STATE OF CALIFORNIA

COMMISSION ON

PEACE OFFICER STANDARDS AND TRAINING

PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

(POSAAB) MEETING

VOLUME I (Pages 1-223)

THURSDAY, OCTOBER 17, 2024

9:08 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:
Connie J. Parchman,
California Certified Shorthand Reporter #6137

A P P E A R A N C E S

POSAAB MEMBERS PRESENT

JOYCE DUDLEY
Governor Appointee
Attorney
(Chairperson)

ROBERT DOYLE
Governor Appointee
Former Command Rank Peace Officer
(Vice Chairperson)

NICOLE CLAVO, Psy.D.
Governor Appointee
Public Member

REGINA HATCHER-CRAWFORD
Governor Appointee
Public Member

JACK GLASER
Governor Appointee
Public Member

CEPHUS JOHNSON
Governor Appointee
Public Member

ELIZABETH T. BUCHEN
Senate Rules Committee Appointee
Public Member

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POST COMMISSION 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 COMMISSION STAFF

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

WILLIAM DARDEN
Chief Counsel
Legal Affairs Bureau

CHRISTOPHER BECKER
Assistant Chief Counsel
Legal Affairs Bureau

BRIAN SOUTH
Bureau Chief
Professional Conduct Central Buereau

DAVID PELETTA
Law Enforcement Consultant II
Professional Conduct Southern Bureau

BRYANT HENLEY
Attorney IV
Legal Affairs Bureau

WILLIAM IMBODEN
Law Enforcement Consultant
Professional Conduct Los Angeles County Bureau

CHANDLER KNAPP
Staff Services Manager
Executive Office

KEVIN SHERBURNE
Law Enforcement Consultant
Professional Conduct Central 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

JAMES MUTUKU
Peace Officer, POST ID C25-A69

SIFREDO CANO
Peace Officer, POST ID C03-G01

JAIME BERMUDEZ
Peace Officer, POST ID C36-U28

PAUL MATEJCEK
Peace Officer, POST ID: C65-U31

MARIE MASTERS, Attorney at Law
Rains Lucia Stern St. Phalle & Silver, PC

MARSHAL ARNWINE
ACLU, Northern California

LISA MOORE

EUGENE MOORE

ANGELA SULLIVAN

KORI McCOY

DAVID HARRISON

MICHELLE MONTERROSA

ASHLEY MONTERROSA

MELISSA NOLD

KRIS KELLY

MARIA GRAJALVA

CHRISTIAN CRUZ

PAUL WINDERS

BEATRICE JOHNSON

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Thursday, October 17, 2024, 9:08 A.M.

West Sacramento, California

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BOARD CHAIR DUDLEY: Good morning, again, everyone.

Today's Thursday, October 17th, 2024, and the time is 9:08 A.M.

Thank you all for attending the Peace Officer Standard Accountability Advisory Board Hearing.

Please note that this hearing is being live streamed, recorded and transcribed.

Further, please note that the microphones are auto on-off. Okay. This is especially important for the Board Members. So what that means is, it will come on when you begin to speak. So don't forget, then, if you are doing that, that you need to watch the crosstalk. Okay?

Given that, any questions?

Okay. Now, Chandler, please read the roll.

MR. KNAPP: Good morning, members of the Board.

Thank you, Madam Chair.

Board Member Buchen.

MEMBER BUCHEN: Present.

MR. KNAPP: Board Member Clavo.

MEMBER CLAVO: Present.

MR. KNAPP: Board Member Crawford.

MEMBER HATCHER-CRAWFORD: Present.
MR. KNAPP: Board Member Doyle.
MEMBER DOYLE: Here.
MR. KNAPP: Chair Dudley.
BOARD CHAIR DUDLEY: Here.
MR. KNAPP: Professor Glaser.
MEMBER GLASER: Present.
MR. KNAPP: Board Member Johnson.
MEMBER JOHNSON: Present.
MR. KNAPP: Board Member Lara.
(No response.)
MR. KNAPP: And Board Member Pena.
(No response.)
MR. KNAPP: Thank you.
Nine members are present.
BOARD CHAIR DUDLEY: Thank you. A quorum has been established. We are a body of nine people and so five is a quorum.
We have a new member today, who's not a new member, but you've just come back and joined us.
Would you give us your name and tell us a little bit about you?
MEMBER BUCHEN: Yes, good morning. Lizzie Buchen. I work with Smart Justice California and have worked on police accountability issues for many years in

various -- with various entities.

BOARD CHAIR DUDLEY: Welcome.

MEMBER BUCHEN: Thank you.

BOARD CHAIR DUDLEY: And let me ask all of you for the court reporter -- not the court reporter, but the transcriber -- whenever you speak, just before you're about to make your point, say your last name. So in the case of Bob Doyle, he would go: Doyle. And then go on with his comment.

That's going take the pressure off her to suddenly look up, get your name, get the spelling and then go back to what she's doing. So I'm going to try to remember that too. But if we all do that, the transcript will be easier to read.

Okay. Now, speaking with the audience, the 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 such matter.

Please be advised that the Board cannot take actions on items not on the agenda, but only to the extent necessary to determine whether they should be

made an agenda item at a future meeting, respond briefly to statements or questions posed, request clarification or refer the items to staff.

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

As the Board 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 multiple speakers are voicing repetitive or similar statements and the 15-minute public comment period has expired.

So before I open public comment on matters not on the agenda, please note that 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. And our staff will assist you in this regard.

I would like to remind individuals making comments to not discuss pending complaints or pending disciplinary actions that may later come before the Board for recommendation. If the Board takes action on your complaint, you will have an opportunity to address the Board at the time.

does someone have a feeling now that they want to go there at the end, go there between cases, do it publicly?

Any general discussion? Or case by case?

MEMBER CLAVO: I move that we do as we've done in the past, and we go case by case.

BOARD CHAIR DUDLEY: Go back in the room after each case?

MEMBER CLAVO: Yes.

BOARD CHAIR DUDLEY: Is that okay with everybody?

Okay. Then that's what we'll do and you can tell me if you've changed your mind and you want to do just it publicly or wait until the end. For now we'll do the case, go back, discuss the case and vote.

At this time we will call upon Law Enforcement Consultant David Peletta, Professional Conduct Southern Bureau and Bryant Henley, Attorney V -- Legal Counsel -- excuse me, IV. Legal Counsel, Legal Affairs Bureau to provide a report -- you didn't get promoted.

To provide a report on case, POST2303451, James Mutuku, who at the time of the events at issue in the case was employed with the Riverside Police Department.

Gentlemen.

MR. PELETTA: Thank you, Madam Chair. Thank you,

Board Members for your time today.

My name's Dave Peletta. I'm a law enforcement consultant assigned to the Professional Conduct Southern Bureau in the Peace Officer Standards and Training Accountability Division.

To my right today is Bryant Henley, an attorney with our Legal Affairs Bureau.

I'm here to present POST case 2303451 involving Sergeant James Mutuku, formerly with the Riverside Police Department.

During this presentation, I'm going to refer to him as Sergeant Mutuku. It's the Division's determination that clear and convincing evidence exists to demonstrate that Sergeant Mutuku committed an act of serious misconduct as set forth in Penal Code 13510.8 on January 19th, 2023, and February 21st, 2023.

The Division has determined that Sergeant Mutuku committed the following acts --

BOARD CHAIR DUDLEY: I'm going to ask you to slow down just a little for the court reporter.

