



**INTERNAL AFFAIRS INVESTIGATION  
AUDIT**

| CASE DETAILS                                          |                                           |
|-------------------------------------------------------|-------------------------------------------|
| Complainant Name                                      | SCSO Internally Generated Investigation   |
| Case No.                                              | 23-IA-0001                                |
| Type of Investigation                                 | Dishonesty; Conduct Unbecoming; Discredit |
| Incident Date                                         | January 14, 2023                          |
| Date/Origin of Complaint                              | January 16, 2023 / SCSO                   |
| Date IA Sent to IOLERO                                | January 8, 2024                           |
| Date Preliminary Audit Returned to SCSO               | July 10, 2026                             |
| Date Audit Becomes Final if SCSO Provides No Response | August 1, 2026                            |

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## SUMMARY

This Audit reviews an internal investigation and findings made by the Sonoma County Sheriff's Office (SCSO) which resulted in the termination of Correctional Deputy Adam Marlowe's employment with SCSO.

As discussed below:

1. This matter involved important legal and policy issues concerning the manner in which a deputy's personal off-duty conduct, including violating criminal laws and engaging in dishonesty, can and should result in termination of their employment as a peace officer.

2. We **AGREE** that the investigation was **COMPLETE**. Indeed, we **NOTE** that the investigation was thorough, expedited (resulting in a notice to terminate employment within 6 months of opening the investigation), and reflected the seriousness of the deputy's actions.

3. We **AGREE** with SCSO's conclusion that there was insufficient evidence to determine whether Dep. Marlowe engaged in criminal false imprisonment and that the finding should be **NOT SUSTAINED**.

4. We **AGREE** with SCSO's conclusion that Dep. Marlowe brought discredit to SCSO when he unlawfully manufactured and possessed an unregistered and un-serialized assault-pistol and owned illegal high-capacity magazines, and that the findings should be **SUSTAINED**.

5. We **AGREE** with SCSO's conclusion that Dep. Marlowe violated the law when he negligently stored his ammunition and firearms where a child could have accessed them, and that the finding should be **SUSTAINED**.

6. We **AGREE** with SCSO's conclusion that there was insufficient evidence to determine whether Dep. Marlowe drove while under the influence of alcohol and that the finding should be **NOT SUSTAINED**.

7. We **AGREE** with SCSO's conclusion that Dep. Marlowe violated SCSO policy when he smoked marijuana off-duty and that the finding should be **SUSTAINED**.

8. We **AGREE** with SCSO's conclusion that Dep. Marlowe engaged in conduct unbecoming inconsistent with his ability to serve the community as a peace officer when he was dishonest during his interview with the Petaluma Police Department and that the finding should be **SUSTAINED**.

9. We **AGREE** with SCSO that termination of employment as a peace officer was an appropriate sanction for Dep. Marlowe's conduct.

## MATERIALS REVIEWED

All materials provided by SCSO in the AIM system were reviewed in connection with this Audit. A full list of this material is attached as **APPENDIX A**.

## FACTUAL BACKGROUND

A detailed statement of facts concerning the criminal investigation of Dep. Marlowe and the events giving rise to that investigation are set out in SCSO's report which has been

publicly posted on its website. To avoid undue duplication, we summarize here only those portions that are directly germane to our Audit.

On January 13, 2023, SCSO requested that the Petaluma Police Department (PPD) open a criminal investigation of a domestic incident in Windsor involving Correctional Deputy Adam Marlowe and his girlfriend (referred to herein as “GF”). (*PPD Incident Report at p.3.*)

PPD Detectives interviewed GF who described Dep. Marlowe as having a temper and engaging in verbal abuse. GF stated that in January 2023, Dep. Marlowe held her in a bedroom against her will. GF explained that when she sought to leave, Dep. Marlowe followed her around the room, yelled at her, and physically stood in front of her. (*Id. at pp.3-5.*)

GF stated she was terrified, she did not know if Dep. Marlowe was armed, and she worried that Dep. Marlowe was going to escalate to physical abuse. After approximately 10 minutes, Dep. Marlowe allowed GF to leave the room, but he blocked her again on the stairway and continued to yell at her. Eventually, GF left the residence with her daughter and went to a friend’s house. GF stated that Dep. Marlowe never physically abused her, but that he frequently yelled at her. (*Id.*)

When GF told PPD that Dep. Marlowe had a rifle in her garage, PPD retrieved it and found it was an assault-style firearm with no serial number. (*Id. at p.5.*)

GF also told PPD that Dep. Marlowe used marijuana and drove under the influence of alcohol. Specifically, when Dep. Marlowe was on medical leave in 2022, he smoked marijuana every day. In the fall of 2022, Dep. Marlowe consumed alcohol on the bus to a basketball game, and after she had gone to bed later that evening Dep. Marlowe drove into the garbage cans as he left the house. (*Id. at pp.3-4.*)

On January 14, 2023, PPD interviewed Dep. Marlowe, who stated that on January 7, 2023, he and GF got into an argument, Dep. Marlowe was seated on the edge of a table near the bedroom door, and GF was able to leave the bedroom if she wanted. Dep. Marlowe denied making any statements that would cause GF to believe she was unable to leave the room, he denied physically blocking her movement, and stated that GF in fact left the bedroom and began walking down the stairs. Dep. Marlowe followed her to the landing but when GF stated she did not want to speak to him and he was making her feel unsafe, Dep. Marlowe went back upstairs to get ready for work and GF left the house with her daughter. Dep. Marlowe stated he and GF frequently argued, but they had never had any physical altercations. (*Id. at pp.5-7.*)

