INVESTIGATIVE SUMMARY AND FINDINGS

Michael Kim

POST ID A63-W93
San Francisco Sheriff's Office
POST2410050

WRITTEN BY: Kevin P. Sherburne
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I. Executive Summary

From August 2, 1999, to February 13, 2016, Michael Kim ("Respondent") was employed as a Deputy Sheriff with the San Francisco Sheriff's Office ("SFSO"). He promoted to the rank of sergeant on February 12, 2005. On December 21, 2024, SFSO rehired Respondent as a Deputy Sheriff.

On August 6, 2014, while employed by SFSO, Respondent signed a Declaration under penalty of perjury, which was filed with a federal court.[1] Li's lawyers used the Declaration as part of their effort to gain the release from custody of Andy Li (aka Andy Man Lai Li, Andy M. Li), who was being held without bail in a criminal case involving the Ghee Kung Tong, an organized crime syndicate based in San Francisco, California. Respondent's Declaration was materially false. Specifically, Respondent falsely stated that he had given a ballistic vest to his wife, who had a hair salon appointment with Mimi Li, the wife of Li, and later forgot to pick it up. Respondent knowingly and willfully lied to a federal judge to support a criminal defendant based on his personal friendship with the defendant. Respondent's Declaration obstructed justice in another branch of government.

On August 19, 2014, FBI Special Agents interviewed Respondent, who was employed by SFSO, about the ballistic vest that was the topic of the Declaration. During the interview, Respondent repeated the version of events that he made in his Declaration. Respondent knew that the FBI was investigating Li. Respondent's statements to the FBI were materially false.

On December 22, 2014, FBI Special Agents interviewed Respondent again. During this interview, Respondent admitted that he made materially false statements to them during the interview on August 19, 2014.

On May 25, 2018, Respondent admitted that his Declaration was materially false and pled guilty in federal court to a violation of 18 U.S.C. Section 401(1), a misdemeanor Contempt of Court charge.

On December 23, 2024, I was assigned to conduct an investigation of serious misconduct. In my investigation, I examined the following issues:

1. ***Did Respondent sign a Declaration in Support of Defendant Andy Li's Motion to Reopen Detention Hearing and Reconsider Detention on August 6, 2014, under penalty of perjury that his statements were true and correct, when his statements were materially false? If so, were Respondent's materially false statements Dishonesty relating to the reporting,***

[1] *United States v. Kwok Cheung Chow*, *et al*., CR-14-196, U.S. District Court for the Northern District of California.

investigation, or prosecution of a crime in violation of California Penal Code Section 13510.8(b)(1) and POST Regulation 1205(a)(1)?

a. Finding: The clear and convincing evidence substantiated that Respondent's Declaration contained materially false statements, that he knowingly and willfully lied to a federal court, and that he obstructed justice in a federal criminal case through his lies. The clear and convincing evidence further substantiated that Kim's false statements violated California Penal Code Section 13510.8(b)(1) and POST Regulation 1205(a)(1) because they were made in connection with the prosecution of Li.

2. ***Did Respondent tell FBI Special Agents during an interview on August 19, 2014, that he did not know that Andy Li had a ballistic vest, that he dropped of a work-issued ballistic vest with his wife, who was at Li's wife's beauty salon, while he went out drinking with friends, and that he tried to get the vest back but forgot about the vest over time, when his statements were materially false? If so, were Respondent's false statements Dishonesty relating to the reporting, investigation, or prosecution of a crime in violation of California Penal Code Section 13510.8(b)(1) and POST Regulation 1205(a)(1)?***

    a. ***Finding: The clear and convincing evidence substantiated that Respondent's statements to FBI Special Agents were materially false. The clear and convincing evidence further substantiated that Respondent's statements violated California Penal Code Section 13510.8(b)(1) and POST Regulation 1205(a)(1) because they were made in connection with a criminal investigation into Kim's criminal activity in submitting a false Declaration to a federal court.***

3. ***Did Respondent tell FBI Special Agents during an interview on August 19, 2014, that he did not know that Andy Li had a ballistic vest, that he dropped of a work-issued ballistic vest with his wife, who was at Li's wife's beauty salon, while he went out drinking with friends, and that tried to get the vest back but forgot about the vest over time, when his statements were materially false? If so, were Respondent's false statements Dishonesty relating to the reporting of, of investigation of misconduct by, a peace officer in violation of California Penal Code Section 13510.8(b)(1) and POST Regulation 1205(a)(1)?***

    a. ***Finding: The clear and convincing evidence substantiated that Respondent's statements to FBI Special Agents were materially false. The clear and convincing evidence further substantiated that Respondent's statements violated California Penal Code***

13510.8(b)(1) and POST Regulation 1205(a)(1) because they were made in connection with Respondent's peace officer misconduct.

Based upon the evidence presented in the investigation, reasonable grounds exist for the Respondent's peace officer certification to be subject to revocation by the Commission pursuant to California Penal Code Section 13510.85(a)(1).[2]

II. Methodology/Investigative Process

A. Methodology and Standard of Proof

This report summarizes the findings related to allegations of serious misconduct. I conducted this investigation pursuant to California Penal Code Section 13509.5(b)'s authority to "conduct additional investigations, as necessary, into serious misconduct that may provide grounds for . . . revocation of a peace officer's certification." I further conducted this investigation in accordance with the regulations and policies of POST. California Penal Code Section 13510.8(b)(1) authorized me to conduct an analysis of the dishonesty allegations pursuant to California Penal Code Section 13510.8(g)(1)(A) and Section 13510.8(g)(1)(B)'s lookback provisions, which allow POST's initiation of proceedings to revoke or suspend a peace officer's certification for conduct that occurred prior to January 1, 2022, where the serious misconduct is Dishonesty. During my investigation, I reviewed court records, summaries of interviews FBI Special Agents conducted of Respondent, and personnel records of Respondent. I also conducted interviews of five witnesses. I requested an interview of Respondent, which he declined through his counsel.[3]

I analyzed the information in this case under 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." Based on the statements of the witnesses, as well as the documentary evidence available, there was sufficient information to reach a fair and reasoned conclusion using the clear and convincing evidence standard.[4]

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[2] Attachment A (Executive Review and Division Recommendation (4/18/2025)).

[3] I also requested interviews of Dr. Ryan Dunnigan, a psychologist who is a former California peace officer (POST ID B04-P04); Matthew Freeman, retired SFSO Undersheriff; and Lieutenant Darrin Martindale. Dr. Dunnigan declined to be interviewed. Mr. Freeman did not respond to my phone calls or U.S. mail. Lieutenant Martindale scheduled an interview but was unavailable due to illness.

[4] A recent California State Personnel Board precedential opinion provides guidance about credibility: "A witness's credibility may be determined based on "any matter that has any tendency in reason to prove or disprove the truthfulness of his testimony." (Evid. Code § 780.) Relevant factors include the witness's demeanor while testifying, ability to perceive or recall, bias or other motive, and attitude toward the pending action, as well as consistency of the witness's testimony with previous statements, and the

I was assigned to investigate the allegations of serious misconduct in this case on December 23, 2024.[5] On January 23, 2025, POST received a report from an anonymous member of the public that Respondent resigned from his deputy position based on his conviction, which complainant stated, "stipulated that he could not reapply for a law-enforcement job." I incorporated the allegations from the public complaint against Respondent in this investigation.

