

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NEW MEXICO LAW ENFORCEMENT ACADEMY
REGULAR BOARD MEETING AND PUBLIC HEARING

Thursday, March 25, 2010
9:07 a.m.
4491 Cerrillos Road
Santa Fe, New Mexico 87507

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

BOARD MEMBERS

Gary K. King, Attorney General

James Coon
Arsenio Jones
Bernardino Perez
Ronald Reeves
Raymond Schultz

ALSO PRESENT

Monique Croker
Nan Erdman
Ernest Holmes
Arthur Ortiz
Zachary Shandler
Marissa Tapia

1	AGENDA ITEM INDEX		
2			MAR
3	Item		
3	1	Call to Order	6
4	2	Roll	6
5	3	Approval of Agenda	6
6	4	Approval of Minutes, December 8, 2009	9
7	5	Director's Report	9
8	6	Public Comments	24
9	7	Public Hearing: 10.29.1.11 Reporting Requirements and LEA 90A Affidavit Form for Reporting Misconduct	24
10			
11	8	Discussion: 4/10 Work Week for Cadets at Academy	70
12			
13	9	Ratification of Certifications for Law Enforcement Officers	72
14	10	Ratification of Certifications for Public Safety Telecommunicators	74
15			
16	11	Discussion: Statewide Reality Based Training Standards	75
17	12	Discussion: Senate Bill 55 Missing Person and Amber Alert Training	87
18			
19	13	LEA Memorial - NM State Police Sergeant Andrew F. Tingwall, June 11, 2009	97
20	14	LEA Memorial - Sandoval County Sheriff's Dept. Sgt. Joseph A. Harris, July 16, 2009	99
21			
22	15	LEA Memorial - Isleta Pueblo Deputy Luis Abeyta, January 12, 1921	101
23			
24	15A	LEA Memorial - US Homeland Security Customs & Border Protection Agent Julio E. Baray, September 24, 2007	100
25			

		AGENDA ITEM INDEX (CONTINUED)	
1			
2	16	LEA Memorial - Torrance County Sheriff's Deputy James M. Chase, April 1905	103
3			
4	17	LEA Memorial - Valencia County Sheriff's Deputy Charles Cunningham, March 1930	105
5	18	LEA Memorial - Sierra County Sheriff's Deputy Warren Ruiz, October 1942	107
6			
7	19	LEA Memorial - DEA Agent Andrew P. Sanderson, September 23, 1944	108
8	20	LEA Memorial - Loma Parda Town Marshal Edward Seaman, 1872	110
9			
10	21	LEA Memorial - San Marcial City Marshal Charles Walker, June 1881	111
11	22	Nikki Baca	114
12	23	Marisa Barragan	119
13	24	Don Begay	124
14	25	Daniel Benoit	125
15	26	Sterlin Desmare	129
16	27	Kurt Fiskum	133
17	28	Paul Gomez	142
18	29	Paul Gomez	144
19	30	Arturo Holguin	154
20	31	Scott Kellogg	158
21	32	Algin Mendez	160
22	33	Chris Pino	164
23	34	Jaime Reyes	174
24	35	Weston Richardson	182
25	36	Stephen Ryan	184

1		AGENDA ITEM INDEX (CONTINUED)	
2	37	Patricia Tarango	195
3	38	Raymond Williams	200
4	39	Virginia Ensey	207
5	40	Joe Baca	209
6	41	Robert Ortega	210
7	42	Scheduling of Next Meeting	235
8	43	Adjournment	236

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 ITEM #1: CALL TO ORDER

2 MR. PEREZ: Good morning. We understand the
3 Attorney General is on his way; but since he has not
4 arrived, we're going to start the meeting without him and
5 he can take over when he arrives.

6 ITEM #2: ROLL

7 MR. PEREZ: My name is Bernardo M. Perez. I'm a
8 citizen representative at large. And I believe that we
9 have to have a roll call.

10 MS. TAPIA: The Honorable Gary King. Ronald
11 Reeves.

12 MR. REEVES: Here.

13 MS. TAPIA: Chief Faron Segotta. Sheriff James
14 Coon.

15 MR. COON: Here.

16 MS. TAPIA: Chief Raymond Schultz.

17 MR. SCHULTZ: Here.

18 MS. TAPIA: Sergeant Arsenio Jones.

19 MR. JONES: Here.

20 MS. TAPIA: Robert Force. And Mat Perez.

21 MR. PEREZ: Here.

22 ITEM #3: APPROVAL OF AGENDA

23 MR. PEREZ: The third item on the agenda is the
24 New Mexico Law Enforcement Academy Board members request
25 to approve the agenda provided for the March 25th, 2010

1 meeting. Do we have that available?

2 MR. ORTIZ: Excuse me, Mr. Chairman. Item No. 3,
3 the approval of the agenda, can we go ahead on that.
4 There is going to be a change on the agenda. So I'd like
5 to bring that to your attention and the board members'
6 attention.

7 It's going to be under the new business under --
8 it's going to be labeled as 15A. It's going to be the
9 name of Julio Baray, a U.S. Customs officer that was
10 killed in the line of duty.

11 And we just found out about that information
12 after the packets were sent. So I am including him in
13 there, and we'll provide you with the information on
14 Mr. Baray. You have some handouts, and there's some
15 information about that as well.

16 And I believe that is the only change to the
17 agenda.

18 (At this time, Mr. King is present.)

19 MR. PEREZ: Okay. I see that the Attorney
20 General has arrived in time. I will turn it over to
21 Mr. King.

22 MR. KING: Not quite in time, Mr. Chairman.

23 MR. PEREZ: We just had the roll call. And
24 Mr. Ortiz just informed us that there is a new item, which
25 was in your package there in addition, regarding a slain

1 officer by the name of Agent Julio E. Baray, who is with
2 U.S. Customs. And that will become Item 15A.

3 MR. KING: Thank you. Well, let's -- my
4 apologies for being a little late this morning. There are
5 lots of things going on in the world today. I'm going to
6 turn this back over to you in about 10, 15 if we're not
7 done with my part.

8 I think all you guys might all be interested in
9 this with a whole bunch of attorneys generals from around
10 the country to decide what we're going to do with regard
11 to litigation on healthcare, so.

12 That being said, have we approved the agenda?

13 MR. PEREZ: No, we did not, sir.

14 MR. KING: We've added this one item, right?

15 MR. PEREZ: Yes.

16 MR. COON: Mr. Chairman, I make a motion we amend
17 it to include 15A.

18 MR. KING: Okay.

19 MR. PEREZ: Second.

20 MR. KING: All in favor say aye.

21 THE BOARD: Aye.

22 MR. KING: So the agenda has been amended. Now,
23 a motion to approve the agenda as amended.

24 MR. PEREZ: I move that the agenda be approved as
25 amended.

1 MR. SCHULTZ: Second.

2 MR. KING: All in favor say aye.

3 THE BOARD: Aye.

4 MR. KING: Any opposed? {No response.} So the
5 agenda is approved.

6 ITEM #4: APPROVAL OF MINUTES, DECEMBER 8, 2009

7 MR. KING: The next item of the agenda is
8 approval of the minutes. Any comments, additions,
9 corrections to the minutes?

10 MR. COON: Mr. Chairman, I make a motion we
11 approve the minutes of the last meeting.

12 MR. KING: Thank you. I have a motion to approve
13 the minutes. Is there a second?

14 MR. JONES: Second.

15 MR. KING: All in favor say aye.

16 THE BOARD: Aye.

17 MR. KING: Any opposed? {No response.}

18 ITEM #5: DIRECTOR'S REPORT

19 MR. KING: Okay. Next item on the agenda is the
20 director's report. Mr. Ortiz.

21 MR. ORTIZ: Good morning, Chairman, Board
22 Members. Also just for the record I think I'm sure Tanya
23 will have it but to let the record reflect that Mr. King
24 is now present.

25 On Tab No. 5 is the director's report. The

1 following is a description of activities at the New Mexico
2 Law Enforcement Academy that have transpired since
3 December 8th, 2009 board meeting, which was held in
4 Albuquerque. I'd like to begin with an introduction of a
5 new board member.

6 Ronald W. Reeves was appointed by Governor
7 Richardson, and he will be the new board member taking
8 Donald Gallegos's place. So let me do an introduction,
9 and then I'll let Mr. Reeves say a few words.

10 Ron was born in Chicago in 1948. He joined the
11 army and volunteered to go to Vietnam where he served in
12 military intelligence. After his military service, he
13 attended Southern Illinois University, where he earned his
14 associate's degree in police science and later a bachelor
15 of science degree in administration of justice.

16 He worked his way through college as a law
17 enforcement officer and then graduated from the Illinois
18 State Police Academy in 1973. After college, he worked as
19 a counselor in the Colorado State Penitentiary in
20 Cañon City, where he worked with a wide variety of
21 inmates, including death row inmates.

22 A couple of years later he decided to move to
23 Las Cruces to go into business with his family. His
24 brother convinced him to go back to school, so in 1984 --
25 excuse me, 1988 he started law school at the University of

1 Arkansas, Little Rock, Arkansas.

2 He was in private -- he was in a private law firm
3 in Las Cruces for about three years before getting hired
4 by the district attorney's office there in Las Cruces, who
5 is Greg Valdez. He and his wife moved to Tucumcari in
6 1997, where he worked as a prosecutor until he was elected
7 district attorney in 2001.

8 Mr. Reeves, at this time if you have a few
9 words. And I'm just going to ask you to go ahead and pick
10 up the mike so we can all assist Tanya with her job.
11 Thank you, sir.

12 MR. REEVES: Thank you, Mr. Ortiz. I'd like to
13 say first that I feel truly honored to be on this board.
14 And I think this is going to be a wonderful new learning
15 experience for me. I'm not very good at making long
16 speeches. I know this meeting is going to go on.

17 So I'm going to be very brief to say that I will
18 do my best to adhere to the high standards of
19 professionalism and integrity that law enforcement not
20 only demands, but that law enforcement deserves. And with
21 that, I'll thank you very much for your welcome.

22 MR. ORTIZ: At this time I'd like to welcome you
23 aboard. Thank you, Mr. Reeves.

24 {Clapping.}

25 MR. ORTIZ: On another note, the tribal chief's

1 representative is absent today. That position is vacant.
2 Kevin Mariano, he resigned his position. So I am
3 currently searching for a tribal chief's representative.
4 So if the board has any suggestions, please contact me so
5 we can get that position filled.

6 Also at the last meeting I brought up about the
7 mandatory furloughs. And next week we'll be taking the
8 fourth furlough on April the 2nd. And then we'll have one
9 more for this fiscal year. The basic bureau, they've been
10 operating on an alternative schedule to match the
11 furlough, so it doesn't affect the class.

12 Regarding the misconduct, we had 129 cases for
13 2009. Currently, there's 50 open cases. Twenty of those
14 are before you today. So if we get those resolved, that
15 means we'll be in good shape with only 30 cases pending.
16 Eight of those cases are pending formal hearings. And
17 nine are pending court hearings.

18 Okay. Due to the hiring freeze, five positions
19 remain vacant at the time of this writing. And on
20 March 19th, we did terminate one of the instructors at the
21 Law Enforcement Academy. So we're down six positions
22 now. And that position, according to Secretary Denko,
23 will not be filled. So we only have two instructors with
24 the basic class.

25 Instructor Phil Hill was named employee of the

1 quarter for October 1st, 2009 through December 31, 2009.
2 With the basic class, he did an outstanding job. And
3 interim Basic Bureau Chief Ed Garcia is our employee of
4 the quarter for January 1st through March 31st of this
5 year.

6 Again, the two of them with that basic class,
7 they did an outstanding job. And we are very, very
8 pleased with their performance. Being shorthanded and
9 without the assistance of the adjuncts, they were
10 tremendous.

11 The Law Enforcement Memorial website, if you look
12 in your packets, I did include a printout for you. And I
13 will share that with you and the audience as well. But
14 what we're doing for the Law Enforcement Memorial is we're
15 creating a website for the fallen officers.

16 That should be up and running here soon. We just
17 got an agreement with the publisher and the author that
18 created New Mexico's Finest book, which just came out as
19 well. But what you'll be able to do is pull up this
20 website and put in the officer's name, the fallen officer;
21 and the story regarding the circumstances with his death
22 will come up.

23 And I hate to reach over, but I'm going to borrow
24 Mr. Reeves's book. Each board member, I've provided you
25 with a new edition of it. This is available online. They

1 are selling it for \$20. We will be providing them here at
2 the Law Enforcement Academy as well.

3 We will also be selling it. And this is
4 something I want to ask the board. What we're planning on
5 doing with those funds that we do make from the book is
6 put that back into the memorial fund to upgrade and
7 maintain the Law Enforcement Memorial.

8 Another thing I think I'd like to do is if
9 there's any funds available for the surviving children of
10 these fallen officers for any scholarship funds. So I'd
11 like the board to consider that. And Mr. Shea, Mark Shea,
12 made a good recommendation that when we do get our website
13 up to maybe put something in there about donations, if
14 people would like to donate to the memorial.

15 Talking with legal and Secretary Denko, there
16 could be some problems with the anti-donations clause.
17 But if we become a nonprofit organization -- and I'll get
18 with legal and we'll work on that to see about getting
19 funds -- where we would have a bank account and the money
20 would just go into that fund there.

21 I could probably get with the Attorney General's
22 Office on establishing that as well.

23 MR. KING: I would just add, I -- actually, the
24 anti-donation clause says that the government can't give
25 money to private individuals. It doesn't say that private

1 individuals can't give money to the government. There may
2 not necessarily be a problem, but we'll look at it.

3 MR. ORTIZ: Okay. And then also on that web
4 page, when you pull it up, it's going to have the agency
5 on there. Like APD, it has Albuquerque Police Department,
6 fallen officers, 14. You'll be able to click on that and
7 pull it up and get a history of the agency.

8 And then over on the right side, it will give you
9 the total line of duty deaths and tell you how many died
10 in traffic accidents, gun fire, and so on and so forth.
11 So that should be up and running hopefully before the
12 memorial.

13 Another thing we're going to do is create a kiosk
14 out here, where we'll have a computer where people when
15 they come and they see the photographs -- they see the
16 photographs but they ask, "What happened? How did he
17 die?"

18 Well, now they can just turn around and enter his
19 name and the actual story that's in here will be able to
20 come up. The author and the publisher signed an agreement
21 allowing us to utilize their text.

22 So I was pleased with that. We just can't print
23 it online. It will be where they can view it online and
24 they can view it on the kiosk. So that will be very
25 nice. Also with this book, we will be providing one to

1 each family of the fallen officer, to the board members.

2 We'll give one copy to every agency as well. And
3 then to the legislature. And then what we have left, we
4 will sell. So just an update on that. Any questions on
5 that? Any comments or suggestions? Okay.

6 And if Gil Najjar will help me and then Gary
7 King. With the 13 district attorney offices -- and I know
8 there's one that split. I think it was the Tenth Judicial
9 or Eleventh with Farmington and Gallup.

10 So Mr. Najjar sent letters to all 200 agencies.
11 And we received five letters regarding report writing.
12 We've had a lot of discussions with the district attorneys
13 around the state that there needs to be some improvements
14 on the report writing.

15 That they are learning the skill here; and then
16 they're getting back to the agencies possibly and the
17 agencies are saying, "Well, no, that's not the way we
18 write reports." Well, if -- it's our belief that we
19 should write the reports to assist the district attorneys
20 in their prosecution.

21 So we feel we need to upgrade and enhance the
22 report writing program. And Mr. Najjar's been working with
23 CNM on that as well to get that going. But we've asked
24 for feedback from the district attorneys and from the
25 agencies.

1 We only got responses from five agencies and only
2 one district attorney. And I don't know if Mr. Barry is
3 here? Gil, can you see if he's here? But we invited him
4 to come up and share his thoughts on the report writing.

5 At this time, Gil, do you have anything you'd
6 like to add on that?

7 MR. NAJAR: No.

8 MR. ORTIZ: Mr. Attorney General, we're asking
9 possibly if you could maybe contact these district
10 attorneys and kind of give them a little push to getting
11 in touch with either Gil or myself and seeing what we can
12 do to upgrade the report writing program.

13 MR. KING: I'll do that. Thank you, Mr. Ortiz.
14 We'll sit down later on and see what we need to do. But,
15 yeah, I'm happy to do that.

16 MR. ORTIZ: I'll just go over the basic bureau
17 report here briefly. Basic Class 178 began on
18 September 14th, 2009 with 39 cadets. And 28 cadets
19 graduated on February 3rd, 2010. Twenty-seven cadets
20 successfully passed the LEOCE test.

21 And due to an injury, we had one cadet that needs
22 to come back and complete defensive tactics, and then
23 she'll be allowed to take the LEOCE. Class 179 is
24 scheduled to begin this Sunday, March the 28th. And we
25 have 39 cadets that will be coming aboard on that.

1 At this time, I'll call on Mark Shea to present
2 the advanced bureau report. Any questions for me
3 regarding the basic or director's report?

4 MR. KING: I'm not seeing any currently. So go
5 ahead, Mr. Shea.

6 MR. SHEA: Thank you, Mr. Chairman, Members of
7 the Board. For the period starting on December 9th, 2009
8 through today, I'll give you a brief synopsis of the
9 training that the advanced training bureau has completed.

10 There have been some additions to what was in the
11 director's bullets that were in your packet. We did run
12 two certifications by waiver previous training classes, 68
13 and 69, during that period. Class 68 had 15 students --
14 or correction, 14 students. All 14 graduated and took the
15 LEOCE and reactivated their certification.

16 Class 69 had 13 students in it. They graduated
17 on March 4th. And all 13 successfully completed and did
18 receive -- take their certification exams successfully.
19 We did -- your notes show 113 students and 6,228 contact
20 training hours. That's actually 140 students and 7,308
21 training hours for this training period.

22 The addition was we did -- or Western New Mexico
23 University's Police Academy No. 55 contracted with us to
24 provide their emergency vehicle operations training. They
25 had 27 cadets come up for a week.

1 We did complete their EVOT training for them. So
2 that was an additional 1,080 hours of training for those
3 cadets with Western. And that occurred on March 8th
4 through the 12th.

5 Some of the ongoing projects that the -- or that
6 the advanced training bureau is working on. These are
7 repeats from previous reports, so I'm not going to go over
8 them other than just to do a couple highlights. One is
9 that we always participate in at the end of the year the
10 Policing in the 21st Century conference.

11 And one of the integral participations of that is
12 Staff Attorney Elliott Guttman doing a legal update,
13 which he did with the Policing in the 21st Century
14 conference back in December 2009.

15 We have also -- Elliott Guttman has updated
16 again the total legal curriculum for the basic academy.
17 And he has also created that in an online format. You
18 have that CD with you. I have put about 40 CD's in the
19 back for the audience.

20 I would ask that since we do have limited
21 numbers, that -- I'm sorry. I guess that's not what I
22 have in the back for you. But I'll get to that. But we
23 have completed that update. It is all of the current --
24 curriculum for the legal block is current as of the 22nd
25 of March. So all the case cites in there are current.

1 We're using that in the cert by waiver and the
2 basic training, giving that to our cadets and our students
3 prior to attending those classes to give them an
4 opportunity to read through the material to better
5 facilitate the law block, since we always get the request
6 that even though we're doing two weeks of legal it's not
7 enough.

8 So this is giving the students the opportunity to
9 read the material prior to Elliott giving that
10 presentation so they can formulate the questions they
11 might have. And also it gives them something to take back
12 with them as a reference that they can use along with
13 their legal manuals.

14 We have upgraded and repaired the turning target
15 system on our firearms range. That has been -- or it has
16 not been functioning for a little over a year now because
17 of equipment that had been damaged.

18 We have that back up. So that will upgrade our
19 firearms range to where it should be. We've also acquired
20 a second use of force simulator. Some people know them as
21 the FATS system, but it's our use of force training
22 system. So now we have two of them.

23 We have one that we have permanently installed in
24 our training room, and the second one is -- we'll keep as
25 portable so we can take that type of training on the road

1 around the state for agencies to use use of force
2 training.

3 We did update the 2010 reference guide. You have
4 a three-ring binder -- each board members -- that has the
5 completed 2010 reference guide. I have put CD's in the
6 back of the room for the audience. There's about 40 of
7 them back there, so please share. Don't take multiple
8 copies for agencies if we're running short.

9 All of that information is up on our website. So
10 the 2010 reference guide is on the website for download
11 from any agency or officer or citizen that would like to
12 have that. We're currently going through the website and
13 making sure that all references are to current material.

14 Hopefully, by the end of the week, everything on
15 the website will have been reviewed. And we will make
16 sure that any form reference, any application packet
17 reference is current to March of 2010.

18 Back to the firearms range just for a second. To
19 let the board know, the firearms range that we use for
20 basic training and advanced training is on leased land.
21 We have been leasing that land since the early 2000's. I
22 think back in the early 1997 or so.

23 And we do a year-to-year lease extension. What
24 is currently going on is the county of Santa Fe is
25 interested in bringing all of the law enforcement

1 agencies, federal, state, and local, in the northern
2 New Mexico area together and creating a new training
3 facility for firearms.

4 They would like to incorporate our current range
5 that we're leasing. Expand that to purchase about 250
6 additional acres. Have a joint-use project with the
7 National Guard. We would -- ultimately would like to move
8 our driving track out there so that we're not out here
9 next to the middle school.

10 And with the joint use for the National Guard,
11 they would do their driving training with their heavy
12 equipment, but the track would also be used for our police
13 officer training.

14 We've had several meetings. Proposals have been
15 sent to our federal delegation with -- to look for funding
16 sources. We're also looking at funding sources through
17 the county and the state in order to pay for this
18 project.

19 The price tag on this ranges from about
20 16.8 million all the way up to about 60 million. And
21 we're talking 60 million, we're talking about a large
22 indoor range and some other things. We would like to put
23 on tactical ranges, shoot house, an indoor range, upgrade
24 our current outdoor ranges, put in classrooms, storage
25 areas, all of this.

1 So the county is currently working on developing
2 a master plan. And as we move forward with this, we'll
3 keep the board apprised of what is going on with it. The
4 county is very serious about wanting to create this
5 regional firearms training facility. And we would be a
6 part of that.

7 As it stands now, we're continuing to lease our
8 current property. And that would be incorporated into
9 this larger master plan. And with that, I will entertain
10 any questions.

11 MR. KING: Okay. Questions for Mr. Shea?

12 MR. COON: Is JTF6 going to be used anywhere in
13 designing or building on this range?

14 MR. SHEA: At this time, I couldn't say that it
15 is. But we're looking for any and all partners and any
16 help whatsoever. We're looking at doing a site visit to
17 the 50-yard range in Amarillo Pantex facility, the
18 hundred-yard range at Oakridge, Tennessee. Both of those
19 are state-of-the-art ranges.

20 And the shoot house that is up in Los Alamos at
21 the labs. And that one, again, is state of the art. So
22 we're going to use that as some modeling to build what
23 we're going to put together.

24 MR. COON: Have you looked at FLETC?

25 MR. SHEA: We looked at FLETC also. And, again,

1 we're trying to partner. We've got the FBI. We've got
2 the federal BIA. We've got the state parks. We've got
3 Game and Fish. So some of the state agencies and the
4 federal agencies and FLETC is included in that.

5 MR. KING: Any other questions? Seeing none,
6 thank you, Mr. Shea. We appreciate it. Okay. Art,
7 anything else? You're done with your director's report?

8 MR. ORTIZ: Yes, sir.

9 ITEM #6: PUBLIC COMMENTS

10 MR. KING: Next item on the agenda then is public
11 comments. I don't see a sign-in sheet. But do we have
12 any comments?

13 MS. TAPIA: Nobody signed up for public comments
14 this morning.

15 MR. KING: Well, maybe we'll have another chance
16 later on. I'm not seeing any hands raised. I'm going to
17 move onto the next item on the agenda.

18 ITEM #7: PUBLIC HEARING: 10.29.1.11 REPORTING
19 REQUIREMENTS and LEA-90A AFFIDAVIT FORM FOR
20 REPORTING MISCONDUCT

21 MR. KING: Old business. Item No. 7, public
22 hearing. We have some business regarding the
23 Section 10.29.1.11 reporting requirements and LEA 90A
24 affidavit form for reporting misconduct.

25 This item on the agenda is a public hearing on

1 changes to board rules. And so I'm going to serve as the
2 hearing officer here. I guess I now declare the hearing
3 record open. Staff has proposed changes to the rule.

4 And we'll start with staff providing testimony on
5 why the rules should or should not be adopted. I will let
6 you know that the board is free to ask any questions
7 anytime during this.

8 And then after we do all the board questions,
9 we'll allow time for the audience to have testimony
10 regarding the rule. And we will basically hear all the
11 testimony, and then we'll have a period for discussion
12 amongst ourselves.

13 And then at the end of all that, I'll close the
14 hearing record; and we can have some deliberation and
15 such. I've got -- Zack has given me a set of rules, but
16 I'll talk about the rules on deliberation I think after we
17 have the testimony that comes in.

18 So that being said, Mr. Ortiz, I'll let you
19 describe the changes to the rule.

20 MR. ORTIZ: Mr. Chairman, Board Members.
21 Audience, also I noticed there are a few more packets back
22 there. I don't know if all of you got a packet. But it
23 is going to be under the "Reports," page 6. And it's
24 under 10.29.1.11, "Grounds for Denial, Revocation or
25 Suspension of Police Officer or Telecommunicator

1 Certification; Reporting Requirements."

2 And the changes -- I've met with the sheriffs'
3 association and the chiefs' association regarding this to
4 get some input. Sam Trujillo did a lot of work on this.
5 And I appreciate that. Sam was not able to be here
6 today.

7 But Chief Robert Boone from Rio Rancho is
8 familiar with it, and he's also going to speak along --
9 speak on behalf of Sam Trujillo regarding the input from
10 the associations.

11 But what the changes are is we have -- before
12 what the rule read was "Any agency employing a certified
13 law enforcement officer or telecommunicator who has
14 committed any act or acts identified in Subsection B or C
15 of 10.29.1.11 NMAC shall report such conduct to the
16 director within thirty (30) days."

17 When I came aboard three years ago, the average
18 was only 41 cases a year for the last six years being
19 reported. I knew there was a lot more misconduct going on
20 around the state and that agency heads were failing to
21 report that.

22 And it's my belief that we have to police
23 ourselves, and therefore -- and you're probably tired of
24 hearing this from me, but I've felt that we need to change
25 the rule and hold these agency heads accountable if they

1 fail to do their responsibility and report misconduct to
2 the Law Enforcement Academy.

3 Therefore, in getting with the sheriffs' and the
4 chiefs' association, the language that they have is
5 "...within thirty (30) days of completing an investigation
6 confirming the alleged misconduct. In every case, alleged
7 misconduct should {sic} be reported to the director if an
8 investigation is ongoing ninety (90) days after the agency
9 receives the initial report of misconduct.

10 "An officer or telecommunicator's resignation or
11 termination from employment does not relieve the agency
12 from its duty to file a misconduct report with the
13 Academy. All incidents of misconduct shall be reported
14 when a certified officer or telecommunicator is in
15 violation of 10.29.1.11 NMAC.

16 "Law enforcement agencies should undertake a
17 timely and thorough investigation to determine whether an
18 allegation of misconduct has been sustained. For the
19 purposes of this section, 'misconduct' is defined as any
20 act listed under Section 10.29.1.1 {sic} NMAC, even if
21 that act results in termination or resignation.

22 "The director will establish a reporting form to
23 be used in reporting misconduct. An agency's delay or
24 failure to report misconduct does not divest the board of
25 jurisdiction to take action under Section 29-7-13 NMSA

1 1978 and Section 29-7C-9 NMSA 1978."

2 MR. KING: Can I, Mr. Ortiz -- I'm going to make
3 one small correction just because from a legal standpoint
4 it's important as you read this. In the first sentence
5 you said the alleged misconduct "should" be reported. And
6 the statute says "shall" be reported, which is for lawyers
7 is an important distinction.

8 So the reporter will have -- I mean --

9 MR. ORTIZ: Okay.

10 MR. KING: You'll have that to look at whenever
11 you read the written part of the rule change in front of
12 you too. And I think everybody's talked about this. But
13 that "shall" actually is a very important part of what
14 we're talking about here. Yes?

15 MR. ORTIZ: Okay. Thank you, sir.

16 MR. KING: Go ahead.

17 MR. ORTIZ: At this time I'll call Chief Boone.
18 And then I believe also Mr. Radosevich also has some
19 comments.

20 MR. KING: Chief Boone, comments, please.

21 MR. BOONE: Thank you, Mr. Director,
22 Mr. Chairman, Members of the Board. The municipal police
23 chiefs' association is primarily concerned with our
24 responsibility to continue an investigation of misconduct
25 following either the resignation or retirement of an

1 officer.

2 We feel when that person leaves the agency that
3 our reporting responsibility, our investigative
4 responsibility should be terminated at that time. When he
5 leaves the agency, we simply do not have the manpower to
6 continue an investigation to complete that report to the
7 agency.

8 When we do have alleged misconduct, we report
9 that to the agency. However, the completion and
10 termination of the investigation is beyond our capability
11 at that point. With that, I'll stand for questions.

12 MR. KING: I'll tell you what. Let's -- you'll
13 be here to be available for questions. Let's get all of
14 the testimony in, and then we'll go to a questions
15 period. We'll have time for questions.

16 Thank you, Mr. Boone. I'm sorry.
17 Mr. Radosevich? Is that -- do you have a comment, too?

18 MR. RADOSEVICH: Yes, Mr. Chairman.

19 MR. KING: Go ahead and come on up.

20 MR. RADOSEVICH: Thank you, Mr. Chairman, Members
21 of the Board. I submit for your review in consideration
22 some additional wording to the proposed rule change. And
23 I'll just read this for the audience.

24 This wording would further define the lack of
25 good moral character. The filing of charges nor a

1 conviction would be required when considering misconduct.
2 This wording would be inserted at 29.1.11 {sic}, B4 and
3 C4. The first paragraph, "Failing to act to stop a
4 criminal act that results in the physical injury or
5 financial loss to an individual or entity."

6 The second would be "Directing, encouraging or
7 allowing an individual to violate a statute, ordinance, or
8 regulation that results in the physical injury or
9 financial loss to an individual or entity."

10 "Acting or failing to act in a manner that
11 interferes with or obstructs an administrative
12 investigation, hearing or application process."

13 And the last one would be "Performing the duties
14 of a police officer or public safety telecommunicator with
15 the knowledge that he or she does not meet the
16 requirements established by the Board for that position
17 and certification."

18 Thank you, Mr. Chairman.

19 MR. KING: When we have our deliberation, we'll
20 discuss all of these. I'm trying to get everything on the
21 table first, and then hopefully we'll have a good,
22 in-depth discussion of all of these issues.

23 Mr. Ortiz, anything else on your preliminary
24 discussion?

25 MR. ORTIZ: Yes. One thing I may have left out

1 that I should have mentioned is this misconduct reporting
2 form, this annual, that was provided to the chiefs' and
3 sheriffs' association. It is in your binder in there, a
4 copy.

5 At first I was asking for a quarterly by each
6 agency to report quarterly misconduct for that quarter.
7 What they did is they viewed it, the chiefs' and sheriffs'
8 association, they said we'll do it annually. In fact,
9 I've already been getting some submitted to me before it's
10 even been approved.

11 And I think they are in favor of that, that it
12 would be an affidavit sworn and notarized that this is a
13 misconduct that occurred within their agency and they
14 would report that -- I believe it was in January,
15 January 30th is when these would be due. So I would ask
16 that the board approve that form also.

17 MR. KING: Okay. Let me -- I'll get with Zack
18 and see where is the right place to talk about approving
19 the forms, so. Okay. Any questions for Mr. Ortiz first
20 from the board? Anybody?

21 We've actually discussed this topic quite a lot
22 in other meetings. So we've had a quite a lot of
23 discussion. Yes, Zack.

24 MR. SHANDLER: Mr. Ortiz, so I sent you a letter
25 about some of these questions. And I passed it out to the

1 board this morning. So I'll just read it along just to
2 get the director's interpretation of the rule.

3 So the first line is "Report misconduct within 30
4 days of completing my investigation confirming...." So
5 later on it talks about sustaining. So does confirming
6 mean sustaining?

