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NEW MEXICO LAW ENFORCEMENT ACADEMY  
REGULAR BOARD MEETING AND PUBLIC HEARING

Thursday, March 26, 2009  
9:03 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           A P P E A R A N C E S

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4           B O A R D M E M B E R S

5           Gary King, Attorney General

6           James R. Coon

Donald Gallegos

7           George Jojola

Arsenio Jones

8           Bernardo M. Perez

Raymond Schultz

9

10

11

12           A L S O P R E S E N T

13           Monique Croker

Ernest Holmes

14           Matthew Jackson

Arthur Ortiz

15           Zachary Shandler

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1           ITEM #1: CALL TO ORDER

2           MR. KING: Let's get started. Good morning,

3 everybody. We appreciate having you here in Santa Fe.

4 We'll try and get you out of here before it snows. Looks  
5 pretty amazing. Springtime in New Mexico. We love it.  
6 This is the meeting of the -- the regular meeting  
7 of the New Mexico Law Enforcement Academy Board. Looks  
8 like we have a pretty busy agenda today. And so I  
9 appreciate everybody that's able to be here today.

10 ITEM #2: ROLL

11 MR. KING: For roll call, usually we just have  
12 everybody introduce themselves. And maybe we'll start  
13 down here. I know that Art and Monique, you guys aren't  
14 members; but why don't you introduce yourselves first, and  
15 then we'll continue on down the line.

16 MR. ORTIZ: Art Ortiz, director of the New Mexico  
17 Law Enforcement Academy.

18 MS. CROKER: Monique Croker, administrative  
19 assistant.

20 MR. JOJOLA: George Jojola, Isleta Tribal Police.

21 MR. JONES: Arsenio Jones, line officer  
22 representative.

23 MR. GALLEGOS: Good morning. Donald Gallegos,  
24 district attorney representative.

25 MR. KING: Gary King. I'm the chair. I'm the

6

1 Attorney General.

2 MR. COON: Rob Coon, sheriffs' representative of  
3 Chaves County.

4 MR. SCHULTZ: Ray Schultz, Albuquerque, chiefs'

5 representative.

6 MR. PEREZ: Bernardo Perez, citizen

7 representative.

8 MR. SHANDLER: Zack Shandler, Board attorney.

9 MR. JACKSON: Matthew Jackson, Board prosecutor.

10 MR. HOLMES: Ernest Holmes, investigator for the

11 Law Enforcement Academy Board.

12 MR. KING: So I believe we have a quorum.

13 ITEM #3: APPROVAL OF AGENDA

14 MR. KING: And so let's move forward with the

15 agenda. The first item is the approval of the agenda.

16 Does anybody have any comments or?

17 MR. ORTIZ: Mr. Chairman, Board Members,

18 Item No. 25, Johnny Sifuentes, we will not be presenting

19 that case today.

20 MR. KING: Okay.

21 MR. SCHULTZ: Is that it?

22 MR. ORTIZ: The reason is Mr. Sifuentes responded

23 back to the letter requesting a hearing. He didn't

24 respond to the notice of contemplated action. We sent him

25 a notice of final decision, and he did respond to that.

7

1 Just this week we received it. So we will give him that

2 opportunity to be heard.

3 MR. KING: Okay.

4 MR. SCHULTZ: Move to accept the agenda -- the

5 agenda as amended.

6 MR. KING: Motion to approve the agenda.

7 MR. GALLEGOS: Second.

8 MR. KING: All in favor say aye.

9 THE BOARD: Aye.

10 MR. KING: Any opposed? {No response.} The  
11 agenda is approved.

12 ITEM #4: APPROVAL OF MINUTES

13 MR. KING: The next item is approval of the  
14 minutes, which should be in your book.

15 MR. PEREZ: I have one -- one correction.

16 MR. KING: Yes.

17 MR. PEREZ: On page 85, first, left-side, top of  
18 the page -- or half-way down the page, line number 23,  
19 said, "It was a land grant." It should be "a land grab."

20 MR. KING: "A land grab."

21 MR. PEREZ: That's it.

22 MR. KING: Any other additions or corrections to  
23 the minutes? I see none. I'll take a motion to approve  
24 them as amended.

25 MR. GALLEGOS: I move to approve as amended.

8

1 MR. JONES: Second.

2 MR. KING: All in favor say aye.

3 THE BOARD: Aye.

4 MR. KING: Any opposed? {No response.} All  
5 right. The minutes are approved.

6 ITEM #5: DIRECTOR'S REPORT

7 MR. KING: The next item on the agenda is the

8 Director's Report. Mr. Ortiz.

9 MR. ORTIZ: Good morning, Audience. Good

10 morning, Mr. Chairman, Board Members. I do ask if anybody

11 in the audience decides to speak, please state your name

12 and come up to the podium so the court reporter can make

13 sure and get everything that you're saying. The fans are

14 making it a little difficult for her to hear everything.

15 The following is a description of the activities

16 that have transpired at the Law Enforcement Academy since

17 our December 9th meeting in Albuquerque.

18 MR. KING: Can you guys in the back hear him at

19 all if he does it that way? I wonder if you can pull the

20 stand over this way a little bit.

21 MR. ORTIZ: I'd like to begin first by thanking

22 Chief Panteah for serving as a Board member. As you've

23 noticed, Chief Panteah is not here today. He did have to

24 resign from the Law Enforcement Academy Board. I want to

25 wish him the very best.

9

1 At this time, I'd like to also introduce and

2 welcome the new Board member replacing Mr. Panteah, and

3 that's Isleta Police Chief George Jojola. George Jojola

4 was born in Albuquerque in 1960. His family moved to

5 Santa Fe, where he was raised. He graduated from

6 St. Catherine Indian School in 1979.

7 He is married with a daughter and one stepson.



8 His tribal affiliations are the Isleta and Laguna tribes.  
9 He enlisted in the military six months prior to graduation  
10 on the delayed entry program. Two weeks after graduating,  
11 he left for basic training in the U.S. Army as a military  
12 police officer.

13 He completed basics and was stationed at  
14 Ft. Lewis, Washington for three years. He specifically  
15 wanted to have a career in law enforcement. He ended his  
16 tour of service in 1982 and applied to the New Mexico  
17 State Police. But he said he was not accepted because he  
18 was too short at that time in 1982.

19 He then reentered the military again six months  
20 later, was selected to the infantry, and volunteered to go  
21 to ranger training. He completed his ranger training and  
22 was stationed in Savannah, Georgia with the First Ranger  
23 Battalion.

24 During this time with the U.S. Army Rangers, he  
25 was selected with 127 other rangers from his unit; and

10

1 this was his first combat experience in Operation Urgent  
2 Fury in Grenada. He was up for reenlistment four years  
3 later. During that time, a ranger could only stay with  
4 the battalion for four years. He did not reenlist.

5 In 1987 he entered the private security force and  
6 worked with AKAL Security for six years. He began as a  
7 security officer and worked his way up to a security  
8 captain.

9 In 1994 he applied for a police officer position  
10 with the Isleta Police Department and was hired. He  
11 attended the basic academy in Artesia at FLETC and  
12 graduated in December 1994.

13 Chief Jojola received advanced training through  
14 certification by waiver to become state certified in  
15 2001. Once certified, he accepted additional  
16 responsibilities for training. He was promoted to patrol  
17 sergeant in 2001 and was promoted to the rank of  
18 lieutenant in 2004.

19 Also during that year, the New Mexico National  
20 Guard was developing a military police company. So he  
21 enlisted and was assigned to the 126 Military Police  
22 Company. His rank was a staff sergeant and a squad  
23 leader.

24 While with the company, they were advised they  
25 were going to be deployed to Iraq in 2005. He was

11

1 promoted to the position of platoon sergeant. And on  
2 March 8th, 2005, the unit left for Iraq.

3 He was responsible for 34 soldiers. Their  
4 mission was to train the Iraq police officers and assist  
5 with logistic operations so they would be able to sustain  
6 their law enforcement operations when they left.

7 He also reenlisted in Iraq in order to stay with  
8 his unit, and their deployment ended in 2006. He returned  
9 to his position as operations officer for the Isleta

10 Police Department. And on September 27, 2007, he was  
11 selected to fill the position of chief.

12 I also have a letter I'd like to read from  
13 Captain Andy Montoya from State Police. It says, "I have  
14 personally known Chief George Jojola for more than five  
15 years. I have had the distinct privilege of working  
16 alongside him for those five years as a New Mexico Army  
17 National Guardsman and a fellow law enforcement officer.

18 "Chief Jojola is a proven leader of a man who has  
19 integrity, who unselfishly shares his time, knowledge, and  
20 experiences. I consider Chief Jojola to be capable,  
21 knowledgeable, and an experienced law enforcement officer  
22 who will definitely be an asset to the New Mexico Law  
23 Enforcement Academy."

24 At this time I want to welcome Chief Jojola.

25 MR. JOJOLA: Thank you.

12

1 {Applause.}

2 MR. JOJOLA: I'd like to say thank you for  
3 allowing me to serve on a distinguished board. I'll do my  
4 best to maintain those standards that have already been  
5 established throughout the law enforcement community. I  
6 appreciate it. Thank you very much.

7 MR. KING: Thank you. Very glad to have you.

8 MR. ORTIZ: And yesterday I believe was his  
9 birthday, so I want to wish him happy birthday. Today's  
10 Monique's birthday, so happy birthday, Monique. Happy

11 birthday to both of you.

12 Here at the Academy due to the hiring freeze, we  
13 still have three vacant positions. We'll have to see when  
14 that's going to unfreeze.

15 The first quarter registry for 2009 was mailed  
16 out to the agencies. And the information provided on this  
17 registry will be forwarded to Brenda Suazo, who will in  
18 turn utilize the registry to disburse law enforcement  
19 protection funds. Those changes were due February 6.

20 And Agent Mary Mabry is here. And we've got a  
21 report from Ms. Mabry that the annual agency firearm  
22 requalification reports were due March 1st of 2009. Out  
23 of the 200 agencies, only 49 have complied with being on  
24 time with that reporting. And she's in the process of  
25 contacting these agencies to come into compliance.

13

1 Letters were sent out to all the agencies  
2 regarding upcoming audits and firearm instructor  
3 certification. And I did provide members of the Board  
4 with copies in your binders.

5 Regarding the misconduct, the status update, as  
6 of yesterday, we received 38 misconducts so far this  
7 year. Three of those have been sent by private citizens.  
8 Currently there are 59 open cases. Six of those are for  
9 2007; 26 for 2008; and 27 for 2009.

10 Seven of the open cases pending are formal  
11 hearings, and eight are pending court hearings. Today

12 we're going to be presenting 24 cases, so that should

13 knock us down to about 35 open cases.

14 And I would like to thank Arsenio Jones for

15 hearing a formal hearing yesterday. We do appreciate your

16 assistance with that.

17 Also in your packets is the New Mexico Law

18 Enforcement Academy Tactical/SWAT Oversight Committee --

19 and Agent Mabry is here if there are any questions

20 regarding the work. And also in your binders, there's an

21 updated version as well. They had a meeting now in

22 March. And she's here if anybody has any questions.

23 Lillian Miano, she's the secretary in the

24 Advanced Training Bureau. She was selected as employee of

25 the first quarter for 2009 due to her dedication and

14

1 professionalism. She just started at the Academy last

2 year.

3 Yesterday afternoon we had a meeting with the

4 satellite academies, and it was a very productive

5 meeting. I appreciate the satellite academy directors for

6 coming.

7 And there's one other note, and I put it in your

8 packets, regarding Exevius Seals. We did get a ruling

9 from the district court that they upheld the Board's

10 decision on his suspension.

11 At this time, that's all I have if the Board has

12 any questions.

13 MR. PEREZ: What does that audit entail?

14 MR. ORTIZ: The audit?

15 MR. PEREZ: Yes.

16 MR. ORTIZ: To go down to see that the agencies  
17 are in compliance with their training requirements, their  
18 firearms, and with their reporting.

19 MR. PEREZ: Is there any audit done of  
20 their evidence, things like that?

21 MR. ORTIZ: No, sir.

22 MR. PEREZ: That's not --

23 MR. ORTIZ: No.

24 MR. PEREZ: -- part of the audit. Thank you.

25 MR. SCHULTZ: Art, the status of your FY10 budget

15

1 the same as this year or --

2 MR. ORTIZ: Yes.

3 MR. SCHULTZ: -- is it going to be --

4 MR. ORTIZ: Yes, sir.

5 At this time I'd like to call Bureau Chief Mark  
6 Shea to come and give the Advanced Training Bureau report.

7 MR. SHEA: Mr. Chairman, Members of the Board,  
8 the Advanced Training Bureau, let me give you kind of a  
9 rundown as to what we have accomplished since the last  
10 meeting in December.

11 We have held 12 different courses. One of the  
12 major courses that we've held was a mandate from the New  
13 Mexico Supreme Court Justice to provide security training

14 to the bailiffs and court staff at all of our district

15 courts.

16 And we entered into a training contract to do  
17 that. We were awarded a subgrant from the Department of  
18 Homeland Security to develop that curriculum and provide  
19 that training. And we did train approximately 135 court  
20 security personnel in three training sessions around the  
21 state.

22 We're currently looking at getting that  
23 curriculum certified through the Department of Homeland  
24 Security so that we can provide that on an ongoing basis  
25 for the new people coming into the court system to get

16

1 that training. That's a work in process.

2 So right now those who attended the training, it  
3 was at no cost to them. And Homeland Security was  
4 providing reimbursement for their per diem and their  
5 travel. So we do appreciate Chief Justice Chavez's work  
6 on this area and also Department of Homeland Security for  
7 assistance with that.

8 We've had several courses. In addition to that,  
9 we did conduct one ethics course to meet the board  
10 mandated disciplinaries and had nine attend that. We did  
11 hold a criminal justice wellness course to train Academy  
12 instructors and physical fitness training and also  
13 agencies that have a physical fitness training program so  
14 that they could go back to their agencies and maintain

15 that program.

16 We've been working very hard on the firearms  
17 issue with our firearms instructor. Just to give you an  
18 update on the future, we're doing instructor updates for  
19 all firearms instructors in the state of New Mexico to  
20 make sure that they are current and that the training that  
21 they are delivering in the field is consistent with what  
22 our current standards are.

23 So we have a huge review process going on with  
24 that. You'll hear more about that as it unfolds. We've  
25 been concentrating on first-line supervision and

17

1 management courses also. I have received some feedback  
2 from chiefs and sheriffs that they would like to see more  
3 executive development courses.

4 So we've had a couple first-line supervisor  
5 courses, management courses, bid management course, and  
6 we're looking at interactive leadership courses and  
7 continue to develop some of those courses not only for the  
8 line officers, but also the executive agencies, executives  
9 and heads of agencies so that we can deal with some risk  
10 management issues and policy issues and try to develop  
11 some curriculum to assist them in managing the departments  
12 and then managing training function.

13 We did hold one certification by waiver of  
14 previous training class during this quarter. In that  
15 class we had 21 students who graduated. We did have one



16 student attending who was not eligible for recertification  
17 but did go through it just for the purposes of training.  
18 So we did graduate 21 students.

19       Totally with the cert by waiver, the 22 students  
20 and the 164 students that we trained throughout that  
21 quarter, we provided 8,206 contact training hours  
22 throughout the state.

23       With the hiring freezes, we have not filled the  
24 bureau chief's position for the Critical Incident Response  
25 Training Bureau. So the instructors under that bureau

18

1 have been put under the direction of other bureaus within  
2 the division.

3       And Regis Chavarria, who is an instructor with  
4 the Cert Bureau is now temporarily assigned to the  
5 Advanced Training Bureau and under my direction so that we  
6 can provide you the critical incident response training,  
7 HAZMAT training, and incident command training throughout  
8 the state. And he's been very good about getting those  
9 courses out around the state.

10       Ongoing projects. We're -- we have got all the  
11 biennium in-service training required courses that are  
12 required by statute. We have put those up on our website  
13 so those can be downloaded by any agency and use that  
14 curriculum with their certified in-house instructors to  
15 deliver that biennium in-service training requirements.

16       We previously reported that we put all of our

17 legal updates up on the website. We've added five  
18 additional updates to that. So those are available to all  
19 police officers in the state of New Mexico to review what  
20 the current core cases have been in the New Mexico courts  
21 and how the courts have ruled in lawsuits against the  
22 departments and agencies so that officers will have proper  
23 training in how to implement the law and understand how  
24 the courts are ruling in those cases where the law has  
25 been implemented.

19

1 We'll get a presentation later today on one of  
2 our efforts to develop some of our online training with  
3 collaboration with the Santa Fe Community College. So  
4 we'll leave that for the future.

5 Talk about the court security training. We are  
6 looking at developing courses for FY10. I've contacted  
7 all the training contractors that I'm aware of in the  
8 state of New Mexico. My goal is, one, to find out what  
9 all of our in-state contractors can provide to the law  
10 enforcement community.

11 And get that list together, contact all agencies,  
12 find out what areas they'd like to see training in so that  
13 we can develop training not that we think that agencies  
14 need, but what the agencies actually are looking at to see  
15 if there's some regional issues so we can push that  
16 training out.

17 So my goal is to try to match what the agency's

18 needs are with who we have in-state that are quality  
19 instructors so we can keep our money in the state and  
20 provide the training.

21 Any training provided by in-state contractors is  
22 going to be specific to the state versus bringing in  
23 training from out of state where it's very generic and may  
24 not be applicable to New Mexico law and the different  
25 dynamics of New Mexico law enforcement agencies.

20

1 So if we do not have a match between what the  
2 agencies require or would like to see and what our  
3 in-state training providers can provide to us, we'll go  
4 back to those training providers and ask if they can build  
5 a course to meet that need.

6 If they can't, then my last option would be to go  
7 outside the state and bring any contractors from outside  
8 the state. Another area, because of our limited budget,  
9 we do contract courses and we subsidize a portion of those  
10 courses to make it extremely reasonable for our officers  
11 to attend with lower tuitions.

12 If I can't provide that and there are special  
13 needs courses, we have started to host some courses also  
14 where we will provide the facilities and bring  
15 out-of-state contractors in to provide training. But they  
16 are selecting their fees at their rates.

17 So that brings some training that we can't  
18 contract for to the state; but, of course, it is at a

19 higher cost to the individual officers and agencies since  
20 we have no control over those tuition costs at that  
21 point.

22 We have been involved with the State Police, with  
23 the IACP Leadership Program. Brian Coss with the Advanced  
24 Training Bureau attended that and has been assisting with  
25 instruction in that course. And we're looking at down the

21

1 road at being able to deliver that course with our  
2 in-house instructors, with the State Police, and the LEA  
3 to provide leadership training throughout the state.

4 We hosted an armorer school for AR15/M16. That  
5 class filled and there was a waiting list. We are  
6 bringing a second class in since the long rifles,  
7 carbines, are becoming more prevalent with law enforcement  
8 agencies. So we're looking at getting armorer schools in  
9 to get agencies that training so they can maintain their  
10 weapon systems.

11 We're also looking at putting on a glock armorer  
12 school, a shotgun armorer school with Remington, and a  
13 handgun armorer school with Smith & Wesson, since the  
14 state has moved to the M&P. A lot of agencies are also  
15 moving to the M&P. So that we will provide an armorer  
16 school to get that out to the agencies that are  
17 transitioning to that weapons system.

18 With the Advanced -- with the Legal Bureau, I  
19 would ask that everybody keep Elliot Guttman in their

20 prayers. He just underwent surgery last week. And I  
21 can't tell you what the circumstances were involved in  
22 that, but he is recuperating now at home. He should be  
23 out for at least a month. We do wish him well, and I  
24 would ask everybody keep him in their thoughts as he does  
25 convalesce.

22

1 He's been working diligently on keeping our legal  
2 updates very current. We did review all of the curriculum  
3 for the Basic Academy, for the law block. And that has  
4 all been updated at the satellite academy.

5 Meeting yesterday, each satellite academy was  
6 given the latest updates so that when they go back to  
7 their respective academies they can deliver the latest  
8 content to their agencies.

9 Another thing that Elliot's working on is to take  
10 what we teach in the Academy and develop that into online  
11 courses so that that will be up on our website and  
12 officers post-academy can download those, read them, and  
13 continue to update themselves on major issues, laws of  
14 arrests, search and seizure, Miranda, those critical  
15 issues that they need to keep current in.

16 We've also assisted with the PST, Public Safety  
17 Telecommunicator, to provide training in different areas  
18 with our instructors in the Advanced Training Bureau.  
19 We're continuing to develop curriculum. We're looking at  
20 assisting the New Mexico courts also with their compliance

21 officers to provide some training for them down the road.

22       One thing we were looking at with the firearms  
23 courses, as we look at firearms instructors, we're truly  
24 looking at the firearms instructor as being an  
25 instructor. A lot of agencies use their firearms

23

1 instructors merely to do the qualifications, to call the  
2 course and score targets; but they are not doing any  
3 training.

4       So we would like to free up the instructors to  
5 actually do training. And we are developing a curriculum  
6 called range operator, where we will certify in a  
7 three-day school officers to do the qualifications  
8 directly, to call the range, call the qualification  
9 courses, and to score targets and to maintain the range,  
10 make sure they are safe and have the facilities that are  
11 properly maintained.

12       So that will take a lot of the load off of  
13 instructors who should be instructing. Obviously, there  
14 are instructors that will be doing both; but those  
15 agencies that would like to have somebody just be a range  
16 operator, we can facilitate that without them having to go  
17 through the 56-hour handgun instructor school and the  
18 24-hour shotgun instructor school and the 40-hour rifle  
19 instructor school just to call qualifications on a range.

20       The only other thing that we have that we're  
21 working towards is we were -- we are going to put a

22 separate page up on the website to host all agencies in  
23 the state of New Mexico who are doing training, if they  
24 want to open their courses to other agencies within their  
25 jurisdiction, we're going to have a page on our website so

24

1 that we can post those training classes and dates so that  
2 they can contact those agencies and get plugged in with.

3 We feel that it's very important that we  
4 communicate throughout the state, share those training  
5 resources, that we don't duplicate efforts. If an agency  
6 down south is doing a course and I schedule a course that  
7 I paid a contractor to come and do it down south, then  
8 we're duplicating that effort and not spending our  
9 training dollars wisely.

10 So we're going to host that so that all agencies  
11 will have an opportunity to post their training separate  
12 from the training that is DPS sponsored training and try  
13 to be a clearinghouse to make sure that we get that word  
14 out around the state.

15 I'll entertain any questions if there is any for  
16 the Advanced Training Program.

17 MR. KING: Questions?

18 MR. SHEA: Thank you, Mr. Chairman, Board.

19 MR. KING: Thank you for your presentation.

20 MR. ALESSIO: Mr. Chairman, Board members, I'm  
21 Ken Alessio, the bureau chief of the Basic Training  
22 Bureau. The Basic Training Bureau has been working very

23 hard over the past couple of months getting ready for the  
24 next class. We've had a lot of down time since the last  
25 class.

25

1 We've spent a lot of the time in trying to get  
2 our in-house instructors certified in more areas of  
3 critical skills areas. We'll potentially have to depend  
4 less on adjunct instructors as lead instructors in some of  
5 those areas.

6 Our next class, Class No. 177, will start on  
7 April 13th and graduate on August 28th. And we'll be  
8 graduating again at the Glorieta Conference Center. It's  
9 just an absolutely wonderful facility. We're very lucky  
10 to be that close to it.

11 We're starting off a little bit differently this  
12 class. We're starting off with a program called Day One.  
13 It's a program that was developed and was being used by  
14 Dr. August Fons of the Southeastern New Mexico Law  
15 Enforcement Academy.

16 Basically what it does is it puts the cadets  
17 through a nonstop, 24-hour day filled with classroom  
18 lectures, PT, pool, gym, and outside confidence and team  
19 building exercises. It's designed basically to rapidly  
20 take a group of new people, strangers and build a solid  
21 foundation of teamwork and camaraderie and confidence.

22 According to Dr. Fons, they've had excellent  
23 results with it. They have had very good reviews from the



24 staff, from the adjuncts that come into help, and from the  
25 cadets themselves. So we're hoping that we're going to

26

1 have the same results here.

2 We held our preassessment for this class on  
3 March 23rd. It was a bit dismaying in that we had 79  
4 applications initially; we had 74 show up. We had five  
5 no-shows. But with respect to the 75 that did show up, we  
6 only had 44 pass all of the various physical assessment  
7 requirements.

8 I'm not sure exactly what is going on. They  
9 happen to pass at the 40th percentile. I'm not sure what  
10 we can do about that. But I think departments need to be  
11 looking at people prior to coming up and assuring that  
12 they can meet that 40th percentile.

13 The Academy does do a nonmandatory assessment the  
14 first Tuesday of each month. So people can come up, go  
15 through the assessment, see exactly where they stand with  
16 respect to the requirements. And we do it the first  
17 Tuesday of each month.

18 Over the past four months I think we've had maybe  
19 a total of eight or nine people show up for the  
20 nonmandatory assessment. I think the departments need to  
21 be taking advantage of that and helping to insure that the  
22 people who are signing up can actually pass the assessment  
23 at that 40th percentile.

24 For 177, we rearranged the schedule a little bit

25 to better help build and flow on each other. We've

27

1 changed the defensive tactics around a little bit again.

2 This time we're going to be going with two 1-week blocks

3 of instruction separated by one week of lectures.

4 This will, one, give them a break between the two

5 weeks of A team, which are very physical. And hopefully

6 it will better concentrate the necessary repetitions in

7 learning the various techniques, as opposed to the last

8 class where we had two days per week over a much longer

9 time.

