POST COMMISSION SERIOUS MISCONDUCT HEARING

September 17, 2026
AGENDA
9:00 AM

Meeting Location: Santa Clara County Sheriff's Office 55 W Younger Avenue, San Jose, CA 95110

The Commission on Peace Officer Standards and Training (Commission) operates under the requirements set forth by the Bagley-Keene Open Meeting Act (Bagley-Keene) under Government Code sections 11120 through 11132. Bagley-Keene generally requires that the Commission publicly notice meetings, prepare agendas, allow public participation, and conduct meetings in a location accessible to public members unless specifically authorized by Bagley-Keene to meet in closed session.

The Commission will hold a public meeting in person at the location listed above. The Commission plans to webcast this meeting at www.post.ca.gov/watch-meeting. Webcast availability cannot, however, be guaranteed due to limitations on resources or other technical difficulties that may arise. The meeting will not be cancelled if the webcast is not available. If you wish to participate or to have a guaranteed opportunity to observe, please attend at the physical meeting location specified above.

Public comment will be limited in time at the discretion of the Commission Chair. The public comment period preceding items on the agenda allows members of the public to comment on items not on the agenda but that are within the Commission's jurisdiction. The Commission cannot act on or deliberate on items not on the agenda and can discuss the matter only to the extent necessary to determine whether it should be made an agenda item at a future meeting, to respond briefly to statements or questions posed during public comment or to request clarification, or to refer the item to staff (Government Code sections 11125 and 11125.7(a)). Members of the public will not be permitted to yield their allotted time to other members of the public to make comments. Agenda items may be taken out of order, and action (e.g., voting) may be taken on any agenda item. Public comments relating to specific peace officer revocation cases will be allowed at the time each matter is heard. Members of the public who wish to participate during public comment may do so in person by attending the meeting or by submitting written public comment.

Written public comments are intended to allow members of the public, if unable to attend in person, an opportunity to participate to the same degree as if they attended in person; as such, written comments should be limited to no more than three pages in length, and longer written comments will not be accepted or distributed to the Commission. To be considered for inclusion in the meeting record, written comments must be received by POST no later than 10:00 a.m. on the fourth business day (09/11/2026) before the scheduled meeting. Accepted written public comments will be published on POST's website under the Public Comment section under the corresponding meeting date. Written public comments can be submitted via

email to commissionpc@post.ca.gov.

The meeting is accessible to individuals with disabilities. A person who has questions about the meeting or needs a disability-related accommodation or modification to participate in the meeting may contact the Commission to ask questions or make a disability-related accommodation request at:

Contact Person: Chandler Knapp
Mailing Address: 860 Stillwater Road, West Sacramento, CA 95605
Telephone: (916) 227-3909
Email: commissionpc@post.ca.gov
Telecommunications Relay Service: Dial 7-1-1

Providing your request at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.

Please note: This meeting and all public meetings will be recorded.

CALL TO ORDER AND WELCOME

COMMISSION MEMBERS

Alan Barcelona
Ingrid Braun
Rick Braziel - Vice Chair
Jim Cooper
Justin Doering
Charles Duggan
Kelly Gordon
Jacob Johnson
Geoff Long - Chair
Michael Moodian
Shannan Moon
Tina Nieto
Freddie Rodriguez
Benjamin Therriault
Stephen Woolery- Ex-Officio
Vacant (Elected County Official)
Vacant (Sergeant or Below)
Vacant (Public Member - Legislature/Senate)

ROLL CALL OF COMMISSION MEMBERS

INTRODUCTION OF POSAAB COUNSEL AND POST EXECUTIVE DIRECTOR

The Commission Chair will introduce the POSAAB Counsel, and the Executive Director.

PUBLIC COMMENT

The Commission Chair will advise the audience of the following:

This is the time on the agenda for public comment. This time is set aside for members of the public to comment on either items on the Commission agenda or issues not on the agenda but pertaining to POST Commission business. 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. Members of the public who wish to speak are asked to limit their remarks to no more than three minutes each. Please be advised the Commission cannot take action on items not on the agenda.

1. **CASE REVIEW OF RECOMMENDATIONS MADE BY THE PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD**

   The Commission will review the recommendations made by the Peace Officer Standards Accountability Advisory Board from the last Board Hearing held on July 16, 2026 in West Sacramento, CA.

   a. POST2507244 - Eduardo Escareno-Davila (POST ID: C99-P62) Last Employing Agency: Mendocino County Sheriff's Office

      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.

   b. POST2505112 - Kevin Smithmatungol (POST ID: C88-T32) Last Employing Agency: Daly City Police Department

      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.

2. **CLOSED SESSION**

   At this time the meeting will adjourn into closed session for deliberations on the cases presented today.

ADJOURNMENT

AGENDA ITEM REPORT

Title: POST2507244 - EDUARDO ESCARENO-DAVILA (POST ID: C99-P62) LAST EMPLOYING AGENCY: MENDOCINO COUNTY SHERIFF'S OFFICE

REPORT PROFILE

MEETING DATE 09/17/2026	**BUREAU SUBMITTING THE REPORT** Peace Officer Standards Accountability Division	
RESEARCHED BY Gerald Fernandez	**REVIEWED BY** Robert Guyton	
REPORT DATE	**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:

Respondent began his employment with the Mendocino County Sheriff's Office (MCSO) on June 11, 2023 as a Trainee, becoming a full-time Deputy Sheriff/Coroner on December 10, 2023. Respondent held a peace officer position as defined under California Penal Code § 830.1(a). Respondent did not earn a peace officer certificate from POST; however, he was issued a Proof of Eligibility (POE) by POST, based on his appointment as a peace officer by the MCSO. At the time of the event at issue, Respondent was off duty. Approximately a week later, he was released during his probationary period. Respondent's POE expired upon his separation from the MCSO.

On November 13, 2024, at approximately 0310 hours, while off duty, Respondent surreptitiously entered his roommate's (Victim) bedroom and touched her vaginal area while she was sleeping. Respondent's physical touch woke Victim up. When Victim turned on the light in her bedroom, she saw Respondent lying on the floor, attempting to hide under her bed.

Victim confronted Respondent, who appeared intoxicated. Respondent told Victim he was looking for a white cat that used to be Victim's pet. Respondent repeatedly told Victim he was sorry. Respondent had never been in Victim's bedroom before, which was an unspoken rule that it was off-limits, according to the Victim. Although they were roommates, Respondent and Victim had never been in a romantic relationship, nor was there any reason to suggest she was romantically interested in him.

Respondent admitted that he had consumed beer the night of the incident and was intoxicated. He admitted that he lied to Victim when he said he was looking for the white cat. Respondent said that he went into Victim's bedroom, touched her foot, and moved his hand up her leg until he reached her calf area, at which point Victim woke up so he stopped. However, Respondent denied touching Victim's vaginal area. After Victim confronted Respondent, she called the MCSO to report the incident. MCSO deputies responded to Victim's call for service, interviewed Victim, and later the Respondent. An Emergency Protective Order (EPO) was served upon Respondent.

On December 9, 2024, Respondent was charged with one count of sexual battery, Penal Code § 243.4(e)(1), a misdemeanor. On February 20, 2026, the Complaint was amended to add a misdemeanor battery charge for Penal Code §§ 242 and 243(a). Respondent then pled guilty to the misdemeanor battery charge, and the court dismissed the sexual battery charge. The court then suspended sentencing based on a deferred entry of judgment/non-drug program. If Respondent abides by all the conditions of his deferred entry of judgment, it is possible that the battery charge will be dismissed on February 19, 2027.

On May 15, 2025, the MCSO initiated an administrative

investigation predicated on the Victim's original allegations and related criminal investigation. On July 10, 2025, the administrative investigation was completed with sustained findings for policy violations for standards of conduct, laws rules and orders, and sexual battery by the MCSO.

Video Evidence Link:

- **BR09 POST2507244 EscarenoDavila Eduardo Attachment E Victim Interview with Detective Woida**
- **BR10 POST2507244 EscarenoDavila Eduardo Attachment F Dispatch Call 1**
- **BR11 POST2507244 EscarenoDavila Eduardo Attachment G Dispatch Call 2**
- **BR12 POST2507244 EscarenoDavila Eduardo Attachment H Initial Victim Interview**
- **BR16 POST2507244 EscarenoDavila Eduardo Attachment L Respondent Interview**
- **BR17 POST2507244 EscarenoDavila Eduardo Attachment M Respondent Demonstration**
- **BR18 POST2507244 EscarenoDavila Eduardo Attachment N Video of Respondent Pointing Here**

ANALYSIS:

Clear and convincing evidence substantiated that the Respondent violated California Penal Code §13510.8(b)(6) and Commission Regulation §1205(a)(6), Acts that Violate the Law. Specifically, Respondent violated California Penal Code § 243.4(e)(1) that says, in part, "Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, or any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of misdemeanor sexual battery…" Penal Code § 243.4(g)(1) defines an intimate part as "the sexual organ, anus, groin, or buttocks of any person, and the breast of a female."

Respondent violated the law, Penal Code § 243.4(e)(1), sexual battery, when he admittedly crawled into Victim's bedroom without her knowledge or permission and touched Victim's bare skin with his bare hand while she was sleeping in her bedroom. Although Respondent denied touching Victim's vaginal area, he also said three separate times during his investigative interview that he wasn't sure what other parts of Victim's body he touched besides her foot and leg.

Victim's account of the incident was essentially consistent with Respondent's, except that Victim alleged that Respondent had indeed touched her vaginal area, which is what caused her to wake up. Victim was assessed to be highly credible because she provided consistent statements to dispatch and the responding deputies and she provided specific details when recounting the battery. Additionally, Victim was wearing loose-fitting shorts with no underwear, which made the direct skin-to-skin contact of her vaginal area plausible, which woke her up. Victim has no known motive to fabricate the allegations that Respondent touched her vaginal area and it was not in her best financial interest to have Respondent moved out due to the emergency protective order.

Respondent's actions represented a glaring contradiction with his obligation to uphold the law as a peace officer.

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):

BR01_POST2507244_EscarenoDavila Eduardo_ISF.pdf
BR02_POST2507244_EscarenoDavila Eduardo_ExecReviewDivisionRec.pdf
BR03_POST2507244_EscarenoDavila_Eduardo_POSTProfile_Redacted.pdf
BR04_POST2507244_EscarenoDavila Eduardo_AgencyIA_Redacted.pdf
BR05_POST2507244_EscarenoDavila Eduardo_Attachment A - Memo of Release_Redacted.pdf
BR06_POST2507244_EscarenoDavila Eduardo_Attachment B - Criminal Complaint_Redacted.pdf
BR07_POST2507244_EscarenoDavila Eduardo_Attachment C - Deferred Entry of Judgment Order.pdf
BR08_POST2507244_EscarenoDavila Eduardo_Attachment D - Personnel Complaint

Disposition.pdf
BR13_POST2507244_EscarenoDavila Eduardo_Attachment I - EPO_Redacted.pdf
BR14_POST2507244_EscarenoDavila_Eduardo_Attachment_J_-_TRO_Redacted.pdf
BR15_POST2507244_EscarenoDavila Eduardo_Attachment K - Search Warrant_Redacted.pdf
POST2507244_EscarenoDavila_Eduardo_July_2026_POSAAB_Agenda_Record.pdf
POST2507244_EscarenoDavila_Eduardo_Board Recommendation_Signed.pdf
POST2507244_Escareno-Davila_Eduardo_Transcript_Board_07.16.26.pdf



INVESTIGATIVE SUMMARY AND FINDINGS

PEACE OFFICER NAME: Eduardo Guadalupe Escareno-Davila

POST ID NUMBER: C99-P62

EMPLOYING AGENCY: Mendocino County Sheriff's Office

POST CASE NUMBER: POST2507244

WRITTEN BY: Gerald Fernandez

DATE: 6/3/2026

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A. Does the alleged conduct violate Penal Code Section 13510.8 (b)(6) and POST Regulation 1205(a)(6) –Acts that Violate the Law? 16

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I. Executive Summary and Findings

On November 13, 2024, at approximately 0310 hours, while off duty, Mendocino County Sheriff's Office (MCSO) Deputy Eduardo Guadalupe Escareno-Davila, hereinafter "Respondent," surreptitiously entered his roommate's (Victim) bedroom and touched her vaginal area while she was sleeping. However, the touch woke her up and when she turned on the light in her bedroom, she saw Respondent lying on the floor, apparently attempting to hide under her bed.

Victim then confronted Respondent, who appeared intoxicated, which he later confirmed. Respondent told Victim he was looking for a white cat that used to be Victim's pet, which he later admitted was a lie. Respondent repeatedly told Victim he was sorry. Respondent had never been in Victim's bedroom before, which was an unspoken rule that it was off-limits, according to the Victim. Although they were roommates, Respondent and Victim had never been in a romantic relationship, nor was there any reason to suggest she was romantically interested in him.

Respondent admitted that he had consumed beer the night of the incident and was "a little too intoxicated." He said that he went into Victim's bedroom, touched her foot, and moved his hand up her leg until he reached her calf area, at which point Victim woke up so he stopped. However, Respondent denied touching Victim's vaginal area. When the Victim confronted him, he repeatedly apologized to her.

After Victim confronted Respondent, she telephonically contacted the MCSO to report the incident. MCSO deputies responded to Victim's call for service and interviewed Victim and Respondent. An Emergency Protective Order (EPO) was served upon Respondent, which included a move-out order, and a search warrant was executed at the residence, which included DNA Buccal swabs from Respondent and his digital devices.

On November 21, 2024, Respondent was released during his probationary period from his position as a Deputy Sheriff/Coroner with the MCSO.[1]

On December 9, 2024, the Mendocino County District Attorney's Office (MCDAO) filed Respondent's criminal case with the Mendocino County Superior Court (MCSC) and he was charged with one count of sexual battery, Penal Code § 243.4(e)(1), a misdemeanor.[2] However, on February 20, 2026, the MCSC amended the complaint to add a misdemeanor battery charge for Penal Code sections 242 and 243(a). Respondent then pled guilty to the misdemeanor battery charge, and the court dismissed the sexual battery charge. After Respondent pled guilty to the misdemeanor

[1] Memo regarding release of Respondent during probation – Attachment A

[2] Criminal Complaint – Attachment B

battery charge, the court suspended sentencing based on a deferred entry of judgment/non-drug, which included the following conditions:

- Obey all laws and orders of the court, including previously issued restraining orders.
- Totally abstain from the use of alcohol.• Submit to alcohol testing at the request of any peace officer or probation officer, at any time of the day or night, with or without notice, consent, probable cause or warrant.
- Submit to search and seizure of defendant's person, property, or any property under defendant's control when requested by any peace officer or probation officer, at any time of the day or night, with or without notice, consent, probable cause, or warrant for firearms.
- Stay away from/have no contact with Victim.
- Do not possess any firearms or ammunition.
- Participate in and pay all fees for the following programs of counseling and/or education:
  - AA/NA, weekly for 52 weeks.
  - Individual therapy, monthly for 12 months
- Fifty hours of community service through Mendo-Lake Alternative Service, Inc.
- Apology letter to Victim addressing victim impact.

If Respondent abides by all the conditions of his deferred entry of judgment, it is possible that the battery charge will be dismissed by the MCSC on February 19, 2027.[3]

On May 15, 2025, the MCSO initiated an administrative investigation predicated on the Victim's original allegations and related criminal investigation. On July 10, 2025, the administrative investigation was completed with sustained findings for the following MCSO policy violations:

- 340.4 Standards of Conduct
- 340.5.1 Laws, Rules, and Orders
- 340.5.9 Standards of Conduct
- Penal Code § 243.4(e)(1) – Sexual Battery[4]

Just over a week after Respondent's alleged sexual battery, the MCSO dismissed him during his probationary period from his position as a Deputy Sheriff/Coroner and subsequently sustained findings against him for sexual battery. The Division assesses that clear and convincing evidence exists that Respondent committed serious misconduct in violation of California Penal Code §13510.8(b)(6) – Acts that Violate the

[3] Deferred Entry of Judgment Order – Attachment C
[4] Personnel Complaint Disposition – Attachment D

Law. The Division's assessment was based on a review of the MCSO's administrative investigation report, specifically the Victim's recorded statements, Respondent's recorded statement, dispatch audio recordings, body-worn camera (BWC) audio/video footage, the EPO, the search warrant including the affidavit, the criminal complaint, other supporting documents, and an assessment of aggravating and mitigating factors.

II. Investigative Methodology

This report summarizes the findings related to allegations of serious misconduct. This investigation was conducted in accordance with the regulations and policies of the Commission on Peace Officer Standards and Training (POST). The investigation included a review of the Mendocino County Sheriff's Office (MCSO) administrative investigation which included interviews of the Victim and the Respondent. There were no witnesses beyond the Victim and Respondent. Additionally, body-worn camera (BWC) audio/video footage of the responding deputies, interview room audio/video footage, dispatch audio recordings, the EPO, the search warrant including the affiant's statement of probable cause, the criminal complaint, and the court docket summaries were also reviewed.

I analyzed the information I obtained in this investigation using the clear and convincing evidence standard. For purposes of this report, clear and convincing evidence means "evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. The evidence need not establish a fact beyond a reasonable doubt."

This report is necessarily summary in nature and does not include every fact or issue that might be found in the underlying investigation and attachments. It does, however, contain reference to that evidence that I believe establishes the requisite facts and proves the serious misconduct charged by clear and convincing evidence.

III. Respondent's Background

A. Respondent's Peace Officer Certificates and Employment

The table below sets forth Respondent's employment history:

Dates	Rank	Agency
6/11/2023 – 12/9/2023	Trainee	MCSO
12/10/2023 – 11/21/2024	Deputy	MCSO

Respondent is assigned POST ID C99-P62. He did not earn a peace officer certificate from POST; however, he was issued a Proof of Eligibility (POE) by POST on 12/10/2023, based on his appointment as a peace officer by the MCSO. Respondent's POE expired upon his separation from the MCSO.

Although Respondent's POE is expired, Penal Code section 13510.1(f), which authorizes the Commission to revoke certification that it has issued states that "[t]his authority extends to any certificate or proof of eligibility issued by the commission including, without limitation, any certificate or proof of eligibility that is invalid, inactive, expired, or canceled."

B. Respondent's Service Record

When evaluating whether suspension or revocation is appropriate, Penal Code Section 13510.8(c)(5) and California Regulation Section 1213(a)(5) provide that the Commission must consider Respondent's prior conduct, discipline and service record. The relevance and weight the Commission may choose to assign to a peace officer's prior conduct and service record will depend on the facts in each case.

California Penal Code Section 13510.8(c)(5) provides that the Commission "*shall* consider the peace officer's prior conduct and service record, and any instances of misconduct, including any incidents occurring beyond the time limitation for investigation in evaluating whether to revoke certification for the incident under investigation." (emphasis added)

Respondent's service record did not include any complaints, disciplinary actions, or commendations. However, he was placed on paid administrative leave the same day as the incident in question involving the Victim on 11/13/2024, and he was released from employment with the MCSO approximately a week later while still on probation as a new peace officer because he "failed to meet standards during evaluation/probation period." The only other item of note was an Accident Report that documented an incident on 3/5/2024 during which Respondent was responding Code 3 (lights and siren) to an in-progress, possibly life-threatening call for service, and accidentally caused vehicle damage when his patrol vehicle scraped the roadway while driving through an uneven intersection, after which Respondent was counseled on safe driving practices. Aside from the Basic and Firearms/Tactical Rifle courses, Respondent did not complete any additional POST-certified courses, according to his POST Profile.

IV. Factual Background

<u>Background of Roommate Relationship</u>

According to Victim's interview with MCSO Detective Jack Woida, Respondent had moved in with Victim and another female roommate in December of 2023[5]. Prior to the incident in question, Respondent had "hit" on Victim's roommate a couple of times but never pursued her any further. He had never made them feel uncomfortable. Neither Victim nor the other roommate were attracted to Respondent. Victim never had any sexual contact with him, never kissed him, and never did anything suggestive of interest in him. Respondent was simply a roommate[6]. Victim and Respondent had hung out approximately three times at their residence since he had moved in, but they were not close[7].

The evening prior to the incident in question, Victim and the other roommate had finished dinner and were sitting on the couch for a while when Respondent came home at approximately 6:30pm to 7:00pm. Respondent had been out running errands and met with his dad. After he returned to their residence, Respondent did his laundry before going to his bedroom for the night[8]. Victim went to sleep in her bedroom at approximately 11:30pm[9]. Victim had one glass of wine prior to going to sleep, and she took Trazodone to help her fall asleep.[10]

Call For Service

On November 13, 2024, at approximately 3:17am, Victim telephonically contacted the MCSO dispatcher to request a law enforcement response to her house. When asked what was going on, Victim explained that she had woken up to her roommate trying to touch her in bed. Victim identified her roommate as Lalo Escareno, also known as Eduardo Escareno (i.e., Respondent), who was sitting on the floor of her room with her.[11] The dispatcher sought clarification that her roommate tried to touch her inappropriately while she was in bed, and the Victim affirmatively replied, "Mhmm." The dispatcher then asked if anyone had been drinking, and she said that only Respondent had been drinking.[12]

Initial Victim Interview

[5] Victim interview with Detective Woida – Attachment E (00:12:35 – 00:12:50). Please note that all times refer to the time counter on the complete recording of the interview and not the time counter on the excerpt attached to this report.
[6] Victim interview with Detective Woida – Attachment E (00:21:00 – 00:21:43)
[7] Victim interview with Detective Woida – Attachment E (00:18:21 – 00:18:54)
[8] Victim interview with Detective Woida – Attachment E (00:19:46 – 00:20:24)
[9] Victim interview with Detective Woida – Attachment E (00:25:22 – 00:25:37)
[10] Victim interview with Detective Woida – Attachment E (00:29:09 – 00:29:59)
[11] Victim call to dispatch, Part 1 – Attachment F
[12] Victim call to dispatch, Part 2 – Attachment G

At approximately 4:18am, MCSO Deputy Damien Nelson and Sergeant Vazquez responded to Victim's call for service, contacted her in front of her residence, and conducted an initial interview with her. Victim's statements during the initial interview are summarized in this section as follows:

Victim stated that while she was sleeping on her side, she woke up to something cold touching right between her legs. She then turned over and heard something that sounded like it had rolled off her bed. She looked over at the side of her bed and saw Respondent lying on her floor trying to hide.[13] Victim confronted Respondent and said, "What the fuck?!" Victim then turned on a light and again said to Respondent, "What the fuck?!"[14] Respondent initially said with slurred speech that he was in Victim's bedroom because of the kittens but eventually apologized to her. Victim then asked Respondent why he would touch her, and he again apologized saying, "I'm so sorry."[15]

After telephonically contacting MCSO dispatch and while waiting for the responding deputies to arrive, Victim asked Respondent if he needed to call anyone. Respondent replied, "No," and that he was really embarrassed and ashamed. Victim then provided Respondent water and a trash bag because he had vomited. Victim also retrieved Respondent's tobacco "chew" for him, per his request.[16]

Victim said that while she was sleeping, she was wearing sleep shorts that had ridden up when she felt Respondent touch her skin.[17] Respondent had reached into Victim's shorts from the bottom.[18] Victim later added that she was not wearing underwear, only the sleep shorts, so there was direct contact.[19] When asked if Respondent touched her genitalia, Victim replied, "Yeah…my vagina. Well, labia? Vagina?" Victim was then asked if there was any penetration, and she replied, "Not that I'm aware of."[20] Victim later clarified that when Respondent touched her, "it was definitely like he was about to penetrate but he didn't penetrate." When asked what he was about to penetrate with, Victim said, "His fingers. Two fingers."[21]

Victim affirmed that she usually sleeps with a blanket over her, so Respondent either pulled the blanket off or put his hands under the blanket.[22] When asked if her bedroom door was closed when she went to bed, Victim replied, "No, it was cracked. He said

[13] Initial Victim interview with responding deputies – Attachment H (01:17 – 02:09)
[14] Initial Victim interview with responding deputies – Attachment H (09:41 – 09:49)
[15] Initial Victim interview with responding deputies – Attachment H (04:35 – 05:24)
[16] Initial Victim interview with responding deputies – Attachment H (05:49 – 06:15)
[17] Initial Victim interview with responding deputies – Attachment H (02:09 – 02:34)
[18] Initial Victim interview with responding deputies – Attachment H (03:41 – 04:02)
[19] Initial Victim interview with responding deputies – Attachment H (07:18 – 07:26)
[20] Initial Victim interview with responding deputies – Attachment H (04:02 – 04:19)
[21] Initial Victim interview with responding deputies – Attachment H (07:07 – 07:17)
[22] Initial Victim interview with responding deputies – Attachment H (07:40 – 07:59)

that's why I did it." Victim explained that she left her door cracked open so that her cats could go in and out of her room freely.[23] Victim said that Respondent has never entered her room nor had she ever invited him into her room. Although it's not a rule that he does not enter her room, it is common courtesy.[24] When asked if she had ever been in any type of a relationship with Respondent, particularly a sexual relationship or even kissing, Victim repeatedly replied, "No." Victim confirmed that nothing like the incident in question had ever happened in the past.[25]

Follow-Up Victim Interview

After her initial interview with the responding deputies, they transported Victim to the MCSO Ukiah Station, where she was subsequently interviewed by Detective Jack Woida starting at approximately 5:47am. Victim retold her account of the incident, which is summarized in this section as follows:

Victim stated that she had left her bedroom door cracked last night so her cats could go in and out. When she was asleep, she woke up because she felt something cold between her legs, near her vagina. She had been sleeping on her side at the time and partially sat up, after which she heard something that sounded like it had fallen to the floor. She described the feeling of the touch near her vagina like an animal's nose, but it was larger. So, Victim rolled over to look on the floor to see what had fallen and that's when she saw Respondent. It appeared as if he had tried to go under her bed, but there were bars on the bed frame, which prevented him from crawling underneath her bed.[26] Later during the interview, Detective Woida said, "So when, when you're obviously you first kind of wake up and you feel something cold, you mentioned it was like directly under your vagina," and Victim affirmatively replied, "Mhmm."[27]

Next, Victim confronted Respondent and turned on the light. Respondent then sat up and wasn't making any sense at first, possibly because he was intoxicated, although Victim did not know how much he had to drink. Respondent was saying something about a white cat, which was weird because he didn't interact with the cats, which were feral and unfriendly, plus the white cat was no longer living at their house. Furthermore, Respondent had never been in Victim's bedroom before, which was an unspoken rule that it was off limits.[28]

Victim then grabbed her phone and told Respondent, "You know I have to call," to which Respondent replied, "Yeah," which is when she contacted dispatch while Respondent

[23] Initial Victim interview with responding deputies – Attachment H (02:37 – 02:44)
[24] Initial Victim interview with responding deputies – Attachment H (09:04 – 09:23)
[25] Initial Victim interview with responding deputies – Attachment H (03:32 – 03:40)
[26] Victim interview with Detective Woida – Attachment E (00:05:17 – 00:07:11)
[27] Victim interview with Detective Woida – Attachment E (00:17:16 – 00:17:21)
[28] Victim interview with Detective Woida – Attachment E (00:07:12 – 00:08:53)

stayed on the floor. After the call with dispatch, Respondent asked Victim if she could retrieve his chew from his bedroom, which she did. Respondent told Victim, “Before they get here, just know I’m sorry.” At that point, the other female roommate came out of her bedroom, after which Victim told her to go back to her room because Victim was concerned that she might cause a scene or make the situation worse. Respondent then asked Victim for some water, which she provided, and he was vomiting.[29] Victim had also provided Respondent a sweater and a bag to vomit into because “he needs taken care of, of course, after that.”[30]

About that, Victim asked Respondent if he needed to call someone, to which he replied, “Who do I call?” and said something to the effect that he was ashamed. Victim then said to Respondent, “Well you’re still going to need support,” which Victim explained was her “human nature” coming out despite having just been violated by Respondent. Victim further explained that she learned to shut her brain off with no emotions when she had been in similar situations.[31] Victim then asked Respondent, “Why’d you do it?” Respondent replied, “Your door was open.”[32]

Victim said that during the incident, she was wearing sleep shorts with no underwear and a T-shirt. Respondent was wearing a white T-shirt, black joggers, and black socks.[33] When Victim initially saw Respondent on the floor next to her bed, his joggers were pulled up so she assumed he had touched her with his fingers, but since it took a moment between when she first felt the touch and when she saw Respondent, she didn’t know if his joggers had been partially pulled down during the contact. Since Victim was asleep prior to feeling the touch, she also didn’t know how long he had been in her bed with her. She didn’t feel him get into the bed, so she was unsure if he had touched her with his fingers or his penis.[34]

<u>Emergency Protective Order</u>

The EPO, dated November 13, 2024, identified Victim as the protected person and Respondent as the restrained person. The justification provided in and for the EPO stated that the Respondent and Victim were roommates with no romantic relationship. Respondent entered Victim’s bedroom while she was sleeping and woke her up by touching her vagina. Victim believed the contact was skin on skin. Respondent was extremely intoxicated. One of the boxes checked on the EPO was “The person to be protected lives with the person to be restrained and requests an order that the

[29] Victim interview with Detective Woida – Attachment E (00:09:10 – 00:12:02)
[30] Victim interview with Detective Woida – Attachment E (00:15:51 – 00:16:07)
[31] Victim interview with Detective Woida – Attachment E (00:23:16 – 00:24:23)
[32] Victim interview with Detective Woida – Attachment E (00:15:31 – 00:15:40)
[33] Victim interview with Detective Woida – Attachment E (00:17:22 – 00:17:54)
[34] Victim interview with Detective Woida – Attachment E (00:24:28 – 00:25:21)

restrained person move out immediately from the address in item 3c."[35] On November 20, 2024, a Temporary Restraining Order (TRO) was filed with the MCSC to continue protecting Victim after the EPO expired, and to also protect the other female roommate.[36]

Search Warrant

The search warrant, signed by the judge on November 13, 2024, at 8:05am, commanded the search of Respondent's/Victim's premises, which was to include all vehicles, storage containers, and outbuildings under the control of Respondent, and the person of Respondent. The search specified the seizure of photos of the residence, photos of Respondent, DNA Buccal swabs from Respondent, and any and all digital media devices belonging to Respondent, to include but not limited to cell phone(s), computers, laptops, tablets, or other electronic devices. The statement of probable cause was primarily based on Detective Woida's interview with Victim. The search warrant was executed later the same day; however, nothing of evidentiary value was recovered from Respondent's DNA Buccal swabs or his cell phones.[37]

Respondent Interview

After the follow-up interview with Victim, Detective Woida returned with other MCSO deputies to Victim's/Respondent's residence and interviewed Respondent at approximately 10:25am. Respondent was not detained or under arrest, and he sat on a couch in the living room. After advising Respondent that it was up to him to decide if he wanted to answer some questions, Detective Woida asked Respondent if he was still intoxicated at all. Respondent shook his head side-to-side and said, "No." However, Respondent followed up his response by saying, "I was." When asked what time he started drinking the previous night, Respondent said he couldn't remember. When asked what he was drinking, Respondent said, "Just beer." When asked if he knew what day it was, Respondent accurately replied, "Wednesday, November 13."[38] Detective Woida later repeated to Respondent that he had some questions for him, but "It's completely up to you. You can end the interview whenever you want to or anything like that." Respondent nodded his head up and down and said, "Mhmm," indicating his willingness to answer Detective Woida's questions.[39]

When asked if he had any idea why he was being questioned, Respondent said, "So last night I went into her room and I, uh, did touch her, I guess you could say." Detective

[35] EPO – Attachment I
[36] TRO – Attachment J
[37] Search Warrant – Attachment K
[38] Respondent Interview – Attachment L (6:50 - 7:53)
[39] Respondent Interview – Attachment L (7:59 – 8:08)

Woida sought clarification, and Respondent said, “Like, I went into her room a little intoxicated, too much, and um, I just tried to touch her, I guess.”[40]

When asked if he and Victim were in any type of a relationship or dating or any indications of that, Respondent shook his head side-to-side and said, “No.” Respondent then stated that he had moved into Victim’s house in approximately December 2023. He said he had found the rental opportunity through friends and identified the third roommate.[41]

Respondent then provided a more detailed account of what happened the previous night using hand gestures as he spoke. He said, “I don't know why I walked out. I walked out of my room, saw her door open, and then I never, but for some reason I just like stood at her door and then like, I walked in a little bit, then walked out, and then I was like, what are you doing? And I just, I didn't even walk in. Like, I crawled into her room pretty much. And then, uh, leaned into her bed and then, uh, like I reached over, felt the, you call those sheets? No blankets. Felt the blankets and I reached down and like, I know I touched her feet, like that's for sure. And I touched her feet 'cause it felt like feet to me. Like the corner of the feet, what do you call it?” Detective Woida interjected and asked if Respondent was referring to Victim’s heel, and Respondent replied, “Yeah. Yeah.” Respondent then continued his narrative saying, “And then I reached, reached up a little bit more. I think I touched somewhere up here. I don’t know where else. And that was about it. And then she woke up and that’s when she seen me down there.”[42] When Respondent said, “I think I touched somewhere up here,” he appeared to be pointing to his right calf with his left hand.[43]

When asked, Respondent confirmed that when he reached up to touch Victim, he slid his hand under the blanket and initially touched the heel of one of Victim’s feet. When asked if he started to move his hand upwards, Respondent replied, “I don’t know what I did after that.”[44] Later during the interview, Respondent was asked if he went under Victim’s shorts with his hand and he replied, “No.” He was then asked if it was possible and he again replied repeatedly, “No.”[45]

When asked if he thought what he did was not a good idea, Respondent replied, “Yeah.” When asked what he thought Victim’s perception was of what he did, Respondent said, “She felt like, what the fuck is this dude doing here? Like, I know he is my roommate, but what is he doing here?”[46] Detective Woida then sought clarification on where else

[40] Respondent Interview – Attachment L (8:08 – 8:59)
[41] Respondent Interview – Attachment L (9:01 – 9:36)
[42] Respondent Interview – Attachment L (9:40 – 11:14)
[43] Video of Respondent Pointing “Here” – Attachment N (00:10:43 – 00:11:09)
[44] Respondent Interview – Attachment L (11:24 – 11:34)
[45] Respondent Interview – Attachment L (18:32 – 18:38)
[46] Respondent Interview – Attachment L (11:57 – 12:12)

Respondent touched Victim and asked, “When you say you think you got as far up as her, her like calf maybe?” Respondent replied, “Maybe,” then added, “The only thing I know for sure that I touched was her down here. Then I went like with my hand up, but I didn’t grab her or anything. It was just like touch and that was it.” When Respondent said, “The only thing I know for sure that I touched was her down here,” he appeared to be pointing to his right heel with his left hand.[47] When asked if he touched Victim’s vagina, Respondent replied, “No.” When asked if there would be any reason that Victim would say that he did, Respondent replied, “No. I don’t know.”[48]

Later during the interview, Detective Woida asked Respondent what happened after Victim woke up, rolled over, and saw him. Respondent said he rolled over towards the bed, “and she’s like what the fuck are you doing here?” Respondent added that, “She just sat down and told me, ‘Hey, I have to call this in.’ And I was like, yes you do.” When asked what he thought Victim believed he was doing in her room, Respondent replied, “I think she like, ‘Did you touch me?’ And then I told her I did, like, I wasn’t going to lie to her. Yeah, I touched her, but that was about it. But like I said, I didn’t touch her anywhere, or I touched her, but not like her proper areas or whatnot.”[49] Later during the interview, Respondent confirmed that he apologized to Victim for going into her room and touching her while she was sleeping.[50] He also said that he did not get into Victim’s bed at any point during the incident and that he was positioned right up against it.[51]

When asked what the purpose was of him touching Victim, Respondent said, “I guess I saw the door open and went in there.” When asked if he thought Victim might welcome his touching or that it could lead to something else, Respondent replied, “I really don’t remember.” Respondent further stated that he had previously gone into her room to talk to her, but only with her permission.[52] Later during the interview, Respondent was again asked what the reason was for his entering Victim’s room and he replied, “Like I said, I was a little intoxicated. I really don’t know why I exited my room, but I saw her door open and I like, stood there for a while.” When asked why he chose Victim’s room instead of the other female roommate’s room, Respondent said, “Because it was open.”[53]

Respondent was then asked what he thought a reasonable person would probably think about what he did, and Respondent replied, “Take advantage of them.” Detective Woida then asked Respondent if the thought was going through his mind at the time of the

[47] Video of Respondent Pointing “Here” – Attachment N (00:12:17 – 00:12:40)
[48] Respondent Interview – Attachment L (12:14 – 12:51)
[49] Respondent Interview – Attachment L (14:15 – 15:28)
[50] Respondent Interview – Attachment L (19:54 – 20:06)
[51] Respondent Interview – Attachment L (22:49 – 23:00)
[52] Respondent Interview – Attachment L (13:03 – 14:13)
[53] Respondent Interview – Attachment L (15:42 – 16:05)

incident that something sexual was probably going to occur, and Respondent replied, “It could have been. I don’t know.”[54]

Respondent was then asked about his statements to Victim about looking for a white cat after she caught him, which he admitted was a lie. Respondent explained that he was scared and agreed that he just made up the dumb excuse out of panic.[55]

Respondent was then asked if anything like this incident had ever happened before and he replied, “No.” Respondent was then asked if he had ever thought about doing anything in the past when he was intoxicated at the house and he replied, “I don’t remember.”[56]

Detective Woida then informed Respondent that he had already spoken to Victim, and she told him what she felt, so he believed there was a high probability it happened because he was unaware of any reason why she would make up the allegation. Respondent replied, “No. Like I said, it happened. I walked in. I’m not going to lie to you guys. I stood by her door and then, like I told you, I think I told you, I kind of stepped in, walked out, like, what are you doing? And I went in, laid by her bed and it all happened. But like I was telling him (referring to another deputy who was present), I only touched on her here to my knowledge, and then I moved my hand up a little bit, touched something else, and I was like, and then she woke up and that’s when she was like, what are you doing and called 9-1-1.”[57] When Respondent said, “I only touched on her here to my knowledge,” he appeared to be pointing to his right heel with his left hand.[58]

Respondent was then asked what the “something else” was that he said he touched and he replied, “I don’t know. Just skin.” Detective Woida then said, “So it’s, it’s possible that that was her vagina then? If you don’t know what you, if you don’t know what you touched, how do you know what you,” at which point Respondent interrupted him and said, “It was just like skin.” Respondent then elaborated and said, “Because I, um, honestly, we’re adults here. I know what a vagina feels like, and it was definitely not her vagina.”[59]

Toward the end of the interview, Respondent was asked if he could show the deputies exactly what he did throughout the incident. As he walked through his footsteps, crawling, and reaching, Respondent narrated the following: “I was standing here, or I walked out of my room. I don’t really remember what I walked out for. And then I ended up here (Respondent was standing just outside Victim’s bedroom door at this point). I

[54] Respondent Interview – Attachment L (16:32 – 16:51)
[55] Respondent Interview – Attachment K (16:55 – 17:39)
[56] Respondent Interview – Attachment L (20:44 – 20:51)
[57] Respondent Interview – Attachment L (20:55 – 21:44)
[58] Video of Respondent Pointing “Here” – Attachment N (00:21:10 – 00:21:44)
[59] Respondent Interview – Attachment L (21:44 – 22:10)

was looking over there, like here. In my, I don't know, I think this is how it goes in my mind. I thought something was like signaling me to come in. I like started to walk in (Respondent took two steps into Victim's bedroom at this time). And then I'm, no what are you doing (Respondent backed out of the room and stood just outside Victim's bedroom door again)? Then I'm not going to do it now, but I crawled down. I came here (Respondent positioned himself on his hands and knees next to Victim's bed), and then I was like right here (Respondent positioned himself with the left side of his body on the floor). That's when I went like that (Respondent reached up with his right hand toward the top of the bed). At first I was like here (Respondent's right hand was positioned near the upper middle of the bed), feel the blanket, reached down (Respondent repositioned his right hand under the blanket). That's when I felt the (Respondent reached down with his right hand and touched the heel of his right foot), because I know I know this. And then I felt right here (Respondent repositioned his right hand under the blanket), went up, felt more skin, and then she moved (Respondent moved his right hand away from the bed). I like, I felt her move. That's when I put my arm out. She woke up and that's when I was trying to hide (Respondent positioned his arms, legs, and body toward the opening under the bed). She sees me and then she called 9-1-1."[60]

V. Analysis and Findings

The Present Allegations of Serious Misconduct

On November 13, 2024, Victim filed her complaint against Respondent with the MCSO. On July 10, 2025, the administrative investigation was completed with sustained findings for the following MCSO policy violations:

- 340.4 Standards of Conduct
- 340.5.1 Laws, Rules, and Orders
- 340.5.9 Standards of Conduct
- Penal Code § 243.4(e)(1) – Sexual Battery

On November 21, 2024, Respondent was released during his probationary period from his position as a Deputy Sheriff/Coroner with the MCSO; therefore, Respondent did not have the right to appeal his dismissal.

The MCSO's Agency Misconduct Report and Internal Affairs Investigation Report were submitted to POST on August 19, 2025.

[60] Respondent Demonstration – Attachment M

A. Does the alleged conduct violate Penal Code Section 13510.8 (b)(6) and POST Regulation 1205(a)(6) –Acts that Violate the Law?

Penal Code Section 13510.8 (b)(6) and Commission Regulation 1205 (a)(6) define as serious misconduct "Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the commission."

Penal Code Section 243.4(e)(1) says, in part, "Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, or any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of misdemeanor sexual battery…"

Penal Code Section 243.4(g)(1) defines an intimate part as "the sexual organ, anus, groin, or buttocks of any person, and the breast of a female."

It's undisputed that Respondent entered Victim's bedroom without permission while she was sleeping in her bed, crawled to the side of her bed, and touched her bare foot and leg with his right hand. It is also undisputed that Respondent was intoxicated at the time of the incident, that he apologized after Victim woke up from the touch and confronted him, and that Respondent and Victim had never been any kind of a dating relationship. What is disputed is that Victim said Respondent touched one of her intimate parts, while Respondent denied doing so. Victim believed Respondent was in bed with her when he touched her intimate part either with his fingers or his penis; however, Respondent said he was lying on the floor next to Victim's bed when he reached up and touched her, and that he never got into the bed.

Specifically, Victim's statements, first to the initial responding deputies, then to the investigating detective, were that she was sleeping on her side in her sleep shorts with no underwear when she woke up because she felt something cold between her legs. Respondent had reached into Victim's shorts from the bottom, so there was direct skin-to-skin contact. When asked by the initial responding deputy if Respondent touched her genitalia, Victim replied, "Yeah…my vagina. Well, labia? Vagina?" When she subsequently provided her statement to the detective, Victim said that when she was asleep, she woke up because she felt something cold between her legs, near her vagina. Later during the interview with the detective, he asked Victim, "So when, when you're obviously you first kind of wake up and you feel something cold, you mentioned it was like directly under your vagina," and Victim affirmatively replied, "Mhmm."

During her first interview with the initial responding deputy, Victim was then asked if there was any penetration, and she replied, "Not that I'm aware of." Victim later clarified

that when Respondent touched her, “it was definitely like he was about to penetrate but he didn’t penetrate.” When asked what he was about to penetrate with, Victim said, “His fingers. Two fingers.” During her interview with the detective, Victim said that she initially saw Respondent on the floor next to her bed, and his joggers were pulled up so she assumed he had touched her with his fingers, but since it took a moment between when she first felt the touch and when she saw Respondent, she didn’t know if his joggers had been partially pulled down during the contact. Since Victim was asleep prior to feeling the touch, she also didn’t know how long he had been in her bed with her. She didn’t feel him get into the bed, so she was unsure if he had touched her with his fingers or his penis.

Although Respondent denied touching Victim’s vagina, he also made some statements that cast doubt on the credibility of his denial. First, when Respondent was demonstrating on video how he reached up to touch Victim, it was noted that at one point his hand was near the middle of the bed, where Victim reported her waist would have been if she was lying down in the bed. When Respondent was initially describing his actions during the incident, he said, “And then I reached, reached up a little bit more. I think I touched somewhere up here. I don’t know where else.” Later during his interview, when asked if he started to move his hand upwards after touching Victim’s heel, Respondent replied, “I don’t know what I did after that.” Toward the end of the interview, Detective Woida confronted Respondent and told him that he had already spoken to Victim and believed her account of the incident. Respondent retorted saying that he wasn’t going to lie and retold his version of the incident, “I stood by her door and then, like I told you, I think I told you, I kind of stepped in, walked out, like, what are you doing? And I went in, laid by her bed and it all happened. But like I was telling him, I only touched on here to my knowledge, and then I moved my hand up a little bit, touched something else, and I was like, and then she woke up and that’s when she was like, what are you doing and called 9-1-1.”

So, after Respondent’s third statement indicating his uncertainty of where else he touched Victim besides the heel of her foot and possibly her calf, Detective Woida asked him what the “something else” was that he said he touched and Respondent replied, “I don’t know. Just skin.” Detective Woida then said, “So it’s, it’s possible that that was her vagina then? If you don’t know what you, if you don’t know what you touched, how do you know what you,” at which point Respondent interrupted him and said, “It was just like skin.” Respondent then elaborated and said, “Because I, um, honestly, we’re adults here. I know what a vagina feels like, and it was definitely not her vagina.”

If Respondent was being truthful when he made the multiple statements indicating his uncertainty about what other parts of Victim’s body he touched, specifically when he said, “I don’t know where else,” “I don’t know what I did after that,” and that he “touched something else,” then, he did not recall or realize what he touched in his inebriated

state. However, these statements of uncertainty could have also simply been a lie. Moreover, his explanation for how he knew he didn't touch Victim's vagina because "I know what a vagina feels like," lacks credibility. Respondent's denials further lack credibility because when he was demonstrating on video how he reached up to touch Victim, it was noted that at one point his hand was near the middle of the bed, where Victim reported her waist would have been if she was lying down in the bed.

Conversely, Victim's credibility was assessed to be high based on several factors:

- Her multiple statements to dispatch, the initial responding deputy, and the subsequent detective, which was also used as the justification in the EPO and the statement of probable cause in the search warrant affidavit, were all consistent.

- The specific details, which were mostly consistent with Respondent's version of the incident, provided by Victim also tend to strengthen her credibility. For example, she said that while she was asleep, she woke up because she felt something cold between her legs, near her vagina, after which she partially sat up while sleeping on her side. Victim also described the feeling of the touch near her vagina like an animal's nose, but it was larger.

- Victim was wearing loose-fitting sleep shorts with no underwear and a T-shirt, which made the direct skin-to-skin contact of her vaginal area plausible.

- When the initial responding deputy asked her if she wanted to press charges against Respondent, she asked for some time to think about it before eventually deciding to do so. It appeared that her hesitation was based on this being a first-time isolated incident with Respondent after having been cordial roommates for almost a year and his repeated apologies immediately after the incident.[61]

- There is no known motive for her to have fabricated the disputed allegation that Respondent touched her vaginal area. In fact, Victim provided Respondent a bag and a glass of water when he started vomiting after the incident "because, you know, he needs taking care of, of course, after that." This act of compassion for Respondent, even after she had been violated by him, tends to show the absence of contempt or a motive to fabricate the key disputed detail about the incident (i.e., touching her vaginal area).

- Victim's uncertainty about how long Respondent had been in bed with her prior to feeling him touch her vaginal area, because she had been asleep and didn't feel

[61] Initial Victim interview with responding deputies – Attachment H (10:23 – 11:03 and 17:12 – 17:15)

him get into the bed, and her uncertainty about whether he touched her with his fingers or penis, also tend to demonstrate Victim's credibility because the statements appear unrehearsed and, thus, not fabricated.

- While providing her statement to both the initial responding officer and subsequently to the detective, Victim expressed additional concern that she was going to have to find a new roommate to cover the rent, which indicated that having Respondent forcibly moved out was not in her best financial interest, and further strengthened her credibility.[62]

In conclusion, during his investigative interview, Respondent admitted to essentially all the Victim's allegations, except for touching her vaginal area. He also admitted to apologizing to the Victim after the incident. When he was placed on administrative leave immediately following his investigative interview, Respondent asked that he not be paid while on leave, which appeared to indicate his conscience of guilt and remorse. Respondent did not identify a motive for his actions. However, when Respondent was asked what he thought a reasonable person would probably think about what he did, he replied, "Take advantage of them." When Respondent was then asked if the thought was going through his mind at the time of the incident that something sexual was probably going to occur, Respondent replied, "It could have been. I don't know."

The clear and convincing evidence substantiates that Respondent violated Penal Code Section 243.4(e)(1) when he touched Victim's intimate part, specifically her vaginal area, against her will, and for the specific purpose of Respondent's sexual arousal and gratification. Therefore, Respondent's actions constituted serious misconduct under Penal Code Section 13510.8(b)(6) and POST Regulation 1205(a)(6), Acts That Violate The Law.

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

VI. Supporting Evidence

Evidence	**Attachment**
Memo regarding release of Respondent during probation	A
Criminal Complaint	B

[62] Initial Victim interview with responding deputies – Attachment H (15:21 – 15:38) and Victim interview with Detective Woida – Attachment E (00:12:55 – 00:13:12)

Evidence	**Attachment**
Deferred Entry of Judgment Order	C
Personnel Complaint Disposition	D
Victim interview with Detective Woida	E
Victim call to dispatch, Part 1	F
Victim call to dispatch, Part 2	G
Initial Victim interview with responding deputies	H
Emergency Protective Order to Remain Away from Victim	I
Temporary Restraining Order to Remain Away from Victim	J
Search Warrant	K
Respondent Interview	L
Video of Respondent Demonstration	M
Video of Respondent Pointing “Here”	N

Commission on Peace Officer Standards and Training
860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1603
(916) 227-3909 • www.post.ca.gov

EXECUTIVE REVIEW & PEACE OFFICER STANDARDS ACCOUNTABILITY DIVISION RECOMMENDATION

DATE: April 23, 2026

CASE #: POST2507244

PEACE OFFICER: Eduardo Guadalupe Escareno-Davila

POST ID#: C99-P62

AGENCY: Mendocino County Sheriff's Office

POST CONSULTANT / BC: Gerald Fernandez / Rob Guyton

ALLEGATION(S):

California Code of Regulations Title 11 § 1205(a)(6) - Acts that Violate the Law

On November 13, 2024, at approximately 0310 hours, while off duty, Mendocino County Sheriff's Office (MCSO) Deputy Eduardo Guadalupe Escareno-Davila (hereinafter "Respondent") entered his roommate's (hereinafter "Victim") bedroom and touched her vaginal area while she was asleep. The contact awakened the Victim, who turned on the light and observed Respondent on the floor, appearing to hide under her bed. When confronted, Respondent—who appeared intoxicated and later admitted he had been drinking—claimed he was searching for a cat, which he later acknowledged was untrue, and repeatedly apologized. The Victim stated Respondent had never been in her bedroom before, which was understood to be off-limits, and that there was no romantic relationship between them.

Respondent later stated he had consumed alcohol and entered the Victim's room, touching her foot and moving his hand up her leg until she awoke, at which point he stopped, but he denied touching her vaginal area. Following the incident, the Victim contacted MCSO, and deputies responded, interviewed both parties, and served Respondent with an Emergency Protective Order that included a move-out order.

On November 21, 2024, Respondent was released during his probationary period from his position as a Deputy Sheriff/Coroner with MCSO. On December 9, 2024, the Mendocino County District Attorney's Office filed a criminal case in the Mendocino County Superior Court, charging Respondent with one count of misdemeanor sexual battery. On or about May 15, 2025, MCSO initiated an administrative investigation, which concluded on or about July 10, 2025, with sustained findings for policy violations, including Standards of Conduct and violations related to sexual battery.

On February 20, 2026, the Mendocino County Superior Court dismissed the sexual battery charge, and Respondent pled guilty to misdemeanor battery, with proceedings suspended pursuant to a deferred entry of judgment.

The Peace Officer Standards Accountability Division, Certification Executive Review Panel has reviewed the above referenced case involving alleged serious misconduct and has determined the following:

☒ There are reasonable grounds for suspension or revocation of a peace officer's certification.

POST determined clear and convincing evidence exists to show Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(6) and California Code of Regulations Title 11 §1205(a)(6) – Acts that Violate the Law when he assaulted the Victim by touching her without her knowledge or permission while she was sleeping.

William Darden Chief Legal Counsel	Signature	4/27/26 Date
Annemarie Del Mugnaio Assistant Executive Director	Signature	4-23-26 Date
Manny Alvarez Executive Director	Signature	04/27/2026 Date

cc: Bureau Chief Rob Guyton

cc: Jason Morlock

cc: Chandler Knapp

POST PROFILE NAME:

ESCARENO-DAVILA, EDUARDO GUADALUPE

CALIFORNIA COMMISSION ON **POST**

Certification Status: Inactive

AKA: N/A

DATE: 04/29/2026

PERSONAL IDENTIFICATION

POST I.D.	Agency	Birth Date	Gender	Race/Ethnicity
C99-P62		PII [redacted]	[redacted]	[redacted]

CERTIFICATES AWARDED

Total Number of Certificates: 0

PROOF OF ELIGIBILITY

POE	Agency Name	Agency	Issued	Status
P0019353	MENDOCINO CO SO	23000	12/10/2023	Expired

Total Number of Proof of Eligibility: 1

EMPLOYMENT

Hired From	To	R*	Rank	Rank Date	Agency	Agency Name	F/P	P/U	Seas
06/11/2023	12/09/2023	10	TRN	06/11/2023	23000	MENDOCINO CO SO	P	P	
12/10/2023	11/21/2024	8	DPTY	12/10/2023	23000	MENDOCINO CO SO	F	P	

*Reason for Separation: 8 = Involuntary Separation, 10 = Status Change

POST CERTIFIED TRAINING

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
12/07/2023	A	2980-00100-23-001	800	R	Y	23000	SCJCTC		BASIC COURSE-INTENSIVE
12/13/2023	K	3390-32075-23-001	16		Y	23000	ME CO SO		FIREARMS/TACTICAL RIFLE

*Meets Perishable Skills

FOOTNOTES

NO FOOTNOTE ON FILE.

PLEASE REFER TO THE ENCLOSED EXPLANATION SHEET FOR ADDITIONAL INFORMATION.

COMMISSION ON POST – PROFILE REPORT

The Profile Report contains confidential information.

EXPLANATION SHEET

PERSONAL IDENTIFICATION: Subject's personal information as indicated in POST database (EDI system)	
POST ID:	Unique identification number assigned to subject by POST.
Agency:	Indicates the agency (or one of the agencies) where subject is currently employed. An "*" indicates that the subject is employed in more than one position within the same agency.
Birth Date/Gender:	Self-explanatory.
Race/Ethnicity:	**A** = Asian **B** = African American (Black) **N** = Native American **S** = Spanish/Hispanic **W** = White **O** = Other

CERTIFICATES AWARDED	
Cert:	Certificate serial number.
Type:	**B** = Basic **I** = Intermediate **A** = Advanced **S** = Supervisory **M** = Management **E** = Executive **R** = Reserve **D** = Public Safety Dispatcher **SX**= Specialized X (example: SA = Specialized Advanced)
Awarded:	Date certificate was issued.
Education:	Educational points or degree used for earning a certificate.
T:	Training points used for awarding the certificate.
T+:	Additional training points.
Comments:	Comments regarding training or institute(s) where subject received education.
Total Number of Certificates:	Number of certificates awarded to subject as indicated in POST database.

EMPLOYMENT: Subject's employment history as indicated in POST database	
Hired From:	Date subject was hired or sworn into the agency.
To:	Date subject left agency (if applicable).
R*:	Reason for separation as indicated by number in the Report description.
Rank / Rank Date:	Indicates rank as translated by POST database and date subject made rank.
Agency / Agency Name:	Agency code number and name where subject is currently working or previously worked.
F/P:	Time base: **F** = Full time **P** = Part time
P/U:	Wage status: **P** = Paid **U** = Unpaid
Seas:	Provisional or seasonal employment.

POST TRAINING: Courses attended or completed as indicated in POST database	
Comp Date:	Date course ended.
Cat:	General course category (for POST use only).
CCN:	Course Control Number.
Hrs:	Hours completed in course.
Rmb:	Reimbursement indicator: **R** = Reimbursed *(before FY 83/84 reimbursable agency not necessarily reimbursed)* **J** = Job specific * = Job specific, SALARY NOT PAID **Blank** = None or no data available
Cmp:	Completion indicator: **Blank or Y** = Course completed **N** = Course not completed **?** = Prior to 1979
Agency:	Agency where subject was employed at time of course enrollment.
School:	Training institute offering the course.
Course Name:	Course name as shown in POST database.

NON-CERTIFIED COURSES

This section will only appear if applicable.

FIELD TRAINING

This section tracks field training progress and will only appear if applicable.

FOOTNOTES

This section reserved for additional information.

Mendocino County Sheriff's Office
Internal Affairs Investigation
IA #24-20

DIVISION ASSIGNED:	DATE ASSIGNED:	DATE COMPLETED:
Internal Affairs	05/15/2025	7/10/25
INVESTIGATOR: RIBOLI, ERIC #2412	SUPERVISOR (S) REVIEW:	

VIOLATION(S) INVESTIGATED:	RECOMMENDED FINDING:
Mendocino County Sheriff's Office Policy: **340.4 GENERAL STANDARDS** Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority. Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty. Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct. (*Issued Date 08/24/2023*) Name of Policy: Standards of Conduct.	☐ UNFOUNDED ☐ EXONERATED ☐ NOT SUSTAINED ☒ SUSTAINED

Mendocino County Sheriff's Office
Internal Affairs Investigation
IA #24-20

Mendocino County Sheriff's Policy: 340.5.1 LAWS, RULES AND ORDERS c. Violation of federal, state, local or administrative laws, rules or regulations. Issue Date 08/24/2023 Name of Policy Laws, Rules and Orders.	☐ UNFOUNDED ☐ EXONERATED ☐ NOT SUSTAINED ☒ SUSTAINED
Mendocino County Sheriff's Office Policy: 340.5.9 CONDUCT h. Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department. m. Any other on or offduty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members. (*Issued Date: 08/24/2023*) Name of Policy: Standards of Conduct.	☐ UNFOUNDED ☐ EXONERATED ☐ NOT SUSTAINED ☒ SUSTAINED
California Penal Code: 243.4(e)(1) PC (e) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, or any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of misdemeanor sexual battery, punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. However, if the defendant was an employer and the victim was an employee of the defendant, the misdemeanor sexual battery shall be punishable by a fine not exceeding three thousand dollars ($3,000), by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Notwithstanding any other	☐ UNFOUNDED ☐ EXONERATED ☐ NOT SUSTAINED ☒ SUSTAINED

provision of law, any amount of a fine above two thousand dollars ($2,000) which is collected from a defendant for a violation of this subdivision shall be transmitted to the State Treasury and, upon appropriation by the Legislature, distributed to the Civil Rights Department for the purpose of enforcement of the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2 of the Government Code), including, but not limited to, laws that proscribe sexual harassment in places of employment. However, in no event shall an amount over two thousand dollars ($2,000) be transmitted to the State Treasury until all fines, including any restitution fines that may have been imposed upon the defendant, have been paid in full. (*Amended / Enacted Year 1872*) Description of Law: Assault and Battery.	
	SIGNED and DATED: 7/10/25

Mendocino County Sheriff's Office
Internal Affairs Investigation
IA #24-20

INCIDENT TYPE: OFF DUTY CONDUCT	DATE OF INCIDENT:	DATE REPORTED:	FILE NUMBER:
	11/13/2024	11/13/2024	24-20

EMPLOYEE: ESCARENO-DAVILA, EDUARDO #2913	DIVISION OR ASSIGNMENT:	WORK LOCATION:
	Patrol	North Sector

COMPLAINANT: [redacted]	ADDRESS: [redacted]	
CITY: [redacted]	STATE: [redacted]	ZIP CODE: [redacted]
HOME TELEPHONE: [redacted]	WORK OR CONTACT TELEPHONE:	

SUMMARY OF INCIDENT: On 11/13/2024 at approximately 0440 hours, Complainant [redacted] was sleeping in her bed, at her residence. [redacted] woke up to something touching her vaginal area. [redacted] turned on the bedroom light and found her roommate, Eduardo Escareno-Davila, trying to hide under her bed. At the time of this incident Escareno-Davila was employed with the Mendocino County Sheriff's Office as a Deputy Sheriff assigned to patrol operations in the North Sector. [redacted] reported the touching was unwanted and she wished to file criminal charges against Escareno-Davila.

The Mendocino County Sheriff's Office Investigations Bureau conducted a criminal investigation, which resulted in the following charges being filed by the District Attorney's Office:

243.4(E)(1) PC. Misdemeanor Sexual Battery.

FINDINGS REGARDING COMPLAINT:

05/15/2025, Lieutenant Caudillo provided me with a memorandum commanding me to investigate allegations against Escareno-Davila. The Memorandum directed me to submit my findings to Lieutenant Caudillo at the completion of my investigation. I subsequently placed the memorandum into the case file under section 2 (Source of Complaint).

I reviewed all MCSO reports and supplemental reports regarding Case Report 2024-23393 and learned the following: On 11/13/2024, Complainant [redacted] was living at her residence located at [redacted] with a female roommate, [redacted], and a male roommate, identified as Eduardo Escareno-Davila. At the time of this incident Escareno-Davila was employed with the Mendocino County Sheriff's Office as a Deputy Sheriff assigned to North Sector Patrol.

Deputy Nelson was the initial responding Deputy. I reviewed Deputy Nelson's supplemental report and learned the following: Deputy Nelson was directed to respond to the [redacted] address by Sergeant Vazquez, due to the fact [redacted] contacted the Sheriff's Office and created a call for service. Deputy Nelson responded to the location and contacted [redacted] and Escareno-Davila. Deputy Nelson learned that a crime had possibly been committed by Escareno-Davila against [redacted] and [redacted] desired prosecution. Deputy Nelson requested the Investigation Bureau be called out.

[redacted] was transported to the Detective Bureau where Detective Jack Woida spoke to her and initiated an investigation. I reviewed Detective Woida's report and learned he interviewed [redacted] and she told him the following:

At 0440 hours, [redacted] called the Mendocino County Sheriff's Office to report that Escareno-Davila had snuck into her room and fondled her vaginal area while she was sleeping. [redacted] said she felt something touching her vaginal area and when she turned on the light in her room she observed Escareno-Davila lying on the floor and attempting to hide under her bed. [redacted] confronted Escareno-Davila. [redacted] observed that Escareno-Davila appeared to be intoxicated, however she did not know how much alcohol he had consumed. Escareno-Davila told [redacted] he was looking for a white cat, which [redacted] thought was odd because Escareno-Davila was not a cat person, and the white cat had been re-homed and no longer lived at the residence. Escareno-Davila was previously told that [redacted]' bedroom was off limits to him and he was not allowed to enter [redacted]' room without her permission. [redacted] said she usually leaves her bedroom door cracked open for the cats to come in and out. Escareno-Davila began crying and continually told [redacted] he was sorry.

[redacted] told Detective Woida that she had never been romantic with Escareno-Davila in the past. Escareno-Davila had "hit on" [redacted] before, via text message, however, it never went any further than that. [redacted] advised her other roommate, [redacted], was at the residence during the incident, however [redacted] was asleep in her room and was not involved. [redacted] requested an EPO, which was granted and subsequently served on Escareno-Davila.

I read Detective Woida's supplemental report and learned the following: Later that day, Detective Woida, Lieutenant Porter, Captain Cromer and Lieutenant Lorenzo contacted Escareno-Davila at the residence. Escareno-Davila appeared to have slept, and he stated he was tired but no longer felt the effects of alcohol. Escareno-Davila agreed to talk to Detective Woida. Detective Woida provided Escareno-Davila with a Beheler Admonishment.

Escareno-Davila told Detective Woida that he had consumed beer the night of the incident and was "a little too intoxicated." He "went into [redacted]'s room and tried to touch her." Escareno-Davila said he and [redacted] had never been in a romantic relationship and there was nothing to suggest [redacted] was romantically interested in him.

Escareno-Davila said at some point last night he exited his bedroom and walked to [redacted]' bedroom door because it was cracked open. He entered the room and then thought "what are you doing" because he realized he should not be in

[redacted]' room, so he exited the room. He stood at [redacted]' door for a short time and then decided to go back into [redacted]' room, however when he entered the bedroom the second time he crawled on the floor to the west side of [redacted]' bed.

