by a Black male juvenile. Officer Victorio entered the residence and proceeded to Complainant bedroom, where he opened multiple dresser drawers. Inside one drawer, Officer Victorio located several loose live ammunition rounds, which Officer Victorio took into his possession. Upon returning to his unit, BWC audio captured the sound of the rounds being placed into the unit's cupholder located in the unit's center console. Officer Victorio then deactivated his BWC.

Officer Victorio reactivated his BWC for a third time during the incident. Footage showed Officer Victorio had returned to the original stop location at State Street and Hanford Street. Officer Victorio opened the rear passenger door of his patrol unit, removed Complainant's handcuffs, and allowed Complainant to exit his patrol vehicle.

Officer Pen. Code sec. 8 asked Officer Victorio to complete the address portion of the citation after Complainant provided her current address. Officer Victorio finished the citation, advised Complainant he would not tow her vehicle because of "what we spoke about," and issued Complainant citation #1104027 for driving with a suspended CDL. Complainant was released from the scene.

A review of police reports associated with the enforcement stop found no record of the ammunition being tagged into evidence.

On July 30, 2025, Detective Miles and I interviewed Officer Victorio in the Professional Standards Bureau (PSB) interview room at the San Bernardino Police Department. The following is a summary of Officer Victorio's interview.

Officer Victorio confirmed that on April 28, 2025, at approximately 2114 hours, he conducted a traffic enforcement stop on Complainant's vehicle near State Street and Hanford Avenue for a violation of CVC 26708 (tinted windows).

During the stop, Officer Victorio checked Complainant's California Driver's License (CDL) status and learned her CDL was suspended. When Officer Victorio advised Complainant of her CDL status, Complainant told Officer Victorio that she had a prior firearm-related charge.

Officer Victorio directed Complainant to exit her vehicle and conducted a search of both her person and her vehicle. No contraband was located.

Officer Victorio acknowledged deactivating his body-worn camera (BWC) during the encounter. When asked why, he said he was unsure but believed he may have done so because Complainant was going to be transported to her residence to retrieve ammunition she admitted to possessing.

Officer Victorio transported Complainant to her residence. While Complainant remained handcuffed and unsupervised in the back seat of his patrol unit, Officer Victorio entered Complainant's residence and went to her bedroom. Once inside, Officer Victorio opened several drawers and recovered loose rounds of ammunition.

After leaving the residence, Officer Victorio returned to his unit and placed the ammunition in the center console's cupholder. Officer Victorio then transported Complainant back to the original location of the stop, where he cited and released Complainant

Officer Victorio admitted that he did not tag the ammunition for safekeeping. Instead, he placed it in his equipment bag and retained it until the conclusion of our interview, in accordance with instructions from his representative to comply with PSB's directive given at the time he was notified of his PSB interview.

Officer Victorio acknowledged that he should have kept his BWC activated throughout the traffic enforcement stop and that the ammunition should have been tagged as evidence on the date he took possession of it.

On August 19, 2025, Detective Miles and I interviewed Officer Pen. Code sec. 8 in the PSB interview room at the San Bernardino Police Department. The following is a summary of his interview.

Officer [redacted] confirmed he was the Officer who backed Officer Victorio on April 28, 2025, at about 2114 hours in the area of Hanford and State Street during a traffic enforcement stop.

Officer [redacted] said that during the stop, he contacted [redacted] but the conversation he had with [redacted] did not involve a search of her residence or an agreement not to tow her vehicle and/or arrest her if she did allow a search of her residence.

Officer [redacted] also said he deactivated his BWC because he believed the enforcement stop had concluded, and it did not occur to him to reactivate his BWC.

During my investigation, I called [redacted] several times. During one of our phone calls, [redacted] agreed to be interviewed at the police station on Wednesday, July 9, 2025, at 1400 hours.

On July 9, 2025, [redacted] failed to appear for her scheduled interview. I attempted to contact her several times by telephone to reschedule; however, my calls went to voicemail, and a message was left. As of September 9, 2025, [redacted] had not returned my calls.

On July 31, 2025, I conducted a residence check, which revealed [redacted] and her family had moved from [redacted].

I also conducted a criminal history check on [redacted] and nothing indicated that [redacted] was prohibited from owning and/or possessing ammunition.

SUMMARY OF ALLEGATIONS

Allegations:

[redacted] alleged that Officer Victorio employed improper tactics during the search of her home, which occurred during her traffic enforcement stop.

Evidence Considered:

I reviewed the following evidence about the above allegation: Officer Victorio's statement, Officer [redacted]'s statement, body-worn camera (BWC) footage, and the complainant's written complaint.

Lexipol Policy Review:

§322.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for San Bernardino Police Department personnel to consider when dealing with search and seizure issues.

§322.2 POLICY

It is the policy of the San Bernardino Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

§322.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- *Valid consent*
- *Incident to a lawful arrest*
- *Legitimate community caretaking interests*
- *Vehicle searches under certain circumstances*
- *Exigent circumstances*

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

§322.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

a. *Members of this department will strive to conduct searches with dignity and courtesy.*

b. *Officers should explain to the person being searched the reason for the search and how the search will be conducted.*

c. *Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.*

d. *In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.*

e. *When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:*

    1. *Another officer or a supervisor should witness the search.*

    2. *The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.*

f. *When officers are going to rely on a consent search in lieu of a search warrant, it will be necessary to establish that the consent was given voluntarily. The San Bernardino County District Attorney requests that a "Consent to Search" form be utilized when possible. This form can then be utilized as a court document for presentation to the jury.*

§322.5 DOCUMENTATION

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- *Reason for the search*

- *Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)*

- *What, if any, injuries or damage occurred*
- *All steps taken to secure property*
- *The results of the search, including a description of any property or contraband seized*
- *If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer*

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

§*340.1 PURPOSE AND SCOPE*

This policy establishes standards of conduct that are consistent with the values and mission of this department and are expected of all members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions, but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

This policy applies to all employees (full- and part-time), reserve officers, and volunteers.

§*340.2 DISCIPLINE POLICY*

The continued employment or appointment of every member of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties or to the extent that it may be indicative of unfitness for his/her position.

§*340.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE*

The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this department. This list is not intended to cover every possible type of

misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient department service:

§*340.3.1 ATTENDANCE*

a. *Leaving job to which assigned during duty hours without reasonable excuse and proper permission and approval.*
b. *Unexcused or unauthorized absence or tardiness on scheduled day(s) of work.*
c. *Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.*
d. *Failure to notify the Department within 24 hours of any change in residence address, home phone number, or cell phone number.*

§*340.3.2 CONDUCT*

a. *Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily injury on another.*
b. *Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief of Police of such action.*
c. *Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.*
d. *Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.*
e. *Unauthorized possession of, loss of or damage to department property or the property of others, or endangering it through unreasonable carelessness or maliciousness.*
f. *Failure of any employee to promptly and fully report activities on their own part or the part of any other employee where such activities may result in criminal prosecution or discipline under this policy.*
g. *Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.*
h. *Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.*
i. *The use of any information, photograph, video or other recording obtained or accessed as a result of employment with the Department for personal or financial gain or without the express authorization of the Chief of Police or a designee may result in discipline under this policy.*
j. *Seeking restraining orders against individuals encountered in the line of duty without the express permission of the Chief of Police.*
k. *Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.*
l. *Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.*

m. *Engaging in on-duty sexual relations including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.*

§*340.3.5 PERFORMANCE*

a. *Unauthorized sleeping during on-duty time or assignments.*
b. *Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.*
c. *Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.*
d. *Concealing, attempting to conceal, removing or destroying defective or incompetent work.*
e. *Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.*
f. *The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.*
g. *Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or which would tend to discredit any member thereof.*
h. *Knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.*
i. *The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.*
j. *Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person.*
k. *The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.*
l. *The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).*
m. *Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual and be responsible for compliance with each of the policies contained herein.*
n. *Work-related dishonesty, including attempted or actual theft of department property, services or the property of others, or the unauthorized removal or possession of department property or the property of another person.*

o. *Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on- or off-duty.*
p. *Failure to disclose or misrepresenting material facts, or the making of any false or misleading statement on any application, examination form, or other official document, report or form or during the course of any work-related investigation.*
q. *Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.*
r. *Associating with or joining a criminal gang, organized crime and/or criminal syndicate when a department member knew or reasonably should have known of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by the Department.*
s. *Offer or acceptance of a bribe or gratuity.*
t. *Misappropriation or misuse of public funds.*
u. *Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.*
v. *Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions: while on department premises; at any work site; while on-duty or while in uniform; or while using any department equipment or system. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.*
w. *Substantiated, active, continuing association on a personal rather than official basis with a person or persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should have knowledge of such criminal activities, except where specifically directed and authorized by the Department.*
x. *Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this agency, except as expressly authorized by the Chief of Police.*
y. *Engaging in political activities during assigned working hours except as expressly authorized by the Chief of Police.*
z. *Violating any misdemeanor or felony statute.*
aa. *Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.*
bb. *Any failure or refusal of an employee to properly perform the function and duties of an assigned position.*
cc. *Failure to maintain required and current licenses (e.g. driver's license) and certifications (e.g., first aid).*
dd. *Giving false or misleading statements, or misrepresenting or omitting material information to a supervisor, or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.*

Allegations:

During the investigation, it was determined that Officer Victorio may have failed to properly tag the live ammunition he located at Complainant's residence as evidence, safekeeping, or as found property.

Evidence Considered:

I reviewed the following evidence regarding the above allegation: Officer Victorio's statement, Officer Pen. Code sec. 8 's statement, body-worn camera (BWC) footage, and the complainant's written complaint.

San Bernardino Police Department Policies and Procedures:

§4.02 Neglect of Duty

Employees may be deemed incompetent and subject to discipline when they: fail to properly perform their assigned duties; act in a manner tending to bring discredit to themselves or the Department; or fail to assume responsibility or exercise diligence, intelligence, and interest in the pursuit of their duties.

§3.20 Custodial Property

Employees shall deliver to the property custodian any property not their own, which comes into their possession while (1) on duty, and/or, (2) performing as a police officer. A report and property tag shall be completed for each transaction.

§3.202Safeguarding Money, Property, and Evidence

All employees shall be responsible for safeguarding public or city money, prisoner's money and property, and property and evidence in their possession. They shall observe appropriate procedures regarding the handling of money and when money is received, it shall be placed together with any corresponding records in an envelope and sealed. The envelope shall be marked with all necessary identifying data. The item shall then be deposited in the Department's safe or evidence locker.

