STATE OF CALIFORNIA

COMMISSION ON

PEACE OFFICER STANDARDS AND TRAINING

PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

(POSAAB) MEETING

THURSDAY, DECEMBER 14, 2023

9:03 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:
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APPEARANCES

POSAAB MEMBERS PRESENT

JOYCE E. DUDLEY
(Board Chairperson)
Governor Appointee
Attorney

NICOLE CLAVO, Psy.D.
Governor Appointee
Public Member

REGINA HATCHER-CRAWFORD
Governor Appointee
Public Member

ROBERT DOYLE
Governor Appointee
Former Command Rank Peace Officer

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

POST COMMISSION STAFF

CHRISTOPHER BEATTY
Staff Counsel
Legal Affairs Bureau

ROBERT BRINGOLF
Law Enforcement Consultant
Professional Conduct Los Angeles County Bureau

WILLIAM "TOBY" DARDEN
Chief Counsel
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ANNEMARIE DEL MUGNAIO
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Intake & Disposition Bureau

CARRIE WOOLEY
Staff Counsel
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

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ALSO PRESENT

ROBERT BAUMANN
Counsel for
Officer Justin Ramirez
(Via videoconference)

MATTHEW BRADBURY
Deputy District Attorney
Orange County

LESLIE WILCOX
Counsel for
Officer James Fillmore

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I N D E X

PROCEEDINGS	PAGE
I. CALL TO ORDER	7
II. ROLL CALL OF POSAAB MEMBERS	9
III PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA	10
IV. ASSISTANT EXECUTIVE DIRECTOR COMMENTS	13
V. NEW BUSINESS	
1. Discussion and Possible Action to Adopt a Conflict of Interest Code Pursuant to Government Code Section 87300	17
2. Discussion and Possible Action to Approve Board Policy - POSAAB Administrative Requirements Policy	20
3. Discussion and Possible Action to Approve Board Policy - POSAAB Board Meeting Procedures	24
4. Discussion and Possible Action to Approve Board Policy - POSAAB Conduct and Performance Policy	25
5. Discussion and Possible Action to Approve Board Policy - POSAAB Travel and Compensation Policy	26
VI. NEW CASES - REVIEW, DISCUSSION, AND RECOMMENDATIONS TO COMMISSION	
1. POST2308479 - Justin Raymond Ramirez (POST ID: C37-S81) Last Employing Agency: Orange County Sheriff's Department	29
2. POST2303691 - James Kurtz Fillmore (POST ID: A37-Q67) Last Employing Agency: Los Angeles Police Department	61

INDEX CONTINUED

PROCEEDINGS	PAGE
VII. CLOSED SESSION	
1. POST2308479 - Justin Raymond Ramirez	58
2. POST2303691 - James Kurtz Fillmore	104
(Transcript prepared and bound under separate cover)	
VIII. FUTURE BOARD MEETING DATES	106
IX. ADJOURNMENT	113
CERTIFICATE OF REPORTER	114
ERRATA SHEET	115

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Thursday, December 14, 2023, 9:03 a.m.

West Sacramento, California

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CHAIRPERSON DUDLEY: Good morning. Today we will be making history. This is the first meeting of the Peace Officer Standards Accountability Advisory Board in the history of California.

My name is Joyce Dudley, and I am the Board Chair. Today is December 14th, 2023.

We are here today as a direct result of the hard work of peace officers, activists, legislators, voters, Governor Newsom's Office, and the staff of POST under the extraordinary leadership of its Executive Director, Manny Alvarez.

We are also here because, historically, people have been treated unjustly or have been unjustly accused. Some of these people include victims, their loved ones, and law enforcement officers.

To quote Dietrich Bonhoeffer, quote, "We are not to simply bandage the wounds of victims beneath the wheels of injustice. We are to drive a spike [sic] into the wheel itself."

We are here to listen carefully, think thoughtfully, and act judiciously as we seek truth and justice for all.

To quote Mahatma Gandhi, quote, "Truth never damages a cause that is just."

Our primary mission is to protect the public and all constitutional and statutory rights.

As Martin Luther King, Jr., said, "Human progress is neither automatic nor inevitable ... Every step toward the goal of justice requires sacrifice, suffering, and struggle; the tireless exertion and passionate concern of dedicated individuals."

Which is why all of you were chosen to serve on this board.

To end my personal comments, I leave you with the words of Robert F. Kennedy. "Few will have the greatness to bend history itself, but each of us can work to change a small portion of events. It is from numberless, diverse acts of courage and belief that human history is shaped. Each time a person stands up for an ideal or acts to improve the lot of others, or strikes out against injustice, they send forth a tiny ripple of hope and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightest walls of oppression and resistance."

I want to personally thank you all for joining us today, the board and members and our community.

Before the meeting officially begins, allow me to remind you that this meeting is being webcast, recorded, and transcribed. So I may ask you to slow down, repeat things, or speak more clearly so that our transcriber can most accurately capture the discussion of our minutes.

Further, please note that the microphones are on and off. When you begin speaking, they may go live. With this in mind, you will need to pay attention to your cross-talk.

Mr. Knapp, please call the roll call.

MR. KNAPP: Madam Chair, Members of the Board, good morning.

Board Member Buchen.

(No response.)

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: Board Member Dudley.

CHAIRPERSON DUDLEY: Here.

MR. KNAPP: Board Member Glaser.

MEMBER GLASER: Here.

MR. KNAPP: Board Member Johnson.

MEMBER JOHNSON: Here.

MR. KNAPP: Board Member Lara.

MEMBER LARA: Present.

MR. KNAPP: And Board Member Pena.

MEMBER PENA: Present.

MR. KNAPP: Thank you.

CHAIRPERSON DUDLEY: Thank you, Mr. Knapp.

A quorum has been established. There are eight members here today.

I would like to introduce -- and the name of this board, the initial of this board of POST, POSAAB. I'm not sure it is any easier to say than the full board name, but it is P-O-S-A-A-B.

And so our legal counsel is Christopher Beatty. Thank you for being here. And POST Assistant Executive Director Annemarie Del Mugnaio. Okay. She is to my right.

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 comments on matters on the agenda will be heard after each item is presented.

Public comment on specific peace officer revocation

passes.

And I want to thank all the board members for doing all that reading last night. Obviously, you were very prepared, and it is very much appreciated.

Okay. We now move to the next items on the agenda, and that is the two cases that are before us today.