After arriving at [redacted]' bed, Escareno-Davila reached up with his right hand and put his hand under [redacted]' blanket. He felt [redacted]' bare foot and he moved his hand up her leg until he reached her calf area. At this point [redacted] began to wake up, so he stopped. Escareno-Davila said going into [redacted]' bedroom and touching her was not a good idea, however he did not explain why he did it.

Escareno-Davila said he touched [redacted]' bare foot and ran his hand up her leg, but he could not recall what other parts of her body he touched. When asked directly, Escareno-Davila said he did not touch [redacted]' vaginal area. Escareno-Davila said he did not know why [redacted] would say he touched her vagina. When asked what his intentions were, Escareno-Davila said he "had a little too much to drink" and saw [redacted]' door open and decided to go into her room. He did not really feel like [redacted] wanted him to come into her room and touch her and he did not think [redacted] would allow the touching to lead to something else.

Escareno-Davila told Detective Woida that after [redacted] woke up, he curled up on the floor because he knew he should not have been in her room. When [redacted] confronted him, he did not know what to say. [redacted] told Escareno-Davila she was going to call the Sheriff's Office. Escareno-Davila said he believed [redacted] was going to report that he had touched her. When asked what a reasonable person's belief would be as to why he went into [redacted]' room, Escareno-Davila said, "to take advantage of her." Detective Woida clarified that Escareno-Davila was referring to something sexual in nature. When asked if that was what he was thinking of doing, Escareno-Davila said "potentially, but I don't remember." Escareno-Davila said he made up the lie about looking for a white cat because he was scared.

Detective Woida went to [redacted]' room and examined her bed. It was Detective Woida's opinion that it was unlikely that Escareno-Davila could have reached [redacted]' body while he was lying on the floor, despite Escareno-Davila continually saying he remained on the floor during the entirety of the incident.

Escareno-Davila demonstrated how the incident happened for Detective Woida. As Escareno-Davila stood outside [redacted]' door, he stated that due to his level of intoxication, he felt he was being signaled to go into [redacted]' room, so he entered. After entering the room, he realized it was a bad idea, so he exited the room and again stood at the door. He waited for a short time and then laid down on the floor and crawled into the room on his stomach. He laid next to [redacted]' bed and reached up with his right hand. Escareno-Davila slid his hand upward and indicated when he touched the other unknown part of [redacted]' skin that caused her to wake up. Detective Woida noted that Escareno-Davila's hand was near the middle of the bed, approximately where [redacted]' hips would have been if she was lying down in the bed.

After completing the interview, Detective Woida collected evidence, to include the following: clothing from [redacted], Buccal swabs from Escareno-Davila and Escareno-Davila's cellphones. As of the authoring of this report, nothing of investigative value has been reported as a result of the evidence taken.

I researched the Mendocino Superior Court Case Information Portal and learned that as of 04/29/2025, the criminal case was set for a Settlement Conference on 08/05/2025 at 0900 hours and a Jury Trial on 08/25/2025 at 1330 hours.

I requested the MCSO Dispatch audio recordings for phone calls and radio traffic regarding this case. I later received a DVD containing 16 files, which consisted of phone calls and radio traffic. I reviewed the audio recordings and found them to be consistent with the written reports and statements. [redacted] reported the incident to Dispatch and Sergeant Vasquez was notified. Sergeant Vasquez then responded to the North Sector to meet with Deputy Nelson and the two of them responded to the residence. Some of the audio recordings are of Detective Woida's phone calls and radio traffic as

he initiated and conducted the investigation. I placed the DVD containing the audio recordings into the case file under section 5 (Evidence) and marked as ER#01.

I downloaded the Axon audio/video evidence taken by the personnel involved during the original investigation from Evidence.com. to a thumb drive. I later marked the thumb drive as ER#02 and I placed it into the case file under section 5 (Evidence).

After reviewing MCSO report 2024-23393 and supplemental reports, I found all allegations to be SUSTAINED. Escareno-Davila consumed alcohol to the point he was "a little too intoxicated." Escareno-Davila then entered [redacted] room fully knowing he should not enter her room without permission. This was demonstrated by the fact that when he first entered [redacted]' room he knew he should not be there, so he retreated to the hallway. Escareno-Davila waited a short time and then entered the room again, this time crawling on the ground, presumably to avoid detection.

After low crawling to [redacted]' bed, Escareno-Davila reached his hand under [redacted]' blankets and touched her bare skin. Escareno-Davila said he did not touch [redacted]' vaginal area, however he is not sure what part of her body he did touch. [redacted] stated that Escareno-Davila did touch her vaginal area to the point that it woke her up. When [redacted] confronted Escareno-Davila, he began crying and saying he was sorry. In my experience, this type of behavior is typical of someone that has done something they knew was wrong.

Escareno-Davila completed a POST basic police academy, an MCSO field training program and worked as a Deputy Sheriff for no less than a year. Escareno-Davila was familiar, or reasonably should have been familiar, with Penal Code section 243.4(e)(1). Escareno-Davila crawled into [redacted] room while she was sleeping and touched her vaginal area while she was sleeping and unable to give consent, which violated this section. Escareno-Davila knew, or reasonably should have known, his conduct was outside of MCSO policy and would bring disgrace to himself and this office.

SIGNATURE: E 2417	DATE:
Employee Name / ID # RIBOLI, E. 2417	7/10/25

Mendocino County Sheriff's Office
Internal Affairs Investigation
IA #24-20

Evidence Obtained / Reviewed (Also Attached)				
☒ Report	☐ Incident	☒ Dispatch Audio	☐ Car Camera	☒ Body Camera
☐ Video	☐ Email	☒ Documents	☐ Photographs	☐ Other Audio

☐ Other (Describe Below):

ER#01: DVD with Dispatch audio phone calls, radio traffic.

ER#02: thumb drive with Axon audio/video from original investigation.

ER#03: MCSO Crime Reports.

MATTHEW C. KENDALL
Sheriff-Coroner

Undersheriff John J. Magnan

Captain Quincy Cromer
Field Services
Captain Gregory L. Van Patten
Corrections

County of Mendocino
Office Of the Sheriff-Coroner

11/21/2024

[redacted]

Method Of Delivery: Hand delivered by Lieutenant J. Caudillo #1191

Dear Mr. Escareno:

The purpose of this letter is to inform you that effective 11/21/24, you have been released during your probationary period from your position as a Deputy Sheriff/Coroner with the Sheriff's Office.

In accordance with Civil Service Rule XI, Section 3.C.1, rejection from a probationary appointment is without right of appeal or hearing.

You should have received your final paycheck with any remaining vacation balance paid, in accordance with California Government Labor Code Section 220(b).

If you believe this release from your probationary appointment was based upon discrimination, as prohibited by Mendocino County Policy, and state and federal law, please refer to County Policy No. 10, *Equal Employment Opportunity*, which is located online at: www.mendocinocounty.org/government/executive-office/policy-manual.

Sincerely,

John J. Magnan
Undersheriff

Attachments: Health Benefits, Retirement and Human Resources.

cc: Employee File - HR Department

951 Low Gap Road
Ukiah, California 95482-3734

707-463-4411
Fax 707-463-4093

DA Case ID No. 0202611
12/27/2024 9:00:00 AM
C DAVID EYSTER (SBN 113115) kl
District Attorney
Mendocino County
100 North State Street, Room G-10
PO Box 1000
Ukiah, CA 95482
(707) 463-4211

Attorneys for Plaintiff

FILED
12/09/2024
KIM TURNER, CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA,
COUNTY OF MENDOCINO
Johnson, Kylie
DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MENDOCINO

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. EDUARDO G ESCARENO DAVILA, Defendant.	24CR06207 COMPLAINT-CRIMINAL MISDEMEANOR

THE UNDERSIGNED, ON INFORMATION AND BELIEF, COMPLAINS AND SAYS, THAT WITHIN THE COUNTY OF MENDOCINO, STATE OF CALIFORNIA

COUNT ONE

On or about November 13, 2024, in the County of Mendocino, State of California, the crime of SEXUAL BATTERY in violation of PC243.4(e)(1), a Misdemeanor, was committed in that EDUARDO G ESCARENO DAVILA did then and there willfully and unlawfully touch an intimate part of PII [redacted], against the will of said person and for the purpose of sexual arousal, sexual gratification, or sexual abuse.

Complainant therefore prays that said defendant be dealt with according to law.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of December, 2024 in Ukiah, County of Mendocino, State of California.

C DAVID EYSTER
District Attorney

Pursuant to Penal Code Section 1054.3, the prosecuting attorney hereby requests that the defendant and his attorney disclose the following:

"(a) The names and addresses of persons, other than the defendant, he intends to call as witnesses at the trial, together with any relevant written or recorded statements of those persons, or reports of the statements of those persons, including any reports of statements of experts made in connection with the case, and including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the defendant intends to offer in evidence at the trial."

"(b) Any real evidence which the defendant intends to offer in evidence at the trial."

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO		**FILED** *Court Use Only*
☒ UKIAH Courthouse 100 North State Street Ukiah, CA 95482	☐ TEN MILE Branch Court 700 South Franklin Street Fort Bragg, CA 95437	02/20/2026 KIM TURNER, CLERK OF THE COURT SUPERIOR COURT OF CALIFORNIA COUNTY OF MENDOCINO
PLAINTIFF: PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: Eduardo Escareno Davila		BY: DEPTY CLERK, Munoz, Ashley CASE NUMBER: 24062O7
ORDER RE: DEFERRED ENTRY OF JUDGMENT (DEJ)		VIOLATION DATE: 11/13/24

The defendant has entered a guilty plea to a violation of section(s)
242 of the Penal Code w/in 243(a)

IT IS ORDERED that defendant be admitted to a deferred entry of judgment program under the supervision of the court, and that pronouncement of judgment and sentence be stayed for ☑ one (1) year, OR ☐ _____ from the date of this order under the following terms and conditions. If successful, conviction will remain with a GTS, probation denied Sentence. If unsuccessful, matter will proceed to judgment & sentencing

The defendant shall:

☐ Appear before the Court for: progress report on 5/22/~~25~~ 26 at 9am Dept H

~~possible dismissal~~ Sentencing on 12/19/27 at 9am Dept H

☑ Obey all laws and orders of the court ☑ including previously issued restraining orders

☑ Totally abstain from the use of ☐ any illegal drugs ☑ alcohol

☑ Submit to ☐ drug testing ☑ alcohol testing ☑ search and seizure of defendant's person, property, or any property under defendant's control when requested by any peace officer or probation officer, at any time of the day or night, with or without notice, consent, probable cause, or warrant for alcohol + firearms

☑ Stay away from/have no contact with: [redacted]

☐ Do not annoy, harass, molest, strike, or have any uninvited contact with: _____

☑ Do not possess any firearms or ammunition

☒ Participate in and pay all fees for the following programs of counseling and/or education:

☑ AA/NA 1 x per week for 52 Weeks

☑ ~~Domestic Violence/Anger Management~~ Individual therapy 1 x per ~~week~~ month for 12 ~~Weeks~~ months

☐ Complete and show proof by: _____

☑ Other: • 50 hours of community service through MLAS
• apology letter to victim addressing victim impact

Date: 2/20/23

Charlotte Scott
Judge

Defendant signature

☐ Court ☐ Defendant
MCR-740 (rev 0122)

Mendocino County Sheriff's Office
Internal Affairs Investigation
IA #24-10

Personnel Complaint Disposition

*** NOT TO BE COMPLETED BY THE INVESTIGATOR ***

INCIDENT TYPE:	DATE OF INCIDENT:	DATE REPORTED:	FILE NMBER:
Sexual Assault	11//13/2024	11/13/2024	24-10

EMPLOYEE:	RANK / ID #:	DIVISION / ASSIGNMENT:
Escareno, Eduardo	Deputy Sheriff	North Patrol

COMPLAINT RECEIVED DATE: 11/13/2024	TIME:	BY EMPLOYEE: US J. Magnan #2886
COMPLAINT REVIEWED DATE: 11/14/2024	TIME:	BY EMPLOYEE: Lt. Jason Caudillo #1191
INVESTIGATION ASSIGNED DATE: 05/15/2025	TIME:	BY EMPLOYEE: Lt. Jason Caudillo #1191
INVESTIGATION COMPLETED DATE: 07/10/2025	TIME:	BY EMPLOYEE: Dep. E. Riboli #2412

DISPOSITION

☐ UNFOUNDED ☐ EXONERATED ☐ NOT SUSTAINED ☒ SUSTAINED ☐ INCOMPLETE

CORRECTIVE ACTION TAKEN:

MENDOCINO COUNTY POLICIES

340.4 STANDARD OF CONDUCT-SUSTAINED

340.5.1 CONDUCT-SUSTAINED

340.5.9 CONDUCT-SUSTAINED

243.4 (E) (1) PC-SEXUAL ASSAULT -SUSTAINED

Letter mailed: N/A

DATE:07/18/2025	BY: UNDERSHERIFF JOHN MAGNAN 2886

REVIEWED BY:	DATE:	TIME:
Undersheriff John J. Magnan #2886	07/18/2025	1800

ACKNOWLEDGEMENT BY ACCUSED EMPLOYEE:	DATE:	TIME:
No signature, employee resigned	7/18/25	1800

EPO-001 ONE copy to court, ONE copy to restrained person, ONE copy to protected person, ONE copy to issuing agency

EMERGENCY PROTECTIVE ORDER *(See reverse for important notices.)*

LAW ENFORCEMENT CASE NUMBER: 2024-23393

1. PROTECTED PERSONS *(list names of persons protected by this Order)*: PII

2. RESTRAINED PERSON *(name)*: EDUARDO ESCARENO-DAVILA
Sex: ☒ M ☐ F Ht.: 5-7 Wt.: 120 Hair color: [redacted] Eye color: [redacted] Race: [redacted] Age: [redacted] Date of birth: [redacted]

3. TO THE RESTRAINED PERSON:
   a. ☒ **YOU MUST NOT** harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy any personal property of, disturb the peace of, keep under surveillance, or block the movements of each person named in item 1.
   b. ☒ **YOU MUST NOT** contact, either directly or indirectly, by any means, including but not limited to by telephone, mail, e-mail or other electronic means, any person named in item 1.
   c. ☒ **YOU MUST** ☒ stay away at least: 100 yards from each person named in item 1.
   ☒ stay away at least: 100 yards from ☒ move out immediately from
   (address): [redacted] PII
   d. **YOU MUST NOT** own, possess, purchase, receive, or attempt to purchase or receive any firearm or ammunition. If you have any firearms, you must turn them in to a law enforcement agency or sell them to, or store them with, a licensed gun dealer.
   e. **YOU MUST NOT** take any action, directly or through others, to obtain the addresses or locations of any person named in item 1.

4. ☐ *(Name)*: _____ is given temporary care and control of the following minor children of the parties *(names and ages)*: _____

5. **THIS ORDER WILL EXPIRE AT THE CLOSE OF THE COURT BUSINESS DAY ON:** 11/19/2024
INSERT DATE OF FIFTH COURT DAY OR SEVENTH CALENDAR DAY, WHICHEVER IS EARLIER; DO NOT COUNT DAY THE ORDER IS GRANTED

6. **TO THE PROTECTED PERSON:** If you need protection for a longer period of time, you must request restraining orders from the court in the county where you live:
(Name and address of court): MENDOCINO COUNTY SUPERIOR COURT 100 N. STATE ST. UKIAH
If you go to court to request restraining orders, take your copy of this form with you. If a juvenile petition is pending, file in that court.

7. Reasonable grounds for the issuance of this Order exist, and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.

8. Judicial officer *(name)*: CARLY DOLAN granted this Order on *(date)*: 11/13/24 at *(time)*: 0805

APPLICATION

9. The events that caused the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (except solely financial abuse), or stalking are *(give facts and dates, specify weapons)*:
ESCARENO AND PII ARE [redacted] WITH NO ROMANTIC RELATIONSHIP. ESCARENO ENTERED PII 'S BED ROOM WHILE SHE WAS SLEEPING AND WOKE HER BY TOUCHING HER VAGINA. PII BELIEVE THE CONTACT WAS SKIN ON SKIN. ESCARENO WAS EXTREMELY INTOXICATED

10. ☒ Firearms were: ☐ observed ☐ reported ☐ searched for ☒ seized

11. ☒ The person to be protected lives with the person to be restrained and requests an order that the restrained person move out immediately from the address in item 3c.

12. ☐ The person to be protected has minor children in common with the person to be restrained, and a temporary custody order is requested because of the facts alleged in item 9. A custody order ☐ does ☐ does not exist.

By: J. WOOD (PRINT NAME OF LAW ENFORCEMENT OFFICER) (SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: MENDOCINO SHERIFF Telephone No.: PII [redacted] Badge No.: 2210

PROOF OF SERVICE

13. Person served *(name)*: EDUARDO ESCARENO-DAVILA

14. I personally delivered copies of this Order to the person served as follows: Date: 11/13/24 Time: 1105
Address: PII [redacted]

15. At the time of service, I was at least 18 years of age and not a party to this cause. ☒ I am a California law enforcement officer.

16. My name, address, and telephone number are *(this does not have to be server's home telephone number or address)*:
J. WOOD 951 LOW GAP RD UKIAH CO 95482 [redacted] PII

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Date: 11/13/24

J. WOOD (TYPE OR PRINT NAME OF SERVER) (SIGNATURE OF SERVER)

CONTROLLED DOCUMENT
DO NOT DUPLICATE
TO: T. CAUDILLO
BY: JR2763
DATE: 3/13/2025

Form Adopted for Mandatory Use
Judicial Council of California
EPO-001 [Rev. January 1, 2014]
Approved by DOJ

EMERGENCY PROTECTIVE ORDER (CLETS–EPO)
(Domestic Violence, Child Abuse, Elder or Dependent Adult Abuse, or Stalking)

Family Code, §§ 6240–6275; Penal Code, § 646.91
www.courts.ca.gov

CH-110 Temporary Restraining Order

Person in (1) must complete items (1), (2), and (3) only.

NOV 20 2024

Clerk stamps date here when form is filed.

FILED
11/20/2024
KIM TURNER, CLERK OF THE COURT
SUPERIOR COURT OF CALIFORNIA,
COUNTY OF MENDOCINO
Bynum, Dineen
DEPUTY CLERK

(1) Protected Person

a. Your Full Name: [redacted] PII

Your Lawyer *(if you have one for this case)*:
Name: _____ State Bar No.: _____
Firm Name: _____

b. Your Address *(If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or email.)*:
Address: [redacted] PII
City: PII State: PII Zip: PII
Telephone: [redacted] PII Fax: _____
Email Address: _____

Fill in court name and street address:

Superior Court of California, County of
MENDOCINO
100 North State Street
Ukiah, CA 95482

Ukiah Branch

Court fills in case number when form is filed.

Case Number:
24CV01457

(2) Restrained Person

(Give all the information you know. Information with a star (*) is required to add this order to the California police database. If age is unknown, give an estimate.)

*Full Name: Eduardo Escareno-Davila *Age: [redacted] Date of Birth: Unknown
*Race: [redacted] Height: [redacted] Weight: [redacted] Hair Color: [redacted] Eye Color: [redacted]
*Gender: [redacted] Home Address: Unknown
City: Unknown State: Unk. Zip: Unknown
Relationship to Protected Person: I know Eduardo Escareno-Davila AKA Luis Escareno, Luis Davila, Eduardo Escareno, Edwardo Davila because he is a current roommate and a former roomate.

(3) ☒ Additional Protected Persons

In addition to the person named in (1), the following family or household members of that person are protected by the temporary orders indicated below:

Full Name	Gender	Age	Household Member?	Relation to Protected Person
PII [redacted]	F	24	☒ Yes ☐ No	Roommate
			☐ Yes ☐ No	
			☐ Yes ☐ No	
			☐ Yes ☐ No	

☐ *Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use form MC-025, Attachment.*

The court will complete the rest of this form.

(4) Expiration Date

This Order expires at the end of the hearing scheduled for the date and time below:

Date: 12/9/2024 Time: 9:00 ☒ a.m. ☐ p.m.

This is a Court Order.

Case Number:

To the Person in (2):

The court has granted the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to $1,000, or both.

(5) Personal Conduct Orders

☐ **Not Requested** ☐ **Denied Until the Hearing** ☒ **Granted as Follows:**

a. You must **not** do the following things to the person named in (1)
☒ and to the other protected persons listed in (3):

(1) ☒ Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.

(2) ☒ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by email, by text message, by fax, or by other electronic means.

(3) ☒ Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.

(4) ☒ Other *(specify):*

☐ Other personal conduct orders are attached at the end of this Order on Attachment 5a(4).

b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the person in (1).

(6) Stay-Away Order

☐ **Not Requested** ☐ **Denied Until the Hearing** ☒ **Granted as Follows:**

a. You must stay at least 100 yards away from *(check all that apply):*

(1) ☒ The person in (1)
(2) ☒ Each person in (3)
(3) ☒ The home of the person in (1)
(4) ☒ The job or workplace of the person in (1)
(5) ☐ The school of the person in (1)
(6) ☐ The school of the children of the person in (1)
(7) ☐ The place of child care of the children of the person in (1)
(8) ☒ The vehicle of the person in (1)
(9) ☐ Other *(specify):*

b. This stay-away order does not prevent you from going to or from your home or place of employment.

(7) No Firearms (Guns), Firearm Parts, or Ammunition

a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get any prohibited items listed in b on the next page.

This is a Court Order.

b. **Prohibited items are:**

(1) Firearms (guns);

(2) Firearm parts, meaning receivers, frames, or any item that may be used as or easily turned into a receiver or frame (see Penal Code section 16531); and

(3) Ammunition.

c. You must:

(1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts in your immediate possession or control. This must be done within 24 hours of being served with this Order.

(2) File a receipt with the court within 48 hours of receiving this Order that proves that your firearms (guns) and firearm parts have been turned in, sold, or stored. (You may use *Receipt for Firearms and Firearm Parts* (form CH-800) for the receipt.)

d. ☒ The court has received information that you own or possess a firearm (gun), firearm parts, or ammunition.

(8) Possession and Protection of Animals

☐ **Not Requested** ☐ **Denied Until the Hearing** ☒ **Granted as Follows** *(specify):*

a. ☐ The person in (1) is given the sole possession, care, and control of the animals listed below, which are owned, possessed, leased, kept, or held by him or her, or reside in his or her household.
(Identify animals by, e.g., type, breed, name, color, sex.)

Orange tabby male cat named Apollo, Black male cat named Hades, Tan Lab Mixed Breed named Mercy, Grey and white tabby cat named Franny, calico tabby cat named Fillipa Bucket, any other animals that may be in the home or on the property.

b. ☒ The person in (2) must stay at least 500 yd yards away from, and not take, sell, transfer, encumber, conceal, molest, attack, strike, threaten, harm, or otherwise dispose of, the animals listed above.

(9) Other Orders

☐ **Not Requested** ☒ **Denied Until the Hearing** ~~☐ Granted as Follows *(specify):*~~

An order for Eduardo Escareno-Davila to move out of the home, [redacted] PII [redacted], with a civil stand-by and pay the agreed upon bills for the months lived in the home and, having personal items in the home, as well as follow the agreement made upon move in that Eduardo Escareno-Davila will pay the month rent following his move out of the home.

☐ Additional orders are attached at the end of this Order on Attachment 9.

To the Person in (1):

(10) Mandatory Entry of Order Into CARPOS Through CLETS

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). *(Check one):*

a. ☒ The clerk will enter this Order and its proof-of-service form into CARPOS.

b. ☐ The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.

This is a Court Order.

c. ☒ By the close of business on the date that this Order is made, the person in (1) or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency	Address *(City, State, Zip)*
Mendocino County Sheriff's Office	

☐ Additional law enforcement agencies are listed at the end of this Order on Attachment 10.

(11) No Fee to Serve (Notify) Restrained Person ☒ **Ordered** ☐ **Not Ordered**

The sheriff or marshal will serve this Order without charge because:

a. ☒ The Order is based on unlawful violence, a credible threat of violence, or stalking.

b. ☐ The person in (1) is entitled to a fee waiver.

11/20/2024 11:53:29 AM

(12) Number of pages attached to this Order, if any: _____

Date: 11/20/2024

Judicial Officer

Warnings and Notices to the Restrained Person in (2)

You Cannot Have Firearms (Guns), Firearm Parts, or Ammunition

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get any prohibited items listed in item 7b on page 3 while this Order is in effect. If you do, you can go to jail and pay a $1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any firearms (guns) and firearm parts that you have or control as stated in item (7) above. The court will require you to prove that you did so.

Notice Regarding Nonappearance at Hearing and Service of Order

If you have been personally served with this Temporary Restraining Order and form CH-109, *Notice of Court Hearing,* but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this Temporary Restraining Order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the address in item (2).

If this address is not correct or you wish to verify that the Temporary Restraining Order was converted into a restraining order at the hearing without substantive change, or to find out the duration of the order, contact the clerk of the court.

After You Have Been Served With a Restraining Order

- Obey all the orders.
- Read form CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?,* to learn how to respond to this Order.
- If you want to respond, fill out form CH-120, *Response to Request for Civil Harassment Restraining Orders,* and file it with the court clerk. You do not have to pay any fee to file your response if the Request claims that you inflicted or threatened violence against or stalked the person in (1).

This is a Court Order.

- You must have form CH-120 served by mail on the person in (1) or that person's attorney. You cannot do this yourself. The person who does the mailing should complete and sign form CH-250, *Proof of Service by Mail*. File the completed proof of service with the court clerk before the hearing date or bring it with you to the hearing.
- In addition to the response, you may file and have declarations served, signed by you and other persons who have personal knowledge of the facts. You may use form MC-030, *Declaration*, for this purpose. It is available from the clerk's office at the court shown on page 1 of this form or at *www.courts.ca.gov/forms*. If you do not know how to prepare a declaration, you should see a lawyer.
- Whether or not you file a response, you should attend the hearing. If you have any witnesses, they must also go to the hearing.
- At the hearing, the judge can make restraining orders against you that last for up to five years. Tell the judge why you disagree with the orders requested.

Instructions for Law Enforcement

Enforcing the Restraining Order

This order is enforceable by any law enforcement agency that has received the order, is shown a copy of the order, or has verified its existence on the California Restraining and Protective Orders System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, the agency must advise the restrained person of the terms of the order and then must enforce it. Violations of this order are subject to criminal penalties.

Start Date and End Date of Orders

This order *starts* on the date next to the judge's signature on page 4. The order *ends* on the expiration date in item (4) on page 1.

Arrest Required if Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed the order, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the Proof of Service or confirms that the Proof of Service is on file; or
- The restrained person was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified, the agency must advise the restrained person of the terms of the order and then enforce it.

This is a Court Order.

If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The order can be changed only by another court order. (Pen. Code, § 13710(b).)

Conflicting Orders—Priorities for Enforcement

If more than one restraining order has been issued protecting the protected person from the restrained person, the orders must be enforced in the following priority (see Pen. Code, § 136.2 and Fam. Code, §§ 6383(h)(2), 6405(b)):

1. *Emergency Protective Order (EPO):* If one of the orders is an *Emergency Protective Order* (form EPO-001), provisions (e.g., stay-away order) that are more restrictive than in the other restraining/protective orders must be enforced. Provisions of another order that do not conflict with the EPO must be enforced.
2. *No-Contact Order:* If a restraining/protective order includes a no-contact order, the no-contact order must be enforced. Item 5a(2) is an example of a no-contact order.
3. *Criminal Protective Order (CPO):* If none of the orders include an EPO or a no-contact order, the most recent CPO must be enforced. (Fam. Code, §§ 6383(h)(2) and 6405(b).) Additionally, a CPO issued in a criminal case involving charges of domestic violence, Penal Code sections 261, 261.5, or former 262, or charges requiring sex offender registration must be enforced over any civil court order. (Pen. Code, § 136.2(e)(2).) All provisions in the civil court order that do not conflict with the CPO must be enforced.
4. *Civil Restraining Orders:* If there is more than one civil restraining order (e.g., domestic violence, juvenile, elder abuse, civil harassment), then the order that was issued last must be enforced. Provisions that do not conflict with the most recent civil restraining order must be enforced.

(Clerk will fill out this part.)

Clerk's Certificate
[seal]

—Clerk's Certificate—

I certify that this *Temporary Restraining Order* is a true and correct copy of the original on file in the court.

Date: _____ Clerk, by _____, Deputy

This is a Court Order.

STATE OF CALIFORNIA - COUNTY OF MENDOCINO
SEARCH WARRANT

MCSO#2024-23393.1

The People of the State of California to any Sheriff, Constable, Marshall, Or Police Officer in the County of Mendocino: proof by affidavit having been made before me by

Jack Woida #2710

that there is probable cause to believe that the property/or person described herein may be found at the locations set forth herein and is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "X"(s) in that:

____it was stolen or embezzled.
____ it was used as the means of committing a felony.
_XX_ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purposes of concealing it or preventing its discovery,
____ it tends to show that a felony has been committed or that a particular person has committed a felony,
____ it tends to show that sexual exploitation of a child, in violation of Section 311.3 or depiction of sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring,
____ there is a warrant for the person's arrest,

YOU ARE THEREFORE COMMANDED TO SEARCH: The premises, vehicle(s), and/or person(s) described in exhibit "A" attached hereto and incorporated herein by this reference.
FOR THE FOLLOWING PROPERTY / PERSON: The property and/or persons described in exhibit "B" attached hereto and incorporated herein by this reference.
YOU ARE THEREFORE COMMANDED, within five business days after receipt of this search warrant to deliver by mail or otherwise, to the above named law enforcement officer, together with the declaration as set forth below, a true, durable, and legible copy of the requested records listed in exhibit "B". See California Penal Code 1524.2.

AND TO SEIZE IT IF FOUND and bring it forthwith before me, or maintain it at a suitable location of a law enforcement agency pursuant to Penal Code section 1536. This Search Warrant and incorporated Affidavit, and all attachments thereto, were sworn to as true and subscribed before me this 13 day of Nov. 2024, at 8:05 A.M./P.M. Wherefore; I find probable cause for the issuance of this Search Warrant and do issue it.

_____ (Judge of the Superior Court) [illegible]

YES NO

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BY:JR2763
DATE:3/13/2025

STATE OF CALIFORNIA-COUNTY OF MENDOCINO

MCSO#2024-23393.1

AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

Jack Woida #2710, a Peace Officer, swears under oath that the facts expressed by him in this search warrant and affidavit and in exhibit "C", statement of probable cause, and any and all attachments thereto, are true and that based thereon he has probable cause to believe and does believe that the property and/or person described herein is lawfully seizable pursuant to Penal Code section 1524, as indicated herein, and is now located at the places herein set forth. Wherefore, affiant requests that this Search Warrant be issued. **Exhibits "A", "B", and "C", and all attachments thereto are attached hereto and incorporated herein by this reference.**

_____, **NIGHT SERVICE REQUESTED () YES (X) NO**

(Signature of Affiant)

Subscribed and sworn before me this 13 day of Nov. 2024 at Ukiah, California at the hour of

8:05 a.m./p.m.

_____

JUDGE OF THE SUPERIOR COURT

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Exhibit "A"
Premises, Persons and Property to be Searched:

The Premises of PII which is described as a three bedroom, single family residence. This is a shared residence between Eduardo Guadalupe Escareno-Davila DOB PII, PII DOB PII, and PII DOB PII.

This search is to include all vehicles, storage containers, and outbuildings under the control of Eduardo Escareno and PII.

The person of Eduardo Escareno who has a California Driver's License of PII.

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Exhibit "B"
Items to be Seized:

- Photos of the residence
- Photos of Eduardo Escareno
- DNA Buccal swab from Eduardo
- Any and all digital media devices belonging to Eduardo, to include but not limited to: cell phone(s), computers, laptops, tablets, or other electronic devices. This is to include Eduardo's cell phone.

Forensic analysis and download of the devices, to include but not limited to: device information, indicia of ownership and control for the cellular device and data, photographs, images, image hash details, video files, audio files, image / video / audio metadata, plug-ins, contents, calendar, call logs (deleted and intact), chats, contacts, social network posts/updates/tags, Wi-Fi networks, associated wireless devices, associated connected devices, stored passwords, cookies, emails, installed applications, global positioning system (GPS) coordinate location history, text messages (SMS - deleted and intact), multi-media messages (MMS – deleted and intact), device timeline, user accounts, web bookmarks, web or internet browsing history, all financial information, data files, activity analytics, phone analytics, email analytics, and uncategorized data.

This download is to include all data located on the device and other possible media storage located in/on the device that constitute evidence and instrumentalities 664/289 PC and 243.4 (e)(1) PC occurring between 11/10/24 through 11/13/24, including communications referring or relating to this investigation.

This download is to include a physical, file system, and logical download of said cellular telephone, which includes intact data and data that may have been deleted and can be recovered from the device.

The court authorizes the use of person(s) who are not peace officers to accompany and assist the Peace Officers during the execution this Search Warrant for the purpose of assisting in the service of this Search Warrant as provided for under California Penal Code Section 1530.

With respect to the digital media items listed in this warrant, Peace Officers are authorized to transfer the booked evidence to a Law Enforcement Agency location prior to commencing the search of the items. Furthermore, said search may continue beyond the ten-day period beginning upon issuance of this Search Warrant, to the extent necessary to complete the search on the evidence and any items listed above. Analysis of any item seized may also have to be done by a qualified professional authorized by law enforcement or an allied agency to include the Northern

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California Computer Crimes Task Force, DOJ, FBI, District Attorney's Office, or other governmental agency.

If necessary, investigating officers are authorized to employ the use of outside experts, acting under the direction of the investigating officers, to access and preserve data on the cellular device at the time of the seizure or at any future time while the evidence is in the control of the investigating agency. Those items that are within the scope of this warrant may be copied and retained by investigating officers.

Some of the procedures used to extract data from digital devices may damage the device or render it permanently inoperable.

Authorization to implement special procedure(s): The Affidavit filed herewith has demonstrated legal justification for the implementation of the following special procedures which shall be employed by the officers who execute this warrant:

California's Electronic Communications Privacy Act (ECPA) ORDER
IT IS HEREBY ORDERED that any information obtained through the execution of this warrant that is unrelated to the objective of the warrant shall be sealed and shall not be subject to further review, use, or disclosure absent an order from the Court, or to comply with California code 1054 and Brady v Maryland.

Biometric unlock of digital devices Order ORDER
IT IS HEREBY ORDERED, that investigators may compel, by the use of reasonable force if required, the owner of a cell phone, or such other system or device, ordered to be searched by this search warrant, to provide a fingerprint or other biometric information needed to unlock the device, if that item can be unlocked with a fingerprint or biometric information.

Digital Forensic Search ORDER
IT IS HEREBY ORDERED that good cause having been established in the affidavit filed herein, the officers who execute this warrant are authorized to conduct a review or forensic analysis of digital items such as computers, mobile devices, or computer-related equipment either specifically listed in this warrant or located at the location described in this warrant and seize data or digital records from the examined devices. Such data may be copied and retained by investigating officers. If necessary, investigating officers are authorized to employ the use of outside experts, acting under the direction of the investigating officers, to access and preserve data on the cellular device. Any item that is either believed or determined to contain relevant evidence shall be seized.

IT IS FURTHER ORDERED that the investigating officers are authorized to transport the seized evidence to either the Mendocino County Sheriff's Office or an allied Law Enforcement Agency location to continue the forensic examination of the items.

With respect to the digital media items listed in this warrant, Peace Officers are authorized to transfer the booked evidence to a Law Enforcement Agency location prior to commencing the search of the items. Furthermore, said search may continue beyond the ten-day period beginning

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upon issuance of this Search Warrant, to the extent necessary to complete the search on the evidence and any items listed above. Analysis of any item seized may also have to be done by a qualified professional authorized by law enforcement or an allied agency to include the Northern California Computer Crimes Task Force, DOJ, FBI, District Attorney's Office, or other governmental agency.

California Penal Code Prohibited Violation Attestation In compliance with the requirements outlined in California Penal Code § 1524.2(c) & § 1546.5(a) your affiant attests that the evidence sought in this search warrant is not related to an investigation into, or enforcement of, a prohibited violation, as defined in California Penal Code § 629.51.

Exhibit "C"
Statement of Probable Cause

Your affiant states he has received the following training and experience in the field of criminal investigation:

Training and Experience

Mendocino County Sheriff's

Deputy Jack Woida #2710

Your affiant states he has received the following training and experience in the field of criminal investigations. I, Jack Ryan Christopher Woida #2710, am a peace officer employed by the Mendocino County Sheriff's Office; and have been so since May of 2014. I was initially employed by the Mendocino County Sheriff's Office as a Correctional Deputy, but I transferred to the Fields Serves Division in June of 2017.

1. Your affiant attended a basic Police Officer Academy at College of the Redwoods in Eureka which consisted of 23 weeks in 2017. As part of that training your affiant received state mandated training in defensive tactics, chemical agents, pursuit driving, interview techniques, basic evidence gathering, introductory traffic investigation, an 11550 H&S evaluation class, a basic drug identification course, property crimes investigations, operation and qualification of handgun and shotgun, and completion of a training course meeting the requirements of Penal Code section 872(b): Hearsay Evidence Testimony. Your affiant also received instruction in criminal law, gangs, and numerous other subjects including felony level crimes.

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2. A 16 week Field Training phase with the Mendocino County Sheriff's Office. During the training phases your affiant's training expanded upon the academy curriculum. Your affiant had training officers who had testified as narcotics experts. Your affiant spent many hours discussing gang crimes and narcotics crimes with his training officers, as well as Mendocino County MAGSU gang task-force member (Brian Arrington).

3. Your affiant has made no less than 60 arrests for drug related violations to include under the influence of controlled substances (stimulants and depressants), possession of controlled substances, and possession of drug paraphernalia.

4. Your affiant has made no less than 10 arrests for possession and transportation of controlled substances (stimulants and depressants) for sales. Your affiant has discussed and been trained in the methods of sale and packaging of methamphetamine, marijuana and other illicit drugs by former Mendocino Major Crimes Task Force experts.

5. Your affiant has participated in the service of no less than 5 search warrants. One of which was for narcotics which I located and identified a Butane Honey Oil Lab and a second for firearms were I assisted in locating numerous firearms.

6. Your affiant has discussed with numerous persons who are addicted to narcotics about how much they use, the methods of use, and how it affects them.

7. No less than 50 times your affiant has performed presumptive tests on narcotics substances leading to positive and proper identification of seized controlled substances.

8. Your affiant has discussed with more experienced narcotics officer/instructors regarding identification, packaging materials, methods of concealment, habits of the user, and the effects of narcotics.

9. Your affiant has investigated felony level crimes to include burglary, felony level assaults, prohibited persons in possession of firearms, and possession of stolen property.

10. Your affiant has questioned no less than 10 criminal street gang members to include Norteno's and Sureno's. Included in the questioning was the meanings of different tattoos, how gang members use tattoos and clothing to identify them themselves with a specific gang, the use of monikers, and the identification of "micro writing" as a means of communication.

11. Your affiant has seen growing marijuana indoor and outdoor no less than fifty times and has seen packaged marijuana no less than one hundred times.

12. Your affiant has completed a POST Certified training on 11479 HS regarding evidence collection for cultivations of marijuana.

13. Your affiant has completed a DEA sponsored overflight training regarding locating/photographing marijuana during overflights. During the course your affiant assisted in the service of a search warrant that conformed the marijuana that had been spotted from the air.

14. Your affiant has completed a DEA sponsored overflight training regarding locating/photographing marijuana during overflights. During the course your affiant assisted in the service of a search warrant that conformed the marijuana that had been spotted from the air.

15. Your affiant completed a Less Lethal Munitions Instructor Course presented by ALS Defense in September of 2019.

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16. In October of 2019 your affiant completed an 80 hour POST Certified Basic SWAT Course.

17. Your affiant completed a 40 hour POST Certified Field Training Officer course in November of 2019.

18. Your affiant completed a 40 hour manual, mechanical, ballistic, thermal, and hydraulic breaching certification course presented by Forced Entry Tactical Training USA in January of 2020.

19. Your affiant completed a 140 hour POST and CNCA certified Basic K9 handler course in Novato CA where my K9 partner "Bo" was certified in explosives detection and patrol functions (obedience, handler protection, tracking, and apprehension) in June of 2020.

20. Your affiant completed a 200 hour POST certified Basic K9 handler course in Chico CA where my K9 partner "Lin" was certified in firearms detection and patrol functions (obedience, handler protection, tracking, and apprehension) in Match of 2023.

21. Your affiant completed a 40 hour POST certified ICI Sexual Assault Investigator course in Monterey CA in May of 2023. This course covered investigations related to adults and children. Course content included the link between the sexual abuse of children and the manufacturing and distribution of child sexual abuse material (CSAM) by the same subjects.

Your affiant says that the facts in support of the issuance of a search warrant are as follows:

On 11/13/24 at approximately 0400 hours, Sgt Vazquez was dispatched to a reported sexual assault that just occurred at [redacted] PII [redacted]. PII [redacted] was the reporting person who explained she was awoken because she felt something cold touching the outside of her vagina (skin to skin). When PII [redacted] rolled over to see what was touching her, she heard a "thud" and observed Eduardo laying on her floor.

It should be noted PII [redacted] is employed by Willits CPS and Eduardo is a Deputy with the Mendocino County Sheriff's Office and I know both from prior professional contacts.

Deputy Nelson responded with Sgt. Vazquez and obtained an initial statement from PII [redacted]. There was an additional roommate in the house name PII [redacted] however after this incident occurred, PII [redacted] had PII [redacted] go stay at a different location.

I was contacted by Lt. Porter and assigned to investigate this incident, so Sgt Vazquez transported PII [redacted] to the Ukiah Detective's Office where she told me the following in summary:

PII [redacted] and PII [redacted] have lived at PII [redacted] for a few years and Eduardo became their roommate around December of 2023. PII [redacted] nor PII [redacted] knew Eduardo (personally) prior to him moving in however they needed a roommate, and he was looking for a place to live. PII [redacted] was aware that Eduardo.

After Eduardo moved in PII [redacted] and PII [redacted] maintained a professional friendship with Eduardo and they did not socialize together nor spend time together unless it was work related. There is no

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BY:JR2763
DATE:3/13/2025

history of any romantic relationship between Eduardo and PII nor PII. Eduardo and PII would occasionally text each other however it was only related to work or rent being do.

On 11/12/24 around 1830 hours, PII and PII were at home eating dinner and visiting on the couch when Eduardo arrived home from running some errands. There was a casual exchange of small talk between Eduardo and PII however Eduardo continued with his night with nothing to note. PII went to sleep around 2230 hours and left her door partially propped open because she fosters cats, and they need access to her room during the night.

In the early hours of the morning on 11/13/24 at approximately 0400 hours, PII was sleeping in her bed on her side. She felt something cold touching her vagina (skin to skin) which is what initially woke her up. As PII rolled over to investigate, she heard a "thud" and observed Eduardo laying on her floor wearing a white t-shirt and black sweatpants. When asked, PII explained she was wearing a yellow shirt and green shorts without any underwear on.

PII confronted Eduardo about why he was in her room and PII noted, Eduardo's speech was slurred, and he was not making much sense. Eduardo initially tried to tell PII that he was in there looking for one of the cats. This did not make sense to PII because Eduardo did not care for the cats, nor was he a "cat person". PII continued to confront Eduardo about her belief that he was just touching her vagina. Eduardo began to apologize and told PII he was sorry. Eduardo asked PII if she was going to call law enforcement which she acknowledged she was going to call. Eduardo made a comment stating something to the effect that his "career was fucked".

Eduardo was present with PII when she called MCSO Dispatch and Eduardo asked PII how long it was going to take for deputies to arrive. Eduardo was also upset and began throwing up so PII got him some water. Eduardo acknowledged he was intoxicated, and PII asked why he went into her room. Eduardo responded by telling PII that he chose her room because her door was open. Eduardo continued to tell PII he was sorry for what he did, but he did not make any direct statements about what his intentions were.

When PII and Eduardo talked, he was in possession of his phone PII believed Eduardo was going to make some calls based on his repeated statements that he was sorry for what he did.

I am aware based on training and experience investigating cases like these that the alleged suspected may contacted family members to express what happened which would include potential incriminating or exculpatory evidence. Given that Eduardo was in possession of his phone leads me to believe he used it to contact others and inform them about what happened.

Based on PII 's statements I also believe there is a likelihood Eduardo's DNA would be on her shorts.

I also know that subjects involved in cases like this often-complete internet searches before or after the commission of the offence. This ranges from searching for possible defenses, or ways to get rid of potential evidence. Additionally, the search and download of subjects phones can also lead to unknown exculpatory evidence being discovered.

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BY:JR2763
DATE:3/13/2025

PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

July 16, 2026
AGENDA
10:00 AM

Meeting Location: CA Commission on POST Headquarters, 860 Stillwater Road - Training Rooms A/B, West Sacramento, CA 95605.

The Peace Officer Standards Accountability Advisory Board (Board) operates under the requirements set forth by the Bagley-Keene Open Meeting Act (Bagley-Keene) under Government Code sections 11120 through 11132. Bagley-Keene generally requires that the Board publicly notice meetings, prepare agendas, allow public participation, and conduct meetings in a location accessible to public members unless specifically authorized by Bagley-Keene to meet in closed session.

Public comment will be limited in time at the discretion of the Board Chair. The public comment period preceding items on the agenda will allow members of the public to comment on items not on the agenda but that are within the Board's jurisdiction. The Board cannot act on or deliberate on items not on the agenda and can discuss the matter only to the extent necessary to determine whether it should be made an agenda item at a future meeting, to respond briefly to statements or questions posed during public comment or to request clarification, or to refer the item to staff. Agenda items may be taken out of order and action (e.g., voting) may be taken on any agenda item. Public comment relating to each item on the agenda will be allowed at the time each matter is heard. Members of the public who wish to participate during public comment may do so in person by attending the meeting, or, as stated hereafter, by telephonic means or by submitting written public comment.

Written public comment is intended to allow members of the public, if unable to attend in person, an opportunity to participate to the same degree as if they attended in person; as such, written comments should be limited to no more than three pages in length and longer written comment will not be accepted or distributed to Board members. To be considered for inclusion in the meeting record, written comments should be received by no later than 10 a.m. on the fourth business day before the scheduled meeting. Accepted written public comments will be published on POST's website under the Public Comment section under the corresponding meeting date. Written public comments can be submitted via email to posadpc@post.ca.gov. Telephonic public comment can be made by dialing (916) 866-9583 and following the prompts provided.

Persons requesting disability-related accommodations or modifications may do so by contacting the Board assistant at (916) 227-3909 (voice), posadpc@post.ca.gov (email), or Speech-to-Speech users may dial 7-1-1 for the California Relay Service to request special accommodations. Please note: This meeting and all public meetings will be recorded.

No weapons are allowed on the premises during public meetings. Upon entering POST's

facility, you are subject to a weapons screening and will be denied entry if you possess any weapon. POST's Executive Director retains the discretion to grant exceptions for duly-authorized individuals, such as on or off-duty law enforcement officers who are not the subject of a POST administrative investigation, suspension, or decertification action.

I. CALL TO ORDER

II. ROLL CALL OF POSAAB MEMBERS

Dr. Nicole Clavo Psy.D - Governor Appointee - Public Member
Regina Hatcher-Crawford - Governor Appointee - Public Member
Robert Doyle - Governor Appointee - Former Command Rank Peace Officer
Joyce E. Dudley - Chair - Governor Appointee - Attorney
Cephus Johnson - Governor Appointee - Public Member
Captain Charles Lara - Governor Appointee - Management Rank Peace Officer
Margaret Pena - Speaker of Assembly Appointee - Public Member
Vacant - Senate Rules Appointee - Public Member
Vacant - Governor Appointee - Public Member

III. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

The Board Chair will advise the audience of the following:

This time is set aside for members of the public who wish to comment on items not on the agenda but within the board's jurisdiction. Public comment on matters on the agenda will be heard at the time each item is called. 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. Members of the public who wish to speak during the public comment period may be asked to limit their remarks in time at the discretion of the Board Chair.

IV. APPROVAL OF MEETING TRANSCRIPTS

Approval of meeting transcripts from the previous Peace Officer Standards Accountability Advisory Board Meeting held on April 15, 2026.

a. Approval of Meeting Transcript from the April 15, 2026 Hearing

If the Board concurs, the appropriate action would be a **MOTION** to approve the meeting transcripts from the last Board meeting.

V. ASSISTANT EXECUTIVE DIRECTOR COMMENTS

VI. NEW BUSINESS

a. Proposed 2027 Peace Officer Standards Accountability Advisory Board Meeting Dates

If the Board concurs, the appropriate action would be a **MOTION** to approve the 2027 POSAAB meeting dates.

b. Report on Data for Serious Misconduct Reporting, Investigations, and Disciplinary Action Outcomes

This item is presented for information only. No action is required.

VII. NEW CASES - REVIEW, DISCUSSION AND RECOMMENDATIONS TO COMMISSION

a. POST2507244 - Eduardo Escareno-Davila (POST ID: C99-P62) Last Employing Agency: Mendocino County Sheriff's Office

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

b. POST2505112 - Kevin Smithmatungol (POST ID: C88-T32) Last Employing Agency: Daly City Police Department

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

VIII. CLOSED SESSION

At this time the meeting will adjourn into closed session for for deliberations on the cases presented today.

IX. FUTURE BOARD MEETING DATES FOR 2027

Upcoming Board meetings will be held:

- October 14-15, 2026 - POST HQ, West Sacramento

X. ADJOURNMENT

AGENDA ITEM REPORT

Title: POST2507244 - EDUARDO ESCARENO-DAVILA (POST ID: C99-P62) LAST EMPLOYING AGENCY: MENDOCINO COUNTY SHERIFF'S OFFICE

REPORT PROFILE

MEETING DATE 07/16/2026	**BUREAU SUBMITTING THE REPORT** Peace Officer Standards Accountability Division	
RESEARCHED BY Gerald Fernandez	**REVIEWED BY** Robert Guyton	
REPORT DATE	**APPROVED BY** Annemarie Del Mugnaio	**DATE APPROVED**
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

The matter is before the Peace Officer Standards Accountability Advisory Board (POSAAB) for review and recommendations regarding the subject peace officer's certification status.

BACKGROUND:

Respondent began his employment with the Mendocino County Sheriff's Office (MCSO) on June 11, 2023 as a Trainee, becoming a full-time Deputy Sheriff/Coroner on December 10, 2023. Respondent held a peace officer position as defined under California Penal Code § 830.1(a). Respondent did not earn a peace officer certificate from POST; however, he was issued a Proof of Eligibility (POE) by POST, based on his appointment as a peace officer by the MCSO. At the time of the event at issue, Respondent was off duty. Approximately a week later, he was released during his probationary period. Respondent's POE expired upon his separation from the MCSO.

On November 13, 2024, at approximately 0310 hours, while off duty, Respondent surreptitiously entered his roommate's (Victim) bedroom and touched her vaginal area while she was sleeping. Respondent's physical touch woke Victim up. When Victim turned on the light in her bedroom, she saw Respondent lying on the floor, attempting to hide under her bed.

Victim confronted Respondent, who appeared intoxicated. Respondent told Victim he was looking for a white cat that used to be Victim's pet. Respondent repeatedly told Victim he was sorry. Respondent had never been in Victim's bedroom before, which was an unspoken rule that it was off-limits, according to the Victim. Although they were roommates, Respondent and Victim had never been in a romantic relationship, nor was there any reason to suggest she was romantically interested in him.

Respondent admitted that he had consumed beer the night of the incident and was intoxicated. He admitted that he lied to Victim when he said he was looking for the white cat. Respondent said that he went into Victim's bedroom, touched her foot, and moved his hand up her leg until he reached her calf area, at which point Victim woke up so he stopped. However, Respondent denied touching Victim's vaginal area. After Victim confronted Respondent, she called the MCSO to report the incident. MCSO deputies responded to Victim's call for service, interviewed Victim, and later the Respondent. An Emergency Protective Order (EPO) was served upon Respondent.

On December 9, 2024, Respondent was charged with one count of sexual battery, Penal Code § 243.4(e)(1), a misdemeanor. On February 20, 2026, the Complaint was amended to add a misdemeanor battery charge for Penal Code §§ 242 and 243(a). Respondent then pled guilty to the misdemeanor battery charge, and the court dismissed the sexual battery charge. The court then suspended sentencing based on a deferred entry of judgment/non-drug program. If Respondent abides by all the conditions of his deferred entry of judgment, it is possible that the battery charge will be dismissed on February 19, 2027.

On May 15, 2025, the MCSO initiated an administrative investigation predicated on the Victim's original allegations and related criminal investigation. On July 10, 2025, the administrative investigation was completed with sustained findings for policy violations for standards of conduct, laws rules and orders, and sexual battery by the MCSO.

Video Evidence Link:

- **BR09 POST2507244 EscarenoDavila Eduardo Attachment E Victim Interview with Detective Woida**
- **BR10 POST2507244 EscarenoDavila Eduardo Attachment F Dispatch Call 1**
- **BR11 POST2507244 EscarenoDavila Eduardo Attachment G Dispatch Call 2**
- **BR12 POST2507244 EscarenoDavila Eduardo Attachment H Initial Victim Interview**
- **BR16 POST2507244 EscarenoDavila Eduardo Attachment L Respondent Interview**
- **BR17 POST2507244 EscarenoDavila Eduardo Attachment M Respondent Demonstration**
- **BR18 POST2507244 EscarenoDavila Eduardo Attachment N Video of Respondent Pointing Here**

ANALYSIS:

Clear and convincing evidence substantiated that the Respondent violated California Penal Code §13510.8(b)(6) and Commission Regulation §1205(a)(6), Acts that Violate the Law. Specifically, Respondent violated California Penal Code § 243.4(e)(1) that says, in part, "Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, or any person who, for the purpose of sexual arousal, sexual gratification, or sexual abuse, causes another, against that person's will, to masturbate or touch an intimate part of either of those persons or a third person, is guilty of misdemeanor sexual battery…" Penal Code § 243.4(g)(1) defines an intimate part as "the sexual organ, anus, groin, or buttocks of any person, and the breast of a female."

Respondent violated the law, Penal Code § 243.4(e)(1), sexual battery, when he admittedly crawled into Victim's bedroom without her knowledge or permission and touched Victim's bare skin with his bare hand while she was sleeping in her bedroom. Although Respondent denied touching Victim's vaginal area, he also said three separate times during his investigative interview that he wasn't sure what other parts of Victim's body he touched besides her foot and leg.

Victim's account of the incident was essentially consistent with Respondent's, except that Victim alleged that Respondent had indeed touched her vaginal area, which is what caused her to wake up. Victim was assessed to be highly credible because

she provided consistent statements to dispatch and the responding deputies and she provided specific details when recounting the battery. Additionally, Victim was wearing loose-fitting shorts with no underwear, which made the direct skin-to-skin contact of her vaginal area plausible, which woke her up. Victim has no known motive to fabricate the allegations that Respondent touched her vaginal area and it was not in her best financial interest to have Respondent moved out due to the emergency protective order.

Respondent's actions represented a glaring contradiction with his obligation to uphold the law as a peace officer.

RECOMMENDATION: The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

ATTACHMENT(S):

BR01_POST2507244_EscarenoDavila Eduardo_ISF.pdf
BR02_POST2507244_EscarenoDavila Eduardo_ExecReviewDivisionRec.pdf
BR03_POST2507244_EscarenoDavila_Eduardo_POSTProfile_Redacted.pdf
BR04_POST2507244_EscarenoDavila Eduardo_AgencyIA_Redacted.pdf
BR05_POST2507244_EscarenoDavila Eduardo_Attachment A - Memo of Release_Redacted.pdf
BR06_POST2507244_EscarenoDavila Eduardo_Attachment B - Criminal Complaint_Redacted.pdf
BR07_POST2507244_EscarenoDavila Eduardo_Attachment C - Deferred Entry of Judgment Order.pdf
BR08_POST2507244_EscarenoDavila Eduardo_Attachment D - Personnel Complaint Disposition.pdf
BR13_POST2507244_EscarenoDavila Eduardo_Attachment I - EPO_Redacted.pdf
BR14_POST2507244_EscarenoDavila_Eduardo_Attachment_J_-_TRO_Redacted.pdf
BR15_POST2507244_EscarenoDavila Eduardo_Attachment K - Search Warrant_Redacted.pdf

STATE OF CALIFORNIA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

In Re: CERTIFICATION OF Eduardo Escareno-Davila, **Respondent.**	**BOARD RECOMMENDATION RE: PEACE OFFICER CERTIFICATION** Penal Code section 13510.85(a)(4)

Penal Code section 13510.85 provides that when, upon the completion of an investigation conducted pursuant to subdivision (a) of section 13510.85, the Peace Officer Standards Accountability Division (the Division) finds reasonable grounds for revocation or suspension of a peace officer's certification, it shall notify the peace officer of the Division's determination and reasons for that determination. If the peace officer files a timely review, the Peace Officer Standards Accountability Advisory Board (Board) shall schedule the case for hearing.

Respondent was served with the Division's Notice of Determination Report and accompanying Notice of Intent to Revoke Certification, notifying Respondent the Division found reasonable grounds for revocation of Respondent's POST certification, on April 28, 2026. Respondent requested a review of the Division's determination and reasons for revocation of Respondent's POST certification on May 27, 2026, and the Board scheduled the case for a hearing which was held on July 16, 2026. At the time of Respondent's request for review of the Division's determination, Respondent had been issued the following POST certification(s):

- ☒ Proof of Eligibility
- ☐ Basic
- ☐ Intermediate
- ☐ Advanced
- ☐ Supervisory
- ☐ Management
- ☐ Executive

FACTUAL BASIS

Having considered the Division's presentation at the hearing, the Division's Investigative Summary and Findings and the public comments, the Board concludes that:

X A factual basis for revocation has been established by clear and convincing evidence.

__ A factual basis for suspension has been established by clear and convincing evidence.

__ A factual basis for suspension or revocation has not been established by clear and convincing evidence.

RECOMMENDATION

In light of the facts and circumstances revealed by the Division's investigation in this case, the Board hereby recommends that the following action(s) be taken against Respondent's certification:

X Revocation of Certification

__ (If applicable) The Board further recommends a stay of the Revocation of Certification, subject to the following terms and conditions (see Commission Regulation 1216 and POST Disciplinary Guidelines):

_____

_____

_____

__ Suspension of Certification for the following period of time, not to exceed 3 years, per 11 CCR section 1213(b): _____.

__ (If applicable) The Board further recommends the following terms and conditions (see Commission Regulation 1216 and POST Disciplinary Guidelines), which (unless otherwise noted) must be satisfied before certification will be reinstated. NOTE: Failure to satisfy these terms and conditions may result in a period of suspension exceeding 3 years:

_____

_____

_____

__ (If applicable) The Board further recommends a stay of the Suspension of Certification, subject to the following terms and conditions (see Commission Regulation 1216 and POST Disciplinary Guidelines):

_____

_____

_____

__ No further action.

REASONS FOR DECISION

X In accordance with Penal Code section 13510.85(a)(4) and title 11, California Code of Regulations section 1213, the Board incorporates by reference the Division's Investigative Summary and Findings and hereby adopts the Division's Summary and Findings as the Board's stated reasons for its recommendation in the above captioned matter.

___ (Where applicable) In accordance with Penal Code section 13510.85(a)(4), the Board's reasons for its recommendation are as follows:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Dated: 7/16/26

Chairperson or ~~Designee~~
Peace Officer Standards Accountability
~~Advisory~~ Board

STATE OF CALIFORNIA

COMMISSION ON

PEACE OFFICER STANDARDS AND TRAINING

PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

(POSAAB) MEETING

THURSDAY, JULY 16, 2026

10:00 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:
Kathryn S. Swank
California Certified Shorthand Reporter #13061, RPR

A P P E A R A N C E S

POSAAB MEMBERS PRESENT

JOYCE DUDLEY
Governor Appointee
Attorney
(Chairperson)

ROBERT DOYLE
Marin County Sheriff (Retired)
Vice Chairperson

NICOLE CLAVO, Psy.D.
Governor Appointee
Public Member

REGINA HATCHER-CRAWFORD
Governor Appointee
Public Member

CEPHUS JOHNSON
Governor Appointee
Public Member

CHARLES LARA
Governor Appointee
Management Rank Peace Officer

MARGARET PENA
California State Legislature
(Retired)

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PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD LEGAL COUNSEL

CHRISTOPHER BEATTY
Deputy Attorney General
Department of Justice
Office of the Attorney General

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

POST STAFF

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

GERALD FERNANDEZ
Law Enforcement Consultant
Professional Conduct Northern Division

BRIAN HOFFMAN
Attorney IV
Legal Affairs Bureau

CHANDLER KNAPP
Analyst II
Executive Office

CHRISTINA MOORE
Law Enforcement Consultant
Professional Conduct Central Bureau

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ALSO PRESENT

PUBLIC SPEAKERS

BEATRICE JOHNSON

ANDREA SORCE

KORI McCOY

KRIS KELLY

MELISSA NOLD

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Thursday, July 16, 2026, 10:09 a.m.

West Sacramento, California

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CHAIRPERSON DUDLEY: Good morning, everyone. Today is Thursday, July 16th, 2026. And the time is 10:09. Thank you for attending the Peace Officers Standards Accountability Advisory Board.

Please note this hearing is being livestreamed, recorded and transcribed.

Further, please note that the microphones are auto on/off. When you begin speaking, they will go live with you. You will need to watch your crosstalk.

We will now call the roll of board members.

MR. KNAPP: Thank you, Madam Chair.

CHAIRPERSON DUDLEY: Good morning, Mr. Knapp.

MR. KNAPP: Thank you, everybody.

CHAIRPERSON DUDLEY: Thank you. Good morning.

MR. KNAPP: Member Clavo.

MEMBER CLAVO: Present.

MR. KNAPP: Member Crawford.

MEMBER HATCHER-CRAWFORD: Present.

MR. KNAPP: Member Doyle.

MEMBER DOYLE: Here.

MR. KNAPP: Chair Dudley.

CHAIRPERSON DUDLEY: Here.

MR. KNAPP: Member Johnson.
MEMBER JOHNSON: Present.
MR. KNAPP: Member Lara.
MEMBER LARA: Present.
MR. KNAPP: And Member Pena.
MEMBER PENA: Present.
MR. KNAPP: Thank you. Madam Chair, all members present.
CHAIRPERSON DUDLEY: Wonderful. A quorum has been established.
I would now like to introduce -- to my left is Christopher Beatty and POST Assistant Executive Director Annemarie Del "Munig" -- I got it this time. Del Mu- -- Del "Munio."
MS. DEL MUGNAIO: Del Mugnaio.
CHAIRPERSON DUDLEY: Del Mugnaio. I don't have it this time.
You'd think I would have memorized that by now.
All right. 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

evidentiary hearing.

At the conclusion of each LEC's presentation, the Board will have the opportunity to ask questions, then comment from the subject officer, and/or their counsel will be taken, followed by members of the public. Further discussion by the Board will be allowed, if necessary.

The Board may go into closed session deliberations after each case or wait until all cases have been presented and adjourn into closed session to deliberate on all cases presented after reconvening into regular session. Votes will be taken on each case.

So on to the first case POST507244, Eduardo Escareno-Davila. Post Number C99-P62. Last employing agency, Mendocino County Sheriff's Department.

At this time, I will call upon Law Enforcement Consultant Gerald Fernandez, Professional Conduct Northern Division, and Brian Hoffman, Attorney IV, Legal Affairs Bureau, to provide a report on POST2507244, Eduardo Escareno-Davila, who, at the time of the events at issue -- sorry -- at the time of the events at issue in this case, employed by the Mendocino County Sheriff's Office.

Gentlemen.

MR. FERNANDEZ: Good morning, Madam Chair and

Members of the Board.

My name is Gerald Fernandez. And I'm one of the Law Enforcement Consultants assigned to the Professional Conduct Northern Bureau in the Peace Officer Standards Accountability Division.

With me today is Brian Hoffman, an attorney with our Legal Affairs Bureau.

I'm here today to present Case Number POST2507244, involving Eduardo Guadalupe Escareno-Davila. Hereafter --

CHAIRPERSON DUDLEY: Speak a little bit slower, please.

MR. FERNANDEZ: Yes, ma'am.

