

February 27, 2009

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BEFORE THE STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of:)	
)	
STATE OF CALIFORNIA, Employer,)	Unfair Practice
and PEACE OFFICERS OF CALIFORNIA,)	Charge No.
Petitioner, and CALIFORNIA)	SA-SV-171-S
STATEWIDE LAW ENFORCEMENT ASSOC.,)	
Exclusive Representative.)	
)	
_____)	

FEBRUARY 27, 2009

SHAWN CLOUGHESY
Administrative Law Judge

PUBLIC EMPLOYMENT RELATIONS BOARD
1031 18th Street, Room 214
Sacramento, CA

Transcribed by: Leisa M. Miller

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Administrative Law Judge

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1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

2 We're back on the record. We're back in the open hearing
3 portion of this hearing, Unit 7 severance.

4 It's February 27th, the afternoon, 2009. The time is
5 approximately 1:40 p.m.

6 Case No. SA-SV-171, in regards to Petitioner Peace
7 Officer of California, Employer State of California, and
8 Exclusive Representative California Statewide Law
9 Enforcement Association.

10 My name is Shawn Cloughesy. I'm the Administrative
11 Law Judge assigned to hear this case on behalf of the
12 PERB.

13 Exclusive Representative, Mr. Messing, Mr. Kasey
14 Clark. For the Employer, Shannan Truong, Linda Mayhew.
15 For the Petitioner, Joe Rose, Diane Sabonis, and
16 Mr. Chris Lewis.

17 We're resuming. We're starting the afternoon
18 session. I'm going to be asking this witness to raise
19 your right hand.

20 (Witness sworn by the Judge.)

21 THE WITNESS: I do.

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Please state
23 your name for the record, spelling your last name.

24 THE WITNESS: My name is Diego Busatto. That's B, as
25 in boy, U-S-A-T-T-O.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. I
2 have a couple preliminary questions, Mr. Busatto. Did
3 you ever receive an e-mail containing the transcripts of
4 the first two days of this proceeding, by any chance?

5 THE WITNESS: No, I did not.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. So
7 you have not read any of the transcripts of this
8 proceeding?

9 THE WITNESS: No, I have not.

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
11 Next, I'm going to show you a document, sir. Marking as
12 Petitioner V what appears to be a Declaration of this
13 witness in lieu of direct testimony.

14 (Petitioner's Exhibit V marked for
15 identification.)

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: He is going to
17 be reviewing it.

18 By the way, I'm also going to be sealing from public
19 inspection Exclusive Representative J. I didn't say that
20 on the record last time. So both I and J are also -- of
21 Exclusive Rep are also going to be sealed from public
22 inspection.

23 All right, sir, you've seen the document with the Job
24 Specifications attached. And what do you recognize that
25 as?

1 THE WITNESS: As my Declaration in Lieu of Testimony.

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And
3 if you can turn to your signature page. And do you
4 recognize that signature, sir?

5 THE WITNESS: Yeah. That is my signature.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And
7 did you sign it on the date set forth and at the place
8 set forth?

9 THE WITNESS: I did sign it in Long Beach on
10 February 11th.

11 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Very good. And
12 are all the contents set forth in that Declaration true
13 and correct to the best of your knowledge?

14 THE WITNESS: Yes, they are.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Is there any
16 corrections that you feel need to be made to the
17 document?

18 THE WITNESS: I have not seen any, no.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay. All
20 right. Mr. Rose, any further questions for this witness?

21 MR. ROSE: Yes.

22 TESTIMONY OF

23 DIEGO BUSATTO,

24 Having been duly and regularly sworn, testified as

25 follows:

1 DIRECT EXAMINATION

2 BY MR. ROSE:

3 Q. Mr. Busatto, do you know a man by the name of
4 Ryan Gates?

5 A. I do.

6 Q. Do you work with Mr. Gates?

7 A. I do.

8 Q. How long have you known Mr. Gates?

9 A. Approximately 12 years. Or 11 or 12 years.

10 Q. And do you know what Mr. Gates' job title is?

11 A. He's a peace officer for the California -- or for
12 State of California.

13 Q. Is that the same as you or different?

14 A. No. It's different. I'm a Seasonal Lifeguard
15 II.

16 Q. Based on your experience working with Mr. Gates,
17 are his job duties the same as yours or different?

18 A. They're different.

19 Q. How different are they?

20 A. He's a law enforcement officer, whereas I'm a
21 lifeguard.

22 Q. In your job as a lifeguard, do you ever observe
23 people fighting on the beach?

24 A. I've seen people fighting on the beach.

25 Q. What are you expected to do as a Seasonal

1 Lifeguard II if you see people fighting on the beach?

2 A. First and foremost, call a peace officer and let
3 them know the situation so they could respond to it. And
4 then if I feel it's safe to do so, intervene. Most of
5 the time we are not expected to intervene. Maybe provide
6 crowd control, if that. Most of the time we're expected
7 just to stay away and call a peace officer.

