

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

Adopted this Order on January 28, 1992 92 JAN 30 PM 4:19 by the following vote:

YES: Supervisors Powers, Fahden, Schroder, Torlakson, McPeak

NOES: None

ABSENT: None

ABSTAIN: None

SUBJECT: In the Matter of)
 Adopting a Revised) RESOLUTION NO. 92/52
 Alcohol and Other Drug)
 Abuse Policy)

WHEREAS the Board of Supervisors has enacted Resolution No. 90/674 hereinafter referred to as the Alcohol and Other Drug Abuse Policy; and

WHEREAS the Board of Supervisors continues to oppose the use of illegal drugs in order to provide a safe work environment and to protect the public's safety and welfare; and

WHEREAS revision to the Alcohol and Other Drug Abuse Policy is necessary to include reference to the California Drug-Free Workplace Act of 1990;

NOW THEREFORE BE IT RESOLVED that Resolution No. 90/674 is rescinded and superseded by the following revised Alcohol and Other Drug Abuse Policy:

- I. The Government of Contra Costa County has the overall goals of reducing the incidence of the abuse of alcohol and other drugs through prevention and education together with intervention and treatment. The County believes that alcohol and other drug abuse is a condition requiring professional intervention and recovery services. Because Contra Costa County Government is committed to protecting the health, well-being and safety of employees and the public from hazards relating to alcohol and other drug abuse by employees, it will: (a) encourage affected individuals to seek professional help voluntarily at an early stage; (b) assist supervisors in dealing with associated problems related to work performance; (c) will assist supervisors, fellow employees, and possibly family members in confronting an employee's alcohol and other drug problems in the workplace.
- II. Pursuant to the requirements of the Federal DRUG-FREE WORKPLACE OF 1988 and the CALIFORNIA DRUG-FREE WORKPLACE ACT OF 1990, it is the policy of the Contra Costa County Government to continue to provide a drug-free workplace.
- III. The manufacture, distribution, dispensing, possession or use of alcohol or a controlled substance is prohibited in the workplace. The workplace includes all property under the control and use of Contra Costa County.
- IV. Any violation of this prohibition by an employee of Contra Costa County may result in: (1) requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program; or (2) disciplinary action up to and including termination.
- V. An employee must notify her/his department head within five days on any criminal drug statute conviction for a violation occurring in the workplace.

VI. An employee will not be disciplined because she/he voluntarily requests assistance for an alcohol or other drug problem. However, seeking assistance or raising any claim related to substance abuse does not relieve an employee of her/his responsibility to meet the county's performance, safety, or attendance standards, does not relieve an employee of her/his responsibility to adhere to this policy, and does not insulate the employee from discipline for reasons other than seeking assistance for an alcohol or other drug problem.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: January 28, 1992
PHIL BATCHELOR, Clerk of the Board
of Supervisors and County Administrator

by P. Matthews, Deputy

RESOLUTION NO. 92/52

Orig. Dept.: Personnel Department
cc: All County Departments
All Employee Organizations

SETTLEMENT AND LAST CHANCE AGREEMENT

by and among

Christopher Spadaro,

Contra Costa County, Office of the Sheriff, and

Deputy Sheriffs Association, Rank & File Unit

INTRODUCTION

This Settlement and Last Chance Agreement ("Agreement") is entered into by and among Christopher Spadaro ("Employee"), Contra Costa County, Office of the Sheriff ("Sheriff's Office"), and the Deputy Sheriffs Association, Rank & File Unit ("Union") (collectively, the "Parties").

The purpose of this Agreement is to provide Employee with a final opportunity to continue his employment with the Sheriff's Office, notwithstanding the fact that he has engaged in conduct that constitutes a violation of Sheriff's Office policies, and could be the basis for a termination, and to release any and all claims Employee could bring against the Sheriff's Office as a result of any act or omission by the Sheriff's Office prior to and including the execution of this Agreement. Because of the serious nature of Employee's misconduct, the Sheriff's Office wishes to avail itself of the right to take future disciplinary action against Employee for any violation of this Agreement as set forth herein.

This Agreement is in no way intended to restrict rights guaranteed to the Sheriff's Office under state or federal law. Further, this Agreement is in no way intended to establish precedent with regard to enforcement of Sheriff's Office Policies and Procedures for any other employee in any other forum or setting.

FACTUAL RECITALS

The Parties hereby agree that the following factual recitals are the basis for this Agreement:

- A. On or about November 24, 2016, Employee drove his vehicle after consuming several alcoholic beverages. The Vacaville Police Department pursued Employee after observing him making an illegal left turn out of a driveway. The Vacaville Police Department further observed Employee speeding, making a left turn against a red light, and then blacking his vehicle lights after turning into a transit center, where the Officer finally caught up to him.
- B. The Vacaville Police Department conducted a DUI investigation on Employee after noticing signs of intoxication. After completing the investigation, the Vacaville Police Department arrested Employee for driving under the influence. Subsequently,

the Solano County District Attorney informed the Sheriff's Office that Employee's blood alcohol level that night was measured at approximately .14% and that his criminal case was filed.

- C. In addition, the Vacaville Police Officer observed that Employee's vehicle still had paper plates on it and suspected that Employee was not paying his bridge tolls. Employee admitted that he had not been paying bridge tolls for approximately five months.
- D. Employee initially told the Vacaville Police Department on at least two instances that he only had one beer to drink that evening. Later during that same encounter, he admitted consuming four beers that evening. During Employee's investigative interview, he admitted consuming five drinks that evening.

TERMS OF AGREEMENT

1. **Consideration:** Employee willingly enters into this Agreement and waives his rights as described herein in exchange for the Sheriff's Office issuing a five percent (5%) reduction in pay for six (6) months and entering into this Agreement, instead of terminating Employee, as described below in paragraph 2.
2. **Reduction in Pay:** Sheriff's Office will set aside the pursuit of termination against Employee for the misconduct described above. Sheriff's Office hereby rescinds the Order and Notice of Action issued on or about April 5, 2017 and instead serves Employee with an Amended Order and Notice of Action for a five percent (5%) reduction in pay for six (6) months, effective September 1, 2017 through March 1, 2018, inclusive. Employee hereby accepts service of the Amended Order and Notice of Action (attached as **Exhibit A**). For the time period between approximately April 5, 2017 through September 1, 2017, Employee will be absent without pay ("AWOP").
 - a. **Waiver of Due Process and Appeal Rights.** Employee and Union acknowledge and agree that Employee is waiving his due process and appeal rights as part of this Agreement with respect to the reduction in pay, above.
3. **No Promotion:** For a minimum of three (3) years from the execution of this Agreement, Employee shall not apply for a promotion.
4. **Last Chance Provision:** For a period of three (3) years from the execution of this Agreement, the Sheriff's Office may terminate Employee for the grounds listed below:
 - a. Any violation by Employee of the Sheriff's Office's "Unbecoming Conduct" policy (attached as **Exhibit B**); or
 - b. Any violation by Employee of Contra Costa County's Drug and Alcohol policy (attached as **Exhibit C**); or

- c. Any violation by Employee of this Agreement.

Any of the grounds listed above will constitute a violation of this Agreement and constitute just cause for termination. If Employee is terminated based upon any of the grounds listed above, whether or not he violated this Agreement will be the sole issue during the disciplinary process, set forth in paragraph 5, below.

- 5. **Waiver of Due Process and Appeal Rights – Termination:** Employee and Union agree that Employee is waiving his due process and appeal rights as part of this Agreement with respect to his termination for any of the conduct described above in paragraph 4. With respect to a termination for this conduct, Employee and the Union agree that the Sheriff's Office is not required to follow any rule or procedure related to due process, progressive discipline, or other Sheriff's Office rule, contract, or procedure, or provide any pre- or post-termination appeal rights whether set out in Sheriff's Office policy or in the Memorandum of Understanding between the Union and the Sheriff's Office ("MOU"), except for the limited right to respond as follows:
 - a. **Pre-Disciplinary Hearing for Termination Pursuant to this Agreement:** Employee will be served with a Skelly Notice and given a pre-disciplinary, non-evidentiary hearing (also known as a Skelly meeting) where he or his representative can respond to the factual basis for the Sheriff's Office's determination to terminate him pursuant to this Agreement. Employee and Union agree that in the event that the Sheriff's Office concludes, following such a meeting, that he has violated any of the terms of this Agreement, he shall be subject to termination, without the right of appeal provided by any law, MOU, or Sheriff's Office rule or procedure.
- 6. **Matters Not Covered by this Agreement:** This Agreement in no way limits the Sheriff's Office's ability to discipline or terminate Employee for other conduct not falling within the scope of this Agreement that would normally merit discipline under the Sheriff's Office's policies, procedures and the applicable MOU. Employee agrees that the conduct described in the Agreement's Factual Recitals, above, may be considered by any third party neutral or by the Sheriff's Office during any future discipline proceeding, whether or not related to the subject matter of this Agreement.
- 7. **Drug and Alcohol Testing Provisions:**
 - a. **Random Drug and Alcohol Testing:** Employee agrees to submit to random drug testing for a period of three (3) years from the date that he executes this Agreement. Employee further agrees that failure to take these tests or a positive test result constitutes a violation of this Agreement. Employee will only be tested while on duty.
 - b. **Employee to Bear Costs:** Employee may be tested on duty using a preliminary alcohol screening ("PAS") device and will not be responsible for any costs

associated with PAS testing. If necessary, the Sheriff's Office may elect to subject Employee to drug testing beyond PAS testing. Employee agrees to bear the costs associated with further drug testing. The cost borne by Employee per test shall not exceed fifty dollars (\$50.00) and the number of tests per year shall not exceed four (4).



8. **Waiver and Release of All Claims:** Employee hereby releases and discharges the County of Contra Costa and any past and/or present officers, officials, agents, employees, attorneys and representatives, and each of them, from any and all causes of action, actions, judgments, liens, indebtedness, damages, losses, claims, liabilities, and demands of whatsoever kind or character, known or unknown, suspected to exist or not suspected to exist, arising from or attributable to his employment with the Sheriff's Office, including, but not limited to, events surrounding this Agreement. Employee further understands and agrees that this release extends to all rights granted under Section 1542 of the California Civil Code, which provides as follows:

Section 1542. Certain Claims Affected by General Release. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

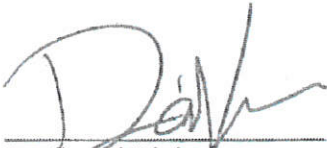
This comprehensive, general release of any and all claims, includes, without limitation, claims under the Age Discrimination in Employment Act ("ADEA") and the Older Workers Benefit Protection Act ("OWBPA"). Employee understands and acknowledges that he has been given at least 21 days to consider his release of claims under the ADEA and the OWBPA, and that he expressly waives this 21 day notice provision. Employee acknowledges that he has seven days from the date he executes this Agreement to revoke his release under the ADEA and the OWBPA; provided, however, that should Employee revoke this release, the Sheriff's Office may, in its sole discretion, rescind this entire Agreement.

9. **Non-Precedent Setting:** The Parties acknowledge and agree that this Agreement is not to be considered precedent setting in any other forum or matter, including but not limited to a grievance, appeal, or lawsuit.
10. **Personnel File:** A copy of this Agreement shall be placed in Employee's personnel file.
11. **Entire Agreement:** This Agreement represents the entire Agreement of the Parties with respect to the subject matter herein and supersedes any prior written or oral Agreements or representations. No amendment to this Agreement shall be valid unless it is in writing and signed by all Parties.
12. **California Law:** This Agreement will be construed in accordance with the laws of the State of California.

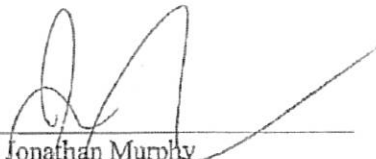
13. **Right to Consult Counsel:** Employee acknowledges and agrees that prior to signing this Agreement, he was provided with the opportunity to consult with his Union representative and/or legal counsel of his choice. Employee agrees that he is voluntarily entering into this Agreement, without coercion or extraneous inducement.
14. **Challenge to Agreement:** Employee expressly waives any right to challenge the validity of this Agreement. In the event that litigation is necessary regarding the interpretation of this Agreement, each side shall bear their own costs of suit and attorneys' fees regardless of who is the prevailing party.
15. **Mutual Drafting:** The Parties agree they have had the opportunity to participate in the drafting of this Agreement, and that it shall not be construed in favor of any party should its meaning be subject to dispute.
16. **Costs:** Each Party with bear its own costs and attorneys' fees with respect to this Agreement.
17. **Execution in Counterparts:** This Agreement may be executed in counterparts, each of which will be treated as an original and all of which together are to be considered one and the same agreement. Facsimile signatures or scanned copies of signatures are binding and are to be considered original signatures.

<p>DATED: 8/22/17.</p>  <p>Christopher Spadaro Employee</p>	<p>CONTRA COSTA COUNTY OFFICE OF THE SHERIFF</p> <p>By: David Livingston Sheriff</p>
<p>DEPUTY SHERIFFS ASSOCIATION, RANK & FILE UNIT</p>  <p>By: Shawn Welch President</p>	

13. **Right to Consult Counsel:** Employee acknowledges and agrees that prior to signing this Agreement, he was provided with the opportunity to consult with his Union representative and/or legal counsel of his choice. Employee agrees that he is voluntarily entering into this Agreement, without coercion or extraneous inducement.
14. **Challenge to Agreement:** Employee expressly waives any right to challenge the validity of this Agreement. In the event that litigation is necessary regarding the interpretation of this Agreement, each side shall bear their own costs of suit and attorneys' fees regardless of who is the prevailing party.
15. **Mutual Drafting:** The Parties agree they have had the opportunity to participate in the drafting of this Agreement, and that it shall not be construed in favor of any party should its meaning be subject to dispute.
16. **Costs:** Each Party with bear its own costs and attorneys' fees with respect to this Agreement.
17. **Execution in Counterparts:** This Agreement may be executed in counterparts, each of which will be treated as an original and all of which together are to be considered one and the same agreement. Facsimile signatures or scanned copies of signatures are binding and are to be considered original signatures.

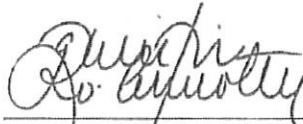
DATED:	CONTRA COSTA COUNTY OFFICE OF THE SHERIFF
Christopher Spadaro Employee	 8/22/17 By: David Livingston Sheriff
DEPUTY SHERIFFS ASSOCIATION, RANK & FILE UNIT	
By: Shawn Welch President	

Approved as to form
Rains Lucia Stern, PC



By: Jonathan Murphy
Attorney at Law
Attorney for Employee/Union

Approved as to form
County Counsel
Sharon L. Anderson



By: Christina J. Ro-Connolly
Deputy County Counsel
Attorneys for Contra Costa County

EXHIBIT A

CONTRA COSTA COUNTY
AMENDED ORDER AND NOTICE OF ACTION

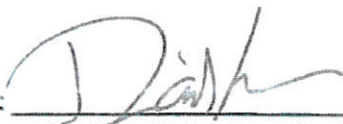
TO: Christopher Spadaro CLASSIFICATION: Deputy Sheriff
FROM: David O. Livingston TITLE: Sheriff, Appointing Authority

This is to notify you that the action specified below is hereby taken and that notice of this action is being filed with the Director of Human Resources.

Your pay is hereby reduced by five percent (5%) for six (6) months, effective September 1, 2017 through March 1, 2018, inclusive, for the following reasons: see the attached "ATTACHMENT TO AMENDED ORDER AND NOTICE OF ACTION, CHRISTOPHER SPADARO, DEPUTY SHERIFF."

You have the right to appeal this action to the Contra Costa County Merit Board or as otherwise prescribed in the County Personnel Management Regulations or Memorandum of Understanding covering your classification. The Personnel Management Regulations and/or applicable Memorandum of Understanding govern such appeals and describe the procedure to be utilized in disciplinary actions. If you have any questions concerning this procedure or your rights in this matter, you should read the appropriate regulations or provisions.

DATE: 8-22-17

Department Head: 
David O. Livingston, Sheriff

Filed with the
Director of Human Resources

A copy of the foregoing notice was
personally served/sent by certified mail by:

Date: _____

NAME: _____

By: _____

DATE: _____

SIGNED: _____

ORIGINAL – Director of Human Resources CANARY – Merit Board PINK – Department GOLDENROD – Employee

AK5 – 1/97 Rev.

ATTACHMENT TO AMENDED ORDER AND NOTICE OF ACTION
CHRISTOPHER SPADARO, DEPUTY SHERIFF

CHARGE ONE:

On or about November 24, 2016, you drove your vehicle after consuming several alcoholic beverages. The Vacaville Police Department pursued you after observing you make an illegal left turn out of a driveway and further observed you speeding, making a left turn against a red light, and then blacking out your vehicle lights after turning into a transit center, where the Officer finally caught up to you.

The Vacaville Police Department conducted a DUI investigation on you after noticing signs of intoxication. After completing the investigation, the Vacaville Police Department arrested you for driving under the influence. Subsequently, the Solano County District Attorney informed this office that your blood alcohol level that night was measured at approximately .14% and that your criminal case was filed.

In addition, the Vacaville Police Officer observed that your vehicle still had paper plates on it and suspected that you were not paying your bridge tolls. You admitted that you had not been paying your bridge tolls for approximately five months.

Your conduct violates the Contra Costa County Personnel Management Regulations, Section 1104, and the Memorandum of Understanding between Contra Costa County and the Deputy Sheriffs' Association, Rank & File, Section 23.1, concurrent subsections: (c) conduct tending to bring the merit system and/or Office of the Sheriff-Coroner into disrepute; and (j) violation of any lawful or reasonable regulation or order given by a supervisor or department head, to wit, Contra Costa County Sheriff's Office ("CCCSO") General Policy and Procedure, section 1.05.57, subsections I.A., II.A.1., II.A.2.a., and II.A.2.o.

CHARGE TWO:

On the same night as Charge One, you initially told the Vacaville Police Department on at least two instances that you only had one beer to drink that evening. Later during that same encounter, you admitted consuming four beers that evening. During your investigative interview, you admitted consuming five drinks that evening.

Your conduct violates the Contra Costa County Personnel Management Regulations, Section 1104, and the Memorandum of Understanding between Contra Costa County and the Deputy Sheriffs' Association, Rank & File, Section 23.1, concurrent subsection (o) dishonesty or theft.

CONCLUSION:

Termination is appropriate in that on April 14, 2016, you were given a written reprimand for [REDACTED]
[REDACTED]
[REDACTED]

EXHIBIT B

<p>Contra Costa County Office of the Sheriff</p> <p>General Policy and Procedure</p>	CCCSO	NUMBER: 1.05.57
	<p>RELATED ORDERS: CCCSO 1.05.33, 1.05.58, 1.05.28.</p>	
<p>ISSUE DATE: 2-1-2006 REVISION DATE:</p>	<p>CLEARANCE: Office of the Sheriff</p>	
<p>CHAPTER: Personnel Management and Employee Relations</p>	<p>SUBJECT: Unbecoming Conduct</p>	

I. POLICY.

- A. The public has placed its trust in the Office of the Sheriff to administer an honest effective law enforcement agency. The Office of the Sheriff embraces the public trust and recognizes that effective law enforcement would be severely hampered if such trust were lost. The Office of the Sheriff also recognizes that this public trust can only be retained through the efforts of all employees. Therefore, employees shall conduct themselves in a manner both on duty and off duty that will not discredit or reflect poorly on the Office of the Sheriff.

