

ANNUAL REPORT OF THE BERNALILLO COUNTY
SHERIFF'S OFFICE ADVISORY AND REVIEW BOARD
JANUARY 1, 2022



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FOREWORD TO JANUARY 1, 2022 ANNUAL REPORT OF
THE BERNALILLO COUNTY SHERIFF'S OFFICE ADVISORY AND REVIEW BOARD
BY ITS CHAIR THE HON. TOMMY JEWELL (RET.)

The following Annual Report chronicles the organizational activity of the Bernalillo County Sheriff's Office Advisory and Review Board (**SOARB**) during its first 14 months of meetings, from November 2020 through December 2021. A group of Bernalillo County citizens, appointed by the Bernalillo County Board of County Commissioners, came together and blended diverse interests and talents to assist in a very dynamic arena: the Bernalillo County Sheriff's Office and Citizen relations. Please note that all meetings of SOARB were held remotely in compliance with COVID-19 precautions.

As Chair I thank the individual SOARB members listed in Section I(B) of the Annual Report, all of whom answered the Commission's call to service.

The members of SOARB wish to express their gratitude to the following Bernalillo County staff who provided much-needed and much-appreciated assistance and guidance throughout SOARB's first year of operation:

1. Crystal Griego, Program Coordinator - Bernalillo County Health and Public Safety Division
2. Floyd Vasquez, Jr., Communications Specialist – Bernalillo County Communication Services
3. Daniel Roberson, Esq., Assistant Bernalillo County Attorney
4. Kenneth Martinez, Esq., Bernalillo County Attorney

The members of SOARB also want to thank the Bernalillo County Sheriff's Office, which sent representatives to nearly every SOARB meeting. Although Sheriff Manuel Gonzales III did not personally participate in our meetings, we appreciate the assistance of Undersheriff Sid Covington, Undersheriff Larry Koren, and Captain Nick Hufmyer, all of whom answered our countless questions with patience and good grace.

Last but definitely not least, we thank Ms. Elaine Maestas, Police Accountability Strategist NM ACLU, and all other members of the public who attended SOARB meetings and/or provided comments to SOARB: your insightful comments and participation in SOARB meetings has encouraged us to continue our work.

Bernalillo County Sheriff's Office Advisory
and Review Board

By its Chair


Tommy Jewell

I. HISTORY OF THE BERNALILLO COUNTY SHERIFF'S OFFICE ADVISORY AND REVIEW BOARD

A. BACKGROUND

The Bernalillo County Sheriff's Office Advisory and Review Board (**SOARB**) was created by Bernalillo County Ordinance 2020-21 (**Ordinance**) on September 9, 2020. Then-District 3 Commissioner James Collie proposed the Ordinance, and following a public comment period and some revisions, the Bernalillo County Board of County Commissioners (**BCC**) passed the Ordinance by a 4-1 vote.ⁱ The Ordinance authorized a nine-member board whose task is:

to improve public transparency and accountability with respect to the Bernalillo County Sheriff's Office, by providing robust opportunities for community engagement, analysis and review of the Office's policies, practices, procedures, and provide advice to the Board of Bernalillo County Commissioners, the Sheriff's Office, and the public.

The Ordinance gives the Bernalillo County Sheriff's Office (**BCSO**), through the Sheriff or designee, the right to attend and speak at every SOARB meeting.

Although the Ordinance was passed during a period of considerable negative news coverage of BCSO,ⁱⁱ at the BCC's September 22, 2020 meeting, then-Commissioner Collie explained that the SOARB was created to work *with not against* the BCSO to enhance the transparency and accountability of the BCSO on an ongoing basis, and was not intended simply to address issues involving any particular Sheriff:

I thought Commissioner Pyskoty said an incredibly smart thing at our last discussion of this, which she pointed out, this is not about a public issue with this sheriff. This is a way the County wants to work with its sheriffs, this one and on into the future. And the emphasis is on working with and not against. It is difficult when there are contested opinions. It's difficult when there are problems, those are part of life and we handle them and we move ahead with them.ⁱⁱⁱ

The SOARB had its first meeting on November 13, 2020, and has continued to meet once a month since then, except in October 2021 when the regular meeting was cancelled due to support staff scheduling issues. In addition, SOARB has held two on-the-record informal meetings to allow members to become acquainted in a manner that might occur naturally had in-person meetings been feasible. In accordance with COVID-19 precautions, all meetings through December 2021 have been held virtually, first via Microsoft Teams and later via Zoom. All meetings have provided opportunity for both members of the public and BCSO representatives to attend and comment virtually and/or in writing by email or letter. At least one, and often two representatives of the BCSO have attended all but two regular SOARB meetings.

SOARB is pleased to report that since the enactment of the Ordinance, there have been some positive changes with respect to the BCSO. After passage of State legislation mandating use of body-worn cameras became effective in September 2020, the BCSO launched and implemented a body-worn camera program, a move that BCSO Sheriff Manuel Gonzales III had resisted since taking office in 2015. After the body-worn camera program was initiated, Sheriff Gonzales commented in February 2021, "we're learning from this and there is value in this....I'm embracing it....looking forward to what it has to offer in the future." We also understand from BCSO that use of body cameras encountered little resistance from younger BCSO personnel in particular, perhaps, in part, because these personnel have grown up in the age of social media where many every day

interactions are routinely filmed and widely disseminated. Thus, an issue that had been in controversy since Sheriff Gonzales assumed office in 2015 is now off the table.

In recent years Bernalillo County has paid millions to settle lawsuits involving BCSO (as detailed in Endnote ii). It is worth noting, however, that the last large settlement was in 2020, prior to the inception of SOARB.

Furthermore, since 2020 BCSO has been producing a considerable volume of public information which is distributed on its website and social media platforms, including Facebook, Twitter and Instagram. As of October 26, 2021, the BCSO Facebook page had over 70,000 followers. The BCSO now posts information, photos and videos nearly every day, and the content attracts hundreds of likes, comments and shares. Content varies and includes photographs, videos, letters and links to news coverage that highlights the work, training, duties and accomplishments of the men and women of BCSO.

Notwithstanding the large volume of information BCSO posts on social media sites, in the past year, there has been some controversy and public discussion in the press and at SOARB meetings concerning the adequacy and timeliness of BCSO's disclosure and dissemination of crime statistics to the public. A compilation of Bernalillo County crime statistics is not readily or consistently available on the BCSO website or elsewhere, and the only way the public can access such statistics is to ask BCSO to compile them, or to make a public information records request under the provisions of the New Mexico Inspection of Public Records Act ("**IPRA**").

B. SOARB MEMBERS

Current Members:

1. The Hon. Tommy Jewell (ret.), Chair (District 3): Judge on the Second Judicial District Court of NM 1991-2005, including service as Presiding Children's Court Judge; currently in private law practice.
2. Debi Dodge (District 3): Long-time Technical Department Administrator for an engineering, architectural and planning firm; service on multiple boards including Tamarind Institute, Contemporary Art Society, NM Museum of Natural History; President of neighborhood association with strong commitment to community involvement.
3. Diane Dosal (At Large): Retired as Sergeant from APD after 22 years' experience in multiple divisions, including Violent Crimes and Crisis Intervention; M.A. in Public Administration; Board Member - National Alliance on Mental Illness; strong advocate for building collaboration between law enforcement and stakeholders in the mental health sector.
4. Dianne Layden (District 5 - appointed June 2021): Ph.D. in American Studies with primary research interest in violence; over 20 years management experience in business, government and higher education; Bernalillo County Personnel Director and Assistant County Manager for Labor Relations in 1970's; served on Foothills Community Policing Council in 2014- 2017; member of Bernalillo County Community Support Subcommittee of the Behavioral Health Initiative.
5. Debbie Strongin (At Large): Attorney with background in criminal and civil practice, including criminal investigations and prosecutions as Special Assistant Attorney General - NY State Office of Special Prosecutor Investigating Corruption in the NYC Criminal Justice System, criminal defense, copyright, real estate, immigration and voting rights.
6. Michael Wismer (At Large): Retired Security Division Leader at Los Alamos National Laboratory and former County Commissioner in Los Alamos with over 40 years' experience in security, law enforcement, background investigations, public policy, community engagement and volunteer activities.

Former Members 2020-2021:

Thomas Ruiz (District 1: resigned effective 4/1/2021)

Rebecca Stover (District 5: resigned effective 6/4/2021)

Charles Knoblauch (District 2: resigned effective 12/2/2021 until which time he served as Vice Chair)

C. SUBCOMMITTEES

1. Rules of Procedure for SOARB Meetings: Wismer
2. Rules of Procedure for SOARB to Make Recommendations and/or Give Advice to BCC and BCSO: Wismer
3. BCSO Efforts to Include Mental Health Professionals in Law Enforcement Decisions: Wismer
4. Review of BCSO Standard Operating Procedures (**SOP**): Dosai, Knoblauch, Strongin
5. Public Outreach & Annual Report: Dodge, Jewell, Strongin
6. BCSO Citizen's Academy: Wismer
7. Rules of Procedure for SOARB Advice & Recommendations to BCSO and BCC: Wismer
8. BCSO and Reporting Crimes/Crime Statistics to Media for Public Dissemination: Jewell, Layden
9. BCSO and Enforcement of Governor's Public Health Orders: Layden, Strongin
10. BCSO Non-Attendance at Metro Crime Initiative Meetings: Jewell, Layden

D. PROCEDURAL MATTERS

1. All SOARB meetings are subject to the provisions of New Mexico's Open Meetings Act, including providing prior notice of meetings, and allowing public comment at all meetings.
2. All SOARB meetings are held in accordance with rules of procedure adopted by SOARB, including provisions for virtual meetings due to COVID-19 precautions, and procedures for SOARB to follow for giving advice to BCC and BCSO in fulfillment of its advisory function under the Ordinance.

