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NEW MEXICO LAW ENFORCEMENT ACADEMY
REGULAR BOARD MEETING AND PUBLIC HEARING

Thursday, September 24, 2009
9:00 a.m.
201 Main Street
Red River, New Mexico 67558

Reported By:
TANYA M. NIMS, RPR, NM CCR #168
Los Lunas, New Mexico 87031

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A P P E A R A N C E S

BOARD MEMBERS

Albert Lama, Chief Deputy Attorney General

James Coon
Robert Force
Donald Gallegos
Arsenio Jones
Bernardo Perez
Raymond Schultz
Faron Segotta

ALSO PRESENT

Monique Croker
Ernest Holmes
Matthew Jackson
Arthur Ortiz
Zachary Shandler

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1 ITEM #1: CALL TO ORDER

2 MR. LAMA: We're going to begin the meeting. I'd
3 like to call to order the meeting of the New Mexico Law
4 Enforcement Academy Board. The date is Thursday,
5 September 24th. The time is approximately a little bit
6 after 9:00 a.m. in the morning.

7 We are in Red River, New Mexico. The Law
8 Enforcement Academy Board is a traveling board, and we're
9 very happy to be here in Red River. My name is Al Lama.
10 I serve as chief deputy attorney general, and I'm here
11 today on behalf of Attorney General Gary King.

12 I understand that Attorney General King usually
13 has the members of the Board at the table here introduce
14 themselves and indicate the position that they hold. So
15 before we do a roll call, why don't we do that, starting
16 with Mr. Perez -- Mr. Holmes.

17 MR. HOLMES: Ernest Holmes, investigator for the
18 Law Enforcement Academy Board.

19 MR. JACKSON: Matthew Jackson. I'm the
20 prosecutor for the Board.

21 MR. SHANDLER: Zack Shandler, Board counsel.

22 MR. PEREZ: Bernardo Perez, citizen at large.

23 MR. GALLEGOS: Donald Gallegos, Eighth Judicial
24 DA.

25 MR. SEGOTTA: Faron Segotta, chief of the State

1 Police.

2 MR. SCHULTZ: Ray Schultz, Albuquerque, chief's
3 representative.

4 MR. FORCE: Robert Force, citizen at large.

5 MR. COON: Rob Coon, sheriff of Chaves County.
6 I'm the sheriff's representative.

7 MR. JONES: Arsenio Jones. I'm the line officer
8 representative.

9 MS. CROKER: Monique Croker, New Mexico Law
10 Enforcement Academy.

11 MR. ORTIZ: Art Ortiz, director of New Mexico Law
12 Enforcement Academy.

13 MR. LAMA: Great. Thank you.

14 ITEM #2: ROLL

15 MR. LAMA: Now we'll proceed with the roll call.
16 Ms. Croker.

17 MS. CROKER: Donald Gallegos.

18 MR. GALLEGOS: Here.

19 MS. CROKER: Chief Faron Segotta.

20 MR. SEGOTTA: Here.

21 MS. CROKER: Sheriff James Coon.

22 MR. COON: Here.

23 MS. CROKER: Chief Schultz.

24 MR. SCHULTZ: Here.

25 MS. CROKER: Sergeant Arsenio Jones.

1 MR. JONES: Here.

2 MS. CROKER: Robert Force.

3 MR. FORCE: Here.

4 MS. CROKER: Bernardo Perez.

5 MR. PEREZ: Here.

6 MS. CROKER: And Chief -- Al Lama, attorney
7 general.

8 MR. LAMA: Here. We do have a quorum.

9 ITEM #3: APPROVAL OF AGENDA

10 MR. LAMA: The next item on the agenda -- thank
11 you, Ms. Croker. The next item on the agenda is
12 approval of the agenda. Mr. Ortiz, are there any changes
13 to the draft agenda that's been presented to the Board?

14 MR. ORTIZ: Yes, Mr. Chairman. It will be Item
15 No. 24 on the appeal for revocation of certification,
16 William P. Breeding. He advised he was unable to make
17 this meeting. And after I rescheduled him for the
18 December meeting.

19 MR. LAMA: Are there any other changes?

20 MR. ORTIZ: No, sir.

21 MR. LAMA: Thank you. Do I have a motion for
22 approval of the agenda?

23 MR. COON: Mr. Chairman, I make the motion to
24 approve the agenda.

25 MR. LAMA: I have a motion. Second to the

1 motion?

2 MR. JONES: Second to the motion.

3 MR. LAMA: Any discussion? {No response.} All
4 those in favor for approval of the agenda signify by
5 saying aye.

6 THE BOARD: Aye.

7 MR. LAMA: Any opposed? {No response.} The
8 agenda is approved.

9 ITEM #4: APPROVAL OF MINUTES

10 MR. LAMA: Item 4 of the agenda, approval of the
11 minutes for the June 29th, 2009 meeting. If the Board
12 would take a look at Tab 4 in their meeting packet. And
13 if everyone's had an opportunity to review the minutes,
14 I'll entertain a motion for approval.

15 MR. PEREZ: Sir, it seems that every other page
16 may be missing.

17 MR. ORTIZ: I apologize. We did discover that,
18 that there seems to be a page missing. We don't know how
19 that happened. It was sent to the big printer and....

20 MR. LAMA: Oh, yeah, that's correct. Well, in
21 that case, what's the pleasure of the Board.

22 MR. GALLEGOS: Mr. Chairman, maybe as a point of
23 order if we can table this particular item to the next
24 meeting and then we can bring it up for approval at that
25 point. I would make that a formal motion. Run it by Zack

1 if that's okay.

2 MR. SHANDLER: Okay.

3 MR. PEREZ: Second.

4 MR. LAMA: I have a motion to table this item
5 until a full copy of the proposed minutes can be presented
6 to the Board at the next meeting. Do I have a -- is there
7 any discussion on that item? {No response.}

8 All those in favor of the motion signify by
9 saying aye.

10 THE BOARD: Aye.

11 MR. LAMA: Any opposed? {No response.} All
12 right. We will entertain approval of the minutes of the
13 June 29th meeting at the next Academy Board meeting.

14 ITEM #5: DIRECTOR'S REPORT

15 MR. LAMA: Item 5, the director's report.
16 Director Ortiz.

17 MR. ORTIZ: Good morning. Morning, Ladies and
18 Gentlemen. On June 29th we held the last Board meeting in
19 Ruidoso, and the following is just a brief description of
20 the activities at the Law Enforcement Academy.

21 As you know, Chief Jojola is not with us here
22 today as a tribal representative. He is no longer the
23 chief of Isleta PD. So I'm conducting a search to find a
24 replacement as a tribal chief representative.

25 So if you have any recommendations, please

1 forward them to me; and we will start that process to try
2 and have that position filled by the December meeting.

3 Also, on July 16th Sandoval County Sheriff
4 Sergeant Joe Harris and his partner, Deputy Teresa
5 Moriarty, were inside a cabin as part of a stakeout to
6 apprehend a suspect reportedly involved in a number of
7 residential burglaries in the Jemez Mountains.

8 At approximately 4:45 a.m., the suspect entered
9 the cabin. When confronted by the deputies, a struggle
10 ensued and gunfire was exchanged. Sergeant Harris and the
11 suspect both died from gunshot wounds.

12 We are all saddened by the tragic loss of
13 Sergeant Joe Harris. He served in law enforcement for 27
14 years. Sergeant Harris and his family will remain in our
15 thoughts and prayers.

16 The second item. On the afternoon of
17 September 2nd, a meeting was held in Albuquerque with the
18 satellite academies. And a copy of the agenda is attached
19 in your packets at the end of the director's report.

20 Seven of the nine academies attended. Bernalillo
21 County and Dona Ana County were unable to attend. So
22 we're continuing with the biennial meetings with the
23 satellite academies.

24 Contractors have submitted bids regarding the
25 audit project. We are hoping to begin conducting the

1 audits very soon. Letters will be sent out to the
2 agencies informing them in advance of the upcoming
3 audits.

4 Misconduct status update. As of 9/11/09, we have
5 received 96 misconduct cases for 2009. Currently we have
6 44 open cases. Two for 2007, and one of those is on the
7 agenda today. And five for 2008. And 37 pending for
8 2009.

9 Nine of these open cases are pending formal
10 hearings, and six are pending court actions. And I do
11 have a breakdown at the end of the director's report with
12 the stats.

13 The director attended the chiefs' association
14 meeting in Albuquerque on September 2nd and obtained
15 recommendations for reporting misconduct. This
16 information was also passed onto the sheriffs' association
17 to obtain their input. This topic will be addressed
18 further in Agenda Item No. 9.

19 Due to the hiring freeze, three positions remain
20 vacant at the Law Enforcement Academy. And Administrative
21 Assistant Monique Croker, who is to my left here, was
22 named Employee of the Quarter between April 2009 and
23 June 30th of 2009.

24 {Clapping.}

25 MR. ORTIZ: At this time, I'm going to call

1 Bureau Chief Mark Shea to give the Advanced Training
2 Bureau report.

3 MR. SHEA: Mr. Chairman, Members of the Board,
4 since our last board meeting the Advanced Training Bureau
5 has conducted training, training 166 students, equating to
6 7,216 contact training hours.

7 This was attendance through September 18th.
8 We've had a few other classes that have been on the
9 schedule. I don't have those numbers. Currently we have
10 a compliance officer class going on that has 51
11 attendees. So we're keeping very busy in the building.

12 The Certification by Waiver 67 Class was one of
13 our largest. We had 33 in that class and graduated that
14 class. It accounted for 120 hours of training or 3,960
15 contact hours.

16 We had scheduled to start on Monday our
17 Certification by Waiver 68 Class, but we did not have
18 enough students who met the criteria for entrance into
19 that class to run it. So we have moved that class to
20 November 30th through December 18th.

21 So we didn't cancel it. We just pushed it back.
22 We have some retirees that were still working on their
23 paperwork, and then we'll give another opportunity for
24 those who needed to complete the mandatory assessment to
25 make their times to get into that class.

1 Projects that I had reported at the last board
2 meeting are still ongoing, so I will not go over those
3 again. We had talked about the range management class
4 that was up and coming. That class has been conducted and
5 was very successful. We have very high reviews on it.

6 I think we've got another avenue for getting
7 certified staff to agencies if they are doing their
8 qualifications and they're running ranges. This gives
9 them an opportunity to get somebody trained without having
10 to have them go through the full credentialing process to
11 be an instructor when they aren't actually instructing,
12 they are just running and managing a range.

13 So we look towards the future of continuing with
14 that particular project. We've got a grant from Violence
15 Against Women for doing a DV -- a training video, two of
16 them. That project is ongoing. That grant was awarded,
17 and we're now implementing that.

18 The staff -- our legal staff, Elliott Guttmann,
19 has completed his online curriculum, taking the law block
20 and making it an interactive online type of format. We
21 are going to pilot that with our CBW 68 so we can get
22 feedback from them as to whether we're on track with it.

23 Once we get that feedback from an actual class,
24 we'll roll that out, put it up on the website, and make
25 that available across the state, not only for the other

1 academies to use, but also officer -- incumbent officers
2 who want to get their legal training tweaked up, that they
3 can do that online without having to attend a class.

4 We are -- members of our bureau are sitting on
5 several committees. We're continuing to work on the SWAT
6 tactical curriculum review committee, the crisis
7 intervention team committee, and assisting with the basic
8 bureau and the public safety telecommunicator academy with
9 the cert bureau with the staff that we do have.

10 With that, I'll entertain any questions. {No
11 response.} Mr. Chairman, thank you.

12 MR. LAMA: Thank you.

13 MR. ORTIZ: Mr. Chairman, Board Members, I'll go
14 ahead and give a Basic Training Bureau. On August 28th,
15 2009, Basic Class 177 graduated 28 cadets at the Glorieta
16 Conference Center.

17 We started Class 178 on September 14th. We began
18 the class with 41 cadets, 35 males and 6 females. Five of
19 them left the first day. After arriving, they said it
20 wasn't for them. And so they left. So currently we're at
21 36 cadets.

22 They'll be scheduled to graduate February 3rd,
23 2010. And that's just a highlight of the director's
24 report on that.

25 The Critical Incident Response Bureau. The

1 Dispatcher Class 109 was held July 13th through July 31st.
2 And 27 students graduated. There's additional information
3 in the report. If you have any questions at this time,
4 I'll be happy to answer any questions.

5 MR. LAMA: Any questions from the Board?

6 MR. SCHULTZ: I do have a comment, Art. Would it
7 be possible for you to -- reference director's report item
8 No. 2 -- send a letter to the agency heads and to
9 satellites who do not attend your meeting. I think it's
10 important.

11 There's no reason why you couldn't at least have
12 one person at the meeting from the satellite academies. I
13 think most likely the agency heads probably don't know
14 that nobody was there.

15 MR. ORTIZ: Okay. I did send that e-mail to all
16 the Board members, inviting the Board members. And then I
17 did just do it to the satellite academies.

18 MR. SCHULTZ: Maybe to the agency heads that
19 represent those satellites just so they know they didn't
20 have anybody in attendance.

21 MR. ORTIZ: Yes, sir.

22 MR. LAMA: Any additional questions? {No
23 response.} Anything additional, Mr. Ortiz?

24 MR. ORTIZ: No, sir.

25

1 ITEM #6: PUBLIC COMMENTS

2 MR. LAMA: Very well. The next item on our
3 agenda is that portion of the meeting where the Board
4 considers public comments. I was just handed a public
5 comment sign-in sheet, and it indicates that there are a
6 number of folks that wish to provide public comments.

7 I will just remind those who do wish to provide
8 comments, we do have two public hearings that are
9 scheduled on the agenda later in the agenda for reserve --
10 the reserve officer training program and the public
11 hearing on eligibility of retirees.

12 So if your public comments are directed to those
13 items, I would appreciate it if you reserve your public
14 comments on those until we get into the rules hearing,
15 because it's important that we have a record for purposes
16 of that rule hearing.

17 But in reference to other public comments, I've
18 been asked -- begged -- by the court reporter that if you
19 do have public comments, if you'd come up to the podium
20 and present those comments and identify yourself for the
21 court reporter and the record.

22 So the first person is J.D. Sanders.

23 MR. SANDERS: Good morning. I'm J.D. Sanders,
24 chief of police in Hobbs. Morning, Mr. Chairman, Members
25 of the Board, Director. Back in July I had the

1 opportunity to attend the three-week cert by waiver class
2 at the Academy.

3 And having been -- this is the third one that
4 I've been through, I thought that I would -- had some
5 things that I would like to share with you that probably
6 most of you know but might have some bearing with you in
7 relation to someone that's maybe have seen others and
8 maybe an outside look at it a little bit.

9 I was one of 33 in that class. And literally
10 they were from all over the country, Alaska,
11 Massachusetts, Minnesota, Michigan, Florida, and, of
12 course, some here right here at home in New Mexico.

13 And included in that class was four police
14 chiefs. And, actually, I don't think it's probably any
15 surprise with some on here that I was a little resistant
16 about attending that class. But I've got some things that
17 I want to share with you about it.

18 Having had the opportunity to see a lot of
19 instructors in my life and set in front of them, I can't
20 tell you how impressed I am with the level of instruction
21 at the Academy. Everyone that had anything to do with our
22 class, even the ones that come in for a half a day, were
23 just top shift, as good as I've seen.

24 But I wanted to point out a couple that
25 especially impressed me. Brian Coss may be the most

1 knowledgeable person in his subject area and the best at
2 delivering that I've ever seen anywhere. And I've seen a
3 bunch of them. I can't tell you how impressed I am with
4 him.

5 Most of you probably know that because most of
6 you have been around him a lot. He was new to me. And I
7 was impressed.

8 Elliott Guttman. I've never met anybody that
9 was any more passionate about what they were teaching.
10 His level of knowledge is outstanding. His interesting
11 class participance is unbelievable. And he has some
12 outstanding ideas I think about how we could possibly do
13 some little changes here and there, tweaking a little bit
14 about the cert by waiver class where it's not such a
15 hardship maybe and such a costly thing for those that have
16 to be away from it for three weeks.

17 But Elliott and Brian, I'm telling you, I'll put
18 them up against anybody in this country, anywhere, any
19 time.

20 I was really impressed with the staff. It may
21 have been because I'm a chief, but I doubt it. I saw it
22 with all the other participants in the class too.
23 Director Ortiz's staff was just excellent at trying to
24 make sure that all our needs were met, whether they were
25 personal or professional. They were very personable to

1 us.

2 Mark Shea is running a great ship there. I was
3 really impressed with Mark and the organization that they
4 had with them. It was just an overall great experience to
5 be able to see that and see the level of training that the
6 people in this state are receiving.

7 I also want to add too that there were -- as I
8 said before, there were four police chiefs in that class;
9 and I was really impressed with Director Ortiz when the
10 second-to-the-last day we were there he invited us to have
11 a private lunch with him.

12 And what he wanted to do was get feedback from
13 us. Now, that's a leader; somebody that wants to know
14 about the warts, wants to know about the good stuff, how
15 they can improve this and how they can improve that.

16 But that was impressive. He didn't have to take
17 the time to do that, but he did. And he had big ears,
18 too. He listened, and then he offered some things to us
19 that I think would be helpful.

20 But I kind of said all that to say this: We
21 heard in his report just a few minutes ago that there are
22 still three staff members short, probably going to be for
23 as far as we can see out because of budget freezes. And
24 all of us are going through that.

25 I don't know that there's any -- well, Chief

1 Sheriff Coon's got more money than God down where he's at.
2 I forgot about him, so.

3 MR. COON: You've got gas and oil, too.

4 MR. SANDERS: We all have tight budgets. We're
5 looking at ways to reduce. Some of us are undergoing
6 freezes. And I know Chief Segotta has had some real tough
7 decisions to make, and I feel for him. But we all do. So
8 in this time I'm hopeful that this Board will be
9 openminded to listen to some of the people in that Academy
10 about maybe some things that they can do to save some of
11 us departments some money and resources and still receive
12 the kind of training that we need.

13 For one, Elliott Guttman has come up with an
14 outstanding online course that he's convinced he can do
15 his whole week basically online. And, obviously, that
16 would be very beneficial to us that has to send folks up
17 there. And that's just one of many ideas.

18 But I would encourage this Board to look at that,
19 look at ways that we can tweak it; but also look at ways
20 to do some other fundamental changes.

21 If I could be critical just for a minute, the
22 only thing that I could find to criticize is, is the
23 things that are being instructed to me and the other three
24 police chiefs was not appropriate to what we need.

25 Three of us came from out of state. I don't need

1 to learn anything about handcuffing anymore. I'm not
2 going to handcuff anybody, first of all. I believe I've
3 had enough of that.

4 But the fact of the matter is, is there were a
5 lot of things in the administration of state laws and
6 regulations, not only from the Academy Board, but from
7 other agencies, department finance and stuff like that
8 that would have been very beneficial.

9 If you're going to take the time to have us
10 there, maybe we can design something that would truly be
11 of benefit. And I'll tell you it's not just going to
12 benefit those chiefs that come here from out of state.

13 As you well know there's a lot of departments
14 where a guy can be a patrol officer one day and a chief
15 the next. And they are just not armed sometimes with the
16 right kind of education and training to help make them
17 successful. And then they wind up in trouble.

18 So I'd like to propose something to think about.
19 And I've talked with Art about this. I'd like to propose
20 for this Academy Board to consider having a required
21 police chief training at least one a year, a minimum of
22 40-hours training.

23 Let the state academy develop the curriculum that
24 would make it directly what that chief is going to be
25 responsible for. Require it as a part of the

1 certification process, whether they are already certified
2 or not, if they are going to serve as a police chief, that
3 they have to go through a 40-hour inservice training or a
4 training to prepare them for that.

5 I wouldn't object a second to that. I'd go to it
6 tomorrow if it was developed. But -- and there's some
7 other things too, and I won't bore you all with that
8 today.

9 The main thing that I wanted to share with you is
10 the pleasant experience that I had at the Academy. I
11 think that some of the guys were -- that maybe 20 or 30
12 years' experience in other places were kind of taken aback
13 about having to be in bed at 7 o'clock at night.

14 But other than that, man, it's hard to find
15 anything to be critical about up there. And I was really
16 honestly, truly, sincerely, professionally impressed with
17 the Academy staff training, especially Brian and Elliott.
18 And they should be commended for what work they do.
19 Thanks.

20 MR. LAMA: Thank you very much.

21 MR. ORTIZ: Thank you, Mr. Sanders.

22 {Clapping.}

23 MR. LAMA: The next person is Mark Radosevich.

24 MR. MARK RADOSEVICH: I would just refer to the
25 public hearing. Thank you, Mr. Chairman.

1 MR. LAMA: All right. The next person on the
2 list is Roger Hatcher.

3 MR. HATCHER: Yes, sir, Mr. Chairman. I would
4 too like to defer to Item 9.

5 MR. LAMA: All right. Very well. The next
6 person on the list, Tom Ferguson.

7 MR. FERGUSON: Mr. Chairman, Members of the
8 Board, Staff, Director Ortiz. For the record, my name is
9 Thomas B. Ferguson. I'm with the Dona Ana County
10 Sheriff's Department. And I'm here to speak to you about
11 a request that we have.

12 I'm also accompanied by Lieutenant Rhodes, who is
13 representing Sheriff Garrison this morning. Law
14 enforcement wasn't able to attend.

15 Our purpose in being here is to request that you
16 consider a waiver of the rule which would require me to go
17 back through the basic training given the fact that I've
18 been out of the game for too long.

19 I first began my law enforcement career back in
20 1966. And, obviously, a lot has changed since then. And
21 I think anytime someone comes before you or anyone else to
22 ask for a change in policy there needs to be adequate and
23 strong reasons for that request. And I think we can -- we
24 are prepared to provide that to you this morning.

25 Let me say to you that my tenure here with the

1 department goes back to about three years ago when I first
2 met Sheriff Garrison and was invited to become a member of
3 his mounted patrol.

4 In that capacity and under the supervision of
5 Lieutenant Rhodes, who is here this morning, I became very
6 quickly immersed in law enforcement for real again and
7 found that that old passion was being rekindled.

8 And I quickly became involved in a variety of
9 things that led me to where I am now having moved from
10 activities within that area of law enforcement, meaning
11 being back on the street working with sworn deputies,
12 obviously, and involved in interaction with the public,
13 writing reports, writing tickets, all those sorts of
14 things that are typically a part of the job.

15 And moving from there into other things that were
16 spurred on by the fact that we had a growing sex offender
17 registration operation. I became involved in that; became
18 involved in the monitoring and management of that
19 process.

20 {Coughing.} Pardon me. The one thing I've got
21 to deal with here in New Mexico is these allergies.

22 In any event, because of the changes that were
23 coming at the federal level with the Walsh Act, the
24 marshal service is a very big part of that. We've
25 integrated the department's sex offender management

1 process with that of the U.S. Marshals.

2 In that capacity I went over and began to work
3 with the marshals. And that kind of then took on its own
4 life as a result of making acquaintances with the
5 deputies -- or, rather, the agents working there.

6 And without making this more detailed than it
7 needs to be, a long story short, if you will, I became
8 involved in several major case investigations having to do
9 with sex offenders. And in the process I ended up being
10 involved with immigration customs enforcement, which is
11 also located right in the very same area, nearly.

12 And because I come from a background where I
13 spent a number of years back in metropolitan Washington,
14 Montgomery County, Maryland, involved in doing organized
15 crime and intelligence activities back in the '70s, the
16 then recently retired agent in charge of the facility here
17 in Las Cruces, a fella by the name of Rob Barr -- and I've
18 got some materials that I'd like to share with you that is
19 representative of the contacts that I have as a result of
20 these incremental moves in the business, if you will, and
21 the feelings of the people for whom I work with and for.

22 The situation as it stands now has brought me to
23 the point where I'm back here asking that you consider
24 this request in order that I be able to continue to serve
25 but actually to do so in a more effective capacity.

1 My ability to be able to go out and do what was
2 being done before when associated only with the sheriff's
3 department, it has changed substantially because of the
4 nature of the kind of work that I'm involved in now.

5 The problem and the reason for being here is that
6 without the certification, the interest of the U.S.
7 Attorney, as an example, to have me testify in court or
8 being the affiant on a warrant application for the search
9 warrant -- whatever it happens to be -- is limited for
10 obvious reasons.

11 That certification is critically important. I'm
12 not obviously interested in being back out on the street
13 anymore. I did a bit of that during the course of the
14 last three years, just to get back in and to prove my
15 commitment to the process.

16 And I would say to you that -- and I don't want
17 this to be misperceived. It's not out of a lack of
18 humility, but I would like you to know that for the last
19 three years -- nearly three years now -- I have worked for
20 the Dona Ana County Sheriff's Department and the other
21 organizations to which I have been attached 40-hours-plus
22 a week for zero compensation.

23 I'm proud of that. I'm not bragging about it,
24 but I'm proud of it because I think it makes very clear to
25 you what my level of interest and commitment to this

1 profession is. I dearly love what I do.

2 And I'm simply asking that I be provided with the
3 single tool that prevents me from being able to be of more
4 service than I am today, that of certification.

5 So that my time with the marshals and with ICE is
6 going to be better spent. There are significant
7 limitations on my ability right now without that
8 certification, for example, as I mentioned before, being
9 able to testify in court, being able to take out warrants
10 and that sort of thing.

11 But more importantly I can't because of that lack
12 of certification access the wonderful computer systems
13 that are available at the federal level to further some of
14 the investigations that we have going right now.

15 The gentleman that I work with who as I mentioned
16 before retired from ICE has a significantly broad
17 background in the kind of work that we're doing now.
18 We've got a couple of very large cases working involving
19 international smuggling and that sort of thing. Like a
20 couple of days ago we were on the phone with Beijing,
21 China.

22 Now, there's a limitation because of my lack of
23 certification in terms of what I can do. And I'm asking
24 you to favorably consider this request and recognize that
25 it's unique. I know it's unique; and, of course,

1 everybody that comes before you is unique. We are all
2 individuals, and we are unique in that sense.

3 But I would suggest to you that the likelihood
4 that you're going to find another fella who's going to
5 have the eighth celebration of his 60th birthday tomorrow
6 is going to be appearing in front of you asking for this
7 kind of consideration.

8 I do it out of the passion and out of the love
9 that I have for what I do. And I'm simply asking your
10 support to allow me to continue that at a higher level.
11 Thank you very much.

12 MR. FORCE: Chairman. I'd like to ask
13 Mr. Ferguson a couple questions, if I could, kind of
14 follows up on --

15 MR. FERGUSON: I'm sorry. I didn't mean to run
16 away from you.

17 MR. FORCE: In looking at the packet that you
18 handed out, is it my understanding -- am I understanding
19 this correctly that you had applied for a cert by waiver
20 and it was denied?

21 MR. FERGUSON: No, sir, it was not denied.
22 Director Ortiz was gracious enough to allow me to attend
23 the cert by waiver program. I went through Class No. 66.
24 But because of the statutory limitation regarding the time
25 that I had been out of the business, there was no way that

1 I could be granted a certification at that point.

2 I was simply allowed to attend the course with a
3 clear understanding and acceptance of his position that I
4 would not be granted a certification coming out of that.

5 Again, the problem is that I've just been out of
6 the game too long. But I think that probably has been
7 made up for by virtue of the fact that I have, again,
8 worked full-time for the sheriff's department and the
9 other agencies to whom I've been assigned for nearly three
10 years.

11 And I think that probably puts me back in the
12 game in a relative way. I would submit to you that I'm
13 probably as qualified and as experienced as anybody that's
14 here today.

15 MR. COON: Mr. Ferguson.

16 MR. FERGUSON: Yes, sir.

17 MR. COON: You said that you've been out of the
18 game. Who did you work for and how long have you been out
19 of the game?

20 MR. FERGUSON: I worked for the Montgomery County
21 Department of Police in Montgomery County, Maryland, which
22 is a fairly good-size operation outside of northwest
23 Washington. A department of about 1200 sworn employees.
24 I began there in 1966 after having come back out of the
25 service.

1 I stayed there not totally within the department
2 for that period of time because I went onto a couple of
3 politically-appointed positions, still law enforcement
4 associated because at that point I was working under the
5 umbrella of the DA on some special cases in Montgomery
6 County.

7 MR. COON: How long ago has it been since you've
8 been a policeman?

9 MR. FERGUSON: Well, probably 1980.

10 MR. ORTIZ: Mr. Chairman, Board Members, NMAC
11 Rule 10.29.6.10 is eligibility of retirees. On
12 Subsection B, it says that the separation period shall not
13 exceed 20 years.

14 He had exceeded the 20 years and the requirement
15 would be that he would have to attend the basic class
16 again per the rules.

17 MR. FORCE: And all the other requirements,
18 Mr. Ortiz, did he meet except for that one?

19 MR. ORTIZ: Yes, just that separation shall be
20 under honorable conditions, biennium training shall be
21 complete and current, applicant shall complete the current
22 DPS firearms -- basic firearms qualifications, and
23 complete all other conditions required under the current
24 certification by waiver of basic training except for the
25 physical fitness and agility requirements of being a

1 retiree.

2 MR. FERGUSON: Which, by the way, I had to do
3 before I was allowed by the department to come up to the
4 program. I was in Class No. 66.

5 MR. ORTIZ: Yes. Mr. Chairman, Board Members,
6 but it was B, the separation shall not exceed the 20
7 years, that prevents him from being certified.

8 MR. FERGUSON: What I'm asking that you consider
9 is the fact that I have been actively full-time for the
10 last nearly three years with Dona Ana County Sheriffs,
11 U.S. Marshals, and ICE.

12 MR. COON: As a commissioned deputy or as a
13 employee of the Dona Ana County Sheriff's Office?

14 MR. FERGUSON: Neither, because I couldn't be --
15 I've been commissioned, by the way, through the New Mexico
16 Mounted Patrol. However, that didn't apply to the Dona
17 Ana County operation because I only recently achieved
18 that.

19 But I have worked with, obviously, with sworn
20 people with arrest powers, actively involved in carrying
21 out all the normal duties of a sworn officer, but without
22 the ability to do the things that are limited by not
23 having the certification.

24 For example, it was not uncommon when I first
25 became involved with the marshals, who are of course

1 actively involved in fugitive apprehension, to have one of
2 the agents say, "Here. Here's the file. Go find him."

3 Well, the first time that happened, I got real
4 lucky and found him within about 45 minutes and just
5 waited for the calvary to get there. And that kind of
6 started things rolling. That established a little bit of
7 understanding and credibility among the people that I was
8 working with.

9 And we just carried on from there. It's been
10 kind of a -- again, I'm in it not for any reason other
11 than the fact that I love what I do. I enjoy being able
12 to make a difference.

13 Particularly, now with ICE where we've got a
14 bunch of young folks in from around the country as part of
15 the best program, just being able to share with those guys
16 is a great thing. I enjoy it.

17 The fellow that I worked with, we were
18 euphemistically known as the Geezer Squad. And we kind of
19 like that. It's a good mantel {sic}. Our approach is
20 that old age and deviance will overcome youth and
21 enthusiasm. We enjoy being able to work with these
22 people.

23 MR. COON: Are you a paid employee?

24 MR. FERGUSON: No, sir. I have been not been
25 paid in any form or fashion for the time that I've been

1 involved in this one, which is almost three years. I
2 enjoy a very comfortable retirement. And I look upon that
3 as being something that obligates me to put something back
4 in.

5 And if you can't do something and feel good about
6 it, you shouldn't be doing it. I feel good about this.
7 And I'm simply asking you to give me the ability to
8 continue with what I've been doing, only better.

9 Because, again, right now the U.S. Attorney is
10 not happy to have me on the stand without the ability to
11 be able to say that I'm a certified police officer. The
12 fact that I've been commissioned through the New Mexico
13 Mounted Patrol is, frankly, not adequate in federal court.

14 MR. FORCE: So let me see if I can clarify. So
15 you're asking this Board to grant you a certification,
16 right, and to bypass the NMAC regulation about being out
17 of service for 20 years, in order that you may go back
18 into service as a certified police officer, but be a
19 volunteer; is that correct?

20 MR. FERGUSON: Well, I'm glad you asked that
21 question. There's an issue of when we start getting into
22 things having to do with personnel matters, unions, and
23 that sort of thing, about having somebody who is, quote, a
24 employee and not salaried.

25 Particularly if I were asked to -- be asked to do

1 an internal investigation or something of that nature, I
2 need to be on salary. The way that's been handled -- and
3 my partner's an example of that.

4 The sheriff brought him back in after he retired
5 from ICE in a part-time position at an agreed-upon low
6 salary. That would be my intent as well. That's the
7 sheriff's intent and the reason why he has sent
8 Lieutenant Rhodes up here with me. If you have questions
9 about what the department's position on that is, he can
10 answer those.

11 That's the intent. I'm not doing it for the
12 money. If that were the case, the last three years
13 wouldn't have been as they were. I'm doing it because
14 it's the right thing.

15 MR. FORCE: Yeah, but the point is at least at
16 the time -- you're making this request to this Academy
17 Board to give you -- to grant you a certification. At
18 least at the time of granting is that you basically would
19 be somewhat of a reserve volunteer individual for the
20 program which you're approaching this for, certification.

21 Because you're not -- today you're not being an
22 employee, correct?

23 MR. FERGUSON: That's correct. Because an
24 employee implies salary. Yes.

25 MR. FORCE: Yeah. And at the time that you are

1 making this request of this Board for certification you're
2 not being paid?

3 MR. FERGUSON: That is correct. It is, however,
4 the sheriff's intent to put me into this part-time
5 position.

6 MR. FORCE: I understand that. But the issue
7 here before the Board is that we would be granting you a
8 certification bypassing the NMAC regulation of being out
9 of service for 20 years, and you're not employed. You're
10 not a full-time salaried police officer.

11 MR. FERGUSON: That is correct in the technical
12 sense. I am, however, working full-time.

13 MR. FORCE: I agree. I agree. And that -- I
14 think to me at least -- this is a comment -- this would
15 probably be more applicable for your application in the
16 event that the reserve certification process goes through,
17 because that's -- that's really the conduit that this
18 Board is considering on the agenda later this morning, so.

19 MR. FERGUSON: If I may. If you could consider
20 this request separate and apart from that, in that it is
21 the sheriff's intent to immediately after a decision is
22 made on this -- in fact, whether one is made or not, he
23 intends to employ me as an intelligence analyst, as he has
24 my current partner, for a variety of reasons, not the
25 least of which is the fact that it gives greater

1 credibility to my presence and purpose for being there.