When PPD asked about the firearm, Dep. Marlowe stated “That’s not mine, that doesn’t belong to me, it could be hers. It’s not mine” and reiterated this statement of ownership when shown a photo of the firearm. When asked if the firearm was legal, Dep. Marlowe said he did not believe it was, and when PPD asked Dep. Marlowe to be honest, he responded “Yes, it’s mine. I’m worried that it’s illegal.” Dep. Marlowe apologized that the firearm was not California-legal because the barrel was too short and stated that he built it, and it was not serialized. (*Id.*)

After the interview, PPD arrested Dep. Marlowe on a warrant for false imprisonment. (*Id. at p.7.*) Ultimately, the Sonoma County District Attorney’s Office declined to prosecute for false imprisonment, but did file a felony complaint regarding the unlawful manufacture and possession of the assault-style firearm. (*PPD Supplemental Report at pp.5-6; DA Complaint at pp.1-2.*)

## ALLEGATIONS

SCSO's Internal Affairs (IA) opened an administrative investigation into Dep. Marlowe to identify any policy violations related to the domestic incident and weapon felony charge. SCSO also examined whether Dep. Marlowe smoked marijuana off-duty, drove while under the influence of alcohol, negligently stored his firearms, and lied to law enforcement during an official interview.

## THE IA INVESTIGATION

### **I. THE INVESTIGATIVE RECORD**

The Investigator reviewed a Temporary Restraining Order (TRO), a PPD incident report, PPD supplemental reports, PPD recorded interviews, photographs of Dep. Marlowe's firearms, the felony complaint, the computer-aided dispatch (CAD) report for a civil standby call for service and body worn camera (BWC) footage of the civil standby call for service.

The Investigator attempted to interview GF but she declined.

The Investigator also conducted a recorded administrative interview with Dep. Marlowe on May 10, 2023, which is summarized below.

With respect to "false imprisonment", Dep. Marlowe stated that he never blocked GF from leaving the bedroom during their January 2023 argument and that she lied to PPD because she may have wanted to hurt him.

Dep. Marlowe acknowledged that he smoked marijuana almost daily between March 14, 2022, and mid-November 2022, to manage pain from a work-related injury but he stopped about a month before returning to work. Dep. Marlowe did not have a medical marijuana prescription, but he opted for marijuana as an alternative to opioids. Dep. Marlowe did not know what SCSO drug use policy specifically stated, but he assumed using marijuana was not allowed.

Dep. Marlowe stated he consumed a total of three alcoholic drinks during the bus ride and basketball game, but he did not drink on the bus ride home and was not intoxicated when he drove from Petaluma to Windsor. He further stated that GF had not expressed any concerns about him driving that night, and that he accidentally hit garbage cans as he pulled forward out of the driveway due to the tight space.

Dep. Marlowe confirmed he manufactured the non-serialized and unregistered assault-pistol, but he thought this was legal and PPD stated it was illegal because the magazine was detachable. Dep. Marlowe estimated that he owned 10 to 15 high-capacity magazines exceeding 10 rounds, with the largest capacity of 30 rounds. He thought it was legal to own the magazines because he was a peace officer, but he acknowledged that his peace officer authority does not extend beyond his on-duty hours working in the capacity of a correctional deputy in the county jail.

Dep. Marlowe stored his guns on a shelf in the garage approximately 8 feet off the ground, they were not secured in a locked cabinet or safe, and he stored ammunition under a work bench and on various garage shelves. When asked whether the children (then ages 6, 14 and 16) had access to the firearms if they entered the garage, Dep. Marlowe stated that they would as there were no special locking features on the garage door. Dep. Marlowe said his two

sons had been taught firearm safety and that GF's daughter was not strong enough to load or use a gun, but he acknowledged that he should have stored his guns more safely.

## **II. INVESTIGATOR'S CONCLUSIONS**

### **A. False Imprisonment**

California Penal Code § 236 defines "false imprisonment" as unlawfully restraining, detaining, or confining a person against his or her will. (*Id. at p.29.*)

The Investigator noted that Dep. Marlowe's physical size and temperament may have been intimidating, but there was no evidence he had ever physically abused GF in the past despite his known temper. The Investigator attempted to interview GF to clarify what specifically caused her to have a heightened level of fear that evening, and whether that fear was based upon an actual threat, but she declined to be interviewed.

Ultimately, the Investigator found the issue reduced to GF and Dep. Marlowe giving conflicting factual statements regarding the bedroom argument. Without further clarification from GF, there was insufficient evidence to determine whether Dep. Marlowe engaged in false imprisonment therefore concluded that the finding for this allegation should be "**Not Sustained**". (*Id. at p.28.*)

### **B. Illegal Weapon**

California Penal Code §§ 30600(a), 30605(a) and 32310(c) make it illegal to manufacture an assault weapon, possess an assault weapon, or to possess high-capacity magazines exceeding 10 rounds. (*Id. at p.31.*)

The Investigator found that the evidence (including Dep. Marlowe's own admissions) showed Dep. Marlowe manufactured and possessed an unregistered and un-serialized assault-pistol and that he owned high-capacity magazines, in criminal violation of the Penal Code sections listed above. (*Id. at p.29-30.*)

The Investigator further determined that Dep. Marlowe's actions brought discredit to the Sheriff's Office because his criminal case was published in a *Press Democrat* article. (*Id.*)

The Investigator therefore concluded that the findings on violating the criminal law and bringing discredit to SCSO should be "**Sustained**".

