AGENDA ITEM REPORT

Title: POST2303451 - JAMES MUTUKU (POST ID: C25-A69)
LAST EMPLOYING AGENCY: RIVERSIDE POLICE DEPARTMENT

REPORT PROFILE

MEETING DATE 11/21/2024	**BUREAU SUBMITTING THE REPORT** Professional Conduct Southern Bureau	
RESEARCHED BY David Peletta		**REVIEWED BY** Christine Ford
REPORT DATE 09/25/2024	**APPROVED BY** Annemarie Del Mugnaio	**DATE APPROVED**
PURPOSE		**FINANCIAL IMPACT** No

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

The matter is before the Commission for review and action regarding the subject peace officer's certification status. The Commission shall return any determination requiring action to be taken against an individual's certification to the Division, which shall initiate proceedings for a formal hearing before an administrative law judge in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), which shall be subject to judicial review as set forth in that Act.

BACKGROUND:

The Respondent began his employment with the Riverside Police Department on January 12, 2009, as a full-time peace officer. He was promoted to the rank of Police Sergeant on July 10, 2020. At the time of this incident, he was assigned as a patrol supervisor. The Respondent was terminated from the Riverside Police Department on July 12, 2023.

This position is a peace officer position as defined under California Penal Code §830.1(a) and is required to be certified pursuant to California Penal Code §13510.1(a).

The Internal Affairs interview stems from an incident where it is alleged that the Respondent created, printed, and posted flyers with a picture of a crossed-out rat and the words, “Rat Busters” written below that image and placed the “Rat Busters” flyers in a fellow peace officer's (work) mailbox and areas in the men’s

locker room where the fellow peace officer frequented. It is alleged that the Respondent had a disagreement with the same fellow peace officer regarding the actions of Respondent's wife. Respondent repeatedly denied creating, printing, and posting the flyers during both the Internal Affairs investigation and in a separate interview conducted by POST.

At their October 17, 2024 meeting the Peace Officer Standards Accountability Advisory Board voted to revoke the Respondent's POST certificate(s) in a four to three vote in favor of revocation.

Audio Links:

- BR15_POST2303451_Mutuku_James_Redacted Attachment N
- BR11_POST2303451_Mutuku_James_Redacted Attachment J

Audio File Review (Closed Session Only):

- **BR5_POST2303451_Mutuku_James_Closed Session Review_Attachment D**

ANALYSIS:

The Division found that the clear and convincing evidence substantiated that Respondent violated California Penal Code §13510.8(b)(1), in that the Respondent was dishonest in his verbal statements during his two separate interviews with Internal Affairs investigators, and a third time during his interview with the Division.

RECOMMENDATION:

The Commission shall review recommendations made by the Peace Officer Standards Accountability Advisory Board (POSAAB) regarding, what action if any, should be taken, suspension or revocation, on the certification of the subject peace officer. The Commission's decision to adopt a recommendation by POSAAB to seek revocation shall require a two-thirds vote of Commissioners present and shall be based on whether the record, in its entirety, supports POSAAB's conclusion that serious misconduct has been established by clear and convincing evidence.

In any case in which the Commission reaches a different determination than POSAAB's recommendation, it shall set forth its analysis and reasons for reaching a different determination in writing.

ATTACHMENT(S):
BR1_POST2302451_Mutuku_James_ISF_2_ (1).pdf
BR2_POST2303451_Mutuku_James_Redacted_Attachment_A.pdf
BR3_POST2303451_Mutuku_James_Redacted_Attachment_B.pdf
BR4_POST2303451_Mutuku_James_Redacted_Attachment_C_.pdf
BR6_POST2303451_Mutuku_James_Redacted_Attachment_E.png
BR7_POST2303451_Mutuku_James_Attachment_F.jpg
BR8_POST2303451_Mutuku_James_Attachment_G.png
BR9_POST2303451_Mutuku_James_Attachment_H.jpeg
BR10_POST2303451_Mutuku_James_Redacted_Attachment_I.pdf
BR12_POST2303451_Mutuku_James_Redacted_Attachment_K.pdf
BR13_POST2303451_Mutuku_James_Redacted_Attachment_L.pdf
BR14_POST2303451_Mutuku_James_Redacted_Attachment_M.pdf
BR16_POST2303451_Mutuku_James_Attachment_O.pdf
POST2303451_Mutuku_James_Board_Recommendation_Signed.pdf
POST2303451_Mutuku_James_October_2024_POSAAB_Agenda_Record.pdf
POST2303451_James Mutkuku_10.17.2024 POSAAB Transcript.pdf