MR. PELETTA: You bet.

The division determined that Sergeant Mutuku committed the following act of serious misconduct, specifically dishonesty, when he repeatedly lied during two separate internal affairs interrogations into

allegations of misconduct.

For the purposes of the Division's finding, clear and convincing evidence means there is sufficient evidence to establish that there is a high probability that the charge is true, and the evidence need not establish a fact beyond a reasonable doubt.

In this presentation, I will present a brief outline of the Division's finding of the investigation in this matter.

With that, I would like to provide a little background on this case.

Sergeant Mutuku started his law enforcement career with the Riverside Police Department on January 12th, 2009, as a full-time peace officer.

He was promoted to the rank of sergeant -- police sergeant on July 10th, 2020.

He has no other law enforcement appointments in the State of California.

Sergeant Mutuku is married to a Riverside Police Officer who I will refer to as Officer Number 1.

In July 2022, Officer Number 1 was assigned to the patrol division. On September 16th, 2022, a patrol officer, who I will refer to as the complainant, worked on Officer Number 1's team and filed an internal affairs complaint against her alleging she failed to properly

handle a call for service.

That allegation was investigated and concluded that no policy violations occurred.

On October 1st, 2022, which was about 16 days later, after the initial complaint was filed, the complainant reported encountering Sergeant Mutuku at a police station.

This marked the first time the complainant had seen Sergeant Mutuku since filing the internal affairs complaint involving his wife.

The complainant stated that he walked by -- when he walked by he greeted Sergeant Mutuku with the words, "Hi, James."

In his response, Sergeant Mutuku allegedly said, "You will see. You will see."

On October 3rd, the complainant came to work and found four separate 8 1/2 by 11 paper flyers with a picture of a large rat crossed out and the words "Rat Buster" written underneath that image. One of the flyers was placed in the complaint's work mail box, which is the photo on the left side of the screen there.

Another was placed in a vinyl casing and affixed to a bank of lockers in the area where the complainant's locker was located. And that's the photo to the right.

The remaining two were placed in various locations

in the same men's locker room.

The vinyl casing or sheet protector you see on the right had a black border with a clear plastic front cover and a magnet affixed to its rear.

The complainant researched the term Rat Busters and learned that it was a firearm used by exterminators to shoot and kill rats.

The complainant told his supervisors that he took that message on the flyer as a direct threat to is life.

On October 26, 2022, the Riverside Police Department initiated an Internal Affairs investigation and Sergeant Mutuku was the accused employee.

Investigators reviewed surveillance video from Sergeant Mutuku's police station and on October 1st, 2022, found video which showed him arriving at the police station at 4:05 P.M. in his vehicle. Oh, and then seen walking towards the entrance of the station.

Investigators determined the Rat Buster file was downloaded on a computer located in the report writing room at 4:17 P.M. That file was labeled with two capital letters, dot PNG. The two capital letters were the initials of the complainant's name. PNG stands for portable network graphic, which are images commonly found on the internet.

That file was printed at 4:36 P.M. in that same room.

The Internal Affairs investigation into Sergeant Mutuku led to two separate interrogations where Sergeant Mutuku was asked if he created, printed, saw, touched or placed the flyers.

Sergeant Mutuku repeatedly and willfully denied he had anything to do with the flyers.

During his first interrogation with Internal Affairs, Sergeant Mutuku was asked if he had heard who placed the flyers.

He said no.

Later in that same interview, he changed that answer and said he had heard rumors it was the complainant.

When investigators specifically asked if Sergeant Mutuku heard rumors he was responsible for placing the flyers, he responded, "Yes, I heard people saying I might have placed them."

When Sergeant Mutuku was directly asked if he placed the flyers, he said no. When presented with evidence from the surveillance video and the computer data, Sergeant Mutuku laughed and said okay.

Sergeant Mutuku could not offer any explanation and said he did not have a reason to use a computer in the

report writing room as they were designated for patrol officers to write reports.

Lastly, investigators asked Sergeant Mutuku if his fingerprints would be found on the paper the flyers were printed on. And he said no, they're not going to be on those.

After the first interrogation, fingerprint examiners contacted the Internal Affairs Division and reported they positively identified Sergeant Mutuku's fingerprints on the flyer that was located in the vinyl casing, once again on the right side of the screen.

Sergeant Mutuku's left thumb print was found on the upper left corner of the front of the paper where the image was printed. Sergeant Mutuku's right thumb print was found in the middle right edge of that same side of paper.

There were a total of four prints found on that sheet of paper, but two of them weren't sufficient quality to compare to Sergeant Mutuku, or anybody else for that matter.

Sergeant Mutuku's interrogation was -- second interrogation was approximately 23 minutes long.

Sergeant Mutuku was dishonest when he verbally responded no fewer than ten times that he had nothing to do with the flyers despite investigators requesting for

his honest responses.

During the second interrogation, investigators told Sergeant Mutuku that his fingerprints were found on the flyer.

I would like -- I would now like to play five excerpts from that interrogation to highlight Sergeant Mutuku's denials.

On these audio clips, you will hear the voices of three different people. The female voice is of Internal Affairs Investigator Sergeant Karla Corbett who led this investigation.

Next is Lieutenant Eric Detmer, who was there to assist Sergeant Corbett.

And lastly is the voice of Sergeant Mutuku.

The clip times on the screen represent the approximate time in which the remarks occurred during the interrogation.

This first clip we're going to play is Sergeant Mutuku's response when confronted that his prints were found on the flyer. On this clip, you will hear a brief beep during the interview. This was inserted to redact the complainant's name, which is referenced during the interrogation.

(Audio file played.)

MR. PELETTA: The next clip, clip 2, is

Sergeant Mutuku --

BOARD CHAIR DUDLEY: Hang on one second.

Do you want us to waive your typing of this recording?

THE COURT REPORTER: I assumed it was waived.

BOARD CHAIR DUDLEY: Okay. That's fine.

THE COURT REPORTER: I've always worked in a courtroom.

BOARD CHAIR DUDLEY: That's -- me too.

THE COURT REPORTER: Where it's automatically waived.

BOARD CHAIR DUDLEY: Please go on to the second clip.

MR. PELETTA: The second clip is Sergeant Mutuku admitting that he disliked the complainant.

(Audio file played.)

MR. PELETTA: Clip 3 is an investigator giving Sergeant Mutuku the opportunity to explain what occurred.

(Audio file played.)

MR. PELETTA: Clip 4 is Sergeant Mutuku reiterating to the investigators that he had nothing to do with the flyers.

(Audio file played.)

MR. PELETTA: The final clip, clip 5, is

Sergeant Corbett requesting Sergeant Mutuku's honesty and his responses.

(Audio file played.)

MR. PELETTA: The Division reviewed the internal affairs investigation, the written transcripts and audio recordings of the two interrogations with Sergeant Mutuku. And upon review of this information it was clear that Sergeant Mutuku was repeatedly dishonest with internal affairs investigators.

Sergeant Mutuku's dishonesty was clearly an intent to cover up his own misconduct.

A further aggravating fact in this investigation was Sergeant Mutuku's status as a police supervisor. At this point in time, Sergeant Mutuku had been a sergeant for over two years and as such, held a higher degree of responsibility and accountability within the Riverside Police Department.

This investigation revealed that Sergeant Mutuku had motive to place and post the flyers. And both circumstantial and direct evidence supported that he was responsible for them.