II. SOARB's MISSION

- A. Transparency & Accountability: Improve public transparency and accountability of BCSO.
- B. Forum for Public Comment: Establish rules and procedures to ensure that SOARB'S meetings provide opportunity for public comment concerning BCSO, and when necessary, include meetings focused solely on public comment.
- C. Public Outreach and Comment: Provide robust opportunities for community engagement, including holding meetings to solicit public input regarding the BCSO's policies, procedures, services and programs.
- D. Review BCSO Policies: Analyze and review the BCSO's policies, practices and procedures.
- E. Foster Community Ties: Create stronger community ties between the residents of Bernalillo County and BCSO by performing all of the above.
- F. Advisory Role: Provide advice to the BCC, the BCSO, and the public concerning the foregoing.
- G. Annual Report: Prepare and distribute an Annual Report to the BCC and the BCSO at SOARB's last meeting in January of each year, summing up its activities of the prior year and its plans for the coming year.

III. ACTIONS TAKEN TO ACCOMPLISH SOARB'S MISSION AND MEETING HIGHLIGHTS

- A. Public Outreach. As a newly created Board meeting in the midst of a pandemic at a time when public health regulations did not allow for in-person meetings, SOARB has worked to make the public aware of its existence as a forum for public comment, and to ensure that the public is able to observe and comment at every meeting. Due to COVID-19 precautions, from its first meeting in November 2020, SOARB has met virtually via Google Meets and Zoom, and each meeting has allowed for the public to comment and observe in accordance with COVID-19 precautions, via email, letter, video and/or phone connection. To encourage the widest possible public participation, SOARB agreed to procedures to accommodate those members of the public who wish to comment anonymously.
- B. Outreach to BCSO. After its first meeting in November 2020 was not attended by BCSO, SOARB reached out with a letter specifically inviting attendance and participation by the Sheriff or other representative of the BCSO. Almost every subsequent meeting has been attended by at least one, and sometimes two, Undersheriff(s).
- C. Media Plan and Vision Statement: The Public Outreach Subcommittee, working closely with Bernalillo County Communications Services Specialist Floyd Vasquez, Jr., developed a Media Plan and Vision Statement and Communications Strategy to encourage public involvement in SOARB meetings, both of which were unanimously approved by SOARB at its April 9, 2021 meeting: "The Sheriff's Office Advisory and Review Board seeks to create stronger community ties between the residents of Bernalillo County and BCSO." *See Appendix 3 for a copy of the Vision Statement and accompanying press release issued by Mr. Vasquez on behalf of SOARB on May 11, 2021.*
- D. Media Spokesperson: At its April 9, 2021 meeting, SOARB unanimously appointed SOARB Chair The Hon. Tommy Jewell (ret.) as the media spokesperson for SOARB. *(See Appendix 3)*
- E. Offer of Assistance in "Giglio" Dispute: SOARB offered to act as a facilitator in resolving a dispute between the office of Albuquerque District Attorney Raúl Torrez and Sheriff Gonzales over whether the BCSO was required to turn over to the DA certain information about BCSO personnel under the US Supreme Court's 1972 ruling in Giglio v. US (405 US 150). Shortly after SOARB's offer of assistance, the parties were able to resolve the dispute on their own.
- F. Pajarito Area Mapping: Acting upon a citizen's complaint that BCSO response to the Pajarito area was slow because that area of town was not accurately depicted on Google and similar maps, SOARB pursued the issue with the BCSO and facilitated direct contact between BCSO and the citizen to attempt to resolve the problem, although all parties recognized that Google was mapping not within the BCSO's control.
- G. BCSO Transparency & Accountability:
 - i. Officer-Involved Shootings: It is routine procedure in Bernalillo County, and standard law enforcement practice throughout the United States, that every officer-involved shooting is investigated. Ms. Elaine Maestas ("**Ms. Maestas**"), a Police Accountability Strategist for the New Mexico ACLU whose sister who suffered from mental illness was shot and killed by BCSO deputies not wearing body-worn cameras, brought to SOARB's attention that under current BCSO practice, although BCSO officer-involved shootings are investigated by a multi-agency task force, BCSO is the lead investigative agency in such investigations.

The Multi-Agency task force is formed pursuant to an April 8, 2020 Memorandum of Agreement among the NM Department of Public Safety, BCSO and APD ("**MOA**"), the terms of which designate as "Lead Agency" the agency whose employee is involved in the incident to be investigated, with review of final results by the Bernalillo County District Attorney. (See Appendix 5 for complete text of MOA). This multi-agency investigative process is consistent with law enforcement practices in other jurisdictions both within and outside of New Mexico. SOARB looked into this matter to explore concerns that such practice – an agency investigating itself – may be or appear to be a conflict of interest that would diminish public confidence in the results of any such investigation. SOARB has discussed this practice with BCSO representatives at several SOARB meetings, and continues to be concerned about seeking a solution to the appearance of a conflict of interest in such situations.

- ii. Duty to Report Homicides and Other Crimes to Public/Media in Timely Fashion: BCSO includes many crime reports on its social media sites. However, BCSO maintains it has no obligation to inform the media (print/radio), and has expressed its view that media coverage of BCSO is frequently biased and inaccurate. In addition to the fact that this policy leaves out the many members of the public who do not have access to social media, SOARB recognizes that there is a difference between that which BCSO chooses to report in its social media and website postings, and that which a journalist with investigative resources and training may report. Given the historic importance of the media in the United States as the public's proxy for investigating and gathering information about government agencies and officials, the BCSO's reluctance to deal with the press has a very real potential to cause, at minimum, the appearance that the full picture is not being disclosed, thus diminishing public confidence in BCSO. That said, SOARB also recognizes that BCSO's complaint about inaccurate and biased media coverage may have merit in some cases.
 - iii. Availability of Crime Statistics: BCSO crime statistics are available via an IPRA request, but are not available on the BCSO website, in contrast to the practice of some other law enforcement agencies, including the Albuquerque Police Department ("**APD**").
- H. Review of SOP: The SOP Subcommittee had a productive meeting (via Google Teams) with BCSO Capt. Huffmyer for a detailed discussion of some SOP. Capt. Huffmyer answered many questions from the Subcommittee, and was amenable to many of the suggestions offered. In addition to the BCSO's ongoing revision to SOP based upon changing case law and other circumstances, Capt. Huffmyer advised that BCSO is in the process of a wide-ranging review and update of all SOP, so as of May 2021, the Subcommittee paused its review awaiting the results of this internal BCSO process. So as not to waste time reviewing outdated SOP provisions, the SOP Subcommittee has requested regular notification from BCSO each time an SOP provision has been updated, but such notification has not yet been provided.
- I. Body-Worn Cameras: After New Mexico State legislation mandating use of body-worn cameras became effective in September 2020, the BCSO launched and implemented a body-worn camera program, after having resisted such program since 2015.
 - J. Involvement of Mental Health Professionals to Assist Law Enforcement: Ms. Maestas and professionals in the field of mental health brought to SOARB's attention their concern that law enforcement agencies such as BCSO need to add to their resources the services of mental health professionals to facilitate interactions with the public in appropriate situations. BCSO reported to SOARB that mental health training has long been a part of BCSO officers' training. In response to

concerns such as those expressed by Ms. Maestas, BCSO has also taken measures to increase the role of mental health professionals when appropriate in law enforcement actions, as summarized below.

i. Mobile Crisis Teams (MCTs):

1. BCSO has recognized the need to provide an initial level behavioral health assistance along with traditional law enforcement services. To that end, BCSO has hired two masters-level licensed social workers to provide assistance to Bernalillo County residents free of charge. Those services include advocacy, community connections, parental guidance and education, in home visits and crisis intervention.
2. Additionally, BCSO has created two MCTs consisting of a BCSO detective and an independently licensed clinician. These teams provide immediate crisis intervention services to individuals experiencing a behavioral health crisis serious enough to warrant a 911 response. The MCTs work a 4/10 schedule, one team working Monday through Thursday and the other working Tuesday through Friday. BCSO MCTs responded to 350 calls for service in 2020 and expect demand for crisis intervention to increase in the future.

ii. Fire Mobil Crisis Teams (FMCTs):

1. In June 2021 the Bernalillo County Department of Behavioral Health Services announced the launch of Fire Mobile Crisis Teams. The program is a joint collaboration with the City of Albuquerque, Bernalillo County Fire Department, Bernalillo County Sheriff's Department, and Albuquerque Police Department. The FMCT is the newest Behavioral Health Initiative (BHI) program. The program will fill a gap in the continuum of care by ensuring that individuals experiencing a crisis, who do not need law enforcement, receive rapid support to address immediate behavioral health needs, have improved individual outcomes, and are connected to the most appropriate level of care.
2. The teams are comprised of one behavioral health clinician and one Paramedic who respond to lower level, 911 crisis calls for adults, adolescents, and their families at the request of on-scene law enforcement agencies who have deemed the scene safe and appropriate. The paramedic and the behavioral health provider will work closely to assess the basic physical needs, provide onsite mental health assessment, and intervention supports for individuals in acute crisis stemming from a mental health related issue.
3. Quoting Bernalillo County Commissioner Charlene Pyskoty: *"Through the success of the Mobile Crisis Teams, here in Bernalillo County and throughout the nation, we understand how vital crisis teams are as a resource for the community and law enforcement in provide a clinical response to anyone experiencing, or at risk of, a behavioral health crisis. We also understand that there are some instances where law enforcement is not necessary and, in these instances, FMCT can fill that need and ensure that law enforcement resources are efficiently utilized. This collaborative approach ensures that we are maximizing resources and effectively supporting the community."*

