PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

July 16, 2026
AGENDA
10:00 AM

Meeting Location: CA Commission on POST Headquarters, 860 Stillwater Road - Training Rooms A/B, West Sacramento, CA 95605.

The Peace Officer Standards Accountability Advisory Board (Board) operates under the requirements set forth by the Bagley-Keene Open Meeting Act (Bagley-Keene) under Government Code sections 11120 through 11132. Bagley-Keene generally requires that the Board publicly notice meetings, prepare agendas, allow public participation, and conduct meetings in a location accessible to public members unless specifically authorized by Bagley-Keene to meet in closed session.

Public comment will be limited in time at the discretion of the Board Chair. The public comment period preceding items on the agenda will allow members of the public to comment on items not on the agenda but that are within the Board's jurisdiction. The Board cannot act on or deliberate on items not on the agenda and can discuss the matter only to the extent necessary to determine whether it should be made an agenda item at a future meeting, to respond briefly to statements or questions posed during public comment or to request clarification, or to refer the item to staff. Agenda items may be taken out of order and action (e.g., voting) may be taken on any agenda item. Public comment relating to each item on the agenda will be allowed at the time each matter is heard. Members of the public who wish to participate during public comment may do so in person by attending the meeting, or, as stated hereafter, by telephonic means or by submitting written public comment.

Written public comment is intended to allow members of the public, if unable to attend in person, an opportunity to participate to the same degree as if they attended in person; as such, written comments should be limited to no more than three pages in length and longer written comment will not be accepted or distributed to Board members. To be considered for inclusion in the meeting record, written comments should be received by no later than 10 a.m. on the fourth business day before the scheduled meeting. Accepted written public comments will be published on POST's website under the Public Comment section under the corresponding meeting date. Written public comments can be submitted via email to posadpc@post.ca.gov. Telephonic public comment can be made by dialing (916) 866-9583 and following the prompts provided.

Persons requesting disability-related accommodations or modifications may do so by contacting the Board assistant at (916) 227-3909 (voice), posadpc@post.ca.gov (email), or Speech-to-Speech users may dial 7-1-1 for the California Relay Service to request special accommodations. Please note: This meeting and all public meetings will be recorded.

No weapons are allowed on the premises during public meetings. Upon entering POST's

facility, you are subject to a weapons screening and will be denied entry if you possess any weapon. POST's Executive Director retains the discretion to grant exceptions for duly-authorized individuals, such as on or off-duty law enforcement officers who are not the subject of a POST administrative investigation, suspension, or decertification action.

I. CALL TO ORDER

II. ROLL CALL OF POSAAB MEMBERS

Dr. Nicole Clavo Psy.D - Governor Appointee - Public Member
Regina Hatcher-Crawford - Governor Appointee - Public Member
Robert Doyle - Governor Appointee - Former Command Rank Peace Officer
Joyce E. Dudley - Chair - Governor Appointee - Attorney
Cephus Johnson - Governor Appointee - Public Member
Captain Charles Lara - Governor Appointee - Management Rank Peace Officer
Margaret Pena - Speaker of Assembly Appointee - Public Member
Vacant - Senate Rules Appointee - Public Member
Vacant - Governor Appointee - Public Member

III. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

The Board Chair will advise the audience of the following:

This time is set aside for members of the public who wish to comment on items not on the agenda but within the board's jurisdiction. Public comment on matters on the agenda will be heard at the time each item is called. Public comment on specific peace officer revocation cases to be heard today will be heard at the time of the hearing of each such matter. Members of the public who wish to speak during the public comment period may be asked to limit their remarks in time at the discretion of the Board Chair.

IV. APPROVAL OF MEETING TRANSCRIPTS

Approval of meeting transcripts from the previous Peace Officer Standards Accountability Advisory Board Meeting held on April 15, 2026.

a. Approval of Meeting Transcript from the April 15, 2026 Hearing

If the Board concurs, the appropriate action would be a **MOTION** to approve the meeting transcripts from the last Board meeting.

V. ASSISTANT EXECUTIVE DIRECTOR COMMENTS

VI. NEW BUSINESS

a. Proposed 2027 Peace Officer Standards Accountability Advisory Board Meeting Dates

If the Board concurs, the appropriate action would be a **MOTION** to approve the 2027 POSAAB meeting dates.

b. Report on Data for Serious Misconduct Reporting, Investigations, and Disciplinary Action Outcomes

This item is presented for information only. No action is required.

VII. NEW CASES - REVIEW, DISCUSSION AND RECOMMENDATIONS TO COMMISSION

a. POST2507244 - Eduardo Escareno-Davila (POST ID: C99-P62) Last Employing Agency: Mendocino County Sheriff's Office

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

b. POST2505112 - Kevin Smithmatungol (POST ID: C88-T32) Last Employing Agency: Daly City Police Department

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

VIII. CLOSED SESSION

At this time the meeting will adjourn into closed session for for deliberations on the cases presented today.

IX. FUTURE BOARD MEETING DATES FOR 2027

Upcoming Board meetings will be held:

- October 14-15, 2026 - POST HQ, West Sacramento

X. ADJOURNMENT

AGENDA ITEM REPORT

Title: APPROVAL OF MEETING TRANSCRIPT FROM THE APRIL 15, 2026 HEARING

REPORT PROFILE

MEETING DATE 07/16/2026	**BUREAU SUBMITTING THE REPORT** Executive Office	
RESEARCHED BY	**REVIEWED BY**	
REPORT DATE	**APPROVED BY**	**DATE APPROVED**
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

BACKGROUND:

ANALYSIS:

RECOMMENDATION: If the Board concurs, the appropriate action would be a **MOTION** to approve the meeting transcripts from the last Board meeting.

ATTACHMENT(S):
04.15.2026 POSAAB Hearing Transcript

STATE OF CALIFORNIA

COMMISSION ON

PEACE OFFICER STANDARDS AND TRAINING

PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

(POSAAB) MEETING

WEDNESDAY, APRIL 15, 2026

9:00 A.M.

MEETING HELD

AT THE OFFICES OF

COMMISSION ON POST

860 STILLWATER ROAD, SUITE 100

WEST SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Stenographically Reported By:
Kathryn S. Swank
California Certified Shorthand Reporter #13061, RPR

A P P E A R A N C E S

POSAAB MEMBERS PRESENT

ROBERT DOYLE
Marin County Sheriff (Retired)
Vice Chairperson

NICOLE CLAVO, Psy.D.
Governor Appointee
Public Member

REGINA HATCHER-CRAWFORD
Governor Appointee
Public Member

CEPHUS JOHNSON
Governor Appointee
Public Member

CHARLES LARA
Governor Appointee
Management Rank Peace Officer

MARGARET PENA
Speaker of Assembly Appointee
Public Member

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PEACE OFFICER STANDARDS ACCOUNTABILITY
ADVISORY BOARD LEGAL COUNSEL

CHRISTOPHER BEATTY
Deputy Attorney General
Department of Justice
Office of the Attorney General

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A P P E A R A N C E S C O N T I N U E D

POST STAFF

ANNEMARIE DEL MUGNAIO
Assistant Executive Director
Peace Officer Standards
Accountability Division
Executive Office

RICHARD COLLINS
Law Enforcement Consultant
Professional Conduct Northern Bureau

BRYANT HENLEY
Attorney IV
Legal Affairs Bureau

BRIAN HOFFMAN
Attorney IV
Legal Affairs Bureau

CHANDLER KNAPP
Analyst II
Executive Office

MICHAEL MARSHALL
Law Enforcement Consultant
Professional Conduct Southern Bureau

DAVE SIEBER
Law Enforcement Consultant
Professional Conduct Southern Bureau

SARAH WALLACE
Bureau Chief
Intake and Disposition Bureau

CARRIE WOOLLEY
Attorney IV
Legal Affairs Bureau

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A P P E A R A N C E S C O N T I N U E D

ALSO PRESENT

KASEY CASTILLO
Counsel for
Hector Victorio, POST ID: C87-Q51

JOSEPH HOFFMAN
Counsel for
Matt White, POST ID: A68-U16

LESLIE WILCOX
Counsel for
Jose Zavala, POST ID C28-A48
and
Julio Quintanilla, POST ID: C58-G04

MICHAEL MARSHALL
Law Enforcement Consultant
Professional Conduct Southern Bureau

HECTOR VICTORIO
POST ID: C87-Q51

MATT WHITE
POST ID: A68-U16

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PUBLIC SPEAKERS

KEYAN BLISS

AARON BLUEFORD

BEATRICE JOHNSON

WANDA JOHNSON

ADDIE KITCHEN

ARLETA NANCE

A P P E A R A N C E S C O N T I N U E D

PUBLIC SPEAKERS

KATHRYN WADE

MORGAN WHITE

LANCE WILSON

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Wednesday, April 15, 2026, 9:05 a.m.

West Sacramento, California

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VICE CHAIRPERSON DOYLE: Today is April 15th, 2026. And the time is 9:05.

Thank you for all attending the Peace Officer Standards Accountability Advisory Board hearing.

Please note that the hearing is being live-streamed, recorded, and transcribed. Further, please note that the microphones are auto on/off. When speaking, they will go live. With this, you will need to watch cross-talk.

We will now call the role of board members.

MR. KNAPP: Thank you, Vice Chair Doyle.

Clavo.

MEMBER CLAVO: Present.

MR. KNAPP: Crawford.

MEMBER HATCHER-CRAWFORD: Present.

MR. KNAPP: Doyle.

VICE CHAIRPERSON DOYLE: Present.

MR. KNAPP: Dudley.

(No response.)

MR. KNAPP: Johnson.

MEMBER JOHNSON: Present.

MR. KNAPP: Lara.

(No response.)

MR. KNAPP: And Pena.

MEMBER PENA: Present.

VICE CHAIRPERSON DOYLE: Thank you.

A quorum has been established.

On my left is POST Counsel Chris Beatty. And on my right is POST Assistant Executive Director Annemarie Del Mugnaio.

First item is public comment. This time is set aside for members of the public who wish to comment on items not on the agenda, but those within the Board's jurisdiction.

Public comment on matters on the agenda will be heard after each item is presented. Public comment on specific peace officer revocation cases to be heard today will be heard at the time of the hearing of each matter.

Is there anyone present in the audience or remotely who would like to address the Board in public comment?

(No response.)

VICE CHAIRPERSON DOYLE: Okay. Please be advised that the Board cannot take action on items not on the agenda and may discuss those matters only to the extent necessary to determine whether any matter should be made an agenda item at a future meeting, to respond briefly

to statements or questions posed, to request clarification, or to refer the item to staff.

Please remember that this meeting is being transcribed so -- so I may politely interrupt and ask you to repeat or speak slowly and clearly so your comments can be correctly captured in the transcript.

As the Board's Vice Chair, I may ask members of the public to limit their remarks to no more than three minutes pursuant to existing board policy. I may conclude the public comment period if -- I may conclude the public comment period if multiple speakers are voicing repetitive or similar statements and that the 15-minute public comment period has expired.

You will be given two minutes to speak. And the lime limits will be exactly enforced -- strictly enforced, so please ensure that you complete your thoughts within the allotted time.

Before I open public comment on matters not on the agenda, please note that if you wish to comment on disciplinary matters scheduled to be heard today by the Board, you must wait until that matter is called to offer public comment.

If you have a specific complaint about an officer that is not on today's agenda, you should file a complaint with POST or with the officer's employing

agency. POST staff will assist you in that regard.

I would like to remind individuals making comments not to discuss pending complaints or pending disciplinary actions that may later come before the Board -- before the Board for a recommendation.

If the opportunity to address the Board at the time allows these rules is necessary to comply with the law and to avoid complementing -- compromising board mission (as stated). When it is your turn, you may -- you may state your name and organization.

So we'll open it up to public comment.

Anyone in the audience who wishes to address the Board?

Please.

MS. KITCHEN: My name is Addie Kitchen.

My name is Addie Kitchen. I'm the grandmother of Steven Taylor, who was murdered in April of 2020 in San Leandro. He was in a mental health crisis at the time.

And my question is, how do I start to apply for a decertification from the officer? How do I know that the officer is still certified? And is there someone here that could help me to start the process?

MS. DEL MUGNAIO: Yes. Thank you so much. We have members of our complaint intake team who can help you to file that complaint, register your case with the -- with

our division. That would be investigated and we would be in contact with you.

So as you go back to your seat, a member of the team will come up and get your information and help you with that process.

MS. KITH: And can you tell me how long is that process?

THE WITNESS: It depends on how long the investigation takes. It depends on the complexity of it. How long it takes for us to get records from the agency can take anywhere from six months to a year.

MS. KITCHEN: Okay. Thank you. I think that's the only questions I have.

MS. DEL MUGNAIO: Thank you so much.

VICE CHAIRPERSON DOYLE: Thank you.

MS. NANCE: Good morning. My name is Arleta Nance. And I am the mother of Tahmon Wilson and Thomas Wilson, Jr.

On August 18th, 2023, my son Tahmon was shot in the back of the head and killed by the Martinez, California, Police Department. And my son Thomas was shot twice in the back and survived. After being shot, my son Thomas was also assaulted by officers.

Internal Affairs conducted an investigation into this case and found misconduct serious enough to warrant

the termination of multiple officers. The findings included excessive force, failure to report misconduct, and conduct that reflects abuse of authority.

These are not minor violations. These are categories that fall directly under POST's definition of "serious misconduct."

In November of 2025, I filed multiple complaints with POST and received confirmation that they were accepted. Those complaint numbers are PUBLIC-25-001465, 001466, 001467, 001468, and 001469.

I have not received any meaningful update shortly after filing those complaints.

So my question is simple: If these findings meet POST's own categories for serious misconduct, what is the status of these cases? And are they being reviewed for decertification? And did the agency meet its obligation? Which -- Martinez agency, they were obligated to report the misconduct to POST within ten days.

Impacted families deserve to know whether this process is working. And if somebody could help me with information. I have sent emails, follow-ups, and I have heard nothing back. Left messages on the recorder, because you can't talk to anybody when you call. And it's been since November. So...

MS. DEL MUGNAIO: Certainly. Thank you for your comments. And we will have someone get in touch with you. There's members here that can reach out to you and give you the status of those complaints.

MS. NANCE: Okay. Thank you.

MS. DEL MUGNAIO: You are welcome.

VICE CHAIRPERSON DOYLE: Thank you.

MS. WADE: Good morning, everyone. My name is Kathryn Wade. I'm the mother of the late Malad Raynal (phonetic) Baldwin. My son was assaulted many years from Antioch Police Department.

And in 2023, the FBI and the district attorney performed a -- an investigation in that department, and they text about the sexual assault that happened to -- that they -- that happened to my son.

I'm here today because I have submitted many complaints over the years. And I just found out about POST, and I would like to get it -- see if I can get an investigation and get some help of what they did to my son. He never got a chance to tell his side of the story, of the stories of the things that was happening to him.

And I have a question too.

Do you accept complaints of the sheriffs who are the acting coroners?

MS. DEL MUGNAIO: Yes. So POST has jurisdiction over any certified peace officer, so that would include sheriff coroners as well. Yes, ma'am.

MS. WADE: Okay. Well, I'm here today because I need some help on getting this information to you all that I have, to see if I can get some help. And an investigation on the things that was done to my son and even the admission in the text messages that they text about him.

Thank you.

MS. DEL MUGNAIO: I can have someone reach out to you here today that will help you with the process. Okay?

MS. WADE: Okay.

MS. DEL MUGNAIO: Thank you so much.

MR. BLUEFORD: Good morning.

VICE CHAIRPERSON DOYLE: Good morning.

MS. DEL MUGNAIO: Sir. Can you hold on one second?

I'm sorry. I just want the record to reflect that Board Member Charles Lara joined the quorum so that we have that on record.

Thank you, sir. Go ahead.

MR. BLUEFORD: Yes, ma'am. Thank you.

My name is Aaron Blueford. I'm Alan Blueford's brother, from the Alan Blueford Foundation. My mother

is Jeralynn Blueford. And I'm here to speak on the impact it had on me and my family's life. I didn't know we couldn't use the speech that I had, but...

But on May 6th, my younger brother, Alan Dwayne Blueford, at 18 years old, had two weeks to graduate.

And before we could see that milestone and have that -- have that whole feeling of seeing your son and your brother, your family member, go and graduate high school, he was killed by an officer that had other -- had did other things and were sent from another state. Had violations out there. Did something to my little brother. He passed away, tragically. It tore apart my family. And he was able to again go and do something else to somebody else. And this is on record.

At 18 years old, Alan Blueford was killed. After that, his mother went through health problems. Father went through health problems. Lost my grandmother. Lost my aunties. It just was so traumatic to my family, and each family that experienced something like this, who had to face identifying a son or a brother and living with that and seeing that for the rest of their life.

My mother's been speaking. She's been at D.C. We've been pushing forward with the Alan Blueford Foundation.

And I wrote something. You know, I wrote a little something that I think everybody could value in here because we all have a family. We all have people that we love. And this should be understanding and heartfelt. So before time runs out.

As tears wear our eyes, while families endure a pain that doesn't subside. When hearts have spoken, let their voices be heard. As the faith in each name stands in God's glory and mother's love and nature of her -- of our nourishment. Let each word be heard. Every life, every testimony, for each hour of each day facing a reality with memories of tragedies. Living in one nation under God, let their voices be heard as we stand in solidarity. Let their voices give clarity and by their possibilities, as the light of our eyes first came from the love of a family.

I'm here representing the Alan Blueford Foundation. And I just want to make sure that everybody has heard that, in this situation, we can make for a brighter future, more possibilities where this doesn't have to keep continue happening. Mothers don't have to keep appearing in front of you in tears. We could work together. What we have in front of us, we're here in solidarity.

And I thank you guys for this time.

Alan Blueford was such a pivotal person to my family. And when I lost my brother, I lost so much more. And it doesn't -- it doesn't subside. And if we can communicate and agree that we could have a better future for how this is looked at and gone about, I think that's a part of that dream that everybody has been speaking for the last 50 years.

I thank you for your time and your service. God bless.

VICE CHAIRPERSON DOYLE: Thank you.

Is there anyone else in the audience that would like to address the Board?

(No response.)

VICE CHAIRPERSON DOYLE: Seeing none, is there anybody attending remotely that would like to address the Board?

(No response.)

VICE CHAIRPERSON DOYLE: No? Okay.

Next item is approval of the meeting transcripts from February 5th, 2026.

Is there any discussion?

(No response.)

VICE CHAIRPERSON DOYLE: If there's anyone present or appearing remotely or by phone who would like to address the Board regarding the approval of the

February 5th, 2026, hearing transcripts.

(No response.)

VICE CHAIRPERSON DOYLE: Seeing none.

Any board members like to comment on the February 5th, 2026, hearing?

(No response.)

VICE CHAIRPERSON DOYLE: Seeing none.

Is there a motion to approve the minutes?

MEMBER CLAVO: I make a motion.

MEMBER JOHNSON: Second.

VICE CHAIRPERSON DOYLE: We have a motion and a second.

All in favor, signify by saying "aye."

(Ayes.)

VICE CHAIRPERSON DOYLE: And Doyle abstains. I was not in attendance.

At this time, POST Assistant Executive Director Annemarie Del Mugnaio would like to address the Board and introduce some of -- new -- new business items.

MS. DEL MUGNAIO: Good morning, Members of the Board.

We have a statistical data profile report that we have had before you at every meeting we have had.

We are not going to go in depth over each of these slides because this is just a quarterly update.

However, we do have some additional information on the public complaint receipt and process in response to questions you have had at prior meetings in terms of how long does it take; how responsive are law enforcement agencies when we get a public complaint, that we either do not have a agency misconduct report that's already been filed, what is the timeline for that response, and what is happening with those complaints.

So Bureau Chief Sarah Wallace is here to provide you with just a quick verbal update on that. And then we'll take any questions you have.

Thank you.

MS. WALLACE: Good morning. Based on questions received over the last several meetings, my bureau, Intake and Disposition, went back and we evaluated how we could fine-tune the data that's being presented. We are still in the process of fine-tuning that, but I have some preliminary data that I would like to share with you today.

We took a sample size of 304 closed complaints, public complaints, out of a total of 1,450. This was the total back in March. That would provide a 5 percent margin of error.

Of the 304 public complaints, 33 percent -- 33 agency misconduct reports or agency supplemental reports

had been received prior to the receipt of a public complaint, which is approximately 11 percent.

Approximately 71 percent of those public complaints received an agency misconduct report after the filing of the public complaint.

And 18 percent of those complaints resulted in a closure due to the complaint being duplicate, nonjurisdictional, or the complaint was created in error.

We found that the average time frame for an agency to respond to a notification of public complaint was approximately 80 days.

The average time frame for an agency to provide final findings of a public complaint was approximately 67 days.

And once our agency received the agency's response, it took us approximately 127 days to be able to review and make a move -- either close the case or move it on to the next step.

You have seen, in the statistics, some additional information, but I wanted to provide a quick breakdown.

Of the closed public complaints that we have received, two of those public complaint cases resulted in a voluntary surrender of those peace officers.

One public complaint resulted in an Immediate

Temporary Suspension.

Eight of the public complaint cases were categorized as Priority 1 cases.

Of those eight cases, five were closed due to them not being serious misconduct and three were not clear and convincing.

Four of the public complaint cases were labeled as Priority 2 cases. Of those four cases, one was not clear and convincing and three were not deemed serious misconduct.

The bulk of our public complaint cases are Priority 3 and have been closed.

And eight of those public complaint cases were Priority 4, meaning that they were not actionable, and those were closed.

We are still continuing to fine-tune this and looking at additional data points to provide you additional insight into our public complaint process and the response that we're receiving from our agencies.

As always, we continue to follow up with the agencies. We work collaboratively with our Professional Conduct Bureaus to make sure they have the information they need to be able to review their public complaint cases and reach their final determination.

MS. DEL MUGNAIO: Thank you, Sarah.

Any questions on any of that data?

Yes, Board Member Crawford.

MEMBER HATCHER-CRAWFORD: Hi. I guess just as most people want to know, we want to see the timeline. Is it somewhere posted on the website?

MS. WALLACE: It is not currently. It is something that we're evaluating whether or not we're able to do that based on the data entry points that we have in our case management system.

It will be something that I'm hoping to be able to provide in our statistics moving forward. And those would be publicly available in the board meeting materials. But it is something that we're evaluating.

MEMBER HATCHER-CRAWFORD: Okay. So I -- I guess -- because you mentioned the date -- I mean, timeline. Like one of them had 80 days. Even if it is something generic. Because I think what the public is looking for is transparency. Something that is tangible in a sense that they can look at it and say, okay, they have 30 days to reply; 60 days to reply. Something generic to give them some pinpoint motions.

Because, I mean, I find myself, in my community, that I have to say, you do know you can file a complaint with POST. You do know that if you file also with the agency, you still have that option. And so in my

community, I push POST as well as filing complaints with the officers.

And so if that is something, maybe we can look at -- I mean, I'm not asking for -- but just something generic to pinpoint some type of timeline so the community can be able to see that this is what's happening and maybe, you know, it fell off the grid somewhere.

MS. WALLACE: Oh, I agree. I think that's valuable information.

MEMBER HATCHER-CRAWFORD: Thank you.

MS. WALLACE: I don't know that the average. I think we need to provide additional information more than just the average and show the median as well, because you can have an anomaly of a long response that can throw the average as well.

So we're still working on it and trying to provide as much information as possible. And we'll be continuing to work on it and come back to you with additional info.

MEMBER HATCHER-CRAWFORD: Thank you.

MS. DEL MUGNAIO: Thanks, Sarah.

And just to be clear, they do -- we do have some reported and posted timelines.

On page 5 of your statistical profile, these are

the average timelines for all cases, not just public complaints. So Sarah was providing details regarding complaints that came in from the public, not who came in from the agency. So we have those averages for all, you know, 45,000 that come in.

MEMBER HATCHER-CRAWFORD: Is it on the website?

MS. DEL MUGNAIO: It is. Yeah.

MEMBER HATCHER-CRAWFORD: Okay.

MS. DEL MUGNAIO: Yeah.

MEMBER HATCHER-CRAWFORD: That's what I was looking for.

MS. DEL MUGNAIO: Thank you.

Any other questions?

Yeah. Thank you, Board Member Johnson.

MEMBER JOHNSON: For more clarity, on the public complaints that are filed before the agency actually files, I thought I heard that sometimes the public complaint is a duplicate of the agency complaint. And when you come across that, you make a determination on removing one of the complaints since it's a duplicate.

How do you make that determination whether to remove the public's complaint or the agency's complaint if they are duplicates?

MS. WALLACE: It wouldn't be a duplicate from the agency or the public complaint. It would be perhaps a

duplicate copy of the public complaint.

So those are typically loaded into the same case jacket, same case numbers, so that you have that information available with the agency response that you received. We're just not counting that public complaint twice.

The information is still available in there. It is counted as a consolidated case.

MEMBER JOHNSON: So I guess one more clarification.

A public complaint that is a duplicate, meaning that a single person filed two complaints or two different persons filed the same complaint?

MS. WALLACE: It is typically the same person filed the same complaint multiple times.

MEMBER JOHNSON: And I heard the numbers. But if I can, how many public complaints were received? I thought I heard you say.

MS. WALLACE: This -- so the sampling that we did --

MEMBER JOHNSON: Yes.

MS. WALLACE: -- was -- was based off of 1,450 public complaints. And to generate the data with a 5 percent margin of error, we looked at 304 complaints, public complaint cases.

It was a manual process, so that's why we had to

consolidate down to a smaller population of cases to try to generate statistically reliable data.

But the cases that -- I think right now we have over 1500 closed public complaints and over 3200 public complaints that have been received in total since January of 2023.

MS. DEL MUGNAIO: Yeah. And to -- to expand upon that, of the 3200 public complaints -- and this is page 2 of this -- page 3 of this statistical profile -- that represents about 2100 unique officers. Because sometimes you will have an officer that is involved in multiple complaints. So just to kind of give you that data. There's 3200 complaints. About 2700 individual complainants filed those 3200 complaints. And that reflects about 2100 unique officers.

Yes --

MEMBER CLAVO: Annemarie?

MS. DEL MUGNAIO: -- Board Member Clavo.

MEMBER CLAVO: The document that you --

MS. DEL MUGNAIO: Yeah.

MEMBER CLAVO: -- repeatedly referred to, is that the document we received in --

MS. DEL MUGNAIO: Yes.

MEMBER CLAVO: -- February?

MS. DEL MUGNAIO: This is the one you received with

your April board member packet. It is online. You guys can click on it in the app.

And it is one that is similar to what you have received at each of the board meetings, where we go over the statistical profile in great detail.

But, again, since you kind of now know what each of those pages represent, we wanted to specifically answer questions about the public complaints, because that's where most of your questions were generated in the past.

Yeah.

MEMBER JOHNSON: I do have another question.

MS. DEL MUGNAIO: Sure.

MEMBER JOHNSON: With the public complaints, what's the timeline again on that?

MS. DEL MUGNAIO: You mean for how long it's taken us to respond? Or get information from the agency?

MEMBER JOHNSON: No. We'll say -- a public or community member files a complaint.

MS. DEL MUGNAIO: Yeah.

MEMBER JOHNSON: And are they responded to once they file the complaint? Or how long does that timeline take?

MS. DEL MUGNAIO: Yeah. Sarah --

MS. WALLACE: In our Intake and Disposition Bureau, as soon as a public complaint is received, we respond

within one business day. And then we also notify the agency within a business day.

Unless it's a complaint regarding a chief or sheriff, and then we consult with our Professional Construct Bureau Chiefs to determine whether or not they want it referred to the agency or if they want to do it -- look at it first themselves. But, typically, everything is within one business day.

Then we wait for the agency to respond, and we're following up every 30 days with the agency to make sure that we're getting the information.

MEMBER JOHNSON: I guess my last question, then, I noticed when we do have public comments, some of the family members are saying that they filed the complaint with POST, but they haven't heard anything.

Could we clarify what is going on with that?

MS. WALLACE: I have my staff working with those individual public commenters today to identify what, perhaps, the issue is.

But we do keep record of all of our email correspondence and all of our telephone calls and track the response rates of everything.

MS. DEL MUGNAIO: That's why it will help for us to look into it. It is hard for us to respond. As you can imagine here today, I don't have the data in front of

me. But we have a team of folks in here that handles intake, which is what Sarah's bureau oversees. And so they can follow up with those individuals and find out where we may have missed the communication.

Yeah. Thank you.

MEMBER CLAVO: Will that information be provided to the board?

MS. DEL MUGNAIO: Certainly. If you would like us to follow up.

The one thing we can't do in a public hearing, as you can imagine, is get into detail about the investigation itself. Obviously that would compromise the integrity of the ongoing investigation for us to reveal specifics. But we can tell you whether we followed up and what that follow-up was.

MEMBER CLAVO: Thank you.

MS. DEL MUGNAIO: You are welcome. Thank you.

VICE CHAIRPERSON DOYLE: Have any other questions?

(No response.)

MS. DEL MUGNAIO: Thank you, Sarah.

VICE CHAIRPERSON DOYLE: We now move to the next items on the agenda.

We have five cases to hear today. We will only be reviewing the facts in evidence as presented by this Division. This is not an evidentiary hearing. The

rules of evidence do not apply here.

Evidence is not formally admitted into the record. There's no need to make any objections, and objections will not be ruled upon.

Under the Penal Code and the applicable State regulations, this initial hearing will result in a recommendation to the Commission with respect to these matters.

Subject to the Commission's determination, the matter may then be set for a full evidentiary hearing before an administrative law judge to determine whether the allegations are true and justify discipline.

For those commenting on each item, at this early stage, the Board must only consider facts that the Division, after investigation, believes can be proven at a later date at an evidentiary hearing. For that reason today, the Board will entertain arguments as to whether or not these facts as presented by the Division demonstrate clear and convincing evidence. In other words, a high probability that the serious misconduct, as defined in Penal Code section 13510.8 and the Commission Regulation 1205 occurred.

Actions by the Board or the Commission prior to a full evidentiary hearing do not constitute final determination that an officer did, in fact, engage in

misconduct or that the revocation or suspension is ordered. That will be determined after the evidentiary hearing.

At the conclusion of each law enforcement consultant's presentation, the Board will have the opportunity to ask questions; and then public comment from the subject -- from the officer and/or their counsel will be taken; followed by members of the public.

Further discussion by the Board will be allowed if necessary.

The Board will go into closed session deliberations after each case or until all cases have been presented and adjourn into closed session to deliberate on all cases presented after reconvening into regular sessions. Votes will be taken on each case.

POST Case 2311370, Jose Zavala; and POST2311373, Julio Quintanilla. Employing agency is Los Angeles Police Department.

At this time, I call upon Law Enforcement Consultant David Sieber and Carrie Woolley, an attorney with Legal Affairs Bureau, to provide a report in these matters involving the two officers that I have mentioned, and who, at the time of the events at issue in this case, were and still are employed by Los Angeles

Police Department.

Law Enforcement Consultant Dave Sieber will present information regarding the service record and allegations or [sic] serious misconduct for each officer; followed by a presentation regarding the factual circumstances of the December 18, 2021, incident.

Following the presentation, each officer and their counsel will have the -- will have time to provide public comment to the Board regarding the facts and circumstances.

Mr. Sieber and Ms. Woolley, you may proceed.

MR. SIEBER: Good morning, Chairman and members of the Board. Excuse me. My name is Dave Sieber, and I'm one of the law enforcement consultants assigned to the Professional Conduct Southern Bureau in the Peace Officer Standards Accountability Division.

With me today is Carrie Woolley, an attorney with our Legal Affairs Bureau.

I'm here today to present POST Case 2311370 involving Los Angeles Police Department Officer Jose Zavala; and POST Case Number 2311373, involving Los Angeles Police Department Officer Julio Quintanilla.

These cases are associated with a single officer-involved shooting incident involving allegations of serious misconduct arising from Officer Zavala and

Officer Quintanilla's use of force, which resulted in the death of an adult male, whom I will refer to as the "victim" throughout this presentation.

It is the Division's determination that clear and convincing evidence exists to demonstrate that Officer Zavala and Officer Quintanilla committed an act of serious misconduct, as set forth in California Penal Code section 13510.8, on December 18th, 2021.

Specifically, the Division has determined that Officer Zavala and Officer Quintanilla committed the following acts of misconduct:

California Penal Code 13010.8(b)(3), physical abuse, including but not limited to the excessive or unreasonable use of force.

In this presentation, I will present a brief outline of the Division's findings regarding this matter.

First, I would like to discuss Officer Zavala's background. Officer Zavala began his career with the Los Angeles Police Department on May 26, 2009.

On October 9, 2009, Officer Zavala was promoted to the position of police officer. This position is a peace officer, as defined under Penal Code section 83 -- 830.1(a).

Officer Zavala earned a POST Basic Certificate on

January 10, 2011.

Next, I will provide a summary of Officer Zavala's prior discipline:

As stated in the initial statement of findings on pages 6 through 9, Officer Zavala is the subject of an -- eight allegations of serious misconduct submitted to the Division. These eight allegations include this case and its related civil matter;

Two allegations that Officer Zavala demonstrated bias, which the Division closed with no further action as it lacks jurisdiction to review because the events occurred before January 1, 2022, and LAPD concluded its investigation before that date;

One allegation of abuse of power and physical abuse from an incident on April 2, 2021, POST Case Number 2502030;

As well as a duplicate allegation of the same incident.

Despite the fact that POST Case 2502030 was closed with a finding of no further action, LAPD sustained a single allegation against Officer Zavala for his excessive and unreasonable use of a front kick while disbursing a crowd on April 2, 2021.

Ultimately, LAPD's personnel complaint investigation resulted in a five-day suspension with

loss of pay and benefits.

Lastly, there were two cases from 2024 which involved allegations that Officer Zavala engaged in an abuse of power and demonstrated bias; were both closed were no further action.

The Division would like to note that these cases were identified as unassigned in the ISF dated February 12, 2026, but have since been adjudicated.

In addition, a review of Officer Zavala's Los Angeles Police Department personnel file indicated that on February 15, 2015, he was involved in a noncategorical use of force when he and his partner responded to a radio call of a prowl suspect. Upon arrival, the officers encountered the complainant, who was subsequently arrested for the warrant.

During the complainant's booking process, he punched Officer Zavala in the jaw without warning.

In response, Officer Zavala initiated a noncategorical use of force, striking the complainant eight times with his fist.

The complaint received facial bruising and a laceration above his eye and was transported to the hospital for medical treatment.

After treatment, officers walked the complainant to their patrol vehicle, at which point he attempted to

flee, resulting in a second noncategorical use of force.

As a result of the collective circumstances and a complaint by a civilian witness, LAPD initiated a personnel complaint investigation on Officer Zavala.

The investigation resulted in five allegations of misconduct, two of which were sustained for Officer Zavala's unauthorized use of force, and for his use of tactics that substantially deviated from the department's tactical training.

LAPD's personnel complaint investigation found that Officer Zavala's use of force was necessary and that his first two punches were within policy. However, the investigation found that he let his emotions lead to excessive force when he followed up with punches 3 through 8.

Ultimately, Officer Zavala received a 15-day suspension with loss of pay and benefits.

This incident occurred before January 1, 2022, and, therefore, was not actionable by POST.

Now I would like to discuss Officer Quintanilla's background. Officer Quintanilla began his career with the LAPD on February 22, 2016.

On August 7, 2016, Officer Quintanilla was promoted to the position of police officer. This position is a peace officer as defined under Penal Code section

83.1(a).

Officer Quintanilla earned a POST Basic Certificate on September 27, 2017; and a POST Intermediate Certificate on September 23, 2020.

Lastly, I will provide a summary of Officer Quintanilla's prior discipline:

As summarized in pages 6 through 13 of Officer Quintanilla's Initial Statement of Finding, the Division has received 20 allegations of serious misconduct involving Quintanilla -- Officer Quintanilla.

These allegations involve this case, its related case, and a duplicate allegation:

Two allegations involving abuse of power and a demonstration of bias, which the Division closed, as it lacked jurisdiction due to the events occurring prior to January 20 -- January 1, 2022, and LAPD concluded its investigation prior to that date;

One allegation that Officer Quintanilla demonstrated bias and used excessive force from 2023. LAPD found the complaint was demonstrably false;

Four allegations that Officer Quintanilla engaged in abuse of power from 2023, in which LAPD found that the complaints were unfounded in three of the cases, and Officer Quintanilla was exonerated in the fourth case;

Two allegations that Officer Quintanilla engaged in

physical abuse, excessive use of force, in 2023 and 2024. LAPD determined that the complainant's -- the complaints were unfounded, unfounded in part, and that the officer's actions were exonerated and the complaint was demonstrably false.

Lastly, there were eight allegations that Officer Quintanilla demonstrating demonstrated bias, six of which were from 2023, one from 2024, and one from 2025. LAPD determined that six of the complaints were demonstrably false and the remaining two were unfounded.

The Division closed these cases following the determination that there was insufficient evidence that serious misconduct had occurred.

In summary, the Division closed these 17 allegations of misconduct after finding that there was insufficient evidence that Officer Quintanilla engaged in serious misconduct.

A review of Officer Quintanilla's LAPD personnel file indicates that he was involved in 13 noncategorical uses of force, all of which were adjudicated as in policy.

Additionally, Officer Quintanilla was involved in seven vehicle pursuits. Six of the pursuits were adjudicated as in policy. And one, which occurred on July 6, 2021, resulted in a sustained finding and a

penalty of admonishment.

Now I will provide a factual basis for the captioned use of force incident involving Officers Zavala and Quintanilla.

On December 18th, 2021, at approximately 1654 hours, communication division received a call that the victim had walked out of his residence, holding a kitchen knife, and was threatening members of the community.

The victim is described as an adult male standing 4'9" and weighing approximately 98 pounds.

According to a relative of the victim, the victim had been drinking alcohol and using narcotics since he was 18 years old, causing what the relative described as an altered state of mind.

At approximately 1701:31 hours, a sergeant from Los Angeles PD's Newton Gang Enforcement Detail, hereinafter referred to the "incident commander," was first to respond to the call.

The incident commander arrived on scene, exited his patrol vehicle, and attempted to communicate with the victim, who was sitting idle on the steps in front of an apartment building located near the victim's residence, holding the knife in his right hand with the blade pressed against his neck.

You can advance the slide, please.

This is an image of the location. The steps there is where the victim was sitting. Just for your reference.

At 1702:05 hours, Officer Zavala and his partner, Officer Quintanilla from LAPD's Newton Gang Enforcement Detail, followed by two additional officers from LAPD's Newton Patrol Division, responded to the attempted suicide call for service and contained the victim.

Officer Zavala and Quintanilla established a perimeter position to the west of the victim and were designated by the incident commander as lethal cover officers.

At 1703:02 hours, the victim placed the knife blade against the side of his throat prompting multiple officers to yell, "Don't do it."

The incident commander directed one of the Newton Patrol Division officers, hereinafter referred to as Officer 1, to deploy his 40mm less-lethal launcher. However, he withdrew the command before Officer 1 could execute the order.

Another officer from LAPD's Rampart Patrol Division arrived on scene in his patrol vehicle. The incident commander directed this officer to join the arrest team.

At 1703:35 hours, the incident commander retrieved

a ballistic shield from his patrol vehicle and gave it to another officer.

The incident commander yelled to Officers Zavala and Quintanilla, "You still got lethal coverage right there -- right here."

For the next several minutes, Officer Zavala and Officer Quintanilla, along with the incident commander, alternated communicating with the victim.

Advance the slide, please.

Moments later, the victim stood, held the knife to his throat, and gestured the sign of the crucifix across his chest with his left hand. The incident commander directed Officer 1 to deploy his 40mm less-lethal launcher by announcing "Forty standby."

At 1704:06 hours, Officer 1 discharged one 40mm round at the victim from a distance of approximately 30 feet.

The round struck the victim in the abdomen and did not -- but did not appear to have any effect.

The victim walked down a short flight of steps towards the officers and then sat idle on the bottom step while continuing to hold the knife against his throat.

At 1705:36 hours, body-worn video recordings captured officers alerting one another that a bystander

was attempting to exit the apartment building behind the victim.

The incident commander yelled, "Hey, stay right there. Do not come out."

Additional officers warned the bystander to stay inside and to move away from the windows. The bystander complied with the officers' orders and remained inside the building with the door closed.

The victim appeared to be oblivious to the presence of the bystander, who was inside the apartment building behind him.

Two additional Newton Gang Enforcement Detail officers arrived on scene. One of the officers deployed a shotgun, positioning himself as a lethal cover officer, along officer -- alongside Officer 1.

The other officer deployed a less-lethal beanbag shotgun and was directed by the incident commander to move to the west side of the containment perimeter to provide less lethal cover for Officer Zavala.

The incident commander and Officer Zavala continued alternating commands to the victim. The incident commander utilized the patrol vehicle's PA system to communicate his commands.

At 1710:17 hours, the victim stood up, removed his hat, and held the knife above his shoulders while

looking east towards members of his family, who were standing behind the containment perimeter.

The incident commander announced, "Get ready," while he transitioned from the passenger's side of the patrol vehicle to the driver's side, where Officer 1 had taken cover.

The incident commander announced "Forty forty up."

After standing, the victim took four slow steps forward, turned to his left/west, and yielded to the officer's commands to stop.

Contemporaneously, Officer 1 announced "Forty standby," as the incident commander instructed him to fire the less-lethal launcher. Officer 1 fired one 40mm round from a distance of approximately 22 feet, impacting the lower right side of the victim's torso.

Approximately .382 seconds after the 40mm less-lethal projectile was fired, Officer Zavala discharged the first of three rounds from his service pistol, from a distance of approximately 25 feet and behind the driver's side door of his police vehicle, striking the victim.

Approximately .322 seconds after Officer Zavala discharged his third round, Officer Quintanilla fired a single round from his service pistol from a distance of approximately 28 feet and behind the passenger's side

door of his police vehicle.

The victim fell to the ground and was subsequently detained.

The victim received medical aid and was transported to the hospital where he ultimately succumbed to his injuries.

This slide gives a depiction of the -- kind of the location of the subject respondents, where the red line is drawn, just for your reference.

On December 21, 2021, the Los Angeles County Coroner's Office performed a postmortem examination of the victim. The report indicated that the victim sustained three gunshot wounds: Two to the torso and one to the neck. Ultimately, the report concluded that the victim's death was the result of a gunshot wound to the torso.

The Los Angeles Police Department's Force Investigation Division investigated the officer-involved shooting, and the results were conveyed to LAPD's Use of Force Review Board.

The Use of Force Review Board was critical of Officer Zavala and Officer Quintanilla's perception of an immediate threat. And they found that their actions were not objectively reasonable, proportional, or necessary.

A subsequent department-initiated personnel complaint investigation reached a sustained finding of "Out of Policy - Administrative Disapproval" regarding Officer Zavala's and Officer Quintanilla's use of force.

Neither Officer Zavala nor Officer Quintanilla were referred to an LAPD's Board of Rights.

Ultimately, Officer Zavala received a ten-day suspension with loss of pay and benefits. And Officer Quintanilla received a five-day suspension with a loss of pay and benefits.

Later, on February 3, 2023, the victim's family filed a civil complaint, which initiated a second LAPD personnel complaint investigation, alleging Officer Zavala's and Officer Quintanilla's excessive use of force. This investigation ultimately determined that the allegation was unfounded for both officers.

However, on March 18th, 2025, the Los Angeles City Council voted to authorize the city attorney to expend up to 8 million to settle the victim family's wrongful death lawsuit, which was filed in the U.S. District Court for the Central District of California.

As of today, the Los Angeles County District Attorney's Office, Justice System Integrity Division, has not reached a charging decision and continues to review the incident with the assistance of an

independent police oversight firm.

The facts I have just recited support the Division's finding that Officer Zavala and Officer Quintanilla were involved in serious misconduct, specifically physical abuse, including but not limited to the excessive or unreasonable use of force.

For purposes of the Division's analysis, "clear and convincing evidence" means evidence of a charge is clear and convincing so long as there is high probability that the charge is true. The evidence not need establish a fact beyond a reasonable doubt.

The Division recommends that Officer Zavala's POST Basic Certificate and Officer Quintanilla's POST Basic and Intermediate Certificates be revoked or suspended based on the following:

After a review of the evidence developed in LAPD's Force Investigation Division investigation and personnel complaint investigations, multiple body-worn video perspectives of the incident, and an analysis of California Penal Code 835(a) and the 2025 U.S. Supreme Court decision in Barnes v. Felix, the Division concludes that Officer Zavala and Officer Quintanilla engaged in serious misconduct, as defined in California Penal Code section 13510.8(b)(3) and Commission Regulation 1205(a)(3), physical abuse but not limited to

the excessive or unreasonable use of force.

The Division's assessment is supported by the following findings:

The victim was contained and remained no closer than approximately 22 feet from any officer;

Once contained, the victim posed a danger only to himself;

The victim's demeanor was not particularly threatening;

The victim's demeanor was not particularly -- the victim did not pose an imminent threat to the officers who were positioned behind police vehicles, nor to members of the public who were located outside the containment perimeter;

The victim was slow to respond to verbal commands and less-lethal force, suggesting the possible presence of a mental or physical health condition, cognitive impairment, or the influence of a controlled substance;

Lastly, at the time deadly force was utilized, the victim had complied with officers' commands to stop.

Officer Zavala and Officer Quintanilla effectively used distance and cover to create time and space in conjunction with de-escalation measures. However, they initiated deadly force before exhausting available less lethal options.

The Division determined that Officer Zavala and Officer Quintanilla failed to meet the requirements set forth under California Penal Code section 835(a)(C)(2), which limits the use of deadly force to circumstances in which it is necessary, to fend against an imminent threat of death or serious physical injury.

Additionally, the Division requested an independent subject matter expert opinion from Robert Handy of Trichief Consulting Services.

The subject matter expert concluded that Officer Zavala's and Officer Quintanilla's use of deadly force was inconsistent with the tactics being directed by the incident commander and was not based on an objectively reasonable belief that the victim posed an imminent threat of death or serious bodily injury to officer or others.

Rather, the force was precipitated by the danger the victim posed to himself, which does not satisfy the statutory threshold for deadly force.

Based on its investigation, and after considering the factors enumerated in Title 11, California Code of Regulations 1213(a), the Peace Officer Standards Accountability Division determined that Officer Zavala and Officer Quintanilla failed to meet requirements set forth under California Penal Code section 835(a)(C)(2).

Officer Zavala's and Officer Quintanilla's conduct demonstrated a disregard for public safety, and their conduct was inconsistent with the duties and responsibilities of a peace officer.

Accordingly, the Division finds that Officer Zavala's and Officer Quintanilla's actions constitute serious misconduct, warranting the revocation or suspension of their POST certifications.

I would now like to present the Board with three perspectives captured by the body-worn video devices of Officer Zavala, Officer Quintanilla, and Officer 1, followed by a corresponding timeline of the aforementioned events.

These videos are about one minute each. And we can replay them. You will -- these are a bit of deconfliction or their de-escalation measures for the first 30 to 40 seconds, and then it goes into the deadly force.

We will start with Officer Zavala.

MS. DEL MUGNAIO: Mr. Sieber, before you start with the video, just a disclaimer for the public: Sensitive material. This may be disturbing for some. Just wanted to preface it by saying some of you may not want to watch the video. However, we are going to play it. So I wanted so provide that disclaimer.

Thank you.

(Video played.)

MR. SIEBER: The shots were so contemporaneous that you almost couldn't tell the 40mm less-lethal hit him in the hip. Less than a third of a second later, Officer Zavala initiated the first of three rounds. And less than a third of a second after his third round, Officer Quintanilla initiated his single shot.

Some of the -- some of the other perspectives are a little clearer.

(Video played.)

MR. SIEBER: The last perspective is from the other side to the east. That's to the left of Officer Zavala and Quintanilla.

And you are going to see, through the door frame, from Officer 1., who was using the less-lethal device, you can see him take his shot, and then you can kind of time when Officer Zavala takes his first shot, because you can see him through the window.

(Video played.)

MR. SIEBER: And I have just put an administrative timeline up here, because I know I pushed on a lot of dates and times. I think these are the pertinent ones that talk about when the actions took place from the department. There are two slides here I will leave up

for you.

And with that, I'm happy to answer any questions that the Board may have.

Thank you.

VICE CHAIRPERSON DOYLE: Does the Board have questions?

Commissioner Johnson.

MEMBER HATCHER-CRAWFORD: I do.

MEMBER JOHNSON: Yes. Johnson.

When you were speaking on Zavala and Quintanilla about the prior complaints that was filed, maybe next time a PowerPoint of all the complaints and then the separation of those that was unfounded and those that were sustained.

Because you said a lot with especially Quintanilla; he had 20 complaints filed. And it sounded like most of them was unfounded. And so I was kind of lost in the numbers.

So for next time, maybe clarity, we can actually see it. And I think that would help me better.

MR. SIEBER: Thank you, Board Member Johnson. And it is a very valid point. And I did take the time to put together a more, sort of, streamlined summary of those, if you would like me to read them again. I know it's -- I wanted to provide enough information so

that you understood what the cases were. But now I have distilled it down to just the -- sort of the decision.

Would that be helpful?

MEMBER JOHNSON: Oh, no. You don't have to reread them. But I'm just saying, next time. I get the whole gist. I did read it. But for more clarity.

MR. SIEBER: Understood.

VICE CHAIRPERSON DOYLE: Ms. Crawford?

MEMBER HATCHER-CRAWFORD: Crawford.

I read the report thoroughly. I, at one point, stepped back and go back and read it. I noted that the coroners ruled this as a homicide, per report, correct?

(No response.)

MEMBER HATCHER-CRAWFORD: And that Chief Moore, at one point, submitted a report stating that he felt the officers were not within POST's guideline as well. But, yet, we have where an internal group -- I forgot the name, I'm sorry -- is still looking into this matter.

So as I said, I went back, looked at it, read it.

One of the things that I wanted to be clear -- clear-clear on: You mentioned that there's a 22-feet radius. The officers were at 25 and 28, correct?

MR. SIEBER: Correct?

MEMBER HATCHER-CRAWFORD: Within seconds -- I sat there and counted it on my fingers -- after the beanbag

was deployed, that within 3.282 seconds, the first three shots were fired, and then a fourth one. Correct?

MR. SIEBER: That is correct. .3 seconds. So a third of a second after the 40mm was fired, the first of three shots was fired.

MEMBER HATCHER-CRAWFORD: Okay. And this was the part that I got kind of confused on.

The sergeant and maybe I'm -- commander, sergeant, was given -- was shouting out, "Forty forty." That's in reference to the beanbag, right?

MR. SIEBER: Correct.

MEMBER HATCHER-CRAWFORD: In the report did he at any time say -- because I know that he assigned him as lethal officers, correct?

So from my understanding, for command purposes, he is -- is it -- does the officer have to say "lethal" in order for them to shoot? Or he did not have to say "lethal"?

MR. SIEBER: So two questions.

The first one, he did not. He did ready the 40mm less-lethal by saying "forty forty up," which is a readying command.

In terms of whether or not he has to authorize or command for deadly force, no, he doesn't.

MEMBER HATCHER-CRAWFORD: Okay. But it still needs

to be within that 22 perimeter, correct?

MR. SIEBER: Well, 22 feet was -- I was simply noting -- so that the Board and the Commission could understand that at no point was the victim any closer than 22 feet.

MEMBER HATCHER-CRAWFORD: Okay.

MR. SIEBER: He was actually further than that to Officer Zavala and Quintanilla. But I think -- I believe he was about 22 feet from -- from Officer 1, who deployed the 40mm. So I went with the closest distance to any officer.

MEMBER HATCHER-CRAWFORD: Okay. Perfect. Thank you, sir.

MR. SIEBER: You are welcome.

MEMBER CLAVO: Clavo.

Quick question: They are still currently employed and working today?

MR. SIEBER: Yes.

MEMBER CLAVO: And just to reiterate what I believe I heard you say, charges are still under review.

MR. SIEBER: That is correct.

MEMBER CLAVO: Thank you.

VICE CHAIRPERSON DOYLE: Any other questions?

Ms. Pena.

MEMBER PENA: The two officers received

disciplinary action for this incident, correct?

MR. SIEBER: They did.

MEMBER PENA: And I think one received five days' suspension; and the other, ten.

MR. SIEBER: That's correct.

MEMBER PENA: What was the reason for the discrepancy?

MR. SIEBER: So I -- I would be speculating. But I believe, based on Officer Zavala's prior incidents of use of force, he had three prior sustained allegations that resulted in suspensions of 15 and 5 days.

He would have received more, because they were looking at his service record, and he had more incidents of misconduct allegations.

Whereas, Officer Quintanilla, despite having 20 allegations, none of those were sustained except the captioned matter that we're talking to. So he had not been disciplined for any other misconduct allegations in the past.

MS. WOOLLEY: I just want to add to that: If you look at the dates for Officer Quintanilla's complaints, those are all subsequent to this incident as well. So that would have gone to that as well, his service record. The complaints came in after this incident.

MEMBER PENA: Okay. Thank you.

VICE CHAIRPERSON DOYLE: Clavo.

Oh, go ahead, Charles.

MEMBER LARA: A quick question.

I don't know if it was outlined in the report. I'm unfamiliar with the Los Angeles Police Department term "categorical use of force." Do you have a definition?

MR. SIEBER: I do not have a definition.

Carrie, do you have one?

MS. WOOLLEY: They don't have one in there.

MEMBER LARA: Thank you.

MR. SIEBER: I did do some research on this, and it is -- it's sort of -- the term has to just do with the level of force applied. And in reading their policy, the use of force policy, it is not super clear.

So a fist punch could be a categorical use of force or it could not, depending on how it is applied. And...

MEMBER LARA: Thank you.

VICE CHAIRPERSON DOYLE: Clavo.

MEMBER CLAVO: Yes.

The three cases upheld, do we know how close in proximity those three upheld cases were?

MR. SIEBER: They -- so you are -- to be fair, we're speaking about Officer Zavala.

MEMBER CLAVO: I think it was Quintanilla. Whichever one had the three cases upheld. I'm sorry.

MR. SIEBER: Yes.

So, again, Officer Zavala had -- and let me just go through these. I think it would be helpful just to clarify.

So the two use of force cases that we're talking about today, the criminal and the civil matter, those two, there's eight total.

Then he had two bias allegations that were -- we did not have jurisdiction for.

He had one assault or abuse of power in 2024 that was unfounded.

He had one bias allegation in 2024 that was unfounded.

He had one use of force and abuse of power in 2021 -- to get to your question -- which was sustained for a front kick and for which he received five days of suspension.

And then going all the way back to 2015, prior to POST jurisdiction, his personnel records identified a sustained allegation where he threw eight punches. Three of the punches were considered within policy. Punches -- the last five punches were considered out of policy. And he received 15 days for that.

So in 2015, 15 days. In 2021, five days. And that brings us up to our current matter.

MEMBER CLAVO: Thank you.

MEMBER HATCHER-CRAWFORD: Crawford.

While we're not going to consider the previous -- just what's before us -- but you do mention about the bias cases and how they were unfounded.

I'm -- I wasn't clear on how the determination of what could be considered bias and what is not considered bias.

I did read it and I understood the grounds of the complaint. But it seemed that I think Officer Zavala has had more complaints about it. But they were unfounded of course, correct?

MR. SIEBER: What -- Officer Quintanilla had bias allegations that were demonstrably false or unfounded.

Again, I reviewed every single one of the 20 and eight cases in question, reviewed the circumstances of those. I can't get down into the exact details of what happened in those cases, but I'm going by what -- the agency's determination and then POST's subsequent evaluation of their investigation resulted in.

MEMBER HATCHER-CRAWFORD: It just didn't seem like there was a clear, defining measurement of what has consisted of what is -- what his bias is -- bias is. And other than what we read. And that is concerning for me.

MR. SIEBER: Thank you. Thank you, Board Member.

I -- there were several that were demonstrably false. And just to clarify, demonstrably false is stronger than unfounded. And in some cases, they can even imply the complaint may have been intentionally fabricated, so that doesn't mean that we don't review them, but just to be aware of that. And unfounded allegation is false or did not occur or there's no factual basis for the complaint. Simply not enough evidence.

MEMBER HATCHER-CRAWFORD: Thank you, sir.

MR. SIEBER: You are welcome.

VICE CHAIRPERSON DOYLE: I have a question.

Do you know, after the Board deemed the shooting out of policy, who metes out the discipline?

MR. SIEBER: So in this case -- do you want to answer that, Carrie?

MS. WOOLLEY: I can answer it or you can answer.

So generally, that would be either the agency or, with LAPD, I think it is usually the Board of Rights. Although Ms. Wilcox will be better able to answer that since she's familiar with their particular procedures.

VICE CHAIRPERSON DOYLE: Okay. And I assume the unit that did the citizen complaint investigation was different than the shooting board.

MS. WOOLLEY: It appears to be, yes, because they reached a different conclusion.

VICE CHAIRPERSON DOYLE: Yeah. And their conclusion was unfounded.

MS. WOOLLEY: Yes.

VICE CHAIRPERSON DOYLE: Which basically means the complaint was false.

MS. WOOLLEY: Yes.

VICE CHAIRPERSON DOYLE: Thank you.

Board have any other questions?

Ms. Pena?

MEMBER PENA: Pena.

It -- was there -- I read one -- well, I guess I didn't. Was there ever an explanation given for why the mental health unit wasn't called?

MS. WOOLLEY: There was not an explanation as to why the mental health unit was [sic] called. That was mentioned briefly in the report that that was a possibility, but there was not an explanation as to why it wasn't called.

Obviously, as we all know, Los Angeles is a really large city. It is not clear whether they just weren't available, whether there was a callout and they weren't able to respond or -- or not. But they didn't respond to this scene.

MR. SIEBER: And I could also add that from the first time the call went out to when the OIS, the officer-involved shooting occurred, was 16 minutes roughly. But officers were on scene for around 13, 14 minutes. So I don't -- I just don't know that they had had the time to make the call yet.

MEMBER PENA: But they -- they called for an ambulance, correct?

MS. WOOLLEY: They did.

MR. SIEBER: They did.

MEMBER PENA: Almost immediately when they got there, right?

MS. WOOLLEY: That's correct.

MR. SIEBER: Correct.

MEMBER JOHNSON: Johnson.

So we know that there has been no criminal charges filed, according to this shooting.

The decision we make today will have no effect on the criminal trial, correct?

MS. WOOLLEY: That's correct.

MEMBER JOHNSON: Okay. And I guess what I'm getting at is that the district attorney or the County involved in this particular shooting has not determined whether the officers were involved in an unjustifiable shooting at this time, correct?

MS. WOOLLEY: That's correct. They are still making a decision whether or not any criminal charges would be brought. There's an array of different Penal Code provisions that they could look at. They could look at Penal Code section 149, which would be basically an unjustified use of force by a public official. They could be looking at voluntary manslaughter. They could be looking at murder, although that would be highly unusual in a situation like this. But there's an array of different Penal Code provisions.

MEMBER HATCHER-CRAWFORD: Crawford.

And so not to be political, at the time this was -- the DA was Gascón, correct? We now have a new DA. So -- okay.

I just wanted to kind of get a perception of the culture at the time of when the shooting and the crossovers of administration.

Okay. Thank you.

VICE CHAIRPERSON DOYLE: Any -- any more questions for the Board?

(No response.)

VICE CHAIRPERSON DOYLE: Okay. With that, we're going to take a ten-minute break before the next item.

MS. DEL MUGNAIO: Before we have -- excuse me. A 10-minute break before we have officers' counsel and the

officers provide comment to the case. So we won't be moving on to the next case, but we will be hearing from officers' counsel and officers.

Thank you.

(Break taken in proceedings.)

VICE CHAIRPERSON DOYLE: I understand both officers are represented. And you will each be given five minutes to speak and the time limits will be strictly enforced. So please be sure that you complete your comments before the allotted time.

While commenting, keep in mind the Board will only consider the facts as presented by the Division today and will not consider any additional facts or defenses at this time.

The sole question before the Board today is the following: If the facts offered by Division today are proven at a later hearing, do those facts demonstrate clear and convincing evidence, a high probability that serious misconduct, as defined in Penal Code section 13510.8 and Commission Regulation 1205, occurred?

Leslie Wilcox is attending for both officers. Please, welcome.

MS. WILCOX: Good morning everyone. My name is Leslie Wilcox. I'm a panel attorney with the Los Angeles Police Department Protective League. And I'm

representing both Officer Zavala and Officer Quintanilla related to this POST investigation.

My basic statement that I would like you all to be aware of is the U.S. Supreme Court case Graham v. Connor, which is referenced in the materials. But it specifically provides for any use of force by any law enforcement officer in the country, but we're specifically talking about California; that that use of force is viewed through the perspective of a reasonable, similarly trained officer, under the same circumstances, based on the totality of the circumstances.

I believe in this particular case, the officers' actions do not rise to the clear and convincing level. LAPD's standard that they use the preponderance of the evidence, which is lower than POST's.

Both officers expressed their fear of the imminent threat that they believed this victim posed to them, based on the knife and his prior actions. So that is the reason that I believe POST will not be able to prove it beyond clear and convincing.

I would also note that the Division is recommending either revocation or suspension. And so if this board disagrees with my vision of the laws that applies to this particular case, then I would ask that you recommend suspension as opposed to revocation.

I heard a lot of your questions that you asked the law enforcement consultant and Ms. Woolley, and I do have information on those generally if you would like to ask. But my position for the public comment for this particularly is that based on under Graham v. Connor, that their fear of the imminent threat was reasonable based on their training and experience and the circumstances that they were presented with.

Thank you.

VICE CHAIRPERSON DOYLE: Board questions?

MEMBER HATCHER-CRAWFORD: Crawford.

VICE CHAIRPERSON DOYLE: Ms. Crawford.

MEMBER HATCHER-CRAWFORD: You mentioned Graham v. Connor.

MS. WILCOX: Yes, ma'am.

MEMBER HATCHER-CRAWFORD: And could you give a quick -- I mean, a quick summary of that case? Because you mentioned it.

MS. WILCOX: I can. It is very old and it is interesting that it is now applied to all uses of force by all officers.

It was a situation in which a man was seen acting erratically and not following officers' commands, and he ends up getting into his car and not listening to what they are saying.

They use force to remove him from the car and a use of force does occur.

It is later determined that he was having a diabetic episode, and these were the reasons that he could not comply and was acting in a way that appeared to be very strange.

So the Supreme Court ended up saying that if a reasonable officer in that situation would have perceived this man's behavior to be the same way, then that use of force is reasonable.

That is a very slim version of that case.

MEMBER HATCHER-CRAWFORD: Okay. You also mentioned that the position is that -- and we keep saying the word "reasonable" and a perception of what is reasonable and what is not reasonable when you apply lethal -- lethal force in this case.

I guess where I'm going at is it is -- it's the mindset of the officer is concerning. The purpose of SB 2 was to kind of, in a sense, to protect the community with -- of guarding officers being able to move from -- let's say they got suspended or fired and then were able to move somewhere else to possibly repeat -- repeat things. Maybe not as -- so much as being lethal, but still repeat the same type of practice.

MS. WILCOX: Yes.

MEMBER HATCHER-CRAWFORD: And that's -- that's concerning in this.

And so you mentioned that the officers said that they are concerned about -- that was the last part I didn't catch.

MS. WILCOX: Their imminent fear of the victim's behavior? Is that what you were talking about?

MEMBER HATCHER-CRAWFORD: No, no, no. I guess you were talking about them being remorseful or --

MS. WILCOX: They are. But I did not say that.

MEMBER HATCHER-CRAWFORD: Okay. I kind of --

MS. WILCOX: This is a tragedy.

MEMBER HATCHER-CRAWFORD: Right.

MS. WILCOX: They did not anticipate that being what their day was going to look like that particular day at work.

VICE CHAIRPERSON DOYLE: Ms. Clavo.

MEMBER CLAVO: Imminent fear.

MS. WILCOX: Yes, ma'am.

MEMBER CLAVO: From behind the car, protected by a vehicle, a minimum of 22 feet away from a knife?

MS. WILCOX: Yes.

MEMBER CLAVO: Okay. Thank you.

MS. WILCOX: Officers are routinely trained at

LAPD's academy and throughout their career that the distance of a knife is incredibly dangerous to them; that 22 feet is not very far. I can't remember what the timing is that they are trained on that. But it is a very short amount of time that someone can use a knife to throw at an officer or another pedestrian or civilian nearby. And 22 feet is not considered a very long distance for the purpose of an edged weapon.

MEMBER CLAVO: Thank you.

MEMBER HATCHER-CRAWFORD: I have one more question.

So I keep hearing POST training and standards training. And then I hear LAPD has their different practices that they deem is acceptable or not acceptable. And this is where we're kind of getting a little bit confused on it. I am, at least.

MS. WILCOX: Yes. I can see how that could sound confusing.

My understanding is that POST -- and correct me if I'm wrong. POST is a general basic certificate, and then they have advanced certificates, and you can move yourself further throughout both the POST system as well as your own agency.

I believe LAPD's position, if I could speak on behalf of the entire department -- which would be hard to do -- is that they have more extensive training.

They go a little bit further and they do it more often and in more specific scenarios.

So I believe they feel that they provide more and intense training than a POST certificate provides.

MEMBER HATCHER-CRAWFORD: So does a -- does the training, that you know of, align with POST training?

MS. WILCOX: Oh, absolutely.

MEMBER HATCHER-CRAWFORD: So it aligns and they do additional training?

MS. WILCOX: Yes. They follow POST to the letter, as far as I'm aware.

MEMBER HATCHER-CRAWFORD: Okay.

VICE CHAIRPERSON DOYLE: Mr. Johnson.

MEMBER JOHNSON: Yes.

I heard you speak about Graham v. Connor, which is basically a national law, to my understanding.

However, in 19 -- I'm sorry, 2019, I was part of the coalition to get AB 392 passed, which is the use of force legislation. So California State has its own use of force legislation. They removed the word "reasonable" and changed it to "necessary."

MS. WILCOX: Yes.

MEMBER JOHNSON: And so the question becomes, for us, is, was it necessary for the officers to fire as quickly as they did?

MS. WILCOX: Yes. LAPD updated their policy to include that new code section regarding "necessary," but it does still include the Graham v. Connor standard. So I would say it is similar to LAPD's training versus POST, and California is slightly more strict than the rest of the country in their officers' use of force.

The officers' statement to the force investigation division, the night of the officer-involved shooting, I believe described what they believed was reasonable and necessary on their perception.

And I believe you have the transcripts for that.

MEMBER JOHNSON: And so if I heard correctly, the officers believed that they were in danger or in imminent danger from the victim?

MS. WILCOX: Yes. They -- they took into account the totality of the circumstances. There had been prior updates, which I believe was presented to you as well, that this person had also been chasing people in the street with a knife. And the initial less-lethal round, as well as their attempts at de-escalation verbally, had been ineffective.

And based on their training and experience, someone advancing with a knife with other civilians around, having not complied and the less-lethal not being effective, both with the way that the victim turned his

body as well as the location in which the officers were, they -- the two of them -- not everyone, it seemed -- but the two of them believed that he posed an imminent threat both to themselves, their partners, and the people around them.

MEMBER JOHNSON: I guess my last question, then. In the video, it appeared that the shots were simultaneous from the nonlethal to the lethal.

And I'm not clear where the imminent threat of danger was coming from with this young man that had a knife to his own throat. Not in a rage of charging. Not in a rage of even giving the idea, in the video, that he was going to attack someone.

So anyhow, I will pin it there. But it is very concerning.

MS. WILCOX: I understand.

I think officers have a very difficult job to do, to make split-second decisions with the information that they have available to them and how they have been trained.

And in edged weapon or knife calls, where the information that the officers had was that he had been chasing people, I believe when he is walking down the steps, the knife is not up to his throat. It appears that that he did want to try and harm himself. But when

he advanced towards the officers and did not stop as requested, based on all the information that they had and the distance, which it appears that 22 feet sounds like a large distance. But my understanding for law enforcement training is that is not a large distance with a knife, and that was the reason that they felt that it was necessary.

MEMBER JOHNSON: I guess my last question, then, truthfully --

MS. WILCOX: You sound like a lawyer.

MEMBER JOHNSON: -- is that the timing between the nonlethal shooting and then the lethal shooting, it was -- it appears that there was no chance to even see if the nonlethal shooting did any damage.

MS. WILCOX: Yes. I can see how you could see it that way. The 40mm round was fired right before the first lethal round was fired. And those officers are positioned in different places on the street. And I believe the two officers who used their firearms had a different perception of what the victim was doing.

VICE CHAIRPERSON DOYLE: Crawford.

MEMBER HATCHER-CRAWFORD: So -- and I'm -- maybe this is a gander, and this is probably your thought or third-person thought.

Could you possibly explain why the coroner ruled it

as a homicide?

MS. WILCOX: I believe any of them are ruled as a homicide, and then the District Attorney's Office determines whether or not it is justifiable.

MEMBER HATCHER-CRAWFORD: So if a person is killed by an officer, it is ruled as a homicide? And then the DA goes back --

MS. WILCOX: And decides whether or not it was justified. Because it is the killing of another human being.

MEMBER HATCHER-CRAWFORD: Okay. I understand that.

MS. WILCOX: The coroner doesn't make the decision if it was --

MEMBER HATCHER-CRAWFORD: If it was a homicide or not. But based on his analysis and where he was shot, he based it on a homicide.

So I'm hearing -- I'm sorry, Legal. Can I ask legal counsel over here, POST, to kind of -- because I'm just -- that is --

MR. BEATTY: Well, I mean, I just think that we don't know. Right? So there's probably different standards applied to the determination of a homicide from a coroner's perspective.

What is material to our decision is whether or not the investigation and findings that we have heard

presented, if proved at a -- at an ALJ hearing, would be a basis for decertification.

So I think whether the corner, right, had a valid reason to determine homicide or not may or may not matter. But I think we're going to be looking more at the investigation and findings as to whether we have a basis for decertification.

And I think that's probably the clearest answer, because, otherwise, we're kind of speculating.

MEMBER HATCHER-CRAWFORD: I'm not an attorney, so that's why I had to ask.

VICE CHAIRPERSON DOYLE: Ms. Clavo, did you have a question?

MEMBER CLAVO: No. I will wait. Thank you.

VICE CHAIRPERSON DOYLE: Okay. Ms. Wilcox, I assume -- did you represent one or both in the internal investigations?

MS. WILCOX: The Force Investigation Division interviews the night of the officer-involved shooting, yes. The LAPD just uses that information in their internal investigation. They don't reinterview them.

VICE CHAIRPERSON DOYLE: Do you know if -- if that board metes out discipline, or if that goes to another level?

MS. WILCOX: If what does?

VICE CHAIRPERSON DOYLE: Well, the board said it was out of policy.

MS. WILCOX: Oh, the Use of Force Review Board, yes.

VICE CHAIRPERSON DOYLE: And one got ten days, one got five days.

MS. WILCOX: Yes.

VICE CHAIRPERSON DOYLE: Who decides that?

MS. WILCOX: It goes -- the Use of Force Review Board makes a recommendation to the chief. And then he makes a recommendation to the Board of Police Commissioners, the Civilian Oversight Committee. And then they direct the chief to create a complaint investigation. And then the chief is the one, ultimately, who decides the discipline.

VICE CHAIRPERSON DOYLE: I mean, obviously, you have more experience with LAPD than I.

But I have a hard time with the board saying the shooting was out of policy. And then another investigation said that the complaint was completely -- by the family was completely unfounded.

MS. WILCOX: I think I can explain that.

VICE CHAIRPERSON DOYLE: Please.

MS. WILCOX: I will try.

Once the Board of Police Commissioners gets the

chief's memo, which is the one you have. The chief of police wrote a memo to the Honorable Board of Police Commissioners.

Once they get that memo, they make a determination of whether or not they think any -- any complaint investigation. In this case, whether or not the use of force was within policy or out of policy. If they determine that it's out of policy, it gets sent back to LAPD and it automatically generates a complaint investigation. And that is what the chief used to determine the suspension days for these two officers.

Any time a member of the public makes a claim for damages against the City, which is what you have to do before a lawsuit is filed, that also generates an automatic complaint investigation. But they will take the words that were used.

And so without having read that complaint investigation, but hearing that it was labeled as excessive force, the department determined that it did not meet the level of excessive force, and they found it unfounded. Probably also because they had already done a complaint investigation about the use of force being out of policy, if that makes sense.

VICE CHAIRPERSON DOYLE: Yes and no. Thank you.

MS. WILCOX: I know. Believe me. I'm familiar

with the confusion at LAPD.

VICE CHAIRPERSON DOYLE: Ms. Pena.

MEMBER PENA: Do you happen to know why or has there ever been an explanation given, that you know of, as to why they did not call for the mental health unit?

MS. WILCOX: I think at -- it was not given in this particular case. But based on the other instances that I've been involved with at LAPD, in 2021, the MEU, Mental Evaluation Unit, is what they have, was not used in that format.

They are called to cases, but they will typically wait until the situation is calmed down before they will go and approach the subject or the victim in this case.

So at that time, even if they had called MEU, they would have waited until the victim was in custody before they approached to do an evaluation about what needed to be done.

They are -- "front line" is the wrong word. But they would -- you know, they sort of stand behind the officers and wait for the officers to make the situation safe. And then they would come and address the situation.

In the years since then, that has changed slightly, but not a lot.

MEMBER PENA: Thank you.

MS. WILCOX: It is not a perfect system.

VICE CHAIRPERSON DOYLE: At this time, does the Board --

MEMBER JOHNSON: Johnson. I'm sorry. Yeah. One more question, and it's for Counsel.

California law, AB 392, talked about necessary standard. Changing the reasonable standard.

We are to follow the California law, correct?

MR. BEATTY: Yes. I mean, I think that's -- we can look at both bodies of law to make an analysis on these kinds of cases. But California law is going to be the one that probably is the most guiding and that's going to be following 13510. So yes.

MEMBER JOHNSON: Thank you.

MS. WOOLLEY: And, Mr. Beatty, if I could, the Division's position as to what the legal standard here is laid out in the ISFs under the analysis section. So we do cite the recent Supreme Court case out of 2025, Barnes v. Felix, which is a unanimous opinion of the Supreme Court.

It does address that you do need to have objective, reasonable conduct, but you also need to address the totality of the circumstances in this case.

One of the things that was happening in the courts was that they were starting to drift into a moment of

threat rule. And they were looking at what was happening right before the time that the officers took action or used force.

And they reiterated that what the officers should be looking at or when you are assessing the use of force, you need to look at all of the relevant circumstances, including facts and events leading up to the climactic moment, in determining whether the peace officer acting reasonably in using force.

We also go over California law in this instance, including the language that you are speaking of, Board Member Johnson, which is Penal Code section 835, including when you are looking at somebody when you are using deadly force, which would be necessary.

So that is in the ISFs for both officers.

VICE CHAIRPERSON DOYLE: Is there anyone from the public who would like to address the Board at this time?

When it is your turn, you may state your name and organization if you wish. You will each be given three minutes to speak and the time limits will be strictly enforced. So please ensure that you complete your comments within the allotted time.

Is there anyone who would like to -- in the public who would like to address the Board?

Welcome.

MS. KITCHEN: My name is Addie Kitchen, the grandmother of Steven Taylor, who was murdered in a mental health crisis.

And again, my question is, no one called to realize that this man was in a mental health crisis before they took the action to murder this human being?

It is just unbelievable to sit here and to listen to why and how this young man was murdered. He wasn't a threat to anyone except himself. And for the officers to take it upon themselves to decide that he was a danger to anyone except himself.

So why wasn't -- there was -- should have been someone to call to help this young man. This is exactly what happened to my grandson. No one called for help for him. They called the police.

And we know, when police show up, most of the time, the person that is in stress is the one that gets murdered. And it is just so unbelievable to sit here and to listen to what is going on in our country.

I am -- I am just -- it is a lot. It is a lot to digest, to see people trying to decide whether these officers need to be decertified. As far as I can see and what I hear, they do not need to be on the street to protect and to serve human beings. That's their job. That's what we pay them for, to protect and to serve,

and that has not happened.

Thank you very much.

VICE CHAIRPERSON DOYLE: Thank you. Thank you.

Is there anyone else in the audience who would like to address the Board?

MS. B. JOHNSON: Good morning. Beatrice Johnson.

I just wanted to say that my concern as well is that there was no concern about this young man's humanity, because he was in a crisis. He was in a mental crisis.

And I'm sure that everybody on the scene was aware of that, because you are in a mental crisis if you are putting a knife up to your neck.

And the fact that once -- I think it is called the 440. Once that command was given, and then just shortly after there were gunfires of shots to a human being who was in a mental crisis.

So I feel like these officers -- this is not their job. This is not for them. And I think they should be decertified so they would not work anywhere else, especially in the state of California.

Thank you.

VICE CHAIRPERSON DOYLE: Thank you.

MS. W. JOHNSON: My name is Wanda Johnson. I'm the mother of Oscar Grant that was killed 2009 at the

Fruitvale BART station in Oakland, California.

I am really disturbed. I'm also an employee for NAMI, which is the National Alliance of Mental Illness.

And it disturbs me that this young man did not get the proper help that he needed. But instead, that the officers are taking the situation into their own hand and using deadly force when it is definitely not necessary. Sort of simply the same thing that happened to my son when he was killed, even though he did not have a mental challenge.

The officers refused to deescalate the situation where these officers who killed this young man could have deescalated the situation, but instead turned it into a deadly situation.

And there has to be something done so that people who are suffering mental crisis or not suffering mental crisis are not killed and the excuse used that the officers filled -- feared for their life.

These officers, again, he said, were about 25 feet away from this young man. So there was no need for them to shoot and kill the young man.

And as they tried or said, they applied unlethal force. They should have waited. But, yet, they fired the firearm right after the lethal -- the nonlethal force was used.

So, again, we have to start somewhere, and it needs to really start right here, where these officers who cost this young man his life be held accountable for their actions. And we can't just let this go by without not seeing and doing something about it.

The problem we allowed to occur is we allow too many officers to get away with their actions, where other officers feel that they are not going to be held accountable when they follow suit and do an act such as killing someone when it is unnecessary.

Thank you.

VICE CHAIRPERSON DOYLE: Thank you. Thank you.

MS. NANCE: Hello. My name is Arleta Nance. I'm the mother of Thomas and Tahmon Wilson. Tahmon was killed August 18, 2023, and Thomas was shot and assaulted, both from the back.

POST is training for these officers to get hired. It's a part of their training. So we all got our eyes and can see that that was not right, what they did to that man. No one was in danger of him doing anything. Like, he was stand up on the stairs. We all have eyes. We can see.

But we still have to go through all of this stuff like, oh, what they didn't do right is policy and procedure. This is so unfair to families to continue to

live in the trauma. Like, you could never say justice. It's no justice.

And the one thing that I know, everybody sitting up here that's come here to speak that's even on the DOJ's list of current cases, they are all Black and Brown people.

Whatever training they getting is not right. And something has to be done, because they are really exterminating us legally and getting away with it and going on doing it other places, to everybody else. And it is just unfair.

They need to get other races doing this training. It's something else that needs to be done with the training of these people of different race people or something. Because it is just us coming up here, saying what they did to us.

Thank you.

VICE CHAIRPERSON DOYLE: Thank you.

MS. WADE: Hello. I'm Kathryn Wade. I'm Malad Baldwin's mother from Antioch, California.

The video was very disturbing. The victim was totally in a mental health crisis. And I don't know if that city or county have the mental health services, but they should have been brought in too.

And then to see the distance from the officers and

then them -- one officer shielded behind his truck, the victim was no way a threat to him. So just to kill an innocent -- a sick person like that, it really hurts my heart.

And just -- and even to hear about the officers having other complaints and, you know, it is a problem for me and I'm very perturbed of the victims and the victims' families when things happen like this, that you go through all of this putting in complaints to departments doing their investigation. The investigations take so long.

And I'm just here watching this video the first time. And I could clearly see that these officers should have been not just suspended but should have been fired.

You know, that was very disturbing to watch that victim that far away and the officers shielded, and they just released their weapons like that.

And I'm pretty sure the training they have, they know that they were wrong. But a lot of times, these officers have gotten away with doing a lot of things in the community, and it just become a norm to them. I don't know if they got off by killing people like that.

But, you know, I know people, too, that were mentally ill patients and calls in my community, and

sometimes the officers show up and then, some instances, they will kill them. Not with guns all the time. Just choke them and kill them.

So a lot of things need to change when it comes to these officers handling these kind of calls. And that video was very disturbing. And for anyone to watch it, you can already see that the officers were wrong.

VICE CHAIRPERSON DOYLE: Thank you.

MR. BLISS: My name is Keyan Bliss.

I have been -- I'm a former commissioner for a community police review commission here in Sacramento. Sacramento City.

And to be honest, it was -- it is really hard to maintain decorum and be respectful when I see such callous disregard for the preservation of life that Officers Zavala and Quintanilla displayed on video that we saw today.

The idea that these officers had anything to fear from a man who was stumbling out of an apartment block, with a knife, from 22 to 25 feet away, and that necess- -- and that they had a right and justified reason to murder that man is patently absurd. It is outrageous.

And, honestly, like, it can't -- like, it is just breathtaking of the incompetence of that. Because there

were like -- they had them covered. We saw less-lethal equipment deployed at the same time. Why would there be any sort of, like, a protocol where you can have less-lethals deployed and pistols deployed? Why are they not calling it out? Hey, less-lethals, put out -- like, you know, put your guns away?

There are too many families that are permanently scarred, traumatized from incidents like this, where officers just look at -- like look at a person and just shoot first and ask questions later. Don't think about the consequences.

Because we all know in a society where only 1 percent of officers involved in shootings actually get prosecuted in the first place, that there will be any sort of accountability. The majority of officers know that.

I've talked to enough and I have seen enough incidents that I recognize that.

I don't believe for a minute that it is a matter of training. Because officers know how to actually deescalate situations involved. It really just depends upon whether they are white or not.

There were recent incidents just within LAPD, in April -- April of last year. Jillian Lauren fired shots at LAPD officers during a high-speed police chase. And

she was able to be apprehended unharmed. Not only that, but was charged with assault and negligent discharge of a firearm, and avoided jail time.

There was Anthony Whitsey, who, last November, shot at a police helicopter and refused to surrender, barricaded himself in a home.

Both of these people were white, and they somehow survived. But these two officers couldn't make -- bring this person alive? It is outrageous. They should -- they should not be allowed to wear the uniform, much less carry the power to kill somebody.

VICE CHAIRPERSON DOYLE: Thank you for your comments.

Anybody else from the public who like to speak?

Welcome.

MR. WILSON: Good morning, everybody.

My name is Lance Wilson, and I'm here -- I support a lot of the families that have lost loved ones to police violence.

But just to see the video was appalling to me. It was clear, as many other folks have seen -- and I have said -- that the officers were, you know, 22 to 25 feet away, barricaded behind their cars. They used a -- less-lethal weapons. Within less than a second, you know, the lethal weapons were used.

And I mean, it was clear that the man was in a mental health issue.

But, you know, just -- just hearing the other woman speak earlier that, that spoke before people gave public comment. I mean, the police are -- are investigating the police. I mean, that's the problem right there. I mean, you know, when we have these -- these issues when the police are out here committing harm and to community members, I mean, they are being investigated by their own people. So I mean, that's the problem right there.

I mean, other folks had questions, too, like, hey, how -- I think it was you, sir. You had a question about the process. About how it went up to the police commission and it comes back and the chief makes a decision. I mean, that's the problem right there.

But these officers should definitely be decertified. And, yeah, I hope that that happens today.

Thank you.

VICE CHAIRPERSON DOYLE: Thank you.

Seeing no other -- at this time, does the Board wish to adjourn into closed session for deliberation?

MEMBER LARA: Yes, please.

VICE CHAIRPERSON DOYLE: Okay. The meeting will adjourn into closed session for deliberation of both cases. The board members will now exit. And each case

will be looked at and decided individually.

(Time noted: 11:02 a.m.)

---o0o---

(Closed session held: 11:06 a.m. to 11:15 a.m.)

---o0o---

(Time noted: 11:20 a.m.)

---o0o---

VICE CHAIRPERSON DOYLE: We will reconvene in regular session and take a vote on the Board's recommendation in the matter of Case POST2311370, Jose Zavala, who at the time of events at issue in the case and is still employed by Los Angeles Police Department.

Are there any comments by the Board?

MEMBER LARA: Lara. I would like to make a motion to decertify.

VICE CHAIRPERSON DOYLE: Okay. We have a motion to decertify.

Is there a second?

MEMBER PENA: I second.

VICE CHAIRPERSON DOYLE: Ms. Pena.

Roll call.

MR. KNAPP: Thank you, Mr. Vice Chair.

Clavo.

MEMBER CLAVO: Aye.

MR. KNAPP: Clavo, aye.
Crawford.
MEMBER HATCHER-CRAWFORD: Aye.
MR. KNAPP: Crawford, aye.
Doyle.
VICE CHAIRPERSON DOYLE: Aye.
MR. KNAPP: Doyle, aye.
Johnson.
MEMBER JOHNSON: Aye.
MR. KNAPP: Johnson, aye.
Lara.
MEMBER LARA: Aye.
MR. KNAPP: Lara, aye.
And Pena.
MEMBER PENA: Aye.
MR. KNAPP: Pena, aye.
That's all in favor. Motion passes.
VICE CHAIRPERSON DOYLE: Motion passes.
Thank you.
In the matter of Case POST2311373, of Julio Quintanilla, who at the time of events in this case and is still employed by Los Angeles Police Department.
Does the Board have any comments?
MEMBER HATCHER-CRAWFORD: I move to -- I make a motion to decertify.

VICE CHAIRPERSON DOYLE: Is there a second?
MEMBER LARA: I second.
VICE CHAIRPERSON DOYLE: Lara, second.
Roll call.
MR. KNAPP: Yes. Thank you.
Clavo.
MEMBER CLAVO: Aye.
MR. KNAPP: Clavo, aye.
Crawford.
MEMBER HATCHER-CRAWFORD: Aye.
MR. KNAPP: Crawford, aye.
Doyle.
VICE CHAIRPERSON DOYLE: Aye.
MR. KNAPP: Doyle, aye.
Johnson.
MEMBER JOHNSON: Aye.
MR. KNAPP: Johnson, aye.
Lara.
MEMBER LARA: Aye.
MR. KNAPP: Lara, aye.
Pena.
MEMBER PENA: Aye.
MR. KNAPP: Pena, aye.
That's all in favor. Motion passes.
VICE CHAIRPERSON DOYLE: Thank you.

Next item is POST2507337, Matt White, last employing agency, Sacramento County Sheriff's Office, and is currently employed by Sacramento County Sheriff's Office.

At this time, I will call upon Law Enforcement Consultant Richard Collins in Professional Conduct Northern Bureau; and Bryant Henley, Attorney, Legal Affairs Bureau, to provide a report on POST2507337, Matt White, who was employed by the Sacramento County Sheriff's Office.

Mr. Collins.

MR. COLLINS: Good morning, Chair, and Members of the Board. My name is Rick Collins, and I am one of the law enforcement consultants assigned to the Professional Conduct Northern Bureau in the Peace Officer Standards Accountability Division.

With me today is Bryant Henley, an attorney in our Legal Affairs Bureau.

I am here today to present Case Number POST2507337, involving Deputy Matt White, who at the time of the incident was and still is employed by the Sacramento County Sheriff's Office.

It is the Division's determination that clear and convincing evidence exists to demonstrate that Deputy White committed an act of serious misconduct, as set

forth in Penal Code section 13510.8 on August 4th, 2024. Specifically, the Division has determined that Deputy White committed the following act of serious misconduct:

Acts that violate the law that were sufficiently egregious and/or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public.

In this presentation I will present a brief outline of the Division's findings of investigation into this matter.

Deputy White began his career with the Sacramento County Sheriff's Office on September 5th, 2004. Deputy White holds the following POST certifications: Basic, Intermediate, and Advanced.

