



**MEMORANDUM  
POLICE DEPARTMENT**

**DATE:** April 2, 2018  
**TO:** Deputy Chief Martinez  
**FROM:** Sergeant Wes Morey  
**SUBJECT:** Case Summary  
Internal Affairs Case # 2018-001

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**INVOLVED PARTIES:**

Investigator: Sergeant Wes Morey #109  
Subject Officer: Officer David Gunter #182

**INTRODUCTION:**

On January 26, 2018, Deputy Chief Martinez received a memo from Sergeant Mark Eveleth regarding a report of an alleged \_\_\_\_\_ incident . The memo stated that on January 25, 2018, Sergeant Eveleth approached \_\_\_\_\_ regarding an incident he had heard about \_\_\_\_\_ at a private party. During this conversation, \_\_\_\_\_ told Sergeant Eveleth that \_\_\_\_\_ knew of \_\_\_\_\_ incident that occurred at a \_\_\_\_\_ party involving Officer Gunter

\_\_\_\_\_ at a party in November 2017.

Chief Mills reviewed the complaint and directed me to conduct a professional standards investigation. I was instructed to work with HR Director Lisa Murphy and to investigate the allegations together.

**SUMMARY OF ALLEGATIONS:**

On November 18, 2017, \_\_\_\_\_ had a \_\_\_\_\_ party at his residence. During the party, \_\_\_\_\_ alleged that Officer Gunter inappropriately touched \_\_\_\_\_ sexually. The allegation consisted of him inappropriately touching \_\_\_\_\_ buttocks.

After reviewing Sergeant Eveleth’s memo, I determined that the underlying allegations qualified as \_\_\_\_\_ conduct unbecoming of a Santa Cruz Police Department employee. The allegations are encompassed in part by the following policies; a full version of the policies are attached

## **SANTA CRUZ POLICE DEPARTMENT POLICY 339 – STANDARDS OF CONDUCT & DISCIPLINE**

### **339.1 POLICY**

It is the policy of this Department that its members are highly visible representatives of government and are entrusted with the responsibility of ensuring the safety and well-being of the community as well as the delivery of police services. Since the functions of a police department have a major impact upon the community, standards of conduct for police personnel are higher than standards applied to the general public. In this regard, department members will conduct themselves in a manner which does not bring discredit upon individuals, the Department, the City, the community or the profession. A procedure is established for violation of Law and Departmental Policy. (Reference: Code of Professional Conduct and Responsibility for Peace Officers, see attachment A.)

### **339.2.3 CONDUCT UNBECOMING**

A members conduct either on or off-duty, which could adversely reflect upon the department, will be deemed to be conduct unbecoming. Each case of misconduct will be examined to determine if the act was such that a reasonable person would find that such conduct was unbecoming a police employee. Actual conduct does not have to be public knowledge, but if known, could have an adverse effect.

### **339.6.4 CANON FOUR**

Peace Officers will so conduct their public life that they exemplify the high standards of integrity, trust and morality demanded of a member of the peace officers profession.

Standard 4.4 Peace Officers shall maintain a level of conduct in their personal and business affairs in keeping with the high standards of the peace officers profession.

Standard 4.9 Peace Officers shall at all times conduct themselves in a manner which does not discredit the peace officer profession or their employing agency.

**City of Santa Cruz Personnel Rule 8.3.n Offensive treatment of the public or other employee**

**City of Santa Cruz Personnel Rule 8.3.p Assault**

**SYNOPSIS:**

*Incident Synopsis –*

*Party*

On November 18, 2017, \_\_\_\_\_ hosted a \_\_\_\_\_ party at his residence, located outside the city limits. Invitations to the party were posted on Facebook. Roughly half the guests that attended the party were from SCPD.

Food and alcohol were served at the party. There was an ample amount of alcohol served, which consisted of beer, wine, and mixed hard alcohol drinks.

During the party, Officer David Gunter had several alcoholic beverages and became intoxicated. It is alleged by \_\_\_\_\_ that at one point during the party, Officer Gunter began having a conversation with \_\_\_\_\_ and \_\_\_\_\_. All of a sudden during the conversation, Officer Gunter reached around and grabbed and squeezed \_\_\_\_\_'s buttocks.