7 MR. ORTIZ: No. Confirm and sustain is two
8 different things. Confirm means that there is an
9 allegation and that there will have to be an
10 investigation.

11 Sustained. Sustained -- let me see. Sustained
12 is a finding. Sustained indicates the employee committed
13 all or part of the alleged act and the act was unlawful or
14 violated policy.

15 MR. KING: I'm sorry to interrupt. Can we back
16 up a second? Where are you guys looking? Oh, you're
17 talking about the letter.

18 MR. SHANDLER: In the proposed rule, D, the very
19 first sentence, it's underscored, uses the word
20 "completing an investigation confirming the alleged
21 misconduct."

22 MR. ORTIZ: Right.

23 MR. SHANDLER: So does --

24 MR. ORTIZ: The agency would just have to confirm
25 that there is an allegation and that needs to be

1 investigated. And then after it's investigated, if it's
2 sustained that an act occurred that should be reported to
3 the Law Enforcement Academy, then they should report it.

4 MR. SHANDLER: Okay. I'm sorry, Mr. Chair. I
5 almost understood that, but then I lost you. So I'm a
6 chief. And so it comes to my desk that there's some type
7 of alleged misconduct. So what happens within the first
8 30 days? What do I have to do?

9 MR. ORTIZ: They investigate it, and if they feel
10 that there is a preponderance of the evidence there --
11 because that's all we go based on is preponderance of the
12 evidence. If there's a preponderance of evidence there,
13 then they should fill out the LEA-90 and send that to us,
14 notifying us that there's misconduct.

15 Along with that LEA-90 they can say that we're
16 just notifying you that it's being investigated, and our
17 investigation isn't complete. Once it's complete, we will
18 forward the report to you within the 90 days.

19 MR. SHANDLER: Okay. Mr. Chairman, going
20 forward. So I find a preponderance of evidence that there
21 may be misconduct. So I send the material to your
22 office. And then 15 days later I find out that I can't
23 sustain the allegations.

24 And I notify you to cancel your investigation?
25 Or are you free to keep going with your investigation?

1 How does that work?

2 MR. ORTIZ: We'll look at it in conjunction with
3 the Attorney General's Office. We'll review it. If we
4 feel it doesn't rise to the level at that point to bring
5 it before the board, then we will take no action.

6 MR. SHANDLER: Okay. And then continuing onto
7 the next bullet point. What if my investigation in terms
8 of sustaining or not sustaining takes more than 90 days,
9 then what happens?

10 MR. ORTIZ: You write my office and ask for an
11 extension. And I will listen to the reasons why you would
12 need an extension and grant you one if I feel that it's a
13 valid request.

14 MR. SHANDLER: And if it's a valid request, I can
15 keep working. What if it's not a valid request? Then
16 what happens?

17 MR. ORTIZ: Then submit what you have, and we'll
18 review it to see if it rises to the level of preponderance
19 to present it to the board.

20 MR. SHANDLER: Okay. Mr. Chairman, the next
21 bullet point -- and this was mentioned by the chief from
22 Rio Rancho. So my officer resigns or I fire him. Or
23 however the personnel office works. Does that mean I just
24 send you what I have that day? Or do I have to keep
25 working the investigation?

1 MR. ORTIZ: I believe it's the agency head's
2 responsibility to the citizens of the state of New Mexico
3 to continue with that investigation. If it's a bad
4 officer that should not be a certified officer, just
5 because he resigns should -- he can move on.

6 We've all heard of the rove cops, the gypsy cops
7 moving from agency to agency. The only way to stop that
8 is to have that agency continue with the investigation and
9 then submit their findings to the Law Enforcement
10 Academy.

11 Yes, it is only their license, their
12 certification, but that's how they get their employment
13 with other agencies. And I think we need to all work
14 together to ensure that when somebody is hiring an officer
15 that he's a good officer.

16 MR. SHANDLER: Just to be the devil's advocate
17 then, so I'm the chief of Rio Rancho -- not to put words
18 in his mouth; I apologize for that -- but I fire the
19 person. I don't have the resources to keep doing it.

20 You guys do. I'm going to send you the file.
21 You have your own investigator. You complete the
22 investigation. How are you going to respond to that?

23 MR. ORTIZ: Well, and again, it's not beyond
24 reasonable doubt like in a court case. It's preponderance
25 of the evidence. But if there's a preponderance -- why is

1 the guy being terminated? Why is he resigning?

2 Something's there. And I believe that it should
3 be explored, and it should be investigated.

4 MR. SHANDLER: Mr. Chairman, the next bullet
5 point goes down to I guess around the fourth sentence.
6 It's underscored. "All incidents of misconduct shall be
7 reported when" there is a violation.

8 So it seems like -- I don't understand that
9 sentence. If I already have to tell you within 30 days
10 that I have a preponderance, do I have to tell you again
11 when I confirm -- or that's probably not the right verb.

12 Do I have to come back to you later on and tell
13 you what my investigation concluded? Do I have a double
14 reporting requirement?

15 MR. ORTIZ: And forgive me. Like I said, in
16 order to get where we're at today, I have to kind of work
17 with the sheriffs' and chiefs' association, kind of a
18 give-and-take situation. This isn't everything I would
19 like. I would like it stronger.

20 But, yes, I understand their positions; and I'm
21 willing to work with them. And I feel bad that Sam's not
22 here today to kind of discuss that with you. But I really
23 don't have an answer for you on that.

24 I believe that whenever there is an incident of
25 misconduct and it meets the criteria that it should be

1 reported.

2 MR. SHANDLER: Okay. And two last things,
3 Mr. Chairman. The third line from the bottom that is
4 underscored has a citation to the rule, at least my copy
5 has "10.29.1.1." I think that should be "11," for the
6 record.

7 And then, Mr. Chairman, at the last meeting
8 there's some questions about public records and what
9 happens if the chiefs have to send this material to
10 Santa Fe. And I did a lot of research on this. And I
11 don't think this rule changes as of right now.

12 All this rule does is trying to memorialize the
13 requirements the chiefs have to do to send material. I
14 don't think it changes whether the material is
15 confidential or public.

16 And so the current status quo is that when a
17 chief sends the material and that material includes an IA
18 report, the IA -- that IA report has customarily been
19 deemed confidential or not a public document. But arrest
20 records or those things have been public.

21 So it doesn't matter if there's an NCA issued or
22 not or sustained or not, the status quo is that only the
23 IA reports are confidential and everything else is
24 public.

25 And we could discuss that a little bit more,

1 Chief Schultz, but that is what my research has shown so
2 far.

3 MR. SCHULTZ: Mr. Chairman, if I may. I thought
4 it was only the officer's statement under Garrity is
5 protected. Everything else within the IA case is public
6 record.

7 MR. SHANDLER: Mr. Chairman, Chief Schultz. A
8 couple years ago there was a debate, and I don't think it
9 was finally resolved. But I think the position that the
10 board took back then was just IA -- everything in the IA
11 report would be considered confidential.

12 But we're free to -- it was a heated discussion
13 back then. And we're free to -- I'm free to research that
14 more and talk about that more if you want.

15 MR. SCHULTZ: (Nodded.)

16 MR. ORTIZ: When I get a notice of a public
17 records request, I wait until the notice of contemplated
18 action has been served. And then I've been providing them
19 just with the notice of contemplated action because that
20 provides a synopsis for the allegations of the misconduct.

21 MR. SHANDLER: We may have to tweak that system a
22 little bit, but that's a discussion for another day.

23 MR. ORTIZ: Okay.

24 MR. SHANDLER: That's all I have, Mr. Chairman.

25 Thank you.

1 MR. KING: Mr. Ortiz, and then I actually have a
2 follow-up.

3 MR. ORTIZ: Also in your handouts, there's an
4 editorial from the Albuquerque Journal regarding the form
5 for reporting the misconduct. If you could just take a
6 look at that as well. I think it says quite a bit on how
7 we should continue to police ourselves.

8 MR. KING: Let me as a follow-up to the questions
9 that Mr. Shandler asked. The way I read this language the
10 way it's written is it says that there are really two
11 requirements here. One is the chief has to report within
12 30 days after completing his investigation.

13 But then the second sentence to me says if your
14 investigation takes longer than 90 days, then at that
15 90-day point after you received the allegation of
16 misconduct, you have to at least file some sort of report
17 with the Law Enforcement Academy to let them know that
18 there's an ongoing investigation.

19 I don't think that it requires you to complete
20 your investigation in 90 days. I think it means in any
21 circumstance within 90 days after an allegation of
22 misconduct that it's got to be reported so we're aware of
23 it.

24 So that's what I think that this rule says. So
25 the question regarding does that mean if I'm still working

1 on my investigation I still have to report to LEA in 90
2 days, yes, I think that that's true. But I don't think
3 that that terminates your investigation.

4 I think that we expect that everybody will use
5 the tools that they normally have at their disposal to
6 investigate these. I don't think this is going to change
7 the way that agencies that are doing a good job should do
8 their investigations.

9 I don't think that that language is confusing. I
10 will -- I think just because I have the floor I will --
11 well, actually, we'll do this during the deliberations. I
12 think that Zack is right. There's a typo in the version
13 that we have in front of us.

14 I think on that third line from the bottom of the
15 change of Subsection D it should say "10.29.1.11," not
16 "1.1." So we'll fix that whenever we do that.

17 MR. ORTIZ: Yes, sir.

18 MR. KING: Let me ask the committee then if there
19 is any further discussion on -- well, first, let me see is
20 there any further discussion on that block, on those
21 particular questions? Anything else that Mr. Shandler
22 raised that you have questions about? Okay.

23 Then with regard to what Mr. Radosevich brought
24 us, the wanting to add some more definitions of lack of
25 good moral character to -- actually, that would be to

1 10.29.1.11.

2 Is there any discussion on that? Is there any
3 desire to add this language or? Right now we're still in
4 the discussion stage. So do any of you guys think -- is
5 it a good idea to add this? Is it a bad idea to add
6 this? Something that we should save for another time?

7 All right. I'm not getting other questions, so
8 we'll -- when we get to the deliberations stage, we'll
9 decide what to do with those because they have been
10 submitted to us.

11 Okay. Anyone in the audience who desires to add
12 testimony with regard to this? Yes. Say your name so
13 that we have it for the record.

14 MR. BARNETT: Morning, Chair, Board. I'm
15 Sergeant Tommy Barnett with the Carlsbad Police
16 Department. I'm happy to be here, and I'm glad to take
17 the time to listen to me.

18 First of all, about the misconduct reporting, I'm
19 going to agree with the director on it does need to be
20 reported in a timely manner and that 90 days I think I
21 understand what he's saying about the investigation, not
22 necessarily having to be complete, but give him -- file
23 for an extension so you can do that.

24 On that, I only had one question on something
25 that the director did say whenever Zack asked about the

1 confirmed or sustained statement in the wording. The
2 director actually mentioned an unlawful act or against
3 policy. And, again, that still brings up that unclear
4 question of what exactly has to be reported, to me it
5 does.

6 So I think that's something that still needs to
7 be addressed, what exactly is considered moral turpitude
8 or a violation of such.

9 MR. KING: So you heard the additions that
10 Mr. Radosevich had. I don't know if you've had a chance
11 to read them or not. But do you think that that would be
12 a positive things to add those acts into the rule?

13 MR. BARNETT: Could I take a minute to read them?

14 MR. KING: Sure.

15 MR. BARNETT: I heard what he said, but I didn't
16 have it in front of me.

17 (The was a pause in the proceedings.)

18 MR. BARNETT: The first part is kind of fitting
19 into what I'm trying to talk about, as far as it doesn't
20 take a criminal conviction to do that. But where do we
21 draw the line on policy stuff? What should be reported
22 for individual agencies and their individual policy or
23 violations of such? That would be the question I have.

24 MR. KING: Well, and let me because I -- since
25 you raised the issue of policy, I'm looking at the acts in

1 here that you have to report. And I'm not seeing anything
2 in here that says policy. Mr. Ortiz might have said
3 policy, but. Zack --

4 MR. BARNETT: He mentioned policy.

5 MR. KING: I know he mentioned it. But what do
6 you think, Zack? You've read the rule. Is that -- it
7 strikes me that we're saying that you have to report
8 anything that's enumerated in Section B or Section C.

9 MR. SHANDLER: Mr. Chairman, at the last meeting
10 Mr. Force was kind of a proponent of a rule that would be
11 written a little bit differently that would specifically
12 define moral character. And that term is listed in the
13 statute, but it's not defined in the statute.

14 And he wanted -- and in previous additions there
15 was an itemized definition of the acts of moral
16 character. Because it's just a long-standing debate with
17 the chiefs of is good moral character, is that -- is the
18 act just a policy violation, like taking or bringing home
19 a gun that should be kept at the station, which I guess
20 would be a classic policy violation.

21 Or is this showing bad moral character? And how
22 do we know the difference? It would be great if it would
23 be written into the rule. But I think at the last meeting
24 I guess Mr. Trujillo and Mr. Ortiz decided that it would
25 be -- they decided not to go with Mr. Force's.

1 I guess Mr. Trujillo had them in draft two
2 meetings ago. So that specific definition of moral
3 character was deleted from the rule as proposed today.
4 And it seems that Mr. Radosevich is putting it back on the
5 table.

6 His language is a little bit different than in
7 previous meetings. But I think he's, again, trying to
8 make that effort to define moral character and put it in
9 the rules. I think that's kind of a summary of where
10 things are.

11 MR. KING: So just to be clear, the violation
12 that you would have to report would be committing an act
13 which indicates a lack of good moral character. That's
14 the language in the rule.

15 And so then I think we have had this ongoing
16 discussion about what does that mean. But it is the
17 language that's been there for a long time. And there
18 are -- you know, there's certainly room for discussion.

19 And I think that's the discussion here as to
20 whether we should define that further in this rule or are
21 there other ways to define that. And that's where the
22 policy issue comes in.

23 So the rule itself doesn't talk about policy per
24 se. It's that lack of good moral character. Then the
25 question is, is a violation of policy something that's an

1 act of good moral character. And I think your concern is
2 a valid one.

3 MR. BARNETT: I guess I would venture to say some
4 policies would probably fall into that, probably not every
5 policy, because policies are in fact just guidelines.

6 The -- I guess the only other issue I really have
7 with the reporting of the misconduct is I totally agree
8 with the director on the agencies finishing that
9 investigation so these people, when they do apply to
10 another agency, that other agency doing the background
11 investigation for a hiring process has all of the
12 information contained in that.

13 So somebody hiring somebody can make an educated
14 decision on whether that person is suitable for that
15 agency and that community. That would be my other
16 concern.

17 MR. KING: Okay. Thank you. Thank you for your
18 comments. Anybody else? Comments? Yes.

19 MR. HOLMES: Mr. Chairman, Members of the Board,
20 Members of the Audience. As you all know, there's been a
21 lot of discussions pertaining to what is moral character
22 or what is moral turpitude, all these kind of things.

23 Going back on history, pertaining to where that
24 originated, it originated in the military where an
25 officer -- a commissioned officer was expected to act

1 better than the ones below, below the rank of an officer
2 in the military.

3 So they used to wear white gloves, you know, when
4 they -- they were -- in other words their status was
5 higher than the noncommissioned officers. So they were
6 supposed -- they acted -- it was expected of them to act
7 in a higher more -- let's say right way, if there's
8 anything such as that.

9 Everybody acts -- can act differently. But I
10 think that the board here has a lot of discretion as to
11 it's up to you, it's up to the board to decide what is
12 moral turpitude. I think Mr. Perez mentioned at one time
13 the board has a lot of power.

14 And I don't think that the board has really
15 utilized all their power as a board. You have a lot of
16 say-so as to what the rules are and how they should be
17 interpreted. And I know we have an attorney.

18 And the attorneys that have been up here have
19 argued that point, "What is it?" And so far we haven't
20 been able to grasp it to the satisfaction of everybody.
21 And I don't think that's ever going to happen.

22 But I think that the board can determine what
23 that is and how to describe it and from there, you know,
24 do -- take whatever action is necessary. But one of the
25 things that -- going back to the 30-day reporting.

1 If an agency is not going to be that concerned
2 about a report of misconduct that's been brought to his
3 agency -- to the chief or whoever else is in charge and
4 it's going to take him more than 30 days -- unless it's a
5 very serious -- I know there's cases where that might be.

6 But in most cases that they deal with, they
7 should be looked at immediately. As a chief, if somebody
8 brought something to my attention that there was some
9 misconduct by one of the officers, I certainly would jump
10 on it immediately for a lot of reasons.

11 First of all, you don't want an officer who's
12 given the opportunity to continue doing what he is doing
13 without looking into it. First of all, you put the
14 officer on notice. We have a report of misconduct. We'd
15 like to -- we're going to look into it.

16 If he's doing any criminal activity, that will
17 make him stop. Going back on the other side, we're
18 talking about if an officer leaves the agency and then so
19 therefore the agency cuts off the investigation and says,
20 "We'll no longer continue the investigation," I think
21 that's wrong.

22 First of all, an investigation -- when you
23 conduct an investigation, it's you don't really -- you do
24 the investigation around the person because that's where
25 you're going to get your evidence from. You're not going

1 to get the evidence from the person that's accused.

2 You're going to build your case around him by
3 witnesses and all these kind of other things. And so you
4 really don't need the person to be there to make a good
5 investigation.

6 That will come later when all the evidence that
7 are discovered by doing the investigation on that person
8 is brought to the attention of the director, to the
9 academy. Then when the person we'll be calling -- there's
10 a preponderance of the evidence that this person has
11 committed some kind of violation.

12 So those are the comments I'd like to make
13 pertaining to what we talked about.

14 Going back a little bit on confirming -- what you
15 described a little bit -- confirming or sustained, not
16 sustained, exonerated, all those things. I think the
17 confirming is just the fact that there's a report made.

18 And then it doesn't mean that it's an alleged
19 violation or misconduct. Then once you look into it, it's
20 going to be unfounded, it's going to be sustained, or
21 exonerated.

22 So all we're asking for and I think the
23 director's asking for is it doesn't hurt for us to get
24 that information because we're not going to act on it
25 unless there's enough evidence. Thank you.

1 MR. KING: Thank you, Mr. Holmes. I see Chief
2 Boone back there. Do you have more comments?

3 MR. BOONE: Thank you, Mr. Chairman, Members of
4 the Board. Robert Boone, chief, Rio Rancho. My concern
5 is my ability to bring an investigation to termination.
6 Once an employee resigns or retires, I no longer have an
7 ability to compel the completion of that investigation.

8 Certainly a predisciplinary hearing that goes
9 along with a termination isn't available to me. There's
10 no way that I can compel the employee to come in and meet
11 with me at that time.

12 I think that this board does have that hammer to
13 bring that to a determination by bringing an employee in
14 front of them and finding out how that particular
15 investigation may come to a conclusion.

16 And if that employee does not come here and offer
17 you a reasonable explanation, then you can simply
18 terminate his certification. But that is not an ability
19 that I have to do.

20 The other thing is I know that Chief Holmes
21 brought up the fact that 30 days should be a sufficient
22 amount of time to conduct an internal investigation. And
23 simply with rules and criteria that require various
24 timetables in order to meet an investigation, we're simply
25 often times not able to complete that within a 30-day

1 period.

2 So I do think the 90 days is reasonable to get a
3 feel as to whether or not you have a possibility of
4 sustaining an investigation, but often times even 90 days
5 are not enough time to bring that to a conclusion.

6 And I'd like to remind the board that for several
7 agencies in the state that there were investigations that
8 were ongoing for periods of years versus 30 days or 90
9 days in the state. So I think it's shortening the time.

10 I think it's providing the incentive for agencies
11 to get it done. I think those are reasonable timetables.

12 But, again, I would ask that you would strongly
13 consider the responsibility of an agency to bring to
14 termination an internal investigation when either a
15 termination or a resignation takes place.

16 MR. KING: Thank you, Chief. Interestingly
17 enough, you know -- maybe this is me being a lawyer. But
18 in reading this it says that -- it says that the
19 resignation or termination of an officer or
20 telecommunicator doesn't relieve the agency from its duty
21 to file a misconduct report.

22 It doesn't really talk about what sort of
23 investigation you have to complete. It just says you have
24 to file a report, even if they.... So I suspect that in
25 the case where there's potentially some criminal activity

1 you'd want to complete the investigation.

2 But there may be other things where you would --
3 indeed their termination would cause you to say, "Okay,
4 they are gone. I'm going to file my report with the LEA,
5 and I think I met my duties under the rule."

6 It doesn't say you have to complete your
7 investigation. It says you have to file a report.
8 Correct?

9 MR. BOONE: That was not my understanding of
10 discussions with the --

11 MR. KING: Well, I'm just being literal in
12 reading the rule right now. So I suppose that once the
13 rule gets adopted that everybody will -- that there will
14 be some period after the rule is adopted, which is not
15 unusual for a law or a rule or anything, where everybody
16 will interpret what they think the rule means.

17 So I hate to speak for Mr. Ortiz here, but it
18 doesn't say you have to complete your investigation after
19 there's been a termination or resignation. It says you
20 have to file a report whether there's been a termination
21 or resignation.

22 So people may -- I'll raise that as an issue for
23 the board to think -- whether you think that that's
24 specific enough or not. But later on -- yes. Come on up
25 and give us your name.

1 MR. MCCLOSKEY: Yes, Mr. Chairman, Members of the
2 Board. Mark McCloskey, San Juan County Sheriff's Office.
3 Just to agree with Chief Boone, I would state that the
4 majority of officers that are being investigated for
5 misconduct that resign in the midst of that investigation,
6 we have very little-to-no contact with them once they
7 resign.

8 I think it would be an exceptional burden upon us
9 to complete an investigation once they are no longer in
10 our employment. Again, they are not compelled to talk to
11 us. And, quite frankly, we've got enough other issues to
12 deal with without worrying about the bad egg that's
13 already left.

14 Perhaps there's a form on the -- I don't know --
15 the number that we give that's on the form that's reported
16 to the academy when someone terminates their employment.
17 But perhaps there's a box on there that could say resigned
18 and in midst of an investigation or something that could
19 flag their resignation or their separation notice that
20 would notify the academy that this person left under
21 circumstances that might be investigated by someone else.

22 But to require us to do that I think is -- to
23 complete that investigation would be a little bit too much
24 for us to want to take on. And also I just wanted to
25 question a little bit of the language that's being

1 suggested.

2 The part that mentions after 90 days where it
3 says the agency receives the initial report of
4 misconduct. Quite a few of our internal investigations
5 are not the result of a report of misconduct. It's an
6 internally generated investigation where no complaint was
7 ever received.

8 It's just that we know some misconduct was --
9 possibly has taken place and that it's being
10 investigated. So I'm not certain that that's the best
11 language because unless your -- your initial report often
12 never occurs.

13 I think as far as the agency heads are concerned,
14 my main concern is what do I have to report and when do I
15 have to report it. I'm not opposed to reporting officer
16 misconduct. I think that needs to happen, and I'm in full
17 agreement that we need to police ourselves.

18 But the agency heads just need to know what do I
19 have to report and when do I have to report it. I think
20 that's all we're asking. And the language as far as
21 character and moral turpitude, it's been -- being battered
22 around for a long time now.

23 And I would like to see it spelled out a little
24 more clearly so that everyone knows what has to be
25 reported and when it needs to be reported.

1 MR. KING: Okay. Thank you. So more comments?

2 Yes, come on up.

3 MR. VELASQUEZ: Mr. Chairman, Academy Board, My

4 Fellow Officers. Anyway, my name is Bernard Velasquez.

5 I'm with the Tesuque Tribal Police Department, and I'm

6 also a former board member. And the thing is that -- my

7 concern is that I think everybody's in total agreement of

8 the word changes in this -- in this reporting.

9 The thing is that -- my concern is or our concern

10 is that what are -- what are the sanctions against the

11 departments that are not in compliance for failing to

12 report this.

13 I mean, there's two sides of this because then I

14 know for a fact that it is happening that before this even

15 happens, it's already swept under the rug and the guy is

16 gone. And we get that.

17 And the other thing is that some of these

18 departments do not even conduct a background. They say

19 they do but then when you actually really get down to it,

20 they really never do.

21 I mean, in an audit or whatever, I can't see how

22 they can justify the whole -- I mean, the whole thing of

23 hiring this individual in the first place. But I guess

24 that's another discussion for another time.

25 But, you know, that's our concern is, you know,

1 these departments that are smaller departments that don't
2 have the capabilities of continuing an investigation
3 either, you know, that's another thing.

4 Thank you very much.

5 MR. KING: Thank you, Chief. Anybody else? Yes,
6 Sheriff.

7 MR. GIBSON: Good morning, Chairman, Members of
8 the Board. I'm Sheriff Clarence Gibson with Torrance
9 County. I've been involved in this since my term as
10 sheriff in 2007. I agree with the chief with Rio Rancho.

11 When we initiate an investigation and it's an
12 internal investigation, when the member leaves, our
13 obligation is to notify our director. Director Ortiz has
14 done a tremendous job trying to build this.

15 He's been very considerate with the sheriffs,
16 with chiefs. And he's working in view of this. When I'm
17 going to hire a new troop, I do my backgrounds. I notify
18 the academy; and I ask them, "Do you have any actions? Do
19 you have anything there?"

20 And he notifies me if he does, that there's
21 something pending in another agency. So I think if we're
22 looking just at a basis that we're doing a criminal
23 investigation, if he leaves, we're going to investigate
24 it. We're going to continue that mode.

25 If it's an internal investigation, we're going to

1 get everything we have. We're going to get it to the
2 director and say, "If this guys tries to go somewhere
3 else, here's the information."

4 I think we're really worried about the little
5 things that -- that we're concerned with and in which we
6 should be. We're protecting the citizens of our state,
7 our county, our community.

8 I think we just need to put it to a point, moral
9 character, the board's going to decide. If I have a
10 question on it, you decide. And I'm going to leave that
11 up to you. I'm going to leave that up to the director to
12 bring it forth.

13 If it's a criminal charge, I've got the
14 statutes. I'm going to chase it. I'm going to go after
15 it. I think we just need to get it in place and start
16 working. We need to police ourselves.

17 I give a lot of credit to Chief Schultz. He's
18 taught me a lot since I've been a sheriff. I'm looking at
19 the way he runs his PD, working with his community and
20 what he does with his direction on policing himself.

21 A lot of the sheriffs have done a tremendous job
22 in their communities. I want to see us move forward. And
23 I think right now we just need to step up and say, "Okay.
24 We're the leaders of these departments. We need to move
25 forward. We need to start reporting. If we're not sure,

1 we need to let the board help us decide."

2 That's why we put -- Sheriff Coon, I mean, you
3 know, I look at him when I need help. He sits on this
4 board. I think we just need to get past it. We know that
5 we need to be held accountable. We will be by our
6 citizens. We will be by the board. We will be by the
7 other sheriffs.

8 And we need to look. If it's criminal, we're
9 going to chase it. If it's internal, we're going to
10 investigate it. If they leave, you know, we may not have
11 the authority to pull him back in, but I'm going to let
12 the director know and when another sheriff would call up
13 say, "What do you have on this deputy. You know, he's
14 trying to get hired here."

15 And I think once we get it into place, it's a
16 tool we need to utilize; but we'll fix it as we move
17 forward. And there will be tweaking and adjustments, and
18 we all know that. I think we've come a long way with it.

19 I hope we progress with it. And I want thank you
20 guys for your help with this. It's been a long haul.
21 Thank you.

22 MR. KING: Thank you, Sheriff Gibson. Anybody
23 else? Okay. Seeing none, we will move onto the next
24 phase. So let me describe that a little bit. Now that
25 we've received all the testimony, I'm going to in a minute

1 close the hearing record.

2 But before I do that, I'll just let you know what
3 the next phase is. The next phase is for the board to
4 deliberate the merits of the rule. And that -- during
5 that time, I can entertain motions to accept the rule,
6 modify the rule, or reject the rule.

7 Modifications to the rule are acceptable, as long
8 as it's the logical outgrowth of the rule as published in
9 our packet. So that means we're not constrained to adopt
10 this exactly as it's written, but we can make some changes
11 but they need to be logically related to our discussion
12 here today.

13 There are two legal items to state for the
14 record, and I'll state them now. First, the rules become
15 effective 30 days after they're filed at the records and
16 archive center. So if this rule is adopted today, that's
17 what will happen next is it will get sent to records and
18 archives.

19 And then it becomes effective 30 days after it's
20 filed at records and archives. Second, the legal standard
21 is that we need to inform the public of our reasoning when
22 we choose to amend the rules. Comments of one member on
23 the record if it explains the reasoning satisfies this
24 legal standard.

25 So that's basically what we'll be operating from

1 as we go to deliberation. So before I close the record,
2 is there anything else? Okay. In that case, I'm going to
3 declare the hearing record closed and open discussion for
4 deliberation of the rule.

5 I will at this stage -- this is the right stage.
6 I'm going to first just move that we amend it's actually
7 the third line from the bottom in the change to the rule
8 in Reports, D. Where it currently says "10.29.1.1," I
9 believe that needs to be amended so that it says
10 "10.29.1.11."

11 Is there any discussion on that amendment?

12 Okay. Seeing none, I moved it. Is there a second?

13 MR. SCHULTZ: Second.

14 MR. KING: All in favor say aye.

15 THE BOARD: Aye.

16 MR. KING: Any opposed? {No response.} So now
17 we know how the amendment process works. That was an easy
18 one. All right. Discussion of the commission?

19 MR. SCHULTZ: Mr. Chairman, if I may. As I look
20 at this rule -- proposed rule change, I see it
21 accomplishing two things for the board and for law
22 enforcement in the state of New Mexico.

23 One is it puts the agency executives on notice
24 that they are required to report misconduct as already
25 defined in rules and regulations to the Law Enforcement

1 Academy.

2 The second portion is that it actually creates an
3 annual report form. And I see this report form as not
4 much more other than an audit trail or an ability for
5 Mr. Ortiz to do a comparison at the end of the year -- or
6 in this case on January 30th -- as to the number of cases
7 that have been presented to his office from law
8 enforcement executives and what the final report tally
9 says the numbers should be for both law enforcement
10 officers and telecommunicators.

11 I think this is very much needed in the state of
12 New Mexico. We've seen example after example of quote,
13 unquote gypsy cops going from agency to agency in order to
14 avoid being held accountable for improper actions.

15 The discussion about investigations not being
16 completed. We have officers all the time who invoke their
17 Fifth Amendment rights and do not provide any information
18 to an internal investigation. We can still complete that
19 investigation without that officer even being involved.

20 We complete the case by interviewing other
21 witness officers, other witnesses, whether they are part
22 of the department or civilian, gather documentation, and
23 present a case as-is. That's how we make our decisions
24 within our agencies. That's the same way the Law
25 Enforcement Academy director can make his decisions.

1 We also continue to do investigations if the
2 employee quits very often if there's a lawsuit involved in
3 order to protect our respective agencies. So the fact
4 that the employee has quit or resigned is not a reason not
5 do to the investigation.

6 That's the reason why we should do a better
7 investigation. Most likely there will be some type of
8 civil remedies. The civil remedies also comes into play
9 as to the question about what happens if an agency doesn't
10 do this?

11 Well, if the agency doesn't do this and that
12 officer gets hired by another agency and somewhere down
13 the road performs an illegal act, I guarantee that first
14 agency will be named in that civil lawsuit for not doing
15 their job, especially in light of the fact that we will
16 now have a new rule that says that agency was required to
17 do his or her job.

18 So I think this is a good proposed rule change.
19 I think it makes sense as-is. The proposed changes by
20 Mr. Radosevich, I think it's probably not the right time
21 for those. I think we'll let work what we have in front
22 of us here today.

23 But just for the record, some of the proposed
24 rule changes by Mr. Radosevich I think are just a little
25 bit too loose, especially the ones that talk about failing

1 to act -- failing to stop a criminal act that results in
2 physical injury or a financial loss.

3 I could see citizens seeing this as an officer
4 who fails to stop a speeding car, the car drives past an
5 officer who's involved in an accident, there is a
6 financial loss to the other party of the accident. And we
7 find someone wanting to bring this against the officer for
8 failure to do his or her job.

9 So I think the statutes as proposed are clear. I
10 think it makes sense. We all know what moral turpitude
11 is. And I think we need to give this a chance to work.

