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:
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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

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Assistant Executive Director
Peace Officer Standards
Accountability Division
Executive Office

WILLIAM DARDEN
Chief Counsel
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CHRISTOPHER BECKER
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BRYANT HENLEY
Attorney IV
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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.

Okay. Moving on to case number 3.

Let's see, give me one moment.

Thank you, gentlemen.

At this time, I will now call upon Law Enforcement Consultant Kevin Sherburne, Professional Conduct Central Bureau and Bryant Henley, Attorney for Legal Affairs Bureau to provide a report on case POST number 2313715, Jaime Bermudez -- or Jamie, I'm not sure which -- who at the time of the events at issue in this case was employed by the Daly City Police Department.

At this time -- okay. Gentlemen.

MR. SHERBURNE: Good afternoon. I've spoken with Mr. Bermudez. I think he goes by Jaime.

BOARD CHAIR DUDLEY: Thank you.

MR. SHERBURNE: Thank you for your time today.

My name is Kevin Sherburne. I'm the Law Enforcement Consultant to the Professional Conduct Bureau, Central District.

I served as the investigator in this case regarding Jaime Bermudez who formerly worked for Daly City Police Department.

BOARD CHAIR DUDLEY: Can I ask you speak a little slower? It's been a long day for the reporter.

THE COURT REPORTER: Thank you.

MR. SHERBURNE: Thanks for the reminder.

The case number is POST2313715.

With me today to my right is Bryant Henley, counsel for POST.

The clear and convincing evidence substantiated that Mr. Bermudez engaged in acts that violated the law, that were sufficiently egregious or repeated as to be inconsistent with the peace officer's obligation to uphold the law or respect the rights of members of the public.

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

Mr. Bermudez was employed as a peace officer, a police officer, with Daly City Police Department from December 26, 2012, through July 11th, 2023, when he was terminated.

Over the years, POST issued him three certificates. His basic certificate in 2014, intermediate in 2015, advanced in 2018.

Mr. Bermudez was arrested and convicted twice for drunk driving.

Mr. Bermudez's first DUI occurred in 2015. According to the Campbell California Police Department

report, Mr. Bermudez collided with a fire hydrant resulting in major damage to the driver's side of vehicle. He had a passenger in the car at the time, his blood alcohol content measured 0.19 percent by volume. He plead nolo contendere to the DUI and was convicted. The Court sentenced him to volunteer work, counseling, and fines.

In the year 2022, Walnut Creek Police Officers arrested Mr. Bermudez for DUI. At the time, he was driving a government-issued and owned vehicle, and was on call as a drug interdiction task force member. He had a civilian passenger in the car.

His BAC measured 0.269 percent by volume. And in addition to alcohol, Mr. Bermudez tested positive for tetrahedral cannabinoid, THC, at the rate of 5.9 nanograms per milliliter.

On December 6, 2023, he pled nolo contendere and was convicted. The court sentenced him under a statute that provided for a sentencing enhancement because it was his second DUI conviction within ten years.

The 2023 conviction included a sentence of 20 days in jail.

Daly City police department conducted internal affairs investigations in both situations. Because the department purged the 2015 investigative file after five

and a half years, within its policy, it is unclear whether the investigation sustained findings, what the allegations were, and if sustained, what discipline, if any, the department imposed.

In the 2022 DUI, Daly City Police Department's Internal Affairs investigation resulted in sustained policy findings that lead to a recommendation from a disciplinary review panel.

In June 2023, the Department issued a notice of intent to terminate and terminated him in July 2023.

During his internal affairs interview, Mr. Bermudez stated that he had put himself through a 30-day inpatient rehabilitation program, was undergoing outpatient treatment, was attending Alcoholics Anonymous meetings, and was at the time of the interview, 80 days sober.

The clear and convincing evidence substantiated that Mr. Bermudez engaged in conduct in 2015 and 2022, that lead to his arrest and convictions for DUI.

Impaired driving is illegal because of the inherent dangers to the drivers and to others.

Under Penal Code Section 13510.8(b)(6) and POST regulation 1205(a)(6), acts that violate the law constitute serious misconduct when they are, quote, sufficiently egregious or repeated as to be inconsistent

with the peace officer's obligation to uphold the law or respect the rights of members of the public, end quote.

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

As an officer charged to enforce DUI laws Mr. Bermudez's actions in driving impaired on two occasions established that he committed serious misconduct.

I will turn over the remainder of my -- the Division's presentation to Mr. Henley. And then after that we're happy to answer any questions the Board Members may have.

MR. HENLEY: Thank you, Mr. Sherburne.

Good afternoon Board Members. Again Bryant Henley with the Peace Officer Standards Accountability Division.

