Report # POST2305989

Benavidez on 05/12/2021

SUMMARY OF SERIOUS MISCONDUCT ALLEGATIONS:

California State University, Northridge Department of Police Services conducted an Internal Investigation involving police corporal Michael Reyes. It was alleged via an internal department complaint that Corporal Reyes failed to properly investigate a traffic collision that occurred on May 12, 2021, and deliberately wrote false statements in his police report. During the internal affairs interview, Corporal Reyes made misleading statements and contradictions which exposed his intent to use deception to cover his mistakes.

Primary Investigator: Commander Rene Lino, rene.lino@csun.edu, 818.677.4285

RELATED CASE(S)

NA

RELEVANT LAWS/POLICIES:

CSU Department of Police Services Policies:

1. Policy 07-L.E. – 005 – Traffic Collision Investigation

F. Collect and record information:

4) Investigate the traffic collision and attempt to determine the contributing

factors.

5) Collect and preserve evidence.

6) Interview involved parties and witnesses.

2. Policy 03 – P.A. -001 – Standards of Conduct (sworn)

V. Canon of Ethics

B. Canon Two

Standard 2.2 – Peace officers shall truthfully, completely, and impartially

report, testify, and present evidence in all matters of an official nature.

PEACE OFFICER CURRENT STATUS:

Regular Duty

WITNESS INFORMATION:

[Names, contact information, etc.]

AGENCY INVESTIGATION DETAILS:

Date: September 14, 2021

To: Alfredo Fernandez, Interim Chief of Police

From: Rene R. Lino, Lieutenant

Subject: Personnel Complaint - 2021-I.A.-004

Employee Involved: Michael L. Reyes, Corporal

Date of Hire: May 24, 2001

Current Assignment: Patrol – Day Watch

Shift/Days Off: 0600-1800; Sun, Mon, Tue, Wed (Alternating)

Date of Violation: May 12, 2021

PERSONNEL COMPLAINT:

On Friday, May 14, 2021, at about 1229 hours, I received an email from [redacted]

Benavidez.

In essence, Lt. Benavidez stated the following:

Lt. Benavidez was contacted by one of the involved parties [redacted] about a traffic collision that occurred on the walkway east of Sierra Tower on Wednesday, May 12, 2021. [redacted] told Lt. Benavidez he observed cameras in the area where the traffic collision occurred.

[redacted] wanted to know if the investigating officer (Corporal Michael Reyes) had a chance to look at the camera footage because he believed the other driver, [redacted], was on his cell phone at the time of the collision.

Lt. Benavidez told [redacted] that officers usually do look at the cameras as part of their investigation. However, he couldn't comment on the case because it was still under investigation.

Shortly after, Lt. Benavidez reviewed Corporal Reyes's traffic collision report and confirmed that Corporal Reyes wrote in his report there were no cameras in the area that pointed in the direction of the traffic collision. Lt. Benavidez checked the camera system and saw that the collision was captured on multiple cameras in the area.

These new facts prompted me to check Corporal Reyes's Body Worn Camera footage to review his investigation. In the background, I noticed a camera attached to the top of a blue light at the intersecting walkways of Matador Walk and the north and south walkway east of Sierra Tower.

The camera was in clear view. In addition, there were missed steps in the investigation and omission of facts in the police report that caused great concern. These errors potentially violated Department Policies: 07-L.E.-005 Traffic Collision Investigation and 03-P.A.-001 Standards of Conduct (Sworn). As a result, an Internal Affairs Investigation was initiated. (See CR210234).

FACTS:

On Wednesday, May 12, 2021, at about 1431 hours, the CSUN PD Communications Center received a call of a non-injury traffic collision involving two university utility carts on the walkway east of Sierra Tower. Corporal Reyes, who was working as an assigned motor officer/traffic investigator, responded to the call.

Upon Corporal Reyes' arrival, he was greeted by Physical Plant Management employee [redacted]. After Corporal Reyes dismounted from his motorcycle, he asked [redacted], "So what happened?" [redacted] tried to explain to Corporal Reyes his cart was hit by the other cart, which was still at the location,

and he needed a report for his manager. Corporal Reyes responded, "Well, let see if it warrants it first." Corporal Reyes proceeded to collect the driver licenses of [redacted] and the other driver [redacted]), who was standing next to his vehicle.

