

CIVIL SERVICE COMMISSION MINUTES

January 15, 2025

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in-person in room 402-A at the County Administration Center; 1600 Pacific Hwy.; and via Videoconference/Teleconference.

Present:

P. Kay Coleman
A. Melissa Johnson
Will Rodriguez-Kennedy

Absent:

Bryan J. Fletcher

Comprising a quorum of the Commission

Support Staff Present:

Todd Adams, Executive Officer
Morgan Foley, Commission Legal Advisor.

Approved
Civil Service Commission
February 5, 2025

**SAN DIEGO COUNTY CIVIL SERVICE COMMISSION
REGULAR MEETING AGENDA
JANUARY 15, 2025**

- 1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation
- 2:30 p.m. OPEN SESSION: Attend in-person at the County Administration Center, 1600 Pacific Highway, 4th Floor, Room 402A, San Diego, California; or Videoconference/Teleconference.
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Notice pursuant to Government Code Section 54954.2.

CLOSED SESSION AGENDA
County Administration Center, Room 458

Members of the public may be present at this location to hear the announcement of the closed session agenda.

- A. Commissioner Fletcher: CONSIDERATION OF PUBLIC EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(B)) Bradley M. Fields, Esq., on behalf of **2023-058P**, former Deputy Sheriff, appealing an Order of Termination and Charges from the Sheriff's Office.

OPEN SESSION AGENDA

ORDER OF BUSINESS

A. **ROLL CALL**

Present: Coleman, Johnson, Rodriguez-Kennedy

Absent: Fletcher

- B. **APPROVAL OF MINUTES:** Adjourned regular meeting of December 6, 2024.

Motion by Commissioner Johnson to approve the minutes of the adjourned meeting of December 6, 2024; seconded by Commissioner Coleman. Motion passed with all in favor.

C. **NON-AGENDA PUBLIC COMMENT:**

None.

D. **AGENDA ITEM DISCUSSION:**

There were two requests to speak by Greg Seward, Esq., Sheriff's Standards Compliance Manager; and Appellant # (2024-064P).

E. **FORMATION OF CONSENT AGENDA**

Item Nos. 1 & 5 were automatically pulled for discussion. Agenda item #4 has been pulled by appellant.

Item Nos. 2 & 3 are available for approval on the Consent Agenda.

Motion by Commissioner Coleman to approve the Consent Agenda; seconded by Commissioner Johnson. Motion passed with all in favor.

F. **DISCUSSION ITEMS**

Items Nos. 1, 4, & 5 have been pulled for discussion.

AGENDA ITEMS

ELECTIONS

1. Election of President and Vice President of the Civil Service Commission for 2025.

Commissioner Coleman motioned to nominate Commissioner Rodriguez-Kennedy as the President and Commissioner Fletcher as the Vice President of the Civil Service Commission for 2025; seconded by Commissioner Johnson.

Motion carried with all Commissioners in favor.

CONFIRMATION OF ASSIGNMENT

2. Commissioner Johnson: Rico J. Dominguez, Esq., on behalf of **2024-044P**, former Deputy Sheriff, appealing an Order of

Termination and Charges from the Sheriff's Office. (Commissioner Fletcher previously assigned.)

Approved.

3. Commissioner Rodriguez-Kennedy: **2025-001**, former Legal Support Assistant II, appealing an Order of Termination and Charges from the Sheriff's Office

Approved.

LATE APPEAL

4. **2024-064P**, former Deputy Sheriff, Detentions-Court Services, requesting acceptance of an appeal of an Order of Termination and Charges from the Sheriff's Office, which was filed sixteen (16) days late.

RECOMMENDATION: Deny request to accept late appeal.

After verbal input by Appellant 2024-064P and a representative of the Sheriff's Office, Commissioner Johnson made a motion to reject staff recommendation and accept the late appeal. Motion seconded by Commissioner Rodriguez-Kennedy.

DISCIPLINE

Findings

5. Commissioner Fletcher: Bradley M. Fields, Esq., on behalf of **2023-058P**, former Deputy Sheriff, appealing an Order of Termination and Charges from the Sheriff's Office.

FINDINGS AND RECOMMENDATIONS:

Appellant 2023-058P ("Employee") appealed an Order of Termination and Charges removing him from the class and position of Deputy Sheriff in the Sheriff's Office ("Department"), which was presented to the Civil Service Commission. The Commission appointed Commissioner Bryan J. Fletcher to hear the appeal and submit findings, conclusions, and recommendations to the Civil Service Commission. Thereafter, a hearing was held on December 2, 2024.

The causes of discipline were failure of good behavior, conduct unbecoming, intemperance, and acts incompatible with and/or inimical to the public service.

