2009-001.1



San Diego County SHERIFF'S DEPARTMENT

NOTICE OF PROPOSED DISCIPLINARY ACTION

TO: William Gore, Sheriff DATE: 12-29-09					
It is recommended that the following	g disciplinary action be admir	nistered to the below	named emp	oloyee:	
EMPLOYEE'S NAME:	Richard Fried #4015	TITLE	: Deputy	Sheriff - [Detentions
DEPARTMENT POLICY AND /	2.4 Unbecoming Conduct	2.46	2.46 Trithfulness		
OR PROCEDURE SECTION(S)	2.6 Conformance to Laws 6	Conformance to Laws 664-207 2.30 Failure to Meet Standards		ards	
VIOLATED:	2.6 Conformance to Laws 653 (m)				
RECOMMENDED DISCIPLINE:	Termination				1
SECOND LEVEL SUPERVISOR:	M. Kania, Lieutenant			DATE:	12-29-09
LIST PRIOR FORMAL DISCIPLINE WITHIN LAST FIVE YEARS WITH DATE	DISCIPLINE WITHIN LAST FIVE				
I have been advised of the above of	harges and recommended di	scipline:			
EMPLOYEE'S SIGNATURE:	DE PY			DATE:	12/29/09
2 nd LEVEL SUPERVISOR SIGNATURE: DATE: 12-29-09			12-29-09		
3rd LEVEL SUPERVISOR SIGNATURE: French C Clan C		DATE:	1/4/2010		
COMMENTS:	1			1237	
REVIEWED BY INTERNAL AFFAIRS: DATE: 1/13/2010			1/13/2010		
4th LEVEL SUPERVISOR SIGNATURE: John Ingressia Commander-Detentions DATE: 5-5-		5-5-10			
COMMENTS:					
ADDITIONAL REVIEW:	A. H. Guerin I	I, Assistan She	riff	DATE:	03/05/10
		3-15-10			
ADDITIONAL REVIEW:	William	sheriff		DATE:	3/15/10
	INTERNAL AFFAI	RS SECTION			
☐ WRITTEN REPRIMAND BY:	0			DATE:	
NOTICE OF INTENT AND CHARGES: JAK 2111 DATE: 1-14-			1-14-10		
ORDER SERVED:	C. Bucha	Jan		DATE:	3/15/10
CIVIL SERVICE NOTIFIED:	P. Lorenz, AdminSecI	I		DATE:	03-16-2010
PAYROLL NOTIFIED:		Released from		DATE:	And the second
FINAL ACTION TAKEN: TERMI	NATION	70:		DATE:	03-15-2010

FROM THE OFFICE OF

INTERNAL AFFAIRS - CONFIDENTIAL

March 16, 2010 IA# 2009-001.1

RECEIVED

MAR 1 9 2010

TO:

Civil Service Commission

CIVIL SERVICE COMMISSION

FROM:

Brian Conway, Lieutenant

Internal Affairs Unit

ORDER OF TERMINATION AND CHARGES - RICHARD FRIED

The Order of Termination and Charges dated 03-04-2010 filed against Richard Fried has been received by the Civil Service Commission on:

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.

Brian Conway, Lieutenant Internal Affairs Unit

(858) 974-2065

Attachment

FROM THE OFFICE OF

INTERNAL AFFAIRS - CONFIDENTIAL

March 16, 2010 IA# 2009-001.1

TO:

Civil Service Commission

FROM:

Brian Conway, Lieutenant

Internal Affairs Unit

ORDER OF TERMINATION AND CHARGES - RICHARD FRIED

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Date

Commission Response:

	1	The above individual	HAS appealed the Order of	Termination and Charges.
_	4	200	Carta Control of the September 1999 Control of the Cartain Control o	C C C C C C C C C C C C C C C C C C C

[] 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.

Brian Conway, Lieutenant

Internal Affairs Unit

(858) 974-2065

Attachment



RECEIPT OF MATERIALS

EMPLOYEE: RICHARD FRIED #4015 Case # 2009-001.1

DESCRIPTION OF DOCUMENT	EMPLOYEE RECEIVED (DATE & INITIAL)	APPOINTING AUTHORITY (Date & Sign)
Notice of Proposed Disciplinary Action to Richard Fried dated 01-04-2010		
Notice of Intent of Termination and Charges to Richard Fried dated 01-13-2010		
Discipline Recommendation & Rationale to Sheriff Gore from Lieutenant-Detentions M. Kania dated 12-18-2010 and attachment (One (1) CD-R)	2	1
Investigative Reports by Sergeant- Detentions J. Hannis dated 10-06-2009 and attachments		11/1
Skelly Conference Letter to Richard Fried		
Order Not to Disclose Materials to Richard Fried		
Declaration/Acknowledgement of Personal Service		
One (1) CD-R		



RECEIPT OF MATERIALS

EMPLOYEE:RICHARD FRIED #4015 / 001088

Case #

DESCRIPTION OF DOCUMENT	EMPLOYEE RECEIVED (DATE & INITIAL)	APPOINTING AUTHORITY (Date & Sign)
Order of Termination and Charges to Richard Fried dated 03-04-2010		
Skelly Conference by Captain Curran dated 03-02-2010 and attachments	1.510	139
One CD-R of Skelly Conference	3	3
Declaration / Acknowledgement of Personal Service	No.	



San Diego County Sheriff's Department

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



Thomas J. Cooke, Undersheriff

March 4, 2010

Richard Fried

Dear Deputy-Detentions/Ctsvc Fried:

ORDER OF TERMINATION AND CHARGES, CASE #2009-001.1

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 Conduct Unbecoming an Officer, 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 Section 2.4 – Unbecoming Conduct, in that: On July 23, 2008, you placed an object (simulating a weapon) in back in an attempt to force her into your vehicle. Your actions caused a Crime/Incident Report to be written and initiated a criminal investigation. You have failed as an employee to conduct yourself at all times, in such a manner as to reflect most favorably on this Department.

CAUSE II

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, as it relates to California Penal Code §664-207 Attempt Kidnapping, in that: On July 23, 2008, you placed an object (simulating a weapon) in attempt to force her into your vehicle. On October 31, 2008, during a recorded telephone conversation with you acknowledged your culpability for the act. You failed as an employee to obey all laws of the United States, of this state, and of local jurisdictions.



CAUSE III

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, as it relates to California Penal Code Section 653(m) Threatening Telephone Calls, in that: On October 31, 2008, during a recorded telephone conversation you threatened Deputy when you said, "Then, then things, then things are going to increase." replies," Okay, then increase it. Leave me alone, leave me alone, stop harassing me, stop calling me." You tell, "You are not tells you, "Stop calling me." You again repeat, "You're gonna like it." not gonna like it." responds, "Why, what are you going to do, try to kill me, try and kill me?" You did not deny her allegation, instead you reply, "I am not saying shit, 'cause I know you have someone in the car." You failed as an employee to obey all laws of the United States, of this state, and of local jurisdictions.