Hereafter referred to as "Respondent," who was employed by the Mendocino County Sheriff's Office at the time of the incident in question.

It is the Division's determination that clear and convincing evidence exists to demonstrate that Respondent committed an act of serious misconduct as set forth in Penal Code section 13510.8, on November 13th, 2024.

Specifically, the Division has determined that Respondent committed the following act of serious misconduct: Acts that violate the law.

During this presentation, I will explain the

Division's findings of investigation in this matter.

Next slide, please.

Respondent began his career with the Mendocino County Sheriff's Office on June 11th, 2023, as a trainee.

On December 10th, 2023, Respondent was promoted to the position of deputy.

Respondent did not earn a POST certificate. However, he was issued a Proof of Eligibility by POST at the time of his promotion to the position of deputy.

Respondent's Proof of Eligibility expired upon his dismissal from the Mendocino County Sheriff's Office on November 21st, 2024, while he was still on probation.

Respondent's service record did not include any prior complaints, disciplinary actions, or commendations.

Next slide, please.

On November 13th, 2024, at approximately 3:17 a.m., victim telephonically contacted the Mendocino County Sheriff's Office dispatcher to request a law enforcement -- law enforcement response to her house.

When asked what was going on, Victim explained that she had woken up to her roommate trying to touch her in bed.

Victim identified her roommate as Lalo Escareno,

also known as Eduardo Escareno, i.e. Respondent.

The dispatcher sought clarification that her roommate tried to touch her inappropriately while she was in bed and the victim affirmative replied "Um-hmm."

At approximately 4:18 a.m., Mendocino County Sheriff's Office deputies responded to Victim's call for service, contacted her in front of her residence, and conducted an initial interview with her.

Victim stated that while she was sleeping on her side, she woke up to something cold touching her right between her legs. She then turned over and heard something that sounded like it had rolled off the bed. She looked over at the side of her bed and saw Respondent lying on her floor, trying to hide.

Victim confronted Respondent, turned on the light, and continued to confront him.

Respondent initially said, with slurred speech, that he was in victim's bedroom because of the kittens that she fostered, but he eventually apologized to her.

Victim then asked Respondent why he would touch her, and, again, he apologized saying, "I'm so sorry."

While Victim was sleeping, she was wearing sleep shorts with no underwear, so Respondent had direct contact with her skin when she felt him reach into her shorts from the bottom.

When asked if Respondent touched her genitalia, Victim replied affirmatively and described the location as her vaginal area.

When asked if there was any penetration, Victim explained that it felt like he was about to penetrate with his fingers, but there was no actual penetration.

When she went to bed, Victim left her door cracked open so that her cats could go in and out of her room freely.

After the incident, Respondent told Victim the reason he had gone into her room and touched her was because her door was open.

Victim and Respondent had never been in any type of romantic or sexual relationship with each other, nor had they ever kissed or done anything suggestive of such interactions.

At approximately 5:47 a.m., Victim was voluntarily transported to the Mendocino County Sheriff's Office Ukiah Station, where she was reinterviewed by an investigating detective.

Victim provided an account of the incident that was consistent with the statements she provided to the deputies who initially responded to her residence.

However, she added that when she initially saw Respondent on the floor next to her bed, his joggers

were pulled up, so she assumed he had touched her with his fingers. But since it took a moment between when she first felt the touch and when she saw Respondent, she didn't know if the joggers had been partially pulled down during the contact.

Since Victim was asleep prior to feeling the touch, she also didn't know how long he had been in her bed with her. She didn't feel him get into the bed so she was unsure if he had touched her with his fingers or his penis.

Later the same day, an emergency protective order was granted, protecting Victim from Respondent, followed by a temporary restraining order which additionally protected the third roommate from Respondent.

At approximately 10:25 a.m., the investigating detective and other deputies returned to the victim's and respondent's residence to interview Respondent, serve him with an emergency protective order, and to execute a search warrant that included a seizure of photos, DNA buccal swabs from the respondent, and digital media devices belonging to Respondent.

During his criminal investigative interview, Respondent confirmed that he and victim were not in any type of relationship or dating, nor were there any indications in that regard.

In describing the incident, Respondent said that he was intoxicated and didn't know why he walked out of his bedroom. But when he did, he saw Victim's door open, at which point he stood by her door, took a couple of steps into her room, walked back out of her bedroom, and thought to himself, quote, "What are you doing?"

Next, he reentered Victim's bedroom. This time, crawling in and lying down against her bed.

Respondent then reached up with his right hand, slid his hand under her blankets, and touched her feet.

He then started moving his hand upward toward her calf.

Respondent stated that he didn't know where else he touched her before she woke up and confronted him.

When specifically asked if he had touched Victim under her shorts with her hand, Respondent replied "No."

When asked if it was possible, he repeatedly replied, "No."

When asked if he had touched Victim's vagina, Respondent replied "No."

The rest of Respondent's account of the incident was essentially consistent with the victim's version of the event, except that Respondent said he did not get into Victim's bed at any point during the incident.

Later, during Respondent's investigative interview,

he retold the sequence of events during the incident and said that after he started moving his hand up, he, quote, "touched something else," after which Victim woke up and confronted him.

When asked what the "something else" was that he touched, Respondent replied, quote, "Just skin."

When the interviewing detective then posed the possibility that the "something else" could have been Victim's vagina, Respondent interrupted him and said, "It was just skin."

Respondent then elaborated and said, quote, "Because I, um -- honestly, we're adults here. I know what a vagina feels like and it was definitely not her vagina," end quote.

Toward the end of the interview, Respondent was asked if he could show the deputies exactly what he did throughout the incident. As he walked through his footsteps, crawling, reaching, and attempting to hide, Respondent narrated his movements each step of the way.

His demonstration was recorded on body-worn cameras and a video clip of his demonstration will now be shown to you.

Next slide, please.

(Video played.)

MR. FERNANDEZ: Obviously, the audio was difficult

to hear. I don't know if we could get that fixed or not.

But unless anyone wants to see that video clip again, possibly with the audio, we'll keep moving forward.

(No response.)

MR. FERNANDEZ: Next slide, please.

December 9th, 2024. The Mendocino County District Attorney's Office filed criminal's case with the Mendocino County Superior Court. And he was charged with one count of sexual battery, Penal Code section 243.4(e)(1), a misdemeanor.

However, on February 20th, 2026, the Mendocino County District Attorney's Office amended the complaint to add a charge of Penal Code sections 242 and 243(a), battery.

Respondent then pled guilty to battery, Penal Code sections 242, and 243(a), a misdemeanor, with proceedings suspended based on a deferred entry of judgment; and the Court dismissed the sexual battery charge.

The deferred entry of judgment included the following conditions:

Number one. Obey all laws and orders of the court, including previously issued retraining orders.

Two. Totally abstain from the use of alcohol.

Three. Submit to alcohol testing at the request of any peace officer or probation officer at any time of the day or night, with or without notice, consent, probable cause, or a warrant.

Four. Submit to search and seizure of Respondent's person, property, or any property under Respondent's control, when requested by any peace officer, probation officer, at any time of the day or night, with or without notice, consent, probable cause, or a warrant, for alcohol and firearms.

Five. Stay away from/have no contact with the victim.

Number six. Do not possess any firearms or ammunition.

Seven. Participate in and pay all fees for the following programs of counseling and/or education: AA/NA meetings, weekly, for 52 weeks, and individual therapy, monthly, for 12 months.

Number eight. 50 hours of community service.

And number nine. An apology letter to the victim addressing the victim impact.

If the respondent abides by all the conditions of his deferred entry of judgment, it is possible that the battery charge will be dismissed by the Mendocino County

Superior Court on February 19th, 2027.

On May 21st, 2026, Respondent was present for his first court hearing to submit a status report on his progress with the conditions of his deferred entry of judgment.

According to the court's docket and minutes, Respondent provided proof of carrying out the required community service, attendance at AA meetings, attendance at individual therapy, and the apology letter to the victim.

Respondent's next progress report with the court is set for August 24th -- 21st, excuse me, 2026.

Next slide, please.

Penal Code section 243.4(e)(1) says, in part, "Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of misdemeanor sexual battery."

Penal Code section 243.4(g)(1) defines an "intimate part" as the "sexual organ, anus, groin, or buttocks of any person, and the breast of a female."

The clear and convincing evidence substantiated that Respondent violated Penal Code section 243.4(e)(1), when he touched Victim's intimate body part,

specifically her vaginal area against her will and for the specific purpose of Respondent's sexual arousal and gratification.

Therefore, Respondent also violated Penal Code section 13510.8(b)(6) and POST Regulation 1205(a)(6), which define as serious misconduct, "Acts that violate the law and are sufficiently egregious or repeated as to be inconsistent with a peace officer's obligation to uphold the law or respect the rights of members of the public, as determined by the Commission."

The facts I have just recited support the Division's finding that Respondent was involved in serious misconduct, specifically acts that violate the law.

For purposes of the Division's analysis, clear and convincing evidence means evidence of a charge is clear and convincing so long as there is a high probability that the charge is true.

The evidence need not establish a fact beyond a reasonable doubt.

The Division recommends that revocation or suspension of Respondent's POST certification based on the following:

Respondent's excessive intoxication was a primary contributing factor that led to his poor judgment when

he sexually battered his roommate;

Respondent's actions resulted in his guilty plea to misdemeanor battery on February 20th, 2026;

As a peace officer, Respondent was sworn to protect the public, not endanger them.

When Respondent snuck into the bedroom of his sleeping roommate for his own pleasure, Respondent failed to uphold the law or respect his roommate's rights.

His actions that resulted in the execution of an emergency protective order and criminal charges are clearly inconsistent with the obligations of a peace officer.

Last Friday, July 10th, 2026, I spoke on the phone with the respondent, who acknowledged receiving notification of today's board hearing. But he said he would not be able to attend in person or remotely because he had a criminal court hearing that was scheduled in direct conflict with today's board hearing.

This concludes my presentation.

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

CHAIRPERSON DUDLEY: Does the Board have any questions?

MEMBER HATCHER-CRAWFORD: You mentioned that he has

a criminal case today that he's attending. Is it in regards to this as well?

MR. FERNANDEZ: It is related to the restraining order that was ordered against him.

MEMBER HATCHER-CRAWFORD: Oh, okay. Thank you.

CHAIRPERSON DUDLEY: Yes. Please.

MEMBER PENA: Pena.

So according to the transcript, so soon after this occurred, the victim said something to the effect of, you know, "I have to call this in."

Do you know why -- why she said that? Like, why that occurred?

MR. FERNANDEZ: She wasn't asked that specific question. But I know that the respondent's response was that he said that he responded by saying, "Yes, you do."

MEMBER PENA: I just -- I just find that curious that that was, like, the first thing that --

MR. FERNANDEZ: Yeah. I'm happy to speculate but, you know, I think we can all speculate. I mean, I don't know if you want to hear my theory or my thoughts. But...

CHAIRPERSON DUDLEY: I don't think that's necessary.

MR. FERNANDEZ: Yeah.

CHAIRPERSON DUDLEY: I don't want you to speculate.

MEMBER PENA: Yeah.

So basically, his story, his version, never really changed. And her version didn't change too much either.

MR. FERNANDEZ: Correct. She gave two accounts: First to the initial responding deputies; and about an hour or two later, to the investigating detective. And they were essentially consistent.

MEMBER PENA: Was he ever represented by counsel?

MR. FERNANDEZ: No. In fact, part of my conversation with him this past Friday was that he had not retained an attorney. So he still has not, as of last Friday.

MEMBER PENA: No -- did he ever have a union attorney or a union rep at all?

MR. FERNANDEZ: I didn't ask him that question. But, again, I can speculate. I just -- I can't really answer that definitively.

MEMBER PENA: Okay. But the department -- well, you basically believed what she had to say, correct?

MR. FERNANDEZ: Yeah. The agency sustained -- they had sustained findings for all of the allegations including the sexual battery.

MEMBER PENA: One of the things I found troubling was she -- at first, she said he touched her vaginal area. But then she later said when she noticed she had

shorts on, that it could have been his penis. She wasn't sure if it was his fingers or his penis.

But, presumably, if it was his penis, he would have had to have been on the bed, straddling her in some way, which I would think would probably have -- she would have awakened if he would have been doing that.

So I just -- I found that a little bit troubling. That she was -- had sleep shorts on, a cover over her, laying on her side. And somehow he got it underneath all of that with his penis and didn't wake her up.

Just a thought. It is just what I thought about.

Was he intoxicated at the time?

MR. FERNANDEZ: Yes. She detected that he was intoxicated. He admitted he was intoxicated. He said he drank way too much. So all the evidence suggests that, yes, he was pretty intoxicated.

MEMBER PENA: Okay. Okay.

CHAIRPERSON DUDLEY: Anything else?

MEMBER PENA: No further questions.

CHAIRPERSON DUDLEY: Anyone else?

MEMBER JOHNSON: Johnson.

CHAIRPERSON DUDLEY: Okay.

MEMBER JOHNSON: On the, I guess, criminal case concerning the restraining order today. The event happened in 2024. I'm assuming shortly after that, she

should have applied for a restraining order. That's the question, if she did.

And then, of course, did she renew the restraining order? What's going on with that?

MR. FERNANDEZ: Yeah. So that same morning, she obtained an emergency protective order, which not only protected her from Respondent, but also ordered him to move out of the residence.

And emergency protective orders don't last more than, I don't know, maybe less than a week. So she also obtained a temporary restraining order. The expiration of which, at that time, was set for the next court hearing. But it's -- I believe it's been extended since then, but I don't know for sure. I haven't had a chance to check the record specifically on the temporary restraining order, although it sounded like, from my conversation with the respondent last Friday, that that was still in effect.

CHAIRPERSON DUDLEY: Any other questions?

(No response.)

CHAIRPERSON DUDLEY: Thank you. You can stay there in case something else comes up.

MEMBER HATCHER-CRAWFORD: I do have a question.

CHAIRPERSON DUDLEY: Okay.

MEMBER HATCHER-CRAWFORD: Trying to make sure --

okay. There was -- whatever the Penal Code 2-something-3, he has a condition -- there's a term where it goes to 2027. Is that correct?

MR. FERNANDEZ: Correct.

MEMBER HATCHER-CRAWFORD: And what was -- and so he pled no contest? Or he was found guilty?

MR. FERNANDEZ: Yeah. He pled guilty to the battery, and the sexual battery was dismissed. And so there's a deferred entry of judgment. Assuming that he meets the conditions for this next year, it is essentially a year that he has to satisfy these conditions. Then it is possible that that battery charge that he pled to will be dismissed.

CHAIRPERSON DUDLEY: Anything else?

(No response.)

CHAIRPERSON DUDLEY: Okay. So as our investigator told us, he did not respond to the notice of the Board email except for the contact he had telephonic.

And is there anyone from the public who would like to address this board at this time?

(No response.)

CHAIRPERSON DUDLEY: Seeing none, hearing none.

At this time, does the Board wish to adjourn into closed session for deliberations on this case? Or is the Board ready to discuss it openly or have a vote?

How does the Board want to proceed?

MEMBER DOYLE: Doyle.

I'm prepared to make a motion unless my colleagues have a different path they would like to take.

MEMBER PENA: Closed session.

CHAIRPERSON DUDLEY: Anybody else?

Okay. Let me just clarify a couple of things.

She went from being asleep to being awake.

My understanding is that she didn't know -- couldn't say whether it was a finger or a penis. But wasn't she, in fact, referring to what happened before she woke up?

MR. FERNANDEZ: She was referring to what happened before she woke up when? You are saying when she --

CHAIRPERSON DUDLEY: So -- so I think the way the question was asked, and the way she answered, she could only answer as to what she was aware of at the time she woke up.

So I think that had the question been clarified, I mean, she doesn't know what happened when she was asleep. And her comment was she was certainly aware of a finger later. But it could have been a finger or a penis prior to her being awake.

MR. FERNANDEZ: Yeah. She said during -- while she was interviewed, that she didn't know when he got into

bed. Frankly, I believe she assumed that he was in bed with her, because when she woke up after feeling the contact, she heard what sounded like something falling to the floor. So I think she just kind of put two and two together based on --

CHAIRPERSON DUDLEY: Yes.

MEMBER PENA: She said -- just clarification. She said what woke her up was something cold on her --

CHAIRPERSON DUDLEY: Right.

MEMBER PENA: -- let or...

MR. FERNANDEZ: Between her legs.

CHAIRPERSON DUDLEY: But I would suggest that what the investigator is saying, that was the point of contact that she was aware of.

When someone goes from asleep to awake, there's a gray area, and then you are aware of the cold.

Certainly, in my experience as a prosecutor of sexual assault crimes, it is not an unusual response from -- "Was it is a penis? Was it a finger?"

"Well, all I knew is was something cold and it was there."

So I just wanted to clarify that.

Now, you made a comment that the excessive intoxication was potentially the cause; is that right?

MR. FERNANDEZ: Correct.

CHAIRPERSON SALAZAR: But you have known many people who become excessively intoxicated who don't commit offenses; is that correct?

MR. FERNANDEZ: Correct.

CHAIRPERSON DUDLEY: So we don't know what the cause was except that we know that lots of people go out and get drunk and don't commit offenses. Is that fair?

MR. FERNANDEZ: That's fair.

CHAIRPERSON DUDLEY: Okay. Yes. Please.

MEMBER HATCHER-CRAWFORD: Also, in the report -- and please, I'm going back over this. She had also took a sleep aide prior to going --

MR. FERNANDEZ: Correct.

MEMBER HATCHER-CRAWFORD: She had one -- she also had one beer and took a sleep aide. Am I correct?

MR. FERNANDEZ: She said that she took Trazodone, which is -- and she said specifically it was to help with -- help her sleep.

And I have done a little research myself and that is a common -- common use of it --

MEMBER HATCHER-CRAWFORD: Oh, okay.

MR. FERNANDEZ: -- for insomnia and that she -- she said that she had a glass of wine. One glass of wine. Yeah.

MEMBER HATCHER-CRAWFORD: So that is probably --

I'm thinking about her sleeping and probably sleeping a little bit harder than normally.

CHAIRPERSON DUDLEY: I think that would be speculative.

MEMBER PENA: You can't -- you can't make that assumption.

CHAIRPERSON DUDLEY: Some people take that every night.

MEMBER HATCHER-CRAWFORD: And that was my question is I'm trying to -- trying to follow the story.

Watching the film, he doesn't indicate that he was ever in the bed. But she assumes that he may have been in the bed, then fell on floor. That's what I was trying to wrap my mind around.

Is that speculative?

CHAIRPERSON DUDLEY: Well, she -- and, please, correct me if I'm wrong. She didn't say he was in the bed. What she said is he may have been in the bed.

And that was her speculating as to where he was. And she based that speculation on the fact that she thought she heard a thump when he was on the ground. Not that she said he was in the bed.

Is that correct?

MR. FERNANDEZ: Yeah. She heard the thump immediately after she woke up and kind of jolted, which

is what caused him to then pull away and then try to hide under her bed, which he couldn't do because she has rails that prevented him from getting under her bed.

The point is that she heard the noise. Him, like -- you know, respond to her waking up. And that's what she assumed was him falling off the bed.

CHAIRPERSON DUDLEY: The other thing I wasn't sure of is it does sound like he did change his story a little bit.

Initially, he said, "I just touched her foot."

And then when there were continuous questions about whether he touched her vagina, I thought he changed his explanation to I just cut -- "I just touched her skin." And that he knows what it is to touch a vagina and that -- but prior, it was just a foot. And then it changed to just skin.

Was that a change?

MR. FERNANDEZ: No. That was -- so one thing he was consistent about was that he touched the heel of her foot. And he did say he moved his hand upward.

Where he changed it was that, at one point, he indicated he touched her calf.

And then when he was asked, okay, so then you touched her calf. At one point, he said, "I don't know what else I touched."

When he said "just skin," it was when he was retelling the sequence of events during the interview and said that after he moved his hand up, he touched, quote, "something else."

And that's when the detective asked him, "Well, is it possible that that something else was her vagina?"

And that's when he said, "No. It was just skin."

So it was kind of in response to specifically whether or not he made -- that "something else" may have been her vagina.

CHAIRPERSON DUDLEY: I thought he told the first reporting officer that he just touched her foot.

MEMBER PENA: No. I don't think so.

MR. FERNANDEZ: No. He said he moved his hand upward afterwards.

CHAIRPERSON DUDLEY: So he --

MR. FERNANDEZ: Toward the calf.

CHAIRPERSON DUDLEY: So he was interviewed by the same person. So he initially said, "I just touched her foot." And then he changed it to, "I moved up my hand and may have touched her calf and -- but not her vagina." Is that correct? Same officer, same night, same everything?

MR. FERNANDEZ: Yeah. It was one interview.

CHAIRPERSON DUDLEY: Okay.

MR. FERNANDEZ: Yeah. So --

CHAIRPERSON DUDLEY: All right.

MR. FERNANDEZ: Yeah.

CHAIRPERSON DUDLEY: Thank you.

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

So there was a difference between sexual battery and battery. And the difference is the sexual battery would have been if he had, in fact, and was able to prove that he touched her upper part versus her leg.

CHAIRPERSON DUDLEY: Well, sexual battery would be touching of the breast, the vagina, or the buttocks.

MEMBER HATCHER-CRAWFORD: Right. Okay.

CHAIRPERSON DUDLEY: So those are very specific areas with an intent.

MEMBER HATCHER-CRAWFORD: Okay. So that's the difference between the sexual battery charge and the battery charge.

So he agreed to plead to the battery minus the sexual battery because we were not able to determine if he had, in fact, or not, in fact, correct?

CHAIRPERSON DUDLEY: No. It is -- it is -- so the determination would have to be if you could prove it to the jury beyond a reasonable doubt.

So it doesn't mean he did or didn't do it. It's

the district attorney who reviewed the case made a determination that based upon the evidence that he had, or she had at the time, they couldn't prove that.

Or it can also be a plea bargain.

Now, sexual battery requires registration under 290. And sometimes plea bargains occur, if you are willing to accept the responsibility for a 290.

So we would be speculating as to what this particular deputy district attorney thought.

MEMBER HATCHER-CRAWFORD: And that was concerning, because we -- it was two charges initially. And then somewhere in between there, like you said, the DA may have made that determination, or took a plea bargain and went for the battery. But the battery is almost lesser than if he stays within those terms of February 2027. And then it would be completely dismissed.

CHAIRPERSON DUDLEY: The battery, yes.

MEMBER HATCHER-CRAWFORD: The battery. So all of it would be gone.

CHAIRPERSON DUDLEY: Correct.

MEMBER HATCHER-CRAWFORD: Okay. That is -- thank you.

CHAIRPERSON DUDLEY: Yes.

MEMBER JOHNSON: Johnson.

CHAIRPERSON DUDLEY: Mr. Johnson.

MEMBER PENA: Just a --

CHAIRPERSON DUDLEY: Yeah.

MEMBER PENA: Was she -- did she go to the hospital at all? Was there any type of a rape kit or --

MR. FERNANDEZ: She declined.

MEMBER PENA: Okay. Thank you.

CHAIRPERSON DUDLEY: Yes.

MEMBER JOHNSON: Johnson.

So we couldn't really hear what he was saying in the video.

So upon entering into the room, I'm not sure if she said that he immediately went to the floor, crawled up to the bed, and then reached into the bed? He didn't ever stand over her. He never said he stood over her.

MR. FERNANDEZ: Stood over her, no.

He said that -- for first he goes in. He backs out. Asks himself, "What are you doing?"

The second time he goes in, he crawls in. He says -- he's narrating this, if you could have heard it. And then he said, yeah, he reaches. But he never stood over her.

But to be clear, the respondent's and the victim's accounts of the event were essentially consistent except for two things. The most critical being that he denied touching her vagina, although he kind of contradicted

himself a few times, as I mentioned.

And he said he never got into her bed. And she essentially assumed that he was in bed based on her observations after she woke up.

CHAIRPERSON DUDLEY: She said he may have been in her bed. What he -- what she knows is she heard a sound that sounded like the thumping.

MR. FERNANDEZ: Correct.

MEMBER JOHNSON: Okay. Now, I guess I wanted to finish. So he crawled to the bed.

MR. FERNANDEZ: To the side of her bed.

MEMBER JOHNSON: To the side of her bed. I'm assuming the lights is off.

MR. FERNANDEZ: Yes.

MEMBER JOHNSON: So it is a dark room. And he just reaches up into the bed and starts feeling until he finds her feet.

MR. FERNANDEZ: Correct.

MEMBER JOHNSON: He then he runs his hands up her feet, maybe to her calves.

MR. FERNANDEZ: Correct.

MEMBER JOHNSON: That's -- well, okay. That's all I need to know.

CHAIRPERSON DUDLEY: Just to be clear, touching her feet and touching her calves is, in fact, a battery. It

is a nonconsensual battery.

MEMBER JOHNSON: Yeah. I just --

CHAIRPERSON DUDLEY: Got it.

Any other questions for the investigator or for the attorney who has just been overwhelming us with information today?

(No response.)

Let me just ask you a question.

Lunch is here. Do you want to deliberate and then come back? Or deliberate after lunch and then come back? What would you like to do?

MEMBER DOYLE: Can we do both?

CHAIRPERSON DUDLEY: Can we do both? I'm not sure.

MEMBER DOYLE: Can we deliberate and eat lunch at the same time? Deliberate and eat lunch at the same time.

CHAIRPERSON DUDLEY: I'm not sure. What do you think?

MS. DEL MUGNAIO: The court reporter needs a break.

CHAIRPERSON DUDLEY: I know that. I know that.

But should we just -- so would it be appropriate then to come back at 12:45? Anybody have a problem with that? Okay.

MEMBER DOYLE: So what -- I didn't hear what you --

CHAIRPERSON DUDLEY: We're going to eat lunch and

deliberate and be back here at 12:45. You have to be in while we're deliberating?

THE COURT REPORTER: Yes.

CHAIRPERSON DUDLEY: Yes. So why don't we do this. Why don't you come in at 12:30. That gives you a 15-minute break. Is that enough or do you want longer?

THE COURT REPORTER: Not for lunch.

CHAIRPERSON DUDLEY: So why don't you come in at 12:45. Is that enough time?

THE COURT REPORTER: Yes.

CHAIRPERSON DUDLEY: Okay. So we're not going to deliberate or discuss the case until 12:45. Then we'll come back after lunch.

(Break taken in proceedings.)

(Time noted: 12:14 p.m.)

---o0o---

(Closed session was held: 12:48 p.m. to 12:53 p.m.)

---o0o---

(Time noted: 12:59 p.m.)

---o0o---

CHAIRPERSON DUDLEY: Back on the record.

We will now reconvene to regular session to take a vote on the Board's recommendation.

And in the matter of Case POST2507244, Edward

Escareno-Davila, who, at the time of the events at issue in this case, was employed with the Mendocino County Sheriff's Office.

Any comments the Board wants to make?

MEMBER DOYLE: Sure. Doyle.

Motion to decertify.

MEMBER CLAVO: Clavo. Second.

CHAIRPERSON DUDLEY: Any further discussion?

(No response.)

CHAIRPERSON DUDLEY: Okay. Mr. Knapp.

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

MEMBER CLAVO: Aye.

MR. KNAPP: Clavo, aye.

Crawford.

MEMBER HATCHER-CRAWFORD: Aye.

MR. KNAPP: Crawford, aye.

Doyle.

MEMBER DOYLE: Aye.

MR. KNAPP: Doyle, aye.

Dudley.

CHAIRPERSON DUDLEY: Yes.

MR. KNAPP: Dudley, aye.

Johnson.

MEMBER JOHNSON: Aye.

MR. KNAPP: Johnson, aye.

Lara.

MEMBER LARA: Aye.

MR. KNAPP: Lara, aye.

Pena.

MEMBER PENA: No.

MR. KNAPP: Six in favor. Motion carries.

Okay. Moving on to the next case.

Thank you very much.

Okay. This is, at this time -- let's see. At this time, I will now call upon Law Enforcement Consultant Chrintina [sic] --

MS. MOORE: Christina.

CHAIRPERSON DUDLEY: Moore, Professional Conduct Central Bureau; and Brian Hoffman, Attorney IV, Legal Affairs Bureau, to provide a report on POST2505112.

And can you pronounce the last name for me?

MS. MOORE: Christina Moore.

CHAIRPERSON DUDLEY: No. Not your last name. Your last name, I got.

MS. MOORE: Kevin Smithmatungol.

CHAIRPERSON DUDLEY: Say it again.

MS. MOORE: Kevin Smithmatungol.

CHAIRPERSON DUDLEY: Smithmatungol.

MS. DEL MUGNAIO: Joyce, can you hold for one second?

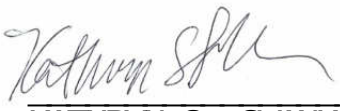
CERTIFICATE OF REPORTER

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 4th day of August 2026.



KATHRYN S. SWANK, CSR
Certified Shorthand Reporter
License No. 13061

AGENDA ITEM REPORT

Title: POST2505112 - KEVIN SMITHMATUNGOL (POST ID: C88-T32) LAST EMPLOYING AGENCY: DALY CITY POLICE DEPARTMENT

REPORT PROFILE

MEETING DATE 09/17/2026	**BUREAU SUBMITTING THE REPORT** Peace Officer Standards Accountability Division	
RESEARCHED BY Christina Moore	**REVIEWED BY** Brian South	
REPORT DATE	**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:

Respondent began his employment with the Daly City Police Department on January 3, 2022, as a trainee, becoming a full-time Police Officer on July 11, 2022. At the time of the events at issue, Respondent was employed as a Police Officer with the Daly City Police Department. After receiving the Notice of Intent to Terminate, the Respondent resigned effective October 1, 2025. At the time of this incident, Respondent held 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).

On June 2, 2024, the Respondent contacted a female subject, who was detained by Target security for shoplifting, and cited and released the party. On the day of the incident, when

questioned by his supervisor regarding how the party was identified, the Respondent stated he obtained the subject's fingerprint, when he had not. The Daly City Police Department initiated an internal affairs investigation and confirmed the Respondent did not obtain the female subject's fingerprint. During his Internal Affairs interview on January 31, 2025, the Respondent falsely stated he obtained the subject's fingerprint. During his interview with POST conducted on January 13, 2026, the Respondent admitted he did not obtain a fingerprint from the subject at any time and was dishonest in his internal affairs interview.

On June 20, 2024, when asked by his supervisors as to why the Respondent had arrived late for his scheduled training day, the Respondent explained he was addressing some outstanding evidence with the Property Room Manager. Then, the Respondent sent the Property Room Manager a text message which stated, *"If Karen or Jerel* [supervisors] *asks can you please let them know I was handling evidence with you!"* The Daly City Police Department initiated an internal affairs investigation and determined the Respondent was approximately 30 minutes late for training and had not been working on outstanding evidence that morning. During his internal affairs interview on January 31, 2025, the Respondent falsely stated that he had been handling evidence for the Property Room Manager and denied the purpose of the text message was to create an alibi. During his interview with POST conducted on January 13, 2026, the Respondent admitted he claimed in his internal affairs interview that he was handling evidence for the Property Room Manager when he had not been. The Respondent admitted he sent the text to the Property Room Manager that morning, despite not having worked on evidence with her, but he had not intentionally asked the Property Room Manager to lie on his behalf.

On October 25, 2024, the Respondent was assigned two (2) subpoenas to serve. Respondent informed his supervisor and wrote on the subpoena return slip that he had attempted to serve each subpoena when he had not. The Daly City Police Department initiated an internal affairs investigation and confirmed the Respondent did not attempt to serve either subpoena. During his Internal Affairs interview on January 31, 2025, the Respondent falsely stated he had attempted to serve the subpoenas. After being presented evidence which indicated he never attempted service of either subpoena, the Responded explained "maybe I didn't do it." During his

interview with POST conducted on January 13, 2026, the Respondent admitted he did not attempt to serve either subpoena and was dishonest in his internal affairs interview to avoid disciplinary action.

Following the conclusion of the three (3) internal affairs investigations, the Respondent was served a Notice to Intent to Terminate. On August 15, 2025, the Respondent attended an administrative meeting, where he resigned effective October 1, 2025.

ANALYSIS:

Clear and convincing evidence substantiated that the Respondent violated California Penal Code §13510.8(b)(1) and Commission Regulation §1205(a)(1), Dishonesty. The Respondent admitted to POST he knowingly and deliberately provided false information to an internal affairs investigator during three (3) investigations into his own misconduct.

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):

BR01_POST2505112_Smithmatungol Kevin_ISF.pdf
BR012_POST2505112_Smithmatungol Kevin_Att.K_Division Interview Transcript.pdf
BR02_POST2505112_Smithmatungol Kevin_Executive Review Division Recommendation.pdf
BR03_POST2505112_Smithmatungol Kevin_POST Profile.pdf
BR04_POST2505112_Smithmatungol Kevin_Att.C_Administrative Investigative Memorandum Excerpts 24-04.pdf
BR05_POST2505112_Smithmatungol Kevin_Att.D_Administrative Interview Transcript 24-04.pdf

BR06_POST2505112_Smithmatungol Kevin_Att.E_Administrative Investigative Memorandum Excerpts 24-06.pdf
BR07_POST2505112_Smithmatungol Kevin_Att.F_Administrative Interview Transcript 24-06.pdf
BR08_POST2505112_Smithmatungol Kevin_Att.G_Administrative Investigative Memorandum Excerpts 24-07.pdf
BR09_POST2505112_Smithmatungol Kevin_Att.H_Administrative Interview Transcript 24-07.pdf
BR010_POST2505112_Smithmatungol Kevin_Att.I_Notice of Intent to Terminate.pdf
BR011_POST2505112_Smithmatungol Kevin_Att.J_Letter of Resignation.pdf
POST2505112_Smithmatungol_Kevin_July_2026_POSAAB_Agenda_Record.pdf
POST2505112 _Smithmatungol_Kevin_Board_Hearing_Public_Comment
POST2505112_Smithmatungol_Kevin_Board_Hearing_Public_Comment_Follow Up
POST2505112_Smithmatungol_Kevin_Board_Recommendation_Signed.pdf
POST2505112_Smithmatungol_Kevin_Transcript_Board_07.16.26..pdf



INVESTIGATIVE SUMMARY AND FINDINGS

PEACE OFFICER NAME: Kevin Smithmatungol

POST ID NUMBER: C88-Y32

EMPLOYING AGENCY: Daly City Police Department

POST CASE NUMBER: POST2505112 / POST2505137 / POST2505140

WRITTEN BY: LEC Christina Moore

DATE: 4/14/2026

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I. Executive Summary and Findings

Daly City Police Department (DCPD) Officer Kevin Smithmatungol, hereinafter "Respondent," failed to provide true and accurate information to his supervisor regarding the identification of the subject of a criminal investigation and was dishonest by providing false statements during his Internal Affairs interviews related to three (3) separate investigations of misconduct. As a result, the Respondent was served a Notice of Intent to Terminate[1] and resigned from DCPD effective October 1, 2025.[2]

On June 2, 2024, the Respondent responded to the Target retail store in the Serramonte Center in Daly City, California. The Respondent contacted a female subject, who was detained by Target security for shoplifting, and cited and released the party. On the day of the incident, when questioned by his supervisor regarding how the party was identified, the Respondent claimed to have obtained the subject's fingerprint, when he had not. During his Internal Affairs interview, the Respondent again claimed to have obtained the subject's fingerprint when he had not. During his interview with the Division, the Respondent admitted he did not obtain a fingerprint from the subject at any time, was dishonest to his supervisor, and was dishonest in his Internal Affairs interview.

On June 20, 2024, the Respondent arrived late for his pre-scheduled training day. When questioned by his supervisor as to why he was late, the Respondent claimed to be handling evidence related matters. The Respondent then sent the Property Room Manager a text message indicating if she was asked by a supervisor to let them know he was handling evidence with her, when he had not been. During his Internal Affairs interview, the Respondent was evasive about his arrival time, again claimed to have been handling evidence related matters, and denied sending the text message for the purpose of creating an alibi. During his interview with the Division, the Respondent admitted he was late, did not handle evidence related matters that morning, and the text message appeared untruthful.

On October 25, 2024, the Respondent was assigned two (2) subpoenas to serve. The Respondent informed his supervisor and wrote on the subpoena return slip that he had attempted to serve each subpoena when he had not. During his Internal Affairs interview, the Respondent again claimed to have attempted to serve the subpoenas when he had not. After being presented with evidence, the Respondent ultimately agreed if there was no evidence of him at the locations then he may not have served them. During his interview with the Division, the Respondent admitted he did not

[1] Attachment I – Notice of Intent to Terminate.
[2] Attachment J – Letter of Resignation.

physically attempt to serve either subpoena, was dishonest on the subpoena return slip, and was dishonest in his Internal Affairs interview.

Analysis of the administrative evidence, the Respondent's statements during the internal affairs interviews, and the Respondent's interview with the Division, establish clear and convincing evidence the Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(1) and Commission Regulation 1205(a)(1) – *Dishonesty.*

II. Investigative Methodology

This report summarizes the findings related to allegations of serious misconduct. This investigation was conducted in accordance with the regulations and policies of the Commission on Peace Officer Standards and Training (POST). The investigation included a review of the Daly City Police Department's three (3) administrative investigations. The review of the first administrative investigation (24-04) included interviews of four (4) witnesses and an interview with the subject officer, the criminal report written by the subject officer and the associated citation, the Body Worn Camera (BWC) recordings from the incident, the Target store surveillance footage, and the Computer Aided Dispatch (CAD) Log associated with this case. The review of the second administrative investigation (24-06) included interviews with three (3) witnesses and an interview with the subject officer, the Daly City Door Code Logs, and the Respondent's work schedule. The review of the third administrative investigation (24-07) included interviews with three (3) witnesses and an interview with the subject officer, AXON Automated License Plate Reader (ALPR) data, video surveillance, and the CAD Logs associated with this case.

The information obtained in this investigation was analyzed using the clear and convincing evidence standard. For purposes of this report, clear and convincing evidence means "evidence of a charge is clear and convincing so long as there is a 'high probability' that the charge is true. The evidence need not establish a fact beyond a reasonable doubt."

This report is necessarily summary in nature and does not include every fact or issue that might be found in the underlying investigation and attachments. It does, however, contain reference to that evidence that the Division believes establishes the requisite facts and proves the serious misconduct charged by clear and convincing evidence.

III. Respondent's Background

At the time of the events at issue, the Respondent was employed as an Officer with the DCPD. This position is classified as a peace officer under California Penal Code (PC) Section 830.1 (a).

A. Respondent's Peace Officer Certificates and Employment

The Respondent began his employment with the DCPD on January 3, 2022, as a trainee and was promoted to full-time Officer on July 11, 2022. Respondent is assigned POST ID C88-Y32. He received the following peace officer certificates from POST:[3]

Certificate Type	*Certificate Number*	*Date Issued*
Basic	212190	01/19/2024
Intermediate	157942	07/11/2024

B. Respondent's Service Record

When evaluating whether suspension or revocation is appropriate, Penal Code section 13510.8(c)(5) and California Regulation section 1213(a)(5) provide that the Commission must consider Respondent's prior conduct, discipline and service record. The relevance and weight the Commission may choose to assign to a peace officer's prior conduct and service record will depend on the facts in each case. The following is a summary of the Respondent's prior conduct and discipline record:[4]

On October 7, 2023, the Respondent was counseled for being involved in a preventable collision while operating a city vehicle when he broadsided an uninvolved vehicle in the lane next to him during a traffic enforcement stop.

On October 30, 2023, the Respondent was counseled for being involved in a preventable collision while operating a city vehicle when he located a subject vehicle who had intentionally rammed a patrol vehicle. As the suspect vehicle fled at a high rate of speed, it became momentarily disabled. The Respondent intended to perform a vehicle containment technique with his patrol vehicle. The Respondent drove toward

[3] Attachment B – Respondent's POST EDI Profile.
[4] Attachment I – Notice of Intent to Terminate.

the rear passenger side of the suspect vehicle, subsequently colliding with it. The patrol vehicle's braking data indicated the vehicle was in a locked tire skid prior to the collision.

On March 3, 2024, the Respondent was counseled for failing to adhere to DCPD's vehicle pursuit policy when he located a stolen vehicle, initiated a vehicle pursuit when speeds reached 89 MPH on city streets, passed an uninvolved motorist on the right, and failed to update the speeds and traffic conditions on his radio.

On October 24, 2024, the Respondent was counseled for failing to adhere to DCPD's BWC policy when he conducted a sub-standard death investigation and muted his BWC when it was not appropriate to do so while conducting interviews and conversations that were pertinent to the investigation.

On December 21, 2024, the Respondent received a Written Letter of Reprimand when he failed to properly book a purse into the evidence room. The Respondent ultimately booked the purse; however, it was discovered the purse contained narcotics, drug paraphernalia, and potentially stolen property (check book). The Respondent failed to follow DCPD's booking procedures and failed to ensure the purse was free of any items which could potentially harm property room staff.

On January 18, 2025, the Respondent was involved in a preventable collision when he collided with the center median during a vehicle pursuit. The Respondent was determined to have caused the collision by being in violation of California Vehicle Code Section 22350, unsafe speed with an additional associated factor of inattention as he reached for the radio while attempting to maneuver the turn. As a result, on February 24, 2025, the Respondent was placed on Administrative Leave for the three (3) open administrative investigations and his 3rd traffic collision.

IV. Factual Background

A. June 2, 2024 (Shoplifter)

On June 2, 2024, the Respondent responded to the Target store in the Serramonte Center in Daly City, California. The Respondent contacted a female subject, who was detained by Target security for shoplifting. A secondary officer responded to provide Spanish translation for the female subject. The female subject verbally provided a name and date of birth, indicated she was from North Carolina, and presented a bank card with the same name. The officers conducted a records check, but there was no record of the name provided. During the investigation, a second shoplifter was detained, and the Respondent's attention was diverted. While his partner officer monitored the second subject, the Respondent cited and released the female subject for

shoplifting, based on the name and date of birth provided. The Respondent also cited and released the second subject; however, the male subject provided his name and date of birth. A records check revealed the male subject's California Identification number, and the Respondent confirmed his identity via photographic records.

The Respondent's field supervisor reviewed the Respondent's report and returned it to him for corrections, indicating the Respondent failed to document how or if the female suspect was identified. That evening, the Respondent spoke with his supervisor regarding the requested corrections, explained he thought suspects could be issued citations without being positively identified, and spontaneously stated he had obtained the suspect's fingerprint. After confirming that the Respondent had not obtained a digital fingerprint from the subject, as the electronic ticket writer the Respondent used that day did not have the capabilities of obtaining a digital fingerprint, and after reviewing the BWC recordings from the incident,[5] on or about June 8, 2024, the supervisor confronted the Respondent that it appeared he had not obtained a fingerprint from the subject. The Respondent stated at the conclusion of his detention, he walked the subject to his patrol vehicle where he printed a duplicate copy of the citation, retrieved an ink pad, and fingerprinted the subject. The supervisor again asked if he was sure he obtained a fingerprint, to which the Respondent stated yes and indicated he would check his duty bag for the physical copy, but then reported to his supervisor he was unable to locate it. The supervisor obtained the surveillance footage from Target, which displayed no evidence to substantiate a fingerprint was obtained.[6] As a result of the suspected dishonest statements, an Internal Affairs investigation (24-04) was initiated.

On January 31, 2025, the Respondent participated in an Internal Affairs interview related to the identification of the suspect and the statements made to his supervisor. During the Internal Affairs interview, the Respondent made the following statements:[7]

- When asked if he obtained a fingerprint of the female subject, the Respondent stated, "*I did."*[8]
- When asked when the fingerprint was obtained, the Respondent stated, "…s*o I gave her the citation when she was sitting down in the security office, uh, briefly went out or gave her the citation while she was in the office,"* and further explained, "*Um, got everything I needed from security. She walked out to go find a friend that she was with at the initial time of call that's when the security officer said that there's two of them, one of them already left. She went to go find her friend or something like that because she went back into the Target store and*

[5] Attachment C – Administrative Investigative Memorandum Excerpts (24-04) – page 2.
[6] Attachment C – Administrative Investigative Memorandum Excerpts (24-04) –pages 3-4.
[7] Attachment D – Administrative Interview Transcript (24-04).
[8] Attachment D – Administrative Interview Transcript (24-04) – page 5, line 39.

then dealt with the other shoplifter outside in front of the Target store. I'm not sure how long after and she came out, and that's when I realized I didn't get a fingerprint from her. And my ink pad is in the front pocket of my duty bag," and stated, "*And when she walked out, I grabbed my thumbprint or my ink pad, got the thumb print, and put the citation in my car until the end of shift."*[9]

- The Respondent further explained he printed a second citation for the subject within approximately 30 minutes of printing the first citation, while in the front parking lot of Target, by the handicap stall, in front of the exit, by the security office.
- When asked if there was any reason he would have told his supervisor that he had printed a second citation and obtained a fingerprint when he had not, for the purpose of avoiding getting in trouble, the Respondent stated, "*No. Why would I jeopardize my job for a citation of someone who stole home goods at Target? I worked, respectfully, my ass off to get here, and I believe I deserve to be here. I don't want to risk my job for getting, being a scapegoat and trying to cover my mistakes.*"[10]
- When asked if he ever lied to his supervisor in regards to how he identified or fingerprinted the subject, the Respondent stated, "*No, I told her exactly what I told you.*"[11]

On January 13, 2026, the Respondent was interviewed by POST LEC Christina Moore and LEC Kevin Sherburne and made the following statements:[12]

- Between July 11, 2022, and October 1, 2025, he was employed as peace officer by the Daly City Police Department.
- During his employment, he investigated approximately a couple hundred cases involving shoplifting and cited and released 80-90 percent.
- During his employment, he never encountered a subject with no identification and/or was unable to identify an associated match through law enforcement databases; however, if he was faced with that situation, he would take the individual to jail to obtain a fingerprint through the booking process.
- On June 2, 2024, he cited and released a female subject, who verbally identified herself by name.
- The subject did not have a license, passport, or any other form of identification and a check through a law enforcement records indicated no match.
- He did not obtain a fingerprint from the subject.
- He did not confirm that the subject he cited was who she claimed to be.

[9] Attachment D – Administrative Interview Transcript (24-04) – page 5, lines 43-58.
[10] Attachment D – Administrative Interview Transcript (24-04) – page 8, lines 58-60.
[11] Attachment D – Administrative Interview Transcript (24-04) – page 9, line 5.
[12] Attachment K – Division Interview Transcript.

- He initially told his partner he was going to book the subject because there was no other way to identify her; however, then he told his partner he was going to cite her because they were short staff that day and stressed the importance of beat accountability.
- He related he made a *"bad judgement call"*[13] when he cited and released the subject and he should have taken her to jail.
- He indicated the subject appeared pregnant, he did not feel she was a habitual shoplifter, and he felt bad for her.
- At the time of the investigation, a second shoplifter was detained, he confirmed his identity by name and date of birth, to a matching California Identification number, which he confirmed by photo.
- When asked why he told his supervisor he obtained a fingerprint from the subject he stated, "*Um, I panicked. I, I have no excuse for what I did. I just, I just panicked. I, that was my first kind of getting in trouble doing something wrong, and I didn't take accountability for myself. And I have no excuse for that one."*[14]
- When asked why he claimed in his Internal Affairs interview that he obtained a fingerprint from the subject he stated, *"Um, I, like I said, I have no excuse. I was going through some personal things then, and I, I have no reason."*[15]
- He reviewed his BWC prior to his Internal Affairs interview, was aware he should have booked the subject when he was unable to identify her, and decided to not be forthcoming with that information during his Internal Affairs interview. When asked why, he stated, *"I don't have any excuses. Um, that that was my first kind of disciplining and as well as some things back at home and, or something happening at home and I just wasn't in the right mindset and I didn't take responsibility for my actions."*[16]
- He admitted he was dishonest in his Internal Affairs interview.
- He agreed with the findings and recommendations by DCPD and stated, *"Um, I, it's appropriate and I messed up. I didn't take accountability and I don't deserve to be a department that would have your back if you can't even do the right thing. And so whatever they did was appropriate and that's why I didn't fight it during the Skelly. I just wanted to take it head on."*[17]
- He indicated he had no evidence to refute the findings of dishonesty.

[13] Attachment K – Division Interview Transcript – page 14, line 58 - page 13, line 7.
[14] Attachment K – Division Interview Transcript – page 17, lines 29-31.
[15] Attachment K – Division Interview Transcript – page 17, lines 36-37.
[16] Attachment K – Division Interview Transcript – page 19, lines 22-24.
[17] Attachment K – Division Interview Transcript – page 19, lines 55-58.

B. June 20, 2024 (Training Day)

On June 20, 2024, the Respondent was scheduled to attend training at the DCPD station at 0700 hours but arrived at the station at approximately 0730 hours. At approximately 0740 hours, the Respondent reported to the training room and was confronted by his supervisor as to why he was late. The Respondent related he was with the Property Room Manager addressing some outstanding evidence, when he had not been. At approximately, 0807 hours the Respondent sent the Property Room Manager a text message which stated, *"If Karen or Jerel* [supervisors] *asks can you please let them know I was handling evidence.com with you!"*[18] As a result, an Internal Affairs investigation was initiated (24-06). Although this act alone does not constitute dishonesty for the purposes of serious misconduct, as the act was not committed during the reporting, investigation, or prosecution of a crime, on January 31, 2025, the Respondent participated in an Internal Affairs interview and made the following statements:[19]

- When asked when he arrived at training on June 20, 2024, the Respondent stated, "*I don't remember the exact time, but around seven o'clock,*" and "*plus or minus 15 to seven o'clock, I don't remember if it was before or after.*"[20] When asked if he arrived at or around 0700 hours, the Respondent stated, "*yes.*"[21] Later in the interview, after clarifying which door he enters every day, he claimed he could have been 30 minutes late.[22]
- When asked if he was in the training room at 0700 hours, the Respondent stated, "*Sorry, no,*" and when immediately asked where he was, the Respondent stated, "*Uh, locker room, changing out, using the restroom, and then, since it was a Thursday, I had, uh, some emails from evidence that I was going to take care of,"* and "*Because my portion of the training wasn't until an hour and half, two hours after the 7:00 AM start time.*"[23]
- When asked if he provided his supervisors with a reason for being late to entering the training room, the Respondent stated, "*Uh, yes. I told 'em I was working. I was, I was going to do evidence. I think I told the sergeants, I said <u>with</u> Rose, but I meant <u>for</u> Rose. Okay. That's just a slip up of words.*" The Respondent further explained, "*Uh, Officer Douglas, Officer Tualauleleli, um, confronted me about showing up late and what was my reason. I told them I was going to do evidence or I was doing evidence, um, to finish the evidence 'cause I have the emails from Monday through Thursday 'cause my work day's Friday*

[18] Attachment E – Administrative Investigation Memorandum Excerpts (24-06) – page 10.
[19] Attachment F – Administrative Interview Transcript (24-06).
[20] Attachment F – Administrative Interview Transcript (24-06) – page 3, lines 36-41.
[21] Attachment F – Administrative Interview Transcript (24-06) – page 3, line 45.
[22] Attachment F – Administrative Interview Transcript (24-06) – page 8, lines 54-58.
[23] Attachment F – Administrative Interview Transcript (24-06) – page 3, lines 47-60.

through Sunday," "Um, I was gonna go through the, the property tab on RIMS and evidence.com and, um, all the evidence on my phone," "*Um, I told, they asked me, or I think I told 'em I did it with Rose,"* and *"Not physically with Rose. It was supposed to be for Rose.*"[24]

- When presented with the text message he sent to the Property Room Manger, the Respondent stated he did not send a text message for the purpose of creating an alibi, but rather to inform her a supervisor would likely contact her.[25]

On January 13, 2026, the Respondent was interviewed by POST LEC Christina Moore and LEC Kevin Sherburne and made the following statements:[26]

- At the time of the incident, he lived seven (7) minutes from the DCPD office.
- On June 20, 2024, he intended on waking up at 0615 to 0620 hours, but woke up late between 0655 to 0710 hours.
- From 0700 to 0730 hours, he was "*Getting outta bed, throwing on clothes and getting on the, getting out of the car or getting outta the house to go to work*."[27]
- He indicated he was "*exhausted*"[28] from working an overtime shift the night before and concluded his shift around midnight.
- He did not obtain supervisor approval to modify his work schedule, did not notify a supervisor he would be late, and did not think to do so because he had never been late before.
- He was compensated for a full workday despite not arriving until 0730 hours.
- He said in his IA interview when he was asked by his supervisors why he was late, he told his supervisors he was handling evidence with/for the Property Room Manager (Rose Meere), but admitted he was not handling evidence for her.[29]
- He sent Rose the text message because he intended to do evidence with her; however, she was not there.
- When asked why he would send her the text when he had not done evidence with her, he stated, *"I no excuse. I mean, I was, I texted her 'cause uh, I was gonna go do it with her. She ended up not being there*."[30]
- When asked if any part of the text message to Rose was untruthful, he stated, "*Yeah, I didn't do it with Rose*,"[31] but was unable to explain why he did it.

[24] Attachment F – Administrative Interview Transcript (24-06) – page 4, line 44 – page 5, line 8.
[25] Attachment F – Administrative Interview Transcript (24-06) – page 7, lines 34-46.
[26] Attachment K – Division Interview Transcript.
[27] Attachment K – Division Interview Transcript – page 21, lines 1-6.
[28] Attachment K – Division Interview Transcript – page 21, line 15.
[29] Attachment K – Division Interview Transcript – page 22, lines 44-47.
[30] Attachment K – Division Interview Transcript – page 22, lines 49-52.
[31] Attachment K – Division Interview Transcript – page 22, line 56.

- He stated, "*When I, when the sergeant asked me why I was late, I told her I came late. Um, but I was gonna, I was gonna do property with Rose, but I ended up not doing it."*[32]
- When asked to clarify we he would use past tense versus future tense if he planned on doing evidence with her, he stated, "*I, it was untruthful*."[33]
- He denied sending the text to create an alibi.
- He denied sending the text to ask Rose to cover for him.
- He denied sending the text to ask Rose to lie on his behalf.
- He denied sending the text to conceal the fact that he was late for work.
- He admitted he used past tense and asked Rose to tell a sergeant he was doing evidence with her when he had not been, but "*didn't not do it on purpose*."[34]
- He admitted he asked Rose to do something they had not done.
- He agreed with the findings and recommendations by DCPD and stated, *"Um, I, I have no excuse. I, I, I messed up. I, it what I said in the text appeared to be untruthful and misleading and I I have no excuse. I was, I was being untruthful*."[35]
- He indicated he had no evidence to refute the findings of dishonesty.
- He indicated he did not feel he was well prepared for the IA interview by his attorney at the time, but accepted responsibility for the things he said.

C. October 25, 2024 (Subpoenas)

On October 25, 2024, at the beginning of his shift, the Respondent was assigned two (2) subpoenas to serve by his supervisor. Towards the end of his shift (morning of October 26, 2024) the Respondent submitted the two (2) subpoenas back to his supervisor, told her he attempted to serve them, and indicated on the subpoena return slip he attempted service with a remark of "*No Answer*" at 2123 hours and 2142 hours respectively.[36] The supervisor did not recall hearing the Respondent notify dispatch of any subpoena attempts, which she believed was out of character for him, and reviewed the Respondent's calls for service which indicated there were no service attempts. Additionally, the supervisor recalled being on scene with the Respondent during the time period listed on the subpoena return slip, checked the call for service, and confirmed they were on scene until 2130 hours. The supervisor reviewed Flock and Axon Automated License Plate Reader (ALPR) hits for the Respondent's vehicle, but neither indicated the Respondent visited either residence listed on the subpoenas.[37] The supervisor contacted a resident from the one of the subpoenas who indicated she

[32] Attachment K – Division Interview Transcript – page 23, lines 8-9.
[33] Attachment K – Division Interview Transcript – page 23, lines 11-17.
[34] Attachment K – Division Interview Transcript – page 24, lines 9-12.
[35] Attachment K – Division Interview Transcript – page 25, lines 16-22.
[36] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – pages 1-4.
[37] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – page 2.

was home the entire evening and no one came to her door. As a result, an Internal Affairs investigation (24-07) was initiated.

On January 31, 2025, the Respondent participated in an Internal Affairs interview and made the following statements:[38]

- In response to "*On October 25th at 2123 hours, did you drive to the residence of* [redacted] *and attempt to serve that subpoena right there?"* the Respondent stated, "*I did.*"[39]
- In response to *"You did? How do you remember that?"* the Respondent stated, *"Uh, well, I mean, the subpoenas, I, I, I always try to serve 'em. I don't try not to serve 'em. I mean, they're part of the job. They, I have to do it. Um, so I would say I went to the house, I knocked on the door and, no answer, I left."*[40]
- When confronted with the fact he was at a call for service during the time indicated he attempted to serve the subpoena, the Respondent stated, *"I don't remember writing the exact times exactly right after I did it. I think it was served. I attempted to serve it, went to a different call and then filled it in later. But I didn't put exactly the time I served it."*[41]
- In response to *"Can you say definitively that GPS on your patrol car would show you at these two addresses on this date?"* and the Respondent stated, *"On that day, yes it will."*[42]
- In response to "*On October 25th at 2142 hours, did you drive to the residence of* [redacted] *and attempt to serve the subpoena?"* the Respondent stated, "*Yes.*"[43]
- When confronted that a homeowner from one of the residences listed in the subpoena indicated they were home all evening and no one came to the door, the Respondent stated, *"No. I mean, I, it's a subpoena. It's not worth my job."*[44]
- When confronted with the fact the video surveillance in the area does not show the Respondent's patrol vehicle on that street listed on the subpoena, the Respondent stated, *"Because it could have not been that time. I, like I said, I don't, I, I think I just put a random time on there, but I showed up that day."*[45]
- When asked if ring camera footage is reviewed from 7:00pm to 8:00am, would they see his patrol car on the street, the Respondent stated, *"It should."* When

[38] Attachment H – Administrative Interview Transcript (24-07).
[39] Attachment H – Administrative Interview Transcript (24-07) – page 6, lines 20-24.
[40] Attachment H – Administrative Interview Transcript (24-07) – page 6, lines 26-30.
[41] Attachment H – Administrative Interview Transcript (24-07) – page 6, lines 55-57.
[42] Attachment H – Administrative Interview Transcript (24-07) – page 7, lines 18-21.
[43] Attachment H – Administrative Interview Transcript (24-07) – page 7, lines 37-44.
[44] Attachment H – Administrative Interview Transcript (24-07) – page 8, lines 2-11.
[45] Attachment H – Administrative Interview Transcript (24-07) – page 8, lines 29-37.

asked to explain why he indicated *it should* rather than *it will,* the Respondent stated, *"I can't explain. Um, it will."*[46]

- When asked, *"Is there any clarity that you can give me as to why I'm not showing your vehicle at these locations?"* the Respondent stated, *"I genuinely don't remember serving the subpoenas. Okay. That's why I wanted to see the calls from that day 'cause I wanted to narrow down that happened that day. I generally don't remember."*[47]
- When asked, *"So if there's no evidence of you doing it, then you didn't do it?"* and the Respondent stated, *"If there's not, then there's not."*[48]
- The Respondent stated, *"I don't, I don't want to give you all these excuses, but if there's no video of me doing it, then I, maybe I didn't do it. And I don't know why these dates and times would be on there, but I, I don't remember honestly."*[49]
- When asked, *"Um, at this point, I just have one last question and is, did you willfully write times and dates on there with the intent to deceive in any way, um, and state something on that paperwork that you knew to be not true?"* and the Respondent stated, *"I don't. I just, I wrote it on here. I, this is my handwriting. I wrote it. Yep. But I don't, I can't recall why I wrote it."*[50]

On January 13, 2026, the Respondent was interviewed by POST LEC Christina Moore and LEC Kevin Sherburne and made the following statements:[51]

- He estimated, throughout his career, he has attempted to serve 100 subpoenas, and of those, has successfully served a couple dozen.
- On October 25, 2024, he was assigned two (2) subpoenas to serve during his shift.
- He did not personally know either of the intended recipients of either subpoena.
- He did not attempt to serve either subpoena.
- He gave the subpoena return slip to his sergeant after indicating he attempted to serve each subpoena at 2123 hours and 2142 hours respectively.
- He had no evidence to refute the following evidence presented to him: CAD history, BWC, APLR data, Nest camera footage, and a witness interview.
- When asked why he indicated on the subpoena return slip that he had attempted to serve the subpoena on [redacted] when he had not, he stated, "*In all honesty, I didn't want to get in trouble. Um, it's plain and simple*."[52]

[46] Attachment H – Administrative Interview Transcript (24-07) – page 8, line 49 – page 9, line 3.
[47] Attachment H – Administrative Interview Transcript (24-07) – page 11, lines 35-40.
[48] Attachment H – Administrative Interview Transcript (24-07) – page 13, lines 4-9.
[49] Attachment H – Administrative Interview Transcript (24-07) – page 13, lines 24-26.
[50] Attachment H – Administrative Interview Transcript (24-07) – page 14, lines 1-6.
[51] Attachment K – Division Interview Transcript.
[52] Attachment K – Division Interview Transcript – page 32, line 36.

- He further explained that it was an expectation for officers at DCPD to make an attempt to serve subpoenas and no attempt is not acceptable, he heard and observed it firsthand how other officers would inaccurately note attempts of service when no attempt was made.
- He admitted he said during his IA interview he attempted to serve both subpoenas and when asked why, he stated, "*I, I don't know why I did that. It was untruthful and I had no reason to*."[53]
- He admitted he said during his IA interview that GPS will show his patrol vehicle was at both residences and when asked why, he stated, *"Um, I dunno why I did, but it was untruthful*."[54]
- He explained he was "*nervous*" and "*scared*."[55]
- He indicated there was no reasoning as to the times he wrote on the subpoena return slip, he just wrote in times at the end of this shift.
- He admitted by stating in his IA interview that he attempted to serve both subpoenas when he had not, he was dishonest.
- He admitted he did not demonstrate integrity.
- He stated, "*Um, I try to excuse myself and not want to get in trouble. In trouble. And so instead of confronting the issue head on at the time it happened, I try to work my way around it and it was not the right thing to do. It questions, I mean, it, it makes assumptions of who I am and who I am as a person, which I'm, I'm not, I mean, I hope I'm not, but now that my name is tarnished and the department's tarnished and, um, sorry, it's, it just questions my integrity.*"[56]
- He agreed with the findings and recommendations by DCPD and stated, "*I, I deserve it. I mean, I deserve the discipline that I got. I had no excuse for it*."[57]
- When asked how he would explain his actions to a future employer, he stated, "*That I wholeheartedly messed up. I, whatever I did, I did. Um, I have no reasons to be dishonest and whatever questions they ask, I'll say with wholehearted truth and there's nothing to hide at this point. And so if, if given the opportunity, everything's gonna be out on the table and I'm, I'd be happy to answer any questions and take full responsibility of what happened.*"[58]
- He explained, *"…that's not an excuse, but I personally think that what I was kind of, what was going on at home was kind of influencing and kind of keeping it bottled up with me and my fiancé kind of changed a lot of things. Um, but I went to seek therapy, went to go get help, and it's helping*…"[59]

[53] Attachment K – Division Interview Transcript – page 34, lines 12-18.
[54] Attachment K – Division Interview Transcript – page 34, lines 25-29.
[55] Attachment K – Division Interview Transcript – page 34, lines 38-40.
[56] Attachment K – Division Interview Transcript – page 35, lines 30-34.
[57] Attachment K – Division Interview Transcript – page 35, lines 52-56.
[58] Attachment K – Division Interview Transcript – page 36, lines 26-29.
[59] Attachment K – Division Interview Transcript – page 36, lines 32-35.

- He also explained, "…*I've learned, I, like I said, I went to therapy, go to therapy now. Um, trying to be able to, my, my, I think my issue was I was afraid of confrontation. Confrontation with supervisors, confrontation with anything. Um, because I knew I was wrong. And I can say that wholeheartedly I was wrong, but at that moment I couldn't say I was wrong. I don't know why I couldn't say I was wrong, but I was wrong*."[60]

V. Analysis and Findings

The Present Allegations of Serious Misconduct

1. June 2, 2024 (Shoplifter, IA #24-04)

On July 2, 2024, DCPD initiated an investigation into the Respondent's dishonest statements to his supervisor which occurred on June 2, 2024.