2 So that's going to occur. Notwithstanding your
3 decision here today, that will still occur. So it may be
4 less complicated from your position right now to draw that
5 distinction.

6 MR. ORTIZ: Mr. Chairman, Board Members,
7 Mr. Ferguson, I think under state statute he would be
8 allowed to work 12 months as a commissioned officer -- as
9 a commissioned officer without his certification, granted
10 all the rights of a police officer.

11 But after that 12-month period, then you would
12 have to forfeit that if you do not obtain certification.
13 And the only way for him to obtain certification per the
14 rules is to go through the basic academy.

15 MR. FERGUSON: And I'm simply asking you to take
16 pity on me and not put me back through the basic academy.
17 It could be done. But quite honestly, all opinion aside,
18 that would be not physically impossible but it would be
19 very difficult in terms of managing the rest of my life.

20 And, again, at this point in my life I'm more
21 focused on what I can do with the things that I've learned
22 now and not go back and repeat something that I was
23 exposed to many-odd years ago. I guess I woke up and
24 decided this was still a great thing to do a little too
25 late.

1 MR. LAMA: Thank you, Mr. Ferguson. This is a
2 public comment period, so even if the Board wanted to
3 entertain a decision we would have to -- we would have to
4 move that discussion and decision-making to another
5 agenda, because under the Open Meetings Act, we have to
6 notice any final action that's taken.

7 But thank you very much for your comments.

8 MR. FERGUSON: I fully understand that and
9 appreciate where you're coming from. I didn't anticipate
10 that there would be any action taken at this point. I
11 just commend the comments of my colleagues and current
12 boss to you for consideration.

13 And we'll be guided by your decision. And thank
14 you for your time.

15 MR. LAMA: Mr. Shandler, did you have some
16 comments regarding this issue?

17 MR. SHANDLER: If the Board is not going to take
18 action at the meeting, I'll talk with staff about the
19 background later. I have some questions for the staff
20 about the fact pattern.

21 MR. LAMA: Sounds good. Mr. Ortiz, perhaps you
22 can get with Board counsel and develop these issues a
23 little more thoroughly and perhaps present to the Board
24 either by letter or at another meeting what your
25 conclusions are.

1 MR. ORTIZ: Yes, sir.

2 MR. LAMA: The last person I have listed on the
3 agenda is Arlis Rhodes. Are there any additional comments
4 that you'd like to make?

5 MR. RHODES: I could make it very briefly, if I
6 may.

7 MR. LAMA: If you'd come up to the podium,
8 please.

9 MR. RHODES: Good morning. Members of the Board,
10 Chairperson, I appreciate the opportunity to be able to be
11 here this morning. I'm in here as a representative of
12 Sheriff Garrison, who due to conflicting schedules was not
13 able to be here today.

14 We were led to believe that since we were not on
15 the agenda as an item that the best course of action and
16 that the appropriate time to bring this issue would be
17 during the public comments section. That's why we're here
18 at this particular time.

19 I can attest that Mr. Ferguson has been a huge
20 benefit to our department and actually has made some
21 inroads that we have never created before. We realize
22 that this is a very unique set of the circumstances. And
23 any exception to the norm can create issues. We're all
24 very much aware of that.

25 But on behalf of the letters in front of you that

1 you have received copies of and Sheriff Garrison, we're
2 requesting that the Board grant him a full certification
3 to further our associations with the Dona Ana Sheriff's
4 Department, with the other agencies that we're involved
5 with through Mr. Ferguson.

6 And it will just greatly enhance our capabilities
7 to perform different functions that are not available at
8 this point in time. So I'll attempt to answer any
9 questions that the Board may have at this time about the
10 request.

11 MR. PEREZ: You spoke about a former ICE
12 retiree --

13 MR. RHODES: Yes, sir.

14 MR. PEREZ: -- working with you?

15 MR. RHODES: Yes, sir.

16 MR. PEREZ: Is he a certified officer?

17 MR. RHODES: I do not know that. Mr. Ferguson
18 might be able to answer that.

19 MR. PEREZ: The former ICE man?

20 MR. FERGUSON: Yes.

21 MR. PEREZ: Is he a certified officer?

22 MR. FERGUSON: He is, sir. In fact, he went
23 through the recert course Number 67, the one just
24 completed. Yes.

25 MR. PEREZ: Thank you.

1 MR. RHODES: He has recently retired from ICE;
2 so, therefore, that time lapse has not been an issue for
3 him.

4 MR. PEREZ: That he went through the
5 certification?

6 MR. RHODES: Yes, sir. And I was not aware that
7 he had gone through the cert by waiver class.

8 MR. PEREZ: Thank you.

9 MR. LAMA: Any other questions of the Board? {No
10 response.}

11 MR. RHODES: I appreciate your consideration and
12 time. Thank you.

13 MR. LAMA: Thank you very much. I do not have
14 any other public comments identified. Is there anyone
15 else that has a public comment?

16 MR. SNYDER: Yes, sir.

17 MR. LAMA: Can you come to the podium and
18 introduce yourself, sir.

19 MR. SNYDER: I'm sorry for getting here late. I
20 apologize for that. My name is Patrick Snyder. I'm the
21 assistant chief of law enforcement for New Mexico Game and
22 Fish. And we have some comments reference Agenda
23 Item 10. And if you'd rather I make those comments on 10
24 or I can make them now.

25 MR. LAMA: What's the Board's pleasure? Would

1 you like to reserve those for that agenda item?

2 THE BOARD: {Nodded.}

3 MR. LAMA: All right. We'll take those comments
4 when we get to that agenda item.

5 MR. SNYDER: Thank you, sir.

6 MR. LAMA: Anyone else? {No response.} All
7 right. Very well.

8 ITEM #7: PUBLIC HEARING:

9 RESERVE OFFICER TRAINING PROGRAM

10 MR. LAMA: We will move along then to Agenda Item
11 No. 7. And at this time this is a public hearing on a
12 proposed rule regarding the reserve officer training
13 program.

14 I'd like to just identify this is a rule-making
15 hearing under the authority of the Law Enforcement Academy
16 Board to adopt rules and regulations under the Law
17 Enforcement Training Act. And I would like to now declare
18 that the hearing record is open.

19 I understand that staff has proposed these
20 changes, and I understand that Board Member Force has been
21 involved in these -- as part of a task force, I believe,
22 to bring these proposed changes forward to the Board for
23 consideration.

24 I'd like to start this proceeding off with staff
25 providing information and testimony on why these rules

1 should or should not be adopted. During this time the
2 Board is free to ask any questions of staff. Then we will
3 allow anyone from the audience who wishes to provide
4 testimony considering the rule.

5 I would ask, again, just to remind everyone that
6 for purposes of the record it's important that you come to
7 the podium if you wish to provide a comment and identify
8 yourself for the record.

9 The Board will hold off on any deliberations
10 until we receive all of that testimony and the record of
11 the rule hearing is closed. Then at that time the Board
12 will start deliberating the merits of the rule and
13 considerations that they have regarding adoption or
14 rejection of that rule.

15 At that time I will entertain any motion to
16 accept, modify, or reject the proposed rules. And the
17 Board has the authority to modify the rule as long as it
18 is an outgrowth of the rule as published in our packet.

19 I'd like to just start off by reminding everyone
20 of two important legal items for the record that
21 Mr. Shandler has advised me of. First, in the event that
22 the Board takes action on this rule or the rule that is
23 going to be presented under Agenda Item 8, those rules
24 become effective 30 days after they are filed with the
25 records and archives center.

1 Second, the legal standard that we follow in
2 rules hearings is that we need to inform the public of the
3 reasoning why we choose to amend our rules. The comments
4 that we're establishing on the record here today, if it
5 explains our reasoning, will satisfy that legal standard.

6 Mr. Ortiz, we're ready for you to make your
7 presentation. In addition, Mr. Force, I know that you
8 have some comments related to the subcommittee that you
9 chaired.

10 MR. ORTIZ: I'm going to refer this to Deputy
11 Director Gil Najar. He's worked with Mr. Force on this
12 project.

13 MR. LAMA: All right. Deputy Director, if you
14 would come forward.

15 MR. NAJAR: Mr. Chairman, Board Members, I'm
16 Gilbert Najar, deputy director of the Law Enforcement
17 Academy. Back just over a year ago at the first quarter
18 meeting, this Board chose to establish a subcommittee to
19 look at the certification of existing reserve officers
20 pursuant to a request from Captain Matt Suazo of the
21 Albuquerque Police Department.

22 That subcommittee was established, and Mr. Force
23 was established as its chairperson. We subsequently had a
24 series of meetings in which the committee developed what
25 you have before you with some modifications that have

1 taken place since then with subsequent meetings that have
2 occurred.

3 Through this process, the direction of the
4 rule-making was considered on the basis of either the
5 ability for us to seek changes to the statutory
6 requirements that would allow this to take place or to
7 seek those -- a method by which the rules and changes to
8 the rules would allow for the certification of reserve
9 officers.

10 So what you have before you -- and I'll defer for
11 the specifics on that to the chairman of the committee and
12 what has evolved and now is being presented to you for
13 consideration and action this morning.

14 MR. FORCE: Mr. Chairman. Just to clarify at
15 least on the record, at the March 27th, 2008 meeting is
16 when this Board made an action in order to compose a
17 committee to study this project; and I was appointed to
18 chair the committee.

19 I think I went to the bathroom or something. I
20 don't remember what it was.

21 MR. SCHULTZ: That's it.

22 MR. FORCE: Anyway, as it ended up, we've had a
23 series of many meetings over this issue. And along with
24 those committee meetings we have been inviting various
25 agencies and reserve programs, as well as the chiefs'

1 association and sheriffs' association memberships.

2 We've also taken this project in front of the New
3 Mexico Chiefs' Association.

4 And in the spring of this year, this proposal was
5 made in front of the chiefs' association in which, at
6 least for clarification on the record, the current
7 proposal as it is now is agreed upon by the sheriffs'
8 association except for deleting 10.29.8.21, which would
9 have been the prior certification of -- prior
10 nonaccredited certification, basically a cert by waiver.

11 The remark that was made with the chiefs'
12 association was that they were not in agreement with that,
13 but the remaining of it they were. In a nutshell this
14 proposal would allow for a reserve officer to become
15 certified by going through the identical standards of
16 training as currently established for New Mexico police
17 officers.

18 Under 10.29.8.20 there's an ability for
19 certification of nonaccredited basic training, where the
20 Academy would be able to go back and take a look at prior
21 training and give allowance for that.

22 Under 10.29.8.21 is where the Academy would be
23 able to review an applicant's history and then take a look
24 at that prior training and give a grace period I guess up
25 to January 1st, 2012 in order to complete a cert by waiver

1 course.

2 Just for the information I guess to this Board,
3 this process -- I personally think it's a great process.
4 It gives an ability for reserves to acquire
5 certification. It does not put a mandate on any agency to
6 certify a program.

7 This is only for the individual officer's
8 certification. And it also establishes a professional
9 standards of training within the reserve cadre.

10 So with that, we would stand for questions.

11 MR. COON: Mr. Chairman, Mr. Force. How is this
12 going to affect the mounted patrol?

13 MR. FORCE: It currently -- what the mounted
14 patrol is currently doing is basically doing their current
15 training under the 800-hour standard. So what we've heard
16 from representatives who have been on the committee is
17 that they've actually active -- they've probably been the
18 most active participants. And they are in agreement with
19 this project.

20 MR. COON: Now, if you have a mounted patrolman
21 that's been on for numerous years -- are you going to
22 grandfather the oldtimers in on this? Or the ones who've
23 got their 400 hours of mounted patrol, are they going to
24 be grandfathered in on this? Or is it this just the new
25 guys coming on?

1 MR. FORCE: Well, under the current proposal it's
2 both. So if this Board at its pleasure adopts the entire
3 recommendations in front of us, it would allow for
4 grandfathering to occur for those individuals who have
5 been out in the field for many years and require training,
6 under the caveat that the Academy would have to review
7 that prior training and have a system of check in place to
8 ensure that that training was certified -- or it meets a
9 certification standard, I should say; that the instructors
10 who taught the curriculum were accredited; and they met
11 the standards of professional standards.

12 And also on the other end for the new guys coming
13 in it gives them the ability to acquire certification.

14 MR. COON: So if you've got your 400 hours as a
15 mounted patrolman and met those 400 hours and you got them
16 yesterday, are they still going to be grandfathered in on
17 this since they've met their requirements for the mounted
18 patrol?

19 MR. FORCE: If they meet the standards.

20 MR. COON: Okay.

21 MR. FORCE: If they meet the standards. And
22 that's the -- the big thing on any prior training is the
23 Academy staff would have to review that prior training and
24 ensure that the curriculum, the testing instruments, as
25 well as the instructors, meet the professional -- current

1 professional standards of training.

2 Is that true, Mr. Najjar?

3 MR. NAJAR: Mr. Chairman and Board Members,
4 Sheriff Coon. Just to clarify what grandfathering is.
5 The requirements for that mounted patrol reserve officer
6 are identical to what a basic academy cadet would have to
7 achieve.

8 So it would be 800 hours total of training, all
9 the requirements that are in place for certification; that
10 includes citizenship, criminal history checks,
11 psychologicals, medical clearance, plus an assessment of
12 the physical fitness and the exit meeting -- the exit
13 standard requirements of the Agility I, Agility II, 1.5
14 mile run, 300 meter.

15 So the standards are not lowered, so there's not
16 a lower threshold. It is the identical same standards
17 that the basic cadet would have to meet.

18 MR. COON: And I understand that. But what I'm
19 asking is you've got a mounted patrolman that's been on
20 maybe five years. And I've got some down in my part of
21 the country been on 35 years, you know.

22 Are these guys going to have to go back and get
23 the training to get up -- well, and most of them -- the
24 oldtimers are going to have the 800 hours throughout their
25 career. But if a guy just reached all his goals and all

1 his objectives in the mounted patrol on his certification,
2 is he going to have to now -- that certification is no
3 longer any good; he's going to have to go back and get 400
4 more hours?

5 MR. SCHULTZ: Maybe I can help answer that. If
6 you look at the objective under 10.29.8.6. And you can
7 clarify this if we need to. It says, "These rules do not
8 require the certification of the reserve program, nor do
9 they require any agency or individual currently involved
10 as a law enforcement reserve to obtain such
11 certification."

12 So it would be the decision would be solely upon
13 that respective agency head if they want to go forward
14 with this program or not. So you can keep things status
15 quo if you wish or if you wish to go through a
16 certification program, certify your reserves, allow them
17 to become fully certified, you can make that decision.

18 So that's where I think I give a lot of credit to
19 Mr. Force. I mean, this is the best of both worlds.

20 MR. COON: Okay. I appreciate that. I did not
21 see that.

22 MR. LAMA: Mr. Force, anything further?

23 MR. FORCE: No.

24 MR. LAMA: Does the Academy staff have any
25 additional comments? Deputy Director or Director Ortiz?

1 Board members have any questions of staff?

2 MR. PEREZ: Yes. It seems to me we're creating a
3 back channel. We have the academy, and we have a process
4 in which people have to be certified. And then I heard
5 the term, "This is separate but equal." So then there's
6 another way to do it.

7 Well, then, if it's the same as the other one,
8 why don't they go through the regular certification?

9 Plus, if we have to -- the Academy, which is
10 right now strapped for money, is always going to be
11 strapped, if they have to review the qualifications of all
12 these officers, who is paying for that? The State is
13 paying for that. And yet these people are not in that
14 system.

15 So we're committing state funds to a system that
16 is outside of the law. I don't understand that, except
17 that it will provide more officers to some people. But
18 they're -- either you have an officer that goes to the
19 training or are you talking about another system? I don't
20 understand it.

21 MR. FORCE: Mr. Perez, if I could. The spirit of
22 the intent of this is to allow reserve officers the
23 ability to obtain certification. That's really the task
24 that was delivered out. And the practicality and the
25 reality of the issues are is that in -- throughout

1 New Mexico the reserve officers are completely volunteer.

2 They are not under staff paid services. They are
3 completely voluntary. So many of the reserves, in fact
4 the majority of them, have full-time occupational jobs and
5 then volunteer their services to a community really out of
6 the goodness of heart, as well as I think the ones that
7 I've met out of a very good strong valor.

8 So the issue here is really to apply a
9 professional standards to the reserve personnel who,
10 No. 1, desire certification; and, No. 2, that that agency
11 head may also desire that for the individual officer as
12 well.

13 The crux of the issue is that the Academy and the
14 way it's currently being operated is impractical for a
15 reserve volunteer to take that amount of time off of work
16 and then go to a full-time academy.

17 So the question here was allowing agencies or
18 satellite academies in order to develop a reserve program
19 that would meet the needs of a reserve and their working
20 schedules to obtain certification. And that's what this
21 also -- that's what this facilitates.

22 MR. PEREZ: If they are then certified will they
23 answer to the chief or to the sheriff and their
24 jurisdiction; and they are not employees?

25 MR. FORCE: That's correct.

1 MR. PEREZ: So you've got certified police
2 officers who do not -- who are not full-time law
3 enforcement officers have powers of arrest, carry weapons.

4 MR. FORCE: There is a secondary issue that
5 really that is outside the purview I believe of this
6 Board. And that's the issue that's gotten raised in these
7 committee meetings is what does certification actually
8 obtain -- obtain the certification, what does it actually
9 achieve?

10 Does it reduce liability to agencies, No. 1.
11 No. 2, does it expand arrest authority and powers to an
12 individual. That really, to be honest with you, I think
13 is not the issue of this Board, because that's really more
14 of a legal premise, as well as it's a liability.

15 Because some agencies that we've spoken to,
16 regardless of certification they are utilizing reserve
17 personnel in areas that I think risk management would
18 probably be very afraid of.

19 And yet we've also spoken to some agencies
20 that -- and as well as the state risk management that
21 believes at least a certification does establish a
22 standards of training under 42 U.S.C. 1983; that it at
23 least becomes a defensible issue.

24 But those issues are kind of secondary. I mean,
25 the question really, the spirit of this issue that I would

1 urge us to stay focused on is do you -- currently today
2 there is no conduit, there is no ability in order for this
3 Board to give certification to a reserve officer without
4 enactment of these standards.

5 Now, that to me is the issue. If a reserve
6 officer wants to be certified, what's the process. And
7 that's what this does. Secondly, how a chief or how a
8 sheriff utilizes their reserve personnel, I think that is
9 a -- that's an issue of that agency head, not really an
10 issue of this Board.

11 MR. PEREZ: This Board is the board that
12 certifies all law enforcement officers.

13 MR. FORCE: Correct.

14 MR. PEREZ: And yet you're creating -- it seems
15 to me you're creating a creature who is not an employee of
16 that department, he's not a salaried employee, yet he's
17 the certified police officer. To whom does he answer? We
18 gave him the authority, yet he's not salaried.

19 I think you're creating a whole different
20 separate police agency.

21 MR. SCHULTZ: Mr. Chairman, if I may. We're
22 talking about two different things. We have a
23 certification process, and you have a commission process.
24 You can be certified; but unless you're commissioned by a
25 respective governmental entity, you cannot take

1 independent law enforcement action by yourself.

2 This is only certification. It's still incumbent
3 on that person to be commissioned by a sheriff or a
4 municipal police chief, a state police chief, or a tribal
5 official. Absent that, commission doesn't mean
6 anything -- I mean, sorry, certification doesn't mean
7 anything.

8 MR. PEREZ: So the issue of salary, that's not an
9 issue? It can be unsalaried and be commissioned and
10 certified?

11 MR. SCHULTZ: Mr. Chairman. As far as state
12 statutes go, that's -- again, Mr. Force, there's a
13 question, is it going to be legal. The only place in
14 state statutes where it talks about salary is for traffic
15 enforcement.

16 For criminal law enforcement there's no mention
17 of being a salaried officer.

18 MR. PEREZ: He could be unsalaried. I
19 understand.

20 MR. SCHULTZ: Correct.

21 MR. PEREZ: Thank you.

22 MR. LAMA: Yes, Mr. Najjar.

23 MR. NAJAR: Mr. Chairman, Board Members. And
24 just to I guess provide some further clarification for
25 Mr. Perez. Under existing Rule 10.29.9.19, titled

1 "Continuation of Certification After Separation," it does
2 allow for any New Mexico certified law enforcement officer
3 who's been certified a minimum of five years to continue
4 to keep their certification active thereafter.

5 So I could go work at Wal-Mart for the next 20
6 years. As long as I maintain my training and firearms
7 qualifications, my certification continues to be active.
8 So we already do have sort of that creature out there that
9 exists.

10 We probably have about 40, 45 individuals that
11 are doing that, that are in the private sector working for
12 different companies that still continue to keep their
13 certification active, even though they are not
14 commissioned and they are not working for a law
15 enforcement agency.

16 MR. PEREZ: Thank you.

17 MR. LAMA: Any more questions of staff by Board
18 members? Yes, Mr. Gallegos.

19 MR. GALLEGOS: Actually, maybe not a staff or
20 maybe both staff and Mr. Force, if that's allowable. Very
21 broad general question is: We wouldn't even be talking
22 about this if it didn't have the potential to benefit law
23 enforcement efforts out there, rural, metropolitan, and
24 all those; is that correct?

25 MR. FORCE: That's correct.

1 MR. GALLEGOS: And can you just give me a brief
2 description of how that would -- how that would take place
3 if we were to adopt this new authority.

4 MR. FORCE: Actually, that's -- again,
5 Mr. Gallegos, that's kind of the spirit of what we went
6 into this for because we had -- this issue has been going
7 on for I don't know how many years. A bunch of years.

8 And this Board has never really taken a direction
9 to provide a need that we continuously here in law
10 enforcement dealing with reserve programs that are either
11 municipal or county or for that matter even dealing with
12 the New Mexico Mounted Patrol.

13 So what it does is it heightens and it brings an
14 awareness of professional standards into the reserve cadre
15 that as of right now today this Board has no authority of
16 over, nor does it have any controlling ability.

17 So what it does is it establishes -- in the way I
18 see it -- professional standards to the reserve element of
19 law enforcement that's currently out there that's being
20 used in New Mexico. Whether some of us agree on some of
21 the systems that are out there or not, they are out
22 there. And so it does bring professional standards.

23 No. 2, hearing from several chiefs and sheriffs
24 that do have reserve programs, it does bring a benefit to
25 them dealing with the issues of risk management and it

1 does bring an ability of, again, developing policy and
2 procedures that are consistent with the standards of
3 training.

4 MR. GALLEGOS: Thank you.

5 MR. LAMA: Any more questions of staff by Board
6 members? {No response.}

7 Then I think at this time we will move to
8 testimony from members of the audience that wish to
9 provide comments in regards to this rule. Are there any
10 individuals who are interested in commenting on the rule,
11 if they would come forward and identify themselves for the
12 record, please.

13 MR. WILLIAMS: Lieutenant Ron Williams with the
14 McKinley County Sheriff's Office, representing Sheriff
15 Frank Gonzales of McKinley County.

16 If I'm to understand the way it goes, this
17 certification will actually be just for reserve
18 certification? Or is it transferable if they decide to be
19 fully employed now? I mean, just like my certification.
20 They could walk from my reserve program and actually be a
21 full-time salaried patrolman or deputy; does it go that
22 far or is it specific only to reserves?

23 MR. FORCE: Mr. Najjar, you might want to comment
24 on this.

25 This is one of the issues that has gotten brought

1 up about the problem, quote, unquote, with backdooring the
2 system.

3 MR. WILLIAMS: His question kind of made me think
4 of that. The way he said it was the back door side of
5 this.

6 MR. FORCE: Yeah, and the issue is, is that
7 this -- this allows a certification that's no different in
8 the certification toward a regular police officer, because
9 the standards of training are identical.

10 So once the individual has become certified, does
11 it give the agency the ability to bring that person on to
12 full-time salaried employment? I believe it does.

13 And, again, the question is the quality of
14 management and the quality of review of not only the
15 academic training but also of the proficiency, skills, and
16 abilities. And that was part of why we wanted the cert by
17 waiver or LEOCE completion at the end of the program.

18 MR. WILLIAMS: Thank you. And the only other --
19 I'm just going to clarify. I'm pretty sure Chief Schultz
20 answered it. We currently have a reserve program where we
21 require about 260ish hours of training.

22 And these guys will never want to be deputies, I
23 mean, you know, full-time salaried. And it wouldn't
24 affect them in any way. They are very limited on
25 authority, too. And it wouldn't affect them in any way.

1 We are not required to go into this, right?

2 MR. FORCE: No, sir.

3 MR. WILLIAMS: And that was my sheriff's real
4 specific question.

5 MR. FORCE: Yeah, that's exactly correct. My
6 understanding of the past history of this effort has been
7 to certify the program. This effort does not require
8 agencies to --

9 MR. WILLIAMS: Go to the next step.

10 MR. FORCE: -- undergo certification or any
11 individual reserve to undergo certification. It just
12 gives an ability for a reserve to undergo certification.

13 MR. WILLIAMS: Thank you.

14 MR. LAMA: Any other public comments? Yes, sir.

15 MR. FRED RADOSEVICH: Thank you, Mr. Chairman.
16 I'm Fred Radosevich, Police Chief of Town of Bernalillo,
17 and I've been instructed by the chairman not to talk.
18 But, no.

19 As a quasi-member of that committee, I think
20 there's some -- I'm not going to say misleading
21 information going out, but I think let me clarify from my
22 understanding. And I think Mr. Perez brought it up.

23 What the purpose of this was is not to establish
24 a certification for a reserve officer program. The
25 purpose of it was, was to allow a reserve officer program

1 to become a satellite academy, approved by the Board or
2 the director, and then those people could then apply for
3 regular certification to the Academy Board and become
4 regular certified officers.

5 And then they could go -- and I'll use this as an
6 example. If it was a mounted patrolman that wanted to
7 apply for a Bernalillo Police Department job, he would be
8 already a certified officer. He would not have to have
9 gone through the regular academy, but he would have to
10 have gone through a satellite academy.

11 So to answer your question, Mr. Perez, I think
12 you're exactly right that we're creating a back door
13 approach to get more people to become certified officers.
14 We're not creating -- and I read the rule again last
15 night. We're not creating a certified reserve program.
16 That's not what that rule does.

17 MR. FORCE: Right.

18 MR. FRED RADOSEVICH: The rule creates a program
19 that allows people to become certified police officers
20 without going through a regular academy.

21 Now, the director already has the authority to
22 accredit satellite academies, except the Law Enforcement
23 Academy Board several years ago put a moratorium on that
24 and does not allow any other satellite academies to be
25 created.

1 So he couldn't go and say, "Okay, mounted patrol
2 or APD, we're going to allow you to set up a reserve
3 program; and we'll certify that academy to 800 hours."

4 And I just have to say this: I think there was a lot of
5 work done on this; that New Mexico Police Chiefs'
6 Association was adamant about that.

7 And I think it was at our February meeting that
8 we were -- it's not unanimous, but it was almost unanimous
9 that if the mounted patrol or Bernalillo County or
10 somebody wants to set up their reserve academy and meet
11 the guidelines of the current academy curriculum, then
12 they could go and get that done.

13 What we're -- and I think we agreed to that.
14 That's fine. The director has that authority to do that
15 under statute now. He doesn't need to change any of the
16 rules.

17 What this is allowing is somebody that's been a
18 mounted patrolman or a reserve officer for the sheriff for
19 20 years to submit his paperwork to Art and go through all
20 their training certificates and say, "Yep, we think he's
21 got enough hours," and certify him.

22 So I just want to make more of a comment than a
23 question or comments for the Board is that's what we're
24 doing. And if I read the rule wrong, Mr. Chairman or
25 Mr. Force, then I apologize.

1 But I think we're misleading members of the Board
2 and also the public because this is not to create a
3 reserve officer certification program. This is to create
4 a program that current mounted patrolmen or reserve
5 officers can apply to the Academy and become regular
6 certified police officers in the state of New Mexico
7 without going through the basic academy or an approved
8 satellite academy now.

9 And I would question whether if -- and I'll use
10 this as an example because the majority of the people on
11 the board -- and I think Mr. Force will tell you this --
12 were not police chiefs or sheriffs or full-time police
13 officers. They were either members of the mounted patrol;
14 they were members of Bernalillo County Reserve, members of
15 different reserve programs.

16 And, again, as Mr. Gallegos had stated, this has
17 been a long time and a long discussion. And I think -- I
18 don't have a problem. If they want to go through the
19 Academy, go through the same training that we're requiring
20 every new recruit to go through today, that's fine.

21 Certify an academy that meets those requirements,
22 let them go through it on the weekends over the next two
23 years or whatever; and if they meet the thing. But to go
24 back to somebody 20 years ago -- for some of you
25 oldtimers -- apologize; nobody here that I remember --

1 going back in the '70's the grandfather clause was a major
2 issue back then.

3 And I think we're taking a step backwards when we
4 allow to do backtraining and then allow somebody then to
5 back door the system. And I think that is what this
6 approach is, if we allow people -- if you want to say
7 this: Start today after the rule is posted and mounted
8 patrol wants to come to the director and ask for an
9 accreditation, so be it. There's not a problem. They
10 meet the standards.

11 But to allow people to go backwards, I think
12 you're making a big mistake. Thank you.

13 MR. LAMA: Thank you, Fred. Any other comments?
14 Yes, sir. Would you come forward.

15 MR. GIBSON: Sheriff Gibson, Torrance County
16 Sheriff's Department. Chairman, Board, I commend
17 Mr. Force, the Chief, everybody that's sat on this Board.
18 I think we've lost grips of what we were trying to do,
19 okay.

20 When I got invited by Mr. Force -- and I
21 apologize. I didn't make the meetings. He sent me
22 e-mails, kept me updated. The ideals that I think we had
23 behind -- and, Mr. Perez, you know, we don't want somebody
24 to take a shortcut. Take 800 hours at the Academy, go and
25 become a certified cop. You know, we don't want that.

1 What we want to do is take volunteers in the
2 community that work for the sheriff's department or the
3 police department, give them adequate training to protect
4 themselves and the community. 400 hours, it was brought
5 up I believe at the meeting in Ruidoso by the mounted
6 patrol.

7 That's an adequate amount of training that they
8 can go out and they can conduct some duties. Don't give
9 them -- they are going to have the arrest powers. But I
10 think the biggest thing that I look at my reserves and my
11 volunteers is when they go out doing a minor duty that
12 isn't going to involve an arrest, something gets out of
13 hand, are they protected.

14 That's my concern with my reserve program. Are
15 they going to be protected under the Tort Claims Act or
16 anything of that nature. I don't want and I don't believe
17 any of my reserves would go through this program that
18 would not volunteer to do 800 hours of training. They
19 would go and be a full-time deputy or a law enforcement
20 officer.

21 If they have 400 hours of training, they are
22 mandated that they can't just transfer it over. They are
23 given adequate training, and then they are protected, that
24 if they do go out and commit an act for the sheriff and
25 they are doing a parade or a fiesta or they are sitting

1 somewhere assisting and something gets out of hand, that
2 they are covered and they are protected.

3 That's -- that's my concern. And that's where I
4 wanted to focus my point. I don't think any of these
5 gentlemen want to become full-time. They enjoy their 10,
6 20 hours a month, whatever they can put in. They do it
7 very well.

8 We are proud of them in our community; they are
9 proud of their community. But they don't want to desire
10 to become a full-time officer. So I think, you know, the
11 work that you guys did is tremendous. I think it's a good
12 idea.

13 You know, you're giving them the opportunity,
14 say, "Look. You can become full-time. You can be just
15 like everybody else." I think we've missed that point.
16 We want adequate training to keep them safe and the
17 community safe, but we want them protected when they are
18 wearing that badge representing me.

19 If they go out and they have to commit some type
20 of a detaining, something like that. When people come
21 back, they don't sue that individual deputy, they sue the
22 sheriff's department. We protect them, saying, "Here's
23 the training we put in place. This is what the Academy
24 says about it."

25 That gives a whole venue saying that this guy is,

1 you know, acting under my authority; but he's been trained
2 properly and he's got the proper backing to do what he
3 does. And that's my belief; that's what I want to see.

4 I don't want to see -- you know, a couple of the
5 gentlemen that I have are older gentlemen. They like to
6 do certain things, fiestas, things of that nature, down in
7 Manzano and Tajique. They have a good time doing that.

8 We don't have a lot of incidence there. When an
9 incident happens, we bring a full-time deputy in. They
10 take care of the issue. That's kind of where we utilize
11 that. But if he had to do something, I want to protect
12 him.

13 I want to let him know I've got his back, and I
14 want the Academy to say, "You know, yeah, you know, they
15 are doing a good job there. They are training them
16 appropriately, and they are doing the job they can do as a
17 reserve." That's what I want to see.

18 And I think a few of the sheriffs, a few of the
19 chiefs, they brought that up; but then we went from 180 to
20 3 or 4 hundred hours of training jumped up to 800. It's
21 not feasible for my guys. So, I mean, I wouldn't utilize
22 that program.

23 I would keep my reserve program the way it is,
24 but I want to see them protected. I want to see that they
25 have something that they can step back on and say, "No, I

1 did have some good academy training done by the Academy.
2 I do have instructors that showed me this is how I do my
3 job, and I'm protected by that sheriff's department."

4 So I think we're kind of missing the point of,
5 yeah, we want all these guys full-time trained, certified,
6 the best we can put on the street, absolutely, everyday.
7 That's what we want. That's what we want for our
8 community.

9 I couldn't operate without my reserves. There's
10 no way. I've got 12 full-time employees. I've got about
11 15 reserves that do bits and pieces here and there,
12 whether it be paper service, whether it be assisting with
13 transports or whatnot, they are there. And they are
14 assisting the deputies full-time. And we can't function
15 without them. Absolutely no way.

16 So I want to be able to give that back to them
17 and say, "Look. I've got you covered." What can we do to
18 help them there. And I think that's a question the Board
19 should ask and I think that's a question, you know, us as
20 leaders should ask how can we protect these reserves, give
21 them good training, ample training, and put them in a
22 position that they can succeed and not fail. Thank you.

