



**PIMA COUNTY
MERIT SYSTEM COMMISSION
OPEN MEETING MINUTES OF SEPTEMBER 14, 2021**

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:

Ex. #	Exhibit Name
1	Pima County Merit System Appeal Form dated March 25, 2021; Admitted without objection.
2	Pima County Board of Supervisors Policy C 2.1 – Workplace Ethics, Conduct and Compliance. Admitted without objection.
3	Pima Count Merit System Rule 12.1 C – Disciplinary and Other Personnel Actions. Admitted without objection.
4	Pima County Personnel Policy 8-119 Admitted without objection.
6	Pima County Sheriff's Department Rule 3.11 – Use of Force; Admitted without objection.
7	Pima County Sheriff's Department Rule 3.11 – Use of Force. Admitted without objection.
8	Pima County Sheriff's Department Rule 4.11 – Department Member Relationships with Inmates and Arrested Persons. Admitted without objection.
9	Pima County Merit System Rule 12.3 – Administrative Suspension. Admitted without objection.
10	PCSD Notice of Dismissal Letter dated March 24, 2021, Bates Pima County 552-556; Admitted without objection.
11	PCSD Pre-Action Meeting re: Corrections Officer M. Flaminio #6842 dated March 23, 2021, Bates Pima County 557. Admitted without objection.
12	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.
13	PCSD Notice of Intent to Dismiss and Pre-Action Meeting Letter dated March 18, 2021, Bates Pima County 561-565; Admitted without objection.
14	PCSD Letter re: Notice of Administrative Leave with Pay dated August 17, 2020, Bates Pima County 530; Admitted without objection.
15	PCSD Letter re: Administrative Leave with Pay dated September 28, 2020, Bates Pima County 532; Admitted without objection.

- | Ex. # | Exhibit Name (continued) |
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| 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. |
| 18 | PCSD Letter re: Administrative Leave with Pay Extension dated February 9, 2021, Bates Pima County 526; 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. |
| 22 | PCADC Photographs of inmate Johnny Lester after August 16, 2020 incident with C.O. Michael Flaminio #6842, Bates Pima County 1127-1132. Admitted without 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. |
| 25 | August 19, 2020 PCSD Incident 200818106 Interview with Inmate Vicente Apodaca on August 19, 2020, Bates Pima County 1001-1003. Admitted without 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. |
| 36 | Corrections Sergeant Mary Scott's Investigative Report OPS20-054 – AMENDED dated February 5, 2021, Bates Pima County 428-443; Admitted with 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. |

Ex. #	Exhibit Name (continued)
39	Transcript of OPS 20-054 Interview with C.O. Flaminio #6842 on January 4, 2021, Bates Pima County 492-517; Admitted with objection.
40	Transcript of OPS20-054 Telephone Statement of Rashida Salgado on January 15, 2021, Bates Pima County 489-491; Admitted with objection.
41	Transcript of OPS20-054 Telephone Statement of C.O. Flaminio #6842 on January 15, 2021, Bates Pima County 518-519; Admitted with no objection
42	Transcript of OPS20-054 Interview with C.O. Drow #8854 on February 2, 2021, Bates Pima County 468-488; Admitted with no objection.
43	PCSD Amended Notice of Dismissal Letter dated September 3, 2021, Bates Pima County 1640-1644; Admitted without objection.
44	PCADC 1A_081320_Cell2 Jail Video dated August 13, 2020 involving incident with inmate Vicente Apodaca (specifically, 10:42:00 PM-11:06:00 PM) (CD); Admitted with objection.
45	PCADC 1A_081620_CODesk Jail Video dated August 16, 2020 involving incident with inmate Johnny Lester (specifically, 01:40:00 AM-01:53:30 AM) (CD); Admitted with objections.

The following Appellant's Exhibits were admitted:

Ex. #	Exhibit Name
A1	Audio Recording of Interview of Robert Morales; Admitted with objection.
A2	Transcript of Robert Morales Interview; Admitted with objection.
B	Recordings of Sgt. Anthony Smith Interviews. Admitted without 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.
G	Audio Recording of Statement by Johnny Lester 8-20-20. Corresponding Respondent exhibits admitted.
K1	Audio Recording of Statement by Salgado 8/20/20 . Corresponding Respondent exhibits admitted.
K2	Audio Recording of Statement by Rashida Salgado 1/15/21. 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.

Ex. # Exhibit Name (continued)

- M2 Audio Recording of Statement by C.O. Flaminio 1/4/21. Corresponding Respondent exhibits admitted.
- M3 Audio Recording of Statement by C.O. Flaminio 1/15/21. Corresponding Respondent exhibits admitted.
- N PCSD Discipline Application Chart. Admitted without objection.

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