Deputy White had three complaints during his career, dating back to 2016:

One was for discourteous treatment, which resulted in an exonerated finding.

The other two were for conduct unbecoming an officer related to his 2016 and 2024 DUI arrests.

According to Sacramento County Sheriff's Administrative Investigation Report, 2016 PSB-158, relating to the 2016 incident, Deputy White received a 160-hour suspension without pay, of which 80 hours were held in abeyance for one year.

Sacramento County Sheriff's Administrative Report Number 2024 PSB-0421, pertaining to the 2024 incident, states Deputy White received a 160-hour suspension without pay and was reassigned to a nondriving assignment in the jail facilities.

On August 4th, 2024, Deputy White was arrested by a Folsom police officer for violating California Vehicle Code sections 23152(a), driving under the influence; and 23152(b), blood alcohol content of .08 percent or greater. Deputy White's BAC measured .11 percent by volume.

On June 11, 2025, Deputy White was convicted of California Vehicle Code 23152(b), driving under the influence with a BAC of greater .08 percent.

Sergeant Hanes was assigned to conduct an administrative investigation into Deputy White's arrest and DUI. The investigation was submitted to POST subsequent its completion.

During his administrative interview concerning the August 24 incident, Deputy White told investigators he thought he was okay to drive the night of his arrest.

He said he fell short and made a mistake by having his last drink before leaving the bar. He admitted there was no reason for him to be driving that night and that his actions were not in line with department policy

or the department's vision, mission, and values. He said his actions brought discredit to the organization.

Additionally, he told investigators he started attending Alcoholics Anonymous meetings again after his arrest, in conjunction with completing an alcohol treatment program in Southern California.

POST's Professional Conduct Northern Bureau interviewed Deputy White on December 18th, 2025. The interview took place at POST headquarters. Deputy White's attorney, Joseph Hoffman, who is present today, was present for the interview in its entirety.

POST and Joseph recorded the interview.

The following is a summary of the interview and not a verbatim response to every question that was asked.

Deputy White maintains he has not had a drink of alcohol since January 12th, 2025. Since then, he has abstained from consuming alcohol. His efforts to stay sober are supported by weekly meetings with a counselor through an alcohol treatment program.

Additionally, he attends Alcoholics Anonymous meetings once a week.

His efforts are also supported by meeting with a counselor from the mandated 18-month DUI completion program, which he anticipates completing in February 2027.

During the aftermath of his second arrest, he met with fellow employees who offered support and guidance for him. Deputy White does not maintain a log pertaining to when he meets with his counselors.

At the time of his arrest in 2024, Deputy White's driver's license status was valid, without restriction.

At the time, he was working the north patrol sector as a field training officer. He is currently assigned to the Rio Cosumnes Correctional Facility. Although his driver's license is currently restricted, he has the ability to drive a county vehicle if the current administration were to sign a form acknowledging that Deputy White is required to use an ignition interlock device in his personal vehicle.

If the administration signed the form, Deputy White could drive a County vehicle if it became necessary.

On April 16th, 2016, California Highway Patrol Officer Fuhrman arrested Deputy White for violating California Vehicle Code 23152(b), driving under the influence; and 23152(b), blood alcohol content greater .08 percent. Deputy White's BAC measured .12 percent by volume.

On July 16th, 2016, Deputy White pled no contest to a misdemeanor violation of Vehicle Code section 23152(a). He was sentenced to three years' informal

probation and 48 hours of sheriff's work project.

At the time of his 2016 arrest, Deputy White was employed as a deputy sheriff.

The Sacramento County Sheriff's Office initiated an administrative investigation into Deputy White's arrest by the California Highway Patrol.

Sergeant Marcus Gregory conducted an administrative investigation. That investigation was submitted to POST subsequent to its completion.

During his administrative interview, Deputy White told the investigators he was aware that alcohol was a little bit of a problem in his life. He said he was introduced to Alcoholics Anonymous in September of 2025, where he attended meetings off and on. He continued by saying that he's been sober -- he had been sober for 45 days prior to his arrest in April 2016.

Since that arrest, he went back to AA, found a sponsor, and abstained from alcohol since the arrest. He also expressed the feeling of embarrassment he had for himself.

The facts I have just recited support the Division's finding that Deputy White was involved in serious misconduct, specifically acts that violate the law.

For the purpose of the Division's analysis, clear

and convincing evidence means evidence of a charge that is clear and convincing so long there is a high probability that the charge is true. The evidence need not establish a fact beyond a reasonable doubt.

The Division recommends that Deputy White's POST certification be suspended or revoked. The Division's recommendation is based on the following:

The clear and convincing evidence substantiated that Deputy White engaged in conduct that lead to his arrest and convictions for DUI in 2024 and 2016 respectively.

Impaired driving is illegal due to the innate dangers to drivers themselves and the public as a whole.

Under Penal Code section 13510.8(b)(6) and POST Regulation 1205(a)(6), acts that violate the law constitute serious misconduct when they are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public.

Impaired driving and repeated acts of impaired driving are acts that violate the law, that are both sufficiently egregious and repeated as to be inconsistent with Deputy White's obligation to uphold the law or respect the rights of members of the public.

As an officer charged with enforcing -- enforcing

DUI laws, Deputy White's actions and driving impaired on two occasions establish that he committed serious misconduct.

With that, I'm happy to answer -- I'm happy to answer any questions that the Board may have.

VICE CHAIRPERSON DOYLE: Does the Board have any questions or comments?

Ms. Clavo.

MEMBER CLAVO: Does he currently have an ignition interlock on his personal car? Do we know?

MR. COLLINS: Yes.

VICE CHAIRPERSON DOYLE: Okay. Ms. Pena?

MEMBER PENA: So currently, he -- what is his -- the department has -- has he under- -- been suspended? Has he served that -- that suspension yet?

MR. COLLINS: Yes.

MEMBER PENA: Okay. And so how long under the current situation that the department has imposed, how long will he remain with an interlock device?

MR. COLLINS: He will remain -- that's a good question for his attorney to answer, and his attorney is present today.

MEMBER PENA: Okay.

VICE CHAIRPERSON DOYLE: Okay.

MEMBER PENA: And he's still in AA, as far as you

know?

MR. COLLINS: As far as I know.

MEMBER PENA: Thank you.

VICE CHAIRPERSON DOYLE: Okay.

MEMBER JOHNSON: Johnson.

VICE CHAIRPERSON DOYLE: Johnson.

MEMBER JOHNSON: Yes.

Maybe a clarification. Did he say that he was off and on going to AA meetings? Did I hear that earlier?

MR. COLLINS: You did hear that. And that was prior to his 2016 arrest -- or after his 2016 arrest.

MEMBER JOHNSON: After. So he was off and on going to meetings after 2016 arrest.

MR. COLLINS: Yes.

VICE CHAIRPERSON DOYLE: Seeing no other questions, I know Deputy White is here as is his attorney, Mr. Hoffman. You will each be given five minutes to speak, and the time limits will be strictly enforced, so please ensure that you complete your comments within the allotted time.

While commenting, keep in mind, the Board will only consider the facts as presented by the Division today and will not consider any additional facts or defenses at this time.

The sole question before the Board today is the

following: If the facts offered by the Division today are, in fact, proven at a later hearing, do those acts -- do those facts demonstrate a high probability that serious misconduct, as defined in Penal Code section 13510.8 and the Commission's Regulation 1205 occurred?

Deputy White, Mr. Hoffman, welcome.

MR. HOFFMAN: Thank you. Good morning, Chair and Board. My name is Joe Hoffman.

I've been Matt White's attorney for the last two years, through his court case, administrative discipline case with the Sacramento Sheriff's Department, as well as with the -- thank you -- the DMV.

I have a few very brief comments this morning about some facts and circumstances about the case that are going to be relevant to the Board's recommendation.

A couple things of note from his 2016 and 2024 cases. We have two cases, about eight years apart.

In both instances, Matt was respectful and cooperative with law enforcement.

In both cases, his blood alcohol level was not high. It was just over the legal limit.

And in neither case was he driving at excessive speeds or in a way that we normally identify as reckless driving.

In the most instant case, he indicated he felt fine to drive. He did not intentionally drive. Again, there are instances of driving under the influence where people are so high above the level, they know they are. And, unfortunately, alcohol impairs people and they don't always know when they are impaired due to the impairment.

However, Matt recognizes that he, like many people, should not have any amount of alcohol. And Matt is going to address the proactive steps he's taken, such as a 45-day residential treatment, where he was away from his 23-year career, as well as his young family, to ensure that this never happens again. And the information is a little thin in the materials, so he will address that. He will talk about his aftercare treatment.

And, most importantly, he will talk about how this is different than the 2016 instance in the treatment that he's received.

For Matt's conduct, in the most instant case, he was demoted. He was moved to the jail for five years by the sheriff's department. He received 14 days of jail, for which he could do alternative sentencing.

He has an 18-month DUI program where he meets once a week on his Saturdays. He has an ignition interlock

device in his private vehicle. For the next year and a half, he's not driving a vehicle through work because he's working in the jail for the next five years.

I will note that Matt has no prior discipline with POST.

During his 23 years in law enforcement, he's worked as a detective. He's worked patrol. And his discipline is limited to those two incidents, eight years apart.

Presently, Matt is working in the jail and he would -- he's looking forward hopefully to the opportunity to continue to work in the jail and to redeem himself.

The Commission will review all recommendations by the Board. And, ultimately, Mr. White is hoping for an opportunity at probation and to comply with terms that are consistent with his sustained sobriety over the last year and a half.

We are requesting the recommendation include a request that the Commission consider probation;

And a recommendation that reflects that officers are human beings, with real-life problems, and it is up to the individual to take responsibility for their faults, which Matt has done;

And, ultimately, we ask for a recommendation that is -- reflects that over the last year and a half, Matt

has been made consistent commitment to his sober life.

And we believe that a recommendation would be just, that's consistent with not treating his career in law enforcement as disposable.

Thank you.

VICE CHAIRPERSON DOYLE: Deputy White.

MR. WHITE: Good morning, Board and Board Members.

Let me just start out by saying thank you for your time and consideration and also thank Investigator Rick Collins. He's been nothing but professional and courteous to me throughout this process, and you guys have a great employee with him.

I -- we are here today because of me. There's no one to blame. There's no one to fault. There is a complete, utter embarrassment of shame that I have brought to my profession. And above all, my truly loved sheriff's department. I have served the sheriff's department for 22 years, and it is, in my opinion, the greatest law enforcement agency in the United States. I absolutely love them. And to know the embarrassment that I brought to them because my own personal problems still bothers me today.

But since those problems, I have -- I have addressed these things to make sure that this will never happen again in my life.

And the craziest thing I'm going to say today is that in -- August 4th, 2024, was the best thing that ever happened to me. That's the hardest lesson I had to learn. It has led to a better life, a better sobriety of life.

And not only did I take that motivation. I made sure to admit stipulance [sic] in that. To make sure that there's a staple. And one of those big staples was, of course AA. And then I also have a sponsor right now.

But I think the biggest advocate was putting myself into a rehab down in Southern California that's directly for first responders. It is the only one in the United States. It is strictly for fire and law enforcement and dispatchers. It was a challenge to have a new family and to be away from them for 45 days. But it was to better myself and to better my life.

And I think the biggest question or the biggest answer I have, hopefully for you today, is what's the difference between 2016? And that was, I got therapy.

AA has been wonderful. I have had -- I meet with a therapist. Though I have not documented the AA meetings, I strictly have documented, every week, I have met with a -- on Zoom, with the therapist that I met with my rehab. Every week for the last year and a half,

except for two weeks, I have met with her. And that is what made my sobriety. And sobriety, to me, was admitting that 22 years in law enforcement takes a toll on people and takes a toll on your personal life. And I'm proud to say that, as you have heard, in 22 years, I don't have a sustained complaint except this.

And I -- I would like to really present, again, the value that I have, again, from 2024's arrest, that is -- probably honestly saved my marriage, saved my life, saved my relationship with my family. And it brought, above all, pride back in myself of how to address problems.

And I have been on a mission since then to redeem myself, quote/unquote, to get to work, to be the change, to be the employee that I need to be, from subjecting myself to plenty of fines and penalties, not having a driver's license.

At one point, leaning on five to seven coworkers to give me rides during the week. For almost five months, I rode a bicycle for 5 miles each way to get these rides. And been injured during this last year and a half. But I did not deter from my mission at being at the sheriff's department and being a part of that.

I think I will end with, I love my sheriff's department, and I love my profession and all that it is

giving me. And no other consequence has been more hurtful or personal to me than having my peers have to stick their neck out for me.

I think one of the biggest compliments, but, yet, slate of hurt was knowing that my department did stick up for me and said -- to this day, maybe outside of my father complimenting me at a time or two, the best compliment I ever had was from a captain who said, that "your career was saved because of your service and your reputation."

And since that, that fueled the aspiration to continue to be a change.

20 years ago -- 22 years when I started this, DUIs looked different. Law enforcement looked different. And I want to spend the remaining of my job teaching these newer employees the pitfalls of alcohol. The pitfalls, above all, of driving. The dangers of that.

And I would like to end by simply saying again thank you, and thank you to Rick Collins.

I am hoping that you will consider probation where I can continue to work and continue to be that change.

I don't think I had a cop problem. I had a drinking problem. And I believe I have taken every step possible to try to correct that.

Thank you for your time.

VICE CHAIRPERSON DOYLE: Board questions? Comments?

Ms. Clavo.

MEMBER CLAVO: I will make a comment.

I commend you on your sobriety. I commend you on sitting here and taking responsibility for the role in which you played.

I do have a problem with your attorney starting off with, "It was not high. Just over the legal limit." I have a problem with that statement, sir.

We, as citizens, are not afforded the same rights in which police officers are afforded.

And I am right down the street from RCCC. Elk Grove PD has checkpoints on Bond every other month. They just had one within two weeks ago or this last week. And if I would have gotten stopped there over the legal limit, I don't have this arena to appeal to.

So to -- for your attorney, who is representing you and to start off with an excuse, is really bad taste to me.

The alternative sentencing. So it is my understanding that for five years, you will be at RCCC?

MR. WHITE: Yes. That is correct.

MEMBER CLAVO: And that was since the conviction of July 11, 2025?

MR. WHITE: Correct.

MEMBER CLAVO: So 2030 is when you will be able to go back on duty if it -- so chose?

MR. WHITE: You know, I'm sorry. I may have miscalculated. I believe it is 2029.

MEMBER CLAVO: 2029. Okay.

And -- okay. That's all I have.

VICE CHAIRPERSON DOYLE: Ms. Pena?

MEMBER PENA: So how it -- will you -- if this board didn't exist, how would you progress in your department? Like what are you going to -- you will continue at the assignment you are at now? And when would you get your license back, etc.? I'm just curious.

MR. WHITE: Yeah. Right now I'm with -- I'm on -- I'm on DUI probation criminally. And with that comes an 18-month program. With that, I meet with counselors and also have meetings every Saturday for two to three -- two to three hours.

And to -- and is the question if this board didn't exist, what -- what --

MEMBER PENA: What would your life look like in the department going forward?

MR. WHITE: It would -- it would be remaining at the jail. They have a policy, and also which I fully

support, that if you are on DUI or probation, you would not be in field services. And I absolutely agree with that.

MEMBER PENA: And how long does the probation last?

MR. WHITE: It is 18 months.

MEMBER PENA: Okay. So after the probation, what happens?

MR. WHITE: I would still be restricted by the sheriff's department, by my discipline, until they lifted that in 2029.

MEMBER PENA: Okay.

MR. WHITE: That is my understanding.

MEMBER PENA: Okay. And the facility that you went to down South, was that a private facility?

MR. WHITE: It was. And thank you for asking that. Because it's something that I paid for myself. I paid for something that went into my own leave to be there. It is very prominent and they -- they have a stat that 94 percent of their patients have returned successfully to work.

And there was neuroscience that they did, that they had conducted, to address PTSD. That's where I fell in love with therapy. I met with a therapist that I continue to deal with. And it was nine hours a day for 45 days. I would have stayed there 90, but I had a

family and other obligations.

MEMBER PENA: What is -- what was the name of this facility?

MR. WHITE: First Responders Wellness. It is in Newport, California.

MEMBER PENA: Okay. It's interesting.

And then the -- so you continue to meet with a therapist now.

MR. WHITE: I do.

MEMBER PENA: And is it a social worker? Or is it a psychologist?

MR. WHITE: No. It's a -- it is a trauma and addiction therapist that was -- that worked for that First Responders Wellness where I met her. And she's a -- an addiction and trauma therapist.

MEMBER PENA: Okay. And then you continue to have a AA sponsor as well?

MR. WHITE: I do. I do.

MEMBER PENA: And how often do you interact with that person?

MR. WHITE: I interact with them probably every couple weeks. The biggest challenge I have, going back to the jail, is they work 12 hours, and I live over an hour commute. And with a small family, I have days of 14, 15 hours a day. And so to presently be at a

meeting, it's either been on Zoom or wherever possible.

But just because my sponsor may have interacted and there's plenty of support throughout that program, that has been very helpful to me.

MEMBER PENA: Have you worked the steps?

MR. WHITE: Yes, I have. Yes.

MEMBER PENA: All of them?

MR. WHITE: Yeah. Yeah. It was -- the tricky part was, I went through a couple sponsors to get to the end. And I think the biggest thing that I addressed earlier, from 2016, was though I'm appreciative of AA, for me personally, therapy was the biggest salute to sobriety that I have.

MEMBER PENA: Okay. Thank you.

MR. WHITE: Thank you.

VICE CHAIRPERSON DOYLE: Crawford.

MEMBER HATCHER-CRAWFORD: I have to commend you as well for being here, and it seems you are taking accountability for -- alcoholism is a disease. And I don't think a lot of people recognize it is a disease.

And due to legislations, you know, as Member Clavo stated, not many people are afforded what you are getting.

And one of the things that I really appreciated, you said, you know, on a day that you were stopped, that

was life-changing. It was a godsend. Not verbatim your words, sorry.

And in this process, you mentioned that you are going to continue, hopefully educate young officers. I do believe that the job is stressful. I, in fact, was just talking to my sheriff in Ventura County about having places of mental help for officers with DUIs.

I guess my question to you is, if this Board was to, you know, two ways. I just really hope if they decided to decertify you, would you stop? Or if they decide to put you on probation, would it still continue your -- you know, your journey of helping others?

Because a lot of times, we're seeing crimes, we're seeing in the job places in this environment. Alcoholism is real. Like I said earlier, it's a disease.

So I guess, would you still continue?

MR. WHITE: Yeah. I'm going to be very personal with you. I'm glad you asked that. Because in the process of building up for admission like this and to be in front of a board, I have made -- lack of terms -- "maken" peace with whatever decisions my superiors make.

And my motivation for probation is where I can then continue to address the employees that I have. And I know when I recognize that, if I'm not in a position of

that, I will continue to do that.

I recognize that whether you said the good Lord or -- that that was the best thing that ever happened to me, and I have some obligation to continue to be a change.

And for me, my passion has been law enforcement. And I agree with you that it is a stressful job. And I'm -- I think we should be proud of the progress that is made during this time, but there's so much more to go. And, boy, some of the challenges these younger guys have is "immenseful." Probably a little bit double than mine.

So to answer your question, absolutely. There's no way that I wouldn't.

MEMBER HATCHER-CRAWFORD: Thank you.

VICE CHAIRPERSON DOYLE: Johnson, do you have a question?

MEMBER JOHNSON: Yes. Johnson.

So I believe your attorney has stated that you weren't driving erratically. You weren't speeding. You didn't put anyone in danger.

But I believe, to our understanding and according to the law, any time you drive while intoxicated, you are violating the law and putting others at risk.

And if you had been driving perfectly, we probably

wouldn't even be discussing your name today, because you would have never been pulled over. So it was pretty obvious that you was, you know, under the influence and driving erratically.

So I just wanted to clarify that.

But under Penal Code section 13510.8(b)(6), repeated violation of the law that are inconsistent with a peace officer's duty constitutes serious misconduct.

This case meets that standard.

MR. WHITE: You bet it does.

MEMBER JOHNSON: Okay. So we're here tasked to follow the legislation based on an offense that has been repeated and egregious and has put the public at risk.

I believe today you are asking us to have some mercy, which I'm sure you are asking. But we are required to follow SB 2 legislation. And the reason why this SB 2 passed, for situations just like this: For too long, for too many years, we know alcohol has been a problem within the policing agency. And many has went to recovery, kept their job, and lived life. But that law changed that, and so we have to consider what the law says.

MR. WHITE: I'm actually thank -- and I'm actually thankful that that law has changed. And I'm thankful that you addressed that. And I do understand that.

And I think it is difficult, at some point to say, I am asking for mercy or the grace or spirit of the -- my potential, compared to what I've been.

And one of the first questions I had learning of POST in these hearings is why -- why is there a hearing? Why is there you guys? Because you are right: There's no ifs, ands, buts. I violated that twice. And for that, I guess I would say I am redeemable and would like to make a change and continue to be that change.

But I respect your opinion and your decision regardless of what that -- my personal feelings may be included in this.

MEMBER HATCHER-CRAWFORD: I just have one more comment.

VICE CHAIRPERSON DOYLE: Sure. Go ahead.

MEMBER HATCHER-CRAWFORD: We have had many come before us in this same, similar situation you are in.

And one of the things I still -- I mean, I appreciate your candor and how sincere you are about doing your job.

So I just want to leave in the spirit with you, whether they -- whatever we decide as a board, I pray that you continue and you have a calling. And if that calling is setting up a nonprofit, whatever. And maybe I'm out of line. Helping others. I hope that you do

that.

MR. WHITE: Deal.

VICE CHAIRPERSON DOYLE: Deputy White, just for clarification, during the whole process, do you believe you were treated any differently because you are a peace officer, as opposed to someone else that was not?

MR. WHITE: It -- during POST?

VICE CHAIRPERSON DOYLE: No. I mean --

MR. HOFFMAN: The arrest process?

VICE CHAIRPERSON DOYLE: No. Just, you were arrested twice and there was a comment made that somehow you were treated differently.

Do you feel you were treated differently than anyone else that would be arrested for DUI?

MR. WHITE: Oh, no. That day I showed up at work project and with my peers and my coworkers, I knew I was not being treated differently. When I sat in that holding cell for seven hours, I knew I was not treated differently.

One of the things that I wanted to add to this was not being treated differently.

But one thing that I did do differently was when I was pulled over by the Folsom police officer, he apologized to me. But I was quickly to remind him that I had put him in that situation, and I respected his

decision regardless of what happened.

And he even offered a point to have a ride pick me up at the Folsom Police Department. But that was later. My ride did show up. And it was later determined by all involved parties that, no, I would be booked in the Sacramento County jail. My jail that I worked for.

VICE CHAIRPERSON DOYLE: Okay. Thank you.

Any other comments or questions by the Board?

(No response.)

VICE CHAIRPERSON DOYLE: Thank you.

MS. DEL MUGNAIO: Mr. Doyle, may I make one comment?

I'm sorry. Did you want to say something, Bryant?

MR. HENLEY: No. You may have the same point. And I'm happy to defer to you, Assistant Executive Director.

MS. DEL MUGNAIO: It just speaks to Board Member Johnson's comment about your obligations under Senate Bill 2 and acts that violate the law.

And all of you have before you the disciplinary guidelines that were adopted by the Commission. And I would just note, page 15, acts that violate the law, establishes minimum and maximum penalties that you can consider.

Very last paragraph says, in cases where alcohol or substance use has resulted in or contributed to a

violation of law, even in some instances of repeated or egregious violations of law, a term of suspension and/or probation with optional terms and conditions relating to abstaining from alcohol and substance use and participating in regular testing may be appropriate based on the rehabilitative efforts of the subject officer and the lapse of time since the alcohol or substance use and violations of law occurred.

So, again, it is something you can consider. I just want to make sure it is on the table. There's -- again, it can be revocation. In situations where the recommendation to the Commission would be something other than that, it would be considered a revocation stay and a consideration for some sort of suspension or probation.

Thank you.

VICE CHAIRPERSON DOYLE: Ms. Pena.

MEMBER PENA: Do you get tested by the department?

MR. WHITE: I never have been tested, but I believe there is a legal process through Internal Affairs. But I'm not aware of it. I have not been tested.

MEMBER PENA: And through the court, are you tested at all?

MR. WHITE: No. I'm not actually.

MEMBER PENA: Okay. Just curious.

MR. WHITE: But I do have an active breathalyzer, which tests me every day when I drive.

MEMBER PENA: Right. Okay. Thank you.

VICE CHAIRPERSON DOYLE: Is there anyone from the public who would like to address the Board at this time?

When it is your turn, you may state your name and organization if you wish. You will each be given three minutes to speak and the time limits will be strictly enforced, so please ensure that you complete your comments before the allotted time.

Is there anyone from the public that would like to speak?

Yes.

Mr. White, you can...

MS. WHITE: Hi. Good afternoon, Board and Chair members. My name is Morgan White. I am Matt White's wife and the mother to our two young children.

I want to reiterate the work that Matt has done on himself, how proud I am of him, and the impact that this DUI has had on our lives.

It has made our lives, no matter how absurd it sounds, better. It has been better for our family. And the accountability that he has taken in the last two years, since this incident, has been incredible.

His sobriety alone has made him a whole new man.

And it has also led to my sobriety, which has led to our sober household, realizing that raising our family and showing our children that sobriety is a better lifestyle.

And has -- I'm sorry.

He has taken accountability and has made changes in his life. We have, as a unit, have made changes into our lives.

When Matt went to rehab, he was away from myself and our 1-and-a-half-year-old son for 45 days. That was a huge step for him to take, not only for himself, but for his family and for his career.

I want to emphasize that all the steps that Matt has taken since his DUI were first for himself, second for his family, and third for his career.

He is proud to be a Sacramento sheriff's deputy, and I ask that you consider the effort, the changes to his life, and the accountability that my husband has made to better our lives in your decision.

Thank you very much.

VICE CHAIRPERSON DOYLE: Thank you.

MS. WHITE: Thank you.

VICE CHAIRPERSON DOYLE: Is there anyone else who would like to address the Board? Please come forward.

MS. NANCE: Hello. My name is Arleta Nance.

I'm the mother of Tahmon Wilson and Thomas Wilson, killed by the Martinez police, August 18th, 2023.

Does POST have any -- like, in your training of officers, do you guys have where they can get tested for steroids and alcohol?

That's the question I have.

MS. DEL MUGNAIO: So that would be incumbent upon the department as part of their employment. Law enforcement agencies do have random drug testing, alcohol testing. Yeah.

MS. NANCE: I just wondered if there was a part of the training. Because you see a lot of officers look kind of juiced up and they act very erratic and talk like robots. So I know that's a part of steroid use.

So I was just wondering if it was in you guys' training.

MS. DEL MUGNAIO: Again, it's the employment side of things.

From the POST's perspective, it is part of a probationary term. Drug and alcohol or substance abuse testing is part of the probation. Yeah.

MS. NANCE: It is through whatever agency they are employed by?

MS. DEL MUGNAIO: And steroids is one of many things that can be tested, yes.

MS. NANCE: Okay. Thank you.

MS. DEL MUGNAIO: Thank you.

VICE CHAIRPERSON DOYLE: Is there anyone else who like to address the Board?

MS. B. JOHNSON: Good afternoon. Beatrice Johnson. I wrote this.

I stand before you not just as a community member, but as someone whose life has been permanently impacted by drunk driving. My sister, Dorothy Jean Dale-Chambers, and other family members were killed by DUI.

The officer also stated that the thought -- he thought he was able to drive. I want to be clear, everyone who gets behind the wheel after drinking says that. That belief is not unique. It is not a defense. It is the very mindset that leads to tragedy over and over again.

So when I hear this officer say, "I don't have a cop problem, I have a drinking problem," it does not sit well with me. It raises serious concerns.

The statement attempts to separate identity from responsibility. But the reality is you cannot separate the two when you are sworn to protect the public.

By calling a drinking problem -- the officer is calling it a drinking problem, the officer is reframing

the issue in a way that reduces accountability. It shifts focus away from what this actually is: An abuse of authority, poor judgment while entrusted with power and a direct risk to public safety.

Being intoxicated while in a position of authority is not just a personal issue. It is a policing problem. It affects judgment. It affects decision-making. It affects how force is used. And it damages public trust.

Alcohol does not excuse behavior, especially for someone who carries a badge and has the responsibility to protect lives.

There's also a underlying message in that statement that cannot be ignored. An implication of "I'm not like those people. I just had an issue."

But from where I stand, as someone who has buried loved ones because of decisions made under the influence, there is no separation like that.

The consequences are real. The harm is real. The loss is permanent. And a drinking problem does not make this less serious. It makes it more dangerous. Because when someone with authority makes impaired decisions, the risk to the public is even greater.

This is not just about one officer. This is about the standards we are willing to uphold. Accountability must be clear. The line must be firm. And public

safety must come first.

And I just want to say that officers are not above the law. If it seemed like he got a lesson, I think he would be better as a civilian working in the police department, helping officers so they don't drink. But I really just feel like that officers are not above the law. And we have to stop now with allowing them to do that; be above the law.

VICE CHAIRPERSON DOYLE: Thank you.

Any other comments from the public?

(No response.)

VICE CHAIRPERSON DOYLE: Seeing none, at this time, does the Board wish to adjourn into private deliberations?

(Yeses.)

VICE CHAIRPERSON DOYLE: Okay. We will adjourn into closed session for deliberations on the case, and we will be back as soon as we're done.

Thanks.

(Time noted: 12:06 p.m.)

---o0o---

(Closed session held: 12:45 p.m. to 1:15 p.m.)

---o0o---

(Time noted: 1:21 p.m.)

---o0o---

VICE CHAIRPERSON DOYLE: We are back on the record of POST case 2507337, Deputy Matt White, who at the time of events at issue in this case was and still is employed by the Sacramento County Sheriff's Department.

And do the board members have comments before we take a vote?

Ms. Pena.

MEMBER PENA: Yes. Thank you, Mr. Chair.

I just want to say, I think this is maybe the first DUI case that we have considered that I do not plan to vote on revocation. And I want to say the reason for that, because I do think DUIs are very, very serious, particularly for police officers.

But in this instance, the thing that distinguishes it from the other cases that have come before us is the officer has shown remorse and taken accountability from the get-go. From the moment that he was pulled over by the officer, he didn't blame it on somebody else. He didn't try to make excuses. He took responsibility for it.

And since that time, he's on the -- on the 2024 stop, I think it was, he has taken responsibility. Has sought out and received -- gone to a rehabilitation class down in Southern California for 45 days at his own

expense. He attends AA meetings, and I hope he continues to attend AA meetings. He's worked the steps. He has a sponsor. He does regular therapy, which I think is fabulous. I think everybody should be in therapy.

And so for these reasons -- and he has not made excuses about, "Well, I've been under stress because of this or that."

DUIs and alcoholism is a very personal thing, and nobody can help you but yourself. And he has taken it upon himself to take responsibility and is doing everything in his power to make sure that it doesn't happen again.

And so for those reasons, that's why my vote will not be for revocation.

Thank you.

VICE CHAIRPERSON DOYLE: Crawford.

MEMBER HATCHER-CRAWFORD: I would like to say that as well as my Board Member Margaret said, DUIs are something that is very serious. And just as a public and as the community, we expect the same thing from our officers as they expect from us.

But there are some times but, you know, that we are compelled by looking at other facts and making our decisions that we make.

And so I hope, if anything, the officers learn from this officer, this is not something that will be continually acceptable in the minds of the community of -- of how we want our officers. Because they stand at a higher standard than most.

And I will always argue that -- make it equal and fair, but this officer did show some things we hadn't seen in the past.

So I will also be taking that in mind when we vote.

VICE CHAIRPERSON DOYLE: Mr. Lara.

MEMBER LARA: I have no comment.

VICE CHAIRPERSON DOYLE: Ms. Clavo.

MEMBER CLAVO: This is a very difficult decision for me today. As I have said in our DUI cases in the past, I am hard-pressed for DUIs. And I really don't care what your profession or who you are. DUIs lead to tragedies. Tragedies lead to deaths.

I do still commend you. And as I believe Ms. Pena and -- stated, I did feel your remorse. I did believe you. I do believe that you did mean well in your progression of your sobriety.

So we'll see.

VICE CHAIRPERSON DOYLE: Mr. Johnson.

MEMBER JOHNSON: Yes.

Well, this case meets SB 2 standard because it

involves unlawful conduct that demonstrates a pattern inconsistent with the judgment and responsibilities required of a police officer.

This is not a single lapse of judgment. It is a repeated decision to engage in dangerous, unlawful conduct that put the public at risk. An officer who twice chooses to drive impaired has demonstrated a willingness to place the public in danger.

I am, of course, hard-pressed when it comes to a repeated act of violating the law, and, at some point, feel we have to take a stance and the position of what accountability truly looks like.

And I will pin my comment there.

VICE CHAIRPERSON DOYLE: Okay. I'm prepared to make a motion.

I propose a three-month suspension stayed, provided Deputy Matt White agrees to participant in a probation program determined by POST staff.

Is there a second?

MEMBER LARA: I will second the motion.

VICE CHAIRPERSON DOYLE: We have a motion and is a second.

Take the roll.

MR. KNAPP: Clavo.

MEMBER CLAVO: I'm sorry. I didn't hear my name.

I'm going to abstain.
MR. KNAPP: Clavo, abstention.
Crawford.
MEMBER HATCHER-CRAWFORD: Aye.
MR. KNAPP: Crawford, aye.
Doyle.
VICE CHAIRPERSON DOYLE: Aye.
MR. KNAPP: Doyle, aye.
Johnson.
MEMBER JOHNSON: Nay.
MR. KNAPP: Johnson, nay.
Lara.
MEMBER LARA: Aye.
MR. KNAPP: Lara, aye.
And Pena.
MEMBER PENA: Aye.
MR. KNAPP: Pena, aye.
That's four in favor.
VICE CHAIRPERSON DOYLE: Motion passes.
MR. HENLEY: Mr. Vice Chair?
VICE CHAIRPERSON DOYLE: Yes.
MR. HENLEY: If I may, for a point of clarification --
VICE CHAIRPERSON DOYLE: Sure.
MR. HENLEY: -- just for the record for the

Commission, in terms of this recommendation, so I understand that the motion was three months of suspension stayed, subject to a period of probation. How long would the period of probation go for? Just so the Commission can be aware of the recommendation.

VICE CHAIRPERSON DOYLE: I don't think we talked about a time. We knew that there has been a program established by the POST Commission.

MR. HENLEY: And without any -- not leaning either way.

VICE CHAIRPERSON DOYLE: Sure.

MR. HENLEY: But my understanding, in prior cases, that the Commission has had where they have done a revocation stayed. And obviously, we're doing things differently here. This board is doing things differently. But the period of probation has been for five years. But that isn't necessarily what this board would need to recommend.

But by way of -- just for context, in other cases, I believe five years has been the period of probation.

And I will just check with our Assistant Executive Director, Ms. Del Mugnaio. A five-year period of probation, is that consistent with what we have seen the Commission provide in prior DUI cases, double DUI cases?

MS. DEL MUGNAIO: It is. I think that's more of a

standard. It can range from, obviously, anywhere from three years to ten years.

But what we have seen most often in our DUI cases is a period of five years of probation, with standards terms and conditions, including substance abuse monitoring, sometimes counseling, and other what we call standard terms and conditions. They have to obey all laws.

They cannot -- they can't drink at all. It is not just while on duty. So it is complete abstention from alcohol. And our substance testing protocol is not limited to certain days of the week. So they can be tested seven days a week, while on vacation, while off-duty, etc.

MR. HENLEY: And Mr. Vice Chair, sorry. Last comment, if I may.

As this board is aware, and as Ms. Del Mugnaio made clear earlier today, the Commission recently adopted disciplinary guidelines. Those guidelines include the so-called standard terms and conditions that Ms. Del Mugnaio made a reference to.

Those terms go from numbers 1 through 15. And then there are a number of optional terms and conditions, which are -- they start at number 16 and go through 25.

So depending upon this board's will, they could

select among the standard, as well as the optional terms if they wanted to, in the recommendation; or perhaps this board wishes to abstain from those types of recommendations.

But I wanted, for context, to make clear that those guidelines exist and are available to this board should they wish to select the terms and conditions of probation.

VICE CHAIRPERSON DOYLE: I think when we discussed this, it was intended to leave it up to POST staff to determine the length of the suspension.

MR. HENLEY: Thank you, Mr. Vice Chair. I appreciate that.

VICE CHAIRPERSON DOYLE: Okay. We'll move on. All right.

MS. DEL MUGNAIO: Thank you.

VICE CHAIRPERSON DOYLE: Okay. Thank you.

Next up is POST2322062, Hector Victorio. Last employing agency was San Bernardino Police Department. And I think he's still employed as a community service officer.

At this time, I will call upon Consultant Michael Marshall, Professional Conduct Southern Bureau, and Carrie Woolley, Attorney, Legal Affairs Bureau, to provide a report on POST2322062, Hector Victorio, who at

the time of the events issued in the case was and still is employed by San Bernardino Police Department.

Okay.

MR. MARSHALL: Good afternoon, Chair, Members of the Board. My name is Michael Marshall. I am a law enforcement consultant assigned to the Professional Conduct Southern Bureau and the Peace Officer Standard Accountability Division. With me today is Carrie Woolley, an attorney with our Legal Affairs Bureau.

I am here today to present POST number -- sorry. Case number POST2322062 involving Hector Victorio with the San Bernardino Police Department.

It's the Division's determination that clear and convincing evidence exists to demonstrate that Hector Victorio committed an act of serious misconduct as set forth in Penal Code section 13510.8 on November 27th, 2023.

Specifically, the Division has determined that Hector Victorio committed the following act of serious misconduct: Physical abuse to include excessive or unreasonable use of force.

In this presentation, I will present a brief outline of the Division's findings of investigation in this matter.

Hector Victorio began his career with the San

Bernardino Police Department on September 16th, 2021, as a trainee.

On March 14th, 2022, he was sworn in as a peace officer. The position is defined as a peace officer under Penal Code section 830.1(a).

On November 5th, 2025, Hector Victorio was demoted to the position of community service officer.

Hector Victorio holds the following POST certification: POST Basic Certificate, which was issued March 22nd, 2023.

The respondent has not been the subject of any other Internal Affairs investigations regarding the use of force, nor does he have any prior history of allegations of unreasonable use of force being filed against him.

However, on February 22nd, 2024, the San Bernardino Police Department received a complaint from the San Bernardino District Attorney's Office about an incident that occurred on October 28th, 2023, concerning Officer Victorio's discourteous treatment of an arrestee during a burglary investigation.

In addition, in May 2025, the San Bernardino Police Department received a complaint that was submitted by mistake to the San Bernardino Sheriff's Department about a vehicle stop and a residential search that occurred on

April 28th, 2025.

As a result of these incidents, Officer Victorio agreed to a demotion to a nonpeace officer position as a community service officer on November 5th, 2025.

California Penal Code 13510.8(b)(3) and California Regulation 1205(A)(3) defines as "serious misconduct" physical abuse, including but not limited to the excessive or unreasonable use of force.

On November 27th, 2023, San Bernardino Police Department Officer Hector Victorio and his partner were assigned a two-man proactive patrol in a marked unit in the City of San Bernardino.

Officer Victorio was the driver while his partner was the front passenger. Officer Victorio attempted a traffic stop on a Kia without a front license plate. The vehicle failed to yield and a pursuit was initiated.

The pursuit lasted in excess of six minutes and reached speeds of over a hundred miles per hour, passed through a school zone, crossed into oncoming traffic, and went through intersections without yielding the right of way. The pursuit ended with the Kia crashed into a utility pole.

The suspect driving the stolen vehicle -- hereafter referred as to "victim" -- immediately exited the vehicle and laid face down on the ground with his arms

above his head, palms down, on the ground in the prone position.

The victim had a cell phone and a cash bill in his right hand.

Show a picture.

So here is a picture from body-worn camera as Officer Victorio approached.

Officer Victorio ran towards the victim while yelling, quote, "Get the fuck on the ground," end quote.

The victim responded, quote, "I'm on the ground. I'm on the ground, bro. I'm not resisting," end quote.

As Officer Victorio approached the victim, he immediately began striking the victim in the head with multiple knee strikes, after only telling the victim to, quote, "Get the fuck on the ground," end quote.

On 3/24/2026, the San Bernardino Police Department submitted -- submitted additional evidence, which included a video of a sergeant's administrative interview with the victim shortly after his arrest.

The victim told the sergeant, quote, "I got out of the car and I instantly got on the ground. I knew that I was running from the police and I knew that I crashed into a pole. And I -- the next step was to get on the ground and they -- I -- I got on the ground, and the first thing they did was come up and knee me."

This statement from the victim was never documented in the IA. The statement is consistent with the initial reaction by the victim when approached by Officer Victorio. The victim is heard grunting in pain and moved his hands from the ground above his head to protect his face.

Officer Victorio followed the knee strikes with multiple punches and more knee strikes to the back -- to the back of the victim's head and neck.

Officer Victorio's partner was on the victim's back trying to gain control of the victim's hands in order to apply handcuffs.

The victim keep moving -- kept moving his hands to protect his face from being struck by Officer Victorio.

The entire encounter lasted approximately 19 seconds from the time Officer Victorio reached the victim until Officer Victorio's partner was able to apply handcuffs.

During this time, Officer Victorio delivered at least six punches and at least six knee strikes to the victim's face, head, and neck.

One of the knee strikes was delivered to the victim's face while Officer Victorio placed his hands on the victim's head to pin it to the ground.

At one point during the encounter, Officer

Victorio's partner used his hand to block a punch from Officer Victorio and then moved his body as a shield between Officer Victorio and the victim.

The assault ended as the supervisor arrived on scene, and they were able to take the victim into custody.

There were two different videos of the incident: One video was Officer Victorio's body camera; and the second video was a witness filing from a cell phone.

On the body-worn camera, you can hear the officer and his partner telling the victim to stop, give me your hands, and quit resisting multiple times.

The victim responded by saying, "I'm done and I'm sorry."

Go to the next. We'll show the first video.

MS. DEL MUGNAIO: Just before we show the video, Mr. Marshall, if you will, just as a general caution, you may be seeing things here that are disturbing, sensitive, violent. Just cautionary if you do not care to watch.

Thank you.

(Video played.)

MR. MARSHALL: So that's the video from the body camera.

The next video will be from the witness's cell

phone.

(Video played.)

MR. MARSHALL: So the last video is going to be this video zoomed in a little bit.

(Video played.)

MR. MARSHALL: Before I move on, if anyone needed to see a video again, let us know.

(No response.)

MR. MARSHALL: The victim sustained a close fracture to his left orbital socket, confusions to the left side of his face and forehead, lacerations to his lips, abrasions to the right side of his face, and a few chipped teeth.

Pictures.

The left orbital eye.

Next picture: Abrasion to the right side of his face and his lips.

Last picture: The chipped teeth.

I also learned from additional videos, submitted late, that the victim was questioned about the airbag being deployed during the accident, damaging his face.

The victim said that the airbag did not hit his face because he saw he was going to hit a pole in front of him and he braced for impact. This statement was also not included in the IA.

The San Bernardino Police Department determined, at the conclusion of the administrative interview, that Officer Victorio's use of force violated policy section 300.3, use of force.

Officer Victorio received a 40-hour suspension with 20 hours held in abeyance, upon completion of 40 hours of de-escalation techniques and use of force training within one year of the date of the signed settlement agreement, which was completed.

On January 17th, 2024, the San Bernardino District Attorney's Office declined to prosecute Officer Victorio for violation of Penal Code section 149 due to lack of sufficient evidence to prove beyond a reasonable doubt.

On July 2nd, 2024, the victim signed a settlement agreement with the City of San Bernardino in the amount of $450,000.

The settlement agreement compensated the victim for injuries he sustained during the November 27th, 2023, incident.

The facts I just recited support the Division's findings that Hector Victorio was involved in serious misconduct, specifically physical abuse. For purpose of the Division's analysis, clear and convincing evidence means evidence of a charge is clear and convincing so long as there is a high probability that the charge is

true. The evidence not need -- need not be established a fact beyond a reasonable doubt.

The Division's recommendation is that Hector Victorio's POST certificate be revoked or suspended. The Division's recommendation is based on the following:

Officer Victorio's actions constituted physical abuse when he used excessive force against a victim who was lying flat on the ground, surrendering, striking him at least six times with a closed fist and at least six times with his knee;

Officer Victorio justified his use of force by stating that the victim was resisting arrest;

The subject sustained abrasions to his face, chipped teeth, and a broken orbital eye socket during the incident.

Officer Victorio completed his field training program approximately 14 months prior to the incident.

Officer Victorio has been the subject of two other IAs, neither which involved the use of force and were not reported to POST, including the allegations of serious misconduct.

The Division believes an aggregating factor in this investigation is approximately one month prior to the use of force incident, on October 28th, 2023, Officer Victoria was heard on a body camera, telling another

victim who ran from him, quote, "You are so fucking lucky there's people here. I would beat the fuck out of you for taking away from me," end quote.

And can we play that video, please.

(Video played.)

MR. MARSHALL: Did anyone need to hear it again? Are we good to move?

(No response.)

MR. MARSHALL: During that incident, Officer Victorio threw away the victim's backpack instead of booking it into safekeeping. Inside the backpack was the victim's personal property, two cell phones, suspected drugs, along with headphones in a box matching that of what was stolen during the commercial burglary.

The backpack could have potentially contained physical evidence in the incident, but Officer Victorio chose to discard the personal property of the victim and not properly investigate the headphones or determine whether it was related to a commercial burglary.

One month later, a victim ran from Officer Victorio, and Officer Victorio began punching and kneeing the victim as he lay flat on the ground, which led us to where we are today.

Approximately one year and five months after the use of force incident, on April 28th, 2025, Officer

Victorio conducted a lawful traffic stop. During this traffic stop, it was determined that the driver had a suspended driver's license and she had previous firearms-related offenses.

Officer Victorio searched the vehicle and told the driver he would not tow or -- tow her vehicle or arrest her if she let him search her house. The driver advised she had ammunition in a drawer in the bedroom. The driver gave permission to search the house but was left handcuffed in the back of the patrol vehicle while the house was searched.

Officer Victoria recovered the ammunition from the house. The driver later filed a complaint against Officer Victorio, at which time the department learned the ammunition was never booked into evidence.

During the administrative investigation, Officer Victorio informed the agency that the bullets were in his beat bag, and he booked them into evidence.

Based on these incidents, Officer Victorio was demoted to a community service officer, pursuant to a settlement agreement, following the misconduct investigation involving violations of policy.

With that, I'm happy to answer questions the Board may have.

VICE CHAIRPERSON DOYLE: Board Members?

(No response.)

VICE CHAIRPERSON DOYLE: Seeing none, I believe deputy -- or excuse me, Officer Victorio and his attorney, Kasey Castillo are here.

Please come forward. You will each be given five minutes to speak, and the time limits will be strictly enforced, so please ensure you complete your comments within the allotted time.

While commencing, keep in mind that the Board will only consider the facts as presented by the Division today and not consider any additional facts or defenses at this time.

The sole question before the Board today is the following: If the facts offered by the Division today are, in fact, proven at a later hearing, do those facts demonstrate high probability that serious misconduct, as defined in Penal Code section 13510.8 and Commission Regulation 1205 occurred?

Welcome.

MR. VICTORIO: Good afternoon, Members of the Board. My name is Hector Victorio of the San Bernardino Police Department.

I have dedicated four years of service, public service, in the state of California. I am currently working in the role as a community service officer and

recently was assigned as a training officer for new community service officers as I await the outcome of this process.

Before joining the police department, I served seven years in the United States Marine Corps and deployed four times overseas, and then got discharged with an honorable discharge.

During my police tenure, I have served in patrol operations, the SWAT team, and as a district resource officer for the City of San Bernardino.

During my career, I have received commendations for good police work, including recovering more than 30 illegal firearms in just three months.

But it is important for me that you know that I realize and feel that my good deeds and hard work are overshadowed and diminished when my behavior doesn't meet the high standards of excellence the community and the profession deserves.

Regarding the matter currently under review, I want to provide professional context based on the training I received during the academy and now my agency as well as throughout my career. I understood that my responsibilities prioritize safety and respond appropriately to what I perceived at the time.

The situation was rapidly evolving, and I was

required to make a decision based on the facts as I perceived them at the time. At the time I believed I was working too quickly and efficiently to effect an arrest.

The internal review of this -- of this matter by my department led to the disciplinary action in form of a suspension, which I accepted without objection.

I also have undergone 40 hours of de-escalation training.

After reflecting on the use of force incident, along with additional training I have received, I realize I could have reacted differently, communicated more clearly with my partner, and slowed down the situation.

I understand the seriousness of the allegations as I respect the Board's duty to maintain the standards of our profession. I accept and understand that my force was deemed unreasonable on this day. I will perform better in the future and I have -- and I have performed better since then.

Being a police officer is more than a job. It is my career, my commitment to the community. I have matured as person and as an officer since that day almost three years ago.

I am not the same person or one-year police officer

in the matter before you -- before your consideration. I have continued my education and I am currently attending the DeVry University in Ontario, California. I currently hold a 4.0 GPA, made it on to the Dean's List, and was nominated for the National Society for Leadership and Success. I graduate with my associate's in Applied Sciences in July, God willing.

Because of this incident and the additional training I have received, I have learned to approach these high-stress situations a lot better. I have done this by slowing down, analyzing the situation as best as possible, with the limited information that I have at the time and allowing ample time for resources to arrive.

Since this event, I have spent an additional two years on patrol and was put in similar situations, if not worse, and was able to resolve the situation with little or no -- little to no force at all. And that is something that I am proud of.

I commit to serving not only my community itself, but internally as a role model and an example to other officers and my peers. Self-reflection and review can be a humbling experience and one I am grateful for.

Thank you for your time and the opportunity to speak to you today. I believe I can always do better to

improve. I am strongly committed to continuing to serve with the high standards expected of a California police officer.

Thank you.

VICE CHAIRPERSON DOYLE: Ms. Castillo.

MS. CASTILLO: Thank you. Good afternoon, Members of the Board. My name is Kasey Castillo of KC Law Group. We represent Officer Victorio and oppose the recommendation to move formal proceedings for decertification.

Here, moving this matter forward would be premature for an individual without a history of force-related incidents before or after the matter for your consideration.

I believe that the legal standard of clear and convincing evidence has not been met. Decertification requires clear and convincing evidence of serious misconduct, and that is a high bar. In excessive force cases, the question is whether the force was objectively reasonable under the totality of the circumstances, not whether it appears unfavorable in hindsight or in a slowed-down replay.

The record before you does not rise to the level of clear and convincing evidence proof required to justify the most severe consequence POST can impose. I believe

that the force should be assessed and not in a vacuum.

At the time of the incident, this officer had one year and three months on the job, and his subjective perception, where he prioritized a swift and efficient outcome, reflected the level of training, experience, and judgment he had at that stage of his career.

To the extent the recommendation relies on a zero to 6030 -- or 60 theory, suggesting that the officer should have escalated more slowly or chosen a different sequence of options, that framing improperly demands perfection in a split-second, high-stress encounter.

The suspect had engaged in a dangerous and reckless six-minute pursuit, often in opposite lanes of traffic during a school day. The vehicle was stolen. The suspect only stopped when he crashed into a pole, and, even then, he exited the vehicle without being directed to.

Officer Victorio admittedly did not recognize that the suspect was in the process of surrendering.

At that time, he believed his actions were appropriate to gain and maintain control, protect the officer and others, and safely resolve that situation.

The objective reasonableness standard does not require absolute perfection or best option in hindsight. SB 2 does not authorize moving toward decertification

simply because a use of force is criticized after the fact. It requires that that showing was unreasonable under the circumstances at the time.

And while Officer Victorio believed there was a blunt object in the suspect's hand, his partner additionally joined him and had to assist in the handcuffing. Admittedly, their communication could have been better.

Officer Victorio continued commands and personal weapons for strikes when he was unable to secure the suspect. And although it was perceived by the investigator that Officer Rodriguez was using his hands and body to block, Officer Rodriguez denied that was the case.

The San Bernardino County District Attorney's Office thoroughly reviewed this matter and determined that no criminal filing was appropriate. His agency determined that improper tactics and inexperience led to this unreasonable use of force, and he was suspended and sent to 40 hours of de-escalation training.

The findings note a statement attributed to Officer Victorio in an unrelated non-use-of-force incident, which occurred a month before the events at issue but resolved after this case.

De-escalation training was subsequently received by

Officer Victorio. Similarly referenced was another policy violation, which was also not one related to force, but searching months after the matter at hand.

Officer Victorio put himself through additional search and seizure training at his own expense. These instances should not be used to bolster these proceedings and justify movement to formal proceedings.

Decertification is not the only option. Hector Victorio told investigators that as he acted, he believed his force was reasonable at the time. But he has also readily accepted and embraced discipline without protest, as well as training -- both issued and self-sponsored -- to correct behavior deemed inappropriate.

His missteps took place within a six-month snapshot of his career, when he had just over a little of a year on the job.

Before you is an individual willing to learn, adjust, and perform to the highest standards. Please refer to the almost 20 letters of public comment from members of his department: Specifically a captain, two lieutenants, four sergeants, and multiple peers who attest to his witnessed growth as an officer and as a person since the event before you.

They have seen him absolutely humbled but continue

to believe in him as a contributing sworn peace officer. And he is endeavoring every day to prove that he is deserving of that title.

For these reasons, we respectfully request that the Board find there are no grounds for further action, decline to move forward toward formal proceedings, and close this matter.

The Board has a high bar to meet and satisfy to reach clear and convincing evidence, even in an unreasonable use of force case, and it has not been met. And should the Board determine that action is appropriate, please consider an alternative to revocation.

Thank you.

VICE CHAIRPERSON DOYLE: Okay. Thank you.

Does the Board have any questions of Ms. Castillo or Officer Victorio?

MEMBER CLAVO: You were an officer for four years?

MR. VICTORIO: No, ma'am. I served a total of four years for the department. I received my demotion back in November of last year.

MEMBER CLAVO: November of 2025.

MR. VICTORIO: Yes, ma'am.

MEMBER CLAVO: And so your actual -- how long were you actually an officer?

MR. VICTORIO: I would say approximately three years.

MEMBER CLAVO: And then at the time of the incident, it was three years?

MR. VICTORIO: At the time of the incident, I was just over a year. A year and three months, around there.

MEMBER CLAVO: And then -- I'm not for sure. But maybe -- so I'm going to ask for clarity.

I heard, since the event, there were similar situations in which you acted differently.

MR. VICTORIO: Yes, ma'am.

MEMBER CLAVO: Was that in the capacity of a CSO?

MR. VICTORIO: No, ma'am. So after the incident, I was assigned to the records department for approximately five months, which is behind a desk, doing all the administrative paperwork for the department. And then after that I was allowed to go back into the field. So I was probably back in the field for about a year and a half before getting demoted to a CSO.

MEMBER CLAVO: Okay. Thank you.

MR. VICTORIO: Yes, ma'am.

VICE CHAIRPERSON DOYLE: Mr. Lara.

MEMBER LARA: Yeah. I got a couple of questions.

So although your attorney says that the other

incident that took place prior to the matter that is at hand before us is not illustrative of your behavior and your patterns of conduct, I wanted to point something out.

The argument is made that you -- during the vehicle pursuit, rapidly unfolding and driving against traffic, stolen vehicle, that that is a critical incident that is very dynamic. And I -- having been in pursuits, I understand that.

However, the other incident, which your counsel makes the argument that it is unrelated, that is an incident where the incident is not rapidly unfolding. The suspect is essentially already in custody, is completely -- from all appearances -- compliant.

And in a clear head, because it is, to your attorney's estimation, not a rapidly unfolding event, you make this statement, "You are so fucking lucky that there are people here. Otherwise, I would beat the fuck out of you."

How do you, in a situation, where there's no criticality or exigency in that moment, which is comparable to the stolen vehicle that is at issue here, how do you swear that as not being relevant to your -- to our decision here?

MS. CASTILLO: Is that question for me or for

Officer Victorio?

MEMBER LARA: Yes.

MS. CASTILLO: For me?

MEMBER LARA: Both of you.

MS. CASTILLO: Oh, for me. Oh, well, I will start. Thank you for your question.

I believe that it's important to note that that statement was made, and the record reflects from the Internal Affairs incident, that was used to essentially dissuade that individual from making movements that would cause a use of force.

Admittedly, Officer Victorio, in that interview, explained his behavior but also explained the rationale behind that.

Subsequent to that statement, as well as the incident before you, he received de-escalation training, and since then, he utilized those tools to better himself in the field and not make those mistakes again.

MR. VICTORIO: Yes, sir. So there's no excuse as to what I said that day, on that time.

Prior to that, he did have -- he had fled from me. He was -- he ended up being the suspect in a commercial burglary. Again, that doesn't -- that's not an excuse for my actions. I understand now, and like I did then, that that was wrong, which is why I accepted the

discipline.

And like Kasey said, ever since then, you know, all I can do is better myself and be the best version of myself. And I think that's what I have strived to become.

MS. WOOLLEY: Vice Chair, if I may --

VICE CHAIRPERSON DOYLE: Sure.

MS. WOOLLEY: -- address some comments that were just made. I need to correct the record.

Actually, the statements that were made in October of 2023, they were not found to be made to dissuade that arrestee from taking off further. That's incorrect. That's an incorrect statement of the record.

MS. CASTILLO: My statement was what his explanation was in the interview.

MS. WOOLLEY: That's not my understanding of the record, but it is part of the exhibits.

VICE CHAIRPERSON DOYLE: Crawford.

MEMBER HATCHER-CRAWFORD: So I -- to reiterate the purpose of SB 2 and I'm sure you have read the law and understand the law. And I think, while emotionally during the chase, things escalate and things happen.

But just as -- is it okay if I call you Captain? --

MEMBER LARA: Charles.

MEMBER HATCHER-CRAWFORD: -- Charles stated in

another incident, where it wasn't the adrenaline of the chase, the victim, in this case, was handcuffed. He then went on to make a statement.

Again, I'm not an attorney. But we kind of learn that those type of statements can be used in a court of law as a threat and to -- to downplay it as, I just wanted him to understand not to even try to run.

I'm a community member, and as a community member, hearing that was disturbing because that's my expectation of an officer.

So given that you went through the training, you learned to change some things, I just -- my question to you -- and now I'm speaking to the attorney -- is -- and belief -- do you believe that that statement -- because you are an attorney and you have learned those type of statements can be sometimes criminal in a torts law or in some type of law when you make a threat towards a person. That it's considered...

MS. CASTILLO: I didn't mean to interrupt you. I apologize.

MEMBER HATCHER-CRAWFORD: No, no, no.

MS. CASTILLO: I don't believe that was an unconditional threat. I don't believe that that rose to the level of what would be considered a criminal threat under Penal Code section 422.

And, again, the purpose in, I believe it being presented, but as well as us addressing it at this time, is to show that Officer Victorio, as a young, immature cop, when one year into his career made mistakes, those which are obviously serious in nature, but, nonetheless, ones that he has grown from and has received training subsequent to.

I -- I personally believe that Officer Victorio is absolutely not the same person that I met three years ago. And I have seen how the discipline and the additional training and the fact of his demotion has changed the person he is.

I do not believe that while serious revocation is appropriate in this matter because this is someone who is capable of remediation.

MEMBER HATCHER-CRAWFORD: I guess for me -- like I say, as a community member -- this is what people see. And children see this. And I don't know your background, your upbringing, at any time -- and I hope POST is not training officers or the academies are training officers to believe, at any time, that that type of behavior would be acceptable.

And so I -- I did read the whole report. And I know this is a question, but I don't see where the difference of how much change could probably be in the

training.

So you talked about the training. What exactly -- what type of training could change what his belief of what an officer should do a year ago versus now and moving forward? What type of training are we talking about?

MS. CASTILLO: Sure. Hector, can you discuss your de-escalation training? And then, additionally, you had touched on the fact that you had since been confronted with other situations or similar situations and you had made alternative choices.

Can you elaborate on that?

MR. VICTORIO: Yes, ma'am.

So I attended multiple classes. The first one being an eight-hour force science decision-making course. And it talks about the science behind how fast you can perceive something; how fast you can react after you perceive what's going on; you know, the fight or flight mentality; different options to utilize other than, you know, your -- you are then forced, right? You can use your words -- we use our words to try to de-escalate the situation. And then, you know, it preaches on utilizing your tools, whether that's a taser, a baton, or, you know, a less -- any other less lethal pepper spray. And then utilizing, you know, the

appropriate amount of force for the situation.

But it also goes into -- for somebody like me that didn't have that much experience at the time, it helps being in a classroom filled with officers that have been on for 5 years, 10 years, 15 years. Because the course that I attended, that was just the part one.

I went to a three-day advanced force science class, which is more for supervisors. And having all that experience, all that wealth of knowledge in that room, helped somebody like me -- that didn't have that much time on, at the time -- understand it from, you know, the eyes of a 20-year cop. And it just -- it helps open my eyes and broaden my perspective and approach things differently.

And those classes were done -- definitely beneficial. And I think it's -- I proved that in the year and a half that I was on patrol prior to my demotion, because I had no incidents in -- when it came to use of force.

MEMBER HATCHER-CRAWFORD: Counselor, a question.

MS. WOOLLEY: Yes.

MEMBER HATCHER-CRAWFORD: In the POST training, is that part of the curriculum? Because I'm thinking forward. Because he says that -- excuse me. As part of that training is something that he had to take after the

incident; is it part of the training in POST?

MS. WOOLLEY: So Mr. Marshall would probably be better to answer this. But de-escalation training is part of the Regular Basic Course. So that would be something that Respondent would have been trained in as part of his Regular Basic training before he even began his position as a police officer.

But Mr. Marshall would be better -- in the better position to answer fully.

MR. MARSHALL: So there are classes sponsored by POST, continuing education, throughout the officer's career, that there's numerous de-escalation, use of force training. Just because you took it in the academy maybe 20 years ago, an officer that wants to better himself will be taking training regularly. If it is not a department mandate, it is the officer's ability to go do the training on his own, either through POST or private instructors throughout.

MEMBER HATCHER-CRAWFORD: So within the first year of leaving your basic POST training, an officer would have had this?

MR. MARSHALL: They would have de-escalation training in the academy. It is possible, during his FTO on the in-house training, they might cover something. And I'm not sure. You know, every agency is specific.

There are agencies out there where if the officer doesn't want to better himself, they are not going to complete much training through their career.

MS. WOOLLEY: I will point out just looking at -- excuse me.

Just looking at Mr. Victorio or Officer Victorio's EDI profile, that in addition to his basic course, he also took additional training courses after he became an officer.

So he became a police officer on March 14th, 2022. In addition, he took an arrest and control, which would have included some of this.

He also took use of force. That was on April 6, 2022.

He took additional training courses that would have included some of this stuff.

And then -- and then after this incident, he took the de-escalation training on February 7th.

But he also took things like special weapons tactics courses on October 20th, 2023.

So all of that would have included some elements of de-escalation in that since any sort of use of force would have had some elements of de-escalation.

So yes. There would have been some of that.

MS. DEL MUGNAIO: If I may add to the question in

kind of more specific terms. Learning Domain 20 has eight hours of de-escalation training in the Basic Academy; and then every two years thereafter, there's four hours of required de-escalation training.

VICE CHAIRPERSON DOYLE: Johnson.

MEMBER JOHNSON: I guess my question. When he crashed into the pole and you came out the car, I would like to know if you had seen him laying facedown, hands stretched out, and not moving? So when you came out the car, did you see that? Or did you see something else?

MR. VICTORIO: No, sir. Like I said, initially, when I first came out of the car, or prior to coming out of the car, I saw the door swing open. So my initial thought was that he was going to continue to flee on foot since he had crashed the vehicle.

When I came around my door is when I realized he was on the ground, but that's not what I perceived at the time. At the time I perceived he stumbled out of the car, because he just got into a car accident; he's going to continue to flee.

Like I said before, I understand that I was moving too fast. And I think that was my -- my shortfall, my shortcoming here. If I would have just remained by more door and done a felony traffic stop and slowed down and just taken in all information, I could have made a

better decision at that point in time.

MEMBER JOHNSON: The second part of my question is, so there was six punches and four knees. So when you realized that he was facedown, hands stretched out, saying, "I'm not resisting," you still delivered six punches and four knees.

Was that part of your training? Even though you have a victim that is not resisting, what caused those six punches to be thrown, in your view, and those knees to be given?

MR. VICTORIO: Yes, sir. So, again, at that time, I perceived that he was resisting. You know, it is inexperience. There's no excuse to my actions. I perceived that he was resisting. You know, when I would strike him and he wouldn't bring his arms to his lower back, I perceived it as resisting at the time.

Obviously I didn't take into consideration that my blows were causing pain to him, you know, which is why probably he kept his hands above his head and not brought them down to his lower back in order for us to effect an arrest.

At the time, I perceived he was resisting. But looking back at it now, through all the training that I have received, I understand now that I could have done things differently.

MEMBER JOHNSON: Was that your first encounter physically?

MR. VICTORIO: Are you asking if that's like my first use of force?

MEMBER JOHNSON: Yes.

MR. VICTORIO: No, sir. I wouldn't be able to tell you how many I had prior to then, though.

VICE CHAIRPERSON DOYLE: Any more questions?

Go ahead, Ms. Pena.

MEMBER PENA: So on the incident that we were just talking about, the November 27th, 2023, incident, so your reasoning for why that occurred was that you were acting too quickly.

Is that what you are telling us?

THE WITNESS: That's not the only reason. But I mean, I think I -- all that could have been avoided if I would have just slowed down.

MEMBER PENA: Okay. And then the -- on the second incident, when you made a threat to the person who was not resisting, was just standing by a wall, you say you made the threat because you were concerned he would run?

MR. VICTORIO: I didn't say I made a threat, ma'am. I made a statement that I understand that wasn't the best thing to make. He had just "fleed." There's 100 percent a thousand things I could have said that

would have been better to prevent him from continuing to flee, because he had already done it once.

But I understand that I was in the wrong and I accepted discipline for it.

MEMBER PENA: Okay. Because at that point he -- the situation had been de-escalated, right?

MR. VICTORIO: Yes, ma'am.

MEMBER PENA: So you made mention of you had de-escalation training after that time.

MR. VICTORIO: No. So that incident happened before the November incident. It just came -- the investigation came afterwards.

MEMBER PENA: Okay.

MR. VICTORIO: Yes, ma'am.

MEMBER PENA: Okay. Because that situation had already been de-escalated when you made that remark, which I would consider threatening. But -- right?

MR. VICTORIO: Yes, ma'am.

MEMBER PENA: Okay. Thank you.

VICE CHAIRPERSON DOYLE: Ms. Clavo.

MEMBER CLAVO: In watching the video, you said -- in your statement just now, you said he had "fleed."

And then I recall the gentleman stating that he was hard of hearing.

Did -- you were in your police vehicle at the time?

MR. VICTORIO: Yes, ma'am. What you saw was just the ending of the entire interaction.

MEMBER CLAVO: I get it. I get it. I got another part of my question.

Did you turn your lights on? Did you use your speaker to try to gain his attention? Was he in front of you? On the side of you? Can you paint that picture for me?

MR. VICTORIO: Yes, ma'am. Of course.

So I was driving southbound. So let's just say I'm driving towards the monitor there. And he was on the sidewalk off to my right-hand side.

I wasn't even dispatched to the call initially. I was on my way to the hospital to relieve one of my partners, but I was monitoring the radio. And I understood that there was an active burglary in progress and that there was two individuals outstanding.

They broadcasted the description of one of them. As I'm driving southbound, I spot somebody who matches that description. I get out of my car. I park it. Throw my lights on. Stand by the driver's side door. And I yell out to him. He looks back in my direction. And then when I say, "Police, come here," he continues to drive away off on the scooter.

And at that point is when I broadcasted it to my

partners over the radio that I had one matching, and it is when my partner, that was driving northbound, was able to intercept him.

MEMBER CLAVO: Okay. Is it normal practice to throw evidence in the trash?

MR. VICTORIO: No, ma'am.

MEMBER CLAVO: Is it normal -- normal practice not to log in evidence?

MR. VICTORIO: No, ma'am.

MEMBER CLAVO: But in two of these cases, you did both: The one with the young lady and -- that you pulled over, asked could you search her house, and then you found bullets.

And then with this gentleman and his backpack.

MR. VICTORIO: Yes, ma'am.

So for the first incident, which is the commercial burglary, I mentioned in my Internal Affairs interview that the reason why the backpack was disposed was because there's things that -- in there that we can't tag. And I also mentioned during that interview that the only thing that I knew at that point in time, during that investigation, was that the scooter was -- that he fled in was the victim's from the commercial burglary.

And the only reason I knew that was because the victim came on to the scene and identified that as his

scooter.

The victim never spoke to me directly because I wasn't the investigating officer. I understand that I should have spoken to the victim myself to see if any of the contents within the backpack belonged to him, but I didn't. And the reason that I threw away a lot of the stuff, which I mentioned during my interview, was because the backpack was soiled, and we're not allowed to tag in soiled property. By "soiled," I mean, there was -- I think there was like a BuzzBall in there and it had leaked. And a bunch of, you know, hygiene products and stuff that we can't tag.

The second one, I openly said during my interview that it was a mistake. I totally forgot to tag it. I didn't dispose of it. I had it when the interview was brought up. I mentioned it to Kasey. She gave me guidance to hold onto it until the day of the interview, which is when I mentioned it to the investigators. And we tagged it into the property then.

MEMBER CLAVO: Thank you.

MS. CASTILLO: Do you mind if he addresses remediation that has taken place as to those two topics?

VICE CHAIRPERSON DOYLE: Sure.

MR. VICTORIO: Yes. So in my new position, as a community service officer, and even the year and a half

afterwards, I took a different approach to tag it in property or disposing of property. Anything in relation to property or evidence. Instead of waiting towards the end of my shift and then tagging everything into property evidence then, I -- I pretty much skipped that entire thing.

And as soon as I -- as long as time allowed and calls for service allowed, I would go straight to the police department and tag in the property or evidence at that point in time.

That way, at the end of my shift, I wouldn't have -- you know, I wouldn't forget it.

MS. WOOLLEY: And --

MR. VICTORIO: I'm sorry if I -- and pretty much to conclude on that topic, in my current position as a community service officer, I still do handle evidence and property on a day-to-day basis.

So I -- like, again, there -- there hasn't been any issues in -- as it comes to property or evidence in that aspect.

Thank you.

MEMBER CLAVO: Thank you.

MS. WOOLLEY: Vice Chair Dudley [sic], if I may address the record.

So just to give a little bit more context as to

that stop in October of 2023, when that Officer Victorio pulled over that individual, or attempted to pull over that individual, it was a light rail station. There were several other individuals present. He did call out to that individual. However, like I said, there were several other individuals present. There was also announcements being made at the light rail station.

So when the individual then says to the other officer present, and then Officer Victorio that, you know, "I'm hard of hearing" and stuff like that, that is relevant to this -- this incident.

He is quite a few feet away. So if you see on the body-worn camera footage, you can see that that individual is quite a distance away. And so then Officer Victorio is calling out to him, "Hey, you, come here," and then that individual just keeps going on the scooter.

And then Respondent says to the other officer, who is the one who eventually ends up getting to the arrestee and putting him in cuffs, you know, "I'm going to go this way. You go this way," essentially. And then that's -- the other officer is the one who finds him.

So that's how that ends up coming out, just to finish that up. And that is documented fully in the

attachments for that -- that incident.

As to the other incident for the destruction of the backpack, these statements, which, again, are further documented fully in the investigation, basically that backpack was -- Officer Victorio did say that he destroyed the backpack because it was icky; that there was some sort of liquid that had been spilled. However, he did book another item into evidence, a shirt that the individual had over his shoulder that apparently he used to cover his face. So it wasn't just the scooter. There was a shirt as well. So it wasn't just the scooter that was thought of as evidence.

And there was some suspected narcotics that were found on the person's -- on that individual's person that was put in the backpack for safekeeping. But were never tested to see if there were narcotics.

MEMBER HATCHER-CRAWFORD: I have a question.

VICE CHAIRPERSON DOYLE: Crawford.

MEMBER HATCHER-CRAWFORD: In the incident -- and either/or can fill it in for me. An incident where we stop the individual -- I don't know if it's a female or not. And I was confused about that part. And then somehow the officer goes to her home, searched her home --

MS. WOOLLEY: Yes.

MEMBER HATCHER-CRAWFORD: -- and finds four bullets.

I -- I couldn't wrap my mind on, was there a stop that led to -- from that place to going to her home? And what was -- what was -- what was the reasoning?

I couldn't find it in the report of why.

MR. MARSHALL: He did conduct a legal vehicle stop on a -- on the Dodge Charger -- Challenger.

MEMBER HATCHER-CRAWFORD: It was a Challenger.

MR. MARSHALL: He did conduct a legal stop and then discovered she did not have a valid driver's license.

MEMBER HATCHER-CRAWFORD: So how did the home --

MR. MARSHALL: He got consent from her. He'd probably know better. But he had gotten consent to search her vehicle and then her home.

MEMBER CLAVO: Before you answer, in case you decide to, let me add to her question.

Was she on searchable parole, probation, or any of those things, that would have led you to just ask Jane Doe, "Can I go to your house and search it?" I think that was --

MEMBER HATCHER-CRAWFORD: Yeah. That's kind of where I'm going. I couldn't find it in the report.

MR. VICTORIO: No. And I'm sorry.

No. So I -- every time I conduct a traffic stop,

there's about -- a couple things that I ask: "Hey, this is why I pulled you over. Are you on probation or parole? Have you ever been arrested?" It is just kind of how I do my thing.

She had told me that she had prior weapons violations in LA County. So then I had her step out of the car because her vehicle was suspended. And then I'm a very -- I take a very proactive approach. Like I mentioned before, I recovered 30 firearms within three months, and that's kind of the approach that I had on that day.

She told me that she had ammunition at her home. I asked her if she can -- if I can search her residence, in which she said yes.

I took that ammunition and that's -- again I waited until the end of my shift to tag it in and that's -- that's where my mistake was.

MEMBER HATCHER-CRAWFORD: But you did -- was she arrested or not?

MR. VICTORIO: She received a citation for driving without a license.

MEMBER HATCHER-CRAWFORD: And she was on probation or parole?

MR. VICTORIO: She was not on probation or parole.

MEMBER CLAVO: So is that normal policy and

procedure to ask individuals that you do a traffic stop on whether they -- you can search their home?

MR. VICTORIO: Well, it was a question, ma'am. She could have denied it. It's not --

MEMBER CLAVO: Is it policy or procedure?

MR. VICTORIO: No. There's nothing -- there's nothing asking -- there's nothing on policy stating whether I can ask somebody or not for consent.

MEMBER CLAVO: To search their home for no reason? Just because you stopped them for something else and then that leads to you asking them.

So if I walk outside today and West Sac PD -- if West Sac PD pulls me over, if Chief Strange pulls Nicole Clavo over and says, you know, can I -- "I'm pulling you over because you were doing 75 in a 55, and, by the way, can I search your home?"

MR. VICTORIO: I -- again, ma'am, I asked that because she had told me that she had prior weapons violations, which is why I asked the question.

MEMBER CLAVO: But she didn't have any weapons on her currently.

MR. VICTORIO: Correct.

MEMBER HATCHER-CRAWFORD: And there was nothing ran to verify that she did, in fact, have a probation or parole. Is there any way of doing it? Like I said, I

read the report, and that was a big dark hole for me.

MR. VICTORIO: So I conducted my own records check on her. Because her arrests were in LA County, it wouldn't show on our local hits.

MEMBER HATCHER-CRAWFORD: Okay.

MR. VICTORIO: So I wouldn't -- so no. I did not receive a probation or parole screen when I ran her information.

MEMBER JOHNSON: Johnson.

VICE CHAIRPERSON DOYLE: Mr. Johnson.

MEMBER JOHNSON: Yes.

What was the date of that incident?

MS. WOOLLEY: That's April 28th, 2025.

MEMBER JOHNSON: Now, I had asked a question earlier about was that your first physical incident. And you had stated "No."

So I'm curious to when were the other physical incidents?

MR. VICTORIO: Are you speaking about -- are you talking about the pursuit, sir, that happened in '23?

MEMBER JOHNSON: Yeah. The pursuit on November 23rd, correct?

MR. VICTORIO: Yes, sir.

MR. MARSHALL: 27th.

MEMBER JOHNSON: 27th.

MR. VICTORIO: 2023.

MEMBER JOHNSON: Oh, okay. 2023.

MS. WOOLLEY: I'm sorry. Mr. Johnson, the search was April 28th, 2025. The search -- or the use of force is November 27th, 2023.

MEMBER JOHNSON: Okay. '25. '23.

And then the incident where the young man was on the scooter was October 2023.

MR. MARSHALL: October 28th, 2023. Correct.

MEMBER JOHNSON: Okay. And -- but you were in other physical incidents. Were they prior to October 23 -- October 2023 or after October 2023?

MR. VICTORIO: Are you talking about from the time that I received training or --

MEMBER JOHNSON: From the time that you -- from the time that you began patrolling.

MR. VICTORIO: So before the use of force incident that we're here for, I did have use of force incidents. But, again, I wouldn't be able to tell you how many or when they took place.

MEMBER JOHNSON: You don't remember how many incidents you've been in?

MR. VICTORIO: No, sir.

MEMBER JOHNSON: I have no further questions.

VICE CHAIRPERSON DOYLE: Okay. Thank you.

MEMBER HATCHER-CRAWFORD: I think I'm still stuck on the black hole.

VICE CHAIRPERSON DOYLE: Okay. One more question, Ms. Crawford.

Go ahead.

MEMBER HATCHER-CRAWFORD: And I'm sorry. Again, I read it and read it and read it.

And so would you say that although that's not a policy of San Bernardino, it's not a policy opposed to ask a person who you are not really sure is on probation or parole because you don't have access to the database of LA County, other than what she tells you, to go to their home and search their home.

And I understand that you said, you know, your career high is that you pulled over guns. I mean, attained guns and everything else.

I'm just trying to understand, is that a pattern that you would normally do in the -- one of your stops? Is ask a person, "Are you on probation or parole?" Then if they say yes or no, whether it is in that county or not in that county. Then ask to search their home. Is that a pattern?

MR. VICTORIO: No. I wouldn't say it is a pattern. I would say it is based off of the information that they provide to me and the information that I receive after

running their -- their name in our database.

Again, I had a proactive approach, and my mentality was, I'm going to get a gun off the street today. And when she told me she had prior weapons violations and that she had ammunition at her house, then that's when I asked her. I was like, "Can I go back to your house and take the ammunition from you?"

And she said yes.

MEMBER HATCHER-CRAWFORD: Okay. And so there's no search warrant. Just -- she can just say "yes" and you can go do that?

MR. MARSHALL: If she agrees and gives consent.

MEMBER HATCHER-CRAWFORD: Thank you.

VICE CHAIRPERSON DOYLE: Mr. Lara.

MEMBER LARA: Just a point of clarification, as an instructor for search and seizure.

It is not illegal to make the ask.

VICE CHAIRPERSON DOYLE: Exactly.

MEMBER LARA: My concerns grow out of -- are you familiar, Officer, with the concept of duress? I can elaborate if you need me to.

MR. VICTORIO: If you could, please.

MEMBER LARA: Okay. So generally speaking, consent, if it is to be given, has to be given freely and voluntarily, with no threats of enforcement or

promises of leniency. And I believe -- so now I will ask you: Are you familiar with the concept of duress?

MR. VICTORIO: Yes, sir.

MEMBER LARA: Do you believe this woman freely and voluntarily gave you permission to search her home?

MR. VICTORIO: I do.

MEMBER LARA: Thank you.

VICE CHAIRPERSON DOYLE: Thank you very much.

MS. CASTILLO: Can I make a final comment?

VICE CHAIRPERSON DOYLE: Sure. Briefly, please.

MS. CASTILLO: I understand that these incidents that have additionally been presented to the Board for review and understanding are significant, and I appreciate your thoughtful questions.

I do want to reiterate that Officer Victorio has taken affirmative steps to continue to grow in search and seizure, to continue to grow in de-escalation training. And the matter that we're here before the Board for, the allegation related to physical abuse and excessive force, is taken very seriously by Officer Victorio.

And we would ask that although there have been missteps in his young career, we feel that this is one of those instances where an alternative to revocation would be appropriate.

VICE CHAIRPERSON DOYLE: Thank you.

Is there anybody from the public who would like to address -- is there anybody from the public who would like to address the Board at this time?

Yes?

You may state your name and organization if you wish. You will be given three minutes to speak, and the time limits will be strictly enforced, so please ensure that you complete your comments within the allotted time.

MS. B. JOHNSON: Okay. I am Beatrice Johnson. I'm the only community person here. I feel like I do need to say something.

Good afternoon. My name is Beatrice Johnson.

I am here again because I -- what I witnessed in this case is deeply disturbing to me, not just as a community member, but as someone who has spent years advocating for accountability. And also with this bill, Senate 2 -- laws that officers who abuse their authority can be decertified.

We watched the video. We saw the suspect exit from the vehicle after crashing, lay on the ground, and say that he surrendered.

At that point, there was no threat. There was no active threat. There was compliance. The suspect was

defenseless.

But despite that, the officer chose to act on what was perceived instead of what was clearly happening in front of him, reality. And that is where this becomes dangerous.

Because when perception overrules reality, especially in policing, people get hurt. The officer immediately began kicking and punching the suspect while yelling "stop resisting," even though the suspect was already on the ground, surrendering and defenseless.

That disturbs me deeply.

We have seen this pattern before, where the words stop resisting, stop resisting, are used to justify force even when compliance is visible.

And too often those words are spoken right before someone loses their life.

That is not just a phrase. It is a warning sign. When an officer continues to use force on someone who has already surrendered and is defenseless, that is not policing. That is punishment. And what is equally concerning is what we are hearing here today. The officer and his attorney have made light of this, in my opinion.

This is a problem because when the serious conduct is minimized instead of acknowledged, it shows a lack of

accountability. And where there is no accountability, there is no reason to believe the behavior will change.

It is also deeply concerning that the officer told the suspect -- you know when he said the bad word, "Lucky people aren't around or I would do something else to you" -- that is not law enforcement language. That is not de-escalation. That is not professionalism.

That is a statement of intent, held back only by witnesses, and that should concern everyone. That is exactly why Senate Bill 2 exists.

For situations where an officer demonstrates conduct, that is excessive, dangerous, and it should be held accountable and he should be decertified because that's how people get killed.

VICE CHAIRPERSON DOYLE: Thank you.

MEMBER JOHNSON: Thank you.

VICE CHAIRPERSON DOYLE: Does anyone else from the public wish we -- wishes to address the Board?

(No response.)

VICE CHAIRPERSON DOYLE: Okay. At this time, does the Board want to adjourn into private session?

MEMBER LARA: Yes, please.

VICE CHAIRPERSON DOYLE: Okay. All right. The meeting will be adjourned and we'll go into closed session for deliberation and will be back shortly.

(Time noted: 2:39 p.m.)

---o0o---

(Closed session was held: 2:50 p.m. to 2:55 p.m.)

---o0o---

(Time noted: 2:58 p.m.)

---o0o---

VICE CHAIRPERSON DOYLE: We will now reconvene in our regular session to take a vote on the Board's recommendation in the matter of Case POST2322062, Hector Victorio.

Is there a motion?

MEMBER JOHNSON: I make a motion to decertify.

VICE CHAIRPERSON DOYLE: Is there a second?

MEMBER CLAVO: Second.

VICE CHAIRPERSON DOYLE: We have a motion by Johnson. A second by Clavo.

Roll call.

MR. KNAPP: Clavo.

MEMBER CLAVO: Aye.

MR. KNAPP: Clavo, aye.

Crawford.

MEMBER HATCHER-CRAWFORD: Aye.

MR. KNAPP: Crawford, aye.

Doyle.

VICE CHAIRPERSON DOYLE: Aye.
MR. KNAPP: Doyle, aye.
Johnson.
MEMBER JOHNSON: Aye.
MR. KNAPP: Johnson, aye.
Lara.
MEMBER LARA: Aye.
MR. KNAPP: Lara, aye.
And Pena.
MEMBER PENA: Aye.
MR. KNAPP: Pena, aye.
All in favor.
VICE CHAIRPERSON DOYLE: Motion -- motion passes.
Okay. Thank you.
Next item. POST2302397, Armando Avena. Last employing agency: Los Angeles Police Department.
At this time I will call upon Law Enforcement Consultant David Sieber and Brian Hoffman, Attorney with Legal Affairs Bureau, to provide the report on case POST2302397, Armando Avena, who at -- who at the time was employed by Los Angeles Police Department.
Mr. Sieber.
MR. SIEBER: Good afternoon, Chair and Members of the Board. My name is Dave Sieber, and I'm one of the law enforcement consultants assigned to POST

Professional Conduct Southern Bureau of the Peace Officer Standard Accountability Division.

With me today is Brian -- Brian Hoffman, an attorney with our Legal Affairs Bureau.

I'm here today to present POST case number 2302397 involving former Los Angeles Police Department Officer Armando Avena, whom I will refer to as the "Respondent" throughout the remainder of the presentation.

It is the Division's determination that clear and convincing evidence exists to determine -- to demonstrate that Respondent committed acts of serious misconduct, as set forth in California Penal Code section 13510.8, on February 13th, 2022.

Specifically, the Division has determined that the respondent committed the following acts of serious misconduct:

California Penal Code section 13510.8(b)(6), acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with the peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the Commission.

In this presentation, I will present a brief outline of the Division's findings regarding this matter, starting with the respondent's background, followed by his prior discipline, and the factual basis

for seeking suspension or revocation of the respondent's peace officer certification.

I will start with the respondent's background:

Respondent started his career with the Los Angeles Police Department on February 21, 2017.

On August 6, 2017, the respondent was promoted to the position of police officer. This position is a peace officer as defined under Penal Code section 830.1(a).

The respondent earned a POST Basic Certificate on June 28, 2019.

Prior discipline:

A review of Respondent -- of the respondent's Los Angeles Police Department personnel file identified four noncategorical uses of force incidents, all of which were found to be in policy; and two vehicles pursuits, which were in a pending status when he resigned from the department.

The respondent was not involved in any categorical uses of force, vehicle collisions, or civil litigation while employed by the Los Angeles Police Department.

Other than the captioned domestic violence matter, the respondent was involved in one additional POST allegation of serious misconduct: That is, POST case number 2321703. In that matter, the respondent, while

off-duty, was arrested on December 11, 2022, for a violation of California Penal Code section 647(f), public intoxication.

This incident occurred after the captioned February 13th, 2022, domestic violence incident but prior to his resignation from the police department -- from the LAPD.

A subsequent LAPD personnel complaint investigation into the December 11, 2022, incident sustained allegations that the respondent was intoxicated in public while off-duty and that he failed to cooperate with Pasadena Police Department officers, noting that the respondent chose to drink past the point where he was still in control.

The respondent was not criminally charged as a result of the -- of this arrest and ultimately received a two-day suspension with a loss of pay and benefits.

Now, I will go on to provide a factual basis for the investigation:

On February 12, 2022, while off-duty, the respondent and the victim, who he was in a qualifying relationship with, went out for dinner and drinks. After eating dinner at a restaurant, they stopped at a brewery for several beers before proceeding to a lounge in Whittier, California.

While inside the lounge, the respondent observed the victim speaking with another male patron, which caused him to become upset. The respondent confronted the victim about speaking with the individual and questioned her about purchasing four shots of alcohol.

The respondent's demeanor became increasingly aggressive, and the two returned to their table where the verbal argument continued.

Although they ultimately agreed to leave the lounge together, both consumed the previously purchased four shots of alcohol before the respondent drove them home.

