Tennessee Private Investigation and Polygraph Commission Meeting

MINUTES of the Tennessee Private Investigation and Polygraph Commission Meeting, held July 18, 2019, in Nashville Tennessee.

Walt Valentine, Chair

Paul David Brown Jr, Vice Chair

Stuart W Bayne

Larry T Flair, Sr.

Robin Brewer Johnston

Alan G Rousseau

Douglas Shanks

Absent
PIPC BOARD MEETING AND EDUCATION COMMITTEE MEETING

BOARD MEETING

July 18, 2019
TRANSCRIPT OF EDUCATION COMMITTEE MEETING AND BOARD MEETING

Commencing at 9:05 a.m.

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APPEARANCES

EDUCATION COMMITTEE MEMBERS
Stuart Bayne
Walt Valentine
Alan Rousseau
David Brown

BOARD MEMBERS
Walt Valentine - Chairperson
Stuart Bayne
David Brown - Vice Chair
Larry Flair - Not Present
Robin Brewer-Johnston
Rick Jones
Alan Rousseau
Doug Shanks

ALSO PRESENT
Cody Vest - Executive Director
Ashley Thomas - Staff Attorney
Jesse Gentry - Assistant General Counsel
Mark Amick - Administrative Assistant
Toby Compton - Assistant Commissioner

MS. VEST: I believe it's time for the education committee. Let me get mine here together.

All right. Any time you're ready, Mr. Chair. We'll call to order the education committee, Mr. Valentine.

MR. VALENTINE: Okay.

MS. VEST: I believe that would be David Brown?

MR. BROWN: Here.

MS. VEST: Alan Rousseau?

MR. ROUSSEAU: Here.

MS. VEST: Larry Flair?

(No response.)

MS. VEST: Walt Valentine.

MR. VALENTINE: Here.

MS. VEST: Stuart Bayne?

MR. BAYNE: Here.

MS. VEST: Thank you. Okay. Let me -- before we get started with the education as you can see you've got quite a few. The reason is with our database core we're able to put these on the system now and give them a number. Then we put them out for any private investigator to go on this education list for the continuing education and see what they could take if it would be approved. Now, there's two parts to that. One part is the provider, like the Learning Shop or the Association, we can go ahead and approve the provider. And then underneath that is the individuals who submit just courses for themselves. They would be given a course number. It would start -- for instance, this is 19 -- 190001, for instance, it would be one of these. As we put them in the system, it automatically gives them the numbers. Well, hopefully that will help individuals be able to go out and see what they can take for their continuing education.

I have heard from the Learning Shop. First of all, for my private -- no, for my security guards -- so hopefully we're going to get them in with this section as well for the PIs. But if you would look at this, a lot of this can be approved by me. Once we get them on the course list -- that's why I want to present all of them to you, get them approved, get them on the course list and as the continuing education comes in I don't have to present it to you. It's on the list.

MR. VALENTINE: Are you going to put the number on it?

MS. VEST: Yes. Like if you did the first one, when we go back to the system -- go back
to the computer or go back to the office, when we key it in, it automatically starts giving them numbers.

MR. VALENTINE: Okay.

MS. VEST: We don't -- we won't be doing the numbers ourselves.

MR. VALENTINE: Okay.

MS. VEST: So a lot of this is probably stuff you've already seen or -- or where they have gone. But if you would, we'll just start from the beginning. I think you should have one, Administration Office of the U.S. Courts for Sarah Kingsbury, K-I-N-G-S-B-U-R-Y.

MR. VALENTINE: And Chelsea King and Amber Treat.

MS. VEST: All right. Yes. Included is the agenda. We tell them how we want it. MR. VALENTINE: Yeah.

MS. VEST: Some of them don't exactly do it that way, but we do talk to them and try to get them to give us what the course is going to be and everything. Did everybody have an opportunity to look over this one, Administration Office of the U.S. Courts Defender Services Office Training Division?

MR. VALENTINE: Yes.

MR. BAYNE: Yes.

MR. VALENTINE: Yes.

MS. VEST: Now, my question to you is: If anybody took this, should I stick it up here under provider so anybody else that wants to take this could look at it, take it, and be approved without coming before you? Or do I put it under the bottom for just these three people?

MR. VALENTINE: I would say put it up at the top so we're -- so that's flagged and we know that they have been approved before.

MS. VEST: Okay.

MR. BROWN: Yeah.

THE COURT: Is that in agreement?

MR. BROWN: Yeah.

MS. VEST: Sounds good to me. All right. The next one we have is capital D-E, space, capital V-A-N & Associates. They're out of Columbia, South Carolina. They're asking -- it's a school for private investigators continuing education, July the 18th through the 19th, which that -- is that today?

MR. VALENTINE: Pretty close.

MR. AMICK: 18th, yeah.

MS. VEST: And that is a problem we run into. And, gentlemen, I'll go ahead and tell you there's two reasons we're doing this. One is we have the capability in our computer system to do it. And, number two, we will be discussing the budget, and we may have to go to once every six months meetings. If that's the case, I'm going to have to have some authority some way to approve these courses so it won't interfere with our PIs getting their continuing education or renewal. And if the information is on the system, I can just take a look at it and get it approved and move on. But we'll talk about that later.

MR. BAYNE: I reviewed all of these. And for De Van & Associates there's actually a total of 12 hours.

MS. VEST: Right. There's different ones, yes. But this is the whole set here. What did you think about this course, Mr. Bayne?

MR. BAYNE: I'm good with it. I'm good with it.

MS. VEST: Okay. So we're going to say okay to this one?

MR. BAYNE: Yes.

MR. VALENTINE: Yes.

MS. VEST: Okay. All of these are okay. All right. So what's going to happen is we're going to go out on the computer and put it on there for Administration Office of the Courts.

MR. BROWN: Okay.

MR. VALENTINE: Okay.

MS. VEST: Now, my question to you is: If anybody took this, should I stick it up here under for -- we use the same form -- hold on just a second.
It looks like there's a problem. This one here says for alarms.

MR. BAYNE: Yeah, that's what I was going to ask.

MS. VEST: It got in the wrong stack.

But we use the same form for all of them.

MR. BAYNE: Okay. So this is not applicable?

MS. VEST: Not unless you think it's good for a PI.

MR. VALENTINE: No, we don't.

MS. VEST: It's all about the videos and assets control, stuff like that. That's not a PI.

So forgive me, we'll stick that in a different stack.

MR. BROWN: We were ready for that one.

MR. VALENTINE: Yeah.

MR. BROWN: We had done our investigating.

MS. VEST: Right. The next one is the Tennessee Division International Association for Identification. This is the TBI, Tennessee Bureau of Investigation.

MR. BROWN: I don't have any problem with that.

MS. VEST: It was a conference. It's 24 hours. Of course, that was the whole course. But it would just be 12.

MR. BAYNE: Yeah, it was not 24 because they include breaks and lunch and --

MS. VEST: It's okay for the --

MR. BAYNE: It's okay for the 12 as far as I'm concerned.

MS. VEST: Anybody else? Everybody agree with this one?

MR. VALENTINE: I agree.

MS. VEST: Oh, let me ask you a question just out of the blue here. If I have a course from the TBI, would it automatically be approved?

MR. VALENTINE: Should be.

MR. BAYNE: Should be.

MS. VEST: Or FBI course or something like that?

MR. VALENTINE: Yeah.

MS. VEST: So I can put them on as a provider and let that go at that?

MR. ROUSSEAU: Yes.

