

City Officer Makes Illegal OD Arrest

By Wheeler Cowperthwaite
SUN Staff Writer

Española could be facing another hefty lawsuit after an officer, newly hired from Los Alamos Police Department, unlawfully arrested a man who overdosed.

Officer Albert Rael submitted his paperwork on the arrest to the district attorney's office six days after he unlawfully arrested Michael Salazar, 41.

Rael arrested Salazar, May 8, after the latter had been released from the hospital after being transported there by ambulance. Medics revived Salazar at his friend's house after he overdosed on heroin. His friend gave him the opiate overdose-reversing drug Narcan and then called 911, Salazar said.

Salazar said he had just been released from the Santa Fe County jail, serving time for driving on a revoked license. By the time he got to Española, it was early in the morning. His friend pulled out some heroin and asked if Salazar wanted to try some.

According to the 2006 law, Sen. Richard Martinez, D-Rio Arriba, Los Alamos, Santa Fe and Sandoval counties sponsored, the Overdose Prevention Act, the first of its kind in the country, police "shall not" charge anyone with possession of a controlled substance if they are called to the site of an overdose.

The stated intention is to reduce the amount of overdose deaths by removing some of the fear of arrest by police.

It does not preclude police from arresting overdosers or the people who call reporting overdoses, for warrants, restraining order violations or on other, violent charges.

According to Rael's report and his statement of probable cause in the arrest, he unlawfully arrested Salazar.

Salazar said he is meeting with an attorney Wednesday in Albuquerque, to go over a potential wrongful arrest lawsuit against the city.

Defense attorney Matthew Coyte said he has never had a client bring a case, where he had been illegally arrested for overdosing, but one could sue under state law for false arrest.

The top Española prosecutor, Ben Schrope, said he and other prosecutors in his office file a dismissal once they find someone has been illegally arrested, but often, officers do not get the paperwork to them in a timely fashion.

According to court documents, the District Attorney's Office received Rael's paperwork May 14, six days after he arrested Salazar. "We saw a lot more of it three years ago," Schrope said.

Schrope said the arrests are usually not made by the officers, but when they are, prosecutors attempt to notify the officer of the mistake.

Police Chief Richard Gallegos said the Department will not file an LEA-90, a request for the Law Enforcement Academy to look into discipline, because Rael acted in good faith.

"We just hired him," Gallegos said. "He's a good kid and we're not here to chop any heads."

Rael had been an officer in Los Alamos for five years before being hired by the Department.

Gallegos tried to deflect further questions.

"You judge it however you want, Wheeler," Gallegos said, referring to the *Rio Grande SUN* reporter.

Gallegos said the unlawful arrests have been made by other agencies recently, and this is only one of many.

He said he may, or may not, talk to Officer Michelle Ortega, whom Salazar accused of doing nothing to stop an arrest she knew to be unlawful.

He said his lips are mostly sealed because everything is a personnel issue, but he would be happy to talk to the reporter about the "good" things the Department is doing.

If the Tierra Amarilla jail bill the city for Salazar's time, it will come out to \$2,808, according to figures released by Finance Director Joyce Sandoval.

According to personnel documents from Los Alamos, Rael started as an officer there in 2010, well after the Law Enforcement Academy began teaching its recruits when it is unlawful to arrest someone in the throes of an overdose.

The Academy began teaching about the Overdose Prevention Act in 2006, the same year it was enacted, Academy Director Jack Jones said.

Inaction

Salazar said he woke up from the overdose, after being given Narcan, to the feeling of Rael feeling through his pockets. Medics took him to the hospital and once he was cleared, Rael loaded him into the back of his police car.

"He got some paperwork and took me to the Detention Center and that's when he left," Salazar said. "The detention officer put me back in the cage and he said, 'He can't arrest you on that stuff.' I was just like, 'OK, I guess I'm under arrest.' Then I could hear (Officer Michelle Ortega) telling (Rael) basically, he was in the wrong."

Ortega came to talk to Salazar, he said.