12 MR. KING: Thank you, Chief Schultz. Any other
13 comments?

14 MR. COON: I've got a comment. If you start your
15 investigation and the guy quits, he's going to go to some
16 other agency. That's just going to double up your
17 background guy. You're swapping an investigation here for
18 a background over here. You're going to have to work just
19 as hard to do a background as you are to complete an
20 investigation.

21 So you're going to be on the top end or you're
22 going to be on the bottom end. You're still going to have
23 to investigate this officer or deputy. So I think it
24 would be incumbent on all of us to go ahead and -- I have
25 a small department.

1 I don't have a, quote, IA department. But I have
2 guys that do that. More than one. If you're not swamped
3 daily with IA's like some of the bigger departments are,
4 you ought to be able to finish that investigation.

5 Because if you don't, some other department's
6 going to have to spend a lot of time on a background. And
7 it's all going to go full circle. You're going to be
8 doing the exact same thing, wanting to hire an officer or
9 a deputy that you're going to have to do a background on
10 that way too.

11 So you're robbing Paul to pay Peter if you don't
12 finish your investigation.

13 MR. KING: Other comments or motions? Are there
14 any other recommended amendments? If not, I'll take a
15 motion to adopt the rule.

16 MR. SCHULTZ: Chairman, I'd like to make a motion
17 we adopt the rule as presented here today with your one
18 amendment.

19 MR. KING: Okay.

20 MR. PEREZ: Second.

21 MR. KING: Second. Any further discussion?

22 MR. SHANDLER: Mr. Chairman, it sounds like
23 there's consensus on everything except this last point
24 here. And I just want to make sure before you vote that
25 the record is clear.

1 So it sounds like the sheriff said he likes the
2 interpretation of the rule that when an officer resigns or
3 is terminated the agency still has to complete --

4 Mr. Coon, I see you nodding.

5 Now, earlier the Attorney General said there
6 could be a legal interpretation that all it requires is to
7 file -- file a misconduct report. So I think is the
8 intent of the motion that the interpretation to, quote,
9 file a misconduct report means a complete investigation?

10 You're nodding yes?

11 MR. COON: Yes.

12 MR. SHANDLER: Okay. I didn't hear who made the
13 motion. So I probably should confirm with the movant
14 whether that's the interpretation. Who was the person
15 that made the motion, the movant?

16 MR. KING: Chief Schultz made the motion.

17 You know, we've had discussion on this. I don't
18 know that we adopt the theory of board intent more than we
19 do legislative intent. I don't know. I mean, does our
20 intent have any bearing on how the rule get interpreted
21 once it's adopted or is it plain reading of the rule?

22 MR. SHANDLER: Mr. Chairman, I would think it
23 would be the plain reading of the rule, but this is the
24 best opportunity to instruct the director on how he should
25 read it.

1 MR. KING: That, I'm okay with. Do you have a
2 feeling --

3 MR. ORTIZ: If we insert the word --

4 MR. KING: No, I'm not going to change the rule.
5 We've got a motion on the table. You've got a feeling of
6 the direction of the board as to what we think that that
7 means?

8 MR. ORTIZ: Yes. Yes.

9 MR. KING: Okay. We have a motion to adopt the
10 rule as written with the one amendment that we've added
11 already, and a second. Is there further discussion on
12 that motion? Seeing none, all in favor signify by saying
13 aye.

14 THE BOARD: Aye.

15 MR. KING: Any opposed? If you're opposed, raise
16 your hand so that we make sure we get you. All right. So
17 the motion passes with a unanimous vote.

18 Thank you to the members of the board. Thank you
19 to all of you here. This has been something that we've
20 been working on a lot. I actually think that this is --
21 I'll take the chairman's prerogative for a second. I
22 think that this is a rule that is written to deal with a
23 lot of those problems.

24 I think some of the concerns that people have
25 raised will not be big concerns as we apply this rule.

1 But if they are, then people should bring that back to the
2 board here and we'll consider that and we'll look at it.

3 I also share the chief's concerns with -- with
4 the ideas that were raised by Chief Radosevich, but we
5 will -- I think that that also is grounds for further
6 consideration at some point in time.

7 I think we'll continue to discuss what we mean by
8 lack of moral character. It is a prickly issue, and I
9 understand the difficulty in trying to get our arms around
10 that. And we'll continue to work on that on the board
11 too.

12 Thanks to Director Ortiz and to all of the
13 members of the staff and all of the members of law
14 enforcement that have worked on this rule because it has
15 been a lot of work. And I think that this is a good
16 result. Thank you, Mr. Ortiz.

17 All right. Next item on the agenda is
18 "Discussion: 4/10 work week for cadets at the Academy."

19 I am --

20 MR. PEREZ: Mr. Attorney General.

21 MR. KING: Yes.

22 MR. PEREZ: We're still in old business, and I
23 would like to raise an issue related to this item we just
24 dealt with.

25 MR. KING: Before we move onto Item 8 then,

1 let's -- I'm sorry. I should have allowed --

2 MR. PEREZ: Mr. Ortiz, have you received
3 information from the Attorney General regarding the
4 internal affairs investigation of the Santa Fe Police
5 Department?

6 MR. ORTIZ: Have I received a report from the
7 Attorney General's Office?

8 MR. PEREZ: Yes. The internal affairs
9 investigation conducted by Santa Fe Police Department,
10 have you received that?

11 MR. ORTIZ: No, sir.

12 MR. PEREZ: Has it been referred to you?

13 Mr. Attorney General, it has been more than two
14 years since I have asked you to look into this matter
15 regarding allegations -- public allegations.

16 There was an investigation conducted by the FBI
17 for a long period of time regarding the former chief of
18 police of Santa Fe Eric Johnson and his brother Gary
19 Johnson. I understand that the internal affairs
20 investigation was given to your office at least a year and
21 a half ago.

22 And the information that I have been told in
23 these meetings is that the matter is under consideration.
24 Well, you as Attorney General deal with legal matters.
25 Again, as we just talked at great length, we are concerned

1 with preponderance of the evidence.

2 These two former officers still carry their
3 certifications, and they can apply for positions. And
4 this matter had not been resolved. I was the former head
5 of the FBI in this state for five years.

6 And I believe that the handling by the former
7 special agent in charge of this matter was not in
8 conformance with the highest standards of the FBI. There
9 is a lot of obfuscation and lack of clarity in this
10 matter. It affects this capital city of New Mexico very
11 seriously.

12 We have a lot of people in this room right now
13 that we're going to deal with that one might consider
14 straining gnats and swallowing camels. We have officers
15 accused of drunk driving and thumping citizens, beating
16 citizens that are handcuffed. And we're going to deal
17 with that.

18 And yet we have this huge case in front of us
19 that has not been addressed. So, again, I politely
20 request that this matter be referred to Director Ortiz so
21 that this board can deliberate about it and be concerned
22 about the certification of these officers.

23 They are both political. And there are positions
24 that come up in this state regularly, and they are free to
25 apply for those because there is nothing that shows that

1 this board, the highest law enforcement academy board in
2 this state -- and I have received numerous complaints
3 directly to me from citizens saying that they want to
4 disband this board because we are all law enforcement or
5 former law enforcement on here.

6 I am a citizen representative, but I'm former law
7 enforcement. They said there is no plain citizen on
8 here. And most of this state is made up of regular
9 citizens.

10 So, again, I politely request, when is this
11 matter going to be addressed?

12 MR. KING: Well, and I will -- we probably stated
13 this before. It's the policy of my office not to comment
14 on ongoing criminal investigations. But I appreciate your
15 comments, and we'll take them into consideration.
16 Thank you.

17 MR. PEREZ: Again, just to add. We are not
18 concerned about the criminal investigation. That is not
19 our concern. We're concerned about the preponderance of
20 evidence and about revocation of certifications, which I
21 believe is within our jurisdiction.

22 And that is being kept from us.

23 MR. KING: Okay. Comments accepted.

24 One of the things that I neglected to do on Item
25 No. 7 as well is I think that Mr. Ortiz asked us to adopt

1 the misconduct report form that's here. And so we
2 neglected to do that. I don't think that was part of the
3 rule-making necessarily anyway.

4 But are there comments on the annual misconduct
5 report? Do we need to adopt that as a form or it's just
6 something that you've showed us and --

7 MR. ORTIZ: It's just something I've showed you.

8 MR. KING: In that case, I guess there's not any
9 further action that's necessary that goes along with the
10 rule. Thank you.

11 ITEM #8: DISCUSSION:

12 4/10 WORK WEEK FOR CADETS AT ACADEMY

13 MR. KING: Item No. 8, "Discussion: 4/10 work
14 week for cadets at Academy."

15 MR. ORTIZ: Yes, sir. Mr. Chairman, Board
16 Members, I have some good news. This will be a short
17 agenda item. In conversations with Secretary Denko, he
18 has approved the 4/10 work schedule for the basic
19 academy.

20 Yes, sir, it is true; and we're very pleased.

21 In fact, the academy starts this Sunday; and they
22 will be working a 4/10 schedule. They will be off
23 Saturday, Sunday, and Monday. They'll be reporting on
24 Monday nights and they'll be released on Friday nights.

25 So everything has been worked out, and we have

1 Secretary Denko's blessing. And we're going to give it a
2 go. We are very pleased.

3 MR. COON: They are off Saturday, Sunday, Monday.
4 They start Tuesday through Friday?

5 (At this time, Mr. King exits the hearing.)

6 MR. ORTIZ: Correct. That way when they are at
7 home with their agencies, that Monday morning they can go
8 visit their agency, do whatever they have to do.
9 Hopefully, they'll schedule any court hearings they may
10 have on that Monday.

11 And then they will be checking in Monday night
12 with us. And then go Tuesday, Wednesday, Thursday, and
13 then they would be released Friday night. There are not
14 going to be any early releases on Friday nights. They
15 will be getting a ten-hour day on Friday.

16 So we're pleased with that. So I think that is
17 resolved.

18 MR. PEREZ: The Attorney General has stepped out
19 for one moment, and therefore the next item -- so that
20 matter is resolved regarding Secretary Denko? Has --

21 MR. ORTIZ: Yes. And any questions, comments
22 about it?

23 MR. SCHULTZ: Mr. Chairman. The only thing I
24 would maybe request is to ask Director Ortiz to write a
25 letter of thanks to Secretary Denko for taking it under

1 advisement and making the change.

2 MR. PEREZ: If you would do that?

3 MR. ORTIZ: I will forward a copy to you.

4 MR. PEREZ: Does the board agree with that?

5 MR. COON: I would like to go on the record to
6 say I know Chief Segotta was kind of between a rock and a
7 hard spot because that's his boss, plus he's also speaking
8 for the chiefs of police of New Mexico. And that kind of
9 put him in a pinch.

10 But kudos to Chief Segotta for writing the letter
11 and standing firm on it.

12 MR. ORTIZ: Yes. Okay.

13 MR. PEREZ: I suggest that you might want to note
14 the commendation mentioned by Sheriff Coon regarding
15 Chief Segotta in that letter to Secretary Denko.

16 MR. ORTIZ: So --

17 MR. PEREZ: So that matter has been laid to rest
18 again?

19 MR. ORTIZ: Yes.

20 MR. PEREZ: Any further comments regarding that
21 matter?

22 ITEM #9: RATIFICATION OF CERTIFICATIONS

23 FOR LAW ENFORCEMENT OFFICERS

24 MR. PEREZ: We then move to Item No. 9 in new
25 business. First of all, does anybody have any other

1 comments regarding old business that they wish to raise?
2 Seeing none, we will go to Item No. 9, "Ratification of
3 Certifications for Law Enforcement Officers."

4 Director Ortiz.

5 MR. ORTIZ: Mr. Chairman, Board Members. The
6 director has verified that the listed police officers
7 beginning with Certification No. 09-0252-P through
8 09-0299-P and 10-0001-P through 10-0054-P and 83-0243-P,
9 87-0271-P, 88-0181-P, 02-0271-P, 04-0110-P, 82-0364-P,
10 83-0172-P, 99-0108-P, 99-0431-P, and 93-0139-P have all
11 met the standards and requirements for law enforcement
12 certification and we request that the board ratify their
13 certification.

14 MR. SCHULTZ: Mr. Chairman, one question.
15 Mr. Ortiz, on about the fourth page back, there's a
16 Michael Bard, B-A-R-D. It says the employing agency is
17 the Flint Police Department. Is there a Flint Police
18 Department --

19 MR. ORTIZ: Which number is he, sir? What's his
20 certification number?

21 MR. SCHULTZ: 82-0364. Third one from the top.

22 MR. ORTIZ: Okay. Michael Bard. Oh. Flint
23 Police Department?

24 MS. CROKER: That's a cert by waiver applicant.
25 He came through as a civilian, but he noted that -- he put

1 that down as his employing agency.

2 MR. SCHULTZ: But where would he be working in
3 the state of New Mexico? It's the New Mexico
4 certification.

5 MS. TAPIA: I think he was hired by one of the
6 district courts. I can't remember which one. Maybe the
7 district attorney's office.

8 MR. SCHULTZ: We would need to know the
9 appropriate county or district so he's assigned to the
10 right agency. Just for technical purposes, I guess.

11 MR. ORTIZ: It's possible he came in
12 self-sponsored. And then when they come in
13 self-sponsored -- yes, he was self-sponsored.

14 MR. SCHULTZ: Mr. Chairman, I move we accept for
15 ratification purposes the certificates for law enforcement
16 officer certification as presented.

17 MR. PEREZ: I have a motion. Do I hear a second?

18 MR. COON: Second.

19 MR. PEREZ: All those in favor say aye.

20 THE BOARD: Aye.

21 MR. PEREZ: All those opposed. {No response.}

22 Motion carries.

23 ITEM #10: RATIFICATION OF CERTIFICATIONS

24 FOR PUBLIC SAFETY TELECOMMUNICATORS

25 MR. PEREZ: Item No. 10, "Ratification of

1 Certifications for Public Safety Telecommunicators."

2 MR. ORTIZ: Mr. Chairman, Board Members, the
3 director has verified that the list of dispatchers
4 beginning with Certification No. 10-0001-PST through
5 10-0030-PST have all met the standards and requirements
6 for certification. And we request that the board ratify
7 their certification.

8 MR. PEREZ: Do I hear --

9 MR. COON: Mr. Chairman, I make a motion we
10 ratify PST certifications.

11 MR. PEREZ: Sheriff Coon has so moved. Do we
12 hear a second?

13 MR. JONES: Second.

14 MR. PEREZ: Second by Officer Jones. All those
15 in favor say aye.

16 THE BOARD: Aye.

17 MR. PEREZ: All those opposed. {No response.}
18 Motion carries.

19 ITEM #11: DISCUSSION: STATEWIDE REALITY BASED
20 TRAINING STANDARDS

21 MR. PEREZ: Item No. 11, discussion regarding
22 statewide reality based training standards.

23 Deputy Director Gil Najjar.

24 MR. NAJAR: Mr. Perez, Board Members, and
25 Guests. Agenda Item No. 11 is an opportunity for us I

1 think that potentially can change the way law enforcement
2 training is done in the state of New Mexico.

3 The state of New Mexico to date has not
4 established or adopted basic or in-service/advanced
5 scenario/reality based training standards. There are many
6 myths of what is and is not likely or even possible during
7 a violent or deadly encounters.

8 Public perception has been skewed by mythology
9 and television shows. People tend to believe that police
10 officers are martial artists, sociologists, expert
11 communicators and that they possess boundless patience and
12 superhuman athletic abilities.

13 People believe that police officers are expert
14 marksmen who can shoot guns out of peoples' hands from the
15 hip and at a distance. Ken Murray, who conducts reality
16 based training, is the author of Training at the Speed of
17 Life and has written books, seminars, and papers on the
18 subject.

19 His writings have been referenced in technical
20 journals and in encyclopedias. His books have been
21 adopted as required texts in state, federal, and local
22 institutions and training academies.

23 Mr. Murray notes that police officers are held to
24 higher standards, and they are not provided the training,
25 the tools, or the time to do an increasingly dangerous

1 job.

2 By way of example, he cites a recent legislative
3 proposal in New York where they attempted to pass a law
4 where officers would be required to shoot to wound,
5 whereby, ultimately, they could be prosecuted if they
6 didn't try to shoot a suspect in the arm or the leg.

7 That legislation obviously failed, but those are
8 the kinds of things that have arisen because of the
9 perceptions of the public. In his book, Mr. Murray also
10 writes that "All leading-edge trainers around the world
11 now agree that realistic simulation training, referred to
12 as Reality Based Training, or simply RBT, is the optimal
13 method for training those on the front lines of armed
14 conflict to respond to critical incidents."

15 And now with its widespread adoption across the
16 country, there are growing numbers of unqualified experts
17 setting up tactical simulations. Over the past number of
18 years they have been mounting a body count.

19 And what he's telling us is that basically as
20 this movement has occurred towards more scenario/reality
21 based training, agencies aren't doing it properly. And
22 we're having officers injured in the training. We're
23 having officers killed in reality based type of training.

24 So with all the conflicting information, making
25 clear decisions during life-and-death situations have

1 become increasingly more difficult for officers. There's
2 a lot of data and emerging science to demonstrate that
3 much of the training that we give to today's police
4 officers fails to prepare them for what's going to happen
5 in the streets in an armed conflict.

6 The state of New Mexico now has an opportunity to
7 partner with Playas Training and Research Center operated
8 by New Mexico Tech University and establish reality based
9 training as a statewide training standard.

10 Today we have over 40 police officers in New
11 Mexico that have been trained by PTRC as instructors in
12 reality based training. So my request to the board is
13 your consideration of two things.

14 First, to consider requiring a minimum of two
15 basic academy staff instructors from each of the nine
16 satellite academies to attend reality based training in
17 2010. And, secondly, that each individual board member
18 also consider either participating in the same training
19 and/or attending the training to observe it.

20 I think it would be extremely beneficial to the
21 board to understand exactly what reality based training
22 is. And in the future if we were to come before the board
23 to request adoption of standards relating to RBT, then you
24 would have that knowledge before you and that experience
25 of having gone through that process.

1 With us here today is also Chief Gomez, the chief
2 down in Playas, who has been instrumental. It is because
3 of his initiative and his vision that I'm even here
4 presenting this to you. With that, I'd like to impose on
5 him just to say a few words about it.

6 One of the concerns that I know when I met with
7 the satellite directors yesterday was whether or not
8 they'd have the opportunity because of their busy
9 schedules to attend it. And, secondly, obviously would
10 there be any cost to that.

11 So I think between Chief Gomez and the Law
12 Enforcement Academy we're going to take care of all those
13 costs. Basically, it would require that the agency be
14 able to release those individuals or yourselves to attend
15 it, and the cost for that entire week would be paid for by
16 some sort of agreement between us and Chief Gomez.

17 With that, I'll ask Chief Gomez just to make a
18 few comments about the training.

19 MR. PEREZ: Thank you, Deputy Director Najar.
20 Mr. Gomez, is he here?

21 MR. NAJAR: Not here? My apologies. I spoke to
22 him earlier on the phone. He said he would be here.

23 MR. PEREZ: Do we have discussion regarding this
24 matter, Members of the Board? Or Members of the Audience,
25 first of all? Seeing none, Members of the Board.

1 Chief Schultz, you have a large department. Do you have
2 any comments regarding this?

3 MR. SCHULTZ: Mr. Chairman. I guess my first
4 question is -- I understand the short-term funding for the
5 training of the two instructors from each of the satellite
6 academies. But what would be the ongoing cost after that
7 if it would be adopted on a statewide basis?

8 MR. NAJAR: The -- I guess the equipment
9 requirements and logistics for conducting reality based
10 training, I think presently most agencies have a majority
11 of that equipment. There would be some initial costs in
12 acquiring equipment, such as radios, the head gear,
13 protective gear, some of the simunition equipment.

14 I think in pooling the available resources that
15 all nine satellite academies have, our thoughts that at
16 worst there might be a need to get some metal detectors
17 for the searches that are conducted during the training.

18 To each individual agency, I think there are
19 enough resources available right now. Probably the big
20 major expense is going to be on head gear and protective
21 gear, none of which I would think would dramatically
22 affect an agency's budget because I think that equipment
23 is already in hand with a lot of the agencies.

24 But there could be some minimal costs if an
25 agency decided to expand that training and conduct that

1 training -- full-blown training at their agency. The
2 projectiles that are used for simunitions can be a little
3 bit expensive, and so it's a higher cost than actual
4 ammunition for those.

5 But I think what we would like to do is
6 centralize that as a pool as the regional training
7 function of the academy in conjunction with all the
8 satellites and the agencies so that we would hold down
9 costs as much as possible where an agency did not have the
10 equipment or could not afford the ammunition or
11 modifications of weapons to simunition weapons, then we
12 would be willing to step forward with that equipment and
13 address those needs.

14 MR. SCHULTZ: Mr. Chairman, Mr. Najar. Should it
15 be adopted as a statewide training standard, would it be
16 for both basic and as well as in service? And how many
17 hours for each one of those in the different areas?

18 MR. NAJAR: We would like to initially pilot it
19 as a program for the basic training academy. We know that
20 there's approximately eight blocks of instructions right
21 now within the New Mexico Administrative Code in which
22 practicums or practical applications are required within
23 basic training.

24 So we would use those eight different topics
25 within the 800-hour curriculum to pilot this program.

1 That I think is going to tell us whether or not there's
2 going to be greater or additional costs for equipment of
3 radios, those kind of things.

4 Based on those results, I think the expansion
5 then into a statewide standard for training would be
6 considered. I don't think at this point in time we're
7 considering any type of a rule adoption or a rule creation
8 to bring to the board.

9 It's just we would like to pilot this. We know
10 that right now there's at least 40 officers already
11 trained in this that can be utilized as instructors. The
12 one key benefit of standardizing this is that the same
13 protocol, same procedures, same number of staffing
14 requirements will occur no matter where the training is
15 conducted.

16 So every single agency knows they have to have a
17 safety officer, an exercise control officer. They have to
18 have approved, certified actors for the role playing.
19 They have to have certain equipment on site. So that
20 becomes standardized.

21 So that initial pilot, if it works in all nine
22 satellite academies for us and if we can meet the needs,
23 especially with the academy sizes of 30 to 40 cadets at a
24 time, to run a active scenario based, reality based
25 training curriculum under those eight topical areas that

1 currently exist, I think it's expand {sic} to me to come
2 back to the board later for consideration of its expanding
3 to in-service, incumbent officers.

4 MR. PEREZ: Mr. Najjar, have you been to the -- on
5 site and seen it?

6 MR. NAJAR: Yes, I have.

7 MR. PEREZ: How long does it take? Is it a
8 matter of days or?

9 MR. NAJAR: The initial three days upon arrival
10 is classroom based. And the afternoon of the third day
11 you actually as a student you develop and write a
12 scenario. Thursday and Friday of that week -- actually
13 Thursday and half of Friday, Friday morning, you actually
14 go out and demonstrate your proficiencies and your ability
15 to deliver a scripted reality based training exercise.

16 So each student will play the role of exercise
17 control officer, safety officer. They will be a role
18 player called the offender in that scenario, and they will
19 be a responding officer to that.

20 So they get to participate in each aspect of that
21 training and learn each part of that training. So it's
22 probably two and a half to three days of classroom and
23 then around two days of actual practical exercises.

24 MR. PEREZ: So it's about one week?

25 MR. NAJAR: It's a Monday through Friday. You're

1 released generally around 2 o'clock Friday afternoon.

2 MR. COON: Mr. Najar, I have one of my deputies
3 that is one of these 40 here that went. And the initial
4 cost is getting some of your guns converted over for
5 simunitions only, you know. And -- which is not a big
6 expense if you have the older guns.

7 MR. PEREZ: What's that word you used?
8 Simunitions?

9 MR. COON: Simunitions.

10 MR. PEREZ: I understand. I just wanted it for
11 our transcriber.

12 MR. COON: A RedMan suit, stuff like that. And
13 when he went, it was basically a train-the-trainer type
14 thing, where he could come back and we're starting that in
15 our department.

16 And he would love to come up and participate in
17 something like that. It was a totally free class when he
18 took it. They housed him in the houses there at Playas.
19 They fed him. And it was a win-win for us.

20 And he came back just glowing over the training
21 that went on there. So I think it would be a great, great
22 addition.

23 MR. NAJAR: Right. And the course that we are
24 talking about is a certification course. It's a
25 train-the-trainer instructor course. So those 40 that

1 have completed the course are now certified instructors
2 for reality based training.

3 Any future classes, especially if we were to ask
4 our staff in the academy school, would be certified as
5 instructors in reality based training. Yeah, there are
6 some I think costs to it. At least my sense of the
7 training right now is that there will not be costs that
8 will significantly impact anyone's operating budget.

9 I think there's enough equipment around the state
10 because a lot of agencies have already been doing
11 simunition training so they have the converted weapons in
12 place already. A lot of the ammunition is already out
13 there. One of the -- the important thing is simunition is
14 I guess a copyrighted program and product.

15 And so it's important that people also understand
16 who do reality based training some of the injuries and
17 deaths that have occurred is because simunition
18 projectiles generally are considered those paint splashes
19 that we shoot at each other. So it's kind of a paintball
20 projectile.

21 However, Simunition doesn't manufacture
22 projectiles that are lethal that are called simunitions.
23 So I think that's where this train-the-trainer course is
24 especially important that we know what we're doing before
25 we try to expand the training and that everybody is

1 trained correctly and properly in the administration of
2 reality based training.

3 MR. PEREZ: Any further comments? Do I hear a
4 motion that -- would you restate what your action
5 requested is?

6 MR. NAJAR: I am requesting that each of the nine
7 satellite academies that are approved by the board send a
8 minimum of two staff instructors to reality based training
9 in Playas, New Mexico. The training is probably right now
10 targeted for mid-to-late September.

11 So either the second or third week of September
12 of this year. And it is a five-day training course.

13 MR. PEREZ: Any discussion regarding that? Do I
14 hear a motion? Now, this would not be adopting the course
15 yet. It is go to take a look at it.

16 MR. NAJAR: Correct.

17 MR. PEREZ: Take a look for the trainers. And
18 then they would report back to the board whether they
19 believe it's -- modify how we could -- might adopt it.

20 MR. NAJAR: Exactly.

21 MR. PEREZ: Whether it would be a benefit to us
22 and then the costs and people involved. Do I hear a
23 motion?

24 MR. COON: Mr. Chairman, I make a motion each of
25 the nine academies -- satellite academies send at least

1 two of their instructors to Playas to participate in this
2 reality based training.

3 MR. PEREZ: All in favor.

4 MR. SCHULTZ: Second.

5 MR. PEREZ: Moved and seconded. All in favor.

6 THE BOARD: Aye.

7 MR. PEREZ: All opposed. {No response.} Motion
8 carries.

9 MR. NAJAR: Thank you, Mr. Chairman.

10 MR. PEREZ: Thank you, Mr. Najjar.

11 ITEM #12: DISCUSSION: SENATE BILL 55

12 MISSING PERSON AND AMBER ALERT TRAINING

13 MR. PEREZ: Next item is Item No. 12,

14 "Discussion: Senate Bill 55 - Missing Person and Amber
15 Alert Training," ATB Chief Mark Shea.

16 MR. SHEA: Thank you, Mr. Chairman, Members of
17 the Board. In your packets you have a copy of Senate
18 Bill 55. We had -- in December as you recall we had
19 adopted our biennium in-service training requirements for
20 the next biennium cycle, 2010-2011.

21 After that had occurred, the legislature passed
22 and the governor signed Senate Bill 55. And if you look
23 at the first section of that Section 1, under "Missing
24 Person And Amber Alert Training," on page 1 of Senate
25 Bill 55, it states, "A minimum of four hours of combined

1 missing person and AMBER alert training shall be included
2 in the curriculum of each basic law enforcement training
3 class.

4 "Missing person and AMBER alert training shall be
5 included as a component of in-service training each year
6 for certified police officers." Unfortunately, this bill
7 passed after we had already adopted our rule change for
8 the 2010-2011 biennium service.

9 So I'm coming to the board today to offer up some
10 options and get some direction from the board how we would
11 like to proceed with implementing this Senate Bill 55. On
12 the first portion, the legislature had mandated four hours
13 in the basic academy.

14 We had an academy board -- or a satellite academy
15 directors meeting yesterday. We discussed this item.
16 What we were looking at is not requesting a rule change to
17 increase the number of hours that the 800-hour curriculum
18 requires.

19 There was some discussion as to where we might
20 fit this four-hour mandate. It was proposed by the
21 academy to the satellites that a good place for that would
22 be under Part 9, which is our police officers minimum
23 standards of training. This is the 800-hour curriculum as
24 it is defined in the administrative code.

25 Under Block 5, and that's our patrol operations

1 block, Section 11 is Radio Procedures. And we have five
2 hours allocated for that. Traditionally in that block of
3 instruction that five hours we go into a considerable
4 amount of technical information about how radio systems
5 operate, what a repeater is, what a simplex system is,
6 800 trunking, that type of stuff.

7 It's our thought that that's obviously good
8 information, but for a basic police officer it's of a
9 technical nature that really does not positively impacting
10 upon their ability to do their job on the street.

11 The majority of training with regard to how to
12 operate a radio is done during their on-the-job training
13 in their FTO program. So they learn their radio system
14 with their respective agency.

15 We currently do include Amber Alert in that
16 five-hour block. So our recommendation to our academy
17 board -- or satellite academy directors was that that
18 might be a good place to take that five hours, rewrite
19 that curriculum, and include a combined four hours for
20 missing persons reporting and the Amber Alert.

21 One of the academies suggested, well, maybe we
22 could look at Block 6, which is Principles of Criminal
23 Investigations and look at Civil Complaints and Service
24 Calls under 6.12. 6.12, under that section, is only a
25 two-hour block of instruction.

1 That would require for us to come back to the
2 board for rule change if we were going to change the
3 number of hours and include that curriculum in there.

4 So we're looking for some direction from the
5 board as to -- I mean, our recommendation would be to look
6 at Block 5.11 under Radio Procedures and include the
7 required training for missing persons and Amber Alert
8 under that block. And that would not require a rule
9 change.

10 But we would certainly like input from the board
11 as to the direction that they would like us to take. The
12 second portion of that, of course, is the requirement for
13 annual in-service training. Senate Bill 55 does not
14 require a number of hours that that would include.

15 We are looking at proposing to the board or
16 asking the board to give us some direction. We can do one
17 of two things. We can come back to the board with a rule
18 change for 10.29.7.8, which is the 2010-2011 In-Service
19 Training Cycle For Law Enforcement Officers, and include
20 that mandatory training in the biennium in-service
21 training.

22 And work with the state police, with
23 Major Shilling, who is responsible for that type of
24 reporting statewide to develop a curriculum for in-service
25 training. And right now we have not determined what the

1 number of hours would be.

2 We would come back to the board with that if
3 we're going to make a rule change. The other option would
4 be to -- because we've already specified in Part B,
5 Paragraph 3 that would include entering missing persons
6 into NCIC as an optional curriculum.

7 So we would be moving that out of Part B, adding
8 the Amber Alert requirement and putting it under
9 Paragraph A as mandatory. So that's one option.

10 The second option would be to remain silent on
11 this with regard to the rule, send out a notice to all
12 agencies that Senate Bill 55 had been passed and signed
13 into law, and provide some model curriculum for each
14 agency so that it would put it on the agency to maintain
15 their compliance with Senate Bill 55 but it would not be
16 part of the rule.

17 Ultimately, it is the individual officer and the
18 agency's responsibility when we incorporate it into our
19 biennium in-service training requirement it does give an
20 added layer of guarantee that statutes will be complied
21 with.

22 So what I'm coming to the board with today is,
23 one, direction as to inclusion of the four-hour
24 requirement in the basic academy into the section
25 Block 5 under Radio Procedures 5.11 and incorporate it in

1 there and not requiring a change in the number of hours of
2 training in the 800-hour block of instruction.

3 Of course, we'll get that out to all satellite
4 academies if that's the direction we go so they can
5 incorporate that into their core curriculum where they can
6 generate their own curriculum and get it approved through
7 the Law Enforcement Academy.

8 And then part two is the board's direction as to
9 whether they would like us to see a rule change or make
10 notice to all agencies of Senate Bill 55 and allow
11 agencies to pick up that mandatory training and then in
12 the 2012-2013 biennium formally incorporate that into our
13 in-service training requirements.

