



San Diego County SHERIFF'S DEPARTMENT

NOTICE OF PROPOSED DISCIPLINARY ACTION

TO: Bill Kolender		DATE: December 7, 2004	
It is recommended that the following disciplinary action be administered to the below named employee:			
EMPLOYEE'S NAME:	Edward Vargo	TITLE:	Deputy Sheriff
DEPARTMENT POLICY AND / OR PROCEDURE SECTION(S) VIOLATED:	2.3 Violation of Rules	2.4 Unbecoming Conduct	
	2.6 Conformance to Laws	2.35 Operation of Vehicles	
	2.41 Departmental Reports	2.46 Truthfulness	
RECOMMENDED DISCIPLINE:	Termination of Employment		
SECOND LEVEL SUPERVISOR:	George W. Foote, Lieutenant	DATE:	12/07/2004
LIST PRIOR RELATED OFFENSE(S) WITHIN LAST FIVE YEARS WITH DATE & ACTION	NONE		
I have been advised of the above charges and recommended discipline:			
EMPLOYEE'S SIGNATURE:	<i>Edward Vargo</i>	DATE:	12/07/2004
2 nd LEVEL SUPERVISOR SIGNATURE:	<i>George W. Foote</i>	DATE:	12/07/2004
3 rd LEVEL SUPERVISOR SIGNATURE:	<i>G. W. Foote</i>	DATE:	12/07/2004
COMMENTS:			
REVIEWED BY INTERNAL AFFAIRS:	<i>R. J. Apostolos</i>	DATE:	1/11/05
4 th LEVEL SUPERVISOR SIGNATURE:	R. J. Apostolos, Commander	DATE:	4/14/05
COMMENTS:			
ADDITIONAL REVIEW:	William D. Gore, Assistant Sheriff	DATE:	4/15/05
ADDITIONAL REVIEW:	Barry K. Zuniga, Undersheriff	DATE:	5-18-05
ADDITIONAL REVIEW:	William B. Kolender, Sheriff	DATE:	5-25-05
INTERNAL AFFAIRS SECTION			
<input type="checkbox"/> WRITTEN REPRIMAND BY:		DATE:	
<input checked="" type="checkbox"/> NOTICE OF INTENT AND CHARGES: <i>A. Ross</i>		DATE:	1/11/05
<input checked="" type="checkbox"/> ORDER SERVED: <i>A. Ross</i>		DATE:	5/31/05
<input checked="" type="checkbox"/> CIVIL SERVICE NOTIFIED: P. Lorenz, AdminSec II		DATE:	06-02-2005
<input type="checkbox"/> PAYROLL NOTIFIED:		DATE:	
FINAL ACTION TAKEN: 02-09-2005 Upheld per Skelly; Termination		DATE:	05-25-2005

BOBBITT PINCKARD & FIELDS

A Professional Corporation

8388 Vickers Street

San Diego, California 92111-2109

EVERETT L. BOBBITT
RICHARD L. PINCKARD
BRADLEY M. FIELDS
JULIE STELLÉ BUECHLER

Telephone (858) 467-1199
Facsimile (858) 467-1285
website: coplaw.org

ANNETTE BURSTEIN
Legal Administrator

August 23, 2005

Via U.S. Mail & Facsimile

Robert Faigin
San Diego County Sheriff's Department
P.O. Box 939062
San Diego, CA 92193-9062

Re: Ed Vargo

Dear Mr. Faigin:

Please find enclosed the original Disciplinary Agreement signed by Ed Vargo and a letter of Resignation, effective May 31, 2005. Should you have any questions, please feel free to contact my office.

Sincerely,



Julie S. Buechler

/ceb

Enclosure



San Diego County Sheriff's Department

Post Office Box 939062 • San Diego, California 92193-9062

William B. Kolender, Sheriff



Barry R. Zuniga, Undersheriff

August 17, 2005

Julie Buechler
Law Offices of Bobbitt Pinckard & Fields
8388 Vickers Street
San Diego, California 92111

Re: Vargo Disciplinary Agreement Case #2004-246.1

Dear Ms. Buechler:

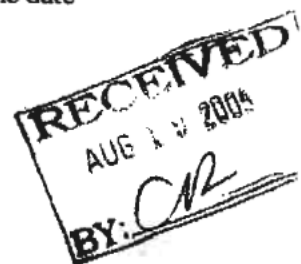
This letter serves to memorialize the agreement between the San Diego County Sheriff's Department and your client, Deputy Edward Vargo. On May 31, 2005, Deputy Vargo was served with an order of termination and charges, terminating his employment with the County of San Diego. The basis for the discipline was sustained findings on seven causes of action. Cause I related to in competency, Cause II related to dishonesty, Cause III related to negligence resulting in damage to public property, Cause IV related to conduct unbecoming an officer, Cause V related to negligence resulting in harm or significant risk of harm to the public or public service, Cause VI related to failure of good behavior, and Cause VII related to acts which are incompatible with and or inimical to the public service. All causes of action are violations of the Rules of the Civil Service Commission.

In order to resolve this disciplinary matter, Deputy Vargo agrees and does by his signature below resign effective May 31, 2005. Additionally, Deputy Vargo will withdraw his current pending appeal before the San Diego County Civil Service Commission. As a result, the Department will change Deputy Vargo's exit status to employment terminated by mutual consent as of May 31, 2005.

As a result of the above, Deputy Vargo will, and does by his signature below, waive his right to any further administrative review or appeals of his voluntary resignation. He also waives any right to seek judicial review of the process or substance of this disciplinary resolution.

This agreement governs only the above case number, and does not alter or affect any previous discipline imposed. This agreement will be available for ten (10) days from the date of this letter.

"Keeping the Peace Since 1850"



Deputy Edward Vargo Disciplinary Agreement

Page 2

August 17, 2005

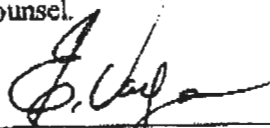
All terms of this agreement are contained within this document, and any alteration or modification of this agreement must be done in writing.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert P. Faigin".

Robert P. Faigin, Esq.
Chief Legal Advisor

I, Deputy Edward Vargo, hereby stipulate that I have read and agree to the terms set forth in the above disciplinary agreement and I have had the opportunity to confer with my legal counsel.

A handwritten signature in black ink, appearing to read "E. Vargo".

Deputy Edward Vargo

08-23-05

Date

August 23, 2005

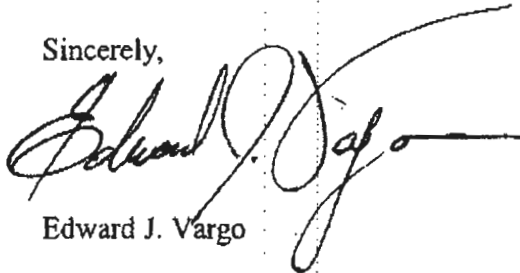
Sheriff William B. Kolender
San Diego County Sheriff's Department
P.O. Box 42900
San Diego, CA 92124-9000

Re: Resignation

Dear Sheriff Kolender:

Please accept my resignation as a Deputy Sheriff for the San Diego County Sheriff's Department, effective May 31, 2005.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward J. Vargo", with a long horizontal flourish extending to the right.

Edward J. Vargo

BOBBITT, PINCKARD & FIELDS

A Professional Corporation
8388 Vickers Street
San Diego, California 92111

Everett L. Bobbitt
Richard L. Pinckard
Bradley M. Fields
Julie S. Buechler

Telephone
(858) 467-1199

Facsimile
(858) 467-1285

Annette Burstein
Legal Administrator

www.coplax.org

FACSIMILE TRANSMISSION

DATE: August 23, 2005

TO: Robert Faigin

RECIPIENT'S FAX NO.: 858-947-2262 ⁹⁷⁴

FROM: Julie S. Buechler

SENDERS FAX NO.: 858-467-1285

Re: Ed Vargo

Total number of pages including this cover page: 5

COMMENTS:

* Original to follow via U.S. mail.

***** WARNING *****

The information contained in this facsimile message is confidential information (and may be a privileged attorney-client communication) intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination or distribution of this communication to anyone other than the intended recipient is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you ...

BOBBITT & PINCKARD

A Professional Corporation

8388 Vickers Street

San Diego, California 92111-2109

Everett L. Bobbitt
Richard L. Pinckard
Bradley M. Fields
Julie Steele Buechler

Telephone (858) 467-1199
Facsimile (858) 467-1285
Website: coplaw.org

Annette Burstein
Legal Administrator

June 6, 2005

Civil Service Commission
County of San Diego
1600 Pacific Highway, Room 458
San Diego, CA 92101

Via Fax and U.S Mail
(619) 685-2422

Re: Deputy Edward J. Vargo Order of Termination and Charges

Ladies and Gentlemen:

Our office represents Deputy Edward J. Vargo in the matter of the order of termination and charges served him on May 31, 2005 by the San Diego County Sheriff's Department. Deputy Vargo denies the allegations on which this action is based and requests an appeal hearing at the earliest opportunity. It is further requested that this appeal hearing be closed to the public. Julie Buechler will serve as Deputy Vargo's representative.

Thank you for your consideration of this matter.

Sincerely,



Annette Burstein

//RAB

cc: San Diego County Sheriff's Department - via facsimile

FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

RECEIVED

JUN 07 2005

CIVIL SERVICE
COMMISSION

June 2, 2005
IA# 2004-246.1

TO: Civil Service Commission

FROM: William Kemery, Lieutenant
Internal Affairs Unit

ORDER OF TERMINATION AND CHARGES – EDWARD VARGO

The Order of Termination and Charges dated 04-20-2005 filed against Edward Vargo has been received by the Civil Service Commission on: 6/7/05

Date

Commission Response:

- ☒ The above individual **HAS** appealed the Order of Termination and Charges.
- ☐ The above individual **HAS NOT** appealed the Order of Termination and Charges.

Please return this form to the Sheriff's Internal Affairs Unit (MS-O41) as soon as possible.

Thank you.



William Kemery, Lieutenant
Internal Affairs Unit
(858) 974-2065

Attachment

FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

June 2, 2005
IA# 2004-246.1

TO: Civil Service Commission

FROM: William Kemery, Lieutenant
Internal Affairs Unit

ORDER OF TERMINATION AND CHARGES – EDWARD VARGO

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Date

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- ☐ The above individual **HAS** appealed the Order of Termination and Charges.
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Please return this form to the Sheriff's Internal Affairs Unit (MS-O41) as soon as possible.

Thank you.


William Kemery, Lieutenant
Internal Affairs Unit
(858) 974-2065

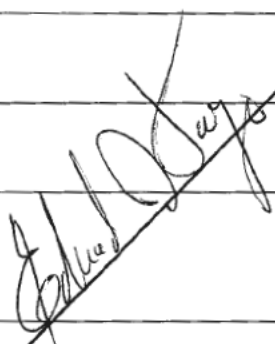
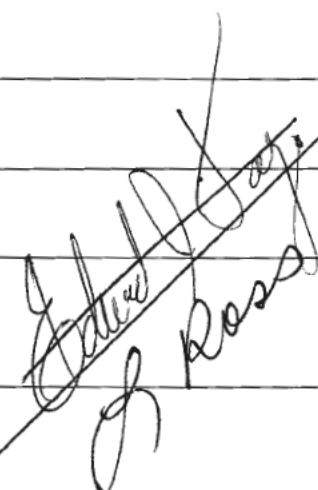
Attachment



RECEIPT OF MATERIALS

EMPLOYEE: EDWARD VARGO #2600

Case # 2004-246.1

DESCRIPTION OF DOCUMENT	EMPLOYEE RECEIVED (DATE & INITIAL)	APPOINTING AUTHORITY (Date & Sign)
Order of Termination and Charges to Edward Vargo dated 04-20-2005		 5/31/05
Skelly Conference by Captain Guerin dated 02-09-2005 and attachments		
Declaration/Acknowledgement of Personal Service		
One (1) CD-R (Supplemental Interviews) 03-01-2005		
One (1) audio cassette tape of interview with [REDACTED] by DSA Inv. F. Rodriguez 01-24-2005		
One (1) audiocassette tape Skelly Conference by Captain Guerin 02-09-2005		



RECEIPT OF MATERIALS

EMPLOYEE: EDWARD VARGO #2600

Case # 2004-246.1

DESCRIPTION OF DOCUMENT	EMPLOYEE RECEIVED (DATE & INITIAL)	APPOINTING AUTHORITY (Date & Sign)
Notice of Proposed Disciplinary Action to Edward Vargo dated 12-07-2004		 01/11/05
Notice of Intent to Terminate and Charges to Edward Vargo dated 12-10-2004		
Discipline Recommendation & Rationale from Lieutenant Foote to Sheriff Kolender dated 12-07-2004		
Investigative Reports by Sergeant M. Barnett dated 11-01-2004 and attachments		
Skelly Conference Letter to Edward Vargo		
Order Not to Disclose Materials to Edward Vargo	 01-11-05	
Declaration/Acknowledgement of Personal Service		
Four (4) CD-R discs (Interview Recordings (1) and photos (3))		
Copy of one (1) audio tape cassette		



San Diego County Sheriff's Department

Post Office Box 429000 · San Diego, California 92142-9000



William B. Kolender, Sheriff

Barry R. Zuniga, Undersheriff

April 20, 2005

Edward J. Vargo
[REDACTED]
[REDACTED]

Dear Deputy Vargo:

ORDER OF TERMINATION AND CHARGES, CASE # 2004-246.1

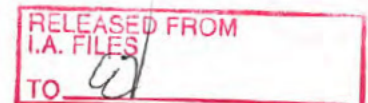
I hereby order that you be terminated from your position as a Deputy Sheriff (Class #5746) in the Sheriff's Department and the Classified Service of the County of San Diego for each and all of the following causes;

CAUSE I

You are guilty of incompetency as set forth under Section 7.2 (a) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Sections 2.3 – Violation of Rules, 2.6 – Conformance to Laws, and 2.35 – Operation of Vehicles**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED], Santee, causing damage to both vehicles, and failed to notify a supervisor and have a traffic collision investigation performed as required by law and Sheriff's Policy and Procedure 5.4 – Collisions Involving Sheriff's Vehicles.