CAUSE IV

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 August 24, 2009, during your Internal Affairs interview, you were untruthful when you denied placing an object in back in an attempt to force her into your vehicle. You were also untruthful when you denied having a telephone conversation with where you acknowledged the allegation. In provided her statement and a recorded telephone communication indicating the allegation was factual. Because you failed to be truthful, you have seriously hampered your ability as an employee of the San Diego Sheriff's Department to effectively testify in court. Dishonesty has been termed intolerable in matters where the employee holds a position of public trust and confidence.

CAUSE V

You are guilty of Inefficiency as set forth under Section 7.2 (b) of Rule VII of the Rules of the Civil Service Commission as it relates to Sheriff's Policy and Procedure Section 2.30 – Failure to Meet Standards, in that: During your Internal Affairs interview, you could not recall placing an object (simulating a weapon) in back. You have failed as a deputy, on the San Diego Sheriff's Department, to maintain the highest standards of efficiency and assume the responsibilities of your position.

CAUSE VI

You are guilty of acts that 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 set forth under Cause I through V 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.

Sincerely,

William D. Gore, Sheriff

Villiam W. Love

WDG:jh



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

	IOTICE OF INTENT OF PAY-STEP REDUCTION AND SHARGES
[]	IOTICE OF INTENT TO SUSPEND AND CHARGES IOTICE OF INTENT TO TERMINATE AND CHARGES
ij	ORDER OF PAY-STEP REDUCTION AND CHARGES ORDER OF SUSPENSION AND CHARGES ORDER OF TERMINATION AND CHARGES
[]	IOTICE REGARDING RESTRAINING ORDER DATED
	copy is attached hereto, by delivering a copy thereof to
PICHARD	FRIED personally at TIDGEHAVEN on
marcul 1	5, 2010
I declare under	penalty of perjury that the foregoing is true and correct.
Executed this _	Sday of maren, 2010, at San DIEGO, California.
Signature of per	son making personal service
	ACKNOWLEDGEMENT OF SERVICE
I do hereby ack	nowledge receipt of the above noted document.
Executed this	day of marcy, 2010.
IΔ# 2009-001	, 1

Released from I.A. Files

To:



San Diego County Sheriff's Department

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



Thomas J. Cooke, Undersheriff

January 13, 2010

Mr. Richard Fried

Dear Deputy Fried:

NOTICE OF INTENT OF TERMINATION AND CHARGES, CASE #2009-001.1

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/Court Services (Class #5757) in the Sheriff's Department and the Classified Service of San Diego County for each and all of the following causes:

CAUSE I

You are guilty of Conduct Unbecoming an Officer, 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 Section 2.4 – Unbecoming Conduct, in that: On July 23, 2008, you placed an object (simulating a weapon) in back in an attempt to force her into your vehicle. Your actions caused a Crime/Incident Report to be written and initiated a criminal investigation. You have failed as an employee to conduct yourself at all times, in such a manner as to reflect most favorably on this Department.

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Deputy Richard Fried Date: January 13, 2010

CAUSE III

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, as it relates to California Penal Code Section 653(m) Threatening Telephone Calls, in that: On October 31, 2008, during a recorded telephone conversation you threatened Deputy when you said, "Then, then things, then things are going to replies," Okay, then increase it. Leave me alone, leave me increase." alone, stop harassing me, stop calling me." You tell , "You are not gonna like it." tells you, "Stop calling me." You again repeat, "You're not gonna like it." responds, "Why, what are you going to do, try to kill me, try and kill me?" You did not deny her allegation, instead you reply, "I am not saying shit, 'cause I know you have someone in the car." You failed as an employee to obey all laws of the United States, of this state, and of local jurisdictions.

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Deputy Richard Fried Date: January 13, 2010

CAUSE VI

You are guilty of acts that 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 set forth under Cause I through V 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 Conway of the Internal Affairs Unit.

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

Sincerely,

WILLIAM D. GORE, SHERIFF

Frank C. Clamser, Jr. Captain-Detentions

San Diego Central Jail

WDG:FCC:jh

Released from I.A. Files TO:

IA# 2009-001.1

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 1 **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 RICHARD FRIED personally at SAN DIEGO CA on JAN 14 2010 I declare under penalty of perjury that the foregoing is true and correct. Executed this 14th day of January, 2010, at San AIFGO, California. Signature of person making personal service ACKNOWLEDGEMENT OF SERVICE I do hereby acknowledge receipt of the above noted document. Executed this 14 day of JANUARY, 2010. SIGNED

Released from I.A. Files

To:



COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

March 2, 2010

TO:	William D. Gore, Sheriff
FROM:	Tim Curran, Captain Vista Patrol Station

Chain of Command

SKELLY CONFERENCE – DEPUTY-DETENTIONS RICHARD FRIED I.A. CASE # 2009-001.1

SYNOPSIS

VIA:

On the evening of July 28, 2008, Deputy-Detentions Richard Fried met with
at the Park and Ride parking lot adjacent to
Gopher Canyon Road and Interstate 15. The purpose for the meet was for
from Deputy Fried.
alleges that when she approached Deputy Fried's vehicle to Deputy Fried appeared to have his hand in the front of his waistband as if he was holding an object. As Fried pulled her from the back and placed an object into her back and side. Deputy Fried then told to get into his car. refused and continued to from the car.
Once out of the car, Deputy Fried got back into his car and drove away. During the subsequent investigations and interviews, Deputy Fried acknowledged that he did meet at the Park and Ride to to get into his vehicle so they could talk. Deputy Fried admits the during the encounter, he did place his hand on the back of reck. Deputy Fried denied placing an object into the back and side of the place has and attempting to scare her.
On October 31, 2008, recorded a phone conversation between herself and Deputy Fried. In the conversation, Deputy Fried appears to admit to placing his cell phone in back and side of and having it in his waistband in an attempt to scare her



Skelly Conference Deputy-Detentions Richard Fried IA Case #2009-001.1 Page 2 of 12

COMMAND RECOMMENDATION

An Internal Affairs investigation concluded that Deputy Fried engaged in Unbecoming Conduct, Conformance to Laws (as it relates to Penal Code Section 664-207, Attempt Kidnapping) by placing an object (simulating a weapon) into the back and side of in an attempt to force her into his vehicle on July 23, 2008. Additionally, the investigation concluded that Deputy Fried failed in Conformance to Laws (as it relates to Penal Code Section 653(m), Threatening Telephone Calls), when on October 31, 2008, during a recorded telephone conversation, he made threats towards Truthful during the Internal Affairs investigation when he denied placing an object into her back and side, yet in a recorded conversation with he indicated the allegation was factual. Finally, the investigation concluded that Deputy Fried Failed to Meet Standards expected of a Deputy on the San Diego Sheriff's Department.

In the Disciplinary Recommendation and Rationale prepared by Lieutenant-Detentions Kania, it was determined that he agreed with the findings from the Internal Affairs investigation. Deputy Fried's command recommended his employment with the San Diego Sheriff's Department be terminated.

CONDUCT OF SKELLY CONFERENCE

By mutual agreement, the Skelly Conference was scheduled for Tuesday, February 16, 2010. It was held in the conference room at the San Diego Sheriff's Department's Vista Patrol Station. Present were Deputy Fried, Attorney Brad Fields and myself as the Hearing Officer.

