



Agenda

PUBLIC SAFETY COMMITTEE
Tuesday, August 18, 2015, 4:00 PM
Public Safety Complex
35 Camino Justicia Santa Fe, New Mexico 87508

1. Roll Call
2. Approval of agenda
3. Approval of Tuesday, July 21, 2015 minutes
4. Old business:
 - A. NONE
5. New business:
 - A. Informational-Zozobra Overview (Police Captain Marvin Paulk, Police Lieutenant James Lamb)
 - B. Proposed resolution directing staff to research options for City Departments to initiate collections of delinquent fees and payments for services rendered (Councilor Lindell, Oscar Rodriguez)
 - C. Proposed resolution declaring the City of Santa Fe, New Mexico a Hybrid Entity for purposes of HIPAA and HITECH compliance (Councilor Rivera, Therese Gheen)
 - D. Proposed resolution amending Rule 16A of the City of Santa Fe Personnel Rules and Regulations regarding drug and alcohol testing policies for Transit Division employees who perform safety sensitive functions (Councilor Lindell, Debbie Rouse)
6. Matters from Interim Police Chief Patrick Gallagher
7. Matters from Fire Chief Erik Litzenberg
8. Matters from the Regional Emergency Communications Center
9. Matters from Committee Members
10. Communications from the Floor
11. Adjournment

For information regarding the agenda, you can call Shannon Perez at 955-5074. Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6520, five (5) working days prior to meeting date.

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Public Safety Committee
July 21, 2015

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Call to Order and Roll Call	Councilor Dimas, Chair for the Public Safety Committee called the meeting to order at 4:00 pm. A quorum was declared by roll call.	Page 2
Review and Approval of Agenda	<i>Mr. Harris moved to approve the agenda as presented, second by Mr. Bowen, motion carried by unanimous voice vote.</i>	Page 2
Approval of June 16, 2015 Minutes	<i>Dr. Mier moved to approve the minutes of June 16, 2015 as presented, second by Mr. Mizrahi, motion carried by unanimous voice vote.</i>	Page 2
Old Business To be removed from future agendas.	<i>None</i>	Page 2
A. Santa Fe Fire Department Fridge Facts B. Proposed resolution directing the City of Santa Fe Fire Department to waive EMT standby fees for the Santa Fe Summer Series Equestrian Event at the Equicenter de Santa Fe; and authorizing the payment of said fees from a portion of the lodger's tax dedicated for public safety overtime costs.	<i>Informational</i> <i>Dr. Mier moved to approve the proposed resolution directing the City of Santa Fe Fire Department to waive EMT standby fees for the Santa Fe Summer Series Equestrian Event at the Equicenter de Santa Fe; and authorizing the payment of said fees from a portion of the lodger's tax dedicated for public safety overtime costs, second by Mr. Mizrahi, motion carried by unanimous voice vote.</i>	Page 2-4
Matters from the Municipal Court	<i>Report included in meting packet.</i>	Page 4
Matters from Police Chief Eric Garcia	<i>Informational</i>	Page 4-5
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Matters from the Regional Emergency Communications Center	<i>Informational, August meeting – to be held at RECC</i>	Page 9
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INDEX SUMMARY OF MINUTES

Public Safety Committee

July 21, 2015

Adjournment and Signature Page	Meeting was adjourned at 5:30 pm	Page 9
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PUBLIC SAFETY COMMITTEE
Tuesday, July 21, 2015, 4:00 pm – 5:30 pm
City Council Chambers
200 Lincoln Avenue, Santa Fe, NM 87501

MINUTES

Meeting was called to order at 4:00 pm by Councilor Bill Dimas, Chair for the Public Safety Committee. Roll call reflects quorum.

1. Roll Call

Present

Councilor Bill Dimas, Chair
Joe Arellano
Dr. Nancy Owen-Lewis
Peter Mizrahi
Dr. Mike Mier
Eric Johnson
Mike Bowen
Herbert Harris

Absent

David Trujillo

Others Present:

Chief Eric Garcia, Santa Fe Police Department
Santa Fe Fire Department, Lt. Chief
Lt. James Lamb, Santa Fe Police Department
Sgt. Matthew Martinez, Santa Fe Police Union President
Sheila Beuler, SFFD
Captain Nava
Randy Randall, Director, Santa Fe Convention & Visitors Bureau
Fran Lucero, Stenographer

Councilor Dimas, Chair for the Public Safety Committee informed the committee that they would take a tour of the Emergency Communication Center once the meeting was adjourned today. No formal business will be discussed it is clearly a tour of the facility hosted by Mr. Ken Martinez.

2. Approval of Agenda

Mr. Harris moved to approve the agenda as presented, second by Mr. Bowen, motion carried by unanimous voice vote.

3. Approval of June 16, 2015 Minutes

No changes from staff or committee members.

Dr. Mier moved to approve the minutes of June 16, 2015 as presented, second by Mr. Mizrahi, motion carried by unanimous voice vote.

4. Old Business

Remove from future agendas.

5. New Business

A. Informational – Santa Fe Fire Department Fridge Facts (SFFD Sheila Beuler)

Ms. Beuler expressed her thanks for having an opportunity to provide information on a project that the Fire Department has been working on for a few months called 911 – Fridge Facts. Some of you may remember a campaign in the late 80's - early 90's called the Vial for Life. It was a community based program where we would distribute medication vials with a rolled up piece of paper. On that piece of paper would be information on a patient, it was known that the vial selected would assist the emergency responders and individuals would keep this vial in their freezer so 911 responders would know where to find it. The problem was that the rolled up piece of paper was very hard to read and very small so it made it hard to put information on it. What we have done is re-worked this whole concept in to something that would be user friendly for responders and also for the patient. Ms. Beuler said she uses this concept with her aging parents. (Ms. Beuler described the magnet portion which has a place for a family member name to assist 911 – there is also a window sticker to place at the entrance of their home and they will know that the magnet is on the fridge with the vital information). Described was the information that is included in a patient's chart that will assist the process. Ms. Beuler said that they would like to have this process and offer available on the city website. Marketing and advertising for this program is through community meetings. Captain Nava offered all of the members a sticker and made more available at their request.

The Chair asked if Santa Fe County is aware of this process. Ms. Beuler said that they are aware of and there are other counties throughout the US that have this same program with a different name already in effect.

Dr. Mier would like to see that program information be provided to the Senior Programs. Ms. Beuler said they are open to any ideas on how to get this sticker disseminated throughout the community. Thank you for this valuable presentation.

B. Proposed resolution directing the City of Santa Fe Fire Department to waive EMT standby fees for the Santa Fe Summer Series Equestrian Event at the Equicenter de Santa Fe; and authorizing the payment of said fees from a portion of the lodger's tax dedicated for public safety overtime costs.

Mr. Randall noted that this is a new equestrian event that is being held at the horse park. It will run for 3 weeks starting tomorrow. With Public Safety Committee approval today, it will go to the City Council on July 29th and approval will be retroaction. The show has requested 2 additional days of service for practice; they need this for the safety of the participants. This event has a significant tourism impact on Santa Fe. This is a first and they plan to do it in future years. Request is to waive the EMT standby fees and authorizing the payment of said fees from a portion of the lodger's tax dedicated for public safety overtime costs. There is no additional cost to the city, no overtime is involved there will be a need for one ambulance to be available.

Dr. Lewis asked if the fees were not waived would they still be paying. Mr. Randall said yes.

Mr. Randall said that the request he has received is for year he could speak about future years.

Dr. Mier moved to approve the proposed resolution directing the City of Santa Fe Fire Department to waive EMT standby fees for the Santa Fe Summer Series Equestrian Event at the Equicenter de Santa Fe; and authorizing the payment of said fees from a portion of the lodger's tax dedicated for public safety overtime costs, second by Mr. Mizrahi, motion carried by unanimous voice vote.

6. Matters from Municipal Court

Report included in packet.

7. Matters from Police Chief Eric Garcia

Chief Garcia stated that the request has been made of the SFPD on what they are doing for narcotic prevention. The Chief took this opportunity to introduce Lt. James Lamb.

Lt. James Lamb, Commander for the Criminal Investigation Bureau as of June, 2015. In the last two months he has concentrated on review of the policy and procedures to assure that we are up to date and providing good service to our community. Today in relation to the composite of the Narcotics Unit; it is broken down in to three different categories – 1) DEA Team, 2) Region 3 Team and 3) Street Narcotics Team. Each team has assigned to it, 2 personnel and they work in teams. The way it works is that they are not always manufactured here in Santa Fe, it is not always done here in Santa Fe – it is regional wide. We have to take into consideration the whole strategic operation of the narcotic trade. It will happen all the way from Albuquerque to Espanola and all parts in between. In order to correctly organize this we sent 2 people to the DEA Task Force to handle our larger drug organizations, the ones that are impacting and creating everything else. Region 3 is intermediary between the street level and the organized criminal organizations that handle the regional areas. They handle a lot of the street crimes in narcotics that our officers cannot handle. They handle the street users – human trafficking, all different types of crimes.

As noted I have currently assigned 2 individuals to these teams however, there are personnel issues. The DEA team is doing a great job, Region 3 – 1 employee has been placed on FMLA due to medical problems and out for approximately 8 weeks which shorted the team by 1 – there is one expected promotion – officer tested number 1 for the Sgt. Exam. Currently we are down to 3 people on the teams; we are doing cross training as DEA cases can take up to 6-8 months even a year for investigation. Street Narcotics team are supplementing the shortage on the Region 3 team.

Lt. James Lamb provided real case examples of the jobs they have been assigned one being the largest case in the history of Santa Fe for heroin, crack and cocaine. One guy has been arrested 6 times and has done time. When dealing with narcotics there are a lot of seizures involved – here are about 2 residential properties that have been seized. With HB 560 we won't see any of the results until after July. Pharmaceutical cases are on-going – pill consumption is a huge epidemic. In June 2014 – January, 2015, 51.5% of the cases handled by Region 3 were generated in Santa Fe. From January 2015 - July 2015- only about 35% and the reason this is so low is because there is only one person working that area. For street narcotics, Lt. Lamb said he personally has been on at least 2 cases in Santa Fe where they did result in arrests.

Member Eric Johnson said what they are seeing now is people coming in to report that their medications have been stolen, some are mail order meds and a lot of the population are the elderly. What is happening in some cases is they are reporting their medications stolen and get a case number so they can go back to the doctor and get a new prescription. Lt. Johnson asked if during these investigations, are the names of doctors being discovered who are abusing this procedure? Lt. Lamb responded with little detail and said yes they are.

