

MINUTES OF CIVIL SERVICE BOARD
CITY OF SACRAMENTO
REGULAR MEETING MARCH 20, 1979

The regular meeting of the Civil Service Board was called to order by President Wilfred Street at 1:30 p.m. in the Personnel Department Conference Room, 801 Ninth Street.

Present: Luis Campos, Juanita Damerell, Wilfred Street.
Absent: None.

MINUTES OF MARCH 6, 1979 MEETING: Approved as submitted.

REPORTS OF DIRECTOR OF PERSONNEL

a. The appeal of Eugene A. Piert, Watchman, was withdrawn by Stationary Engineers Local 39 on his behalf.

b. The request for hearing by Police Officer R. Cordell Ford was granted by the Director of Personnel as agent of the Board. The hearing is scheduled before an Administrative Law Judge on May 24, 1979.

ELIGIBLE REGISTERS ESTABLISHED

<u>Exam.</u>	<u>Classification</u>	<u>Effective Date</u>	<u>Certification Date</u>	<u>Expiration Date</u>
#1617	Machinist	3/8/79	3/23/79	3/7/80
#1629	Tree Trimmer Foreman II (Promotional)	3/2/79	3/19/79	3/1/80

EXAMINATIONS TO BE ANNOUNCED

#1652 Custodial Foreman I
#1658 Supervising Fire Alarm Technician (Promotional)

MOTION: Mrs. Damerell moved to approve the above examination announcements.
SECOND: Mr. Campos.
CARRIED: Unanimous vote.

REQUEST FOR HEARING BEFORE CIVIL SERVICE BOARD TO APPEAL DISCIPLINARY ACTION
(continued from 2/6/79; 2/21/79; 3/6/79)

Raj Brar, Police Officer

Acting Secretary William Woska stated that the American Arbitration Association will provide a list of available arbitrators to hear the Raj Brar case. The list will be submitted to the Sacramento Police Officers Association and to the City Attorney's Office for their independent selection of an arbitrator. If a common arbitrator is selected, it is proposed that such arbitrator would be used for the hearing.

As both attorneys had not remained to discuss this matter, final action was deferred to the next regular meeting to allow the attorneys an opportunity to discuss the matter with the Board.

AMENDMENT TO CLASSIFICATION PLAN

Adoption of New Classification: Police Cadet

Associate Personnel Analyst Susan Davidson submitted her classification study to develop a new civil service classification of "Police Cadet". Under the proposal, new Police Officers would be hired as Police Cadets for the duration of the Sacramento Law Enforcement Training Academy (13 months). Upon completion of the Training Academy, it was proposed that the Police Cadets would be reallocated to the class of Police Officer. To accomplish this reallocation, an amendment to Rule 3.6(e), Reallocations Provided by Class Specification (Flexible Staffing), was also presented.

Police management and SPOA had indicated approval of the Police Cadet specification and the rule amendment.

MOTION: Mrs. Damerell moved to approve the Police Cadet specification.
SECOND: Mr. Campos.
CARRIED: Unanimous vote.

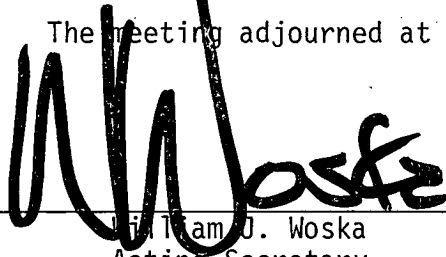
AMENDMENT TO CIVIL SERVICE BOARD RULE 3.6(e), REALLOCATIONS PROVIDED BY CLASS SPECIFICATION (FLEXIBLE STAFFING) - first reading

MOTION: Mrs. Damerell moved that the amendment to Rule 3.6(e) be considered for final action at the next regular meeting.
SECOND: Mr. Campos.
CARRIED: Unanimous vote.