Corporal Reyes appeared to be writing down the driver's license information of both [redacted] However, other than inquiring about both [redacted] contact information, Corporal Reyes did not conduct a full interview with either driver about how the collision occurred.

At one point, [redacted] tried to tell Corporal Reyes about the collision and where it occurred precisely but was immediately interrupted by Corporal Reyes and told "okay" in a dismissive manner. Corporal Reyes then proceeded to walk away from [redacted]. Corporal Reyes took several pictures of both vehicles, asked both drivers if they were injured, handed them a business card with the report number, and cleared the call.

INVESTIGATION:

Based on my review of the police report (CR210234) and Body Worn Camera video of Corporal Reyes' contact with [redacted], I observed discrepancies in the following areas of Corporal Reyes' police report:

PHYSICAL EVIDENCE

Corporal Reyes wrote in his police report under physical evidence: "I observed a slight indentation on the driver side panel on V-1. There were multiple dents to the front bumper of V-2." However, Body Worn Camera footage contradicts this statement because Corporal Reyes never asked either driver if the damage on either vehicle was new or pre-existing.

CCTV

In Corporal Reyes' police report under CCTV, he wrote: "There are no cameras which face the area in which the collision occurred." However, multiple cameras in the area captured the collision and contradicted this statement.

STATEMENTS

Corporal Reyes wrote in his police report that both [redacted] provided statements of what occurred.

According to Corporal Reyes' report, [redacted] stated the following:

"On 05/12/21 at approximately 1420 hours, he was driving V2 S/B (5 mph) on the sidewalk approaching the east side of Sierra Tower. As he drove forward, V1 exited from under a passage way on the east side of Sierra Tower. P2 did not have enough time to stop before V2 collided with the driver of V1. P2 then parked V2 on the east side of Sierra Tower (CSUN campus) and notified his supervisor. P1 (typo should be P2) stated he had no injuries related to the collision."

However, the Body Worn Camera footage doesn't show an interview with [redacted].

Instead, it shows [redacted] attempting to tell Corporal Reyes what occurred, but he is cut off by Corporal Reyes and never allowed to finish his statement. Contrary to his police report, Corporal Reyes

never interviewed [redacted] to ask about time, speed, or distance before the collision.

According to Corporal Reyes' report, [redacted] stated the following:

"On 05/12/21 at approximately 1420 hours, he was driving V1 E/B (5 mph) on the sidewalk from underneath the east side of Sierra Tower. As he drove forward from a blind corner, V2 was traveling S/B on the sidewalk east of Sierra Tower. V2 collided with the driver side of V1. P1 then parked V1 on the east side of Sierra Tower (CSUN campus) and notified his supervisor. P1 stated he had no injuries related to the collision."

However, the Body Worn Camera footage doesn't show an interview with [redacted]. The only time [redacted] indicated what occurred was when Corporal Reyes initially arrived on the scene, and [redacted] used the motion of his hands to illustrate what happened.

Contrary to his police report, Corporal Reyes never interviewed [redacted] to ask about time, speed, or distance before the collision.

SUMMARY

Corporal Reyes wrote in the summary section of his police report that both parties were driving and "had their views obstructed by the corner of the building and collided with one another." However, the CCTV video disputes Corporal Reyes' statement and shows that both vehicles collided out in the open approximately 15 feet east of the building. Contrary to his report, Corporal Reyes never obtained a statement to support this false claim.

CALIFORNIA HIGHWAY PATROL (CHP) 555 TRAFFIC COLLISION REPORT

Corporal Reyes marked "cell phone not in use" for both drivers in the supplemental CHP 555 report. However, the CCTV video disputes this statement and shows [redacted] on his phone seconds before both vehicles collided. Additionally, Body Worn Camera video also proves this statement to be false because Corporal Reyes never asked either driver if they were on their cell phone, nor did he check the CCTV video.