The Skelly Conference convened at approximately 1535 hours. I digitally recorded the conference and the recording was subsequently downloaded onto a compact disk and submitted with this report.

Deputy Fried acknowledged that he had reviewed and received copies of the following documents:

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

After confirming all documents related to this matter were reviewed, Mr. Fields stated they were prepared to proceed with the conference with me as the Hearing Officer.



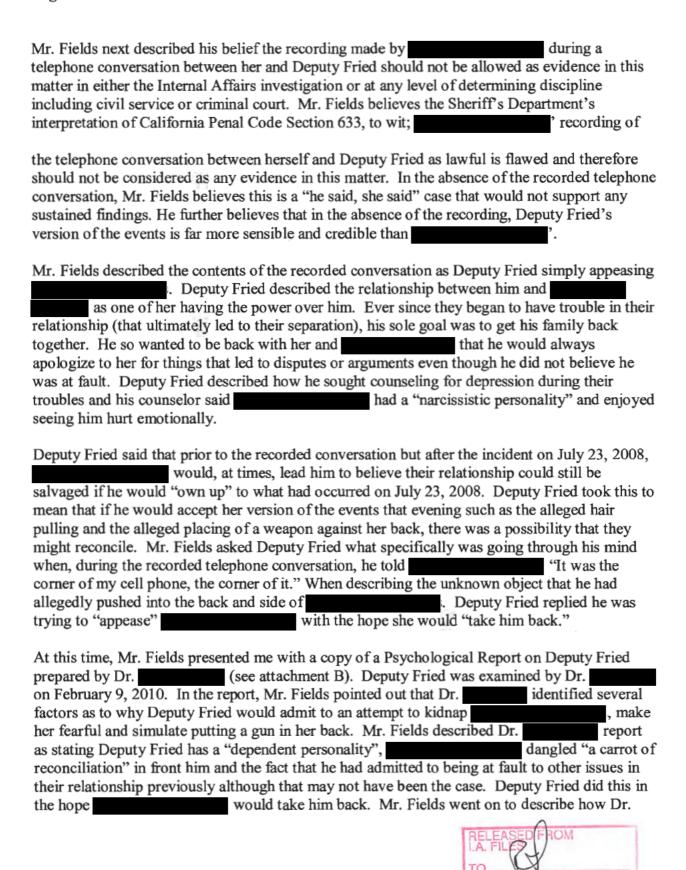
Skelly Conference Deputy-Detentions Richard Fried IA Case #2009-001.1 Page 3 of 12

RESPONSE TO CHARGES

Mr. Fields response to the charges against Deputy Fried began with his belief that at a minimum, Deputy Fried should not be terminated from employment with the San Diego Sheriff's

Department. Mr. Fields went on to say that this case revolves almost completely around a recorded telephone conversation but is really a "he said, she said" matter. saying Deputy Fried stuck a weapon in her back and he denying that. Mr. Fields believes that five of the six charges against Deputy Fried stem from his statements from the recorded phone call.
Mr. Fields said the event that occurred on the evening of July 23, 2008 did occur but the versions of those events as described by Deputy Fried and are very different. Mr. Fields said there were no witnesses to the events other than who could not provide details. Mr. Fields said the person injured that evening was Deputy Fried and the injuries are clearly visible in photographs taken of him by law enforcement after the incident. claimed Deputy Fried grabbed her by the hair however there is no evidence of any injury to her.
Mr. Fields believes for "version of the events on July 23, 2008 to make any sense, she would have had to have been unarmed. At the time of the incident, had just finished a training session at the Academy Firearms facility and was dressed in a Sheriff's uniform type of shirt and it would be only logical that she would still be armed. Deputy Fried states was in fact armed. Deputy Fried said he even asked her why she was wearing her weapon and she stated something to the effect of "Because I just came from the range dumb ass." Mr. Fields said that if was so concerned for her safety that when she brought with her to the location for the the Internal Affairs investigation that she was not. Mr. Fields believes this makes Deputy Fried's version of the incident more credible than
Mr. Fields said the allegation that Deputy Fried attempted to kidnap walid. At this time, Mr. Fields provided me with copies of California Penal Section 207, Kidnapping defined, and California Penal Code Section 664, Punishment for unsuccessful attempt commit crime, attempted murder of peace officer or fire fighter (see attachment A). Mr. Fields said because California Penal Code Section 207(a) states there must be an attempt "to move" and Deputy Fried did not do this. was not forced to move anywhere against her will. Mr. Fields said this was evidenced by her getting up and walking away with even though she alleged that Deputy Fried was forcing a weapon against her back. Mr. Fields went on to dispute the validity of California Penal Code Section 664 as it applies to this matter by saying there could not be a failed attempt if there was never any intent to kidnap

Skelly Conference Deputy-Detentions Richard Fried IA Case #2009-001.1 Page 4 of 12



Skelly Conference Deputy-Detentions Richard Fried IA Case #2009-001.1 Page 5 of 12

report explained how false confessions are sometimes made by individuals for a variety of reasons as described in the report. Mr. Fields quoted the final two paragraphs of the report as a substantiation of Dr. assessment of Deputy Fried's actions: Mr. Fields again went on to again describe how the tape recorded telephone conversation is inadmissible but also that it proves nothing. He said Dr. report clearly explains a psychological basis for Deputy Fried's statements during the conversation. Mr. Fields continued to describe how Deputy Fried's version of the event on July 23, 2008 is far more credible than 'version. He said one possible reason for to have even reported the incident was because she struck Deputy Fried in the head with her elbow and wanted to report the encounter to authorities first in the event that Deputy Fried reported her for assaulting him. Deputy Fried said that during the demise of their relationship, started to see felt her career was accelerating and him as an embarrassment to her. because Deputy Fried was still a "line Deputy" he was hurting her career. When Deputy Fried suggested he quit the Department as a benefit to her or, with her connections to "command staff" she would work towards getting him fired. Deputy Fried said he did not think much of her threats until this incident. At this time, Mr. Fields presented me with a copy of an email from to an email address of was then forwarded to Mr. Fields. In the email, (see attachment C). The message addresses the fact that the Internal Affairs investigation was poorly done and questions why she was not interviewed as a witness. goes on to describe how she lived with and Deputy Fried for 3 ½ became so abusive towards her that she moved back to the east years until coast.

