

CIVIL SERVICE COMMISSION MINUTES

MARCH 3, 2021

A meeting of the Civil Service Commission was held at 2:33 p.m.,
via Teleconference.

Present via Teleconference:

Bryan Fletcher
Melissa Johnson
William Rodriguez-Kennedy
Ira Sharp
Peter B. Smith

Comprising a quorum of the Commission

Support Staff Present via Teleconference:

Todd Adams, Executive Officer
Morgan Foley, Commission Legal Advisor

Approved
Civil Service Commission
April 7, 2021

**SAN DIEGO COUNTY CIVIL SERVICE COMMISSION
REGULAR MEETING AGENDA
MARCH 3, 2021**

- 1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters
and Pending Litigation
- 2:30 p.m. OPEN SESSION: Teleconference - Attendee Phone
Number (Listen Only): 1-800-520-9950
Enter PIN: 6828093 followed by # to confirm.
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Notice pursuant to Government Code Section 54954.2.

**CLOSED SESSION AGENDA
Videoconference - Not open to public**

- A. Commissioner Fletcher: CONSIDERATION OF PUBLIC EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(B)) Edward J. Southcott, Esq., on behalf of **2020-025P**, Deputy Sheriff-Detentions/Court Services, appealing an Order of Suspension and Charges from the Sheriff's Department.
- B. Commissioner Sharp: CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION (GOV. CODE SEC. 54956.9(a)) **2020-050**, Supervising Office Assistant, alleging discrimination by the Probation Department.

ORDER OF BUSINESS

A. **ROLL CALL**

**Present: Fletcher, Johnson, Rodriguez-Kennedy, Sharp,
Smith**

B. **WELCOME NEW COMMISSIONER WILL RODRIGUEZ-KENNEDY (HE/HIM/HIS)**

C. **APPROVAL OF MINUTES:** Regular meeting of February 3, 2021.

**Motion by Commissioner Johnson to approve the minutes
of February 3, 2021; seconded by Commissioner
Fletcher.**

Motion carried with all Commissioners in favor.

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

None.

E. **AGENDA ITEM DISCUSSION:**

None.

F. **FORMATION OF CONSENT AGENDA**

Items Nos. 1-6, 9 & 10 formed the Consent Agenda.

Motion by Commissioner Rodriguez-Kennedy to approve the Consent Agenda; seconded by Commissioner Johnson.

Motion carried with all Commissioners in favor.

G. **DISCUSSION ITEMS**

Items Nos. 7 & 8 have been pulled for discussion.

AGENDA ITEMS

CONFIRMATION OF ASSIGNMENTS

1. Commissioner Johnson: Corey Kniss, Esq., on behalf of **2020-148**, former Building Maintenance Supervisor, appealing a Final Order of Removal and Charges from the Department of General Services. (Previously assigned to former Commissioner Casillas.)

Confirmed.

2. Commissioner Sharp: James Stevens, Esq., on behalf of **2018-032**, former Senior Storekeeper, appealing a Final Order of Removal and Charges from the Registrar of Voters. (Previously assigned to former Commissioner Casillas.)

Confirmed.

3. Commissioner Smith: Bradley M. Fields, Esq., on behalf of **2020-014P**, **2020-015P**, and **2020-016P**, Deputy Sheriff-Detentions/Courts Services, appealing the Citizens' Law Enforcement Review Board's sustained findings of misconduct. (Previously assigned to former Commissioner Casillas.)

Confirmed.

4. Commissioner Johnson: **2020-037P**, Deputy Sheriff, appealing an Order of Termination and Charges from the Sheriff's Department. (Previously assigned to former Commissioner Casillas.)

Confirmed.

5. Commissioner Fletcher: **2020-049**, Library Technician II, appealing a Final Order of Suspension from the County Library. (Previously assigned to former Commissioner Casillas.)

Confirmed.