CORPORAL MICHAEL REYES INTERVIEW:

On Saturday, June 5, 2021, at about 1246 hours, I conducted a recorded interview with Corporal Michael Reyes. I explained the purpose of the interview to Corporal Reyes and advised him of his AB301 rights. Corporal Reyes said he understood and elected to have Sergeant Jonathan Jenkins (SUPA Unit 8 Representative) as his representative at the interview.

I ordered Corporal Reyes to answer any questions asked of him truthfully and accurately, as required under the Lybarger warning. I also provided Corporal Reyes the Garrity Admonishment, informing him that any statements made under the compulsion of the threat of discipline or termination cannot be used in any subsequent legal proceedings. Corporal Reyes said he understood and agreed to answer my questions. Finally, I provided Corporal Reyes an opportunity to review the email detailing [redacted] inquiry about cameras potentially capturing the traffic collision sent to me by Lt. Benavidez.

In essence, Corporal Reyes provided the following statement:

I asked Corporal Reyes if he reviewed his police report, and he said he checked it on Friday, May 21, 2021, the day he was served with his official Internal Affairs notification. I asked Corporal Reyes if his police report was correct and true as he understood it. Corporal Reyes replied, "At the time or right now?"

I said, right now. Corporal Reyes replied, "No, it's not accurate." Corporal Reyes explained that he was "mistaken" about where the cameras were pointed at the time of the collision.

Corporal Reyes confirmed he was on duty on Wednesday, May 12, 2021, and authored the traffic collision report (CR210234) involving two university utility vehicles. My questioning of Corporal Reyes was specific to the discrepancies found under the following investigator headings of his traffic collision investigation:

PHYSICAL EVIDENCE

Corporal Reyes confirmed the "indentation" on V1 appeared fresh and a result of the traffic collision. However, when asked if he questioned P2 ([redacted]) about V2's damage on the front bumper, he said, "No I did not." Corporal Reyes explained that although the damage on V2 appeared to be "old damage," he put the information in his police report anyway without asking P2 to confirm if the damage was directly related to the traffic collision.

CCTV

I asked Corporal Reyes if he ever checked CCTV to see if the traffic collision was captured on video, and he replied, "No, I did not." When asked how he concluded there were no cameras, he said, "I assumed." Corporal Reyes followed up with, "But what I forgot, is the cameras have been upgraded to show the area. It's my fault I should have gone back to make sure that was still the case."

STATEMENTS

I read to Corporal Reyes verbatim [redacted] statement from his police report. I asked Corporal Reyes if this was [redacted] statement, he replied, "Assuming at the time, yes." I again asked Corporal Reyes, "So he ([redacted]) stated everything that's in your report?" Corporal Reyes replied, "Yes." Sergeant Jenkins interjected with the statement, “did he (Corporal Reyes) have a chance to review his body-worn camera.” I asked Corporal Reyes when did he check his Body Worn Camera, and he said at the time he was served with his I.A. notice. I asked Corporal Reyes if he reviewed his Body Worn Camera at the time he wrote his report, and he said, "No."

I read to Corporal Reyes verbatim [redacted] statement from his police report. I asked Corporal Reyes if this was [redacted] full statement, he replied, "Yes."

When questioned how he (Corporal Reyes) determined both drivers were traveling 5 MPH, even though he never asked [redacted] their speed, Corporal Reyes said he could make that determination based on his expertise. I asked Corporal Reyes, "That’s without reviewing any video?" Corporal Reyes responded, "Correct."

SUMMARY

I read to Corporal Reyes verbatim his statement from his police report regarding both drivers having their view obstructed by a blind corner. I asked Corporal Reyes if either driver told him this was the cause of the traffic collision, he replied, "They indicated when I asked them what happened." I asked Corporal Reyes to explain what that means. Corporal Reyes stated that when he first arrived, P1 ([redacted] pointed to where the collision occurred and then pointed to [redacted] as involved, and “both parties agreed.” Corporal Reyes couldn't provide any articulable facts to support this statement in his police report.