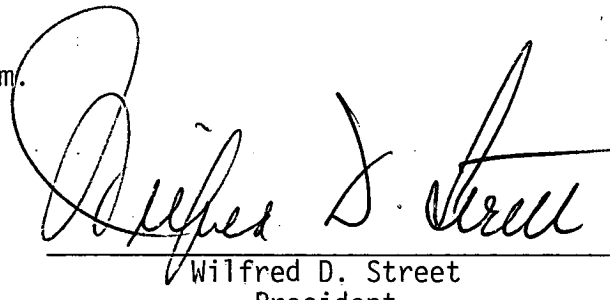
COMMUNICATION FROM CITY CLERK ACKNOWLEDGING RECEIPT OF CIVIL SERVICE BOARD'S LETTER PERTAINING TO AFFIRMATIVE ACTION

Mr. Street read the communication from the City Clerk which indicated that the matter had been referred to the Personnel and Public Employees Committee.

The meeting adjourned at 2:00 p.m.



William J. Woska
Acting Secretary



Wilfred D. Street
President

POLICE CADET

NATURE OF WORK:

Under close supervision, attends and participates in the Sacramento Law Enforcement Training Center Academy in order to receive basic law enforcement training in various laws, police procedures, law enforcement techniques, first aid, and physical fitness.

DISTINGUISHING CHARACTERISTICS:

The classification of Police Cadet is a recruiting and training-level class used for candidates qualified to learn the duties of a Police Officer in the Sacramento City Police Department. Incumbents of this class undergo a formal, comprehensive training program in a P. O. S. T. certified academy conducted by the Sacramento Law Enforcement Training Center.

Upon satisfactory completion of the training, and graduation from the Academy, the Police Cadet will be sworn in as a Police Officer with full police authority. Failure to graduate from the Academy within the prescribed training period will be cause for termination.

Police Cadet is distinguished from the Community Service Officer classification in that the former is a full-time Civil Service classification which has the same qualification standards as Police Officer and obtains police authority upon graduation from the Academy while the latter is a part-time exempt classification which requires incumbents to carry a minimum of six units of college work per semester.

Police Cadet is distinguished from the Police Officer classification in that it is a recruiting and training-level classification with no police authority, while Police Officer is a journey-level classification assigned full police authority to carry out the enforcement of laws and ordinances.

EXAMPLES OF DUTIES:

As a Police Cadet, receives instruction in:

The Sacramento Police Department's organization, chain of command, and rules and regulations.

Identification and utilization of principles and techniques that promote community service, crime prevention, and appropriate behavior.

Enforcement and procedural aspects of criminal law and the legal obligations inherent in enforcement of those laws.

Proficient application of the rules of evidence.

Effective and professional communications through written, oral, and mechanical media.

The Vehicle Operation course which includes skid training, high speed pursuit, defensive driving, and emergency driving.

Firearm training in order to learn good judgement and competency in the use of deadly force, ancillary police weaponry, and weaponless defense.

EXAMPLES OF DUTIES: (Continued)As a Police Cadet, receives instruction in: (Continued)

Safely and effectively accomplishing the patrol function consisting of patrolling a designated area of the City on foot, on a motorcycle, or in a patrol car in order to preserve law and order, and to prevent and discover the commission of crimes.

Effectively dealing with common vehicle violations by learning to recognize the violations, locating the violations in the Vehicle Code, and safely and professionally contacting the violator.

Basic criminal investigation processes and techniques, including the identification, collection, and preservation of evidence, courtroom testimony, and witness interrogation.

Processing, confining, and caring for adult and juvenile prisoners in such a manner as to protect the prisoner's rights and welfare.

Physical fitness and defense techniques programs.

First-aid, including Cardio-Pulmonary Resuscitation techniques.

Other related courses or programs as required.

MINIMUM QUALIFICATIONS:Education:

Completion of sixty (60) semester units, or ninety (90) quarter units, from an accredited college or university.

Experience:

None required.

KNOWLEDGES, ABILITIES, AND SKILLS:Ability to:

Acquire, through training, a knowledge of modern approved principles, practices, and procedures of police work, state laws, City ordinances, first-aid, the geography of the City, and the location of important buildings.

Write clearly, accurately, concisely, legibly, and with correct English grammatical construction and spelling.

Read and interpret complex technical documents in English.

Understand and carry out oral and written instructions.

