STATE OF CALIFORNIA

COMMISSION ON

PEACE OFFICER STANDARDS AND TRAINING

PEACE OFFICER STANDARDS ACCOUNTABILITY ADVISORY BOARD

(POSAAB) MEETING

THURSDAY, MARCH 21, 2024

9:02 A.M.

MEETING HELD

AT THE OFFICES OF

COMMISSION ON POST

860 STILLWATER ROAD, SUITE 100

WEST SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Stenographically Reported By:
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California Certified Shorthand Reporter #13061
Registered Professional Reporter

A P P E A R A N C E S

POSAAB MEMBERS PRESENT

ROBERT DOYLE
Governor Appointee
Former Command Rank Peace Officer
(Vice Chairperson)

NICOLE CLAVO, Psy.D.
Governor Appointee
Public Member

REGINA HATCHER-CRAWFORD
Governor Appointee
Public Member

ROBERT DOYLE
Governor Appointee
Former Command Rank Peace Officer

JACK GLASER
Governor Appointee
Public Member

CEPHUS JOHNSON
Governor Appointee
Public Member

CHARLES LARA
Governor Appointee
Management Rank Peace Officer

MARGARET PENA
Speaker of Assembly Appointee
Public Member

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POST COMMISSION LEGAL COUNSEL

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

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

POST COMMISSION STAFF

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

CHRISTOPHER BECKER
Assistant Chief Counsel
Legal Affairs Bureau

ROBERT BRINGOLF
Law Enforcement Consultant
Professional Conduct Los Angeles County Bureau

BRYANT HENLEY
Attorney IV
Legal Affairs Bureau

WILLIAM IMBODEN
Law Enforcement Consultant
Professional Conduct Los Angeles County Bureau

CHANDLER KNAPP
Staff Services Manager
Executive Office

MARK NAGEL
Law Enforcement Consultant
Professional Conduct Southern Bureau

KEVIN SHERBURNE
Law Enforcement Consultant
Professional Conduct Central Bureau

CARRIE WOOLLEY
Attorney IV
Legal Affairs Bureau

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

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ALSO PRESENT

KASEY A. CASTILLO
Counsel for
Officer David Hubbard
(Via videoconference)

CESAR DIAZ
Peace Officer
POST ID C68-U20

SAKU ETHIR
Counsel for
Officer Ivan Sarabia-Medina
(Via videoconference)

DILLON FUSTON
Peace Officer
POST ID C71-S10

BRADLEY M. FIELDS
Counsel for
Officer Dillon Fuston
(Via videoconference)

BEATRICE JOHNSON

DANIEL SANCHEZ

IVAN SARABIA-MEDINA
Peace Officer
POST ID C12-A96
(Via videoconference)

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Thursday, March 21, 2024, 9:02 a.m.

West Sacramento, California

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MS. DEL MUGNAIO: Good morning. Welcome everyone. This is our second hearing of the Peace Officer Standards Accountability Advisory Board.

Today before we get into the first order of business, I'm just going to make a quick announcement about the proceedings today. As many of you know, on the Board, Ms. Dudley, our Chair, will not be joining us today. Sadly, she would have been here if she could. But due to some unforeseen circumstances, she will not be joining us today.

So I will go ahead and facilitate at least the first half of the meeting until we get to our cases that are before the Board today. And then we will probably have our vice chair, as long as that person feels comfortable, facilitate the remainder of the meeting.

Does that sound fair to the board members?

(No response.)

MS. DEL MUGNAIO: Okay. Great. All right. I'm going to go ahead and ask Chandler to call the roll this morning.

MR. KNAPP: Okay. Good morning, members of the Board.