B. Employment History and Peace Officer Certifications

POST issued the following professional certifications to Respondent:

Certificate Type	***Certificate Number***	***Date Issued***
Basic	101039	2/2/2001
Intermediate	78181	8/8/2003
Advanced	80385	8/7/2008

From August 2, 1999, until February 12, 2005, Respondent was employed as a deputy with the San Francisco Sheriff's Office. From February 12, 2005, until February 13, 2016 (when he resigned), Respondent was a sergeant with SFSO. On December 21, 2024, SFSO rehired Respondent as a deputy.[6]

C. Other Allegations of Serious Misconduct

POST is not aware of any other allegations of serious misconduct against Respondent. SFSO did not complete an internal affairs investigation in connection with Respondent's actions that led to his federal conviction. Media reports stated that then-Sheriff Ross Mirkarimi ordered an internal affairs investigation to be opened but that

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existence or nonexistence of any fact the witness testified to. (Evid. Code, § 780(a), (c), (d), (f)-(j).) When a witness testifies falsely as to some matters, some or all of his other testimony may be disregarded, whether contradicted or not. (*Halagan v. Ohanesian* (1967) 257 Cal.App.2d 14, 21)."

[5] Respondent is not subject to revocation of his peace officer certificates or disqualification from being a peace officer pursuant to California Government Code Section 1029(a)(9) because his conviction occurred in 2014, and that provision became effective January 1, 2023. *See also* California Penal Code Sections 118(a)(perjury) and 118a (perjury). Had his conviction occurred today, this case would not be subject to a review as a serious misconduct proceeding where the Commission has discretion to decide the status of his certificates but rather as a mandatory revocation case under Section 1029.

[6] According to his EDI profile, Respondent completed two Requalification – Basic Courses: (1) April 30, 2021; and (2) August 2, 2024. Attachment B (EDI Profile).

the department suspended the investigation pending the outcome of the FBI's investigation of Respondent.[7]

III. Findings of Fact and Analysis

A. Background

1. Ghee Kung Tong ("GKT") Crime Syndicate

In 2006, Kwok Cheung Chow (aka Raymond Chow, aka Shrimp Boy) became the leader (or Dragonhead) of the Ghee Kung Tong ("GKT"), an organized crime syndicate based in San Francisco's Chinatown. In 2014, the FBI arrested Chow on money laundering charges related to a public corruption case involving former California State Senator Leland Yee. In July 2014, a 228-count superseding indictment against Chow and 28 other defendants, including Li, charged the group with racketeering, money laundering, firearms violations, fraud, narcotics conspiracy, murder-for-hire, wire fraud, and conspiracy. In 2016, a jury convicted Chow of all 162 counts against him. He is serving two life terms plus 20 years in federal prison.

Li served as one of Chow's enforcers. Media reports state that Li bears burn scars on his face from an arson he committed on Chow's orders and that Chow also ordered Li to kill people, break their legs, and to commit armed robbery.[8] In 2018, Li pled guilty to three felonies and served two years in prison. Li previously also served two years in prison stemming from a 1998 conviction.

2. Respondent's Connection to GKT

The undercover investigation into Chow, the GKT, and Li revealed that Li bragged about having a friend in law enforcement named "Mike."[9] Li tried to introduce an FBI undercover agent to Respondent, saying that Respondent was a former gang member and was "trustworthy," which meant in that context "that [Respondent] would not do anything to stop or arrest [Li and the undercover agent] in connection with their illegal businesses."[10]

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[7] "Sheriff's Deputy Caught Up in 'Shrimp Boy' Case No Longer With the Department," *San Francisco Examiner* (3/8/2016 (https://www.sfexaminer.com/news/sheriff-s-deputy-caught-up-in-shrimp-boy-case-no-longer-with-department/article_c65dce88-afdd-57b6-9f22-c87c5c3426ef.html).
[8] "Gangster Says Shrimp Boy Told Him to Kill," Courthouse News Service (12/9/2015).
[9] "Feds Charge Ex-Deputy Linked to Massive 'Shrimp Boy' Racketeering Case," San Jose Mercury News (3/29/2018) (https://www.mercurynews.com/2018/03/28/feds-charge-ex-sf-deputy-linked-to-massive-shrimp-boy-racketeering-case/).
[10] Attachment C (United States' Opposition to Defendant Li's Motion to Reconsider Detention Order, *United States v. Chow*, CR-14-196, at 4-5 (U.S. District Court for the Northern District of California)(8/22/2014)).

Li and Respondent met in 9th grade and remained friends even after Respondent joined SFSO.[11] Respondent told FBI Special Agents that he knew that Li was a convicted felon and that Li introduced Respondent to Chow. Respondent stated that other people would say that he was part of Chow's crew.[12] Respondent stated that he would accompany Li to collect debts from individuals at casinos and, on occasion, Li gave Respondent some money from the collections.[13]

3. Respondent's Materially False Statements

Pursuant to Title 18, United States Code, Section 3142(d), where a federal court makes a factual determination that a defendant may "pose a danger to any other person or the community," the Court may enter an order denying bail and ordering the temporary detention of the defendant. After the FBI arrested Li in March 2014, the Court issued an Order finding that Li was a danger to the community and ordered him to be held in jail without bail pending trial. The Court found that Li's possession of a ballistic vest at the time of his arrest was a basis for the finding that he was a danger to the community.[14]

Li's lawyer spoke with Respondent about the vest. He told her that he left a ballistic vest at Li's wife's hair salon because he did not want to leave it in the car while he ran errands. Respondent further stated that he asked his wife to bring the vest home but she forgot and Li's wife put it in her own car, intending to return it to Respondent. Time passed and, Respondent stated, he forgot about the vest.

Based upon Kim's version of events to Li's lawyer, she asked Respondent to submit a Declaration to the Court regarding the ballistic vest in support of Li's request to reconsider granting him bail as part of an effort to gain Li's release by establishing that he was not a danger to the community. Prosecutors argued that Li's possession of the ballistic vest, in conjunction with Li's role as a Chow henchman and the criminal allegations against Li, justified his pre-trial detention.

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[11] Caesar Marabuto was also a friend of Li's and Respondent's from their early days in high school. Marabuto joined the San Francisco Sheriff's Office in 2007, where he is currently is a deputy.

[12] Attachment D (FBI Interview of Michael Kim, FD-302 at 4 (12/22/2014)). In a court filing in the Li case, the prosecution stated that Li told an undercover FBI Special Agent that Respondent was an "ex-gang member who had previously assisted defendant [Li] with his gang activity." Attachment C (United States' Opposition to Defendant Li's Motion to Reconsider Detention Order, *United States v. Chow*, *et al.*, CR-14-196 at 8 (U.S. District Court for the Northern District of California)(8/22/2014)).

[13] Attachment D (FBI Interview of Michael Kim, FD-302 at 5 (12/22/2014)).

[14] Attachment E (Order of Detention Pending Trial, *United States v. Li*, CR-14-196, at 2 (U.S. District Court for the Northern District of California)(5/7/2014))(finding that "this case involves trafficking narcotics as well as allegations that defendant trafficked in firearms and a ballistic vest while being a convicted felon;" was an "enforcer" for GKT; and agents found "a shotgun and a ballistic vest").