8 Q. If you did intervene, how would you intervene?

9 A. I would probably just try to separate people and
10 have them stand back. But like I said, that would only
11 be in a situation where I felt it safe for me to do so.
12 I have not been trained in anything like that.

13 Q. How long have you been a Seasonal Lifeguard II,
14 did you say?

15 A. Seasonal Lifeguard II -- I've been a Seasonal
16 Lifeguard for 12 years, Seasonal Lifeguard II for the
17 past 3 years.

18 Q. Can you estimate for us --

19 A. Four years.

20 Q. -- in the period of time that you've been a
21 Seasonal Lifeguard the last 12 years how many times
22 you've actually intervened in a fight on the beach?

23 A. Maybe twice.

24 Q. Over a 12-year period?

25 A. Uh-hmm.

1 Q. Have you ever been in a helicopter as a part of
2 your job?

3 A. I've been lifted by a helicopter, but never
4 actually in the helicopter.

5 Q. Have you ever been on a bicycle as part of your
6 job?

7 A. No.

8 Q. On horseback as part of your job?

9 A. No.

10 Q. Were you lifted by a State helicopter when you
11 were lifted?

12 A. It was a Huntington City helicopter.

13 Q. Were you performing -- what were you doing when
14 you were being lifted by a helicopter?

15 A. I was performing a demonstration for inner city
16 kids at the time, and I was -- we were doing a mock
17 rescue, and I was the mock victim.

18 Q. I see. Do you speak on the radio as a Seasonal
19 Lifeguard II?

20 A. Yes.

21 Q. What kind of radio do you speak on?

22 A. I believe the Motorola. It's like a -- like a
23 walkie-talkie. It's similar to the same radios that
24 the -- that the peace officers use.

25 Q. Okay. And when -- who are you able to

1 communicate with when you speak on that radio?

2 A. I'm able to communicate with fellow lifeguards,
3 our dispatch headquarters if we're using one, other peace
4 office -- or peace officers, and Circom, our State
5 dispatcher for the south sector.

6 Q. When you say other peace officers, are you
7 referring to -- what are you referring to specifically?

8 A. Like the scenario that we just talked about. If
9 someone was fighting on the beach, I would use my radio
10 to contact the peace officer.

11 Q. I guess what I mean is peace officers from what
12 agencies?

13 A. From the State.

14 Q. From the State of California?

15 A. Yeah. I don't -- we only have one radio that I
16 could talk to outside agencies with, unless they decide
17 to switch over to our radio to try to contact, which
18 happens occasionally. But for -- say I want to get
19 Huntington PD, I cannot do that with my radio. I'd have
20 to go use a trunked radio, which the peace officers have.

21 Q. The trunked radio is a radio you have as well?

22 A. We have one, but we don't really -- we don't
23 primarily use that. That one -- that one's just a new
24 addition to the radios that we have.

25 Q. When was that added?

1 A. I think last year or the year before that.

2 Q. Since it was added, how many times, if you could
3 estimate for us, have you personally spoken on the trunk
4 radio?

5 A. I've used it many times, but never -- I've never
6 used to communicate with another agency on it because --

7 MR. MESSING: I'm going to object. He's going beyond
8 the -- move to strike. He's going beyond the question
9 asked. He was simply asked how many times he used it.

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I agree. So go
11 ahead.

12 THE WITNESS: I've used --

13 BY MR. ROSE:

14 Q. Give us a number, and then I'll ask you the
15 question that you were about to --

16 A. I've used the trunk radio many times.

17 Q. Could you estimate for us how many times? Do you
18 use it daily or less than daily?

19 A. If I decide to -- we have a number of different
20 radios. They're -- the majority of them are all the same
21 ones, and we have one trunked radio. If duty --

22 Q. We're speaking only about the trunked radio.

23 MR. MESSING: Wait. Hold it. The witness was right
24 in the middle of answering when he was interrupted by
25 counsel. He needs to --

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. Go
2 ahead.