Chair Dimas noted that there has been about a 20% narcotic increase in our state and a large amount of those are right here in Santa Fe. The Chair is concerned that we really don't have SFPD – Narcotics Division on the streets. We have the drug tip hot line and wonder's who is handling those tips from the calls.

Mr. Martinez said they receive about 30 calls per month and the process is that once they receive those calls they are delivered to the respective Investigation Unit within the SFPD and the SO.

Chair Dimas is interested in the calls that are in Santa Fe and how they are being handled. We are losing a lot of young lives in Santa Fe due to these drug traffickers.

Lt. Lamb said that because of jurisdiction issues our officers are only commissioned to handle cases in Santa Fe. Lt. Lamb said that the next time he comes before the Public Safety Committee he will have firm statistics and demographics to report.

Chair Dimas said it was his understanding that DEA was assisting the city with seizures.

Lt. Lamb recently attended the Region 3 meeting last week where he spoke to the State Police Commander in Investigations and the discussion was they are dismantling upper level organized crime or organizations that have a triple effect down to our street level.

Chair Dimas reiterated that the goal of having the drug tip hot line was to assure that we investigate any reported activities or suspicions. The Chair believes we should use unmarked units to do surveillance on reported street crime houses. The statistics are important so we can get a feel for what is happening and so we can continue to support this important effort. The Chair appreciates that job that Lt. Lamb and his officers are doing and understands that resources are tough.

Mr. Bowen said that the many years he served in law enforcement and some of those years in Narcotics, you have to deal with people who are the main suppliers, the soldiers in the street. The problem is that every soldier you take down there is another one to take their place; you need to take down the main suppliers and the organizations. It is important to work with the regional and federal contacts; I have seen that cooperative effort be successful. Mr. Bowen said he does support a Narcotics Unit, people on the ground working and solving a lot of the property crimes.

Lt. Johnson said it is all about public education as well. We want to make sure the public knows how to report any suspicious actions.

Chair Dimas said we have been working on this for over a year. We need to get this process moving.

Chief Garcia said that he will follow up with Mr. Martinez on the 30 calls that have been mentioned at today's meeting.

Chair Dimas would like to know how many people are actually arrested.

Chief Garcia

Bumper Stickers – the members were presented with 5 bumper stickers and respectfully asked if they would vote on the top 3 selections and return to Shannon.

8. Matters from Santa Fe Fire Department

9. Matters from the Santa Fe Police Officers Association

Sgt. Matthew Martinez – President of the Union

For the last 10 years as President of the Union we actually have not had any major problems; Mayor, City Manager or Chief of Police. For the last year and 2 months there has relatively been nothing going on. Morale is up, the Officers support the Chief, the Detectives support the Chief, Animal Control and PSAs support the Chief. What we have had and more so in the past week with the release of certain information to certain media groups there is mid-level management that continues to disrupt the public safety of this community. Starting with Chief Eric Johnson continuing with Chief Rael; these are the same people that are now in mid-level management positions that were trying to disrupt those chiefs as well. I am here to tell you as the Union President, even though direction wasn't given by the Union, officers took it in to their own hands to get signatures from Police Officers. This is strictly police officers not including anybody else. There were two signature boxes, one where morale was up – we had 81 signatures where officers where they put their signatures. The other petition was where police officers and detectives signed in support of Chief Garcia, so far there are 75 signatures. That is way over what we consider a vote or no vote of confidence in my book. I am tired of this, I am sick of the infighting and if anyone on this committee – I don't know how we would begin, but obviously this Chief has been put through the ringer, the Union has been put through the ringer because we support a lot of the changes that the Chief has made, he has done a lot of good for this community as well as the Police Department, we have had no problems with him. What we need and it happens in Fortune 500 companies is a petition or some sort of mid level management, survey – how our bully's are being supervised by mid-level management. I don't know how to get that started; I will make sure it gets started because your officers are tired of it. There is no public safety that is being denied from your police officers because of the action the Chief is doing. Public safety is great. I don't know who is giving who information but I am hearing rumors that the Narcotics Unit was dismantled, I don't know if that was the information that you got Councilor or any members of this committee, that is why the Chief is here. If that was in the memo that was written by this mid-level management to the City Manager, it is a bull faced lie. I am tired of back stabbing at the Police Department that has been brought on by these old members who are now in mid-management positions. I will go on record on saying that and I am tired of being targeted, I know other people who are being targeted – the officer that actually took this position actually had phone calls from people saying that they fear being targeted by these mid-level managers, it has got to stop. We finally have a Chief who is doing well for this community and I am tired of the back and forth. We need to get something started on these mid-level managers I would appreciate that. Whether it is a resolution or something that this full committee can send on to the Mayor and Council, I will share our support for the Chief.

The Chair said that as a Committee we can't direct anyone to take a survey, as a Councilor we cannot get involved in any personnel actions or HR matters. As a committee we cannot get involved in anything like that.

Mr. Harris made the comment, the Chief is the Chief – he has the authority to work directly with the City Manager regarding any HR matters.

Mr. Mizrahi asked at what level of management are you having problems.

Sgt. Martinez said they are Lt. and above, there is no problem with the line officers or with the detectives. There is no public safety detriment for our community, the detriment is the targeting by these mid-level managers to the line officers and us not being able to do our jobs effectively and efficiently which is what this community deserves. I am at a loss for words. He has done what he needs to do as a Chief but there are certain mid-level managers that are bullying, and it is ridiculous.

Chief Garcia said that in light of on-going personnel matters within the city of Santa Fe Police Department and the two newspapers that have joined us here today I cannot go in to detail, however I can

assure you that when things are brought forward they are assigned accordingly and investigated. When we investigate something there are time factors in place, there are bill of rights in place. We make sure that the T's are crossed and the I's are dotted to assure if there is any disciplinary action we have everything document. I appreciate Sgt. Martinez comments and I am humbled by the amount of support received by the rank and file because the amount of signatures; it is an honor for me. Having said that I will not go in to detail but I will assure you we are investigating any and all HR/Personnel matters. Thank you to Sgt. Martinez for support and comments.

Mr. Arellano asked if the Chief or the Union is at risk of any backlash at this point.

Sgt. Martinez commented that officers who wanted to support the Chief have a fear of mid-managers and of personal retaliation. Some of them have said they will sign at a later date. As a matter of fact, the person who was getting the signatures for the petition was kicked out of briefing. He had to go outside and gather signatures away from the building. The Officers and the community do not deserve this. I am embarrassed as a Police Officer, as President of the Union, and do not want to see public safety suffer because of this conduct.

Mr. Arellano reiterated his strong support for Chief Garcia and doesn't know what bad mouthing is occurring. Mr. Arellano complimented the way Chief Garcia conducts himself as the Chief participates in events amongst the community.

Sgt. Martinez said that that mid-level management wants to discredit Chief Garcia. It has been going on for the last 4 administrations. I apologize for having to bring this up today because normally we never have any issues, this is a major issue when I can't go in to my field of work and I can't do my job effectively or my detectives. "This fear is affecting us". We can't do our job because we are afraid we are going to get written up. This is a major issue - workforce bullying, that is exactly what is happening in the Police Department and it is no fault of the Chief.

Lt. Johnson said he was in the Santa Fe Police Department for 23 years and it goes back even farther than the last 4 Chiefs. Even when I started my first day there is that group that is unhappy. It is a core of people in the SFPD who are not dealt with. Lt. Johnson told Sgt. Martinez to convey to the officers to hold their head up high and do your job and use the resources that you have. You have policy and procedures in place and you have the Union, use your resources. The work of the officers is very much appreciated. The worst thing that you can do is picking up the phone and calling the press, investigations should be internal and handed by the HR Department. Those who are not following policy and procedures they need to be reprimanded. What I have seen is that it has gotten worse over the last 4-5 Chiefs. I think you are all doing a great job.

Dr. Mier said it has been a pleasure to work with Chief Garcia both in his past law enforcement position and presently as Chief of Police. The mid-management level officers need to work within the chain of command and it doesn't sound like that is being done. Public safety and the well-being of our community are suffering from this break in communication and misbehavior. If our officers are afraid to do their jobs because of repercussions, this council should be concerned about the safety of our community.

Chair Dimas said, "Let me set the record clear and straight and I will tell you I knew nothing about this until I received a call from the Press. The question I was asked from the reporter – actually 2 reporters, I will tell you was I aware that the Narcotics division had been disbanded and had I seen the memo that was received from members of the Police Department. I told them I was unaware and didn't know anything about it, in fact that memo was not delivered or seen by one city councilor received it, I eventually got a copy and I read through it. Until that time I didn't know anything about it. Matt, I will tell you that I was a little upset with the comment you made to the Albuquerque Journal. At the end of the article, the

caption read, Chief targeted. This was your statement, "there are several Lieutenants. and above the campaign for certain candidates during the mayoral campaign of 2014. When those candidates didn't get elected that took it rough to Mayor Javier Gonzales and Chief Garcia. It is unfortunate that these individuals feel entitled to other jobs or positions that they obviously were not appointed to. I want to make it clear, and you know this, I never promised anything to anyone who campaigned for me or supported me. You know that as a fact, I never promised any jobs or anything else. When I read this I took it personally because the Police Department in essence endorsed me and supported my campaign. The Union in fact supported my campaign. There were others there in the police department that supported me in upper management. You aren't going to get everyone in the world to support you all the time and I was aware of that. I want to set the record straight that I never promised anyone anything. I don't care if it was police officers or other people who supported my campaign, I never promised them jobs, I never promised not one job.

Sgt. Martinez said that the quote was taken out of context and it was not made by the Union President, his name was not listed, it was by other individuals who supported certain candidates not the candidates themselves who supported other people. But when I am being called specifically for something that I haven't read and you are being told that the Narcotics Unit was disbanded that is a bull face lie in itself and I want to know where the liability is for that. I brought this up before, if our officers are going to be held at a higher standard and be disciplined specifically for lying and/or reading stuff to the press, then our mid-level management at this point putting in a memo to our City Manager and how magically it appeared in the hands of the media they need to be held accountable. It is a bull face lie to put it there and to say that the Narcotics Unit has been disbanded which I know we have been helping the Narcotics Unit for a long time. We have put a lot of hard work in to it. But the quote that was out of context, it wasn't the candidates individually it was the people who supported those candidates.

The Chair said, "I would strongly suggest as Union President that you be careful watch what you say. As you now know it can be misconstrued. As you know me, if I have something to say I will say it, I won't go someplace else and I expect that from anyone else. When I read that article I expected to receive a call from you.