CAUSE II

You are guilty of dishonesty as set forth under Section 7.2 (d) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.46 – Truthfulness**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED], Santee, causing damage to both vehicles, and later untruthfully told your supervisor, Sergeant J. Lee Yoder, you did not know the cause of the resulting damage to your patrol car.



CAUSE III

You are guilty of negligence resulting in damage to public property as set forth under Section 7.2 (l) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.35 – Operation of Vehicles**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED] Santee, causing damage to both vehicles.

CAUSE IV

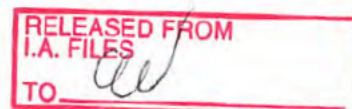
You are guilty of conduct unbecoming an officer of the County as set forth under Section 7.2 (m) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Sections 2.3 – Violation of Rules, 2.4 – Unbecoming Conduct, 2.6 – Conformance to Laws, 2.35 Operation of Vehicles, 2.41 – Departmental Reports, and 2.46 – Truthfulness**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED] Santee, causing damage to both vehicles, failed to report the collision as required by law and policy, and later untruthfully told your supervisor, Sergeant J. Lee Yoder, you did not know the cause of the resulting damage to your patrol car.

CAUSE V

You are guilty of negligence resulting in harm or significant risk of harm to the public or the public service as set forth under Section 7.2 (q) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.35 – Operation of Vehicles**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED] Santee, causing damage to both vehicles.

CAUSE VI

You are guilty of a failure of good behavior as set forth under Section 7.2 (r) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Sections 2.3 – Violation of Rules, 2.4 – Unbecoming Conduct, 2.6 – Conformance to Laws, 2.35 Operation of Vehicles, 2.41 – Departmental Reports, and 2.46 – Truthfulness**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED] Santee, causing damage to both vehicles, failed to report the collision as required by law and policy, and later untruthfully told your supervisor, Sergeant J. Lee Yoder, you did not know the cause of the resulting damage to your patrol car.



CAUSE VII

You are guilty of acts which are incompatible with and/or inimical to the public service as set forth under Section 7.2 (s) of Rule VII of the Rules of the Civil Service Commission of the County of San Diego. You are guilty of acts, which are incompatible with the **San Diego County Sheriff's Department Executive Order** and the **Mission, Vision, Values and Goals**. Your conduct constituting such acts inimical to the public service is that set forth under Cause I through VI above.

Your attention is directed to Sections 904.1, 904.2, 909, 909.1(k), and 910(k) (1) of the Charter of the County of San Diego and Rule VII of the Civil Service Rules. If you wish to appeal this order to the Civil Service Commission of the County of San Diego, you must file such an appeal and an answer in writing with the Commission within ten (10) calendar days after this order is presented to you. Such an appeal and answer must be in writing and delivered to the Civil Service Commission at its offices at 1600 Pacific Highway, Room 458, San Diego, California 92101, within such ten (10) calendar day period. An appeal is not valid unless it is actually received by the Commission within such a ten (10) day period. A copy of such appeal and answer shall also be served, either personally or by mail, by the employee on the undersigned within the same ten (10) day calendar period.

Sincerely,



WILLIAM B. KOLENDER, SHERIFF

WBK:em



FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

DECLARATION/ACKNOWLEDGEMENT OF PERSONAL SERVICE

I, the Undersigned, certify that I am over 18 years of age and a resident of the County of San Diego, and that I served the

☐ **NOTICE OF INTENT OF PAY-STEP REDUCTION AND CHARGES**

☐ **NOTICE OF INTENT TO SUSPEND AND CHARGES**

☐ **NOTICE OF INTENT TO TERMINATE AND CHARGES**

☐ **ORDER OF PAY-STEP REDUCTION AND CHARGES**

☐ **ORDER OF SUSPENSION AND CHARGES**

☒ **ORDER OF TERMINATION AND CHARGES**

☐ **NOTICE REGARDING RESTRAINING ORDER DATED**

_____ of which a true copy is attached hereto, by delivering a copy thereof to

Edward Vargo personally at Santee on
05/31/05.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 31 day of May, 2005, at Santee, California.

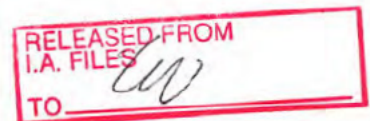
Rori Ross
Signature of person making personal service

ACKNOWLEDGEMENT OF SERVICE

I do hereby acknowledge receipt of the above noted document.

Executed this 31 day of MAY, 2005.

SIGNED Edward Vargo





San Diego County Sheriff's Department

Post Office Box 429000 • San Diego, California 92142-9000



William B. Kolender, Sheriff

Barry R. Zuniga, Undersheriff

December 10, 2004

Edward J. Vargo
[REDACTED]
[REDACTED]

Dear Deputy Vargo:

NOTICE OF INTENT TO TERMINATE AND CHARGES, CASE # 2004-246.1

Please take notice that it is my intention to recommend to the Sheriff that you be terminated from your position as a Deputy Sheriff (Class #5746) in the Sheriff's Department and the Classified Service of the County of San Diego for each and all of the following causes;

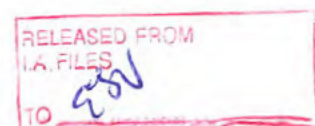
CAUSE I

You are guilty of incompetency as set forth under Section 7.2 (a) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Sections 2.3 – Violation of Rules, 2.6 – Conformance to Laws, and 2.35 – Operation of Vehicles**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED] Santee, causing damage to both vehicles, and failed to notify a supervisor and have a traffic collision investigation performed as required by law and Sheriff's Policy and Procedure 5.4 – Collisions Involving Sheriff's Vehicles.

CAUSE II

You are guilty of dishonesty as set forth under Section 7.2 (d) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.46 – Truthfulness**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED] Santee, causing damage to both vehicles, and later untruthfully told your supervisor, Sergeant J. Lee Yoder, you did not know the cause of the resulting damage to your patrol car.

"Keeping the Peace Since 1850"



CAUSE III

You are guilty of negligence resulting in damage to public property as set forth under Section 7.2 (l) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.35 – Operation of Vehicles**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED] Santee, causing damage to both vehicles.

CAUSE IV

You are guilty of conduct unbecoming an officer of the County as set forth under Section 7.2 (m) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Sections 2.3 – Violation of Rules, 2.4 – Unbecoming Conduct, 2.6 – Conformance to Laws, 2.35 Operation of Vehicles, 2.41 – Departmental Reports, and 2.46 – Truthfulness**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED] Santee, causing damage to both vehicles, failed to report the collision as required by law and policy, and later untruthfully told your supervisor, Sergeant J. Lee Yoder, you did not know the cause of the resulting damage to your patrol car.

CAUSE V

You are guilty of negligence resulting in harm or significant risk of harm to the public or the public service as set forth under Section 7.2 (q) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Section 2.35 – Operation of Vehicles**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED] Santee, causing damage to both vehicles.

CAUSE VI

You are guilty of a failure of good behavior as set forth under Section 7.2 (r) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure **Sections 2.3 – Violation of Rules, 2.4 – Unbecoming Conduct, 2.6 – Conformance to Laws, 2.35 Operation of Vehicles, 2.41 – Departmental Reports, and 2.46 – Truthfulness**, in that: On July 8, 2004, at about 2220 hours, you collided your marked patrol car with a parked trailer at [REDACTED] Santee, causing damage to both vehicles, failed to report the collision as required by law and policy, and later untruthfully told your supervisor, Sergeant J. Lee Yoder, you did not know the cause of the resulting damage to your patrol car.



CAUSE VII

You are guilty of acts which are incompatible with and/or inimical to the public service as set forth under Section 7.2 (s) of Rule VII of the Rules of the Civil Service Commission of the County of San Diego. You are guilty of acts, which are incompatible with the **San Diego County Sheriff's Department Executive Order** and the **Mission, Vision, Values and Goals**. Your conduct constituting such acts inimical to the public service is that set forth under Cause I through VI above.

You have **five (5)** regular business days to request a Skelly Conference. You may respond either orally, in writing, or both, regarding the above proposed charges and discipline. Your response will be considered by the Sheriff before final action is initiated. Upon receipt of this notice you will be provided with all documents possessed by this department upon which this proposed action is based.


If you have any questions of said documents, please contact Lieutenant Cantrell of the Internal Affairs Unit.

You have until 4:30 p.m. on Tue, Jan 18, 2005 to contact Internal Affairs at (858) 974-2065, if you wish to respond to the above charges and discipline. Internal Affairs will provide you the name of a Skelly Officer, whom you should contact without delay, as the conference must be held within ten (10) days, unless waived by mutual agreement. If there are extenuating circumstances precluding you from staying within this time limit, contact Internal Affairs immediately.

If you fail to respond, or if your response is unsatisfactory, an Order to Terminate and Charges will be served upon you and the discipline initiated.

Sincerely,

WILLIAM B. KOLENDER, SHERIFF


Greg Reynolds, Captain
Santee Station

WBK:GR:mrb



FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

DECLARATION/ACKNOWLEDGEMENT OF PERSONAL SERVICE

I, the Undersigned, certify that I am over 18 years of age and a resident of the County of San Diego, and that I served the

☐ **NOTICE OF INTENT OF PAY-STEP REDUCTION AND CHARGES**

☐ **NOTICE OF INTENT TO SUSPEND AND CHARGES**

☒ **NOTICE OF INTENT TO TERMINATE AND CHARGES**

☐ **ORDER OF PAY-STEP REDUCTION AND CHARGES**

☐ **ORDER OF SUSPENSION AND CHARGES**

☐ **ORDER OF TERMINATION AND CHARGES**

☐ **NOTICE REGARDING RESTRAINING ORDER DATED**

_____ of which a true copy is attached hereto, by delivering a copy thereof to

Ed. VARGO personally at Santee, CA on
Jan 11, 2005.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11 day of Jan, 2005, at Santee, California.

Ross
Signature of person making personal service

ACKNOWLEDGEMENT OF SERVICE

I do hereby acknowledge receipt of the above noted document.

Executed this 11th day of January, 2005

SIGNED E. Vargo



From the Office of

INTERNAL AFFAIRS - CONFIDENTIAL

ORDER NOT TO DISCLOSE MATERIALS

Pursuant to Department Policy, materials are being furnished to you upon which your proposed discipline is based. These materials are reproductions and are a part of the confidential employee personnel records of the San Diego Sheriff's Department. Dissemination of this information is restricted to a need and a right to know.

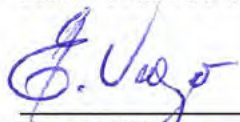
You are ordered not to disclose, release, or copy these materials to or for anyone, other than your attorney and/or association representative, without the written authorization of the Internal Affairs Lieutenant. Materials include all written documentation, tape recordings, and videotapes.

Any unauthorized release of information contained in these documents compromises the confidentiality of your personnel file, and may impede the Department's ability to protect your confidentiality in future discovery motions. This could subject you and the County to unnecessary liability and criticism, to which the Department may be required to defend in a public forum.

You are strongly encouraged to destroy or return these materials when they no longer serve a useful purpose. Should you desire to review material related to your discipline at a later time, you may make arrangements with the Internal Affairs Unit.

Failure to abide by this order could result in a charge of insubordination, and subject you to disciplinary action up to and including termination.

I have received a copy of this order.



Edward Vargo

I.A. Case # 2004-246.1



From the Office of

INTERNAL AFFAIRS - CONFIDENTIAL

Skelly Conference Letter

Case # 2004-246.1

As indicated on the "Notice of Intent" to discipline, which you are receiving, disciplinary action against you is being considered. If you wish to invoke your right to a pre-disciplinary due process hearing on this matter (*Skelly Conference*), you must make the request within five (5) regular business days. The Skelly Conference is a relatively informal hearing, not an adversarial evidentiary trial. The final date to request a hearing is indicated on your "Notice of Intent". Your request should be made by calling the Internal Affairs Unit at (858) 974-2065.

If you do not request the conference within that time, your right to a Skelly Conference will have been waived, and the recommended discipline may be imposed.

Your Skelly rights are:

1. To receive a written "Notice of Intent" to discipline, which may be served upon you either in person or by mail. That notice will include the level of proposed discipline, the charges, and a brief explanation of the reason for the discipline.
2. To receive a copy of the materials upon which the proposed discipline is based, including reports, tape recordings, photographs, etc. Any item certified as confidential and withheld from you by the department cannot be used as a basis for discipline.
3. To have sufficient time to review the supporting materials so that your response can be prepared.
4. To respond orally, in writing, or both to the proposed discipline and charges.
5. To a hearing officer who is not in your chain of command.
6. To have a representative or attorney present at the hearing.
7. To receive copies of all materials prepared as a result of the Skelly Conference.
8. To receive a new Skelly Conference for any new charges or increased discipline, which arise from the Skelly Conference.

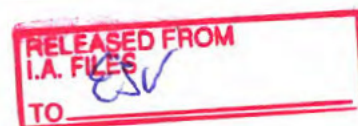
I have read and understand my Skelly rights.

E. Vargo
Edward Vargo

01-11-05
Date

S. Ross
Witness

1/11/05
Date





San Diego County SHERIFF'S DEPARTMENT

SKELLY CONFERENCE FORM

Employee: Vargo, Edward

Internal Affairs Case Number: 2004-246.1

Skelly Officer: Guerin, A. H.