Sergeant Mutuku also admitted to internal affairs that he did not like the complainant.

There's clear and convincing evidence that Sergeant Mutuku repeatedly lied to internal affairs

investigators.

The motivation for Sergeant Mutuku to lie was to cover up his own actions at work in which he threatened another employee.

Sergeant Mutuku was terminated from the Riverside Police Department on October 20th, 2023, for dishonesty relating to the Riverside Police Department's investigation into his misconduct.

On May 13th, 2024, POST conducted an interview with Sergeant Mutuku. During the interview, Sergeant Mutuku raised concerns regarding the internal affairs investigation and its handling.

However, he was unable to provide any evidence or factual information to clarify why his fingerprints were found on the flyer inside the vinyl case. His explanations were unsupported theories.

The facts I just presented support the Division's finding that Sergeant Mutuku was involved in serious misconduct, specifically dishonesty related to the investigation of misconduct of a peace officer.

The Division asks the Board to recommend revocation of Sergeant Mutuku's certification. Revocation is the proper outcome here because Sergeant Mutuku's dishonesty was not only willful but his dishonesty also concerned a central fact in the internal affairs investigation,

specifically who posted the Rat Busters flyers in and around the Riverside Police Department.

Honesty and integrity are, of course, core values and essential role of a peace officer. There's no question that the respondent intentionally and repeatedly lied to internal affairs investigators in an effort to prevent them from learning the truth.

After investigators learned that Sergeant Mutuku's fingerprints were found on two different locations on a flyer, the investigators reinterviewed Sergeant Mutuku and again gave him the opportunity to be truthful and -- about his involvement in posting the flyers.

Instead, Sergeant Mutuku continued to impede their investigation by denying his involvement.

Given Sergeant Mutuku's rank, training and experience, Sergeant Mutuku's actions are especially egregious and warrant revocation.

I would be happy to answer any questions now.

BOARD CHAIR DUDLEY: Any questions from board members?

Hearing none, at this time, I will call upon -- I'm not sure, sorry, have a moment here.

At this time does the subject officer and/or counsel wish to make public comment?

You may state your name and organization if you

wish.

MR. MUTUKU: Yes, I do, ma'am.

Hello members of the Board, thank you very much for your time. It is very much appreciated. And your pursuit of truth finding. I did ask my attorneys not to come to this hearing because I wanted you guys to hear directly from me and ask me any questions you may have.

Chief Peletta did display a lot of facts, but the thing that worries me about his investigation, as well as internal affairs investigation is all the bias, discrimination, and racism that was going on simultaneously all throughout this investigation.

I want to highlight just a few things and again these are things that I've already brought up to his attention.

I'm aware I'm supposed to speak only to the sufficiency of this case. But it's impossible to separate the blatant bias that was displayed by the Riverside Police Department and how it is intertwined throughout the entire investigation.

Bias is a foundation of this investigation. And to ignore it would be an injustice.

I worked for Riverside P.D. since I was 22 years old. It's the only career I've ever known. And in an almost 15-year career, I did what black officers are

supposed to do, stay in your lane. I stayed in my lane my entire career until I became a sergeant and reported another officer for using the word "nigger" repeatedly on a call we were on.

That's -- that's when everything started. That's when things started from command staff going sideways and me being looked at a different way.

And prior to then, my disciplinary record would display, I had zero discipline and promoted fairly quickly through the ranks because I was staying in my lane.

Most of me truly wanted to believe that racist police departments were a thing of the past. I worked hard, and again, promoted through the ranks. However, older black officers continually warned me of the looming disgust still held by our command staff towards young black males or black males in general within the department.

They often reminded me of the many racist acts that were committed against the black community by the same department, many of which resulted in lawsuits and a consent decree imposed by DOJ for discriminatory misconduct.

I fought the case before you internally. The command staff refused to address or investigate evidence

and points I raised.

Some of these points specific to the case investigation included simple facts that could be proven or disproven with minimal investigative effort, such as the following:

Again, Chief Peletta mentioned this, but my fingerprints allegedly were on one flyer of the four that were found. So out of all four flyers my fingerprints allegedly are on one flyer. This one flyer is encased in plastic vinyl, in a plastic vinyl case. The case itself has fingerprints that were not mine.

So again, out of the four found flyers, I have two prints on one piece of paper inside vinyl that has fingerprints that are not mine.

One of the alleged flyers was even actually collected and thrown away by command staff.

Another flyer was in IA's possession and somehow got destroyed during the fingerprinting process.

There was never any clarification as to how the flyers were even ever collected or their location when found. The pictures that you have displayed up there of the poster were provided, again, the complainant took those pictures and provided them to internal affairs and left the flyers in place after they were found.

And it wasn't mentioned but the complainant's

fingerprints were found on one of the flyers as well. And that's not even mentioned.

The flyers in question were allegedly held, according to the IA investigation, for at least four months before being sent to be processed for fingerprints. They processed the flyers like evidence, but never handled them as evidence and pursuant to our PD policy.

As the IA investigation stated, they were passed from person to person, no chain of custody, no steps taken to prevent spoilage, contamination or cross contamination. And these aren't beginner investigators. Our IA investigators are former homicide investigators.

So these things that I'm pointing are very elementary when it comes to investigation, especially one that's going to basically, end my career and my life.

To my knowledge, and based on information provided to me, our PD, in its history, has never run fingerprints on an internal investigation even though actual racist, derogatory flyers have been posted and reported. It's never been -- those have never been investigated, but my case for some reason was investigated and they alleged fingerprints were found on one of the four flyers, but none of the vinyl cases

where, again, fingerprints were found.

So, to address the elephant in the room. Why are my -- two of my fingerprints on this one piece of paper?

I truly and simply do not know. No matter how much they push me on or off camera, I was not going to say a lie and I still stand by this to this day. I get how everything looks, but I do not know. However, like I say, I stand by the statements in the IA interviews that I did not create, print or hang these flyers in the station.

I've been asked to speculate as to how. All I can do is use my training and experience as an officer to speculate.

I don't know if it's because all the sergeants' office -- office printer paper is kept in a common area that is accessible to officers and civilian employees.

I don't know if the complaining officer in question took paper off my desk, which might have contained my prints and created and posted these flyers himself to set me up.

This particular officer was working that day and he was never questioned as to any IA investigation. He was never questioned as to where were you, while on the same day these flyers were printed. It's never brought up.

All I can confirm to you is that I did not lie in

my interrogations, and I was not and am not responsible for these flyers.

For reference, again, I was never even shown these flyers during the entire IA investigation. And to the Chief's credit when him and I talked, when I voluntarily talked to him, the first thing he did do was actually show me the flyer. Because I had never seen it.

My attorney had to request these flyers or pictures of these flyers after I was fired. After I was terminated. They never at any point in the investigation showed me those flyers.

I don't know why the IA investigator initially sought me out into her office before my interview, simply to dissuade me from bringing legal counsel. I trusted her advice and chose to participate in both interviews without counsel.

I must ask myself, though, why were white subject officers given questions prior to their IA investigation interviews but I never was?

And -- and this is a documented thing.

I am -- I was at that time, the only black sergeant on patrol and I was not afforded that same luxury.

I do know this, simple steps had been made to intentionally not investigate my innocence.

As regards to the station, and the video that

Chief Peletta brought up, I would like to speak about the video which references me going into the station.