- iii. Ongoing Crisis Intervention Training: Undersheriff Koren has advised SOARB that BCSO provides crisis intervention training to law enforcement officers throughout their careers.
- K. BCSO Enforcement of Governor's Pandemic-Related Health Orders (PHOs):
On December 19, 2020, Sheriff Gonzales issued a statement ("**Sheriff's PHO Statement**") that he viewed the PHOs – which at the time related to, among other things, wearing masks, closure of schools and certain businesses, and stay-at-home orders - as unconstitutional and so would not enforce them.^{iv} Sheriff Gonzales made this statement after such orders had been upheld by the New Mexico Supreme Court.
 - i. Despite the Sheriff's PHO Statement, SOARB's communications with BCSO (detailed below) indicate that BCSO did in fact enforce the PHOs in various ways. Although BCSO does not maintain records of the number of PHO-related educational or public assistance actions BCSO deputies have taken on a day-to-day basis, Undersheriff Koren explained on 11/12/2021 that in fact BCSO personnel took such actions numerous times, including such actions as providing members of the public with face masks, and other PHO-related guidance.
 - ii. To date, SOARB has received more comments about this issue than any other single issue, all but one of which have expressed a negative view of the Sheriff's PHO Statement. In light of the public concern and lack of clarity as to exactly what the public could expect from BCSO with respect to PHOs enforcement, on 9/7/2021 SOARB wrote to BCSO requesting:

"clarification as to what BCSO's PHOs enforcement or non-enforcement policy has been, and to what extent BCSO has enforced and continues to enforce the PHOs....If there has been enforcement, we would be interested to know the type of action (if any) BCSO has taken – including issuance of warnings and educating the public about PHOs, issuance of fines, or other actions to address PHOs violations."^v
 - iii. BCSO's initial response was a 9/20/2021 email providing a link to the BCSO Facebook page with a post containing the Sheriff's PHO statement as well as comments by followers of the page,^{vi} which as of 12/01/2021 had elicited 424 comments, 599 reactions and 250 shares, confirming that the BCSO's PHOs enforcement policy is indeed a subject of great public interest. Although SOARB has not reviewed all 424 comments, those we have reviewed present diverse views on the issue.
 - iv. SOARB followed up on 10/26/2021 with an email to BCSO specifically requesting information about BCSO's enforcement of the PHOs.^{vii} Undersheriff Koren's 11/03/2021 email reply^{viii} detailed BCSO's PHOs enforcement measures as follows:

"The only COVID enforcement has been when one of our deputies cited an individual for not wearing a mask while stalking the Sheriff's residence early in the pandemic. This incident took place early in the pandemic when the Governor's PHO's were ill defined and included wearing a mask outdoors.

"Our enforcement of the public health order has been to appropriately educate the public and assist the public with needed supplies, as community care takers.

"The Sheriff's office had a greater role during pandemic beyond mere enforcement of PHOs. BCSO's personnel were an integral part of Bernalillo [sic] county's overall Covid response."

Undersheriff Koren's response also included: a spread sheet showing that during the 14-month period March 2020 to June 2021 BCSO performed "COVID-19 Related Services" three times, and Covid-19 related "Community Engagement" once; and a draft "A Year in Review: Covid-19 Response in Bernalillo County" compiled by a grant writer for Bernalillo County. (See Appendix 4E)

- L. BCSO and Albuquerque Metro Crime Initiative. During the 11/12/2021 SOARB meeting it was noted that BCSO did not participate in any of the five Metro Crime Initiative (MCI) meetings convened by Mayor Tim Keller in July through September, 2021, which meetings were widely attended by local and state law enforcement agencies other than BCSO. As MCI was convened by Mayor Keller in the context of an election year in which Mayor Keller and Sheriff Gonzales were rival candidates, SOARB takes no position on this matter other than to observe that interagency cooperation among BCSO, APD, the City of Albuquerque and other law enforcement agencies is to be encouraged.
- M. BCSO Citizen Academy: BCSO offers a 16-week-long Citizen Academy to give the community a feel for the work BCSO does. SOARB members Debi Dodge and Diane Dosal both attended the Academy. Ms. Dodge was able to complete the course and reports as follows:

"The BCSO Citizen's Academy ran for 16 weeks on Tuesdays from 6:00-9:00 p.m.. Every week different deputies came to give us an overview of how their division operated. We all asked a lot of questions and I think we got very frank and good answers. Attendees of the Citizens Academy were from all walks of life. Some hope to go to the Academy to become deputies, some had spouses that were deputies, and some were just interested and civic-minded citizens. One woman has gone to the FBI Citizens Academy and APD Citizens Academy. I had the opportunity to go on two Ride-a-Longs with deputies in the South Valley, one in September from 2:00 p.m. to midnight, and one in October from 6:00 a.m. to 2:00 p.m.. We responded to Domestic Violence calls, mental calls, down and out calls, traffic accidents, stolen vehicles and a DWI. I also had the opportunity to go to Metropolitan Detention Center and witness the process of putting a DWI driver into the system. When you are on one of these Ride-a-Longs you see things from a different perspective. Suddenly you are very aware that when an officer approaches a vehicle the operator of that vehicle may very well be armed. It was something I had never really thought about until I was in that situation. The Citizen's Academy agenda was as follows:

- Week 1 Opening Ceremony- got to know other attendees & Sheriff came to welcome class
- Week 2 Polygraphs and Public Safety Psychology
- Week 3 Laws of Arrest & Search and Seizure- Civil Process Unit
- Week 4 Field Training Officers and Traffic Stops
- Week 5 DWI & Traffic Units
- Week 6 SWAT and Crisis Negotiations Team
- Week 7 Metro Air Unit- I was out of town so missed this one

Week 8 Internet Safety
 Week 9 Officer Involved Shootings
 Week 10 Internal Affairs
 Week 11 Homicide Investigations
 Week 12 GRIP (Gang) and Community Action Team
 Week 13 Safe Child and Special Victims Unit
 Week 14 CSI
 Week 15 Active Shooter and MILO
 Week 16 Graduation

"In addition to the Tuesday night sessions some extra sessions were made available to those who could attend on CPR, the Driving Range, Dog Handlers and more. I was not able to attend these sessions but heard great things from those who did attend.

"I would encourage anyone who has the time to attend the Citizen's Academy, you really do see something quite different than what you might see on TV or read in the newspapers. These deputies are familiar with so many of the people that live in the County and the people there trust them and have great respect for them. They do community policing. They offer help and solutions and they treated everyone with respect. On Graduation Night I had the opportunity to speak with Undersheriff Larry Koren about my experience with the Citizens Academy and hope you can all take advantage of this. It does take a lot of time but is well worth it - I have even signed up for the Citizens Academy Alumni Association to keep up with what is going on and to do some volunteer work with them."

IV. ADVICE AND RECOMMENDATIONS

The members of SOARB want to stress their intent that the following advice and recommendations to BCC and BCSO be received in the respectful and constructive spirit in which they are offered, in furtherance of SOARB's mission to enhance transparency and accountability, and not as criticism of any individual, agency or governing body.

In considering the form and substance of the advice and recommendations SOARB is authorized to give to BCSO and BCC pursuant to the Ordinance, SOARB members approved a process developed by SOARB member Michael Wismer mandating that no recommendation or advice be given without researching the issue and obtaining the approval of a majority of SOARB members, with any dissenting members having the right to record their dissent. Based upon this procedure, SOARB is issuing the following advice and recommendations unanimously:

A. Advice to BCSO

- i. Governor's Public Health Orders: To avoid public confusion about the law: (a) BCSO should never suggest that the Sheriff or any member of BCSO has discretion to refuse to enforce PHOs, with the understanding that BCSO does have substantial discretion as to the manner of enforcement; and (b) BCSO should never suggest that the Sheriff or any member of BCSO has the power to declare PHOs (or any other laws) to be unconstitutional, especially once such laws have been declared constitutional by the final decision of a court of competent jurisdiction.
- ii. Accessibility of Crime Stats; Disclosure of Crimes to Public/Media in Timely Fashion: BCSO should make crime statistics readily available on BCSO's website; in addition to posting information on social media, BCSO, on a regular and timely basis, should release

information to the media and respond to media requests, subject at all times to the need for confidentiality so as not to jeopardize any ongoing investigation, personnel or members of the public.

- iii. SOP in General: SOP (a) should be updated to contain an easy-to-locate section of defined terms; (b) should be revised to reflect current BCSO organization and procedures, and delete outdated information; and (c) readily available to public and searchable on BCSO website.
- iv. Revision to SOP Section 226 - "Internal Affairs":
 - 1. Section 226 provides that all complaints concerning BCSO personnel are first delivered to the Sheriff, who has the exclusive right to decide whether further investigation is warranted. If the Sheriff determines further investigation is warranted, then such complaint is turned over the Internal Affairs, which then reports the results of any such investigation to the Sheriff, who, once again, has exclusive right to decide what action (if any) to take in response. There is no provision for a different procedure in the event the Sheriff is the subject of a complaint.
 - 2. To enhance public confidence in the results of any investigation of a complaint whose subject is the Sheriff, BCSO should consider a procedure whereby a complaint about the Sheriff may be submitted directly to an independent investigative body, rather than to the Sheriff.