3 MR. MESSING: -- finish those responses.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Go ahead, sir.

5 THE WITNESS: What we like to do is have one
6 Lifeguard II on the beach with the trunked radio. That
7 way, in case of emergency and we need to coordinate with
8 other agencies, one of us has that radio. We obviously
9 advocate for all of to have the trunked radio. But since
10 they're expensive, we only get one. I've used it many
11 times, but never have I used it to contact an outside
12 agency.

13 BY MR. ROSE:

14 Q. Do you ever work with State Park peace officers,
15 park rangers?

16 A. I work with peace officers. And I believe my
17 superintendent is classified as a ranger, but -- and I --
18 other actual classification as ranger, I've worked with
19 one while she was training at our beach.

20 MR. ROSE: Okay. Nothing further.

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

22 Mr. Messing.

23 CROSS-EXAMINATION

24 BY MR. MESSING:

25 Q. Okay. Now, do you know how many Seasonal

1 Lifeguard I's there are in the State?

2 A. In the State?

3 Q. Yeah.

4 A. No, I do not know.

5 Q. Do you know how many Seasonal Lifeguard II's
6 there are in the State?

7 A. I do not know that.

8 Q. Okay. You work out of Huntington Beach?

9 A. Huntington State Beach.

10 Q. Huntington State Beach. Okay. How many Seasonal
11 Lifeguard I's and II's work at Huntington Beach?

12 A. Lifeguard I's, I would guess 80 to 100.

13 Q. Okay. And II's?

14 A. And II's, I would say about 16.

15 Q. Okay. So is it fair to say that you would be
16 familiar with the job duties of the folks who are
17 Seasonal I's and II's who work at Huntington Beach?

18 A. Yeah.

19 Q. Okay. But you don't know how many people are
20 employed as Seasonal I's and II's at other locations in
21 the State?

22 A. If I was -- I heard a number a while ago and --
23 but I have no way of confirming if that was true or not.
24 If I was to guess, I'd say around 800. But I'm not sure.

25 Q. Okay. Out of whatever that other number is, are

1 you familiar with the working conditions of the Lifeguard
2 I's and II's in those other areas?

3 A. Vaguely familiar from what I've heard from
4 other -- from friends of mine who have gone and worked in
5 those districts.

6 Q. But when you say vaguely, how many -- how many
7 districts are there?

8 A. I don't know.

9 Q. You don't know? How many districts where you
10 have friends have you heard of -- vaguely about what is
11 done with Seasonal I's and II's?

12 A. I'd probably say about maybe five or six.

13 Q. Okay. How many hours a year -- let's say over
14 the last couple of years, how many hours a year do you
15 work?

16 A. I would say just under 1500.

17 Q. Okay. And if we go back over the whole 12-year
18 period, about what's -- would that be about average?

19 A. Uh-hmm.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: That's a yes?

21 THE WITNESS: Yes.

22 BY MR. MESSING:

23 Q. Okay. Do you know what the annual limitations
24 are on your ability to work in a year?

25 A. Fifteen hundred hours.

1 Q. Okay. Now, I want to just talk about your
2 training. In your declaration you say knowledge of first
3 aid is required. Is that the same for sworn personnel as
4 well?

5 A. I don't know.

6 Q. Okay. What sworn personnel do you have occasion
7 to work with who are State employees?

8 A. I don't under --

9 MR. ROSE: Objection. Vague.

10 THE WITNESS: I don't understand.

11 BY MR. MESSING:

12 Q. Classifications of employees that you would --
13 who are State employees who you would have occasion to
14 work with.

15 A. Sworn?

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: That are peace
17 officers.

18 BY MR. MESSING:

19 Q. Sworn peace officers?

20 A. Sworn peace officers?

21 Q. Yeah.

22 A. The peace officers that work in our district as
23 lifeguard supervisors and enforcement supervisors, like
24 the night shift supervisor. I've worked with our
25 superintendent of our State Park. And just the

1 individuals who fill out the ranks of our operation.

2 Q. And did you say park rangers?

3 A. I've worked with one park ranger while she was
4 training.

5 Q. Okay. So let's talk about permanent lifeguards
6 versus seasonal lifeguards.

7 A. Okay.

8 Q. Do the permanent life -- the permanent lifeguards
9 are all sworn, correct?

10 A. They're sworn peace officers.

11 Q. They're sworn peace officers. Okay. Do they get
12 the first -- the same first aid training that you do?

13 MR. ROSE: Objection. Asked and answered.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: As the first
15 aid -- I'm not sure. Go ahead, sir. Do you know? Only
16 if you know.