CALIFORNIA HIGHWAY PATROL (CHP) 555 TRAFFIC COLLISION REPORT

When describing how he investigates traffic collisions, Corporal Reyes stated that he

doesn't ask the involved parties about cell phone use if nobody mentions anything about a cell phone. I asked Corporal Reyes, as a traffic investigator isn't your responsibility to ask; he replied, "Yes and no." Corporal Reyes added that he didn't ask about sobriety either and because there are so many questions to ask drivers, he didn't think to ask about cell phone use.

I asked Corporal Reyes why did he mark on the CHP 555 form that both drivers' cell phones were "not in use" when he didn't ask; he explained he just made the assumption. CCTV video would later prove this statement to be false.

Policy 07-L.E. – 005 – Traffic Collision Investigation

I provided Corporal Reyes with a copy of the Policy Review Sign-Off Sheets for policy 07-L.E.-005 dated November 2019, April 2020, and April 2021. The sheets have his signature acknowledging it is his responsibility to read and become familiar with the policies in their entirety. I asked Corporal Reyes if the signatures on the sheets were his, and he stated they were. I asked Corporal Reyes if he had any questions for his supervisor at the time he signed he read the policies, and if so, what were those questions. Corporal Reyes said he did not.

Policy 03 – P.A. -001 – Standards of Conduct (sworn)

I provided Corporal Reyes with a copy of the Policy Review Sign-Off Sheets for policy 07-L.E.-005 dated September 2019, January 2020, and January 2021. The sheets have his signature acknowledging it is his responsibility to read and become familiar with the policies in their entirety. I asked Corporal Reyes if the signatures on the sheets were his, and he stated they were. I asked Corporal Reyes if he had any questions for his supervisor at the time he signed he read the policies, and if so, what were those questions. Corporal Reyes said he did not.

OPINIONS/CONCLUSIONS:

Based on my review of the incident through Body Worn Camera footage, CCTV video, and my interview with Corporal Michael Reyes, I believe he failed to conduct a thorough traffic investigation and deliberately wrote false statements in his police report. During our interview Corporal Reyes continued to defend his actions with misleading statements and contradictions which exposed his intent to use deception to cover his mistakes.

The aforementioned evidence (i.e. BWC footage, CCTV video, etc.) captured the facts and brought Corporal Reyes's police report into question. The false statements made by Corporal Reyes could have potentially impacted [redacted] DMV pull notice status, personal insurance rates, and official DMV driving record had [redacted] not come to the police station to inquire about the investigation.

RECOMMENDATIONS:

Allegations: Sustained – for a violation of the following: failing to investigate a traffic collision and attempt to determine the contributing factors; failing to collect and preserve evidence; failing to interview involved parties. Additionally, failing to truthfully, completely, and impartially report, testify, and present evidence in all matters of an official nature.

1. Policy 07-L.E. – 005 – Traffic Collision Investigation

F. Collect and record information:

4) Investigate the traffic collision and attempt to determine the contributing factors.

5) Collect and preserve evidence.

6) Interview involved parties and witnesses.

2. Policy 03 – P.A. -001 – Standards of Conduct (sworn)

V. Canon of Ethics

B. Canon Two

Standard 2.2 – Peace officers shall truthfully, completely, and impartially report, testify, and present evidence in all matters of an official nature.

I recommend Human Resources review Corporal Michael Reyes' entire personnel file to determine the appropriate level of discipline.

MITIGATING CIRCUMSTANCES:

None

PREVIOUS FORMAL DISCIPLINE HISTORY:

• November 13-15, 2018 – Three-Day Suspension: Unprofessional conduct, dishonesty, failure or refusal to perform the normal and reasonable duties of his position.

• January 2016 – Written Reprimand: Failure to follow the pursuit policy.

• April 2014 – Written Reprimand: Failure to adhere to multiple department policies.

• March 2008 – Written Reprimand: Failure to report to work on time.

PERFORMANCE EVALUATIONS –REQUIRING IMPROVEMENT:

• From October 2018 to February 2019, Corporal Michael Reyes was on a Personnel Improvement Plan (PIP) for deficiencies in ethics, community interactions, preliminary investigations, and professional conduct. During this rating period, additional deficiencies in tactical communication, arrest & control, and decision making were identified, which led to an extension of the PIP. This extension allowed Corporal Reyes to meet all of the provisions required of the initial PIP, in addition to correcting the new deficiencies identified under the subsequent PIP extension.