B. Advice to BCC

- i. Investigation of BCSO Officer-Involved Shootings: As discussed above in Section III(G-i), the MOA (*See Appendix 5*) designates BCSO as the lead investigative agency of any multi-agency task force investigation of BCSO officer-involved shootings. BCC should consider what measures, if any, may be advisable to address the possible appearance to the public of a conflict of interest in the case of a law enforcement agency such as BCSO taking the lead in investigating itself in the case of officer-involved shootings. In making this recommendation, SOARB wants to make it clear that: (1) it is aware that BCSO's current practice of taking the lead in investigating BCSO officer-involved shootings is consistent with law enforcement practices in other jurisdictions, both within and outside of New Mexico; and (2) the only reason SOARB is making this recommendation with respect to BCSO only is that SOARB's area of review is limited by the Ordinance to issues concerning BCSO.
- ii. Accessibility of Crime Stats & Disclosure of Crimes to Public/Media in Timely Fashion: BCC should consider what legislative measures may be taken to mandate that BCSO make crime statistics readily available to the public by providing easy access to same on the BCSO website, subject at all times to the need for confidentiality so as not to jeopardize any ongoing investigation, personnel or members of the public. The public should not have to make an IPRA request to access BCSO's crime statistics. If such legislative measures must be taken on a statewide rather than county-wide basis, then referral to the appropriate legislative body should be made.
- iii. Governor's Public Health Orders: BCC should consider what legislative measures may be taken to clarify for the public that PHOs are laws that BCSO does not have discretion to refuse to enforce, although BCSO does have discretion as to the manner of enforcement.

- iv. BCSO Oversight: BCC should consider: (a) whether the four-year election cycle and the two-consecutive-term limits provide sufficient oversight of BCSO, (b) whether it would be advisable for BCC or other governmental body (elected or appointed) to have additional oversight authority over BCSO, and (c) whether SOARB is an effective mechanism for furthering the goals of transparency and accountability.^{ix}
- v. SOARB Membership: Three SOARB positions are currently vacant – one each for Districts 1, 2 and 4. In order to ensure that all County Districts are represented, SOARB membership should always consist of nine people - the full number authorized by the Ordinance – with new members to be appointed by BCC promptly as vacancies occur. Full membership would also permit smoother operation of subcommittees, which is somewhat hampered at present because no meeting or discussion among more than three SOARB members can be held without adherence to the prior notice and public meeting requirements of the NM Open Meetings Act.

V. SUGGESTED ISSUES FOR CONTINUING OR FUTURE REVIEW BY SOARB

- A. Public Comment: Any issues raised by members of the public.
- B. BCC Goals: What type of review of BCSO, and by what body, agency or commission, would most effectively accomplish BCC's goals in creating SOARB?

VI. PLANS FOR COMING YEAR (2022-23)

Evaluate SOARB's first year of operations with an eye toward determining whether SOARB is having the impact envisioned by BCC, and make future plans accordingly.

VII. CONCLUSION

The members of SOARB look forward to continuing their work, in cooperation with the BCSO and the BCC.

Endnotes:

ⁱ See Appendix 1 for full text of Bernalillo County Ordinance 2020-21

ⁱⁱ Examples include the following:

(a) In recent years Bernalillo County has paid millions to settle lawsuits involving BCSO. The highest profile case involved Elisha Lucero, a 28-year-old woman suffering from mental illness who was shot in July 2019 by BCSO deputies who responded to the family residence after family members called for help. The county paid \$4 million to the family of Ms. Lucero in March of 2020.

(b) \$3.3 million in settlements was paid to cover lawsuits arising from a November 2017 incident in which a deputy fatally shot two men following a car chase. The deputy involved was the son of a BCSO Undersheriff, and some of the news coverage focused on alleged BCSO recruiting and training deficiencies (as they pertained to the Undersheriff's son) and what the Albuquerque *Journal* called "a war of words" between Sheriff Gonzales and the local attorney representing one of the deceased men.

(c) The County also settled a whistleblower lawsuit arising out of this case in which a BCSO deputy alleged that he was retaliated against by the Sheriff for his truthful testimony in the case.

(d) There were also racial profiling claims. Sherese Crawford, a black ICE officer, sued BCSO after she was stopped by deputies three times in less than a month but never cited or issued a warning. In February 2020 Bernalillo County paid \$100,000 to Ms. Crawford to settle that case. A few months later two black women from Wisconsin sued Sheriff Gonzales alleging racial and religious profiling stemming from a traffic stop in 2017.

(e) Since Sheriff Manuel Gonzales III took office 2015, friction developed between BCSO and community stakeholders, including the BCC, ACLU, NAACP, NM Public Defenders Office and others because of the Sheriff's defiance of requests to secure body-worn cameras for BCSO officers. In October 2019, the BCC passed an administrative resolution recommending that BCSO implement a body-worn camera program. But it was not until 2020, after the State of New Mexico enacted legislation mandating that all police departments implement a body-worn camera program that the BCSO finally equipped its officers with body-worn cameras.

(f) There has been widespread news coverage concerning controversies involving Sheriff Gonzales and BCSO: (i) In December 2019, the Albuquerque *Journal* Editorial Board opined that the Sheriff "is either determined to cover up the actions of his department in the tragic shooting death of Elisha Lucero as long as he possibly can – or maybe he's just a really slow learner."; (ii) In February 2020 the Editorial Board opined that "Bernalillo County Sheriff Manny Gonzales has doubled down on his no-accountability platform...."; (iii) In October 2020, the Albuquerque Public Schools Board of Education entered the fray pushing back on welfare checks BCSO was conducting on students; (iv) In December 2020, the *Journal* opined that "Once again, BCSO sheriff is fighting public accountability" over the "Giglio questionnaires"; (v) also in December 2020, another controversy arose from the Sheriff's announcement that BCSO would not enforce State Public Health orders to combat the spread of COVID-19, even after such orders had been upheld by the NM Supreme Court. See Appendix 2 for a representative sampling of news coverage of Sheriff Gonzales and BCSO during 2019 and 2020.

iii Minutes of 9/22/2020 BCC Administrative Meeting, Comments of Commissioner Collie, p. 49

iv See Appendix 4A

v See Appendix 4B

vi See Appendix 4C

vii See Appendix 4D

viii See Appendix 4E

ix SOARB received a total of 25 public comments from November 2020-December 2021. Not only was this SOARB's first year of operations, but due to COVID-19 precautions, SOARB was only able to hold meetings virtually during this time, all of which may have limited public participation. It remains to be seen whether SOARB will experience increased public participation if/when such precautions are modified or as the public becomes more accustomed to virtual participation in SOARB meetings.

APPENDICES

APPENDIX 1

Bernalillo County Ordinance 2020-21

BERNALILLO COUNTY

BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2020-21

1 Chapter 50

2 ARTICLE V. – BERNALILLO COUNTY SHERIFF'S OFFICE ADVISORY AND REVIEW
3 BOARD

4
5 Sec. 50-79. - Short title.

6 This article shall be known and may be cited as the "Sheriff's Office Advisory and Review
7 Ordinance."

8 Sec. 50-80. - Purpose and intent.

9 (a) It is the purpose of this article to improve public transparency and accountability with
10 respect to the Bernalillo County Sheriff's Office, by providing robust opportunities for
11 community engagement, analysis and review of the Office's policies, practices, procedures,
12 and provide advice to the Board of Bernalillo County Commissioners, the Sheriff's Office,
13 and the public.

14 (b) This article is promulgated pursuant to the county's authority under the New Mexico
15 Constitution and statutes. The board of county commissioners' authority includes those
16 powers necessary and proper to provide for the safety, preserve the health, and improve the
17 morals, order, comfort and convenience of its inhabitants.

18 (c) Any approvals granted under this article do not authorize or legalize any conduct, activity,
19 or business that is illegal under city, county, state or federal law.

20 Sec. 50-81. – Advisory.

21 (a) *Advisory board.*

22 (1) *Creation of advisory board.* An advisory board is hereby created, in compliance
23 with section 2-432 of the Bernalillo County Ordinances, and is designed to
24 provide ongoing analysis and review of the Sheriff Office's policies, practices,
25 procedures, and provide advice to the Board of Bernalillo County Commissioners,
26 the Sheriff's Office, and the public

27 (2) *Advisory function.* This board shall serve in an advisory capacity to the Board of
28 County Commissioners and the Sheriff's Office.

29 (3) *Members.* The board shall be made up of nine members. Each Commissioner
30 shall appoint one member from their district and four shall be at-large members
31 selected by the commission from the pool of all applicants. The terms of all
32 members shall be four years. Preferably, the four at-large members will have
33 experience, knowledge, or skill in at least one of the following areas: community
34 service, military service, public safety service, criminal law, civil rights, or law
35 enforcement research. Annually, at the first meeting of the calendar year, the
36 board shall elect its chair and vice-chair.

CONTINUATION PAGE 2, ORDINANCE 2020-21.