14 So with that, I will request the direction of the
15 board.

16 MR. PEREZ: Any questions from the floor for
17 Mr. Shea?

18 MR. COON: Mr. Shea, how long did you say for
19 in-service --

20 MR. SHEA: There is no specification in
21 Senate Bill 55 as to the time. And we would work with
22 Major Shilling and the records division of the state,
23 department of public safety to determine a model as to the
24 number of hours.

25 If we do not adopt it as a rule change, then

1 since the Senate bill does not require the number of
2 hours, then it would be up to the individual agencies what
3 they determine would be appropriate to meet what the
4 Senate Bill 55 is requiring.

5 If we put it into a rule change for in-service,
6 then we would obviously set a curriculum, a standard
7 curriculum and a standard number of hours that all would
8 have to comply with.

9 MR. COON: Just reading the bill in front of
10 somebody would take two hours. I mean, that's a long
11 bill.

12 MR. SCHULTZ: Mr. Chairman. Mr. Shea, for the
13 basic law enforcement training component, I know you're
14 looking for a place where it would fit. What's the
15 current length of instruction for crimes against
16 children?

17 MR. SHEA: I do not have my reference guide with
18 me, Chief Schultz.

19 MR. SCHULTZ: I didn't see it in there.

20 MR. SHEA: Crimes against children, it's under
21 just the normal statutes that we've got a juveniles and
22 their problems block of instruction under the basic. And
23 that's normally where the crimes against children's
24 statutes are addressed in that particular section.

25 MR. SCHULTZ: But is that already a four-hour --

1 MR. SHEA: But it's not specified directly with a
2 separate requirement or a separate block.

3 MR. SCHULTZ: And the reason why I mention that I
4 think that might be a good place to incorporate it, just
5 take that current block of instruction --

6 MR. SHEA: Right.

7 MR. SCHULTZ: -- incorporate the reporting
8 requirements because that's where a lot of this ends up
9 going to --

10 MR. SHEA: And I know the intent is as we
11 discussed in putting it in the optional section,
12 Chief Schultz, was that obviously the murders that are up
13 on the West Side there in Albuquerque and the concerns
14 that some of those individuals had not been entered into
15 missing persons.

16 And the Lieutenant Governor had championed the
17 cause to see if there could be some education done in the
18 law enforcement community to prevent that from
19 reoccurring. So bottom line is I think the intent of
20 Senate Bill 55 is not on juveniles, but on adults on the
21 missing person's side.

22 So if we can put it in the crimes against
23 children, we still have to address the adult issue for
24 reporting missing persons. And that's not to say that we
25 can't break that up and put it in two different sections

1 of the current 800-hour curriculum.

2 MR. PEREZ: Any further discussion? Do I hear a
3 motion?

4 MR. SCHULTZ: Mr. Chairman, probably the easiest
5 one to attack would be the second one first; and that's
6 the in-service training. I would make the motion that we
7 go forward and direct Mr. Shea with a proposed rule change
8 with a suggestion that the training be if possible kept to
9 one hour.

10 And the reason why I think it needs to be a rule
11 change is because DPS is ultimately responsible for the
12 maintenance of this database. And I think it would be
13 reckless not to have them tell us what information they
14 want and how they want it.

15 There are some problems with the Senate bill,
16 particularly the fact that it requires mandatory reporting
17 and input within two hours. We all know that people go to
18 the bar. The bar closes at 2 o'clock. They are not home
19 by 4 o'clock in the morning because they've met somebody.
20 They went out for breakfast.

21 We're going to have a lot of unnecessary work
22 unfortunately put on law enforcement across the state with
23 a two-hour mandatory reporting requirement. So I think
24 DPS needs to have an opportunity to figure out how they
25 want to get this information and when they want to get the

1 information.

2 So if you want to take them one at a time.

3 MR. PEREZ: Yes.

4 MR. SCHULTZ: I would recommend that we as I said
5 go forward with a rule change. Mr. Shea, work on that
6 with Major Shilling. The recommendation of the training
7 to be one hour, if possible.

8 MR. PEREZ: Do I hear a second?

9 MR. COON: I'll second.

10 MR. PEREZ: All in favor.

11 THE BOARD: Aye.

12 MR. PEREZ: All opposed. {No response.} Motion
13 carries.

14 MR. SHEA: Thank you, Chairman.

15 MR. PEREZ: I think now might be a time for a
16 break. So we'll have 15. Be back at 11:25, please.

17 (Off the record from 11:08 until 11:28 a.m.)

18 MR. PEREZ: We're back in session. The time is
19 11:28. And the next item on the agenda is the LEA
20 Memorial, New Mexico State Police Sergeant Andrew F.
21 Tingwall, June 11th, 2009.

22 Director Ortiz or Mr. Shea.

23 MR. SHEA: Mr. Chairman, we hadn't made a
24 determination on the four-hour block of instruction in the
25 basic academy for missing persons and Amber Alert.

1 MR. PEREZ: We did not do that. I'm sorry. I
2 jumped there. Do I hear any further discussion regarding
3 this matter? Do I hear a motion?

4 MR. SCHULTZ: Mr. Chairman, I'll make a motion
5 that we accept the recommendation from Mr. Shea that it
6 would be incorporated into the communications -- which
7 communication section?

8 MR. SHEA: It's radio procedures, Block 5.

9 MR. SCHULTZ: Radio procedures, yes.

10 MR. COON: I'll second that.

11 MR. PEREZ: Move and seconded. All in favor.

12 THE BOARD: Aye.

13 MR. PEREZ: All opposed. {No response.} Motion
14 carries.

15 MR. SHEA: Thank you, Mr. Chairman.

16 MR. PEREZ: The Attorney General has departed, so
17 I am to chair what I can of this meeting.

18 ITEM #13: LEA MEMORIAL - NM STATE POLICE SERGEANT

19 ANDREW F. TINGWALL - JUNE 11, 2009

20 MR. PEREZ: Next item is Item No. 13, as I
21 stated, LEA Memorial, New Mexico State Police Sergeant
22 Andrew F. Tingwall.

23 MR. ORTIZ: Mr. Chairman, Board Members. There's
24 ten officers for -- being considered for inclusion. Would
25 you like me to just give you a brief synopsis on all ten

1 and then vote? Or do you prefer that I do it individually
2 and then you vote?

3 MR. PEREZ: I think you can give us a synopsis on
4 all of them.

5 MR. ORTIZ: Okay. On Tab 13, Chairman and the
6 Board. On Tuesday, June 9, 2009, a search and rescue
7 mission was initiated to find a lost hiker, Ms. Megumi
8 Yamamoto. A New Mexico State Police helicopter was
9 utilized during the search and rescue mission.

10 It subsequently crashed, killing Ms. Yamamoto and
11 Sergeant Private Andrew Tingwall. Officer Wesley Cox was
12 a passenger during the crash and he survived. The
13 director is requesting authorization to place New Mexico
14 State Police Sergeant Andrew Tingwall on the memorial
15 wall.

16 I sent letters to the four committee members, and
17 I heard -- got response back from three of them. I did
18 not hear back from Jim Burleson. But the other three
19 committee members signed off saying they were in favor of
20 Andrew Tingwall being on the memorial wall.

21 MR. PEREZ: Do I hear a motion?

22 MR. COON: Are we going to do these one by one?

23 MR. PEREZ: I think -- let's take it individually
24 because we might have to remember back if there is any
25 objections. Let's take them one at a time.

1 MR. COON: Mr. Chairman, I make a motion that we
2 include Andy Tingwall on the memorial.

3 MR. PEREZ: Do I hear a second?

4 MR. JONES: I second that.

5 MR. PEREZ: It's been moved and seconded. All in
6 favor.

7 THE BOARD: Aye.

8 MR. PEREZ: All opposed. {No response.} Motion
9 carries.

10 ITEM #14: LEA MEMORIAL - SANDOVAL COUNTY SHERIFF'S

11 DEPARTMENT SGT. JOSEPH A. HARRIS - JULY 16, 2009

12 MR. ORTIZ: The next is Tab 14, Sergeant Joseph
13 Harris from Sandoval County. On Thursday, July 16, 2009,
14 the Sandoval County Sheriff's Office tragically lost
15 Sergeant Joseph Harris, a certified police officer, in the
16 line of duty.

17 Sergeant Harris and Deputy Theresa Moriarty were
18 on duty working an undercover burglary investigation in
19 La Cueva, Sandoval County, New Mexico. A suspect later
20 identified as Joseph Henry Burgess unlawfully entered the
21 cabin occupied by Sergeant Harris and Deputy Moriarty.

22 And a struggle ensued. Burgess pulled a gun and
23 fired upon Sergeant Harris and Deputy Moriarty. Sergeant
24 Harris was shot twice but managed to return fire, killing
25 the suspect instantly. Sergeant Harris was pronounced

1 dead upon arrival at UNM Hospital on July 16, 2009 at
2 6:48.

3 The director is requesting that Sergeant Harris
4 be placed on the memorial.

5 MR. PEREZ: Do I hear a motion?

6 MR. COON: Mr. Chairman, I make a motion that we
7 put Sergeant Joe Harris on the memorial wall.

8 MR. PEREZ: Do I hear a second.

9 MR. JONES: I second that.

10 MR. PEREZ: All in favor.

11 THE BOARD: Aye.

12 MR. PEREZ: All opposed. {No response.} Motion
13 carries.

14 ITEM #15A: LEA MEMORIAL - US HOMELAND SECURITY

15 CUSTOMS & BORDER PROTECTION AGENT

16 JULIO E. BARAY - SEPTEMBER 24, 2007

17 MR. ORTIZ: Tab 15A is Julio Baray. Julio Baray
18 was killed in an aircraft accident on September 24, 2007
19 at the Moriarty airport in Torrance County, New Mexico,
20 east of Albuquerque. He was undergoing training in a
21 Cessna 210 with an instructor pilot who was also an air
22 interdiction agent.

23 The instructor was seriously injured in the
24 mishap. Julio Baray was with the United States Department
25 of Homeland Security Customs and Border Protection, Air

1 and Marine. He is survived by his wife and two sons.

2 And the director is requesting that Mr. Baray be
3 included on the Law Enforcement Memorial.

4 MR. PEREZ: Do I hear a motion?

5 MR. SCHULTZ: Mr. Chairman, I make a motion that
6 Luis Abeyta be included in the New Mexico Law Enforcement
7 Academy wall.

8 MR. COON: Well, it's Julio Baray.

9 MR. ORTIZ: That will be 15A.

10 MR. SCHULTZ: I'm sorry. Julio Baray.

11 MR. PEREZ: Julio Baray, B-A-R-A-Y. Do I hear a
12 second?

13 MR. COON: I second.

14 MR. PEREZ: All in favor.

15 THE BOARD: Aye.

16 MR. PEREZ: All opposed. {No response.} Motion
17 carries.

18 ITEM #15: LEA MEMORIAL - ISLETA PUEBLO DEPUTY

19 LUIS ABEYTA - JANUARY 12, 1921

20 MR. ORTIZ: Under Tab 15, Deputy Sheriff, Isleta
21 Pueblo, Luis Abeyta. In early January 1921 Luis Abeyta,
22 deputy sheriff of Isleta Pueblo, attempted to arrest James
23 Williams, age 19, who had shot and severely wounded a
24 16-year-old, Lawrence B. Mackey, Jr., in Albuquerque the
25 day before.

1 Williams shot Deputy Abeyta too and fled after
2 firing at the wife of the Isleta postmaster. A posse of
3 people from the Pueblo along with several Albuquerque-area
4 police officers soon began tracking Williams and found him
5 in a swampy area just northeast of the village.

6 In a gun fight that followed on January 7, 1921,
7 Albuquerque Officer Pablo Lujan shot and killed Williams.
8 Some sources report the outlaw was hit by two bullets
9 while others report four.

10 Young Mackey died of his wounds the following
11 day, and Deputy Abeyta died his wounds on January 12th.

12 The director is requesting with the approval of
13 the committee that Mr. Abeyta be placed on the memorial.

14 MR. PEREZ: Do I hear a motion?

15 MR. COON: I make a motion that we add Luis
16 Abeyta on the memorial.

17 MR. PEREZ: Do a hear a second?

18 MR. JONES: Second the motion.

19 MR. PEREZ: Moved and seconded. All in favor.

20 THE BOARD: Aye.

21 MR. PEREZ: All opposed. {No response.} Motion
22 carries. Point of information, Director Ortiz. If some
23 of these go back to the 1800's, how did we --

24 MR. ORTIZ: Yes, sir. I don't know how it was
25 overlooked; but this book I gave you, the Fourth Edition

1 of New Mexico's Finest, Don Bullis is the author and he
2 did the research.

3 MR. PEREZ: And that's what prompted it?

4 MR. ORTIZ: Yes. We thought a couple years ago
5 we had covered that because we had one in 1944 and another
6 one in 1952 that had been left off the memorial. And then
7 they were included.

8 And so at the time I thought we had covered all
9 the bases. And, apparently, we left seven others out --
10 eight.

11 MR. COON: Mr. Chair, I would also on the ones
12 that I had made the motion on make it a great honor to
13 nominate these gentlemen to be on the memorial wall.

14 MR. PEREZ: Thank you. Yes, so note that. Next
15 item, Director Ortiz.

16 ITEM #16: LEA MEMORIAL - TORRANCE COUNTY SHERIFF'S

17 DEPUTY JAMES M. CHASE - APRIL 1905

18 MR. ORTIZ: Tab No. 16, a deputy sheriff from
19 Torrance County, James Chase. And I'm going to ask
20 Sheriff Coon {sic} if he was around in that time in 1904.
21 Maybe. I don't believe so, but.

22 MR. GIBSON: No, sir.

23 MR. COON: I was in grade school.

24 MR. ORTIZ: Okay. Details of this affair are
25 somewhat sketchy. But a young cowboy identified as Jap

1 Clark was arrested, tried, and convicted of horse stealing
2 in late 1904. James Chase testified in a court case
3 against the suspect.

4 And the suspect was released by the territorial
5 supreme court judge on a \$3,000 bond in the spring of
6 1905. He was upset about the individuals that had
7 testified against him, so he wanted to get even with
8 them. So he went looking for them.

9 A shootout happened where they emptied their six
10 shooters. And Deputy Chase was shot during the shootout,
11 and he died 20 minutes later.

12 The director of the Law Enforcement Academy is
13 asking that Deputy James Chase be included into the Law
14 Enforcement Academy memorial.

15 MR. PEREZ: Do I hear a motion?

16 MR. COON: Mr. Chairman, with great honor, I
17 would like to nominate Mr. -- or Deputy Sheriff James M.
18 Chase to be on the memorial wall.

19 MR. PEREZ: Do I hear a second.

20 MR. SCHULTZ: Second.

21 MR. PEREZ: Moved and seconded. All in favor say
22 aye.

23 THE BOARD: Aye.

24 MR. PEREZ: All opposed. {No response.} Motion
25 carries.

1 MR. ORTIZ: I would just like to also ask Sheriff
2 Gibson at the memorial if he would present this --

3 MR. GIBSON: With honor, yes, sir.

4 MR. ORTIZ: -- during the memorial. Thank you.

5 ITEM #17: LEA MEMORIAL - VALENCIA COUNTY SHERIFF'S

6 DEPUTY CHARLES CUNNINGHAM - MARCH 1930

7 MR. ORTIZ: Tab 17 is Valencia County Sheriff's
8 Deputy Charles Cunningham. On March 1st, 1930, a
9 19-year-old had been in some trouble. Deputies were sent
10 to his house to investigate. It was determined that I
11 guess the suspect by the name of Torres questioned the
12 deputies whether they were going to send him to reform
13 school or the penitentiary.

14 The deputies replied they didn't know, but
15 possibly to neither. Well, Torres then asked if he could
16 go get his gloves from the bedroom before they left. And
17 the officers agreed.

18 Suddenly shots were fired and Marshal Sanchez was
19 hit in the thigh and hand. He fell to the floor as Aragon
20 and Baca sought to get out of the line of fire. The
21 suspect, Mr. Torres, he escaped; and he ran -- excuse me,
22 Torres ran to a window and taking careful aim shot the
23 sheriff in the back as the lawman sought cover.

24 Later on Deputy Charles Cunningham returned to
25 the scene of the shooting intent on arresting Torres.

1 They saw no activity and entered the house where they
2 found no one. As they stood looking around, Torres,
3 hiding in the attic, shot Deputy Cunningham by aiming
4 through a hole in the ceiling intended to accommodate a
5 stove pipe.

6 The bullet hit the deputy in the shoulder and
7 ranged downward into his body. They cleared out of the
8 house, and then that house was surrounded by a posse.
9 They said 20 police officers from several departments and
10 then 75 citizens surrounded the house.

11 They couldn't get Mr. Torres out of the house, so
12 they tried to eventually burn him out. And they lit the
13 house on fire. He stayed in there for quite some time.
14 And then he busted out a window firing the weapons. And
15 he was eventually shot and struck by one bullet and he was
16 killed.

17 I'm asking that Charles Cunningham also be placed
18 on the Law Enforcement Memorial.

19 MR. PEREZ: Do I hear a motion?

20 MR. COON: Mr. Chairman, with great honor I would
21 nominate Charles Cunningham to be put on the wall, the
22 memorial.

23 MR. PEREZ: Do I hear a second.

24 MR. JONES: Second.

25 MR. PEREZ: All those in favor say aye.

1 THE BOARD: Aye.

2 MR. PEREZ: All those opposed. {No response.}

3 Motion carries.

4 ITEM #18: LEA MEMORIAL - SIERRA COUNTY SHERIFF'S

5 DEPUTY WARREN RUIZ - OCTOBER 1942

6 MR. ORTIZ: Chairman, Board Members, Tab 18,
7 Warren Ruiz. He was a deputy sheriff with the Sierra
8 County Sheriff's Department. The item in the Albuquerque
9 Journal for October 1942 read in part that a Sheriff
10 Warren Ruiz, age 51, of Hot Springs was killed late
11 Saturday night while attempting to help a fellow officer
12 during a brawl outside a roadside tavern south of
13 Hot Springs, which is now Truth or Consequences.

14 The coroner's jury found that Ruiz was beaten
15 with a blunt instrument and shot, apparently with a .22
16 caliber pistol that had been wrested from Deputy Sheriff
17 Ed Martinez of Dona Ana County during the brawl.

18 Martinez attempted to break up an altercation and
19 arrest the participants. A fight ensued in which Martinez
20 lost his gun and badge. It was then that Ruiz appeared on
21 the scene and went to help Martinez.

22 Two men, Mr. Apodaca and Mr. Luchini, were
23 arrested in the matter; but available resources do not
24 disclose the disposition of the case.

25 I ask that Warren Ruiz be considered for the

1 inclusion into the Law Enforcement Memorial.

2 MR. PEREZ: Do I hear that motion to that effect.

3 MR. JONES: Mr. Chairman, with great honor, I
4 would like to nominate Sierra County Sheriff's Deputy
5 Warren Ruiz onto the wall, memorial wall. I make a
6 motion.

7 MR. PEREZ: Do I hear a second.

8 MR. SCHULTZ: Second.

9 MR. PEREZ: All in favor say aye.

10 THE BOARD: Aye.

11 MR. PEREZ: All opposed. {No response.} Motion
12 carries.

13 ITEM #19: LEA MEMORIAL - DEA AGENT

14 ANDREW P. SANDERSON - SEPTEMBER 23, 1944

15 MR. ORTIZ: Tab 19, Andrew P. Sanderson. He was
16 an agent with the Federal Bureau of Narcotics and
17 Dangerous Drugs. Andrew P. Sanderson, a federal narcotics
18 bureau agent stationed in Denver, Colorado, was killed in
19 an automobile accident which occurred after a tire blowout
20 which resulted in the vehicle's rollover near Lordsburg,
21 New Mexico, on September 23rd, 1944.

22 His passenger, another agent, named White was not
23 seriously injured. No other information regarding Agent
24 Sanderson has been located. Sheriff Oscar Allen of
25 Hidalgo County reported that the agent was en route to

1 El Paso at the time of the accident.

2 And I ask that Andrew P. Sanderson be included
3 into the Law Enforcement Academy Memorial.

4 MR. SCHULTZ: Mr. Chairman, a question for
5 Mr. Ortiz. And obviously no disrespect, but Agent
6 Sanderson was just driving through the state.

7 MR. ORTIZ: Yes, sir.

8 MR. SCHULTZ: And the wall, on the front of it
9 says for New Mexico law enforcement officers killed in the
10 line of duty. And I just want to put that on the record
11 and just make sure that we're doing the right thing here.

12 MR. ORTIZ: Yes, sir. I agree with you. We've
13 had -- there's been some discussion about that and --

14 MR. PEREZ: Well, another possible point of
15 information. I know that in the -- before 1957,
16 New Mexico was covered by the FBI out of El Paso. So this
17 possibly may have been his assigned territory out of
18 Denver.

19 You know, in those days they covered two or three
20 states with very few people. Sort of like modern times.

21 MR. ORTIZ: I agree. No disrespect to the
22 district attorneys, but there are a couple of district
23 attorneys. One that went down in a plane crash, and I
24 believe another one in another accident.

25 And some people had questions, well, why are they

1 on there? And that happened before our time. And I agree
2 that we need to scrutinize each one of these and see if it
3 meets the criteria for inclusion into the memorial.

4 MR. PEREZ: Do I hear a motion?

5 MR. SCHULTZ: Mr. Chairman, I will make the
6 motion that DEA Agent Andrew Sanderson be included on the
7 New Mexico Law Enforcement Memorial Wall.

8 MR. PEREZ: So I hear a second?

9 MR. JONES: I second that motion.

10 MR. PEREZ: Moved and seconded. All in favor say
11 aye.

12 THE BOARD: Aye.

13 MR. PEREZ: All opposed. {No response.} Motion
14 carries.

15 ITEM #20: LEA MEMORIAL - LOMA PARDA

16 TOWN MARSHAL EDWARD SEAMAN - 1872

17 MR. ORTIZ: Mr. Chairman, Board Members, Tab 20,
18 Town Marshal Edward Seaman. What occurred back in 1872
19 was there was some feuding between some ranchers in Texas
20 and New Mexico over the ownership of some livestock.

21 And so the Texans apparently came into New Mexico
22 and ended up beating up a local resident for refusing to
23 surrender his horses. A neighbor came to aid this
24 resident against this group of Texans. They shot and
25 killed this individual.

1 Marshal Seaman then arrived, and he was beaten by
2 this group of Texans and tried to flee. As he was
3 fleeing, he was shot in the head, causing instant death.
4 And this occurred in 1872. And Loma Parda was near
5 Ft. Union.

6 MR. PEREZ: Do I hear a motion that Edward Seaman
7 be included in the memorial wall?

8 MR. COON: Mr. Chairman, I would -- with great
9 honor I would like to nominate Edward Seaman, town marshal
10 in Loma Parda, New Mexico, to be included on our memorial
11 wall.

12 MR. PEREZ: All those in favor say aye.

13 THE BOARD: Aye.

14 MR. PEREZ: All those opposed. {No response.}
15 Motion carries.

16 ITEM #21: LEA MEMORIAL - SAN MARCIAL

17 CITY MARSHAL CHARLES WALKER - JUNE 1881

18 MR. ORTIZ: Mr. Chair, Board Members, Tab 21,
19 Charles Walker, listed as a city marshal in San Marcial,
20 New Mexico. There's two accounts. One from a Dallas
21 newspaper, and one from the New Mexico Rio Grande
22 Republican.

23 The first one is from the Dallas newspaper that
24 Charles Walker, city marshal, was shot and killed last
25 night by Paddy Ryan, who recently escaped from jail in

1 El Paso Del Norte, Mexico, where he was confined for
2 shooting a Mexican.

3 Ryan was beating his wife, and Walker went into
4 the house to stop them. After remonstrating with Ryan, he
5 turned to leave, when Ryan drew his pistol and emptied it
6 into Walker's back. Five shots lodged in a space that
7 could be covered by a man's hand.

8 Ryan then ran for the mountains pursued by a
9 number of men, but owing to the darkness he succeeded in
10 making his escape.

11 The Rio Grande Republican says that Ryan was
12 under the influence of liquor and mad about something. He
13 ran into the dining room where his family was seated at
14 dinner. And finding one of his children crying, he
15 brutally knocked the child out of the chair.

16 His wife interfered to protect the child when
17 Ryan drew his pistol and struck her a cruel blow on the
18 head, felling her to the floor. The screams of the woman
19 and child brought Walker to the scene, whereupon Ryan
20 ordered him to leave the room, saying "This is a family
21 affair and you have no business here," or words to that
22 effect.

23 Walker answered that it was his business as an
24 officer to keep the peace. At this, Ryan commenced firing
25 at Walker, shooting five bullets into different parts of

1 his body. Walker died from the effects of his wounds a
2 few hours afterwards.

3 Ryan fled after the shooting and several citizens
4 fired at him as he ran. But the bullets all flew wide and
5 apparently he escaped out of town unhurt.

6 The director is requesting that the board approve
7 Charles Walker be included into the Law Enforcement
8 Memorial.

9 MR. PEREZ: Do I hear a motion to that effect?

10 MR. COON: Mr. Chairman, with great honor, I
11 would like to nominate City Marshal Charles Walker be
12 enshrined on the memorial wall.

13 MR. PEREZ: Do I hear a second?

14 MR. JONES: I second the motion.

15 MR. PEREZ: The motion's been moved and seconded.
16 All in favor say aye.

17 THE BOARD: Aye.

18 MR. PEREZ: All opposed. {No response.} Motion
19 carries.

20 MR. COON: This is probably the earliest domestic
21 violence death we've had in New Mexico dealing with
22 domestic violence, probably.

23 MR. ORTIZ: Yes.

24 MR. PEREZ: I noticed that Sheriff Brady of
25 Lincoln County, New Mexico, was -- I read that somewhere

1 last night. And I thought was that not included in this
2 number?

3 MR. ORTIZ: Sheriff Brady, he is on the memorial
4 already.

5 MR. PEREZ: Oh, he already is?

6 MR. ORTIZ: Yes.

7 MR. PEREZ: I'm sorry. It was late. Anyway,
8 thank you.

9 ITEM #22: NIKKI BACA

10 MR. PEREZ: Next item is Item 22. These are
11 items that will be taken up by the board in closed session
12 later, but first we will have a presentation regarding
13 each item by Assistant Attorney General Nan Erdman, who
14 will give us a brief on each case.

15 We will then listen, and we will then hear any
16 comments from the members of the public who are here, any
17 explanations that you would like to make. I ask that you
18 keep your remarks brief.

19 These matters have been gone over in detail, but
20 you are allowed to speak and we will be anxious to hear
21 what you have to say. So, Ms. Erdman, if you would then
22 continue.

23 MS. ERDMAN: I'll start with Item No. 22, Nikki
24 Baca. Nikki Baca was employed by the Los Lunas Police
25 Department. She wrecked her car in a one-person accident

1 causing damage to a private fence. Her breath alcohol
2 level was .12.

3 The director has entered into a stipulated order
4 in which she agreed to a 60-day suspension, one year
5 probation, counseling, an ethics training course, alcohol
6 screening, and to address the police academy class. Her
7 employer suspended her for five days.

8 Are there any questions about this matter?

9 MR. PEREZ: Is Nikki Baca here? Would you like
10 to address the board?

11 MS. BACA: Yes, I would.

12 MR. PEREZ: Please come up. And if you would
13 identify yourself.

14 MS. BACA: Hello. I'm Nikki Baca. Good morning,
15 Chair Members. Unfortunately, I'm here today on behalf of
16 the incident she just discussed. I'll make this as brief
17 as possible.

18 MR. PEREZ: Could you speak up a little bit?

19 MS. BACA: I'm here on the incident that occurred
20 that the lady just discussed. I don't want to waste any
21 of your time. However, I'll do the best that I can to
22 make this as short and as brief as possible.

23 I'm here to accept responsibility for the actions
24 that I imposed on myself. I knew that the day that I
25 graduated the academy I took an oath from that day forward

1 I was in a glass frame and I was held to a higher
2 standard.

3 I was involved in a particular isolated incident
4 resulting in the DUI charge. Unfortunately, it was one
5 bad decision that I made, which brought me here in front
6 of you. I'd never been in trouble in my life. Never did
7 I ever think I would be here.

8 I used to be in the academy and see officers
9 coming and doing this; and I thought, "That will never be
10 me." Unfortunately, I'm here. I ask for your request for
11 a second opportunity at my career. I used to be on the
12 news for sports and good things, not for an incident like
13 this.

14 I'm here to take full responsibility for my
15 actions. There's nothing that will validate or make
16 anything I say make the incident okay or go away. I've
17 complied with all the conditions that my police department
18 and the chief has requested on my -- for me to do.

19 And I've done everything I can to help other
20 officers and let them know that whether it's one drink or
21 two drinks it will get them in trouble. People do it all
22 the time. People are arrested for it all the time.

23 And I thought my incident being on the news would
24 prevent other officers or anybody who wears a badge,
25 whether it be a firefighter or a law enforcement officer.

1 Unfortunately, there has been more after my incident.

2 I can guarantee -- I know there's not a lot of
3 things you can guarantee in life, but I know I will never
4 be placed in a situation like this whether I continue on
5 with my career or I don't.

6 As a civilian or a law enforcement officer, I
7 will never be in any type of situation that I'm in right
8 now. This incident has been my life for the last four
9 months. I worked hard to get where I'm at. I'm 22 years
10 old, and one bad decision has ruined my career.

11 I ask that you use your discretion and give me a
12 second opportunity. And if not, I know that I can stand
13 up to all and walk out with my head high knowing that I'm
14 taking full responsibility just like any other citizen or
15 a civilian would. Thank you.

16 MR. PEREZ: Thank you, Ms. Baca.

17 On February 9th, Ms. Baca met with Director Ortiz
18 in an informal hearing. And the director responded,
19 reached an agreement on a stipulated order for suspension
20 and probation. The director obtains sufficient
21 information to recommend that the settlement agreement
22 herein be approved by the board.

23 And the director is recommending suspension and
24 probation, 90-days suspension, one-year probationary
25 period, an ethics training course, alcohol screening and

1 assessment, and address the police academy class.

2 That will be considered in closed session. Any
3 further comments regarding this matter?

4 MR. COON: I've got a question.

5 MR. PEREZ: Yes, Sheriff.

6 MR. COON: What is the status of your driver's
7 license right now?

8 MS. BACA: My status is still valid. It's still
9 valid. I had an MVD hearing on February 15th, and I'm
10 still waiting for the results of that. So at this time
11 it's still valid.

12 MR. COON: So do you think you're going to lose
13 your driver's license for 90 days or 60 days or whatever?

14 MS. BACA: Honestly, based on the MVD -- I was
15 present at the time. Based on the investigation of the
16 responding agency and the officer's testimony, I do
17 believe that there is a lot of hope on my end, which is
18 why the results have been -- MVD is taking so long to
19 notify me, that there is a big chance that I will keep my
20 license.

21 MR. COON: Thank you.

22 MR. PEREZ: There was a hand raised. Yes, sir.
23 Please approach the microphone. Identify yourself,
24 please.

25 MR. MELNICK: Mr. Chairman, Board, I am Roy

1 Melnick, police chief of the Los Lunas Police Department.
2 Nikki Baca is one of my officers, and she is a very good
3 officer. She made a mistake. We took immediate
4 disciplinary action against her.

5 We imposed some mandatory counseling sessions
6 that she needed to attend. She has complied. She's
7 continued with those counseling beyond the point where I
8 mandated. I have reviewed the reports from the counselor
9 that she is doing very well.

10 She hasn't had a drink since the incident.
11 There's a place for her in my department. I was at the
12 informal hearing with the stipulated orders that were
13 entered into. And I agree and concur with those orders.

14 And I would ask that this board approve that
15 stipulated order as written and agreed upon. Thank you.

16 MR. PEREZ: Thank you, Chief. Any other
17 comments? Thank you. Next item.

18 ITEM #23: MARISA BARRAGAN

19 MS. ERDMAN: The next item is Item No. 23 on the
20 agenda, Marisa Barragan. Marisa Barragan hit a friend
21 with her taser at a birthday party after drinking. The
22 taser wasn't charged so that her friend wasn't shocked.
23 She gave either inaccurate or incomplete information to
24 her supervisor after the incident.