Upon arriving at home, the respondent gained access to the victim's cell phone and the verbal argument over claims of infidelity escalated into a physical incident.

The respondent pulled the victim's hair, dragged her into the bathroom, forced her into a bathtub while showering her with cold water. The respondent refused to let the victim out of the bathtub and punched her in the face with closed fists, scratched, slapped, and choked her with both hands, caused a concussion, visible bruising to her face, chipped front teeth, a split lip, a sore neck and back, and scratches to her arms.

Later, on the morning of February 13, 2022, after the respondent and the victim awoke, the victim asked to be driven to her family member's residence. The victim

stated in her recorded interview that the respondent replied, "No. I don't want you to leave. Like, can you please -- if I take you, tell them I didn't do anything to you. Like, it was a knee. Like, I'm sorry."

Nevertheless, the respondent reluctantly drove her to the family member's residence. Upon arrival, the victim's family member observed the victim's injuries and immediately called the respondent, demanding that he turn himself in. The respondent hung up, at which point the victim's family member notified the Baldwin Park Police Department.

The victim was subsequently transported to Kaiser Permanente's Baldwin Park Medical Center, where she received medical attention for a headache, neck and back pain, bruising and swelling to her face and left eye, bruising to her hands, a split lip, chipped front teeth, and broken fingernails.

Kaiser Permanente ordered CT scans of the victim's cervical spine, facial bones and head, along with X-rays of her hands, ribs and chest, scapula, and wrists.

Ultimately, the victim was diagnosed with a shoulder contusion, multiple soft tissue contusions, a subconjunctival hemorrhage from a broken blood vessel in her left eye, and a concussion with a loss of consciousness.

Contemporaneously, Baldwin Park Police Department investigators obtained an emergency protective order for the victim and arrested the respondent for a violation of California Penal Code section 22370.5(a), domestic violence.

The Baldwin Park Police Department presented the criminal case to the Los Angeles District Attorney's Office for review.

Upon evaluation, the District Attorney's Office filed one count of California Penal Code section 273.5(a), misdemeanor, domestic violence.

Los Angeles Police Department also initiated a personnel complaint investigation on the respondent.

As part of the complaint investigation, Los Angeles Police Department detectives interviewed the victim on February 13, 2022, after she was discharged from the hospital.

The victim alleged this was not the first instance of domestic violence involving the respondent. The victim stated that sometime in January of 2022, the respondent, while off-duty, broke her eyeglasses and cell phone, forcibly pulled her hair and threatened to kill her.

The victim also alleged, on October 24, 2020, while off-duty, the respondent threw a folding table at her,

nearly striking her, and requiring a domestic violence response from the Baldwin Park Police Department.

The victim emphasized that she just didn't want to see the respondent any longer.

Photographs and medical records taken less than 24 hours after the February 13, 2022, incident, confirmed the victim's statements that she sustained injuries during the physical altercation.

On February 15, 2022, LAPD detectives interviewed the respondent. The respondent denied physically assaulting the victim, stated that -- and stated that he unintentionally struck the victim with his elbow when he twisted his torso to stop the victim from taking her phone away from him.

The respondent believed that this action caused the victim to fall into an entry table. However, he was unsure if the victim hit her head on the table.

The respondent also stated that the victim jumped on him while he was on their bed, again attempting to grab her phone from him.

The respondent went on to explain that the victim fell on the carpeted floor, and the respondent denied hitting, punching, pulling her hair, choking her, or slapping the victim, or threatening to kill her. The respondent declined several attempts by the Division to

conduct follow-up interviews.

The LAPD's complaint investigation ultimately sustained seven allegations of misconduct and directed the respondent to a Board of Rights with the recommendation of termination.

On April 12, 2023, the respondent pled no contest to one count of California Penal Code section 243(e)(1), misdemeanor, domestic battery, arising from the February 13, 2022, domestic violence incident.

As a result of this conviction, the respondent was placed on formal probation in Los Angeles County for a period of three years; and is subject to a criminal protective order in favor of the victim until April 12, 2028.

On April 30th, 2023, 18 days after entering a plea of no contest, and prior to his Board of Rights hearing for termination arising from the February 13, 2022, domestic violence incident, the respondent resigned from the Los Angeles Police Department.

I would like to cover some communications that the Division engaged in with the victim.

On January 5, 2026, the Division spoke with the victim regarding her allegations of domestic violence.

The victim stated that the respondent had a volatile personality, which was exacerbated when he

consumed alcohol.

She stated that in October of 2020, when the respondent had been drinking, he grew angry and threw a folding table at her. The table did not hit her, but she feared for her safety and called the Baldwin Park Police Department. When they responded, the respondent was asleep in his room with his firearm nearby.

The victim left their residence and stayed with a family member for the remainder of that evening. The Baldwin Park Police Department confirmed the victim's call for service and response but did not file a report documenting the incident.

The victim also clarified prior statements regarding the domestic violence she suffered on February 13, 2022.

Specifically, the victim described the nature of her injuries and the manner in which they were sustained.

She reported that the respondent punched her several times in the face with closed fists while she was pinned against their bathtub, resulting in a concussion, facial bruising, a split lip, and chipped teeth, in addition to the injuries documented in the Kaiser Permanente's After-Visit Medical Summary.

The victim further stated that she believed the

respondent intentionally showered her with cold water because he feared that he may have rendered her unconscious.

I would like to touch on the respondent's rehabilitation efforts.

On April 12, 2023, the respondent pled to one count of Penal Code section 423(e)(1), misdemeanor, domestic battery.

His conviction resulted in a three-year term of formal probation, eight hours of community service, the required completion of 52 domestic violence training classes, and adherence to a criminal protective order for five years.

Los Angeles County Superior Court records indicate that as of June 11, 2024, the respondent had completed all 52 court-ordered domestic violence training sessions.

Firearm and ammunition prohibition.

So under Penal Code section 29805, a conviction for California Penal Code section 243(e)(1) automatically triggers a ban on owning, purchasing, possessing, or receiving a firearm or ammunition for ten years from the date of the conviction.

Under federal law, specifically Title 18, US section code 922(g)(8), a conviction of misdemeanor,

crime of domestic violence, prohibits the possession or receipt of any firearm or ammunition indefinitely, so long as the conviction qualifies under the statute.

On October 22, 2025, during an informal telephone conversation with the Division, the respondent reported that he no longer worked in the law enforcement profession and was currently pursuing a career as a truck driver.

Additionally, the evidence demonstrates that the respondent's conduct was egregious, as reflected in the victim's post-incident medical records and repeated, as documented in the victim's post-incident interview statements.

Ultimately, the respondent's actions reflected adversely on the Los Angeles Police Department and the law enforcement profession.

Failure to take action could create the perception that domestic violence is not taken seriously, thereby eroding public trust and confidence in law enforcement.

The facts I have just recited support the Division's finding that the respondent was involved in serious misconduct, specifically Penal Code section 13510.8(b)(6).

For purposes of the Division's analysis, clear and convincing evidence means evidence of a charge is clear

and convincing so long as there is a high probability that the charge is true. The evidence need not establish a fact beyond a reasonable doubt.

The Division recommends revocation or suspension of the respondent's POST certifications based on the following:

Following a comprehensive review of the Baldwin Park Police Department's criminal investigation, the Los Angeles Police Department's personnel complaint investigation, the respondent's personnel -- the department personnel records, the respondent's statements, the victim's statements, and witness statements, Los Angeles Superior Court records, and other supporting documents, the Division concludes that clear and convincing evidence exists to establish that the respondent committed serious misconduct under California Penal Code section 13510.8(b)(6), acts that violate the law.

Specifically, the evidence demonstrates that the respondent's actions were sufficiently egregious when he assaulted the victim, causing significant physical injuries, including a concussion, subconjunctival hemorrhage, chipped teeth, split lip, broken nails, and bruising to her face, neck, and back of.

The respondent's actions are inconsistent with an

officer's obligation to uphold the law and, therefore, violate Penal Code section 13510.8(b)(6) and Commission Regulation 1205(a)(6), when he committed and was convicted of a misdemeanor violation of Penal Code section 243(e)(1), domestic battery.

Additionally, the respondent's domestic violence conviction triggered a ten-year California State Prohibition on the possession of firearms and ammunition.

Further, the respondent's misconduct on February 13, 2022, was not an isolated occurrence. The records reflect a pattern of poor judgment, emotional volatility, physical violence, and irresponsible alcohol consumption dating back to at least October of 2020.

Based on its investigation and the consideration of the factors enumerated in Title 11, California Code of Regulations 1213(a), the Peace Officer Standards and [sic] Accountability Division has determined that the respondent's conduct was egregious and repeated, demonstrating a disregard for public safety, and was inconsistent with the responsibilities of a peace officer.

Accordingly, the Division concludes that the reasonable -- that reasonable grounds exist to seek the suspension or revocation of the respondent's peace

officer certification, pursuant to California Penal Code section 13510.8.

With that, I would like to present the Board with some redacted images of the victim's injuries. The unredacted images have been provided to the board members.

What that, I'm happy to answer any questions the Board may have.

Thank you.

MR. HOFFMAN: Just before we proceed further, my colleague, Mr. Sieber, received a text message communication from the respondent earlier this afternoon, indicating that he would like to proceed probably with the voluntary surrender process. He has not done so yet, so we need to continue forward with this, but we wanted to provide that communication to you as well, since we received it earlier this afternoon.

VICE CHAIRPERSON DOYLE: Board questions of staff?

(No response.)

VICE CHAIRPERSON DOYLE: Okay. Is there anyone from the public who would like to address the Board at this time?

(No response.)

VICE CHAIRPERSON DOYLE: Seeing none.

At this time, does the Board wish to adjourn in

private session? Closed session for deliberations? No?

Okay. Then we will -- would someone like to make a motion?

MEMBER PENA: Excuse me. Is there anybody on the phone?

MS. DEL MUGNAIO: No. The officer or officer's counsel is not present today. There was a public comment included in your materials from Officer Avena.

MEMBER HATCHER-CRAWFORD: I make a motion to decertify.

VICE CHAIRPERSON DOYLE: Okay. There's a motion by Crawford.

Is there is a second?

MEMBER LARA: I second.

VICE CHAIRPERSON DOYLE: Second by Lara.

MR. KNAPP: Clavo.

MEMBER CLAVO: Aye.

MR. KNAPP: Clavo, aye.

Crawford.

MEMBER HATCHER-CRAWFORD: Aye.

MR. KNAPP: Crawford, aye.

Doyle.

VICE CHAIRPERSON DOYLE: Aye.

MR. KNAPP: Doyle, aye.

Johnson.

MEMBER JOHNSON: Aye.
MR. KNAPP: Johnson, aye.
Lara.
MEMBER LARA: Aye.
MR. KNAPP: Lara, aye.
And Pena.
MEMBER PENA: Aye.
MR. KNAPP: Pena, aye.
All in favor.
VICE CHAIRPERSON DOYLE: Okay. This was the last item on the agenda. Do any of the board members have additional comments before we adjourn?
(No response.)
VICE CHAIRPERSON DOYLE: Seeing none, is there a motion to adjourn?
MEMBER PENA: Motion to adjourn.
VICE CHAIRPERSON DOYLE: We have a motion.
A second?
MEMBER HATCHER-CRAWFORD: I second it.
VICE CHAIRPERSON DOYLE: Okay. All those in favor, say "aye."
(Ayes.)
VICE CHAIRPERSON DOYLE: Okay. Meeting adjourned.
(Proceedings concluded at 3:17 p.m.)
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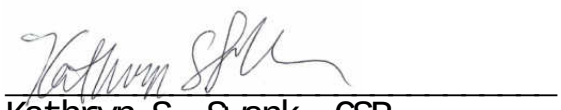
CERTIFICATE OF REPORTER

I, KATHRYN S. SWANK, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing proceedings were reported, to the best of my ability, in shorthand by me, Kathryn S. Swank, Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said proceedings nor in any way interested in the outcome of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of May 2026.



Kathryn S. Swank, CSR
Certified Shorthand Reporter
License No. 13061

E R R A T A S H E E T

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AGENDA ITEM REPORT

Title: PROPOSED 2027 PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD MEETING DATES

REPORT PROFILE

MEETING DATE 07/16/2026	**BUREAU SUBMITTING THE REPORT** Executive Office	
RESEARCHED BY Chandler T. Knapp	**REVIEWED BY** Annemarie Del Mugnaio	
REPORT DATE	**APPROVED BY** Annemarie Del Mugnaio	**DATE APPROVED**
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

BACKGROUND: Proposed POSAAB Meeting dates:

- January 05-06, 2027 - POST Headquarters, West Sacramento
- April 07-08, 2027 - POST Headquarters, West Sacramento
- July 07-08, 2027 - POST Headquarters, West Sacramento
- October 06-07, 2027 - POST Headquarters, West Sacramento

ANALYSIS:

RECOMMENDATION: If the Board concurs, the appropriate action would be a **MOTION** to approve the 2027 POSAAB meeting dates.

AGENDA ITEM REPORT

Title: REPORT ON DATA FOR SERIOUS MISCONDUCT REPORTING, INVESTIGATIONS, AND DISCIPLINARY ACTION OUTCOMES

REPORT PROFILE

MEETING DATE 07/16/2026	**BUREAU SUBMITTING THE REPORT** Executive Office	
RESEARCHED BY Chandler T. Knapp	**REVIEWED BY** Annemarie Del Mugnaio	
REPORT DATE 06/30/2026	**APPROVED BY** Annemarie Del Mugnaio	**DATE APPROVED** 06/30/2026
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

This report provides updates on the operations of the Peace Officer Standards Accountability Division, as well as statistical data and outcomes of serious misconduct cases received by POST and cases that have moved forward with disciplinary action.

This report is presented for information only. No action is required.

BACKGROUND:

On September 30, 2021, Governor Gavin Newsom signed Senate Bill 2, which established the Peace Officer Standards Accountability Division and outlined its primary responsibilities of reviewing cases of serious misconduct that could result in the revocation or suspension of a peace officer's certification, as well as presenting its findings and recommendations to the Peace Officer Standards Accountability Advisory Board and Commission on Peace Officer Standards and Training for their deliberation.

The process for handling serious misconduct cases has been implemented within the Division, which has has been receiving and reviewing cases of serious misconduct since January 1, 2023. Pursuant to Penal Code section 13512, POST staff reports on the relevant statistics and outcomes related to cases of serious misconduct that will assist in the Board's evaluation of the Division's operative functions related to certification and decertification.

ANALYSIS: As the final provisions authorized under Senate Bill 2 took effect on January 1, 2023, POST staff reports out on the activities and relevant actions of the Peace Officer Standards Accountability Division, Peace Officer Standards Accountability Advisory Board, and Commission on Peace Officer Standards and Training.

RECOMMENDATION: This item is presented for information only. No action is required.

ATTACHMENT(S):

POSAAB Memo_06.16.pdf

July 2026 POSAAB Hearing - Decert Stats.pdf

COMMISSION ON
PEACE OFFICER STANDARDS AND TRAINING

POST

MEMORANDUM

Date: June 16, 2026

From: Peace Officer Standards Accountability Division – Board Assistant, Chandler Knapp
To: Peace Officer Standards Accountability Advisory Board Members
Subject: July 16, 2026, Board Hearing and Outcome of Recent Commission Misconduct Case Review

Dear Esteemed members of the Board,

I trust this message finds you well as summer heats up. This memo aims to provide you all with two particularly important administrative updates that impact you as Board members:

1. July 16, 2026, Peace Officer Standards Accountability Advisory Board Hearing at POST Headquarters in West Sacramento beginning at 10:00 AM.

2. A brief overview on the outcome of case review from the June 04, 2026, Commission Meeting.

First, during the past review cycle, Division personnel issued eight - Notices of Intent to Revoke. Of those eight, three subject officers have appealed, five cases resulted in default revocation or voluntary surrender

As such, we will be conducting a **one-day hearing on July 16, 2026**, at POST Headquarters in West Sacramento beginning at 10:00 AM.

Secondly, the Commission met on June 04, 2026, at POST Headquarters in West Sacramento, CA to review the recommendations made by you – the Board – at the April 15, 2026, Board hearing. Below are the results of the Commission's review. The following is a summary of those results.

POST2311370 – Jose Zavala and POST2311373 – Juilo Quintanilla (POSAAB Recommendation: Revocation)

At the conclusion of the presentation by the Law Enforcement Consultant and review of the record and recommendation from the April 15, 2026, Board hearing, the Commission met in closed session to discuss the case surrounding the single incident but with each officers' actions as a separate matter before the Board. Following closed session, the Commission reconvened into regular session and public comment was given by the subject officers' counsel followed by both subject officers and members of the public. Following comments from the commission, a motion was made and carried unanimously to move the case forward to a full evidentiary hearing before an administrative law judge without a recommendation for a specific disciplinary outcome. This case will now move forward for the filing of an accusation and a full evidentiary hearing before an Administrative Law Judge (ALJ), pending an appeal by Officer Zavala and Officer Quintanilla, respectively.

POST2507337 – Matt White (Recommendation: Three-Month Suspension with Stipulations)

At the conclusion of the presentation by the Law Enforcement Consultant and review of the record and recommendation from the April 15, 2026, Board hearing, the Commission heard comments from the subject officer and his counsel followed by one member of the public. The Commission did not convene in closed session but instead voted unanimously in support of the Board's recommendation to suspend the subject officer's certification but that the revocation be stayed and probationary terms be imposed consistent with the terms the Division has set forth in prior probationary agreements.

POST 2322062 – Hector Victorio (POSAAB Recommendation: Revocation)

Following the Law Enforcement Consultant's presentation and review of the record and recommendation from the April 15, 2026, Board hearing, counsel for the subject officer was present and issued public comment followed by the subject officer. The Commission met in closed session and upon reconvening into regular session, the Commission voted unanimously to suspend the subject officer's certification for a term of three years. This case will now move forward for the filing of an accusation and a full evidentiary hearing before an Administrative Law Judge (ALJ), pending an appeal by Officer Victorio.

We understand that you may have questions in reference to the aforementioned case outcomes. This memo aims to provide a summary of those case outcomes; however, staff can elaborate on the outcome of any of these cases at the Board's next scheduled meeting on July 16, 2026, at POST Headquarters in West Sacramento.

We look forward to seeing you next month. If you have any general questions or concerns about POSAAB business, please do not hesitate to reach out to me at any time.

Very truly yours,

Chandler T. Knapp

Chandler T. Knapp
POSAAB Assistant - Executive Office

Peace Officer Standards Accountability Division

Statistical Data Profile

July 2026

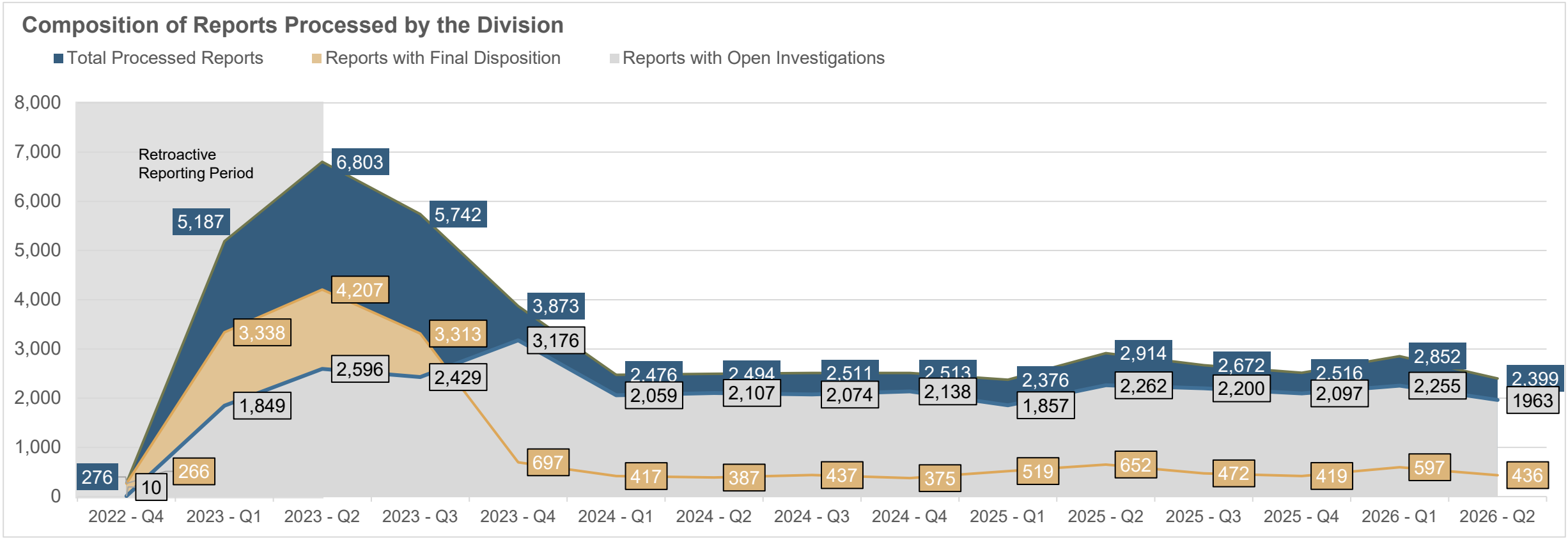
Data through 06/24/2026

The Division's intake of serious misconduct reports was heavily driven by the statutory retroactive reporting mandate, but numbers have since stabilized at ~2.6k reports per quarter.

The Division processed over **47,000 Agency Misconduct reports.**

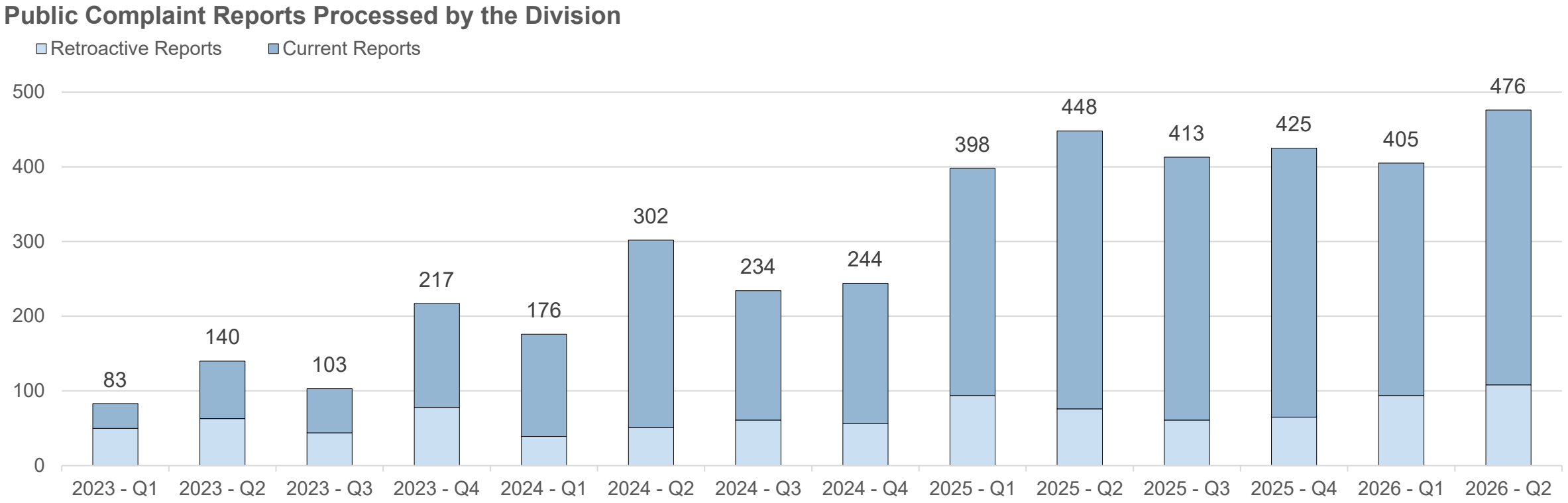
Approximately 39% of all reports were **retroactive reports** (incident date between January 1, 2020, and January 1, 2023.)

Since the 1st quarter of 2024, the Division routinely processes nearly **2,600 reports per quarter.**



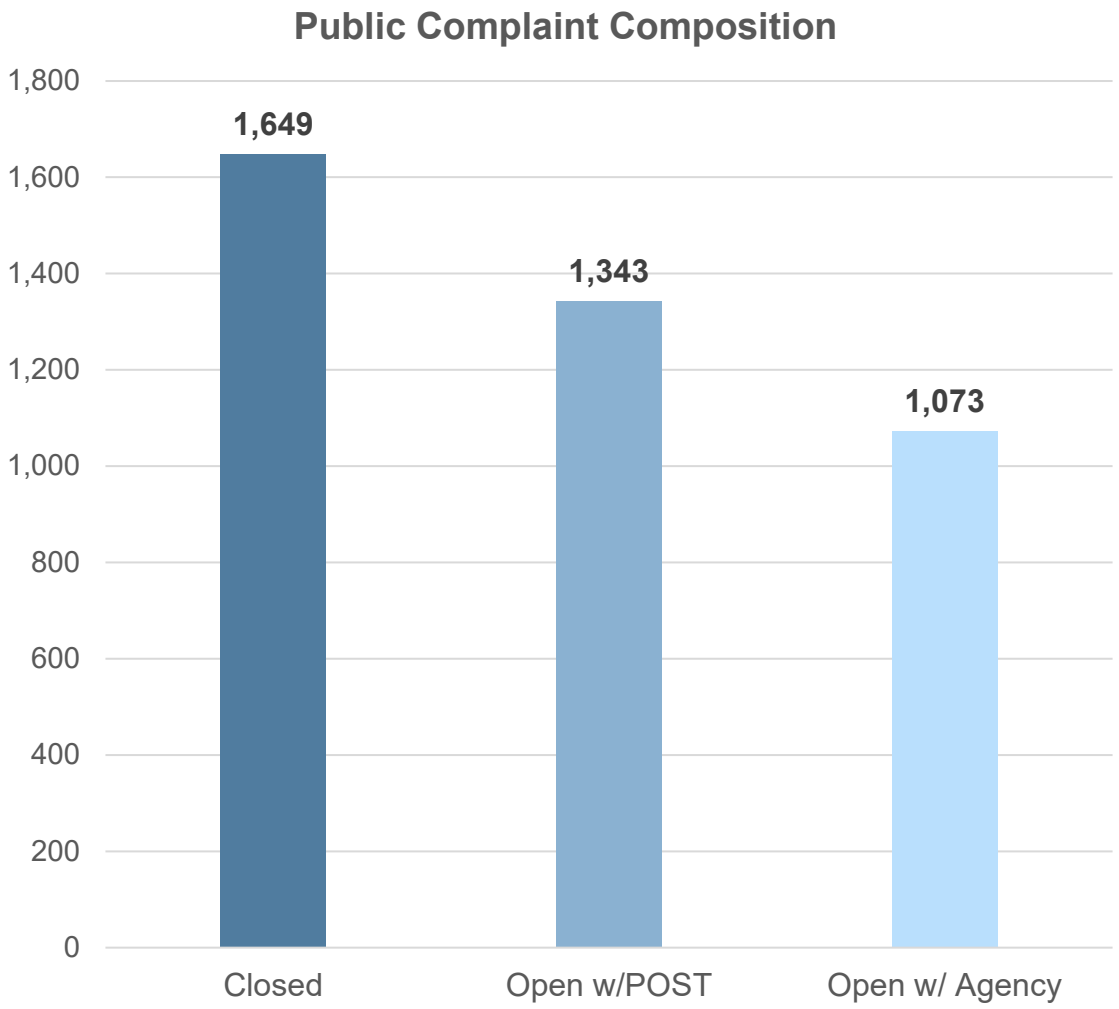
Over 4,000 public complaint reports processed by the Division; increasing public awareness of POST and the decertification process has resulted in a steady increase of public complaint submissions.

POST has received complaints against over **~2,200 unique officers** from a pool of approximately 1,500 complainants.



Total reflects the **number of officers** with potential serious misconduct allegations rather than the actual number of public complaints submitted by members of the public; if an individual files a complaint that contains multiple officers, POST will create a respective report for each named officer.

POST is actively reviewing complaints and coordinating with agencies for documentation; 33% are undergoing review for potential serious misconduct, while 41% have been closed.



395 (10%) complaints are against Chiefs/Sheriffs.
These complaints are highly prioritized and brought to the attention of the Professional Conduct Bureau Chiefs, who will review the complaint and decide POST's next steps for investigation.

12 (0.3%) complaints have resulted in certification action.
These complaints have been reviewed by POST and resulted in revocation, ineligibility, or voluntary surrender of the subject officer's certification.

1,649 (41%) complaints are closed.

These complaints were reviewed by POST and determined to be serious misconduct, not serious misconduct, or non-jurisdictional. POST can only take certification action against peace officers described in Penal Code section 13510.1(a).

1,343 (33%) complaints are undergoing POST review.

POST has received sufficient agency documentation to move forward with review. These complaints were identified for containing potential serious misconduct.

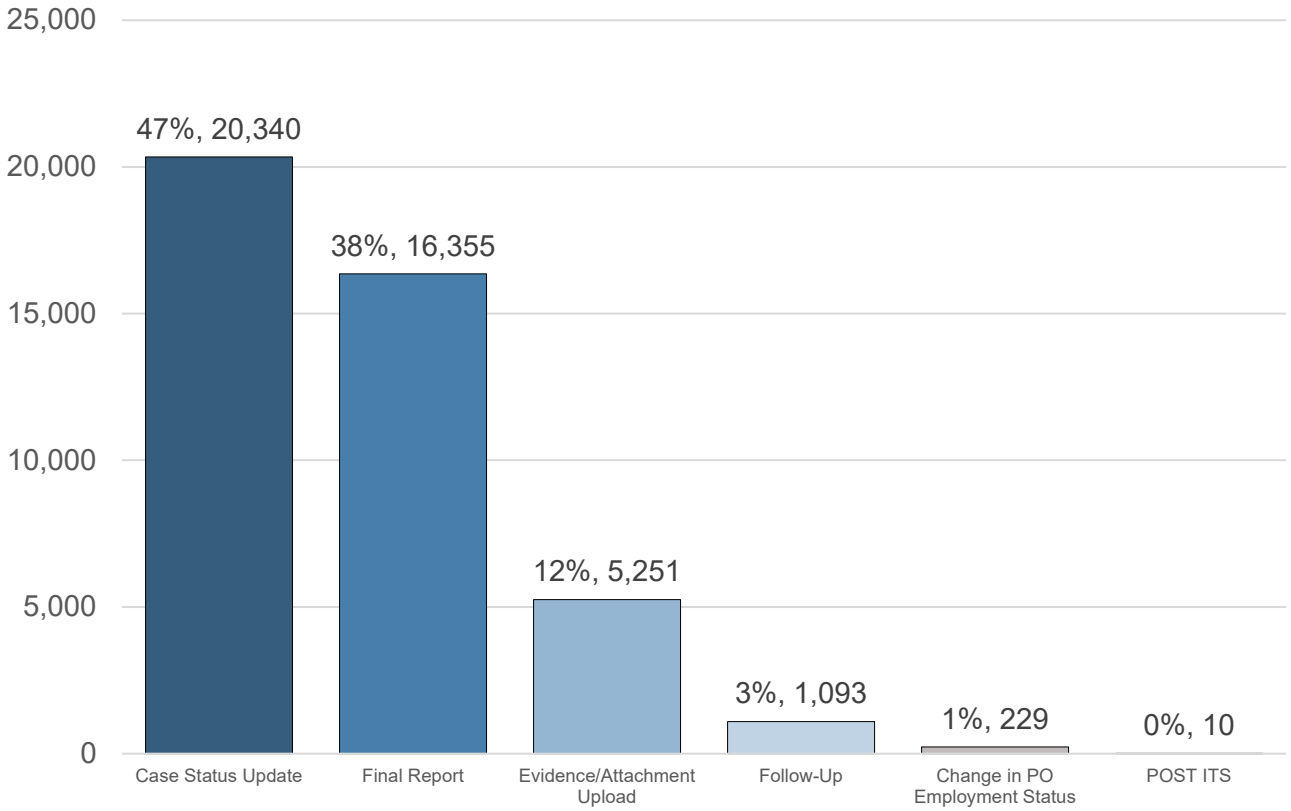
1,073 (26%) complaints require additional agency documentation.

POST communicates with agencies to receive ample documentation prior to its review.

The Division has received over 43,000 report updates from agencies, most consisting of case status updates, evidence uploads, and agency findings.

Over 43,000 Agency Supplemental reports were submitted to provide additional information to Agency Misconduct reports and public complaints.

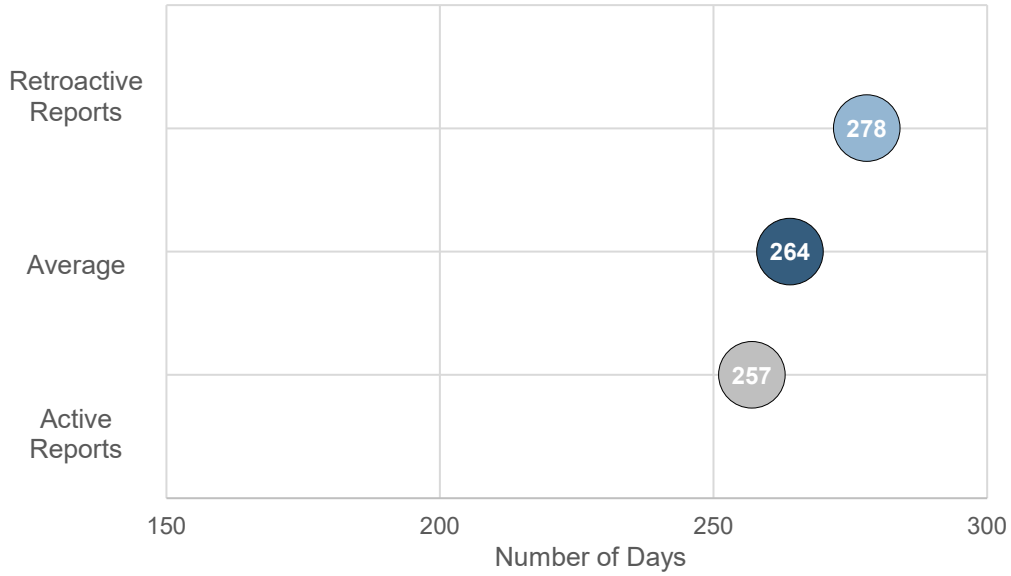
Types of Agency Supplemental Reports Submitted to POST



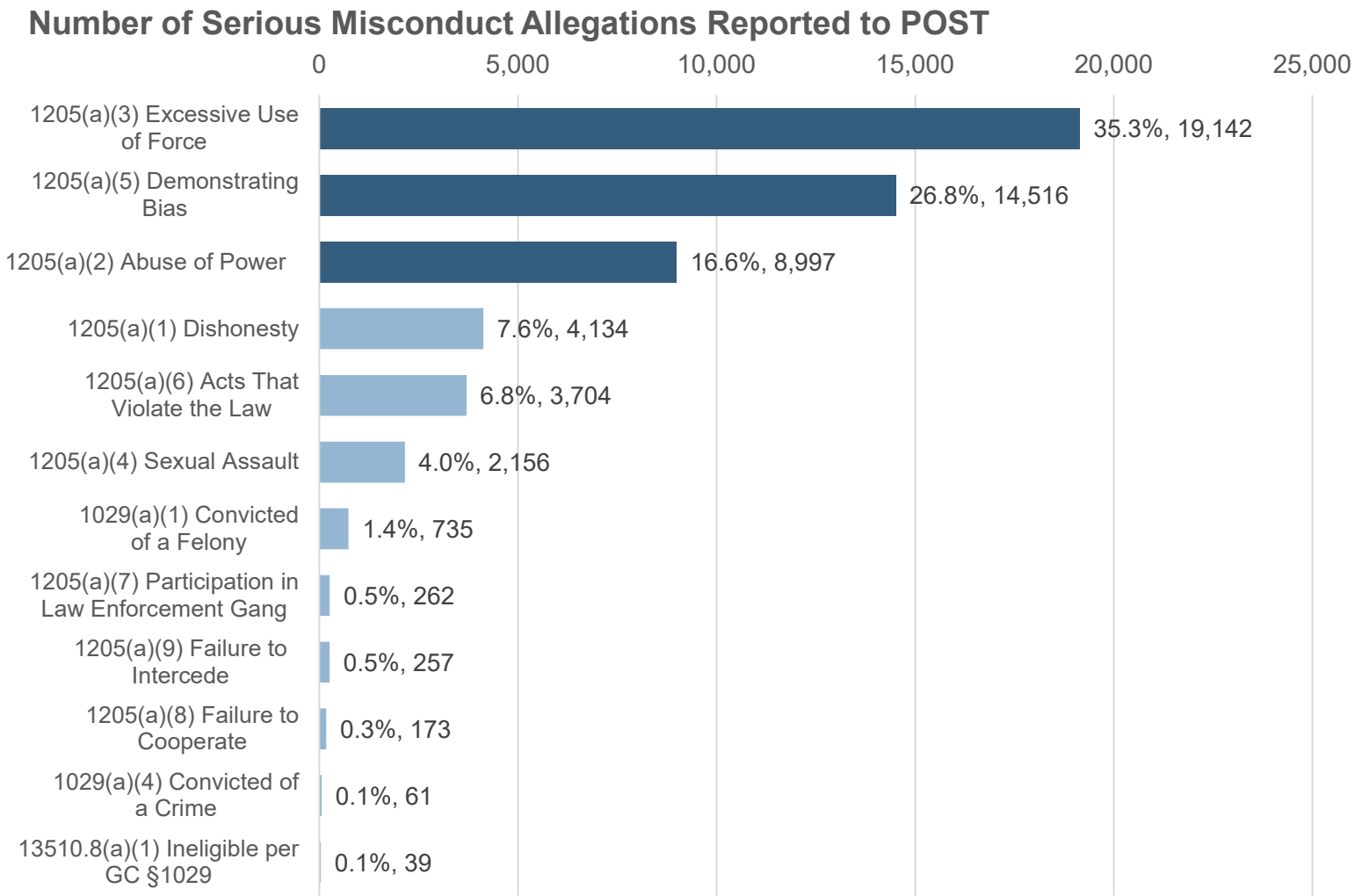
The average timeframe in which an open Agency Misconduct report receives agency findings through an Agency Supplemental report is **264 days**. This timeframe fluctuates when discerning active and retroactive reports.

On average, **retroactive reports** received agency findings in **278 days**. In contrast, **active reports** received agency findings later, within an average of **257 days**.

Average Agency Finding Submission Times By Incident Date



Over 54,000 serious misconduct allegations spanning nearly 25,000 officers statewide have been reported to POST; in accordance with statute, 70% of the allegations are potentially actionable.



A report or complaint may contain multiple allegations.

24,817 unique peace officers (29% of total CA peace officers) received allegations.

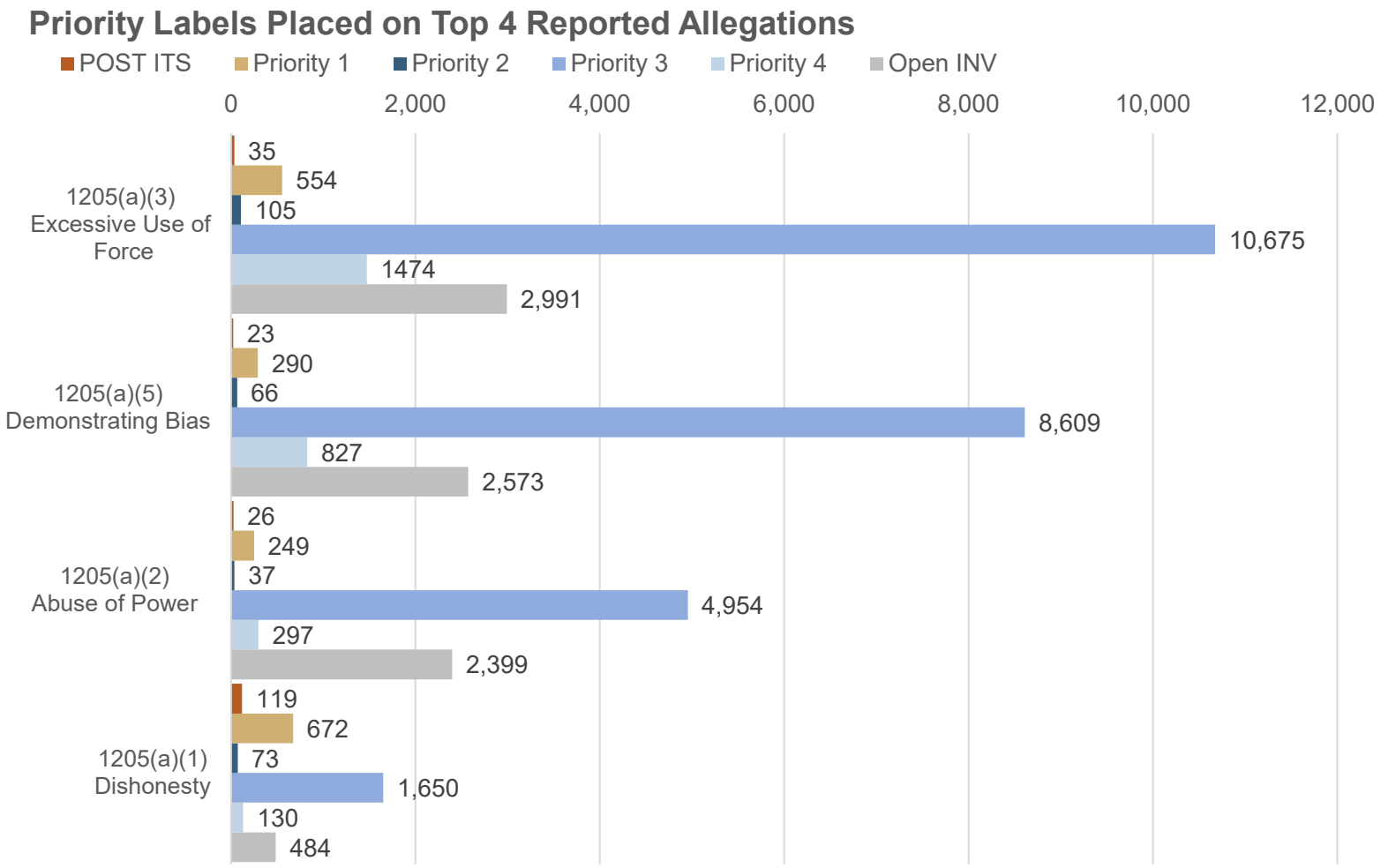
About **30%** of allegations **occurred prior to January 1, 2022**.

POST can only act against conduct that occurred prior to January 1, 2022, **if:**

(1) The subject officer's agency makes a final determination on its investigation **after** January 1, 2022,
or
(2) The allegations include dishonesty, sexual assault, and/or use of deadly force resulting in serious bodily injury or death.

As a result, approximately **38,000** (70%) of the allegations **are considered potentially actionable** by POST.

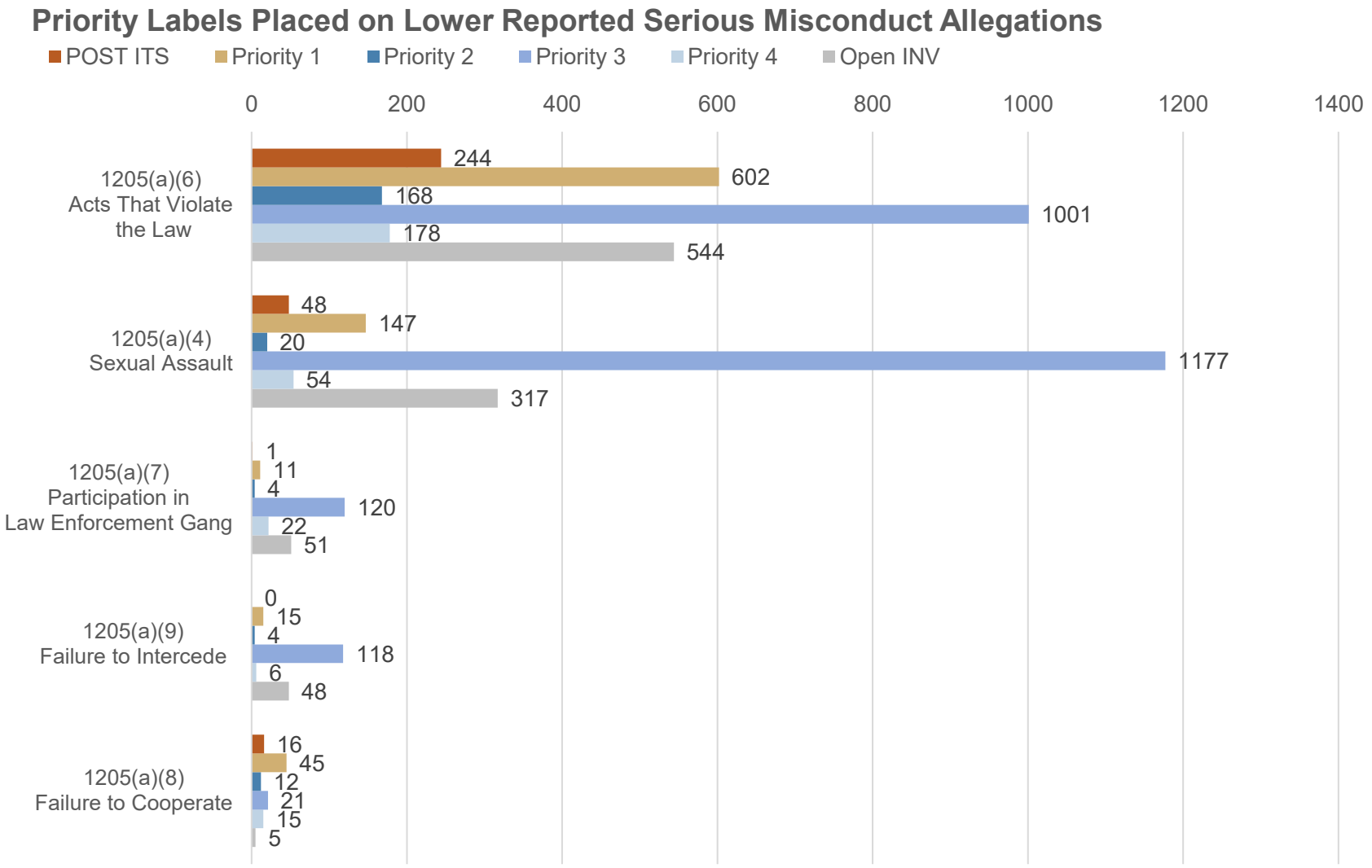
Prioritization of reported allegations to POST: bulk of allegations receive Priority 3 and Open INV labels.



* Labels are assigned upon review by Intake and Disposition Bureau. Prioritization is subject to change when reports are

Label	Definition
POST ITS	Contains a potential ITS basis outlined in Penal Code section 13510.8(d).
Priority 1	Contains politically/media-sensitive content or sustained agency findings, regardless of the incident or agency finding date.
Priority 2	Contains sustained agency findings for policy violations that may or may not fall under the definition of serious misconduct.
Priority 3	Contains an unfounded, exonerated, or not sustained finding with an agency finding date that takes place **after** January 1, 2022.
Priority 4	Contains an unfounded, exonerated, or not sustained finding with an agency finding date that takes place **before** January 1, 2022.
OPEN INV	Contains an ongoing agency investigation without agency findings.

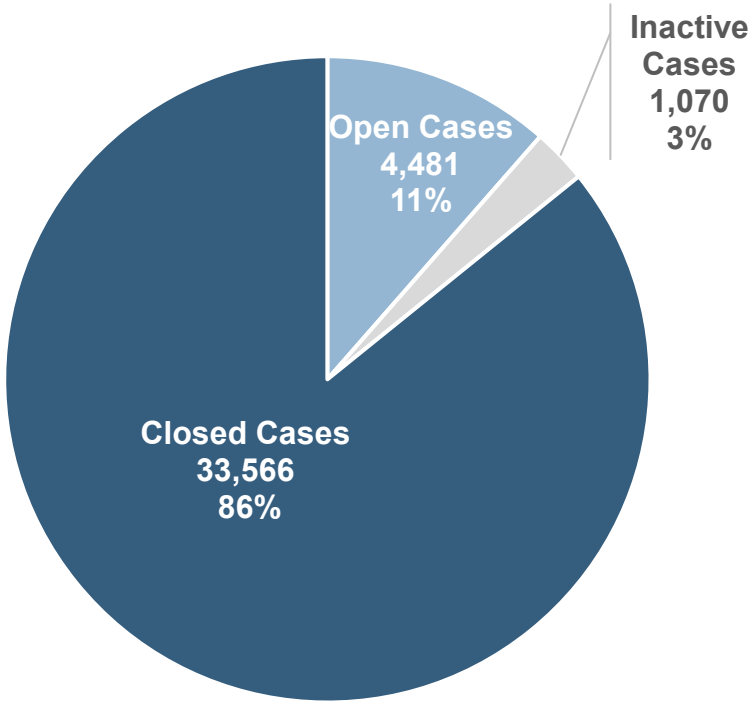
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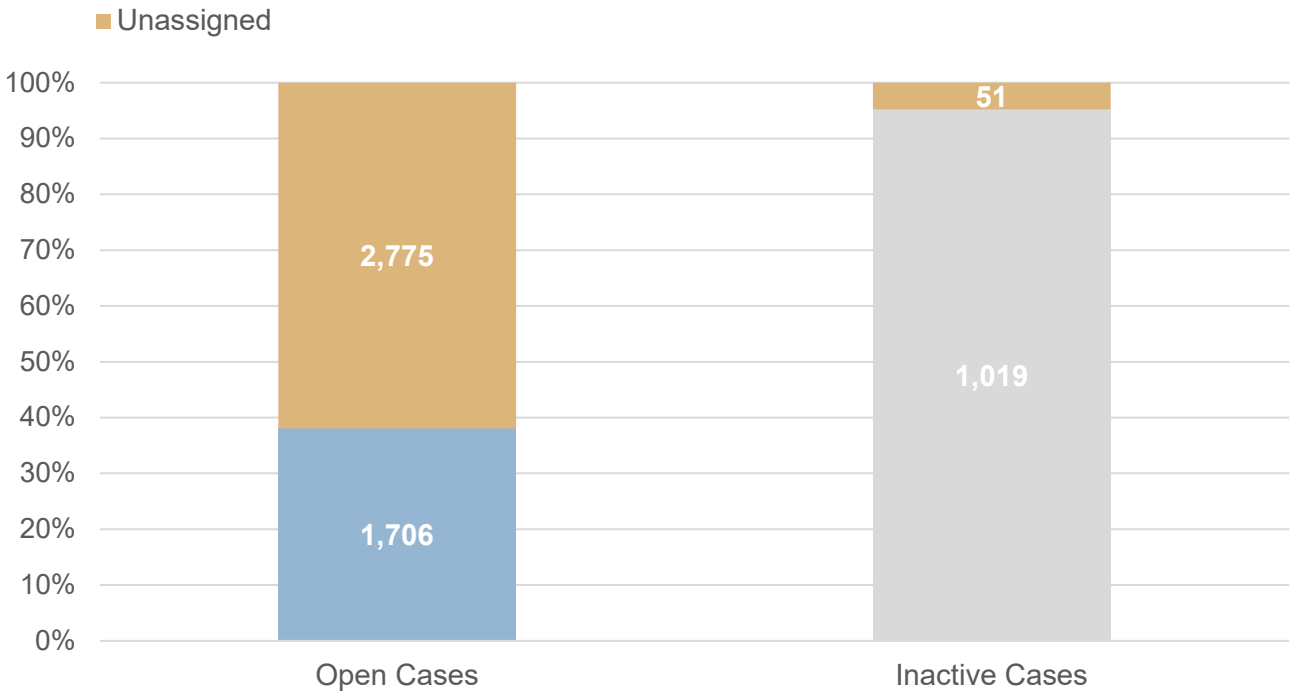
86% of ITS, Public Complaint, and Priority cases are closed; remaining ongoing caseload is prioritized based on agency findings and potential risk to public safety.

Case Statuses Among ITS, Public Complaint, and Priority Case Types



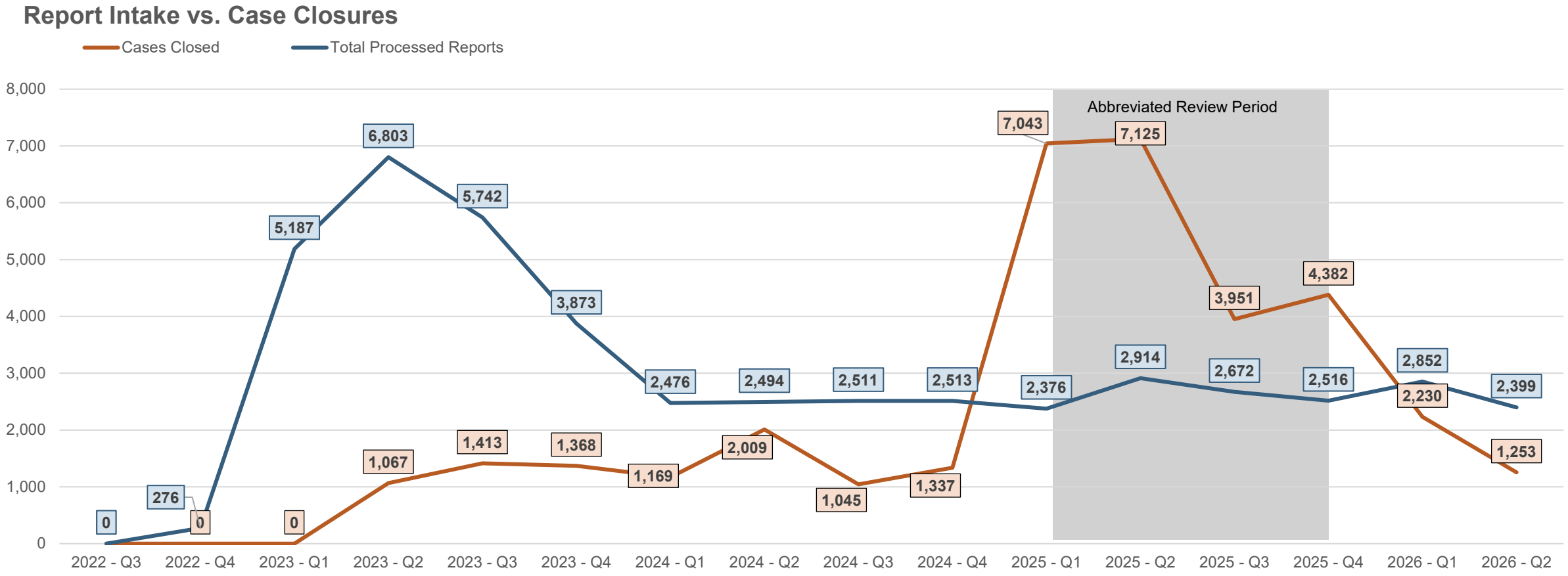
Open Cases - 38% have been assigned to staff for review; 62% are pending assignment.
Inactive Cases - 95% have been assigned to follow up with agencies on their investigation findings and/or monitor cases that pose a potential risk to public safety; 5% are unassigned due to the absence of agency findings.

Assigned and Unassigned Open and Inactive ITS, Public Complaint, and Priority Cases



POST's case closures are catching up to its initial report intake; its abbreviated review process is aiding in backlog clearance.

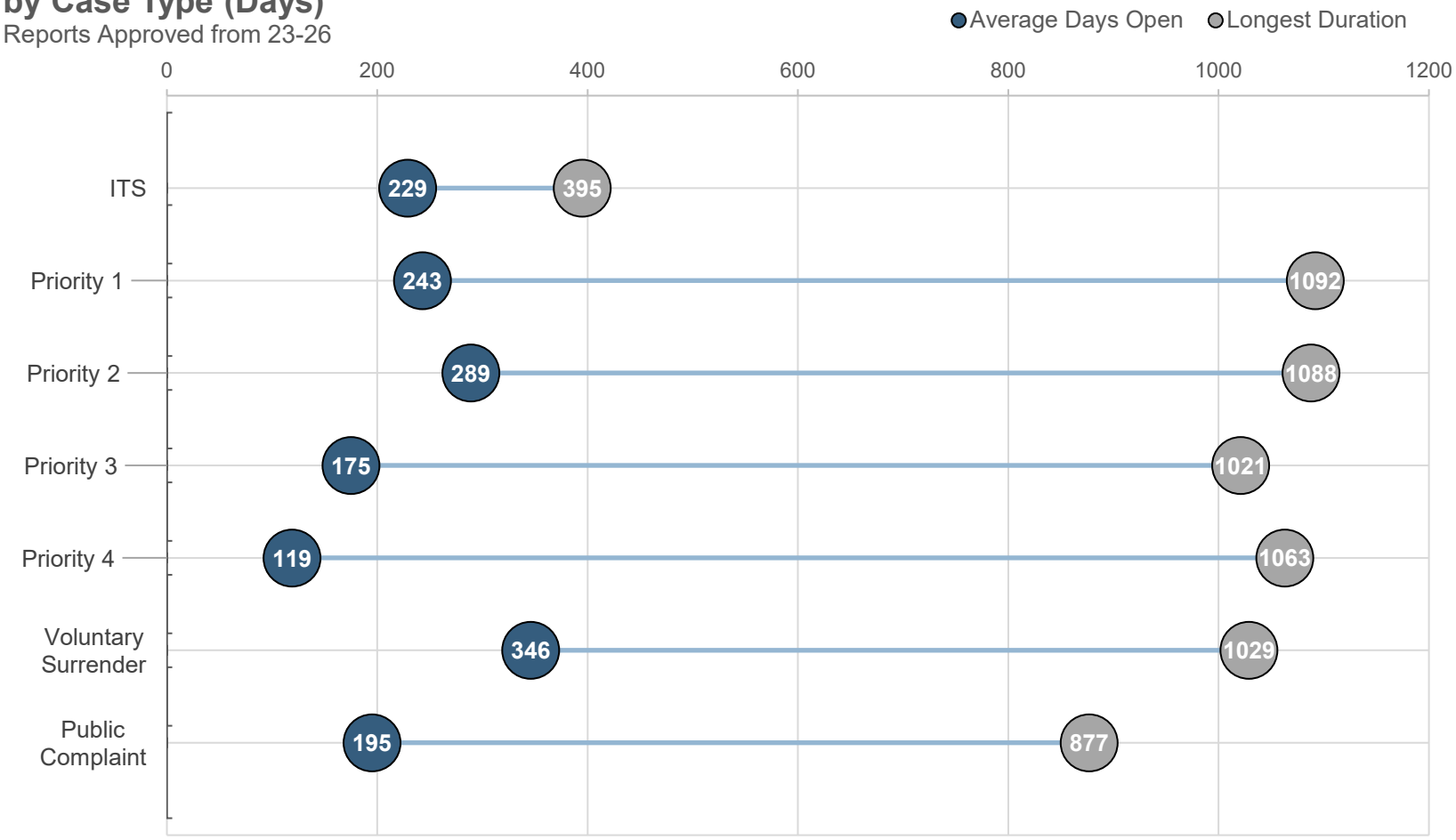
In 2025 Quarter 1, the Division saw a spike in case closures due to a limited-time **Abbreviated Review** process to address the backlog of Priority 3 cases. With most Priority 3 cases now closed under the Abbreviated Review process, the Division has reinstituted the full review of all case types, including Priority 3 cases.



To date, all closed cases have been closed within the 3-year statutory timeframe, with ITS cases accelerated due to public safety risk.

Average vs. Maximum Case Closure Timeframes by Case Type (Days)

Reports Approved from 23-26



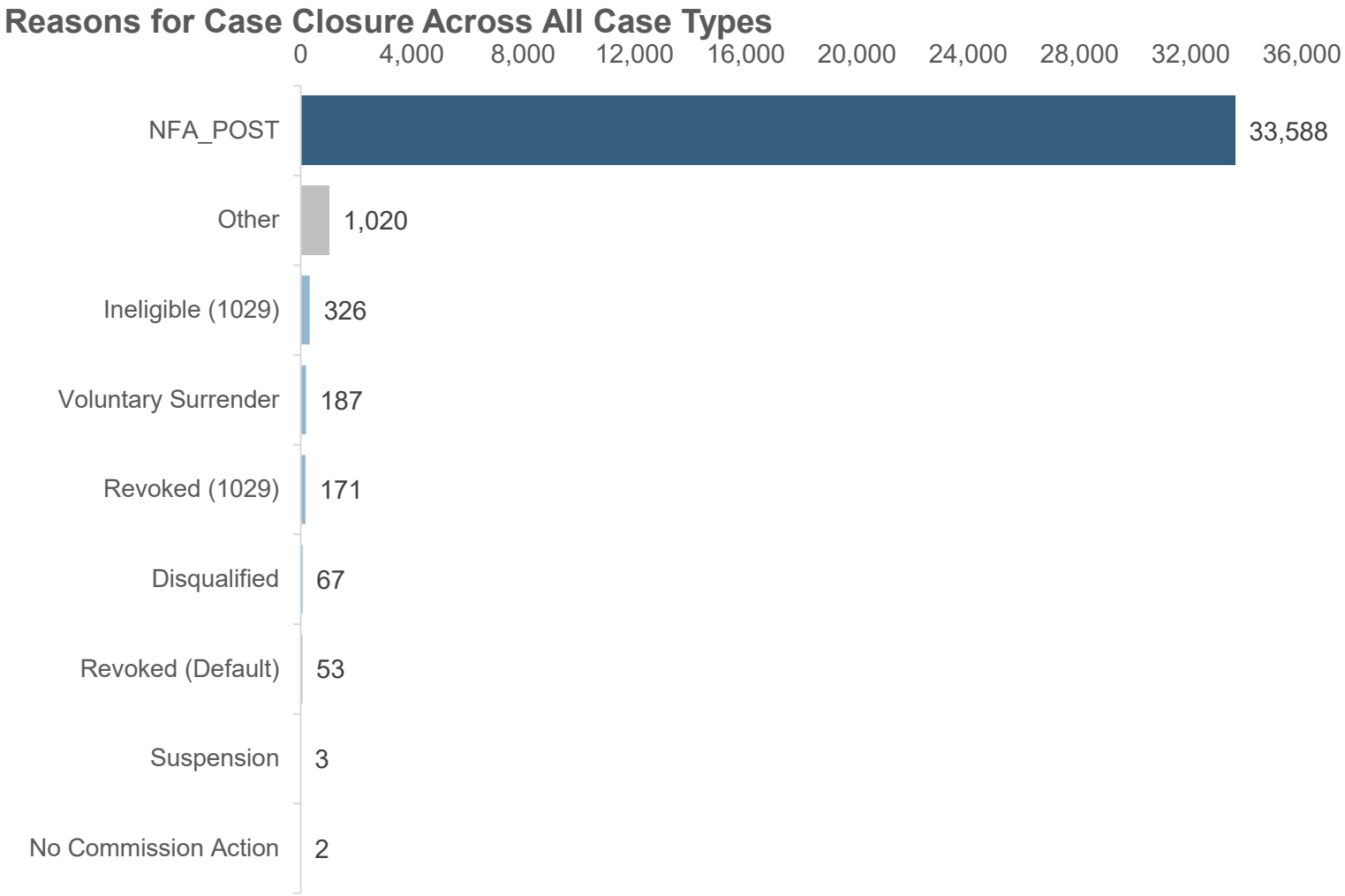
A case is considered open when POST receives the agency's findings up to the point in which POST comes to a determination on the case.

POST has three years upon receipt of the agency's findings to complete its investigation into serious misconduct.

On average, cases are closed within 266 days.

Cases with longer investigation durations comprise of **1.8% of the closed cases**.

Approximately 2% of cases closed by POST resulted in disciplinary action. About 95% of cases were closed without further action.



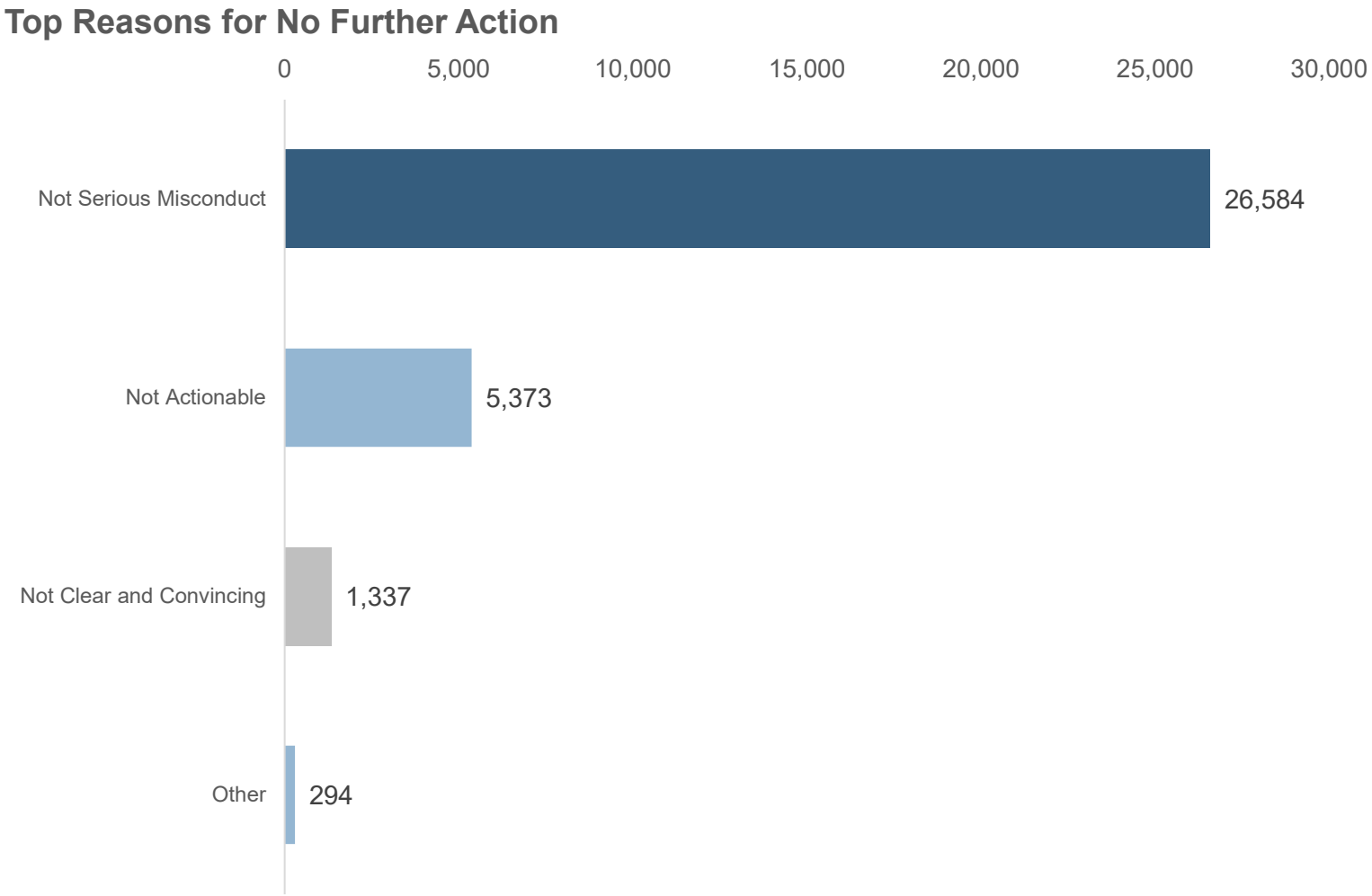
No Further Action (NFA_POST) accounted for **95% of POST's case closures.**

Cases closed due to **revocation, Voluntary Surrender, and Ineligibility** make up **~2%** of all closures.

There are 40 Disqualification cases for individuals that do not hold a Proof of Eligibility or certificate from POST.

A total of 415 cases were consolidated into other cases due to duplicate submissions from agencies.

Breakdown of No Further Action case closures: 79% considered not serious misconduct, 17% non-actionable, and 4% contained insufficient evidence.

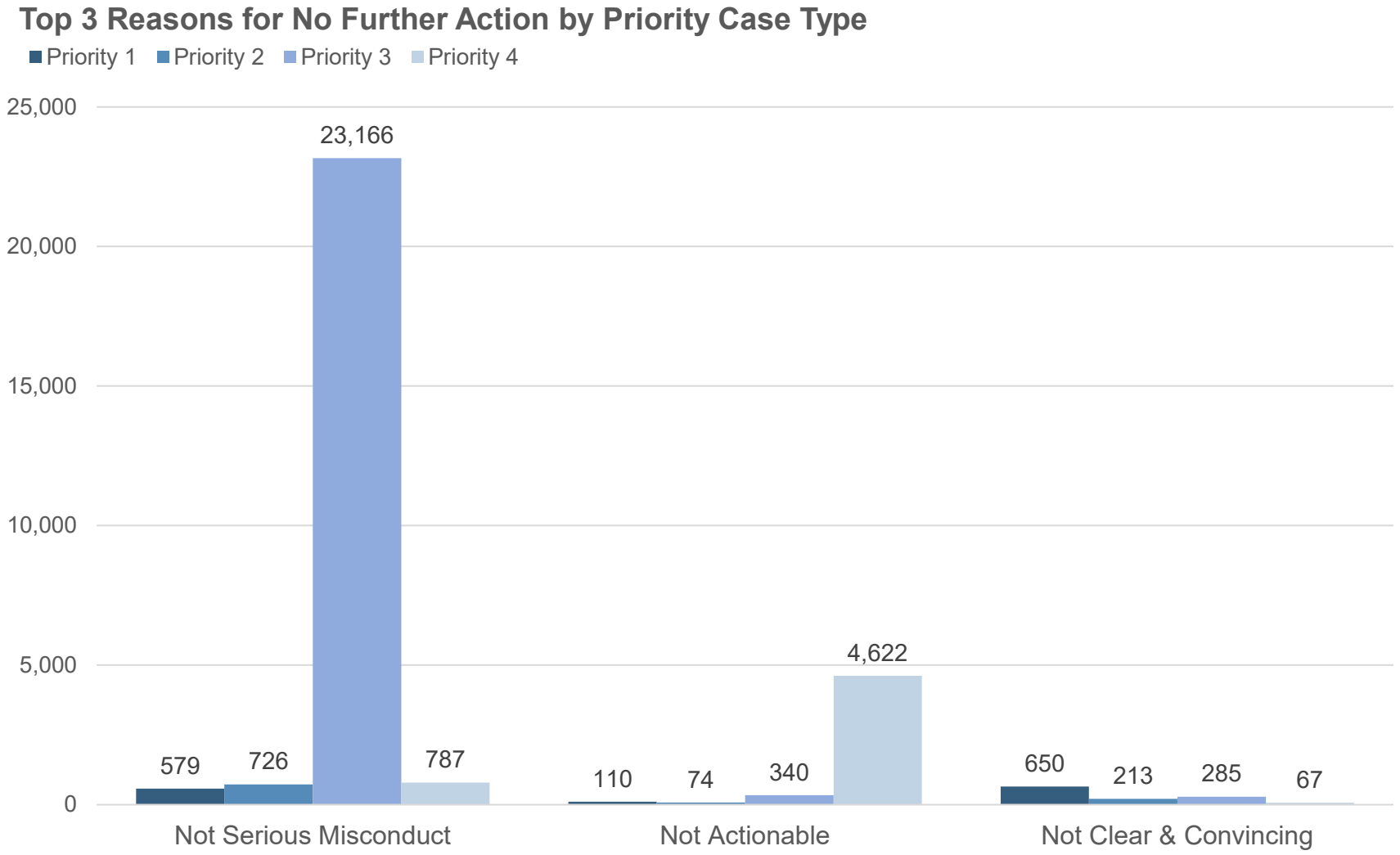


79% of NFA_POST cases were closed because they **did not meet the definition of serious misconduct.**

17% of these cases were closed for being **non-actionable**, meaning POST did not have the statutory authority to act on the case.

Only **4%** of NFA_POST cases were closed because there was **insufficient clear and convincing evidence**. Conduct within these cases may rise to the level of serious misconduct, but POST could not meet the burden of proof.

Closure trends among priority case types: most not serious misconduct and non-actionable cases are Priority 3 and 4, while Priority 1 cases see most evidentiary gaps.



92% of closures for failure to meet serious misconduct were **Priority 3 cases.**

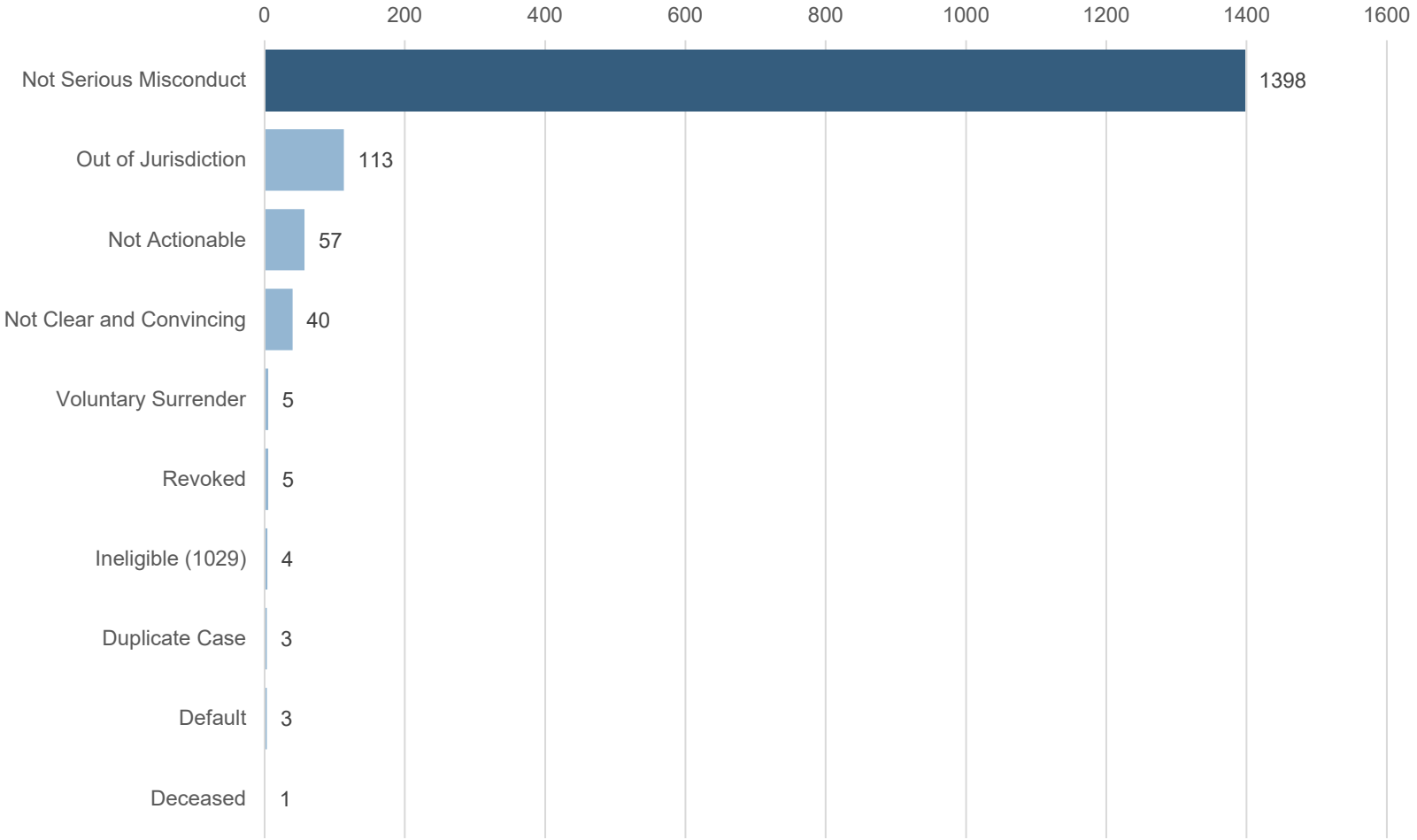
90% of non-actionable closures were **Priority 4 cases**, which aligns with expectations.

53% of cases closed for not meeting the clear and convincing evidentiary standard are **Priority 1 cases**.

Priority 1 and Priority 2 cases combined account for 71% of not clear and convincing closures.

Closure trends among public complaints: most complaints are closed out as not serious misconduct, non-jurisdictional, and non-actionable. A handful have resulted in certification action.

Top Reasons for Case Closure Among Public Complaints



85% of closed cases containing public complaint reports were closed out as **not serious misconduct.**

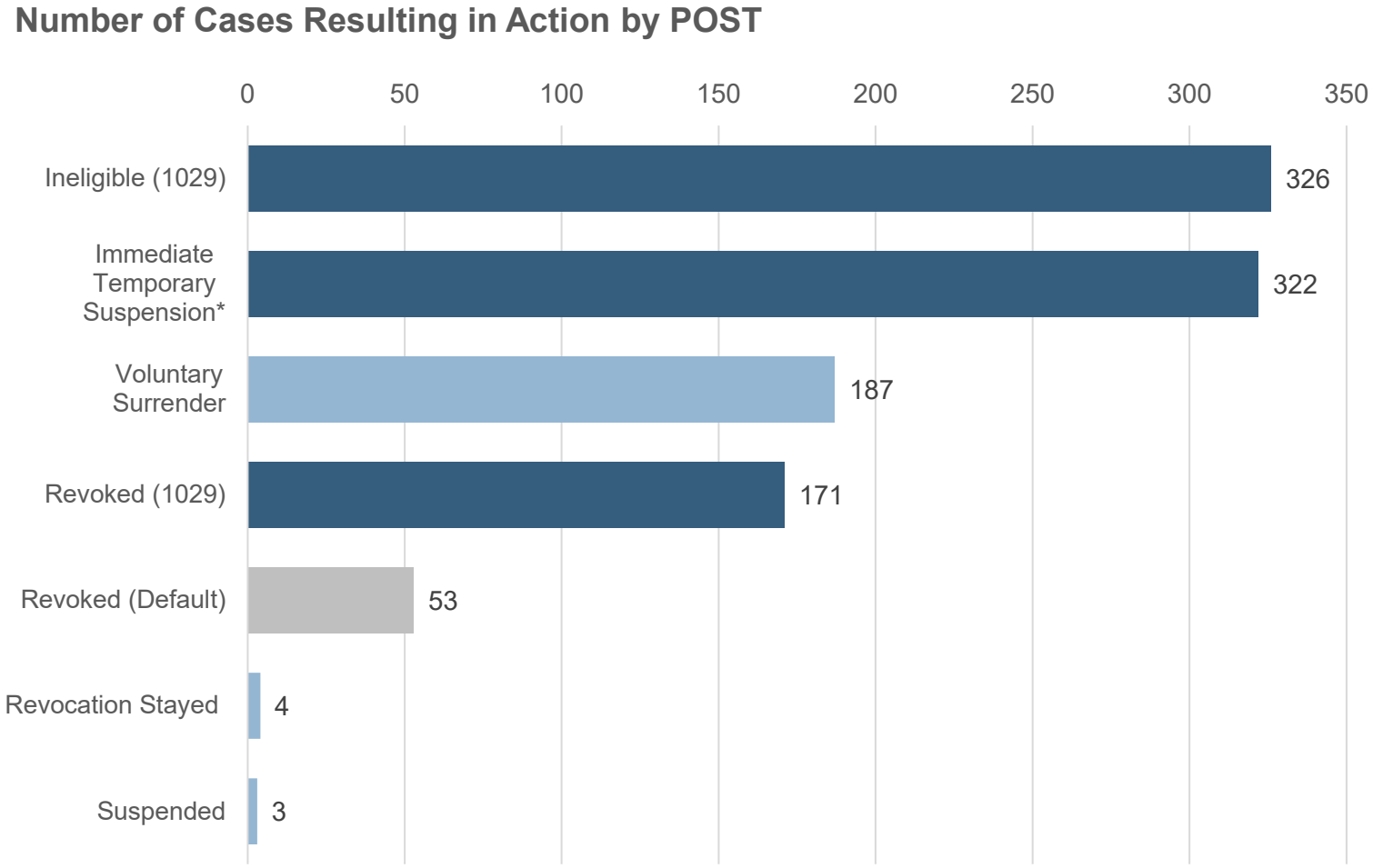
About 7% were closed out as **non-jurisdictional**, which occurs when a complaint indicates a person **not defined within Penal Code section 13510.1(a)**.

3% were closed out as non-actionable.

2% may have met serious misconduct but did not meet the clear and convincing evidentiary standard.

1% resulted in certification action.

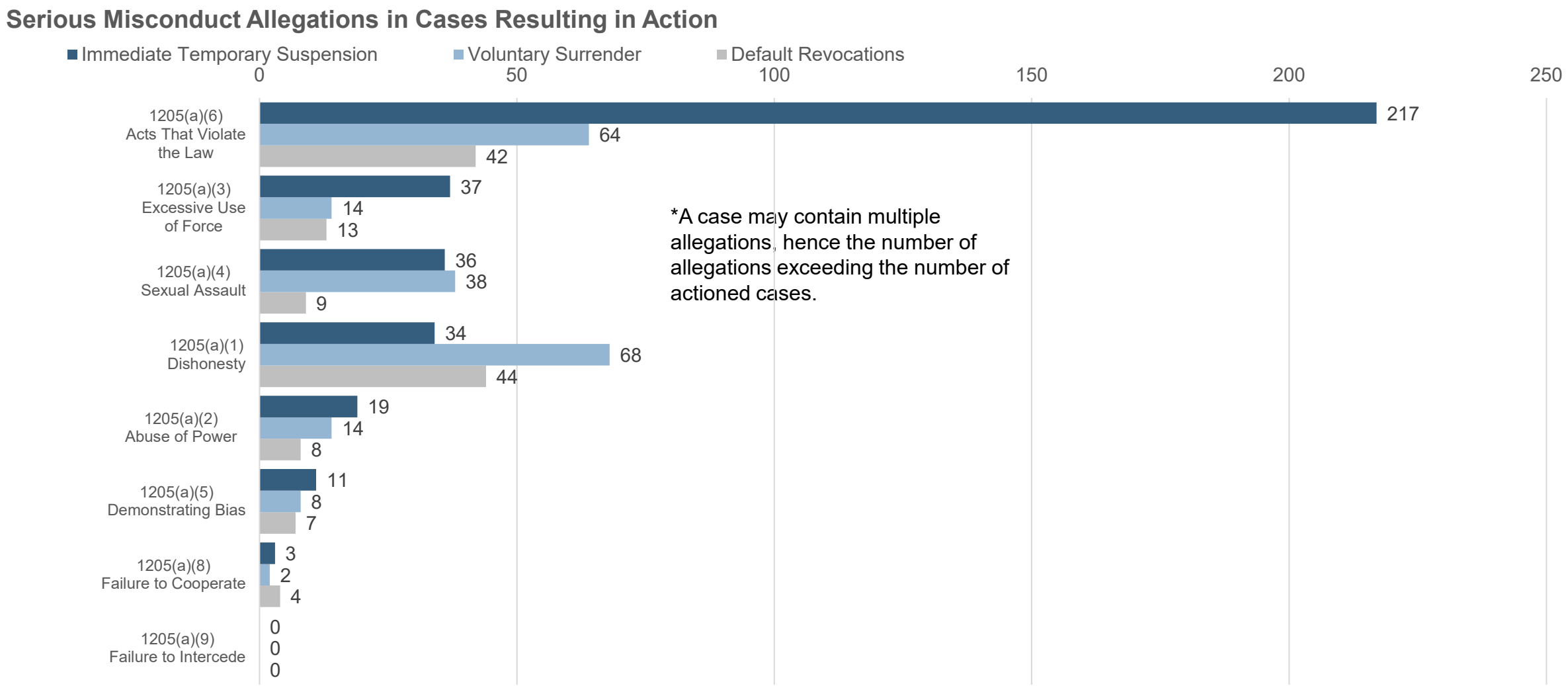
The number of disciplinary actions taken by POST is above average compared to other California regulatory licensing agencies.



1,066 disciplinary actions have been imposed by POST. This amounts to **1.3% of actions** on POST's licensee population (~80k) annually.

*Reflects total number of issued Immediate Temporary Suspensions and those that resulted in subsequent action.

The top allegations resulting in action by POST are Acts that Violate the Law, Dishonesty, and Sexual Assault.

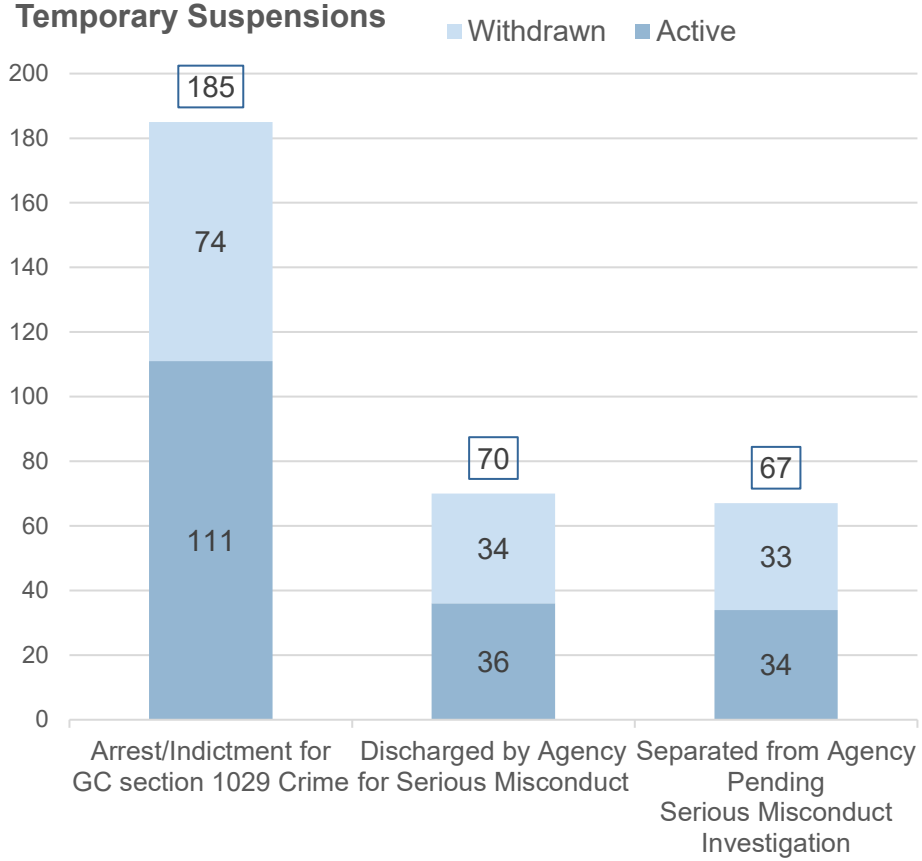


Arrests and indictments for Government Code section 1029 crimes are the highest basis for issued immediate temporary suspensions, contributing to relatively high revocation outcomes.