II. GENERAL.

A. UNACCEPTABLE CONDUCT.

1. By accepting employment with the Office of the Sheriff, safety and general employees alike are accepting a higher standard of conduct than is found in other government service. We must be aware that our actions on and off duty are subject to scrutiny and reflect on the entire Office of the Sheriff. An employee's behavior may be considered unbecoming conduct if it would normally be viewed with disfavor by the community we serve.
2. The following is a list of unacceptable conduct. Each item may be sufficient grounds for utilization of the Corrective Counseling System or the Personnel Management Regulations. The list is not all inclusive and other unspecified conduct may also result in action by the Office of the Sheriff:
 - a. Unlawful Conduct: Employees will strictly observe all provisions of the law in both their public and private affairs and will at all times conduct themselves in accordance with all legal mandates.
 - b. Abuse of Authority: Employees will not abuse the authority granted them by virtue of their employment, nor take improper actions through "color of authority."

- c. Rule Violations: Employees will not violate any County or Office of the Sheriff policies, procedures, orders, directives or regulations.
- d. Treatment of Public: Employees will treat all members of the public with respect and courtesy and will refrain from abusive and derogatory conduct and/or profane or inflammatory language.
- e. Insubordination: Failure or deliberate refusal of an employee to obey a lawful order given by a Supervisor or Manager shall be insubordination. Ridiculing a Supervisor or Manager or his/her orders, whether in or out of their presence, is also insubordination.
- f. Disruption of Operations: Acts or omissions contrary to good order.
- g. Misuse of Equipment: Negligent or willful damage to public property or waste of public supplies or equipment.
- h. Incompetence or Inefficiency: Failure or inability to adequately complete properly assigned tasks or failure to undertake required obligations.
- i. Cowardice: Deputies of the Office of the Sheriff shall not display cowardice or fail to support other peace officers in the performance of duty.
- j. Misuse of Sick Leave: Abuse or excessive use of sick leave.
- k. Subversive Organizations: No employee shall knowingly become a member of or become connected with any subversive organization. The Sheriff may authorize exceptions, when necessary, for a law enforcement function.
- l. Outside Associations: No employee shall knowingly maintain outside associations that jeopardize the security or integrity of the Office of the Sheriff or bring discredit to the law enforcement profession.
- m. Personal Relationships: Employees will not allow their personal relationships to interfere with Office of the Sheriff business or the performance of their assigned duties. Additionally, fraternization with persons in custody, arrestees, detainees, criminal defendants or other persons the employee has had an enforcement contact with, is prohibited.
- n. Indebtedness: Employees shall manage their debts in a manner that will not reflect poorly on their position with the Office of the Sheriff. They shall avoid situations where creditors are seeking legal judgments or garnishment of their salaries.
- o. Other: Any conduct which tends to bring the County or the Office of the Sheriff into disrepute.

EXHIBIT C

CONTRA COSTA COUNTY
NOTICE OF PROPOSED ACTION (SKELLY NOTICE)

Section 1108.1: Personnel Management Regulations
Administrative Bulletin 416: Project Positions
Applicable Memorandum of Understanding

TO: NAME: Christopher Spadaro CLASSIFICATION: Deputy Sheriff
ADDRESS: [REDACTED] DEPARTMENT: Office of the Sheriff
[REDACTED]

Under Part II, §1108.1 of the County Personnel Management Regulations, Administrative Bulletin 416 and the applicable Memorandum of Understanding (if any) before taking action to dismiss, suspend or demote an employee, the appointing authority must give a notice of proposed action. This notice is to inform you of the department's proposal to take the following action:

- (1) Terminate your employment, effective March 6, 2017.
- (2) The following constitutes the charges or grounds for this action: See the attached, "ATTACHMENT TO NOTICE OF PROPOSED ACTION (SKELLY NOTICE), CHRISTOPHER SPADARO, DEPUTY SHERIFF."
(Charges should be completely expressed. If more space is needed, add supplemental sheets.)
- (3) Attached is a copy of any regulations on which this action is based.
- (4) All written materials, reports, and documents upon which this action is based are available for your review.
- (5) You have the right to respond to this notice either orally or in writing (or both) to the undersigned, within seven (7) calendar days of the issuance of this notice. Any response you make will be considered prior to taking final action. The appointing authority may extend the response period for good cause. If you have been suspended due to pending criminal charges, disciplinary action may be taken after disposition of the charges.

[Signature]
David O. Livingston, Sheriff
Appointing Authority

2-22, 2017
Date

NOTE: If the employee is being placed on temporary leave of absence with pay, complete and attach supplemental form AK183.

A copy of the foregoing notice was personally served/sent by certified mail on this 24th day of February, 2017.

NAME: LT. CONNIE SANDERS

SIGNATURE: [Signature]

WHITE – Employee's Copy CANARY – Employee Relation's Copy PINK – Department's Copy

AK182 (8/82)

*SERVED TO
AUTUM HUNTER FOX
ATTORNEY MICHAEL
DAINS*

CONTRA COSTA COUNTY
NOTICE OF PROPOSED ACTION (SKELLY NOTICE)

Section 1108.1: Personnel Management Regulations
Administrative Bulletin 416: Project Positions
Applicable Memorandum of Understanding

TO: NAME: Christopher Spadaro
ADDRESS: [REDACTED]

CLASSIFICATION: Deputy Sheriff
DEPARTMENT: Office of the Sheriff

Under Part II, §1108.1 of the County Personnel Management Regulations, Administrative Bulletin 416 and the applicable Memorandum of Understanding (if any) before taking action to dismiss, suspend or demote an employee, the appointing authority must give a notice of proposed action. This notice is to inform you of the department's proposal to take the following action:

- (1) Terminate your employment, effective March 6, 2017.
- (2) The following constitutes the charges or grounds for this action: See the attached, "ATTACHMENT TO NOTICE OF PROPOSED ACTION (SKELLY NOTICE), CHRISTOPHER SPADARO, DEPUTY SHERIFF."
(Charges should be completely expressed. If more space is needed, add supplemental sheets.)
- (3) Attached is a copy of any regulations on which this action is based.
- (4) All written materials, reports, and documents upon which this action is based are available for your review.
- (5) You have the right to respond to this notice either orally or in writing (or both) to the undersigned, within seven (7) calendar days of the issuance of this notice. Any response you make will be considered prior to taking final action. The appointing authority may extend the response period for good cause. If you have been suspended due to pending criminal charges, disciplinary action may be taken after disposition of the charges.

[Signature]
David O. Livingston, Sheriff
Appointing Authority

2-22, 2017
Date

NOTE: If the employee is being placed on temporary leave of absence with pay, complete and attach supplemental form AK183.

A copy of the foregoing notice was personally served/sent by certified mail on this 24 day of February, 2017.

NAME: [Signature]

SIGNATURE: [Signature]

WHITE – Employee's Copy

CANARY – Employee Relation's Copy

PINK – Department's Copy

AK182 (8/82)

ATTACHMENT TO NOTICE OF PROPOSED ACTION (SKELLY NOTICE)
CHRISTOPHER SPADARO, DEPUTY SHERIFF

CHARGE ONE:

On or about November 24, 2016, you drove your vehicle after consuming several alcoholic beverages. The Vacaville Police Department pursued you after observing you make an illegal left turn out of a driveway and further observed you speeding, making a left turn against a red light, and then blacking out your vehicle lights after turning into a transit center, where the Officer finally caught up to you.

The Vacaville Police Department conducted a DUI investigation on you after noticing signs of intoxication. After completing the investigation, the Vacaville Police Department arrested you for driving under the influence. Subsequently, the Solano County District Attorney informed this office that your blood alcohol level that night was measured at approximately .14% and that your criminal case was filed.

In addition, the Vacaville Police Officer observed that your vehicle still had paper plates on it and suspected that you were not paying your bridge tolls. You admitted that you had not been paying your bridge tolls for approximately five months.

Your conduct violates the Contra Costa County Personnel Management Regulations, Section 1104, and the Memorandum of Understanding between Contra Costa County and the Deputy Sheriffs' Association, Rank & File, Section 23.1, concurrent subsections: (c) conduct tending to bring the merit system and/or Office of the Sheriff-Coroner into disrepute; and (j) violation of any lawful or reasonable regulation or order given by a supervisor or department head, to wit, Contra Costa County Sheriff's Office ("CCCSO") General Policy and Procedure, section 1.05.57, subsections I.A., II.A.1., II.A.2.a., and II.A.2.o. A copy of this policy is attached.

CHARGE TWO:

On the same night as Charge One, you initially told the Vacaville Police Department on at least two instances that you only had one beer to drink that evening. Later during that same encounter, you admitted consuming four beers that evening. During your investigative interview, you admitted consuming five drinks that evening.

Your conduct violates the Contra Costa County Personnel Management Regulations, Section 1104, and the Memorandum of Understanding between Contra Costa County and the Deputy Sheriffs' Association, Rank & File, Section 23.1, concurrent subsection (o) dishonesty or theft.

CONCLUSION:

Termination is appropriate in that on April 14, 2016, you were given a written reprimand for [REDACTED]

[REDACTED]

CONTRA COSTA COUNTY PERSONNEL MANAGEMENT REGULATIONS

1104. CAUSE. The appointing authority may dismiss, suspend or demote any employee for cause. The following are sufficient causes for such action; the list is indicative rather than inclusive of restrictions and dismissal, suspension or demotion may be based on reasons other than those specifically mentioned:

- (a) absence without leave,
- (b) conviction of any criminal act involving moral turpitude,
- (c) conduct tending to bring the merit system into disrepute,
- (d) disorderly or immoral conduct,
- (e) incompetence or inefficiency,
- (f) insubordination,
- (g) being at work under the influence of liquor or drugs, carrying onto the premises liquor or drugs or consuming or using liquor or drugs during work hours and/or on County premises,
- (h) neglect of duty,
- (i) negligent or willful damage to public property or waste of public supplies or equipment,
- (j) violation of any lawful or reasonable regulation or order given by a supervisor or department head,
- (k) willful violation of any of the provisions of the Merit System Ordinance or Personnel Management Regulations,
- (l) material and intentional misrepresentation or concealment of any fact in connection with obtaining employment,
- (m) misappropriation of County funds or property,
- (n) unreasonable failure or refusal to undergo any physical, medical and/or psychiatric exam and/or treatment authorized by these regulations,
- (o) dishonesty or theft,
- (p) excessive or unexcused absenteeism and/or tardiness,
- (q) sexual harassment including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when such conduct has the purpose or effect of affecting employment decisions concerning an individual, or unreasonably interfering with an individual's work performance, or creating an intimidating or hostile working environment.

(Amended 09/25/84)

MEMORANDUM OF UNDERSTANDING BETWEEN
CONTRA COSTA COUNTY AND
DEPUTY SHERIFFS' ASSOCIATION, RANK & FILE
JULY 1, 2016 – JUNE 30, 2019

23.1 Cause for Disciplinary Action. The appointing authority may dismiss, suspend, demote, or reduce within class, any employee for cause. The following are sufficient causes for such action; the list is indicative rather than inclusive of restrictions and dismissal, suspension, reduction or demotion may be based on reasons other than those specifically mentioned:

- a. absence without leave,
- b. conviction of any criminal act involving moral turpitude,
- c. conduct tending to bring the merit system and/or Office of the Sheriff-Coroner into disrepute,
- d. disorderly or immoral conduct,
- e. incompetence or inefficiency,
- f. insubordination,
- g. being at work under the influence of liquor or drugs, carrying onto the premises liquor or drugs or consuming or using liquor or drugs during work hours and/or on County premises,
- h. neglect of duty (i.e. non-performance of assigned responsibilities),
- i. negligent or willful damage to public property or waste of public supplies or equipment,
- j. violation of any lawful or reasonable regulation or order given by a supervisor or department head,
- k. willful violation of any of the provisions of the merit system ordinance or Personnel Management Regulations,
- l. material and intentional misrepresentation or concealment of any fact in connection with obtaining employment,
- m. misappropriation of County funds or property,
- n. unreasonable failure or refusal to undergo any physical, medical and/or psychiatric exam and/or treatment authorized by this MOU,
- o. dishonesty or theft,
- p. excessive or unexcused absenteeism and/or tardiness,
- q. sexual harassment, including but not limited to unwelcome sexual advances, requests for sexual favors, and other verbal, or physical conduct of a sexual nature, when such conduct has the purpose or effect of affecting employment decisions concerning an individual, or unreasonably interfering with an individual's work performance, or creating an intimidating and hostile working environment.

<p>Contra Costa County Office of the Sheriff</p> <p>General Policy and Procedure</p>	CCCSO	NUMBER: 1.05.57
	<p>RELATED ORDERS: CCCSO 1.05.33, 1.05.58, 1.05.28.</p>	
<p>ISSUE DATE: 2-1-2006 REVISION DATE:</p>	<p>CLEARANCE: Office of the Sheriff</p>	
<p>CHAPTER: Personnel Management and Employee Relations</p>	<p>SUBJECT: Unbecoming Conduct</p>	

I. POLICY.

- A. The public has placed its trust in the Office of the Sheriff to administer an honest effective law enforcement agency. The Office of the Sheriff embraces the public trust and recognizes that effective law enforcement would be severely hampered if such trust were lost. The Office of the Sheriff also recognizes that this public trust can only be retained through the efforts of all employees. Therefore, employees shall conduct themselves in a manner both on duty and off duty that will not discredit or reflect poorly on the Office of the Sheriff.

II. GENERAL.

A. UNACCEPTABLE CONDUCT.

1. By accepting employment with the Office of the Sheriff, safety and general employees alike are accepting a higher standard of conduct than is found in other government service. We must be aware that our actions on and off duty are subject to scrutiny and reflect on the entire Office of the Sheriff. An employee's behavior may be considered unbecoming conduct if it would normally be viewed with disfavor by the community we serve.
2. The following is a list of unacceptable conduct. Each item may be sufficient grounds for utilization of the Corrective Counseling System or the Personnel Management Regulations. The list is not all inclusive and other unspecified conduct may also result in action by the Office of the Sheriff:
 - a. **Unlawful Conduct:** Employees will strictly observe all provisions of the law in both their public and private affairs and will at all times conduct themselves in accordance with all legal mandates.
 - b. **Abuse of Authority:** Employees will not abuse the authority granted them by virtue of their employment, nor take improper actions through "color of authority."

- c. Rule Violations: Employees will not violate any County or Office of the Sheriff policies, procedures, orders, directives or regulations.
- d. Treatment of Public: Employees will treat all members of the public with respect and courtesy and will refrain from abusive and derogatory conduct and/or profane or inflammatory language.
- e. Insubordination: Failure or deliberate refusal of an employee to obey a lawful order given by a Supervisor or Manager shall be insubordination. Ridiculing a Supervisor or Manager or his/her orders, whether in or out of their presence, is also insubordination.
- f. Disruption of Operations: Acts or omissions contrary to good order.
- g. Misuse of Equipment: Negligent or willful damage to public property or waste of public supplies or equipment.
- h. Incompetence or Inefficiency: Failure or inability to adequately complete properly assigned tasks or failure to undertake required obligations.
- i. Cowardice: Deputies of the Office of the Sheriff shall not display cowardice or fail to support other peace officers in the performance of duty.
- j. Misuse of Sick Leave: Abuse or excessive use of sick leave.
- k. Subversive Organizations: No employee shall knowingly become a member of or become connected with any subversive organization. The Sheriff may authorize exceptions, when necessary, for a law enforcement function.
- l. Outside Associations: No employee shall knowingly maintain outside associations that jeopardize the security or integrity of the Office of the Sheriff or bring discredit to the law enforcement profession.
- m. Personal Relationships: Employees will not allow their personal relationships to interfere with Office of the Sheriff business or the performance of their assigned duties. Additionally, fraternization with persons in custody, arrestees, detainees, criminal defendants or other persons the employee has had an enforcement contact with, is prohibited.
- n. Indebtedness: Employees shall manage their debts in a manner that will not reflect poorly on their position with the Office of the Sheriff. They shall avoid situations where creditors are seeking legal judgments or garnishment of their salaries.
- o. Other: Any conduct which tends to bring the County or the Office of the Sheriff into disrepute.

OFFICE OF THE SHERIFF

Contra Costa County
Internal Affairs
651 Pine Street, 11th Floor
Martinez, California 94553



DAVID O. LIVINGSTON
Sheriff-Coroner

Michael V. Casten
Undersheriff

Date: February 15, 2017
To: Deputy Christopher Spadaro #67044
From: Sergeant Doug Muse, Internal Affairs
Subject: Internal Affairs Case # 2016-078

The attached investigative report is a copy of information that will be placed in your personnel file.

Pursuant to 3305 of the Government Code you are requested to sign below, indicating that you are aware of the contents of the attached papers.

3305 Comments adverse to interest; entry in personnel file or in other Record; opportunity to read and sign instrument; refusal to sign.

No public safety officer shall have any comment adverse to his interest entered in his personnel file, or any other file used for any personnel purposes by his employer, without the public safety officer having first read and signed the instrument containing the adverse comment indicated he is aware of such comment, except that such entry may be made if after reading such instrument the public safety officer refuses to sign it. Should a public safety officer refuse to sign, the fact shall be noted on that document, and signed or initialed by such officer.

(Added by Stats. 1976, c. 465, p. 1204, S 1.)

Date: 2/15/17

Name: Autumn Hunter

3306 Response to adverse comment entered in personnel file; time.

A public safety officer shall have 30-days within which to file a written response to any adverse comment entered in his personnel file. Such written response shall be attached to and shall accompany the adverse comment.

(Added by Stats. 1976, c. 465, p. 1204, S 1.)

Date: 2/15/17

Name: Autumn Hunter

I.A. documents are considered confidential and any failure by the employee to maintain the confidentiality of the documents could result in disciplinary action as a violation of Department Manual Section 1.05.57, Unbecoming Conduct, and /or Section 1.06.74, Control of Department Information.

**RETURN THIS SIGNED FORM ONLY TO INTERNAL AFFAIRS
KEEP THE COPY OF CASE FOR YOUR RECORDS**

HONOR

COURAGE

COMMITMENT

LEADERSHIP

TEAMWORK



Contra Costa County Office of the Sheriff

**Investigating Officers:
Sergeant D. Hall
Sergeant D. Muse**

**Document Prepared by:
Sergeant D. Muse**

Internal Affairs 2016-078

- Confidential document. Do not copy. Only non-involved administrative personnel may review this document.
- Interview recordings are maintained on file by Internal Affairs and are available for review by Command Staff upon request.
- Required copies must be obtained from Internal Affairs only and will be redacted when appropriate.
- This document must be returned to Internal Affairs along with all associated documents and attachments immediately following administrative review.