Board Member Buchen.
(No response.)
MR. KNAPP: Board Member Clavo.
MEMBER CLAVO: Present.
MR. KNAPP: Board Member Crawford.
MEMBER HATCHER-CRAWFORD: Present.
MR. KNAPP: Board Member Doyle.
VICE CHAIRPERSON DOYLE: Here.
MR. KNAPP: Board Member Dudley.
(No response.)
MR. KNAPP: Board Member Glaser.
MEMBER GLASER: Here.
MR. KNAPP: Board Member Johnson.
MEMBER JOHNSON: Present.
MR. KNAPP: Board Member Lara.
MEMBER LARA: Here.
MR. KNAPP: And Board Member Pena.
MEMBER PENA: Here.
MS. DEL MUGNAIO: Okay. Thank you.
We have a quorum.
I want to thank those of you who are in attendance today. We want to take a couple of notes to kind of explain to you that this meeting or hearing is being webcast. It is also being recorded and transcribed.
The microphones are on auto on and off, so you do

not have to touch them before you speak. As soon as you begin speaking, they will go live. When you are not speaking, they will not be live.

You will need to watch the cross-talk because if you lean over and talk to your partner, that will be caught on recording and webcast, so just be advised.

I also want to thank those in attendance today for joining us. When you are asked to come forward for public comment, you may introduce yourself and your association. You do not have to. So that is voluntary. I want to make sure that's clear today.

I would like to introduce some of the folks here at the table today. To my left, I would like to introduce Chris Beatty. He's our board counsel.

I'm assistant director -- Assistant Executive Director Annemarie Del Mugnaio of the Peace Officer Standards and Accountability Division.

To my right is Chandler Knapp. He works in EXO.

Thank you.

Okay. We're going to see if there's any public comment before the Board today. This is the time that is set aside for public members of the public who wish to comment on items that are not on the agenda but those within the Board's jurisdiction.

Public comment on matters on the agenda will be

VICE CHAIRPERSON DOYLE: We're adjourned until 1:30.

(Luncheon recess: 12:45 p.m. to 1:32 p.m.)

VICE CHAIRPERSON DOYLE: Good afternoon. We are back on the record.

I wanted to call on Chandler Knapp to clarify the vote count from our previous case.

MR. KNAPP: Thank you, Vice Chair.

I want to clarify for the matter of Dillon Fuston POST2300809.

I'm going to reread the votes into the record and correct one thing that was previously stated.

Board Member Clavo. Aye.

Board Member Crawford. Abstain.

Board Member Doyle. Nay.

Board Member Glaser. Aye.

Board Member Johnson. Aye.

Charles Lara, recusal; previously stated as an abstention. So that's the correction for the record.

Board Member Pena was an aye.

And the motion still passes.

VICE CHAIRPERSON DOYLE: Okay. Thank you.

At this time, I would call upon Law Enforcement Consultant Kevin Sherburne, Professional Conduct Central Bureau, and Bryant Henley, Legal Affairs Bureau, to

provide a report on case POST2300204, David Wesley Hubbard, who at the time of the events in issue was employed by the Kern County -- is employed now by the Kern County District Attorney's Office, then by the Kern County Sheriff's Office.

So gentlemen.

MR. SHERBURNE: Thank you, Board Members, for your time today. My name is Kevin Sherburne. I'm a Law Enforcement Consultant, and I served as the investigator on this case. With me to my right is Bryant Henley. He is legal counsel for POST.

I serve in the Professional Conduct Central Bureau. So Central Bureau handles Kern County.

This case today is regarding David Wesley Hubbard. The case number is POST2300204. He formerly is of the Kern County Sheriff's Office, and he currently is assigned with the Kern County District Attorney's Office.

He is subject to an Immediate Temporary Suspension of all of his certificates. That suspension became effective March 9, 2023, and remains in place today.

The ITS, as it is known, was based upon Mr. Hubbard's termination for serious misconduct and/or separation pending an internal investigation.

The summary of this case is that the Division found

clear and convincing evidence that Mr. Hubbard abused his power and was dishonest.

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

What I would like to do now is go through a little bit of background on the case.

Mr. Hubbard began working at the Kern County Sheriff's Office on October 6, 2007. He promoted to sergeant in 2015 and to lieutenant in 2020.