I know you guys have all the evidence, but if you watch that video, I am never at any point, seen walking into the police station. The video simply shows me arriving into the police parking lot at the end of my shift at the time I would have been ending my shift. Not an irregular time. A time I was supposed to be where I was. And again it does not show me entering into the station. That's just simply incorrect.

I'm seen walking towards my car which is parked to the front of the station, so it's assumed I walked into the station.

The report by the POST consultant is simply not factual.

Not only am I never seen walking into the station as is reported and written in both reports, but the flyers were not printed minutes later as the POST consultant suggested.

The IA report showed that these flyers were actually printed 30 minutes later after arrival, not minutes after I walked into the station.

In totality, that complete statement is not true.

And for orientation purposes, this police station is a secure building that everybody has to badge into.

So you can't just walk into this building. You need badge access. Obviously badge access goes with certain individuals. And that report even though I ask asked for it to be pulled, again, these are simple things. I asked why would you not pull the badge report for who badged into the office, into the station?

You can literally have a whole list of everybody that would have badged into the station and that was not -- never checked to see who else was there, to see who else needed to be interviewed, at the time these flyers were printed.

One officer who happened to actually work for me, throughout the IA investigation, was actually identified as potentially being in the report writing room, yet he was never asked if he saw me in there.

And again, because I know y'all don't know the station geography, but it is extremely uncommon for a sergeant to go sit in the officers' report writing room and do anything beyond maybe edit a report or correct a report upon their request.

Sergeants have a completely different office on the other side of the station, and that's where they normally would be at.

The other side of that station, we all have other marked desks where we log in and out of our own

computers.

And the IA investigation suggests that somebody saved and then -- so almost 20 minutes later, a sergeant went in there, found this document, saved it on his computer, waited for almost 20 minutes and then printed it out.

It's beyond absurd. If you understand the geography of this actual police station, and it wouldn't occur without anybody who was there, as many officers there, seeing this.

It also should be noted that even though they pulled surveillance to simply prove that I was at the station at a time I was supposed to be at the station, that 60-minute clip does not show the time the flyer was actually printed.

The flyer was printed at 30 -- in 36 minutes in and they do not have surveillance showing the time that would have coincided with the flyer being printed. And I just -- it's almost like it's intentionally avoiding certain facts to paint a certain narrative, the entire investigation.

I -- Sergeant Corbett at that time said -- also stated that the vinyl sleeves that these flyers were housed in were brought in from the outside.

Again, watch the video surveillance, I'm walking

towards my car at the front of the station empty handed. There's nothing I'm carrying into the station.

And as I said before, my personal actual assigned computer was never checked to see if I was logged in to it at this time.

Sergeants in the sergeants' bay were never talked to. They identified some sergeants that were there, they were never talked to, to simply provide me a potential alibi of being in the sergeant's office where if I was inside, that's where I would have been.

Based on emails between my union attorney and the IA investigators, they have since lost my -- the GPS records of all the units and their locations at the time of the printing.

So the -- one of the main documents used to terminate me, they no longer have. And I have emails to prove that between IA and my union attorney that they no longer have these documents.

And again, this would have shown at that time that these flyers were printed where units would have been at because it has the GPS locations.

The IA investigation also references people logged in to the computers before and after the flyer was printed within the officers' report writing room.

Again, this is such a simple thing to see who's

logged in to these computers, why would you not identify or interview these people. It's just flabbergasting.

And to go into what's -- being my alleged motive. The alleged motive is this complainant officer.

I just want to put it on the record, that this officer and my wife have had issues years before this case, documented and reported issues.

And issues to the point where he's refusing or neglecting to go back her in her beat when she's fighting, when she's in physical fights with bad guys.

So this was already reported and documented.

So to suggest that him going to internal affairs, and at that time, it was already known, it was an unfounded complaint, it was a nothing, it had already been unfounded, it was a nothing complaint -- to suggest that that trivial thing would be the thing that would make me erupt is, again, it's not logical. There had been years of times where this officer and my wife had had problems. He's not backing her when she's literally -- her life is in jeopardy.

So if any -- that's the thing that would be more sensical in eruption as opposed to an unfounded claim that he went to IA about that never -- that nothing came of it. At this time I would have known that.

The alleged finger gun that's repeatedly brought up

in the POST consultant's findings, even though he didn't mention it now, but it is brought up in his findings, is not sustained by the Internal Affairs Department themselves. And the witness who the complainant alleged was there, she said that she never saw this occurred.

So again, this whole thing is based off of, including pictures presented, off of a complainant that provided these things.

Lastly, it should be noted there is no merit to anything the complainant has said. At least twice, he was found to be untruthful in IA investigation despite this, he continues to serve as a police officer with the Riverside Police Department.

One difference between the complainant and I is I told the truth in the investigation.

Another difference is he is white and a good friend of the chief. They played baseball together previously before law enforcement and I am black. That's the main difference between us.

There were so many intentional oversights. All of these things are brought up to the police chief during my Skelly hearing and despite this, never looked into.

These same facts were also presented to the POST consultant. And as you can see in his findings, they were still not addressed.

I talked to him for a prolonged amount of time with my attorney, presented numerous points of contention with the IA investigation, yet he simply just regurgitated the department's findings.

The impartial POST consultant is not intended to be an extension of Internal Affairs.

The civil lawsuit for bias and racism that I currently have against the Police Department was provided to the same consultant. This lawsuit outlines every single tactic the police department used to illegally dissuade me from legal representation during the IA investigation and proof of many other missteps and POBAR violations to include preferential treatment to white subject officers. Again, never addressed by the POST consultant.

Senate Bill 2 was meant to be utilized to uproot bias and bad apples within police departments. It's now being weaponized against me to do exactly the opposite by the same bad apples.

I am hopeful the Board would not recommend this case move forward based on the lack of a clear and convincing burden of proof. Against the advice of council, I've continuously volunteered myself for statement and questioning, twice in IA, once with the POST consultant voluntarily and here now, to the point

where I even asked my attorney not to be present.

You all are the only voice I have left.

I very much appreciate your time and I would be more than happy to answer any questions.

BOARD CHAIR DUDLEY: Thank you.

Are there any questions?

MEMBER CLAVO: I have two. One for Mr. Peletta and one for you, sir.

My first question for you, at any point did you file any EEO complaints on the fact that you felt that you were being discriminated against with either your department or with EEO outside the FEH?

MR. MUTUKU: Yes. Since this investigation, those complaints have filed.

MEMBER CLAVO: Since the investigation, but did you do any of this prior, in the years prior. You said it had been a long time coming, so did you do it before the firing or after?

MR. MUTUKU: No, ma'am. As it relates to direct racism, for -- and bias, those things I brought up to Internal Affairs, directly. Obviously some I didn't. But the one that was just egregious with this officer repeating the word "nigger" over and over and over on a call that I was supervisor on, that's the one where I made a formal complaint.

MEMBER CLAVO: And how long was that before this incident?

MR. MUTUKU: It was towards the -- more so the beginning of my sergeant career. So, if I had to to guess, I would say in 2020 or 2021. And this investigation started 2022.

MEMBER CLAVO: Mr. Peletta, if I'm recollecting what the evidence that we received, I thought I read something that spoke to TeleStaff records being pulled for the individuals who were in the area of the police station during this time.

Was that correct? Did I read that?

MR. PELETTA: That's correct.

MEMBER CLAVO: And there was only two individuals, I think, that was listed in that report.