We will only be reviewing the facts and evidence as presented by the division. This is not an evidentiary hearing. The rules of evidence do not apply. Evidence is not formally admitted into the record. There is no need to make any objections, and objections will not be ruled upon.

Under the Penal Code and applicable state regulations, this initial hearing will determine only if the matter will proceed forward for the Commission's review. And then should the Commission approve, 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 the facts that the division, after investigation, believes can be proved at a later evidentiary hearing.

For that reason, today, the board will entertain arguments as to whether or not those facts as presented

by the division demonstrate a high probability that serious misconduct, as defined in Penal Code section 13510.8 and Regulation 1205, occurred.

This finding simply results in the matter being moved forward. No actions by the board or the Commission prior to a full evidentiary hearing amount to a final determination that an officer did, in fact, engage in misconduct or that the revocation or suspension is mandated. That will be determined after the evidentiary hearing.

At this time, I will now call upon Law Enforcement Consultant Trevor Shields, Professional Conduct, Southern Bureau; and Carrie Wooley, Attorney Level III, Legal Affairs Bureau, to provide a report on case POST 2308479, Justin Raymond Ramirez, formerly of the Orange County Sheriff's Department.

Thank you both.

MR. SHIELDS: Good morning, Madam Chair, members of the board. My name is Trevor Shields. I'm a Law Enforcement Consultant with POST's Professional Conduct Bureau Southern Bureau -- Conduct Southern Bureau. Seated to my right -- I will let you introduce yourself, Carrie.

MS. WOOLLEY: My name is Carrie Wooley. I'm an Attorney III with the Legal Affairs Bureau for POST.

Counsel, anything else?

(No response.)

CHAIRPERSON DUDLEY: Okay.

Now, at this time, I will call upon Law Enforcement Consultant Robert Bringolf, Professional Conduct, Los Angeles County Bureau; and Adele Din, Attorney IV, Legal Affairs Bureau, to provide a report on case POST2303691, James Kurtz Fillmore, formerly of the Los Angeles Police Department.

Please proceed when you are ready.

MR. BRINGOLF: Thank you.

Good morning, Chair, and members of the board. My name is Robbie Bringolf, and I'm one of the law enforcement consultants assigned to the Los Angeles County Professional Conduct Bureau in the Peace Officers Standards Accountability Division.

To my left is Adele Din, an attorney with our Legal Affairs Bureau.

I'm here to present to you case POST 2303691, involving Los Angeles Detective James Fillmore.

Detective Fillmore started his law enforcement career as a police officer with the Los Angeles Police Department in 2003. Mr. Fillmore was promoted to the rank of detective in 2014.

On February 27th, 2016, while off duty, Detective

Fillmore was stopped by the Los Angeles County Sheriff's Department for failing to stop at a traffic signal. When the deputy approached Detective Fillmore's vehicle, he noticed a smell of an alcoholic beverage emitting from the vehicle and from Detective Fillmore's person. The deputy observed an open 25-ounce can of beer in Detective Fillmore's center console.

So the deputy conducted an investigation and determined Detective Fillmore was driving under the influence of alcohol.

Detective Fillmore was arrested and taken to the Santa Clarita station for booking. On the floorboard of his vehicle, deputies located five empty whiskey bottles of varying sizes.

While at the station, Detective Fillmore was uncooperative in providing a breath sample, despite being given five opportunities to do so. Detective Fillmore told the arresting deputy he would only provide a blood sample with a court order.

So deputies sought a search warrant and transported Detective Fillmore to the Henry Mayo Hospital to obtain a sample. After nearly two half hours after the stop, a sample was obtained via search warrant. The sample resulted in a blood alcohol concentration of 0.12 percent, which was above the legal limit of

.08 percent.

Detective Fillmore ultimately pled guilty to one misdemeanor count of driving a vehicle, with a blood alcohol content of 0.08 or greater. In that plea, Detective Fillmore was ordered to complete three years of summary probation; his driver's license was suspended; and he was fined $390; Detective Fillmore was also ordered to complete a six-month alcohol education program.

The Los Angeles Police Department suspended Detective Fillmore for ten days. And in August of 2017, he signed a settlement agreement with the Los Angeles Police Department expressly stating he would abstain from using alcohol for a period of four years.

Four years and a few months later, on April 30th, 2022, Mr. Fillmore was off duty and driving an unmarked LAPD detective vehicle. While driving southbound on Circle J Ranch Road at a high rate of speed, Detective Fillmore was involved in a vehicle accident.

Detective Fillmore's police vehicle collided with the rear of a parked vehicle, causing that vehicle, in turn, to collide with the vehicle in front of it. Detective Fillmore's unmarked police vehicle was totaled, and the two parked cars received major damage.

Detective Fillmore was pinned in the vehicle and

sustained a broken wrist and ultimately required surgery for that injury.

Los Angeles County sheriff's deputies went to the hospital and determined that Detective Fillmore had been drinking -- or driving under the influence in his unmarked police vehicle.

A blood sample was taken around two hours and 45 minutes after the vehicle accident. At that point, Detective Fillmore was found to have a blood alcohol content of 0.18 percent. Again, this is well above the legal limit of .08.

Detective Fillmore admitted to the deputy he had been the driver and sole occupant of the vehicle. He admitted he has been driving at a high rate of speed, and he admitted he had been drinking prior to driving.

In March of this year, Detective Fillmore was relieved of duty by the LAPD. Detective Fillmore still shows to be employed by the Los Angeles Police Department and has been directed to a Board of Rights, which is scheduled for April of next year.

April of this year, Detective Fillmore pled no contest to his second misdemeanor charge of driving under the influence of alcohol with a blood content concentration of .08 or greater.

Detective Fillmore received five-year summary

probation, 15 days in jail, and a fine of $500 or four additional days in jail. Detective Fillmore was also ordered to complete an 18-month alcohol education program.

Detective Fillmore's actions have resulted in the destruction of City-owned property, destruction of private property, and caused him to receive a serious injury.

He's been convicted of driving under the influence twice while employed as a detective for the Los Angeles Police Department.

The facts I have just relayed support the division's findings that Detective James Fillmore was involved in serious misconduct, specifically acts that violate the law, that are sufficiently egregious to be inconsistent with a peace officer's obligation to uphold the law and respect the rights of the public.

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

I would like to take one last moment to make a quick correction to the record. In the document I drafted called, the "Investigative Summary of the

Finding," there's a typo. And that's on the date that Detective Fillmore received his first DUI. In two locations in that document it lists the date as July 10th, 2016. That should be February 27th, 2016.