Sgt. Martinez said he totally understands, it was not that way. Thank you Councilor.

The Chair said he wanted this information to be part of the record. As Chairman of this committee, I wish this Committee had not been talking to you individually as members of this committee. I wish that this Committee had more importance to this city. This Committee needs to have more worth teeth, we are the only committee in the city that deals with public safety. As committee members we need to reach out to the Council, I have been doing it as much as I can to make this committee an outstanding committee of importance. To me public safety is the most important issues that we deal with on a daily basis as a city and we need to make that important issue publicly.

Mr. Bowen echoed that he agrees with the comments made today and that these issues should not be discovered in the press. Everyone need to stop and think, I truly believe people can go to jail over some of these things that have happened. It is unfortunate. Mr. Bowen said he supports the comments made by Sgt. Martinez. This disruption hurts public safety.

The Chair said, this too shall pass.

The Committee members expressed their thanks to Sgt. Martinez and the officers for their dedicated hard work.

10. Matters from the Santa Fe Firefighters Association

None

11. Matters from the Regional Emergency Communications Center

(Tour of the Facility will not take place today due to the length of the Public Safety Committee meeting)

Mr. Martinez said that he will schedule the use of the facility for the next Public Safety Committee meeting in August.

In June RECC took 43,878 calls, 8,072 of those calls were 911, 20,197 were regular calls, 9,808 were Police, 1,206 were fire and 5,682 Animal Control.

Chief Garcia expressed his gratitude to Mr. Martinez for the timely follow through. Compliments to his staff and to Mr. Martinez.

Chief Garcia said that the winner of the bumper sticker will be announced very soon.

12. Matters from Committee Members

Thank you for trimming the brush over the speed limit sign as reported previously.

13. Communications from the Floor

None

14. Adjournment

There being no further business to come before the Public Safety Committee the Chair called for adjournment at 5:30 pm.

Signature Page:

Councilor Bill Dimas, Chair



Fran Lucero, Stenographer

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2015-___

Hard Collections

SPONSOR(S): Councilor Lindell

SUMMARY: The proposed resolution directs staff to research options for city departments to initiate collections of delinquent fees and payments for services rendered.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

FISCAL IMPACT: No

DATE: August 6, 2015

ATTACHMENTS: Resolution
FIR

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-__

INTRODUCED BY:

Councilor Signe Lindell

A RESOLUTION

DIRECTING STAFF TO RESEARCH OPTIONS FOR CITY DEPARTMENTS TO INITIATE COLLECTIONS OF DELINQUENT FEES AND PAYMENTS FOR SERVICES RENDERED.

WHEREAS, the City of Santa Fe continues to suffer the effects of the 2008 recession, with growth levels below the national average; and

WHEREAS, every year the City must make difficult decisions on budgetary funding, resulting in many projects and programs not receiving the funding they truly need; and

WHEREAS, gross receipts taxes provide an unstable source of revenue for City operations that are heavily dependent on the health of the local economy; and

WHEREAS, the Governing Body wishes to ensure that the City has adequate funding to provide first-class services to the residents of the City of Santa Fe, without imposing an additional financial burden on taxpayers; and

WHEREAS, several City departments and divisions, including the Fire Department and Water Division, have monies due to them that have remained outstanding for many years; and

1 **WHEREAS**, the Fire Department bills an annual average of \$4 million for the
2 emergency services it provides, yet only collects \$2 million annually as a result of not referring
3 delinquent accounts to a collection agency; and

4 **WHEREAS**, the Water Division of the Public Utilities Department has delinquent bills
5 of over \$6.5 million, much of which is uncollectable and will have to be written off; and

6 **WHEREAS**, many City of Santa Fe departments do not have policies in place to collect
7 delinquent unpaid bills; and

8 **WHEREAS**, the City of Santa Fe and its residents would benefit from ensuring all
9 residents are treated equally by ensuring that all unpaid bills and fees are collected.

10 **NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
11 **CITY OF SANTA FE** that staff is directed to research and report to the Governing Body within
12 60 days of the adoption of this resolution, the options for City departments to initiate collections
13 of delinquent fees and payments for services rendered.

14 PASSED, APPROVED AND ADOPTED this _____ day of _____, 2015.

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16 _____
17 JAVIER M. GONZALES, MAYOR

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20 ATTEST:

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22 _____
23 YOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:

Kelley A. Brennan

KELLEY A. BRENNAN, CITY ATTORNEY

**City of Santa Fe
Fiscal Impact Report (FIR)**

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: _____ Resolution: X

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): A RESOLUTION DIRECTING STAFF TO RESEARCH OPTIONS FOR CITY DEPARTMENTS TO INITIATE COLLECTIONS OF DELINQUENT FEES AND PAYMENTS FOR SERVICES RENDERED.

Sponsor(s): Councilor Lindell

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Rebecca Seligman Date: 8/6/15 Phone: 955-6501

Reviewed by City Attorney: Kelly A. Brennan Date: 8/6/15
(Signature)

Reviewed by Finance Director: [Signature] Date: 8-6-2015
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The proposed resolution directs staff to research options for city departments to initiate collections of delinquent fees and payments for services rendered.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

I. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected -- usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" -- if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

X Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected	

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Total:	\$ _____			\$ _____				

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected	

_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ _____		\$ _____			

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

N/A

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None staff is aware of

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

If this resolution is not enacted, staff would not research and report to the governing body options for collection of delinquent funds and payments for services rendered.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The positive effect of the resolution is that it has the potential to provide options for collection of delinquent funds and payments for services rendered for the City of Santa Fe.

City of Santa Fe, New Mexico

memo

DATE: 7/25/2015
TO: Finance Committee;
Members of the Governing Body *LT*
VIA: Lynette Trujillo, Human Resources Department; Greg Cliburn, Fire Department *gC*
FROM: Theresa Gheen, Assistant City Attorney *TG*

ITEM/ISSUE:

REQUEST FOR APPROVAL OF A RESOLUTION DESIGNATING CITY A HYBRID ENTITY FOR PURPOSES OF HIPAA AND HITECH COMPLIANCE; DIRECTING THE CITY MANAGER TO DESIGNATE A SECURITY OFFICIAL AND A PRIVACY OFFICIAL; AND APPOINTING A HIPAA COMPLIANCE COMMITTEE

Background

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH)¹, and regulations promulgated under them, require public and private entities that provide certain health care services or health care plans to comply with regulations relating to collection, use, disclosure and security of individually identifiable health information ("Protected Health Information" or PHI). PHI is information that relates to an individual's past, present or future physical or mental condition; the provision of health care to the individual; or the past, present or future payment of the provision of health care to the individual.

Two City functions make it a "covered entity" under HIPAA. It provides health care services through its Fire Department and has a self-insured health plan, administered through the Human Resources Department with a third-party insurer. (Worker's compensation and disability coverage are generally exempt from HIPAA (45 CFR §§ 160.103, 164.512).) We recommend the City identify these parts as "health care components" and some other parts as "business associates" in that they might create, receive, maintain or transmit PHI on behalf of the identified health care components. Other parts of the City do not provide functions covered under HIPAA. Therefore, by designating itself as a Hybrid Entity, the City will reduce compliance costs and exposure to potential liability.

Costs of Non-Compliance

HHS-OCR may fine entities (up to \$1.5 million per violation) and HITECH permits State Attorneys General to file for damages on behalf of individuals.

¹ HITECH enacted changes to HIPAA with increased security requirements for electronic PHI, increased fines for noncompliance, and required HHS to conduct random compliance audits.

Hybrid Entity Status

With Hybrid Entity status, only designated covered areas must implement the physical, technical and administrative safeguards required by HIPAA. The financial impact should be a net positive because covered parts of the City will continue their current practices of not sharing PHI and non-covered parts will not have to comply with HIPAA.

To become a recognized Hybrid Entity, the governing body must designate in writing the health care components that must comply with HIPAA. Designated parts of the City that perform support activities for the components are included as “business associates.”

Privacy Official, Security Official and Appointed HIPAA Compliance Committee

We recommend that the City direct the City Manager to designate a Privacy Official and identify a Security Official responsible for the ongoing development of policies and procedures, as required by HIPAA. To facilitate continued compliance, we recommend the City create an appointed HIPAA Compliance Committee to meet at least yearly.

RECOMMENDED ACTION

Review and approve the Resolution Designating the City of Santa Fe as a Hybrid Entity for Purposes of HIPAA and HITECH Compliance; Directing the City manager to Designate a Security Official and Privacy Official; and Appointing a HIPAA Compliance.

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-__

INTRODUCED BY:

Councilor Christopher M. Rivera

A RESOLUTION

**DECLARING THE CITY OF SANTA FE, NEW MEXICO A HYBRID ENTITY FOR
PURPOSES OF HIPAA AND HITECH COMPLIANCE.**

WHEREAS, the federal government enacted the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH”), and regulations promulgated under them by the U.S. Department of Health and Human Services, 45 Code of Federal Regulations Parts 160, 162 and 164 (“HIPAA Regulations”), to protect patient health information; and

WHEREAS, a municipality that qualifies as a “covered entity” under HIPAA must comply with HIPAA and HITECH Security and Privacy Rules for the protection of protected health information (“PHI”) and Electronic Data Interchange requirements; and

WHEREAS, the City of Santa Fe (“City”) is a “covered entity” because it performs “covered functions,” as those terms are defined under 45 CFR Section 164.103, of a health plan administered by its Human Resources Department and provision of health care services by the Fire Department; and

1 **WHEREAS**, HIPAA Regulations allow an entity that performs covered and non-covered
2 functions to designate itself as a Hybrid Entity; and

3 **WHEREAS**, a Hybrid Entity is defined as a single legal entity:

4 (1) That is a covered entity;

5 (2) Whose business activities include both covered and non-covered functions; and

6 (3) That designates health care components in accordance with paragraph
7 § 164.105(a)(2)(iii)(D).