Mr. Hubbard started working for the Kern County District Attorney's Office in August 2021.

Over the years, POST issued four certificates to Mr. Hubbard: A basic certificate in 2009; intermediate in 2011; advanced in 2015; and a supervisory certificate in 2018.

The facts and the timeline are set forth in the Investigative Summary and Findings, known as an ISF, which are on pages 9 through 13. For ease of reference, I have summarized the timeline of significant events in a slide.

IT Department, would you please display the slide.

If -- I understand that board members have already

received a copy of this slide, and earlier this morning, Bryant Henley, counsel for POST, emailed Mr. Hubbard's counsel so that they had a copy of this to follow along in case this did not display on their screen. So they have a copy of that as well.

In my presentation, I will use the term "Suspect 1" and "Victim 1" as they are defined in the ISF.

Please refer to the ISF for more detailed information about the factual background than what I am providing here in person today.

In short, here is a brief factual background of the case:

Mr. Hubbard held various assignments as lieutenant during the times relevant to my investigation. His assignments, based on Kern County Sheriff's Office practices and policies, as well as for legal reasons, dictated what access and role he had with respect to criminal investigations and with respect to Internal Affairs investigations.

Criminal investigations take precedence over Internal Affairs investigations. IA investigations, as they are known, are put on the back burner during ongoing criminal investigations. This practice is known as tolling. The investigation is tolled during the criminal investigation.

At Kern County Sheriff's Office, the Professional Standards Unit, I may refer to that as PSU, conducted criminal investigations of peace officers. As lieutenant of the Internal Affairs section, Mr. Hubbard interfered with the criminal investigation of Suspect 1, who was alleged to have sexually battered Victim 1. Suspect 1 was another deputy at Kern County Sheriff's Office. Victim 1 was a civilian employee at the same office.

The alleged sexual battery occurred while Mr. Hubbard was a lieutenant of the detective section where both Suspect 1 and Victim 1 reported to him.

After Mr. Hubbard transferred to be lieutenant of the Professional Standards Unit, which handled criminal investigations, Mr. Hubbard interfered with the Internal Affairs investigation of Suspect 1, as I will detail later.

Throughout the months from the initiation of the criminal investigation of Suspect 1, Mr. Hubbard took personal actions that conflicted with his professional obligations, including accompanying or representing Victim 1 with the Kern County District Attorney's Office in May 2021.

The culmination of those personal actions occurred over a weekend in late November 2021 when Mr. Hubbard

had sexual intercourse twice, over two days, in his office with Victim 1, who was a direct report to him, and while he was acting as the watch lieutenant, which is the highest ranking law enforcement officer on duty at the time.

And Mr. Hubbard proactively obtained information from the Internal Affairs investigation of Suspect 1 and shared that information with Victim 1.

Then he destroyed evidence relevant to that Internal Affairs investigation and to a potential Internal Affairs investigation into his own conduct.

In my investigation, the Division found clear and convincing evidence that Mr. Hubbard engaged in serious misconduct; again, abuse of power and dishonesty.

Under abuse of power, Mr. Hubbard abused his power when he interfered with the IA investigation of Suspect 1. He provided input on the investigative strategy and interview questions to Suspect 1, while simultaneously serving as the personal representative to Victim 1, having a sexual relationship with her, and sharing information he learned during the IA investigation with her.

Mr. Hubbard abused his power when he had on-duty sexual intercourse twice with Victim 1 in his office, even taking into account that both Mr. Hubbard and

Victim 1 stated that the sex was consensual.

Victim 1 was a direct subordinate reporting to him. At the time he had sex, Mr. Hubbard was serving as the watch lieutenant.

Three days after Mr. Hubbard had sex with Victim 1, Mr. Hubbard proactively sought confidential information about what Suspect 1 had said during his Internal Affairs investigation in an interview.

The IA investigator viewed Mr. Hubbard as a mentor and a leader. Mr. Hubbard did not first disclose to the IA investigator that he had just had sex with Victim 1 when he sought the information from the IA investigator.