MR. PELETTA: That's correct. Not only did they pull, the IA investigator pull the TeleStaff reports, which is basically the staffing software, she also did GPS for the cars at the station to see who potentially was logged on.

Maybe not logged on to the computer in the station, but in their car in the station.

And when they did the TeleStaff audit, they found three people that were working that day. One was Sergeant Mutuku, one was Officer 1's partner and another

one was a non-involved officer.

When they ran Officer 1's GPS, that showed her to be quite a distance away at a local high school.

I'm sorry, Officer 2.

She was at a local high school, so she was not at the station.

And then the third officer was questioned as part of this investigation, but didn't recall seeing anything. They were there on overtime.

MEMBER CLAVO: Thank you.

BOARD CHAIR DUDLEY: Any other questions?

MEMBER HATCHER-CRAWFORD: I have some questions.

How you doing, sir?

MR. MUTUKU: Hello, Ma'am.

MEMBER HATCHER-CRAWFORD: One of the things that you mentioned early on in your -- when you were talking, you had mentioned that you felt there was some type of racism, but due to, kind of, the code of just following through the steps, and not trying to rock the boat, you didn't file any previous EEO complaints?

MR. MUTUKU: That is correct.

MEMBER HATCHER-CRAWFORD: So that is correct.

You also mentioned, and maybe the attorneys can answer that, going back through what we were given, we were not given the report of who badged in and out.

There is a report of that? I mean, could that be given to us?

MR. HENLEY: Board Member Hatcher, if I may, this is Bryant Henley with the Division. I would like to address that comment.

And really address it first head-on, your question.

There is going to be an opportunity for Mr. Mutuku, if this case moves forward, if this Board recommends that the case proceed to the Commission and the Commission in turn votes to proceed to a full Administrative Procedure Act hearing, there will be a full and fair opportunity for Mr. Mutuku to put, so to speak, the money where his mouth is in terms of these facts that he has presented today.

So if he has evidence of badge reports that are no longer present, or if he has information to prove some of the many things he has said today, there will be that opportunity for him to not just say the words, but to present the evidence to prove those points.

And that's what I want to bring back, the importance here is that this is not that step of the process. And I know I've probably said this many times and so forgive me. But it's important to put in the record that the way this -- the procedure is set up, the regulations and the Section 1209, the Board -- the

purpose at this stage of the process, again it's the early stage, it's not the entire evidentiary record. It's not all of the facts that can be presented. That can happen later.

At this stage, the question for this Board is whether Mr. Peletta and the Division's investigative summary and findings are -- is that document and the materials within that document, is there sufficient evidence to find that it is highly probable that Mr. Mutuku was dishonest.

So that's the question about what the presentation is to you from the Division. That would go to the Commission. And then an administrative law judge would hold, essentially, a trial. And at that trial, questions like the one you've just raised, Board Member Hatcher, would absolutely have a full and fair opportunity to be addressed. But those questions aren't addressed today.

MEMBER HATCHER-CRAWFORD: Okay. So when you say sufficient, I'm -- you're right this is not a judicial trial and we're given evidence. And from my understanding, it is the burden of the people to be able to sustain if there's enough evidence.

But two particular things that he did mention, which later on will be brought up, were not given to

this advisory board. That's a bit concerning.

Because I personally, I'm not a techie, but one of the things is, I do rely on, if I'm looking at something, investigating it, and if those things were given to him, which I don't think he would be able to be given to, but, the badging is important. I work for the government. We have records of that.

So I'm just wondering, is this something that could have been available to us or not?

MR. HENLEY: Board Member Crawford, I fully appreciate the reason you're asking those questions. They're very fair questions. I respectfully want to say these are the characterizations Mr. Mutuku has presented to you.

Mr. Peletta and I, who don't work for the Riverside Police Department, are not here to answer what the exact badging process is, how long those record are kept, whether they are available, whether the allegations that have been made by Mr. Mutuku are, in fact, true or aren't true.

So, unfortunately, we are at a disadvantage in terms of those questions. And respectfully, that's precisely why the regulations are written the way they are. This is not an opportunity to introduce evidence or to present evidence. It's not that stage of the

process.

Mr. Mutuku, if this Board decides to move forward, will have every full, fair opportunity to present his allegations. But he'll have to prove -- he'll have to do more than say the words. He'll have to prove, for example, that there are no card badge entries that can be found or that he -- when he requested them he was unable to receive them. He'll need to present evidence to show that.

It cannot just be -- or he can present just his testimony, of course. But it will be given the weight that it deserves.

It's really about the evidence that's actually presented, is the proof in the pudding.

And respectfully, from the Division's perspective, we believe it is highly probable, and that's the standard, is there clear and convincing evidence? We do believe it is highly probable that Mr. Mutuku was dishonest when he said he did not put up those flyers.

We believe it is highly probable, not only because of the fingerprint evidence that directly ties him to the paper within a plastic folder, but that at 4:01 P.M. he was seen outside of the police station. 4:16 P.M. that same day, 15 minutes later, someone accesses a computer in the computer room and downloads this

specific flyer. That's been proven. That's in the record of the investigative summary and findings.

And by 4:36 P.M. someone has printed that flyer.

Those are all pieces of direct evidence, concrete evidence.

In addition to the fact that we have multiple occasions where Mr. Mutuku and the complainant have had heated conversations. The complainant has directly accused Mr. Mutuku of having posted the flyers. And there's a conversation where the complainant alleges Mr. Mutuku made finger like a gun and fired it twice.

Mr. Mutuku says that didn't happen. He didn't fire a gun twice with his finger. But he does admit that he, as he says, pointed at the complainant and said, you have a good day.

All of these pieces of evidence, all of this cumulatively demonstrates to us, the Division, that it is highly probable that Mr. Mutuku was dishonest when he said he did not post or print the flyers.

MEMBER HATCHER-CRAWFORD: The second question you just brought up.

You mentioned early on that there's -- what's this -- again, we're looking at the evidence.

But, was there a video showing who came in and out?

Or is that just word of mouth from other employees.

MR. PELETTA: Member Crawford, the video shows Sergeant Mutuku exiting his police vehicle, like at the end of the shift, and you see him walking towards the police building.

But at some point the camera's view doesn't capture him physically going in, like he mentioned in his testimony.

MEMBER HATCHER-CRAWFORD: So we did have that video as well.

Okay. Thank you.

MR. MUTUKU: And to your point, Board Member, majority of those issues I brought up, that is not evidence that the Riverside PD is going to happily hand over to me for me to present at the administrative law hearing. It's not ever going to happen.

That's why I presented these same facts in my Skelly hearing, hoping the chiefs would look into this. These are things that would help support their case.

Why would you not look into it?

And, again, I presented it to Chief Peletta and, again, hopes that you would go investigate these things to help substantiate your case.

Why -- I don't understand -- I would never be afforded that evidence by the police department. It just won't happen.

MR. HENLEY: Madam Chair, if I may briefly respond.

BOARD CHAIR DUDLEY: Sure.

MR. HENLEY: I just want to emphasize for this Board a little bit of -- many of you may be familiar with the Administrative Procedure Act and the hearing process or perhaps you are not.

But one thing that's important to emphasize is the Administrative Procedure Act, as I've mentioned, that's that process after, you, the Board make a decision, and the Commission makes its decision, that administrative hearing process is like a trial.

That includes a legal terminology called "discovery."