### **C. Firearm Storage**

California Penal Code § 25100(c) makes it illegal to negligently store or leave a firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access without the permission of the child's parent or legal guardian, unless reasonable action is taken by the person to secure the firearm. (*Id. at p.32.*)

Dep. Marlowe admitted storing multiple firearms on a garage shelf. The record also showed he kept the assault-style firearm on the garage floor and stored ammunition underneath workbenches and on garage shelves. Dep. Marlowe acknowledged that the firearms were not secured in a gun safe and that he should have stored his firearms in a safer manner. (*Id. at pp.31-32.*)

Accordingly, the Investigator concluded that Dep. Marlowe's actions violated law and SCSO policy and that the finding should be "**Sustained**."

### **D. Driving Under the Influence**

California Vehicle Code § 23152(a) makes it illegal for any person to operate a vehicle under the influence of any alcoholic beverage. (*Id. at p.33.*)

Dep. Marlowe admitted to drinking alcohol during the bus ride to the game and during the game, but the Investigator found that the level of intoxication after Dep. Marlowe arrived home several hours later could not be determined, and GF herself did not object to Dep. Marlowe driving her home that evening. (*Id. at p. 32.*)

The Investigator therefore concluded that there was insufficient evidence to determine whether Dep. Marlowe was or was not intoxicated when he drove a vehicle and that the finding under law and SCSO policy which prohibits such conduct should be “**Not Sustained**”.

E. Marijuana Use

SCSO Policy § 1006.3.2 prohibits possession of marijuana, including medical marijuana, or being under the influence of marijuana, either on- and off-duty. (*Id.*)

Dep. Marlowe admitted that he smoked marijuana while off duty and recovering from a work-related injury during a 7-month period. Although Dep. Marlowe demonstrated a lack of understanding of the SCSO’s Drug Use Policy, the deputy nevertheless believed that marijuana use was prohibited. (*Id.*)

The Investigator therefore concluded that Dep. Marlowe violated SCSO policy and that the finding should be “**Sustained**”.

F. Dishonesty

SCSO Policy § 320.5.9 prohibits criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member’s relationship with SCSO. (*Id. at p.35.*)

The Investigator found that Dep. Marlowe was dishonest during his interview with PPD when he initially denied owning the illegal assault-pistol and claimed that it belonged to GF. Only after detectives confronted him repeatedly during the interview did Dep. Marlowe apologize and acknowledge that he built and owned the assault-pistol and that he lied because he knew the firearm was illegal. (*Id. at p.34.*)

The Investigator determined that Dep. Marlowe’s dishonesty would have continued if PPD Detectives had not confronted him repeatedly during the interview, and that Dep. Marlowe’s dishonesty was particularly malicious because he wrongfully accused GF of owning the illegal firearm. (*Id.*)

The Investigator also determined that Dep. Marlowe’s untruthfulness adversely affected his relationship with SCSO by hindering his ability to provide effective service to the community or to testify in a court of law, and that the finding for this allegation should be “**Sustained**”.

## INVESTIGATIVE STANDARDS

### I. BURDEN OF PROOF—“PREPONDERANCE OF THE EVIDENCE”

In an employee investigation, a claim of misconduct may be “sustained” and discipline imposed if a preponderance of the evidence shows the employee violated law or agency policy. *See Sonoma County Civil Service Commission Rule 10.5(I)(2).* “Preponderance” is defined as evidence that “has more convincing force and the greater probability of truth” than the opposing evidence. (*Id.*). “Sustained” claims may be retained in the employee’s general personnel records and could be (in some circumstances) subject to public records requests. *See Penal Code §§ 832.5, 832.7, 832.8.*

## **II. COMPLETE INVESTIGATIVE RECORD—“CLEARLY ESTABLISH”**

Where a preponderance of the evidence shows that the allegations are untrue or that the employee complied with law or policy, punitive action may not be imposed.

In addition, California Penal Code §§ 832.5, 832.7 and 832.8 segregate unsustained claims from the employee’s personnel file and/or exempt them from public records requests. These are claims found to be (i) “frivolous” because they are “totally and completely without merit or for the sole purpose of harassing”, (ii) “unfounded” because the allegation was determined to be “not true”, and (iii) claims in which the employee was “exonerated” because the actions were “not violations of law or department policy”. (*Penal Code § 832.5(c), (d); Code of Civ. Proc. § 128.5(b)(2).*)

To qualify as “unfounded” or “exonerated”, Penal Code § 832.5 requires that the “investigation *clearly establish*[]” that the allegations are “not true” or that the actions “are not violations of law or department policy”. (Italics added). To find a claim to be frivolous, the investigation must establish that any reasonable person would agree it is “*totally and completely* without merit” or was made for the “*sole* purpose of harassing”. (*Code Civ. Proc. § 128.5*) (italics added).

We interpret “clearly establish” as used in Penal Code §§ 832.5, 832.7 and 832.8 to mean the investigation was sufficiently thorough to establish a *complete* factual and analytic record. Only when the investigation is “complete” can determinations properly be made as to whether the claim is or is not supported by a preponderance of the gathered evidence.

In compliance with Penal Code §§ 832.5, 832.7 and 832.8, SCSO Policy § 1010.6.4 requires that all personnel complaints be classified as “unfounded”, “exonerated”, “not sustained”, or “sustained”. The definition of “unfounded” and “exonerated” in SCSO Policy 1010.6.4 differs in some respects from Penal Code §§ 832.5 and 832.7 (*e.g.*, investigation “discloses” rather than “clearly establishes”). We assume SCSO intends its definition to match the statutory criteria and therefore apply the statutory standard here.

SCSO Policy 1010.6.4 defines “not sustained” as “the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member”. “Not sustained” is not a category referenced or defined in Penal Code §§ 832.5, 832.7 or 832.8. The U.S. Dep’t of Justice defines “not sustained” as “the allegations cannot be proven true or untrue by a preponderance of the evidence”. *See U.S. Dep’t of Justice, Office of Community Oriented Policing Services, Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice* at 50.