The IA investigator would not have revealed information to Mr. Hubbard had he known about Mr. Hubbard's sexual relationship with the victim.

The information that Mr. Hubbard learned during his discussion with the IA investigator was significant because Mr. Hubbard learned for the first time Suspect 1's defense was that Mr. Hubbard and Victim 1 had an affair. Thus, Mr. Hubbard knew that his alleged intimate relationship with Victim 1 was now a key aspect of the Internal Affairs investigation of Suspect 1.

After obtaining this confidential information, Mr. Hubbard abused his power by sharing it with Victim 1, by telling her what Suspect 1 had said,

including that Victim 1 consented to the sexual battery and that Victim 1 and Mr. Hubbard had an affair.

Excuse me.

Mr. Hubbard knew it was wrong to share the information, but he shared it anyway. After learning what Suspect 1 had said about Mr. Hubbard and Victim 1, Mr. Hubbard abused his power by deleting work phone text messages and phone log records of communications between himself and Victim 1.

He destroyed the evidence knowing that the information was relevant to the IA investigation of Suspect 1 and to a second potential IA investigation into his own conduct.

The Division made second findings with respect to dishonesty.

Mr. Hubbard failed to disclose material information related to criminal and Internal Affairs investigations by not revealing the conflict between his personal interests and his professional obligations.

His destruction of relevant phone calls and text messages destroyed evidence intentionally and purposefully to conceal his own misconduct.

The Division recommends revocation of Mr. Hubbard's certificates based upon his serious misconduct. This is not solely a case of an extramarital affair. This is

not a one-time instance of sexual misconduct or indiscretion.

Even while I interviewed him, Mr. Hubbard continued to downplay the negative impact that his decisions had on the integrity of two ongoing investigations, the stature of the Sheriff's Office, and the wellbeing of the victim.

This case goes to the very heart of what it means to be a peace officer in the state of California. Mr. Hubbard's actions cut against the core values of being a peace officer, and they affected the entire law enforcement community and the public.

Mr. Hubbard abused his power and was dishonest over a period of several months. He had a conflict between his personal interests and his professional obligations on multiple levels. He was wearing two hats at the same time.

The multiple levels include the victim. He took advantage of the victim personally and professionally. The victim was particularly vulnerable over the weekend he had sex with her because the IA interview of her alleged attacker was imminent, and Mr. Hubbard knew that she was anxious about the interview.

He -- his actions affected his fellow law enforcement officers within his own department. He

betrayed the trust of people who saw him as a leader and a mentor.

As a superior officer within the Kern County Sheriff's Office, Mr. Hubbard abused his position of authority and his status as a mentor to gain access to confidential information that he shared with a party to the case.

He also mislead his own command staff. Mr. Hubbard's actions affected the integrity of investigations in Kern County. He compromised the Internal Affairs investigations of other peace officers and his own Internal Affairs investigation. He compromised the integrity of other sex crimes investigations conducted by the Kern County Sheriff's Office. He played two incompatible roles at the same time, as a Kern County Sheriff's Office investigative team member on one hand and as Victim 1's personal representative on the other hand.

At the Kern County District Attorney's Office, Mr. Hubbard's role allows him continued access to criminal investigations like the one in this case.

Mr. Hubbard's actions affected the community at large. Mr. Hubbard breached the trust of the community, which expects that investigations will occur without favoritism or bias or interference and without

destruction of evidence.

Mr. Hubbard was dishonest. He destroyed evidence after learning it may be needed in a case against another officer in what he surely knew would be a case against him.

Mr. Hubbard sought out and then improperly shared confidential information.

Given his rank, training, and experience, his actions are especially egregious and warrant revocation.

At this point, I'm happy to answer any questions that the board members may have.

VICE CHAIRPERSON DOYLE: Board member questions?

MEMBER LARA: You stated that the -- that Mr. Hubbard downplayed the facts, I think, as it pertained to your investigation.