On April 17, 2025, DCPD Lieutenant Harold Rolfes determined all allegations against the Respondent were sustained.

2. June 20, 2024 (Training Day, IA #24-06)

On October 28, 2024, DCPD initiated an investigation into the Respondent's dishonest statements to his supervisor which occurred on June 20, 2024.

On May 14, 2025, DCPD Lieutenant Lee Auila determined all allegations against the Respondent were sustained.

3. October 25, 2024 (Subpoenas, IA #24-07)

On October 28, 2024, DCPD initiated an investigation into the Respondent's dishonest statements to his supervisor which occurred on October 25, 2024.

On June 2, 2025, DCPD Lieutenant M. Busalacchi determined all allegations against the Respondent were sustained.

[60] Attachment K – Division Interview Transcript – page 38, lines 20-24.

4. Agency Discipline, Appeals, and Division Notification

As a result of the allegations sustained from Administrative Investigation 24-04, 24-06, and 24-07, the Respondent was served a Notice of Intent to Discipline on June 2, 2025.[61]

On June 12, 2025, DCPD made initial notifications to Division of each of the Administrative Investigations and provided the Administrative Investigation reports.

On August 15, 2025, the Respondent participated in an administrative meeting where he resigned from DCPD effective October 1, 2025.[62]

A. Does the alleged conduct violate POST Regulation 1205(a)(1) – Dishonesty?

1. June 2, 2024 (Shoplifter)

Based on the following clear and convincing evidence, it is highly probable the Respondent's claim of obtaining a fingerprint from the subject during his Internal Affairs interview was dishonest:

- BWC recordings from the Respondent and responding officers, which captured the entire enforcement contact, as well as a subsequent enforcement contact at the same location, displayed no evidence to substantiate a fingerprint was obtained.[63]
- The surveillance footage from the Target shopping center, which displayed the Respondent's arrival, parked patrol vehicle, and departure from the scene, displayed no evidence to substantiate a fingerprint was obtained.[64]
- The electronic ticket writer was not equipped to obtain a digital fingerprint.[65]
- The data extraction from the electronic ticket writer displayed no evidence to substantiate a duplicate citation was printed.
- During his interview with the Division, the Respondent admitted he did not obtain a fingerprint from the subject.
- During his interview with the Division, the Respondent admitted he did not know if the person he cited and released for shoplifting was who she said she was.

[61] Attachment I – Notice of Intent to Terminate.
[62] Attachment J – Letter of Resignation.
[63] Attachment C – Administrative Investigative Memorandum Excerpts (24-04) – pages 6-10.
[64] Attachment C – Administrative Investigative Memorandum Excerpts (24-04) – pages 10-13.
[65] Attachment C – Administrative Investigative Memorandum Excerpts (24-04) – pages 2-3.

- During his interview with the Division, the Respondent admitted he was dishonest with his supervisor when he claimed to obtain a fingerprint from the subject when he had not.
- During his interview with the Division, when asked why he informed his supervisor he had obtained a fingerprint when he had not, the Respondent stated he "*Um, I panicked*. *I, I have no excuse for what I did. I just, I just panicked. I, that was my first time kind of getting in trouble doing something wrong, and I didn't take accountability for myself. And I have no excuse for that one*."[66]
- During his interview with the Division, when asked why when questioned during his Internal Affairs interview he stated he obtained the subject's fingerprint, he stated, "*Um, I, like I said, I have no excuse. I was going through some personal things then, and I, I have no reason."*[67]
- During his interview with the Division, the Respondent admitted going into his Internal Affairs interview he had concerns because he knew he should have booked the subject, but decided not to be forthcoming during his Internal Affairs interview. When asked why, the Respondent stated, "*I don't have any excuses. Um, that that was my first kind of disciplining and as well as some things back at home and, or some things happening at home and I just wasn't in the right mindset, and I didn't take responsibility for my actions.*"[68]
    - Note: The Respondent disclosed personal information he received between May 2024 and December 2024, which he believed affected his mindset at the time. The Respondent also referenced this being his first discipline; however, prior to his Internal Affairs interview the Respondent had four (4) documented incidents of counseling and one (1) written letter of reprimand related to multiple preventable collisions, failing to adhere to vehicle pursuit policy, failing to adhere to BWC policy, and failure to follow evidence booking procedures.

2. June 20, 2024 (Training Day)

Based on the following clear and convincing evidence, it is highly probable the Respondent's statements during his Internal Affairs interview were dishonest when he told his supervisors he arrived late because he was working on evidence with the Property Room Manager:

- The door code audit indicated the Respondent used his electronic key card to enter the DCPD station at 0731 hours.[69]

[66] Attachment K – Division Interview Transcript – page 17, lines 25-31.
[67] Attachment K – Division Interview Transcript – page 17, lines 33-37.
[68] Attachment K – Division Interview Transcript – page 19, lines 5-24.
[69] Attachment E – Administrative Investigative Memorandum Excerpts (24-06) – pages 16-17.

- No evidence in the electronic evidence management system was manipulated by the Respondent prior to 1100 hours.[70]
- According to witness statements and the Internal Affairs interview with the Respondent, the Respondent never met with the Property Room Manager that morning.[71]
- During the Internal Affairs interview, the Respondent claimed it was an issue of incorrect wording when he told his supervisors he was doing property *with* the Property Room Manager as opposed to *for* the Property Room Manager; however, the Respondent did not arrive at DCPD until 0731 hours.
- During the Internal Affairs interview, the Respondent claimed he was working on evidence by reviewing his emails on his cell phone while changing into his uniform in the locker room; however, the Respondent did not arrive at DCPD until 0731 hours.
- During the interview with the Division, the Respondent admitted he arrived late to work because he woke up late.[72]
- During the interview with the Division, the Respondent admitted he had not been handling evidence with the Property Room Manager prior to 0807 hours on June 20, 2024.
- During the interview with the Division, the Respondent admitted the text message he sent the Property Room Manager was "*untruthful,"* and admitted he had asked the Property Room Manager to say they were doing something that they had not been doing.[73]
    - Note: The Respondent maintained the text message was not for the purpose of creating an alibi or purposely asking her to cover for him, which lacks credibility when viewed in totality.
- During the interview with the Division, when asked to share his thoughts, feelings, or concerns after he read the completed Internal Affairs investigation, the Respondent stated, *"Um, I, I have no excuse. I, I, I messed up. I, it, what I said in the text appeared to be untruthful and misleading and I I have no excuse. I was, I was being untruthful."*[74]

[70] Attachment E – Administrative Investigative Memorandum Excerpts (24-06) – page 16.
[71] Attachment E – Administrative Investigative Memorandum Excerpts (24-06) and F – Administrative Interview Transcript (24-06).
[72] Attachment K – Division Interview Transcript – page 20, lines 30-32.
[73] Attachment K – Division Interview Transcript – page 22, lines 23-60.
[74] Attachment K – Division Interview Transcript – page 25, lines 16-17.

3. October 25, 2024 (Subpoenas)

Based on the following clear and convincing evidence, it is highly probable the Respondent's statements during his Internal Affairs interview were dishonest when he stated that he attempted to serve two subpoenas that had been assigned to him:

- A review of the Respondent's Computer Aided Dispatch (CAD) history and BWC confirmed he was on scene for a separate call of service at the time he indicated the first service attempt was made at 2123 hours.[75]
- A review of the Respondent's CAD history and BWC confirmed there were no calls for service generated and BWC activations related to subpoena service attempts.[76]
- The Respondent's Axon ALPR data indicated his patrol vehicle never traveled on the street of the first subpoena [redacted].[77]
- The Respondent's Axon ALPR data indicated his patrol vehicle drove past the residence of the second subpoena [redacted] twice during his shift. The Respondent made an enforcement stop across the street from the residence of the second subpoena, but BWC confirmed he never went to the residence.[78]
- Nest Camera footage from a neighboring residence near [redacted] indicated a patrol vehicle never traveled to the residence on October 25, 2024, between 2130 and 2200 hours.[79]
- A resident from the residence in the first subpoena [redacted] indicated he and his family were home during the day and night of October 25, 2024, no one came to their home to attempt to serve a subpoena.[80]
- At the end of his Internal Affairs interview, the Respondent stated, *"I don't, I don't want to give you all these excuses, but if there's no video of me doing it, then I, maybe I didn't do it. And I don't know why these dates and times would be on there, but I, I don't remember honestly."*[81]
- During the interview with the Division, the Respondent admitted he never attempted to serve either subpoena.
- During the interview with the Division, the Respondent explained, for the first subpoena, he wrote on the subpoena return slip that he attempted to serve it when had not because, *"In all honesty, I didn't want to get in trouble. Um, it's plain and simple."* The Respondent further explained DCPD officers were told they had to make an attempt for a subpoena, that no attempt was not acceptable,

[75] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – page 2 and pages 5-6.
[76] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – page 2, and pages 5-6.
[77] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – pages 6-9.
[78] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – pages 5-9.
[79] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – page 3 and page 8.
[80] Attachment G – Administrative Investigative Memorandum Excerpts (24-07) – pages 2-3.
[81] Attachment H – Administrative Interview Transcript (24-07) – page 13, lines 24-26.

he was busy with a Domestic Violence call that had led to an arrest, and he *"And so I, I just put a time and date and no answer just to give it to the next team. And I, I just didn't want to get in trouble."*[82]

- Note: The Respondent indicated he observed *"a handful"* of officers indicate "*No answer*" on the subpoena return slip when they had not attempted to physically serve the subpoena.

- During the interview with the Division, the Respondent explained, for the second subpoena, he wrote on the subpoena return slip that he attempted to serve it when had not because, *"Same as the last one. Um, I didn't wanna get in trouble and I thought the next team could serve it."*[83]
- During the interview with the Division, the Respondent was asked why he stated in his Internal Affairs interview that he had attempted to serve both subpoenas when he had not, and the Respondent stated, *"I, I don't know why I did that. It was untruthful and I had no reason to."*[84]
- During the interview with the Division, the Respondent was asked why he said during his Internal Affairs interview that GPS would show him at the two addresses listed on the subpoenas, when he had not attempted to serve either subpoena, and the Respondent stated, *"Um, I dunno why I did, but it was untruthful."* The Respondent further explained, *"…that IA I was, I was nervous. Um, my first, that was my first IA meeting. And that's, I was scared."* The Respondent's counsel asked, *"Were you hoping that you would basically get away with that lie and not get in trouble? Was that what, was that your thought process at the time?"* and the Respondent stated, *"Yeah."*[85]
- During the interview with the Division, the Respondent admitted when he stated during his Internal Affairs interview that he attempted the serve the subpoenas when he had not, he was dishonest and he did not demonstrate integrity. The Respondent explained, *"Um, I try to excuse myself and not want to get in trouble. In trouble. And so instead of confronting the issue head on at the time it happened, I try to work my way around it and it was not the right thing to do. It questions, I mean, it makes assumptions of who I am and who I am as a person, which I'm, I'm not, I mean, I hope I'm not, but now that my name is tarnished and the department's tarnished, and um, sorry, it's, it just questions my integrity."*[86]

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

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[82] Attachment K – Division Interview Transcript – page 32, lines 33-48.
[83] Attachment K – Division Interview Transcript – page 34, lines 9-10.
[84] Attachment K – Division Interview Transcript – page 34, lines 12-18.
[85] Attachment K – Division Interview Transcript – page 34, lines 25-45.
[86] Attachment K – Division Interview Transcript – page 35, lines 30-34.

VI. Supporting Evidence

- Attachment A – Executive Review and Division Recommendation
- Attachment B – Respondent's POST EDI Profile
- Attachment C – Administrative Investigative Memorandum Excerpts (24-04)
- Attachment D – Administrative Interview Transcript (24-04)
- Attachment E – Administrative Investigative Memorandum Excerpts (24-06)
- Attachment F – Administrative Interview Transcript (24-06)
- Attachment G – Administrative Investigative Memorandum Excerpts (24-07)
- Attachment H – Administrative Interview Transcript (24-07)
- Attachment I – Notice of Intent to Terminate
- Attachment J – Letter of Resignation
- Attachment K – Division Interview Transcript

POST CASE NUMBER: POST2505112/POST2505137/POST2505140

SUBJECT OFFICER NAME: Kevin Smithmatungol

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Professional Conduct Central Bureau on 1/13/2026 with Officer Kevin Smithmatungol, who is the subject of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Central Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON AI transcription. This transcript was prepared by Law Enforcement Consultant Christina Moore, Professional Conduct Central Bureau.

Parties Present:
Law Enforcement Consultant Christina Moore, Professional Conduct Central Bureau, Primary Investigator
Law Enforcement Consultant Kevin Sherburne, Professional Conduct Central Bureau, Secondary Investigator
Officer Kevin Smithmatungol, Daly City Police Department, Subject
Andrew Ganz, Rains Lucia Stern, Representative for subject officer

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Moore *All right, so the date is January 13th, 2026, and the time is 1222 hours. This is an administrative inquiry concerning Mr. Kevin Smithmatungol. Did I pronounce that okay?*

Smithmatungol *Smithmatungol.*

Moore *Smithmatungol, previously employed by Daly City Police Department. This interview is being conducted and recorded at the San Mateo County District Attorney's Office. I, Law Enforcement Consultant Christina Moore, am in charge of this interview and assisting me in this invest. Uh, this interview is Law Enforcement Consultant Kevin Sherburne, both of the Professional Conduct Central Bureau. Also present is Mr. Kevin Smithmatungol and the subject of this investigation and his attorney.*

Ganz *Andrew Ganz, from Rains Lucia Stern.*

Moore *Perfect. Each person, um, present is gonna identify themselves on tape. Give me their name, your title, and your classification. Um, as stated, Christina Moore, Law Enforcement Consultant.*

Sherbourne *Kevin Sherburne, Law Enforcement Consultant.*

Smithmatungol *Kevin Smithmatungol.*

Ganz *And again, Andrew Ganz, from Rains Lucia Stern. Thank you.*

Moore *You're being questioned as part of an official POST Peace Officer Standards and Accountability Division investigation. You are hereby directed to answer all questions honestly and completely. Your refusal to answer or any type of evasion, deception, dishonesty, or lack of cooperation on your part could constitute serious misconduct and result in further actions concerning your certification up to and including revocation of your POST certification. Neither your statement nor any information or evidence which is gained by reason of such statements can be used against you in any criminal proceedings. No other promise will be made as an inducement for the answer to any question. This recorded interview is authorized by Commission Regulation Title 11, Section 1206(A)(4) of the California Code of Regulations. You may record any portion of this interview or have access to the Peace Officer Standards and Trainings recording if any other proceedings are contemplated or prior to any subsequent interviews. You have the right to be represented by an individual of your choice who may be present at all times during your interview provided the person chosen is not a witness or subject to this inquiry. POST is not your employing agency. Therefore, this interview is not subject to Peace Officer Bill of Rights, including but not limited to sections 3303 through 3312 of the Government Code. Although you as a representative are present to assist the subject officer, POST is only interested in hearing the officer's account of the matter under investigation. You may participate during the interview when appropriate, but you may not interfere with or cause unnecessary delay to the orderly course of the investigation.*

Ganz *Understood.*

Moore *You'll be given an opportunity to make clarifying statements and ask clarifying questions. If you need to take a break to use the restroom or attend personal needs, you may do so upon request. However, we just ask that you answer any pending questions before leaving.*

Ganz *Does That make sense? That little part?*

Smithmatungol *Yes.*

Ganz *Okay.*

Moore *To maintain the integrity of the investigation, you must not discuss the questions asked and the facts discussed in this interview with anyone other than your legal counsel, counsel, or as otherwise required by law. Do you both understand, understand and agree to proceed in accordance with these instructions?*

Smithmatungol *Yes.*

Ganz *Yes. Thank you.*

Moore *Thank you. So I understand, you were the subject of three separate Internal Affairs investigations conducted by the Daly City Police Department. Their investigations were completed and you were served a Notice of Intent to Terminate on June 2nd, 2025. On August 15th, 2025, you participated in a Skelly related meeting where you submitted your resignation effective October 1st, 2025. Is that correct?*

Smithmatungol *Correct.*

Moore *Okay. Besides the allegations of dishonesty, the additional departmental policy violations investigated by Daly City PD are not the focus of this POST investigation. My investigation is focused only on the allegations of dishonesty in violation of penal code sections 13510.8(b)(1) and Title 11, California Code of Regulations Section 1205(A)(1). Do you have any questions before we begin?*

Smithmatungol *No ma'am.*

Ganz *No, thank you.*

Moore *Okay. So before we begin, is there anything you would like us to know or information you would like to provide regarding the allegations of dishonesty sustained against you by the Daly City Police Department in each of your three IA investigations?*

Ganz *Um, is it okay, I I'm sure there's a lot. Can we see kind of what's not covered by the questions and then he can add at the end, or do you just want to make a statement at the beginning? I didn't.*

Moore *Uh, if he wants to make a statement now, there's gonna be plenty, plenty of time to go into detail.*

Ganz *Yeah. If, if we can proceed with questions and then he can add anything that he wants or, okay. I appreciate that.*

Moore *Sure. Okay. So you were employed by that Daly City PD as an officer from July 11th, 2022, to October 1st, 2025, about three years. Is that correct?*

Smithmatungol *Yes, ma'am.*

Moore *Why did you want to become a police officer?*

Smithmatungol *Um, my friend was killed by a wrong way, one of my best friends was killed by a wrong way, DUI driver, um, a little bit before I got hired as a police officer. And so that kind of wanted me to become a traffic officer, which I, ever since I graduated the academy, I pushed myself to do for. I went to, I put myself through all the trainings. I inquired about all the trainings. And additionally, my brother, um, he's a sergeant for the San Bernardino Police Department, and he influenced me since childhood to become a police officer.*

Moore *Okay. So you mentioned training. You put yourself through training?*

Smithmatungol *Uh, I, instead of waiting for the department to ask me to, oh, do you wanna go to this training, I said, hey, um, this is what I want to do. Can I put myself through all these trainings? I'll write the memos. I write anything that we need to do. And, um, that's what I assisted with.*

Moore *Was that a basic academy?*

Smithmatungol *Uh, I went to beginning, intermediate, advanced collision, drone collision reconstruction, uh, crime scene reconstruction. Um, so far through those two, two, a little over two years I was there.*

Moore *Okay.*

Smithmatungol *Or officially working.*

Moore *So prior to becoming a police officer, did you do a basic course somewhere?*

Smithmatungol *No.*

Moore *No basic course?*

Smithmatungol *Uh, I just got my bachelor's in criminal justice. That's it. Before becoming a police officer.*

Moore *Okay. Um, once you became a police officer for Daly City PD, did you receive field training?*

Smithmatungol *Yes.*

Moore *Can you describe a little bit? You don't have to go into the big, a lot of detail, but--*

Smithmatungol *I believe it was three or four months of FTO. Okay. Uh, phase 1, 2, 3, and final phase, which I, uh, completed with no remediations or extra training required.*

Moore *Did you have any difficulties during that training?*

Smithmatungol *Uh, not that I remember, no. Maybe, uh, report writing. I just had mistakes. Mm-hmm . But that's pretty much it, I believe.*

Moore *Is English your first language?*

Smithmatungol *Yes.*

Moore *Okay. After completing your field training, did you continue to receive various forms of professional training throughout your career?*

Smithmatungol *Yes.*

Moore *Um, can you describe your duties and assignments while employed by Daly City Police Department?*

Smithmatungol *Um, I was a, specifically a patrol officer, um, during my time there, and I believe after 20 beginning of 2024, I was, I joined the MAIT team for traffic collisions, field traffic collisions, anything that needs extra investigation. Um, I did a lot of collateral assignments, drone operator, uh, PAS calibration coordinator, um, Star Chase instructor, and I believe that's it.*

Moore *Just out of curiosity, how long have they had a drone program at Daly City?*

Smithmatungol *Uh, when I first got hired, it was kind of a new, new system and so I, I helped write some memos for new drones and, um, I was really interested in the drone program just 'cause I'm a kind of a drone little freak. And so, uh, that's, that's what I was interested in. Okay.*

Moore *Um, were you a field training officer at all?*

Smithmatungol *No, Ma'am.*

Moore *How about, uh, any kind of training facilitator?*

Smithmatungol *Uh, just for Star Chase.*

Moore *Star Chase, okay. Just prior to your resignation, what was your assigned work schedule?*

Smithmatungol *Um, I was on admin leave since Feb, end of February, 2024. Um, prior to that I was working Friday through Sunday, 7:00 PM to 7:00 AM*

Moore *So, graves?*

Smithmatungol *Graves. Weekend graves.*

Moore *Does deviation from your normal work schedule require some kind of approval?*

Smithmatungol *Uh, sorry. Can you,*

Moore *If you were going to deviate from your normal work schedule, did that require some kind of approval?*

Smithmatungol *Yes.*

Moore *Was it like supervisor approval?*

Smithmatungol *Yes.*

Moore *Okay. On a daily basis, how many field officers worked patrol on your assigned shift, weekend graves?*

Smithmatungol *Um, it can go as little as six all the way to full staffing, I believe, nine.*

Moore *Okay. How do beat assignments work? Are they like seniority based? Does a supervisor assign them?*

Smithmatungol *The supervisor assigns them?*

Moore *Supervisor. Can you put in a request to work a specific beat or it's just--*

Smithmatungol *Um, I can, or I, I, I think you can, but I've never done it. I've never requested to ask the specific beat.*

Moore *Do they seem to put you in the same beats all the time, or did they rotate them first?*

Smithmatungol *It depends on the supervisor. They rotated or they keep you on the same beat for the entire work week.*

Moore *Did you typically get the same beat or did it vary?*

Smithmatungol *It varied.*

Moore *As much as shift to shift or?*

Smithmatungol *Shift to shift.*

Moore *Okay. So night to night?*

Smithmatungol *Yes.*

Moore *Okay. Can you explain to me the process at the Daly City Police Department in regards to completing a basic investigation? Um, just from like, the moment you investigate, like as far as the, the levels of review of the report and how it becomes closed.*

Smithmatungol *Um, so it goes from initial investigation completed by my, by me, and then it goes, it gets submitted to, uh, our RIMS system. Um, it goes to, uh, a supervisor approval. It could be sergeant, the lieutenant, captain, whoever wants to review it and then approve the, the report.*

Moore *Now, is there a way to tell if an investigation is still pending, um, after it's been approved, for example, once it goes to prosecution or if it goes to further follow up, or if, let's say you're just still working on it?*

Smithmatungol *So if there's, it requires additional follow up, I will submit the initial narrative and then open up a second supplemental that requires follow up and what the follow up is for.*

Moore *So the initial one will be closed out and approved, and then you just add supplementals as more information comes forward?*

Smithmatungol *Correct. Yes.*

Moore *And then is there a way to distinguish at some point if the DA prosecuted or if the case was just closed and filed?*

Smithmatungol *Um, I am not too sure about that answer. I think that's a records question that I don't really know.*

Moore *Okay. Would the only way you find out is if the DA, for example, wanted more additional investigation and they may contact you to do further? Or would that go to a different like person?*

Smithmatungol *They'll send a, uh, uh, a letter saying, um, they reviewed the case and then they require additional investigation. So they'll send a letter, uh, addressed to the officer. The officer will read it, then open up a supplemental.*

Moore *Okay. But that original report stays closed in its--*

Smithmatungol *Correct.*

Moore *Original formation that was signed by that--*

Smithmatungol *Yes.*

Moore *Approver?*

Smithmatungol *Yes.*

Moore *Perfect. Okay. During your career as a police officer, can you estimate how many calls of service you responded to involving shoplifting?*

Smithmatungol *Um--*

Moore *Just approximate.*

Smithmatungol *It, it really depends on the beat. Um, maybe for my, if I was in beat by the Serramonte Mall, it could be four to five a night.*

Moore *Okay.*

Ganz *So again, in terms of approximation, maybe, you know, some officers have responded to just a handful, like a few, some a million and some in the middle. I mean, just can you, no one's gonna hold you to an exact number. Can you give them a basic idea of if you were just to try to think--*

Smithmatungol *For a whole night? If I--*

Ganz *No, your whole career, how many shoplifting do you think?*

Smithmatungol O*h, my, my whole career?*

Ganz *You think it's like in the hundreds or less than that?*

Smithmatungol *A couple hundred.*

Ganz *Thank You.*

Moore *Thank you.*

Smithmatungol *Sorry.*

Ganz *That's Okay. You're fine.*

Moore *How do you typically confirm the subject's identity in a shoplifting case?*

Smithmatungol *Um, either, uh, previous contacts, um, through our RIMS system that we share with other, uh, departments.*

Moore *Let me stop you right there.*

Smithmatungol *Yes.*

Moore *Previous contact. So how do you, uh, determine previous contact through RIMS? Would you first obtain a name, date of birth, or something similar?*

Smithmatungol *Correct. Name, date of birth. Okay. Um,*

Moore *So tell me how you get that, name and date of birth.*

Smithmatungol *Well, we usually just ask the subject for name and date of birth.*

Moore *Verbally?*

Smithmatungol *Verbally. Um, I'll try to look that up in the system and if something pops up, um, either aliases, names it, it would show up on our computer and most agencies add a photo to, uh, the profile of the subject. And so I would confirm it through that. And then, um, that profile would also have sometimes a California driver's license number. So I'll run that through, um, the system, um, to verify driver's license, uh, picture and to the name or, um, a foreign passport ID card.*

Moore *So, uh, do you typically ask, hey, can I see your ID?*

Smithmatungol *Yeah.*

Moore *Okay. And what about out-of-state IDs?*

Smithmatungol *Uh, out-of-state IDs, they'll, they'll--*

Moore *Do you run them through your dispatch?*

Smithmatungol *Yeah, I run.*

Moore *Do they have that capability?*

Smithmatungol *Yes.*

Moore *Of outstate?*

Smithmatungol *Yes.*

Moore *Um, so let's say, uh, you run 'em verbally and it doesn't come back, uh, on your RIMS or any of your systems, what do you do next? Or what would you do next?*

Smithmatungol *Uh, if nothing comes back, I would…Sorry. If a name doesn't come back, I would, some departments have a, a fingerprint system that they can come and scan the fingerprint and sometimes that would show up if they are fictitious about their name.*

Moore *Does Daly City have that?*

Smithmatungol *No.*

Moore *Do any of your neighboring agencies have that?*

Smithmatungol *I, I believe Colma does.*

Moore *Have you used it before?*

Smithmatungol *I have not. To my knowledge, I have not.*

Moore *So, uh, if the mobile fingerprinting machine's not available, what would you do next?*

Ganz *Can I just clarify one thing?*

Moore *Mm-hmm .*

Ganz *Do you recall a specific instance where that actually occurred? Like do you remember if that, if you were confronted with that sort of situation before?*

Smithmatungol *Since to my, if I remember, ever since I started FTO, I've never had a subject that had no ID, no nothing, no, no name.*

Moore *No physical ID you're talking about?*

Smithmatungol *Or no, no way of showing that this person's who they are, they've always had at least a passport or a ID card or, I, I don't remember since, ever since working that I've had a instance where I've had no name, no nothing.*

Ganz *Okay .With that being said, do you want him to think about what he might do in that, that situation?*

Moore *Sure.*

Ganz *Okay. What do you think he would do in that situation?*

Smithmatungol *Um, I think I'd contact a supervisor just 'cause I, I, I wouldn't know what to do. Um, but in that case, I would probably have to book to jail to verify fingerprint ID.*

Moore *Okay. So just to confirm if all else methods as far as no physical ID, no match through dispatch, no mobile fingerprint available, you would book at jail so that they could fingerprint and get an ID, correct?*

Smithmatungol *Correct.*

Moore *Plus get supervisor approval. Does that require supervisor approval?*

Smithmatungol *No.*

Moore *You would just ask for advice?*

Smithmatungol *But I would just ask just for advice.*

Moore*. Advice. Perfect.*

Moore *Okay. So in the 200 or 300, um, shoplifting cases, you said you had, uh, plus you've been an officer for three years, every single one of them had, every single suspect had an ID, a physical ID, or you're saying, well, you were able to find a match based on name and date of birth?*

Smithmatungol *I was able to find a match.*

Moore *Do you have access to Cal photo? Are you familiar with that program?*

Smithmatungol *Yes.*

Moore *Okay. Do you use that also?*

Smithmatungol *Yes.*

Moore *Okay. Can you explain how fingerprints are obtained?*

Smithmatungol *Um, either digital on the ticket writer or, uh, ink and paper.*

Moore *Okay. Are there any other ways, uh, we kind of hit on this a little bit, but are there any other ways to obtain fingerprints besides your digital and your ink pad?*

Smithmatungol *That's the only way I've been taught to obtain fingerprints.*

Moore *Except the mobile also, or going to jail and having them do, correct?*

Smithmatungol *Yes.*

Moore *Okay. Is there a way to confirm that digital prints were taken?*

Smithmatungol *Um, I believe on the ticket writer.*

Moore *Okay. And do all ticket writers at Daly City PD have a digital capabilities?*

Smithmatungol *No.*

Moore *No, okay. And so if the ticket writer you had in your possession didn't have those capabilities, what were the other ways available that you said?*

Smithmatungol *Uh, the f uh, the ink and paper or take 'em to jail to get a fingerprint*

Moore *Or the mobile?*

Smithmatungol *Or the mobile.*

Moore *Okay.*

Sherburne *If I could say, I heard you answer the question, yes, on the mobile writer, there is a way to confirm digital fingerprints. What is that confirmation on the digital writer that allows you to confirm that fingerprints were in fact taken?*

Smithmatungol *Sorry, there's no, um, so some ticket writers have the fingerprint attachment at the top where you obtain a fingerprint and that would go on the citation, but it wouldn't confirm name, date, or anything like that. It just shows that you got a fingerprint for that specific citation.*

Sherburne *So are you saying that you physically see an image of a fingerprint?*

Smithmatungol *I, I don't remember, but the, the device itself has a little square tab to put a finger on.*

Sherburne *Okay. Is there a printout that the mobile device writer prints out that prints an image of a fingerprint on it?*

Smithmatungol *I don't remember if it, I, I don't remember if it prints out physically, but it would show up on an external website. If you go back to the PD a click the, the ticket writer website, and it, it, I think it'll show a fingerprint on there.*

Moore *Have you ever looked up a fingerprint that you've taken on the field digitally with your e-ticket writer?*

Smithmatungol *I can't say with full confidence. I don't, I don't remember.*

Moore *Okay. Have you used the digital fingerprint before?*

Smithmatungol *I, I think I have.*

Sherburne *Are, are there, excuse me.*

Moore *Oh, no, you're good.*

Sherburne *Are there required fields on a mobile writer? When you have a, a subject in front of you and there are required fields and optional fields, a required field might be name, date of birth, address, an optional field might be height, weight, uh, you know, like when you're filling out, uh, an Amazon shopping order, there are some things if you click it wrong, you, you didn't put the CCV in for the credit card, it's gonna reject it. Does the mobile writer have something like that?*

Smithmatungol *Uh, the finger, the mobile writer itself has a required field. Um, but for fingerprints, I don't think it's a required field because I've written citations, uh, without the fingerprint.*

Sherburne *If it's not a required field, does it have a check the box? Um, uh, sort of like, I confirm that I'm not affirmatively doing fingerprints. Like, uh, do you understand that question?*

Smithmatungol *I believe I answered the, I understand the question, but I don't, I can't say exactly without looking at the device.*

Sherburne *Okay.*

Moore *Is it important to confirm a subject's identity?*

Smithmatungol *Yes.*

Moore *Why?*

Smithmatungol *Um, you can arrest the wrong person and that would just jeopardize a whole investigation.*

Moore *Okay. So prosecution purposes?*

Smithmatungol *Correct.*

Moore *Okay. Um, and the wrong person ID'd?*

Smithmatungol *Correct.*

Moore *Of your total shoplifting calls of service, approximately how many did you cite and release approximate? You said 200 to 300 calls, of those?*

Ganz *You wanna do a percentage maybe?*

Moore *Sure.*

Ganz *That might be easier.*

Smithmatungol *Maybe eight, depending on what they, 80 to 90% of them.*

Moore *80 to 90 you, uh--*

Smithmatungol *Just, just for shopping itself, besides warrants or anything like that? Maybe 80 to 90% are just cite and release.*

Moore *And how many approximately did you book?*

Smithmatungol *The other 10-20%.*

Moore *20 to 20. 10 to 20, sorry, for 10 to 20, correct?*

Smithmatungol *Yes. Okay. And that's just shoplifting as the sole charge, not warrants or any other thing? Yeah, I believe that's correct.*

Moore *Okay. During your career as a police officer, can you estimate how many calls of service you responded to involving identity theft?*

Smithmatungol *Um, a handful, maybe a couple dozen.*

Moore *And how many, um, have you, uh, how many arrests have you made related to identity theft?*

Smithmatungol *Identity theft or providing false name to a police officer?*

Moore *No, Identity theft.*

Smithmatungol *Not much. Um--*

Moore *Have you made any arrests for an identity theft?*

Smithmatungol *Yes, I've, I've had maybe I, I only recall one specific one. Um, but I don't remember. I don't know for sure how many during my career.*

Moore *But at least one?*

Smithmatungol *Correct.*

Moore *Okay. Less than five?*

Smithmatungol *Maybe around five to 10.*

Moore *Okay.*

Ganz *Can I also ask just a foundational question?*

Moore *Mm-hmm .*

Ganz *So when, approximately when was the last date that you were actually working as a police officer?*

Smithmatungol *Beginning of 2024. Okay. So, or 2025. I'm sorry.*

Ganz *Do you think some of these things were fresher in your memory at that time than they are since everything that's happened?*

Smithmatungol *Correct. That's been about it almost a year.*

Moore *So on June 2nd, 2024, you responded to the target in the Serramonte Center for a detained shoplifter. You cited and released a subject, a person identified as Ms.* [redacted] *Do you recall that?*

Smithmatungol *I recall that call, but I don't that name. Um, I don't exactly remember that name.*

Moore *Did you cite and release a subject?*

Smithmatungol *At Target? Yes.*

Moore *At Target, okay. Was she female?*

Smithmatungol *Yes.*

Moore *Was she pregnant?*

Smithmatungol *I, yes.*

Moore *Or appeared to be?*

Smithmatungol *Appeared to be, yes. Okay.*

Ganz *Do you think, you know what call for service we're talking about?*

Smithmatungol *Yes. Yes, I do.*

Moore *Related to your IA?*

Smithmatungol *Yes.*

Moore *Number one?*

Smithmatungol *Yes.*

Moore *Okay. So please explain how you identified the subject you identified as Ms.* [redacted] *Um, that's according to your report, that name.*

Smithmatungol *So she, this was primarily Spanish speaking. I was able just to ask, uh, license, passport or anything like that, just in Spanish before my second officer who speaks Spanish gets there. Um, she said no for license, no for passport, if I remember. And I just had my partner do all the talking. Um, asked, I asked him if he can get identification or search or, or property. I think he found a, a card with her name on it.*

Moore *What kind of card was that?*

Smithmatungol *I believe it was a debit or credit card.*

Moore *To your knowledge, did she have anything else in her possession with her name on it?*

Smithmatungol *I, no, I did not. I do not remember. Right. I don't.*

Moore *Is that something you would've, information you would've gotten from your partner at the time?*

Smithmatungol *At the time I had him do most of the talking because I don't, I don't speak Spanish, and so I would've ask him for all the standard practice. We go there, we get the name and all that items, and so I had, I had my partner do most of the talking.*

Moore *Okay. So the name that was written on the citation, uh, I, did you write it in there or did your partner?*

Smithmatungol *I wrote it in there and I think he provided me that card with that name on there.*

Moore *Like his FI card or the one that you got from a debit card?*

Smithmatungol *I don't remember if it's FI card or a debit card, but it's, it's one or the other.*

Moore *Either way, the name was obtained from this female subject?*

Smithmatungol *From the female subject.*

Moore *Okay. Verbally and then possibly by a debit card?*

Smithmatungol *Correct.*

Moore *Okay. Did she have a California ID or license?*

Smithmatungol *She did not.*

Moore *And how did you find out that she did not?*

Smithmatungol *Um, I asked her if she had any license or identification. She said no, and I believe my partner asked her if he, if she asked or if she had any in Spanish for better clarification, I believe she said no.*

Moore *And did you and/or Officer Rodriguez request dispatch to run her name and date of birth that she provided?*

Smithmatungol *I, one of us ran her name out over the, in the air, I believe.*

Moore *And what was the purpose of this?*

Smithmatungol *Just to put it in the system, in the CAD call for the future reference if I need to go back to it, or, uh, if they can find the name or a match on the name.*

Moore *A matching, um, name, which would be indicative of an ID, California ID or DL. Is that correct?*

Smithmatungol *Correct, yes.*

Moore *Okay. What was the result of this request?*

Smithmatungol *I believe there was no match.*

Moore *Did she have an out-of-state identification card or license?*

Smithmatungol *Not that I saw.*

Moore *Did you request dispatch to run her by name or date of birth out of state?*

Smithmatungol *I do not recall specifically asking for out-of-state.*

Moore *Uh, I think you said this already, but let me just confirm. Does dispatch your dispatch at Daly City PD have the capabilities of running an out-of-state DL or ID?*

Smithmatungol *Yes.*

Moore *Okay. So in the report, um, that you have for the shoplifter, there was a out-of-state ID number written in North Carolina. Would that be indicative of running it over the air or running it through dispatch to obtain that?*

Smithmatungol *I, yes, because I, I, there's no possibility without me going on the computer to get that number because my computer's in my patrol car outside. And so that either came from my partner or dispatch.*

Moore *Okay. But you don't remember seeing a physical ID card, so it would've been over the air?*

Smithmatungol *Correct.*

Moore *Okay. After being told by Officer Rodriguez that the suspect had no id, you stated, I'm gonna book her, then what did that mean?*

Smithmatungol *Um, that was just my first impression that I, there's nothing else I can do. I I should just book her.*

Moore *Why? You said there's nothing else I can do.*

Smithmatungol *Uh, as in there's no, uh, to my knowledge, there's no other way of IDing her, um, at that time. So I said, uh, I'm just gonna book her.*

Moore *Is that because when you ran her over the air by name and date of birth, there was no match in California ID or DL?*

Smithmatungol *Correct.*

Moore *Okay. Did you inquire the, for a mobile fingerprinting system?*

Smithmatungol *I did not.*

Moore *Okay. So if I'm understanding this correctly, you weren't able to identify her, so at that time, you planned on booking her?*

Smithmatungol *Correct.*

Moore *During, uh, conversation with Officer Rodriguez, at the time he's filling in the electronic ticket writer, you stated we're short, I'm just going to cite her. What did that mean?*

Smithmatungol *Um, I think I looked at the, the, our, our phone has the ability to look at RIMS to see what other officers are doing. Um, I believe most of the officers were busy doing something else, and that was the start of shift and Serramonte, is the biggest, it was one of the biggest busiest beats according to just people coming in wise. And so, um, I had, I, I was thinking about beat integrity saying, I, I am not gonna take this person to jail because I, if I'm going to jail and all these calls are coming in, I just didn't want my partners to take more paper for me. I just, I just thought that my beat, my responsibility.*

Moore *So. And the last question, you just said you were going to book her and then here you said you're going to cite her. Was there any other reasons besides the amount of officers and their, uh, availability that made you decide to go from citing and release to booking?*

Smithmatungol *Not that I remember. I think I just--*

Moore *I'm sorry, I said backwards from booking to citing and releasing.*

Smithmatungol *Not that I remember. I just thought about beat integrity and that was my main concern.*

Moore *Was there anything else in your decision process for citing and releasing the subject that day?*

Smithmatungol *No, I just, I made a bad judgment call on that, on, on that, on that cite and release.*

Moore *Why do you feel it was a bad judgement call?*

Smithmatungol *Um, after, I mean, after I looked at the call and how I handled it, it wasn't the appropriate way of handling it, and I just didn't take responsibility and I messed up.*

Moore *What would've been the appropriate way to handle it?*

Smithmatungol *Take her to jail and do the right thing.*

Ganz *Okay. Just why was it the wrong thing? Like just go into more now, like why do you feel that way?*

Smithmatungol *I, I, I just felt that she, so she was pregnant. I saw that she was pregnant. What she stole was, um, household items, food, and maybe some decor, not, not the consistent, um, shoplifters that we tend to see, which steel buckets and buckets of tide pods, for example, to sell on the streets. So I kind of also felt consciously bad that she's very, she's very, uh, physically looked like she's pregnant. And so I just didn't think she was a, a habitual shoplifter. Target security is usually very, uh, knowledgeable about who's a frequent, who's not. And they didn't tell me this is, she's been in here multiple times. And I just kind of played that into effect and I, I, I, I felt bad for her. Um, and so that's, that's why I cited and released her, but the right thing would've been take her to jail and go through the process.*

Moore *So the question right before this, I asked, can you please explain your decision process for citing and releasing it? And you indicated that it was just because of beat accountability. Um, so let me ask that question again. Uh, so with what you've brought forward, correct. Now it's a humanistic approach, so there's two reasons. Is there any other reasons why, besides the humanity approach as far as the subject and a beat accountability? Any other reasons?*

Smithmatungol *For that, I believe there was another shoplifter at the same time while I was dealing with this one who was more aggressive verbally, um, verbally aggressive towards security as well as just, I was shocked that he'd steal with the police car parked right out front, inside or outside. And so I think I was just juggling her plus him. Um, and so I, I I might have gotten kind of jumbled. Um, but I, I think that's it. I'm trying to recall it. Sorry.*

Moore *Okay. Uh, we'll get into a little more detail about the second shoplifter, but before we get there, did you and Officer Rodriguez have a discussion about fingerprinting her, fingerprinting her at any time?*

Smithmatungol *I,I don't think so. I don't remember.*

Moore *How about after this incident, did you have any discussions with him after everything's said and done at any point between then and now regarding fingerprinting? For example, if after your IA you're like, oh, did we fingerprint? Maybe, maybe not. At any point did you have a conversation with Officer Rodriguez regarding fingerprinting?*

Smithmatungol *I, I think I did. I, or I think that day I asked him if I gave him a citation with the fingerprint, and I think that's all I asked him for.*

Moore *When was that conversation?*

Smithmatungol *I think that same day.*

Moore *So after shift before shift in the middle of shift*

Smithmatungol *In the middle of the shift.*

Moore *Uh, had you already concluded that scene?*

Smithmatungol *Yes. That was already done. I think this was hours after, hours later. Um, I was confront, I was approached by my sergeant about the case, and I, I, I asked him if I gave him a citation with a fingerprint. And--*

Moore *What did he say?*

Smithmatungol *He said, he'll look, but he doesn't remember.*

Moore *He didn't remember. What obligation did Officer Rodriguez have in regards to obtaining a fingerprint?*

Smithmatungol *None. It's, it was my responsibility. It's my call, my case. I'm primary. It's, it's my, it, I, I'm my, I'm, it's my investigation. He was just there as a cover.*

Moore *Okay. Was there another shoplifter in the store at the same time you were dealing with this first subject?*

Smithmatungol *Yes.*

Moore *Can you tell me a little more about that interaction?*

Smithmatungol *Um, it was a male who was actively shoplifting. I was notified by target personnel. Um, I was, I think I was watching it on camera in the same security office where the female was sitting. Um, he was actively placing stuff in a basket, um, about to walk out the front doors of where we were, uh, in where the office is 'cause the office is in the vestibule between the outside doors of the inside doors. And so he was, he was gonna walk past the door that we were in. And so I confronted him inside the store right at the front, um, display case. I told him, hey, put the basket down, go outside and did the investigation out there. And then I thought he dropped all the items. Um, but it turns out he had items in his pants or in his shirt or somewhere in there. And so, um, I didn't arrest him for, or cite him for shoplifting because I told him to leave the premises. And so I legally, I, I, that was my decision. I can't, I told him to shoplift technically. Um, and so I didn't do that. He was verbally aggressive. Uh, so I had to try to get in control of him while I think Officer Rodriguez was in the, the security office with the female . And so I was dealing with him by myself, um, verbally aggressive. I don't know what he was gonna do until I believe I placed him in handcuffs and then ended up doing a, a search. I don't remember if it was incident to arrest or consensual and found, um, narcotic substance on him, which I cited and released him for.*

Moore *How did you identify him?*

Smithmatungol *I believe it was by name and I ran it over the air and it came back as a match. And I think I confirmed it through e excuse me, either CalPhoto or our, uh, internal system.*

Moore *And you said, uh, he was cited and released, correct?*

Smithmatungol *Correct.*

Moore *Was there a difference between the way the first shoplifter was identified and the second?*

Smithmatungol *Yes.*

Moore *Can you please explain?*

Smithmatungol *Um, the first one, she wasn't identified. She, I got the name, no match of the name, no card, no nothing to show that she had identity. And so--*

Moore *As opposed to the second?*

Smithmatungol *The second one had a match that I confirmed it was a match.*

Moore *Through dispatch, ID, and in CalPhoto?*

Smithmatungol *Uh, dispatch and then CalPhoto.*

Moore *Did you obtain a fingerprint of the female suspect you cited and released on June 2nd, 2024, at the Target in the Serramonte Center?*

Smithmatungol *I did not.*

Moore *How do, how do you know that the person you cited, as written on your citation, Ms. [redacted] was who she claimed to be?*

Smithmatungol *I don't.*

Ganz *Can I follow up on that one?*

Moore *Yeah.*

Ganz *Um, was there anything that led you to feel somewhat confident or did you really, as you sit here right now, there was really no--*

Smithmatungol *There's really no. She, she gave us an address, um, in a different state and that that was pretty much it.*

Ganz *Okay. Thank you.*

Smithmatungol *I don't have anything else.*

Moore *Please explain why, when questioned by your field supervisor, Sergeant Karen Douglas, both on the night of the incident and on June 8th, 2024, you stated you had obtained a fingerprint from the female suspect.*

Smithmatungol *Um, I panicked. I, I have no excuses for what I did. I just, I just panicked. I, that was my first time kind of getting in trouble doing something wrong, and I didn't take accountability for myself. And I have no excuse for that one.*

Moore *Please explain why questioned by IA Sergeant Matthew Ciucci, during your IA interview on January 31st, 2025, you stated you obtained the suspect's fingerprint.*

Smithmatungol *Um, I, like I said, I have no excuse. I was going through some personal things then, and I, I have no reason.*

Moore *On January 31st, 2025, during your IA interview with Sergeant Ciucci, you related that you reviewed your BWC of the event prior to your interview. Did you in fact review your BWC prior to your IA interview?*

Smithmatungol *Yes.*

Moore *When did you review it?*

Smithmatungol *20 minutes before my IA.*

Moore *20 minutes before. Okay. Was that the only time you reviewed it or had you reviewed it previously?*

Smithmatungol *I believe I reviewed it previously, and I don't remember when the date was at.*

Moore *Can you give me approximate when and where you reviewed it before the IA? Besides the one right before the IA, would it been like weeks before? Would it been that same day of the incident? Do you remember at all?*

Smithmatungol *I, I don't remember at all.*

Moore *Was it multiple times?*

Smithmatungol *I believe so. Um, I don't remember when I got my notice that had an IA, but I think from the time I got the notice of the IA to the IA interview, I think I watched it once or twice. But I, I, I don't know an exact number.*

Moore *Okay. So once or twice after your notice. How about before your notice? Did you review it at all?*

Smithmatungol *No, I don't think so.*

Moore *Was there any--*

Sherburne *I'm sorry. When did you get the notice? Was it contemporaneous with being placed on admin leave or was you placed on a, where were you placed on admin leave and some other later time you got notice of the IA?*

Smithmatungol *I think I received a notice of an interview in January, and then I got into a pursuit collision in February, which placed me on IA. On admin. On admin, sorry.*

Sherburne *Okay. And the notice of the interview was the first time that you also got notice of the investigation?*

Smithmatungol *Correct.*

Moore *Was anyone with you when you were reviewing your BWC?*

Smithmatungol *My, uh, attorney from RLS last time.*

Moore *After reviewing it, did you have any concerns?*

Smithmatungol *Uh, concerns, meaning?*

Moore *Regarding the actions you took?*

Smithmatungol *I saw that I messed up and that's pretty much it.*

Moore *So you saw that you had messed up? How?*

Smithmatungol *I saw the way I handled it. Um, and after being on admin, or sorry, sorry, my dates are a little troubled right now. My admin was January 31st.*

Ganz *You said earlier, not to put words in your mouth, but you said earlier there was some pursuit that happened. That's, that's what triggered your admin leave or are you not sure about that?*

Smithmatungol *My pursuit, I was placed on admin end of February, um, because of a pursuit collision. And I think I got the notice of IA somewhere in January. So January to February.*

Moore *The IA interview was the 31st of January, if that helps out.*

Ganz *Do you remember if you were on admin leave at the time of your IA interview or have you not been yet?*

Smithmatungol *I wasn't on admin leave during the interview.*

Ganz *Okay. So I don't even remember the question. Sorry.*

Moore*. It's your follow up. [laughter]*

Ganz *It is my follow up. [laughter]*

Smithmatungol *Sorry, I'm just trying to get my dates--*

Ganz *[laughter] We're all here to take responsibility for our actions.*

Moore *Uh, okay. So after reviewing it, let's say before your IA, did you have any concerns about the fact that you didn't ID the subject?*

Smithmatungol *Um, yeah, because I looked at, um, our policy regarding, um, what to do for a person who didn't have ID and it was book, book in jail and that's what I didn't do.*

Moore *Okay. So you had knowledge of it going into your IA?*

Smithmatungol *Yes.*

Moore *But still when questioned you decided to not be forthcoming with that information?*

Smithmatungol *Correct.*

Moore *Okay. Uh, I think we already asked this, but I'm gonna ask it again. So why did you state then during your IA to obtain the fingerprint when you had not?*

Smithmatungol *I don't have any excuses. Um, that that was my first kind of disciplining and as well as some things back at home and, or some things happening at home and I just wasn't in the right mindset and I didn't take responsibility for my actions.*

Moore *Would you like to elaborate about what you're indicating as far as things at home?*

Smithmatungol *Um, prior to all this happening, in May,* [redacted]

Moore *I'm sorry to hear that.*

Smithmatungol *It's okay. Thank you. And so I think just that whole end of or middle to end of year was just not great. And so, like I said, I, I understand that officers have to keep their personal and work lives separate, but it was, it was just hard for me.*

Moore *Understood.*

Smithmatungol *And I can't use that as excuse for what I did.*

Moore *By stating during your IA that you had obtained a fingerprint when you had not, were you dishonest?*

Smithmatungol *Yes.*

Moore *Did you read the completed internal affairs investigation number 24-04, including the findings and recommendations?*

Smithmatungol *Yes.*

Moore *Please share your thoughts, feelings, or concerns after reading it.*

Smithmatungol *Um, I, it's appropriate and I messed up. I didn't take accountability and I don't deserve to be a department that would have your back if you can't even do the right thing. And so whatever they did was appropriate and that's why I didn't fight it during the Skelly. I just wanted to take it head on.*

Moore *Is there any evidence you have to refute the findings of dishonesty?*

Smithmatungol *No.*

Moore *It's now been a year since your IA interview. Thinking back now, is there anything you would've done or said differently during your IA?*

Smithmatungol *Yeah, I would've told him everything that happened and the truth. That's it, plain and simple.*

Moore *I'm gonna move on to IA, the second IA. In June, 2024, how far away was your residence from the Daly City PD office?*

Smithmatungol *Seven minutes.*

Moore *Okay. Typically, how'd you get to work each day?*

Smithmatungol *Just drive.*

Moore *Do you ever carpool?*

Smithmatungol *No.*

Moore *Okay. On June 20th, 2024, you were scheduled to attend a training at 0700 hours at the Daly City PD. Can you please describe your actions prior to arriving to work on June 20th, 2024?*

Smithmatungol *Um, I remember coming to work. Um.*

Moore *So I wanna know prior to coming to work.*

Smithmatungol *Sorry. Um, I think I worked the night before and I, I just woke up. Um, every time I wake up I check my emails, um, saw I had things to do regarding evidence wise and I, I woke up and I think I woke up late. And so I, I, I just rushed to work.*

Moore *Uh, what time do you think you woke up?*

Smithmatungol *6:55 maybe 7, I say 7:10.*

Moore *And did you respond from your residence?*

Smithmatungol *Yes.*

Moore *Did you go straight to work or did you make any stops?*

Smithmatungol *I went straight to work.*

Moore *Anything unusual occur that morning?*

Smithmatungol *No.*

Moore *How about the fact that you said you woke up late. What time were you intending on waking up?*

Smithmatungol *6:20, 6:15. I usually get to work maybe 30 minutes early just to get ready.*

Moore *So this was an unusual occurrence to wake up late?*

Smithmatungol *Yes.*

Moore *Okay. During your IA interview, you admitted you arrived late to work when you arrived at approximately 730 hours instead of the required 0700 hour start. From 07 to 0730 hours, what were you physically doing?*

Smithmatungol *Getting outta bed, throwing on clothes and getting on the, getting out of the car or getting outta the house to go to work.*

Moore *Okay. And you said you did not make any stops that morning, right?*

Smithmatungol *No.*

Moore *Okay. Besides just being late, can you explain if you have any other reasonings for arriving at work at 0730 instead of 0700?*

Smithmatungol *No, I think I was just exhausted from working, uh, over, uh, the retail theft shift the night before.*

Moore *Was that overtime?*

Smithmatungol *It was overtime and I think I got out at maybe midnight. Around that time. I'm not a hundred percent sure. But it was late.*

Moore *Later than normal?*

Smithmatungol *Correct, because I, I don't work day shift.*

Moore *Normally would modifying a work schedule require approval from a sergeant?*

Smithmatungol *Yes.*

Moore *Okay. Did you notify anyone you'd be driving at work at 7:30 instead of 07?*

Smithmatungol *I did not.*

Moore *Why not?*

Smithmatungol *Um, at that time, I've, I've never been late in my career and so I just didn't ever, I didn't think of doing it 'cause I was just get to work, get to work, get to work.*

Moore *Did it have anything to do with the fact that you were just in a training day and not on patrol?*

Smithmatungol *No, I, I usually always come to work early. I've always come to work early and, uh, it was just a different routine for me.*

Moore *If you were working patrol and you were 30 minutes late, would you have notified someone?*

Smithmatungol *I, I believe I would, yeah.*

Moore *Did you get compensated for the whole workday despite not being at work until 7:30?*

Smithmatungol *I believe I did.*

Moore *And can you explain your actions upon your arrival at work from 0730 until you entered the training room at approximately 0740-45 hours?*

Smithmatungol *I came through the doors from the, into the PD. Um, walking past evidence I saw, I don't, I don't know if I saw the lights 'cause I had property to fix and so I didn't know if my property technician was there. So I just took a quick glance, kept walking, went through the doors changed, and, uh, went up, went up to the training room.*

Moore *Did you have to change in the locker room?*

Smithmatungol *Yes.*

Moore *Okay. During your IA interview with Sergeant Ciucci, when Sergeant Ciucci asked you, did you provide your sergeant's a reason for being late to entering the training room, you stated, yes, I told them I was working, I was going to do evidence. I think I told the sergeants, I said with Rose, but I meant for Rose, okay, it's just a slip up in words. What did you mean by that?*

Smithmatungol *So I, we, we have, we get emails about property that we have to fix, and I believe that day was a weekday. So my case was going to the DA's office and the physical property had to be fixed to get, to get sent. And so it wasn't, uh, go on the computer fix it was, I have to go to the property room and either sign or, or repackage a physical piece of, I think it was a pipe at that time, um, to repackage that. And so I was, I was gonna go do it, but I, I just went up to the training room instead.*

Moore *Why did you make the distinction between with and for?*

Smithmatungol *Uh, with would be, I mean with, and for I kind of used interchangeably. I got the email from Rose. Um, I was gonna do it for Rose 'cause I got the email or with Rose or the other permanent, or the technician who was there to the evidence technician to do, to do property. So I I I have no further explanation on why you used with or for.*

Moore *Were you in fact handling evidence for Rose?*

Smithmatungol *No.*

Moore *You sent Rose a text message at 0807 hours stating, if Karen or Jerel asks, can you please let them know I was handling evidence.com with you. What does the statement mean?*

Smithmatungol *Um, during that training day, I was gonna go down and, um, go do evidence with her, but I didn't know she was there, so I just sent her the text and I was gonna go down later to fix the property, but she ended not being there.*

Moore *What timeframe does it refer to?*

Smithmatungol *Probably that morning. I, I wanted to do it ASAP 'cause um, it had to be sent down to the DA.*

Moore *And what does handling evidence.com mean or refer to?*

Smithmatungol *Um, if evidence.com would be, um, going to a computer terminal and going to the Axon Evidence website to fix either labeling or, um, a title of evidence.*

Moore *Okay. Did you handle anything evidence related with Rose prior to 0807 hours on June 20th, 2024?*

Smithmatungol *No, she wasn't there.*

Moore *So why did you send her the text if you had not actually been handing evidence with her?*

Smithmatungol *I no excuse. I mean, I was, I texted her 'cause uh, I was gonna go do it with her. She ended up not being there.*

Moore *So was the se was the text you sent at 8:07 was any part of it not truthful?*

Smithmatungol *Yeah, I didn't do it with Rose*

Moore *Then why would you send her that text?*

Smithmatungol *I dunno. I I don't know why I did it.*

Moore *Was it to create an alibi?*

Smithmatungol *No, I--*

Moore *Should the sergeant ask?*

Smithmatungol *When I, when the sergeant asked me why I was late, I told her I came late. Um, but I was gonna, I was gonna do property with the Rose, but I ended up not doing it.*

Moore *So there's a difference of asking Rose, hey, I need to do property with you later. But that's not the text. The text in fact says, if a sergeant asks you, let them know I was handling evidence. So was is past tense, meaning we did it already. So, is there a reason, is that statement truthful in the fact that you're asking her to tell a sergeant that you were doing evidence with her, meaning prior to past tense, rather than can you let him know we're gonna do evidence later?*

Smithmatungol *I, it was untruthful.*

Moore *It was untruthful?*

Smithmatungol *. It was untruthful. Untruthful.*

Moore *But why?*

Smithmatungol *I really don't have an explanation. I it wasn't to create an alibi whatsoever. Um, I really don't know.*

Moore *Was it so that she would cover for you?*

Smithmatungol *No, God no.*

Moore *Did you ask her to lie for you?*

Smithmatungol *I didn't specifically say, hey, uh, cover for me, I'm coming in late, but that's what the text appears to indicate, then uh, you know, sure.*

Moore *I I don't want you to admit to something that you don't believe in. So you're saying if that's how it appears. You stated that it's not true, correct? That you didn't do evidence, evidence with her that morning?*

Smithmatungol *It's correct. I didn't do evidence with her. My text to her was from, was not to create an alibi or, or, or for me to come, or a reason for me to come late. I needed to do property with her. Um, and it was a physical property that I couldn't do at a computer. And so I think it was just a heads up 'cause I was gonna step out from the training office and they, that might raise questions. I, I think that's what I did it for. I, I, I can't say for certain.*

Moore *So you admitted that it's not a truthful statement of doing evidence with her, right?*

Smithmatungol *Correct.*

Moore *Okay. Did you tell her that statement or ask that statement to conceal the fact that you arrived at work at 7:30 instead of 07?*

Smithmatungol *Not to conceal the fact that.*

Moore *You're saying you didn't ask her to lie, but that the statement, in fact is a lie.*

Smithmatungol *It's been, I I didn't ask her to lie for me or just to cover for me whatsoever. I texted her because I wanted to do evidence with her, and then it was gonna require me to step out at some point*

to, of the, the training room. And so I think that was just a, if they asked I was gonna do a, a property with her, I, I think that's why.