17 THE WITNESS: I'm assuming that they get more
18 intensive training because they go to a long six-month
19 academy, which in that academy they have to go through --
20 and part of that academy has first aid training in it.

21 BY MR. MESSING:

22 Q. Okay. How about ongoing training, do you train
23 with the sworn lifeguards?

24 A. No. We are trained by them.

25 Q. Okay. Do you know if your ongoing training in

1 first aid procedures is the same?

2 A. No, it's not the same.

3 Q. On first aid?

4 A. On first aid, yes.

5 Q. And how does it differ?

6 A. I would assume it differs because we are trained
7 by them. So I'm going to assume that they have more
8 training than we do.

9 Q. Okay. Well, I can't ask you -- you can't testify
10 to what you assume.

11 A. Uh-hmm.

12 Q. Tell me what you know. Do you know if it's
13 different or the same?

14 A. I know it's different because they are not
15 sitting in the same classroom being trained by us. So in
16 that way it's different.

17 Q. But the material might be the same for all of
18 you?

19 MR. ROSE: Objection. Calls for speculation. Asked
20 and answered.

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You don't know,
22 do you?

23 THE WITNESS: No.

24 BY MR. MESSING:

25 Q. You don't know? Okay. What about do you get CPR

1 training?

2 A. We do.

3 Q. Okay. Do permanent lifeguards?

4 A. Don't know.

5 Q. Don't know? Do you get AED training, automatic
6 external defibrillators?

7 A. We do.

8 Q. Okay. Do sworn lifeguards?

9 A. I do not know.

10 Q. Do you get driver training?

11 A. We do.

12 Q. Do sworn lifeguards?

13 A. I do not know.

14 Q. Do you get code three driving training?

15 A. We do.

16 Q. Do you know if the sworn lifeguards get that?

17 A. I do not.

18 Q. Now, you were talking about the trunked radio.
19 Okay. Is that sort of your lifeline to be able to call
20 peace officers for assistance if there is a necessity?

21 A. The trunk radio specifically is used to call
22 other agencies, outside agencies.

23 Q. Okay.

24 A. But it can also be used to talk within our
25 lifeguards and to peace officers.

1 Q. Okay. So do you -- you also talk to sworn
2 lifeguards who are State employees?

3 A. Right. The radio doesn't have to be trunked to
4 do that.

5 Q. Okay. Do you deal with, as a lifeguard,
6 uncooperative law violators?

7 A. I do to a certain extent.

8 Q. Okay. Now, are there situations where you're
9 able to gain their cooperation if they start out
10 uncooperative?

11 A. There have been those situations.

12 Q. Okay. Now, when you have a law violator, do
13 you -- and you call for peace officer backup, do you
14 report to the peace officer what your observations were
15 of the conduct and behavior of the individuals involved?

16 A. I do.

17 Q. Okay. Do you write reports that can contain
18 accounts of what it is that you've observed of behavior
19 or conduct on the beaches?

20 A. Only when I'm asked to and when I'm the reporting
21 party.

22 Q. Okay. And are you on occasion the reporting
23 party?

24 A. I am.

25 Q. Okay. Have you testified in court?

1 A. No, I have not.

2 Q. Okay. Are you familiar with the aquatic
3 functions of lifeguards?

4 A. Yeah.

5 Q. Okay.

6 A. Yes.

7 Q. Are you familiar with the aquatic functions of
8 park rangers?

9 A. Yes. Only from my experience as a Lifeguard II
10 with the State.

11 Q. Okay. Can you explain what aquatic functions
12 park rangers may have?

13 A. From my experience with the State and from what
14 I've seen, it would be to insure the safety of the public
15 at all times.

16 Q. Now, part of your duties involves patrolling,
17 correct?

18 A. Correct.

19 Q. Okay. Is that a large part of your job?

20 A. I would say it's a large part of my job.

21 Q. Okay. And when you're patrolling, part of your
22 job is looking for individuals in distress?

23 A. Correct.

24 Q. Okay. Also looking for persons -- I'm sorry --
25 vessels in distress?

1 A. Correct.

2 Q. Okay. And also looking for potential or actual
3 law violators, correct?

4 A. I would say that's incorrect.

5 Q. You're not -- you're not on the lookout for law
6 violators?

7 MR. ROSE: Objection. Asked and answered.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Sustained.

9 BY MR. MESSING:

10 Q. Well, can you explain how it is incorrect that
11 you are not -- when you indicate that you're not
12 looking -- on patrol looking for law violators?