On August 6, 2014, Respondent signed a Declaration with the United States District Court for the Northern District of California. Li's lawyers filed the Declaration as part of their Motion to Reconsider Detention.[15] In the Declaration, Respondent stated:

- Respondent dropped off a work-issued ballistic vest at Mimi Li's hair salon with Respondent's wife
- Respondent's wife forgot the vest at the salon
- Mimi Li took the vest and placed it in her car, intending to return it to Respondent
- Although Mimi Li made plans to return the vest to Respondent, "both got busy and plans fell through"[16]

Respondent signed the Declaration "under penalty of perjury under the laws of the State of California" as being "true and correct."[17]

On August 5, 2014, Mimi Li signed a Declaration similar to Respondent's Declaration. In her Declaration, Mimi Li echoed Respondent's statements about the ballistic vest.[18]

Respondent's Declaration was a primary component of Li's lawyers' argument to the Court to seek release of Li from jail. Relying on Respondent's Declaration, Li's lawyers argued that the prosecution did not have grounds to argue that Li was a danger to the community.[19] Li's lawyers argued that, in ordering pre-trial detention, the Court's reliance on Li's possession of a ballistic vest at the time of his arrest was misplaced because the ballistic vest belonged to Li.[20]

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[15] Attachment F (Notice of Motion and Motion to Reopen Detention Hearing and Reconsider Detention, *United States v. Li*, CR-14-196 (U.S. District Court for the Northern District of California (8/6/2014)).
[16] Attachment G (Declaration of Michael Kim in Support of Notice of Motion and Motion to Reopen Detention Hearing and Reconsider Detention, *United States v. Li*, CR-14-196 (U.S. District Court for the Northern District of California)(8/6/2014)).
[17] Attachment G (Declaration of Michael Kim in Support of Notice of Motion and Motion to Reopen Detention Hearing and Reconsider Detention, *United States v. Li*, CR-14-196 (U.S. District Court for the Northern District of California)(8/6/2014)).
[18] Attachment H (Declaration of Mimi Li in Support of Notice of Motion and Motion to Reopen Detention Hearing and Reconsider Detention, *United States v. Chow*, *et al.*, CR-14-196 (U.S. District Court for the Northern District of California)(8/6/2014)).
[19] Attachment F (Notice of Motion and Motion to Reopen Detention Hearing and Reconsider Detention at 2-3, *United States v. Chow*, *et al*., CR-14-196 (U.S. District Court for the Northern District of California)(8/6/2014)).
[20] Attachment F (Notice of Motion and Motion to Reopen Detention Hearing and Reconsider Detention at 4, 6-7, *United States v. Chow*, *et al.*, CR-14-196 (U.S. District Court for the Northern District of California)(8/6/2014)("Because the government relied on Mr. Li's possession of a ballistic vest in arguing for his detention, this information [from Respondent's Declaration] demonstrating that Mr. Li did not possess a ballistic vest is material to the issue of whether conditions of release exist that will reasonably assure the safety of the community")). At the time of his arrest, the FBI also found a shotgun in his

On August 19, 2014, FBI Special Agents interviewed Respondent about the version of events related to the ballistic vest that Respondent included in the Declaration. During the interview, Respondent repeated the story he provided in the Declaration. He made materially false statements that he had given a ballistic vest to his wife, who had a hair salon appointment with Mimi Li, and later forgot to pick it up.

The prosecution opposed Li's request for release, arguing that Respondent's story about the ballistic vest was not credible: "the story currently being sold to this Court defies all logic."[21] The prosecution stated that FBI Special Agents interviewed Respondent after reading the Declaration. The prosecution stated:

> In short, the declarations provided by the defendant [Li] are incredible and inconsistent because they are false. According to the defendant himself, it would appear that [Respondent] and defendant's wife are highly compromised and should be given minimal credibility by this Court. It is also clear that defendant filed declarations from his wife and [Respondent] that he knew were false.[22]

On September 26, 2014, the Court denied Li's Motion to Reopen Detention Hearing and Reconsider Detention.[23]

On December 22, 2014, FBI Special Agents interviewed Respondent again. During this interview, Respondent admitted that he made materially false statements to them during his interview on August 19, 2014.[24] On March 27, 2018, prosecutors charged Respondent with committing a federal crime (one count of criminal contempt of court in violation of 18 U.S.C. Section 401(1)) by signing the Declaration, knowing it to contain materially false statements, "for the purpose of assisting Defendant X and knowing that the declaration would be provided to the Court in connection with Defendant X's detention proceedings."[25]

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residence. Li's lawyers argued that the shotgun belonged to his landlord and, therefore, he was not a danger to the community.

[21] Attachment C (United States' Opposition to Defendant Li's Motion to Reconsider Detention Order, *United States v. Chow*, *et al.*, CR-14-196 at 4 (U.S. District Court for the Northern District of California)(8/22/2014)).

[22] Attachment C (United States' Opposition to Defendant Li's Motion to Reconsider Detention Order, *United States v. Chow*, *et al.*, CR-14-196 at 6 (U.S. District Court for the Northern District of California)(8/22/2014)).

[23] Attachment I (Minute Entry (denying pre-trial release of Li), *United States v. Chow*, *et al.*, CR-14-196 (U.S. District Court for the Northern District of California)(9/26/2014)).

[24] Attachment D (FBI Interview of Michael Kim, FD-302 (12/22/2014)).

[25] Attachments J (Information, *United States v. Kim*, 18-CR-124, at 3 (U.S. District Court for the Northern District of California) (3/27/2018)).

On May 25, 2018, Respondent admitted that his Declaration was materially false and pled guilty in federal court to a violation of 18 U.S.C. Section 401(1), a misdemeanor. On October 12, 2018, the court sentenced Respondent to three years of probation and a fine of $30,000.[26] On November 2, 2020, the United States Probation Office requested early termination of probation, which the court granted.[27]

4. Respondent's Re-Employment at San Francisco Sheriff's Office

Respondent sought re-employment as a California peace officer nearly immediately after termination of his probation. Respondent's peace officer certificates were inactive because more than three years had passed since his last qualifying employment as a peace officer, he therefore had to undergo a Requalification Course.[28] On April 30, 2021, Respondent completed a 144-hour Requalification – Basic Course. On May 1, 2021, Respondent initiated the application process to become employed as a Deputy Sheriff at SFSO.[29] SFSO did not assign the application to a background investigator and the background file packet shows it was withdrawn on June 27, 2023, after 790 days.[30]

On June 23, 2023, Respondent re-initiated the application process to become a Deputy at SFSO. By this time, Respondent's peace officer certificates – which he reactivated by attending the Requalification course – had again expired after three years of lack of employment as a peace officer,[31] so he underwent another Requalification Course. On August 2, 2024, Respondent completed a 160-hour Requalification – Basic Course.