8 45 CFR 164.103; and

9 **WHEREAS**, the Governing Body has determined that it is in the City's best interest to
10 declare itself a Hybrid Entity, it must document and formally designate the City's "health care
11 components" in accordance with 45 CFR 164.504(a)(2)(iii)(D); and

12 **WHEREAS**, "health care components" include all parts of the City that would meet the
13 definition of a covered entity if those parts were separate legal entities from the City; and

14 **WHEREAS**, "health care components" also include parts of the City that are "business
15 associates", to the extent they may create, receive, maintain transmit or disclose PHI of the health
16 plan administered by the Human Resources Department and health care services provided by the
17 Fire Department; and

18 **WHEREAS**, after an assessment of the City's offices, departments, divisions and
19 programs, only certain parts of the City are health care components and therefore should be
20 designated as such; and

21 **WHEREAS**, HIPAA sets forth policies, procedures, and guidelines for maintaining
22 security of PHI for health care components; and

23 **WHEREAS**, the City will continue to develop safeguards to prevent disclosure of PHI
24 from a City health care component to another part of the City where HIPAA would prohibit
25 disclosure if they were separate legal entities.

1 **NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
2 **CITY OF SANTA FE**

3 **Section 1:** The City of Santa Fe Governing Body hereby designates the City a
4 Hybrid Entity pursuant to 45 CFR Sections 164.103 and 164.105.

5 **Section 2:** In compliance with 45 CFR Section 164.105(a)(2)(iii)(D), the City
6 designates the following as City health care components, which would meet the definition of a
7 covered entity if they were separate legal entities:

- 8 • The Human Resources Department to the extent of its covered activity of
9 administering the City's health insurance benefits plans for medical, dental,
10 vision, and health flexible spending plans only. This designation does not extend
11 to the Human Resources Department's other functions, including, but not limited
12 to the City's personnel management, and its hiring and disciplinary duties.
- 13 • The Fire Department to the extent of its covered activity of providing health care
14 services only. This designation does not extend to other work performed by the
15 Fire Department, including providing services as part of the City's workers'
16 compensation program or fire response and investigatory activities.

17 In compliance with 45 CFR Section 164.105(a)(2)(iii)(D), the City additionally
18 designates the following as City health care components to the extent that they meet the definition
19 of a business associate if they were separate legal entities from the City and to extent that they
20 create, receive, maintain, transmit or disclose PHI on behalf of the City's health plan and the Fire
21 Department's health care services:

- 22 • The City Attorney's Office in its function involving legal representation.
- 23 • The Finance Department to the extent it provides billing, payment, and
24 administration services.
- 25 • The Information Technology and Telecommunications Department to the extent

1 it provides technology services.

- 2 • The Audit Department to the extent of its auditing services.

3 **Section 3:** Designations of covered entities must be maintained for six (5) years
4 following termination of a covered entity and indefinitely for ongoing covered entities.

5 **Section 4:** The City Manager or designee shall organize an appointed
6 committee to meet at least once per year and recommend continued development and
7 implementation of policies and procedures and any other actions necessary for
8 compliance with HIPAA, HITECH, and HIPAA Regulations. The City Manager shall
9 also designate a Privacy Official and identify a Security Official to co-chair the
10 committee and who will be responsible for the further development and implementation
11 of policies and procedures. Among other duties, the committee shall assist in continuing to
12 develop safeguards and policies to ensure that:

- 13 • Designated health care components shall not disclose PHI to another non-health
14 care component of the City in any circumstance in which HIPAA, HITECH and
15 HIPAA Regulations would prohibit such a disclosure if the health care
16 component and non-health care component were separate and distinct legal
17 entities.
- 18 • Designated health care components shall not use or disclose electronic PHI that it
19 creates or receives from or on behalf of another health care component in a way
20 that is prohibited by the privacy and security standards under HIPAA, HITECH
21 and HIPAA Regulations.
- 22 • If a worker performs duties for both a health care component and non-health care
23 component of the City, the worker shall not use or disclose PHI created or
24 received in the course of, or incident to, his or her work for the health care

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component in a way prohibited by the privacy and security standards under
HIPAA, HITECH and HIPAA Regulations.

Membership of the Committee shall consist of, at a minimum, individuals from the
following departments or titles:

- Privacy Official;
- Security Official;
- Fire Department;
- Human Resources;
- Information Technology and Telecommunications Department;
- City Attorney’s Office; and
- Finance Department.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2015.

JAVIER M. GONZALES, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: _____ Resolution: X
(A single FIR may be used for related bills and/or resolutions)

Short Title(s): A RESOLUTION DESIGNATING THE CITY OF SANTA FE, NEW MEXICO A HYBRID ENTITY FOR PURPOSES OF HIPAA AND HITECH COMPLIANCE; DIRECTING THE CITY MANAGER TO DESIGNATE A SECURITY OFFICIAL AND A PRIVACY OFFICIAL; AND APPOINTING A HIPAA COMPLIANCE COMMITTEE.

Sponsor(s): _____

Reviewing Department(s): City Attorney's Office
Persons Completing FIR: Theresa Gheen Date: 07/23/15 Phone: 955-2976

Reviewed by City Attorney: Kelly A. Brennan Date: 8/3/15
(Signature)

Reviewed by Finance Director: [Signature] Date: 8-6-2015
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

- 1) To designate the City as a Hybrid Entity under HIPAA so that only covered health care and business associate components must comply with HIPAA, so that other parts of the City need not comply;
- 2) To direct the City Manager to designate a privacy official and security official, to comply with HIPAA; and
- 3) To create an appointed HIPAA Compliance Committee to meet at least yearly for ongoing compliance.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

X Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected	

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____
Total:	\$ _____	_____	_____	\$ _____	_____	_____	_____

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected	

_____	\$ _____	_____	\$ _____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____
Total:	\$ _____	_____	\$ _____	_____	_____

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

N/A

Section D. **General Narrative**

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

No

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

The City must comply with HIPAA (including designating a privacy and security official and further developing policies and procedures) regardless of whether this resolution is passed. It is unknown how much it will cost the City to further develop policies and procedures.

It is expected that this resolution will reduce the burden on City finances and human resources by only designating the parts of the City that must be HIPAA compliant, thereby reducing the scope of the City workforce that must be HIPAA compliant. In addition, reducing the scope reduces the City's exposure to liability/fines in the event of non-compliance. Each event of non-compliance could cost the City \$1.5 million in fines.

The appointed committee will ensure that HIPAA compliance is reviewed at least annually.

Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

City employees who are insured under the City's health plan and members of the community who use the Fire Department health care services will have a more predictably HIPAA compliant City ongoing into the future.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2015-____ Drug and Alcohol Testing Policy Rule 16A

SPONSOR(S): Councilor Lindell

SUMMARY: The proposed resolution amends Rule 16A of the *City Of Santa Fe Personnel Rules And Regulations* regarding drug and alcohol testing policies for transit division employees who perform safety sensitive functions.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

FISCAL IMPACT: No

DATE: August 6, 2015

ATTACHMENTS: Resolution
FIR
Exhibit A

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2015-____

INTRODUCED BY:

Councilor Signe I. Lindell

A RESOLUTION

AMENDING RULE 16A OF THE CITY OF SANTA FE PERSONNEL RULES AND REGULATIONS REGARDING DRUG AND ALCOHOL TESTING POLICIES FOR TRANSIT DIVISION EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS.

WHEREAS, Section 19-5.1 SFCC 1987 requires that personnel rules and regulations ("*Rules and Regulations*") be adopted by resolution of the governing body; and

WHEREAS, Rule 16A of the *Rules and Regulations* relates to drug and alcohol testing polices for the City Transit Division who perform "safety sensitive functions;" and

WHEREAS, Rule 16A needs to be amended to be consistent with the requirements of the Omnibus Transportation Employee Testing Act of 1991 and Federal Transit Administration Regulations, 49 CFR Parts 655 which sets standards for the collection and testing of urine and breath specimens; and

WHEREAS, Rule 16A is intended to achieve a drug and alcohol-free workplace and to reduce the probability of accidents or incidents related to the use and/or abuse of alcohol and other drugs by employees and to establish procedures for drug and alcohol testing and to encourage early

1 intervention through supervisory involvement.

2 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE
3 CITY OF SANTA FE that Rule 16A of the *Rules and Regulations* is hereby amended and adopted in
4 accordance with the changes reflected on the attached "Exhibit A."

5 PASSED, APPROVED, and ADOPTED this ____ day of _____, 2015.

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JAVIER M. GONZALES, MAYOR

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10 ATTEST:

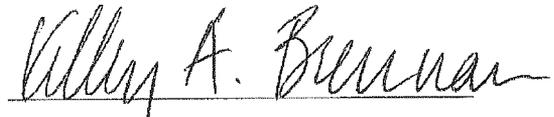
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YOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:

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KELLEY A. BRENNAN, CITY ATTORNEY

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1 **RULE 16A**

2 **PERSONNEL RULES, REGULATIONS AND POLICIES FOR DRUG AND ALCOHOL**

3 **TESTING POLICY FOR TRANSIT DIVISION**

4 **SECTION 1. PURPOSE AND APPLICABILITY.**

5 The purpose of this policy is to establish the City of Santa Fe's program and procedures for
6 implementing the requirements of the Omnibus Transportation Employee Testing Act of 1991 and
7 Federal Transit Administration Regulations, 49 CFR Parts 655, as amended, and the regulation
8 published in CFR Part 40, as amended, that sets standards for the collection and testing of urine and
9 breath specimens, with regards to certain Transit Division employees performing "safety sensitive
10 functions, " as that term is defined in the federal law and in this policy. This policy is intended to
11 achieve a drug and alcohol-free workplace and to reduce the probability of accidents or incidents
12 related to the use and/or abuse of alcohol and other drugs by employee, to establish procedures for
13 drug and alcohol testing and to encourage early intervention through supervisory involvement.

14 Rule 16A, as set forth herein, applies only to Transit employees who perform safety sensitive
15 functions. A list of all covered positions/classifications is set forth in Section 3 of this Policy. Rule
16 16 of the City of Santa Fe Personnel Rules and Regulations, entitled "Drug and Alcohol Testing Rule
17 for Federally Mandated Employees," shall not apply to Transit employees: Rule 16A supersedes Rule
18 16 with respect to Transit employees only. All other federally mandated employees, as that term is
19 described in Rule 16, are subject to the provisions of Rule 16.

20 This policy outlines four principles as a means to achieve the goal of providing workplace
21 free from the effects of drug and alcohol use and abuse for its employees: deterrence, treatment and
22 rehabilitation, detection and enforcement. Deterrence will be emphasized through education and
23 training. Information regarding the effects of substance abuse in the workplace will be made
24 available to all safety sensitive classified employees, and supervisors and managers will receive
25 special training in detection, early intervention and enforcement. The City's Employee Assistance



1 Program provides assistance to employees with personal problems, including those associated with
2 the misuse of drugs and alcohol. The City supports rehabilitation before an employee's job is in
3 jeopardy. Employees are encouraged to seek help for drug and alcohol problems.