25 The director held an informal hearing on

1 March 2nd in which she provided information pertaining to
2 the incident. She admitted to the incident. She is
3 employed by the Artesia Police Department.

4 And the director is recommending a 60-day
5 suspension, one-year probation, ethics training, alcohol
6 screening, eight hours of community service, and that she
7 address the police cadet class.

8 And I just want to make sure. My information is
9 that she resigned her position with the Artesia Police
10 Department after the accident; is that correct?

11 MR. ORTIZ: Yes. And she is here.

12 MR. PEREZ: On March 2nd, 2010 the respondent met
13 with the director in an informal hearing, and she provided
14 information pertinent to the incident. She was honest and
15 remorseful for her action. She apologized and said she
16 was ashamed of her actions, that she knew better.

17 The director and Ms. Barragan reached an
18 agreement on a stipulated order for suspension and
19 probation. The director recommends the settlement
20 agreement herein be approved.

21 He recommends suspension and probation, a 60-day
22 suspension, one-year probationary period, ethics
23 training/course, alcohol screening and assessment, eight
24 hours of community service, and address the police academy
25 class. Any comments? Is Ms. Barragan here?

1 MS. BARRAGAN: Yes, sir.

2 MR. PEREZ: Would you like to address the board?

3 MS. BARRAGAN: I would; yes, sir. I wanted to be
4 here today so you could all see my face and have a name to
5 put with my face. And I have taken full responsibility
6 for my actions. I'm embarrassed, ashamed.

7 I was not being so forward when it happened, to
8 go to my supervisor and tell them what happened and be
9 truthful about it because I was ashamed of what happened.

10 I knew better. I was raised better than that. I
11 was not only taught by my parents, but also by the academy
12 that integrity is everything. And I put that on the line
13 when I chose not to be truthful the first time around.

14 So when I came back the next day to tell the
15 whole truth, it was a little too late. It cost me my
16 career, hopefully not my entire career. I've learned from
17 this lesson. I've learned a valuable lesson from this
18 incident at a high cost.

19 And I hope to return to law enforcement soon in
20 the near future. I'm trying to make this as positive as I
21 can, and I've returned to school. I'm working part-time
22 for FLETC as an armed security guard.

23 And I'm trying to keep my head up, trying to
24 learn from it and move on. I'm ready to put it behind me
25 and be better and help others. I'm going to give a

1 class. Mr. -- the director asked me to give a class to
2 the next academy class in Hobbs.

3 And I think it would be a great honor for me. I
4 choose to live by those ethics. I choose to be honest and
5 have integrity. And this, I made a mistake and went
6 against my better judgment. And I just ask you to
7 consider that.

8 MR. PEREZ: Thank you.

9 MS. BARRAGAN: Thank you.

10 MR. COON: I've got a question. It says here
11 that the person tased, the struck individual, does not
12 appear to have been shocked by the taser.

13 MS. BARRAGAN: No. What happened was I went
14 inside. I had it in my hand. And I did a spark test. It
15 was so fast. I had accidents before where I forgot to
16 remove the cartridge. I had incidents prior when I was
17 going on duty of not removing the cartridge.

18 And so when I did the spark test, it had the
19 cartridge; and it struck her. She had no idea it was
20 coming. But it was so fast all in all that the prongs
21 just hit her and that was it.

22 Hardly any -- she didn't hit the ground. She
23 didn't fall down. It was so fast.

24 MR. COON: Okay. Thank you.

25 MR. REEVES: I also have a question,

1 Mr. Chairman.

2 MR. PEREZ: Yes, sir.

3 MR. REEVES: Ms. Barragan, if I understand it
4 correctly, you are a certified law enforcement officer?

5 MS. BARRAGAN: Yes, sir.

6 MR. REEVES: You plan on continuing working in
7 that field?

8 MR. BARRAGAN: I do.

9 MR. REEVES: You know, when I read this kind of a
10 report, from a district attorney's point of view, I can
11 fully understand somebody making a mistake or making a
12 silly decision that had consequences you couldn't
13 foresee.

14 The problem I have in a situation like this is
15 when you were willing to lie about what happened. You
16 know, in a larger jurisdiction that might not be a
17 problem.

18 In a smaller jurisdiction, if you were a
19 policeman and lied and I knew about it or the judge knew
20 about it, you'd have to go somewhere else to work because
21 you would be useless to me.

22 MS. BARRAGAN: Right.

23 MR. REEVES: And I need for you to keep that in
24 mind. And if you would, pass that on to other police
25 officers.

1 MS. BARRAGAN: Yes, sir.

2 MR. REEVES: You make a mistake. You face the
3 music. You get it over with and you move on. You tell a
4 lie, it's like getting a tattoo on your forehead. You're
5 going to have live with it for a long time.

6 MS. BARRAGAN: Yes, sir; you're right. I learned
7 that. And what happened is I lied and then the next day I
8 came back to try to -- it was too late. I couldn't undue
9 what I had already done. And I do face that problem in
10 Eddy County right now because the DA will not take my
11 cases.

12 MS. PEREZ: Any further comments regarding this
13 matter? Did you read there was a 60-day suspension
14 recommended?

15 MS. ERDMAN: I did read that.

16 MR. PEREZ: Okay. Thank you. Next item.

17 ITEM #24: DON BEGAY

18 MS. ERDMAN: The next item is Agenda Item No. 24,
19 Don Begay. He was employed by the Albuquerque Police
20 Department and was driving his personal vehicle, was
21 stopped for suspicion of driving while intoxicated.

22 His blood alcohol level was .16 and .17. The
23 respondent received a 72-hour suspension by his employer.
24 Forty-two hours was held in abeyance, and 30 hours were
25 served.

1 There was an informal hearing on February 4th
2 when Mr. Begay met with the director and provided
3 information indicating he would be agreeable to a
4 settlement.

5 The director's recommending a 90-day suspension,
6 one-year probation, an ethics training course, complete
7 DWI school, alcohol screening and assessment, and address
8 the telecommunicator training class.

9 MR. PEREZ: Is Mr. Begay here? Apparently, he's
10 not. Any questions from the board? Next item.

11 ITEM #25: DANIEL BENOIT

12 MS. ERDMAN: It's Agenda Item No. 25, Daniel
13 Benoit. Daniel Benoit was in a car accident. He provided
14 false information saying that his girlfriend was driving
15 the car when he was in fact driving the car during the
16 time of the accident. His employment with the Las Cruces
17 Police Department was terminated.

18 He attended an informal hearing on February 4th
19 of this year and explained the incident regarding the
20 crash saying his girlfriend was upset and crying about the
21 accident. He worried -- and was worried about the
22 insurance.

23 So he told the officer that she was driving the
24 vehicle, because he was concerned that her insurance
25 coverage wouldn't cover the accident if he was driving the

1 vehicle. He didn't report the incident to his
2 department.

3 He felt bad about not reporting it, and he came
4 forward the next day. He informed the officer. He then
5 advised him to contact his union. He advised his
6 lieutenant that he was the driver at the time of the
7 incident and took accountability for his actions and was
8 remorseful.

9 And the director recommends that the stipulated
10 order for suspension and probation be entered for a 30-day
11 suspension, one-year probation, an ethics training course,
12 eight hours of community service, and that he address the
13 police cadet class.

14 MR. PEREZ: Is Mr. Benoit here?

15 MR. BENOIT: Yes, sir.

16 MR. PEREZ: Would you like to address the board?

17 MR. BENOIT: Yes, sir.

18 MR. PEREZ: Come forward.

19 MR. BENOIT: Members of the Board, I'm Daniel
20 Benoit, formerly with the Las Cruces Police Department.
21 I'm here to apologize for my actions on October 1st, 2009
22 at approximately 2100 hours. Not a day has gone by that I
23 don't regret what I did.

24 Not even that single day, less than 24 hours
25 later I came with the truth and told the officers what had

1 happened. I got bad information from a union
2 representative to not say anything straight to a
3 supervisor.

4 It was my choice to follow that information,
5 which didn't look good on my part not going straight to a
6 supervisor, which eventually it ended up getting me into
7 more trouble with the department.

8 This was an uncharacteristic act on my
9 character. Not a day since I've worn the badge has my
10 integrity or my credibility been questioned until that one
11 incident. I feel that I was a good officer for the
12 Las Cruces Police Department.

13 Unfortunately, they terminated my employment with
14 them; but I feel that I could be a valuable asset to
15 another agency in Dona Ana County.

16 MR. PEREZ: Is that it?

17 MR. BENOIT: Yes, sir.

18 MR. COON: How much alcohol was involved in this
19 accident?

20 MR. BENOIT: No alcohol, sir.

21 MR. COON: None?

22 MR. BENOIT: No, sir.

23 MR. COON: Why would you do that then? Why would
24 you lay it off on your girlfriend when you might get a
25 citation or something? What were you thinking?

1 MR. BENOIT: That's -- I've thought about that
2 ever since the day it happened. It was just a stressful
3 situation, a situation that I had never found myself in.

4 I mean, it's bad enough if I crash my own
5 vehicle, but her vehicle is -- she's not from here, so
6 that's her only way of transportation throughout the
7 city. It was just bad judgment on my part.

8 MR. COON: How many accidents have you
9 investigated that they swap drivers because somebody might
10 have been drinking to make that go away? Do you see where
11 I'm coming from on this?

12 MR. BENOIT: Yes, sir.

13 MR. COON: But there was absolutely no alcohol
14 involved?

15 MR. BENOIT: No, sir.

16 MR. COON: Okay.

17 MR. PEREZ: Any other questions? Again,
18 Mr. District Attorney, this matter involves lying to a
19 superior. Director Ortiz?

20 MR. ORTIZ: Yes, sir.

21 MR. PEREZ: I noticed that this is a 30-day
22 suspension, where the other was 90 days. Can you comment
23 on that?

24 MR. ORTIZ: Sixty days. In Ms. Barragan's case,
25 it did involve alcohol in her matter. His was regarding

1 the insurance. He was concerned about the insurance.

2 Alcohol wasn't a factor.

3 MR. PEREZ: According to our previous sort of the
4 guideline that you're going by that we have done before.

5 MR. ORTIZ: Right. That's why Ms. Barragan's was
6 60 days because alcohol was involved.

7 MR. PEREZ: Okay. Thank you. Thank you, sir.

8 Anybody else who wants to speak on this matter?

9 Next item.

10 ITEM #26: STERLIN DESMARE

11 MS. ERDMAN: The next item is Agenda Item
12 No. 26, Mr. Desmare. He reported for duty in uniform and
13 operated a marked police unit while he was intoxicated.
14 After reporting for duty, he went to the lab at the
15 hospital in Alamogordo to be tested for diabetes.

16 And someone who was with him suggested that he
17 also be tested for alcohol content. There was a strong
18 odor of alcohol emanating from his breath. And the lab
19 technician felt compelled to report to the respondent's
20 supervisor what she had seen.

21 The respondent was tested for BAC and tested at
22 .07 and .06. He admitted to a supervisor to consuming 4,
23 12-ounce beers the evening preceding, although he knows
24 he's not supposed to consume beer 12 hours prior to the
25 blood test ordered by his doctor, which is a diabetes

1 test.

2 Other witnesses observed the respondent in the
3 day in question and noticed alcohol odor and bloodshot
4 eyes. In lieu of termination, the respondent resigned his
5 position. There was an informal hearing on February 15th
6 with the director.

7 He apologized and was remorseful for his actions
8 and provided information. He would be amenable to a
9 settlement. He has agreed to and the director recommends
10 a 90-day suspension, one-year probationary period, an
11 ethics training course, eight hours of community service,
12 and that he address the police cadet class.

13 MR. PEREZ: Is Mr. Desmare here? How do you
14 pronounce your name, sir?

15 MR. DESMARE: My last name is pronounced Desmare.

16 MR. PEREZ: Thank you.

17 MR. DESMARE: Director, Board Members, thank you
18 for your time today. The time that this was going on, I
19 was going through a very hard time and part in my life. I
20 lost both my parents in a span of two years, and I went
21 through a divorce during that time.

22 I didn't know who to talk to. I didn't know how
23 to ask for help. So what I did is I went to the bottle.
24 But I would drink -- I never drank hard liquor. It was
25 all beer. But I would drink. And I let alcohol -- I was

1 a functioning alcoholic. I didn't know I had a problem.

2 I thought I was fine. And I messed up. I didn't
3 think I was, but apparently the people at the hospital
4 did. They reported it, and I admitted. I'll take my -- I
5 told Mr. Ortiz I'll take my punishment, whatever it was
6 that they would do to me.

7 The counseling, I've voluntarily went to the
8 counseling. Right after this happened, I voluntarily went
9 to the place called Canyon Light, Incorporated. That's
10 for alcohol treatment. Ninety days is what I spent. It
11 was a 90-day outpatient program.

12 I have a letter from Mr. Baldarama to you,
13 Mr. Ortiz, that you requested. I also told him that I
14 would do the eight hours of community service, the
15 academy, and the ethics training. The only thing I lack
16 is the ethics training and the academy. Right now I'm
17 currently waiting to do all my voluntary work with the
18 church in Tularosa.

19 Also, if you were to give me a second chance,
20 Clayton Police Department has said that they would hire
21 me. I would have a job with the Clayton Police
22 Department. I did explain to the chief everything that
23 was going on, and he told me he understood.

24 And he said if I was given another chance, the
25 90-days probation and one year -- the one-year probation

1 on my license that he would hire me and let me work at
2 that department. I just ask for a second chance to prove
3 myself.

4 MR. PEREZ: You were a motor transportation
5 officer at the time this occurred?

6 MR. DESMARE: Yes, sir. Motor Transportation
7 Division in Alamogordo, New Mexico. I graduated from the
8 police academy October 5th, 1995.

9 MR. PEREZ: You said that you were a functioning
10 alcoholic?

11 MR. DESMARE: Yes, sir; I was.

12 MR. PEREZ: Are you still?

13 MR. DESMARE: No, I don't drink. Last drink I
14 had was on Christmas day with my brother and other family
15 members, and that was it. I haven't touched anything
16 since then.

17 MR. COON: You said you were a functioning
18 alcoholic back then. So you came to work more than once
19 under --

20 MR. DESMARE: There was a couple of times, yes,
21 that I can look back and be honest with you, there was a
22 couple times, yes. I was a functioning alcoholic. You
23 know, I was very close to my parents. And in the span of
24 two years I lost both my parents due to cancer.

25 MR. PEREZ: Do you intend not to drink again?

1 MR. DESMARE: Yes, sir. That's my goal. But, of
2 course, I am human. If I mess up, I know I can call
3 Mr. Baldarama from the counseling center at any time.
4 He's like my sponsor. I can call him anytime and that he
5 will help me out anytime.

6 MR. PEREZ: Any questions from the board?

7 MR. DESMARE: Would you like me to give you this
8 letter now, Mr. Ortiz?

9 MR. ORTIZ: Sure.

10 MR. PEREZ: Thank you, sir. You can give that to
11 Mr. Ortiz. Next item.

12 ITEM #27: KURT FISKUM

13 MS. ERDMAN: Next item is No. 27 on the agenda,
14 Kurt Fiskum. In May of 2009 the respondent is accused of
15 using excessive force on a citizen. He came across the
16 vehicle parked on a roadway and inquired from a nearby
17 resident where the owner of the vehicle was.

18 A 60-year-old woman came out of the residence
19 upset and walked to the vehicle. The respondent used the
20 arm bar technique to wrestle the woman to the ground after
21 she hesitated to show her driver's license.

22 The woman said she was the driver of the vehicle,
23 and he was trying to get her identification. The
24 respondent prevented her from going into the car and stood
25 between her and the car.

1 The respondent told the woman that if she did not
2 show him her driver's license he was going to take her to
3 jail. The woman said she was leaving. And he charged her
4 with resisting.

5 In a separate incident on November 3rd in 2009,
6 the respondent engaged in an unsafe car chase that was
7 contrary to department policies. He attempted to initiate
8 a traffic stop for a vehicle driving 40 miles an hour in a
9 25-mile-an-hour zone.

10 He activated his traffic equipment. The vehicle
11 attempted to allude him, and he took off in pursuit. He
12 failed twice to obey his supervisor's orders to stop the
13 pursuit. And he posed an undue danger to the public.

14 The vehicle being chased crashed into another
15 vehicle resulting in serious injuries to three occupants
16 in that vehicle and minor injuries to the driver. He was
17 suspended from the Dona Ana County Sheriff's Department
18 for 160 days without pay.

19 He attended an informal hearing on March 9,
20 2010. He presented witnesses and evidence to the director
21 and information indicating he would be amenable to a
22 settlement.

23 He agreed to and the director recommends a 90-day
24 suspension, one-year probationary period, ethics training
25 course, use of force training, safe pursuit training, and

1 eight hours of community service.

2 MR. PEREZ: Mr. Fiskum here?

3 MR. FISKUM: Yes, sir.

4 MR. PEREZ: Would you like to address the board?

5 MR. FISKUM: Sure. Good afternoon, I think it is
6 now, right? Yeah. I don't really have much to say. I
7 take full responsibility for what I did. I have since the
8 incident basically been placed in an office just there. I
9 was suspended. I went to a psychologist.

10 And I've been back at work now for the last two
11 weeks and put on a performance plan. Basically, I've got
12 to prove to them that I can think straight and do my job.
13 That's all I really have to say.

14 I take full responsibility for what I did. I'm
15 basically here if you guys have any questions. That's why
16 I showed up today, just to clarify. Because there are
17 some things that are not correct -- exactly correct with
18 the way it's stated in the report.

19 MR. PEREZ: What is incorrect?

20 MR. FISKUM: One of the things of she didn't
21 hesitate. She flat out told me she wasn't going to show
22 me anything and I had to leave. And the way it was when I
23 approached the residence, she came storming out of that
24 house forcing the other two residents that I had first
25 made contact with, she pushed those two residents out of

1 the way.

2 Came right towards me. At that time I thought I
3 was going to be attacked. My initial contact was because
4 of the vehicle was parked in the roadway. And my
5 intentions were at the time were not to even give her a
6 citation.

7 The streets down there are so narrow, I didn't
8 want her car to get hit. So I thought I was going to be a
9 good Samaritan, find the driver of the vehicle, and ask
10 her to move the car.

11 And she has -- totally has claimed the whole
12 thing, and I had to defend myself.

13 When she came out of the house, I tried to
14 deescalate the situation by telling her to calm down, to
15 calm down, to please calm down. She just kept coming at
16 me.

17 At that time, I asked her for her driver's
18 license. And she yelled and screamed through this whole
19 thing saying that, you know, she doesn't have to show me
20 anything. "I'm not showing you anything." And she turned
21 around and walked away.

22 At that time I heard some kind of commotion
23 behind me. So I turned around for a minute to see what
24 was going on, and she got a head start on me. She walked
25 into her car, and I had to take a little leap.

1 I didn't want her to take off because she was
2 very upset and her driving off real fast could have caused
3 something else. So I reached forward, grabbed her door,
4 and told her to step out.

5 And, yes, I did tell her, you know, "I need to
6 see your license now. If I don't see it, I'm going to
7 take you to jail." She told me, "I don't have to show you
8 nothing, and I'm leaving."

9 Could I have handled that situation a little bit
10 better? Yes, I could have. Did I really have to arm bar
11 her? Probably not.

12 MR. PEREZ: You have anger issues?

13 MR. FISKUM: No, I don't. I'm -- actually, if
14 you speak to all of my coworkers, I'm probably the calmest
15 one of them all.

16 MR. PEREZ: People who were injured in the
17 accident, the ones that were fleeing, said they had
18 serious injuries. Do you know what they were?

19 MR. FISKUM: One lady had -- got some head
20 injuries. She's fine. I've been following up on this
21 whole ordeal since day one. I called over there, and
22 she's released. She's fine.

23 MR. PEREZ: She's the most serious?

24 MR. FISKUM: Yes.

25 MR. PEREZ: Anybody else hurt like that?

1 MR. FISKUM: No.

2 MR. PEREZ: Any other questions?

3 MR. COON: Why would you not stop the pursuit
4 when told twice by a supervisor?

5 MR. FISKUM: I didn't hear. I know -- I know it
6 sounds -- sounds that I'm lying. I went through a
7 psychologist. We went through the whole thing of trying
8 to figure out what happened. I don't have the report
9 yet. I don't know if anybody has gotten that report. I
10 don't know.

11 But he said -- basically what he told me
12 afterwards, he said the first thing that goes in a pursuit
13 like this is your hearing. That's what he told me. I
14 don't know. I've never been in one before. I don't
15 know. That's what he told me.

16 He made a good ex- -- what he told me was --
17 first he asked me, "How long have you been married?" I
18 told him 20 years. And he says, "Okay. I've been married
19 about 20 years, too."

20 And then he goes -- then he made an example of
21 when he was sitting at the house on the computer doing
22 bills or whatever he's doing; and the wife comes up and
23 walks behind him and says, "How was your day?" He didn't
24 even hear his wife.

25 But he was trying to make an example. He said if

1 his wife came by and said, "Hey, your house is on fire,"
2 that would catch your attention. I don't know. I don't
3 know. I did not hear my supervisor.

4 MR. PEREZ: So this might happen again?

5 MR. FISKUM: I hope not. I hope not. I've
6 gone through a lot of --

7 MR. PEREZ: You're a trained law enforcement
8 officer?

9 MR. FISKUM: Yes.

10 MR. PEREZ: Much more is expected of you than a
11 regular citizen.

12 MR. FISKUM: Right.

13 MR. PEREZ: Particularly pursuing people and
14 things like that you have to have heightened awareness,
15 rather than less awareness.

16 MR. FISKUM: Yes. Yes. I understand that
17 completely.

18 MR. PEREZ: You have no explanation for that
19 except you didn't hear it?

20 MR. FISKUM: I did not hear my supervisor. I
21 didn't hear his --

22 MR. COON: Did you notify your supervisors or
23 your department that you were leaving not only your
24 jurisdiction but your state --

25 MR. FISKUM: Yes.

1 MR. COON: -- in this pursuit?

2 MR. FISKUM: Yes.

3 MR. COON: All over 15 miles an hour over the
4 speed limit?

5 MR. FISKUM: Yeah. I did find out later he was
6 apparently the -- a drug runner. He did have some drugs
7 in his vehicle. That was later discovered. And that I --
8 just two days ago I got the blood results back from
9 testing. It was .24.

10 MR. PEREZ: How far did you go into Texas?

11 MR. FISKUM: Maybe -- maybe a mile, half a mile.
12 About a mile overall.

13 MR. PEREZ: This was where?

14 MR. FISKUM: In El Paso, Texas. El Paso, Texas.

15 MR. PEREZ: On the interstate or?

16 MR. FISKUM: No. No. It's the Cat's Eye or
17 something like that.

18 MR. PEREZ: So the road goes into Texas and back?

19 MR. FISKUM: Yeah. Down there in Anthony, which
20 is the area that I worked. It's Anthony, New Mexico; and
21 then it's Anthony, Texas.

22 MR. PEREZ: Did you realize you were in Texas?

23 MR. FISKUM: Yes. Oh, yes. Definitely.

24 MR. PEREZ: Thank you, sir. Any other questions?

25 I'm sorry. Mr. Shandler.

1 MR. SHANDLER: Mr. Ortiz, you heard some
2 questions from the board. Why did you go with this
3 particular settlement?

4 MR. ORTIZ: I found Mr. Fiskum to be an honest
5 individual. He made some mistakes. He was very honest
6 with it. It was difficult. His -- looking at his agency
7 didn't terminate him, that they kept him, they suspended
8 him, that they have some use for him and they believe he
9 is a good police officer.

10 Since they didn't terminate him, I thought to
11 give him a chance as well. Like I said, I didn't see any
12 dishonesty in him at all. He made some mistakes, and I
13 think he needs some additional training.

14 No disrespect to Mr. Fiskum and I don't mean this
15 in a humorous way, but that series, Andy Griffith, you
16 know, Deputy Barney Fife over there. And he's just such a
17 nice guy. He kind of reminds me of Barney, you know.

18 He's a nice guy, but sometimes he just gets a
19 little too aggressive. You know, people parking their car
20 in a parking zone, he wants to cite them. And I just kind
21 of felt that Mr. Fiskum is a nice guy and he's trying to
22 do the right thing, but maybe he's just going a little bit
23 overboard. And so that was my recommendation.

24 MR. PEREZ: Thank you. Any questions of the
25 board? Next item.

1 ITEM #28: PAUL GOMEZ

2 MS. ERDMAN: The next item will be presented by
3 Investigator Ernie Holmes on 28 and 29 on Paul Gomez.

4 MR. HOLMES: Mr. Chairman, Members of the Board.
5 This is Item No. 28, and the respondent here is Mr. Paul
6 Gomez. Mr. Paul Gomez was involved in a motor vehicle
7 crash driving his own personal vehicle in the Village of
8 Los Lunas, New Mexico.

9 Several witnesses noticed the respondent driving
10 erratically by weaving between lanes of traffic. Shortly
11 after, his vehicle collided with another vehicle that had
12 been stopped at a traffic light, causing injuries to the
13 occupants of the vehicle that he struck.

14 The injured person was complaining of back and
15 leg injuries and was transferred to the hospital for
16 medical treatment. A witness indicated it appeared that
17 the respondent was attempting to leave the scene by
18 backing up his vehicle but was blocked by another vehicle
19 and was prevented from leaving the crash site of the
20 accident.

21 The officer investigating the crash site noticed
22 signs of intoxication displayed by the respondent and was
23 placed under arrest for driving under the influence of
24 drugs -- alcohol or drugs.

25 The blood test that was performed -- the test

1 that was -- the field test was performed on this person.
2 The breathalyzer registered zero. So, therefore, a blood
3 test was administered, and this blood test showed
4 different types of drugs that were in his system.

5 Before I go any further, I'd like to explain here
6 there are two cases pertaining to this person here, the
7 same person here. And while we were interviewing this
8 person here at the academy, his attorney was on the
9 telephone. So we were doing this telephonically with his
10 attorney.

11 And at that point in time we were advised that
12 there was another charge very similar to this one. And
13 his attorney requested that they -- we consolidate both of
14 them and bring them before the board.

15 Let me explain a little bit here the reason that
16 Mr. Gomez was taking the drugs. Mr. Gomez was involved in
17 May of 2000 while they were executing a search warrant on
18 a residence in Los Lunas. He was with another officer who
19 accidentally discharged and the bullet struck Mr. Gomez in
20 his left leg.

21 The respondent has undergone 17 surgeries to
22 repair the damage to his leg. So that's the reason he's
23 been taking drugs. Mostly, they are muscle relaxants. So
24 that was the reason that he gave for that.

25 He was charged and -- for driving under the

1 influence of drugs. The respondent, of course, came
2 before the director; and he explained the reasons that he
3 had been taking the drugs and because of the pain he
4 suffers as a result of that gunshot wound that he
5 suffered.

6 The director recommended suspension and probation
7 of 90 days, one-year probation, ethics training, alcohol
8 screening and assessment, and he's also to address the
9 cadet classes.

10 There's another incident that is very similar to
11 that one, which is No. 29. And on that one, it happened
12 in a different location; but I don't want to jump into
13 that one yet. Is there any questions on this first one?
14 Any questions?

15 MR. PEREZ: Has he been tested to see if he is
16 addicted to drugs?

17 MR. HOLMES: I don't know if he's been tested,
18 but I know he's been taking those drugs that are
19 prescribed.

20 MR. PEREZ: But this is 10 years later after the
21 accident?

22 MR. HOLMES: He's here, and I believe he can
23 testify to that.

24 MR. PEREZ: Okay.

25 MR. HOLMES: So if there's no questions, I can

1 proceed to the next one. It involves the same person.

2 MR. PEREZ: Go ahead.

3 ITEM #29: PAUL GOMEZ

4 MR. HOLMES: And this is Item No. 29. And here,
5 again, it involves the same person, Mr. Gomez, Paul
6 Gomez. And this other incident occurred on March the 2nd,
7 2010.

8 During the time that we were conducting the
9 interview with Mr. Gomez here at the academy pertaining to
10 the first incident, his attorney, Mr. D'Amato, notified us
11 that there was another incident, which is this one, is the
12 second incident.

13 And it's very similar to the one that occurred in
14 Los Lunas. There was an accident that was reported. The
15 accident occurred in Albuquerque on October 29th, 2009,
16 and he was charged with driving while intoxicated and
17 reckless driving.

18 We looked -- we checked the Albuquerque PD and
19 confirmed that this had occurred. And when he collided --
20 he collided with another vehicle causing heavy damage and
21 minor back pain to the driver of the damaged vehicle.

22 And here again, Mr. D'Amato requested that the
23 two separate cases involving his client be consolidated
24 and presented to the New Mexico Law Enforcement Academy
25 Board on this date, which is what we're doing now.

1 At the informal hearing that was conducted here
2 at the academy on March 2nd, 2010, the respondent appeared
3 at the informal hearing, where the director -- the
4 respondent's attorney represented his client
5 telephonically.

6 In May of 2000 while he executed his search
7 warrant at a residence, here again is going back to
8 explaining that the officer, the respondent, was shot in
9 the leg and that's the reason he was taking the drugs, the
10 medications. The respondent was arrested and of course
11 charged with DWI.

12 Based on that, the director -- because this is
13 the second time, the director recommended a suspension and
14 probation, six-months probation -- six-months suspension
15 to run concurrent with a 90-day suspension on the first
16 case, plus a one-year probation, ethics training course,
17 alcohol screening and assessment, eight hours of community
18 service. And he is to address the cadet class.

19 Any questions pertaining to this second one?

20 MR. PEREZ: Is Mr. Gomez here?

21 MR. GOMEZ: Yes.

22 MR. PEREZ: Would you like to address the board?

23 MR. GOMEZ: Back in 2000 I was shot on duty.
24 I've had 17 surgeries since then on both legs. I lost
25 three inches of height on my left leg where I was shot.

1 MR. PEREZ: You lost what, sir?

2 MR. GOMEZ: Three inches of height on my leg. So
3 they went in and broke the other leg and shortened it.
4 And I have bars in my legs and whatnot. Over a period of
5 about five or six years is when I had the surgeries.

6 So the doctors, they have me on a pain management
7 system. The medication is accounted for. They do pill
8 counts to make sure I'm taking the medication properly.

9 The incident between the first and the second was
10 a medication change. This happened within a three-week
11 period, both accidents. I got into the first accident.
12 When I went back to the doctor, explained what happened,
13 they changed the medication to a different type. That's
14 when the second accident occurred.

15 Since then of course the medications have been
16 changed to find the right medication. But it's been, you
17 know, ten years since I've been taking this medication to
18 try to control the pain.

19 You know, I do know the bottles say to -- I'm
20 responsible for taking the medication. So I'm -- you
21 know, I take full responsibility for taking the medication
22 and making sure that I take it properly.

23 So, you know, I just hope that, you know, you
24 guys can understand that going through this -- all these
25 surgeries and the pain that I have to deal with, there's

1 this regimen that I have to be on in order to control the
2 pain.

3 You know, I'll comply with whatever is necessary
4 here, as far as taking the suspension and the classes and
5 whatnot. I resigned from my position at work. So I don't
6 know yet what -- you know, if I'm going to get back in law
7 enforcement or not. I'd like to.

8 It depends on if -- how my body is going to treat
9 me. So that's where we're at.

10 MR. PEREZ: You resigned from Los Lunas in 2007
11 and then you --

12 MR. GOMEZ: No. I worked for Bosque Farms Police
13 Department. I transferred to Bosque Farms Police
14 Department.

15 MR. PEREZ: But you resigned from Los Lunas --

16 MR. GOMEZ: No.

17 MR. PEREZ: -- is that correct?

18 MR. GOMEZ: Yes, I resigned from Los Lunas. And
19 then I headed on -- yes.

20 MR. PEREZ: And then you went to work for
21 Bernalillo County?

22 MR. GOMEZ: I went to the sheriff's department
23 for a short period of time and then --

24 MR. PEREZ: Then you resigned there.

25 MR. GOMEZ: Right. Since I --

1 MR. PEREZ: Why?

2 MR. GOMEZ: Because I live in Los Lunas.

3 MR. PEREZ: Why?

4 MR. GOMEZ: I live in Los Lunas. And it was the
5 commute and whatnot. So I decided to stay there.

6 MR. PEREZ: Then you went to Bosque Farms?

7 MR. GOMEZ: Correct.

8 MR. PEREZ: Are you addicted to these drugs?

9 MR. GOMEZ: No, I'm not addicted to them.

10 MR. PEREZ: Have you been checked for that?

11 MR. GOMEZ: Well, they give me the pill count, so
12 they make sure that I'm taking them as I'm supposed to. I
13 mean, if that's --

14 MR. PEREZ: But you were taking them as you were
15 supposed to and you've had two rather serious incidents
16 happen. What's to preclude that from happening again?