That's a process whereby Mr. Mutuku has a right, an absolute right, to say: I demand that the Riverside Police Department provide me these pieces of evidence if they possess these pieces of evidence.

The administrative law judge that presides over those proceedings will evaluate those demands, those requests, and make a ruling and can order that the other party provide the records that he's requesting.

So I want to make clear, we here, the Division, the Board, we're not in a position to extricate these pieces of evidence that Mr. Mutuku says exist. We're not in that position. We're not at that place. But the

Administrative Procedure Act hearing where the administrative law judge presides over that hearing absolutely will have the opportunity, the tools, the ability to access the records that Mr. Mutuku seeks, if the ALJ -- ALJ determines those records are appropriate for ordering and produced.

BOARD CHAIR DUDLEY: Do you want to respond any further?

MR. BEATTY: I think that's accurate. There's also the two parties in an administrative proceeding, such as this. They can issue a subpoena to obtain records on their own, independent of the administrative judge.

So the response, from Bryant is correct.

MEMBER JOHNSON: Johnson.

MEMBER HATCHER-CRAWFORD: I'm done.

BOARD CHAIR DUDLEY: Done. I think Dr. Glaser was next. And then Mr. Johnson.

MEMBER GLASER: I'll defer to Board Member Johnson.

BOARD CHAIR DUDLEY: Okay. Mr. Johnson.

MEMBER JOHNSON: I guess I'm curious too, was the Division aware of the fact that there is data collected concerning who enters the building? As well as I'm assuming whoever logs in to the computer, there's identification that can be taken from the computer to identify who that person was.

Was the Division aware of those particular facts?

MR. PELETTA: Yeah, so, the Internal Affairs investigation information that was supplied to us did not show any card key information. That wasn't contained in any information that we reviewed.

I asked the same question to the Internal Affairs Investigator Sergeant Colbert about logging in to the computer. And what was explained to me is the computers in the computer room use a generic password that all officers have access to. And that allows them to basically write reports, access the internet, just generic-type icons.

And then every officer has their own specific password and user name that logs in to a different system that pulls up applications that are specific to their assignment.

So, in essence, anybody can -- that knows that generic password can go in there and it wouldn't show that Dave Peletta logged in to it. It would just show that password was used.

MEMBER JOHNSON: My last question is -- maybe Mutuku -- is that correct?

MR. MUTUKU: Mutuku, sir. Yes, sir.

MEMBER JOHNSON: Can answer.

The complainant that has used racial epithets, has

it been known throughout the station prior to the incident that you're alleging now that he has used racial epithets in the past?

MR. MUTUKU: I just want to clarify, when I said the reporting of an another white officer that used the word "nigger" repeatedly, it wasn't the actual complainant officer, it was another officer.

I just brought that up as an -- I had never had any discipline and I was quote/unquote in good standing with command staff until that report was made. And that's when the subtle things started happening.

But as far as do I know if the complainant has ever -- I'm not aware of that. Nor do I know if he's involved, if he's ever been -- as far as pulling his IA complaints, been accused of being racist.

BOARD CHAIR DUDLEY: Dr. Glaser.

MEMBER GLASER: First, I do want to acknowledge that we do have the administrative law judge process and that there would be discovery there. And that's reassuring.

But I also want to acknowledge that today we need to make a judgment. And we need to exercise our judgment in order to do that. And that will determine whether this moves forward or not.

And so we're trying to get some greater clarity to

the extent that it's possible, recognizing that we can't get complete clarity.

But we don't have a case of a video showing Mr. Mutuku posting the flyers. We have some circumstantial evidence, we have fingerprint evidence, and we're just trying to, I think, put a finer point on that.

And to that end, I was wondering if, Mr. Peletta, if you have any information about whether there's any video evidence of Mr. Mutuku leaving the station? There's apparently video of him approaching the station after dropping off his cruiser. And then the question is, does he -- is -- do you know of any -- anything that would show the time frame during which he left the station?

MR. PELETTA: I do not have any video nor seen any video that shows him exiting the station.

BOARD CHAIR DUDLEY: Any further questions?

MEMBER BUCHEN: I was wondering if you could speak to the fingerprint issue. There were other fingerprints on these documents, were those identified?

Or were the Sergeant's fingerprints the only ones that were identified on the flyers?

MR. PELETTA: So specific to the flyer that was on the right side of the screen, posted on the locker,

there were four fingerprints contained inside, two of which were not quality to be able to compare to put a person's name to them.

The other two came back to Sergeant Mutuku.

There was one more flyer that's mentioned that was placed in the complainant's mailbox. It's an open mailbox. And his fingerprints were actually found on it.

One of the photos that's in your ISF shows a hand holding that -- that photo, or that flyer, and that's of the complainant taking a picture of it prior to sticking it back in.

So his fingerprints are found. Those are the only to flyer -- excuse me -- those are the only fingerprints that were identified on the flyers.

MEMBER BUCHEN: Thank you.

MR. MUTUKU: I just want to clarify, sir, you are not alleging that my fingerprints are found on the flyer in his mailbox; correct?

MR. PELETTA: I'm not alleging that at all, nor was I ever told that.

MR. MUTUKU: Okay. And I just want -- because you have all the evidence. If you actually pull the fingerprint report, there are 17 fingerprints found on those -- a total of those two flyers.

So 17 comparable, not including -- sorry, 17 total, nine of which are comparable. So out of the nine comparable fingerprints found on all these flyers, allegedly two are mine.

And again, fingerprints are found on this vinyl cover that were not my fingerprints. They were compared to me. And these fingerprints were only compared for me and the complainant.

MEMBER GLASER: Sorry, can I ask -- among those nine, how many of them are on the vinyl container?

MR. MUTUKU: Those are -- the nine specifically, according to fingerprint report from CalID are just specific to the paper that -- the two pieces of paper.

There's a third report, Packet 3, where it talks about them sending out the specific vinyl cover for fingerprinting. And fingerprints come back on it, as is told by Lieutenant Detmer and Sergeant Corbett, but those fingerprints were not my fingerprints on that cover.

MR. HENLEY: Madam Chair, if I may speak briefly.

BOARD CHAIR DUDLEY: Yes.

MR. HENLEY: Just for the Board's understanding, I want to emphasize that what Mr. Mutuku has represented to you just now is not consistent with the Internal Affairs report, that 155-page report, or the other

materials that we have presented to you.

And, of course, as I've mentioned before, and I don't want to belabor it, but Mr. Mutuku, if he has evidence of additional fingerprints that are beyond what isn't -- what is reported in the 155-page report, which doesn't exist there, if there is evidence of such things, if this case were to move forward to an administrative law judge, he will have every opportunity to present evidence of those statements.

But for your understanding, this record does not include them. And regulation 1209 would direct that we not consider evidence that's not part of the investigative summary and findings.

BOARD CHAIR DUDLEY: Any other questions? Okay. Hearing none.

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

BEATRICE X: Yes.

BOARD CHAIR DUDLEY: Okay.

Mr. Mutuku, you can step away.

BEATRICE X: Good afternoon. My name is Beatrice X, also affectionately known as Aunt Bea.

And I am an impacted family and three different ways. Three of my loved ones were -- two killed by police, and one white privilege.

And I have a lot of black friends who are in the police departments all over the country. And they experience this racism and white supremacy.

And I'm not even surprised that he said that he -- he really went along to get along. That's what we want our officers not to do.

But they go along to get along and then he gets to here and then he moves up and then he can't get along no more because the -- the get-back to these officers, become more like it is right now.

