



MEMORANDUM

To: Police Officer Shawn Virani
From: Police Chief Don Aguilar
Date: March 26, 2024
Subject: Notice of Discipline- Written Reprimand

This memo is presented to you pursuant to *Skelly v. State Personnel Board* (1975) 15 Cal. 3d 194, and Section 8.8 of the City of Santa Paula's ("City") Personnel Rules and Regulations ("Personnel Rules") as notice of my decision to discipline you in the form of a written reprimand in your position as a Police Officer with the City's Police Department ("Department"). Your written reprimand shall be effective upon receipt of this notice.

I. RULES AND POLICIES UPON WHICH DISCIPLINE IS BASED

This Notice of Discipline-Written Reprimand ("Notice") is based upon my determination that you have committed one or more of the following violations of the City's Personnel Rules and/or Department Policy. Please note that your commission of any one of the following violations, standing alone, would support a decision to discipline you. My decision to discipline you need not be based upon a finding or conclusion that you committed multiple rule violations and/or that you violated all of the rules/policies set forth below.

A. CITY PERSONNEL RULES, SECTION 8.1, EMPLOYEE CONDUCT

It shall be the duty of employees to maintain high standards of cooperation, efficiency, and integrity in their work with the City of Santa Paula ("City") and in their life as it impacts their work as employees of the City. If an employee's conduct falls below standard, he/she may be subject to disciplinary action...

Some general acts for which an employee may be disciplined include, but are not limited to:

4. Neglect of duty and/or failure to perform assigned work in an efficient or effective manner....

21. Incompetence.

B. DEPARTMENT POLICY 319 STANDARDS OF CONDUCT

319.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Santa Paula Police Department and are expected of all department members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this department or a member's supervisors.

319.2 POLICY

The continued employment or appointment of every member of the Santa Paula Police Department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

319.5 CAUSES FOR DISCIPLINE

The following are illustrative of causes for disciplinary action. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for violation of other rules, standards, ethics and specific action or inaction that is detrimental to efficient department service:

319.5.3 EFFICIENCY

- a) Neglect of duty.
- b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.

319.5.6 PERFORMANCE

- i) Any act on or off duty that brings discredit to this department.

319.5.9 CONDUCT

- m) Any other on or off duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

II. FACTUAL BASIS FOR DISCIPLINE

On or about August 30, 2023, I received a letter from Chief Deputy District Attorney Kevin Drescher complaining about your alleged behavior and requesting an investigation. Specifically, DA Drescher alleged that you made false statements to the District Attorney's Office that you had obtained copies of a surveillance video, which was later purged, and that you falsely claimed that the camera angle of the video would not have captured any relevant information regarding the investigation of an alleged kidnapping and rape of a minor.¹ The Department conducted an internal investigation into the matter via an independent, third party investigator which forms the substantive basis for this discipline.

Deputy District Attorney Emily Reber stated that on June 23, 2023, she monitored the victim's interview and discovered the area of the kidnapping crime, which was at the front of Ventura High School. DDA Reber then coordinated with you to retrieve the surveillance video from Ventura High School. Sometime after the victim interview, you told DDA Reber (via a phone call) that the camera system was down at the school, but you were going to continue your efforts to retrieve the video from the school. On June 29, 2023, you informed DDA Reber (via a text message) that the school camera system was working, and that copies were being made for him to pick up the following Wednesday. On July 7, 2023, DDA Reber followed up with you again, and you texted her, "Morning, I'm off today, but I have video from the school saved and will be combing through it on Monday. As far as the motel thing, only what we have of Martinez." DDA Reber interpreted this text communication as you telling her that you possessed a copy of the school video.

¹ This second allegation that you falsely stated that the angle of the camera would not have provided any relevant information to the investigation was determined to be unfounded and does not form the basis for any discipline against you.

DDA Reber spoke to you on July 13, 2023 to set up a meeting to discuss the kidnapping/rape case and the evidence that had been collected, but you said you were busy with a recent homicide, so you set a July 21, 2023 meeting date. DDA Reber believed she told you to bring the video from the high school to the meeting, along with other evidence.

At the July 21, 2023 meeting, you and DDA Reber discussed the overall case and what needed to be done next. When DDA Reber asked about the high school video, you said that you were going to the high school to get it after the meeting as well as other surveillance video from Ralphs and McDonald's. When you asked DDA Reber about the exact date and time of the kidnapping so you could search the correct timeframe at the high school, DDA Reber was confused because she believed that you already had the video.

Shortly thereafter, you texted DDA Reber that the video retention period was only 30 days, but you were checking with the school district's IT department to see if the video was still stored on their servers. You ultimately determined and told DDA Reber that the video was not retained by the school. DDA Reber then told you to provide a supplemental report explaining why you did not retrieve the high school surveillance video which you did.

III. ANALYSIS

In *Skelly v. State Personnel Board*, *supra*, 15 Cal. 3d at 218, the California Supreme Court held that in considering the level of penalty in public employee disciplinary cases:

"the overriding consideration in these cases is the extent to which the employee's conduct resulted in, or if repeated, is likely to result in harm to the public service. Other relevant factors include the circumstances surrounding the misconduct and the likelihood of its recurrence."

In this instance, you inexcusably failed to ensure that potentially important evidence to a very serious crime was preserved. While you claim that school officials told you that the video was available for "some time" after the relevant day, you never followed up to determine what specific period of time the school's system retained video. Further, you never timely ensured that the video was saved or retrieved within the 30-day window after the crime resulting in loss of the video. Luckily, as you later and accurately determined, the angle of the camera would not have provided any relevant information. However, your negligence could have resulted in the loss of critical evidence related to a serious crime. I do not believe that there is sufficient evidence to support that you were intentionally dishonest in your communications with DDA Reber with respect to the status of the video. However, I recommend and direct that

you be more accurate and precise in your communications in the future to avoid any similar miscommunications or embarrassment to the Department.

Any similar instances of misconduct in the future will lead to additional disciplinary action, up to and including termination.

IV. POST-DISCIPLINARY APPEAL PROCEEDINGS

You have the right to an appeal of this discipline under Government Code section 3304(b), Department Policy, and/or Section 8.8 of the City Personnel Rules. If you choose to appeal this discipline, you must send me a Notice of Appeal within ten (10) days of receipt of this notice.

Further, a copy of this Notice of Discipline-Written Reprimand, which may be considered adverse to your interest, will be placed in your personnel file. Government Code section 3306 provides you thirty (30) days to provide a written response to this memorandum, which will be attached to this document in your personnel file.

V. WARNING AGAINST RETALIATION

This provision is to notify you that it is illegal and inappropriate to retaliate against any person who has participated in complaining or providing information regarding allegations of your misconduct. You may not retaliate against any individual who has provided information to the City regarding your misconduct.

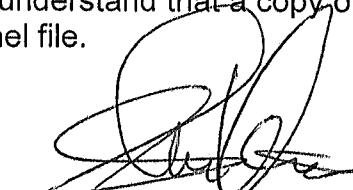
VI. ACKNOWLEDGMENT

I have read and understand this Notice of Discipline-Written Reprimand and I acknowledge receipt of this document. I understand that a copy of this document will be placed in my general personnel file.

RECEIVED:

3-26-2024

Date

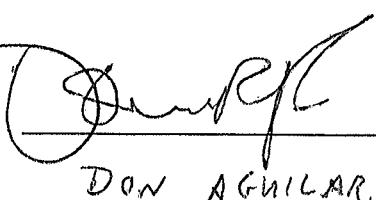


Officer Shawn Virani

PERSONAL SERVICE WITNESSED BY:

3/26/24

Date


Don AGUILAR