On July 13, 2023, Lieutenant Darrin Martindale and Sergeant Mel Fonthal assigned Deputy Ronnie Wan as the background investigator to review the application Respondent submitted on June 23, 2023. Deputy Wan conducted a background investigation, which included, among other things, psychological evaluations,

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[26] Attachment K (Criminal Minute Order, *United States v. Kim*, 18-CR-124 (U.S. District Court for the Northern District of California)(10/12/2018)).
[27] Attachment L (Request for Early Termination of Supervision, *United States v. Kim*, 18-CR-124, at 3 (U.S. District Court for the Northern District of California)(11/2/2020)).
[28] POST Regulations 1008(b) and 1202(b)(3)(B).
[29] Attachment M at 002 (Michael Kim Archived Background File at 149. Investigator's Note: Rather than include the entire 376-page background investigation report, which includes highly sensitive and confidential information that would need to be redacted before being produced, I am including only the pages that are material to the findings in this Investigative Summary and Finding. Bates numbers referencing the page numbers of the pages in the original file and the pages that are material are located in the lower left and lower right margins, respectively.
[30] Attachment M at 001, 002 (Michael Kim Archived Background File at 2, 149)(Lieutenant Darrin Martindale noted: "This file was not worked, and the applicant has reapplied so he is being withdrawn so I can send him a new invite to Guardian.")
[31] POST Regulation 1201(2)(b).

employment checks, polygraph, and background questionnaires.[32] Deputy Wan stated to me that he asked internally whether SFSO should be rehiring Respondent based upon Respondent's past and was told to continue working the background investigation.[33] Sergeant Fonthal corroborated Deputy Wan's account, stating that "everybody" raised concerns and had comments about Respondent's application. Ultimately, however, the Background Investigation Unit's responsibility was to ensure that every applicant went through the process and command staff would make the decision about hiring an applicant.[34] According to Sergeant Fonthal, although Sheriff Paul Miyamoto did not pressure anyone to hire Respondent, he wanted to see a "full file."

Deputy Wan conducted and completed Respondent's background investigation. Respondent completed questionnaires in which he stated that he had been convicted of a federal crime. On the questionnaire and during interviews with Deputy Wan, Respondent stated:

- "I was not truthful when interviewed by the F.B.I."[35]
- "I submitted a false statement to the court."[36]
- "I perjured on a written statement to the court. . . ."[37]
- "3.18 Perjury (lying under oath): Yes
    - 3.1 Provide details:
    - Crime: Perjury
    - Individuals involved: myself
    - Date: 08/2014
    - This was the same incident as above 1.1 I was charged with a misdemeanor contempt of court. I submitted a false statement to the court."[38]

The background investigation included a required psychological evaluation of Respondent.[39] According to the Background Investigation File, psychologists conducted evaluations and reached conclusions, as set forth in the table below. The

[32] *See* POST Regulations 1950-1955 (setting forth selection standards for peace officers).
[33] Attachment N (Ronnie Wan Report of Interview at 2 (3/11/2025)).
[34] Attachment O (Mel Fonthal Report of Interview at 1 (4/16/2025)).
[35] Attachment P at 003 (Background Investigation File at 48). Investigator's Note: Rather than include the entire 376-page background investigation report, which includes highly sensitive and confidential information that would need to be redacted before being produced, I am including only the pages that are material to the findings in this Investigative Summary and Finding. Bates numbers referencing the page numbers of the pages in the original file and the pages that are material are located in the lower left and lower right margins, respectively.
[36] Attachment P at 005 (Background Investigation File at 69).
[37] Attachment P at 012 (Background Investigation File at 360)
[38] Attachment P at 004 (Background Investigation File at 51).
[39] POST Regulations 1954 and 1955 contain the requirements for psychological evaluations for peace officers.

evaluations included assessment of screening six Dimensions that overlap Background Investigation Dimensions: Integrity; Impulse Control/Attention to Safety; Substance Abuse and Other Risk-Taking Behavior; Stress Tolerance; Conscientiousness; and Decision-Making/Judgment.[40]

Psychologist Name	Date of Evaluation	Conclusion
Maria Nucci	9/20/2023	Not Suitable
Ryan Dunnigan	11/1/2023	Not Suitable
Ryan Dunnigan	3/13/2024	Suitable
David Corey	4/9/2024	Suitable

After Dr. Nucci assessed Respondent as "not suitable," Respondent exercised his right to obtain a second opinion from a psychologist of his own choosing and obtained an evaluation from Dr. Dunnigan.[41] On November 1, 2023, Dr. Dunnigan also deemed Respondent "not suitable." Dr. Dunnigan stated that he had "concerns" at the time of Respondent's evaluation because Respondent was the subject of "a sexual harassment investigation that was in progress at this security company at that time." Dr. Dunnigan stated:

> That investigation, coupled with a number of different incidents that he had been involved in the past, resulted in this examiner not finding him suitable for the position at that time. Most notably, Mr. Kim . . . had been found guilty and have [sic] been placed on formal probation, following a conviction involving misrepresenting information or facts during a criminal/court investigation.[42]

As a result of Dr. Dunnigan's assessment, on November 30, 2023, SFSO sent Respondent an email stating:

> We are writing to inform you of the outcome of your application for the 9504 Deputy Sheriff at San Francisco County Sheriff's Office. After careful consideration, we regret to inform you that we have elected <u>not to proceed</u> with your application."[43]

[40] Background Investigation Manual, Chapter 2 at 2-1.
[41] POST Regulation 1955(g)(providing right to appeal where a peace officer candidate is found psychologically unsuitable). The appeal process provides Respondent was responsible for paying for the second opinion.
[42] Attachment P at 010 (Background Investigation File at 336).
[43] Attachment P at 017 (Background Investigation File at 376)(emphasis in original).

Neither POST Regulations nor SFSO policy provide for further psychological evaluations after a second opinion's determination of not suitable.[44] Consequently, it is a reasonable conclusion that SFSO's rejection letter should have closed the application process. According to Lieutenant Tiffany Martin, SFSO did not have an appeal process for further review after a rejection like the one Kim received.[45] On the other hand, according to Sergeant Fonthal, there was no SFSO policy prohibiting an appeal. In Respondent's case, Sheriff Miyamoto called either Sergeant Fonthal or Lieutenant Martindale (who share an office) and told them to "pause" Respondent's background investigation after Respondent's own psychologist determined he was "not suitable."[46]

In February 2024, Respondent submitted an appeal of his own psychologist's evaluation that he was not suitable for a position as a peace officer by providing a letter purportedly from Sheriff Miyamoto to Dr. Dunnigan.[47] The letter is unsigned, undated, and is not on SFSO letterhead. According to Deputy Wan, Dr. Dunnigan called him to authenticate the letter. Deputy Wan had not seen the letter and was otherwise unaware of it. Dr. Dunnigan told Deputy Wan that he would call Sheriff Miyamoto to verify the letter. As an investigator, Deputy Wan stated that he was suspicious of the letter's authenticity.[48] Deputy Wan did not know whether Dr. Dunnigan verified the letter's authenticity with Sheriff Miyamoto. Sergeant Fonthal saw the letter when it came in as an attachment to a report Dr. Dunnigan submitted based on the February 2024 appeal.