Lexipol Policy Review:

§344.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide

sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

§344.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports in a timely manner. The following documentation shall be submitted prior to the end of the reporting employee's shift, unless a supervisor approves otherwise:

a. *All portions of arrest reports where the suspect remains in custody*

b. *Booking applications and juvenile applications for petition*

c. *All reports associated with officer-involved shootings or in-custody deaths*

d. *All reports associated with homicide or death investigations*

e. *All portions of missing persons reports*

f. *CHP 180's*

g. *Face pages, CHP 555 pages 1-3, and property control pages on all reports*

h. *Any reports requiring prompt follow-up on active leads*

All other documentation shall be submitted by the end of the employee's work week, unless other arrangements are approved by a supervisor.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Handwritten reports must be authorized by the Watch Commander. Employees who dictate reports shall use appropriate grammar. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the

reporting employee's opinions should not be included in reports unless specifically identified as such.

§344.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department-approved form unless otherwise approved by a supervisor.

§344.2.1 CRIMINAL ACTIVITY REPORTING

When an employee becomes aware that a crime has occurred, either due to a call for service or through self-initiated activity, the employee is required to document the activity. The fact that a victim is not desirous of prosecution does not exempt the employee from the responsibility of documenting a crime. The following are examples of required documentation:

a. *In every instance where a felony has occurred, the documentation shall take the form of a written crime report*

b. *In every instance where a misdemeanor crime has occurred and the victim desires a report, the documentation shall take the form of a written crime report.*

c. *If the victim does not desire a report, the incident may be recorded as a crime report with the "reluctant victim" and "no further action" boxes checked*

d. *In every case where any force is used against any person by police personnel*

e. *All incidents involving domestic violence shall be documented as a crime report or as a "PC 13700" incident report, whichever is appropriate*

f. *All arrests*

§344.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

a. *Any use of force against any person by a member of this department (see the Use of Force Policy)*

b. *Any firearm discharge (see the Firearms and Qualification Policy)*

c. *Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)*

d. *Any found property or found evidence*

e. *Any traffic collisions will be documented in accordance with the Traffic Collision Reporting Policy, Policy §502*

f. *Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy*

g. *All protective custody detentions*

h. *Suspicious incidents that may place the public or others at risk*

i. *Whenever the employee believes the circumstances should be documented or at the direction of a supervisor*

§804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

§804.1.1 DEFINITIONS

Definitions related to this policy include:

Property *- All articles placed in secure storage within the Property Unit, including the following:*

- *Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.*
- *Found property - Items found by members of the Department or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.*
- *Safekeeping - Items received by the Department for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence, and items taken for safekeeping under authority of law.*

§804.2 PROPERTY HANDLING

Any member who first comes into possession of any property shall retain such property in their possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Whenever property is taken or received (e.g., relinquished firearms) from an individual, a property receipt form will be completed. The receipt shall describe

the property and contain a notice on how to retrieve the property, as applicable, from the Department. A copy of the property receipt form shall be given to the individual from whom the property was taken or received.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

§804.2.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the member going off-duty unless otherwise approved by a supervisor. Members booking property shall observe the following guidelines:

a. *Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.*

b. *Mark each item of evidence with the booking member's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.*

c. *Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.*

d. *Place the case number in the upper right-hand corner of the bag.*

e. *The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.*

f. *When the property is too large to be placed in a locker, the item may be retained in the supply room. Submit the completed property record into a numbered locker indicating the location of the property.*

§804.3 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

a. *Narcotics and dangerous drugs*

b. *Firearms (ensure they are unloaded and booked separately from ammunition)*

c. *Property with more than one known owner*

d. *Paraphernalia as described in Health and Safety Code § 11364*

e. *Fireworks*

f. *Contraband*

§804.3.1 PACKAGING CONTAINER

Members shall package all property, except narcotics and dangerous drugs, in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

§804.4 RECORDING OF PROPERTY

The Property and Evidence Technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the San Bernardino Police Department shall be noted in the property logbook.

§804.5.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time, and to whom released.

The Property and Evidence Technician shall obtain the signature of the person to whom property is released and the reason for release. Any member receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

§804.5.4 AUTHORITY TO RELEASE PROPERTY

Case agents or authorized personnel shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

§804.5.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Property and Evidence Technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Bureau for filing with the case. If some items of property have not been released, the property card will remain with the Property Unit. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The assigned detective should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

§804.6 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property and Evidence Technician shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

§804.8 POLICY

It is the policy of the San Bernardino Police Department to process and store all property in a manner that will protect it from loss, damage, or contamination, while maintaining documentation that tracks the chain of custody, the location of property, and its disposition.

Allegations:

During this investigation, it was suspected that Officer Victorio may have failed to comply with the agreed-upon terms and conditions of his Performance Improvement Plan (PIP), reference 24PSB-006, which was in effect from November 1, 2024, through April 30, 2025. The incident under review occurred on April 28, 2025—two days before the scheduled conclusion of his PIP.

Evidence Considered:

I reviewed the following evidence about the above allegation: Officer Victorio's statement, Officer [redacted] Pen. Code sec. 8's statement, body-worn camera (BWC), Property Data Sheet, and Officer Victorio's PIP.

San Bernardino Police Department Policies and Procedures:

*§***3.20 Custodial Property**

Employees shall deliver to the property custodian any property not their own, which comes into their possession while (1) on duty, and/or, (2) performing as a police officer. A report and property tag shall be completed for each transaction.

*§***3.202 Safeguarding Money, Property, and Evidence**

All employees shall be responsible for safeguarding public or city money, prisoner's money and property, and property and evidence in their possession. They shall observe appropriate procedures regarding the handling of money and when money is received, it shall be placed together with any corresponding records in an envelope and sealed. The envelope shall be marked with all

necessary identifying data. The item shall then be deposited in the Department's safe or evidence locker.

§4.02 Neglect of Duty

Employees may be deemed incompetent and subject to discipline when they: fail to properly perform their assigned duties; act in a manner tending to bring discredit to themselves or the Department; or fail to assume responsibility or exercise diligence, intelligence, and interest in the pursuit of their duties.

Performance Improvement Plan (24PSB-006)

Officer Victorio was required to complete all reports in compliance with the guidelines outlined in Department Policy 344 and to adhere to the established standards of conduct contained in Department Policy 340. The Performance Improvement Plan (PIP) explicitly stated that Officer Victorio *"shall"* familiarize himself with Policy 340 and is responsible for full compliance with its provisions.

Under the "Failure to Improve" section of the PIP, it states that if the minimum job requirements are not adequately achieved during the term of the PIP, the Department may either extend the PIP or impose disciplinary action, up to and including termination for neglect of duty. The PIP further directs Officer Victorio to make *immediate, significant, and sustained* improvements throughout its duration and to maintain that level of performance upon completion. Failure to do so may result in formal disciplinary action, including termination.

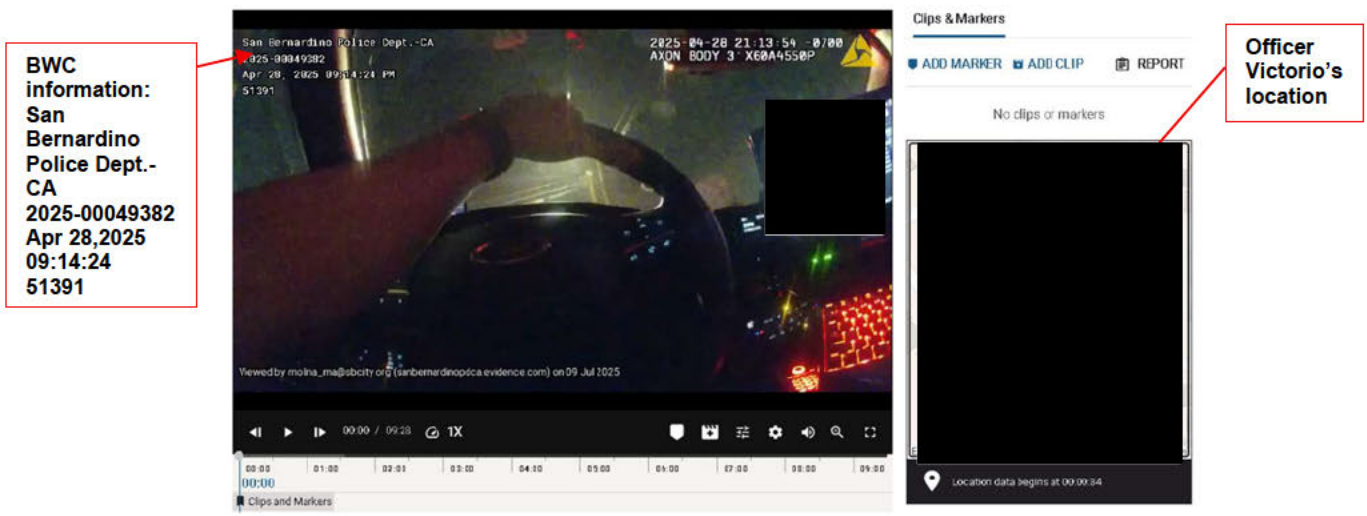
Officer Victorio signed and dated the PIP on November 7, 2024, directly above the acknowledgment statement: "*By signing, I acknowledge I have received a copy of this Performance Improvement Plan (PIP) and fully understand its contents."*

FINDINGS:

BWC REVIEW (Tab 06)

Officer H. Victorio – BWC # 1Footage 9:28

The first 30 seconds of Officer H. Victorio's body-worn camera (BWC) footage were muted, consistent with the system's pre-event buffering mode. When Officer Victorio's BWC was activated, he was observed seated in the driver's seat of his patrol unit. Officer Victorio appeared to activate the vehicle's red and blue overhead emergency lights before exiting his police unit. Officer Victorio then approached the driver's side of a gray four-door vehicle, which was occupied by a Black adult female later identified as Complainant [redacted]. The BWC location data indicated that Officer Victorio conducted his enforcement stop on April 28, 2025, at about 2114 hours in the area of Hanford and University in the City and County of San Bernardino, reference our case # 25-49382



When Officer Victorio contacted [redacted] she denied being on probation or parole and informed Officer Victorio that she had previously been arrested for petty theft and a firearm-related offense. Officer Victorio asked [redacted] if she currently had a firearm in her possession. [redacted] said she did not. [redacted] then briefly explained the circumstances surrounding the prior firearm-related offense.