As Mr. Sherburne explained in his investigative summary and findings which he wrote on behalf of the Division, the Division's recommendation after finding -- after its investigative findings is that there are reasonable grounds that exist for the Board to consider

revocation of Mr. Bermudez' peace officer certification in this matter.

Without taking a position, the Division in this case, me representing the Division, without the Division taking a position on whether an alternative form of resolution might be appropriate here, as you heard earlier today, before we began, with serious misconduct matters the commission, as you know, on two occasions has determined that a revocation of certification that has been stayed pending -- subject to specific terms and conditions of probation, was appropriate in two prior cases involving DUIs.

Whether this case, as Ms. Del Mugnaio mentioned earlier today, whether this is the kind of case which this board believes falls into that category or not of course is Board's determination to make.

But we wanted to identify and acknowledge that certainly we know the Commission has in two prior cases made that decision.

The other things I wanted to mention is that we did speak with, as Mr. Sherburne mentioned, we've spoken with Mr. Bermudez, who had questions about an alternative resolution process. We did our best to explain what that process is based upon the information we have from the other two prior case, where the

Commission had ultimately voted to take that action.

And so Mr. Bermudez is now aware of those factors and I understand may wish to speak with you today.

The other only topics I would make mention at this moment, of course if the Board's determination is that an alternative form of resolution is appropriate, notwithstanding the Division's recommendation in this case, of course we stand ready to assist with that process assuming, of course, that the Board and then the Commission make such an election.

Last but not least, I'm always prepared to share with this board, if it's appropriate, or if the Board would like, some of the high-level terms and conditions that we've seen from the Commission in two prior cases.

I'm happy to do that now or at another appropriate time when the Board would like to hear about those terms and conditions.

BOARD CHAIR DUDLEY: I think so that the Board can make a knowing decision in this case, it's important for them to understand what those terms and conditions might be should the Board want to go in that direction.

MR. HENLEY: Absolutely. Thank you, Madam Chair, then I'll proceed.

BOARD CHAIR DUDLEY: Please.

MR. HENLEY: With regard to the terms and

conditions we've seen from the Commission in two prior instances, the general level of the terms and conditions are as follows:

The respondent in those other cases stipulated to the filing of an accusation. That's the -- that's the pleading that goes before the Administrative Procedure Act before an ALJ, that's the beginning of that formal hearing process you heard me talk about earlier.

So the respondent would stipulate to the filing of that accusation.

The certificates of the respondent were revoked in these prior cases on that -- on that stipulation. So there was an automatic revocation.

But the revocation was then stayed immediately, meaning it was paused, subject to the completion of terms and conditions of probation that the licensees had to meet.

Those terms were generally that the respondent in those cases had to obey all federal, state and local laws.

That the respondent would provide the Commission with proof of completion of participation in all alcohol abuse treatment and counseling programs as well as the result of alcohol treatment testing that those individuals had taken to date, keeping in mind, of

course, in those cases, those were alcohol-related cases. So that was the nature of that term.

Respondent was in those case could not engage in any other act of serious misconduct as defined in the Penal Code 13510.8.

And must -- obviously would include but not be limited to acts involving substance use.

The respondent would have to provide any current, future or potential law enforcement employer with the terms and conditions of the stipulation, if the individuals wish to seek law enforcement employment elsewhere in the state or outside of the state.

And that the respondent would understand that the stipulation, the agreement, between the division and the officer, that that would be a public record. So any person could view the settlement agreement in terms of -- including the terms and conditions of probation.

And that if the respondent were to violate any of those terms and conditions during the period of probation, that the Commission could, after giving that respondent notice and an opportunity to comment, the Commission could immediately set aside the stay on the revocation, and immediately impose the revocation that was previously ordered.

That could become an automatic thing after a notice

and opportunity to be heard by the respondent.

Lastly, if the officer were to obtain new employment in these prior cases, then there was an additional term of probation, and that was that the person would have to abstain from the use of alcohol or other drugs and at their own expense would be required to participate in random biological fluid testing or drug screening programs that were subject to the Commission's approval. The length and frequency of those testing would be up to 15 times per year on a random basis and the licensee, the respondent, would have the obligation to pay for that testing.

And those are the material terms we've seen in two prior cases involving DUI incidences with officers.

With that, Madam Chair, I have nothing further unless you have questions.

BOARD CHAIR DUDLEY: Let me ask first, does anyone have any questions about the case?

I'll follow it up with questions about the terms and conditions. Does anybody have any questions about the case? Yes.

MEMBER CLAVO: Clavo. Was it -- I'm sorry, you said 30 days he did in jail or 20?

MR. SHERBURNE: The sentence -- the sentence was 20 days in jail.