The letter stated:

> As the elected Sheriff of San Francisco, one of my responsibilities is the hiring of sworn members of the Department. I am familiar with what Mike experienced when he left the Sheriff's Office, as well as his experiences at the War Memorial Veteran's Building. I have no concerns at this time of bringing him back as a member of the Sheriff's Office.[49]

According to Dr. Dunnigan's report:

> Mr. Kim reached out [to Dr. Dunnigan] again in February 2024. He informed this examiner that the investigation at his security company had been completed and that the allegations had not been sustained. Mr. Kim also stated that he had received a letter from Sheriff Miyamoto strongly supporting him and his believed

[44] Attachment O (Mel Fonthal Report of Interview at 3 (4/16/2025)).
[45] Attachment Q (Tiffany Martin Report of Interview at 1 (3/11/2025)).
[46] Although there were no orders to give updates to Sheriff Miyamoto, there was an "understanding" that the Sheriff wanted updates regarding Respondent's background investigation. Attachment O (Mel Fonthal Report of Interview at 1 (4/16/2025)).
[47] Attachment R (Letter from Paul Miyamoto to "To Whom It May Concern" (undated)).
[48] Attachment N (Ronnie Wan Report of Interview at 3 (3/11/2025)).
[49] Attachment R (Letter from Paul Miyamoto to "To Whom It May Concern" (undated)).

appropriateness for the position of a Correctional Deputy at this time. This letter will be included with my Findings Report. The Sheriff stated that he has 'no concerns at this time of bringing him back as a member of the Sheriff's Office.' Mr. Kim stated that the Sheriff's Office is aware of his misdemeanor arrest (related to the false reporting case) and still were interested in having him come back to work for the Department. He said that now that the sexual harassment investigation... has been completed and was not sustained (and another had not been pursued), he and the Department feel that it would be appropriate for him to again apply for a [Deputy] Sheriff position with the Department.

This examiner did explain to Mr. Kim and initially that there were concerns relating to POST Peace Officer Psychological Screening Dimensions for Officers. The standards were called into question in a number of different categories. Specifically, *Social Competence; Decision-Making and Judgment;* and *integrity/Ethics*. Mr. Kim said he understood these concerns and had discussed these matters with the Sheriff and background personnel there at the Department. He stated that they were comfortable with him coming back and working there. He mentioned that he would be brought on in a probationary status (as with all new or returning Correctional Deputies) and that he could be let go at any time (while in that probationary period) if they had any concerns about him, his appropriateness, or his performance. This examiner expressed that he very likely would not have been considered 'suitable' if not for the letter from the Sheriff recommending him for the position and speaking to his abilities and his seemingly good fit and past with the Department.[50]

During my investigation, I was unable to obtain evidence to corroborate the veracity of Respondent's statements to Dr. Dunnigan that "the Sheriff's Office is aware of his misdemeanor arrest (related to the false reporting case) and still were interested in having him come back to work for the Department" and "they [SFSO] were comfortable with him coming back and working there."[51]

On April 9, 2024, Dr. Corey reviewed the results of Dr. Nucci's and Dr. Dunnigan's assessments and concluded that Respondent was "suitable" for the position of Deputy Sheriff.[52]

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[50] Attachment P at 010-011Background Investigation File at 336-37).

[51] Dr. Dunnigan and Respondent declined to be interviewed. I did not seek to interview Sheriff Miyamoto because issues relating to potential hiring irregularities at SFSO were outside the scope of my investigation of serious misconduct. *See* California Penal Code Section 13510.8(c)(2)(authorizing Peace Officer Standards and Accountability Division "to review and investigate allegations for purposes of decertification")

[52] Attachment P at 001 (Background Investigation File at 17). This investigation noted anomalies in the Background Investigation process, including that peace officer candidates who are assessed "not suitable" by their own psychologist on appeal from the department psychologist are not afforded any

Subsequent to the psychological assessments, Deputy Wan completed the background investigation and submitted it to his chain of command for approval. On October 31, 2024, Lieutenant Martindale started the hiring approval process in Guardian.[53] The background investigation unit did not have a "vote" in the hiring decision and the Guardian note "approved" by the unit meant that the file was complete and ready for review.[54]

The Background Investigation File[55] documented each approval level and the vote in favor or against hiring Respondent:

Date	Approver Rank	Vote
11/1/2024	Linda Bui Captain	Reject hiring
11/2/2024	Tanzanika Carter Assistant Sheriff	Reject hiring
11/5/2024	Katherine Johnson Undersheriff	Reject hiring
11/5/2024	Paul Miyamoto Sheriff	Approve hiring

On December 21, 2024, SFSO employed Respondent as a Deputy. In connection with his reemployment background investigation, Respondent submitted documentation. Respondent signed the documents certifying them to be accurate. As explained further in the analysis section below, Respondent made admissions of his Dishonesty in these documents and during pre-employment interviews.

B. Dishonesty Analysis

California Penal Code 13510.8(b)(1) states that the definition of "serious misconduct" shall include:

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additional appeals similar to the appeal that Respondent undertook in February 2024. Among the anomalies were an applicant appealing a finding of not suitable, an applicant's own doctor finding the applicant not suitable, and the Sheriff's letter of recommendation. These anomalies are outside the scope of this investigation.

[53] Attachment P at 015 (Background Investigation File at 374).

[54] Attachment N (Ronnie Wan Report of Interview at 3 (3/11/2025)); Attachment Q (Tiffany Martin Report of Interview at 2 (3/11/2025)); Attachment O (Mel Fonthal Report of Interview at 3 (4/16/2025)). Although the approval levels noted in a different section of the Background Investigation File (page 375) appear slightly different, the ultimate result is the same as the chart shown above.

[55] Attachment P at 013, 016 (Background Investigation File at 373, 375).

(3) 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 purposes of concealing misconduct.

POST Regulation 1205(a)(1) contains the language quoted above and also includes the following statement:

For purposes of this subsection, in considering whether a suspension or revocation of certification is proper, the Commission will consider the extent to which the dishonesty related to a material or significant fact in the context of the statement or omission alleged to be dishonest and will also consider whether the dishonesty appears to have been done willfully or intentionally, with the intent to deceive.

1. ***Did Respondent sign a Declaration in Support of Defendant Andy Li's Motion to Reopen Detention Hearing and Reconsider Detention on August 6, 2014, under penalty of perjury that his statements were true and correct, when his statements were materially false? If so, were Respondent's materially false statements Dishonesty relating to the reporting, investigation, or prosecution of a crime in violation of California Penal Code Section 13510.8(b)(1) and POST Regulation 1205(a)(1)?***

    a. ***Finding: The clear and convincing evidence substantiated that Respondent's Declaration contained materially false statements, that he knowingly and willfully lied to a federal court, and that he obstructed justice in a federal criminal case through his lies. The clear and convincing evidence further substantiated that Respondent's false statements violated California Penal Code Section 13510.8(b)(1) and POST Regulation 1205(a)(1) because they were made in connection with the prosecution of Li.***

2. ***Did Respondent tell FBI Special Agents during an interview on August 19, 2014, that he did not know that Andy Li had a ballistic vest, that he dropped off a work-issued ballistic vest with his wife, who was at Li's wife's beauty salon, while he went out drinking with friends, and that tried to get the vest back but forgot about the vest over time, when his statements were materially false? If so, were Respondent's false statements Dishonesty relating to the reporting, investigation, or prosecution of a crime in violation of California Penal Code Section 13510.8(b)(1) and POST Regulation 1205(a)(1)?***

a. ***Finding: The clear and convincing evidence substantiated that Respondent's statements to FBI Special Agents were materially false. The clear and convincing evidence further substantiated that Kim's statements violated California Penal Code Section 13510.8(b)(1) and POST Regulation 1205(a)(1) because they were made in connection with a criminal investigation into Kim's criminal activity in submitting a false Declaration to a federal court.***