On the evening of September 30, 2022, the Employee and his fiancée ("Fiancée"), ended their relationship and their engagement when Fiancée told the Employee that she didn't love him anymore. Despite Fiancée's statement that their relationship was ending. Employee tried to persuade Fiancée that they could work things out.

Concluding that their relationship was over, and because they both had intended on attending the wedding of a deputy in Fallbrook, they both agreed that they should attend the wedding together to keep up appearances the next day.

On October 1st, during the wedding, the Employee and Fiancée were cordial, did not argue, but while the Employee would attempt to reconcile, Fiancée did not, consistently making her position clear to him.

The Employee consumed between 4 to 6 whiskey and ginger ale drinks and although intoxicated he was coherent in his speech. Following being rebuffed by Fiancée when he again suggested reconciliation, the Employee went into the restroom in an emotional and intoxicated state, and appeared to be angry, upset, and irate. It was then that Deputy 1 entered the restroom and observing the Employee in this condition, learned about the ending of the relationship. The Employee admonished Deputy 1 to not get involved, and not to say anything to Fiancée.

Deputy 1, in disregard to the Employee's admonition, left the Employee and went to where Fiancée was located, and proceeded to tell her that the Employee was upset.

Deputy 1 returned to the restroom accompanied by Fiancée, at which point the Employee became angry that Deputy 1 disregarded his admonition to not speak with Fiancée, and an argument ensued. Deputy 2 intervened and stood between the Employee and Deputy 1, face-to-face with the Employee, and his back to Deputy 1. As Deputy 2 held onto the Employee and pulled him closer attempting to calm him down, the Employee swung his open right hand and slapped Deputy 1 on the left side of his head.

Once the Employee and Deputy 1 were separated there was no further interaction until approximately 30 minutes later, at or about 10:00 p.m., when the wedding reception was ending and participants who parked in a hotel parking lot away from the venue were taking a shuttle bus for the last ride to the hotel. Deputy 1 and his pregnant girlfriend, Deputy 3 and his wife, and others, were on the shuttle bus when the Employee climbed aboard. The shuttle bus had rows of four seats each configured so that an aisle ran along the middle of the carriage, with two seats on each side. Deputy 1 and his girlfriend were seated approximately two rows from the back seats, with Deputy 1 along the aisle and his girlfriend next to the window, and Deputy 3 and his wife were seated in the next row in front of them, with Deputy 3 next to the window.

The Employee boarded the shuttle bus and proceeded down the aisle toward the rear of the bus, stopping adjacent to the row with Deputy 3 and his wife, then bent over to Deputy 1 and spoke to him in his ear, continuing his argument that Deputy 1 was wrong in becoming involved in the Employee's breakup with Fiancée. The level of this argument escalated, and because the Employee was bending, or reaching, over Deputy 3's wife, Deputy 3 spoke up to tell the Employee he needed to leave the bus. Because the shuttle bus would not depart with the Employee aboard, others began to call for the Employee to disembark so that the others could get to their rooms at the resort's hotel, or to their cars to leave the venue. The Employee first moved to the front of the shuttle bus but returned toward the back to continue the dialogue. Deputy 3 then told the Employee to "keep walking," and to "get off the bus." In anger, the Employee took issue with Deputy 3 forcefully telling him to get off the bus and challenged him to a fight, outside the shuttle bus. Deputy 4 then stood between the Employee and Deputy 3 and Deputy 1 and escorted the Employee off the bus. Once outside the Employee continued to yell at Deputy 3 and others, calling Deputy 3 a "bitch," and banging on the bus and the window next to his seat.

Over the next two days the Employee reached out to some of his colleagues who were present at the wedding and, particularly, on the shuttle bus, to apologize for his behavior at the wedding.

On October 2, 2022, Deputy 1 contacted Employee's now-former Fiancée, and during communications that day asked her out on a date.

On October 6, 2022, the Employee went to his first Alcoholics Anonymous ("AA") meeting and was a regular attendee to AA meetings throughout the county, maintaining sobriety for at least two (2) years since that first meeting.

For the period of three (3) months ending June 6, 2024, the Employee had abstained from the consumption of alcohol based on the lack of EtG (ethyl glucuronide) in his hair sample collected on that date.

This wasn't Employee's first discipline for similar misconduct. In 2018, the Employee was disciplined following an off-duty incident in the early morning hours on February 5, 2018, where the Employee was found to have been "verbally aggressive," with Fiancée, at a Super Bowl party in Imperial Beach. The Super Bowl game was on the afternoon of Sunday, February 4, 2018, and the Employee had consumed an unknown amount of alcohol, but in a sufficient quantity to become argumentative and verbally aggressive with Fiancée and others in attendance.

Also, from his conduct during the investigation of that incident the Employee was disciplined for allowing Fiancée, who was not an employee of the Department, access to his County-issued mobile device using his personal password, to delete photos and data from the device.