10 We've incorporated the kettle bell training as a

11 permanent part of the physical fitness training block,

12 along with a broad range of other exercises, running,

13 interval training, weight training, aerobics, agility

14 course, and plyometrics.

15 What we're hoping to do is have a combination of

16 things as designed to build aerobic capacity, anaerobic

17 capacity, strength, speed, and power, all the things that

18 the officers actually need out on the street.

19 The first aid and CPR block has been taken out of

20 the Academy setting. And we are starting with this

21 class. We're requiring that that be completed prior to

22 coming into the Academy. It's basically the first step in

23 our effort to possibly condense down the time that people

24 have to spend here at the Academy in the residential

25 setting.

1 It's a tiny step, but it is a first step. We  
2 started with the first aid and CPR simply because a vast  
3 majority of the cadets coming in are actually coming in  
4 with that training already.

5 We're not requiring that the training be a  
6 certified training. We don't require that they get  
7 certification from the American Red Cross or the Heart  
8 Association. They simply have to fulfill the proper  
9 number of hours of CPR and first aid training as required  
10 by the NMAC.

11 And there is a certification form that is -- that  
12 they'll have to fill out and sign certifying that they did  
13 receive that training. They will receive a brief review  
14 here and the block exam, which will be a very general kind  
15 of test, not specifically designed by American Red Cross  
16 or the Heart Association, just a very general test. And  
17 they'll have to pass that test as they would if they were  
18 taking CPR here.

19 With respect to personnel, the bureau is  
20 currently down two positions. I think three Director  
21 Ortiz mentioned. Both are subject to the state mandating  
22 freeze. We're still operating with three instructors,  
23 which for running classes between 45 and 50 cadets, it  
24 puts a lot of strain on the staff.

25 We're heavily, heavily reliant upon adjunct

1 instructors to come in. We've been extremely lucky and  
2 very happy with the people coming in and the amount of  
3 cooperation we've received.

4 But as budgets get tighter all over the place,  
5 it's going to be a little bit more difficult in bringing  
6 in adjuncts. We're hoping that at some point we can fill  
7 one or both of those positions.

8 The curriculum review and accreditation process  
9 for the Academy curriculum has been an ongoing thing.  
10 We've made some progress there. And we're in the process  
11 of continuing to review the curriculum to identify  
12 additional areas that we can possibly designate as  
13 pre-Academy areas.

14 The next one that we're actually looking at is  
15 the report writing and trying to decide how we might be  
16 able to do that with respect to community colleges and  
17 online courses where they can actually take that from the  
18 departments prior to coming to the Academy. Do the whole  
19 testing process and all online coming in with that block  
20 already completed.

21 Hopefully through the next several months prior  
22 to Class 178, which will start in mid-September, we'll  
23 have made some progress and possibly get that online.  
24 Thank you. Any questions?

25 MR. COON: Are you offering any report writing

1 classes for just a general police any time soon?

2 MR. ALESSIO: Within the basic?

3 MR. COON: Well, no. I know some guys will come  
4 back and go into a basic class to get some report writing  
5 hours. Are you all going to offer a report writing class  
6 anytime soon through the Advanced --

7 MR. ALESSIO: If we do that, that would be  
8 through the Advanced Bureau. I don't know that we have  
9 anything.

10 MR. SHEA: Sheriff Coon, if there is a need for  
11 it, we will provide it. We certainly -- we can get the  
12 staff, whether in-house or adjuncts or contractors, to  
13 provide that training. And, again, any training that  
14 anyone in this state needs, if that is identified and  
15 brought to our attention, we will develop those courses as  
16 long as we can fill them.

17 We need to make sure that we're cost effective on  
18 how we spend our training dollars, but we'd be more than  
19 happy to put one on for you.

20 MR. ALESSIO: From what I have been hearing from  
21 chiefs and sheriffs, there is definitely a need for report  
22 writing. The block as it exists in basic training is  
23 fairly short.

24 I believe it's 14 and a half hours. What we've  
25 seen here, what I have seen in my career prior to coming

1 here, it's going to take a lot more than 14 and a half  
2 hours to get a lot of these people up to a point where

3 they can write, you know, well-written reports that can  
4 stand on their own and be understood by other people later  
5 on. We cannot do that in 14.5 hours.

6       What I'm hoping is if we can develop an online  
7 report writing program that they can do prior to the  
8 Academy, it will actually encompass more than 14.5 hours.  
9 And it will start with -- it will start where we cannot  
10 start here, with some basic English grammar, spelling,  
11 punctuation, and take them up through that quickly.

12       Obviously, it's going to be like going through  
13 high school again. But at least it will give them a  
14 little bit better foundation. And that seems to be where  
15 the problem is. Not not knowing what they need to write,  
16 it's just being able to take what they did and actually  
17 put down on paper in a coherent way that people can later  
18 read and understand.

19       So, hopefully, if we can develop the online  
20 course, it will be a much more expansive course than we  
21 can actually present here in 14 and a half hours.

22       MR. GALLEGOS: I just wanted to piggy-back on  
23 that real quick because that's -- generally for  
24 prosecutors that is the attack that we always have to  
25 defend in the courtroom. And it's not necessarily

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1 grammar, punctuation, et cetera, as much as it is who,  
2 what, when, where.

3       And in my district I do a class and try to make

4 it regularly -- sometimes we get twice a year; sometimes  
5 only once -- on document drafting, drafting complaints and  
6 police reports.

7 But, you know, I think the importance of that  
8 can't be overemphasized because defense lawyers when the  
9 facts are not on their side, when the law is not on their  
10 side, and even when they are, they are generally going to  
11 attack the police officer and the report.

12 And so that's always one of the areas that we are  
13 concerned about.

14 MR. ALESSIO: The who, what, when, where, how,  
15 and why, we can and do address here, because that's part  
16 of so many other blocks that they go through. And we're  
17 more incorporating that part of the report writing into  
18 other blocks having them write reports and so on and so  
19 forth.

20 But, again, going back to the spelling, grammar,  
21 punctuation, as you so well know, one or two misplaced  
22 commas can actually change the meaning of an entire  
23 sentence. And that's what people get slammed on a lot of  
24 times in court.

25 One of the things that I did years ago when I

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1 worked for Chet Walter -- it was a special assignment from  
2 the Attorney General's Office, long before he had any  
3 investigators on the staff, one of the things that I did  
4 for him was review all incoming police reports from all of

5 the agencies with the First Judicial District for  
6 investigative sufficiency before it went out to an  
7 attorney.

8 And one of the things I found was that I was  
9 kicking back probably 40 to 50 percent of those reports  
10 back to the agencies of the officers simply because as a  
11 law enforcement person and an investigator, I could not  
12 read it and actually understand what they did, how they  
13 did it, and what they were trying to explain.

14 So it is both sides. We do need to give them  
15 both. Unfortunately, taking an otherwise intelligent  
16 adult that has not had a lot of training in spelling,  
17 punctuation, and grammar, again, we can't do it here in  
18 14.5 hours.

19 MR. COON: That also goes along with a class on  
20 testifying in court. If you've got a bad report writer,  
21 you generally have a bad person in court that the defense  
22 attorneys eat up. And I've got a couple of those that I  
23 need to address.

24 And I was hoping maybe we could do a two-day,  
25 three and two or whatever, get it all done in a 40-hour

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1 class. And I'd be more than happy to host it. But get  
2 something going on the testimony and the report writing.

3 MR. GALLEGOS: Thank you, Mr. Chairman. If  
4 that's something that you put into works, then please  
5 contact me so we can get a prosecutor to also help teach



6 the class or to help put it together. And I'd be more  
7 than happy to either myself or get one of my colleagues or  
8 one of our line prosecutors to help with that.

9 MR. ALESSIO: And I appreciate the offer, and I'm  
10 sure we'll take you up on it when we get to that point.  
11 Elliot Guttman, our in-house attorney and instructor here,  
12 has been very, very good in that respect within the report  
13 writing block. And as it flows into other blocks, he has  
14 been giving the classes on drafting complaints and those  
15 kinds of things, which, again, still a little bit  
16 different than the basic police report writing.

17 MR. GALLEGOS: Right.

18 MR. ALESSIO: So we are trying to incorporate  
19 more of that stuff in there. Any additional questions?

20 MR. KING: I actually have one. Anybody else? A  
21 question and a comment, maybe. The question regards the  
22 physical -- the incoming physical requirements. I'm  
23 assuming that when people come to the Academy here that  
24 they've already been hired by an agency somewhere,  
25 correct?

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1 MR. ALESSIO: There are self-sponsored people.  
2 We haven't had any here at this Academy.

3 MR. KING: So do we need to send a note out to  
4 the chiefs of those agencies to notify them. I mean, I  
5 assume they notify them or that they find out anyway  
6 whenever somebody can't make the physical requirements.

7 Do we have some way to address that to encourage the  
8 agencies to maybe do a little preliminary running?

9 MR. ALESSIO: Mr. Chairman, at this point, an  
10 official way, no. But actually yesterday in the satellite  
11 meeting that was discussed, that something like six weeks  
12 prior to the assessment a letter going out to the agencies  
13 saying here are the standards.

14 But, I don't know. And that's not a bad idea.  
15 All of the information is up on the website. Requirements  
16 are on the website. The monthly assessments, information  
17 is on the website. Personally, I would like to see  
18 people, departments take a little bit more personal  
19 responsibility and get that done.

20 If it takes an additional letter going out, we'd  
21 be happy to do that. Whether that will change anything or  
22 not, I don't know.

23 MR. KING: I'm just curious. It seems like the  
24 agencies ought to be a little more enthusiastic about  
25 making sure that their people can meet the entry

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1 requirements.

2 MR. ALESSIO: In particular at this time, I don't  
3 understand -- most of the people do not fail on the 1.5  
4 mile run or the 300-meter sprint. Most of them failed on  
5 push-ups and sit-ups.

6 For example -- and I can use Santa Fe because I  
7 know Santa Fe Police Department pretty well -- they had

8 eight cadets in. And all eight have been hired on between  
9 three and four months and one ninth one that come on  
10 recently.

11 And the training and recruiting sergeant of the  
12 Santa Fe PD for the past four months had those people  
13 doing PT, doing the required assessment items over the  
14 past four months. Four of them still failed. So I'm not  
15 sure what the answer is.

16 MR. KING: It's kind of interesting.

17 Another comment, maybe this is a good place for  
18 it. And I know that we have folks from a variety of  
19 agencies here. I had a meeting about a month ago with  
20 five of my counterparts from Mexico, five of the Mexican  
21 AG's.

22 And New Mexico starting about three years ago has  
23 done some training sessions, not at the Academy so much,  
24 but through -- the district attorneys help to do this, the  
25 AG's Office, the State Police, to train personnel from the

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1 Chihuahua AG's Office, the crime lab people, some of their  
2 investigators, some of those guys.

3 And because of that, there are other AG's that  
4 are asking several of the western states but most notably  
5 New Mexico because we're sort of the leader in that to  
6 help train their investigative people and such for this --  
7 what you've been reading about, you know, the war against  
8 the drug cartels.

9 And so we're going to try and figure out ways  
10 that we can improve our training, you know, where they can  
11 come up. And in the past, like I said, they've come up  
12 and just maybe done ride-alongs with agencies and worked  
13 in the labs.

14 And their lawyers came up and worked with our  
15 lawyers and with the district attorney's offices. But if  
16 any of you all are interested in participating in  
17 something like that, we'd be interested in knowing.

18 But just as a matter of sort of how difficult  
19 things are there, I had told them, "Well, we trained a  
20 whole bunch of the staff members in the Chihuahua AG's  
21 office." But they said, "Yeah, but we need you to do  
22 another round of training for our office because a large  
23 fraction of the folks that you trained three years ago are  
24 dead now."

25 So they are very dedicated to what they are

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1 doing. But I think New Mexico law enforcement has been  
2 really good to help in that effort, and we're going to be  
3 working on that again.

4 And so, you know, I'm hopeful if any of you are  
5 at all interested in that, maybe we can talk about ways  
6 that we might be able to -- I think they can pay for it.  
7 I don't know whether we've ever done formal training or  
8 not, but I'll talk with you guys.

9 But just to let you all know, I think we might be

10 trying to do another round of training for some of those  
11 officials from Baja, California; Hidalgo, Durango, and  
12 Zacatecas, I think, as well as Chihuahua, so.

13 MR. ALESSIO: It certainly would help our  
14 officers survival Spanish class.

15 MR. KING: I mean, frankly, we can learn  
16 something from them, too. I find that certainly when you  
17 do these joint trainings, those guys actually -- you know,  
18 they certainly have sent some of their lawyers up to work  
19 with us.

20 That's what we're doing in Las Cruces. We were  
21 meeting not only with the AG's, but some of their legal  
22 staff to talk about some of these things. And they are  
23 doing a lot of interesting on-the-ground work against the  
24 drug cartels. So we learn something from them too,  
25 frankly. So, that's true.

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1 For instance, the director of the crime lab, who  
2 we trained about four months ago now, I guess was shot  
3 down coming out of the AG's office in Chihuahua in a  
4 drive-by shooting.

5 And we know that some of their police chiefs and  
6 such have been really been on the line. And we also know  
7 that some of that violence is starting to spill over the  
8 borders. And so we have to be concerned I think about  
9 what we can do to make sure that we're all working  
10 together. So we're looking for ideas.

11 MR. ALESSIO: Going back briefly to the Day One  
12 Program. I did put the Day One 24-hour schedule in your  
13 packets, if you want to take a look at that sometime  
14 through today. I will be here around the building.  
15 Dr. Fons, who is both the mother and father of the  
16 program, knows a lot more about it than I do.

17 As a matter of fact, he and a large part of his  
18 staff have kindly agreed to come up on our first day to  
19 help us implement the Day One to make sure we do it  
20 right. It's an interesting program. If you have any  
21 questions I'll be happy to address them.

22 MR. KING: Thanks, Ken.

23 One other thing I was going to raise here that  
24 might be of interest -- and we don't really have a  
25 legislative report, but I am aware that there was a bill

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1 passed this year on profiling and police agencies. And,  
2 you know, it prohibits profiling.

3 But I think one of the requirements there is  
4 going to be that each agency develop a policy on  
5 profiling. I think it directs the Attorney General's  
6 Office to help -- to help devise sort of a blanket policy  
7 or a draft policy and then work with the agencies.

8 But every time the legislature meets, you guys  
9 probably have more training requirements that you have to  
10 do. So that may be one of them I think that will come  
11 up. Donald's been tracking that, too.

12 We didn't make any changes to the human  
13 trafficking bill this year. There were a couple other  
14 bills that I think --

15 (At this time, Mr. Gallegos briefly conferred  
16 with Mr. King.)

17 MR. KING: Yeah, the governor hasn't signed  
18 either one of these yet. But there is one that maybe  
19 changes the -- how you do eyewitness identification. And  
20 we'll have some best practices.

21 MR. SCHULTZ: It died. Died in committee.

22 MR. KING: I didn't see where it ended up. I  
23 didn't see where it passed. So those are the ones that  
24 we're tracking.

25 MR. ALESSIO: Profiling is an interesting area,

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1 as most of the people in this room know what police  
2 officers do on the street everyday is in a way profiling.  
3 They are using their experience and knowledge to look at  
4 people, look at situations, and identify potential  
5 problems.

6 And that fits a lot of the legal definitions of  
7 profiling when, in fact, it's simply what police officers  
8 do. It's how they help protect the public. It's going to  
9 be interesting.

10 MR. KING: There are a couple of exemptions  
11 drafted in that exempt out some standard police practices  
12 and such. And so it's not nearly so onerous as it was

13 when it was introduced. That one I'm sure did pass and  
14 the governor will sign it.

15 There was another one that talked about penalties  
16 for police officers if they arrested somebody in violation  
17 of their civil rights, but I don't think that one passed  
18 either.

19 MR. SCHULTZ: No. There are some additional  
20 domestic violence sanctions against officers. That has  
21 passed.

22 MR. KING: That's true. Yeah, there was one that  
23 made it that will affect this Board potentially that --

24 MR. ORTIZ: It was not signed by the governor on  
25 that one, the domestic violence into the revocation and

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1 suspension. The governor did not sign that.

2 MR. KING: He's got 20 days. Did he veto it or?

3 MR. ORTIZ: My understanding from the governor's  
4 office is that it was killed on the senate floor.

5 MR. SCHULTZ: I thought he signed it last Friday.

6 MR. GALLEGOS: I don't recall.

7 MR. ORTIZ: No. I checked on it yesterday  
8 because I wanted to give you a legislative update with  
9 everything affecting the Academy. It did not pass.

10 MR. KING: All right. Well, we'll double-check.  
11 As you can tell, there was a lot happening in the last two  
12 or three days of the legislature. We haven't even  
13 analyzed everything that happened this week. I'll get



14 more updated.

15 MR. ORTIZ: I do have those bills, and I was  
16 going to put them in your packets. When I found out they  
17 did not pass, then I didn't include them in there.

18 I'll just end the Director's Report with the  
19 Critical Incident Response Bureau, which oversees the  
20 PST. And just to let you know that the PST Class 107  
21 graduated 35 telecommunicators. That concludes the  
22 Director's Report.

23 MR. KING: Okay.

24 ITEM #6: PUBLIC COMMENTS

25 MR. ORTIZ: And we looked at the public comments,

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1 Agenda Item No. 6, and nobody has signed up. But at this  
2 time, I'll turn it over to the chairman.

3 MR. KING: Well, is there anybody that wants to  
4 make public comment? Okay. Seeing none, we'll move on  
5 with the agenda.

6 ITEM #7: DISCUSSION: RESERVE OFFICER TRAINING PROGRAM

7 MR. KING: Next item on the agenda is discussion  
8 of the reserve officer training program. Mr. Najjar.

9 MR. NAJAR: Mr. Chairman, Board Members, and  
10 guests, the last meeting we were scheduled for a public  
11 hearing on was the rule change titled Transition Officer  
12 Program, which is basically incorporating rules into the  
13 New Mexico Administrative Code that would allow reserve  
14 officers to achieve certification.

15 At the last meeting there was concern that some  
16 of the associations had not had an opportunity to give us  
17 input. The chairman of the committee, Robert Force,  
18 scheduled a subsequent meeting in Bernalillo that was  
19 conducted in January to allow for that additional input  
20 from anyone who had not had the opportunity to give that  
21 input prior to that.

22 The director also responded to questions at a  
23 couple of the municipal league meetings regarding what we  
24 were trying to do with the Transition Officer Program. In  
25 your packets, there is the language and the details for

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1 the rule change that was presented last meeting.

2 As you recall, the public hearing was tabled  
3 until this additional meeting could take place. Based on  
4 the minutes from the meeting that occurred in Bernalillo,  
5 at this time the committee itself does not have any  
6 additional recommendations to the Board on moving forward  
7 with adoption of the rule change.

8 The discussion that did take place in Bernalillo  
9 focused primarily I think on issues -- and there may be  
10 some individuals here who want to address that as well --  
11 concerning the existing reserve officers in New Mexico and  
12 their ability to be, quote, grandfathered or achieve  
13 certification with past training that they have taken.

14 And so that was one of the sticking points in  
15 recognizing that and whether or not there was merit to

16 allowing individuals who have been reserve officers,  
17 perhaps as long as 20-some years, to use prior training in  
18 achieving the goal of that 800-hour benchmark for  
19 certification. And discussion went back and forth.

20 The committee's motion finally after that meeting  
21 was to table it. No recommendations came out of that  
22 additional committee meeting in Bernalillo. So that's  
23 kind of where we're at at this point in time. And it's  
24 back into the hands of the Board as to what the will of  
25 the Board is on this rule change.

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1 MR. KING: Are there comments on this from the  
2 audience? Comments from the committee?

3 Zack, what do we need to do next?

4 MR. SHANDLER: Mr. Chairman, my understanding, if  
5 I can just kind of reiterate what Gil just said, is there  
6 was going to be a vote to send it to a public hearing for  
7 the Board whether to adopt the rule or not. But it was  
8 sent back to this additional subcommittee meeting to talk  
9 to some of the associations.

10 And at that meeting, which I didn't attend but I  
11 think I've read the minutes of, that subcommittee did  
12 recommend some changes to the rule, specifically deleting  
13 some of this language regarding the -- what Gil called the  
14 grandfathering clause.

15 MR. KING: I'm not seeing that in our book  
16 though. Do we have --

17 MR. SCHULTZ: It's the very last --

18 MR. SHANDLER: Well, I'm trying to see if it was  
19 red lined in the copy that's in your book. My notes show  
20 that paragraph 20 and 21 were the ones that initially had  
21 that grandfather language in. I'm trying to track things  
22 back and forth with those changes that the latest  
23 subcommittee meeting made are in the packet.

24 So, Gil, do you know, the version that's in the  
25 packet, has that been red lined since that January

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1 subcommittee meeting?

2 MR. NAJAR: No.

3 MR. SHANDLER: Okay. I guess it might be  
4 appropriate if there was someone in the audience that was  
5 at that subcommittee meeting that wanted to provide some  
6 additional information before I continue. That would  
7 probably be prudent for me to allow them to speak to make  
8 sure that I'm stating the facts correctly.

9 MR. KING: And just so everybody will know, the  
10 reason I mention about that is I assume that for us that  
11 the next action would be to set a date for public hearing  
12 on this? Would that be right or?

13 MR. SHANDLER: Mr. Chairman, that is the big  
14 picture, whether you want to set a public hearing or not.  
15 But also the second part of the question is: What rule do  
16 you want to go out and publish?

17 So option No. 1 would be to send it out with

18 paragraphs 20 and 21. And then during the rule-making at  
19 that point, subject to the testimony, you're free to  
20 reject or adopt the rule in its entirety or delete out 20  
21 or 21.

22 The other option is to say, well, maybe those  
23 paragraphs -- and I think this was some -- I don't want to  
24 put words in Robert Force's mouth -- but I think reading  
25 the minutes -- he thought the idea of the rule was a

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1 transition program to allow people, but if there was going  
2 to be -- that was the thrust of it. And he didn't want  
3 that to be sunk by controversy about the grandfathering.

4 So the second option would be to vote to go to  
5 rule-making, but to vote now to get rid of 20 and 21 and  
6 not even have that published.

7 And then the third option is maybe you still want  
8 to study it and table it until your June meeting to make  
9 that decision. So I think there's at least three options  
10 on the table.

11 MR. KING: And it might be good to have Mr. Force  
12 here. Any comments from you? I'm willing to leave this  
13 up to the law enforcement folks a little bit more, as far  
14 as what you think about those paragraphs 20 and 21.

15 MR. SCHULTZ: Mr. Attorney General, if I may. I  
16 think as we were just told and heard is if paragraphs 20  
17 and 21 -- I think that was sort of the whole thrust behind  
18 the purpose of this particular rule change.

19 I think what happened at the January meeting was  
20 people got lost in the fact that just because paragraphs  
21 20 and 21 exist it's not an automatic. You still have to  
22 request your director to be considered to be grandfathered  
23 and you have to provide a whole lot of documentation.

24 So this is not going to be an automatic  
25 transition from a reserve status to being allowed to

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1 participate in the cert by waiver process. There is a lot  
2 of hoops that the applicant has to jump through. I think  
3 this would apply to very, very few people on a statewide  
4 basis. My guess would probably be less than 20, if even  
5 that many.

6 So I would recommend that we move forward and  
7 publish it as-is with 20 and 21 to go to a public  
8 hearing. This had been around for almost a year now. I  
9 think it's time we make a decision and see if we're going  
10 to adopt it or not.

11 MR. KING: Any other comments? Is everybody sort  
12 of agreeable with that? It strikes me if we've got  
13 something that's controversial we might as well publish it  
14 and let people comment on it.

15 Mr. Najar, does that kind of go along with what  
16 you think from the subcommittee?

17 MR. NAJAR: Yeah, based on the -- if you read the  
18 minutes, the two groups we're talking about are those  
19 existing reserve officers and future reserve officers. So

20 everybody was comfortable with the process for certifying  
21 future reserve officers. They had problems with the  
22 existing group of reserve officers.

23       So I think at the end of the discussion there was  
24 no recommendation. It was tabled. But that those two  
25 paragraphs 20 and 21 were the sticking point. And I think

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1 based on my conversation with Mr. Force that probably  
2 would be best to just have the public hearing with the  
3 entirety of the rule in place so that those individuals  
4 who did attend last meeting and prior meetings could then  
5 address their concerns with paragraphs 20 and 21.

6       And then the Board can decide how to modify that  
7 or leave it as it is.

8       MR. KING: So do we need a motion for that, Zack?

9       MR. SHANDLER: Generally, you do a motion to set  
10 it for rule-making. And Gil is right. So I should  
11 correct the record. The minutes from that subcommittee  
12 meeting, "Mr. Force asked for a motion and second to  
13 approve the proposed New Mexico Administrative Code with  
14 the deletions of paragraphs 20 and 21 and the addition of  
15 a new sentence called qualitative measure. Transition  
16 training academy must be completed within one year from  
17 the initiation of the academy start date."

18       But then a chief asked it to be tabled for  
19 further review. And so it was tabled. So Gil was  
20 correct.

21 But, anyway, back to your question,  
22 Mr. Chairman. Yes, a motion to set for rule-making for  
23 the June meeting would probably be an appropriate motion.

24 MR. KING: I'm thinking. The reason I'm frowning  
25 is I guess I'm wondering whether it would be appropriate

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1 to have Mr. Force from the -- I mean, did we decide we  
2 needed a report from the subcommittee? Were they just  
3 going to look at -- I'm sorry, I wasn't here for the  
4 January meeting, so.

5 Normally, if we have a subcommittee you get a  
6 subcommittee report, which you sort of have here. But it  
7 sounds like the subcommittee report doesn't really  
8 recommend any specific action, which might leave it up to  
9 us to do whatever we want to do.