MEMBER CLAVO: 20 days. And then do we know if he did any inpatient or outpatient in regards to the 2015?

MR. SHERBURNE: I don't think that the inpatient rehabilitation came until after the second one.

MEMBER CLAVO: In 2022?

MR. SHERBURNE: Right, during -- I'm sorry to interrupt you.

During his Internal Affairs interview, he stated that after the first one he did not realize that he had an alcoholic problem. But only after the second one, he thought it was like just a one off, he was celebrating.

MEMBER CLAVO: Okay. And so after the second one, he did a 30-day inpatient program. Was that only for alcohol or was that for the THC as well?

MR. SHERBURNE: I don't know.

MEMBER CLAVO: Okay.

I might have more later but that's it now.

BOARD CHAIR DUDLEY: Twenty days in custody, 30 day outpatient program. Any other questions about the case?

(No response.)

BOARD CHAIR DUDLEY: Okay. Any questions about the terms and conditions of potential probation and/or what all that means?

Yes.

MEMBER GLASER: I questions about the terms and

conditions. Glaser.

How -- how did the Commission and/or the judge come to those terms? Are those best practices? Or are there any empirical bases for those terms being effective.

MR. HENLEY: Thank you, Board Member Glaser, for the question. That was kind of like a couple of questions. So let me see if I can answer some of them. I'm not sure I can address all of them.

With regard to the terms and conditions that were agreed upon, the process was that after this Board made its recommendation and the Commission considered these cases, these prior cases, the Commission concluded, at a high level, that terms and conditions of probation would be a more appropriate option and then directed the Division to work on what terms and conditions might be best appropriate.

And so after further consultation, between the Division, the respondent, and the Commission, the set of terms that I high-level described to you were the terms that were agreed upon.

To the second part of your question, Dr. Glaser, I don't know that we have undertaken any studies or empirical evidence to determine whether, which or any of those terms and conditions have a statistical or other empirical basis in terms of effectiveness.

So I'm afraid I don't have an answer on that part of the question.

BOARD CHAIR DUDLEY: Assistant Director Del Mugnaio.

Dr. Glaser, that you for your question.

In terms of this being a best practice or a pattern, these standard terms and conditions are something that are used pretty regularly with medical professionals.

There was a legislative initiative many years ago called the Uniform Standards for Substance-Abusing Licensees, which lays out several terms and conditions to ensure safety of the public, for anyone who's licensed with the State would have to essentially agree to.

Some of that happens in a diversion program where they're diverting from discipline and then going into kind of a rehabilitative state until they can return to their profession.

In this case, it's not diversion from discipline, but it's a settlement whereby they would -- we would be confirming that they are safe to return to the profession.

MEMBER GLASER: Thank you.

MEMBER HATCHER-CRAWFORD: Can you repeat that?

Uniform Standard.

MS. DEL MUGNAIO: For Substance-Abusing Licensees.

My colleague in the audience may know -- may remember the bill number, but I'm likely to confuse it with more recent bill numbers.

But it's been out there for probably early 2000s and this is something that has been applied to licensees pretty routinely.

BOARD CHAIR DUDLEY: Any other -- please.

MEMBER BUCHEN: The -- what was the length of the probation?

MR. HENLEY: Thank you, Board Member Buchen. I don't think I mentioned that and I meant to.

Five years has the been the term of the probation for the prior two incidences that have come before the Commission.

MEMBER BUCHEN: That's --

BOARD CHAIR DUDLEY: Since you joined us, I'm assuming you have something to say.

MEMBER BUCHEN: That for all of the terms?

MR. HENLEY: That's correct, all of those terms and conditions that I outlined for this Board for the five-year period. That's how long they would take place.

And one small wrinkle, those terms, as I understand

them, in the event of an officer who took a job later, that's -- that's what would trigger the length of time. So you couldn't way wait five years, not be on the job and then start it. It required you to start the job.

MEMBER BUCHEN: Thank you.

BOARD CHAIR DUDLEY: Yes, Ms. Buchen, I didn't mean to interrupt. Was there anything else?

BOARD CHAIR DUDLEY: Okay.

MEMBER CLAVO: Is there progress reports during this five years? Who's checking up? How are we getting reports back whether they violated the probation?

MS. DEL MUGNAIO: Sure. I can answer that.

So, in terms of monitoring probation, as Mr. Henley mentioned there are portions of the terms and conditions that are considered tolled. Basically they're not -- the time is not ticking until the officer returns to work.

So that really involves the biological fluid testing that we talked about.

The other terms and conditions, they would be required to submit evidence that they've completed an inpatient or outpatient rehabilitative program or outpatient program. And also are continuing with a support group.