23 MR. LAMA: Thank you for you comments. Anyone
24 else?

25 MR. MARK RADOSEVICH: Thank you, Mr. Chairman.

1 Members of the Board, my name is Mark Radosevich. Just
2 for the information for the Board and for the public
3 comment and the record, the documents provided for the
4 public today do not appear to reflect and total the rule
5 that's being discussed and distributed to the Board.

6 Mr. Chairman, I would -- I support the idea of
7 standardizing the training and ensuring that reserves
8 receive consistent, professional training consistent with
9 that of the law enforcement officers that they are working
10 with. This has been a long, ongoing problem.

11 When I was involved with State Police training
12 with a previous director, mounted patrol came forward and
13 submitted an original proposal to develop a training
14 program to standardize their training, to keep records of
15 it, professionalizing that.

16 But even at that time there was some discussion.
17 And the agreement that the training provided to the New
18 Mexico Mounted Patrol at the time would never be used,
19 would never be transferred towards a certification program
20 for full-time officers. That was a reserve training
21 program.

22 Now, that may have changed. I have been unable
23 to find it in any of the Board minutes. There's
24 probably -- obviously, a change in leadership, a change in
25 direction. But that would concern me.

1 I have to ask the director I guess or Mr. Najar.
2 If I were a chief and I sent an officer to the Academy
3 today and he fails the physical fitness assessment, he
4 would be sent home, I believe.

5 MR. NAJAR: Yes.

6 MR. ORTIZ: Yes.

7 MR. MARK RADOSEVICH: But then he could go back
8 and be a member of the mounted patrol and not have to go
9 through the physical fitness, go through the training; and
10 then go come back and go through the certification by
11 waiver and be granted a peace officer certificate? Is
12 that --

13 MR. COON: He would still have to do the cert by
14 waiver.

15 MR. SCHULTZ: He has to meet the entry standard.

16 MR. ORTIZ: And the agility.

17 MR. MARK RADOSEVICH: At the 50th percentile.

18 MR. ORTIZ: The 50th percentile.

19 MR. MARK RADOSEVICH: Which would be less than if
20 he had gone through the normal academy?

21 MR. ORTIZ: The Academy is the 60th percentile.

22 MR. MARK RADOSEVICH: So by being rejected by the
23 Academy to begin with, he could receive the training in
24 another fashion, come back, and at a reduced standard then
25 get the same standard that everyone else that went through

1 the full academy would be receiving?

2 MR. ORTIZ: Correct.

3 MR. MARK RADOSEVICH: In the page that I've got,
4 10.29.8.8, it appears to me that the physical fitness
5 training section, that under this they do not have to
6 comply with under this program. They are exempted, except
7 for the certification by waiver course where they would
8 have to run the mile and a half and the obstacle course.
9 They would be exempted from going through the block on
10 physical fitness?

11 MR. NAJAR: No.

12 MR. MARK RADOSEVICH: Then maybe it's my wording
13 of this.

14 MR. NAJAR: It would be page 2. I think the
15 Board members have the complete packet. I think your
16 handout may not --

17 MR. MARK RADOSEVICH: Minimum standards for
18 training of police in transition certification program
19 except as noted in B, which is Block 3, the physical
20 fitness. So they are exempted from Block 3 or it's
21 included?

22 MR. LAMA: What I think we should do, Mark, is --
23 just so that we don't drive our court reporter crazy, is
24 if you would pose the questions or raise the issues and
25 then if staff or Board members wish to comment, it would

1 be easier for purposes of the record that those comments
2 be identified to those individuals.

3 So what I'd like you to do is go ahead and
4 present the issues. And then I think it's important for
5 Mr. Najjar and perhaps the director and any Board members
6 that wish to comment on that to comment if they would like
7 to do so.

8 Again, the Board will have an opportunity at the
9 conclusion of the public comments to deliberate and
10 discuss this matter thoroughly. So, proceed.

11 MR. MARK RADOSEVICH: Thank you. I would support
12 if -- I support the idea that of the standardization of
13 training. If the Board were to develop a program so that
14 reserves could receive comparable training that would meet
15 the current existing standards, including testing, that
16 would translate later onto a full certification, I would
17 support that in total.

18 I do not -- and the way I read this, that we
19 could have an individual that is removed from the academy
20 for whatever reason and then complete the program through
21 a reserve program, even though he had been dismissed from
22 the academy because all it requires a director to do is
23 simply review the training records and then he could be
24 granted the certificate.

25 And I guess that should be in the form of a --

1 that is a question and a statement at the same time.

2 If I understand the first section under
3 definitions, Paragraph E, it would allow individuals to
4 continue to submit training up through December 31st of
5 2011 for certification.

6 And this would be a question. Each of the
7 agencies that are participating in this program all
8 currently run satellite academies and they were fully
9 aware of the Board rules, they could have applied for a
10 modified schedule to accommodate the reserves.

11 I would ask the Board to consider the idea of any
12 previous training that was conducted prior to today might
13 be appropriate. What I would -- again, as a question.
14 Training that is ongoing today to try and beat the rule
15 between now and December 31st of 2011 would now be --
16 would still be acceptable even though they are not a
17 recognized satellite academy.

18 Without having the ability to read through the
19 entire rule, I just -- I have those questions. Thank you,
20 Mr. Chairman.

21 One further comment. I apologize. Apologize.
22 It's a form of a question. As to the authority of the
23 Board, clearly in 29-7-4 the Board can establish training
24 programs that would be conducted at the academy or the --
25 recognized at a regional basis.

1 If the training isn't at a regional, already an
2 accredited or recognized facility or program, I don't know
3 how the statute would apply there.

4 The other is the director in 29-7-5 can only
5 issue certificates of completions to graduates from an
6 approved law enforcement training program. So in the form
7 of a question, can reviewing the training certificates
8 from training that was done prior to any approval by the
9 Board or the director, how would that be an approved
10 training program?

11 And then 29-7-6, on the certifications, again, it
12 goes back that in order for certification that officer has
13 to have been awarded a certificate of completion by the
14 director attesting that the applicant's completion of a
15 approved law enforcement training program.

16 So I'm a little confused on the application of
17 the statute and the authority to do this after the fact.

18 Thank you, Mr. Chairman.

19 MR. LAMA: Thank you for your comments. I think
20 the gentleman --

21 MR. COON: Before we get started, for you guys
22 that are standing back there, there's some chairs up here.

23 (A brief discussion was held off the record.)

24 MR. SAM TRUJILLO: Mr. Chairman, Members of the
25 Board. My name is Sam Trujillo. I'm the director of the

1 Alamogordo Department of Public Safety, and I'm also
2 currently serving as president of the New Mexico
3 Association of Chiefs of Police.

4 I have just a couple questions and comments on
5 this topic, as it has been discussed and it has generated
6 some heated debate amongst police chiefs. But my concern
7 right now is that the -- in order to get the
8 certification, there's two basic methods.

9 You can get it going through the basic Law
10 Enforcement Academy or a satellite academy. Or you can
11 get the cert by waiver if you have enough training to
12 qualify for the cert by waiver.

13 In this particular case we're saying that we're
14 going to bypass those two methods and certify them in
15 another method without being a certified academy or a
16 satellite academy.

17 An example I'm going to use is if we have
18 somebody that comes from the military, and they receive
19 more than 800 hours of training, which is generally what
20 we get, that training is reviewed by the Academy; and they
21 could qualify for the cert by waiver.

22 In this case you get 800 hours of training, but
23 you do not have to go through the cert by waiver. So I
24 would have to agree with Chief Radosevich that it is a
25 back door method. I'm not saying that they don't have the

1 appropriate training to become certified, but we are
2 bypassing the mechanism for them to get that
3 certification.

4 I do not think that three weeks is too much to
5 ask for people to go to, including volunteers to go to the
6 academy to get that certification compared to just doing
7 the training in their own department and then bypassing
8 that system.

9 I also understand that we have to be clear on the
10 difference between the certification and the commissioned
11 officer. I do think that is something that will cause
12 some confusion out there once a reserve becomes certified,
13 what can they do. And right now they do have to be
14 employed in order to be a commissioned police officer.

15 So I do think we're talking about two different
16 things there; but I would support that if we do recognize
17 their training, the Academy has the mechanism to recognize
18 that training and that we still should get them through at
19 least the cert by waiver. Thank you.

20 MR. LAMA: Thank you. Additional comments? Yes,
21 sir. If you'd like to come up to the podium.

22 MR. GARCIA: Mr. Chairman, Board Members, Richard
23 Garcia of Valencia County. I'm here on behalf of our
24 reserves. Our reserves have been working very, very
25 hard. We ask individuals to volunteer to help out the

1 community.

2 Some of these individuals work very extensively
3 hard for us, sometimes 16 hours, 20 hours. We take them
4 away from their families. And they never really ask for
5 much. This is one of the greatest things that an
6 individual does.

7 Back here that I've said, we need to reward them
8 for something that is being done to the community. We
9 thank Bernalillo County that helps Valencia County with
10 our reserves because they have an extension of an academy
11 for us. Like I said, they work very hard.

12 An instance a while ago, a comment was made. An
13 individual, for example, goes to the academy. So he
14 misses the run for 15 seconds. Does that mean he's not a
15 good officer? It just says he missed it by 15 seconds.

16 The other thing is that we say that we're going
17 for hours, more hours, more hours. I presume some of the
18 individuals that are law enforcement officers for many
19 years did not put in 800 hours. Some did 200 hours. Some
20 did 300 hours. Some did 400 hours. Does that mean that
21 they have to go back to the academy to get their 800
22 hours? I don't think so.

23 I believe that the reserves, they should have an
24 extension of time not just because they graduated out of
25 an academy. They should have a few years of experience

1 with the department that they are with and to be
2 evaluated, to be sent to the Academy Board up here again
3 to see if they qualify for the position of getting a
4 recertification {sic}.

5 Actually, most departments are short of help.
6 We're starving for individuals to be out in the
7 community. These individuals really help us. They really
8 take a lot of care with the community and help us a lot.

9 A lot of the reserves pay for most of their stuff
10 that they wear, weapons, Sam Brownes, uniforms, because
11 some of the smaller departments can't afford to actually
12 support them in that. So but they still volunteer.

13 I, myself, think 400 hours would be very
14 profitable for the individuals because I think they put
15 more than 400 hours, volunteer with no pay. And I don't
16 think very many people would put out that much as they
17 do.

18 So I'm for reserves for 400 hours to be reviewed
19 after the sheriff from that department can say, you know,
20 "I think the individual can be assisted into becoming a
21 certified officer." Thank you.

22 MR. LAMA: Thank you for your comments. Anyone
23 else? Yes, sir.

24 MR. VALDEZ: Mr. Chairman, Board, my name is
25 Johnny Valdez. I'm the sheriff of Cibola County. I also

1 represent the New Mexico Sheriffs' Association. Going
2 through this process, Mr. Force, you guys have gone
3 through a lot.

4 And I think one of the biggest issues was -- or
5 one of the questions that was brought up through my
6 association is how will the Board, this Academy Board,
7 dictate to the individual agency how many hours a reserve
8 officer is going to have to take when our insurance
9 authority in fact are the ones that hold the liability for
10 each department.

11 I guess my question is, is the 400 hours that --
12 I guess that's the magic number is the 400 hours. How can
13 you mandate the sheriffs with the small departments to
14 have 400 hours when we already have a reserve division at
15 250 hours?

16 I think that's something that the New Mexico
17 Sheriffs' Association or the liability for the association
18 has a decision to make. I would imagine that's a
19 question. I don't know.

20 MR. FORCE: Mr. Chairman. Sheriff Valdez, what
21 this program does, it does not mandate that any reserve
22 has to undergo the training. What this is it's -- the
23 question is whether a reserve becomes certified as this
24 Board would acknowledge and give recognition.

25 That's the question. It's not the question of --

1 and I think that's the past history with this whole
2 reserve issue has been whether or not the Academy Board
3 has tried to -- been viewed I guess as taking an authority
4 over the sheriffs or any other municipal reserve programs.

5 What this proposal does -- it does not do that.
6 It's just simply stating, "Okay. If an officer in the
7 reserve capacity wants to attain certification, what is
8 the process for that and what would that involve?"

9 So all the other issues about risk management and
10 the legal implications, whether or not the sheriff or a
11 chief would give commissioning to that individual are all
12 secondary issues. The primary issue here is the question
13 about whether or not -- what is it that would take for an
14 officer to become certified and be a reserve? That's
15 really the question.

16 So it's not a mandate. Nowhere here does it
17 mandate.

18 MR. VALDEZ: So would it be up to the risk
19 management of the association to decide how many hours
20 should be required for a reserve officer; is that what it
21 is?

22 MR. SCHULTZ: Yes. You determine your own.

23 MR. FORCE: Yeah, I mean, in all practicality, if
24 I was a sheriff or chief, I mean, that's probably one of
25 the first conduits I go to to determine whether or not I

1 have liability coverage for my program. And that's I
2 think is the working relationship with me and my risk
3 management to decide, okay, if I start a program, how many
4 hours of training should I have in order for these
5 officers to be covered?

6 That's kind of a secondary question to what the
7 state certification process is. And in some risk
8 managements -- I mean, from what we've heard in the
9 committees there are many, many programs that are not
10 covered under any risk management at all, so.

11 MR. VALDEZ: Thank you very much.

12 MR. LAMA: Thank you. Yes, sir. The
13 gentleman....

14 MR. TOWNSEND: I'm Richard Townsend. I'm with
15 Valencia County. I'm one of the reserve deputies down
16 there. Good morning, Members of the Board. I appreciate
17 the time to speak with you. I've heard several of the
18 Board members address a back door option to getting into
19 the academy or getting certification.

20 How is that a bad thing? If they've accomplished
21 the 800 hours of training at no cost to the State and no
22 cost to any agency but themselves, I don't understand
23 where there's a conflict with that.

24 Myself, I've accomplished a little over 700 hours
25 of training in the last two years on my own. Every single

1 one of my certificates has the New Mexico Law Enforcement
2 Academy certification behind it. It's all advanced
3 training that I've gone to on my own.

4 I do it because it's something that I believe in,
5 my community. I'm retired. I don't have to work. I do
6 it, and I do approximately 60 hours a month volunteer time
7 with the reserves.

8 I don't do it for a paycheck. Don't care if I
9 ever get a paycheck. It's not why I'm out there. I'm out
10 there because our community needs us. We are out there
11 acting under the guise of the sheriff's guidance. And the
12 one thing that we lack as reserve officers without
13 certification is we have no power of arrest.

14 And I've heard a couple of the sheriffs, a couple
15 of other individuals address, "Well, we just send them out
16 on routine things." And anybody who has done any training
17 whatsoever in law enforcement or has been out on the
18 street more than two days knows there's no such thing as a
19 routine day.

20 It kind of frustrates me when people talk about
21 routine. And we're going to kind of make them into the
22 party police. We're going to send them out for the
23 fiestas. Look pretty in a uniform. That's not why I'm
24 out there. I'm out there to make a difference in my
25 community.

1 So by downgrading the reserves and discussing,
2 "Oh, well, they are going to have a back door way to get
3 in. And if they can't make the run...." Personally, the
4 fitness part, it's a joke. You do it one time in your
5 career. If it wasn't a joke, we wouldn't have officers
6 wearing 60-inch duty belts.

7 I just retired from the military after 21 years.
8 Every six months I got physical assessment. And if I
9 didn't pass my physical assessment, I faced demotion or
10 dishonorable discharge or jail.

11 So to have, you know, the physical assessment be
12 a concern about how they can't run a mile and a half. You
13 do it one time in your career. Ever. So you can make
14 that run one time.

15 You know, the military used to do that
16 one-time-a-year run. We'd have guys that sat on the couch
17 for 11 months and 29 days and then they got out there and
18 ran that test. Some of them dropped over with heart
19 attacks. Others got through it and made it.

20 So to run it one time for certification, it's
21 regardless. That shouldn't even be a concern of whether
22 you're going to address members for the reserve
23 certification. It should be the training. Do they have
24 the training.

25 It's Mr. Ortiz's responsibility to review does

1 the training meet the qualifications for state
2 certification. And the 400 hours that I've heard brought
3 up numerous times, most people are looking at the 400
4 hours because under New Mexico statutes it says you're
5 required to have 400 hours to be considered for
6 certification in the state of New Mexico.

7 So I understand the academies have 800 hours. I
8 have no problems completing 800 hours. Do I ever -- you
9 know, if there's a concern about whether I'm going to
10 sneak in back door and get a full-time job as a police
11 officer, probably not.

12 Right now my focus is on my children. Both of
13 them are in Law Enforcement Explorers in Valencia County.
14 I enjoy working with them. I work teaching the kids down
15 there. I work in my community doing reserve officer
16 training and working with the other officers that haven't
17 gone through -- I went through the Bernalillo County
18 Academy for the reserves. Lots of wonderful training
19 there.

20 But to downplay the reserves because they haven't
21 gone through this academy and they haven't given up six
22 months of their life, what they've done is they saved
23 their agency and the State approximately \$16,000 for that
24 six months of training.

25 So that's what my point is with this, is that we

1 are giving of our time. We are giving of our money.
2 Because I've got approximately \$5,000 in my year to go out
3 so that I am looking and working exactly like every
4 full-time officer I'm out there with.

5 All I ask for is the opportunity to get
6 certification so I have full powers. If there's a concern
7 about you being a salaried employee to have arrest powers
8 or to have citation powers on a traffic, set a salary of
9 \$1 per year.

10 I'm a full-time salaried officer for \$1 a year.
11 Like I said, I work a couple days a week just to pay for
12 some fun money. But I have a full-time pension coming in
13 from 21 years in the military. I don't have to work
14 anymore. So that's not why I do it.

15 I do it because I'm out there making a difference
16 in my community. Thank you for your time.

17 MR. LAMA: Thank you for your comments. Any
18 other comments from the audience? Yes, sir.

19 MR. SWINGLE: Thank you, Mr. Chairman, Members of
20 the Board. My name is Bruce Swingle, and I'm with the New
21 Mexico Association of Counties. And first I'd like to
22 commend Mr. Force. It's a very, very political issue, the
23 issues of reserves. It's something the Academy has looked
24 at for a number of years.

25 I don't think you started out with the concept

1 that you ended up with today, at least I hope not. I
2 think the politics of it around the state have probably
3 played a major role in transitioning to a transitional
4 officer program.

5 About 70 percent of the sheriff's departments in
6 New Mexico have reserves in one form or another. If it
7 were the intent of the Board to require 800 hours of
8 reservists, that would effectively eliminate the reserve
9 programs in counties and I'm sure in most municipalities.
10 I understand that is not the case now.

11 But the comment keeps coming up on the 800
12 hours. It's not 800 hours of training. It's 800 hours of
13 certain blocks, whether it be -- 800 hours of report
14 writing doesn't make somebody a cop.

15 But if it's 40 hours of firearms, 40 hours of
16 legal, or whatever the curriculum is, that has got to be
17 impossible to manage when we're talking about going back
18 and look at people that are currently -- have received a
19 training, whether it be last year, five years ago, or 10
20 years ago. And how germane is something 10 or 15 years
21 ago to today?

22 So I'm just satisfied at least to know that
23 you're not imposing this on the reserve officer programs
24 now that are in place. And that's just my comment. Thank
25 you.

1 MR. LAMA: Thank you. Any other public comments
2 from the audience? Yes, sir.

3 MR. GROBE: Morning. My name is Jeremy Grobe,
4 and I'm also with the Valencia County Sheriff's Office
5 Reserve Department. And, you know, I don't look at this
6 as being a way to back door trying to get a full state
7 certification.

8 I just think it's an opportunity to raise the
9 professionalism and level of education and training for
10 reserves. I also went through the Bernalillo County
11 Reserve Program, got 420 hours worth of training.

12 Prior to that I've lived in another state where I
13 was a full-time state peace officer, went through the full
14 academy. You know, looking at the hours, I've got over
15 1500 hours of credit in law enforcement training. So it's
16 not an issue for me.

17 I just think it's an opportunity for -- to raise
18 the professionalism of the reserve programs in the state
19 of New Mexico. You look at other states, whether it's
20 Idaho, Utah, California, those POST organizations govern
21 and mandate training for reserves. And it should be the
22 same way in New Mexico.

23 You know, there's no oversight on reserve
24 programs here. It's up to the individual departments.
25 And, you know, I'm sorry; New Mexico is behind the times

1 in this aspect, and I think it needs to be changed.

2 And I know working with a lot of full-time
3 officers, they want to see a higher level of training for
4 reserve deputies, reserve police officers. They want to
5 make sure that the guy riding next to them, that they are
6 working with, is of the same quality that they are.

7 And I think this is an opportunity for. To me,
8 it is not an opportunity to transition to a different
9 job. You know, fortunately, my other job, I make more
10 money than the deputies with Valencia County.

11 It's not my intention to try and transition over
12 full-time. It's about training and education. I think
13 the program needs to be supported.

14 MR. LAMA: Thank you very much for your
15 comments. Any other public comments? Very well. Seeing
16 none, I will now close -- oh. Is there any comment from
17 staff?

18 MR. ORTIZ: I've just been thinking of -- what
19 I'm hearing -- I just want to kind of throw this out
20 there. It seems to be when it comes down to somewhat of
21 compensation, the pay, what I'm hearing is that the
22 reserves want to do it and donate their time.

23 And if we were to allow that, let the reserves do
24 the 400 hours, get certification, as long as they are not
25 compensated, change the state law where they do not have

1 to be a salaried employee to effect the arrest. That way
2 the reserves could continue doing what they are doing with
3 full police powers.

4 Now, to avoid the back door and get the
5 certification and then go to work for the agency for a
6 salary, we would say, "No. If you're going to do that,
7 you go to the academy. You have to get the 800 hours if
8 you're going to be compensated."

9 Let the reserves continue to work, donating their
10 time. But that avoids the guy who says, "Okay. I
11 couldn't make the academy. So I'll do the reserve program
12 and just slide in there and get certified." Then he gets
13 hired by that agency head. And then he's on salary and
14 gets a paycheck.

15 We would say, "No. You have to go to the academy
16 and retain the 800 hours to be a salaried certified
17 officer." That seems to be somewhat of an issue here. I
18 commend these gentlemen for giving of their time to go out
19 and serve their communities and train themselves.

20 And I think they are an asset to the community.
21 And if these gentlemen are willing to do that and get the
22 training, I say why not certify them and give them full
23 police powers to do that job.

24 Do you kind of understand what I'm saying? But
25 if they think they want to go and do a career as a police

1 officer police, say, "No. You have to go to the academy
2 and get the 800 before you can collect a paycheck."

3 That seems to be somewhat of an issue here, I
4 see. And I think that way the reserve program could
5 continue and let those people that are donating their
6 time -- they don't want it as a career.

7 And that avoids the back door that we're
8 concerned about, about somebody trying to do that and say,
9 "Well, yeah, I don't have to go to the academy." They
10 would have to go to the academy if they are going to
11 receive a paycheck.

12 MR. LAMA: Mr. Najjar, do you have another staff
13 comment?

14 MR. NAJAR: Yes, please. Just a clarification on
15 two points that were made previously. The issue,
16 Mr. Chairman, Board Members, was spoken to in regards as
17 to why the physical fitness requirement 10.29.8, letter B
18 is placed here since it is in essence a duplicate of what
19 is in the section for police officers under Section 9.

20 And it's just one minor sentence change that was
21 necessary. If you look at the rule, it calls for Phase I
22 Training, Phase II Training, and Phase III Training.

23 Phase II occurs within six months of completing
24 the 800-hour requirement. What was inserted here under
25 B(2), letter A, fitness program. Each student will

1 participate in a fitness program approved by the director
2 within six months of the projected date of all basic
3 training completion.

4 So because the requirement for the medicals has
5 got to be within one year of certification and
6 psychologicals have got to be within one year of
7 certification. We felt that the physical fitness 72-hour
8 requirement needed to be within that six-month time period
9 so that we've got a valid medical, valid psychological.

10 So they are not being exempted from the physical
11 fitness requirements. We just wanted to make sure if it's
12 a three-year process that these guys are going to go
13 through in the future, that that last six months of that
14 three-year certification process is when that physical
15 fitness training must occur in order to have that -- those
16 forms that are -- have time restrictions on them.

17 The other point of clarification and I just
18 alluded to --

19 MR. SCHULTZ: Before you move on.

20 MR. NAJAR: Yes.

21 MR. SCHULTZ: If I may. The exit standard is
22 still 60 percent, correct? Right? When you look at Item
23 B(1)(b), "Academy exit goal: For each academy student the
24 goal, through participation in the physical fitness
25 program, shall be able to obtain a score in the 60th

1 percentile."

2 MR. NAJAR: Yes, sir.

3 MR. SCHULTZ: So the argument from
4 Mr. Radosevich -- this is not lowering the standard. It's
5 the exact same exit standard.

6 MR. NAJAR: Right. I think where the confusion
7 comes in now -- if you'll just turn the page. 10.29.8.10,
8 it's titled, "Transition program application for
9 admission." Go to letter D. It makes reference to
10 Phase III certification by waiver.

11 So once we get to that stage where they've
12 completed the 800 hours; they've completed the fitness
13 requirements, everything, they do have to go through the
14 three-week certification by waiver course. They are not
15 exempt from that in this rule. And we felt comfortable
16 with that.

17 So those were just the two points of
18 clarification. Thanks.

19 MR. LAMA: Thank you, Mr. Najjar. Are there any
20 other public comments on this rule? {No response.} Well,
21 I want to thank everyone for --

22 MR. PEREZ: Just one thing.

23 MR. LAMA: Yes, Mr. Perez.

24 MR. PEREZ: I think we have to keep in mind we
25 are hearing from law enforcement people mostly here

1 today. And this is supposed to be the public.

2 And I hear remarks from the public about what
3 this former military man says: "It's a joke. These
4 policemen with 60-inch plus belts who can't see their
5 feet, can't see their gun; and you're certifying them.
6 And yet the young people coming out of the academy have to
7 meet all these standards."

8 We've addressed -- I've been on this Board for
9 about six years now. It's my second term. And the issue
10 keeps coming up about fitness for duty. And we all get
11 older. I'm 70 years old. I don't have a 60-inch girth.
12 And it has taken a lot of effort to keep it like that.

13 But I'm not currently a law enforcement officer.
14 I was for 35 years. But we're forgetting about who we
15 work for. And we hear a lot about "I deserve" and "I work
16 hard" and "I volunteer." That's all good.

17 But the other part -- the other half of the
18 equation is who you work for; and that's the people of New
19 Mexico. And there's a lot of dissatisfaction about police
20 chiefs and sheriffs getting away with murder, literally.
21 And they say, "What are you doing about it at the Board?"

22 "Well, we didn't get a complaint."

23 "Well, it was in all the newspapers." We're
24 finally getting over that issue. But, again, this is
25 not -- it's a privilege to serve as a law enforcement

1 officer. You have to work for that. And you do not pass
2 a test and automatically get it. You have to be
3 certified.

4 We represent the public. We represent the state
5 of New Mexico. So we have to look at it from that point
6 of view, and not just the fact that you're working hard
7 and you're dedicated. Those things are all good and
8 commendable. But we have an obligation to protect the
9 state.

10 And if we say, "Yeah, but he was a policeman for
11 40 years and 50 years somewhere else. He's 90 years old.
12 But he's real sharp and he wants to carry a gun and he
13 wants to have a badge."

14 We used to have a thing called posses in this
15 state, and they hanged a lot of people because the sheriff
16 would just go out and say, "Let's go get 'em, boys," and
17 pin a badge on them. So they were covered.

18 We are trying to get away from that. And I think
19 any effort to go back to that is negative. We're trying
20 to set a standard here. And we're trying to hold the
21 line. And we keep getting whittled down about, "Well, I'm
22 different, and I want an exemption;" and "I want an
23 exemption."

24 The standards that we have could be higher. And
25 the standard of physical fitness in particular is very

1 important. And it seems logical to me that if a man
2 should have to meet a certain qualification to get in, he
3 should have to maintain a certain standard.

4 But to hit the doughnut shop every day and become
5 obese is a slap in the face of those officers who don't do
6 that. We've got two standards. We've got fit officers
7 and we have unfit officers. And I'm not talking about
8 attractive. I'm talking about unfit for duty.

9 And yet they all want powers of arrest. This is
10 not a declaration or a medal that you wear. It's a very
11 serious obligation. And if we authorize you to go out and
12 arrest people, you're taking away their liberty.

13 And we are qualifying -- or asked to qualify
14 people who are not qualified. We have a standard, and
15 that's the line. And I think that people should meet it.
16 And every meeting we're here for the last five years more
17 than half of the time is exemptions.

18 "Well, I can't do this and I can't do that, but I
19 used to." Or "I could." Either we have a standard or we
20 don't. Otherwise, let's just all vote and be friendly.
21 And this guy wants to and he's a good guy. And that's the
22 way it works in many parts of our government.

23 And that's why we're failing and we have serious
24 problems throughout this nation because we have standards
25 and then everybody gets an exemption.

1 MR. LAMA: Thank you for those comments, Board
2 Member Perez. Are there any other public comments before
3 we move onto the next process here in this rule-making
4 procedure?

5 MS. SEVIGNY: Can I make one?

6 MR. LAMA: Yes, ma'am.

7 MS. SEVIGNY: My name is Lisa Sévigny, and I'm
8 from Valencia County as well. Some of these -- they were
9 reserve officers. Thank you. Sorry. I was thinking
10 about something else.

11 And I very much like Director Ortiz's suggestion
12 because it seems to bring everything together that
13 everybody is trying to accomplish. My concern is when you
14 say they have arrest powers, does that mean they are also
15 going to be the person to charge the person they are
16 arresting? Or will there be a process for that?

17 MR. ORTIZ: They would have full -- full powers.

18 MS. SEVIGNY: Because I've seen issues with
19 commissioned -- certified commissioned officers charging
20 people incorrectly and lacking -- I mean, and they are
21 trained, but they are not utilizing their training.

22 And so I'm very concerned if these people don't
23 have the -- you know, all the training and there's not a
24 process, as far as the charge. If you charge somebody
25 with a felony -- a fourth-degree felony and it wasn't

1 warranted, that will follow them for the rest of their
2 life.

3 It will affect every aspect of their life. And
4 that's what scares me. If there's a process that they
5 just can't be the only one to charge or if it's more than
6 a misdemeanor, then I love your suggestion. I think it
7 helps everybody.

8 MR. ORTIZ: She brings up a good point -- and if
9 I may, Mr. Chairman, Board Members -- is who is overseeing
10 the misconduct on these reserves? Right now we can only
11 take action on certified officers.

12 We have a lot of reserve officers out there
13 interacting with the public. If there's some misconduct,
14 who's holding them accountable? Are the sheriffs doing
15 it? I don't know. Some of the sheriffs don't hold their
16 certified officers accountable and report that to us.

17 So I think we need to look at that as well.

18 MS. SEVIGNY: And, I mean, I appreciate what
19 these gentlemen -- you know, and I don't know if there's
20 any women -- but I think it's wonderful that they are
21 donating their time. I don't want to lessen that. I
22 think it's great.

23 But I'm just concerned if there is, you know,
24 some confusion. Because there's confusion out there now
25 and it affects people's lives forever. So I appreciate

1 your time.

2 MR. LAMA: Thank you very much for your comment.
3 Any additional comments? {No response.} Very well. What
4 I would do at this point in time is I want to thank
5 everyone for providing public comments.

6 As I said at the beginning of this process we
7 will now move to a process where we will close the public
8 hearing. And at that time the Board will consider all of
9 the comments and the recommendations of staff and begin a
10 process of deliberation and discussion.

11 And they may ask additional questions of staff,
12 obviously, in the course of that process. Because of the
13 length of time of the public comments, though, with the
14 Board's permission or suggestion, we might want to take a
15 break before we come back for deliberations.

16 Does that suit the members of the Board? Why
17 don't we go ahead then and take about a 10-minute break
18 and when we come back we'll go into our deliberation
19 process.

20 (Off the record from 11:00 until 11:18 a.m.)

21 MR. LAMA: We are currently on Item No. 7. And
22 as I said before the break, we will now go into the
23 process of deliberation amongst the members of the Board
24 to consider the public comments and the staff reporting
25 relative to this proposed rule.

1 I would -- whatever the pleasure of the Board is
2 regarding the commencement of the discussion of that
3 dialogue, I will defer to a Board member, if they'd like
4 to make any specific comments. Or our Board Member
5 Mr. Force who was the committee chair, if he would like to
6 make some comments.

7 MR. FORCE: I would -- no, go ahead.

8 MR. GALLEGOS: I just had a couple of quick --
9 one was a comment I believe the young lady who brought up
10 the issue about the charging. And just to comment on
11 that, that that is an issue that even veteran officers
12 sometimes it's problematic.

13 But that's why you have a district attorney's
14 office for. And whether they are reserves or whether they
15 are veteran officers, generally my policy, at least in my
16 district, is if it involves a felony, they call us first.
17 And we screen it out at that point.

18 However, like I think everybody in this room
19 understands, you may start off with a felony at first,
20 what looks like one, and later on as witnesses decide they
21 don't want to talk or some evidence wasn't seized or that
22 kind of stuff, it turns into a misdemeanor. Or vice
23 versa.

24 A case in point where I had one of our local
25 newspaper owner's wife was riding DWI with a child. And

1 it was being charged in pursuit as a DWI until a few
2 months later we had a case review and someone brought up
3 the fact that the child was in there. So that became a
4 felony offense.

5 So I think even though it is a consideration, I
6 don't know that it's an overwhelming consideration because
7 it does happen and it's incumbent on the agency heads, the
8 sheriffs, the sergeants, and the lieutenants to
9 double-check charging decisions.

10 So I just wanted to make that comment on that and
11 that I don't think that it's something that would weigh
12 heavy, particularly on this type of discussion. But I but
13 I do appreciate you bringing it up.

14 I was curious, Mr. Chairman and maybe Robert or
15 someone else, because the comment was brought up about
16 other states and how they are doing this. Was there
17 research done about that, how our neighboring states are
18 handling this type of issue, Colorado, Arizona, Texas,
19 Nevada, or similar rural states?

20 And I still call us rural even though we have
21 Albuquerque, Las Cruces, Santa Fe, Rio Rancho and that.
22 But I still consider us mostly rural. So that would be --
23 I'm curious to see how they handle that.

24 And then the final issue that I have at this
25 point anyway was concerning what Director Ortiz said about

1 the reporting, especially on the misconduct areas. So
2 those are some things that just came to my mind real
3 quick.