I located and spoke with all parties involved and with several officers who had witnessed the inappropriate behavior. During the interview of Officer Gunter, he was unable to recall committing any \_\_\_\_\_ alleged \_\_\_\_\_ and blamed his behavior and lack of memory on being heavily intoxicated.

I conducted a full investigation

**INCIDENT INVESTIGATION –**

**WITNESS:**

On February 22, 2018, I conducted an interview with \_\_\_\_\_ in association with Internal Affairs investigation 2018-001. The interview was conducted in person at the Santa Cruz Police Department. I interviewed him as a witness in this investigation.

\_\_\_\_\_ attended \_\_\_\_\_ party at his residence on November 18, 2017. He couldn't remember how he got invited and thought it might have been through social media. \_\_\_\_\_ the residence \_\_\_\_\_ is located in the County of Santa Cruz. The party was a BBQ style party that took place both inside the residence and in the backyard.

\_\_\_\_\_ said there was all types of alcohol being serviced, which consisted of hard alcohol, beer, and wine. He believes someone was making mixed drinks and there were also coolers with beer. \_\_\_\_\_ said he drank 2 margaritas and a couple of beers during the party. He could feel the effects of alcohol, however he remembers everything that evening. He doesn't think \_\_\_\_\_ had anything to drink at the party.

\_\_\_\_\_ said Officer Gunter was also at the party and they had some friendly interactions with each other. \_\_\_\_\_ said Officer Gunter was intoxicated and in a "good mood". He was able to have conversations with Officer Gunter and he appeared to be alert and receptive during these conversations.

At one point during the party, \_\_\_\_\_ was standing next to \_\_\_\_\_ talking with Officer Gunter. \_\_\_\_\_ Officer Gunter was standing directly across from \_\_\_\_\_ with a drink in one hand. All of a sudden during the conversation, Officer Gunter reached \_\_\_\_\_ and grabbed \_\_\_\_\_ buttocks right in front of everyone.

said the incident embarrassed and creeped out

remember doing this . said he doesn't buy the fact that he didn't

said Officer Gunter was intoxicated at the party, however he was not "falling down, black out drunk" and he wasn't slurring his words.

said, "I'm not buying the, I was so drunk I don't remember" excuse.

I asked if anyone else at the party witnessed the incident, but he doesn't know.

**COMPLAINANT: Civilian**

On February 26, 2018, I conducted an interview with \_\_\_\_\_ in association with Internal Affairs investigation 2018-001. The interview was conducted in person at the Santa Cruz Police Department.

\_\_\_\_\_ attended \_\_\_\_\_ at his residence on November 18, 2017. \_\_\_\_\_ got to the residence, which is located in the County of Santa Cruz, around 1500-1600 hours. The party was a BBQ style party that took place both inside the residence and in the backyard.

\_\_\_\_\_ there was all types of alcohol being served, which consisted of hard alcohol, beer, and wine. \_\_\_\_\_ may have had one drink of alcohol, but \_\_\_\_\_ clearly remembered everything that happened at the party.

Officer Gunter also attended the party, \_\_\_\_\_ had never met before. \_\_\_\_\_ Officer Gunter was acting casual and that \_\_\_\_\_ couldn't tell he was drinking alcohol. \_\_\_\_\_ was able to have a normal conversation with him and he was not falling down drunk or even slurring his words as he spoke.

Shortly after \_\_\_\_\_ arrived at the party, \_\_\_\_\_ were standing with a group of people talking. \_\_\_\_\_ Officer Gunter was standing directly across from \_\_\_\_\_. They were all having a casual conversation.

\_\_\_\_\_ with his left hand and grabbed \_\_\_\_\_ buttocks. \_\_\_\_\_ described it as a full grab and squeeze of buttocks.



was shocked about what had just happened.

felt very uncomfortable about what had just happened.

doesn't know why Officer Gunter would assault like that. thinks he might have been trying to be humorous and used poor judgement.

believes Officer Gunter's actions were completely unacceptable  
doesn't want to press criminal sexual battery charges against him at  
this time.

**WITNESS:**

On February 27, 2018 I conducted an interview with in association with Internal Affairs investigation 2018-001. The interview was conducted in person at the Santa Cruz Police Department. I interviewed him as a witness in this investigation.