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

CHAIRPERSON DUDLEY: Thank you.

That date change does not affect the fact that it was just a few months after the agreement was signed. So he was told, for four years, and we all read the terms and conditions of that agreement. And then about nine months later, he violated again; is that correct?

MR. BRINGOLF: Madam Chair, the date change was on the first DUI, so it has no relevance to the four-year --

CHAIRPERSON DUDLEY: Okay. The second one. And therefore, the timing is the same as to the plea, as well as the amount of time that went by that he was put on those restrictions.

Okay. Thank you.

Okay. Board questions, comments?

MEMBER HATCHER-CRAWFORD: I also see -- Crawford. I also see that he was charged for fast driving under the influence. Was he -- was he charged with it or --

MR. BRINGOLF: I believe he was charged with it,

but he did not -- that was not part of his plea.

MEMBER HATCHER-CRAWFORD: Not part of his plea.

And the courts found him guilty or not guilty?

MR. BRINGOLF: He pled no contest.

MEMBER HATCHER-CRAWFORD: No contest. Okay.

And you said he received 15 days, five years, and 18 months for the second DUI, correct?

MR. BRINGOLF: So he received five years of summary probation, 15 days in jail, and then he had a fine. And then there was an 18-month alcohol education program that was also part of that plea.

MEMBER HATCHER-CRAWFORD: And I assume his license was suspended; correct?

MR. BRINGOLF: That's correct.

MEMBER HATCHER-CRAWFORD: And how long was his license suspended?

MR. BRINGOLF: That, I don't know.

MEMBER HATCHER-CRAWFORD: Okay.

MEMBER JOHNSON: I have a question.

CHAIRPERSON DUDLEY: Yes. Just a comment in response.

My position on this board is, I was brought in and under the title of attorney. And I can tell you that having worked in a district attorney's office for three -- 32 and a half years, two things are generally

true: One is, when someone pleads to one of the counts, either the A or the B, traditionally district attorney's offices throughout this state dismiss the other.

The other was a question you had about -- what was the second point you made? One was on the plea, and the other was -- do you remember? It was a long time ago.

MEMBER HATCHER-CRAWFORD: No. I reiterated what the second DUI, what he received. And then I asked about his license being revoked.

CHAIRPERSON DUDLEY: Okay. There was another point, but it is not significant. But I wanted to at least respond from my history.

Yes. More comments or questions?

MEMBER LARA: Lara.

Just on page 127 of the materials that were put together for us, I see that there's a paragraph that talks about the embarrassment and contrition displayed by the officer -- or the detective, forgive me.

And I had some questions. Were there any -- do you know anything about the personal issues that were discussed that led to his behavior? And do you know any of the activities that he said that were -- that were pointed out that, you know, the positive life changes that he made? Can you expand on that, or is what we have is what we have before us?

MR. BRINGOLF: Yeah. What I have is what's in the record. That is what was used to find our clear and convincing evidence. I don't have anything further on that conversation.

MEMBER LARA: Thank you.

CHAIRPERSON DUDLEY: I also noted from the report that I thought the alcohol that was found in his car, the small bottles of various -- a variety of liquors -- liquors, they were all small. But they were, in fact, varying sizes?

MR. BRINGOLF: They were varying sizes. Varying small sizes.

CHAIRPERSON DUDLEY: Okay. And those bottles of alcohol or bottles or alcohol like those were found during both arrests?

MR. BRINGOLF: No. Just during the first arrest.

CHAIRPERSON DUDLEY: Just the primary one?

MR. BRINGOLF: That's correct.

CHAIRPERSON DUDLEY: Okay. Thank you.

Yes.

MEMBER GLASER: Glaser. In the report it says that he was driving his vehicle at a high rate of speed. Do you have any more specific information on that? I gather that that was based on the impact to the other vehicles. But do we know anything more about his

driving?

MR. BRINGOLF: No, sir.

It is a 25-mile-per-hour zone where he got in an accident, and he totaled his vehicle. I don't know what -- how high a speed he was driving, and I don't know that that was ever determined. It was high enough for him to total his vehicle and cause two other vehicles to sustain major damage. That's all I have on that point.

MEMBER HATCHER-CRAWFORD: Crawford. I have one more question.

CHAIRPERSON DUDLEY: Please.

MEMBER HATCHER-CRAWFORD: You said -- I mean, what in the report, it states -- I know you didn't say it -- but in the report, he was driving an unmarked --

CHAIRPERSON DUDLEY: Detective's car.

MEMBER HATCHER-CRAWFORD: -- detective's car.

What is the policy as far as detectives taking cars home, or do they keep them at home? Or is there any reason other than outside of work that sometimes that they do drive -- drive the cars?

MR. BRINGOLF: Yeah, I want to be careful not to speak to any of the policies of LAPD. Those weren't necessarily used to find and determine clear and convincing evidence in this point.

I can tell you that it's never been that ambiguous that driving under the influence of alcohol in a police car is, you know, not -- not an appropriate --

MEMBER HATCHER-CRAWFORD: I'm trying to get into his mindset.

MR. BRINGOLF: Yeah, I'm not sure. But, yeah, that's never been a question as far as I know.

CHAIRPERSON DUDLEY: But fair to say there was nothing in your reports that indicated him taking that car that evening and driving an unmarked car was a problem?

MR. BRINGOLF: That's correct. There was nothing in my report to that.

CHAIRPERSON DUDLEY: The problem was that he was under the influence of alcohol?

MR. BRINGOLF: That's correct.

CHAIRPERSON DUDLEY: Okay. Any other --

MEMBER GLASER: But it does say in the report that he did not have permission to be driving the City vehicle at the time of the accident.

MEMBER DOYLE: That's what I was going to point out, too. He was not on call. And so he was not supposed to be driving a City car.

MR. BRINGOLF: There was not clear and convincing evidence to establish that fact. So --

MEMBER DOYLE: Not to argue, but it is in the report by LAPD that they interviewed --

MR. BRINGOLF: Correct.

MEMBER DOYLE: -- people who shared that car, and he was not supposed to drive it.

MR. BRINGOLF: We were able to establish that he was off duty when it happened. Whether he had permission to drive that vehicle is -- we don't have clear and convincing evidence.

CHAIRPERSON DUDLEY: I think as a former sheriff, you are very aware of when you can take that kind of vehicle. And I'm -- perhaps LA has different rules and regulations than your department did.