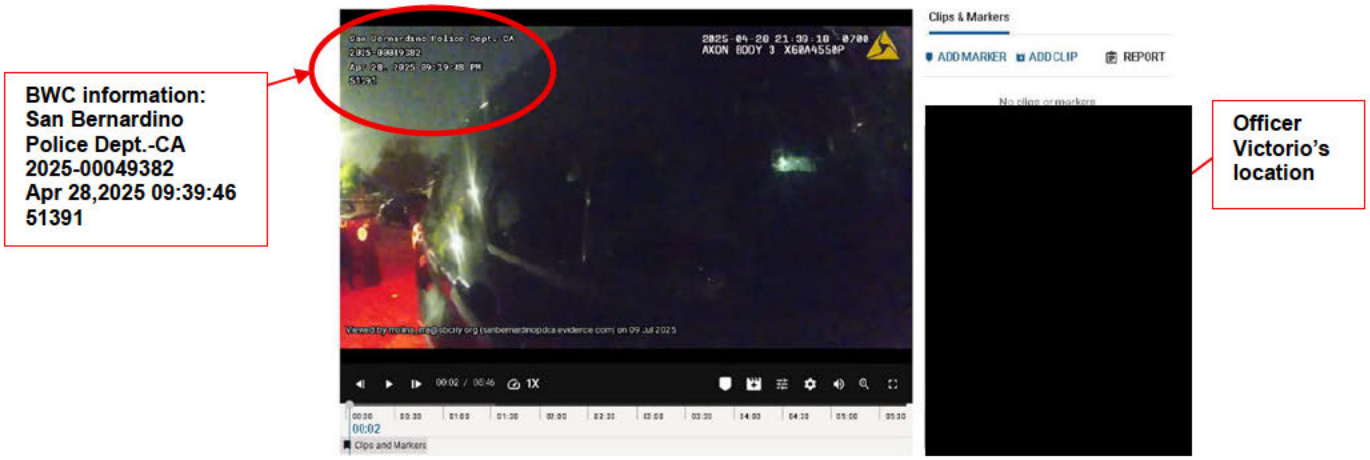
Officer Victorio returned to his patrol vehicle with [redacted]'s identification and appeared to conduct a records check using the mobile data terminal (MDT) inside of his unit. After the records check, Officer Victorio returned to [redacted]'s vehicle, and at Officer Victorio's request, [redacted] exited her vehicle. A search of [redacted] was conducted, after which she was seated on the curb under the supervision of Officer [redacted]

Officer Victorio searched [redacted]'s vehicle. During the search, Officer Victorio asked [redacted] where she lived. [redacted] said she lived around the corner, prompting Officer Victorio to ask why she needed directions home. [redacted] admitted she did not know how to get home from the hospital.

After concluding the vehicle search, Officer Victorio walked back toward his patrol unit and told Officer [redacted] "You can cut off." Officer Victorio then deactivated his body-worn camera (BWC).

Officer H. Victorio – BWC #2 Footage 5:46

The first 30 seconds of Officer H. Victorio's body-worn camera (BWC) footage were muted, consistent with the system's pre-event buffering mode. When the video recording was activated, Officer Victorio was observed walking along the passenger side of a patrol unit. The BWC location data indicated that Officer Victorio was in the area of 17th Street and Arizona Street in the City and County of San Bernardino at about 2146 hours.



The recording showed Officer Victorio walk away from a patrol unit and walk parallel to a white vinyl fence toward the front door of a residence.

Officer Victorio knocked on the front door, which was slightly ajar, and rang the doorbell. A short time later, an individual inside the residence closed the door. Officer Victorio stated, "I see you," and then used his right hand to briefly turn the door handle clockwise, which appeared to slightly open the door and an individual could be seen standing behind it. Officer Victorio asked the unidentified subject, who appeared to be a black male juvenile, if Minor 1,' his 'older sister,' was home. The juvenile responded by saying she was not.

Officer Victorio informed the unidentified black male juvenile that his mother was seated in the back of his patrol vehicle. Officer Victorio stated he was going to enter the residence, retrieve a few bullets that the juvenile's mother had in her room, and then leave. Officer Victorio further explained that afterward, the juvenile's mother would be released.

As the unidentified Black male juvenile walked away from the door, Officer Victorio appeared to lightly open the door and enter the residence. He proceeded further inside and encountered another Black male who identified himself as Minor 2 the oldest person at the location. Officer Victorio explained that he was there because the juvenile's mother had informed him, she had some bullets in a drawer, which he intended to retrieve before releasing her. Minor 2 responded by saying, 'OK.'

Officer Victorio then approached a dresser and opened the top right drawer, which he illuminated with his flashlight. Officer Victorio searched through the contents of the drawer for approximately 50 seconds and located several loose live rounds.

Several live rounds in Officer Victorio's left hand and several loose live rounds on the drawer's bottom panel.



Officer Victorio closed the drawer and placed the live rounds he was holding onto the bed in the bedroom.[1]

Officer Victorio opened four additional drawers in the bedroom and briefly glanced at their contents. After visually inspecting the drawers, he checked behind a pillow on the bed but did not locate any items. He then returned to the loose live rounds he had placed on the bed and picked them up.

Loose live rounds on bed.



Before exiting the bedroom, Officer Victorio visually inspected the walk-in closet. He then informed Minor 2 and the unidentified Black male juvenile that their mother would be home shortly and subsequently exited the residence.

Officer Victorio walked back to his patrol unit, at which point Complainant made an unintelligible comment. Officer Victorio responded, stating, 'They are okay. She wasn't even in there. I spoke with your next oldest son.'

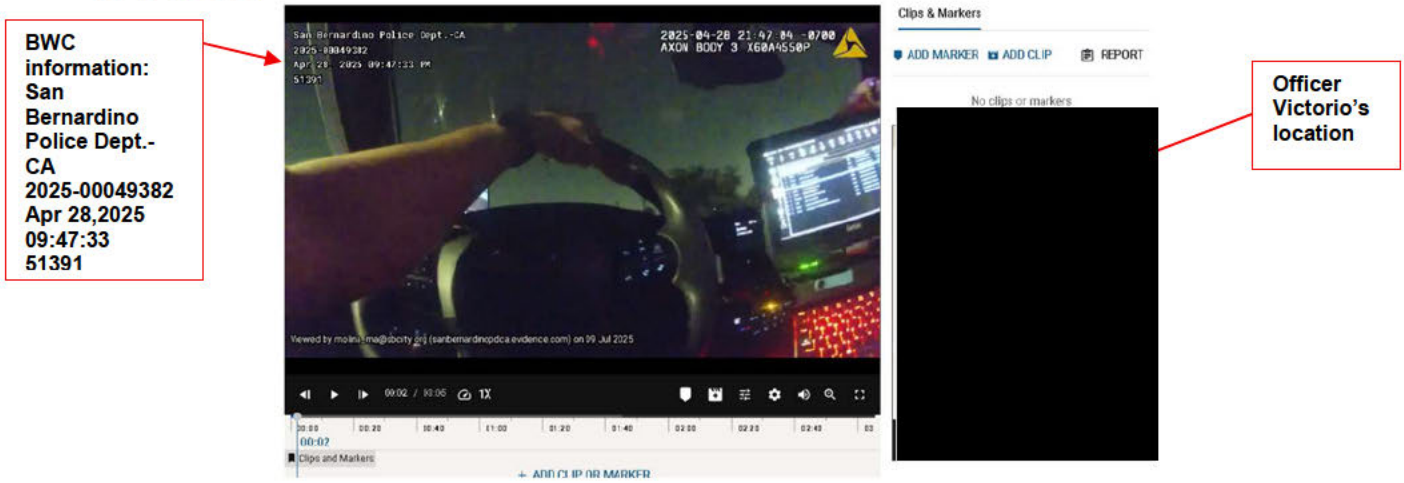
[1] Officer Victorio BWC audio captured the sound of several rounds being placed on the surface of the bed in the bedroom at about the 03:37 mark.

Officer Victorio then opened the front passenger side door of his patrol unit, illuminated the center console with his flashlight, and placed the loose live rounds he was holding into the console's cupholder.[2]

The front passenger side door of the police unit was shut, and Officer Victorio deactivated his BWC.

Officer H. Victorio – BWC #3 Footage 3:05

The first 30 seconds of Officer H. Victorio's body-worn camera (BWC) footage were muted, consistent with the system's pre-event buffering mode. When the video recording was activated, Officer Victorio was observed driving and parking his unit. The BWC location data indicated that Officer Victorio was in the area of University Parkway north of Hanford Street in the City and County of San Bernardino at about the time of 2147 hours.



Officer Victorio exited his patrol unit, walked to the rear passenger-side door, and opened it for Complainant Once the body-worn camera (BWC) audio was activated, Complainant could be heard asking someone if they had followed her location. A female responded affirmatively, explaining that she had responded to the location because Complainant's location had stopped.

Officer Victorio then removed Complainant's handcuffs. After being uncuffed, Complainant briefly spoke with the unidentified female and a Black male juvenile who were standing on the sidewalk.

Officer Victorio approached Officer Pen. Code sec. 832 who was seated in the driver's seat of his patrol unit. Officer Pen. Code sec. 8 handed Officer Victorio the citation for Complainant and requested that he add Complainant's current address to it.

[2] Officer Victorio BWC audio captured what sounded like several rounds being placed in the console's cupholder at about the 05:36 mark

Officer Victorio recontacted Complainant who provided her address. Officer Victorio wrote the address on the citation and appeared to add additional information. After completing the citation, Officer Victorio explained to Complainant that it was being issued for driving with a suspended license. He informed her that he would not be towing her vehicle based on their prior conversation.[3]

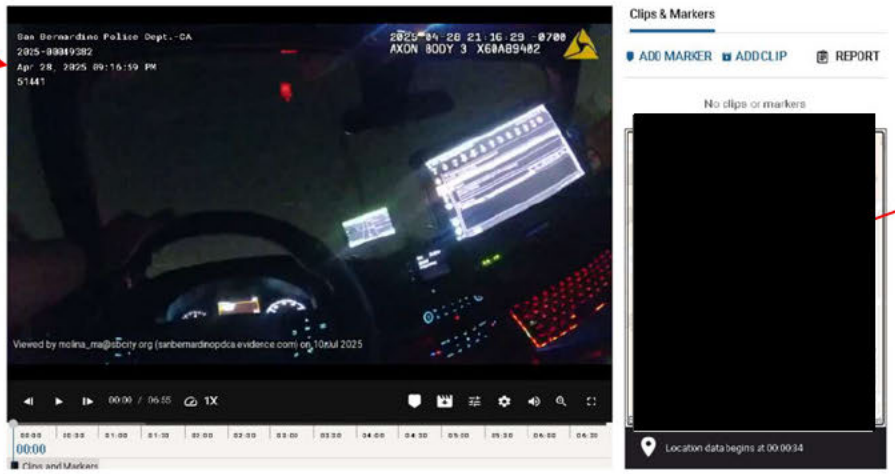
Complainant signed the citation, and Officer Victorio returned her California identification card and provided her with a copy of the citation. Officer Victorio also explained that she would not be charged for possessing the ammunition; however, the ammunition would be "taken" for safekeeping.[4]

Officer Victorio then deactivated his BWC.