4 MR. FORCE: Mr. Chairman. Mr. Gallegos, to
5 answer your first question on -- I don't know exactly how
6 long this issue has been going on in front of this Board
7 as has been dangled. But it seems like it's been in the
8 mid '90s this issue has been consistently brought up.

9 In fact, Mr. Lama I think even has some old
10 opinions in which he was the Academy Board attorney that
11 he was involved with some dialogues in previous Academy
12 Boards. But, yeah, there has been a thickened history at
13 least at this Academy Board on the history of all these
14 issues.

15 And there are other states that we did take a
16 look at. California has a tiering process similar to
17 Arizona. We did discuss those tiering processes. And
18 they are extremity problematic in the form of how our
19 state laws are crafted and worded, that is different from
20 the other states.

21 As an example, in California there's specific
22 statute or authority given to reserve personnel at
23 different levels. And there are statutes that regulate
24 that along with these POST standards.

25 So the option that the committee took was to at

1 least establish a similar straightforward certification
2 process that was mirroring the current certification
3 process that we have in place.

4 To lower that, the concern was we would be
5 setting up a tiering process.

6 MR. GALLEGOS: Okay.

7 MR. FORCE: So that's the answer to your
8 question.

9 MR. GALLEGOS: Thank you.

10 MR. LAMA: Any other comments from the Board
11 members?

12 MR. SCHULTZ: If I may. I think we have to go
13 back to Mr. Force was saying what was the purpose of this
14 whole rule change. And the purpose of this rule change is
15 to allow departments and reserve officers who want to
16 become certified to have that opportunity. And that's all
17 this does.

18 This does not mandate that any department or any
19 county or any individual reserve officer have to be
20 certified. This just creates that process.

21 The issue that the chiefs' association does have,
22 however, the Section 10.29.8.21, which is a section that
23 does allow for a cert by waiver based on prior
24 nonaccredited basic officer training.

25 I would have no problem in making the

1 recommendation that that section be removed from this
2 proposed rule change. What that means is that everybody
3 still has to go through the entire process. They have to
4 go through the entire transition minimum standard training
5 and at the end of that complete a cert by waiver
6 training.

7 So what in essence happened is that reserve
8 officers wanting to be certified would have the 800 hours
9 of training plus a cert by waiver training at the end of
10 that. So in reality would actually be doing more training
11 than required for basic certification.

12 With that requires an exit standard in the 60th
13 percentile, as I said earlier, for physical fitness.
14 Again, there's no lowering of standards. All this does is
15 help professionalize the reserve program.

16 It gives reserve officers the ability to testify
17 in court; that they are certified by the State and meet
18 the requirements as being the professionals that we have
19 them acting as.

20 MR. LAMA: Thank you, Chief Schultz. Any other
21 comments from the Board members? Yes, Mr. Gallegos.

22 MR. GALLEGOS: Mr. Chairman, thanks. Again, I --
23 maybe I just didn't hear I guess well; but I did ask again
24 about the reporting requirements for misconduct, how that
25 would take place.

1 Is there anything that's either in the rule or
2 that could be added to the rule about reporting misconduct
3 or discipline or anything like that? Would it track what
4 we have already in place or?

5 MR. SCHULTZ: I believe that certified officers
6 do have to be reported. So this also creates that avenue
7 which currently does not exist.

8 MR. ORTIZ: Right.

9 MR. GALLEGOS: Okay. Thank you.

10 MR. SCHULTZ: Mr. Chairman, if I may, I would
11 like to make a motion.

12 MR. LAMA: I would just like to make one
13 comment. I would like to compliment everyone who was
14 involved in this and everyone who is here that
15 participated.

16 I was involved in this many years ago. In fact,
17 I didn't have any gray hair before I started dealing with
18 reserve officer certification issues. And we now all see
19 what has happened to me.

20 But the major distinction I think between what
21 that was presented today and what existed in the past and
22 what I was involved with was -- and I think it's very
23 important to just reiterate is, is that the approach is
24 different than what was discussed in 1991, 1993, 1995, et
25 cetera.

1 And that is the notion then was the authority the
2 Academy Board and the director to approve and implement a
3 program where a mandate was required for a reserve
4 program. And I think the approach that's been taken in
5 this situation is very different.

6 It provides the opportunity for certification,
7 but it does not mandate a program. It really is something
8 that's incumbent upon the individual reserve officer if
9 they want to receive that training and that opportunity
10 for certification to do so. And so it places that
11 responsibility with the individual.

12 And I think that's an important distinction
13 because I know that there was a lot of disagreement and
14 contention in the past because of some very legitimate
15 concerns in law enforcement that to mandate a specific
16 program requirement on the agency would limit their
17 ability to utilize reserve officers and all of the good
18 things that they do.

19 So I just wanted to clarify that for the record
20 based on my experience with it that this really is a very,
21 very different proposal that is being presented today.
22 And, again, I want to compliment everyone who has
23 participated in it.

24 And with that, Chief, if you have a motion.

25 MR. SCHULTZ: Mr. Chairman, I'd like to propose

1 that the rule change be adopted as published with the
2 exception of Section 10.29.8.21 being removed from the
3 proposed rule change.

4 MR. LAMA: I have a motion for approval of an
5 amended regulation. Do I have a second on that motion?

6 MR. SEGOTTA: Second.

7 MR. LAMA: I have a motion and a second. Is
8 there discussion on the motion? I would like to ask
9 Mr. Shandler, our Board counsel, if the removal of Section
10 10.29.8.21 as proposed in the motion, does -- is there any
11 additional wordsmithing or changes that need to be made
12 based on the exclusion of that section?

13 MR. SHANDLER: Well, first, Mr. Najar, do you
14 have any comment on the proposed motion of what the impact
15 would be on other sections of the rule?

16 MR. NAJAR: Not at this time, no.

17 MR. SHANDLER: Mr. Chairman. It was my
18 understanding that in earlier drafts the idea was if you
19 did your 800 hours of training at some place, then you'd
20 instantly get the -- well, upon director's approval, you'd
21 get certification.

22 And then there was some discussion about having a
23 second step of then also having to do the three-week cert
24 by waiver class. So I'm just trying to scan to see.

25 It sounds like the motion would kind of return to

1 that first mechanism that you'd have to get the 800 hours,
2 the director would have to approve it.

3 MR. LAMA: And then you would be eligible for
4 cert by waiver training, in effect. Would that be the
5 correct interpretation?

6 So what I would analogize this to would be a
7 situation where you would have an individual who would
8 come, let's say, from another state with some measure of
9 training and experience who would be eligible for cert by
10 waiver.

11 The process currently the director undertakes is
12 he does perform some review of that experience and
13 training and determines if that individual's eligible for
14 cert by waiver.

15 Correct me, Mr. Najjar and the Director. It seems
16 to me that what we're proposing here is a parallel to that
17 process which the director already is involved in for
18 purposes of determining cert by waiver for an out-of-state
19 applicant or someone else who has prior training that
20 would qualify for cert by waiver. Is that correct?

21 MR. ORTIZ: That's correct.

22 MR. LAMA: Mr. Shandler, would that be a
23 reasonable analogy?

24 MR. SHANDLER: Sure. And I'm just trying to see
25 if that 21 has -- maybe the intent is not to strike it but

1 just to change the first sentence. That's what I'm trying
2 to figure out. I'm just talking out loud.

3 But in order to be eligible for the director's --
4 well, if the director deems that your 800 hours are
5 permissible, the candidate will also have to conduct
6 certification of waiver of basic training.

7 Anyway. So I think what I'm proposing to the
8 Board is maybe what you really want to change is that
9 first sentence of 21, if that's the intent of the motion
10 to have this two-step process.

11 MR. LAMA: Chief Schultz.

12 MR. SCHULTZ: When I look at the section previous
13 to that, Section 20, I think it's pretty clear. It
14 explains that Art has that now. My understanding and
15 understanding from the chiefs' association was that 21
16 kind of allowed a little bit more of a shortcut, and that
17 was a concern of the chiefs; that 21 kind of trumps 20.

18 Twenty is much more specific as to providing very
19 specific reserve academy daily class, student attendance
20 rosters, class schedules, syllabuses, a list of exactly
21 what was covered, including who the instructors were,
22 their certification process, et cetera.

23 So I think that was the concerns of the chiefs'
24 association is that 21 would allow a shortcut maybe from a
25 military application that wouldn't be provable to the

1 director. Twenty-one is much more specific, and it felt
2 more comfortable with Section 20 being the standard to
3 apply.

4 MR. SHANDLER: Mr. Chairman, I think there were
5 three working models. Model No. 1 was you do your 800
6 hours. Director Ortiz says it's okay. You're certified.

7 Model No. 2 would be you do your 800 hours.
8 Director Ortiz says you're okay. Then you have to still
9 do three weeks of academy time.

10 And then Model No. 3 would be you submit
11 something to Director Ortiz. He says it's okay. Maybe
12 not even necessarily the 800 hours. And you just do the
13 three weeks and you just -- that one would just be the
14 cert by waiver.

15 So it sounds like the association did not want
16 Model No. 3, which would be the shortcut, three weeks and
17 that's it. And what I'm just trying to figure out is
18 that -- I don't see any language outside 21 that talks
19 about also sending them to the three-weeks cert by waiver
20 program.

21 And so maybe -- if you still want to delete 21,
22 maybe you could direct me to add a sentence to 20. But,
23 you know, "Upon completion of all this and the director's
24 approval, the applicant would still need to go to and
25 complete the cert by waiver." Maybe that could be a

1 Paragraph I or something.

2 I'm just wordsmithing out loud. So I'm open to
3 constructive criticism.

4 MR. NAJAR: Mr. Chairman, Board Members, if you
5 look at 10.29.8.10, letter D, I think that's what you're
6 looking for.

7 MR. SHANDLER: Say the number one more time,
8 please.

9 MR. NAJAR: 10.29.8.10, letter D.

10 MR. FORCE: And if I could. Mr. Najjar, that also
11 goes in conformance with 10.29.8.15(B) as in boy.

12 MR. SHANDLER: Long story short. Then there is
13 previous reference to cert by waiver in the rules, so the
14 motion is legally permissible.

15 MR. LAMA: So I surmise from the discussion that
16 really 21 potentially doesn't serve any additional
17 purpose.

18 MR. SHANDLER: I believe 21 was left in there as
19 Model No. 3.

20 MR. NAJAR: If you look, there's a date inserted
21 in 21. And that -- its purpose was based strictly on that
22 date. To sunset a current reserve officer's ability to
23 access certification by waiver there would be a date at
24 which point they would no longer be eligible to attend
25 that. That's the only reason it was put in there for.

1 MR. LAMA: I see.

2 MR. SCHULTZ: Mr. Chairman, and that is included
3 in 20. So it's there.

4 MR. LAMA: Okay. All right.

5 MR. SCHULTZ: The language in 20 is much clearer;
6 it's much more defined. I think that's what the chiefs
7 wanted.

8 MR. LAMA: Very well. We have a motion for
9 approval of a modified proposed rule; and I have a second,
10 I believe. Is there any additional discussion?

11 MR. GALLEGOS: Mr. Chairman.

12 MR. LAMA: Yes, Mr. Gallegos.

13 MR. GALLEGOS: Just one thing that jumped out to
14 me. I was wondering if 21 was actually required; I think
15 most of that got answered. There's one part of 21 that I
16 don't think I see in 20 or anywhere else, and I'm not sure
17 if it's the intent of the committee.

18 And it is the last I think couple of sentences,
19 "The applicant will have two opportunities to successfully
20 pass the exam. Two failures of the exam will require the
21 applicant to attend basic."

22 Now, is that something that should be kept in or
23 something that should be deleted? I don't know that I saw
24 in 20, as far as how many chances a person is given.

25 MR. LAMA: Mr. Najjar.

1 MR. NAJAR: In the section that requires
2 attendance of certification by waiver program, it reverts
3 back to the certification by waiver rule. And within that
4 rule is the standard which requires -- or allows for the
5 two exams and then....

6 So we would be utilizing the prior rule on
7 certification by waiver to make sure that if they fail it
8 they have to go do the whole academy.

9 MR. GALLEGOS: As long as there's no -- as long
10 as that's clear and the director has that, because I don't
11 -- I wouldn't want to have someone come up later and say,
12 "Nowhere did it say I had two chances." And they want a
13 third or a fourth or a fifth.

14 As long as there is authority already for that,
15 then that should take care of it.

16 MR. LAMA: Thank you, Mr. Gallegos. Any other
17 Board discussion? Seeing none, I have a motion and a
18 second for approval of the proposed NMAC Rule 10.29.8 with
19 modification to exclude the proposal -- to omit the
20 proposal presented in the Draft Rule 10.29.8.21.

21 All in favor of the motion signify by saying
22 aye.

23 THE BOARD {Except for Mr. Perez}: Aye.

24 MR. LAMA: Any opposed?

25 MR. PEREZ: Opposed.

1 MR. LAMA: The motion carries. As I said at the
2 beginning of the discussion, this rule now that it has
3 been proposed and adopted by the Board will become
4 effective 30 days after they are filed with the New Mexico
5 State Center Records and Archives.

6 And, Mr. Ortiz, I assume in consultation with
7 Mr. Shandler you will proceed to do that.

8 MR. ORTIZ: Yes, sir.

9 MR. LAMA: Very well. Thank you very much. And,
10 again, thank you for all the public comments on that rule.

11 ITEM #8: PUBLIC HEARING:

12 ELIGIBILITY OF RETIREES

13 MR. LAMA: The next item on the agenda is another
14 public hearing, Item 8, which -- I didn't pick a very good
15 meeting to substitute for the Attorney General; did I?

16 MR. ORTIZ: That's why he's not here.

17 MR. COON: That's why you're the big guy.

18 MR. LAMA: Yeah. Item 8, and that is a public
19 hearing on the eligibility of retirees. The purpose and
20 the intent of this regulation is to provide the ability
21 for out-of-state officers serving over 20 continuous years
22 of service to be recognized as retirees and be exempt from
23 the physical fitness and agility requirements for the
24 certification by waiver course.

25 Again, I'll just briefly describe the process.

1 We will now declare that this public hearing is open. And
2 we will begin again with staff providing testimony and
3 information to the Board as to why in their opinion this
4 rule should or should not be adopted.

5 And the Board is free to ask staff questions at
6 that time. Then we will move to the audience and allow
7 the audience to make any public comments they wish to for
8 the record. Again, any public comments should be
9 presented at the podium and please identify yourself for
10 the purposes of the record.

11 When we have received all of the testimony we
12 will close the hearing, and we will begin with our
13 deliberation process.

14 Mr. Ortiz, will you present either yourself or
15 members of your staff with any considerations on this
16 rule.

17 MR. ORTIZ: Mr. Chairman, Board Members, under
18 Tab 8, 10.29.6.10, "Eligibility of Retirees," the added
19 language in there is, "In the event a retired certified
20 officer or an out-of-state officer who provides sufficient
21 proof to the Director of a service record that would be
22 equivalent to the requirements for retirement in the State
23 of New Mexico and who has appropriately separated from law
24 enforcement service in good standing makes application to
25 obtain or regain New Mexico certification by waiver of

1 basic training, such applicants shall satisfy the
2 following requirements: A. Applicant must have graduated
3 from a certified law enforcement academy that was
4 comparable to or exceeded the standards of the programs of
5 the New Mexico academy; B. Separation period shall not
6 exceed twenty (20) years; C. Separation must be under
7 honorable conditions; D. Biennial training shall be
8 complete and current; E. Applicant shall complete current
9 DPS/TRD basic firearms qualifications; F. Complete all
10 other conditions required under the current certification
11 by waiver of basic training, except for the physical
12 fitness and agility requirements; G. Complete any other
13 requirements imposed on applicant by sponsoring agency."

14 In talking with the staff, our position is we do
15 not support the waiver of this, to allow a non-retiree to
16 have this exemption without participating in the physical
17 fitness. We don't believe that he should have -- anybody
18 should have that waiver.

19 That that should be mandated that they
20 participate, unless they are classified as a retiree.
21 That is the only exception.

22 MR. LAMA: Do I have any -- thank you,
23 Mr. Ortiz. Do I have any preliminary questions from the
24 Board to staff on this proposed rule? Seeing none, I will
25 now move to the public comment portion. Is there anyone

1 here that would like to comment on the rule proposal?

2 Yes, sir.

3 MR. SANDERS: J.D. Sanders, chief of police in
4 Hobbs. I think I'm probably the one that started this
5 mess. I stand in support of the rule change, and the
6 primary reason is it looks selfish, but I'm a prime
7 example of how unfair that rule can be.

8 In 54 weeks I'll be able to draw compensation
9 from a retirement in Tennessee. But because I'm not
10 drawing a compensation from that retirement in Tennessee,
11 I don't fit this -- this guideline.

12 As I said a while ago, I just completed a cert by
13 waiver class that had 33 members in that class and almost
14 half of them had this retiree provision. Fourteen, as a
15 matter of fact. Only one of that 14 was older than me,
16 and none of them had the years of experience I do.

17 But the difference between me and them was they
18 are drawing a compensation check and I'm not. And that's
19 the only difference.

20 So there are such a variety of retirements across
21 this country. And, unfortunately, there's even some
22 places that don't even offer retirement, where an officer
23 can retire in 30 years and not be drawing a retirement
24 check.

25 So it simply is a matter of fairness, to me. And

1 if you're going to have the rule, it would be my
2 suggestion that you make the rule fair. And in talking
3 with Director Ortiz, when we were discussing this, it
4 seems to me to be fair to set that as a standard, that if
5 they if they completed requirements that would have
6 allowed them to be able to retire in New Mexico to be
7 treated the same as a New Mexico retiree. Plain and
8 simple.

9 And I'd stand for any questions if anybody's got
10 any. Thank you.

11 MR. LAMA: Thank you for your comment. Any other
12 members of the public who would like to comment on this
13 proposed rule?

14 MR. MARK RADOSEVICH: My name is Mark Radosevich.
15 Mr. Chairman, Members of the Board, I won't speak to the
16 change. I just have a question for understanding.
17 Paragraph D requires that any applicant for certification
18 by waiver, that their biennium training be current.

19 Does -- if I were out for two biennium periods
20 would that require me then to be current on both bienniums
21 or only the current year when I submit my application to
22 go through the class? And I would ask that some
23 direction -- positive direction be given so there's some
24 consistency in the application process.

25 Thank you, Mr. Chairman.

1 MR. LAMA: Thank you.

2 MR. FORCE: Mr. Chairman.

3 MR. LAMA: Yes.

4 MR. FORCE: Could I ask a question to the Academy
5 staff on that same point?

6 MR. LAMA: Yes.

7 MR. FORCE: Under Item D, as Mr. Radosevich
8 clearly pointed out, it says, "Biennial training shall be
9 complete and current." So this would be Mr. Ortiz's.

10 So prior to an applicant's -- an application and
11 acceptance into the cert by waiver, would that individual
12 have to go through the 40-hour -- would be able to show
13 that that individual has 40 hours within that biennium
14 period?

15 MR. ORTIZ: And it's my understanding that they
16 are not in compliance with their biennium training, that's
17 why they are going to cert by waiver. And I'll refer that
18 to Mr. Mark Shea and Mr. Najjar.

19 But if they are not in compliance and they do not
20 have that biennium training and there has been a
21 separation for more than three years, then they are
22 required to go to certification by waiver to get in
23 compliance and reactivate their certification.

24 MR. FORCE: I've never seen this in the rule.
25 I've never caught it before until Mr. Radosevich just now

1 brought it up because it seems kind of contradictory.

2 MR. SHEA: And it has been problematic in
3 processing applications for certification by waiver,
4 because a large number of those applications are from
5 out-of-state applicants.

6 So to require them to be in compliance with the
7 New Mexico biennium inservice training requirement when
8 they are not even in the state has been, you know, not
9 enforceable.

10 So as they make application, our primary review
11 is of the comparability of their original academy they
12 attended and their training hours to meet the New Mexico
13 state standard of 800 hours. And we look at it from that
14 perspective.

15 Where it would come into play would be instate
16 officers who have had a break in service of more than two
17 years and have not -- if they had been maintaining their
18 biennium inservice training requirements their
19 certification would remain intact.

20 So by not maintaining that, that puts them into
21 the certification by waiver requirement. So it is
22 problematic in the way it currently exists.

23 MR. FORCE: And it doesn't seem practical to me
24 to even have it in there. I don't understand the
25 background of that rule. I don't know why that was put in

1 there originally because it seems kind of -- it sounds
2 like it's not being applied currently; is that right,
3 Mr. Shea?

4 MR. SHEA: That is correct.

5 MR. FORCE: Okay.

6 MR. LAMA: Any other public comments? Seeing
7 none, I will now close the hearing at this point on the
8 rule. And we will now move to a discussion by the Board
9 regarding the proposed rule.

10 Board Members, are there any comments or
11 questions regarding the proposal before you?

12 MR. SEGOTTA: Mr. Chairman, I wanted to make it
13 clear in my own mind. Here on 10.29.6.10(F), when it
14 talks about "Complete all other conditions required under
15 the current certification by waiver of basic training,
16 except for the physical fitness and agility
17 requirements."

18 So did I hear you correct, Director Ortiz, that
19 that eliminates the requirement for people who attend the
20 cert by waiver to meet the 50th percentile? Does that
21 language eliminate that requirement?

22 MR. FORCE: No.

23 MR. ORTIZ: The language up above? The new
24 language?

25 MR. SEGOTTA: No, not the new language.

1 "...except for the physical fitness and agility
2 requirements" in F.

3 MR. ORTIZ: Okay. The retirees -- currently, the
4 retirees have that exemption if they under honorable
5 conditions retired that -- and they go to cert by waiver
6 they don't have to take the physical fitness.

7 MR. SEGOTTA: Just in state, though. This will
8 make it out of state as well?

9 MR. ORTIZ: Yes.

10 MR. COON: It is out of state already.

11 MR. SEGOTTA: Okay.

12 MR. FORCE: Mr. Chairman.

13 MR. LAMA: Yes.

14 MR. FORCE: I also have a question for Mr. Ortiz
15 on 10.29.6.10(B). Mr. Ortiz, do you know the history of
16 why the regulation was put in there for the "Separation
17 period shall not exceed twenty (20) years" for application
18 into the cert by waiver?

19 MR. ORTIZ: I don't. Maybe I'll refer that to
20 Mr. Lama. He's been around a lot longer. And he was at
21 one of those discussions.

22 MR. LAMA: It almost -- if I was, I really have
23 tried very hard to forget the discussion. I don't recall
24 the 20-year requirement. Mr. Shandler might have some
25 history with that.

1 MR. SHANDLER: The rule was changed in 2003 and
2 early 2005 was the meeting before I joined that the last
3 change was made.

4 MR. LAMA: Everybody is trying to get out of this
5 one; aren't they? I might just comment. The issue of
6 retirees and the waiver that exists -- that already
7 exists, as I understand, for retirees, one concern that I
8 have is I'm not quite sure -- maybe the director can
9 explain -- what is the current standard that allows for a
10 retiree's eligibility for purposes of that waiver
11 currently?

12 MR. ORTIZ: Currently.

13 MR. LAMA: What do we define as retirement so
14 that that individual qualifies for the waiver?

15 MR. SHANDLER: I'll answer that. The PERA has a
16 definition and the Academy has traditionally followed
17 that. And their definition, which is different than other
18 states -- that the definition is you have to be drawing a
19 check. That's a PERA definition.

20 MR. LAMA: And in the rule -- in the rule is
21 there -- does the regulation reference the PERA
22 requirement or is it that direct or is it something
23 that....

24 MR. SHANDLER: The rule does not make reference
25 to the PERA requirement. That's just been my

1 understanding in the custom and tradition of interpreting
2 the word "retiree."

3 MR. LAMA: Okay. Do the Board members have any
4 other questions? {No response.} At this point in time
5 there are a number of things that we can do. I can
6 entertain a motion. We can table this matter if the Board
7 wishes to. But I would entertain a motion if a Board
8 member has one.

9 MR. FORCE: Mr. Chairman, I'd make a motion to
10 approve the current existing recommendation along with
11 striking Item B and striking Item D, which would make all
12 the sublettering would change.

13 MR. LAMA: And that would be in Section
14 10.29.6.10, correct?

15 MR. FORCE: Correct.

16 MR. LAMA: I have a motion. Do I have a second
17 for purposes of discussion?

18 MR. GALLEGOS: I would second.

19 MR. LAMA: I have a motion and a second.
20 Discussion.

21 MR. COON: Mr. Chairman. Mr. Force, you want to
22 eliminate "Separation period shall not exceed twenty (20)
23 years"?

24 MR. FORCE: Correct.

25 MR. COON: Is there anything else, another number

1 you want to put in there or is it just?

2 MR. FORCE: I guess my concern with putting the
3 separation period in there is it -- I mean, it's kind of
4 like what we heard from the gentleman from Dona Ana
5 County.

6 It almost -- it tends to almost set forward an
7 ideology that after an officer is retired for 20 years
8 he's no longer eligible to be a police officer and would
9 have to go all the way through the basic academy again.

10 When I look at the gentleman who's at the age of
11 60-years-old-plus, I -- I'm sorry. I'm like, you know
12 what? If the guy's got -- if he's retired or he's got --
13 he's eligible in that years of service, underneath the
14 guise here, why should we be discriminating against the
15 guy who's been out for 20 years?

16 So that's my concern about it. If he can show
17 the rest of the proofing.

18 MR. GALLEGOS: Just real quick. I don't mind --
19 the reason why I seconded the motion and going to vote for
20 it unless talked out of it, is I don't mind seeing a
21 period there, be it 20, 25, 15. I don't care. As long as
22 there's a rationale for it. I haven't heard one.

23 And absent that, I would just go ahead and
24 support the motion. So unless someone has a rationale and
25 a corresponding time limit, then I'm not convinced that it

1 should stay.

2 MR. SCHULTZ: If I may, Mr. Chairman. I do have
3 a problem with number B being removed. Having been
4 involved in law enforcement for 27 years myself, law
5 enforcement has changed and evolved dramatically.

6 And it does every legislative session and it does
7 every session of the United States Supreme Court change
8 dramatically. Technology changes faster than we can buy
9 it. And if someone is out of the profession for 20 years,
10 that cannot be made up in three-weeks' period of time.
11 It's impossible.

12 And I think all we have to do is any one of us
13 look at 20 years ago DNA evidence didn't exist. Twenty
14 years ago the information systems we currently have didn't
15 exist. Homeland defense, interruptability issues did not
16 exist. Criminal law. All the different entities that we
17 have to deal with as law enforcement officers day in and
18 day out have evolved and changed dramatically.

19 And they continue to change almost on a daily
20 basis. And it's impossible to catch that up in three
21 weeks. It's just impossible.

22 MR. LAMA: Are there other comments? We have a
23 motion and a second. All in favor of the motion signify
24 by saying aye.

25 MR. PEREZ: Would you please restate the motion?

1 MR. LAMA: Let me restate the motion. The motion
2 is for approval of the proposed rule and the amendments in
3 10.29.6.10 with modifying it to exclude Subsection B and
4 Subsection D. Subsection B is "Separation period shall
5 not exceed twenty (20) years." And D is "Biennial
6 training shall be complete and current."

7 That is the -- that is the motion that is
8 currently on the floor. So I will call for the question,
9 those in favor of the motion signify by saying aye.

10 MR. GALLEGOS: Aye.

11 MR. LAMA: Those opposed?

12 THE BOARD {Except for Mr. Gallegos} Opposed.

13 MR. LAMA: The motion fails to carry. Do I have
14 an alternative motion?

15 MR. FORCE: Well, I guess I'd like to make a
16 motion -- handle one at a time, then. So I'd like to make
17 a motion to strike 10.29.6.10(D) as in dog.

18 MR. LAMA: We have a motion. I assume that that
19 meets for approval of the -- the rule amended before us
20 with -- to exclude Item D in 10.29.6.10.

21 MR. COON: May I ask a question? Is that also
22 going to include F, that we're going to accept the
23 exemption of the waiver for F?

24 MR. LAMA: As I understand it, Sheriff, that
25 already is -- that is not one of the proposed amendments

1 to the rule. That currently exists in the rule.

2 MR. COON: Okay.

3 MR. LAMA: The proposal is that the rule -- that
4 the amendment to the rule be adopted with the exclusion of
5 Item D.

6 MR. FORCE: Mr. Chairman. My intent here -- I'd
7 just like to handle this one at a time. So if I can
8 modify my motion to make it clear. I'll make a motion to
9 approve the modification as it's worded specifically in
10 front of us.

11 MR. LAMA: Very well. I think that probably
12 is -- the Board has the opportunity since we're
13 considering the rule to open it up for additional
14 discussion. But the matter that was presented before us
15 today in the rule change dealt with the language that was
16 in the first portion of that rule.

17 So the motion that now has been offered by Board
18 Member Force is for approval of the modified language in
19 10.29.6.10 with no suggested amendments. Do I have a
20 second to that motion? {No response.}

21 I'll second the motion for purposes of
22 discussion, discussion on that item. Well, I will discuss
23 the item. I think the -- I think that -- I guess I have
24 two thoughts.

25 First thought is seems to me that even under --

1 based on the questions that I asked of Mr. Shandler, it
2 seems to me that even under the current rule as it's
3 written, the director could consider alternatives for
4 purposes of deciding what is retirement for purposes of
5 eligibility under this rule.

6 I think that the proposal clarifies that the
7 director in the exercise of that discretion has the
8 opportunity to consider alternatives.

9 Sort of mirroring what Mr. Gallegos said, I have
10 a little bit of concern that we're -- that absent doing
11 that, we might be applying a standard that an instate
12 individual who is capable of achieving PERA retirement
13 status is somehow a retiree and individuals who are
14 similarly situated in other state but simply are not PERA
15 retirees are not.

16 And as Mr. Gallegos said unless there's a reason
17 for that, to exercise that discretion, I have a little bit
18 of concern that that might be considered to be a little
19 arbitrary from a legal standard.

20 But, again, you know, if there's a basis, then I
21 think we can certainly make that distinction for purposes
22 to determining who's going to be eligible for the waiver.
23 But I have not heard a reason for that distinction.

24 So that is the reason why I would probably
25 support the additional language. Do the Board members

1 have any other --

2 MR. FORCE: Mr. Chairman. Mr. Ortiz, did this
3 issue ever come up before Chief Sanders came to
4 New Mexico?

5 MR. ORTIZ: Yes, sir, it did. Before I was here
6 I understand a chief from California came in and he was
7 employed by the Farmington Police Department. And he was
8 here before the Board seeking a waiver as well, which was
9 denied.

10 MR. PEREZ: Also the Ruidoso Downs Police Chief.

11 MR. ORTIZ: Uh-huh.

12 MR. FORCE: So we have a prior precedent where
13 we've upheld the standard of the Board for not
14 acknowledging retirement --

15 MR. ORTIZ: Correct.

16 MR. FORCE: -- I guess criteria toward a cert by
17 waiver. Okay.

18 MR. LAMA: I would assume that there would have
19 to be -- I don't think that the rule says that if anyone
20 has left an agency after a certain period of time and has
21 not met some equivalent to retirement in that state that
22 they would be able to seek the waiver.

23 I think there has to be something that is
24 equivalent to a retirement. And, frankly, I don't know
25 how complicated that gets, but I would assume if someone

1 retires as a police officer in the state of California
2 they have some -- there's some definition in the state of
3 California that qualifies as requirement.

4 And I would suggest that the director would
5 interpret this rule, you know, in accordance with that
6 approach. I'm not -- in the old days it was a lot
7 easier. We didn't have this exception at all, so I never
8 had to deal with this, frankly.

9 But I would think that that would be the way that
10 you would interpret it to be consistent with even our past
11 practices. Certainly, if other individuals have been
12 denied in the past, it may have related to the fact that
13 they really were not -- even in the state from which they
14 came they were not really retirees.

15 That would be my sense of why there may have been
16 a different approach taken in the past. But I'm only --
17 that's only -- I'm only supposing that.

18 MR. FORCE: Mr. Ortiz, if you have an individual
19 who retired, let's say, at the California Highway
20 Department within the 20 years, right, and separation
21 occurred within the 20 years of application, would they be
22 eligible to fall under this or not?

23 MR. ORTIZ: They would be exempt from the
24 physical fitness. They would be eligible for cert by
25 waiver and exempt from having to participate in the

1 physical fitness. The physical fitness is the issue here.

2 MR. FORCE: So what -- yeah. So the way the
3 current language is it's just giving an individual who's
4 got 20 years of service somewhere -- accumulated somewhere
5 in his career or her career to come in, actually go
6 through the cert by waiver, and be exempted from PT.

7 MR. ORTIZ: That's correct.

8 MR. FORCE: That's the issue. Okay.

9 MR. LAMA: Okay. That's --

10 MR. FORCE: So there could just be a job offer
11 somewhere along the line and then pop into New Mexico and
12 then go through the cert by waiver and not have to go
13 through the PT.

14 MR. ORTIZ: Correct.

15 MR. FORCE: Okay.

16 MR. LAMA: Then that suggests sort of a
17 different -- in my mind that suggests a different issue.
18 Because if someone is retired in any other state, is it
19 the current practice that if they were a retiree in that
20 state then they would be eligible for the waiver under the
21 current approach?

22 MR. ORTIZ: Yes, Mr. Chairman.

23 MR. LAMA: If they have not retired in that state
24 and they have just served a period of time, then under the
25 current rule they would not be subject to the waiver?

1 MR. ORTIZ: Yes, Mr. Chairman.

2 MR. LAMA: All right. That changes it for me. I
3 have a motion and a second under -- a motion and a second
4 for approval of the amendment to 10.29.6.10. Any
5 additional discussion?

6 MR. GALLEGOS: Call the question, Mr. Chairman.

7 MR. LAMA: Very well. All those in favor of the
8 motion signify by saying aye.

9 MR. GALLEGOS: Aye.

10 MR. LAMA: Those opposed signify by saying no.

11 THE BOARD {Except for Mr. Gallegos}: No.

12 MR. LAMA: The rule does not -- the motion
13 fails. Do I have any other motions on the proposal before
14 us?

15 MR. FORCE: I'll make one more motion,
16 Mr. Chairman. And that's to strike 10.29.6.10,
17 Subsection D, "Biennial training shall be complete and
18 current."