Skelly Conference Deputy-Detentions Richard Fried IA Case #2009-001.1 Page 6 of 12

and was receiving numerous phone calls from her. He felt he needed to
have somebody around him at all times. Because of this, again moved from the east coast to be with Deputy Fried. did this at a great personal loss. By moving to California to be with Deputy Fried, gave up her home and much needed medical care.
Mr. Fields next went on to discuss the alleged threatening phone call allegation. Mr. Fields said the statements made by during the recorded conversation of "what are you going to do? Try and kill me? What are you going to do, kill me?" is nothing more than her trying to elicit Deputy Fried into saying some type of incriminating statement. Mr. Fields said nothing in the conversation rises to the level of a threatening telephone call as described in California Penal Section 653(m).
The next issue Deputy Fried and Mr. Fields wanted to address was the fact that agreed to meet at the Park and Ride parking lot at Gopher Canyon Road and Interstate 15 on the evening of July 23, 2008. Deputy Fried said he had always asked her to meet him there as he did on the night in question but would always refuse and demand that he meet her at another parking lot off of Interstate 15, closer to the Rancho Bernardo area. Deputy Fried said that when she agreed to meet at the Gopher Canyon location, he was somewhat suspicious. It was because of surprise agreement that he drove around the parking lot to check the area prior to actually parking and
In closing, Mr. Fields again reiterated that without the recording of the telephone call, this case would be nothing more than Deputy Fried's version of the events versus version. Deputy Fried desperately wanted to get back together with Fields asked that the findings against Deputy Fried be overturned.
Prior to ending the interview, I showed Deputy Fried the photograph taken of him by law enforcement the day after the events of July 23, 2008. I asked Deputy Fried to point to the area on his forehead where he was allegedly struck by elbow. Deputy Fried was unable to point to a particular spot on the photo but indicated he was struck on the left side of his forehead. He went on to say that when the law enforcement investigator was taking the photograph, the investigator made a statement to the effect of "I can see redness on the side of your forehead."

The conference was ended at 1615 hours.

RELEASED FROM I.A. FILES Skelly Conference Deputy-Detentions Richard Fried IA Case #2009-001.1 Page 7 of 12

DISCUSSION

Mr. Fields and Deputy Fried basically point to four areas that should be deemed as flawed in this case that would warrant the discipline to be overturned. The first is the belief by Mr. Fields and Deputy Fried that the recording of the telephone conversation between Deputy Fried and was unlawful and should not be admissible at any level of this investigation. When Lieutenant Kania conducted a pre-disciplinary conference with Deputy Fried and Mr. Fields on November 4, 2009, Mr. Fields stated he did not believe anything said during the recorded telephone conversation was admissible and he referenced California Penal Code Section 631. Lieutenant Kania disagreed with Mr. Fields by referencing California Penal Section 633, Lawful Activity of Law Enforcement Officer, which states in part:

Nothing in Section 631, 632, 632.5, 632.6 or 632.7 prohibits the Attorney General, any district attorney, or any assistant, deputy, or investigator of the Attorney General or any district attorney, any officer of the California Highway Patrol, any chief of police, assistant chief of police, or police officer of a city or city and county, any sheriff, undersheriff, or deputy sheriff regularly employed and paid in that capacity by a county, police officer of the county of Los Angeles, or any person acting pursuant to the direction of one of these law enforcement officers acting within the scope of his or her authority, from overhearing or recording any communication that they could lawfully overhear or record prior to the effective date of this chapter.

Nothing in Section 631, 632, 632.5, 632.6 or 632.7 renders inadmissible any evidence obtained by the above-named persons by means of overhearing or recording any communication that they could lawfully overhear or record prior to the effective date of this chapter.

Lieutenant Kania further referenced California Penal Code Section 633.5, which states in part:

Nothing in Section 631, 632, 632.5, 632.6 or 632.7 prohibits one party to a confidential communication from recording the communication for the purpose of obtaining evidence reasonably believed to relate to the commission by another party to the communication of the crime of extortion, kidnapping, bribery, any felony involving violence against the person, or a violation of 653m. Nothing in Section Nothing in Section 631, 632, 632.5, 632.6 or 632.7 renders any evidence so obtained inadmissible in a prosecution for extortion, kidnapping, bribery, any felony involving violence against the person, a violation of Section 653m, or any crime in connection therewith.

Lieutenant Kania disagreed with Mr. Fields opinion here and found the recorded telephone conversation to be admissible in determining discipline in this matter. I agree with Lieutenant Kania's decision. As a Deputy Sheriff for the San Diego County Sheriff's Department, was within her rights in recording the conversation between herself and Deputy Fried on October 31, 2008. During the Internal Affairs investigation by Sergeant Hannis,



Skelly Conference Deputy-Detentions Richard Fried IA Case #2009-001.1 Page 8 of 12

Sheriff's Legal Advisor, Robert Faigin was consulted. It was Mr. Faigin's opinion as well that the recorded conversation was admissible in this matter.

In the conversation, Deputy Fried clearly admits to placing what he claimed was his cell phone, in his waistband in an attempt to scare. Deputy Fried continues during the conversation to say something to the effect of placing the corner of his cell phone in the back of . On the same recording, Deputy Fried also appears to apologize to when she brings up the issue of him pulling her hair during the same encounter.
Later, in the same recorded conversation, requests that Deputy Fried leave her alone and stop calling her. Deputy Fried responded with statements such as:
"This is not going to end." "Things are going to increase"
continued to tell Deputy Fried to leave her alone. Deputy Fried responded with another statement of:
"You're not going to like it."
Deputy Fried clearly was threatening with these statements. It appears his intent was to advise that he was going to behave in some unknown manner or take an unknown type of action against her because of her rejection of him.
When Deputy Fried was asked about the statements he made to recorded conversation by Investigators from Internal Affairs, he lied.
The next area of concern according to Mr. Fields and Deputy Fried was the wearing or not wearing of a sidearm by during the incident on Gopher Canyon on July 28 2008. Mr. Fields believes version of the event is questionable due to his belief and Deputy Fried's statement that was armed at the time. Mr. Fields found it unreasonable to believe that she uniform and was returning from her work shift at the Sheriff's her would have acted in the manner that she did; ignoring Deputy Fried's alleged demand that she get in his car as he pulled her hair, and forced a weapon into her back, if she had not been armed.
In a follow-up investigation by San Diego Sheriff's Department Detective Vorce, he asked what she was wearing the night of the incident in the Gopher Canyon Parking lot. was dressed in black BDU style pants and a black Polo style shirt with something to the effect of San Diego Sheriff's embroidered on it. This is not an easily recognized Sheriff's type of uniform to the general public and it would not be



Skelly Conference Deputy-Detentions Richard Fried IA Case #2009-001.1 Page 9 of 12