Moore *But it doesn't say, if they ask, tell 'em I'm gonna do property with you. It says, tell 'em that I was handling evidence with you. Do you see the difference in past tense versus future?*

Smithmatungol *Correct.*

Moore *So did you purposely use past tense and ask her to tell a sergeant that you in fact, were doing evidence with her when you had not been doing evidence with her?*

Smithmatungol *I didn't do it on purpose.*

Moore *So you didn't do it on purpose, but in fact you did it.*

Smithmatungol *I did it. I*

Moore *Did it and it was untruthful?*

Smithmatungol *It was untruthful. But my intention for not for her to cover for me. I don't want Rose to get in trouble. I, I, I did it, but it wasn't, I, it was just, I, I made a mistake. I I doing the text and.*

Moore *So did you ask Rose to do, to say you were doing something you weren't?*

Smithmatungol *I did.*

Moore *During your IA interview with Sergeant Ciucci, uh, I'm sorry. During your interview, Sergeant Ciucci asked, in essence, in hindsight, looking back at it now, is there anything you would've done differently or anything you would change and you responded, just tell the sergeant. What did you mean by this?*

Smithmatungol *Tell the Sergeant I was gonna be late and, um, I, I mean, I needed to do evidence anyways, but I would've not told Rose to make it seem like I'm, she's trying to cover for me. But I just would've told her, hey, I have to, I have to do evidence with you.*

Moore *And why would you tell the sergeant that you were just gonna be late? Why would you change that?*

Smithmatungol *Uh, thinking about it, if, if I'm coming in late, then I have to tell someone coming in late.*

Moore *During your IA interview, Sergeant Ciucci asked you, so in in hindsight, if you could, do you think that your definition probably was a little lackluster, the reasoning that you gave was probably more that you could have given, there's probably more that you could have given, and you stated There's more I could have given, followed by, I should have given and yeah. I mean, they asked me one question why I was late. I told 'em I was handling evidence, I should have taken responsibility and told them, yeah, I came in a little bit later. Why didn't you take responsibility and tell them you came in late?*

Smithmatungol *I, I told my sergeant I did come in late.*

Moore *Uh, why did you not take responsibility and tell them the reasons, all reasons why you were late?*

Smithmatungol *Of waking up late? I, I, I don't have a, a reason to say anything. Um, sorry, I don't, how do I say this? Sorry. I don't know why I didn't, I, I mean, I should have told them, but I, I didn't.*

Moore *Can you explain, um, the actions, your actions the rest of the day? After this incident, at about eight o'clock in the morning.*

Smithmatungol *After the incident, I stayed in the training room, um, and did my portion of the instruction and then after that, I, I think Rose told me that she was coming back at around nine or nine 30, around that time and so I went down at our break at I think 10 or 11 and did the property.*

Moore *And then what time did you conclude your day and return home?*

Smithmatungol *Maybe at 11:00 PM that night 'cause I worked another overtime shift for retail theft.*

Moore *Okay. Did you read the completed internal affairs investigation 24-06, including the findings and recommendations?*

Smithmatungol *I did.*

Moore *Please share your thoughts, feelings, or concerns after reading it.*

Smithmatungol *Um, I, I have no excuse. I, I, I messed up. I, it what I said in the text appeared to be untruthful and misleading and I I have no excuse. I was, I was being untruthful.*

Moore *After reading it, please explain whether you agree with the sustained finding of dishonesty or not.*

Smithmatungol *I agree.*

Moore *Is there any evidence you have to refute the finding of dishonesty?*

Smithmatungol *None. None whatsoever.*

Moore *It's now been a year since your IA interview, thinking back now, is there anything you would've done or said differently during your IA interview?*

Smithmatungol *Uh, I mean, during the IA interview, no, but to my sergeant, um, when she approached me, tell her I woke up late and I came late and I regret sending that text to Rose. My intentions were not to get her in trouble whatsoever, what whatsoever. Um, I just made a bad judgment call.*

Moore *I'd like to ask for your telephone records for your personal cell phone for June 20th, 2024. Will you be willing to obtain those and provide them to us?*

Smithmatungol *Yeah, if I can get it.*

Moore *Okay. You can email 'em if you'd like.*

Smithmatungol *Okay.*

Moore *Okay. Um, we have, we're making good progress, but it's been about an hour and 15 or so. Do you guys want to take a break or do you wanna keep going?*

Ganz *It, it's totally up to you. I did have, I think, while there's somewhat in my mind, just a couple follow up questions.*

Moore *Okay.*

Ganz *So maybe after that you let us know if you want a break or you also, if you want a break?*

Moore *Do you need a break?*

Sherburne *Well, so before you get, I think you have part three?*

Moore *We still have part three.*

Sherburne *So maybe, uh, the follow up questions pertain to questions already asked.*

Ganz*. Yeah. To one and two.*

Sherburne *So yeah. Suggestion, why not ask those questions? Then we take a break. Okay. Quick break and then*

Moore *Sure.*

Ganz *Okay. So just on the one on number two that we're just talking about mm-hmm . I just want, so I understand, um, kind of like a little bit of the confusion. So I just want to give you the opportunity. Obviously you're coming in here and acknowledging some things that you haven't acknowledged before, right? In terms of, compared to the IA interviews.*

Smithmatungol *Correct.*

Ganz *Okay. So I just wanna make sure, and, and like Ms. Moore said, she doesn't want you to say things that aren't true just because we're in that spirit, but at the same time, if you messed up, so I just think we need clarification. So at the time that you sent this text message, um, was your intention to do evidence with her or were you never gonna do that?*

Smithmatungol *My intentions were to do evidence with her, um, because it was due that day. It was due to sent to the DA's office. I tried to do it as soon as possible, but she wasn't there.*

Ganz *Okay. So when you sent the message, there is a distinction between being intentionally deceptive or untruthful and being inaccurate, getting something wrong. And again, we're trying to lay it all out on the table. So, were you, when you wrote that, did you know that you weren't gonna be doing it or did you think that you were gonna be doing it?*

Smithmatungol *I thought I was gonna be doing it. Um, 'cause she's, she's usually there at six in the morning. Um, 'cause when I get off night shift, she's usually there early for us to finish whatever before we go home. Okay. And so, my intentions were to do it with her, but she wasn't there. She was in a meeting or doing something else. So it kind of was not her usual schedule.*

Ganz *Okay. So then in terms of like whether or not you were trying to get her to lie, at the time that you asked her to do that, did you think it was going to be true? It was just, it didn't happen yet?*

Smithmatungol *Correct. Yeah.*

Ganz *Okay. So is is that, I mean, is that what happened here? Is that you thought something would happen, you were anticipating it and then it didn't turn out happening?*

Smithmatungol *Yeah.*

Ganz *Okay. Do you think you should have corrected that at some point?*

Smithmatungol *I should have corrected that. Um, I don't know. She didn't reply to me. I think until that she was out of office until a certain time. So I couldn't tell my sergeant, oh, never mind, she's not here, I can't do it yet.*

Ganz *Okay.*

Smithmatungol *Um, but that I was, yeah, my intentions were to do it with her, but it didn't happen yet. And--*

Ganz *Okay. Would you agree that if that were all the case, that you should have let, like, send a follow up text at least to say like, hey, you know, I know we didn't end up doing that, so obviously I don't want you to say anything that's not true. Like, did you think, did that cross your mind at all?*

Smithmatungol *I, I don't remember. I think she replied, uh, for sure to my text. And so, and then after that she said she'll be back at nine to, at the station at nine, and that's when I can do it.*

Ganz *Can do what?*

Smithmatungol *The, help me with the property.*

Ganz *Okay. What about the part about telling a sergeant that you were doing it with her? Did you ever think to correct that, what ended up not being accurate?*

Smithmatungol *I, at that time, I, I don't remember my, I, I should have, but I don't think I did.*

Ganz *Okay. And then just in terms of the first one, so you said that you at some point reviewed BWC I think multiple times, but like also a little bit before your interview, correct?*

Smithmatungol *Yes.*

Ganz *And was that the only time you reviewed it with your attorney?*

Smithmatungol *Yes.*

Ganz *Okay. Did you feel like, and this is a very delicate area, but did you feel like you were prepared well for that interview by your attorney?*

Smithmatungol *Not really.*

Ganz *Okay. Um, and either way, do you accept responsibility for the things that you said?*

Smithmatungol *I do, I do whatsoever. I, I accept full responsibility, but, um, that was my first kind of IA going through the whole process, so I didn't really know what to do. Um, and I wasn't really prepared for what was happening.*

Ganz *Okay. Those are all my questions I have.*

Sherburne *Um, if, if, if I, do you mind. Um, so early on you said that you cited and released about 80 to 90% of the shoplifters that you had come in contact with. Of that 80 to 90%, what percent did you obtain fingerprints for?*

Smithmatungol *None. Uh, if I, I don't think I did for any of them. Um, if we cited and released, that means we had an ID.*

Sherburne *Okay.*

Smithmatungol *Um, but I, yeah, none, it, it was rare for me to get a fingerprint.*

Sherburne *So at that night when Officer Rodriguez was helping you with that shoplifter, there was a second shoplifter and, uh, [redacted], I think was the subject's name, that was the first time or one of the only times that you had ever had to potentially obtain a fingerprint?*

Smithmatungol *I think that was one of the very first, or one of the few first times. It's, it's less than double digits that I've ever gone a fingerprint.*

Sherburne *Okay.*

Moore *Is that because you would normally take them to jail?*

Smithmatungol *No, I've never, so, I, I don't think I've came to an instance where they had no, ID, no anything, no way of getting a ID whatsoever. And so, I think this was my first time ever experiencing that. And I, I messed up and I should asked for help from a sergeant. And I mean, that was learning*

experience. Ever since that instance, anytime I had any questions about investigation, I called the sergeant every single time.

Sherburne *Because these are follow up questions. This next one is not going to pertain to that.*

Smithmatungol *Correct.*

Sherburne *It's gonna feel like we're jumping around. So, I'm sorry. There was a, not a true Skelly hearing, but there was a Skelly like presentation that you and your lawyer had, um, uh, uh, given, correct. Uh, what did you say? You referenced that during the Skelly, you said that I, I I recall you saying something to the effect that you accepted responsibility and, and therefore moved on. What, what exactly was the defense or the presentation?*

Smithmatungol *There was no defense or presentation. I, I, I think I spoke to my lawyer, I think a week prior to the Skelly. She, I believe she asked me what did I want to do and, um, I said is, I mean, I, I have no excuse or anything to say to about the actions I did. And so I asked, is it possibility to resign and she said she can, she can try to make that happen. And so I went to the Skelly interview with the chief attorney and I think city manager. I just told him, uh, just, I mean, thank you for choosing me to be a police officer and I'm sorry, I disappointed the, the city and the department. And, uh, what I did, I take full responsibility of it's, it's not me. It's, um, that's not who I am as a person. And so I, I asked to resign. And--*

Sherburne *Was there a memorandum or a brief that your attorney wrote and gave to the city on your behalf?*

Smithmatungol *Nothing.*

Sherburne *Like some sort of letter?*

Smithmatungol *Nothing.*

Moore *Did you read a statement?*

Smithmatungol *I wrote a statement.*

Sherburne *Oh, you wrote?*

Smithmatungol *I wrote, I wrote, I wrote a, I think a paragraph statement, just a thank the city, thank for the department for what they've done for me. And, and it was like a five minute meeting. Okay.*

Sherburne *Who was the lawyer at that time?*

Smithmatungol *Uh, Julia Fox.*

Sherburne *With RLS?*

Smithmatungol *Correct.*

Sherburne *Okay. And do you have a copy of that? Uh, like a written out copy digital file?*

Smithmatungol *I think it's on my Google Doc.*

Sherburne *Would would you be able to provide that to Ms. Moore?*

Smithmatungol *Yes.*

Sherburne *If you could look for it. And during the Skelly presentation, um, was any part of that, um, um, the issues* [redacted]*?*

Smithmatungol *No.*

Sherburne *Did your department know at any time that, that [redacted]?*

Smithmatungol *Um, during the middle of the, I mean the academy was keep your, keep your professional and your work life separate. I mean, that's kind of thing, that's what I tried to do. Um, so that's what I did for the middle of the year [redacted]. And so I asked for time off, it got approved. Um, my lieutenant called me or texted me and said, everything's okay or if everything's okay with my family 'cause I put family emergency. Um, and I, I think just my lieutenant knew and I think the next shift I came in, um, my sergeants just said, I'm sorry that happened. And that's it.*

Sherburne *Did you feel comfortable talking to friends at work about what was going on?*

Smithmatungol *Uh, not really. 'Cause stuff like this kind of never happened before.*

Sherburne *That's pretty personal too. Yeah. Um, uh, I have a final question. I'm sorry. Um, I want to frame it correctly. [redacted]*

Smithmatungol [redacted].

Moore *You want to go on break?*

Sherburne *Okay. Yeah. If it's good now we can go on a break.*

Moore *What time is that? Uh, the time is 1334 hours. And we're gonna go ahead and go on break. Stop the recording now.*

Moore *Okay. And we are back from break and the time is 1343 hours. Uh, Mr. Smithmatungol, during the break and myself or investigator, uh, Sherburne, um, discuss anything related to the case with you?*

Smithmatungol *No.*

Moore *Please explain how you typically serve a subpoena.*

Smithmatungol *Um, I would take the subpoena, walk to the door, knock on the door, if there's no answer, put uh, write no answer on the slip. If there's an answer, serve the subpoena.*

Moore *Okay. And do you typically knock and ring the doorbell or one or the other or does it vary?*

Smithmatungol *One or the other.*

Moore *But not both?*

Smithmatungol *Not all the time.*

Moore *Not all the time. Okay. And, um, after knocking or ringing, how long do you usually wait before leaving if there's no answer?*

Smithmatungol *30 seconds to a minute.*

Moore *Do you time it or you just kind of guesstimate?*

Smithmatungol *Just guesstimate.*

Moore *And then how do you document?*

Smithmatungol *Uh, on the subpoena slip just put no answer or served or--*

Moore *Any other ways? Like do you have like a field record that you keep track or a dispatch log or--*

Smithmatungol *Usually when you serve subpoenas, uh, you're supposed to put that you're on a subpoena call.*

Moore *So they're usually, but not always?*

Smithmatungol *My practice, I sometimes do. I sometimes don't.*

Moore *Okay. Approximately how many subpoenas have you attempted to serve in your career?*

Smithmatungol *Maybe around a hundred.*

Moore *Okay. Of those, how many did you successfully serve?*

Smithmatungol *Uh, few because I worked night shift, um, a couple dozen.*

Moore *And if a couple dozen, so would you say the majority of them you were unable to serve?*

Smithmatungol *Correct.*

Moore *In those cases, what typically occurs? If, what do you do if you're not able to serve? You said majority of those of a hundred, you said a couple dozen, you successfully did so, or 80% of them when you weren't able to serve, what happened next?*

Smithmatungol *Uh, just put no service on the slip and give it to the next team to serve.*

Moore *Okay. And it gets turned back in at the end of your shift?*

Smithmatungol *Correct.*

Moore *And then another officer would get it the next shift?*

Smithmatungol *Correct.*

Moore *And try until service is completed?*

Smithmatungol *Yes.*

Moore *On October 25th, 2024, did you work a regularly scheduled patrol shift from 1900 hours to 0730 hours?*

Smithmatungol *Yes.*

Moore *Anything unusual occurred during the shift?*

Smithmatungol *Uh, regular calls for service.*

Moore *Anything stand out in your memory about that night?*

Smithmatungol *Um, a DV that I had, uh, I was primary officer. It was, it occurred in our city, it like a few different locations. We had to kind of finalize where it happened so that beat officer can take it. It ended up being my beat. Um, at least we, I think that investigation took most of the night 'cause I had to go to San Francisco, talk to the victim, and while I was talking to the victim and getting the statement, the suspect arrived into the, and walked into the residence and that's when we arrested him and did my whole investigation. We took most of the night.*

Moore *So pretty memorable shift?*

Smithmatungol *Correct.*

Moore *Okay. Were you paired up with another officer, like as a passenger in the patrol vehicle at any time?*

Smithmatungol *No.*

Moore *Were you in possession of your own patrol vehicle the entire 12 and a half hour shift?*

Smithmatungol *Yes.*

Moore *Do you ever switch patrol cars during your shift?*

Smithmatungol *No.*

Moore *On October 25th, 2024, you were assigned two subpoenas to serve. I'm sorry. Were you assigned two subpoenas to serve by your sergeant?*

Smithmatungol *Yes.*

Moore *Okay. Was one subpoena, let's just say subpoena number one for witness* [redacted] *with an associated address of* [redacted] *Daly City?*

Smithmatungol *Yes. Uh, I don't know the exact address or Name.*

Moore *It sounds familiar based on your last IA?*

Smithmatungol *Correct.*

Moore *Okay. Do you personally know* [redacted] *?*

Smithmatungol *No.*

Moore *Prior to October 25th, 2024, had you ever been to* [redacted] *in Daly City?*

Smithmatungol *No.*

Moore *Okay. Was subpoena number two for witness* [redacted] *with an associated address of* [redacted] *Daly City?*

Smithmatungol *Yes.*

Moore *Do you personally know* [redacted] *, Ms. or Mr.* [redacted]

Smithmatungol *No.*

Moore *And prior to October 25th, 2024, had you ever been to* [redacted] *Drive in Daly City?*

Smithmatungol *Um, it's apartment complex, I believe. Mm-hmm*

Moore . [redacted]

Smithmatungol *That specific unit? No.*

Moore *Okay. So on October 25th, 2024, did you attempt to serve at any time a subpoena to* [redacted] *at* [redacted] *Drive in Daly City?*

Smithmatungol *No.*

Moore *Towards the end of your shift on the morning of October 26th, 2024, you submitted the subpoena, return slip back to your sergeant, indicated on the subpoena, was the date: 10/25, time: 2123, remarks: No answer. What does that mean?*

Smithmatungol *Um, if I put that, that means I attempted the subpoena at that time and no answer.*

Moore *According to your CAD history, you were on scene at Westlake Shopping Center after being dispatched to a shoplifter from 2105 to 2130 hours. Additionally, your BWC recordings show you were at Ross during this time. Do you have any evidence to refute this?*

Smithmatungol *No.*

Moore *APLR data from your patrol vehicle shows your patrol vehicle never traveled on* [redacted] *Drive during your entire 12-and-a-half-hour shift. Do you have any evidence to refute this?*

Smithmatungol *No.*

Moore *According to Nest camera footage, uh, which displays the front of* [redacted] *and the road leading up to the residence, no patrol vehicle can be seen between 2130 and 2200 hours. Do you have any evidence to refute this?*

Smithmatungol *No.*

Moore *Okay. And a witness interviewed at the residence of* [redacted] *explained he and his family were home the entire day and night of October 25th, 2024, no one came to their home and, um, had someone come, uh, their dog would've barked uncontrollably. Do you have any evidence to refute this?*

Smithmatungol *No.*

Moore *Why did you write date: 10/25, time: 2123, remarks: No answer, on the return slip when you did not physically attempt to serve the subpoena at 2123 hours?*

Smithmatungol *In all honesty, I didn't want to get in trouble. Um, it's plain and simple.*

Moore *Okay.*

Sherburne *Could you explain that?*

Smithmatungol *Yes, sir. Um, so for subpoenas, we, uh, we got a talking to maybe a couple weeks or a couple months before that if we, that we have to make an attempt for that subpoena. Um, you, uh, no attempt is kind of not acceptable. Um, and I was busy with that DV call that night and I think for both of the subpoenas I was, it was already five or 6:00 AM and I still wasn't done with my report 'cause it was a weekday and it was in, in custody and it had to go to the DA that day. And so I, I just put a time and a date and no answer just to give it to the next team. And I, I just didn't want to get in trouble.*

Sherburne *Was it a common practice for officers of Daly City to, um, inaccurately note, attempts of service when no attempt was made?*

Smithmatungol *Um, I can't speak on behalf of other officers, but, um, I've, it it's happened.*

Sherburne *Had you heard that it happened?*

Smithmatungol *I've heard that it's happened.*

Sherburne *Did you see it firsthand?*

Smithmatungol *Yes.*

Sherburne *And, uh, on how many occasions would you say ballpark?*

Smithmatungol *A a handful. Um, some, some officers at, I mean, we work graveyard shift and people aren't awake at 3, 4, 5, 6:00 AM 'cause beginning of the shift from 7:00 AM to 1:00 AM we're busy back to back calls. And, um, and sometimes we have to have the reports done for in-custodies and so we generally just forget. And at the, the end of the shift, some people put no attempt and we got in trouble for no attempt. And so some put no answer.*

Sherburne *Was a possibility to put no attempt busy with DV call?*

Smithmatungol *Um, I've never done that. I think it was either, it's either served, no attempt or no answer.*

Sherburne *What do you think would've happened if you had put, did not, hey boss, I didn't attempt this. I was busy with the DV, I had an in custody. Would, would you have gotten a pass for that at that point and say, hey, maybe the next team could cover this?*

Smithmatungol *I, I probably would have.*

Sherburne *Okay. But you didn't do that?*

Smithmatungol *I didn't, I did not do that.*

Sherburne *Did other people try and do that?*

Smithmatungol *I, I don't rem I don't know.*

Sherburne *Did other people get in trouble for writing false statements on their returns of attempted but not really attempted?*

Smithmatungol *I don't, I don't know.*

Sherburne *Dunno. Okay. Sorry to interrupt.*

Moore *No, it's good.*

Smithmatungol *I am sorry. That was my answer for both of these subpoenas on my reason why I didn't serve them. Just to clarify.*

Moore *Okay. um, subpoena number two, October 25th, 2024, did you attempt at any time to serve the subpoena to, uh, the* [redacted] *at* [redacted] *in Daly City?*

Smithmatungol *No.*

Moore *Okay And towards the end of the shift, on the morning of October 26th, 2024, you submitted a subpoena slip back to your sergeant, indicated the subpoena date was 10/25, time 2142, remarks no answer. What does that mean?*

Smithmatungol *Uh, same as the last one. If I wrote that, then I attempted to serve it, but no answer.*

Moore *Uh, you attempted to serve it. That's what it indicates, correct?*

Smithmatungol *Correct..*

Moore *Okay. And according to your vehicle's APLR data, uh, at approximately 2053 hours your vehicle passed* [redacted] *Drive, but you did not stop, you passed a second time making an enforcement contact across the street with both APLR data and your BWC indicate you did not*

attempt to serve the subpoena immediately before or after the enforcement contact. Do you have any evidence to refute this?

Smithmatungol *No.*

Moore *And why did you arrive 10/25, 2142, no answer on a return, return subpoena slip when you did not physically attempt to serve the subpoena?*

Smithmatungol *Same as the last one. Um, I didn't wanna get in trouble and I thought the next team could serve it.*

Moore *During your IA interview, did you state you physically attempted to serve both subpoenas?*

Smithmatungol *I, I believe I did.*

Moore *Why?*

Smithmatungol *I, I don't know why I did that. It was untruthful and I had no reason to.*

Moore *And again, do you have any evidence of support that you did attempt to serve either subpoena?*

Smithmatungol *No.*

Moore *During your IA interview, Ms. Fox asked you, can you definitively, can you say definitively that GPS on your patrol vehicle would show you at these two addresses on this date, and you stated on that day, yes, it will. Why did you state this?*

Smithmatungol *Um,I dunno why I did, but it was untruthful.*

Ganz *Could I ask a similar question?*

Moore *Mm-hmm*

Ganz *Um, take a moment and try to look back at to what you were thinking, if you can remember. And what do you think was your thought process? Just, um, tell us what you think was going on.*

Smithmatungol *She asked me, she asked that I, I think I was in the area, I think for the head of traffic enforcement traffic stop and so I think I was in that area. Um, that, I mean, uh, that IA I was, I was nervous. Um, my first, that was my first IA meeting. And that's, I was scared.*

Ganz *Were you hoping that you would basically get away with that lie and not get in trouble? Was that what, was that your thought process at the time?*

Smithmatungol *Yeah.*

Ganz *Okay. Did you receive any guidance to tell you that that was a bad idea?*

Smithmatungol *No.*

Ganz *Okay.*

Moore *During your IA interview Sergeant Ciucci asked, so if there's no video of you doing it, then you didn't do it, to which you answered, if there's not, then there's not, you further stated, I don't want to give you all the excuses, but if there's no video of me doing it, then I, maybe I didn't do it. Yeah. And I don't know why these dates and times would be on there, but I don't honestly remember. Please explain what you mean by this statement.*

Smithmatungol *So at that time, if it's not on video, it never happened. Video never lies. I mean, we learned that as police officers, video never lies. If it, if it's on video, if it's on video, um, those date and*

times, I just, I just wrote in, I think at the end of my shift just to fill in the date. There's no significance of the date and time. I just didn't wanna get in trouble.

Moore *During your IA interview Sergeant Ciucci asked you, in essence, if I have this video surveillance footage and I don't see your vehicle during a 12 and a half hour shift, what kind of problem is that, and you stated, integrity.*

Smithmatungol *Correct.*

Moore *What did you mean by this?*

Smithmatungol *Um, uh, it questions my integrity. If there's no video of me being there and I say I'm there, then I'm lying. And that's an integral issue.*

Moore *Do you believe integrity is an important characteristic for a peace officer to maintain?*

Smithmatungol *It is.*

Moore *By stating in your IA that you attempted to physically serve a subpoena two subpoenas when you had not, were you dishonest?*

Smithmatungol *Yes.*

Moore *Did you demonstrate integrity?*

Smithmatungol *No.*

Moore *Why not?*

Smithmatungol *Um, I try to excuse myself and not want to get in trouble. In trouble. And so instead of confronting the issue head on at the time it happened, I try to work my way around it and it was not the right thing to do. It questions, I mean, it, it makes assumptions of who I am and who I am as a person, which I'm, I'm not, I mean, I hope I'm not, but now that my name is tarnished and the department's tarnished and, um, sorry, it's, it just questions my integrity.*

Moore *It's now been a year since your IA interview, looking back at, back at it now, is there anything you would've done or said differently?*

Smithmatungol *Do the right thing,*

Moore *Which is?*

Smithmatungol *Either serve it, attempt to serve it, or tell my sergeant I couldn't.*

Moore *Did you read the completed internal affairs investigation 24-07, including the findings and recommendations?*

Smithmatungol *Yes.*

Moore *Please share your thoughts, feelings, or concerns after reading it.*

Smithmatungol *I, I deserve it. I mean, I deserve the discipline that I got. I had no excuse for it.*

Moore *After reading it, please explain whether you agree with the sustained finding of dishonesty.*

Smithmatungol *I Agree.*

Moore *And is there any evidence you have to refute the finding of dishonesty?*

Smithmatungol *I do not.*

Moore *On October 1st, 2025, you resigned from your position as a police officer with the Daly City Police Department. Why did you resign?*

Smithmatungol *Um, I believe that, I didn't think I was, I deserved to be there. Um, Daly City was the first and only department I applied to and I got in, they did their best. And, um, I mean, it was a good department and I messed up. And so I didn't think arguing or trying to lessen the discipline of at the Skelly was appropriate. I I, I messed up and I knew I messed up and Daly City didn't deserve me or I didn't deserve Daly City, and so I resigned.*

Moore *Do you believe you were given training, adequate training and guidance through your career in Daly City to be a successful peace officer?*

Smithmatungol *I did. Um, FTO was a little, a little hard, um, because I had, I think 8 or 10 different FTOs, usually it's one per month, but with people going off and, um, going on vacation and stuff, I would just swap schedules and swap FTOs all the time. But other than that, like we, we had the trainings, we had everything.*

Moore *Do you plan on seeking employment as a peace officer in the future?*

Smithmatungol *If given the opportunity I would, I would try to.*

Moore *How would you explain your actions during these three separate incidents we discussed today to a future employer?*

Smithmatungol *That I wholeheartedly messed up. I, whatever I did, I did. Um, I have no reasons to be dishonest and whatever other questions they ask, I'll say with wholehearted truth and there's nothing to hide at this point. And so, if, if given the opportunity, everything's gonna be out on the table and I'm, I'd be happy to answer any questions and take full responsibility of what happened.*

Moore *Kevin, do you have anything?*

Sherburne *Uh, I I have a couple of questions if I could. Um, going back to the text messages, I, I had another question about that day that you were texting Rose and she wasn't in the office. So, so with that as the background, um, let's assume Rose were in the office at 7:00 AM, what would've taken precedence if she were in the office taking care of the evidence or going to training on time?*

Smithmatungol *I said I would've thought that doing the evidence, um, because I think that day the case was getting submitted and I, my thought process is my Star Chase instruction portion wasn't until the later afternoon. So for me to be there from seven to I think like nine or 10 o'clock where my, um, instruction was, or from seven to nine or around that time, I, that's not my instruction time, that's a different officer. So, I would've just been sitting there and so I would've thought of, I'm just gonna go knock out this evidence real quick, just 'cause it's going to the DA and I think cases, going to the DA takes precedent, then sitting and watching, um, videos about Star Chase.*

Sherburne *If Rose had been in the office at 7 to 7:30 in the morning, whose responsibility would it have been to talk to training to say Kevin Smithmatungol. Sorry, I didn't mean to mispronounce your name.. Sat…*

Smithmatungol *That's okay Kevin Smithmatungol. Kevin's fine.*

Sherburne *Sorry, my name's Kevin too. Who, who would, whose responsibility would've been to, to tell training, hey, he's busy with, with evidence.*

Smithmatungol *It would've been mine.*

Sherburne *Okay. Um, jumping forward then to the subpoenas, correct. A different topic. Um, did the subpoenas that you did not serve, did they ultimately get served?*

Smithmatungol *I do not. I, I don't know that answer.*

Sherburne *Okay.*

Moore *Would you or your rep like to add anything?*

Ganz *I'll ask a couple questions if there's anything you wanna add just on that one specific topic. When you did what you did and put in the entries that were not true, correct. What were you expecting would happen?*

Smithmatungol *That it would ultimately get served, uh, from the next team.*

Ganz *Okay. And just based on your experience there, was that a realistic possibility?*

Smithmatungol *Yeah, it usually gets served until it, they don't live in the state anymore.*

Ganz *Okay. That doesn't change the fact that you've put in information that was not accurate.*

Smithmatungol *Not whatsoever.*

Ganz *So I just want to talk about the big picture here. So I think the topic, the word of integrity came up. I think you made a comment early on about how this is not kind of who you are. Um, would you agree that during this particular time span in these events that you showed a lack of integrity?*

Smithmatungol *I did.*

Ganz *Um, for whether you're on a job interview at some point, talking to the people here at POST, what would you want them to know about you and why this does or not does not represent you as a person?*

Smithmatungol *I mean, um, when I was put on IA, I was notified by my captain who did my background investigation. He did it from start to finish. He said, in my background, I had no blips or anything of dishonesty or anything of lying. Um, I, I per, that's not an excuse, but I personally think that what I was kind of, what was going on at home was kind of influencing and kind of keeping it bottled up with me and* [redacted]*. Um, but I went to seek therapy, went to go get help, and it's helping. And um, being truthful is kind of the big thing right now. It's always the same. You, you lie, you die, which ultimately that's what happened. I don't, I don't, um, I mean, I regret what I did. I have no excuses or anything about what happened, but that's, that's not who I am. I, it, it really isn't. Um, ever since I worked at Daly City, if like, if anyone needed help, I'd help. Or if they had any questions they had, they'd ask me no questions asked. Um, so it just, it kind of just takes a, a stab in the heart that now my integrity is now shot and it's, it's gonna be hard to bring back, but that's what I plan to do.*

Ganz *Do, do you feel like, in a sense, like some of this snowballed in the sense that like you made a decision at one point in the moment to say something that you know wasn't true and then you get into this IA and then all of a sudden you're just out trying to get yourself out of it. Do you feel like that kind of happened to you?*

Smithmatungol *Uh, a little bit because I mean, this IA notification was my first IA notification. And to get three of them, um, over the span of the actions that happened over six or seven months kind of threw me through a wrench in how I don't, I don't know how this process goes. I'd never been disciplined or been suspended or anything like that. So I, I really didn't know the process. Um.*

Ganz *At that time, did you know that, you know, whether or not it's a department policy, just a major part of law enforcement in general, that whether or not you're familiar with the process, did you know in your gut that you should have been forthright when it came to those interviews?*

Smithmatungol *Yeah.*

Ganz *Okay. And do you feel like you made a bad decision?*

Smithmatungol *I did.*

Ganz *And what consequences have you had to suffer as a result?*

Smithmatungol *I lost my job. I, um, lost all the friends I met up here 'cause I moved from SoCal and I, law enforcement was, I mean, it was my identity ever since I was growing up. It was police or fire pick one. Um, I could, I tried to go the fire route and did my career in that, but the six year wait for any department kind of, um, didn't want me to go fire. So, I went police route and loved it ever since I majored in college for it, um, taught at the Explorer Academy, I taught at the Explorer Academy for traffic collisions, which my, my heart loves. And, um, I just wish that I would've done the right thing. And that's what I'm trying to do now, now that my certification's on the line and, um, potentially my careers ever in law enforcement.*

Ganz *And do you feel like in some very, um, I guess non-ideal way, you've actually learned from this experience in a way that you wouldn't have otherwise? Like what, what do you think you've learned from it?*

Smithmatungol *I mean, I learned that, um, what I did was serious, but I mean, at the time I thought, hey, it's, it'll, it'll blow over. It'll, uh, I'll, I'll, I'll make it right later down the road. But there is no down the road. My, my road ended with Daly City and, um, trying to get back on my feet. I've learned, I, like I said, I went to therapy, go to therapy now. Um, trying to be able to, my, my, I think my issue was I was afraid of confrontation. Confrontation with supervisors, confrontation with anything. Um, because I knew I was wrong. And I can say that wholeheartedly I was wrong, but at that moment I couldn't say I was wrong. I don't know why I couldn't say I was wrong, but I was wrong.*

Ganz *Okay. So if I was either POST or if I was a potential employer of any sort, I would want to know if that instinct that you had for various reasons to run away from the problem as opposed to confront it, do you feel like you have worked past that given everything that's happened?*

Smithmatungol *Yeah.*

Ganz *Like in other words, if a situation, obviously whatever job you're gonna have, a situation could come up or you get messed up or you're too busy to do something, do you feel like you have addressed that so that you can make the right decision in the future?*

Smithmatungol *I did. I, I really think that if, if a situation like this or I did something wrong came up, I, I can confidently say I was wrong. I'm sorry. Um, because I mean the situation, it's not a very good situation.*

Ganz *Those are all the questions I had. Is there anything else that you feel like you wanted to say that you haven't had a chance to?*

Smithmatungol *No, I just wanna appreciate POST and I apologize to the Daly City Police Department for tarnishing the name and tarnishing my name and that hopefully I can stay in law enforcement.*

Moore *Okay.*

Ganz *Thank you both.*

Moore *That's going to conclude our interview for today and time is, uh, 1411 hours.*

I have used all reasonable diligence in reviewing this transcription and to the best of my knowledge the information contained herein is true and complete.

Chris Ganz
Investigator

3/19/26
Date

Commission on Peace Officer Standards and Training
860 Stillwater Road, Suite 100, West Sacramento, CA 95605-1603
(916) 227-3909 • www.post.ca.gov

EXECUTIVE REVIEW & PEACE OFFICER STANDARDS ACCOUNTABILITY DIVISION RECOMMENDATION

DATE: 02/11/2026

CASE #: POST2505112 / POST2505137 / POST2505140

PEACE OFFICER: Kevin Smithmatungol

POST ID#: C88-Y32

AGENCY: Daly City Police Department

POST CONSULTANT / BC: Christina Moore / Brian South

ALLEGATION(S):

California Code of Regulations Title 11 § 1205(a)(1) - Dishonesty

On June 2, 2024, Daly City Police Deparment Officer Kevin Smithmatungol (hereinafter, "Respondent") cited and released a subject for shoplifting. When the Respondent was asked by a supervisor how the subject was identified, he claimed to have obtained the subject's fingerprint. An administrative investigation was conducted and determined the Respondent made false statements during the criminal and administrative investigations. POST determined that the Respondent was dishonest during an investigation into misconduct.

On June 20, 2024, the Respondent was late to a scheduled training day. When the Respondent was asked by a supervisor as to why, he claimed to be handling evidence related matters, which was later determined to be false. An administrative investigation was conducted and determined the Respondent made false statements during the administrative investigation. POST determined the Respondent was dishonest during an investigation into misconduct.

On October 25, 2024, the Respondent was assigned two (2) subpoenas to serve. At the end of his shift, the Respondent claimed to a supervisor that he attempted to serve both subpoenas. An administrative investigation was conducted and determined the Respondent made false statements during the administrative investigation. POST determined the Respondent was dishonest during an investigation into misconduct.

Clear and convinving evidence substantiated that the Respondent was dishonest in three (3) separate administrative investigations into his misconduct over an approximate 6 month time period. Reasonable grounds exist for suspension or revocation of Respondent's POST certificate.

The Peace Officer Standards Accountability Division, Certification Executive Review Panel has reviewed the above referenced case involving alleged serious misconduct and has determined the following:

☒ There are reasonable grounds for suspension or revocation of a peace officer's certification.

POST determined clear and convincing evidence exists to show Respondent committed serious misconduct as defined in Penal Code §13510.8(b)(1) - Dishonesty for providing dishonest statements during the criminal and administrative investigations.

☐ There is insufficient evidence to support a recommendation of revocation or suspension of certification.

William Darden Chief Legal Counsel	Signature	2/11/26 Date
Annemarie Del Mugnaio Assistant Executive Director	Signature	2-11-2026 Date
Manny Alvarez Executive Director	Signature	02/17/2026 Date

cc: Bureau Chief _____

cc: Jason Morlock

cc: Chandler Knapp

cc: _____

POST PROFILE NAME:

SMITHMATUNGOL, KEVIN

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: N/A

DATE: 11/18/2025

PERSONAL IDENTIFICATION

POST I.D.	Agency	Birth Date	Gender	Race/Ethnicity
C88-Y32		[redacted]	[redacted]	[redacted]

CERTIFICATES AWARDED

Cert No.	Type	Awarded	Education	T	T+	Comments
212190	B	01/19/2024		50.25	10.35	[redacted]
157942	I	07/11/2024	BA	0.00	0.00	

Total Number of Certificates: 2

PROOF OF ELIGIBILITY

POE	Agency Name	Agency	Issued	Status
P0004863	DALY CITY PD	41060	07/11/2022	Expired

Total Number of Proof of Eligibility: 1

EMPLOYMENT

Hired From	To	R*	Rank	Rank Date	Agency	Agency Name	F/P	P/U	Seas
01/03/2022	07/11/2022	10	TRN	01/03/2022	41060	DALY CITY PD	F	P	
07/11/2022	10/01/2025	1	PO	07/11/2022	41060	DALY CITY PD	F	P	

***Reason for Separation: 1 = Resigned, 10 = Status Change**

POST CERTIFIED TRAINING

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
07/08/2022	A	5590-00100-21-002	1005	R	Y	41060	CONTRASO		BASIC COURSE-INTENSIVE
07/21/2022	K	2540-29503-22-004	4	R	Y	41060	SOBAYRTC	*	ARSTCTL(PSP)
07/21/2022	K	2540-29580-22-004	4	X	Y	41060	SOBAYRTC	*	USE OF FORCE (PSP)
09/05/2022	K	9180-25599-22-067	4	X	Y	41060	POST	*	PSP: STRATEGIC COMMUNICATIONS-SELF PACED
10/03/2022	K	2540-29501-22-017	4	R	Y	41060	SOBAYRTC	*	FIREARM(PSP)
02/01/2023	K	2540-32075-22-023	24	R	Y	41060	SOBAYRTC		FIREARMS/TACTICAL RIFLE
02/16/2023	K	1270-20290-22-074	16	R	Y	41060	CHP		DUI DETECTION-FIELD SOBRIETY
05/19/2023	K	2540-33590-22-004	40	R	Y	41060	SOBAYRTC		TRAFFIC COLLISION INV
07/07/2023	K	2540-21797-23-003	8	R	Y	41060	SOBAYRTC		FIRST AID/CPR/AED REFRESHER
08/10/2023	K	2540-29503-23-016	4	R	Y	41060	SOBAYRTC	*	ARSTCTL(PSP)
08/28/2023	K	2540-29503-23-018	4	R	Y	41060	SOBAYRTC	*	ARSTCTL(PSP)
09/22/2023	K	2970-33630-23-001	40	R	Y	41060	SRPSC		TRAFFIC COLLISION INV. INTER
10/12/2023	K	2540-29501-23-030	4	R	Y	41060	SOBAYRTC	*	FIREARM(PSP)
11/04/2023	K	9181-25505-23-127	2	X	Y	41060	CAPLP		DOMESTIC VIOLENCE RESPONSE UPDATE
11/16/2023	K	2010-20801-23-004	37	X	Y	41060	OPD		CRISIS INTERVENTION
12/14/2023	K	2540-29502-23-017	8	R	Y	41060	SOBAYRTC	*	DRIVING(PSP)
01/14/2024	K	1487-29580-23-198	4	R	Y	41060	PLI	*	USE OF FORCE (PSP)
02/03/2024	K	1487-29540-23-218	2	R	Y	41060	PLI	*	STRATEGIC COMMUNICATIONS (PSP)
03/04/2024	K	1487-20185-23-248	4	X	Y	41060	PLI		DE-ESCALATION AWARENESS AND COM-SELF PACED
03/15/2024	K	7290-20306-23-004	8	X	Y	41060	D-PREP		PAS DEVICE - OPERATIONS AND CALIBRATION
05/10/2024	K	1287-20275-23-009	32	X	Y	41060	RTC		UNMANNED AIRCRAFT SYSTEMS BASIC PILOTS COURSE
05/12/2024	K	1487-20186-23-317	4	X	Y	41060	PLI		ADV DE-ESCALATION AWARENESS AND COM-SELF PACED

POST PROFILE NAME:

SMITHMATUNGOL, KEVIN

CALIFORNIA COMMISSION ON **POST**

Certification Status: Active

AKA: N/A

DATE: 11/18/2025

POST CERTIFIED TRAINING *continued*

Comp Date	Cat	CCN	Hrs	Rmb	Cmp	Agency	School	*	Course Name
06/12/2024	K	1287-20188-23-005	24	X	Y	41060	RTC		UAS CRIME AND ACCIDENT SCENE INVESTIGATIONS
08/02/2024	K	9070-33610-24-001	80	R	Y	41060	GTA		TRAFFIC COLLISION INV. ADV
08/09/2024	K	1010-21815-24-001	24	R	Y	41060	ALAMEDA SO	*	DRIVER AWARENESS INSTR.

***Meets Perishable Skills**

FOOTNOTES

NO FOOTNOTE ON FILE.

PLEASE REFER TO THE ENCLOSED EXPLANATION SHEET FOR ADDITIONAL INFORMATION.

COMMISSION ON POST – PROFILE REPORT

The Profile Report contains confidential information.

EXPLANATION SHEET

PERSONAL IDENTIFICATION: Subject's personal information as indicated in POST database (EDI system)	
POST ID:	Unique identification number assigned to subject by POST.
Agency:	Indicates the agency (or one of the agencies) where subject is currently employed. An "*" indicates that the subject is employed in more than one position within the same agency.
Birth Date/Gender:	Self-explanatory.
Race/Ethnicity:	**A** = Asian **B** = African American (Black) **N** = Native American **S** = Spanish/Hispanic **W** = White **O** = Other

CERTIFICATES AWARDED	
Cert:	Certificate serial number.
Type:	**B** = Basic **I** = Intermediate **A** = Advanced **S** = Supervisory **M** = Management **E** = Executive **R** = Reserve **D** = Public Safety Dispatcher **SX**= Specialized X (example: SA = Specialized Advanced)
Awarded:	Date certificate was issued.
Education:	Educational points or degree used for earning a certificate.
T:	Training points used for awarding the certificate.
T+:	Additional training points.
Comments:	Comments regarding training or institute(s) where subject received education.
Total Number of Certificates:	Number of certificates awarded to subject as indicated in POST database.

EMPLOYMENT: Subject's employment history as indicated in POST database	
Hired From:	Date subject was hired or sworn into the agency.
To:	Date subject left agency (if applicable).
R*:	Reason for separation as indicated by number in the Report description.
Rank / Rank Date:	Indicates rank as translated by POST database and date subject made rank.
Agency / Agency Name:	Agency code number and name where subject is currently working or previously worked.
F/P:	Time base: **F** = Full time **P** = Part time
P/U:	Wage status: **P** = Paid **U** = Unpaid
Seas:	Provisional or seasonal employment.

POST TRAINING: Courses attended or completed as indicated in POST database	
Comp Date:	Date course ended.
Cat:	General course category (for POST use only).
CCN:	Course Control Number.
Hrs:	Hours completed in course.
Rmb:	Reimbursement indicator: **R** = Reimbursed *(before FY 83/84 reimbursable agency not necessarily reimbursed)* **J** = Job specific * = Job specific, SALARY NOT PAID **Blank** = None or no data available
Cmp:	Completion indicator: **Blank or Y** = Course completed **N** = Course not completed **?** = Prior to 1979
Agency:	Agency where subject was employed at time of course enrollment.
School:	Training institute offering the course.
Course Name:	Course name as shown in POST database.

NON-CERTIFIED COURSES

This section will only appear if applicable.

FOOTNOTES

This section reserved for additional information.

DALY CITY POLICE DEPARTMENT MEMORANDUM

TO Acting Chief of Police
Cameron Christensen

FROM Sergeant Matthew Ciucci #68

SUBJECT Administrative Investigation **24-04/Officer Smithmatungol #150**

BACKGROUND

On July 2, 2024, Administrative Directive 5909 was forwarded to me from Acting Chief of Police Christensen, requesting an administrative investigation be conducted on the following incident:

Request for Administrative Investigation:

DALY CITY POLICE DEPARTMENT
Memorandum

June 16, 2024

To: *Chief of Police*

From: *Sgt. Karen Douglas #78*

Subject: *Request for Administrative Investigation – Officer Smithmatungol*

On 06/02/2024 around 1945 hrs., Officer Smithmatungol responded to Target, 133 Serramonte Center, on the report of a detained shoplifter. Officer J. Rodriguez was his cover officer, and assisted in providing translation for the shoplifter, who was Spanish-speaking only. Officer Smithmatungol eventually arrested the subject and issued her a citation. The incident was documented under DCPD report 24003452. Later in the evening, I reviewed the report with the intention of approving it. The report had several errors; it was rejected and sent back to Officer Smithmatungol to be corrected. The main issue was that it did not document how or if the suspect, who had stolen over $600 in merchandise, was identified. Under the persons tabs in RIMS, the suspect had no prior contacts with DCPD. Her address was a North Carolina address. There was no phone number or driver's license number. I ran a records check of the suspect, and could not find a match on her name.

Later in the evening, Officer Smithmatungol approached me to discuss the kickback, without me asking him to. He told me he had identified the suspect from a bank credit card she had in her

possession. I explained to him that this was insufficient for identifying someone, as the card could have belonged to someone else, and we would have no way of knowing. I asked why he had not booked her, so she could be fingerprinted and properly identified. He said she was in the late stages of pregnancy and he did not want to have to take her to Chope for a medical clearance prior to being booked into jail. I asked if she had any local address or if she had provided a phone number. He said the suspect told him she was staying at a homeless shelter, but that she did not know the address, and that he had not obtained a phone number from her. I explained that if the suspect failed to show up to court, there would be no way of tracking her, and the charges would likely get dropped.

In briefings and casual conversations since the beginning of the watch, Lt. Klier, Sgt. Tualaulelei and I have stressed the importance of proper identification of suspects, and reiterated that if someone cannot be positively identified, they should be booked into San Mateo County Jail. Officer Smithmatungol was present for at least one of these conversations. I asked if he recalled these conversations. He told me he did not and was under the impression suspects could be issued citations without being positively identified. He then spontaneously stated he had obtained her fingerprint when issuing her the citation. This gave me hope that it could help with her identification, and I responded, "Oh great, you did?" He then said something along the lines of "Yeah, I got her thumbprint on the citation." I told him that was good, and that hopefully her print could identify her, if need be. We then wrapped up the conversation, and Officer Smithmatungol said he was sorry for not properly identifying her, and that he would handle situations like this better in the future. I told him that it was ok, and to just not let it happen again.

I had not previously seen what a thumbprint looked like on the new digital citation writers, so after Officer Smithmatungol left, I logged on to the Turbo Data website to see how it appeared with the new formatted digital tickets. I viewed his citation (#180035), and looked under the public copy and officer copy, but did not see a thumbprint. I was unfamiliar with how a thumbprint would be obtained on the writer, and also wanted to verify that what Officer Smithmatungol told me was accurate, so I logged on to evidence.com and reviewed his and Officer Rodriguez's BWC.

The BWC showed that Officer Smithmatungol used his citation writer (ID DCTR61) to begin the citation. He handed it to Officer Rodriguez, who began to assist with inputting the information. As this was happening, they were alerted to another shoplifter inside Target. They left and dealt with that subject (who was issued a citation, documented in case 24003453); after that subject was cited, Officer Smithmatungol returned to the suspect and finished issuing her a citation. At no point did he obtain her thumbprint on the citation, or via any other means. I learned that only certain writers have the ability to obtain a thumbprint and saw that this writer was not one of them. I reviewed all of the BWC and found no evidence that he or anyone else obtained the suspect's fingerprints, as Officer Smithmatungol had claimed.

On Saturday, 06/08/2024, Sgt. Tualaulelei and I met with Officer Smithmatungol. The purpose of the meeting was to discuss unrelated performance issues, including lack of self-initiated pro-activity, and to seek clarification on the location of the citation. I began the meeting by mentioning the case, and asked if he remembered it. He said he did. I told him it appeared that

he had not obtained the suspect's thumbprint. Officer Smithmatungol said he had actually obtained it. He explained he had attempted to use his citation writer to obtain the print, but that it was not working. I told Officer Smithmatungol we had reviewed the BWC, which showed he was using a citation writer without the fingerprint option. He responded something to the effect of, "Oh, I must have forgot." He continued explaining how he had obtained it.

At the conclusion of the detention, he said he walked with the suspect to his patrol vehicle, where he printed a duplicate copy of the citation. He retrieved an ink pad and fingerprinted the suspect. He had her place her thumb on the back of the citation, and that was how he obtained her fingerprint. Officer Smithmatungol said he turned the hard copy citation in at the end of his shift by placing it on the sergeant's desk. Sgt. Tualaulelei had collected the paperwork at the end of the shift and said he did not recall seeing it. I had Officer Smithmatungol's report open on the computer while we were speaking with him. I reviewed the attachments to the case, but did not see it, which I shared with Officer Smithmatungol. He offered that it might still be in his duty bag, or might have been given to Officer Rodriguez, who was acting as his cover officer. We asked Officer Smithmatungol if he was sure he obtained the thumbprint. Without missing a beat he nodded his head and said "Yes."

Officer Smithmatungol then asked what would happen if he couldn't find the citation. Sgt. Tualaulelei said something to the effect of "I'm not calling you out, but I am calling you out. Are you sure you got the thumbprint?" Officer Smithmatungol again reiterated that he had obtained it, and again said the copy might be in his duty bag. Sgt. Tualaulelei said if he hadn't actually obtained it, now was the time to own up to it.

Officer Smithmatungol again said he had obtained it and would check his duty bag. I asked him to go check his duty bag now, and to let us know whether he had found it. About twenty minutes later, I saw Officer Smithmatungol in the in-coming squad room typing on the computer, and I asked if he had any luck locating it.

He had several printed out tickets in front of him, and picked them up to show them to me. He said he had located all of them in his duty bag, but was unable to locate the citation in question. He said he had texted Officer Rodriguez to ask if he had the citation. I asked Officer Smithmatungol to let me know if Officer Rodriguez located it, and he said he would. For the remainder of the shift, Officer Smithmatungol did not bring up the citation again, and neither Sgt. Tualaulelei nor I asked him about it any further.

At this point, I suspected Officer Smithmatungol was not being honest. On Sunday, 06/09/2024, I responded to Target and obtained additional security footage of Officer Smithmatungol's time at the scene. I reviewed several different camera angles, from the point of when Officer Smithmatungol arrived at Target, to the point he left and drove out of the mall onto Serramonte Blvd. I saw that once the suspect had been released from the loss prevention office at 2007 hrs., she immediately exited Target through the southern most front door, and walked east through the parking lot, out of view of the camera. She is not seen again.

Officer Smithmatungol briefly left the loss prevention office, and walked into Target, in the opposite direction of the suspect. He returned to the office about 25 seconds later, and remained

there for several minutes, seemingly finishing his investigation with one of the employees. Around 2011 hrs., Officer R. Perez arrived on scene, and walked into the loss prevention office, where Officer Smithmatungol still was. Shortly after, he exited out the south doors, and walked over to Officer Rodriguez, who was still with the suspect from case 24003453. Officer Perez joins them a short time later, and they finish their dealings with the suspect from case 24003453. At 2021 hrs., Officer Smithmatungol walks to his patrol vehicle, gets in and drives south through the Target parking lot. He makes a right turn at the stop sign and drives west along the south side of Target. At the first stop sign, he makes a left turn and exits on to Serramonte Blvd., driving west towards Callan Blvd. I transferred the files to a thumb drive.

Based on the above information, I am requesting an Administrative Investigation into Officer Smithmatungol, for violation of Lexipol Policy 340 (Standards of Conduct) 340.5.9, Performance; and 340.5.10, Conduct.

Sgt. Karen Douglas, #78
Division B-2, Graveyard
Field Operations Bureau

INVESTIGATION

- Reviewed request for an administrative investigation.
- Reviewed DCPD Administrative Directive 5909.
- Reviewed Daly City Police Department case #24003452.
- Reviewed Body Worn Camera footage associated to DCPD Case #24003452.
- Reviewed CAD Log associated to DCPD Case #24003452.
- Reviewed Target Store video surveillance footage.
- Reviewed a copy of the citation associated to DCPD case #24003452.
- Interviewed Turbo-Data expert witness Trent Waterman.
- Interviewed Turbo-Data Technical Support Agent James Pace
- Interviewed Sergeant Douglas (Witness).
- Interviewed Officer J. Rodriguez (Witness).
- Interviewed Officer Smithmatungol (Subject).

INVESTIGATION NARRATIVE:

I began my investigation by conducting a review of Daly City Police Department report #24003452. The following is a synopsis of the case:

CAD Call Review DP24-25327

On June 02, 2024, at approximately 1928 hours, a "Shoplifter Detained" call was generated at the Target Store located at 133 Serramonte Center, Daly City. The initial remarks added by the call taker were as follows:

I then spoke to [redacted] and read her her rights via my department-issued Miranda Warning Card, which Officer Rodriguez translated into Spanish, and she told me the following:

Statement of [redacted] summarized, audio/video recorded (BWC):

[redacted] stated she came into the store, selected merchandise, and attempted to walk out without paying. [redacted] did not have any cash in her property and stated there was no money on her bank cards. [redacted] did not come into the store to steal all of the merchandise. [redacted] planned to pay for only a handful of items and not scan the rest only to obtain a receipt to make it appear as if she purchased all of the items.

End of Statement

I provided [redacted] with a contact card and case number for his records. Additionally, I sent [redacted] an evidence.com link so he could upload the surveillance footage. I documented [redacted] answers to the Video Surveillance Questions and Business Foundation questions in a supplemental report. [redacted] signed a Daly City citizen's arrest form, which was later uploaded as an attachment.

I provided [redacted] with DCPD Citation #180035 for PC 459.5 and advised her of the court date and time. [redacted] was later released from the scene.

This case is closed."

BWC FOOTAGE REVIEW

I conducted a review of all Body Worn Camera footage from the arrest of [redacted] The BWC review will be written in the present tense as it memorializes the present actions of those involved.

AXON BODY 3 Video 2024-06-02 X60A078X DC24003452
BWC of Officer Smithmatungol

Officer Smithmatungol arrives at 133 Serramonte Center and parks his Ford Explorer SUV in the loading zone on the east side of the Target store, facing north. He exits his SUV and contacts Target Loss Prevention Agent [redacted] in front of the store. [redacted] greets Officer Smithmatungol and proceeds to give him a verbal overview [redacted] arrest. In summary, [redacted] stole approximately $600.00 worth of merchandise and left the store without attempting to pay. [redacted] is also potentially pregnant; however, Officer Smithmatungol indicates it is not an issue because she will be cited-out for the violation. Officer Rodriguez arrives on-scene and parks his Ford Taurus sedan on the curbline in front of the Target store, facing south. Officer Smithmatungol asks Officer Rodriguez if he will translate during the investigation, and he agrees.

[redacted] leads Officer Smithmatungol and Officer Rodriguez into the Target loss prevention office. Inside the room there are four other loss prevention agents and [redacted] who is sitting on a bench with her hands un-handcuffed. Officer Smithmatungol approaches a shopping cart and appears to photograph the contents inside. These items are presumably the stolen merchandise recovered during [redacted] arrest. Officer Rodriguez asks [redacted] the following:

Officer Rodriguez: Tienes ID? (have ID?)

[redacted] No

Officer Smithmatungol: Pasaporte, licencia? (passport or license?)

[redacted] No

Officer Rodriguez begins to obtain [redacted] verbal identification. Loss prevention agents explain they didn't find any identification on her person but she did have a credit/debit card in her possession with a name on it. Officer Smithmatungol then leaves the loss prevention office and walks to his car to retrieve a citizen's arrest form. Officer Smithmatungol walks back into the loss prevention office and begins speaking with Officer Rodriguez. Their conversation is as follows:

Officer Rodriguez: "Is it a felony?"

Officer Smithmatungol: "No, six hundred bucks….$607.00. Does she have no ID whatsoever?"

Officer Rodriguez: Shakes his head in the negative.

Officer Smithmatungol: "I'm gonna book her then."

Officer Rodriguez: "She's from North Carolina."

Officer Smithmatungol: "I'm gonna book her then."

Officer Rodriguez attempts to identify [redacted] by asking her a series of questions. Officer Smithmatungol begins uploading digital evidence to evidence.com on his work cell phone. Officer Smithmatungol overhears loss prevention agents indicate there is potentially

another subject shoplifting in the store. Officer Smithmatungol exhibits signs of frustration and verbal disbelief. He asks Officer Rodriguez if he will read [redacted] her rights via Miranda and interpret the interview. Officer Rodriguez agrees and proceeds to act as an interpreter during the interview. [redacted] waives her rights and provides a statement regarding the theft. She indicates her intent was to pay for some items but not all. She also does not possess enough money to cover the costs of the items she stole.

Officer Smithmatungol concludes the interview and produces Daly City Police Department digital ticket-writer DCTR61. The label with the identifying number can be clearly seen on the front of the device. Officer Smithmatungol hands the ticket-writer to Officer Rodriguez and asks him if he could fill in [redacted] personal information on the citation. Officer Smithmatungol then tells Officer Rodriguez **"we're short.....I'm just gonna cite her."** Officer Rodriguez begins to fill out the citation and a loss prevention agent approaches Officer Smithmatungol and asks if he was able to positively identify the suspect and he replies **"no."**

Both officers then turn their attention to a black male adult who is attempting to shoplift while they are still on-scene. Both officers leave the loss prevention office and confront the male subject, preventing him from leaving the building and preventing him from completing the theft. [redacted] remains in the loss prevention office. The male subject is escorted to the front of the building and Officer Rodriguez stands by with him, while Officer Smithmatungol re-enters the loss prevention office to complete the investigation concerning [redacted]

Officer Smithmatungol begins imputing information into ticket-writer DCTR61 and asks [redacted] two more times if she has a license, and she responds no. Officer Smithmatungol finishes filling out the citation and presents the ticket-writer to [redacted] who provides her digital signature. At approximately 20:05:08 hours, Officer Smithmatungol presses print on his ticket-writer device and a citation is printed. He then briefly explains the court time and location to [redacted] Officer Smithmatungol leaves the loss prevention office and [redacted] is presumably free to leave. Officer Smithmatungol goes back outside and meets with Officer Rodriguez.

At approximately 20:06:15 hours, Officer Smithmatungol places his ticket-writer device on a large red cement parking bollard in front of the Target store (he leaves the device on the parking bollard until approximately 20:15:22 hours). Officer Smithmatungol tells Officer Rodriguez he will handle the arrest for the second shoplifter, and he proceeds to go back into the loss prevention office. At approximately 20:07:32 hours, [redacted] can be seen walking out the front doors of the Target store.

Officer Smithmatungol meets with loss prevention agents and begins to start his second investigation regarding the second shoplifter. At approximately 20:08:51 hours, Officer Smithmatungol turns off his BWC while he is still speaking with loss prevention staff in their office. He then immediately re-activates it at approximately 20:08:52 hours (1 second elapsed

time). It appears that this is done to separate his BWC footage during the two separate investigations. The following BWC is the continuation of his video footage.

AXON BODY 3 Video 2024-06-02 X60A078X DC24003453
BWC of Officer Smithmatungol

Officer Smithmatungol speaks with a loss prevention agent and gains the information he needs for his investigation. He then realizes that he will be unable to arrest the male subject because he ordered him to step out the store. He ultimately places the male subject under arrest after the subject admits to being in possession of narcotic paraphernalia. Officer Rayleen Perez arrives on scene and assists with the investigation by filling out a citation for the suspect. At approximately 20:19:36 hours, Officer Perez hands the ticket-writer device to Officer Smithmatungol. In the BWC footage, the device serial number can be seen as DCTR61. This is the same ticket-writer device used previously by Officer Smithmatungol. At approximately 20:19:59 hours, Officer Smithmatungol prints a new citation for his new arrestee and provides it to him. At approximately 20:21:20 hours, Officer Smithmatungol turns off his BWC and the call is complete.

AXON BODY 3 Video 2024-06-02 X60A19100 DC24003452
BWC of Officer Rodriguez

Officer Rodriguez arrives at 133 Serramonte Center and meets Officer Smithmatungol in front of the store. Together they walk into the Target loss prevention office and Officer Rodriguez begins speaking with [redacted] who is seated on a bench. He asks her for identification, and she pulls a red credit/debit card out of her purse and hands it to Officer Rodriguez.

Officer Rodriguez begins to obtain her name verbally and she provides [redacted] When he asks where she lives, she points outside and says "in Daly Ci……" she then stops herself mid syllable and says she is from North Carolina. She eventually provides an address of [redacted].

Officer Rodriguez ultimately leaves the loss prevention office and assists Officer Smithmatungol by contacting the second, unassociated male adult shoplifter. Officer Rodriguez stands-by with the male subject in front of the Target store. At approximately 20:07:38 hours, [redacted] can be seen exiting the target store and walking in a eastern direction across the Target parking lot. The remainder of the BWC footage coincides with the video memorialized on Officer Smithmatungol's BWC. At approximately 20:21:19 hours, Officer Rodriguez turns off his BWC and the call is complete.

AXON BODY 3 Video 2024-06-02 X60A0853X DC24003453
BWC of Officer R. Perez

Officer Perez arrives at 133 Serramonte Center and meets Officers Smithmatungol and Rodriguez in front of the Target store. Officer Smithmatungol is conducting a search of the black male shoplifting suspect. Officer Smithmatungol's ticket-writer device can be seen resting on a large red cement parking bollard in front of the store. At approximately 20:15:22 hours, Officer Perez walks over to the parking bollard and picks up the ticket-writer. She does not print any citations, but rather she starts entering in the new information for the second arrestee's citation.

At approximately 20:19:36 hours, Officer Perez hands the ticket-writer device to Officer Smithmatungol. The device has been in camera view since the time she picked it up and she never printed a paper citation from it. Officer Smithmatungol appears to review the ticket-writer information. He then walks over to the suspect and has him digitally sign the device. At approximately 20:20:15 hours, Officer Smithmatungol prints a citation and hands it to the male suspect. At approximately 20:20:55 hours, Officer Perez turns off her BWC and the call is complete.

End of All BWC Review

TARGET SURVEILENCE FOOTAGE REVIEW

In Sergeant Douglas' initial memorandum requesting an internal affairs investigation she referenced she had obtained video surveillance footage from the Target store CCTV cameras. I contacted Sergeant Douglas and obtained five videos from the Target store surveillance cameras which she stated she obtained on June 9, 2024. The following is a review of each video.

Video titled "AP – Booking Room 2"

This video is captured from a ceiling camera located in the Target loss prevention office. It memorializes the entire contact between [redacted] and Officers Rodriguez and Smithmatungol. The surveillance video coincides with the BWC footage I reviewed above. At no time in the video does Officer Rodriguez or Smithmatungol search [redacted] or obtain her fingerprint. I also do not observe Officer Smithmatungol print a second copy of his arrest citation.

Video titled "Entrance – Vestibule"

This video is captured from a ceiling camera located outside of the Target loss prevention office, near the main entrance of the store. It captures any person entering or leaving the loss prevention room. It captures the entire contact between [redacted] and Officers Rodriguez and Smithmatungol. At no time in the video does either officer search [redacted] or obtain her fingerprint. I also do not observe Officer Smithmatungol print a second copy of his arrest citation.

Video titled "Exterior PL Front 1"

This video is captured from an elevated exterior camera located on the outside of the Target store. The camera faces eastward and captures the main entrance and main parking lot. At approximately 19:50:45 hours, Officer Smithmatungol arrives on-scene and parks his fully marked patrol SUV directly in camera view facing north. At approximately 19:51:46 hours Officer Rodriguez arrives on-scene and parks his fully marked patrol sedan directly in camera view facing south. Both officers then enter the Target store.

At approximately 20:07:38 hours, [redacted] can be seen exiting the front doors of the target store, walking in an eastern direction. She continues walking east until she leaves camera view at approximately 20:08:51 hours. Due to the quality of the video (severe pixilation) she can no longer be seen on camera.

At approximately 20:21:43 hours, Officer Rodriguez enters his patrol sedan and leaves the scene. He travels southbound in front of the main entrance of the Target store and makes a left turn traveling eastbound through the parking lot. He then leaves the view of the camera.

At approximately 20:21:48 hours, Officer Smithmatungol enters his patrol vehicle and leaves the scene. He makes a u-turn and travels southbound in front of the main entrance of the Target store and makes a right turn traveling westbound along the south side of the Target store. He is traveling the opposite direction of where [redacted] was last seen walking. He then leaves the view of the camera.

Officer Smithmatungol and [redacted] never have contact once she exits the Target store.

Video titled "Exterior PL Rear 1"

This video is captured from an elevated exterior camera located on the outside of the Target store. The camera is affixed to the south side of the building and faces eastward. It captures the south parking lot and intersection that leads to the Serramonte Blvd. exit. At approximately 20:22:48 hours, Officer Smithmatungol's SUV can be seen making a right turn, traveling westbound along the south side of the Target store. He has cleared his call for service and appears to exit Serramonte Mall by driving southbound onto Serramonte Blvd. He does not stop his vehicle or contact any persons prior to going out of view of the camera.

Video titled "Exterior PL Right 2"

This video is captured from an elevated exterior camera located on the outside of the Target store. The camera is affixed to the south side of the building and faces south. It captures the south parking lot and intersection of Serramonte Blvd. and the Serramonte mall exit. At approximately 20:22:58 hours, Officer Smithmatungol's SUV can be seen making a left turn traveling south as he departs the Serramonte shopping center. He then makes a right turn onto Serramonte Blvd. traveling westbound towards Callan Blvd. He does not stop his vehicle or contact any persons prior to going out of view of the camera.

A review of the CAD log for Officer Smithmatungol shows that upon leaving the Serramonte Mall at approximately 20:22:58 hours, he was immediately dispatched to the following calls:

- 20:26:54 hours: Dispatched to a Neighbor Dispute on Wembley Drive. (DP24-25334)
  - 20:32:29 hours: Arrives onscene.
  - 20:55:14 hours: Cleared the call and goes 10-8.

- 21:01:26 hours: Conducts a traffic stop at Sullivan Ave/Washington St. (DP24-25344)
  - 21:06:36 hours: Cleared the call (verbal warning) and goes 10-8.

- 21:06:50 hours: Dispatched to an Assault investigation on Sylvan Street. (DP24-25342)
  - 21:10:04 hours: Arrives onscene.
  - 21:12:55 hours: Cleared from the call and goes 10-8.

- 21:12:55 hours: Dispatched to a DV investigation on Mission Cir. (DP24-25343)
  - 21:13:17 hours: Cleared from the call and goes 10-8.

- 21:17:08 hours: Dispatched to a 5150 W&I call on Westmoor Ave. (DP24-25345)
  - 21:22:10 hours: Arrives onscene.
  - 21:56:34 hours: Cleared from the call and goes 10-8.

It appears Officer Smithmatungol traveled "call-to-call" from the time he left the Serramonte Mall until approximately 21:56:34 hours.

Upon completing my review of the Body Worn Camera footage and the Target video surveillance footage, I made the following observations. I identified several conflicting pieces of evidence which contradicted the events initially verbalized by Officer Smithmatungol to Sergeant Douglas.