Observe, assimilate, remember, record, and recall pertinent facts and details.

Read maps and mapped information.

Apply selected knowledge (i.e., laws, statutes, court decisions, department policies, criminal investigation theories, etc.) in collecting, organizing, and analyzing a variety of information in order to decide on an appropriate and reasonable course of action.

KNOWLEDGES, ABILITIES, AND SKILLS: (Continued)

Ability to: (Continued)

- Analyze problems and have the potential to rationally and calmly take effective action in emergency and stress situations.
- Plan and effectively present material orally to diverse groups.
- Deal courteously but firmly with the general public.
- Establish and maintain cooperative working relationships with co-workers and other City employees.
- Develop skill in the use of firearms.
- Undergo strenuous physical conditioning.

NECESSARY SPECIAL QUALIFICATIONS:

Age:

Must be 21 years of age at the time of appointment.

License:

Must possess a valid Class 3 California Driver license by the date of appointment.

Physical and Medical:

Must meet the physical and medical standards as established for Police Officer.

Adopted: 3/20/79

Revised:

Title Change:

Abolished:

Class Code: 02035

BEFORE THE CIVIL SERVICE BOARD
CITY OF SACRAMENTO
STATE OF CALIFORNIA

In the Matter of the Appeal)
of)
STEVE HALL) CSB No. HO-79-5
Police Officer, from disciplinary)
action of Reprimand) N-12798

PROPOSED DECISION

The matter came on for hearing before Philip J. Hanley, an Administrative Law Judge of the Office of Administrative Hearings, on March 23, 1979 in Sacramento, California.

Appellant Steve Hall was present with his attorney, David P. Simmons.

Garland Burrell, Deputy City Attorney, represented the respondent, John P. Kearns, Chief of Police.

Evidence was received by way of stipulation and testimony of witnesses, and the matter was submitted. The Administrative Law Judge certifies this decision and recommends its adoption.

FINDINGS OF FACT

I

Appellant Steve Hall is a police officer of the City of Sacramento and has worked in that classification for more than seven years.

Respondent John P. Kearns is Chief of Police of the City of Sacramento and the appointing power of Hall.

II

Service of the disciplinary action of Reprimand and the appeal therefrom are in conformity with Civil Service Rules.

III

On December 13, 1978 about 7:20 p.m., appellant Hall and other officers responded to a silent 211 (robbery) alarm at the Flame Club, 16th and V Streets. Officer Hall was given Officer Diane Ramsey's shotgun (the barrel length of her gun was better

for use in an enclosed area) and he entered the premises. Officer Hall knew the shotgun was loaded.

The alarm was a false alarm. There was no robbery. When he entered the premises, Hall had the gun ready for instant use. When he saw there was no need for the gun, he left the premises and proceeded to return the weapon to its normal condition.

Hall was familiar with Departmental General Order Z-1, safety precautions to be observed in handling shotguns. The procedure was not to completely unload the weapon, but to remove the shell in the chamber and the first round in the magazine. Hall began the procedure under a canvas awning at the entrance to the Flame Club.

Officer Hall testified he acted in accordance with the General Order. He testified "there must have been a malfunction; a shell was fed into the chamber when I closed the slide." as he proceeded to make the weapon safe. Hall thereupon held the muzzle of the gun, pointing straight up at a height of about ten feet, and pulled the trigger. A shell was fired, causing a small hole in the canvas awning.

IV

The shotgun was tested and re-tested dozens of times following the incident. No malfunction was found. The shotgun has been assigned to other officers. None has reported any irregularity or malfunction in loading or unloading the weapon.

On the night of the incident, appellant Hall wrote a report. He stated there must have been a malfunction "... which allowed the shell stops to release another round from the magazine as I was closing the action." Appellant concluded his report:

"... it is my responsibility for not having made a close visual check of the chamber as I closed the action."

V

Appellant has extensive experience with weapons and shotguns in particular. He has handled shotguns since pre-teen years. He was The Police Department's Armorer after his appointment to City employment; he has trained other officers in use of weapons, and he helped in writing General Order Z-1.