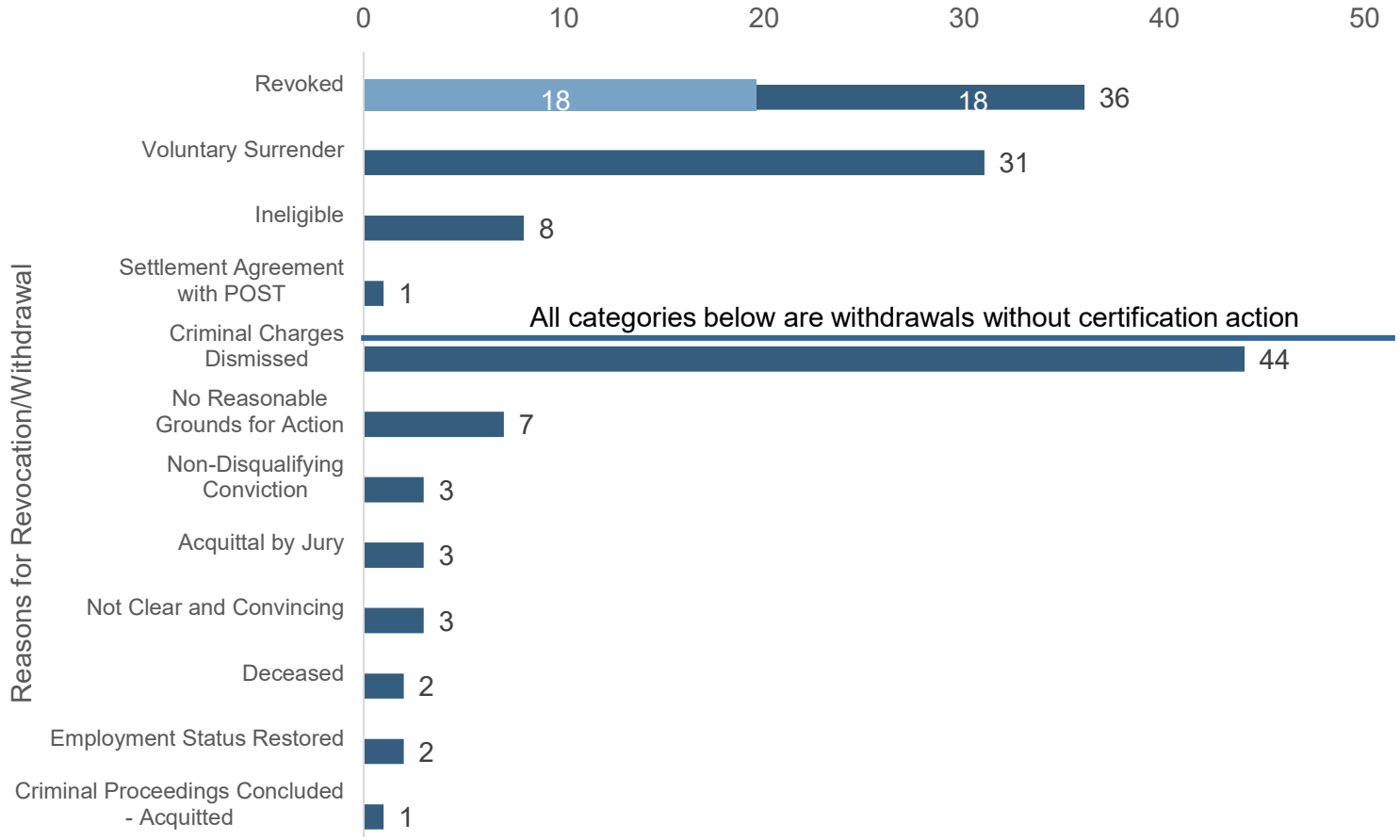
Bases for an immediate temporary suspension (ITS) are outlined in Penal Code section 13510.8(d). An ITS may be issued for one or more basis.

An ITS remains in effect until the Division determines that no serious misconduct occurred, a final determination is made by the Commission, or the Executive Director withdraws the temporary suspension.

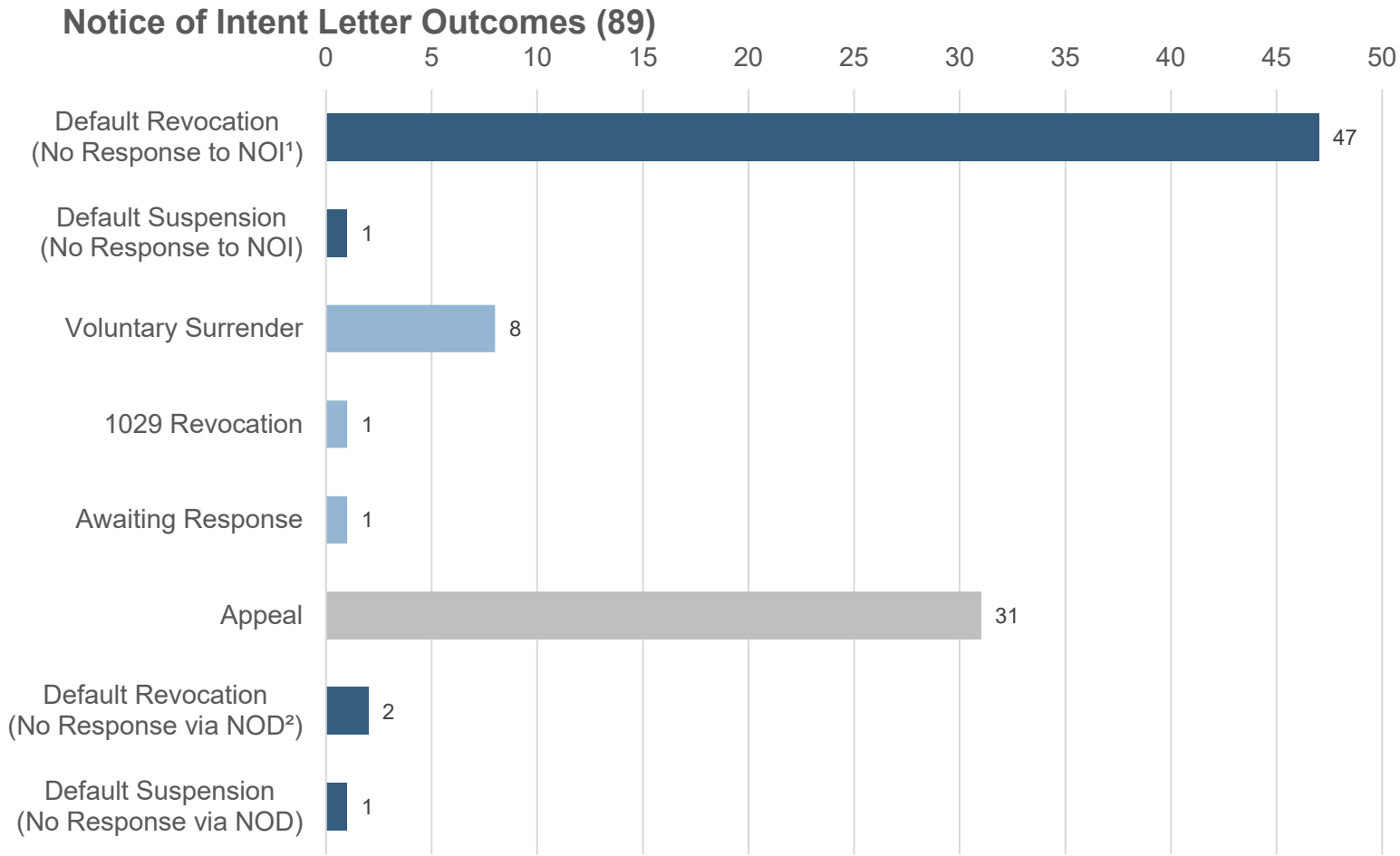
Basis Considered for Issued Immediate Temporary Suspensions



Immediate Temporary Suspensions Resulting in Action or Withdrawal



Over half of subject officers who have received a Notice of Intent letter did not respond, resulting in default outcomes.



A total of 89 Notice of Intent letters have been sent.

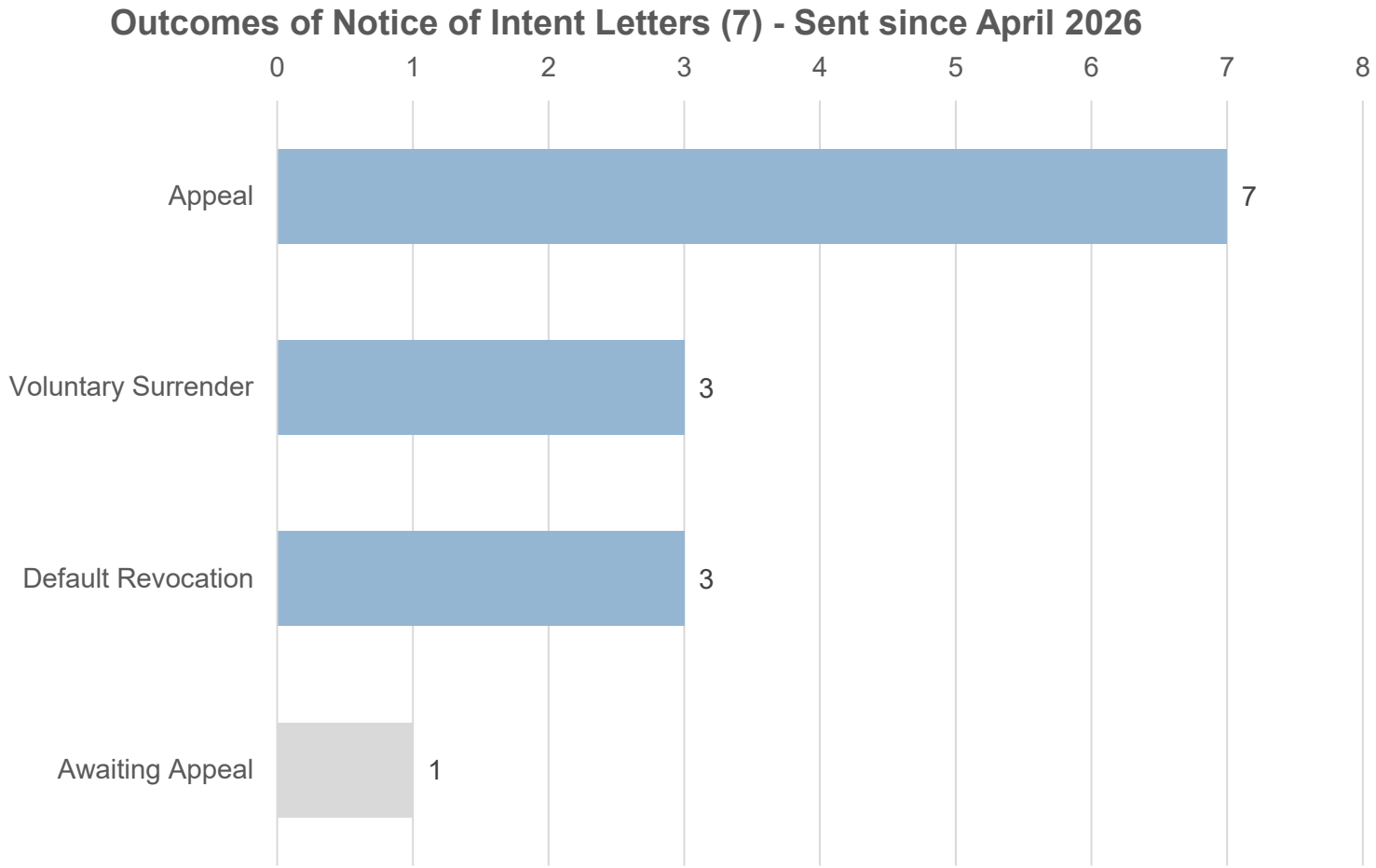
51 Notices resulted in a default decision:

- 48 defaulted from failure to respond to the Notice within the 30-day appeal timeframe
- 3 defaulted after hearing before the Board and Commission due to failure to timely respond to POST's accusation with a Notice of Defense.

31 Notices resulted in appeals; of these appeals, 29 have been heard by the Board and 28[3] have been heard by the Commission.

1. **Notice of Intent to Revoke letter**. Failure to respond within 30 days of the Notice's mailing date results in a default action without any further proceedings.
2. **Notice of Defense**. When the Commission deems that action against a peace officer's certification is warranted, POST works with the Attorney General's Office to file an accusation against the subject officer. In accordance with Government Code section 11520, failure to respond to this accusation with a Notice of Defense within 15 days results in the imposition of the Commission's determination without further proceedings.
3. **One** Respondent Voluntary Surrendered prior to Commission review.

Since April 2026, over one-half of subject officers who received a Notice of Intent letter, either voluntarily surrendered or did not respond, resulting in default outcomes.



A total of 7 Notice of Intent letters have been sent since April 2026.

2 (29%) Notices resulted in appeals

2 (29%) Notices resulted in Voluntary Surrender

2 (29%) Notices resulted in Default Revocation

1 (13%) Notice awaiting response

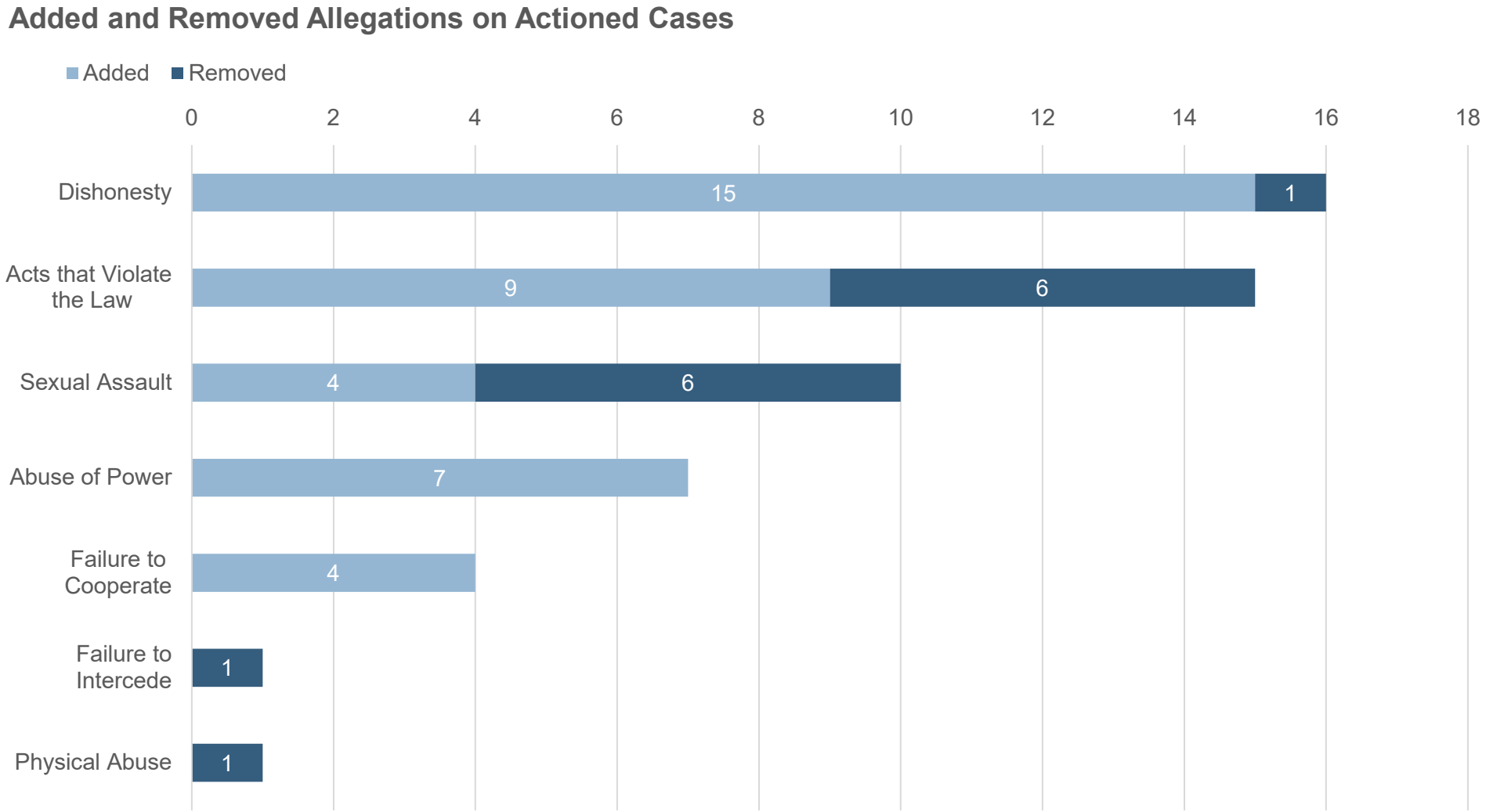
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Almost half of the cases receiving Notice of Intent letters involve POST capturing additional causes for action or amending the agencies' causes for action to align with the regulatory definitions of serious misconduct.

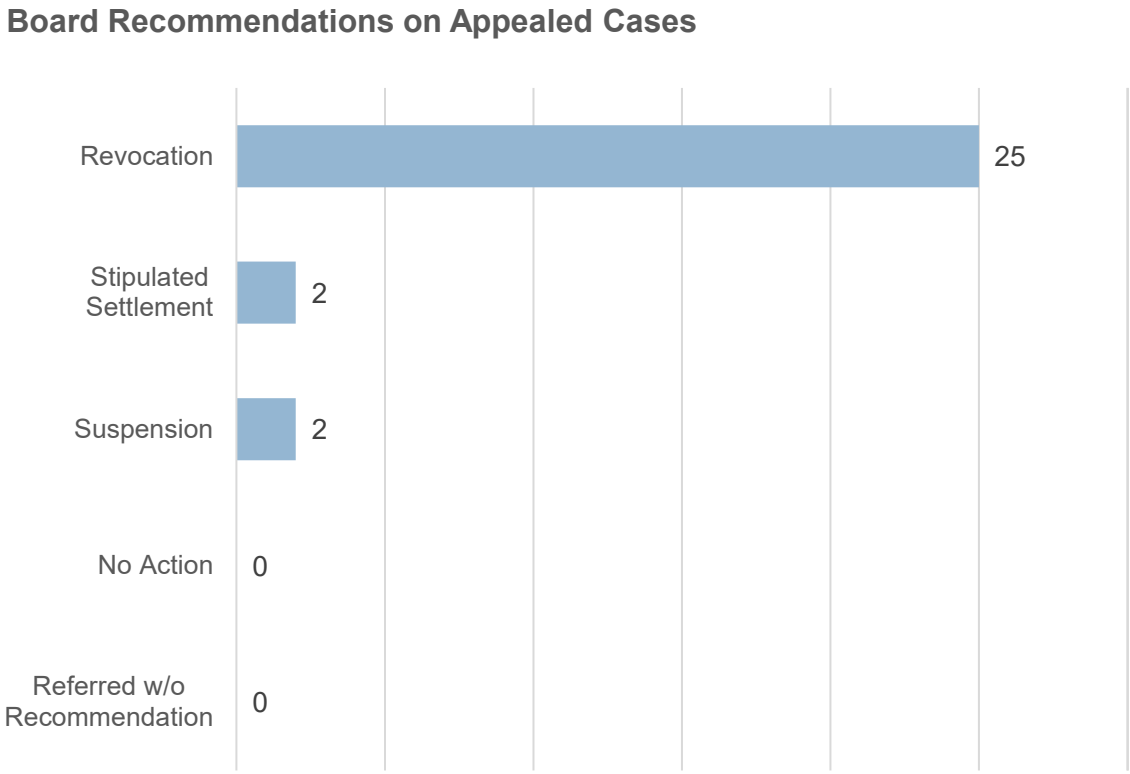
POST revised the original allegations submitted by agencies in **38 of the 89 cases** that received a Notice of Intent letter.

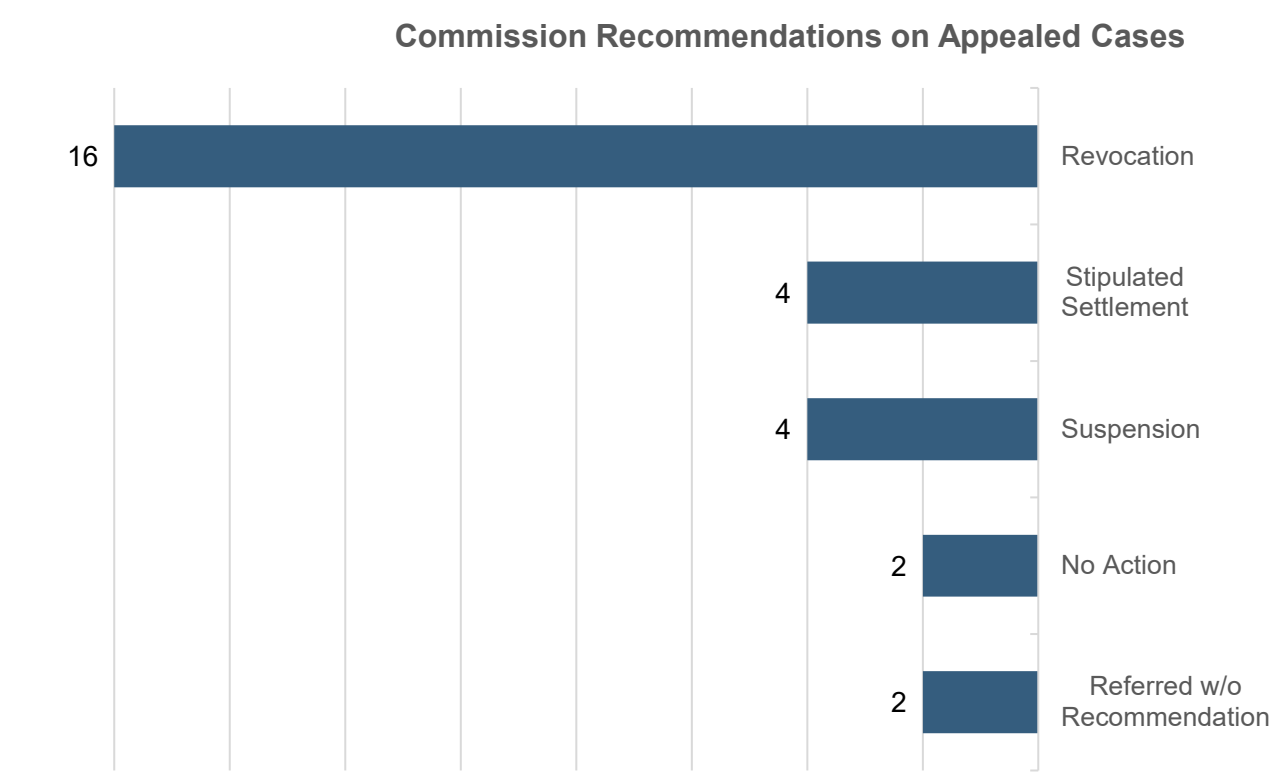
The **most frequent additions** were allegations of **Dishonesty, Abuse of Power,** and **Acts that Violate the Law.**

The **most common removals** were allegations of **Acts that Violate the Law** and **Sexual Assault**.



Comparing Board and Commission recommendations on appealed cases:





The Board has moved to revoke in most cases (25 out of 29), across a range of allegations. The exceptions include cases involving DUIs; one resulted in a suspension, which occurred before awareness of the stipulation process, one defaulted by failing to reply to the Notice of Defense, while two were resolved through stipulated settlements.

The Commission has moved to revoke in over one-half of cases (16 out of 28). Two cases with Dishonesty allegations resulted in no action. All DUI-related cases reviewed by the Commission (4) were resolved through stipulated settlements. Three cases involving excessive use of force resulted in suspension. In one case involving domestic battery, where the Board voted to revoke, the respondent voluntarily surrendered his certification prior to the Commission hearing.

Glossary of Terms, Part One – General Terms

Accusation	A written statement of charges against a respondent. This statement also outlines the agency's jurisdiction and intended discipline over alleged conduct.
Agency Misconduct Report	A report created in Mark43 that provides information about serious misconduct allegations against a peace officer or law enforcement agency.
Agency Supplemental Report	A report created in Mark43 to provide additional information to an Agency Misconduct or Public Complaint report.
Case	When a serious misconduct report is approved, it is created into a case and assigned to POST staff for review. A case will contain at least one Agency Misconduct report or Public Complaint report (or both). It may also contain an Agency Supplemental report if the agency provides POST with further updates on the incident.
Commission	A group of up to 18 commissioners consisting of city and county administrators, law enforcement professionals, educators, and public members which meets at least three times a year to establish standards, regulations, and give direction to POST staff.
Default Revocation/Suspension	Disciplinary action taken against a peace officer's certification after failure to appeal the Division's Notice of Intent letter within 30 days or accusation with a Notice of Defense within 15 days.
Disqualified	An individual that is disqualified from eligibility to be a peace officer based on a disqualifying event as set forth in Government Code section 1029 and does not hold a Proof of Eligibility or certificate from POST.
Ineligible	An individual that is disqualified from eligibility to be a peace officer based on a disqualifying event as set forth in Government Code section 1029 prior to the enactment of SB 2 (January 1, 2022).
Mark43	The secure electronic records management system used by the Division to receive and manage serious misconduct reports and cases.
Notice of Defense	The document submitted by the respondent to preserve their right to a hearing after receiving an accusation. If a Notice of Defense is not timely filed within 15 days of the accusation's service, the agency may impose the outcome by default.
Notice of Intent Letter	Notice that provides the subject officer with a detailed explanation of the decertification procedure and the officer's rights to contest and appeal the Division's intent to take action against their peace officer certification.
Peace Officer Standards Accountability Advisory Board (Board)	An advisory body to the Commission that reviews serious misconduct cases involving peace officers. The Board was created by Senate Bill 2 and is comprised of 9 appointed members.
Peace Officer Standards Accountability Division (Division)	A new division created by Senate Bill 2 that is responsible for the intake and investigation of serious misconduct allegations that may provide grounds for suspension or revocation of a peace officer's certification.
Public Complaint	A complaint of potential serious misconduct from a member of the public.
Public Complaint Report	A report created in Mark43 that provides information about potential serious misconduct allegations from a public complaint.
Revoked	The peace officer has been decertified and may not exercise the duties and powers of a peace officer. A revocation is permanent, and the certification shall not be reactivated.
Immediate Temporary Suspension	The immediate suspension of a peace officer's certification, pending the outcome of an investigation related to allegations of serious misconduct, pursuant to Penal Code section 13510.8(d). The "temporary suspension" may be issued under the following circumstances: When a peace officer is arrested or indicted for a felony or other crime listed in Government Code section 1029, When a peace officer is discharged from a law enforcement agency for serious misconduct, or When a peace officer has separated from employment as a peace officer during a pending investigation into allegations of serious misconduct.
Suspension	A disciplinary action wherein a peace officer certification has been suspended for a specified period of time, not to exceed three years. A peace officer whose certification has been suspended may not be assigned duties which include the exercise of peace officer powers.
Voluntary Surrender (Surrender)	A person who holds a certificate issued by the commission, knowingly and willingly, returns the certificate to the commission, forfeiting all rights and privileges associated with that certificate. A "surrender" has the same effect of a revocation in that it cannot be reactivated.

Glossary of Terms, Part Two – Case Terms and Priority Labels

Case Statuses	
Consolidated Case	Case status applied when a case is consolidated into another case due to multiple cases for the same individual/incident.
Deceased	Case status applied to cases that cannot be actioned due to the peace officer being deceased.
Disqualified	Case status applied to cases that result in an individual being disqualified from eligibility to be a peace officer based on a disqualifying event as set forth in Government Code section 1029 and does not hold a Proof of Eligibility or certificate from POST.
Ineligible	Case status applied to cases that result in an individual being disqualified from eligibility to be a peace officer based on a disqualifying event as set forth in Government Code section 1029 prior to the enactment of Senate Bill 2 (January 1, 2022).
Issued in Error	Case status applied to cases with reports/investigations that are generated in error.
NFA_POST	Case status applied to cases when the Division does not take action against a case due to insufficient evidence, absence of serious misconduct, or statutory limitations, etc.
No Commission Action	Case status applied to cases where the Commission's determines no action against a peace officer's certification following the Commission's review of the Board's recommendation.
Non-Jurisdictional	Case status applied to cases with allegations against an individual **not** appointed pursuant to Penal Code Section 830.1, 830.2 with the exception of subdivision (d), 830.3, 830.32, or 830.33.
Revoked	Case status applied to cases that result in the commission's revocation of a peace officer's certification.
Suspension	Case status applied to cases when the Commission's decision is to suspend the peace officer's certification.
Voluntary Surrender	Case status applied to cases where a peace officer voluntarily surrenders their certification.
Not Actionable	A closure justification for cases that cannot be acted upon due to lack of statutory authority, e.g, conduct and findings took place prior to January 1, 2022.
Not Clear and Convincing	A closure justification for cases where the clear and convincing evidentiary standard could not be established upon review and analysis of case facts.
Not Serious Misconduct	A closure justification for cases that did not involve acts of serious misconduct as defined in Commission Regulation 1205.
Labels	
POST ITS	Contains a potential ITS basis outlined in Penal Code section 13510.8(d).
Priority 1	Contains politically/media-sensitive content or sustained agency findings, regardless of the incident or agency finding date.
Priority 2	Contains sustained agency findings for policy violations that may or may not fall under the definition of serious misconduct.
Priority 3	Contains an unfounded, exonerated, or not sustained finding with an agency finding date that takes place **after** January 1, 2022.
Priority 4	Contains an unfounded, exonerated, or not sustained finding with an agency finding date that takes place **before** January 1, 2022.
OPEN INV	Contains an ongoing agency investigation without agency findings.

Questions?

Thank you!

AGENDA ITEM REPORT

Title: POST2507244 - EDUARDO ESCARENO-DAVILA (POST ID: C99-P62) LAST EMPLOYING AGENCY: MENDOCINO COUNTY SHERIFF'S OFFICE

REPORT PROFILE

MEETING DATE 07/16/2026	**BUREAU SUBMITTING THE REPORT** Peace Officer Standards Accountability Division	
RESEARCHED BY Gerald Fernandez	**REVIEWED BY** Robert Guyton	
REPORT DATE	**APPROVED BY** Annemarie Del Mugnaio	**DATE APPROVED**
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

The matter is before the Peace Officer Standards Accountability Advisory Board (POSAAB) for review and recommendations regarding the subject peace officer's certification status.

BACKGROUND:

Respondent began his employment with the Mendocino County Sheriff's Office (MCSO) on June 11, 2023 as a Trainee, becoming a full-time Deputy Sheriff/Coroner on December 10, 2023. Respondent held a peace officer position as defined under California Penal Code § 830.1(a). Respondent did not earn a peace officer certificate from POST; however, he was issued a Proof of Eligibility (POE) by POST, based on his appointment as a peace officer by the MCSO. At the time of the event at issue, Respondent was off duty. Approximately a week later, he was released during his probationary period. Respondent's POE expired upon his separation from the MCSO.

On November 13, 2024, at approximately 0310 hours, while off duty, Respondent surreptitiously entered his roommate's (Victim) bedroom and touched her vaginal area while she was sleeping. Respondent's physical touch woke Victim up. When Victim turned on the light in her bedroom, she saw Respondent lying on the floor, attempting to hide under her bed.

Victim confronted Respondent, who appeared intoxicated. Respondent told Victim he was looking for a white cat that used to be Victim's pet. Respondent repeatedly told Victim he was sorry. Respondent had never been in Victim's bedroom before, which was an unspoken rule that it was off-limits, according to the Victim. Although they were roommates, Respondent and Victim had never been in a romantic relationship, nor was there any reason to suggest she was romantically interested in him.

Respondent admitted that he had consumed beer the night of the incident and was intoxicated. He admitted that he lied to Victim when he said he was looking for the white cat. Respondent said that he went into Victim's bedroom, touched her foot, and moved his hand up her leg until he reached her calf area, at which point Victim woke up so he stopped. However, Respondent denied touching Victim's vaginal area. After Victim confronted Respondent, she called the MCSO to report the incident. MCSO deputies responded to Victim's call for service, interviewed Victim, and later the Respondent. An Emergency Protective Order (EPO) was served upon Respondent.

On December 9, 2024, Respondent was charged with one count of sexual battery, Penal Code § 243.4(e)(1), a misdemeanor. On February 20, 2026, the Complaint was amended to add a misdemeanor battery charge for Penal Code §§ 242 and 243(a). Respondent then pled guilty to the misdemeanor battery charge, and the court dismissed the sexual battery charge. The court then suspended sentencing based on a deferred entry of judgment/non-drug program. If Respondent abides by all the conditions of his deferred entry of judgment, it is possible that the battery charge will be dismissed on February 19, 2027.

On May 15, 2025, the MCSO initiated an administrative investigation predicated on the Victim's original allegations and related criminal investigation. On July 10, 2025, the administrative investigation was completed with sustained findings for policy violations for standards of conduct, laws rules and orders, and sexual battery by the MCSO.

Video Evidence Link:

- **BR09 POST2507244 EscarenoDavila Eduardo Attachment E Victim Interview with Detective Woida**
- **BR10 POST2507244 EscarenoDavila Eduardo Attachment F Dispatch Call 1**
- **BR11 POST2507244 EscarenoDavila Eduardo Attachment G Dispatch Call 2**
- **BR12 POST2507244 EscarenoDavila Eduardo Attachment H Initial Victim Interview**
- **BR16 POST2507244 EscarenoDavila Eduardo Attachment L Respondent Interview**
- **BR17 POST2507244 EscarenoDavila Eduardo Attachment M Respondent Demonstration**
- **BR18 POST2507244 EscarenoDavila Eduardo Attachment N Video of Respondent Pointing Here**

ANALYSIS:

Clear and convincing evidence substantiated that the Respondent violated California Penal Code §13510.8(b)(6) and Commission Regulation §1205(a)(6), Acts that Violate the Law. Specifically, Respondent violated California Penal Code § 243.4(e)(1) that says, in part, "Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, or any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of misdemeanor sexual battery…" Penal Code § 243.4(g)(1) defines an intimate part as "the sexual organ, anus, groin, or buttocks of any person, and the breast of a female."

Respondent violated the law, Penal Code § 243.4(e)(1), sexual battery, when he admittedly crawled into Victim's bedroom without her knowledge or permission and touched Victim's bare skin with his bare hand while she was sleeping in her bedroom. Although Respondent denied touching Victim's vaginal area, he also said three separate times during his investigative interview that he wasn't sure what other parts of Victim's body he touched besides her foot and leg.

Victim's account of the incident was essentially consistent with Respondent's, except that Victim alleged that Respondent had indeed touched her vaginal area, which is what caused her to wake up. Victim was assessed to be highly credible because

she provided consistent statements to dispatch and the responding deputies and she provided specific details when recounting the battery. Additionally, Victim was wearing loose-fitting shorts with no underwear, which made the direct skin-to-skin contact of her vaginal area plausible, which woke her up. Victim has no known motive to fabricate the allegations that Respondent touched her vaginal area and it was not in her best financial interest to have Respondent moved out due to the emergency protective order.

Respondent's actions represented a glaring contradiction with his obligation to uphold the law as a peace officer.

RECOMMENDATION: The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

ATTACHMENT(S):

BR01_POST2507244_EscarenoDavila Eduardo_ISF.pdf
BR02_POST2507244_EscarenoDavila Eduardo_ExecReviewDivisionRec.pdf
BR03_POST2507244_EscarenoDavila_Eduardo_POSTProfile_Redacted.pdf
BR04_POST2507244_EscarenoDavila Eduardo_AgencyIA_Redacted.pdf
BR05_POST2507244_EscarenoDavila Eduardo_Attachment A - Memo of Release_Redacted.pdf
BR06_POST2507244_EscarenoDavila Eduardo_Attachment B - Criminal Complaint_Redacted.pdf
BR07_POST2507244_EscarenoDavila Eduardo_Attachment C - Deferred Entry of Judgment Order.pdf
BR08_POST2507244_EscarenoDavila Eduardo_Attachment D - Personnel Complaint Disposition.pdf
BR13_POST2507244_EscarenoDavila Eduardo_Attachment I - EPO_Redacted.pdf
BR14_POST2507244_EscarenoDavila_Eduardo_Attachment_J_-_TRO_Redacted.pdf
BR15_POST2507244_EscarenoDavila Eduardo_Attachment K - Search Warrant_Redacted.pdf



INVESTIGATIVE SUMMARY AND FINDINGS

PEACE OFFICER NAME: Eduardo Guadalupe Escareno-Davila

POST ID NUMBER: C99-P62

EMPLOYING AGENCY: Mendocino County Sheriff's Office

POST CASE NUMBER: POST2507244

WRITTEN BY: Gerald Fernandez

DATE: 6/3/2026

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I. Executive Summary and Findings

On November 13, 2024, at approximately 0310 hours, while off duty, Mendocino County Sheriff's Office (MCSO) Deputy Eduardo Guadalupe Escareno-Davila, hereinafter "Respondent," surreptitiously entered his roommate's (Victim) bedroom and touched her vaginal area while she was sleeping. However, the touch woke her up and when she turned on the light in her bedroom, she saw Respondent lying on the floor, apparently attempting to hide under her bed.

Victim then confronted Respondent, who appeared intoxicated, which he later confirmed. Respondent told Victim he was looking for a white cat that used to be Victim's pet, which he later admitted was a lie. Respondent repeatedly told Victim he was sorry. Respondent had never been in Victim's bedroom before, which was an unspoken rule that it was off-limits, according to the Victim. Although they were roommates, Respondent and Victim had never been in a romantic relationship, nor was there any reason to suggest she was romantically interested in him.

Respondent admitted that he had consumed beer the night of the incident and was "a little too intoxicated." He said that he went into Victim's bedroom, touched her foot, and moved his hand up her leg until he reached her calf area, at which point Victim woke up so he stopped. However, Respondent denied touching Victim's vaginal area. When the Victim confronted him, he repeatedly apologized to her.

After Victim confronted Respondent, she telephonically contacted the MCSO to report the incident. MCSO deputies responded to Victim's call for service and interviewed Victim and Respondent. An Emergency Protective Order (EPO) was served upon Respondent, which included a move-out order, and a search warrant was executed at the residence, which included DNA Buccal swabs from Respondent and his digital devices.

On November 21, 2024, Respondent was released during his probationary period from his position as a Deputy Sheriff/Coroner with the MCSO.[1]

On December 9, 2024, the Mendocino County District Attorney's Office (MCDAO) filed Respondent's criminal case with the Mendocino County Superior Court (MCSC) and he was charged with one count of sexual battery, Penal Code § 243.4(e)(1), a misdemeanor.[2] However, on February 20, 2026, the MCSC amended the complaint to add a misdemeanor battery charge for Penal Code sections 242 and 243(a). Respondent then pled guilty to the misdemeanor battery charge, and the court dismissed the sexual battery charge. After Respondent pled guilty to the misdemeanor

[1] Memo regarding release of Respondent during probation – Attachment A

[2] Criminal Complaint – Attachment B

battery charge, the court suspended sentencing based on a deferred entry of judgment/non-drug, which included the following conditions:

- Obey all laws and orders of the court, including previously issued restraining orders.
- Totally abstain from the use of alcohol.• Submit to alcohol testing at the request of any peace officer or probation officer, at any time of the day or night, with or without notice, consent, probable cause or warrant.
- Submit to search and seizure of defendant's person, property, or any property under defendant's control when requested by any peace officer or probation officer, at any time of the day or night, with or without notice, consent, probable cause, or warrant for firearms.
- Stay away from/have no contact with Victim.
- Do not possess any firearms or ammunition.
- Participate in and pay all fees for the following programs of counseling and/or education:
  - AA/NA, weekly for 52 weeks.
  - Individual therapy, monthly for 12 months
- Fifty hours of community service through Mendo-Lake Alternative Service, Inc.
- Apology letter to Victim addressing victim impact.

If Respondent abides by all the conditions of his deferred entry of judgment, it is possible that the battery charge will be dismissed by the MCSC on February 19, 2027.[3]

On May 15, 2025, the MCSO initiated an administrative investigation predicated on the Victim's original allegations and related criminal investigation. On July 10, 2025, the administrative investigation was completed with sustained findings for the following MCSO policy violations:

- 340.4 Standards of Conduct
- 340.5.1 Laws, Rules, and Orders
- 340.5.9 Standards of Conduct
- Penal Code § 243.4(e)(1) – Sexual Battery[4]

Just over a week after Respondent's alleged sexual battery, the MCSO dismissed him during his probationary period from his position as a Deputy Sheriff/Coroner and subsequently sustained findings against him for sexual battery. The Division assesses that clear and convincing evidence exists that Respondent committed serious misconduct in violation of California Penal Code §13510.8(b)(6) – Acts that Violate the

[3] Deferred Entry of Judgment Order – Attachment C
[4] Personnel Complaint Disposition – Attachment D

Law. The Division's assessment was based on a review of the MCSO's administrative investigation report, specifically the Victim's recorded statements, Respondent's recorded statement, dispatch audio recordings, body-worn camera (BWC) audio/video footage, the EPO, the search warrant including the affidavit, the criminal complaint, other supporting documents, and an assessment of aggravating and mitigating factors.

II. Investigative Methodology

This report summarizes the findings related to allegations of serious misconduct. This investigation was conducted in accordance with the regulations and policies of the Commission on Peace Officer Standards and Training (POST). The investigation included a review of the Mendocino County Sheriff's Office (MCSO) administrative investigation which included interviews of the Victim and the Respondent. There were no witnesses beyond the Victim and Respondent. Additionally, body-worn camera (BWC) audio/video footage of the responding deputies, interview room audio/video footage, dispatch audio recordings, the EPO, the search warrant including the affiant's statement of probable cause, the criminal complaint, and the court docket summaries were also reviewed.

I analyzed the information I obtained in this investigation using the clear and convincing evidence standard. For purposes of this report, clear and convincing evidence means "evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. The evidence need not establish a fact beyond a reasonable doubt."

This report is necessarily summary in nature and does not include every fact or issue that might be found in the underlying investigation and attachments. It does, however, contain reference to that evidence that I believe establishes the requisite facts and proves the serious misconduct charged by clear and convincing evidence.

III. Respondent's Background

A. Respondent's Peace Officer Certificates and Employment

The table below sets forth Respondent's employment history:

Dates	Rank	Agency
6/11/2023 – 12/9/2023	Trainee	MCSO
12/10/2023 – 11/21/2024	Deputy	MCSO

Respondent is assigned POST ID C99-P62. He did not earn a peace officer certificate from POST; however, he was issued a Proof of Eligibility (POE) by POST on 12/10/2023, based on his appointment as a peace officer by the MCSO. Respondent's POE expired upon his separation from the MCSO.

Although Respondent's POE is expired, Penal Code section 13510.1(f), which authorizes the Commission to revoke certification that it has issued states that "[t]his authority extends to any certificate or proof of eligibility issued by the commission including, without limitation, any certificate or proof of eligibility that is invalid, inactive, expired, or canceled."

B. Respondent's Service Record

When evaluating whether suspension or revocation is appropriate, Penal Code Section 13510.8(c)(5) and California Regulation Section 1213(a)(5) provide that the Commission must consider Respondent's prior conduct, discipline and service record. The relevance and weight the Commission may choose to assign to a peace officer's prior conduct and service record will depend on the facts in each case.

California Penal Code Section 13510.8(c)(5) provides that the Commission "*shall* consider the peace officer's prior conduct and service record, and any instances of misconduct, including any incidents occurring beyond the time limitation for investigation in evaluating whether to revoke certification for the incident under investigation." (emphasis added)

Respondent's service record did not include any complaints, disciplinary actions, or commendations. However, he was placed on paid administrative leave the same day as the incident in question involving the Victim on 11/13/2024, and he was released from employment with the MCSO approximately a week later while still on probation as a new peace officer because he "failed to meet standards during evaluation/probation period." The only other item of note was an Accident Report that documented an incident on 3/5/2024 during which Respondent was responding Code 3 (lights and siren) to an in-progress, possibly life-threatening call for service, and accidentally caused vehicle damage when his patrol vehicle scraped the roadway while driving through an uneven intersection, after which Respondent was counseled on safe driving practices. Aside from the Basic and Firearms/Tactical Rifle courses, Respondent did not complete any additional POST-certified courses, according to his POST Profile.

IV. Factual Background

<u>Background of Roommate Relationship</u>

According to Victim's interview with MCSO Detective Jack Woida, Respondent had moved in with Victim and another female roommate in December of 2023[5]. Prior to the incident in question, Respondent had "hit" on Victim's roommate a couple of times but never pursued her any further. He had never made them feel uncomfortable. Neither Victim nor the other roommate were attracted to Respondent. Victim never had any sexual contact with him, never kissed him, and never did anything suggestive of interest in him. Respondent was simply a roommate[6]. Victim and Respondent had hung out approximately three times at their residence since he had moved in, but they were not close[7].

The evening prior to the incident in question, Victim and the other roommate had finished dinner and were sitting on the couch for a while when Respondent came home at approximately 6:30pm to 7:00pm. Respondent had been out running errands and met with his dad. After he returned to their residence, Respondent did his laundry before going to his bedroom for the night[8]. Victim went to sleep in her bedroom at approximately 11:30pm[9]. Victim had one glass of wine prior to going to sleep, and she took Trazodone to help her fall asleep.[10]

Call For Service

On November 13, 2024, at approximately 3:17am, Victim telephonically contacted the MCSO dispatcher to request a law enforcement response to her house. When asked what was going on, Victim explained that she had woken up to her roommate trying to touch her in bed. Victim identified her roommate as Lalo Escareno, also known as Eduardo Escareno (i.e., Respondent), who was sitting on the floor of her room with her.[11] The dispatcher sought clarification that her roommate tried to touch her inappropriately while she was in bed, and the Victim affirmatively replied, "Mhmm." The dispatcher then asked if anyone had been drinking, and she said that only Respondent had been drinking.[12]

Initial Victim Interview

[5] Victim interview with Detective Woida – Attachment E (00:12:35 – 00:12:50). Please note that all times refer to the time counter on the complete recording of the interview and not the time counter on the excerpt attached to this report.
[6] Victim interview with Detective Woida – Attachment E (00:21:00 – 00:21:43)
[7] Victim interview with Detective Woida – Attachment E (00:18:21 – 00:18:54)
[8] Victim interview with Detective Woida – Attachment E (00:19:46 – 00:20:24)
[9] Victim interview with Detective Woida – Attachment E (00:25:22 – 00:25:37)
[10] Victim interview with Detective Woida – Attachment E (00:29:09 – 00:29:59)
[11] Victim call to dispatch, Part 1 – Attachment F
[12] Victim call to dispatch, Part 2 – Attachment G

At approximately 4:18am, MCSO Deputy Damien Nelson and Sergeant Vazquez responded to Victim's call for service, contacted her in front of her residence, and conducted an initial interview with her. Victim's statements during the initial interview are summarized in this section as follows:

Victim stated that while she was sleeping on her side, she woke up to something cold touching right between her legs. She then turned over and heard something that sounded like it had rolled off her bed. She looked over at the side of her bed and saw Respondent lying on her floor trying to hide.[13] Victim confronted Respondent and said, "What the fuck?!" Victim then turned on a light and again said to Respondent, "What the fuck?!"[14] Respondent initially said with slurred speech that he was in Victim's bedroom because of the kittens but eventually apologized to her. Victim then asked Respondent why he would touch her, and he again apologized saying, "I'm so sorry."[15]

After telephonically contacting MCSO dispatch and while waiting for the responding deputies to arrive, Victim asked Respondent if he needed to call anyone. Respondent replied, "No," and that he was really embarrassed and ashamed. Victim then provided Respondent water and a trash bag because he had vomited. Victim also retrieved Respondent's tobacco "chew" for him, per his request.[16]

Victim said that while she was sleeping, she was wearing sleep shorts that had ridden up when she felt Respondent touch her skin.[17] Respondent had reached into Victim's shorts from the bottom.[18] Victim later added that she was not wearing underwear, only the sleep shorts, so there was direct contact.[19] When asked if Respondent touched her genitalia, Victim replied, "Yeah…my vagina. Well, labia? Vagina?" Victim was then asked if there was any penetration, and she replied, "Not that I'm aware of."[20] Victim later clarified that when Respondent touched her, "it was definitely like he was about to penetrate but he didn't penetrate." When asked what he was about to penetrate with, Victim said, "His fingers. Two fingers."[21]

Victim affirmed that she usually sleeps with a blanket over her, so Respondent either pulled the blanket off or put his hands under the blanket.[22] When asked if her bedroom door was closed when she went to bed, Victim replied, "No, it was cracked. He said

[13] Initial Victim interview with responding deputies – Attachment H (01:17 – 02:09)
[14] Initial Victim interview with responding deputies – Attachment H (09:41 – 09:49)
[15] Initial Victim interview with responding deputies – Attachment H (04:35 – 05:24)
[16] Initial Victim interview with responding deputies – Attachment H (05:49 – 06:15)
[17] Initial Victim interview with responding deputies – Attachment H (02:09 – 02:34)
[18] Initial Victim interview with responding deputies – Attachment H (03:41 – 04:02)
[19] Initial Victim interview with responding deputies – Attachment H (07:18 – 07:26)
[20] Initial Victim interview with responding deputies – Attachment H (04:02 – 04:19)
[21] Initial Victim interview with responding deputies – Attachment H (07:07 – 07:17)
[22] Initial Victim interview with responding deputies – Attachment H (07:40 – 07:59)

that's why I did it." Victim explained that she left her door cracked open so that her cats could go in and out of her room freely.[23] Victim said that Respondent has never entered her room nor had she ever invited him into her room. Although it's not a rule that he does not enter her room, it is common courtesy.[24] When asked if she had ever been in any type of a relationship with Respondent, particularly a sexual relationship or even kissing, Victim repeatedly replied, "No." Victim confirmed that nothing like the incident in question had ever happened in the past.[25]

Follow-Up Victim Interview

After her initial interview with the responding deputies, they transported Victim to the MCSO Ukiah Station, where she was subsequently interviewed by Detective Jack Woida starting at approximately 5:47am. Victim retold her account of the incident, which is summarized in this section as follows:

Victim stated that she had left her bedroom door cracked last night so her cats could go in and out. When she was asleep, she woke up because she felt something cold between her legs, near her vagina. She had been sleeping on her side at the time and partially sat up, after which she heard something that sounded like it had fallen to the floor. She described the feeling of the touch near her vagina like an animal's nose, but it was larger. So, Victim rolled over to look on the floor to see what had fallen and that's when she saw Respondent. It appeared as if he had tried to go under her bed, but there were bars on the bed frame, which prevented him from crawling underneath her bed.[26] Later during the interview, Detective Woida said, "So when, when you're obviously you first kind of wake up and you feel something cold, you mentioned it was like directly under your vagina," and Victim affirmatively replied, "Mhmm."[27]

Next, Victim confronted Respondent and turned on the light. Respondent then sat up and wasn't making any sense at first, possibly because he was intoxicated, although Victim did not know how much he had to drink. Respondent was saying something about a white cat, which was weird because he didn't interact with the cats, which were feral and unfriendly, plus the white cat was no longer living at their house. Furthermore, Respondent had never been in Victim's bedroom before, which was an unspoken rule that it was off limits.[28]

Victim then grabbed her phone and told Respondent, "You know I have to call," to which Respondent replied, "Yeah," which is when she contacted dispatch while Respondent

[23] Initial Victim interview with responding deputies – Attachment H (02:37 – 02:44)
[24] Initial Victim interview with responding deputies – Attachment H (09:04 – 09:23)
[25] Initial Victim interview with responding deputies – Attachment H (03:32 – 03:40)
[26] Victim interview with Detective Woida – Attachment E (00:05:17 – 00:07:11)
[27] Victim interview with Detective Woida – Attachment E (00:17:16 – 00:17:21)
[28] Victim interview with Detective Woida – Attachment E (00:07:12 – 00:08:53)

stayed on the floor. After the call with dispatch, Respondent asked Victim if she could retrieve his chew from his bedroom, which she did. Respondent told Victim, “Before they get here, just know I’m sorry.” At that point, the other female roommate came out of her bedroom, after which Victim told her to go back to her room because Victim was concerned that she might cause a scene or make the situation worse. Respondent then asked Victim for some water, which she provided, and he was vomiting.[29] Victim had also provided Respondent a sweater and a bag to vomit into because “he needs taken care of, of course, after that.”[30]

About that, Victim asked Respondent if he needed to call someone, to which he replied, “Who do I call?” and said something to the effect that he was ashamed. Victim then said to Respondent, “Well you’re still going to need support,” which Victim explained was her “human nature” coming out despite having just been violated by Respondent. Victim further explained that she learned to shut her brain off with no emotions when she had been in similar situations.[31] Victim then asked Respondent, “Why’d you do it?” Respondent replied, “Your door was open.”[32]

Victim said that during the incident, she was wearing sleep shorts with no underwear and a T-shirt. Respondent was wearing a white T-shirt, black joggers, and black socks.[33] When Victim initially saw Respondent on the floor next to her bed, his joggers were pulled up so she assumed he had touched her with his fingers, but since it took a moment between when she first felt the touch and when she saw Respondent, she didn’t know if his joggers had been partially pulled down during the contact. Since Victim was asleep prior to feeling the touch, she also didn’t know how long he had been in her bed with her. She didn’t feel him get into the bed, so she was unsure if he had touched her with his fingers or his penis.[34]

<u>Emergency Protective Order</u>

The EPO, dated November 13, 2024, identified Victim as the protected person and Respondent as the restrained person. The justification provided in and for the EPO stated that the Respondent and Victim were roommates with no romantic relationship. Respondent entered Victim’s bedroom while she was sleeping and woke her up by touching her vagina. Victim believed the contact was skin on skin. Respondent was extremely intoxicated. One of the boxes checked on the EPO was “The person to be protected lives with the person to be restrained and requests an order that the

[29] Victim interview with Detective Woida – Attachment E (00:09:10 – 00:12:02)
[30] Victim interview with Detective Woida – Attachment E (00:15:51 – 00:16:07)
[31] Victim interview with Detective Woida – Attachment E (00:23:16 – 00:24:23)
[32] Victim interview with Detective Woida – Attachment E (00:15:31 – 00:15:40)
[33] Victim interview with Detective Woida – Attachment E (00:17:22 – 00:17:54)
[34] Victim interview with Detective Woida – Attachment E (00:24:28 – 00:25:21)

restrained person move out immediately from the address in item 3c."[35] On November 20, 2024, a Temporary Restraining Order (TRO) was filed with the MCSC to continue protecting Victim after the EPO expired, and to also protect the other female roommate.[36]

Search Warrant

The search warrant, signed by the judge on November 13, 2024, at 8:05am, commanded the search of Respondent's/Victim's premises, which was to include all vehicles, storage containers, and outbuildings under the control of Respondent, and the person of Respondent. The search specified the seizure of photos of the residence, photos of Respondent, DNA Buccal swabs from Respondent, and any and all digital media devices belonging to Respondent, to include but not limited to cell phone(s), computers, laptops, tablets, or other electronic devices. The statement of probable cause was primarily based on Detective Woida's interview with Victim. The search warrant was executed later the same day; however, nothing of evidentiary value was recovered from Respondent's DNA Buccal swabs or his cell phones.[37]

Respondent Interview

After the follow-up interview with Victim, Detective Woida returned with other MCSO deputies to Victim's/Respondent's residence and interviewed Respondent at approximately 10:25am. Respondent was not detained or under arrest, and he sat on a couch in the living room. After advising Respondent that it was up to him to decide if he wanted to answer some questions, Detective Woida asked Respondent if he was still intoxicated at all. Respondent shook his head side-to-side and said, "No." However, Respondent followed up his response by saying, "I was." When asked what time he started drinking the previous night, Respondent said he couldn't remember. When asked what he was drinking, Respondent said, "Just beer." When asked if he knew what day it was, Respondent accurately replied, "Wednesday, November 13."[38] Detective Woida later repeated to Respondent that he had some questions for him, but "It's completely up to you. You can end the interview whenever you want to or anything like that." Respondent nodded his head up and down and said, "Mhmm," indicating his willingness to answer Detective Woida's questions.[39]

When asked if he had any idea why he was being questioned, Respondent said, "So last night I went into her room and I, uh, did touch her, I guess you could say." Detective

[35] EPO – Attachment I
[36] TRO – Attachment J
[37] Search Warrant – Attachment K
[38] Respondent Interview – Attachment L (6:50 - 7:53)
[39] Respondent Interview – Attachment L (7:59 – 8:08)

Woida sought clarification, and Respondent said, “Like, I went into her room a little intoxicated, too much, and um, I just tried to touch her, I guess.”[40]

When asked if he and Victim were in any type of a relationship or dating or any indications of that, Respondent shook his head side-to-side and said, “No.” Respondent then stated that he had moved into Victim’s house in approximately December 2023. He said he had found the rental opportunity through friends and identified the third roommate.[41]

Respondent then provided a more detailed account of what happened the previous night using hand gestures as he spoke. He said, “I don't know why I walked out. I walked out of my room, saw her door open, and then I never, but for some reason I just like stood at her door and then like, I walked in a little bit, then walked out, and then I was like, what are you doing? And I just, I didn't even walk in. Like, I crawled into her room pretty much. And then, uh, leaned into her bed and then, uh, like I reached over, felt the, you call those sheets? No blankets. Felt the blankets and I reached down and like, I know I touched her feet, like that's for sure. And I touched her feet 'cause it felt like feet to me. Like the corner of the feet, what do you call it?” Detective Woida interjected and asked if Respondent was referring to Victim’s heel, and Respondent replied, “Yeah. Yeah.” Respondent then continued his narrative saying, “And then I reached, reached up a little bit more. I think I touched somewhere up here. I don’t know where else. And that was about it. And then she woke up and that’s when she seen me down there.”[42] When Respondent said, “I think I touched somewhere up here,” he appeared to be pointing to his right calf with his left hand.[43]

When asked, Respondent confirmed that when he reached up to touch Victim, he slid his hand under the blanket and initially touched the heel of one of Victim’s feet. When asked if he started to move his hand upwards, Respondent replied, “I don’t know what I did after that.”[44] Later during the interview, Respondent was asked if he went under Victim’s shorts with his hand and he replied, “No.” He was then asked if it was possible and he again replied repeatedly, “No.”[45]

When asked if he thought what he did was not a good idea, Respondent replied, “Yeah.” When asked what he thought Victim’s perception was of what he did, Respondent said, “She felt like, what the fuck is this dude doing here? Like, I know he is my roommate, but what is he doing here?”[46] Detective Woida then sought clarification on where else

[40] Respondent Interview – Attachment L (8:08 – 8:59)
[41] Respondent Interview – Attachment L (9:01 – 9:36)
[42] Respondent Interview – Attachment L (9:40 – 11:14)
[43] Video of Respondent Pointing “Here” – Attachment N (00:10:43 – 00:11:09)
[44] Respondent Interview – Attachment L (11:24 – 11:34)
[45] Respondent Interview – Attachment L (18:32 – 18:38)
[46] Respondent Interview – Attachment L (11:57 – 12:12)

Respondent touched Victim and asked, “When you say you think you got as far up as her, her like calf maybe?” Respondent replied, “Maybe,” then added, “The only thing I know for sure that I touched was her down here. Then I went like with my hand up, but I didn’t grab her or anything. It was just like touch and that was it.” When Respondent said, “The only thing I know for sure that I touched was her down here,” he appeared to be pointing to his right heel with his left hand.[47] When asked if he touched Victim’s vagina, Respondent replied, “No.” When asked if there would be any reason that Victim would say that he did, Respondent replied, “No. I don’t know.”[48]

Later during the interview, Detective Woida asked Respondent what happened after Victim woke up, rolled over, and saw him. Respondent said he rolled over towards the bed, “and she’s like what the fuck are you doing here?” Respondent added that, “She just sat down and told me, ‘Hey, I have to call this in.’ And I was like, yes you do.” When asked what he thought Victim believed he was doing in her room, Respondent replied, “I think she like, ‘Did you touch me?’ And then I told her I did, like, I wasn’t going to lie to her. Yeah, I touched her, but that was about it. But like I said, I didn’t touch her anywhere, or I touched her, but not like her proper areas or whatnot.”[49] Later during the interview, Respondent confirmed that he apologized to Victim for going into her room and touching her while she was sleeping.[50] He also said that he did not get into Victim’s bed at any point during the incident and that he was positioned right up against it.[51]

When asked what the purpose was of him touching Victim, Respondent said, “I guess I saw the door open and went in there.” When asked if he thought Victim might welcome his touching or that it could lead to something else, Respondent replied, “I really don’t remember.” Respondent further stated that he had previously gone into her room to talk to her, but only with her permission.[52] Later during the interview, Respondent was again asked what the reason was for his entering Victim’s room and he replied, “Like I said, I was a little intoxicated. I really don’t know why I exited my room, but I saw her door open and I like, stood there for a while.” When asked why he chose Victim’s room instead of the other female roommate’s room, Respondent said, “Because it was open.”[53]

Respondent was then asked what he thought a reasonable person would probably think about what he did, and Respondent replied, “Take advantage of them.” Detective Woida then asked Respondent if the thought was going through his mind at the time of the

[47] Video of Respondent Pointing “Here” – Attachment N (00:12:17 – 00:12:40)
[48] Respondent Interview – Attachment L (12:14 – 12:51)
[49] Respondent Interview – Attachment L (14:15 – 15:28)
[50] Respondent Interview – Attachment L (19:54 – 20:06)
[51] Respondent Interview – Attachment L (22:49 – 23:00)
[52] Respondent Interview – Attachment L (13:03 – 14:13)
[53] Respondent Interview – Attachment L (15:42 – 16:05)

incident that something sexual was probably going to occur, and Respondent replied, “It could have been. I don’t know.”[54]

Respondent was then asked about his statements to Victim about looking for a white cat after she caught him, which he admitted was a lie. Respondent explained that he was scared and agreed that he just made up the dumb excuse out of panic.[55]

Respondent was then asked if anything like this incident had ever happened before and he replied, “No.” Respondent was then asked if he had ever thought about doing anything in the past when he was intoxicated at the house and he replied, “I don’t remember.”[56]

Detective Woida then informed Respondent that he had already spoken to Victim, and she told him what she felt, so he believed there was a high probability it happened because he was unaware of any reason why she would make up the allegation. Respondent replied, “No. Like I said, it happened. I walked in. I’m not going to lie to you guys. I stood by her door and then, like I told you, I think I told you, I kind of stepped in, walked out, like, what are you doing? And I went in, laid by her bed and it all happened. But like I was telling him (referring to another deputy who was present), I only touched on her here to my knowledge, and then I moved my hand up a little bit, touched something else, and I was like, and then she woke up and that’s when she was like, what are you doing and called 9-1-1.”[57] When Respondent said, “I only touched on her here to my knowledge,” he appeared to be pointing to his right heel with his left hand.[58]

Respondent was then asked what the “something else” was that he said he touched and he replied, “I don’t know. Just skin.” Detective Woida then said, “So it’s, it’s possible that that was her vagina then? If you don’t know what you, if you don’t know what you touched, how do you know what you,” at which point Respondent interrupted him and said, “It was just like skin.” Respondent then elaborated and said, “Because I, um, honestly, we’re adults here. I know what a vagina feels like, and it was definitely not her vagina.”[59]

Toward the end of the interview, Respondent was asked if he could show the deputies exactly what he did throughout the incident. As he walked through his footsteps, crawling, and reaching, Respondent narrated the following: “I was standing here, or I walked out of my room. I don’t really remember what I walked out for. And then I ended up here (Respondent was standing just outside Victim’s bedroom door at this point). I

[54] Respondent Interview – Attachment L (16:32 – 16:51)
[55] Respondent Interview – Attachment K (16:55 – 17:39)
[56] Respondent Interview – Attachment L (20:44 – 20:51)
[57] Respondent Interview – Attachment L (20:55 – 21:44)
[58] Video of Respondent Pointing “Here” – Attachment N (00:21:10 – 00:21:44)
[59] Respondent Interview – Attachment L (21:44 – 22:10)

was looking over there, like here. In my, I don't know, I think this is how it goes in my mind. I thought something was like signaling me to come in. I like started to walk in (Respondent took two steps into Victim's bedroom at this time). And then I'm, no what are you doing (Respondent backed out of the room and stood just outside Victim's bedroom door again)? Then I'm not going to do it now, but I crawled down. I came here (Respondent positioned himself on his hands and knees next to Victim's bed), and then I was like right here (Respondent positioned himself with the left side of his body on the floor). That's when I went like that (Respondent reached up with his right hand toward the top of the bed). At first I was like here (Respondent's right hand was positioned near the upper middle of the bed), feel the blanket, reached down (Respondent repositioned his right hand under the blanket). That's when I felt the (Respondent reached down with his right hand and touched the heel of his right foot), because I know I know this. And then I felt right here (Respondent repositioned his right hand under the blanket), went up, felt more skin, and then she moved (Respondent moved his right hand away from the bed). I like, I felt her move. That's when I put my arm out. She woke up and that's when I was trying to hide (Respondent positioned his arms, legs, and body toward the opening under the bed). She sees me and then she called 9-1-1."[60]

V. Analysis and Findings

The Present Allegations of Serious Misconduct

On November 13, 2024, Victim filed her complaint against Respondent with the MCSO. On July 10, 2025, the administrative investigation was completed with sustained findings for the following MCSO policy violations:

- 340.4 Standards of Conduct
- 340.5.1 Laws, Rules, and Orders
- 340.5.9 Standards of Conduct
- Penal Code § 243.4(e)(1) – Sexual Battery

On November 21, 2024, Respondent was released during his probationary period from his position as a Deputy Sheriff/Coroner with the MCSO; therefore, Respondent did not have the right to appeal his dismissal.

The MCSO's Agency Misconduct Report and Internal Affairs Investigation Report were submitted to POST on August 19, 2025.

[60] Respondent Demonstration – Attachment M

A. Does the alleged conduct violate Penal Code Section 13510.8 (b)(6) and POST Regulation 1205(a)(6) –Acts that Violate the Law?

Penal Code Section 13510.8 (b)(6) and Commission Regulation 1205 (a)(6) define as serious misconduct "Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the commission."

Penal Code Section 243.4(e)(1) says, in part, "Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, or any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of misdemeanor sexual battery…"

Penal Code Section 243.4(g)(1) defines an intimate part as "the sexual organ, anus, groin, or buttocks of any person, and the breast of a female."

It's undisputed that Respondent entered Victim's bedroom without permission while she was sleeping in her bed, crawled to the side of her bed, and touched her bare foot and leg with his right hand. It is also undisputed that Respondent was intoxicated at the time of the incident, that he apologized after Victim woke up from the touch and confronted him, and that Respondent and Victim had never been any kind of a dating relationship. What is disputed is that Victim said Respondent touched one of her intimate parts, while Respondent denied doing so. Victim believed Respondent was in bed with her when he touched her intimate part either with his fingers or his penis; however, Respondent said he was lying on the floor next to Victim's bed when he reached up and touched her, and that he never got into the bed.

Specifically, Victim's statements, first to the initial responding deputies, then to the investigating detective, were that she was sleeping on her side in her sleep shorts with no underwear when she woke up because she felt something cold between her legs. Respondent had reached into Victim's shorts from the bottom, so there was direct skin-to-skin contact. When asked by the initial responding deputy if Respondent touched her genitalia, Victim replied, "Yeah…my vagina. Well, labia? Vagina?" When she subsequently provided her statement to the detective, Victim said that when she was asleep, she woke up because she felt something cold between her legs, near her vagina. Later during the interview with the detective, he asked Victim, "So when, when you're obviously you first kind of wake up and you feel something cold, you mentioned it was like directly under your vagina," and Victim affirmatively replied, "Mhmm."

During her first interview with the initial responding deputy, Victim was then asked if there was any penetration, and she replied, "Not that I'm aware of." Victim later clarified

that when Respondent touched her, “it was definitely like he was about to penetrate but he didn’t penetrate.” When asked what he was about to penetrate with, Victim said, “His fingers. Two fingers.” During her interview with the detective, Victim said that she initially saw Respondent on the floor next to her bed, and his joggers were pulled up so she assumed he had touched her with his fingers, but since it took a moment between when she first felt the touch and when she saw Respondent, she didn’t know if his joggers had been partially pulled down during the contact. Since Victim was asleep prior to feeling the touch, she also didn’t know how long he had been in her bed with her. She didn’t feel him get into the bed, so she was unsure if he had touched her with his fingers or his penis.

Although Respondent denied touching Victim’s vagina, he also made some statements that cast doubt on the credibility of his denial. First, when Respondent was demonstrating on video how he reached up to touch Victim, it was noted that at one point his hand was near the middle of the bed, where Victim reported her waist would have been if she was lying down in the bed. When Respondent was initially describing his actions during the incident, he said, “And then I reached, reached up a little bit more. I think I touched somewhere up here. I don’t know where else.” Later during his interview, when asked if he started to move his hand upwards after touching Victim’s heel, Respondent replied, “I don’t know what I did after that.” Toward the end of the interview, Detective Woida confronted Respondent and told him that he had already spoken to Victim and believed her account of the incident. Respondent retorted saying that he wasn’t going to lie and retold his version of the incident, “I stood by her door and then, like I told you, I think I told you, I kind of stepped in, walked out, like, what are you doing? And I went in, laid by her bed and it all happened. But like I was telling him, I only touched on here to my knowledge, and then I moved my hand up a little bit, touched something else, and I was like, and then she woke up and that’s when she was like, what are you doing and called 9-1-1.”

So, after Respondent’s third statement indicating his uncertainty of where else he touched Victim besides the heel of her foot and possibly her calf, Detective Woida asked him what the “something else” was that he said he touched and Respondent replied, “I don’t know. Just skin.” Detective Woida then said, “So it’s, it’s possible that that was her vagina then? If you don’t know what you, if you don’t know what you touched, how do you know what you,” at which point Respondent interrupted him and said, “It was just like skin.” Respondent then elaborated and said, “Because I, um, honestly, we’re adults here. I know what a vagina feels like, and it was definitely not her vagina.”

If Respondent was being truthful when he made the multiple statements indicating his uncertainty about what other parts of Victim’s body he touched, specifically when he said, “I don’t know where else,” “I don’t know what I did after that,” and that he “touched something else,” then, he did not recall or realize what he touched in his inebriated

state. However, these statements of uncertainty could have also simply been a lie. Moreover, his explanation for how he knew he didn't touch Victim's vagina because "I know what a vagina feels like," lacks credibility. Respondent's denials further lack credibility because when he was demonstrating on video how he reached up to touch Victim, it was noted that at one point his hand was near the middle of the bed, where Victim reported her waist would have been if she was lying down in the bed.

Conversely, Victim's credibility was assessed to be high based on several factors:

- Her multiple statements to dispatch, the initial responding deputy, and the subsequent detective, which was also used as the justification in the EPO and the statement of probable cause in the search warrant affidavit, were all consistent.

- The specific details, which were mostly consistent with Respondent's version of the incident, provided by Victim also tend to strengthen her credibility. For example, she said that while she was asleep, she woke up because she felt something cold between her legs, near her vagina, after which she partially sat up while sleeping on her side. Victim also described the feeling of the touch near her vagina like an animal's nose, but it was larger.

- Victim was wearing loose-fitting sleep shorts with no underwear and a T-shirt, which made the direct skin-to-skin contact of her vaginal area plausible.

- When the initial responding deputy asked her if she wanted to press charges against Respondent, she asked for some time to think about it before eventually deciding to do so. It appeared that her hesitation was based on this being a first-time isolated incident with Respondent after having been cordial roommates for almost a year and his repeated apologies immediately after the incident.[61]

- There is no known motive for her to have fabricated the disputed allegation that Respondent touched her vaginal area. In fact, Victim provided Respondent a bag and a glass of water when he started vomiting after the incident "because, you know, he needs taking care of, of course, after that." This act of compassion for Respondent, even after she had been violated by him, tends to show the absence of contempt or a motive to fabricate the key disputed detail about the incident (i.e., touching her vaginal area).

- Victim's uncertainty about how long Respondent had been in bed with her prior to feeling him touch her vaginal area, because she had been asleep and didn't feel

[61] Initial Victim interview with responding deputies – Attachment H (10:23 – 11:03 and 17:12 – 17:15)

him get into the bed, and her uncertainty about whether he touched her with his fingers or penis, also tend to demonstrate Victim's credibility because the statements appear unrehearsed and, thus, not fabricated.

- While providing her statement to both the initial responding officer and subsequently to the detective, Victim expressed additional concern that she was going to have to find a new roommate to cover the rent, which indicated that having Respondent forcibly moved out was not in her best financial interest, and further strengthened her credibility.[62]

In conclusion, during his investigative interview, Respondent admitted to essentially all the Victim's allegations, except for touching her vaginal area. He also admitted to apologizing to the Victim after the incident. When he was placed on administrative leave immediately following his investigative interview, Respondent asked that he not be paid while on leave, which appeared to indicate his conscience of guilt and remorse. Respondent did not identify a motive for his actions. However, when Respondent was asked what he thought a reasonable person would probably think about what he did, he replied, "Take advantage of them." When Respondent was then asked if the thought was going through his mind at the time of the incident that something sexual was probably going to occur, Respondent replied, "It could have been. I don't know."

The clear and convincing evidence substantiates that Respondent violated Penal Code Section 243.4(e)(1) when he touched Victim's intimate part, specifically her vaginal area, against her will, and for the specific purpose of Respondent's sexual arousal and gratification. Therefore, Respondent's actions constituted serious misconduct under Penal Code Section 13510.8(b)(6) and POST Regulation 1205(a)(6), Acts That Violate The Law.

Reasonable grounds exist to submit this case to the Peace Officer Standards Accountability Advisory Board and the POST Commission for consideration of revocation or suspension pursuant to California Penal Code Section 13510.8.

VI. Supporting Evidence

Evidence	**Attachment**
Memo regarding release of Respondent during probation	A
Criminal Complaint	B

[62] Initial Victim interview with responding deputies – Attachment H (15:21 – 15:38) and Victim interview with Detective Woida – Attachment E (00:12:55 – 00:13:12)

Evidence	**Attachment**
Deferred Entry of Judgment Order	C
Personnel Complaint Disposition	D
Victim interview with Detective Woida	E
Victim call to dispatch, Part 1	F
Victim call to dispatch, Part 2	G
Initial Victim interview with responding deputies	H
Emergency Protective Order to Remain Away from Victim	I
Temporary Restraining Order to Remain Away from Victim	J
Search Warrant	K
Respondent Interview	L
Video of Respondent Demonstration	M
Video of Respondent Pointing “Here”	N

Commission on Peace Officer Standards and Training
860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1603
(916) 227-3909 • www.post.ca.gov

EXECUTIVE REVIEW & PEACE OFFICER STANDARDS ACCOUNTABILITY DIVISION RECOMMENDATION

DATE: April 23, 2026

CASE #: POST2507244

PEACE OFFICER: Eduardo Guadalupe Escareno-Davila

POST ID#: C99-P62

AGENCY: Mendocino County Sheriff's Office

POST CONSULTANT / BC: Gerald Fernandez / Rob Guyton

ALLEGATION(S):

California Code of Regulations Title 11 § 1205(a)(6) - Acts that Violate the Law

On November 13, 2024, at approximately 0310 hours, while off duty, Mendocino County Sheriff's Office (MCSO) Deputy Eduardo Guadalupe Escareno-Davila (hereinafter "Respondent") entered his roommate's (hereinafter "Victim") bedroom and touched her vaginal area while she was asleep. The contact awakened the Victim, who turned on the light and observed Respondent on the floor, appearing to hide under her bed. When confronted, Respondent—who appeared intoxicated and later admitted he had been drinking—claimed he was searching for a cat, which he later acknowledged was untrue, and repeatedly apologized. The Victim stated Respondent had never been in her bedroom before, which was understood to be off-limits, and that there was no romantic relationship between them.

Respondent later stated he had consumed alcohol and entered the Victim's room, touching her foot and moving his hand up her leg until she awoke, at which point he stopped, but he denied touching her vaginal area. Following the incident, the Victim contacted MCSO, and deputies responded, interviewed both parties, and served Respondent with an Emergency Protective Order that included a move-out order.

On November 21, 2024, Respondent was released during his probationary period from his position as a Deputy Sheriff/Coroner with MCSO. On December 9, 2024, the Mendocino County District Attorney's Office filed a criminal case in the Mendocino County Superior Court, charging Respondent with one count of misdemeanor sexual battery. On or about May 15, 2025, MCSO initiated an administrative investigation, which concluded on or about July 10, 2025, with sustained findings for policy violations, including Standards of Conduct and violations related to sexual battery.

On February 20, 2026, the Mendocino County Superior Court dismissed the sexual battery charge, and Respondent pled guilty to misdemeanor battery, with proceedings suspended pursuant to a deferred entry of judgment.

The Peace Officer Standards Accountability Division, Certification Executive Review Panel has reviewed the above referenced case involving alleged serious misconduct and has determined the following:

☒ There are reasonable grounds for suspension or revocation of a peace officer's certification.

POST determined clear and convincing evidence exists to show Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(6) and California Code of Regulations Title 11 §1205(a)(6) – Acts that Violate the Law when he assaulted the Victim by touching her without her knowledge or permission while she was sleeping.

William Darden Chief Legal Counsel	Signature	4/27/26 Date
Annemarie Del Mugnaio Assistant Executive Director	Signature	4-23-26 Date
Manny Alvarez Executive Director	Signature	04/27/2026 Date

cc: Bureau Chief Rob Guyton

cc: Jason Morlock

cc: Chandler Knapp

POST PROFILE NAME:

ESCARENO-DAVILA, EDUARDO GUADALUPE

CALIFORNIA COMMISSION ON **POST**

Certification Status: Inactive

AKA: N/A

DATE: 04/29/2026

PERSONAL IDENTIFICATION

POST I.D.	Agency	Birth Date	Gender	Race/Ethnicity
C99-P62		PII [redacted]	[redacted]	[redacted]

CERTIFICATES AWARDED

Total Number of Certificates: 0

PROOF OF ELIGIBILITY

POE	Agency Name	Agency	Issued	Status
P0019353	MENDOCINO CO SO	23000	12/10/2023	Expired

Total Number of Proof of Eligibility: 1

EMPLOYMENT

Hired From	To	R*	Rank	Rank Date	Agency	Agency Name	F/P	P/U	Seas
06/11/2023	12/09/2023	10	TRN	06/11/2023	23000	MENDOCINO CO SO	P	P	
12/10/2023	11/21/2024	8	DPTY	12/10/2023	23000	MENDOCINO CO SO	F	P	

*Reason for Separation: 8 = Involuntary Separation, 10 = Status Change

POST CERTIFIED TRAINING

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
12/07/2023	A	2980-00100-23-001	800	R	Y	23000	SCJCTC		BASIC COURSE-INTENSIVE
12/13/2023	K	3390-32075-23-001	16		Y	23000	ME CO SO		FIREARMS/TACTICAL RIFLE

*Meets Perishable Skills

FOOTNOTES

NO FOOTNOTE ON FILE.

PLEASE REFER TO THE ENCLOSED EXPLANATION SHEET FOR ADDITIONAL INFORMATION.

COMMISSION ON POST – PROFILE REPORT

The Profile Report contains confidential information.

EXPLANATION SHEET

PERSONAL IDENTIFICATION: Subject's personal information as indicated in POST database (EDI system)	
POST ID:	Unique identification number assigned to subject by POST.
Agency:	Indicates the agency (or one of the agencies) where subject is currently employed. An "*" indicates that the subject is employed in more than one position within the same agency.
Birth Date/Gender:	Self-explanatory.
Race/Ethnicity:	**A** = Asian **B** = African American (Black) **N** = Native American **S** = Spanish/Hispanic **W** = White **O** = Other

CERTIFICATES AWARDED	
Cert:	Certificate serial number.
Type:	**B** = Basic **I** = Intermediate **A** = Advanced **S** = Supervisory **M** = Management **E** = Executive **R** = Reserve **D** = Public Safety Dispatcher **SX**= Specialized X (example: SA = Specialized Advanced)
Awarded:	Date certificate was issued.
Education:	Educational points or degree used for earning a certificate.
T:	Training points used for awarding the certificate.
T+:	Additional training points.
Comments:	Comments regarding training or institute(s) where subject received education.
Total Number of Certificates:	Number of certificates awarded to subject as indicated in POST database.

EMPLOYMENT: Subject's employment history as indicated in POST database	
Hired From:	Date subject was hired or sworn into the agency.
To:	Date subject left agency (if applicable).
R*:	Reason for separation as indicated by number in the Report description.
Rank / Rank Date:	Indicates rank as translated by POST database and date subject made rank.
Agency / Agency Name:	Agency code number and name where subject is currently working or previously worked.
F/P:	Time base: **F** = Full time **P** = Part time
P/U:	Wage status: **P** = Paid **U** = Unpaid
Seas:	Provisional or seasonal employment.

POST TRAINING: Courses attended or completed as indicated in POST database	
Comp Date:	Date course ended.
Cat:	General course category (for POST use only).
CCN:	Course Control Number.
Hrs:	Hours completed in course.
Rmb:	Reimbursement indicator: **R** = Reimbursed *(before FY 83/84 reimbursable agency not necessarily reimbursed)* **J** = Job specific * = Job specific, SALARY NOT PAID **Blank** = None or no data available
Cmp:	Completion indicator: **Blank or Y** = Course completed **N** = Course not completed **?** = Prior to 1979
Agency:	Agency where subject was employed at time of course enrollment.
School:	Training institute offering the course.
Course Name:	Course name as shown in POST database.

NON-CERTIFIED COURSES

This section will only appear if applicable.

FIELD TRAINING

This section tracks field training progress and will only appear if applicable.

FOOTNOTES

This section reserved for additional information.

Mendocino County Sheriff's Office
Internal Affairs Investigation
IA #24-20

DIVISION ASSIGNED:	DATE ASSIGNED:	DATE COMPLETED:
Internal Affairs	05/15/2025	7/10/25
INVESTIGATOR: RIBOLI, ERIC #2412	SUPERVISOR (S) REVIEW:	

VIOLATION(S) INVESTIGATED:	RECOMMENDED FINDING:
Mendocino County Sheriff's Office Policy: **340.4 GENERAL STANDARDS** Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority. 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. Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct. (*Issued Date 08/24/2023*) Name of Policy: Standards of Conduct.	☐ UNFOUNDED ☐ EXONERATED ☐ NOT SUSTAINED ☒ SUSTAINED

Mendocino County Sheriff's Office
Internal Affairs Investigation
IA #24-20

Mendocino County Sheriff's Policy: 340.5.1 LAWS, RULES AND ORDERS c. Violation of federal, state, local or administrative laws, rules or regulations. Issue Date 08/24/2023 Name of Policy Laws, Rules and Orders.	☐ UNFOUNDED ☐ EXONERATED ☐ NOT SUSTAINED ☒ SUSTAINED
Mendocino County Sheriff's Office Policy: 340.5.9 CONDUCT h. Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department. m. Any other on or offduty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members. (*Issued Date: 08/24/2023*) Name of Policy: Standards of Conduct.	☐ UNFOUNDED ☐ EXONERATED ☐ NOT SUSTAINED ☒ SUSTAINED
California Penal Code: 243.4(e)(1) PC (e) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, or any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars ($3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Notwithstanding any other	☐ UNFOUNDED ☐ EXONERATED ☐ NOT SUSTAINED ☒ SUSTAINED

provision of law, any amount of a fine above two thousand dollars ($2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Civil Rights Department for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two thousand dollars ($2,000) be transmitted to the State Treasury until all fines, including any restitution fines that may have been imposed upon the defendant, have been paid in full. (*Amended / Enacted Year 1872*) Description of Law: Assault and Battery.	
	SIGNED and DATED: 7/10/25

Mendocino County Sheriff's Office
Internal Affairs Investigation
IA #24-20

INCIDENT TYPE: OFF DUTY CONDUCT	DATE OF INCIDENT:	DATE REPORTED:	FILE NUMBER:
	11/13/2024	11/13/2024	24-20

EMPLOYEE: ESCARENO-DAVILA, EDUARDO #2913	DIVISION OR ASSIGNMENT:	WORK LOCATION:
	Patrol	North Sector

COMPLAINANT: [redacted]	ADDRESS: [redacted]	
CITY: [redacted]	STATE: [redacted]	ZIP CODE: [redacted]
HOME TELEPHONE: [redacted]	WORK OR CONTACT TELEPHONE:	

SUMMARY OF INCIDENT: On 11/13/2024 at approximately 0440 hours, Complainant [redacted] was sleeping in her bed, at her residence. [redacted] woke up to something touching her vaginal area. [redacted] turned on the bedroom light and found her roommate, Eduardo Escareno-Davila, trying to hide under her bed. At the time of this incident Escareno-Davila was employed with the Mendocino County Sheriff's Office as a Deputy Sheriff assigned to patrol operations in the North Sector. [redacted] reported the touching was unwanted and she wished to file criminal charges against Escareno-Davila.

The Mendocino County Sheriff's Office Investigations Bureau conducted a criminal investigation, which resulted in the following charges being filed by the District Attorney's Office:

243.4(E)(1) PC. Misdemeanor Sexual Battery.

FINDINGS REGARDING COMPLAINT:

05/15/2025, Lieutenant Caudillo provided me with a memorandum commanding me to investigate allegations against Escareno-Davila. The Memorandum directed me to submit my findings to Lieutenant Caudillo at the completion of my investigation. I subsequently placed the memorandum into the case file under section 2 (Source of Complaint).

I reviewed all MCSO reports and supplemental reports regarding Case Report 2024-23393 and learned the following: On 11/13/2024, Complainant [redacted] was living at her residence located at [redacted] with a female roommate, [redacted], and a male roommate, identified as Eduardo Escareno-Davila. At the time of this incident Escareno-Davila was employed with the Mendocino County Sheriff's Office as a Deputy Sheriff assigned to North Sector Patrol.

Deputy Nelson was the initial responding Deputy. I reviewed Deputy Nelson's supplemental report and learned the following: Deputy Nelson was directed to respond to the [redacted] address by Sergeant Vazquez, due to the fact [redacted] contacted the Sheriff's Office and created a call for service. Deputy Nelson responded to the location and contacted [redacted] and Escareno-Davila. Deputy Nelson learned that a crime had possibly been committed by Escareno-Davila against [redacted] and [redacted] desired prosecution. Deputy Nelson requested the Investigation Bureau be called out.

[redacted] was transported to the Detective Bureau where Detective Jack Woida spoke to her and initiated an investigation. I reviewed Detective Woida's report and learned he interviewed [redacted] and she told him the following:

At 0440 hours, [redacted] called the Mendocino County Sheriff's Office to report that Escareno-Davila had snuck into her room and fondled her vaginal area while she was sleeping. [redacted] said she felt something touching her vaginal area and when she turned on the light in her room she observed Escareno-Davila lying on the floor and attempting to hide under her bed. [redacted] confronted Escareno-Davila. [redacted] observed that Escareno-Davila appeared to be intoxicated, however she did not know how much alcohol he had consumed. Escareno-Davila told [redacted] he was looking for a white cat, which [redacted] thought was odd because Escareno-Davila was not a cat person, and the white cat had been re-homed and no longer lived at the residence. Escareno-Davila was previously told that [redacted]' bedroom was off limits to him and he was not allowed to enter [redacted]' room without her permission. [redacted] said she usually leaves her bedroom door cracked open for the cats to come in and out. Escareno-Davila began crying and continually told [redacted] he was sorry.

[redacted] told Detective Woida that she had never been romantic with Escareno-Davila in the past. Escareno-Davila had "hit on" [redacted] before, via text message, however, it never went any further than that. [redacted] advised her other roommate, [redacted], was at the residence during the incident, however [redacted] was asleep in her room and was not involved. [redacted] requested an EPO, which was granted and subsequently served on Escareno-Davila.

I read Detective Woida's supplemental report and learned the following: Later that day, Detective Woida, Lieutenant Porter, Captain Cromer and Lieutenant Lorenzo contacted Escareno-Davila at the residence. Escareno-Davila appeared to have slept, and he stated he was tired but no longer felt the effects of alcohol. Escareno-Davila agreed to talk to Detective Woida. Detective Woida provided Escareno-Davila with a Beheler Admonishment.

Escareno-Davila told Detective Woida that he had consumed beer the night of the incident and was "a little too intoxicated." He "went into [redacted]'s room and tried to touch her." Escareno-Davila said he and [redacted] had never been in a romantic relationship and there was nothing to suggest [redacted] was romantically interested in him.

