INVESTIGATIVE SUMMARY AND FINDINGS

PEACE OFFICER NAME

Cesar Hazel Diaz

POST ID NUMBER

C68-U20

EMPLOYING AGENCY

Los Angeles School District Police Department

POST CASE NUMBER: 2311496

WRITTEN BY: William Imboden

DATE: 01-16-2024

I. Background Information

A. Employing Agency

Cesar Hazel Diaz ("Respondent") began his employment with the Los Angeles School District Police Department on February 16, 2018, as a fulltime Police Officer.

B. Employment History

Respondent does not have any additional law enforcement appointments in California. On November 12, 2023, Respondent resigned his Peace Officer position with the Los Angeles School District Police Department and moved to the state of Montana, where he took a position with the Billings, Montana Police Department effective November 27, 2023. Respondent notified POST that Billings PD was aware of this investigation and his employment eligibility as a peace officer in Montana would be denied if his certification in California was revoked.

C. Peace Officer Certificate:

Respondent is assigned POST ID C68-U20. He received the following peace officer certificates from the Peace Officer Standards and Training (POST):

- Basic (03-06-2019)
- Intermediate (02-28-2022)

D. Prior Allegations of Serious Misconduct

On June 13, 2020, Respondent was arrested for two misdemeanor counts of Driving Under the Influence of Alcohol in Orange County, California. On October 12, 2022, he pled guilty to both counts in Orange County Superior Court (Case# 20WM07704). POST received a report of serious misconduct for Acts That Violate the Law on June 19, 2023, at 1356 hours (Case 2311480).

II. Executive Summary

A. Receipt of Allegation

On June 19, 2023, at 1450 hours POST received a second report of serious misconduct for Acts That Violate the Law after Respondent was arrested for Driving Under the Influence of Alcohol on August 27, 2020, in Los Angeles County, California.

B. Synopsis of Alleged Serious Misconduct

On August 27, 2020, the Los Angeles County Sheriff's Department arrested off-duty Police Officer Cesar Diaz for California Vehicle Code (CVC) section 23152 (a) – Driving under the Influence (DUI) of alcohol. This arrest was Respondent's second arrest for DUI in ten weeks. Respondent was stopped for violating multiple California Vehicle Code sections while driving his vehicle. Deputies conducted a traffic stop for the traffic violations and possible DUI investigation. Based on the deputies' investigation, Respondent was placed under arrest for 23152(a) and 23152(b) CVC and transported to Santa Clarita Station where he was booked for the above charges. On July 30, 2021, Respondent was convicted of California Vehicle Code Section 23152(b) – Driving Under the Influence with a Blood Alcohol of .08% or greater, a misdemeanor, after entering a "No Contest" plea. The charge of 23152(a) CVC was dismissed as a part of a plea negotiation. Court records show Respondent's Blood Alcohol Content (BAC) at the time of his arrest was .17%.

C. Relevant Penal Code(s) and Commission Regulation(s)

California Vehicle Code section 23152 – Driving under influence; blood alcohol percentage.

(a) It is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle.

(b) It is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

California Penal Code section 13510.8 – Revocation of Certification

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

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

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

III. Investigative Summary

A. Methodology

This report summarizes the findings related to allegations of serious misconduct. This investigation was conducted in accordance with the regulations and policies of POST. The investigation included review of the Los Angeles School District Police Department Internal Affairs administrative investigation, which included interviews of two witnesses and the subject officer. Additionally, the Los Angeles County Superior Court complaint and minute orders from the court proceedings were reviewed, as well as the complaint and minute orders from the DUI conviction from the Orange County Superior Court (POST2311480).

Information obtained 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."

B. Details

On August 27, 2020, around midnight, off-duty LA School District Police Officer Cesar Diaz was stopped by Los Angeles County Sheriff's Department Deputies while driving his vehicle in the city of Santa Clarita. The Sheriff's Deputies first observed Respondent's vehicle travelling in a parking lot where it then stopped for an extended period of time before exiting the lot and then accelerating rapidly. The vehicle crossed four lanes of traffic in one movement in violation of the Vehicle Code and stopped at a red-light intersection. When the light turned green, the vehicle accelerated and then swerved across two lanes of traffic into a right turn lane without signaling, which resulted in a second violation of the Vehicle Code.

The Deputies made a traffic enforcement stop on the vehicle for the traffic violations and a possible Driving Under the Influence investigation. Upon contact, the driver (Respondent) provided the Deputies with his driver's license. The Deputies later stated Respondent had the odor of alcohol on his breath, his speech was slurred, and his eyes were glassy. When asked if he had been drinking alcohol prior to driving, Respondent stated "no." When asked a second time, Respondent admitted drinking two Coors Light beers and White Claw mixed drinks at Schooner's Bar and Grill approximately one mile from where he was stopped.