6. Commissioner Johnson: **2020-153**, former Administrative Secretary I, alleging discrimination by the Health and Human Services Agency. (Previously assigned to former Commissioner Casillas.)

Confirmed.

DISCIPLINE

Findings

7. Commissioner Fletcher: Edward J. Southcott, Esq., on behalf of **2020-025P**, Deputy Sheriff-Detentions/Court Services, appealing an Order of Suspension and Charges from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

Employee 2020-025P appealed an Order of Suspension and Charges suspending him for five working days from the position of Deputy Sheriff-Detentions/Court Services in the Sheriff's Department. The Civil Service Commission appointed Commissioner Bryan J. Fletcher to hear the appeal and submit findings, conclusions, and recommendations to the Commission.

The causes of discipline were negligence resulting in harm or significant risk of harm to the public, incompetency, conduct unbecoming, and acts which are incompatible with and/or inimical to the public service for failing to maintain supervision of an inmate he was guarding at a hospital by leaving the inmate unattended.

Employee has worked as a Deputy Sheriff-Detentions/Court Services since 2016. He was assigned to the George Bailey

Detention Facility ("GBDF"). As a part of his duties Employee is sometimes assigned the task of guarding inmates hospitalized while in the custody of the Department. Employee has performed this task between 50 to 100 times.

While on "hospital runs," away from detention facilities, the detention deputies are required to transport inmates to and from medical facilities and, if the inmate is admitted to the facility, to remain with the inmate at the facility. At all times a detention deputy is required to maintain security during hospital runs, just as in the detention facility. In particular, the inmate must be in sight at all times.

Employee was working on June 12 and 13, 2019, guarding an inmate who was previously admitted to the hospital. The inmate occupied a room located on the third floor of the hospital. On both days Employee first reported to GBDF for his shift briefing before traveling to the hospital.

During his assignment on June 12th, Employee contacted GBDF to ask whether relief for lunch and a bathroom break was going to be sent to him. Employee was told that they were unaware of any relief being sent to the hospital. At some point Employee ordered lunch to be delivered to the hospital. When it arrived, Employee informed a nurse that he would be right back, leaving the inmate in his room while he descended to the first floor, obtained his lunch, and returned upstairs. Prior to leaving the room, Employee secured the inmate with a leg chain and a second leg chain secured his ankle to the bed. For medical purposes no other restraints were utilized and the inmate's waist and hands remained free from restraint. Employee was away from the room and unable to maintain visual contact and security of the inmate for at least four minutes. Shortly thereafter, a relief deputy from the San Diego Central Jail arrived.

Returning to the hospital the following day, June 13th, Employee's assignment was very similar to the prior day. Employee spoke with nursing staff about his need to use the restroom and purchase a sandwich from the hospital's cafeteria. He secured the inmate in the same manner as he did the day before and closed the door to the room. He left the inmate unattended while he took the elevator to the first floor, entered the cafeteria and ordered his sandwich, and returned to the third floor. At some point during this absence Employee also used the restroom.

Employee left the inmate unattended, for approximately 13 minutes. When he returned the inmate's room door was open.

On both days the hospital was open to the public and any person visiting the hospital had access to the room where the inmate was located. Employee neither searched the inmate for weapons or contraband when he first arrived, nor upon returning to the room after his absences.

The evidence proves that the Employee's absence from the inmate's presence on June 12 & 13, was not covered by relief; left the inmate without restraints to his waist and hands; and created a safety hazard for anybody, and in particular hospital personnel, who might enter the room during Employee's absence. Further, Employee failed to search the inmate upon his return to the room, leaving open the possibility that the inmate could have received a weapon or contraband, or weaponized medical supplies left in his room and within his reach, when left unguarded.

Employee presented evidence that supports a finding that he attempted to obtain relief by calling GBDF. However, after he was told they were unaware of any relief being assigned to the hospital for Employee, he chose not to call his sergeant, lieutenant, or any higher-ranking officer in his chain of command prior to leaving the inmate unguarded.