19 MR. COON: I second that.

20 MR. LAMA: I have a motion and a second to modify
21 the Rule 10.29.6.10 by removing Section D, "Biennial
22 training shall be complete and current."

23 I would just ask Mr. Shandler for purposes of the
24 record this was not amended language that was proposed
25 before the Board in this rule-making. However, it was an

1 issue that was raised in the course of the rule-making
2 hearing.

3 So would it be appropriate in your legal analysis
4 that we could consider making this modification as
5 proposed by the motion or not?

6 MR. SHANDLER: Mr. Chairman, yes, there was
7 public comment on D both from the public and from staff of
8 how it's been applicable in practice. So I think that
9 would satisfy there was a logical outgrowth of the rule as
10 published and there was sufficient testimony regarding it.

11 MR. LAMA: Thank you very much for that
12 clarification. I have a motion and a second to modify the
13 rule. I will call the question. All those in favor of
14 the motion, which again just to state for the record,
15 would be to not include the language, the additional
16 language that has been presented; but to modify the rule
17 by striking Subsection D of 10.29.6.10.

18 All those in favor of that motion signify by
19 saying aye.

20 THE BOARD {Except for Mr. Perez}: Aye.

21 MR. LAMA: Those opposed.

22 MR. PEREZ: Opposed.

23 MR. LAMA: The motion carries. Based on a
24 variety of motions, I think where we end up with, Board
25 Members, just to reiterate is we have approved a change to

1 Regulation 10.29.6.10.

2 We have not approved the additional language that
3 was proposed. However, we have modified the rule so as to
4 strike Subsection D, "Biennial training shall be complete
5 and current." And the rest of the rule remains the same.

6 The other section should be relettered so that
7 it's in conformance with the modification.

8 Does staff or Mr. Shandler, do you have any
9 questions about the changes.

10 MR. SHANDLER: Just it's my understanding the
11 underscored language was not adopted.

12 MR. LAMA: That's correct. And just again for
13 purposes of the record, I just want to let everyone know
14 that this rule will not take effect until after 30 days of
15 publication with the state records center and archives.

16 And, Mr. Ortiz, I assume again that you will make
17 sure that that process is completed.

18 MR. ORTIZ: Yes, sir.

19 MR. LAMA: Thank you very much.

20 ITEM #9: DISCUSSION: REPORTING REQUIREMENTS AND
21 LEA-90A AFFIDAVIT FORM FOR REPORTING MISCONDUCT

22 MR. LAMA: All right. The next item on the
23 agenda is -- I'm glad those hearings are over. The next
24 item on the agenda, Item 9, discussion of the reporting
25 requirements and LEA-90A affidavit form for reporting

1 misconduct. Director Ortiz.

2 MR. ORTIZ: Yes, Mr. Chairman, Board Members,
3 Ladies and Gentlemen. The affidavit that we're
4 proposing -- and I've gotten together with the chiefs'
5 association and the sheriffs' association.

6 I also received a letter from Zack Shandler with
7 six different options, which I shared with the sheriffs'
8 and chiefs' association. They are in your binders under
9 Tab No. 9. On August 21st Mr. Shandler sent me these
10 options regarding the reporting of officer misconduct.

11 Option No. 1 was status quo about the 30-day
12 reporting. Option No. 2 was clarification of reporting
13 requirement. And the added language would be "An officer
14 or telecommunicator's resignation or employment
15 termination does not relieve the agency from its duty to
16 file such a report with the Academy."

17 Option No. 3 is clarification of reporting
18 requirement plus deadlines, where "...within thirty (30)
19 days of completed misconduct investigations but no later
20 than ninety (90) days after discovery of the misconduct.
21 An officer or telecommunicator's resignation or employment
22 termination does not relieve the agency from its duty to
23 file such a report with the Academy."

24 Option No. 4 adds some additional language now
25 with the penalty, with "An agency's failure to timely

1 report such conduct is an act of dishonesty and may
2 subject the agency's chief officer to disciplinary
3 action."

4 Option No. 5 adds in an exception where "An
5 agency's failure to timely report such conduct, without
6 being granted a written exception from the director, is an
7 act of dishonesty and may subject the agency's chief
8 officer to disciplinary action."

9 I met with the chiefs' association on
10 September 4th in Albuquerque and presented this letter to
11 them. I did obtain some feedback from them. They had a
12 committee. And Mr. Trujillo is also present. But they
13 did provide me -- and it's included in there a couple
14 pages over -- instead of a quarterly misconduct, the
15 chiefs' association was -- made the request to go with an
16 annual misconduct reporting.

17 The next page over they had some additional
18 language that they wanted inserted in there, and that
19 would be Item A and Item B. We all agreed not to
20 incorporate Item C. And that would be on the LEA
21 misconduct standards in your book, and that was provided
22 from the chiefs' association.

23 A couple pages over we took those suggestions. I
24 did not obtain any information from the sheriffs'
25 association until yesterday. And I met with Sheriff

1 Johnny Valdez and a couple of the sheriffs last night and
2 with Mr. Trujillo.

3 And we did discuss some of the language that's
4 being proposed. And you'll see that a couple pages over
5 on page 6 under 10.29.1.11, Subsection D, on reports, we
6 incorporated that language, which is underlined. However,
7 we came to a decision to strike. What they prefer is to
8 have the very last sentence where it is an act of
9 dishonesty.

10 And also in your packets we printed out another
11 copy that the president of the chiefs' association also
12 wanted some other language inserted. And it should be in
13 your packets, a single page, where I highlighted it in --
14 with a blue pen. So if you can go through your packet
15 there. It should be in the blue folder.

16 In getting with the representatives from the
17 sheriffs' association and the police association, the
18 added language they want in there -- and it's in the
19 middle of the paragraph.

20 "For the purposes of this section, 'misconduct'
21 is defined as any criminal act listed under Section
22 10.29.1.11 NMAC or any act identified in 10.29.1.11 that
23 results in termination or involuntary resignation."

24 And this is a matter for discussion, and also for
25 some comments on the LEA-90 form, the reporting

1 requirements. So I'll open it up now for any discussion.

2 MR. SHANDLER: Yeah, if I can frame it a little
3 bit more. You have a two-step rule-making process. Step
4 one is to even decide whether you want to set a
5 rule-making hearing. We usually do that with a discussion
6 where you kind of try to see if you can agree to some
7 language.

8 So this is just still at step one. We're seeing
9 if you even agree with the language to set it for
10 rule-making. In the past you have either voted to set it
11 for rule-making, not, or table it and allowed maybe a
12 subcommittee or a group to come back with new language.
13 So you're just at step one here.

14 MR. LAMA: Questions from the Board members. {No
15 response.}

16 MR. ORTIZ: Also, I want to add. Your second
17 page is the revised annual misconduct report that I
18 prepared with the recommendations of the chiefs'
19 association. And that would be the form. And they're
20 requesting that it be reported on an annual basis. And I
21 put it to be due on January 30th.

22 MR. FORCE: Mr. Chairman.

23 MR. LAMA: Yes, Mr. Force.

24 MR. FORCE: Mr. Ortiz, what's in the proposal on
25 page 6, the only thing that's different there is from what

1 Chief Trujillo gave over is the addition of that one
2 sentence; is that correct?

3 MR. ORTIZ: That's correct. And also with the
4 deletion of the very last sentence "is an act of
5 dishonesty." And those words "is an act of dishonesty
6 and" would be deleted out. And it would read, "...granted
7 a written exception from the director," and then "may
8 subject the agency's chief officer to disciplinary
9 action."

10 MR. FORCE: What Mr. Trujillo submitted, is that
11 what the chiefs' association or their committee is
12 recommending?

13 MR. ORTIZ: That is correct.

14 MR. FORCE: Has this been taken to the sheriffs'
15 association?

16 MR. ORTIZ: Yes. When I received the letter from
17 Mr. Shandler, I faxed that over to Jessica Miller. And
18 she was going to distribute that to the sheriffs'
19 association.

20 I did get some feedback from three of the
21 sheriffs. And you'll also have a copy in your packet.
22 The sheriffs from De Baca County, McKinley County, and
23 Guadalupe County sent their comments on this. And that's
24 in your blue folders as well.

25 And some of the other sheriffs are here to

1 possibly to speak on this topic.

2 MR. LAMA: Any other comments or questions from
3 the Board?

4 MR. SCHULTZ: I guess a comment. And I'm looking
5 at both of these, some of the confusion that I see.
6 Looking at 600 complaints a year, 300 internal and 300
7 external. In both of them we talk about reporting "within
8 thirty (30) days of completed misconduct investigations
9 but no later than ninety (90) days after discovery of the
10 misconduct."

11 It further talks about that the finding of the
12 misconduct must be sustained. It's not uncommon for the
13 employee to have a right to present information about the
14 alleged charges at what's called a Loudermill hearing.

15 At a Loudermill hearing, new evidence is allowed
16 to be presented. So very often at that Loudermill hearing
17 that final decision is modified or adjusted based on that
18 new evidence.

19 So I think we're kind of painting most chiefs
20 into a corner of having to submit what may not be a
21 complete case. I would feel much more comfortable in
22 having language so it's after the entire process is done
23 with.

24 It would make life much easier for Mr. Ortiz and
25 Mr. Holmes and not have just a partial investigation and

1 every time have to go back and find out what happened at
2 that Loudermill hearing.

3 From my experience it's not uncommon for
4 extensive new evidence to be presented at a Loudermill
5 hearing. And that's not uncommon to occur sometimes up to
6 120 days after the alleged incident.

7 MR. LAMA: On that note, Mr. Ortiz, was there a
8 reason for putting the 90-day cap, you know, as the
9 date when the conduct had to be reported? What was the
10 reasoning behind that?

11 MR. ORTIZ: Well, the complaints we're getting is
12 30 days wasn't enough time for them to complete their
13 investigation and report it. And we feel that based on
14 the rule, 30 days, that they should still report the
15 misconduct. They can send us an LEA-90 so we have it on
16 file. We can enter it into the database.

17 And let them continue their investigation, and
18 then when it is complete submit it. And we would think
19 that the 90 days is adequate time. That's going to be a
20 priority for any agency head if there's misconduct on an
21 officer that it be investigated quickly.

22 First they are going to put them on
23 administrative leave, and they need to get to the bottom
24 of it. So it's usually a priority. And I think 90 days,
25 no later than 90 days is beneficial to them. It helps

1 them. But it makes them where they are compelled to
2 report it no later than 90 days.

3 MR. JACKSON: If I may.

4 MR. LAMA: Yes, Mr. Jackson.

5 MR. JACKSON: Another problem that we see with
6 the 90-day requirement is -- was sort of conceived to
7 solve this -- where a misconduct is reported and an
8 investigation begins; but then the investigation is
9 terminated because the officer leaves. The officer
10 resigns. And then the agency just drops the
11 investigation.

12 So if you just have a 30-day requirement after a
13 completed investigation, you never know about this
14 misconduct; and then the officer goes on to another job
15 and another and another.

16 MR. LAMA: Thank you. Board Member Perez.

17 MR. PEREZ: The same issue. I don't think that
18 Director Ortiz is asking for a full report of the
19 investigation conducted. He just wants to be notified
20 that there was an issue there. There is a problem. There
21 is a complaint.

22 And that would preclude those other issues of
23 officers leaving and then they -- some of the problems
24 that we've been hearing are that the agency fails to
25 conduct any investigation. And that's what the issue is.

1 So this way we're sort of forcing the department
2 to at least open an investigation. We're not so much
3 concerned about the validity of the charge, but that a
4 complaint was made and that the Board is notified that
5 there is an issue. We're not judging whether it was
6 founded or not.

7 Once they get lawyers involved, I think it takes
8 years; and yet we would not hear about it. And the
9 complaint we're hearing from the public that there are
10 departments that are not investigating their own people
11 and allowing them to travel around and play gypsy cops.

12 We had one issue I think within the year of a man
13 who hit like 20-plus agencies over numerous years of never
14 being tracked. That's what we're trying to preclude.

15 MR. FORCE: Mr. Chairman, if I can throw this in
16 real quick. My understanding -- and I may be wrong, Zack;
17 if you could help me on this. But what's being
18 submitted -- and I'm looking at Chief Trujillo's
19 recommendation under D, the changes to it.

20 My understanding of this is that the agency is
21 required -- when is the agency required to report. And it
22 appears to me with the new language the agency is required
23 to report 30 days after the investigation has been
24 completed, no later than 90 days after the discovery of
25 the misconduct.

1 So the issue here is that the allegation has been
2 brought forward to the agency. The agency then conducts
3 their investigation. They complete the investigation
4 within -- and then after the completion within 30 days of
5 that completion then they have to report.

6 And then when I look at how the caveat to
7 everything is prior to the reporting, in the middle of the
8 paragraph it says, "Prior to reporting all incidents of
9 misconduct all law enforcement agencies must insure that a
10 timely and thorough investigation is conducted and where a
11 finding of misconduct has been sustained."

12 So what we're talking about -- if my
13 understanding is correct, Chief Trujillo, on your
14 proposal, the way the process would go is that an
15 allegation comes forward. The agency investigates it.
16 Once they've investigated it, it's now been completed.

17 After the completion of the investigation and
18 there is a finding against the officer by the agency of
19 misconduct, that is criminally related as defined by
20 misconduct, then at that point there is a mandatory report
21 to the Academy.

22 But in anywhere in that process if there's no
23 finding of misconduct of criminal nature and/or there
24 is -- the agency doesn't complete their investigation, it
25 says that it's -- they don't have a finding against the

1 officer administratively, then there's no mandate for a
2 report.

3 I guess that's a question. Is that a proper
4 interpretation of what I'm seeing here? Mr. Trujillo?

5 MR. SAM TRUJILLO: Can I come up? Mr. Chairman,
6 Members of the Board, again, my name is Sam Trujillo. I'm
7 the Director of Alamogordo Department of Public Safety and
8 I'm here representing the association of chiefs of
9 police.

10 This issue has -- was brought to the attention of
11 the police chiefs' association, and we did form a
12 committee with the Academy to discuss the various issues
13 in there. What we have come up with is we've asked the
14 Academy director to insert language that was recommended
15 by the board. And that is in this document that you see
16 underlined.

17 Right now the law is that we have to report
18 within 30 days with it. The question has always been what
19 is -- can you be able to determine if it is a violation in
20 that 30 days. So the language does extend that time
21 period, that we have to report within 30 days, but no
22 later than 90 days of the time of the original offense for
23 it.

24 We had a big problem with what misconduct was.
25 And there is language in this document referring to

1 misconduct, and that's the reason that you have that paper
2 in front of you, which should have in parentheses or
3 highlighted in there that we wanted to add that additional
4 sentence so we can clearly identify what misconduct was.

5 What we're looking at is we're not trying to go
6 beyond the statutory violations. We're saying misconduct
7 is still going to be in those items that are listed by
8 statute, but it needs to rise to the level of termination
9 or resignation for that.

10 In other words if we have an officer committing a
11 misconduct, failing to show up for work on time, things
12 like that and he's disciplined, that is not something
13 we're having to report to the Academy. So it still has to
14 rise to that level of the statutory requirements.

15 The last sentence is -- let me back up a second.
16 The sheet that you have before you that has my name on it,
17 the only thing that I added into that section was the part
18 that is highlighted. Everything else was submitted by the
19 Academy director using the wording that came out of the
20 committee.

21 And this was brought before the police chiefs'
22 association in a rough draft form. And the police chiefs'
23 association approved that. And then we wanted the
24 additional language added. So that's how you came about
25 that particular document.

1 So to go back to your question on how we view
2 that 30 days, we see that as that we have 30 days to
3 report to the Academy after you've completed your
4 investigation but it can't be no longer than 90 days from
5 the actual occurrence.

6 If there's a situation that the investigation is
7 going to go beyond the 90 days with the example that Chief
8 Schultz has made, then what's going to be required is the
9 exemption from the director of the Academy that we have
10 reported to him but we don't have a finding on this yet.

11 But he is at least aware that we're investigating
12 this situation.

13 MR. ORTIZ: Mr. Chairman, Board Members. I do
14 have an objection to the end of that language where you
15 have "...that results in termination or involuntary
16 resignation." What you're saying there is we only have to
17 report it if we terminate them or they resign.

18 If the officer committed misconduct and you're
19 continuing to employ him you still have to report that.
20 And I think -- you know, I think that should be stricken
21 out there "...that results in termination or involuntary
22 resignation."

23 It should be all misconduct, not just if they
24 resign or they are terminated. So I'd object to that
25 language there.

1 MR. LAMA: Again, let me just clarify what we're
2 doing here. This is not a rules hearing. We're just
3 trying to sort of get some sense of what the Board would
4 like to do relative to moving forward with the language.

5 But I guess on that note one thing that I would
6 just want to point out is it's always been considered that
7 personnel determinations and decisions are actions that
8 are always independent of whatever issue may arise
9 relative to certification.

10 The Board does not involve itself with a
11 personnel determination, but it is the authority that has
12 the decision-making regarding the certification. So I
13 guess I'm just -- it's not that I object, but I'm a little
14 bit confused because it seems like we're mixing in an
15 employment decision and then relating that to whether or
16 not there's going to be reporting for purposes of a
17 determination regarding certification status.

18 And I'm probably a little concerned because I
19 don't want to mix apples and oranges in any rule of the
20 Board because I don't think it's the Board's role
21 regarding the personnel action. So I would just want to
22 point that out.

23 MR. GALLEGOS: Just to echo that, I -- looking at
24 the way it's written, I just don't know that it's
25 necessary because it's written in the disjunctive.

1 So whatever isn't covered in the first part,
2 which seems pretty inclusive. As far as whatever is
3 enumerated in that rule, I just don't know that you should
4 have the option it's going to be either this or that when
5 the first part I think is inclusive.

6 So that was just a quick observation on that. I
7 would just say that that "or" -- anything after "or" is
8 not necessary.

9 MR. FORCE: Mr. Chairman. In previous
10 discussions about this issue -- which I'm all in favor of
11 taking and modifying the rule because I do believe it
12 needs to be clarified. But I think one of the things that
13 I've heard most from the chiefs and the sheriffs is when
14 is it that they are required to report.

15 Because under the current language in 10.29.1.11,
16 specifically B(4), the issues of lacking good moral
17 character and dishonesty and fraud, those are very
18 nebulous terms. And, you know, the chiefs and sheriffs
19 that I've heard from, it's just too nebulous on when is it
20 that they are required to report.

21 So it looks like, Director Trujillo, you're
22 trying to refine that to say what is misconduct. What is
23 it that's required. Which actually would -- if, you
24 know -- which I think that's a principle of this issue, is
25 when is it that an agency is required to report.

1 Make it very clear and concise. And I remember
2 hearing from Chief Schultz a long time ago that his
3 standard policy was if he invokes discipline on an officer
4 that results in 40 hours or more of suspension, that that
5 automatically triggers the issue of misconduct. It gets
6 reported to the Academy.

7 I think that to be -- to me that needs to be the
8 issues worked out, is what are the issues that need to be
9 reported, make them clear and concise to where the issues
10 of moral character are no longer utilized, because what
11 moral character to one is not moral character to another.

12 I guess the only concern that I do have is in
13 however this gets worded out on the mandatory reporting,
14 that there is a very clear definitive without violating
15 the premise of the issues of why we want, why this Board
16 needs to have issues of officer misconduct brought before
17 us.

18 And that is to pull the certification, revoke or
19 suspend certification, from officers who should not be
20 given that authority and who pose an endangerment to the
21 general public. So somewhere along in there I think we
22 can get the wording met.

23 MR. SAM TRUJILLO: Mr. Chairman, Members of the
24 Board. I believe the goal is the same for everybody. We
25 want to make sure that we are weeding out those problem

1 employees, and we know that before they get to another
2 department. I believe everybody has that same concern.

3 But if we insert language in there that says you
4 have to report misconduct, then we have to define what
5 misconduct is. And that's been the difficulty. And
6 that's why I wanted to add that sentence saying, "Here's
7 how we determine misconduct. It has to rise to that
8 level."

9 You mentioned Chief Schultz using the 40 hours.
10 There's nothing that establishes the 40 hours. That's
11 what he did in his department. Other departments may see
12 it differently. So you're going to have a wide range of
13 what should be reporting or not.

14 At the same time we're going to be sending
15 affidavits that the -- the CEO is basically going to have
16 to sign saying, "I've reported everything." So you can
17 tell that it's going to be difficult to say, "I'm in
18 violation of what I'm reporting compared to what my
19 guidelines are from guidelines from everybody else."

20 So we're still bound by what's listed in state
21 statute where this rule comes from. And so there's
22 specific things listed in there. But you've got the moral
23 turpitude issue. You know, how far does that go. What
24 exactly are we talking about.

25 So we wanted to clearly define that if we're

1 going to use the word misconduct and we have to report
2 that to the Academy, then we want to show that the
3 misconduct means this. It has to rise to that level
4 before we are reporting that.

5 As most agencies are doing discipline on a
6 regular basis but none of those things rise to that level
7 that we should be sending reports to the Academy.

8 MR. FORCE: I agree. I agree with the principle,
9 where you're going, Chief Trujillo. I guess the concern
10 that I have in the current proposed language, reviewing
11 it, is that what we're saying is that a chief executive
12 has to make a decision, No. 1, if there's misconduct.
13 No. 2, that that misconduct is criminally related. And,
14 No. 3, that the result is termination or resignation, I
15 guess. Either one, involuntary resignation or
16 termination.

17 And the only concern that I have is that there
18 are misconduct cases that may be criminally related that
19 may not result in termination but definitely should be
20 brought to the attention of the Board for consideration of
21 that officer's certification.

22 And it's just that this -- that to me is what the
23 issue is. To me what the issue is, is trying to figure
24 out how do we make the language of what misconduct is very
25 clear and concise so the chiefs and the sheriffs have a

1 very clear direction on what misconduct is along with what
2 the Academy Board is wanting.

3 Because I think that's kind of a high standard to
4 say, "Well, you've got to wait until the guy commits a
5 criminal act and then you've got to wait until the chief
6 executive either fires him or there's an involuntary
7 resignation before the Academy Board can then act on that
8 officer's certification. I think that standard may be a
9 bit too high.

10 MR. SAM TRUJILLO: Mr. Chairman, Members of the
11 Board. If the issue was just a criminal act, it would be
12 a lot easier to work that specific language. But in the
13 statute it also mentions dishonesty. And so if there's an
14 act of dishonesty, that's going to require a report to the
15 Academy; but it doesn't necessarily mean that it is a
16 criminal act for it.

17 The other thing is any law ordinance involving
18 moral turpitude with that. So if we're specifically
19 saying or is it the intention of the Board specifically
20 saying if it's a criminal act, then that's what should be
21 reported to the Board and not a misconduct, then the
22 language can be simple to basically refer back to the
23 law.

24 Say, if there's a violation of a criminal law
25 ordinance or statute, then we're going to be reporting to

1 the Academy.

2 MR. FORCE: I agree with you, Chief Trujillo.
3 But under your proposal what you're doing is you're saying
4 there's a misconduct and that misconduct is a criminal act
5 and a criminal act as a result in a termination or
6 involuntary resignation.

7 So it's basically bypassing Subsection 4, which
8 to me I don't like the whole thing about moral turpitude
9 either, because I think it's too nebulous of a term. But
10 I think your standard for interpreting what misconduct is
11 is a bit too high.

12 Because I think there are certain misconduct
13 cases that result in some pretty heinous issues that would
14 be arising and concerning to the general public that
15 probably should be reviewed by the Board. That's all I'm
16 saying.

17 And I don't know what that language is to be
18 honest with you, but I think that needs to be hammered out
19 before we get to the public hearing.

20 MR. LAMA: Are there any other comments from the
21 Board? I see we have a couple of other folks that want to
22 make comments. Again, this is not the rule-making. This
23 is just preliminary to that. So in the interest of time
24 let's try and be as quick as possible.

25 And I say that when Fred comes to the podium. I

1 don't want to be picking on Fred.

2 MR. FRED RADOSEVICH: Mr. Chairman, Fred
3 Radosevich from the Town of Bernalillo. Mr. Force, the
4 reason that language was put in there as we discussed
5 about rising to that level was to address Mr. Ortiz's
6 concern about the gypsy cops.

7 Is that when we have a serious violation of
8 misconduct we start the investigation and the guy goes, "I
9 resign." That then allowed us to go ahead and forward
10 that up so that -- or required us to forward that up so
11 that we couldn't just say, "Okay, you're going to go ahead
12 and resign. We'll just stop the process now." And then
13 when the background is done nobody finds it.

14 That's the reason that language was put in there
15 was not to put it at a higher level, but it was designed
16 to require me -- instead of just letting the guy resign
17 and not forward it to anybody, it still required me to
18 forward it.

19 I'm not saying my excuse would have always been,
20 "Well, he resigned in the middle of the thing, so I don't
21 have to report it." But we knew that where it was headed
22 so we wanted to make sure we would then be required to
23 report that. So that's why that language was put in there
24 for.

25 MR. ORTIZ: Mr. Chairman, Mr. Radosevich, that is

1 covered a couple sentences up above where the Attorney
2 General's Office added in, "An officer or
3 telecommunicator's resignation or employment termination
4 does not relieve the agency from its duty to file such a
5 report with the Academy." So that is inserted already in
6 there to cover that.

7 But I just think saying that you don't have to
8 report unless it results in termination or resignation, I
9 don't think that that's appropriate.

10 MR. LAMA: We have one other comment. If you'd
11 come and identify yourself, Chief. Yes.

12 MR. HATCHER: Chief Roger Hatcher, Tucumcari
13 Police Department. Mr. Chairman, Board Members. I was I
14 guess fortunate to serve on this committee that was
15 reviewing this. Part of the thing that we tried to look
16 at was the inclusion of policy violations that we felt
17 might necessarily be reported to the Academy.

18 However, there were -- was a lot of opposition in
19 regards to including any policy violations that did not
20 fall specifically within the statute. I, myself, feel
21 like that we could be brought into a problem if we brought
22 policy violations in here.

23 And so I think there was a compromise within the
24 chiefs' association to say that these policy violations
25 that rose to that level where you were going to terminate

1 someone and then they resigned in lieu of termination that
2 we felt that possibly that needed to be reported to the
3 Academy.

4 We have a problem where if I have an undesirable
5 employee and he resigns and he goes to work for -- or
6 tries to go to work for someone else and they call me and
7 ask me for a recommendation or a background check, I have
8 to be extremely careful on what I tell them because then
9 it might come back on me on a legal issue of trying to
10 blackball this individual from law enforcement.

11 If we have an out where we report that to the
12 academy and it was brought up I think last night in some
13 discussion about the possibility of officers who are going
14 through the Academy to sign a waiver saying that "My
15 conduct as a police officer can be reported to the Academy
16 and shall be reported to the Academy if it meets these
17 standards."

18 So that they know in advance that the policy
19 violations of somebody that's late for work is not a big
20 issue, unless it causes problems for the public. Take,
21 for instance, an officer who has a family member who gets
22 arrested.

23 And that officer involves himself in that
24 investigation more than he should, say, as in going to
25 visit a judge or going to visit the district attorney's

1 office, trying to get the charges dropped.

2 In my policy that would be a violation of
3 policy. In somebody else's, it wouldn't. We don't have
4 consistent policies around the state.

5 And so we're dealing with I don't know how many
6 police agencies, how many -- 33 sheriff's offices with
7 different policies and in trying to figure out how we have
8 the ability to report things to the Academy without then
9 becoming civilly liable because we did it.

10 Because at the request of the director or an
11 Academy Board member or anyone else that says, "Hey, I
12 heard that you had this issue. Where are you at with it?"

13 "Well, we investigated it. We don't have
14 anything."

15 Or you have an issue where an officer is off
16 duty, sees a domestic, doesn't act or doesn't report. We
17 get a complaint on it. And then when we go back to do
18 something about it, the victim as in most domestics has
19 recanted the story. "Well, it didn't take place."

20 Well, if it didn't take place the way that she
21 said, then how am I going to discipline that officer or
22 report that officer for failing to act when I don't even
23 have a witness anymore? Because they have now changed
24 their testimony or statement.

25 I think that what we came up with was a pretty

1 good compromise from what Director Ortiz was wanting in
2 the original and -- where the sheriffs and the chiefs have
3 the ability to do what they need to do.

4 The only other option is to send every single
5 complaint to the Academy, and I don't think they want
6 that. So it is a little bit expanded on what the statute
7 is.

8 But I think when we leave it at that level of
9 termination or resignation in lieu of termination, that
10 gives us an out as chiefs and executive officer sheriffs
11 to be able to report those incidents that might be a big
12 issue under my policy, but it might not necessarily be a
13 big issue under somebody else's policy.

14 It allows us the ability to present that to the
15 Academy and let the Board review that.

16 MR. LAMA: Thank you, Chief.

17 MR. HATCHER: Thank you.

18 MR. LAMA: Just a couple of observations for the
19 Board. First of all, I think Chief Schultz's -- I think
20 it's important for the Board to decide what's the purpose
21 of this. And let me just sort of clarify a couple of
22 things.

23 I think that Chief Schultz's comments on the 30
24 days and the 90 days I think is very important. Because
25 if the purpose of the reporting requirement is to have

1 incidences of misconduct reported after they've been --
2 after some determination has been made by the agency, then
3 I don't know if this 30, 90 day thing works.

4 And just from someone who's not been involved in
5 this, it seems a little bit confusing to me. We're trying
6 to make this easier. Maybe we should just pick a date or
7 move towards public hearing with a date that accomplishes
8 whatever the goal is.

9 If the goal is to have a reporting mechanism
10 regardless of whether there's been a determination made on
11 the discipline, then that may very well be a different
12 date than the date if you want something -- if you want
13 some determination made on the misconduct.

14 But my suggestion would be for the Board to think
15 about selecting one date when the report would be
16 required.

17 Second thing is, again, this is a reporting
18 requirement. This is not -- this doesn't relate to the
19 Board's independent authority under the statute to
20 initiate an action to suspend or revoke certification.

21 I think that's very important to remind folks
22 about. Because even if there is not a report provided,
23 that doesn't prevent the Board from exercising their
24 statutory authority to decertify.

25 It's just an additional requirement that's placed

1 in the regulation to facilitate the Board's ability to
2 initiate their own independent inquiry. But, you know, an
3 action to decertify can come from a number of different
4 sources other than a report of a law enforcement agency.

5 So I just want to point that out because this
6 should not -- I don't think it's a good idea to perceive
7 this as the only mechanism where that process can be
8 initiated. Certainly a complaint can come from the
9 Attorney General's Office regarding officer misconduct
10 that doesn't come from the report.

11 The other thing that's really important to
12 remember is in the statute, as I recall, in 1993 when the
13 statute was amended, there is -- this is supposed to be a
14 process. And the part related to reporting is just sort
15 of the beginning of the process.

16 But the statute as I recall -- and I don't think
17 it's been amended since then. But the statute requires
18 some discussion and dialogue with the law enforcement
19 employing agency. Consultation, I think is the term.

20 So you know that's part of this process as it
21 leads towards decertification or any action regarding
22 certification is that consultation with the employing
23 agency. And I see the reporting process in my mind as
24 part of that.

25 You know, it should be a process that works for

1 everyone to facilitate that dialogue between the Academy
2 and the employing agency. So maybe in the spirit of that
3 statutory requirement -- I mean, it might even be
4 something that we want to include in the proposal
5 regulation some reference to that consultation.

6 Because that is a requirement before -- before
7 decertification can take place there has to be
8 consultations with the employing agency. And that was
9 something that law enforcement, as I recall, strongly
10 advocated in the legislation when the statute was modified
11 in 1993.

12 So, again, I see this as a way to facilitate
13 that, not necessarily prevent it from happening.

14 The only other comment I wanted to make was I do
15 have some concerns about requiring -- I think the idea of
16 limiting the scope of the misconduct is good, but I think
17 that, again, to identify it or attach it to a particular
18 personnel action is problematic.

19 Because as we all know, sometimes misconduct that
20 the employing agency feels is a terminable offense is
21 something that would require termination is overruled by a
22 personnel board or by a personnel -- a process within the
23 agency.

24 And to -- when that situation happens, the
25 misconduct may be significant and certainly subject to

1 decertification. But because of other personnel
2 requirements and other process that exists in the
3 personnel context you may not be able to terminate that
4 officer but you certainly -- even the agency would support
5 decertification.

6 So I think it's not a good idea to include the
7 personnel sides with it. So those are just some ideas or
8 comments I had about where the Board may want to go.

9 MR. FORCE: Mr. Chairman. I'd like to make a
10 motion to move this item toward a public hearing. Would
11 that be correct? Make a motion?

12 MR. SHANDLER: That's a motion, but I don't know
13 what language you want, so.

14 MR. FORCE: Well, I would recommend that the
15 current language as been proposed in front of us would be
16 moved toward a public hearing.

17 MR. SHANDLER: So there's several different
18 versions, so.

19 MR. LAMA: So let's clarify what we want.

20 MR. FORCE: The one I'm looking at, Art, is the
21 one that you recommended.

22 MR. ORTIZ: Yes. The one in your books.

23 MR. FORCE: Am I correct that this is the same
24 language that originally Zack had proposed under Item
25 No. 3.

1 MR. ORTIZ: Option No. 5. It's the one with the
2 penalty and the exemption.

3 MR. SHANDLER: The language on page 6 of the --
4 has some additional language even beyond the options I've
5 proposed.

6 MR. LAMA: What page are you referring to, Zack?

7 MR. SHANDLER: I'm looking at it's the New Mexico
8 Administrative Code format.

9 MR. LAMA: All right.

10 MR. SHANDLER: 10.29.1.11.D. And the bottom of
11 that has a page 6. So several of the sentences in there
12 are among the options that were listed in the August
13 letter. And I think there's additional sentences that
14 have been added.

15 The additional sentence is, "All incidents of
16 misconduct shall be reported when" -- and then there's a
17 semicolon -- "a certified officer or telecommunicator is
18 in violation of 10.29.1.11 NMAC, which authorizes grounds
19 for denial, revocation or suspension of a police officer
20 or a telecommunicator's certification. Prior to reporting
21 all incidents of misconduct, all law enforcement agencies
22 must insure that a timely and thorough investigation is
23 conducted and where a finding of misconduct has been
24 sustained."