4 The City employs the following drug and/or alcohol testing for the purpose of detection: pre-
5 employment, reasonable suspicion, post accident, return to duty, follow up and random.

6 **SECTION 2. POLICY STATEMENT.**

7 A. The City of Santa Fe is committed to maintaining a drug-free workplace to promote both the
8 quality of its services and the safety of its employees, its customers and the public. Every
9 City of Santa Fe Transit Division or employee of a Transit contractor who holds a position
10 which would be defined as safety-sensitive (covered employee) is subject to regulations
11 issued pursuant to the Omnibus Transportation Employee Testing Act of 1991 (the Act).

12 Each covered employee under the City of Santa Fe's authority is:

- 13 1. prohibited from using, possessing, selling, purchasing manufacturing, distributing, or
14 transferring alcoholic beverages (except off-duty use at public events) or controlled
15 substances or other performance-impairing substance while on duty or on City of
16 Santa Fe property; and
- 17 2. prohibited from being present on City of Santa Fe property (except off duty alcohol
18 use at public events), reporting to work or performing work while that employee is
19 under the influence of alcohol or has any controlled substance or other performance-
20 impairing substance in his/her system; and
- 21 3. required to submit to an alcohol and/or drug test when directed by the City of Santa
22 Fe; and, prohibited from tampering or attempting to tamper with such alcohol and/or
23 drug test.

24 Under FTA authority, employees are prohibited from the consumption of alcohol within four
25 (4) hours of the employee's scheduled time to report for work, or within eight (8) hours

1 following an accident or until the employee takes a post-accident alcohol and or drug test,
2 whichever occurs first; and

3 B. Each covered employee, under the City of Santa Fe's own authority:

- 4 1. shall be responsible for informing his/her supervisor when being prescribed
5 medication that is covered under the terms of this policy and shall use medically
6 authorized drugs or over the counter medications in a manner which will not impair
7 on-the-job performance; and
- 8 2. shall promptly report to his/her supervisor whenever he/she observes or has
9 knowledge of another employee who poses a hazard to the safety and welfare of
10 others.

11 C. In accordance with the Omnibus Transportation Employee Testing Act of 1991 And the
12 regulations issued pursuant to this Act:

- 13 1. It is the City of Santa Fe's policy that every covered employee comply with the
14 City's Drug and Alcohol Testing Policy for Transit Division which details the City's
15 program.
- 16 2. Compliance with the Policy is a condition of employment with the City of Santa Fe
17 for all covered employees.
- 18 3. Under the City of Santa Fe's own authority, violations will result in discipline in
19 accordance with Section 13 of this Policy.

20 D. Prescription drugs may be used in amounts as lawfully prescribed. As necessary, Employees
21 shall be required to provide proof of lawful prescription. Employees shall advise their
22 supervisors if the prescription drugs may affect their ability to perform work duties safely and
23 efficiently.

24 E. This policy is intended to comply with all applicable Federal regulations governing
25 workplace anti-drug and alcohol in the transit division. Specifically, the Federal Transit

1 Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part
2 655, as amended, and 49 CFR Part 40, as amended, that sets standards for the collection and
3 testing of urine and breath specimens.

4 **SECTION 3. COVERED EMPLOYEES.**

5 As required by the regulations issued pursuant to the Omnibus Employee Testing Act of
6 1991, the City of Santa Fe shall conduct drug and alcohol testing for all covered employees. Covered
7 employees are those employees who occupy positions that perform a "safety-sensitive" function and
8 applicants for a safety-sensitive position. "Safety sensitive" functions are defined as:

- 9 1. operating revenue service vehicles, including operation when the vehicle is not in
10 revenue service;
- 11 2. operating non-revenue service vehicles when operation of such vehicles requires the
12 driver to hold a Commercial Driver's License (CDL);
- 13 3. controlling the dispatch or movement of a revenue service vehicle;
- 14 4. maintaining a revenue service vehicle or equipment used in revenue service; or
- 15 5. carrying a firearm for transit security purposes.

16 A list of all covered positions/classifications is attached as Exhibit 1 to this Policy. In
17 addition, all employees of independent contractors who perform services for the City of Santa Fe's
18 Transit Division in positions which are safety-sensitive, as outlined above, will also be subject to the
19 testing requirements outlined in this Policy.

20 **SECTION 4. EDUCATION.**

21 Every covered City of Santa Fe employee will receive a copy of this Policy. Transit Division
22 employees will receive a minimum of sixty (60) minutes of training regarding this Policy and the
23 effects of prohibited drug use and alcohol misuse that impacts and individual's biological, emotional,
24 psychosocial well being. The effects of misuses can be seen in an individual's work performance,
25 attitude and social interaction. Training shall be provided to each covered employee within 60 days

1 of adoption of this Policy for current employees, and within 60 days of a new employee's date of hire.

2 All City of Santa Fe Transit supervisory personnel who are designated to determine whether
3 reasonable suspicion exists to require a covered employee to undergo alcohol and/or drug testing will
4 also receive a minimum of one hundred and twenty (120) minutes of training on the physical,
5 behavioral, speech, and performance indicators of probable prohibited drug use and alcohol misuses.

6 **SECTION 5. SUBSTANCES TESTED**

7 A. Alcohol

8 Employees subject to alcohol testing will have a sample of their breath tested for the presence
9 of the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight
10 alcohol including methyl or isopropyl alcohol. U.S. Department of Transportation 49 CFR
11 Part 40, as amended breath alcohol testing forms shall be used. A breath alcohol level of 0.04
12 or greater constitutes a positive test result. In addition, under its own authority the City
13 considers a second breath alcohol test level between 0.02 and 0.039 within a 12-month period
14 to constitute a positive test result. A confirmation test will be given if an employee's initial
15 breath alcohol test level exceeds 0.04.

16 In accordance with the regulations, covered employees shall only be randomly tested for
17 alcohol misuse while the employee is performing safety-sensitive functions; just before the
18 employee is to perform safety-sensitive functions; or just after the employee has ceased
19 performing such functions.

20 Any refusal to submit to an alcohol test, and all positive alcohol tests, will be reported
21 immediately by the testing facility to the City of Santa Fe (DER) Designated Employer
22 Representative as required by law.

23 B. Drugs

24 Employee subject to drug testing will have a sample of their urine tested for the presence of
25 five (5) drugs, as follows:

- 1 1. Marijuana (THC)
- 2 2. Cocaine
- 3 3. Opiates
- 4 4. Amphetamines (MDMA, MDA, MDEA)
- 5 5. Phencyclidine (PCP)

6 Under its own authority, the City does not retest negative dilute specimens. The original test
7 will stand as the result of record.

8 ~~[An employee will be deemed to have refused to take a drug or alcohol test if any of the~~
9 ~~conditions listed in 49 CFR Part 40.191 or 49 CFR Part 40.261 are met (Part 40 is available in the~~
10 ~~office of Risk Management).]~~

11 All drug tests will be reported by the testing laboratory to a medical review officer (MRO)
12 who will evaluate the results. U.S. Department of Transportation 49 CFR Part 40, as amended drug
13 testing forms shall be used. After evaluation and interpretation, all verified positive test results will
14 be reported by the MRO to the employee and to the City of Santa Fe Designated Employer
15 Representative.

16 With respect to verified positive drug tests, employee will be notified by the MRO that they
17 have seventy-two (72) hours following this notification in which they can request, at their own
18 expense, that split urine specimen be tested by another Department of Health and Human Services
19 (DHHS) certified testing laboratory. However, in the event that the split sample test is negative, the
20 employee will be reimbursed for the test.

21 Failure to request testing of the split specimen within seventy-two (72) hours of being
22 notified of a positive test by the MRO will result in the test results from the original specimen being
23 accepted as the final test results.

24 An employee will be deemed to have refused to take a drug or alcohol test if any of the
25 conditions listed occur.

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1. Failure to attempt to provide a breath or urine specimen
2. Failure to provide a sufficient quantity of urine or breath without a valid medical explanation.
3. Failure to appear in a timely fashion (except for pre-employment tests).
4. Failure to remain until the testing process is completed.
5. Failure to cooperate with any part of the testing process.
6. Failure to permit monitoring or observation under drug testing.
7. Failure to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
8. Possessing or wearing a prosthetic or other device used to tamper with the testing process.
9. Failure to take a second test as directed by the collector or employer.
10. Admitting the adulteration or substitution of a specimen to the collector or MRO.
11. The MRO verification of a test as adulterated or substituted.
12. Refusal to sign the certification at Step 2 of the ATF.
13. Failure to undergo a medical examination evaluation as part of the verification process, as directed by the MRO or DER.

SECTION 6. TYPES OF TESTING

The following tests will be required of all covered employees in accordance with the City of Santa Fe alcohol and drug testing procedures:

1. Pre-employment tests
2. Post-accident tests
3. Random tests
4. Reasonable suspicion tests
5. Return to duty/Follow-up tests

The City of Santa Fe alcohol and drug testing procedures will be conducted in accordance

1 with 49CFR Part 40, as amended, and will incorporate all requirements set forth in the federal
2 regulations to ensure employee confidentiality and the integrity of the testing process, to safeguard
3 the validity of the test results, and to see that test results are attributed to the correct covered
4 employee.

5 **SECTION 7. PRE-EMPLOYMENT TESTING.**

6 A. The following persons will be subject to pre-employment drug testing in accordance with the
7 City of Santa Fe alcohol and drug testing procedures:

- 8 1. Applicants selected for one of the covered positions listed in Section 3.
- 9 2. Any covered employee who has not performed safety-sensitive duties and has not
10 been in the random pool for 90 days or more must provide a verified negative result
11 before returning to safety-sensitive duties.
- 12 3. Current City employees selected for assignment into one of the covered positions
13 listed in Section 3, if not currently employed in one of these positions.

14 B. Individuals identified in Section 7.A. will be informed that they are subject to pre-
15 employment drug testing at the time they apply for a covered position. Once a job offer is
16 made, covered employees shall have a urine sample collected and tested for evidence of the
17 substances listed in Section 5.B. For individuals identified in Section 7.A.1, tests may be
18 conducted as part of a routine pre-employment physical examination. The time, date and
19 location of the physical examination and drug test will be announced in advance of the test.
20 Individuals identified in Section 7. A.2 who do not require a routine pre-employment physical
21 examination will be notified, in advance, of the time, date and location of the drug test only.

22 Individuals identified in Section 7.A.2 who do not require a routine pre-employment physical
23 examination will be notified, in advance, of the time, date and location of the drug test only.