10 Am I understanding correct that the subcommittee,  
11 they met and then declined to make a recommendation  
12 essentially since they tabled it?

13 MR. SHANDLER: That's right, Mr. Chairman. I'm  
14 just looking at the last meeting minutes to see what the  
15 Board's instruction were. It looks like it's on page 88  
16 to 93 of your previous meeting.

17 MR. NAJAR: The motion is following Mr. Segotta  
18 on page 91 there at the top.

19 MR. KING: Well, I see it. Yeah, Chief Segotta's  
20 motion was basically that we get input from the sheriffs'  
21 association and the chiefs' association. Was that done at



22 the subcommittee or is that something that he anticipated  
23 would be done here?

24 MR. SCHULTZ: That was done at the municipal  
25 meeting.

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1 MR. KING: Do we have any sort of formal input  
2 from the associations?

3 MR. SCHULTZ: That would be Chief Segotta, and  
4 he's not here.

5 MR. KING: He's not here either. Well, you know,  
6 I'll leave it up to the committee. I guess that I'm a  
7 little leery to move forward to a rule-making without  
8 having two of those major players here to be able to  
9 discuss it. I'm willing to put this on for a more formal  
10 discussion in June.

11 We could put it on specifically as an agenda item  
12 to decide whether or not we're going to put it on for  
13 rule-making in June. I assume, Zack. But you're saying  
14 now that if we take this motion today, then it will go on  
15 for rule-making, potentially.

16 MR. SHANDLER: That's right. But you do have the  
17 option to set it aside or table it until June.

18 MR. KING: Or we can just set the rule-making for  
19 our August -- or what would be our September meeting. And  
20 we'll let everybody know that if they have other comments  
21 that they have to make them in the June meeting.

22 Could we set it that far out?

23 MR. SHANDLER: All those options are on the

24 table. Yes.

25 MR. KING: Discussion in the committee? Sheriff

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1 Coon?

2 MR. COON: I have none, but we have one from the

3 audience.

4 MR. KING: Okay. Yes.

5 MR. RADOSEVICH: Excuse me, Mr. Chairman. I was

6 left with the impression at the municipal chiefs' meeting

7 after there was some spirited discussion over this that

8 there was going to be another meeting of the subcommittee

9 that the Board had appointed. And -- but I don't believe

10 that that meeting ever took place.

11 MR. KING: I guess that's what I'm concerned

12 about is it strikes me that there are still some -- we

13 might not be ready for rule-making yet because there's

14 still some meetings that need to take place, but.

15 MR. SCHULTZ: Move to table to June.

16 MR. KING: Okay. Well, I'll tell you what --

17 well, that's actually a nondebatabile motion. But there's

18 a motion to table. Is there a second?

19 MR. JONES: Second.

20 MR. COON: I'll second.

21 MR. KING: All in favor say aye.

22 THE BOARD {except for Mr. King}: Aye.

23 MR. KING: Any opposed? "No." I'm going to say

24 no just because I was going to discuss it a little bit  
25 more. But here's what we'll do. We will put it on the

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1 agenda for June. And let's plan on setting a date, but  
2 let's push for these other meetings to take place.  
3 I'll talk to the subcommittee members and make  
4 sure that they have an opportunity to meet with the chiefs  
5 beforehand. I think that -- it strikes me that that was  
6 the motion that we adopted in the January meeting, once I  
7 look at it, too, was that we would at least have time for  
8 input.

9 But I would recommend, frankly, that the chiefs'  
10 association and the sheriffs' association have somebody  
11 here at our June meeting to discuss it with us at our June  
12 meeting. And I'll -- we'll send -- let's send an  
13 invitation in advance to do that. Can we do that?

14 MR. NAJAR: Yes.

15 MR. SHANDLER: So to be perfectly clear, the June  
16 agenda item will be an action item decision whether to set  
17 the rule-making.

18 MR. KING: Yes. And so then it will be more  
19 clear to the public that that's what we decided to do. It  
20 does strike me that it might not have been clear to  
21 everybody what we were going to do today. I think that's  
22 a proper motion.

23 ITEM #8: DISCUSSION: ADVANCED LEVEL CERTIFICATION

24 MR. KING: Okay. The next item on the agenda,

25 Item No. 8, the discussion of advanced level

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1 certification. Mark Shea again.

2 MR. SHEA: Thank you. Mr. Chairman, Members of  
3 the Board, this is a discussion item. The Advanced  
4 Certificate Program under the New Mexico Law Enforcement  
5 Academy is not mandated by administrative code or by  
6 statute. This program exists as part of policy and  
7 procedures for the Academy.

8 And as such, we're bringing to the Board as a  
9 discussion with our recommendations for modifications of  
10 the current program for the Board's review and blessing to  
11 continue with it as a policy change.

12 In your blue folder, you will have two handouts.  
13 The first one is a justification summary page that's  
14 labeled at the top Advanced Certificate Proposed Changes  
15 Justification.

16 Following that is a three-page -- I'm sorry, a  
17 four-page document, which is the actual section in the  
18 reference guide, that outlines the requirements and  
19 criteria for advanced certificates.

20 The copy that you have in your blue folder has  
21 been supplied with strike-out for deleted language and in  
22 red is additional language or language changes. What  
23 we're looking at doing is -- it was discussed at the last  
24 Board meeting about doing away with this since it was not  
25 a mandate under administrative code or statute.

1 And from what I have heard from chiefs and  
2 sheriffs and departments is a feeling that this is a good  
3 program. It is a good program for career development. It  
4 gives incentives to officers to develop their ongoing  
5 training and careers, especially in the promotional  
6 process.

7 And we feel that that would be beneficial to the  
8 profession in the state of New Mexico to continue along  
9 those lines. The column with as it currently exists is  
10 rather cumbersome. Some of the language is ambiguous.  
11 And it has taken us considerable amount of time to process  
12 those applications.

13 So major areas that we're looking at revising is  
14 we currently have seven levels of certificates. We're  
15 looking at combining the first two levels, Intermediate I  
16 and Intermediate II, into a single level of just  
17 Intermediate. And to combine the Advanced I and Advanced  
18 II certificates into one certificate, which would just be  
19 the Advanced Certificate.

20 The first line supervisor, the command and the  
21 executive certificates would remain with some language  
22 changes to those and also some additional hours. We were  
23 looking at making those more challenging to attain.

24 We're also looking at adjusting the fees that we  
25 currently charge. The fee structure as it exists now was

1 put into place in 1991. We're charging \$10 per  
2 certificate to process those applications, issue those  
3 certificates, and mail them out.

4 It currently takes two staff members anywhere  
5 from three to four -- even beyond that -- hours, and it  
6 can be protracted over several weeks if we have documents  
7 that needs to be researched or inquiries to the applicant  
8 to get some clarification.

9 So we spend an awful lot of time processing those  
10 applications under the current process. And as such we  
11 would like to see those fees adjusted to a 2009 fee  
12 structure that today is more in line with reality as to  
13 what it actually costs us to provide those certificates.

14 And then we would like to clarify some of the  
15 language that is in the rule for the procedures as it  
16 exists. If you turn to page 1 of that under 15.1 is where  
17 the first change is that we're recommending, that is where  
18 we're recommending the fee change.

19 We would like to strike out "...July 1, 1991, a  
20 \$10.00 fee per level of certification...." Take that out  
21 and replace it with "July 1, 2009, a fee of \$25.00 per  
22 Intermediate Certificate, \$35.00 per Advanced Certificate,  
23 \$50.00 per First-Line Certificate, and \$100.00 per Command  
24 or Executive Certificate."

25 Now, if you look at -- especially at the Command

1 and Executive, that's where you see the greatest

2 increase. We felt that if we're going to recoup some of  
3 the expenses, that that's really where the brunt of that  
4 expense should occur.

5 Most chiefs and sheriffs are paying \$135 a year  
6 for IACP membership. And other executive level  
7 memberships they are paying over a hundred dollars a year  
8 for those. And that's on a yearly basis.

9 This is a one-time fee for that certificate, and  
10 we don't feel that it is unreasonable to charge at that  
11 level for those certificates. If you go down to 15.2  
12 under Certificate Criteria, the first area that we would  
13 like to see some changes is under College Course Credit.

14 As it stands now, we are giving a 15 to 1 ratio  
15 for college credit hours. So if you attend a  
16 three-hour college credit course, we're giving you 45  
17 advanced training contact hours towards that advanced  
18 certificate.

19 As you might well imagine, those numbers increase  
20 rather exponentially. If somebody comes into the  
21 profession with a bachelor's degree, a master's degree, a  
22 doctorate, they have literally tens of thousands of hours  
23 with a 15 to 1 ratio that they could apply towards those  
24 certificates.

25 So they are really not doing any training in the

1 profession of a law enforcement officer once they are  
2 hired into those positions. So we would like to reduce

3 that or at least put a cap on it at 400 hours.

4       So if they have attained a degree or they've had  
5 college credit hours, we will give them a 15 to 1 ratio up  
6 to 400, which they can apply towards those advanced  
7 certificate.

8       Also, we receive a lot of certificates through  
9 continuing education that have CEU designations on the  
10 certificates but no training hours. Traditionally, one  
11 CEU has been given ten contact hours in that ratio.

12       We would like to put that in the language so that  
13 applicants for advanced certificates have a clear  
14 understanding that when they go to the FEMA ICS 200 course  
15 and it says .3 CEU's at the bottom of that certificate,  
16 that they know that counts towards three contact training  
17 hours if they are applying that towards the certificate.

18       All the language there that gives examples of  
19 what college courses would be law enforcement related,  
20 we're striking that out. It becomes dated. It's open to  
21 a lot of interpretation. I think we need to look at that  
22 on a case-by-case basis.

23       If it's criminal justice related, rather than set  
24 these specific examples, in most people reading them, kind  
25 of zero in on those as the only ones rather than look at

1 other areas that are applicable to law enforcement.

2       A very interesting example would be when I  
3 receive certificates that say -- that are fire science



4 related, that they've attended building structure fires.

5 And you think to yourself, well, that's -- we can't count  
6 that towards their certificate.

7 But you look at what their job description is.

8 And they are an arson investigator, so it is applicable to  
9 their job. It is applicable to law enforcement. So we  
10 need to look at them on a case-by-case basis rather than  
11 just set some examples that we kind of adhere to.

12 Under Item C, we would like to strike that entire  
13 section under Maintenance Training. We feel that the  
14 maintenance training should not be applied towards the  
15 advanced certificates.

16 Now, the way it's written there it says that it  
17 is not applicable if it is the ongoing training after they  
18 have initially attended. If it is a class that they would  
19 attend post-academy that was not part of an academy  
20 class -- and a perfect example of that would be radar  
21 class.

22 So now they are certified as a radar operator.  
23 All they need to do is submit to us that course as an  
24 in-service training course, and it would be applicable.  
25 When they go back for their recertification of their

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1 credential as a radar operator, that would not be  
2 applicable.

3 And I think removing Item C still leaves that  
4 distinction in place without having this whole paragraph

5 that does tend to muddy the waters.

6 Then we renamed the subsequent paragraphs D to C,  
7 E to D, and F to E. But in C for in-service training, in  
8 order to streamline the process of reviewing applications,  
9 if someone attends a DPS-accredited course, we should not  
10 have to go back and do the research on the hours and  
11 whether tests were given and all of that.

12 By the fact that they attended a course and we've  
13 already accredited it, we should accept that certificate  
14 without having to review. So we've added the language in  
15 red that says, "New Mexico Department of Public Safety  
16 Accreditation. In-service training will be accepted based  
17 upon the accreditation course hours."

18 And then added the word "other" to the existing  
19 language. "Other New Mexico in-service training will be  
20 accepted only with evidence of test administered and  
21 passed and a certificate of completion was issued."

22 And this would encourage agencies to accredit the  
23 courses that they are teaching as an in-service course so  
24 that we do have some quality control on them as we apply  
25 those towards those advanced certificates.

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1 Under Rank Requirements, we've added some  
2 language there. Right now on the form that they fill out  
3 on the first page, they put the date of their promotion.  
4 And that's all we have. And we're taking the applicant's  
5 word on when they were promoted, because some of the

6 certificates are contingent upon being in rank for one  
7 year or more.

8 We would like for them to provide a document,  
9 whether they received a letter upon promotion, that they  
10 give us a copy of that. Or that we do have some type of  
11 document to verify their date of promotion so that we can  
12 calculate out that they have been in that position for at  
13 least one year.

14 The other portion of that, the last sentence,  
15 "Nontraditional rank designations will be reviewed for  
16 equivalency to ranks designated for applicable  
17 certificates." What that is saying is we have a lot of  
18 specialty agencies in New Mexico that don't use the  
19 traditional rank structure.

20 They don't have sergeant, lieutenant, captain,  
21 major, assistant chief, deputy chief, or chief, or  
22 sheriff, undersheriff, chief deputy. They don't have  
23 those designations.

24 If you go to the pharmacy control board, lottery  
25 commission, a lot of agencies, they have -- they don't

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1 have a chief; they have a director. The rank designations  
2 below that may have totally different names. But we  
3 should be able to look at those on a case-by-case basis to  
4 make sure they are eligible for the advanced certificate  
5 that they are requesting.

6 As you go down to 15.3, Advanced Certification

7 Criteria and Guidelines, as I originally stated we want to  
8 combine the first two, Intermediate I, Intermediate II,  
9 into a single certificate. And Advanced I, Advanced II  
10 into a single certificate.

11 And that is reflected with the strike out  
12 Paragraph A. We would like to remove the word  
13 "recertification," replace it with "maintenance." And the  
14 new A, which was paragraph B for intermediate certificate,  
15 to make it more clear that we are not taking maintenance  
16 training in consideration for those advanced  
17 certificates.

18 Again, C was completely struck out to combine it  
19 with the new B, which was D. Again, some language  
20 cleanup. We did not use the term "formal" in the advanced  
21 certificate requirements; but in all the subsequent  
22 certificate requirements we did use the term "formal."

23 So to be consistent, we've added the word  
24 "formal" to that second checkbox on page 2. And, again,  
25 changed "recertification" to "maintenance."

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1 If you go to the last page, again, the paragraphs  
2 have been renumbered to reflect those that have been  
3 struck out. Under First Line Supervisor, we'd like to  
4 remove the word "approve" and put the word "accredited" in  
5 so that the course work that they do for first line  
6 supervision is an accredited course.

7 "Approval" is more ambiguous as to it leaves a

8 lot open to what are we going to approve, what are we not  
9 going to approve. If it's "accredited," then it stands on  
10 its own merit as a course that's been reviewed and it does  
11 meet standards.

12 Under Command, what we have -- the change we have  
13 made is move the number of hours required from 600 to  
14 700. And this reflects the bump that we have between the  
15 different certificates when we combine the first two and  
16 the third and fourth into two separate certificates.

17 There was a larger gap between each certificate,  
18 so we felt it would be appropriate to move those required  
19 number of hours, especially since those who usually are  
20 applying for the command and executive certificate are  
21 also putting in either college credit hours or degrees  
22 along with their requests.

23 So they've got a maximum under this new change of  
24 400 hours already towards that. So we would like to see  
25 them do some training in the field of law enforcement

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1 specifically with their agencies, specifically dealing  
2 with the operations of law enforcement rather than just  
3 strictly academics in order to obtain these certificates.

4 With that, I would entertain any questions and  
5 see if I can clarify anything that I may not have made  
6 clear.

7 MR. KING: Discussion? From any members?  
8 Chiefs?

9 MR. COON: I'd just like to say I'm glad you're  
10 bringing this back. I know some of the departments down  
11 south use this for promotion and for evaluation and for  
12 extra pay. So I know they are glad.

13 MR. SHEA: We are more than happy to do it. My  
14 feeling is that we should encourage career development.  
15 We should encourage training. And if these certificates  
16 will help to do that, then it's -- we're well served in  
17 providing them.

18 MR. KING: Once again, is this something that we  
19 have to schedule for adoption -- we'll publish it and  
20 schedule it for adoption at the next meeting?

21 MR. SHANDLER: Mr. Chairman, I'm unclear whether  
22 it's a rule or I thought it was a policy.

23 MR. SHEA: It's a policy. It's not a rule.

24 MR. KING: It's not something we need to take  
25 action on.

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1 MR. SHEA: Yes, Mr. Chairman. We just wanted to  
2 bring it before the Board so that you knew what changes we  
3 were going to make to our policy and make sure that it was  
4 in line with the wishes of the Board.

5 MR. KING: Okay. Anybody have any questions for  
6 Mr. Shea? Sheriff.

7 MR. GIBSON: Sheriff Gibson, Torrance County. On  
8 the maintenance training, I understand like the radar,  
9 research, things like that that are minimal. But -- so

10 the training that we go to to recert is significant  
11 training that the events are -- it's kind of like they're  
12 changing everyday.

13 So would you still look at some of the  
14 maintenance training as possibilities for the research?  
15 Because there are some of the courses that we do take that  
16 new information is brought up everyday. So it's --

17 MR. SHEA: That would apply. If there's new  
18 information and you're continuing to develop a skill in  
19 that area, then it would be appropriate and it would be  
20 applicable. If you're just recerting over material that  
21 you've already had and you're bringing your skills back up  
22 to where they were at the time you were originally  
23 certified, then it would not.

24 MR. GIBSON: Okay. Thank you, sir.

25 MR. KING: Other questions or comments?

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1 Thank you for the presentation.

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

3 MR. KING: The next item on the agenda is

4 Item #9, Ratification of Certifications for Law

5 Enforcement Officers.

6 MR. PEREZ: Mr. Chair?

7 MR. KING: Oh, I'm sorry. Yes.

8 MR. PEREZ: While we're still on old business.

9 MR. KING: Please.

10 MR. PEREZ: Mr. Director, I'd like to ask you on

11 my standing question. There was a -- two years ago --  
12 approximately two years ago an internal affairs  
13 investigation went to you, Mr. Attorney General. Has that  
14 matter been dealt with yet and will it be referred to the  
15 Board for any action?

16 MR. ORTIZ: Which? I'm not sure which case  
17 you're speaking about.

18 MR. PEREZ: It's the internal affairs report  
19 regarding the Santa Fe Police Department over two years  
20 ago that the Attorney General has.

21 MR. ORTIZ: We are currently working on something  
22 like that.

23 MR. KING: I think all I can say is that it's an  
24 item that's under current investigation and we don't  
25 comment.

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1 MR. PEREZ: Okay. Thank you.

2 ITEM #9: RATIFICATION OF CERTIFICATIONS  
3 FOR LAW ENFORCEMENT OFFICERS

4 MR. ORTIZ: Mr. Chairman, Board Members,  
5 Audience, the Director has verified that the listed police  
6 officers beginning with Certification No. 08-0305-P  
7 through 08-0310-P and 08-0312-P through 08-0367-P and  
8 09-0001-P through 09-0019-P, along with 77-0059-P,  
9 84-0125-P, 82-0096-P, 82-0203-P, and 04-175-P have all met  
10 the standards and requirements for the law enforcement  
11 certification, and we request that the Board ratify their



12 certification.

13 MR. KING: Any questions?

14 MR. GALLEGOS: Move to ratify.

15 MR. KING: Motion to ratify by Mr. Gallegos.

16 MR. SCHULTZ: Second.

17 MR. KING: Second by Chief Schultz. All in favor

18 say aye.

19 THE BOARD: Aye.

20 MR. KING: Let the record show all voting in

21 favor.

22 ITEM #10: RATIFICATION OF CERTIFICATIONS

23 FOR PUBLIC SAFETY TELECOMMUNICATORS

24 MR. KING: Next on the agenda is Item No. 10,

25 Ratification of Certifications For Public Safety

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1 Telecommunicators.

2 MR. ORTIZ: Mr. Chairman, Board Members, the

3 Director has verified that the list of dispatchers

4 beginning with Certification No. 09-0001-PST through

5 09-0035-PST have met the standards and requirements for

6 certification and we would request that the Board ratify

7 their certifications.

8 MR. KING: Any questions? Motion?

9 MR. JONES: I make a motion that we ratify.

10 MR. KING: We have a motion to ratify. Do we

11 have a second?

12 MR. COON: Second.

13 MR. KING: Seconded by Sheriff Coon. All in  
14 favor say aye.

15 THE BOARD: Aye.

16 MR. KING: Any opposed? {No response.} All  
17 right. That was Sheriff Jones made the motion to ratify.  
18 Okay. Those ratifications are completed.

19 ITEM #11: DISCUSSION: OUT-OF-STATE OFFICERS  
20 SERVING OVER 20 CONTINUOUS YEARS OF SERVICE  
21 TO BE RECOGNIZED IN NEW MEXICO AS RETIREES

22 MR. KING: Next item, No. 11, also a discussion  
23 item, out-of-state officers serving over 20 continuous  
24 years of service to be recognized in New Mexico as  
25 retirees. Chief Sanders.

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1 MR. SANDERS: Thank you, Mr. Chairman.  
2 Mr. Chairman, Members of the Board, Director Ortiz, first  
3 of all, I appreciate the opportunity to be here to talk  
4 about this issue with you just a little bit. I'll try not  
5 to take any more time than need be.

6 I'm here to ask your consideration of rule -- or  
7 I think it's actually a policy, LEA 10.29.6.10. I'm just  
8 getting over the flu. I'm cracking up a little bit.

9 In this rule it deals with eligibility of  
10 retirees and I think specifically coming in from out of  
11 state departments. And what the rule doesn't do is  
12 address exactly what a retiree is or what retirement  
13 means.

14        Having come from out of state, I am familiar  
15 with -- and some of you probably are too -- in the 50  
16 states there's probably hundreds of different county  
17 retirement systems. I've seen them for as little as an  
18 officer serving four years of service has the ability to  
19 retire.

20        And then I've seen some that you have to serve  
21 until you're age 65 regardless of the number of years that  
22 you have before you're eligible to retire.

23        What I think in regards to this rule is, is it  
24 needs some clarification of just exactly what that means  
25 and maybe even add some strength into it. So I've asked

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1 Director Ortiz to pass down that rule.

2        And in bold there I have provided a suggestion of  
3 how I think that this rule could be strengthened and  
4 actually make it better and more fair. As I said, the  
5 rule doesn't really define what a retired certified  
6 officer is.

7        It doesn't say that he has to be drawing a  
8 pension. It doesn't say how many years of service it  
9 would be. And because of the variations across the  
10 country, I think that it would be important for us to all  
11 go from a sense of fairness to something similar to what  
12 is required in the state of New Mexico. Currently, that's  
13 20 years.

14        And what I would suggest that to be considered by

15 this Board to change this rule is to add the language that  
16 I have in bold there: "In the event a retired certified  
17 officer or a certified officer with a continuous service  
18 record that would be equivalent to the requirements for  
19 retirement in the state of New Mexico (currently 20  
20 years)" -- and while I'm there, I think that in this  
21 consideration there should be some flexibility so in the  
22 event somewhere down the road that that years of service  
23 in New Mexico were to extend to 25 -- hopefully that  
24 doesn't happen; but there has been discussion even this  
25 year in the legislature -- that it should mirror or

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1 reflect any changes that would happen in New Mexico.

2 And simply apply that rule to someone that has  
3 those 20 continuous years of service. And I've discussed  
4 this with Director Ortiz on several different occasions.  
5 I think that would probably be the fair thing to do  
6 because that would make him eligible for retirement here  
7 in New Mexico.

8 And since in discussing this with several  
9 different folks, there's also some consideration I would  
10 add that I didn't put in the handout to you, that comes  
11 under Section B of that eligibility policy.

12 And it says that the separation period not to  
13 exceed 20 years. To me that seems that's a long time to  
14 have been retired and then be out of service for 20 years  
15 and then -- for up to 20 years.

16 And I would ask that the Board also consider  
17 reducing that number even maybe down as far as two years  
18 of continued. I think from my standpoint it's important  
19 for someone to stay current.

20 And what this is actually doing is trying to seek  
21 a certification in the state of New Mexico by waiver  
22 without having go to the basic academy class. And for  
23 someone who has been out of law enforcement for 20 years,  
24 that's an awful long time to not stay current.

25 So I would ask for those two considerations. One

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1 in bold at the top, just add that language in. And then  
2 possibly reducing the number on B from 20 years even down  
3 as low as two years. And I would stand for any questions  
4 or comments.

5 MR. KING: Questions?

6 MR. GALLEGOS: I want to hear Art. What's your  
7 position?

8 MR. ORTIZ: On the 20 years, you'll see just  
9 above on 10.29.6.9(B), any applicant who has not been  
10 employed as a full-time law enforcement officer for a  
11 period in excess of eight years must attend the basic  
12 police officer training program.

13 Right now there's a separation between two and  
14 eight years. We're allowing them to come to the  
15 certification by waiver. I agree with him on the 20  
16 years; that is pretty high. But I don't see dropping it

17 all the way down to two. Maybe 10 years might be  
18 something better because for -- for the officers they have  
19 up to eight years.

20 MR. SANDERS: Well, the one thing that I saw was  
21 that one says ten to eight and one says 20.

22 MR. ORTIZ: Yeah, for the retirees.

23 MR. SANDERS: Right. Right.

24 MR. ORTIZ: It's 20 --

25 MR. SANDERS: It should be -- I think maybe it's

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1 the same consideration.

2 MR. ORTIZ: More of the same consideration --

3 MR. SANDERS: Yes.

4 MR. ORTIZ: -- to give them up to eight years.

5 MR. GALLEGOS: I guess where I'm -- and I think  
6 this is more probably -- I'm more curious to hear what  
7 police agencies have to say about this. But my concern or  
8 question would just be to know the pros and the cons, if  
9 you will.