MEMBER DOYLE: Actually --

CHAIRPERSON DUDLEY: That he had made statement. Yeah, I saw that.

MEMBER DOYLE: Yeah. So --

MEMBER JOHNSON: I think, if I can ask, too, also -- Johnson, by the way.

I remember reading that he also tried to -- I guess I can use the word -- "bribe" the arresting officer to not allow this to be known, that he was arrested and had this level of alcohol in his system.

MR. BRINGOLF: One of the allegations from the agency was that he had tried to use his official

position to gain favor after his arrest. To what extent that happened, I'm not -- I'm not certain.

The facts that we used in this case to show an egregious act had occurred was the fact that we have -- factually have a repeated act. We have two DUIs. We have an officer who was driving a police vehicle under the influence of alcohol. Two hours and 45 minutes or thereabouts after his blood -- after the accident, his blood sample was taken and returned at 0.18 percent, which is over 200 percent more than the legal limit.

The fact that he caused an injury to himself, the fact that he damaged City-owned property, the fact that he damaged two separate people's vehicles, this was in a residential area. Those are the things that we're using to help establish the egregious nature of this particular act.

There are the other parts that you bring up about the question as to whether he had permission to drive the vehicle, the question as to how he tried to gain favor to, you know, maybe get a lesser charge or something to that effect. That is unclear with the record we were provided during investigation.

So just bring it back to the facts that we're using to establish clear and convincing.

CHAIRPERSON DUDLEY: There was no evidence

presented that he bribed someone, but it was that he used his badge to influence; is that correct?

MR. BRINGOLF: Potentially. He may have shown his badge, and that may have been interpreted as an attempt to gain favor. Or it may have been the fact that he was a peace officer, and he felt compelled to show his badge.

CHAIRPERSON DUDLEY: Mr. Johnson, you may consider anything in the report in forming your opinion.

The point I wanted to make before was the -- there were two and a half hours went by from the time he was driving until the time he had a blood alcohol level of .012. And there was an expert who opined what his blood alcohol level was at the time that he was driving; is that correct?

MR. BRINGOLF: There was a blood alcohol expert. You know, an expert in the -- in extrapolating blood alcohol content. That expert used a formula for the first DUI and provided that.

I used that same formula for the second DUI, which would have put him around a .24 to .22 around 15 minutes prior to the accident.

CHAIRPERSON DUDLEY: .22 to .24?

MR. BRINGOLF: Correct.

CHAIRPERSON DUDLEY: And the legal blood alcohol

level is .08?

MR. BRINGOLF: That's correct.

CHAIRPERSON DUDLEY: Any other questions about that?

Yes.

MEMBER CLAVO: Clavo.

For clarity purposes, the first DUI is where the alcohol containers were found, but not in number two DUI?

MR. BRINGOLF: That's correct, ma'am.

MEMBER CLAVO: Thank you.

CHAIRPERSON DUDLEY: Thank you.

MEMBER LARA: Lara. I have a question.

As this process is new, the -- I don't know. As the investigator from POST, are you permitted or allowed -- I don't know the right terminology -- to move forward, or was it considered a recommendation for suspension, or this was solely -- your thought was this was a revocation case?

MR. BRINGOLF: Yeah. Our -- the division's findings support there's clear and convincing evidence that serious misconduct occurred. The egregious nature kind of speaks to that.

There's several reasons. First, it's not his first DUI. It his second while employed as a peace officer.

Second, the severity of the events has increased rather than decreased. In his second DUI, Detective Fillmore totaled the police car, caused extensive damage to two privately owned vehicles, and caused an injury to himself that caused surgery.

Third point would be that Detective Fillmore had been suspended administratively after his first DUI, and likely his license was suspended in that case as well. And neither of those suspensions prevented his second DUI. So it shows that suspension might not be the appropriate avenue.

And finally, these criminal acts show a wanton disregard for public safety, which we find incongruous with being a peace officer, hence the recommendation to revoke.

CHAIRPERSON DUDLEY: So thank you for clarifying that. So they did consider that in their recommendation. And, of course, you know, as a board member, you can still make a motion that that be appropriate.

Any other questions or comments?

MEMBER CLAVO: Clavo. One more question.

Do we know if he was offered any EAP or any services for his drinking behavior and habits?

MR. BRINGOLF: That's unclear. That may be part of

the settlement agreement. He was likely offered EAP. The fact that he had a alcohol education program, those tend to parallel in nature the type of things that one might get from an EAP just from a different source.

So he did receive two rounds of alcohol education after each --

CHAIRPERSON DUDLEY: So to be clear, the first time he had a DUI, he went -- he had to, by law, go to the DUI school for a first offender.

The second time he had the DUI, he had to go for a second offender. So there are two forms of education after that.

Additionally, as part of the terms and conditions of his first DUI, the agency insisted that, I believe, counseling was one of the provisions that they also insisted upon; that he begin and complete counseling session.

Is that correct?

MR. BRINGOLF: That is correct.

CHAIRPERSON DUDLEY: Okay. So, hopefully, that answers your question.

MEMBER CLAVO: Yes, thank you.

CHAIRPERSON DUDLEY: Any other questions of --

MEMBER HATCHER-CRAWFORD: Crawford. And I know that you said earlier it was about policy.

CHAIRPERSON DUDLEY: Right.

MEMBER HATCHER-CRAWFORD: Yeah. That, I'm interested in seeing -- and maybe we'll do that in closed session -- the policy of --

CHAIRPERSON DUDLEY: Let me suggest to you. We don't have to go into closed session, or we can go into closed session with this case.

The first case, the primary reason we went into closed session was because of the nature of the videos. So there is a provision that would allow us to go into closed session for the deliberation process, or we could stay out here.

Please go on.

MEMBER HATCHER-CRAWFORD: So -- and maybe this is to my attorney, Christopher. I'm interested in seeing the policy each -- of POST regarding officers and the misconduct.

And also the policy of, you know, the station. You know, former DOD generally, if you get like a first DUI, you don't get a second option.

And so maybe somewhere within the body of the policy, I don't know what it may read; one, two, or three offenses.

CHAIRPERSON DUDLEY: I could speak to POST. POST wouldn't have a policy on something like that.

MEMBER HATCHER-CRAWFORD: Okay.

CHAIRPERSON DUDLEY: But the agency may or may not.

Do you happen to know if the agency -- if there was a policy on what would happen on first or second offenses on DUIs?