## **APPLICABLE LAW AND POLICIES**

### **I. SCSO RULES OF CONDUCT**

SCSO Rules and Regulations mandate that members “shall observe, obey and uphold all local, state and federal laws.” (*SCSO Rules and Regulations 5.0(B)(2).*) Further, members “shall obey and carry out all lawful Sheriff’s Office and County policies, procedures, and other orders whether written or oral.” (*Id. at 5.0(B)(3).*)

SCSO Rules and Regulations also mandate that members “shall conduct their private and professional lives in such a manner so as to avoid bringing discredit upon the Sheriff’s Office.” (*Id. at 5.0(B)(4).*)

These standards are reiterated in SCSO Policy 320 regulating personal conduct of its Members, which subjects them to administrative discipline for (among other things) violating the law, being untruthful, engaging in “criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member’s relationship” with the Sheriff’s Office, or “[a]ny other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this office, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this office or its members.” (*SCSO Policy 320.5.1(c); 320.5.8(d); 320.5.9(h); 320.5.9(m).*)

The term “discredit” as used in the employment context does not “endow the employing agency with the power to dismiss any employee whose personal, private conduct incurred its disapproval.” Rather, to bring “discredit” the conduct must bear “some rational relationship” to the employment and must be “of such character that it can easily result in the impairment or disruption of the public service.” *Yancey v. State Pers. Bd.*, 167 Cal. App. 3d 478, 483 (1<sup>st</sup> App. Dist. 1985) (internal citations and quotes omitted); 15 C.C.R. § 3392.3(d) (adverse action against state correctional employee for off-duty misconduct requires nexus between employee’s behavior and their employment).

Whether the officer’s off-duty actions are actually known to the public at large is not relevant. The issue is whether the actions, once known to the agency, could reasonably be viewed as undermining the credibility of the agency. *Nightingale v. State Personnel Bd.*, 7 Cal. 3d 507, 513–14 (1972); *Constancio v. State Personnel Bd.*, 179 Cal.App.3d 980, 990 (3rd App. Dist. 1986); *Orlandi v. State Personnel Bd.*, 263 Cal.App.2d 32, 36–38 (3rd App. Dist. 1968).

With respect to off-duty conduct, sworn peace officers are held to a “higher standard of conduct” than other government employees.

Courts have long recognized that, while the off-duty conduct of employees is generally of no legal consequence to their employers, the public expects peace officers to be “above suspicion of violation of the very laws [they are] sworn . . . to enforce.” Historically, peace officers have been held to a higher standard than other public employees, in part because they alone are “guardians of peace authority and security of the community, and the efficiency of our whole system, designed for the purpose of maintaining law and order, depends upon the extent to which such officers perform their duties and are faithful to the trust reposed in them.” To maintain the public’s confidence in its police force, a law enforcement agency must promptly, thoroughly, and fairly investigate allegations of misconduct; if warranted, it must institute disciplinary proceedings.

*Pasadena Police Officers Ass’n v. City of Pasadena*, 51 Cal. 3d 564, 571-72 (1990) (internal citations omitted). See also *In the Matter of J.H.*, Cal. State Personnel Bd., No. 01-4078 at 7–8 (Sept. 23, 2003) (correctional officer’s off-duty violence against wife has nexus to officer’s employment duties to uphold law, control temper and prevent violence); *Haney v. City of Los Angeles*, 109 Cal. App. 4th 1, 12 (2003).

Examples of discipline upheld under this standard include peace officers violating laws which their employment requires them to enforce. *Parker v. State Personnel Bd.*, 120 Cal. App. 3d 84 (1981) (correctional officer disciplined for violating laws which their employment requires them to enforce); *Hooks v. State Personnel Bd.*, 111 Cal. App. 3d 572 (1980) (conduct related to duties as a correctional officer in charge of persons incarcerated for violation of same laws).

In addition, an officer may be disciplined for “conduct unbecoming”, which consists of conduct indicating a lack of fitness to perform the functions of a law enforcement officer. *See Cranston v. City of Richmond*, 40 Cal. 3d 755, 769 (1985) (reviewing law enforcement officer’s challenge to definition of “conduct unbecoming”). This is substantially in line with conduct which brings “discredit” to the agency and includes conduct which a reasonable law enforcement officer knew or should know could be cause for discipline given their position and responsibilities as a law enforcement officer, regardless of whether the conduct is specifically described in a rule or policy. *Id.*; *Arellanes v. Civil Serv. Comm.*, 41 Cal.App.4<sup>th</sup> 1208, 1217 (1995); SCSO Policy § 320.5.9(m) (prohibiting on- or off-duty conduct which member “knows or reasonably should know is unbecoming a member of” SCSO).

## **II. CALIFORNIA PENAL AND VEHICLE CODES**

California Penal Code § 236 makes it a criminal violation to falsely imprison a person.

Penal Code §§ 30600(a), 30605(a), 32310(c), and 25100(c) further make it a crime to (respectively) manufacture an assault weapon [felony], possess an assault weapon (misdemeanor), possess a large-capacity magazine [infraction or misdemeanor], or negligently stores a firearm in a manner that a child is likely to access.

California Vehicle Code § 23152(a) also makes it illegal for a person to operate a motor vehicle while under the influence of any alcoholic beverage.

## **III. USE OF MARIJUANA**

Finally, SCSO Policy § 1006.3.2 prohibits Members from being in possession or under the influence of marijuana regardless of whether the marijuana is for medical use and regardless of whether the member is on- or off-duty. (*SCSO Policy 1006.3.2.*)

# **DISCUSSION**

## **I. THE INVESTIGATION WAS COMPLETE**

SCSO’s investigation was precipitated by a request from SCSO to PPD to investigate a domestic incident involving Dep. Marlowe and GF. SCSO then opened a separate administrative investigation and expanded it to include Dep. Marlowe’s violation of weapons laws, use of marijuana, driving under the influence, and dishonesty in the course of a criminal investigation. SCSO reviewed the pertinent materials from the criminal investigation and conducted its own administrative interview with Dep. Marlowe. SCSO also sought an interview with GF.