10 I know it's a definite pro to have someone with  
11 considerable experience come from -- look at our state, to  
12 move to our state, and be able to offer not only the  
13 benefit of 15, 20, whatever years, there's also a  
14 perspective of other departments and other issues that may  
15 be going on.

16 And I think it's also -- might even be a little  
17 more beneficial to especially like the rural areas where

18 the person may already be drawing a pension or may already  
19 be situated well enough that they can afford to be in  
20 smaller towns and direct a department there.

21 So I guess I leave the technicalities up to you.

22 So far -- I mean, I want to hear it; but I would like to  
23 see what could be done to make this a little bit more -- I  
24 mean, something that can be done or accomplished.

25 MR. SANDERS: Well, you have such a variety now,

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1 it would come under this rule hypothetically. There is a  
2 state that I know of that I've mentioned that if you've  
3 simply served four years of continuous service and you're  
4 eligible to retire. So you can come into this state under  
5 this rule with four years of service.

6 And then there's other states that you could  
7 serve 40 years and still not be retired. And you wouldn't  
8 be officially retired under this rule. So it's just a  
9 sense of fairness.

10 And to me it seems like the level that New Mexico  
11 has already established for retirees, which is 20 years,  
12 ought to be the standard in considering of -- of continued  
13 service, not breaking here and breaking there; but 20  
14 years of continued service.

15 MR. KING: Other questions? Mr. Najjar, comment?

16 MR. NAJAR: Yes. Mr. Chairman, Board Members,  
17 the concern I have in moving forward with any modification  
18 to this section is that it was specifically written for

19 retirees. Back in 2004, the original interpretation was  
20 that it was strictly for New Mexico retirees.

21 This Board then modified that to recognize anyone  
22 retired from law enforcement from throughout the country.  
23 I think if -- if it is the suggestion here that we  
24 recognize years of service as a criteria for attendance of  
25 cert by waiver under the conditions here that were

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1 developed for retirees that would not be included as part  
2 of this -- because this is specific to retirees.

3 If you want to create a new section that kind of  
4 duplicates the certification by waiver requirements but  
5 now is just going to allow anyone with 20 or more years of  
6 service to be exempt from the regular cert by waiver  
7 requirement, that should be a separate section in and of  
8 itself.

9 And New Mexico is not a standardized retirement  
10 of 20 years. You have five retirement programs for law  
11 enforcement. Three of which are 20-year retirements. Two  
12 of which are not. So you have a 26, I believe, and a 30  
13 year retirement still.

14 So trying to fit this language into what is  
15 specifically for retired individuals, that came from the  
16 input of the New Mexico law enforcement community. This  
17 was specifically driven because of the concerns of the war  
18 and the inability for agencies to fill the ranks of  
19 officers because of the shortage of people.



20        So I guess my concern is not that we're going to  
21 create an additional opportunity for individuals to become  
22 certified in New Mexico, but that we not do something to  
23 retirees that kind of muddies the definition of what a  
24 retiree is.

25        MR. SANDERS: I guess that's probably my concern

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1 under this provision. It doesn't say what a retiree is.

2 You know, it doesn't mean that you have to be drawing  
3 retirement benefits to be a retiree, is that the  
4 definition of it?

5        Does it mean you have qualified for a retirement  
6 program somewhere else and are forfeiting those benefits  
7 or postponing those benefits for a while or are you  
8 actually drawing a pension check? There's not a  
9 standardization there either.

10       For an example, there's some states that you can  
11 retire with these mathematical equations that they have  
12 now of 30 years' service with your age of age 55 to total  
13 85 -- some of them are much different than that -- that  
14 you can actually work 40 years and still not be eligible  
15 for retirement.

16       Well, that doesn't seem quite fair and doesn't  
17 square quite fair with someone else being able to do that  
18 at a lesser time. That's my point. It doesn't seem like  
19 it's a level sense of fairness in providing this waiver.

20       MR. NAJAR: I think in New Mexico under PERA,

21 that definition is very clear, very simple. You are  
22 vested into a retirement program after three years in New  
23 Mexico. At age 63, I could then receive a retirement  
24 pension.

25 MR. SANDERS: So when are you retired when you

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1 say you are retired but when you get the --

2 MR. NAJAR: When PERA awards you that  
3 retirement. So being vested in a program does not mean  
4 you are retired until you are acknowledged by that  
5 retirement program and you start receiving a pension.

6 I think I -- that's -- otherwise anybody who is  
7 vested is, quote, technically eligible to be retired.

8 MR. SANDERS: So in your opinion on a retiree,  
9 anybody that's a retiree here, they have to show proof  
10 that they are drawing a pension check in order to be an  
11 official retiree.

12 They may not decide for personal benefits' sake  
13 that they want to forego drawing that check right now and  
14 wait to ten years where they can draw a larger check, but  
15 they have to actually being drawing that check to be  
16 officially retired from another agency?

17 MR. NAJAR: That's what we require today. So if  
18 you were retired from Arizona, show us proof that you are  
19 retired and receiving a pension where you don't go to cert  
20 by waiver under the retiree rule here.

21 We have that -- that is the standard that New

22 Mexico has for that. So you have to be receiving a  
23 pension. That was the discussion that we had in 2004,  
24 that you had to show us proof that you were in fact  
25 retired, because being eligible for retirement after 20

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1 years, well, you may choose to wait until you're age 63,  
2 which is another 10, 15, 20 years down the road --

3 MR. SANDERS: Sure.

4 MR. NAJAR: -- and you may not retire. So I  
5 think this creates something that was not intended to be  
6 part of the retirement rule.

7 MR. SANDERS: Okay.

8 MR. KING: Other questions of the committee?  
9 Okay. Let me just try and clarify a little bit. And,  
10 Mr. Najjar, why don't you answer my questions. I'm going  
11 to direct this question to you.

12 I'm actually -- I'm trying to understand how  
13 these two -- and, thank you, Chief, for bringing these to  
14 our attention how 9 and 10 work together.

15 Is it true then in New Mexico that we do or do  
16 not allow cert by waiver for police officers who came from  
17 other states? Is there a -- how does that work? I mean,  
18 somebody's been a police officer for ten years in Texas.  
19 They come to New Mexico, and they want to be certified  
20 here.

21 Do they have to take the course here or they can  
22 get cert by waiver? Can you just make it clear to me.

23 MR. NAJAR: Right. It's exactly as you stated.

24 Mr. Chairman and Board Members, anyone with prior law  
25 enforcement certification, whether or not they've actually

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1 had field law enforcement experience, can then request a  
2 review of their eligibility to attend cert by waiver from  
3 any state, any recognized post-academy.

4 Our threshold in the rule says that you must --  
5 in order to be eligible for certification in New Mexico  
6 you must have a minimum of 800 hours training in order to  
7 attend the 120-hour certification by waiver course.

8 So anyone, whether it's military, federal, state,  
9 or local law enforcement experience out of state, as long  
10 as there was a post-recognition of some certification of  
11 basic training and we can see through the advanced and  
12 in-service training hours and the experience that we award  
13 them for each year of law enforcement service, then we try  
14 to reach that threshold of 800 hours.

15 So anyone from any jurisdiction outside of New  
16 Mexico is eligible for that three-week course.

17 MR. KING: And that's under Rule 6.9?

18 MR. NAJAR: Yes, sir.

19 MR. KING: Interestingly enough, suppose that  
20 somebody retired from their state, from Texas, I don't see  
21 anything in 6.9 that says that they couldn't apply -- I  
22 mean, if they met all the other qualifications. This  
23 doesn't say whether you're retired or not retired.

24 It just says that you're a certified officer.

25 Now, if you lose your certification immediately on

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1 retirement, then you wouldn't be a certified officer

2 anymore.

3 MR. NAJAR: Prior to the creation of this

4 section, that's where everybody fit in. Whether you're

5 retired or not retired, if you wanted a New Mexico

6 certification you had to go through Section 9.

7 So, yeah. There were some benefits which came

8 from the law enforcement chiefs' association and sheriffs'

9 association that they felt New Mexico officers deserved to

10 have, and that's why this section was specifically created

11 in addition to the concern about the limited amount of the

12 labor pool out there because of the war.

13 So that's why the difference between this and 9

14 really is that you have a 20-year period versus an 8-year

15 period and you are exempt from the PT standards. That's

16 the only difference between these two sections.

17 MR. KING: Let me go to 6.10 then. 6.10 says,

18 "In the event a retired certified officer who is

19 appropriately separated from law enforcement service makes

20 application." It doesn't say a certified officer from New

21 Mexico. Do we read "from New Mexico" into that rule

22 already? Or does this rule apply equally to officers from

23 within or without New Mexico?

24 MR. NAJAR: It applies equally.

25 MR. KING: Yeah, because there's nothing in here

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1 that says that it doesn't apply to retirees from another  
2 state.

3 MR. NAJAR: Right.

4 MR. KING: Okay. So I think if I'm getting the  
5 drift then, Chief Sanders is asking that potentially we  
6 use Section 6.10 to apply to officers that maybe in their  
7 other state might not be considered retired? Is that --

8 MR. SANDERS: Well, yes. For an example -- and  
9 like I've said, there's retirement programs galore across  
10 this country. But in the state of Mississippi, for an  
11 example -- and what I'm looking at is fairness here.

12 In the state of Mississippi, it doesn't make any  
13 difference how old you are. Once you've got four years in  
14 the system, you can retire. Well, if they've retired in  
15 Mississippi and were drawing their little check --  
16 although it would be little for four years -- they can  
17 come here and fit in under this waiver where someone else  
18 could have served 39 years in a program that requires you  
19 to be at age 60 or age 65 before you can actually  
20 officially retire.

21 And they wouldn't be treated the same, although  
22 their years of continuous service may be phenomenally more  
23 than one over the other. What I was looking for here is  
24 establishing a standard to go by. And the standard in New  
25 Mexico, you can retire as a peace officer in New Mexico

1 under the PERA rules at 20 years, depending on whether  
2 you're under the PERA rules or not.

3 That seems to me like the standard it ought to  
4 be. If you've got those years of service and maybe you're  
5 not officially drawing a pension check, maybe you  
6 forfeited the benefits from the pension check, much like  
7 you do Social Security -- we could draw that at 62 also  
8 some of us -- but some of us also decide later to do that  
9 at 65 or later so the check would be bigger.

10 It doesn't make any less retired. It doesn't  
11 make any less retired from a previous agency. And this  
12 would provide in my opinion some standardization to make  
13 it fair for across the board.

14 MR. KING: Okay. I think I understand your  
15 point. I'm not sure I was understanding your point until  
16 now.

17 MR. SANDERS: Okay.

18 MR. KING: I guess me being an old bill drafter  
19 myself, I don't think I would do this by adding that  
20 clause into 6.10, if the point being that you need some  
21 sort of standard that would apply -- we know what  
22 retirement means in New Mexico because of our PERA rules  
23 and such that Mr. Najar told us.

24 If we're going to allow law enforcement officers  
25 from other states to come in and claim that they should be

1 entitled in under this retirement section, that we need  
2 some standards there, I would recommend that we think  
3 about drafting indeed a definition of "retired" and add it  
4 as either as a different section or -- I don't see that  
5 there's a definition section here.

6 But we might look and see if there's a definition  
7 section somewhere else in our rules under which "retired"  
8 is defined. I mean, that's a point that you made. If  
9 6.10 applies equally to out-of-state officers as well as  
10 in-state officers and if there are indeed retirement  
11 programs in other states, which I believe you, that have  
12 different requirements than ours, we might want to look at  
13 that. I think that's a good point.

14 So I think what my recommendation will be if the  
15 committee wants to go along with it is that I will -- I'm  
16 going to assign this to Zack.

17 And you and I can talk about and think about that  
18 issue and whether there's a way to fix these definitions  
19 to make sure that it applies -- that there's some standard  
20 that applies to out-of-state officers coming in who were  
21 claiming to be retired or -- and also to sort of deal with  
22 that issue of even if you can retire how do you decide you  
23 are retired if you're from another state and not under our  
24 PERA system.

25 MR. SANDERS: Right. Under that rule it doesn't

1 say you have to be drawing a pension check to be



2 officially retired. You can retire and still delay the  
3 receiving of your pension benefits.

4 MR. KING: But let me ask that question of our  
5 group and maybe we'll need Mr. Najjar to answer. I mean,  
6 was this Section 6.10 designed to -- since retirement is  
7 such a big issue in New Mexico now after this legislative  
8 session -- was this designed to deal with people who are  
9 drawing a retirement check and then who wanted to come  
10 back and be certified and work for another agency, what  
11 has been called in the popular press double-dippers?

12 Does this apply to that or not? Because we now  
13 have a new statute that's going to end up applying to  
14 that, too. But 6.10 -- was 6.10 designed to be able to  
15 allow people to retire from law enforcement but they are  
16 still young enough they want to come back and work or just  
17 come back and work or?

18 I'm trying to understand why 6.10 was designed.  
19 And to tell you the truth, the thing that is interesting  
20 is where it says, "separation won't exceed 20 years."  
21 That seems like a long time to be out of law enforcement  
22 and be able to come back.

23 MR. SCHULTZ: I hate to make a long story short,  
24 but the only difference between 9 and 10 is the physical  
25 requirements. Correct?

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1 MR. KING: Yeah. So it really allows people that  
2 are retired to come back and, say, work as a deputy chief

3 maybe or training instructor or? I mean, I don't know  
4 that you necessarily take somebody like this and put them  
5 out on the street if they didn't meet the training  
6 requirements.

7       Although I suppose would they be allowed to,  
8 Chief? Chief Schultz, if somebody came in and they got  
9 this waiver, would you -- I mean, would you put them in a  
10 car and put them out on the road somewhere or?

11       MR. SCHULTZ: We do, but they have to go through  
12 all the hiring requirements, the physical agility testing  
13 and cert by waiver.

14       MR. KING: So even though they've got  
15 certification, you still have other tests that you have to  
16 do before you put them in --

17       MR. SANDERS: And most departments -- you know,  
18 most departments have got their own physical requirements  
19 that's separated from this.

20       MR. KING: Okay. I mean, there is a separate  
21 issue of whether that separation period of 20 years is a  
22 good idea. And that would be up to the commission to  
23 decide whether they want to bring that. But that would be  
24 my recommendation.

25       Why don't you let Zack and I talk about a clever

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1 definition, now that I understand what you want to do.  
2 And then we'll bring it back up to see --

3       MR. SANDERS: And, Mr. Chairman, I'm just looking

4 for a sense of fairness here because -- I mean, we deal  
5 with that. We deal with -- and talking with Chief  
6 Schultz, you know, they've got -- well, all of us are  
7 recruiting nationally now. We can't get enough men.

8 I'm from Hobbs. We're right there on the Texas  
9 border, and we deal with retirees all of time. One of our  
10 departments south of us, Eunice, lost two officers who  
11 were retired from Texas because of this rule. I'm not  
12 sure how that happened, but I know that they lost them.

13 And it just appears to me that there should be a  
14 standard there, that it shouldn't range from 4 to 40  
15 years. And the New Mexico standard is a pretty good  
16 standard.

17 MR. KING: Okay. All right. Thank you, Chief.  
18 Any other questions?

19 MR. SHANDLER: Just to be clear. So at the June  
20 meeting we'll come back with an agenda item. It will  
21 be -- it will provide new language. And the agenda item  
22 would be, you know, an action item. Do you want to go to  
23 a rule-making in September or not?

24 MR. KING: Yeah. Just a little -- we'll come  
25 back with a little report and some language that we

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1 think -- I think -- you know, I appreciate that you did  
2 this language to show us what your intent was. That's not  
3 the best way to do it, all right?

4 But we'll see if we can come up with a couple of

5 ideas, and then it will be up to the commission to decide  
6 whether or not they want to move forward with the change  
7 in the rule.

8 Thank you, Chief. I appreciate that.

9 MR. SANDERS: Thank you.

10 ITEM #12: DISCUSSION: LEA-90A, AFFIDAVIT  
11 FOR REPORTING MISCONDUCT

12 MR. KING: Okay. The next item on the agenda is  
13 a discussion of LEA-90A, affidavit for reporting  
14 misconduct. And Director Ortiz.

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

16 MR. ORTIZ: Mr. Chairman, Board Members, in your  
17 packet on the back page you'll see the quarterly  
18 misconduct report that was created. The LEA-90 is the  
19 misconduct reporting form that the Academy is currently  
20 using for the agencies to report misconduct to us.

21 Discussing this with the staff encountering some  
22 of the problems, we have some agencies that are always in  
23 compliance if they have misconduct in their department.  
24 They report it within the required 30 days.

25 However, there's many agencies that are

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1 noncompliant. And there's a couple of examples. I put  
2 two officers' post-profile in there. And you'll see one  
3 individual has worked for over 20 agencies and a lot of  
4 those he resigned. Yet in calling the very first agency  
5 that he was employed with, it was a misconduct; and that

6 agency failed to report the misconduct.

7       So you have 19 other agencies are dealing with  
8 this gypsy cop, and the guy's never reported. There's  
9 another individual also in there that's been with 12  
10 agencies. And he's been resigned. He's been terminated.  
11 One agency did report that, and the Board took action on  
12 him in 2004.

13       And at the Academy we're just seeing what we can  
14 do to get everybody to abide by the rules and be  
15 compliant. Mr. Najar came up with an excellent suggestion  
16 of creating this LEA-90A form, where quarterly they are  
17 sending us the registry report. We thought, well, let's  
18 send them this -- have them send us this quarterly  
19 misconduct report.

20       If they have had a misconduct at their agency  
21 during that quarter, fill it out and send it to us. Have  
22 them notarize it and say that this is a true and accurate  
23 statement. And I think this will compel these agency  
24 heads to do their jobs and report the misconduct.

25       So we would like to have this form approved and

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1 start utilizing it.

2       MR. GALLEGOS: We'll open it up for discussion.  
3 I think I'll hear from the -- our chairman usually hears  
4 from the committee first and then we'll go out to the  
5 audience. Anybody from the committee with questions or  
6 comments?

7 MR. SCHULTZ: The only issue may be is language  
8 that would say "completed investigations of misconduct."  
9 Because sometimes it takes more than the 90 days to have  
10 that investigation completed; and, of course, it's  
11 incumbent that Mr. Holmes gets the completed investigation  
12 to make his assessment.

13 MR. GALLEGOS: Where was that at?

14 MR. SCHULTZ: Well, it's really nowhere. But I  
15 think it probably needs to be clarified.

16 MR. ORTIZ: Well, if they notify us, if they send  
17 us the LEA-90 -- and that happens, a lot of times they  
18 don't send us the entire report because it's still under  
19 investigation -- but a lot of them are compliant by  
20 reporting within that 30 days.

21 They send the LEA-90 and then they just put in a  
22 summary there that the investigation is still going on,  
23 and the report will be submitted once the investigation is  
24 complete.

25 MR. GALLEGOS: Any other questions, discussion

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1 from the committee? I just had one out of curiosity.

2 This is -- has to be a notarized document?

3 MR. ORTIZ: We want notarized. Yes, sir, we do.

4 MR. GALLEGOS: And the reason for that is to  
5 prevent any kind of --

6 MR. ORTIZ: Yes, sir.

7 MR. GALLEGOS: -- misreporting or nonreporting or

8 malicious reporting.

9 MR. ORTIZ: Correct.

10 MR. GALLEGOS: And that then could potentially  
11 become a crime.

12 MR. ORTIZ: And I think we've discussed amongst  
13 the Board if the agency heads are noncompliant is have  
14 them come before you and explain why they are not  
15 compliant. And if they are not providing this form to us,  
16 then that's a good reason for the Board to summons them to  
17 explain their actions.

18 MR. GALLEGOS: That could also kick in potential  
19 criminal penalties, right?

20 MR. ORTIZ: Yes --

21 MR. GALLEGOS: Perjury?

22 MR. ORTIZ: -- by being notarized, yes.

23 MR. GALLEGOS: And so what would be the policy  
24 reason for that then? I guess I'm just --

25 MR. ORTIZ: To get them to comply.

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1 MR. GALLEGOS: And to do it right?

2 MR. ORTIZ: To do it right, yes, sir. We have to  
3 maintain the public trust that, yes, we are policing  
4 ourselves. I agree that law enforcement is a great  
5 profession. The majority of them are good officers. Some  
6 of them make mistakes. But we need to get the agency  
7 heads -- it's their job to keep their departments in line.

8 MR. GALLEGOS: Sheriff.

9 MR. COON: I notice down in the south part of the  
10 state -- and I'm sure up north too -- a lot of the smaller  
11 departments don't know the 30 days or when do I -- do I do  
12 it 30 days from the day he made the infraction or 30 days  
13 from the day he got arrested or 30 days from the day we  
14 found him -- you know, suspended him or whatever.

15 So I think there's a -- the miscommunication is  
16 when are these supposed to come up. I mean, 30 days from  
17 when.

18 MR. ORTIZ: Right. I agree with you there. I  
19 believe once they become aware of it and if it's still  
20 under investigation and if it's going to rise to the level  
21 where the Board is going to take action, I would recommend  
22 that they send it up.

23 If they are unsure and they are not -- you know,  
24 they need to investigate it, then upon their investigation  
25 they could send it up. But if it's clear-cut that there's

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1 a serious violation that's going to come before the Board,  
2 at least send that to us.

3 Because a lot of times they allow this guy to  
4 resign pending the investigation. That's another  
5 problem. If they allow him to resign and while it's being  
6 investigated, we're not notified. He goes to apply with  
7 another agency, if they've sent it up -- because we flag  
8 them with red -- and some agencies will call to see if we  
9 have any actions pending. And we say, yes.



10 The agencies that don't send it to us, there's  
11 nothing in our database to show. So that agency hires  
12 him. And pretty soon they get a letter, a notice of  
13 contemplated action, that the Board's going to be taking  
14 action.

15 And then they are pissed off. "Well, why didn't  
16 you tell me?" Well, because the agency that he was  
17 employed with never notified us.

18 MR. GALLEGOS: Mr. Perez.

19 MR. PEREZ: Yes. Mr. Najjar, you worked this up?

20 MR. NAJAR: Yes, sir.

21 MR. PEREZ: I want to commend you on this. This  
22 is something we've been -- I've been here five years.  
23 We've been thrashing around with this. And I think this  
24 is very well done, very simple.

25 And I think the language is very good that they

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1 report all misconduct. That doesn't mean round it out, or  
2 finish it off, or anything else. If it's -- if we have a  
3 record of it, the director has a record of it, that's all  
4 we need.

5 How it gets resolved ultimately is not the  
6 problem. Because this is the thing about stopping the  
7 gypsy cops, there's no record of their conduct and they  
8 are going from department to department and nobody deals  
9 with it.

10 This will at least put it on notice with the

11 director. And even if the man applies somewhere else and  
12 they try to certify him, they'll say, "Well, what was the  
13 resolution of that? "Well, he left, so we quit it."

14 Well, that's -- you can determine that. But at least we  
15 have a record. I think this is very, very well done.

16 MR. GALLEGOS: Yes, Zack.

17 MR. SHANDLER: Zack Shandler from the Attorney  
18 General's Office. Do you think there's any value in  
19 adding into the document saying "regardless of whether the  
20 person has resigned or not." Because there may be some  
21 confusion with some chiefs that are not in this room if  
22 they got this form whether, you know, if someone resigns  
23 maybe they would presume they don't have to submit  
24 anything to you.

25 So do you think there's any value in adding that

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1 phrase into the document?

2 MR. ORTIZ: Well, we also have the other form,  
3 the LEA-82 on the employment. Whenever there's action  
4 with their employment, if there's separation -- we revised  
5 that form also because I was getting a lot where they  
6 checked resigned with no explanation.

7 So what we were doing is we were calling the  
8 agency to see if this was related to misconduct. So what  
9 we've added in there now is a checkbox in there if it  
10 was -- if they resigned or were terminated due to  
11 misconduct, they check that box, they send it to us, and

12 that notifies us.

13       So I hope that answered your question on that  
14 because that's another form that we just revised here  
15 recently.

16       MR. NAJAR: I think adding that language to this  
17 form I think would clear up any question that a department  
18 head or chief would have. And I think we can put that  
19 language into this.

20       MR. SHANDLER: My second question is: The actual  
21 rule, it talks about the agency reporting. It says they  
22 have to -- "An agency employing a certified law  
23 enforcement officer who has exhibited any acts identified  
24 in Subsection B or C of 10.29.1.11 shall report."

25       B or C are the specific enumerated types of

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1 misconduct, you know, giving any false information, et  
2 cetera. So I wonder if the form as submitted here is  
3 clear enough because although Mr. Perez makes an argument  
4 when you use the word "misconduct," you capture it all;  
5 and that's probably a policy argument, "to capture it  
6 all."

7       Someone could say, "Well, really the underlying  
8 rule that I just read requires only the enumerated types  
9 of misconduct to be reported, not all misconduct." And,  
10 you know, "This was just a policy violation. This was not  
11 an enumerated misconduct violation." So what do you think  
12 about that phrase, "report misconduct"?

13 MR. PEREZ: I think we should cast a wider net.

14 That gives you a better tool. And, again, this is not

15 prejudicial to the officer. It's not going to be made

16 public. But the thing is you are put on notice that there

17 may be a problem here.

18 If it's resolved in the officer's favor, which I

19 think maybe 60, 80 percent may be in his favor that it was

20 a false allegation or something like that, okay, so what.

21 But if it comes up again and again, you have a track

22 record here. And that doesn't mean that he was convicted

23 but there may be a problem.

24 MR. SHANDLER: Let me push you a little bit on

25 this while we're having the discussion. Let's say a

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1 policy violation -- and I'm just making this up -- is he

2 doesn't do a report -- well, he checks out a car, a

3 vehicle, at night or something when he shouldn't have.