Officer Pen. Code sec. 832.7 – BWC Footage 3:05

The first 30 seconds of Officer Pen. Code sec. 832.7's body-worn camera (BWC) footage were muted, consistent with the system's pre-event buffering mode. When the video recording was activated, Officer Pen. Code sec. 8 was observed driving his marked patrol unit. The BWC location data indicated that Officer Pen. Code sec. 8 was in the area of Hanford and University in the City and County of San Bernardino on April 28, 2025, at about 2116 hours, reference our case # 25-49382.

BWC information: San Bernardino Police Dept.- CA 2025-00049382 Apr 28,2025 09:14:24 51441



Officer Pen. Code sec. 8 exited his patrol unit and approached the gray four-door vehicle that had been stopped by Officer Victorio. As Officer Pen. Code sec. 8 approached, Officer Victorio was standing at the front driver's side door of the gray vehicle, and Officer Pen. Code sec. 8 positioned himself along the passenger side of the gray vehicle. While on the passenger side, Complainant walked toward Officer Pen. Code sec. 83 and he asked if she wanted to have a seat. Complainant responded, "Okay," and sat on the curb.

[3] Officer Victorio's BWC captured this at about the 2:25 mark.
[4] Officer Victorio's BWC captured this at about the 2:52 mark.

From the 00:50 mark until Officer Pen. Code sec. 8 deactivated his body-worn camera (BWC), his BWC footage remained generally consistent with the footage captured by Officer Victorio's BWC #1 footage.
Officer Pen. Code sec. 8 then deactivated his BWC.

Detective Molina – BWC Footage 2:00

The first 30 seconds of my body-worn camera (BWC) footage were muted, consistent with the system's pre-event buffering mode. When the recording was activated, I was walking eastbound in the 1900 block of W. 17th Street toward Complainant's address to locate and interview Complainant. As I approached the location, I observed a truck with an attached trailer parked nearby. The trailer and truck bed were loaded with furniture and other miscellaneous property.

Detective Miles and I proceeded to the front door of Complainant's address and contacted a cleaning crew at the location. The workers stated the residence had been vacant for approximately one month and confirmed they did not know the whereabouts of the previous tenants.

With the workers' consent, Detective Miles and I conducted a walkthrough of the residence. We did not locate Complainant or any of her belongings. It appeared that Complainant and her family had moved out of the location.

Following the check of the interior, I deactivated my BWC.

Detective Miles – BWC Footage 2:09

Detective Miles' BWC footage is a replica of my (Detective Molina's) BWC footage.

This concludes the BWC review.

BWC ANALYSIS

A review of the body-worn camera (BWC) footage for Officers Victorio and Pen. Code sec. 8 revealed that the last time Officer Victorio possessed the live ammunition discovered in Complainant's residence was at approximately the 5:36 mark of Officer Victorio's third BWC recording. At that point, an audible sound consistent with loose ammunition being placed into the unit's cup holder could be heard.

REPORTS REVIEW (Tab 03)

Citation # 1104027

Officer Pen. Code sec. 832.7 issued Complainant a citation for a violation of California Vehicle Code section 14601(a) [Driving When Privilege Suspended or

Revoked]. The citation listed Complainant's address as Complainant's address San Bernardino, California. The 2014 Dodge Charger involved in the incident, bearing California license plate [redacted] was registered to Complainant [redacted] at the same address. The citation includes a scheduled court appearance date of September 15, 2025. Complainant signed the citation at the time it was issued.

CR3 Arrest

Officer H. Victorio completed a CR-3 Arrest Report, which documented Complainant's residential address, physical description, and clothing description at the time of the incident.

Property Report

On 07/30/25, I completed a property report documenting 16 live rounds of .22 caliber ammunition that Officer Victorio provided to me, which he alleged were recovered from Complainant's residence. The ammunition was tagged for safekeeping and given barcode # 1335987.

This concludes the Report(s) review.

SURVEILLANCE FOOTAGE REVIEW

No surveillance footage related to this incident was located.

FOLLOW-UP INVESTIGATION

SBPD Property/ Evidence Room

On Thursday, July 3, 2025, I went to the SBPD Property Room after learning of the missing ammunition. Property and Evidence Supervisor K. Tennison generated a Property Report listing all evidence and property tagged by Officer Victorio into evidence or safekeeping between April 1, 2025, and July 3, 2025.[5] The report did not indicate that Officer Victorio had tagged any ammunition associated with case #25-49382.

On Thursday, July 10, 2025, I returned to the SBPD Property Room regarding the missing ammunition associated with case #25-49382. I spoke with Property and Evidence Technician II E. Sanchez, who generated a second Property Report listing all evidence Officer Victorio had tagged into evidence or safekeeping since July 1, 2025.[6] The two-page report created by Sanchez did not indicate that Officer Victorio had tagged any ammunition as evidence or safekeeping under case #25-49382.

[5] All four pages of the printed report provided by K. Tennison were placed under Tab 06 of this investigation.
[6] Both pages of the printed report provided by E. Sanchez were placed under Tab 06 of this investigation.

Summary of Complaint: (Tab 02)

Complainant alleged that on Monday, April 28, 2025, at approximately 2200 hours, she was in the area of State Street and University Parkway when San Bernardino Police Officers H. Victorio and Pen. Code sec. 832.7 conducted an enforcement stop on her vehicle due to a window tint violation.

Complainant stated that she did not contest the reason for the stop, but was confused when one of the officers told her that he would not tow her vehicle and would release her with a citation if she allowed him to search her residence. According to Complainant the officer transported her to her residence, where the officer searched it while she remained seated in his police unit.

A short time later, the officer returned to the unit with several bullets. Complainant reported that she was then transported back to the original stop location and released from the scene with a citation.

Complainant alleged that she suspected an illegal search of her residence had been conducted. During my review of the incident, it appeared that Officer Victorio neglected his duty by failing to properly tag the live ammunition he located at Complainant's residence.

INTERVIEWS: (Tab 08)

Interview of Officer H. Victorio
Recording Duration 44:37
Date July 30, 2025
Time: Approximately 1440 hours
Location: San Bernardino Police Department, Professional Standards Interview Room.

On July 30, 2025, at approximately 1440 hours, Detective Miles and I interviewed Officer H. Victorio in the Professional Standards Interview Room of the San Bernardino Police Department. The interview was audio-recorded.[7] Officer Victorio was represented by his attorney, Kasey Castillo, with KC Law Group.

Before the interview, Officer Victorio reviewed his Body-Worn Camera (BWC) footage and the documents that had been provided to him. Officer Victorio indicated that he was not aware of any additional recordings or documents that he had authored and wished to review.

At approximately 1443 hours, I advised Officer Victorio of his Miranda Rights. Officer Victorio stated that he understood his rights but declined to speak with me.

[7] Two audio recordings of this interview were attached to this report under Tab 08 – Audio – Victorio Interview MP3/ Victorio Interview MP4.

At approximately 1444 hours, I issued Officer Victorio the Lybarger Advisement and ordered him to provide a statement and respond to questions.

Officer Victorio said he has been employed as a police officer with the City of San Bernardino for over three years. He has no prior law enforcement experience. He is currently assigned to the Northern District as a District Resource Officer (DRO). His regular shift runs from 0700 to 1700 hours, Monday through Thursday.

Officer Victorio confirmed that he participated in the Field Training Program. Officer Victorio said he received training on report preparation both during the academy and as part of the Field Training Program. When asked whether he received training on evidence collection, Officer Victorio said, “Yes, sir.”

When asked to briefly describe the training he received in report writing and evidence collection, Officer Victorio explained that report writing involves summarizing an investigation and documenting the relevant facts. Regarding evidence tagging, he said that any item that could be considered evidence would be tagged and placed into the evidence room.

Officer Victorio stated that he received training on conducting searches during both the police academy and the Field Training Program. When asked to explain the concept of a consent search, Officer Victorio responded that a consent search occurs when a person gives an officer permission to search. He further stated that a consent search cannot be conditional. Officer Victorio acknowledged that he had never been taught that a consent search can be conditional.[8]

Officer Victorio said that a person has the option to withdraw consent for a search at any time by verbally instructing the officer to stop.

When asked to explain the process for tagging an item for evidence or safekeeping, Officer Victorio explained that the item is collected and, when time permits, brought to the police department’s evidence room. If the item is narcotics, it is KPAK’d, placed into an envelope, tagged, and then submitted as evidence.[9]

When I asked Officer Victorio if he had a clear understanding of the expectations outlined in his Performance Improvement Plan (PIP) when he signed it on November 7, 2024, Officer Victorio said, “Yes, sir.” When asked to elaborate on those expectations, Officer Victorio stated that he was required to follow proper evidence tagging procedures. Officer Victorio also acknowledged that failure to do so could result in the extension of the PIP or disciplinary action, up to and including termination for neglect of duty.

Officer Victorio agreed that on April 28, 2025, at approximately 2114 hours, he conducted an enforcement stop on a vehicle for a window tint violation in the area of

[8] Officer Victorio’s recorded interview discussed this at about the 0:08:18 mark.
[9] KPAK’d: a term used to identify heat-sealed plastic packaging.

State Street and Hanford Avenue, in the City and County of San Bernardino. He admitted that during the stop, he contacted the driver/sole occupant, who was later identified as Complainant

Officer Victorio said he learned Complainant had a prior arrest for a firearm charge when Complainant disclosed this information to him. Officer Victorio also learned that Complainant's California Driver's License (CDL) was suspended after conducting an inquiry into her license status.

During the enforcement stop, Officer Victorio asked Complainant to step out of her vehicle after learning that her CDL was suspended. Once Complainant exited the vehicle, Officer Victorio conducted a search of Complainant's person and Complainant's vehicle but did not locate any illegal items.

When asked about the reason for deactivating his body-worn camera (BWC) after searching Complainant's vehicle, Officer Victorio said he did not know what he was thinking at the time. However, he believed he deactivated his BWC because Complainant was going to be transported back to her residence to retrieve ammunition that she had admitted to having.