Date of Conference: February 9, 2005

Attorney/Representative: Buechler, Julie/Rodriguez, Fred

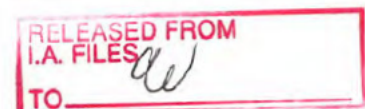
Command Recommendation: Termination

1. **Did employee receive/review the written charges?**
☒ Yes ☐ No If No, explain:
2. **Did employee receive/review the supporting documents?**
☒ Yes ☐ No If No, explain:
3. **Was any mitigating information brought out at this Skelly Conference?**
☒ Yes ☐ No If Yes, explain: Deputy Vargo possibly left a note about the "barking dog" call.
4. **Did employee have opportunity to provide mitigating information prior to Skelly at the Command Level?**
☒ Yes ☐ No If No, explain:
5. **Do the investigative documents and facts support the charges?**
☒ Yes ☐ No If No, explain:
6. **Is the recommended discipline within a reasonable range considering the charges?**
☒ Yes ☐ No If No, explain:
7. **Is the investigation being returned to Internal Affairs for clarification?**
☐ Yes ☒ No If Yes, explain:

Comments: Deputy Vargo seemed to have a better recollection of some of the events than when he was interviewed by Internal Affairs.

Skelly Conference Officer : A. H. Guerin II

Date Completed: February 9, 2005





COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

March 17, 2005

TO: William B. Kolender, Sheriff
San Diego Sheriff's Department

FROM: A. H. Guerin II, Captain
Lemon Grove Patrol Station

SKELLY CONFERENCE FOR DEPUTY EDWARD VARGO REGARDING INTERNAL AFFAIRS INVESTIGATION #2004-246.1

COMMAND RECOMMENDATION:

Lieutenant Foote has recommended Deputy Edward Vargo be terminated from employment with the San Diego County Sheriff's Department.

SYNOPSIS:

While handling a radio call regarding barking dogs, on the night of July 8, 2004, the Sheriff's vehicle being operated by Deputy Vargo struck a parked trailer. This collision resulted in damage to both the trailer and Sheriff's vehicle #20791. Deputy Vargo left the area and failed to report this accident to either the owner of the trailer or his supervisor. When the damage to Sheriff's vehicle #20791 was noticed, Deputy Vargo claimed not to have any knowledge as to how the damage may have occurred.

The investigation found that Deputy Vargo was in fact aware of the accident and was untruthful during the investigation conducted by Internal Affairs. Violations of the following State of California statute, and sections of the San Diego County Sheriff's Department's Policy and Procedures were sustained against Deputy Vargo:

- 2002 California Vehicle Code (Misd. Hit and Run)
- 5.4 P&P, Collisions involving Sheriff's Vehicles
- 2.3 P&P, Violation of Rules
- 2.4 P&P, Unbecoming Conduct
- 2.6 P&P, Conformance to Laws
- 2.35 P&P, Operation of Vehicles
- 2.41 P&P, Departmental Reports
- 2.46 P&P, Truthfulness



CONDUCT OF THE CONFERENCE:

On January 13, 2005, I was assigned as the Skelly Conference Officer for Deputy Edward Vargo. The conference was held on Wednesday, February 9, 2005, at 0940 hours, in my office at the Lemon Grove Patrol Station. All parties mutually agreed upon this date, time and location. Attorney Julie Buechler and Private Investigator Fred Rodriguez accompanied and represented Deputy Vargo at this meeting.

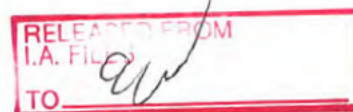
In preparation for the Skelly Conference, and prior to reaching a decision, I reviewed the following:

- The Notice of Proposed Disciplinary Action
- Notice of Intent to Terminate
- Disciplinary Recommendation and Ration prepared by Lieutenant George Foote
- Skelly Conference Letter
- Internal Affairs File, #2004-246.1

After ensuring that Deputy Vargo had no objections to me being the conference officer, I advised him that the Skelly Conference was at his request. Further, that the purpose of the conference was to ensure he had received certain procedural rights, prior to the approval and implementation of the recommended discipline. Specifically, I ensured that Deputy Vargo:

- had received the Notice of Proposed Disciplinary Action,
- was aware of the reason for the Action,
- had received a copy of the investigative reports and other relevant material concerning this mater,
- had reviewed the Internal Affairs files, and
- was aware that this was his opportunity to respond to the charges and recommended discipline.

Deputy Vargo answered affirmatively to each question.



RESPONSE TO CHARGES:

Ms. Buechler essentially represented that the Internal Affairs Investigation is in error by assuming that Deputy Vargo should have known he had been involved in an accident. She further stated the investigation was in error by stating Deputy Vargo had not advised his supervisor of the accident. She stated Deputy Vargo did in fact bring the damage on the vehicle to the attention of his supervisor, Sergeant Yoder, within thirty minutes of the accident. Sergeant Yoder merely advised him to log it.

Ms. Buechler stated the Internal Affairs Investigation was in error again when it found Deputy Vargo had been untruthful. She claimed Deputy Vargo did not know when or how the damage to his vehicle had occurred. Therefore, when he noticed the damage and informed Sergeant Yoder that he did not know how the damage had occurred, he was being truthful.

She stated it was reasonable for Deputy Vargo not to know he had been in a collision because the damage was very minor. It was late at night and very dark in a rural area with no lighting. The driveway was very steep and not well marked. Additionally, there was actually very little debris on the ground from the collision. This debris was difficult to notice even in daylight. Although, Deputy Vargo knew something had happened, it was not reasonable for him to see the damage to his vehicle or the trailer due to the conditions.

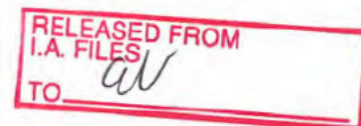
Ms. Buechler brought up the point that a "plastic on plastic" collision does not make the vehicle vibration alleged by Lieutenant Foote. She stated she had received this information from an unnamed Sheriff's Department accident re-constructionist.

Ms. Buechler and Private Investigator Rodriguez alleged that although the witness, [REDACTED] claimed the collision was very loud, it was reasonable for Deputy Vargo not to have heard the collision as loudly due to the "lay of the land." [REDACTED] was uphill and therefore the sound traveled better and was louder at her location. Deputy Vargo merely believed he had run off the pavement and Mr. Rodriguez found a tire track at the scene he believes supports that belief.

Mr. Rodriguez also played a portion of a taped interview with [REDACTED]. During the interview, [REDACTED] stated that when Deputy Vargo got out of his car, he never really looked at or went by the trailer.

Ms. Buechler alleged Deputy Vargo left his business card or a note at the address. She claims this act is inconsistent with someone who has knowingly been involved in an accident at a location, and is attempting a "hit and run."

Ms. Buechler did not dispute the findings that Deputy Vargo had been involved in an on duty collision while operating Sheriff's vehicle #2079. The accident investigation and evidence supported that finding. Although, both she and Mr. Rodriguez stressed the damage was minor



and preferred the contact between the vehicle and the trailer be termed "clipped the trailer," rather than the more harsh sounding "collision or crash."

Ms. Buechler also claims the internal Affairs Investigation is in error when it finds Deputy Vargo was untruthful or trying to hide conversations and or e-mails regarding the accident and investigation when he did not remember these exchanges. She stated that Deputy Vargo talks with those individuals frequently and simply did not remember discussing this incident with those individuals. Having a bad memory does not mean one is being untruthful.

DISCUSSION:

Deputy Vargo has been a Deputy Sheriff for approximately six (6) years. He has no prior at fault vehicle collisions or sustained Internal Affairs Investigations. In fact, he stated this was the very first time he had been investigated by Internal Affairs. At the time of the incident under discussion, he was assigned to patrol duties at the Santee Patrol Station. Personal responsibility for one's actions and honesty are core personal values the Sheriff's Department must have in its employees. Those are the issues truly at heart in the recommended discipline.

During the Skelly Conference, it was represented that Deputy Vargo left a business card or a note regarding the barking dogs at the residence of the hit and run victim. This fact was not discussed in the written Internal Affairs report and I requested that Sergeant Barnett clarify this issue in a follow-up investigation.

The characterization of the damage and the physical sensation of a "plastic on plastic" collision were also raised during the conference. To clarify these aspects of the investigation, I went to the Santee Patrol Station on February 24, 2005, at approximately 0935 hours, to personally inspect Sheriff's vehicle #20791.

From this inspection, I agree with the characterization that the damage is minor. Time and weather have actually dulled the appearance of the scratches. But, I dispute the implication that this was only a "plastic on plastic" contact, which made little or no noise. Yes, the rear quarter panel is plastic and the tail lens is a light plastic. However, it appears that the heavy plastic or possibly metal license plate support frame, on which the taillight is mounted, did the real damage to the patrol vehicle. Thereby, it was not merely a little "plastic on plastic" collision. This contact appeared to have a gouging ripple effect to the rear quarter panel. I believe this gouging coupled with the breaking plastic on the taillight was a fairly loud noise. The sound was unusual and loud enough to cause Deputy Vargo to stop his car and exit the vehicle and inspect the area.

In inspecting the collision site, I pushed on the plastic quarter panel. I noted it seemed to push in easily and not cause the vehicle to move at all. I also wanted to feel the movement sensations the driver might feel during an impact with an object in the area of the rear quarter panel. To achieve this, I enlisted the aid of Santee Area Investigator Mark Thygesen (ARJIS #1861). While I sat in the driver's seat I had Detective Thygesen push on the rear quarter panel,

simulating contact or a collision. I did not sense any vehicle movement and therefore believe it possible Deputy Vargo did not feel this impact as implied by Lieutenant Foote.

Giving Deputy Vargo the benefit of the doubt, I believe it is possible that at this point in time he may not have seen the damage to his vehicle or the trailer. The minor nature of the damage to both the vehicle, and the trailer, coupled with the darkness would account for his failure to notice this damage at this time. However, Deputy Vargo was aware of an unusual noise, which had caused him to stop, exit his vehicle and check the vehicle.

Sergeant Barnett subsequently provided me with a follow-up investigation regarding the business card or note Deputy Vargo claimed to have left at the residence. The victim of the hit and run, [REDACTED] represented this as a note rather than a business card. Additionally, he could not remember much about the note nor who signed the note. He did not remember how he came to know the name Vargo, but believes one of the other deputies he had contact with mentioned that name.

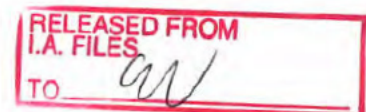
Sergeant Barnett also interviewed Deputy Dugal about the note or business card issue. Deputy Dugal stated he was on a similar barking dog call and was contacted by [REDACTED]. She told him about the deputy hitting the trailer and leaving the scene. Deputy Dugal attempted to contact [REDACTED], but [REDACTED] was not home. Deputy Dugal left either a business card or a note at [REDACTED] residence requesting contact. When Deputy Dugal met with [REDACTED] he stated that [REDACTED] did not receive any business card or note regarding his barking dogs. [REDACTED] also had no knowledge, at that time, of the name of the deputy that had hit his trailer.

When [REDACTED] contacted [REDACTED] roommate, the day after the incident, this roommate did not mention any note left by a deputy, not even after [REDACTED] explained that a deputy had hit the trailer. One would think that, had the roommate been in possession of a note from that night about barking dogs, he would have mentioned to [REDACTED], that a deputy had left a note.

Deputy Smith, the Traffic Investigator that conducted the hit and run investigation, stated that he left a business card at [REDACTED] residence, in his attempts to contact [REDACTED] during the investigation.

Neither Deputy Smith nor Deputy Dugal have anything to be gained by having left or not left a note or business card at [REDACTED] residence. Deputy Vargo has a vested interest in his statements about leaving a business card or note. But, prior to him having access to this investigation (during his initial interview with Internal Affairs at a time much closer to the incident), he did not mention leaving a business card at the residence. Now at a much later date, he seems to have a better and more specific memory. I would characterize this memory as convenient.

Additionally, he made statements to the effect that all the dogs in the neighborhood were barking. What made him target this particular residence for his contact? Lastly, I find it an



unusual "police practice" to leave a note or business card at a residence regarding barking dogs, much less when you are not even sure the residents are the offenders. As Deputy Vargo stated, "All the dogs in the neighborhood were barking." For all these reasons I do not find Deputy Vargo believable on this point.

Within thirty minutes of this call, Deputy Vargo noticed the damage to his vehicle and brought it to Sergeant Yoder's attention. In discussing the damage, Deputy Vargo said he had no idea how the damage may have occurred. He told Sergeant Yoder that he did not think he had caused the damage, but was willing to take responsibility. Deputy Vargo admitted failing to conduct a proper pre-shift vehicle inspection, and therefore did not know if the vehicle had been damaged on another shift. He then volunteered to retrace all of his previous calls for the entire shift, to see if there was anywhere he may have caused the damage to the vehicle.

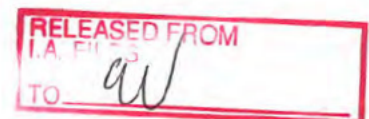
Deputy Vargo volunteered to retrace a time period of several hours, which would have been fairly time consuming. Sergeant Yoder did not want a unit out of service looking for a needle in a hay stack, when based on Deputy Vargo's statements, that needle might not have existed. So, the most logical decision at this juncture was to note the damage in the vehicle log, which Sergeant Yoder directed Deputy Vargo to handle.

Deputy Vargo did not mention to Sergeant Yoder that something unusual had happened on his last call, causing him to stop his vehicle. He did not volunteer the information that approximately thirty minutes prior to this, he had heard a loud noise and thought he had run off the road. He did not share that the noise was loud enough to cause him to exit his vehicle and inspect the area. Had he been forthright with this information, I believe Sergeant Yoder may have directed him to return to that last call and conduct a more in-depth area check.

I feel that at this point in time, Deputy Vargo had put the damage and the sounds from the last call together. At a bare minimum, knowing he may have run off the road at his last call, should have triggered a suspicion in his mind, and caused him to return to his last call and check the area. In his conversation with Sergeant Poulin, he commented that he thought he had hit something, but he hadn't (IA Investigation Page 19, Paragraph 6). He was referring to the barking dog call in which he stopped and checked his car because of the noise he heard.