But, in terms of the monitoring of whether or not

they are submitting to the biological fluid testing, whether they, you know, end up testing positive for something, we have a contract, or will have a contract very soon, with a company called Vault. And Vault is essentially a management system that contracts with labs across the country who handle the biological fluid testing.

They make contact with the probationer and alert them every day as to whether they have to test or not have to test.

They also will send us any information about failure to log in to determine whether the testing needs to occur. Or whether or not there is a positive test received.

That alert comes to POST immediately.

And then we respond accordingly.

So, the monitoring happens twofold. There's that portion of the monitoring. And then within POST, we would be monitoring whether or not the individual has submitted all of the evidence of rehabilitation that's required as soon as that settlement agreement is executed by the Commission.

There are times where quarterly monitoring is part of the terms and conditions of the settlement and that's just a check-in, where the probation monitor at POST

would be contacting the officer and asking them questions about their employment, their performance reviews, whether or not they've been the subject of any, you know, discipline or had any derogatory, you know, interactions throughout the course of that quarter.

And that's something that also can be applied to terms and conditions. It has not at this point been part of the settlement agreements that we've had.

MEMBER CLAVO: Two follow-up questions.

BOARD CHAIR DUDLEY: Let me just add to that for a moment.

I also learned today and from Ms. Del Mugnaio that if someone travels internationally, so let's say that they're on a vacation someplace, this company also has international connections as well. So they go to Paris for a week, this company can have them tested.

In addition, if I'm correct about this, they have to pay for their own tests.

MS. DEL MUGNAIO: Correct.

BOARD CHAIR DUDLEY: Please go ahead.

MEMBER CLAVO: THC is part of the testing?

MS. DEL MUGNAIO: There's a wide range of tests that would be a battery of tests. It would be urine, blood, hair, nails and you alter which tests you're requiring of your probationer. So it's not always the

same type of biological testing.

THC is inclusive in many of those tests.

There are also another range of -- there's a full range of controlled substances that are randomly tested for, depending on the profession you're testing.

So I won't go into too much detail because I know time is of the essence, but the one thing I think I spoke to our Chair about today, was that there's the drug of choice which is the drug that they were found to have in their -- under the influence of, when the discipline occurred.

And then there's the what they call the drug of convenience, which is what they will come in contact with or be exposed to.

So, we test for both.

We're not testing for the substance, we're testing for the addiction. And that is part of our public protection role as a licensing agency.

MEMBER CLAVO: One more question. Be quick.

BOARD CHAIR DUDLEY: And Ms. Del Mugnaio also tells me something else, which the drug of convenience, a good way to think about that, is doctors have an ability to get prescription drugs, so even though it might not be their drug of choice, it may be the drug of convenience.

Next comment.

MEMBER CLAVO: Just real quick. These procedures are not -- these terms are not -- they don't given unless they are employed by an agency.

MS. DEL MUGNAIO: There's a portion of the terms that are basically in effect at the time the agreement is executed, so the Commission signs it, the subject officer signs the agreement. There are certain terms, they have to obey all laws, they have to submit, whether they're inpatient or outpatient confirmation that they've completed a program. These are those are immediate.

The ones that don't take effect until the officer is gainfully employed is the biological fluid testing. So that portion of it happens actually 30 days prior to employment. And then throughout the period of employment for five years.

MEMBER CLAVO: So if they're abusing alcohol or any substances prior to being hired, we would have no idea.

MS. DEL MUGNAIO: They do what's called a baseline test. That's very good question, and that baseline test tests for several months. Sometimes up to six months of any use of substances prior to that testing period.

So we would likely want to do a baseline test at the time the officer's employed and we can look at, depending on the type of biological test we do, up to a

six-month period of exposure.

BOARD CHAIR DUDLEY: Let me ask a follow-up question.

So let's say there are ten terms and conditions of this probation. Some of them will apply immediately.

Let's say someone doesn't get a job until five years later.

Does the -- does it start again, all the terms and conditions of probation? Or the ones they did during the first five years are already done?

MS. DEL MUGNAIO: So the five-year period does not start, that clock does not start until they're employed.

So while they have to submit all of that documentation to us, you know, basically satisfying that they've met those terms, the actual time does not start until the individual is employed.

BOARD CHAIR DUDLEY: Any other questions?

Yes, Mr. Johnson.

MEMBER JOHNSON: Yes, Johnson.

I guess terms and conditions, right, when he's back employed or officer's back employed. And they are -- their specialty is narcotics; right? Which I believe he was involved in.

Does he maintain that position, where he will still be involved with narcotics?

MS. DEL MUGNAIO: That's really up to the employing agency. But one of the other mandatory terms and conditions that takes effect immediately is that settlement agreement must be provided to the employer.