24 An applicant must produce a negative drug test result prior to first performing a safety
25 sensitive duty; if the test is canceled, the employee must retake and pass the test before being

1 hired; and an employee being transferred must provide a verified negative urinalysis prior to
2 performing a safety-sensitive function.

3 Employees who have been separated from duty for a period of (90) days or more, due
4 to reclassification, layoff, leave of absence, personal injury, seasonal employment or workers
5 compensation, and who have also been removed from the random pool during that time must
6 be tested prior to reassignment to a safety-sensitive job function.

7 C. Disqualification from City of Santa Fe Employment

- 8 1. Applicants for initial hire will be disqualified from City of Santa Fe employment if
9 they:
- 10 a. fail to appear for the physical examination and urine collection on the
11 designated day unless excused by the City for good and verifiable cause; or
 - 12 b. refuse to provide a urine sample; or
 - 13 c. to alter, taint or otherwise provide a false sample; or
 - 14 d. test positive for the presence of one of the substances listed in Section 5.B; or
 - 15 e. refuse to consent under Federal Transit Administration (FTA) regulations to
16 allow the City of Santa Fe to obtain the drivers' previous employer's
17 information on positive controlled substances and/or alcohol test results and
18 refusal to be tested within the previous two (2) years; or
 - 19 f. have tested positive or have refused to be tested when required by a previous
20 employer within the last (2) years and have not successfully completed
21 required recommendations of a substance abuse professional.
- 22 2. Current employees subject to pre-employment drug testing will be disqualified from
23 the position they are seeking if they commit one of the acts listed in 1(a) 1(f) of
24 Section 7.C above. Current employee subject to pre-employment drug testing will
25 also be subject to discipline in accordance with Section 13 if they commit one of the

1 acts listed in 1(c) or 1(d) of Section 7.0 above.

- 2 3. Persons who are disqualified from the position that required the pre-employment test
3 shall be disqualified from applying for any covered City of Santa Fe position for a
4 period of (2) years. Applications from such persons will hereafter only be accepted if
5 accompanied by a current written statement from licensed substance abuse
6 professional verifying that the applicant is not then an abuser of alcohol and/or active
7 user of drugs.

8 **SECTION 8. POST-ACCIDENT TESTING.**

9 All employees in covered positions as identified in Section 3 of this Policy will be subject to
10 post-accident alcohol and drug testing in accordance with this the City's alcohol and drug testing
11 procedures.

12 A. An "accident" requiring an alcohol and drug test is any accident where:

- 13 1. a fatality has occurred; or
14 2. non-fatality, a City of Santa Fe safety officer, supervisor or other qualified person shall be
15 responsible for making a determination whether a post-accident drug and alcohol test is
16 required at the time any covered employee is involved in a non-fatal accident involving a
17 bus, automobile, van or commercial motor vehicle that requires the driver to carry a
18 commercial driver's license (CDL); all covered employees operating the mass transit vehicle
19 must test unless their performance can be completely discounted as a contributing factor
20 based on the best information available at the time of the decision in which:
21 a. injuries were sustained requiring the injured person to immediately receive
22 medical attention away from the scene, or any vehicle involved in the accident
23 is disabled and towed away; or
24 b. one or more vehicles receives disabling damage~~[-or]~~.
25 ~~[c. an individual falls on a vehicle and requires immediate transport to a medical~~

- 1 ~~treatment facility]~~
- 2 B. The City of Santa Fe will also test any covered employee whose performance could have
3 contributed to the accident.
- 4 C. Employees required to submit to post-accident drug and alcohol testing shall be tested as
5 soon as possible (in all cases drug tests shall be conducted within thirty two (32) hours
6 following the accident and alcohol tests shall be conducted within eight (8) hours of the
7 accident). In the event an alcohol test is not completed within two hours of the accident, the
8 supervisor will document in a report, the reason and if not able to obtain a specimen in 8
9 hours, the attempt will be ceased and the two hour report will be updated. Records shall be
10 submitted to FTA upon request of the Administrator.
- 11 D. An employee required to submit to a post-accident drug and alcohol test will be transported
12 by the City to the collection site and will be required to sign the required form. The
13 employee must provide a urine and breath sample unless it is determined by medical
14 personnel present that the employee is medically unable to provide the required samples.
15 Following the test, the employee will be relieved of duty with pay pending the City's receipt
16 of the results of the tests from the MRO.
- 17 E. It is the City of Santa Fe's policy that employees who are required to submit to a post-
18 accident drug and alcohol test will be subject to discipline in accordance with Section 13 of
19 this Policy if they:
- 20 1. refuse to sign the required form or refuse to provide a breath and/or urine sample
21 (such refusal shall constitute a verified positive drug and/or alcohol test result); or
 - 22 2. attempt to alter, taint, or otherwise provide a false sample; or
 - 23 3. test positive for the presence of one or more of the substances listed in Section 5 in
24 this Policy.
- 25 F. Covered employees must be readily available for post-accident testing. If an employee fails

1 to remain readily available, e.g., notifying supervisor where employee can be located if
2 employee leaves scene of the accident prior to submitting to testing, the employee will be
3 deemed to have refused to submit to testing which shall constitute a verified positive drug
4 and/or alcohol test result. The requirement to immediately report for post-accident testing is
5 stayed while an employee assists in resolution of an accident or receives medical attention
6 following an accident. In such cases, the employee shall report for post-accident testing
7 immediately after the employee completes provision of necessary post-accident assistance or
8 after necessary medical attention is provided.

9 **SECTION 9. RANDOM TESTING**

10 A. The City of Santa Fe will maintain a listing of the names of all employees in the covered
11 positions listed in Section 3. During each calendar year, alcohol and/or drug tests will be
12 administered to these employees on a random-selection basis in accordance with federal
13 alcohol and drug testing regulations and with the City of Santa Fe's alcohol and drug testing
14 program. Federal Transit Administration regulations require random drug and alcohol testing
15 for all Transit employees performing safety sensitive functions. The City will test at FTA
16 annual minimum random testing rates as set in the Federal Register as per 49 CFR Part
17 655.45 (b).

18 B. All covered employees will be subject to unannounced drug and alcohol testing on a random
19 basis and a covered employee may be randomly tested for prohibited drug use anytime while
20 on duty. The dates for administering unannounced testing of randomly selected employees
21 shall be spread reasonably throughout the calendar year. Employees will be selected through
22 the use of a scientifically valid random number selection method. All covered employees
23 will remain in the random pool, even after being selected for testing. Thus, it is possible for
24 an employee to be selected for testing more than once within a given time period.

25 C. Employees subject to random drug and alcohol testing will be required to sign the required

1 form at the time of testing/collection.

2 D. Employees selected for random alcohol and/or drug tests will be provided with transportation
3 and will immediately report to the collection site where they will be required to provide a
4 breath and/or urine sample.

5 E. It is the City of Santa Fe's policy that employees will be subject to discipline in accordance
6 with Section 13, of this Policy if they:

7 1. do not appear and complete a random drug and/or alcohol test immediately following
8 notification to appear for such tests, refuse to sign the required form or refuse to
9 provide a breath and/or urine sample (such failure to appear or refusal shall constitute
10 a verified positive drug and/or alcohol test result); or

11 2. attempt to alter, taint or otherwise provide a false sample; or

12 3. test positive for the presence of one or more of the substances listed in Section 5 of
13 this Policy.

14 **SECTION 10. REASONABLE SUSPICION TESTING.**

15 A. All employees in the covered positions listed in Section 3 of this Policy may be required to
16 submit to a reasonable suspicion alcohol and/or drug test.

17 B. Employees who are reasonably suspected by a supervisor of violating this Policy will be
18 required to submit to an alcohol and/or drug test in accordance with the City of Santa Fe's
19 alcohol and drug testing procedures. A trained supervisor who makes a determination that a
20 test is required will complete a form indicating the grounds for such determination.
21 Reasonable suspicion testing is required when a trained supervisor can articulate and
22 substantiate physical, behavioral and performance indicators of probable drug use or alcohol
23 misuses by observing the appearance, behavior, speech or body odors of the covered
24 employee.

25 ~~Testing may be requested only if the observation of reasonable suspicion has been observed~~

1 while the covered employee is performing safety-sensitive functions; just before the
2 employee is to perform safety-sensitive functions; or just after the employee has ceased
3 performing such functions.]

4 Reasonable suspicion drug testing is allowed anytime an employee is on duty, but reasonable
5 suspicion alcohol testing is only allowed if the observations are made just before, during, or
6 just after the performance of safety-sensitive duties.

7 C. An employee who is required to submit to an alcohol and/or drug test under this section must
8 sign the required form.

9 D. Employees will be transported by the City of Santa Fe to the collection site and will be
10 required to provide a breath and/or urine sample. Following completion of the test,
11 employees will be transported home and relieved of duty with pay pending the City's receipt
12 of the results of the test from the MRO.

13 E. It is the City of Santa Fe's policy that employees will be subject to discipline in accordance
14 with Section 13 of this Policy if they:

- 15 1. refuse to sign the required form or refuse to provide a urine and/or breath sample
16 (which refusal shall constitute a verified positive drug and/or alcohol test result); or
- 17 2. to alter, taint, or otherwise provide a false sample; or
- 18 3. test positive for the presence of one or more of the substances listed in Section 5 of this
19 Policy.

20 SECTION 11. RETURN TO WORK TESTING

21 Employees who have been disciplined in accordance with Section 13 of this Policy as a result
22 of their first positive test indicating the presence on one or more of the substances listed in Section 5
23 will be required, prior to returning to work, to take a return to duty alcohol and/or drug test with a
24 verified negative result in accordance with 49 CFR Part 40, as amended and the City of Santa Fe's
25 alcohol and drug testing procedures.

1 ~~[Employees who have been separated from duty for a period of (90) days or more, due to~~
2 ~~reclassification, layoff, leave of absence, seasonal employment or workers compensation must be~~
3 ~~tested prior to reassignment to a safety sensitive job function.]~~

4 **SECTION 12. FOLLOW-UP TESTING.**

5 Current employees who have been disciplined in accordance with Section 13 of this Policy as
6 a result of a positive alcohol and/or drug test required under Section 6, upon return to work shall be
7 subject to a minimum of six (6) unannounced drug and/or alcohol follow up tests during the first
8 twelve (12) months following the employee's return to work, and further testing as recommended by
9 the substance abuse professional for up to a maximum of sixty (60) months. In addition, employees
10 who have been disciplined in accordance with Section 13 of this Policy will also be subject to the
11 testing requirements of Section 6 and in accordance with 49 CFR Part 40, as amended.