- 1 (4) *Process for selection of members.* A notice of vacant advisory board positions
2 will be posted in the appropriate place on the county's webpage, inviting
3 interested persons to apply and submit a resume to the county manager's office.
4 Additionally, the County shall prepare and distribute this notice for posting at all
5 county recreation facilities and other facilities it owns and operates. Applications
6 and resumes shall be forwarded to all commissioners. The Commission will strive
7 for equity in demographics and geography across the county.
- 8 (5) *Staff.* The County Manager will consult with the Board to determine staff support
9 needed to facilitate their work.
- 10 (6) *Participation by the Sheriff.* The Sheriff, or a senior ranking member of the
11 Sheriff's Office, selected by the Sheriff, shall be invited to attend and participate
12 in all the meetings of the board, and shall have the privilege of the floor, without
13 voting rights.
- 14 (7) *Meeting frequency.* The advisory board shall meet at least once per quarter.
- 15 (8) *Open Meetings Act.* The board shall comply with the requirements of the New
16 Mexico Open Meetings Act, NMSA 1978, § 10-15-1 et seq.
- 17 (9) *Duties of the board*
18 On its own initiative, or at the request of the Board County Commissioners or the
19 Sheriff, without interfering with the Sheriff's investigative function the Board
20 shall:
 - 21 a. complete its own investigation of the Sheriff's Office's operational
22 policies, practices, processes and procedures.
 - 23 b. hold public meetings to solicit public input regarding the Sheriff's
24 Office's policies, procedures, services and programs. Establish rules and
25 procedures to ensure that its meetings provide for public comment and
26 when necessary, include meetings focused solely on public comment.
 - 27 c. communicate with and request information from the Sheriff, including but
28 not limited to completed disciplinary actions, finalized internal affairs
29 investigations, and operating policies to complete its review, analysis and
30 investigations.
 - 31 d. determine whether an independent expert audit or review of the Sheriff's
32 Office's operational policies, process and procedures is required.
 - 33 (i) If a majority of the board determines that an expert audit or
34 review of the Sheriff Office's operational process, policies or
35 procedures is required, they may authorize audits or reviews to be
36 conducted by independent experts to analyze, solicit input and
37 make recommendations to the Board of County Commissioners
38 and the Sheriff.
 - 39 (ii) Consult with the county manager about the availability of
40 funding, within her scope authorization, or from the Commission,

CONTINUATION PAGE 3, ORDINANCE 2020-21.

and the procurement process for any audits or reviews to be conducted by independent experts.

(iii) Hire experts through a competitive procurement process.

e. review, analyze, and where appropriate solicit additional input, and make advisory recommendations to the Board of County Commissioners and the Sheriff on the Sheriff's Office's operational policies and procedures that affect the community or make recommendations to create additional operational policies and procedures affecting the community.

(i) Seek the input of the Sheriff prior to completing any of its recommendations made pursuant to the duties defined in this section.

(ii) Request the advice and assistance of the Bernalillo county attorney about the process and requirements for making referrals or reports to other governmental enforcement bodies.

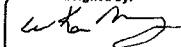
f. prepare and distribute an annual report to the Board of Commissioners and Sheriff at the Board's last meeting in January, summing its activities of the prior year and its plans for the coming year.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BERNALILLO COUNTY, NEW MEXICO this 22nd day of September, 2020.

APPROVED AS TO FORM

BOARD OF COUNTY COMMISSIONERS

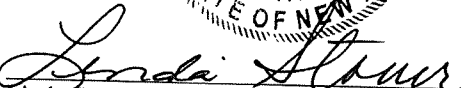
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W. Ken Martinez, County Attorney

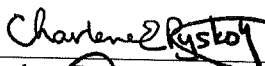


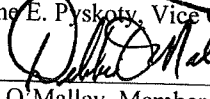
ATTEST:

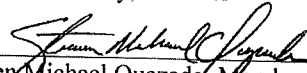

 Linda Stover, County Clerk

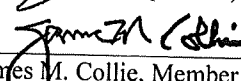
VOTED 'NO'

Lonnie C. Talbert, Chair


 Charlene E. Pyskots, Vice Chair


 Debbie O'Malley, Member


 Steven Michael Quezada, Member


 James M. Collie, Member

APPENDIX 2

Origins of SOARB

Bernalillo County commissioner proposing Sheriff's Department Advisory and Review Board 8/6/2020
<https://www.kob.com/new-mexico-news/bernalillo-county-commissioner-proposing-sheriff's-department-advisory-and-review-board/5819306/>

Bernalillo County Commission Meeting where SOARB was discussed and approved 9/22/2020
<https://youtu.be/IDT8nkPgsbU?t=4645>

County Commissioners approve Sheriff's Office Advisory Board – KRQE 9/23/2020
<https://www.youtube.com/watch?v=zAsQxUkX6b4>

BCSO in the news 2019-2020

Bernalillo County pays \$1.75M in lawsuit settlement following 2017 shooting 2/5/2019
<https://www.krqe.com/news/new-mexico/bernalillo-county-pays-1-75m-in-lawsuit-settlement-following-2017-shooting/>

'The idiot sheriff we have,' protesters call for BCSO Sheriff to resign 8/29/2019
<https://www.koat.com/article/protesters-call-for-sheriff-manuel-gonzales-resignation/28850126#>

BCSO sheriff remains defiant on lapel cameras as commissioners pass resolution 10/16/2019
<https://www.kob.com/albuquerque-news/bcso-sheriff-remains-defiant-on-cameras-as-commissioners-pass-resolution/5525607/>

4 Investigates: Chris Ramirez sits down with Sheriff Gonzales to discuss policy, transparency 10/28/2019
<https://www.kob.com/albuquerque-news/4-investigates-chris-ramirez-sits-down-with-sheriff-gonzales-to-discuss-policy-transparency/5536139/>

"The sheriff has shown an unfortunate disregard I think for accountability on any number of levels."
 ACLU

Bernalillo County settles whistleblower lawsuit 11/24/2019
<https://www.abqjournal.com/1395145/bernalillo-county-settles-whistleblower-lawsuit.html>

"A whistleblower lawsuit alleging Bernalillo County Sheriff Manuel Gonzales retaliated against a deputy who had testified against him, his undersheriff and his undersheriff's son – another deputy – settled for \$49,000 last week, according to attorney Sam Bregman."

Editorial: Why the secrecy? 12/1/2019
<https://www.abqjournal.com/1396722/why-the-secrecy.html>

Editorial Board: Bernalillo County Sheriff Manuel Gonzales is either determined to cover up the actions of his department in the tragic shooting death of Elisha Lucero as long as he possibly can – or maybe he's just a really slow learner.

Editorial: Crash puts pursuit policy in spotlight 2/3/2020
<https://www.abqjournal.com/1416204/crash-puts-pursuit-policy-in-spotlight.html>

"The public needs and deserves more evidence to determine if pursuits are merited – something dashboard cameras would help determine. Unfortunately, Bernalillo County Sheriff Manny Gonzales has doubled down on his no-accountability platform, refusing not only to equip his deputies with lapel cameras but also to use the \$1 million county commissioners budgeted last year exclusively for dashboard cameras. So we are left with a BCSO spokesman justifying the chase, saying someone was driving recklessly. And that photo of the crushed vehicle. And another of the makeshift memorial at the crash site that has taken its place."

Bernalillo County settles racial profiling suit for \$100,000 02/11/2020

<https://www.abqjournal.com/1419640/bernalillo-county-settles-profiling-case.html>

Family, county settle lawsuit for \$4 million 3/6/2020

<https://www.abqjournal.com/1428402/family-of-mentally-ill-woman-shot-by-bcso-gets-4m-settlement.html>

When asked for comment, BCSO spokesman Deputy Connor Otero said the department was aware the case has settled but is "sickened with the amount of the settlement agreement." "The Sheriff's Department does not admit any fault on behalf of the employees involved and holds firm in its belief that our deputies have a right and a duty to protect themselves and others from harm and/or death," Otero wrote in an email. Otero also sent a statement from Sheriff Gonzales which added that the department is committed to protecting children and families, and "as such, we responded legally and appropriately while in communication with the family to protect the welfare of all involved...."

Settlements in BCSO shooting total \$3.3M 5/21/2020

<https://www.abqjournal.com/1458471/settlements-in-bcso-shooting-total-33-million-deputy-opened-fire-killing-driver-passenger-in-stolen-truck.html>

Editorial: Millions paid out for quick-to-shoot BCSO misconduct 6/1/2020

<https://www.abqjournal.com/1461425/millions-paid-out-for-quickto shoot-bcso-misconduct.html>

Public defenders call on BCSO to use body cameras 6/9/2020

<https://www.abqjournal.com/1464365/public-defenders-call-on-bcso-to-use-body-cameras.html>

NAACP rejects invite to speak with BCSO sheriff after letters were ignored 6/19/2020

<https://www.kob.com/new-mexico-news/naacp-rejects-invite-to-speak-with-bcso-sheriff-after-letters-were-ignored/5765423/>

Two BCSO deputies face second racial profiling lawsuit 7/8/2020

<https://www.abqjournal.com/1473973/two-bcso-deputies-face-second-racial-profiling-lawsuit.html>

Governor signs police camera requirement 7/8/2020

<https://www.abqjournal.com/1473723/lujan-grisham-signs-camera-requirement-for-police.html>

"The Bernalillo County Sheriff's Office – led by Sheriff Manuel Gonzales, who has resisted calls for cameras – said it may challenge the law in court, contending the legislation has serious legal and practical flaws."

Troubled New Mexico sheriff's office to get 'superhero' tool 7/25/2020

<https://apnews.com/article/race-and-ethnicity-technology-racial-profiling-lawsuits-albuquerque-afed6f4408cf40963873006cac5be2e3>

ALBUQUERQUE, N.M. (AP) — A New Mexico sheriff, whose office is plagued by racial profiling lawsuits, said deputies will be outfitted with new superhero-style restraining devices but not body cameras.