So the employer is aware of basically the history with the Board or the Commission and that there are terms and conditions in effect with the State of California regarding that officer's employment status.

It would be up to the employer whether or not the individual could return to work in narcotics, yes.

BOARD CHAIR DUDLEY: Yes.

MEMBER GLASER: That's a question for -- I'm sorry, were you --

MEMBER BUCHEN: No, go ahead.

MEMBER GLASER: That raises a question for me. What are the implications for this with the national index. Would the stayed revocation appear on the national index?

MS. DEL MUGNAIO: Yeah, it's a final decision, so it should be a reportable decision of the Commission. But thank you for the question. Yeah.

MEMBER BUCHEN: Buchen.

As far as the decisions that we're making today, if we were to go the stipulated settlement route, I mean, are we recommending terms?

Or is that just what POST -- what the Commission would do?

MS. DEL MUGNAIO: You would be recommending a revocation stayed, with a, you know, opportunity for the Commission to consider settlement terms.

The Commission itself would work with staff to devise those terms.

MEMBER BUCHEN: Okay. Thank you.

BOARD CHAIR DUDLEY: The motion would be a revocation.

MEMBER BUCHEN: Okay.

BOARD CHAIR DUDLEY: With terms and conditions as appropriate and delineated by staff.

So they would add in those provisions. But it would be -- the decision, should all of you make this decision -- is revoke, but stay it, terms and conditions.

MEMBER BUCHEN: Thank you.

BOARD CHAIR DUDLEY: Other questions? Comments?

MS. DEL MUGNAIO: One other comment just for clarity.

BOARD CHAIR DUDLEY: Yes. Please.

MS. DEL MUGNAIO: When someone is placed on a stipulated settlement disciplinary order, if you will, their license status is considered a conditional

license. And so I want to make that clear. It does change their license status to not just being valid. It says conditional. And that tells every person that's looking at this profile or requests information regarding their certification status as a peace officer that their certification status has changed due to some form of discipline.

MEMBER BUCHEN: And after the five-year period it would --

MS. DEL MUGNAIO: It would revert back to valid if they successfully complete probation, yes. Excellent questions.

BOARD CHAIR DUDLEY: Any other questions about the case or the potential terms and conditions of probation?

Okay.

Now let me ask, at this time, I will now call upon, does the subject officer and/or counsel wish to make public comment?

MR. BERMUDEZ: Hello. Good afternoon. My name is Jaime Bermudez. I was a former Daly City police officer for about ten years.

Today I'm not here to dispute or deny what has been presented to you in my case. I'm aware of the seriousness of my actions. And I've taken ownership over my poor decisions and continue to hold myself

accountable to this day.

I believe this last DUI arrest happened for a reason. I was headed down a path of self-destruction all because of my relationship with alcohol. I knew if I continued down this path, I was going to lose more than my job.

During the time period leading up to my DUI arrest, I was involved in a relationship that was falling apart. I was also dealing with the stress that came with the position I was assigned to at the time.

In order to escape my issues, I resorted to going out and drinking alcohol in excess.

I constantly drank to the point where I was no longer in control of my decision-making abilities.

After my DUI arrest, I realized I had to make changes in my life. In order to accomplish these changes, I knew I needed to get some help.

Having to accept that I was powerless and unable to make these changes on my own was something hard to admit.

I made the decision I never imagined I would have to make, which was to check myself into a inpatient rehab facility where I spent 30 days.

During my treatment and rehab, I realized after so many years in denial, that I had a drinking problem.

And that I was not capable of drinking like a normal person.

I recognized that -- and recognize the damage alcohol was causing in my life, and how it was affecting my personal relationships with the people I care about most.

I was able to admit this to myself and others, which started my healing process. The treatment I received in rehab allowed me to learn more about myself and what caused me to drink the way I did.

At that point in time, I decided that alcohol could no longer be a part of my life.

Rehab provided me with the support and tools I needed to overcome my addiction to alcohol.

Once I completed the 30-day inpatient rehab program, I continued to work on my personal wellbeing by enrolling in a two-week outpatient substance abuse based program.

Once I completed the outpatient rehab program, I then attended several AA meetings where I continued to receive support.

Currently I'm enrolled in an 18-month DUI program that I attend on a weekly basis.

I'm committed to the changes I've made in my life. And remain so ever since my DUI arrest.

Mentally and physically, I'm in the best shape I've been since the day I started -- I decided to stop drinking.

My priorities, which don't involve alcohol anymore, have changed in a positive way. I'm focused on being a better person, take caring of my health, and improving my personal relationships as well as starting a family of my own.