I believe Deputy Vargo knew where the damage had occurred and made the conscious decision to sound honest, and accepting of responsibility. But, he withheld enough information to prevent the collision scene from being located. This would not fall into the category of complying with the intent of the policy requiring a deputy to report damage on a vehicle to his or her immediate supervisor. Realistically, had it not been for the witness, it is doubtful that the damaged trailer and the damaged patrol car would have ever been connected.

The really sad point is that I agree with Lieutenant Foote's assessment of the accident. Based on minor damage to both the trailer and Sheriff's vehicle, Deputy Vargo's work history, and the lack of prior vehicle accidents or discipline, had Deputy Vargo been honest from the onset; any recommended discipline would have been very minor.



I feel Deputy Vargo made another decision to be untruthful during the Internal Affairs interview. I inquired if Deputy Vargo had ever been through an Internal Affairs Investigation before. He replied that this was his first. We then discussed how stressful and career impacting an Internal Affairs Investigation could be. Deputy Vargo agreed. Therefore, I believe there are few, if any, events surrounding this incident, that Deputy Vargo would not remember.

When asked about discussing this incident and/or investigation with others, Deputy Vargo was certain he had not discussed this incident or investigation with anyone. Sergeant Barnett stressed this point to Deputy Vargo, and Deputy Vargo again said he was sure he had not discussed this investigation with anyone. He said he may have just generally mentioned to his beat partners that he was being, "IA'ed." At this point, I feel Deputy Vargo believed he had been ordered not to discuss this case with anyone, and if he admitted discussing this case he would have been in violation of a direct order and in more trouble. Or those individuals he considered friends would be in trouble. Therefore, he chose to be untruthful.

Sergeant Barnett then asked specifically about conversations he may have had with Deputy Salvador. When confronted by Sergeant Barnett with a specific individual and it appeared Sergeant Barnett knew about the conversation, Deputy Vargo vaguely admitted discussing the case with Deputy Salvador.

Then Sergeant Barnett confronted Deputy Vargo about discussing the case with Sergeant Pollidor. Again, when confronted with information that it appeared the investigator knew, Deputy Vargo made the admission. However, here again he would be very vague, so as not to divulge any additional information the investigator did not already know. Deputy Vargo was untruthful until confronted with evidence or facts, which made being untruthful too obvious. Then he would be honest up to a point, being careful not give up anything.

Again, this is a sad situation. Deputy Vargo had these conversations prior to being ordered not to talk about the case. Therefore, neither Deputy Vargo nor his friends would have been in trouble over these conversations.

When I questioned Deputy Vargo on the issue of not remembering those conversations he was all over the board, trying to give a reason I would accept. He said he read too much into the question. He said he tried to remember if he had talked to anyone since he had been ordered not to, or talked to anyone he had been ordered not to talk to. Again, Sergeant Barnett put this concept forward in the investigation and Deputy Vargo, by this time, had read the investigation. He pointed out that these individuals were good friends and he talked with them a lot. It wasn't that he didn't remember talking to them; it was that he didn't think he was doing anything wrong in talking to them and that's what he heard in the question.

I feel Sergeant Barnett's question was very clear. He stressed his point. Deputy Vargo, by his own statement above, was untruthful in his answer to Sergeant Barnett.

Deputy Vargo tended to answer questions very ambiguously and used a poor memory when it suited his purposes. Then he would have a very specific memory about other minor aspects. Examples of this are that he didn't remember the note initially. Then he remembered the note several months later. Yet, he couldn't remember if his windows on his vehicle were up or down. And, again he didn't recall the unusual car noise within thirty minutes of finding damage on his vehicle. I feel through this incident and investigation, Deputy Vargo has shown he will not be truthful about his actions unless we, as an organization, have proof and show him what we know.

CONCLUSION:

Deputy Vargo's actions were a serious violation of policy and California law. We as an agency, have an expectation that our employees will follow the law and policy and procedures. We have this expectation to protect the Department from liability, to protect the employees from liability or harm and lastly, to protect and provide the citizens we serve, with the level of professional law enforcement that they expect and deserve. Deputy Vargo has violated this expectation and trust.

This investigation has shown Deputy Vargo to be untruthful and untrustworthy. Integrity is at the very heart of the public's expectation for their law enforcement officers. It is also one of the fundamental character traits every law enforcement agency demands of its employees. Deputy Vargo is lacking in this vital area.

By being untruthful at the time of the incident and during the investigation, Deputy Vargo has impacted his ability to perform all the necessary job functions of a Deputy Sheriff. His reports, and court testimony would always be in question. Therefore, I believe major discipline is appropriate and necessary. Termination appears to be the most appropriate resolution for this case.

RECOMMENDATION:

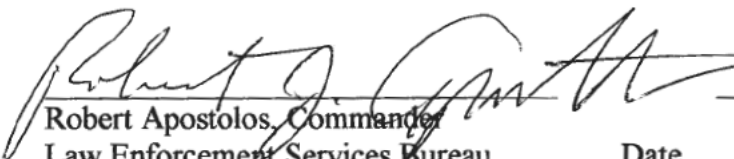
The recommendation for Termination should be sustained.




A. H. Guerin II, Captain
Lemon Grove Patrol Station

March 17, 2005

Page 9


Robert Apostolos, Commander
Law Enforcement Services Bureau
Date 4/15/05 ☒ Approve ☐ Disapprove

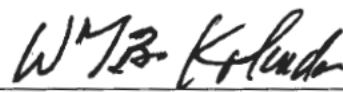
Comments: _____


William Gore, Assistant Sheriff
Law Enforcement Services Bureau
Date 4/15/05 ☒ Approve ☐ Disapprove


Comments: _____


Barry R. Zuniga, Undersheriff
Date 5-18-05 ☒ Approve ☐ Disapprove

Comments: _____


William B. Kolender, Sheriff
Date 5-25-05 ☒ Approve ☐ Disapprove

Comments: _____

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TO 

SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

INTERNAL AFFAIRS UNIT

INVESTIGATION REPORT-SUPPLEMENTAL

CONFIDENTIAL

INTERNAL AFFAIRS CASE NUMBER: 2004-246.1

DATE: March 1, 2005

COMPLAINANT: S.D.S.O.

INVESTIGATOR: Sergeant Michael R. Barnett

INVESTIGATION

On February 28, 2005, Captain Al Guerin, the assigned Skelly Hearing Officer for this case, directed me to do additional investigation. At issue was a note purportedly left on [REDACTED] door at [REDACTED] Santee. Captain Guerin informed me Deputy Vargo asserted during his Skelly Hearing he had left that note at the scene.

STATEMENT OF WITNESS [REDACTED]

On February 28, 2005, at about 0755 hours, I interviewed [REDACTED]. The interview was not recorded. [REDACTED] was uncooperative from the outset of the interview and I anticipated he would become even more uncooperative had I asked his consent to record our conversation. [REDACTED] told me he recalled our interview in August and the fact a note was left on his door. He no longer had the note.

He did not recall who signed the note. I asked him if it may have been Deputy Vargo. He said, it could have been Deputy Vargo's name on the note but he could not recall. In an attempt to clarify how he came to know Deputy Vargo was involved with the collision that caused damage to his trailer, I asked him if he recalled who first told him, or what first informed him, of Vargo's involvement. He informed me it could have been on the note he received but he could not recall.

He explained he was interviewed twice regarding this matter before talking to me in August and the information may have been disclosed in one of those interviews. He could not remember enough about the note to even describe it to me during our conversation.

[REDACTED] then began to express his frustration with the process and say he has yet to receive compensation from the county for the damage his trailer had sustained. He told me he did not wish to have anyone from the Sheriff's Department contact him at his residence or by telephone about this matter.

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I.A. FILES
TO [REDACTED]

I concluded the interview at about 0758 hours.

STATEMENT OF DEPUTY TROY DUGAL

On February 28, 2005, at about 0938 hours I spoke with Deputy Troy Dugal on the telephone. I recorded the conversation. There was no one else on the line.

I asked Deputy Dugal if he remembered leaving a note on [REDACTED] front door at any time. He said after [REDACTED] told him about the collision she witnessed he went to [REDACTED] front door and knocked but did not get an answer. He left either a business card or a note written on a piece of paper he took from his Deputy's Notebook on the door.

He recalled that [REDACTED] told him [REDACTED] was either on vacation or recently returned from vacation when he interviewed her. [REDACTED] had informed [REDACTED] of the collision she witnessed and he had told her he intended to file a complaint about the matter with the Sheriff's Department.

Eventually, Deputy Dugal did speak with [REDACTED] in person. [REDACTED] showed him the trailer and the broken lens. [REDACTED] did not seem to know the identity of the person who collided with his trailer during their conversation. He only knew it was a uniformed deputy driving a marked car, as [REDACTED] had told him as much. Deputy Dugal recalled [REDACTED] telling him he was upset because, "It had not been reported; nothing was done; no note was left." "He was pretty cordial about it except he was angry that nothing had been done," said Dugal.

Deputy Dugal told me he clearly remembered [REDACTED] telling him he had not received any note, of any kind, from a Sheriff's Department employee. He also said [REDACTED] did not mention receiving any type of note regarding a barking dog call, as opposed to a note advising of the damage to his property and the reason for it. [REDACTED] expressed some frustration about this to him as he had learned a Department vehicle had been seen colliding with his trailer.

Deputy Dugal said he "wouldn't have" mentioned Deputy Vargo was implicated in the incident to [REDACTED]

At the conclusion of the interview Deputy Dugal told me his recollection of his contact with [REDACTED]. [REDACTED] was "pretty vague" but he had been, "as honest as (he could) be."

I concluded the interview at 0945 hours with an order not to disclose.



STATEMENT OF RETIRED DEPUTY JACK SMITH #1335

Deputy Smith, the primary investigator on the hit and run case involving [REDACTED] trailer and the patrol vehicle being operated by Deputy Vargo, retired from County employment on October 3, 2004. On October 4, 2004, he started a new position as a Police Officer with the University of California San Diego (UCSD) Police Department. He called me back on February 28, 2005, at about 1055 hours after I left a message at his residence. I recorded our conversation. There was no one else on the line.

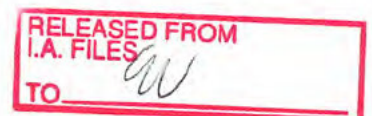
When Smith went out to [REDACTED] residence the first time no one answered the door when he knocked. He left his business card on the door. On his second visit to the [REDACTED] residence someone other than [REDACTED] answered the door. He asked the person who answered the door to have [REDACTED] call him at the Santee Station. He never identified the person he left the message with. [REDACTED] did subsequently telephone him at his office and they arranged to meet at [REDACTED] residence later.

He said he was sure he never mentioned Deputy Vargo's name to [REDACTED]. The only person who helped him on his investigation in any manner was Sergeant J. D. Ladner but Sergeant Ladner was not with him when he interviewed [REDACTED] so he is certain Ladner did not tell [REDACTED] of Deputy Vargo's involvement either.

I concluded the interview at 1101 hours.

INVESTIGATION (Continued)

I reviewed the recording of Deputy Smith's contact with [REDACTED] made on July 19, 2005. [REDACTED] made it clear during that interview, as she later did when I interviewed her, the deputy got out of his patrol car and went towards the door of the residence. She said the deputy knocked on the door of the residence but she was not clear as to whether she heard him knock, or merely assumed he did so.



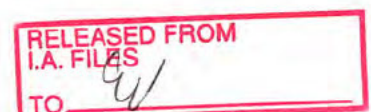
Internal Affairs Case # 2004-246.1
Investigation-Supplemental
3/1/2005

Page 4 of 4

Submitted by: Michael R. Barnett 3/1/2005
Michael R. Barnett, Sergeant Date

Approved by: G. A. Cantrell, Lt. 3/1/05
Gary A. Cantrell, Lieutenant Date

MRB:mrh





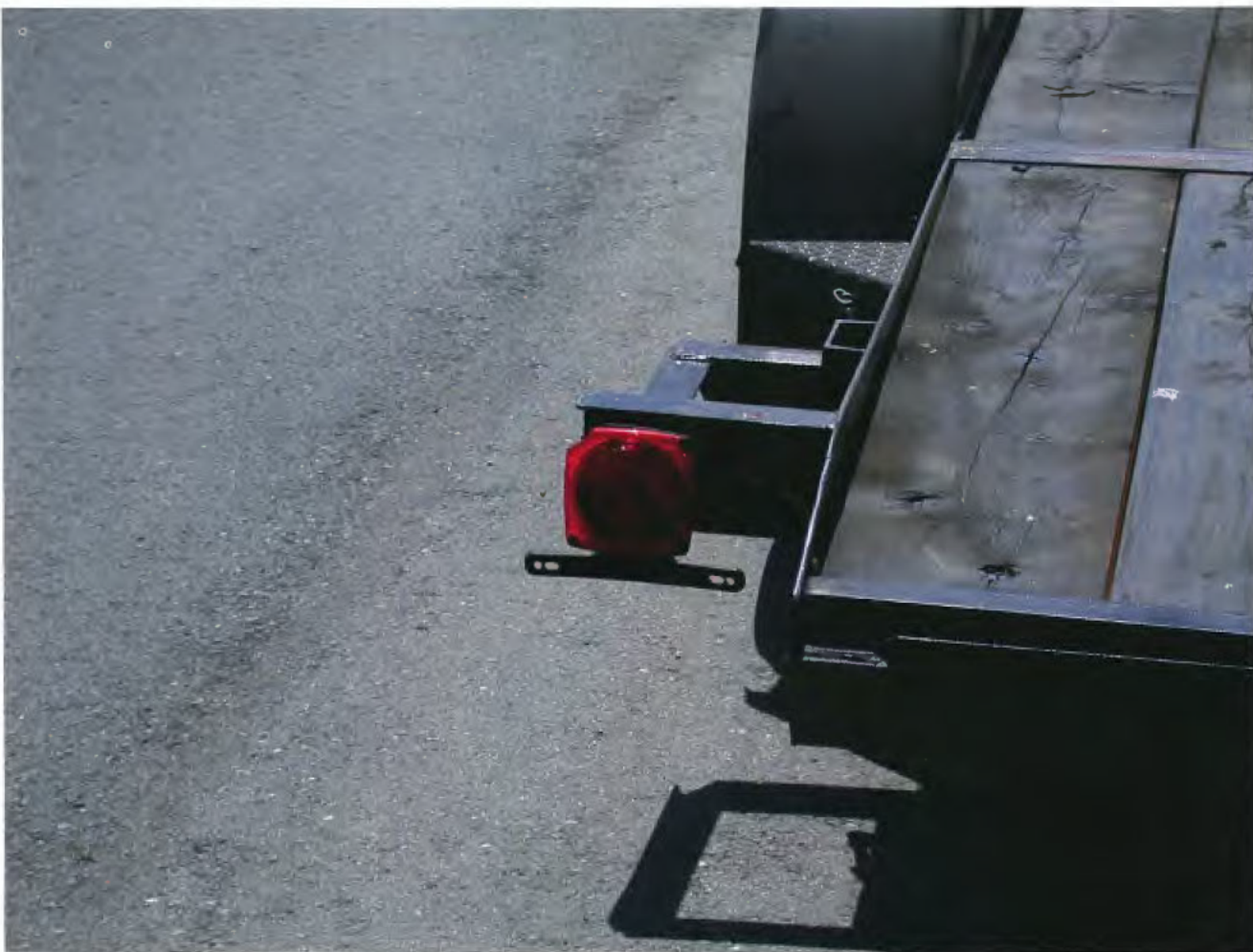
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I.A. FILES
TO *W*