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Involved Employee: Deputy Christopher Spadaro

Final Disposition

Allegation	Final Disposition
Unbecoming Conduct – Unlawful Conduct	<i>SUSTAIN</i>
Unbecoming Conduct – Disrepute	<i>SUSTAIN</i>
Dishonesty	<i>SUSTAIN</i>

CONFIDENTIAL



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Table of Contents

Recommended Findings.....	Page 3
Witness List.....	Page 4
Attachments List.....	Page 5
Case Synopsis.....	Page 6
Investigation Narrative.....	Page 7
Statement of Vacaville Police Department Officer Julie Bailey.....	Page 12
Statement of Vacaville Police Department Officer Chuck Bailey.....	Page 14
Statement of Deputy Christopher Spadaro.....	Page 14
Conclusions.....	Page 17

CONFIDENTIAL



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Recommended Findings

Name	Allegation	Recommended Finding
Deputy Spadaro	Unbecoming Conduct - Unlawful Conduct	<i>SUSTAINED</i>
Deputy Spadaro	Unbecoming Conduct - Disrepute	<i>SUSTAINED</i>
Deputy Spadaro	Dishonesty	<i>SUSTAINED</i>

CONFIDENTIAL



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Witness List

Officer Julie Bailey (Badge #319)

Vacaville Police Officer
[REDACTED]

Officer Chuck Bailey (Badge #457)

Vacaville Police Officer
[REDACTED]

CONFIDENTIAL



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Attachments

- 1) Transcript of Vacaville PD Officer Julie Bailey's interview, dated December 8, 2016.
- 2) Transcript of Vacaville PD Officer Chuck Bailey's interview, dated December 8, 2016.
- 3) Transcript of Deputy Christopher Spadaro's interview, dated December 13, 2016.
- 4) Memorandum from Sergeant Curran to Lieutenant Sanders, dated November 24, 2016.
- 5) Memorandum from Lieutenant Patzer to Captain Simmons, dated November 24, 2016.
- 6) Memorandum from Lieutenant Sanders to Captain Simmons, dated November 25, 2016.
- 7) Emergency Personnel Action Memorandum from Captain Simmons to Deputy Spadaro, dated November 25, 2016.
- 8) Memorandum from Captain Simmons to Undersheriff Casten, dated November 29, 2016
- 9) Letter of Reprimand from Assistant Sheriff Schuler to Deputy Spadaro, dated April 14, 2016.
- 10) Vacaville Police report #19-09199, dated November 24, 2016.

CONFIDENTIAL



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Synopsis

On November 24, 2016, at approximately 0147 hours, Deputy Spadaro was stopped by Vacaville Police Department for a moving violation and excessive speed. The Vacaville Police Officer suspected Deputy Spadaro was driving under the influence of alcohol. A DUI investigation was conducted and it was determined that Deputy Spadaro was operating a motor vehicle in violation of CVC 23152(a). Deputy Spadaro was arrested and booked for CVC 23152(a) and cite released from the Vacaville Police Department.

Deputy Spadaro submitted to a blood analysis and his BAC was measured at .14%.

A criminal complaint was filed by the Solano County District Attorney's Office on January 12, 2017 (DA # F170191). Deputy Spadaro appeared in the Solano County Superior Court on January 18, 2017 and was arraigned on the charge of 23152(b) CVC. Deputy Spadaro was released and promised to appear in court on March 1, 2017.

CONFIDENTIAL



I.A. # 2016-078

Date Received: 06/27/2016
Complainant: Administrative

CONFIDENTIAL

Investigation

On November 29, 2016, I was assigned this case by Lieutenant Vanderlind.

On December 1, 2016, I reviewed all documents associated to include:

- A Memorandum from Sergeant Curran to Lieutenant Sanders, dated November 24, 2016.
- A Memorandum from Lieutenant Patzer to Captain Simmons, dated November 24, 2016.
- Memorandum from Lieutenant Sanders to Captain Simmons, dated November 25, 2016.
- Emergency Personnel Action Memorandum from Captain Simmons to Deputy Spadaro, dated November 25, 2016.
- Memorandum from Captain Simmons to Undersheriff Casten, dated November 29, 2016
- Letter of Reprimand from Assistant Sheriff Schuler to Deputy Spadaro, dated April 14, 2016.

The memorandum written by Sergeant Curran documented a phone call he received as the on duty Martinez Detention Facility Red team supervisor. Sergeant Curran wrote he received a phone call from Deputy Spadaro on November 24, 2016 at 0255 hours. Deputy Spadaro informed Sergeant Curran he had been arrested, cited and released by Vacaville Police Department for driving under the influence of alcohol.

Sergeant Curran wrote he contacted Vacaville Police Department Sergeant Larsen, who confirmed Deputy Spadaro was stopped at 0147 hours on November 24, 2016 and arrested for violation of CVC 23152(a). Sergeant Curran obtained the Vacaville Police Department report number, 16-09199, and was told Deputy Spadaro acted "cordial and professional". Sergeant Curran wrote Deputy Spadaro was not armed during his arrest.

See attachment 4.

The memorandum written by Lieutenant Patzer documented he was called by Deputy Spadaro on November 24, 2016 at 0230 hours. Lieutenant Patzer wrote he picked up Deputy Spadaro from the Vacaville Police Department. Lieutenant Patzer said he referred Deputy Spadaro to the Department Peer Support Team, Employee



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Assistance Program and advised him to contact the Deputy Sheriff's Association for representation.

Lieutenant Patzer wrote, at 0800 he picked up Deputy Spadaro at his home and drove him to the tow yard. Deputy Spadaro was unsuccessful in retrieving his stored vehicle and Lieutenant Patzer drove Deputy Spadaro home.

See attachment 5.

The memorandum written by Lieutenant Sanders documented a phone call she received from Sergeant Curran. Lieutenant Sanders wrote she was contacted by Sergeant Curran on November 24, 2016 at 0308 hours. Sergeant Curran informed Lieutenant Sanders Deputy Spadaro had been arrested for driving under the influence by the Vacaville Police Department. Sergeant Curran also informed Lieutenant Sanders that Deputy Spadaro had called in sick for his day shift at the MDF.

Lieutenant Sanders wrote she contacted Captain Simmons by telephone at 0317 hours and informed him of the incident. Lieutenant Sanders documented, along with Lieutenant Andrews, she met with Deputy Spadaro at Delta Station on November 25, 2016 at 1130 hours. Lieutenant Sanders placed Deputy Spadaro on paid administrative leave and collected Deputy Spadaro's department identification card. Lieutenant Sanders wrote Deputy Spadaro gave Lieutenant Andrews permission to go into his MDF locker and take control of Deputy Spadaro's badge and duty weapon.

Lieutenant Sanders requested the Internal Affairs Unit conduct an investigation.

See attachment 6.

The Emergency Personnel Action, written by Captain Chris Simmons, documented the immediate placement of Deputy Spadaro on paid administrative leave.

The copy of the memo had a handwritten note from Lieutenant Sanders, indicating Deputy Spadaro was served a copy of the Emergency Personnel Action on November 25, 2016 at 1130 hours.

See attachment 7.



I.A. # 2016-078

Date Received: 06/27/2016
Complainant: Administrative

CONFIDENTIAL

The memorandum written by Captain Chris Simmons to Undersheriff Michael Casten, officially requested an Internal Affairs investigation into Deputy Spadaro's arrest.

Captain Simmons also documented Deputy Spadaro was currently in an active Letter of Reprimand for Unlawful Conduct from 2015.

See attachment 8.

The Letter of Reprimand written by Assistant Sheriff Matthew Schuler, dated April 14, 2016, documented [REDACTED] by Deputy Spadaro on November 8, 2015. Assistant Sheriff Schuler wrote Deputy Spadaro, [REDACTED]

Assistant Sheriff Schuler wrote Deputy Spadaro committed [REDACTED]

The Letter of Reprimand was served on April 4, 2016 by Captain Simmons and is effective until April 14, 2021.

See attachment 9.

On December 1, 2016, I reviewed Vacaville Police Department report #16-09199. Police report #16-09199 included the Admin Per Se and the CHP 180 form, both authored by Vacaville Police Department Officer Julie Bailey. Police report #16-09199 also included a copy of the Vacaville Police Department citation, #253100, and the police report, both authored by Vacaville Police Department Officer Chuck Bailey. See attachment 10.

The Admin Per Se documented Deputy Spadaro chose to have his BAC tested by a blood test, which was administered on November 24, 2016 at 0231 hours. On page two, Officer J. Bailey documented her observations of Deputy Spadaro's driving and the probable cause she used for stopping his vehicle. Officer J. Bailey wrote she observed Deputy Spadaro violate CVC 21461, when he failed to obey a posted regulatory sign. Officer J. Bailey wrote Deputy Spadaro also made an illegal turn against a solid red turn signal and she paced him at 70mph in a posted 35mph zone. Officer J. Bailey wrote Deputy Spadaro "blackout" his vehicle and pulled into a transit center parking lot,



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

where she located him in the far corner. Officer J. Bailey wrote Deputy Spadaro admitted to every violation she observed.

Officer J. Bailey completed the CHP 180 form, which showed Deputy Spadaro's Honda was towed to Northbay Tow in Vacaville. The storage authority listed was 22651(h), indicating the authority for the tow was the driver of the vehicle had been arrested.

The crime report, written by Officer C. Bailey, documented his DUI investigation. Officer C. Bailey wrote he contacted Deputy Spadaro after Officer J. Bailey had conducted a vehicle stop and suspected Deputy Spadaro had driven under the influence.

Officer C. Bailey wrote he contacted Deputy Spadaro and smelled a strong odor of an alcoholic beverage emitting from Deputy Spadaro's body and breath. Officer C. Bailey also observed Deputy Spadaro had blood shot eyes. Officer C. Bailey conducted a series of Field Sobriety Tests, which included Horizontal Gaze Nystagmus, the Walk and Turn and the One Leg Stand. Officer C. Bailey asked Deputy Spadaro to blow into his Preliminary Alcoholic Screening Device, which Deputy Spadaro refused to attempt.

Officer C. Bailey wrote he placed Deputy Spadaro in handcuffs and informed him he was under arrest for violation of CVC 23152(a). Officer C. Bailey transported Deputy Spadaro to Vacaville Police Department, where he submitted to a blood test. Officer C. Bailey wrote Deputy Spadaro was issued citation number #253100, which he signed, indicating he promised to appear in court on January 18, 2016 at 0830 hours. Deputy Spadaro was released to Lieutenant Patzer.

On December 1, 2016, I sent a formal notice to Deputy Spadaro notifying him he was the subject of an administrative investigation. Deputy Spadaro acknowledged the email by phone and stated he understood the formal notice.

On December 6, 2016, Lieutenant Sanders provided me a copy of the Body Worn Camera worn by Vacaville Police Department Officer C. Bailey and his cover officer, Officer Moore. Lieutenant Sanders received the Body Worn Camera (BWC) video from Vacaville Police Department Sergeant Nadasdy, who is the Internal Affairs Sergeant for Vacaville Police Department.

I viewed the contents of the DVD and saw Vacaville Police Department had provided two videos. Video #244 appeared to be worn by Officer Moore. The date stamp on the video read 11/24/16 and the time was 0150:09. The BWC appeared to be mounted on the chest of Officer Moore and the video started with Officer J. Bailey conducting a pat search on Deputy Spadaro at the rear of his vehicle.



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

While Officer J. Bailey conducted her pat search of Deputy Spadaro, he answered her question of how much he had to drink. Deputy Spadaro answered, "ah let me see, a beer." On the video, Officer J. Bailey asked him, "how big of a drink was the beer?" Officer J. Bailey told Deputy Spadaro she saw him make an illegal turn out of the parking lot and run a red turn light. During the contact with Officer J. Bailey, Deputy Spadaro admitted to making the illegal turn and running the red turn signal.

On the video, Officer J. Bailey stated to Deputy Spadaro that she perceived Deputy Spadaro attempted to get away from her patrol car. Deputy Spadaro answered, "absolutely not." Officer J. Bailey asked Deputy Spadaro how long he had owned the vehicle and he answered, "absolutely brand new." Officer J. Bailey asked Deputy Spadaro if he had license plates and he said, "I might have the plates at home." Officer J. Bailey asked Deputy Spadaro when he had bought the vehicle and Deputy Spadaro answered, "several months ago."

Officer J. Bailey stepped out of the video and conferred with another officer (Officer C. Bailey). The ambient lighting in the parking lot of the transit center was such the video was dark. The video quality is poor but the audio of Officer C. Bailey is mostly heard as he contacted Deputy Spadaro and conducted his DUI investigation. The video ends with Deputy Spadaro being told he is under arrest.

I viewed video #44, which appeared to be worn by Officer C. Bailey. The date stamp on the video read 11/24/16 and the time was 0153:57. The BWC appeared to be mounted on the chest of Officer C. Bailey. The video starts when Officer C. Bailey contacted Deputy Spadaro and conducted his preliminary questions for the DUI. Officer C. Bailey asked Deputy Spadaro how much he had to drink. Deputy Spadaro answered, "just a beer."

Officer C. Bailey instructed Deputy Spadaro on how to conduct each Field Sobriety Test (FST). Officer C. Bailey used his flashlight to clearly show Deputy Spadaro's feet during his FST's. Officer C. Bailey placed Deputy Spadaro under arrest and asked him to choose between a breath test and a blood test. The video concluded after Deputy Spadaro requested a blood test.

On December 8, 2016, Sergeant Hall and I interviewed Vacaville Police Officer Julie Bailey by telephone.

For a complete transcription of the interview see attachment 1.



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

On December 8, 2016, Sergeant Hall and I interviewed Vacaville Police Officer Chuck Bailey by telephone.

For a complete transcription of the interview see attachment 2.

On December 9, 2016, I sent a second formal notice to Deputy Spadaro with a date and time of December 13, 2016 at 0930 hours for his interview. Deputy Spadaro was contacted by phone and verbally given the interview time. Deputy Spadaro also responded to the email and acknowledged he received the formal notice.

On December 13, 2016, Sergeant Hall and I interviewed Deputy Spadaro at Internal Affairs. Also present at the interview to represent Deputy Spadaro was RLS Attorney Julie Fox.

I gave Deputy Spadaro an advisement of rights and an administrative admonishment form. Deputy Spadaro signed the form, acknowledging he had read and understood it.

For a complete transcription of the interview, see attachment 3.

On December 27, 2016, I contacted the Solano District Attorney and was told the case was set for arrangement on January 18, 2017.

On January 12, 2017, I was contacted by the filing District Attorney and informed Deputy Spadaro's case was filed and his arrangement was set for January 18, 2017. I was also informed Deputy Spadaro's lab results showed his BAC was .14%.

On January 18, 2017, Deputy Spadaro appeared in the Solano County Superior Court and was arraigned on the charge of 23152(b) CVC. Deputy Spadaro was released with a promise to appear in court on March 1, 2017.

Statement of Vacaville Police Department Officer Julie Bailey

On December 8, 2016, Sergeant Hall and I interviewed Vacaville Police Officer Julie Bailey via the telephone. Officer J. Bailey has been employed by the Vacaville Police Department for twenty-two years and is currently a patrol FTO. **For a complete transcription of the interview, see attachment 1.**

Officer J. Bailey said she was on patrol on November 24, 2016 at approximately 0147 hours. Officer J. Bailey said she was parked in a parking lot when she noticed a Honda



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

make an illegal turn onto Peabody Road. When Officer J. Bailey pulled onto Peabody Road she noticed the Honda had turned right onto Elmira Road. As Officer J. Bailey turned right, she saw the Honda had pulled away from her. Officer J. Bailey said she noticed she was driving 65 MPH and the Honda continued to pull away from her. Officer J. Bailey said Elmira Road was posted as a 40 MPH zone at the location. Officer J. Bailey said she saw the Honda slowed down and turned against a solid red left turn light at Allison Drive. Officer J. Bailey said she paced the Honda on Allison Drive going 70 MPH, the Honda then made a sudden right turn into the transit center and the driver blacked out the vehicle lights. She estimated she was approximately thirty yards behind the Honda when it blacked out. Officer J. Bailey said the Honda drove to the rear of the transit depot where she caught up to the vehicle. **(Attachment 1, page 3, line 119 to line 123)**

Officer J. Bailey said she did not activate her lights and sirens because she believed that would have caused him to flee. She said the Honda had paper plates, which she did not see until she stopped behind the Honda in the transit center. Officer J. Bailey said, "I was never close enough to even see what he had..... plates until I was right up on him." **(Attachment 1, page 3, line 111 to line 115)**

Officer J. Bailey said she felt the driver of the Honda knew she was behind it because she felt, based on her experience, the driver was going to foot bail. Officer J. Bailey said, "I didn't know what he was doing, like, it was so – his driving was so aggressive, I – I didn't know if he was trying to get away from me or if he was trying to bait me into doing something." **(Attachment 1, page 3, line 133 to line 135)**

Officer J. Bailey said she saw the Honda come to a stop and she activated her emergency lights. Officer J. Bailey contacted the driver and saw he had rolled his windows down and had placed both hands on the steering wheel. She noticed he had bloodshot watery eyes and a real strong odor of alcohol smell. During the initial contact, Officer J. Bailey said the driver handed her his license and possibly his department ID. Officer J. Bailey could not recall how Deputy Spadaro identified himself as law enforcement, but she said early in the contact she knew he was a Deputy Sheriff for Contra Costa County. Officer J. Bailey said Deputy Spadaro did not seem disoriented and he was not slurring his speech.

Officer J. Bailey said prior to witnessing the Honda make an illegal turn, she had downloaded her BWC footage and left her BWC on the charging dock at the station. Officer J. Bailey said her cover officer, Officer Moore, arrived at the transit center quickly after her and she asked him to turn on his BWC.

Officer J. Bailey said she asked Deputy Spadaro what he was doing in the transit center parking lot and he answered he was looking for a "Jack n Box". Officer J. Bailey said



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

she contacted the driver and noticed he had bloodshot, watery eyes and she smelled a strong odor of alcohol. **(Attachment 1, page 7, line 282 to line 283)**

Officer J. Bailey said she could not recall exactly how Deputy Spadaro identified himself as a Contra Costa County Sheriff's Deputy. Officer J. Bailey said, "it was confirmed in our conversation that he was a – that he works for Contra Costa County as a deputy." **(Attachment 1, page 7, line 298 to line 301)**

Officer J. Bailey said she contacted a traffic officer to conduct a DUI investigation. Officer J. Bailey did not locate any open containers in Deputy Spadaro's Honda and she said he did not have a firearm in his possession. Officer J. Bailey said Deputy Spadaro was very cooperative and she towed his vehicle because they have a standing policy to tow all vehicles involved in DUI arrests. Officer J. Bailey said she found the registered license plates to the Honda in the back seat and it was her opinion Deputy Spadaro left his paper plates on his vehicle to avoid paying the bridge toll.

Statement of Vacaville Police Department Officer Chuck Bailey

On December 8, 2016, Sergeant Hall and I interviewed Vacaville Police Officer Chuck Bailey via the telephone. Officer C. Bailey has been employed by the Vacaville Police Department for over sixteen years and he said he has a total of twenty-seven years as a Law Enforcement Officer. **For a complete transcription of the interview, see attachment 2.**

Officer C. Bailey said he was the traffic enforcement officer on duty Thursday November 24, 2016 at 0147 hours, when he heard Officer J. Bailey radio dispatch she attempted to catch up to a vehicle. Officer C. Bailey said he was requested to respond to the traffic enforcement stop and conduct a DUI investigation. Officer C. Bailey said Officer J. Bailey briefed him upon his arrival. She told him she believed the driver of the vehicle she had stopped was driving under the influence. Officer C. Bailey said she also identified the driver as a Contra Costa County Sheriff's Deputy.

Officer C. Bailey said he contacted Deputy Spadaro and "smelled an odor of alcoholic beverage about body and breath, and he also had bloodshot eyes." **(Attachment 2, page 3, line 92 to line 94)**

Officer C. Bailey confirmed he conducted a series of Field Sobriety Tests to determine if Deputy Spadaro was too impaired to drive. Officer C. Bailey confirmed Deputy Spadaro refused to submit to a Preliminary Alcohol Screening (PAS) test. Officer C. Bailey said in his professional opinion, Deputy Spadaro's BAC was falling and he estimated Deputy



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Spadaro's BAC was in the range of .14% or .15%. Officer C. Bailey said Deputy Spadaro would be over a .08%. **(Attachment 2, page 3, line 124 to line 125)**

Officer C. Bailey said he placed Deputy Spadaro under arrest based on his observation's and transported him to the Vacaville Police Department. Officer C. Bailey said Deputy Spadaro cooperated throughout the DUI investigation.

