

2007-223.1



San Diego County SHERIFF'S DEPARTMENT

NOTICE OF PROPOSED DISCIPLINARY ACTION

TO: William B. Kolender, Sheriff		DATE: 04-09-2008	
It is recommended that the following disciplinary action be administered to the below named employee:			
EMPLOYEE'S NAME:	Jesus Sanchotena	TITLE:	Deputy Sheriff-Detentions/Ctsv
DEPARTMENT POLICY AND / OR PROCEDURE SECTION(S) VIOLATED:	2.4 Conduct Unbecoming	2.46 Truthfulness	
	2.6 Conformance to Law		
	2.30 Failure to Meet Standards		
RECOMMENDED DISCIPLINE:	Termination		
SECOND LEVEL SUPERVISOR:	Michelle Skoglund, Lieutenant-Detentions	DATE:	4-9-2008
LIST PRIOR RELATED OFFENSE(S) WITHIN LAST FIVE YEARS WITH DATE & ACTION			
I have been advised of the above charges and recommended discipline:			
EMPLOYEE'S SIGNATURE:	<i>[Signature]</i>	DATE:	05/12/08
2 nd LEVEL SUPERVISOR SIGNATURE:	<i>[Signature]</i>	DATE:	5/12/08
3 rd LEVEL SUPERVISOR SIGNATURE:	<i>[Signature]</i> CAPT	DATE:	7-8-08
COMMENTS:			
REVIEWED BY INTERNAL AFFAIRS:	<i>[Signature]</i>	DATE:	07-07-08
4 th LEVEL SUPERVISOR SIGNATURE:	Lori A. Bird, commander <i>[Signature]</i>	DATE:	7-8-08
COMMENTS:			
ADDITIONAL REVIEW:	<i>[Signature]</i> FOR A. H. Guerin II, Assistant Sheriff	DATE:	7-8-08
ADDITIONAL REVIEW:	<i>[Signature]</i> William W. Gore, Undersheriff	DATE:	7/21/08
ADDITIONAL REVIEW:	<i>[Signature]</i> William B. Kolender, Sheriff	DATE:	7-25-08
INTERNAL AFFAIRS SECTION			
<input type="checkbox"/> WRITTEN REPRIMAND BY:		DATE:	
<input checked="" type="checkbox"/> NOTICE OF INTENT AND CHARGES:	<i>[Signature]</i>	DATE:	5/12/08
<input checked="" type="checkbox"/> ORDER SERVED:	<i>[Signature]</i>	DATE:	8-27-08
<input checked="" type="checkbox"/> CIVIL SERVICE NOTIFIED:	P. Lorenz, AdminSecII	DATE:	08-27-2008
<input type="checkbox"/> PAYROLL NOTIFIED:		DATE:	
FINAL ACTION TAKEN:	TERMINATION	DATE:	07-21-2008

RELEASED FROM
IA FILES
S.S.

FROM THE OFFICE OF

INTERNAL AFFAIRS – CONFIDENTIAL

August 27, 2008

IA# 2007-223.1

TO: Civil Service Commission

FROM: William Kemery, Lieutenant
Internal Affairs Unit

ORDER OF TERMINATION AND CHARGES – JESUS SANCHOTENA

The Order of Termination and Charges dated 07-07-2008 filed against Jesus Sanchotena has been received by the Civil Service Commission on: _____

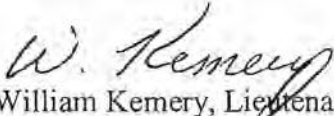
Date

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



RECEIPT OF MATERIALS

EMPLOYEE: JESUS SANCHOTENA #6842

Case # 2007-223.1

DESCRIPTION OF DOCUMENT	EMPLOYEE RECEIVED (DATE & INITIAL)	APPOINTING AUTHORITY (Date & Sign)
Notice of Proposed Disciplinary Action to Jesus Sanchotena dated 04-09-2008	J.S. 05/12/08	Chad 5/12/08
Notice of Intent of Termination And Charges to Jesus Sanchotena dated 04-24-2008		
Discipline Recommendation & Rationale to Sheriff Kolender from Lieutenant-Detentions M. Skoglund dated 02-15-2008		
Investigative Reports by Sergeant J. Maryon dated 07-14-2008 and attachments		
Skelly Conference Letter to Jesus Sanchotena		
Order Not to Disclose Materials to Jesus Sanchotena		
Declaration/Acknowledgement of Personal Service		
One (1) CD-R		