3. ***Did Respondent tell FBI Special Agents during an interview on August 19, 2014, that he did not know that Andy Li had a ballistic vest, that he dropped of a work-issued ballistic vest with his wife, who was at Li's wife's beauty salon, while he went out drinking with friends, and that tried to get the vest back but forgot about the vest over time, when his statements were materially false? If so, were Respondent's false statements Dishonesty relating to the reporting of, of investigation of misconduct by, a peace officer in violation of California Penal Code Section 13510.8(b)(1) and POST Regulation 1205(a)(1)?***

    a. ***Finding: The clear and convincing evidence substantiated that Respondent's statements to FBI Special Agents were materially false. The clear and convincing evidence further substantiated that Respondent's statements violated California Penal Code 13510.8(b)(1) and POST Regulation 1205(a)(1) because they were made in connection with Kim's peace officer misconduct.***

I will address the allegations cumulatively in the analysis of the evidence below to avoid repetition of the evidence. In sum, the clear and convincing evidence substantiated that Respondent was Dishonest in connection with the investigation of and prosecution of Li; in connection with the FBI's investigation of Respondent's criminal act of submitting a materially false Declaration to a federal court; and in connection with the FBI's investigation of Respondent's reporting of, Respondent's peace officer misconduct.

The clear and convincing evidence substantiated that:

- Respondent was dishonest in a Declaration filed with a federal court under penalty of perjury in connection with the criminal prosecution of Andy Li.
    - The Declaration contained materially false statements. Specifically, Respondent stated that Andy Li's possession of a ballistic vest was the result of the Respondent's inadvertent failure to retrieve his ballistic vest from Andy Li's wife, Mimi Li, after the Respondent accidentally left the ballistic vest in Mimi Li's hair salon.
    - Andy Li's possession of a ballistic vest was one of the reasons the court cited for denying Andy Li bail in April 2014.

    - Respondent knowingly and willfully lied to a federal court when he signed this Declaration.
    - Respondent obstructed justice in a federal criminal case by signing a Declaration that he knew contained false information.
- Respondent was dishonest in a criminal investigation of Andy Li when he made statements to FBI Special Agents on August 19, 2014, during an interview about Andy Li and his Declaration that were materially false, including that:
    - He did not know that Andy Li had a ballistic vest;
    - He dropped off a work-issued ballistic vest with his wife, who was at Li's wife's (Mimi Li) beauty salon, while he went out drinking with friends; and
    - He tried to get the vest back but forgot about the vest over time.
- Respondent stated that he made materially false statements in a memorandum he submitted to then-Chief Deputy Matthew Freeman, SFSO, which repeated the lies he told FBI Special Agents.[56]

The admissions in Respondent's Plea Agreement stand as evidence beyond a reasonable doubt that he lied to the Court in the Li prosecution and that he lied to FBI Special Agents in connection with their investigation of criminal activity and his own peace officer misconduct. The beyond a reasonable doubt evidentiary standard is far higher than the clear and convincing evidentiary standard required in this investigation.

In support of his guilty plea, Respondent stated to the Court that he knowingly and willfully lied to the Court:

> On August 6, 2014, I signed a Declaration. I knew and intended that the Declaration would be provided to the Court for the purpose of Andy Li's attorneys to seek the release of Andy Li. In connection with that Declaration, I falsely declared that my wife had taken a ballistic vest with her to see the wife of Andy Li. I falsely declared that my wife had forgotten the vest at the workplace of the wife of Andy Li. I falsely declared that the wife of Andy Li had placed the vest in the trunk of her car. I falsely declared that I had not retrieved the vest from the wife of Andy Li. In truth and in fact, I had loaned my ballistic vest — issued to me by the San Francisco Sheriff's Department — to Andy Li for his

[56] Although Respondent stated to the FBI that he submitted a memorandum containing lies to his chain of command and admitted the same in his background investigation file, I was unable to locate a copy of the memorandum. Attachment P at 012 (Background Investigation File at 360 ("35) I falsified a memo I wrote to my supervisor. This was related to the misdemeanor contempt of court charge."); Attachment P at 007 (Background Investigation File at 74 (Personal History Statement – Peace Officer (POST 2-251))(8/1/2021)("I wrote a memo to Chief Deputy Matthew Freeman stating the same fact. The FBI arrived at my work and interviewed me about my statement that was filed in court. I told the FBI the same story."); Attachment S (FBI Interview of Michael Kim, FD-302 at 2 (8/19/2024) ("KIM stated he let his SFSO Chief know about the circumstances involving the ballistic vest approximately two weeks ago."). In my investigation I contacted Mr. Freeman by phone and U.S. mail to interview him about the memorandum from Respondent. Mr. Freeman did not respond to my requests to be interviewed.

use. I knew that my declaration was false . I knew and intended that the attorneys for Andy Li would provide the false declaration to the Court. I knew and intended that the Court would rely on my false declaration in considering the detention of Andy Li.[57]

Respondent's lies were material. Prosecutors sought pre-trial detention of Li because, they argued, he was a danger to the community. Prosecutors argued that Li was Chow's henchman who engaged in violent acts on Chow's orders. The fact that Li had a ballistic vest in his car at the time the FBI arrested him was evidence that Li was a danger to the community. The Court specifically cited the retrieval of a ballistic vest from Mimi Li's car at the time of Andy Li's arrest as a factor in its decision to deny Andy Li bail.[58] Respondent's lies in his Declaration and to the FBI Special Agents interviewing him that he had not lent the vest to Li and had forgotten the vest with his wife were therefore material to the Court's determination whether to reconsider pre-trial detention of Li.

Respondent's lies obstructed justice by offering false evidence. Respondent's statements to the Court in his Declaration interfered with and disrupted the integrity of another branch of government – the judicial system. Respondent's Declaration undermined the judicial process and wasted the time of the Court, prosecutors, and FBI agents investigating Li.

Other evidence that established the evidentiary standard of clear and convincing was met regarding Respondent's Dishonesty includes other admissions he made about his lies to the Court, to FBI agents, and to his own department, including:

- Respondent told FBI Special Agents he lied to them when they interviewed him in August 2014.
    - On December 22, 2014, FBI Special Agents interviewed Respondent again. During this interview, Respondent admitted that he made materially false statements to them during his interview on August 19, 2014.[59]
- Respondent told SFSO that he lied to the FBI when he reapplied for employment with SFSO.
    - In Section 8 (Legal) of the Personal History Questionnaire that Respondent submitted in connection with his 2021 application for reemployment with SFSO, Respondent answered the question, "Have you ever been convicted of . . . any misdemeanor or felony offense in or

[57] Attachment T (Plea Agreement, *United States v. Kim*, 18-CR-124 at 2-3 (U.S. District Court for the Northern District of California)(5/25/2018)).
[58] Attachment E (Order of Detention Pending Trial, United States v. Li, CR-14-196, at 2 (U.S. District Court for the Northern District of California)(5/7/2014)).
[59] Attachment D (FBI Interview of Michael Kim, FD-302 (12/22/2014)).

any other legal jurisdiction . . .?" Respondent stated: "August 6, 2014, I plead [sic] guilty to 1 count of contempt of court. I was placed on federal probation for 3 years, fined $30,000 dollars, 300 hours of community service. **I was not truthful when interviewed by the F.B.I.**[60]

- Respondent admitted that he lied to his supervisor about his own misconduct when he submitted an application to SFSO for reemployment.
    - On May 1, 2021, Respondent explained further his answer "yes" to the question "Have you ever falsified or embellished any police, security, evidence, or other official report?"[61] In an Explanation Form, he stated that he "**falsified a memo [he] wrote to [his] supervisor**. This was related to the misdemeanor contempt of court charge."[62]
- In a Personal History Questionnaire he submitted to SFSO for reemployment, Respondent admitted that he lied.
    - As an update to the Personal History Statement (POST 2-251), Respondent answered the following question:

> 46.3. Have you ever been dishonest in 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 purposes of concealing misconduct?[63]
> Respondent answered "yes" and explained:
> Over the telephone, an attorney called me to get my statement for a bail hearing for my friend. I told this attorney that I left my department's bullet proof vest at my friend's wife hair salon and forgot to pick it up. That is why my friend had a sheriff's bullet proof vest when he was arrested at his house. This statement was submitted in court.