1/24/2005
gjr

Memorandum

To: File/JSB
From: Fred Rodriguez *FR*
Date: February 2, 2005
Subject: San Diego County Deputy Sheriff Edward Vargo

Case Overview:

Deputy Edward Vargo is a 6 year veteran of the San Diego County Sheriff's Department having spent the last 2 years assigned to patrol. On 07/08/2004 at approximately 2214 hrs, while assigned to uniform patrol, he was dispatched to [REDACTED] (Santee) to investigate a disturbance of dogs barking.

Upon his arrival at the scene, he noted that the residence was one of several which were situated on either side of a private driveway. The driveway was perpendicular to [REDACTED] and extended at a steep incline in a southerly direction. There was no lighting with the exception of the illumination from his patrol vehicle's headlights, back-up lights, and manual lighting equipment.

Deputy Vargo drove his patrol vehicle up the private drive while searching for the numerics which would identify the residence that he was being dispatched to. At one point, while maneuvering his vehicle away from the driveway of one of the residences, Deputy Vargo accidentally collided with the rear of the occupants' parked trailer. Deputy Vargo was not aware of the collision and it wasn't until later during his shift that Deputy Vargo noticed the damage to his patrol vehicle and reported it to his supervisor. Upon reporting it to his supervisor, Deputy Vargo maintained that he had no knowledge of the circumstances surrounding the damage to his vehicle.

The events surrounding the "hit and run" by Deputy Vargo came to light on 07/19/2004 when a deputy was conducting a follow up investigation of the barking dogs complaint and spoke with the resident at [REDACTED]. During their conversation, the resident advised the investigating deputy that she had witnessed and heard the patrol car, subsequently identified as Deputy Vargo's, collide with the parked trailer and ultimately leave the scene without making any notifications to the owner. The department launched an internal affairs investigation and sustained allegations of incompetence, negligence, and

dishonesty. Based on the department's assertions of Deputy Vargo's guilt in the allegations, with the primary focus on the dishonesty allegation, it is proposing to terminate him from his position as a Deputy Sheriff.

Investigation:

Upon review of the department's completed internal affairs investigation, including listening to Deputy Vargo's tape-recorded pre-disciplinary interview with Lt. George Foote, it is apparent that the main focus and basis for terminating Deputy Vargo is not the mere fact that he was responsible for a minor collision with a parked trailer. The department, rather, asserts that Deputy Vargo *knew* that he had collided with the trailer, left the scene, and later reported the damage to his supervisor while maintaining that he did not know how the vehicle had sustained the damage. Thus, the sustained untruthfulness/dishonesty allegation.

It is without any reservation that Deputy Vargo collided his patrol vehicle with a parked trailer while on a radio call for service. The eyewitness's statements and the department's follow-up investigation would tend to prove beyond any doubt that the collision did indeed occur. Therefore, no further analysis was conducted, on behalf of Deputy Vargo's defense, as to that aspect of the investigation. Deputy Vargo, however, has steadfastly insisted that he did not know that he had been involved in the collision, therefore, emphasis has to be placed on disproving the department's contention that he did know.

In his Notice of Intent to Terminate Lt. Foote exerts a considerable amount of time outlining why he believes that Deputy Vargo knew that he had collided with the trailer. Lt. Foote sheds doubt on the fact that Deputy Vargo did not know that he had collided with the trailer by outlining the following:

"He collided with a parked trailer with enough force to cause 8" long scratches on the trailer frame¹, severely damaging the trailer's black plastic taillight housing and breaking it's (sic) red plastic taillight lens². The collision caused long scratches and gouges in the passenger side rear plastic bumper of his patrol car. The collision made enough noise that a neighbor heard the collision from inside her home and knew exactly what it was."

Lt. Foote then attempts to shed some doubt on Deputy Vargo's assertion that he mistook the sounds *"of the collision and any motion or vibration*

¹ A comprehensive search of the reports within Deputy Vargo's discipline package neglected to reveal any mention of 8" scratches on the trailer. Although the size of the scratches is irrelevant, where this information was formulated is unknown.

² In reviewing Deputy Smith's 07/20/2004 T/C report, pg 6 paragraph 2, he characterizes the damage to the trailer as "minor damage to the rear left side taillight area". Additionally, in Sgt. Barnett's Internal Affairs Investigation report he refers to the damage as, "very minor damage to the trailer", pg 6 paragraph 6.



that resulted from it as the sound and sensation of 'driving from pavement to gravel.'"

I believe that, in this case, one should not rely solely on the reports which were completed by the department after the fact nor the photographs it took of the damage to the trailer and patrol vehicle. So as to grasp the significance of the collision in the most authentic manner, I found that by personally inspecting the damage to the trailer one could better appreciate the fact that it did not take a great deal of force to "severely damage" it. Furthermore, the fact that what was damaged was the trailer's plastic taillight housing and the plastic bumper of the patrol vehicle cannot be ignored.

On 01/24/2005 I responded to the location of [REDACTED] and viewed the scene, including the trailer. After making contact with [REDACTED], the owner of the trailer, he showed me the damage that his trailer had sustained. I noted that the plastic housing of the left rear taillight which had been damaged had not been repaired. I was also advised by [REDACTED] that the cost of getting it repaired would be less than \$20.00. The time elapsed from the time the trailer had been damaged until the time of my contact with [REDACTED] was over 6 months. In speaking with [REDACTED], it appeared to me that he had no immediate intentions of getting the trailer fixed. He further advised me that the right taillight had also been damaged sometime after his left one had been damaged. He did not know the circumstances surrounding it.

In viewing the damaged left taillight, I noted that the housing extended past the actual metal brace of the trailer. The metal brace was still intact and did not appear to be damaged. This is easily depicted in the department's photographs, #'s DSCN0091-DSCN0096. The entire taillight, including the housing, could easily be manipulated without exerting very much force. It appears that this was also the fact prior to it being damaged. I also noted that prior to it being damaged, manipulation would have forced it to "snap" broken.

In reviewing Deputy Vargo's discipline packet, I noted that it includes a tape recording of his pre-disciplinary meeting with Lt. George Foote, a written traffic collision report, and 4 compact discs. 3 of the discs contain digital photographs³ while the fourth contains taped recordings of the interviews conducted by internal affairs investigators. In examining the contents of the discs containing the photographs, it is revealed that they contained a total of 21 digital photographs. Only 4 of the photographs are of the scene of the collision while the remaining 17 depict the damage sustained to the patrol vehicle and the taillight of the trailer which it collided with. It seemed peculiar to me that the department would take so many photographs of the damage sustained to the trailer and patrol vehicle but would skirt on furthering its investigation and placing any focus on the scene to ascertain whether it would be possible that Deputy Vargo did not

³ One of the discs containing the photographs is actually a duplicated copy.

know that he had been involved in the collision. On 01/24/2005, while at the location, I took 11 digital photographs of the scene of the collision.⁴

Visiting and viewing the scene first hand would serve as the ideal method in which to re-enact Deputy Vargo's actions and scrutinize his version of not knowing that he had collided with the trailer. However, viewing the photographs of the scene while keeping in mind his statements as well as those of the eyewitness does shed light on his account.

In his interviews Deputy Vargo described the scene and how the location consisted of houses on both sides of a long, steep, narrow driveway. He described how it was "pitch black" and how even though the radio call was for a complaint of barking dogs, he noted that there were barking dogs at "every house". He further described how when backing up from one of the driveways he thought that his tire went off the pavement in that he heard a crunching sound similar to that which a tire makes when it leaves the pavement and runs over loose rocks and potholes, etc. He stated that he pulled his vehicle forward, stopped, and utilizing his flashlight looked around and didn't see anything out of the ordinary. He subsequently backed back down out onto the street and after several minutes returned to the same area. He approached the front door and knocked on it without making any contact with its occupants. He then left the area.

Deputy Vargo stated that on his next radio call he was in the parking lot of a bank when he noticed damage to his patrol vehicle. He brought it to the attention of his sergeant and advised him that he might have done the damage but did not remember doing it. He offered to back track to some of his previous calls but was advised that he wouldn't have to. He further advised that if he had indeed caused the damage to the patrol vehicle he would take responsibility for it.

Continuing on with Lt. Foote's Notice of Intent to Terminate, he illustrates his doubts that Deputy Vargo, "...got out of his vehicle with his flashlight (as witnessed by the neighbor) and shined it in the area of the collision and he did not see the damage to his vehicle, the trailer or the pieces of reflective red plastic taillight lens on the driveway".

As previously noted, I took digital photographs of the scene in an effort to better illustrate how it is sufficiently reasonable and feasible that Deputy Vargo unknowingly collided the right rear of his patrol vehicle with the left rear of the parked trailer. Following are depictions of each photograph:

1] This photo was taken at the mouth of the private drive while facing in a southerly direction. According to the department's T/C report the drive extends over 175' and steeply upgrades.

⁴ For easier reference, these photos have been manually numbered 1-11.

2] This photo further depicts the steepness of the incline while also illustrating the fact that the asphalt is broken up and consists of various ruts and cracks.

3] This photo is yet another example of the condition of the asphalt while also illustrating the steep incline. At the top of the page the general area where Deputy Vargo was backing his patrol vehicle and thought that his tire had left the pavement is also shown and illustrated by the arrow.

4] This photo shows the top area of the drive which Deputy Vargo initially responded to. The repair work depicted by the colored cones was not being done at the time of the incident, however, it would tend to show that repair had to be tended to at the time of the incident.

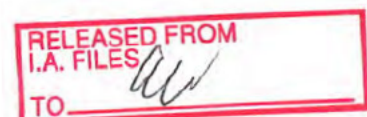
5] This photo depicts the area where the collision occurred. According to the T/C report diagram and confirmed with my interviews and contacts with [REDACTED] (owner of the trailer) and [REDACTED] (neighbor who witnessed and heard the collision), the trailer was parked, tongue facing in, just to the front of the white truck shown in the photograph. Once again, the asphalt is visibly broken with chunks of asphalt and pot holes clearly present. The corner of the lot is also at a steep angle. While there I further noted that there were fresh tire tracks off of the asphalt and on the dirt area (depicted by the arrow marking on the picture). This would tend to show that others have driven off of the asphalt and onto the adjoining dirt area and quite possibly that it is a frequent occurrence.

6] This photo is a separate angle of the area where the trailer was parked at the time of the incident and also shows the broken up asphalt and pieces of rock, gravel, etc. Also shown is [REDACTED] residence and windows which she looked out of and witnessed Deputy Vargo's patrol vehicle [REDACTED] residence also sits below the area. Her property is surrounded by steep hilly slopes thus creating a valley/basin type area⁵.

7] This photo is an additional angle of the area where the collision occurred. Note that the drive is shown and although the department's report states that it is "*approximately 15' wide and provides enough space for one full size vehicle*", it fails to state that this assumption does not provide for easy maneuvering of the vehicle into that 15' area but rather room for the vehicle once it is within the drive [photo # 11 will further illustrate this].

8] This photo provides a closer shot of the corner where Deputy Vargo was negotiating the backing of his patrol vehicle when he collided with the parked trailer. Once again, the illustration of the broken asphalt, rocks, and the uneven and raised curbside adjoining the dirt area is prominent in this picture.

⁵ This fact will be discussed later in this report.



9] This photo shows a somewhat better view of the area where the collision occurred including the broken asphalt, uneven pavement, etc.

10] This photo illustrates the steepness of the drive and gives a general idea of the difficulty in maneuvering a vehicle onto the drive.

11] As specified above, the department's T/C report states that the drive is 15' wide and would allow enough space for a full size vehicle. This picture was taken as a truck ascended up the drive. Note that there is not very much additional room on either side of the truck.

Interview of [REDACTED]:

On 1/24/2005 I made contact with [REDACTED] at her residence at [REDACTED] I interviewed her in person. The interview was tape recorded with her knowledge and permission.