Serving the community as a police officer and seeing the impact one can make in people's lives was a passion of mine and was the reason why I decided to become a police officer.

I'm willing to do whatever it takes to prove the changes I've made in my life. I believe I still have a lot to offer to the community and hope that you're willing to consider a resolution in my case.

Thank you for allowing me to speak about who I was, who I am now and the changes I've made.

If there are any questions, please feel free to ask.

BOARD CHAIR DUDLEY: Mr. Bermudez, am I pronouncing it right, Bermudez?

MR. BERMUDEZ: Bermudez, yes.

BOARD CHAIR DUDLEY: Are you here with counsel?

MR. BERMUDEZ: No.

BOARD CHAIR DUDLEY: You didn't bring a lawyer. Okay.

So I and others may ask you questions. You should feel perfectly free to not respond to those questions. Okay?

You're here and you've made your statement about sobriety and things like that.

When -- when -- during this investigation, you were 80 days sober. Do you want to comment on your sobriety at this point?

MR. BERMUDEZ: Yes. I have remained, like I said I've remained sober since the day I was arrested for my DUI.

I have -- feel -- I'm sorry, I feel like I'm a much better person.

My mental health, my clear -- I'm clear thinking, I -- my relationship with my girlfriend at home, which wasn't working out mainly because of my alcohol problem.

BOARD CHAIR DUDLEY: Mr. Bermudez, I think I wasn't -- I didn't ask the question well.

Do you want to comment on the number of days that you've been sober or not? That's, again, completely up to you.

You talked about 80 days at the time of the investigation. Do you want to comment on how many days

you've been sober now? And again, completely up to you.

MR. BERMUDEZ: Yes. It's been over two years, about two years and two months.

BOARD CHAIR DUDLEY: My second question. And again, I'm going to tell you this again, you are -- you are under no obligation to respond to my questions.

The THC that was found in your blood during the time of this investigation, do you want to make any comments about how it is that you had THC in your blood?

MR. BERMUDEZ: Yes.

BOARD CHAIR DUDLEY: Okay. Go ahead.

MR. BERMUDEZ: I don't have a drug use problem. I don't use marijuana or THC.

The reason there was THC in my system at that time was because I used -- which was my mistake, I took some, what I thought at the time was CBD pills which don't contain THC. They help you sleep at night.

My girlfriend had those at home and I thought I -- that's what I was taking.

But, you know, I made a mistake and I took the ones that had THC, which she uses THC. But that was a one-time thing.

BOARD CHAIR DUDLEY: I'm going tell you again, please free not to respond. During the investigation I believe she was interviewed and she said that wasn't

accurate.

Do you want to comment about why she said that wasn't accurate?

MR. BERMUDEZ: That was because the person who they interviewed wasn't my girlfriend.

BOARD CHAIR DUDLEY: Okay. Thank you.

Anybody else have any other questions?

Thank you for coming in. Congratulations on your sobriety.

Everybody ready to go into the room?

(Time noted: 4:08 P.M.)

--o0o--

(Closed session was held from 4:10 to 4:14 P.M.)

--o0o--

(Time noted: 4:17 p.m.)

BOARD CHAIR DUDLEY: Back on the record, please.

We were getting -- we were discussing this case and during the discussion of the case, Ms. Clavo made some points that the Board felt that were very important.

And Ms. Clavo, if you are willing to, would you talk about what your thoughts are about this?

And Mr. Bermudez, if you want to come back to counsel table -- if you want to come back to the table, you're welcome to. Or you can just stay there.

Whatever you're more comfortable doing. Okay.

MEMBER CLAVO: Thank you, Madam Chair.

So we have reviewed in the last year or so a few DUI cases.

I'm very strong, I feel very -- I have very strong opinions about DUI cases. I've heard Mr. Bermudez's testimony or his statement. And it was very compelling. And I believe that he has taken steps to make changes.

But it always concerns me when they state that the reason why these actions occurred is because they would -- the job was stressful. Or they were in a tumultuous relationship. All these things.

Well, we're always in a relationship and jobs are always stressful.

So, it's always concerning if he gets hired again, police work is a stressful job.

And so, the next time he's stressed or his relationship or family life is not going as he would like it to go, will he relapse?

And so that's always a concern of mine, you know, and that's always a possibility in any of our lives that, you know, one day we do something that we won't be able to change and then we make that correction.

But, if we're saying that stress contributed to it, but we're still looking to be employed in the same

field, well, that's never going to end so how will we handle it the next time? What would be those steps?

BOARD CHAIR DUDLEY: So I think -- thank you.

And what was particularly poignant for me is that being a law enforcement officer is very stressful.