How would you -- how would you sort of operationalize? What were the -- what was that, that you saw, to your eyes was the downplaying?

MR. SHERBURNE: He made statements to the effect that it was minimized; that the impact was not as great --

Did we want to play the audio?

MR. HENLEY: It is up to you.

MR. SHERBURNE: I think at this point I would let you listen to Mr. Hubbard's own words. Can we play an

audio clip, please. This is Attachment Z to the Investigative Summary and Findings.

MR. HENLEY: Do you want to give a little background of what this part is about, or shall I?

MR. SHERBURNE: Yeah, please go ahead.

MR. HENLEY: Members of the Board, just to prepare you for this audio, this is a colloquy between the Internal Affairs investigators and Mr. Hubbard where they are asking him about the sexual intercourse he had with Victim 1 while serving as watch lieutenant two days in a row while watch lieutenant. That's what this question relates to, and we would ask you to listen to his response.

(Audio file played.)

MR. SHERBURNE: In addition to the clip that was just played, during my interview of Mr. Hubbard, which is at Attachment G to the ISF -- and this goes to POST Regulation 1213 and the factors of mitigation or aggravation with respect to his conduct. He did not appear to appreciate the harmful nature of his misconduct. He stated that it was splitting hairs to go after him for sharing information; that nothing affected his ability to perform as a peace officer. As her personal representative, he said he would learn it anyway.

I would contend that that is factually not true. Once the relationship became known, he would not have been able to serve as her personal representative.

I would also point the board members to Attachment E, which is the Notice of Disciplinary Action-Termination. It is a letter to Mr. Hubbard from the Kern County Sheriff's Office from the sheriff himself.

At the Skelly hearing, the conclusion, on page 5 of that attachment: "You accepted responsibility for your actions, however minimized the gravity of obtaining and releasing confidential information, as well as the consequences your actions could have on the Sheriff's Office. Due to your misconduct, you have exposed the Sheriff's Office to unnecessary liability for multiple active and former members of the Sheriff's Office. You violated the right of a fellow employee to confidentiality in his Internal Affairs investigation.

"Additionally, you isolated a potential sexual assault victim by moving her under your control and assuming supervision of her."

It continues from there.

These are examples of how I would answer your question, Board Member Lara, as to what -- what was it that I concluded -- what supported my conclusion that he

downplayed his role and his activities.

MEMBER LARA: Thank you.

VICE CHAIRPERSON DOYLE: Yes.

MEMBER PENA: The interview that we were all sent and listened to, is there -- was there a -- I didn't have a picture. It was just audio. Was there -- did you videotape it?

MR. SHERBURNE: There may have been two audio recordings of interviews. The one was the clip that we just played, which was Mr. Hubbard's Internal Affairs interview. The second interview that was conducted, I conducted with a fellow Law Enforcement Consultant, and that was not videotaped.

The IA interview, I don't think, was also videotaped, either. Some departments videotape and audio tape. Some only audio tape.

MEMBER PENA: Yeah. I just wanted to comment that it was -- it would have been helpful to have a visual tape to not only hear the audio, but to be able to look at body language, etc., while we're listening to it.

Just a comment.

MR. SHERBURNE: Thank you. Okay.

VICE CHAIRPERSON DOYLE: Any other questions?

(No response.)

VICE CHAIRPERSON DOYLE: POST has received written

comments from the public concerning Mr. Hubbard. The Division is making them available to you with the following caveats: At this stage of the proceedings, the only issue for the Board is whether or not the Division's Investigative Summary and Findings provide clear and convincing evidence of serious misconduct.

The Division's position is that character statements of this kind are not relevant to this inquiry and might be provided if -- if at all, only during a later evidentiary hearing.

In an excess of caution, however, staff will provide the letters to you as public comment, keeping in mind that the Board's ultimate task is to determine the sufficiency of the Division's Investigative Summary and Findings.

At this time, does the subject officer or counsel wish to make public comment?

Please state your name and organization if you wish.