[REDACTED] basically reiterated what she had initially reported to the investigating officer whom she had originally spoken to and to the internal affairs investigator. She showed me the windows which she had looked out of when she saw Deputy Vargo ascending the drive and subsequently heard him collide with the parked trailer. In his Notice of Intent to Terminate Lt. Foote stated that the collision had *"made enough noise that a neighbor heard the collision from inside her home and knew exactly what it was."*

As shown in photo # 6 I noted that [REDACTED] property was located adjacent and directly below the area where the collision had occurred. Furthermore, her residence was confined within a valley in that it was surrounded by steep slopes. Without going into the laws of physics as it pertains to the travel and velocity of sound, it would stand to reason that sounds are amplified and echoed within a basin such as where her residence is situated.⁶ [REDACTED] residence is a mobile home. The sidings of her home are not constructed of hard wood or stucco such as foundation based homes are made, but rather are constructed of fiberglass or aluminum sidings. This can explain the amplification of the sound as it bounced off the side of her residence and the fact that what she heard appeared to be loud yet Deputy Vargo who was located above [REDACTED]. [REDACTED] location did not experience the same intensity. Furthermore, being that what was damaged was plastic housing and the lens of a taillight, the "snap" which would have been heard could very easily and understandably sound quite loud.

[REDACTED] further described how she observed Deputy Vargo exit his patrol vehicle and with his flashlight illuminated, he circled his patrol vehicle. She advised me that he had done this after initially backing out of the driveway and right after colliding with the trailer. Although she had given

⁶ I can further attest to this from personal experience.

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conflicting versions of when exactly Deputy Vargo had exited his patrol vehicle and circled around his vehicle (as stated in the department's reports) this is not relevant to Deputy Vargo's defense. However, what she did advise me of his actions but did not relate to the internal affairs investigator most certainly is and sheds additional light to Deputy Vargo's account of what had transpired.

On several occasions in our interview, I asked her to elaborate on Deputy Vargo's actions of exiting his patrol vehicle and walking around it with his flashlight in hand. [REDACTED] advised me that when Deputy Vargo walked around his patrol vehicle with his illuminated flashlight in hand, he "fanned" the ground but did not fan the area of the trailer nor did he fan his patrol vehicle. She further stated that he did not "concentrate" on the patrol vehicle nor did he stop and look at any portion of the vehicle. She continued that at no time did he stop and focus on a part of his vehicle as if to say "Oh wow! That happened" or "Wow, I broke my taillight, there's a dent in my car!" She continued that after walking around his car he re-entered his vehicle and left the area only to return after several minutes and again exit his vehicle and approach the front door of [REDACTED] residence. [REDACTED] also stated that Deputy Vargo was not even close to the trailer when he was fanning his flashlight.

What is further interesting is that [REDACTED] went to [REDACTED] residence the next day and saw the trailer's broken lens and debris on the ground. Being that [REDACTED] was gone on vacation, she made contact with [REDACTED] roommate and asked him if he was aware of the damage to the trailer. He replied that he was and continued that he thought that he must have done the damage to the trailer when he had left for breakfast that morning.

Interview of [REDACTED]:

On 01/24/2005 I made contact with [REDACTED] as I was shooting photographs of the location. My contact with [REDACTED] was not tape recorded and aside from casual discussion about the incident, an interview was not conducted. [REDACTED] did not have any relevant information to offer other than the fact that a 3" X 5" note with Deputy Vargo's name had been left on the front door of his residence advising that the Sheriff's Department had visited the residence in response to a complaint of his barking dogs. I was later advised by Deputy Vargo that on his second trip to the location, he had left the note on [REDACTED] front door.

Analysis and Conclusions:

As mentioned above, the main focus of this investigation is whether Deputy Vargo knew that he had collided his patrol vehicle with the parked trailer. Lt. Foote states, "*The tragic part about this whole situation is that had Deputy Vargo just reported that he had an accident, he most likely would have gotten a verbal counseling and a note to file*". I believe that what is equally tragic about

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this whole situation is that Deputy Vargo is telling the truth about not being aware of the collision at the time that it had occurred and that further examination by the department would have revealed that.

In visiting the scene of the collision and reviewing the photographs taken, it cannot be argued that the condition of the drive consisted of loose rocks, rock chips, gravel, and pot holes, all of which make various sounds under the carriage of the vehicle when driven over such as Deputy Vargo described. We know that the damage to the trailer and patrol vehicle were scratches to the rear plastic bumper area of the patrol vehicle and a broken taillight to the trailer. Assuming that the broken lens debris was to be driven over by Deputy Vargo's patrol vehicle, the sounds of the tires running over the debris can certainly be mistaken for driving over loose rocks, pot holes, and rocks.

Lt. Foote describes how he has been in situations where someone has opened their car door into the side of his vehicle or a shopping cart had rolled into his parked vehicle while he was inside of it. He continued that he was aware of their occurrence from the sound and vibrations although there was no damage sustained. He further stated that while parallel parking he has on occasion tapped the bumper of the vehicle behind him, and while no damage occurred, the abrupt change in motion was apparent to him.

His analogies to Deputy Vargo's incident are not valid in that their respective circumstances are quite different. One important difference to consider when comparing this incident with that of Lt. Foote's comparisons are the "anticipation factor". It could be argued that in Lt. Foote's experiences, he was anticipating the clashes and therefore was mentally prepared for them when they occurred. However, in Deputy Vargo's instance, his attention was distracted by various factors.

As indicated, Deputy Vargo was searching for an address. He stated that he did not even know if he was at the right location. The lighting was nonexistent, it was "pitch black". Anyone who has experienced maneuvering within a darkened area knows that lighting from headlights can actually prove to be burdensome in that their illumination can often reflect off of buildings, other parked vehicles, and other objects (all of which were present at the location) thus adding to the distraction. Illumination from back-up lights is seldom helpful. Add to that the steep incline of the drive, its unevenness, its narrowness, the various loose rocks, and pot holes present which would add to the absence of easy maneuverability. Additionally, it can safely be assumed that Deputy Vargo's police radio was on with occasional "police chatter" and finally, the sound of the dogs around him barking⁷.

The term "collision" between the patrol vehicle and the trailer paints a certain picture in the minds of the reviewer that Deputy Vargo actually

⁷ This is further evidenced by the disposition of his call as documented on the CAD query.



"crashed" his patrol vehicle into the trailer. However, upon conducting a T/C investigation and analyzing the damage it is apparent that a crash did not occur. By looking at the damage of the trailer taillight and the way that the damaged housing extended past the metal brace, which remained undamaged, it can be shown what [REDACTED] characterized in my interview with her, that the patrol vehicle "clipped" the trailer. This characterization is certainly different than that which Lt. Foote described in his analogies when he further spoke of the "abrupt change in motion". It is evident that in Deputy Vargo's case there was no change in motion.

The question may surface however, why did Deputy Vargo exit his vehicle and shine his light around the patrol vehicle. Deputy Vargo explained that he thought that he had driven his tire off the pavement and was checking to make sure that he was still on the asphalt⁸. This is corroborated by [REDACTED]. [REDACTED] description of Deputy Vargo's actions in fanning his light around the ground but not stopping and concentrating on the trailer or his vehicle. This stands to reason. She stated that he was not close to the trailer (where presumably the debris from the broken taillight would be) and he did not stop and focus on any damage to the rear of his vehicle. That's because Deputy Vargo did not see it and was unaware of it.

This leads to an important and interesting issue. As indicated above, [REDACTED] contacted [REDACTED] roommate and brought the broken taillight to his attention. According to [REDACTED], the roommate had noticed the damage as he left the residence that morning and actually questioned himself whether he had caused the damage. This statement by the roommate would tend to show the possibility that one could cause the damage to the trailer without actually knowing for sure that he had done so.

The question also arises as to the loud sound that [REDACTED] heard when Deputy Vargo's vehicle clipped the trailer. As described above, the sound that the collision made and was heard by [REDACTED] as she stood inside her mobile home below the location which it occurred can certainly be louder than what Deputy Vargo may have heard. That is, if Deputy Vargo even heard a noise aside from all the distractions that he must have been dealing with as previously described. This would also hold true in that [REDACTED] attention was solely focused on the patrol vehicle's location and actions.

Finally, it cannot be ignored the fact that Deputy Vargo returned to the location *after* the collision with the trailer had occurred and had approached the front door of [REDACTED] residence where he left a note. The note included his name. The question begs to be asked: If Deputy Vargo knew that he had collided his patrol vehicle with the trailer and he had no intentions of reporting it or of

⁸ The fact that the possibility exists that one can drive off the drive and into the adjoining dirt area is further evidenced by photo # 5 whereas tire tracks are noticeable.

accepting any responsibility for it, would he have returned to the area where it had happened, only minutes prior, and leave any identifying correspondence?

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San Diego County Sheriff Performance Review

Employee Name: Edward J Vargo
Social Security Number: [REDACTED]
Job Code: 5746
Job Title: Dep Sheriff
Review Form Name: Sworn Line Staff
Mail Stop: S126
Department: Santee Patrol Station
Reason For Rating: Annual Review
Review Period Start: 8/13/2003
Review Period End: 8/12/2004
PS EmplID: 17171

When completed, make two copies (front and back)
Check appropriate box and distribute
☐ Original - DHR
☒ Copy - Employee
☐ Copy - Department File

Overall Rating

3.07 Fully Competent

During this entire rating period, Deputy Vargo has been assigned to the patrol division at the Santee station. He has primarily worked under the supervision of Sergeant Yoder and me. In preparing for this annual evaluation, I have solicited input from all the station sergeants, as well as having reviewed his training and station files.

Deputy Vargo shows a high level of flexibility, adapting quickly to changes in the work environment. He is a "team player", adjusting his work hours or changing from his assigned beat if needed. He is always one of the first ones to volunteer to transport a custody, when requested by supervision. Due to mandatory staffing provisions, Deputy Vargo has been assigned to work "C" shift the majority of this rating period. He has not complained about the extended stay on nights and continues to have a positive attitude and goes about his business in a professional manner.

Performance Competencies

Job Knowledge	3.00	Fully Competent
Weight: 7%		
Competent in Non-technical Job Skills & Knowledge	3	Fully Competent
Learns and Applies New Non-technical Job Skills	3	Fully Competent
Demonstrates Required Technical Skills	3	Fully Competent
Applies New Technologies	3	Fully Competent
Keeps Abreast of Current Procedures	3	Fully Competent
Uses Resources Effectively	3	Fully Competent

Deputy Vargo demonstrates competency in the non-technical job skills and knowledge required of the position. He learns and applies new non-technical job skills within the designated time period. He displays the technical skills needed to perform the job and he learns and applies new technologies in the work assignment. He demonstrates knowledge of current procedures impacting the work assignment. He consistently utilizes available resources.

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Judgment	3.00	Fully Competent
Weight: 7%		
Exhibits Sound Judgment	3	Fully Competent

Deputy Vargo gives adequate consideration to all known facts before taking action. His decisions are generally accepted.

Diligence	3.00	Fully Competent
Weight: 7%		
Completes Tasks Correctly and On Time	3	Fully Competent
Quality of Work	3	Fully Competent
Acts in Accordance With Management Direction	3	Fully Competent
Self-Motivation	3	Fully Competent
Prioritizes and Plans Work in an Organized Manner	3	Fully Competent

Deputy Vargo complies with instructions and tasks are finished in a timely manner. He produces quality work. His actions are consistent with Departmental Mission, Vision and Core Value statements. He completes tasks with minimal guidance and direction. Deputy Vargo plans workload and establishes appropriate priorities.

Safety Practices	3.00	Fully Competent
Weight: 6%		
Uses Equipment Safely (Max 3)	3	Fully Competent
Reports Unsafe Conditions (Max 3)	3	Fully Competent
Observes Safety Practices	3	Fully Competent
Exhibits Safe Driving Practices (Max 3)	3	Fully Competent

Deputy Vargo operates and maintains equipment in a safe manner. He reports unsafe conditions to the appropriate person. He observes written or commonly accepted safety guidelines in both routine and emergency situations. Deputy Vargo operates motor vehicles authorized for County use within Department guidelines or in conformance with the California Vehicle Code.

Law Enforcement & Corrections Procedures	3.00	Fully Competent
Weight: 6%		
Responds to Calls Promptly	3	Fully Competent
Radio Procedures (Max 3)	3	Fully Competent
Enforcement Activities	3	Fully Competent

Deputy Vargo acknowledges and quickly responds to calls for service and he communicates clearly on the radio and adheres to department radio procedures. He notices unusual enforcement situations, shows the ability to manage multiple enforcement activities and makes constructive use of time during non-peak periods.

Emergency Response	3.33	Fully Competent
Weight: 6%		
Recognizes Emergency Situations or Critical Incidents	3	Fully Competent
Assesses Emergency Situations or Critical Incidents	3	Fully Competent
Response to Emergency Situations or Critical Incidents	4	Exceeds Expectations



Deputy Vargo demonstrates the capability to control, defuse or resolve emergency situations or critical incidents, restoring order as soon as possible. He is able to recognize emergency situations or critical incidents. He accurately evaluates emergency situations or critical incidents.

In August, [REDACTED] telephoned Captain Reynolds to compliment the way Deputy Vargo and three other Santee deputies handled a disturbance call of a naked man running through a Santee neighborhood. When the deputies arrived on the scene, the naked male immediately charged at them. A struggle ensued as they attempted to control the subject. Although the suspect resisted initial attempts to be controlled the deputies used only the minimum amount of force required to take the individual into custody.

Eventually, the suspect admitted to ingesting cocaine and smoking two PCP laced cigarettes earlier in the evening. I arrived on the scene minutes after the confrontation and was impressed that due to the suspect's very uncooperative, drugged out state and witness's account of the event that no major injuries were suffered by either the deputies or the suspect.

[REDACTED] was very appreciative of the way the deputies handled the call. He stated "The deputies went above and beyond their call of duty."

In April, Deputy Vargo was the first responder to an attempted murder incident, which took place at Casa Picante's, a local restaurant/night club. He immediately administered first aid to the victim and with the assistance of other deputies controlled the scene. With very little assistance Deputy Vargo was able to assign deputies to the various tasks that needed to be addressed.