25 MR. ORTIZ: And just to clarify, Zack. That was

1 language recommended by the police chiefs' association.

2 MR. FORCE: Mr. Chairman.

3 MR. LAMA: Yes.

4 MR. FORCE: I'd like to modify my motion.

5 Would we have to make a motion to do that?

6 Because what I'd like to do is have Mr. Ortiz bring back
7 to the Board more specific clarified recommendations for
8 the Board prior to the moving toward a rule-making, in
9 which he would work with the sheriffs' association and the
10 chiefs of police association to define the issues that
11 we've discussed today. And not move it toward a rule-
12 making.

13 MR. SCHULTZ: Second.

14 MR. LAMA: I have a motion and a second directing
15 that Mr. Ortiz continue to work on the clarification of a
16 proposed rule for rule-making regarding reporting
17 requirements.

18 Do I have any additional discussion on that
19 item? {No response.} All those in favor signify by
20 saying aye.

21 THE BOARD: Aye.

22 MR. LAMA: Opposed? {No response.} Motion
23 carries. Mr. Ortiz, I think we've had a good discussion
24 about some of the issues. And I would ask that you follow
25 through with gathering additional information and bring

1 back to the Board perhaps if you're able to the next
2 meeting a more definitive proposal.

3 And I would suggest that you work with
4 Mr. Shandler on perhaps coordinating all of the variety of
5 different rule proposals that have been brought forth to
6 this point.

7 MR. ORTIZ: Yes, sir.

8 MR. LAMA: Great.

9 ITEM #10: DISCUSSION: 2010-2011 IN-SERVICE
10 TRAINING CYCLE

11 MR. LAMA: All right. The next item on the
12 agenda is Item 10. That's discussion of a 2010-2011
13 in-service training cycle. And we have Advanced Bureau
14 Chief Shea and Deputy Director Najjar to give us that
15 presentation.

16 MR. NAJAR: Mr. Chairman, Board Members, this is
17 the second year of the biennium. And in the third quarter
18 of the second year we come before the Board to submit
19 proposals for the next biennium cycle. In your packets is
20 a draft proposal that we have developed.

21 And before Mr. Shea gets up and walks through the
22 details of that, since it is just simply a draft, we would
23 like to request from the Chairman and the Board Members
24 that the audience here be allowed to put forth their
25 suggestions and/or recommendations and proposals to the

1 Board so that it would facilitate our response then to it
2 by afterwards allowing Mr. Shea then to respond not only
3 to those recommendations, but as well to as what we have
4 come up with to this point, so.

5 MR. LAMA: Very well. So would you like --
6 Mr. Shea, would you like to present anything? Or would
7 you like me to see if we have any --

8 MR. SHEA: Again, we would prefer if we could get
9 some public comment as to the direction that the agencies
10 would like to see. We will go through the proposal then
11 and add that modification or make recommendations based
12 upon.

13 MR. LAMA: Board Members, are there any comments
14 on this before I ask if members of the audience have any
15 suggestions? Seeing none, does anyone in the public have
16 any suggestions or?

17 MR. ORTIZ: Just to bring it to your attention,
18 apparently Ms. Croker copied these yesterday for the
19 packets and for some reason some pages got skipped. It's
20 not her fault. It's the fault of our copy machine.

21 MS. CROKER: I'm sorry. I apologize.

22 MR. LAMA: Well, since we may only have half of
23 the information then, maybe if anyone has any comments
24 they can just offer half of them.

25 MR. ORTIZ: There you go.

1 MR. LAMA: Yes, sir.

2 MR. ORTIZ: I can put my copy up on the podium.

3 MR. GARCIA: Mr. Chairman, Members of the Board,
4 my name is Franklin Garcia. I'm with the Department of
5 Transportation Traffic Safety Bureau. And our office
6 through coordination with the Law Enforcement Academy does
7 work on providing statewide SFST coordination and
8 training. And we are in support of a continued SFST
9 training requirement in the biennium schedule.

10 MR. LAMA: Thank you, Franklin. And the director
11 has placed a copy of the entire information on the podium,
12 if anyone would like an opportunity to take a look at it.

13 Would you identify yourself, please.

14 MR. SNYDER: Yes, sir. I'm Patrick Snyder. I'm
15 the assistant chief of law enforcement for the New Mexico
16 Department of Game and Fish. I'd like to make some brief
17 comments to give a little bit of history for the
18 off-highway vehicle enforcement.

19 In 2005 there was a lot of public concern and
20 legislative concern about off-highway vehicle use. And
21 one of the major concerns was injuries and death to
22 children. That year the legislation was passed to require
23 registration, also to reduce environmental impacts and
24 reducing injury to children.

25 In 2008 there was more legislative efforts to

1 address off-highway vehicle use. Senate Joint Memorial 40
2 directed several agencies to study off-high vehicle
3 problems and to report back to the governor and to the
4 legislature. And that report can be provided to the
5 Board, if requested.

6 Several key items in that report were
7 identified. One of the biggest issues was enforcement
8 concerns. The report recommended mandatory off-highway
9 vehicle enforcement training as part of the biennial
10 requirement for all law enforcement officers in New
11 Mexico. That was on page 13.

12 Another portion of the report highlighted the
13 statistical data involving injuries and deaths. In 2003
14 to 2006, 35 percent of off-highway vehicle deaths in New
15 Mexico were children under the age of 16, while the
16 national average during that period was 21 percent.

17 The report also showed an increase in the overall
18 deaths from off-highway vehicles from 3.1 per year from
19 1982 to 2004 to 7.8 per year for 2003 to 2006. So that
20 was quite an increase.

21 In 2009 Senate Bill 379, which was sponsored by
22 Senators Griego and Feldman, was passed and signed by the
23 governor. Some of the major changes there were Department
24 of Game and Fish is now the responsible agency for
25 implementing the off-highway vehicle program.

1 They came up with a new list of crimes and
2 prohibitions that were developed due to citizens
3 concerns. And some criminal acts -- well, the criminal
4 acts were changed from petty misdemeanors to penalty
5 assessment misdemeanors.

6 This senate bill also allowed for enforcement
7 grants for DWI type blitzes for off-highway vehicle
8 enforcement. Chapter 66.3.10.15 allows enforcement by
9 wildlife conservation officers, state police, and other
10 peace officers, gives them the authority to enforce the
11 provisions of this act.

12 Currently the Game and Fish has less than a
13 hundred officers. And only 70 of these officers are field
14 type officers. It's recognizing that off-highway vehicle
15 use will continue to increase, and the law enforcement
16 community has a responsibility to ensure that compliance
17 is being carried out consistently throughout the state.

18 And the best way to accomplish this is through
19 proper training. The department recognizes and
20 appreciates the effort that the Academy has put in and put
21 it on the in-service training requirements.

22 But the department would like to recommend that
23 the training requirements listed in the in-service
24 training on 10.29.7.8.B(3) on the OHV training be moved to
25 Section A as part of the requirement.

1 It could also be -- mirror the DWI training in
2 that only the officers that would encounter the
3 off-highway vehicles violations as a normal part of their
4 duty be required to take that training.

5 The department has adopted a lesson plan for our
6 officers. It's currently less than a four-hour block.
7 This could also be adapted to online training. And the
8 Game and Fish Department stands ready to assist the
9 Academy with any course development or training.

10 And with that I guess I'd stand for any
11 questions, if you have them.

12 MR. ORTIZ: And I apologize, but in your blue
13 binders there was an update to this also. Mr. Shea put
14 some updates. So that's in there. And so you'll see the
15 curriculum development, the recommended topics on page 3,
16 the top paragraph that's underlined, where it has the
17 human trafficking investigations and so forth.

18 I just want to bring that to your attention.

19 MR. LAMA: Do Board Members have any questions?

20 {No response.}

21 MR. SNYDER: Thank you for your time.

22 MR. LAMA: Any other comments? Yes.

23 MR. FRED RADOSEVICH: Thank you, Mr. Chairman.

24 I'll be very brief. Fred Radosevich from the Town of
25 Bernalillo. I did get an advanced copy thanks to Art of

1 this.

2 And I would ask the Board when they start looking
3 at this, while I think DWI is still very important, I
4 understand now that there is a four-hour recertification
5 program available for SFST. And I think that that would
6 be -- that should be reduced to four hours.

7 The second thing is I noticed one thing we have
8 left off in the last few cycles is legal update. And I
9 think that's very, very important. Every time the
10 legislature puts out those new laws I think that needs to
11 be a definite requirement of our biennial training.

12 One that does concern me -- and I did meet with
13 Mr. Najjar. And I believe it's in your packet; I don't
14 know -- is on the back page there's a 40-hour additional
15 training program called Crisis Intervention Training.

16 That is going to require every certified officer
17 in the state of New Mexico to go through 24 hours of
18 classroom training and 16 hours of scenario-based training
19 that involves actors.

20 I did meet with Mr. Najjar because I would
21 question whether the -- that the Academy could provide
22 that of the four or five thousand police officers in the
23 state of New Mexico that we could really do that
24 realistically.

25 I think some type of crisis intervention training

1 needs to be done. There is no doubt. An eight-hour block
2 or something, but to require 40 hours of training for
3 every certified law enforcement officer in the state of
4 New Mexico and to do actors and scenario players and that
5 type of stuff. In metro Albuquerque I could probably
6 piggyback off of what Albuquerque is doing.

7 MR. SCHULTZ: For a fee.

8 MR. FRED RADOSEVICH: For a fee. Thank you,
9 Ray. But in rural New Mexico, I don't know how you're
10 going to do that. And I was quite surprised and concerned
11 that that would have been presented and no discussion
12 about that, even be discussed before with law enforcement
13 because the chiefs' association and I talked to the
14 sheriffs' association were not aware.

15 But I think -- Mr. Najar, we had a good
16 conversation about it. I think there's some things that
17 can be rolled out. I would ask the Board and the Academy
18 to go back and look at that. If we think four hours or an
19 eight-hour class needs to be mandatory, I think that's a
20 great idea.

21 But to go back and try to do a 40-hour -- for
22 every police officer in the state of New Mexico, I don't
23 know how they could deliver that and I don't know how we
24 could send our people to that.

25 But I do think that we need to add the legal

1 update. That should be a requirement every two years no
2 matter what. And the same thing I think, the four-hour
3 SFST needs to be included now because I understand this
4 has now approved a four-hour recertification class. Thank
5 you, Mr. Chairman.

6 MR. LAMA: Thank you. Mr. Shea and Mr. Najjar,
7 does this additional comment provide you with some
8 guidance as to what you need to go do now from the
9 standpoint of bringin back a final draft?

10 MR. SHEA: Yes, Mr. Chairman. We would still be
11 prepared to discuss what the draft is as it existed with
12 the comments that have been made. If the Board would like
13 to hear the total package and give further direction as to
14 the final draft to go to the rule-making.

15 MR. LAMA: Do the Board Members have any
16 questions about the draft as it's presented?

17 MR. FORCE: I don't know a question as much as
18 just a comment. Mr. Shea, on the 10.29.7.10, on the
19 crisis intervention, I'm very much in agreement with Chief
20 Radosevich on there unless there's some compelling statute
21 or federal regulation that's pushing this agenda.

22 I mean, would eight hours be a sufficient -- do
23 you think it would meet the need of what is being proposed
24 here?

25 MR. SHEA: I'll let Deputy Director Najjar speak

1 to that. He had brought the committee together to bring
2 those recommendations that were ultimately put into the
3 requests for the rule change.

4 MR. FORCE: Okay.

5 MR. NAJAR: Mr. Chairman, Board Members,
6 Mr. Force. Our position on this was to bring that section
7 forward to the Board for obvious discussion purposes.
8 We're able to do a couple of things.

9 I either -- our recommendation would be to move
10 forward with mandating that 40 hours because we're talking
11 about a four-year window; that the requirements would not
12 have to be completed until 2014, January 1st.

13 We can do and develop an eight-hour, four-hour,
14 12-hour awareness course, or we can completely drop this
15 from a mandated proposal and roll that out as an optional
16 training course for the law enforcement community.

17 So we just wanted the Board to become engaged in
18 that. What had occurred on this topic is we got some
19 calls from individuals that were proposing legislation in
20 2008-2009 and I'm sure are coming forward in 2010 that had
21 to do with training that officers were receiving on
22 dealing with individuals with mental illness.

23 Our initial look at it was to look at what we
24 were doing in the basic academy. So there was no plan or
25 intent back then over a year ago to address in-service

1 training issues.

2 So our first tackle at this -- and you'll see it
3 later on in Item 14, I think -- was to look at what is
4 being done in the basic academy.

5 What we found is that we're doing a very poor job
6 of training officers based on the existing approved
7 curriculum in Blocks 9 and 10. And that's why we're
8 asking for this Board to direct a committee to look at
9 that and redo that, those two blocks of the basic
10 academy.

11 So once we took a look at that and found out we
12 were hurting in terms of quality training that effectively
13 prepares officers with skills and abilities to interact
14 with people of mental illness, we then looked at the
15 in-service training part of the component of training on
16 mental illness; and there was nothing there.

17 And so in looking at what is typically concerning
18 the 40-hours certification CIT program, we struggled with
19 picking out of the 24-hour classroom part of it what was
20 the most important component officers need to know.

21 Was it deescalation? Was it the law on mental
22 illness? And so trying to pick and pull out of that 24
23 hours just an awareness level course, we decided just to
24 say -- we felt it was feasible and in cooperation with
25 New Mexico State University, the hospital in Las Vegas,

1 and all those that have participated with us in this
2 committee for over a year, that we could do a program that
3 could be computer-based, online or DVD driven that could
4 deliver the 24-hour program to each individual agency.

5 And through special funding from DPS and through
6 New Mexico State University and Dona Ana County we could
7 also deliver the 16 hours of the proficiency-based
8 scenarios. But it would have to have be over a four-year
9 time period.

10 The initial two years would be designated for
11 that 24-hour classroom type of instruction, which we
12 thought would become part of that 40-hour biennium
13 requirement. Still leaves four hours -- actually, with
14 the existing 12 hours of mandated and 24, you're still at
15 the 36 hours required biennium training. So you still
16 need four more hours.

17 In the second when we're talking about 2012-2013,
18 it's just the 16 hours plus the existing 12 hours of
19 mandated training, which leaves 12 hours open in the
20 second biennium. But realizing that today there may be
21 additional mandates which drive that existing 12-hour up
22 or down if you decide to schedule for 2010 and 2011.

23 And I think it's up -- we're here really asking
24 for guidance from the Board as what you would prefer us to
25 do or request us to come back with for the public

1 hearing. Because we do need this adopted in the fourth
2 quarter so that it becomes effective January 1st.

3 If you've got questions, I could expand on that.

4 MR. FORCE: Yeah, if I'm getting it right, under
5 Paragraphs G and H, the two, it says about effective dates
6 about the completion of training by 2014.

7 So if I'm understanding this right, you're
8 wordsmithing this out that the officers would get the 24
9 hours by taking eight hours of biennium, right -- eight
10 hours every biennium period up to 2014 -- that would
11 complete their Phase I training? Is that correct?
12 Under G?

13 And then under H they would also have an
14 additional biennium standard that would be another -- that
15 would be basically somewhere in that period they would
16 have to make up the 16. Is that right or?

17 MR. SCHULTZ: It's 24 all at once.

18 MR. NAJAR: Well, the 24 -- since an agency could
19 elect to do it face-to-face classroom instruction, but
20 what we would be able to provide would be a computer-based
21 DVD driven program where those topics of instruction that
22 total 24 hours would be delivered to each individual
23 officer.

24 So some topics of discussion -- or instruction
25 could be as little as an hour. It could be an hour on

1 mental illness. It could be two hours on the pharmacology
2 part of that. It could be three hours on deescalation
3 techniques.

4 So each of those parts of that 24-hour total is
5 completed topic by topic over this two-year period,
6 enabling an agency to do training; hopefully, stay within
7 the 40-hour biennium; but you're not locked into doing a
8 solid 24 hours.

9 You could designate which parts of that training
10 would be completed by each officer, depending on your
11 flexibility and your scheduling. Hopefully, by the end of
12 the first two years you've got the 24 hours out of the
13 way.

14 If not, then, yeah, you would have theoretically
15 into the next biennium to complete that 24 hours. But
16 then we're also asking that all the officers go through
17 the proficiency, the scenario-based part of that, which is
18 the 16-hour actual scenario-based stuff with professional
19 actors.

20 So at least that's our plan or our suggestion for
21 what we intended to do with it.

22 MR. LAMA: Any other comments from the Board?
23 {No response.} Does a Board member have a motion that
24 they would like to have entertained? I believe this is --
25 would be a motion to move forward with the draft that's

1 been presented to public hearing. Is that correct,
2 Mr. Shea?

3 MR. SHEA: That was the --

4 MR. LAMA: Is that what your requested action is?

5 MR. SHEA: That was the requested action. The
6 reason we had asked for comment prior to presenting the
7 rule for recommendation to go forward with adoption in the
8 next meeting was to get that input. We knew that there
9 was additional concerns.

10 I'd like to just take a moment to respond to some
11 of those concerns that were brought in the public comment,
12 if that's....

13 MR. LAMA: Would the Board like any additional
14 information? I think we've heard the concerns. But
15 certainly if you have --

16 MR. SHEA: More so on how to incorporate that
17 into the rule for presentation at the next meeting.

18 MR. LAMA: Okay. Go ahead. Very quickly for
19 purposes of time.

20 MR. SHEA: Very quickly. Yes. Just what we were
21 looking at doing, if it is the Board's pleasure, we would
22 move the off-highway vehicle from the second page under
23 Subparagraph B, Paragraph B3, to Part A.

24 And craft the language so that it mirrors how the
25 requirement is for SFST, whereas it would be only for

1 those whose job it is necessary for them to enforce that
2 off-highway vehicle statute, then they would be applicable
3 to them but not to all law enforcement officers.

4 We are open to including legal update as another
5 portion of what's required by the Board. Our intent was
6 because agencies have a lot of pressure on their training
7 budget and their overtime to get people into training to
8 keep the amount of mandated training to a minimum with
9 regard to the issues in part A. But we can include those
10 into that.

11 Under Part 3 I just wanted to point out that we
12 did add under recommended topics, not mandatory but
13 recommended, we did include the human trafficking as the
14 Attorney General's Office had requested. We also included
15 the missing persons, as the Lieutenant Governor's Office
16 had requested, and the off-highway vehicle, which had been
17 requested from the Department of Game and Fish.

18 And we are amenable to moving that to Part A if
19 that's the Board's pleasure.

20 MR. LAMA: Thank you. With that additional
21 information, do I have a motion from a member of the
22 Board?

23 MR. SCHULTZ: Mr. Chairman, I make the motion
24 that we move this to public hearing for the fourth quarter
25 of 2009. And with that I'd like to see the LEA Board, the

1 recommendations that have been mentioned here today,
2 specifically being the SFST, looking at a four-hour block,
3 moving the ORV to Section A.

4 And when it comes to crisis intervention, I think
5 we would all feel much more comfortable -- that was
6 developed as an optional track -- and develop something
7 more of an introduction to dealing with persons in crisis
8 for MOE for officers in the field.

9 MR. LAMA: Thank you, Chief. I have a motion in
10 effect proposing changes to the draft proposal consistent
11 with what Advanced Bureau Chief Shea talked about,
12 including the comments that were presented by the
13 audience. Do I have a second to that motion?

14 MR. PEREZ: Second.

15 MR. LAMA: I have a motion and a second. Is
16 there any additional discussion on the motion?

17 MR. FORCE: Mr. Chairman. Just for the record, I
18 would like to abstain from the voting as to conflict of
19 interest with my job, that I'm the SFST statewide
20 coordinator.

21 MR. LAMA: We'll note for the record that you
22 have abstained from voting on this matter.

23 Any additional comment? Being none, I call for
24 the question. All those in favor of the motion signify by
25 saying aye.

1 THE BOARD {Except for Mr. Force}: Aye.

2 MR. LAMA: Any opposed? Seeing none, the motion
3 has passed and is adopted.

4 Mr. Shea and Deputy Director, I think that gives
5 you the sufficient direction you need in order to make the
6 modifications to bring that draft forward for purposes of
7 final adoption by the Board.

8 MR. SHEA: Yes, Mr. Chairman.

9 MR. LAMA: For the purposes of time, I note that
10 it's about 1:25, which is well after the lunch hour. I
11 think that the next two items will go very quickly; but I
12 wanted to get a sense from the director. 13, 14 and 15,
13 do we anticipate how long those are going to go? Are they
14 going to be short?

15 And I want to check in with the Board to see in
16 what the Board's interest was in taking a break or if you
17 wanted to break for lunch.

18 MR. ORTIZ: I think they will be rather quick.

19 MR. LAMA: My suggestion then is if we press
20 forward through new business and then if the Board does
21 want to take a break -- or a lunch break or a shorter
22 break we can decide it at that time, okay?

23 ITEM #11: RATIFICATION OF CERTIFICATIONS

24 FOR LAW ENFORCEMENT OFFICERS

25 MR. LAMA: Let's move onto Item 11, ratification

1 of certification for law enforcement officers. Mr. Ortiz,
2 you have provided in our Board packet the certifications
3 that were issued since the last Board meeting.

4 And can you attest to the fact that those
5 certifications have met all the requirements as identified
6 in the Law Enforcement Training Act for purposes of
7 certification?

8 MR. ORTIZ: Yes. Mr. Chairman, Board Members.
9 Under Tab 11 the director has verified that the lists of
10 police officers beginning with Certification
11 No. 09-0067-P to 09-0170-P have all met the standards and
12 requirements for law enforcement certification. And I
13 request that the Board ratify their certification.

14 MR. LAMA: Very well. Do I have a motion from
15 the Board?

16 MR. GALLEGOS: Move to ratify, Mr. Chairman.

17 MR. FORCE: Second.

18 MR. LAMA: I have a motion and a second
19 supporting ratification. Any discussion? All those in
20 favor of the motion signify by saying aye.

21 THE BOARD: Aye.

22 MR. LAMA: Any opposed? {No response.} Motion
23 carries.

24

25

1 ITEM #12: RATIFICATION OF CERTIFICATIONS
2 FOR PUBLIC SAFETY TELECOMMUNICATORS

3 MR. LAMA: Item 12, ratification of
4 certifications for public safety telecommunicators.
5 Director Ortiz.

6 MR. ORTIZ: Mr. Chairman, Board members. The
7 director has verified that the list of dispatchers
8 beginning with Certification No. 0073-PST through
9 09-0099-PST have met the standards and requirements for
10 certification. And I request that the Board ratify their
11 certifications.

12 MR. LAMA: Do I have a motion?

13 MR. FORCE: So move.

14 MR. PEREZ: Second.

15 MR. LAMA: I have a motion and a second in
16 support of ratification of certification for public safety
17 telecommunicators identified by the director. Any
18 discussion?

19 MR. COON: I've got a quick comment here.

20 MR. LAMA: Yes, Sheriff.

21 MR. COON: On all these certifications, every
22 time I look at something and I see a Social Security
23 number and date of birth, it just scares the heck out of
24 me.

25 MR. ORTIZ: It's just in your packets. They've

1 been --

2 MR. COON: That's fine. You know, that's just
3 with the way the climate is nowadays, I hate to see that.

4 MR. ORTIZ: We can delete that. And I think we
5 will just do that in the future in your packets.

6 MR. COON: I mean, the date of birth is fine. I
7 don't care what the guy's Social Security number is. I'm
8 curious to see the age range of some people. But the
9 Social Security number scares me on anybody's document.

10 If I lost this book -- which I guard it with my
11 life -- there's a bunch of stuff in here.

12 MR. ORTIZ: That's a good point. We'll take care
13 of that and delete that column.

14 MR. PEREZ: Good move.

15 MR. LAMA: Thank you, Sheriff. Any other
16 discussion? {No response.} I will call for the
17 question. All those in favor of the motion signify by
18 saying aye.

19 THE BOARD: Aye.

20 MR. LAMA: Opposed? {No response.} The motion
21 carries and the certifications identified by
22 Director Ortiz have been ratified.

23 ITEM #13: DISCUSSION: INCREASE OF
24 FEE/TUITION SCHEDULE AT NMLEA

25 MR. LAMA: Item 13, discussion, increase of

1 fee/tuition schedule at the New Mexico Law Enforcement
2 Academy. Director Ortiz.

3 MR. ORTIZ: The action requested is an approval
4 of the fee/tuition schedule increase. This increase was
5 proposed -- and before I got there late 2006. If you'll
6 turn your attention to page 2, Subsection B, "Charges for
7 Service Under the Use of Facilities."

8 Under No. 4 it says, "Said fee shall be subject
9 to change without notice." No. 5, "The director of the
10 training center may raise said fee at any time." No. 6,
11 "Any increase shall take effect immediately." No. 7, "All
12 increases shall be subject to the approval or disapproval
13 of the Academy Board at its next meeting."

14 If you flip to the next page and you'll see the
15 fee/tuition proposed schedule effective January 1st,
16 2010. And under the police officer basic training
17 currently it's 750. We're asking to increase it to a
18 thousand dollars. The telecommunicator basic training is
19 currently 250. We ask to increase that to 500.

20 The certification by waiver is 350. We're asking
21 to increase it to \$500. And let's see. We also have the
22 track/cars/instructor would be a \$300 fee. There was
23 nothing before that.

24 And on the large classroom, that fee would be \$75
25 instead of \$60. And the computer lab would go up to \$300

1 from \$200.

2 MR. LAMA: Any questions from members of the
3 Board about the proposed fee schedule changes?

4 MR. SCHULTZ: Mr. Chairman, a question.

5 MR. ORTIZ: And there is attached to the very
6 last page is the current schedule.

7 MR. SCHULTZ: That's my only question is the
8 current schedule allows for rental of the track only; the
9 new proposed one does not. If an agency wants to take
10 their own cars up there and use the track, that's no
11 longer an option?

12 MR. SHEA: That's still available.

13 MR. SCHULTZ: So it would still be available if
14 you brought your own cars?

15 MR. SHEA: Yes.

16 MR. SCHULTZ: And what would it be for that fee?

17 MR. ORTIZ: We can keep that at the \$300. That's
18 what we had?

19 MR. SCHULTZ: Well, it's \$50 now.

20 MR. ORTIZ: \$50?

21 MR. SCHULTZ: As compared to 2500, that's kind of
22 important.

23 MR. ORTIZ: I'm sorry. I see \$300 there. I was
24 looking at the civilian. Trying to get a little extra
25 money there.

1 MR. LAMA: Does that clarify your question?

2 MR. SCHULTZ: Yeah. And I know -- we have our
3 own track. But I know very often if an agency is going to
4 send folks up there, the only option is to use your car or
5 sell your track for \$2500, you're not going to get
6 anybody.

7 MR. SHEA: Chief, that was an oversight. That
8 line should have remained in there with the track
9 available only without the use of cars or instructors.

10 MR. SCHULTZ: Okay. That's all I had, sir.

11 MR. LAMA: All right. Any other questions? {No
12 response.} Does this require action of the Board?

13 MR. ORTIZ: Just the Board's approval so that the
14 fees can take effect January 1st.

15 MR. LAMA: All right. Do I have a motion?

16 MR. SCHULTZ: Move to accept.

17 MR. COON: I'll second.

18 MR. LAMA: I have a motion and a second to accept
19 the proposed fee schedule presented by the director. Is
20 there any discussion on that? Seeing none, I'll call for
21 the question. All those in favor of the motion signify by
22 saying aye.

23 THE BOARD: Aye.

24 MR. LAMA: Any opposed? {No response.} The
25 motion carries and the proposed fee schedule has been

1 approved.

2 ITEM #14: DISCUSSION: NMAC UPDATE
3 TO BLOCKS 9 & 10

4 MR. LAMA: Next item on the agenda is Item 14,
5 discussion of the NMAC update to Blocks 9 and 10. Deputy
6 Director Najjar has already visited with us about this, so
7 it will be very short.

8 MR. NAJAR: Mr. Chairman, Board Members. Yes.
9 As I told you, Blocks 9 & 10 need to be updated.

10 And what we're asking for is really for you to
11 utilize your authority so that you can direct us to
12 convene all nine satellite academies or representatives
13 from all nine and anybody else in the law enforcement
14 community that's interested to help us to update the
15 curriculum to Blocks 9 & 10 so that we can have that
16 effective by January 1st of 2010.

17 And just move that to a committee.

18 MR. LAMA: Very well. I noticed that the action
19 requested is discussion only. Is this just an
20 informational item?

21 MR. NAJAR: Yes.

22 MR. SCHULTZ: No, I think it needs to be moved.

23 MR. LAMA: Does it need to be moved?

24 MR. NAJAR: Yes.

25 MR. LAMA: All right.

1 MR. SCHULTZ: Mr. Chairman, I move to move to
2 committee.

3 MR. FORCE: Second.

4 MR. LAMA: I have a motion and second to move
5 this matter to committee. Any discussion? {No response.}
6 Call for the question. All those in favor of the motion
7 to move this item to committee signify by saying aye.

8 THE BOARD: Aye.

9 MR. LAMA: Any opposition to the motion? {No
10 response.} Motion carries.

11 ITEM #15: APPROVE REQUEST FOR TEMPORARY

12 PST CERTIFICATION

13 MR. LAMA: The final item under new business is
14 Item 15, approve the request for temporary certification.
15 This is for a telecommunicator?

16 MR. ORTIZ: Yes, sir.

17 MR. PEREZ: Excuse me, Mr. Chairman. While we're
18 still in new business and before we go into that, I had
19 made a request at at least three previous meetings
20 regarding the former chief of police for the Santa Fe
21 Police Department that were allegations made; and the
22 Attorney General advised that the matter was under -- I
23 don't know -- investigation or advisement.

24 I asked him if it would be brought before this
25 Board. And I've not had an answer. Do you know?

1 MR. LAMA: Well, what I would ask is if before we
2 conclude and go into disciplinary matters we can pick that
3 item up. I would like to cover Item 15 first, which is on
4 the agenda, that Mr. Ortiz is going to present regarding a
5 certification for a telecommunicator. So I can address
6 that at the conclusion of that item.

7 MR. PEREZ: Thank you.

8 MR. LAMA: Certainly. Mr. Ortiz.

9 MR. ORTIZ: Mr. Chairman, Board Members, in your
10 booklets under Tab 15. I received a request from the
11 Catron County Sheriffs for a temporary certification for
12 one of his dispatchers.

13 You'll also see in there is her employee
14 profile. And she has gone over her 12-month period, June
15 26th of 2009. I understand his concerns of being in
16 Catron County. I've worked out there and seen the
17 problems with the population out there.

18 And he's just requesting that she be granted a
19 temporary certification until she can attend the PST
20 class, which is scheduled to commence October 21st of this
21 year.

22 So under NMAC Rule 10.29.10.12, the director may
23 in his discretion grant a temporary certification to avoid
24 hardship or prevent conflicts within a department arising
25 solely from technical noncompliance with Academy Board

1 rules. And that I would have to bring it before the
2 Academy Board for approval.

3 And I'm asking that you approve this temporary
4 certification.

5 MR. LAMA: Very well.

6 MR. ORTIZ: And open for any questions.

7 MR. LAMA: Any questions from the Board members?

8 MR. FORCE: I would so move for approval.

9 MR. GALLEGOS: Second.

10 MR. LAMA: I have a motion and second for
11 approval of the request for temporary certification. Any
12 discussion on that agenda item? Seeing none, I will call
13 for the question. All those in favor of a motion signify
14 by saying aye.

15 THE BOARD: Aye.

16 MR. LAMA: Any opposition? {No response.} The
17 motion carries. All right. We are now at the
18 commencement of disciplinary matters.

19 And, Mr. Perez, in regards to your question, I am
20 not particularly familiar with that; but I'd certainly be
21 happy to discuss with you the issue and see if I can get
22 an update for you.

23 But I'm not in a position at this point in time
24 to commit any additional information, but I'd be happy to
25 follow up.

1 MR. PEREZ: Thank you.

2 MR. LAMA: And we can have that discussion at
3 some point today. All right. It's 1:35. And at this
4 point in time I typically hand over the chairmanship to
5 Mr. Gallegos. But I want to get a sense from the Board
6 what they would like to do from the standpoint of taking a
7 break before we begin the disciplinary portion of the
8 meeting or if we would like to press on.

9 MR. COON: I would make a motion that we adjourn
10 and come back at 2 o'clock. That's only 25 minutes.

11 MR. LAMA: Is that something that everyone agrees
12 with or?

13 MR. SCHULTZ: I'm good with five minutes, so.

14 MR. LAMA: Why don't we take a break and we'll
15 come back at 2 o'clock. And at that point in time
16 Mr. Gallegos can --

17 MR. COON: I'd compromise and make it ten.

18 MR. LAMA: Very good. We stand adjourned until
19 2 o'clock.

20 (Off the record from 1:35 until 2:03 p.m.)

21 MR. GALLEGOS: We're back in order. This is the
22 part of the agenda which, of course, we deal with the
23 discipline. And, again, for the record, I want to
24 recognize Mr. Lama and his skills at chairing the meeting
25 this morning.

1 There were some interesting topics and some
2 rather lengthy ones; but, again, recognize you and thank
3 you. And please hopefully you'll pass those comments on
4 to your boss.

5 Zack, I have a couple of questions, procedural,
6 to see if we have some time issues here. I know at one
7 point I had asked you in terms of approving certain items,
8 you know, like I'm thinking of Items 16 through 22, since
9 those are stipulated orders.

10 The first question I would have is do those have
11 to be read into the record each one individually as far as
12 Mr. Jackson's recommendations of what's going on? And
13 then the second question is can those be approved as a
14 block?

15 So, for example, a motion could be entertained to
16 approve Items 16 through 22 and that be the basis of a
17 single motion or do they have to be separate?

18 MR. SHANDLER: Mr. Chairman, in terms of the
19 first question, if you want Mr. Jackson to just give a
20 concise summary, that would be fine. In answer to
21 question No. 2, I've usually advised you to do it
22 individually because sometimes there's abstentions; and
23 that's the easier way to sort through things.

24 But if this particular set there's no
25 abstentions, then I have no problems with you doing a

1 single motion.

2 MR. GALLEGOS: So let me ask that then of the
3 Board. Are there any abstentions on any of these items?

4 MR. SEGOTTA: Item 19.

5 MR. GALLEGOS: Item 19 is Chief Segotta. And
6 I'll just go from this way. Mr. Perez, do you have any
7 abstentions on any of the items?