MS. CASTILLO: Hi. My name is Kasey Castillo. I am the representative counsel for David Hubbard, and I would like to be heard.

VICE CHAIRPERSON DOYLE: Please proceed.

MS. CASTILLO: Thank you for the opportunity to address the sufficiency of the findings. In the

instance of David Hubbard, they are insufficient for Commission review on revocation.

Considering the factors outlined in Section 1213 of the Code of Regulations, as it pertains to abuse of power, there is no evidence that his relationship with Ms. Doe was inherently coercive. Indeed, there's no evidence from the investigation that it was coercive at all. The two of them were long-term friends and coworkers and, as stated by the investigator, their relationship was consensual.

And while the order and findings reference abuse of power in gathering confidential information for the purpose of sharing it with Ms. Doe, there is no evidence that the information was shared for that purpose, nor believed to have been confidential at that time. Indeed, the information sharing was in response to questions from her on the process and not with any desire or intent to tamper with the outcome of an ongoing investigation into someone else.

And as this investigation made clear, both Ms. Doe and he faced their mistakes head-on. Further, Hubbard took the additional step of contacting his superior and self-reporting when it became clear he had overstepped.

As it pertains to dishonesty, in the method of evidence tampering as it relates to the deletion of

texts and call logs, for acts to be characterized as such, there must be an intent to deceive, and it must be willful, knowing it would cause a certain result. Deletion of his contacts with Ms. Doe was not done to hide or impede any investigation or conceal evidence, but rather to avoid an issue at home.

Hubbard did not fail to disclose. In fact, he self-reported to his supervisors and his spouse the relationship.

Notably, the investigation undertaken by his original investigating agency did not, even with the low burden of preponderance of the evidence, sustain or even allege dishonesty of any type, in any form.

As it pertains to the mitigating factors that were addressed by the investigator, Hubbard remained employed as a peace officer, albeit as a result of these proceedings, currently in a nonsworn position. He remains employed because despite this episode in his career, his history in law enforcement has proven that he is a person of integrity and someone whose true character showed when faced with his mistakes.

After the investigation, Hubbard resigned his position. And after a full transparent and customary background investigation, he was hired at the Kern County District Attorney's Office as a district attorney

investigator. He is again currently employed there.

It is important to note that this was essentially a voluntary lateral demotion, given the same county employer but different division. Had this transfer not occurred, Hubbard would have proceeded to hearing before the Civil Service Commission in relation to the penalty imposed.

As it pertains to his prior conduct, discipline, and service record, and any other prior instances of misconduct, before you, you have an example of an individual with a record of prior conduct that is exemplary, with no prior discipline and with the evaluation ratings consistently above standard. The actions that bring David Hubbard before you are isolated, personal in nature, and span the course of a short period in 2021 in contrast to an admirable career of over 16 years.

The events before the Board occurred over the few months in 2021. And Hubbard did, in fact, take a voluntary demotion and reassignment, and he has been working since without incident.

Other mitigating factors that I believe are important:

Are that he acknowledged and accepted discipline for his mistakes as was appropriate. While he was

remorseful, much of his error in judgment was human and borne out of extreme personal stress in the immediate prior months as a result of his own participation in an officer-involved shooting involving the death of his friend and coworker. Anyone who has experienced such a significant event and personal loss can attest to the impact to sound mind and judgment that occurs, but is also unlikely to reoccur absent such stressors. This event may have been catalytic, and there is no doubt that the behavior that immediately followed was completely out of character for this peace officer. And while his judgment momentarily lapsed, he self-reported to his supervisors.

Hubbard unwaveringly expressed remorse and accepted responsibility. He was forthright in his dealing with his agency during his investigation as well as the District Attorney's Office, who subsequently hired him after that full background investigation.

And then later, the POST investigator. The honesty and candor in this investigation is evidence of rehabilitation and mitigation, as is moving forward with his current employer.

He has additionally sought counseling with his wife, and they are in a good place. The issues before you will never reoccur, and even a cursory review of his

personal life and law enforcement career supports such a conclusion.