San Diego County Sheriff's Department

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



William B. Kolender, Sheriff

William D. Gore, Undersheriff

July 7, 2008

Jesus Sanchotena
[REDACTED]
[REDACTED]

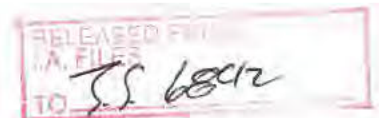
Dear Deputy Sheriff-Detentions Jesus Sanchotena:

ORDER OF TERMINATION AND CHARGES, CASE #2007-223.1

I hereby order that you be terminated from your position as a Deputy Sheriff-Detentions (Class #5757) 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 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 Section **2.6 Conformance to Laws and 2.4 Unbecoming Conduct**, in that: While working House 2 at the George Bailey Detention Facility, you furnished a fellow employee with one pill of the prescription drug, "Cialis." On another occasion, while in the parking lot of the South Bay Detention Facility, you sold the same employee several pills of the same prescription drug, "Cialis." Your acts of furnishing and selling "Cialis" pills to another person were in violation of Section 4051(a) of the California Business and Professions Code.



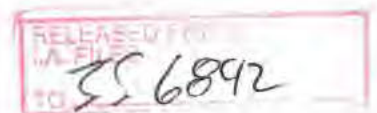
CAUSE II

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 and 2.30 Failure to Meet Standards**, in that: On December 19, 2007, when you were ordered to answer the questions asked by Internal Affairs investigators truthfully, completely, and to the fullest extent of your knowledge, you were evasive in your answers. When you were asked specific questions related to specific criminal misconduct, you used selective memory to conceal your conduct by saying, "*I do not remember.*" Your failure to remember specific details demonstrates a failure to meet the standards we would expect of a deputy sheriff.

CAUSE III

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 Causes I and II above.

Your attention is directed to Sections 904.1, 904.2, 909, 909.1, 910.1(k), and 910 (k)(l) of the Charter of the County of San Diego and Rule VII of the Civil Services 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 ten (10) calendar 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) calendar day period.



Order of Termination and Charges, I.A. Case #2007-223.1
Deputy Sheriff-Detentions Jesus Sanchotena
July 7, 2008

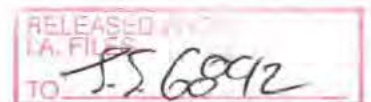
Page 3

Sincerely,

A handwritten signature in black ink, appearing to read "W. B. Kolender".

William B. Kolender, Sheriff

WBK:jem



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

Jesus SANCHOTENA personally at RIDGEHAVEN on
August 27, 2008.

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

Executed this 27 day of 2 August, 2008, at SAN Diego, California.

J. Sanchotena
Signature of person making personal service

ACKNOWLEDGEMENT OF SERVICE

I do hereby acknowledge receipt of the above noted document.

Executed this 27 day of AUGUST, 2008.

SIGNED [Signature]

IA# 2007-223.1





San Diego County Sheriff's Department

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



William E. Kolender, Sheriff

William D. Gore, Undersheriff

April 24, 2008

Jesus Sanchotena
[REDACTED]
[REDACTED]

Dear Deputy Sheriff-Detentions Jesus Sanchotena:

NOTICE OF INTENT TO TERMINATE AND CHARGES, CASE #2007-223.1

Please take notice that it is my intention to recommend to the Sheriff that you be terminated from your position as a Deputy Sheriff-Detentions (Class #5757) 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 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 Section **2.6 Conformance to Laws and 2.4 Unbecoming Conduct**, in that: While working House 2 at the George Bailey Detention Facility, you furnished a fellow employee with one pill of the prescription drug, "Cialis." On another occasion, while in the parking lot of the South Bay Detention Facility, you sold the same employee several pills of the same prescription drug, "Cialis." Your acts of furnishing and selling "Cialis" pills to another person were in violation of Section 4051(a) of the California Business and Professions Code.