Statement of Deputy Christopher Spadaro

On December 13, 2016, Sergeant Hall and I interviewed Deputy Spadaro at Internal Affairs. RLS Attorney Julia Fox was present to represent Deputy Spadaro, who said he received and understood the contents of the Formal Notices I had emailed him. Deputy Spadaro also said he understood the Administrative Admonishment and signed the Advisement of Rights Form.

Deputy Spadaro has been a member of the Office of the Sheriff for fourteen years and is currently assigned to Blue team at the Martinez Detention Facility. **For a complete transcription of the interview, see attachment 3.**

Deputy Spadaro said on November 23, 2016, he started his evening at approximately 2000 hours at Tiki Tom's to sing karaoke with a few co-workers. Deputy Spadaro said he consumed three drinks at Tiki Tom's. Deputy Spadaro said the group changed venues and went to Masse's in Walnut Creek for several hours. Deputy Spadaro said he consumed one drink at Masse's. Deputy Spadaro left on his own and drove to Thompson's Corner Bar in Fairfield, where he said he stopped to listen to some music for an estimated forty-five minutes. Deputy Spadaro said he did not order or drink anything while at Thompson's Corner Bar. Deputy Spadaro said he left Thompson's Corner Bar and stopped at Ms. Darla's in Vacaville, where he estimated he stayed for thirty to forty minutes. Deputy Spadaro said he drank one drink at Ms. Darla's.

Deputy Spadaro estimated he consumed five alcoholic drinks between the hours of 2100 and 0130. During Deputy Spadaro's Internal Affairs interview, he was asked if he felt the effects of the five drinks he had consumed before driving and he answered, "I did." **(Attachment 3, page 4, line 168 to line 170)**

Deputy Spadaro said he was driving home from Ms. Darla's when he was pulled over by Vacaville Police Officer Julie Bailey. Deputy Spadaro said the violation was for, "improper left turn, violating a black and white regulatory sign." **(Attachment 3, page 5, line 193 to line 194)**



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Deputy Spadaro said he turned left out of the bar parking lot onto Peabody Road and turned right onto Elmira Road, travelling an estimated fifty miles per hour in a posted forty miles per hour zone. Deputy Spadaro said he turned left onto Allison Drive and noticed the lights from the Vacaville police car behind him. Deputy Spadaro said he noticed the Vacaville Police officer when she turned on the solid red light facing to the front of her patrol car.

Deputy Spadaro said he pulled into the parking lot of the Transit Center on Allison Drive. Deputy Spadaro said, normally his practice when he gets pulled over is to turn off his vehicles lights, turn on the interior lights, turn off the car, roll all the windows down and keep his hands visible. **(Attachment 3, page 7, line 286 to line 288)**

Deputy Spadaro said he was not trying to evade the Vacaville Police officer and he could not recall why he turned off his vehicle lights while his vehicle was still moving. Deputy Spadaro said he did not recall telling Vacaville Officer J. Bailey he was looking for a "Jack n Box" restaurant when she asked him why he had pulled into the Transit Center. Deputy Spadaro said he was not looking for a "Jack n Box" restaurant. Deputy Spadaro said he pulled his vehicle over in response to the overhead lights on the Vacaville Police car.

Deputy Spadaro said he was contacted in the driver seat and identified himself with his California driver's license and his Sheriff's Department Identification card. Deputy Spadaro said he did not expect professional courtesy from Vacaville Police Officer J. Bailey and he did not have any weapons in his vehicle. Deputy Spadaro described his contact with Vacaville Officer J. Bailey as professional.

Deputy Spadaro said he was pulled over in his personal vehicle which had paper license plates and Deputy Spadaro confirmed the license plates for his Honda were found in the back seat. I asked Deputy Spadaro how he paid for his daily bridge toll and he answered, "Um, I don't". **(Attachment 3, page 10, line 444 to line 447)**

Deputy Spadaro clarified his answer and said he had not updated the payment credit card linked to his Fastrak transponder. Deputy Spadaro said he allowed his Fastrak to lapse due to not updating the card number on file. Deputy Spadaro admitted he drove through the bridge toll without paying.

Deputy Spadaro said he was contacted by a traffic officer and conducted a series of Field Sobriety Tests. Deputy Spadaro said he refused to submit to a Preliminary Alcohol Screening test because he was embarrassed by the potential results. Deputy Spadaro said he was handcuffed and transported to the Vacaville Police department. Deputy Spadaro said a nurse arrived and conducted a blood draw.



I.A. # 2016-078

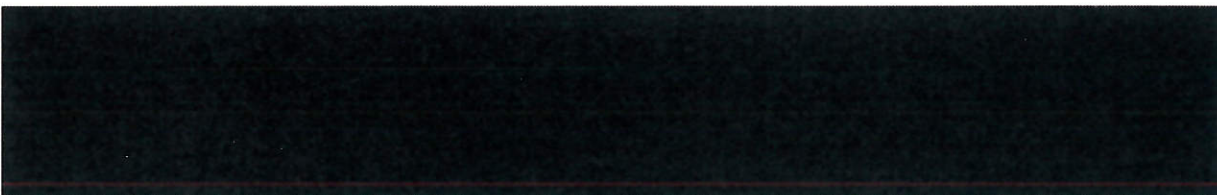
Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Deputy Spadaro was asked if during the evening of November 23, 2016, he felt too impaired to drive or if he felt the effects of the alcoholic drinks he had consumed. Deputy Spadaro answered, "At the time I did feel the effects were mostly too much, yes." (**Attachment 3, page 12, line 521**)

Deputy Spadaro was also asked if he was familiar with and understood Sheriff Office Policy 1.05.57 – Unbecoming Conduct. Deputy Spadaro answered he was familiar and understood the policy. Deputy Spadaro was asked if he violated Sheriff Office Policy 1.05.57 – Unbecoming Conduct and if he placed the Sheriff's Office in Disrepute. Deputy Spadaro answered both questions by saying, "Without question." (**Attachment 3, page 12, line 523 to line 539**)



Conclusions

At issue are the following:

- 1) Did Deputy Spadaro's actions on November 24, 2016 and subsequent arrest and charge for driving under the influence in violation of CVC 23152(b), amount to Unlawful Conduct, therefore, violating CCCSO Policies and Procedures section 1.05.57: Unbecoming Conduct – Unlawful Conduct?
- 2) Did Deputy Spadaro's actions on November 24, 2016 bring the Office of the Sheriff into disrepute, in violation of CCCSO Policies and Procedures section 1.05.57: Unbecoming Conduct – Other?
- 3) Was Deputy Spadaro dishonest to Vacaville Police Officers J. Bailey and C. Bailey during their initial DUI investigation, when he told them he had only consumed one beer prior to driving, in violation of CCCSO Policies and Procedure Section 1.05.70 Personnel Management Regulations?

As to the first issue, CCCSO Policy section 1.05.57 – Unbecoming Conduct, states in part:

- I. **POLICY A.** The public has placed its trust in the Office of the Sheriff to administer an honest effective law enforcement agency. The Office of the Sheriff



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

embraces the public trust and recognizes that effective law enforcement would be severely hampered if such trust were lost. The Office of the Sheriff also recognizes that this public trust can only be retained through the efforts of all employees. **Therefore, employees shall conduct themselves in a manner both on duty and off duty that will not discredit or reflect poorly on the Office of the Sheriff.**

II. GENERAL.

A. UNACCEPTABLE CONDUCT.

1. By accepting employment with the Office of the Sheriff, safety and general employees alike are **accepting a higher standard of conduct** than is found in other government service. **We must be aware that our actions on and off duty are subject to scrutiny and reflect on the entire Office of the Sheriff.** An employee's behavior may be considered unbecoming conduct if it would normally be viewed with disfavor by the community we serve.
2. The following is a list of unacceptable conduct. Each item may be sufficient grounds for utilization of the Corrective Counseling System or the Personnel Management Regulations. The list is not all inclusive and other unspecified conduct may also result in action by the Office of the Sheriff:
 - a. **Unlawful Conduct: Employees will strictly observe all provisions of the law in both their public and private affairs and will at all times conduct themselves in accordance with all legal mandates.**

Also to the first issue:

California Vehicle Code 23152 – Driving Under the Influence of Alcohol or Drugs states in part:

(a) It is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle.

(b) It is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

CONFIDENTIAL



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

On November 24, 2016, Deputy Spadaro drove his personal vehicle after consuming numerous alcoholic beverages. He admitted to consuming five alcoholic beverages from four separate establishments. While driving home, Deputy Spadaro was stopped by Vacaville Police Officer J. Bailey who observed him make an illegal turn out of the parking lot of Ms. Darla's bar.

Vacaville Police Officer C. Bailey arrived and conducted a DUI investigation. In his interview, Officer C. Bailey said he noticed objective signs of intoxication in Deputy Spadaro. Officer C. Bailey said he smelled an odor of alcohol emitting from Deputy Spadaro and noticed he had bloodshot eyes. In Officer C. Bailey's report, he wrote Deputy Spadaro performed a series of Field Sobriety Tests, to include Horizontal Gaze Nystagmus, the Walk and Turn and the One Leg Stance. Officer C. Bailey wrote Deputy Spadaro performed poorly on the Field Sobriety Tests and he placed him under arrest for violation of CVC 23152(a), driving under the influence.

On January 12, 2017, I was contacted by the filing District Attorney and informed the criminal charge of CVC 23152(b), driving under the influence at a .08 or higher, was filed against Deputy Spadaro. I was also informed Deputy Spadaro's lab results returned and his BAC was measured as .14%.

On January 18, 2017, Deputy Spadaro appeared in Solano County Superior and was arraigned on the charge of CVC 23152(b). Superior Court Judge Pendergast released Deputy Spadaro on his own recognizance with a promise to appear at his future court hearing on March 1, 2017.

Deputy Spadaro's decision to drive his vehicle after consuming alcohol, his subsequent arrest and arraignment to the charge of CVC 23152(b) is in clear violation of the law and of Sheriff's Office Policies and Procedures section 1.05.57 - Unbecoming Conduct - Unlawful Conduct.

The administrative investigation disclosed sufficient evidence to clearly prove the allegation. Therefore, I recommend the finding of **SUSTAINED** as to the violation CCCSO Policies and Procedures section 1.05.57: Unbecoming Conduct - Unlawful Conduct.



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

As to the second issue, CCCSO Policy section 1.05.57 – Unbecoming Conduct, states in part:

III. **POLICY A.** *The public has placed its trust in the Office of the Sheriff to administer an honest effective law enforcement agency. The Office of the Sheriff embraces the public trust and recognizes that effective law enforcement would be severely hampered if such trust were lost. The Office of the Sheriff also recognizes that this public trust can only be retained through the efforts of all employees. Therefore, employees shall conduct themselves in a manner both on duty and off duty that will not discredit or reflect poorly on the Office of the Sheriff.*

IV. GENERAL.

A. UNACCEPTABLE CONDUCT.

3. *By accepting employment with the Office of the Sheriff, safety and general employees alike are **accepting a higher standard of conduct** than is found in other government service. **We must be aware that our actions on and off duty are subject to scrutiny and reflect on the entire Office of the Sheriff.** An employee's behavior may be considered unbecoming conduct if it would normally be viewed with disfavor by the community we serve.*
4. *The following is a list of unacceptable conduct. Each item may be sufficient grounds for utilization of the Corrective Counseling System or the Personnel Management Regulations. The list is not all inclusive and other unspecified conduct may also result in action by the Office of the Sheriff:*
 - o. **Other: Any conduct which tends to bring the County or the Office of the Sheriff into disrepute.**

Officer J. Bailey stated in her interview, she attempted to catch up to Deputy Spadaro's vehicle as he sped down Elmira Road. She said Deputy Spadaro made an illegal turn onto Allison Drive. Officer J. Bailey said he turned off his vehicle lights and immediately pulled over into the transit center parking lot. During her interview with Internal Affairs, Officer J. Bailey said she felt the driver of the Honda knew she was behind it because she felt, based on her experience, the driver was going to foot bail. Officer J. Bailey said, "I didn't know what he was doing, like, it was so – his driving was so aggressive, I – I didn't know if he was trying to get away from me or if he was trying to bait me into doing something." (Attachment 1, page 3, line 133 to line 135)



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Deputy Spadaro said he did not attempt to evade from Officer J. Bailey, and he pulled over as soon as he saw her red forward facing light. Deputy Spadaro said he did not remember why he turned off his vehicle lights while his vehicle was still moving and he did not recall telling Officer J. Bailey he was looking for a "Jack n Box" restaurant.

Officer J. Bailey said she noticed Deputy Spadaro's vehicle had paper plates on it and she later located the vehicle's license plates in the rear seat during the inventory of the vehicle for a tow. Officer J. Bailey indicated she suspected Deputy Spadaro did not put on his license plates in an attempt to conceal his identity. During her interview, Officer J. Bailey said, "my thought is that he, um, isn't paying his tolls" (**Attachment 1, page 9, line 382 to line 383**)

Deputy Spadaro admitted to not paying his toll after Costco changed from accepting American Express cards to accepting Visa credit cards. It should be noted, Costco discontinued accepting American Express cards on June 20, 2016. Deputy Spadaro lives in Vacaville and must cross the Benicia Bridge to drive to the Martinez Detention Facility. Deputy Spadaro admitted to evading the bridge toll for approximately five months.

Members of the Office of the Sheriff shall conduct themselves in a manner that will not discredit or reflect poorly on the Office of the Sheriff. Deputy Spadaro, as a law enforcement official and representative of the Office of the Sheriff of Contra Costa County, is held to a higher standard of conduct, both on duty and off duty.

Deputy Spadaro's admitted bridge toll violation, if discovered by the public, would cause the residents of Contra Costa County to view the Sheriff's Office in a negative light and erode the public trust. Furthermore, Deputy Spadaro's driving behavior just prior to being pulled over by Officer J. Bailey and his arrest placed the office of the Sheriff into disrepute, in violation of Sheriff's Office Policies and Procedures sections 1.05.57 – Unbecoming Conduct – Other.

The administrative investigation disclosed sufficient evidence to clearly prove the allegation. Therefore, I recommend the finding of **SUSTAINED** as to the violation CCCSO Policies and Procedures section 1.05.57: Unbecoming Conduct – Other.

As to the third issue, CCCSO General Policy and Procedure Section 1.05.70 Personnel Management Regulations, states in part:

I. POLICY.



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

-
- A.** *The effective and efficient operation of the Office of the Sheriff requires that employee behavior conform to Office of the Sheriff standards. Occasionally, positive actions to correct unacceptable behavior fail or the unacceptable behavior is such that use of the Corrective Counseling System is inappropriate. The Office of the Sheriff uses the County Personnel Management Regulations in these cases to modify unacceptable behavior.*
 - F.** *CAUSE OF ACTION REPORT. a report from supervisory personnel that identifies specific causes for disciplinary action against an employee.*
 - K.** *REVOCATION OF POLICE POWERS. It may be necessary for the Sheriff or designee to temporarily suspend the police powers of a sworn employee. The employee is served with a document indicating that the officer's police powers (per Section 830 P.C., et. seq.) have been suspended, and revoking authorization for Office of the Sheriff issued weapons, ID card and badge.*

II. GENERAL.

- A.** *PERSONNEL MANAGEMENT. The County Merit System Ordinance and Personnel Management Regulations provide that tenure of employees shall be awarded for good behavior and the rendering of efficient service. These regulations also provide that the Sheriff may dismiss, suspend, demote or reduce in compensation any employee for cause. When the use of the Corrective Counseling System is inappropriate, or the employee has failed to correct unacceptable behavior while in the system, the Personnel Management Regulations will be utilized.*

 - 1.** *Cause. The following list of causes are sufficient for the utilization of the Personnel Management Regulations. The list is indicative of causes that may result in dismissal, suspension, demotion or reduction in compensation. However, it is not all inclusive and other unspecified causes may result in such action.*

k. Dishonesty or theft.

During Deputy Spadaro's initial contact with Vacaville Police Officer J. Bailey, she asked him how much he had to drink. Deputy Spadaro answered he had one beer during the evening. Later, when Officer C. Bailey conducted his initial preliminary DUI questioning, he asked Deputy Spadaro how much Deputy Spadaro had to drink. Deputy Spadaro answered he had one beer to drink. A review of the BWC video, which showed both J.



I.A. # 2016-078

Date Received: 06/27/2016

Complainant: Administrative

CONFIDENTIAL

Bailey and C. Bailey contacting Deputy Spadaro, captured his statements to both Vacaville Police Officers regarding how much he had to drink prior to driving.

Officer C. Bailey later documented in his crime report that Deputy Spadaro admitted he had consumed four beers during his evening. Subsequently, during his interview with Internal Affairs, Deputy Spadaro admitted he consumed five drinks during his evening, in apparent conflict with the statements he made to Vacaville Police Officers J. Bailey and C. Bailey. Deputy Spadaro was dishonest with both Officer J. Bailey and Officer C. Bailey when he stated he had consumed one drink prior to driving his vehicle.

The administrative investigation disclosed sufficient evidence to clearly prove the allegation. Therefore, I recommend the finding of **SUSTAINED** as to the allegation of a violation of *CCCSO General Policy and Procedure Section 1.05.70 Personnel Management Regulations - Dishonesty*

TELEPHONIC INTERVIEW WITH OFC. JULIE BAILEY

Q=Sgt. Douglas Muse

Q1=Sgt. Dave Hall

A=Ofc. Julie Bailey

A: Okay.

Q: Okay, this is Sergeant Doug Muse. It is December 8 at 5:03 pm. We are speaking - I am with Sergeant Dave Hall in my office, and we are speaking with, uh, Vacaville Police Department - is it Corporal Julie Bailey?

A: Nah, just officer.

Q: Just officer, okay. Uh - uh, regarding IA 2016-078. Uh, this interview is being digitally recorded. This is an administrative investigation. You have been identified as a potential witness in an investigation. Um, as you know, while we're talkin' it's important that you be honest because during the course of our conversation it's considered your duty to be completely forthright and truthful, do you understand this?

A: Yes.

Q: 'Kay. How long have you been with the Vacaville Police Department?

A: Twenty-two years.

Q: And what is your current shift or assi- and assignment?

A: I'm a FTO, and I'm on (unintelligible) shift on the second side of the week.

Q: Wednesday through Saturday?

A: Yeah, from - from 1600 to 0200.

Q: 'Kay. Um, can you provide me with a - a good department phone number and address real quick, 'cause I don't have one, I need one.