Escareno-Davila said at some point last night he exited his bedroom and walked to [redacted]' bedroom door because it was cracked open. He entered the room and then thought "what are you doing" because he realized he should not be in

[redacted]' room, so he exited the room. He stood at [redacted]' door for a short time and then decided to go back into [redacted]' room, however when he entered the bedroom the second time he crawled on the floor to the west side of [redacted]' bed.

After arriving at [redacted]' bed, Escareno-Davila reached up with his right hand and put his hand under [redacted]' blanket. He felt [redacted]' bare foot and he moved his hand up her leg until he reached her calf area. At this point [redacted] began to wake up, so he stopped. Escareno-Davila said going into [redacted]' bedroom and touching her was not a good idea, however he did not explain why he did it.

Escareno-Davila said he touched [redacted]' bare foot and ran his hand up her leg, but he could not recall what other parts of her body he touched. When asked directly, Escareno-Davila said he did not touch [redacted]' vaginal area. Escareno-Davila said he did not know why [redacted] would say he touched her vagina. When asked what his intentions were, Escareno-Davila said he "had a little too much to drink" and saw [redacted]' door open and decided to go into her room. He did not really feel like [redacted] wanted him to come into her room and touch her and he did not think [redacted] would allow the touching to lead to something else.

Escareno-Davila told Detective Woida that after [redacted] woke up, he curled up on the floor because he knew he should not have been in her room. When [redacted] confronted him, he did not know what to say. [redacted] told Escareno-Davila she was going to call the Sheriff's Office. Escareno-Davila said he believed [redacted] was going to report that he had touched her. When asked what a reasonable person's belief would be as to why he went into [redacted]' room, Escareno-Davila said, "to take advantage of her." Detective Woida clarified that Escareno-Davila was referring to something sexual in nature. When asked if that was what he was thinking of doing, Escareno-Davila said "potentially, but I don't remember." Escareno-Davila said he made up the lie about looking for a white cat because he was scared.

Detective Woida went to [redacted]' room and examined her bed. It was Detective Woida's opinion that it was unlikely that Escareno-Davila could have reached [redacted]' body while he was lying on the floor, despite Escareno-Davila continually saying he remained on the floor during the entirety of the incident.

Escareno-Davila demonstrated how the incident happened for Detective Woida. As Escareno-Davila stood outside [redacted]' door, he stated that due to his level of intoxication, he felt he was being signaled to go into [redacted]' room, so he entered. After entering the room, he realized it was a bad idea, so he exited the room and again stood at the door. He waited for a short time and then laid down on the floor and crawled into the room on his stomach. He laid next to [redacted]' bed and reached up with his right hand. Escareno-Davila slid his hand upward and indicated when he touched the other unknown part of [redacted]' skin that caused her to wake up. Detective Woida noted that Escareno-Davila's hand was near the middle of the bed, approximately where [redacted]' hips would have been if she was lying down in the bed.

After completing the interview, Detective Woida collected evidence, to include the following: clothing from [redacted], Buccal swabs from Escareno-Davila and Escareno-Davila's cellphones. As of the authoring of this report, nothing of investigative value has been reported as a result of the evidence taken.

I researched the Mendocino Superior Court Case Information Portal and learned that as of 04/29/2025, the criminal case was set for a Settlement Conference on 08/05/2025 at 0900 hours and a Jury Trial on 08/25/2025 at 1330 hours.

I requested the MCSO Dispatch audio recordings for phone calls and radio traffic regarding this case. I later received a DVD containing 16 files, which consisted of phone calls and radio traffic. I reviewed the audio recordings and found them to be consistent with the written reports and statements. [redacted] reported the incident to Dispatch and Sergeant Vasquez was notified. Sergeant Vasquez then responded to the North Sector to meet with Deputy Nelson and the two of them responded to the residence. Some of the audio recordings are of Detective Woida's phone calls and radio traffic as

he initiated and conducted the investigation. I placed the DVD containing the audio recordings into the case file under section 5 (Evidence) and marked as ER#01.

I downloaded the Axon audio/video evidence taken by the personnel involved during the original investigation from Evidence.com. to a thumb drive. I later marked the thumb drive as ER#02 and I placed it into the case file under section 5 (Evidence).

After reviewing MCSO report 2024-23393 and supplemental reports, I found all allegations to be SUSTAINED. Escareno-Davila consumed alcohol to the point he was "a little too intoxicated." Escareno-Davila then entered [redacted] room fully knowing he should not enter her room without permission. This was demonstrated by the fact that when he first entered [redacted]' room he knew he should not be there, so he retreated to the hallway. Escareno-Davila waited a short time and then entered the room again, this time crawling on the ground, presumably to avoid detection.

After low crawling to [redacted]' bed, Escareno-Davila reached his hand under [redacted]' blankets and touched her bare skin. Escareno-Davila said he did not touch [redacted]' vaginal area, however he is not sure what part of her body he did touch. [redacted] stated that Escareno-Davila did touch her vaginal area to the point that it woke her up. When [redacted] confronted Escareno-Davila, he began crying and saying he was sorry. In my experience, this type of behavior is typical of someone that has done something they knew was wrong.

Escareno-Davila completed a POST basic police academy, an MCSO field training program and worked as a Deputy Sheriff for no less than a year. Escareno-Davila was familiar, or reasonably should have been familiar, with Penal Code section 243.4(e)(1). Escareno-Davila crawled into [redacted] room while she was sleeping and touched her vaginal area while she was sleeping and unable to give consent, which violated this section. Escareno-Davila knew, or reasonably should have known, his conduct was outside of MCSO policy and would bring disgrace to himself and this office.

SIGNATURE: E 2417	DATE:
Employee Name / ID # RIBOLI, E. 2417	7/10/25

Mendocino County Sheriff's Office
Internal Affairs Investigation
IA #24-20

Evidence Obtained / Reviewed (Also Attached)				
☒ Report	☐ Incident	☒ Dispatch Audio	☐ Car Camera	☒ Body Camera
☐ Video	☐ Email	☒ Documents	☐ Photographs	☐ Other Audio

☐ Other (Describe Below):

ER#01: DVD with Dispatch audio phone calls, radio traffic.

ER#02: thumb drive with Axon audio/video from original investigation.

ER#03: MCSO Crime Reports.

MATTHEW C. KENDALL
Sheriff-Coroner

Undersheriff John J. Magnan

Captain Quincy Cromer
Field Services
Captain Gregory L. Van Patten
Corrections

County of Mendocino
Office Of the Sheriff-Coroner

11/21/2024

[redacted]

Method Of Delivery: Hand delivered by Lieutenant J. Caudillo #1191

Dear Mr. Escareno:

The purpose of this letter is to inform you that effective 11/21/24, you have been released during your probationary period from your position as a Deputy Sheriff/Coroner with the Sheriff's Office.

In accordance with Civil Service Rule XI, Section 3.C.1, rejection from a probationary appointment is without right of appeal or hearing.

You should have received your final paycheck with any remaining vacation balance paid, in accordance with California Government Labor Code Section 220(b).

If you believe this release from your probationary appointment was based upon discrimination, as prohibited by Mendocino County Policy, and state and federal law, please refer to County Policy No. 10, *Equal Employment Opportunity*, which is located online at: www.mendocinocounty.org/government/executive-office/policy-manual.

Sincerely,

John J. Magnan
Undersheriff

Attachments: Health Benefits, Retirement and Human Resources.

cc: Employee File - HR Department

951 Low Gap Road
Ukiah, California 95482-3734

707-463-4411
Fax 707-463-4093

DA Case ID No. 0202611
12/27/2024 9:00:00 AM
C DAVID EYSTER (SBN 113115) kl
District Attorney
Mendocino County
100 North State Street, Room G-10
PO Box 1000
Ukiah, CA 95482
(707) 463-4211

Attorneys for Plaintiff

FILED
12/09/2024
KIM TURNER, CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA,
COUNTY OF MENDOCINO
Johnson, Kylie
DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MENDOCINO

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. EDUARDO G ESCARENO DAVILA, Defendant.	24CR06207 COMPLAINT-CRIMINAL MISDEMEANOR

THE UNDERSIGNED, ON INFORMATION AND BELIEF, COMPLAINS AND SAYS, THAT WITHIN THE COUNTY OF MENDOCINO, STATE OF CALIFORNIA

COUNT ONE

On or about November 13, 2024, in the County of Mendocino, State of California, the crime of SEXUAL BATTERY in violation of PC243.4(e)(1), a Misdemeanor, was committed in that EDUARDO G ESCARENO DAVILA did then and there willfully and unlawfully touch an intimate part of PII [redacted], against the will of said person and for the purpose of sexual arousal, sexual gratification, or sexual abuse.

Complainant therefore prays that said defendant be dealt with according to law.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of December, 2024 in Ukiah, County of Mendocino, State of California.

C DAVID EYSTER
District Attorney

Pursuant to Penal Code Section 1054.3, the prosecuting attorney hereby requests that the defendant and his attorney disclose the following:

"(a) The names and addresses of persons, other than the defendant, he intends to call as witnesses at the trial, together with any relevant written or recorded statements of those persons, or reports of the statements of those persons, including any reports of statements of experts made in connection with the case, and including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the defendant intends to offer in evidence at the trial."

"(b) Any real evidence which the defendant intends to offer in evidence at the trial."

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO		**FILED** *Court Use Only*
☒ UKIAH Courthouse 100 North State Street Ukiah, CA 95482	☐ TEN MILE Branch Court 700 South Franklin Street Fort Bragg, CA 95437	02/20/2026 KIM TURNER, CLERK OF THE COURT SUPERIOR COURT OF CALIFORNIA COUNTY OF MENDOCINO
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: Eduardo Escareno Davila		BY: DEPTY CLERK, Munoz, Ashley CASE NUMBER: 24062O7
ORDER RE: DEFERRED ENTRY OF JUDGMENT (DEJ)		VIOLATION DATE: 11/13/24

The defendant has entered a guilty plea to a violation of section(s)
242 of the Penal Code w/in 243(a)

IT IS ORDERED that defendant be admitted to a deferred entry of judgment program under the supervision of the court, and that pronouncement of judgment and sentence be stayed for ☑ one (1) year, OR ☐ _____ from the date of this order under the following terms and conditions. If successful, conviction will remain with a GTS, probation denied Sentence. If unsuccessful, matter will proceed to judgment & sentencing

The defendant shall:

☐ Appear before the Court for: progress report on 5/22/~~25~~ 26 at 9am Dept H

~~possible dismissal~~ Sentencing on 12/19/27 at 9am Dept H

☑ Obey all laws and orders of the court ☑ including previously issued restraining orders

☑ Totally abstain from the use of ☐ any illegal drugs ☑ alcohol

☑ Submit to ☐ drug testing ☑ alcohol testing ☑ search and seizure of defendant's person, property, or any property under defendant's control when requested by any peace officer or probation officer, at any time of the day or night, with or without notice, consent, probable cause, or warrant for alcohol + firearms

☑ Stay away from/have no contact with: [redacted]

☐ Do not annoy, harass, molest, strike, or have any uninvited contact with: _____

☑ Do not possess any firearms or ammunition

☒ Participate in and pay all fees for the following programs of counseling and/or education:

☑ AA/NA 1 x per week for 52 Weeks

☑ ~~Domestic Violence/Anger Management~~ Individual therapy 1 x per ~~week~~ month for 12 ~~Weeks~~ months

☐ Complete and show proof by: _____

☑ Other: • 50 hours of community service through MLAS
• apology letter to victim addressing victim impact

Date: 2/20/23

Charlotte Scott
Judge

Defendant signature

☐ Court ☐ Defendant
MCR-740 (rev 0122)

Mendocino County Sheriff's Office
Internal Affairs Investigation
IA #24-10

Personnel Complaint Disposition

*** NOT TO BE COMPLETED BY THE INVESTIGATOR ***

INCIDENT TYPE:	DATE OF INCIDENT:	DATE REPORTED:	FILE NMBER:
Sexual Assault	11//13/2024	11/13/2024	24-10

EMPLOYEE:	RANK / ID #:	DIVISION / ASSIGNMENT:
Escareno, Eduardo	Deputy Sheriff	North Patrol

COMPLAINT RECEIVED DATE: 11/13/2024	TIME:	BY EMPLOYEE: US J. Magnan #2886
COMPLAINT REVIEWED DATE: 11/14/2024	TIME:	BY EMPLOYEE: Lt. Jason Caudillo #1191
INVESTIGATION ASSIGNED DATE: 05/15/2025	TIME:	BY EMPLOYEE: Lt. Jason Caudillo #1191
INVESTIGATION COMPLETED DATE: 07/10/2025	TIME:	BY EMPLOYEE: Dep. E. Riboli #2412

DISPOSITION

☐ UNFOUNDED ☐ EXONERATED ☐ NOT SUSTAINED ☒ SUSTAINED ☐ INCOMPLETE

CORRECTIVE ACTION TAKEN:

MENDOCINO COUNTY POLICIES

340.4 STANDARD OF CONDUCT-SUSTAINED

340.5.1 CONDUCT-SUSTAINED

340.5.9 CONDUCT-SUSTAINED

243.4 (E) (1) PC-SEXUAL ASSAULT -SUSTAINED

Letter mailed: N/A

DATE:07/18/2025	BY: UNDERSHERIFF JOHN MAGNAN 2886

REVIEWED BY:	DATE:	TIME:
Undersheriff John J. Magnan #2886	07/18/2025	1800

ACKNOWLEDGEMENT BY ACCUSED EMPLOYEE:	DATE:	TIME:
No signature, employee resigned	7/18/25	1800

EPO-001 ONE copy to court, ONE copy to restrained person, ONE copy to protected person, ONE copy to issuing agency

EMERGENCY PROTECTIVE ORDER *(See reverse for important notices.)*

LAW ENFORCEMENT CASE NUMBER: 2024-23393

1. PROTECTED PERSONS *(list names of persons protected by this Order)*: PII

2. RESTRAINED PERSON *(name)*: EDUARDO ESCARENO-DAVILA
Sex: ☒ M ☐ F Ht.: 5-7 Wt.: 120 Hair color: [redacted] Eye color: [redacted] Race: [redacted] Age: [redacted] Date of birth: [redacted]

3. TO THE RESTRAINED PERSON:
   a. ☒ **YOU MUST NOT** harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy any personal property of, disturb the peace of, keep under surveillance, or block the movements of each person named in item 1.
   b. ☒ **YOU MUST NOT** contact, either directly or indirectly, by any means, including but not limited to by telephone, mail, e-mail or other electronic means, any person named in item 1.
   c. ☒ **YOU MUST** ☒ stay away at least: 100 yards from each person named in item 1.
   ☒ stay away at least: 100 yards from ☒ move out immediately from
   (address): [redacted] PII
   d. **YOU MUST NOT** own, possess, purchase, receive, or attempt to purchase or receive any firearm or ammunition. If you have any firearms, you must turn them in to a law enforcement agency or sell them to, or store them with, a licensed gun dealer.
   e. **YOU MUST NOT** take any action, directly or through others, to obtain the addresses or locations of any person named in item 1.

4. ☐ *(Name)*: _____ is given temporary care and control of the following minor children of the parties *(names and ages)*: _____

5. **THIS ORDER WILL EXPIRE AT THE CLOSE OF THE COURT BUSINESS DAY ON:** 11/19/2024
INSERT DATE OF FIFTH COURT DAY OR SEVENTH CALENDAR DAY, WHICHEVER IS EARLIER; DO NOT COUNT DAY THE ORDER IS GRANTED

6. **TO THE PROTECTED PERSON:** If you need protection for a longer period of time, you must request restraining orders from the court in the county where you live:
(Name and address of court): MENDOCINO COUNTY SUPERIOR COURT 100 N. STATE ST. UKIAH
If you go to court to request restraining orders, take your copy of this form with you. If a juvenile petition is pending, file in that court.

7. Reasonable grounds for the issuance of this Order exist, and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.

8. Judicial officer *(name)*: CARLY DOLAN granted this Order on *(date)*: 11/13/24 at *(time)*: 0805

APPLICATION

9. The events that caused the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (except solely financial abuse), or stalking are *(give facts and dates, specify weapons)*:
ESCARENO AND PII ARE [redacted] WITH NO ROMANTIC RELATIONSHIP. ESCARENO ENTERED PII 'S BED ROOM WHILE SHE WAS SLEEPING AND WOKE HER BY TOUCHING HER VAGINA. PII BELIEVE THE CONTACT WAS SKIN ON SKIN. ESCARENO WAS EXTREMELY INTOXICATED

10. ☒ Firearms were: ☐ observed ☐ reported ☐ searched for ☒ seized

11. ☒ The person to be protected lives with the person to be restrained and requests an order that the restrained person move out immediately from the address in item 3c.

12. ☐ The person to be protected has minor children in common with the person to be restrained, and a temporary custody order is requested because of the facts alleged in item 9. A custody order ☐ does ☐ does not exist.

By: J. WOOD (PRINT NAME OF LAW ENFORCEMENT OFFICER) (SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: MENDOCINO SHERIFF Telephone No.: PII [redacted] Badge No.: 2210

PROOF OF SERVICE

13. Person served *(name)*: EDUARDO ESCARENO-DAVILA

14. I personally delivered copies of this Order to the person served as follows: Date: 11/13/24 Time: 1105
Address: PII [redacted]

15. At the time of service, I was at least 18 years of age and not a party to this cause. ☒ I am a California law enforcement officer.

16. My name, address, and telephone number are *(this does not have to be server's home telephone number or address)*:
J. WOOD 951 LOW GAP RD UKIAH CO 95482 [redacted] PII

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Date: 11/13/24

J. WOOD (TYPE OR PRINT NAME OF SERVER) (SIGNATURE OF SERVER)

CONTROLLED DOCUMENT
DO NOT DUPLICATE
TO: T. CAUDILLO
BY: JR2763
DATE: 3/13/2025

Form Adopted for Mandatory Use
Judicial Council of California
EPO-001 [Rev. January 1, 2014]
Approved by DOJ

EMERGENCY PROTECTIVE ORDER (CLETS–EPO)
(Domestic Violence, Child Abuse, Elder or Dependent Adult Abuse, or Stalking)

Family Code, §§ 6240–6275; Penal Code, § 646.91
www.courts.ca.gov

CH-110 Temporary Restraining Order

Person in (1) must complete items (1), (2), and (3) only.

NOV 20 2024

Clerk stamps date here when form is filed.

FILED
11/20/2024
KIM TURNER, CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA,
COUNTY OF MENDOCINO
Bynum, Dineen
DEPUTY CLERK

(1) Protected Person

a. Your Full Name: [redacted] PII

Your Lawyer *(if you have one for this case)*:
Name: _____ State Bar No.: _____
Firm Name: _____

b. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)*:
Address: [redacted] PII
City: PII State: PII Zip: PII
Telephone: [redacted] PII Fax: _____
Email Address: _____

Fill in court name and street address:

Superior Court of California, County of
MENDOCINO
100 North State Street
Ukiah, CA 95482

Ukiah Branch

Court fills in case number when form is filed.

Case Number:
24CV01457

(2) Restrained Person

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: Eduardo Escareno-Davila *Age: [redacted] Date of Birth: Unknown
*Race: [redacted] Height: [redacted] Weight: [redacted] Hair Color: [redacted] Eye Color: [redacted]
*Gender: [redacted] Home Address: Unknown
City: Unknown State: Unk. Zip: Unknown
Relationship to Protected Person: I know Eduardo Escareno-Davila AKA Luis Escareno, Luis Davila, Eduardo Escareno, Edwardo Davila because he is a current roommate and a former roomate.

(3) ☒ Additional Protected Persons

In addition to the person named in (1), the following family or household members of that person are protected by the temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to Protected Person
PII [redacted]	F	24	☒ Yes ☐ No	Roommate
			☐ Yes ☐ No	
			☐ Yes ☐ No	
			☐ Yes ☐ No	

☐ *Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.*

The court will complete the rest of this form.

(4) Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: 12/9/2024 Time: 9:00 ☒ a.m. ☐ p.m.

This is a Court Order.

Case Number:

To the Person in (2):

The court has granted the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to $1,000, or both.

(5) Personal Conduct Orders

☐ **Not Requested** ☐ **Denied Until the Hearing** ☒ **Granted as Follows:**

a. You must **not** do the following things to the person named in (1)
☒ and to the other protected persons listed in (3):

(1) ☒ Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.

(2) ☒ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.

(3) ☒ Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.

(4) ☒ Other *(specify):*

☐ Other personal conduct orders are attached at the end of this Order on Attachment 5a(4).

b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the person in (1).

(6) Stay-Away Order

☐ **Not Requested** ☐ **Denied Until the Hearing** ☒ **Granted as Follows:**

a. You must stay at least 100 yards away from *(check all that apply):*

(1) ☒ The person in (1)
(2) ☒ Each person in (3)
(3) ☒ The home of the person in (1)
(4) ☒ The job or workplace of the person in (1)
(5) ☐ The school of the person in (1)
(6) ☐ The school of the children of the person in (1)
(7) ☐ The place of child care of the children of the person in (1)
(8) ☒ The vehicle of the person in (1)
(9) ☐ Other *(specify):*

b. This stay-away order does not prevent you from going to or from your home or place of employment.

(7) No Firearms (Guns), Firearm Parts, or Ammunition

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed in b on the next page.

This is a Court Order.

b. **Prohibited items are:**

(1) Firearms (guns);

(2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and

(3) Ammunition.

c. You must:

(1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.

(2) File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form CH-800) for the receipt.)

d. ☒ The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

(8) Possession and Protection of Animals

☐ **Not Requested** ☐ **Denied Until the Hearing** ☒ **Granted as Follows** *(specify):*

a. ☐ The person in (1) is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.
(Identify animals by, e.g., type, breed, name, color, sex.)

Orange tabby male cat named Apollo, Black male cat named Hades, Tan Lab Mixed Breed named Mercy, Grey and white tabby cat named Franny, calico tabby cat named Fillipa Bucket, any other animals that may be in the home or on the property.

b. ☒ The person in (2) must stay at least 500 yd yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

(9) Other Orders

☐ **Not Requested** ☒ **Denied Until the Hearing** ~~☐ Granted as Follows *(specify):*~~

An order for Eduardo Escareno-Davila to move out of the home, [redacted] PII [redacted], with a civil stand-by and pay the agreed upon bills for the months lived in the home and, having personal items in the home, as well as follow the agreement made upon move in that Eduardo Escareno-Davila will pay the month rent following his move out of the home.

☐ Additional orders are attached at the end of this Order on Attachment 9.

To the Person in (1):

(10) Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

a. ☒ The clerk will enter this Order and its proof-of-service form into CARPOS.

b. ☐ The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.

This is a Court Order.

c. ☒ By the close of business on the date that this Order is made, the person in (1) or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency	Address *(City, State, Zip)*
Mendocino County Sheriff's Office	

☐ Additional law enforcement agencies are listed at the end of this Order on Attachment 10.

(11) No Fee to Serve (Notify) Restrained Person ☒ **Ordered** ☐ **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

a. ☒ The Order is based on unlawful violence, a credible threat of violence, or stalking.

b. ☐ The person in (1) is entitled to a fee waiver.

11/20/2024 11:53:29 AM

(12) Number of pages attached to this Order, if any: _____

Date: 11/20/2024

Judicial Officer

Warnings and Notices to the Restrained Person in (2)

You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 7b on page 3 while this Order is in effect. If you do, you can go to jail and pay a $1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item (7) above. The court will require you to prove that you did so.

Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with this Temporary Restraining Order and form CH-109, *Notice of Court Hearing,* but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item (2).

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

After You Have Been Served With a Restraining Order

- Obey all the orders.
- Read form CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?,* to learn how to respond to this Order.
- If you want to respond, fill out form CH-120, *Response to Request for Civil Harassment Restraining Orders,* and file it with the court clerk. You do not have to pay any fee to file your response if the Request claims that you inflicted or threatened violence against or stalked the person in (1).

This is a Court Order.

- You must have form CH-120 served by mail on the person in (1) or that person's attorney. You cannot do this yourself. The person who does the mailing should complete and sign form CH-250, *Proof of Service by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at *www.courts.ca.gov/forms*. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to five years. Tell the judge why you disagree with the orders requested.

Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Orders System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Orders

This order *starts* on the date next to the judge's signature on page 4. The order *ends* on the expiration date in item (4) on page 1.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the Proof of Service or confirms that the Proof of Service is on file; or
- The restrained person was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

This is a Court Order.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO):* If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order:* If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 5a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO):* If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders:* If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(Clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

STATE OF CALIFORNIA - COUNTY OF MENDOCINO
SEARCH WARRANT

MCSO#2024-23393.1

The People of the State of California to any Sheriff, Constable, Marshall, Or Police Officer in the County of Mendocino: proof by affidavit having been made before me by

Jack Woida #2710

that there is probable cause to believe that the property/or person described herein may be found at the locations set forth herein and is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "X"(s) in that:

____it was stolen or embezzled.
____ it was used as the means of committing a felony.
_XX_ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purposes of concealing it or preventing its discovery,
____ it tends to show that a felony has been committed or that a particular person has committed a felony,
____ it tends to show that sexual exploitation of a child, in violation of Section 311.3 or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring,
____ there is a warrant for the person's arrest,

YOU ARE THEREFORE COMMANDED TO SEARCH: The premises, vehicle(s), and/or person(s) described in exhibit "A" attached hereto and incorporated herein by this reference.
FOR THE FOLLOWING PROPERTY / PERSON: The property and/or persons described in exhibit "B" attached hereto and incorporated herein by this reference.
YOU ARE THEREFORE COMMANDED, within five business days after receipt of this search warrant to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable, and legible copy of the requested records listed in exhibit "B". See California Penal Code 1524.2.

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or maintain it at a suitable location of a law enforcement agency pursuant to Penal Code section 1536. This Search Warrant and incorporated Affidavit, and all attachments thereto, were sworn to as true and subscribed before me this 13 day of Nov. 2024, at 8:05 A.M./P.M. Wherefore; I find probable cause for the issuance of this Search Warrant and do issue it.

_____ (Judge of the Superior Court) [illegible]

YES NO

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BY:JR2763
DATE:3/13/2025

STATE OF CALIFORNIA-COUNTY OF MENDOCINO

MCSO#2024-23393.1

AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

Jack Woida #2710, a Peace Officer, swears under oath that the facts expressed by him in this search warrant and affidavit and in exhibit "C", statement of probable cause, and any and all attachments thereto, are true and that based thereon he has probable cause to believe and does believe that the property and/or person described herein is lawfully seizable pursuant to Penal Code section 1524, as indicated herein, and is now located at the places herein set forth. Wherefore, affiant requests that this Search Warrant be issued. **Exhibits "A", "B", and "C", and all attachments thereto are attached hereto and incorporated herein by this reference.**

_____, **NIGHT SERVICE REQUESTED () YES (X) NO**

(Signature of Affiant)

Subscribed and sworn before me this 13 day of Nov. 2024 at Ukiah, California at the hour of

8:05 a.m./p.m.

_____

JUDGE OF THE SUPERIOR COURT

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Exhibit "A"
Premises, Persons and Property to be Searched:

The Premises of PII which is described as a three bedroom, single family residence. This is a shared residence between Eduardo Guadalupe Escareno-Davila DOB PII, PII DOB PII, and PII DOB PII.

This search is to include all vehicles, storage containers, and outbuildings under the control of Eduardo Escareno and PII.

The person of Eduardo Escareno who has a California Driver's License of PII.

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Exhibit "B"
Items to be Seized:

- Photos of the residence
- Photos of Eduardo Escareno
- DNA Buccal swab from Eduardo
- Any and all digital media devices belonging to Eduardo, to include but not limited to: cell phone(s), computers, laptops, tablets, or other electronic devices. This is to include Eduardo's cell phone.

Forensic analysis and download of the devices, to include but not limited to: device information, indicia of ownership and control for the cellular device and data, photographs, images, image hash details, video files, audio files, image / video / audio metadata, plug-ins, contents, calendar, call logs (deleted and intact), chats, contacts, social network posts/updates/tags, Wi-Fi networks, associated wireless devices, associated connected devices, stored passwords, cookies, emails, installed applications, global positioning system (GPS) coordinate location history, text messages (SMS - deleted and intact), multi-media messages (MMS – deleted and intact), device timeline, user accounts, web bookmarks, web or internet browsing history, all financial information, data files, activity analytics, phone analytics, email analytics, and uncategorized data.

This download is to include all data located on the device and other possible media storage located in/on the device that constitute evidence and instrumentalities 664/289 PC and 243.4 (e)(1) PC occurring between 11/10/24 through 11/13/24, including communications referring or relating to this investigation.

This download is to include a physical, file system, and logical download of said cellular telephone, which includes intact data and data that may have been deleted and can be recovered from the device.

The court authorizes the use of person(s) who are not peace officers to accompany and assist the Peace Officers during the execution this Search Warrant for the purpose of assisting in the service of this Search Warrant as provided for under California Penal Code Section 1530.

With respect to the digital media items listed in this warrant, Peace Officers are authorized to transfer the booked evidence to a Law Enforcement Agency location prior to commencing the search of the items. Furthermore, said search may continue beyond the ten-day period beginning upon issuance of this Search Warrant, to the extent necessary to complete the search on the evidence and any items listed above. Analysis of any item seized may also have to be done by a qualified professional authorized by law enforcement or an allied agency to include the Northern

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California Computer Crimes Task Force, DOJ, FBI, District Attorney's Office, or other governmental agency.

If necessary, investigating officers are authorized to employ the use of outside experts, acting under the direction of the investigating officers, to access and preserve data on the cellular device at the time of the seizure or at any future time while the evidence is in the control of the investigating agency. Those items that are within the scope of this warrant may be copied and retained by investigating officers.

Some of the procedures used to extract data from digital devices may damage the device or render it permanently inoperable.

Authorization to implement special procedure(s): The Affidavit filed herewith has demonstrated legal justification for the implementation of the following special procedures which shall be employed by the officers who execute this warrant:

California's Electronic Communications Privacy Act (ECPA) ORDER
IT IS HEREBY ORDERED that any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject to further review, use, or disclosure absent an order from the Court, or to comply with California code 1054 and Brady v Maryland.

Biometric unlock of digital devices Order ORDER
IT IS HEREBY ORDERED, that investigators may compel, by the use of reasonable force if required, the owner of a cell phone, or such other system or device, ordered to be searched by this search warrant, to provide a fingerprint or other biometric information needed to unlock the device, if that item can be unlocked with a fingerprint or biometric information.

Digital Forensic Search ORDER
IT IS HEREBY ORDERED that good cause having been established in the affidavit filed herein, the officers who execute this warrant are authorized to conduct a review or forensic analysis of digital items such as computers, mobile devices, or computer-related equipment either specifically listed in this warrant or located at the location described in this warrant and seize data or digital records from the examined devices. Such data may be copied and retained by investigating officers. If necessary, investigating officers are authorized to employ the use of outside experts, acting under the direction of the investigating officers, to access and preserve data on the cellular device. Any item that is either believed or determined to contain relevant evidence shall be seized.

IT IS FURTHER ORDERED that the investigating officers are authorized to transport the seized evidence to either the Mendocino County Sheriff's Office or an allied Law Enforcement Agency location to continue the forensic examination of the items.

With respect to the digital media items listed in this warrant, Peace Officers are authorized to transfer the booked evidence to a Law Enforcement Agency location prior to commencing the search of the items. Furthermore, said search may continue beyond the ten-day period beginning

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upon issuance of this Search Warrant, to the extent necessary to complete the search on the evidence and any items listed above. Analysis of any item seized may also have to be done by a qualified professional authorized by law enforcement or an allied agency to include the Northern California Computer Crimes Task Force, DOJ, FBI, District Attorney's Office, or other governmental agency.

California Penal Code Prohibited Violation Attestation In compliance with the requirements outlined in California Penal Code § 1524.2(c) & § 1546.5(a) your affiant attests that the evidence sought in this search warrant is not related to an investigation into, or enforcement of, a prohibited violation, as defined in California Penal Code § 629.51.

Exhibit "C"
Statement of Probable Cause

Your affiant states he has received the following training and experience in the field of criminal investigation:

Training and Experience

Mendocino County Sheriff's

Deputy Jack Woida #2710

Your affiant states he has received the following training and experience in the field of criminal investigations. I, Jack Ryan Christopher Woida #2710, am a peace officer employed by the Mendocino County Sheriff's Office; and have been so since May of 2014. I was initially employed by the Mendocino County Sheriff's Office as a Correctional Deputy, but I transferred to the Fields Serves Division in June of 2017.

1. Your affiant attended a basic Police Officer Academy at College of the Redwoods in Eureka which consisted of 23 weeks in 2017. As part of that training your affiant received state mandated training in defensive tactics, chemical agents, pursuit driving, interview techniques, basic evidence gathering, introductory traffic investigation, an 11550 H&S evaluation class, a basic drug identification course, property crimes investigations, operation and qualification of handgun and shotgun, and completion of a training course meeting the requirements of Penal Code section 872(b): Hearsay Evidence Testimony. Your affiant also received instruction in criminal law, gangs, and numerous other subjects including felony level crimes.

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2. A 16 week Field Training phase with the Mendocino County Sheriff's Office. During the training phases your affiant's training expanded upon the academy curriculum. Your affiant had training officers who had testified as narcotics experts. Your affiant spent many hours discussing gang crimes and narcotics crimes with his training officers, as well as Mendocino County MAGSU gang task-force member (Brian Arrington).

3. Your affiant has made no less than 60 arrests for drug related violations to include under the influence of controlled substances (stimulants and depressants), possession of controlled substances, and possession of drug paraphernalia.

4. Your affiant has made no less than 10 arrests for possession and transportation of controlled substances (stimulants and depressants) for sales. Your affiant has discussed and been trained in the methods of sale and packaging of methamphetamine, marijuana and other illicit drugs by former Mendocino Major Crimes Task Force experts.

5. Your affiant has participated in the service of no less than 5 search warrants. One of which was for narcotics which I located and identified a Butane Honey Oil Lab and a second for firearms were I assisted in locating numerous firearms.

6. Your affiant has discussed with numerous persons who are addicted to narcotics about how much they use, the methods of use, and how it affects them.

7. No less than 50 times your affiant has performed presumptive tests on narcotics substances leading to positive and proper identification of seized controlled substances.

8. Your affiant has discussed with more experienced narcotics officer/instructors regarding identification, packaging materials, methods of concealment, habits of the user, and the effects of narcotics.

9. Your affiant has investigated felony level crimes to include burglary, felony level assaults, prohibited persons in possession of firearms, and possession of stolen property.

10. Your affiant has questioned no less than 10 criminal street gang members to include Norteno's and Sureno's. Included in the questioning was the meanings of different tattoos, how gang members use tattoos and clothing to identify them themselves with a specific gang, the use of monikers, and the identification of "micro writing" as a means of communication.

11. Your affiant has seen growing marijuana indoor and outdoor no less than fifty times and has seen packaged marijuana no less than one hundred times.

12. Your affiant has completed a POST Certified training on 11479 HS regarding evidence collection for cultivations of marijuana.

13. Your affiant has completed a DEA sponsored overflight training regarding locating/photographing marijuana during overflights. During the course your affiant assisted in the service of a search warrant that conformed the marijuana that had been spotted from the air.

14. Your affiant has completed a DEA sponsored overflight training regarding locating/photographing marijuana during overflights. During the course your affiant assisted in the service of a search warrant that conformed the marijuana that had been spotted from the air.

15. Your affiant completed a Less Lethal Munitions Instructor Course presented by ALS Defense in September of 2019.

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16. In October of 2019 your affiant completed an 80 hour POST Certified Basic SWAT Course.

17. Your affiant completed a 40 hour POST Certified Field Training Officer course in November of 2019.

18. Your affiant completed a 40 hour manual, mechanical, ballistic, thermal, and hydraulic breaching certification course presented by Forced Entry Tactical Training USA in January of 2020.

19. Your affiant completed a 140 hour POST and CNCA certified Basic K9 handler course in Novato CA where my K9 partner "Bo" was certified in explosives detection and patrol functions (obedience, handler protection, tracking, and apprehension) in June of 2020.

20. Your affiant completed a 200 hour POST certified Basic K9 handler course in Chico CA where my K9 partner "Lin" was certified in firearms detection and patrol functions (obedience, handler protection, tracking, and apprehension) in Match of 2023.

21. Your affiant completed a 40 hour POST certified ICI Sexual Assault Investigator course in Monterey CA in May of 2023. This course covered investigations related to adults and children. Course content included the link between the sexual abuse of children and the manufacturing and distribution of child sexual abuse material (CSAM) by the same subjects.

Your affiant says that the facts in support of the issuance of a search warrant are as follows:

On 11/13/24 at approximately 0400 hours, Sgt Vazquez was dispatched to a reported sexual assault that just occurred at [redacted] PII [redacted]. PII [redacted] was the reporting person who explained she was awoken because she felt something cold touching the outside of her vagina (skin to skin). When PII [redacted] rolled over to see what was touching her, she heard a "thud" and observed Eduardo laying on her floor.

It should be noted PII [redacted] is employed by Willits CPS and Eduardo is a Deputy with the Mendocino County Sheriff's Office and I know both from prior professional contacts.

Deputy Nelson responded with Sgt. Vazquez and obtained an initial statement from PII [redacted]. There was an additional roommate in the house name PII [redacted] however after this incident occurred, PII [redacted] had PII [redacted] go stay at a different location.

I was contacted by Lt. Porter and assigned to investigate this incident, so Sgt Vazquez transported PII [redacted] to the Ukiah Detective's Office where she told me the following in summary:

PII [redacted] and PII [redacted] have lived at PII [redacted] for a few years and Eduardo became their roommate around December of 2023. PII [redacted] nor PII [redacted] knew Eduardo (personally) prior to him moving in however they needed a roommate, and he was looking for a place to live. PII [redacted] was aware that Eduardo.

After Eduardo moved in PII [redacted] and PII [redacted] maintained a professional friendship with Eduardo and they did not socialize together nor spend time together unless it was work related. There is no

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BY:JR2763
DATE:3/13/2025

history of any romantic relationship between Eduardo and PII nor PII. Eduardo and PII would occasionally text each other however it was only related to work or rent being do.

On 11/12/24 around 1830 hours, PII and PII were at home eating dinner and visiting on the couch when Eduardo arrived home from running some errands. There was a casual exchange of small talk between Eduardo and PII however Eduardo continued with his night with nothing to note. PII went to sleep around 2230 hours and left her door partially propped open because she fosters cats, and they need access to her room during the night.

In the early hours of the morning on 11/13/24 at approximately 0400 hours, PII was sleeping in her bed on her side. She felt something cold touching her vagina (skin to skin) which is what initially woke her up. As PII rolled over to investigate, she heard a "thud" and observed Eduardo laying on her floor wearing a white t-shirt and black sweatpants. When asked, PII explained she was wearing a yellow shirt and green shorts without any underwear on.

PII confronted Eduardo about why he was in her room and PII noted, Eduardo's speech was slurred, and he was not making much sense. Eduardo initially tried to tell PII that he was in there looking for one of the cats. This did not make sense to PII because Eduardo did not care for the cats, nor was he a "cat person". PII continued to confront Eduardo about her belief that he was just touching her vagina. Eduardo began to apologize and told PII he was sorry. Eduardo asked PII if she was going to call law enforcement which she acknowledged she was going to call. Eduardo made a comment stating something to the effect that his "career was fucked".

Eduardo was present with PII when she called MCSO Dispatch and Eduardo asked PII how long it was going to take for deputies to arrive. Eduardo was also upset and began throwing up so PII got him some water. Eduardo acknowledged he was intoxicated, and PII asked why he went into her room. Eduardo responded by telling PII that he chose her room because her door was open. Eduardo continued to tell PII he was sorry for what he did, but he did not make any direct statements about what his intentions were.

When PII and Eduardo talked, he was in possession of his phone PII believed Eduardo was going to make some calls based on his repeated statements that he was sorry for what he did.

I am aware based on training and experience investigating cases like these that the alleged suspected may contacted family members to express what happened which would include potential incriminating or exculpatory evidence. Given that Eduardo was in possession of his phone leads me to believe he used it to contact others and inform them about what happened.

Based on PII 's statements I also believe there is a likelihood Eduardo's DNA would be on her shorts.

I also know that subjects involved in cases like this often-complete internet searches before or after the commission of the offence. This ranges from searching for possible defenses, or ways to get rid of potential evidence. Additionally, the search and download of subjects phones can also lead to unknown exculpatory evidence being discovered.

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DATE:3/13/2025

AGENDA ITEM REPORT

Title: POST2505112 - KEVIN SMITHMATUNGOL (POST ID: C88-T32) LAST EMPLOYING AGENCY: DALY CITY POLICE DEPARTMENT

REPORT PROFILE

MEETING DATE 07/16/2026	**BUREAU SUBMITTING THE REPORT** Peace Officer Standards Accountability Division	
RESEARCHED BY Christina Moore	**REVIEWED BY** Brian South	
REPORT DATE	**APPROVED BY** Annemarie Del Mugnaio	**DATE APPROVED**
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

The matter is before the Peace Officer Standards Accountability Advisory Board (POSAAB) for review and recommendations regarding the subject peace officer's certification status.

BACKGROUND:

Respondent began his employment with the Daly City Police Department on January 3, 2022, as a trainee, becoming a full-time Police Officer on July 11, 2022. At the time of the events at issue, Respondent was employed as Police Officer with the Daly City Police Department. After receiving the Notice of Intent to Terminate, the Respondent resigned effective October 1, 2025. At the time of this incident, Respondent held a peace officer position as defined under California Penal Code §830.1(a) and is required to be certified pursuant to California Penal Code §13510.1(a).

On June 2, 2024, the Respondent contacted a female subject, who was detained by Target security for shoplifting, and cited and released the party. On the day of the incident, when questioned by his supervisor regarding how the party was identified, the Respondent stated he obtained the subject’s fingerprint, when he had not. The Daly City Police Department initiated an internal affairs investigation and confirmed the Respondent did not obtain the female subject’s fingerprint.

During his Internal Affairs interview on January 31, 2025, the Respondent falsely stated he obtained the subject's fingerprint. During his interview with POST conducted on January 13, 2026, the Respondent admitted he did not obtain a fingerprint from the subject at any time and was dishonest in his internal affairs interview.

On June 20, 2024, when asked by his supervisors as to why the Respondent had arrived late for his scheduled training day, the Respondent explained he was addressing some outstanding evidence with the Property Room Manager. Then, the Respondent sent the Property Room Manager a text message which stated, *"If Karen or Jerel* [supervisors] *asks can you please let them know I was handling evidence with you!"* The Daly City Police Department initiated an internal affairs investigation and determined the Respondent was approximately 30 minutes late for training and had not been working on outstanding evidence that morning. During his internal affairs interview on January 31, 2025, the Respondent falsely stated that he had been handling evidence for the Property Room Manager and denied the purpose of the text message was to create an alibi. During his interview with POST conducted on January 13, 2026, the Respondent admitted he claimed in his internal affairs interview that he was handling evidence for the Property Room Manager when he had not been. The Respondent admitted he sent the text to the Property Room Manager that morning, despite not having worked on evidence with her, but he had not intentionally asked the Property Room Manager to lie on his behalf.

On October 25, 2024, the Respondent was assigned two (2) subpoenas to serve. Respondent informed his supervisor and wrote on the subpoena return slip that he had attempted to serve each subpoena when he had not. The Daly City Police Department initiated an internal affairs investigation and confirmed the Respondent did not attempt to serve either subpoena. During his Internal Affairs interview on January 31, 2025, the Respondent falsely stated he had attempted to serve the subpoenas. After being presented evidence which indicated he never attempted service of either subpoena, the Responded explained "maybe I didn't do it." During his interview with POST conducted on January 13, 2026, the Respondent admitted he did not attempt to serve either subpoena and was dishonest in his internal affairs interview to avoid disciplinary action.

Following the conclusion of the three (3) internal affairs investigations, the Respondent was served a Notice to Intent to Terminate. On August 15, 2025, the Respondent attended an administrative meeting, where he resigned effective October 1, 2025.

ANALYSIS:

Clear and convincing evidence substantiated that the Respondent violated California Penal Code §13510.8(b)(1) and Commission Regulation §1205(a)(1), Dishonesty. The Respondent admitted to POST he knowingly and deliberately provided false information to an internal affairs investigator during three (3) investigations into his own misconduct.

RECOMMENDATION:

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

ATTACHMENT(S):

BR01_POST2505112_Smithmatungol Kevin_ISF.pdf
BR02_POST2505112_Smithmatungol Kevin_Executive Review Division Recommendation.pdf
BR03_POST2505112_Smithmatungol Kevin_POST Profile.pdf
BR04_POST2505112_Smithmatungol Kevin_Att.C_Administrative Investigative Memorandum Excerpts 24-04.pdf
BR05_POST2505112_Smithmatungol Kevin_Att.D_Administrative Interview Transcript 24-04.pdf
BR06_POST2505112_Smithmatungol Kevin_Att.E_Administrative Investigative Memorandum Excerpts 24-06.pdf
BR07_POST2505112_Smithmatungol Kevin_Att.F_Administrative Interview Transcript 24-06.pdf
BR08_POST2505112_Smithmatungol Kevin_Att.G_Administrative Investigative Memorandum Excerpts 24-07.pdf
BR09_POST2505112_Smithmatungol Kevin_Att.H_Administrative Interview Transcript 24-07.pdf
BR010_POST2505112_Smithmatungol Kevin_Att.I_Notice of Intent to Terminate.pdf
BR011_POST2505112_Smithmatungol Kevin_Att.J_Letter of Resignation.pdf
BR012_POST2505112_Smithmatungol Kevin_Att.K_Division Interview Transcript.pdf



INVESTIGATIVE SUMMARY AND FINDINGS

PEACE OFFICER NAME: Kevin Smithmatungol

POST ID NUMBER: C88-Y32

EMPLOYING AGENCY: Daly City Police Department

POST CASE NUMBER: POST2505112 / POST2505137 / POST2505140

WRITTEN BY: LEC Christina Moore

DATE: 4/14/2026

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I. Executive Summary and Findings

Daly City Police Department (DCPD) Officer Kevin Smithmatungol, hereinafter "Respondent," failed to provide true and accurate information to his supervisor regarding the identification of the subject of a criminal investigation and was dishonest by providing false statements during his Internal Affairs interviews related to three (3) separate investigations of misconduct. As a result, the Respondent was served a Notice of Intent to Terminate[1] and resigned from DCPD effective October 1, 2025.[2]

On June 2, 2024, the Respondent responded to the Target retail store in the Serramonte Center in Daly City, California. The Respondent contacted a female subject, who was detained by Target security for shoplifting, and cited and released the party. On the day of the incident, when questioned by his supervisor regarding how the party was identified, the Respondent claimed to have obtained the subject's fingerprint, when he had not. During his Internal Affairs interview, the Respondent again claimed to have obtained the subject's fingerprint when he had not. During his interview with the Division, the Respondent admitted he did not obtain a fingerprint from the subject at any time, was dishonest to his supervisor, and was dishonest in his Internal Affairs interview.

On June 20, 2024, the Respondent arrived late for his pre-scheduled training day. When questioned by his supervisor as to why he was late, the Respondent claimed to be handling evidence related matters. The Respondent then sent the Property Room Manager a text message indicating if she was asked by a supervisor to let them know he was handling evidence with her, when he had not been. During his Internal Affairs interview, the Respondent was evasive about his arrival time, again claimed to have been handling evidence related matters, and denied sending the text message for the purpose of creating an alibi. During his interview with the Division, the Respondent admitted he was late, did not handle evidence related matters that morning, and the text message appeared untruthful.

On October 25, 2024, the Respondent was assigned two (2) subpoenas to serve. The Respondent informed his supervisor and wrote on the subpoena return slip that he had attempted to serve each subpoena when he had not. During his Internal Affairs interview, the Respondent again claimed to have attempted to serve the subpoenas when he had not. After being presented with evidence, the Respondent ultimately agreed if there was no evidence of him at the locations then he may not have served them. During his interview with the Division, the Respondent admitted he did not

[1] Attachment I – Notice of Intent to Terminate.
[2] Attachment J – Letter of Resignation.

physically attempt to serve either subpoena, was dishonest on the subpoena return slip, and was dishonest in his Internal Affairs interview.

Analysis of the administrative evidence, the Respondent's statements during the internal affairs interviews, and the Respondent's interview with the Division, establish clear and convincing evidence the Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(1) and Commission Regulation 1205(a)(1) – *Dishonesty.*

II. Investigative Methodology

This report summarizes the findings related to allegations of serious misconduct. This investigation was conducted in accordance with the regulations and policies of the Commission on Peace Officer Standards and Training (POST). The investigation included a review of the Daly City Police Department's three (3) administrative investigations. The review of the first administrative investigation (24-04) included interviews of four (4) witnesses and an interview with the subject officer, the criminal report written by the subject officer and the associated citation, the Body Worn Camera (BWC) recordings from the incident, the Target store surveillance footage, and the Computer Aided Dispatch (CAD) Log associated with this case. The review of the second administrative investigation (24-06) included interviews with three (3) witnesses and an interview with the subject officer, the Daly City Door Code Logs, and the Respondent's work schedule. The review of the third administrative investigation (24-07) included interviews with three (3) witnesses and an interview with the subject officer, AXON Automated License Plate Reader (ALPR) data, video surveillance, and the CAD Logs associated with this case.

The information obtained in this investigation was analyzed using the clear and convincing evidence standard. For purposes of this report, clear and convincing evidence means "evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. The evidence need not establish a fact beyond a reasonable doubt."

This report is necessarily summary in nature and does not include every fact or issue that might be found in the underlying investigation and attachments. It does, however, contain reference to that evidence that the Division believes establishes the requisite facts and proves the serious misconduct charged by clear and convincing evidence.

III. Respondent's Background

At the time of the events at issue, the Respondent was employed as an Officer with the DCPD. This position is classified as a peace officer under California Penal Code (PC) Section 830.1 (a).

A. Respondent's Peace Officer Certificates and Employment

The Respondent began his employment with the DCPD on January 3, 2022, as a trainee and was promoted to full-time Officer on July 11, 2022. Respondent is assigned POST ID C88-Y32. He received the following peace officer certificates from POST:[3]

Certificate Type	*Certificate Number*	*Date Issued*
Basic	212190	01/19/2024
Intermediate	157942	07/11/2024

B. Respondent's Service Record

When evaluating whether suspension or revocation is appropriate, Penal Code section 13510.8(c)(5) and California Regulation section 1213(a)(5) provide that the Commission must consider Respondent's prior conduct, discipline and service record. The relevance and weight the Commission may choose to assign to a peace officer's prior conduct and service record will depend on the facts in each case. The following is a summary of the Respondent's prior conduct and discipline record:[4]

On October 7, 2023, the Respondent was counseled for being involved in a preventable collision while operating a city vehicle when he broadsided an uninvolved vehicle in the lane next to him during a traffic enforcement stop.

On October 30, 2023, the Respondent was counseled for being involved in a preventable collision while operating a city vehicle when he located a subject vehicle who had intentionally rammed a patrol vehicle. As the suspect vehicle fled at a high rate of speed, it became momentarily disabled. The Respondent intended to perform a vehicle containment technique with his patrol vehicle. The Respondent drove toward

[3] Attachment B – Respondent's POST EDI Profile.
[4] Attachment I – Notice of Intent to Terminate.

the rear passenger side of the suspect vehicle, subsequently colliding with it. The patrol vehicle's braking data indicated the vehicle was in a locked tire skid prior to the collision.

On March 3, 2024, the Respondent was counseled for failing to adhere to DCPD's vehicle pursuit policy when he located a stolen vehicle, initiated a vehicle pursuit when speeds reached 89 MPH on city streets, passed an uninvolved motorist on the right, and failed to update the speeds and traffic conditions on his radio.

On October 24, 2024, the Respondent was counseled for failing to adhere to DCPD's BWC policy when he conducted a sub-standard death investigation and muted his BWC when it was not appropriate to do so while conducting interviews and conversations that were pertinent to the investigation.

On December 21, 2024, the Respondent received a Written Letter of Reprimand when he failed to properly book a purse into the evidence room. The Respondent ultimately booked the purse; however, it was discovered the purse contained narcotics, drug paraphernalia, and potentially stolen property (check book). The Respondent failed to follow DCPD's booking procedures and failed to ensure the purse was free of any items which could potentially harm property room staff.

On January 18, 2025, the Respondent was involved in a preventable collision when he collided with the center median during a vehicle pursuit. The Respondent was determined to have caused the collision by being in violation of California Vehicle Code Section 22350, unsafe speed with an additional associated factor of inattention as he reached for the radio while attempting to maneuver the turn. As a result, on February 24, 2025, the Respondent was placed on Administrative Leave for the three (3) open administrative investigations and his 3rd traffic collision.

IV. Factual Background

A. June 2, 2024 (Shoplifter)

On June 2, 2024, the Respondent responded to the Target store in the Serramonte Center in Daly City, California. The Respondent contacted a female subject, who was detained by Target security for shoplifting. A secondary officer responded to provide Spanish translation for the female subject. The female subject verbally provided a name and date of birth, indicated she was from North Carolina, and presented a bank card with the same name. The officers conducted a records check, but there was no record of the name provided. During the investigation, a second shoplifter was detained, and the Respondent's attention was diverted. While his partner officer monitored the second subject, the Respondent cited and released the female subject for

shoplifting, based on the name and date of birth provided. The Respondent also cited and released the second subject; however, the male subject provided his name and date of birth. A records check revealed the male subject's California Identification number, and the Respondent confirmed his identity via photographic records.

The Respondent's field supervisor reviewed the Respondent's report and returned it to him for corrections, indicating the Respondent failed to document how or if the female suspect was identified. That evening, the Respondent spoke with his supervisor regarding the requested corrections, explained he thought suspects could be issued citations without being positively identified, and spontaneously stated he had obtained the suspect's fingerprint. After confirming that the Respondent had not obtained a digital fingerprint from the subject, as the electronic ticket writer the Respondent used that day did not have the capabilities of obtaining a digital fingerprint, and after reviewing the BWC recordings from the incident,[5] on or about June 8, 2024, the supervisor confronted the Respondent that it appeared he had not obtained a fingerprint from the subject. The Respondent stated at the conclusion of his detention, he walked the subject to his patrol vehicle where he printed a duplicate copy of the citation, retrieved an ink pad, and fingerprinted the subject. The supervisor again asked if he was sure he obtained a fingerprint, to which the Respondent stated yes and indicated he would check his duty bag for the physical copy, but then reported to his supervisor he was unable to locate it. The supervisor obtained the surveillance footage from Target, which displayed no evidence to substantiate a fingerprint was obtained.[6] As a result of the suspected dishonest statements, an Internal Affairs investigation (24-04) was initiated.

On January 31, 2025, the Respondent participated in an Internal Affairs interview related to the identification of the suspect and the statements made to his supervisor. During the Internal Affairs interview, the Respondent made the following statements:[7]

- When asked if he obtained a fingerprint of the female subject, the Respondent stated, "*I did."*[8]
- When asked when the fingerprint was obtained, the Respondent stated, "…s*o I gave her the citation when she was sitting down in the security office, uh, briefly went out or gave her the citation while she was in the office,"* and further explained, "*Um, got everything I needed from security. She walked out to go find a friend that she was with at the initial time of call that's when the security officer said that there's two of them, one of them already left. She went to go find her friend or something like that because she went back into the Target store and*

[5] Attachment C – Administrative Investigative Memorandum Excerpts (24-04) – page 2.
[6] Attachment C – Administrative Investigative Memorandum Excerpts (24-04) –pages 3-4.
[7] Attachment D – Administrative Interview Transcript (24-04).
[8] Attachment D – Administrative Interview Transcript (24-04) – page 5, line 39.

then dealt with the other shoplifter outside in front of the Target store. I'm not sure how long after and she came out, and that's when I realized I didn't get a fingerprint from her. And my ink pad is in the front pocket of my duty bag," and stated, "*And when she walked out, I grabbed my thumbprint or my ink pad, got the thumb print, and put the citation in my car until the end of shift."*[9]

- The Respondent further explained he printed a second citation for the subject within approximately 30 minutes of printing the first citation, while in the front parking lot of Target, by the handicap stall, in front of the exit, by the security office.
- When asked if there was any reason he would have told his supervisor that he had printed a second citation and obtained a fingerprint when he had not, for the purpose of avoiding getting in trouble, the Respondent stated, "*No. Why would I jeopardize my job for a citation of someone who stole home goods at Target? I worked, respectfully, my ass off to get here, and I believe I deserve to be here. I don't want to risk my job for getting, being a scapegoat and trying to cover my mistakes.*"[10]
- When asked if he ever lied to his supervisor in regards to how he identified or fingerprinted the subject, the Respondent stated, "*No, I told her exactly what I told you.*"[11]

On January 13, 2026, the Respondent was interviewed by POST LEC Christina Moore and LEC Kevin Sherburne and made the following statements:[12]

- Between July 11, 2022, and October 1, 2025, he was employed as peace officer by the Daly City Police Department.
- During his employment, he investigated approximately a couple hundred cases involving shoplifting and cited and released 80-90 percent.
- During his employment, he never encountered a subject with no identification and/or was unable to identify an associated match through law enforcement databases; however, if he was faced with that situation, he would take the individual to jail to obtain a fingerprint through the booking process.
- On June 2, 2024, he cited and released a female subject, who verbally identified herself by name.
- The subject did not have a license, passport, or any other form of identification and a check through a law enforcement records indicated no match.
- He did not obtain a fingerprint from the subject.
- He did not confirm that the subject he cited was who she claimed to be.

[9] Attachment D – Administrative Interview Transcript (24-04) – page 5, lines 43-58.
[10] Attachment D – Administrative Interview Transcript (24-04) – page 8, lines 58-60.
[11] Attachment D – Administrative Interview Transcript (24-04) – page 9, line 5.
[12] Attachment K – Division Interview Transcript.

- He initially told his partner he was going to book the subject because there was no other way to identify her; however, then he told his partner he was going to cite her because they were short staff that day and stressed the importance of beat accountability.
- He related he made a *"bad judgement call"*[13] when he cited and released the subject and he should have taken her to jail.
- He indicated the subject appeared pregnant, he did not feel she was a habitual shoplifter, and he felt bad for her.
- At the time of the investigation, a second shoplifter was detained, he confirmed his identity by name and date of birth, to a matching California Identification number, which he confirmed by photo.
- When asked why he told his supervisor he obtained a fingerprint from the subject he stated, "*Um, I panicked. I, I have no excuse for what I did. I just, I just panicked. I, that was my first kind of getting in trouble doing something wrong, and I didn't take accountability for myself. And I have no excuse for that one."*[14]
- When asked why he claimed in his Internal Affairs interview that he obtained a fingerprint from the subject he stated, *"Um, I, like I said, I have no excuse. I was going through some personal things then, and I, I have no reason."*[15]
- He reviewed his BWC prior to his Internal Affairs interview, was aware he should have booked the subject when he was unable to identify her, and decided to not be forthcoming with that information during his Internal Affairs interview. When asked why, he stated, *"I don't have any excuses. Um, that that was my first kind of disciplining and as well as some things back at home and, or something happening at home and I just wasn't in the right mindset and I didn't take responsibility for my actions."*[16]
- He admitted he was dishonest in his Internal Affairs interview.
- He agreed with the findings and recommendations by DCPD and stated, *"Um, I, it's appropriate and I messed up. I didn't take accountability and I don't deserve to be a department that would have your back if you can't even do the right thing. And so whatever they did was appropriate and that's why I didn't fight it during the Skelly. I just wanted to take it head on."*[17]
- He indicated he had no evidence to refute the findings of dishonesty.

[13] Attachment K – Division Interview Transcript – page 14, line 58 - page 13, line 7.
[14] Attachment K – Division Interview Transcript – page 17, lines 29-31.
[15] Attachment K – Division Interview Transcript – page 17, lines 36-37.
[16] Attachment K – Division Interview Transcript – page 19, lines 22-24.
[17] Attachment K – Division Interview Transcript – page 19, lines 55-58.

B. June 20, 2024 (Training Day)

On June 20, 2024, the Respondent was scheduled to attend training at the DCPD station at 0700 hours but arrived at the station at approximately 0730 hours. At approximately 0740 hours, the Respondent reported to the training room and was confronted by his supervisor as to why he was late. The Respondent related he was with the Property Room Manager addressing some outstanding evidence, when he had not been. At approximately, 0807 hours the Respondent sent the Property Room Manager a text message which stated, *"If Karen or Jerel* [supervisors] *asks can you please let them know I was handling evidence.com with you!"*[18] As a result, an Internal Affairs investigation was initiated (24-06). Although this act alone does not constitute dishonesty for the purposes of serious misconduct, as the act was not committed during the reporting, investigation, or prosecution of a crime, on January 31, 2025, the Respondent participated in an Internal Affairs interview and made the following statements:[19]

- When asked when he arrived at training on June 20, 2024, the Respondent stated, "*I don't remember the exact time, but around seven o'clock,*" and "*plus or minus 15 to seven o'clock, I don't remember if it was before or after.*"[20] When asked if he arrived at or around 0700 hours, the Respondent stated, "*yes.*"[21] Later in the interview, after clarifying which door he enters every day, he claimed he could have been 30 minutes late.[22]
- When asked if he was in the training room at 0700 hours, the Respondent stated, "*Sorry, no,*" and when immediately asked where he was, the Respondent stated, "*Uh, locker room, changing out, using the restroom, and then, since it was a Thursday, I had, uh, some emails from evidence that I was going to take care of,"* and "*Because my portion of the training wasn't until an hour and half, two hours after the 7:00 AM start time.*"[23]
- When asked if he provided his supervisors with a reason for being late to entering the training room, the Respondent stated, "*Uh, yes. I told 'em I was working. I was, I was going to do evidence. I think I told the sergeants, I said <u>with</u> Rose, but I meant <u>for</u> Rose. Okay. That's just a slip up of words.*" The Respondent further explained, "*Uh, Officer Douglas, Officer Tualauleleli, um, confronted me about showing up late and what was my reason. I told them I was going to do evidence or I was doing evidence, um, to finish the evidence 'cause I have the emails from Monday through Thursday 'cause my work day's Friday*

[18] Attachment E – Administrative Investigation Memorandum Excerpts (24-06) – page 10.
[19] Attachment F – Administrative Interview Transcript (24-06).
[20] Attachment F – Administrative Interview Transcript (24-06) – page 3, lines 36-41.
[21] Attachment F – Administrative Interview Transcript (24-06) – page 3, line 45.
[22] Attachment F – Administrative Interview Transcript (24-06) – page 8, lines 54-58.
[23] Attachment F – Administrative Interview Transcript (24-06) – page 3, lines 47-60.

through Sunday," "Um, I was gonna go through the, the property tab on RIMS and evidence.com and, um, all the evidence on my phone," "*Um, I told, they asked me, or I think I told 'em I did it with Rose,"* and *"Not physically with Rose. It was supposed to be for Rose.*"[24]

- When presented with the text message he sent to the Property Room Manger, the Respondent stated he did not send a text message for the purpose of creating an alibi, but rather to inform her a supervisor would likely contact her.[25]

On January 13, 2026, the Respondent was interviewed by POST LEC Christina Moore and LEC Kevin Sherburne and made the following statements:[26]

- At the time of the incident, he lived seven (7) minutes from the DCPD office.
- On June 20, 2024, he intended on waking up at 0615 to 0620 hours, but woke up late between 0655 to 0710 hours.
- From 0700 to 0730 hours, he was "*Getting outta bed, throwing on clothes and getting on the, getting out of the car or getting outta the house to go to work*."[27]
- He indicated he was "*exhausted*"[28] from working an overtime shift the night before and concluded his shift around midnight.
- He did not obtain supervisor approval to modify his work schedule, did not notify a supervisor he would be late, and did not think to do so because he had never been late before.
- He was compensated for a full workday despite not arriving until 0730 hours.
- He said in his IA interview when he was asked by his supervisors why he was late, he told his supervisors he was handling evidence with/for the Property Room Manager (Rose Meere), but admitted he was not handling evidence for her.[29]
- He sent Rose the text message because he intended to do evidence with her; however, she was not there.
- When asked why he would send her the text when he had not done evidence with her, he stated, *"I no excuse. I mean, I was, I texted her 'cause uh, I was gonna go do it with her. She ended up not being there*."[30]
- When asked if any part of the text message to Rose was untruthful, he stated, "*Yeah, I didn't do it with Rose*,"[31] but was unable to explain why he did it.

[24] Attachment F – Administrative Interview Transcript (24-06) – page 4, line 44 – page 5, line 8.
[25] Attachment F – Administrative Interview Transcript (24-06) – page 7, lines 34-46.
[26] Attachment K – Division Interview Transcript.
[27] Attachment K – Division Interview Transcript – page 21, lines 1-6.
[28] Attachment K – Division Interview Transcript – page 21, line 15.
[29] Attachment K – Division Interview Transcript – page 22, lines 44-47.
[30] Attachment K – Division Interview Transcript – page 22, lines 49-52.
[31] Attachment K – Division Interview Transcript – page 22, line 56.

- He stated, "*When I, when the sergeant asked me why I was late, I told her I came late. Um, but I was gonna, I was gonna do property with Rose, but I ended up not doing it."*[32]
- When asked to clarify we he would use past tense versus future tense if he planned on doing evidence with her, he stated, "*I, it was untruthful*."[33]
- He denied sending the text to create an alibi.
- He denied sending the text to ask Rose to cover for him.
- He denied sending the text to ask Rose to lie on his behalf.
- He denied sending the text to conceal the fact that he was late for work.
- He admitted he used past tense and asked Rose to tell a sergeant he was doing evidence with her when he had not been, but "*didn't not do it on purpose*."[34]
- He admitted he asked Rose to do something they had not done.
- He agreed with the findings and recommendations by DCPD and stated, *"Um, I, I have no excuse. I, I, I messed up. I, it what I said in the text appeared to be untruthful and misleading and I I have no excuse. I was, I was being untruthful*."[35]
- He indicated he had no evidence to refute the findings of dishonesty.
- He indicated he did not feel he was well prepared for the IA interview by his attorney at the time, but accepted responsibility for the things he said.

C. October 25, 2024 (Subpoenas)

On October 25, 2024, at the beginning of his shift, the Respondent was assigned two (2) subpoenas to serve by his supervisor. Towards the end of his shift (morning of October 26, 2024) the Respondent submitted the two (2) subpoenas back to his supervisor, told her he attempted to serve them, and indicated on the subpoena return slip he attempted service with a remark of "*No Answer*" at 2123 hours and 2142 hours respectively.[36] The supervisor did not recall hearing the Respondent notify dispatch of any subpoena attempts, which she believed was out of character for him, and reviewed the Respondent's calls for service which indicated there were no service attempts. Additionally, the supervisor recalled being on scene with the Respondent during the time period listed on the subpoena return slip, checked the call for service, and confirmed they were on scene until 2130 hours. The supervisor reviewed Flock and Axon Automated License Plate Reader (ALPR) hits for the Respondent's vehicle, but neither indicated the Respondent visited either residence listed on the subpoenas.[37] The supervisor contacted a resident from the one of the subpoenas who indicated she

[32] Attachment K – Division Interview Transcript – page 23, lines 8-9.
[33] Attachment K – Division Interview Transcript – page 23, lines 11-17.
[34] Attachment K – Division Interview Transcript – page 24, lines 9-12.
[35] Attachment K – Division Interview Transcript – page 25, lines 16-22.
[36] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – pages 1-4.
[37] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – page 2.

was home the entire evening and no one came to her door. As a result, an Internal Affairs investigation (24-07) was initiated.

On January 31, 2025, the Respondent participated in an Internal Affairs interview and made the following statements:[38]

- In response to "*On October 25th at 2123 hours, did you drive to the residence of* [redacted] *and attempt to serve that subpoena right there?"* the Respondent stated, "*I did.*"[39]
- In response to *"You did? How do you remember that?"* the Respondent stated, *"Uh, well, I mean, the subpoenas, I, I, I always try to serve 'em. I don't try not to serve 'em. I mean, they're part of the job. They, I have to do it. Um, so I would say I went to the house, I knocked on the door and, no answer, I left."*[40]
- When confronted with the fact he was at a call for service during the time indicated he attempted to serve the subpoena, the Respondent stated, *"I don't remember writing the exact times exactly right after I did it. I think it was served. I attempted to serve it, went to a different call and then filled it in later. But I didn't put exactly the time I served it."*[41]
- In response to *"Can you say definitively that GPS on your patrol car would show you at these two addresses on this date?"* and the Respondent stated, *"On that day, yes it will."*[42]
- In response to "*On October 25th at 2142 hours, did you drive to the residence of* [redacted] *and attempt to serve the subpoena?"* the Respondent stated, "*Yes.*"[43]
- When confronted that a homeowner from one of the residences listed in the subpoena indicated they were home all evening and no one came to the door, the Respondent stated, *"No. I mean, I, it's a subpoena. It's not worth my job."*[44]
- When confronted with the fact the video surveillance in the area does not show the Respondent's patrol vehicle on that street listed on the subpoena, the Respondent stated, *"Because it could have not been that time. I, like I said, I don't, I, I think I just put a random time on there, but I showed up that day."*[45]
- When asked if ring camera footage is reviewed from 7:00pm to 8:00am, would they see his patrol car on the street, the Respondent stated, *"It should."* When

[38] Attachment H – Administrative Interview Transcript (24-07).
[39] Attachment H – Administrative Interview Transcript (24-07) – page 6, lines 20-24.
[40] Attachment H – Administrative Interview Transcript (24-07) – page 6, lines 26-30.
[41] Attachment H – Administrative Interview Transcript (24-07) – page 6, lines 55-57.
[42] Attachment H – Administrative Interview Transcript (24-07) – page 7, lines 18-21.
[43] Attachment H – Administrative Interview Transcript (24-07) – page 7, lines 37-44.
[44] Attachment H – Administrative Interview Transcript (24-07) – page 8, lines 2-11.
[45] Attachment H – Administrative Interview Transcript (24-07) – page 8, lines 29-37.

asked to explain why he indicated *it should* rather than *it will,* the Respondent stated, *"I can't explain. Um, it will."*[46]

- When asked, *"Is there any clarity that you can give me as to why I'm not showing your vehicle at these locations?"* the Respondent stated, *"I genuinely don't remember serving the subpoenas. Okay. That's why I wanted to see the calls from that day 'cause I wanted to narrow down that happened that day. I generally don't remember."*[47]
- When asked, *"So if there's no evidence of you doing it, then you didn't do it?"* and the Respondent stated, *"If there's not, then there's not."*[48]
- The Respondent stated, *"I don't, I don't want to give you all these excuses, but if there's no video of me doing it, then I, maybe I didn't do it. And I don't know why these dates and times would be on there, but I, I don't remember honestly."*[49]
- When asked, *"Um, at this point, I just have one last question and is, did you willfully write times and dates on there with the intent to deceive in any way, um, and state something on that paperwork that you knew to be not true?"* and the Respondent stated, *"I don't. I just, I wrote it on here. I, this is my handwriting. I wrote it. Yep. But I don't, I can't recall why I wrote it."*[50]

On January 13, 2026, the Respondent was interviewed by POST LEC Christina Moore and LEC Kevin Sherburne and made the following statements:[51]

- He estimated, throughout his career, he has attempted to serve 100 subpoenas, and of those, has successfully served a couple dozen.
- On October 25, 2024, he was assigned two (2) subpoenas to serve during his shift.
- He did not personally know either of the intended recipients of either subpoena.
- He did not attempt to serve either subpoena.
- He gave the subpoena return slip to his sergeant after indicating he attempted to serve each subpoena at 2123 hours and 2142 hours respectively.
- He had no evidence to refute the following evidence presented to him: CAD history, BWC, APLR data, Nest camera footage, and a witness interview.
- When asked why he indicated on the subpoena return slip that he had attempted to serve the subpoena on [redacted] when he had not, he stated, "*In all honesty, I didn't want to get in trouble. Um, it's plain and simple*."[52]

[46] Attachment H – Administrative Interview Transcript (24-07) – page 8, line 49 – page 9, line 3.
[47] Attachment H – Administrative Interview Transcript (24-07) – page 11, lines 35-40.
[48] Attachment H – Administrative Interview Transcript (24-07) – page 13, lines 4-9.
[49] Attachment H – Administrative Interview Transcript (24-07) – page 13, lines 24-26.
[50] Attachment H – Administrative Interview Transcript (24-07) – page 14, lines 1-6.
[51] Attachment K – Division Interview Transcript.
[52] Attachment K – Division Interview Transcript – page 32, line 36.

- He further explained that it was an expectation for officers at DCPD to make an attempt to serve subpoenas and no attempt is not acceptable, he heard and observed it firsthand how other officers would inaccurately note attempts of service when no attempt was made.
- He admitted he said during his IA interview he attempted to serve both subpoenas and when asked why, he stated, "*I, I don't know why I did that. It was untruthful and I had no reason to*."[53]
- He admitted he said during his IA interview that GPS will show his patrol vehicle was at both residences and when asked why, he stated, *"Um, I dunno why I did, but it was untruthful*."[54]
- He explained he was "*nervous*" and "*scared*."[55]
- He indicated there was no reasoning as to the times he wrote on the subpoena return slip, he just wrote in times at the end of this shift.
- He admitted by stating in his IA interview that he attempted to serve both subpoenas when he had not, he was dishonest.
- He admitted he did not demonstrate integrity.
- He stated, "*Um, I try to excuse myself and not want to get in trouble. In trouble. And so instead of confronting the issue head on at the time it happened, I try to work my way around it and it was not the right thing to do. It questions, I mean, it, it makes assumptions of who I am and who I am as a person, which I'm, I'm not, I mean, I hope I'm not, but now that my name is tarnished and the department's tarnished and, um, sorry, it's, it just questions my integrity.*"[56]
- He agreed with the findings and recommendations by DCPD and stated, "*I, I deserve it. I mean, I deserve the discipline that I got. I had no excuse for it*."[57]
- When asked how he would explain his actions to a future employer, he stated, "*That I wholeheartedly messed up. I, whatever I did, I did. Um, I have no reasons to be dishonest and whatever questions they ask, I'll say with wholehearted truth and there's nothing to hide at this point. And so if, if given the opportunity, everything's gonna be out on the table and I'm, I'd be happy to answer any questions and take full responsibility of what happened.*"[58]
- He explained, *"…that's not an excuse, but I personally think that what I was kind of, what was going on at home was kind of influencing and kind of keeping it bottled up with me and my fiancé kind of changed a lot of things. Um, but I went to seek therapy, went to go get help, and it's helping*…"[59]

[53] Attachment K – Division Interview Transcript – page 34, lines 12-18.
[54] Attachment K – Division Interview Transcript – page 34, lines 25-29.
[55] Attachment K – Division Interview Transcript – page 34, lines 38-40.
[56] Attachment K – Division Interview Transcript – page 35, lines 30-34.
[57] Attachment K – Division Interview Transcript – page 35, lines 52-56.
[58] Attachment K – Division Interview Transcript – page 36, lines 26-29.
[59] Attachment K – Division Interview Transcript – page 36, lines 32-35.

- He also explained, "…*I've learned, I, like I said, I went to therapy, go to therapy now. Um, trying to be able to, my, my, I think my issue was I was afraid of confrontation. Confrontation with supervisors, confrontation with anything. Um, because I knew I was wrong. And I can say that wholeheartedly I was wrong, but at that moment I couldn't say I was wrong. I don't know why I couldn't say I was wrong, but I was wrong*."[60]

V. Analysis and Findings

The Present Allegations of Serious Misconduct

1. June 2, 2024 (Shoplifter, IA #24-04)

On July 2, 2024, DCPD initiated an investigation into the Respondent's dishonest statements to his supervisor which occurred on June 2, 2024.

On April 17, 2025, DCPD Lieutenant Harold Rolfes determined all allegations against the Respondent were sustained.

2. June 20, 2024 (Training Day, IA #24-06)

On October 28, 2024, DCPD initiated an investigation into the Respondent's dishonest statements to his supervisor which occurred on June 20, 2024.

On May 14, 2025, DCPD Lieutenant Lee Auila determined all allegations against the Respondent were sustained.

3. October 25, 2024 (Subpoenas, IA #24-07)

On October 28, 2024, DCPD initiated an investigation into the Respondent's dishonest statements to his supervisor which occurred on October 25, 2024.

On June 2, 2025, DCPD Lieutenant M. Busalacchi determined all allegations against the Respondent were sustained.

[60] Attachment K – Division Interview Transcript – page 38, lines 20-24.

4. Agency Discipline, Appeals, and Division Notification

As a result of the allegations sustained from Administrative Investigation 24-04, 24-06, and 24-07, the Respondent was served a Notice of Intent to Discipline on June 2, 2025.[61]

On June 12, 2025, DCPD made initial notifications to Division of each of the Administrative Investigations and provided the Administrative Investigation reports.

On August 15, 2025, the Respondent participated in an administrative meeting where he resigned from DCPD effective October 1, 2025.[62]

A. Does the alleged conduct violate POST Regulation 1205(a)(1) – Dishonesty?

1. June 2, 2024 (Shoplifter)

Based on the following clear and convincing evidence, it is highly probable the Respondent's claim of obtaining a fingerprint from the subject during his Internal Affairs interview was dishonest:

- BWC recordings from the Respondent and responding officers, which captured the entire enforcement contact, as well as a subsequent enforcement contact at the same location, displayed no evidence to substantiate a fingerprint was obtained.[63]
- The surveillance footage from the Target shopping center, which displayed the Respondent's arrival, parked patrol vehicle, and departure from the scene, displayed no evidence to substantiate a fingerprint was obtained.[64]
- The electronic ticket writer was not equipped to obtain a digital fingerprint.[65]
- The data extraction from the electronic ticket writer displayed no evidence to substantiate a duplicate citation was printed.
- During his interview with the Division, the Respondent admitted he did not obtain a fingerprint from the subject.
- During his interview with the Division, the Respondent admitted he did not know if the person he cited and released for shoplifting was who she said she was.

[61] Attachment I – Notice of Intent to Terminate.
[62] Attachment J – Letter of Resignation.
[63] Attachment C – Administrative Investigative Memorandum Excerpts (24-04) – pages 6-10.
[64] Attachment C – Administrative Investigative Memorandum Excerpts (24-04) – pages 10-13.
[65] Attachment C – Administrative Investigative Memorandum Excerpts (24-04) – pages 2-3.

- During his interview with the Division, the Respondent admitted he was dishonest with his supervisor when he claimed to obtain a fingerprint from the subject when he had not.
- During his interview with the Division, when asked why he informed his supervisor he had obtained a fingerprint when he had not, the Respondent stated he "*Um, I panicked*. *I, I have no excuse for what I did. I just, I just panicked. I, that was my first time kind of getting in trouble doing something wrong, and I didn't take accountability for myself. And I have no excuse for that one*."[66]
- During his interview with the Division, when asked why when questioned during his Internal Affairs interview he stated he obtained the subject's fingerprint, he stated, "*Um, I, like I said, I have no excuse. I was going through some personal things then, and I, I have no reason."*[67]
- During his interview with the Division, the Respondent admitted going into his Internal Affairs interview he had concerns because he knew he should have booked the subject, but decided not to be forthcoming during his Internal Affairs interview. When asked why, the Respondent stated, "*I don't have any excuses. Um, that that was my first kind of disciplining and as well as some things back at home and, or some things happening at home and I just wasn't in the right mindset, and I didn't take responsibility for my actions.*"[68]
    - Note: The Respondent disclosed personal information he received between May 2024 and December 2024, which he believed affected his mindset at the time. The Respondent also referenced this being his first discipline; however, prior to his Internal Affairs interview the Respondent had four (4) documented incidents of counseling and one (1) written letter of reprimand related to multiple preventable collisions, failing to adhere to vehicle pursuit policy, failing to adhere to BWC policy, and failure to follow evidence booking procedures.

2. June 20, 2024 (Training Day)

Based on the following clear and convincing evidence, it is highly probable the Respondent's statements during his Internal Affairs interview were dishonest when he told his supervisors he arrived late because he was working on evidence with the Property Room Manager:

- The door code audit indicated the Respondent used his electronic key card to enter the DCPD station at 0731 hours.[69]

[66] Attachment K – Division Interview Transcript – page 17, lines 25-31.
[67] Attachment K – Division Interview Transcript – page 17, lines 33-37.
[68] Attachment K – Division Interview Transcript – page 19, lines 5-24.
[69] Attachment E – Administrative Investigative Memorandum Excerpts (24-06) – pages 16-17.

- No evidence in the electronic evidence management system was manipulated by the Respondent prior to 1100 hours.[70]
- According to witness statements and the Internal Affairs interview with the Respondent, the Respondent never met with the Property Room Manager that morning.[71]
- During the Internal Affairs interview, the Respondent claimed it was an issue of incorrect wording when he told his supervisors he was doing property *with* the Property Room Manager as opposed to *for* the Property Room Manager; however, the Respondent did not arrive at DCPD until 0731 hours.
- During the Internal Affairs interview, the Respondent claimed he was working on evidence by reviewing his emails on his cell phone while changing into his uniform in the locker room; however, the Respondent did not arrive at DCPD until 0731 hours.
- During the interview with the Division, the Respondent admitted he arrived late to work because he woke up late.[72]
- During the interview with the Division, the Respondent admitted he had not been handling evidence with the Property Room Manager prior to 0807 hours on June 20, 2024.
- During the interview with the Division, the Respondent admitted the text message he sent the Property Room Manager was "*untruthful,"* and admitted he had asked the Property Room Manager to say they were doing something that they had not been doing.[73]
    - Note: The Respondent maintained the text message was not for the purpose of creating an alibi or purposely asking her to cover for him, which lacks credibility when viewed in totality.
- During the interview with the Division, when asked to share his thoughts, feelings, or concerns after he read the completed Internal Affairs investigation, the Respondent stated, *"Um, I, I have no excuse. I, I, I messed up. I, it, what I said in the text appeared to be untruthful and misleading and I I have no excuse. I was, I was being untruthful."*[74]

[70] Attachment E – Administrative Investigative Memorandum Excerpts (24-06) – page 16.
[71] Attachment E – Administrative Investigative Memorandum Excerpts (24-06) and F – Administrative Interview Transcript (24-06).
[72] Attachment K – Division Interview Transcript – page 20, lines 30-32.
[73] Attachment K – Division Interview Transcript – page 22, lines 23-60.
[74] Attachment K – Division Interview Transcript – page 25, lines 16-17.

3. October 25, 2024 (Subpoenas)

Based on the following clear and convincing evidence, it is highly probable the Respondent's statements during his Internal Affairs interview were dishonest when he stated that he attempted to serve two subpoenas that had been assigned to him:

- A review of the Respondent's Computer Aided Dispatch (CAD) history and BWC confirmed he was on scene for a separate call of service at the time he indicated the first service attempt was made at 2123 hours.[75]
- A review of the Respondent's CAD history and BWC confirmed there were no calls for service generated and BWC activations related to subpoena service attempts.[76]
- The Respondent's Axon ALPR data indicated his patrol vehicle never traveled on the street of the first subpoena [redacted].[77]
- The Respondent's Axon ALPR data indicated his patrol vehicle drove past the residence of the second subpoena [redacted] twice during his shift. The Respondent made an enforcement stop across the street from the residence of the second subpoena, but BWC confirmed he never went to the residence.[78]
- Nest Camera footage from a neighboring residence near [redacted] indicated a patrol vehicle never traveled to the residence on October 25, 2024, between 2130 and 2200 hours.[79]
- A resident from the residence in the first subpoena [redacted] indicated he and his family were home during the day and night of October 25, 2024, no one came to their home to attempt to serve a subpoena.[80]
- At the end of his Internal Affairs interview, the Respondent stated, *"I don't, I don't want to give you all these excuses, but if there's no video of me doing it, then I, maybe I didn't do it. And I don't know why these dates and times would be on there, but I, I don't remember honestly."*[81]
- During the interview with the Division, the Respondent admitted he never attempted to serve either subpoena.
- During the interview with the Division, the Respondent explained, for the first subpoena, he wrote on the subpoena return slip that he attempted to serve it when had not because, *"In all honesty, I didn't want to get in trouble. Um, it's plain and simple."* The Respondent further explained DCPD officers were told they had to make an attempt for a subpoena, that no attempt was not acceptable,

[75] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – page 2 and pages 5-6.
[76] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – page 2, and pages 5-6.
[77] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – pages 6-9.
[78] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – pages 5-9.
[79] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – page 3 and page 8.
[80] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – pages 2-3.
[81] Attachment H – Administrative Interview Transcript (24-07) – page 13, lines 24-26.

he was busy with a Domestic Violence call that had led to an arrest, and he *"And so I, I just put a time and date and no answer just to give it to the next team. And I, I just didn't want to get in trouble."*[82]

- Note: The Respondent indicated he observed *"a handful"* of officers indicate "*No answer*" on the subpoena return slip when they had not attempted to physically serve the subpoena.

- During the interview with the Division, the Respondent explained, for the second subpoena, he wrote on the subpoena return slip that he attempted to serve it when had not because, *"Same as the last one. Um, I didn't wanna get in trouble and I thought the next team could serve it."*[83]
- During the interview with the Division, the Respondent was asked why he stated in his Internal Affairs interview that he had attempted to serve both subpoenas when he had not, and the Respondent stated, *"I, I don't know why I did that. It was untruthful and I had no reason to."*[84]
- During the interview with the Division, the Respondent was asked why he said during his Internal Affairs interview that GPS would show him at the two addresses listed on the subpoenas, when he had not attempted to serve either subpoena, and the Respondent stated, *"Um, I dunno why I did, but it was untruthful."* The Respondent further explained, *"…that IA I was, I was nervous. Um, my first, that was my first IA meeting. And that's, I was scared."* The Respondent's counsel asked, *"Were you hoping that you would basically get away with that lie and not get in trouble? Was that what, was that your thought process at the time?"* and the Respondent stated, *"Yeah."*[85]
- During the interview with the Division, the Respondent admitted when he stated during his Internal Affairs interview that he attempted the serve the subpoenas when he had not, he was dishonest and he did not demonstrate integrity. The Respondent explained, *"Um, I try to excuse myself and not want to get in trouble. In trouble. And so instead of confronting the issue head on at the time it happened, I try to work my way around it and it was not the right thing to do. It questions, I mean, it makes assumptions of who I am and who I am as a person, which I'm, I'm not, I mean, I hope I'm not, but now that my name is tarnished and the department's tarnished, and um, sorry, it's, it just questions my integrity."*[86]

Reasonable grounds exist to submit this case to the Peace Officer Standards Accountability Advisory Board and the POST Commission for consideration of revocation or suspension pursuant to California Penal Code section 13510.8.

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[82] Attachment K – Division Interview Transcript – page 32, lines 33-48.
[83] Attachment K – Division Interview Transcript – page 34, lines 9-10.
[84] Attachment K – Division Interview Transcript – page 34, lines 12-18.
[85] Attachment K – Division Interview Transcript – page 34, lines 25-45.
[86] Attachment K – Division Interview Transcript – page 35, lines 30-34.

VI. Supporting Evidence

- Attachment A – Executive Review and Division Recommendation
- Attachment B – Respondent's POST EDI Profile
- Attachment C – Administrative Investigative Memorandum Excerpts (24-04)
- Attachment D – Administrative Interview Transcript (24-04)
- Attachment E – Administrative Investigative Memorandum Excerpts (24-06)
- Attachment F – Administrative Interview Transcript (24-06)
- Attachment G – Administrative Investigative Memorandum Excerpts (24-07)
- Attachment H – Administrative Interview Transcript (24-07)
- Attachment I – Notice of Intent to Terminate
- Attachment J – Letter of Resignation
- Attachment K – Division Interview Transcript

Commission on Peace Officer Standards and Training
860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1603
(916) 227-3909 • www.post.ca.gov

EXECUTIVE REVIEW & PEACE OFFICER STANDARDS ACCOUNTABILITY DIVISION RECOMMENDATION

DATE: 02/11/2026

CASE #: POST2505112 / POST2505137 / POST2505140

PEACE OFFICER: Kevin Smithmatungol

POST ID#: C88-Y32

AGENCY: Daly City Police Department

POST CONSULTANT / BC: Christina Moore / Brian South

ALLEGATION(S):

California Code of Regulations Title 11 § 1205(a)(1) - Dishonesty

On June 2, 2024, Daly City Police Deparment Officer Kevin Smithmatungol (hereinafter, "Respondent") cited and released a subject for shoplifting. When the Respondent was asked by a supervisor how the subject was identified, he claimed to have obtained the subject's fingerprint. An administrative investigation was conducted and determined the Respondent made false statements during the criminal and administrative investigations. POST determined that the Respondent was dishonest during an investigation into misconduct.