Within a reasonable amount of time he was able to broadcast the description of the suspect. Eventually he was able to determine the suspect's home address through a computer check and sent deputies to that location in an attempt to contact the suspect. Although Deputy Vargo has had limited exposure to critical incidents such as this, he did a good job.

Enforcement Tactics	3.00	Fully Competent
Weight: 6%		
Control of Scenes	3	Fully Competent
Use of Force	3	Fully Competent
Officer Safety	3	Fully Competent

Deputy Vargo establishes or maintains control over any crime or incident scene and he complies with the use of force policy. He follows officer safety practices by taking the necessary precautions to prevent accident, injury or risk to self and others during the course of duties.

Community & Customer Relations	3.00	Fully Competent
Weight: 5%		
Managing Difficult or Emotional Customers	3	Fully Competent
Customer Interaction	3	Fully Competent
Response to Community Concerns or Customer Needs	3	Fully Competent
Involves Citizens in Problem Solving	3	Fully Competent



Deputy Vargo is able to handle situations involving difficult or emotional customers. His interactions with customers are courteous, sensitive and fair. He responds to community concerns or requests from customers in a helpful and timely manner. He interacts with members of the community to identify and resolve neighborhood policing issues.

Problem Solving	3.00	Fully Competent
Weight: 5%		
Takes Responsibility for Problems	3	Fully Competent
Solves Problems in a Timely Manner	3	Fully Competent
Develops Successful, Quality Solutions	3	Fully Competent

Deputy Vargo takes responsibility for problems that he should or refers the remaining problems to the appropriate person. He solves problems before they grow into larger issues. He analyzes, researches and develops effective solutions to problems.

Communication	3.00	Fully Competent
Weight: 5%		
Keeps Others Adequately Informed (Max 3)	3	Fully Competent
Selection of Communication Methods (Max 3)	3	Fully Competent
Exhibits Good Comprehension Skills	3	Fully Competent

Deputy Vargo communicates pertinent information to the appropriate people at the proper time and he utilizes the appropriate communication methods to convey information. He is able to understand and retain written and verbal information presented.

Oral Expression	3.00	Fully Competent
Weight: 5%		
Speaks Clearly	3	Fully Competent
Presents Ideas That are Clear and Logical	3	Fully Competent

Deputy Vargo is able to speak in a manner that is understood by others. He presents ideas that are well organized. Conclusions are supported by available facts.

Written Expression	3.00	Fully Competent
Weight: 5%		
Use of Forms (Max 3)	3	Fully Competent
Written Composition	3	Fully Competent
Spelling, Grammar and Punctuation (Max 3)	3	Fully Competent
Crime, Arrest or Follow Up Reports (Max 3)	3	Fully Competent

His work-related forms are filled out legibly, accurately and completely. Deputy Vargo writes in a well organized, easily understood manner. Necessary facts are accurately documented. Conclusions are supported by available facts. He uses proper spelling, grammar and punctuation. Crime, Arrest or Follow Up reports contain necessary elements for prosecution.

Prisoner Control	3.33	Fully Competent
Weight: 4%		
Monitors Prisoner Activities	3	Fully Competent
Manages Difficult Prisoner Behaviors	4	Exceeds Expectations
Inmate Rights, Rules and Regulations (Max 3)	3	Fully Competent

RELEASED FROM
I.A. FILES
TO *W*

Deputy Vargo works well with prisoners, managing difficult behaviors when they occur and encouraging positive behavior change. He provides a safe and secure environment by properly monitoring prisoner activities. He knows and correctly applies inmate rights, rules and regulations as outlined in Policy and Procedures or Title 15.

Prior to his assignment in patrol, Deputy Vargo spent three years in the jails. As such, he is quite knowledgeable and always follows proper procedure as it relates to the handling of custodies.

Cooperation	3.50	<i>Exceeds Expectations</i>
Weight: 4%		
Establishes/Maintains Effective Working Relationships	3	<i>Fully Competent</i>
Assists and Supports Co-Workers	4	<i>Exceeds Expectations</i>

Deputy Vargo actively seeks opportunities to assist and support co-workers, enhancing team efforts. He is cooperative and fosters good working relationships.

On three different occasions during this rating period, Deputy Vargo assisted specialized units with the service of search warrants. Child Abuse, area detectives, and the Joint Terrorist Task Force members all commented on what a good job the deputies during these searches.

Adaptability	3.33	<i>Fully Competent</i>
Weight: 4%		
Adapts to Changes in the Work Environment	4	<i>Exceeds Expectations</i>
Reacts Well Under Pressure	3	<i>Fully Competent</i>
Accepts Criticism and Feedback	3	<i>Fully Competent</i>

Deputy Vargo shows a high level of flexibility, adapting quickly to changes in the work environment. He manages pressure situations by maintaining composure and control. He accepts constructive criticism or feedback, making positive changes.

For staffing purposes, Deputy Vargo has been asked to remain on "C" shift for the majority of this period. Although this may be somewhat of an inconvenience, Deputy Vargo has never complained and goes about his job in a professional manner.

He has worked under the direct supervision of Sergeant Yoder for three months of this rating period. Sergeant Yoder commented on Deputy Vargo's willingness to assist his beat partners whenever possible. He is always one of the first deputies to volunteer to transport a custody to jail when requested. Additionally, he'll assist the Lakeside deputies when they are backed up on calls.

Investigative Skills	3.00	<i>Fully Competent</i>
Weight: 4%		
Developing Leads	3	<i>Fully Competent</i>
Follows Up on Information Gathered	3	<i>Fully Competent</i>



Deputy Vargo develops investigative leads through use of deductive reasoning to analyze information gathered from interviews and collected evidence. He follows up on information gathered during an investigation to its logical conclusion.

Interviewing & Interrogation Techniques	3.00	Fully Competent
Weight: 4%		
Interviewing Techniques	3	Fully Competent
Interrogation Skills	3	Fully Competent

Deputy Vargo utilizes the proper interview techniques to obtain the required information from an interview. He maintains control of an interrogation by asking proper questions and using the proper strategies to elicit relevant information.

Evidence Collection	3.00	Fully Competent
Weight: 4%		
Location and Identification of Physical Evidence	3	Fully Competent
Collection of Physical Evidence	3	Fully Competent
Preservation of Physical Evidence	3	Fully Competent
Maintains Chain of Custody (Max 3)	3	Fully Competent

Deputy Vargo locates and identifies physical evidence properly. He correctly seizes, acquires and handles articles of physical evidence. He properly packages, labels and stores items of physical evidence. Deputy Vargo properly maintains a written chain of custody for physical evidence.

Punctuality & Attendance	3.00	Fully Competent
Weight: 3%		
Punctuality (Max 3)	3	Fully Competent
Attendance (Max 3)	3	Fully Competent

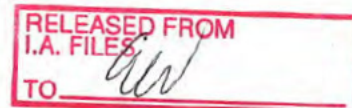
Deputy Vargo arrives prepared to commence work at designated locations at scheduled times and his unscheduled absences from assigned work location are within guidelines.

Personal Grooming & Appearance	3.00	Fully Competent
Weight: 3%		
Personal Grooming (Max 3)	3	Fully Competent
Personal Appearance (Max 3)	3	Fully Competent

Deputy Vargo is always well groomed and conforms to grooming standards or practices and he conforms to dress guidelines for the position, reflecting favorably on the department.

Corporate Directory & Station Files	3.00	Fully Competent
Weight: 0%		
Updates Corporate Directory as Needed	3	Fully Competent
Station File has Been Purged	3	Fully Competent

His entry in the Corporate Directory is current. His station file has been purged.



Goals

Deputy Vargo has stated his immediate goal is to attend classes that will be beneficial to his current patrol assignment. He realizes that the information gained will make him a more effective deputy as well as making him better prepared for future promotional opportunities.

Training

Deputy Vargo has attended the 30 hour R.O.T. class during this period.

Special Assignments

None held at this time.

Employee Acknowledgment

I have discussed this report with my Supervisor

"THE RATINGS IN THIS EMPLOYEE PERFORMANCE REPORT MAY NOT REFLECT ANY INCIDENT THAT MAY BE CURRENTLY UNDER INVESTIGATION."

Edward D. Vargo #2600 10-10-04
Employee's Signature & Date

Rated By:

Paul #1097 10/10/04
Rater's Signature & Date

T. Poulin
Rater's Name (Please Print)

RELEASED FROM
I.A. FILES
TO *W*

Reviewed By:

Lt. Foote 10/13/04
Reviewer's Signature & Date

Lt. Foote #1164

Reviewer's Name (Please Print)

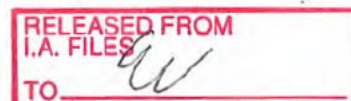
Appeals

I request an appointment to discuss this report with the appeal officer designated by my appointing authority.

Employee's Signature & Date

Appeal Review Completed

Appeals Officer's Signature & Date





COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

December 7, 2004

TO: Bill Kolender, Sheriff
San Diego County Sheriff's Department

FROM: George W. Foote, Lieutenant
Santee Station

**Discipline Recommendation and Rationale – Deputy Sheriff Edward Vargo #2600
Internal Affairs Case #2004-246.1**

RECOMMENDATION

I have listened to the interview tapes and have read the investigative reports prepared by Sergeant Michael Barnett of the Internal Affairs Unit and agree with his findings and conclusions. Based on the nature of the conduct and after weighing the factors in aggravation and mitigation, I recommend Deputy Edward Vargo's employment with the San Diego Sheriff's Department be terminated.

RATIONALE

This case involves a minor traffic collision that occurred on July 8, 2004 between a patrol vehicle driven by Deputy Vargo and a utility trailer parked in a driveway. The results of this investigation show that the vehicle driven by Deputy Vargo collided with the trailer, Deputy Vargo left the scene of the accident without notifying the owner of the damaged trailer in violation of 20002(a)(1) CVC and he failed to notify his supervisor of the accident as required by Department policy. Further, within 30 minutes of the accident Deputy Vargo reported to his supervisor, Sergeant Lee Yoder, that he discovered damage to his patrol vehicle that he missed seeing when he got the vehicle at the beginning of the shift and he "didn't want to be blamed for it later".

The Department's contention based on the witness statement and Deputy Vargo's actions following the collision is that Deputy Vargo knew he collided with the trailer, he stopped and looked at the damage, left the scene and returned a short time later to again survey the damage and perhaps determine if there were any witnesses to the accident, and then 30 minutes later falsely reported to his sergeant that he discovered damage to the vehicle for which he was not responsible. His motive for reporting the damage rather than just parking the vehicle at the end



of shift would be that the next driver of the vehicle would report the damage and he would be the last driver of record before that damage was reported and would thus be blamed for it.

Deputy Vargo maintains that he was unaware that his vehicle hit the trailer and only after he received the Internal Affairs letter and later learned that an uninvolved civilian witness reported seeing and hearing the collision, did he 'put the two together' and realized that the damage he found on the patrol vehicle resulted from his driving. However, in his statement to Internal Affairs about reporting the damage he discovered to Sergeant Yoder some 30 minutes following the accident, he says, "And I told him that I might have done it. But I didn't remember doing it and I didn't recall specifically doing it but I said if I did do it, I'll take responsibility for it. I asked him if he'd like me to backtrack on some of my previous calls to see if I hit anything and he said no."

In Sergeant Yoder's statement, he said that after Deputy Vargo brought the damage to his attention, he (Sergeant Yoder) asked if he knew how it occurred and if it was possible he had done it going off-road or something during a call. Sergeant Yoder said Deputy Vargo replied, "I don't... I don't think so. No. I would remember hitting it. I don't remember hitting anything."

There was another discrepancy between Deputy Vargo's account of his contact with Sergeant Yoder and Sergeant Yoder's account. Deputy Vargo said that he first informed Sergeant Yoder of his discovery of the damage during a call of an 'eat and skip' (where a patron left an eating establishment without paying the bill) on which Sergeant Yoder covered him. Sergeant Yoder recalled that Deputy Vargo notified him of the damage at the Santee Station. I talked with Sergeant Yoder on November 23, 2004 in an effort to resolve this before I made my final recommendation. I asked Sergeant Yoder if he recalled covering Deputy Vargo on such a call and he said he did. I asked if Deputy Vargo might have notified him of the damage during that call rather than at the station. Sergeant Yoder said it is possible that Deputy Vargo either told him about the damage or showed him the damage or both at that call. He said he recalled the damage was of a minor nature so it was not an event that would be important in his recollection. He really didn't recall for sure at what location he was shown the damage. He was however confident in his recall that while not in an accusatory manner, he asked Deputy Vargo if it was possible that he had scraped the side of his vehicle while on a call. Deputy Vargo was insistent that he did not believe he was responsible for causing the damage to the patrol car.

According to the interview of Deputy Troy DuGal, the citizen who witnessed the accident, [REDACTED], said that from inside her house she both saw and heard the collision when Deputy Vargo's vehicle struck the trailer. In her interview with Internal Affairs, she said that when she heard the collision she thought to herself, "Oh my God". She told Deputy DuGal that the patrol vehicle left and came back a short time later. The deputy driving the vehicle got out and shined his flashlight on the back passenger portion of his vehicle. She assumed he was looking at the damage to the vehicle.

Deputy Vargo denied seeing any damage to either vehicle while he was at the location on either occasion.



On November 24, 2004 at approximately 1405 hours, I met with Deputy Vargo for a pre-disciplinary conference. Deputy Vargo was given the opportunity to have a representative present but declined. The interview was tape-recorded and the tape of that interview will be given to Internal Affairs. I reviewed the finding of the case with Deputy Vargo and then allowed him to read the investigation. I advised him that he could not make any copies, but that copies of the entire package would be provided to him at a later time.

Deputy Vargo continues to maintain that he did not know that evening that he collided with the trailer. Deputy Vargo said he only now knows that he was involved in a collision because of the Internal Affairs case (that includes the witness's account and the damage to each vehicle which is such that it would indicate they collided with each other). He however had a number of conversations with Deputy Salvador and Sergeant Polidor in which he detailed the events of that night and the allegations against him. He explains that as only speculation on his part about why he was the focus of an Internal Affairs investigation.