A: Yeah, um, do you want the - the - the office number or do you want my cell

46 phone number (unintelligible)?
 47
 48 Q: The - the office number's fine.
 49
 50 A: It's (707) 449-5200. And the address is 660 Merchant Street, Vacaville,
 51 95688.
 52
 53 Q: Okay. It broke on the phone number, can you do the (707)?
 54
 55 Q1: 449...
 56
 57 A: 449...
 58
 59 Q1: 5200.
 60
 61 A: ...5200.
 62
 63 Q: Okay. All right, so we're gonna discuss, um, the DUI stop you did on, uh,
 64 Thanksgiving evening or morning, Thanksgiving morning, on Thursday,
 65 November 24, 2016 at or about, uh, 0147, did you notice a burgundy Honda
 66 vehicle make an illegal turn?
 67
 68 A: Yes.
 69
 70 Q: When you noticed the Honda, which, uh, where were you parked and which
 71 way were you facing?
 72
 73 A: I was parked in a driveway at the Opportunity House gift shop at 107 Peabody
 74 Road, and I was facing west onto Peabody Road.
 75
 76 Q: And did you, uh, did you pull out and get behind the Honda?
 77
 78 A: Yeah. Well when I had pulled out he was already gone, like he turned right
 79 onto Elmira Road.
 80
 81 Q: Okay. Can you go through kind of, um, the stop up until the point you
 82 contacted him, if you could, in a narrative form?
 83
 84 A: Yeah, um, so when I - when I pulled out onto Pea- I saw he was gonna turn on
 85 - on Elmira. I drove to Elmira and saw that he was quite a ways already in
 86 Elmira Road and I realized that he was going fast, like, (unintelligible). Um,
 87 so as I was trying to catch up to him I realized that I was going about 65 miles
 88 an hour and it's a posted 40 mile an hour zone and he was still pulling away
 89 from me. Um, and as I was catching up to him he arrived at a still red left turn
 90 arrow at Elmira Road and he just slowed enough to make the turn, he didn't -

he didn't come close to stopping at the red light, and he just blew the red light turning left onto, uh, northbound Allison Drive. And - and then he started speeding again. Um, I was pacing him past Ulati Drive at, uh, 70 miles an hour plus in a posted 35 mile an hour zone. And then as we approached the Allison Transit Center, uh, it's like a bus depot, he suddenly turned right into the transit center, blacked out all of his lights, and drove to the far back part of the bus depot, and that's where I caught up to him and contacted him.

Q: All right. Did you activate your overhead lights at all or siren when you were attempting to catch up to him?

A: No. I - I thought that that would probably cause him to flee.

Q: Okay.

Q1: Had you - had you run the plate? Um, we - we have, uh, the - the com- I'm - I'm assuming you guys have the computers in your cars as well. Did you - did you have a chance to run the plate while you were trying to catch up with him?

A: He had paper plate and I was never close enough to even see what he had...

Q1: Okay.

A: ...plates until I was right up on him.

Q1: Okay, thank you.

Q: How far behind the Honda were you when it blacked out and pulled into the transit center?

A: Uh, by that time I was pretty close. Uh, hang on, I'm bad at estimating distances. Uh, say 20, 30 yards away from him.

Q: Okay. Uh, do you feel the driver knew you were behind him and he was trying to get away from you?

A: I thought so at the time. I - I thought he was gonna foot bail when he - when he pulled in there and blacked out I thought he was gonna foot.

Q: Okay.

A: I didn't - I didn't know what he was doing, like, it was so - his driving was so aggressive, I - I didn't know if he was trying to get away from me or if he was trying to bait me into doing something.

136

137 Q: Understood.

138

139 Q1: Officer - Officer Bailey, uh, Sergeant Hall here, if, um, when he blacked out
140 and went to the transit center, um, am I understanding this right, the transit
141 center doesn't have like a rear exit or anything, it's just a big...

142

143 A: Right.

144

145 Q1: ...parking lot, is that correct?

146

147 A: It, yeah, it's one way in and one way out.

148

149 Q1: Okay, thank you.

150

151 Q: Eh, were you, eh - eh, your cover show up at this point or were you - did you
152 stage for your cover, did you wait for your cover?

153

154 A: No, I - it - I didn't have the opportunity to wait for my cover because it was,
155 uh, you know, by the time I was putting it out we were coming to a stop.

156

157 Q: Okay.

158

159 A: So my cover was there pretty quick behind me, um, my body camera, that's
160 when I realized that I just - I just left the police department shortly before this
161 happened and I just finished downloading the videos from previous in the
162 night, so that's when I realized that I left my body camera at the police
163 department so I asked my cover officer to begin recording it, and that was
164 pretty quickly after I got there.

165

166 Q: All right.

167

168 A: Like, after I was at the driver's side door he was at the passenger's side and I
169 motioned to him to use his body camera to record it because I didn't have
170 mine, and I recall that being pretty quickly after I initiated the first contact, so
171 he wasn't too far behind me.

172

173 Q: Okay. And is that Officer (Moore)?

174

175 A: Yeah.

176

177 Q: Okay. Uh, we - I have a copy of his, uh, footage as well as, um, uh, Chuck
178 Bailey's footage, as well. And I've - I've - I have viewed that. Um, so the, eh,
179 I want to just make sure I understand. The driver pulls into the transit lot and
180 you're pretty much on him, um, the - was there a - a separation of time at all,

181 uh...

182

183 A: From the time - from the time he blacked out into the lot and the time, eh, I

184 was - as he was pulling in and blacking out I was right up on him, like, car

185 stop distance.

186

187 Q: Okay.

188

189 A: Car and a half length behind him.

190

191 Q: Um, so he wasn't back there trying to hide, you actually pulled him over right

192 there basically?

193

194 A: Right.

195

196 Q: Okay. He - I mean he prob- who knows why he was back there but it wasn't

197 like he was hiding and you went back there and located him, um, you...

198

199 A: Right.

200

201 Q: ...you - you saw the car come to a stop?

202

203 A: Yeah.

204

205 Q: Okay.

206

207 Q1: Um, Officer Bailey, is there any - in that transit center is there any reason for

208 just, like, your average citizen to be back there?

209

210 A: No.

211

212 Q1: Eh, at - at that...

213

214 A: I...

215

216 Q1: ...at that hour? Let me preface by...

217

218 A: It's...

219

220 Q1: ...saying at that hour.

221

222 A: ...closed after hours, yeah.

223

224 Q1: There's no kiosk or anything that anyone could go and, you know, I don't

225 know, get some, like a ATM or anything or - there's nothing in there, right?

226
227 A: No, he told me he was looking for Jack in the Box.
228
229 Q: Okay. A- and was the Honda parked nose in or did he back it in or did he -
230 was it a stall or just a side of a wall, a side of a building, side of a bus?
231
232 A: Uh, there's a driveway that leads straight back and then there's a parking lot
233 beyond that and he stopped at the end of the driveway at the entrance to the
234 rear parking lot.
235
236 Q: Okay. Did he stop in response to you or what - what do you think brought him
237 to a complete stop?
238
239 A: I think he just voluntarily stopped.
240
241 Q: Okay. And...
242
243 A: He knew I was there, but I - he wasn't trying to flee from me at that point but
244 he - like my lights went on and he stopped at kind of almost the same time,
245 like it just happened.
246
247 Q: Okay. And when - when you approached the vehicle did you locate Chris
248 Spadaro in the driver's seat?
249
250 A: Yeah.
251
252 Q: In your opinion, um, with being there, w- was there any possibility that
253 someone else was driving the vehicle or was someone else able to get outta
254 the vehicle and run away and he was able to slide over to the driver's seat?
255
256 A: No, there was - there was no chance that that coulda happened. He was in
257 constant motion from the time I first observed him to the time he came to a
258 stop.
259
260 Q: Okay. Um, can you go through your observations or your contact when you
261 came up to the door, can you go in narrative form, um, when you walked up to
262 the door?
263
264 A: Um, he rolled both of his windows down and put his hands on the steering
265 wheel, and that to me indicated he was probably law enforcement because he
266 didn't look like a person who'd been arrested a lotta times. You know how
267 when you stop somebody and they put their hands on the dashboard
268 immediately or on the steering wheel?
269
270 Q: Yeah.

271
272 Q1: Yeah.
273
274 A: Kind of a...
275
276 Q1: Like he knows...
277
278 A: ...giveaway?
279
280 Q1: Like he knows what to do.
281
282 A: And, uh, he had bloodshot, watery eyes, a real strong odor of alcohol. He
283 didn't necessarily slur his speech, he didn't seem disoriented.
284
285 Q: Uh...
286
287 A: And when I told him the purpose for my stop he agreed with each point, he
288 acknowledged it and nodded his head, you know, that he was agreeing with
289 what I - what I was saying.
290
291 Q: Did you, um, how did he identify himself?
292
293 A: I can't remember how I found out he was a sheriff's deputy. Um, but I knew
294 pretty much right from the get go, somehow he identified himself.
295
296 Q: Okay.
297
298 A: As a deputy. I don't recall if he was looking for his identification in his wallet
299 and I saw his work ID or if he handed both to me, but somehow it was
300 confirmed in our conversation that he was a - that he works for Contra Costa
301 County as a deputy.
302
303 Q: And did you discuss with him or did you ask him if he was armed if he had his
304 - any firearms in the vehicle?
305
306 A: I did.
307
308 Q: And his answer?
309
310 A: He did - he said he did not have any firearms in the car.
311
312 Q: Did you locate any open or empty alcohol beverages in the car?
313
314 A: No.
315

316 Q: Did you locate anything of note in the vehicle?
 317
 318 A: The license plates to the car were inside the car.
 319
 320 Q: Okay.
 321
 322 A: And they - they'd been issued quite some time ago, like February or
 323 something.
 324
 325 Q: Um, was Chris Spadaro cooperative?
 326
 327 A: Very, yeah.
 328
 329 Q: Uh, in regards to the vehicle, um, do you tow all DUI arrests by policy and
 330 procedure or is it a case by case basis?
 331
 332 A: It would be a strange exception not to tow the car. We - our policy is to tow
 333 the car.
 334
 335 Q: Okay. And...
 336
 337 A: The exception - the exception to that would be, like, you know, family
 338 medical emergency or something like that.
 339
 340 Q: Okay. And where this vehicle was in the transit center, um, you would tow
 341 that vehicle like that 100 out of 100 times, you would say?
 342
 343 A: Yeah. Unless there's, like, you know, needed the car because he had an ailing
 344 child or something to that effect and it was the only car.
 345
 346 Q: Okay.
 347
 348 A: That's the only - that's the only time that we don't do it.
 349
 350 Q: Uh, goin' to the license plates did, um, you recall what Chris Spadaro told you
 351 why he had not put on the license plates?
 352
 353 A: He said he just hadn't gotten around to it yet.
 354
 355 Q: And what did you think of that answer? Hello?
 356
 357 A: I...
 358
 359 Q: I'm sorry.
 360

361 A: I'm trying to formulate my answer.
362
363 Q: Okay, I thought we...
364
365 Q1: Okay.
366
367 Q: ...lost you, I'm sorry.
368
369 A: No, you didn't lose me. Um, eh, my thought was that he was trying to conceal
370 his identity by not putting his plates on his car.
371
372 Q: Okay. Do you guys get that a lot in Vacaville with law enforcement?
373
374 A: No.
375
376 Q: Okay.
377
378 A: We get it a lot with dirt bags.
379
380 Q: Yeah?
381
382 A: And really that's probably why I'm so suspicious of it, my thought is that he,
383 uh, isn't paying his toll.
384
385 Q: Uh, okay. Um, did you document this in, uh, in a police report or in the - in an
386 admin per se or DMV forms?
387
388 A: Yes.
389
390 Q: And...
391
392 A: Admin per se. I did the handwritten narrative on the page two of the admin per
393 se.
394
395 Q: And was that associated with crime report 16-09199?
396
397 A: Yes.
398
399 Q: Uh, was that a yes, I'm sorry?
400
401 A: Yes.
402
403 Q: Okay, thank you. Um, one second, I'm gonna ask my partner if he has any
404 other questions. Uh, that's gonna conclude our questions. Do you have
405 anything you would like to add regarding this incident?

406

407 A: Uh, no, it's uncomfortable to be in this position.

408

409 Q: Yeah, we understand.

410

411 A: I wanted to emphasize that he - he was very cooperative and professional
412 throughout our - our contact.

413

414 Q: Okay. Um, if you have nothin' further to add I am going to conclude the
415 interview. The time i- don't hang up, okay? The time is, uh, 5:18.

416

417

418 The transcript has been reviewed with the audio recording submitted and it is an accurate
419 transcription.

420

Signed _____

TELEPHONIC INTERVIEW WITH OFC. CHUCK BAILEY

Q=Sgt. Douglas Muse

Q1=Sgt. Dave Hall

A=Ofc. Chuck Bailey

Q: All right, this is Sergeant Doug Muse. I am in my office at 651 Pine Street with my partner Sergeant Dave Hall. It is December 8, 2016 at 5:24 pm. We are speaking with Vacaville Police Department Officer Chuck, uh, Bailey, and this is in regards to IA 2016-078. This interview is being digitally recorded. Uh, you okay with that?

A: Yes, I am.

Q: 'Kay. Uh, general questions, sir. How long have you been with the Vacaville Police Department?

A: I've been with Vacaville about 16 1/2 years.

Q: Okay, how long total law enforcement?

A: Uh, goin' on 27, far as, uh, full-time, a reserve for a year in Vallejo, and a little over nine years in Pinole.

Q: Okay. So you're very familiar with Contra Costa County then?

A: Uh, yeah.

Q: All right. Um, what is your current shift and assignment?

A: I'm, uh, working as a, uh, traffic enforcement officer working, uh, 5:30 pm to 3:30 am.

Q: Uh, are you on a bike as well or you just a, uh, are you a traffic car?

A: Uh, traffic car.

Q: Okay. And are you primarily DUIs and accidents or what is your - what does the traffic car primarily cover out there?

46
47 A: Yeah, DUIs, accidents and traffic enforcement.
48
49 Q: 'Kay. This is gonna be case specific question. On Thursday, November 24,
50 2016 at or about 0147 hours did you hear, um, Officer Julie Bailey come over
51 the air?
52
53 A: Yes, I did.
54
55 Q: Uh, what was her radio traffic?
56
57 A: Uh, said she was, uh, ca- uh, attempting to catch a, uh, vehicle that was at a
58 high rate of speed, and if I remember right she was at - (unintelligible) it was
59 northbound on Allison, uh, Drive.
60
61 Q: And did you start that way or were you requested?
62
63 A: I - I started that way.
64
65 Q: Okay. Uh, were you eventually requested due to your DUI experience or as a
66 traffic unit?
67
68 A: Yeah. She, uh, got the car stopped and, uh, several cars showed up on-scene,
69 so I just kind of, like, laid back in case it wasn't anything for me and then, uh,
70 she eventually requested I respond.
71
72 Q: Uh, were you briefed when you got on-scene by Officer Bailey?
73
74 A: Yeah. She, uh, let me know that she thought the guy was a DUI. Asked me to
75 take over that part of the investigation.
76
77 Q: Did she give you any other information about the identity of the driver?
78
79 A: I - I - I - I do believe that she told me that he was a, uh, deputy with Co-Co.
80
81 Q: 'Kay. Did she tell you if he was armed or he had evaded or any-a the specifics
82 on the stop?
83
84 A: Uh, if I remember right she said that after he turned into the parking lot of, uh,
85 the transit center there off of Allison he, uh, blacked out when he went, uh,
86 back-a - back part of the parkin' lot which basically has no lights back there.
87
88 Q: 'Kay. When you approached the vehicle and contacted Chris Spadaro, the
89 driver, did you notice anything about him?
90

91 A: Uh, he was sittin' on the, uh, front bumper of a patrol unit. And, uh, when I -
 92 when I, uh, was started talkin' to him I could - I noticed that I could smell a
 93 odor of alcoholic beverage about body and breath, and he also had, uh,
 94 bloodshot eyes.
 95
 96 Q: Okay. Did he identify himself to you?
 97
 98 A: Uh, I do - I think he was - had already been identified and I just - when I came
 99 up I - I called him - I think I called him - I asked him if he was Chris, and he
 100 said yes.
 101
 102 Q: Okay. Um, he didn't present his department ID to you?
 103
 104 A: Not to me, no.
 105
 106 Q: 'Kay.
 107
 108 A: Durin' our conversation, uh, he let me know that he had been, uh, employed
 109 for 16 years with, uh, I believe - I believe at that point I already knew that he
 110 was with, uh, Co-Co, and he - he told me he's been with ya - you guys for 16
 111 years.
 112
 113 Q: What was his demean- what was Chris Spadaro's demeanor during your
 114 contact?
 115
 116 A: He was, uh, I mean he was, uh, you know, cooperative, you know, didn't act -
 117 didn't seem like he had any issues with me or anything, or what was goin' on.
 118
 119 Q: I observed your FSTs and saw he refused the PAS, you stated in the, uh, and
 120 when I - I saw the camera you stated you had - to him you had been doin'
 121 DUIs since 2004. Um, what range would you place his BAC based off your
 122 evaluation of his eyes?
 123
 124 A: He - he started on being, uh, like the 1.4 or 1.5 range is gonna be my - my
 125 estimate. He's gonna be over an .0 8.
 126
 127 Q: Okay. Over an .0 8, okay.
 128
 129 A: Yeah.
 130
 131 Q: And did you take custody of Chris Spadaro and transport him to the PD?
 132
 133 A: Yes.
 134
 135 Q: Was Chris Spadaro cooperative throughout the entire process?

136
137 A: Yes, he was.
138
139 Q: Did he say anything of note while you had him in custody through this
140 incident?
141
142 A: Um, no, nothing that really stands out.
143
144 Q: 'Kay. While you had Chris Spadaro in custody before he was released, in your
145 professional opinion was his BAC rising or falling?
146
147 A: I'd say it was probably falling.
148
149 Q: Okay. Uh, did you search his vehicle and, uh, and do the tow or was that, uh,
150 Offi- Officer Bailey, Julie?
151
152 A: I think that was her, uh, did that tow.
153
154 Q: Did you document this incident in a report?
155
156 A: Yes, I did.
157
158 Q: And was the report 16-09199?
159
160 A: Yes.
161
162 Q: Okay. Let me ask my partner if he has anything else to add. Sarge, you have
163 anything else to add?
164
165 Q1: No.
166
167 Q: Sir, do you have anything to add regarding this incident?
168
169 A: No, I don't.
170
171 Q: Uh, that is the end of the questions. And if you don't have anything else to add
172 I'm gonna go ahead and stop the recording. Please don't hang up.
173
174 A: Okay.
175
176 Q: The time is 1730. I'm stopping.
177
178
179 The transcript has been reviewed with the audio recording submitted and it is an accurate
180 transcription.

181 Signed _____

INTERVIEW WITH DEP. CHRIS SPADARO

Q=Sgt. Doug Muse

Q1=Sgt. Dave Hall

A=Dep. Chris Spadaro

A1=Julia Fox

Q: Good morning. This is Sergeant Doug Muse. It is December 13th, at 10:05 in the morning. We're in the Internal Affairs Office, 651 Pine Street, 11th Floor, regarding IA 2016-078. I am interviewing Deputy Chris Spadaro. He is represented by his attorney, (RLS) attorney, Julia Fox, and Sergeant Dave Hall as well. I will turn the interview over to, uh, Julia Fox for a statement.

A1: Thank you. So it's our request given the nature of this investigation, that, uh, Deputy Spadaro be Mirandized. There's certainly the potential for criminal charges and as of yet there's been nothing adjudicated as a result of this incident in criminal court. That being the case, we are requesting that he be Mirandized. It's my understanding that, uh, there's a refusal on the part of the Sheriff's Office to do so. So, um, we will proceed given that this is a compelled statement that Deputy Spadaro is giving this morning, but we did want our request noted for the record.

Q: Copy, thank you. Um, this interview is being digitally recorded. You understand that?

A: Yes.

Q: This is an administrative investigation. You have been identified as the subject of the investigation. You are to answer all questions completely and truthfully. Knowingly making false or misleading statements during the interview will be considered a separate offense that could lead to discipline up to and including termination. Do you understand this?

A: Yes, I do.

Q: You receive formal notice from me. Did you understand the formal notice?

A: Yes, sir.