17 MR. GOMEZ: It was the -- I can't answer you. On
18 the first accident that happened, I don't know. The
19 second one was the medication changed. It could have been
20 the medication. I don't know. The way my doctor
21 explained it to me is after a person's been taking
22 medication for so long sometimes their body becomes
23 saturated to a point where you can overdose on it.

24 It can impair you. That was the reason for the
25 medication change. And then of course I got into the

1 second accident, they changed to a different type of
2 muscle relaxant. And then that's when the second accident
3 happened.

4 MR. COON: Do you take these pills every day?

5 MR. GOMEZ: Yes.

6 MR. COON: Anywhere on the bottle or did your
7 doctor prescribe you or let you know not to drive, operate
8 heavy machinery, anything like that while you're taking
9 this medication?

10 MR. GOMEZ: Yes.

11 MR. COON: But you went ahead twice and drove
12 when the prescription says do not drive or operate heavy
13 machinery?

14 MR. GOMEZ: Yes, I did.

15 MR. PEREZ: You're a regular patrolman. You
16 could be involved in high-speed chases or arrests
17 situation, anything.

18 MR. GOMEZ: During my work shift, I'm given a
19 non-narcotic medication. It's called Tramadol. And
20 that's what I was supposed to take during my shift.
21 Twelve hours prior to shift, I can take my narcotic
22 medication.

23 MR. PEREZ: And you can be called at any time?

24 MR. GOMEZ: I could be.

25 MR. PEREZ: And you can be on the narcotic?

1 MR. GOMEZ: Yes.

2 MR. PEREZ: These are controlled substances that
3 you're taking?

4 MR. GOMEZ: Yes.

5 MR. PEREZ: What are they?

6 MR. GOMEZ: Hydrocodone. Tramadol. And they
7 have me on a muscle relaxant, Carisoprodol.

8 MR. PEREZ: Do you think you are fit for duty?

9 MR. GOMEZ: No, not at the time I was taking the
10 medications then.

11 MR. PEREZ: Do you think you're fit now?

12 MR. GOMEZ: Oh, yeah, I'm fit now.

13 MR. PEREZ: Have you been to a doctor who has
14 certified that you are fit for duty for driving at high
15 speed and all this?

16 MR. GOMEZ: Yes, I have. Yeah, I have the
17 paperwork.

18 MR. PEREZ: How recent is that?

19 MR. GOMEZ: I don't know like the date on it.
20 Do you know?

21 MR. PEREZ: Any additional questions? Yes, sir.

22 MR. SHANDLER: Mr. Holmes, so the second write-up
23 says driving while intoxicated. So that's been
24 confusing. I thought it was alcohol. And now is it
25 accurate both events were medicated?

1 MR. HOLMES: Yes. Yes.

2 MR. COON: That's the way the statute reads.

3 MR. HOLMES: Yeah, that's the way the statute
4 reads, alcohol or drugs.

5 MR. SHANDLER: And then a six-month suspension.
6 So six months from now he does all these things. He gets
7 his certification back. Well, why did you guys go with
8 that? Any thoughts about a re-evaluation? Tell us why
9 you thought that was a good --

10 MR. HOLMES: Well, it's normally we've been --
11 the way we've handled the cases here before the board is
12 the first time they get 90 days. Second time is double.

13 MR. SHANDLER: Right. The second time
14 traditionally is six months. But this is not DWI. This
15 is medicated. So are there any -- would that factor into
16 your thinking?

17 MR. HOLMES: It is, because it's -- whether
18 you're driving -- alcohol or drugs. If you're driving
19 under the influence of alcohol or under the influence of
20 drugs, it doesn't make a difference. You're still
21 impaired.

22 We're not medical doctors to explain, you know,
23 if -- that's not up to us. I think it's up to the board
24 whether this gentleman would be suitable in the near
25 future to be a police officer.

1 Right now he's -- he's indicated to us at the
2 hearing that he was going to stay out of law enforcement
3 about a year or something like that.

4 MR. GOMEZ: Right.

5 MR. HOLMES: So I don't know what will transpire
6 during that time, whether he'll be taken off the drugs or
7 what. I don't know that.

8 MR. COON: I got a question. Two DWI's in a
9 month. What happened on your court cases?

10 MR. GOMEZ: They are pending still. I haven't
11 gone.

12 MR. COON: Were you charged a second offense on
13 the second one?

14 MR. GOMEZ: I was charged -- only because when I
15 was 17 I had a DWI, so I was charged with my second
16 offense. But, no. The answer to your question is no. It
17 was -- they would have both been first.

18 MR. COON: Okay. What's the status of your
19 driver's license right now?

20 MR. GOMEZ: It's valid.

21 MR. COON: Have you had a DMV hearing?

22 MR. GOMEZ: No.

23 MR. COON: Are you going to have a DMV hearing on
24 these?

25 MR. GOMEZ: I'm not sure how --

1 MR. COON: Did they let you keep your license
2 both times?

3 MR. GOMEZ: Yes.

4 MR. COON: That's all I have.

5 MR. PEREZ: Any other questions? Thank you,
6 sir.

7 ITEM #30: ARTURO HOLGUIN

8 MS. ERDMAN: The next is Agenda Item No. 30, In
9 the Matter of Arturo Holguin. On June 27th in 2009, the
10 respondent was arrested at 4:30 a.m. in Las Cruces and
11 charged with driving while under the influence of
12 alcohol.

13 His breath test registered .08 and .09. He was
14 placed under arrest and charged. His employment agency,
15 which is the Otero County Sheriff's Office, is awaiting
16 the outcome of the court case to determine whether they
17 are going to take disciplinary action.

18 The respondent attended an informal hearing on
19 March 2nd. The director found him to be honest and
20 remorseful. He provided information that he would be
21 willing to enter into a settlement.

22 And the director recommends the settlement of a
23 90-day suspension, one-year probation, an ethics training
24 course, alcohol screening and assessment, and eight hours
25 of community service.

1 Is Arturo Holguin here?

2 MR. HOLGUIN: Yes, ma'am. Good afternoon. First
3 of all, I just want to apologize for my actions. I know I
4 did wrong, and I take full responsibility for what
5 happened on June 27th.

6 It's been nine months, the 27th of this month,
7 the court case is still pending, just so you guys know.
8 It was filed into magistrate court 14 days later after I
9 was arrested. Three months later they dismissed in
10 magistrate court and refiled it into district court.

11 They got an extended three months in Las Cruces.
12 I guess the first three months don't count in magistrate
13 court. Court is set for next Tuesday. And as of now,
14 we're supposed to be going to figure out the criminal
15 case.

16 With my agency, I was suspended for just about
17 two months. This happened I believe the 27th was a Friday
18 night. So I contacted my supervisor Saturday morning, let
19 him know what happened. They put me on administrative
20 suspension.

21 First thing Monday morning I had to report back,
22 turn in my vehicle, my equipment and everything to them.
23 August, mid-August sometime they asked me to come back to
24 work and basically do desk duty. I've been at desk duty
25 for these past seven months.

1 They basically took my gun and badge away ever
2 since this happened. I have not been able to have any
3 arrest powers since this incident has happened. I'm not
4 contesting or disagreeing with what Mr. Ortiz has given me
5 with the suspension and the probation, the ethics class,
6 and community service.

7 Although I am asking to see if I can do more
8 community service instead of suspension, just for the
9 simple fact that I've been out of work and behind a desk
10 for seven months -- nine months. I'm eager to get back to
11 work already.

12 I've already completed the eight hours of
13 community service that was asked, which was with teen
14 court working with children. I asked him if I would be
15 able to do continue doing community service with them.
16 The supervisor there said he would be more than willing to
17 give me whatever hours I needed to do there.

18 My driver's license is still valid. I already
19 had my DMV hearing. I've been pretty much just sitting
20 behind a desk. I'm just asking for the board to see if
21 they would take into consideration of giving me more
22 community service instead of a full suspension.

23 MR. COON: Have you been -- did you take a cut in
24 pay to sit behind a desk?

25 MR. HOLGUIN: Yes, sir, I have. Probably about

1 half of what I was taking home and half of what I do now.

2 MR. COON: Because of overtime issues or because
3 you went from X number of dollars an hour to X number
4 dollars an hour?

5 MR. HOLGUIN: Well, with our department being so
6 small, I worked for the narcotics unit. Yes, overtime is
7 one of them. And just sitting behind a desk, I can do
8 8:00 to 5:00, and that's it.

9 MR. COON: So your -- but your salary hadn't been
10 cut?

11 MR. HOLGUIN: Right. No.

12 MR. COON: It's just you're not getting the
13 overtime you're used to getting?

14 MR. HOLGUIN: Right.

15 MR. COON: And you've got a court date coming
16 up?

17 MR. HOLGUIN: Yes, sir, on the 30th, next
18 Tuesday. And also I've already completed the alcohol
19 assessment class. I have the paperwork here.

20 MR. PEREZ: Any other questions?

21 MR. REEVES: You said you had a court date set?

22 MR. HOLGUIN: Yes, sir.

23 MR. REEVES: What's the setting for? Is it for a
24 trial?

25 MR. HOLGUIN: Trial and suppression hearing, yes,

1 sir.

2 MR. REEVES: I'm sorry?

3 MR. HOLGUIN: Trial and suppression hearing on
4 the 30th.

5 MR. REEVES: Okay. Thank you.

6 MR. COON: Are you trying to suppress the BA?

7 MR. HOLGUIN: No, sir. I'm trying to suppress
8 the probable cause for the traffic stop.

9 MR. COON: That's all I have.

10 MR. PEREZ: Any other questions? Thank you. Oh,
11 I'm sorry. Sir, one further questions. Mr. Holguin?

12 MR. HOLGUIN: Yes, sir.

13 MR. PEREZ: Have you ever been arrested for DWI?

14 MR. HOLGUIN: I've never been arrested ever
15 before.

16 MR. PEREZ: Thank you. Yes, ma'am, go ahead.

17 ITEM #31: SCOTT KELLOGG

18 MS. ERDMAN: Next is Item No. 31, Respondent
19 Scott Kellogg. He was employed by the Rio Rancho Police
20 Department. While attending a concert at the Journal
21 Pavilion, Mr. Kellogg fell and landed on his wife, which
22 started an incident between some other concert goers.

23 Apparently, he didn't want his wife to follow him
24 when he was following some special investigative division
25 agents from the New Mexico Police Department. He grabbed

1 her arm in a menacing way and pushed her back onto the
2 stairs.

3 While doing so, they both fell, causing the
4 respondent to land on top of her. Some witnesses
5 perceived this as an assault on Mr. Kellogg's wife due to
6 the respondent's aggressive behavior, including pulling
7 her to his face and yelling at her.

8 The respondent and his wife then went back to
9 their seats. And shortly afterward the individuals that
10 he had been questioned earlier by the SID exchanged
11 insulting words and gestures with the respondent. He then
12 jumped out of his seating area and threw a punch at an
13 individual occupying that box seating area.

14 He was then punched in the face and had a small
15 laceration on his nose. After this disturbance broke up,
16 he was given medical treatment. No arrests were made.
17 But it's alleged that respondent was the aggressor.

18 He admitted to having consumed 8 to 12 beers.
19 And he retired in lieu of termination. On January 22nd,
20 he attended an informal hearing with the director and his
21 employer Chief Robert Boone of Rio Rancho Police
22 Department.

23 He presented evidence to the director and stated
24 that he was only standing by to assist the SID agents if
25 he was needed when his wife approached. He was concerned

1 about her because she followed him. She tripped over the
2 steps and they fell.

3 He contends that they returned to their seats
4 when a male subject began bothering him and he jumped the
5 railing and threw a punch. He provided information
6 indicating he would be agreeable to a settlement and has
7 entered into a settlement.

8 And the director recommends a settlement of a
9 30-day suspension, one-year probation, an ethics training
10 course, alcohol screening and assessment, anger management
11 counseling, and that he address the cadet class.

12 Is Scott Kellogg here? Is there anyone else who
13 wanted to speak on his behalf?

14 MR. PEREZ: Next item.

15 ITEM #32: ALGIN MENDEZ

16 MS. ERDMAN: Next item is Algin Mendez, and
17 Investigator Ernest Holmes will present that case.

18 MR. HOLMES: Mr. Chairman, Members of the Board,
19 the next item is No. 32, the Respondent Algin Mendez. He
20 was with the state police at the time this incident
21 occurred. The misconduct the respondent is alleged to
22 have committed occurred on July 24th, 2009 at
23 approximately 3:00 a.m. in the morning.

24 The respondent was on duty and had an
25 unauthorized female person in his police unit when he

1 responded to a domestic violence call regarding a physical
2 assault on a female who had been insulted by her
3 boyfriend.

4 The respondent was told by the female victim that
5 she had -- her boyfriend and her had been drinking and
6 arguing, which led to her boyfriend grabbing her by the
7 hair and dragging her around inside the house, knocking
8 over some chairs. And then he turned her loose.

9 At that time the respondent arrived at the scene
10 just about the time that the victim was getting ready to
11 leave the house because she didn't want to continue
12 arguing and she felt that if she stayed that the violence
13 would just escalate.

14 The victim told the respondent that she did not
15 want to report and the respondent failed to initiate one,
16 which is required under the circumstances he encountered
17 at the scene of the assault.

18 Although probable cause existed for an arrest on
19 a domestic violence, the respondent failed to make an
20 arrest and also failed to complete an offense incident
21 report documenting the event that took place concerning
22 the domestic assault.

23 When questioned by a supervisor regarding the
24 incident in question, the respondent was untruthful when
25 he described the incident only as a verbal argument

1 between the victim and her boyfriend.

2 It was later determined through further
3 investigation that the respondent failed to properly
4 investigate the incident and failed to follow the proper
5 procedures before he was terminated by his employing
6 agency for failure to perform duties, for untruthfulness,
7 and having an unauthorized person in his police unit.

8 An investigation was further conducted and the
9 person -- another officer had to complete the
10 investigation, go back and get all the details and
11 document the assault that had taken place that night.

12 An informal hearing was held on February
13 the 25th, 2010. The respondent appeared before the
14 director. The respondent provided information indicating
15 that he would be in agreement with settlement in this
16 matter as indicated herein.

17 The director agreed and recommends that the
18 settlement hearing be approved by the board. And the
19 director's recommendation is as follows: Suspension and
20 probation, 30-day suspension, one-year probation, ethics
21 training course, and eight hours of community service.

22 Any questions?

23 MR. PEREZ: Thank you.

24 MR. SHANDLER: I have a question. So from the
25 academy perspective, what is the most serious thing that

1 happened here?

2 MR. HOLMES: Well, I think the untruthfulness
3 because the respondent -- the victim, female victim, did
4 tell the respondent that the boyfriend had grabbed her on
5 her head and dragged her around inside the house. That's
6 a domestic violence. And that is the most serious.

7 The other one is a policy violation of having a
8 female in the vehicle. He explained that as this female
9 had been drinking and was a friend. She didn't want to
10 drive, so she called him to give her a ride. And that's
11 what he was doing when this call came in.

12 MR. SHANDLER: That was a policy violation. What
13 about the failure to make the arrest? Is that a
14 misconduct in your view --

15 MR. HOLMES: Well, that, if you look at state
16 statute, that's -- it's not mandatory. That's up to the
17 officer and depending on the circumstances. But here I
18 think it's obvious that when a person is grabbed by the
19 hair and dragged around and knocking down chairs, I mean,
20 you really don't have too much choice.

21 I think an arrest is called for.

22 MR. SHANDLER: I just point out that the recent
23 Rivera case where that was brought up that he failed to
24 arrest people on domestic violence and the board wasn't
25 convinced there. So did that Rivera case factor into your

1 determination?

2 MR. HOLMES: We look -- yeah, we kind of
3 compare. And I think on the Rivera case there was no --
4 as I recall, there was -- he was not informed that there
5 was actually violence, that they had dragged somebody or
6 knocked somebody down, anything like that nature.

7 I think here again I'm just -- it's just like
8 anybody else you can assume. I probably assume that
9 probably the arrest wasn't made because he had a female in
10 the car. Or -- I don't know. That's not what he
11 explained, but that would be my thinking on that matter.

12 However, we have to go with what we have in front
13 of us. And that is what we have is that the woman, the
14 victim of that assault, did tell the officer that the
15 boyfriend had grabbed her by the hair and dragged her
16 inside the house and knocked some chairs over. And that's
17 what happened.

18 MR. PEREZ: Any more questions from the board?
19 Is Mr. Mendez here? Nobody responded. Next item.

20 ITEM #33: CHRIS PINO

21 MR. HOLMES: The next item, Mr. Chairman, is Item
22 No. 33. And that's yours.

23 MS. ERDMAN: Item No. 33 is Christopher Pino.
24 And in November of 2009, he was observed operating his
25 motorcycle with a female passenger at 65 miles an hour in

1 a posted 35-mile-an-hour zone.

2 The arresting officer initiated a traffic stop
3 and noticed an odor of alcohol and other signs of alcohol
4 use. He submitted to a field sobriety test and failed and
5 then did a subsequent breath test that registered at .08.

6 Prior to being placed on administrative leave,
7 Christopher Pino submitted his retirement notice, making
8 it effective as of January 1, 2010. He attended an
9 informal hearing on March 10th with the director and took
10 responsibility for his actions and was remorseful.

11 He requested a 45-day suspension instead of a
12 90-day suspension, stating that he needed to be employed
13 by July 1st due to his early retirement. He's had an
14 exemplary career as an officer and acknowledges his
15 mistake.

16 He is willing to address three academy classes
17 and share his experience on the situation. The director
18 believes that he's an excellent candidate to address the
19 academy classes to prevent future misconduct.

20 He's agreed to a settlement, which the director
21 recommends, for a stipulation and order for a 45-day
22 suspension, one-year probation, an ethics training course,
23 alcohol screening and assessment, eight hours of community
24 service, and addressing a minimum of three cadet classes.

25 Is Chris Pino here?

1 MR. PINO: Yes, ma'am. Greetings, Board
2 Members. I'd just like to say a few things to the board.

3 MR. PEREZ: Could you speak a little louder
4 please, sir.

5 MR. PINO: It's my deepest regret to have to
6 stand in front of you all this afternoon. I've held my
7 position over 20 years through the law enforcement
8 community, going back to when I was first out of high
9 school obviously.

10 And this incident where I made this decision has
11 changed my overall lifestyle in many regards to a point to
12 where any -- certain things would happen. But I'm here to
13 tell you that I've learned from this mistake. I made a
14 decision that affected that position that I had.

15 I've served in the community of Rio Rancho in
16 different capacities. And I want to get on with my life.
17 I'm asking the board to consider the stipulation. One
18 thing that my dad told me after this, who was a wise man,
19 all the good that you've done within your 20-year career
20 and one decision that you make you need to grow from that
21 and move on.

22 There's a lot of things that I've done within my
23 career, accreditations, commendations {sic}. And the
24 one mistake I made, I need to move on. And that's what
25 I'm trying to do. I want to try to get back into law

1 enforcement. I'm 42 years old. I started when I was 18.

2 I've never even had a written reprimand to a
3 verbal counseling within my career. And I hold myself to
4 that standard. I did resign from the department because I
5 felt at the time that it was something that I needed to do
6 for every officer in uniform through Rio Rancho DPS.

7 So I'm just here hoping that you're in agreement
8 with the stipulated order. I talked to Mr. Ortiz on two
9 occasions. I think it's very important that I address
10 these three classes to the cadets and let them know that
11 their behavior on or off duty they are always going to be
12 under that microscope.

13 That's what a lot of times that you don't realize
14 as a law enforcement officer, even more so now than 10, 15
15 years ago.

16 MR. PEREZ: Any questions of the board?

17 MR. COON: Yes. Oh, go ahead, Chief.

18 MR. SCHULTZ: Mr. Chairman. Mr. Pino, what was
19 your position with Rio Rancho at the time of this
20 incident?

21 MR. PINO: I just transferred over from a
22 criminal investigation sergeant over to the motorcycle
23 traffic sergeant.

24 MR. SCHULTZ: You were assigned to traffic?

25 MR. PINO: Yes, sir.

1 MR. SCHULTZ: To enforce the same laws that you
2 violated?

3 MR. PINO: Yes, sir.

4 MR. SCHULTZ: And you said that you had
5 resigned. You actually retired?

6 MR. PINO: I'm sorry, retired. I'm sorry if I
7 said "resigned." I retired.

8 MR. SCHULTZ: Obviously, you're trying to get
9 another job. Why is it a concern of this board to come up
10 with an agreement that is outside the norm just for you,
11 45 days, as compared to a normal 90-day sanction which
12 would normally be imposed?

13 MR. PINO: Taking into consideration that 45
14 days, sir, I'm looking to do three classes for the cadet
15 class, which is out of the norm as far additional classes.
16 I think I could actually have an impact on three different
17 academies. The 45-day limit puts me back to work under
18 PERA organization that much quicker.

19 As you know, sir, with the new legislation
20 passing as far as the double-dippers across the state, if
21 you're not retiring -- in my opinion; this is no
22 disrespect to anybody -- but as a sheriff, chief, deputy
23 chief, undersheriff, you're really not going to be able to
24 retire on a pension, as far as a law enforcement officer.

25 So the percentage that I'm receiving right now in

1 order to make a livelihood -- I think I still have a lot
2 to offer within my law enforcement career. And I'm just
3 trying to get on to an organization that will accept me.

4 MR. COON: You covered exactly what I was going
5 to ask.

6 MR. PEREZ: Has this matter been adjudicated in
7 court?

8 MR. PINO: No, sir.

9 MR. PEREZ: It's pending?

10 MR. PINO: Yes, sir.

11 MR. PEREZ: And what are the charges against you?

12 MR. PINO: DWI and because of the speed, the
13 reckless.

14 MR. PEREZ: Because of the what?

15 MR. PINO: The speed because it was reckless.

16 Reckless driving because of the speed.

17 MR. PEREZ: Any other questions?

18 MR. SHANDLER: I'm still confused and I apologize
19 for talking so much. But what's happening in these formal
20 hearings is that parties are asking for all the database,
21 and they are comparing penalties.

22 So when they see something -- like Chief Schultz
23 said -- out of the norm, we need to provide an explanation
24 for that. Otherwise, they go to the hearing officer and
25 claim that there's now a disconnect in the proposed

1 penalties.

2 So I don't understand why it's 45 days because
3 that's an exception -- and I don't understand. Mr. Ortiz,
4 can you better explain it? If he retired and he's not
5 retiring, I need to understand this. This is going to be
6 hammered on.

7 MR. ORTIZ: The 90 days was my recommendation.
8 We told him that's in concrete; we're staying with that.
9 Mr. Pino did some research, and he found that the board
10 did approve an Elton Medina, I -- I'm sorry -- a
11 Mr. Medina at the Silver City on the DWI.

12 And I was -- we were both surprised. But the
13 board approved a 45-day suspension on that. He had the
14 document. He showed us that. Told us the situation about
15 his retirement. Talked with the chief.

16 In fact, the chief's going to speak on his behalf
17 here that he's had an exemplary career. And we felt he
18 would be an asset to law enforcement to continue. So is
19 this out of the norm? Yes, it is. Some cases there's
20 exigent circumstances.

21 MR. COON: Is that 45 days under your watch or
22 was it before you?

23 MR. ORTIZ: It was during our watch, yes. He
24 brought this to our attention. We pulled it up. We
25 looked at it, and he was correct. Because we've been

1 telling everybody it is 90 days, and that's what we're
2 going with.

3 And then after listening to him and the type of
4 career, yes, I went out of the norm and made that
5 recommendation. But I also feel that he's an excellent
6 candidate to address the cadet classes to help us prevent
7 it. And I think by him willing to do that, I think it
8 will be beneficial overall.

9 MR. SHANDLER: So is the reason you feel is
10 because of his career, it's not because of his PERA issue
11 or is it both?

12 MR. ORTIZ: It's many circumstances, yes.

13 MR. SHANDLER: Why do you think he would be an
14 excellent candidate to address the cadets? I mean, what
15 story does he have to tell in your view that they would
16 learn from?

17 MR. ORTIZ: About taking responsibility for your
18 actions, being honest and truthful. And I believe in
19 him. And the chief is here to speak on his behalf as
20 well.

21 MR. SHANDLER: And I apologize. This is a much
22 bigger issue that I'm dealing with all sort of
23 different --

24 MR. ORTIZ: I understand. And I expected this.

25 MR. SHANDLER: I have no issue with you or your

1 chief. I'm just trying to quiz Mr. Ortiz so we're
2 prepared for this in the future. I apologize for taking
3 the board's time.

4 MR. PEREZ: Thank you. Chief.

5 MR. BOONE: Good afternoon, Mr. Chairman, Members
6 of the Board. Robert Boone, chief, Rio Rancho Police
7 Department. I'd just like to substantiate a couple of
8 things that Mr. Pino stated to the board as he came up
9 here.

10 First of all, the weekend that this occurred,
11 Sergeant Pino at that time called me at home and explained
12 what had transpired prior to my arrival at work. Chris
13 indicated that he was going to go ahead and initiate his
14 retirement simply to save the department the embarrassment
15 that comes along with a police officer being involved in a
16 DWI.

17 This is not an action that he had to take. This
18 is an action that he determined that he was going to take
19 in order to spare the department the embarrassment that
20 goes along with an officer being involved in this
21 incident.

22 I did have an opportunity to look at Chris's
23 career. I've worked with him for the past five years
24 during my tenure at Rio Rancho Police Department. I had
25 an occasion to promote Chris from patrolman to the

1 position of sergeant.

2 I had the opportunity to appoint Chris the
3 position of supervisor of our CID, a position that he held
4 for about two or three years. And I also had the
5 opportunity to appoint Chris as supervisor of our traffic
6 unit. Our traffic unit is a motor unit.

7 Chris was responsible for the actions of our
8 traffic unit. There's no question in my mind whatsoever
9 that this is a one-time mistake that Chris got involved.
10 It's a serious mistake. In his case, it was a critical
11 mistake with the Rio Rancho Police Department.

12 We realize that a traffic sergeant getting
13 involved in a DWI situation was a critical error, as far
14 as our department went. I believe that Chris realized
15 that. Chris took the responsibility for it, and he
16 retired.

17 We addressed -- or I addressed this board earlier
18 today talking about the determination of a internal
19 affairs investigation. However, this is one of those
20 incidents where I had the officer who came in and retired
21 before I even had an opportunity to initiate an internal
22 affairs investigation.

23 In fact, I had his retirement letter in my hand
24 before I was able to obtain a copy of the police report.
25 With that being said, I very much do believe that a lesson

1 has been learned. A bright and promising career has been
2 lost based upon his actions.

3 There's no doubt that whatever law enforcement
4 activity that Officer Pino -- or former Sergeant Pino is
5 going to become involved in is certainly going to have
6 less status, less pay, and less opportunity to advance.

7 He did have a promising career in the Rio Rancho
8 Police Department, and he took essentially an early
9 retirement. With that, I would stand for any questions
10 that you have.

11 MR. PEREZ: Any questions?

12 MR. COON: Chief Boone, is he going to reapply
13 with Rio Rancho?

14 MR. BOONE: No, sir, he will not.

15 MR. COON: Okay.

16 MR. BOONE: Thank you.

17 MR. PEREZ: Thank you, sir. Next item.

18 ITEM #34: JAIME REYES

19 MS. ERDMAN: Next item on the agenda is No. 34,
20 Jamie {sic} Reyes. On October 29th, 2008, respondent is
21 accused of using excessive force on a subject in custody.
22 He allegedly slammed the subject who was handcuffed into a
23 door, then threw him on the ground.

24 The victim did not appear to be resisting and was
25 not out of control. After being thrown to the ground

1 while still handcuffed, he appeared to be stunned and
2 possibly unconscious.

3 The employer was concerned that the excessive
4 force may have been an effort on the respondent's part to
5 show off for his girlfriend and recommended a four-week or
6 a 160-hour suspension. It was later modified to a
7 130-hour suspension.

8 He's employed by the Sunland Park Police
9 Department. And at an informal hearing on October 15th in
10 2009, he and his former girlfriend presented evidence to
11 the director. The director was able to obtain a videotape
12 of the incident.

13 And another NCA was issued. The director and the
14 respondent communicated and provided information regarding
15 a settlement that he would agree to. And the director
16 recommends a 90-day suspension, one-year probation, an
17 ethics training course, anger management counseling, and
18 eight hours of community service.

19 Is Jamie Reyes present?

20 MR. REYES: Yes, ma'am, I am. Good afternoon.
21 First of all, it's not Jamie. It's Jaime. Jaime Reyes.

22 MS. ERDMAN: I'm sorry.

23 MR. REYES: I stand before you. I accept
24 responsibility for what I did. Not a day goes by that
25 that -- since that incident that I relived and rethought

1 of everything that could have happened.

2 The sheriff's department has said that it appears
3 that I was showing off for my girlfriend. At that time,
4 she was not my girlfriend. She was my ex-girlfriend. We
5 remain friends. She occasionally did ride with me.

6 She has every aspiration of becoming a deputy or
7 a police officer herself. During the incident, the
8 sheriff's department failed to provide two other angles of
9 the video camera. And no audio to the video.

10 You cannot see the actual portion where we are --
11 where I'm trying to have the subject blow into the -- read
12 him the implied consent. And when he starts pulling away
13 from me, there's no audio in reference to what happened
14 during that conversation.

15 I did place the subject up against the wall. And
16 at that time I perceived a threat that he was either going
17 to push back or headbutt me. And I then turned, did a
18 reverse spinning arm bar kind of thing.

19 The subject did hit the ground and was knocked
20 unconscious. I at no time proceeded to go on further with
21 beating him or anything else. I immediately called for a
22 supervisor, and I also called for an ambulance to my
23 location.

24 During that time, my rider at the time was in the
25 booking area. She was back by one of the benches,

1 probably about 10, 15 feet away from where I was at. It's
2 in the video. You could see that she was just sitting
3 there.

4 As any civilian that has ever ridden with law
5 enforcement or anybody that's had a ride-along, one of the
6 things always said is don't get out of the car. Just sit
7 and observe. If you see that I am, A, getting my
8 you-know-what knocked out of me or I'm being shot, get on
9 the radio, ask for help.

10 If I'm not losing control of the situation,
11 there's no need to do anything. I'll take care of it.
12 She was in the room when I contacted the supervisor. She
13 was also in the room when I contacted for an ambulance.

14 The supervisor came and contacted me, and I let
15 them know what happened and went from there. During the
16 investigation, I was removed from patrol. I was placed in
17 the office. I also -- that was for approximately 40 to 45
18 days.

19 During that time, I answered calls within the
20 office, telephone calls and whatnot. I stated I did have
21 a 13-day suspension without pay, plus I also was ordered
22 to attend a three-week DT refresher class with the academy
23 that was going on at that time.

24 Since that incident, I have left the sheriff's
25 department. I took an employment opportunity with Sunland

1 Park Police Department as their K9 training sergeant and
2 patrol sergeant. Since we are a small department, we tend
3 to carry different titles.

4 Again, I do accept responsibility. I have lived
5 it since that day, October 28th of 2008. I definitely
6 have learned from it. I have spoke to other officers
7 about it and let them know what's going on.

8 I'm just here to see what else could be done. I
9 do have one of the lieutenants from Sunland Park here to
10 speak on my behalf.

11 MR. PEREZ: Were you found to have used excessive
12 force?

13 MR. REYES: Yes, sir, I was.

14 MR. PEREZ: Was this matter reported to the FBI?

15 MR. REYES: Yes, sir, it was.

16 MR. PEREZ: And was it -- if an investigation was
17 conducted, have you heard back from that?

18 MR. REYES: I did hear back. The investigation
19 was started late October. I believe towards the end of
20 November, I was contacted by my current lieutenant at that
21 time and was told that the FBI reviewed the video and they
22 felt there was not enough to go with a civil rights
23 violation.