VI

Appellant testified he has no specific memory of visually checking the gun, but that it is his habit to not only feel for a shell but to look as he disarms a shotgun. It is found, however, that on the night of December 13, 1979, appellant failed to make a visual inspection of the weapon.

VII

The two issues presented by evidence are:

1. Did Officer Hall violate General Order Z-1 in his handling of the shotgun?

2. If he did violate General Order Z-1, was such action inexcusable neglect of duty within the meaning of Section 12.2(d), Civil Service Rules?

DETERMINATION OF ISSUES

I

Evidence establishes Officer Hall did violate General Order Z-1 on the evening of December 13, 1978. There was no malfunction of the weapon. The inadvertent firing resulted because appellant failed to perform the safety action of visually checking the condition of the shotgun. Additionally, appellant performed the unloading maneuver under a canvas canopy. The procedure is to be performed in an open area. The canopy was damaged when the shotgun was fired. There were no injuries.

II

Despite the determination that there was a violation of General Order Z-1, evidence fails to establish that such violation is inexcusable neglect of duty within the meaning of Section 12.2(d), Civil Service Rules.

A judicial test for establishing inexcusable neglect of duty as that identical term is used in Government Code Section 19572(d) is found in Peters v. Mitchell, 222 C.A.2d 852 at 862:

"It has been held that in order to be guilty of such neglect of duty it must appear that the act was done intentionally, designedly and without lawful excuse."

Reported appellate cases cite repeated and deliberate acts or omissions as evidence establishing inexcusable neglect of duty. The judicial standard excludes the incident at issue in that there was no evidence of deliberation or design or of indifference to the General Order.

The violation of General Order Z-1 is an instance of negligence within the meaning of Section 12.2(p), Civil Service Rules. Section 12.2(p) of the Rules is found to be an included offense within Section 12.2(d), inexcusable neglect of duty.

It is determined that appellant Hall is guilty of negligence rather than inexcusable neglect of duty.

PROPOSED ORDER

The appeal is granted in part. The Reprimand of January 8, 1979 shall be for a violation of Section 12.2(p) (negligence) Civil Service Rules and not for inexcusable neglect of duty Section 12.2(d).

Dated: March 30, 1979

Philip J. Hanley

PHILIP J. HANLEY
Administrative Law Judge
Office of Administrative Hearings



CITY OF SACRAMENTO

DEPARTMENT OF PERSONNEL

801 NINTH STREET, ROOM 201
SACRAMENTO, CALIF. 95814
TELEPHONE (916) 449-5270

Donna L. Giles

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DIRECTOR OF PERSONNEL

April 17, 1979

Mr. Philip J. Hanley
Administrative Law Judge
State Office of Administrative Hearings
Department of General Services
915 Capitol Mall, Room 106
Sacramento, California 95814

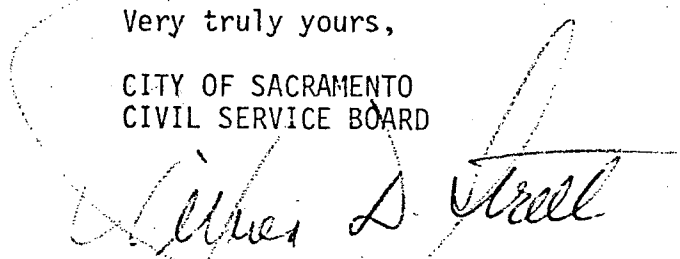
Dear Mr. Hanley:

Re: Appeal of Steve Hall
Police Officer
N-12798

The City of Sacramento Civil Service Board considered your recommended decision in the above matter at its meeting of April 17, 1979. It was the order of the Civil Service Board that your recommendation be adopted as its decision in the matter of the appeal of Steve Hall.

Very truly yours,

CITY OF SACRAMENTO
CIVIL SERVICE BOARD


Wilfred D. Street
President

cc: State Office of Administrative Hearings
Attention: Calendar Clerk
David P. Simmons, Attorney at Law
Garland E. Burrell, Deputy City Attorney
John P. Kearns, Chief of Police
Don A. Fausset, Director of Employee Relations
Steve Hall, Police Officer