Also, in 2018, the Employee was disciplined for disclosing to a third party the circumstances of his interrogation in the investigation being initiated related to the Super Bowl party.

Employee is guilty of failure of good behavior where, even while off-duty, he drank to excess and become combative, struck another deputy with a slap to their face, and upset colleagues and their spouses, dates, and friends with outbursts of anger, challenging others to fight, and yelling swear words and other invectives.

In mitigation, the Employee's colleague, Deputy 1, for reasons not quite clear, disregarded the Employee's admonition not to mention to Fiancée that the Employee was in a state of depression over the recent breakup of their relationship.

Although the veracity (or motive) of Deputy 1 is questionable (less than 24 hours later Deputy 1 was on the phone or texting Fiancée, or both, flirting with her and asked her for a date,

his pregnant girlfriend notwithstanding), clearly the Employee was intoxicated to the point where he lashed out on Deputy 1, slapping him in the face with an open palm, simply for disregarding his admonition.

Also, Deputy 1 has provided inconsistent and somewhat incredible statements regarding the incident. Again, there is no dispute about the Employee's conduct in slapping Deputy 1, then confronting him on the shuttle bus approximately 30 minutes later. Further, the testimony of Deputy 3, his wife, and Deputy 4, coupled with the Employee's own admissions of the charges, do not excuse the Employee's conduct the evening of October 1, 2022.

Employee is guilty of conduct unbecoming members of the Department. Colleagues of the Employee were embarrassed and concerned about the Employee's conduct when he displayed such off-duty behavior, including anger, challenges to fight, and battery on Deputy 1, all while intoxicated to the point where he lost control of his actions.

Many of the witnesses to this conduct are members of the Department and testified that it was clear to them that the Employee's conduct had the effect of being embarrassing and thereby bringing disrepute to the Department.

In aggravation, this is the second off-duty incident within less than four (4) years that the Employee could not control his anger and conduct after consuming excessive amounts of intoxicating liquor or beverages.

Employee is guilty of intemperance in that having been disciplined for off-duty misconduct in a public setting when becoming angry following his consumption of alcohol less than four (4) years prior to this incident, he failed to recognize that such similar conduct in the future should not happen again, and that if it did, there would likely be serious discipline imposed. In mitigation the Employee has taken prompt accountability for his actions and has consistently attended AA meetings, understands that alcohol should never again be a part of his life, and has gained knowledge that he is an alcoholic. He is to be commended for taking such actions to improve his personal life and should be supported for doing so in the future. However, these steps should have been taken much earlier, i.e., after the incident that occurred in the early morning hours of February 5, 2018, for which he was disciplined and served a fifteen-day suspension.

Employee is guilty of acts incompatible with and/or inimical to the public service where his conduct in the presence of members of the public, was adverse to the Department's Executive Order and its Mission, Vision, Values, and Goals as set forth in its Policy and Procedure Manual. Such conduct was further inimical to the Department's Core values when the Employee should know that as a member of the Department it is expected that he possesses the honesty, integrity, and trust, to do what is right even when no one is watching.

It is encouraging that the Employee has taken stock of his inability to control himself when consuming alcohol. He recognizes that sobriety is only achieved with abstinence, not just temperance.

It is not a weakness for the Employee to honestly tell the Department that he "cannot guarantee," he will never drink again; alcoholism is a permanent part of his life and it is not uncommon for alcoholics, like the Employee, to return to alcohol with the belief that it can easily be handled in the future. It is reasonable that the Employee could not promise sobriety to his command because the future holds no promises of sobriety for the alcoholic...

However, the conduct of the Employee cannot be excused; nor can it be disregarded with the hope of his continued sobriety. His misconduct was not entirely the result of intoxication. The Employee was also in a state of mind that affected his judgment. Alcohol only provided the additional level of confidence that his anger could be unleashed in the manner that it was that evening. Even if sober, there is no assurance that triggering events will not occur in the future while on duty in law enforcement, which could result in a different calamity to a member of the public.

This is precisely the concern of the Department.

Accordingly, the Sheriff's decision to terminate the Employee must be upheld.

Based on the findings and conclusions set forth above, it is hereby recommended that the Order of Termination and Charges be affirmed; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Commissioner Johnson to approve recommendations of Commissioner Fletcher; seconded by Commissioner Coleman. Motion passed with all in favor.

ADJOURNED: 3:06 p.m.

ASSISTANCE FOR THE DISABLED: Agendas and records are available in alternative formats upon request. Contact the Civil Service Commission office at (619)531-5751 with questions or to request a disability-related accommodation. Individuals requiring sign language interpreters should contact the Americans with Disabilities Coordinator at (619)531-4908. To the extent reasonably possible, requests for accommodation or assistance should be submitted at least 24 hours in advance of the meeting so that arrangements may be made. An area in the front of the room is designated for individuals requiring the use of wheelchair or other accessible devices.