

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION, AS MODIFIED

Noe Yanez (Respondent) became a CalPERS member through his employment as a Police Officer with the City of Long Beach (Respondent City) on June 2, 2003. He was last employed on April 20, 2012, in the position of Police Officer. By virtue of this employment, Respondent is a state safety member of CalPERS.

On February 14, 2013, a Second Amended Felony Complaint (Complaint) was filed in the Superior Court of California, County of Los Angeles against Respondent. The felony Complaint alleged 51 counts for sex-related offenses against Respondent. (*People of the State of California v. Noe Yanez*, Los Angeles County Superior Court Case No. BA397305).

On February 22, 2013, Respondent was convicted, based on his guilty plea of multiple felonies. Specifically, Respondent pled guilty to violating Penal Code sections 288.4, subdivision (b) (arranging meeting with a minor for lewd purposes) (Count 1); 311.11, subdivision (a) (possession of matter depicting a minor engaging in sexual conduct) (Count 3); 236 (false imprisonment) (Counts 9 and 30); 311.4, subdivision (c) (using minor for sex acts) (Count 16); and 261, subdivision (a)(2) (forcible rape) (Count 48).

Count 9 of the felony Complaint alleges:

On or between January 1, 2009 and August 18, 2009, in the County of Los Angeles, the crime of FALSE IMPRISONMENT BY FRAUD AND DECEIT, in violation of PENAL CODE SECTION 236, a Felony, was committed by [respondent], who did unlawfully violate the personal liberty of [redacted name] said violation being effected by violence, menace, fraud, and deceit.

This crime is not barred by the statute of limitations pursuant to Penal Code sections 801.5 and 803(c) in that (1) the offense was discovered on 4/22/12 during an interview with victim [redacted name] (2) by the Long Beach Police Department; (3) Prior to the interview Long Beach PD had no knowledge of the crime; (4) because no one had reported criminal activity by Defendant to [redacted name]. Additionally, the basis for this charge is misconduct by a public officers or employee and a police officer is a public officer or employee.

On May 7, 2013, a felony judgment was entered against Respondent. He was sentenced to state prison for 11 years and eight months.

In 2020, CalPERS received a media inquiry from a news organization about Respondent's pension status following his felony convictions. The news organization also provided CalPERS several newspaper articles on Respondent's felony convictions.

In 2022, CalPERS initiated its own investigation of the matter, including obtaining the criminal court docket and the felony Complaint. On November 30, 2022, CalPERS issued its determination to Respondent, with a copy to the City, informing them that Respondent's service credit for the period of January 1, 2009, through April 20, 2012, must be forfeited due to his felony conviction.

Respondent appealed this determination and exercised his right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on January 6 and September 11, 2025. Respondent was represented by counsel at the hearing. Respondent City did not appear at the hearing and a default was taken as to the City only.

Ryan Lebaron, Deputy Chief of Investigation, Long Beach Police Department (LBPD), testified at the hearing. Deputy Chief Lebaron was not involved in the criminal or internal affairs investigation of Respondent. The officers who were involved in those investigations are now retired from LBPD. Deputy Chief Lebaron confirmed that LBPD refused to provide CalPERS with any internal affairs reports or unredacted arrest reports in connection with Respondent's felony convictions. Thus, all victim names contained in the arrest reports admitted into the record were redacted. All victim names in the felony Complaint were redacted as well.

Deputy Chief Lebaron testified that he reviewed the felony Complaint and the unredacted arrest reports regarding the criminal offenses underlying Respondent's felony convictions. Deputy Chief Lebaron testified that the arrest report for LBPD case number 12-25976 (Arrest Report) describes the offense and arrest underlying Respondent's felony conviction under Count 9.

Deputy Chief Lebaron testified regarding the criminal conduct described in the Arrest Report and the conduct described in Count 9. Specifically, the Arrest Report indicates that on April 22, 2012, LBPD detectives executed a search warrant at Respondent's home and found a "large number" of LBPD field interview cards. One of these field interview cards contained the name, date of birth, address, home and cell phone number of the victim (Victim) of the false imprisonment charge under Count 9. Victim's age, 16, was circled by hand on the field interview card. An LBPD detective contacted Victim via the cell phone number listed on the field interview card. Victim alleged that three to four years ago Respondent detained her for a traffic stop and completed a field interview card with her personal information.

Deputy Chief Lebaron explained that a patrol officer's official duties include using field interview cards when conducting stops to document information about individuals, including minors. The field interview card contains the interviewee's personal identifying

information, and the back of the card is used to document narratives, such as the nature of the stop or detention. According to Deputy Chief Lebaron, it would be “highly unusual” for a patrol officer to bring field interview cards to his home.

Respondent testified at the hearing. Respondent admitted that as a police officer, he used field interview cards to document information about individuals, including children. However, he denied ever contacting these children after meeting them while on duty. Respondent claimed that he kept many field interview cards at his home because he stuffed them into his “war bags” (gym bags with extra ammunition or weapons), which sometimes were placed in his garage or in the backseat of his vehicle.

Respondent denied committing any of the crimes underlying his felony convictions, specifically forcible rape, possessing child pornography, false imprisonment, or using a minor for sex. Respondent claimed he pled guilty to those charges because his family convinced him to take the plea deal. Regarding Count 9, Respondent could not recall ever meeting Victim or detaining any children in 2009.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent’s appeal. The ALJ determined that Respondent’s guilty plea as to Count 9 constitutes an admission of misconduct in office. Under Penal Code section 801, the statute of limitations for felony false imprisonment is three years. The Complaint alleged facts showing (1) the date on which the crime of false imprisonment was discovered; (2) how and by whom the offense was discovered; (3) the lack of knowledge before the date of discovery; (4) the reason why the offense was not discovered earlier; and (5) the applicability of Penal Code section 803, subdivision (c), based on misconduct in office. Under Penal Code section 803, subdivision (c), the three-year statute of limitations does not apply when “the basis of the [offense] is misconduct in office by a public officer, employee, or appointee.”

The ALJ held that Respondent admitted to the sufficiency of evidence to toll the statute of limitations pursuant to Penal Code section 803, subdivision (c), by his guilty plea. (*People v. Padfield* (1982) 136 Cal.App.3d 218). Having admitted the sufficiency of that evidence by his plea in the criminal case, he cannot challenge it in his administrative hearing. The ALJ concluded that Respondent’s admission of misconduct in office is sufficient to satisfy the “conduct arising out of or in the performance of his or her official duties” requirement under section 7522.72.

The ALJ further held that CalPERS presented sufficient evidence at the hearing demonstrating that Respondent’s crime of false imprisonment arose out of or was in the performance of his official duties as a police officer.

The testimony of Deputy Chief Lebaron and Respondent established that conducting stops, interviewing individuals, and completing field interview cards afterwards are part of a police officer’s official duties. The testimony of Deputy Chief Lebaron and the Arrest Report established that Victim’s personal information was contained in one of the many field interview cards found in Respondent’s bedroom. The ALJ concluded that these

facts support CalPERS' determination that Respondent's felony conviction for the crime of false imprisonment (Count 9) was based on his conduct arising out of or in the performance of his official duties.

Pursuant to Government Code section 11517, subdivision (c)(2)(C), the Board is authorized to "make technical or other minor changes in the proposed decision." To avoid ambiguity, staff recommends replacing "Patrol Officer" with "Police Officer" each time it appears in the PD.

For all the above reasons, staff argues that the Proposed Decision should be adopted by the Board.

March 18, 2026

Austa Wakily
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