\_\_\_\_\_ said he hosted a \_\_\_\_\_ party \_\_\_\_\_ at his residence on November 18, 2017. His residence is located in the County of Santa Cruz. The party started in the afternoon and took place both inside the house and in the backyard.

\_\_\_\_\_ invited people to his party through Facebook. About half of the guests that attended the party were co-workers and the other half were personal friends.

\_\_\_\_\_ He remembered Officer Gunter was there and \_\_\_\_\_ as well.

\_\_\_\_\_ said there were all types of alcohol being served, which consisted of hard alcohol, beer, and wine.

I asked about Officer Gunter's demeanor at the party. \_\_\_\_\_ Officer Gunter wasn't overly intoxicated. I asked about \_\_\_\_\_'s demeanor at the party. \_\_\_\_\_ said \_\_\_\_\_ not intoxicated at the party.

I asked \_\_\_\_\_ if he had seen or heard anything about Officer Gunter doing anything inappropriate at the party and he said, no. I explained \_\_\_\_\_ the allegation in question. \_\_\_\_\_ appeared surprised and said he has not heard anything about that.

\_\_\_\_\_ had no further information.

**RESPONDENT: Officer David Gunter Response:**

On February 28, 2018, I conducted an interview with Officer David Gunter in association with Internal Affairs investigation 2018-001. The interview was conducted in person at the HR administrative conference room, located at 809 Center Street. Present at this interview was

Officer Gunter, his representative \_\_\_\_\_, HR Director Lisa Murphy, and myself. Officer Gunter was interviewed as a subject officer in this investigation.

I began the interview by explaining to Officer Gunter the allegation made against him

I asked him questions regarding his relationship with \_\_\_\_\_. He said \_\_\_\_\_ that he just met her that afternoon at the party. He has never seen \_\_\_\_\_ or hung out with \_\_\_\_\_ prior to the party.

I questioned Officer Gunter regarding \_\_\_\_\_ party that was held on November 18, 2017. Officer Gunter said he was invited to the party by either \_\_\_\_\_.

Officer Gunter said he is currently living in Prunedale and drove alone to the party. He showed up around the time the party started and was the second guest to arrive. He wore a Hawaiian shirt and jeans.

I asked Officer Gunter who he remembered being at the party. He said there were several civilians there who were friends with \_\_\_\_\_ and several PD officers and spouses.

I asked Officer Gunter what types of alcohol were available to drink at the party. He stated there was a beer keg and hard alcohol served that evening. For a while there were bar tenders making drinks, or you could get your own drinks. He said nobody was monitoring the alcohol consumption and that anyone could drink as much as they wanted. Officer Gunter said he first had a beer to drink, then started having mixed drinks. At one point, \_\_\_\_\_ wanted everyone to take tequila shots, so he had a couple of those. He then had several more mixed drinks. He could feel the effects of alcohol during the party, which consisted of feeling light headed and his body was swaying back and forth. He said he wasn't "falling down drunk", but felt "good and numb".

Officer Gunter said he remembered talking to everyone and being able to hold conversations with people. Near the end of the night, he began drinking water in order to sober up. He was able to sober up enough to drive home after the party.

I asked Officer Gunter if he had any contact with \_\_\_\_\_ at the party. Officer Gunter said he remembered meeting \_\_\_\_\_, but he doesn't remember having a conversation with \_\_\_\_\_. He did however remember having a conversation with \_\_\_\_\_ at some point during the party.

I asked Officer Gunter if he remembered doing anything sexually inappropriate that evening. Officer Gunter said there was a lot of "horse play" going on at the party. I asked him to explain what kinds of "horse play". He said guys would try and hit each other in the testicles and groin area. Throughout the party, all the guys were trying to get each other back. I asked Officer Gunter if he partook in the "horse play". He said he remembered hitting \_\_\_\_\_ in the thigh, but that is all he remembered.

I explained to Officer Gunter the allegation \_\_\_\_\_ brought forward against him. I told him that the allegation was that he grabbed and squeezed \_\_\_\_\_ buttocks while they were having a conversation. Officer Gunter said he doesn't remember grabbing \_\_\_\_\_ buttocks, but feels horrible about it. He said it's possible that it happened, however he doesn't recall that happening. I asked him what he thought about the allegation and he stated, "It's horrific".