"Keeping the Peace Since 1850"

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 and 2.30 Failure to Meet Standards**, in that: On December 19, 2007, when you were ordered to answer the questions asked by Internal Affairs investigators truthfully, completely, and to the fullest extent of your knowledge, you were evasive in your answers. When you were asked specific questions related to specific criminal misconduct, you used selective memory to conceal your conduct by saying, "*I do not remember.*" Your failure to remember specific details demonstrates a failure to meet the standards we would expect of a deputy sheriff.

CAUSE III

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 Causes I and II 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 Kemery of the Internal Affairs Unit.

You have until 4:30 p.m. on MAY 19, 2008, 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 your response is unsatisfactory, an Order of Termination and Charges will be served upon you and the discipline initiated.



Notice of Intent to Terminate and Charges, I.A. Case #2007-223.1
Deputy Sheriff-Detentions Jesus Sanchotena
April 24, 2008

Page 3

Sincerely,

WILLIAM B. KOLENDER, SHERIFF

Daniel J. Pena, CAPT
Daniel J. Pena, Captain-Detentions
George Bailey Detention Facility

WBK:DJP:jem



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**

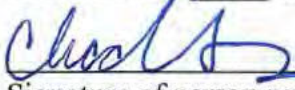
- ☐ **NOTICE REGARDING RESTRAINING ORDER DATED**

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

JESUS SANCHOTENA personally at RIDGEHAVEN on
MAY 12, 2008.

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

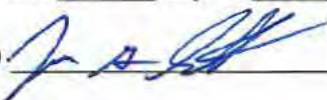
Executed this 12 day of MAY, 2008, at SAN DIEGO, California.


Signature of person making personal service

ACKNOWLEDGEMENT OF SERVICE

I do hereby acknowledge receipt of the above noted document.

Executed this 12 day of MAY, 2008.

SIGNED 

IA# 2007-223.1





COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

June 25, 2008

TO: William B. Kolender, Sheriff

FROM: Will Brown, Captain
Vista Detention Facility

SKELLY CONFERENCE - DEPUTY JESUS SANCHOTENA - I.A. CASE #2007-223.1

SYNOPSIS

Deputy Jesus Sanchotena, a ten year employee assigned to the South Bay Detention Facility, was the subject of the above referenced Internal Affairs investigation. The investigation followed an allegation that Sanchotena furnished and sold another Sheriff's Department employee several pills of the prescription drug, "Cialis."

COMMAND RECOMMENDATION

The investigation resulted in sustained findings of 2.6 *Conformance to Laws* and 2.4 *Unbecoming Conduct* against Deputy Sanchotena, for which his command recommended termination.

CONDUCT OF SKELLY CONFERENCE

By mutual agreement, the Skelly Conference was scheduled for Wednesday, June 4, 2008. It was held in the Conference Room at the Vista Detention Facility. Present were Attorney Rick Pinckard and I as the Hearing Officer.

The Skelly Conference convened at approximately 1000 hours. I digitally recorded the conference and the recording was subsequently downloaded onto a compact disk and submitted with this report.

Mr. Pinckard opened with an acknowledgement that Deputy Sanchotena had reviewed and received copies of the following documents:

- Notice of Proposed Disciplinary Action
- Notice of Intent to Terminate
- Investigative reports and any other materials relevant to this matter



June 25, 2008

Page 2

Mr. Pinckard advised me that Deputy Sanchotena would not be attending the conference and he (Pinckard), was prepared to continue without Sanchotena. Mr. Pinckard confirmed he had received and reviewed all documents related to this matter and was prepared to proceed with the conference, with me as the Hearing Officer.

RESPONSE TO CHARGES

Mr. Pinckard did not dispute the factual nature of the charges but desired to reexamine the recommended discipline. Mr. Pinckard believed a 60 to 90 days suspension would be a more appropriate level of discipline than termination.

Mr. Pinckard did not present any new information concerning this incident. He said "Sanchotena was not in a position to refute any of the allegations against him and that he was not calling [REDACTED] a liar." Mr. Pinckard believed this incident was a situation of "very, very poor judgment" on the part of Deputy Sanchotena.

Mr. Pinckard held that "when you have medications that are readily available south of the border and you frequently go to and from Mexico and you can acquire these medications legally, it is easy to blur the lines of distinction between what requires a prescription in the United States and what you can acquire in fairly abundant quantity down in Mexico."