MR. BRINGOLF: No, ma'am.

Colloquially, it's referred to as the bail schedule, right, with punishment imposed by an organization. That bail schedule changes from organization to organization. And I think it is taken on a case-by-case basis.

What I can say, in this case, is that Detective Fillmore was relieved of duty, and he was ordered to a Board of Rights, which happens next year in April.

So the suggested outcome is termination. He's been, like, de facto terminated, waiting for his Board of Rights. So...

CHAIRPERSON DUDLEY: Any other questions?

MEMBER DOYLE: Just in my experience, I -- and I don't even know if the Police Officer Bill of Rights would agree to this, but we have never had a chart of what you get for different disciplines. I mean, there's unwritten.

For instance, in my agency, the first DUI was five days. The second was termination. Fortunately, I never

had to do the second.

But I kind of think -- and maybe Toby or Christopher know. I don't think the Police Officer Bill of Rights would allow you to have a matrix that if you did this, this is what you get. I mean, because each case is supposed to be dealt with individually.

CHAIRPERSON DUDLEY: Would you like Mr. Darden to approach, and you can ask him?

MEMBER DOYLE: Excuse me?

CHAIRPERSON DUDLEY: Would you like Mr. Darden to approach, and you can ask him that question?

MEMBER DOYLE: No.

CHAIRPERSON DUDLEY: Okay.

Any other questions or comments of -- any questions for the attorney?

(No response.)

CHAIRPERSON DUDLEY: Okay. Thank you very much.

So now I would like to know if any member would like to go into closed session, or if you would like to deliberate this out here.

I'm sorry. I completely forgot public comment. So is there someone who would like to make public comment? Thank you.

Good morning. It's up to you if you'd like to introduce yourself.

MS. WILCOX: Hi. I'm Leslie Wilcox.

CHAIRPERSON DUDLEY: I apologize for having stalled on that.

MS. WILCOX: No, no. That's okay. It's new. We are all learning.

I'm Leslie Wilcox. I'm a union attorney for the Los Angeles Police Protective League. And I represent Detective Fillmore in this POST SB 2 matter with POSAAB.

I would like to address a couple of issues that the board has asked questions about, and I may be slightly more familiar with that process.

I would like, Mr. Johnson, for you to know that LAPD policy requires all of their employees to identify themselves as an officer or an employee of the Los Angeles Police Department any time they are contacted by another law enforcement agency, which I think the law enforcement consultant alluded to that presentation of their identification sometimes can be misinterpreted. It is definitely something that Detective Fillmore is disputing, just so that you are aware of the department's policy requiring that.

And, Ms. Crawford, I also wanted to let you know that Detective Fillmore disputes that he did not have authorization to have that detective car at home. That is one of the issues that will be appealed in his Board

of Rights that is scheduled for April of 2024.

And regarding the discipline matrix, LAPD does have a penalty guideline that gives guidance to both their command staff in reaching a decision for a proposed discipline in any of their cases for allegations of misconduct.

And then once it is appealed, either to a civilian or a sworn board for the Board of Rights, they are also given that penalty guideline. And it ranges anywhere from an official reprimand, which is a written penalty, with guidelines for suspension days, all the way up to termination for various different categories of allegations of misconduct.

And there would be a specific guideline for driving under the influence in this particular case, just so that you are aware of that.

Someone asked what led to this. Officer -- Detective Fillmore was in the process of dealing with three open homicide cases, had three people that he was searching for, for murder warrants. That's the reason he had the take-home car.

He was in the middle of two murder trials and was up for a promotion to a Detective II and learned shortly before this incident of the second DUI that they promoted someone that he had trained himself to that

position.

Thank you.

CHAIRPERSON DUDLEY: Counsel, would you mind sitting down? The mic carries better if you are sitting. Pull it towards you.

MS. WILCOX: Of course. Thank you.

CHAIRPERSON DUDLEY: And I'm sorry to interrupt.

MS. WILCOX: That's okay.

They were promoting someone that he had trained that had ten years less experience than him. And given the amount of time that he had been with the department and the work that he was doing, this was fairly devastating to him. And, unfortunately, triggered a relapse to his alcohol addiction, which led to the second DUI that we are here about.

Since then, when -- he was taken to the hospital because he broke his wrist. Immediately upon being released from the hospital, he went to an inpatient program for alcohol addiction and was there for 65 days, and has been sober since.

So I wanted to make sure that the board was aware that he had addressed this situation in a different manner that had been addressed in 2016, and has been successful in maintaining his sobriety as a result of that intensive outpatient program that he went to

straight from the hospital.

Additionally, I am requesting that the board defer this matter until his Board of Rights. My understanding from the POST website is that if there is an appeal from the proposed discipline, that the board will wait until that discipline has become final before it moves forward with its own process. And in this case, the final discipline is not until a Board of Rights, in Detective Fillmore's case, makes a decision about the final discipline, and then the chief of police signs off on that decision.

And that will be, I believe, on April 3rd. He has three days scheduled.

So I'm requesting that this either be continued or deferred until a date after that, before this particular board makes its decision about whether or not to go forward with a suspension or a revocation, mainly because there will be a significant amount of evidence that will come out that may address some of this board's questions. But it is a de novo hearing, which involves multiple witnesses, cross-examination, closing argument, all of the body-worn video evidence from the agency that arrested Detective Fillmore. So it is a very extensive process that can shed some light about some of the questions that this board has raised today.

And I think it would be most efficient if this board would defer that until his final discipline has been imposed so that you have more detailed answers than the investigative summary that's been provided to you at this point.

According to the Frequently Asked Questions on the POST website, my understanding of POSAAB is that it will not undertake revocation or decertification or suspension recommendation until the discipline is final. In Detective Fillmore's case, it is not final yet.

As the law enforcement consultant told you, he is still technically a member of Los Angeles Police Department until that board makes that final decision in April of 2024.

CHAIRPERSON DUDLEY: Okay. Thank you.

I will ask Counsel to respond to what the website says and the relationship between Board of Rights hearing and this board's job in a moment.

But let me ask you: You mentioned this LAPD guideline. What is the guideline when someone suffers a second DUI?

MS. WILCOX: It is 20 pages long, so I don't remember that one specifically.

I believe --

CHAIRPERSON DUDLEY: Let me ask you. The

guidelines is 20 pages long on what to do if someone has a second DUI, or just the entire guideline?

MS. WILCOX: Correct.