4 I don't know. I'm making that as a hypothetical

5 policy violation.

6 MR. PEREZ: I think that's up to the sheriff or

7 the chief. He knows what misconduct is versus somebody

8 making a mistake. Misconduct is different, and that's --

9 MR. ORTIZ: We do get some that are policy

10 violations. We review them. If we determine -- between

11 Mr. Jackson, Mr. Holmes, and myself, if we determine it's

12 a policy violation, we'll send it back to a agency and

13 maybe issue a cautionary letter.

14 MR. SHANDLER: And I don't dispute any of that,  
15 Mr. Chairman. This is the chief has to certify quarterly  
16 all the inquiries that he or she is doing, so just based  
17 on my experience and the interactions that they remain  
18 unclear.

19 When they think it's a policy violation, they  
20 think that that's something that not only do they -- that  
21 they can handle in-house, so they are not going to do an  
22 LEA-90 and they are not going to list it in their  
23 quarterly misconduct reports.

24 So I'm just trying to elicit a little more  
25 discussion whether it's clear to the chiefs that I guess

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1 this document require a broad umbrella and to report -- I  
2 shouldn't use the word report -- certify that these -- I  
3 think you see what I'm trying to say.

4 MR. SCHULTZ: I agree because I think this could  
5 be a problem. I mean, this broad, just for me alone,  
6 you're probably looking at 150 to 200 a quarter if it's  
7 everything that would fall under the umbrella of general  
8 misconduct. So I think we may be opening up a can of  
9 worms here that may inundate you all with a heck of a lot  
10 of work.

11 MR. ORTIZ: Well, now with the new ruling of the  
12 private citizens being able to file complaints, that's  
13 where I was trying to correct this to make sure that the  
14 agencies -- you know, let them make that determination.

15 If it rises to that level, that they will report it.

16 But the problem is we have some that are not.

17 Like I said, now we're starting to get the private

18 citizens filing the reports. So I understand what you're

19 saying. I don't want to open that up as well. I agree.

20 MR. PEREZ: I think part of the history of this

21 is that there is some serious movement to disband this

22 Board and make it all citizen. The criticism is that

23 we're all law enforcement or former law enforcement on

24 here and that it doesn't represent citizens.

25 I think if we show that we are not only sitting

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1 here waiting for complaints but eagerly open to them,

2 which this form will show, and that you're putting it back

3 on the chief and sheriff.

4 Say, "If you have any misconduct" -- and you can

5 have a doubt. They have a telephone. They can call you

6 and say, "Art, does this fall under it?" And you can give

7 them guidance then.

8 Or they can say, "Look, the chief here who has,

9 you know, a huge department" -- I think that's why he's

10 the chief. That's for him to determine. And he's got

11 enough judgment to know what misconduct, serious

12 misconduct is that should be reported. Otherwise, it's

13 his job to handle that other stuff.

14 But we've got people who are just not reporting

15 at all. And there's no way that that's going to change if

16 we say, "Well, until we get a conviction or you round it  
17 out completely." Well, that goes on for years. It  
18 doesn't happen. It's just not working now.

19       And if we don't do anything about it like this, I  
20 think we're going to be disbanded.

21       MR. GALLEGOS: Is there anything else from the  
22 committee, from the Board?

23       MR. JOJOLA: If I may speak to Director Ortiz.  
24 In this -- with this particular issue, being tribal law  
25 enforcement, those officers that are certified through the

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1 state and maintain those requirements by the state but use  
2 law enforcement duties while on the reservation, has there  
3 ever been any issues or problems that came about?

4       MR. ORTIZ: Well, if they are state certified by  
5 us, they could come before the Board for any misconduct  
6 action, but we understand they still have their federal  
7 certification and they are still allowed to work on  
8 reservations.

9       MR. JOJOLA: And that's correct. But when it  
10 comes to enforcement of state law or non-Indian, they are  
11 not authorized to do that. They can't do that because  
12 they don't have authority. They only have that authority  
13 that pertains to Native Americans within the reservation.

14       That's the whole idea why in our department we  
15 make sure they go through state certification to have that  
16 jurisdiction.

17 MR. ORTIZ: And if the Board took action on them  
18 and pulled their state certification, then they wouldn't  
19 have that authority to deal with the non-Indian.

20 MR. JOJOLA: Correct. And the issue that I'm  
21 having right now is making sure that my fellow tribal law  
22 enforcement chiefs of police understand this misconduct  
23 report also and that they are subject to it, just like any  
24 non-Indian law enforcement agency.

25 Is there a possible way that training could be

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1 set up specific for -- well, whether you're tribal law  
2 enforcement or nontribal law enforcement -- on the  
3 specifics of what a misconduct would be?

4 And I'm pretty sure that any chief of police who  
5 does not understand what misconduct is needs to get on the  
6 program. But dealing with law enforcement as a Native  
7 American, that may be an issue, that misunderstanding. I  
8 didn't know what would come up about submitting a report.

9 MR. ORTIZ: You can see in 29-7-7.2, the reports,  
10 every law enforcement agency has to submit the quarterly  
11 report, you know, to generate their law enforcement  
12 training funds. And we just believe that this is an  
13 appropriate time for them quarterly to report it, to get  
14 those agencies that are failing to do so.

15 (At this time, Mr. King returns to the hearing.)

16 MR. SCHULTZ: Looking at the language, trying to  
17 make this so it works, so it's clear for everybody,



18 language going back underneath where it talks about "Date  
19 Due," "verify that for this quarter I have identified and  
20 reported all completed officer or telecommunicator  
21 misconduct investigations for this agency."

22 I think that makes it pretty clear the rest of  
23 the language in there; and it refers back to exactly the  
24 necessary state statutes -- I'm sorry, the code section  
25 that applies.

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1 MR. ORTIZ: Okay. Yeah, I'm in favor of that.

2 MR. PEREZ: You say "all completed"? Please  
3 report all completed investigations?

4 MR. ORTIZ: Yes.

5 MR. PEREZ: What if that chief or sheriff chose  
6 not to investigate it?

7 MR. ORTIZ: Or if the guy resigned. One of the  
8 problems is --

9 MR. PEREZ: Or if he resigned.

10 MR. ORTIZ: If he resigns -- if we call and they  
11 say, "Well, I'm not investigating anymore. He doesn't  
12 work for me any longer."

13 MR. SCHULTZ: Well, the change that Mr. Najjar  
14 talked about was including -- adding the list of all the  
15 resignations with a checkbox as part of this form, a  
16 little while ago, would accommodate that; that he resigned  
17 and that he resigned while under investigation or in lieu  
18 of termination. It's covered as part of that amendment --

19 or that amended list that's attached.

20 MR. KING: Can I ask -- and you might have  
21 covered this when I was out of the room. It strikes me  
22 that indeed what you might want to have is a list of the  
23 allegations of misconduct and a list of the allegations of  
24 completed investigations so that you kind of know the  
25 difference between -- and that would encourage the chief

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1 to process them; wouldn't it?

2 I mean, but that's -- I'll tell you what, let me  
3 just throw that out there. Let me get more comment here.

4 MR. HATCHER: Roger Hatcher, chief, Tucumcari  
5 Police Department. Thank you, Chairman King and Board  
6 Members and Director Ortiz. I'm really impressed with  
7 Director Ortiz taking a step in trying to help us to deal  
8 with these issues.

9 However, there are some problems. I apologize  
10 for not bringing it to you, but on January 22nd,  
11 Mr. Albert Lama from the Attorney General's Office sent a  
12 letter to Director Ortiz regarding this very thing in  
13 misconduct reporting.

14 And in his letter -- and I'm going to paraphrase  
15 it -- he said essentially that absent any further  
16 clarification from the legislature, only those things  
17 enumerated in Statute -- I think it's -- 29-7-7 are  
18 reportable as misconduct, which it deals with -- I think  
19 there's moral turpitude, crimes, and things like that.

20 I apologize for not having that for everybody.

21 The other issue is broadening this out. And I happen to  
22 be a recipient of this. I had to do an internal affairs  
23 investigation on an officer, actually a sergeant, for  
24 policy violations.

25 Those policy violations resulted in an intent to

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1 terminate. The officer came in. I had a discussion with  
2 him, and he asked to resign. I allowed him to resign.  
3 And then I remembered Director Ortiz has been to just  
4 about every sheriffs' meeting and chiefs of police meeting  
5 that I've attended and reiterated the importance of filing  
6 the LEA-90 form.

7 And I called him in regards to this and he said,  
8 "Yes, you have to go ahead and send it." This was prior  
9 to the letter from Mr. Lama. What has taken place since  
10 is comments were made during this progress by some Academy  
11 staff. Now I'm facing a tort claim because the Academy  
12 essentially did not have the authority to review the  
13 situation.

14 I think that if we're going to broaden this out,  
15 we need to be specific -- or the Academy Board needs to be  
16 very specific in what allegations or what types of  
17 misconduct are going to be reported.

18 Policy violations with my department is not going  
19 to be the same with Albuquerque PD or Chaves County  
20 Sheriff's Office or probably any other police department.

21 We handle those things internally. And if it warrants a  
22 termination for whatever reason, the Academy Board is  
23 going to be notified of that fact. If they resign, the  
24 LEA-82 form is going to be sent out.

25 And I don't want to have the Board create a

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1 situation where the departments are getting sued because  
2 the information that is provided to the Academy it is not  
3 necessarily statutorily authorized.

4 I have requested an opinion from Mr. Lama  
5 regarding the regulatory authority of the Board in light  
6 of his opinion to Director Ortiz. I have yet to hear from  
7 him other than he has received my request and he's looking  
8 into it.

9 So I think we have to be very, very diligent in  
10 the steps that we take in broadening this out. And I also  
11 think that as far as the form, I have no issue with it.  
12 But if you're going to do it on a quarterly basis, why  
13 don't we attach it to the form that we send out on our  
14 certification. Stuff that we have to report already.

15 Maybe make it a little bit easier for us to  
16 accomplish all of this. And I don't want to have a  
17 quarterly report that comes in and -- one quarterly report  
18 that comes in one month and then another one is going to  
19 come in another month and so on and so on.

20 I don't know about these other chiefs and  
21 sheriffs, but I've got a lot of other stuff to do besides

22 filling out reports.

23 MR. KING: Thank you, Chief. I'm just -- by the  
24 way, I'm looking at 29-7-7.2, and I'm not specifically  
25 aware of the letter Al Lama that he's talking about, but

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1 I'll look at. But, I mean, 7.2 is pretty broad. It  
2 basically says they have to file a quarterly report on a  
3 form that's --

4 MR. ORTIZ: Right. And it would coincide with  
5 that. And just to clarify with Mr. Hatcher, our telephone  
6 conversation was a possible policy violation. My  
7 recommendation was will you send it to us and we'll review  
8 it. I met with Mr. Holmes and Mr. Jackson.

9 We reviewed it. It involved action with the  
10 general public. We feel that it should be looked at. We  
11 did set it up for an informal hearing, and he did have an  
12 attorney.

13 And just to clarify things, Mr. Hatcher, that  
14 informal hearing did not trigger the tort claim against  
15 you. When they came in, they already had it in their mind  
16 to file that tort claim against you.

17 That's one of the first things the attorney said  
18 is that "We were going to fight that." So we didn't  
19 initiate that here, just to clarify that. We don't deal  
20 with employment matters. We just deal with the  
21 certification matters. I think that was miscommunicated  
22 to you.

23 MR. KING: So here's where I need to find out  
24 where we're at. Are we recommending changes to the form?  
25 We have Chief Schultz's idea. And I -- once again --

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1 actually, since it says in your discretion, I assume that  
2 I don't know that we need a rule-making.

3 You do the form and you're just kind of showing  
4 it to us for informational purposes, but it's not an  
5 action that we have to take, I think.

6 MR. ORTIZ: Just get your approval. Because if  
7 somebody doesn't comply with this, then you'll have to  
8 probably deal with them.

9 MR. KING: So further comment? And I'm going to  
10 try to understand where we're at too. Any other questions  
11 or comments? So do you want to address whether you think  
12 that it's worthwhile to add the language that Chief  
13 Schultz just recommended.

14 MR. ORTIZ: I'm in agreement with that. I think  
15 that's fine. We can add that language.

16 MR. KING: So can we look at that one more time,  
17 Chief Schultz, here? So in the form -- here's why I'm a  
18 little behind the curve. The form that we have in our  
19 book that's dated 02/2009, this is what you're  
20 recommending that we approve?

21 MR. ORTIZ: Yes.

22 MR. KING: Okay. And then Chief Schultz is  
23 recommending that we actually change the language a little

24 bit with -- in the verification language, correct?

25 MR. SCHULTZ: Yes.

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1 MR. KING: Can you read that, please, again one  
2 more time?

3 MR. SCHULTZ: It starts off with "verify that."  
4 Strike "as of the date of this report." And in place of  
5 that put "for this quarter." "...I have identified and  
6 reported all completed...." Add "completed" before the  
7 word "officer." "...or telecommunicator misconduct  
8 investigations of this agency, and I have met the  
9 mandatory reporting requirements of 29-7-7.2 and  
10 10.29.1.11.D."

11 MR. KING: One more time just for grammar. I  
12 have, "identified and reported all completed"? The  
13 "completed" goes after "all"?

14 MR. SCHULTZ: Yes. "Completed officer or  
15 telecommunicator misconduct investigations."

16 MR. KING: Then you have to add "investigations"  
17 after "misconduct." So that leads me back to my question  
18 then now that we have had a chance to hear all of that.  
19 And I think that this question was raised too.

20 Does that then -- would that allow that -- that  
21 language allow the chief then just not to ever complete an  
22 investigation and not have to file quarterly reports? Is  
23 there some other onus to complete investigations?

24 MR. SCHULTZ: Well, I think you go back to the

25 Officer's Bill of Rights and the fact that you want to

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1 have a complete investigation to assist the Board and  
2 Mr. Ortiz and Mr. Holmes to do their investigation. And  
3 I'd hate to just be giving them loose allegations.

4 I think the associations would have that same  
5 concern. The more complete information, the better. But  
6 I think Mr. Najjar talked about if we add an amendment to  
7 here or an additional form that lists all resignations on  
8 your registry "the following personnel resigned" and a  
9 checkbox.

10 Did this person resign while under  
11 investigation? If that checkbox is marked yes, then it  
12 answers a reason for Mr. Ortiz to follow up with the  
13 respective agency then.

14 MR. ORTIZ: Right. That's what we're doing now.

15 MR. KING: But do you get my point? I mean, if  
16 we say that they only have to report completed  
17 investigations, is that sufficient information or do you  
18 want more than that?

19 MR. HOLMES: I think, Mr. Chairman, what we're  
20 looking for is if the report -- we would like for the  
21 agencies to submit the report as soon as they become aware  
22 that there is misconduct or there might be misconduct.

23 It doesn't necessarily mean that we're going to  
24 send out an LEA immediately. We will hold that until the  
25 agency satisfies their investigation, and then they'll let



1 us know this is -- the investigation is completed. Either  
2 the officer was exonerated of misconduct or there is  
3 misconduct.

4 And at that point in time we should initiate  
5 through the Attorney General's Office the notice of  
6 contemplated action. But not until then. So I don't  
7 know.

8 MR. ORTIZ: And that would protect those other  
9 agencies that are seeking to hire someone there's pending  
10 misconduct.

11 MR. HOLMES: Here again to clarify something,  
12 we're not asking for policy violations, although in some  
13 cases it could be a policy violation but at the same time  
14 be a misconduct, be a violation against a city ordinance  
15 or against state statute, things of that nature.

16 MR. PEREZ: Back in September, Chief and  
17 Mr. Holmes and Mr. Force and I -- I forget who else --  
18 attended a meeting in San Antonio regarding police  
19 disciplinary matters and how to deal with these.

20 And we were addressed by a former deputy chief or  
21 associate deputy chief from the LA Sheriff's Office. And  
22 he said they convicted -- I think it was -- 40 officers,  
23 who are now in prison; and there was never an  
24 investigation completed. There was never an investigation  
25 open.

1 And the City of Los Angeles paid millions of  
2 dollars regarding an organized narcotics group in the LA  
3 Sheriff's Office that was hitting traffickers, stealing  
4 their dope, and killing some of them. And there was never  
5 a complaint made and an investigation looked at.

6 Some people heard about it. And it never came to  
7 the attention of the sheriff until a girlfriend or a wife  
8 complained about the size of the parties that they were  
9 having at hotels. And nobody knew about it.

10 They said they paid millions, and they still  
11 don't know what damage was done. That was because no  
12 investigation was ever done. And that's what I think  
13 we're talking about here.

14 They say you have a complaint when you hear about  
15 it. It doesn't have to be in writing. It doesn't have to  
16 be from a citizen. It can be from a newspaper. When you  
17 hear about it, that's when you should look at it.

18 I think this is like cancer. When do you address  
19 cancer? What you feel a bump or when something is not  
20 right. You don't wait until the thing blooms or a doctor  
21 tells you, "Here's the biopsy. We did a test, and it is  
22 confirmed you've got cancer." It's too late then.

23 You have to look at the indicators, and that's I  
24 think law enforcement has to be doing that. And we're  
25 talking about officers' rights and tort claims.

1 I found in this life a lot of times you have to

2 risk your job to do your job. And people don't want to  
3 get involved, and that's what happens. And this whole  
4 things gets out of hand.

5       AIG and the rest of it, what violations ever  
6 happened there? People knew about this for years, and  
7 there were complaints made, but there were no  
8 investigations ever done. Never completed, so none were  
9 reported.

10       And that's what I think we're trying to address.  
11 As leaders, we should -- if there's an indication that  
12 something is wrong, look into it and report it. Give us  
13 warning here so that we know.

14       The State gets sued with a multimillion dollar  
15 suit because something's going on, then it's too late to  
16 learn. And that's going to happen. We don't have that  
17 many people like Los Angeles, but I think we can learn  
18 from their mistakes.

19       And they say now when they have -- they know  
20 there's going to be a demonstration or a large group of  
21 people, the IA people go out with them on the scene and  
22 they pay money on the scene to people that get thumped in  
23 the head rather than wait for the complaints to come  
24 because there's always a helicopter up there with a  
25 camera.

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1       And the police chase the guy for 40 miles and  
2 then everybody gets there and the last officer arrives,

3 comes up and kicks the guy in the head, because  
4 everybody's got their blood up. And then we don't need an  
5 investigation then. Everybody's being sued.

6 And heads roll and department chiefs get fired  
7 and the rest of it because these officers, there were  
8 indications before that there was some illegal thumping  
9 going on or somebody's got too much money, driving cars  
10 that are too big, well, I have no allegation. I have no  
11 proof.

12 Well, that's your job. Look into it. And until  
13 we get a mind-set change where we start looking for  
14 problems instead of waiting for them to come to us because  
15 we're afraid we might get sued -- if we get sued, you've  
16 got protection of the state. Let them defend you.

17 But it hasn't happened yet, that I know of. I  
18 don't know of any -- have you been sued before?

19 MR. ORTIZ: Many times.

20 MR. PEREZ: Okay.

21 MR. ORTIZ: But not for that, not for misconduct.

22 MR. PEREZ: But you're still here. And I think  
23 that we have to look at these things in a positive way  
24 instead of waiting for them to happen. Because if we  
25 wait, we're not going to exist anymore. Thank you.

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1 MR. KING: Thank you, Mr. Perez. Mr. Gallegos.

2 MR. GALLEGOS: I did, but I think I just answered  
3 my own question. My concern, Mr. Ortiz, was the

4 enforcement power that we would have if the chief or  
5 marshal or sheriff failed to report as provided for in the  
6 rules.

7 And I notice in the rules that it says that  
8 failure to do that does not divest us of jurisdiction to  
9 take action for the misconduct, but not for the person,  
10 not reviewing it.

11 And I went back and looked at 29-7-4, and it does  
12 say that the Board does have the power to suspend or  
13 revoke a peace officer's certification for any cause set  
14 forth in the provisions of the Law Enforcement Training  
15 Act, which would be 29-7-2. So that was the question and  
16 I just answered it, so. Thank you, Mr. Chairman.

17 MR. KING: Okay. I have to say, Chief, I think  
18 I'm not quite comfortable with your language because of  
19 that question about whether it's complete or not. I think  
20 we do need the information prior to that.

21 MR. SCHULTZ: If I can add just a little for  
22 discussion purposes and I think all the other law  
23 enforcement representatives in the room will agree with me  
24 is the No. 1 complaint is always attitude. Clearly, it  
25 doesn't fall within the guise of the rules.

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1 But No. 2 is excessive force. And we go hands-on  
2 with people everyday. And every time there's an  
3 allegation of excessive force, we're going to have to  
4 report that immediately. Again, get ready for cases being

5 reported by the hundreds on a monthly basis.

6 But a clear majority of those are exonerated.

7 So, I mean, it's going to create a lot of excess work that

8 may not need to be created.

9 MR. ORTIZ: Well, you having the largest agency,

10 you guys imply there's no problem with your agency --

11 MR. SCHULTZ: I represent all the chiefs, though.

12 MR. ORTIZ: I know, but some of those smaller

13 departments where they only have five guys, nothing's

14 being done. They are allowed to resign. And they go

15 somewhere else. As you can see in those examples, there's

16 two guys -- and I can pull a lot more out of the database

17 besides these two guys that they've been allowed to resign

18 and go from agency to agency and they've been involved in

19 misconduct.

20 And so I'm just looking for any guidance on how

21 we can hold these agency heads accountable. It's their

22 responsibility.

23 MR. KING: Once again, I'm sorry for -- all these

24 discussions are important. I probably should have just

25 recessed the whole meeting for 10 minutes or something,

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1 but is there a form that you're using currently? I mean,

2 is this --

3 MR. ORTIZ: All we're using is the LEA-90, the

4 misconduct report form that they send us.

5 MR. KING: So this whole form is something you're

6 recommending that they file quarterly?

7 MR. ORTIZ: Right. Because there's so many that  
8 are noncompliant with the LEA-90 form.

9 MR. KING: Here's why I'm saying -- and I'll give  
10 you an example that comes out of our agency. For  
11 instance -- it's a little different. But we get  
12 complaints, two or three a day probably, that somebody has  
13 violated the Inspection of Public Records Act.

14 And usually we look at those and some -- you can  
15 kind of look on their face and some of them you can tell,  
16 okay, there's really no violation here. They haven't even  
17 given me enough facts to claim -- to show it was a  
18 violation.

19 And we'll check into it and we'll either send it  
20 back or say we need more information or something. And  
21 then probably 10 percent of them are ones where it's clear  
22 that there's something that needs to be investigated and  
23 all of that.

24 So like in your case, I understand that you may  
25 not want to report every time someone comes to you and

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1 says there's been officer misconduct, you don't  
2 necessarily want to report all of those.

3 But you do some review of that and figure out,  
4 okay, there really is something here that we need to  
5 investigate. I would think that those -- that that should  
6 be reported. When you yourself say, "Yeah, there really

7 is something here that I need to investigate," then that  
8 ought to be reported.

9 But that wouldn't be a completed investigation,  
10 correct? I mean, that's --

11 MR. SCHULTZ: But I think the way the form was  
12 originally a signed and notarized form. Then I have to  
13 report everything.

14 MR. KING: Yeah, no, I understand.

15 MR. SCHULTZ: You're putting the chief executive  
16 officer kind of in a tough spot.

17 MR. KING: It might be harder to do, though.

18 Well, once again, it's kind of up to this group whether  
19 you want to approve or not approve. I suppose having now  
20 had a good discussion, we could send this back; and you  
21 can look at that.

22 Or I always have the opportunity to create a  
23 subcommittee; don't I? I don't know that we want to do  
24 that. I think that there are valid issues that are  
25 raised. And so it might be that there are things you want

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1 to consider before you promulgate this form, I suppose.

2 MR. ORTIZ: Maybe present this to the chiefs' and  
3 association and the sheriffs' association also.

4 MR. KING: There again, maybe that's a good idea.

5 MR. ORTIZ: Get some other input and then come  
6 back with this.

7 MR. KING: I'm not quite as alarmed as



8 Commissioner Perez is about whether anybody is going to  
9 want to dissolve this Board, because there's been a lot of  
10 discussion for a long time in the state about like a  
11 citizen review board or a police review board. And, of  
12 course, we're in the middle of all that right now.

13 I think it's a serious discussion. And I agree  
14 that if people don't perceive that we're taking care of  
15 business that there will be more pressure to do that. I  
16 think that we have been more concerned with these issues  
17 over the course of the last year or so, and we're making  
18 some progress.

19 I'm not seeing any sort of landslide of support  
20 in the legislature to do away with this board and create  
21 something different. But there is discussion, so. I  
22 don't think we have to solve this today, but I think you  
23 need to keep working on it.

24 I don't know. What is the pleasure of the  
25 Board. I think if somebody wants to make a motion to

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1 approve this form or to add the Chief's changes, we could  
2 do that. But my perspective is we're not there yet.

3 MR. SHANDLER: This is what I'd advise. I'd say  
4 let's bring it up at the next meeting. Because more than  
5 half the battle is education. And everyone in the room  
6 now I think you've educated them. The next meeting down  
7 is the southern part of the state will be a different  
8 constituency of chiefs and officers. I know there's an

9 overlap.

10 And so that might give us some chance to hammer  
11 out some more language, but also it's almost like another  
12 presentation with another group of 50 or 60 people. So  
13 that might -- that might be a productive way to discuss it  
14 again.

15 MR. GALLEGOS: I like Art's suggestion that if we  
16 can get some input from the chiefs and sheriffs through  
17 their associations. And I think that goes along with what  
18 Zack said. We've got a few months to hopefully be able to  
19 get that in the bank.

