Commission Members Present:
   Mike Hellon, Chair
   David Freund, Vice-Chair
   Sami Hamed

All persons in attendance were asked to state their names for the record.

   Paul Loucks  Counsel for the Commission
   Bryson Buckley  County Attorney for the Respondent
   Daniel Jurkowitz  Deputy County Attorney
   Laureen Pew  Pima County Attorney's Office
   Jaclyn Foltz-Bralj  Pima County Attorney's Office
   Javier Alatorre  Attorney for Appellant
   Michael Flaminio  Appellant
   Sergeant Andrew Reidy  Department Representative
   Sergeant Mary Scott  Pima County Sheriff's Department
   Sergeant Andrew Smith  Pima County Sheriff's Department
   Trina Bergen  Recording Secretary

The Open Meeting of the Pima County Merit System Commission was called to order by Mr. Hellon, Chair, at 9:06 a.m.

C. Approval of Minutes

   1. Open meeting Minutes of December 2, 2019
   2. Open meeting Minutes of December 5, 2019
   3. Open meeting Minutes of December 6, 2019
   4. Open meeting Minutes of January 2, 2020
   5. Open meeting Minutes of June 24, 2021

**ACTION:** Mr. Freund made a Motion to approve the minutes of December 2, 2019, December 5, 2019, December 6, 2019, January 2, 2020 and June 24, 2021, minutes. Mr. Hamed second the Motion. Motion passed unanimously.

E. Other Business

Mr. Hellon introduce Paul Loucks as the new attorney for the Merit System Commission and Law Enforcement Merit System Council.

F. Appeal Hearing

   **Discussion and Action:** Michael Flaminio v. Pima County Sheriff's Department (PCSD) (Appealing Dismissal)

Mr. Hellon read the Merit System Commission initial statement into the record. Mr. Hellon asked if either party wished to invoke the Rule of Privilege. The Rule of Privilege was invoked by Javier Alatorre, Council for the Appellant.
Mr. Alatorre asked to bring up a preliminary matter to address: On September 3, 2021, he received an Amended Notice of Dismissal. It dropped the allegations of criminal conduct and changed assault to excessive force. Discussion ensued. Mr. Hellon stated the amended notice did not contain new additions and the hearing would proceed.

Mr. Hellon informed every one of Mr. Alatorre request the Commission to sanction the Respondent for failure to produce evidence and/or the commission to exclude any evidence not properly disclosed. Discussion ensued.

Mr. Buckley waived the Department’s opening statement. Mr. Alatorre stated the Appellant’s opening statement.

The following Respondents Exhibits were admitted:

<table>
<thead>
<tr>
<th>Ex. #</th>
<th>Exhibit Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pima County Merit System Appeal Form dated March 25, 2021; Admitted without objection.</td>
</tr>
<tr>
<td>2</td>
<td>Pima County Board of Supervisors Policy C 2.1 – Workplace Ethics, Conduct and Compliance. Admitted without objection.</td>
</tr>
<tr>
<td>3</td>
<td>Pima County Merit System Rule 12.1 C – Disciplinary and Other Personnel Actions. Admitted without objection.</td>
</tr>
<tr>
<td>4</td>
<td>Pima County Personnel Policy 8-119 Admitted without objection.</td>
</tr>
<tr>
<td>6</td>
<td>Pima County Sheriff’s Department Rule 3.11 – Use of Force; Admitted without objection.</td>
</tr>
<tr>
<td>7</td>
<td>Pima County Sheriff’s Department Rule 3.11 – Use of Force. Admitted without objection.</td>
</tr>
<tr>
<td>8</td>
<td>Pima County Sheriff’s Department Rule 4.11 – Department Member Relationships with Inmates and Arrested Persons. Admitted without objection.</td>
</tr>
<tr>
<td>9</td>
<td>Pima County Merit System Rule 12.3 – Administrative Suspension. Admitted without objection.</td>
</tr>
<tr>
<td>10</td>
<td>PCSD Notice of Dismissal Letter dated March 24, 2021, Bates Pima County 552-556; Admitted without objection.</td>
</tr>
<tr>
<td>12</td>
<td>Corrections Officer Michael Flaminio #6842 Written Response dated March 23, 2021 re: Notice of Intent to Dismiss and Pre-Action Meeting, Bates Pima County 558-560. Admitted without objection.</td>
</tr>
<tr>
<td>13</td>
<td>PCSD Notice of Intent to Dismiss and Pre-Action Meeting Letter dated March 18, 2021, Bates Pima County 561-565; Admitted without objection.</td>
</tr>
<tr>
<td>14</td>
<td>PCSD Letter re: Notice of Administrative Leave with Pay dated August 17, 2020, Bates Pima County 530; Admitted without objection.</td>
</tr>
<tr>
<td>15</td>
<td>PCSD Letter re: Administrative Leave with Pay dated September 28, 2020, Bates Pima County 532; Admitted without objection.</td>
</tr>
</tbody>
</table>
16 PCSD Letter re: Administrative Leave with Pay dated November 6, 2020, Bates Pima County 567; Admitted without objection.