SCSO’s investigation was sufficient to address the allegations of misconduct in this matter and we therefore conclude that the investigation was **COMPLETE**.<sup>1</sup>

We further **NOTE** that SCSO’s administrative investigation was particularly detailed and reflected the seriousness of the allegations and misconduct under review.<sup>2</sup>

<sup>1</sup> SCSO investigated this matter prior to implementation of the Completeness Checklist. We have attached the Completeness Checklist as APPENDIX B for reference only.

<sup>2</sup> SCSO investigated this matter prior to implementation of the Timeliness Checklist between IOLERO and SCSO.

## **II. THE RECORD SUPPORTS SCSO'S FINDING ON FALSE IMPRISONMENT**

SCSO found that the record did not support a finding that Dep. Marlowe either did or did not engage in criminal false imprisonment. We agree.

The record showed that during an argument, GF may have perceived that Dep. Marlowe would not allow her to leave the room until their argument had concluded, that he took a position that she perceived as physically blocking the door, and that she was afraid due to Dep. Marlowe's size and because he often carried a gun. GF asserted that she was afraid that Dep. Marlowe would physically assault her, but she conceded that he had never physically abused her.

On the other hand, Dep. Marlowe denied blocking GF from leaving the bedroom and claimed that he mostly remained seated during the conversation. Dep. Marlowe said he never made any statements to GF that would cause her to feel she could not leave the bedroom.

There was no other direct evidence in the record showing Dep. Marlowe either did, or did not, falsely imprison GF. The record showed that their relationship had historically been rocky, involving arguments and disagreements. While GF told PPD that in this case she was particularly worried for her safety, she did not clarify how this incident was different from prior arguments between them. Because GF declined to be interviewed, it was not possible on this record to determine—even by the lesser preponderance standard—whether Dep. Marlowe took any action that would support the claim of false imprisonment on this specific occasion.

However, we hasten to emphasize that neither SCSO, nor IOLERO, discounted the subjective feelings that a person in GF's position may have felt. California law and SCSO Policy recognize the unique and dangerous circumstances involving domestic violence and the need to accept victim statements at face value subject to investigation. This is particularly true when those domestic violence circumstances involve firearms. In this case, the Superior Court recognized GF's concerns and issued a domestic violence restraining order.

We do not read SCSO's investigation as discounting these domestic violence concerns. Instead, SCSO focused on whether Dep. Marlowe engaged in a separate criminal violation of the false imprisonment statute. This was a reasonable focus, particularly where the domestic violence issue had already been preliminarily resolved in a temporary restraining order. The separate issue of criminal false imprisonment—one of the breaches of conduct lying at the core of SCSO's Policy 320—had been left unresolved. Dep. Marlowe had been arrested, but ultimately not prosecuted, for that charge. SCSO's assessment of that specific crime was therefore appropriate under these circumstances and is not suggestive of downplaying the domestic violence issues associated with the case.

Moreover, as previously noted, it was PPD (not SCSO) which was tasked with criminally investigating the domestic incident. We address the domestic violence issue only as it relates to whether SCSO included (or should have included) that issue in its administrative investigation and decision to terminate Dep. Marlowe's employment. Inclusion in the administrative investigation would have been preferable and would have independently supported SCSO's final decision to terminate Dep. Marlowe's employment. Nevertheless, the scope of SCSO's investigation was a reasonable reflection of the procedural status of the case at that time.

Accordingly, we **AGREE** with SCSO that the record evidence was not sufficient to determine under a preponderance standard whether Dep. Marlowe did, or did not, engage in

criminal false imprisonment and that to the extent SCSO Policy 320 imposes discipline for violating criminal laws, the finding on this specific issue should be **NOT SUSTAINED**.

### **III. THE RECORD SUPPORTS SCSO'S FINDINGS CONCERNING ILLEGAL FIREARMS**

SCSO found that Dep. Marlowe violated law and policy by manufacturing and possessing an assault-style firearm and possessing high-capacity ammunition magazines. The record supports this finding.

Dep. Marlowe admitted to building an un-serialized firearm and PPD determined that the firearm was an “assault pistol” because it “was a semiautomatic pistol that did not have a fixed magazine and could accept a detachable magazine at a location outside of the pistol grip.” (*PPD Supplemental Report at p.4.*) Dep. Marlowe also admitted owning 10 to 15 high-capacity magazines, the largest of which held about 30 rounds.

The record thus showed—indeed, it is undisputed—that Dep. Marlowe violated the California Penal Code by manufacturing and owning an unregistered and un-serialized assault-style firearm, and by possessing high-capacity magazines.

Applying SCSO's Policy 320 and standards of personal conduct, SCSO concluded that Dep. Marlowe's actions, in fact, brought discredit to the Sheriff's Office because his criminal case was published in a *Press Democrat* article. We agree that, in this case, public disclosure or censure of the deputy's conduct comes within the parameters of “discrediting” to SCSO.

However, we must emphasize that “discredit” is not limited to whether the public *actually* expressed dissatisfaction about an officer's actions or even knew of the officer's conduct. Rather, SCSO is allowed under legal authorities to determine for itself, institutionally, what conduct it believes “discredits” the office, even if no public disclosure had yet been made and no public disapproval had yet been recorded. (*Nightingale v. State Personnel Bd.*, 7 Cal.3d 507, 513-14 (1972); *Constancio v. State Personnel Bd.*, 179 Cal.App.3d 980, 990 (3<sup>rd</sup> App. Dist. 1986); *Orlandi v. State Personnel Bd.*, 263 Cal.App.2d 32, 36-38 (3<sup>rd</sup> App. Dist. 1968).