20 They probably know it, but it bears reminding  
21 them that what the penalties could be for failure to make  
22 these reports and why it's important that they do so. I  
23 would be okay with that.

24 MR. PEREZ: Mr. Ortiz, can you give us a  
25 percentage of approximately how many are not reporting?

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1 MR. ORTIZ: That would be hard to say. I can't  
2 give you an accurate number.

3 MR. PEREZ: But you said "many" or "a good size  
4 amount," something like that?

5 MR. ORTIZ: Yes.

6 MR. KING: Let me -- I'm going to ask District  
7 Attorney Gallegos one more question. Who would bring the  
8 action to enforce that? Would it be the Board ask the  
9 AG's Office to do it or the local DA to do it?

10 MR. GALLEGOS: My guess -- and it's only a  
11 guess -- is that the director brings it to our attention,  
12 because he's the one that's getting the reports.

13 MR. KING: Right.

14 MR. GALLEGOS: The one who brings it to our  
15 attention. Then from my reading is that we would do the  
16 same procedures -- or the Board -- I mean, the Academy  
17 would do the same procedures as they would with an officer  
18 for misconduct.

19 And with whatever happens, it could potentially  
20 wind up in front of the Board just like any other  
21 misconduct.

22 MR. KING: So it sort of would be like a  
23 certification action against the officer who was charged  
24 with making the report? The chief or the sheriff?

25 MR. ORTIZ: Yes.

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1 MR. KING: Okay. Well, maybe we should make that  
2 clear to people, too. Go ahead.

3 MR. RADOSEVICH: My name is Mark Radosevich.  
4 Thank you, Mr. Chairman.

5 Just in this discussion, how is the Academy  
6 tracking misconduct that you discover, that the citizens  
7 complaints that come to you or in your file reviews where  
8 you have individual officers working for more than 12  
9 cumulative months, have continued to work, have then  
10 theoretically falsified citations, criminal complaints,

11 affidavits as officers, that would only come to you, only  
12 you would know that.

13 How are we tracking that misconduct or misconduct  
14 reported that is against a local chief or sheriff? The  
15 normal practice would be obviously to send it to that  
16 department for investigation, but that would not  
17 necessarily work, so. Just --

18 MR. ORTIZ: What I've done on complaints on  
19 agency heads, I forward them to the Attorney General's  
20 Office. And I'm very pleased. We had one recently where  
21 they took quick action. The agency head is going to plead  
22 guilty to some felonies, and then we'll take action on  
23 him.

24 So I appreciate the assistance from the Attorney  
25 General's Office. And it is dealing with an agency head.

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1 If there's criminal charges, of course, it would be  
2 referred over to the district attorney's or the AG's  
3 office.

4 But we have a database. We do get the newspaper,  
5 and we look at them and we see something -- and, in fact,  
6 right now we've seen some in the newspaper that it's been  
7 quite sometime, almost six months on one of these cases  
8 where the agency has not submitted. It was an officer  
9 involved in a DWI.

10 You see those in the newspaper quite often. And  
11 that agency has not complied. So we're aware of it, and

12 we're going to contact them and tell them, "Look, you need  
13 to submit it." If not, then that agency head would have  
14 to go before the Board.

15 MR. PEREZ: There's also a long-standing federal  
16 law regarding corruption of an appointed or elected  
17 official. And it is that plain; that simple. And those  
18 can -- that's a violation of federal law.

19 And there's a new special agent in charge of the  
20 FBI, recently been appointed. I have not met her yet.  
21 But I understand there might be a little more aggression  
22 at looking at these matters if they are reported to them.

23 MR. HOLMES: I know that when you were  
24 discussing -- I think you talked with Mr. Gallegos there,  
25 as far as bringing the department heads for not

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1 reporting. Perhaps what could be considered here is a  
2 subpoena, to subpoena the person to come before the Board  
3 to explain why, instead of going through the notice of  
4 contemplated action and final decision.

5 At least give them the chance to explain why he  
6 didn't report, why wasn't it reported, whatever the case  
7 might be. I don't know. I mean, that's an option that  
8 could be used, a subpoena instead of the whole process of  
9 notice of contemplated action. It's something to  
10 consider.

11 MR. KING: Okay.

12 MR. GALLEGOS: Just real quick. I guess I know

13 we'll continue to discuss and I know we have a lot to do  
14 still, but the only thing I would say to that is that  
15 statute is mandatory. It says, "the Board shall."

16 And I don't know if we would be acting outside  
17 the scope of the statute if we did something -- I like the  
18 idea, but we're going to have to do a little more research  
19 whether that's an option or not.

20 MR. KING: Okay. Yes, Chief.

21 MR. HATCHER: Mr. Chairman, one other thing that  
22 I'm a little bit concerned about is this is a public  
23 meeting. And when we come up here and we discuss  
24 personnel issues, which if you were to call me up here and  
25 ask me why I didn't report something, then I'm going to

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1 have to give you facts about the situation.

2 I can't do that in a city commission meeting. I  
3 can't discuss personnel issues in an open meeting. So  
4 that, again, puts us in -- the chiefs and sheriffs in a  
5 liability issue because this Board is not going to be  
6 sued. It's going to be us if we violate that individual's  
7 privacy in regards to the Open Meetings Act.

8 MR. KING: There's an open meetings exemption for  
9 your city council and there's probably an open meetings  
10 exemption for us, too. I don't know that we necessarily  
11 have to discuss specific personnel actions in an open  
12 meeting here. We have closed parts of this meeting too,  
13 so. That, I'm not so worried about other than we ought to

14 be aware of that. I agree with that. All right.

15 We've had a lot of discussion on this. Actually,  
16 since there wasn't an action item here anyway, I don't  
17 think -- or, well, maybe you were asking for a -- but I  
18 think we can just pass this over and we can put it on the  
19 agenda for the next meeting.

20 And we'll discuss some more. But you may want to  
21 do some -- you might want to do a couple of different  
22 discussion drafts of the reporting form. And then we'll  
23 discuss those at the next meeting.

24 Let's -- I'm going to just call us passing over  
25 that item, then.

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1 ITEM #13: LEA MEMORIAL - NEW MEXICO STATE POLICE OFFICER

2 LIEUTENANT MICHAEL C. AVILUCEA

3 MR. KING: And we'll move onto a couple of  
4 important issues, Item No. 13, the Law Enforcement Academy  
5 Memorial, the addition of State Police Officer Lieutenant  
6 Michael C. Avilucea.

7 MR. ORTIZ: Yes, Mr. Chairman, Board Members. On  
8 May 30th, 2008, New Mexico State Police Lieutenant  
9 Michael C. Avilucea was returning from a bomb team  
10 assignment in northern Rio Arriba County when he  
11 tragically lost control of his unit. He was killed in the  
12 line of duty while in the performance of his duties.

13 Mr. Chairman, letters were sent out to committee  
14 members Dave Heshley, Jim Burrelson, Sheriff Johnny

15 Valdez, and Chief Faron Segotta. And they unanimously  
16 approved the inclusion of Lieutenant Michael Avilucea to  
17 the memorial wall.

18 I ask the Board to approve the inclusion of  
19 Lieutenant Avilucea. And the memorial will be held this  
20 year on May 20th, which is a Wednesday, here at the Law  
21 Enforcement Academy.

22 MR. KING: Any discussion? Take a motion to  
23 approve.

24 MR. COON: I make a motion we approve Michael  
25 Avilucea being put on the wall and memorialized in May.

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1 MR. KING: May 20th?

2 MR. ORTIZ: May 20th, yes, sir. At 10 o'clock.

3 MR. KING: Do we have a second?

4 MR. JONES: Second.

5 MR. KING: All in favor say aye.

6 THE BOARD: Aye.

7 MR. KING: Any opposed? {No response.} Okay.

8 We'll take that action. Before we move on, let me look at  
9 my calendar. May 20th, correct? There's a 12th Annual  
10 Gang Conference that's going on that day. Let's make sure  
11 we set aside some time to do that.

12 ITEM #14: LEA MEMORIAL - TORRANCE COUNTY

13 SHERIFF'S DEPUTY DOMINIQUE J. SMITH

14 MR. KING: Next item on the agenda is Item

15 No. 14, LEA Memorial for Torrance County Sheriff's Deputy



16 Dominique J. Smith.

17 MR. ORTIZ: Yes, Mr. Chairman, Board Members. On  
18 January 19th, 2009, Torrance County Sheriff Sergeant  
19 Dominique Smith was conducting a narcotics arrest  
20 investigation on Interstate 40. Sergeant Smith was  
21 tragically struck by a passing motorist. He was  
22 transported to an Albuquerque hospital where he died from  
23 the injuries sustained in the performance of his duties.

24 Mr. Chairman, letters were sent out to committee  
25 members Dave Heshley, Jim Burrelson, Sheriff Johnny

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1 Valdez, and Chief Faron Segotta. And they unanimously  
2 approved the inclusion of Sergeant Dominique Smith to the  
3 memorial wall. I ask the Board to approve the inclusion  
4 of Sergeant Smith.

5 And also Sheriff Gibson is here. I don't know if  
6 he'd like to say a few words.

7 MR. GIBSON: No, sir. I'll be fine. Thank you  
8 very much.

9 MR. ORTIZ: So we ask that you approve this  
10 request.

11 MR. KING: That would be on the same date?

12 MR. ORTIZ: Yes. May 20th.

13 MR. KING: Any discussion? Motion?

14 MR. GALLEGOS: I move to approve.

15 MR. KING: Motion to approve by Mr. Gallegos.

16 MR. PEREZ: Second.

17 MR. JONES: Second.

18 MR. KING: All in favor say aye.

19 THE BOARD: Aye.

20 MR. KING: Any opposed? {No response.} I

21 actually sit on the Survivors Benefit Board, too; and

22 we've had a chance to review both of these. Obviously

23 these are officers that are going to be greatly missed. I

24 think they were both very well respected.

25 So we'll have an appropriate ceremony on the

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1 20th. I think that will be very good. Thank you.

2 Item No. 15. We need a couple of minutes. It's

3 probably time for a break anyway. We're going to take a

4 ten-minute break. Do we break for lunch?

5 MR. ORTIZ: We can get some sandwiches from the

6 cafeteria.

7 MR. KING: We'll be back here at 12 o'clock.

8 ITEM #15: PRESENTATION - SANTA FE COMMUNITY COLLEGE

9 ON-LINE COURSE

10 (From 12:09 p.m. until 12:22 p.m, Mr. Robert

11 Denny made a presentation regarding online courses offered

12 at the Santa Fe Community College.)

13 MR. KING: I'm going to -- let me call the

14 meeting to order. That actually appears to complete the

15 sort of public agency part of our deal, although the

16 hearings are -- I have to remember when we go into

17 executive session.

18 The actual hearings on the disciplinary matters  
19 are -- that's still open, correct? And then you guys have  
20 a closed meeting. When I say "you guys," this is a point  
21 at which myself being the Attorney General recuses myself  
22 from operations on the Board in this case because it's my  
23 staff that carries out the presentation part of the  
24 certifications.

25 So I am at this stage of going to turn the

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1 meeting over to District Attorney Gallegos, who will chair  
2 the rest of the meeting. And I guess I probably will not  
3 even come back. I'll let Donald chair the rest of the  
4 meeting because my part's always like two minutes at the  
5 end. So I'm going to let you close the meeting out.

6 MR. GALLEGOS: That's fine.

7 MR. KING: I may hang out for a little bit. And  
8 for the members of the commission, we do have food on the  
9 way. So that since you're working through lunch, we'll  
10 get you something to eat.

11 So the gavel is yours. The meeting is yours.

12 MR. GALLEGOS: Thank you, Mr. Chairman.

13 (At this time, Mr. King exited the hearing.)

14 MR. GALLEGOS: Which Mr. Jackson is here I  
15 believe from the Attorney General's Office and also  
16 appreciate the help and assistance of Zack. So we'll go  
17 ahead and get started.

18 ITEM #16: JAMES BENAVIDEZ

19 MR. JACKSON: All right. What we're doing now is  
20 the disciplinary matters. We'll be beginning with the  
21 default orders of revocation.

22 Item No. 16 is James Benavidez. In October of  
23 last year, the respondent Mr. Benavidez was charged with  
24 pointing a pistol at a household member, holding her in  
25 fear for her life. This involved a dispute over some

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1 things that he was looking at on the internet.

2 And -- let's see here -- then there was another  
3 incident where Mr. Benavidez was confronted by the victim  
4 about lying. And, again, there was his pistol thing. He  
5 points the pistol at the victim's chest. The respondent  
6 resigns from Hurley Police Department saying that part of  
7 the reason that he was resigning was because he smokes  
8 marijuana.

9 An NCA was issued. A second NCA was issued. And  
10 then an NFD was issued. And there has been no response  
11 from Mr. Benavidez. So we are asking for a revocation by  
12 default. Is there any questions on this?

13 MR. GALLEGOS: Any questions from the committee?  
14 And although I'm -- it's a default, I'm still going to ask  
15 if Mr. Benavidez is in the audience? Okay, seeing none,  
16 we can go onto the next item.

17 ITEM #17: LORENZO BUCK

18 MR. JACKSON: All right. Item No. 17 is Lorenzo  
19 Buck. This was a DWI. Respondent was got arrested and

20 charged with driving while intoxicated in Utah. At the  
21 time of the arrest, the respondent was driving the vehicle  
22 belonging to the Navajo Nation.

23 Mr. Buck was placed under investigatory leave by  
24 the Nation and informed that his actions were to either  
25 undergo disciplinary action or possibly even termination.

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1 While the investigation was being conducted to  
2 determine the course of action to take against the  
3 respondent, Mr. Buck, he submitted his letter of  
4 resignation to the Navajo Police Department.

5 Since he resigned, the disciplinary process was  
6 terminated. No further action was taken by the Nation.  
7 NCA was issued in November of last year. Notice of final  
8 decision was served on in December of last year. Both  
9 were returned unclaimed.

10 Since we have not heard from the respondent, we  
11 are asking for revocation by default.

12 MR. GALLEGOS: Okay. Any questions from the  
13 committee or the Board? Seeing none. Again I'll ask if  
14 Mr. Lorenzo Buck is in the audience and wishes to speak.  
15 I see that there is no one here, so we'll go ahead and  
16 move onto the next item.

17 ITEM #18: MICHAEL CHAVEZ

18 MR. JACKSON: All right. Item No. 18 is  
19 Michael H. Chavez. On May of last year, Mr. Chavez pled  
20 guilty to three felony criminal charges stemming from an

21 investigation conducted by the New Mexico State Police in  
22 De Baca County.

23 The respondent was charged with 18 counts of  
24 embezzlement combined with making or permitting false  
25 public vouchers. Mr. Chavez was allowed to plead guilty

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1 to three of the charges and entered a plea and disposition  
2 agreement to the following charges: embezzlement of over  
3 \$500 and two counts of making or permitting public false  
4 vouchers.

5 The other charges were dismissed in exchange for  
6 the pleas of guilty, and Mr. Chavez was given a deferred  
7 prison sentence of 18 months on each count for a total of  
8 four years and six months and placed on probation for the  
9 same amount of time.

10 Mr. Chavez must also complete 2500 hours of  
11 community service in the state. And as part of the  
12 agreement, he is not allowed to be employed in any law  
13 enforcement capacity during the duration of his  
14 probationary period.

15 There was an NCA on November 2nd. And then an  
16 NFD on January 27th. And neither of these were responded  
17 to. So we ask for revocation by default.

18 MR. GALLEGOS: Any questions from the Board?  
19 None. Is Mr. Chavez here by any chance and would like to  
20 make a statement. Mr. Chavez is not here. Let's move  
21 onto the next item, which is Item No. 19.

22 ITEM #19: LEVI COUNTRYMAN

23 MR. JACKSON: Yes. The second half of 2007  
24 Mr. Countryman engaged in a conspiracy to distribute  
25 controlled substances, specifically methamphetamine.

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1 A federal indictment was issued in December of  
2 2007 by the United States District Court for the District  
3 of the New Mexico charging Mr. Countryman with conspiracy  
4 to distribute controlled substances and four counts of  
5 using the telephone to facilitate a drug traffic offense.

6 Mr. Countryman was a former member of the San  
7 Juan County Sheriff's Department and a former member of a  
8 multijurisdictional, multiagency regional task force,  
9 which was established to reduce narcotics use, sales, and  
10 trafficking within San Juan County.

11 Mr. Countryman concocted along with another  
12 officer to engage in illegal activities by providing  
13 information and identifying undercover members of the  
14 narcotics task force to a distributor of drugs.

15 So the information provided by Mr. Countryman to  
16 the distributor consists of names and identities of  
17 confidential informants, names and identities and  
18 photographs of task force members and other members of law  
19 enforcement, including at least one agent of the DEA.

20 He provided timely warnings about impending  
21 search warrants expected to be executed by the task force  
22 that could have disrupted the trafficking of

23 methamphetamines.

24 The respondent has pled guilty to the conspiracy  
25 charge. And I believe the telephone charges were dropped

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1 in exchange for this. And he faces a fairly lengthy stay  
2 in federal prison. He was served with an NCA and an NFD  
3 and has responded to neither, so we ask for revocation by  
4 default.

5 MR. GALLEGOS: Any questions from the Board?

6 MR. JONES: No, sir.

7 MR. GALLEGOS: Seeing none. Is Mr. Countryman by  
8 any chance in the audience? I didn't see anybody. So  
9 we'll move onto the next item, Item 20.

10 ITEM #20: JUSTIN DESTERHOUSE

11 MR. JACKSON: In July of 2006, Mr. Desterhouse  
12 and another Bernalillo County deputy responded to a call  
13 for assistance regarding the removal of an intoxicated  
14 person from the premises of a complainant, who was  
15 described as being a sister of the subject, who she wanted  
16 removed, since he was misbehaving and intoxicated.

17 Upon arrival at the location where the assistance  
18 was requested, the intoxicated person was located outside  
19 the residence and was handcuffed by the respondent and the  
20 other deputy, who placed the person in the back of his  
21 patrol car.

22 Before being put inside the patrol car, the  
23 subject had his legs outside the patrol vehicle, was not



24 complying with verbal commands to put his legs in the  
25 car. At that moment, Mr. Desterhouse noticed that other

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1 deputy grabbed the door; and it appeared that he was going  
2 to slam the door on the person.

3 The respondent in the case did not make any  
4 attempt to stop the other deputy. The respondent,  
5 Mr. Desterhouse, then followed the other deputy, who drove  
6 to a frontage road in Sandoval County near Algodones.

7 The victim was pulled out of the patrol car by  
8 the other deputy to assault the victim and then pointed a  
9 gun at him with the flashlight mounted on the gun.

10 The respondent being aware of the abuse being  
11 perpetrated against the victim did not make any effort to  
12 stop the illegal action of the other deputy and he did not  
13 write a report concerning what he had witnessed and he did  
14 not report the incident to a supervisor.

15 Now, we dealt with the other deputy last quarter,  
16 which was also a default revocation. In October of last  
17 year, the respondent was served with an NCA; did not  
18 respond. He was served with NFD; did not respond. So we  
19 ask for revocation by default.

20 MR. GALLEGOS: Any questions from the Board?  
21 Seeing none. I'll ask if Mr. Desterhouse is here by any  
22 chance. And I don't see anyone, for the record. So we'll  
23 go onto the next item, 21, which is James Johnson.

24 ITEM #21: JAMES JOHNSON

25 MR. JACKSON: James Johnson. Mr. Johnson was

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1 charged with being untruthful with a supervisor and  
2 tampering with evidence by deleting an audio recording  
3 from a domestic violence call that was assigned to him and  
4 answered by him at an apartment complex in September of  
5 last year.

6 On September 24th, Mr. Johnson's immediate  
7 supervisor received a complaint from a witness to the  
8 aforementioned domestic violence situation. The complaint  
9 alleged that the respondent Mr. Johnson apparently did not  
10 believe what the complainant had witnessed concerning the  
11 domestic incident.

12 The supervisor contacted Mr. Johnson and asked  
13 him if he had recorded the incident on his voice recorder,  
14 and Mr. Johnson said that he had not. However, subsequent  
15 investigation revealed that Mr. Johnson had indeed  
16 recorded the incident, as witnessed by others at the scene  
17 of the accident. Multiple witnesses reported that the red  
18 light was on.

19 And it was later determined that the respondent  
20 had deleted the information from his voice recorder, as  
21 seven deletions from his voice recorder were made between  
22 September 22nd, 2008 and September 24th, 2008, and were  
23 never fully explained by Mr. Johnson.

24 He was given a 40-hour suspension in lieu of  
25 termination as had been first recommended by the employing

1 agency. Mr. Johnson was served with an NCA around January  
2 of this year -- January 6th of this year.

3 A notice of final decision was served  
4 February 24th of this year. And he never claimed the  
5 mail. And there was a verification made that the address  
6 to which the NCA and NFD were sent are his current  
7 address, according to his driver's license.

8 So we haven't heard back from him and we ask for  
9 revocation by default.

10 MR. GALLEGOS: Any questions from the Board?

11 MR. SCHULTZ: Is he still working for the Roswell  
12 Police Department?

13 MR. JACKSON: Yes, as far as I know.

14 MR. GALLEGOS: Okay. Any other questions from  
15 the Board? Seeing none, we'll go to the audience -- or  
16 actually, to see if Mr. Johnson is in the audience. I  
17 don't see no response, for the record. So we'll move onto  
18 Item No. 22, Christine Luna.

19 ITEM #22: CHRISTINE LUNA

20 MR. JACKSON: An investigation was initiated on  
21 Ms. Luna regarding allegations of falsification of an  
22 official document and/or forgery. This was regarding a  
23 medical excuse proffered by Ms. Luna in an attempt to  
24 explain her failure to appear in response to a subpoena.

25 The investigation revealed statements from three

1 physicians, who all worked at the doctor's office where  
2 the release form originated from that Ms. Luna was not  
3 seen by any of them and that they would not authorize an  
4 excuse for her without an examination.

5 The physician that owns the business confirmed  
6 that Ms. Luna is not even a patient of theirs. Further  
7 investigation revealed the receptionist provided the  
8 medical excuse to Ms. Luna.

9 Ms. Luna admitted she did not see a physician at  
10 the clinic, but did ask the receptionist for a medical  
11 excuse. Ms. Luna knowingly received a doctor's excuse,  
12 which stated, quote, Patient was seen in clinic today.  
13 Please medically excuse 02/18/08 through 02/20/08, closed  
14 quote.

15 Evidence was obtained that there was a  
16 relationship between Ms. Luna and the receptionist who  
17 provided the excuse. It was apparent that the  
18 receptionist forged the document and passed it onto  
19 Ms. Luna and that Ms. Luna knew the information on it was  
20 not truthful. She then presented it to her supervisor in  
21 an attempt to deceive the department.

22 A second incident occurred in April of 2008 when  
23 Ms. Luna allegedly battered two people while attending a  
24 concert at the Pan American Center in Las Cruces. It  
25 began as an argument over seating and then escalated to a

2 Ms. Luna apparently pushed the other participant  
3 in the argument. One of the subjects involved was an  
4 off-duty Dona Ana County sheriff's deputy. In the  
5 complaint by this deputy, he reported that he smelled a  
6 strong odor of burnt marijuana on and around Ms. Luna and  
7 her husband.

8 Ms. Luna was served with a notice of contemplated  
9 action around October 16th, 2008. It was signed for on  
10 October 29th, 2008. She has not requested an informal  
11 hearing or responded in writing to this matter.

12 A notice of final decision was served in the same  
13 manner on November 20th, 2008, with no response. We ask  
14 for revocation by default.

15 MR. GALLEGOS: Any questions from the Board?  
16 Hearing none. Is Ms. Luna by any chance in the audience  
17 and would like to address the Board? No response, for the  
18 record. So we'll move onto the next item, 23, which was  
19 Kenneth Martinez.

20 ITEM #23: KENNETH MARTINEZ

21 MR. JACKSON: Mr. Martinez was terminated from  
22 his position with the Santa Fe Police where he was  
23 employed when most of these incidents took place. He is  
24 currently employed by the Rio Arriba County Sheriff's  
25 Office.

1 Mr. Martinez obtained a diploma for a BA in  
2 criminal justice from a diploma mill, which led to an

3 increase in his salary. This is a fraud on the tax  
4 payers. Additionally, Mr. Martinez was sued in November  
5 of 2001 for excessive force over an incident in Rio Arriba  
6 County.

7 In March 27th of 2006, Mr. Martinez used  
8 excessive force in subduing a suspect and then again used  
9 force after the suspect was subdued. On September 9th of  
10 2006, Mr. Martinez used excessive force in subduing a  
11 suspect and again used excessive force after the suspect  
12 was subdued.

13 And then in February of 2006, Mr. Martinez had  
14 falsified a supplemental report, writing it a week after  
15 the fact and backdating the report to the night of the  
16 incident. In that incident, Mr. Martinez was also charged  
17 with excessive force.

18 Mr. Martinez was served with a notice of  
19 contemplated action on or about October 31st of 2008. And  
20 on January 27th of 2009, Mr. Martinez was served with a  
21 notice of final decision. He has responded to neither,  
22 and we ask for revocation by default.

23 MR. GALLEGOS: Any questions from the Board?  
24 Hearing none, is Mr. Martinez in the audience and would  
25 like to address the Board? No response, for the record.

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1 So we'll move onto the next item, which is 24, David  
2 Mondragon.

3 ITEM #24: DAVID MONDRAGON

4 MR. JACKSON: On October 23rd, 2008, a random  
5 drug screening test was elicited from Mr. Mondragon and  
6 sent to the laboratory for examination. On October 28th,  
7 the test results were returned positive for a cocaine  
8 metabolite.