8 MR. PEREZ: No.

9 MR. GALLEGOS: Chief Schultz?

10 MR. SCHULTZ: No, sir.

11 MR. GALLEGOS: Mr. Force?

12 MR. FORCE: No, sir.

13 MR. GALLEGOS: Myself, I do need to abstain from
14 Item No. 22.

15 MR. COON: Item 20 for myself.

16 MR. GALLEGOS: Twenty. Sergeant Jones?

17 MR. JONES: Item 20. Yes, sir.

18 MR. ORTIZ: Mr. Gallegos, just to let you know,
19 some of them are present.

20 MR. GALLEGOS: We will go ahead and give them
21 their opportunity to speak. All right. Anything else,
22 Zack, and then --

23 MR. SHANDLER: No, sir.

24 MR. GALLEGOS: Thank you very much.

25 Mr. Jackson, if you can, just give us a summary

1 on Items 16 through 22.

2 ITEM #16: PHRED PANDO-DIXON

3 MR. JACKSON: Yeah, just very briefly. Item
4 No. 16 has been before the Board a couple of times now.
5 At two meetings ago, Mr. Dixon was revoked by default. At
6 the last meeting in Ruidoso, he and his counsel appeared
7 and asked for a reconsideration, which was granted.

8 An informal hearing was held. While we still
9 feel that the conduct alleged is very serious, we had some
10 problems with the case. There's difficult witnesses. Two
11 witnesses would be a victim, who is essentially an alcohol
12 vagrant; and then another officer, who we also revoked by
13 default. So he is also somewhat tainted.

14 So rather than pursue revocation, we offer the
15 stipulated agreement of one-year suspension, two-year
16 probation, anger management counseling, ethics, and eight
17 hours of community service.

18 MR. GALLEGOS: Thank you. Anything else?

19 MR. JACKSON: No. Are there any questions?

20 MR. PEREZ: Yes. The last sentence says the case
21 was later dismissed due to lack of proper venue.

22 MR. JACKSON: Yeah.

23 MR. PEREZ: Meaning was it on the reservation?

24 MR. JACKSON: No. The case was brought in
25 Bernalillo County for conduct that occurred in Sandoval

1 County. So it should have been brought in the Thirteenth
2 instead of the Second.

3 MR. PEREZ: But the allegations did not happen on
4 the reservation?

5 MR. JACKSON: No. No. It happened off I-25 near
6 Algodones, but not on tribal land.

7 MR. GALLEGOS: Any other questions? Is Mr. Dixon
8 here by any chance, would like to address the Board? I
9 don't see any response. Okay. Thank you.

10 ITEM #17: BEN GARCIA

11 MR. GALLEGOS: We'll move onto the next item, 17.

12 MR. JACKSON: Item No. 17 is Ben Garcia. Ben
13 Garcia was -- actually, the last time the Board met in
14 this room entered into a stipulated agreement of
15 suspension and probation stemming from a fairly violent
16 incident.

17 During the pendency of his probation, he drove a
18 car after drinking, though he was not arrested for this;
19 it later led to a domestic incident in which the facts
20 came to light that he had been drinking in Albuquerque and
21 then driven home with a child in his car to Isleta.

22 The stipulated agreement here is for five years.
23 This is not only because of the conduct in this incident
24 but because there is a violation of a probation.

25 MR. GALLEGOS: Okay. Are there any questions for

1 Mr. Jackson by the Board? Seeing none, is Mr. Garcia here
2 by any chance? For the record, there's no response.

3 ITEM #18: KATHLEEN LUCERO

4 MR. GALLEGOS: So we'll move onto the next item,
5 No. 18.

6 MR. JACKSON: No. 18 I'd like to pass on for a
7 moment. There are two here that need to be grouped
8 together at the end. And they are this one and I believe,
9 yeah, Item 20.

10 MR. GALLEGOS: Okay. So Items 18 and 20 we'll
11 deal with at the last. Thank you, Mr. Jackson.

12 ITEM #19: ARMANDO MEDINA

13 MR. GALLEGOS: Item 19.

14 MR. JACKSON: Item 19. Respondent was involved
15 in a head-on collision resulting from intoxication. He
16 has agreed to a 45-day suspension, one-year probation,
17 ethics training, alcohol screening, eight hours of
18 community service.

19 And the reason that the punishment is somewhat
20 lower here is that the director feels that he is a good
21 candidate to address the cadet class. So there's a break
22 on the length of the suspension, as a result of that.

23 Is there any questions on this one?

24 MR. GALLEGOS: Seeing none from the Board, is
25 Mr. Medina here by any chance? Okay. There's no

1 response.

2 ITEM #21: DENIS ROMERO

3 MR. GALLEGOS: So we'll move onto the next item,
4 which I believe would be 21.

5 MR. JACKSON: Yeah. This is Denis Romero. This
6 is a crash down in Las Cruces involving a state-issued
7 vehicle. The respondent left the scene. There were signs
8 that suggested that he had been drinking in the vehicle,
9 but we were unable to prove that.

10 Even though the victim left the scene, he did
11 come back the next morning and reported both to his
12 superior officer and to the property owner. He did pay
13 for the damage to the property.

14 And so we've come to an agreement for 45 days,
15 one-year probation, ethics training, alcohol screening,
16 and eight hours of community service. Any questions?

17 MR. GALLEGOS: Any from the Board?

18 MR. PEREZ: Was there an investigation conducted
19 by Las Cruces PD?

20 MR. JACKSON: Let me see who did the
21 investigation. I don't think it was Las Cruces PD, but.
22 The referral came from Las Cruces PD. However, I believe
23 that at least part of the investigation was done by State
24 Police. Let me double check that here.

25 I'm sorry. It was -- the crash was investigated

1 by the Dona Ana County Sheriff, I believe. But, yes,
2 there was -- in addition to an initial report there was an
3 internal affairs investigation by Las Cruces.

4 MR. PEREZ: If he's suspended, that means he
5 cannot work as a law enforcement officer?

6 MR. COON: He's retired.

7 MR. PEREZ: This is concerning his certification,
8 right?

9 MR. COON: Right.

10 MR. PEREZ: So if we suspend his certification
11 for -- I understand he's working for another agency now.

12 MR. SEGOTTA: Mr. Chairman. He's not working for
13 another agency. He's a task force coordinator.

14 MR. PEREZ: Is he salary?

15 MR. SEGOTTA: Yes. But he doesn't provide law
16 enforcement functions. He's a coordinator. He does the
17 oversight of others who are commissioned officers. It's
18 not necessary for him to have a commission to do that
19 particular --

20 MR. PEREZ: It's an administrative assignment?

21 MR. SEGOTTA: Yes.

22 MR. PEREZ: I understand. Thank you.

23 MR. GALLEGOS: Any other questions? Is

24 Mr. Romero here? No.

25

1 ITEM #22: JASON TRUJILLO

2 MR. GALLEGOS: So we'll move onto Item 22.

3 MR. JACKSON: This is Jason Trujillo. This is a
4 young officer who had a minor friend for whom he purchased
5 alcohol, and they went and drank it together. The minor
6 was subsequently acting out, and it resulted in a call to
7 law enforcement.

8 We had an informal hearing. And the respondent,
9 Mr. Trujillo, was -- he showed a great deal of remorse and
10 took responsibility for his actions. The recommendation
11 is for a 30-day suspension, one-year probation, ethics
12 training, alcohol screening, eight hours of community
13 service, letter of apology to the parents of the minor.

14 And, again, there's a break on the length of his
15 suspension here because the director feels that this is a
16 good candidate to address the cadet class.

17 MR. GALLEGOS: Any questions for Mr. Jackson?

18 MR. COON: Mr. Jackson, do you know if -- on
19 these cases here if their department took any action
20 against them as far as a suspension? Or is this all they
21 are going to get off this?

22 MR. JACKSON: On all of the cases?

23 MR. COON: Not on all of them. Is the majority
24 of them, do they get suspended, terminated, or whatever by
25 their departments?

1 MR. JACKSON: On the majority of them there is
2 some sort of discipline. I know that there was in this
3 case, although I don't remember what it was.

4 MR. ORTIZ: It was a 15-day suspension by his
5 agency on this case for Mr. Trujillo.

6 MR. JACKSON: I believe Mr. Trujillo is here.

7 MR. GALLEGOS: Yes. Are there any other
8 questions for Mr. Jackson before we go? Okay.
9 Mr. Trujillo I understand is here. Would you like to
10 address the Board?

11 MR. JASON TRUJILLO: Yes, sir. Mr. Gallegos,
12 Academy Board, Director Ortiz. I made a very big
13 mistake. I'm here taking responsibility for my actions.
14 What I did was wrong. And I'm here to take the full
15 responsibility for what I did.

16 I enjoy my career. It's a good path that I
17 chose. And everybody makes mistakes. And I'm here to
18 stand up for my mistakes. Thanks.

19 MR. GALLEGOS: Are there any questions for
20 Mr. Trujillo from the Board?

21 MR. PEREZ: Was the minor male or female?

22 MR. JASON TRUJILLO: Male.

23 MR. COON: Were you suspended from your
24 department?

25 MR. JASON TRUJILLO: Yes, sir.

1 MR. COON: For how long?

2 MR. JASON TRUJILLO: Fifteen days. 180 hours,
3 sir, without pay.

4 MR. GALLEGOS: Any other questions?
5 Mr. Trujillo, you understand how this affects your
6 department?

7 MR. JASON TRUJILLO: Yes, sir.

8 MR. GALLEGOS: Not just you personally?

9 MR. JASON TRUJILLO: Yes, sir.

10 MR. GALLEGOS: And you've discussed that with
11 your supervisor and how to make that up and stuff?

12 MR. JASON TRUJILLO: Yes, sir.

13 MR. GALLEGOS: Okay. Any other questions for
14 Mr. Trujillo? I will note that Chief Sylings is also in
15 the audience, if he would like to address the Board on
16 that.

17 Do you have anything else to say? I'm sorry,
18 Mr. Trujillo.

19 MR. JASON TRUJILLO: I don't. No.

20 MR. SYLINGS: Good morning, Mr. Chairman.

21 MR. PEREZ: Excuse me. Was he charged by the
22 State for furnishing liquor to a minor?

23 MR. SYLINGS: No, sir.

24 MR. PEREZ: He was not?

25 MR. SYLINGS: It was investigated by another

1 agency and charges were not sent forward by that agency.

2 That -- I cannot answer as to why that occurred.

3 MR. PEREZ: What was the other agency?

4 MR. SYLINGS: The Taos County Sheriff's Office.

5 MR. PEREZ: Do you have that report in your
6 file?

7 MR. JACKSON: I can take a look.

8 MR. PEREZ: Is it a felony or a misdemeanor to
9 purchase liquor for a minor?

10 MR. GALLEGOS: Mr. Perez, it could be a
11 fourth-degree felony, contributing to the --

12 MR. PEREZ: Delinquency?

13 MR. GALLEGOS: Providing liquor. They changed
14 it. It used to be contributing to the delinquency, but a
15 couple of years ago the legislature changed that to
16 providing liquor to a minor.

17 MR. PEREZ: It's a felony?

18 MR. GALLEGOS: Yes. It could be a fourth-degree
19 felony. Any other questions?

20 MR. JACKSON: So to answer your question,
21 Mr. Perez. I have a one-page narrative from the deputy.
22 It doesn't explain why there were no charges filed.

23 MR. PEREZ: Usually, would that be presented to
24 the district attorney for --

25 MR. GALLEGOS: Yes. Yes. And that's one of the

1 reasons I'm going to abstain from the voting on this
2 because, you know, I don't know if we've gotten the
3 complete investigation yet or not.

4 MR. SYLINGS: That, I do not know, sir.

5 MR. GALLEGOS: I don't know. It's up to the
6 sheriff to turn that into us.

7 MR. PEREZ: In your position as DA now --

8 MR. GALLEGOS: Yes.

9 MR. PEREZ: -- would you -- what would be the
10 policy of your office? Would you file on a person like
11 that.

12 MR. GALLEGOS: We could potentially. It would
13 have to depend on many factors, you know, what the
14 evidence is in. The other thing that may sometimes either
15 help or hurt or whatever you want to look at it is the
16 victim themselves in this particular case. Are they
17 willing to testify? Are the parents willing to testify?

18 It's not -- in some ways not like a domestic
19 violence case in terms of the rules of evidence, where if
20 the 19-year-old would decide not to testify, I've got no
21 way around that.

22 And I understand there probably is a friend
23 atmosphere here. It seems like it was the parents who
24 wanted to press charges. The parents cannot be witnesses
25 because all they would have is hearsay information.

1 So, yeah, you know -- of course, I have to
2 abstain from it; but it's still probably need to be --

3 MR. PEREZ: I just want your legal opinion.

4 MR. GALLEGOS: It may even be on my -- my chief
5 deputy does the screening of the cases. So it may already
6 be on his desk for all I know.

7 MR. PEREZ: Thank you.

8 MR. GALLEGOS: Chief Sylings.

9 MR. SYLINGS: Mr. Gallegos, Members of the Board,
10 Director Ortiz. You've seen several LEA-90's -- or I
11 shouldn't say several -- but you've seen a few come from
12 my department; and you've never seen me stand before you.

13 Officer Trujillo is a good officer. The minute
14 that this incident took place he came into my office to
15 come forward as to what had gone on before he had ever
16 talked to the sheriff's deputies or anything like that.

17 My first reaction was pretty serious
18 consequences. But I chose to acknowledge that an officer
19 who made a mistake did the right thing and came forward
20 and has been very forthcoming since then.

21 I'm glad to see that he is here today. And I'm
22 happy with what he said when he stood up here, that he
23 accepts full responsibility. That's the type of officer
24 that I see is worth trying to preserve and try to
25 cultivate and make a fine young officer.

1 As all of us in our seniority have sat here, we
2 all know that we've made mistakes. The 15-day suspension
3 may not sound like it was very tough. It is the maximum
4 suspension that I can give by our city policy.

5 But he works a 12-hour shift, so that was more
6 than 160 hours of suspended time. So it actually was a
7 pretty hefty suspension. And I yield to your wisdom and
8 your decision. Thank you for the opportunity to speak.
9 And any questions.

10 MR. GALLEGOS: Any questions for Chief Sylings?
11 Yes, Mr. Perez.

12 MR. PEREZ: It says here that the -- when the
13 deputies were attempting to interview the minor, he became
14 very violent and abusive toward the deputies. What does
15 that mean?

16 MR. SYLINGS: From my understanding -- and this
17 is an acquaintance of the officer. And the officer was no
18 longer on scene, to my understanding. He started cussing
19 at the deputies and things like that.

20 He was pretty verbally abusive towards them in
21 his language towards the deputies.

22 MR. PEREZ: Did he fight?

23 MR. SYLINGS: That, I do not know. There was not
24 an arrest made of that minor, to my knowledge. And from
25 my understanding, there was no charges that were going

1 forward because of several different -- this really came
2 down to a he said/she said type of incident.

3 But my officer came forward and laid it on the
4 line for us when we -- when -- that's how we found out
5 about it.

6 MR. PEREZ: It says that an attempt was made to
7 contact the officer that evening, but he was not
8 contacted. Was that -- did he try to call you or did your
9 office try to get ahold of him?

10 MR. SYLINGS: We tried to locate him that
11 evening. We did not find him that evening. I asked a
12 sergeant to go look for him. First thing that morning,
13 they come in at 6:00 a.m. He was at my office ready to
14 speak to me at 8:00 a.m. when I walked in, sir.

15 But my supervisor did not make contact with him
16 that evening.

17 MR. PEREZ: Thank you.

18 MR. GALLEGOS: Mr. Jackson, does the narrative of
19 the sheriff's report indicate anything about the attitude
20 of the nineteen-year-old?

21 MR. JACKSON: The attitude --

22 MR. GALLEGOS: Or cooperation or whatever you
23 call it. That might be helpful also for the record.

24 MR. JACKSON: Let's see. Well, he -- he was
25 verbally combative, made some threatening statements, took

1 up a fighting stance. At that point a deputy tried to --
2 made an attempt to restrain him, but the minor's father
3 stepped in and intervened at that point.

4 And then the deputy put him in restraints for his
5 own protection. And he had bloodshot, watery eyes,
6 slurred speech, and odor of alcohol. But that appears to
7 be the extent of the incident.

8 MR. GALLEGOS: Okay. Are there any other
9 questions from the Board? Thank you, Chief.

10 MR. SYLINGS: Thank you.

11 MR. GALLEGOS: All right. Now we get to Items 18
12 and 20, which I indicated you wanted to --

13 MR. JACKSON: Actually, could we go ahead and do
14 No. 23 first and come back? I realize it's a slightly
15 different thing, but it was still a stipulated agreement.

16 MR. GALLEGOS: Sure. I don't see any problem.

17 ITEM #23: NICK BALIDO

18 MR. JACKSON: This is Nick Balido, former chief
19 of Los Lunas, who pled no contest in the Thirteenth to
20 permitting false vouchers and paying, receiving public
21 money for services not rendered.

22 He was placed on probation and ordered to make
23 restitution, though in an amount substantially less than
24 the amounts that were charged. He has agreed to
25 relinquish his certification.

1 MR. GALLEGOS: Any questions for Mr. Jackson from
2 the Board? Do you know if this was referred for a
3 criminal prosecution or --

4 MR. JACKSON: You know, he pled no contest and
5 the restitution --

6 MR. GALLEGOS: Conditional discharge. I'm sorry.
7 Right in front of me. Any questions? Is Mr. Balido here
8 by any chance? {No response.} All right.

9 ITEM #18: KATHLEEN LUCERO

10 MR. JACKSON: And Nos. 18 and 20 we put off
11 because my division did not participate in those cases, so
12 I don't really have any information on them. The director
13 will present them, and I'll step out until they have been
14 completed.

15 (At this time, Mr. Jackson exits the room.)

16 MR. HOLMES: We'll present the facts in this
17 case.

18 MR. GALLEGOS: Mr. Holmes, these are factually
19 similar or they are from the same incident?

20 MR. HOLMES: They are very similar.

21 MR. GALLEGOS: But are they from the same factual
22 incident?

23 MR. ORTIZ: 17 and 18 are the same. Mr. Garcia
24 and Ms. Lucero was the same incident.

25 MR. GALLEGOS: Okay.

1 MR. HOLMES: Mr. Chairman, Members of the Board.
2 This case was brought to our attention from a former board
3 member, Mr. Jojola, while he was chief there in Isleta.

4 This involves a person by the name of Kathleen
5 Lucero. On May the 15th, 2009, the Academy received a
6 report of misconduct pertaining to the respondent,
7 Kathleen Lucero. The misconduct involves an incident that
8 occurred on April the 29th, 2009.

9 The respondent and the child's father had been
10 consuming intoxicating beverages in two different liquor
11 establishments in Albuquerque where the child's father
12 consumed at least eight alcoholic beverages and then drove
13 his vehicle to Isleta Pueblo where he was later arrested
14 and charged with being intoxicated and disorderly
15 conduct.

16 While traveling to Isleta from Albuquerque, the
17 respondent was aware that the driver was highly
18 intoxicated and the respondent made no effort to prevent
19 the highly intoxicated person from driving with her and
20 her child inside the vehicle. The respondent,
21 incidentally, was a passenger in that vehicle.

22 Prior to being arrested, the arrestee and the
23 respondent were involved in a verbal argument, creating a
24 disturbance in the presence of a child, which could cause
25 the child to suffer mental emotional harm.

1 Based on the incident mentioned above, the
2 respondent was suspended for five days and was placed
3 under a one-year probation by her employing agency.

4 We had an informal hearing with her. And she
5 admitted that she could have done more than what she did.
6 And she was also intoxicated. And so she agreed to a
7 14-day suspension, a one-year probation, ethics training,
8 alcohol screening, and also to address the class.

9 And those are the sanctions that were imposed on
10 her. So the director's recommending that the
11 recommendation of suspension/probation be approved.

12 MR. GALLEGOS: Any questions from the Board for
13 Mr. Holmes? Can I just ask a question. Why wasn't the
14 Attorney General's Office involved in this?

15 MR. HOLMES: Well, I'll explain. There's --
16 sometimes we -- the director and I, we look at this thing
17 from we're asking the agencies to report what they believe
18 is misconduct.

19 If it involves the external environment that
20 affects others outside their own department -- here's a
21 person driving intoxicated. There's two people that
22 consume alcohol. They had a child with them. And both
23 officers.

24 And this person on this case could have prevented
25 that by calling the police or making a better effort to

1 stop that action of the person driving drunk, especially
2 with a child inside the vehicle.

3 And to answer the question why Mr. Jackson wasn't
4 involved, sometimes he doesn't agree with our
5 recommendations. And we believe that we owe it to the
6 agencies to take the time to report this incident to us to
7 at least be brought before the Board.

8 And the respondent in this case, she agreed that
9 she -- what she did was wrong. And she's willing to
10 accept.

11 MR. GALLEGOS: Okay.

12 MR. ORTIZ: Also, I want to add that I want to
13 prevent misconduct. And she's a good candidate to assist
14 with addressing the cadet classes to help us prevent
15 that. To just give her a slap and take no action I didn't
16 think was appropriate.

17 And she'll speak to you here shortly, but she was
18 taking responsibility for her actions. And I feel it's a
19 good tool to utilize her to address others to help us
20 prevent any further misconduct.

21 MR. GALLEGOS: Okay. Any other questions from
22 the Board? Ms. Lucero I believe is here. Good afternoon,
23 ma'am.

24 MS. LUCERO: Good afternoon, sir. Good
25 afternoon, Gentlemen, Ladies. My name is Officer Kathleen

1 B. Lucero. I'm sorry. I get very emotional speaking of
2 this incident. I just want to apologize for taking your
3 time to hear my case this afternoon.

4 On that day, April 29th of this year, it took a
5 major effect of what happened to my career that I've been
6 employed with the Isleta Police Department for three
7 years. I worked very hard to be a police officer.

8 I've had problems with my firearms. Had my badge
9 taken from me, my firearm. I work very hard for it.

10 That night was a night of entertainment. I
11 understand what I've done, that I put the significant
12 other's child in danger. At that time I was thinking
13 about entertainment. We had our fun time with ourselves
14 and the child and was ready to come home.

15 I understood fully that we were intoxicated, that
16 we shouldn't be driving, and didn't take no actions to do
17 so, to call a friend and/or anybody to bring us home.

18 Honestly, I felt that I didn't want to bother or
19 burden anybody because it's an embarrassment for me to be
20 a police officer, to be a SFST instructor to go ahead and
21 be intoxicated and drive home. And when we got home, we
22 were involved in a verbal altercation because of what
23 happened.

24 And I didn't want him to go home further
25 anymore. Again, I took the action into my place that I

1 didn't want to call police because it was an embarrassment
2 that both of us from the community that we were going to
3 get in trouble.

4 One was we had a minor child, which was three at
5 that time. We were both intoxicated. And it's going to
6 be called as domestic. And just a big embarrassment.
7 Trying to undergo it myself. Got other family members
8 involved. It unraveled into a big situation.

9 And there's not a day that doesn't go by that I
10 could wish that I could take that time back. And I
11 can't. So all I have to do is just learn from it. And I
12 have. I've taken my five-day suspension. I've done my
13 investigation. I took it hard.

14 Every day that I suit up, I go out on the field
15 where I have to render that community member that says,
16 "You're here to protect the community, the children, and
17 you put your own child into danger that day."

18 I haven't been encountered with that, but I know
19 people talk. I'm from a small community. I talk with my
20 family. My family are very upset for what I've done.
21 Like I said, there's not a day that doesn't go by that I'm
22 waiting for that day and I will respect those people for
23 that address me for what I've done.

24 And like I said, it's not right for me to dictate
25 to them of them being abusive or emotional abuse to a

1 child or drinking while intoxicated -- or driving while
2 intoxicated; and yet I'm here to protect my community to
3 prevent all that.

4 I do apologize for what I've done and like I said
5 taking your time for looking over my case. And I do
6 understand that I can be rendering a suspension for
7 possibly 30 days or revocation of my certification.

8 If it does so happen, a revocation, I did it to
9 myself. I understand fully what I've done. I'm reminded
10 every day that I have to uphold myself 24/7, that I'm a
11 police officer 24/7.

12 But I'm only human. I've never done anything to
13 disrespect myself or anything that I've been in trouble
14 with the law enforcement. I put myself in this position
15 because I've been a victim of domestic violence. I see my
16 children go through the emotional abuse.

17 And why that day I let it happen, I don't know.
18 But like I said, I can just learn from it and go forth
19 from it and take the punishment that I have to take and
20 just keep going.

21 And like I said, if it ends up that losing my
22 revocation, then I will forward that to fellow officers to
23 watch what they do, uphold themselves 24/7. And if I do
24 take the 14-day or 30-day suspension, then like I said I
25 will address the cadet class and -- because this does take

1 a lot of toll.

2 We don't think about it until after it's done.

3 And like I said, it's going to stay with me for the rest
4 of my life.

5 MR. GALLEGOS: Any there questions from the
6 Board?

7 MR. PEREZ: Are you in any sort of alcohol
8 program now?

9 MS. LUCERO: No. I occasionally drink. Why that
10 day I went over the border, I can't answer that. But I'm
11 willing to take a alcohol assessment and do anything that
12 I have to do to keep my certification.

13 MR. GALLEGOS: Any other questions? Thank you,
14 ma'am.

15 MS. LUCERO: Thank you.

16 ITEM #20: RALPH MOORE

17 MR. GALLEGOS: Item No. 20.

18 MR. HOLMES: This item involves a person by the
19 name of Ralph Moore. This misconduct report was submitted
20 to New Mexico Law Enforcement Academy by Sheriff Coon.

21 On May the 3rd, 2009, the respondent escorted a
22 homicide suspect to the detective's office for the suspect
23 was to be interviewed by detectives involving a homicide
24 investigation.

25 Following the booking room, the respondent made

1 the suspect take off his shoes and socks. And in doing
2 so, a small amount of suspected illegal drugs in one of
3 the suspect's socks fell to the floor where it was picked
4 up by the respondent.

5 The suspected illegal drugs were described as a
6 few grains of white residue in a small plastic bag. A
7 detective was informed of the suspected drugs found and
8 the position of the suspect. And the detective told the
9 respondent to make a supplemental report pertaining to the
10 suspected illegal drugs found.

11 At a later time it was discovered that the
12 respondent never made a supplement report and never turned
13 in the suspected drugs to the evidence custodian.

14 When the respondent was asked about the
15 whereabouts of the suspected drugs he had confiscated, he
16 stated that he threw it away because he thought that there
17 was not enough suspected drugs to be tested. He also
18 stated that he threw it away on the advice of his sergeant
19 supervisor.

20 This was later disputed by the supervisor. And
21 the respondent admitted that it was laziness on his part
22 for not properly logging in the evidence and for not
23 mentioning the drugs on the supplement report. The
24 respondent resigned from the Chaves County Sheriff's
25 Office based on that incident.

1 We had an informal hearing where the
2 respondent -- and he agreed to a 14-day suspension and a
3 one-year probation, ethics training, and to assist the
4 director in any efforts to prevent officer misconduct. He
5 will address the academy class.

6 So the director recommends that the suspension
7 and probation be approved.

8 MR. GALLEGOS: Any questions from the Board?
9 No? Seeing none, is Mr. Moore here?

10 MR. COON: No.

11 (AT this time, Mr. Jackson re-enters the room.)

12 ITEM #25: STEVEN GUTIERREZ

13 MR. GALLEGOS: All right. Let's move onto the
14 next item, which would be Item 25.

15 MR. FORCE: On all these stipulated agreements,
16 are they consistent with previous decisions that came from
17 your office?

18 MR. ORTIZ: Yes.

19 MR. FORCE: I just want to have that on the
20 record.

21 MR. GALLEGOS: Okay. Thank you, Mr. Force.

22 Mr. Jackson, we're on Item 25.

23 MR. SHANDLER: The next two, Mr. Chairman, I
24 think are officers that are making their presentations.
25 They are trying to get you to change your mind on

1 something.

2 MR. GALLEGOS: Yeah, these are not a matter that
3 was handled by Mr. Jackson then?

4 MR. ORTIZ: No.

5 MR. GALLEGOS: So we do have the next one, which
6 is Item 25, Steven Gutierrez. If you'll come forward,
7 sir, identify yourself for the record, and give us a
8 brief --

9 MR. GUTIERREZ: I'm Steve Gutierrez,
10 Mr. Chairman, Members of the Board. You had revoked my
11 certification due to the lack of me responding to the
12 seven-day notice that I had received, at which time I had
13 resigned from my police department due to an incident that
14 had occurred at a police department Christmas party.

15 I was at the Christmas party and stopped a city
16 official from hitting a female subject. And this subject
17 took a swing at me. I swung back. A long story short, I
18 took responsibility for the action that I did that night.

19 I pleaded no contest to a misdemeanor; did a year
20 of probation. And I would like to get on with my life and
21 my career as a law enforcement. And I'm here to ask you
22 to reconsider and reinstate my certification.

23 MR. GALLEGOS: Any questions from the Board?

24 MR. COON: Why did you not respond in the seven
25 days?

1 MR. GUTIERREZ: To tell you the truth, I was --
2 the way everything happened in the situation I felt that
3 like I was being persecuted because of who the subject
4 was. And the way I -- the whole investigation was
5 handled, I just felt like I was being wrong do'd {sic}.

6 And it was my own selfishness for not responding
7 in the seven days. But now I do regret it. Because law
8 enforcement is what I love doing. And the police
9 department I worked at, Las Vegas Police Department, I had
10 a very good service record.

11 There's no -- nothing on it besides this. And
12 it's my own selfishness for not responding, sir.

13 MR. COON: When did this incident happen?

14 MR. GUTIERREZ: It happened December of '06, a
15 Christmas party. And I was placed on administrative leave
16 while an internal investigation was conducted. Nothing
17 was founded out of that. And when I was set to go back to
18 the police department my certification was already
19 revoked, so I resigned.

20 MR. FORCE: Do we have the file here today?

21 MR. HOLMES: Yes.

22 MR. FORCE: Mr. Holmes, how many times was
23 Mr. Gutierrez notified of the hearing process? Do you
24 have that with you?

25 MR. ORTIZ: I think at least two times on the

1 notice of contemplated action that was sent by certified
2 mail and the notice of final decision, that was also sent
3 by certified mail.

4 MR. FORCE: Mr. Gutierrez, do you remember
5 receiving those notices?

6 MR. GUTIERREZ: One of them I do. And then I
7 remember receiving the final decision. The second one I
8 don't because I was moving. I moved from the residence
9 which I was at, so I never received the second one to
10 respond back.

11 MR. FORCE: Did you notify the U.S. Postal
12 Service when you moved your change of address?

13 MR. GUTIERREZ: Yes, sir, I did.

14 MR. FORCE: And you never did receive --

15 MR. GUTIERREZ: I never did receive that. I
16 don't know if there was a conflict there. I did receive
17 the final decision at my new address.

18 MR. FORCE: So when you got the notice of
19 contemplated action --

20 MR. GUTIERREZ: I thought that was it. I thought
21 I couldn't do anything else. And then I spoke with my
22 ex-chief, which is Chief Gary Gold, and with a few other
23 people. And they explained to me what I needed to do.
24 And, well, here I am. I want to continue my career, so.

25 MR. FORCE: So what brings you today to finally

1 say, "I want a second shot"? Are you --

2 MR. GUTIERREZ: I've tried doing other things.
3 And law enforcement is where I belong, I believe.

4 MR. FORCE: So at the time that you -- that the
5 Board acted on the revocation, you didn't -- am I right --
6 you didn't care?

7 MR. GUTIERREZ: It's not that I didn't care. I
8 just wanted to see if I could pursue other options. I
9 started going back to school, actually, to finish my
10 degree. And then I started doing other things. And,
11 well, I really enjoy law enforcement.

12 MR. FORCE: So is it my understanding that now
13 that you want us to reconsider and give you a second shot
14 because you want to go back into law enforcement?

15 MR. GUTIERREZ: Well, yes, sir. That's the
16 career I wanted and that's what I really would like to
17 continue doing to help my community and people.

18 MR. ORTIZ: Mr. Chairman, Board Members. What I
19 believe the procedure would be is if you want to grant
20 him, then we would start the process all over and have the
21 informal hearing and then come back before the Board with
22 any recommendations for suspension or revocation at that
23 point.

24 MR. GALLEGOS: This is just to determine whether
25 he gets --

1 MR. ORTIZ: That opportunity.

2 MR. GALLEGOS: -- to have the opportunity to have
3 the --

4 MR. ORTIZ: Correct.

5 MR. GALLEGOS: All right.

6 MR. HOLMES: As far as the notice of final
7 decision, they were sent on August the 28th -- on
8 September the 21st and August the 28th of 2008.

9 MR. SHANDLER: What's the director's position on
10 this?

11 MR. ORTIZ: Well, I'll see what the Board's
12 decision is and then I'll have to give him that
13 opportunity to sit down and give him an informal hearing.
14 My stance would be I follow the rules by mailing it out,
15 and I would oppose -- just like I have on the others, I
16 would oppose to make any variances on the rules.

17 Because I feel I've followed the rules, and it's
18 their responsibility to receive their mail and keep us
19 notified of any changes of address. So my recommendation
20 would be to oppose that we proceed any further.

21 MR. PEREZ: When was he decertified?

22 MR. SCHULTZ: December 11th, 2007.

23 MR. FORCE: Mr. Gutierrez, if you could just give
24 me some understanding. Because what you're asking us to
25 do is to retract an action that we've already taken place

1 on that went into effect on December 11, 2007.

2 MR. GUTIERREZ: Yes, sir.

3 MR. FORCE: I mean, that's almost two years ago.
4 And when notice had been given to you and you've clearly
5 made the statement that you did give your notice but you
6 didn't make the effort to follow through with the
7 regulations in looking at negotiating maybe an appropriate
8 action.

9 And now two years later after the revocation you
10 want us to give you -- basically negate that process and
11 start the process all over again?

12 MR. GUTIERREZ: Well, I would like you to
13 consider it. I'm not telling you to do it, but I would
14 really appreciate if you would consider it. I was a -- I
15 was a good officer.

16 MR. FORCE: So you're asking us to reverse a
17 decision from two years ago because you changed your mind
18 and want to go into law enforcement?