Thus, even if Dep. Marlowe's conduct had not been publicly reported by the press, or publicly disclosed by GF, we conclude that SCSO would have been well within its rights, and its responsibility, to make the same findings based on its own internal review of the deputy's conduct.<sup>3</sup>

Moreover, we agree with SCSO that Dep. Marlowe's actions called into question his ability to perform the essential functions of a peace officer. Dep. Marlowe is expected to enforce the criminal laws and abide by governing personnel standards. This includes law enforcement within the detention facility. Moreover, although he was a correctional officer with duties largely confined to the jail, Dep. Marlowe could have been called upon to exercise patrol-related peace officer duties outside the jail. (*See Pen. Code § 830.1(c)* [correctional peace officer status could extend to other duties directed by agency during state of emergency]). Dep. Marlowe's violation of the criminal weapons statutes undermines his effectiveness to enforce criminal laws on behalf of SCSO. On this record, we agree that the nature of these criminal violations also qualify as “conduct unbecoming”.

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<sup>3</sup> We recently reiterated the same point in Audit 24-PP-0004.

Accordingly, we **AGREE** with SCSO's **SUSTAINED** findings concerning violations of SCSO Policy § 320.4 requiring that members obey state law and SCSO Policy § 320.5.9 prohibiting misconduct that is criminal and that brings discredit to SCSO.

**IV. THE RECORD SUPPORTS SCSO'S FINDINGS CONCERNING NEGLIGENT STORAGE OF AMMUNITION AND FIREARMS**

The California Penal Code makes it illegal to negligently store or leave a firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access. (*California Penal Code § 25100(c).*)

Dep. Marlowe acknowledged that he stored multiple firearms on a garage storage shelf approximately eight feet off the floor, that for approximately 11 days he kept a 9mm assault-pistol on the garage floor, and that he stored ammunition underneath workbenches and on various garage shelves. Dep. Marlowe admitted that his firearms were not secured in a gun safe and that he should have stored them in a safer manner.

Accordingly, we **AGREE** with SCSO's conclusion that Dep. Marlowe violated law and SCSO policy concerning the negligent storage of firearms and that the finding should be **SUSTAINED**.

**V. THE RECORD SUPPORTS SCSO'S FINDING ON DRIVING UNDER THE INFLUENCE**

The California Vehicle Code makes it illegal for any person to operate a vehicle under the influence of any alcoholic beverage. (*California Vehicle Code § 23152(a).*)

GF alleged that Dep. Marlowe drove while under the influence of alcohol after returning home from a basketball game. Dep. Marlowe denied this. The remaining evidence was inconclusive. On one hand several hours had passed by the time Dep. Marlowe (who claimed to have had three drinks over several hours) arrived home, and GF did not object to the deputy driving. On the other hand, Dep. Marlowe did hit some trash cans when driving away which can be suggestive of impairment, but it could also be plausibly explained by the narrowness of space as the deputy stated.

In sum, the record evidence is simply insufficient to determine whether Dep. Marlowe was, or was not, impaired by alcohol when he drove the vehicle, and we therefore **AGREE** with SCSO that the finding should be **NOT SUSTAINED**.

**VI. THE RECORD SUPPORTS SCSO'S FINDING CONCERNING MARIJUANA USE**

SCSO Policy § 1006.3.2 prohibits members from being in possession or under the influence of marijuana, either on- or off-duty, and regardless of whether it is for medical use.

Dep. Marlowe admitted smoking marijuana daily for approximately 7 months while off-duty and recovering from a work-related injury, which he believed was a reasonable alternative to prescribed narcotics. Nevertheless, Dep. Marlowe understood and acknowledged that marijuana use was prohibited by SCSO policy.

The record thus showed that Dep. Marlowe possessed and used marijuana in violation of SCSO policy, and we **AGREE** with SCSO that the finding should be **SUSTAINED**.

## **VII. THE RECORD SUPPORTS SCSO'S FINDING REGARDING UNTRUTHFUL STATEMENTS DURING A CRIMINAL INTERVIEW**

SCSO found that Dep. Marlowe was dishonest during his interview with PPD. We agree.

Dep. Marlowe denied to PPD that he owned the manufactured assault-pistol, and instead asserted (twice) that the firearm belonged to GF. When PPD emphasized the importance of his honesty, Dep. Marlowe finally admitted that the firearm was his and apologized for being dishonest, explaining that he lied because he was aware the firearm was illegal.

The Investigator further determined that Dep. Marlowe's dishonesty would have continued if PPD had not confronted him repeatedly, and that the lie was particularly malicious because he wrongfully accused GF of owning the firearm. We agree with these assessments.

The Investigator concluded that Dep. Marlowe's dishonesty hindered his ability to provide effective service to the community and to testify in a court of law. We agree with this assessment as well.

Honesty is a fundamental duty of every law enforcement officer because it preserves the integrity of the criminal justice system and maintains public confidence in law enforcement generally. An officer who is found to have been untruthful may lose credibility with prosecutors, judges, juries, and the public, making it difficult or impossible to testify effectively in future cases. Under *Brady v. Maryland* (1963) 373 U.S. 83 and *Giglio v. United States* (1972) 405 U.S. 150, prosecutors have a constitutional duty to disclose material impeachment evidence, including information that calls an officer's truthfulness into question. As a result, an officer with sustained findings of dishonesty may be placed on a "Brady list" maintained by a prosecutor's office, potentially limiting the officer's ability to serve in assignments that require courtroom testimony. Beyond the courtroom, dishonesty can lead to lasting damage to public trust and undermine the credibility of the department and the profession the officer represents.