On June 20, 2024, the Respondent was late to a scheduled training day. When the Respondent was asked by a supervisor as to why, he claimed to be handling evidence related matters, which was later determined to be false. An administrative investigation was conducted and determined the Respondent made false statements during the administrative investigation. POST determined the Respondent was dishonest during an investigation into misconduct.

On October 25, 2024, the Respondent was assigned two (2) subpoenas to serve. At the end of his shift, the Respondent claimed to a supervisor that he attempted to serve both subpoenas. An administrative investigation was conducted and determined the Respondent made false statements during the administrative investigation. POST determined the Respondent was dishonest during an investigation into misconduct.

Clear and convinving evidence substantiated that the Respondent was dishonest in three (3) separate administrative investigations into his misconduct over an approximate 6 month time period. Reasonable grounds exist for suspension or revocation of Respondent's POST certificate.

The Peace Officer Standards Accountability Division, Certification Executive Review Panel has reviewed the above referenced case involving alleged serious misconduct and has determined the following:

☒ There are reasonable grounds for suspension or revocation of a peace officer's certification.

POST determined clear and convincing evidence exists to show Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(1) - Dishonesty for providing dishonest statements during the criminal and administrative investigations.

☐ There is insufficient evidence to support a recommendation of revocation or suspension of certification.

William Darden Chief Legal Counsel	Signature	2/11/26 Date
Annemarie Del Mugnaio Assistant Executive Director	Signature	2-11-2026 Date
Manny Alvarez Executive Director	Signature	02/17/2026 Date

cc: Bureau Chief _____

cc: Jason Morlock

cc: Chandler Knapp

cc: _____

POST PROFILE NAME:

SMITHMATUNGOL, KEVIN

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: N/A

DATE: 11/18/2025

PERSONAL IDENTIFICATION

POST I.D.	Agency	Birth Date	Gender	Race/Ethnicity
C88-Y32		[redacted]	[redacted]	[redacted]

CERTIFICATES AWARDED

Cert No.	Type	Awarded	Education	T	T+	Comments
212190	B	01/19/2024		50.25	10.35	[redacted]
157942	I	07/11/2024	BA	0.00	0.00	

Total Number of Certificates: 2

PROOF OF ELIGIBILITY

POE	Agency Name	Agency	Issued	Status
P0004863	DALY CITY PD	41060	07/11/2022	Expired

Total Number of Proof of Eligibility: 1

EMPLOYMENT

Hired From	To	R*	Rank	Rank Date	Agency	Agency Name	F/P	P/U	Seas
01/03/2022	07/11/2022	10	TRN	01/03/2022	41060	DALY CITY PD	F	P	
07/11/2022	10/01/2025	1	PO	07/11/2022	41060	DALY CITY PD	F	P	

***Reason for Separation: 1 = Resigned, 10 = Status Change**

POST CERTIFIED TRAINING

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
07/08/2022	A	5590-00100-21-002	1005	R	Y	41060	CONTRASO		BASIC COURSE-INTENSIVE
07/21/2022	K	2540-29503-22-004	4	R	Y	41060	SOBAYRTC	*	ARSTCTL(PSP)
07/21/2022	K	2540-29580-22-004	4	X	Y	41060	SOBAYRTC	*	USE OF FORCE (PSP)
09/05/2022	K	9180-25599-22-067	4	X	Y	41060	POST	*	PSP: STRATEGIC COMMUNICATIONS-SELF PACED
10/03/2022	K	2540-29501-22-017	4	R	Y	41060	SOBAYRTC	*	FIREARM(PSP)
02/01/2023	K	2540-32075-22-023	24	R	Y	41060	SOBAYRTC		FIREARMS/TACTICAL RIFLE
02/16/2023	K	1270-20290-22-074	16	R	Y	41060	CHP		DUI DETECTION-FIELD SOBRIETY
05/19/2023	K	2540-33590-22-004	40	R	Y	41060	SOBAYRTC		TRAFFIC COLLISION INV
07/07/2023	K	2540-21797-23-003	8	R	Y	41060	SOBAYRTC		FIRST AID/CPR/AED REFRESHER
08/10/2023	K	2540-29503-23-016	4	R	Y	41060	SOBAYRTC	*	ARSTCTL(PSP)
08/28/2023	K	2540-29503-23-018	4	R	Y	41060	SOBAYRTC	*	ARSTCTL(PSP)
09/22/2023	K	2970-33630-23-001	40	R	Y	41060	SRPSC		TRAFFIC COLLISION INV. INTER
10/12/2023	K	2540-29501-23-030	4	R	Y	41060	SOBAYRTC	*	FIREARM(PSP)
11/04/2023	K	9181-25505-23-127	2	X	Y	41060	CAPLP		DOMESTIC VIOLENCE RESPONSE UPDATE
11/16/2023	K	2010-20801-23-004	37	X	Y	41060	OPD		CRISIS INTERVENTION
12/14/2023	K	2540-29502-23-017	8	R	Y	41060	SOBAYRTC	*	DRIVING(PSP)
01/14/2024	K	1487-29580-23-198	4	R	Y	41060	PLI	*	USE OF FORCE (PSP)
02/03/2024	K	1487-29540-23-218	2	R	Y	41060	PLI	*	STRATEGIC COMMUNICATIONS (PSP)
03/04/2024	K	1487-20185-23-248	4	X	Y	41060	PLI		DE-ESCALATION AWARENESS AND COM-SELF PACED
03/15/2024	K	7290-20306-23-004	8	X	Y	41060	D-PREP		PAS DEVICE - OPERATIONS AND CALIBRATION
05/10/2024	K	1287-20275-23-009	32	X	Y	41060	RTC		UNMANNED AIRCRAFT SYSTEMS BASIC PILOTS COURSE
05/12/2024	K	1487-20186-23-317	4	X	Y	41060	PLI		ADV DE-ESCALATION AWARENESS AND COM-SELF PACED

POST PROFILE NAME:

SMITHMATUNGOL, KEVIN

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: N/A

DATE: 11/18/2025

POST CERTIFIED TRAINING *continued*

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
06/12/2024	K	1287-20188-23-005	24	X	Y	41060	RTC		UAS CRIME AND ACCIDENT SCENE INVESTIGATIONS
08/02/2024	K	9070-33610-24-001	80	R	Y	41060	GTA		TRAFFIC COLLISION INV. ADV
08/09/2024	K	1010-21815-24-001	24	R	Y	41060	ALAMEDA SO	*	DRIVER AWARENESS INSTR.

***Meets Perishable Skills**

FOOTNOTES

NO FOOTNOTE ON FILE.

PLEASE REFER TO THE ENCLOSED EXPLANATION SHEET FOR ADDITIONAL INFORMATION.

COMMISSION ON POST – PROFILE REPORT

The Profile Report contains confidential information.

EXPLANATION SHEET

PERSONAL IDENTIFICATION: Subject's personal information as indicated in POST database (EDI system)	
POST ID:	Unique identification number assigned to subject by POST.
Agency:	Indicates the agency (or one of the agencies) where subject is currently employed. An "*" indicates that the subject is employed in more than one position within the same agency.
Birth Date/Gender:	Self-explanatory.
Race/Ethnicity:	**A** = Asian **B** = African American (Black) **N** = Native American **S** = Spanish/Hispanic **W** = White **O** = Other

CERTIFICATES AWARDED	
Cert:	Certificate serial number.
Type:	**B** = Basic **I** = Intermediate **A** = Advanced **S** = Supervisory **M** = Management **E** = Executive **R** = Reserve **D** = Public Safety Dispatcher **SX**= Specialized X (example: SA = Specialized Advanced)
Awarded:	Date certificate was issued.
Education:	Educational points or degree used for earning a certificate.
T:	Training points used for awarding the certificate.
T+:	Additional training points.
Comments:	Comments regarding training or institute(s) where subject received education.
Total Number of Certificates:	Number of certificates awarded to subject as indicated in POST database.

EMPLOYMENT: Subject's employment history as indicated in POST database	
Hired From:	Date subject was hired or sworn into the agency.
To:	Date subject left agency (if applicable).
R*:	Reason for separation as indicated by number in the Report description.
Rank / Rank Date:	Indicates rank as translated by POST database and date subject made rank.
Agency / Agency Name:	Agency code number and name where subject is currently working or previously worked.
F/P:	Time base: **F** = Full time **P** = Part time
P/U:	Wage status: **P** = Paid **U** = Unpaid
Seas:	Provisional or seasonal employment.

POST TRAINING: Courses attended or completed as indicated in POST database	
Comp Date:	Date course ended.
Cat:	General course category (for POST use only).
CCN:	Course Control Number.
Hrs:	Hours completed in course.
Rmb:	Reimbursement indicator: **R** = Reimbursed *(before FY 83/84 reimbursable agency not necessarily reimbursed)* **J** = Job specific * = Job specific, SALARY NOT PAID **Blank** = None or no data available
Cmp:	Completion indicator: **Blank or Y** = Course completed **N** = Course not completed **?** = Prior to 1979
Agency:	Agency where subject was employed at time of course enrollment.
School:	Training institute offering the course.
Course Name:	Course name as shown in POST database.

NON-CERTIFIED COURSES

This section will only appear if applicable.

FOOTNOTES

This section reserved for additional information.

DALY CITY POLICE DEPARTMENT MEMORANDUM

TO Acting Chief of Police
Cameron Christensen

FROM Sergeant Matthew Ciucci #68

SUBJECT Administrative Investigation **24-04/Officer Smithmatungol #150**

BACKGROUND

On July 2, 2024, Administrative Directive 5909 was forwarded to me from Acting Chief of Police Christensen, requesting an administrative investigation be conducted on the following incident:

Request for Administrative Investigation:

DALY CITY POLICE DEPARTMENT
Memorandum

June 16, 2024

To: *Chief of Police*

From: *Sgt. Karen Douglas #78*

Subject: *Request for Administrative Investigation – Officer Smithmatungol*

On 06/02/2024 around 1945 hrs., Officer Smithmatungol responded to Target, 133 Serramonte Center, on the report of a detained shoplifter. Officer J. Rodriguez was his cover officer, and assisted in providing translation for the shoplifter, who was Spanish-speaking only. Officer Smithmatungol eventually arrested the subject and issued her a citation. The incident was documented under DCPD report 24003452. Later in the evening, I reviewed the report with the intention of approving it. The report had several errors; it was rejected and sent back to Officer Smithmatungol to be corrected. The main issue was that it did not document how or if the suspect, who had stolen over $600 in merchandise, was identified. Under the persons tabs in RIMS, the suspect had no prior contacts with DCPD. Her address was a North Carolina address. There was no phone number or driver's license number. I ran a records check of the suspect, and could not find a match on her name.

Later in the evening, Officer Smithmatungol approached me to discuss the kickback, without me asking him to. He told me he had identified the suspect from a bank credit card she had in her

possession. I explained to him that this was insufficient for identifying someone, as the card could have belonged to someone else, and we would have no way of knowing. I asked why he had not booked her, so she could be fingerprinted and properly identified. He said she was in the late stages of pregnancy and he did not want to have to take her to Chope for a medical clearance prior to being booked into jail. I asked if she had any local address or if she had provided a phone number. He said the suspect told him she was staying at a homeless shelter, but that she did not know the address, and that he had not obtained a phone number from her. I explained that if the suspect failed to show up to court, there would be no way of tracking her, and the charges would likely get dropped.

In briefings and casual conversations since the beginning of the watch, Lt. Klier, Sgt. Tualaulelei and I have stressed the importance of proper identification of suspects, and reiterated that if someone cannot be positively identified, they should be booked into San Mateo County Jail. Officer Smithmatungol was present for at least one of these conversations. I asked if he recalled these conversations. He told me he did not and was under the impression suspects could be issued citations without being positively identified. He then spontaneously stated he had obtained her fingerprint when issuing her the citation. This gave me hope that it could help with her identification, and I responded, "Oh great, you did?" He then said something along the lines of "Yeah, I got her thumbprint on the citation." I told him that was good, and that hopefully her print could identify her, if need be. We then wrapped up the conversation, and Officer Smithmatungol said he was sorry for not properly identifying her, and that he would handle situations like this better in the future. I told him that it was ok, and to just not let it happen again.

I had not previously seen what a thumbprint looked like on the new digital citation writers, so after Officer Smithmatungol left, I logged on to the Turbo Data website to see how it appeared with the new formatted digital tickets. I viewed his citation (#180035), and looked under the public copy and officer copy, but did not see a thumbprint. I was unfamiliar with how a thumbprint would be obtained on the writer, and also wanted to verify that what Officer Smithmatungol told me was accurate, so I logged on to evidence.com and reviewed his and Officer Rodriguez's BWC.

The BWC showed that Officer Smithmatungol used his citation writer (ID DCTR61) to begin the citation. He handed it to Officer Rodriguez, who began to assist with inputting the information. As this was happening, they were alerted to another shoplifter inside Target. They left and dealt with that subject (who was issued a citation, documented in case 24003453); after that subject was cited, Officer Smithmatungol returned to the suspect and finished issuing her a citation. At no point did he obtain her thumbprint on the citation, or via any other means. I learned that only certain writers have the ability to obtain a thumbprint and saw that this writer was not one of them. I reviewed all of the BWC and found no evidence that he or anyone else obtained the suspect's fingerprints, as Officer Smithmatungol had claimed.

On Saturday, 06/08/2024, Sgt. Tualaulelei and I met with Officer Smithmatungol. The purpose of the meeting was to discuss unrelated performance issues, including lack of self-initiated pro-activity, and to seek clarification on the location of the citation. I began the meeting by mentioning the case, and asked if he remembered it. He said he did. I told him it appeared that

he had not obtained the suspect's thumbprint. Officer Smithmatungol said he had actually obtained it. He explained he had attempted to use his citation writer to obtain the print, but that it was not working. I told Officer Smithmatungol we had reviewed the BWC, which showed he was using a citation writer without the fingerprint option. He responded something to the effect of, "Oh, I must have forgot." He continued explaining how he had obtained it.

At the conclusion of the detention, he said he walked with the suspect to his patrol vehicle, where he printed a duplicate copy of the citation. He retrieved an ink pad and fingerprinted the suspect. He had her place her thumb on the back of the citation, and that was how he obtained her fingerprint. Officer Smithmatungol said he turned the hard copy citation in at the end of his shift by placing it on the sergeant's desk. Sgt. Tualaulelei had collected the paperwork at the end of the shift and said he did not recall seeing it. I had Officer Smithmatungol's report open on the computer while we were speaking with him. I reviewed the attachments to the case, but did not see it, which I shared with Officer Smithmatungol. He offered that it might still be in his duty bag, or might have been given to Officer Rodriguez, who was acting as his cover officer. We asked Officer Smithmatungol if he was sure he obtained the thumbprint. Without missing a beat he nodded his head and said "Yes."

Officer Smithmatungol then asked what would happen if he couldn't find the citation. Sgt. Tualaulelei said something to the effect of "I'm not calling you out, but I am calling you out. Are you sure you got the thumbprint?" Officer Smithmatungol again reiterated that he had obtained it, and again said the copy might be in his duty bag. Sgt. Tualaulelei said if he hadn't actually obtained it, now was the time to own up to it.

Officer Smithmatungol again said he had obtained it and would check his duty bag. I asked him to go check his duty bag now, and to let us know whether he had found it. About twenty minutes later, I saw Officer Smithmatungol in the in-coming squad room typing on the computer, and I asked if he had any luck locating it.

He had several printed out tickets in front of him, and picked them up to show them to me. He said he had located all of them in his duty bag, but was unable to locate the citation in question. He said he had texted Officer Rodriguez to ask if he had the citation. I asked Officer Smithmatungol to let me know if Officer Rodriguez located it, and he said he would. For the remainder of the shift, Officer Smithmatungol did not bring up the citation again, and neither Sgt. Tualaulelei nor I asked him about it any further.

At this point, I suspected Officer Smithmatungol was not being honest. On Sunday, 06/09/2024, I responded to Target and obtained additional security footage of Officer Smithmatungol's time at the scene. I reviewed several different camera angles, from the point of when Officer Smithmatungol arrived at Target, to the point he left and drove out of the mall onto Serramonte Blvd. I saw that once the suspect had been released from the loss prevention office at 2007 hrs., she immediately exited Target through the southern most front door, and walked east through the parking lot, out of view of the camera. She is not seen again.

Officer Smithmatungol briefly left the loss prevention office, and walked into Target, in the opposite direction of the suspect. He returned to the office about 25 seconds later, and remained

there for several minutes, seemingly finishing his investigation with one of the employees. Around 2011 hrs., Officer R. Perez arrived on scene, and walked into the loss prevention office, where Officer Smithmatungol still was. Shortly after, he exited out the south doors, and walked over to Officer Rodriguez, who was still with the suspect from case 24003453. Officer Perez joins them a short time later, and they finish their dealings with the suspect from case 24003453. At 2021 hrs., Officer Smithmatungol walks to his patrol vehicle, gets in and drives south through the Target parking lot. He makes a right turn at the stop sign and drives west along the south side of Target. At the first stop sign, he makes a left turn and exits on to Serramonte Blvd., driving west towards Callan Blvd. I transferred the files to a thumb drive.

Based on the above information, I am requesting an Administrative Investigation into Officer Smithmatungol, for violation of Lexipol Policy 340 (Standards of Conduct) 340.5.9, Performance; and 340.5.10, Conduct.

Sgt. Karen Douglas, #78
Division B-2, Graveyard
Field Operations Bureau

INVESTIGATION

- Reviewed request for an administrative investigation.
- Reviewed DCPD Administrative Directive 5909.
- Reviewed Daly City Police Department case #24003452.
- Reviewed Body Worn Camera footage associated to DCPD Case #24003452.
- Reviewed CAD Log associated to DCPD Case #24003452.
- Reviewed Target Store video surveillance footage.
- Reviewed a copy of the citation associated to DCPD case #24003452.
- Interviewed Turbo-Data expert witness Trent Waterman.
- Interviewed Turbo-Data Technical Support Agent James Pace
- Interviewed Sergeant Douglas (Witness).
- Interviewed Officer J. Rodriguez (Witness).
- Interviewed Officer Smithmatungol (Subject).

INVESTIGATION NARRATIVE:

I began my investigation by conducting a review of Daly City Police Department report #24003452. The following is a synopsis of the case:

CAD Call Review DP24-25327

On June 02, 2024, at approximately 1928 hours, a "Shoplifter Detained" call was generated at the Target Store located at 133 Serramonte Center, Daly City. The initial remarks added by the call taker were as follows:

I then spoke to [redacted] and read her her rights via my department-issued Miranda Warning Card, which Officer Rodriguez translated into Spanish, and she told me the following:

Statement of [redacted] summarized, audio/video recorded (BWC):

[redacted] stated she came into the store, selected merchandise, and attempted to walk out without paying. [redacted] did not have any cash in her property and stated there was no money on her bank cards. [redacted] did not come into the store to steal all of the merchandise. [redacted] planned to pay for only a handful of items and not scan the rest only to obtain a receipt to make it appear as if she purchased all of the items.

End of Statement

I provided [redacted] with a contact card and case number for his records. Additionally, I sent [redacted] an evidence.com link so he could upload the surveillance footage. I documented [redacted] answers to the Video Surveillance Questions and Business Foundation questions in a supplemental report. [redacted] signed a Daly City citizen's arrest form, which was later uploaded as an attachment.

I provided [redacted] with DCPD Citation #180035 for PC 459.5 and advised her of the court date and time. [redacted] was later released from the scene.

This case is closed."

BWC FOOTAGE REVIEW

I conducted a review of all Body Worn Camera footage from the arrest of [redacted] The BWC review will be written in the present tense as it memorializes the present actions of those involved.

AXON BODY 3 Video 2024-06-02 X60A078X DC24003452
BWC of Officer Smithmatungol

Officer Smithmatungol arrives at 133 Serramonte Center and parks his Ford Explorer SUV in the loading zone on the east side of the Target store, facing north. He exits his SUV and contacts Target Loss Prevention Agent [redacted] in front of the store. [redacted] greets Officer Smithmatungol and proceeds to give him a verbal overview [redacted] arrest. In summary, [redacted] stole approximately $600.00 worth of merchandise and left the store without attempting to pay. [redacted] is also potentially pregnant; however, Officer Smithmatungol indicates it is not an issue because she will be cited-out for the violation. Officer Rodriguez arrives on-scene and parks his Ford Taurus sedan on the curbline in front of the Target store, facing south. Officer Smithmatungol asks Officer Rodriguez if he will translate during the investigation, and he agrees.

[redacted] leads Officer Smithmatungol and Officer Rodriguez into the Target loss prevention office. Inside the room there are four other loss prevention agents and [redacted] who is sitting on a bench with her hands un-handcuffed. Officer Smithmatungol approaches a shopping cart and appears to photograph the contents inside. These items are presumably the stolen merchandise recovered during [redacted] arrest. Officer Rodriguez asks [redacted] the following:

Officer Rodriguez: Tienes ID? (have ID?)

[redacted] No

Officer Smithmatungol: Pasaporte, licencia? (passport or license?)

[redacted] No

Officer Rodriguez begins to obtain [redacted] verbal identification. Loss prevention agents explain they didn't find any identification on her person but she did have a credit/debit card in her possession with a name on it. Officer Smithmatungol then leaves the loss prevention office and walks to his car to retrieve a citizen's arrest form. Officer Smithmatungol walks back into the loss prevention office and begins speaking with Officer Rodriguez. Their conversation is as follows:

Officer Rodriguez: "Is it a felony?"

Officer Smithmatungol: "No, six hundred bucks….$607.00. Does she have no ID whatsoever?"

Officer Rodriguez: Shakes his head in the negative.

Officer Smithmatungol: "I'm gonna book her then."

Officer Rodriguez: "She's from North Carolina."

Officer Smithmatungol: "I'm gonna book her then."

Officer Rodriguez attempts to identify [redacted] by asking her a series of questions. Officer Smithmatungol begins uploading digital evidence to evidence.com on his work cell phone. Officer Smithmatungol overhears loss prevention agents indicate there is potentially

another subject shoplifting in the store. Officer Smithmatungol exhibits signs of frustration and verbal disbelief. He asks Officer Rodriguez if he will read [redacted] her rights via Miranda and interpret the interview. Officer Rodriguez agrees and proceeds to act as an interpreter during the interview. [redacted] waives her rights and provides a statement regarding the theft. She indicates her intent was to pay for some items but not all. She also does not possess enough money to cover the costs of the items she stole.

Officer Smithmatungol concludes the interview and produces Daly City Police Department digital ticket-writer DCTR61. The label with the identifying number can be clearly seen on the front of the device. Officer Smithmatungol hands the ticket-writer to Officer Rodriguez and asks him if he could fill in [redacted] personal information on the citation. Officer Smithmatungol then tells Officer Rodriguez **"we're short.....I'm just gonna cite her."** Officer Rodriguez begins to fill out the citation and a loss prevention agent approaches Officer Smithmatungol and asks if he was able to positively identify the suspect and he replies **"no."**

Both officers then turn their attention to a black male adult who is attempting to shoplift while they are still on-scene. Both officers leave the loss prevention office and confront the male subject, preventing him from leaving the building and preventing him from completing the theft. [redacted] remains in the loss prevention office. The male subject is escorted to the front of the building and Officer Rodriguez stands by with him, while Officer Smithmatungol re-enters the loss prevention office to complete the investigation concerning [redacted]

Officer Smithmatungol begins imputing information into ticket-writer DCTR61 and asks [redacted] two more times if she has a license, and she responds no. Officer Smithmatungol finishes filling out the citation and presents the ticket-writer to [redacted] who provides her digital signature. At approximately 20:05:08 hours, Officer Smithmatungol presses print on his ticket-writer device and a citation is printed. He then briefly explains the court time and location to [redacted] Officer Smithmatungol leaves the loss prevention office and [redacted] is presumably free to leave. Officer Smithmatungol goes back outside and meets with Officer Rodriguez.

At approximately 20:06:15 hours, Officer Smithmatungol places his ticket-writer device on a large red cement parking bollard in front of the Target store (he leaves the device on the parking bollard until approximately 20:15:22 hours). Officer Smithmatungol tells Officer Rodriguez he will handle the arrest for the second shoplifter, and he proceeds to go back into the loss prevention office. At approximately 20:07:32 hours, [redacted] can be seen walking out the front doors of the Target store.

Officer Smithmatungol meets with loss prevention agents and begins to start his second investigation regarding the second shoplifter. At approximately 20:08:51 hours, Officer Smithmatungol turns off his BWC while he is still speaking with loss prevention staff in their office. He then immediately re-activates it at approximately 20:08:52 hours (1 second elapsed

time). It appears that this is done to separate his BWC footage during the two separate investigations. The following BWC is the continuation of his video footage.

AXON BODY 3 Video 2024-06-02 X60A078X DC24003453
BWC of Officer Smithmatungol

Officer Smithmatungol speaks with a loss prevention agent and gains the information he needs for his investigation. He then realizes that he will be unable to arrest the male subject because he ordered him to step out the store. He ultimately places the male subject under arrest after the subject admits to being in possession of narcotic paraphernalia. Officer Rayleen Perez arrives on scene and assists with the investigation by filling out a citation for the suspect. At approximately 20:19:36 hours, Officer Perez hands the ticket-writer device to Officer Smithmatungol. In the BWC footage, the device serial number can be seen as DCTR61. This is the same ticket-writer device used previously by Officer Smithmatungol. At approximately 20:19:59 hours, Officer Smithmatungol prints a new citation for his new arrestee and provides it to him. At approximately 20:21:20 hours, Officer Smithmatungol turns off his BWC and the call is complete.

AXON BODY 3 Video 2024-06-02 X60A19100 DC24003452
BWC of Officer Rodriguez

Officer Rodriguez arrives at 133 Serramonte Center and meets Officer Smithmatungol in front of the store. Together they walk into the Target loss prevention office and Officer Rodriguez begins speaking with [redacted] who is seated on a bench. He asks her for identification, and she pulls a red credit/debit card out of her purse and hands it to Officer Rodriguez.

Officer Rodriguez begins to obtain her name verbally and she provides [redacted] When he asks where she lives, she points outside and says "in Daly Ci……" she then stops herself mid syllable and says she is from North Carolina. She eventually provides an address of [redacted].

Officer Rodriguez ultimately leaves the loss prevention office and assists Officer Smithmatungol by contacting the second, unassociated male adult shoplifter. Officer Rodriguez stands-by with the male subject in front of the Target store. At approximately 20:07:38 hours, [redacted] can be seen exiting the target store and walking in a eastern direction across the Target parking lot. The remainder of the BWC footage coincides with the video memorialized on Officer Smithmatungol's BWC. At approximately 20:21:19 hours, Officer Rodriguez turns off his BWC and the call is complete.

AXON BODY 3 Video 2024-06-02 X60A0853X DC24003453
BWC of Officer R. Perez

Officer Perez arrives at 133 Serramonte Center and meets Officers Smithmatungol and Rodriguez in front of the Target store. Officer Smithmatungol is conducting a search of the black male shoplifting suspect. Officer Smithmatungol's ticket-writer device can be seen resting on a large red cement parking bollard in front of the store. At approximately 20:15:22 hours, Officer Perez walks over to the parking bollard and picks up the ticket-writer. She does not print any citations, but rather she starts entering in the new information for the second arrestee's citation.

At approximately 20:19:36 hours, Officer Perez hands the ticket-writer device to Officer Smithmatungol. The device has been in camera view since the time she picked it up and she never printed a paper citation from it. Officer Smithmatungol appears to review the ticket-writer information. He then walks over to the suspect and has him digitally sign the device. At approximately 20:20:15 hours, Officer Smithmatungol prints a citation and hands it to the male suspect. At approximately 20:20:55 hours, Officer Perez turns off her BWC and the call is complete.

End of All BWC Review

TARGET SURVEILENCE FOOTAGE REVIEW

In Sergeant Douglas' initial memorandum requesting an internal affairs investigation she referenced she had obtained video surveillance footage from the Target store CCTV cameras. I contacted Sergeant Douglas and obtained five videos from the Target store surveillance cameras which she stated she obtained on June 9, 2024. The following is a review of each video.

Video titled "AP – Booking Room 2"

This video is captured from a ceiling camera located in the Target loss prevention office. It memorializes the entire contact between [redacted] and Officers Rodriguez and Smithmatungol. The surveillance video coincides with the BWC footage I reviewed above. At no time in the video does Officer Rodriguez or Smithmatungol search [redacted] or obtain her fingerprint. I also do not observe Officer Smithmatungol print a second copy of his arrest citation.

Video titled "Entrance – Vestibule"

This video is captured from a ceiling camera located outside of the Target loss prevention office, near the main entrance of the store. It captures any person entering or leaving the loss prevention room. It captures the entire contact between [redacted] and Officers Rodriguez and Smithmatungol. At no time in the video does either officer search [redacted] or obtain her fingerprint. I also do not observe Officer Smithmatungol print a second copy of his arrest citation.

Video titled "Exterior PL Front 1"

This video is captured from an elevated exterior camera located on the outside of the Target store. The camera faces eastward and captures the main entrance and main parking lot. At approximately 19:50:45 hours, Officer Smithmatungol arrives on-scene and parks his fully marked patrol SUV directly in camera view facing north. At approximately 19:51:46 hours Officer Rodriguez arrives on-scene and parks his fully marked patrol sedan directly in camera view facing south. Both officers then enter the Target store.

At approximately 20:07:38 hours, [redacted] can be seen exiting the front doors of the target store, walking in an eastern direction. She continues walking east until she leaves camera view at approximately 20:08:51 hours. Due to the quality of the video (severe pixilation) she can no longer be seen on camera.

At approximately 20:21:43 hours, Officer Rodriguez enters his patrol sedan and leaves the scene. He travels southbound in front of the main entrance of the Target store and makes a left turn traveling eastbound through the parking lot. He then leaves the view of the camera.

At approximately 20:21:48 hours, Officer Smithmatungol enters his patrol vehicle and leaves the scene. He makes a u-turn and travels southbound in front of the main entrance of the Target store and makes a right turn traveling westbound along the south side of the Target store. He is traveling the opposite direction of where [redacted] was last seen walking. He then leaves the view of the camera.

Officer Smithmatungol and [redacted] never have contact once she exits the Target store.

Video titled "Exterior PL Rear 1"

This video is captured from an elevated exterior camera located on the outside of the Target store. The camera is affixed to the south side of the building and faces eastward. It captures the south parking lot and intersection that leads to the Serramonte Blvd. exit. At approximately 20:22:48 hours, Officer Smithmatungol's SUV can be seen making a right turn, traveling westbound along the south side of the Target store. He has cleared his call for service and appears to exit Serramonte Mall by driving southbound onto Serramonte Blvd. He does not stop his vehicle or contact any persons prior to going out of view of the camera.

Video titled "Exterior PL Right 2"

This video is captured from an elevated exterior camera located on the outside of the Target store. The camera is affixed to the south side of the building and faces south. It captures the south parking lot and intersection of Serramonte Blvd. and the Serramonte mall exit. At approximately 20:22:58 hours, Officer Smithmatungol's SUV can be seen making a left turn traveling south as he departs the Serramonte shopping center. He then makes a right turn onto Serramonte Blvd. traveling westbound towards Callan Blvd. He does not stop his vehicle or contact any persons prior to going out of view of the camera.

A review of the CAD log for Officer Smithmatungol shows that upon leaving the Serramonte Mall at approximately 20:22:58 hours, he was immediately dispatched to the following calls:

- 20:26:54 hours: Dispatched to a Neighbor Dispute on Wembley Drive. (DP24-25334)
  - 20:32:29 hours: Arrives onscene.
  - 20:55:14 hours: Cleared the call and goes 10-8.

- 21:01:26 hours: Conducts a traffic stop at Sullivan Ave/Washington St. (DP24-25344)
  - 21:06:36 hours: Cleared the call (verbal warning) and goes 10-8.

- 21:06:50 hours: Dispatched to an Assault investigation on Sylvan Street. (DP24-25342)
  - 21:10:04 hours: Arrives onscene.
  - 21:12:55 hours: Cleared from the call and goes 10-8.

- 21:12:55 hours: Dispatched to a DV investigation on Mission Cir. (DP24-25343)
  - 21:13:17 hours: Cleared from the call and goes 10-8.

- 21:17:08 hours: Dispatched to a 5150 W&I call on Westmoor Ave. (DP24-25345)
  - 21:22:10 hours: Arrives onscene.
  - 21:56:34 hours: Cleared from the call and goes 10-8.

It appears Officer Smithmatungol traveled "call-to-call" from the time he left the Serramonte Mall until approximately 21:56:34 hours.

Upon completing my review of the Body Worn Camera footage and the Target video surveillance footage, I made the following observations. I identified several conflicting pieces of evidence which contradicted the events initially verbalized by Officer Smithmatungol to Sergeant Douglas.

- [redacted] was never properly identified or searched incident to her arrest.
- I only observed one paper citation be printed from ticket-writer device DCTR61, and this citation was handed to [redacted]
- A fingerprint from [redacted] was never obtained during her contact with Daly City Police Officers.
- Officer Smithmatungol initially stated he was going to "book" [redacted] but later changed his mind stating "we're short I'm just going to cite her out." At no time did I observe him consult with a supervisor prior to making this decision.

Because [redacted] had never been properly identified, this case could not move forward with prosecution. In an effort to contact [redacted] I began a thorough search of all available Law Enforcement databases to hopefully identify her.

[redacted] had initially told Officer Rodriguez she was from North Carolina but the address she provided was in [redacted]. I conducted a search of Google Earth and learned [redacted] is a 233,783 square foot shopping center, consisting of dozens of large and medium size businesses. This is not a residential address, and I could not locate a [redacted] associated to the location. I checked local booking photos, arrest records and "Photo ID Match" for persons matching the description of [redacted] however, I was unable to find a match. To date, I have been unable to identify or locate [redacted]

After viewing Officer Smithmatungol's BWC and hearing him say he was going to cite-out [redacted] because his team was short staffed; I conducted a search of PlanIt Scheduling software to see what the staffing levels were for June 02, 2024. B-Graveyard Shift had 7 Officers and 2 Sergeants working that evening. A copy of the staffing report has been attached to this case file.

POST CASE NUMBER: POST2505112

SUBJECT OFFICER NAME: Kevin Smithmatungol

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Daly City Police Department on 1/31/2025 with Officer Kevin Smithmatungol, who is the subject of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Central Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON AI transcription. This transcript was prepared by Law Enforcement Consultant Christina Moore, Professional Conduct Central Bureau.

Parties Present:
Sergeant Matthew Ciucci, Daly City Police Department, Primary Investigator
Officer Kevin Smithmatungol, Daly City Police Department, Subject
Julia Fox, Rains Lucia Stern, Representative for subject officer

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Ciucci *All right, we are up and running. Um, okay. It is Friday, January 31st, 2025. It is approximately 10:06 AM Um, Sergeant Matt Ciucci, we are in the Professional Standards Unit office at Daly City Police Department, with me is Officer Kevin Smithmatungol, can you say hello and state and spell your name? You don't have to spell it. Just say Hi.*

Smithmatungol *Hi, my name is Kevin Smithmatungol.*

Ciucci *Beautiful. And with you, you have brought, uh, uh, your counsel who in this case is gonna be, uh, Julia Fox. Julia, if you mind saying hello.*

Fox *Sure. This is Julia Fox. I'm a partner at RLS.*

Ciucci *Beautiful. Um, alright, with that said, I'm gonna begin by reading you the administrative admonishment 'cause you are a subject officer in an Internal Affairs investigation. Okay?*

Smithmatungol *Yeah.*

Ciucci *I'm gonna read it then I'm gonna give you a chance to read it. If you need me to stop, pause, let me know. Uh, and we'll get through this together. All right. And so you're hereby advised that an administrative investigation is in process within this department in which it has become necessary to obtain a statement from you. If you cooperate fully at this time, your statements,*

Siri *I'm sorry.*

Ciucci *<laugh> Don't worry about Siri. She's okay. Okay. If you cooperate fully at this time, your statements and any evidence arising there from may be used in any and all proceedings arising out of this investigation. As a citizen and an employee of this department, you're hereby advised that if prior to or during the taking of your statement, this department determines that you may be charged with a criminal offense, the proceedings will be stopped, and you'll be advised of your constitutional rights and given an opportunity to obtain legal counsel. Okay. If you decide not to give a statement at this time, you're now ordered as an employee of this department to answer all questions asked by investigators and to give a full, detailed, and complete statement regarding your knowledge of or involvement in the matter now under investigation. Although you have a right to silence in a criminal investigation, this is not a criminal investigation, but an administrative hearing, and you're now being ordered to answer all questions under the compulsion of the threat of disciplinary action. False statements, of course, will result in severe disciplinary action. Members are always required to be truthful, see Daly City Police Department Manual Rules 4.96. Truthfulness. Do you have any questions about what was just read to you?*

Smithmatungol *No.*

Ciucci *Okay. With that being said, I'm gonna give it to you, if you wouldn't mind, just look it over. This last sentence here says, I have read the above admonishment order and I fully understand my rights and duties in this investigation. If you are comfortable between you and your counsel, if you wouldn't mind signing date, time, and if I could have Mrs. Fox do the same as a witness.*

Fox *Sure.*

Ciucci *But feel free to look it over.*

Ciucci *Fabulous. Thank you. Thank you. Thank you. Okey dokey. Um, so the purpose of my role, I'm an independent fact finder. That's my job. Um, I'm not going to do any findings and recommendations. My job is to do an initial interview, garner everything together, and then I present it before the chief. It gets sent off to a lieutenant for findings and recommendations. Um, but all I'm doing is just compiling everything. So just like you do an investigation, uh, it's a police report, uh, you interview persons involved, you gather everything, you put it together. Um, have you had an opportunity to review your body-worn camera footage from an incident that occurred on June 2nd, 2024?*

Smithmatungol *Yes.*

Ciucci *Beautiful. Um, have you also had a chance to review your, uh, police report, which is police report 2 4 0 0 3 4 5 2 associated to that body-worn camera footage?*

Smithmatungol *Yes.*

Ciucci *Perfect. Okay. Can I see that pen back? <laugh>. Thank you, brother. Thank you. Thank you. Thank you. So do you recall on June 2nd, 2024, at approximately 7:45 PM uh, being dispatched to 133 Serramonte Center, uh, in Daly City, the Target store on the report of a shoplifter in custody?*

Smithmatungol *Yes.*

Ciucci *Beautiful. Um, were you the first officer arrived or was there another officer on scene?*

Smithmatungol *There was another officer on scene with me. I think we arrived together.*

Ciucci *Together in the same car together in separate cars?*

Smithmatungol *Separate cars.*

Ciucci *Okay. Um, who is that other officer?*

Smithmatungol *Officer Jose Rodriguez.*

Ciucci *Okay. Um, when you entered into the target store, did you contact a detained female?*

Smithmatungol *Yes.*

Ciucci *Okay. Were you able to communicate with her?*

Smithmatungol *I was not. She spoke primarily Spanish, which was Officer Rodriguez's role to translate.*

Ciucci *Okay. Um, and do you, for the record, do you speak Spanish fluently in any capacity?*

Smithmatungol *No.*

Ciucci *Okay. Do you have the ability to somewhat speak Spanish? Uh, words and phrases?*

Smithmatungol *Uh, partially.*

Ciucci *Perfect. Um, the female subject, did she have any form of identification?*

Smithmatungol *She did not.*

Ciucci *She did not. Okay. Um, did you conduct a search of her person, uh, upon accepting her into your custody because it was a, a, uh, loss prevention detention that you then accepted for, uh, an arrest. Is that correct?*

Smithmatungol *Yes.*

Ciucci *Perfect. And then did you conduct a search of a person when you took her into your custody?*

Smithmatungol *I did not.*

Ciucci *Okay. How come?*

Smithmatungol *Uh, I didn't, I maybe thought forgot about it. Um, but there was a belief, a purse or a, a bag that was on the table and Officer Rodriguez went inside and found a debit or a credit card with her name on it.*

Ciucci *Okay.*

Smithmatungol *And I think that's the only search we did there.*

Ciucci *Okay. So you didn't search her person and you didn't search her bag?*

Smithmatungol *No, Officer Rodriguez did.*

Ciucci *Okay. Um, so you just mentioned a, uh, a bank or a debit card.*

Smithmatungol *Correct.*

Ciucci *Uh, is that what you used to identify her?*

Smithmatungol *Yes.*

Ciucci *Okay. Basing on, based on your training experience, does that meet the burden for identification?*

Smithmatungol *No.*

Ciucci *No. Okay. Why wouldn't it meet the burden?*

Smithmatungol *Um, it's just a name on a card. Anyone can have a name on a card, could be anyone's.*

Ciucci *Primarily, what would you need in order to do a confirmation of identity?*

Smithmatungol *A valid license from foreign countries, passport, United States, anything.*

Ciucci *Okay. Um, do you recall, 'cause you watched the BWC, do you recall that while you were inside that loss prevention office, um, you and Officer Rodriguez had a conversation.*

Smithmatungol *Correct.*

Ciucci *Where you were asking did she have ID?*

Smithmatungol *Yeah.*

Ciucci *And you made a statement, uh, after he told you that no, she doesn't. Um, I'm gonna book her then. And you repeated that statement twice?*

Smithmatungol *Correct.*

Ciucci *Um, what made you make that statement?*

Smithmatungol *Uh, based on the no ID, but I didn't realize it was a, someone with no ideas a shall book in the policy. Um, but that mean, that's just the first conclusion I go off of fingerprints and they would get that at the jail.*

Ciucci *Okay.*

Fox *So you're saying you didn't realize that that was required at the time?*

Smithmatungol *At the time I didn't know until I read it after.*

Fox *Got it.*

Ciucci *Okay. Then why was it your belief then that you did need to book her? So if you're, if you didn't understand that it was a shall in the policy as you're saying, um, then why, what was it about that situation that made you believe you were supposed to book her?*

Smithmatungol *Uh, I've never had that incidence before. That was the first time I've never came up with someone with no ID, we couldn't find id and that was just my next course of steps in the investigation was a misdemeanor crime, it was a bookable offense and should have booked her.*

Ciucci *Okay.*

Ciucci *Okay. Um, do you recall handing an auto cite to Officer Rodriguez and asking, asking him to fill out the citation?*

Smithmatungol *Yes.*

Ciucci *Okay. Following that, you made the statement, Hey, we're short. I'm just gonna cite her. Uh, that's at the nine minute, 52nd mark of your, of your video. Uh, what made you say that hey, man, we we're short I'm just gonna cite her?*

Smithmatungol *Uh, I looked up the, the RIMS, uh, app on my phone and saw that everyone was tied up. Um, I was in the most busy, or one of the most busy parts of the city at the most busy time on a weekend.*

Ciucci *Okay.*

Smithmatungol *Which was the Serramonte shopping center. And at that time we had a second shoplifter that I didn't want my team to take for me. That's just how I'm as an officer. And so I wanted to finish my investigation with her so I can get the other incus or the other on view shoplifting that we had at that same location.*

Ciucci *Okay. Um, did you provide the, uh, the suspect with a, uh, with a citation? A ticket?*

Smithmatungol *I did.*

Ciucci *Okay. Did you collect a fingerprint from her?*

Smithmatungol *I did.*

Ciucci *You did. Okay. When did you collect the fingerprint?*

Smithmatungol *I, so I gave her the citation while she was sitting down in the security office, uh, briefly went out or gave her the citation while she was in the office.*

Ciucci *Okay.*

Smithmatungol *Um, got everything I needed from security. She walked out to go find a friend that she was with at the initial time of call, that's when the security officer said there was two of them, one of them already left. She went to go find, I believe, find her friend or something like that. 'cause she went back in the target store and then wa dealt with the other shoplifter outside at the front of the target store. I'm not sure how long after and she came out, that's when I realized I didn't get a fingerprint from her. And my ink pad is in the front pocket of my, uh, my duty bag.*

Ciucci *Okay.*

Smithmatungol *And when she walked out, I grabbed a, my thumbprint or, or my ink pad, got the thumbprint and put the citation in my car until the end of shift.*

Ciucci *Okay. How many, let's talk about this. Um, you use an auto cite or do you use, uh, an old school carbon copy citation book?*

Smithmatungol *The auto cite.*

Ciucci *Okay. Are you assigned an auto cite, uh, from the city of Daly City as your, your auto cite?*

Smithmatungol *At that time? No.*

Ciucci *At that time, no. Okay. Do you, in watching that body worn camera footage, were you able to see the, the number on the auto cite?*

Smithmatungol *I do not recall.*

Ciucci *Okay. It was DCTR 61. Uh, you can watch the video, it'll be right on there with a label. Um, they track how many times a citation is printed. Um, the citation that you gave to the female subject, that's the first time you printed a citation, is that correct?*

Smithmatungol *Yes.*

Ciucci *Okay. Did you print a second citation out of that ticket rider?*

Smithmatungol *Yes, I believe I did.*

Ciucci *You believe you did or you did?*

Smithmatungol *I did.*

Ciucci *You did. Okay. When?*

Smithmatungol *I, I don't recall. Okay. Uh, I don't know, an hour after I printed in the first one within that timeframe.*

Ciucci *Okay. Are you aware if a ticket rider has a time allowance for you to go back in and print a second copy? Are you aware that ticket riders have have a set time? I'm asking this question poorly. Let me rephrase it so that it's way more clear. There's a finite period of time that you can print a second copy of a ticket. Are you aware of that?*

Smithmatungol *No. Okay. I just know that it says sometimes it pops up print last ticket.*

Ciucci *Okay.*

Smithmatungol *The last citation.*

Ciucci *Okay. How long after you printed the first ticket, do you believe you printed the second ticket?*

Smithmatungol *10, 15 minutes, maybe.*

Ciucci *10 to 15 minutes?*

Smithmatungol *At least. I don't, I don't remember.*

Ciucci *Where did*

Fox *Don't guess.*

Ciucci *Yes.*

Smithmatungol *I don't know. I don't, I really don't know.*

Ciucci *Okay. You don't know. Then, in an effort to, uh, in an effort to narrow and kind of quantify a, a time estimate, um, do you believe it was over an hour or under an hour? That's a pretty large scale of time?*

Smithmatungol *Under an hour.*

Ciucci *Under an hour?*

Smithmatungol *Roughly under an hour.*

Ciucci *Okay. Under an hour. Using that same methodology, uh, not to guess, but just to give an approximate, uh, kind of an end zone here of where we're playing the game. 30 minutes, more than 30 minutes later, less than 30 minutes later?*

Smithmatungol *Less than 30.*

Ciucci *Less than 30, Okay. Where did this contact with the female occur outside of the initial contact where you were able to track her down and get a fingerprint?*

Smithmatungol *The front of the parking lot at Target.*

Ciucci *Whereabouts?*

Smithmatungol *Uh, by the handicap stall in, in front of the exit of the, by the security office. So the south side, south side.*

Ciucci *If I were to look at the target store.*

Smithmatungol *Mm-hmm <affirmative>*

Ciucci *The front of it.*

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *Um, would you say that you were closer to the Wells Fargo bank to the left of you?*

Smithmatungol *Yes.*

Ciucci *Or would you say you're closer to the shops like Old Navy to the right of you?*

Smithmatungol *Wells Fargo Bank area.*

Ciucci *Wells Fargo. When you printed that ticket, did you have to re-enter any of the information or was it already pre-stored within the ticket writer?*

Smithmatungol *Pre-stored, it just prints another copy of it. I've done that multiple times because the ticket writers aren't the greatest and I've had to reprint it multiple times.*

Ciucci *Okay.I want to go back to one thing really quick. Um, you said earlier when I asked you regarding why you didn't book or you said that was your first time encountering a person who did not have identification. When approximately when did you, uh, get out of the academies, begin the FTO program? What, what year, month, uh, or approximate time of year?*

Smithmatungol *July 2023 is when I graduated the academy.*

Ciucci *July 2023. So is it fair to say in around July, August of 2023 you began, uh, to have street interaction with human beings, citizens in the city of Daly City on the street?*

Smithmatungol *Correct.*

Ciucci *Okay.*

Fox *So 10 to 11 months prior to this incident?*

Smithmatungol *Yes.*

Ciucci *Okay. So, in that 10-to-11-month time, you've never once encountered somebody that didn't have a form of identification that you were trying to either arrest or, uh, were trying to, uh, take to jail or release via citation, never had it?*

Smithmatungol *To my knowledge, no. They've always had like maybe a foreign passport or a, or like a consulate card, but not someone with zero identification, no picture of identification, no nothing of an identification given by a national or country or government.*

Ciucci *Okay. Um, do you understand that's something that can be looked at later on in order to go through cases, uh, to see if that's ever happened, correct?*

Smithmatungol *Based on my recollection, I don't recall.*

Ciucci *Recollection, alright. Likewise, the printing of a secondary ticket is retained with a ticket rider.*

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *It will show a second ticket printed.*

Smithmatungol *Correct.*

Ciucci *Okay. Um, did you ever receive Sergeant/Lieutenant approval to cite out this individual?*

Smithmatungol *I did not.*

Ciucci *Okay. Um, that same day you drafted, obviously the report that we talked about that you reviewed, um, was that report kicked back by Sergeant Douglas?*

Smithmatungol *I don't, I believe so, but I don't remember.*

Ciucci *Okay. Um, the report was kicked back. Um, do you remember meeting with Sergeant Douglas?*

Smithmatungol *I did.*

Ciucci *Okay. Um, do you remember the discussion that you had surrounding the kickback?*

Smithmatungol *Uh, it was regarding giving the female a citation and finding the citation with the thumbprint, which I couldn't find at the end of the shift.*

Ciucci *Okay. Um, did you tell Sergeant Douglas that you had printed a second ticket?*

Smithmatungol *I believe I did, yes.*

Ciucci *Okay. Um, and did you also tell her that you, uh, believe you had taken a fingerprint from the individual?*

Smithmatungol *Yes.*

Ciucci *Okay. Is there any reason that you would tell Sergeant Douglas that you had printed a second citation, had taken a fingerprint, if you had not done so in order to avoid getting into trouble?*

Smithmatungol *No. Why would I jeopardize my job for a citation of someone who stole a home goods at Target? I worked, respectfully, my ass off to get here, and I believe I deserve to be here. I don't want to risk my job for getting, being a scapegoat and trying to cover my mistakes.*

Ciucci *Okay. Um, at any time did you lie to your Sergeant, Sergeant Douglas during the course of your explanation for, uh, either why you did not cite, or excuse me, take, uh, the female subject to jail or how you identified her or how you did the thumbprint? Did you ever lie once to your sergeant?*

Smithmatungol *No, I told her exactly what I told you.*

Ciucci *Okay. Um, in your earlier answer, you said that you weren't aware of the, of the policy. Have you a chance to review policy 420 of Lexipol, uh, that outlines when and why you should, uh, go ahead and cite somebody out?*

Smithmatungol *I read it, but I don't know verbatim.*

Ciucci *Don't know verbatim. I don't expect you to, there's about 3000 policies. Okay. Um, are you aware if the person cannot provide satisfactory evidence of personal identification, they cannot be cited out?*

Smithmatungol *Yep.*

Ciucci *Okay. Um, are you aware that there's also a penal code that does the exact same thing that is the basis essentially for that policy?*

Smithmatungol *Penal code, no, but policy, yes.*

Ciucci *okay. Um, the penal code is 853.6. It outlines when somebody can be, uh, cited out and when they can't. Um, sitting in this office now is never a comfortable feeling for anybody.*

Smithmatungol *No, sir.*

Ciucci *Um, in hindsight, looking back at the situation, uh, if you were to have the benefit of, of that hindsight, was there anything you would change or do differently?*

Smithmatungol *Um,I would've got, went with my gut. I mean, I said I was gonna book her before any of that thing happened. I should have booked her, I should have got sergeant approval if I was gonna cite her. Um, I didn't think she was a prolific shoplifter. Target had no history with her. She stole household goods. It wasn't like a laundry pods or anything. It was like a household plant. It was a clock. So I, she appeared pregnant too. She had the distended belly. I believe she was pregnant and like when she stood up, you can see the big rounding of her stomach. I, at that time, I didn't think it was excess fat. It looked to me pregnancy. I thought I was just being a good person. Maybe she was down on some luck. I thought I should have gave a citation and let her go home. But in the end I should have booked her. I should have done sergeant's approval. Um, I did make mistakes and I haven't had an issue of the same sort since.*

Ciucci *Okay. Um, is there anything that I did not ask you that you feel is important for me to understand or know in regards to the reasoning behind any of this, giving me, providing me with any context or?*

Smithmatungol *Uh, I might have gotten a little confused sometimes with the two shoplift things at the same time, I wanted to be a good beat partner and handle my, my, uh, beat, uh, without anyone having to take paper from me, but sometimes it's better to ask for help.*

Ciucci *Okay.*

Fox *Good. That's the only thing I was gonna follow up on. Did the fact that there was this intervening 48 on the part of the black male adult sort of throw you off the rhythm of this particular investigation?*

Smithmatungol *Yeah, just because his aggression with one officer out there, I wanted to finish with her as quick as possible so I can be a good partner out there in case something does go wrong, it'd be my fault.*

Ciucci *Okay. I have no further questions for you. Uh, without anything else to add on either your parts, I'm gonna go ahead and conclude this interview. Uh, time is approximately 1028, same day, same hour. And we are going to stop you.*

I have used all reasonable diligence in reviewing this transcription and to the best of my knowledge the information contained herein is true and complete.

Christine Ciucci
Investigator

3/18/26
Date

DALY CITY POLICE DEPARTMENT MEMORANDUM

TO Acting Chief of Police
Cameron Christensen

FROM Sergeant Matthew Ciucci #68

SUBJECT Administrative Investigation **24-06/Officer Smithmatungol #150**

BACKGROUND

On October 28, 2024, Administrative Directive 5917 was forwarded to me from Acting Chief of Police Christensen, requesting an administrative investigation be conducted on the following incident:

Request for Administrative Investigation:

DALY CITY POLICE DEPARTMENT
Memorandum

October 25, 2024

To: Acting Chief of Police

From: Sergeant Jerel Tualaulelei #60

Subject: Request for Administrative Investigation – Officer Smithmatungol #150

The purpose of this memorandum is to request for an Administrative Investigation for Officer Smithmatungol #150.

On Thursday, 06/20/2024, Officer Smithmatungol was scheduled to work at 0700 hours to participate as an instructor for Department Training. At approximately 0745 hours, Officer Smithmatungol walked into the DCPD Operations Center (DOC) where the training was being held then quickly entered a rear office room.

During the next break, Sergeant Douglas and I spoke to Officer Smithmatungol to address his tardiness to the training. When Officer Smithmatungol was asked why he was late, he immediately responded with something similar to, "I was downstairs with Rose [Property Room Manager]." Sergeant Douglas then asked Officer Smithmatungol what time he had arrived at the department, and he said, "around 7:10" then followed up with saying something to the effect of, "I worked late last night and didn't get out until around 11:30."

In speaking with Officer Smithmatungol, I advised him that he could not be late to work considering his start time was at 0700 hours and further explained how all the instructors were there on time. Officer Smithmatungol went on to explain, "my part [of the training] isn't until later." I told Officer Smithmatungol that he needed to at least make a notification to myself, Sergeant Douglas, or Sergeant Tone if he was going to be late so that we could be aware which he stated he understood.

Following this conversation, Sergeant Douglas contacted Rose who advised that she did not in fact meet or speak with Officer Smithmatungol earlier in the morning as he had previously stated. Rose further confirmed Officer Smithmatungol did not meet with Ben (Property Room Specialist) and that Officer Smithmatungol did not book anything into the Property Room earlier that morning. Rose did however mention that she had just received a text message from Officer Smithmatungol that stated something similar to him wanting to make arrangements to fix a previous property request.

Based on the above-mentioned information, I am requesting an Administrative Investigation into Officer Smithmatungol for violations of Lexipol policies 340.5.9 – Performance and 340.5.10 - Conduct.

Sergeant Jerel Tualaulelei #60
Patrol Division – B2
Daly City Police Department

INVESTIGATION

- Reviewed request for an administrative investigation.
- Reviewed DCPD Administrative Directive 5917.
- Reviewed Daly City Door Code Logs.
- Reviewed Planit Schedule Program.
- Interviewed Sergeant Douglas (Witness).
- Interviewed Sergeant Tualaulelei (Witness).
- Interviewed Property Room Manager Rose Meere (Witness).
- Interviewed Officer Smithmatungol (Subject).

INVESTIGATION NARRATIVE:

After receiving the above memorandum, I began my investigation by conducting a review of the "PlanIt" scheduling software which is utilized by the City of Daly City. I wanted to better understand Officer Smithmatungol's work schedule on or about June 20, 2024.

Sergeant Tualaulelei has discovered no independent evidence that supports or disproves that Officer Smithmatungol met with Rose Meere prior to his shift on June 20, 2024. Sergeant Tualaulelei never adjusted Officer Smithmatungol's timecard to reflect his actual hours and to his knowledge neither had Lieutenant Klier.

End of Interview.

On Wednesday, November 20, 2024, at approximately 1306 hours, I interviewed property room manager Rose Meere regarding this investigation. I read Rose the "Witness Admonishment" which she signed, and stated she understood. The signed admonishment was retained and has been added as an attachment to this investigation. Rose provided the following statement:

Statement of Rose Meere, summarized and audio recorded:

On Thursday, June 20, 2024, Rose was working at the Daly City Police Department property room in her capacity as the property room manager. Rose begins her shift at 0630 hours however she arrives approximately 30 minutes early everyday and is generally in her office by 0600 to 0605 hours. Ben Bermudez, who is the property room specialist, reports to Rose as her sole employee. Ben begins his shift at 0730 hours, and he was at work on Thursday, June 20, 2024.

On June 20, 2024, at approximately 0802 hours, Rose received a text message from Sergeant Karen Douglas inquiring if she had interacted with Officer Smithmatungol earlier in the day. Rose provided me with a printout of the text message conversation she had with Sergeant Douglas which read as follows:

-0802 hours

Douglas: "Hi Rose"

Douglas: "Did Smithmatungol meet with you this morning? If so what time?"

Meere: "Im going to a Martin in ssf at 9 ends at 1130"

Meere: "He was here yesterday and started taking care of his items. Thank you"

Douglas: "He said he was late to training because he was meeting with you this morning ..just want to verify that."

-1007 hours

Douglas: "And just to confirm, did he book anything this morning?"

Meere: "I did not see him this morning and I'll have to check if anything was in the locker"

Douglas: "Thank you"

-1236 hours

Douglas: "Can you let me know once you know please."

Meere: "There was a pipe in the locker that I received in yesterday and he came by approx. 30mins ago to take care of the pipe issue. He took care of the e.com stuff yesterday with one exception which he is now addressing."

Douglas: "Thank you. Pls don't mention to him that I checked up on this."

Meere: "Of course not"

Meere: "You can check the cameras"

Douglas: "And just to confirm he did not book in anything this morning"

Meere: "Nothing new"

Douglas: "Copy. Thank you"

Meere: "Just came by to take care of the pipe"

Douglas: *Thumbs up emoji*

After reviewing the text message conversation with Rose, she recalled Sergeant Douglas may have called her between 8am and 10am. Rose believes there was a phone conversation because she remembered turning to Ben Bermudez and asking him if Officer Smithmatungol had stopped by the property room. She recalls relaying this information possibly via telephone to Sergeant Douglas.

Rose had no recollection of meeting with Officer Smithmatungol prior to texting with Sergeant Douglas at approximately 0800 hours. Rose also had no recollection of speaking with Officer Smithmatungol prior to 0800 hours. Rose never received any evidence from Officer Smithmatungol prior to 0800 hours and she confirmed that Ben Bermudez didn't either.

I asked Rose if Officer Smithmatungol ever calls or texts her on her personal cell phone and she said he has. I asked if she could check her phone to confirm if there were any messages or calls from Officer Smithmatungol on June 20th and she said she would check at the conclusion of our interview.

I then ended the interview at 1315 hours, but asked Rose if I could accompany her to the property room so we could review her cell phone for the following information:

- Any text messages from officer Smithmatungol on June 20, 2024.
- Any call logs indicating a phone conversation with Officer Smithmatungol on June 20, 2024.
- Any emails from Officer Smithmatungol on June 20, 2024.
- The remaining text message conversation between her and Sergeant Douglas (one message had been cut off and was incomplete).

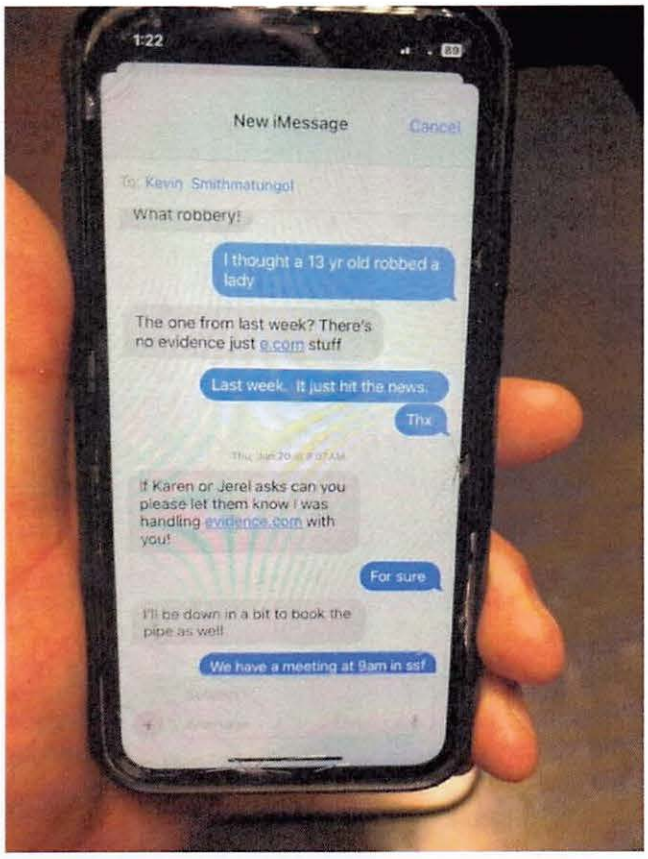
At approximately 1325 hours, Rose and I responded back to the Professional Standards Office and continued our interview. I reminded Rose that we were still conducting an Internal Affairs investigation, and she was obligated to answer my questions truthfully, honestly and to the best of her ability. Rose stated she understood.

Rose explained that once we retrieved her cell phone, she checked her text messages and noted that on June 20, 2024, at approximately 0807 hours, she had a conversation with Officer Smithmatungol that read:

Officer Smithmatungol: "If Karen or Jerel asks can you please let them know I was handling evidence.com with you!"

Meere: "For sure"

Officer Smithmatungol: "I'll be down in a bit to book the pipe as well"



Upon discovery of this text message conversation Rose appeared perplexed because she had not recalled speaking with Officer Smithmatungol on June 20, 2024. I then asked Rose if she would ever lie for another employee and she appeared to take offense, explaining that she would never lie because it would tarnish her reputation and jeopardize the integrity of the property room. I asked if she has a habit of arbitrarily responding to text messages with responses similar to "for sure." Perhaps done to acknowledge the message without fulling reading it? Rose explained it is not her habit; however, if she was in a rush, there is a possibility it could occur. I then photographed the text message and retained it as an attachment.

Rose was able to locate the missing text messages between her and Sergeant Douglas, she was unable to locate any email correspondence with Officer Smithmatungol on June 20, 2024. Rose provided me with a copy of the above text messages, which have been added to this case as an attachment.

End of Interview.

On Wednesday, November 20, 2024, at approximately 1342 hours, I interviewed property room specialist Ben Bermudez regarding this investigation. I read Ben the "Witness Admonishment" which he signed, and stated he understood. The signed admonishment was retained and has been added as an attachment to this investigation. Ben provided the following statement:

Statement of Benedicto Bermudez, summarized and audio recorded:

Ben confirmed that on June 20, 2024, he was working in the Daly City property room from 0730 to 1630 hours. Ben had absolutely no recollection of any events from the above date and time. He subsequently could not make a statement due to his inability to remember June 20, 2024.

End of Interview.

On Friday, January 31, 2025, at approximately 1030 hours, I interviewed Officer Kevin Smithmatungol regarding this investigation. The interview took place in the office of the Professional Standards Unit. Present during the interview were the following persons:

- Officer Smithmatungol
- RLS Attorney Julia Fox

I provided Officer Smithmatungol with the "Subject Admonishment" which he read, signed, and stated he understood. The signed admonishment was retained and has been added as an attachment to this investigation. Officer Smithmatungol then provided the following statement in summary:

Statement of Officer Smithmatungol, summarized and audio recorded:

On Thursday, June 20, 2024, Officer Smithmatungol attended department training where he was an instructor for the implementation of the "Starchase" GPS device. The training day had a 0700

understood it was a misrepresentation of fact for him to tell his Sergeants he was delayed working on evidence items, when he was in fact late for work on June 20, 2024. Officer Smithmatungol understood the question and responded "yes." I then asked him if he did not tell his Sergeants he was late to circumvent discipline and he responded that he should have been more detailed as to the exact time he arrived and not just relied upon the statement that he was "doing evidence."

Julia Fox asked if he took advantage of the fact that he was doing "some evidence" work to soften the reality that he was actually late. Officer Smithmatungol had to have this question repeated twice and he responded with an answer that did not address the question Julia Fox had posed.

He was asked if looking back at the situation, if he felt he should have told his Sergeants that he was late and he responded that he wasn't asked by his sergeants what time he arrived but rather why he was late coming into the training room. The semantics of the question is why he didn't inform them of the exact time he came in the building or openly disclose how late he was.

As we were ending the interview I asked Officer Smithmatungol if he had anything further to add and he voiced that he would never jeopardize his job, and he has never been late or missed a day of work. Julia Fox asked Officer Smithmatungol a follow-up question because she was still confused by an answer he had given previously. She asked if he ever logged into a physical computer to handle evidence items on June 20, 2024, prior to going upstairs at 0740 hours. Officer Smithmatungol responded that he had planned to but didn't. This concluded his interview.

End of Interview.

I asked Administrative Assistant Sierra Harrington to conduct an audit of Officer Smithmatungol's Evidence.com activity on June 20, 2024. Sierra provided me with an excel spreadsheet that outlined the dates and times Officer Smithmatungol modified property items in his Evidence.com account. The first time Officer Smithmatungol made changes to his Evidence.com account on June 20, 2024, was at 11:07:24.164 AM. Prior to approximately 1100 hours he made no changes to any of his evidence items. I have included the spreadsheet as a digital attachment to this report.

I re-contacted Public Works employee Ryan Fernandez and I requested he retrieve the door code log from door #11, which is the 1st floor police department entrance adjacent to the Daly City Training Room. This was the door Officer Smithamtungol had indicated in his interview that he used to enter the Police Department on June 20, 2024. A keycode audit of the above door had not been originally conducted by Fernandez.

On Friday, May 9, 2025, Fernandez conducted a door code audit and provided me with the results:

- **PD Front Parking Lot Entrance** – While reviewing these entries I noticed on June 20, 2024, at approximately 07:31:16 AM, Officer Smithmatungol entered his door code into

the double doors that grant you access into the police department. I have attached a screen shot of the door code entry.

06/20/24	08:22:25 AM	223	Garret Quon PD PA	User Entry
06/20/24	08:21:28 AM	25	Benedicto Bermudez PDA	User Entry
06/20/24	07:31:16 AM	203	Kevin Smith Matungol PO	User Entry
06/20/24	07:26:29 AM	25	Benedicto Bermudez PDA	User Entry
06/20/24	06:50:45 AM	187	Tyler Green PO	User Entry
06/20/24	06:38:44 AM	208	Kiera O'Shea PO	User Entry
06/20/24	06:37:19 AM	35	Michael Cattaneo PO	User Entry

I called Fernandez and spoke with him to ensure that these results were from the door I had requested, and he confirmed they were.

Reviewing these results would indicate that Officer Smithmatungol entered the police department on June 20, 2024, at approximately 0731 hours. He then presumably walked into the men's locker room to change into his uniform. The path from the "Front Parking Lot Entrance" doors to the men's locker room does not require you to pass through any key-coded doorways. Upon changing into his uniform, which he explained in his interview only takes him "5 to 6 minutes" to accomplish, he presumably walked to the upstairs training room. The path from the men's locker room to the upstairs training room could potentially require him to pass through one key-coded doorway ("PD 1st Floor double door by the mailboxes" double door). There is a record of his code being entered into the "PD 1st Floor double door by the mailboxes" doorway at approximately 0739 hours.

A digital copy of the results from the door #11 audit (PD Front Parking Lot Entrance) has been attached to this investigation.

RECOMMENDATIONS

I recommend this administrative investigation packet be reviewed for findings and recommendations.

ATTACHMENTS

- Administrative Directive 5917
- Request for Investigation Memorandum
- Sgt. Douglas Witness Notice
- Sgt. Douglas Witness Admonishment
- Sgt. Tualaulelei Witness Notice
- Sgt. Tualaulelei Witness Admonishment
- Rose Meere Witness Notice
- Rose Meere Witness Admonishment
- Ben Bermudez Witness Notice
- Ben Bermudez Witness Admonishment

POST CASE NUMBER: POST2505137

SUBJECT OFFICER NAME: Kevin Smithmatungol

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Daly City Police Department on 1/31/2025 with Officer Kevin Smithmatungol, who is the subject of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Central Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON AI transcription. This transcript was prepared by Law Enforcement Consultant Christina Moore, Professional Conduct Central Bureau.

Parties Present:
Sergeant Matthew Ciucci, Daly City Police Department, Primary Investigator
Officer Kevin Smithmatungol, Daly City Police Department, Subject
Julia Fox, Rains Lucia Stern, Representative for subject officer

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Ciucci *First recorder is going. Second recorder is now going, um, Okie dokie. It is Friday, January 31st, approximately 1030 hours. This is Sergeant Matt Ciucci. I'm in the Professional Standards Unit office of the Daly City Police Department, with me is Officer Kevin Smithmatungol. Kevin, if you could please say hi.*

Smithmatungol *Hello.*

Ciucci *Thank you <laugh>. Um, with you today, you've retained legal counsel. Um, counsel, uh, Mrs. Julia Fox, if you wouldn't mind just saying hello.*

Fox *Sure. Julia Fox, RLS.*

Ciucci *Beautiful. Alright, so we are here today. Uh, you are a subject officer in internal affairs, uh, uh, investigation for internal affairs case number two four dash zero six. I'm about to read you the administrative admonishment. If at any time anything I read, uh, is in any way confusing or you need further clarification, just let me know. Okay?*

Smithmatungol *Yes.*

Ciucci *Alright. You're hereby advised that an administrative investigation is in process within this department and which has become necessary to obtain a statement from you. If you cooperate fully at this time, your statements and any evidence arising there from may be used in any and all proceedings arising out of this investigation. As a citizen and an employee of this department, you're hereby advised that if prior to, or during the taking of your statement, this department determines that you may be charged with a criminal offense, the proceedings will be stopped, you'll be advised of your constitutional rights and given, uh, an opportunity to obtain legal counsel. If you decide to not give a statement at this time, you're now ordered as an employee of this department to answer all questions asked by investigators and to give a full detailed and complete statement regarding your knowledge of or involvement in the matter now under investigation. Although you have a right to silence in a criminal investigation, this is not a criminal investigation, but an administrative hearing and you're now being ordered to answer all questions under the compulsion of the threat of disciplinary action. False statements, of course, will result in severe disciplinary action. Members are always required to be truthful, see Daily City Police Department Manual Rules 4.96 truthfulness. We'll walk this over to you again. Again, last sentence here says, I have read the above admonishment order. I fully understand my rights and duties in this investigation. Feel free to read this over and if you are good to go, you can sign there at the bottom and, uh, please date and time. And Mrs. Fox, if I could ask you to be the witness, please?*

Fox *Sure. <affirmative>.*

Ciucci *Thank you. Fabulous. Thank you. Okay. I'm an independent fact finder. Uh, it's my role to compile the facts, to ask questions, do the interviews, everything I find I give before, uh, the chief of police signs out to lieutenant as his designee and they do the findings and recommendations. So all I am is just compiling data. Okay. With that said, we're gonna begin. If you have any need to stop or pause or anything, just let me know, all right? So, on Thursday, June 20th, 2024, um, the Daly City Police Department hosted training cycle number three, which consisted of Star Trace, excuse me, Star Chase training. Does that sound familiar?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, are you a Star Chase instructor?*

Smithmatungol *Yes.*

Ciucci *Beautiful. Um, do you recall if you assisted in the instruction for that training day?*

Smithmatungol *Yes.*

Ciucci *Um, and do you recall what time the training began?*

Smithmatungol *Seven*

Ciucci *7:00 AM?*

Smithmatungol *Yes.*

Ciucci *Okay. 7:00 AM. Um, is that a standard start time, uh, for, for most Daly City Police Department trainings?*

Smithmatungol *Yes.*

Ciucci *Okay. And since you've actually been here as an officer, have you ever had a training day that didn't have a 0700 start time?*

Smithmatungol *No.*

Ciucci *Okay. Um, in June of 2024, do you recall what, uh, team that you were assigned to within this department?*

Smithmatungol *B Graves.*

Ciucci *B graveyards?*

Smithmatungol *Yes.*

Ciucci *Um, was this June 20th training day, was this your B graveyards team training day, uh, as well as being a day that you were instructing?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, what time did you arrive to work that day?*

Smithmatungol *I don't remember the exact time, but around seven o'clock.*

Ciucci *I don't want you to guess, but if you could just gimme, is, are you comfortable with that approximation?*

Smithmatungol *Uh, plus or minus 15 to seven o'clock, I don't remember if it was before or after.*

Ciucci *So at and around 0700 hours?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, were you in the upstairs training room at 0700 hours where the training was, was taking place or--*

Smithmatungol *Sorry, no--*

Ciucci *No? Okay. Um, where were you <laugh>?*

Smithmatungol *Uh, locker room, changing out using the restroom and then since it was a Thursday, I had, uh, some emails from evidence that I was gonna take care of.*

Ciucci *Okay.*

Smithmatungol *Because my portion of the training wasn't until an hour and a half, two hours after the 7:00 AM start time.*

Ciucci *Okay. When you say your portion of the training, explain to me what was your training, your portion?*

Smithmatungol *Sorry, the, the 7:00 AM portion of the training was going over to pursuit policy, which I believe the Sergeant McCarthy or Sergeant Tone was doing that day.*

Ciucci *Okay.*

Smithmatungol *And then after that we go through the system and then my portion with Officer Jaime was to go over when to deploy the Star Chase and how the angle of the laser and speed of the DART that comes out and how to reload the Star Chase. That was my portion, which is towards the afternoon.*

Ciucci *Afternoon?*

Smithmatungol *Yes.*

Ciucci *Safe to say you're more of the practical application portion?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, did you ultimately have a conversation with Sergeant Douglas and Sergeant, uh, Tualaulelei about showing up late?*

Smithmatungol *Uh, they confronted me about entering the room late.*

Ciucci *Gotcha. We'll say that. So at what time do you believe you entered the training room?*

Smithmatungol *740, 730, 740.*

Ciucci 0*740 hours. Approximately.*

Fox *Approximately.*

Ciucci *Approximately to the best of your recollection?*

Smithmatungol *Yes. 0740 hours around*

Ciucci *You walked into the training room for the first time?*

Smithmatungol *Correct.*

Ciucci *Okay. Um, did you provide them with a reason for being late to entering the training room?*

Smithmatungol *Uh, yes. I told 'em I was working. I was, I was going to do evidence. I think I told the sergeants, I said with Rose, but I meant for Rose. Okay. It's just the slip up in words.*

Ciucci *Okay. So do, okay. Walk me through that one more time so I understand it because I don't wanna misunderstand it.*

Smithmatungol *Uh,Officer Douglas Officer Tualaulelei, um, confronted me about showing up late and what was my reason. I told him I was gonna do evidence or I was doing evidence, um, to finish the evidence 'cause I have the emails from Monday through Thursday 'cause my work day's Friday through Sunday.*

Ciucci *Okay.*

Smithmatungol *Um, I was gonna go through the, the property tab on RIMS and evidence.com and, um, all the evidence on my phone.*

Ciucci *Okay.*

Smithmatungol *Um, I told, they asked me, or I think I told 'em I did it with Rose.*

Ciucci *Okay.*

Smithmatungol *Not physically with Rose. It was supposed to be for Rose.*

Ciucci *Okay.*

Smithmatungol *That's pretty much it.*

Ciucci *Okay. Um, so then the, the, the question is, is based on that, did you ever meet with Rose? Hey Guy, let me just finish it through because I wanna make sure you answer the question. Um, did you ever meet with Rose prior to meeting with Sergeant Tualaulelei and Sergeant Douglas at approximately 740-745 hours?*

Smithmatungol *No.*

Ciucci *Okay.*

Ciucci *Um, common practice in Daly City, uh, and I've done it also, um, I will call or text Rose on my personal phone 'cause I have her personal phone number and ask her a question because sometimes she won't answer the, the hard line down there. Do you ever do similar things? Uh, do you ever text Rose in order to communicate?*

Smithmatungol *I usually email.*

Ciucci *Usually email?*

Smithmatungol *Yes.*

Ciucci *Have you ever texted her?*

Smithmatungol *I, at that time I don't remember texting her.*

Ciucci *Okay. Um, if you were to have had a conversation with Rose on June 20th via text message, is that something that you would save in your phone or are you a type of person that purges it?*

Smithmatungol *Uh, I would usually save it on my phone.*

Ciucci *You would save in the phone. Um, what I would ask is if your counsel approves this, would you want to look at your phone and it's your personal phone and I have no way of asking or compelling you to, to, to provide anything in that personal phone. However, if you did have a conversation with Rose on June 20th, would you be willing to look in there to see if you have such a text message correspondence between the two of you? Is that something?*

Fox *I'm fine with it.*

Ciucci *Okay, perfect. Beautiful.*

Smithmatungol *The phone, it is not working <laugh>? Uh, yeah, once my phone turns on, I will.*

Ciucci *Do you need to charge it? Is it an iPhone?*

Smithmatungol *Uh, yeah, there's like a, I I think it turned off when…*

Ciucci *Oh, when Siri went sideways?*

Smithmatungol *Yeah.*

Ciucci *Got it.*

Smithmatungol *So I'll wait for that to load.*

Ciucci *Okay. In the meantime, um, were you in the building and prepared and ready to work at 0700 hours?*

Smithmatungol *I don't remember exactly 0700. Uh, approximately 0700, around that time? Yes.*

Fox *It could have been shortly thereafter? Within five, 10 minutes after?*

Smithmatungol *Yeah.*

Ciucci *Um, what is the process of notification if you are gonna be late for work? How do you notify folks? What do you do?*

Smithmatungol *Uh, I've never been late to work, but prior to that.*

Ciucci *Have you ever called in sick, uh, to work?*

Smithmatungol *Never.*

Ciucci *Okay.*

Smithmatungol *Never been sick. Never been late. Uh, I'm usually here 30 minutes prior to start time.*

Ciucci *Okay. Um, did you tell Sergeant Tualaulelei and Sergeant Douglas that you were with Rose to potentially, uh, avoid any type of punishment for, for being late?*

Smithmatungol *I, I meant to say for Rose. Okay. I was supposed to do evidence for Rose. I think I told 'em with Rose.*

Ciucci *Okay. Did you say that in any effort to avoid or subvert any type of punishment that could have come from being late showing up to work?*

Smithmatungol *No. My reason was telling them I was doing something for Rose but the wrong word came out.*

Fox *Okay.*

Ciucci *Um, is that thing ready to go or is Apple it's not liking you, it's doing an update?*

Fox *Oh, is it doing an update?*

Smithmatungol *Yeah.*

Ciucci *Beautiful. Okay. Let's do this. If I were to have a text message between you and Rose on the eighth, does that sound, excuse me, on the 20th, does that sound, uh, like something that you would remember?*

Smithmatungol *Uh, maybe if I see it.*

Ciucci *Maybe. Okay. Hold on. Let's just go about this a separate way. More technology. Okay. Okay. So I'll show it to you guys.*

Smithmatungol *Sure.*

Ciucci *It is a text message from Rose Meere's phone. Okay. And it says your name at the top, Kevin Smithmatungol and it looks like you guys have just been having normal conversations. On Thursday, June 20th at 8:07 AM it says, Hey, if Karen or Jerel asks can you please let them know I was handling evidence.com with you. And she says for sure. Um, and I'll be down in a bit to book the pipe as well. We have a meeting at 9:00 AM in SSF and then it goes to that. Okay. So out of curiosity because we're, uh, do you recall this text message correspondence?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, so when you wrote, if Karen or Jerel asked, can you please let them know I was handling evidence.com with you, I feel like we're in a weird state of semantics where we're dealing with I was with her, for her, but then I have a test message from that day saying with you, so help me understand how we've gone from I was with her to, it was for her, to now, it's with her again.*

Smithmatungol *Uh, evidence.com is usually done in the report writing room where I usually do it over the PPC. It's not with her.*

Ciucci *Okay.*

Smithmatungol *But I like with her meaning 'cause she handles all the evidence,*

Fox *I will say, and I think we all know it's pretty significant that Rose's response is for sure. I think we all know Rose is not to be trifled with and for her to respond for sure. And endorse something indicates that there's a righteousness to it.*

Smithmatungol *Sorry, I don't know what to say to that.*

Ciucci *No, that's, your counsel just spoke on your behalf. Um, okay.*

Fox *Given my, my Rose familiarity.*

Smithmatungol *Oh, sorry. I forgot what that is.*

Ciucci *Nope, you're okay. Um, is there any reason that you would send that to Rose in order to concoct an alibi for why you were late?*

Smithmatungol *I told him that I was gonna, I was with Rose and I was just telling Rose like, Hey, they're probably gonna ask you I, because they want to confirm what I did. So I told 'em, I told her, Hey, they're probably gonna ask you. I was gonna do evidence with you. And that's when I said I was gonna text her. I was gonna do the pipe with her.*

Ciucci *So would you say that your purpose of, of texting Rose was not to create an alibi, but as you described, and my understanding is, just to give her a heads up?*

Smithmatungol *To give her a heads up 'cause I had to do the pipe followed by that text with her. Okay. I was gonna go down with her and do the pipe.*

Ciucci *Okay. Alright. Um, reflecting back, now that we're in this room together, um, is there anything that you would do different about, uh, the time in which you arrived? How you, how you showed up for the training day, anything that you would change with the, with the advantage of hindsight?*

Smithmatungol *Just tell the sergeant. I mean, I thought I was gonna be okay being, doing other stuff 'cause I'm not needed in that training until my portion, which isn't three hours after the start time, so I can get things done within that three hour break time 'cause I got, I got things to do. I want to have a clean sleep for my work weekend 'cause I'm gonna have way more stuff to do. Um, so maybe just tell the sergeant I've never been late, I've never called out sick. I've never done any of that. I have no reason to come in late. I'm not, no reason to jeop, like I said, jeopardize my career for this.*

Ciucci *Understood. Um, one last question I have for you. When you, we're all creatures of habit. Um, I park in the same parking lot at the PD every day. I come through the same door every morning. I think*

I see you on graveyards when I come through that same door. Is there a door that, uh, parking spot, a place that you park and then you come in the building the same way every day?