unreasonable to believe had finished her shift at the firearms range and then secured her weapon in her trunk as she indicated when interviewed by Internal Affairs. was unarmed, I find it reasonable to believe she was scared Believing during this incident and her version of events to be more accurate than Deputy Fried's version. The final area of concern for Deputy Fried and his attorney is the explanation of why Deputy Fried would admit to the alleged actions of July 23, 2008 during a recorded telephone . It is Deputy Fried's position that he only admitted to conversation with the alleged wrongdoings in an effort to gain favor from and hopefully reunite their relationship. In the report prepared by Dr. he explains that false confessions can sometimes be explained as the hope by the individual that something of value may come as a result of the confession. Dr. wrote that individuals have falsely confessed to events as bad as murder in the hope of receiving something positive or valuable such as the safe return of a family member, one's life or limb or a reduced penal sentence just to name a few. Based upon the other information in this case, ' version of the events on the evening of July 23, 2008 is far more credible than Deputy Fried's. After hearing from Deputy Fried and Mr. Fields during the Skelly Conference, and thoroughly reviewing all of the documents associated with this investigation, I am not without compassion for Deputy Fried's situation. The ending of a romantic relationship is never easy. When you Deputy Fried and have together the emotions become that much more volatile. However, on July 23, 2008, Deputy Fried made a conscious decision to take demonstrate his frustration and desire to repair his relationship with by grasping her hair or at the minimum, touching the back of her neck, positioning an item in his waistband to appear as a weapon in order to frighten her and then positioning the item ' back and side in an attempt to force her into his car. Deputy Fried later admitted to these events during a recorded telephone conversation with was recorded. To make matters worse, during his Internal Affairs interview, Deputy Fried denied numerous times that he placed anything in ' back. Deputy Fried also denied admitting to such behavior during the recorded telephone call. In determining Deputy Fried's fate in this matter, Lieutenant Kania wrote (in part), "During my pre-disciplinary hearing on November 4, 2009 with Deputy Fried, I informed him that this was his opportunity to dispute any facts in this case or give me any mitigating circumstances surrounding this case. Both attorney Fields and Fried both mentioned that ' relationship, Fried would often say things to during Fried and appease her. Fried did not dispute any of the facts of this case nor disagree with any of the



Skelly Conference Deputy-Detentions Richard Fried IA Case #2009-001.1 Page 10 of 12

findings. Instead, Fried talked about his relationship with and manipulative she is.

These sustained findings seriously hamper Deputy Fried's ability to effectively testify in court. If subjected to a Pitchess Motion, it is hard to imagine a set of circumstances where this case would not be revealed to the party requesting discovery. Any report entered into court would cast doubt upon the veracity of his actions. This has the very real possibility of compromising an important investigation or prosecution or exposing the Department to civil liability it would not otherwise suffer.

Significant discipline is warranted in this case. One of the San Diego County Sheriff's Department Core Values is Honesty, which reads, "We are truthful in our words and in our actions." Regrettably, this core value is not reflected in the acts of Deputy Fried in this case."

I wholeheartedly agree with Lieutenant Kania's assessment.

CONCLUSIONS

Deputy Fried has been a Deputy Sheriff-Detentions for approximately 9 years and his personnel file depicts him as a Fully Competent Deputy-Detentions. His last three Employee Performance Reports rated him as Fully Competent (2008/2009), Fully Competent (2007/2008) and Exceeds Expectations (2006/2007). Deputy Fried does not have any sustained prior Internal Affairs investigations.

Deputy Sheriffs occupy positions of trust. Absolute integrity and good judgment are fundamental qualities for anyone who possesses the authority of a Deputy Sheriff. Integrity and good judgment cannot easily be learned; they are inherent personality traits. Deputy Fried's actions cannot be excused. Deputy Fried has demonstrated behavior of unbecoming conduct, failure to conform to laws, failure to be truthful and failure to meet standards.

Deputy Sheriff's are closely observed both on and off duty and their expected behavior standards are higher than that of the general public. Deputy Fried demonstrated he knew this and acted appropriately and legally for more than four years of his relationship with While I can appreciate the sadness and almost unimaginable level of frustration Deputy Fried went through during the crumbling of his relationship with expected that he will follow the law and make good, sound and reasonable decisions in both his professional and personal life. That is what is expected of a Deputy Sheriff. It is the actions he took on July 23, 2008 and later on October 31, 2008 that were the subject of the Internal Affairs investigation. Deputy Fried's actions in this incident absolutely call for significant discipline.



Skelly Conference Deputy-Detentions Richard Fried IA Case #2009-001.1 Page 11 of 12

RECOMMENDATION

I recommend the charge of Sheriff's	Policy and Procedure Sec	ctions 2.3-Unbecoming (Conduct,
2.6-Conformance to Laws in that Dep	outy Fried attempted to k	idnap	in
violation of Penal Code Section 664-	207, 2.6-Conformance to	Laws in that Deputy Fri	ied made
threats towards	in violation of Penal Coo	de Section 653(m), 2.46-	
Truthfulness in that Deputy Fried wa	s not truthful during the I	Internal Affairs investiga	tion and
Failure to Meet Standards in that Dep	outy Fried failed to meet	the standards expected o	f a Deputy
on the San Diego Sheriff's Departme	nt be affirmed. That being	ng said, I recommend the	e proposed
discipline of Deputy Fried's employr	nent with the San Diego	County Sheriff's being to	erminated
be affirmed.		-	

Tim Curran, Captain

Vista Patrol Station

TJC:tjc

RELEASED FROM I.A. FILES Skelly Conference Deputy-Detentions Richard Fried IA Case #2009-001.1 Page 12 of 12

John Ingrassia, Commander Detentions Services Bureau	Approve () Disapprove Date: 3-5-10
Comments:	
Al Guerin, Assistant Sheriff Detentions Services Bureau Comments:	() Approve () Disapprove Date: 63/05/10
Thomas J. Cooke, Undersheriff Comments:	() Disapprove Date: 3-15-10
William D. Gore, Sheriff	() Disapprove Date: 3/15/10
Comments:	

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Cal Pen Code § 207

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> PENAL CODE Part 1. Of Crimes and Punishments Title 8. Of Crimes Against the Person Chapter 3. Kidnapping

GO TO CALIFORNIA CODES ARCHIVE DIRECTORY

Cal Pen Code § 207 (2009)

§ 207. Kidnapping defined

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- ± History
- ★ Comments
- * Notes
- * Notes of Decisions

Resources & Practice Tools

- * Related Statutes & Rules
- Collateral References
- > Kidnaping: 18 USCS §§ 1201 et sec.
- White Slave Traffic (Mann Act): 18 USCS 66 2421 et seq.
- Cal Criminal Defense Prac., ch 142, "Crimes Against the Person".

★ More...

Suggested Forms

- (a) Every person who forcibly, or by any other means of instilling fear, steals or takes, or holds, detains, or arrests any person in this state, and carries the person into another country, state, or county, or into another part of the same county, is guilty of kidnapping.
- (b) Every person, who for the purpose of committing any act defined in Section 288, hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any child under the age of 14 years to go out of this country, state, or county, or into another part of the same county, is guilty of kidnapping.
- (c) Every person who forcibly, or by any other means of instilling fear, takes or holds, detains, or arrests any person, with a design to take the person out of this state, without having established a claim, according to the laws of the United States, or of this state, or who hires, persuades, entices, decoys, or seduces by false promises, misrepresentations, or the like, any person to go out of this state, or to be taken or removed therefrom, for the purpose and with the intent to sell that person into slavery or involuntary servitude, or otherwise to employ that person for his or her own use, or to the use of another, without the free will and consent of that persuaded person, is guilty of kidnapping.
- (d) Every person who, being out of this state, abducts or takes by force or fraud any person contrary to the law of the place where that act is committed, and brings, sends, or conveys that person within the limits of this state, and is afterwards found within the limits thereof, is guilty of kidnapping.
- (e) For purposes of those types of kidnapping requiring force, the amount of force required to kidnap an unresisting infant or child is the amount of physical force required to take and carry the child away a substantial distance for an illegal purpose or with an illegal intent.
- (f) Subdivisions (a) to (d), inclusive, do not apply to any of the following:
- (1) To any person who steals, takes, entices away, detains, conceals, or harbors any child under the age of 14 years, if that act is taken to protect the child from danger of imminent harm.
- (2) To any person acting under Section 834 or 837.