APS board pushes back against BCSO welfare checks 10/13/2020

<https://www.abqjournal.com/1506806/aps-board-pushes-back-against-bcso-welfare-checks-ex-visits-were-supposed-to-ensure-that-students-were-attending-online-classes.html>

Editorial: Once again, BCSO sheriff is fighting public accountability 12/12/2020

<https://www.abqjournal.com/1526109/once-again-bcso.html>

BCSO sheriff says he won't enforce public health order 12/20/2020

<https://www.krqe.com/health/coronavirus-new-mexico/bcso-sheriff-says-he-wont-enforce-public-health-order/>

Sheriff Manny Gonzales embraces police body-worn cameras after years of resistance 2/9/2021

<https://www.kob.com/albuquerque-news/sheriff-manny-gonzales-embraces-police-body-worn-cameras-after-years-of-resistance/6007680/>

APPENDIX 3

Vision Statement & Press Release

Adoption of Vision Statement:
Sheriff's Office Advisory & Review Board Adopts Vision Statement
Chair Tommy Jewell Appointed Media Spokesperson

Bernalillo County – The Bernalillo County Sheriff's Office Advisory and Review Board (SOARB) has approved the following vision statement:

The Sheriff's Office Advisory and Review Board seeks to create stronger community ties between the residents of Bernalillo County and BCSO.

"The ordinance that created the SOARB is comprehensive and members wanted to distill the purpose into a succinct statement," says Tommy Jewel, board chair and retired judge. "We seek to create stronger community ties between the residents of Bernalillo County and BCSO. And the public is invited to share their experiences with BCSO during public comment periods of our monthly meetings."

The next meeting of the Sheriff's Office Advisory and Review Board is Friday, May 14, 2021 at 11 a.m. [Click here](#) or call 505-468-1332 to sign-up to speak.

The vision statement was approved during the April 9, 2021 meeting during which members also voted to appoint board chair Tommy Jewel as the media spokesperson for SOARB. Members of the news media are invited to email the undersigned to request Judge Jewel's contact information.

APPENDIX 4A

Sheriff Gonzales' PHO Statement may be viewed at the BCSO Facebook Page at the following link:
<https://www.facebook.com/170603669646484/posts/5025346477505488/>

APPENDIX 4BSOARB's First Inquiry re BCSO Enforcement of PHOs

The following letter was emailed to Undersheriff Covington on 9/7/2021, and subsequently to Undersheriff Koren on 9/10/2021:

Dear Undersheriff Covington:

I am a member of the Bernalillo County Sheriff's Office Advisory and Review Board subcommittee that is considering the BCSO's enforcement of Governor Lujan Grisham's pandemic-related health orders (PHOs). The other member of the PHO Subcommittee are Dr. Dianne Layden, with oversight by Board Chair Judge Tommy Jewell. To date, SOARB has received more public comment on this issue than on any other single issue.

We're hoping you will assist us in getting input on this complex issue directly from the Sheriff or other BCSO representative.

I believe you were present (via Microsoft Teams) at our 8/13/21 meeting when SOARB received a number of public comments on this issue, all expressing a negative view of Sheriff Gonzales' December 2020 statement that he viewed the PHOs as unconstitutional and so would not enforce them. Earlier this year, SOARB received one public comment commending the Sheriff's non-enforcement stance and one additional negative comment.

At a recent mayoral candidate debate, Candidate Aragon mentioned that he had been confronted by BCSO for violating the PHOs concerning masking at indoor venues.

We know that BCSO is sensitive to the dangers of communicable diseases, as SOP #229 specifies procedures including masks and gloves to "lessen or prevent the exposure of its members to infectious or communicable diseases."

All of the above suggests that it would be helpful to get clarification as to what the BCSO's PHOs enforcement or non-enforcement policy has been, and to what extent BCSO has enforced and continues to enforce the PHOs.

If there has been enforcement, we would be interested to know the type of action (if any) BCSO has taken - including issuance of warnings and educating the public about PHOs, issuance of fines, or other actions to address PHOs violations.

We appreciate your regular presence at SOARB meetings and look forward to your help in this matter. Please let us know if you'd like to meet (virtually) on this topic or if you have any questions. There is also the option for you or other BCSO representative to address this question at our next SOARB meeting on 9/10/21

Respectfully,
Debbie Strongin

APPENDIX 4C

BCSO's Response to SOARB's First Inquiry re BCSO Enforcement of PHOs

Undersheriff Koren emailed the following response on 9/20/2021:

Please share this link below. The SOARB will likely find a few more favorable options to harvest from the link. <https://www.facebook.com/170603669646484/posts/5025346477505488/>

APPENDIX 4DSOARB's Second Inquiry re BCSO Enforcement of PHOs

The following letter was emailed to Undersheriffs Koren and Covington on 10/26/2021:

Dear Undersheriffs Koren and Covington:

Thank you for your 09/20/2021 response to my 9/7/2021 email. The link you provided to the BCSO Facebook Page post of Sheriff Gonzales' December 2020 statement concerning the Governor's Public Health Orders (PHOs) certainly confirms SOARB's conclusion that this is indeed a topic about which the public has a keen interest.

However, as stated in my 9/7 email, we are looking to you to specify the BCSO's policies regarding enforcement or non-enforcement of the PHOs. If there has been enforcement, we would be interested to know the type of action (if any) BCSO has taken - including issuance of warnings and educating the public about PHOs, issuance of fines, and any other actions of BCSO to address PHOs violations.

Because of the volume of public interest in this issue, the topic will definitely be covered in the Annual Report that SOARB is required to submit to the Bernalillo County Commission in January. It would be helpful if we could have your response in time to present it at our next SOARB meeting on 11/12/2021, during which we plan to make final edits to the Annual Report. You are of course welcome to present your response and any comments at SOARB's November meeting if you like.

Thank you for your anticipated cooperation.

Respectfully,

Debbie Strongin

APPENDIX 4E

BCSO Response to SOARB's Second Inquiry re Enforcement of PHOs

From: Larry Koren <lkoren@bernco.gov>
Sent: Wednesday, November 3, 2021 12:48 PM
To: Crystal A. Griego (HPS) <cagriego@bernco.gov>
Subject: COVID-19 Project, Sheriff's Office

Crystal,

Please share the following with SOARB.

The only COVID enforcement has been when one of our deputies cited an individual for not wearing a mask while stalking the Sheriff's residence early in the pandemic. This incident took place early in the pandemic when the Governor's PHO's were ill defined and included wearing a mask outdoors.

Our enforcement of the public health order has been to appropriately educate the public and assist the public with needed supplies, as community care takers.

The Sheriff's office had a greater role during pandemic beyond mere enforcement of PHOs. BCSO's personnel were an integral part of Bernalillo county's overall Covid response.

I offer the following information recently provided to Bernco grant writer Katherine Korte. The project is called "COVID-19 Year in Review: Bernalillo County's Response to a Public Health Emergency." Bernco OEM, with the approval of the county manager and deputy county managers, asked Ms. Korte to compile an extensive retrospective about Bernalillo County's efforts to mitigate the COVID-19 public health emergency.

Please see attached narrative and spreadsheet regarding BCSO's Covid response.

I hope you find this information helpful.

Kind regards,

Larry Koren

Sent from my Verizon, Samsung Galaxy smartphone

IT IS CRITICAL you exercise extreme caution opening any office documents attached to email - Be wary of unsolicited attachments

5 attachments

image002.png
1K

image001.jpg
7K

image004.jpg
14K

 **BERNCO Response to COVID 19 Draft_Sheriff Office.pdf**
578K

 **BCSO Stats.xlsx**
27K

A Year In Review: COVID-19 Response in Bernalillo County
DRAFT

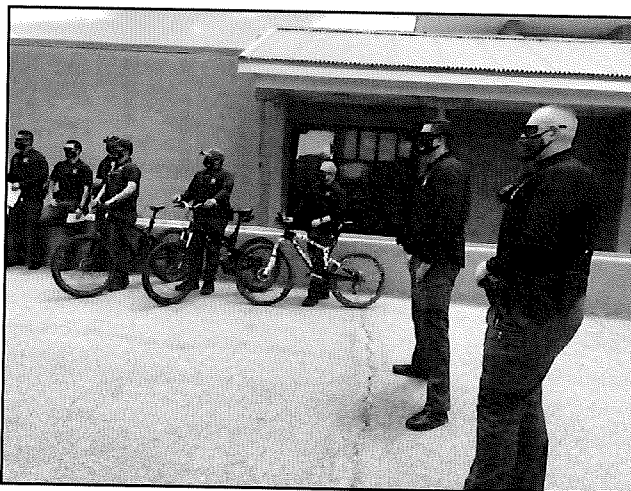
SHERIFF'S OFFICE

Like all emergency personnel, the Bernalillo County Sheriff's Office had to evolve and adapt in order to continue operations during the pandemic, despite the dangers that the coronavirus posed to staff.

"Our calls for service remained the same," said Deputy Chief Joshua Campos. "We can't decline our calls for services. We had to maintain that level of service despite restrictions."