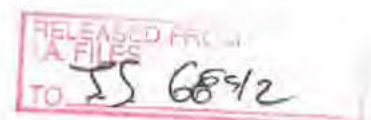
Mr. Pinckard said that "Sanchotena believed he was simply doing a favor for a friend" and, he did not believe that Sanchotena thought he had done anything wrong by selling Cialis to [REDACTED]. Mr. Pinckard said, "This is different than a deputy standing out on the street corner selling cocaine or buying methamphetamine. Cialis is a drug that is not typically abused; it is not an addictive drug or a drug that you would think of as being a controlled substance. It was just poor judgment, very, very poor judgment on Sanchotena's part."

Deputy Sanchotena was presented as someone who has had his "ups and downs," is a decent employee, and has the respect of his peers. Essentially, Mr. Pinckard said that Deputy Sanchotena is a tenured employee who does quality work and is a quality employee.

Additionally, Mr. Pinckard said, "Sanchotena had not been criminally charged and the incident did not have a lot to do with how Sanchotena performed his duties as a deputy sheriff." In closing, Mr. Pinckard said that Sanchotena's actions were an embarrassment to the department and that discipline should be substantial," however he believed that termination was not justified.

DISCUSSION

Mr. Pinckard agreed with the findings of the case however, he gave several mitigating reasons as to why he believed termination was excessive and should be lessened to a substantial number of days off without pay. Deputy Sanchotena's absence from the conference was problematic in that I was unable to ascertain from him, his frame of mind during the time of the incident and his present attitude about the events that have transpired.



Throughout the investigation, Deputy Sanchotena was unable to remember pertinent facts that would have provided liberating testimony on his behalf. However, when posed with similar questions, [REDACTED] was able to consistently remember the event and transactions that took place between him and Deputy Sanchotena.

Deputy Sanchotena's entire defense rests upon his inability to clearly remember any details of the events that led to the investigation. In examining the case, Deputy Sanchotena's comments were at times inconsistent and had the appearance of being untruthful. Although examples of this behavior are illustrated in a number of statements made by Deputy Sanchotena during his interview with Internal Affairs investigators, the most telling inconsistency is found in the following statement:

When asked if he had ever met with [REDACTED] and exchanged pills for money, Deputy Sanchotena answered "No."

Deputy Sanchotena's recollection of his encounter with [REDACTED] was, until this point, a vague memory. He could not remember sending nor receiving emails from [REDACTED]. Deputy Sanchotena could not remember if he had discussions with [REDACTED] concerning the sale of pills for money.

In essence, Deputy Sanchotena was not able to remember if he had completed any of the preparatory acts that led to the actual exchange of prescription pills for money however, he definitively asserted that he had not committed the act of selling Cialis. I believe it is highly improbable that Deputy Sanchotena remembers he did *not* exchange Cialis for money, but cannot remember if he performed acts that helped facilitate the transaction.

CONCLUSIONS

The only matter in dispute concerning this case appears to be the level of discipline levied upon Deputy Sanchotena. The Internal Affairs investigation, Disciplinary Recommendation and Rationale, together with Mr. Pinckard's acknowledgement of Sanchotena's poor judgment, gives serious consideration to the proposed level of discipline.

Mr. Pinckard offered Deputy Sanchotena as someone who was simply "Helping out a friend" and that Deputy Sanchotena's actions were "Different than a deputy standing out on the street corner selling cocaine or buying methamphetamine." However, Deputy Sanchotena's technique of packaging the pills in a cellophane bindle is in many ways consistent with the methods used by drug dealers.

Deputy Sanchotena's memory of the events that took place pales in contrast to [REDACTED] vivid recollection of the same dealings. This investigation reveals a case of [REDACTED] providing detailed information that paints an obvious picture of what actually occurred between him and Deputy Sanchotena. The detail and consistency of [REDACTED] statements are objectively more reliable and when weighed against the statements of Deputy Sanchotena, have more convincing force and the greater probability of truth.

June 25, 2008

Page 4

Deputy Sheriffs occupy positions of public trust. Absolute honesty, integrity and a strong sense of justice are fundamental and essential qualities. Deputy Sanchotena used extremely poor judgment by selling prescription pills to [REDACTED]. His conduct was unbecoming of a person in whom public trust has been bestowed.