19 MR. GUTIERREZ: Yes, sir. That's how I see that
20 we're looking at it; yes, sir.

21 MR. FORCE: Okay.

22 MR. GALLEGOS: Any other questions? Thank you,
23 Mr. Gutierrez.

24 MR. GUTIERREZ: Thanks.

25

1 ITEM #26: MICHAEL FREDDIE TRUJILLO

2 MR. GALLEGOS: The next item is 26, a request for
3 reinstatement, Michael Freddie Trujillo.

4 MR. MICHAEL TRUJILLO: Mr. Chairman Board,
5 Director Ortiz, Counselor, I'm here today to humbly and
6 respectfully ask for my certification to be reinstated.

7 Currently, I retired July 31st of 2008.

8 Currently, I have a great job. I'm a director of security
9 for the last year at the Las Campanas Homeowners
10 Association, where I oversee -- actually, I have 30
11 employees. I administer a budget of 850,000.

12 In September of 2008, I voluntarily entered into
13 an agreement with Director Ortiz for a two-year suspension
14 of my certification, for three-years' probation, and for
15 six months ethics training.

16 I've completed the six months of ethics
17 training. And I've completed a year -- a year of --
18 almost a year, I think tomorrow will be a year, of my
19 certification for the year that's gone by.

20 Honorably and respectfully, I retired from the
21 Rio Arriba County Sheriff's Department. Sheriff Joe
22 Mascarenas is also present here. For 60 percent of my law
23 enforcement career, I probably worked for the New Mexico
24 State Police.

25 I think in life in order for people to be

1 successful and to succeed you have to learn from your
2 mistakes and you have to learn from your failures I think
3 on a professional basis and on a personal basis. I have
4 done both.

5 And in closing I ask for my certification to be
6 reinstated. One -- the reason I ask is, one, the sheriff
7 has offered me the undersheriff's position in Rio Arriba
8 County. And if that's probably personal reasons for --
9 you'd probably ask why would I leave Las Campanas to go
10 back to Rio Arriba County.

11 I probably wouldn't do it, but I'm doing it for,
12 one, I've known the sheriff my whole life and for personal
13 issues on the sheriff's side. And, two, I was a great law
14 enforcement officer. I was good at what I did.

15 I was a great homicide investigator, violent
16 crimes investigator. I was the only one to ever -- in 20
17 years I was the only one to get any help with conviction
18 of anybody of first-degree murder. I solved 90 percent of
19 my cases. That doesn't exclude what the investigations
20 were about when I was placed in that administrative
21 leave.

22 But that is the reason that I am here today is to
23 ask for that one-year waiver so I could get my
24 certification back. Thank you very much for your time.

25 MR. GALLEGOS: Thank you. Any questions from the

1 Board?

2 MR. PEREZ: What was the reason -- the original
3 reason that this matter came before the Board?

4 MR. MICHAEL TRUJILLO: Mr. Perez, in 2003, I was
5 placed on administrative leave for sexual harassment.

6 MR. PEREZ: Against whom?

7 MR. MICHAEL TRUJILLO: A female.

8 MR. PEREZ: Related to you or?

9 MR. MICHAEL TRUJILLO: No, sir. It was -- I was
10 a sergeant in charge of criminal investigations, homicide,
11 violent crimes out of Espanola. From there it led to I
12 was placed on administrative leave in October. In
13 February another investigation arose where missing
14 evidence was missing from my vault. And from there
15 another case evolved on evidence.

16 MR. PEREZ: Was that a firearm?

17 MR. MICHAEL TRUJILLO: No, sir. The case was
18 investigated by State Police, turned over to the district
19 attorney. The district attorney investigated me
20 thoroughly and failed to file any charges.

21 From there the State Police submitted the case to
22 the Attorney General's Office, where the Attorney
23 General's Office investigated me for a year. And in that
24 year they did financials on me and went through everything
25 and my whole entire life to see if I did take -- what was

1 it -- \$6100, something like that.

2 Eventually in 2005 I received a letter from the
3 Attorney General's Office clearing me of the charges and
4 basically indicating that State Police did not follow
5 proper policy.

6 I was then asked -- ultimately, it was going --
7 it was going into a termination hearing, where I had hired
8 an attorney, Mark Donatelli, from Santa Fe. And
9 ultimately it came down to do I send my daughter to
10 college or do I resign?

11 Fortunately, Faron Chief Segotta gave me the
12 opportunity to resign from the New Mexico State Police,
13 who I probably worked for and I worked in investigations.
14 I worked under narcotics. I was the governor's bodyguard
15 for four years. So I did have a distinguished career.

16 Then Sheriff Mascarenas, who is also a retired
17 State Police officer, hired me. I worked for Sheriff
18 Mascarenas for approximately a year and 10 months. And I
19 retired in July of last year.

20 After that, I met with Director Ortiz. And we
21 came to the -- to where we're at today, two years'
22 suspension of my certification, the three-year probation,
23 and the ethics training.

24 MR. GALLEGOS: Any other questions? Yes,
25 Mr. Force.

1 MR. FORCE: I'm looking at the order, the
2 agreement that you signed.

3 MR. MICHAEL TRUJILLO: Yes, sir.

4 MR. FORCE: And I don't understand. I mean, you
5 acknowledged everything that's in a stipulated agreement
6 and you agreed to it?

7 MR. MICHAEL TRUJILLO: Yes.

8 MR. FORCE: Am I understanding that correct?

9 MR. MICHAEL TRUJILLO: Yes, sir.

10 MR. FORCE: When you signed this on September 5th
11 of last year, you agreed. You agreed to all the
12 stipulations in here, including a two-year suspension,
13 correct?

14 MR. MICHAEL TRUJILLO: Yes, sir.

15 MR. FORCE: And even within the stipulated
16 agreement -- I mean, several times even in the agreement
17 during the process you changed your mind a couple of times
18 there as well. Now, I guess my concern is why do you want
19 us to reconsider the suspension?

20 MR. MICHAEL TRUJILLO: Well, I want you to
21 reconsider the suspension, one, because the sheriff, who
22 is here, he does need assistance. Two, the citizens of
23 Rio Arriba County do need proper law enforcement.

24 As it is, State Police is shorthanded. The
25 sheriff's department is not only shorthanded, but

1 untrained. I am an expert in violent and homicide
2 investigation. I can run a department.

3 When I was working for the sheriff, I ran -- I
4 basically ran his department and ran the budget. You know
5 what? I -- don't get me wrong. I think law enforcement
6 is my passion. I think all of us in here that have been
7 police officers it's your passion.

8 Will I ever go back as a patrolman or as a
9 detective for a law enforcement agency? No, I won't.
10 Those are -- that's not my aspiration. My aspiration is
11 to go back and to become undersheriff for the 14 months
12 left that the sheriff has.

13 MR. FORCE: Okay.

14 MR. MICHAEL TRUJILLO: After that fact, if I
15 intend to run for sheriff, then that'd be it. But for
16 getting my certification back, even if you decide,
17 Mr. Force, not to give it back to me, when I'm eligible to
18 receive it back in another year, I wouldn't go back
19 because there's not an agency that can pay me the money
20 that I make now.

21 Everything is not about financial matters, but I
22 do have a daughter in college at UNM. And I have a son
23 that's getting ready to go to college also. So the reason
24 of me choosing to go is a substantial paycut, but I do owe
25 a lot to Sheriff Joe Mascarenas.

1 And otherwise, you know, my wife begged me not to
2 come to this hearing today. One, because of what I was
3 put through. And it was before the chief's time. It was
4 a trying time by my family.

5 But I had to explain to her that, you know, I've
6 known Joe Mascarenas probably since I was five years old.
7 And he hired me. And after I resigned from the State
8 Police and he let me retire. And that's why I'm here
9 because I owe it to him.

10 Not only do I owe it to him, but I'm well
11 respected in the law enforcement community. Some might
12 have their own opinion, but everybody has an opinion.

13 In Rio Arriba County, if they wanted a case done
14 when I was working for the sheriff's department, they quit
15 calling the State Police and they would call the sheriff's
16 department because that's where I was working.

17 Some might not agree with that in here, but the
18 cases for themselves spoke for the almost two years that I
19 worked there I handled every violent crime that was in
20 Rio Arriba during that time. And they can check the stats
21 on that. And I don't know if that suffices for you, but.

22 MR. SCHULTZ: Quick question. Mr. Trujillo,
23 isn't it true that you do not have to be certified to be
24 undersheriff in the state of New Mexico?

25 MR. MICHAEL TRUJILLO: No, sir, you do not have

1 to be certified. But, sir, I could not adequately serve
2 as undersheriff. I am -- I don't consider myself an
3 expert, but I teach search warrants.

4 I ran search warrants for Judge Blackmore, for
5 the district judges. I'd be wasting my time. I know as
6 an administrator and as an undersheriff, my main objective
7 would be to run the department, to run the budget, make
8 sure that everything was in compliance.

9 We do have commanders out on the field that are
10 supposed to be running the department, and I could allow
11 that to happen; but unfortunately there's a situation
12 where the sheriff isn't in that position right now for
13 that to happen.

14 So in order for me to adequately assist the
15 sheriff in moving his department forward, I feel that I
16 would need my certification back.

17 MR. GALLEGOS: Any other questions? Mr. Perez.

18 MR. PEREZ: I see a contradiction here.

19 It says on the last page of this stipulated order
20 of suspension that in the event that you obtain any
21 further arrests or criminal charges or commit any
22 violations of any law or violations of the Board's
23 statutes, rules or regulations during the probationary
24 period, then the Board may enter an order of revocation
25 against your certification based upon your admission of

1 guilt. Do you understand that?

2 MR. MICHAEL TRUJILLO: Mr. Perez, I admitted to
3 no guilt.

4 MR. PEREZ: Then over here it says that in
5 exchange for assurance from the Law Enforcement Academy
6 that it will cease in conducting further administrative
7 prosecution against respondent's certification as a law
8 enforcement officer.

9 So you're asking to cut a deal with us, that we
10 won't do anything more to you if we -- even if we give you
11 back your certification? Is that what this is?

12 MR. MICHAEL TRUJILLO: No, Mr. Perez. If that
13 was the case, I would have never entered into any
14 stipulated agreement that I would be charged. First of
15 all, statute of limitations has even ended from a case
16 from 2003.

17 From 2003, my certification wasn't suspended
18 until 2008. I don't want to get into the specifics of the
19 case but --

20 MR. PEREZ: Why not?

21 MR. MICHAEL TRUJILLO: Well, if you want. I
22 mean, Mr. Perez, I guess we can. It's up to you, sir.

23 MR. PEREZ: We're talking about certification. I
24 think we should.

25 MR. GALLEGOS: Hold on. Hold on. Let me see if

1 I understand, Mr. Perez. This is a stipulated order
2 that's already been entered into. And it's an agreement
3 between the Attorney General -- well, the Board and
4 Mr. Trujillo, that he was going to accept this
5 discipline. So that's already a done deal.

6 MR. PEREZ: Right. If we approve it.

7 MR. GALLEGOS: It's already a done deal. It was
8 for two years. So what he's here asking us is to shave
9 off a year off of that two years, because -- and the main
10 reason if I understand correctly because Sheriff
11 Mascarenas needs the help; and he's chosen this person as
12 the one that's the best able to give the help.

13 So what I understand is that this is already a
14 done deal. It's already been entered into. And what he's
15 before us today is to see if we would consider shaving a
16 year off, more or less, off of that. In essence, like
17 Mr. Force said earlier on, go back and redo something
18 we've already done.

19 MR. PEREZ: Okay.

20 MR. GALLEGOS: So I don't think we need to get
21 into the merits. I don't think we need to get into that
22 information because that was already dealt with last year
23 sometime. Okay?

24 MR. PEREZ: Okay. All right.

25 MR. GALLEGOS: Any other questions?

1 MR. MICHAEL TRUJILLO: Any other questions?

2 MR. JONES: No, sir.

3 MR. GALLEGOS: Thank you, sir.

4 MR. MICHAEL TRUJILLO: Thank you very much.

5 ITEMS #27 - 30

6 MR. GALLEGOS: All right. That takes us to
7 Item 27.

8 MR. SHANDLER: Mr. Chairman --

9 MR. GALLEGOS: These are formal hearings, I
10 believe.

11 MR. SHANDLER: Correct. So it's now time that
12 you can go into executive session. But before you go, are
13 any of these, 27, 28, 29, 30 or even 26, anyone need to
14 abstain from any of those?

15 MR. GALLEGOS: Thank you, Zack. In fact, let's
16 go back. I don't know if we discussed 23 or 25 also.

17 MR. SHANDLER: Okay.

18 MR. GALLEGOS: Anybody on the Board, Items 23,
19 25, 26, 27, 28, 29, or 30?

20 MR. SEGOTTA: I have 26.

21 MR. GALLEGOS: Twenty-six, one abstention,
22 Chief Segotta.

23 MR. SEGOTTA: And on 29 as well.

24 MR. GALLEGOS: Okay. So I believe at this point,
25 Zack, if it's appropriate, I'll entertain a motion to go

1 into executive session.

2 MR. SHANDLER: Correct.

3 MR. FORCE: So moved.

4 MR. COON: Second.

5 MR. GALLEGOS: And I believe this is a roll call

6 vote?

7 MR. SHANDLER: Yes, sir.

8 MS. CROKER: Donald Gallegos?

9 MR. GALLEGOS: Yes.

10 MS. CROKER: Chief Faron Segotta?

11 MR. SEGOTTA: Yes.

12 MS. CROKER: Sheriff James Coon?

13 MR. COON: Yes.

14 MS. CROKER: Chief Raymond Schultz?

15 MR. SCHULTZ: Yes.

16 MS. CROKER: Sergeant Arsenio Jones?

17 MR. JONES: Yes.

18 MS. CROKER: Robert Force?

19 MR. FORCE: Yes.

20 MS. CROKER: Bernardo Perez?

21 MR. PEREZ: Yes.

22 MR. GALLEGOS: Okay. Motion passes. We'll be in

23 executive session, Folks.

24 MR. ORTIZ: I have one issue that I would like to

25 address in front of the Board for a personnel matter.

1 MR. GALLEGOS: Is this on the record?

2 MR. ORTIZ: No. Just in front of the Board.

3 MR. GALLEGOS: So with the exception Art Ortiz
4 can stay in and then --

5 MR. ORTIZ: Just for five minutes.

6 (Off the record from 3:08 until 4:22 p.m.)

7 MR. GALLEGOS: At this point we finished
8 executive session, but I believe I do need a motion to
9 return.

10 MR. COON: Mr. Chairman, I make a motion that we
11 return to regular session.

12 MR. FORCE: Second.

13 MR. GALLEGOS: Moved by Sheriff Coon; seconded by
14 Mr. Force. And I believe there's some language that --

15 MR. SHANDLER: First the roll call, and then I'll
16 give you the language.

17 MR. GALLEGOS: Okay. All right.

18 MS. CROKER: Donald Gallegos?

19 MR. GALLEGOS: Yes.

20 MS. CROKER: Chief Faron Segotta?

21 MR. SEGOTTA: Yes.

22 MS. CROKER: Sheriff James Coon?

23 MR. COON: Yes.

24 MS. CROKER: Chief Raymond Schultz?

25 MR. SCHULTZ: Yes.

1 MS. CROKER: Sergeant Arsenio Jones?

2 MR. JONES: Yes.

3 MS. CROKER: Robert Force?

4 MR. FORCE: Yes.

5 MS. CROKER: Bernardo Perez?

6 MR. PEREZ: Yes.

7 MR. GALLEGOS: The motion has passed. We are now
8 back in regular session.

9 MR. SHANDLER: Can you attest that only the
10 matters discussed in the executive session were those
11 listed on the agenda were disciplinary matters?

12 MR. GALLEGOS: Yes. For the record. Okay.

13 What I'm proposing to do is take Items 16, 17,
14 18, and 20 and entertain those in the form of a motion, I
15 believe.

16 MR. SHANDLER: I'm with you all the way, except
17 that I think 20 has some recusals. I think it's 21 that
18 has no recusals.

19 MR. GALLEGOS: Oh, okay. Let me get that again,
20 16, 17, 18, and 21. All right. Thank you, Zack. So if
21 it's the pleasure of the Board, I would entertain those in
22 one motion.

23 MR. SCHULTZ: Chairman, I would make the motion
24 that we accept the Items 16, 17, 18, and 21 and approve
25 the stipulated orders of suspension.

1 MR. GALLEGOS: Okay. Do I have a second?

2 MR. JONES: I second.

3 MR. GALLEGOS: All right. Is there any
4 discussion on that motion? Seeing none, all those in
5 favor say aye.

6 THE BOARD: Aye.

7 MR. GALLEGOS: Any opposition say nay. {No
8 response.} Okay. Those pass. Let's go to Item No. 19,
9 Armando Medina. And I'll entertain a motion on that.

10 MR. FORCE: Motion to accept.

11 MR. GALLEGOS: It's been moved by Mr. Force. Do
12 I hear a second?

13 MR. PEREZ: Second.

14 MR. GALLEGOS: Seconded by Mr. Perez. Is there
15 any discussion on this?

16 MR. SEGOTTA: Mr. Chairman, I recuse myself from
17 Item No. 19.

18 MR. GALLEGOS: Okay. The record will reflect
19 that Chief Segotta has abstained from voting on Item
20 No. 19. All right. Are there any other discussion?
21 Seeing none, all those in favor of the motion say aye.

22 THE BOARD {Except for Mr. Segotta}: Aye.

23 MR. GALLEGOS: Any opposition say nay. {No
24 response.} Okay. The most passes.

25 The next item is No. 20, Ralph Moore. And I'll

1 entertain a motion on that one.

2 MR. SCHULTZ: Chairman, I make the motion that we
3 reject the stipulated order of suspension.

4 MR. GALLEGOS: Okay. Is there a second on that.

5 MR. FORCE: Second.

6 MR. GALLEGOS: It's been moved and seconded to
7 reject the stipulated order.

8 MR. SCHULTZ: Mr. Chairman, if I may. The reason
9 for the rejection is the Board feels that in this
10 particular case Mr. Moore lied to his supervisor, his
11 sergeant, about what had happened with that evidence.

12 And the fact that this involves a homicide case,
13 the integrity of the officer may end up becoming the main
14 issue in that homicide investigation, and his
15 untruthfulness to his supervisor warrants additional
16 discipline.

17 MR. GALLEGOS: Is there any other discussion
18 before we move to a vote?

19 MR. FORCE: Mr. Chairman, also to add on was
20 there may be also pending issues judicially that may also
21 come out of this that we believe we need to be careful
22 about.

23 MR. GALLEGOS: Okay. All right. Any other
24 discussion?

25 MR. COON: Mr. Chairman, myself and I think

1 Sergeant Jones are going to abstain from this.

2 MR. GALLEGOS: That's correct. The record will
3 reflect that Sheriff Coon and Sergeant Jones will abstain
4 from voting on this case. All right. Any other
5 discussion? Seeing none, all those in favor of --

6 MR. ORTIZ: Excuse me, Mr. Chairman.

7 MR. GALLEGOS: Yes.

8 MR. ORTIZ: I did receive a call from Mr. Moore
9 when I contacted him to see if he would be willing to
10 travel up here. He wasn't able to make it, but he said if
11 this was rejected that he would accept a 30-day
12 suspension.

13 MR. GALLEGOS: I believe the Board did discuss 30
14 days.

15 MR. SCHULTZ: Correct.

16 MR. GALLEGOS: And so procedurally then I think
17 we would ask the person who made the motion to reconsider
18 that motion maybe and do a substitute motion? Zack,
19 any --

20 MR. SHANDLER: Sounds fine.

21 MR. GALLEGOS: I believe parliamentary procedure
22 does allow that either before a vote or after a vote. So
23 it would have to be the movant, he would -- I guess would
24 withdraw your motion and then --

25 MR. SCHULTZ: Mr. Chairman, based on information

1 that's been provided, I will withdraw my original motion
2 and accept a recommended discipline of a 30-day
3 suspension, one-year probation, ethics training, and
4 assist the director to help prevent further officer
5 misconduct by addressing a future academy class.

6 MR. FORCE: I'll second.

7 MR. PEREZ: Second.

8 MR. GALLEGOS: We do have a motion and a second,
9 a toss-up. Any other discussion on that? Okay. Seeing
10 none, all those in favor say aye.

11 THE BOARD {Except for Mr. Coon and Jones}: Aye.

12 MR. GALLEGOS: Any opposition say nay. {No
13 response.} And we did note for the record about
14 Sheriff Coon and Sergeant Jones. Okay.

15 So that gets us down to Item 22. And I have
16 abstained from this particular case. So, Mr. Force, if
17 you would chair the meeting regarding Item 22.

18 MR. FORCE: Well, I'll make a motion to accept
19 the director's recommendation for the 30-day suspension
20 and all the remaining issues.

21 MR. SCHULTZ: Second.

22 MR. FORCE: So we have a motion with a second.
23 Any further discussion? All in favor say aye.

24 THE BOARD {Except for Mr. Gallegos}: Aye.

25 MR. FORCE: All opposed say nay. {No response.}

1 Motion carries.

2 MR. GALLEGOS: You did note my abstention. Thank
3 you, Mr. Force. Let's go down to Item No. 23, Nick
4 Balido. And I will entertain a motion on this particular
5 case.

6 MR. FORCE: Motion to accept.

7 MR. GALLEGOS: Okay. It's been moved to accept
8 by Mr. Force. Do I hear a second?

9 MR. COON: Second.

10 MR. GALLEGOS: Seconded by Sheriff Coon. Is
11 there any discussion on this? Seeing none, all those in
12 favor say aye.

13 THE BOARD: Aye.

14 MR. GALLEGOS: All those opposed say nay. {No
15 response.} Okay. Motion passes. Let's go to Item 25,
16 Steven Gutierrez. I will entertain a motion on that.

17 MR. SHANDLER: Twenty-five and 26 are requests,
18 so you would actually either do a motion to approve the
19 request or to reject their request.

20 MR. GALLEGOS: All right.

21 MR. SCHULTZ: I would move we reject the request
22 and refer this back to Mr. Ortiz.

23 MR. GALLEGOS: And that's on Item 25, Steven
24 Gutierrez, right?

25 MR. SCHULTZ: Yes, sir.

1 MR. GALLEGOS: All right. Do I hear a second on
2 that motion?

3 MR. JONES: Second.

4 MR. SEGOTTA: Second.

5 MR. GALLEGOS: Is there any discussion? Seeing
6 none, all those in favor say aye.

7 THE BOARD: Aye.

8 MR. GALLEGOS: All those opposed say nay. {No
9 response.} Mr. Ortiz.

10 MR. ORTIZ: Can I just clarify? You said to
11 remand it back to our office. Is that what Chief Schultz
12 said? To start the process over again?

13 MR. SCHULTZ: No. Actually, the original
14 standing -- the original finding would stand.

15 MR. ORTIZ: Okay.

16 MR. GALLEGOS: Let's move onto the next item,
17 which is a request from Michael Freddie Trujillo. And
18 I'll entertain a motion on that.

19 MR. FORCE: I'll motion for a denial for the
20 request of reinstatement.

21 MR. GALLEGOS: It's been moved by Mr. Force. Do
22 I hear a second?

23 MR. JONES: Second.

24 MR. GALLEGOS: Seconded by Sergeant Jones. Is
25 there any discussion?

1 MR. SEGOTTA: Mr. Chairman, I abstain.

2 MR. GALLEGOS: The record will note that
3 Chief Segotta abstains from voting on this. Any other
4 discussion? Seeing none, all those in favor say aye.

5 THE BOARD {Except for Mr. Segotta}: Aye.

6 MR. GALLEGOS: Any opposition say nay. {No
7 response.} Okay. That takes us down to Item 27, Gary
8 Graves. I'll entertain a motion on this.

9 MR. SEGOTTA: So moved to accept the hearing
10 officer's report.

11 MR. SHANDLER: That's one part of it. And what
12 penalty would you like?

13 MR. SEGOTTA: The revocation. I think just a
14 revocation on this one, correct?

15 MR. SHANDLER: This would be a full revocation?

16 MR. SEGOTTA: A full revocation, yes.

17 MR. GALLEGOS: Does everybody understand the
18 motion? Okay. Do I hear a second?

19 MR. COON: I'll second it.

20 MR. GALLEGOS: Seconded by Sheriff Coon. Any
21 discussion? Hearing none, all those in favor say aye.

22 THE BOARD: Aye.

23 MR. GALLEGOS: All those opposed say nay. {No
24 response.} Motion passes. The next one is Robert
25 Hollingsworth. I'll entertain a motion on that regarding

1 the hearing officer's report.

2 MR. FORCE: I'll make a motion for a 12-month
3 suspension and one-year probation.

4 MR. GALLEGOS: All right. Do I hear a second?

5 MR. SCHULTZ: Second.

6 MR. GALLEGOS: Seconded by Chief Schultz. Any
7 discussion? Seeing none, all those in favor say aye.

8 THE BOARD: Aye.

9 MR. GALLEGOS: Any opposition say nay. {No
10 response.} Okay. Next item is Anthony Molina.

11 MR. FORCE: I'll motion for a two-year suspension
12 with two-year probation, ethics, and a 16-hour community
13 service.

14 MR. PEREZ: Second.

15 MR. GALLEGOS: It has been moved and seconded.
16 Is there any discussion?

17 MR. SEGOTTA: Mr. Chairman, I abstain.

18 MR. GALLEGOS: The record will reflect the
19 abstention. Any other discussion? Hearing none, all
20 those in favor say aye.

21 THE BOARD {Except for Mr. Segotta}: Aye.

22 MR. GALLEGOS: Any opposition say nay. {No
23 response.} All right. That passes. The next one is
24 Peter Rivera. And I'll entertain a motion on that.

25 MR. FORCE: Mr. Chairman, on the previous -- on

1 Mr. Molina.

2 MR. GALLEGOS: Yes.

3 MR. FORCE: I would like to insert into the
4 record, if I could, that one of the issues that we
5 discussed was the issue of Mr. Molina fictitiously
6 submitting time reports and acquiring state funds when the
7 question was to whether he was working or not was still a
8 big question.

9 So that's why the Board considered a two-year
10 suspension.

11 MR. GALLEGOS: Very good. Thank you, Mr. Force.

12 Is there any other additions to that? {No response.}

13 Okay. Thank you. Let's move onto the next item, which is
14 Peter Rivera. And I'll entertain a motion on that.

15 MR. SCHULTZ: Mr. Chairman, I'd make the
16 recommendation that this Board take no action. This is
17 beyond the scope of the Board. However, that we would
18 send a letter of recommendation that Officer Rivera attend
19 domestic violence training.

20 MR. GALLEGOS: Okay. Is there a second to that
21 motion?

22 MR. PEREZ: Second.

23 MR. GALLEGOS: All right. It's been moved by
24 Chief Schultz and seconded by Mr. Perez. Any discussion
25 on the motion? Hearing none, all those in favor say aye.

1 THE BOARD: Aye.

2 MR. GALLEGOS: Any opposition say nay. {No
3 response.} Okay. That does it for those.

4 MR. HOLMES: Excuse me. Question. Would that be
5 a cautionary letter? In the form of a cautionary letter
6 or just a --

7 MR. SCHULTZ: Letter of recommendation.

8 MR. HOLMES: Okay.

9 MR. GALLEGOS: So the next item we're going to
10 deal with is I will entertain a motion to return to
11 executive session. We have one more item to discuss.

12 MR. SHANDLER: Mr. Chairman, we're going to
13 return to Item No. 5, Director's Report, and to make a
14 motion to go into executive session to discuss personnel
15 matters.

16 MR. GALLEGOS: Okay. Do I hear a motion?

17 MR. PEREZ: So moved.

18 MR. GALLEGOS: Moved by Mr. Perez. Do I hear a
19 second?

20 MR. JONES: Second.

21 MR. GALLEGOS: Seconded by Mr. Jones. And we
22 will have a roll call vote.

23 MS. CROKER: Donald Gallegos?

24 MR. GALLEGOS: Yes.

25 MS. CROKER: Chief Faron Segotta?

1 MR. SEGOTTA: Yes

2 MS. CROKER: Sheriff James Coon?

3 MR. COON: Yes.

4 MS. CROKER: Sheriff Raymond Schultz?

5 MR. SCHULTZ: Yes.

6 MS. CROKER: Sergeant Arsenio Jones?

7 MR. JONES: Yes.

8 MS. CROKER: Robert Force?

9 MR. FORCE: Yes.

10 MS. CROKER: Bernardo Perez?

11 MR. PEREZ: Yes.

12 MR. GALLEGOS: Okay. Motion passes. We will

13 have a short executive session.

14 (Off the record from 4:35 until 4:42 p.m.)

15 MR. GALLEGOS: We're back, and I'll entertain a

16 motion at this time to return to regular session.

17 MR. SCHULTZ: So moved.

18 MR. PEREZ: Second.

19 MR. GALLEGOS: Seconded by Mr. Perez. And this

20 is a roll call vote.

21 MS. CROKER: Donald Gallegos?

22 MR. GALLEGOS: Yes.

23 MS. CROKER: Chief Faron Segotta?

24 MR. SEGOTTA: Yes

25 MS. CROKER: Sheriff James Coon?

1 MR. COON: Yes.

2 MS. CROKER: Sheriff Raymond Schultz?

3 MR. SCHULTZ: Yes.

4 MS. CROKER: Sergeant Arsenio Jones?

5 MR. JONES: Yes.

6 MS. CROKER: Robert Force?

7 MR. FORCE: Yes.

8 MS. CROKER: Bernardo Perez?

9 MR. PEREZ: Yes.

10 MR. GALLEGOS: We're back in regular session.

11 MR. SHANDLER: Can you attest that we just talked
12 about personnel matters?

13 MR. GALLEGOS: Yes, I do so attest. All right.

14 ITEM #31: SCHEDULING OF NEXT MEETING

15 MR. GALLEGOS: Our next item is next meeting.

16 MR. ORTIZ: December 8th in Albuquerque. And
17 that would be the day just before the Policing in the 21st
18 Century conference, if that's acceptable.

19 MR. GALLEGOS: And we'll get the location and
20 stuff by e-mail?

21 MR. ORTIZ: Yes. I'm looking possibly at the
22 Sheraton right there on -- what is it -- Louisiana and
23 Menaul. On December 8th, a Tuesday.

24 MR. GALLEGOS: Is there anything else before we
25 go to adjournment? All right. I'll entertain a motion to

1 adjourn.

2 MR. COON: I have one thing, sir. The schedule
3 for the Law Enforcement Academy is Monday through Friday,
4 8:00 to 5:00. In talking to some different police heads,
5 sheriffs, we never to get to see our guys and ladies when
6 they go to the academy. They get in late on a Friday
7 night; they leave Sunday afternoon.

8 I never get to visit with them how things are
9 going. With the academy being short right now on
10 personnel, I would like to see if it would be feasible to
11 work a schedule for a 10-hour, four-day week, Monday
12 through Thursday through the academy and see if it
13 wouldn't work out that way.

14 I would think this Board runs the Law Enforcement
15 Academy, so it would -- I would think it would be our
16 jurisdiction to be able to do that. I don't know if
17 that's going to step on the toes of the cabinet secretary
18 or not, but we're the governing Board over the Law
19 Enforcement Academy. And I would think that would be
20 possible that maybe we can do that.

21 MR. ORTIZ: And if I just read from the State
22 Statute 29-7-4, powers and duties of the Board, under B,
23 it says, "The Board shall develop and implement a planned
24 program of basic law enforcement training and in-service
25 law enforcement training, a portion of which may be

1 conducted on a regional basis."

2 So I think based on that, that does grant the
3 Board the authority to develop and implement the program.

4 MR. GALLEGOS: I think what we should do probably
5 then, Zack, if Sheriff Coon requests this to be an agenda
6 item for the December 8th meeting, is that the proper way
7 to do it? It's just brought up. It wasn't part of the
8 agenda here.

9 MR. SHANDLER: It's probably a meaningful change
10 that probably should be an agenda item.

11 MR. COON: That's fine.

12 MR. GALLEGOS: Art, just take that and --

13 MR. ORTIZ: If I'm not fired at the time, I'll be
14 here.

15 MR. GALLEGOS: Requested by Sheriff Coon, make
16 sure you emphasize that.

17 MR. COON: Put it on me, Art. He can't fire me.

18 MR. ORTIZ: Well, my boss is over there, so.

19 MR. SEGOTTA: I didn't hear anything.

20 MR. GALLEGOS: Is there anything else before we
21 entertain -- there's a few hearty souls that have stayed
22 with us. Thank you all.

23 MR. ORTIZ: I just want to clarify one thing,
24 though. That schedule would be for the students, not the
25 staff. The staff would still be on the five eights. Just

1 to clarify that, because I think that's --

2 MR. SEGOTTA: That's part of the sticking point.

3 MR. ORTIZ: Right. But I want that clarified so
4 he doesn't hear that I put my staff on four tens. Because
5 then I would be fired.

6 MR. GALLEGOS: Probably worthy of full discussion
7 and we'll do that in the form of an agenda item and then
8 get through that. Unless time is of the essence, and I
9 don't see that it is, so.

10 ITEM #32: ADJOURNMENT

11 MR. GALLEGOS: With that in mind, thanks again
12 everyone for sticking with us. I'll entertain a motion to
13 adjourn.

14 MR. PEREZ: I move that we adjourn.

15 MR. COON: I second.

16 MR. GALLEGOS: Seconded by Sheriff Coon, I
17 believe. And all those in favor say aye.

18 THE BOARD {Except for Mr. Schultz}: Aye.

19 MR. GALLEGOS: Any opposition say nay.

20 MR. SCHULTZ: Nay.

21 MR. GALLEGOS: Thank you, all.

22 (The hearing adjourned at 4:47 p.m.)

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C E R T I F I C A T E

I, Tanya M. Nims, a Certified Court Reporter, do hereby certify that the Proceedings of the above-entitled hearing were reported by me stenographically on September 24, 2009, and that the within transcript is a true and accurate transcription of my shorthand notes.

I further certify that I am neither an attorney nor counsel for, nor related to or employed by any of the parties to the hearing, and that I am not a relative or employee or any attorney or counsel employed by the parties hereto, or financially interested in the hearing.

TANYA M. NIMS, RPR, NMCCR
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