12 **SECTION 13. CONSEQUENCES OF THE MISUSE OF DRUGS AND ALCOHOL.**

13 Any employee testing positive for any of the drugs specified in Section 5B of this Policy, or
14 who has a breath alcohol concentration of 0.04 or greater for the FTA-mandated alcohol screening
15 test, or who has a second breath alcohol test level between 0.02 and 0.39 within a 12-month period,
16 will be immediately removed from his/her safety-sensitive position and placed on leave with pay
17 status pending disciplinary action. Regardless of the outcome of a drug screen and the possible
18 consequences, the employee will be provided with information from the City's employee assistance
19 program (EAP) regarding alcohol and/or substance abuse and the names, addresses and telephone
20 numbers of substance abuse professionals and counseling and treatment programs. The City will
21 have no responsibility to pay for any necessary treatment on the part of the employee.

22 An employee who for the first time in a 12-month period is found to have an alcohol
23 concentration of 0.02 or greater by less than 0.04 shall not be permitted to perform safety-sensitive
24 functions until the employee's alcohol concentration measures less than 0.02, or the start of the
25 employee's next regularly scheduled duty period, but not less than eight hours following

1 administration of the test.

2 A: Consequences of a Positive Drug or Alcohol Test

3 1. Any job applicant who tests positive for drugs will not be hired. Any employee who
4 tests positive for drugs or alcohol for a post-accident test or who has a second
5 confirmed positive drug or alcohol test will be terminated from employment with the
6 City.

7 2. Conditional Retention

8 It is the City of Santa Fe's policy that current employees, who have a verified positive
9 drug or alcohol test and are not subject to termination under Section 13A.1 or 13B of
10 this Policy, will be offered conditional retention of employment if the employee:

- 11 a. submits to an evaluation by a substance abuse professional approved by the
12 City's EAP; and
- 13 b. signs a conditional retention of employment agreement; and
- 14 c. is determined by a substance abuse professional to require assistance in
15 resolving problems associated with drug abuse and/or alcohol misuse (the
16 employee must agree to attend a City of Santa Fe approved treatment
17 program and sign a monitoring agreement with the City's EAP to ensure
18 successful completion of the treatment program specified by the substance
19 abuse professional); and
- 20 d. upon return to work, is subject to a return to duty drug and/or alcohol test
21 (follow-up tests are required if recommended by the substance abuse
22 professional).
- 23 e. The employee who is conditionally retained must fully comply with the
24 conditions of retention of employment, including successful completion of
25 the treatment program specified by the substance abuse professional.

1 3. Discipline for a Positive Drug or Alcohol Test

2 Current employees who have a confirmed positive drug or alcohol test will
3 immediately be removed from duty and disciplined as follows:

4 a. Consequences for a Positive Drug or Alcohol Test:

- 5 (1) Employees with their first confirmed positive drug or alcohol test
6 shall be suspended for two (2) weeks without pay.

7 B. Termination

8 It is the City of Santa Fe's policy that current employees will be terminated if the employee:

- 9 1. uses, possesses, sells, purchases, manufactures, distributes, or transfers alcohol
10 beverages (except off-duty use at public events), or controlled substances or other
11 performance-impairing substances while on duty or on City property; or,
12 2. consumes alcohol within four (4) hours of the employee's scheduled time to report
13 for work, or within eight (8) hours following an accident or until the employee takes
14 a post-accident alcohol and/or drug test, whichever occurs first; or,
15 3. refuses to submit to an alcohol and/or drug test when so directed by the City of Santa
16 Fe, or tampers or attempts to tamper with an alcohol and/or drug test; or,
17 4. tests positive and was involved in an accident resulting in death, serious injury or
18 extensive property damage (post-accident drug and/or alcohol test) or
19 5. tests positive and is also being terminated for other misconduct which could
20 independently result in their discharge; or
21 6. tests positive and has not completed the initial probationary period following hire
22 into the employee's first position with the City of Santa Fe; or
23 7. does not appear, fail to appear in a timely fashion, and complete a random or follow-
24 up drug and/or alcohol test [~~within two (2) hours following notification to appear for~~
25 ~~such tests~~], refuses to sign the required form or refuses to provide a breath and/or

1 urine sample; or

2 8. has a second confirmed positive drug or alcohol test.

3 **SECTION 14. CONFIDENTIALITY.**

4 All testing will be conducted in accordance with the federal regulations to ensure test results are
5 accurate and reliable. Further, the City of Santa Fe will carry out this policy in a manner that respects
6 the dignity and confidentiality of those involved. No laboratory reports or test results shall appear in
7 the employee's employment history unless they are a part of a disciplinary action taken. Laboratory
8 reports and test results shall be placed in a special locked file maintained by the Drug Abuse
9 Coordinator. Files relating to laboratory reports or test results maintained by the Drug Abuse
10 Coordinator must be kept confidential and shall be disclosed only by consent of the patient. Upon
11 request, an employee is entitled to obtain copies of any records pertaining to the employee's use of
12 prohibited drugs, including any records pertaining to the employee's drug tests.

13 **SECTION 15. EMPLOYEE ASSISTANCE PROGRAMS/SELF-REFERRAL**

14 The City of Santa Fe takes seriously its commitment to provide safe conditions to the public
15 and its employees. Recognizing this commitment, the City maintains employee assistance programs
16 that can provide access to professional services in an effort to aid any employee who has an alcohol
17 or chemical dependency problem. Participation in this program is voluntary and all records regarding
18 self-referral or acknowledgement will be kept confidential to the extent required by law.

19 All employees who suspect they may have alcohol or substance abuse problems are strongly
20 encouraged to utilize employee assistance program resources before the problem affects their
21 employment status. There will be no disciplinary action involved for self-referral to the EAP.
22 Voluntary self-referral, however, shall not relieve the employee from responsibility for adequate job
23 performance. Self-referral after notification of a required drug or alcohol test will not eliminate
24 requirement to take such a test and will not preclude the taking of disciplinary action against an
25 individual who fails a required drug or alcohol test.

1 Any costs for counseling or rehabilitation shall be the responsibility of the employee. Because
2 the City realizes that financial considerations might prevent some employees from seeking help,
3 however, it is the City's policy to allow employees (upon recommendations of their counselor) to use
4 any and all earned benefits. This includes medical insurance, annual and sick leave, short-term
5 disability (physician must certify disability), and leave of absence, if needed.

6 Questions about the City of Santa Fe's employee assistance programs should be addressed to
7 the City's Designated Employer Representative, who serves as the drug and alcohol program
8 administrator.

9 **SECTION 16. MODIFICATIONS.**

10 The program administrator shall propose for adoption by the City Council such modifications,
11 amendments and revisions to the City's drug and alcohol program as he deems necessary after a
12 review process and concurrence by the affected department to carry out the provisions of regulations
13 issued pursuant to the Omnibus Transportation Employee Testing Act of 1991 and to enact such
14 additional procedures as may be necessary to insure the City of Santa Fe's compliance with state and
15 federal law affecting drug and alcohol matters. Nothing herein is intended to waive a union's legal
16 right to mandatory subjects of bargaining.

17 **SECTION 17. DOCUMENTATION INCORPORATED BY REFERENCE INTO POLICY.**

18 The following documentation is incorporated by reference into this policy:

19 Exhibit 1. Safety Sensitive Positions

20 Exhibit 2. City of Santa Fe DAPM/SAP/MRO Identification

21 Exhibit 3. 49 CFR Part 40, as amended

22 Exhibit 4. 49 CFR Part 655, as amended

23 **SECTION 18. CONFLICT.**

24 In the event of any conflict between Rule 16A and the FTA regulations, the FTA regulations shall
25 prevail.

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APPROVED this ____ day of _____, 2015.

BRIAN K. SNYDER, CITY MANAGER

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

KELLEY A. BRENNAN, CITY ATTORNEY

AFSCME:

CHRIS ARMIJO, DEPUTY ADMINISTRATOR

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: _____ Resolution: X

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): A RESOLUTION AMENDING RULE 16A OF THE CITY OF SANTA FE PERSONNEL RULES AND REGULATIONS REGARDING DRUG AND ALCOHOL TESTING POLICIES FOR TRANSIT DIVISION EMPLOYEES WHO PERFORM SAFETY SENSITIVE FUNCTIONS.

Sponsor(s): _____

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Rebecca Seligman Date: 7/15/15 Phone: 955-6501

Reviewed by City Attorney: Kelly A. Brennan Date: 8/6/15
(Signature)

Reviewed by Finance Director: [Signature] Date: 8-6-2015
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The purpose of the resolution is to amend Rule 16A of the City of Santa Fe Personnel Rules and Regulations regarding drug and alcohol testing policies for Transit Division employees who perform safety sensitive functions.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

X Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY 2014	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____
Total:	\$ _____	_____	_____	\$ _____	_____	_____	_____	_____

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs - Recurring or "NR" Non-recurring	_____

_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ _____	_____	\$ _____	_____	_____	_____

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

None

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

No

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

The city's Transportation Division would not be consistent with the requirements of the Omnibus Transportation Employee Testing Act of 1991 and Federal Transit Administration Regulations, 49 CFR 655 which sets standards for the collection and testing of urine and breath specimens.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

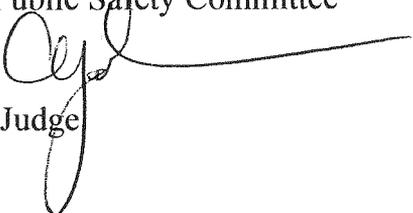
By adopting the resolution, the City would achieve a drug and alcohol-free workplace and would reduce the possibility of accidents or incidents related to drug and alcohol. Adoption of the resolution would also establish procedures for drug and alcohol testing to encourage early intervention through supervisory involvement.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08

City of Santa Fe, New Mexico

memo

To: Mayor and City Councilors
City Attorney Kelley A. Brennan
City Manager Brian Snyder
Shannon Cantu, Public Safety Committee

From: Ann Yalman 
Municipal Court Judge

Date: August 10, 2015

Re: Municipal Court Monthly Report: July 2015

Enclosed please find July 2015, monthly report.

As requested, we have also included the ~~June 2015~~ statistics.

We have included community service information as requested.