Based on the facts of this case, it is apparent that regardless of his ability to remember the act, Deputy Sanchotena was untruthful in stating that he did not sell Cialis to [REDACTED]. Deputy Sheriff's are required to factually recall people, places and events. The totality of this situation casts doubt on Deputy Sanchotena's ability to perform his duties at an acceptable standard and has irreparably devalued his credibility as a trusted employee.

RECOMMENDATION

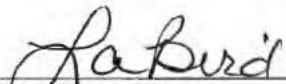
I recommend the charges and proposed discipline be affirmed.



Will Brown, Captain
Vista Detention Facility

June 25, 2008

Page 5



Lori Bird, Commander
Detention Operations Area 1

(☒) Approve () Disapprove

Date: 7-8-08

Comments: _____


 For

Al Guerin, Assistant Sheriff
Detention Services Bureau

(☒) Approve () Disapprove

Date: 7-9-08

Comments: J. INGRASSIA, COMMANDER / ACTING A/S

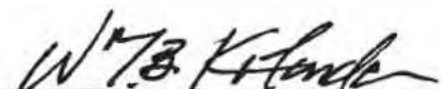


William D. Gore, Undersheriff

(☒) Approve () Disapprove

Date: 7/21/08

Comments: _____



William B. Kolender, Sheriff

(☒) Approve () Disapprove

Date: 7-21-08

Comments: _____

Disse



COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

February 15, 2008

TO: William B. Kolender, Sheriff

FROM: Michelle Skoglund, Lieutenant- Detentions
South Bay Detention Facility

VIA: Chain of Command

Disciplinary Recommendation and Rationale for Deputy Sheriff-Detentions Jesus Sanchotena;
IA Case #2007-223.1

Recommendation:

I have reviewed the investigative report prepared by Sergeant John Maryon and concur with his sustained findings in the complaint against Jesus Sanchotena for violation of Sheriff's Department Rules of Conduct Sections: 2.6 - Conformance to Laws and 2.4 - Unbecoming Conduct.

However, I disagree with Sergeant Maryon's decision not to charge Deputy Sanchotena with violation of Sheriff's Department Rules of Conduct Sections: 2.30 - Failure to Meet Standards and 2.46 - Truthfulness. After listening to Deputy Sanchotena's interview with Sergeant Maryon, reviewing the evidence and the investigation, I find there is a preponderance of evidence to sustain on both of those charges.

Based upon the nature of conduct involved, the sustained violations, and after weighing factors of mitigation and aggravation, I recommend TERMINATION as the discipline imposed upon Jesus Sanchotena.

Rationale:

In the investigation by Sergeant Maryon, a preponderance of evidence proved Deputy Sanchotena sold the prescription drug *Cialis* to [REDACTED]. Among the evidence were [REDACTED] consistent statements to Drug Enforcement Administration Special Agent Taylor and to Sergeant Maryon during the internal affairs interview. [REDACTED] stated he purchased five *Cialis* pills from Deputy Sanchotena in the public parking lot adjacent to the South Bay Courthouse for ten dollars each and that the pills were in a plastic type bag tied in a knot.



February 15, 2008

Page 2

Further evidence is the six electronic mail messages from the Department's Outlook accounts assigned to [REDACTED] and Sanchotena in which they discuss plans for [REDACTED] to obtain "pills" from Sanchotena.

In contrast to [REDACTED], during the course of this investigation Deputy Sanchotena answered questions in an evasive manner. Deputy Sanchotena did not "remember" sending or receiving electronic mail messages concerning pills even though his name is listed as either the addressee or sender. He did not "remember" having any conversation with [REDACTED] about pills and he does not "remember" if he sold pills to [REDACTED]. The fact that Deputy Sanchotena does not "remember" is not a denial. Furthermore, this incident has a witness as well as electronic mail messaging evidence to support the sustained findings that Deputy Sanchotena committed a criminal act.