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[60] Attachment P at 002 (Background Investigation Report at 31 (6/27/2023)(Personal History Questionnaire (4/30/2021) (emphasis supplied)). On April 30, 2021, Respondent digitally signed the Personal History Questionnaire that he "personally completed each page of the PHQ form and all statements are true and correct to the best of [his] knowledge and belief."

[61] Attachment P at 006 (Background Investigation Report at 73 (Explanation Form, Question 35 (5/1/2021)), 142 (Miscellaneous Documents/Questionnaires, Question 35) (5/1/2021)).

[62] Attachment P at 006 (Background Investigation Report at 73 (Explanation Form, Question 35) (5/1/2021))(emphasis supplied).

[63] Note that this is a direct quotation of the language from POST Regulation 1205(a)(1)'s definition of Dishonesty as serious misconduct. On August 1, 2023, Respondent digitally signed a Personal History Questionnaire that he "personally completed each page of the PHQ form and all statements are true and correct to the best of [his] knowledge and belief." He submitted the PHQ in connection with his application for employment with SFSO.

> I wrote a memo to Chief Deputy Matthew Freeman stating the same fact. The FBI arrived at my work and interviewed me about my statement that was filed in court. I told the FBI the same story.
>
> The next day I obtained an attorney and spoke with the FBI and the Assistant United States Attorney. I cooperated with the FBI and was charged with a misdemeanor contempt of court.[64]

- Respondent told a polygraph examiner that he lied to a federal court.
  - On July 22, 2023, during a pre-polygraph examination interview. The interviewer noted:

> Admits he left this job as he was charged with contempt of court as he lied during a federal investigation about giving his friend his department issued vest. Explains his friend was arrested and his attorney asked him to write his friend Andy Li a statement. Admits he wrote a letter/ statement saying he left his department vest at his friend's wife's salon when he actually gave it to his friend. Says this was a big mistake on his part and he did this as he thought Andy was changing his life and becoming a better person. Says Andy told him he was working in security and he wanted to be safe. Says he was questioned about this by the FBI who spoke with him and he told them the same thing. Says he then spoke with his departments [sic] union, got an attorney, and he then told the feds the truth and cooperated with them. Says this was his childhood friend and he thought he could help him . Says his friend was involved in Asian gang activity and was in and out of prison a lot. Says he spoke with the Sheriff about this and she told him she would consider hiring him again at some point and so he resigned from this agency. Says he was eventually charged with a misdemeanor. Says he was on probation, paid a $30,000.00 fine, completed 300 hours of community service, and was on home monitoring. Says he knew his friend Andy committed these crimes over the years but when he got out of prison he thought he was better and no longer committing any crimes. . . .[65]

C. Reasonable Grounds Exist for Regulatory Action

Reasonable grounds exist for revocation of Respondent's peace officer certificates. As cited by POST Regulation 1213, Respondent's actions and conduct

[64] Attachment P at 007 (Background Investigation File at 74 (Personal History Statement – Peace Officer (POST 2-251))(8/1/2021)).
[65] Attachment P at 008 (Background Investigation File at 286 (Polygraph Examination Report at 2)(7/22/2023)).

before, during, and after his conviction demonstrate that he cannot be trusted to be a peace officer and is ineffective as a peace officer.

Respondent's Declaration to a federal court obstructed justice by lying to the court. As a peace officer, Respondent was and is expected to provide truthful information in court. Respondent's interference with the judicial process and criminal justice system stands in direct contravention to the core duties of being a peace officer. Further, Respondent's actions in soliciting others, including his wife, to hold fast to the lies he created show that he is not trustworthy. Respondent's lies negatively impacted the integrity of the criminal justice system. Respondent's Dishonesty undermined the public's trust in law enforcement.

Respondent's Dishonesty in submitting a memorandum to his chain of command harms morale and undercuts departmental discipline.

Respondent's Dishonesty stemmed from a conflict of interest in which Respondent's personal loyalties to his friend overshadowed his professional obligations as a peace officer. The conflict of interest manifested itself in lies to a federal court, to FBI Special Agents, and to his own chain of command. Respondent's actions demonstrate a distinct and innate inability to perform basic law enforcement functions. The People of California reasonably expect that peace officers uphold the law and not permit personal loyalties to compromise their professional obligations. Respondent let his personal loyalty to Li compromise his professional obligations when he lied.

Through his lies, Respondent attempted to help gain the release of a man from prison that a court deemed dangerous to the community based on his own admitted role as enforcer for an organized crime syndicate who dealt drugs, laundered money, and trafficked in weapons. Respondent cannot be effective as a peace officer because he is not honest.

Respondent should be held accountable to his own representations to the court during sentencing that he relinquished his law enforcement career forever. Respondent asked for leniency from the court during his sentencing based upon his relinquishment of his professional aspirations to remain a California peace officer. In his Memorandum in Aid of Sentencing, his lawyers wrote:

> On February 8, 2016, Mr. Kim resigned from his employment in the San Francisco Sheriff's Office with ***no intention of returning to law enforcement***."[66]. . . Mr. Kim has fully accepted responsibility and proactively took the initiative to make amends for his conduct, ***shown in part by his***

[66] Attachment U (Defendant's Memorandum in Aid of Sentencing, *United States v. Kim*, 18-CR-124, at 3 (U.S. District Court for the Northern District of California) (10/5/2018)(emphasis supplied)).

voluntarily retirement [sic] from the Sheriff's Office."[67] . . . ***For the above reasons*** . . . Mr. Kim respectfully requests that this Honorable Court impose probation, a fine and community service.[68]

Respondent's own family also sought leniency based upon the fact that Respondent's gave up a career in law enforcement. They filed statements with the Court stating:

Michelle Lam (Respondent's sister-in-law):

"It was very difficult to watch him walk away from something that I knew he loved because of a mistake he made."[69]

Les Pasamonte (Respondent's brother-in-law):

"He was a career law enforcement officer, excelling to the rank of Sergeant, onto SRT and then to SWAT. It's been heartbreaking to see him **walk away from all of that to make amends**."[70]

Jeff Lam (Respondent's brother-in-law):

"Although he loved working for the sheriff's department and showed much pride in his work, he **independently** made the difficult decision to leave this prestigious job and position."[71]

The Court's sentence included a reduction in the Sentencing Guidelines to include a reduction for "acceptance of responsibility."[72]