In this case, Dep. Marlowe lied in an official interview about his own criminal culpability *and* intentionally and dishonestly implicated GF. This irreparably damages his credibility as a peace officer entrusted to uphold and enforce the law.

The record thus showed that Dep. Marlowe was intentionally dishonest with PPD as part of an official investigation, and we therefore **AGREE** with SCSO that the finding should be **SUSTAINED**.

## **VIII. THE RECORD SUPPORTED TERMINATION OF EMPLOYMENT**

Violation of law or SCSO Policy may result in administrative discipline of the offending member. Administrative discipline may include informal or formal admonition, additional training, suspension, pay reduction, demotion, or termination of employment.

In this case, SCSO terminated Dep. Marlowe's employment rather impose a lesser sanction. The record supports this decision. The nature of Dep. Marlowe's legal and Policy violations directly undermine his ability to conduct the essential functions of a peace officer both within a correctional setting or on a collateral assignment. Moreover, by extension the continued employment of the deputy by SCSO after having knowledge of these circumstances would undermine the credibility of the SCSO and its Members in the performance of their peace officer functions.

Accordingly, we **AGREE** that the record supports SCSO's termination of Dep. Marlowe's employment.

## CONCLUSION

1. This matter involved important legal and policy issues concerning the manner in which a deputy's personal off-duty conduct, including violating criminal laws and engaging in dishonesty, can and should result in termination of their employment as a peace officer.

2. We conclude that the investigation was **COMPLETE**. Indeed, we **NOTE** that the investigation was thorough, expedited (resulting in a notice to terminate employment within 6 months of opening the investigation), and reflected the seriousness of the deputy's actions.

3. We **AGREE** with SCSO's conclusion that there was insufficient evidence to determine whether Dep. Marlowe engaged in criminal false imprisonment and that the finding should be **NOT SUSTAINED**.

4. We **AGREE** with SCSO's conclusion that Dep. Marlowe brought discredit to SCSO when he unlawfully manufactured and possessed an unregistered and un-serialized assault-pistol and owned illegal high-capacity magazines, and that the findings should be **SUSTAINED**.

5. We **AGREE** with SCSO's conclusion that Dep. Marlowe violated the law when he negligently stored his ammunition and firearms where a child could have accessed them, and that the finding should be **SUSTAINED**.

6. We **AGREE** with SCSO's conclusion that there was insufficient evidence to determine whether Dep. Marlowe drove while under the influence of alcohol and that the finding should be **NOT SUSTAINED**.

7. We **AGREE** with SCSO's conclusion that Dep. Marlowe violated SCSO policy when he smoked marijuana off-duty and that the finding should be **SUSTAINED**.

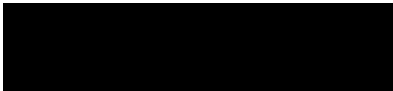
8. We **AGREE** with SCSO's conclusion that Dep. Marlowe engaged in conduct unbecoming inconsistent with his ability to serve the community as a peace officer when he was dishonest during his interview with the Petaluma Police Department and that the finding should be **SUSTAINED**.

9. We **AGREE** with SCSO that termination of employment as a peace officer was an appropriate sanction for Dep. Marlowe's conduct.

Date: July 10, 2026

Respectfully Submitted:

BY:



Ashley Nechuta  
Law Enforcement Auditor III

## APPENDIX A

### **MATERIALS REVIEWED**

- Temporary Restraining Order, dated January 13, 2023
- SCSO Admin Leave Notice, dated January 14, 2023
- SCSO Internal Affairs Notice, dated February 21, 2023
- SCSO Internal Affairs Notice (second), dated March 27, 2023
- Petaluma PD Incident Report (#PE230000158), dated January 14, 2023
- Petaluma PD Supplemental Report (#PE230000158.001), dated January 20, 2023
- Petaluma PD Supplemental Report (#PE230000158.002), dated February 16, 2023
- Sonoma County District Attorney's Felony Complaint, dated March 20, 2023
- Emails between SCSO & DA, dated February 15, 2023 – March 21, 2023
- Photographs of Firearms (4 photos)
- Marlowe Interview with Petaluma PD (audio file), dated January 14, 2023
- Victim Interview with Petaluma PD (audio file), dated January 13, 2023
- Marlowe Interview with SCSO (3 audio files), dated May 10, 2023
- Dep. Knight BWC (2 video files), dated January 11, 2023
- Dep. Cooper BWC (2 video files), dated January 11, 2023
- Dep. Carpender BWC video, dated January 12, 2023
- Computer-Aided Dispatch (CAD) Report (#WI230110011), dated January 11, 2023
- SCSO's Investigative Report (#23-IA-0001)
- SCSO Notice of Intended Disciplinary Action, dated June 13, 2023
- Skelly Hearing Request Letter, dated June 22, 2023
- Skelly Hearing Findings, dated July 27, 2023
- Order of Termination from Employment, dated August 1, 2023
- SCSO Rules and Regulations Regarding Conduct
- SCSO Policy 320, Standards of Conduct (Rules & Regulations)

## APPENDIX B

### IOLERO COMPLETENESS CHECKLIST FOR AUDITING IAD INVESTIGATIONS

(Applies to investigations initiated on or after July 1, 2023)