Officer Gunter said \_\_\_\_\_ confronted him about it. He said \_\_\_\_\_ asked him if he remembered grabbing \_\_\_\_\_ buttocks at the party. Officer Gunter told him that he had no memory of doing that. Officer Gunter said he was very apologetic \_\_\_\_\_ and asked if he could personally apologize to \_\_\_\_\_

Officer Gunter said he felt like crap about it and said that it was “totally unacceptable” on his part.

I asked Officer Gunter why he doesn’t remember the incident. Officer Gunter said he was drinking heavily and doesn’t remember most of the party. He said he was in shock and never thought he would do something like that to someone.

Officer Gunter had no further information.

## **CONCLUSION & FINDINGS:**

This investigation focused on allegations of sexual misconduct by Officer Gunter . During the course of my investigations, many issues and concerns were raised regarding how Officer Gunter conducts himself off-duty in regards to his alcohol consumption and sexual misconduct.

Concerns were raised regarding his unlawful and illegal sexual touching of someone else's body

It is my assessment that Officer Gunter lacks credibility for the following reasons.

During the interview of Officer Gunter, he was unable to recall committing any of these allegations and blamed his behavior and lack of memory on being heavily intoxicated.

Although I do in fact believe Officer Gunter was intoxicated at both parties, his excuse of "I was too drunk to remember", was proven to be implausible. Officer Gunter could provide specific details , however he conveniently doesn't remember sexually battering .

Here are a few examples of Officer Gunter's selective memory throughout each party:

- Officer Gunter could remember in detail what he wore , when he arrived, and when he left.

- He could remember "horse playing" at party. This consisted of hitting each other's testicles and groin area. He remembered partaking in these games, however doesn't remember assaulting .

The following is a summary of my findings:

**Incident Conclusion & Findings Regarding the**

**Party Allegation:**

1) Officer Gunter grabbed 's buttocks.

On November 18, 2017, hosted a party at his residence. . There was an unlimited amount of alcohol available to drink, which consisted of beer, wine, and mixed hard alcohol drinks.

During the party, Officer David Gunter had several alcoholic beverages and became intoxicated. At one point during the party, Officer Gunter began having a conversation with during the conversation, Officer Gunter reached around and grabbed and squeezed buttocks. witnessed the entire incident.

During the interview of Officer Gunter, he was unable to recall committing the battery and blamed his behavior and lack of memory on being heavily intoxicated.

Officer Gunter could not provide any satisfactory evidence that could dispute and/or contradict and the evidence gained during this investigation. Officer Gunter failed to deny committing the battery, and finally there is a credible witness .

Officer Gunter's conduct that evening adversely reflected upon the Santa Cruz Police Department and his conduct was unbecoming. His low standards of conduct has brought discredit to the peace officer profession.

Therefore, based on statements, Officer Gunter's lack of denial and the corresponding independent statements, I make the following findings:

**Findings:**

- Allegation that Officer Gunter violated SCPD Policy 339.2.3:

339.2.3 CONDUCT UNBECOMING

A member's conduct either on or off-duty, which could adversely reflect upon the department, will be deemed to be conduct unbecoming.

**Finding: SUSTAINED**

- Allegation that Officer Gunter violated SCPD Policy 339.6.4:

339.6 CANONS OF ETHICS

339.6.4 CANON FOUR

Standard 4.4 Peace Officers shall maintain a level of conduct in their personal and business affairs in keeping with the high standards of the peace officers profession.

Standard 4.9 Peace Officers shall at all times conduct themselves in a manner which does not discredit the peace officer profession or their employing agency.

**Finding: SUSTAINED**



Allegation that Officer Gunter violated City of Santa Cruz Personnel Rule 8.3n:

Personnel Rule 8.3.n Offensive treatment of the public or other employee

**Finding: SUSTAINED**

Allegation that Officer Gunter violated City of Santa Cruz Personnel Rule 8.3p:

Personnel Rule 8.3.p Assault

**Finding: SUSTAINED**

It should be noted, Officer Gunter's sexual misconduct rose to a criminal level of misdemeanor sexual battery, 243.4 PC. At the time of this investigations, \_\_\_\_\_ declined to press any criminal charges against Officer Gunter at this time.

I forwarded this case to Deputy Chief Martinez for review on April 2, 2018.