Although the anonymous complainant stated that Respondent's sentencing "stipulated" that he relinquish his career in law enforcement as part of the plea deal, this investigation did not reveal evidence to corroborate the allegation. A reasonable conclusion, however, based on the statements of family members and the Court's provision of a reduction for "acceptance of responsibility" is that Respondent intended

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[67] Attachment U (Defendant's Memorandum in Aid of Sentencing, *United States v. Kim*, 18-CR-124, at 6 (U.S. District Court for the Northern District of California)(10/5/2018)(emphasis supplied)).
[68] Attachment U (Defendant's Memorandum in Aid of Sentencing, *United States v. Kim*, 18-CR-124, at 6 (U.S. District Court for the Northern District of California)(10/5/2018)(emphasis supplied)).
[69] Attachment V (Exhibit C to Defendant's Memorandum in Aid of Sentencing, *United States v. Kim*, 18-CR-124 (U.S. District Court for the Northern District of California)(7/10/2018)).
[70] Attachment V (Exhibit C to Defendant's Memorandum in Aid of Sentencing, *United States v. Kim*, 18-CR-124 U.S. District Court for the Northern District of California)(7/5/2018) (emphasis supplied)).
[71] Attachment V (Exhibit C to Defendant's Memorandum in Aid of Sentencing, *United States v. Kim*, 18-CR-124 (U.S. District Court for the Northern District of California)(7/3/2018) (emphasis supplied)).
[72] Attachment W (Judgment in a Criminal Case, *United States v. Kim*, 18-CR-124 (U.S. District Court for the Northern District of California)(10/12/2018)).

to surrender a career in law enforcement based on his conviction for lying and gained the benefit of a reduced sentence based upon this surrender.

The fact that Respondent sought and gained re-employment with SFSO shows that his statements to the court that he fully accepted responsibility and that he did not have any intention of continuing in a law enforcement career ring hollow and themselves appear dishonest. As Respondent stated to the polygraph examiner, he had conversations with then-Sheriff Vicky Hennessy about returning to SFSO. Given that Sheriff Hennessy left office in January 2020, Respondent's conversations would have occurred at some point near the time of his resignation in 2016 or his conviction in 2018. In either event, Respondent's conversations would have occurred *after* he was aware he had lied to a federal court, to the FBI, and even to his own chain of command and *after* his lawyers and family told the court that he had relinquished a career in law enforcement based on his lies.

In addition, that Respondent sought other employment as a peace officer at a department other than SFSO further shows that revocation is warranted to prevent him from gaining employment as a peace officer again.[73] In mid-2022, Respondent applied to be a police officer with City College of San Francisco ("CCSF"). After a background investigator there discovered that Respondent lied under oath, CCSF sent Respondent a rejection letter in October 2022.

The *Background Investigation Manual* sets forth the concept of "dimensions," which relates to the suitability of an individual to become a peace officer. Respondent's background investigation revealed significant issues with dimensions related to Respondent's moral character (integrity) and intellectually-based abilities (decision-making and judgment). The concept of dimensions is designed to provide guidance "what prior conduct constitutes good moral character (or, more importantly, the absence thereof)?"[74] In Respondent's case, his background investigation revealed significant deficiencies in his moral character that necessitate revocation or suspension of his peace officer certificates.

Finally, Respondent's lies were "done willfully or intentionally, with the intent to deceive" – which significantly increases the need for revocation or suspension pursuant to POST Regulation 1205(a)(1). Enlisting the help of others, including his

[73] Attachment P at 012 (Background Investigation File at 360)(Background Investigation Questionnaire Explanation Form at 2) (6/27/2023)).
[74] Background Investigations Manual (2022); *see* California Government Code Section 1031(d) (background investigations are designed to verify good moral character and the absence of past behavior indicative of unsuitability to perform the duties of a peace officer); POST Regulation 1953.

own wife, to collude and conspire to defraud a court is especially egregious behavior that the Commission should not condone in a peace officer.[75]

Supporting Evidence and Documentation

Evidence	Attachment
Executive Review and Division Recommendation	A
EDI Profile of Respondent	B
United States' Opposition to Defendant Li's Motion to Reconsider Detention Order, *United States v. Chow*, CR-14-196 (U.S. District Court for the Northern District of California)(8/22/2014)	C
FBI Interview of Michael Kim, FD-302 at 4 (12/22/2014)	D
Order of Detention Pending Trial, *United States v. Li*, CR-14-196 (U.S. District Court for the Northern District of California (5/7/2014)	E
Notice of Motion and Motion to Reopen Detention Hearing and Reconsider Detention, *United States v. Li*, CR-14-196 (U.S. District Court for the Northern District of California) (8/6/2014)	F
Declaration of Michael Kim in Support of Notice of Motion and Motion to Reopen Detention Hearing and Reconsider Detention, *United States v. Li*, CR-14-196 (U.S. District Court for the Northern District of California)(8/6/2014)	G
Declaration of Mimi Li in Support of Notice of Motion and Motion to Reopen Detention Hearing and Reconsider Detention, *United States v. Chow*, *et al.*, CR-14-196 (U.S. District Court for the Northern District of California)(8/6/2014)	H
Minute Entry (denying pre-trial release of Li), *United States v. Chow*, *et al.*, CR-14-196 (U.S. District Court for the Northern District of California)(9/26/2014)	I
Information, *United States v. Kim*, 18-CR-124 (U.S. District Court for the Northern District of California)(3/27/2018)	J
Criminal Minute Order, *United States v. Kim*, 18-CR-124 (U.S. District Court for the Northern District of California)(10/12/2018)	K

[75] Attachment D (FBI Interview of Michael Kim, FD-302 at 2 (12/22/2014) ("The day before the FBI interviewed Kim, Kim had dinner with Mimi, Caesar Marabuto (aka 'Auggie,' hereafter 'Auggie'), and Auggie's wife. At that time, Kim told Mimi about Kim's story he invented about forgetting the vest at Mimi's salon.") and 3 ("Kim told his wife the story he had told the FBI. Kim's wife was angry, but she also stuck with the story when she was subsequently interviewed.")).

Evidence	Attachment
Request for Early Termination of Supervision, *United States v. Kim*, 18-CR-124 (U.S. District Court for the Northern District of California)(11/2/2020)	L
Michael Kim Archived Background File	M
Ronnie Wan Report of Interview (3/11/2025)	N
Mel Fonthal Report of Interview (4/16/2025)	O
Background Investigation File	P
Tiffany Martin Report of Interview (3/11/2025)	Q
Letter from Paul Miyamoto to "To Whom It May Concern" (undated)	R
FBI Interview of Michael Kim, FD-302 (8/19/2024)	S
Plea Agreement, *United States v. Kim*, 18-CR-124 (U.S. District Court for the Northern District of California)(5/25/2018)	T
Defendant's Memorandum in Aid of Sentencing, *United States v. Kim*, 18-CR-124 (U.S. District Court for the Northern District of California)(10/5/2018)	U
Exhibit C to Defendant's Memorandum in Aid of Sentencing, *United States v. Kim*, 18-CR-124 (U.S. District Court for the Northern District of California)(10/5/2018)	V

IV. Conclusion

As stated above, the clear and convincing evidence substantiated violations of California Penal Code Section 13510.8(b)(1) and POST Regulation 1205(a)(1). 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 of Respondent's peace officer certificates pursuant to California Penal Code Section 13510.8.