¾ History:

Enacted 1872. Amended Stats 1905 ch 493 § 1; Stats 1982 ch 1404 § 1; Stats 1990 ch 55 § 1 (SB 1564); Stats 2003 ch 23 § 1

₹ Notes:

- 1. Amendments
- ★ 2. Historical Derivation
- ±3. Note
- 7 1. Amendments:
 - ± 1905 Amendment



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	Cal Pen Code § 664	
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Part 1. Of Cri Title 16. GO TO CALIFORNIA	NAL CODE mes and Punishments General Provisions CODES ARCHIVE DIRECTORY	 Collateral References Cal Forms Pl & Practice (Matthew Bender) ch 222 "Dissolution Of Marriage: Property Division And Valuation". Cal Criminal Defense Prac., ch 141, "Conspiracy, Solicitation, and Attempt".
Cai Pen C	Code § 664 (2010)	± More

Every person who attempts to commit any crime, but fails, or is prevented or intercepted in its perpetration, shall be punished where no provision is made by law for the punishment of those attempts, as follows:

§ 664. Punishment for unsuccessful attempt to commit crime; Attempted murder of

- (a) If the crime attempted is punishable by imprisonment in the state prison, the person guilty of the attempt shall be punished by imprisonment in the state prison for one-half the term of imprisonment prescribed upon a conviction of the offense attempted. However, if the crime attempted is willful, deliberate, and premeditated murder, as defined in Section 189, the person guilty of that attempt shall be punished by imprisonment in the state prison for life with the possibility of parole. If the crime attempted is any other one in which the maximum sentence is life imprisonment or death, the person guilty of the attempt shall be punished by imprisonment in the state prison for five, seven, or nine years. The additional term provided in this section for attempted willful, deliberate, and premeditated murder shall not be imposed unless the fact that the attempted murder was willful, deliberate, and premeditated is charged in the accusatory pleading and admitted or found to be true by the trier of fact.
- (b) If the crime attempted is punishable by imprisonment in a county jail, the person guilty of the attempt shall be punished by imprisonment in a county fail for a term not exceeding one-half the term of imprisonment prescribed upon a conviction of the offense attempted.
- (c) If the offense so attempted is punishable by a fine, the offender convicted of that attempt shall be punished by a fine not exceeding one-half the largest fine which may be imposed upon a conviction of the offense attempted.
- (d) If a crime is divided into degrees, an attempt to commit the crime may be of any of those degrees, and the punishment for the attempt shall be determined as provided by this section.
- (e) Notwithstanding subdivision (a), if attempted murder is committed upon a peace officer or firefighter, as those terms are defined In paragraphs (7) and (9) of subdivision (a) of Section 190.2, a custodial officer, as that term is defined in subdivision (a) of Section 831 or subdivision (a) of Section 831.5, a custody assistant, as that term is defined in subdivision (a) of Section 831.7, or a nonsworn uniformed employee of a she riff's department whose job entails the care or control of inmates in a detention facility, as defined in subdivision (c) of Section 289.6, and the person who commits the offense knows or reasonably should know that the victim is a peace officer, firefighter, custodial officer, custody assistant, or nonsworn uniformed employee of a sheriff's department engaged in the performance of his or her duties, the person guilty of the attempt shall be punished by imprisonment in the state prison for life with the possibility of parole.

This subdivision shall apply if it is proven that a direct but ineffectual act was committed by one person toward killing another human being and the person committing the act harbored express malice aforethought, namely, a specific intent to unlawfully kill another human being. The Legislature finds and declares that this paragraph is declaratory of existing law.

(f) Notwithstanding subdivision (a), if the elements of subdivision (e) are proven in an attempted murder and it is also charged and admitted or found to be true by the trier of fact that the attempted murder was willful, deliberate, and premeditated, the person guilty of the attempt shall be punished by imprisonment in the state prison for 15 years to life. Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce this minimum term of 15 years in state prison, and the person shall not be released prior to serving 15 years' confinement.

THistory:

peace officer or fire fighter

Brad Fields	;	
From: Sent: To: Subject:	Friday, February 12, 2010 12:07 PM Brad Fields Fwd: Internal Affairs (S.D Sheriff's Department)	
Begin forwar	rded message:	
To:	: February 8, 2010 14:15:52 PST ect: Fw: Internal Affairs (S.D Sheriff's Department)	
From To: Sent: Subje	: Mon, February 8, 2010 2:02:03 PM ect: Internal Affairs (S.D Sheriff's Department)	RELEASED FROM
I wou cohea said j	uary 8, 2010- The following facts are true and correct. uld seriously suggest you look deeper into your shoddy investigative varsed phone call between Richard Fried and phone call which I was a witness to (all on speaker phone). Why was le witness?	my incidents led up up
and my n fired thing her th of he	abused caused me to move EAST. I came back August of 08 moral support, and as a witness to ongoing threats to take and hopefully working as a bagger at Von's. This is not a joke. I have gs, verbally abuse throat) if he tried to leave the house, break my mothers antique rocking ers), belittle, humiliate and harrass You refuse to see this side alty beyond reason.	get Richard ye seen her break rself (holding a knife to g chair (only item I had
affect and e	d to file a restraining order order against her in Feb.09 due to threats to gain and will re-file since I'm elderly and cannot defend myself emotion lawyer said if I drop case would drop all accusations against her job. Sorry I believed her lawyer I had no idea a lawyer could even tell me or Richard she is tired of ongoing accusations is a dicall her anytime and she would charge It didn't help that I diver any trusted her attorney. After Court still called the house,	onally or physically. ainst since it I not be trustworthy making and that we could not afford a