9 The results were sent back to the Taos Police  
10 Department. And on December 12th of 2008, the respondent  
11 was terminated. The respondent Mr. Mondragon was served  
12 with an NCA on January 6th of this year.

13 And then on February 24th of this year, he was  
14 served with a notice of final decision. He has responded  
15 to neither on these and we ask for revocation by default.

16 MR. GALLEGOS: Any questions from the Board?  
17 Hearing none, is Mr. Montoya here in the audience? Okay.  
18 No response. So that does it, I believe.

19 ITEM #25: JOHNNY SIFUENTES

20 MR. GALLEGOS: Item #25 was taken off the  
21 agenda. So we now move over to the stipulated orders of  
22 suspension. Next item would be Item No. 26, Ana Bruciaga.

23 ITEM #26: ANA BRUCIAGA

24 MR. JACKSON: On October 23rd of 2008,  
25 Albuquerque police officers responded to a call of shots

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1 fired on Roma Avenue, Southwest. As the officers were  
2 nearing the area where the shots had been heard, an  
3 officer saw Ms. Bruciaga out of uniform walking on the  
4 sidewalk carrying items in one hand and in the other hand

5 a black handgun and holster.

6       Upon seeing the officer, the respondent  
7 Ms. Bruciaga dropped the firearm in the holster and the  
8 officer ordered her to show her hands. She was then  
9 handcuffed and questioned. During questioning it was  
10 learned that she was an Albuquerque police officer.

11       She told the investigating officer that she had  
12 been kicked out of her boyfriend's house and admitted to  
13 having consumed alcohol approximately two hours to her  
14 being stopped by the police.

15       Her handgun was checked, and it did not appear to  
16 have been fired recently. It was clean and there was no  
17 smell of gun powder. She showed signs of intoxication and  
18 consented to a breath test, which tested above .08.

19       She told the investigating officer that she was  
20 carrying her handgun because she was afraid to be walking  
21 alone in the dark and the neighborhood was apparently a  
22 rough one. She was taken into custody and charged with  
23 negligent use of a deadly weapon.

24       She was on probationary status, having been a  
25 recent graduate of the Academy and a recent hire by APD

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1 and was, therefore, terminated from the Albuquerque Police  
2 Department.

3       On January 26th of this year, Ms. Bruciaga met  
4 with the director and discussed the incident. And we  
5 obtained sufficient information to recommend that a



6 settlement agreement that is contained here be approved.

7 She has agreed through this order to assume and  
8 accept responsibility for her conduct in the underlying  
9 matter and as far as I know still agrees to do so. The  
10 recommendation contained in the stipulated order is a  
11 30-day suspension, one-year probationary period, an ethics  
12 training course, an alcohol screening and assessment, and  
13 then whatever -- whatever course of action is recommended  
14 as a result of that assessment.

15 And the suspension was lowered somewhat because  
16 another part of the agreement is that she has agreed to  
17 address the cadets at this Academy, talking about her  
18 story and the consequences of her actions.

19 MR. GALLEGOS: Any questions from the Board?  
20 Hearing none, is Ms. Bruciaga here by any chance to  
21 address the Board? Okay. I don't see a response, for the  
22 record. We'll move onto the next item, No. 27, Paul  
23 Cadena.

24 ITEM #27: PAUL CADENA

25 MR. JACKSON: On October 24th, 2008, Mr. Cadena

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1 committed acts of domestic violence against his wife and  
2 daughter. Officers were dispatched to his residence  
3 regarding a reported domestic incident.

4 Upon arrival, they made contact with Mr. Cadena's  
5 wife and four children, who were frightened and crying.  
6 The wife said that her husband came home heavily

7 intoxicated and angry. He began yelling at his daughter,  
8 who was watching television, even though she was grounded.

9 He advanced towards his daughter screaming at  
10 her, at which point his wife stood in front of him to  
11 block him from getting to the daughter. At this time,  
12 Mr. Cadena grabbed his wife, forced her to the floor. The  
13 daughter ran upstairs, gathered her siblings together, and  
14 they hid in a bedroom closet.

15 The daughter heard fighting still going on and  
16 then went downstairs to help her mother. She found them  
17 struggling in the laundry room, tried to free her mother.  
18 Mr. Cadena then grabbed his daughter by the neck and threw  
19 her to the floor.

20 When she got up and threatened to call the  
21 police, Mr. Cadena released his hold on his wife and ran  
22 after his daughter, grabbed the phone from her, and threw  
23 it across the living room.

24 His wife ran to the other phone in the kitchen,  
25 but Mr. Cadena had already taken the phone cord out of the

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1 wall. His wife then located her cell phone and called the  
2 police. Mr. Cadena then grabbed his shoes and duty-issued  
3 handgun and left the residence.

4 As he left, he shouted, "You watch and wait and  
5 see." He had just departed the residence prior to the  
6 officers' arrival. He was arrested that night and charged  
7 with battery on a household member and interference with

8 communications.

9 MR. GALLEGOS: Are there any questions from the  
10 Board? Oh, I'm sorry. Do you have more?

11 MR. JACKSON: Yes. We had an informal hearing on  
12 this. Unfortunately, I was not able to be present at that  
13 hearing. The hearing was held on March 6th. His attorney  
14 was there. He provided sufficient information to the  
15 director to recommend a settlement agreement to be  
16 approved by the Board.

17 The district attorney dismissed the charges  
18 without prejudice. So it is conceivable that the charges  
19 might be reinstated in the future. But they are not  
20 pending at this time. So we don't run into a Lautenberg  
21 Amendment problem.

22 The recommendation is for a 90-day suspension, a  
23 one-year probationary period, ethics training, alcohol  
24 screening and assessment, and whatever course of action is  
25 recommended as a result of that, anger management

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1 counseling, and eight hours of community service.

2 MR. GALLEGOS: Okay. Thank you. I thought we  
3 saw a question, Mr. Perez?

4 MR. PEREZ: I think since he was not convicted,  
5 so there's no violation of the Brady Act? That means it  
6 has to be a conviction.

7 MR. GALLEGOS: Right. There was just a charge,  
8 not a conviction.

9 MR. PEREZ: Okay. Thank you.

10 MR. GALLEGOS: Any other questions from the  
11 Board? {No response.} All right. And Mr. Cadena is  
12 here? Are you here, sir?

13 MR. CADENA: Yes, sir.

14 MR. GALLEGOS: Would you like to address the  
15 Board at this time?

16 MR. CADENA: Yes. I would just like to say --

17 MR. GALLEGOS: Excuse me, sir. Would you please  
18 come up to the podium to address the Board? What I would  
19 ask also, it's a good reminder for all of us as we're  
20 speaking not to try to speak too fast. We do have a  
21 reporter here, and I'm sure she would appreciate it very  
22 much.

23 MR. CADENA: I would like to address the Board in  
24 reference to the incident that had occurred. I would just  
25 pretty much like to apologize for any inconvenience that

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1 this has caused in reference to embarrassment.

2 It's caused a big embarrassment on my behalf in  
3 reference to my department. Of course, my family had  
4 dealt with this, of course. But I would also like to  
5 address the Board and apologize for this incident.

6 MR. GALLEGOS: Does anyone from the Board have  
7 any questions for Mr. Cadena? Yes, Sheriff Coon.

8 MR. COON: Has this happened more than once?

9 MR. CADENA: No, sir. Not where anything has

10 gone further. No, sir.

11 MR. COON: How old are your kiddos?

12 MR. CADENA: I've got a 16, a 14, a 11-year-old

13 and a 8-year-old right now.

14 MR. GALLEGOS: Mr. Holmes?

15 MR. HOLMES: Yeah, I would also like to mention

16 the fact that his wife and the child, the girl that was

17 involved, wrote letters on his behalf saying how much they

18 love him and how good of a father he is. And, obviously,

19 probably this is the first time this ever happened.

20 I think the children, if I'm not mistaken, are

21 stepchildren.

22 MR. CADENA: Yes. My two oldest daughters.

23 MR. HOLMES: Is there one there that's

24 handicapped?

25 MR. CADENA: Yes, sir.

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1 MR. HOLMES: He's also taking care of a

2 handicapped stepchild. Those things were brought to our

3 attention, and the letters were shown to us, so.

4 MR. GALLEGOS: Are there any other questions from

5 the Board?

6 MR. JONES: Mr. Chairman?

7 MR. GALLEGOS: Yes.

8 MR. JONES: Have you done any type of counseling

9 on your own?

10 MR. CADENA: Yes. I've actually received, of

11 course, counseling from my attorney. He's actually showed  
12 me a lot of ways, steps to make in that direction. I've  
13 also been going to Alcoholics Anonymous. It's a program  
14 held at noon. It's called Brown Baggers.

15 I've made several attempts to try to get into  
16 some counseling as well, but there's been problems with  
17 actually trying to make that. So I've been actually  
18 looking for other counselors that I can attend.

19 I did make an initial counsel with through my  
20 work, and they felt that it was necessary to go outside  
21 the company altogether.

22 MR. GALLEGOS: Any other questions? None from  
23 the Board. Okay. Is there anything else?

24 MR. CADENA: No, sir.

25 MR. GALLEGOS: All right. Thank you.

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1 MR. CADENA: Thank you.

2 MR. GALLEGOS: The next item I believe is 28,  
3 Jason Clark.

4 ITEM #28: JASON CLARKE

5 MR. JACKSON: In November of 2007, Mr. Clarke  
6 took a subject to the ground when the subject refused to  
7 comply with orders to stay away from Marines that were  
8 attending a Marines birthday ball. Officers were  
9 attempting to contain the Marines, move them out of the  
10 downtown area after a short disturbance.

11 The subject was taken down. Was -- he was

12 allowed to leave, but Mr. Clarke failed to obtain personal  
13 information, failed to write a report, and failed to call  
14 rescue to see whether the subject had sustained any  
15 injuries during the takedown.

16 Termination of employment was proposed, but  
17 Mr. Clarke resigned from the Albuquerque Police on  
18 April 23rd, 2008. On February 3rd of 2009, an informal  
19 hearing was held. Mr. Clarke said he was working the  
20 downtown area. There were many Marines there in full  
21 dress uniform at the ball.

22 There was a disturbance percolating between the  
23 Marines and just the general crowd. There was one  
24 individual in particular, the subject who was taken down,  
25 who kept returning after being repeatedly asked to leave

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1 the area.

2 He was finally -- Mr. Clarke said that he took  
3 ahold of the subject; and as they were walking, the  
4 subject spun around causing Mr. Clarke to lose his balance  
5 at which point they both fell to the ground.

6 Mr. Clarke said that he helped him up and the  
7 subject said that he just wanted to go home. Mr. Clarke  
8 saw no injury and the subject did not indicate that he was  
9 injured, so Mr. Clarke allowed him to leave. Mr. Clarke  
10 admitted to the procedural error of not having the subject  
11 checked before releasing him.

12 We have recommended here a 30-day suspension with

13 a one-year probation, an ethics course, and anger

14 management counseling.

15 MR. GALLEGOS: Any questions from the Board?

16 Seeing none, is Mr. Clarke here by any chance? Yes.

17 Would you care to address the Board, sir?

18 MR. CLARKE: Yes, I would.

19 MR. GALLEGOS: All right. Please do so.

20 MR. CLARKE: My name is Jason Clarke. I would

21 like to apologize to the Board for having to take up their

22 time with this matter. I do admit full responsibility for

23 the procedural errors I made that night.

24 Once they were pointed out to me that I had done

25 so that night, I did do what I could to rectify the

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1 situation by completing a report by the end of the shift,

2 offering rescue -- medical attention to that person.

3 What I did was wrong, and I admit it. We did

4 have the meeting that -- I'm sorry. I don't remember his

5 name.

6 MR. GALLEGOS: Mr. Jackson.

7 MR. CLARKE: -- Mr. Jackson alluded to. All I

8 can say is I'm sorry. We worked out a tentative agreement

9 with Mr. Ortiz. Part of that agreement was to do eight

10 hours of community service, which I've already completed

11 with the Roadrunner Food Bank. And I would like to

12 present that to Mr. Ortiz now if I could.

13 MR. GALLEGOS: Sure.



14 MR. CLARKE: The other thing I would like to ask  
15 the Board is leniency on the length of the suspension. I  
16 am working still as an officer with the Corrales Police  
17 Department.

18 I've basically been informed that whatever length  
19 of suspension is sustained here today, I will be out of  
20 work for that time period because they don't have an admin  
21 position that they could put me in, such as things occur  
22 like when I was employed with the Albuquerque Police  
23 Department.

24 That would sustain a significant financial hit to  
25 my family. I am pursuing, trying to work out arrangements

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1 at Director Ortiz's direction for the anger management  
2 counseling. I'm getting varying prices. I'm trying to  
3 figure out that cost in addition to trying to budget with  
4 a possible 30 days without pay.

5 Like I said, I do take responsibility for my  
6 actions; but I just ask leniency from the Board on the  
7 length of suspension.

8 MR. GALLEGOS: Any questions from the Board?

9 MR. PEREZ: Where are you working now, sir?

10 MR. CLARKE: Corrales Police Department, sir.

11 MR. PEREZ: Corrales. Thank you.

12 MR. GALLEGOS: Any other questions? Yes, Zack.

13 MR. SHANDLER: Mr. Ortiz, for the record, so  
14 what's your response to his request for leniency and why

15 did you choose 30 days?

16 MR. ORTIZ: There was actually two incidents that  
17 were reported to us. The other one involved allegations  
18 of excessive force. We looked at that one, determined  
19 that the force he utilized was appropriate.

20 He had three other officers, two -- one from APD  
21 and two SID agents that assisted him in restraining an  
22 intoxicated individual that was totally out of control.

23 So we kind of looked at his actions on that one,  
24 and then on this one as well, and felt that the 30-days'  
25 suspension was appropriate.

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1 MR. GALLEGOS: Thank you, Zack. Any other  
2 questions from the Board? I do have a question. Was  
3 there one here?

4 MR. JOJOLA: No, sir.

5 MR. GALLEGOS: I do. In your request for  
6 leniency, do you have anything specific in mind?

7 MR. CLARKE: As short as possible, as the Board  
8 deems fit. I mean, ideally, you know, holding the days in  
9 abeyance would be preferable, if that's possible at all,  
10 all 30 days. I've endeavored to not repeat the mistake  
11 that I made that night on November of '07.

12 MR. GALLEGOS: In saying holding the 30 days in  
13 abeyance, what do you mean by that? Just an outright  
14 suspension or I mean --

15 MR. CLARKE: No. No. The 30 days -- my

16 understanding of doing a 30-days in abeyance, it was  
17 sometimes done when I worked at Albuquerque Police  
18 Department with other officers that a punishment would be  
19 proposed; but they would say as long as you don't do  
20 anything else, we won't impose the actual suspension, sort  
21 of like a deferment.

22 MR. GALLEGOS: Okay. Now, in lieu of a 30-day  
23 suspension, is there anything else you could do?  
24 Additional community service or something else to make  
25 up?

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1 MR. CLARKE: I would do more community service.  
2 I am pursuing the anger management counseling. I just  
3 haven't been able to work out an affordable counselor  
4 yet.

5 MR. ORTIZ: Chairman, Board Members, I'd like to  
6 add something else also. On his perspective of how the  
7 incident occurred was somewhat different than some of the  
8 other Albuquerque officers that witnessed it.

9 I believe there was four other officers who wrote  
10 in their report that it was a takedown, not the way he  
11 explained it as they kind of tripped as they did kind of a  
12 turn. And so I didn't feel that he was totally  
13 forthcoming in the informal hearing.

14 If you read it, it was like he was trying to help  
15 the Marines. But he wasn't forthcoming and I felt that  
16 based on the reports by the other officers.

17 MR. GALLEGOS: Well, we didn't have that  
18 information, so. Is there anything that you'd like to say  
19 about that?

20 MR. CLARKE: Those reports were written without  
21 my knowledge. And to my understanding even one of the  
22 officers that wrote one of those reports wasn't even  
23 present at the incident.

24 It's common policy that when you have multiple  
25 officers involved in an incident that not in an effort to

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1 cover things up, but to make sure the stories are  
2 consistent, that you have them talk with each other and  
3 work out who did what and why and at what point.

4 I was never even informed that there were other  
5 officers writing reports.

6 MR. GALLEGOS: All right. Anything else from the  
7 Board? {No response.} Thank you, sir.

8 MR. CLARKE: Thank you, sir.

9 MR. GALLEGOS: We'll go onto the next item, which  
10 is 29, Robert Cooper.

11 ITEM #29: ROBERT COOPER

12 MR. JACKSON: On May 9th, 2008, Mr. Cooper  
13 falsified an official document by submitting a signed  
14 requalification firearm reporting form indicating a  
15 passing firearm qualifications score of 100 each, for both  
16 the daytime and nighttime backup pistol qualifying course,  
17 when in fact the person receiving these scores never fired

18 his backup weapon on the day indicated on the  
19 requalification reporting form.

20 Mr. Cooper, who is a firearms instructor, was  
21 asked by the officer receiving the firearm course to paper  
22 qualify him without going through the firing course. The  
23 respondent, after receiving the information on the backup  
24 pistol, filed a false qualification report.

25 On January 26th, 2009, Mr. Cooper met with the

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1 director and discussed the allegations. The director  
2 received evidence from Mr. Cooper that he was willing to  
3 accept responsibility for his actions.

4 He said he had inadvertently cut and pasted  
5 scores on a document while preparing score sheets for a  
6 number of qualifications that actually had been performed.  
7 He said that he signed the stack of papers and submitted  
8 them all to the chief of police.

9 He later realized that he had committed an error  
10 and sent the score on the backup weapon -- I mean, after  
11 realizing that he had sent the score on the backup weapon,  
12 he contacted the chief and asked him to shred the  
13 document. This didn't -- the chief advised that the  
14 discussion to shred the document didn't occur until  
15 November.

16 Mr. Cooper apologized for his actions and said it  
17 was his responsibility to make sure that everything was  
18 correct on papers that he was putting over his signature.

19 We have recommended here and the respondent has  
20 agreed to a stipulated order of a suspension of 30-days,  
21 probation of one year, ethics course and a firearms  
22 instructor course that's scheduled for August of this  
23 year.

24 MR. GALLEGOS: Okay. Are there any questions  
25 from the Board? Was there something else, Mr. Jackson?

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1 MR. JACKSON: I would add just one thing. In  
2 discussing this, we found the respondent's story in this  
3 persuasive, that the error here is in the paperwork, is in  
4 the failure to check what he was signing, not in the -- we  
5 don't think that there was anything to the allegation that  
6 there was a request for -- or a performance as paper  
7 qualified.

8 We think that he was -- he should just make sure  
9 that he knows what he's signing.

10 MR. GALLEGOS: Any questions from the Board? So,  
11 Mr. Jackson, I guess am I understanding correctly was more  
12 of a normal mistake?

13 MR. JACKSON: It's a mistake, but it's a mistake  
14 that resulted in a falsification of an official public  
15 document, which is a serious matter. So that's why we've  
16 recommended a suspension in this case.

17 MR. GALLEGOS: Okay. Mr. Holmes, did you have --

18 MR. HOLMES: I was just going to -- I just wanted  
19 to make a point to what he just said. You know, he did

20 sign that report. And even though it might have been  
21 unintentionally, but nonetheless it was signed.

22 And we were very concerned that others might  
23 claim the same thing about signing the reports such as  
24 that one. He had plenty of time to I think make that  
25 correction because it happened over a period of time

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1 before they were sent to the Academy.

2 MR. GALLEGOS: Was anything done with the agency  
3 as far as discipline?

4 MR. HOLMES: The person himself is not in law  
5 enforcement.

6 MR. GALLEGOS: Oh, okay.

7 MR. ORTIZ: He's employed with the Regulation and  
8 Licensing Department.

9 MR. GALLEGOS: Right. Okay. Any other questions  
10 then from the Board? Is Mr. Cooper here and would like to  
11 address the Board? I don't see any response. So we'll go  
12 onto the next item, Bryan Dominguez, Item 30.

13 ITEM #30: BRYAN DOMINGUEZ

14 MR. JACKSON: On December 3rd of 2008,  
15 Mr. Dominguez was involved in a domestic dispute which he  
16 threw his wedding ring at his wife, striking her in the  
17 chest with it. His wife said that this was not the first  
18 time he had thrown things at her. She also said that she  
19 was scared to stay with him.

20 The case was turned over to the New Mexico State

21 Police for further investigation of possible charges of  
22 battery on a household member. On February 4th of this  
23 year, there was an informal hearing held. And the  
24 director received sufficient evidence to believe that he  
25 was -- that the respondent Mr. Dominguez is taking

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1 accountability for the incident.

2 He said that he and his wife have divorced, and  
3 he has moved to Sandoval County where he is now employed  
4 as a deputy sheriff. The charges were dismissed by the  
5 district attorney.

6 He has agreed to a 30-day suspension, a one-year  
7 probation, ethics, and anger management counseling. And I  
8 believe Mr. Dominguez is here.

9 MR. GALLEGOS: Any questions from the Board at  
10 this time? Seeing none, Mr. Dominguez.

11 MR. DOMINGUEZ: Yes. Members of the Board, my  
12 name is Bryan Dominguez. And first of all, I'd like to  
13 apologize for my actions that night. Yes, I do take full  
14 responsibility for my actions reference to the domestic.

15 It was more of my wife is leaving me for the guy  
16 she was having an affair with on and off for the last six  
17 months. She was taking off with my daughter. My family  
18 was lost. So I threw my wedding ring. I didn't intend to  
19 hit her with it. I just tossed it.

20 I knew everything was over. And I didn't see  
21 where it landed. I didn't know that it hit her. I didn't



22 know that it struck her. And I left the residence and  
23 waited, because I knew she was calling the police. So I  
24 waited for them to arrive.

25 I just ask that the Board take into consideration

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1 that 30 days -- now that I'm divorced, I have actually two  
2 kids I have to pay child support for in lieu of about  
3 \$800, of bills that I have to pay. That 30-day suspension  
4 is going to be -- without pay is going to be rough,  
5 especially for the child support that I'm going to have to  
6 pay, to figure out ways to come up with that type of  
7 money.

8 MR. GALLEGOS: Is that it, sir?

9 MR. DOMINGUEZ: Yes, sir.

10 MR. GALLEGOS: Thank you. Any questions from the  
11 Board?

12 MR. COON: Is this your first -- is this the  
13 first time this ever happened? Had you all been  
14 fighting --

15 MR. DOMINGUEZ: I mean, we've had arguments  
16 before, but this was the first time that --

17 MR. COON: Have you ever smacked her before?  
18 Ever hit her?

19 MR. DOMINGUEZ: Never.

20 MR. COON: You threw a ring at her and it hit her  
21 in a chest. From what distance?

22 MR. DOMINGUEZ: From about me to you.

23 MR. COON: Was it an overhand throw? A curve

24 ball?

25 MR. DOMINGUEZ: I just tossed it. Just a toss.

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1 MR. COON: Okay.

2 MR. GALLEGOS: Any other questions? {No

3 response.} Was there any injury? Was there any bruising

4 or any welts or any --

5 MR. DOMINGUEZ: No photographs were taken. No

6 bruising.

7 MR. GALLEGOS: What part of her body did she say

8 the ring struck?

9 MR. DOMINGUEZ: Apparently it struck her in the

10 chest, according to the report.

11 MR. HOLMES: If I might mention, the wife did

12 write a letter in his favor that he -- they remain good

13 friends.

14 MR. DOMINGUEZ: It was my first ex-wife who wrote

15 the letter. It was the other wife, Mr. Holmes.

16 MR. HOLMES: Oh, all right. Sorry.

17 MR. ORTIZ: And his wife during this incident,

18 she's also a police officer.

19 MR. GALLEGOS: Any other questions? Thank you,

20 sir. We'll go onto the next item, which is Item 31,

21 Patrick Duran.

22 ITEM #31: PATRICK DURAN

23 MR. JACKSON: On August 24th, 2008, sufficient

24 evidence exists to find that Mr. Duran drove his personal  
25 vehicle ten miles over the speed limit, was unable to

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1 maintain his lane. He was stopped. The stopping officer  
2 made contact with Mr. Duran, who displayed bloodshot,  
3 watery eyes, slurred speech, and an odor of alcohol.

4 He denied drinking. And when the officer later  
5 questioned a female passenger, she informed him that they  
6 had both been drinking at a friend's house on the other  
7 side of the river.

8 Mr. Duran failed the field sobriety tests and was  
9 arrested for driving while under the influence of  
10 intoxicating liquor or drugs. The police report indicates  
11 that Mr. Duran was advised of the New Mexico Complied  
12 Consent Law and he refused to submit a breath sample on  
13 two separate occasions.

14 On November 25th of 2008, he met with the  
15 director and discussed the August 24th incident and  
16 requested to have his attorney present. And this  
17 terminated the hearing. And -- but the director later  
18 communicated with the attorney.

19 On January 14th, 2009, the attorney contacted the  
20 director and advised that Mr. Duran is willing to accept a  
21 six-month suspension, one-year probation, ethics course,  
22 alcohol screening and assessment, and whatever course of  
23 action is recommended as a result of the assessment, and  
24 eight hours of community service.

25 MR. GALLEGOS: Any questions from the Board?

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1 Yes, Chief Schultz.

2 MR. SCHULTZ: Mr. Chairman, it says this was a  
3 subsequent DWI arrest. Was there a prior one?

4 MR. JACKSON: Let me double check that.

5 MR. ORTIZ: Yes. Yes.

6 MR. GALLEGOS: Do you know how many or?

7 MR. ORTIZ: There's been two prior arrests but no  
8 convictions. And no conviction on this one as well. And  
9 my understanding the reason this one was not a conviction,  
10 the officer -- the arresting officer didn't fulfill the  
11 discovery requirements. It did go to trial.