Respondent submitted to a series of Standardized Field Sobriety Tests (SFST), which he performed poorly. He was then arrested for suspicion of driving under the influence of alcohol. During the investigation, Respondent submitted breath samples that showed he had a BAC of .17% and .19% at the time of his arrest.

During an inventory of Respondent's vehicle subsequent to his arrest, one of the Deputies recovered a loaded Sig Sauer handgun that was registered to Respondent located on the floor under the front passenger seat. At the time of the traffic stop, Respondent had a female companion, who was not a peace officer, and who had been drinking alcohol also. The companion had been sitting in the front passenger seat when the vehicle was stopped.

On July 30, 2021, during a pretrial hearing Respondent pled "nolo contendere" to one misdemeanor count of CVC 23152(b) – driving a vehicle with a BAC of .08% or greater. The charge of 23152(a) CVC was dismissed as part of the plea bargain.

During the subsequent Internal Affairs administrative investigation, Respondent stated he did not remember what he had been drinking that night or how many drinks he had. He also said he did not believe he was over the legal limit to drive that night, prior to leaving the bar and was not feeling the effects of the alcohol he consumed.

Respondent also admitted that his firearm was loaded and unsecured under the seat of his vehicle at the time of his arrest.

Ten weeks prior to this arrest for DUI, on June 13, 2020, Respondent was arrested by a State Department of Parks and Recreation Police Officer for DUI after the officer observed Respondent travelling at a high rate of speed, driving on the wrong side of the road adjacent to a parking lot, and crossing over solid double-yellow median lines. During that incident, Respondent also had his loaded firearm with him, tucked in his waistband, and several passengers in the vehicle. Subsequent testing showed Respondent's BAC was .14% at the time of his arrest.

Due to these incidents being prosecuted in two separate counties, they were not combined. The arrest from August 27, 2020, was prosecuted and adjudicated prior to the arrest from June 13, 2020; however, they were reported to POST in chronological order.

On October 12, 2022, during court proceedings for the June 13, 2020, arrest, Respondent pled "guilty" to both counts and was sentenced to 5 years informal probation, fines, and 90 days in the county jail. The jail term was stayed in-lieu of completion of an in-home confinement and alcohol monitoring program, which he completed on April 17, 2023.

Although Respondent's employer initiated an Administrative Investigation (IA 2020-008) subsequent to his arrest in June 2020, the investigation was tolled pending the outcome of the criminal charges against him. On November 21, 2022, the Department concluded their Administrative Investigation and submitted it for final disposition. Respondent was not interviewed as part of

the Administrative Investigation until November 2, 2022. On December 14, 2022, the allegations investigated in IA 2020-008 were sustained and discipline was recommended. On January 31, 2023, the Deputy Chief amended the recommended discipline of a twelve (120 hours) day suspension to a twenty-four (240 hours) day suspension without pay. The Respondent completed his imposed suspension and returned to work in good standing until he voluntarily separated on November 12, 2023.

C. Analysis

1. Does the alleged conduct violate California Regulation 1205(a)(6) – Acts That Violate the Law?

While a single isolated arrest for driving under the influence of alcohol, with no aggravating factors, may not constitute serious misconduct as intended by PC 13510.8(2)(b)(6), multiple arrests for driving under the influence in a short period of time would meet this standard due to the fact that the acts are repeated and the facts here show that there were aggravating factors as outlined below.

Respondent was arrested twice for driving under the influence of alcohol within a ten-week period in 2020, and then subsequently convicted. During both incidents, Respondent displayed erratic and dangerous driving behavior that put the rest of the driving public and his passengers at risk of serious injury or death. Additionally, Respondent had a loaded firearm with him both times. The first time, the firearm was in his waist band. The second time, the firearm was unsecured, on the floor, and under the front seat where his passenger (who was not a peace officer) was sitting. At the time of the first arrest, Respondent's BAC was 1 ½ times the legal limit. At the time of his second arrest, his BAC was over twice the legal limit, indicating Respondent not only did not learn his lesson from the first arrest, he was actually more intoxicated when he decided to drive.

The facts of these two cases demonstrate sufficiently egregious *and* repeated acts as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public.

D. Supporting Evidence and Documentation

Attachment A – LA Superior Court Minute Orders
Attachment B – LA Superior Court Charging Documents
Attachment C – LA Superior Court Plea Documents
Attachment D – Orange County Superior Court Minute Orders

IV. Findings

Reasonable grounds exist to submit this case to the Peace Officer Standards Accountability Advisory Board and the POST Commission for consideration of revocation pursuant to Penal Code 13510.8.