What makes this act so egregious is the State of California considers *Cialis* to be a controlled substance when taken without a prescription. In Deputy Sanchotena's internal affairs interview, he said he knew *Cialis* was a prescription drug and he said he knew it was a crime to possess *Cialis* without a prescription; yet, he sold the controlled substance to [REDACTED]. Deputy Sanchotena purchased the pills in Tijuana and transported it into the United States. He repackaged the pills into what can only be considered a "Bindle" commonly used by drug dealers and unlawfully dispensed it to a fellow employee for a profit, which is a crime. Sold legally, *Cialis* can be purchased in the United States for two to three dollars per pill.

Deputy Sanchotena's actions put an employee at potential risk of serious medical complications. *Cialis* is a prescription drug prescribed by a doctor because it can cause blood pressure to drop suddenly to an unsafe level if it is taken with certain other medicines and some of the active ingredient of *Cialis* remains in your body for two days.

Deputy Sanchotena's conduct in transporting, packaging and selling a controlled substance has the obvious effect of destroying the aura of trustworthiness inherent in the position of any peace officer. It severely erodes the credibility of the law enforcement profession expected to arrest and confine people who sell controlled substances.

It is difficult to believe any reasonable person would accept Deputy Sanchotena's claim he did not "remember" whether he wrote electronic messages from his account concerning the controlled substance or whether he sold the controlled substance to [REDACTED]. A reasonable person would find it even more difficult to believe this claim after Deputy Sanchotena was shown the electronic mail messages and told about [REDACTED] statements during the internal affairs interview. According to Deputy Sanchotena, he had trouble remembering because in his own words, "It's been so long I don't remember what happened that day."

A reasonable person may not be able to describe what they had for dinner three weeks ago but when asked they can describe the Thanksgiving meal from a year ago because it is not an ordinary event. As a Department, we need to feel comfortable that our employees can recognize

February 15, 2008

Page 3

and remember unusual events. It is part of Deputy Sanchotena's duties to recognize criminal behavior amongst our inmate population, appropriately act and document what happened.

Deputy Sanchotena's failure to remember that he committed a crime calls into question if he can or ever has served effectively for the Department.

However, it is very disingenuous for Deputy Sanchotena to claim that he does not remember committing these criminal acts, but on the date in question, he can remember that he returned a pair of boots to [REDACTED]. Deputy Sanchotena used selective memory to conceal conduct as if he believes by saying, "I do not remember;" he is not being untruthful. This is apparent when Sergeant Maryon asks Deputy Sanchotena if he ever had discussion with [REDACTED] regarding the number of pills [REDACTED] wanted, to which Deputy Sanchotena answers "No" but then immediately says, "I'll go back on that, I don't remember."

Later in the interview with Sergeant Maryon, Deputy Sanchotena leaves his consistent path of memory loss and answers "No" to a very important question. Sergeant Maryon asked Deputy Sanchotena, "Did you ever meet with [REDACTED] and exchange pills with him for money?" Deputy Sanchotena answers "No." This is a definitive denial of a criminal act. Deputy Sanchotena said he did not sell pills. That is a lie. The preponderance of evidence proves, Deputy Sanchotena did meet with [REDACTED] and in exchange for fifty dollars; he sold [REDACTED] five *Cialis* pills.

Deputy Sanchotena lied during the course of this investigation. The department has no other option but to terminate for misconduct of this nature. To do otherwise would open the door to more serious transgressions and severely compromise the integrity of the San Diego County Sheriff's Department. The Sheriff's Department cannot continue to employ a liar who engages in criminal actions.

On February 15, 2008, at 1000 hours, I met with Deputy Sanchotena and his representative Rick Pinkard in the Sheriff's Personnel Conference Room. I explained to Deputy Sanchotena and Mr. Pinkard the sustained findings from Internal Affairs and further explained I would be sustaining on Failure to Meet Standards and Truthfulness. After reviewing the investigation, Mr. Pinkard said there "isn't a lot we can offer to you that is going to have any meaningful impact on this process" because with sustained truthfulness findings, "the recommendation is going to be termination." Deputy Sanchotena did not offer any input during the pre-disciplinary meeting.

In mitigation, during his career as a deputy sheriff, Sanchotena received four Fully Competent Yearly Evaluations. However, in aggravation, he was only employed as a deputy sheriff for three years and seven months before he sold a controlled substance to another employee.