When asked why, when he was asked if he had discussed this investigation with any other employees he said "No", Deputy Vargo offered a couple of different answers. At one point he said he remembered talking to them (Deputy Salvador and Sergeant Polidor) but didn't remember specific conversations with them. I then told him I was going to play a portion of the audiotape of his interview with Internal Affairs so we could hear exactly how the questions were asked and what his response was. At that point, Deputy Vargo asked, "Could it be possible I made a mistake in that interview? Or is that going to be held against me? Cause it's possible I just didn't, I misunderstood the question."

After I played a portion of his I.A. interview tape for Deputy Vargo, he first said he didn't remember which e-mails he sent or specifically with whom he had talked. In reference to Donna Salvador, he then said he knew he talked about this with her but he didn't discuss the facts with her, although "some of the things I discussed turned out to be the facts later, but at that time I didn't know those were the facts. Those conversations took place before I knew what this I.A. was about." Deputy Vargo later reverts back to saying he couldn't remember, at the time of his I.A. interview, having the conversations with Deputy Salvador or Sergeant Polidor.

In order for me to believe that the SUSTAINED finding for Truthfulness was in error, I would have to believe the following:

- Deputy Vargo was on a barking dog call on a summer night (presumably with his vehicle window or windows at least partially down so he could try to locate the source of the barking dog noise). He collided with a parked trailer with enough force to cause 8" long scratches on the trailer frame, severely damaging the trailer's black plastic taillight housing and breaking it's red plastic taillight lens. The collision caused long scratches and gouges in the passenger side rear plastic bumper of his patrol car. The collision made enough noise that a neighbor heard the collision from inside her home and knew exactly what it was. Deputy Vargo could mistake the sound of the collision and any



motion or vibration that resulted from it as the sound and sensation of "driving from pavement to gravel".

- Deputy Vargo got out of his vehicle with his flashlight (as witnessed by the neighbor) and shined it in the area of the collision and he did not see the damage to his vehicle, the trailer or the pieces of reflective red plastic taillight lens on the driveway.
- Deputy Vargo could send Sergeant Polidor the following two e-mails: 1) Call me asap. I need your help. I am being fucked by the man. Call me now. 2) Hey don't forget to email me that info. Actually don't just tell me. This department is full of stupid dicks that will read my email. I trust no one now. Im going on strike. Im not making one traffic stop until this whole thing is over. This sucks. Deputy Vargo then has one or more conversations with Sergeant Polidor where he in essence tells her that he is being investigated for a hit and run of a trailer that was witnessed by a neighbor while he was on a barking dog call. Following all of this communication, Deputy Vargo forgot any of this communication took place so when he was asked, "Have you had any conversations regarding the damage to your car, or to that patrol car, with any other Department employees?" he replied, "No." Similarly, e-mail was sent to Deputy Salvador and he discussed the accident with her on at least three occasions, but he did not remember talking with her about it.

I have on several occasions, had someone open his or her car door into the side of my vehicle in a parking lot, or had a shopping cart roll into my parked vehicle while I was inside the car. While there was little or no damage caused, I was very much aware from the sound and vibration that these events had occurred. Also, while parallel parking, I have once or twice tapped the bumper of the vehicle behind me and while no damage occurred, the abrupt change in motion was readily apparent to me. I have a difficult time believing that this collision could occur, breaking off parts of the trailer, gouging the side of the patrol vehicle as it did and making a sufficient volume of collision noise for a neighbor to hear it from inside her home without Deputy Vargo being aware that he just hit the trailer.

Further, Deputy Vargo is seen to get out of his vehicle with a flashlight and illuminate the area on the vehicle where the damage occurred, yet he said he did not see the damage. However, within a half hour Deputy Vargo saw the damage while at another location and reported it to his sergeant. If this wasn't the normal vehicle Deputy Vargo drove, what made him think that this damage wasn't there from before and had not already been reported? He didn't say, "Sergeant Yoder, I noticed some damage to this vehicle. This isn't the vehicle I usually drive. I looked for a damage log to see if this was reported damage. I could not find a log so I thought I should report this so I don't get blamed for it." Instead, he just assumed that the damage had gone unreported. Why?

While I prefer to give the employee the benefit of the doubt, this just does not add up to Deputy Vargo telling the truth. While these falsehoods can't absolutely be proven, the lack of truthfulness during Deputy Vargo's Internal Affairs interview can and was proven. I believe



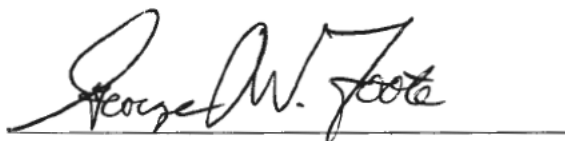
Deputy Vargo's possible motive for lying about whether he had discussed this case with any other Department employees came as a result of an e-mail from Sergeant Barnett dated September 13, 2004 in which he is told, "You may not discuss this investigation with anyone other than your attorney or employee representative." The known conversations with Sergeant Polidor and Deputy Salvador most likely occurred before this particular e-mail was sent. However, I believe that Deputy Vargo was under the mistaken impression that he could be in trouble for having had those conversations. If I don't believe one of Deputy Vargo's explanations that he forgot he had those conversations or that he misunderstood the question (and I don't) then I have to believe that he was being untruthful to keep out of trouble. And that is what this whole Internal Affairs case is about in the first place.

During my pre-disciplinary conference with Deputy Vargo, he said he felt the Internal Affairs Investigators should have just told him they knew of his e-mails to and conversations with Sergeant Polidor and Deputy Salvador because, "...Why would they try to catch me in a lie like that? I mean it seems to me, it seems to me unfair because I didn't know, I'm, I'm telling them I can't remember. And it's almost like they're trying to prove that I, to prove that I do remember. And I didn't remember why (unintelligible) those e-mails or what those conversations were. I guess it's my word against anybody else's that says I do remember."

The tragic part about this whole situation is that had Deputy Vargo just reported that he had an accident, he most likely would have gotten a verbal counseling and a note to file.

Our Department's reputation has been tainted by this incident. The public trust is very fragile because people tend to paint law enforcement with a broad brush (the fallout from the Rodney King case being an example). There are two citizens, the witness to the accident and the owner of the trailer, who may now believe that San Diego County Sheriff's Deputies believe they are "above the law" because they can hit a parked vehicle and just leave the scene without notifying the owner. I can only imagine that each of them have told two friends about the incident, which have told two friends, who have told two friends and so on.

Honesty is the Department's first Core Value. There is much case law that supports the termination of law enforcement officers who are found to be untruthful. A sustained truthfulness finding potentially renders an officer functionally useless to the Department and the public in future court cases as it is discoverable and thus may be used to impeach the officer's testimony. The public demands and deserves that the integrity of the law enforcement officers that serve it be beyond reproach. All of these factors combined make termination the appropriate discipline for this case.



George W. Foote, Lieutenant
Santee Station



Greg Reynolds

Greg Reynolds, Captain
Santee Station

(☒) Approved () Disapproved

Date: 12/7/04

COMMENTS: _____

Robert Apostolos, Commander
Law Enforcement Operations – Southeastern

() Approved () Disapproved

Date: _____

COMMENTS: _____

William Gore, Assistant Sheriff
Law Enforcement Services Bureau

() Approved () Disapproved

Date: _____

COMMENTS: _____



Barry Zuniga, Undersheriff
San Diego Sheriff's Department

☐ Approved ☐ Disapproved

Date: _____

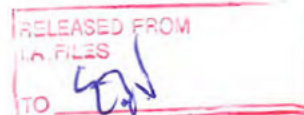
COMMENTS: _____

William B. Kolender, Sheriff
San Diego County

☐ Approved ☐ Disapproved

Date: _____

COMMENTS: _____





San Diego County Sheriff's Department

Post Office Box 429000 • San Diego, California 92142-9000



William B. Kolender, Sheriff

Barry R. Zuniga, Undersheriff

January 14, 2005

Everett L. Bobbitt
Law Offices of Bobbitt & Pinckard
8388 Vickers Street
San Diego, CA 92111

Re: Deputy Edward Vargo

Dear Mr. Bobbitt:

Your discovery request was received in the Internal Affairs Unit on January 13, 2005.

With regard to your discovery request in the matter of Deputy Edward Vargo, Deputy Vargo was provided copies of all materials upon which the proposed action is based. Pursuant to this letter, I will direct my staff to prepare copies of any audiotapes. As soon as these tapes are ready, your office will be contacted.

A copy of Sheriff's Policy and Procedure, Section 2 (Rules of Conduct) is enclosed, containing the policy sections charged in this case.

Sincerely,

WILLIAM B. KOLENDER, SHERIFF

Gary A. Cantrell, Lieutenant
Internal Affairs Unit

51/14/05 - U.S. MAILED
ATTACHED COPY OF RULES OF CONDUCT 2-1
Keeping the Peace Since 1850

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A Professional Corporation

8388 Vickers Street
San Diego, California 92111-2109Everett L. Bobbitt
Richard L. Pinckard
Bradley M. Fields
Julie Steele BuechlerTelephone (858) 467-1199
Facsimile (858) 467-1285
website: coplaw.orgAnnette Burstein
Legal Administrator

January 13, 2005

Sheriff William B. Kolender
San Diego County Sheriff's Department
P.O. Box 42900
San Diego, CA 92124-9000VIA FACSIMILE AND US MAIL
(858) 974-2244

Re: Deputy Edward Vargo

Dear Sheriff Kolender:

Our office represents Deputy Edward Vargo for the purpose of appeal from the notice of intended termination served him on January 11, 2005. Deputy Vargo denies the allegations on which this action is based and requests an opportunity to respond to the allegations at the earliest opportunity. Julie Buechler will serve as Deputy Vargo's representative in this matter.

Prior to any disciplinary proceeding our client is entitled to any relevant information related to the proposed discipline. Relevant information includes evidence that has any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action, or the truthfulness of a witness's testimony or of a declarant's hearsay statement. (See Evidence Code §210, §780, §1202). Penal Code §135.5¹ has expanded the nature of information that must be provided to a public safety officer during any disciplinary proceeding. It is now unlawful to conceal any relevant evidence during the disciplinary process. Concealment would include knowingly not providing any relevant evidence.

I recognize some information that may not be relevant to the appointing authority in order to make a decision regarding discipline of a public safety officer would be relevant to my client to disprove the allegations or mitigate the facts or level of discipline. Therefore, I have provided a list of information that we consider relevant to defending our client from the allegations alleged in the proposed notice of discipline. Relevant evidence also includes evidence, which may assist in mitigation of the level of discipline. Please keep in mind the information we are requesting is in addition to that information that must be provided pursuant to Skelly v. State Personnel Board.

In behalf of our client we request the following information:

1. A current copy of all policies and procedures alleged to have been violated by our client.
2. All written reports (as defined by San Diego Police Officers Assn. v. City of San Diego (2002) 98 Cal. App. 4th 779) prepared as a result of the allegations against our client.
3. All investigator notes.

¹ Penal Code §135.5 states "Any person who knowingly alters, tampers with, conceals, or destroys relevant evidence in any disciplinary proceeding against a public safety officer, for the purpose of harming that public safety officer, is guilty of a misdemeanor.

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4. A copy of all radio transmissions related to this investigation.
5. All written or recorded statements of any potential witness.
6. All prior criminal history of any known potential witness related to this investigation.
7. All information that could lead to or tends to mitigate the conclusions as set forth in the proposed notice of discipline. Information includes any information known to members of your agency whether in a written form or merely within the knowledge of members of your staff.
8. All statements or utterances by our client, oral or written, however recorded or preserved, whether or not signed or acknowledged by our client.
9. The names and addresses of any witness who may have knowledge of the events that caused the discipline to be proposed.
10. An opportunity to examine all physical evidence obtained in the investigation against our client.
11. All laboratory, technician, and other reports concerning the testing and examination of any physical evidence.
12. All reports of experts made in conjunction with the case, involving the results of physical or mental examinations, scientific tests, experimental or comparisons which relate to the allegations as set forth in the notice of proposed discipline.
13. All photographs, motion pictures, or videotapes taken during the investigation.
14. Any exculpatory or mitigating evidence in the possession of your agency.
15. Any information relevant to the credibility of any witness.
16. Any potential rebuttal evidence in the possession of your agency.
17. Any and all relevant evidence known or in the possession of your agency.
18. Any recommendations from supervisory or management staff that differ or contradict the current conclusions or recommendation of discipline.
19. All performance evaluations for the past ten (10) years.
20. Any and all materials reflecting documentation of positive or negative performance maintained in any department files (including Internal Affairs files).
21. Any and all notes, minutes and/or materials from any meetings or discussions involving captains or chiefs in the process of determining the level of discipline to be proposed.
22. Any and all electronically stored data including email and any other computer generated files.
23. Any and all findings of the Citizen's Law Enforcement Review Board relating to this proposed discipline.
24. All discoverable information under Penal Code §1054 as required by San Diego Police Officers Association v. City of San Diego (2002) 98 Cal App. 4th 779.

Any information not provided violates Government Code §3303(g) and subjects your agency to penalty of up to twenty-five thousand dollars plus attorney fees.

Please treat this request as a continuing request until this matter has been settled or adjudicated. Thank you for your anticipated cooperation.

Sincerely,



Everett L. Bobbitt



ELB/rab

cc: Internal Affairs

BOBBITT & PINCKARD

A Professional Corporation
8388 Vickers Street
San Diego, California 92111

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Bradley M. Fields
Julie Steele Buechler

Annette Burstein
Legal Administrator

Telephone (858) 467-1199
Facsimile (858) 467-1285
website: coplaw.org

facsimile transmittal

To: SDSO/IA **Fax:** 858 974-2077

From: Annette Burstein **Date:** 1/13/2005

Re: Edward Vargo **Pages:** 3

CC:

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