So, I feel, like, that to me, to me, I feel like it's not fair that the evidence, all the evidence is not here.

To me, sound like it's one-sided coming from over here. To me it sounds one-sided because if there's evidence and you say it's not going -- he can't put it in today, why put somebody through all that when you can clear it up right now?

The things that I heard him asking for is elementary. You don't have evidence that this man was inside the building.

And police have -- you have video everywhere. You have video everywhere.

I just don't believe that you can't come up with who was on that computer, when he was in that building,

when he left that building.

I just don't believe it because that's not how you operate. That's not how the police department operate.

And so, I feel like that this is, to me, this is not good. It's not good.

Because it's not -- to me, it's not fair because you don't have all the evidence here.

You haven't delivered it. And I know you say you got to wait until you do all that.

But you brought a whole bunch of stuff that asks another question that you cannot answer.

I think that's not right.

If they ask a question, so did he go inside?

You can't -- I don't know, they didn't give it to me. Because they didn't give it to you, why would they give it to you if they were setting him up?

Because to me, it sounds like a set up. But I don't know. But I know the evidence is not there.

I know that black officers experience this all -- I have so many police officers, black, that have left the police force or they got -- had to file a lawsuit. Ask 'em.

I was in Washington, D.C. with a whole crew of law enforcements from FBI, all the way down, telling their stories of how they have to deal with this.

So, that's what I want to say.

BOARD CHAIR DUDLEY: Thank you.

MEMBER CLAVO: Can I ask a question, Madam Chair?

BOARD CHAIR DUDLEY: Yes, but, I just want to clarify something. The last speaker, Mr. Johnson, was your wife?

MEMBER JOHNSON: Yes.

BOARD CHAIR DUDLEY: Go ahead.

MEMBER CLAVO: Was there anything that prohibited Mr. Mutuku's attorneys in this process -- because I do understand he was represented by an attorney -- to present any of the such evidence that he claims that exist?

MR. PELETTA: There was nothing. I spoke to his attorney the day we interviewed. And so he's aware of the case and he's aware of what was said during our interview.

But there was nothing prohibiting him being here.

MEMBER CLAVO: So just for clarity purposes for myself, so when they had the amount of days to appeal this process, or prior to the Skelly, I'm fully aware of that process, being a part of that system, that evidence, if it existed, could have been presented during those times?

MR. PELETTA: Yeah, and -- just another point,

Sergeant Mutuku chose not to be represented during his two interrogations from Internal Affairs.

But, at any point, as you know, in the process, you can get an attorney and talk about the circumstances behind the case and be represented. But I don't know if he was represented or not during his Skelly hearing.

I do know he attended it. But I don't know who was present.

I take that back, I do know that he was represented at the Skelly hearing.

MEMBER CLAVO: Thank you.

MR. HENLEY: If I may just add two points. Within the investigative summary and findings, it's reported that while Mr. Mutuku attended his Skelly hearing and started an appeal process regarding his Skelly hearing, he withdrew that process. So he did not complete the Skelly hearing process. That was a decision that's reported in the investigative summary and findings. I couldn't quickly get my fingers on it, but I'll get you the page as soon as I can.

The other point I just want to emphasize for the Board is according to Mr. Mutuku, he represented here today that his lawyers specifically advised him not to come here and speak.

I'm not going to suggest why that may have been the

case, it's for you to decide why his lawyers may have urged him not to come here and speak today. But that was, according to Mr. Mutuku, the advice his lawyers gave him, as he shared with us today.

MEMBER HATCHER-CRAWFORD: Can I have a correction?

MR. MUTUKU: My lawyers wanted to come and speak with me and I made -- I made that point earlier. Thank you.

I made that point earlier. They wanted to come and speak with me and I said I wanted you all to hear from me and not my attorneys.

MEMBER HATCHER-CRAWFORD: That's what I thought I heard. Okay. I wanted that to be clarified.

MR. HENLEY: I heard that they asked him not to speak, but that's -- the record will be what it is, what the recording says.

BOARD CHAIR DUDLEY: Any other questions? We can -- yes, please?

If you would like to identify yourself, please.

VICTORIA MUTUKU: My name is Victoria Mutuku and I appreciate you listening to my husband and the things he needed to say.

I wanted to speak to all of you on a personal level. And I value your fairness and open-mindedness.

As my husband mentioned, he was with the Riverside

Police Department for nearly 15 years.

During that time he had an unblemished career. This was until the allegation of dishonesty that is before you today.

If you were to reach out and speak to anyone at the department or community about my husband's character and work ethic, you would be hard pressed to hear anything negative about this man.

These days in law enforcement it is difficult to come across a supervisor who actually cares about the well-being and growth of their officers.

James lived and breathed finding ways to support and assist his officers to be their very best every single day. He did the same when it came to serving the community he worked for.

My husband is intelligent, selfless, wise, and honest, which is quite the contrary of how the department's Internal Affairs report and POST report painted him to be.

I will not refer to the department's IA report as an investigation because it simply was not that at all.

Everything that should have been investigated and looked into was not. I'm still baffled with how many pieces of the puzzle seem to be intentionally overlooked.

The IA report saw one thing which could be explained in a variety of ways and looked at -- and looked at and investigated no further.

They stopped there because it fit the picture and narrative that they were trying to paint.

There was no attempt to prove James' innocence, only his alleged guilt.

I do understand that James' fingerprint allegedly being on the corner of one of the flyers doesn't look good. And we both understand that.

However, there are explanations on how that could have occurred. As an investigator myself, I believe and I ask you all to consider, that if James were to have hung these flyers, his fingerprints would surely be on every single piece of paper, or flyer, or plastic case, or sleeve, that these flyers were allegedly enclosed in.

However, they were not.

There were, however, other unidentified fingerprints on the flyers.

I ask you to ask yourself why the department did not pursue the identification of these prints as they did James'.

And I cannot emphasize this enough.

I do wish this whole situation was just as simple as things being overlooked and things that could have

brought clarity; however, there are so much more to it.

As we all know, everything department has its shortcomings, cliques and politics.

I do feel it necessary to bring up a little background about who the complainant officer is in terms of his negative dynamic in the workplace, which has been condoned and allowed to continue for many years with no consequences, ramifications or accountability by command staff and its close-knit relationship to upper command staff of the department.

BOARD CHAIR DUDLEY: Excuse me.

This goes beyond the facts of this case at this time for this Board's consideration.

If I understand what you're about to do, you're about to describe your perception of the complaining witness.

VICTORIA MUTUKU: I will stop. I won't talk to that. I just think --

BOARD CHAIR DUDLEY: Okay.

VICTORIA MUTUKU: I feel like it's fair to get the whole picture of why everything started. But I won't speak on the complainant.

BOARD CHAIR DUDLEY: Okay. I will listen carefully to your words, but you understand as an investigator the area that we're talking about now. Okay. So go ahead.

VICTORIA MUTUKU: I understand.

BOARD CHAIR DUDLEY: Go ahead.

VICTORIA MUTUKU: Just to give background, after coming back to work after giving birth to our son, the complainant officer did not think I should be allowed to ride with my partner because I would be taking lactation breaks.

And again feel free to stop me, but I feel like it's important because it's the background of how this whole thing came to fruition.

BOARD CHAIR DUDLEY: The members of this Board have read the background. And everybody here's aware of that.

But, so I'm really, again, not sure where you're going, but keep going and I'll certainly let you know.