46 Q: Do you have any questions regarding its content?
47
48 A: I do not.
49
50 Q: Have you obeyed all the admonitions outlined in the formal notice?
51
52 A: Yes, sir.
53
54 Q: You received a form entitled Administrative Admonishment prior to this
55 interview, did you understand it?
56
57 A: Yes, sir.
58
59 Q: Do you have any questions regarding its content?
60
61 A: I do not.
62
63 Q: Thank you. I'm gonna get started with some background questions. How long
64 have you been employed by the Sheriff's Office?
65
66 A: Approximately 14 years.
67
68 Q: And where are you currently assigned?
69
70 A: Uh, Custody Division.
71
72 Q: What facility?
73
74 A: Uh, MDF, Martinez Detention.
75
76 Q: And what shift do you work?
77
78 A: Uh, dayshift.
79
80 Q: And the hours are 0600 to 1530?
81
82 A: Correct.
83
84 Q: And what is your normal assignment on, uh, MDF Blue?
85
86 A: Uh, normally assigned to the uh, High Security Unit David Module.
87
88 Q: Okay, we're here to discuss your arrest on November 24, 2016, by the
89 Vacaville Police Department. Can you go through the events prior to when
90 you were pulled over by a Vacaville Police Officer Julie Bailey.

91

92 A: Uh, starting with the beginning of the evening?

93

94 Q: Yes, please.

95

96 A: Okay. Uh, I made my way out to, uh, meet with, uh, coworkers, uh, in
97 Concord, uh, approximately 8:00 pm, uh, November 23rd, um, and we were
98 scheduled to meet at, uh, an establishment, uh, called Tiki Tom's, uh, to
99 engage in, uh, karaoke that evening, and, uh, we had spent, uh, at least a
100 couple of hours there, uh, then, uh, some other coworkers were attempting to
101 get in, uh, and the line was very long, and, uh, the group, uh, decided, uh, it
102 would be best to get the entire group into another establishment, uh, which
103 was, uh, um, Masses.

104

105 Q: And that's in Walnut Creek?

106

107 A: I believe so.

108

109 Q: Okay.

110

111 A: And, uh, I spent several hours there, uh, working on several, uh, two to three
112 hours there, I believe, and then I, uh, left that establishment, uh, headed in the
113 direction of my residence, uh, via 680 and Highway 80, and I stopped at
114 another establishment, uh, in Cordelia, Thompson's, uh, where I sat and listen
115 to some music, uh, possibly 45 minutes, uh, then I eventually made my way
116 to, uh, an establishment in my town where I'm residing. Uh, that
117 establishment was, uh, Ms. Darla's in Vacaville where I stayed there for
118 approximately 30 to 40 minutes. Uh, left the establishment and within a few
119 minutes of leaving that establishment was, uh, pulled over by, uh, patrol
120 personnel in Vacaville and contacted approximately 1:30 in the morning, I
121 believe.

122

123 Q: So, um, when you were at Darla's or Thompson's were you by yourself or
124 were you with somebody?

125

126 A: I was by myself.

127

128 Q: Okay. And you left the group at Masses?

129

130 A: Correct.

131

132 Q: Uh, how many drinks do you think you had when you were at, uh, Tiki
133 Tom's?

134

135 A: Three.

136
137 Q: How many at Masses?
138
139 A: One at Masses.
140
141 Q: What about at Thompson?
142
143 A: I had nothing at Thompson's.
144
145 Q: Okay, what about Darla's?
146
147 A: Uh, I had one, uh, one of the, uh, workers at Darla's, uh, gave me a drink. It
148 was one drink.
149
150 Q: So how many drinks do you estimate that you had then?
151
152 A: Uh, five.
153
154 Q: Over what would you say, how long of a period?
155
156 A: Um, 8:45, 9:00 pm to 1:30ish.
157
158 Q: When, uh, Vacaville PD pulled you over and asked you how much you drank,
159 do you remember your response?
160
161 A: I think I just, uh, I don't recall a specific response, but I - I did notify the, uh,
162 contacting officer that I had been drinking.
163
164 Q: Do you remember your response being, "One beer."
165
166 A: No.
167
168 Q: Okay. Did you feel the effects of the alcohol before driving?
169
170 A: I did.
171
172 Q: Um, you said you were with some folks at Tiki Tom's and at Masses, uh, did,
173 uh, did anybody ask you if you were okay to drive?
174
175 A: Uh, no.
176
177 Q: Did - was there any discussion about, um, being okay to drive with anybody
178 or, uh, ask you if you could drive at all?
179
180 A: No.

181
182 Q: Okay.
183
184 A: No.
185
186 Q: The parking lot you were in, uh, so when you were - when you were pulled
187 over where were you headed?
188
189 A: I was headed home.
190
191 Q: Do you remember the reason for - or violation for being pulled over?
192
193 A: Yes, the, uh, first violation was a, uh, improper left turn violating a black and
194 white regulatory sign.
195
196 Q: And from that parking lot, is that where Ms. Darla's is at right in there?
197
198 A: It's a large, uh, complex, uh, very - very large, uh, lot, and yes, that - that
199 establishment is located within that parking lot.
200
201 Q: After making that left turn, I think that is Peabody?
202
203 A: Yes.
204
205 Q: I believe. Then you turn right on Elmira, correct?
206
207 A: Correct.
208
209 Q: Can you estimate your speed on Elmira?
210
211 A: Um, possibly 50 miles an hour.
212
213 Q: Do you know what the posted speed limit is there?
214
215 A: I believe it's, uh, 40.
216
217 Q: Okay, uh, when did you notice the Vacaville Police car?
218
219 A: Uh, on Allison Drive I notice the, uh, lights. Uh, my rearview mirror was
220 blacked out, meaning it turned to dim the headlights and my rear window was
221 fogged up and I could notice the lights, uh...
222
223 Q: So once you go from left onto Peabody, right on Elmira, uh, you made a left
224 turn on Allison Drive and Elmira.
225

226 A: Yes.
227
228 Q: Did you stop at the red turn light?
229
230 A: Uh, I believe I stopped outside of the left turn pocket, uh, crossing over the,
231 uh, stop line, and then made the left turn from that, uh, particular spot.
232
233 Q: And when you turned - and you're saying when you turned onto Allison is
234 when you saw the police car behind you, or a car behind you?
235
236 A: I believe so, yeah.
237
238 Q: Did you know it was a police car?
239
240 A: The solid red light and the other lights, yes, I did know.
241
242 Q: Okay, so she turned her, uh, the officer turn her lights on.
243
244 A: Correct.
245
246 Q: Did she have her lights on, on Elmira at all?
247
248 A: Uh, I don't know. As I said, the rearview mirror was blacked out...
249
250 Q: Okay.
251
252 A: ...and the rear window was, uh, fogged and it - it may have been there. I - I
253 don't know.
254
255 Q: On Allison, what happen next?
256
257 A: Uh, I pulled into a, uh, Park and Ride, uh, parking lot, uh, an area where
258 there's, uh, several dozen parking stalls and it, uh, appeared to be an
259 appropriate, uh, location to pull over safely.
260
261 Q: Okay, just so I understand you turn left onto Allison.
262
263 A: Yeah.
264
265 Q: The officer activates her lights?
266
267 A: I noticed them on, also, yes.
268
269 Q: And you pull into the - it's called a Transit Center...
270

271 A: Yes.
272
273 Q: ...is what they're calling it?
274
275 A: Park and Ride transit sign.
276
277 Q: And you stopped inside of it, pretty close to inside of it or...
278
279 A: I pulled probably 150' in - within the transit center, yes.
280
281 Q: Okay, the officer, uh, wrote in the Admin Per Se she did not light you up on
282 Allison and when she got behind you on Allison you turned all your lights off,
283 blacked out your vehicle, pulled over to the right-hand side turn pocket, pulled
284 all the way to far back of the transit center and stopped.
285
286 A: I think - yeah, I - I don't know. Not - that's normally, uh, if I had been pulled
287 over in the past, uh, turn off my lights, turn on the interior lights, turn off the
288 car, open the windows and have my hands visible...
289
290 Q: Okay.
291
292 A: ..as - as a matter of courtesy and safety.
293
294 Q: Okay, and - and if you recall that's why she asked you if you were trying to
295 evade from her.
296
297 A: I do recall her asking that.
298
299 Q: Um, okay.
300
301 Q1: Were you trying to evade?
302
303 A: Absolutely not.
304
305 Q1: Okay.
306
307 A: No.
308
309 Q: And is it when you get pulled over in the past is it - was it normal for you, or
310 was it your practice to turn all your lights off while the vehicle was still
311 moving, or as - when the vehicle came to a stop?
312
313 A: My practice is to turn everything off, turn the interior lights on, open windows
314 and - and make sure my hands are visible.
315

316 Q: With the vehicle stopped or with the vehicle moving still?
317
318 A: Proba- most likely would've stopped.
319
320 Q: Okay.
321
322 A: Yeah.
323
324 Q: And do you recall why you turn the lights off when the vehicle was still
325 moving?
326
327 A: I don't recall, no.
328
329 Q: Okay. Uh, when you were pulled over do you remember what you told - so do
330 you realize that, uh, you were pulled over by Officer Julie Bailey?
331
332 A: Yes.
333
334 Q: Uh, and then her husband, Officer Chuck Bailey is the one who conducted the
335 DUI.
336
337 A: Yes.
338
339 Q: Okay, so I have 'em J. Bailey and C. Bailey. Um, you told, uh, Vacaville
340 Police Officer J. Bailey you were looking for a Jack in the Box. Do you recall
341 that?
342
343 A: Um, I don't.
344
345 Q: How long you lived in Vacaville?
346
347 A: Uh, about 19, 20 years.
348
349 Q: Okay, so you're not lo- you - you're not - you were looking for a Jack in the
350 Box. You - you - you were pulling over in response to the overhead lights.
351
352 A: Yes.
353
354 Q: Okay, and the police officer said she never activated her lights 'cause she
355 didn't get up on you quick enough, so that's - that's what she's stating.
356
357 A: Uh...
358
359 Q: Okay, so you're stating that she activated her lights.
360

361 A: I recall seeing the lights and that's why I pulled over.
362
363 Q: Okay. So when she asked you if, um, you were evading were you surprised by
364 that?
365
366 A: I actually was, yeah, because I wouldn't - I would never fathom, uh, doing
367 such a thing to create, uh, you know, an issue for an officer.
368
369 Q: When Officer J. Bailey contacted you were you in your driver seat?
370
371 A: I was.
372
373 Q: And then how did you identify yourself?
374
375 A: I believe I handed her my driver's license and my Sheriff's ID.
376
377 Q: When you're pulled over do you normally hand over your, uh, department ID?
378
379 A: I do.
380
381 Q: Did you expect any professional courtesy by identifying yourself as a Sheriff?
382
383 A: Absolutely not.
384
385 Q: Uh, did you have any weapons in your car?
386
387 A: I did not.
388
389 Q: How would you describe your contact with Officer J. Bailey? Were you
390 professional and cooperative or were you disrespectful or how would you
391 describe it?
392
393 A: I believe I was professional.
394
395 Q: Uh, whose car were you driving?
396
397 A: It was my vehicle.
398
399 Q: When did you buy it or when did you get it?
400
401 A: Approximately a year ago, February.
402
403 Q: Is, uh, that's the Honda, correct?
404
405 A: Yes.

406
407 Q: Is that your commuter car?
408
409 A: Yes.
410
411 Q: Uh, didn't have license plates on the car?
412
413 A: Correct.
414
415 Q: Why not?
416
417 A: Uh, didn't take the opportunity to affix them to the vehicle.
418
419 Q: And where were they located?
420
421 A: Uh, I realize they were located, uh, when I found 'em the next day, uh, they
422 were on the backseat of the vehicle - well, a few days later after I got it -
423 retrieved it from the tow company it was laying on the backseat, or the two -
424 two plates.
425
426 Q: Do you remember when your plates were issued?
427
428 A: I don't recall when I receive them.
429
430 Q: Does February 2016 sound about right?
431
432 A: Probably...
433
434 Q: Bless you.
435
436 A1: Excuse me. Thank you.
437
438 A: ...within that time period.
439
440 Q: And you didn't install 'em 'cause you didn't have the opportunity?
441
442 A: I had several opportunities. I just didn't seize the opportunity to do that.
443
444 Q: Uh, living in Vacaville and crossing the bridge every day, how do you pay for
445 your daily bridge toll?
446
447 A: Um, I don't.
448
449 Q: Uh, what do you mean you don't?
450

451 A: Uh, I previously had a, uh, a Fast Track transponder and, uh, the transponder
452 was registered with a Costco, uh, American Express Card, and then Costco
453 had switched over to Visa and we got the new cards and I hadn't taken the
454 opportunity to transfer, uh, the Fast Track account with the Visa credit card,
455 and - and I didn't do that.
456

457 Q: Okay.

458

459 Q1: So you're saying you were going through toll without paying?

460

461 A: Yes.

462

463 A1: So I'm just gonna object to this because there was no notice that that would be
464 a- a point of inquiry. It's my understanding that Deputy Spadaro was noticed
465 for DUI.
466

467 Q1: He was noticed for unlawful, um, this would fall under this category.

468

469 A1: That - it has to be more narrow than that. He has to know what he's being
470 investigated for.
471

472 Q1: Okay.

473

474 Q: Okay. Uh, what happen next in terms of the, um, car stop?

475

476 A: Uh, the contacting officer, uh, requested I step from the vehicle. Uh, I recall
477 hearing, uh, the contacting officer, requesting a traffic unit to, uh, respond to
478 the location. I, uh, met with the, uh, investigating, uh, traffic officer, and I
479 performed a series of, uh, sobriety tests. Uh, after the completion of the, uh,
480 tests, I was, uh, arrested and handcuffed and taken to the police station.
481

482 Q: Uh, when you finish your FST's did you refuse to blow in the (PAS)?

483

484 A: I did decline the (PAS), yes.

485

486 Q: Okay, any particular reason?

487

488 A: I was, uh - uh, potentially embarrassed to see the results and that I may be
489 close to being over an appropriate limit.
490

491 Q: Uh, after he placed you in handcuffs where did you go?

492

493 A: Uh, I was transported to the Vacaville Police Department.

494

495 Q: And at the police department can you go through the sequence of events there.

496
497 A: I was un-handcuffed. Um, I was seated at a, uh, desk. Uh, several
498 acquaintances I have known from the Contra Costa County Sheriff's Office
499 that had lateraled over had come to meet with me and, uh, sort of, uh, maybe
500 to lend their support of some sort.
501
502 Q1: Let us know if you need a break, Chris.
503
504 A: It's embarrassing.
505
506 Q: Did you choose blood or - blood draw or breath?
507
508 A: I, uh, elected for a blood draw.
509
510 Q: Okay, do you recall how long you were at the PD?
511
512 A: Probably an hour.
513
514 Q: At any point in the evening do you feel that you were too impaired to drive
515 or did you think that you had too much to drink to drive safely?
516
517 A: I believe it was best if I had not driven retrospectively, yes.
518
519 A1: What about at the time?
520
521 A: At the time I did feel that the effects were mostly too much, yes.
522
523 Q: Are you familiar with Sheriff's Office Policy - this one right here, 1.05.57
524 Unbecoming Conduct?
525
526 A: Yes, sir.
527
528 Q: Do you understand the policy?
529
530 A: Yes, sir.
531
532 Q: Do you think you violated it?
533
534 A: Without question.
535
536 Q: Do you think your actions on November 24, has placed the Sheriff's Office in
537 disrepute?
538
539 A: Without question.
540

541 Q: Uh, that's gonna conclude questions, and if I have any follow-up questions -
542 anything - statements uh, do you guys have anything to add?
543

544 A1: I do think it's important that you share with the Sheriff's Office what, if any,
545 proactive steps you've taken to address any alcohol issues that you may have
546 after this DUI arrest.
547

548 A: Uh, after this I reached out to, uh, some peer support, uh, group members and
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570

571 A1: Have things in your personal life been a catalyst for the drinking?
572

573 A:
574
575
576
577

578 A1: Did you initiate that?
579

580 A: I did.
581

582 A1: So is that an attempt by you to right things on the personal side?
583

584 A:
585

586

587

588

589 Q1:

590

591 A:

592

593

594

595

596 Q1:

(Unintelligible).

597

598 A:

599

600

601 Q1:

Um, where are you at as far as, uh, your court - your court proceedings or things of that nature? Do you have a court date, uh...

602

603

604 A:

I have a court date of January 18.

605

606 Q1:

January 18.

607

608 A:

I, uh, contacted the DA. Uh, they inform me that they haven't received anything from Vacaville yet, uh, so that's as much as I know right now.

609

610

611 Q1:

Okay.

612

613 Q:

Do you have anything else?

614

615 A1:

No.

616

617 Q:

Anything else?

618

619 A:

620

621

622

623

624

Uh, like anyone, I had - I could probably come up with 100 solutions to driving in that manner and I made the unfortunate choice to - to do that, and the only thing I can do now is recognize that and, uh, I can do way better than that. That's all.

625

626

627

628

629 Q1:

Do you have a restricted driving privileges right now, like to, uh, to work only provision or is there - are you completely restricted from driving? How is that

630

631 working?

632

633 A: I have (unintelligible) which allows me to drive for 30 days.

634

635 Q1: Sure, okay.

636

637 A: Uh, I have to contact my insurance company. I have to obtain an SR22. That
638 will be transmitted to DMV. Uh, once I get to court - I've been involved in
639 probably hundreds of arraignments, uh, at that point if there's a disposition in
640 the case, uh, I would be given or I would request, uh, driving to and from
641 work, driving to and from, uh, court ordered DUI classes, uh, and potentially
642 to [REDACTED] as a most likely request. Uh, so that's - I think that's - that
643 speaks to your question then.

644

645 Q1: That's where - yeah. It - it does. Thank you.

646

647 Q: Okay, that'll conclude the interview. Please do not discuss this case with
648 anyone especially potential witnesses to the investigation. Do you understand
649 this?

650

651 A: Yes, sir.

652

653 Q: Pending the outcome of this investigation you shall not talk about or discuss
654 this case or this investigation with any other person or employee except your
655 legal representative. Failure to abide by this order could result in a new and
656 separate allegation of insubordination which if sustained could be cause for
657 termination. Okay, that will conclude the interview at 10:36.

658

659

660 The transcript has been reviewed with the audio recording submitted and it is an accurate
661 transcription.

662 Signed _____

OFFICE OF THE SHERIFF
Contra Costa County

Custody Services Bureau
Martinez Detention Division
1000 Ward Street
Martinez, CA 94553
(925) 335-4600



DAVID O. LIVINGSTON
Sheriff-Coroner

Michael V. Casten
Undersheriff

DATE: November 24, 2016
TO: Lieutenant Connie Sanders, MDF Facility Commander
FROM: Sergeant Dennis Curran, MDF Red Team *DC*
SUBJECT: Deputy Spadaro

On 11-24-16, I was assigned to the Martinez Detention Facility as the custody Sergeant. At approximately 0255 hours, I received a telephone call from Deputy Spadaro. Deputy Spadaro informed me he was arrested in the town of Vacaville for driving under the influence of alcohol.

Deputy Spadaro further stated he was recently cite-released and was informing me of this incident to fulfill his obligation of reporting his arrest per policy. Deputy Spadaro also told me he has not been feeling well the past day or so and he was calling in sick for his shift on 11-24-16 that starts at 0600.

I contacted Vacaville PD and spoke with Sgt. Larsen #472 who confirmed to me that Deputy Spadaro was stopped at approximately 0147 hours on 11-24-16. Soon after, the arresting officer arrested Deputy Spadaro on the charge of CVC 23152(a).