Campos cited as the Sheriff's Office top accomplishment its ability to maintain efficiency and service to customers, not only in the area of law enforcement, but with its community engagement and training and recruitment efforts. In fact, the Sheriff's Office managed the following, on top of its emergency response:

1. Virtual hiring and recruitment efforts;
2. Two Regional Basic Training Academy class graduations;
3. Numerous efforts to provide food, toys, and needed supplies to many community members who were in need;
4. Support to election personnel and the Office of Community Engagement;
5. Support to APS and CYFD during Operation Educational Achievement;
6. Support to COVID-19 patients who needed transport by the Metro Air Support Unit;
7. Numerous Gang Recognition Identification and Patrol (Operation Legend/GRIP) operations;
8. Implementation of body-worn cameras; and
9. Opening the Las Estancias Community Substation.



Sheriff's Office deputies, outfitted with masks, continued GRIP operations during the pandemic that resulted in nearly 200 felony and misdemeanor arrests.

All these efforts speak to Campos' observation that the Sheriff's Office staff were "able to overcome a large amount of adversity and adapt to varying degrees of changes relatively easily."

Top Accomplishments:

1. Continued service to the community.

A Year In Review: COVID-19 Response in Bernalillo County
DRAFT

2. Ensuring the safety of all staff through education and the use of PPE as recommended by the Centers for Disease Control and Prevention.

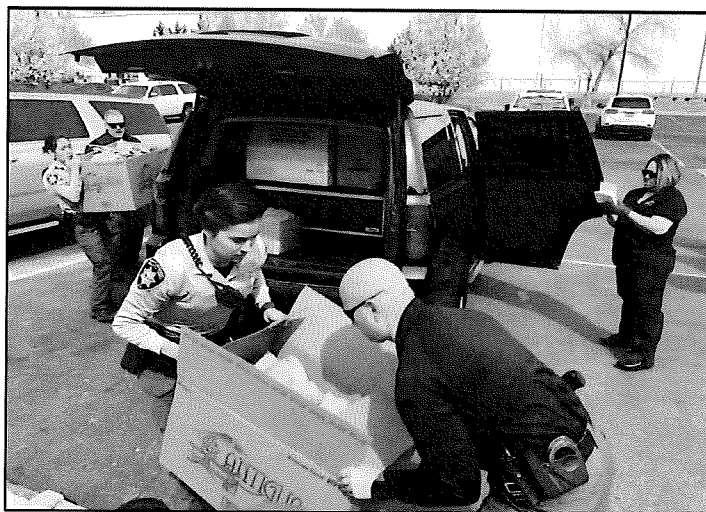
“A lot of the credit goes to Richard Clark and the Office of Emergency Management,” Campos said. “What helped us was our working relationship with Clark and OEM. We know them. We could ask them questions.”

3. Mitigating the negative impacts to work processes caused by other providers who changed hours and contact protocols.

“We maintained a 24-hour daily operation,” Campos said. “It was hard because the DA, public defender, New Mexico court, district court – they all went remote. But we were able to attend court hearings on the phone, and we were successful in not impacting our bottom line.”

Biggest Challenges:

1. Ensuring all staff had IT technology – and associated training to operate it - for remote work.
2. Ensuring all FEMA-related forms were completed accurately and submitted in a timely manner. “We were often asked to fill out the forms without any direction,” Campos said.
3. Keeping up to date with varying and often changing regulations, best practices, protocols, administrative instructions, and directives related to COVID-19.



The COVID-19 Community Service Partnership allowed Sheriff's Office deputies to deliver more than 1,000 boxes of food and supplies to needy families between March and May of 2020.

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The COVID-19 pandemic did not hamper efforts by the Sheriff's Office to recruit, hire, and train new deputies. Class #41 of the Regional Basic Training Academy graduated in July 2020 in a virtual ceremony (above). Recruitment efforts, including a Women In Law Enforcement seminar (left) continued throughout the pandemic.

Gang Recognition Identification and Patrol
(GRIP)
July 2020 through February 2021

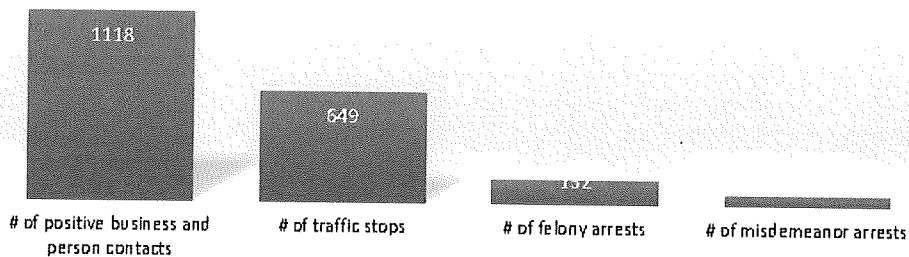


Figure 1 GRIP results in a seven-month period.

March 2020 to June 2021

COVID-19 Related Services

Fog disinfectant provided by BCFD photo	4/30/2020
social worker and dog photo	5/5/2020
Metro Air Support Unit installed barrier system to transport COVID patients	5/6/2020

Law Enforcement

training	7/1/2020	
GRIP	8/1/2020	
GRIP	8/11/2020	
GRIP	8/16/2020	
GRIP	8/29/2020	
GRIP	9/11/2020	
GRIP	9/25/2020	
GRIP	10/14/2020	
GRIP	12/5/2020	
mail package theft deterrence	12/23/2020	
body-worn camera implementation	1/8/2021	100 vehicles outfitted; 160 deputies
GRIP	1/29/2021	
GRIP	2/10/2021	
2020 traffic citations	5/18/2021	12,768 total; 7,664 by traffic unit

Training-Hiring

Virtual Hiring Workshops	3/27/2020	Don't Quarantine Your Career
Cadet Class #41 begins	5/19/2020	
Cadet Class #41 graduates	7/24/2020	
virtual career fair	7/18/2020	
seminar for women seeking career in law	7/27/2020	
Cadet Class #42 begins	10/27/2020	
Virtual Hiring Workshops	11/10/2020	
Virtual Hiring Workshops	12/9/2020	
recruitment/hiring event	3/16/2020	
Cadet Class 42 graduates	5/14/2021	
class 44 recruitment	5/20/2021	

Community Engagement

COVID-19 Community Service Partnership	5/4/2020	1,400 boxes; 3,500 meals; \$16,000 in donations
drive-in movie support	6/29/2020	
opening of las estancias community substation	7/30/2020	
Operation Educational Encouragement	10/6/2020	70+ referrals
Election support	11/3/2020	
Holiday toy and food drive	11/17/2020	68 families, 180 kids
annual food box drive	11/27/2020	
cops for kids	12/15/2020	no ridealongs this year

	# of positive person contacts	# business contacts	# traffic stops	# felony Arrests	# misdemea nor arrests	stolen firearms recovered	firearms seized	cases turned over to feds	stolen vehicles recovered	missing person recovered
7/3/2020	143	34	59	6	5	1	2	2	0	
8/1/2020	257	99	85	11	1				2	1
8/11/2020	48	15	56	19	9		3	2	2	
8/16/2020	20	1	34	8	4					
8/29/2020	6	6	36	14	8	2	2	2	1	
9/11/2020	40	26	73	13	7		2		1	
9/25/2020	66	18	62	12		1				
10/15/2020	53	26	39	9	3		4	1		
12/5/2020	24	25	30	5	5		1			
1/29/2021	77	65	109	18	7		2		1	
2/10/2021	39	30	66	17	8		4	4	3	
	773	345	649	132	57	4	20	11	10	1

# of GRIP operations	# of positive business and person contacts	# of traffic stops	# of felony arrests	# of misdemea nor arrests
11	1118	649	132	57

Meth seized	marijuana seized	cocaine seized	# citations
31.5 grams	13 oz		5
2.7 grams			
13.15 oz		1 gram	
5 grams			6
1.32 oz	3.23 oz		
3 grams			
2 grams			
16.2 grams	4.75 oz		
3 grams			1
4.7 grams			
9.9 oz			

Gang Recognition Identification and Patrol (GRIP)
July 2020 through February 2021



APPENDIX 5

Multi-Agency Task Force Memorandum of Agreement

MEMORANDUM OF AGREEMENT

Between the
 NEW MEXICO DEPARTMENT OF PUBLIC SAFETY
 And the
 COUNTY OF BERNALILLO
 ON BEHALF OF
 BERNALILLO COUNTY SHERIFF'S OFFICE
 And the
 ALBUQUERQUE POLICE DEPARTMENT

This Memorandum of Agreement (MOA), dated April 8, 2020 is made and entered into and agreed to by and between the New Mexico Department of Public Safety, the Bernalillo County Sheriff's Office, and the Albuquerque Police Department.

WHEREAS pursuant to 29-2-18, NMSA 1978, the Chief and other members of the New Mexico State Police, who, when duly commissioned and sworn under the provisions of Sections 29-2-1 through 29-2-29, NMSA 1978, shall have the following powers and shall perform the following duties:

1. They shall be conservators of the peace within the state, with full power to apprehend, arrest and bring before the proper court all law violators within the state;
2. Upon request of any officer or agency of the state, charged with the duty of enforcing any law of the state, made to the Secretary of Public Safety, one or more members of the New Mexico State Police may be temporarily designated specifically to enforce the provisions of such law; and

WHEREAS pursuant to 4-41-2, NMSA 1978, the Bernalillo County Sheriffs shall have the following powers and shall perform the following duties:

1. They shall be the conservators of the peace within the county;
2. They shall suppress assaults and batteries;
3. They shall apprehend and commit to jail, all felons and traitors, and cause all offenders to keep the peace and to appear at the next term of the court and answer such charges as may be preferred against them, and

WHEREAS pursuant to 35-15-4, NMSA 1978, the Bernalillo County Sheriff's Office and the Albuquerque Police Department may serve any process or make any arrests authorized to be made by any city or town officer; and

WHEREAS pursuant to 3-13-2, NMSA 1978, the Albuquerque Police Department shall apprehend any person in the act of violating the laws of the State or the ordinances of the municipality and bring him before competent authority for examination and trial. In the discharge of proper duties, the Albuquerque Police Department shall have the same powers and be subject to the same responsibilities as sheriffs in similar cases;

WHEREAS the above referenced public agencies desire to enter into this MOA to exercise their common power pursuant to NMSA 1978, Section 29-1-1 to investigate all violations of the criminal laws of the state which are called to the attention of any officer or of which the officer is aware, to diligently file a complaint or information, if the circumstances are such as to indicate to a reasonably prudent person that such action should be taken, and to cooperate with and assist the attorney general, district attorney or other prosecutor, if any, in all reasonable ways.

