No. 22-471(f)

PORTERVILLE POLICE DEPARTMENT INTEROFFICE MEMO

December 12, 2022

TO: Mr. James Guy

Jake Castellow

FROM: Jake Castellow, Chief of Police

SUBJECT: Notice of Adverse Decision

On December 7, 2022, at approximately 0946 hours, I met with you and your representative, Steven Welch, in my office for your Skelly Conference per your request to respond to the intent to impose discipline as documented in Porterville Police Department Interoffice Memo No. 22-471.

During this conference, I listened to your explanations/reasoning, and any further information you thought needed to be addressed and the meeting concluded at 1004 hours.

## Statement of Decision

After listening to your explanations/reasoning and my review of the entire investigation as presented by the investigators, and the additional information presented at Skelly, I do not feel that any modification of the proposed discipline is warranted.

In the presented analysis of the incident by your representative and you, it was perceived by you the use of force was "reasonable" and that, "the use of force would have been reasonable by any officer put in the same situation, presented with the same facts."

During the investigation, Tulare County Sheriff's Deputy Rufino Lopez was contacted and interviewed regarding this Internal Affairs Investigation. Deputy Lopez is considered to be a "reasonable" sworn law enforcement officer. In Deputy Lopez's witness statement, he said you took a few steps forward and pushed the inmate down. Deputy Lopez said you did this because it appeared the inmate spit on you. The deputy said you became upset and pushed the handcuffed inmate down. Deputy Lopez said the inmate fell to the ground and struck his head, causing a large wound which was bleeding.

Deputy Lopez told investigators he **did not** feel it was okay that you pushed the inmate merely because you were upset. Deputy Lopez said **he does not** react by pushing inmates, especially if they are in handcuffs.

In the Skelly Conference, it was presented by Mr. Welch that this was reasonable force as the suspect was advancing toward you in a "fighting mode" and the force used would have been reasonable by any other officer presented with the same set of facts. This conclusion is contradicted as stated above by a reasonable peace officer, Deputy Lopez, who did not think the force was reasonable and that he would not have reacted by pushing a handcuffed inmate to the ground.

It was also insinuated by Mr. Welch that this was a rapidly evolving incident, the suspect was advancing on you, and the amount of force was reasonable and necessary to stop the advance. I disagree that the amount of force was warranted because there were two officers present, you were in a secured sally port, and the suspect was handcuffed with his hands behind his back. Also in the jail video, I did not see any rapid advance by the suspect. I actually saw you take the time to set items down which were in your hands, advance toward the suspect, use both of your hands and push the suspect in the chest with such force that the suspect fell to the ground striking his (suspect's) head, which caused a major injury. In the body camera video, you then made the statement, "This isn't good," acknowledging the poor decision to use such force.

In my additional review, which again included the investigation conducted by Lt. Azevedo, the statements of independent witnesses, all video, all audio, your recorded statement and your expanded explanation during the Skelly hearing, I did not find that any of your explanations/reasoning excused the conduct which you engaged in as described in the Intent to Discipline.

Based on the above, I will not be modifying the Intent to Discipline. I have made the decision to terminate your employment with the Porterville Police Department and effective 1600 hours on December 12, 2022, your employment with the Porterville Police Department is hereby terminated.

This action is being taken for the violations of policy as documented in Porterville Police Department Interoffice Memo No. 22-471.

Pursuant to Rule XI-3(f) of the City of Porterville Personnel Rules and Regulations, you have ten working days in which to file a written appeal with the City Manager.

My signature acknowledges receipt and understanding of this memorandum. In addition, I acknowledge notification of my right to file a written appeal with the City Manager.

James Guy — 12/12/22
Date

Witness #A2 — 12.12.22
Date