CHAIRPERSON DUDLEY: So you don't know?

MS. WILCOX: I can pull it up for you, if you would like.

CHAIRPERSON DUDLEY: Okay. Thank you.

MS. WILCOX: Give me just one moment, please.

CHAIRPERSON DUDLEY: Sure. Take your time.

MS. WILCOX: Madam Chair, it is Frequently Asked Question Number 23.

CHAIRPERSON DUDLEY: I appreciate the Frequently Asked Question Number 23, and we'll take a look at that. But I think maybe I asked my question inartfully.

I'm wondering what the LAPD guideline is on someone who suffers a second DUI.

MS. WILCOX: Yes. I'm trying to pull up their guidelines.

(Pause in proceedings.)

MS. WILCOX: Found it.

CHAIRPERSON DUDLEY: Would you like us to take a five- or ten-minute break to give you more time?

MS. WILCOX: I just found it. I'm sorry.

CHAIRPERSON DUDLEY: You just found it.

MS. WILCOX: Yes. Of course, Murphy's Law.

CHAIRPERSON DUDLEY: Please take your time.

MS. WILCOX: That's okay.

There are different sections for driving and traffic collisions. Specifically, driving a City vehicle in violation of policy resulting in a fatality or severe injury. I'm not sure that this technically would qualify as that. But a first offense can go from an official reprimand up to termination. And a second offense can go from 16 days suspended up to termination.

CHAIRPERSON DUDLEY: Okay. And in this case, we had serious injury to the driver. We had a wrist that required surgery and hospitalization for some point -- period of time.

So thank you for that.

And then I have at least three people who can respond to your other question. We'll start with the Assistant Executive Director.

MS. DEL MUGNAIO: Thank you.

The division objects to the request for a continuance. The continuance was not received until December 5th, which was after the matter was presented to the board and was posted on the POST website as a matter of public record.

More importantly, to speak to the request for continuance in this matter, the Board of Rights hearing

has no binding effect with respect to the board's recommendation regarding decertification and, therefore, should not be delayed.

The evidentiary hearing that you heard today, in terms of allowing litigation and evidence and facts to be fully explored, will happen before an administrative law judge with respect to the board's recommendation and, forthcoming, the Commission's recommendation. And, therefore, this matter should not be continued or tolled.

I respectfully request the board move forward with its decision or recommendation.

Thank you.

CHAIRPERSON DUDLEY: Thank you.

Counsel, is there anything you would like to respond to?

Just so you are familiar, he is counsel for this board, and then we also have counsel for POST.

MS. WILCOX: Understood.

MR. BEATTY: Unless the board members have questions about what they were just instructed on, I concur with the thought that there is no relationship between the Board of Rights hearing and what this board is deciding. What this board is deciding is restricted to the investigation as described. There's no --

there's no connective connection.

CHAIRPERSON DUDLEY: Thank you.

And also the chief attorney for POST, Toby Darden, did you want to respond to any of that?

MR. DARDEN: Thank you.

Thank you, Board Members. The tolling provisions in the Act refer to something that is a little bit different. There is a tolling provision in Senate Bill 2. And the tolling provision there says that once an agency gives a completed investigative file to POST, it has three years to investigate and then serve the notice of intent to decertify upon the officer.

The matter can be tolled during that period of time, but that is just an order to ensure that POST has a sufficient opportunity to investigate, but that within three years after receipt of the completed investigation, we will complete it unless there is something that requires tolling, such as, for example, an appeal.

So that is a little bit different from the situation that we have here.

What really Counsel is asking for is a continuance, which, of course, she can request. And I do understand the confusion about the website question. It is perhaps not worded as clearly as it should be. So the website

does say that generally, a matter can be tolled pending an administrative appeal.

However, general does yield to specific circumstances. And, in this case, I believe the division's position is that when we have an officer who is still currently employed -- this is not a circumstance where he has been terminated and is not working as a peace officer. So the idea is that in this specific circumstance where he is specifically employed and has a history of these alcohol-related incidents, including the most recent one that caused injury and damage, that it is not appropriate to toll it in this particular case, even though that might generally be the case.

And the idea that from the division's perspective is quite simply that the question of his employment relationship with LAPD, whether or not LAPD will continue to employ him or not, that's between him and LAPD. And he certainly has a right to his Board of Rights hearing, and he can resolve that issue with the Board of Rights with respect to his employment relationship with LAPD.

What the division is doing is something different and more fundamental than what the board is being asked to do. And that is to revoke his peace officer

certification, which would be statewide. So the division's position is that, as has been said, there really is no reason to grant a continuance of the board's recommendation in this matter.

Of course, in addition, the board's recommendation will then have to go to the Commission. The Commission will then have to approve it or not in public hearing. And then -- and it will then be sent out to an administrative law judge for determination.

And if the Board of Rights is going to go forward in April, just simply as a matter of calendaring, this matter wouldn't go to the board until, Annemarie, what are we talking about, March, for the Commission meeting?

MS. DEL MUGNAIO: March.

MR. DARDEN: March. The Commission meeting would be in March. If the Commission approves it, it would refer it back to the division. We would engage the attorney general's office. They would file an accusation. It would start the process of that whole discovery and that whole administrative hearing.

So the Board of Rights would likely be concluded in any event well before the administrative hearing occurred.

So if you have any questions, I'm happy to answer them.

CHAIRPERSON DUDLEY: Just stay there.

Would you like to respond to any the responses you got, Counsel?

MS. WILCOX: Yes. Thank you. I would just like to read into the record what the POST website says specifically regarding the issue of a continuance or a deferral.

"When a peace officer appeals discipline relating to serious misconduct, does that delay the decertification process with POST?"

The answer is, "Generally, POST will toll any determination or recommendation for decertification pending the outcome of disciplinary appeals or civil or criminal actions."

So that is what I was relying on in my request for continuance.

I would also like to respond to Ms. Del Mugnaio's response that my request for a continuation was not received until December 5th, which, after this was posted for public comment, as I'm sure you all know, this is our first time doing this. I was not given any sort of notification about when any request needed to be received; and was told to come to ask the board directly for that request, which I did here today.

If there is a process that needs to be in place for

representatives of law enforcement officers to be able to make those kinds of requests, I would -- I would ask that be given to us in advance so that we can make this process more smooth and more streamlined.

Also, I believe the relationship between this board's duty in making a recommendation for either suspension or decertification is related to the hearing at the Board of Rights.