against me to and stand by since I am going to die soon and she's going to celebrate: (all disobeying court order). I take these statements as a threat and will stop it. My health isn't great but I do know she can't keep violating my rights and breaking law. It became obvious to me that he needed to hold a tape up everytime she spoke to him or state such when she called to discourage her behavior, but Richard didn't take the advice of professionals who said it is the only way to stop her.
Prior to taped conversation, kept calling (not suppose to contact him), but due to concern for he would answer phone. She intimadate him, controlled his emotions, humiliated him and degraded him as a man. Several statements always the same: If you want any chance of getting back together with me admit you were tryin to scare me. She had him so confused with her threats of not seeing any more and no future unless he did as she said. I thank (through work) for shedding some light on her ongoing tactics leading to his emotional instability. Of course, no foundation again.
I do not get intimadated by her. It infuriated her that I stand up to her and call her bluff. She says she's untouchable and due to her job she cannot get trouble-she knows how to work the system. I hope you can somehow legally get transcripts from Mediator that the Court ordered us to go and resolve our issues. Unfortunately mediator did not submit transcript to Court, only stated wqe didn't come to agreement. was caught in two lies. 1. She finally admitted she told me to "stand by" in reference to my death. 2. Admitted to calling (Richard's with
anyone per her superior. said it was police business. Mediator called her on it. tried to back pedal but too late. All she said is we are all losers and as far as I heard character and untruthfulness are unacceptable.(RED FLAG).
I am still in CA. giving up good medical care in NY. I have since been deemed disabled, but I'll be damned if I will let run me too. She is a bitter, hateful, cold and caculating person.
All wants to do is move on, love and care for trogether, but she will not let the past go. She has no regard for the outcome that her actions will cause on the leave us in peace. It has serious issued: truthfulness, revenge, and anger issues.
On 12/21/09 she called the house (against court order and on caller ID) to call my quasimoto and am I dead yet? When am I going to die?
I could go back when I lived w/th them and all the neglect received. I know- and I caref for and protected them. Please seriously consider your decision since I'm trusting in the legal system to do the right thing. If not, I will file an IA investigation with you and the Courts until justice and fairness is done.
By the way, I have all documentation letters and statements, dates, specifics which you may see that already have been filed over the last year and a half. I cannot count the number of times Richard could have reported her for the abuse. Richard just went along with whatever she wanted until she defeated him. I remember when he was offered a job at the Court House after a long wait list. He was so happy. Of course, said NO! The schedule would take away from his attention to and cause her to spend more time w/them. Lo and behold shortly thereafter, got a job at spending (same hours as the Court hours) and of course she took it stating: I will move up the chain and destroy you-you gullible pathetic, weak man, etc.

Believe me, I'm serious. Believe me, I'm se	
She has destroyed Richard personally, financially and professionally. As Richard's self-esteem slowly destroyed, his spirit is crushed. abuse kept reinforcing loss of hope, drive and positive attitude. Thank goodness he is happy again and couldn't be a better, loving father to his children. Richard has overcome diversity and has become a stronger person for it. Consider the ethical, moral and legal outcome of your decision not knowing all the facts.	is





COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

November 18, 2009

TO:

William Gore, Sheriff

FROM:

Mark Kania, Lieutenant

San Diego Central Jail

VIA:

Chain of Command

<u>Disciplinary Recommendation and Rationale for Deputy Sheriff - Detentions/Court Services Richard Fried</u>

RE: Internal Affairs Case: 2009-001.1

RECOMMENDATION

I have reviewed the investigation prepared by Sergeant Jerry Hannis of the Internal Affairs Unit and listened to all of the recorded interviews submitted with it. Sergeant Hannis found Deputy Sheriff-Detentions Fried in violation of Department Policy and Procedure sections:

- 2.4 Unbecoming Conduct
- 2.6 Conformance to Laws (As it relates to: Penal Code Section 664-207 Attempt Kidnapping)
- 2.6 Conformance to Laws (As it relates to: Penal Code Section 653(m) Threatening Telephone Calls)
- 2.46 Truthfulness
- 2.30 Failure to Meet Standards

I concur with Sergeant Hannis' conclusions and findings. Based on the nature of the conduct, and after weighing the factors in aggravation and mitigation, I recommend Deputy Sheriff-Detentions Fried be terminated from employment.

RATIONALE

Sergeant Hannis' investigation was thorough and fair and there is a preponderance of evidence to believe the alleged misconduct occurred. The rules violated are clear and understandable. In



Fried met with

reviewing the investigation and recordings, I have found no evidence of bias or ill will by Sergeant Hannis or the witness in this investigation.

On November 4, 2009, at 1330 hours, I met with Deputy Fried and Attorney Brad Fields, Deputy Fried's chosen representative, in the conference room at the Office of Internal Affairs. Before asking any questions or having any discussion with Deputy Fried regarding the facts of the case, I allowed both he and his attorney to review the investigation in private. When Attorney Fields informed me they were done reviewing the investigation, I began the meeting. I recorded the interview digitally and transferred it to a disc, which I attached to this memorandum as a reference.

The pertinent facts in this case are not in dispute. On July 23, 2008, Deputy-Detentions Richard

. .	
alleges that when she was getting out of Fr	ied's car, he pulled her hair
and placed something against her back. Fried then told	to get into his vehicle.
refused to get into the car and continued to get	at of Fried's vehicle. Once
the kids were out of the car, Fried left the scene. Fried admits he was	nted to get into
his vehicle in order to talk to her. Fried stated that during this encoun	ter he did place his hand on
the back of 'neck. Fried denied placing something in	' back, pulling her
hair and making any attempts to scare her.	
On October 31, 2008, recorded a telephone conversat	ion between her and Fried

During my meeting with Fried, Attorney Fields did not believe that anything said during that recorded conversation was admissible referencing penal code section 631.

Penal Code section 633 Lawful activity of law enforcement officer

regarding the events that took place on July 23, 2008.

Nothing in Section 631, 632, 632.5, 632.6, or 632.7 prohibits the Attorney General, any district attorney, or any assistant, deputy, or investigator of the Attorney General or any district attorney, any officer of the California Highway Patrol, any chief of police, assistant chief of police, or police officer of a city or city and county, any sheriff, undersheriff, or deputy sheriff regularly employed and paid in that capacity by a county, police officer of the County of Los Angeles, or any person acting pursuant to the direction of one of these law enforcement officers acting within the scope of his or her authority, from overhearing or recording any communication that they could lawfully overhear or record prior to the effective date of this chapter.

Nothing in Section 631, 632, 632.5, 632.6, or 632.7 renders inadmissible any evidence obtained by the above-named persons by means of overhearing or recording any communication that they could lawfully overhear or record prior to the effective date of this chapter.



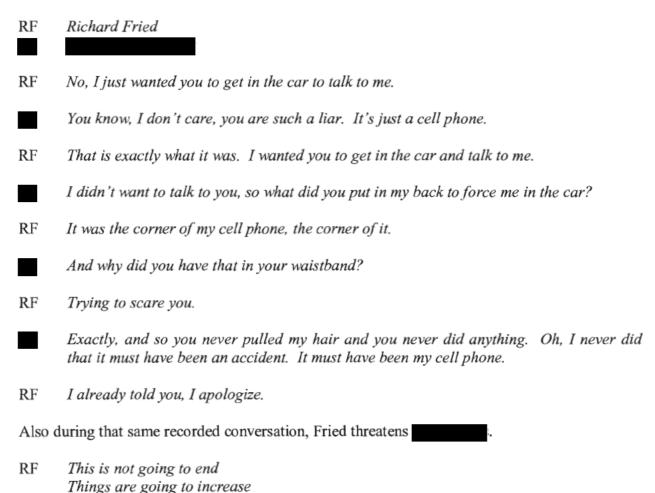
at Gopher Canyon Park and Ride to

(Fried interrupts).

Penal Code section 633.5 Recording by party to communication

Nothing in Section 631, 632, 632.5, 632.6, or 632.7 prohibits one party to a confidential communication from recording the communication for the purpose of obtaining evidence reasonably believed to relate to the commission by another party to the communication of the crime of extortion, kidnapping, bribery, any felony involving violence against the person, or a violation of Section 653m. Nothing in Section 631, 632, 632.5, 632.6, or 632.7 renders any evidence so obtained inadmissible in a prosecution for extortion, kidnapping, bribery, any felony involving violence against the person, a violation of Section 653m, or any crime in connection therewith.