"She came in and said, 'I hope you're alright,'" he said. "She said, 'I hope he treated you good.'"

Salazar alleged, even though Ortega allegedly knew the arrest Rael made was wrong, she did nothing about it.

Magistrate Judge Alexandra Naranjo said Rael brought Salazar to the court for arraignment. She set his bond at \$6,000, with 20 percent to the court, \$1,200, something Salazar could not post.

Salazar said the judge dismissed him out of hand.

"She's all, 'What you need is rehab, sir,'" he said. "(She said) 'Get out of here!' Clack. That was that. I was ... it was a big old fiasco. I did 20 days basically on a 10-day ruling."

Court rules state prosecutors must ask the court for an extension of time on the cases and if they don't, the judges must release defendants after 10 days.

Naranjo did not such thing. Rather, 18 days after Salazar's unlawful arrest, Magistrate Judge Joseph Madrid released him, on May 26.

Madrid said court staff brought Salazar's continued detention, beyond the 10 days allowable, to his attention and filed the release order.

Madrid said he did not know about the Overdose Prevention Act, and if he did not know, there was no way Naranjo could know about it.

PASSING THE TORCH



(SUNphoto by Wheeler Cowperthwaite) **Española Police Det. George Martinez (right) holds the Special Olympics torch, May 28, on State Road 68, after a hand-off with Rio Arriba County Sheriff's deputies, who picked up the torch at Velarde Elementary School. Martinez ran with (left to right) State Police Officer Shayne Beckford, State Police Agent Jessie Whittaker, State Police officers Jerry Santana and Nathan Gonzales, Sheriff's Sgt. Manuel Romero and Officer Brandon Archuleta. They ran the torch through the city and handed it off Santa Clara, Pojoaque and BIA officers at the intersection of U.S. Highway 84/285 and State Road 399.**

Officials Approve District Budget

By Ardee Napolitano
SUN Staff Writer

Mesa Vista School District officials will see an increase in their Fiscal Year 2016 budget.

Board members unanimously approved the District's \$9.66 million operating budget for the next fiscal year, at a May 27 meeting, at El Rito Elementary. Next year's budget is about \$1.66 million more than this fiscal year's budget of \$8 million.

District Business Manager Brenda Halder presented the budget at the meeting. She said District officials didn't struggle too much with balancing it.

"There wasn't really any big changes at all," Halder said. "It's pretty much the same as this year. It wasn't too challenging."

The increase in budget was due to bond money the District finally decided to use for the renovation of Ojo Caliente Elementary.

After Mesa Vista voters approved a \$3.15 million general obligation bond during the 2013 School Board election, District officials started planning to revamp the elementary school. The state Public Education Department OK'd the project last year and construction is slated to begin in July.

Besides the bond money, District officials also received a \$149,000 allocation for capital outlay improvements during this year's state legislative session. Like this year, they will not receive money from the state Public School Capital Outlay Council next year.

Officials have a total capital outlay budget of \$3.3 million next fiscal year, \$1.53 million more than this year's \$1.77 million,

according to the District's budget document.

They will also see a \$90,000 increase in the general fund for teacher and staff salaries next year, from this year's \$4.67 million, to \$4.76 million.

Halder said the increase in the general fund budget is due to more carryover cash from this year to next year, although she did not know the exact amount and it was not identified in the budget document.

She said this means officials were able to spend less than what they budgeted last year or got more revenue sources for various line items.

"It's basically just watching our spending," Halder said. "We applied for more federal grants, so we're able to spend from those areas and save on our operational budget. We just have to watch how we spend our money."

According to the budget document, officials budgeted \$760,000 for the District's special revenue fund next year, which is \$30,000 more than this year's \$730,000. The special revenue fund comprises grants and the athletics, non-instructional and food service budgets.

They got \$218,000 in state grants, which is \$21,000 more than this year's \$197,000, and \$163,000 in federal grants, \$18,000 less than this year's \$181,000.