MR. BROWN: Yes.

MR. VALENTINE: Yes.

MR. BAYNE: Yes.

MS. VEST: The next one is Martin Methodist College, 20 hours. Well, we know what that's -- it's going to be 12. You're going to --

MR. VALENTINE: That seems to be okay.

MS. VEST: That's criminal justice, criminal cyber, and investigations are the course that it took. It got kind of confusing because it said Martin Methodist College, then it's Nova Southeastern University. From what I understand he has to take one course in order to take the second. They do a second. Now, I will put this one on the system only under his name. This is just specifically for him.

MR. BAYNE: It should be because this is a Ph.D. This is a four-year process for this man.

MS. VEST: Right.

MR. BAYNE: 68 hours of credit.

MS. VEST: But I won't put them on as a provider.

MR. BAYNE: Right.

MR. BROWN: Right.

MS. VEST: All right. Let me write that down. Excuse me.

MR. VALENTINE: I don't know who is going down there to take that course, but more power to them.

MR. BAYNE: This is another example of claiming 20 but only deserving 13 or 12.

MS. VEST: Right. Well, he's only going to get 12.

MR. BAYNE: They don't count breaks and lunches and receptions and...

MS. VEST: Well, we have -- Chairman Valentine, we have quite a few -- whoever said that, we have quite a few private investigators that do go out of state and take courses for whatever reason.

So this will just be for this gentleman?

MR. VALENTINE: Yes.
MR. ROUSSEAU: Yes.

MS. VEST: Okay.

MR. BAYNE: Why? Why just --

MS. VEST: Not a provider is what I'm saying.

MR. BAYNE: Why just this gentleman?

MR. VALENTINE: That's an organization teaching the course. Why don't we just make it an approved organization?

MS. VEST: Approved provider.

MR. BAYNE: Well, throughout all this review, 204 pages, I've been impressed with the faculty, the trainers. Generally I'm seeing --

MR. VALENTINE: They're good, yeah.

MS. VEST: Okay. So I'll put it down as an approved provider and approve it for --

MR. BAYNE: For a 12.

MS. VEST: Great.

MR. VALENTINE: Yeah.

MS. VEST: Okay. And then we have the Tennessee Association of Professional Process Service, six hours.

MR. ROUSSEAU: Aren't they already on our approved list?

MS. VEST: Yes. But I'm bringing it back to get the number because they're going to be a provider. This is something that happens all the time.

MR. BAYNE: And six hours is spot on, too.

MR. VALENTINE: No problem.

MS. VEST: All right. That's all we have. So whenever we adjourn -- not adjourn, whenever we have the full board here, we'll just present it, we'll reread it, and we'll say that the education committee approved and get a full vote with the commission.

MR. VALENTINE: Okay.

MR. BAYNE: (Nods head affirmatively.)

MS. VEST: All right. Well, if you want to adjourn, Mr. Chairman?

MR. VALENTINE: Do I hear a motion to adjourn?

MR. BROWN: Motion.

MS. VEST: Wait a minute. Mr. Brown made the motion. Who did the second?

MR. BAYNE: Second.

MS. VEST: Mr. Bayne. Thank you.

Before we get started you did have a formal hearing today, but it has been canceled or postponed I believe until -- if it was going to happen, you would have already known about it. But it has been moved to October and perhaps maybe December. We'll go from there and see.

I'm ready any time you are, Mr. Chairman.

MS. VEST: Tiffany, you ready?

MR. VALENTINE: Good morning, fellow commission members, staff members, and other guests. Today's date is July 18th, 2019, at approximately 9:35 a.m. I'm Walt Valentine, commission chair. I'll now call to order the meeting of the Tennessee Private Investigation and Polygraph Commission. The executive director, Cody Vest, please call the roll.

MS. VEST: Robin Brewer-Johnston?

MS. BREWER-JOHNSTON: Here.

MS. VEST: Stuart Bayne?

MR. BAYNE: Here.

MS. VEST: Douglas Shanks?

MR. SHANKS: Here.

MS. VEST: Walt Valentine?

MR. VALENTINE: Here.

MS. VEST: David Brown?

MR. BROWN: Here.

MS. VEST: Alan Rousseau?

MS. ROUSSEAU: Here.

MS. VEST: Rick Jones.

MR. JONES: Here.

MS. VEST: Larry Flair?

(No response.)

MS. VEST: Let the record show that Larry Flair is not present, but you do have a quorum.

MR. VALENTINE: Thank you. The next item for approval is the agenda. I would like to ask each commission member who has received and had time to review a copy of the agenda and if so is there a motion to adopt this agenda?

MR. BAYNE: So moved.

MR. SHANKS: Second.

MR. VALENTINE: It's been moved and seconded to approve the agenda. Any discussion?

(No response.)

MR. VALENTINE: All those in favor say aye.

MR. BAYNE: Aye.

MR. BROWN: Aye.

MS. BREWER-JOHNSTON: Aye.

MR. JONES: Aye.

MR. ROUSSEAU: Aye.

MR. SHANKS: Aye.

MR. VALENTINE: All those opposed?
MR. VALENTINE: Motion carries.

The next item on our agenda is the approval of minutes for the last meeting.

MS. VEST: Mr. Chairman, we do not have any minutes for you to approve today. I will present them at the next meeting. We had some corrections, and I haven't been able to get the other set printed off for you.

MR. VALENTINE: Okay. We will skip that and go to the legal report next on our agenda.

Jesse Gentry --

MR. GENTRY: Yes, good morning.

MR. VALENTINE: -- assistant general counsel has a report for us.

MR. GENTRY: Right. So the first complaint we have is 2019038251. This complaint actually in the number two are related to the same facts, so I put the facts in complaint number one and then you'll see it in number two just as if these are the same ones.

So the summary of this complaint is that it was made against a licensed PI and an identical one was made against his company. The complainant alleges that the owner engaged in reckless and dangerous activity in Jonesboro, Arkansas, including being involved in a high-speed-car chase with complainant. Complainant stated that he and his own private investigator had been following respondent in Jonesboro after they had seen respondent meet with complainant's wife. Complainant also alleged that respondent told complainant he would need to pay him $200,000 and insinuated that he had teams in Uruguay and Spain that could harass complainant's family members there. Respondent stated that he is a witness for complainant's wife in the divorce case between complainant and complainant's wife. Respondent stated that complainant has been following and tracking him, has been attempting to intimidate him as a witness.

Respondent has filed police reports against complainant and has been talking to an attorney about filing a civil case against him as well. Respondent was in Jonesboro to file a police report against complainant. Respondent stated that when he saw complainant, complainant drove off at a high speed. Respondent admitted to calling complainant and calling law enforcement, however, he denied engaging in a high-speed chase with complainant and there's no evidence respondent actually engaged in such behavior.

Respondent admitted to meeting with complainant about his behavior and stated that he would be pressing felony charges against him, but he denied making statements that he would harass him or that he tried to extort him.

The recommendation for this complaint is to close it.

MR. BROWN: Mr. Chairman, I so move that we accept counsel's recommendation.

MS. BREWER-JOHNSTON: I second.

MR. VALENTINE: Moved and seconded by Brewer-Johnston. Any discussion?

(No response.)

MR. VALENTINE: All in favor say aye.

MR. BROWN: Aye.

MS. BREWER-JOHNSTON: Aye.

MR. JONES: Aye.

MR. ROUSSEAU: Aye.

MR. SHANKS: Aye.

MR. VALENTINE: All opposed?

(No response.)

MS. VEST: Mr. Bayne, did you vote?

MR. BAYNE: No, I did not. I'm just trying to understand more clearly.

MS. VEST: So we'll just open it up for discussion perhaps.

MR. BAYNE: Okay. I just want to understand why the motion was made and seconded to close this. Why is this closing? I'm missing something here, I think, in other words.

MR. GENTRY: My recommendation was to close based on the fact this is going to be a difficult one to prove that he engaged in reckless behavior. The only evidence that there really is is the complainant's own testimony that this actually happened. There was no evidence provided by him. Respondent did provide copies of the police report. It's a very nasty he said she said in this case. It's going to be complainant's word versus respondent's word. Based on all of the facts that are presented it's going to come down to whether or not who is going to be more believable. And at that point it's still going to be a difficult decision to show that he actually engaged in this behavior.

MR. BAYNE: Thank you for that further explanation.

MR. VALENTINE: This is in Jonesboro, Arkansas, that it all occurred?

MR. GENTRY: Yes, sir.
MR. BAYNE: I will vote aye.

MR. VALENTINE: What other legal ramifications of being in Jonesboro, Arkansas, with a Tennessee PI?

MR. GENTRY: In which way? In the way that could we discipline him for activity that occurred in Jonesboro? Is that what you're asking?

MR. VALENTINE: Yes.

MR. GENTRY: I believe that we would still have the ability to issue discipline against him as a licensee because we're saying that he did engage in -- if we were to say he engaged in this reckless or dangerous activity.

There was also some statements by complainant that there may have been a carryover of the harassment into Tennessee. Again, there was no actual documentation on that, though.

MR. VALENTINE: Motion carries.

MR. GENTRY: Number three and four -- that concludes the new cases we had. Three and four are actually representations of previously presented complaints. I'll start with number three. These are both again related based on the fact that they are again a private investigator and his company.

2018025961 the previous recommendation of the Board was to authorize formal charges and to send a consent order with a civil penalty in the amount of $1,000 for violation of Tennessee Rules and Regulations 1175-04-.05, conflicts of interest, no licensee or employee of a licensee shall contract or cause to be contracted -- or contacted any individual under investigation for the purposes of revealing confidential information to that individual. In Tennessee Rules and Regulations 1175-04-.07, confidential client information, licensee shall not disclose confidential information without the specific consent of the client. That previous -- or when it was first presented, there were issues that the respondent had told the ex-husband of the complainant information and offered to sell it. We did get some new information, which was that the respondent had voluntarily surrendered his license on June 14th, 2019. He told disciplinary counsel that he has moved from the State of Tennessee, he is no longer engaged in the private investigation business, he has no intention on returning to said business.

We sent letters to him as well, and they have been returned. He had stated -- he had moved to the Virgin Islands.

The recommendation at this point is to close and flag it. His license will expire today, 2019039481, these are the same facts. The case is just made against the respondent's actual company versus the other one was against him as the private investigator. The recommendation for this one is also to close.
MR. VALENTINE: So we will flag both of his -- his PI license and his company license?

MR. GENTRY: That's correct.

MS. VEST: The gentleman did return his license, his PI license and his company license.

MR. GENTRY: That's correct.

MR. VALENTINE: He did, okay.

MS. VEST: He voluntarily surrendered it.

I'm still going to flag it, yes, sir.

MR. VALENTINE: Because he still owes $1,000, right?

MR. GENTRY: Well, that's what I was going to say, if he ends up -- because he did surrender his license -- I talked to Director Vest about this as well. If he were to come back and try to have his license reinstated, at that point he would have to address the complaint. But by closing and flagging it, it will stay there on his record in case he tries to reinstate his license or apply for a new one in the future.

MR. VALENTINE: Okay. Very good. Do I hear a motion?

MR. ROUSSEAU: I move that we accept the recommendation of counsel.

MR. JONES: I'll second it.

MS. VEST: That was Rick Jones seconded?

MR. JONES: Yes.

MR. VALENTINE: Moved and seconded. Any discussion?

(No response.)

MR. VALENTINE: Hearing none, all in favor say aye.

MR. BAYNE: Aye.

MR. BROWN: Aye.

MS. BREWER-JOHNSTON: Aye.

MR. JONES: Aye.

MR. ROUSSEAU: Aye.

MR. SHANKS: Aye.

MR. VALENTINE: All opposed?

(No response.)

MR. VALENTINE: Motion carries.

MR. GENTRY: Thank you. And that concludes all the cases on the legal report.

MR. VALENTINE: Thank you.

MS. VEST: Mr. Chairman, before we go any further we have a guest with us I would like to introduce you to, our new assistant commissioner Toby Compton.

MR. COMPTON: I'm Toby Compton. I'm the new assistant commissioner with the department. I've been trying to come and say hello to every board and commission as they meet. Chairman Valentine and I had a coffee this morning, got to know each other a little bit. I learned a little bit more about the industry and what was happening, and that was a pleasure. I've enjoyed working with Cody. If there's anything I can do to help assist you guys with the work you do in your industry, please, let me know. You can reach out. I look forward to working with you and doing anything, and I really enjoy state/government -- what work we all do together. So I look forward to collaborating with you in any way I can.

Are there any questions y'all have got for me or anything you would like to know?

(No response.)

MR. COMPTON: Y'all are simple. That's great. Please, feel free to reach out. I look forward to working with you in the months ahead, years ahead, and I'm sure we'll be in touch. Cody is...
great. She keeps me straight.  

MR. VALENTINE: Toby Compton, thank you for coming and appearing before us.  

MS. VEST: All right. I believe our other appearance here is Mr. Duncan. I believe it's Steven Duncan. We had talked to Mr. Duncan about the eye scanning. We talked about this at several meetings before, and I said, well, perhaps we can ask the gentleman to come in and give us a brief history of it, tell us what's happening in the future, what's going to happen with our PIs, or how it's going to affect our PIs. So, Mr. Duncan, would you mind coming up? If you would be more comfortable, you can take Mr. Flair's seat there.  

MR. DUNCAN: You tell me. You're the boss here.  

MS. VEST: Just go over there and sit in Mr. Flair's seat.  

MR. DUNCAN: That's fine.  

MS. VEST: And use the microphone there.  

MR. DUNCAN: This one?  

MS. VEST: Yes, sir. Make sure the red light is on.  

MR. DUNCAN: Right. Firstly, Director Vest, I appreciate you inviting me to come up. I want to take a couple of minutes of your time to just get a little background here so you know kind of what's going on. Former commission member, Jerry Richards, had approached me after Director Vest had talked with him about if he knew anyone or knew anything about ocular motion deception testing. And he really had not gotten involved in it, but he knew that I had. So he approached me, and I contacted Director Vest and she asked if I would come up and address the commission on it. And just real briefly, as far as my background so you kind of know where I'm coming from, I was in law enforcement and emergency services and so forth for about 35 years. I retired from the Georgia State Patrol over their polygraph program actually. I've been a polygraph examiner for over 25 years now and a licensed polygraph examiner and private investigator in Tennessee and a number of other surrounding states. After I retired, I've really gone to work I guess it seems like. So I wanted to let you know from that perspective. I'm also the president of the American Polygraph Association, and so I have some insights into things I guess from that perspective that others may not have.
validity, reliability, and accuracy in pupil change, actually getting larger. And that ties back, we think, to a couple of things. And there's disagreement in the field right now, not only in the ocular motion field but in the polygraph field as well, as to if it is truly fight or flight response or if it's a cognitive response, i.e., are we having to think more about lying than we do about telling the truth. And that -- that sort of makes sense to me. I'm not a physiologist or a psychologist either one, but it kind of makes sense to me it's harder to lie than it is to be truthful. So that cognitive may be part of it and the emotion of being caught in a lie may be part of it. That's sort of the thinking now and what the research tends to indicate although that is just theory.

Now, the latest research that has been published on ocular motion, I brought a copy in case anybody wanted to take a look at it. It was done by Dr. John Kircher. And Dr. Kircher is out of the University of Utah in Salt Lake City, and he has done a tremendous amount of research over the past -- I don't know how many years, years and years, many years, on deception, all kinds of things on polygraph and other things involved with detection of deception.

or to tell us if someone is telling the truth. And he's been heavily involved in it, and he and others got involved in a rather large research project in ocular motor deception tests. And his is the most current research I have, it was published in 2018.

Excuse me.

And just in a nutshell what they did is they took a relatively large sample group of people and they had some of them commit a crime, you know, steal some money and another part of that group not steal money. And then they tested them using ocular motion, and they used several different things. They -- and I mentioned earlier they came up with the most -- the most telling was pupil change size. They also tried time and answering -- in the same experiment they used time and answering and errors and movement, eye movement, and several other parameters, but the pupil change was the thing that they found that was most discerning of deceptive.

And, again, in a nutshell what they came up with on a specific issue -- I'll come back to that in a second -- is somewhere in the neighborhood of -- their lowest was about 82 percent and the highest was 86 percent accuracy.

MR. BAYNE: Wow.
Because a lot of the -- a lot of the interest in this was in being able to screen people faster and cheaper particularly in counterintelligence and so forth. That was one of the big interests of the federal government, that and prescreening of employees before -- you know, before the polygraph because it's much quicker, it's much cheaper, you don't have to train someone to the extent because it takes -- you know, it's -- the shortest polygraph schools that we have that the American Polygraph Association accredits is ten weeks. And some of them are 14 weeks. And then you have an internship and everything. So it's a pretty lengthy process to get a polygraph examiner. And then the instrumentation is expensive whereas this instrumentation is I think leased or rented. Sort of the take back I understand from this, though, is that you test the person with the ocular motion deception test and you send the results to the company and you pay them a fee and they -- or you send your data, I'm sorry, your data to the company, you pay them a fee, and they send you the result back. Deceptive or non deceptive. So what it does -- it's not polygraph. Because in polygraph -- and once again I'm a little biased here and I'll admit it. But polygraph you get a lot of information. Polygraph examiners are information gatherers. If many of you have used polygraph or been affiliated with it, like in preemployment screening or whatever, it's more important a lot of times to our client or whoever we're doing the exams for to get the surrounding information, whether it be from a legal perspective, either side, prosecution or defense, or from a -- you know, a potential employee or employer to be able to provide them with information on that subject so they can make a wise and informed decision, whether they should hire them or not, you know, to obviously negate negligent hiring suits and so forth. So it's a totally different thing. But it appears by the research Kircher did to work on this specific issue quite well, just a few points below polygraph average. Because polygraph now we're looking into the mid 80s, upper 80s to the mid 90s, in specific issue testing percentage-wise. And both, of course -- you know, we have to account for people that don't cooperate, people who give wrong answers, people that move or we have artifacts in the testing that won't give it. So, you know, it's -- it's worth looking at obviously to the federal government and others. I
don't think it's -- it does what polygraph does.

Again, I'll tell you, I'm probably biassed toward it with that being my passion. But it is a -- it appears to maybe have some validity and reliability, some viability in some applications, but not in the place of polygraph in my opinion. And that's Steve's opinion, Steve Duncan's opinion, on that.

So once again I have the research paper.

If anybody wants to take a look at it --

MR. BAYNE: Is that Kircher's research?


MR. BAYNE: Of course I would be interested.

MR. DUNCAN: I can tell you.

MR. BAYNE: Really, seriously.

MR. DUNCAN: If you're going to read it, allow a little time because some of it is a little dry, as much research is. But, yes, sir, if you want to --

MR. BAYNE: Can we somehow get it available to us?

MS. VEST: Yes, would you like to -- all of the board -- commission members, we can make you a copy that.

MR. DUNCAN: I just thought it might be interesting to --

MR. VALENTINE: If we could just get the website -- just get the website where we can have --

MR. DUNCAN: How about if I just leave this with you and you can copy this or scan it? Do you want me to just do that?

MS. VEST: I beg your pardon?

MR. DUNCAN: I'm sorry, Director Vest. I said, do you want me to just -- I'll just give you this. I don't need it. I've got it on my computer.

MS. VEST: Oh, okay. That will be fine.

I'll take that.

MR. DUNCAN: I'll just leave this, and that way it gives you the site on it and you can -- and all the --

MS. VEST: I can e-mail that to everyone.

MR. VALENTINE: Yeah, just send the site to everybody.

MR. DUNCAN: It references some of the other -- a number of the others. It's a good reference reference as well because it references some of the other testing and stuff that was done on

screening and so forth that didn't turn out.

And I will mention one other study that is not published. You won't hear about this because, again, I understand it was classified, not by us but by another country. But a lot of testing was done in

Columbia on -- testing what they call assets, people that are providing information and so forth. I wish I had written down exactly what I was told, but it was along these lines. It did not work well in that application. But I think there was some other confounds involved with language and education, educational level of some or their informants, not understanding the instructions and different dialects. And I think there were some other confounds that probably hurt it, but it was so bad that they never published or released the percentage results. And I think -- I think the project just didn't work as they predicted, and it showed worse than it probably performs because of so many -- you know, if you try to do research and it doesn't follow your parameters, then it's pretty worthless to anybody. It's not worth saying we only did 30 percent accuracy when it's -- when that's not accurate.

MR. VALENTINE: The Oak Ridge National Lab, is that experimentation or that investigation was ocular only?

MR. DUNCAN: I was told yesterday that there's also another method of detection of deception involved, but they've -- they wouldn't tell me what it is. I guess my clearance is not high enough.

MR. VALENTINE: How will we be able to get the results of that?

MR. DUNCAN: I would anticipate because there's so much eyes on this -- and the guys that are pushing this ocular motion, they are -- the eye detector people particularly, they're doing a hard sale on a lot of entities worldwide. They're really pushing it. Is his name Cuban that's financing and supporting? They're doing a hard sale all over the world.

MR. VALENTINE: You don't mean Mark Cuban?

MR. DUNCAN: I think, yes, sir. I don't know him, but he's involved with this and they've got a lot of financing and so forth. And they're promoting it actively worldwide for screening stuff. So the federal government is obviously very interested in it, and I think -- what I would -- and this is a prophesy, just based on what I've seen.
in the past. If they get that research done in the
fall, which I would be surprised, let's say maybe by
the first of next year, they will release it to the
Department of Defense to the National Credibility
Assessment Center and then they will probably release
it next summer. I would anticipate --
MR. BAYNE: An unclassified version of
it?
MR. DUNCAN: Right, right, right. And
some of it we may never see because some of the stuff
we never see. I've worked on a couple of projects
for them, and we're still forbidden from discussing
it just from a national security perspective. I hate
that, and I know everybody else does, too. But if
they tell you they'll put you in jail if you talk
about it, I don't talk about it. But I think they
will probably -- it wouldn't surprise me if they
didn't do a presentation at the American Polygraph
Association seminar next year. It would not surprise
me if they get the data back by then and are able
to -- because what they'll do is they'll take that
data and confirm it and so forth. So we're still --
it's still too new to really hang your hat on, I
think. And this is in Steve Duncan's opinion again.
But it may have some promise. I just don't know yet.

I would like to see that independent research and see
what Oak Ridge -- because they'll tell us exactly
like it is, and they won't pull any punches.
MR. VALENTINE: Well, thank you very
much. We appreciate you coming here --
MR. DUNCAN: Yes, sir.
MR. VALENTINE: -- and enlightening us on
all of this research.
MR. DUNCAN: I appreciate your time. And
if anybody has any questions, Director Vest has my
personal cell number and my personal e-mail. I meant
to bring some business cards here. But after sitting
in that traffic over there, I was a bit brain dead
when I pulled up out here. But she has both of my
personal contacts. And if you have questions on it
or something -- if I don't know the answer, I'll sure
try to get it for you because I know a lot of people
are heavily involved in this. And I'll try to get
any answers I can get for you or polygraph as well.
I'm always glad to assist the commission in any way I
can.
MR. VALENTINE: Director Vest, you'll
give us his --
MS. VEST: Oh, yes, I'll send that out to
you. Yes.

MR. VALENTINE: -- e-mail as well as the
website.
MS. VEST: Yes.
MR. VALENTINE: Okay. Very good. Thank
you very much.
MR. DUNCAN: And like I said, I'll be
glad to help you folks in any way I can.
MR. BAYNE: Quick question if I may?
MR. DUNCAN: Yes, sir.
MR. BAYNE: Is it simply -- is it as
simple as pupil size change, or is it pupil size
change and the direction.
MR. DUNCAN: What they said in the --
they looked at movement as well.
MR. BAYNE: As well as movement.
MR. DUNCAN: They don't want any
movement. And I know where you're going with that,
NLP, neurolinguistic patterning, I taught that for
many years. And now they're telling us it's not
accurate even though I've used it in hundreds of
cases. But what they found was -- and they looked at
the movement, they looked at the size change, they
looked at a number of parameters. It mentions
several of them in here. But the pupil size,
according to Kircher, seemed to be the most
diagnostic of --
MR. BAYNE: Diminishes for deception?
MR. DUNCAN: Getting bigger. I read that
again, and I think I understood that right. But if
you read it and I'm wrong, tell me because that was
kind of my understanding. Now, of course, that
wasn't pertinent to my discussion today so I didn't
look deeper into it. Change was the effector there.
But I guess I can kind of see that from my limited
expertise in physiology because when we tend to focus
on something or try to collect more information, a
fight or flight response, we know we get pupil size
change, larger, when we take in more light. Yes, so
that would sort of fit with my perception of the
physiological --
MR. BAYNE: Yes.
MR. DUNCAN: -- perception of either
cognitive or the fight or flight response. Both
maybe.
MR. VALENTINE: Thank you again.
MR. DUNCAN: Thank you all. I appreciate
it.
MS. VEST: I appreciate you coming in.
MR. VALENTINE: Director Vest, I think
we're ready for administrative matters now.
MS. VEST: Oh, yes, sir. All right. If
you would, we'll look under my section here. It's
the monthly reports that we sent out. We do have
March, April, May, and June, but I'm going to cut
right over to June. And actually it just tells you
about the meetings that Jesse and Ashley and I do try
to get together and have. And I have a meeting on
the finances with the assistant commissioner that you
just met. I have other meetings with him with your
information as well. But you'll see I still have
three commission members that are vacant. We have
Alan Rousseau, Rick Jones, and the polygraph where
Jerry Richards has left.
Yes, sir? Did you sign in, Mr. Duncan?
MR. DUNCAN: I didn't. I guess I need to
sign.
MS. VEST: Yes, sir. You don't need
continuing education if you're with the polygraph
commission.
MR. DUNCAN: But I'm both. I'm a PI as
well.
MS. VEST: Oh, okay. If you need
continuing education, sign, yeah, sure.
MR. DUNCAN: Sorry to interrupt.
MR. VALENTINE: Not a problem.

MS. VEST: I'm sorry, excuse me. The
three vacancies here, the open one for the polygraph,
of course, was Jerry's, Jerry Richards' position. We
have received numerous names for people who would be
interested in serving on the commission, and it's
going through the necessary process. Hopefully we'll
have new people appointed soon. That takes care of
that one.

Now, let's go to the budget review.

Excuse me. At the end of May you were in the red
$5,356. You do not have your June totals there. You
will have -- I will receive the June totals. And now
we'll also be receiving the year-end closure totals.
As soon as I get this information, I will send it out
to the commission members that are waiting for a
meeting. I'll send it out. Hopefully June's will
show that we can come out of the red. If we do not
come out of the red, this is your second year. We
will be set for a -- we will have to probably attend
a sunset hearing, and it will probably be all board
members will be brought in.

MR. VALENTINE: Oh.
MS. VEST: This would be a big one. If
you have -- we've previously talked about ways that
perhaps we could increase this budget. About the
only way we can is more people coming in, more people
renewing. I gave you already a printout of a
seven-year spread that we went out and looked. It's
not a big decrease, but it's -- as you can see, every
year has decreased. And unfortunately what you have
there for this year is just for six months. And for
us to come out even with last year I think we need at
least another 70 people apply. That's probably --
probably not going to happen for the rest of the
year. I'm not sure, but we've got our fingers
crossed. But I wanted you to see that because you
had asked me before how the surrounding states, which
I am doing that again, another study, a little bit
more in depth, and asking about the fees that they
are charging, how many people. I'm having to use the
resource for our answer because some states you have
to do a public records request. It gets a little bit
more difficult. We're more open to give information
apparently in the State of Tennessee. So I'm trying
to do that. I've got two people that are working on
that now, so hopefully I'll have that information to
you. I'll go ahead and send it out to you in advance
before the next board meeting if I get all that
information together just so we can see what we're
looking at. But all of it is really going to hinge
on what the budget is going to be, what it's totally
going to end up with.

If you don't have any questions about
that --
MR. BAYNE: I have two.

MS. VEST: Of course you do, Mr. Bayne.

What can I help you with? I could tell by looking at
you.

MR. BAYNE: If you were -- if you were to
look at this trend line, how does that look in the
other professions, the other regulated professions.

MS. VEST: I can only tell you what mine
look like.

MR. BAYNE: That would be great. Is it a
similar trend line?

MS. VEST: No, sir.

MR. BAYNE: It is not?

MS. VEST: No, it is not. Security
guards are quite healthy as could be expected. A lot
of them are renewing instead of -- we used to be --
our bread and butter used to be the applications, now
it's the renewals. More people are keeping the job
once they obtain the job, that trend is.

MR. BAYNE: That makes sense.

MS. VEST: Alarms, no, sir, that
profession is very healthy. They have registered
employees, and that's really where we would get our
money from is the registered employees. A lot of the
companies have purchased other companies or they've
combined or whatever, and it's quite healthy. This
program is the only one that I have that's not
self-sustaining.

MR. BAYNE: The second question is: Is
this program the only program which has not raised
its fees in 13 years?

MS. VEST: Private Protector, which is
our security guard, has never raised their fees. And
they've been in business since '88, '89, '90. They
have never raised fees. I have taken a look --
that's why we're doing it to the other states --
about raising fees. I didn't mention that because
I've mentioned it before. You don't raise the fee to
prohibit people coming into the industry. We would
raise the renewal fee.

MR. BAYNE: Yes.

MS. VEST: How high would I have to raise
the renewal fee is the question.

MR. BAYNE: I see.

MS. VEST: And is that going to take care
of the problem two years from now, three years from
now, four years from now. That's what I'm trying to
look at the overall -- maybe in the next ten years is
what I'm trying to do, take a look at where we're
going to be at then.

MR. BAYNE: I understand. I just
remember in an earlier meeting in which we
acknowledged that we had not raised renewal fees in a
very long time.

MS. VEST: Very long time. And I also
remember that meeting to where I don't think all the
commission members were in agreement for raising the
renewal fee. They talked about the application fee.
But with this administration or perhaps any
administration maybe that would be prohibitive of
people coming into your industry, making the fees
higher. That's why I'm trying to do the fee
comparisons with all the other states.

MR. BROWN: Something we talked about
before, internet is killing us. You can do so much
investigative stuff up there. People are doing it,
licensed or not.

MS. VEST: I would like to ask you on the
record if you do have any suggestions please send
them to me, perhaps how we can get more people in the
industry, perhaps by raising the fees if you've done
your own study or whatever. I would like to see this
profession continue. Perhaps it can be placed with
another program such as Private Protective Services.
That may take a change on the hill because you're a
commission and that's a commissioner run program.
But that's something that I'm looking into.

Yes, sir?

MR. VALENTINE: Director Vest, I was on
the PI commission in Indiana for several years, and
their staff director, Amy Hall, was very cooperative.
And they only licensed the company, and currently
they have 425 companies in Indiana, $300 initial fee
and every three years another 300 renewal for three
two years. The company then does their own hiring of
applicants and their own backgrounds and submit them
to the commission, which I thought was interesting,
to hold them accountable. They -- wherever they've
lived for the past seven years they have to do an
arrest check, the applicant does, and provide that to
the company. And then the company then provides it
to the commission.

MS. VEST: And they can sustain that?

MR. VALENTINE: Yes.

MS. VEST: Okay. That was Indiana,
MR. VALENTINE: Okay.

MS. VEST: So I've got to have your input. It's your profession.

MR. BAYNE: You'll get it from me.

MS. VEST: All right. Thank you.

All right. Legislative update, I don't believe we have any legislative update.

Application reviews, we don't have any education reviews.

MR. VALENTINE: You mean application.

MS. VEST: Application, I'm sorry.

So let's go down to correspondence.

Exhibit A is Gary Lamb, L-A-M-B, of Lamb Investigations. This was a question. I have a question that has come up from one of the attorneys I work with. I worked a conspiracy case last year, and my client on a drug conspiracy was able to work out a plea deal. He pled and went on to do his time. I was approached by a different attorney to work a new conspiracy, new docket number, which I have discovered is a later roundup of the same conspiracy. I have spoken with the first client who has no knowledge of this new guy. The question is: If I get a letter from the original client stating that he -- that it's okay for him to work on this other.

MS. THOMAS: Right. It would have to be all interested parties, so probably both sides of it.

MR. VALENTINE: So he just needs to get a letter from his client stating he doesn't have a conflict. Otherwise if he does it with just one, he could be missing the boat here. It could be bad.

MS. THOMAS: That's why he's asking the question, I believe, because now he finds out that it's related back to the first case he was working. Mr. Brown: And that's quite probably a conflict.

MR. SHANKS: And is he appointed by AOC?

MR. BROWN: That's what we don't know.

MR. SHANKS: And is he appointed by AOC?

MR. BROWN: That's what we don't know.

MR. SHANKS: So it sounds like conflict to me.
MS. VEST: Right. That's the point that really interested me.

MR. BAYNE: I hope someone is listening.

MR. BROWN: I can think of one or two right off the top of my head.

MR. JONES: I know Byron is --

MS. VEST: Okay. So what I'm going to do is contact Mr. Lamb and tell him that he would need a letter from the attorney and from the defendant in the first case that says it's okay for him to work the second case.

MR. VALENTINE: Yes.

MR. BAYNE: Not that it's okay but there is no conflict.

MS. VEST: Excuse me. No conflict.

MR. SHANKS: Hey, Cody.

MS. VEST: Yes, sir.

MR. SHANKS: Could you send him a list of all the private investigators in Knoxville?

MS. VEST: Yes, sir, I sure could do that.

MR. SHANKS: I'm just kidding. He can look it up on the website.

MR. BROWN: I can think of a bunch of them.

MS. VEST: We decided before if he's going to cross lines in investigative services. We've had this before. We've had this before.

MS. VEST: Yes, sir.

MR. VALENTINE: What did we decide before?

MR. VALENTINE: We've had this before.

MS. VEST: Yes, sir.

MR. VALENTINE: What did we decide before?

MS. VEST: Yes, sir.

MR. VALENTINE: We've had this before.

MR. BAYNE: The letter could remind the individual that there are resources that can be accessed with a little bit of investigative research.

MS. VEST: I will be talking to Mr. Lamb personally about that.

MR. BAYNE: That would be fine.

MS. VEST: If he has those kind of questions, perhaps there should be someone else that he could go through or his attorney could or whatever. But that's why I brought it to you is because you know more about that than I do.

Okay. The next one here is a little different. This is Exhibit B. Well, I spoke to this gentleman this morning, Mr. Michael Frawley, F-R-A-W-L-E-Y. It's -- he's saying he just got off the phone with Ms. Gabriel (phonetic) and discussed his company, KPMG, being allowed to offer assets location services to our clients. They feel like that they are exempt under 62-26-223(a) because they are a CPA firm. Well, that's what that exemption is, a CPA firm. So I'm going, I don't exactly understand what he was trying to ask me. So when I called him, it kind of stuck in my mind. I had this ready for you today. I said, well, maybe I misunderstood what he said, so I called him. So what they're doing is doing PI work, even though they are a CPA firm, they need to be -- they need to hire a PI in their CPA firm to do this. Certified public accountant is unclaimed properties getting paid to locate moneys, something a CPA firm does? I don't know. So that's why I brought it to you.

MR. BROWN: I feel like it should be a licensed PI.

MR. JONES: I think so, too. There's going to be certain aspects of that where they're going to cross lines in investigative services.

MR. ROUSSEAU: Do we have an opinion from our attorney?

MS. THOMAS: Well, my honest opinion, if they are exempted and they are operating under their accountancy firm, they are exempt. And at that point, if -- if the commission is saying they are exempt, then we can't require them to hold a PI license under that firm. So like when Cody said if they're going to branch out, if they're going to become KPMG Investigations, of course, that would be a different arm of it that would need a license. But if part of their business is to research this unclaimed property, I think that would still fall under the exemption. That's my opinion.
MR. VALENTINE: And locating the people that own it, that would require some research.

MS. THOMAS: Right. That's why I said I guess it matters how they -- how they've structured it. If they're still operating and doing all of that as an accounting firm, statute says that accounting firms are exempt from our regulation. If they've structured it as something separate, if they can contact KPMG solely for investigating this property and recovering this unclaimed property, I think that looks more like investigation.

MR. BAYNE: The TCA has an additional part to that, 223(a), the phrase is -- I'll read the whole thing. Quote, this part does not apply to exceptions, this part does not apply to a public accountant and a certified public accountant or the agent of either performing duties relating to public accountancy. So it seems to -- the question is: Is this public accountancy?

MS. THOMAS: Is it relating to public accountant.

MR. BAYNE: Yeah, I see your point.

MS. VEST: They are. Their company is fine.

MR. SHANKS: And accountants have to be licensed in Tennessee?

MS. THOMAS: They do.

MS. VEST: They are. Their company is fine.

MR. SHANKS: Oh, okay.

MS. VEST: It's not a problem. I did check that.

MS. THOMAS: So I think that's probably the more accurate question for the commission is an accountancy firm researching unclaimed property, is that related to public accountancy thereby they would fall under that exemption.

MR. VALENTINE: What does the Board think?

MR. BROWN: I think they're reaching out and extending themselves beyond what's normally thought of as a CPA.

MR. JONES: Yeah, but to what lengths will they go to find someone and what methods would they use?

MS. VEST: Now, what we can do since the board meeting will be so far out, I can have an informal, bring in the chair or whoever would volunteer that, and ask them to come in and talk to us about it --

MR. BROWN: That's fine.

MS. VEST: -- one-on-one to get an idea if you feel that's necessary. But that's one step we can take, or we can ask them to wait for an opinion until the next board meeting and come in and address what they do, however you want to handle that. Or we can tell them it's fine.

MR. VALENTINE: Or that it's not fine, they have to have a license.

MR. ROUSSEAU: Maybe we can recommend to the chair that we ask the director to call them and come in, meet with representative of the Board and the director and get some more clarification on their procedure.

MS. VEST: Yes, it could just be myself, the attorney, and one of our board members for the informal to get a better understanding of what they
MR. ROUSSEAU: Does that need to be in the form of a motion?

MS. VEST: Yes, sir.

MR. ROUSSEAU: I would like to move that we direct Cody Vest, the director, to contact the company and ask them to come in for some additional information and meet with the executive staffing or representatives.

MR. BROWN: I second that.

MR. VALENTINE: It's been moved and seconded. Any further discussion?

(Mr. Valentine calls for the vote.)

MR. BAYNE: Aye.

MR. BROWN: Aye.

MS. BREWER-JOHNSTON: Aye.

MR. JONES: Aye.

MR. ROUSSEAU: Aye.

MR. SHANKS: Aye.

MR. VALENTINE: All opposed?

(No response.)

MR. VALENTINE: Motion carries.

MS. VEST: All right. I can do that.

I'll get that set up for you.

MR. VALENTINE: Okay.

MS. VEST: All right. Now, we're going to go to the education report. We had our education meeting this morning. And I believe all the case -- all the education that we reviewed was approved.

I'll have to spell this again. H-A-N-W-H-A, T-E-C-W-I-N America was approved, that course. Specialized Investigation Consultants was also approved. Administration Office of the U.S. Courts Defender Services Office Training Division approved for three different individuals.

D-E, V-A-N & Associates was also approved.

The Tennessee Division International Association of Identification was approved.

And the Tennessee Association for Professional Process Service was approved.

I talked with the education committee and explained to them that we have the capability now on our computer system to list these courses and give them an actual course number. They were broken down into two categories out on the internet. The private investigator could go out and see who their provider is that's been approved. And then down here at the bottom, the second part of that, is where we put the individuals that were just approved for their particular course. This will help the PIs for their continuing education credits. Do I have a vote? Can we do a vote, Mr. Chairman?

MR. ROUSSEAU: One addition.

MS. VEST: Yes, sir.

MR. ROUSSEAU: We did pull the Awana (phonetic) Technical Training. That got mixed up.

MS. VEST: Yes, that was an alarm course.

We did remove that. The education committee did.

MR. VALENTINE: We also approved the personal credits for Robert Schoeberl --

MS. VEST: Yes.

MR. VALENTINE: -- for Martin Methodist College and Nova Southeastern University for 12 hours.

MS. VEST: Yes.

MR. SHANKS: I make a motion we accept.

MR. ROUSSEAU: Seconded.

MR. VALENTINE: Moved and seconded. Any discussion on the education committee?

(No response.)

MR. VALENTINE: All in favor say aye.

MR. BAYNE: Aye.

MR. BROWN: Aye.

MS. BREWER-JOHNSTON: Aye.

MR. JONES: Aye.

MR. ROUSSEAU: Aye.

MR. SHANKS: Aye.

MR. VALENTINE: All opposed?

(No response.)

MR. VALENTINE: Motion carries.

MS. VEST: As I told the education committee, you'll -- as we have these board meetings and more and more of these come up, I'll be bringing them to make sure -- to get your vote on that. And then as we put them on the computer, the office staff will be able to look at the list just like the private investigator can and we'll them approved as quickly as possible.

MR. VALENTINE: Okay. So you'll approve them and just notify us of which ones you have approved?

MS. VEST: No, sir. What I meant was once you approve these courses and I get them out there if I want -- if I'm a PI and I want to do a renewal, I'm going to go out there and look at this course and I'm going to take it and then I'm going to send the paperwork in to my office and we'll go ahead.
and just approve it because it's an approved course.
MR. VALENTINE: Okay.
MS. VEST: If that's all right.
Okay. It looks like we have some --
MR. VALENTINE: Any unfinished business?
MS. VEST: Yes, let me get to my paperwork here. And we certainly appreciate Mr. Duncan coming in to talk with us. I did have quite a few questions for the gentleman, but I figured I maybe need to read the material before I -- one question was: Is there a difference in doing a male versus a female with the polygraph?
MR. BAYNE: Fair question.
MS. VEST: Maybe do our eyes differ?
Like he was talking about the size of the eyes. We know gentlemen usually don't tell as much truth as women do, so I was just wondering. I couldn't resist that.
MR. BROWN: Move her out of order.
MS. VEST: I was just wondering.
MR. VALENTINE: Is that from experience?
MS. VEST: No. I always tell the truth.
Let me go ahead and let Ashley do -- she has a presentation for you under new business.
MS. THOMAS: So under Governor Lee's executive order number five we are required to do a refresher course on the Sunshine Act for all of our boards and commissions. I believe Cody and her staff sent out to you a PowerPoint presentation to that regard, so I'm just going go over it really quickly. The biggest thing is everything is an open record. That includes e-mails, photographs, any documents that we hold. If I get a public records request, that is something that can be distributed or provided in response to that.
As far as public meetings, any meeting of a governing body is considered a public meeting. A governing body is defined as two or more members. This is not to say that you all cannot go to lunch together, you won't be at the same association meetings together. But if that chance meeting, if it starts to turn into a discussion or deliberation about board business, that technically is a public meeting. And it would have to be noticed before any of that board business could be discussed. The only meeting that is not considered a public meeting would be an executive session, and that's very specific. That's between the commission members and the attorney. If the commission is under lawsuit or under threat of lawsuit, then that gives the commission an opportunity to talk to their attorney outside of the public in relation to that lawsuit.
For those public meetings, as we know in this commission, we've done it a couple of times, electronic attendance is allowed. But once that's done all votes must be a roll call vote. I know we've done that a couple of times with this commission. And if we're using electronic attendance to reach a quorum, at that point I would have to file a statement of necessity. And that's something Cody and I would discuss before the commission meeting. The public does have the right to attend all of our public meetings, but there's not necessarily a right to participate. So they can attend all of them, but it's up to the chair and the commission whether or not they can be placed on the agenda to be heard.
The public meeting notice has to pass a three-prong test. The first being that the contents must reasonably describe the purpose of the meeting. I believe Cody does that by publishing the agenda. That agenda must be posted at an adequate time for advanced notice. I know she puts the meeting dates up about a year in advance. The specific agenda for that month meeting is about a week before the meeting. And then it must be posted in a location where the public can access it. And I know she publishes that on the website, like I said, a week before. And then the agenda is outside the door on meeting days.
Any violation of the Sunshine Act or the Public Meetings Act, it would nullify any decision that the Board has made. All that commission action, all those costs would be assessed against the annual budget, and those decisions would be null and void and we would have to hold another public meeting and go over that again.
And the final part that I wanted to point out to the Board refers again to the North Carolina dental case that just sets forth that the Board or Commission could not engage in any anticompetitive practice. And they have to -- any board action must include active state supervision. And the way the Department has implemented that is we do have a policy director who reviews all of our board meetings to determine that the action the Board is taking is not being anticompetitive in any way.
So like I said, we did just have to refresh the Board and Commissions on all of that. So I thank you for your attention.
MS. VEST: Well, thank you, ma'am.
MS. THOMAS: Uh-huh.

MS. VEST: I appreciate that. Does anybody have any questions about that?

(No response.)

MS. VEST: That's what we just talked about, the e-mail that I had gotten, when I said we'd have like -- I refer to it as informal. There would be one commission member and myself and the attorney and the individual that sent in.

MS. THOMAS: Uh-huh.

MS. VEST: We would be meeting ...

MS. THOMAS: You would be in compliance. Thank you.

Okay. Any questions?

(No response.)

MS. VEST: If we don't, we'll just move on to the last thing that I've got. What it is under new business B is actually the website for anyone to go and apply that wants to be on the Commission on any commission or any board. This is the website where they would go out to and fill out the actual application. The way that I understand that we're doing it now is, for instance, if someone says I'm interested in being on your commission and I'll say great, they'll send me an e-mail. I'll vet the individual, we'll look and see if -- when the individual became licensed, how long they've been licensed, does that individual have complaints. I don't run a background check because that's already done because the individual is going to have to be a PI or a polygraph person, so it's technically already done. So I would get all that information together, I would send it to AC Compton who would send it through the necessary channels, and it would go up to the hill to the actual governor for the appointment or committee or whoever.

As far as Jerry Richards' position is concerned, I do have quite a few polygraph people that are interested. I've already vetted them. The names have already been submitted. Hopefully this new process that we're doing will speed up the appointments. And we -- we appreciate our board members whose terms have expired but then continued to serve.

And actually that's all I've got, Mr. Chairman.

MR. VALENTINE: Very good. Do we have anyone appearing for the continuing education participation forum?

MS. VEST: Not that I'm aware of.
CERTIFICATE

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COUNTY OF DAVIDSON

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My Notary Commission Expires: 12/16/2019
LCR #528 - Expires: 6/30/2020
applicable 9:8
applicant 55:19
applicants 55:15
application 43:10 54:12
57:10,12,13 77:22
applications 41:5 52:21
apply 25:20 51:8 65:14,
15 77:19
appointed 50:7 59:22
appointment 78:10
appointments 78:17
Approach 11:25
approached 30:5,9
57:21
approval 16:8 17:4
approve 4:2 8:2 13:16
16:15 17:6 72:17,21 73:1
approved 3:25 4:16,19
7:2,7 8:6 10:13 13:9,10,
16:24 14:11 70:6,8,10,
12:14,16,18,25 71:2,12
72:15 73:1
approximately 15:9
April 49:4
area 58:4 60:22 63:8
arenas 36:3
Arkansas 18:1 20:24
21:3,19,21,22
arm 64:22
arrest 55:19
arthritis 40:23
Ashley 49:6 73:23
aspects 64:10 66:18
assessed 76:8
assessment 31:13 36:8
37:2,3,23 45:5
assets 9:13 43:6 62:17
assist 28:12 46:20
assistant 17:14 28:2,5
49:8
Associates 7:14 8:9
70:13
association 4:2 9:20
13:21 30:23 31:3 39:11
45:19 70:16,17 74:15
attempting 18:14
attend 50:19 56:7 75:12,
14
attendance 75:5,8
attention 76:24
attorney 18:18 56:5
57:21 58:8 59:5,9,12,13,
15 60:9,10,15 61:9 62:9
64:13 68:24 74:24 75:1
77:8
attorneys 56:5 57:17
authority 8:2
authorize 23:25
automatically 4:8 5:2
10:13
average 40:18
Awana 71:8
aware 78:25
aye 16:18,19,20,21,22,
23,24 19:15,16,17,18,19,
20 21:1 22:10,11,12,13,
14,15,16 23:8,9,10,11,
12,13,14 26:8,9,10,11,
12,13,14 27:12,13,14,15,
16,17,18 69:15,16,17,18,
19,20,21 71:24,25 72:1,
2,3,4,5 79:15,16,17,18,
19,20,21

B
back 4:25 5:1 13:25
25:16 33:2 34:21 35:24
38:9 39:17,23 45:20
59:19
background 30:3,12
78:4
backgrounds 55:15
bad 43:15 60:13
balance 56:24
based 20:8,16 23:22
32:9 44:25
basically 63:5
basis 32:7
Bayne 3:16,17 5:25 8:8,
13,14,18 9:3,7 10:3,6,15,
24 11:13,16,19 12:1,4,
14,18 13:3,6,11,17 14:4,
14,22,23 15:16,17 16:12,
19 19:23,24 20:3,21
21:1,24 22:11 23:2,9
26:9 27:13 34:25 37:6,19
41:10,15,18,23 45:7
47:8,10,15 48:2,16 52:5,
6,9,14,17,24 53:8,20,23
54:5 57:6 60:25 61:3,13
62:1,6 65:12,22 69:16
71:25 73:13 79:16
beg 42:10
begin 59:14
beginning 5:10
behavior 19:1,3 20:10,
20
believable 20:18
bias 38:3
biassed 40:1 41:2
big 37:18 38:7,12 39:5
50:23 51:4 58:4
bigger 48:3
biggest 74:6
bill 26:23
bit 28:9 46:13 51:13,17
62:3 67:15
blue 10:12
board 14:9 23:25 28:6
31:8 36:19 38:18 42:1
50:20 51:23 56:9 66:12
68:5,13,20,24 72:10
74:18,20 76:7,13,14,16,
19,20,23 77:20 78:17
boards 74:3
boat 60:13
body 74:12,13
boss 29:16
bottom 7:3 71:1
bound 38:3
brain 46:13
branch 64:20
branching 63:7
bread 52:21
breaks 10:4 12:18
Brewer-Johnston 15:14,15
16:21 19:11,13,
17 22:8,13 23:11 26:11
27:15 69:18 72:2 79:18
briefly 30:11
bring 46:12 68:6
bringing 13:25 72:11
broken 70:22
brought 33:18 50:21
62:10 64:6
Brown 3:8,9 6:1,12,22
7:9,11 9:15,17,23 10:22
11:20 14:19,20 15:22,23
16:20 19:9,16 22:4,5,12
23:10 26:10 27:5,14
25:18 54:9,8,20,23 60:1,
8,20,23 61:4,24 63:12
64:7 66:14 67:14,18 68:9
69:10,17 72:1 73:19
79:17
budget 7:24 50:9,25
52:1 76:9
bunch 61:24
Bureau 9:21
business 24:19,20
26:19 27:3 31:23 46:12
53:13 64:23 73:5,24
74:18,20 77:18
butter 35:6 52:21
buy 32:1
Byron 61:6
C
calculations 38:15
call 3:4 15:11,13 43:6
called 62:22,25
calling 18:22,23
calls 67:17
Cambridge 41:13
canceled 14:25