**MUNICIPAL COURT MONTHLY STATISTICS REPORT FOR
JULY 2015**

1. NUMBERS OF CASES FILED FOR MONTH		TOTALS
Traffic Violations		626
Traffic Citations (court appearance)	610	
Penalty Assessments (court only collects money)	105	
* Cell phone violation 12-6-12.18(6) (included in both court appearance & penalty assessments)	16	
Criminal Cases		148
DUIs	4	
Shoplifting	30	
Petty Misdemeanors	103	
Revoked	11	
Code Enforcement		
Animal Control		
2. ARRAIGNMENTS (many arraignments result in pleas)		
Traffic Arraignments		532
Criminal arraignments		98
DUIs	9	
Shoplifting	51	
Petty Misdemeanors	21	
Revoked	17	
Parking		85
Animal		21
Code Enforcement		0
3. TRIALS		17
1) with attorney(s)	6	
2) with police officers	11	
1) Animal	2	
2) Traffic	11	
3) Misdemeanor/shoplifting	0	
4) Parking	0	
5) DUI	4	
6) Revoked	0	
4. BENCH WARRANTS ISSUED		184
5. HOMELESS COURT		27
6. COMMUNITY SERVICE – TOTAL		
1) Community service hours – penalties	Hours	624
2) Community service hours – in lieu of fines	Hours	236

MUNICIPAL COURT FINES AND FEES DISTRIBUTION REPORT July 2015

Animal Control	11001.451200	\$500.00
Court Fines	11001.450200	\$35,195.50
Parking	51150.450610	\$3,175.00
Traffic Violations	11001.450900	\$605.00
	TOTAL FINES:	\$39,475.50

Automation Fee (AOC)	21202.432100	\$ 3,537.00
Bench Warrants (City)	21224.432150	\$ 1,876.00
Calming Fees (City)	31775.450850	\$ 6,233.50
Copies/Misc. (City)	11001.471400	\$ 32.50
Corrections Fees (City) - PD	21201.432300	\$ 11,749.93
Corrections Fees (City) - Muni. Court	21225.432300	\$ 5,875.07
Court Admin. Fee (City)	21225.432310	\$ 5,863.00
DWI Lab Fees (AOC)	21202.432200	\$ 950.00
Muni. Court DWI (Screening & Tracking Fee) (Old line item - 21228.432000)	11001.432000	\$ 2,620.00
Home Detention (City) (Old line item 21225.43213)	21201.432130	\$ 351.00
In House Automation (City)	21130.432100	\$ 1,180.00
Judicial Education Fees (JEC)	21202.431800	\$ 1,742.00
Police Safety Fees (City)	21224.432120	\$ 2,873.00
Prevention Fees (AOC)	21202.450400	\$ 974.00
Substance Abuse Fee (AOC)	21202.432350	\$ -
	TOTAL FEES:	\$ 45,857.00

TOTAL FINES AND FEES:	\$85,332.50
City: Money remains with the City of Santa Fe:	\$81,795.50
AOC: Money is submitted to the State of NM, Admin. Office of the Courts:	\$5,461.00
JEC: Money is submitted to the NM Judicial Education Center:	\$1,742.00



City	AOC	JEC
\$500.00		
\$35,195.50		
\$3,175.00		
\$605.00		
	\$ 3,537.00	
\$ 1,876.00		
\$ 6,233.50		
\$ 32.50		
\$ 11,749.93		
\$ 5,875.07		
\$ 5,863.00		
\$ 950.00	\$ 950.00	
\$ 2,620.00		\$ -
\$ 351.00		
\$ 1,180.00		
\$ 1,742.00		\$ 1,742.00
\$ 2,873.00		
\$ 974.00	\$ 974.00	
\$ -	\$ -	
\$81,795.50	\$5,461.00	\$1,742.00

\$88,998.50

MUNICIPAL COURT MONTHLY STATISTICS REPORT FOR

June, 2015

1. NUMBERS OF CASES FILED FOR MONTH		TOTALS
Traffic Violations		939
Traffic Citations (court appearance)	831	
Penalty Assessments (court only collects money)	108	
* Cell phone violation 12-6-12.18(6) (included in both court appearance & penalty assessments)	29	
Criminal Cases		176
DUIs	7	
Shoplifting	29	
Petty Misdemeanors	132	
Revoked	8	
Code Enforcement		1
Animal Control		27
2. ARRAIGNMENTS (many arraignments result in pleas)		
Traffic Arraignments		717
Criminal arraignments		244
DUIs	8	
Shoplifting	60	
Petty Misdemeanors	156	
Revoked	20	
Parking		151
Animal		10
Code Enforcement		0
3. TRIALS		8
1) with attorney(s)	5	
2) with police officers	3	
1) Animal	0	
2) Traffic	3	
3) Misdemeanor/shoplifting	0	
4) Parking	0	
5) DUI	4	
6) Revoked	1	
4. BENCH WARRANTS ISSUED		194
5. HOMELESS COURT		21
6. COMMUNITY SERVICE – TOTAL		
1) Community service hours – penalties	Hours	716
2) Community service hours – in lieu of fines	Hours	247

**MUNICIPAL COURT FINES AND FEES DISTRIBUTION REPORT
June 2015**

Animal Control	11001.451200	-\$75.00
Court Fines	11001.450200	\$30,568.00
Parking	51150.450610	\$3,407.00
Traffic Violations	11001.450900	\$247.00
	TOTAL FINES:	\$34,147.00

Automation Fee (AOC)	21202.432100	\$ 3,358.00
Bench Warrants (City)	21224.432150	\$ 2,124.00
Calming Fees (City)	31775.450850	\$ 6,074.00
Copies/Misc. (City)	11001.471400	\$ 16.00
Corrections Fees (City) - PD	21201.432300	\$ 10,994.97
Corrections Fees (City) - Muni. Court	21225.432300	\$ 5,498.03
Court Admin. Fee (City)	21225.432310	\$ 5,589.00
DWI Lab Fees (AOC)	21202.432200	\$ 561.00
Muni. Court DWI (Screening & Tracking Fee) (Old line item - 21228.432000)	11001.432000	\$ 1,018.00
Home Detention (City) (Old line item 21225.43213)	21201.432130	\$ 1,010.00
In House Automation (City)	21130.432100	\$ 1,115.00
Judicial Education Fees (JEC)	21202.431800	\$ 1,657.00
Police Safety Fees (City)	21224.432120	\$ 2,725.00
Prevention Fees (AOC)	21202.450400	\$ 650.00
Substance Abuse Fee (AOC)	21202.432350	
	TOTAL FEES:	\$ 42,390.00

TOTAL FINES AND FEES: \$76,537.00
City: Money remains with the City of Santa Fe: \$73,179.00
AOC: Money is submitted to the State of NM, Admin. Office of the Courts: \$4,569.00
JEC: Money is submitted to the NM Judicial Education Center: \$1,657.00

City AOC JEC

-75.00		
\$30,568.00		
\$3,407.00		
\$247.00		
	\$ 3,358.00	
\$ 2,124.00		
\$ 6,074.00		
\$ 16.00		
\$ 10,994.97		
\$ 5,498.03		
\$ 5,589.00		
\$ 561.00	\$ 561.00	
\$ 1,018.00		\$ -
\$ 1,010.00		
\$ 1,115.00		
\$ 1,657.00		\$ 1,657.00
\$ 2,725.00		
\$ 650.00	\$ 650.00	
\$	\$	
\$73,179.00	\$4,569.00	\$1,657.00

\$79,405.00



SANTA FE POLICE DEPARTMENT PROPERTY CRIMES COMPARISONS 2012 - 2013 - 2014 - 2015



Jan - July

Year	2012	2013	%chng	2013	2014	%chng	2014	2015	%chng
Burglary (Residential)	800	625	-22%	625	501	-20%	293	286	-2%
Burglary (Commercial)	185	222	20%	222	195	-12%	145	84	-42%
Burglary (Auto)	807	642	-20%	642	391	-39%	227	334	47%
Attempted Burglary	129	80	-38%	80	67	-16%	47	21	-55%
Unlawful Entry	12	20	67%	20	18	-10%	10	6	-40%
Total	1933	1589	-18%	1589	1172	-26%	722	731	1%

2012	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	Total
Burglary (Residential)	86	52	77	71	124	83	69	74	33	40	43	48	800
Burglary (Commercial)	10	6	16	20	16	18	14	13	16	24	13	19	185
Burglary (Auto)	57	67	69	69	68	59	37	47	57	72	121	84	807
Attempted Burglary	12	5	15	6	19	15	6	13	5	9	11	13	129
Unlawful Entry	1	1	2	2	1	0	1	1	0	0	3	0	12
Total	166	131	179	168	228	175	127	148	111	145	191	164	1933

2013	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	Total
Burglary (Residential)	66	52	32	39	69	42	54	37	45	93	55	41	625
Burglary (Commercial)	13	20	16	8	22	18	24	15	19	24	17	26	222
Burglary (Auto)	63	60	62	35	51	57	51	54	68	57	42	42	642
Attempted Burglary	9	12	4	2	7	7	9	8	4	5	5	8	80
Unlawful Entry	1	2	0	2	5	1	1	1	2	2	3	0	20
Total	152	146	114	86	154	125	139	115	138	181	122	117	1589

2014	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	Total
Burglary (Residential)	42	37	32	49	48	52	33	55	31	46	35	41	501
Burglary (Commercial)	20	11	43	29	15	13	14	13	16	12	3	6	195
Burglary (Auto)	22	28	31	28	45	43	30	37	31	28	31	37	391
Attempted Burglary	6	6	9	6	11	5	4	9	4	1	3	3	67
Unlawful Entry	2	2	2	1	0	3	0	1	5	0	1	1	18
Total	92	84	117	113	119	116	81	115	87	87	73	88	1172

2015	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	Total
Burglary (Residential)	40	27	24	37	57	55	46						286
Burglary (Commercial)	9	10	8	17	17	17	6						84
Burglary (Auto)	40	29	48	54	62	42	59						334
Attempted Burglary	3	4	3	4	5	2	0						21
Unlawful Entry	2	1	1	2	0	0	0						6
Total	94	71	84	114	141	116	111	0	0	0	0	0	731

Same time period:

July	2013	2015	%chng	2014	2015	%chng
Burglary (Residential)	54	46	-15%	33	46	39%
Burglary (Commercial)	24	6	-75%	14	6	-57%
Burglary (Auto)	51	59	16%	30	59	97%
Attempted Burglary	9	0	-100%	4	0	-100%
Unlawful Entry	1	0	-100%	0	0	0%
Total	139	111	-20%	81	111	37%

08/12/15

prepared by M. Gonzales, Crime Analyst