24 And they went ahead and let the department do
25 what they were doing with -- with the discipline and their

1 process, to continue their process.

2 MR. PEREZ: The determination is not made by the
3 FBI. That has to be made by the Department of Justice in
4 Washington. All of these cases have to be reported. And
5 if -- are you -- you were admitting to having used
6 excessive force in the takedown of this prisoner?

7 MR. REYES: I'm sorry?

8 MR. PEREZ: Are you admitting to having used
9 excessive force in the takedown of the prisoner?

10 MR. REYES: Looking at it now, sir, I possibly
11 did.

12 MR. PEREZ: That is a felony in the federal
13 system.

14 MR. REYES: Yes.

15 MR. PEREZ: If you admit to a felony, that
16 precludes you from being a law enforcement officer.

17 MR. REYES: Okay. They -- as far as I said, I
18 know the FBI reviewed the video; and they thought there
19 wasn't enough. I didn't personally admit to the excessive
20 force during the interview. I just -- I explained what
21 happened. Like I said, I perceived a threat from the
22 subject and I ended up taking him down.

23 MR. PEREZ: But you are admitting now that you
24 did use excessive force?

25 MR. REYES: I don't know how to answer that, sir.

1 MR. PEREZ: Then what's all this business about
2 the suspension and everything? What is that for?

3 MR. REYES: The department believed there was
4 enough there, sir, I believe.

5 MR. COON: I've got a question.

6 MR. PEREZ: Yes, sir.

7 MR. COON: The ex-girlfriend or current, was she
8 an authorized rider that night?

9 MR. REYES: Yes, sir, she was.

10 MR. COON: Okay.

11 MR. PEREZ: Any other questions of the
12 respondent? Yes, sir.

13 MR. RAMIREZ: I'm Lieutenant Steven Ramirez with
14 the Sunland Park Police Department.

15 MR. PEREZ: Your last name, sir?

16 MR. RAMIREZ: Steven Ramirez. And I recently
17 hired Sergeant Reyes. He is currently working with us at
18 the department. He's doing very, very well. And he's
19 still going to have employment with us.

20 Pending the outcome here, we will probably put
21 him on administrative leave. But he's going to work out
22 for us. I would like for you to kind of maybe show some
23 leniency. He didn't lie on this, what occurred. He got
24 help. He did everything that's required as a police
25 officer.

1 And he wasn't employed with us at the time, but
2 he did mention it on his application when he got hired on
3 us with and told us about the entire incident. And I
4 believe the Dona Ana County Sheriff's Department did
5 discipline him for it.

6 So he wasn't lying at the time. Basically, I
7 guess he overreacted maybe. I wasn't there. But he is a
8 good sergeant. He's working out good for us. So I would
9 just like to mention that I think a little -- a 90-day
10 suspension is a little excessive, since the officer did
11 comply.

12 He didn't hide anything. He wasn't lying about
13 anything. Unlike other officers that got arrested on
14 ethics issues, this officer did state what happened. He
15 wasn't hiding about anything that occurred.

16 So I think the 90-day suspension may be a little
17 bit excessive, because therefore it hinders our department
18 missing a sergeant when we have him as the patrol
19 sergeant.

20 MR. PEREZ: How was the matter reported to the
21 FBI? Who reported it?

22 MR. RAMIREZ: I believe it was his former
23 employer.

24 MR. REYES: The Dona Ana County Sheriff's
25 Department did.

1 MR. PEREZ: They reported it?

2 MR. REYES: Yes.

3 MR. PEREZ: And you were interviewed?

4 MR. REYES: No, sir.

5 MR. PEREZ: You were not interviewed by the FBI?

6 MR. REYES: No, sir, I was not.

7 MR. PEREZ: They looked at the videotape?

8 MR. REYES: Yes, sir.

9 MR. PEREZ: Thank you. Any other questions?

10 MR. REYES: I do have one more thing I forgot. I

11 have already attended police ethics class. I just need to

12 make sure I give the paperwork to Mr. Ortiz.

13 MR. PEREZ: If you would, please. Thank you,

14 sir.

15 MR. RAMIREZ: Thank you.

16 MR. PEREZ: Thank you.

17 MS. ERDMAN: Item 35 and 36 will be presented by

18 Investigator Ernest Holmes.

19 MR. PEREZ: Sandwiches have been brought for us

20 by the academy. I think if we can, we can hold off until

21 we go into closed session.

22 MR. COON: We're just about done with this.

23 ITEM #35: WESTON RICHARDSON

24 MR. HOLMES: Mr. Chairman, Members of the Board,

25 the next -- this is Item No. 35. It pertains to Weston

1 Richardson. The respondent here is -- was charged with
2 misconduct due to the fact that he was with another
3 officer on March 15th, 2009. They were in Santa Rosa.

4 And they were off duty. They were in the
5 respondent's truck. And they saw one of the officers from
6 the Santa Rosa Police Department that was parked near a
7 service station. So they decided they were going to play
8 a joke on him. They were going to play a prank.

9 So they started speeding up, and they made a loud
10 noise with the motor and all that. So the officer noticed
11 that and went after them. He chased them for some
12 distance when they finally -- of course, the officer had
13 engaged in all his emergency equipment, the red lights,
14 the siren, the whole works.

15 After being chased for some time, they finally
16 stopped. The respondent stopped in his own driveway. Of
17 course, they got out of the truck and started running,
18 which made it look very suspicious for the officer that
19 was chasing them.

20 But as soon as they got off the truck, the
21 officer recognized them and at that point in time he
22 turned off his video camera. So but anyway they were --
23 this was reported -- several months went by before this
24 thing was reported. And the newspaper got ahold of it,
25 and they really made headlines.

1 So the result of this is the state police officer
2 who was driving the vehicle, who is the respondent, was
3 terminated from his department. And as far as the other
4 officer, we don't have the case on him yet. This one is
5 on Richardson only.

6 During the -- there was never an informal hearing
7 done personally. This was done telephonically. And the
8 respondent admitted that he made a mistake. You know, it
9 wasn't that funny after all. And he admitted that that
10 never should have been done because they are held to a lot
11 higher standard than the normal citizen out there.

12 The director agreed and recommends that the
13 settlement between the respondent and his office is a
14 30-day suspension, one-year probation, an ethics training
15 course, eight hours of community service.

16 And the respondent agreed to that. He thought
17 that was a fair agreement.

18 MR. PEREZ: Any questions of Mr. Holmes? Is
19 Mr. Richardson here? Thank you. Next item.

20 ITEM #36: STEPHEN RYAN

21 MR. HOLMES: The next item is Item No. 36.
22 Mr. Chairman, Members of the Board, this pertains to
23 Stephen Ryan, who was -- who is still a lieutenant with
24 the Santa Fe Police Department.

25 On June the 28th, 2009 at around 1:40 a.m. in the

1 morning, the respondent was arrested by the Rio Rancho
2 Police Department after he was pulled over for failure to
3 maintain traffic lanes by crossing over from the right
4 lane to the right edge of the line designated for a
5 bicycle path.

6 He nearly struck the curb. And that's the reason
7 he was pulled over. Once pulled over, the respondent's
8 vehicle momentarily moved back towards the police unit,
9 which was in back of his truck. And the police unit had
10 to back up a little bit to avoid being struck.

11 The respondent was off duty driving his personal
12 truck. And when approached by the arresting officer, the
13 officer noticed the smell of alcohol and bloodshot eyes
14 and watery eyes on the respondent.

15 The arresting officer asked the respondent how
16 much he had to drink, and the respondent answered,
17 "Nothing." Suspecting the respondent was impaired, a
18 field sobriety test on the respondent was performed, which
19 he failed.

20 The respondent was read the implied consent law,
21 and he refused to take the breath test. And he asked for
22 an independent test. The respondent was unable to find a
23 number for anybody that he wanted to call to do the test.

24 The respondent was arrested and charged with
25 aggravated driving under the influence of intoxicating

1 liquor or drugs. Subsequently on November 17th, 2009, the
2 respondent was convicted in Rio Rancho Municipal Court on
3 two charges mentioned above.

4 When he appeared -- he has appealed this
5 conviction to the district court, which the date has been
6 set as I understand for March the 19th, 2010. I'm not
7 sure on that, but that's the information we have.

8 Now, the respondent mentioned that he did plead
9 guilty there in magistrate court because of the appeal.
10 He didn't want to fight it there. They want to appeal it
11 in a higher court.

12 But, anyway, there was a informal hearing on
13 March the 2nd, 2010. The respondent appeared at the
14 informal hearing with the director. The respondent was
15 honest, remorseful for the incident.

16 The respondent has worked in the internal affairs
17 division and did outstanding work while working for the
18 Santa Fe Police Department as an internal affairs
19 investigator. The incident has been very difficult for
20 the respondent, and he has been extremely hard on himself
21 for allowing the incident to occur.

22 He provided information indicating that he would
23 be agreeable to a settlement, as indicated below. The
24 director is recommending a 90-day suspension, one-year
25 probation, ethics training course, alcohol screening.

1 And the respondent is here to address the board
2 if the board desires to hear him. Any questions from the
3 board?

4 MR. PEREZ: Mr. Ryan?

5 MR. RYAN: Good afternoon. My name is Steve
6 Ryan, as Mr. Holmes mentioned earlier. For the time
7 being, I am still a lieutenant with the Santa Fe Police
8 Department. During my informal hearing with Mr. Ortiz and
9 Mr. Holmes, they suggested that I tell the board what
10 happened that evening.

11 So I will try to be brief. I -- on the evening
12 in question, I received a phone call from a very dear
13 friend of mine who asked me to meet his wife and him for
14 dinner. I did so around 5:30 that evening.

15 And during that course of our evening out, I had
16 two beers at the establishment. And granted these were
17 pint beers. They don't serve anything smaller than a
18 16-ounce beer. It was a micro brewery.

19 And during that time, my friends also ran into a
20 couple whom they were friends with. And this couple
21 invited us over to their house, and we agreed. We went
22 over to their home. And we spent the rest of the evening
23 listening to this individual play the guitar on his back
24 porch and sing songs.

25 I think I had one or two cokes during the time I

1 was there at this couple's home. However, around
2 one o'clock that morning I did have another beer, with my
3 opinion that the two beers that I had consumed earlier
4 probably had metabolized and through my system. And I
5 thought it was safe for me to have another beer.

6 Approximately 1:30 that evening everyone decided
7 to call it a night. And I left. I felt fine. I felt in
8 control. And got in my truck. On my way home, I adjusted
9 the CD player. And when I looked up, I could see that I
10 was being pulled over in the rear-view mirror by local
11 police.

12 I pulled over immediately. And I did put the
13 truck in reverse momentarily. I realized it while I was
14 searching for my registration and insurance and remedied
15 the situation. And the officer did approach me.

16 He asked me how much I had to drink. And I told
17 him I hadn't been drinking. And he initiated the finger
18 dexterity test. And when he did so, I started to panic.
19 And I had a difficult time hearing anything he was telling
20 me. And I really couldn't see anything but my hands.

21 And he then asked me to get out of the vehicle,
22 and I knew he was going to be conducting field sobriety
23 tests. And I started to really panic. At that time I
24 realized I'm not going home.

25 I thought he was going to see that I wasn't

1 inebriated and probably just let me loose. And it didn't
2 happen. And things just started to spiral out of
3 control. Don't -- I knew he was speaking to me.

4 I knew it was important. But I couldn't hear
5 what he was saying. It didn't register. And to be quite
6 honest, all I could think about was my daughter, my house,
7 my dog, my career. I wasn't thinking about anything that
8 was going on at that moment, only the future.

9 Subsequently, I was placed under arrest and taken
10 to the Rio Rancho Police Department. There the panic
11 started to set in again. The longer I sat there, it got
12 worse. And I really just wanted to get home and get out
13 of there.

14 I don't remember much of what occurred there. I
15 don't remember being read the implied consent. However, I
16 do recall telling the officer that I didn't want to take
17 the breath test. He offered me an independent chemical
18 test, which I agreed to. And he gave me a phone book.

19 And I recall asking him what I should look up.
20 And he told me try a phlebotomist or a blood technician,
21 and I did. And neither of those headings are in either of
22 the phone books he gave me.

23 And I kind of at that point just gave up and
24 still was grasping to some hope that he would let me go.
25 I never identified myself as a police officer. But during

1 the course of the prior field sobriety, he realized that
2 my badge was in my wallet along with my driver's license.

3 And he arrested me. And -- I'm sorry. He then
4 took me to jail. I wake up with this every day. I feel
5 dishonored, ashamed, embarrassed. And, you know, every
6 day I feel like -- I wake up and my gut feeling like I
7 lost a close member of my family.

8 That's the kind of anguish I feel when I wake
9 up. And I am here to tell my side of the story. I sent
10 myself to counseling, volunteered. Told I don't have a
11 problem with alcohol. It was a bad decision.

12 And to ask the board for leniency. It's my hope
13 that -- I am scheduled for a disciplinary hearing next
14 week in front of my chief. And my hope is that if
15 leniency from the board may result in perhaps me retaining
16 my job in the City of Santa Fe.

17 And I would like to add that I did not submit a
18 guilty plea in municipal court. We just automatically
19 appealed it. The judge never heard my side of the story.
20 My attorney felt that it would be -- my case would be best
21 heard in front of a higher court.

22 So I agreed with his experience and knowledge and
23 just we will go ahead and appeal it.

24 MR. PEREZ: Have you appeared in district court
25 yet?

1 MR. RYAN: No. The court's continued it three
2 times. And I still haven't been. I was supposed to go
3 last Friday, and was told they had made a mistake. And I
4 haven't been given a date to reschedule it. And so it's
5 in limbo.

6 MR. PEREZ: Any questions from the board?

7 MR. COON: Why would you refuse to take the
8 breath test if you knew you probably hadn't -- you weren't
9 under the influence? Obviously, at a .08 you were.

10 MR. RYAN: I don't --

11 MR. COON: Or -- yeah, obviously not.

12 MR. RYAN: I don't have -- I don't have a good
13 reason, sir. I was angry. I was embarrassed. And
14 wasn't -- I didn't want to comply with anything the
15 officer asked me to do at that point. I wanted to go
16 home, and I was upset.

17 And I didn't even consider the -- or the
18 repercussions of not doing so.

19 MR. PEREZ: How long have you been in internal
20 affairs?

21 MR. RYAN: I've been in the internal affairs
22 division since April of '96.

23 MR. PEREZ: '96?

24 MR. RYAN: I'm sorry. '06.

25 MR. PEREZ: '06. Thank you.

1 MR. COON: Has this affected any of your internal
2 affairs cases?

3 MR. RYAN: I haven't -- no. I haven't been --
4 I've been on administrative leave since that time.

5 MR. PEREZ: Any further questions?

6 MR. RYAN: I did bring a individual to speak on
7 my behalf, if the board would like to hear him speak.

8 MR. PEREZ: Who is it?

9 MR. RYAN: My friend Ray Byford.

10 MR. BYFORD: Mr. Chair, Board Members, thank you
11 for giving me an opportunity to speak to you on Steve
12 Ryan's behalf. My name is Ray Byford. I'm a retired
13 deputy chief from the Santa Fe Police Department. I
14 retired three years ago.

15 I've known Steve for approximately 17 years.
16 During those years I watched him grow as a police officer,
17 a supervisor, and on to commander. Steve showed he was an
18 individual of character, integrity, and high moral fiber.

19 I had the pleasure of supervising him when he was
20 promoted as sergeant. At the time, I was a shift
21 lieutenant. His promotion was warmly received by his
22 coworkers and his subordinates. That in itself as you
23 know is a sign of respect and confidence in his
24 abilities.

25 At no time on my regular days off or any extended

1 leave did I ever worry the shift would not be run
2 correctly or problems not be addressed properly and
3 efficiently. Steve is highly conscientious of his duties
4 and very articulate in his analysis and problem solving of
5 day-to-day activities.

6 In my nearly 26 years in law enforcement, I have
7 never known a person of higher morals, candor, or
8 integrity. During our time working together we became
9 quite close in our professional and personal friendship.

10 I was aware of some difficult times Steve was
11 going through personally and the pressures of his position
12 professionally. I also believe Steve is one of the best
13 internal affairs investigators that the Santa Fe Police
14 Department has ever produced.

15 His decisions were always well thought, lucid,
16 and empathetic to those he was investigating. He
17 conducted himself with the utmost professionalism in his
18 decision and always had proof to defend those decisions.

19 Those of you who have ever worked in the internal
20 affair division have the knowledge and understanding of
21 the pressures placed upon you. You lose friends quickly,
22 and for no other reason than simply doing the job you are
23 paid and dedicating yourself to the department you work
24 for.

25 I say all this in hopes of giving you a glimpse

1 of what Steve Ryan is like for those of you who don't know
2 him. Many times in our careers we see people who should
3 never have been police officers and some careers that were
4 ruined for a mistake, although we might have known it was
5 a career that was worth saving. This is one of those
6 instances.

7 Those of you who know anything about me at all
8 know that I'm old fashioned in my way of thinking on how
9 police officers should act or conduct their actions. My
10 last four years at Santa Fe PD I served as a deputy chief
11 overseeing operations. I'm a fair-minded individual, but
12 a firm one.

13 When a person should not be a police officer,
14 I'll be the first to speak up. This I must say is not one
15 of those times. I know Steve made a mistake, but I firmly
16 believe it's a mistake he can recover.

17 He was humiliated and embarrassed for himself,
18 his family, his department, and his community. I
19 understand that you must make your decision based on the
20 mistake. I ask you keep one thing in mind: He is not the
21 same type of individual that you may be making decisions
22 on frequently.

23 He has had the career any one of us would be
24 proud to speak about. I ask as a colleague and a friend
25 of Steve's that any administrative discipline you choose

1 be fair and from one he can recover and complete an
2 otherwise spotless career. Thank you.

3 MR. PEREZ: Would you like your remarks entered
4 into the record? Thank you, sir. Any other comments
5 regarding Mr. Ryan? Thank you, sir.

6 MR. BYFORD: Thank you.

7 MR. PEREZ: Thank you. Next item.

8 ITEM #37: PATRICIA TARANGO

9 MS. ERDMAN: Next item is No. 37, Patricia
10 Tarango. She was employed with the Los Lunas Police --
11 with the Los Lunas Central Dispatch. She was arrested for
12 minor in position of alcohol. She consumed alcohol at a
13 party hosted by a Deming police officer and his wife, who
14 is also a dispatcher.

15 She admitted that she took her own alcohol to the
16 party and drank it at the party. She apologized and was
17 remorseful for her actions and understands that this is
18 affecting the officer and the dispatcher, who are also
19 facing charges for the incident.

20 She attended an informal hearing on January 22nd,
21 2010 and agreed to the director's recommendations for
22 suspension and probation, a 30-day suspension, one-year
23 probation, an ethics training course, alcohol screening
24 and assessment, and that she address the telecommunicator
25 training class, and complete eight hours of community

1 service. Is Patricia here?

2 MS. TARANGO: Yes.

3 MR. PEREZ: Would you like to speak?

4 MS. TARANGO: Yes. First off, correction, I am
5 still employed at the Luna County Central Dispatch. I was
6 involved in an investigation, which was two incidents. It
7 was a Halloween party and a birthday party. They were
8 both at this officer -- former officer's house and
9 dispatcher.

10 I did take alcohol to both events. I did go to
11 magistrate court in November, and I did end up getting --
12 I'm not sure of the correct term -- but I'm on six-months
13 of unsupervised probation, which will be completed in
14 May. Upon completion, I asked that it not be put on my
15 record.

16 I do want to continue being a telecommunicator.
17 I understand that my actions were reckless. And I have a
18 younger sister. She's 18, a senior; and I've encouraged
19 her and her friends that they should take me as an example
20 that it's not right.

21 And being that I deal with these calls day-in and
22 day-out, I should have known better. I know it's not an
23 excuse, but when I started with Luna County Central
24 Dispatch, I was only 19. I went to college; didn't work
25 out. Typical college life partying and -- you know.

1 I come from a small town where there's nothing to
2 do. We just recently got a movie theater. Never had
3 anything like that. This happened in October of 2008 and
4 November -- February, I'm sorry, 2009, the two incidents.
5 I attended the telecommunicator academy in April of 2009.

6 MR. PEREZ: So you were not a telecommunicator at
7 the first incident?

8 MS. TARANGO: Yes.

9 MR. PEREZ: You became one in what year? 2007?

10 MS. TARANGO: I started October 2007. The reason
11 that it took so long for me to get certified, in March I
12 was terminated as a probationary employee; and it was
13 because I didn't show up to a meeting.

14 And at the time my boss was just cut-throat, and
15 he wasn't happy that I didn't show up to the meeting. It
16 had nothing to do with alcohol. It had to do with a BOLO
17 that I didn't give out. That's what the meeting was. And
18 I was terminated.

19 In June of 2008 I returned as a dispatcher. In
20 April I attended the class and graduated. It just changed
21 the way that I felt about dispatching. All of this, this
22 whole incident came after my 21st birthday. I was visited
23 by a DA in Deming. And the end of June, I turned 21 on
24 June 10th.

25 Since then I'm more responsible. I don't drink.

1 I started a whole new chapter in my life. And I just ask
2 that it not be taken from me.

3 MR. PEREZ: How did this information surface?
4 Who brought it up? That you were a minor drinking?

5 MS. TARANGO: It was -- they haven't told us who
6 turned us in or anything like that. But it was pictures
7 that were posted on MySpace. And they were posted not
8 only on my profile, but also on this former police officer
9 and dispatcher's page. Because it was their house, it was
10 their parties.

11 MR. PEREZ: Who posted them? They did?

12 MS. TARANGO: They did. Also I had some. And
13 like I said, at the time it didn't seem like a big issue
14 to me because, you know, I'd just come from college and I
15 just didn't think that it was something as big.

16 And I'm sorry. The reason I'm upset is this
17 story caught a lot of media. And I believe it's come out
18 in the paper six times, the first page. And you can leave
19 comments. And there was horrible things being said, and
20 that's why I went to court.

21 I didn't fight it. I just went ahead and took
22 full responsibility because I wanted my community to see
23 that I love what I do. I love working with the guys. I
24 love answering 911's and saving people on a daily basis.

25 And everybody made me seem out to be that they

1 judged me by my character and not by my career. And I
2 think I'm an awesome dispatcher. I've been told by
3 several -- both agencies. And we dispatch for sheriff's
4 department and city.

5 And I just want to keep my job. I love what I
6 do. I know that it's a 30-day. I believe Mr. Ortiz said
7 a 30-day suspension. I'm asking for 15. The reason being
8 I just recently found out that I'm expecting, and I'm
9 starting to save up for that.

10 I just don't want -- I just want to put all this
11 behind me. That's all I have to really say.

12 MR. PEREZ: Thank you. Anybody else?

13 MR. COON: I've got a question, ma'am. You
14 brought alcohol to the party?

15 MS. TARANGO: Yes, sir.

16 MR. COON: So you bought alcohol as a minor?

17 MS. TARANGO: Yes, sir.

18 MR. COON: Or -- being the devil's advocate
19 here -- did you say that to keep the people that you went
20 to party with from being charged with giving or selling
21 alcohol to a minor?

22 MS. TARANGO: No, sir. At the time of the
23 investigation, it was six -- six -- five officers, one
24 detective that were all put on leave. And absolutely
25 everybody stopped talking to me. They just isolated me

1 from everything.

2 And I've been asked that several times. And I
3 took the liquor. I've never -- never covered up for any
4 of them.

5 MR. COON: Did you buy the liquor?

6 MS. TARANGO: I did. I purchased it from a local
7 bum. I gave him money, and he purchased it for me.

8 MR. COON: Twice?

9 MS. TARANGO: On the first occasion, I had liquor
10 left over from when I had moved back from Las Cruces from
11 my college days.

12 MR. COON: Okay.

13 MR. PEREZ: Any other questions? Anybody else
14 who wishes to speak on Ms. Tarango's behalf? Thank you,
15 ma'am. Next item.

16 ITEM #38: RAYMOND WILLIAMS

17 MS. ERDMAN: Next item is Agenda Item 38, Raymond
18 Williams. The respondent is accused of battering a
19 suspect while in police custody. The victim who had been
20 stopped after a chase appeared to be very intoxicated.

21 And the respondent pulled him out of his vehicle,
22 put him on the ground, handcuffed him with his hands
23 behind his back. After that, the respondent picked up the
24 driver from the ground and threw him back on the ground
25 face first.

1 This was captured on a police video from a police
2 unit parked at the scene. The victim appeared to have
3 momentarily lost consciousness and began to vomit
4 profusely. The victim was taken by ambulance to a medical
5 facility and then released.

6 On December 30th, 2009, respondent attended an
7 informal hearing telephonically and admitting to making a
8 mistake and taking full responsibility for his actions.

9 He agreed to a settlement. And the director
10 recommends a 60-day suspension, one-year probationary
11 period, an ethics training course, anger management
12 counseling, and eight hours of community service.

13 Is Raymond Williams present?

14 MR. WILLIAMS: Mr. Chairman, Board Members, and
15 Fellow Law Enforcement Officers in this room, I have been
16 thinking about what I was going to say in front of you
17 since this happened.

18 First off, I am going to have to give an apology
19 to law enforcement for the embarrassment I put on my
20 entire career field, my fellow law officers, the
21 embarrassment to my department, to community, my family
22 and myself.

23 Since this incident occurred, I am no longer a
24 law enforcement officer. I am not employed with any law
25 enforcement agencies. But I haven't ruled out whether or

1 not I'm going to go back. I'm currently working in a
2 temporary position with the U.S. Postal Service.

3 And when that contract ends, I haven't quite
4 decided whether or not I'm going to go back. I want to
5 make sure that I've got all this put behind me and all my
6 ducks in a row. Make sure that my life is the way it
7 should be so that I can be a responsible officer and make
8 the right choices.

9 I made a very poor judgment decision that night.
10 And I can't make any excuses. There's no need to make
11 excuses except to take full responsibility for my actions
12 and try to improve myself.

13 I mean, I have spoke to Director Ortiz on a
14 couple of occasions and feel that the stipulated agreement
15 that I've been given, I'm not going to ask for leniency or
16 ask for any less. I'm very pleased that this is all I'm
17 going to get.

18 It's reasonable and offers me that opportunity to
19 repair the damage that I have done to myself and to my
20 career. So I have no one else to blame but myself.

21 MR. PEREZ: You were dismissed -- discharged from
22 the Chaves County Sheriff's Office in '99?

23 MR. WILLIAMS: Yes, sir, I was.

24 MR. PEREZ: Why?

25 MR. WILLIAMS: I failed to meet the requirements

1 for that department's -- in my preparing for the academy.

2 MR. PEREZ: And then you resigned from the Dexter
3 Police Department after two years?

4 MR. WILLIAMS: Yes, sir. I went to work with the
5 Artesia Police Department directly after that.

6 MR. PEREZ: You resigned from Artesia. Why?

7 MR. WILLIAMS: For this incident, sir.

8 MR. PEREZ: For this incident.

9 MR. WILLIAMS: Yes, sir.

10 MR. PEREZ: You realize that that's in
11 admitting -- taking responsibility for this, this is a
12 violation of that citizen's civil rights?

13 MR. WILLIAMS: I -- from what I've heard from you
14 before, I guess that is the case.

15 MR. PEREZ: Police brutality under color of law.
16 That's a felony.

17 MR. WILLIAMS: Well, without talking to my
18 attorney, I'm not going to admit anything of that nature
19 at that point. I'm admitting to what I did, but I'm not
20 going to say I committed a criminal offense.

21 And I haven't been contacted by any federal
22 agencies. I'm not even under investigation by any federal
23 agencies as far as --

24 MR. PEREZ: You have not reported it to the FBI,
25 nor your department?

1 MR. WILLIAMS: I do not know if they ever
2 reported it or not.

3 MR. PEREZ: You were not told?

4 MR. WILLIAMS: No, sir, I have not been told.

5 MR. PEREZ: Any other questions?

6 MR. COON: Is this the first time this ever has
7 happened in your career?

8 MR. WILLIAMS: Yes, sir.

9 MR. COON: On any police brutality or anything
10 like this?

11 MR. WILLIAMS: I have never been charged with
12 police brutality in my career. I mean, I've made some
13 poor judgment choices throughout my life. And I -- at one
14 point in time when I worked for the agency you're with, I
15 failed to prepare myself properly to come up to this
16 academy to start my career earlier.

17 And it took me the time to get my stuff together
18 and do that properly down the road. I have been involved
19 in many instances throughout my career where force has
20 been used. But this is the first time I've ever been
21 charged with any type of brutality.

22 MR. PEREZ: Have you ever used unauthorized
23 force -- unnecessary force before?

24 MR. WILLIAMS: No, sir. This is the -- out of
25 anything, this is the one time that -- and I'm glad it was

1 the one time.

2 MR. SCHULTZ: I have a question actually for
3 Director Ortiz. The difference between this case and
4 Mr. Reyes's case?

5 MR. ORTIZ: It was a pursuit. And I've been in
6 pursuits and I understand how your adrenaline gets going.
7 And the guy didn't stop. He continued into the house.
8 People started to bail out.

9 The other officers had already gotten the
10 individual out and placed him on the ground when
11 Mr. Williams then arrived and went to pick him up. The
12 guy was so intoxicated he wouldn't get up. Mr. Williams
13 just kind of picked him up and just kind of spun him over
14 to the ground.

15 With Mr. Reyes's, Mr. Reyes, what I see on his
16 is -- and he'll disagree with me -- but me and Mr. Holmes
17 do agree that I believe he was showing off for his
18 girlfriend that was there or for the female that was
19 there.

20 And that he became a little more aggressive than
21 needed to be. The individual was handcuffed. And he
22 placed him up against the wall, and then later on he spun
23 him around and threw him to the ground causing him to go
24 unconscious. Therefore, an extra 30 days, 90 days --

25 MR. PEREZ: Did you review the videotape, sir?

1 MR. ORTIZ: Excuse me, sir?

2 MR. PEREZ: Did you review the video?

3 MR. ORTIZ: Yes, I did.

4 MR. PEREZ: You did. Thank you. Thank you, sir.

5 MR. SHANDLER: Let me ask a question.

6 MR. PEREZ: I'm sorry. Mr. Shandler.

7 MR. SHANDLER: You said he threw him to the
8 ground. So you're changing the verbiage there? You said
9 he just spun him around. Now -- what happened?

10 MR. ORTIZ: On Mr. Reyes's?

11 MR. PEREZ: No. I'm reading the write-up on
12 Raymond Williams.

13 MR. ORTIZ: Raymond Williams. That individual
14 was in the prone position on the ground. And then he came
15 and tried to get the individual up. And he picked him up
16 and then he spun him -- picked him up and spun him back
17 down, throwing him back down to the ground.

18 He was trying to get the individual up. The
19 individual was intoxicated, wasn't being compliant because
20 he was pretty intoxicated. And then he forcefully put him
21 down.

22 MR. PEREZ: Did you prepare a report on this
23 incident?

24 MR. WILLIAMS: Yes, sir, I did.

25 MR. PEREZ: And who called the ambulance?

1 MR. WILLIAMS: I did.

2 MR. PEREZ: You did?

3 MR. WILLIAMS: Yes, sir.

4 MR. PEREZ: Did you follow up on the condition of
5 the citizen?

6 MR. WILLIAMS: I went up to the hospital that
7 night. I took the blood cap for the other officer to have
8 his BAC taken there at the hospital. He was read his
9 implied consent there, and the other officer took care of
10 that incident.

11 And I also talked to him again later on at the
12 detention center there at the Artesia Police Department to
13 make sure that he was okay.

14 MR. PEREZ: Yes, sir. Thank you. Next item.

15 ITEM #39: VIRGINIA ENSEY

16 MS. ERDMAN: The next item on the agenda is
17 No. 39, Telecommunicator Virginia Ensey. On September
18 1st, 2009, a Region 3 narcotics task force spotted
19 marijuana plants growing on property belonging to the
20 respondent.

21 Her son admitted that he was cultivating the
22 marijuana on the property and claimed that he and his
23 father were using it for medical purposes. They did not
24 have the certificates necessary to use it for medical
25 purposes.