And it's also very powerful because you have the ability to make arrests, you're driving a law enforcement car, you have a weapon, and so your concern is that not only are you concerned about any DUI driver, but you're particularly concerned about a law enforcement officer who has this stressful job also being a DUI driver. Is that correct?

MEMBER CLAVO: Yes.

BOARD CHAIR DUDLEY: Okay. Thank you.

Mr. Bermudez, you don't need to say anything in response to her comments. Or you are welcome to. What would you prefer?

MR. BERMUDEZ: I will respond.

BOARD CHAIR DUDLEY: Yes.

MR. BERMUDEZ: In response to your question, yes, I understand that part of the reason that, you know, the job that was stressful at the time, I was assigned to the narcotics task force and, you know, I was trying to meet expectations at -- a large caseload.

And, you know, I was also dealing with my

relationship at home that wasn't working out. We were thinking of splitting up.

So, at that time, you know, like I mentioned before, the easy way for me to -- my way out was to drink and just be away.

But I feel that with rehab, I have learned how to cope with my stress. You know, I know what triggers me now. I have tools where, you know, and support that helps me keep me sober.

You know, I feel like I've -- these past two years have been some of the hardest times in my life.

The fact that I haven't relapsed since then, you know, I'm feeling pretty good about myself. I don't have a desire to drink. I think about, you know, where I was when I was drinking and, you know, you know, all the dumb stuff that I was doing back then. And that's not the place where I want to be.

Like I said, I want to start a family of my own.

And if I'm drinking the way I was, you know, I'm not in no position to start a family. And, you know, my girlfriend's explained that to me as well. And I agree with her.

But I want to be a positive role model and I understand that I can't drink the way normal people drink. So that's why I just -- I don't.

MEMBER CLAVO: Thank you, sir. I appreciate it.

MEMBER HATCHER-CRAWFORD: I have to commend you for coming here and speaking your truth.

I'm a mother. I have two sons and one of my sons also went through two DUIs.

I firmly believe that alcoholism is a disease. And that without the necessary resources and tools that we are not given as a society. I don't believe in criminalizing alcoholism. And this is on my personal side.

But at the same time, I think that there should be some measures to be able to address it. I'm speaking out for a lot of young men, period, this generation, of all the things you have to go through, just to maintain a job, just to maintain a relationship, the cycle, things that you're going through daily, you know, you have to go through. And it speaks to you more importantly as being an officer, being a role model, being a man.

So I commend you for coming here and going through this, because I know it's a task. And I actually just wrote legislation writing, hoping that people that maybe one day will start looking at alcoholism as a disease and treat it as such.

Because sometimes this DNA is generational. So I

do commend you and I wish the best for you.

BOARD CHAIR DUDLEY: Okay.

MEMBER JOHNSON: If I can?

BOARD CHAIR DUDLEY: Yes, please.

MEMBER JOHNSON: Yes, Johnson again.

I hear you speak about alcoholism. And I've heard you state that, you know, narcotics isn't your drug of choice.

However, you're an addict. And sometimes we switch our habits. And so my concern was the role that you have, if you have it five years from now, and you come up under stressful situations, you may be in total control of alcohol, but that does not mean you won't switch.

So I think you should speak about both in many ways because you will be around a drug atmosphere that can enhance or create an appetite, especially in those stressful situations.

BOARD CHAIR DUDLEY: Thank you, Mr. Johnson.

Anything else?

Anything else?

MEMBER JOHNSON: No, appreciate you. Thank you.

MR. BERMUDEZ: I just -- on what you said, I understand your concern about switching to a different drug, since, you know, there was THC found in my system.

You know, I can 100 percent tell you that I don't -- my problem was alcohol. With 100 percent.

And it was hard for me to come here and admit that in front of all you -- everyone here.

But, you know, that's what helped me get through, move on, moving forward, to admit my problems.

But as far as, like, marijuana, I don't care for it. I don't use it.

And it was just a mistake that I made that one time.

But, I understand your concern.

BOARD CHAIR DUDLEY: Thank you.

MR. BERMUDEZ: Thank you.

BOARD CHAIR DUDLEY: Is there any public comment on this case?

You can go back to your seat or stay there. Whatever you want.

Any public comment on this?

Yes, please.

BEATRICE JOHNSON: Let me just reintroduce myself. My name is Beatrice Johnson. And long before I was Mrs. Johnson I was an advocate with the impacted families. So I've been in the social justice movement for a long time.

And I actually was going to say what -- excuse me,

what's your name?

MEMBER CLAVO: Me?

BEATRICE JOHNSON: Uh-huh.

MEMBER CLAVO: Nicole.

BEATRICE JOHNSON: Nicole. Sorry, Nicole, I got a brain freeze.