During the recorded telephone conversation, Fried admitted to putting the corner of his cell phone in a back and also tried to scare her by having it in his waistband.



Okay, then increase it. Leave me alone. Leave me alone, stop harassing me, stop calling



RF

I didn't tell her that, no.

RF You're not going to like it. Stop calling me. RF You're not going to like it. Why? What are you going to do? Try and kill me? What are you going to do, kill me? I'm not saying shit because I know you have somebody in the car. RF On August 24, 2009, Fried was interviewed by Internal Affairs Sergeants Hannis and Kusler. Also present in the interview was attorney Brad Fields. During the interview, Fried was asked numerous times if he placed his cell phone in back. Fried denied placing anything in ' back. JΗ Sergeant Jerry Hannis LK Sergeant Larry Kusler Richard Fried RF JΗ Did you use the cell phone at all to try to scare her? RF No. JΗ Did you place anything in back while at the Park and Ride? RF No, I did not. JΗ So what I want to do, I want to make myself perfectly clear on this. That you at no time used a cell phone or any type of an object, whether it be your hand, your finger, a cell phone, or a rubber gun, anything like that at the Park and Ride and put it in her back. RFNo. I did not. During the Internal Affairs interview, Fried was asked if he ever told anybody he used a cell phone and put it in back to scare her. JH Did you ever tell anybody that you used the cell phone and put it in her back to scare her? RF No. no. LK You never told her that?

LK	Did you ever tell her that?
RF	No.
JH	During this incident would you ever admit to something you didn't do?
RF	Oh, no.
conver to talk	acts in the case show Fried did admit to during a recorded telephone sation that he placed the corner of his cell phone in her back in order to get her into his car to him. Fried also admitted during the same telephone conversation, that he had the cell in his waistband in an attempt to scare her.
	the Internal Affairs interview, Fried denied numerous times that he placed anything in back. Fried also denied that he admitted to that he placed the corner of phone in her back and had the cell phone in his waistband to scare her.
that the circum Fried a	g my pre-disciplinary hearing on November 4, 2009 with Deputy Fried, I informed him his was his opportunity to dispute any facts in this case or give me any mitigating astances surrounding this case. Both attorney Fields and Fried both mentioned that during and relationship, Fried would often say things to to appease her. It did not dispute any of the facts of this case nor disagree with any of the findings. Instead, alked about his relationship with and how controlling and manipulative she is.
These	sustained findings seriously hamper Deputy Fried's ability to effectively testify in court. If

These sustained findings seriously hamper Deputy Fried's ability to effectively testify in court. If subjected to a *Pitchess* Motion, it is hard to imagine a set of circumstances where this case would not be revealed to the party requesting discovery. Any report entered into court would cast doubt upon the veracity of his actions. This has the very real possibility of compromising an important investigation or prosecution or exposing the Department to civil liability it would not otherwise suffer.

Significant discipline is warranted in this case. One of the San Diego County Sheriff's Department Core Values is Honesty, which reads, "We are truthful in our words and in our actions." Regrettably, this core value is not reflected in the acts of Deputy Fried in this case.

I believe my recommendation is appropriate and proportionate for the conduct by Deputy Fried. The discipline proposed here is warranted and appropriate for the violations outlined.

Released t

For all the reasons above, termination is the prudent discipline in this case.

Mark Kanja, Lieutenant San Diego Central Jail

ENDORSEMENTS

Frank C. Clamser, Captain San Diego Central Jail	Approve [] Disapprove Date: 1/4/2018
Comments:	
	[] Approve [] Disapprove
John Ingrassia, Commander Detention Operations Area 2	Date:
Comments:	
A.H. Guerin, Assistant Sheriff Detention Services Bureau	[] Approve [] Disapprove
Comments:	



	[] Approve	[] Disapprove
Jim Cooke, Undersheriff		
San Diego County Sheriff's Department	Date:	
Comments:		
William D. Gore, Sheriff	[] Approve	[] Disapprove
San Diego County Sheriff's Department	Date:	
Comments:		





San Diego County Sheriff's Department

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



Thomas J. Cooke, Undersheriff

January 21, 2010

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

Re: Deputy-Detentions/Ctsvc Richard Fried

IA# 2009-001.1

Dear Mr. Pinckard:

Your discovery request was received in the Internal Affairs Unit on January 19, 2010.

With regard to your discovery request in the matter of Deputy Fried, Deputy Fried was provided copies of all materials upon which the proposed action is based, including copies of all 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 D. GORE, SHERIFF

Brian Conway, Lieutenant Internal Affairs Unit

WDG:BC:pgl

p.01

BOBBITT PINCKARD & FIELDS

A Professional Corporation 8388 Vickers Street San Diego, California 92111

EVERETT L. BOBBITT (1946 - 2007) RICHARD L. PINCKARD BRADLEY M. FIELDS ROBERT W. KRAUSE CHARLES B. WALKER

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

ANNETTE BURSTEIN Legal Administrator

FAX TRANSMISSION

Date:

January 19, 2010

To:

SDSO/IA

From:

Annette Burstein

Re:

Appeal of Richard Fried

FAX No. Sending to: (858) 974-2077

FAX No. Sending from: (858) 467-1285

Total number of sheets including this page: 3

COMMENTS:

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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 ROBERT W. KRAUSE CHARLES B. WALKER Telephone (858) 467-1199 Facsimile (858) 467-1285 www.coplaw.org

ANNETTE BURSTEIN
LEGAL ADMINISTRATOR

January 19, 2010

Sheriff William Gore San Diego County Sheriff's Department P.O. Box 939062 San Diego, CA 92193-9062 VIA US MAIL & FASCIMILE (858) 974-2244

Re:

Deputy Richard Fried

Dear Sheriff Gore:

Our office represents Deputy Richard Fried for the purpose of appeal from the advance notice of adverse action served him on January 14, 2010. 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. Brad Fields will serve as Deputy Fried's representative in this matter. Please contact our office regarding the scheduling of this oral reply at the earliest opportunity either by phone or email to Brad@coplaw.org.

Because our client is a peace officer, he is entitled to the protections afforded under Penal Code section 135.5. Accordingly, 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*, (1975) 15 Cal. 3d 194.

On behalf of our client, we request the following information:

A current copy of all policies and procedures alleged to have been violated by our client.

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.

- 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.
- 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, supra, 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,

Reference Ard Richard L. Pinckard

RLP/rab

cc: Internal Affairs

INTERNAL AFFAIRS - CONFIDENTIAL

Skelly Conference Letter *IA# 2009-001.1*

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, that 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.
- To receive a copy of the materials upon which the proposed discipline
 is based, including reports, tape/digital 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.
- 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.
- 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			
	100	1-14-10	
Richard Fried	Witness	Date	

Released from I.A. Files
To:

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.

Richard Fried

Date

IA# 2009-001.1

Released from I.A. Files

To: