

Mr. Farris: Mr. Chairman I think there is a distinction and I am not sure, Don what State Police is doing, I think what we have here is third party certification that has to be obtained in their basic class. Which is a little different than Black River. I am assuming you will still have 70% on some of your tests.

Mr. Shults: Oh, yes.

Mr. Farris: You are just talking about third party certifications that demand something above that.

Mr. Shults: Yes.

Mr. Farris: So that is why it is specific to Black River.

Chairman Harrison: A motion is on the floor for the test scores to remain the same at ALETA.

Commissioner Morris: I second.

Chairman Harrison: We have a motion and a seconded. All those in favor, (All commissioners vote aye.) Any opposing? None opposing. Steve thanks for bringing that to our attention. This is something we are going to have to watch. As Mr. Farris said in the future. Our scores will have to remain the same at this point and time.

Mr. Shults: But we are OK to require higher?

Chairman Harrison: Absolutely.

Mr. Shults: Thank you.

Mr. Farris: Mr. Chairman, if I was not clear, our third party certification in our basic only requires 70%. That is why it was a non-issue.

Chairman Harrison: **ITEM VII** Chief Jim Wozniak of the Bella Vista Police Department wishes to address the Commission in regard to the dismissal of Scott Vanatta from ALETA Northwest Class 2008-A. This dismissal was the result of obtaining and possessing answers to an examination prior to taking the exam. Is Chief Wozniak here?

Chief Wozniak: Yes sir.

Chairman Harrison: Come forward please sir. Chief, will you state your name for the record and you may proceed with your request to the Commission.

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Chief Wozniak: Jim Wozniak, Chief of Police, Bella Vista. I would like to read a few statements and open up to questions. Scott is here and you can question him if you need to. I have no knowledge what kind of background you people have on this case. I don't know what you have been given prior to. So just let me go ahead and do briefly some of the circumstances behind this. Then I will read a prepared statement and then you guys can take it from there. Basically what happened, to my knowledge, on the Wednesday before an exam, an instructor left the test answers on the podium. He left the room. One or two individuals went up to the podium and started copying down the answers. A third individual was standing by the door watching guard for the instructor to return. The instructor came back and everybody sat down. The individual who took the answers sat in front of Vanatta and he handed a copy to Vanatta and he looked at it briefly and handed it to another individual. Later on, that individual gave it back. Later that evening Vanatta destroyed it. A couple days later, they had the test. Before the test two individuals had actually taken the answers and written them in a booklet that they are allowed to take into the test. Vanatta did not do this. He sat in the corner and did not take any books in. And just took his test. Later on that day it came out that the test answers were obtained and moved around the classroom a bit. As a result of that an investigation was started. Later that afternoon, Vanatta and three others were dismissed from the academy. Given the two-year penalty before they could reapply. That is pretty basic as to what went on. Scott in fact did not take the answers but did in fact have access to them. So I am going to read a couple things to you. Like I said, Scott is here. And he can answer questions. I can talk to you also. Why I would like to do all this today is I am holding a spot for him. I can only hold it through today. If it is possible I would like an answer if I can get it. This is a letter from Scott to Director Scrivner of the Northwest Academy; Scott contacted me that night and told me he had been bounced from the academy. And he gave me some circumstances. I told him, "Hey, it can't hurt but you need to go back on Monday morning and get on your hands and knees if you have to, but ask to get back in." He did that and this is a copy of the letter that he took in with him that morning. "I am a very proud man, but not too proud to admit it when I am wrong. My grandfather and father were police officers. I want to make them proud. Being a police officer is my dream and I realize how close I am to losing that. I humbly request that you reconsider my dismissal from the program. In the past nine weeks I learned so much from you, the instructors and my fellow students. I don't want all that time away from my wife and daughter to have been for nothing. I worked so hard to get to where I am today. I am blessed to have a family and department who believe in me whole-heartedly. And it kills me to think that I have let my family and department as well as my fellow students down. Please sir give me a chance to prove myself to you and everyone else. I promise I did not cheat on that test. If it takes retaking last week's test or even the last nine week's test to show you that I have earned my grade, I am willing to do that. Sir I admit I had the answers. I could have cheated but I didn't. Last Thursday was the same as the past days. My wife helped me study for three hours. I was prepared

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and I assure I earned the grade I received. I studied and I have not missed any classes. I apologize for putting you in the position you are in. Please do not give up on me. I will show you a honest hardworking man and the police officer I am and will be.” That is what Scott read to Mr. Scrivner. These next couple pages are presentation to the Commission. “Thank you for the opportunity to speak to you today. I am not here to tell you that Scott Vanatta did not do what he has been accused of doing. He did in fact have the answers to the exam. And by his own admission, passed them on to another classmate before he destroyed them. The fact that he did not take them into the test and he claims he did not memorize the answers really means nothing. Whether he used them or not means nothing. He still had possession of them and made no attempt to advise instructors of how he obtained them. He did in fact do what he is accused of. For all intents and purposes illegally possessed the answers to the exam. During the course of checking into the circumstances surrounding this situation, I asked Director Scrivner for copies of written statements provided by the students in this particular case. After receiving them I called and asked for additional information. I asked for better copies of four of the statements. A list of those who received letters of reprimand in their file, if any. And I also asked for copies of reports of the officers who investigated this case. I asked for all this information at the end of May. It arrived in the afternoon of July 2<sup>nd</sup>. I have learned since then that he did not have a whole lot of control as to when he got some of the reports from some of the outside investigators. Anyhow it did not contain all that I had asked nor did it have any explanation of where the other items were. Having this information would not have changed my coming before you today. I am just trying to ascertain that a thorough investigation was conducted. Of the forty statements that I did receive, about half had comments that the students knew about the incidents and no one came forward until after the test. This included some of them being class leaders. Also according to the statements, a student was caught making copies and handing them out. This person was not dismissed from the class. I have no knowledge for sure of what was on that but he copies were made the morning of the test and were very secretly taken out of the room and handed to certain individuals. Other agencies whose officers were included were called to help investigate or at least made aware of the situation early on in this investigation. This was one or two in the afternoon. It was five forty five when I was advised for the first time and by six forty five it was all over. My being here today is not to deny the crime but to appeal the punishment. Black balling Scott Vanatta for two years is like giving him the death penalty. Very few of any, agencies will ever touch him again. The fact that he was dismissed and the fact that he will have to start over is enough. He has to live with that every day. If and when he gets back into law enforcement, every time he writes a citation, and goes to court, this will come up. Lawyers, judges and prosecutors will treat him differently. He will have to prove to them and everyone else that he has made a mistake and an error in judgment and did something incredibly stupid and naïve. I am willing to give him a second chance. I am willing to take any criticism that comes my way. Bella Vista is probably the only place willing to give this young man a chance to redeem himself. I have spoke to all my staff officers and

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they are all willing to take a chance on Scott Vanatta. I am sure there are some people, maybe a lot of people in this room, who did things that they are not proud of in their lives and careers but someone tried to take them under their wings and tried to mentor them and give them that second chance. The opportunity to right a wrong, a chance to learn from his mistake. I have a lot of money and time already invested in this man. I hired him in February and depending on how this turns out, the earliest I could use him is Christmas. Good men are hard to find, hard to come by. Fifty people applied for this one opening. Only six were brought for interview and four made it past that process. Even with this situation, I believe this is one worth saving. He is learning one hell of a lesson going through this. I believe we will make him a better person and officer as a result of it. And some of your options, I see some of your options, am I am sure there are more. One is of course, let the suspension stand and he is out for two years. Another is possibility return to the academy and finish the last three weeks. And the last and the one I am hoping for, is let him attend the next available class in Camden. This last action is the one I am hoping for today. Have him attend here and attend the next class that starts in September. Attending here you can watch him and see what kind of person he is and how good officer he can become. Because even after the two years, if that is the way this goes, after two years, he is going to walk into a police department and they are going to have Scott Vanatta and John Smith and they are going to be even. Vanatta doesn't have a chance. He is done. As long as he stays here. He is out of law enforcement. Unless I can get him back in now. Thank you. And Scott is here if you want to question him.

Chairman Harrison: Any questions from any of the commissioners? Mr. Vanatta would you come forward? State your name for the record.

Mr. Vanatta: Scott Vanatta.

Chairman Harrison: Do you have any comments to add to what the Chief has already revealed to the Commission?

Mr. Vanatta: No sir, he has said it all.

Chairman Harrison: Any comments or questions for Mr. Vanatta or Chief Wozniak?

Commissioner Reeves: How many was in your class?

Mr. Vanatta: Forty, sir.

Commissioner Reeves: How many people got the test scores? How many took the answers?

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Mr. Vanatta: How many people had copies of the answers? I don't know. Everyday I found out that more and more people had them. I know there was four of us and there were a few others that had copies. But I cannot answer that honestly, sir.

Commissioner Russell: I keep seeing in here where you were the look out. Did you know that that was what they were doing?

Mr. Vanatta: I was the look out?

Chief Wozniak: He wasn't the lookout.

Commissioner Russell: Maybe I am reading it wrong.

Mr. Vanatta: John Statts was the lookout. Deputy Porter asked me to assist him and I told him no. I left the room and told another friend that is from Benton County what he was doing.

Mr. Bolton: Mr. Chairman, it might a lot easier for the Commission if the Supervisor from the Northwest Academy was allowed to speak. He could clear up a lot of the questions that these gentlemen can't answer.

Chairman Harrison: I was going to give the opportunity first. Do you have any comments?

Mr. Farris: I think obviously if the Commission has any questions of my final action I would be glad to address the Commission. If there are any questions of what the investigation resulted in I think Supervisor Scrivner and also Instructor Wood is here also if the Commission would like to ask them any questions.

Commissioner Reeves: What was your grade point average up till then?

Mr. Vanatta: Grade point average? I never made below an eighty-five. I made 100%.

Commissioner Lester: I have a question, I am trying to read this pretty thoroughly, and I have to make myself a little flow chart here. Porter copied the answers. Then he gave the copies to you and Jefferson.

Mr. Vanatta: He gave copies to me and some other people. Jefferson I didn't know about until after the test.

Commissioner Lester: This is what I get from reading this. But you in turn gave a copy to Statts.

Mr. Vanatta: Yes, the day before Statts asked me if he could have a copy and I let him have it.

Commissioner Lester: And why did you do that?

Mr. Vanatta: Because I am a really good friends with him and he asked. And that was my mistake sir. I destroyed my copy after he had it.

Chairman Harrison: Any other questions before we dismiss these two individuals and we will ask the instructors to come forward.

Mr. Barnes: I just had a question about what you just said. You said Porter was getting the answers and you left the room?

Mr. Vanatta: He asked me to assist him and I told him no. I exited the room and went to the gym.

Mr. Barnes: Why did you leave the room?

Mr. Vanatta: Because I wanted nothing to do with it. Half of the class was in there when he did it.

Mr. Barnes: Were you aware that Statts was the lookout at the door?

Mr. Vanatta: No sir.

Mr. Barnes: So he was not at the door when you left the room?

Mr. Vanatta: He was in that general vicinity but I didn't know that was what he was doing.

Mr. Barnes: When was the test taken? Immediately after that?

Mr. Vanatta: Two days later.

Mr. Barnes: You are not claiming that you didn't know what Porter was doing?

Mr. Vanatta: I knew what Porter was doing. He made it very obvious.

Mr. Barnes: Why did you take a copy of the answers then?

Mr. Vanatta: That was my mistake. He passed a lot of copies out. I took one and left it in my folder. I pretty much forgot about it. And everyone started talking about it and I destroyed my copy.

Mr. Barnes: But you said you didn't use it.

Mr. Vanatta: No sir.

Mr. Barnes: But passed it on to Statts?

Mr. Vanatta: Yes sir.

Mr. Barnes: But you knew that was wrong?

Mr. Vanatta: Yes sir.

Mr. Barnes: That is all I have.

Mr. Farris: Can I ask a question? Mr. Vanatta you are talking about all these people who got these answers from Mr. Porter. Yet in your statement you turned in, you said, and I quote, "The only people I knew that had the answers were Statts and Porter."

Mr. Vanatta: At the time I wrote that sir. Later on I talked to more people and found out more people had it.

Mr. Farris: But you haven't divulged it until today?

Mr. Vanatta: Excuse me?

Mr. Farris: That information you have not divulged to any one until today? You haven't gone to anyone and said these other people had it too?

Mr. Vanatta: No.

Chief Wozniak: He was already dismissed by then.

Mr. Farris: I understand that.

Chairman Harrison: Mr. Nicholson do you have a comment?

Commissioner Nicholson: I have a question. Is this a circumstance where we can go into an executive session and discuss this or do we need to?

Chairman Harrison: Well we have got to hear from the instructors from the academy next and see if you have some questions. If we need to do that, I think we can, can we not?

Mr. Barnes: My understanding is, that the Commission can go into executive session to actually deliberate on decertifications. I don't think the Commission has ever gone into executive session on a request like this. To reinstate someone to an academy. I am not saying you can't. I am may have to research it real quick.

Commissioner Nicholson: That was just a point of question.

Chairman Harrison: Any other questions of the Chief and Mr. Vanatta? If not you can be excused for right now. Would you like for the two instructors—?

Mr. Farris: Supervisor Scrivner and Instructor John Wood. Mr. Scrivner is the one in the lighter shirt. He is the Training Supervisor at the Northwest ALETA facility and he was the one responsible for the initial investigation.

Chairman Harrison: Mr. Scrivner would you state your name for the record.

Mr. Scrivner: Clint Scrivner.

Chairman Harrison: Would you comment about what has been said to this point and what your investigation revealed.

Mr. Scrivner: On Friday of that week, I was contacted by phone from one of the cadets that had a concern that someone had been cheating on the exam. So at the time I had Sergeant Brent Turner from Rogers Police Department in my office and we were discussing some training we were doing in shotgun training. When that call came through I asked him to accompany me to the firing range to see if we could—at that time the cadets were on the firing range. So we decided we would go down there and start probing into this and see what we could find. We went down there and we spoke with Cadet O'Brien. Who had made the phone call. He said he had concerns that people had been cheating on the exam. So when we asked who in his mind had been cheating, he said to his knowledge at that point it was Porter as stated who was responsible for copying the answers. The only other person he knew at that time was Mr. Jefferson. Out of Farmington Police Department. At that point we started cycling through and discussing with any of the cadets that had any concerns who may have been responsible. Benton County was contacted as well at that point. When we found out Mr. Porter was involved. Throughout the course of everything, the names we came out with was Mr. Porter, Mr. Jefferson, Mr. Statts and Mr. Vanatta. We asked each one of them if in fact they had obtained a copy of the answers, which Mr. Porter said he had copied the answers

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and that he had given them out to Mr. Jefferson and Mr. Vanatta. Then Mr. Vanatta told us he had given the answers to Mr. Statts. Then Statts later produced the copy of the answers from the pocket of the pants he was wearing at the time. At that point, I advised Mr. Farris of what we had found and he advised me that from what we had found and through the statements they had given, that they had obtained the answers and at that point he advised me to verbally allow them the knowledge that they had been dismissed and a formal letter would follow in the mail.

Chairman Harrison: Was there anything in the investigation that revealed differently than what Mr. Vanatta indicated to the Commission today? In other words what he has told the Commission today truthful as far as you know?

Mr. Scrivner: Yes sir, from what we found out in the investigation that Porter was responsible for copying the answers. That has stood. And that he gave a copy of those answers to Mr. Vanatta and Mr. Jefferson. And that we have also found that Mr. Statts did serve as the lookout at the door. And that he had received the copy of the answers from Mr. Vanatta. No one ever backed off from that and say that they did not have a copy of the answers. Every one of them maintained as well that they did not use the answers for the exam. But they all do state that they were in possession of that information prior to the exam.

Chairman Harrison: Any question from any of the Commissioners? Instructor Wood do you have anything to add?

Mr. Wood: No sir.

Mr. Farris: May I clear up one thing? Supervisor Scrivner, Mr. Vanatta a few minutes ago made reference to other individuals having these answers. When you conducted your investigation, you interviewed and got statements from four individuals who subsequently were dismissed. Is that correct?

Mr. Scrivner: I did not get a written statement from Mr. Porter. I got a verbal.

Mr. Farris: But those four implicated the other three in their statements.

Mr. Scrivner: Yes sir.

Mr. Farris: Was any one else ever mentioned?

Mr. Scrivner: No sir.

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Mr. Farris: When you interviewed the other people who were not involved in this, who were not in the classroom at the time Mr. Porter copied the questions and got statements from them of what they knew, did anybody implicate any body else?

Mr. Scrivner: There was a question brought up about the copying machine being used. What we found out on the copying machine being used is that, one of our top students Ms. Jamie Dragovich out of Benton County was notorious for taking great notes throughout the week. What she would do is draw up a study guide. What we found out on the copy machine question when that came up as to whether the copying machine was being used to disperse the answers to the exam were obtained. We found that was not the case. What was actually being copied was Ms. Hollingsworth out of Washington County had actually gotten Ms. Dragovich's study guide, which she makes from her own notes. And that is what she had been copying.

Mr. Farris: So my question to you is, until just a few moments ago, the investigation that you conducted, every one that you interviewed, all the students, including the four students that were terminated, until a few minutes ago, had you heard any one else implicated in this except the four that were terminated?

Mr. Scrivner: No sir.

Mr. Farris: Thank you.

Chairman Harrison: Does the Commission have any questions of any one else? Would the Commission like to go into executive session if we can determine we have a legal reason to do so. Or is someone going to have a motion?

Commissioner Nicholson: I am not moving that we go into executive session. I was just asking the question.

Chairman Harrison: I guess my question was would the Commission like to discuss this behind closed doors if we can receive the blessings from the Attorney General and the first question I would ask would be if the Chief and Mr. Vanatta had any objection to it. If not, I don't see a reason why we could not.

Mr. Barnes: Mr. Chairman my opinion based on the short research that I have been doing, is that I don't think the Commission can go into Executive Session. Because decertifications are considered personnel matters under the Freedom Of Information Act. This is not a personnel issue. And the Freedom Of Information Act applies to the public's right to see a public body deliberate unless it is a personnel matter appropriate for executive session. I don't think this is.

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Chairman Harrison: Well, I am not an attorney. But if we are looking at today and deciding if his career ends by decertifying him and on the other hand we are looking at ending his career with the Bella Vista Police Department. I see some parallels there.

Mr. Barnes: I appreciate that, I am saying I just got through reviewing the statutes and the regulations of the Commission and I don't find any authority to overrule the Freedom Of Information Act.

Chairman Harrison: That is why you are here. We appreciate that. With that, open discussion from the Commissioners or motion, any further questioning of any other witnesses? Yes sir Chief.

Chief Wozniak: Before you decide and I am assuming that is what you are doing now. I would just like to restate some of the options. The two years stands. Or maybe he would be allowed to finish the last three weeks. Or he would start over in the next available class here, which is the last week in September. Of course there are others, but those are three.

Chairman Harrison: Thank you.

Commissioner Nicholson: In the interest of getting this on the roll here, I make a motion that we do not do anything in this matter. He is eligible to be rehired in two years and my motion is that we do not do anything in this circumstance.

Commissioner Lester: That we uphold the decision made by Mr. Farris:

Commissioner Nicholson: Well, I am not—I don't think that is the question. Whether or not we are supporting or not supporting his decision. It is my understanding that his request is that he be allowed to go back to the academy.

Mr. Barnes: That is the same as a waiver of the two years.

Commissioner Nicholson: He can go back in two years. From the time he was dismissed, correct?

Mr. Barnes: That is under the existing regulations, unless the Commission waives it. Which is what he is requesting.

Commissioner Nicholson: Then I make a motion that we do not grant the waiver.

Chairman Harrison: That we do not accept the request for the waiver. That is the motion.

Commissioner Nicholson: Yes sir.

Mr. Marshall: If I could, I would also point out that he is not eligible to serve as a law enforcement officer in the State of Arkansas for that same period of time. In any capacity.

Commissioner Lester: I second the motion.

Chairman Harrison: Motion made and seconded not to accept the request of the waiver. All those in favor. Those opposing. (A tie vote for and against.) A show of hands, three for and those opposing, three.

Mr. Barnes: The Chairman gets to vote.

Commissioner Morris: Can I say something? I guess I agree with the chief and them somewhat. What bothers me is, if his department is willing to take the risk for him and believe in him then that is when I think he might deserve another chance. What he did was wrong and he has come in here and admitted it was wrong. We have rules to go by, but if his department and the people are willing to give him a second chance that is my opinion.

Commissioner Russell: I might add, again if the chief is willing to take a chance with him and have him come down here, I assume if he comes here he will be greatly scrutinized a whole lot more.

Mr. Farris: Chief for what it is worth, if it is not clear, I want to state that I have talked to Supervisor Scrivner and we believe Mr. Vanatta did not have the answers when he took the test. I don't think there is any question that he got rid of them. I think he used some pretty poor judgment. And some things are pretty obvious here. I don't think he carried through with any intent to undermine the results of the test.

Chairman Harrison: That makes my mind up. I will vote to grant the waiver with the caveat that they will have to go back through the full basic at ALETA. Would you mind adding that to your motion? Is everyone else in favor of that? That voted for it?

Mr. Farris: Chief, one other thing, it is my belief that the Chief and Mr. Vanatta came down here today, and the appeal is two fold. One, was obviously was to get Mr. Vanatta back into law enforcement. And this Commission sounds like he will be allowed to do that at the next basic in Camden. I think there was also an attempt to appeal the termination. I think that was a part of the appeal. I would request that the Commission vote on whether or not they uphold or repeal the termination.

Mr. Bolton: And I agree and I think also important. Because there are three officers who were dismissed. I think Mr. Farris, Mr. Scrivner and Mr. Wood deserve to know whether the Commission believes that their actions were correct. And I think the other officers involved need to know that.

Chairman Harrison: But each case is independent. He has made his appeal to the Commission and I would expect the other three if they were interested to go through the same process. We would have to go through the same witnesses to day.

Mr. Farris: I think it is two different issues. And I would request that the Commission make a motion and second and vote on the legitimacy of the termination in the first place. The Commission has already waived the two-year rule.

Mr. Barnes: I wanted to comment on that. I think for the record Chief, what happened is Chief Nicholson made a motion, which failed by a four to three to let the penalty stand. I think for the record we need to have a motion to waive the two-year requirement and have that voted on.

Mr. Farris: And I would also request a motion to uphold the original termination. And then a motion on waiving the two-year rule.

Chairman Harrison: Is there a motion to accept the termination by ALETA?

Commissioner Reeves: So moved.

Commissioner Golden: I second.

Chairman Harrison: Motion made and seconded. All those in favor, (All commissioners vote aye.) If you could restate your motion in granting a two year waiver--

Commissioner Morris: I will make a motion that we waive the two year requirement under the condition that he attend the full basic at ALETA. In the next available class.

Chairman Harrison: Is there a second?

Commissioner Golden: I second.

Chairman Harrison: All those in favor. (All commissioners vote aye.) Any opposing? This time none opposing.

Commissioner Russell: Could I just make one comment? I would hope that you would not think by anything this Commission has done today that we think whether you had the