1 The narcotics agents were invited inside the
2 house where they observed and confiscated more marijuana
3 in separate containers and were given permission to search
4 the property where they found additional plants.

5 While the law enforcement was in the home, the
6 respondent arrived -- she wasn't there initially -- and
7 stated that she didn't want to incriminate herself. And
8 made the statement, "If smoking marijuana is going to keep
9 my husband and son alive, then I have no problem with
10 this."

11 The plants were confiscated. And an
12 investigative report was submitted to the office of the
13 district attorney. She was terminated by her employing
14 agency, the New Mexico State Police Department in
15 Espanola. She was charged with one count of misdemeanor
16 possession of a controlled substance.

17 The charge is still pending as far as we know.
18 And the director is recommending revocation by default.
19 The respondent was served with notice of a contemplated
20 action by certified mail on January 8th, 2010.

21 And according to the U.S. Postal Service stamp,
22 on January 13th the certified mail was received by
23 respondent at her designated address. She failed to
24 respond to the notice of contemplated action.

25 A notice of final decision was served by

1 certified mail on February 8th, 2010. And the respondent
2 signed for the notice of final decision acknowledging
3 receipt on February 11th, 2010 and did not respond.

4 Is Virginia Ensey here? She's not here.

5 ITEM #40: JOE BACA

6 MS. ERDMAN: And I have one more final matter to
7 address, Agenda Item 40, Joe Baca. He has agreed to
8 voluntarily relinquish his certification. On April 20 of
9 2007, he received controlled substances and \$2,220 from
10 another officer during an arrest incident.

11 The \$220,000 {sic} was never turned in. The
12 arresting officer -- one year later the district attorney
13 attempted to locate the evidence for the case and made an
14 inquiry. An investigation by APD determined that the
15 respondent had embezzled the money and tampered with the
16 evidence and didn't properly tag or turn it over to the
17 evidence custodian.

18 He couldn't produce the evidence in question. He
19 claimed he found the controlled substances in his garage
20 and tagged them as evidence and borrowed \$2200 from his
21 mother-in-law.

22 The investigation revealed that some of the bills
23 in the plastic bag produced had not been in circulation at
24 the time of the stop. It was determined that the money in
25 the bag was not the money that had been confiscated from

1 the suspect.

2 And the respondent admitted he was trying to
3 cover up for the missing money. He claimed that he didn't
4 remember receiving the money as evidence and that it might
5 have gotten lost. In some of the reports he wrote he
6 acknowledges receiving the money in question.

7 In one report he indicated he had received \$700.
8 In another report he indicated he received \$900. As a
9 result of this investigation he was terminated from the
10 Albuquerque Police Department. He had voluntarily
11 relinquished his certification.

12 The director recommends that the board accept the
13 voluntary relinquishment. And the respondent submitted a
14 letter in December of 2009 to the director advising that
15 he wishes to relinquish his certification.

16 Is Joe Baca here?

17 MR. PEREZ: Any questions from the board? None.
18 Next item.

19 ITEM #41: ROBERT ORTEGA

20 MR. SHANDLER: Item 41 will be handled in the
21 closed session.

22 MR. PEREZ: In closed session?

23 MR. SHANDLER: Yes, sir.

24 MR. PEREZ: Thank you, Mr. Shandler. Item
25 No. 42.

1 MR. SHANDLER: At this time I would advise the
2 chairman to ask your colleagues to see if any of the 22
3 through 41 they need to not vote on for any interest in
4 conflicts.

5 MR. PEREZ: Does anyone have a conflict regarding
6 these matters? Chief Schultz.

7 MR. SCHULTZ: Mr. Chairman, I have a conflict
8 with two items. The first one is No. 24, Mr. Don Begay.
9 The second one being No. 40, Mr. Joe Baca. So I'll be
10 asking to recuse myself from those.

11 MR. PEREZ: Yes, sir. The first number was
12 what?

13 MR. SCHULTZ: No. 24 and No. 40.

14 MR. PEREZ: Does anyone else have any conflicts?

15 MR. JONES: No. 23, Marisa Barragan. And No. 38,
16 Raymond Williams.

17 MR. PEREZ: Okay. Anyone else have any
18 conflicts? Thank you. And we'll decide after -- we will
19 now go into closed session. We'll go into closed session,
20 so everybody has to leave --

21 MR. SHANDLER: I'll walk you through it. You
22 need a motion to go into closed session.

23 MR. PEREZ: Yes. I'm sorry.

24 MR. COON: Mr. Chairman, I make a motion to go
25 into closed session.

1 MR. PEREZ: I have a motion to go into closed
2 session. Do we have a second?

3 MR. JONES: I second the motion.

4 MR. PEREZ: I have a second.

5 MR. SHANDLER: Roll call vote, please.

6 MR. PEREZ: Roll call.

7 MS. CROKER: Ronald Reeves.

8 MR. REEVES: Yes.

9 MS. CROKER: Chief Segotta. Sheriff Coon.

10 MR. COON: Yes.

11 MS. CROKER: Chief Schultz.

12 MR. SCHULTZ: Yes.

13 MS. CROKER: Sergeant Jones.

14 MR. JONES: Yes.

15 MS. CROKER: Robert Force. Mat Perez.

16 MR. PEREZ: Yes. We are now in closed session.

17 (Off the record from 2:02 until 2:56 p.m.)

18 MR. PEREZ: We're back on the record. The time
19 is 3:00 p.m.

20 MR. SHANDLER: Usually we have a motion to return
21 to open session. So do we have that motion?

22 MR. COON: I make a motion we go back to general
23 session.

24 MR. PEREZ: Do I hear a second?

25 MR. JONES: Second it.

1 MR. PEREZ: All in favor -- do we have to have a
2 roll call?

3 MR. SHANDLER: Customarily, you do a roll call.

4 MR. PEREZ: Roll call, please.

5 MS. CROKER: Ronald Reeves.

6 MR. REEVES: Yes.

7 MS. CROKER: Chief Segotta. Sheriff Coon.

8 MR. COON: Here.

9 MS. CROKER: Chief Schultz.

10 MR. SCHULTZ: Yes.

11 MS. CROKER: Sergeant Jones.

12 MR. JONES: Yes.

13 MS. CROKER: Robert Force. Mat Perez.

14 MR. PEREZ: Yes. During the closed session, only
15 those matters were discussed which were listed in the
16 agenda.

17 MR. SHANDLER: Okay, Mr. Chairman, I'm going to
18 go through these. This is probably more assertive than I
19 should be as board counsel, but I know we've been here a
20 long time. So I'll try to move through them.

21 Item 22, Nikki Baca. And what's before you is a
22 proposed settlement agreement for 90 days, one-year
23 probationary period, ethics training course, alcohol
24 screening and assessment, and address the police cadet
25 class.

1 Is there a motion to accept?

2 MR. JONES: Mr. Chairman, I make a motion to
3 accept the recommendation --

4 MR. PEREZ: Do I hear a second?

5 MR. COON: Second.

6 MR. PEREZ: All those in favor to accept?

7 THE BOARD: Aye.

8 MR. PEREZ: All those opposed? {No response.}
9 Motion carries.

10 MR. SHANDLER: Mr. Chairman, Items 23 and 24,
11 board members have expressed that they have a conflict of
12 interest. And when that occurs, under the board's policy
13 that person doesn't count towards the quorum. So we lose
14 our quorum for 23 and 24.

15 You can either just lay them over to the next
16 meeting or if you want to make a motion to table them to
17 the next meeting.

18 MR. PEREZ: Do I hear a motion to table these
19 items because of a lack of quorum?

20 MR. COON: Mr. Chairman, I make a motion we table
21 No. 23 -- is it 23 and 24 -- 23 and 24 for lack of a
22 quorum to be heard maybe at the next board meeting.

23 MR. PEREZ: Do I hear a second?

24 MR. JONES: Second that motion.

25 MR. PEREZ: All those in favor say aye.

1 THE BOARD: Aye.

2 MR. PEREZ: All those opposed. {No response.}
3 Motion carries.

4 MR. SHANDLER: Item 25, Daniel Benoit or Benoit
5 (pronouncing). The proposed settlement agreement is a
6 30-day suspension, one-year probationary period, ethics
7 training course, eight hours of community service, and
8 address the police cadet class.

9 I want to focus in on the allegation of lying
10 and -- as described by your prosecutor. What do you think
11 about the 30 days? Do you accept or do you reject that?
12 Or do you want something more because there was the event
13 of lying?

14 MR. PEREZ: Do I hear a motion?

15 MR. COON: Mr. Chairman, I recommend we reject
16 the offer, the director's recommendation, and double that
17 to 60 days for lying to the investigating officers about
18 this crash.

19 MR. PEREZ: Do I hear a second?

20 MR. JONES: I'll second it.

21 MR. PEREZ: Moved and seconded. All those in
22 favor say aye.

23 THE BOARD: Aye.

24 MR. PEREZ: All those opposed. {No response.}
25 Motion carries.

1 MR. SHANDLER: So just to be clear, the 30-day
2 settlement offer was rejected. The board's guidance is to
3 make it 60 days. And I don't know if the parties want to
4 stay around and consider that. And if both parties agree
5 to that, then maybe there could be a rewritten settlement
6 today.

7 So think about whether you would want to accept
8 60 days or whether you don't want to accept that. And
9 then we'll get back to you a little later on. Okay?

10 MR. BENOIT: Yes, sir.

11 MR. SHANDLER: The next item is 26 -- and I'm
12 pausing because I think the "S" is silent -- Desmare. The
13 proposed settlement agreement is a 90-day suspension, a
14 one-year probationary period, ethics training course,
15 eight hours of community service, and address the police
16 cadet class.

17 I want to focus in on whether this officer was
18 conducting misconduct while on duty and whether that makes
19 a difference in whether you want to accept or reject the
20 proposed settlement agreement.

21 MR. PEREZ: Do I hear a motion?

22 MR. SCHULTZ: Mr. Chairman, I'd like to make a
23 motion that we reject the stipulated agreement as
24 presented. As stated by counsel, very concerning is the
25 fact that Mr. Desmare was in duty -- on duty in uniform

1 operating a marked patrol vehicle while armed while
2 obviously under the influence.

3 We recommend a new agreement be reached with
4 Mr. Ortiz of a suspension of 120 days.

5 MR. PEREZ: Do I hear a second?

6 MR. COON: Second.

7 MR. PEREZ: All those in favor say aye.

8 THE BOARD: Aye.

9 MR. PEREZ: All those opposed. {No response.}

10 Motion carries.

11 MR. SHANDLER: Okay. So, again, the same thing
12 to think about for the next couple minutes and if you're
13 not comfortable to decide today, that's fine. They
14 rejected the 90 days. They want to bump it up to 120.
15 And we'll talk a little bit more about whether you're
16 amenable to that. Okay?

17 The next one on the agenda is 27, Kurt Fiskum.
18 The settlement agreement is a 90-day suspension, one-year
19 probationary period, ethics training course, use of force
20 training, safe pursuit training, and eight hours of
21 community service.

22 What I want to focus in on is the second event in
23 how the public was affected by that. And so I open it up
24 to the board whether you want to accept or reject the
25 proposed settlement agreement.

1 MR. PEREZ: Do we have a motion?

2 MR. COON: Mr. Chairman, I make a motion that we
3 reject the director's recommendation, but I don't remember
4 what we came up with as far as a board recommendation.

5 MR. SCHULTZ: Mr. Chairman, if I may add to the
6 rejected notice of contemplated action that it be rejected
7 due to the fact that of concern to the board was the fact
8 that Mr. Kurt Fiskum says he did not hear, not once, but
9 twice his supervisor's orders to discontinue the pursuit.

10 And the fact that this did end up resulting in a
11 very serious injury collision. And would propose that the
12 suspension be amended to be 120 days, plus the other items
13 as noted in the proposed agreement.

14 MR. PEREZ: Do I hear a second?

15 MR. COON: Second.

16 MR. PEREZ: All those in favor say aye.

17 THE BOARD: Aye.

18 MR. PEREZ: All those opposed. {No response.}

19 Motion carries.

20 MR. SHANDLER: So, the same thing, okay.

21 The next item is 28 and 29 consolidated, Paul
22 Gomez. The proposed settlement agreement is a six-month
23 suspension, which runs concurrently with a 90-day
24 suspension, one-year probationary period, ethics training
25 course, alcohol screening and assessment, eight hours of

1 community service, and address the cadet class.

2 I want to correct something that I misstated for
3 the record. During the open session I said that six
4 months for a second offense was the standard or the
5 custom. When I looked at my notes, it's actually for the
6 second offense it's a year, unless the two events were
7 more than 20 years apart.

8 So it has been your practice to go up to a year.
9 So with that in mind, do you accept or reject the proposed
10 settlement agreement?

11 MR. PEREZ: Do I hear a motion?

12 MR. SCHULTZ: Mr. Chairman, I make a motion that
13 we reject the recommended agreement with the director.
14 This case is very concerning to the board due to the fact
15 that there are two cases involving driving while under the
16 influence of a prescription drug.

17 The first case also includes the fact that
18 Mr. Gomez attempted to leave the scene of the accident and
19 had to be blocked in by a second vehicle. But of most
20 importance is the fact that the second DWI offense does
21 have a standard discipline of a one-year suspension.

22 And we would recommend the one-year suspension
23 to -- in totality for both of these cases, plus the other
24 items that are included in the recommendation.

25 MR. PEREZ: Do I hear a second?

1 MR. JONES: Second.

2 MR. PEREZ: Moved and seconded. All those in
3 favor say aye.

4 THE BOARD: Aye.

5 MR. PEREZ: All those opposed. {No response.}
6 Motion carries.

7 MR. SHANDLER: The next item, No. 30, Arturo
8 Holguin. The proposed settlement agreement is a 90-day
9 suspension, one-year probationary period, ethics training
10 course, alcohol screening and assessment, and eight hours
11 of community service.

12 Do you accept or reject this settlement
13 agreement?

14 MR. PEREZ: Do I hear a motion.

15 MR. JONES: Mr. Chairman, I move that we accept
16 the director's recommendation of a 90-day suspension,
17 one-year probationary period, ethics training course,
18 alcohol screening and assessment, and eight hours of
19 community service.

20 MR. PEREZ: Do I hear a second?

21 MR. SCHULTZ: Second.

22 MR. PEREZ: All those in favor say aye.

23 THE BOARD: Aye.

24 MR. PEREZ: All those opposed. {No response.}
25 Motion carries.

1 MR. SHANDLER: The next item is No. 31, Scott
2 Kellogg. The proposed settlement agreement is a 30-day
3 suspension, one-year probationary period, ethics training
4 course, alcohol screening and assessment, anger management
5 counseling, and to address the cadet class.

6 Do you accept or reject this settlement
7 agreement?

8 MR. PEREZ: Do I hear a motion?

9 MR. COON: Mr. Chairman, I make a motion we
10 accept the director's recommendation, a 30-day suspension,
11 one-year probation, ethics training, alcohol screening and
12 assessment, anger management counseling, and to address
13 the cadet class.

14 MR. PEREZ: Do I hear a second?

15 MR. JONES: Second.

16 MR. PEREZ: Moved and seconded. All those in
17 favor say aye.

18 THE BOARD: Aye.

19 MR. PEREZ: All those opposed. {No response.}
20 Motion carries.

21 MR. SHANDLER: The next item is 32, Algin
22 Mendez. The proposed settlement agreement is a 30-day
23 suspension, a one-year probationary period, ethics
24 training course, and eight hours of community service.

25 I want to focus in on the allegation of

1 untruthfulness to a supervisor when describing the
2 incident. Do you wish to accept or reject the proposed
3 settlement agreement?

4 MR. PEREZ: Do I hear a motion?

5 MR. SCHULTZ: Mr. Chairman, I'd like to make the
6 recommendation that we reject the stipulated agreement.
7 Of concern to the board is the untruthfulness nature in
8 which Mr. Mendez relayed the information to his
9 supervisor.

10 It's the belief of the board that Mr. Mendez was
11 more interested in his unauthorized ride-along than doing
12 his job on that evening. The board would recommend a
13 suspension of 60 days, plus the other items as already
14 recommended by the director.

15 MR. PEREZ: Do I hear a second?

16 MR. JONES: Second.

17 MR. PEREZ: Been seconded. All those in favor
18 say aye.

19 THE BOARD: Aye.

20 MR. PEREZ: All those opposed. {No response.}
21 Motion carries.

22 MR. SHANDLER: And just, Director Ortiz, it
23 appears that the wishes of the board when there's this
24 lying that goes on to fellow officers or supervisors,
25 60 days should be a starting point.

1 Of course that's subject to aggravating and
2 mitigating circumstances.

3 The next item is No. 33, Chris Pino. The
4 proposed settlement agreement is a 45-day suspension, a
5 one-year probationary period, ethics training course,
6 alcohol screening and assessment, eight hours of community
7 service, and to address a minimum of three cadet classes.

8 MR. PEREZ: Do I hear a motion?

9 MR. COON: Mr. Chairman, I make a motion that we
10 reject the director's recommendation to make that the
11 standard 90 days, with one-year probation, ethics training
12 course, alcohol screening and assessment, eight hours of
13 community service.

14 And I don't know whether we want to leave in the
15 three cadet classes, since we are upping that to a
16 standard 90 days. I would say one -- one cadet class.

17 MR. PEREZ: Do I hear any other comments? Been
18 moved. Do I hear a second?

19 MR. JONES: Second.

20 MR. PEREZ: All those in favor say aye.

21 THE BOARD: Aye.

22 MR. PEREZ: All those opposed. {No response.}

23 Motion carries.

24 MR. SHANDLER: Item 34, Jaime Reyes. The
25 proposed settlement agreement is 90-day suspension,

1 one-year probationary period, ethics training course,
2 anger management counseling, and eight hours of community
3 service.

4 Do you accept or reject the proposed settlement
5 agreement?

6 MR. PEREZ: Do I hear a motion.

7 MR. SCHULTZ: I make the motion we accept the
8 director's recommendation to include a 90-day suspension,
9 one-year probationary period, ethics training course,
10 anger management counseling, eight hours of community
11 service.

12 MR. PEREZ: Do I hear a second.

13 MR. JONES: Second.

14 MR. PEREZ: All those in favor say aye.

15 THE BOARD: Aye.

16 MR. PEREZ: All those opposed. {No response.}

17 Motion carries.

18 MR. SHANDLER: Item 35, Weston Richardson. The
19 proposed settlement agreement is a 30-day suspension,
20 one-year probationary period, ethics training course, and
21 eight hours of community service.

22 I want to focus in on how earlier there was a
23 discussion of an officer in a high-speed chase and some of
24 the ramifications that may occur during a high-speed
25 chase.

1 So does the board wish to accept or reject the
2 proposed settlement agreement?

3 MR. PEREZ: Do I hear a motion.

4 MR. COON: Mr. Chairman, I make a motion we
5 reject the director's recommendations, make it a 45-day
6 suspension, one-year probation, ethics training, eight
7 hours of community service.

8 MR. PEREZ: Do I hear a second.

9 MR. JONES: Second.

10 MR. PEREZ: All those in favor say aye.

11 THE BOARD: Aye.

12 MR. PEREZ: All those opposed? {No response.}
13 Motion carries.

14 MR. SHANDLER: Mr. Chairman, the next item is
15 No. 36, Stephen Ryan. The proposed settlement agreement
16 is a 90-day suspension, one-year probationary period,
17 ethics training course, alcohol screening and assessment,
18 and address the cadet class.

19 I'm going to focus in on that this was considered
20 an aggravated event because of the refusal to take the
21 breath test. Does the board wish to accept or reject the
22 settlement agreement?

23 MR. PEREZ: Do I hear a motion?

24 MR. SCHULTZ: Mr. Chairman, I'd like to make the
25 motion that we reject the director's recommendation, the

1 settlement in this case. As stated by counsel, of concern
2 to the board is the fact that this is an aggravated DWI
3 event with the refusal to take the breath test.

4 Law enforcement officers, especially supervisors,
5 know the importance and the requirement to submit to a
6 blood alcohol test at the decision of the arresting
7 officer.

8 We would recommend a suspension of 120 days,
9 one-year probationary period, ethics training course,
10 alcohol screening and assessment, and to address the cadet
11 class.

12 MR. PEREZ: Do I hear a second?

13 MR. COON: Second.

14 MR. PEREZ: Moved and seconded. All those in
15 favor say aye.

16 THE BOARD: Aye.

17 MR. PEREZ: All those opposed. {No response.}
18 Motion carries.

19 MR. SHANDLER: And I'd say to the director and
20 for the minutes, those officers for whatever reason who
21 decide not to take the test, they need to know there's
22 ramifications that have been set by the legislature, not
23 this body, but by the legislature.

24 That's not any way to get out of the sanctions
25 that the legislature has set for this.

1 MR. ORTIZ: Mr. Chairman, Mr. Shandler, and Board
2 Members, that was a discussion a while back where I did
3 recommend additional time for refusals, but then that was
4 rejected by the board. Just to stay with the 90 days.
5 There wasn't any other ramifications for refusing.

6 That was mentioned by me earlier on to take
7 additional action on for refusing.

8 MR. SHANDLER: Well, I think it's the board's
9 position that based on the last -- this meeting in
10 particular and other meetings there seems to be --

11 MR. ORTIZ: Too many DWI's.

12 MR. SHANDLER: -- too many DWI's.

13 MR. ORTIZ: Okay. I will --

14 MR. PEREZ: We're going to go back to your
15 original, brilliant idea.

16 MR. ORTIZ: Because we were going to double it.

17 MR. PEREZ: Yes.

18 MR. ORTIZ: Yes, okay.

19 MR. PEREZ: Thank you. Go ahead, Mr. Shandler.

20 MR. SHANDLER: Item 37, Patricia Tarango. The
21 proposed settlement agreement is a 30-day suspension,
22 one-year probationary period, ethics training course,
23 alcohol screening and assessment, and address the
24 telecommunicator training class, and complete eight hours
25 of community service.

1 Do you wish to accept or reject this settlement
2 agreement?

3 MR. PEREZ: Do I hear a motion?

4 MR. JONES: Mr. Chairman, I move to accept the
5 director's recommendation of a 30-day suspension, one-year
6 probationary period, ethics training, alcohol screening
7 and assessment, and address the telecommunicator training
8 class, and complete eight hours of community service.

9 MR. PEREZ: Do I hear a second?

10 MR. COON: Second.

11 MR. PEREZ: All those in favor say aye.

12 THE BOARD: Aye.

13 MR. PEREZ: All those opposed. {No response.}
14 Motion carries.

15 MR. SHANDLER: Mr. Chairman, Item 38, Ray
16 Williams. Because of the recusal, we lose quorum. So I
17 advise you to either to lay it over or a motion to table.

18 MR. PEREZ: Do I hear a motion to table this
19 because of a lack of quorum?

20 MR. COON: Mr. Chairman, I make a motion we table
21 Mr. Williams's hearing because we have no quorum.

22 MR. JONES: Second.

23 MR. PEREZ: Moved and seconded. All those in
24 favor say aye.

25 THE BOARD: Aye.

1 MR. PEREZ: All those opposed. {No response.}

2 Mr. Shandler, if you would just explain we need more than
3 four members on the board and that was a lack -- we didn't
4 have enough people to --

5 MR. SHANDLER: Right. You need five members to
6 vote on a disciplinary matter.

7 MR. PEREZ: So that's why the matter is tabled
8 and put off to the next meeting.

9 MR. SHANDLER: Item 39, Virginia Ensey,
10 revocation by default. I'm looking for a motion to accept
11 that revocation by default.

12 MR. PEREZ: Do I hear a motion to accept?

13 MR. COON: Mr. Director -- or Mr. Chairman, I
14 make a motion that we accept the director's recommendation
15 on revocation by default.

16 MR. JONES: Second.

17 MR. PEREZ: Moved and seconded. All those in
18 favor say aye.

19 THE BOARD: Aye.

20 MR. PEREZ: All those opposed. {No response.}
21 Motion carries.

22 MR. SHANDLER: Mr. Chairman, Item 40, Joe Baca.
23 Because of a lack of a quorum, I advise a motion to table
24 or to lay it over.

25 MR. PEREZ: Do I hear a motion to table this

1 because of a lack of a quorum?

2 MR. SCHULTZ: I can't do it.

3 MR. COON: Mr. Chairman, I make a motion we table
4 the matter of Joe Baca to our next meeting because of lack
5 of quorum.

6 MR. PEREZ: Do I hear a second?

7 MR. JONES: Second.

8 MR. PEREZ: Moved and seconded. All those in
9 favor say aye.

10 THE BOARD: Aye.

11 MR. PEREZ: All those opposed. {No response.}

12 Motion carries.

13 MR. SHANDLER: The next item, No. 41, Robert
14 Ortega. On January 13th, 2010, a formal hearing with
15 witnesses and evidence was conducted for a hearing
16 officer. The hearing officer submitted a hearing
17 officer's report.

18 And it provided a briefing to the board, and the
19 board has had deliberations on that. The hearing
20 officer's recommendation was lifetime revocation based on
21 the facts that were established at the hearing.

22 Does the board wish to adopt the hearing
23 officer's report and recommendation?

24 MR. PEREZ: Do I have a motion to adopt?

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

1 recommendation that we adopt the hearing officer's
2 findings and recommendation and that a lifetime revocation
3 be issued to Mr. Ortega in this case.

4 MR. PEREZ: Do I hear a second?

5 MR. JONES: I second it.

6 MR. PEREZ: All those in favor say aye.

7 THE BOARD: Aye.

8 MR. PEREZ: All those opposed. {No response.}

9 Motion carries.

10 MR. SHANDLER: I will prepare that order and
11 provide language that it's subject to judicial review in a
12 timely way.

13 Mr. Chairman, I would like for a three-minute
14 break so the parties can see if they can agree to anything
15 and then we'll come back. I promise to keep it just at
16 three minutes.

17 MR. PEREZ: So ordered.

18 MR. COON: Take your time.

19 (Off the record from 3:19 until 3:29 p.m.)

20 MR. PEREZ: The time is 3:31.

21 MR. SHANDLER: Mr. Chairman, I have the director
22 next to me here and the prosecutor Ms. Erdman. There were
23 a couple people here that did agree to a proposed
24 settlement agreement and let's go through them and have a
25 vote to confirm them.

1 MS. ERDMAN: The first order was for Arman {sic}
2 Desmare. He had signed a stipulated order for a 90-day
3 suspension.

4 MR. ORTIZ: What agenda item number is he?

5 MR. SHANDLER: Twenty-six. We'll start with 26.

6 MS. ERDMAN: He had signed a stipulated order for
7 a 90-day suspension. The board rejected --

8 MR. ORTIZ: I thought that was supposed to be a
9 120-day.

10 MR. SHANDLER: She's got it. Go ahead.

11 MR. ORTIZ: Oh, okay.

12 MS. ERDMAN: The board rejected his stipulated
13 order for a 90-day suspension and recommended a 120-day
14 suspension. We now have an agreement for a 120-day
15 suspension with all other terms remaining the same.

16 MR. SHANDLER: So, Mr. Chairman, is there a vote
17 to accept the new stipulated agreement?

18 MR. PEREZ: Do I hear a motion to accept the
19 stipulated agreement?

20 MR. COON: Mr. Chairman, I make a motion we agree
21 on the stipulated agreement.

22 MR. PEREZ: To accept it?

23 MR. COON: To accept it, yes.

24 MR. JONES: I'll second it.

25 MR. PEREZ: Moved and seconded. All in favor say

1 aye.

2 THE BOARD: Aye.

3 MR. PEREZ: All opposed? {No response.} The
4 motion carries.

5 MR. SHANDLER: Mr. Chairman, we're going to jump
6 up to 25.

7 MS. ERDMAN: And we had a stipulated agreement
8 for Daniel Benoit that was originally for a 30-day
9 suspension, which the board rejected. And the board
10 recommended a 60-day suspension.

11 We now have an amended stipulated order for a
12 60-day suspension. All other terms remain the same.

13 MR. PEREZ: Do I hear a motion to accept?

14 MR. SCHULTZ: Mr. Chairman, I make a motion to
15 accept.

16 MR. JONES: I make a motion to -- second.

17 MR. PEREZ: Moved and seconded. All those in
18 favor say aye.

19 THE BOARD: Aye.

20 MR. PEREZ: All those opposed. {No response.}
21 Motion carries. It's accepted.

22 MR. SHANDLER: No. 27.

23 MS. ERDMAN: The board was presented with a
24 stipulated order for Kurt Fiskum for a suspension of 90
25 days. The board rejected that order and recommended a

1 120-day suspension.

2 I now have before the board a proposed amendment,
3 changing the suspension to 120 days, and all other terms
4 remaining the same.

5 MR. COON: I make a motion to accept.

6 MR. JONES: Second.

7 MR. PEREZ: Moved and seconded. All those in
8 favor to accept say aye.

9 THE BOARD: Aye.

10 MR. PEREZ: All those opposed. {No response.}
11 Motion is accepted.

12 MR. SHANDLER: Mr. Chairman, the next item is
13 consolidated 28 and 29.

14 MS. ERDMAN: The director presented -- this is on
15 Respondent Paul Gomez. The director recommended on
16 Item No. 28 a 90-day suspension and then on Item 29 a
17 six-month suspension to run concurrently with a 90-day
18 suspension. That proposal was rejected.

19 Did you have a question, Representative Reeves?

20 MR. REEVES: I thought you were misstating what
21 we agreed to. I'm sorry.

22 MS. ERDMAN: The board rejected that offer and
23 recommended a one-year suspension. I now present the
24 board with that Item No. 28 remains the same. It is still
25 a 90-day suspension for the first DWI.

1 And Item No. 29, there is now a one-year
2 suspension beginning effective on the date of this order
3 also to run concurrently with the 90-day suspension for
4 the first DWI case. All other terms remain the same.

5 MR. PEREZ: Do I hear a motion to accept?

6 MR. SCHULTZ: I move to accept.

7 MR. PEREZ: Do I hear a second?

8 MR. JONES: Second.

9 MR. PEREZ: All those in favor say aye.

10 THE BOARD: Aye.

11 MR. PEREZ: All those opposed. {No response.}

12 Motion accepted.

13 MR. SHANDLER: Mr. Chairman, the other people
14 were not here, so they'll have to be negotiated at a later
15 time. I believe that concludes your disciplinary items.

16 ITEM #42: SCHEDULING OF NEXT MEETING

17 MR. SHANDLER: And you're now ready to go to
18 Item 42, scheduling the next meeting. And I'll turn that
19 over to the director.

20 MR. PEREZ: Do I hear a motion to set the
21 meeting -- our next meeting to be held in the Albuquerque
22 area?

23 MR. ORTIZ: Yes. And speaking to the lieutenant
24 from APD, we're looking at the dates of June 15th, a
25 Tuesday, or June 17th, a Thursday. So he's going to check

1 those dates, get back to me; and we'll notify you as soon
2 as possible.

3 But if you could put it in your calendars, mark
4 out the 15th and the 17th so we can be sure to have a
5 quorum.

6 MR. PEREZ: Do we need a motion to accept that,
7 Zack?

8 MR. SHANDLER: Yes.

9 MR. PEREZ: Do I hear a motion to accept the next
10 meeting?

11 MR. COON: Mr. Chairman, I make a motion we set
12 our next meeting in the Albuquerque area, probably
13 Albuquerque, for June the 15th or the 17th, whatever fits
14 in the schedule for Albuquerque Police Department.

15 MR. PEREZ: Do I hear a second?

16 MR. JONES: Second.

17 MR. PEREZ: All those in favor say aye.

18 THE BOARD: Aye.

19 MR. PEREZ: All those opposed. {No response.}
20 Motion carries.

21 ITEM #43: ADJOURNMENT

22 MR. PEREZ: Do I hear a motion to adjourn.

23 MR. COON: Mr. Chairman, I make a motion we
24 adjourn.

25 MR. PEREZ: Do I hear a second?

1 MR. JONES: Second.

2 MR. PEREZ: All those in favor of closing the
3 meeting say aye.

4 THE BOARD: Aye.

5 MR. PEREZ: All those opposed. {No response.}

6 The meeting is now ended at 3:43 p.m.

7 (The hearing adjourned at this time.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 March 25, 2010 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
NM Certified Court Reporter #168
License Expires: December 31, 2010