CASE NO. 23-IA-0001

| PRELIMINARY ITEMS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Mark when Completed |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| Identify and list the issues/allegations reasonably raised by the incident.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | X                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                     |
| <b>FACT DEVELOPMENT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                     |
| Timely gather documentary / video / audio evidence, including BWC files and Dispatch files. If any are missing, explain why in the report.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | X                   |
| Timely interview subjects, complainants, witnesses (recorded by audio/video)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | X                   |
| <p>** Explore and where necessary, challenge, factual assertions to ensure objective record; eliminate shorthand use of phrases/terms of art, and/or require they be substantively explained on the record. Interviews need not be adversarial, but they do need to be probative. Avoid leading questions and questions suggesting justifications for the deputy's conduct. Obtain non-interrupted narratives from interviewees when possible and clarify/elaborate with targeted follow up questions.</p> <p>** Have deputies identify with as much specificity as possible the facts known to or perceived by the deputy at the time actions were taken, and the source of those facts, as they relate to the incident under review</p> | X                   |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                     |
| <i>Use of Force Matters</i> (in addition to the foregoing)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                     |
| Establish whether (and specifically how) use of force factors listed in policy were considered by deputy(s)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | N/A                 |
| Establish whether (and specifically how) <u>proportionality</u> was considered by deputy(s)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | N/A                 |

|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Establish whether (and specifically how) <u>de-escalation</u> was considered by deputy(s)                                                                                                                                                                                                                                                                                                                                     | N/A |
| Establish specific facts which deputy believed showed reasonableness of the force under the Fourth Amendment.                                                                                                                                                                                                                                                                                                                 | N/A |
|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |
| <b><i>Critical Incident Protocol Matters</i></b> (when SCSO is Employing Agency)                                                                                                                                                                                                                                                                                                                                              |     |
| Check for compliance with the SCSO policy, not just assessing whether the deputy committed a crime. For example, check for compliance with the Critical Incident Protocol at the scene and for deputy compliance with SCSO de-escalation policy and training. This will often require a separate interview of involved deputies/witnesses to address SCSO policy, not just reliance on the investigating agency's interviews. | N/A |
| Remember that the District Attorney or Attorney General's decision not to file criminal charges does not tell us whether there was a violation of policy.                                                                                                                                                                                                                                                                     | N/A |
|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |
| <b>EVALUATION OF LAW / POLICY</b>                                                                                                                                                                                                                                                                                                                                                                                             |     |
|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |
| Explain SCSO's interpretation of the law/policy in issue.                                                                                                                                                                                                                                                                                                                                                                     | X   |
|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |
| Summarize training, if relied on by deputy.                                                                                                                                                                                                                                                                                                                                                                                   | N/A |
|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |
| Summarize experience, if relied on by deputy.                                                                                                                                                                                                                                                                                                                                                                                 | N/A |
|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |
| Summarize deputy understanding of law/policy.                                                                                                                                                                                                                                                                                                                                                                                 | X   |
|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |
| <b>APPLY LAW / POLICY TO FACTS</b>                                                                                                                                                                                                                                                                                                                                                                                            |     |
|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |
| Analyze facts under the law/policy as interpreted by SCSO.                                                                                                                                                                                                                                                                                                                                                                    | X   |
|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |
| Identify ambiguity in law/policy.                                                                                                                                                                                                                                                                                                                                                                                             | N/A |
|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |
| Identify and address factual contradictions and credibility issues, such as the impact of missing BWC or contradictions in witness testimony.                                                                                                                                                                                                                                                                                 | X   |
|                                                                                                                                                                                                                                                                                                                                                                                                                               |     |

|                                                                                                                                                                                                                                                     |     |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| Address whether deputy was directed by superiors to take specific action.                                                                                                                                                                           | N/A |
| <b><i>Use of Force Matters</i></b> (in addition to the foregoing)                                                                                                                                                                                   |     |
| Provide complete analysis of balancing of interests under <i>Graham v. Connor</i> .                                                                                                                                                                 | N/A |
| Provide complete analysis of relevant use of force factors in SCSO Policy and California statutes.                                                                                                                                                  | N/A |
| Provide complete analysis of <u>proportionality</u> balance.                                                                                                                                                                                        | N/A |
| Provide complete analysis of <u>de-escalation</u> considerations.                                                                                                                                                                                   | N/A |
|                                                                                                                                                                                                                                                     |     |
| <b><i>Critical Incident Protocol Matters</i></b> (when SCSO is Employing Agency)                                                                                                                                                                    |     |
| Do not rely solely on the District Attorney’s evaluation of whether charges will be filed <u>criminally</u> ; conduct separate analysis of whether deputy followed SCSO <u>policy</u> . This will often involve separate administrative interviews. | N/A |
|                                                                                                                                                                                                                                                     |     |
| <b>WRITTEN REPORT</b>                                                                                                                                                                                                                               |     |
|                                                                                                                                                                                                                                                     |     |
| All the facts and analysis used to reach a conclusion should be stated here, so the reader does not have to go elsewhere to understand the report.                                                                                                  | X   |
|                                                                                                                                                                                                                                                     |     |
| Avoid terms-of-art, or otherwise explain such terms. For example, instead of writing “the deputy de-escalated,” instead write “The deputy stepped back a few paces, and told the man to take his time to explain what was going on.”                | X   |
|                                                                                                                                                                                                                                                     |     |
| Summary of how record supports the finding of sustained, exonerated, unfounded, or not sustained, based on statutory and policy definitions. Use the “Allegation, Policy, Facts, Conclusion” four-sentence paragraph as a start.                    | X   |
|                                                                                                                                                                                                                                                     |     |
| <b>PRESERVATION OF RECORD</b>                                                                                                                                                                                                                       |     |
|                                                                                                                                                                                                                                                     |     |
| Place all materials and evidence in AIM.                                                                                                                                                                                                            | X   |
| Retain all BWC files in Evidence.com.                                                                                                                                                                                                               | X   |