13 A. That's not my job. I don't do that. When I'm on
14 patrol, I am there to insure the safety of the public.
15 If a potential law violator is jeopardizing himself or
16 someone else, then that becomes my job. But if
17 somebody's violating the law, they run a stop sign, I'm
18 not going to do anything about it.

19 Q. Okay. So if you observe somebody let's say
20 smoking pot on the beach --

21 A. Uh-hmm.

22 Q. -- what do you -- what do you understand that
23 you're supposed to do?

24 A. I would -- my understanding of what I'm supposed
25 to do is inform a peace officer that somebody's violating

1 the law.

2 Q. Okay. And are you supposed to be on the lookout
3 for people smoking marijuana on the beach?

4 A. No.

5 Q. You're not. How about people drinking? Is it
6 part of your duties to determine or look out for people
7 drinking on the beach?

8 A. I would say no. But if -- my principle job is to
9 insure the safety of the public. If somebody is drinking
10 and, like I said before, putting themselves or someone
11 else in danger, then it becomes my problem. If they're
12 strictly drinking, there's many times when we, me and my
13 fellow lifeguards, will see someone clear as day
14 drinking, but we know that they're not going to be a
15 jeopardy to themselves or others, and that we have
16 bigger -- our primary concern is the safety of the people
17 in the water. So if by stopping and talking to these
18 people, or even reporting it to a peace officer, takes up
19 time from executing rescues and/or preventative actions,
20 then we will not deal with those people.

21 Q. So if you see somebody drinking on the beach and
22 you believe that they are becoming rowdy, is it your
23 responsibility to report that to a peace officer?

24 A. Yeah.

25 Q. Okay.

1 A. Yes.

2 Q. Okay. Now, you say your current hours of work
3 are variable. But do you work a schedule?

4 A. I do work a schedule.

5 Q. What is that schedule?

6 A. It's variable.

7 Q. Okay. How many hours a week do you work?

8 A. Forty plus.

9 Q. Forty plus. Well, do you -- do you regularly
10 schedule hours during the week?

11 A. I have written schedules.

12 Q. No.

13 A. If that's your question.

14 Q. No, no. The question is, is do you have regular
15 scheduled hours as opposed to added hours for overtime?

16 A. It -- yes. And it depends on what time of year
17 it is.

18 Q. Okay. So, for example, now you have a -- do you
19 have regularly scheduled hours?

20 A. No. I'm not currently employed until the third
21 of March.

22 Q. Okay. When were you last employed?

23 A. Yes, I had a set schedule.

24 Q. And what was that set schedule?

25 A. It was five eight-hour days and --

1 Q. Okay. Five/eights?

2 A. Yeah, five/eights.

3 Q. Okay. Are those the same schedules that
4 permanent lifeguards work?

5 A. I do not know.

6 Q. Okay. All right. Now, do you ever dispatch the
7 peace officers in the -- well, either park rangers or
8 lifeguards?

9 A. When they decide to go through our dispatch
10 center, yes. But they have their own dispatch center
11 that they go through.

12 Q. Okay. But how often do the permanent lifeguards
13 go through the same dispatch center that you have?

14 A. I don't know. Kind of often.

15 Q. Often?

16 A. Kind of often, I guess. Not every day, but
17 sometimes.

18 Q. Is it true that if there are observations on the
19 beach that require a peace officer response, then those
20 will go through your dispatch?

21 A. Only if a seasonal lifeguard makes the call.

22 Q. Okay. Well, that's what I'm saying.

23 A. Well, no. Because most of the time that peace
24 officers get dispatched, it goes through their
25 dispatching center. That's why they have a dispatch

1 center. Because most of the times when peace officers
2 are needed on a beach, most of the calls are made by
3 people on the beach.

4 Q. Right. Okay. So they would be calling 911?

5 A. Right.

6 Q. Okay. But if the call originates with a
7 lifeguard, it goes through your dispatch center?

8 A. Right.

9 Q. Okay. And let's see here.

10 A. However, let me -- only the call goes out. The
11 actual rest of -- only the initial contact goes out.
12 They're only notified initially. After that the call
13 goes through Circom.

14 Q. All right. But that's an -- would you agree that
15 that's an important function to be able to contact the
16 peace officers through your dispatch?

17 A. Uh-hmm.

18 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Say it again.