In summary, a fair and objective review of the findings do not support furtherance of the revocation process for David Hubbard. His continued service as a district attorney investigator is not a threat to health, safety, or welfare of the public. And findings do not properly impart a holistic review of his candor, his long-term record of public service, and lack of any disciplinary history in almost two decades of service to the community.

Thank you.

VICE CHAIRPERSON DOYLE: Board, any questions?

(No response.)

VICE CHAIRPERSON DOYLE: Hearing none, is there anyone from the public who would like to address the Board at this time?

(No response.)

VICE CHAIRPERSON DOYLE: No?

MR. HENLEY: Mr. Vice Chair --

VICE CHAIRPERSON DOYLE: Oh, I'm sorry.

MR. HENLEY: If we could -- if we could speak to Ms. Castillo's comments, with your permission.

VICE CHAIRPERSON DOYLE: Sure.

MR. SHERBURNE: I would like to start.

First, counsel for Mr. Hubbard mentioned POST Regulation 1213. I will speak briefly to a couple of points that Counsel mentioned. But then I will defer to Mr. Henley, POST legal counsel, for further information about 1213.

I believe that Ms. Castillo misstated the Division's job in the definition of abuse of power. The abuse of power, she cited that there's no evidence of it being inherently coercive. That is not part of the definition that the Division is looking at.

Whether the information -- whether the acts occurred is what is at issue here today. Not POST Regulation 1213, which is what level of discipline the Commission may impose.

Ms. Castillo also said that he did not have the intent to share the information. That issue is irrelevant for my inquiry during my investigation. He also had recognized that he could not share it. He told Victim 1 that he could not share the information because it was confidential. That level of intent pushes it over the line, in my eyes.

Ms. Castillo also said that he self-disclosed. This is a little bit misleading, because he did disclose it to his wife, perhaps, according to him. But there was a time lapse of him disclosing this to his

supervisor, and he waited until after Victim 1 had reported the misconduct. And during that time period, Kern County Sheriff's Office was flying blind with respect to Suspect 1's Internal Affairs investigation, and they were trying to wrap up that investigation. And they were -- they didn't know about the evidence that he had deleted. And that evidence was not only relevant, but it was material to his own Internal Affairs investigation.

And with that, I will just ask Mr. Henley about 1213.

MR. HENLEY: Thank you. And Members of the Board, I think Law Enforcement Consultant Sherburne has really covered this well.

The point I wanted to emphasize to you today is Ms. Castillo, on behalf of Mr. Hubbard, has spoken a lot about Regulation 1213. And as Mr. Sherburne has explained, it is important to level set that the purpose of today's proceedings aren't so much the focus on the 1213 factors. Those are actually factors that are directed to the Commission. By -- by the definition in the regulations, it's the Commission that is to weigh those factors in rendering a decision.

For purposes of today, the question before this Board is, are the -- is there sufficient findings from

Mr. Sherburne's Investigative Summary and Findings? Are there sufficient findings to show, by clear and convincing evidence; one, that lieutenant -- former Lieutenant Hubbard abused his power with the conduct we have described to you today; and, two, did former Lieutenant Hubbard engage in dishonesty in deleting text messages and phone call records as well as omitting important details that affected both an Internal Affairs investigation about another officer, and a likely Internal Affairs investigation of Mr. Hubbard himself. Those are the questions before this Board.

If the Board determines that Mr. Sherburne's evidence is clear and convincing, the appropriate action, we recommend, the Division recommends, is revocation and that serious misconduct, in fact, occurred and to recommend that the Commission consider revocation as the appropriate action.

And with that, we remain available for questions.

VICE CHAIRPERSON DOYLE: Questions?

(No response.)

VICE CHAIRPERSON DOYLE: No? Okay.

At this time, the meeting will be adjourned, so the Board can go into closed session.

(Time Noted: 2:01 p.m.)

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(Closed session was held from 2:15 p.m. to 2:20 p.m.)