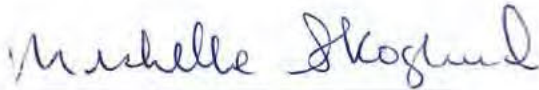
Clearly, Deputy Sanchotena lied during this case. However, if one were to believe his assertion that he cannot remember his criminal act that in itself demonstrates a failure to meet the standards we would expect of a deputy sheriff. To be unable to recall conduct he himself admitted was criminal, is reason to terminate.

RELEASED FROM
LA FILE
55

February 15, 2008

Page 4

Deputy Sanchotena's conduct represents a gross violation of department rules. Termination, for these violations, is the only appropriate level of discipline.



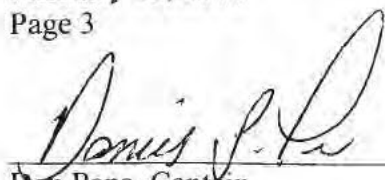
Michelle Skoglund, Lieutenant
South Bay Detention Facility



INTERNAL AFFAIRS CASE #2007-223.1

February 15, 2008

Page 3



Dan Pena, Captain

Detention Services Bureau

Approved ☒

Disapproved ☐

Comments: _____

J.S.

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.


Jesus Sanchotena

I.A. Case # 2007-223.1

RELEASED FROM
I.A. FILE
55.

From the Office of

INTERNAL AFFAIRS - CONFIDENTIAL

Skelly Conference Letter

Case # 2007-223.1


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.



Jesus Sanchotena

 5/12/08

Witness Date





San Diego County Sheriff's Department

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



William B. Kolender, Sheriff

William D. Gore, Undersheriff

May 19, 2008

Law Offices of Bobbitt, Pinckard & Fields
8388 Vickers Street
San Diego, CA 92111

Re: Deputy-Detentions / CtSvc Jesus Sanchotena
IA# 2007-223.1

Dear Mr. Pinckard:

Your discovery request was received in the Internal Affairs Unit on May 12, 2008.

With regard to your discovery request in the matter of Deputy-Detentions Sanchotena, Deputy-Detentions Sanchotena was provided copies of all materials upon which the proposed action is based, as well as any audio recordings.

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

W. Kemery
William Kemery, Lieutenant
Internal Affairs Unit

WBK:WK:pgl

BOBBITT, PINCKARD & FIELDS

A Professional Corporation
8388 Vickers Street
San Diego, California 92111

Everett L. Bobbitt (1946 - 2007)
Richard L. Pinckard
Bradley M. Fields
Julie S. Buchler

2008 MAY 13 AM 8 45
Facsimile
(858) 467-1285

Telephone
(858) 467-1199

Annette Burstein
Legal Administrator

www.coplaw.org

FACSIMILE TRANSMISSION

DATE: May 12, 2008

TO: Sheriff William B. Kolender
San Diego County Sheriff's Dept. **RECIPIENT'S FAX NO.:** 858-974-2244

cc: SDSO/Internal Affairs **RECIPIENT'S FAX NO.:** 858-974-2077

FROM: Rick Pinckard **SENDER'S FAX NO.:** 858-467-1285

Re: Deputy Jesus Sanchotena

Total number of pages including this cover page: 3

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 & FIELDS

A Professional Corporation

8388 Vickers Street

San Diego, California 92111-2109

EVERETT L. BOBBITT (1946-2007)

RICHARD L. PINCKARD

BRADLEY M. FIELDS

JULIE STEELE BUECHLER

ANNETTE BURSTIN

Legal Administrator

Telephone (858) 467-1199

Facsimile (858) 467-1285

website: coplaw.org

May 12, 2008

Sheriff William B. Kolender
San Diego County Sheriff's Department
P.O. Box 939062
San Diego, CA 92193-9062

VIA US MAIL & FACSIMILE
(858-974-2244)

Re: Deputy Jesus Sanchotena

Dear Sheriff Kolender:

Our office represents Deputy Jesus Sanchotena for the purpose of appeal from the notice of proposed discipline served upon him today, May 12, 2008. Based on the information available to us at this time, on behalf of our client we deny the allegations on which this action is based and request an opportunity to respond to the allegations at the earliest opportunity. I will serve as Deputy Sanchotena's representative in this matter. Please contact our office regarding the scheduling of this oral reply at the earliest opportunity either by phone.

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.

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,



Richard L. Pinckard

RLP/rab

cc: Internal Affairs