Smithmatungol *Yep. The bottom lot with that, the door next to the main entrance.*

Ciucci *Training, what?*

Smithmatungol *That hallway where the riot stuff is.*

Ciucci *Riot hallway directly next to Rose Meere's evidence room?*

Smithmatungol *Yes.*

Ciucci *Okay. That is your methodology. Do you believe, uh, that it would be, uh, it would be safe to presume based on your pattern of behavior, that's the, the way you came into this building on June 20th?*

Smithmatungol *Yes.*

Ciucci *Okay. The door codes are retained. Uh, will we find your door code arriving here in and around, as you said, a 5-to-10-minute buffer on either side of 0700 hours on June 20th?*

Smithmatungol *Yeah. I can't say approx or exact time, but around seven I wasn't an hour and a half, two hours late.*

Ciucci *Okay.*

Fox *Okay. Do you think that you need to give a greater buffer than 5 to 10 minutes?*

Smithmatungol *Maybe maybe 15 to 20? I, I, I dunno. Exactly.*

Fox *Okay.*

Ciucci *Um, if it's 15 to 20, would you feel that that would be an amount of time if you were to be 15 or 20 minutes late, is that an amount of time that you should call a sergeant to give them uh, uh, a heads up and an understanding that, hey, I'm running late?*

Smithmatungol *Uh, now thinking about it? Yeah, I should have.*

Ciucci *Okay. Then if we move to, to, to an area where we're under an understanding, 'cause I just want to be able to record your statement accurately. Did we may have been, we being you may have been 15 to 20 minutes late that day for work?*

Smithmatungol *I believe so. I don't look at my watch right when I walk in the door.*

Ciucci *And I understand that. And, and I, and it, it, if you're coming in and there's not a clock there at the door, uh, I can understand that.*

Smithmatungol *I don't, I don't believe that I was obnoxiously late, like hour, two hours, three hours, no notice.*

Ciucci *Okay.*

Smithmatungol *Maybe it was 20, 15, 20, 30 minutes after start session, but I, I don't.*

Ciucci *Okay. So it could, could have been up to 30 minutes?*

Smithmatungol *It could have. Okay.*

Fox *But you do know it would be recorded. It would be recorded on that particular--*

Ciucci *It'll be recorded on that door. That's my, that's my thing. I just wanna make sure on that.*

Smithmatungol *Yes.*

Ciucci *Okay. Okay. If we were 30 minutes late, up to 30 minutes late, as you just said, that would put you at 0730 hours and then you said you believe you walked upstairs at 0740 hours. Would that have given you enough time in that 10 minutes to ready yourself? Do you come to work in your uniform?*

Smithmatungol *No.*

Ciucci *So would that give you enough time to ready yourself in the locker room and then go to a computer, log in, do your evidence stuff, and then go upstairs to your sergeants?*

Smithmatungol *Um,I didn't get to do my evidence stuff because I, I, I don't remember what happened. uh, but I came, it only takes me five to six minutes to get changed from regular clothes to out the door ready. Um, so I think I came in, spoke with someone, I don't remember who, and then went upstairs.*

Ciucci *Okay. So then did you do evidence prior to going upstairs at 7:40?*

Smithmatungol *My plan was to do evidence for Rose. So I was looking through my emails.*

Ciucci *Okay.*

Smithmatungol *Because I, 'cause what I do is I stick my phone on my locker door 'cause my phone, my phone case is magnetic, magnetic while I'm changing, I'll refresh my phone and look at the, the emails that come in.*

Ciucci *Okay. So, I think I had a different understanding of what reviewing your evidence was looking like. Reviewing your evidence, the way I had understood it previous, was that you were downstairs essentially in front of a, uh, desktop computer in a, in a, in either the incoming briefing room or in the evidence room, and you were looking through, checking your emails, your outstanding cases, everything, looking at evidence. Is that what you did or were you looking at a cell phone that would show you what, just your emails?*

Smithmatungol *Yeah, So I was looking at my cell phone, looking at the, in the locker room with my emails, saying I need to fix this, I need to look at property, I need to do this. And I have my, I take my department phone with me at home all the time. So, I compared that with my department phone, which I think maybe had photos from evidence that weren't submitted.*

Ciucci *Okay.*

Smithmatungol *So, I was looking at that, comparing what I needed to do. Um, I don't, I don't think I went to the reporting room to look at the computer yet 'cause I went upstairs and then I was, uh, that's, I think that's when I went to the training. And then at that break I went down to, I went, I tried to go talk to Rose about doing the pipe and all that stuff and that's when she told me that she was at a meeting.*

Ciucci *Okay. Okay. Um, I hate ambiguity. I hate ambiguity when things are kind of gray and weird. And so I feel like I am not fully understanding everything here. So, I just wanna go back through a couple things.*

Smithmatungol *Sure.*

Ciucci *Just so I can make clear where we're at. Uh, okay. The amount of time that we're now saying that we were, is it, is it safe to say now based on your recollection of time and now that we've kind of worked through it through it together?*

Smithmatungol *Yes.*

Ciucci *Do you believe you were late on June 20th?*

Smithmatungol *I believe I was late.*

Ciucci *Okay. Now that we've worked through it together, you believe that you were late for work?*

Smithmatungol *Yes.*

Ciucci *Okay. Now that you believe you were late for work, how long of a time do you believe you were late from your 0700 start time being the time that you're supposed to be here, okay, in the building at we will say in the building at least that's what I'm gonna say. As even though I believe it to be common practice, you should be ready to go in a uniform, 10-8. Okay. I'm just gonna put our start time here as in the building. What time do you believe you were in the building?*

Smithmatungol 7:1*5, 7:20.*

Fox *Can I unpack that a little bit?*

Ciucci *Yes.*

Fox *It sounds as though this is a real outlier for you, right? You said, I've never been late, I've never been sick. Mm-hmm <affirmative>. Mm-hmm <affirmative> all the good things. So, this would at least in my mind, be remarkable to you. Like an, oh shit, this, I'm late. I've never been late before. Mm-hmm <affirmative>. I, I've certainly been in that position. That being said that this is remarkable and a standout experience. Do you recall in that same train of thought of, oh crap, I'm, I'm late. Do you recall how late?*

Smithmatungol *No. I, I don't remember. I, like I said, I've never been late. You can see every time I clock in and see every time I start, I've never been late to my profession here as a police officer.*

Ciucci *Okay.*

Fox *Except for that day.*

Smithmatungol *Except for that day.*

Ciucci *Okay. Okay then I'm going to, I'm going to work then off of the understanding that we believe it to be 15 to 30 as our maximum that you believe probably you walked into the wa uh, downstairs locker room. It was during the time that you were changing and readying yourself that you were reviewing things upon your work phone and your personal phone comparing evidence items. Okay. Uh, and then upstairs at approximately 0740 hours. Okay. Uh, with that said, do you believe it to be a misrepresentation to your sergeants if you told them that you were handling evidence under the understanding that you weren't in the building at 0700 hours?*

Fox *With the suggestion being I was here when I should have been at 7:00 AM but I was handling evidence with Rose and I appreciate that you meant to say for you said with, and I don't think that that's moving the needle in any particular direction, but what do you think that relayed to your sergeants when you are supposed to be here at seven and they have misgivings about you being late and you say, I was actually handling evidence with Rose.*

Smithmatungol*. The emails I got were from Rose about the pipe about photos. So that's what I was looking at my phone. I'm like, oh shoot, what evidence do I have to do? 'cause I don't like being on the held list. No one likes being on the held list. That's my kind of my main concern.*

Fox *The rub is, it sounds like that wasn't why you were late though.*

Smithmatungol *What do you mean? Sorry?*

Fox *The fact that you were scrolling through your phone, reconciling the evidence is not why you were here past 7:00 AM and in effect their inquiry was why were you here past 7:00 AM.*

Smithmatungol *Uh, it might have taken me longer to go upstairs, but I was here maybe a little bit after seven, but taken ex extended myself by looking at everything, looking at the emails, looking at the evidence. I probably could have been up there earlier.*

Ciucci *Okay.*

Ciucci *I think what we're gonna do, I think there's a misunderstanding that we're having about a question. Uh, and I'm gonna ask it and if you and your counsel need to discuss it in any way in the sense of helping you understand it. Um, because my concern is, uh, everything I I've heard here, do you believe that walking upstairs, uh, at 7:40 your sergeants are seeing you walk in going, he's late 7:40 should have been here at 0700 hours.*

Smithmatungol *Yes.*

Ciucci *When they confront you about it and they ask you about it and you say, hey, I was dealing with evidence and I know we have this semantics I'm throwing out at for and with Rose I was dealing with evidence.*

Smithmatungol *Yeah.*

Ciucci *They asked you if you were late. You have now said, hey, there's a high likelihood I was late. Okay. Do you believe that it was a misrepresentation to tell them instead of saying I may have been 15 minutes late, that I'm sorry this is not my normal stuff. Do you believe that by you saying I was with Rose or handling stuff with Rose, that that was a misrepresentation of fact? And that's the question I'm gonna leave you with for a second here 'cause I wanna make sure you understand that question before moving forward. Okay. So I'm gonna press pause. I'm give you guys a break, um, and uh, you guys can step out into your, the room I had for you and we'll go from there. Okay?*

Fox *Okay.*

Smithmatungol *Sure.*

Ciucci *Alright, Sergeant Ciucci, uh, it is approximately 1059 hours. We are resuming, um, back in the office as all parties. Just wanna remind you of the admonishment that I read to you earlier that you were still under the admonishment saying that you're gonna be truthful about all matters. Okay. Going back, do you understand or do you believe how it could be, uh, uh, an issue, a problem, if your sergeants asked you, hey, were you in the building at 0700 hours? Were you late? Um, and you were to say, hey, I was dealing with evidence when in fact you've now said, hey, I was probably 15, 20 minutes, 30 minutes late. I could have been. Um, do you understand that that could be, uh, understood as a misrepresentation effect?*

Smithmatungol *Yes.*

Ciucci *Okay. Was it your intention to circumvent any type of discipline? Get out of, get out of trouble? I don't want to be in trouble for being late. Was it your intent to not get in trouble by a lie?*

Smithmatungol *No. So the, the portion about dealing evidence was true. I just should have been more detailed about what time I came in and then the steps following after that. What time I changed out, what time I started evidence, and why I came up late as or to the training room late.*

Fox *So did you sort of take advantage of the fact that you were doing some evidence work to couch the reality that you were actually late for reasons other than making things right with Rose?*

Smithmatungol *Sorry, I <laugh>*

Fox *Sure, sure, sure, sure. Did you take advantage of the fact that you had been doing something Rose and evidence related to soften the blow of the reality, which was I was here late for reasons other than evidence.*

Smithmatungol *That that wasn't my intention. But because I thought I was, I wasn't needed until two, three hours after the training started. I didn't even have to be up there anymore. I had no information to give regarding the Star Chase training. So that wasn't my intention. I just told him I was handling evidence 'cause I had evidence sit and waiting for me.*

Fox *As you sit here now, do you think that you should have been more forthcoming about when you really got here and got past the threshold of the door?*

Smithmatungol *Yeah, they didn't, they didn't ask me what time did I actually walk in the building. They just asked me why I was late and that's the reason why I told 'em.*

Ciucci *Okay. So in hindsight, if you could, do you think that your definition probably was a little lackluster? The reasoning that you gave was there probably more that you could have given?*

Smithmatungol *There's more I could have given.*

Ciucci *Okay.*

Fox *And should have given.*

Smithmatungol *I should have given. But--*

Ciucci *And the reasoning behind it was as said just minutes ago that it was not a complete and otter misrepresentation of fact, but rather they asked the question, you answered it, but there was more that we should have given.*

Smithmatungol *Yeah. I mean they asked me one question why I was late. I told 'em I was handling evidence. Uh, I I should have taken the responsibility and told them, yeah, I came in a little bit later. Um, okay. But that's all I could tell you, that's all I know.*

Ciucci *Okay. Um, is there anything that I did not ask you that you think is important for me to know or that would gimme further context about this, this day, this incident, this investigation?*

Smithmatungol *Um, the fact that I've never been late on the job and I wasn't needed until that training. That's why I didn't think it was a really big deal 'cause I wasn't needed until later in the training. So, I thought I'd do other stuff around what I needed to do.*

Ciucci *With the benefit of now being in this room and seeing everything. Do you think it's kind of a big deal?*

Smithmatungol *Now it is, yeah.*

Ciucci *Yeah.*

Smithmatungol *First IA I've never been in trouble really. Um, but it's not worth risking my job for.*

Ciucci *Okay.*

Fox *I just wanna clear a little bit of muck 'cause I'm still back in the report writing room.*

Ciucci *Okay.*

Fox *Um, so to be clear, and I don't want you to guess, I only want you to speak from what you actually recall. When you got here in that 7 to 7:30 window, you went from the locker room, did all the things that you said you did, and then went up here to the training room, but did not go to the report writing room to work on reconciling evidence?*

Smithmatungol. *So that was the plan to go to the report writing room to log in on to e.com to log into RIMS. But I don't know why I went upstairs, but I just went upstairs at that time.*

Fox *Okay.*

Ciucci *Okay. Alright. With that said, I'm gonna go ahead and conclude the interview. It is 1104 still Friday the 31st. And standby if I can figure this out. That one is done and turned off. And this one now.*

I have used all reasonable diligence in reviewing this transcription and to the best of my knowledge the information contained herein is true and complete.

Chris Ciucci
Investigator

3/18/26
Date

DALY CITY POLICE DEPARTMENT MEMORANDUM

TO Acting Chief of Police
Cameron Christensen

FROM Sergeant Matthew Ciucci #68

SUBJECT Administrative Investigation **24-07/Officer Smithmatungol #150**

BACKGROUND

On October 28, 2024, Administrative Directive 5918 was forwarded to me from Acting Chief of Police Christensen, requesting an administrative investigation be conducted on the following incident:

Request for Administrative Investigation:

DALY CITY POLICE DEPARTMENT
Memorandum

October 28, 2024

To: Chief of Police

From: Sgt. Karen Douglas #78

Subject: Request for Administrative Investigation – Officer Smithmatungol #150

On Friday, 10/25/2024, Off. Smithmatungol worked his normal B-graveyard shift, and was assigned to Beat 4. At the beginning of the shift, I assigned him two subpoenas in his beat: One for [redacted] *at* [redacted] *and the second for* [redacted] *at* [redacted] *The team was short that night and the shift was very busy with dozens of calls for service throughout the night, and several in-custody arrests.*

The following morning, Off. Smithmatungol handed me the two subpoenas as I was sitting in the sergeant's office. As he gave them to me he said, "I tried serving them, but they weren't home. I was out in Beat 1 most of the night." I didn't understand what he meant by the second sentence, but told him something along the lines of, "Thank you for at least attempting them. You were the only one who tried since it was so busy last night and I appreciate it." He said, "No problem."

I reviewed the subpoenas which showed the following:

[redacted]:
Time 2123 hrs.
Remarks: "No answer."

[redacted]
Time 2142 hrs.
Remarks: "No answer."

I did not recall hearing Off. Smithmatungol put himself on any subpoena attempts that night. This was out of character for him, since he routinely announces over the radio when he tries to serve them. I reviewed all of Off. Smithmatungol's calls for service that night and saw there were no subpoena attempts.

I recalled I was on a call for service (CAD DP24-48612) at the Westlake Ross with Off. Smithmatungol and Off. Chu around the time frame he said he served the subpoenas. I reviewed the details of that call for service:

DP24-48612, 405 Westlake Center:
Off. Smithmatungol arrived around 2105 hrs. and I arrived at 2114 hrs. Per CAD, we cleared the call at 2130 hrs.

I reviewed Flock for Vehicle 30's license plate (1532483), as well as Vehicle 30's Axon ALPR hits for the entire shift. There were 27 Flock reads and 1,378 Axon ALPR reads, but none from [redacted]

Summary of Flock and Axon Reads:

After clearing the Westlake call at 2130 hrs., Off. Smithmatungol exited the mall and made a left on John Daly Blvd, hitting the John Daly and Eastgate Flock at 2134 hrs. He turned south onto Hwy 35, and made a right onto Westridge Ave., and another right onto Skyline Dr. He traveled north on Skyline Dr., completed a U-turn at Roslyn Ct., and traveled back south on Skyline Dr., turning onto Westridge, and back onto northbound Hwy 35. He turned right on John Daly, hitting the John Daly and Lake Merced Flock at 2142 hrs. He made a right onto Poncetta Dr. at 2143 hrs., traveled west on S. Mayfair Ave. and made a right onto southbound Forest Grove Dr. He traveled south until he hit Belmar Ave., where he made a right, and then another right onto northbound Park Plaza Dr. He turned right onto John Daly, where he hit the John Daly and Poncetta Flock at 2147 hrs. He then responded to a call for service (CAD DP24-48619) in Beat 2, where he arrived at 2152 hrs.

End of summary

On Saturday, 10/26/2024 around 2100 hrs., I responded to [redacted] *As I knocked on the door, a large dog began barking inside.* [redacted] *was not home, but I spoke with her mother,* [redacted]. [redacted] *told me she arrived home around 1730 hrs. on Friday night, and did*

not leave the home until the following day. [redacted] explained her dog barks when he senses anyone outside, and also barks when anyone knocks on the door. No one knocked on her door Friday night, and her dog also did not bark.

On Sunday, 10/27/2024 around 1945 hrs., I met with [redacted], homeowner at [redacted]. The home is on the southwest corner of [redacted] and [redacted]. She had several video surveillance cameras on her home, and I reviewed the one that captured [redacted] for the time frame of 2130 to 2200 hrs. There was no patrol vehicle seen in the footage.

[redacted] is the homeowner [redacted] which is on the north side of the street and intersects with [redacted] sent me surveillance from his home's cameras between 2130 and 2200 hrs. The cameras offer an unobstructed view of all of [redacted]. There was no patrol vehicle seen in the footage.

While I did not do additional research regarding the subpoena on [redacted] there is no evidence showing he attempted that one either.

Based on the above information, I am requesting an Administrative Investigation into Officer Smithmatungol, for violation of Lexipol Policy 340 (Standards of Conduct) 340.5.9, Performance; and 340.5.10, Conduct.

Sgt. Karen Douglas, #78
Division B-2, Graveyard
Field Operations Bureau

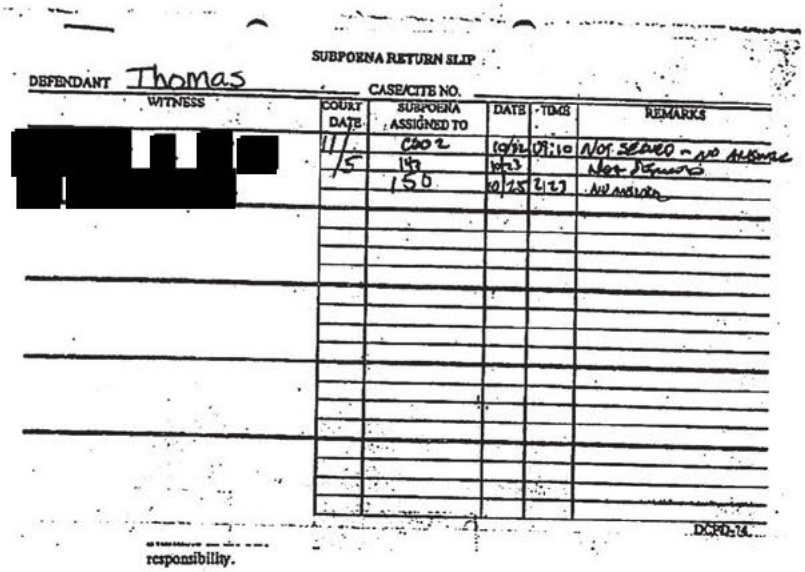
INVESTIGATION

- Reviewed request for an administrative investigation.
- Reviewed DCPD Administrative Directive 5918.
- Reviewed Axon BWC and Fleet Footage.
- Reviewed SMCO CAD.
- Reviewed AXON ALPR GPS Data.
- Reviewed Video Surveillance Footage.
- Interviewed Sergeant Douglas (Witness).
- Interviewed [redacted] (Witness).
- Interviewed [redacted] (Witness).
- Interviewed Officer Smithmatungol (Subject).

INVESTIGATION NARRATIVE:

After receiving the above memorandum, I began my investigation by conducting a review of the two subpoenas that had been assigned to Officer Smithmatungol:

Subpoena #1 was assigned to Officer Kevin Smithmatungol #150 on October 25, 2024. The subpoena was for witness [redacted], with an associated address of [redacted]., [redacted]. It listed an attempted service with a remark of "No Answer" at approximately 2123 hours.



SUBPOENA RETURN SLIP

DEFENDANT Thomas

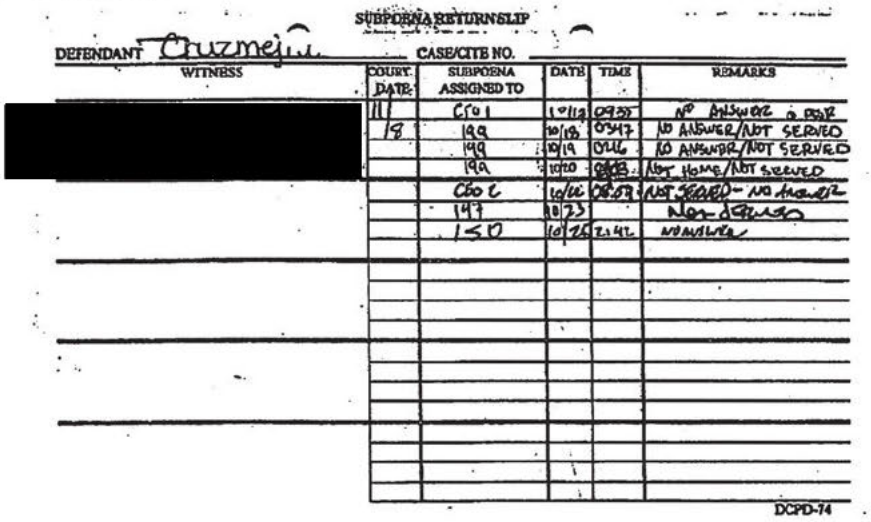
CASE/CITE NO.

WITNESS	COURT DATE	SUBPOENA ASSIGNED TO	DATE	TIME	REMARKS
[redacted]	11/5	C602	10/22	09:10	NOT SERVED - NO ANSWER
		149	10/23		Not Served
		150	10/25	21:23	NO ANSWER

DCPD-74

responsibility.

Subpoena #2 was assigned to Officer Kevin Smithmatungol #150 on October 25, 2024. The subpoena was for witness [redacted], with an associated address of [redacted]. It listed an attempted service with a remark of "No Answer" at approximately 2142 hours.



SUBPOENA RETURN SLIP

DEFENDANT Cruzmejia

CASE/CITE NO.

WITNESS	COURT DATE	SUBPOENA ASSIGNED TO	DATE	TIME	REMARKS
[redacted]	11/	C601	10/13	0935	NO ANSWER 0 DAR
	18	149	10/18	0947	NO ANSWER/NOT SERVED
		149	10/19	0946	NO ANSWER/NOT SERVED
		149	10/20	[redacted]	NOT HOME/NOT SERVED
		C601	10/22	0859	NOT SERVED - NO ANSWER
		149	10/23		Non-Service
		150	10/25	2142	NO ANSWER

DCPD-74

I conducted an audit of Officer Smithmatungol's CAD history for the night of October 25, 2024. At the time of the above incident, Officer Smithmatungol was assigned to the B-Graveyard patrol shift, with a work schedule of Friday-Sunday, 1900-0730 hours.

CAD History Review

The two subpoenas indicated service was attempted on October 25, 2024, at 2123 and 2142 hours. I conducted a search of Officer Smithmatungol's CAD history to create a timeline for his shift. I wanted to establish where he was during the time he stated he was attempting to serve the subpoenas.

- 20:59 hours: Conducts a traffic stop at 892 John Daly Blvd. (DP24-48611)
  - 21:04 hours: Cleared the call and goes 10-8.

- 21:05 hours: Dispatched to a Shoplifter at Westlake Shopping Center. (DP24-48612)
  - 21:05 hours: Arrives onscene.
  - 21:30 hours: Cleared the call and goes 10-8.

- 21:46 hours: Dispatched to a Suspicious Person on Mission St. (DP24-48619)
  - 21:52 hours: Arrives onscene.
  - 22:02 hours: Cleared from the call and goes 10-8.

- 22:05 hours: Conducts a traffic stop at 2300 Junipero Serra Blvd. (DP24-48621)
  - 22:17 hours: Cleared the call and goes 10-8.

- 22:19 hours: Conducts a traffic stop at Park Plaza Dr./Southgate Ave. (DP24-48622)
  - 22:23 hours: Cleared the call and goes 10-8.

- 22:25 hours: Dispatched to Suspicious Vehicle at Evergreen Ave. (DP24-48624)
  - 22:29 hours: Arrives on scene.
  - 22:30 hours: Cleared the call and goes 10-8.

- 22:30 hours: Dispatched to a 273.5PC call on Hillside Blvd. (DP24-48625)
  - 02:18 hours: Cleared from the call and goes 10-8.

It appears Officer Smithmatungol traveled "call-to-call" until he became dedicated to a domestic violence investigation on [redacted]. I reviewed the subpoenas in question and noted he attempted to serve Subpoena #1 at [redacted]. at **2123 hours**. Based upon my review of Officer Smithmatungol's CAD log this would have been impossible. At 2123 hours he was still assisting on a shoplifting call at the Ross Store located in Westlake Shopping Center. He would

have been available (free from a call for service) at **2142 hours** when he attempted to serve Subpoena #2 at [redacted]
At no time in his CAD history from October 25, 2024, or October 26, 2024, did Officer Smithmatungol generate a call for service at [redacted]. or [redacted] I know it to be standard practice for officers to generate a call for service whenever they attempt a subpoena service; however, Officer Smithmatungol did not do so for either subpoena attempt.

Axon BWC Review

I conducted a review of the Axon Body Worn Camera footage from the shoplifting investigation conducted by Officer Smithmatungol (DP24-48612).

The video begins on 10-25-2024 at 21:08:25 hours, with Officer Smithmatungol arriving at the Ross Dress for Less Store, located in the Westlake Shopping Center. Officer Smithmatungol remains on scene until 21:30:15 hours. This video confirmed Officer Smithmatungol was at the Ross Store during the time he reported to be serving a subpoena at [redacted] **(2123 hours).**

I conducted an audit of all Body Worn Camera footage and Vehicle Fleet footage recorded by Officer Smithmatungol on October 25, 2024. Due to Officer Smithmatungol working a Graveyard shift, my audit included his BWC footage from the early morning hours of Saturday, October 26, 2024. The audit range was from 10/25/2024 at 20:16:01 hours (first recorded video from his shift) until 10/26/2024 at 06:06:15 hours (last recorded video from his shift). The audit included 40 videos captured during the above timeframe.

I reviewed the footage from all 40 recordings and discovered none of the videos documented a subpoena service attempt by Officer Smithmatungol. This was confirmed by comparing the GPS map associated to each video and the known target addresses of [redacted] and [redacted] I have included a copy of this evidence item report as an attachment to this investigation.

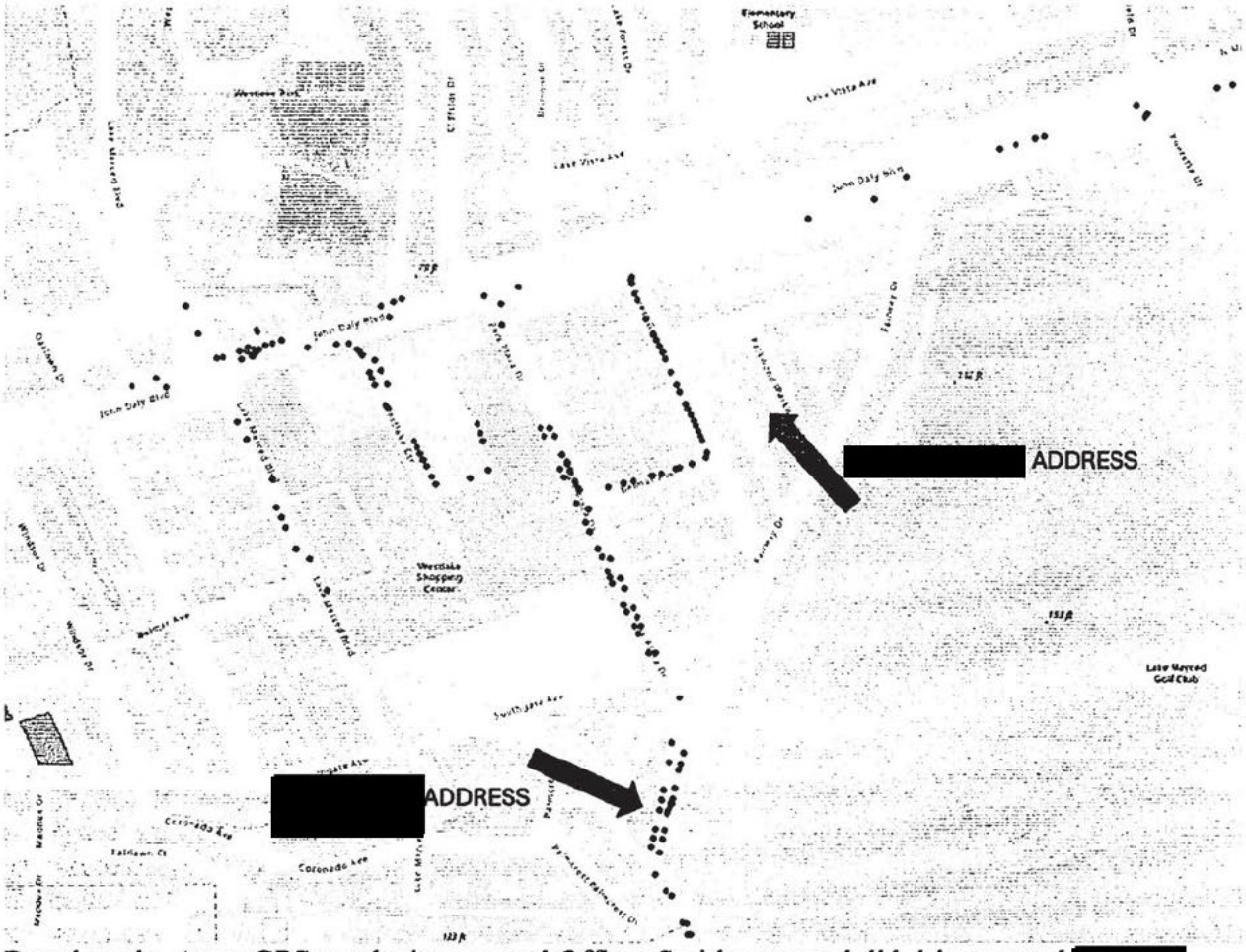
GPS and ALPR Data Review

During my review of the Body Worn Camera Footage, I was able to clearly see Officer Smithmatungol was operating Daly City Police Department vehicle #30. This identification was made by observing the white vinyl vehicle identification number affixed to the driver's side fender.

On December 10, 2024, I met with Technical Services Administrative Assistant Trent Waterman and asked him to inquire about the GPS data recorded by vehicle #30 on October 25, 2024. I am aware this GPS data is recorded through the Versaterm CAD system and is retained by San Mateo County Communications Dispatch. Waterman made an inquiry to County

Communications and learned the Versaterm GPS mapping software was inoperable on vehicle #30 during the timeframe in question. As a result, no data was able to be recovered from the Versaterm GPS system.

I then reviewed Vehicle 30's Axon Automated License Plate Reader (ALPR) data from Officer Smithmatungol's entire shift. As vehicle #30 drove through Daly City, its Axon fleet camera was capturing photos of license plates as it traveled along the roadway. Each time a license plate was captured by the camera, it generated a digital photograph that has an associated GPS location documenting where the photo was taken. These photos are time stamped with the exact time the ALPR photo was captured. I met with Waterman who was able to overlay these GPS data points and create a map of where Officer Smithmatungol's vehicle drove throughout the night. It was immediately apparent **his patrol vehicle never traveled on [redacted] during his 12.5-hour shift**. He also never traveled on [redacted], which are the only two streets that intersect [redacted]



Based on the Axon GPS results it appeared Officer Smithmatungol did drive passed [redacted] on two occasions during his shift. On October 25, 2024, at approximately 2053 hours, he drove passed [redacted] and continued northbound. It does not appear that he stopped to serve a subpoena based upon the continuous ALPR photo reads collected by his police vehicle's Axon ALPR system.

The second time Officer Smithmatungol traveled on [redacted] was at approximately 2218 hours, when he turned onto northbound [redacted], from westbound [redacted]. At approximately 22:19:29 hours, he conducted an enforcement stop almost directly across the street from [redacted] (DP24-48622). The ALPR data shows him conduct his stop and then continue traveling northbound on [redacted] after he releases the driver with a warning. Based upon the ALPR data and the BWC footage I reviewed, it would be impossible for Officer Smithmatungol to attempt a subpoena service immediately before or after conducting his car stop.

Nest Doorbell Camera Review

I had Sergeant Douglas provide me with a copy of the Nest camera video footage from [redacted] Sergeant Douglas had obtained the video from homeowner [redacted] The video is from the front of [redacted] home and faces south. The camera has a clear view of [redacted] and the entire roadway leading to the residence. The video captures from 2130 to 2200 hours on October 25, 2024. Upon reviewing the video, I noticed a police vehicle never traveled to [redacted] during the above time frame.

On January 30, 2025, at approximately 1345 hours, I traveled to [redacted] and met with [redacted] in person. [redacted] provided the following statement:

[redacted]

Statement of [redacted] summarized and BWC recorded:

[redacted] recalled meeting with Sergeant Douglas on October 27, 2024, when he provided her with Nest video surveillance footage from his residence. In approximately 2020, [redacted] installed his home surveillance system by himself. On a scale of 1-10, [redacted] would rate his familiarity with the video surveillance system at approximately a "six…seven." He uses the system on a daily basis, by reviewing it constantly. The date and timestamps on the video are controlled through the web-based Nest application and they cannot be manipulated by the user. This level of control ensures the timestamps are true and accurate. [redacted] video only saves for 30 days on his cloud-based storage system. [redacted] had no further videos from the night of October 25, 2024.

End of Statement

At the conclusion of my review of the digital evidence in this investigation, I noted the following facts:

- Officer Smithmatungol never generated a call for service for either subpoena service attempt.
- Officer Smithmatungol never activated his BWC for either subpoena service attempt.

- Based on the Axon video footage noted above, Officer Smithmatungol was not at [redacted] Drive on October 25, 2024, at 2123 hours, as he had documented on his subpoena form. At that exact date/time there is Body Worn Camera video of him handling a call for service at Ross Dress for Less located in the Westlake Shopping Center (DP24-48612).
- Based on the video surveillance footage I reviewed from [redacted], Officer Smithmatungol never drove to [redacted] Dr. on October 25, 2024, between 2130 and 2200 hours.
- Based on the vehicle GPS data I reviewed, Officer Smithmatungol never traveled on [redacted] Drive, [redacted] Drive or [redacted] Avenue during his entire 12.5-hour shift.
- Based on the vehicle GPS data I reviewed, it was clear Officer Smithmatungol was not at [redacted] Drive on October 25, 2024, at 2142 hours, as he had documented on his subpoena form. At that exact date/time there is ALPR data of him traveling eastbound on John Daly Blvd.
- Based on the vehicle GPS data I reviewed, it appears Officer Smithmatungol never stopped his vehicle in front of [redacted] Drive long enough to attempt a Subpoena Service.

WITNESS INTERVIEWS:

On Thursday, January 30, 2024, at approximately 1326 hours, I traveled to [redacted] Dr. and attempted contact at the residence. As I knocked on the front door, I immediately heard a large breed dog aggressively bark from inside the residence. After waiting several seconds, I pressed the doorbell and could hear an audible chime emanate from inside the residence. The dog continued to bark until the garage door opened and a subject named [redacted] exited informing me he had a "very unhappy German Shepherd." I introduced myself and he agreed to speak with me.

[redacted]

Statement of [redacted] summarized and BWC recorded:

[redacted] recalled that on October 26, 2024, Sergeant Douglas traveled to his home and inquired about an attempted subpoena service the night before. [redacted] confirmed that he and his family were home on October 25, 2024 (during the day and night) and no one came to their home. He explained that his German Shepherd named "Bear" is extremely protective of the residence and barks uncontrollably whenever someone knocks on the front door or rings their doorbell. No one attempted contact at their home on October 25, 2024.

POST CASE NUMBER: POST2505140

SUBJECT OFFICER NAME: Kevin Smithmatungol

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Daly City Police Department on 1/31/2025 with Officer Kevin Smithmatungol, who is the subject of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Central Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON AI transcription. This transcript was prepared by Law Enforcement Consultant Christina Moore, Professional Conduct Central Bureau.

Parties Present:
Sergeant Matthew Ciucci, Daly City Police Department, Primary Investigator
Officer Kevin Smithmatungol, Daly City Police Department, Subject
Julia Fox, Rains Lucia Stern, Representative for subject officer

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Ciucci *Recording. Okay. So it is Friday, January 31st, approximately 1105 hours am, sorry. Um, this is Sergeant Ciucci, currently in the Daly City Police Department Professional Standards Unit office, with me is Officer Kevin Smithmatungol. Kevin, if you could please say hi.*

Smithmatungol *Hello.*

Ciucci *Thank you. And, uh, you have, uh, your retained counsel with you, who is Mrs. Julia Fox from Rains, Lucia, and Stern. If you wouldn't mind saying hello?*

Fox *Sure. Julia Fox.*

Ciucci *Perfect. Um, officer Smithmatungol, you are in here as a subject officer, uh, for Internal Affairs investigation, 24-07. Uh, um, I'm gonna read you the administrative admonishment. If at any time during the reading this admonishment, if there's anything you don't understand, please ask me and we can get you the clarification that you need, all right? Um, you are hereby advised that an administrative investigation is in process within this department in which it has become necessary to obtain a statement from you. If you cooperate fully at this time, your statements and any evidence arising there from may be used in any and all proceedings arising out of this investigation. As a citizen and an employee of this department, you're hereby advised that if prior to or during the taking of your statement, this department determines that you may be charged with a criminal offense, the proceeding will be stopped, and you will be advised of your constitutional rights and given an opportunity to obtain legal counsel. If you decide not to give a statement at this time, you're now ordered as an employee of this department to answer all questions asked by investigators and to give a full, detailed, and complete statement regarding your knowledge of or involvement in the matter now under investigation. Although you have a right to silence in criminal investigations, this is not a criminal investigation, but an administrative hearing and you're now being ordered to tell all, excuse me, to answer all questions under the compulsion of threat of disciplinary action. False statements, of course, will result in severe disciplinary action. Members are always required to be truthful. Please see Daly City Police Department Manual Rules 4.96, which is truthfulness. I'm gonna go ahead and hand you this admonishment and I'll show you the last sentence, which says, I have read the above admonishment order and I fully understand my rights and duties in this investigation. Please look it over and if comfortable, please sign the bottom and date and time. Mrs. Fox, if can ask you to be the witness.*

Ciucci *Beautiful. Thank you. All right, so we're gonna dive in. Reminder, I'm an independent fact finder. I'm just here to get your statement. I'm here to get all the facts and then I present it to the chief, it's given to a lieutenant, and they do the findings and recommendations. So today, this is just an interview, okay? Um, please be truthful about everything I ask and we'll begin here. Um, so on Friday, October 25th, 2024, uh, you were working your B graveyard shift when you were given two citizen subpoenas to serve. Does this sound familiar?*

Smithmatungol *Yes.*

Ciucci *There is hesitancy when you say yes. Um, explain to me why you have a little hesitancy in your voice when you said yes.*

Smithmatungol *That exact date and, uh, we get subpoenas almost, almost every day. I mean, I dunno those two exact subpoenas, I don't know the names on. I don't remember. It's October.*

Ciucci *Let's do this. I have copies of two subpoenas that I'm gonna walk over to you. I labeled one, uh, for defendant* [redacted] *as attachment one, and I've labeled one for defendant* [redacted] *as, uh, attachment two. Okay. I'm gonna walk these over so we can all look at 'em together. Okay. So here we go. Uh, attachment one is gonna be for* [redacted] *attachment two for* [redacted] *And what we'll do here is I just kind of want to go through these together with both you. Uh, okay. Uh, I know based on my understanding of Daly City, uh, uh, both, uh, policy as well as just our practice, that in briefing the sergeant or their designee goes ahead and hands out the subpoenas. Is that also your*

understanding? Okay. Um, the sergeant or the designee is gonna write the badge number denoting what officer's gonna receive this subpoena. Is that also your understanding?

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *Okay. Badge number 150. Is that you?*

Smithmatungol *Yeah.*

Ciucci *Beautiful. Is that 150 your handwriting?*

Smithmatungol *No.*

Ciucci *Okay. Um, following the badge number 150 on both subpoenas, there is a correlating date, time, and a remark section. Uh, there, there's a, a remark that's noted. On attachment number one it says under date 10/25, under time it says 2123, under remarks it says no answer.*

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *Are those three boxes filled out that I just, that I just said that, is that your handwriting?*

Smithmatungol *Uh, not the date, but the time that I answered.*

Ciucci *Beautiful. So the date is filled out, presumably without guessing, but by someone else maybe who gave you the subpoena?*

Smithmatungol *Yep.*

Ciucci *But the time and remarks is yours?*

Smithmatungol *Yep.*

Ciucci *Okay. Same thing for attachment number two. Uh, 10/25 is the date on here you're writing?*

Smithmatungol *Yep.*

Ciucci *Okay. How about the time and the remark?*

Smithmatungol *Yes.*

Ciucci *So 2142 hours no answer. That's your writing?*

Smithmatungol *Yep.*

Ciucci *Okay. Um, I'm just gonna leave those there 'cause I think it's easier in case we have to reference 'em. Um, walk me through this, when you attempt a subpoena service, um, how do you generate a call? What do you do? Do you broadcast your location on the air? Uh, do you create a call for service in Versiterm? How, how do you do it?*

Smithmatungol *I usually broadcast on the Air.*

Ciucci *Over the air? Is that your standard practice?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, do you ever do, uh, a self-generated call in Versiterm where you open up a call for service added it in so as you don't, you tie up, uh, radio airspace?*

Smithmatungol *No.*

Ciucci *No. Don't do it. Okay. When you do a subpoena service, do you activate your body-worn camera?*

Smithmatungol *Not unless someone opens the door.*

Ciucci *Not unless someone opens the door?*

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *Okay.*

Smithmatungol *Or I make contact with someone at the residence.*

Ciucci *Okay. So if there is no interaction with a human that you don't open, you don't, uh, activate your BWC?*

Smithmatungol *No.*

Ciucci *Okay. When you fill out subpoenas, uh, the portion that you said with the time and the remarks, what is your standard practice? Do you, do you go to a home, there's no answer, you immediately fill it out and, and retain it in your car? Do you do it at the end of your shift? Is there, do you have a standard practice or is there really no? What do you do?*

Smithmatungol *I don't have a standard practice.*

Ciucci *So you will just fill that out at some point before you turn it in at the end of your shift?*

Smithmatungol *Correct.*

Ciucci *Okay. Um, what are the dispositions in the remarks that you commonly use? Uh, if you could name the ones that you, that you're like, these are the, whenever there's a remark, these are the common ones that I, I put on there.*

Smithmatungol *Uh, for on the MDT or on this?*

Ciucci *No, on this. So, when you go ahead and you fill out your remarks, um, if no one's home, what would you write? If someone, hold on. If someone is home, what would you write? If, uh, you do get the person you serve, it beautiful. If you talk to somebody, nobody's there. If you could walk me through your standardized remarks.*

Smithmatungol *If there's no answer at the door, I didn't make contact with anyone, I put no answer. If I made contact someone and serve the paperwork, I put served.*

Ciucci *Okay. Um, do you ever use not served?*

Smithmatungol *Uh, no, because we got in trouble for, as a department, for not attempting to serve the subpoena.*

Ciucci *Would you say that not served as somewhat am a little bit ambiguous, where, I don't know. Does not serve mean you actually went to a house? Does it mean you just didn't do it?*

Smithmatungol *I think in our, in our, uh, it could go both ways. Either not served as you didn't attempt to serve or not served as they didn't.*

Ciucci *Okay. And then served, you said self-explanatory, you served the subpoena.*

Smithmatungol *Correct.*

Ciucci *And obviously that page would be ripped off. You give 'em their copy, it's beautiful. Do you ever use not home?*

Smithmatungol *Maybe once or twice, but I usually don't.*

Ciucci *What would you, what would your understanding be of the remark not home?*

Smithmatungol *Uh, we made contact with an, an individual but not the person we're, uh, serving. So it might be a family member and they're saying they're not home until tomorrow.*

Ciucci *Okay. Um, no attempt. Do you ever use no attempt?*

Smithmatungol *No. I don't remember using, I don't remember the last time using no attempt.*

Ciucci *No attempt. So let's say you were to get a subpoena, the night goes wacky, you were going call to call, to call, to call, to call to call, you never even were able to serve that thing. What would you write?*

Smithmatungol *Um, I think on B graves what we do is we leave it blank, turn it in, and then they would give us the same ones the next day.*

Ciucci *What if you got that subpoena on your Sunday? Sunday night, that's your Friday. So that was your last chance to, to, to serve this thing in your three day tour, what would you write if you never had an opportunity?*

Smithmatungol *Uh, not served.*

Ciucci. *Not served. Okay. So the one that, that we're not supposed to do, uh, because we got in trouble, but not served is the one you think?*

Smithmatungol *Uh, yeah.*

Ciucci *Okay.*

Smithmatungol *Or maybe either it's either not served or no attempt, it's one.*

Ciucci. *Okay. So no attempt would be one that you would use in that scenario?*

Smithmatungol *Correct.*

Ciucci *Okay. So maybe you've used no attempt before?*

Smithmatungol *Maybe, but I don't remember when.*

Ciucci *Okay. Maybe used, but if you did use it, you would characterize it as never had an opportunity to serve this thing?*

Smithmatungol *Correct.*

Ciucci *Okay. And then for no answer, walk me through what is your definition of writing no answer.*

Smithmatungol *Uh,I park my car.*

Ciucci *Okay.*

Smithmatungol *I go to the door, knock on the door, give it a, a minute or two, knock again. If they don’t answer, I just return back to the car and leave.*

Ciucci *Parked car, knock, no answer.*

Ciucci *Okay. So these two subpoenas in question, they both say, uh, no answer, correct?*

Smithmatungol *Correct.*

Ciucci *Okay. Looking at your writing, your remark, what is your belief that you did on both of these subpoenas based on the definitions you just gave me?*

Smithmatungol *Exactly what I did. I parked my car, walked up, knocked, didn't get an answer, left, continued on with the day.*

Ciucci *Okay. So, and to be very clear, does seeing these, uh, two subpoenas and the address is on 'em, one is on* [redacted] *one is on* [redacted] *if I'm not mistaken, do they specifically ring a bell? You've now talked about subpoenas in general and kinda your philosophy, but do you remember these two subpoenas specifically?*

Smithmatungol *Not, not these specific subpoenas.*

Ciucci *Okay. Um, okay. Excuse me. And before I go further, I just want just things to remind everybody of, you're aware that police cars have several different layers of GPS, um, via the CAD system via all the ALPR craziness, right. Um, and also as a police officer, you're aware 'cause you have solved numerous crimes. Um, home video, ring doorbell, cameras is, everybody's got 'em. It's how we solve homicides. It's how we solve package thefts from the mild to the wild. Okay. Um, so on October 25th at 2123 hours, uh, did you drive to the residence of* [redacted] *Drive and attempt to serve that subpoena right there?*

Smithmatungol *I did.*

Ciucci *You did? How do you remember that?*

Smithmatungol *Uh, well, I mean, the subpoenas, I I, I always try to serve 'em. I don't try not to serve 'em. I mean, they're part of the job. They, I have to do it. Um, so I would say I went to the house, I knocked on the door and, no answer, I left.*

Ciucci *Okay. Um, so at 2123 hours, uh, on October 25th, you were actually on a call for service at the Ross Dress for Less at West Lake Shopping Center. Does that ring a bell? It's you and Officer Chu and you were dealing with, uh, essentially, uh, a suspicious unruly subject. Does that ring a bell?*

Smithmatungol *Not that particular call.*

Ciucci *Okay. Um, you were on that call in CAD until 2130 hours. Um, that subpoena says 2123 hours. Um, is there an explanation or something that I should be aware for why the subpoena would say that you were serving that subpoena at 2123 hours, um, when in fact you were on a different call for service?*

Smithmatungol *I don't, I think I was, I served it before that call.*

Ciucci *I don't want thinks, I just want to, but I, going forward, I just, if you recall, perfect. If you don't recall, perfect. I just need to know an answer of, of why there would be a discrepancy on the time.*

Smithmatungol *I don't remember. Sorry, I don't remember. Can you repeat the question again?*

Ciucci *No, that's, and that, and that's fine.*

Fox *Um, how is it that you could be at Ross at the time indicated but this subpoena seven minutes prior?*

Smithmatungol *I don't remember writing the times exactly right after I did it. I think it was served. I attempted to serve it, went to a different call and then filled it in later. But I didn't put exactly the time I served it.*

Ciucci *Okay. Um, so if I'm understanding correctly, you physically attempted to serve the subpoena, but you filled in the time at a later date and potentially you mis-recorded the, the, the exact time.*

Smithmatungol *Correct.*

Ciucci *2123 is pretty specific. I know if I was a recorded time, I would probably, if I was gonna generalize, I would give you, uh, uh, division of 10. So at 2030 hours or whatever it may be, 2123 is pretty specific. What would make you think that you would choose such a specific number?*

Smithmatungol *I, I don't remember.*

Ciucci *Okay. Um, you told me that your process is you broadcast your location over the air. I've reviewed cad uh, you never broadcasted this location or the other location on air. Is there a reason why that you, you have a subpoena service but you did not broadcast it?*

Smithmatungol *Sometimes I just forget to do it. I just, I just pull up, I go in, I knock, and I leave.*

Ciucci *Okay.*

Fox *Can you say definitively that GPS on your patrol car would show you at these two addresses on this date?*

Smithmatungol *On that day, yes it will.*

Ciucci *During the time that you wrote on the subpoenas?*

Smithmatungol *Maybe not the time, but on that day I did.*

Ciucci *Okay Um.*

Fox *Close in time?*

Smithmatungol *Maybe.*

Fox *Okay.*

Smithmatungol *Can't say exactly.*

Ciucci *Okay. On October 25th at 2142 hours, did you drive to the residence of* [redacted] *and attempt to serve a subpoena?*

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *Okay. Uh, can you say yes or no? Uh help me out with the Uhhuh?*

Smithmatungol *Yes.*

Ciucci *Yes. Okay. Um, did you generate a call?*

Smithmatungol *No.*

Ciucci *Do you recall not generating a call?*

Ciucci *I, I just wanna make sure, do you recall not generating a call for service?*

Smithmatungol *I don't recall. Um, I, I was probably just thinking about just going in, getting it done, leaving.*

Ciucci *Okay. And then I've reviewed your BWC and there is no activation fo* [redacted] *at* [redacted]*. Is there a reason why that there wouldn't be an activation for* [redacted] *at* [redacted]*?*

Smithmatungol *'cause there's no answer.*

Ciucci. *No answer. Okay. Um, the homeowners at* [redacted] *I talked to 'em, they have a massive German shepherd. That massive German shepherd goes nuts. And they are alerted every time <laugh> someone's at the front door, including myself when I went to go, um, that someone's at their house, someone's at the property, the dog goes nuts. Um, I met with the family. The family stated that they were home that night and that nobody answered or nobody knocked on their door. Is there a reason that the family with this, uh, crazy guard dog, uh, who was home during the evening hours, is there a reason that they would tell me that nobody knocked on their front door when they have a really unique kind of circumstance that alerts them when someone's at their home?*

Smithmatungol *No. I mean, I, it's a subpoena. It's not worth my job.*

Ciucci *No, and I get that and I get that. Um, but likewise, is there a reason that there would be a discrepancy between a homeowner telling me that nobody came to their home last night because their dog is gonna lose their bananas and they were home and awake during that time? Uh, is there a reason that they would be telling me that yet you are saying that, Hey, I went up there and I knocked on the door. So how can we, is there a a way to explain that discrepancy between your story and theirs?*

Smithmatungol *I,I don't have a reason to.*

Ciucci *Okay.*

Fox *Do you recall hearing a dog?*

Smithmatungol *Uh, I, I don't recall at all. I mean, it's October. I don't, I don't remember a couple months ago.*

Ciucci *Okay. So I was, there's, there's video camera surveillance footage, uh, that actually shoots all of* [redacted] *Uh, and it's on* [redacted]*, the adjacent* [redacted]*, the adjacent street that starts with the letter C. Um, and I pulled the video and the video was pulled for the timeframes in which, uh, that you're, you, you stated you served this subpoena, and your patrol vehicle's never on the street. And so is there a reason why, in your recollection you're remembering that no, I was there, I served this thing, yet I have no video of your vehicle being on the block, uh, to serve this subpoena*

Smithmatungol B*ecause it could have not been that time. I, like I said, I don't, I, I think I just put a random time on there, but I showed up that day.*

Ciucci *Okay. Help me understand uh, just putting a random time. Uh, if I, let's say I forgot. Let's say I forgot to put out my location over my radio and it wasn't in cad. I'm sitting there going, when did I go out there this evening? I think I tried to make an educated guess, say, hey, it was after this call, before this call, try and like lock it in. When you say, I just put a random time, help me understand a random time, like what amount of window of time would I need? Is there gonna be you writing on there 2123 hours when you actually served it at 5:00 AM? Is there gonna be that much of a difference?*

Smithmatungol *I believe it was in the beginning of the evening, beginning of the shift, but I can't say exactly the exact time.*

Ciucci *So in the video I have from a homeowner mm-hmm <affirmative>, of the street and the ring camera, if I review it from the time you went ten eight, uh, which is, uh, B Graves seven A 7:00 PM. Excuse me. So I'll just say, at the time, briefing began 7:00 AM or 7:00 PM, excuse me. And then I stop it at, let's go as far as eight in the morning, just in case, uh, at the end of your shift and 30 minutes over, and I watch every second of it, am I gonna see your cop car on* [redacted]*?*

Smithmatungol *It should.*

Ciucci *It should or it will.*

Smithmatungol *It should.*

Ciucci *Why would you choose the verbiage it should rather than it will,*

Smithmatungol *I can't explain. Um, it will.*

Ciucci *It will?*

Smithmatungol *Yeah.*

Ciucci *Okay. Um, do you think there's a problem if it doesn't?*

Smithmatungol *Yeah.*

Ciucci *What is that problem? in your mind, if, if I'm saying I have, I have this video surveillance footage and I don't see your vehicle during a 12 and a half hour shift, do you, you just said, yeah, I, I could see it'd be a problem. What kind of problem is that?*

Smithmatungol *Integrity.*

Ciucci *Okay. And whose integrity would be brought into question?*

Smithmatungol *Mine.*

Ciucci *Okay. Do you recall a conversation you had with Sergeant Douglas at the end of your shift when you turned in those two subpoenas, uh, uh, and she actually commented on the fact, thank you for trying to serve them? Do you recall a conversation?*

Smithmatungol *No.*

Ciucci *Okay. Um, do you recall during a conversation where potentially she actually applauded you and said, thank you for trying to serve them because nobody else had the opportunity?*

Smithmatungol *No.*

Ciucci *Okay. Um, uh, during your career as a, as an officer here, um, have you ever served, have you ever written on a subpoena, uh, the wrong disposition? To your recollection, have you ever written, you even said, excuse me, not served is the one that you, we can't, we're not allowed to use anymore because we got in trouble with the District Attorney's office, have you ever written the wrong disposition for something?*

Smithmatungol *I should, yeah. I mean, I've made mistakes on subpoenas.*

Ciucci*. Okay. Um, uh, do you have any reason in your mind right now to believe that you made a mistake on these two subpoenas? Is there anything in your mind that'd be like, yeah, maybe I did or maybe I didn't? Uh, is there anything about looking at those two subpoenas that you think that there could be a mistake or not?*

Smithmatungol *Maybe I did. I don't remember.*

Ciucci *Because as I, I gave, uh, I threw out in the middle of that thing about, hey, technology, we have GPS, all that. When reviewing your GPS, if I don't see your car stopping on* [redacted] *Drive or on* [redacted] *Drive, do you believe that that would be an issue? If during your 12 and a half hour shift, looking at the GPS for your vehicle, that I don't see you on* [redacted] *uh,* [redacted] *or, uh,* [redacted] *Drive, do you, do you see that as an issue?*

Smithmatungol *Yeah.*

Ciucci *Okay. And again, same line of questioning, what kind of issue would that be in your mind? What, what, what do we have?*

Smithmatungol *My integrity.*

Ciucci *Okay.*

Fox *And that was your experience? That's not a hypothetical. I'm just trying to track that was your experience. You reviewed 12 hours of GPS?*

Ciucci *I have reviewed GPS and I do not see his car. Uh, I have to go back and review again the exact timelines, but as of right now, the timelines for the, uh, written times of 2123, 2142, ua bracketing there within this vehicle's not parked on the street. Um, and I do not have your vehicle showing up on video. Now I'm not trying to trick you in any way into a statement right now. I have to go review a lot more than the original bracketing I have. Um, and that's why before I begin reviewing it, I need to know exactly what type of issue I'm looking at. Is this an issue of recollection? Is this an issue of not understanding, uh, uh, the, the definition or dispositions or do I have an integrity issue? And that is exactly where I'm at right now, is trying to figure out and decipher what I am looking at.*

Fox *And I imagine you all have a cutoff time with regard to when you can serve a subpoena, right? You can't disturb a family at 1130 at night.*

Ciucci *Believe it or not, we will go to family homes because a lot of times people will say, hey, I work, I work daytime day shifts, please come at night. And so, uh, I'd say graveyard shift as any other shift gets subpoenas, generally try to serve it before it gets too late and before it gets too early. Um, but there's no, no exact cutoffs on times. It's fluid with the understanding don't knock the door at 2:00 AM.*

Fox *Yeah.*

Smithmatungol *Is there a possibility I could look at the cases I took that day?*

Ciucci *Yeah I have RIMS up.*

Fox *Can you say unequivocally, you would never write no answer if you went to a residence and there was no answer?*

Smithmatungol *We could either, no answer officer or not served.*

Fox *Okay.*

Ciucci *You wanna see the case log for that day in general, everybody on your team, or do you wanna just look at yours?*

Smithmatungol *Uh, everybody on that team so I can remember what--*

Ciucci *Not a problem.*

Ciucci *Okay. Date occurred. Kevin, come on over. Let me click search. So I've gone into RIMS, our case management system, and I have pulled up, okay, these are all the cases from, I made it. Standby, excuse me. There we go. Cases from 10/24 to 10/25. So this is kind of a different look than what you're used to. Um, but what I can do is, is bracket you in and we will look at officer PSN numbers and times and dates. So, 655, 6. Let's look at this one right here. [redacted]. 1335 hours on 25th. That is before your shift began. I went the wrong direction. Excuse me. Speed. 5:30 on the 25th. Nope. Sorry. Here's my issue. Now we're running. 1942. 25th. Okay. So from here, case number 65, 62ish, all the way down until your shift 'cause you overlap on the graveyards going into the 26th all the way down to here. So you guys had, somebody was unlicensed on [redacted] a tow [redacted].*

Smithmatungol *That's our team.*

Ciucci *This is your guys' right here, this block. That would've been the b graveyard timeline because we're coming in at the 26th on zero right after midnight. So from right here to right here looks like, uh, organized retail theft at Serramonte, a CPS cross report, a DV uh, narcotics, stolen car.* [redacted]

[redacted] *got a stolen car, probably kind of one you would remember from the night on a Honda Civic. Arresting those two defendants.*

Smithmatungol *And then I took a DV that day,*

Ciucci *I think. Uh, what's your PSN 2 2 0 5. 2 2 0 5. You took a DV at 306 Westlake Center at the Halloween store. And 2 2 0 5. That's all I got for you for that date.*

Smithmatungol *Can I see the people on that screen on me?*

Ciucci *Yep.*

Smithmatungol *Oh, what's that day?*

Ciucci *Uh, 10/26. So this was right after midnight. So on 10/26, that would've been Saturday the 26th. So your shift begins on Friday, rolls into Saturday 10/26, approximately 0014 hours, the defendant and the victim, uh, were arrested in the parking lot. Okay. Slammed the head against the dashboard of the vehicle. You located the people in San Francisco and transport to jail. Ring a bell on that part at least?*

Smithmatungol *Yeah.*

Ciucci *Okay.*

Fox *No, let's take a break.*

Ciucci *Yep. Uh, I, I, not a problem. It is, uh, 1135 hours. And, uh, per the request, we're gonna take a break. Gimme one moment. One is paused. This is my personal phone. What am I doing? Um, and second one is on pause.*

Ciucci *Okay. Sergeant Ciucci, uh, same day, same time. It's, uh, 1144 hours and we have resumed. You guys just took a little break and we're back. Okay. So before we had gone on the break, um, I was trying to understand, uh, essentially how you could be at these addresses when I'm not showing you there, based upon evidence that has been retrieved prior to this in, uh, this interview. Um, you have stepped out. Is there any clarity that you can give me as to why I'm not showing your vehicle at these locations?*

Smithmatungol *I genuinely don't remember serving the subpoenas. Okay. That's why I wanted to see the calls from that day 'cause I wanted to narrow down what happened that day. I generally don't remember.*

Ciucci *Okay. Um, if you don't remember, um, can you help me understand, because I, I don't believe it to be your, your standard operating procedure that you would just write frivolous dates and times and, and remarks on a subpoena. I, I, I don't, I don't have any reason to believe that. So if you don't remember this incident, help me understand how, uh, I would have discrepancy on the time and how maybe a remark would not accurately reflect the actions that occurred that day? Is there anything that you can do to help me understand it?*

Smithmatungol *I don't remember why I put these times. These aren't specific times that I would remember. And I don't know why I would put these on here, but I did.*

Ciucci *Okay.*

Smithmatungol *And I genuinely don't remember.*

Ciucci *Okay. Is there a reasonable explanation that you could think of that would help me understand why those dates and times would be there? Um, anything that would make sense to you? Uh, not saying that that's your guessing what would happen, but just essentially is there, is there a logical explanation you could think of why it would say served or, excuse me, no answer and have a specific date and time?*

Smithmatungol *I don't, I don't know when I wrote these, I don't know why I wrote these. I, I just don't.*

Ciucci *Okay. Um, and it's difficult for me on my end to, to, to understand it. It is, it, it truly is. I'm not gonna give you any baloney. I, I have a difficulty understanding how, uh, a date and a time and a remark could be on there, um, if it wasn't what occurred. Um, and so I, stopping this interview or ending it, um, kind of having that as like the lingering last, uh, um, clarification or words on it is troublesome to me. It, it truly, it truly is. Um, because then at that point I'm left to compile the evidence and when we're looking at the, the findings and recommendations, it becomes, I have a document that has a date, time and remarks. I have an officer who initially said, yeah, of course unequivocal. I would be there. I I did it, I did it. And then now is at a point of, I don't remember. And so that, that kind of timeline, that transition across, it troubles me. It truly does. And so I, I ask, is there anything that you can, uh, provide me without specific questioning, uh, without specific yes, no's back and forth, that can help, uh, add circumstance, context, or understanding of why those would be written as they are, but why they wouldn't be supported with any factual evidence?*

Smithmatungol *I, I, I don't, I, I'm trying to think of something, but I dunno why I would put no answer if I didn't serve 'em. I really don't.*

Ciucci *Okay. Have you ever gotten in trouble for not serving a subpoena before, either formally or informally? Informal meaning your sergeant just goes, hey, what are you doing and, and has a, a little talk to you about it. Have you ever had, uh, anything like that in your career?*

Smithmatungol *To my knowledge, no. I've never gotten in trouble for a subpoena.*

Ciucci *Okay. Do you recall ever being in trouble for a subpoena? Kind of a more of a yes or no? Yeah, I think you would know. I, i I like to hope you would know if you were in trouble for a subpoena previously.*

Smithmatungol *Maybe putting, not served.*

Ciucci *Okay. That's an understandable thing. 'cause you said that was something that got brought up, not served. Um--*

Fox *Anything in addition to that?*

Smithmatungol *No, I've never was confronted about serving subpoenas. I I've never been any of that sort.*

Ciucci *Do you have any reason to, uh, misrepresent fact, in order to avoid punishment or avoid confrontation with supervisors, is there anything that would cause you whether the intent is a, a, an honorable one or not, that would cause you to go ahead and, and say that you serve something or you attempted to, even if you didn't, do you have a reason to avoid consequence?*

Smithmatungol *No, because I've never gotten a consequence for not serving subpoena. I, I, I don't know what a punishment would be, but I thinking about this, I remember these dates, how the time, I don't, I dunno why. I really don't.*

Ciucci *Okay. Um, I'm also not just gonna hold you in here <laugh> and, and just keep asking kind of the same question 30 different times, 30 different ways. Yeah. I just want to make sure that when you're walking out, you have been, you feel that you have had every opportunity that you have in order to add clarity to this. And I feel comfortable that I've asked every question I can in order to get that clarity. But I'm goin to be very frank with you when I say I don't have clarity on this. I don't have clarity on this issue. And my understanding of this interview is that there's a date and time on two subpoenas and a remark that says no answer when fundamentally I have, uh, um, supporting evidence that shows it didn't occur. And so that for me is troublesome. Um, but I wanna make sure that when we're walking out that you have had every opportunity that you feel deservedly to state your case and, and make it clear to me. But I'm being honest, I don't understand it.*

Fox *That there's nothing left unsaid.*

Ciucci. *Yes.*

Smithmatungol *There's nothing. There's nothing I can remember saying if there was, I'd say it, but if I, there's no video of me doing it [inaudible].*

Ciucci *So if there's no video of you doing it, then you didn't do it?*

Smithmatungol *If there's not, then there's not.*

Ciucci *Okay. Uh--*

Fox *Don't you have GPS on your cars? I thought you all have like the platinum package if--*

Ciucci *Versaterm. Yeah. No, it's, it's platinumy.*

Fox *Uh, so you went from no body cam to very much body cam?*

Ciucci *Yeah. We, we, we went big, um, across the board. And like I said, there's, there's different layers too. Versaterm tracks it. Your ALPR data shows every street that you're on, that you're running every plate that's through flock, that's through Versaterm, that's through, um, evidence.com. Uh, it, it's all a ton of different layers of it. And so that's why I just want to confirm.*

Smithmatungol *I don't, I don't want to give you all these excuses, but if there's no video of me doing it, then I, maybe I didn't do it. And I don't know why these dates and times would be on there, but I, I don't remember honestly.*

Ciucci *Okay. You don't remember, however you are cognizant of, if there is evidence against it, then that's most likely what occurred?*

Smithmatungol *That's what occurred. I'm not, I'm not gonna, I'm just gonna own up to it, I mean, if if there's nothing there, then I can't put myself there. If, even if I'm not.*

Ciucci *Okay.*

Smithmatungol *But I, I don't know why these specific times are on there. I don't know what's relevant of these times, the 2142 and 2123.*

Ciucci *So I'll be, and I'll be honest with you here, and I have been here as an officer, I've been in IAs. I've been, I've been, uh, I've been recorded, I've been questioned, and I have never, I have never wavered on my integrity. Um, I've never once said, hey, if you have it, then maybe that's what I did. And so it's a concerning statement for you because I believe you to have integrity. Um, but for you to say, if I didn't do it, and if the video, if the evidence isn't there, then I guess I didn't do it. I feel like you're a person that would, that would be a troublesome thing for you to, to almost willfully or not willfully, but write incorrectly on the subpoena that you did something if you didn't do it, is that something I should be alarmed about your character? Or is this an offline thing? If it's an offline thing, do you, don't you think you would remember not doing something that you said you would?*

Smithmatungol *It's not like every subpoena I get, I don't attempt it. I, I it's not--*

Fox *Well, that's why I said the best you can shelf the witnesses. Mm-hmm <affirmative>, the camera. Yeah. All of that, put that out of scene. Can you drill down on your own work product, your own happening custom and say, regardless of that, I know I would never write no answer. If in fact that wasn't my experience.*

Smithmatungol *I, I wouldn't put no answer. But I don't know why I did if I didn't, if I didn't serve it or attempt attempted certain. And I don't know where I got these times from. I, I really don't.*

Ciucci *Okay. Um, at this point, I just have one last question and is, did you willfully write, uh, times and dates on there with the intent to deceive in any way, um, and state something on that paperwork that you knew to be not true?*

Smithmatungol *I don't. I, I just, I wrote it on here. I, this is my handwriting. I wrote it. Yep. But I don't, I can't recall why I wrote it.*

Ciucci *Okay.*

Smithmatungol *But I, I've been thinking about why are these two times in particular on here if there are no significance to me.*

Ciucci *Okay. Um, is there anything that I didn't ask you, you feel important at the end of this that I should be aware of? Any other circumstances that, that in any way help shed light on this situation?*

Smithmatungol *Not that I know.*

Ciucci *Okay. Counsel anything to add?*

Fox No.

Ciucci *Okay. Uh, with that being said, uh, I'm gonna go ahead and we'll conclude this. Uh, it is 1155 hours. Um, that first one is done and this one is standby, done off and.*

I have used all reasonable diligence in reviewing this transcription and to the best of my knowledge the information contained herein is true and complete.

Chris Ciucci
Investigator

3/19/26
Date

@ 6/2/25 C 1703

OFFICE OF THE CITY MANAGER
CITY OF DALY CITY

333 – 90TH STREET
DALY CITY, CA 94015-1895
(650) 991-8125

PERSONAL AND CONFIDENTIAL

TO: Officer Kevin Smithmatungol

FROM: Thomas J. Piccolotti, City Manager

DATE: June 2, 2025

SUBJECT: Notice of Intent to Terminate

The purpose of this letter is to provide you with notice pursuant to the Daly City Police Department Policy Manual and *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, of my proposal to terminate you as a Police Officer for Daly City ("City"). If my recommendation remains unchanged after the exhaustion of any pre-disciplinary procedures, you will be advised in writing of my final decision to terminate your employment, including the effective date of the termination.

I. JOINT AND SEVERAL BASES FOR THE PROPOSED DECISION

Please be advised that the proposed termination need not be based upon a finding that you have violated each and every one of the policies and rules below, or that you committed each and every one of the factual bases supporting my preliminary determination that you should be terminated. Your violation of any one of the following policies, and your commission of any one of the acts described below would, in and of itself, support my recommendation that your employment be terminated.

II. CHARGES UPON WHICH THE PROPOSED DISCIPLINE IS BASED

You are being charged with violating the following policies and rules:

DALY CITY POLICE DEPARTMENT POLICY MANUAL

Section 341.5.6 ATTENDANCE

b. Unexcused or unauthorized absence or tardiness.
d. Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

Section 341.5.8 EFFICIENCY

a. Neglect of duty.
b. Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.

Section 341.5.9 PERFORMANCE

a. Failure to disclose or misrepresenting material facts or making 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.
b. The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
c. Failure to participate in, or 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.
d. Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.

Section 341.5.10 CONDUCT

h. Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.

Section 420.4.2 CITE AND RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the [Department/Office] and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

e. The person could not provide satisfactory evidence of personal identification.
    1. If a person released on citation does not have satisfactory identification in their possession, a right thumbprint or fingerprint should be obtained on the citation form.

MANUAL OF RULES

3.00 PROFESSIONAL CONDUCT AND RESPONSIBILITIES GENERAL CONDUCT
All members shall conduct themselves at all times in such manner as to reflect favorably upon themselves, the City of Daly City, and the Daly City Police Department. Whether on or off-duty, personnel shall avoid any conduct which brings the Department or the police profession into disrepute.

3.55 KNOWLEDGE OF LAWS AND REGULATIONS
Department personnel are required to establish and maintain a working knowledge of all laws and ordinances in force in the City of Daly City and the laws of the State. Further, every member is required to maintain a working knowledge of the rules and policies of the Department, all General Order, Training Manuals, and Standard Operating Procedure Manuals for the appropriate division. In the event of improper action or breach of standards, it will be presumed that the member or civilian employee was familiar with the law, rule or policy in question.

3.60 PERFORMANCE OF DUTY
All members shall perform their duties as required or directed by law, Departmental rule, policy or order, or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

3.65 OBEDIENCE TO LAWS AND REGULATIONS
All members shall observe and obey all Federal, State, and municipal laws and ordinances, all rules and regulations of the Department and all General Orders or Special Orders of the Department.

4.56 ATTENDANCE
Members shall report to duty at the time and place specified, properly equipped and in uniform or civilian attire.

4.96 TRUTHFULNESS
Members are required to be truthful at all times whether under oath or not.

City of Daly City Rules and Regulations of the Classified Service, Rule XVIII, Standards of Employment, Section 10, Causes for Discipline or Discharge

(c) Failure to follow directions, policies and procedures
(n) Untruthfulness
(p) Violation of City and/or Department rules, regulations, policies and procedures
(q) Violation of City, State and/or Federal Law(s)

III. FACTUAL BASIS FOR PROPOSED TERMINATION

As further set forth in Daly City Administrative Investigations 24-04, 24-06, and 24-07, the following facts support your proposed termination:

A. JUNE 2, 2024 – (IA #24-04) SERRAMONTE TARGET ARREST

On June 2, 2024, at approximately 7:45pm, you responded to Target, 133 Serramonte Center, on the report of a detained shoplifter. During the investigation you determined the subject, a female, did not have any form of valid identification and you were unable to confirm her identity. As a result, you acknowledged your intent to process her at the county jail as opposed to issuing a citation for the misdemeanor arrest, which was captured in your body camera footage. You stated twice, "I'm gonna book her then," after learning she had no valid identification. At the conclusion of the petty theft detention, you elected to cite the female out and release her from the store instead of booking her, without first seeking supervisor approval. Your reasoning for your decision to cite as opposed to booking the female into jail was not consistent. While on-scene you stated you were going to book her, but then a short time later you told Officer Rodriguez, your cover officer, "We're short, I'm just gonna cite her."

Later that same evening, Sergeant Karen Douglas electronically returned your investigative police report to you for corrections, and you initiated contact with her about the investigation. You told Sergeant Douglas that you identified the subject from a bank credit card she had and Sergeant Douglas explained to you that doing so was an insufficient method of identifying someone, as the credit card could have belonged to someone else. Sergeant Douglas asked you why you did not book her, and you responded that the subject was in her late stages of pregnancy, and you did not want to have to take her to "Chope" Hospital for a medical clearance prior to being booked into jail. Sergeant Douglas asked you if the subject had a local address or if she provided a phone number. You said the subject told you she was staying at a homeless shelter but did not know the address and you did not obtain a phone number from her. Sergeant Douglas reminded you about proper processing of someone you could not identify, which she noted was also communicated during team briefings, of which you said you were still unaware of. You then offered up that you obtained a thumbprint for the subject on the citation before releasing her. Sergeant Douglas responded, "Oh great, you did?" to which you then responded in the affirmative.

On June 8, 2024, Sergeant Douglas and Sergeant Jerel Tualaulelei met with you to discuss other performance concerns and a lack of self-initiated proactivity. During this meeting they again asked about the citation from the Target arrest case, as it had yet to be turned in even though you said you had previously placed it on the sergeant's desk to be forwarded. Sergeant Douglas told you it appeared that you had not obtained the suspect's thumbprint to which you responded that you did obtain it. You then claimed that you attempted to use your citation writer to obtain the print but that it was not working. Sergeant Douglas also noted during this conversation that your electronic ticket writer did not have the digital thumbprint capability, at which time you said you obtained an ink print, noting you walked the subject to your patrol car to obtain an ink print on a duplicate ticket before releasing her. You were uncertain as to the location of the citation and were given an opportunity to produce it. When asked if you were sure you obtained the thumbprint, you immediately responded in the affirmative. A short time later you located several citations from your patrol bag, but this specific citation was not one of them.

Concerned about your truthfulness, Sgt. Douglas reviewed video from Target on June 9, 2024, and learned you released the subject from the security office at 8:07 p.m. and did not escort her to your car for an ink print. She was ultimately seen leaving the Target parking lot on foot. Approximately 14 minutes later at 8:21 p.m., you left Target in your patrol vehicle, driving the opposite direction from the direction the subject was travelling, and you were dispatched to calls for service.

During your IA interview, you said that you believed you printed a second citation for the subject within 30 minutes of printing the first citation while you were in the front parking lot of Target by the handicap stall, and by the store exit closest to the security office. When asked why you told Sgt. Douglas that you printed out a second citation and took a fingerprint if you had not done so, you responded that there was no reason and rhetorically asked the interviewer why you would jeopardize your job. You also denied lying to Sgt. Douglas.

The internal affairs investigation confirmed your electronic ticket writer did not have the thumbprint capability. An audit of your ticket writer and review of available video evidence from your Body Worn Camera showed you did not print a second citation to obtain an ink print. Video from Target further shows that you failed to print a second citation and did not take the subject's fingerprint.

B. JUNE 20, 2024 – (IA #24-06) FAILURE TO REPORT TO DEPARTMENT TRAINING AT YOUR SCHEDULED TIME

On Thursday, June 20, 2024, at 7:00 a.m., you were scheduled for training at the Daly City Police Department. Your direct supervisor, Sergeant Douglas, was present at the training and took note you were not present at 7:00 a.m. with the remainder of your team. At approximately 7:45 a.m., Sergeant Douglas noted you entered the Department Operation Center where the training was being held. At the next break, Sergeants Douglas and Tualaulelei pulled you aside to inform you they noticed you arrived about 45-minutes late. When asked why you were tardy, you said that you arrived at work around 7:10 a.m. and were downstairs meeting with Property Room Manager (PRM), Rose Meere to handle outstanding evidence corrections and follow-ups. You also stated that you were an instructor and your portion was not until later in the morning, which meant you did not need to be in the training room at the beginning of your shift at 7 a.m. Sergeant Tualaulelei told you that if your shift begins at 7 a.m., you are required to show up on time or notify your supervisors that you would be late. You did not notify supervisors that you were going to be late for work. You did not submit a time off request for your late arrival and your timecard, which appears that you approved yourself, reflected a 7:00 a.m. start time.

Sergeant Douglas confirmed with PRM Meere shortly after the conversation with you that you had not booked anything into the property room, nor did you meet with any of the property room staff that morning. PRM Meere also confirmed that you sent a text message to PRM Meere at 8:07 a.m. stating, "If Karen or Jerel asks can you please let them know I was handling evidence.com with you!" On that day, you never physically met with PRM Meere prior to arriving in the training room at 7:45 a.m.

The internal affairs investigation included an audit of the door codes for the main entrances, and a check of the main entry door near the City Hall main parking lot leading into the hallway near the property room showed you entered the main entry door at 7:31 a.m. The next recorded door code entry was from the double doors leading from the downstairs where the locker room is up to the second floor where the training was being held was a 7:39 a.m. Based on your statement during your interview, the timeline suggests you arrived at 7:31 a.m., changed in the locker room, and walked up to the training room arriving at approximately 7:45 a.m. as noted by your supervisor.

During your internal affairs interview you had difficulty remembering specifics about the incident, what you were doing that morning, or the specific time you arrived at work. You admitted you likely arrived at work a few minutes late, but when confronted with evidence, you continually changed your story to remain within reason of the evidence, all of which disproved your initial statement to Sergeants Douglas and Tualaulelei the morning of. Specifically, when asked what time you arrived to work on June 20, 2024, you stated that you did not remember the exact time but it was around 7 a.m., give or take fifteen minutes. You said that you were in the locker room, changing out, using the restroom, and you had some emails from evidence you were going to take care of. You stated that you were planning to handle these items because your portion of instruction for the training day was not at the beginning. You then stated that you walked into the training room at approximately 7:40 a.m. for the first time that day and shortly after, were confronted by Sergeant Douglas who asked you where you had been. You then stated you told the Sergeants you were taking care of evidence "with" PRM Meere, but believe you misspoke and should have stated you were taking care of evidence "for" PRM Meere. You then attempted to explain that when you were reviewing outstanding property items, you actually never physically met with PRM Meere. When shown a copy of the text message you sent to PRM Meere at 8:07 a.m. on June 20, 2024, you recalled that communication. You then acknowledged that you could have arrived to work up to 30 minutes late and you planned to "do evidence for Rose," and that you were looking through your emails while at your locker door changing. You then admitted it was a misrepresentation of fact for you to tell your Sergeants that you were delayed working on evidence when you were in fact late for work. You then said that you were not asked by your Sergeants what time you arrived, but rather why you were late coming into the training room. You stated that this is why you did not inform them of the exact time you came in the building or openly disclose how late you were.

An audit of your evidence.com activity on June 20, 2024, shows that the first time you made changes to your evidence.com account on that date was at 11:07 a.m.

C. OCTOBER 25, 2024 – (IA #24-07) SERVICE OF SUBPOENAS

On October 25, 2024, you were issued two subpoenas to serve throughout your shift, which you turned into your supervisor, Sergeant Douglas, following your shift. On the service tracking slips for each subpoena, you wrote, "No Answer" and the times of 9:23 p.m. and 9:42 p.m. When you turned the subpoenas in at the end of the night, you told Sergeant Douglas, "I tried serving them, but they weren't home. I was out in beat 1 most of the night." Sergeant Douglas acknowledged and appreciated your attempts considering it was a busy night with many calls for service.

Sergeant Douglas did not recall hearing you put yourself out for subpoena attempts over the radio, which she characterized as unusual for you. She also confirmed you had no self-generated subpoena attempts in the computer-aided dispatch system.

The evidence demonstrates that you did not attempt to serve either subpoena. As for the first subpoena for an address on [redacted] review of both in-car and fixed license plate reader data suggested you never drove on [redacted] You listed 9:23 p.m. as the attempted service time for the subpoena on [redacted] however you were on a call for service from 9:05 p.m. to 9:30 p.m. at another location for a shoplifting investigation at the Ross Store located in the Westlake Shopping Center. A review of residential cameras and an interview with residents for the subpoena on [redacted] also support that you did not attempt service of the [redacted] subpoena as you had noted.

As for the second subpoena for an address on [redacted] while you did drive on the street, neither time noted in the data (8:53 p.m. and 10:19 p.m.) aligned with your supposed service attempt at 9:42 p.m. Additional evidence confirmed you were not in the area throughout your shift, proving you did not attempt service on [redacted]

During your internal affairs interview, you stated that "No Answer" meant you attempted in-person contact at the residence and did not receive a responsive answer and left. Specifically, you stated that when using the disposition of "No Answer," you would park your car, walk up, knock, not receive an answer, and leave. At first, you stated that you did not recall serving the subpoenas in question. After additional questioning, you affirmed your attempts to serve the two subpoenas in question. When confronted with the evidence proving you could not have attempted service of the subpoenas as noted, you were unable to provide clear, consistent, or convincing information to support your statements. Eventually, you stated that you could not remember the events and could not understand the origin of the times you noted on the subpoenas.

Additionally, you stated that you do not activate your Body Worn Camera (BWC) on subpoena attempts unless someone opens the door or you make contact with someone. An audit of the Versaterm Cad system and Evidence.com disproved your statement that your standard practice is to only activate your BWC upon citizen contact. Two out of the three subpoena attempts conducted by you prior and following October 25, 2024 indicate that you activated your BWC as you approached the residence and before making any contact with any persons.

IV. DISCIPLINE PRIOR TO AND DURING AFOREMENTIONED INCIDENTS

Your performance history and previous counseling and discipline were considered when evaluating the decision to terminate. The following further supports my proposal to terminate your employment.

- October 7, 2023 – You were involved in a preventable collision where you side-swiped a parked car, resulting in a documented counseling.

- October 30, 2023 – You were involved in a preventable collision during a pursuit, resulting in a documented counseling.

- February 23, 2024 – You were involved in a vehicle pursuit where it was determined you were out of policy for unsafe speeds and improper driving behavior, resulting in a documented counseling.

- September 29, 2024 –You conducted a death investigation (24005954) and the family indicated suspicious circumstances surrounding the death of the victim. While making notifications to the coroner, you muted your body camera, and it was determined information relayed to the coroner likely lacked the information noted above, which may have changed the decision by the coroner to respond to the scene. We were unable to verify this as the conversation was not captured on BWC. You were issued documented counseling.

- October 27, 2024 – You arrested a subject for felony charges and collected several items of property from them (case #24006597). On October 28, 2024, property room specialist Ben Bermudez e-mailed you about a purse that was shown as booked into the evidence locker as safekeeping. Bermudez spoke with you in person later that same day about the missing purse and you told him it was an oversight, and that the purse was in the trunk of your patrol vehicle, challenging the integrity of any chain of custody for the purse. You booked the purse into property later that evening, and Bermudez again sent you another e-mail on October 29, 2024, as there were narcotics, drug paraphernalia, and a check book belonging to someone other than the person you arrested, all requiring different handling procedures. You received a Letter of Reprimand for violation of Lexipol Policy 803.3.2, Narcotics and Dangerous Drugs (booking procedures), 803.3, Property Handling, 340.5.8(b), Efficiency, and Manual of Rules 3.60, Performance of Duty. This Letter of Reprimand followed previous discussions as noted by Lieutenant Klier in your Letter of Reprimand dated December 21, 2024.

- January 18, 2025 (25000342) – You were involved in a pursuit that ended up at Cesar Chavez Street and Vermont Street, San Francisco. It was determined you were driving too fast for conditions during the pursuit, and you collided with a cement center median. The collision was deemed preventable with the associated factor of inattention as you were reaching for your police radio while trying to manage a turn. A Disciplinary Review Board was held on February 25, 2025, as you had previous preventable collisions. Disciplinary decisions were withheld pending the three pending Internal Affairs investigations.

- February 27, 2025 – You were placed on Administrative Leave, as concerns about your performance and decision making were in question from the above performance issues and the three pending Internal Affairs investigations contained in this notice.

V. ANALYSIS

In *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, the California Supreme Court held that in considering the propriety of public employee disciplinary action:

> "...the overriding consideration in these cases is the extent to which the employee's conduct resulted in, or if repeated is likely to result in harm

to the public service.... Other relevant factors include the circumstances surrounding the misconduct and the likelihood of its recurrence."

As explained below, the investigations have demonstrated that your conduct has demonstrated multiple policy violations, including a pattern of dishonesty that undermines your ability to perform your duties. This conduct has harmed the public service, if repeated, will further harm the public service, and there are no mitigating factors to counter the facts of your dishonesty. Engaging in dishonesty is not compatible with your job as a Daly City police officer. A police officer's job "is a position of trust and the public has a right to the highest standard of behavior from those they invest with the power and authority of a law enforcement officer. (*County of Los Angeles v. Civil Service Com. of County of Los Angeles* (2019) 40 Cal.App.5th 871, 878; see also *Ackerman v. State Personnel Bd.* (1983) 145 Cal.App.3d 395, 400.) Termination of employment for dishonest behavior is appropriate discipline even where the employee was a long-term employee with little or no record of prior discipline. (See, e.g., *Nicolini v. Tuolumne* (1987) 190 Cal.App.3d 619 [termination of a deputy sheriff for dishonesty upheld where the deputy had nine years of service and no prior discipline]); *Paulino v. Civil Service Commission* (1985) 175 Cal.App.3d 962, 971 [discharge of police officer for falsely reporting sick leave upheld].) Dishonesty is intolerable conduct for any employee of the Department, and there is no other reasonable choice but dismissal from employment. The principles set forth in these authorities amply support the proposed discipline of termination.

A. YOU WERE DISHONEST AND DEMONSTRATED A LACK OF INTEGRITY ON MULTIPLE OCCASIONS

1. In the June 2, 2024, incident, you told your supervisor you obtained a thumbprint from a subject you failed to adequately identify before citing them out. Evidence in the internal affairs investigation revealed you did not have an electronic thumbprint device on your digital ticket writer. When confronted with that information by your supervisor, you then stated you took the subject to your patrol vehicle to obtain an ink thumbprint. Again, evidence, to include an audit of your ticket writer, video footage from Target and the body cameras of officers on-scene, revealed you did not escort the subject to your car like you stated, nor did you print a second copy of the citation or obtain an ink thumbprint. You maintained your statement in discussion with your direct supervisors, as well as during your internal affairs investigation, regardless of the evidence disproving your statement at all levels. Your false statements regarding the June 2, 2024 petty theft arrest, claiming you obtained a thumbprint and created a second citation when body-worn camera footage and store surveillance footage prove you did not, constitute deliberate deception. Your conduct misled supervisors and obstructed their ability to ensure compliance with lawful citation and booking procedures. Further, during the internal affairs investigation, you continued to deny wrongdoing, despite overwhelming evidence to the contrary, demonstrating not only your inability to own up to your mistakes but worse, your effortless willingness to lie.

2. Similarly, in the June 20, 2024, incident, you told your direct supervisor you were downstairs meeting with the property room manager when you showed up to work for a training class 45-minutes late. Furthermore, you sent a text message to the property room supervisor asking them to tell your supervisor that you had met with her if she was asked,

a deceitful attempt on your part, potentially exposing the property room manager to integrity violations for covering for your lack of accountability. Evidence in the internal affairs investigation revealed you entered the building at 7:31 a.m., which was 31-minutes after your start time of 7:00 a.m. Additionally, you did not meet with the property room manager as you had stated, and when confronted with all of this information, you continually changed your story about when you arrived to work, and what you may have been doing from the time you initially told your supervisor you arrived at work, which was 7:10 a.m. Door code evidence suggests you entered the building at 7:31 a.m., went into the locker room to change, exited through the gym, and entered your door code in the door leading upstairs at 7:39 a.m., before walking into the training at approximately 7:45 a.m. You were untruthful when questioned by your supervisor, you implied another uninvolved employee, and you continually changed your statement during your internal affairs interview, reiterating many of the same lies from the day of the incident. Your explanation for arriving 45 minutes late to mandatory training on June 20, 2024, was riddled with falsehoods. You falsely claimed to have been meeting with PRM Meere to handle evidence issues, an assertion disproven by entry logs, a corroborated denial by PRM Meere, and your own deceptive text message attempting to manufacture a false justification for your tardiness. Even when confronted with irrefutable evidence, you minimized your conduct and changed your story to align with the facts as they were presented to you.

3. The same pattern of dishonesty was evident in the October 25, 2024, incident, when you claimed to have attempted service for two subpoenas at two addresses. You wrote, "No Answer" on the tracking slip at 9:23 p.m. and 9:42 p.m. and told your supervisor that you attempted to serve the subpoenas that evening. Additionally, during your interview in the internal affairs investigation, you confirmed your attempt to serve the subpoenas by physically walking up to the doors. However, you were physically on a call for service at a Ross store until 9:30 p.m., proving you inaccurately noted the service time for the 9:23 p.m. attempt. Moreover, the evidence shows that you failed to attempt service of either subpoena. You had no calls for service at either address, there was no video surveillance in the neighborhood showing your attempted service, and your fleet and fixed automated license plate reader data did not show you in the area of the address at the time of the attempted service, nor did they even physically put you on the street the night of the attempted service. Your statements were directly refuted by license plate reader data, video evidence, CAD records, and an inability to reconcile your claimed actions with verifiable movements. Once again, you failed to take accountability, gave conflicting statements, and ultimately could not explain the discrepancies, all of which confirm an intent to deceive.

Your pattern of providing knowingly false and misleading information in connection with official duties is a direct violation of Department Manual Policy Sections 341.5.9, Manual of Rules 4.96 and the Daly City Rules and Regulations of the Classified Service, Rule XVIII, Standards of Employment, Section 10(n). Dishonesty strikes at the heart of our profession. Courts, prosecutors, and the public rely on officers to be truthful in their statements, reports, and testimony. Your repeated and sustained dishonesty compromises your credibility and renders you ineffective in any role that requires public trust.