- [redacted] was never properly identified or searched incident to her arrest.
- I only observed one paper citation be printed from ticket-writer device DCTR61, and this citation was handed to [redacted]
- A fingerprint from [redacted] was never obtained during her contact with Daly City Police Officers.
- Officer Smithmatungol initially stated he was going to "book" [redacted] but later changed his mind stating "we're short I'm just going to cite her out." At no time did I observe him consult with a supervisor prior to making this decision.

Because [redacted] had never been properly identified, this case could not move forward with prosecution. In an effort to contact [redacted] I began a thorough search of all available Law Enforcement databases to hopefully identify her.

[redacted] had initially told Officer Rodriguez she was from North Carolina but the address she provided was in [redacted]. I conducted a search of Google Earth and learned [redacted] is a 233,783 square foot shopping center, consisting of dozens of large and medium size businesses. This is not a residential address, and I could not locate a [redacted] associated to the location. I checked local booking photos, arrest records and "Photo ID Match" for persons matching the description of [redacted] however, I was unable to find a match. To date, I have been unable to identify or locate [redacted]

After viewing Officer Smithmatungol's BWC and hearing him say he was going to cite-out [redacted] because his team was short staffed; I conducted a search of PlanIt Scheduling software to see what the staffing levels were for June 02, 2024. B-Graveyard Shift had 7 Officers and 2 Sergeants working that evening. A copy of the staffing report has been attached to this case file.

POST CASE NUMBER: POST2505112

SUBJECT OFFICER NAME: Kevin Smithmatungol

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Daly City Police Department on 1/31/2025 with Officer Kevin Smithmatungol, who is the subject of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Central Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON AI transcription. This transcript was prepared by Law Enforcement Consultant Christina Moore, Professional Conduct Central Bureau.

Parties Present:
Sergeant Matthew Ciucci, Daly City Police Department, Primary Investigator
Officer Kevin Smithmatungol, Daly City Police Department, Subject
Julia Fox, Rains Lucia Stern, Representative for subject officer

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Ciucci *All right, we are up and running. Um, okay. It is Friday, January 31st, 2025. It is approximately 10:06 AM Um, Sergeant Matt Ciucci, we are in the Professional Standards Unit office at Daly City Police Department, with me is Officer Kevin Smithmatungol, can you say hello and state and spell your name? You don't have to spell it. Just say Hi.*

Smithmatungol *Hi, my name is Kevin Smithmatungol.*

Ciucci *Beautiful. And with you, you have brought, uh, uh, your counsel who in this case is gonna be, uh, Julia Fox. Julia, if you mind saying hello.*

Fox *Sure. This is Julia Fox. I'm a partner at RLS.*

Ciucci *Beautiful. Um, alright, with that said, I'm gonna begin by reading you the administrative admonishment 'cause you are a subject officer in an Internal Affairs investigation. Okay?*

Smithmatungol *Yeah.*

Ciucci *I'm gonna read it then I'm gonna give you a chance to read it. If you need me to stop, pause, let me know. Uh, and we'll get through this together. All right. And so you're hereby advised that an administrative investigation is in process within this department in which it has become necessary to obtain a statement from you. If you cooperate fully at this time, your statements,*

Siri *I'm sorry.*

Ciucci *<laugh> Don't worry about Siri. She's okay. Okay. If you cooperate fully at this time, your statements and any evidence arising there from may be used in any and all proceedings arising out of this investigation. As a citizen and an employee of this department, you're hereby advised that if prior to or during the taking of your statement, this department determines that you may be charged with a criminal offense, the proceedings will be stopped, and you'll be advised of your constitutional rights and given an opportunity to obtain legal counsel. Okay. If you decide not to give a statement at this time, you're now ordered as an employee of this department to answer all questions asked by investigators and to give a full, detailed, and complete statement regarding your knowledge of or involvement in the matter now under investigation. Although you have a right to silence in a criminal investigation, this is not a criminal investigation, but an administrative hearing, and you're now being ordered to answer all questions under the compulsion of the threat of disciplinary action. False statements, of course, will result in severe disciplinary action. Members are always required to be truthful, see Daly City Police Department Manual Rules 4.96. Truthfulness. Do you have any questions about what was just read to you?*

Smithmatungol *No.*

Ciucci *Okay. With that being said, I'm gonna give it to you, if you wouldn't mind, just look it over. This last sentence here says, I have read the above admonishment order and I fully understand my rights and duties in this investigation. If you are comfortable between you and your counsel, if you wouldn't mind signing date, time, and if I could have Mrs. Fox do the same as a witness.*

Fox *Sure.*

Ciucci *But feel free to look it over.*

Ciucci *Fabulous. Thank you. Thank you. Thank you. Okey dokey. Um, so the purpose of my role, I'm an independent fact finder. That's my job. Um, I'm not going to do any findings and recommendations. My job is to do an initial interview, garner everything together, and then I present it before the chief. It gets sent off to a lieutenant for findings and recommendations. Um, but all I'm doing is just compiling everything. So just like you do an investigation, uh, it's a police report, uh, you interview persons involved, you gather everything, you put it together. Um, have you had an opportunity to review your body-worn camera footage from an incident that occurred on June 2nd, 2024?*

Smithmatungol *Yes.*

Ciucci *Beautiful. Um, have you also had a chance to review your, uh, police report, which is police report 2 4 0 0 3 4 5 2 associated to that body-worn camera footage?*

Smithmatungol *Yes.*

Ciucci *Perfect. Okay. Can I see that pen back? <laugh>. Thank you, brother. Thank you. Thank you. Thank you. So do you recall on June 2nd, 2024, at approximately 7:45 PM uh, being dispatched to 133 Serramonte Center, uh, in Daly City, the Target store on the report of a shoplifter in custody?*

Smithmatungol *Yes.*

Ciucci *Beautiful. Um, were you the first officer arrived or was there another officer on scene?*

Smithmatungol *There was another officer on scene with me. I think we arrived together.*

Ciucci *Together in the same car together in separate cars?*

Smithmatungol *Separate cars.*

Ciucci *Okay. Um, who is that other officer?*

Smithmatungol *Officer Jose Rodriguez.*

Ciucci *Okay. Um, when you entered into the target store, did you contact a detained female?*

Smithmatungol *Yes.*

Ciucci *Okay. Were you able to communicate with her?*

Smithmatungol *I was not. She spoke primarily Spanish, which was Officer Rodriguez's role to translate.*

Ciucci *Okay. Um, and do you, for the record, do you speak Spanish fluently in any capacity?*

Smithmatungol *No.*

Ciucci *Okay. Do you have the ability to somewhat speak Spanish? Uh, words and phrases?*

Smithmatungol *Uh, partially.*

Ciucci *Perfect. Um, the female subject, did she have any form of identification?*

Smithmatungol *She did not.*

Ciucci *She did not. Okay. Um, did you conduct a search of her person, uh, upon accepting her into your custody because it was a, a, uh, loss prevention detention that you then accepted for, uh, an arrest. Is that correct?*

Smithmatungol *Yes.*

Ciucci *Perfect. And then did you conduct a search of a person when you took her into your custody?*

Smithmatungol *I did not.*

Ciucci *Okay. How come?*

Smithmatungol *Uh, I didn't, I maybe thought forgot about it. Um, but there was a belief, a purse or a, a bag that was on the table and Officer Rodriguez went inside and found a debit or a credit card with her name on it.*

Ciucci *Okay.*

Smithmatungol *And I think that's the only search we did there.*

Ciucci *Okay. So you didn't search her person and you didn't search her bag?*

Smithmatungol *No, Officer Rodriguez did.*

Ciucci *Okay. Um, so you just mentioned a, uh, a bank or a debit card.*

Smithmatungol *Correct.*

Ciucci *Uh, is that what you used to identify her?*

Smithmatungol *Yes.*

Ciucci *Okay. Basing on, based on your training experience, does that meet the burden for identification?*

Smithmatungol *No.*

Ciucci *No. Okay. Why wouldn't it meet the burden?*

Smithmatungol *Um, it's just a name on a card. Anyone can have a name on a card, could be anyone's.*

Ciucci *Primarily, what would you need in order to do a confirmation of identity?*

Smithmatungol *A valid license from foreign countries, passport, United States, anything.*

Ciucci *Okay. Um, do you recall, 'cause you watched the BWC, do you recall that while you were inside that loss prevention office, um, you and Officer Rodriguez had a conversation.*

Smithmatungol *Correct.*

Ciucci *Where you were asking did she have ID?*

Smithmatungol *Yeah.*

Ciucci *And you made a statement, uh, after he told you that no, she doesn't. Um, I'm gonna book her then. And you repeated that statement twice?*

Smithmatungol *Correct.*

Ciucci *Um, what made you make that statement?*

Smithmatungol *Uh, based on the no ID, but I didn't realize it was a, someone with no ideas a shall book in the policy. Um, but that mean, that's just the first conclusion I go off of fingerprints and they would get that at the jail.*

Ciucci *Okay.*

Fox *So you're saying you didn't realize that that was required at the time?*

Smithmatungol *At the time I didn't know until I read it after.*

Fox *Got it.*

Ciucci *Okay. Then why was it your belief then that you did need to book her? So if you're, if you didn't understand that it was a shall in the policy as you're saying, um, then why, what was it about that situation that made you believe you were supposed to book her?*

Smithmatungol *Uh, I've never had that incidence before. That was the first time I've never came up with someone with no ID, we couldn't find id and that was just my next course of steps in the investigation was a misdemeanor crime, it was a bookable offense and should have booked her.*

Ciucci *Okay.*

Ciucci *Okay. Um, do you recall handing an auto cite to Officer Rodriguez and asking, asking him to fill out the citation?*

Smithmatungol *Yes.*

Ciucci *Okay. Following that, you made the statement, Hey, we're short. I'm just gonna cite her. Uh, that's at the nine minute, 52nd mark of your, of your video. Uh, what made you say that hey, man, we we're short I'm just gonna cite her?*

Smithmatungol *Uh, I looked up the, the RIMS, uh, app on my phone and saw that everyone was tied up. Um, I was in the most busy, or one of the most busy parts of the city at the most busy time on a weekend.*

Ciucci *Okay.*

Smithmatungol *Which was the Serramonte shopping center. And at that time we had a second shoplifter that I didn't want my team to take for me. That's just how I'm as an officer. And so I wanted to finish my investigation with her so I can get the other incus or the other on view shoplifting that we had at that same location.*

Ciucci *Okay. Um, did you provide the, uh, the suspect with a, uh, with a citation? A ticket?*

Smithmatungol *I did.*

Ciucci *Okay. Did you collect a fingerprint from her?*

Smithmatungol *I did.*

Ciucci *You did. Okay. When did you collect the fingerprint?*

Smithmatungol *I, so I gave her the citation while she was sitting down in the security office, uh, briefly went out or gave her the citation while she was in the office.*

Ciucci *Okay.*

Smithmatungol *Um, got everything I needed from security. She walked out to go find a friend that she was with at the initial time of call, that's when the security officer said there was two of them, one of them already left. She went to go find, I believe, find her friend or something like that. 'cause she went back in the target store and then wa dealt with the other shoplifter outside at the front of the target store. I'm not sure how long after and she came out, that's when I realized I didn't get a fingerprint from her. And my ink pad is in the front pocket of my, uh, my duty bag.*

Ciucci *Okay.*

Smithmatungol *And when she walked out, I grabbed a, my thumbprint or, or my ink pad, got the thumbprint and put the citation in my car until the end of shift.*

Ciucci *Okay. How many, let's talk about this. Um, you use an auto cite or do you use, uh, an old school carbon copy citation book?*

Smithmatungol *The auto cite.*

Ciucci *Okay. Are you assigned an auto cite, uh, from the city of Daly City as your, your auto cite?*

Smithmatungol *At that time? No.*

Ciucci *At that time, no. Okay. Do you, in watching that body worn camera footage, were you able to see the, the number on the auto cite?*

Smithmatungol *I do not recall.*

Ciucci *Okay. It was DCTR 61. Uh, you can watch the video, it'll be right on there with a label. Um, they track how many times a citation is printed. Um, the citation that you gave to the female subject, that's the first time you printed a citation, is that correct?*

Smithmatungol *Yes.*

Ciucci *Okay. Did you print a second citation out of that ticket rider?*

Smithmatungol *Yes, I believe I did.*

Ciucci *You believe you did or you did?*

Smithmatungol *I did.*

Ciucci *You did. Okay. When?*

Smithmatungol *I, I don't recall. Okay. Uh, I don't know, an hour after I printed in the first one within that timeframe.*

Ciucci *Okay. Are you aware if a ticket rider has a time allowance for you to go back in and print a second copy? Are you aware that ticket riders have have a set time? I'm asking this question poorly. Let me rephrase it so that it's way more clear. There's a finite period of time that you can print a second copy of a ticket. Are you aware of that?*

Smithmatungol *No. Okay. I just know that it says sometimes it pops up print last ticket.*

Ciucci *Okay.*

Smithmatungol *The last citation.*

Ciucci *Okay. How long after you printed the first ticket, do you believe you printed the second ticket?*

Smithmatungol *10, 15 minutes, maybe.*

Ciucci *10 to 15 minutes?*

Smithmatungol *At least. I don't, I don't remember.*

Ciucci *Where did*

Fox *Don't guess.*

Ciucci *Yes.*

Smithmatungol *I don't know. I don't, I really don't know.*

Ciucci *Okay. You don't know. Then, in an effort to, uh, in an effort to narrow and kind of quantify a, a time estimate, um, do you believe it was over an hour or under an hour? That's a pretty large scale of time?*

Smithmatungol *Under an hour.*

Ciucci *Under an hour?*

Smithmatungol *Roughly under an hour.*

Ciucci *Okay. Under an hour. Using that same methodology, uh, not to guess, but just to give an approximate, uh, kind of an end zone here of where we're playing the game. 30 minutes, more than 30 minutes later, less than 30 minutes later?*

Smithmatungol *Less than 30.*

Ciucci *Less than 30, Okay. Where did this contact with the female occur outside of the initial contact where you were able to track her down and get a fingerprint?*

Smithmatungol *The front of the parking lot at Target.*

Ciucci *Whereabouts?*

Smithmatungol *Uh, by the handicap stall in, in front of the exit of the, by the security office. So the south side, south side.*

Ciucci *If I were to look at the target store.*

Smithmatungol *Mm-hmm <affirmative>*

Ciucci *The front of it.*

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *Um, would you say that you were closer to the Wells Fargo bank to the left of you?*

Smithmatungol *Yes.*

Ciucci *Or would you say you're closer to the shops like Old Navy to the right of you?*

Smithmatungol *Wells Fargo Bank area.*

Ciucci *Wells Fargo. When you printed that ticket, did you have to re-enter any of the information or was it already pre-stored within the ticket writer?*

Smithmatungol *Pre-stored, it just prints another copy of it. I've done that multiple times because the ticket writers aren't the greatest and I've had to reprint it multiple times.*

Ciucci *Okay.I want to go back to one thing really quick. Um, you said earlier when I asked you regarding why you didn't book or you said that was your first time encountering a person who did not have identification. When approximately when did you, uh, get out of the academies, begin the FTO program? What, what year, month, uh, or approximate time of year?*

Smithmatungol *July 2023 is when I graduated the academy.*

Ciucci *July 2023. So is it fair to say in around July, August of 2023 you began, uh, to have street interaction with human beings, citizens in the city of Daly City on the street?*

Smithmatungol *Correct.*

Ciucci *Okay.*

Fox *So 10 to 11 months prior to this incident?*

Smithmatungol *Yes.*

Ciucci *Okay. So, in that 10-to-11-month time, you've never once encountered somebody that didn't have a form of identification that you were trying to either arrest or, uh, were trying to, uh, take to jail or release via citation, never had it?*

Smithmatungol *To my knowledge, no. They've always had like maybe a foreign passport or a, or like a consulate card, but not someone with zero identification, no picture of identification, no nothing of an identification given by a national or country or government.*

Ciucci *Okay. Um, do you understand that's something that can be looked at later on in order to go through cases, uh, to see if that's ever happened, correct?*

Smithmatungol *Based on my recollection, I don't recall.*

Ciucci *Recollection, alright. Likewise, the printing of a secondary ticket is retained with a ticket rider.*

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *It will show a second ticket printed.*

Smithmatungol *Correct.*

Ciucci *Okay. Um, did you ever receive Sergeant/Lieutenant approval to cite out this individual?*

Smithmatungol *I did not.*

Ciucci *Okay. Um, that same day you drafted, obviously the report that we talked about that you reviewed, um, was that report kicked back by Sergeant Douglas?*

Smithmatungol *I don't, I believe so, but I don't remember.*

Ciucci *Okay. Um, the report was kicked back. Um, do you remember meeting with Sergeant Douglas?*

Smithmatungol *I did.*

Ciucci *Okay. Um, do you remember the discussion that you had surrounding the kickback?*

Smithmatungol *Uh, it was regarding giving the female a citation and finding the citation with the thumbprint, which I couldn't find at the end of the shift.*

Ciucci *Okay. Um, did you tell Sergeant Douglas that you had printed a second ticket?*

Smithmatungol *I believe I did, yes.*

Ciucci *Okay. Um, and did you also tell her that you, uh, believe you had taken a fingerprint from the individual?*

Smithmatungol *Yes.*

Ciucci *Okay. Is there any reason that you would tell Sergeant Douglas that you had printed a second citation, had taken a fingerprint, if you had not done so in order to avoid getting into trouble?*

Smithmatungol *No. Why would I jeopardize my job for a citation of someone who stole a home goods at Target? I worked, respectfully, my ass off to get here, and I believe I deserve to be here. I don't want to risk my job for getting, being a scapegoat and trying to cover my mistakes.*

Ciucci *Okay. Um, at any time did you lie to your Sergeant, Sergeant Douglas during the course of your explanation for, uh, either why you did not cite, or excuse me, take, uh, the female subject to jail or how you identified her or how you did the thumbprint? Did you ever lie once to your sergeant?*

Smithmatungol *No, I told her exactly what I told you.*

Ciucci *Okay. Um, in your earlier answer, you said that you weren't aware of the, of the policy. Have you a chance to review policy 420 of Lexipol, uh, that outlines when and why you should, uh, go ahead and cite somebody out?*

Smithmatungol *I read it, but I don't know verbatim.*

Ciucci *Don't know verbatim. I don't expect you to, there's about 3000 policies. Okay. Um, are you aware if the person cannot provide satisfactory evidence of personal identification, they cannot be cited out?*

Smithmatungol *Yep.*

Ciucci *Okay. Um, are you aware that there's also a penal code that does the exact same thing that is the basis essentially for that policy?*

Smithmatungol *Penal code, no, but policy, yes.*

Ciucci *okay. Um, the penal code is 853.6. It outlines when somebody can be, uh, cited out and when they can't. Um, sitting in this office now is never a comfortable feeling for anybody.*

Smithmatungol *No, sir.*

Ciucci *Um, in hindsight, looking back at the situation, uh, if you were to have the benefit of, of that hindsight, was there anything you would change or do differently?*

Smithmatungol *Um,I would've got, went with my gut. I mean, I said I was gonna book her before any of that thing happened. I should have booked her, I should have got sergeant approval if I was gonna cite her. Um, I didn't think she was a prolific shoplifter. Target had no history with her. She stole household goods. It wasn't like a laundry pods or anything. It was like a household plant. It was a clock. So I, she appeared pregnant too. She had the distended belly. I believe she was pregnant and like when she stood up, you can see the big rounding of her stomach. I, at that time, I didn't think it was excess fat. It looked to me pregnancy. I thought I was just being a good person. Maybe she was down on some luck. I thought I should have gave a citation and let her go home. But in the end I should have booked her. I should have done sergeant's approval. Um, I did make mistakes and I haven't had an issue of the same sort since.*

Ciucci *Okay. Um, is there anything that I did not ask you that you feel is important for me to understand or know in regards to the reasoning behind any of this, giving me, providing me with any context or?*

Smithmatungol *Uh, I might have gotten a little confused sometimes with the two shoplift things at the same time, I wanted to be a good beat partner and handle my, my, uh, beat, uh, without anyone having to take paper from me, but sometimes it's better to ask for help.*

Ciucci *Okay.*

Fox *Good. That's the only thing I was gonna follow up on. Did the fact that there was this intervening 48 on the part of the black male adult sort of throw you off the rhythm of this particular investigation?*

Smithmatungol *Yeah, just because his aggression with one officer out there, I wanted to finish with her as quick as possible so I can be a good partner out there in case something does go wrong, it'd be my fault.*

Ciucci *Okay. I have no further questions for you. Uh, without anything else to add on either your parts, I'm gonna go ahead and conclude this interview. Uh, time is approximately 1028, same day, same hour. And we are going to stop you.*

I have used all reasonable diligence in reviewing this transcription and to the best of my knowledge the information contained herein is true and complete.

Christine Ciucci
Investigator

3/18/26
Date

DALY CITY POLICE DEPARTMENT MEMORANDUM

TO Acting Chief of Police
Cameron Christensen

FROM Sergeant Matthew Ciucci #68

SUBJECT Administrative Investigation **24-06/Officer Smithmatungol #150**

BACKGROUND

On October 28, 2024, Administrative Directive 5917 was forwarded to me from Acting Chief of Police Christensen, requesting an administrative investigation be conducted on the following incident:

Request for Administrative Investigation:

DALY CITY POLICE DEPARTMENT
Memorandum

October 25, 2024

To: Acting Chief of Police

From: Sergeant Jerel Tualaulelei #60

Subject: Request for Administrative Investigation – Officer Smithmatungol #150

The purpose of this memorandum is to request for an Administrative Investigation for Officer Smithmatungol #150.

On Thursday, 06/20/2024, Officer Smithmatungol was scheduled to work at 0700 hours to participate as an instructor for Department Training. At approximately 0745 hours, Officer Smithmatungol walked into the DCPD Operations Center (DOC) where the training was being held then quickly entered a rear office room.

During the next break, Sergeant Douglas and I spoke to Officer Smithmatungol to address his tardiness to the training. When Officer Smithmatungol was asked why he was late, he immediately responded with something similar to, "I was downstairs with Rose [Property Room Manager]." Sergeant Douglas then asked Officer Smithmatungol what time he had arrived at the department, and he said, "around 7:10" then followed up with saying something to the effect of, "I worked late last night and didn't get out until around 11:30."

In speaking with Officer Smithmatungol, I advised him that he could not be late to work considering his start time was at 0700 hours and further explained how all the instructors were there on time. Officer Smithmatungol went on to explain, "my part [of the training] isn't until later." I told Officer Smithmatungol that he needed to at least make a notification to myself, Sergeant Douglas, or Sergeant Tone if he was going to be late so that we could be aware which he stated he understood.

Following this conversation, Sergeant Douglas contacted Rose who advised that she did not in fact meet or speak with Officer Smithmatungol earlier in the morning as he had previously stated. Rose further confirmed Officer Smithmatungol did not meet with Ben (Property Room Specialist) and that Officer Smithmatungol did not book anything into the Property Room earlier that morning. Rose did however mention that she had just received a text message from Officer Smithmatungol that stated something similar to him wanting to make arrangements to fix a previous property request.

Based on the above-mentioned information, I am requesting an Administrative Investigation into Officer Smithmatungol for violations of Lexipol policies 340.5.9 – Performance and 340.5.10 - Conduct.

Sergeant Jerel Tualaulelei #60
Patrol Division – B2
Daly City Police Department

INVESTIGATION

- Reviewed request for an administrative investigation.
- Reviewed DCPD Administrative Directive 5917.
- Reviewed Daly City Door Code Logs.
- Reviewed Planit Schedule Program.
- Interviewed Sergeant Douglas (Witness).
- Interviewed Sergeant Tualaulelei (Witness).
- Interviewed Property Room Manager Rose Meere (Witness).
- Interviewed Officer Smithmatungol (Subject).

INVESTIGATION NARRATIVE:

After receiving the above memorandum, I began my investigation by conducting a review of the "PlanIt" scheduling software which is utilized by the City of Daly City. I wanted to better understand Officer Smithmatungol's work schedule on or about June 20, 2024.

Sergeant Tualaulelei has discovered no independent evidence that supports or disproves that Officer Smithmatungol met with Rose Meere prior to his shift on June 20, 2024. Sergeant Tualaulelei never adjusted Officer Smithmatungol's timecard to reflect his actual hours and to his knowledge neither had Lieutenant Klier.

End of Interview.

On Wednesday, November 20, 2024, at approximately 1306 hours, I interviewed property room manager Rose Meere regarding this investigation. I read Rose the "Witness Admonishment" which she signed, and stated she understood. The signed admonishment was retained and has been added as an attachment to this investigation. Rose provided the following statement:

Statement of Rose Meere, summarized and audio recorded:

On Thursday, June 20, 2024, Rose was working at the Daly City Police Department property room in her capacity as the property room manager. Rose begins her shift at 0630 hours however she arrives approximately 30 minutes early everyday and is generally in her office by 0600 to 0605 hours. Ben Bermudez, who is the property room specialist, reports to Rose as her sole employee. Ben begins his shift at 0730 hours, and he was at work on Thursday, June 20, 2024.

On June 20, 2024, at approximately 0802 hours, Rose received a text message from Sergeant Karen Douglas inquiring if she had interacted with Officer Smithmatungol earlier in the day. Rose provided me with a printout of the text message conversation she had with Sergeant Douglas which read as follows:

-0802 hours

Douglas: "Hi Rose"

Douglas: "Did Smithmatungol meet with you this morning? If so what time?"

Meere: "Im going to a Martin in ssf at 9 ends at 1130"

Meere: "He was here yesterday and started taking care of his items. Thank you"

Douglas: "He said he was late to training because he was meeting with you this morning ..just want to verify that."

-1007 hours

Douglas: "And just to confirm, did he book anything this morning?"

Meere: "I did not see him this morning and I'll have to check if anything was in the locker"

Douglas: "Thank you"

-1236 hours

Douglas: "Can you let me know once you know please."

Meere: "There was a pipe in the locker that I received in yesterday and he came by approx. 30mins ago to take care of the pipe issue. He took care of the e.com stuff yesterday with one exception which he is now addressing."

Douglas: "Thank you. Pls don't mention to him that I checked up on this."

Meere: "Of course not"

Meere: "You can check the cameras"

Douglas: "And just to confirm he did not book in anything this morning"

Meere: "Nothing new"

Douglas: "Copy. Thank you"

Meere: "Just came by to take care of the pipe"

Douglas: *Thumbs up emoji*

After reviewing the text message conversation with Rose, she recalled Sergeant Douglas may have called her between 8am and 10am. Rose believes there was a phone conversation because she remembered turning to Ben Bermudez and asking him if Officer Smithmatungol had stopped by the property room. She recalls relaying this information possibly via telephone to Sergeant Douglas.

Rose had no recollection of meeting with Officer Smithmatungol prior to texting with Sergeant Douglas at approximately 0800 hours. Rose also had no recollection of speaking with Officer Smithmatungol prior to 0800 hours. Rose never received any evidence from Officer Smithmatungol prior to 0800 hours and she confirmed that Ben Bermudez didn't either.

I asked Rose if Officer Smithmatungol ever calls or texts her on her personal cell phone and she said he has. I asked if she could check her phone to confirm if there were any messages or calls from Officer Smithmatungol on June 20th and she said she would check at the conclusion of our interview.

I then ended the interview at 1315 hours, but asked Rose if I could accompany her to the property room so we could review her cell phone for the following information:

- Any text messages from officer Smithmatungol on June 20, 2024.
- Any call logs indicating a phone conversation with Officer Smithmatungol on June 20, 2024.
- Any emails from Officer Smithmatungol on June 20, 2024.
- The remaining text message conversation between her and Sergeant Douglas (one message had been cut off and was incomplete).

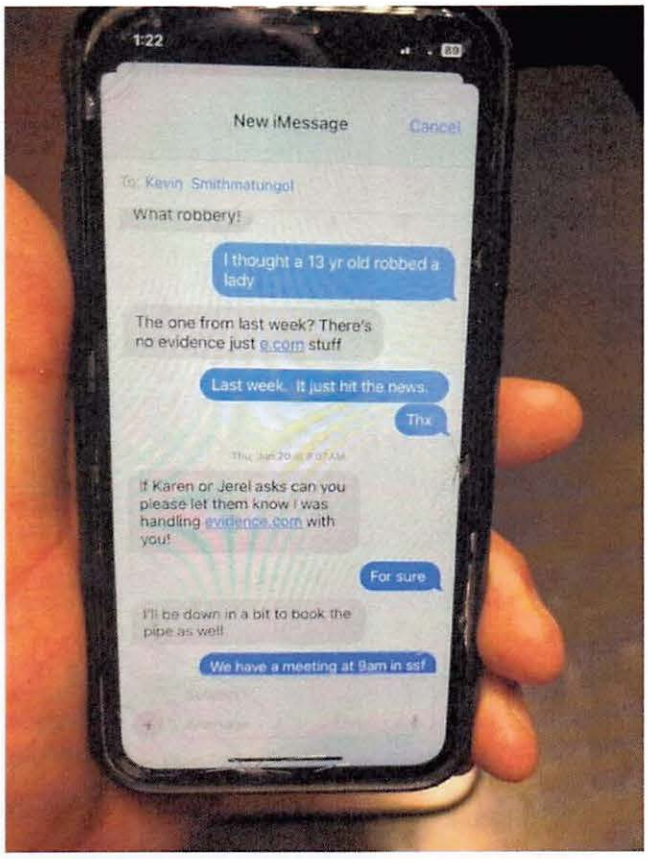
At approximately 1325 hours, Rose and I responded back to the Professional Standards Office and continued our interview. I reminded Rose that we were still conducting an Internal Affairs investigation, and she was obligated to answer my questions truthfully, honestly and to the best of her ability. Rose stated she understood.

Rose explained that once we retrieved her cell phone, she checked her text messages and noted that on June 20, 2024, at approximately 0807 hours, she had a conversation with Officer Smithmatungol that read:

Officer Smithmatungol: "If Karen or Jerel asks can you please let them know I was handling evidence.com with you!"

Meere: "For sure"

Officer Smithmatungol: "I'll be down in a bit to book the pipe as well"



Upon discovery of this text message conversation Rose appeared perplexed because she had not recalled speaking with Officer Smithmatungol on June 20, 2024. I then asked Rose if she would ever lie for another employee and she appeared to take offense, explaining that she would never lie because it would tarnish her reputation and jeopardize the integrity of the property room. I asked if she has a habit of arbitrarily responding to text messages with responses similar to "for sure." Perhaps done to acknowledge the message without fulling reading it? Rose explained it is not her habit; however, if she was in a rush, there is a possibility it could occur. I then photographed the text message and retained it as an attachment.

Rose was able to locate the missing text messages between her and Sergeant Douglas, she was unable to locate any email correspondence with Officer Smithmatungol on June 20, 2024. Rose provided me with a copy of the above text messages, which have been added to this case as an attachment.

End of Interview.

On Wednesday, November 20, 2024, at approximately 1342 hours, I interviewed property room specialist Ben Bermudez regarding this investigation. I read Ben the "Witness Admonishment" which he signed, and stated he understood. The signed admonishment was retained and has been added as an attachment to this investigation. Ben provided the following statement:

Statement of Benedicto Bermudez, summarized and audio recorded:

Ben confirmed that on June 20, 2024, he was working in the Daly City property room from 0730 to 1630 hours. Ben had absolutely no recollection of any events from the above date and time. He subsequently could not make a statement due to his inability to remember June 20, 2024.

End of Interview.

On Friday, January 31, 2025, at approximately 1030 hours, I interviewed Officer Kevin Smithmatungol regarding this investigation. The interview took place in the office of the Professional Standards Unit. Present during the interview were the following persons:

- Officer Smithmatungol
- RLS Attorney Julia Fox

I provided Officer Smithmatungol with the "Subject Admonishment" which he read, signed, and stated he understood. The signed admonishment was retained and has been added as an attachment to this investigation. Officer Smithmatungol then provided the following statement in summary:

Statement of Officer Smithmatungol, summarized and audio recorded:

On Thursday, June 20, 2024, Officer Smithmatungol attended department training where he was an instructor for the implementation of the "Starchase" GPS device. The training day had a 0700

understood it was a misrepresentation of fact for him to tell his Sergeants he was delayed working on evidence items, when he was in fact late for work on June 20, 2024. Officer Smithmatungol understood the question and responded "yes." I then asked him if he did not tell his Sergeants he was late to circumvent discipline and he responded that he should have been more detailed as to the exact time he arrived and not just relied upon the statement that he was "doing evidence."

Julia Fox asked if he took advantage of the fact that he was doing "some evidence" work to soften the reality that he was actually late. Officer Smithmatungol had to have this question repeated twice and he responded with an answer that did not address the question Julia Fox had posed.

He was asked if looking back at the situation, if he felt he should have told his Sergeants that he was late and he responded that he wasn't asked by his sergeants what time he arrived but rather why he was late coming into the training room. The semantics of the question is why he didn't inform them of the exact time he came in the building or openly disclose how late he was.

As we were ending the interview I asked Officer Smithmatungol if he had anything further to add and he voiced that he would never jeopardize his job, and he has never been late or missed a day of work. Julia Fox asked Officer Smithmatungol a follow-up question because she was still confused by an answer he had given previously. She asked if he ever logged into a physical computer to handle evidence items on June 20, 2024, prior to going upstairs at 0740 hours. Officer Smithmatungol responded that he had planned to but didn't. This concluded his interview.

End of Interview.

I asked Administrative Assistant Sierra Harrington to conduct an audit of Officer Smithmatungol's Evidence.com activity on June 20, 2024. Sierra provided me with an excel spreadsheet that outlined the dates and times Officer Smithmatungol modified property items in his Evidence.com account. The first time Officer Smithmatungol made changes to his Evidence.com account on June 20, 2024, was at 11:07:24.164 AM. Prior to approximately 1100 hours he made no changes to any of his evidence items. I have included the spreadsheet as a digital attachment to this report.

I re-contacted Public Works employee Ryan Fernandez and I requested he retrieve the door code log from door #11, which is the 1st floor police department entrance adjacent to the Daly City Training Room. This was the door Officer Smithamtungol had indicated in his interview that he used to enter the Police Department on June 20, 2024. A keycode audit of the above door had not been originally conducted by Fernandez.

On Friday, May 9, 2025, Fernandez conducted a door code audit and provided me with the results:

- **PD Front Parking Lot Entrance** – While reviewing these entries I noticed on June 20, 2024, at approximately 07:31:16 AM, Officer Smithmatungol entered his door code into

the double doors that grant you access into the police department. I have attached a screen shot of the door code entry.

06/20/24	08:22:25 AM	223	Garret Quon PD PA	User Entry
06/20/24	08:21:28 AM	25	Benedicto Bermudez PDA	User Entry
06/20/24	07:31:16 AM	203	Kevin Smith Matungol PO	User Entry
06/20/24	07:26:29 AM	25	Benedicto Bermudez PDA	User Entry
06/20/24	06:50:45 AM	187	Tyler Green PO	User Entry
06/20/24	06:38:44 AM	208	Kiera O'Shea PO	User Entry
06/20/24	06:37:19 AM	35	Michael Cattaneo PO	User Entry

I called Fernandez and spoke with him to ensure that these results were from the door I had requested, and he confirmed they were.

Reviewing these results would indicate that Officer Smithmatungol entered the police department on June 20, 2024, at approximately 0731 hours. He then presumably walked into the men's locker room to change into his uniform. The path from the "Front Parking Lot Entrance" doors to the men's locker room does not require you to pass through any key-coded doorways. Upon changing into his uniform, which he explained in his interview only takes him "5 to 6 minutes" to accomplish, he presumably walked to the upstairs training room. The path from the men's locker room to the upstairs training room could potentially require him to pass through one key-coded doorway ("PD 1st Floor double door by the mailboxes" double door). There is a record of his code being entered into the "PD 1st Floor double door by the mailboxes" doorway at approximately 0739 hours.

A digital copy of the results from the door #11 audit (PD Front Parking Lot Entrance) has been attached to this investigation.

RECOMMENDATIONS

I recommend this administrative investigation packet be reviewed for findings and recommendations.

ATTACHMENTS

- Administrative Directive 5917
- Request for Investigation Memorandum
- Sgt. Douglas Witness Notice
- Sgt. Douglas Witness Admonishment
- Sgt. Tualaulelei Witness Notice
- Sgt. Tualaulelei Witness Admonishment
- Rose Meere Witness Notice
- Rose Meere Witness Admonishment
- Ben Bermudez Witness Notice
- Ben Bermudez Witness Admonishment

POST CASE NUMBER: POST2505137

SUBJECT OFFICER NAME: Kevin Smithmatungol

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Daly City Police Department on 1/31/2025 with Officer Kevin Smithmatungol, who is the subject of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Central Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON AI transcription. This transcript was prepared by Law Enforcement Consultant Christina Moore, Professional Conduct Central Bureau.

Parties Present:
Sergeant Matthew Ciucci, Daly City Police Department, Primary Investigator
Officer Kevin Smithmatungol, Daly City Police Department, Subject
Julia Fox, Rains Lucia Stern, Representative for subject officer

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Ciucci *First recorder is going. Second recorder is now going, um, Okie dokie. It is Friday, January 31st, approximately 1030 hours. This is Sergeant Matt Ciucci. I'm in the Professional Standards Unit office of the Daly City Police Department, with me is Officer Kevin Smithmatungol. Kevin, if you could please say hi.*

Smithmatungol *Hello.*

Ciucci *Thank you <laugh>. Um, with you today, you've retained legal counsel. Um, counsel, uh, Mrs. Julia Fox, if you wouldn't mind just saying hello.*

Fox *Sure. Julia Fox, RLS.*

Ciucci *Beautiful. Alright, so we are here today. Uh, you are a subject officer in internal affairs, uh, uh, investigation for internal affairs case number two four dash zero six. I'm about to read you the administrative admonishment. If at any time anything I read, uh, is in any way confusing or you need further clarification, just let me know. Okay?*

Smithmatungol *Yes.*

Ciucci *Alright. You're hereby advised that an administrative investigation is in process within this department and which has become necessary to obtain a statement from you. If you cooperate fully at this time, your statements and any evidence arising there from may be used in any and all proceedings arising out of this investigation. As a citizen and an employee of this department, you're hereby advised that if prior to, or during the taking of your statement, this department determines that you may be charged with a criminal offense, the proceedings will be stopped, you'll be advised of your constitutional rights and given, uh, an opportunity to obtain legal counsel. If you decide to not give a statement at this time, you're now ordered as an employee of this department to answer all questions asked by investigators and to give a full detailed and complete statement regarding your knowledge of or involvement in the matter now under investigation. Although you have a right to silence in a criminal investigation, this is not a criminal investigation, but an administrative hearing and you're now being ordered to answer all questions under the compulsion of the threat of disciplinary action. False statements, of course, will result in severe disciplinary action. Members are always required to be truthful, see Daily City Police Department Manual Rules 4.96 truthfulness. We'll walk this over to you again. Again, last sentence here says, I have read the above admonishment order. I fully understand my rights and duties in this investigation. Feel free to read this over and if you are good to go, you can sign there at the bottom and, uh, please date and time. And Mrs. Fox, if I could ask you to be the witness, please?*

Fox *Sure. <affirmative>.*

Ciucci *Thank you. Fabulous. Thank you. Okay. I'm an independent fact finder. Uh, it's my role to compile the facts, to ask questions, do the interviews, everything I find I give before, uh, the chief of police signs out to lieutenant as his designee and they do the findings and recommendations. So all I am is just compiling data. Okay. With that said, we're gonna begin. If you have any need to stop or pause or anything, just let me know, all right? So, on Thursday, June 20th, 2024, um, the Daly City Police Department hosted training cycle number three, which consisted of Star Trace, excuse me, Star Chase training. Does that sound familiar?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, are you a Star Chase instructor?*

Smithmatungol *Yes.*

Ciucci *Beautiful. Um, do you recall if you assisted in the instruction for that training day?*

Smithmatungol *Yes.*

Ciucci *Um, and do you recall what time the training began?*

Smithmatungol *Seven*

Ciucci *7:00 AM?*

Smithmatungol *Yes.*

Ciucci *Okay. 7:00 AM. Um, is that a standard start time, uh, for, for most Daly City Police Department trainings?*

Smithmatungol *Yes.*

Ciucci *Okay. And since you've actually been here as an officer, have you ever had a training day that didn't have a 0700 start time?*

Smithmatungol *No.*

Ciucci *Okay. Um, in June of 2024, do you recall what, uh, team that you were assigned to within this department?*

Smithmatungol *B Graves.*

Ciucci *B graveyards?*

Smithmatungol *Yes.*

Ciucci *Um, was this June 20th training day, was this your B graveyards team training day, uh, as well as being a day that you were instructing?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, what time did you arrive to work that day?*

Smithmatungol *I don't remember the exact time, but around seven o'clock.*

Ciucci *I don't want you to guess, but if you could just gimme, is, are you comfortable with that approximation?*

Smithmatungol *Uh, plus or minus 15 to seven o'clock, I don't remember if it was before or after.*

Ciucci *So at and around 0700 hours?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, were you in the upstairs training room at 0700 hours where the training was, was taking place or--*

Smithmatungol *Sorry, no--*

Ciucci *No? Okay. Um, where were you <laugh>?*

Smithmatungol *Uh, locker room, changing out using the restroom and then since it was a Thursday, I had, uh, some emails from evidence that I was gonna take care of.*

Ciucci *Okay.*

Smithmatungol *Because my portion of the training wasn't until an hour and a half, two hours after the 7:00 AM start time.*

Ciucci *Okay. When you say your portion of the training, explain to me what was your training, your portion?*

Smithmatungol *Sorry, the, the 7:00 AM portion of the training was going over to pursuit policy, which I believe the Sergeant McCarthy or Sergeant Tone was doing that day.*

Ciucci *Okay.*

Smithmatungol *And then after that we go through the system and then my portion with Officer Jaime was to go over when to deploy the Star Chase and how the angle of the laser and speed of the DART that comes out and how to reload the Star Chase. That was my portion, which is towards the afternoon.*

Ciucci *Afternoon?*

Smithmatungol *Yes.*

Ciucci *Safe to say you're more of the practical application portion?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, did you ultimately have a conversation with Sergeant Douglas and Sergeant, uh, Tualaulelei about showing up late?*

Smithmatungol *Uh, they confronted me about entering the room late.*

Ciucci *Gotcha. We'll say that. So at what time do you believe you entered the training room?*

Smithmatungol *740, 730, 740.*

Ciucci 0*740 hours. Approximately.*

Fox *Approximately.*

Ciucci *Approximately to the best of your recollection?*

Smithmatungol *Yes. 0740 hours around*

Ciucci *You walked into the training room for the first time?*

Smithmatungol *Correct.*

Ciucci *Okay. Um, did you provide them with a reason for being late to entering the training room?*

Smithmatungol *Uh, yes. I told 'em I was working. I was, I was going to do evidence. I think I told the sergeants, I said with Rose, but I meant for Rose. Okay. It's just the slip up in words.*

Ciucci *Okay. So do, okay. Walk me through that one more time so I understand it because I don't wanna misunderstand it.*

Smithmatungol *Uh,Officer Douglas Officer Tualaulelei, um, confronted me about showing up late and what was my reason. I told him I was gonna do evidence or I was doing evidence, um, to finish the evidence 'cause I have the emails from Monday through Thursday 'cause my work day's Friday through Sunday.*

Ciucci *Okay.*

Smithmatungol *Um, I was gonna go through the, the property tab on RIMS and evidence.com and, um, all the evidence on my phone.*

Ciucci *Okay.*

Smithmatungol *Um, I told, they asked me, or I think I told 'em I did it with Rose.*

Ciucci *Okay.*

Smithmatungol *Not physically with Rose. It was supposed to be for Rose.*

Ciucci *Okay.*

Smithmatungol *That's pretty much it.*

Ciucci *Okay. Um, so then the, the, the question is, is based on that, did you ever meet with Rose? Hey Guy, let me just finish it through because I wanna make sure you answer the question. Um, did you ever meet with Rose prior to meeting with Sergeant Tualaulelei and Sergeant Douglas at approximately 740-745 hours?*

Smithmatungol *No.*

Ciucci *Okay.*

Ciucci *Um, common practice in Daly City, uh, and I've done it also, um, I will call or text Rose on my personal phone 'cause I have her personal phone number and ask her a question because sometimes she won't answer the, the hard line down there. Do you ever do similar things? Uh, do you ever text Rose in order to communicate?*

Smithmatungol *I usually email.*

Ciucci *Usually email?*

Smithmatungol *Yes.*

Ciucci *Have you ever texted her?*

Smithmatungol *I, at that time I don't remember texting her.*

Ciucci *Okay. Um, if you were to have had a conversation with Rose on June 20th via text message, is that something that you would save in your phone or are you a type of person that purges it?*

Smithmatungol *Uh, I would usually save it on my phone.*

Ciucci *You would save in the phone. Um, what I would ask is if your counsel approves this, would you want to look at your phone and it's your personal phone and I have no way of asking or compelling you to, to, to provide anything in that personal phone. However, if you did have a conversation with Rose on June 20th, would you be willing to look in there to see if you have such a text message correspondence between the two of you? Is that something?*

Fox *I'm fine with it.*

Ciucci *Okay, perfect. Beautiful.*

Smithmatungol *The phone, it is not working <laugh>? Uh, yeah, once my phone turns on, I will.*

Ciucci *Do you need to charge it? Is it an iPhone?*

Smithmatungol *Uh, yeah, there's like a, I I think it turned off when…*

Ciucci *Oh, when Siri went sideways?*

Smithmatungol *Yeah.*

Ciucci *Got it.*

Smithmatungol *So I'll wait for that to load.*

Ciucci *Okay. In the meantime, um, were you in the building and prepared and ready to work at 0700 hours?*

Smithmatungol *I don't remember exactly 0700. Uh, approximately 0700, around that time? Yes.*

Fox *It could have been shortly thereafter? Within five, 10 minutes after?*

Smithmatungol *Yeah.*

Ciucci *Um, what is the process of notification if you are gonna be late for work? How do you notify folks? What do you do?*

Smithmatungol *Uh, I've never been late to work, but prior to that.*

Ciucci *Have you ever called in sick, uh, to work?*

Smithmatungol *Never.*

Ciucci *Okay.*

Smithmatungol *Never been sick. Never been late. Uh, I'm usually here 30 minutes prior to start time.*

Ciucci *Okay. Um, did you tell Sergeant Tualaulelei and Sergeant Douglas that you were with Rose to potentially, uh, avoid any type of punishment for, for being late?*

Smithmatungol *I, I meant to say for Rose. Okay. I was supposed to do evidence for Rose. I think I told 'em with Rose.*

Ciucci *Okay. Did you say that in any effort to avoid or subvert any type of punishment that could have come from being late showing up to work?*

Smithmatungol *No. My reason was telling them I was doing something for Rose but the wrong word came out.*

Fox *Okay.*

Ciucci *Um, is that thing ready to go or is Apple it's not liking you, it's doing an update?*

Fox *Oh, is it doing an update?*

Smithmatungol *Yeah.*

Ciucci *Beautiful. Okay. Let's do this. If I were to have a text message between you and Rose on the eighth, does that sound, excuse me, on the 20th, does that sound, uh, like something that you would remember?*

Smithmatungol *Uh, maybe if I see it.*

Ciucci *Maybe. Okay. Hold on. Let's just go about this a separate way. More technology. Okay. Okay. So I'll show it to you guys.*

Smithmatungol *Sure.*

Ciucci *It is a text message from Rose Meere's phone. Okay. And it says your name at the top, Kevin Smithmatungol and it looks like you guys have just been having normal conversations. On Thursday, June 20th at 8:07 AM it says, Hey, if Karen or Jerel asks can you please let them know I was handling evidence.com with you. And she says for sure. Um, and I'll be down in a bit to book the pipe as well. We have a meeting at 9:00 AM in SSF and then it goes to that. Okay. So out of curiosity because we're, uh, do you recall this text message correspondence?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, so when you wrote, if Karen or Jerel asked, can you please let them know I was handling evidence.com with you, I feel like we're in a weird state of semantics where we're dealing with I was with her, for her, but then I have a test message from that day saying with you, so help me understand how we've gone from I was with her to, it was for her, to now, it's with her again.*

Smithmatungol *Uh, evidence.com is usually done in the report writing room where I usually do it over the PPC. It's not with her.*

Ciucci *Okay.*

Smithmatungol *But I like with her meaning 'cause she handles all the evidence,*

Fox *I will say, and I think we all know it's pretty significant that Rose's response is for sure. I think we all know Rose is not to be trifled with and for her to respond for sure. And endorse something indicates that there's a righteousness to it.*

Smithmatungol *Sorry, I don't know what to say to that.*

Ciucci *No, that's, your counsel just spoke on your behalf. Um, okay.*

Fox *Given my, my Rose familiarity.*

Smithmatungol *Oh, sorry. I forgot what that is.*

Ciucci *Nope, you're okay. Um, is there any reason that you would send that to Rose in order to concoct an alibi for why you were late?*

Smithmatungol *I told him that I was gonna, I was with Rose and I was just telling Rose like, Hey, they're probably gonna ask you I, because they want to confirm what I did. So I told 'em, I told her, Hey, they're probably gonna ask you. I was gonna do evidence with you. And that's when I said I was gonna text her. I was gonna do the pipe with her.*

Ciucci *So would you say that your purpose of, of texting Rose was not to create an alibi, but as you described, and my understanding is, just to give her a heads up?*

Smithmatungol *To give her a heads up 'cause I had to do the pipe followed by that text with her. Okay. I was gonna go down with her and do the pipe.*

Ciucci *Okay. Alright. Um, reflecting back, now that we're in this room together, um, is there anything that you would do different about, uh, the time in which you arrived? How you, how you showed up for the training day, anything that you would change with the, with the advantage of hindsight?*

Smithmatungol *Just tell the sergeant. I mean, I thought I was gonna be okay being, doing other stuff 'cause I'm not needed in that training until my portion, which isn't three hours after the start time, so I can get things done within that three hour break time 'cause I got, I got things to do. I want to have a clean sleep for my work weekend 'cause I'm gonna have way more stuff to do. Um, so maybe just tell the sergeant I've never been late, I've never called out sick. I've never done any of that. I have no reason to come in late. I'm not, no reason to jeop, like I said, jeopardize my career for this.*

Ciucci *Understood. Um, one last question I have for you. When you, we're all creatures of habit. Um, I park in the same parking lot at the PD every day. I come through the same door every morning. I think*

I see you on graveyards when I come through that same door. Is there a door that, uh, parking spot, a place that you park and then you come in the building the same way every day?

Smithmatungol *Yep. The bottom lot with that, the door next to the main entrance.*

Ciucci *Training, what?*

Smithmatungol *That hallway where the riot stuff is.*

Ciucci *Riot hallway directly next to Rose Meere's evidence room?*

Smithmatungol *Yes.*

Ciucci *Okay. That is your methodology. Do you believe, uh, that it would be, uh, it would be safe to presume based on your pattern of behavior, that's the, the way you came into this building on June 20th?*

Smithmatungol *Yes.*

Ciucci *Okay. The door codes are retained. Uh, will we find your door code arriving here in and around, as you said, a 5-to-10-minute buffer on either side of 0700 hours on June 20th?*

Smithmatungol *Yeah. I can't say approx or exact time, but around seven I wasn't an hour and a half, two hours late.*

Ciucci *Okay.*

Fox *Okay. Do you think that you need to give a greater buffer than 5 to 10 minutes?*

Smithmatungol *Maybe maybe 15 to 20? I, I, I dunno. Exactly.*

Fox *Okay.*

Ciucci *Um, if it's 15 to 20, would you feel that that would be an amount of time if you were to be 15 or 20 minutes late, is that an amount of time that you should call a sergeant to give them uh, uh, a heads up and an understanding that, hey, I'm running late?*

Smithmatungol *Uh, now thinking about it? Yeah, I should have.*

Ciucci *Okay. Then if we move to, to, to an area where we're under an understanding, 'cause I just want to be able to record your statement accurately. Did we may have been, we being you may have been 15 to 20 minutes late that day for work?*

Smithmatungol *I believe so. I don't look at my watch right when I walk in the door.*

Ciucci *And I understand that. And, and I, and it, it, if you're coming in and there's not a clock there at the door, uh, I can understand that.*

Smithmatungol *I don't, I don't believe that I was obnoxiously late, like hour, two hours, three hours, no notice.*

Ciucci *Okay.*

Smithmatungol *Maybe it was 20, 15, 20, 30 minutes after start session, but I, I don't.*

Ciucci *Okay. So it could, could have been up to 30 minutes?*

Smithmatungol *It could have. Okay.*

Fox *But you do know it would be recorded. It would be recorded on that particular--*

Ciucci *It'll be recorded on that door. That's my, that's my thing. I just wanna make sure on that.*

Smithmatungol *Yes.*

Ciucci *Okay. Okay. If we were 30 minutes late, up to 30 minutes late, as you just said, that would put you at 0730 hours and then you said you believe you walked upstairs at 0740 hours. Would that have given you enough time in that 10 minutes to ready yourself? Do you come to work in your uniform?*

Smithmatungol *No.*

Ciucci *So would that give you enough time to ready yourself in the locker room and then go to a computer, log in, do your evidence stuff, and then go upstairs to your sergeants?*

Smithmatungol *Um,I didn't get to do my evidence stuff because I, I, I don't remember what happened. uh, but I came, it only takes me five to six minutes to get changed from regular clothes to out the door ready. Um, so I think I came in, spoke with someone, I don't remember who, and then went upstairs.*

Ciucci *Okay. So then did you do evidence prior to going upstairs at 7:40?*

Smithmatungol *My plan was to do evidence for Rose. So I was looking through my emails.*

Ciucci *Okay.*

Smithmatungol *Because I, 'cause what I do is I stick my phone on my locker door 'cause my phone, my phone case is magnetic, magnetic while I'm changing, I'll refresh my phone and look at the, the emails that come in.*

Ciucci *Okay. So, I think I had a different understanding of what reviewing your evidence was looking like. Reviewing your evidence, the way I had understood it previous, was that you were downstairs essentially in front of a, uh, desktop computer in a, in a, in either the incoming briefing room or in the evidence room, and you were looking through, checking your emails, your outstanding cases, everything, looking at evidence. Is that what you did or were you looking at a cell phone that would show you what, just your emails?*

Smithmatungol *Yeah, So I was looking at my cell phone, looking at the, in the locker room with my emails, saying I need to fix this, I need to look at property, I need to do this. And I have my, I take my department phone with me at home all the time. So, I compared that with my department phone, which I think maybe had photos from evidence that weren't submitted.*

Ciucci *Okay.*

Smithmatungol *So, I was looking at that, comparing what I needed to do. Um, I don't, I don't think I went to the reporting room to look at the computer yet 'cause I went upstairs and then I was, uh, that's, I think that's when I went to the training. And then at that break I went down to, I went, I tried to go talk to Rose about doing the pipe and all that stuff and that's when she told me that she was at a meeting.*

Ciucci *Okay. Okay. Um, I hate ambiguity. I hate ambiguity when things are kind of gray and weird. And so I feel like I am not fully understanding everything here. So, I just wanna go back through a couple things.*

Smithmatungol *Sure.*

Ciucci *Just so I can make clear where we're at. Uh, okay. The amount of time that we're now saying that we were, is it, is it safe to say now based on your recollection of time and now that we've kind of worked through it through it together?*

Smithmatungol *Yes.*

Ciucci *Do you believe you were late on June 20th?*

Smithmatungol *I believe I was late.*

Ciucci *Okay. Now that we've worked through it together, you believe that you were late for work?*

Smithmatungol *Yes.*

Ciucci *Okay. Now that you believe you were late for work, how long of a time do you believe you were late from your 0700 start time being the time that you're supposed to be here, okay, in the building at we will say in the building at least that's what I'm gonna say. As even though I believe it to be common practice, you should be ready to go in a uniform, 10-8. Okay. I'm just gonna put our start time here as in the building. What time do you believe you were in the building?*

Smithmatungol 7:1*5, 7:20.*

Fox *Can I unpack that a little bit?*

Ciucci *Yes.*

Fox *It sounds as though this is a real outlier for you, right? You said, I've never been late, I've never been sick. Mm-hmm <affirmative>. Mm-hmm <affirmative> all the good things. So, this would at least in my mind, be remarkable to you. Like an, oh shit, this, I'm late. I've never been late before. Mm-hmm <affirmative>. I, I've certainly been in that position. That being said that this is remarkable and a standout experience. Do you recall in that same train of thought of, oh crap, I'm, I'm late. Do you recall how late?*

Smithmatungol *No. I, I don't remember. I, like I said, I've never been late. You can see every time I clock in and see every time I start, I've never been late to my profession here as a police officer.*

Ciucci *Okay.*

Fox *Except for that day.*

Smithmatungol *Except for that day.*

Ciucci *Okay. Okay then I'm going to, I'm going to work then off of the understanding that we believe it to be 15 to 30 as our maximum that you believe probably you walked into the wa uh, downstairs locker room. It was during the time that you were changing and readying yourself that you were reviewing things upon your work phone and your personal phone comparing evidence items. Okay. Uh, and then upstairs at approximately 0740 hours. Okay. Uh, with that said, do you believe it to be a misrepresentation to your sergeants if you told them that you were handling evidence under the understanding that you weren't in the building at 0700 hours?*

Fox *With the suggestion being I was here when I should have been at 7:00 AM but I was handling evidence with Rose and I appreciate that you meant to say for you said with, and I don't think that that's moving the needle in any particular direction, but what do you think that relayed to your sergeants when you are supposed to be here at seven and they have misgivings about you being late and you say, I was actually handling evidence with Rose.*

Smithmatungol*. The emails I got were from Rose about the pipe about photos. So that's what I was looking at my phone. I'm like, oh shoot, what evidence do I have to do? 'cause I don't like being on the held list. No one likes being on the held list. That's my kind of my main concern.*

Fox *The rub is, it sounds like that wasn't why you were late though.*

Smithmatungol *What do you mean? Sorry?*

Fox *The fact that you were scrolling through your phone, reconciling the evidence is not why you were here past 7:00 AM and in effect their inquiry was why were you here past 7:00 AM.*

Smithmatungol *Uh, it might have taken me longer to go upstairs, but I was here maybe a little bit after seven, but taken ex extended myself by looking at everything, looking at the emails, looking at the evidence. I probably could have been up there earlier.*

Ciucci *Okay.*

Ciucci *I think what we're gonna do, I think there's a misunderstanding that we're having about a question. Uh, and I'm gonna ask it and if you and your counsel need to discuss it in any way in the sense of helping you understand it. Um, because my concern is, uh, everything I I've heard here, do you believe that walking upstairs, uh, at 7:40 your sergeants are seeing you walk in going, he's late 7:40 should have been here at 0700 hours.*

Smithmatungol *Yes.*

Ciucci *When they confront you about it and they ask you about it and you say, hey, I was dealing with evidence and I know we have this semantics I'm throwing out at for and with Rose I was dealing with evidence.*

Smithmatungol *Yeah.*

Ciucci *They asked you if you were late. You have now said, hey, there's a high likelihood I was late. Okay. Do you believe that it was a misrepresentation to tell them instead of saying I may have been 15 minutes late, that I'm sorry this is not my normal stuff. Do you believe that by you saying I was with Rose or handling stuff with Rose, that that was a misrepresentation of fact? And that's the question I'm gonna leave you with for a second here 'cause I wanna make sure you understand that question before moving forward. Okay. So I'm gonna press pause. I'm give you guys a break, um, and uh, you guys can step out into your, the room I had for you and we'll go from there. Okay?*

Fox *Okay.*

Smithmatungol *Sure.*

Ciucci *Alright, Sergeant Ciucci, uh, it is approximately 1059 hours. We are resuming, um, back in the office as all parties. Just wanna remind you of the admonishment that I read to you earlier that you were still under the admonishment saying that you're gonna be truthful about all matters. Okay. Going back, do you understand or do you believe how it could be, uh, uh, an issue, a problem, if your sergeants asked you, hey, were you in the building at 0700 hours? Were you late? Um, and you were to say, hey, I was dealing with evidence when in fact you've now said, hey, I was probably 15, 20 minutes, 30 minutes late. I could have been. Um, do you understand that that could be, uh, understood as a misrepresentation effect?*

Smithmatungol *Yes.*

Ciucci *Okay. Was it your intention to circumvent any type of discipline? Get out of, get out of trouble? I don't want to be in trouble for being late. Was it your intent to not get in trouble by a lie?*

Smithmatungol *No. So the, the portion about dealing evidence was true. I just should have been more detailed about what time I came in and then the steps following after that. What time I changed out, what time I started evidence, and why I came up late as or to the training room late.*

Fox *So did you sort of take advantage of the fact that you were doing some evidence work to couch the reality that you were actually late for reasons other than making things right with Rose?*

Smithmatungol *Sorry, I <laugh>*

Fox *Sure, sure, sure, sure. Did you take advantage of the fact that you had been doing something Rose and evidence related to soften the blow of the reality, which was I was here late for reasons other than evidence.*

Smithmatungol *That that wasn't my intention. But because I thought I was, I wasn't needed until two, three hours after the training started. I didn't even have to be up there anymore. I had no information to give regarding the Star Chase training. So that wasn't my intention. I just told him I was handling evidence 'cause I had evidence sit and waiting for me.*

Fox *As you sit here now, do you think that you should have been more forthcoming about when you really got here and got past the threshold of the door?*

Smithmatungol *Yeah, they didn't, they didn't ask me what time did I actually walk in the building. They just asked me why I was late and that's the reason why I told 'em.*

Ciucci *Okay. So in hindsight, if you could, do you think that your definition probably was a little lackluster? The reasoning that you gave was there probably more that you could have given?*

Smithmatungol *There's more I could have given.*

Ciucci *Okay.*

Fox *And should have given.*

Smithmatungol *I should have given. But--*

Ciucci *And the reasoning behind it was as said just minutes ago that it was not a complete and otter misrepresentation of fact, but rather they asked the question, you answered it, but there was more that we should have given.*

Smithmatungol *Yeah. I mean they asked me one question why I was late. I told 'em I was handling evidence. Uh, I I should have taken the responsibility and told them, yeah, I came in a little bit later. Um, okay. But that's all I could tell you, that's all I know.*

Ciucci *Okay. Um, is there anything that I did not ask you that you think is important for me to know or that would gimme further context about this, this day, this incident, this investigation?*

Smithmatungol *Um, the fact that I've never been late on the job and I wasn't needed until that training. That's why I didn't think it was a really big deal 'cause I wasn't needed until later in the training. So, I thought I'd do other stuff around what I needed to do.*

Ciucci *With the benefit of now being in this room and seeing everything. Do you think it's kind of a big deal?*

Smithmatungol *Now it is, yeah.*

Ciucci *Yeah.*

Smithmatungol *First IA I've never been in trouble really. Um, but it's not worth risking my job for.*

Ciucci *Okay.*

Fox *I just wanna clear a little bit of muck 'cause I'm still back in the report writing room.*

Ciucci *Okay.*

Fox *Um, so to be clear, and I don't want you to guess, I only want you to speak from what you actually recall. When you got here in that 7 to 7:30 window, you went from the locker room, did all the things that you said you did, and then went up here to the training room, but did not go to the report writing room to work on reconciling evidence?*

Smithmatungol. *So that was the plan to go to the report writing room to log in on to e.com to log into RIMS. But I don't know why I went upstairs, but I just went upstairs at that time.*

Fox *Okay.*

Ciucci *Okay. Alright. With that said, I'm gonna go ahead and conclude the interview. It is 1104 still Friday the 31st. And standby if I can figure this out. That one is done and turned off. And this one now.*

I have used all reasonable diligence in reviewing this transcription and to the best of my knowledge the information contained herein is true and complete.