I was also given Vacaville PD crime report #16-09199. Sgt. Larsen also informed me that Deputy Spadaro was "Cordial and professional" during this incident and Deputy Spadaro had no firearm on his person.

Deputy Spadaro was cite-released at approximately 0230 hours. Sgt. Larsen informed me the crime report will be completed within the next 24 hours which will obviously include pertinent details regarding the arrest.

OFFICE OF THE SHERIFF
Contra Costa County

Custody Services Bureau
Marsh Creek Detention Facility
12000 Marsh Creek Road
Marsh Creek, CA 94517
(925) 646-5700



DAVID O. LIVINGSTON
Sheriff

Michael V. Casten
Undersheriff

DATE: November 24, 2016
TO: Chris Simmons, Captain, Division Commander
FROM: ^{JTP} Joshua Patzer, Lieutenant, Marsh Creek Detention Facility Commander
SUBJECT: Christopher Spadaro, #67044 Deputy

On Thursday, November 24, 2016 at approximately 0230 hours I was contacted by Deputy Christopher Spadaro via the phone. Deputy Spadaro asked me to pick him up at the Vacaville Police Department (VPD). My wife (Chelestina Patzer) and I drove down to the Vacaville Police Department arriving at approximately 0245 hours.

I was met in the front parking lot by Deputy Spadaro and VPD Office Corporal Baily. Corporal Baily told me Deputy Spadaro was arrested for a misdemeanor DUI and was being cite released to me.

While in the car driving Deputy Spadaro to his house I referred him to Peer Support, Employment Assistance program and to seek representation from the Deputy Sheriffs Association. While in the car Deputy Spadaro contacted the Sergeant on Duty at the Martinez Detention Facility to inform them of his arrest. Deputy Spadaro was dropped off at his house where he went inside and went to sleep.

At approximately 0800 hours I picked Deputy Spadaro up at his house to take him to get his personal vehicle out of impound. The tow yard was not able to release the vehicle to us at this time. I again referred Deputy Spadaro to contact the Peer Support group, Employment Assistance program and the Deputy Sheriffs Association. I took Deputy Spadaro back to his house and dropped him off.

I contacted Captain Simmons and passed on all the information I had.

If you have any questions, please call me at [REDACTED]

OFFICE OF THE SHERIFF
Contra Costa County

Custody Services Bureau
Martinez Detention Facility
1000 Ward Street
Martinez, CA 94553
(925) 335-4600



DAVID O. LIVINGSTON
Sheriff-Coroner

Michael V. Casten
Undersheriff

DATE: November 25, 2016
TO: Chris Simmons, Captain, Martinez Detention Facility
FROM: Connie Sanders, Lieutenant, Martinez Detention Facility
SUBJECT: Deputy Chris Spadaro #67044

On November 24, 2016 at approximately 0308 hours, I received a phone call from Sergeant Dennis Curran regarding the arrest of Deputy Chris Spadaro by Vacaville PD. Sergeant Curran said Deputy Spadaro called in sick for his shift starting today at 0600 hours and he was arrested by Vacaville PD for DUI. Deputy Spadaro stated he had been cite released by Vacaville PD at their station.

I contacted you at approximately 0317 hours, and informed you of this incident.

On November 25, 2016 at approximately 1130 hours, I responded to Delta Station and met with Deputy Spadaro. I advised Deputy Spadaro he was being placed on paid administrative leave per your memo and told him we needed to collect his firearm, badge, keys and sheriff's identification card. Deputy Spadaro gave me his Sherriff's Office identification card and advised his badge and firearm were in his locker at the Martinez Detention Facility. Deputy Spadaro told Lt. Andrews he had permission to get the items from his locker at the Martinez Detention Facility. Deputy Spadaro said his work keys were in his vehicle that was impounded after his arrest. He said he would contact Lt. Andrews on Monday, November 28, 2016 and make arrangements to turn them in after he gets his vehicle back.

Deputy Spadaro stated he had been in contact with the peer support group prior to my arrival at Delta Station and was seeking counseling.

At no time did myself or Lt. Andrews ask Deputy Spadaro any questions regarding this incident.

I have requested a copy of Vacaville PD's police report 16-09199 for review. As of today, the report was not yet complete.

Lt. Andrews secured Deputy Spadaro's property including his duty firearm, magazines and badge at the Martinez Detention Facility. I am currently in possession of his Sheriff's Office identification card and will secure it my first day back to work.

I recommend this incident be forwarded to the Internal Affairs Unit for review of Unbecoming / Unlawful conduct. Deputy Spadaro is currently still in a LOR for [REDACTED] that occurred on April 14, 2016.

OFFICE OF THE SHERIFF
Contra Costa County

Custody Services Bureau
Martinez Detention Facility
1000 Ward Street
Martinez, CA 94553
[REDACTED]




DAVID O. LIVINGSTON
Sheriff-Coroner

Michael V. Casten
Undersheriff

DATE: November 25, 2016

TO: Christopher Spadaro, Deputy Sheriff #67044

FROM: Chris Simmons, Captain, Martinez Detention Division Commander 

SUBJECT: Emergency Personnel Action

Effective immediately, you are placed on paid administrative leave. As such, you must make yourself available to the Office of the Sheriff's Managers during normal business hours (Monday through Friday, 8:00 AM to 5:00 PM). You are expected to respond in a timely manner to the Office of the Sheriff if requested during these times. If for some reason you will not be available during these times, you must notify the Division Commander of an alternate means of contact. You are required to surrender your Office of the Sheriff identification card, badge, duty weapon, and keys. I am revoking your peace officer powers during the time you are on administrative leave. In addition, while you are on administrative leave, you are not to enter any of the Office of the Sheriff facilities without the prior approval of the Division Commander.

Additionally, commencing November 28, 2016, due to the current circumstances regarding your administrative leave status, you are instructed to contact the respective Superior Court, or party by whom you have been served any subpoena related to your employment with this Office to appear, to advise them that you are unavailable to attend any court proceeding at this time. This process should be completed by the use of the "Sheriff's Office Court Unavailability Declaration Affidavit," with an additional copy provided to the subpoena clerk at the Field Operations Building (FOB).

Any future subpoenas requesting your appearance will not be accepted or served until further notice. If you are unsure of your outstanding subpoena appearance dates contact the Subpoena Clerk at the FOB to ensure all notifications are completed.

cc: David O. Livingston, Sheriff-Coroner
Michael V. Casten, Undersheriff
Matt Schuler, Assistant Sheriff, Custody Services Bureau
Mary Jane Robb, Sheriff's Chief of Management Services
Brian Vanderlind, Lieutenant, Professional Standards

*SERVED
11/25/16 11:30 Hours
LT. C. SANDERS*

OFFICE OF THE SHERIFF
Contra Costa County

Custody Services Bureau
Martinez Detention Facility
1000 Ward Street
Martinez, CA 94553
925-335-4601



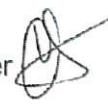
DAVID O. LIVINGSTON
Sheriff-Coroner

Michael V. Casten
Undersheriff

DATE: November 29, 2016

TO: Michael V. Casten, Undersheriff

VIA: Matthew Schuler, Assistant Sheriff, Custody Services Bureau

FROM: Chris Simmons, Captain, Martinez Detention Division Commander 


SUBJECT: Request for Internal Affairs Investigation:
Off-Duty Incident: Deputy Chris Spadaro #67044

This memorandum is in regards to allegations against Deputy Chris Spadaro (currently assigned to the Custody Services Bureau; Martinez Detention Facility) and his involvement in an off-duty incident where he was arrested by Vacaville PD for VC 23152(A).

On Thursday, November 24, 2016, at approximately 0147 hours, a Vacaville PD officer attempted to initiate a traffic enforcement stop on Deputy Chris Spadaro (off-duty) in Vacaville after witnessing Deputy Spadaro drive approximately 70+MPH in a posted 35MPH zone. Deputy Spadaro then blacked-out his car and attempted to elude the officer in a dark parking lot; Deputy Spadaro's vehicle displayed only paper plates, but the issued plates were found inside of the vehicle. During the stop, the officer determined Deputy Spadaro was driving under the influence of alcohol; Deputy Spadaro was subsequently arrested for VC 23152(A). He refused to perform a PAS test, instead submitting to a blood draw – results pending (refer to Vacaville PD report #16-9199 for further details).

Deputy Spadaro contacted the MDF shift supervisor, Sergeant Dennis Curran, and informed him of the arrest and that he would be calling in "sick" for his upcoming shift (refer to Sergeant Curran's memo for further details). Deputy Spadaro also contacted Lieutenant Joshua Patzer (as a personal contact) and asked him for a ride home from the police department (refer to Lieutenant Patzer's memo for further details).

Lieutenant Connie Sanders and Lieutenant Steve Andrews served Deputy Spadaro with an Emergency Personnel Action on Tuesday, November 25, 2016, placing him on administrative leave (refer to Lieutenant Sanders' memorandum for further details).



Because of the unlawful nature of the allegations against Deputy Spadaro and the totality of his unbecoming and unlawful conduct related to this incident as well as his active Internal Affairs history, I recommend this case be forwarded to Internal Affairs for investigation regarding potential violations of Office of the Sheriff Policy and Procedures, sections 1.05.57 – *Unbecoming Conduct* – *Unlawful Conduct*.

Attachments

- Vacaville PD report #16-9199
- Memorandum – from Lieutenant Sanders
- Memorandum – from Lieutenant Patzer
- Memorandum – from Sergeant Curran
- Emergency Personnel Action – served to Deputy Spadaro

IA # 2016-078



ADVISEMENT OF RIGHTS

You have the right to know the nature of the interrogation prior to any interrogation.

You have the right to have a representative of your choice present during this interview, 1) an attorney, 2) an association member, or 3) anyone else not connected with this investigation.

You have the right to make your own tape recording of your interview.

You will have access to the department's tape recording of your interview if further proceedings are contemplated or prior to any further interrogation at a subsequent time.

Upon completion of the investigation, you are entitled to a transcribed copy of any notes, or to any reports or complaints, except those that are deemed confidential.

You will be questioned by no more than two interrogators at one time during the course of the interview.

If this interrogation is occurring during your off-duty time, you will be compensated.

This interview session will be for a reasonable period of time, and you will be allowed to attend to your own personal physical necessities. You may request a break at any time.

ADMINISTRATIVE ADMONISHMENT

A Sheriff's Office administrative investigation is in progress and it has become necessary to obtain a statement from you. If you cooperate fully at this time, your statements and any evidence arising there from may be used in any and all proceedings arising out of this investigation. As a citizen and an employee of this office, you are hereby advised that if prior to, or during the taking of your statement, this office determines that you may be charged with a criminal offense, the proceeding will be stopped. You will then be advised of your Constitutional rights and given an opportunity to obtain legal counsel.

If you decide not to give a statement at this time, you are now ordered, as an employee of this office, to answer all questions asked by investigators and to give a full, detailed and complete statement regarding your knowledge of or involvement in the matter now under investigation. Although you have a right to silence in a criminal investigation, this is not a criminal investigation, but an administrative hearing. You are now being

ordered to answer all questions under the compulsion of the threat of disciplinary action and having been so ordered, any statements that you make cannot be used against you in any criminal proceeding.

Your fitness to remain employed by this office is the object of this portion of the investigation and you are hereby directed to cooperate fully with investigators so that a decision on your job status may be made as soon as possible. If you fail to comply with this order, you may be dismissed from your employment with this office on the grounds of willful disobedience and insubordination.

Assuming that you now comply with this order and cooperate fully in this investigation, your statements and any evidence obtained through such statements will be used, as to you, solely to determine whether the Sheriff's Office disciplinary action is necessary. False statements, of course, will result in severe disciplinary action, up to and including dismissal.

**IF YOU HAVE ANY QUESTIONS CONCERNING YOUR RIGHTS OR THE
ADMONISHMENT, YOU MAY ASK THEM NOW.**

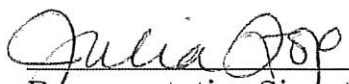
.....
I have read the above admonishment order and the standardized advisement of rights.
I fully understand my rights and duties in this investigation.



Employee Signature



Investigator Signature



Representative Signature



Investigator Signature

Date: 12.13.14

Time: 10:03

OFFICE OF THE SHERIFF
Contra Costa County

Internal Affairs
651 Pine Street, 11th Floor
Martinez, California 94553
[REDACTED]



DAVID O. LIVINGSTON
Sheriff-Coroner

Michael V. Casten
Undersheriff

Date: December 1, 2016
To: Deputy Christopher Spadaro #67044
From: Sergeant Douglas Muse, Internal Affairs *DM*
Subject: Notice of Administrative Inquiry: Internal Affairs Case # 2016-078

This notice is to advise you of an Administrative Inquiry that is underway and you are a subject of the investigation.

It is alleged on November 24, 2016, you were arrested and booked by Vacaville PD for Driving Under the Influence. The conduct you are accused of is in violation of Sheriff's Office Policies, 1.05.57 Unbecoming Conduct – Unlawful Conduct and 1.05.57 Unbecoming Conduct – Disrepute.

In accordance with policy, the matter was referred to Internal Affairs for further review.

It is the policy of this agency to conduct a thorough, independent investigation of all policy and law violations involving our employees.

(Government Code § 3303(c); City of Los Angeles v. Superior Court (Labio) 1997 57 Cal. App 4th 1506)

You are to report to **651 Pine Street 11th Floor, Martinez, California 94553** for an interview on a **date and time to be determined**. I urge you to review any documents associated with this incident. It is your right, as a subject officer in this investigation, to have representation during the interview process.

Pending the outcome of this investigation, you shall not talk about, or discuss this case or any aspect of this investigation with any other persons or employees, except your legal representative. Failure to abide by this order could result in a new and separate allegation of Insubordination, which if sustained, could be cause for termination.

You have the right to have a representative of your choice present during this interview, 1) an attorney, 2) an association member, or 3) anyone else not connected with this investigation.

(Government Code 3303(l))

You have the right to make your own audio recording of your interview. (GV 3303(g))

You will have access to the department's audio recording of your interview if further proceedings are contemplated or prior to any further interrogation at a subsequent time. (GV 3303 (g))

HONOR COURAGE COMMITMENT LEADERSHIP TEAMWORK

Upon completion of the investigation, you are entitled to a transcribed copy of any notes, or to any reports or complaints, except those that are deemed confidential. (GV 3303 (g))

You will be questioned by no more than two interrogators at one time during the course of the interview. (GV 3303(b))

If this interrogation is occurring during your off-duty time, you will be compensated. (GV 3303(a))

The interview session will be for a reasonable period of time, and you will be allowed to attend to your own personal physical necessities. You may request a break at any time. (GV 3303 (a))

Please acknowledge receipt of this notice via email, addressed to me or by telephone. You may call me at [REDACTED] anytime during normal business hours if you have any questions.

OFFICE OF THE SHERIFF
Contra Costa County

Internal Affairs
651 Pine Street, 11th Floor
Martinez, California 94553
[REDACTED]



DAVID O. LIVINGSTON
Sheriff-Coroner

Michael V. Casten
Undersheriff

Date: December 9, 2016
To: Deputy Christopher Spadaro #67044
From: Sergeant Douglas Muse, Internal Affairs DM
Subject: Notice of Administrative Inquiry: Internal Affairs Case # 2016-078

This notice is to advise you of an Administrative Inquiry that is underway and you are a subject of the investigation.

It is alleged on November 24, 2016, you were arrested and booked by Vacaville PD for Driving Under the Influence. The conduct you are accused of is in violation of Sheriff's Office Policies, 1.05.57 Unbecoming Conduct – Unlawful Conduct and 1.05.57 Unbecoming Conduct – Disrepute.

In accordance with policy, the matter was referred to Internal Affairs for further review.

It is the policy of this agency to conduct a thorough, independent investigation of all policy and law violations involving our employees.

(Government Code §3303(c); City of Los Angeles v. Superior Court (Labio) 1997 57 Cal. App 4th 1506)

You are to report to **651 Pine Street 11th Floor, Martinez, California 94553** for an interview on **December 13, 2016 at 0930 hours**. I urge you to review any documents associated with this incident. It is your right, as a subject officer in this investigation, to have representation during the interview process.

Pending the outcome of this investigation, you shall not talk about, or discuss this case or any aspect of this investigation with any other persons or employees, except your legal representative. Failure to abide by this order could result in a new and separate allegation of Insubordination, which if sustained, could be cause for termination.

You have the right to have a representative of your choice present during this interview, 1) an attorney, 2) an association member, or 3) anyone else not connected with this investigation.

(Government Code 3303(l))

You have the right to make your own audio recording of your interview. (GV 3303(g))

You will have access to the department's audio recording of your interview if further proceedings are contemplated or prior to any further interrogation at a subsequent time. (GV 3303 (g))

HONOR

COURAGE

COMMITMENT

LEADERSHIP

TEAMWORK

Upon completion of the investigation, you are entitled to a transcribed copy of any notes, or to any reports or complaints, except those that are deemed confidential. (GV 3303 (g))

You will be questioned by no more than two interrogators at one time during the course of the interview. (GV 3303(b))

If this interrogation is occurring during your off-duty time, you will be compensated. (GV 3303(a))

The interview session will be for a reasonable period of time, and you will be allowed to attend to your own personal physical necessities. You may request a break at any time. (GV 3303 (a))

Please acknowledge receipt of this notice via email, addressed to me or by telephone. You may call me at [REDACTED] anytime during normal business hours if you have any questions.

Contra Costa County Office of the Sheriff General Policy and Procedure	CCCSO	NUMBER: 1.05.70
	RELATED ORDERS: County Employee MOU California Civil Code 1094.6; County Employee Retirement Law of 1937; County Personnel Management Regulations; County Merit System Ordinance; CCCSO 1.04.64.	
ISSUE DATE: 2-1-2006 REVISION DATE: 4-5-2016	CLEARANCE: Office of the Sheriff	
CHAPTER: Personnel Management and Employment Relations	SUBJECT: Personnel Management Regulations	

I. POLICY.

- A. The effective and efficient operation of the Office of the Sheriff requires that employee behavior conform to Office of the Sheriff standards. Occasionally, positive actions to correct unacceptable behavior fail or the unacceptable behavior is such that use of the Corrective Counseling System is inappropriate. The Office of the Sheriff uses the County Personnel Management Regulations in these cases to modify unacceptable behavior.

II. DEFINITIONS.

- A. **ADMINISTRATIVE APPEAL.** An administrative appeal allows the employee to meet with the Sheriff for the purpose of discussing an administrative decision affecting the employee.
- B. **CAUSE OF ACTION REPORT.** A report from supervisory personnel that identifies specific causes for disciplinary action against an employee.
- C. **COUNTY.** The County of Contra Costa.
- D. **DEMOTION.** The reclassification of an employee to another position in a class having a lower salary allocation at the top step than the class previously occupied by the employee.
- E. **DIRECTOR OF PERSONNEL.** The person designated by the County Administrator to serve as the Assistant County Administrator-Director of Personnel.
- F. **EMERGENCY PERSONNEL ACTION.** An emergency personnel action is warranted when the Sheriff or designee has reliable information regarding an employee's recent or potential behavior which would cause that Manager to have a reasonable concern for the welfare or safety of the public, the employee, or other employees. An emergency personnel action may involve assignment to a Temporary Modified Duty, Leave of Absence with Pay, or assignment to a specific work station.
- G. **MERIT BOARD.** The Merit Board of Contra Costa County.
- H. **PERMANENT STATUS.** Appointment to a position which must be confirmed by successful completion of the probationary period specified for the class.