If you are, in fact, searching for the facts and the truth and the why on why Detective Fillmore behaved as if he did, I think that that is a very serious matter for this board to consider in its recommendation.

I would also note, as my last point, that it appears, so far, at least on the information that I can glean from the website, that all other revocations for law enforcement officers in this state have been for felony convictions. And Detective Fillmore does not have that same status.

And so I would request that if the board does choose to move forward, that it go -- move forward on a recommendation for suspension instead of decertification.

Thank you.

CHAIRPERSON DUDLEY: Thank you. First, there's no discrepancy between what you read and what Chief Counsel

Darden read. He responded to the "generally," the statement that says "generally," and said that this was specific.

As to the second point.

MS. DEL MUGNAIO: Thank you, Ms. Wilcox.

Yes. We sent out the notice of intent to revoke in late December. Actually, that's not true. We sent it out in mid October with a 30-day response period for an appeal. So there was a 30-day window within which the officer/officer's counsel could appeal the actual notice of intent to revoke.

We did receive an appeal regarding this matter on November 21st. We did not receive a request for continuance until December 5th.

At that point, we had already moved forward with posting the information and obviously, sending it to the board for review and consideration.

In terms of the -- the final resolutions of anything that has been taken, final actions that have been taken by POST, the reason that the only actions at this point are as related to felony convictions, is because this is the first hearing of the board, where they can consider acts of misconduct.

The felony conviction statute, Government Code 1029, is an absolute. So if an officer suffers a felony

conviction, they shall be revoked. There is no discretion on the part of the board or the Commission or anyone else, for that matter.

So that is the reason why the current resolution, if you will, for all of the matters that are posted on the POST website, are revocations as a result of a felony conviction, because we are, today, considering our first hearing for serious misconduct, unrelated to a 1029 violation.

Thank you.

CHAIRPERSON DUDLEY: Thank you.

Are there any questions from the board for Counsel?

Yes.

MEMBER CLAVO: Yes. I wanted to just make sure I understood.

So for clarity purposes -- Clavo, I'm sorry -- you stated that your client did not dispute that he -- he disputes that he did not have permission to have his car home, stored. But does he dispute the fact that he did not have permission to drive said car while off duty?

MS. WILCOX: That's a little bit difficult to answer because of the way LAPD handles their off-duty vehicles for people who are allowed to have cars off-duty. He was responding to meet a supervisor. He definitely did not have permission to drive it while

under the influence. He's not disputing that. But he did have permission to have the vehicle in the manner in which he did.

MEMBER CLAVO: Thank you.

CHAIRPERSON DUDLEY: When you are saying "in the manner in which he did," but not to drive the vehicle under the influence of alcohol --

MS. WILCOX: Of course not.

CHAIRPERSON DUDLEY: -- you weren't suggesting that.

MS. WILCOX: Of course not.

CHAIRPERSON DUDLEY: Board Member Lara.

MEMBER LARA: I don't have a question.

CHAIRPERSON DUDLEY: Oh, you didn't?

Okay. Yes.

MEMBER GLASER: Hi. Glaser.

I wanted to get some clarification on what his current status is with respect to his ability to serve as a law enforcement officer currently. I know that he is described in the report as being relieved of duty. But he is still, apparently, an employee of LAPD.

MS. WILCOX: It is a little confusing.

I actually have this dispute with the department all the time. He's "relieved of duty" is a terminology that they use, meaning that he doesn't have a badge or a

gun. He has no police powers even in an off-duty capacity under the Penal Code.

That -- for LAPD, once they have determined that they want someone to go to a Board of Rights to be considered for termination, they are still on the payroll of the City for 30 days.

After that, they are no longer on the payroll of the City, but the department still believes that they have control over that particular employee while they are pending their appeal.

I don't know if that clears it up.

MEMBER GLASER: That is a partial clarification, thanks.

I think my question is for other people as well, which is: What is his status with respect to POST at this point? Is he under Immediate Temporary Suspension? And -- or, you know, is he -- yeah. I think that is my question.

CHAIRPERSON DUDLEY: Okay. I will ask Annemarie to respond to that.

MS. DEL MUGNAIO: Thank you, Board Member Glaser.

No, he is not. And the reason Mr. Fillmore, or Officer Fillmore, is not under an Immediate Temporary Suspension is there is no authority in this case for the Executive Director to take that action because he has

not been terminated. He did not resign during a pending investigation. And he was not arrested or indicted for a felony matter.

We don't have the authority to issue an Immediate Temporary Suspension. Thereby, Mr. Fillmore is -- at this point, his certification status is free and clear. He could seek employment from another agency. He is not restricted in terms of his ability to retain a law enforcement position elsewhere.

CHAIRPERSON DUDLEY: Anything else, Mr. Glaser? No? Thank you.

Ms. Pena.

MEMBER PENA: I have a couple questions, actually.

I'm trying to understand the Board of Rights versus the revocation proceeding that we're considering here today.

Let's say, for example, we recommend revocation. It goes to POST. POST upholds that.

Board of -- does the Board of Rights hearing still go on? And if so, how does that then impact a POST decision on revocation? I'm asking, actually, any of the attorneys.

MS. WILCOX: I will speak to the Board of Rights part, if I may.

Sorry. You can go ahead.

MS. DIN: You can go ahead.

MS. WILCOX: Again, this is all new to all of us in this area.

My belief would be that if this board and the POST Commission, at its final decision, revokes his peace officer certification, then I think, under his MOU, he would have a right to go to a Board of Rights and still appeal that. But they would not be able to reinstate him to his position because he wouldn't have a certification.

MEMBER PENA: Anybody else on that?

MS. DIN: So I just want to reiterate what Mr. Darden had explained about how the two tracks are completely separate.

Sorry, is it picking me up?

The two tracks, the disciplinary track between the officer and the agency, that is completely separate from our revocation process and the statutory scheme that is set forth by SB 2.

So the outcome of the disciplinary proceeding or the appeal with the Board of Rights, it really has no bearing on our decision to move forward with revocation.

MR. BEATTY: It is somewhat intentional, right? This board is making independent recommendations, independent of agencies' determination of their

employment issue. Right? And so they are discreet and unconnected.

Does that make sense?

MEMBER PENA: Yes.

MS. DIN: And an agency decision does not preclude POST from moving forward with the recommendation for decertification.

CHAIRPERSON DUDLEY: Other questions?