I actually was on the line of her, that the concern is that police officers seem to get a lot of opportunities to continue to break the law.

And a lot of citizens, some citizens get a DUI and it ain't really a DUI. And they don't get a break. And their lives are turned upside down.

So my thing would be that I been here since this started. I've did public comment since this started. And my concern -- I've heard other cases with officers and I feel like that officers should be held at a higher standard. How do you keep getting one and two and three DUIs?

You know, because when you're in your addiction or in your alcoholism, you may stop my son or my nephew or my niece, how do you act? So, sometimes it seems like they're doing this until they get caught.

So if you are doing it until you get caught, that means you're on the job. And that means that the citizens and the people in my community may have to

encounter you. So that's a real serious issue because I know the everyday citizen, they don't get a break on a DUI. That's what I wanted to say.

BOARD CHAIR DUDLEY: I just want to make sure -- and I'm sure you probably understood this. Both times, both cases went to court. Both times he pled no contest, the same as pleading guilty for all criminal purposes. So he was held to the standard of any other DUI driver.

The question that's before us is whether his license is revoked as law enforcement officer.

But I appreciate your comments.

BEATRICE JOHNSON: Are you saying he wasn't drinking or doing drugs while he was on duty?

BOARD CHAIR DUDLEY: I'm sorry, what?

BEATRICE JOHNSON: So are you saying he wasn't drinking or doing drugs while on duty?

BOARD CHAIR DUDLEY: Am I -- I'm not going to comment on -- so you are asking me --

BEATRICE JOHNSON: Okay. So that's what I was -- that my whole comment, that if they're drinking and doing drugs on duty. I didn't -- I wasn't talking about that.

BOARD CHAIR DUDLEY: I can't say either way on that.

BEATRICE JOHNSON: Okay. Yes. That was just my point.

BOARD CHAIR DUDLEY: Okay. I appreciate that.

BEATRICE JOHNSON: And I was just saying he did go to court. And he went when he got caught; right?

So, before he got caught, he was on duty. So, that was my concern.

BOARD CHAIR DUDLEY: Thank you.

Mr. Johnson? We have to ask you again.

Your wife spoke during public comment. And you're a voting member of this hearing Board.

Do you feel you should recuse yourself in terms of this particular motion, if a motion is made, or do you feel that you don't need to?

So why don't you comment on that now.

MEMBER JOHNSON: I feel extremely confident that I can render a decision without any influence from, of course, my wife.

BOARD CHAIR DUDLEY: Thank you.

Okay. Is there a motion? Let me try.

Is there a motion that there should be revocation, but that revocation be suspended based upon the terms and conditions that are articulated by the POST staff?

MEMBER GLASER: I so move.

MEMBER BUCHEN: Buchen, second.

BOARD CHAIR DUDLEY: Now let's take a roll call.
MR. KNAPP: Board Member Buchen?
MEMBER BUCHEN: Aye.
MR. KNAPP: Buchen aye.
Board Member Clavo.
MEMBER CLAVO: Aye.
MR. KNAPP: Clavo, aye.
Board Member Crawford.
MEMBER HATCHER-CRAWFORD: Aye.
MR. KNAPP: Crawford aye.
Board Member Doyle.
MEMBER DOYLE: Aye.
MR. KNAPP: Doyle aye.
Board Member Glaser.
MEMBER GLASER: Aye.
BOARD CHAIR DUDLEY: Aye.
MR. KNAPP: Oops. Glaser, aye.
I skipped you.
Board Member Dudley.
BOARD CHAIR DUDLEY: Aye.
MR. KNAPP: Dudley, aye. Still aye.
Board Member Glaser.
MEMBER GLASER: Still aye.
MR. KNAPP: Still eye.
And Board Member Johnson.

MEMBER JOHNSON: Aye.

MR. KNAPP: Thank you.

BOARD CHAIR DUDLEY: I'm used to always going after Doyle. So --

Okay. That motion passes. No further comment.

Okay. Now we're going to take a ten-minute break and so we'll start again at 20 to 5:00.

And we will start with the presentation of our last case.

(Brief break.)

BOARD CHAIR DUDLEY: Back on the record.

At this time, I will now call upon Law Enforcement Consultant Kevin Sherburne, Professional Conduct Central Bureau and Carrie Woolley, Attorney for Legal Affairs Bureau to provide a report on case POST number 2300017, Paul Matejcek who, at the time of the events at issue, was employed at Brentwood Police Department.

Please.

MR. SHERBURNE: Good afternoon or good evening.

Thank you, Madam Chair.

Thank you for your time again today.

I do have my prefatory statement that I will read for purposes of the record so that this case -- the transcript is considered completely separate and independent from the previous case.

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