For next fiscal year, they budgeted \$171,000 for food service, which is \$10,000 less than this year's \$181,000, and \$41,000 for athletics, the same as this year's. They budgeted \$131,000 for non-instructional support, which includes educational assistants and counseling, which is \$37,000

more than this year's \$94,000.

Officials budgeted \$841,000 for the District's debt service funds, \$13,000 more than this year's \$827,000.

Halder said to balance the budget, officials are not giving salary raises to teachers next year. But she said the District already meets the new minimum teacher salary requirement of \$34,000, which was mandated by legislators this year, so they don't have to spend more for it.

Board Vice President Jessica Manzanera said she was surprised to see the budget increase next fiscal year and the hassle-free budget process.

"It went very smoothly," Manzanera said. "Our business manager gave us the information beforehand, so we could review it and it turns out we're doing really well. Hopefully, in the future, we can keep increasing our budget."

She said in the future, she aims to look at how officials can save money on their legal services expenses. She also wants to try to save money by hiring a couple full-time teachers to replace many substitute ones, to avoid spending more on employee benefits.

"We're hoping in the future, we can just go ahead and hire somebody to replace leaving teachers instead of having a sub," she said. "In a year or two, we can do that and our costs might go down significantly."

Manzanera said she's optimistic Department officials will approve the budget.

Officials will present the budget to Department officials at a technical review in Santa Fe, to seek final approval, June 11.

Other Budget Options Explored ...

Continued from A1

with the budget process. "I walked out of the finance budget meeting at that time. I want to deal with thousands of dollars, not little things of picking \$500, \$300 from each department. I want to deal with \$30,000 or \$50,000, whatever is needed to balance this budget, let's deal with the big figures. I don't want to walk out."

The budget proposal Valdez supported was a hybrid between proposal number one, which was approved by the council, and proposal two, which called for defunding of the city's senior center.

Councilors approved option number one, to the chagrin of City Manager Kelly Duran, who thought the best budget was the proposal that eliminated funding for the senior cen-

ter.

"We are one catastrophic event away from being bankrupt," Duran said. "Because, when we look at the amount of reserves we have as a city, there are companies, probably in the city, that have more reserves than Española. We can't afford to continue to operate at this level and pretend nothing is going to give."

The city's Finance Administrative Services Director Joyce Sandoval said per state law, the city must set aside enough money to run the city for one month as its reserve fund, which would come to about \$800,000 or 8 percent.

However, Duran's plan wouldn't have left seniors with nothing to do or a place to go. Instead, his plan called for pooling resources with Rio Arriba County to provide resour-

ces for the city's seniors.

Rio Arriba County operates a senior center on Hunter Street, less than a mile from Española's center.

"The seniors that may be in the background, I am just as committed to them as I am committed to you," Duran told city councilors.

He recognized that his recommendation wouldn't be popular, but he said it was necessary to ensure the city's financial health.

"I don't want to do this, I don't," Duran said. "But, in keeping the best interest of the city in mind and preserving some legacy, that would be my recommendation."

Option two would also cut attorneys' expenses by \$16,000, freeze an accounts payable position and transfer \$18,432 from the defunct senior center budget to the Parks and Recreation De-

partment. On the upside, it called for an increase in the Public Safety budget by \$117,000, which would have paid for one additional police officer and a transport officer.

All of the options recommended the Fire Department position, vacated after an internal promotion, remain frozen for all of Fiscal Year 2016.

As far as the hybrid option three, instead of defunding the senior center's budget altogether, it would cut the staff by one and follow the path of option two, and transfer \$18,432 to the Parks and Recreation Department.

With this option, Public Safety would see a much smaller increase, of \$76,859, which would pay for the much-needed transport officer and police officer.

All of the options included a 2 percent increase in water and wastewater funds.

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TELEPHONE: 753-2126 Fax: 753-2140 E-MAIL: rgsun@cybermesa.com WEBSITE: www.riograndesun.com
MAILING ADDRESS: P.O. Box 790, Española, N.M. 87532 PHYSICAL ADDRESS: 123 N. Railroad Avenue, Española, N.M.