Chris Ciucci
Investigator

3/18/26
Date

DALY CITY POLICE DEPARTMENT MEMORANDUM

TO Acting Chief of Police
Cameron Christensen

FROM Sergeant Matthew Ciucci #68

SUBJECT Administrative Investigation **24-07/Officer Smithmatungol #150**

BACKGROUND

On October 28, 2024, Administrative Directive 5918 was forwarded to me from Acting Chief of Police Christensen, requesting an administrative investigation be conducted on the following incident:

Request for Administrative Investigation:

DALY CITY POLICE DEPARTMENT
Memorandum

October 28, 2024

To: Chief of Police

From: Sgt. Karen Douglas #78

Subject: Request for Administrative Investigation – Officer Smithmatungol #150

On Friday, 10/25/2024, Off. Smithmatungol worked his normal B-graveyard shift, and was assigned to Beat 4. At the beginning of the shift, I assigned him two subpoenas in his beat: One for [redacted] *at* [redacted] *and the second for* [redacted] *at* [redacted] *The team was short that night and the shift was very busy with dozens of calls for service throughout the night, and several in-custody arrests.*

The following morning, Off. Smithmatungol handed me the two subpoenas as I was sitting in the sergeant's office. As he gave them to me he said, "I tried serving them, but they weren't home. I was out in Beat 1 most of the night." I didn't understand what he meant by the second sentence, but told him something along the lines of, "Thank you for at least attempting them. You were the only one who tried since it was so busy last night and I appreciate it." He said, "No problem."

I reviewed the subpoenas which showed the following:

[redacted]:
Time 2123 hrs.
Remarks: "No answer."

[redacted]
Time 2142 hrs.
Remarks: "No answer."

I did not recall hearing Off. Smithmatungol put himself on any subpoena attempts that night. This was out of character for him, since he routinely announces over the radio when he tries to serve them. I reviewed all of Off. Smithmatungol's calls for service that night and saw there were no subpoena attempts.

I recalled I was on a call for service (CAD DP24-48612) at the Westlake Ross with Off. Smithmatungol and Off. Chu around the time frame he said he served the subpoenas. I reviewed the details of that call for service:

DP24-48612, 405 Westlake Center:
Off. Smithmatungol arrived around 2105 hrs. and I arrived at 2114 hrs. Per CAD, we cleared the call at 2130 hrs.

I reviewed Flock for Vehicle 30's license plate (1532483), as well as Vehicle 30's Axon ALPR hits for the entire shift. There were 27 Flock reads and 1,378 Axon ALPR reads, but none from [redacted]

Summary of Flock and Axon Reads:

After clearing the Westlake call at 2130 hrs., Off. Smithmatungol exited the mall and made a left on John Daly Blvd, hitting the John Daly and Eastgate Flock at 2134 hrs. He turned south onto Hwy 35, and made a right onto Westridge Ave., and another right onto Skyline Dr. He traveled north on Skyline Dr., completed a U-turn at Roslyn Ct., and traveled back south on Skyline Dr., turning onto Westridge, and back onto northbound Hwy 35. He turned right on John Daly, hitting the John Daly and Lake Merced Flock at 2142 hrs. He made a right onto Poncetta Dr. at 2143 hrs., traveled west on S. Mayfair Ave. and made a right onto southbound Forest Grove Dr. He traveled south until he hit Belmar Ave., where he made a right, and then another right onto northbound Park Plaza Dr. He turned right onto John Daly, where he hit the John Daly and Poncetta Flock at 2147 hrs. He then responded to a call for service (CAD DP24-48619) in Beat 2, where he arrived at 2152 hrs.

End of summary

On Saturday, 10/26/2024 around 2100 hrs., I responded to [redacted] *As I knocked on the door, a large dog began barking inside.* [redacted] *was not home, but I spoke with her mother,* [redacted]. [redacted] *told me she arrived home around 1730 hrs. on Friday night, and did*

not leave the home until the following day. [redacted] explained her dog barks when he senses anyone outside, and also barks when anyone knocks on the door. No one knocked on her door Friday night, and her dog also did not bark.

On Sunday, 10/27/2024 around 1945 hrs., I met with [redacted], homeowner at [redacted]. The home is on the southwest corner of [redacted] and [redacted]. She had several video surveillance cameras on her home, and I reviewed the one that captured [redacted] for the time frame of 2130 to 2200 hrs. There was no patrol vehicle seen in the footage.

[redacted] is the homeowner [redacted] which is on the north side of the street and intersects with [redacted] sent me surveillance from his home's cameras between 2130 and 2200 hrs. The cameras offer an unobstructed view of all of [redacted]. There was no patrol vehicle seen in the footage.

While I did not do additional research regarding the subpoena on [redacted] there is no evidence showing he attempted that one either.

Based on the above information, I am requesting an Administrative Investigation into Officer Smithmatungol, for violation of Lexipol Policy 340 (Standards of Conduct) 340.5.9, Performance; and 340.5.10, Conduct.

Sgt. Karen Douglas, #78
Division B-2, Graveyard
Field Operations Bureau

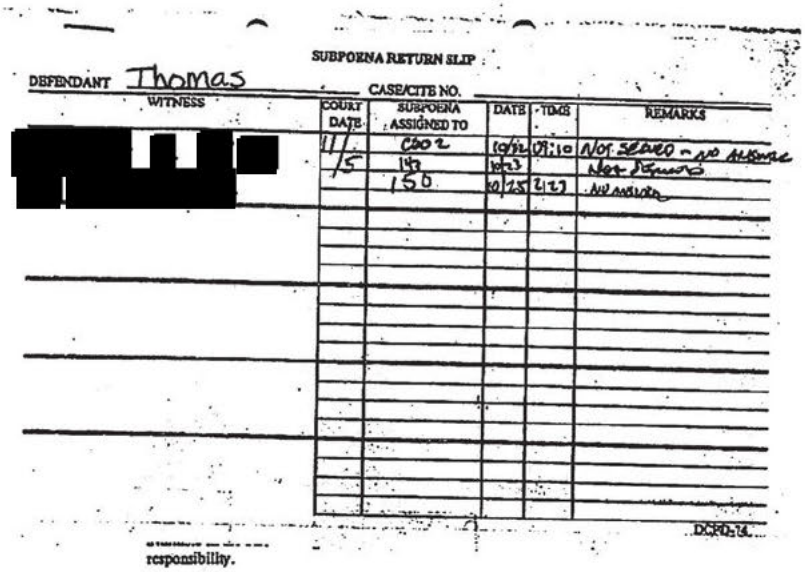
INVESTIGATION

- Reviewed request for an administrative investigation.
- Reviewed DCPD Administrative Directive 5918.
- Reviewed Axon BWC and Fleet Footage.
- Reviewed SMCO CAD.
- Reviewed AXON ALPR GPS Data.
- Reviewed Video Surveillance Footage.
- Interviewed Sergeant Douglas (Witness).
- Interviewed [redacted] (Witness).
- Interviewed [redacted] (Witness).
- Interviewed Officer Smithmatungol (Subject).

INVESTIGATION NARRATIVE:

After receiving the above memorandum, I began my investigation by conducting a review of the two subpoenas that had been assigned to Officer Smithmatungol:

Subpoena #1 was assigned to Officer Kevin Smithmatungol #150 on October 25, 2024. The subpoena was for witness [redacted], with an associated address of [redacted]., [redacted]. It listed an attempted service with a remark of "No Answer" at approximately 2123 hours.



SUBPOENA RETURN SLIP

DEFENDANT Thomas

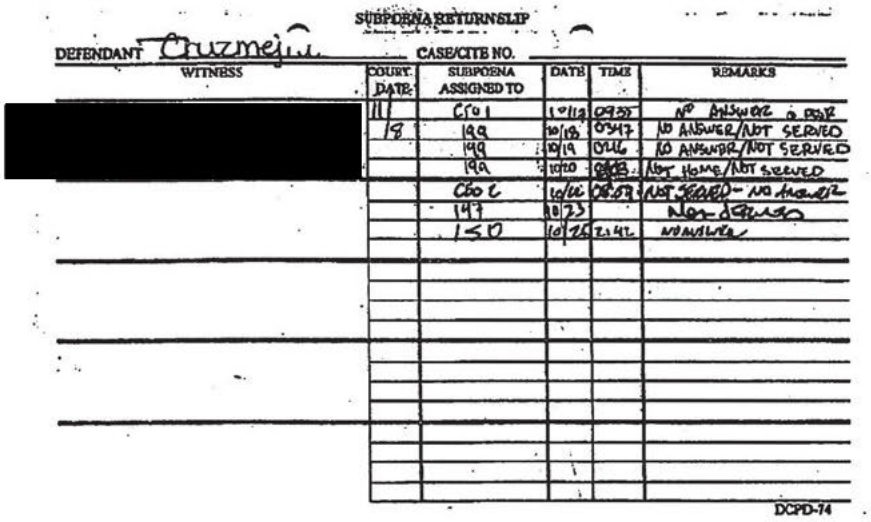
CASE/CITE NO.

WITNESS	COURT DATE	SUBPOENA ASSIGNED TO	DATE	TIME	REMARKS
[redacted]	11/5	C602	10/22	09:10	NOT SERVED - NO ANSWER
		149	10/23		Not Served
		150	10/25	21:23	NO ANSWER

DCPD-74

responsibility.

Subpoena #2 was assigned to Officer Kevin Smithmatungol #150 on October 25, 2024. The subpoena was for witness [redacted], with an associated address of [redacted]. It listed an attempted service with a remark of "No Answer" at approximately 2142 hours.



SUBPOENA RETURN SLIP

DEFENDANT Cruzmejia

CASE/CITE NO.

WITNESS	COURT DATE	SUBPOENA ASSIGNED TO	DATE	TIME	REMARKS
[redacted]	11/	C601	10/13	0935	NO ANSWER 0 DAR
	18	149	10/18	0947	NO ANSWER/NOT SERVED
		149	10/19	0946	NO ANSWER/NOT SERVED
		149	10/20	[redacted]	NOT HOME/NOT SERVED
		C601	10/22	0859	NOT SERVED - NO ANSWER
		149	10/23		Non-Service
		150	10/25	2142	NO ANSWER

DCPD-74

I conducted an audit of Officer Smithmatungol's CAD history for the night of October 25, 2024. At the time of the above incident, Officer Smithmatungol was assigned to the B-Graveyard patrol shift, with a work schedule of Friday-Sunday, 1900-0730 hours.

CAD History Review

The two subpoenas indicated service was attempted on October 25, 2024, at 2123 and 2142 hours. I conducted a search of Officer Smithmatungol's CAD history to create a timeline for his shift. I wanted to establish where he was during the time he stated he was attempting to serve the subpoenas.

- 20:59 hours: Conducts a traffic stop at 892 John Daly Blvd. (DP24-48611)
  - 21:04 hours: Cleared the call and goes 10-8.

- 21:05 hours: Dispatched to a Shoplifter at Westlake Shopping Center. (DP24-48612)
  - 21:05 hours: Arrives onscene.
  - 21:30 hours: Cleared the call and goes 10-8.

- 21:46 hours: Dispatched to a Suspicious Person on Mission St. (DP24-48619)
  - 21:52 hours: Arrives onscene.
  - 22:02 hours: Cleared from the call and goes 10-8.

- 22:05 hours: Conducts a traffic stop at 2300 Junipero Serra Blvd. (DP24-48621)
  - 22:17 hours: Cleared the call and goes 10-8.

- 22:19 hours: Conducts a traffic stop at Park Plaza Dr./Southgate Ave. (DP24-48622)
  - 22:23 hours: Cleared the call and goes 10-8.

- 22:25 hours: Dispatched to Suspicious Vehicle at Evergreen Ave. (DP24-48624)
  - 22:29 hours: Arrives on scene.
  - 22:30 hours: Cleared the call and goes 10-8.

- 22:30 hours: Dispatched to a 273.5PC call on Hillside Blvd. (DP24-48625)
  - 02:18 hours: Cleared from the call and goes 10-8.

It appears Officer Smithmatungol traveled "call-to-call" until he became dedicated to a domestic violence investigation on [redacted]. I reviewed the subpoenas in question and noted he attempted to serve Subpoena #1 at [redacted]. at **2123 hours**. Based upon my review of Officer Smithmatungol's CAD log this would have been impossible. At 2123 hours he was still assisting on a shoplifting call at the Ross Store located in Westlake Shopping Center. He would

have been available (free from a call for service) at **2142 hours** when he attempted to serve Subpoena #2 at [redacted]
At no time in his CAD history from October 25, 2024, or October 26, 2024, did Officer Smithmatungol generate a call for service at [redacted]. or [redacted] I know it to be standard practice for officers to generate a call for service whenever they attempt a subpoena service; however, Officer Smithmatungol did not do so for either subpoena attempt.

Axon BWC Review

I conducted a review of the Axon Body Worn Camera footage from the shoplifting investigation conducted by Officer Smithmatungol (DP24-48612).

The video begins on 10-25-2024 at 21:08:25 hours, with Officer Smithmatungol arriving at the Ross Dress for Less Store, located in the Westlake Shopping Center. Officer Smithmatungol remains on scene until 21:30:15 hours. This video confirmed Officer Smithmatungol was at the Ross Store during the time he reported to be serving a subpoena at [redacted] **(2123 hours).**

I conducted an audit of all Body Worn Camera footage and Vehicle Fleet footage recorded by Officer Smithmatungol on October 25, 2024. Due to Officer Smithmatungol working a Graveyard shift, my audit included his BWC footage from the early morning hours of Saturday, October 26, 2024. The audit range was from 10/25/2024 at 20:16:01 hours (first recorded video from his shift) until 10/26/2024 at 06:06:15 hours (last recorded video from his shift). The audit included 40 videos captured during the above timeframe.

I reviewed the footage from all 40 recordings and discovered none of the videos documented a subpoena service attempt by Officer Smithmatungol. This was confirmed by comparing the GPS map associated to each video and the known target addresses of [redacted] and [redacted] I have included a copy of this evidence item report as an attachment to this investigation.

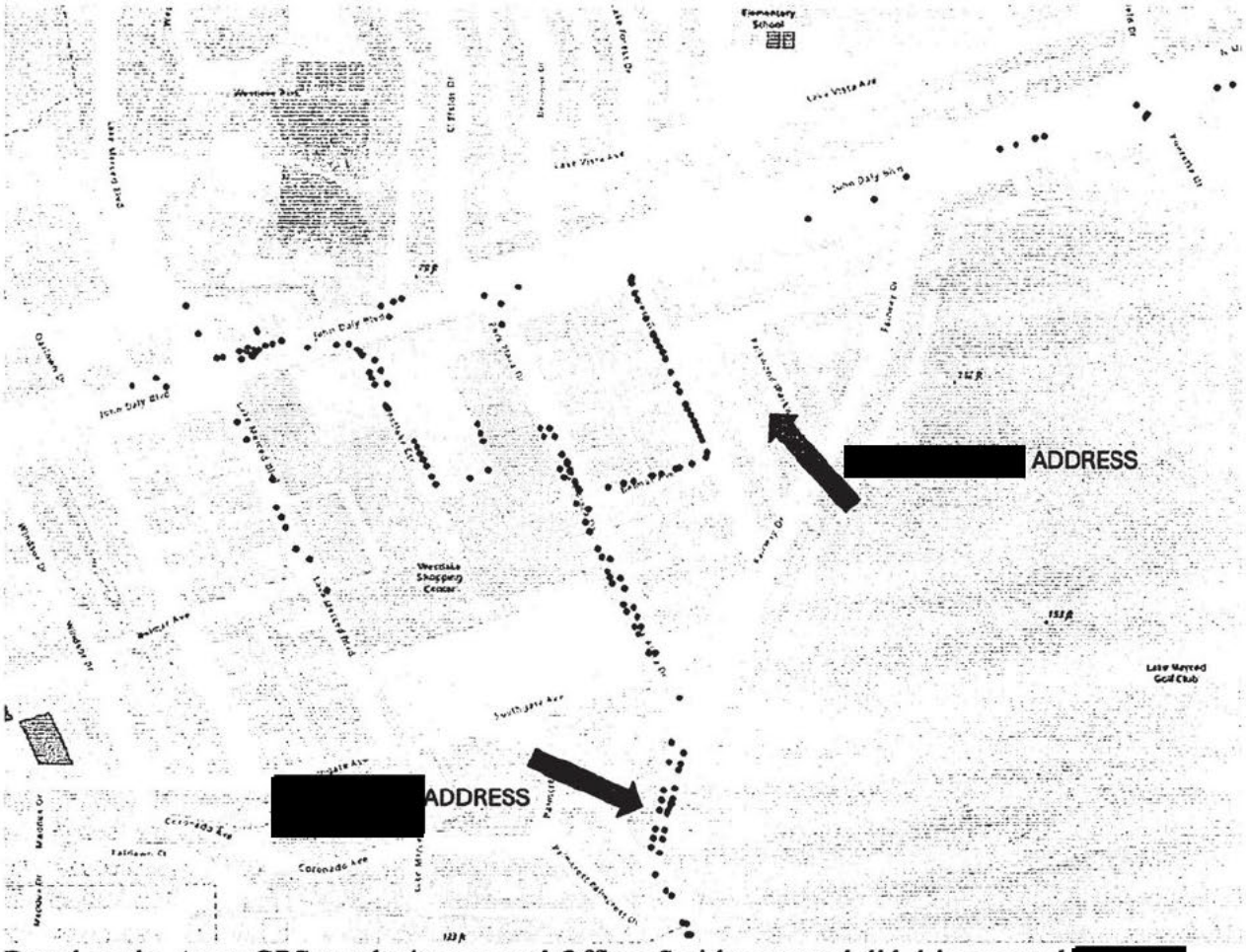
GPS and ALPR Data Review

During my review of the Body Worn Camera Footage, I was able to clearly see Officer Smithmatungol was operating Daly City Police Department vehicle #30. This identification was made by observing the white vinyl vehicle identification number affixed to the driver's side fender.

On December 10, 2024, I met with Technical Services Administrative Assistant Trent Waterman and asked him to inquire about the GPS data recorded by vehicle #30 on October 25, 2024. I am aware this GPS data is recorded through the Versaterm CAD system and is retained by San Mateo County Communications Dispatch. Waterman made an inquiry to County

Communications and learned the Versaterm GPS mapping software was inoperable on vehicle #30 during the timeframe in question. As a result, no data was able to be recovered from the Versaterm GPS system.

I then reviewed Vehicle 30's Axon Automated License Plate Reader (ALPR) data from Officer Smithmatungol's entire shift. As vehicle #30 drove through Daly City, its Axon fleet camera was capturing photos of license plates as it traveled along the roadway. Each time a license plate was captured by the camera, it generated a digital photograph that has an associated GPS location documenting where the photo was taken. These photos are time stamped with the exact time the ALPR photo was captured. I met with Waterman who was able to overlay these GPS data points and create a map of where Officer Smithmatungol's vehicle drove throughout the night. It was immediately apparent **his patrol vehicle never traveled on [redacted] during his 12.5-hour shift**. He also never traveled on [redacted], which are the only two streets that intersect [redacted]



Based on the Axon GPS results it appeared Officer Smithmatungol did drive passed [redacted] on two occasions during his shift. On October 25, 2024, at approximately 2053 hours, he drove passed [redacted] and continued northbound. It does not appear that he stopped to serve a subpoena based upon the continuous ALPR photo reads collected by his police vehicle's Axon ALPR system.

The second time Officer Smithmatungol traveled on [redacted] was at approximately 2218 hours, when he turned onto northbound [redacted], from westbound [redacted]. At approximately 22:19:29 hours, he conducted an enforcement stop almost directly across the street from [redacted] (DP24-48622). The ALPR data shows him conduct his stop and then continue traveling northbound on [redacted] after he releases the driver with a warning. Based upon the ALPR data and the BWC footage I reviewed, it would be impossible for Officer Smithmatungol to attempt a subpoena service immediately before or after conducting his car stop.

Nest Doorbell Camera Review

I had Sergeant Douglas provide me with a copy of the Nest camera video footage from [redacted] Sergeant Douglas had obtained the video from homeowner [redacted] The video is from the front of [redacted] home and faces south. The camera has a clear view of [redacted] and the entire roadway leading to the residence. The video captures from 2130 to 2200 hours on October 25, 2024. Upon reviewing the video, I noticed a police vehicle never traveled to [redacted] during the above time frame.

On January 30, 2025, at approximately 1345 hours, I traveled to [redacted] and met with [redacted] in person. [redacted] provided the following statement:

[redacted]

Statement of [redacted] summarized and BWC recorded:

[redacted] recalled meeting with Sergeant Douglas on October 27, 2024, when he provided her with Nest video surveillance footage from his residence. In approximately 2020, [redacted] installed his home surveillance system by himself. On a scale of 1-10, [redacted] would rate his familiarity with the video surveillance system at approximately a "six…seven." He uses the system on a daily basis, by reviewing it constantly. The date and timestamps on the video are controlled through the web-based Nest application and they cannot be manipulated by the user. This level of control ensures the timestamps are true and accurate. [redacted] video only saves for 30 days on his cloud-based storage system. [redacted] had no further videos from the night of October 25, 2024.

End of Statement

At the conclusion of my review of the digital evidence in this investigation, I noted the following facts:

- Officer Smithmatungol never generated a call for service for either subpoena service attempt.
- Officer Smithmatungol never activated his BWC for either subpoena service attempt.

- Based on the Axon video footage noted above, Officer Smithmatungol was not at [redacted] Drive on October 25, 2024, at 2123 hours, as he had documented on his subpoena form. At that exact date/time there is Body Worn Camera video of him handling a call for service at Ross Dress for Less located in the Westlake Shopping Center (DP24-48612).
- Based on the video surveillance footage I reviewed from [redacted], Officer Smithmatungol never drove to [redacted] Dr. on October 25, 2024, between 2130 and 2200 hours.
- Based on the vehicle GPS data I reviewed, Officer Smithmatungol never traveled on [redacted] Drive, [redacted] Drive or [redacted] Avenue during his entire 12.5-hour shift.
- Based on the vehicle GPS data I reviewed, it was clear Officer Smithmatungol was not at [redacted] Drive on October 25, 2024, at 2142 hours, as he had documented on his subpoena form. At that exact date/time there is ALPR data of him traveling eastbound on John Daly Blvd.
- Based on the vehicle GPS data I reviewed, it appears Officer Smithmatungol never stopped his vehicle in front of [redacted] Drive long enough to attempt a Subpoena Service.

WITNESS INTERVIEWS:

On Thursday, January 30, 2024, at approximately 1326 hours, I traveled to [redacted] Dr. and attempted contact at the residence. As I knocked on the front door, I immediately heard a large breed dog aggressively bark from inside the residence. After waiting several seconds, I pressed the doorbell and could hear an audible chime emanate from inside the residence. The dog continued to bark until the garage door opened and a subject named [redacted] exited informing me he had a "very unhappy German Shepherd." I introduced myself and he agreed to speak with me.

[redacted]

Statement of [redacted] summarized and BWC recorded:

[redacted] recalled that on October 26, 2024, Sergeant Douglas traveled to his home and inquired about an attempted subpoena service the night before. [redacted] confirmed that he and his family were home on October 25, 2024 (during the day and night) and no one came to their home. He explained that his German Shepherd named "Bear" is extremely protective of the residence and barks uncontrollably whenever someone knocks on the front door or rings their doorbell. No one attempted contact at their home on October 25, 2024.

POST CASE NUMBER: POST2505140

SUBJECT OFFICER NAME: Kevin Smithmatungol

Administrative Interview Advisement

Following is the record of an Administrative Interview conducted by the Daly City Police Department on 1/31/2025 with Officer Kevin Smithmatungol, who is the subject of this investigation. The interview was recorded and a true and correct copy of the recording is being maintained by the Professional Conduct Central Bureau. The recording reflects all relevant statements and conversations occurring during the course of the interview. The interview was also transcribed by AXON AI transcription. This transcript was prepared by Law Enforcement Consultant Christina Moore, Professional Conduct Central Bureau.

Parties Present:
Sergeant Matthew Ciucci, Daly City Police Department, Primary Investigator
Officer Kevin Smithmatungol, Daly City Police Department, Subject
Julia Fox, Rains Lucia Stern, Representative for subject officer

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Ciucci *Recording. Okay. So it is Friday, January 31st, approximately 1105 hours am, sorry. Um, this is Sergeant Ciucci, currently in the Daly City Police Department Professional Standards Unit office, with me is Officer Kevin Smithmatungol. Kevin, if you could please say hi.*

Smithmatungol *Hello.*

Ciucci *Thank you. And, uh, you have, uh, your retained counsel with you, who is Mrs. Julia Fox from Rains, Lucia, and Stern. If you wouldn't mind saying hello?*

Fox *Sure. Julia Fox.*

Ciucci *Perfect. Um, officer Smithmatungol, you are in here as a subject officer, uh, for Internal Affairs investigation, 24-07. Uh, um, I'm gonna read you the administrative admonishment. If at any time during the reading this admonishment, if there's anything you don't understand, please ask me and we can get you the clarification that you need, all right? Um, you are hereby advised that an administrative investigation is in process within this department in which it has become necessary to obtain a statement from you. If you cooperate fully at this time, your statements and any evidence arising there from may be used in any and all proceedings arising out of this investigation. As a citizen and an employee of this department, you're hereby advised that if prior to or during the taking of your statement, this department determines that you may be charged with a criminal offense, the proceeding will be stopped, and you will be advised of your constitutional rights and given an opportunity to obtain legal counsel. If you decide not to give a statement at this time, you're now ordered as an employee of this department to answer all questions asked by investigators and to give a full, detailed, and complete statement regarding your knowledge of or involvement in the matter now under investigation. Although you have a right to silence in criminal investigations, this is not a criminal investigation, but an administrative hearing and you're now being ordered to tell all, excuse me, to answer all questions under the compulsion of threat of disciplinary action. False statements, of course, will result in severe disciplinary action. Members are always required to be truthful. Please see Daly City Police Department Manual Rules 4.96, which is truthfulness. I'm gonna go ahead and hand you this admonishment and I'll show you the last sentence, which says, I have read the above admonishment order and I fully understand my rights and duties in this investigation. Please look it over and if comfortable, please sign the bottom and date and time. Mrs. Fox, if can ask you to be the witness.*

Ciucci *Beautiful. Thank you. All right, so we're gonna dive in. Reminder, I'm an independent fact finder. I'm just here to get your statement. I'm here to get all the facts and then I present it to the chief, it's given to a lieutenant, and they do the findings and recommendations. So today, this is just an interview, okay? Um, please be truthful about everything I ask and we'll begin here. Um, so on Friday, October 25th, 2024, uh, you were working your B graveyard shift when you were given two citizen subpoenas to serve. Does this sound familiar?*

Smithmatungol *Yes.*

Ciucci *There is hesitancy when you say yes. Um, explain to me why you have a little hesitancy in your voice when you said yes.*

Smithmatungol *That exact date and, uh, we get subpoenas almost, almost every day. I mean, I dunno those two exact subpoenas, I don't know the names on. I don't remember. It's October.*

Ciucci *Let's do this. I have copies of two subpoenas that I'm gonna walk over to you. I labeled one, uh, for defendant* [redacted] *as attachment one, and I've labeled one for defendant* [redacted] *as, uh, attachment two. Okay. I'm gonna walk these over so we can all look at 'em together. Okay. So here we go. Uh, attachment one is gonna be for* [redacted] *attachment two for* [redacted] *And what we'll do here is I just kind of want to go through these together with both you. Uh, okay. Uh, I know based on my understanding of Daly City, uh, uh, both, uh, policy as well as just our practice, that in briefing the sergeant or their designee goes ahead and hands out the subpoenas. Is that also your*

understanding? Okay. Um, the sergeant or the designee is gonna write the badge number denoting what officer's gonna receive this subpoena. Is that also your understanding?

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *Okay. Badge number 150. Is that you?*

Smithmatungol *Yeah.*

Ciucci *Beautiful. Is that 150 your handwriting?*

Smithmatungol *No.*

Ciucci *Okay. Um, following the badge number 150 on both subpoenas, there is a correlating date, time, and a remark section. Uh, there, there's a, a remark that's noted. On attachment number one it says under date 10/25, under time it says 2123, under remarks it says no answer.*

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *Are those three boxes filled out that I just, that I just said that, is that your handwriting?*

Smithmatungol *Uh, not the date, but the time that I answered.*

Ciucci *Beautiful. So the date is filled out, presumably without guessing, but by someone else maybe who gave you the subpoena?*

Smithmatungol *Yep.*

Ciucci *But the time and remarks is yours?*

Smithmatungol *Yep.*

Ciucci *Okay. Same thing for attachment number two. Uh, 10/25 is the date on here you're writing?*

Smithmatungol *Yep.*

Ciucci *Okay. How about the time and the remark?*

Smithmatungol *Yes.*

Ciucci *So 2142 hours no answer. That's your writing?*

Smithmatungol *Yep.*

Ciucci *Okay. Um, I'm just gonna leave those there 'cause I think it's easier in case we have to reference 'em. Um, walk me through this, when you attempt a subpoena service, um, how do you generate a call? What do you do? Do you broadcast your location on the air? Uh, do you create a call for service in Versiterm? How, how do you do it?*

Smithmatungol *I usually broadcast on the Air.*

Ciucci *Over the air? Is that your standard practice?*

Smithmatungol *Yes.*

Ciucci *Okay. Um, do you ever do, uh, a self-generated call in Versiterm where you open up a call for service added it in so as you don't, you tie up, uh, radio airspace?*

Smithmatungol *No.*

Ciucci *No. Don't do it. Okay. When you do a subpoena service, do you activate your body-worn camera?*

Smithmatungol *Not unless someone opens the door.*

Ciucci *Not unless someone opens the door?*

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *Okay.*

Smithmatungol *Or I make contact with someone at the residence.*

Ciucci *Okay. So if there is no interaction with a human that you don't open, you don't, uh, activate your BWC?*

Smithmatungol *No.*

Ciucci *Okay. When you fill out subpoenas, uh, the portion that you said with the time and the remarks, what is your standard practice? Do you, do you go to a home, there's no answer, you immediately fill it out and, and retain it in your car? Do you do it at the end of your shift? Is there, do you have a standard practice or is there really no? What do you do?*

Smithmatungol *I don't have a standard practice.*

Ciucci *So you will just fill that out at some point before you turn it in at the end of your shift?*

Smithmatungol *Correct.*

Ciucci *Okay. Um, what are the dispositions in the remarks that you commonly use? Uh, if you could name the ones that you, that you're like, these are the, whenever there's a remark, these are the common ones that I, I put on there.*

Smithmatungol *Uh, for on the MDT or on this?*

Ciucci *No, on this. So, when you go ahead and you fill out your remarks, um, if no one's home, what would you write? If someone, hold on. If someone is home, what would you write? If, uh, you do get the person you serve, it beautiful. If you talk to somebody, nobody's there. If you could walk me through your standardized remarks.*

Smithmatungol *If there's no answer at the door, I didn't make contact with anyone, I put no answer. If I made contact someone and serve the paperwork, I put served.*

Ciucci *Okay. Um, do you ever use not served?*

Smithmatungol *Uh, no, because we got in trouble for, as a department, for not attempting to serve the subpoena.*

Ciucci *Would you say that not served as somewhat am a little bit ambiguous, where, I don't know. Does not serve mean you actually went to a house? Does it mean you just didn't do it?*

Smithmatungol *I think in our, in our, uh, it could go both ways. Either not served as you didn't attempt to serve or not served as they didn't.*

Ciucci *Okay. And then served, you said self-explanatory, you served the subpoena.*

Smithmatungol *Correct.*

Ciucci *And obviously that page would be ripped off. You give 'em their copy, it's beautiful. Do you ever use not home?*

Smithmatungol *Maybe once or twice, but I usually don't.*

Ciucci *What would you, what would your understanding be of the remark not home?*

Smithmatungol *Uh, we made contact with an, an individual but not the person we're, uh, serving. So it might be a family member and they're saying they're not home until tomorrow.*

Ciucci *Okay. Um, no attempt. Do you ever use no attempt?*

Smithmatungol *No. I don't remember using, I don't remember the last time using no attempt.*

Ciucci *No attempt. So let's say you were to get a subpoena, the night goes wacky, you were going call to call, to call, to call, to call to call, you never even were able to serve that thing. What would you write?*

Smithmatungol *Um, I think on B graves what we do is we leave it blank, turn it in, and then they would give us the same ones the next day.*

Ciucci *What if you got that subpoena on your Sunday? Sunday night, that's your Friday. So that was your last chance to, to, to serve this thing in your three day tour, what would you write if you never had an opportunity?*

Smithmatungol *Uh, not served.*

Ciucci. *Not served. Okay. So the one that, that we're not supposed to do, uh, because we got in trouble, but not served is the one you think?*

Smithmatungol *Uh, yeah.*

Ciucci *Okay.*

Smithmatungol *Or maybe either it's either not served or no attempt, it's one.*

Ciucci. *Okay. So no attempt would be one that you would use in that scenario?*

Smithmatungol *Correct.*

Ciucci *Okay. So maybe you've used no attempt before?*

Smithmatungol *Maybe, but I don't remember when.*

Ciucci *Okay. Maybe used, but if you did use it, you would characterize it as never had an opportunity to serve this thing?*

Smithmatungol *Correct.*

Ciucci *Okay. And then for no answer, walk me through what is your definition of writing no answer.*

Smithmatungol *Uh,I park my car.*

Ciucci *Okay.*

Smithmatungol *I go to the door, knock on the door, give it a, a minute or two, knock again. If they don’t answer, I just return back to the car and leave.*

Ciucci *Parked car, knock, no answer.*

Ciucci *Okay. So these two subpoenas in question, they both say, uh, no answer, correct?*

Smithmatungol *Correct.*

Ciucci *Okay. Looking at your writing, your remark, what is your belief that you did on both of these subpoenas based on the definitions you just gave me?*

Smithmatungol *Exactly what I did. I parked my car, walked up, knocked, didn't get an answer, left, continued on with the day.*

Ciucci *Okay. So, and to be very clear, does seeing these, uh, two subpoenas and the address is on 'em, one is on* [redacted] *one is on* [redacted] *if I'm not mistaken, do they specifically ring a bell? You've now talked about subpoenas in general and kinda your philosophy, but do you remember these two subpoenas specifically?*

Smithmatungol *Not, not these specific subpoenas.*

Ciucci *Okay. Um, okay. Excuse me. And before I go further, I just want just things to remind everybody of, you're aware that police cars have several different layers of GPS, um, via the CAD system via all the ALPR craziness, right. Um, and also as a police officer, you're aware 'cause you have solved numerous crimes. Um, home video, ring doorbell, cameras is, everybody's got 'em. It's how we solve homicides. It's how we solve package thefts from the mild to the wild. Okay. Um, so on October 25th at 2123 hours, uh, did you drive to the residence of* [redacted] *Drive and attempt to serve that subpoena right there?*

Smithmatungol *I did.*

Ciucci *You did? How do you remember that?*

Smithmatungol *Uh, well, I mean, the subpoenas, I I, I always try to serve 'em. I don't try not to serve 'em. I mean, they're part of the job. They, I have to do it. Um, so I would say I went to the house, I knocked on the door and, no answer, I left.*

Ciucci *Okay. Um, so at 2123 hours, uh, on October 25th, you were actually on a call for service at the Ross Dress for Less at West Lake Shopping Center. Does that ring a bell? It's you and Officer Chu and you were dealing with, uh, essentially, uh, a suspicious unruly subject. Does that ring a bell?*

Smithmatungol *Not that particular call.*

Ciucci *Okay. Um, you were on that call in CAD until 2130 hours. Um, that subpoena says 2123 hours. Um, is there an explanation or something that I should be aware for why the subpoena would say that you were serving that subpoena at 2123 hours, um, when in fact you were on a different call for service?*

Smithmatungol *I don't, I think I was, I served it before that call.*

Ciucci *I don't want thinks, I just want to, but I, going forward, I just, if you recall, perfect. If you don't recall, perfect. I just need to know an answer of, of why there would be a discrepancy on the time.*

Smithmatungol *I don't remember. Sorry, I don't remember. Can you repeat the question again?*

Ciucci *No, that's, and that, and that's fine.*

Fox *Um, how is it that you could be at Ross at the time indicated but this subpoena seven minutes prior?*

Smithmatungol *I don't remember writing the times exactly right after I did it. I think it was served. I attempted to serve it, went to a different call and then filled it in later. But I didn't put exactly the time I served it.*

Ciucci *Okay. Um, so if I'm understanding correctly, you physically attempted to serve the subpoena, but you filled in the time at a later date and potentially you mis-recorded the, the, the exact time.*

Smithmatungol *Correct.*

Ciucci *2123 is pretty specific. I know if I was a recorded time, I would probably, if I was gonna generalize, I would give you, uh, uh, division of 10. So at 2030 hours or whatever it may be, 2123 is pretty specific. What would make you think that you would choose such a specific number?*

Smithmatungol *I, I don't remember.*

Ciucci *Okay. Um, you told me that your process is you broadcast your location over the air. I've reviewed cad uh, you never broadcasted this location or the other location on air. Is there a reason why that you, you have a subpoena service but you did not broadcast it?*

Smithmatungol *Sometimes I just forget to do it. I just, I just pull up, I go in, I knock, and I leave.*

Ciucci *Okay.*

Fox *Can you say definitively that GPS on your patrol car would show you at these two addresses on this date?*

Smithmatungol *On that day, yes it will.*

Ciucci *During the time that you wrote on the subpoenas?*

Smithmatungol *Maybe not the time, but on that day I did.*

Ciucci *Okay Um.*

Fox *Close in time?*

Smithmatungol *Maybe.*

Fox *Okay.*

Smithmatungol *Can't say exactly.*

Ciucci *Okay. On October 25th at 2142 hours, did you drive to the residence of* [redacted] *and attempt to serve a subpoena?*

Smithmatungol *Mm-hmm <affirmative>.*

Ciucci *Okay. Uh, can you say yes or no? Uh help me out with the Uhhuh?*

Smithmatungol *Yes.*

Ciucci *Yes. Okay. Um, did you generate a call?*

Smithmatungol *No.*

Ciucci *Do you recall not generating a call?*

Ciucci *I, I just wanna make sure, do you recall not generating a call for service?*

Smithmatungol *I don't recall. Um, I, I was probably just thinking about just going in, getting it done, leaving.*

Ciucci *Okay. And then I've reviewed your BWC and there is no activation fo* [redacted] *at* [redacted]*. Is there a reason why that there wouldn't be an activation for* [redacted] *at* [redacted]*?*

Smithmatungol *'cause there's no answer.*

Ciucci. *No answer. Okay. Um, the homeowners at* [redacted] *I talked to 'em, they have a massive German shepherd. That massive German shepherd goes nuts. And they are alerted every time <laugh> someone's at the front door, including myself when I went to go, um, that someone's at their house, someone's at the property, the dog goes nuts. Um, I met with the family. The family stated that they were home that night and that nobody answered or nobody knocked on their door. Is there a reason that the family with this, uh, crazy guard dog, uh, who was home during the evening hours, is there a reason that they would tell me that nobody knocked on their front door when they have a really unique kind of circumstance that alerts them when someone's at their home?*

Smithmatungol *No. I mean, I, it's a subpoena. It's not worth my job.*

Ciucci *No, and I get that and I get that. Um, but likewise, is there a reason that there would be a discrepancy between a homeowner telling me that nobody came to their home last night because their dog is gonna lose their bananas and they were home and awake during that time? Uh, is there a reason that they would be telling me that yet you are saying that, Hey, I went up there and I knocked on the door. So how can we, is there a a way to explain that discrepancy between your story and theirs?*

Smithmatungol *I,I don't have a reason to.*

Ciucci *Okay.*

Fox *Do you recall hearing a dog?*

Smithmatungol *Uh, I, I don't recall at all. I mean, it's October. I don't, I don't remember a couple months ago.*

Ciucci *Okay. So I was, there's, there's video camera surveillance footage, uh, that actually shoots all of* [redacted] *Uh, and it's on* [redacted]*, the adjacent* [redacted]*, the adjacent street that starts with the letter C. Um, and I pulled the video and the video was pulled for the timeframes in which, uh, that you're, you, you stated you served this subpoena, and your patrol vehicle's never on the street. And so is there a reason why, in your recollection you're remembering that no, I was there, I served this thing, yet I have no video of your vehicle being on the block, uh, to serve this subpoena*

Smithmatungol B*ecause it could have not been that time. I, like I said, I don't, I, I think I just put a random time on there, but I showed up that day.*

Ciucci *Okay. Help me understand uh, just putting a random time. Uh, if I, let's say I forgot. Let's say I forgot to put out my location over my radio and it wasn't in cad. I'm sitting there going, when did I go out there this evening? I think I tried to make an educated guess, say, hey, it was after this call, before this call, try and like lock it in. When you say, I just put a random time, help me understand a random time, like what amount of window of time would I need? Is there gonna be you writing on there 2123 hours when you actually served it at 5:00 AM? Is there gonna be that much of a difference?*

Smithmatungol *I believe it was in the beginning of the evening, beginning of the shift, but I can't say exactly the exact time.*

Ciucci *So in the video I have from a homeowner mm-hmm <affirmative>, of the street and the ring camera, if I review it from the time you went ten eight, uh, which is, uh, B Graves seven A 7:00 PM. Excuse me. So I'll just say, at the time, briefing began 7:00 AM or 7:00 PM, excuse me. And then I stop it at, let's go as far as eight in the morning, just in case, uh, at the end of your shift and 30 minutes over, and I watch every second of it, am I gonna see your cop car on* [redacted]*?*

Smithmatungol *It should.*

Ciucci *It should or it will.*

Smithmatungol *It should.*

Ciucci *Why would you choose the verbiage it should rather than it will,*

Smithmatungol *I can't explain. Um, it will.*

Ciucci *It will?*

Smithmatungol *Yeah.*

Ciucci *Okay. Um, do you think there's a problem if it doesn't?*

Smithmatungol *Yeah.*

Ciucci *What is that problem? in your mind, if, if I'm saying I have, I have this video surveillance footage and I don't see your vehicle during a 12 and a half hour shift, do you, you just said, yeah, I, I could see it'd be a problem. What kind of problem is that?*

Smithmatungol *Integrity.*

Ciucci *Okay. And whose integrity would be brought into question?*

Smithmatungol *Mine.*

Ciucci *Okay. Do you recall a conversation you had with Sergeant Douglas at the end of your shift when you turned in those two subpoenas, uh, uh, and she actually commented on the fact, thank you for trying to serve them? Do you recall a conversation?*

Smithmatungol *No.*

Ciucci *Okay. Um, do you recall during a conversation where potentially she actually applauded you and said, thank you for trying to serve them because nobody else had the opportunity?*

Smithmatungol *No.*

Ciucci *Okay. Um, uh, during your career as a, as an officer here, um, have you ever served, have you ever written on a subpoena, uh, the wrong disposition? To your recollection, have you ever written, you even said, excuse me, not served is the one that you, we can't, we're not allowed to use anymore because we got in trouble with the District Attorney's office, have you ever written the wrong disposition for something?*

Smithmatungol *I should, yeah. I mean, I've made mistakes on subpoenas.*

Ciucci*. Okay. Um, uh, do you have any reason in your mind right now to believe that you made a mistake on these two subpoenas? Is there anything in your mind that'd be like, yeah, maybe I did or maybe I didn't? Uh, is there anything about looking at those two subpoenas that you think that there could be a mistake or not?*

Smithmatungol *Maybe I did. I don't remember.*

Ciucci *Because as I, I gave, uh, I threw out in the middle of that thing about, hey, technology, we have GPS, all that. When reviewing your GPS, if I don't see your car stopping on* [redacted] *Drive or on* [redacted] *Drive, do you believe that that would be an issue? If during your 12 and a half hour shift, looking at the GPS for your vehicle, that I don't see you on* [redacted] *uh,* [redacted] *or, uh,* [redacted] *Drive, do you, do you see that as an issue?*

Smithmatungol *Yeah.*

Ciucci *Okay. And again, same line of questioning, what kind of issue would that be in your mind? What, what, what do we have?*

Smithmatungol *My integrity.*

Ciucci *Okay.*

Fox *And that was your experience? That's not a hypothetical. I'm just trying to track that was your experience. You reviewed 12 hours of GPS?*

Ciucci *I have reviewed GPS and I do not see his car. Uh, I have to go back and review again the exact timelines, but as of right now, the timelines for the, uh, written times of 2123, 2142, ua bracketing there within this vehicle's not parked on the street. Um, and I do not have your vehicle showing up on video. Now I'm not trying to trick you in any way into a statement right now. I have to go review a lot more than the original bracketing I have. Um, and that's why before I begin reviewing it, I need to know exactly what type of issue I'm looking at. Is this an issue of recollection? Is this an issue of not understanding, uh, uh, the, the definition or dispositions or do I have an integrity issue? And that is exactly where I'm at right now, is trying to figure out and decipher what I am looking at.*

Fox *And I imagine you all have a cutoff time with regard to when you can serve a subpoena, right? You can't disturb a family at 1130 at night.*

Ciucci *Believe it or not, we will go to family homes because a lot of times people will say, hey, I work, I work daytime day shifts, please come at night. And so, uh, I'd say graveyard shift as any other shift gets subpoenas, generally try to serve it before it gets too late and before it gets too early. Um, but there's no, no exact cutoffs on times. It's fluid with the understanding don't knock the door at 2:00 AM.*

Fox *Yeah.*

Smithmatungol *Is there a possibility I could look at the cases I took that day?*

Ciucci *Yeah I have RIMS up.*

Fox *Can you say unequivocally, you would never write no answer if you went to a residence and there was no answer?*

Smithmatungol *We could either, no answer officer or not served.*

Fox *Okay.*

Ciucci *You wanna see the case log for that day in general, everybody on your team, or do you wanna just look at yours?*

Smithmatungol *Uh, everybody on that team so I can remember what--*

Ciucci *Not a problem.*

Ciucci *Okay. Date occurred. Kevin, come on over. Let me click search. So I've gone into RIMS, our case management system, and I have pulled up, okay, these are all the cases from, I made it. Standby, excuse me. There we go. Cases from 10/24 to 10/25. So this is kind of a different look than what you're used to. Um, but what I can do is, is bracket you in and we will look at officer PSN numbers and times and dates. So, 655, 6. Let's look at this one right here. [redacted]. 1335 hours on 25th. That is before your shift began. I went the wrong direction. Excuse me. Speed. 5:30 on the 25th. Nope. Sorry. Here's my issue. Now we're running. 1942. 25th. Okay. So from here, case number 65, 62ish, all the way down until your shift 'cause you overlap on the graveyards going into the 26th all the way down to here. So you guys had, somebody was unlicensed on [redacted] a tow [redacted].*

Smithmatungol *That's our team.*

Ciucci *This is your guys' right here, this block. That would've been the b graveyard timeline because we're coming in at the 26th on zero right after midnight. So from right here to right here looks like, uh, organized retail theft at Serramonte, a CPS cross report, a DV uh, narcotics, stolen car.* [redacted]

[redacted] *got a stolen car, probably kind of one you would remember from the night on a Honda Civic. Arresting those two defendants.*

Smithmatungol *And then I took a DV that day,*

Ciucci *I think. Uh, what's your PSN 2 2 0 5. 2 2 0 5. You took a DV at 306 Westlake Center at the Halloween store. And 2 2 0 5. That's all I got for you for that date.*

Smithmatungol *Can I see the people on that screen on me?*

Ciucci *Yep.*

Smithmatungol *Oh, what's that day?*

Ciucci *Uh, 10/26. So this was right after midnight. So on 10/26, that would've been Saturday the 26th. So your shift begins on Friday, rolls into Saturday 10/26, approximately 0014 hours, the defendant and the victim, uh, were arrested in the parking lot. Okay. Slammed the head against the dashboard of the vehicle. You located the people in San Francisco and transport to jail. Ring a bell on that part at least?*

Smithmatungol *Yeah.*

Ciucci *Okay.*

Fox *No, let's take a break.*

Ciucci *Yep. Uh, I, I, not a problem. It is, uh, 1135 hours. And, uh, per the request, we're gonna take a break. Gimme one moment. One is paused. This is my personal phone. What am I doing? Um, and second one is on pause.*

Ciucci *Okay. Sergeant Ciucci, uh, same day, same time. It's, uh, 1144 hours and we have resumed. You guys just took a little break and we're back. Okay. So before we had gone on the break, um, I was trying to understand, uh, essentially how you could be at these addresses when I'm not showing you there, based upon evidence that has been retrieved prior to this in, uh, this interview. Um, you have stepped out. Is there any clarity that you can give me as to why I'm not showing your vehicle at these locations?*

Smithmatungol *I genuinely don't remember serving the subpoenas. Okay. That's why I wanted to see the calls from that day 'cause I wanted to narrow down what happened that day. I generally don't remember.*

Ciucci *Okay. Um, if you don't remember, um, can you help me understand, because I, I don't believe it to be your, your standard operating procedure that you would just write frivolous dates and times and, and remarks on a subpoena. I, I, I don't, I don't have any reason to believe that. So if you don't remember this incident, help me understand how, uh, I would have discrepancy on the time and how maybe a remark would not accurately reflect the actions that occurred that day? Is there anything that you can do to help me understand it?*

Smithmatungol *I don't remember why I put these times. These aren't specific times that I would remember. And I don't know why I would put these on here, but I did.*

Ciucci *Okay.*

Smithmatungol *And I genuinely don't remember.*

Ciucci *Okay. Is there a reasonable explanation that you could think of that would help me understand why those dates and times would be there? Um, anything that would make sense to you? Uh, not saying that that's your guessing what would happen, but just essentially is there, is there a logical explanation you could think of why it would say served or, excuse me, no answer and have a specific date and time?*

Smithmatungol *I don't, I don't know when I wrote these, I don't know why I wrote these. I, I just don't.*

Ciucci *Okay. Um, and it's difficult for me on my end to, to, to understand it. It is, it, it truly is. I'm not gonna give you any baloney. I, I have a difficulty understanding how, uh, a date and a time and a remark could be on there, um, if it wasn't what occurred. Um, and so I, stopping this interview or ending it, um, kind of having that as like the lingering last, uh, um, clarification or words on it is troublesome to me. It, it truly, it truly is. Um, because then at that point I'm left to compile the evidence and when we're looking at the, the findings and recommendations, it becomes, I have a document that has a date, time and remarks. I have an officer who initially said, yeah, of course unequivocal. I would be there. I I did it, I did it. And then now is at a point of, I don't remember. And so that, that kind of timeline, that transition across, it troubles me. It truly does. And so I, I ask, is there anything that you can, uh, provide me without specific questioning, uh, without specific yes, no's back and forth, that can help, uh, add circumstance, context, or understanding of why those would be written as they are, but why they wouldn't be supported with any factual evidence?*

Smithmatungol *I, I, I don't, I, I'm trying to think of something, but I dunno why I would put no answer if I didn't serve 'em. I really don't.*

Ciucci *Okay. Have you ever gotten in trouble for not serving a subpoena before, either formally or informally? Informal meaning your sergeant just goes, hey, what are you doing and, and has a, a little talk to you about it. Have you ever had, uh, anything like that in your career?*

Smithmatungol *To my knowledge, no. I've never gotten in trouble for a subpoena.*

Ciucci *Okay. Do you recall ever being in trouble for a subpoena? Kind of a more of a yes or no? Yeah, I think you would know. I, i I like to hope you would know if you were in trouble for a subpoena previously.*

Smithmatungol *Maybe putting, not served.*

Ciucci *Okay. That's an understandable thing. 'cause you said that was something that got brought up, not served. Um--*

Fox *Anything in addition to that?*

Smithmatungol *No, I've never was confronted about serving subpoenas. I I've never been any of that sort.*

Ciucci *Do you have any reason to, uh, misrepresent fact, in order to avoid punishment or avoid confrontation with supervisors, is there anything that would cause you whether the intent is a, a, an honorable one or not, that would cause you to go ahead and, and say that you serve something or you attempted to, even if you didn't, do you have a reason to avoid consequence?*

Smithmatungol *No, because I've never gotten a consequence for not serving subpoena. I, I, I don't know what a punishment would be, but I thinking about this, I remember these dates, how the time, I don't, I dunno why. I really don't.*

Ciucci *Okay. Um, I'm also not just gonna hold you in here <laugh> and, and just keep asking kind of the same question 30 different times, 30 different ways. Yeah. I just want to make sure that when you're walking out, you have been, you feel that you have had every opportunity that you have in order to add clarity to this. And I feel comfortable that I've asked every question I can in order to get that clarity. But I'm goin to be very frank with you when I say I don't have clarity on this. I don't have clarity on this issue. And my understanding of this interview is that there's a date and time on two subpoenas and a remark that says no answer when fundamentally I have, uh, um, supporting evidence that shows it didn't occur. And so that for me is troublesome. Um, but I wanna make sure that when we're walking out that you have had every opportunity that you feel deservedly to state your case and, and make it clear to me. But I'm being honest, I don't understand it.*

Fox *That there's nothing left unsaid.*

Ciucci. *Yes.*

Smithmatungol *There's nothing. There's nothing I can remember saying if there was, I'd say it, but if I, there's no video of me doing it [inaudible].*

Ciucci *So if there's no video of you doing it, then you didn't do it?*

Smithmatungol *If there's not, then there's not.*

Ciucci *Okay. Uh--*

Fox *Don't you have GPS on your cars? I thought you all have like the platinum package if--*

Ciucci *Versaterm. Yeah. No, it's, it's platinumy.*

Fox *Uh, so you went from no body cam to very much body cam?*

Ciucci *Yeah. We, we, we went big, um, across the board. And like I said, there's, there's different layers too. Versaterm tracks it. Your ALPR data shows every street that you're on, that you're running every plate that's through flock, that's through Versaterm, that's through, um, evidence.com. Uh, it, it's all a ton of different layers of it. And so that's why I just want to confirm.*

Smithmatungol *I don't, I don't want to give you all these excuses, but if there's no video of me doing it, then I, maybe I didn't do it. And I don't know why these dates and times would be on there, but I, I don't remember honestly.*

Ciucci *Okay. You don't remember, however you are cognizant of, if there is evidence against it, then that's most likely what occurred?*

Smithmatungol *That's what occurred. I'm not, I'm not gonna, I'm just gonna own up to it, I mean, if if there's nothing there, then I can't put myself there. If, even if I'm not.*

Ciucci *Okay.*

Smithmatungol *But I, I don't know why these specific times are on there. I don't know what's relevant of these times, the 2142 and 2123.*

Ciucci *So I'll be, and I'll be honest with you here, and I have been here as an officer, I've been in IAs. I've been, I've been, uh, I've been recorded, I've been questioned, and I have never, I have never wavered on my integrity. Um, I've never once said, hey, if you have it, then maybe that's what I did. And so it's a concerning statement for you because I believe you to have integrity. Um, but for you to say, if I didn't do it, and if the video, if the evidence isn't there, then I guess I didn't do it. I feel like you're a person that would, that would be a troublesome thing for you to, to almost willfully or not willfully, but write incorrectly on the subpoena that you did something if you didn't do it, is that something I should be alarmed about your character? Or is this an offline thing? If it's an offline thing, do you, don't you think you would remember not doing something that you said you would?*

Smithmatungol *It's not like every subpoena I get, I don't attempt it. I, I it's not--*

Fox *Well, that's why I said the best you can shelf the witnesses. Mm-hmm <affirmative>, the camera. Yeah. All of that, put that out of scene. Can you drill down on your own work product, your own happening custom and say, regardless of that, I know I would never write no answer. If in fact that wasn't my experience.*

Smithmatungol *I, I wouldn't put no answer. But I don't know why I did if I didn't, if I didn't serve it or attempt attempted certain. And I don't know where I got these times from. I, I really don't.*

Ciucci *Okay. Um, at this point, I just have one last question and is, did you willfully write, uh, times and dates on there with the intent to deceive in any way, um, and state something on that paperwork that you knew to be not true?*

Smithmatungol *I don't. I, I just, I wrote it on here. I, this is my handwriting. I wrote it. Yep. But I don't, I can't recall why I wrote it.*

Ciucci *Okay.*

Smithmatungol *But I, I've been thinking about why are these two times in particular on here if there are no significance to me.*

Ciucci *Okay. Um, is there anything that I didn't ask you, you feel important at the end of this that I should be aware of? Any other circumstances that, that in any way help shed light on this situation?*

Smithmatungol *Not that I know.*

Ciucci *Okay. Counsel anything to add?*

Fox No.

Ciucci *Okay. Uh, with that being said, uh, I'm gonna go ahead and we'll conclude this. Uh, it is 1155 hours. Um, that first one is done and this one is standby, done off and.*

I have used all reasonable diligence in reviewing this transcription and to the best of my knowledge the information contained herein is true and complete.

Chris Ciucci
Investigator

3/19/26
Date

@ 6/2/25 C 1703

OFFICE OF THE CITY MANAGER
CITY OF DALY CITY

333 – 90TH STREET
DALY CITY, CA 94015-1895
(650) 991-8125

PERSONAL AND CONFIDENTIAL

TO: Officer Kevin Smithmatungol

FROM: Thomas J. Piccolotti, City Manager

DATE: June 2, 2025

SUBJECT: Notice of Intent to Terminate

The purpose of this letter is to provide you with notice pursuant to the Daly City Police Department Policy Manual and *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, of my proposal to terminate you as a Police Officer for Daly City ("City"). If my recommendation remains unchanged after the exhaustion of any pre-disciplinary procedures, you will be advised in writing of my final decision to terminate your employment, including the effective date of the termination.

I. JOINT AND SEVERAL BASES FOR THE PROPOSED DECISION

Please be advised that the proposed termination need not be based upon a finding that you have violated each and every one of the policies and rules below, or that you committed each and every one of the factual bases supporting my preliminary determination that you should be terminated. Your violation of any one of the following policies, and your commission of any one of the acts described below would, in and of itself, support my recommendation that your employment be terminated.

II. CHARGES UPON WHICH THE PROPOSED DISCIPLINE IS BASED

You are being charged with violating the following policies and rules:

DALY CITY POLICE DEPARTMENT POLICY MANUAL

Section 341.5.6 ATTENDANCE

b. Unexcused or unauthorized absence or tardiness.
d. Failure to report to work or to the place of assignment at the time specified and fully prepared to perform duties without reasonable excuse.

Section 341.5.8 EFFICIENCY

a. Neglect of duty.
b. Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.

Section 341.5.9 PERFORMANCE

a. Failure to disclose or misrepresenting material facts or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
b. The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
c. Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department related business.
d. Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.

Section 341.5.10 CONDUCT

h. Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.

Section 420.4.2 CITE AND RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Watch Commander may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the [Department/Office] and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

e. The person could not provide satisfactory evidence of personal identification.
    1. If a person released on citation does not have satisfactory identification in their possession, a right thumbprint or fingerprint should be obtained on the citation form.

MANUAL OF RULES

3.00 PROFESSIONAL CONDUCT AND RESPONSIBILITIES GENERAL CONDUCT
All members shall conduct themselves at all times in such manner as to reflect favorably upon themselves, the City of Daly City, and the Daly City Police Department. Whether on or off-duty, personnel shall avoid any conduct which brings the Department or the police profession into disrepute.

3.55 KNOWLEDGE OF LAWS AND REGULATIONS
Department personnel are required to establish and maintain a working knowledge of all laws and ordinances in force in the City of Daly City and the laws of the State. Further, every member is required to maintain a working knowledge of the rules and policies of the Department, all General Order, Training Manuals, and Standard Operating Procedure Manuals for the appropriate division. In the event of improper action or breach of standards, it will be presumed that the member or civilian employee was familiar with the law, rule or policy in question.

3.60 PERFORMANCE OF DUTY
All members shall perform their duties as required or directed by law, Departmental rule, policy or order, or by order of a superior officer. All lawful duties required by competent authority shall be performed promptly as directed.

3.65 OBEDIENCE TO LAWS AND REGULATIONS
All members shall observe and obey all Federal, State, and municipal laws and ordinances, all rules and regulations of the Department and all General Orders or Special Orders of the Department.

4.56 ATTENDANCE
Members shall report to duty at the time and place specified, properly equipped and in uniform or civilian attire.

4.96 TRUTHFULNESS
Members are required to be truthful at all times whether under oath or not.

City of Daly City Rules and Regulations of the Classified Service, Rule XVIII, Standards of Employment, Section 10, Causes for Discipline or Discharge

(c) Failure to follow directions, policies and procedures
(n) Untruthfulness
(p) Violation of City and/or Department rules, regulations, policies and procedures
(q) Violation of City, State and/or Federal Law(s)

III. FACTUAL BASIS FOR PROPOSED TERMINATION

As further set forth in Daly City Administrative Investigations 24-04, 24-06, and 24-07, the following facts support your proposed termination:

A. JUNE 2, 2024 – (IA #24-04) SERRAMONTE TARGET ARREST

On June 2, 2024, at approximately 7:45pm, you responded to Target, 133 Serramonte Center, on the report of a detained shoplifter. During the investigation you determined the subject, a female, did not have any form of valid identification and you were unable to confirm her identity. As a result, you acknowledged your intent to process her at the county jail as opposed to issuing a citation for the misdemeanor arrest, which was captured in your body camera footage. You stated twice, "I'm gonna book her then," after learning she had no valid identification. At the conclusion of the petty theft detention, you elected to cite the female out and release her from the store instead of booking her, without first seeking supervisor approval. Your reasoning for your decision to cite as opposed to booking the female into jail was not consistent. While on-scene you stated you were going to book her, but then a short time later you told Officer Rodriguez, your cover officer, "We're short, I'm just gonna cite her."

Later that same evening, Sergeant Karen Douglas electronically returned your investigative police report to you for corrections, and you initiated contact with her about the investigation. You told Sergeant Douglas that you identified the subject from a bank credit card she had and Sergeant Douglas explained to you that doing so was an insufficient method of identifying someone, as the credit card could have belonged to someone else. Sergeant Douglas asked you why you did not book her, and you responded that the subject was in her late stages of pregnancy, and you did not want to have to take her to "Chope" Hospital for a medical clearance prior to being booked into jail. Sergeant Douglas asked you if the subject had a local address or if she provided a phone number. You said the subject told you she was staying at a homeless shelter but did not know the address and you did not obtain a phone number from her. Sergeant Douglas reminded you about proper processing of someone you could not identify, which she noted was also communicated during team briefings, of which you said you were still unaware of. You then offered up that you obtained a thumbprint for the subject on the citation before releasing her. Sergeant Douglas responded, "Oh great, you did?" to which you then responded in the affirmative.

On June 8, 2024, Sergeant Douglas and Sergeant Jerel Tualaulelei met with you to discuss other performance concerns and a lack of self-initiated proactivity. During this meeting they again asked about the citation from the Target arrest case, as it had yet to be turned in even though you said you had previously placed it on the sergeant's desk to be forwarded. Sergeant Douglas told you it appeared that you had not obtained the suspect's thumbprint to which you responded that you did obtain it. You then claimed that you attempted to use your citation writer to obtain the print but that it was not working. Sergeant Douglas also noted during this conversation that your electronic ticket writer did not have the digital thumbprint capability, at which time you said you obtained an ink print, noting you walked the subject to your patrol car to obtain an ink print on a duplicate ticket before releasing her. You were uncertain as to the location of the citation and were given an opportunity to produce it. When asked if you were sure you obtained the thumbprint, you immediately responded in the affirmative. A short time later you located several citations from your patrol bag, but this specific citation was not one of them.

Concerned about your truthfulness, Sgt. Douglas reviewed video from Target on June 9, 2024, and learned you released the subject from the security office at 8:07 p.m. and did not escort her to your car for an ink print. She was ultimately seen leaving the Target parking lot on foot. Approximately 14 minutes later at 8:21 p.m., you left Target in your patrol vehicle, driving the opposite direction from the direction the subject was travelling, and you were dispatched to calls for service.

During your IA interview, you said that you believed you printed a second citation for the subject within 30 minutes of printing the first citation while you were in the front parking lot of Target by the handicap stall, and by the store exit closest to the security office. When asked why you told Sgt. Douglas that you printed out a second citation and took a fingerprint if you had not done so, you responded that there was no reason and rhetorically asked the interviewer why you would jeopardize your job. You also denied lying to Sgt. Douglas.

The internal affairs investigation confirmed your electronic ticket writer did not have the thumbprint capability. An audit of your ticket writer and review of available video evidence from your Body Worn Camera showed you did not print a second citation to obtain an ink print. Video from Target further shows that you failed to print a second citation and did not take the subject's fingerprint.