VICTORIA MUTUKU: Okay. When my direct sergeant did not succumb to the complainant officer's demand of separating me from my partner, the complaint officer proceeded to make a false claim against me and my performance as a police officer and my conformance to department policies.

Despite these false claims being without merit, there were no consequences to the complainant for making such claims.

When nothing came of these claims against me, the

complainant officer redirected his attention in making false claims against James. And here we are now.

There has never been any legitimacy to what the complainant has said and the fact the department gave those claims any room to breathe is disturbing and shouldn't have happened.

As I end, I do feel the need to emphasize these points again because the department stripped away James' livelihood and purpose, not only from this specific department, but now from any law enforcement agency.

The claims against James were without merit and inconsistent and who -- and inconsistent with who he is as a police officer, a husband, a son, a father, a community member, and as a friend.

The unusual and unheard-of lengths the department went to during this investigation to protect the complainant and vilify James are wrong.

My husband was an outstanding police sergeant who was so influential amongst his peers and officers, as well as a positive and strong role model for the community he served.

It is our hope that this decision of whether to decertify him is evaluated carefully. It's so monumental to us. And I will say having to watch the aftermath of the department's unfair firing of James has

been absolutely devastating.

To see the strongest man I know lose his sense of direction and meaning is something I wouldn't wish on anyone.

Law enforcement has been James' livelihood and purpose for so long and I'm sure you can all imagine how losing that can truly unravel one's pride, purpose and identity as a man, a husband and as a father.

But regardless, James has remained optimistic and resilient because that is who he is.

And no matter what happens here today, I know that my son has the most amazing, steadfast and honorable father and role model in the world. And our son is our motivating factor behind everything we do. He is the reason we feel the need to stand up and speak against something that isn't right, something that is unfair and something that is biased and discriminatory.

As parents and as humans, we should always strive to leave something better than how we found it. And with that said, flawed systems will never change if we remain silent.

So we are praying for you all to look at the facts of what happened as no one has yet: Fairly, logistically and with a clean and impartial lens.

Thank you for your time.

BOARD CHAIR DUDLEY: Thank you.

Any other comments from the public?

Any other questions from the Board?

MEMBER JOHNSON: Yes, I have one. Johnson.

Have there been any reports concerning dishonesty on your behalf?

MR. MUTUKU: No, sir, I've never had any discipline in my entire career.

MEMBER JOHNSON: And if I remember correctly, he's been terminated because of dishonesty.

MR. PELETTA: That's correct.

MEMBER JOHNSON: But yet never had any former dishonesty discipline in the past.

MR. PELETTA: I don't think that's relevant.

I mean, when you're looking at a case, you're looking at the facts of the case and you make a determination based on what facts you're reviewing.

So, you don't need a series of dishonest -- sustained dishonesty cases to terminate somebody.

BOARD CHAIR DUDLEY: Anything else, Mr. Johnson?

MEMBER JOHNSON: Nothing.

BOARD CHAIR DUDLEY: Anything else? Yes.

MEMBER GLASER: Counsel, on that, with respect to our criteria and whether past record is relevant to our decision?

MR. BEATTY: Yeah, I mean, it certainly could be the fact that somebody would have progressive discipline that would impact your outlook. And past acts could certainly lead one to believe something.

But, you know, it's just sort of a -- look at it like certain acts of dishonesty in and of themselves, in the context of an investigation, can justify the Board's taking action in this matter.

So that's why the case is presented for you.

It may gravitate towards the Board taking a certain decision if there are progressive discipline acts, but one act alone could suffice.

So hopefully that's helpful.

BOARD CHAIR DUDLEY: Any other questions?

Okay. So, we will now adjourn into the back room for our discussion and return when we're done.

(Time Noted: 2:23 p.m.)

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(Closed session was held from 2:25 to 2:54 P.M.)

---o0o---

(Time noted: 3:04 P.M.)

BOARD CHAIR DUDLEY: Okay. Before we get to a vote, Mr. Johnson, your wife spoke and expressed some very thoughtful and passionate feelings about this. And

all her comments are on the record.

So, I need to ask you on the record, given that your wife spoke eloquently and passionately and gave her opinion about racism and the law enforcement agency, whether there was racism involved here, do you feel that you should recuse yourself or do you feel like you should have a vote in this matter given that circumstance?

MEMBER JOHNSON: Madam Chair, I do not want to impact the Board's --

BOARD CHAIR DUDLEY: I'm sorry, I couldn't hear you.

MEMBER JOHNSON: I do not want to impact the board's decision on this matter, but I do feel that I'm capable of putting forth a vote that I believe -- that I do know is from my own position and not so much from her position on what she shared or comment made.

BOARD CHAIR DUDLEY: Okay. So, do you feel you should recuse yourself or not?

MEMBER JOHNSON: I do not.

BOARD CHAIR DUDLEY: Okay. Thank you.

Now, the question is, how many votes does it take to -- if a motion comes forward, how many votes does it take to go with that motion and the answer is four because there are seven of you today. Six -- what?

I'm floating in some cloud. Yes, there are seven people and yes it is four votes.

So, is there a motion to seek revocation in this case?

MEMBER CLAVO: I'll make a motion for revocation.

BOARD CHAIR DUDLEY: Is there a second?

MEMBER DOYLE: Doyle, second.

BOARD CHAIR DUDLEY: Okay. Any comment or questions before we go to the vote on anybody's part?

(No response.)

BOARD CHAIR DUDLEY: Okay. So, Mr. Chandler, Mr. Waller, can you please take the vote.

MR. KNAPP: Yes, Madam Chair, thank you.

Member Buchen.

MEMBER BUCHEN: Aye.

MR. KNAPP: Member Clavo?

MEMBER CLAVO: Aye.

MR. KNAPP: Member Crawford.

MEMBER HATCHER-CRAWFORD: Nay.

MR. KNAPP: Member Doyle?

MEMBER DOYLE: Aye.

MR. KNAPP: Chair Dudley?

BOARD CHAIR DUDLEY: Aye.

MR. KNAPP: Mr. Glaser.

MEMBER GLASER: Nay.

MR. KNAPP: And Member Johnson?

MEMBER JOHNSON: Nay.

BOARD CHAIR DUDLEY: So there are four votes for revocation, therefore the motion passes and the recommendation of this committee to the Commission is revocation.

Okay. On to the next case.

UNIDENTIFIED SPEAKER: Excuse me, can I just say something before you go forward?

BOARD CHAIR DUDLEY: No. It's -- this is not the time for public comment.

If you want to make a public comment when we get to the next case, you're absolutely welcome to do so. But for this case for right now there's no more public comment. Thank you.

UNIDENTIFIED VOICE: Okay.

BOARD CHAIR DUDLEY: Moving on to the second case.

At this time I will now call upon law enforcement consultant William Imboden, Professional Conduct, Los Angeles County Bureau, and Chris Becker, assistant Chief Counsel, Legal Affairs Bureau to provide a report on POST number 2307511, Sifredo Cano, who, at the time of the events at issue in this case, was employed with the Los Angeles County Sheriff's Department.

MR. IMBODEN: Good afternoon. My name's

CERTIFICATE OF REPORTER

I, CONNIE J. PARCHMAN, 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, Connie J. Parchman, 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 29th day of October 2024.

/s/ Connie Parchman
Connie J. Parchman, CSR
Certified Shorthand Reporter
License No. 6137