17 PCSD Letter re: Administrative Leave with Pay Extension dated December 23, 2020, Bates Pima County 569; Admitted without objection.


19 Notice of Suspension dated April 25, 2019, Bates Pima County 577-579; Admitted without objection.

21 August 16, 2020 PCADC Jail Incident Report #200816003, Bates Pima County 852-855; Admitted with objection.


23 August 18, 2020 PCSD 200818106 Incident Report, Bates Pima County 637-680; Admitted with objection.

24 August 19, 2020 PCSD 200819251 Incident Report, Bates Pima County 619-636; Admitted with objection.


29 Transcript of PCSD Incident #200818106 Interview with Corrections Sgt. Smith #5071 on August 20, 2020, Bates Pima County 877-894; Admitted without objection.

30 Transcript of PCSD Incident #200818106 Interview with LPN Salgado on August 20, 2020, Bates Pima County 895-921. Admitted without objection.

31 Transcript of PCSD Incident #200818106 Interview with Inmate Johnny Lester on August 20, 2020, Bates Pima County 973-1000. Admitted without objection.

32 Transcript of PCSD Incident #200818106 Interview with Inmate Vicente Apodaca on August 20, 2020, Bates Pima County 1004-1019. Admitted without objection.

33 Transcript of PCSD Incident #200818106 Interview with C.O. Drow #8854 on August 21, 2020, Bates Pima County 936-972. Admitted without objection.

34 Transcript of PCSD Incident #200818106 Interview with C.O. Flaminio #6842 on August 21, 2020, Bates Pima County 1020-1126. Admitted without objection.

35 OPS Investigation File Internal Affairs Disposition Closure for Case #20-054, Bates Pima County 418-422; Admitted without objection.


37 August 16, 2020 PCADC Use of Force Review for Jail Incident #200816003, Bates Pima County 444-446; Admitted with objection.

38 Transcription of OPS20-054 Interview with C.O. Drow #8854 on December 29, 2020, Bates Pima County 447-467; Admitted with no objection.
The following Appellant’s Exhibits were admitted:

**Exhibit Name**

A1 Audio Recording of Interview of Robert Morales; Admitted with objection.

A2 Transcript of Robert Morales Interview; Admitted with objection.


C Recording of CO Drow’s Interviewers. Corresponding Respondent audio admitted.

F Inmate Johnny Lester Medical Record for 8-16-2020. Admitted without objection.


K1 Audio Recording of Statement by Salgado 8/20/20. Corresponding Respondent exhibits admitted.


L1 Audio Recording of Statement by Vicente Apodaca. Corresponding Respondent exhibits admitted.

L2 Audio Recording of Statement by Vicente Apodaca 8/20/20. Corresponding Respondent exhibits admitted.

M1 Audio Recording of Statement by C.O. Flaminio 8/21/20. Corresponding Respondent exhibits admitted.
<table>
<thead>
<tr>
<th>Ex. #</th>
<th>Exhibit Name (continued)</th>
</tr>
</thead>
<tbody>
<tr>
<td>N</td>
<td>PCSD Discipline Application Chart. Admitted without objection.</td>
</tr>
</tbody>
</table>

**Respondent’s First Witness:** Sgt. Andrew Reidy, Pima County Sheriff’s Department, was sworn in by Paul Loucks, Counsel for the Commission, provided testimony in this hearing.

Mr. Hellon excused Sgt. Reidy and is subject to recall and reminded him of the rule.

The Commission recessed for a break at 10:19 a.m. and reconvened at 10:26 a.m.

**Respondent’s Second Witness:** Sgt. Andrew Smith, Pima County Sheriff’s Department, was sworn in by Paul Loucks, Counsel for the Commission, provided testimony in this hearing.

Mr. Alatorre requested Sgt. Smith to return the next day to provide testimony on the video of the incident. Sgt. Smith agreed to return. He was reminded of the rule and excused.

Commission recessed for lunch at 11:25 a.m. and reconvened at 12:25 p.m.

**Respondent’s Third Witness:** Sgt. Mary Scott, Pima County Sheriff’s Department, was sworn in by Paul Loucks, Counsel for the Commission, provided testimony in this hearing.

The Commission recessed at 2:00 p.m. and reconvened at 2:12 p.m.

**Respondent’s Third Witness:** Sgt. Mary Scott, Pima County Sheriff’s Department, continued to provide testimony in this hearing.

Mr. Alatorre completed his cross examination and Mr. Buckley stated he would re-direct in the morning.

Mr. Hellon adjourned the hearing at 3:11 p.m. and to be continued tomorrow at 9:00 a.m.

The minutes were prepared by the Recording Secretary. Minutes approved on May 25, 2022.

/s/ Mike Hellon, Chair