THEREFORE, the parties hereby agree as follows:

1. SCOPE OF WORK:

- A. The purpose of this MOA is to establish a formal protocol among the above named law enforcement agencies for the following types of investigations:
 - 1) Officer-Involved Shooting
 - 2) Other Serious Use of Force
 - 3) In Custody Death, to include deaths that occur at the Bernalillo County Metropolitan Detention Center (MDC) involving MDC personnel involved in a use of force resulting in death.
- B. A Multi-Agency Task Force ("MATF"), with representatives from each of the law enforcement agencies subject to this agreement, is hereby created to investigate the aforementioned situations.
- C. The parties also agree that this Multi-Agency Task Force, or an agency identified herein, may be requested by the head of one of the other agencies to this agreement, or a designee, to investigate any other officer-involved suspected criminal action including, but not limited to, off-duty or non-duty related incidents.
- D. A single agency will be designated as the "Lead Agency" in a particular investigation, with the other agencies providing investigative support and supplemental assistance in the investigative effort, as needed. The law enforcement agency that employs the officer involved in one of these situations shall be designated as the "Lead Agency" for the investigation. If a situation involves more than one agency, the Lead Agency shall be the agency that initiated the enforcement action. The Department of Public Safety, New Mexico State Police Division, reserves the right to be designated Lead Agency for incidents involving its personnel. If the law enforcement agencies cannot agree on a Lead Agency, they agree to seek direction from the Bernalillo County District Attorney's Office to designate the Lead Agency.
- E. Task Force members will respond to the designated command post location for the incident within one hour of notification. Upon arrival, the task force members will await instructions and

an incident briefing which will begin as soon as possible but not before task force members are present. It will be the responsibility of the Lead Agency's on-scene investigations supervisor to insure members are present and to determine when briefings will be conducted. The initial task force briefing will include: all primary task force investigators and investigations supervisor, primary crime scene investigators and crime scene investigations supervisor, assisting investigators, the representative/s from the Bernalillo County District Attorney's office and the representative/s from the Office of Medical Investigator. In those instances, where Albuquerque Police Department is the Lead Agency, Albuquerque Police Department's counsel and the City of Albuquerque Independent Review Officer (or designee) may be present at the administrative Task Force briefing but the briefing shall not be delayed if they are not present on scene. An executive or administrative briefing may follow the initial investigative task force briefing. The primary investigators will designate a representative to provide the Executive/administrative briefing and any subsequent briefings.

- F. The Task Force is responsible for conducting a thorough and appropriate investigation of each event it is called out to investigate. The responsibilities include:
1. Gathering preliminary information from officers and witnesses.
 2. Conducting thorough canvasses of the area of the incident to insure all potential witnesses are contacted and interviewed and all potential recordings of the incident are located and reviewed. All interviews and any other evidence collected during canvassing will be documented and entered into evidence with the Lead Agency.
 3. Conducting and documenting recorded interviews of all involved personnel, with all recordings and documentation provided to the Lead Agency. When conducting interviews of involved personnel, a representative from another agency should be present during those interviews.
 4. Requesting, obtaining and executing all necessary search and/or arrest warrants related to the incident.
 5. Assisting with death notification to the next of kin upon the request of the Lead Agency. Deceased parties will not be publicly identified prior to next of kin death notification.
 6. Reviewing the incident facts to determine the appropriate date and time at which information may be released to the public and media, while focusing on maintaining the integrity of the investigation.
 7. The Head of the Lead Agency will have the final decision on the release of any information.
 8. Officers who used deadly force will be interviewed in accordance with the employing agency's policies. The Primary Investigator for the Lead Agency should notify the assisting Primary Investigator/s of any information that is going to be released to the public prior to its release.

9. The Primary Investigators will conduct a debriefing for other Task Force members prior to leaving the scene of an incident and at each stage of the investigation as they deem necessary.
 10. The Lead Agency will compile all necessary reports and documents and submit these as a completed case to the District Attorney's office, with jurisdictional authority of the incident, in a timely manner.
- G. Each agency participating in these investigations shall be responsible for any associated costs required by their own personnel (i.e. salaries and overtime pay). Each agency will make available to these investigations the use of its equipment and facilities as requested/required by the multi-agency Task Force.
- H. The Public Information Officer duties will be performed by the Lead Agency, unless otherwise agreed to by all parties.
- I. Any law enforcement agency within the jurisdiction of Bernalillo County, which is not a party to this MOA, may request an investigation by the Task Force of any Officer Involved Shooting or In-Custody Death. In addition, any law enforcement agency from outside the jurisdiction of Bernalillo County may request an investigation by this Task Force if one of its officers is involved in any of the above situations within Bernalillo County. The determination of the Lead Agency in these cases will be made by the Task Force supervisors. Any disagreements in this determination will be referred to the local District Attorney or his/her designee for final designation. In the event a law enforcement agency directly associated with the Bernalillo County District Attorney's Office requests the Task Force to conduct an investigation of an Officer Involved Shooting, Serious Use of Force, or In-Custody Death, and there is disagreement in the determination of the Lead Agency, the determination of Lead Agency shall be made by an agency designated by the Bernalillo District Attorney.
- J. All personnel associated with the MATF have a responsibility to ensure the integrity of the investigations is beyond reproach. In the event a MATF related investigation is found to be deficient or there are significant problems with the investigation the following are examples of how this can be addressed:
1. Address the concerns with the first line supervisor of the lead detective.
 2. Chief of Police/Sheriff of detective/supervisor witnessing concern.
 3. District Attorney's Office with jurisdiction over the investigation.
 4. Attorney General of the State of New Mexico's Office
 5. Federal Bureau of Investigation if a possible civil rights violation or breach of public trust violation exists.
- K. Personnel shall treat the investigations of the Task Force as confidential. Information regarding Task Force investigations shall be disseminated only to those for whom it is

intended in accordance with established department procedures. Failure to comply with this provision can result in immediate removal from participation in Task Force investigations.

- L. This agreement may be updated to coincide with election cycles or administration changes.

2. INTERNAL AFFAIRS INVESTIGATION

Nothing in this agreement shall prevent or limit any law enforcement agency from conducting a separate internal affairs investigation of officer-related situations or incidents. It is noted that this Task Force in no way is to be utilized as an internal affairs investigations unit. Each agency agrees to conduct its own administrative investigation utilizing proper personnel, separate and independent of the criminal investigation by the Task Force. At no time is the information obtained during the course of the internal investigation to be revealed to the Task Force investigators.

3. REVIEW, REVISION AND TERMINATION OF MOA

This MOA shall remain in effect unless or until it is terminated by the participating agencies. Any request to modify or revise this agreement must be done in writing and must be agreed to by each member's respective Chief of Police/Sheriff or designee. Any agency may terminate its participation in this MOA by written notification to all participating agencies.

4. DISTRIBUTION OF PROPERTY OR SURPLUS FUNDS

No property will be acquired as a result of the MOA. No surplus funds will be available as a result of this MOA as there are no funds that will be distributed.

5. APPLICABLE LAW AND LIABILITY


This MOA shall be governed by the laws of the State of New Mexico, and the parties shall comply with all applicable laws, ordinances and codes of the State. If a term of this agreement is inconsistent with such authority, then the term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect. As among the parties, each shall be solely responsible, only as permitted by law, for any liability arising from personal injury or damages to persons or property occasioned by its employees, officials or agents in performance of this MOA and each is subject to the immunities and limits of the New Mexico Tort Claims Act.

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IN WITNESS WHEREOF, the parties have executed this Agreement which becomes effective as of the date of approval by the Department of Finance and Administration.

TIM JOHNSON


TJS


 Mark Shea, Cabinet Secretary
 New Mexico Department of Public Safety

Date

10/23/20

ROBERT THORNTON


 Tim O. Johnson, State Police Chief
 New Mexico Department of Public Safety


Date

10-23-20

REVIEWED AS TO LEGAL SUFFICIENCY:

General Counsel
 New Mexico Department of Public Safety

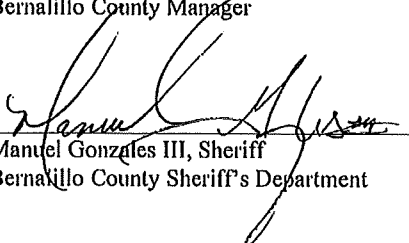
Date

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Julie Morgas Baca
 Bernalillo County Manager

Date

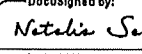
10/15/2020


 Manuel Gonzales III, Sheriff
 Bernalillo County Sheriff's Department

Date

10/22/2020

REVIEWED AS TO LEGAL SUFFICIENCY:

DocuSigned by:

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Counsel
 Bernalillo County Legal Department

Date

10/13/2020