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(Time noted: 2:23 p.m.)

VICE CHAIRPERSON DOYLE: We will now reconvene to regular session to take a vote on the Board's recommendation to the Commission in the matter of case of POST2300204, David Wesley Hubbard, who at the time of events at issue was employed with the Kern County Sheriff's Office, now with the Kern County District Attorney's Office.

Is there a motion by the Board? Take a recommendation to the Commission?

Yes. Ms. Crawford.

MEMBER HATCHER-CRAWFORD: I would like to make the motion to decertify.

VICE CHAIRPERSON DOYLE: Decertify.

Is there a second?

MEMBER GLASER: Second.

MEMBER LARA: Yes.

VICE CHAIRPERSON DOYLE: Mr. Glaser.

Take the roll, Chandler.

MR. KNAPP: Board Member Buchen.

(No response.)

MR. KNAPP: Board Member Clavo.

MEMBER CLAVO: Aye.
MR. KNAPP: Board Member Crawford.
MEMBER HATCHER-CRAWFORD: Aye.
MR. KNAPP: Board Member Doyle.
VICE CHAIRPERSON DOYLE: Yes.
MR. KNAPP: Board Member Dudley.
(No response.)
MR. KNAPP: Board Member Glaser.
MEMBER GLASER: Aye.
MR. KNAPP: Board Member Johnson.
MEMBER JOHNSON: Aye.
MR. KNAPP: Board Member Lara.
MEMBER LARA: Aye.
MR. KNAPP: And Board Member Pena.
MEMBER PENA: Aye.
MR. KNAPP: We had seven yeses.
VICE CHAIRPERSON DOYLE: Motion passes.
(Audio system malfunction.)
(Pause in proceedings.)
MS. DEL MUGNAIO: We'll be on hold for a moment while we figure out the IT issues. Thank you.
VICE CHAIRPERSON DOYLE: I understand, there is a -- someone has called in that would like to make a comment on the previous case. Hubbard case.
Go ahead.

MR. SANCHEZ: Hi there. Can you hear me?

VICE CHAIRPERSON DOYLE: Yes.

MR. SANCHEZ: Hi there. This is Daniel Sanchez, 18-year veteran with the sheriff's office.

Hello. So I just want to thank you guys for your service. Thank you for -- thank you for the effort that you put into these types of investigation.

Mr. Sherburne, again, thank you for the investigation you conducted into the David Hubbard investigation. I believe that it was necessary to send a message to the sheriff's office that this behavior will not be -- that will not be tolerated by you guys.

But, unfortunately, there is more to this story than what -- than what you discovered. There is an entire background of information that led to this incident, and I believe that there is possibly more officers that are potential SB 2 issues. I don't believe that the Sheriff's Office was caught without having knowledge of Mr. Hubbard's behavior.

Again, I think that this is possibly something that maybe you and your Commission may consider looking into. I'm available to contact if you would ever like to contact me so I can share additional information.

I want to reiterate that this was a good decision. Again, thank you.

I also want to add that I am off duty, just in case somebody decides to trigger an Internal Affairs investigation against me.

(Laughter.)

MR. SANCHEZ: Again, there are very few officers out there that will speak out. I think there are officers that can provide inside information into the behavior of these organizations. I don't believe that some of these organizations are capable of investigating themselves, especially when it involves investigations like these types of investigations.

Again, there was a plot to get Mr. Hubbard out of the Sheriff's Office to save his career. And there is a lot more people involved into the manner in which this investigation was conducted and the outcome of it.

And thank you again.

VICE CHAIRPERSON DOYLE: Thank you for your comments.

The next case is Ivan Sarabia-Medina, POST2322012, POST ID C12-A96.

At this time, I will call upon Law Enforcement Consultant Robert Bringolf, Professional Conduct LA Bureau, and Bryant Henley, attorney, Legal Affairs Bureau, to provide a report on this case.

MR. BRINGOLF: Thank you, Vice Chair.

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 10th day of April 2024.

Kathryn S Swank

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