- I. REDUCTION. The lowering of an employee's compensation level within their current salary range.
- J. REPRIMAND. A formal written notice to the employee informing him/her that his/her performance and/or behavior must improve.
 - 1. Used when counseling or other non-disciplinary methods have not worked.
 - a. Tells the employee what future disciplinary action will occur if there is no improvement.
 - b. Defines the area where improvement is needed.
 - c. Is placed in the employee's personnel file.
 - 2. Letters of Reprimand are subject to the Grievance Procedure as outlined in the Memoranda of Understanding.
- K. REVOCATION OF POLICE POWERS. It may be necessary for the Sheriff or designee to temporarily suspend the police powers of a sworn employee. The employee is served with a document indicating that the officer's police powers (per Section 830 P.C., et. seq.) have been suspended, and revoking authorization for Office of the Sheriff issued weapons, ID card and badge.

III. GENERAL.

- A. PERSONNEL MANAGEMENT. The County Merit System Ordinance and Personnel Management Regulations provide that tenure of employees shall be awarded for good behavior and the rendering of efficient service. The regulations also provide that the Sheriff may dismiss, suspend, demote or reduce in compensation any employee for cause. When the use of the Corrective Counseling System is inappropriate, or the employee has failed to correct unacceptable behavior while in the system, the Personnel Management Regulations will be utilized.
 - 1. Cause. The following list of causes are sufficient for the utilization of the Personnel Management Regulations. The list is indicative of causes that may result in dismissal, suspension, demotion or reduction in compensation. However, it is not all inclusive and other unspecified causes may result in such action.
 - a. Absence without leave.
 - b. Excessive or unexcused absenteeism and/or tardiness.
 - c. Neglect of duty.
 - d. Incompetence or inefficiency.
 - e. Disorderly or immoral conduct.
 - f. Being at work under the influence of liquor or drugs, carrying liquor or drugs during work hours and/or on County premises.
 - g. Conduct tending to bring the Merit System into disrepute.
 - h. Conviction of any criminal act involving moral turpitude.
 - i. Negligent or willful damage to public property or waste of public supplies or equipment.

- j. Misappropriation of County funds or property.
- k. Dishonesty or theft.
- l. Violation of any reasonable policy or procedure or lawful order given by a Supervisor.
- m. Insubordination.
- n. Unreasonable failure or refusal to undergo any physical, medical and/or psychiatric examination and/or treatment authorized by County regulations.
- o. Material and intentional misrepresentation or concealment of any fact in connection with obtaining employment.
- p. Willful violation of any of the provisions of the Merit System Ordinance or Personnel Management Regulations.
- q. Sexual Harassment.

2. Skelly Requirements.

- a. Before taking action to dismiss, demote, reduce compensation, or suspend an employee for more than 40 work hours (48 hours for 24 hour shift employees), the Sheriff shall direct the service of a Notice of Proposed Action, either personally or by certified mail with a return receipt requested. The notice shall contain the following:
 - A statement of the action proposed to be taken;
 - A copy of the charges including the acts or omissions and grounds upon which the action is based;
 - If it is claimed that the employee has violated a rule or regulation of the County, Office of the Sheriff or district, a copy of said rule shall be included with the notice;
 - A statement that the employee may review and request copies of materials upon which the proposed action is based; and
 - A statement that the employee has seven (7) calendar days to respond to the Sheriff, either orally or in writing.
- b. The employee who has been served with a Notice of Proposed Action has seven (7) calendar days to respond to the Sheriff, either orally or in writing, before the proposed disciplinary action may be taken. Upon application and for good cause, the Sheriff may extend in writing the period to respond. If the employee's response is not filed within seven (7) days or any extension granted, the right to respond is lost. Pending employee response to a Notice of Proposed Action, the Sheriff may place the employee on temporary leave of absence with pay, for cause specified in writing.

3. Dismissal, Suspension, Demotion or Reduction in Compensation. After complying with applicable Skelly requirements, the Sheriff shall issue an order in writing stating specifically the causes for the action.
 - a. The order shall be filed with the County Human Resources Director after service on the employee. The filed order shall list the date served, by whom served, and whether it was served personally or by the U.S. Postal Service via certified mail with a return receipt requested.
 - b. The employee may, within ten (10) calendar days after personal service or receipt of the order, appeal in writing through the County Director of Human Resources to the Merit Board, or the employee may waive in writing to the County Director of Human Resources his/her right of appeal to the Merit Board in favor of appeal rights under a specific grievance procedure.
4. Suspension Without Pay Due to Pending Criminal Charges.
 - a. The Sheriff, upon giving notice as provided in 3a. above, may immediately suspend an employee against whom there is a pending criminal charge which adversely affects the County service or conflicts with continued employment. Such suspension lasts until the Sheriff has knowledge of a disposition on the charges. Pending criminal charges exist when an employee has been arrested or has been named a defendant in a criminal complaint or indictment filed in any court.
 - b. To suspend an employee due to pending criminal charges, the Sheriff shall serve on the employee, either personally or by certified mail with a return receipt requested, a Notice of Suspension Due to Pending Criminal Charges. The notice shall contain:
 - A statement that the employee is suspended due to pending criminal charges;
 - A statement of the charges upon which the suspension is based and of the facts by which such charges adversely affect the county service or conflict with continued employment;
 - A statement that the employee may respond to the Sheriff either orally or in writing within seven (7) calendar days; and
 - A statement that disciplinary action may be taken after disposition of the charges.
 - c. The Notice of Suspension Due to Pending Criminal Charges may include a Notice of Proposed Action (Skelly Notice).
 - d. The Merit Board may order lost pay restored for good cause, subject to the employee's duty to demonstrate damages, but not if the employee:

- Is given a Notice of Proposed Action (Skelly Notice); and
 - Is dismissed or otherwise disciplined for cause directly related to the charges within 14 calendar days after the Sheriff has knowledge of a disposition of the criminal charges.
 - A criminal conviction expunged by the court under Penal Code Section 1203.4 may be used during an administrative hearing (Adams v. County of Sacramento).
- e. A criminal conviction based upon a plea of 'nolo contendere' (no contest) may not be used during an administrative hearing (County of Los Angeles v. Civil Service Commission [Craig Calzada], 39 Cal.App.4th, 256).
5. County Merit Board Hearing/Rehearing. The following is a brief summary of some of the provisions in the County Personnel Management Regulations for an employee appeal of a dismissal, suspension, demotion or pay reduction.
- a. The Merit Board shall, within 20 days from the filing of an appeal, determine whether to take jurisdiction of the matter for a hearing. If a hearing is granted, the appellant is entitled to appear personally, produce evidence and to have counsel and a public hearing.
 - b. Within 30 calendar days after the Merit Board certifies its decision to the Sheriff and at the request of a party or on its own motion, the Merit Board may order a rehearing to:
 - Hear new evidence not known or available with reasonable diligence at the time of the hearing; and
 - Rectify any obvious mistake of law or obvious injustice not known at the time of the hearing.
6. Separation of Probationary Employee. A probationary employee may be rejected from the service at any time during the probation period without regard to the Skelly provision of these rules. The following administrative guidelines apply to the rejection of probationary employees.
- a. Written notice of rejection must be given not later than the last day of the probationary period. The notice must be served on or before its effective date, otherwise the employee is entitled to the same due process afforded a permanent employee.
 - b. Probationary employees are entitled to an administrative appeal to the Undersheriff.
- B. EMERGENCY PERSONNEL ACTIONS. On occasion, unusual or inappropriate behavior on the part of Office of the Sheriff employees may require Office of the Sheriff Managers to take immediate personnel action to provide for the safety of individuals or security of Office of the Sheriff facilities. The guiding principle of

this section is to provide employees with a safe, secure working environment and to minimize disruption of service to the public.

1. Recognizing the Need for Action.
 - a. Emergency action under this section is warranted under the following general circumstances.
 - An overt act by an employee which may be illegal or may represent such a serious breach of Office of the Sheriff Policy that the Sheriff or his designee has a reasonable concern for the safety of individuals or security of Office of the Sheriff facilities.
 - Unusual behavior or statements attributed to the employee which tend to indicate instability, or present a potential danger to the safety of self or others. This may include threatening statements attributed to the employee, or statements indicating severe depression or illogical thought processes. This unusual behavior may or may not require taking the employee into protective custody under Welfare & Institutions Code Section 5150. In either case, it is imperative that a supervisor or fellow employee remain with the agitated employee until he/she receives medical attention at a designated facility, or until the arrival of someone else in the employee's trust to care for him/her (i.e. family member, friend, clergy, etc.).
 - b. The emergency action should be taken by the highest available command level Manager depending on the time of occurrence. Ideally the employee's Bureau Assistant Sheriff should be involved; if unavailable, the Station, Facility, or Division Commander shall be contacted.

IV. PROCEDURE 1.

- A. INSTITUTING THE PERSONNEL MANAGEMENT REGULATIONS. When a Supervisory, Command, or Management person believes cause exists to institute the use of the Personnel Management Regulations above a Letter of Reprimand, a Cause of Action Report shall be prepared. Letters of Reprimand only require a Cause of Action Report if there is no investigative report such as an I.A. report prepared to support the Letter of Reprimand.
 1. Cause of Action Report.
 - a. The Cause of Action Report will be prepared on official memo stationery by the Supervisory, Command or Management personnel concerned. The report will be directed to the Sheriff via the Undersheriff.
 - b. The subject line of the memo shall include the following:
 - Cause of Action Report;
 - Specific causes of action; i.e., violation of rules, failure to modify unacceptable behavior, etc.; and

- Identity and position/title of the employee involved.
- c. The body of the report shall include an objective, thorough description of specific details of violations alleged and/or of failure to modify unacceptable behavior. The report must be complete, concise and sufficiently in depth to establish a Cause of Action. It should include personal observations but not judgments, witness statements and interviews with the person(s) who is the subject of the report. Other additional statements from individuals having knowledge of incidents or events contributing to the Cause of Action should also be included.
- d. Documentary information supporting the Cause of Action shall be attached and become part of the Cause of Action Report
- e. Following the body of the report the following acknowledgment is to be inserted. "I acknowledge I have read, or have been given the opportunity to read, the contents of this report."

Signature

Date

- f. Employees subject to action shall be given a copy of the Cause of Action Report and the opportunity to respond in writing within five working days if such response is not already included in the report. Within this time period the employee may also request to meet with the Division Commander in person to review the facts of the Cause of Action Report.
 - g. Upon completion of the report and attachments, employees subject to the action shall be requested to read the report and sign the acknowledgment.
 - h. If the employee refuses to sign the acknowledgment and/or refuses an opportunity to read the report, the Supervisory, Command or Management person instituting the action will note the refusal immediately below the acknowledgment.
2. Processing Cause of Action Report.
- a. The completed Cause of Action Report shall be forwarded immediately to the supervisor of the Supervisory, Command, or Management person instituting the action.
 - b. The immediate Supervisor shall, upon receipt of the report:
 - Review the Cause of Action Report and may:
 - Direct any necessary additional investigation at his/her command/management level.
 - Recommend the Internal Affairs Detail conduct an investigation. The Sheriff or the Undersheriff may direct an Internal Affairs Detail investigation.
 - Report immediately below those previously submitted.

- Forward the Cause of Action Report to the next immediate Supervisor in the chain of command.
- Step (b) above shall be repeated as necessary to ensure the Cause of Action Report is received by the Sheriff within five (5) business days of initiation.
- For proposed action above a Letter of Reprimand, the Bureau Assistant Sheriff shall schedule a Cause of Action conference (Round Table) after consulting with the Undersheriff.

V. PROCEDURE 2.

- A. **EMERGENCY PERSONNEL ACTION.** When during times other than regular business hours, (weekdays, Monday - Friday, 8am - 5pm) it becomes apparent that emergency personnel action may be necessary, the Bureau Assistant Sheriff or designee shall ensure the steps below are followed. During regular business hours, except for good cause, the Undersheriff will be fully briefed before taking actions set forth in "ACTION", Sections 2, 3, or 4 below.
- B. **VERIFICATION.**
1. Prior to taking action, the Bureau Assistant Sheriff should take immediate steps to verify that emergency action is warranted.
 2. In certain instances, a verbal or written report by a medical or psychological consultant will be sufficient cause for emergency action. In other cases, the Bureau Assistant Sheriff or designee should interview the employee to be impacted by the emergency action.
 3. In no event should an unconfirmed rumor or hearsay be the sole cause for an emergency personnel action.
- C. **ACTION.** Depending on the information available and the seriousness of the employee's actions or behavior, the following actions should be taken by the Division Commander or designee:
1. Immediately ordering the employee to be seen by an on-call therapist from the Department's Employee Assistance Program provider, and having the employee observed or monitored until he/she can be seen by the psychologist.
 2. Placing the employee on "Temporary Leave of Absence with Pay" by completing an AK 183 and having the employee sign the document; or
 3. Having the employee report to a work location where supervision can be provided. This could involve an emergency change in shift schedule of the employee.
 4. Revoking the police powers of the employee and collecting duty weapon, other safety equipment, badge and I.D. The Division Commander shall maintain temporary possession of the equipment. The Division Commander will return the equipment to the Training Unit in the event the employee is terminated.
 - a. The seriousness of placing an employee on Leave of Absence, revoking police power and/or taking the employee's weapon

should not be underestimated. Good judgment and timely consultation with Command Staff is imperative.

- D. **DOCUMENTATION AND FOLLOW-UP.** The procedures described in this Policy are for a short term, immediate response to an emergency personnel issue. The Bureau Assistant Sheriff will be responsible for follow-up, notification and documentation.
1. The Bureau Assistant Sheriff will report the emergency action taken to the Undersheriff as soon as practical, including all documentation and copies shall be sent to the Chief of Management Services.
 2. The Division Commander will continue to monitor the employee's status on a day-to-day basis until a decision is made regarding any permanent action or return to duty.

VI. PROCEDURE 3.

A. **DISABILITY DUE TO PSYCHOLOGICAL FACTORS.**

1. Upon submission of medical verification indicating that the employee is unable to perform the job due to psychological factors and must take leave from work, the employee's peace officer powers will be revoked and his/her duty weapon, other safety equipment, badge and ID card, will be collected and held by his/her Division Commander until the employee is cleared to return to full duty.
2. The Division Commander will return the equipment to the Training Unit in the event the employee resigns, retires or is terminated.

VII. PROCEDURE 4.

- A. **CAUSE OF ACTION CONFERENCE (ROUND TABLE).** All Cause of Action memo's will be reviewed by the Undersheriff, who will determine on a case-by case basis if a Cause of Action conference is necessary. The Cause of Action conference will be comprised of the Sheriff, Undersheriff, appropriate Bureau Assistant Sheriff, appropriate Division Commander, Internal Affairs representatives, and such other persons as the Sheriff shall determine on a case-by-case basis. This Cause of Action conference will review the Cause of Action Report and any other supporting documents such as I.A. Investigative reports to ensure the discipline is timely, proper and fair. This Cause of Action conference will be held prior to a final recommendation or endorsement by the Undersheriff to the Sheriff, except letters of reprimand, which are the responsibility of the Undersheriff to review.

VIII. PROCEDURE 5.

- A. **SHERIFF.** The Sheriff upon receipt of a Cause of Action Report for merit system placement above a Letter of Reprimand will:
1. Review the Cause of Action Report;
 2. Fully discuss the matter with the appropriate Bureau Assistant Sheriff and the Undersheriff; and
 - a. Based on the recommendations, during the Cause of Action conference determine the proper course of action which could include:

- Closing the issue based on available information;
- Return the matter to the Bureau Assistant Sheriff via the Undersheriff to be handled in the Corrective Counseling System;
- Return the matter to the Bureau Assistant Sheriff via the Undersheriff to issue a Letter of Reprimand to the employee and place it in the employee's file; or
- Dismiss, suspend, demote or reduce compensation to the employee.

<p>Contra Costa County Office of the Sheriff</p> <p>General Policy and Procedure</p>	CCCSO	NUMBER: 1.05.57
	<p>RELATED ORDERS: CCCSO 1.05.33, 1.05.58, 1.05.28.</p>	
<p>ISSUE DATE: 2-1-2006 REVISION DATE:</p>	<p>CLEARANCE: Office of the Sheriff</p>	
<p>CHAPTER: Personnel Management and Employee Relations</p>	<p>SUBJECT: Unbecoming Conduct</p>	

I. POLICY.

- A. The public has placed its trust in the Office of the Sheriff to administer an honest effective law enforcement agency. The Office of the Sheriff embraces the public trust and recognizes that effective law enforcement would be severely hampered if such trust were lost. The Office of the Sheriff also recognizes that this public trust can only be retained through the efforts of all employees. Therefore, employees shall conduct themselves in a manner both on duty and off duty that will not discredit or reflect poorly on the Office of the Sheriff.

II. GENERAL.

A. UNACCEPTABLE CONDUCT.

1. By accepting employment with the Office of the Sheriff, safety and general employees alike are accepting a higher standard of conduct than is found in other government service. We must be aware that our actions on and off duty are subject to scrutiny and reflect on the entire Office of the Sheriff. An employee's behavior may be considered unbecoming conduct if it would normally be viewed with disfavor by the community we serve.
2. The following is a list of unacceptable conduct. Each item may be sufficient grounds for utilization of the Corrective Counseling System or the Personnel Management Regulations. The list is not all inclusive and other unspecified conduct may also result in action by the Office of the Sheriff:
 - a. Unlawful Conduct: Employees will strictly observe all provisions of the law in both their public and private affairs and will at all times conduct themselves in accordance with all legal mandates.
 - b. Abuse of Authority: Employees will not abuse the authority granted them by virtue of their employment, nor take improper actions through "color of authority."

- c. Rule Violations: Employees will not violate any County or Office of the Sheriff policies, procedures, orders, directives or regulations.
- d. Treatment of Public: Employees will treat all members of the public with respect and courtesy and will refrain from abusive and derogatory conduct and/or profane or inflammatory language.
- e. Insubordination: Failure or deliberate refusal of an employee to obey a lawful order given by a Supervisor or Manager shall be insubordination. Ridiculing a Supervisor or Manager or his/her orders, whether in or out of their presence, is also insubordination.
- f. Disruption of Operations: Acts or omissions contrary to good order.
- g. Misuse of Equipment: Negligent or willful damage to public property or waste of public supplies or equipment.
- h. Incompetence or Inefficiency: Failure or inability to adequately complete properly assigned tasks or failure to undertake required obligations.
- i. Cowardice: Deputies of the Office of the Sheriff shall not display cowardice or fail to support other peace officers in the performance of duty.
- j. Misuse of Sick Leave: Abuse or excessive use of sick leave.
- k. Subversive Organizations: No employee shall knowingly become a member of or become connected with any subversive organization. The Sheriff may authorize exceptions, when necessary, for a law enforcement function.
- l. Outside Associations: No employee shall knowingly maintain outside associations that jeopardize the security or integrity of the Office of the Sheriff or bring discredit to the law enforcement profession.
- m. Personal Relationships: Employees will not allow their personal relationships to interfere with Office of the Sheriff business or the performance of their assigned duties. Additionally, fraternization with persons in custody, arrestees, detainees, criminal defendants or other persons the employee has had an enforcement contact with, is prohibited.
- n. Indebtedness: Employees shall manage their debts in a manner that will not reflect poorly on their position with the Office of the Sheriff. They shall avoid situations where creditors are seeking legal judgments or garnishment of their salaries.
- o. Other: Any conduct which tends to bring the County or the Office of the Sheriff into disrepute.