• 2019 – Annual Performance Evaluation: Although Corporal Reyes received an overall satisfactory on his performance evaluation, it states he received “Below expectations” in the area of Operation and Care of Equipment, Judgment and Decisions, Leadership, Supervisory Control, Training and Instruction. As a result, Corporal Reyes was placed on a Personnel Improvement Plan (PIP). Corporal Reyes scored

below expectations (2) in the following areas:

a. Operation and Care of Equipment

b. Judgement and Decisions

c. Leadership

d. Supervisory Control

e. Training and Instruction

• 2018 – Annual Performance Evaluation: Corporal Reyes received an overall “Below Expectations” on his evaluation, under required improvement it states, “During the latter part of this rating period multiple issues were brought to light in which Corporal Reyes showed poor leadership, displayed a lack of judgement and decision making. Of additional concern were views expressed by community members of Reyes’ poor community relation skills and his apparent “arrogant behavior.” Corporal Reyes scored either unacceptable (1) or below expectations (2) in the following areas:

a. Judgement and Decisions (1)

b. Accepts Responsibility (2)

c. Customer Contacts (2)

d. Effective Working Relationship (2)

e. Leadership (2)

f. Training and Instruction (2)

• 2016 – Annual Performance Evaluation: Although Corporal Reyes received an overall “Satisfactory” in his performance evaluation, under required improvement it states, “Corporal Reyes continues to struggle with balancing the responsibilities of his new position with his high field/traffic productivity. With his promotion to Corporal comes new responsibilities which means less time for self-initiated traffic enforcement off campus on surrounding streets and more time spent on overseeing the supervision of patrol officers and taking on new administrative responsibilities.” Corporal Reyes scored below expectations (2) in the following areas:

a. Observance of Work Hours

b. Safety Practices

c. Judgement and Decisions

d. Initiative

• 2009 – Annual Performance Evaluation: Although Officer Reyes received an overall “Satisfactory” in his performance evaluation, under required improvement it states, “Officer Reyes needs to follow all policies and procedures especially as they relate to department equipment. During this rating period Officer Reyes was given a counseling memorandum for failing to follow department policy on the alteration of his

police bicycle. Officer Reyes was also verbally counseled on several occasions regarding his initiation of traffic stops without putting himself out on traffic as directed by department policy."

Officer Reyes scored below expectations (2) in the following areas:

a. Quality of Work

b. Accepts Direction

• 2008 – Annual Performance Evaluation: Although Officer Reyes received an overall

"Satisfactory" in his performance evaluation, under required improvement it states, "There were a couple of calls for service where Officer Reyes did not gather enough information at the scene for detectives to follow up on and or did not take a report to document the incident occurred." Officer Reyes scored below expectations (2) in the following areas:

a. Volume of Acceptable Work

b. Initiative

• 2007 – Annual Performance Evaluation: Although Officer Reyes received an overall "Satisfactory" in his performance evaluation, under required improvement it states, "Officer Reyes' decision making and judgement have been his greatest weakness." Officer Reyes scored below expectations (2) in the following areas:

a. Judgement and Decisions

• 2006 – Annual Performance Evaluation: Although Officer Reyes received an overall "Satisfactory" in his performance evaluation, under required improvement it states, "Officer Reyes decision making was discussed, he was involved in an off-duty incident which could have resulted in injury to himself or the subject." Officer Reyes scored below expectations (2) in the following areas:

a. Job Knowledge

b. Judgement and Decisions

AGENCY INVESTIGATION STATUS/FINDINGS:

The charges in the investigation were sustained, and Corporal Reyes was ultimately dismissed from the Department/University.
Subsequently, Corporal Reyes appealed the dismissal to the California State Personnel Board. The Board ruled Corporal Reyes' actions were of gross negligence, but that he did not intentionally lie on his police report. Corporal Reyes was given a 60-day suspension by the Board and his dismissal rescinded.
Final Dispo Date: September 14, 2021