B. YOU WILLINGLY AND KNOWINGLY FAILED TO PROPERLY FOLLOW POLICY AND PROCEDURE STANDARDS EXPECTED OF YOU AS A DALY CITY POLICE OFFICER

1. In the June 2, 2024, incident, you failed to properly identify a theft suspect before releasing them with a citation to appear in court. You did not seek supervisor guidance or approval before making the decision to cite the individual out, after you acknowledged twice at the onset of the investigation you would book them into jail for lack of identification. You did not obtain a thumbprint on any citation, which could aid in identifying the subject should they fail to appear in court, and you did not provide a copy of the citation to accompany your investigative report. Your failure jeopardized public safety, undermined Department procedures, and violated both Daly City Police Department Policy Manual Section 420.4.2 and Penal Code § 853.6(i).

2. In the June 20, 2024, incident, you did not notify a supervisor you were going to be late for your assigned start time, submitted a false timecard, and attempted to cover up your tardiness through deception.

3. In the October 25, 2024, incident, you failed to attempt service on two subpoenas issued to you, in which you claimed to try to serve, and then lied to your supervisor and during the internal affairs investigation.

These failures reflect violations of Daly City Police Department Policy Manual Sections 341.5.6 (Attendance) and 341.5.8 (Efficiency), and Manual of Rules Section 3.55 (Knowledge of Laws and Regulations), 3.60 (Performance of Duty), 3.65 (Obedience to Laws and Regulations), and 4.56 (Attendance).

As a Police Officer for Daly City, you are expected to maintain the highest level of integrity, responsibility, and competency, carrying out your duties with excellence and diligence. Your misconduct was not only an abuse of the trust placed in you by the Department—but has very serious implications for the Police Department and Daly City in the public eye.

Finally, I note your actions not only violated significant DCPD rules and policies, but your conduct also violated City of Daly City policies prohibiting the following: Untruthfulness; Failure to follow rules, regulations, directions, policies, and procedures, and Violations of City, State and/or Federal Law(s). You have repeatedly shown you cannot be trusted to perform your duties with integrity, accuracy, or reliability. Continued employment poses unacceptable risk to the Department, the City, and the public. Termination is necessary to uphold the ethical and operational standards of our Department.

VI. WARNING AGAINST RETALIATION

Please be advised that it is illegal and a violation of City policy to retaliate against any person who has participated in providing information regarding this investigation or issuing this

disciplinary notice. Any retaliatory conduct constitutes a separate and independent basis for discipline up to and including termination.

VII. PRE-DISCIPLINARY RESPONSE TO CHARGES

You have the right to respond to your proposed termination within seven (7) days from the date you received this Notice, either by requesting a *Skelly* conference or by providing a written response, or both. Your contact for requesting the *Skelly* conference and/or providing a written response is Natalie Sakkal, Director of Human Resources. Her email address is nsakkal@dalycity.org. Failure to request a *Skelly* conference or provide a written response within seven (7) days from the date you received this Notice constitutes a waiver of your right to respond prior to final discipline being imposed.

If you request a *Skelly* conference, a designee selected by the City Manager will conduct an informal meeting with you. The Chief of Police will also be present. You have the right to have a representative of your choice at the *Skelly* conference.

VIII. DOCUMENTS RELIED UPON IN MAKING RECOMMENDATION

The following documents were considered and relied upon in recommending that you be terminated. They are attached. I have reviewed your personnel file and given it consideration in deciding on the recommended discipline. Your personnel file is not attached, but if you wish to review it you may contact Natalie Sakkal to schedule an appointment. Please note that the attachments and digital evidence created or reviewed as part of the below investigations are not attached to this Notice. If you would like a copy of any of these items, please contact Natalie Sakkal. The *Skelly* conference will not be delayed pending your receipt of these items.

1. Administrative Investigation 24-04
2. Findings & Recommendations 24-04
3. Administrative Investigation 24-06
4. Findings and Recommendations 24-06
5. Administrative Investigation 24-07
6. Findings and Recommendations 24-07
7. Disciplinary Review Panel Memorandum (05/15/25 for IA's 24-04, 24-06, 24-07)
8. Disciplinary Review Panel Memorandum (02/25/25 for Collision on 01/18/25)
9. Notice of Paid Administrative Leave dated 02/27/25)
10. Relevant Excerpts from the Daly City PD Lexipol Policy Manual

CC: Cameron Christensen, Acting Chief of Police
Natalie Sakkal, Director of Human Resources
Rose Zimmerman, City Attorney

Acknowledgment of Receipt:

Received: _____ 06/02/25 1700
Kevin Smithmatungol Date

Ignacio Ruiz #95 06/02/25 1700

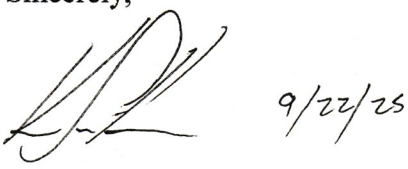
Acting Chief Christensen,

This letter represents my official notice of irrevocable resignation from my position as a Police Officer with the Daly City Police Department being made final on the 1st day of October, 2025. I waive any and all further appeal of the administrative case and waive any potential civil claims against the City as a result of my employment and or separation.

My time at the Daly City Police Department has been educational and rewarding. The experiences and people I have met at the department will undoubtedly aid me in my future endeavors. I am grateful for the opportunity to learn and grow as a person and I hope to take the lessons and growth with me in my future.

I wish you and the department continued success in the future.

Sincerely,



Kevin Smithmatungol

POST CASE NUMBER: POST2505112/POST2505137/POST2505140

SUBJECT OFFICER NAME: Kevin Smithmatungol

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Professional Conduct Central Bureau on 1/13/2026 with Officer Kevin Smithmatungol, who is the subject of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Central Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON AI transcription. This transcript was prepared by Law Enforcement Consultant Christina Moore, Professional Conduct Central Bureau.

Parties Present:
Law Enforcement Consultant Christina Moore, Professional Conduct Central Bureau, Primary Investigator
Law Enforcement Consultant Kevin Sherburne, Professional Conduct Central Bureau, Secondary Investigator
Officer Kevin Smithmatungol, Daly City Police Department, Subject
Andrew Ganz, Rains Lucia Stern, Representative for subject officer

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Moore *All right, so the date is January 13th, 2026, and the time is 1222 hours. This is an administrative inquiry concerning Mr. Kevin Smithmatungol. Did I pronounce that okay?*

Smithmatungol *Smithmatungol.*

Moore *Smithmatungol, previously employed by Daly City Police Department. This interview is being conducted and recorded at the San Mateo County District Attorney's Office. I, Law Enforcement Consultant Christina Moore, am in charge of this interview and assisting me in this invest. Uh, this interview is Law Enforcement Consultant Kevin Sherburne, both of the Professional Conduct Central Bureau. Also present is Mr. Kevin Smithmatungol and the subject of this investigation and his attorney.*

Ganz *Andrew Ganz, from Rains Lucia Stern.*

Moore *Perfect. Each person, um, present is gonna identify themselves on tape. Give me their name, your title, and your classification. Um, as stated, Christina Moore, Law Enforcement Consultant.*

Sherbourne *Kevin Sherburne, Law Enforcement Consultant.*

Smithmatungol *Kevin Smithmatungol.*

Ganz *And again, Andrew Ganz, from Rains Lucia Stern. Thank you.*

Moore *You're being questioned as part of an official POST Peace Officer Standards and Accountability Division investigation. You are hereby directed to answer all questions honestly and completely. Your refusal to answer or any type of evasion, deception, dishonesty, or lack of cooperation on your part could constitute serious misconduct and result in further actions concerning your certification up to and including revocation of your POST certification. Neither your statement nor any information or evidence which is gained by reason of such statements can be used against you in any criminal proceedings. No other promise will be made as an inducement for the answer to any question. This recorded interview is authorized by Commission Regulation Title 11, Section 1206(A)(4) of the California Code of Regulations. You may record any portion of this interview or have access to the Peace Officer Standards and Trainings recording if any other proceedings are contemplated or prior to any subsequent interviews. You have the right to be represented by an individual of your choice who may be present at all times during your interview provided the person chosen is not a witness or subject to this inquiry. POST is not your employing agency. Therefore, this interview is not subject to Peace Officer Bill of Rights, including but not limited to sections 3303 through 3312 of the Government Code. Although you as a representative are present to assist the subject officer, POST is only interested in hearing the officer's account of the matter under investigation. You may participate during the interview when appropriate, but you may not interfere with or cause unnecessary delay to the orderly course of the investigation.*

Ganz *Understood.*

Moore *You'll be given an opportunity to make clarifying statements and ask clarifying questions. If you need to take a break to use the restroom or attend personal needs, you may do so upon request. However, we just ask that you answer any pending questions before leaving.*

Ganz *Does That make sense? That little part?*

Smithmatungol *Yes.*

Ganz *Okay.*

Moore *To maintain the integrity of the investigation, you must not discuss the questions asked and the facts discussed in this interview with anyone other than your legal counsel, counsel, or as otherwise required by law. Do you both understand, understand and agree to proceed in accordance with these instructions?*

Smithmatungol *Yes.*

Ganz *Yes. Thank you.*

Moore *Thank you. So I understand, you were the subject of three separate Internal Affairs investigations conducted by the Daly City Police Department. Their investigations were completed and you were served a Notice of Intent to Terminate on June 2nd, 2025. On August 15th, 2025, you participated in a Skelly related meeting where you submitted your resignation effective October 1st, 2025. Is that correct?*

Smithmatungol *Correct.*

Moore *Okay. Besides the allegations of dishonesty, the additional departmental policy violations investigated by Daly City PD are not the focus of this POST investigation. My investigation is focused only on the allegations of dishonesty in violation of penal code sections 13510.8(b)(1) and Title 11, California Code of Regulations Section 1205(A)(1). Do you have any questions before we begin?*

Smithmatungol *No ma'am.*

Ganz *No, thank you.*

Moore *Okay. So before we begin, is there anything you would like us to know or information you would like to provide regarding the allegations of dishonesty sustained against you by the Daly City Police Department in each of your three IA investigations?*

Ganz *Um, is it okay, I I'm sure there's a lot. Can we see kind of what's not covered by the questions and then he can add at the end, or do you just want to make a statement at the beginning? I didn't.*

Moore *Uh, if he wants to make a statement now, there's gonna be plenty, plenty of time to go into detail.*

Ganz *Yeah. If, if we can proceed with questions and then he can add anything that he wants or, okay. I appreciate that.*

Moore *Sure. Okay. So you were employed by that Daly City PD as an officer from July 11th, 2022, to October 1st, 2025, about three years. Is that correct?*

Smithmatungol *Yes, ma'am.*

Moore *Why did you want to become a police officer?*

Smithmatungol *Um, my friend was killed by a wrong way, one of my best friends was killed by a wrong way, DUI driver, um, a little bit before I got hired as a police officer. And so that kind of wanted me to become a traffic officer, which I, ever since I graduated the academy, I pushed myself to do for. I went to, I put myself through all the trainings. I inquired about all the trainings. And additionally, my brother, um, he's a sergeant for the San Bernardino Police Department, and he influenced me since childhood to become a police officer.*

Moore *Okay. So you mentioned training. You put yourself through training?*

Smithmatungol *Uh, I, instead of waiting for the department to ask me to, oh, do you wanna go to this training, I said, hey, um, this is what I want to do. Can I put myself through all these trainings? I'll write the memos. I write anything that we need to do. And, um, that's what I assisted with.*

Moore *Was that a basic academy?*

Smithmatungol *Uh, I went to beginning, intermediate, advanced collision, drone collision reconstruction, uh, crime scene reconstruction. Um, so far through those two, two, a little over two years I was there.*

Moore *Okay.*

Smithmatungol *Or officially working.*

Moore *So prior to becoming a police officer, did you do a basic course somewhere?*

Smithmatungol *No.*

Moore *No basic course?*

Smithmatungol *Uh, I just got my bachelor's in criminal justice. That's it. Before becoming a police officer.*

Moore *Okay. Um, once you became a police officer for Daly City PD, did you receive field training?*

Smithmatungol *Yes.*

Moore *Can you describe a little bit? You don't have to go into the big, a lot of detail, but--*

Smithmatungol *I believe it was three or four months of FTO. Okay. Uh, phase 1, 2, 3, and final phase, which I, uh, completed with no remediations or extra training required.*

Moore *Did you have any difficulties during that training?*

Smithmatungol *Uh, not that I remember, no. Maybe, uh, report writing. I just had mistakes. Mm-hmm . But that's pretty much it, I believe.*

Moore *Is English your first language?*

Smithmatungol *Yes.*

Moore *Okay. After completing your field training, did you continue to receive various forms of professional training throughout your career?*

Smithmatungol *Yes.*

Moore *Um, can you describe your duties and assignments while employed by Daly City Police Department?*

Smithmatungol *Um, I was a, specifically a patrol officer, um, during my time there, and I believe after 20 beginning of 2024, I was, I joined the MAIT team for traffic collisions, field traffic collisions, anything that needs extra investigation. Um, I did a lot of collateral assignments, drone operator, uh, PAS calibration coordinator, um, Star Chase instructor, and I believe that's it.*

Moore *Just out of curiosity, how long have they had a drone program at Daly City?*

Smithmatungol *Uh, when I first got hired, it was kind of a new, new system and so I, I helped write some memos for new drones and, um, I was really interested in the drone program just 'cause I'm a kind of a drone little freak. And so, uh, that's, that's what I was interested in. Okay.*

Moore *Um, were you a field training officer at all?*

Smithmatungol *No, Ma'am.*

Moore *How about, uh, any kind of training facilitator?*

Smithmatungol *Uh, just for Star Chase.*

Moore *Star Chase, okay. Just prior to your resignation, what was your assigned work schedule?*

Smithmatungol *Um, I was on admin leave since Feb, end of February, 2024. Um, prior to that I was working Friday through Sunday, 7:00 PM to 7:00 AM*

Moore *So, graves?*

Smithmatungol *Graves. Weekend graves.*

Moore *Does deviation from your normal work schedule require some kind of approval?*

Smithmatungol *Uh, sorry. Can you,*

Moore *If you were going to deviate from your normal work schedule, did that require some kind of approval?*

Smithmatungol *Yes.*

Moore *Was it like supervisor approval?*

Smithmatungol *Yes.*

Moore *Okay. On a daily basis, how many field officers worked patrol on your assigned shift, weekend graves?*

Smithmatungol *Um, it can go as little as six all the way to full staffing, I believe, nine.*

Moore *Okay. How do beat assignments work? Are they like seniority based? Does a supervisor assign them?*

Smithmatungol *The supervisor assigns them?*

Moore *Supervisor. Can you put in a request to work a specific beat or it's just--*

Smithmatungol *Um, I can, or I, I, I think you can, but I've never done it. I've never requested to ask the specific beat.*

Moore *Do they seem to put you in the same beats all the time, or did they rotate them first?*

Smithmatungol *It depends on the supervisor. They rotated or they keep you on the same beat for the entire work week.*

Moore *Did you typically get the same beat or did it vary?*

Smithmatungol *It varied.*

Moore *As much as shift to shift or?*

Smithmatungol *Shift to shift.*

Moore *Okay. So night to night?*

Smithmatungol *Yes.*

Moore *Okay. Can you explain to me the process at the Daly City Police Department in regards to completing a basic investigation? Um, just from like, the moment you investigate, like as far as the, the levels of review of the report and how it becomes closed.*

Smithmatungol *Um, so it goes from initial investigation completed by my, by me, and then it goes, it gets submitted to, uh, our RIMS system. Um, it goes to, uh, a supervisor approval. It could be sergeant, the lieutenant, captain, whoever wants to review it and then approve the, the report.*

Moore *Now, is there a way to tell if an investigation is still pending, um, after it's been approved, for example, once it goes to prosecution or if it goes to further follow up, or if, let's say you're just still working on it?*

Smithmatungol *So if there's, it requires additional follow up, I will submit the initial narrative and then open up a second supplemental that requires follow up and what the follow up is for.*

Moore *So the initial one will be closed out and approved, and then you just add supplementals as more information comes forward?*

Smithmatungol *Correct. Yes.*

Moore *And then is there a way to distinguish at some point if the DA prosecuted or if the case was just closed and filed?*

Smithmatungol *Um, I am not too sure about that answer. I think that's a records question that I don't really know.*

Moore *Okay. Would the only way you find out is if the DA, for example, wanted more additional investigation and they may contact you to do further? Or would that go to a different like person?*

Smithmatungol *They'll send a, uh, uh, a letter saying, um, they reviewed the case and then they require additional investigation. So they'll send a letter, uh, addressed to the officer. The officer will read it, then open up a supplemental.*

Moore *Okay. But that original report stays closed in its--*

Smithmatungol *Correct.*

Moore *Original formation that was signed by that--*

Smithmatungol *Yes.*

Moore *Approver?*

Smithmatungol *Yes.*

Moore *Perfect. Okay. During your career as a police officer, can you estimate how many calls of service you responded to involving shoplifting?*

Smithmatungol *Um--*

Moore *Just approximate.*

Smithmatungol *It, it really depends on the beat. Um, maybe for my, if I was in beat by the Serramonte Mall, it could be four to five a night.*

Moore *Okay.*

Ganz *So again, in terms of approximation, maybe, you know, some officers have responded to just a handful, like a few, some a million and some in the middle. I mean, just can you, no one's gonna hold you to an exact number. Can you give them a basic idea of if you were just to try to think--*

Smithmatungol *For a whole night? If I--*

Ganz *No, your whole career, how many shoplifting do you think?*

Smithmatungol O*h, my, my whole career?*

Ganz *You think it's like in the hundreds or less than that?*

Smithmatungol *A couple hundred.*

Ganz *Thank You.*

Moore *Thank you.*

Smithmatungol *Sorry.*

Ganz *That's Okay. You're fine.*

Moore *How do you typically confirm the subject's identity in a shoplifting case?*

Smithmatungol *Um, either, uh, previous contacts, um, through our RIMS system that we share with other, uh, departments.*

Moore *Let me stop you right there.*

Smithmatungol *Yes.*

Moore *Previous contact. So how do you, uh, determine previous contact through RIMS? Would you first obtain a name, date of birth, or something similar?*

Smithmatungol *Correct. Name, date of birth. Okay. Um,*

Moore *So tell me how you get that, name and date of birth.*

Smithmatungol *Well, we usually just ask the subject for name and date of birth.*

Moore *Verbally?*

Smithmatungol *Verbally. Um, I'll try to look that up in the system and if something pops up, um, either aliases, names it, it would show up on our computer and most agencies add a photo to, uh, the profile of the subject. And so I would confirm it through that. And then, um, that profile would also have sometimes a California driver's license number. So I'll run that through, um, the system, um, to verify driver's license, uh, picture and to the name or, um, a foreign passport ID card.*

Moore *So, uh, do you typically ask, hey, can I see your ID?*

Smithmatungol *Yeah.*

Moore *Okay. And what about out-of-state IDs?*

Smithmatungol *Uh, out-of-state IDs, they'll, they'll--*

Moore *Do you run them through your dispatch?*

Smithmatungol *Yeah, I run.*

Moore *Do they have that capability?*

Smithmatungol *Yes.*

Moore *Of outstate?*

Smithmatungol *Yes.*

Moore *Um, so let's say, uh, you run 'em verbally and it doesn't come back, uh, on your RIMS or any of your systems, what do you do next? Or what would you do next?*

Smithmatungol *Uh, if nothing comes back, I would…Sorry. If a name doesn't come back, I would, some departments have a, a fingerprint system that they can come and scan the fingerprint and sometimes that would show up if they are fictitious about their name.*

Moore *Does Daly City have that?*

Smithmatungol *No.*

Moore *Do any of your neighboring agencies have that?*

Smithmatungol *I, I believe Colma does.*

Moore *Have you used it before?*

Smithmatungol *I have not. To my knowledge, I have not.*

Moore *So, uh, if the mobile fingerprinting machine's not available, what would you do next?*

Ganz *Can I just clarify one thing?*

Moore *Mm-hmm .*

Ganz *Do you recall a specific instance where that actually occurred? Like do you remember if that, if you were confronted with that sort of situation before?*

Smithmatungol *Since to my, if I remember, ever since I started FTO, I've never had a subject that had no ID, no nothing, no, no name.*

Moore *No physical ID you're talking about?*

Smithmatungol *Or no, no way of showing that this person's who they are, they've always had at least a passport or a ID card or, I, I don't remember since, ever since working that I've had a instance where I've had no name, no nothing.*

Ganz *Okay .With that being said, do you want him to think about what he might do in that, that situation?*

Moore *Sure.*

Ganz *Okay. What do you think he would do in that situation?*

Smithmatungol *Um, I think I'd contact a supervisor just 'cause I, I, I wouldn't know what to do. Um, but in that case, I would probably have to book to jail to verify fingerprint ID.*

Moore *Okay. So just to confirm if all else methods as far as no physical ID, no match through dispatch, no mobile fingerprint available, you would book at jail so that they could fingerprint and get an ID, correct?*

Smithmatungol *Correct.*

Moore *Plus get supervisor approval. Does that require supervisor approval?*

Smithmatungol *No.*

Moore *You would just ask for advice?*

Smithmatungol *But I would just ask just for advice.*

Moore*. Advice. Perfect.*

Moore *Okay. So in the 200 or 300, um, shoplifting cases, you said you had, uh, plus you've been an officer for three years, every single one of them had, every single suspect had an ID, a physical ID, or you're saying, well, you were able to find a match based on name and date of birth?*

Smithmatungol *I was able to find a match.*

Moore *Do you have access to Cal photo? Are you familiar with that program?*

Smithmatungol *Yes.*

Moore *Okay. Do you use that also?*

Smithmatungol *Yes.*

Moore *Okay. Can you explain how fingerprints are obtained?*

Smithmatungol *Um, either digital on the ticket writer or, uh, ink and paper.*

Moore *Okay. Are there any other ways, uh, we kind of hit on this a little bit, but are there any other ways to obtain fingerprints besides your digital and your ink pad?*

Smithmatungol *That's the only way I've been taught to obtain fingerprints.*

Moore *Except the mobile also, or going to jail and having them do, correct?*

Smithmatungol *Yes.*

Moore *Okay. Is there a way to confirm that digital prints were taken?*

Smithmatungol *Um, I believe on the ticket writer.*

Moore *Okay. And do all ticket writers at Daly City PD have a digital capabilities?*

Smithmatungol *No.*

Moore *No, okay. And so if the ticket writer you had in your possession didn't have those capabilities, what were the other ways available that you said?*

Smithmatungol *Uh, the f uh, the ink and paper or take 'em to jail to get a fingerprint*

Moore *Or the mobile?*

Smithmatungol *Or the mobile.*

Moore *Okay.*

Sherburne *If I could say, I heard you answer the question, yes, on the mobile writer, there is a way to confirm digital fingerprints. What is that confirmation on the digital writer that allows you to confirm that fingerprints were in fact taken?*

Smithmatungol *Sorry, there's no, um, so some ticket writers have the fingerprint attachment at the top where you obtain a fingerprint and that would go on the citation, but it wouldn't confirm name, date, or anything like that. It just shows that you got a fingerprint for that specific citation.*

Sherburne *So are you saying that you physically see an image of a fingerprint?*

Smithmatungol *I, I don't remember, but the, the device itself has a little square tab to put a finger on.*

Sherburne *Okay. Is there a printout that the mobile device writer prints out that prints an image of a fingerprint on it?*

Smithmatungol *I don't remember if it, I, I don't remember if it prints out physically, but it would show up on an external website. If you go back to the PD a click the, the ticket writer website, and it, it, I think it'll show a fingerprint on there.*

Moore *Have you ever looked up a fingerprint that you've taken on the field digitally with your e-ticket writer?*

Smithmatungol *I can't say with full confidence. I don't, I don't remember.*

Moore *Okay. Have you used the digital fingerprint before?*

Smithmatungol *I, I think I have.*

Sherburne *Are, are there, excuse me.*

Moore *Oh, no, you're good.*

Sherburne *Are there required fields on a mobile writer? When you have a, a subject in front of you and there are required fields and optional fields, a required field might be name, date of birth, address, an optional field might be height, weight, uh, you know, like when you're filling out, uh, an Amazon shopping order, there are some things if you click it wrong, you, you didn't put the CCV in for the credit card, it's gonna reject it. Does the mobile writer have something like that?*

Smithmatungol *Uh, the finger, the mobile writer itself has a required field. Um, but for fingerprints, I don't think it's a required field because I've written citations, uh, without the fingerprint.*

Sherburne *If it's not a required field, does it have a check the box? Um, uh, sort of like, I confirm that I'm not affirmatively doing fingerprints. Like, uh, do you understand that question?*

Smithmatungol *I believe I answered the, I understand the question, but I don't, I can't say exactly without looking at the device.*

Sherburne *Okay.*

Moore *Is it important to confirm a subject's identity?*

Smithmatungol *Yes.*

Moore *Why?*

Smithmatungol *Um, you can arrest the wrong person and that would just jeopardize a whole investigation.*

Moore *Okay. So prosecution purposes?*

Smithmatungol *Correct.*

Moore *Okay. Um, and the wrong person ID'd?*

Smithmatungol *Correct.*

Moore *Of your total shoplifting calls of service, approximately how many did you cite and release approximate? You said 200 to 300 calls, of those?*

Ganz *You wanna do a percentage maybe?*

Moore *Sure.*

Ganz *That might be easier.*

Smithmatungol *Maybe eight, depending on what they, 80 to 90% of them.*

Moore *80 to 90 you, uh--*

Smithmatungol *Just, just for shopping itself, besides warrants or anything like that? Maybe 80 to 90% are just cite and release.*

Moore *And how many approximately did you book?*

Smithmatungol *The other 10-20%.*

Moore *20 to 20. 10 to 20, sorry, for 10 to 20, correct?*

Smithmatungol *Yes. Okay. And that's just shoplifting as the sole charge, not warrants or any other thing? Yeah, I believe that's correct.*

Moore *Okay. During your career as a police officer, can you estimate how many calls of service you responded to involving identity theft?*

Smithmatungol *Um, a handful, maybe a couple dozen.*

Moore *And how many, um, have you, uh, how many arrests have you made related to identity theft?*

Smithmatungol *Identity theft or providing false name to a police officer?*

Moore *No, Identity theft.*

Smithmatungol *Not much. Um--*

Moore *Have you made any arrests for an identity theft?*

Smithmatungol *Yes, I've, I've had maybe I, I only recall one specific one. Um, but I don't remember. I don't know for sure how many during my career.*

Moore *But at least one?*

Smithmatungol *Correct.*

Moore *Okay. Less than five?*

Smithmatungol *Maybe around five to 10.*

Moore *Okay.*

Ganz *Can I also ask just a foundational question?*

Moore *Mm-hmm .*

Ganz *So when, approximately when was the last date that you were actually working as a police officer?*

Smithmatungol *Beginning of 2024. Okay. So, or 2025. I'm sorry.*

Ganz *Do you think some of these things were fresher in your memory at that time than they are since everything that's happened?*

Smithmatungol *Correct. That's been about it almost a year.*

Moore *So on June 2nd, 2024, you responded to the target in the Serramonte Center for a detained shoplifter. You cited and released a subject, a person identified as Ms.* [redacted] *Do you recall that?*

Smithmatungol *I recall that call, but I don't that name. Um, I don't exactly remember that name.*

Moore *Did you cite and release a subject?*

Smithmatungol *At Target? Yes.*

Moore *At Target, okay. Was she female?*

Smithmatungol *Yes.*

Moore *Was she pregnant?*

Smithmatungol *I, yes.*

Moore *Or appeared to be?*

Smithmatungol *Appeared to be, yes. Okay.*

Ganz *Do you think, you know what call for service we're talking about?*

Smithmatungol *Yes. Yes, I do.*

Moore *Related to your IA?*

Smithmatungol *Yes.*

Moore *Number one?*

Smithmatungol *Yes.*

Moore *Okay. So please explain how you identified the subject you identified as Ms.* [redacted] *Um, that's according to your report, that name.*

Smithmatungol *So she, this was primarily Spanish speaking. I was able just to ask, uh, license, passport or anything like that, just in Spanish before my second officer who speaks Spanish gets there. Um, she said no for license, no for passport, if I remember. And I just had my partner do all the talking. Um, asked, I asked him if he can get identification or search or, or property. I think he found a, a card with her name on it.*

Moore *What kind of card was that?*

Smithmatungol *I believe it was a debit or credit card.*

Moore *To your knowledge, did she have anything else in her possession with her name on it?*

Smithmatungol *I, no, I did not. I do not remember. Right. I don't.*

Moore *Is that something you would've, information you would've gotten from your partner at the time?*

Smithmatungol *At the time I had him do most of the talking because I don't, I don't speak Spanish, and so I would've ask him for all the standard practice. We go there, we get the name and all that items, and so I had, I had my partner do most of the talking.*

Moore *Okay. So the name that was written on the citation, uh, I, did you write it in there or did your partner?*

Smithmatungol *I wrote it in there and I think he provided me that card with that name on there.*

Moore *Like his FI card or the one that you got from a debit card?*

Smithmatungol *I don't remember if it's FI card or a debit card, but it's, it's one or the other.*

Moore *Either way, the name was obtained from this female subject?*

Smithmatungol *From the female subject.*

Moore *Okay. Verbally and then possibly by a debit card?*

Smithmatungol *Correct.*

Moore *Okay. Did she have a California ID or license?*

Smithmatungol *She did not.*

Moore *And how did you find out that she did not?*

Smithmatungol *Um, I asked her if she had any license or identification. She said no, and I believe my partner asked her if he, if she asked or if she had any in Spanish for better clarification, I believe she said no.*

Moore *And did you and/or Officer Rodriguez request dispatch to run her name and date of birth that she provided?*

Smithmatungol *I, one of us ran her name out over the, in the air, I believe.*

Moore *And what was the purpose of this?*

Smithmatungol *Just to put it in the system, in the CAD call for the future reference if I need to go back to it, or, uh, if they can find the name or a match on the name.*

Moore *A matching, um, name, which would be indicative of an ID, California ID or DL. Is that correct?*

Smithmatungol *Correct, yes.*

Moore *Okay. What was the result of this request?*

Smithmatungol *I believe there was no match.*

Moore *Did she have an out-of-state identification card or license?*

Smithmatungol *Not that I saw.*

Moore *Did you request dispatch to run her by name or date of birth out of state?*

Smithmatungol *I do not recall specifically asking for out-of-state.*

Moore *Uh, I think you said this already, but let me just confirm. Does dispatch your dispatch at Daly City PD have the capabilities of running an out-of-state DL or ID?*

Smithmatungol *Yes.*

Moore *Okay. So in the report, um, that you have for the shoplifter, there was a out-of-state ID number written in North Carolina. Would that be indicative of running it over the air or running it through dispatch to obtain that?*

Smithmatungol *I, yes, because I, I, there's no possibility without me going on the computer to get that number because my computer's in my patrol car outside. And so that either came from my partner or dispatch.*

Moore *Okay. But you don't remember seeing a physical ID card, so it would've been over the air?*

Smithmatungol *Correct.*

Moore *Okay. After being told by Officer Rodriguez that the suspect had no id, you stated, I'm gonna book her, then what did that mean?*

Smithmatungol *Um, that was just my first impression that I, there's nothing else I can do. I I should just book her.*

Moore *Why? You said there's nothing else I can do.*

Smithmatungol *Uh, as in there's no, uh, to my knowledge, there's no other way of IDing her, um, at that time. So I said, uh, I'm just gonna book her.*

Moore *Is that because when you ran her over the air by name and date of birth, there was no match in California ID or DL?*

Smithmatungol *Correct.*

Moore *Okay. Did you inquire the, for a mobile fingerprinting system?*

Smithmatungol *I did not.*

Moore *Okay. So if I'm understanding this correctly, you weren't able to identify her, so at that time, you planned on booking her?*

Smithmatungol *Correct.*

Moore *During, uh, conversation with Officer Rodriguez, at the time he's filling in the electronic ticket writer, you stated we're short, I'm just going to cite her. What did that mean?*

Smithmatungol *Um, I think I looked at the, the, our, our phone has the ability to look at RIMS to see what other officers are doing. Um, I believe most of the officers were busy doing something else, and that was the start of shift and Serramonte, is the biggest, it was one of the biggest busiest beats according to just people coming in wise. And so, um, I had, I, I was thinking about beat integrity saying, I, I am not gonna take this person to jail because I, if I'm going to jail and all these calls are coming in, I just didn't want my partners to take more paper for me. I just, I just thought that my beat, my responsibility.*

Moore *So. And the last question, you just said you were going to book her and then here you said you're going to cite her. Was there any other reasons besides the amount of officers and their, uh, availability that made you decide to go from citing and release to booking?*

Smithmatungol *Not that I remember. I think I just--*

Moore *I'm sorry, I said backwards from booking to citing and releasing.*

Smithmatungol *Not that I remember. I just thought about beat integrity and that was my main concern.*

Moore *Was there anything else in your decision process for citing and releasing the subject that day?*

Smithmatungol *No, I just, I made a bad judgment call on that, on, on that, on that cite and release.*

Moore *Why do you feel it was a bad judgement call?*

Smithmatungol *Um, after, I mean, after I looked at the call and how I handled it, it wasn't the appropriate way of handling it, and I just didn't take responsibility and I messed up.*

Moore *What would've been the appropriate way to handle it?*

Smithmatungol *Take her to jail and do the right thing.*

Ganz *Okay. Just why was it the wrong thing? Like just go into more now, like why do you feel that way?*

Smithmatungol *I, I, I just felt that she, so she was pregnant. I saw that she was pregnant. What she stole was, um, household items, food, and maybe some decor, not, not the consistent, um, shoplifters that we tend to see, which steel buckets and buckets of tide pods, for example, to sell on the streets. So I kind of also felt consciously bad that she's very, she's very, uh, physically looked like she's pregnant. And so I just didn't think she was a, a habitual shoplifter. Target security is usually very, uh, knowledgeable about who's a frequent, who's not. And they didn't tell me this is, she's been in here multiple times. And I just kind of played that into effect and I, I, I, I felt bad for her. Um, and so that's, that's why I cited and released her, but the right thing would've been take her to jail and go through the process.*

Moore *So the question right before this, I asked, can you please explain your decision process for citing and releasing it? And you indicated that it was just because of beat accountability. Um, so let me ask that question again. Uh, so with what you've brought forward, correct. Now it's a humanistic approach, so there's two reasons. Is there any other reasons why, besides the humanity approach as far as the subject and a beat accountability? Any other reasons?*

Smithmatungol *For that, I believe there was another shoplifter at the same time while I was dealing with this one who was more aggressive verbally, um, verbally aggressive towards security as well as just, I was shocked that he'd steal with the police car parked right out front, inside or outside. And so I think I was just juggling her plus him. Um, and so I, I I might have gotten kind of jumbled. Um, but I, I think that's it. I'm trying to recall it. Sorry.*

Moore *Okay. Uh, we'll get into a little more detail about the second shoplifter, but before we get there, did you and Officer Rodriguez have a discussion about fingerprinting her, fingerprinting her at any time?*

Smithmatungol *I,I don't think so. I don't remember.*

Moore *How about after this incident, did you have any discussions with him after everything's said and done at any point between then and now regarding fingerprinting? For example, if after your IA you're like, oh, did we fingerprint? Maybe, maybe not. At any point did you have a conversation with Officer Rodriguez regarding fingerprinting?*

Smithmatungol *I, I think I did. I, or I think that day I asked him if I gave him a citation with the fingerprint, and I think that's all I asked him for.*

Moore *When was that conversation?*

Smithmatungol *I think that same day.*

Moore *So after shift before shift in the middle of shift*

Smithmatungol *In the middle of the shift.*

Moore *Uh, had you already concluded that scene?*

Smithmatungol *Yes. That was already done. I think this was hours after, hours later. Um, I was confront, I was approached by my sergeant about the case, and I, I, I asked him if I gave him a citation with a fingerprint. And--*

Moore *What did he say?*

Smithmatungol *He said, he'll look, but he doesn't remember.*

Moore *He didn't remember. What obligation did Officer Rodriguez have in regards to obtaining a fingerprint?*

Smithmatungol *None. It's, it was my responsibility. It's my call, my case. I'm primary. It's, it's my, it, I, I'm my, I'm, it's my investigation. He was just there as a cover.*

Moore *Okay. Was there another shoplifter in the store at the same time you were dealing with this first subject?*

Smithmatungol *Yes.*

Moore *Can you tell me a little more about that interaction?*

Smithmatungol *Um, it was a male who was actively shoplifting. I was notified by target personnel. Um, I was, I think I was watching it on camera in the same security office where the female was sitting. Um, he was actively placing stuff in a basket, um, about to walk out the front doors of where we were, uh, in where the office is 'cause the office is in the vestibule between the outside doors of the inside doors. And so he was, he was gonna walk past the door that we were in. And so I confronted him inside the store right at the front, um, display case. I told him, hey, put the basket down, go outside and did the investigation out there. And then I thought he dropped all the items. Um, but it turns out he had items in his pants or in his shirt or somewhere in there. And so, um, I didn't arrest him for, or cite him for shoplifting because I told him to leave the premises. And so I legally, I, I, that was my decision. I can't, I told him to shoplift technically. Um, and so I didn't do that. He was verbally aggressive. Uh, so I had to try to get in control of him while I think Officer Rodriguez was in the, the security office with the female . And so I was dealing with him by myself, um, verbally aggressive. I don't know what he was gonna do until I believe I placed him in handcuffs and then ended up doing a, a search. I don't remember if it was incident to arrest or consensual and found, um, narcotic substance on him, which I cited and released him for.*

Moore *How did you identify him?*

Smithmatungol *I believe it was by name and I ran it over the air and it came back as a match. And I think I confirmed it through e excuse me, either CalPhoto or our, uh, internal system.*

Moore *And you said, uh, he was cited and released, correct?*

Smithmatungol *Correct.*

Moore *Was there a difference between the way the first shoplifter was identified and the second?*

Smithmatungol *Yes.*

Moore *Can you please explain?*

Smithmatungol *Um, the first one, she wasn't identified. She, I got the name, no match of the name, no card, no nothing to show that she had identity. And so--*

Moore *As opposed to the second?*

Smithmatungol *The second one had a match that I confirmed it was a match.*

Moore *Through dispatch, ID, and in CalPhoto?*

Smithmatungol *Uh, dispatch and then CalPhoto.*

Moore *Did you obtain a fingerprint of the female suspect you cited and released on June 2nd, 2024, at the Target in the Serramonte Center?*

Smithmatungol *I did not.*

Moore *How do, how do you know that the person you cited, as written on your citation, Ms. [redacted] was who she claimed to be?*

Smithmatungol *I don't.*

Ganz *Can I follow up on that one?*

Moore *Yeah.*

Ganz *Um, was there anything that led you to feel somewhat confident or did you really, as you sit here right now, there was really no--*

Smithmatungol *There's really no. She, she gave us an address, um, in a different state and that that was pretty much it.*

Ganz *Okay. Thank you.*

Smithmatungol *I don't have anything else.*

Moore *Please explain why, when questioned by your field supervisor, Sergeant Karen Douglas, both on the night of the incident and on June 8th, 2024, you stated you had obtained a fingerprint from the female suspect.*

Smithmatungol *Um, I panicked. I, I have no excuses for what I did. I just, I just panicked. I, that was my first time kind of getting in trouble doing something wrong, and I didn't take accountability for myself. And I have no excuse for that one.*

Moore *Please explain why questioned by IA Sergeant Matthew Ciucci, during your IA interview on January 31st, 2025, you stated you obtained the suspect's fingerprint.*

Smithmatungol *Um, I, like I said, I have no excuse. I was going through some personal things then, and I, I have no reason.*

Moore *On January 31st, 2025, during your IA interview with Sergeant Ciucci, you related that you reviewed your BWC of the event prior to your interview. Did you in fact review your BWC prior to your IA interview?*

Smithmatungol *Yes.*

Moore *When did you review it?*

Smithmatungol *20 minutes before my IA.*

Moore *20 minutes before. Okay. Was that the only time you reviewed it or had you reviewed it previously?*

Smithmatungol *I believe I reviewed it previously, and I don't remember when the date was at.*

Moore *Can you give me approximate when and where you reviewed it before the IA? Besides the one right before the IA, would it been like weeks before? Would it been that same day of the incident? Do you remember at all?*

Smithmatungol *I, I don't remember at all.*

Moore *Was it multiple times?*

Smithmatungol *I believe so. Um, I don't remember when I got my notice that had an IA, but I think from the time I got the notice of the IA to the IA interview, I think I watched it once or twice. But I, I, I don't know an exact number.*

Moore *Okay. So once or twice after your notice. How about before your notice? Did you review it at all?*

Smithmatungol *No, I don't think so.*

Moore *Was there any--*

Sherburne *I'm sorry. When did you get the notice? Was it contemporaneous with being placed on admin leave or was you placed on a, where were you placed on admin leave and some other later time you got notice of the IA?*

Smithmatungol *I think I received a notice of an interview in January, and then I got into a pursuit collision in February, which placed me on IA. On admin. On admin, sorry.*

Sherburne *Okay. And the notice of the interview was the first time that you also got notice of the investigation?*

Smithmatungol *Correct.*

Moore *Was anyone with you when you were reviewing your BWC?*

Smithmatungol *My, uh, attorney from RLS last time.*

Moore *After reviewing it, did you have any concerns?*

Smithmatungol *Uh, concerns, meaning?*

Moore *Regarding the actions you took?*

Smithmatungol *I saw that I messed up and that's pretty much it.*

Moore *So you saw that you had messed up? How?*

Smithmatungol *I saw the way I handled it. Um, and after being on admin, or sorry, sorry, my dates are a little troubled right now. My admin was January 31st.*

Ganz *You said earlier, not to put words in your mouth, but you said earlier there was some pursuit that happened. That's, that's what triggered your admin leave or are you not sure about that?*

Smithmatungol *My pursuit, I was placed on admin end of February, um, because of a pursuit collision. And I think I got the notice of IA somewhere in January. So January to February.*

Moore *The IA interview was the 31st of January, if that helps out.*

Ganz *Do you remember if you were on admin leave at the time of your IA interview or have you not been yet?*

Smithmatungol *I wasn't on admin leave during the interview.*

Ganz *Okay. So I don't even remember the question. Sorry.*

Moore*. It's your follow up. [laughter]*

Ganz *It is my follow up. [laughter]*

Smithmatungol *Sorry, I'm just trying to get my dates--*

Ganz *[laughter] We're all here to take responsibility for our actions.*

Moore *Uh, okay. So after reviewing it, let's say before your IA, did you have any concerns about the fact that you didn't ID the subject?*

Smithmatungol *Um, yeah, because I looked at, um, our policy regarding, um, what to do for a person who didn't have ID and it was book, book in jail and that's what I didn't do.*

Moore *Okay. So you had knowledge of it going into your IA?*

Smithmatungol *Yes.*

Moore *But still when questioned you decided to not be forthcoming with that information?*

Smithmatungol *Correct.*

Moore *Okay. Uh, I think we already asked this, but I'm gonna ask it again. So why did you state then during your IA to obtain the fingerprint when you had not?*

Smithmatungol *I don't have any excuses. Um, that that was my first kind of disciplining and as well as some things back at home and, or some things happening at home and I just wasn't in the right mindset and I didn't take responsibility for my actions.*

Moore *Would you like to elaborate about what you're indicating as far as things at home?*

Smithmatungol *Um, prior to all this happening, in May,* [redacted]

Moore *I'm sorry to hear that.*

Smithmatungol *It's okay. Thank you. And so I think just that whole end of or middle to end of year was just not great. And so, like I said, I, I understand that officers have to keep their personal and work lives separate, but it was, it was just hard for me.*

Moore *Understood.*

Smithmatungol *And I can't use that as excuse for what I did.*

Moore *By stating during your IA that you had obtained a fingerprint when you had not, were you dishonest?*

Smithmatungol *Yes.*

Moore *Did you read the completed internal affairs investigation number 24-04, including the findings and recommendations?*

Smithmatungol *Yes.*

Moore *Please share your thoughts, feelings, or concerns after reading it.*

Smithmatungol *Um, I, it's appropriate and I messed up. I didn't take accountability and I don't deserve to be a department that would have your back if you can't even do the right thing. And so whatever they did was appropriate and that's why I didn't fight it during the Skelly. I just wanted to take it head on.*

Moore *Is there any evidence you have to refute the findings of dishonesty?*

Smithmatungol *No.*

Moore *It's now been a year since your IA interview. Thinking back now, is there anything you would've done or said differently during your IA?*

Smithmatungol *Yeah, I would've told him everything that happened and the truth. That's it, plain and simple.*

Moore *I'm gonna move on to IA, the second IA. In June, 2024, how far away was your residence from the Daly City PD office?*

Smithmatungol *Seven minutes.*

Moore *Okay. Typically, how'd you get to work each day?*

Smithmatungol *Just drive.*

Moore *Do you ever carpool?*

Smithmatungol *No.*

Moore *Okay. On June 20th, 2024, you were scheduled to attend a training at 0700 hours at the Daly City PD. Can you please describe your actions prior to arriving to work on June 20th, 2024?*

Smithmatungol *Um, I remember coming to work. Um.*

Moore *So I wanna know prior to coming to work.*

Smithmatungol *Sorry. Um, I think I worked the night before and I, I just woke up. Um, every time I wake up I check my emails, um, saw I had things to do regarding evidence wise and I, I woke up and I think I woke up late. And so I, I, I just rushed to work.*

Moore *Uh, what time do you think you woke up?*

Smithmatungol *6:55 maybe 7, I say 7:10.*

Moore *And did you respond from your residence?*

Smithmatungol *Yes.*

Moore *Did you go straight to work or did you make any stops?*

Smithmatungol *I went straight to work.*

Moore *Anything unusual occur that morning?*

Smithmatungol *No.*

Moore *How about the fact that you said you woke up late. What time were you intending on waking up?*

Smithmatungol *6:20, 6:15. I usually get to work maybe 30 minutes early just to get ready.*

Moore *So this was an unusual occurrence to wake up late?*

Smithmatungol *Yes.*

Moore *Okay. During your IA interview, you admitted you arrived late to work when you arrived at approximately 730 hours instead of the required 0700 hour start. From 07 to 0730 hours, what were you physically doing?*

Smithmatungol *Getting outta bed, throwing on clothes and getting on the, getting out of the car or getting outta the house to go to work.*

Moore *Okay. And you said you did not make any stops that morning, right?*

Smithmatungol *No.*

Moore *Okay. Besides just being late, can you explain if you have any other reasonings for arriving at work at 0730 instead of 0700?*

Smithmatungol *No, I think I was just exhausted from working, uh, over, uh, the retail theft shift the night before.*

Moore *Was that overtime?*

Smithmatungol *It was overtime and I think I got out at maybe midnight. Around that time. I'm not a hundred percent sure. But it was late.*

Moore *Later than normal?*

Smithmatungol *Correct, because I, I don't work day shift.*

Moore *Normally would modifying a work schedule require approval from a sergeant?*

Smithmatungol *Yes.*

Moore *Okay. Did you notify anyone you'd be driving at work at 7:30 instead of 07?*

Smithmatungol *I did not.*

Moore *Why not?*

Smithmatungol *Um, at that time, I've, I've never been late in my career and so I just didn't ever, I didn't think of doing it 'cause I was just get to work, get to work, get to work.*

Moore *Did it have anything to do with the fact that you were just in a training day and not on patrol?*

Smithmatungol *No, I, I usually always come to work early. I've always come to work early and, uh, it was just a different routine for me.*

Moore *If you were working patrol and you were 30 minutes late, would you have notified someone?*

Smithmatungol *I, I believe I would, yeah.*

Moore *Did you get compensated for the whole workday despite not being at work until 7:30?*

Smithmatungol *I believe I did.*

Moore *And can you explain your actions upon your arrival at work from 0730 until you entered the training room at approximately 0740-45 hours?*

Smithmatungol *I came through the doors from the, into the PD. Um, walking past evidence I saw, I don't, I don't know if I saw the lights 'cause I had property to fix and so I didn't know if my property technician was there. So I just took a quick glance, kept walking, went through the doors changed, and, uh, went up, went up to the training room.*

Moore *Did you have to change in the locker room?*

Smithmatungol *Yes.*

Moore *Okay. During your IA interview with Sergeant Ciucci, when Sergeant Ciucci asked you, did you provide your sergeant's a reason for being late to entering the training room, you stated, yes, I told them I was working, I was going to do evidence. I think I told the sergeants, I said with Rose, but I meant for Rose, okay, it's just a slip up in words. What did you mean by that?*

Smithmatungol *So I, we, we have, we get emails about property that we have to fix, and I believe that day was a weekday. So my case was going to the DA's office and the physical property had to be fixed to get, to get sent. And so it wasn't, uh, go on the computer fix it was, I have to go to the property room and either sign or, or repackage a physical piece of, I think it was a pipe at that time, um, to repackage that. And so I was, I was gonna go do it, but I, I just went up to the training room instead.*

Moore *Why did you make the distinction between with and for?*

Smithmatungol *Uh, with would be, I mean with, and for I kind of used interchangeably. I got the email from Rose. Um, I was gonna do it for Rose 'cause I got the email or with Rose or the other permanent, or the technician who was there to the evidence technician to do, to do property. So I I I have no further explanation on why you used with or for.*

Moore *Were you in fact handling evidence for Rose?*

Smithmatungol *No.*

Moore *You sent Rose a text message at 0807 hours stating, if Karen or Jerel asks, can you please let them know I was handling evidence.com with you. What does the statement mean?*

Smithmatungol *Um, during that training day, I was gonna go down and, um, go do evidence with her, but I didn't know she was there, so I just sent her the text and I was gonna go down later to fix the property, but she ended not being there.*

Moore *What timeframe does it refer to?*

Smithmatungol *Probably that morning. I, I wanted to do it ASAP 'cause um, it had to be sent down to the DA.*

Moore *And what does handling evidence.com mean or refer to?*

Smithmatungol *Um, if evidence.com would be, um, going to a computer terminal and going to the Axon Evidence website to fix either labeling or, um, a title of evidence.*

Moore *Okay. Did you handle anything evidence related with Rose prior to 0807 hours on June 20th, 2024?*

Smithmatungol *No, she wasn't there.*

Moore *So why did you send her the text if you had not actually been handing evidence with her?*

Smithmatungol *I no excuse. I mean, I was, I texted her 'cause uh, I was gonna go do it with her. She ended up not being there.*

Moore *So was the se was the text you sent at 8:07 was any part of it not truthful?*

Smithmatungol *Yeah, I didn't do it with Rose*

Moore *Then why would you send her that text?*

Smithmatungol *I dunno. I I don't know why I did it.*

Moore *Was it to create an alibi?*

Smithmatungol *No, I--*

Moore *Should the sergeant ask?*

Smithmatungol *When I, when the sergeant asked me why I was late, I told her I came late. Um, but I was gonna, I was gonna do property with the Rose, but I ended up not doing it.*

Moore *So there's a difference of asking Rose, hey, I need to do property with you later. But that's not the text. The text in fact says, if a sergeant asks you, let them know I was handling evidence. So was is past tense, meaning we did it already. So, is there a reason, is that statement truthful in the fact that you're asking her to tell a sergeant that you were doing evidence with her, meaning prior to past tense, rather than can you let him know we're gonna do evidence later?*

Smithmatungol *I, it was untruthful.*

Moore *It was untruthful?*

Smithmatungol *. It was untruthful. Untruthful.*

Moore *But why?*

Smithmatungol *I really don't have an explanation. I it wasn't to create an alibi whatsoever. Um, I really don't know.*

Moore *Was it so that she would cover for you?*

Smithmatungol *No, God no.*

Moore *Did you ask her to lie for you?*

Smithmatungol *I didn't specifically say, hey, uh, cover for me, I'm coming in late, but that's what the text appears to indicate, then uh, you know, sure.*

Moore *I I don't want you to admit to something that you don't believe in. So you're saying if that's how it appears. You stated that it's not true, correct? That you didn't do evidence, evidence with her that morning?*

Smithmatungol *It's correct. I didn't do evidence with her. My text to her was from, was not to create an alibi or, or, or for me to come, or a reason for me to come late. I needed to do property with her. Um, and it was a physical property that I couldn't do at a computer. And so I think it was just a heads up 'cause I was gonna step out from the training office and they, that might raise questions. I, I think that's what I did it for. I, I, I can't say for certain.*

Moore *So you admitted that it's not a truthful statement of doing evidence with her, right?*

Smithmatungol *Correct.*

Moore *Okay. Did you tell her that statement or ask that statement to conceal the fact that you arrived at work at 7:30 instead of 07?*

Smithmatungol *Not to conceal the fact that.*

Moore *You're saying you didn't ask her to lie, but that the statement, in fact is a lie.*

Smithmatungol *It's been, I I didn't ask her to lie for me or just to cover for me whatsoever. I texted her because I wanted to do evidence with her, and then it was gonna require me to step out at some point*

to, of the, the training room. And so I think that was just a, if they asked I was gonna do a, a property with her, I, I think that's why.

Moore *But it doesn't say, if they ask, tell 'em I'm gonna do property with you. It says, tell 'em that I was handling evidence with you. Do you see the difference in past tense versus future?*

Smithmatungol *Correct.*

Moore *So did you purposely use past tense and ask her to tell a sergeant that you in fact, were doing evidence with her when you had not been doing evidence with her?*

Smithmatungol *I didn't do it on purpose.*

Moore *So you didn't do it on purpose, but in fact you did it.*

Smithmatungol *I did it. I*

Moore *Did it and it was untruthful?*

Smithmatungol *It was untruthful. But my intention for not for her to cover for me. I don't want Rose to get in trouble. I, I, I did it, but it wasn't, I, it was just, I, I made a mistake. I I doing the text and.*

Moore *So did you ask Rose to do, to say you were doing something you weren't?*

Smithmatungol *I did.*

Moore *During your IA interview with Sergeant Ciucci, uh, I'm sorry. During your interview, Sergeant Ciucci asked, in essence, in hindsight, looking back at it now, is there anything you would've done differently or anything you would change and you responded, just tell the sergeant. What did you mean by this?*

Smithmatungol *Tell the Sergeant I was gonna be late and, um, I, I mean, I needed to do evidence anyways, but I would've not told Rose to make it seem like I'm, she's trying to cover for me. But I just would've told her, hey, I have to, I have to do evidence with you.*

Moore *And why would you tell the sergeant that you were just gonna be late? Why would you change that?*

Smithmatungol *Uh, thinking about it, if, if I'm coming in late, then I have to tell someone coming in late.*

Moore *During your IA interview, Sergeant Ciucci asked you, so in in hindsight, if you could, do you think that your definition probably was a little lackluster, the reasoning that you gave was probably more that you could have given, there's probably more that you could have given, and you stated There's more I could have given, followed by, I should have given and yeah. I mean, they asked me one question why I was late. I told 'em I was handling evidence, I should have taken responsibility and told them, yeah, I came in a little bit later. Why didn't you take responsibility and tell them you came in late?*

Smithmatungol *I, I told my sergeant I did come in late.*

Moore *Uh, why did you not take responsibility and tell them the reasons, all reasons why you were late?*

Smithmatungol *Of waking up late? I, I, I don't have a, a reason to say anything. Um, sorry, I don't, how do I say this? Sorry. I don't know why I didn't, I, I mean, I should have told them, but I, I didn't.*

Moore *Can you explain, um, the actions, your actions the rest of the day? After this incident, at about eight o'clock in the morning.*

Smithmatungol *After the incident, I stayed in the training room, um, and did my portion of the instruction and then after that, I, I think Rose told me that she was coming back at around nine or nine 30, around that time and so I went down at our break at I think 10 or 11 and did the property.*

Moore *And then what time did you conclude your day and return home?*

Smithmatungol *Maybe at 11:00 PM that night 'cause I worked another overtime shift for retail theft.*

Moore *Okay. Did you read the completed internal affairs investigation 24-06, including the findings and recommendations?*

Smithmatungol *I did.*

Moore *Please share your thoughts, feelings, or concerns after reading it.*

Smithmatungol *Um, I, I have no excuse. I, I, I messed up. I, it what I said in the text appeared to be untruthful and misleading and I I have no excuse. I was, I was being untruthful.*

Moore *After reading it, please explain whether you agree with the sustained finding of dishonesty or not.*

Smithmatungol *I agree.*

Moore *Is there any evidence you have to refute the finding of dishonesty?*

Smithmatungol *None. None whatsoever.*

Moore *It's now been a year since your IA interview, thinking back now, is there anything you would've done or said differently during your IA interview?*

Smithmatungol *Uh, I mean, during the IA interview, no, but to my sergeant, um, when she approached me, tell her I woke up late and I came late and I regret sending that text to Rose. My intentions were not to get her in trouble whatsoever, what whatsoever. Um, I just made a bad judgment call.*

Moore *I'd like to ask for your telephone records for your personal cell phone for June 20th, 2024. Will you be willing to obtain those and provide them to us?*

Smithmatungol *Yeah, if I can get it.*

Moore *Okay. You can email 'em if you'd like.*

Smithmatungol *Okay.*

Moore *Okay. Um, we have, we're making good progress, but it's been about an hour and 15 or so. Do you guys want to take a break or do you wanna keep going?*

Ganz *It, it's totally up to you. I did have, I think, while there's somewhat in my mind, just a couple follow up questions.*

Moore *Okay.*

Ganz *So maybe after that you let us know if you want a break or you also, if you want a break?*

Moore *Do you need a break?*

Sherburne *Well, so before you get, I think you have part three?*

Moore *We still have part three.*

Sherburne *So maybe, uh, the follow up questions pertain to questions already asked.*

Ganz*. Yeah. To one and two.*

Sherburne *So yeah. Suggestion, why not ask those questions? Then we take a break. Okay. Quick break and then*

Moore *Sure.*

Ganz *Okay. So just on the one on number two that we're just talking about mm-hmm . I just want, so I understand, um, kind of like a little bit of the confusion. So I just want to give you the opportunity. Obviously you're coming in here and acknowledging some things that you haven't acknowledged before, right? In terms of, compared to the IA interviews.*

Smithmatungol *Correct.*

Ganz *Okay. So I just wanna make sure, and, and like Ms. Moore said, she doesn't want you to say things that aren't true just because we're in that spirit, but at the same time, if you messed up, so I just think we need clarification. So at the time that you sent this text message, um, was your intention to do evidence with her or were you never gonna do that?*

Smithmatungol *My intentions were to do evidence with her, um, because it was due that day. It was due to sent to the DA's office. I tried to do it as soon as possible, but she wasn't there.*

Ganz *Okay. So when you sent the message, there is a distinction between being intentionally deceptive or untruthful and being inaccurate, getting something wrong. And again, we're trying to lay it all out on the table. So, were you, when you wrote that, did you know that you weren't gonna be doing it or did you think that you were gonna be doing it?*

Smithmatungol *I thought I was gonna be doing it. Um, 'cause she's, she's usually there at six in the morning. Um, 'cause when I get off night shift, she's usually there early for us to finish whatever before we go home. Okay. And so, my intentions were to do it with her, but she wasn't there. She was in a meeting or doing something else. So it kind of was not her usual schedule.*

Ganz *Okay. So then in terms of like whether or not you were trying to get her to lie, at the time that you asked her to do that, did you think it was going to be true? It was just, it didn't happen yet?*

Smithmatungol *Correct. Yeah.*

Ganz *Okay. So is is that, I mean, is that what happened here? Is that you thought something would happen, you were anticipating it and then it didn't turn out happening?*

Smithmatungol *Yeah.*

Ganz *Okay. Do you think you should have corrected that at some point?*

Smithmatungol *I should have corrected that. Um, I don't know. She didn't reply to me. I think until that she was out of office until a certain time. So I couldn't tell my sergeant, oh, never mind, she's not here, I can't do it yet.*

Ganz *Okay.*

Smithmatungol *Um, but that I was, yeah, my intentions were to do it with her, but it didn't happen yet. And--*

Ganz *Okay. Would you agree that if that were all the case, that you should have let, like, send a follow up text at least to say like, hey, you know, I know we didn't end up doing that, so obviously I don't want you to say anything that's not true. Like, did you think, did that cross your mind at all?*

Smithmatungol *I, I don't remember. I think she replied, uh, for sure to my text. And so, and then after that she said she'll be back at nine to, at the station at nine, and that's when I can do it.*

Ganz *Can do what?*

Smithmatungol *The, help me with the property.*

Ganz *Okay. What about the part about telling a sergeant that you were doing it with her? Did you ever think to correct that, what ended up not being accurate?*

Smithmatungol *I, at that time, I, I don't remember my, I, I should have, but I don't think I did.*

Ganz *Okay. And then just in terms of the first one, so you said that you at some point reviewed BWC I think multiple times, but like also a little bit before your interview, correct?*

Smithmatungol *Yes.*

Ganz *And was that the only time you reviewed it with your attorney?*

Smithmatungol *Yes.*

Ganz *Okay. Did you feel like, and this is a very delicate area, but did you feel like you were prepared well for that interview by your attorney?*

Smithmatungol *Not really.*

Ganz *Okay. Um, and either way, do you accept responsibility for the things that you said?*

Smithmatungol *I do, I do whatsoever. I, I accept full responsibility, but, um, that was my first kind of IA going through the whole process, so I didn't really know what to do. Um, and I wasn't really prepared for what was happening.*

Ganz *Okay. Those are all my questions I have.*

Sherburne *Um, if, if, if I, do you mind. Um, so early on you said that you cited and released about 80 to 90% of the shoplifters that you had come in contact with. Of that 80 to 90%, what percent did you obtain fingerprints for?*

Smithmatungol *None. Uh, if I, I don't think I did for any of them. Um, if we cited and released, that means we had an ID.*

Sherburne *Okay.*

Smithmatungol *Um, but I, yeah, none, it, it was rare for me to get a fingerprint.*

Sherburne *So at that night when Officer Rodriguez was helping you with that shoplifter, there was a second shoplifter and, uh, [redacted], I think was the subject's name, that was the first time or one of the only times that you had ever had to potentially obtain a fingerprint?*

Smithmatungol *I think that was one of the very first, or one of the few first times. It's, it's less than double digits that I've ever gone a fingerprint.*

Sherburne *Okay.*

Moore *Is that because you would normally take them to jail?*

Smithmatungol *No, I've never, so, I, I don't think I've came to an instance where they had no, ID, no anything, no way of getting a ID whatsoever. And so, I think this was my first time ever experiencing that. And I, I messed up and I should asked for help from a sergeant. And I mean, that was learning*

experience. Ever since that instance, anytime I had any questions about investigation, I called the sergeant every single time.

Sherburne *Because these are follow up questions. This next one is not going to pertain to that.*

Smithmatungol *Correct.*

Sherburne *It's gonna feel like we're jumping around. So, I'm sorry. There was a, not a true Skelly hearing, but there was a Skelly like presentation that you and your lawyer had, um, uh, uh, given, correct. Uh, what did you say? You referenced that during the Skelly, you said that I, I I recall you saying something to the effect that you accepted responsibility and, and therefore moved on. What, what exactly was the defense or the presentation?*

Smithmatungol *There was no defense or presentation. I, I, I think I spoke to my lawyer, I think a week prior to the Skelly. She, I believe she asked me what did I want to do and, um, I said is, I mean, I, I have no excuse or anything to say to about the actions I did. And so I asked, is it possibility to resign and she said she can, she can try to make that happen. And so I went to the Skelly interview with the chief attorney and I think city manager. I just told him, uh, just, I mean, thank you for choosing me to be a police officer and I'm sorry, I disappointed the, the city and the department. And, uh, what I did, I take full responsibility of it's, it's not me. It's, um, that's not who I am as a person. And so I, I asked to resign. And--*

Sherburne *Was there a memorandum or a brief that your attorney wrote and gave to the city on your behalf?*

Smithmatungol *Nothing.*

Sherburne *Like some sort of letter?*

Smithmatungol *Nothing.*

Moore *Did you read a statement?*

Smithmatungol *I wrote a statement.*

Sherburne *Oh, you wrote?*

Smithmatungol *I wrote, I wrote, I wrote a, I think a paragraph statement, just a thank the city, thank for the department for what they've done for me. And, and it was like a five minute meeting. Okay.*

Sherburne *Who was the lawyer at that time?*

Smithmatungol *Uh, Julia Fox.*

Sherburne *With RLS?*

Smithmatungol *Correct.*

Sherburne *Okay. And do you have a copy of that? Uh, like a written out copy digital file?*

Smithmatungol *I think it's on my Google Doc.*

Sherburne *Would would you be able to provide that to Ms. Moore?*

Smithmatungol *Yes.*

Sherburne *If you could look for it. And during the Skelly presentation, um, was any part of that, um, um, the issues* [redacted]*?*

Smithmatungol *No.*

Sherburne *Did your department know at any time that, that [redacted]?*

Smithmatungol *Um, during the middle of the, I mean the academy was keep your, keep your professional and your work life separate. I mean, that's kind of thing, that's what I tried to do. Um, so that's what I did for the middle of the year [redacted]. And so I asked for time off, it got approved. Um, my lieutenant called me or texted me and said, everything's okay or if everything's okay with my family 'cause I put family emergency. Um, and I, I think just my lieutenant knew and I think the next shift I came in, um, my sergeants just said, I'm sorry that happened. And that's it.*

Sherburne *Did you feel comfortable talking to friends at work about what was going on?*

Smithmatungol *Uh, not really. 'Cause stuff like this kind of never happened before.*

Sherburne *That's pretty personal too. Yeah. Um, uh, I have a final question. I'm sorry. Um, I want to frame it correctly. [redacted]*

Smithmatungol [redacted].

Moore *You want to go on break?*

Sherburne *Okay. Yeah. If it's good now we can go on a break.*

Moore *What time is that? Uh, the time is 1334 hours. And we're gonna go ahead and go on break. Stop the recording now.*

Moore *Okay. And we are back from break and the time is 1343 hours. Uh, Mr. Smithmatungol, during the break and myself or investigator, uh, Sherburne, um, discuss anything related to the case with you?*

Smithmatungol *No.*

Moore *Please explain how you typically serve a subpoena.*

Smithmatungol *Um, I would take the subpoena, walk to the door, knock on the door, if there's no answer, put uh, write no answer on the slip. If there's an answer, serve the subpoena.*

Moore *Okay. And do you typically knock and ring the doorbell or one or the other or does it vary?*

Smithmatungol *One or the other.*

Moore *But not both?*

Smithmatungol *Not all the time.*

Moore *Not all the time. Okay. And, um, after knocking or ringing, how long do you usually wait before leaving if there's no answer?*

Smithmatungol *30 seconds to a minute.*

Moore *Do you time it or you just kind of guesstimate?*

Smithmatungol *Just guesstimate.*

Moore *And then how do you document?*

Smithmatungol *Uh, on the subpoena slip just put no answer or served or--*

Moore *Any other ways? Like do you have like a field record that you keep track or a dispatch log or--*

Smithmatungol *Usually when you serve subpoenas, uh, you're supposed to put that you're on a subpoena call.*

Moore *So they're usually, but not always?*

Smithmatungol *My practice, I sometimes do. I sometimes don't.*

Moore *Okay. Approximately how many subpoenas have you attempted to serve in your career?*

Smithmatungol *Maybe around a hundred.*

Moore *Okay. Of those, how many did you successfully serve?*

Smithmatungol *Uh, few because I worked night shift, um, a couple dozen.*

Moore *And if a couple dozen, so would you say the majority of them you were unable to serve?*

Smithmatungol *Correct.*

Moore *In those cases, what typically occurs? If, what do you do if you're not able to serve? You said majority of those of a hundred, you said a couple dozen, you successfully did so, or 80% of them when you weren't able to serve, what happened next?*

Smithmatungol *Uh, just put no service on the slip and give it to the next team to serve.*

Moore *Okay. And it gets turned back in at the end of your shift?*

Smithmatungol *Correct.*

Moore *And then another officer would get it the next shift?*

Smithmatungol *Correct.*

Moore *And try until service is completed?*

Smithmatungol *Yes.*

Moore *On October 25th, 2024, did you work a regularly scheduled patrol shift from 1900 hours to 0730 hours?*

Smithmatungol *Yes.*

Moore *Anything unusual occurred during the shift?*

Smithmatungol *Uh, regular calls for service.*

Moore *Anything stand out in your memory about that night?*

Smithmatungol *Um, a DV that I had, uh, I was primary officer. It was, it occurred in our city, it like a few different locations. We had to kind of finalize where it happened so that beat officer can take it. It ended up being my beat. Um, at least we, I think that investigation took most of the night 'cause I had to go to San Francisco, talk to the victim, and while I was talking to the victim and getting the statement, the suspect arrived into the, and walked into the residence and that's when we arrested him and did my whole investigation. We took most of the night.*

Moore *So pretty memorable shift?*

Smithmatungol *Correct.*

Moore *Okay. Were you paired up with another officer, like as a passenger in the patrol vehicle at any time?*

Smithmatungol *No.*

Moore *Were you in possession of your own patrol vehicle the entire 12 and a half hour shift?*

Smithmatungol *Yes.*

Moore *Do you ever switch patrol cars during your shift?*

Smithmatungol *No.*

Moore *On October 25th, 2024, you were assigned two subpoenas to serve. I'm sorry. Were you assigned two subpoenas to serve by your sergeant?*

Smithmatungol *Yes.*

Moore *Okay. Was one subpoena, let's just say subpoena number one for witness* [redacted] *with an associated address of* [redacted] *Daly City?*

Smithmatungol *Yes. Uh, I don't know the exact address or Name.*

Moore *It sounds familiar based on your last IA?*

Smithmatungol *Correct.*

Moore *Okay. Do you personally know* [redacted] *?*

Smithmatungol *No.*

Moore *Prior to October 25th, 2024, had you ever been to* [redacted] *in Daly City?*

Smithmatungol *No.*

Moore *Okay. Was subpoena number two for witness* [redacted] *with an associated address of* [redacted] *Daly City?*

Smithmatungol *Yes.*

Moore *Do you personally know* [redacted] *, Ms. or Mr.* [redacted]

Smithmatungol *No.*

Moore *And prior to October 25th, 2024, had you ever been to* [redacted] *Drive in Daly City?*

Smithmatungol *Um, it's apartment complex, I believe. Mm-hmm*

Moore . [redacted]

Smithmatungol *That specific unit? No.*

Moore *Okay. So on October 25th, 2024, did you attempt to serve at any time a subpoena to* [redacted] *at* [redacted] *Drive in Daly City?*

Smithmatungol *No.*

Moore *Towards the end of your shift on the morning of October 26th, 2024, you submitted the subpoena, return slip back to your sergeant, indicated on the subpoena, was the date: 10/25, time: 2123, remarks: No answer. What does that mean?*

Smithmatungol *Um, if I put that, that means I attempted the subpoena at that time and no answer.*

Moore *According to your CAD history, you were on scene at Westlake Shopping Center after being dispatched to a shoplifter from 2105 to 2130 hours. Additionally, your BWC recordings show you were at Ross during this time. Do you have any evidence to refute this?*

Smithmatungol *No.*

Moore *APLR data from your patrol vehicle shows your patrol vehicle never traveled on* [redacted] *Drive during your entire 12-and-a-half-hour shift. Do you have any evidence to refute this?*

Smithmatungol *No.*

Moore *According to Nest camera footage, uh, which displays the front of* [redacted] *and the road leading up to the residence, no patrol vehicle can be seen between 2130 and 2200 hours. Do you have any evidence to refute this?*

Smithmatungol *No.*

Moore *Okay. And a witness interviewed at the residence of* [redacted] *explained he and his family were home the entire day and night of October 25th, 2024, no one came to their home and, um, had someone come, uh, their dog would've barked uncontrollably. Do you have any evidence to refute this?*

Smithmatungol *No.*

Moore *Why did you write date: 10/25, time: 2123, remarks: No answer, on the return slip when you did not physically attempt to serve the subpoena at 2123 hours?*

Smithmatungol *In all honesty, I didn't want to get in trouble. Um, it's plain and simple.*

Moore *Okay.*

Sherburne *Could you explain that?*

Smithmatungol *Yes, sir. Um, so for subpoenas, we, uh, we got a talking to maybe a couple weeks or a couple months before that if we, that we have to make an attempt for that subpoena. Um, you, uh, no attempt is kind of not acceptable. Um, and I was busy with that DV call that night and I think for both of the subpoenas I was, it was already five or 6:00 AM and I still wasn't done with my report 'cause it was a weekday and it was in, in custody and it had to go to the DA that day. And so I, I just put a time and a date and no answer just to give it to the next team. And I, I just didn't want to get in trouble.*

Sherburne *Was it a common practice for officers of Daly City to, um, inaccurately note, attempts of service when no attempt was made?*

Smithmatungol *Um, I can't speak on behalf of other officers, but, um, I've, it it's happened.*

Sherburne *Had you heard that it happened?*

Smithmatungol *I've heard that it's happened.*

Sherburne *Did you see it firsthand?*

Smithmatungol *Yes.*

Sherburne *And, uh, on how many occasions would you say ballpark?*

Smithmatungol *A a handful. Um, some, some officers at, I mean, we work graveyard shift and people aren't awake at 3, 4, 5, 6:00 AM 'cause beginning of the shift from 7:00 AM to 1:00 AM we're busy back to back calls. And, um, and sometimes we have to have the reports done for in-custodies and so we generally just forget. And at the, the end of the shift, some people put no attempt and we got in trouble for no attempt. And so some put no answer.*

Sherburne *Was a possibility to put no attempt busy with DV call?*

Smithmatungol *Um, I've never done that. I think it was either, it's either served, no attempt or no answer.*

Sherburne *What do you think would've happened if you had put, did not, hey boss, I didn't attempt this. I was busy with the DV, I had an in custody. Would, would you have gotten a pass for that at that point and say, hey, maybe the next team could cover this?*

Smithmatungol *I, I probably would have.*

Sherburne *Okay. But you didn't do that?*

Smithmatungol *I didn't, I did not do that.*

Sherburne *Did other people try and do that?*

Smithmatungol *I, I don't rem I don't know.*

Sherburne *Did other people get in trouble for writing false statements on their returns of attempted but not really attempted?*

Smithmatungol *I don't, I don't know.*

Sherburne *Dunno. Okay. Sorry to interrupt.*

Moore *No, it's good.*

Smithmatungol *I am sorry. That was my answer for both of these subpoenas on my reason why I didn't serve them. Just to clarify.*

Moore *Okay. um, subpoena number two, October 25th, 2024, did you attempt at any time to serve the subpoena to, uh, the* [redacted] *at* [redacted] *in Daly City?*

Smithmatungol *No.*

Moore *Okay And towards the end of the shift, on the morning of October 26th, 2024, you submitted a subpoena slip back to your sergeant, indicated the subpoena date was 10/25, time 2142, remarks no answer. What does that mean?*

Smithmatungol *Uh, same as the last one. If I wrote that, then I attempted to serve it, but no answer.*

Moore *Uh, you attempted to serve it. That's what it indicates, correct?*

Smithmatungol *Correct..*

Moore *Okay. And according to your vehicle's APLR data, uh, at approximately 2053 hours your vehicle passed* [redacted] *Drive, but you did not stop, you passed a second time making an enforcement contact across the street with both APLR data and your BWC indicate you did not*

attempt to serve the subpoena immediately before or after the enforcement contact. Do you have any evidence to refute this?

Smithmatungol *No.*

Moore *And why did you arrive 10/25, 2142, no answer on a return, return subpoena slip when you did not physically attempt to serve the subpoena?*

Smithmatungol *Same as the last one. Um, I didn't wanna get in trouble and I thought the next team could serve it.*

Moore *During your IA interview, did you state you physically attempted to serve both subpoenas?*

Smithmatungol *I, I believe I did.*

Moore *Why?*

Smithmatungol *I, I don't know why I did that. It was untruthful and I had no reason to.*

Moore *And again, do you have any evidence of support that you did attempt to serve either subpoena?*

Smithmatungol *No.*

Moore *During your IA interview, Ms. Fox asked you, can you definitively, can you say definitively that GPS on your patrol vehicle would show you at these two addresses on this date, and you stated on that day, yes, it will. Why did you state this?*

Smithmatungol *Um,I dunno why I did, but it was untruthful.*

Ganz *Could I ask a similar question?*

Moore *Mm-hmm*

Ganz *Um, take a moment and try to look back at to what you were thinking, if you can remember. And what do you think was your thought process? Just, um, tell us what you think was going on.*

Smithmatungol *She asked me, she asked that I, I think I was in the area, I think for the head of traffic enforcement traffic stop and so I think I was in that area. Um, that, I mean, uh, that IA I was, I was nervous. Um, my first, that was my first IA meeting. And that's, I was scared.*

Ganz *Were you hoping that you would basically get away with that lie and not get in trouble? Was that what, was that your thought process at the time?*

Smithmatungol *Yeah.*

Ganz *Okay. Did you receive any guidance to tell you that that was a bad idea?*

Smithmatungol *No.*

Ganz *Okay.*

Moore *During your IA interview Sergeant Ciucci asked, so if there's no video of you doing it, then you didn't do it, to which you answered, if there's not, then there's not, you further stated, I don't want to give you all the excuses, but if there's no video of me doing it, then I, maybe I didn't do it. Yeah. And I don't know why these dates and times would be on there, but I don't honestly remember. Please explain what you mean by this statement.*

Smithmatungol *So at that time, if it's not on video, it never happened. Video never lies. I mean, we learned that as police officers, video never lies. If it, if it's on video, if it's on video, um, those date and*

times, I just, I just wrote in, I think at the end of my shift just to fill in the date. There's no significance of the date and time. I just didn't wanna get in trouble.

Moore *During your IA interview Sergeant Ciucci asked you, in essence, if I have this video surveillance footage and I don't see your vehicle during a 12 and a half hour shift, what kind of problem is that, and you stated, integrity.*

Smithmatungol *Correct.*

Moore *What did you mean by this?*

Smithmatungol *Um, uh, it questions my integrity. If there's no video of me being there and I say I'm there, then I'm lying. And that's an integral issue.*

Moore *Do you believe integrity is an important characteristic for a peace officer to maintain?*

Smithmatungol *It is.*

Moore *By stating in your IA that you attempted to physically serve a subpoena two subpoenas when you had not, were you dishonest?*

Smithmatungol *Yes.*

Moore *Did you demonstrate integrity?*

Smithmatungol *No.*

Moore *Why not?*

Smithmatungol *Um, I try to excuse myself and not want to get in trouble. In trouble. And so instead of confronting the issue head on at the time it happened, I try to work my way around it and it was not the right thing to do. It questions, I mean, it, it makes assumptions of who I am and who I am as a person, which I'm, I'm not, I mean, I hope I'm not, but now that my name is tarnished and the department's tarnished and, um, sorry, it's, it just questions my integrity.*

Moore *It's now been a year since your IA interview, looking back at, back at it now, is there anything you would've done or said differently?*

Smithmatungol *Do the right thing,*

Moore *Which is?*

Smithmatungol *Either serve it, attempt to serve it, or tell my sergeant I couldn't.*

Moore *Did you read the completed internal affairs investigation 24-07, including the findings and recommendations?*

Smithmatungol *Yes.*

Moore *Please share your thoughts, feelings, or concerns after reading it.*

Smithmatungol *I, I deserve it. I mean, I deserve the discipline that I got. I had no excuse for it.*

Moore *After reading it, please explain whether you agree with the sustained finding of dishonesty.*

Smithmatungol *I Agree.*

Moore *And is there any evidence you have to refute the finding of dishonesty?*

Smithmatungol *I do not.*

Moore *On October 1st, 2025, you resigned from your position as a police officer with the Daly City Police Department. Why did you resign?*

Smithmatungol *Um, I believe that, I didn't think I was, I deserved to be there. Um, Daly City was the first and only department I applied to and I got in, they did their best. And, um, I mean, it was a good department and I messed up. And so I didn't think arguing or trying to lessen the discipline of at the Skelly was appropriate. I I, I messed up and I knew I messed up and Daly City didn't deserve me or I didn't deserve Daly City, and so I resigned.*

Moore *Do you believe you were given training, adequate training and guidance through your career in Daly City to be a successful peace officer?*

Smithmatungol *I did. Um, FTO was a little, a little hard, um, because I had, I think 8 or 10 different FTOs, usually it's one per month, but with people going off and, um, going on vacation and stuff, I would just swap schedules and swap FTOs all the time. But other than that, like we, we had the trainings, we had everything.*

Moore *Do you plan on seeking employment as a peace officer in the future?*

Smithmatungol *If given the opportunity I would, I would try to.*

Moore *How would you explain your actions during these three separate incidents we discussed today to a future employer?*

Smithmatungol *That I wholeheartedly messed up. I, whatever I did, I did. Um, I have no reasons to be dishonest and whatever other questions they ask, I'll say with wholehearted truth and there's nothing to hide at this point. And so, if, if given the opportunity, everything's gonna be out on the table and I'm, I'd be happy to answer any questions and take full responsibility of what happened.*

Moore *Kevin, do you have anything?*

Sherburne *Uh, I I have a couple of questions if I could. Um, going back to the text messages, I, I had another question about that day that you were texting Rose and she wasn't in the office. So, so with that as the background, um, let's assume Rose were in the office at 7:00 AM, what would've taken precedence if she were in the office taking care of the evidence or going to training on time?*

Smithmatungol *I said I would've thought that doing the evidence, um, because I think that day the case was getting submitted and I, my thought process is my Star Chase instruction portion wasn't until the later afternoon. So for me to be there from seven to I think like nine or 10 o'clock where my, um, instruction was, or from seven to nine or around that time, I, that's not my instruction time, that's a different officer. So, I would've just been sitting there and so I would've thought of, I'm just gonna go knock out this evidence real quick, just 'cause it's going to the DA and I think cases, going to the DA takes precedent, then sitting and watching, um, videos about Star Chase.*

Sherburne *If Rose had been in the office at 7 to 7:30 in the morning, whose responsibility would it have been to talk to training to say Kevin Smithmatungol. Sorry, I didn't mean to mispronounce your name.. Sat…*

Smithmatungol *That's okay Kevin Smithmatungol. Kevin's fine.*

Sherburne *Sorry, my name's Kevin too. Who, who would, whose responsibility would've been to, to tell training, hey, he's busy with, with evidence.*

Smithmatungol *It would've been mine.*

Sherburne *Okay. Um, jumping forward then to the subpoenas, correct. A different topic. Um, did the subpoenas that you did not serve, did they ultimately get served?*

Smithmatungol *I do not. I, I don't know that answer.*

Sherburne *Okay.*

Moore *Would you or your rep like to add anything?*

Ganz *I'll ask a couple questions if there's anything you wanna add just on that one specific topic. When you did what you did and put in the entries that were not true, correct. What were you expecting would happen?*

Smithmatungol *That it would ultimately get served, uh, from the next team.*

Ganz *Okay. And just based on your experience there, was that a realistic possibility?*

Smithmatungol *Yeah, it usually gets served until it, they don't live in the state anymore.*

Ganz *Okay. That doesn't change the fact that you've put in information that was not accurate.*

Smithmatungol *Not whatsoever.*

Ganz *So I just want to talk about the big picture here. So I think the topic, the word of integrity came up. I think you made a comment early on about how this is not kind of who you are. Um, would you agree that during this particular time span in these events that you showed a lack of integrity?*

Smithmatungol *I did.*

Ganz *Um, for whether you're on a job interview at some point, talking to the people here at POST, what would you want them to know about you and why this does or not does not represent you as a person?*

Smithmatungol *I mean, um, when I was put on IA, I was notified by my captain who did my background investigation. He did it from start to finish. He said, in my background, I had no blips or anything of dishonesty or anything of lying. Um, I, I per, that's not an excuse, but I personally think that what I was kind of, what was going on at home was kind of influencing and kind of keeping it bottled up with me and* [redacted]*. Um, but I went to seek therapy, went to go get help, and it's helping. And um, being truthful is kind of the big thing right now. It's always the same. You, you lie, you die, which ultimately that's what happened. I don't, I don't, um, I mean, I regret what I did. I have no excuses or anything about what happened, but that's, that's not who I am. I, it, it really isn't. Um, ever since I worked at Daly City, if like, if anyone needed help, I'd help. Or if they had any questions they had, they'd ask me no questions asked. Um, so it just, it kind of just takes a, a stab in the heart that now my integrity is now shot and it's, it's gonna be hard to bring back, but that's what I plan to do.*

Ganz *Do, do you feel like, in a sense, like some of this snowballed in the sense that like you made a decision at one point in the moment to say something that you know wasn't true and then you get into this IA and then all of a sudden you're just out trying to get yourself out of it. Do you feel like that kind of happened to you?*

Smithmatungol *Uh, a little bit because I mean, this IA notification was my first IA notification. And to get three of them, um, over the span of the actions that happened over six or seven months kind of threw me through a wrench in how I don't, I don't know how this process goes. I'd never been disciplined or been suspended or anything like that. So I, I really didn't know the process. Um.*

Ganz *At that time, did you know that, you know, whether or not it's a department policy, just a major part of law enforcement in general, that whether or not you're familiar with the process, did you know in your gut that you should have been forthright when it came to those interviews?*

Smithmatungol *Yeah.*

Ganz *Okay. And do you feel like you made a bad decision?*

Smithmatungol *I did.*

Ganz *And what consequences have you had to suffer as a result?*

Smithmatungol *I lost my job. I, um, lost all the friends I met up here 'cause I moved from SoCal and I, law enforcement was, I mean, it was my identity ever since I was growing up. It was police or fire pick one. Um, I could, I tried to go the fire route and did my career in that, but the six year wait for any department kind of, um, didn't want me to go fire. So, I went police route and loved it ever since I majored in college for it, um, taught at the Explorer Academy, I taught at the Explorer Academy for traffic collisions, which my, my heart loves. And, um, I just wish that I would've done the right thing. And that's what I'm trying to do now, now that my certification's on the line and, um, potentially my careers ever in law enforcement.*

Ganz *And do you feel like in some very, um, I guess non-ideal way, you've actually learned from this experience in a way that you wouldn't have otherwise? Like what, what do you think you've learned from it?*

Smithmatungol *I mean, I learned that, um, what I did was serious, but I mean, at the time I thought, hey, it's, it'll, it'll blow over. It'll, uh, I'll, I'll, I'll make it right later down the road. But there is no down the road. My, my road ended with Daly City and, um, trying to get back on my feet. I've learned, I, like I said, I went to therapy, go to therapy now. Um, trying to be able to, my, my, I think my issue was I was afraid of confrontation. Confrontation with supervisors, confrontation with anything. Um, because I knew I was wrong. And I can say that wholeheartedly I was wrong, but at that moment I couldn't say I was wrong. I don't know why I couldn't say I was wrong, but I was wrong.*

Ganz *Okay. So if I was either POST or if I was a potential employer of any sort, I would want to know if that instinct that you had for various reasons to run away from the problem as opposed to confront it, do you feel like you have worked past that given everything that's happened?*

Smithmatungol *Yeah.*

Ganz *Like in other words, if a situation, obviously whatever job you're gonna have, a situation could come up or you get messed up or you're too busy to do something, do you feel like you have addressed that so that you can make the right decision in the future?*

Smithmatungol *I did. I, I really think that if, if a situation like this or I did something wrong came up, I, I can confidently say I was wrong. I'm sorry. Um, because I mean the situation, it's not a very good situation.*

Ganz *Those are all the questions I had. Is there anything else that you feel like you wanted to say that you haven't had a chance to?*

Smithmatungol *No, I just wanna appreciate POST and I apologize to the Daly City Police Department for tarnishing the name and tarnishing my name and that hopefully I can stay in law enforcement.*

Moore *Okay.*

Ganz *Thank you both.*

Moore *That's going to conclude our interview for today and time is, uh, 1411 hours.*

I have used all reasonable diligence in reviewing this transcription and to the best of my knowledge the information contained herein is true and complete.

Chris Ganz
Investigator

3/19/26
Date