When I asked Officer Victorio why he instructed his partner to turn off his body-worn camera, Officer Victorio said he did not think much of the request at the time. Officer Victorio explained that he was transporting Complainant away from the vehicle, while his partner remained at the vehicle, and he did not perceive a continued need for recording.

Officer Victorio did not have a clear recollection of who handcuffed Complainant prior to her transport to her residence, but Officer Victorio believed he likely was the one who applied the handcuffs because Complainant was in the back seat of his police unit.

I asked Officer Victorio why Complainant was placed in the back seat of his police unit. Officer Victorio said he placed Complainant there because Complainant had "consented" to be transported to her residence so that the ammunition she had there could be recovered. Officer Victorio said this conversation took place when he had his BWC deactivated.[10]

I explained to Officer Victorio that he had deactivated his BWC footage at about 2123 hours and reactivated his BWC at about 2139 hours. I then asked Officer Victorio what had taken place during the 16 minutes his BWC was deactivated. Officer Victorio said he was "debriefing" Complainant at the location of the traffic stop to get information on who was at her residence so that he could determine if he needed additional officers at her residence.

I informed Officer Victorio that, according to the Complainant's complaint, she alleged he told her that her vehicle would not be towed if she allowed him to search her home. I asked Officer Victorio to explain this portion of their conversation. Officer Victorio

[10] Officer Victorio's recorded interview discussed this at about the 0:15:55 mark.

responded, “That is essentially what happened, sir.” Officer Victorio later stated that Complainant consented to returning to her residence, but he “did not recall” whether he made that offer. Officer Victorio also stated that he “did not recall” who initially suggested the option of searching Complainant’s residence during the contact. He acknowledged that he should have had his body-worn camera activated when obtaining consent from Complainant

I asked Officer Victorio to explain this portion of their conversation. Officer Victorio said, “That is essentially what happened, sir.” Officer Victorio later added that Complainant consented to going back to her residence, but he “did not recall” if he made that offer. Officer Victorio “did not recall” who introduced Complainant’s residence as a search option during this contact.

I asked Officer Victorio if he had completed a consent form. Officer Victorio stated that he did not, explaining that he did not have one available at the time, which is why he documented the consent on the computer. He further stated that he “did not recall” whether he asked his partner for a consent form.

I explained to Officer Victorio that, according to the Complainant’s complaint, she alleged he told her that she would not be taken to jail for the misdemeanor offense she had committed if she allowed him to search her home. I then asked Officer Victorio to clarify that portion of their conversation. Officer Victorio said, “I don’t recall that conversation. Looking back at it now, I wish I would have had my body camera rolling so that way, obviously, it could of helped me in this situation.”

I asked Officer Victorio if there was any reason Complainant might have misunderstood their conversation. Officer Victorio responded that he did not know what Complainant was thinking. He acknowledged that he did ask Complainant for permission to search her home for the ammunition, and Complainant gave consent. Officer Victorio denied telling Complainant that he would not tow her vehicle in exchange for allowing the search. When I asked Officer Victorio if he told Complainant that, if nothing was found during the search of her residence, she would be released with a citation, he responded, “Yes.”

Officer Victorio did not recall whether Complainant said that she understood the conversation regarding the search of her residence. Officer Victorio said that Complainant knew she was giving consent to the search because he had asked her about her prior firearm violation. Officer Victorio explained that he found it “strange” that Complainant possessed ammunition, and he suspected there might be a firearm at the residence because, in his view, it was unusual to have bullets but no firearm. Complainant also told Officer Victorio where to locate the ammunition at her residence.

Officer Victorio stated that he believed the Complainant understood their conversation regarding the search of her residence because she had given consent to the search, provided him with directions to where the ammunition could be located, and never withdrew or denied consent. Officer Victorio said he transported Complainant to her residence. Upon arrival, Complainant remained handcuffed and seated in the back seat of

his patrol unit without an officer present, because no other officers were on scene, and he did not ask if any other officers were available. Officer Victorio explained that Officer Pen. Code sec. 8 had remained at the location of the enforcement stop to fulfill his obligation to secure Complainant's vehicle.

Officer Victorio acknowledged that, because Complainant had been left in his patrol unit without another officer present, she had no opportunity to withdraw her consent while he searched her residence.

I informed Officer Victorio that his body-worn camera footage showed that, upon his arrival at the Complainant's residence, the front door appeared to be slightly ajar. The audio from the camera captured the sound of someone inside the residence closing the door, after which it appeared that Officer Victorio opened the door. I asked Officer Victorio whether he had opened the door himself or if someone inside the residence had opened it. Officer Victorio responded, "I don't recall." Officer Victorio said he did remember knocking on the door, identifying himself as "police," as he walked into the residence. Officer Victorio believed the door had been opened by a young black male who stood behind the door inside the residence.

Officer Victorio confirmed that no one inside Complainant's residence gave him consent to enter, but he relied on the consent previously given to him by Complainant. Officer Victorio believed the "little boy" who met him at the door led him to Complainant's bedroom. No one in the bedroom gave Officer Victorio consent to search the dresser drawers, but Complainant had provided consent before Officer Victorio entered the residence.

Officer Victorio said he took possession of the loose ammunition found in Complainant's dresser drawer for safekeeping. Although Complainant is not prohibited from possessing ammunition, Officer Victorio believed it was the right thing to do, and since Complainant's firearm had been "confiscated," Complainant did not need the ammunition.

I informed Officer Victorio that, in Complainant's complaint, Complainant alleged he did not take all the ammunition. Officer Victorio said he took the ammunition he observed and checked several drawers because he found it unusual that Complainant possessed ammunition without a firearm and believed additional ammunition might be located in other drawers.

I informed Officer Victorio that, upon reviewing his body-worn camera (BWC) footage, the audio appeared to capture the sound of ammunition being placed in the cupholder of his patrol vehicle. Officer Victorio confirmed that the audio was of the ammunition he recovered from Complainant's dresser drawer being placed into his patrol unit's cupholder.

Officer Victorio was asked why he deactivated his BWC before he transported Complainant back to the location of the enforcement stop. Officer Victorio said he did not think much of it and turned it off because he concluded what he had been doing at Complainant's residence and believed it was not relevant to keep his BWC on.

I told Officer Victorio that before he cited Complainant he told Complainant he was only citing her for her suspended license and that he was not going to tow her vehicle because "what we spoke about." I asked Officer Victorio what conversation he was referring to. Officer Victorio said the conversation that took place when his BWC was off.

I asked Officer Victorio for the context of that conversation. Officer Victorio said that he took the ammunition for safekeeping and that consent was given to go to her home.

Officer Victorio did not recall if he confirmed with dispatch whether or not Complainant was a convicted felon or prohibited from owning ammunition. Officer Victorio added that when Complainant was arrested, it was in Los Angeles County, and he believed we would not get that return. Officer Victorio did not recall if he ran a criminal history check on Complainant

Officer Victorio said there was nothing that indicated to him that Complainant was prohibited from owning ammunition. Complainant just mentioned she had a prior weapon violation, and Officer Victorio believed Complainant was probably not carrying the firearm correctly, so he took the ammunition, and he told Complainant he was taking the ammunition for safekeeping.

Officer Victorio believed he should have left his BWC on during this incident because it would have helped him in this situation, and it is important.

Officer Victorio said Complainant was cited for having a suspended license, and Officer Victorio said he should have gone to the station after the call, tagged the live ammunition into evidence, and completed a property sheet or the necessary associated forms.

I asked Officer Victorio why he had not tagged the found ammunition as evidence, found property, or safekeeping. Officer Victorio said he forgot about it. Officer Victorio explained that the ammunition was in his duffel bag. He did not realize he still had the ammunition until PSB notified him about his interview. After receiving the interview notification, he checked his duffel bag and located the ammunition. Once the ammunition was located, he contacted his "counsel," which is why the ammunition still had not been tagged in.

During the interview, Officer Victorio acknowledged that he remained in possession of the ammunition recovered during the incident, and the ammo had not been tagged into evidence. Officer Victorio's legal counsel, Attorney Kasey Castillo, stated that upon Officer Victorio receiving notice of the interview, she instructed him to wait until the interview before taking any additional action regarding the ammunition. Attorney Castillo explained that this direction was given to ensure compliance with the interview notification, which specifically advised Officer Victorio not to discuss the case with any other person.

When asked if he believed he failed to perform his assigned duties during this incident, Officer Victorio responded, “Yes, sir.” When asked to specify the nature of the failure, Officer Victorio stated that he failed to tag the evidence into the system and to document it correctly. Officer Victorio agreed that he did not effectively fulfill his role during the incident.

Detective Grant informed Officer Victorio that ammunition belonging to Complainant had been recovered and asked if it would match the ammunition in his possession. Officer Victorio confirmed that it would.

When asked if he had anything further to add, Officer Victorio stated that, in hindsight, the correct course of action would have been to keep his body-worn camera activated for the entire duration of the incident. He further stated that, following his contact with Complainant he should have “slowed down” because he works at a very “high-paced” tempo. Officer Victorio said that he makes many arrests and wants his cases to be successfully prosecuted. As a corrective measure, Officer Victorio stated that he now ensures that he does not wait until the end of his shift to tag any evidence.

Officer Victorio was asked if he had been taught the importance of keeping his BWC on when transporting a female. Officer Victorio said, “Yes. “

I asked Officer Victorio if he told Complainant her vehicle would not be towed if she allowed him to search her residence. Officer Victorio asked if this was the “conditional thing.” I said yes. Officer Victorio said he did not give Complainant a “condition.” Officer Victorio asked Complainant if she had a firearm at the house. Complainant said she did not, but admitted to having ammunition. Officer Victorio asked Complainant if it would be ok if “he’d go”; that is when Complainant consented. Officer Victorio agreed that he never told Complainant that if she allowed him to search her residence, he would not tow her car.

Attorney Kasey Castillo asked Officer Victorio if there was a reason he would not have made that offer. Officer Victorio said he usually does not like to tow cars, and in this situation, he did not have to tow Complainant’s vehicle.

Arrangements were then made to collect the loose rounds Officer Victorio had in his possession that he had recovered from Complainant’s residence.

My interview with Officer Victorio concluded at 1539 hours.

Interview of Officer Pen. Code sec. 832.7
Recording Duration 27:26
Date August 19, 2025
Time: Approximately 0632 hours

Location: San Bernardino Police Department, Professional Standards Interview Room.