Department has proven all causes of discipline. Employee is guilty of negligence resulting in harm or significant risk of harm to the public by failing to maintain proper security of an inmate admitted and being treated at a hospital. Employee is guilty of incompetency for leaving an inmate unattended and in an unsecured room in a hospital open to the public without ensuring proper supervision of the inmate. For the same reasons, Employee is guilty of conduct unbecoming. Employee's acts were incompatible with and/or inimical to the public service.

This is Employee's first discipline. It is important to acknowledge that Employee requested relief for bathroom and meal breaks. However, Employee had not familiarized himself with the policy regarding supervisory checks and deputy meal relief for detentions at the hospital. His requests for relief on both days should have been made directly to San Diego Central Jail. Further, there is no evidence that Employee, after having trouble obtaining timely relief on June 12th, communicated this problem at his briefing on June 13th, or addressed this with his command

prior to beginning his assignment. The Sheriff's suspension of Employee for five working days is too lenient considering the risk of harm to hospital staff and the public Employee's actions caused. A ten working day suspension is more appropriate.

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

Commissioners Comments:

Commissioner Smith said that given the severity of the causes of discipline, and especially since the issue occurred over two days, he was surprised that the suspension was only for five days and not longer. While he thought the discipline was on the light side, he deferred to the Sheriff's Department judgement for consistency and supported the motion to affirm the discipline.

Commissioner Rodriguez-Kennedy concurred with Commissioner Smith's comments regarding the level of discipline and respecting the Sheriff's Department's judgement in this matter. He also said that, considering an element of the report which states that the department was unable to provide relief to its deputy (appellant 2020-025P), it's important that the department consider tightening up its relief protocol to make sure that they can properly relieve their deputies when requested or needed.

Motion by Commissioner Fletcher to approve the Findings and Recommendations; seconded by Commissioner Rodriguez-Kennedy.

Motion carried with all Commissioners in favor.

DISCRIMINATION

Findings

8. Commissioner Sharp: **2020-050**, Supervising Office Assistant, alleging discrimination by the Probation Department.

FINDINGS AND RECOMMENDATIONS:

On October 7, 2020, the Commission appointed Commissioner Ira Sharp to investigate the complaint submitted 2020-050, Supervising Office Assistant, which alleged age and race discrimination by the Probation Department. In accordance with the established rules and procedures of the Commission, the matter was concurrently referred to the Office of Ethics and Compliance ("OEC") for investigation.

The OEC concluded the discrimination investigation and has reported its findings to the Commission. The Investigating Officer has received and reviewed OEC's report and has taken into consideration all documentation submitted in this matter. The Investigating Officer concurs with OEC's Report and has concluded that: the evidence does not support a finding of probable cause that a violation of discrimination laws occurred.

Based on the findings and conclusions set forth above, it is therefore recommended that the 2020-050's Rule VI discrimination complaint be denied; and that the Commission approve and file this report with a finding of no probable cause to believe that the Complainant has been unlawfully discriminated against.

Motion by Commissioner Smith to approve the Findings and Recommendations; seconded by Commissioner Rodriguez-Kennedy.

Motion carried with all Commissioners in favor.

SELECTION PROCESS

Findings

9. **2021-178**, Applicant, appealing the Department of Human Resources' removal of his name from the employment list for Deputy Sheriff Cadet-Detentions/Court Services.

RECOMMENDATION: Ratify. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2 and his name has been returned to the employment list.

Item No. 9: Ratified.

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OTHER MATTERS

Extension of Temporary Appointments

10. Health and Human Services Agency

1 Residential Care Worker II: **2021-179**

1 Epidemiologist I: **2021-180**

1 Office Assistant: **2021-181**

RECOMMENDATION: Ratify

Item No. 10: Ratified.

ADJOURNED: 2:55 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.