19 THE WITNESS: Yes.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yes. Thank you.

21 This is all I got right here is just a microphone.

22 THE WITNESS: Yeah.

23 BY MR. MESSING:

24 Q. Okay. And isn't it true that many Lifeguard II's
25 become peace officers, lifeguard peace officers?

1 A. I would say some, but not many.

2 MR. MESSING: I have no further questions.

3 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Ms. Truong?

4 MS. TRUONG: No questions.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose?

6 MR. ROSE: Just a couple.

7 REDIRECT EXAMINATION

8 BY MR. ROSE:

9 Q. When you have -- in the instances where you've
10 gained the cooperation of people on the beach who were
11 law violators --

12 A. Uh-hmm.

13 Q. -- can you tell us how many times in the last
14 year as a Seasonal Lifeguard you've gained the
15 cooperation of a law violator?

16 A. I have no idea of knowing how to -- a couple -- a
17 few times. Many times. It's really hard for me to say.
18 Because when a law violator -- somebody, for instance, is
19 walking their dog on the beach, we're not allowed to have
20 dogs on our beach. And I'll say, hey, you guys, you're
21 not allowed to have dogs on the beach, as I'm driving by
22 watching the water. And I'll just drive by and say, hey,
23 you guys aren't allowed to have dogs on the beach. And
24 they'll go, okay, and they'll leave.

25 Q. Do you write a report about that?

1 A. No.

2 Q. Do you send that up to the district attorney's
3 office for prosecution?

4 MR. MESSING: Object. Leading.

5 THE WITNESS: No.

6 MR. MESSING: Wait.

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Well, I --

8 MR. MESSING: The witness answered after I objected.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Well --

10 MR. MESSING: And I say it's leading.

11 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I'm going to
12 overrule the leading question. The answer is no, I take
13 it?

14 THE WITNESS: The answer is no.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Thank you.

16 BY MR. ROSE:

17 Q. Write -- you were asked about writing reports.
18 Do you remember that line of questioning?

19 A. Yeah.

20 Q. How many reports have you written in the last
21 year?

22 A. Ten.

23 Q. How about in the last dozen years?

24 A. A hundred.

25 Q. What are the length of those reports,

1 approximately, in terms of page length?

2 A. We have two pages of patient assessment. At
3 least 90 percent of my reports are for emergency first
4 aid situations. I've not -- I've written one report
5 with -- that had to do with criminal activities in the 12
6 years that I've been the lifeguard. All the other
7 reports have always been first aid emergency situations
8 where somebody has an injury. We have a sheet, you know,
9 of vitals that we take and that kind -- that sort of
10 thing. And then, you know, we pass it along to whoever.
11 But that's it.

12 MR. ROSE: Thank you. Nothing further.

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Messing?

14 MR. MESSING: Just one more thing.

15 RE-CROSS-EXAMINATION

16 BY MR. MESSING:

17 Q. Walking dogs on the beach, that's a citable
18 offense?

19 A. Yes.

20 MR. MESSING: Okay. Nothing further.

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Ms. Truong?

22 MS. TRUONG: No.

23 MR. ROSE: Yes.

24 /////

25 /////

1 FURTHER REDIRECT EXAMINATION

2 BY MR. ROSE:

3 Q. Walking dogs on the beach, do you carry citation
4 booklets so you -- to issue citations for that purpose?

5 A. I do not carry a citation booklet.

6 Q. Do you have the power to issue citations for that
7 offense?

8 A. I do not have the power to issue a citation.

9 Q. Do you ever contact the peace officer to notify
10 them that there's a potential citation to be had out on
11 this dog caper?

12 A. Very rarely will I call for that particular
13 reason.

14 MR. ROSE: Nothing further.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
16 Anything further?

17 MR. MESSING: No.

18 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Ms. Truong?

19 MS. TRUONG: No.

20 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Congratulations,
21 sir. You've been one of our shorter witnesses.

22 MR. MESSING: Well, he's -- let the record reflect
23 he's probably close to six feet tall.

24 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.
25 We'll go off the record.

CERTIFICATION AND
DECLARATION OF TRANSCRIBER

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4 I, Leisa M. Miller, a duly designated transcriber of
5 Vine, McKinnon & Hall, do hereby declare and certify
6 under penalty of perjury that I have transcribed from a
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8 CALIFORNIA, Employer, and PEACE OFFICERS OF CALIFORNIA,
9 Petitioner, and CALIFORNIA STATEWIDE LAW ENFORCEMENT
10 ASSOCIATION, Exclusive Representative, Unfair Practice
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