On August 19, 2025, at approximately 0632 hours, Detective Miles and I interviewed Officer [redacted] in the Professional Standards Interview Room of the San Bernardino Police Department. The interview was audio-recorded.[11] Officer [redacted] was accompanied by his chosen representative, San Bernardino Police Sergeant Loera.

Before the interview, Officer [redacted] reviewed his Body-Worn Camera (BWC) footage and the documents provided to him. Officer [redacted] stated he was not aware of any additional recordings or documents that he had authored and wished to review.

At approximately 0635 hours, I advised Officer [redacted] of his Miranda Rights. Officer [redacted] stated he understood his rights and declined to speak with me.

At approximately 0636 hours, I issued Officer [redacted] the Lybarger Advisement and ordered him to provide a statement and respond to questions.

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

Pen. Code sec. 832.7 [redacted]

[11] Two audio recordings of this interview were attached to this report under Tab 08 – Audio – [redacted] Interview MP3/ [redacted] Interview MP4.

Pen. Code sec. 832.7

Officer Pen. Code sec. 8 confirmed that on April 28, 2025, Officer Victorio conducted a traffic stop on a vehicle in the area of Hanford and University. Officer Pen. Code sec. 8 did not recall the specific traffic violation that led to the enforcement stop.

Officer Pen. Code sec. 8 admitted that he and Officer Victorio did contact a female with the last name of Complainant during this stop; however, Officer Pen. Code sec. 8 did not remember if he learned that Complainant was on probation and/or parole.

Officer Pen. Code sec. 8 told me he did not remember if he learned that Victim had a prior firearm-related arrest.

Officer Pen. Code sec. 8 learned that Complainant had a suspended CDL when he was informed by Officer Victorio.

Per Officer Pen. Code sec. 832 Officer Victorio asked Complainant to step out of her vehicle. Officer Pen. Code sec. 8 did not know if Officer Victorio had discovered anything illegal on Complainant's person or in her vehicle.

Officer Pen. Code sec. 8 was asked why he deactivated his BWC during the enforcement stop. He stated he believed the traffic stop was over and that he commonly turns his BWC off when he believes a stop has concluded. Officer Pen. Code sec. 8 was advised that his BWC recorded Officer Victorio stating, "You could go off." Officer Pen. Code sec. 8 explained he believed the enforcement stop was over at that point, but he did not question Officer Victorio regarding the reason for deactivating the BWC, nor did he ask Officer Victorio why he made that statement.[12]

Officer Pen. Code sec. 8 told me he did not remember who handcuffed Complainant he did not know why she was handcuffed, and he "did not recall" why Complainant was seated in the backseat of a patrol unit.

Officer Pen. Code sec. 8 said he talked with Complainant before she was transported to her residence. I asked Officer Pen. Code sec. 8 to summarize his conversation with Complainant Officer Pen. Code sec. 8 said he did not remember what they talked about but guessed the conversation was "small talk" about where she lived or where she was driving to.

Officer Pen. Code sec. 8 said Officer Victorio did have a conversation with Complainant but he replied "I don't recall" when I asked Officer Pen. Code sec. 8 to summarize the conversation between Complainant and Officer Victorio. Officer Pen. Code sec. 8 believed the conversation did appear friendly.

[12] Officer Pen. Code sec's recorded interview talked about this at about the 0:10:50 mark.

Officer [redacted] was advised that, in her complaint, [redacted] alleged she spoke with an officer who told her that if she allowed the officer to search her home, her vehicle would not be towed. Officer [redacted] stated he did not have that conversation with [redacted] and confirmed that the only other officer on scene was Officer Victorio.

Officer [redacted] was told that, in [redacted]'s complaint, [redacted] alleged an officer told her that if she allowed a search of her home, she would not be arrested for the misdemeanor offense she had committed. Officer [redacted] stated he did not have that conversation with [redacted] and confirmed that the only other officer present was Officer Victorio.

I asked Officer [redacted] if he or Officer Victorio told [redacted] that if a search of her home was conducted and nothing illegal was located, she would be released from the location with a citation. Officer [redacted] stated he did not have that conversation with [redacted] and confirmed that the only other officer present was Officer Victorio.

I asked Officer [redacted] if [redacted] told him or Officer Victorio that she understood the conversation about the search of her home. Officer [redacted] confirmed that [redacted] did not tell him anything and that the only other officer on scene was Officer Victorio.

Officer [redacted] said [redacted] did not tell him her home could be searched. [redacted] did not say anything to him that made him believe she understood the conversation that involved the search of her home. He did not hear [redacted] tell Officer Victorio anything regarding this.

Officer [redacted] said he did not know who had introduced the idea of searching [redacted]'s home, but he knew it was not him. Officer [redacted] said that Officer Victorio transported [redacted] to her residence and instructed him to remain with [redacted]'s vehicle.

Officer [redacted] stated that Officer Victorio told him he was transporting [redacted] to her residence in furtherance of his investigation. Prior to transporting [redacted] Officer Victorio asked Officer [redacted] for a consent-to-search form; however, Officer [redacted] did not have one available.

When asked to summarize his role in the incident, Officer [redacted] said he acted as Officer Victorio's backup during the traffic stop. He wrote a citation and remained with [redacted]'s vehicle while Officer Victorio searched [redacted]'s residence.

Officer [redacted] said he did not know why an additional unit was not requested. He further stated that he believed Officer Victorio made the decision not to tow [redacted]'s vehicle, despite [redacted]'s CDL being suspended.

According to Officer [redacted] Officer Victorio later told him that ammunition had been recovered from [redacted]'s residence. Officer [redacted] noted, however, that nothing at the time indicated [redacted] was prohibited from possessing ammunition.

Officer [redacted] stated he believed he should have kept his body-worn camera (BWC) activated during this incident because the traffic stop had not yet concluded. He added that once he realized the stop was still ongoing, it did not occur to him to reactivate the BWC.

When asked if it was common practice for him to search a residence alone, Officer [redacted] replied, "No," and explained that he did not believe it was safe to conduct such a search by himself.

Detective Miles asked Officer [redacted] whether a consent search could be conditional, providing the example: "If I do something for you, will you let me search your property?" Officer [redacted] responded that he did not believe a consent search could be conditional.

Detective Miles then asked Officer [redacted] where he was positioned when Officer Victorio spoke with [redacted] Officer [redacted] stated he was standing on the sidewalk approximately 8 to 10 feet from Officer Victorio and [redacted] who were speaking in a low tone.

Officer [redacted] recalled that when Officer Victorio and [redacted] returned to the location of the traffic stop, [redacted] appeared normal. He also remembered that near the conclusion of the stop, [redacted]'s children arrived at the scene.

Officer [redacted] had nothing further to add. The interview concluded at 0659 hours.

TIMELINE OF COLLECTED EVIDENCE:



04/28/25 @ 21:42:45 hours – Officer H. Victorio's BWC footage.

This image, captured from Officer Victorio's body-worn camera (BWC), shows his left hand holding several live rounds.



04/28/25 @ 21:43:41 hours – Officer H. Victorio's BWC footage.

This image, captured from Officer Victorio's body-worn camera (BWC), shows several live rounds on the bed in Complainant's bedroom. These rounds are the rounds Officer Victorio had recovered from the dresser drawer inside of Complainant's bedroom.



04/28/25 @ 21:44:49 hours – Officer H. Victorio's BWC footage.

This image, captured from Officer Victorio's body-worn camera (BWC), shows him extending his left arm toward the unit's cupholder. Several seconds later, the BWC audio captured sounds consistent with multiple rounds being placed into the console's cupholder.

PHOTOS

On Wednesday 7/30/25 Officer Victorio provided me with 16 rounds of the following ammunition, which he alleged was the ammunition recovered from Complainant residence.



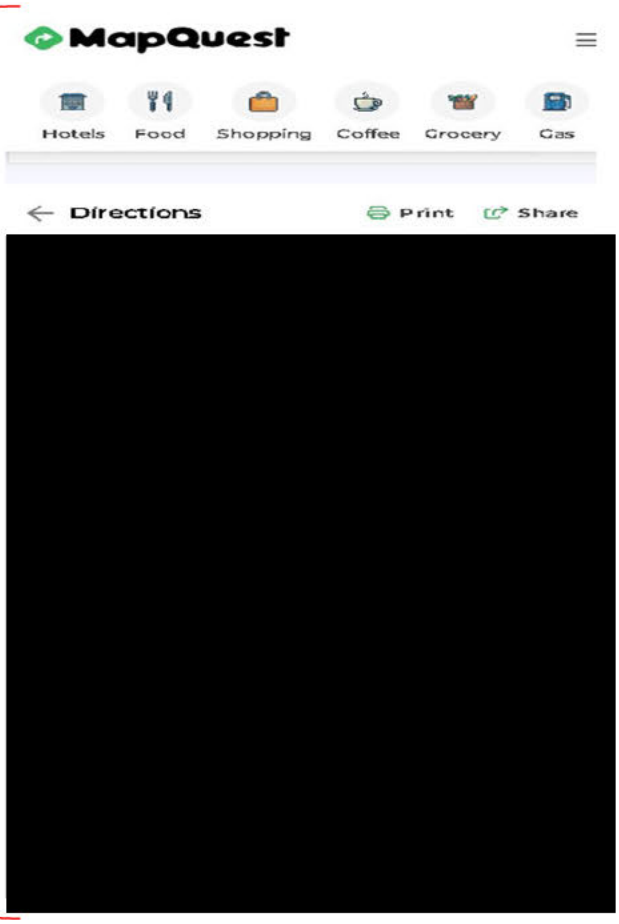
Headstamp of the ammunition provided by Officer Victorio on 7/30/25



Marker A represents the area where Officer Victorio conducted the enforcement stop. Marker B represents the location of Complainant residence, per MapQuest.

Official MapQuest - Maps, Driving Directions, Live Traffic





Per MapQuest, the time and distance from the location of the stop to [redacted] residence.

SUMMARY OF FINDINGS:

On April 28, 2025, Officer H. Victorio conducted a traffic stop on [redacted] for a violation of CVC 26708 (tinted windows), and Officer Curiel backed him. During the contact, it was determined that [redacted]'s driver's license was suspended, and she had a prior firearm-related charge. A search of [redacted]'s person and vehicle was conducted, which yielded no contraband.