B. JUNE 20, 2024 – (IA #24-06) FAILURE TO REPORT TO DEPARTMENT TRAINING AT YOUR SCHEDULED TIME

On Thursday, June 20, 2024, at 7:00 a.m., you were scheduled for training at the Daly City Police Department. Your direct supervisor, Sergeant Douglas, was present at the training and took note you were not present at 7:00 a.m. with the remainder of your team. At approximately 7:45 a.m., Sergeant Douglas noted you entered the Department Operation Center where the training was being held. At the next break, Sergeants Douglas and Tualaulelei pulled you aside to inform you they noticed you arrived about 45-minutes late. When asked why you were tardy, you said that you arrived at work around 7:10 a.m. and were downstairs meeting with Property Room Manager (PRM), Rose Meere to handle outstanding evidence corrections and follow-ups. You also stated that you were an instructor and your portion was not until later in the morning, which meant you did not need to be in the training room at the beginning of your shift at 7 a.m. Sergeant Tualaulelei told you that if your shift begins at 7 a.m., you are required to show up on time or notify your supervisors that you would be late. You did not notify supervisors that you were going to be late for work. You did not submit a time off request for your late arrival and your timecard, which appears that you approved yourself, reflected a 7:00 a.m. start time.

Sergeant Douglas confirmed with PRM Meere shortly after the conversation with you that you had not booked anything into the property room, nor did you meet with any of the property room staff that morning. PRM Meere also confirmed that you sent a text message to PRM Meere at 8:07 a.m. stating, "If Karen or Jerel asks can you please let them know I was handling evidence.com with you!" On that day, you never physically met with PRM Meere prior to arriving in the training room at 7:45 a.m.

The internal affairs investigation included an audit of the door codes for the main entrances, and a check of the main entry door near the City Hall main parking lot leading into the hallway near the property room showed you entered the main entry door at 7:31 a.m. The next recorded door code entry was from the double doors leading from the downstairs where the locker room is up to the second floor where the training was being held was a 7:39 a.m. Based on your statement during your interview, the timeline suggests you arrived at 7:31 a.m., changed in the locker room, and walked up to the training room arriving at approximately 7:45 a.m. as noted by your supervisor.

During your internal affairs interview you had difficulty remembering specifics about the incident, what you were doing that morning, or the specific time you arrived at work. You admitted you likely arrived at work a few minutes late, but when confronted with evidence, you continually changed your story to remain within reason of the evidence, all of which disproved your initial statement to Sergeants Douglas and Tualaulelei the morning of. Specifically, when asked what time you arrived to work on June 20, 2024, you stated that you did not remember the exact time but it was around 7 a.m., give or take fifteen minutes. You said that you were in the locker room, changing out, using the restroom, and you had some emails from evidence you were going to take care of. You stated that you were planning to handle these items because your portion of instruction for the training day was not at the beginning. You then stated that you walked into the training room at approximately 7:40 a.m. for the first time that day and shortly after, were confronted by Sergeant Douglas who asked you where you had been. You then stated you told the Sergeants you were taking care of evidence "with" PRM Meere, but believe you misspoke and should have stated you were taking care of evidence "for" PRM Meere. You then attempted to explain that when you were reviewing outstanding property items, you actually never physically met with PRM Meere. When shown a copy of the text message you sent to PRM Meere at 8:07 a.m. on June 20, 2024, you recalled that communication. You then acknowledged that you could have arrived to work up to 30 minutes late and you planned to "do evidence for Rose," and that you were looking through your emails while at your locker door changing. You then admitted it was a misrepresentation of fact for you to tell your Sergeants that you were delayed working on evidence when you were in fact late for work. You then said that you were not asked by your Sergeants what time you arrived, but rather why you were late coming into the training room. You stated that this is why you did not inform them of the exact time you came in the building or openly disclose how late you were.

An audit of your evidence.com activity on June 20, 2024, shows that the first time you made changes to your evidence.com account on that date was at 11:07 a.m.

C. OCTOBER 25, 2024 – (IA #24-07) SERVICE OF SUBPOENAS

On October 25, 2024, you were issued two subpoenas to serve throughout your shift, which you turned into your supervisor, Sergeant Douglas, following your shift. On the service tracking slips for each subpoena, you wrote, "No Answer" and the times of 9:23 p.m. and 9:42 p.m. When you turned the subpoenas in at the end of the night, you told Sergeant Douglas, "I tried serving them, but they weren't home. I was out in beat 1 most of the night." Sergeant Douglas acknowledged and appreciated your attempts considering it was a busy night with many calls for service.

Sergeant Douglas did not recall hearing you put yourself out for subpoena attempts over the radio, which she characterized as unusual for you. She also confirmed you had no self-generated subpoena attempts in the computer-aided dispatch system.

The evidence demonstrates that you did not attempt to serve either subpoena. As for the first subpoena for an address on [redacted] review of both in-car and fixed license plate reader data suggested you never drove on [redacted] You listed 9:23 p.m. as the attempted service time for the subpoena on [redacted] however you were on a call for service from 9:05 p.m. to 9:30 p.m. at another location for a shoplifting investigation at the Ross Store located in the Westlake Shopping Center. A review of residential cameras and an interview with residents for the subpoena on [redacted] also support that you did not attempt service of the [redacted] subpoena as you had noted.

As for the second subpoena for an address on [redacted] while you did drive on the street, neither time noted in the data (8:53 p.m. and 10:19 p.m.) aligned with your supposed service attempt at 9:42 p.m. Additional evidence confirmed you were not in the area throughout your shift, proving you did not attempt service on [redacted]

During your internal affairs interview, you stated that "No Answer" meant you attempted in-person contact at the residence and did not receive a responsive answer and left. Specifically, you stated that when using the disposition of "No Answer," you would park your car, walk up, knock, not receive an answer, and leave. At first, you stated that you did not recall serving the subpoenas in question. After additional questioning, you affirmed your attempts to serve the two subpoenas in question. When confronted with the evidence proving you could not have attempted service of the subpoenas as noted, you were unable to provide clear, consistent, or convincing information to support your statements. Eventually, you stated that you could not remember the events and could not understand the origin of the times you noted on the subpoenas.

Additionally, you stated that you do not activate your Body Worn Camera (BWC) on subpoena attempts unless someone opens the door or you make contact with someone. An audit of the Versaterm Cad system and Evidence.com disproved your statement that your standard practice is to only activate your BWC upon citizen contact. Two out of the three subpoena attempts conducted by you prior and following October 25, 2024 indicate that you activated your BWC as you approached the residence and before making any contact with any persons.

IV. DISCIPLINE PRIOR TO AND DURING AFOREMENTIONED INCIDENTS

Your performance history and previous counseling and discipline were considered when evaluating the decision to terminate. The following further supports my proposal to terminate your employment.

- October 7, 2023 – You were involved in a preventable collision where you side-swiped a parked car, resulting in a documented counseling.

- October 30, 2023 – You were involved in a preventable collision during a pursuit, resulting in a documented counseling.

- February 23, 2024 – You were involved in a vehicle pursuit where it was determined you were out of policy for unsafe speeds and improper driving behavior, resulting in a documented counseling.

- September 29, 2024 –You conducted a death investigation (24005954) and the family indicated suspicious circumstances surrounding the death of the victim. While making notifications to the coroner, you muted your body camera, and it was determined information relayed to the coroner likely lacked the information noted above, which may have changed the decision by the coroner to respond to the scene. We were unable to verify this as the conversation was not captured on BWC. You were issued documented counseling.

- October 27, 2024 – You arrested a subject for felony charges and collected several items of property from them (case #24006597). On October 28, 2024, property room specialist Ben Bermudez e-mailed you about a purse that was shown as booked into the evidence locker as safekeeping. Bermudez spoke with you in person later that same day about the missing purse and you told him it was an oversight, and that the purse was in the trunk of your patrol vehicle, challenging the integrity of any chain of custody for the purse. You booked the purse into property later that evening, and Bermudez again sent you another e-mail on October 29, 2024, as there were narcotics, drug paraphernalia, and a check book belonging to someone other than the person you arrested, all requiring different handling procedures. You received a Letter of Reprimand for violation of Lexipol Policy 803.3.2, Narcotics and Dangerous Drugs (booking procedures), 803.3, Property Handling, 340.5.8(b), Efficiency, and Manual of Rules 3.60, Performance of Duty. This Letter of Reprimand followed previous discussions as noted by Lieutenant Klier in your Letter of Reprimand dated December 21, 2024.

- January 18, 2025 (25000342) – You were involved in a pursuit that ended up at Cesar Chavez Street and Vermont Street, San Francisco. It was determined you were driving too fast for conditions during the pursuit, and you collided with a cement center median. The collision was deemed preventable with the associated factor of inattention as you were reaching for your police radio while trying to manage a turn. A Disciplinary Review Board was held on February 25, 2025, as you had previous preventable collisions. Disciplinary decisions were withheld pending the three pending Internal Affairs investigations.

- February 27, 2025 – You were placed on Administrative Leave, as concerns about your performance and decision making were in question from the above performance issues and the three pending Internal Affairs investigations contained in this notice.

V. ANALYSIS

In *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, the California Supreme Court held that in considering the propriety of public employee disciplinary action:

> "...the overriding consideration in these cases is the extent to which the employee's conduct resulted in, or if repeated is likely to result in harm

to the public service.... Other relevant factors include the circumstances surrounding the misconduct and the likelihood of its recurrence."

As explained below, the investigations have demonstrated that your conduct has demonstrated multiple policy violations, including a pattern of dishonesty that undermines your ability to perform your duties. This conduct has harmed the public service, if repeated, will further harm the public service, and there are no mitigating factors to counter the facts of your dishonesty. Engaging in dishonesty is not compatible with your job as a Daly City police officer. A police officer's job "is a position of trust and the public has a right to the highest standard of behavior from those they invest with the power and authority of a law enforcement officer. (*County of Los Angeles v. Civil Service Com. of County of Los Angeles* (2019) 40 Cal.App.5th 871, 878; see also *Ackerman v. State Personnel Bd.* (1983) 145 Cal.App.3d 395, 400.) Termination of employment for dishonest behavior is appropriate discipline even where the employee was a long-term employee with little or no record of prior discipline. (See, e.g., *Nicolini v. Tuolumne* (1987) 190 Cal.App.3d 619 [termination of a deputy sheriff for dishonesty upheld where the deputy had nine years of service and no prior discipline]); *Paulino v. Civil Service Commission* (1985) 175 Cal.App.3d 962, 971 [discharge of police officer for falsely reporting sick leave upheld].) Dishonesty is intolerable conduct for any employee of the Department, and there is no other reasonable choice but dismissal from employment. The principles set forth in these authorities amply support the proposed discipline of termination.

A. YOU WERE DISHONEST AND DEMONSTRATED A LACK OF INTEGRITY ON MULTIPLE OCCASIONS

1. In the June 2, 2024, incident, you told your supervisor you obtained a thumbprint from a subject you failed to adequately identify before citing them out. Evidence in the internal affairs investigation revealed you did not have an electronic thumbprint device on your digital ticket writer. When confronted with that information by your supervisor, you then stated you took the subject to your patrol vehicle to obtain an ink thumbprint. Again, evidence, to include an audit of your ticket writer, video footage from Target and the body cameras of officers on-scene, revealed you did not escort the subject to your car like you stated, nor did you print a second copy of the citation or obtain an ink thumbprint. You maintained your statement in discussion with your direct supervisors, as well as during your internal affairs investigation, regardless of the evidence disproving your statement at all levels. Your false statements regarding the June 2, 2024 petty theft arrest, claiming you obtained a thumbprint and created a second citation when body-worn camera footage and store surveillance footage prove you did not, constitute deliberate deception. Your conduct misled supervisors and obstructed their ability to ensure compliance with lawful citation and booking procedures. Further, during the internal affairs investigation, you continued to deny wrongdoing, despite overwhelming evidence to the contrary, demonstrating not only your inability to own up to your mistakes but worse, your effortless willingness to lie.

2. Similarly, in the June 20, 2024, incident, you told your direct supervisor you were downstairs meeting with the property room manager when you showed up to work for a training class 45-minutes late. Furthermore, you sent a text message to the property room supervisor asking them to tell your supervisor that you had met with her if she was asked,

a deceitful attempt on your part, potentially exposing the property room manager to integrity violations for covering for your lack of accountability. Evidence in the internal affairs investigation revealed you entered the building at 7:31 a.m., which was 31-minutes after your start time of 7:00 a.m. Additionally, you did not meet with the property room manager as you had stated, and when confronted with all of this information, you continually changed your story about when you arrived to work, and what you may have been doing from the time you initially told your supervisor you arrived at work, which was 7:10 a.m. Door code evidence suggests you entered the building at 7:31 a.m., went into the locker room to change, exited through the gym, and entered your door code in the door leading upstairs at 7:39 a.m., before walking into the training at approximately 7:45 a.m. You were untruthful when questioned by your supervisor, you implied another uninvolved employee, and you continually changed your statement during your internal affairs interview, reiterating many of the same lies from the day of the incident. Your explanation for arriving 45 minutes late to mandatory training on June 20, 2024, was riddled with falsehoods. You falsely claimed to have been meeting with PRM Meere to handle evidence issues, an assertion disproven by entry logs, a corroborated denial by PRM Meere, and your own deceptive text message attempting to manufacture a false justification for your tardiness. Even when confronted with irrefutable evidence, you minimized your conduct and changed your story to align with the facts as they were presented to you.

3. The same pattern of dishonesty was evident in the October 25, 2024, incident, when you claimed to have attempted service for two subpoenas at two addresses. You wrote, "No Answer" on the tracking slip at 9:23 p.m. and 9:42 p.m. and told your supervisor that you attempted to serve the subpoenas that evening. Additionally, during your interview in the internal affairs investigation, you confirmed your attempt to serve the subpoenas by physically walking up to the doors. However, you were physically on a call for service at a Ross store until 9:30 p.m., proving you inaccurately noted the service time for the 9:23 p.m. attempt. Moreover, the evidence shows that you failed to attempt service of either subpoena. You had no calls for service at either address, there was no video surveillance in the neighborhood showing your attempted service, and your fleet and fixed automated license plate reader data did not show you in the area of the address at the time of the attempted service, nor did they even physically put you on the street the night of the attempted service. Your statements were directly refuted by license plate reader data, video evidence, CAD records, and an inability to reconcile your claimed actions with verifiable movements. Once again, you failed to take accountability, gave conflicting statements, and ultimately could not explain the discrepancies, all of which confirm an intent to deceive.

Your pattern of providing knowingly false and misleading information in connection with official duties is a direct violation of Department Manual Policy Sections 341.5.9, Manual of Rules 4.96 and the Daly City Rules and Regulations of the Classified Service, Rule XVIII, Standards of Employment, Section 10(n). Dishonesty strikes at the heart of our profession. Courts, prosecutors, and the public rely on officers to be truthful in their statements, reports, and testimony. Your repeated and sustained dishonesty compromises your credibility and renders you ineffective in any role that requires public trust.

B. YOU WILLINGLY AND KNOWINGLY FAILED TO PROPERLY FOLLOW POLICY AND PROCEDURE STANDARDS EXPECTED OF YOU AS A DALY CITY POLICE OFFICER

1. In the June 2, 2024, incident, you failed to properly identify a theft suspect before releasing them with a citation to appear in court. You did not seek supervisor guidance or approval before making the decision to cite the individual out, after you acknowledged twice at the onset of the investigation you would book them into jail for lack of identification. You did not obtain a thumbprint on any citation, which could aid in identifying the subject should they fail to appear in court, and you did not provide a copy of the citation to accompany your investigative report. Your failure jeopardized public safety, undermined Department procedures, and violated both Daly City Police Department Policy Manual Section 420.4.2 and Penal Code § 853.6(i).

2. In the June 20, 2024, incident, you did not notify a supervisor you were going to be late for your assigned start time, submitted a false timecard, and attempted to cover up your tardiness through deception.

3. In the October 25, 2024, incident, you failed to attempt service on two subpoenas issued to you, in which you claimed to try to serve, and then lied to your supervisor and during the internal affairs investigation.

These failures reflect violations of Daly City Police Department Policy Manual Sections 341.5.6 (Attendance) and 341.5.8 (Efficiency), and Manual of Rules Section 3.55 (Knowledge of Laws and Regulations), 3.60 (Performance of Duty), 3.65 (Obedience to Laws and Regulations), and 4.56 (Attendance).

As a Police Officer for Daly City, you are expected to maintain the highest level of integrity, responsibility, and competency, carrying out your duties with excellence and diligence. Your misconduct was not only an abuse of the trust placed in you by the Department—but has very serious implications for the Police Department and Daly City in the public eye.

Finally, I note your actions not only violated significant DCPD rules and policies, but your conduct also violated City of Daly City policies prohibiting the following: Untruthfulness; Failure to follow rules, regulations, directions, policies, and procedures, and Violations of City, State and/or Federal Law(s). You have repeatedly shown you cannot be trusted to perform your duties with integrity, accuracy, or reliability. Continued employment poses unacceptable risk to the Department, the City, and the public. Termination is necessary to uphold the ethical and operational standards of our Department.

VI. WARNING AGAINST RETALIATION

Please be advised that it is illegal and a violation of City policy to retaliate against any person who has participated in providing information regarding this investigation or issuing this

disciplinary notice. Any retaliatory conduct constitutes a separate and independent basis for discipline up to and including termination.

VII. PRE-DISCIPLINARY RESPONSE TO CHARGES

You have the right to respond to your proposed termination within seven (7) days from the date you received this Notice, either by requesting a *Skelly* conference or by providing a written response, or both. Your contact for requesting the *Skelly* conference and/or providing a written response is Natalie Sakkal, Director of Human Resources. Her email address is nsakkal@dalycity.org. Failure to request a *Skelly* conference or provide a written response within seven (7) days from the date you received this Notice constitutes a waiver of your right to respond prior to final discipline being imposed.

If you request a *Skelly* conference, a designee selected by the City Manager will conduct an informal meeting with you. The Chief of Police will also be present. You have the right to have a representative of your choice at the *Skelly* conference.

VIII. DOCUMENTS RELIED UPON IN MAKING RECOMMENDATION

The following documents were considered and relied upon in recommending that you be terminated. They are attached. I have reviewed your personnel file and given it consideration in deciding on the recommended discipline. Your personnel file is not attached, but if you wish to review it you may contact Natalie Sakkal to schedule an appointment. Please note that the attachments and digital evidence created or reviewed as part of the below investigations are not attached to this Notice. If you would like a copy of any of these items, please contact Natalie Sakkal. The *Skelly* conference will not be delayed pending your receipt of these items.

1. Administrative Investigation 24-04
2. Findings & Recommendations 24-04
3. Administrative Investigation 24-06
4. Findings and Recommendations 24-06
5. Administrative Investigation 24-07
6. Findings and Recommendations 24-07
7. Disciplinary Review Panel Memorandum (05/15/25 for IA's 24-04, 24-06, 24-07)
8. Disciplinary Review Panel Memorandum (02/25/25 for Collision on 01/18/25)
9. Notice of Paid Administrative Leave dated 02/27/25)
10. Relevant Excerpts from the Daly City PD Lexipol Policy Manual

CC: Cameron Christensen, Acting Chief of Police
Natalie Sakkal, Director of Human Resources
Rose Zimmerman, City Attorney

Acknowledgment of Receipt:

Received: _____ 06/02/25 1700
Kevin Smithmatungol Date

Ignacio Ruiz #95 06/02/25 1700

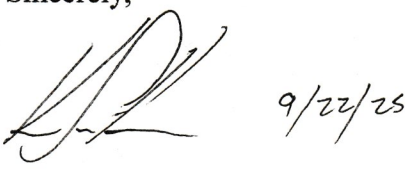
Acting Chief Christensen,

This letter represents my official notice of irrevocable resignation from my position as a Police Officer with the Daly City Police Department being made final on the 1st day of October, 2025. I waive any and all further appeal of the administrative case and waive any potential civil claims against the City as a result of my employment and or separation.

My time at the Daly City Police Department has been educational and rewarding. The experiences and people I have met at the department will undoubtedly aid me in my future endeavors. I am grateful for the opportunity to learn and grow as a person and I hope to take the lessons and growth with me in my future.

I wish you and the department continued success in the future.

Sincerely,



Kevin Smithmatungol

PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

July 16, 2026
AGENDA
10:00 AM

Meeting Location: CA Commission on POST Headquarters, 860 Stillwater Road - Training Rooms A/B, West Sacramento, CA 95605.

The Peace Officer Standards Accountability Advisory Board (Board) operates under the requirements set forth by the Bagley-Keene Open Meeting Act (Bagley-Keene) under Government Code sections 11120 through 11132. Bagley-Keene generally requires that the Board publicly notice meetings, prepare agendas, allow public participation, and conduct meetings in a location accessible to public members unless specifically authorized by Bagley-Keene to meet in closed session.

Public comment will be limited in time at the discretion of the Board Chair. The public comment period preceding items on the agenda will allow members of the public to comment on items not on the agenda but that are within the Board's jurisdiction. The Board cannot act on or deliberate on items not on the agenda and can discuss the matter only to the extent necessary to determine whether it should be made an agenda item at a future meeting, to respond briefly to statements or questions posed during public comment or to request clarification, or to refer the item to staff. Agenda items may be taken out of order and action (e.g., voting) may be taken on any agenda item. Public comment relating to each item on the agenda will be allowed at the time each matter is heard. Members of the public who wish to participate during public comment may do so in person by attending the meeting, or, as stated hereafter, by telephonic means or by submitting written public comment.

Written public comment is intended to allow members of the public, if unable to attend in person, an opportunity to participate to the same degree as if they attended in person; as such, written comments should be limited to no more than three pages in length and longer written comment will not be accepted or distributed to Board members. To be considered for inclusion in the meeting record, written comments should be received by no later than 10 a.m. on the fourth business day before the scheduled meeting. Accepted written public comments will be published on POST's website under the Public Comment section under the corresponding meeting date. Written public comments can be submitted via email to posadpc@post.ca.gov. Telephonic public comment can be made by dialing (916) 866-9583 and following the prompts provided.

Persons requesting disability-related accommodations or modifications may do so by contacting the Board assistant at (916) 227-3909 (voice), posadpc@post.ca.gov (email), or Speech-to-Speech users may dial 7-1-1 for the California Relay Service to request special accommodations. Please note: This meeting and all public meetings will be recorded.

No weapons are allowed on the premises during public meetings. Upon entering POST's

facility, you are subject to a weapons screening and will be denied entry if you possess any weapon. POST's Executive Director retains the discretion to grant exceptions for duly-authorized individuals, such as on or off-duty law enforcement officers who are not the subject of a POST administrative investigation, suspension, or decertification action.

I. CALL TO ORDER

II. ROLL CALL OF POSAAB MEMBERS

Dr. Nicole Clavo Psy.D - Governor Appointee - Public Member
Regina Hatcher-Crawford - Governor Appointee - Public Member
Robert Doyle - Governor Appointee - Former Command Rank Peace Officer
Joyce E. Dudley - Chair - Governor Appointee - Attorney
Cephus Johnson - Governor Appointee - Public Member
Captain Charles Lara - Governor Appointee - Management Rank Peace Officer
Margaret Pena - Speaker of Assembly Appointee - Public Member
Vacant - Senate Rules Appointee - Public Member
Vacant - Governor Appointee - Public Member

III. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

The Board Chair will advise the audience of the following:

This time is set aside for members of the public who wish to comment on items not on the agenda but within the board's jurisdiction. Public comment on matters on the agenda will be heard at the time each item is called. 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. Members of the public who wish to speak during the public comment period may be asked to limit their remarks in time at the discretion of the Board Chair.

IV. APPROVAL OF MEETING TRANSCRIPTS

Approval of meeting transcripts from the previous Peace Officer Standards Accountability Advisory Board Meeting held on April 15, 2026.

a. Approval of Meeting Transcript from the April 15, 2026 Hearing

If the Board concurs, the appropriate action would be a **MOTION** to approve the meeting transcripts from the last Board meeting.

V. ASSISTANT EXECUTIVE DIRECTOR COMMENTS

VI. NEW BUSINESS

a. Proposed 2027 Peace Officer Standards Accountability Advisory Board Meeting Dates

If the Board concurs, the appropriate action would be a **MOTION** to approve the 2027 POSAAB meeting dates.

b. Report on Data for Serious Misconduct Reporting, Investigations, and Disciplinary Action Outcomes

This item is presented for information only. No action is required.

VII. NEW CASES - REVIEW, DISCUSSION AND RECOMMENDATIONS TO COMMISSION

a. POST2507244 - Eduardo Escareno-Davila (POST ID: C99-P62) Last Employing Agency: Mendocino County Sheriff's Office

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

b. POST2505112 - Kevin Smithmatungol (POST ID: C88-T32) Last Employing Agency: Daly City Police Department

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

VIII. CLOSED SESSION

At this time the meeting will adjourn into closed session for for deliberations on the cases presented today.

IX. FUTURE BOARD MEETING DATES FOR 2027

Upcoming Board meetings will be held:

- October 14-15, 2026 - POST HQ, West Sacramento

X. ADJOURNMENT

AGENDA ITEM REPORT

Title: POST2505112 - KEVIN SMITHMATUNGOL (POST ID: C88-T32) LAST EMPLOYING AGENCY: DALY CITY POLICE DEPARTMENT

REPORT PROFILE

MEETING DATE 07/16/2026	**BUREAU SUBMITTING THE REPORT** Peace Officer Standards Accountability Division	
RESEARCHED BY Christina Moore	**REVIEWED BY** Brian South	
REPORT DATE	**APPROVED BY** Annemarie Del Mugnaio	**DATE APPROVED**
PURPOSE	**FINANCIAL IMPACT** No	

ISSUE, BACKGROUND, ANALYSIS, & RECOMMENDATION

ISSUE:

The matter is before the Peace Officer Standards Accountability Advisory Board (POSAAB) for review and recommendations regarding the subject peace officer's certification status.

BACKGROUND:

Respondent began his employment with the Daly City Police Department on January 3, 2022, as a trainee, becoming a full-time Police Officer on July 11, 2022. At the time of the events at issue, Respondent was employed as Police Officer with the Daly City Police Department. After receiving the Notice of Intent to Terminate, the Respondent resigned effective October 1, 2025. At the time of this incident, Respondent held 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).

On June 2, 2024, the Respondent contacted a female subject, who was detained by Target security for shoplifting, and cited and released the party. On the day of the incident, when questioned by his supervisor regarding how the party was identified, the Respondent stated he obtained the subject’s fingerprint, when he had not. The Daly City Police Department initiated an internal affairs investigation and confirmed the Respondent did not obtain the female subject’s fingerprint.

During his Internal Affairs interview on January 31, 2025, the Respondent falsely stated he obtained the subject's fingerprint. During his interview with POST conducted on January 13, 2026, the Respondent admitted he did not obtain a fingerprint from the subject at any time and was dishonest in his internal affairs interview.

On June 20, 2024, when asked by his supervisors as to why the Respondent had arrived late for his scheduled training day, the Respondent explained he was addressing some outstanding evidence with the Property Room Manager. Then, the Respondent sent the Property Room Manager a text message which stated, *"If Karen or Jerel* [supervisors] *asks can you please let them know I was handling evidence with you!"* The Daly City Police Department initiated an internal affairs investigation and determined the Respondent was approximately 30 minutes late for training and had not been working on outstanding evidence that morning. During his internal affairs interview on January 31, 2025, the Respondent falsely stated that he had been handling evidence for the Property Room Manager and denied the purpose of the text message was to create an alibi. During his interview with POST conducted on January 13, 2026, the Respondent admitted he claimed in his internal affairs interview that he was handling evidence for the Property Room Manager when he had not been. The Respondent admitted he sent the text to the Property Room Manager that morning, despite not having worked on evidence with her, but he had not intentionally asked the Property Room Manager to lie on his behalf.

On October 25, 2024, the Respondent was assigned two (2) subpoenas to serve. Respondent informed his supervisor and wrote on the subpoena return slip that he had attempted to serve each subpoena when he had not. The Daly City Police Department initiated an internal affairs investigation and confirmed the Respondent did not attempt to serve either subpoena. During his Internal Affairs interview on January 31, 2025, the Respondent falsely stated he had attempted to serve the subpoenas. After being presented evidence which indicated he never attempted service of either subpoena, the Responded explained "maybe I didn't do it." During his interview with POST conducted on January 13, 2026, the Respondent admitted he did not attempt to serve either subpoena and was dishonest in his internal affairs interview to avoid disciplinary action.

Following the conclusion of the three (3) internal affairs investigations, the Respondent was served a Notice to Intent to Terminate. On August 15, 2025, the Respondent attended an administrative meeting, where he resigned effective October 1, 2025.

ANALYSIS:

Clear and convincing evidence substantiated that the Respondent violated California Penal Code §13510.8(b)(1) and Commission Regulation §1205(a)(1), Dishonesty. The Respondent admitted to POST he knowingly and deliberately provided false information to an internal affairs investigator during three (3) investigations into his own misconduct.

RECOMMENDATION:

The Peace Officer Standards Accountability Advisory Board (POSAAB) shall review the findings of investigations presented by the Peace Officer Standards Accountability Division (POSAD) and make a recommendation regarding what action should be taken, suspension or revocation, on the certification of the subject peace officer.

ATTACHMENT(S):

BR01_POST2505112_Smithmatungol Kevin_ISF.pdf
BR02_POST2505112_Smithmatungol Kevin_Executive Review Division Recommendation.pdf
BR03_POST2505112_Smithmatungol Kevin_POST Profile.pdf
BR04_POST2505112_Smithmatungol Kevin_Att.C_Administrative Investigative Memorandum Excerpts 24-04.pdf
BR05_POST2505112_Smithmatungol Kevin_Att.D_Administrative Interview Transcript 24-04.pdf
BR06_POST2505112_Smithmatungol Kevin_Att.E_Administrative Investigative Memorandum Excerpts 24-06.pdf
BR07_POST2505112_Smithmatungol Kevin_Att.F_Administrative Interview Transcript 24-06.pdf
BR08_POST2505112_Smithmatungol Kevin_Att.G_Administrative Investigative Memorandum Excerpts 24-07.pdf
BR09_POST2505112_Smithmatungol Kevin_Att.H_Administrative Interview Transcript 24-07.pdf
BR010_POST2505112_Smithmatungol Kevin_Att.I_Notice of Intent to Terminate.pdf
BR011_POST2505112_Smithmatungol Kevin_Att.J_Letter of Resignation.pdf
BR012_POST2505112_Smithmatungol Kevin_Att.K_Division Interview Transcript.pdf

RLS RAINS LUCIA STERN
ST. PHALLE & SILVER, PC

Robert W. Nichelini
Of Counsel
RNichelini@RLSlawyers.com

March 10, 2026

VIA EMAIL [SB2@POST.CA.GOV] FIRST-CLASS MAIL

Brian South, Bureau Chief
Commission on POST
Peace Officer Standards and Accountability Division
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1603

Re: Revocation Proceedings – Kevin Smithmatungol
Case Numbers – POST2505112, POST2505137 and POST2505140

Dear Mr. South:

I represent Kevin Smithmatungol in all matters related to the proposed revocation or suspension of his peace officer certification, as described in your letter dated February 17, 2026. Mr. Smithmatungol's Request for Review of Peace Officer Certification (POST Form 2-359) is attached. I have signed the form on behalf of Mr. Smithmatungol to ensure it is received by the filing deadline of March 17, 2026. Please let me know if you need Mr. Smithmatungol's personal signature.

Mr. Smithmatungol is deeply and sincerely remorseful for his actions, which ended his childhood dream of pursuing a career in law enforcement, starting as a 17-year-old Police Explorer in Southern California. His brother is a police sergeant, and law enforcement is a family tradition. Mr. Smithmatungol holds a Bachelor's Degree in Criminal Justice and graduated at the top of his class from the Contra Costa County Sheriff's Academy.

When these incidents occurred, Mr. Smithmatungol was going through a serious family trauma. [redacted] He was overwhelmed by multiple 16-hour workdays with little rest between shifts. He has repeatedly apologized to the Department for his actions.

Mr. Smithmatungol's behavior was completely inconsistent with his prior honorable service and did not negatively impact community safety, nor did it directly harm any members of the public. In fact, Mr. Smithmatungol was allowed to perform his regular Police Department duties for months after his misconduct was discovered, investigated, and reported to the Department's command staff.

Mr. Smithmatungol is willing to accept any length of suspension that will allow him to regain his peace officer status in the future. Since leaving the Daly City Police Department, Mr. Smithmatungol has become a certified Emergency Medical Technician and is now working toward certification as a nursing assistant, showing his dedication to helping the community and local residents.

Please contact me if you require any further information at this time.

Very truly yours,

RAINS LUCIA STERN
ST. PHALLE & SILVER, PC

Robert W. Nichelini

State of California – Department of Justice
REQUEST FOR REVIEW OF PEACE OFFICER CERTIFICATION
POST 2-359 (03/2023)

Submit to: Commission on
Peace Officer Standards and Training (POST)
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1630 • 916 227-3909

The request for review must be received by the division or postmarked within 30 days of the latest date of mailing of the notice of intent to revoke. This form must be submitted by mail, email, or hand delivery to the Commission on Peace Officer Standards and Training. Email submissions shall be sent to *SB2@post.ca.gov*.

Peace Officer Information *(required section)*

Name
Kevin Smithmatungol

Address
[redacted]

Contact Phone
[redacted]

Email
[redacted]

POST ID#
C88-Y32

Employing agency at time of action
Daly City Police Department

POST Case#
POST2505112 POST2505137 POST2505140

Appellant Representation *(required section)*

You may represent yourself or be represented by a representative of your choosing.

I choose to:

☐ Represent myself

☑ Designate the following representative to act on my behalf during the course of this review.

Name	Phone
Robert W. Nichelini, Attorney at Law	925 609-1699
Address	**Email**
2300 Contra Costa Blvd., Suite 500, Pleasant Hill, CA 94523	rnichelini@rlslawyers.com

Signature *(required section)*

By signing this form, you are requesting a hearing to determine if reasonable grounds for suspension or revocation exists based on clear and convincing evidence and affirming that the information you provided is true and correct.

Peace Officer Signature	Date
By [signature]	3/10/2026

ROBERT W. NICHELINI
ON BEHALF OF
KEVIN SMITHMATUNGOL

RLS RAINS LUCIA STERN
ST. PHALLE & SILVER, PC

Robert W. Nichelini
Of Counsel
RNichelini@RLSlawyers.com

June 30, 2026

VIA EMAIL [POSADPC@POST.CA.GOV] FIRST-CLASS MAIL

Commission on Peace Officer Standards and Training
Peace Intake and Disposition Bureau
860 Stillwater Road, Suite 100
West Sacramento, CA 95605-1603

Re: Peace Officer Standards Accountability Advisory Board
Revocation Proceedings – Kevin Smithmatungol
Case Numbers – POST2505112, POST2505137 and POST2505140

I am submitting the following statement on behalf of Kevin Smithmatungol and request that the **Peace Officer Standards Accountability Advisory Board consider it** during its deliberations.

Mr. Smithmatungol is deeply and sincerely remorseful for his actions, which ended his childhood dream of pursuing a career in law enforcement, a dream that began when he was a 17-year-old Police Explorer in Southern California. His brother is a police sergeant, and law enforcement is a family tradition. Mr. Smithmatungol holds a bachelor's degree in criminal justice and graduated at the top of his class from the Contra Costa County Sheriff's Academy.

When these incidents occurred, Mr. Smithmatungol was dealing with family trauma. [redacted] and he had been working 16-hour days with little rest between shifts. He has repeatedly apologized for his actions and has voluntarily resigned from the Department.

Mr. Smithmatungol's behavior was entirely inconsistent with his prior honorable service and, significantly, did not endanger community safety or directly harm any members of the public. In fact, Mr. Smithmatungol continued to perform his regular Police Department duties for months after his misconduct was discovered, investigated, and reported to the Department's command staff.

Mr. Smithmatungol is willing to accept any suspension length that would allow him to potentially regain his peace officer status. Since leaving the Daly City Police Department, he has become a certified Emergency Medical Technician and is now working toward a career in nursing, demonstrating his dedication to helping the community and local residents.

I sincerely believe that Mr. Smithmatungol deserves a second chance.

Very truly yours,

RAINS LUCIA STERN
ST. PHALLE & SILVER, PC



Robert W. Nichelini

STATE OF CALIFORNIA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

In Re: CERTIFICATION OF	**BOARD RECOMMENDATION RE: PEACE OFFICER CERTIFICATION**
Kevin Smithmatungol,	Penal Code section 13510.85(a)(4)
Respondent.	

Penal Code section 13510.85 provides that when, upon the completion of an investigation conducted pursuant to subdivision (a) of section 13510.85, the Peace Officer Standards Accountability Division (the Division) finds reasonable grounds for revocation or suspension of a peace officer's certification, it shall notify the peace officer of the Division's determination and reasons for that determination. If the peace officer files a timely review, the Peace Officer Standards Accountability Advisory Board (Board) shall schedule the case for hearing.

Respondent was served with the Division's Notice of Determination Report and accompanying Notice of Intent to Revoke Certification, notifying Respondent the Division found reasonable grounds for revocation of Respondent's POST certification, on February 18, 2026. Respondent requested a review of the Division's determination and reasons for revocation of Respondent's POST certification on March 10, 2026, and the Board scheduled the case for a hearing which was held on July 16, 2026. At the time of Respondent's request for review of the Division's determination, Respondent had been issued the following POST certification(s):

- ☐ Proof of Eligibility
- ☒ Basic
- ☒ Intermediate
- ☐ Advanced
- ☐ Supervisory
- ☐ Management
- ☐ Executive

FACTUAL BASIS

Having considered the Division's presentation at the hearing, the Division's Investigative Summary and Findings and the public comments, the Board concludes that:

✱ A factual basis for revocation has been established by clear and convincing evidence.

__ A factual basis for suspension has been established by clear and convincing evidence.

__ A factual basis for suspension or revocation has not been established by clear and convincing evidence.

RECOMMENDATION

In light of the facts and circumstances revealed by the Division's investigation in this case, the Board hereby recommends that the following action(s) be taken against Respondent's certification:

✱ Revocation of Certification

__ (If applicable) The Board further recommends a stay of the Revocation of Certification, subject to the following terms and conditions (see Commission Regulation 1216 and POST Disciplinary Guidelines):

_____

_____

_____

__ Suspension of Certification for the following period of time, not to exceed 3 years, per 11 CCR section 1213(b): _____.

__ (If applicable) The Board further recommends the following terms and conditions (see Commission Regulation 1216 and POST Disciplinary Guidelines), which (unless otherwise noted) must be satisfied before certification will be reinstated. NOTE: Failure to satisfy these terms and conditions may result in a period of suspension exceeding 3 years:

_____

_____

_____

__ (If applicable) The Board further recommends a stay of the Suspension of Certification, subject to the following terms and conditions (see Commission Regulation 1216 and POST Disciplinary Guidelines):

_____

_____

_____

__ No further action.

REASONS FOR DECISION

✱ In accordance with Penal Code section 13510.85(a)(4) and title 11, California Code of Regulations section 1213, the Board incorporates by reference the Division's Investigative Summary and Findings and hereby adopts the Division's Summary and Findings as the Board's stated reasons for its recommendation in the above captioned matter.

___ (Where applicable) In accordance with Penal Code section 13510.85(a)(4), the Board's reasons for its recommendation are as follows:

_____

_____

_____

_____

_____

_____

_____

_____

_____

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_____

Dated: 7/16/26

_____
Chairperson or Designee
Peace Officer Standards Accountability
Advisory Board

STATE OF CALIFORNIA

COMMISSION ON

PEACE OFFICER STANDARDS AND TRAINING

PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

(POSAAB) MEETING

THURSDAY, JULY 16, 2026

10:00 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:
Kathryn S. Swank
California Certified Shorthand Reporter #13061, RPR

A P P E A R A N C E S

POSAAB MEMBERS PRESENT

JOYCE DUDLEY
Governor Appointee
Attorney
(Chairperson)

ROBERT DOYLE
Marin County Sheriff (Retired)
Vice Chairperson

NICOLE CLAVO, Psy.D.
Governor Appointee
Public Member

REGINA HATCHER-CRAWFORD
Governor Appointee
Public Member

CEPHUS JOHNSON
Governor Appointee
Public Member

CHARLES LARA
Governor Appointee
Management Rank Peace Officer

MARGARET PENA
California State Legislature
(Retired)

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PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD LEGAL COUNSEL

CHRISTOPHER BEATTY
Deputy Attorney General
Department of Justice
Office of the Attorney General

---o0o---

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

POST STAFF

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

GERALD FERNANDEZ
Law Enforcement Consultant
Professional Conduct Northern Division

BRIAN HOFFMAN
Attorney IV
Legal Affairs Bureau

CHANDLER KNAPP
Analyst II
Executive Office

CHRISTINA MOORE
Law Enforcement Consultant
Professional Conduct Central Bureau

---o0o---

ALSO PRESENT

PUBLIC SPEAKERS

BEATRICE JOHNSON

ANDREA SORCE

KORI McCOY

KRIS KELLY

MELISSA NOLD

---o0o---

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Thursday, July 16, 2026, 10:09 a.m.

West Sacramento, California

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CHAIRPERSON DUDLEY: Good morning, everyone. Today is Thursday, July 16th, 2026. And the time is 10:09. Thank you for attending the Peace Officers Standards Accountability Advisory Board.

Please note this hearing is being livestreamed, recorded and transcribed.

Further, please note that the microphones are auto on/off. When you begin speaking, they will go live with you. You will need to watch your crosstalk.

We will now call the roll of board members.

MR. KNAPP: Thank you, Madam Chair.

CHAIRPERSON DUDLEY: Good morning, Mr. Knapp.

MR. KNAPP: Thank you, everybody.

CHAIRPERSON DUDLEY: Thank you. Good morning.

MR. KNAPP: Member Clavo.

MEMBER CLAVO: Present.

MR. KNAPP: Member Crawford.

MEMBER HATCHER-CRAWFORD: Present.

MR. KNAPP: Member Doyle.

MEMBER DOYLE: Here.

MR. KNAPP: Chair Dudley.

CHAIRPERSON DUDLEY: Here.

MR. KNAPP: Member Johnson.
MEMBER JOHNSON: Present.
MR. KNAPP: Member Lara.
MEMBER LARA: Present.
MR. KNAPP: And Member Pena.
MEMBER PENA: Present.
MR. KNAPP: Thank you. Madam Chair, all members present.
CHAIRPERSON DUDLEY: Wonderful. A quorum has been established.
I would now like to introduce -- to my left is Christopher Beatty and POST Assistant Executive Director Annemarie Del "Munig" -- I got it this time. Del Mu- -- Del "Munio."
MS. DEL MUGNAIO: Del Mugnaio.
CHAIRPERSON DUDLEY: Del Mugnaio. I don't have it this time.
You'd think I would have memorized that by now.
All right. 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

Lara.

MEMBER LARA: Aye.

MR. KNAPP: Lara, aye.

Pena.

MEMBER PENA: No.

MR. KNAPP: Six in favor. Motion carries.

Okay. Moving on to the next case.

Thank you very much.

Okay. This is, at this time -- let's see. At this time, I will now call upon Law Enforcement Consultant Chrintina [sic] --

MS. MOORE: Christina.

CHAIRPERSON DUDLEY: Moore, Professional Conduct Central Bureau; and Brian Hoffman, Attorney IV, Legal Affairs Bureau, to provide a report on POST2505112.

And can you pronounce the last name for me?

MS. MOORE: Christina Moore.

CHAIRPERSON DUDLEY: No. Not your last name. Your last name, I got.

MS. MOORE: Kevin Smithmatungol.

CHAIRPERSON DUDLEY: Say it again.

MS. MOORE: Kevin Smithmatungol.

CHAIRPERSON DUDLEY: Smithmatungol.

MS. DEL MUGNAIO: Joyce, can you hold for one second?

CHAIRPERSON DUDLEY: Yeah.

MS. DEL MUGNAIO: We got to go find our attorney.

CHAIRPERSON DUDLEY: We're going to have to pause and look for your attorney.

(Pause in proceedings.)

CHAIRPERSON DUDLEY: Now we have Brian Hoffman, Attorney IV, Legal Affairs Bureau, to provide a report on POST2505112, Kevin Smithmatungol, who, at the time of the events at issue in this case, was employed with Daly City Police Department.

Okay. Please proceed.

MS. MOORE: Good afternoon, Madam Chair and Members of the Board.

My name is Christina Moore. And I am one of the Law Enforcement Consultants assigned to the Professional Conduct Central Bureau, in the Peace Officer Standards Accountability Division.

With me today is Brian Hoffman, an attorney with our Legal Affairs Bureau.

I'm here today to present Case Number POST2505112, POST2505137, and POST2505140, involving Kevin Smithmatungol, who at the time was employed by the Daly City Police Department.

It is the Division's determination that clear and convincing evidence exists to demonstrate that Kevin

Smithmatungol committed an act of serious misconduct, as set forth in Penal Code section 13510.8, on January 31st, 2025.

Specifically, the Division has determined that Officer Smithmatungol committed dishonesty when he provided false statements during three separate Internal Affairs interviews.

First, I will provide a background on Officer Smithmatungol, hereinafter the "Respondent," and an outline of relevant events.

Second, I will summarize each of the three incidents under investigation, provide examples of the respondent's specific statements in each, and identify the evidence in each respective investigation.

Finally, I will provide analysis supporting the Division's determination that the respondent's actions constituted serious misconduct.

The respondent began his career with the Daly City Police Department on January 3rd, 2022, as a trainee.

On July 11th, 2022, the respondent was promoted to the position of police officer and had been an officer for approximately two and a half years at the time the serious misconduct occurred.

The respondent was the subject of three Internal Affairs investigations, each relating to separate

incidents.

Daly City Police Department conducted three separate and distinct interviews, with the respondent all on January 31st, 2025.

During each interview, the respondent provided false statements.

He made false statements when he -- when he stated:

A. He obtained the fingerprint of a shoplifter;

B. He was late for training because he was handling evidence;

And, C. He attempted to complete service of two subpoenas.

Following the conclusion of the three administrative investigations, the Daly City served the respondent a Notice of Intent to Terminate, and the respondent submitted his resignation of employment.

The investigation established, by clear and convincing evidence, that the respondent did not obtain a fingerprint of a shoplifter; was not handling evidence, causing him to be late for training; and did not attempt service of two subpoenas.

I will now provide details of the first investigation, provide an example of the respondent's specific false statements made in the Internal Affairs interview, and the supporting evidence.

On June 2nd, 2024, the respondent responded to a retail store regarding a female subject who was detained by security for shoplifting. The female subject verbally provided a name and date of birth, and a bank card with this name.

A records check through law enforcement databases revealed no matching records, no associated driver's license, or identification number.

The respondent cited and released the party without confirming the subject's identity.

On the day of the incident, when questioned by his supervisor regarding how the party was identified, the respondent stated he obtained the subject's fingerprint.

During his Internal Affairs interview, on January 31st, 2025, the respondent made multiple false statements by fabricating details of how, when, and where he obtained a fingerprint.

An example of this is when asked by the Internal Affairs investigator if he obtained a fingerprint of the female subject, the respondent made statements that he did.

When asked when the fingerprint was obtained, the respondent stated, quote, "I'm not sure how long after and she came out and that's when I realized I didn't get a fingerprint from her. And my ink pad is in the front

pocket of my duty bag," end quote.

He also stated, quote, "And when she walked out, I grabbed my thumbprint or my ink pad, got the thumbprint and put the citation in my car until the end of shift," end quote.

The Division investigation revealed that the respondent did not obtain the female subject -- female subject's fingerprint at any time.

Evidence to support that he did not obtain a fingerprint includes the following: The body-worn camera recordings from the respondent and responding officers captured the entire enforcement contact, as well as a subsequent enforcement contact at the same location; and displayed no evidence to substantiate a fingerprint was obtained.

The surveillance footage from the Target shopping center, which displayed the respondent's arrival, parked patrol vehicle, and departure from the scene, substantiated -- displayed evidence to substantiate no fingerprint was obtained.

The electronic ticket writer was not equipped to obtain a digital fingerprint, and the data extraction displayed no evidence a duplicate citation was printed.

During his interview with the Division on January 13th, 12026, the respondent admitted he did not

obtain a fingerprint from the subject at any time.

During his interview with the Division, the respondent admitted he was dishonest in his Internal Affairs interview when he claimed to have obtained a fingerprint. And when asked why, he stated, quote, "Um, I -- like I said, I have no excuse. I was going through some personal things then. And I -- I have no reason," end quote.

During his interview with the Division, the respondent confirmed he reviewed his body-worn camera prior to the Internal Affairs interview; was aware he should have booked the female subject when he was unable to identify her; and decided not to be forthcoming during his Internal Affairs interview.

When asked why by the Division, he explained it was his, quote, "First kind of disciplining and as well as some things back at home and -- or something happening at home. And I wasn't in the right mindset and I didn't take responsibility for my actions," end quote.

I will now proceed with a brief summary of the second investigation, provide an example of the respondent's specific false statements made in the Internal Affairs interview, and the supporting evidence.

Please note, some of the supporting evidence referenced, such as the body-worn camera footage from

the respondent's 12-hour shift, and hours of video in evidence showing the respondent was never at the location, were not included as attachments in the Investigative Summary and Findings, as the respondent did not dispute the allegations.

These materials were reviewed by POST during the investigation and can be made available upon your request.

On June 20th, 2024, the respondent was scheduled to attend a training day with a start time of 7:00 a.m. When he arrived in the training room at approximately 7:40 a.m., his supervisors asked why he was late. And the respondent stated he had been handling evidence-related matters with the property room manager.

At 8:07 a.m., the respondent then sent the property room manager the following text message:

"If Karen or Jerel [supervisors] asks can you please let them know I was handling evidence.com with you!"

During his Internal Affairs interview, the respondent made multiple false statements regarding the reason he was late, was evasive about his arrival time, and fabricated what he was doing at the time.

An example of this is when asked where he was at 0700 hours, he stated, quote, "Uh, locker room, changing

out, using the restroom. And then since it was Thursday, I had, uh, some emails from evidence that I was going to take care of," end quote.

When asked by the Internal Affairs investigators if he told the sergeants he was with the property room manager to avoid any type of punishment for being late, he explained it was a matter of semantics; that he told them he was doing evidence with her and actually meant to say "for her" and denied doing so to avoid punishment for being late.

The Division investigation revealed that the respondent did not handle evidence-related matters and it was not the cause of him being late for the training day.

Evidence to support he was not handling evidence prior to his arrival in the training room at 7:40 a.m. includes the following:

The respondent's training day was scheduled to begin at 7:00 a.m., and the Daly City Police Department door code audit indicated the respondent arrived at the station at 7:31 a.m.

No evidence in the electronic evidence management system was manipulated by the respondent prior to 11:00 a.m.

The property room manager stated she never met with

the respondent that morning.

During his interview with the Division, the respondent admitted he was late to training day because he woke up late. He explained he was, quote, exhausted, end quote, from working an overtime shift the night before.

The respondent admitted he did not handle evidence-related matters that morning and admitted the text message to the property room manager appeared untruthful.

I will now proceed with a brief summary of the third investigation, identify an example of the respondent's false statements made in the Internal Affairs interview, and the supporting evidence.

On October 25th, 2024, the respondent was assigned two subpoenas to serve during his patrol shift. At the end of his shift, the respondent informed his supervisor and wrote on the subpoena slip -- return slip, that he had attempted to serve both subpoenas and there was, quote, "no answer," end quote, citing the attempted service at 2123 and 2142 hours, respectively.

During his Internal Affairs interview, the respondent made multiple false statements and was adamant he attempted to serve both subpoenas until presented with evidence. Then the respondent could not

recall and ultimately conceded.

An example of this is, in response to the question, quote, "Can you say definitively that GPS on your patrol car would show you at these two addresses on this date?," end quote, the respondent stated, quote, "On that day, yes, it will," end quote.

Then, after being presented evidence that he did not go to either residence, the respondent stated, quote, "I don't -- I don't want to give you all these excuses. But if there's no video of me doing it, then I -- maybe I didn't do it. And I don't know why these dates and times would be on there, but I -- I don't remember honestly," end quote.

The Division investigation revealed that the respondent did not attempt to serve either subpoena. Evidence to support no service was attempted includes the following:

The respondent's body-worn camera from the entire shift indicated there was no service attempted;

The automated license plate reader data from the respondent's patrol vehicle indicated there was no service attempted;

The door camera surveillance from a nearby neighborhood indicated there was no service attempted;

Witness interviews with members of the residence

indicated there was no service attempted.

During his interview with the Division, the respondent admitted he did not attempt to serve either subpoena, but had claimed to for the purpose of avoiding disciplinary action.

He explained there was an expectation for officers in the Daly City Police Department to make an attempt to serve subpoenas. And no attempt was not acceptable, and he had observed other officers inaccurately note attempts of service when no attempt was made.

When asked why he made false statements during his Internal Affairs interview, he stated, quote, "I -- I don't know why I did that. It was untruthful and I had no reason to," end quote.

In addition to the facts provided, I would like to present information the respondent disclosed during the interview with the Division.

The respondent stated he received some personal information from May 24 -- 2024 to December 2024, which he believed affected his mindset at the time.

The respondent stated he agreed with the agency's sustained findings in all three investigations, which is why he did not appeal his determination.

The respondent has attended therapy and stressed accountability for his actions.

The Division presents this information for the purposes of California Regulation 1213, which states, in essence, the Commission shall consider any of the 15 listed factors in considering whether to take action against a peace officer's certification.

Penal Code section 13510.8(b)(1), and California regulation -- Code of Regulation 1205(a)(1), defines "serious misconduct," in essence, as "Dishonesty relating to the reporting, investigation, or prosecution of a crime, or relating to the reporting of or investigation of misconduct by a peace officer or custodial officer, including, but not limited to, false statements, intentionally filing false reports, tampering with, falsifying, destroying, or concealing evidence, perjury, and tampering with data recorded by a body-worn camera or other recording device for the purposes of concealing misconduct."

For the purposes of this subsection and including whether a suspension or revocation of certification is procedure, the Commission shall consider to which the dishonesty related to a material or significant fact in the context of the statement or admission alleged to be dishonest; and will also consider whether the dishonesty appears to have been done willfully or intentionally with the intent to deceive.

The Division has determined clear and convincing evidence demonstrates the respondent engaged in the serious misconduct of dishonesty because he lied during three separate Internal Affairs interviews on January 31st, 2025, for the purpose of concealing his misconduct.

The Division recommends that the respondent's POST certification be revoked or suspended.

The Division's recommendation is based on the following:

A. The respondent admitted he made false statements in the Internal Affairs interviews;

B. The respondent's false statements were related to the investigation of misconduct by a peace officer;

C. The context of the false statements were material facts in the investigation of his own misconduct.

And, D. The respondent willfully and intentionally attempted to deceive the Daly City Police Department Internal Affairs investigator by providing false statements in his interviews.

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

CHAIRPERSON DUDLEY: Are there any questions? Are there any questions from the Board?

Yes.

MEMBER PENA: Does -- Pena.

POST does a lot of training for new officers and officers throughout their career.

Does POST do any training on how to tell the truth, or what is the truth, or what is a lie or how to be truthful, etc.?

CHAIRPERSON DUDLEY: I'm not sure I understand your question.

Do you understand the question?

MS. MOORE: I don't.

CHAIRPERSON DUDLEY: Yeah. I'm sorry. The question that you are -- your question was confusing.

I don't know if you are asking how to decipher if someone is telling the truth or how they should speak the truth.

Could you say more?

MEMBER PENA: It -- I know it sounds peculiar, but -- so we all have our definitions of what telling the truth is and what is -- how we would define "telling the truth."

Does POST have training for officers on what it means to tell the truth and the importance of telling the truth?

CHAIRPERSON DUDLEY: I -- I think those are two

different questions.

Does -- so let me try to rephrase it and tell me if I hit it.

First, to the second one, which I think is a little easier. Does POST stress the importance of telling the truth? Is that one of your questions?

MEMBER PENA: Yeah. But that's more of a sub.

CHAIRPERSON DUDLEY: Okay.

MEMBER PENA: It is not as -- I would assume they do that.

CHAIRPERSON DUDLEY: Okay.

MEMBER PENA: But it is more -- what I'm getting at is, I think, in some instances, people actually need to learn how to tell the truth and what it means to tell the truth.

CHAIRPERSON DUDLEY: Okay.

Go ahead. We have an answer.

MS. DEL MUGNAIO: Board Member Pena, as part of the basic academy, they have a Learning Domain that covers professionalism and ethics. So it covers that, you know, a peace officer -- one of the primary, I think, roles of a peace officer is to be forthright, accountable, honest, you know, to instill trust. Right? So it is covered in Ethics and Professionalism. And it is probably covered throughout many other courses with

different titles.

But that's one in particular.

MEMBER PENA: Okay. I just --

CHAIRPERSON DUDLEY: Anyone that does an investigation here has to have gone through the training.

MEMBER PENA: Yeah. I would just say my -- sort of my personal observation in life is that telling the truth -- being truthful has gone through a transition.

And I would think, possibly, with different generations, that it would be helpful to have training on what exactly it means. Like what kinds of standards you are looking for when you are talking about telling the truth.

MS. DEL MUGNAIO: I think something else to keep in mind is, one of the acts of serious misconduct is dishonesty, for a reason; that that is a fundamental part of a peace officer's obligation in terms of the public trust. And they have a privilege of the state.

So I think it underscores everything a peace officer does.

And the fact that dishonesty could result in decertification, we emphasize that at most of our -- all of our presentations on serious misconduct; that there could be things that you could do to make -- that make

mistakes, that bad judgment. But it is hard to come back from dishonesty.

You know, it is why they are -- yeah. You know, they are placed on lists and they can't testify in court.

MEMBER PENA: Right.

MS. DEL MUGNAIO: There's a number of things that happen if a peace officer is dishonest.

So I imagine that it is instilled in them not just as a fundamental part of POST training and obligation, but throughout their time at the agency they work for, that that is just -- it underscores everything they do.

MEMBER PENA: And I am not -- by my question -- my question is just that -- I'm not really related directly to this case. I'm not in any way suggesting that that's an excuse --

MS. DEL MUGNAIO: Right.

MEMBER PENA: -- for this behavior. It is just generally -- because I look at the profile in terms of all the training that people receive. And I just wondered, is there is a training specifically on telling the truth?

So that's why I asked the question.

CHAIRPERSON DUDLEY: I think your question is a great question. I was having trouble getting to the

bottom of it.

MEMBER PENA: Yeah.

CHAIRPERSON DUDLEY: And I understand it.

I never imagined there would be a time when a question like that would be asked because, you know, we know what the truth is, right?

But it has become -- it has become blurry. And I appreciate what you are saying. And thank you for spending the extra time explaining it.

Yes.

MEMBER LARA: Just a quick search. It is -- and I used to be a training lieutenant in charge of the training at the regional academy for the San Diego area.

And I remember there being -- all the various teaching components are called LDs, or learning domains. And it looks like LD1 is Leadership, Professionalism, and Ethics.

And so the bottom line is, the truth is the truth. You either did something or you didn't do something.

And I -- I've been on the job for a while, and one thing that is really hammered into us from the moment we begin is that we are made of our word. And that if we -- and that you can be Brady-listed; that is, prohibited, you know, from testifying in court. And that what you have, as a law enforcement officer, is

your honor and your word; that what you say are the -- the case is the case.

So I want to be clear about that.

And, generationally, I think that's a -- I personally have -- I take exception to that, that this generation is worse than other generations or that the truth is somehow less than it is. You either did something or you did not do something. We are taught to -- and it is a requirement to be ethical, to be truthful.

And so I -- again, to my mind, it is -- in fact, there's a reason it is number one, to my mind, in the training. So it is instilled from us very early on.

And I don't think Mr. Doyle would think any differently, as a law enforcement officer.

CHAIRPERSON DUDLEY: I think where it has gotten blurry is more political than it is professional to the area of law enforcement. And it's become confusing.

Other comments or thoughts about this case or questions?

Let me just ask questions. Any more questions for the investigator or attorney?

(No response.)

CHAIRPERSON DUDLEY: Okay. It doesn't appear there are any questions, and now we'll go to public comment.

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

Yes. Mrs. Johnson.

MS. JOHNSON: I will read this so I can be on my point.

I want to say that this hearing is about more than one officer. It is about the integrity of our justice system. Every day, police officers are entrusted with the power to stop us, arrest us, use force against us, and testify in court.

That power must be masked by absolute honestly. When our officer lies not once, but repeatedly, the damage extends far beyond a single case. Innocent people can lose their freedom, and they do. Mostly Black and Brown. The percentage of that is overwhelming. There's been 27, 30 years and then find out the police officer lied. You can't get that time back.

Families are torn apart. Communities lose faith in the very people sworn to protect them.

We know, from history, that Black and Brown communities have too often suffered the consequences of dishonest policing. Every false report, every dishonest statement, and every lie has the potential to change someone's life forever.

This board has the responsibility to protect the public, not just today, but in the future. Decertifying officers who repeatedly demonstrate dishonesty sends a clear message that the badge is a symbol of integrity, not immunity. The truth is not optional. It is the foundation of justice.

And so I just wanted to say, I think it is -- I mean, I feel like -- Charles, that truth is number one. You -- you don't -- you have to be accountable. If you are a police officer, you can't be, like, "Oops, I don't know how to tell the truth." That is -- that is just -- that is not going to work for our community, for our people.

I mean, if they can't tell the truth, you can't believe anything they say at any time. And this officer, he had lied to his superiors. So if he had lied to the people who feed him, he will lie about anything. So I just feel like that -- I feel like him -- he's at the top. So I think he should be decertified and do something else.

Thank you.

CHAIRPERSON DUDLEY: Thank you, Mrs. Johnson.

And I did hear that neither the officer or his counsel are present. But let me just be -- make a record of that.

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

(No response.)

CHAIRPERSON DUDLEY: I'm looking to the audience. I don't see anybody, and nobody is on the screen. Okay.

Okay. All of us received -- Chandler sent out a couple of days ago a public comment that the officer and the attorney had written.

Does anyone need a moment to review that? Or is everyone clear about what was said in those words?

(No response.)

CHAIRPERSON DUDLEY: Okay. Seeing nobody saying they need additional time.

At this time, does the Board wish to adjourn into closed session for deliberations on this case? Or is the Board ready to take a vote?

MEMBER DOYLE: Doyle. I'm prepared to make a motion.

CHAIRPERSON DUDLEY: Okay. What's your motion?

MEMBER DOYLE: To decertify.

CHAIRPERSON DUDLEY: Is there a second?

MEMBER HATCHER-CRAWFORD: I second it. Hatcher-Crawford.

CHAIRPERSON DUDLEY: And is there any discussion? Abstention? Questions?

(No response.)

CHAIRPERSON DUDLEY: Okay. Would you take a vote, please?

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

Member Clavo.

MEMBER CLAVO: Aye.

MR. KNAPP: Clavo, aye.

Member Crawford.

MEMBER HATCHER-CRAWFORD: Aye.

MR. KNAPP: Crawford, aye.

Member Doyle.

MEMBER DOYLE: Aye.

MR. KNAPP: Member Dudley.

Member Dudley.

CHAIRPERSON DUDLEY: Aye.

MR. KNAPP: Dudley, aye.

Member Johnson.

MEMBER JOHNSON: Aye.

MR. KNAPP: Johnson, aye.

Member Lara.

MEMBER LARA: Aye.

MR. KNAPP: Lara, aye.

And Member Pena.

MEMBER PENA: Aye.

MR. KNAPP: Pena, aye.

Motion carries unanimously.

CHAIRPERSON DUDLEY: Thank you.

Okay. One moment, please.

I have just been told the information you have asked for is now available. Member Johnson, a couple of hours ago, you asked for something.

MS. DEL MUGNAIO: Okay. So Board Member Johnson, it was in the report.

Just a quick note on the report.

The report is broken out quarterly. Pages 2 and 3 of the report that you guys received. It is just shy of a full quarter because it was done on the 24th. Obviously, June 24th, June 30th would have been a full quarter.

In terms of public complaints, there was 476, which is pretty common. That's pretty typical for public complaints.

And then in terms of our quarterly reports from the law enforcement agencies, again, four days shy, 2,399. And we report out, it is about 2500 per quarter. So I wanted to give you that piece of information. So it is there in your report.

The only thing I failed to go through -- and this just because -- it should be of interest to the board. Of the cases that you have moved forward, we will

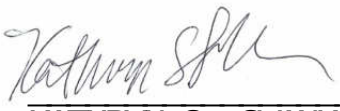
CERTIFICATE OF REPORTER

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 4th day of August 2026.



KATHRYN S. SWANK, CSR
Certified Shorthand Reporter
License No. 13061