MEMBER PENA: Second question is -- and any of the attorneys, feel free to speak to this -- is there any significance to be obtained from the fact that the first offense was more than four years before the second offense? Does that matter at all?

CHAIRPERSON DUDLEY: I can respond to it from the board's position.

I believe the reason -- the division can speak to this -- that this was brought to everyone's attention was because of the contract, for lack of a better term, that was articulated.

So after his first DUI, he entered into a contract. And you read the terms and conditions of that: Not drinking alcohol, not going to a place where alcohol is served, and more of that.

And then certain number of months later, he violated.

I think the point was to show his -- the information about the fact that he had these very strict terms and merely months went by before he violated them. But to also show that, in fact, the four-year period had ended.

Anybody else want to say anything about that?

(No response.)

MS. WILCOX: I would just only note that the contract had ended, and it wasn't a violation of the contract.

CHAIRPERSON DUDLEY: Correct. It was not in violation of the contract. It ended, I think it was, nine months previous.

MEMBER PENA: Is there any significance to that?

CHAIRPERSON DUDLEY: Only whatever significance you place on that.

MEMBER PENA: Okay. Okay. Thank you.

CHAIRPERSON DUDLEY: There's no legal significance.

MEMBER PENA: Okay. Thanks.

CHAIRPERSON DUDLEY: Any other questions, Ms. Pena?

MEMBER JOHNSON: I do have a question.

CHAIRPERSON DUDLEY: Yes, Mr. Johnson.

Ms. Pena, is that all your questions?

MEMBER PENA: Yes.

CHAIRPERSON DUDLEY: Okay. Mr. Johnson, please.

MEMBER JOHNSON: I'm still kind of stuck on this idea when I used the word "bribery." Because in the report -- and I guess I'm trying to understand if he really accepted his responsibility for what he did.

But it states (as read), "On at least two occasions during the investigation, Fillmore attempted to use his position with the department to secure release and avoid the ramification of his actions. He told Morgan that the two were on the same team, that it, the investigation, did not have to go this far. And if it were up to me, I would let it go."

And, of course, it goes on to talk about him attempting to hide this matter. And so it is very concerning to me that we're being asked, I guess, by his counsel -- you are representing him, correct? --

MS. WILCOX: Yes.

MEMBER JOHNSON: -- to overlook this, to give him time. And so I'm troubled with that. I just wanted to put that on the record.

MS. WILCOX: Yes.

CHAIRPERSON DUDLEY: And I think the Counsel made reference to it. And I believe -- and please correct me if I'm wrong -- when you said he is required to let them know that he is a member of law enforcement when you work for the LAPD. And that was in reference to the

articulation of that position. It is not -- was not in reference to everything else you just read.

MS. WILCOX: Correct. I was just indicating that his department policy requires him to identify himself as a law enforcement officer and for the agency that he works with any time he is contacted by any other law enforcement agency, aside from a traffic ticket.

And that as the law enforcement consultant here for POST indicated, that can often be misunderstood. And we do not have all the details regarding that particular interaction.

MEMBER JOHNSON: Yeah. It is just troubling in the report that he -- at least the investigator said he attempted to use his position. Not just showing the badge. But attempted to use the position to just totally make this go away.

CHAIRPERSON DUDLEY: Well, you have the words there. Part of the same team. And the other things you read.

Thank you.

Other questions for Counsel -- for public comment? Counsel?

(No response.)

CHAIRPERSON DUDLEY: Okay. Thank you very much for coming in.

MS. WILCOX: Thank you all for your time.

CHAIRPERSON DUDLEY: Okay. Now, any other public comment?

(No response.)

CHAIRPERSON DUDLEY: Seeing none, I now go back to the board and ask if anybody would like to go into closed session to discuss this further? Or does everyone want to stay out here and have any further discussion that we might have? So first the question: Anybody want to go into closed session?

MEMBER GLASER: I would like to go into closed session.

CHAIRPERSON DUDLEY: Okay. Let's go into closed session.

And let me ask you, do you need a break?

THE COURT REPORTER: I could use a break.

CHAIRPERSON DUDLEY: Okay. So we are going to have a break, and then we will resume in closed session at 20 to 12:00. 10 minutes from now.

(Time noted: 11:32 p.m.)

---o0o---

(Closed session was held from

11:41 a.m. to 12:08 p.m.)

---o0o---

(Time noted: 12:10 p.m.)

CHAIRPERSON DUDLEY: We are back from closed session.

Are there any additional comments or questions from any board members?

(No response.)

CHAIRPERSON DUDLEY: Seeing none, is there a motion?

MEMBER JOHNSON: I would like to make a motion to decertify.

CHAIRPERSON DUDLEY: Okay. Is there a second?

MEMBER PENA: Second.

CHAIRPERSON DUDLEY: Okay. At this point, we will take a roll call vote. The motion is to decertify this -- to recommend to the Commission that this officer be decertified.

Mr. Wallace -- I mean, Mr. Knapp.

MR. KNAPP: Board Member Buchen.

(No response.)

MR. KNAPP: Board Member Clavo.

MEMBER CLAVO: Aye.

MR. KNAPP: Board Member Crawford.

MEMBER HATCHER-CRAWFORD: Nay.

MR. KNAPP: Board Member Doyle.

MEMBER DOYLE: No.

MR. KNAPP: Board Member Dudley.

CHAIRPERSON DUDLEY: Aye.
MR. KNAPP: Board Member Glaser.
MEMBER GLASER: Aye.
MR. KNAPP: Board Member Johnson.
MEMBER JOHNSON: Aye.
MR. KNAPP: Board Member Lara.
MEMBER LARA: Nay.
MR. KNAPP: And Board Member Pena.
MEMBER PENA: Aye.
CHAIRPERSON DUDLEY: Okay. What does that tell us?
MR. KNAPP: We have five yeses, and we have three nays.
CHAIRPERSON DUDLEY: Okay. So again, this is based upon a majority. So that motion has passed. And the recommendation to the Commission is that this officer be decertified. And the record reflects the people who voted against that.
Okay. Of now, as to upcoming meetings, we have a meeting on March 20th through 21st; May 15th through 16th; July 24th through July 25th. All of those meetings are here at POST in West Sacramento. There has been some discussion about a meeting in January.
For those of you who were here for the first training session, we set aside a January date as well. There's been some discussion that we might want to

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, a 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 2nd day of January 2024.

/s/ Kathryn S. Swank
KATHRYN S. SWANK, CSR
Certified Shorthand Reporter
License No. 13061