Following the vehicle search, Officer Victorio and Officer Curiel deactivated their body-worn cameras (BWCs) before the enforcement stop was concluded. Officer Victorio then transported [redacted]—handcuffed—to her residence without supervisory notification or additional officer support. [redacted] remained unsupervised in the patrol unit while Officer Victorio entered her residence and conducted a consent search, and a written consent form was not obtained. Officer Victorio recovered live ammunition from [redacted]'s bedroom dresser but failed to book or document the items into evidence properly. [redacted] was returned to the original traffic stop location and released with a citation for driving with a suspended license.

Subsequently, Complainant filed a complaint alleging:

- Officers turned off their BWCs during the traffic stop.
- She was told her vehicle would not be towed and she would not be arrested if she consented to a home search.
- Her residence was searched while she remained detained.

The Professional Standards Bureau conducted a full investigation, including review of BWC footage, officer interviews, and related reports.

Recommendations

Officer H. Victorio

1. Improper deactivation of BWC: Sustained.

Summary of Findings.

Officer Victorio turned off his BWC several times during this enforcement stop and failed to reactivate it during critical interactions.

Lexipol Policy Review

***§*450.5.9 When and Where to Record**

a. Enforcement and Non-Enforcement Related Contacts

a. Officers shall use the event mode to record enforcement and all call for service- related contacts. The event mode should be activated prior to exiting your vehicle, prior to actual contact with the citizen, or as soon as safely possible thereafter, and continue recording until the contact or call for service is concluded.
b. Enforcement-related contacts include but are not limited to the following: Traffic stops, field interviews, detentions, arrests, search warrant service, persons present at radio calls who are accused of crimes, and consensual encounters in which the officer is attempting to develop reasonable suspicion on the subject of the encounter.
c. Non-Enforcement related contacts include but are not limited to the following: Calls for service involving crime reports, death

investigations, traffic collisions, civil disputes, child custody disputes, keep-the-peace type calls, and missing persons.

d. Covering/backing another City employee or law enforcement officer during an enforcement contract, including, but not limited to: CSOs, Parking Enforcement Officers, Animal Control Officers, etc.
e. Officers working plain clothes assignments are exempt from this policy while working in a plain clothes capacity.
f. If an officer is unable to activate his or her BWC prior to initiating any of these enforcement or investigative activities, the officer shall activate the device as soon as it is practical and safe to do so. As in all enforcement and investigative activities, including vehicle and pedestrian stops, the safety of the officers and members of the public are the highest priorities.
g. Supervisors and Managers may permit employees not to activate the BWC based on articulable circumstances (community meetings, specials events, etc.).
h. Supervisors are not required to record while performing administrative supervisor duties.

b. Arrest

1. Officers may stop recording in the event mode once the arrestee is no longer in their custody.

c. Suspect Interviews
    a. Officers shall record suspect interviews. Officers should not stop and start the recording during a suspect interview.
    b. When recording interviews, officers shall ensure they record any admonishments prior to the start of an interview.

2. Improper search/transport to residence: Sustained

Summary of Findings:

It was alleged that Officer Victorio conducted a search without proper safeguards,

Lexipol Policy Review

§322.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general

guidelines for San Bernardino Police Department personnel to consider when dealing with search and seizure issues.

§322.2 POLICY

It is the policy of the San Bernardino Police Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

The Department will provide relevant and current training to officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

§322.3 SEARCHES

The U.S. Constitution generally provides that a valid warrant is required in order for a search to be valid. There are, however, several exceptions that permit a warrantless search.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- *Valid consent*
- *Incident to a lawful arrest*
- *Legitimate community caretaking interests*
- *Vehicle searches under certain circumstances*
- *Exigent circumstances*

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate law enforcement activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property located on open public areas.

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

Whenever practicable, officers are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.

§322.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

a. *Members of this department will strive to conduct searches with dignity and courtesy.*
b. *Officers should explain to the person being searched the reason for the search and how the search will be conducted.*
c. *Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.*
d. *In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.*
e. *When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, the following guidelines should be followed:*
    1. *Another officer or a supervisor should witness the search.*
    2. *The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.*
f. *When officers are going to rely on a consent search in lieu of a search warrant, it will be necessary to establish that the consent was given voluntarily. The San Bernardino County District Attorney requests that a "Consent to Search" form be utilized when possible. This form can then be utilized as a court document for presentation to the jury.*

§907.1 PURPOSE AND SCOPE

This policy provides guidelines for transporting persons who are in the custody of the San Bernardino Police Department.

See the Handcuffing and Restraints Policy for additional guidance.

§907.2 POLICY

It is the policy of the San Bernardino Police Department to provide safe, secure, and humane transportation for all persons in custody.

§907.13 PROHIBITIONS

When transporting a person in custody, officers should not:

C. Leave the vehicle unattended with the person in custody in the vehicle.

3. Failure to properly document Search / Incident – Sustained

Summary of Findings:

Officer Victorio did not properly document the search he conducted during this incident.

§322.5 DOCUMENTATION

Officers are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

- *Reason for the search*
- *Any efforts used to minimize the intrusiveness of any search (e.g., asking for consent or keys)*
- *What, if any, injuries or damage occurred*
- *All steps taken to secure property*
- *The results of the search, including a description of any property or contraband seized*
- *If the person searched is the opposite sex, any efforts to summon an officer of the same sex as the person being searched and the identification of any witness officer*

Supervisors shall review reports to ensure the reports are accurate, that actions are properly documented and that current legal requirements and department policy have been met.

4. Failure to properly tag ammunition into evidence: Sustained

Summary of Findings:

Ammunition recovered was not properly documented or entered into evidence until months later.

San Bernardino Police Department Policies and Procedures:

*§**4.02 Neglect of Duty***

Employees may be deemed incompetent and subject to discipline when they: fail to properly perform their assigned duties; act in a manner tending to bring

discredit to themselves or the Department; or fail to assume responsibility or exercise diligence, intelligence, and interest in the pursuit of their duties.

§3.20 Custodial Property

Employees shall deliver to the property custodian any property not their own, which comes into their possession while (1) on duty, and/or, (2) performing as a police officer. A report and property tag shall be completed for each transaction.

§3.202Safeguarding Money, Property, and Evidence

All employees shall be responsible for safeguarding public or city money, prisoner's money and property, and property and evidence in their possession. They shall observe appropriate procedures regarding the handling of money and when money is received, it shall be placed together with any corresponding records in an envelope and sealed. The envelope shall be marked with all necessary identifying data. The item shall then be deposited in the Department's safe or evidence locker.

Lexipol Policy Review:

§344.1 PURPOSE AND SCOPE

Report preparation is a major part of each officer's job. The purpose of reports is to document sufficient information to refresh the officer's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

§344.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports in a timely manner. The following documentation shall be submitted prior to the end of the reporting employee's shift, unless a supervisor approves otherwise:

i. All portions of arrest reports where the suspect remains in custody

j. Booking applications and juvenile applications for petition

k. All reports associated with officer-involved shootings or in-custody deaths

l. All reports associated with homicide or death investigations

m. All portions of missing persons reports

n. CHP 180's

o. *Face pages, CHP 555 pages 1-3, and property control pages on all reports*

p. *Any reports requiring prompt follow-up on active leads*

All other documentation shall be submitted by the end of the employee's work week, unless other arrangements are approved by a supervisor.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Handwritten reports must be authorized by the Watch Commander. Employees who dictate reports shall use appropriate grammar. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported incident, nor shall any employee make a false report orally or in writing. Generally, the reporting employee's opinions should not be included in reports unless specifically identified as such.

§344.2 REQUIRED REPORTING

Written reports are required in all of the following situations on the appropriate department-approved form unless otherwise approved by a supervisor.

§344.2.1 CRIMINAL ACTIVITY REPORTING

When an employee becomes aware that a crime has occurred, either due to a call for service or through self-initiated activity, the employee is required to document the activity. The fact that a victim is not desirous of prosecution does not exempt the employee from the responsibility of documenting a crime. The following are examples of required documentation:

g. *In every instance where a felony has occurred, the documentation shall take the form of a written crime report*

h. *In every instance where a misdemeanor crime has occurred and the victim desires a report, the documentation shall take the form of a written crime report.*

i. *If the victim does not desire a report, the incident may be recorded as a crime report with the "reluctant victim" and "no further action" boxes checked*

j. *In every case where any force is used against any person by police personnel*

k. *All incidents involving domestic violence shall be documented as a crime report or as a "PC 13700" incident report, whichever is appropriate*

l. *All arrests*

§344.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented using the appropriate approved report:

j. *Any use of force against any person by a member of this department (see the Use of Force Policy)*

k. *Any firearm discharge (see the Firearms and Qualification Policy)*

l. *Anytime a person is reported missing, regardless of jurisdiction (see the Missing Persons Policy)*

m. *Any found property or found evidence*

n. *Any traffic collisions will be documented in accordance with the Traffic Collision Reporting Policy, Policy §502*

o. *Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy*

p. *All protective custody detentions*

q. *Suspicious incidents that may place the public or others at risk*

r. *Whenever the employee believes the circumstances should be documented or at the direction of a supervisor*

§804.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and/or destroy property.

§804.1.1 DEFINITIONS

Definitions related to this policy include:

Property *- All articles placed in secure storage within the Property Unit, including the following:*

- *Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.*

- *Found property - Items found by members of the Department or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.*

- *Safekeeping - Items received by the Department for safekeeping, such as a firearm, the personal property of an arrestee that has been not taken as evidence, and items taken for safekeeping under authority of law.*

§804.2 PROPERTY HANDLING

Any member who first comes into possession of any property shall retain such property in their possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Whenever property is taken or received (e.g., relinquished firearms) from an individual, a property receipt form will be completed. The receipt shall describe the property and contain a notice on how to retrieve the property, as applicable, from the Department. A copy of the property receipt form shall be given to the individual from whom the property was taken or received.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

§804.2.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the member going off-duty unless otherwise approved by a supervisor. Members booking property shall observe the following guidelines:

g. *Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.*

h. *Mark each item of evidence with the booking member's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.*

i. *Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.*

j. Place the case number in the upper right-hand corner of the bag.

k. The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.

l. When the property is too large to be placed in a locker, the item may be retained in the supply room. Submit the completed property record into a numbered locker indicating the location of the property.

§804.3 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

g. Narcotics and dangerous drugs

h. Firearms (ensure they are unloaded and booked separately from ammunition)

i. Property with more than one known owner

j. Paraphernalia as described in Health and Safety Code § 11364

k. Fireworks

l. *Contraband*

§804.3.1 PACKAGING CONTAINER

Members shall package all property, except narcotics and dangerous drugs, in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

§804.4 RECORDING OF PROPERTY

The Property and Evidence Technician receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the San Bernardino Police Department shall be noted in the property logbook.

§804.5.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to officers for investigative purposes, or for court, shall be noted on the property control card, stating the date, time, and to whom released.

The Property and Evidence Technician shall obtain the signature of the person to whom property is released and the reason for release. Any member receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

§804.5.4 AUTHORITY TO RELEASE PROPERTY

Case agents or authorized personnel shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

§804.5.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Property and Evidence Technician shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property control card, the card shall be forwarded to the Records Bureau for filing with the

case. If some items of property have not been released, the property card will remain with the Property Unit. Upon release, the proper entry shall be documented in the Property Log.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The assigned detective should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The Department is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

*§***804.6 DISPOSITION OF PROPERTY**

All property not held for evidence in a pending criminal investigation or proceeding and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property and Evidence Technician shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

*§***804.8 POLICY**

It is the policy of the San Bernardino Police Department to process and store all property in a manner that will protect it from loss, damage, or contamination, while maintaining documentation that tracks the chain of custody, the location of property, and its disposition.

4. Conditional consent/quid pro quo: Not Sustained

Summary of findings:

Insufficient evidence to prove or disprove the allegation against Officer Victorio.

Officer Pen. Code sec. 832.7

Pen. Code sec. 832.7

Pen. Code sec. 832.7

Pen. Code sec. 832.7

a. Pen. Code sec. 832.7

Pen. Code sec. 832.7 [redacted]

[redacted]

ATTACHMENTS:

Tab 02	Complaint
Tab 03	Report and CAD
Tab 04	Notification
Tab 05	BWC
Tab 06	Supporting Documentation
Tab 07	24PSB-006 PIP/ Settlement
Tab 08	Audio
Tab 09	Photos
Tab 10	Miranda / Lybarger

Attachment T
Settlement Agreement in Case No. 25PSB-093 between the City of San Bernardino and Hector Victorio, dated November 4, 2025

SETTLEMENT AGREEMENT AND APPEAL WAIVER

This Settlement Agreement and Appeal Waiver ("Agreement") is entered into as of November 4th, 2025, by and between the City of San Bernardino ("City") and Hector Victorio ("Employee") (collectively, the "Parties").

RECITALS

WHEREAS:

A. On September 16th, 2021, Employee was hired by the City in the position of Law Enforcement Trainee (LET), and sworn in as a Police Officer within the City's Police Department ("Department") on March 14th, 2022.

B. On September 29th, 2025, the Employee was served with Discovery and the notification of an Investigative Review Process (IRP) regarding his actions of neglecting his duties, insubordination, and using improper tactics during a traffic stop.

Subsequently, the employee through his legal representative advised that he wanted to waive his right to a Disciplinary Review Board (DRB) and Pre-Skelly Hearing and meet directly with the Chief of Police for a Skelly Hearing. After the Skelly Hearing, the employee and his legal representative agreed to resolve the disciplinary process via settlement. Further, the Employee indicated he was willing to admit to neglecting his duties, insubordination, and to utilizing improper tactics during a traffic stop and arrest on April 28th, 2025. The employee failed to complete reports as specified in department policy, failed to secure evidence/property with the property unit as specified in department policy, failed to activate his body worn camera as specified in department policy, and failed to adhere to the terms, conditions and expectations of his performance improvement plan (PIP).

C. Specifically, the employee admits to violating San Bernardino Policies §322.2(f) – Search Protocol, §322.5 – Documentation, §340.3.5(m) – Performance, §340.3.5(aa) – Performance, §340.3.6 – Safety, §344.1.1 – Report Preparation, §450.5.9 – When and Where to Record (BWC), §804.3.1 – Property Booking Procedure, §907.4 – Officer Responsibilities (Prisoners), §907.13 – Prohibitions (Prisoners), and Policy and Procedure §3.01 – General Behavior, §3.02 – Obedience to Laws, Regulations, and Orders, §4.01 – Performance of Duty, and §4.02 – Neglect of Duty;

D. As a result, the Parties have since agreed to discipline as follows: Reclassification to top-step Community Service Officer (CSO). As a result of this negotiated discipline, the Employee waives any right he may otherwise have to contest or appeal said discipline.

AGREEMENT

NOW, THEREFORE, in consideration for the mutual promises and undertakings of the Parties as set forth below, the City and Employee hereby enter into this Agreement and agree as follows:

1. Incorporation of Recitals. The recitals set forth above are true and correct and are hereby fully incorporated into this Agreement by this reference.

2. No Admission of Liability. This Agreement shall in no way be construed as an admission by the City that it, the Department, or any officer, employee, or agent thereof, has acted wrongfully with respect to Employee. The City specifically disclaims any liability to or wrongful acts against Employee on the part of the City, the Department, or any officer, employee, or agent thereof.

3. No Precedent. This Agreement is in no way intended, and shall in no way be construed, to restrict any rights guaranteed to the City under local, state, or federal law, rule, or policy or by private agreement, or to establish a precedent in this or any other matter, now or in the future.

4. Pending Disciplinary Action. The City and Employee agree that in return for valuable consideration—i.e., the City's non-adversarial, early and efficient resolution of this disciplinary action, and the Employee's non-adversarial, early and efficient resolution of this disciplinary action. Employee agrees to accept and abide by all of the terms specified in this Agreement. Employee further agrees, understands, and acknowledges that;

5. Employee's Promises. Concurrent with the execution of this agreement, Employee agrees that he will not file any appeal, claim, or lawsuit relating to the subject incident or acts referenced in this agreement **(25PSB-093).**

   a. Employee agrees to the immediate reclassification to a top-step Community Service Officer (CSO).

   b. Employee agrees to waive any and all pre-discipline rights and any and all post-discipline rights that he may have to appeal, grieve, litigate, or otherwise contest the imposition of the discipline set forth in subdivisions a, b, c, d, e, and f of this section, above, under any provision or principle of local, state, or federal law, or under any contract or agreement written or oral, express or implied, including but not limited to, a collective bargaining agreement, a MOU, or any future "for cause" provisions of any employment agreement with the City, as may be further applicable, in any forum whatsoever, to the fullest extent permitted by law.;

   c. Employee agrees to comply with each and every one of the rules, regulations, and/or policies applicable to employees of the City in the Department, including from the date of the execution of this Agreement through the duration of the Employee's employment with the City;

6. Employee's Misconduct and/or Unsatisfactory Behavior. Employee admits to failing to complete reports as specified in department policy timelines, failing to secure evidence/property with the property unit as specified in department policy, failing to activate his body worn camera as specified in department policy, and for failing to meet the terms, conditions and expectations of his performance improvement plan. Employee agrees and acknowledges that the aforementioned misconduct and

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unsatisfactory behavior constitute(s) a violation San Bernardino Policies §322.2(f) – Search Protocol, §322.5 – Documentation, §340.3.5(m) – Performance, §340.3.5(aa) – Performance, §340.3.6 – Safety, §344.1.1 – Report Preparation, §450.5.9 – When and Where to Record (BWC), §804.3.1 – Property Booking Procedure, §907.4 – Officer Responsibilities (Prisoners), §907.13 – Prohibitions (Prisoners), and Policy and Procedure §3.01 – General Behavior, §3.02 – Obedience to Laws, Regulations, and Orders, §4.01 – Performance of Duty, and §4.02 – Neglect of Duty;

7. Not a Limit on Future Actions. This Agreement in no way limits the City's ability to discipline Employee for other conduct by him that may violate City rules, policies, or regulations and/or terms of any applicable Memorandum of Understanding or standards of behavior. Moreover

    a. Nothing in this Agreement shall limit the City's right to use or make reference to matters described in this Agreement, as a basis, in whole or in part, to justify a decision to discipline or to discharge Employee for any conduct arising or newly discovered subsequent to the execution of this Agreement, except to the extent limited by a City rule or policy or by a negotiated agreement or MOU with the employee's authorized and recognized representative; and

    b. The City may place a copy of this Agreement in Employee's official personnel file, and Employee hereby consents to the City doing so and waives any and all rights to respond to and/or appeal the placement of this Agreement in his personnel file.

8. Voluntariness. Employee acknowledges that, prior to signing this Agreement, he was provided with an opportunity to consult with a representative and/or attorney of his own choosing and that he is voluntarily, knowingly, and intelligently entering into this Agreement with sufficient awareness of the relevant circumstances and likely consequences of this Agreement, on the advice of his own chosen counsel, and without reliance on any representations made by the City, the Department, or any officer, employee, or agent thereof, except as provided in this Agreement. Employee further acknowledges that he was given reasonable and sufficient time and opportunity to negotiate the terms of this Agreement and to consider the execution thereof under the terms set forth herein

9. Entire Agreement. The Parties acknowledge that this Agreement constitutes a signed integrated agreement expressing the entire agreement between the Parties and fully superseding any and all prior or contemporaneous oral or written agreements, understandings, promises, or representations between the Parties pertaining to the subject matter of this Agreement. Moreover, no subsequent agreement concerning the subject matter of this Agreement or modification to this Agreement shall be binding unless it is signed by both Parties.

10. Governing Law and Venue. This Agreement shall be governed by and interpreted under the laws of the State of California applicable to contracts made and to be performed

within the State. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, California.

11. Interpretation and Severability. The Parties agree that the customary rule of construction that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement. The Parties further agree that, should any provision of this Agreement be declared or determined by any court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable for any reason, such determination shall not affect the validity of the remaining parts, terms, or provisions hereof, or of the offending provision in any other circumstance.

12. Authority. The persons signing this Agreement on behalf of the Parties hereto hereby warrant and represent that they are duly authorized to execute this Agreement on behalf of said Parties and that, by doing so, the Parties hereto are hereby formally bound to the provisions of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

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SIGNATURE PAGE FOR SETTLEMENT AGREEMENT AND APPEAL WAIVER

PLEASE READ THIS AGREEMENT CAREFULLY. IT INCLUDES A WAIVER OF DISCIPLINE APPEAL RIGHTS AND A RELEASE BY THE CITY EMPLOYEE OF ANY AND ALL KNOWN AND UNKNOWN CLAIMS THAT HE MAY HAVE AGAINST THE CITY, THE DEPARTMENT, OR ANY OFFICER, EMPLOYEE, OR AGENT THEREOF IN THIS MATTER.

IN WITNESS HEREOF, the Parties have executed this Agreement as of the date first written above.

CITY:

Approved By:

Darren L. Goodman
Chief, San Bernardino Police Department, City of San Bernardino

EMPLOYEE:

Approved By:

Officer Hector Victorio