12 They gave -- the judge gave the State an  
13 opportunity to refile it. But I think the ten days to  
14 refile it, that was not done, so it's being considered a  
15 dismissal.

16 And maybe Mr. Duran is present and he can maybe  
17 clarify that, but I believe that's correct.

18 MR. GALLEGOS: Chief Schultz, did you have any  
19 other?

20 MR. SCHULTZ: That was it, sir.

21 MR. GALLEGOS: I have just a follow-up on that,  
22 if you have any information; if not, we'll ask Mr. Duran.  
23 Was there a breath test? And if so, what the result was?

24 MR. ORTIZ: On the two previous ones?

25 MR. GALLEGOS: On this one.

1 MR. ORTIZ: This one he refused the breath test.

2 MR. JACKSON: He refused.

3 MR. GALLEGOS: Mr. Duran.

4 MR. DURAN: Hello. I'm Patrick Duran. First of

5 all, I want to say I'm sorry, sorry the situation

6 happened. I thank you guys for the opportunity for me

7 speaking today. I currently have been out of the field

8 since August 24th, 2008.

9 I'm looking forward to getting this situation

10 handled and moving forward in my life. And, again, I am

11 sorry for this situation that occurred.

12 MR. GALLEGOS: Any questions? If you'll just

13 hang on for a little while. Yes, Mr. Perez.

14 MR. PEREZ: You were with the State Police for 81

15 days?

16 MR. DURAN: Yes, sir.

17 MR. PEREZ: Why did you leave that?

18 MR. DURAN: That's because I had a DWI when I got

19 out of the Academy.

20 MR. PEREZ: After you got out --

21 MR. DURAN: Yes, sir.

22 MR. PEREZ: -- or when you were in the Academy.

23 MR. DURAN: 2001?

24 MR. PEREZ: You had DWI's after you got out of

25 the Academy or when you were in the Academy?

1 MR. DURAN: After -- after the fact, sir.

2 MR. PEREZ: Then you were with Socorro PD for 347  
3 days. Why did you leave there?

4 MR. DURAN: Because I -- it was too far to  
5 commute in my personal vehicle. I wasn't allowed to get a  
6 take-home vehicle. And at that time that's when the price  
7 of gas was pretty far to be going back and forth from --

8 MR. PEREZ: There was no administrative inquiry  
9 when you left?

10 MR. DURAN: No, sir. Left on good terms.

11 MR. PEREZ: And are you with Valencia County now?

12 MR. DURAN: Yes, sir.

13 MR. GALLEGOS: Mr. Perez, do you have anything?

14 MR. PEREZ: That's it. Thank you.

15 MR. COON: Do you currently have a driver's  
16 license?

17 MR. DURAN: Yes, sir.

18 MR. COON: You refused the test and you --

19 MR. DURAN: Yes, sir.

20 MR. COON: Did they take your driver's license?

21 MR. DURAN: We had an MVD hearing, and it's now  
22 in Judge Pope's hands. I have not received any hearing  
23 yet. My attorney had not informed me of anything yet.

24 MR. COON: An MVD hearing?

25 MR. DURAN: Yes, sir.

1 MR. COON: Judge Pope wouldn't handle that.

2 MR. DURAN: It's district court.

3 MR. COON: Not on an MVD hearing. It would be  
4 under --

5 MR. ORTIZ: It's on an appeal.

6 MR. COON: Oh, on an appeal. Okay.

7 MR. DURAN: Yes, sir. We didn't have the  
8 discovery when we went --

9 MR. COON: Okay. Okay.

10 MR. GALLEGOS: Any other questions from the  
11 Board?

12 MR. JOJOLA: Was there any action taken by the  
13 city or by the county?

14 MR. DURAN: As far as now, sir, I'm still -- I  
15 was on administrative leave for I believe three weeks.  
16 And then I was assigned to fleet maintenance. I did that  
17 for a couple months. And now I believe this is my third  
18 week of doing court security. I'm still not on the field.

19 MR. JOJOLA: Are you able to drive a motor  
20 vehicle?

21 MR. DURAN: Yes, sir. I do have a paper from  
22 district court.

23 MR. JOJOLA: Okay.

24 MR. PEREZ: Are you married, sir?

25 MR. DURAN: No. I -- I've been with her three

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1 years, and we haven't made that decision yet.

2 MR. GALLEGOS: Any other questions from the

3 Board? Seeing none, thank you, sir. Let's go onto the  
4 next item, which is Item 32.

5 ITEM #32: DAVID HILL

6 MR. JACKSON: On July 12th, 2008, David Hill was  
7 arrested in Las Cruces, charged with aggravated driving  
8 under the influence of intoxicating liquor or drug and  
9 negligent use of a weapon. And he was also issued a  
10 citation for a traffic violation for parking on the  
11 sidewalk.

12 MR. ORTIZ: Excuse me for interrupting. But  
13 Mr. Garcia from Valencia County Sheriff's Department  
14 wanted to say --

15 MR. GALLEGOS: Wanted to speak. I'm sorry.

16 MR. ORTIZ: I apologize.

17 MR. GALLEGOS: I didn't see a hand or anything.

18 MR. ORTIZ: Sorry for interrupting.

19 ITEM #31: PATRICK DURAN (RESUMED)

20 MR. GARCIA: Richard Garcia, administrator for  
21 Valencia County, representing the sheriff, Rene Rivera.

22 MR. GALLEGOS: Just for the record we'll make it  
23 clear that you're speaking on behalf of --

24 MR. GARCIA: Rene Rivera, the sheriff of Valencia  
25 County.

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1 MR. GALLEGOS: Right. And you're speaking on  
2 what subject?

3 MR. GARCIA: On behalf of Patrick --



4 MR. GALLEGOS: On behalf of Patrick Duran. Okay.

5 So we're clear.

6 MR. GARCIA: The reason I'm standing here is  
7 because I actually want to go ahead and say that Patrick  
8 Duran has been a very, very good officer to us, has really  
9 not in any other form disgraced us in any fashion. This  
10 incident that happened, I -- he has been counseling with  
11 the sheriff and ourselves.

12 And he has been -- actually not been out in the  
13 field, like he -- like he said. He has obeyed all the  
14 rules that we have set up for him. And he hasn't refused  
15 anything from us to do. He has been a very good gentleman  
16 and a good officer with us.

17 And I feel that there should be a little bit of  
18 leniency on six months for the simple reason is because we  
19 have also punished him as well. And I believe that maybe  
20 he shouldn't be punished twice.

21 MR. GALLEGOS: Are there any questions for the  
22 sheriff?

23 MR. COON: What punishment did you all give him?

24 MR. GARCIA: We gave him -- we suspended him for  
25 three weeks. And then we actually took him off of the

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1 field. We put him in a civilian type job for a certain  
2 period of time, and which he as a matter of fact picked up  
3 the fleet maintenance for the department himself.

4 And he also -- we also requested him to work in

5 court security as well. And he didn't even refuse none of  
6 that stuff and he did very, very well. And he's still  
7 doing very well. And he's willing to admit to the  
8 situation that he has, and he's very sorry for it.

9 MR. GALLEGOS: Any other questions? I just have  
10 one, Sheriff. Is there anything that would lead you to  
11 believe that he would do something like this again?

12 MR. GARCIA: I don't believe so. I think he has  
13 learned his lesson. The career that he has for law  
14 enforcement, he really believes in law enforcement. And  
15 he shows it when he works out in the public himself. He's  
16 very respectful to individuals. And I've seen it and  
17 people have talked about it to us.

18 MR. GALLEGOS: Thank you. Anything else? All  
19 right. Thank you, sir. Now we'll try and get back on  
20 course here. We went to Item 32, I believe, David Hill.

21 ITEM #32: DAVID HILL (RESUMED)

22 MR. JACKSON: Once again, Mr. Hill was arrested  
23 in Las Cruces, charged with DUI, negligent use of a  
24 weapon; and he was also issued a citation for parking on  
25 the sidewalk.

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1 He was off duty visiting relatives in Cruces and  
2 while there he parked his truck on the sidewalk. Border  
3 patrol agents in the area saw him in the car. They  
4 approached the vehicle to investigate and offer assistance  
5 if needed. When they approached the vehicle, they noticed

6 several weapons inside the vehicle, and they detected a  
7 strong smell of alcohol.

8 They informed the Las Cruces Police. And shortly  
9 thereafter the police arrived, conducted their own  
10 investigation, and arrested the respondent, charging him  
11 with the previously mentioned offenses.

12 When questioned, he denied consuming alcohol.  
13 However, he failed a field sobriety test. His BAC was  
14 later shown to be between .16 and .17. When he was patted  
15 down, he had a loaded pistol on his right side. There was  
16 a 12 gauge and a .22 also found in his possession.

17 He told the investigating officers that he had  
18 the weapons because he had been hunting rabbits in the  
19 area where he was arrested. There was an informal hearing  
20 held on January 14th of this year -- I'm sorry, he was  
21 served with an NCA on January 14th of this year.

22 Through his attorney, he did not proceed with the  
23 hearing, but he agreed to a stipulated order to assume and  
24 accept responsibility for his conduct. The stipulated  
25 order is 90-day suspension, one-year probation, alcohol

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1 screening and assessment, and, again, whatever course is  
2 necessary pending the assessment, and an ethics course and  
3 eight hours of community service.

4 MR. GALLEGOS: Any questions from the Board?

5 MR. SCHULTZ: I'd like to ask Mr. Ortiz. This  
6 particular case was never a face-to-face with you and/or

7 the officer?

8 MR. ORTIZ: That's correct.

9 MR. SCHULTZ: And that gives me a level of  
10 concern. This is a case where the officer's not taking  
11 any responsibility at all for his actions.

12 MR. ORTIZ: I never spoke with him, just with his  
13 attorney. Yes, sir. But just going based off the Board's  
14 recommendations on the first-time DWI, that's what I  
15 advised the attorney what my recommendation would be.

16 MR. SCHULTZ: The reason why I want to bring this  
17 up for discussion purposes, my employees -- let me know if  
18 I'm getting into a problem here. But in this particular  
19 case the officer refused to participate in the internal  
20 affairs investigation on the advice of his attorney,  
21 refused to participate in the Lautenberg hearing on the  
22 advice of his attorney, and now has refused to participate  
23 in this hearing on the advice of his attorney.

24 I think if we allow this to proceed as such we're  
25 creating a very bad precedent because the officer never

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1 once during this disciplinary process has stood up and  
2 told his side of the story. I think it puts us down a  
3 very dangerous path.

4 MR. JACKSON: If I might respond to that a little  
5 bit. The informal hearing process is primarily a  
6 fact-finding hearing, analogous to a Lautenberg in many  
7 respects. But it is for the respondent's benefit.

8 In this case the respondent agreed to what is  
9 standard penalty for this offense given by this Board  
10 without the need for a second hearing. So I don't know  
11 that I would cast it as a refusal to participate, but  
12 rather as an acknowledgment of error and a choice not to  
13 waste tax payer resources.

14 MR. GALLEGOS: Yes, Mr. Perez.

15 MR. PEREZ: People have a right to an attorney  
16 when they are facing criminal charges. What requirement  
17 is there that the director have to deal with an attorney?  
18 Can we not compel the officer to answer questions before  
19 this Board or to the director himself and not allow them  
20 to go through a mouthpiece, barring any evidence of  
21 criminal activity?

22 If it's a possibility of a criminal act, I can  
23 see that they have a right to an attorney. Why should  
24 they -- it's like if you're talking to your child and the  
25 kid says, "I want an attorney. Talk to my attorney"?

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1 MR. GALLEGOS: Is that directed to the director  
2 or --

3 MR. PEREZ: Yes.

4 MR. ORTIZ: I'll refer to an attorney. I'll ask  
5 for my attorney to speak.

6 MR. GALLEGOS: Well, and I think Zack can  
7 probably help me out on this one, but when you have an  
8 employer-employee relationship also there are certain

9 rights that kick in also. Not just on the criminal side  
10 you have a right to an attorney, but also as an employee  
11 do you have a right to an attorney.

12 And I believe also having a license or something  
13 else that would be considered a privilege, whenever that  
14 is implicated, that it can either be taken away or  
15 suspended, then it's considered to be a right that's  
16 recognized by law that has to go through due process that  
17 also entitles you to an attorney.

18 So am I correct on that, Zack?

19 MR. ORTIZ: Just like for motor vehicle hearings,  
20 the majority of them now get attorneys.

21 MR. PEREZ: This is New Mexico state law?

22 MR. GALLEGOS: I think it's federal law. I think  
23 it's federal labor law. It's probably FLSA.

24 MR. PEREZ: I don't think that exists in the FBI.  
25 If you get called in, you've got to answer. Unless you

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1 claim that it is criminal, then you can invoke the -- for  
2 the rights as a person accused of a criminal act. And you  
3 can refuse to speak. But otherwise you are compelled to  
4 speak in the FBI.

5 MR. GALLEGOS: I can tell you that even in my  
6 position as a person who hires employees both at-will and  
7 also those that are protected, even the at-will people  
8 that I have, I have been told by my legal counsel that  
9 they do have a right to an attorney. They --

10 MR. PEREZ: And that's New Mexico law?

11 MR. GALLEGOS: Yes.

12 MR. PEREZ: Is that your understanding, Zack?

13 MR. SHANDLER: Mr. Chairman, I would have to do  
14 further research to give you a conclusive review of all  
15 this. But I think it's an area probably that has been  
16 discussed as much as it should be today.

17 MR. PEREZ: So if they call for an attorney, we  
18 have to deal with the attorney? Are you saying you don't  
19 know?

20 MR. SHANDLER: I just -- I don't think it's a  
21 very fruitful discussion for today. If you want a  
22 conclusive answer, I would have to do further research.

23 MR. PEREZ: Well, then can we continue with this  
24 person then? Or do we have to -- are we going to  
25 jeopardize him by not knowing whether we --

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1 MR. JACKSON: He's already agreed to the  
2 stipulated order through his attorney. And it's for,  
3 again, the standard punishment that the Board -- or the  
4 standard corrective action, rather, that the Board would  
5 meet out for a DWI.

6 It's just that we didn't have to go through the  
7 process of a hearing.

8 MR. ORTIZ: And he has signed the agreement, and  
9 it's been notarized.

10 MR. PEREZ: Thank you.

11 MR. GALLEGOS: Any other questions? So I guess  
12 I'm assuming it's probably true that he's not here, David  
13 Hill. Is David Hill here to speak to the Board? No.

14 Before I get myself in trouble, is anybody here  
15 to speak on behalf of Mr. Hill? All right. Seeing no  
16 response, we'll move onto the next item, 33, Phillip  
17 Holmes.

18 ITEM #33: PHILLIP HOLMES

19 MR. JACKSON: On November 8th, 2008, Mr. Holmes  
20 and his wife had a physical altercation. Each gave a  
21 different version of events to police. Both claim that  
22 they had been having marital problems. They had decided  
23 to go away for a weekend to try and resolve their marital  
24 difficulties.

25 They went to a rental home. And after drinking

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1 all day, they went to a bar where they continued to  
2 drink. According to Mr. Holmes, after they went back to  
3 the rental, his wife accused him of cheating on her.

4 She then began yelling and hitting him, knocking  
5 his glasses off. He defended himself by pushing her  
6 away. The wife, however, told the investigating officers  
7 that Mr. Holmes had pushed her to the floor and attempted  
8 to choke her by strangling her with his hand around her  
9 throat, causing her to black out momentarily, to urinate  
10 in her pants.

11 Visible red marks around Mr. Holmes' wife's neck



12 and a purple bruise on her left upper arm were observed  
13 and photographed by the investigating officers. The wife  
14 claims that during a prior domestic incident, about three  
15 weeks prior to this incident, they both had been drinking  
16 and arguing. When he attempted to leave, she tried to  
17 stop him because she thought that he was too drunk to  
18 leave.

19 She claimed that she fell down, and he ran over  
20 her hand, breaking it. When she was treated for the  
21 broken hand, she lied by claiming that her injury was the  
22 result of falling down some stairs. She believes that  
23 Mr. Holmes at that time was not aware that he had run over  
24 her hand. And he had left the area.

25 On December 1st of 2008, Mr. Holmes resigned his

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1 position with the Taos PD. On January 21st of this year,  
2 he met with the director, along with the wife. They  
3 discussed the incident on November 8th. And the director  
4 obtained sufficient information to recommend settlement.

5 The director believes that Mr. Holmes is taking  
6 accountability for his actions and the incident.

7 Mr. Holmes said that the report was accurate and that he  
8 was ashamed of his behavior so he resigned from the Taos  
9 PD.

10 He has agreed to speak to the Academy class. And  
11 the director is, therefore, changing the recommendation  
12 from a 60- to a 45-day suspension to which Mr. Holmes has

13 agreed.

14 So the entire stipulated agreement would be for a  
15 45-day suspension, one-year probation, ethics course,  
16 alcohol screening and assessment, anger management  
17 counseling, and to, of course, address the cadet class.

18 MR. GALLEGOS: Okay. Any questions from the  
19 Board? Seeing none, Mr. Holmes, would you like to address  
20 the Board?

21 MR. PHILLIP HOLMES: Yes, I would. First of  
22 all -- Phillip Holmes -- the first thing is that there's  
23 absolutely no excuse for any type of action like this.  
24 And I take total and full responsibility for it. And, of  
25 course, being the type of person that I am, I just have to

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1 stand up and take it.

2 The next thing that I would like to bring up is  
3 that I would ask for consideration from the Board. I  
4 resigned from the police department because I felt it was  
5 the right thing to do at the time. I was in the wrong.  
6 That's all there was to it.

7 But at that time, after resigning, this has  
8 caused a lot of financial hardship for not only my wife  
9 and child, but for myself as well. We have been -- I just  
10 became gainfully employed with the post office, just as a  
11 temporary employee.

12 But I am a candidate now for the Santa Fe Police  
13 Department, also for the Espanola Police Department. I

14 have been out of law enforcement for over the 45 days.  
15 And with my record -- and I know that Director Ortiz does  
16 receive many recommendations from members of the law  
17 enforcement community, members of the Taos community.

18 My reputation there even with this incident is  
19 still pretty much impeccable. And I'm asking for the  
20 Board's leniency so that I could go back into law  
21 enforcement, get the career back on track.

22 One of the steps that I have taken so far, as a  
23 matter of fact as soon as this incident had occurred, on  
24 my own without any prompting or order from anybody else,  
25 I've already been going through the anger management

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1 counseling, already been going through the alcohol  
2 assessments, things of that nature. And I've already been  
3 going through just some of the personal marriage  
4 counseling along with my wife.

5 Taking all these things into consideration, I  
6 just ask for the Board's leniency so that we can get  
7 things back on track and so that I can also go back and  
8 get back in law enforcement and serving the community,  
9 which is all I've ever wanted to do.

10 The next thing along with that is that I'm  
11 looking at with -- especially with the wife and everything  
12 else, is that going through and instead of just doing one  
13 class -- I've actually mentioned this to Director Ortiz  
14 and I'm not sure if other people have mentioned it also --

15 that I would be more than willing volunteer on my own time  
16 to become a permanent instructor for the Academy to speak  
17 on the ethics issues.

18 I do have my degree in law enforcement, and I am  
19 an instructor in various other fields in law enforcement  
20 and also a senior technician for the National Highway  
21 Traffic Administration.

22 So I do have the experience and also the training  
23 to be able to do that with the Academy. And that's  
24 something that we could arrange. And, of course, I could  
25 foot that on my own. Whether I was hired back as a police

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1 officer or not, I would still be willing to do that, so.

2 MR. PEREZ: You were not charged by the Taos  
3 Police Department with assault and battery or attempted  
4 murder when you choked your wife until she passed out?

5 MR. PHILLIP HOLMES: No, I was not. A report was  
6 filed with the district attorney's office. But after the  
7 incident, my wife actually refused to prosecute. If you  
8 would go back and look at some of the statements and  
9 everything, a lot of the problems that we had been having  
10 have both been focused around alcohol.

11 Not that it's an excuse or anything, but that's  
12 what everything had been focusing around. We both had  
13 been drinking a lot. We both had been doing a lot.  
14 Neither one of us have touched alcohol since that  
15 incident. And like I said, both of us are going to

16 counseling.

17 And neither one of us have any problems even  
18 stemming from this with everything continuing with the  
19 counseling and all of that.

20 MR. PEREZ: You did choke her until she passed  
21 out?

22 MR. PHILLIP HOLMES: Yes, I did.

23 MR. COON: Did you know you ran over her hand?

24 MR. PHILLIP HOLMES: No. No, I did not. Not  
25 until --

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1 MR. COON: What did you run over it with?

2 MR. PHILLIP HOLMES: Pardon?

3 MR. COON: What did you run over it with?

4 MR. PHILLIP HOLMES: It was my truck. And it  
5 wasn't that it actually got ran over. What happened is  
6 that when I was pulling out, she was trying to grab onto  
7 the truck. This is what she told me afterward, because I  
8 didn't know about the incident. I had already left.

9 What happened is that she had fallen down, and  
10 the tire had come across. Now, actually, I wasn't there,  
11 so I can't answer whether it was actually run over or  
12 not. What she told me and from what the doctor said, it  
13 couldn't have been totally run over because of the bone  
14 structure and everything, it would have shattered it.

15 I have a two-ton truck. It was that the way she  
16 fell and the way it hit, the motion of the vehicle

17 combined to do that. With that, again, no excuse for  
18 those actions. Nothing that's -- I mean, just.

19 MR. SHANDLER: Mr. Ortiz, just to build the  
20 record. So this is the second time today that you've  
21 allowed mitigation in these suspensions if they talk to  
22 the class. It sounds like a new policy. And you  
23 introduced it I think a meeting or two ago.

24 Tell us more about how it's evolving, who you  
25 select as good candidates or not good candidates.

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1 MR. ORTIZ: Somebody that comes in and has taken  
2 accountability for their actions. They are sincere about  
3 it. Yesterday in the satellite meeting, Dr. Fons -- I had  
4 one down there in Hobbs that worked out fine. He did  
5 great. He said the students really learned quite a bit  
6 about their ethics and the trouble law enforcement  
7 officers can get into.

8 We had it here at the Academy where three game  
9 and fish officers, an APD officer, and a Torrance County  
10 deputy came and spoke to the class. And, again, it was  
11 successful. It was great. All the evaluations were  
12 highly recommending that we continue with this program.

13 Between Mr. Jackson and Mr. Holmes and myself, we  
14 discuss this; and we're only going to pick candidates that  
15 we feel are going to go into the Academy class taking full  
16 responsibility for their actions and educate them about  
17 the misconduct.

18 I'm not going to recommend somebody that's going  
19 to go in there and blame the system and say they did  
20 nothing wrong, blaming it on other people. Mr. Holmes  
21 here took full accountability for his actions. He was  
22 remorseful. And we felt that he would be a good candidate  
23 that would educate them.

24 And that is my goal is to educate the officers  
25 out to reduce the misconduct. I know a lot of people

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1 think that I'm here just to see how many officers I can  
2 suspend or revoke, but that is not my intention. My  
3 intention is to prevent it and reduce it. And I think  
4 this program is a good way to do that.

5 MR. SHANDLER: Just to follow up, so what do you  
6 anticipate his story is going to be to the cadets? I  
7 mean, it's documented that it was, you know, allegedly a  
8 violent incident involving alcohol.

9 So what is he going to educate the cadets about?  
10 Can you give us a sense of what your expectations are,  
11 Mr. Ortiz.

12 MR. ORTIZ: Well, for one, he lost his job. He's  
13 been unemployed. He's facing actions by the Board. And  
14 so there's -- he can educate them that there's some severe  
15 consequences for your actions. I think they would learn  
16 quite a bit from that.

17 MR. PHILLIP HOLMES: Can I expound on that a  
18 little bit?

19 MR. ORTIZ: Yes.

20 MR. PHILLIP HOLMES: The first thing that I would  
21 do when you're talking about as far as educating the  
22 students, one, I want to prevent people from sitting up  
23 here and going through the same thing I went through. I  
24 have had the kind of background to sit up here, and I did  
25 not take actions before to correct it. Two --

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1 MR. GALLEGOS: Would you address the Board?

2 MR. PHILLIP HOLMES: Oh, I'm sorry.

3 Mr. GALLEGOS: That's all right.

4 MR. PHILLIP HOLMES: I did not take actions  
5 before to correct it. Things have been coming to a head  
6 for a very, very long time, all the way since childhood.  
7 And I'm not going to go into everything that come into it,  
8 but there's some very, very bad things that happened with  
9 that. So what I want to do, one, is to prevent.

10 Two, I'm going to sit up here and reiterate to  
11 them that not only are they causing themselves trouble,  
12 but they are causing their departments trouble. You give  
13 a black eye to law enforcement as a whole when you do  
14 something like this. And then your family suffers behind  
15 it.

16 My wife has set up here and stuck by me through  
17 this whole thing even though we've had all these issues.  
18 She's even said that she has had some of the problems with  
19 the alcohol, you know, with arguing and all of that.



20 But the simple fact is is that I screwed up and I  
21 did this, and I should not have been putting myself in  
22 that situation in the first place, not only as a law  
23 enforcement but just as a man.

24 And this is one of the things that I'm totally  
25 against anyway. I was one of our biggest people that was

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1 against DUI's and also against domestic violence and also  
2 about any type of family violence in my county and in my  
3 department.

4 And this is what I want to impart to not only the  
5 other cadets and other law enforcement people and agents,  
6 but to make sure that this is -- also this is an assist  
7 for me because this helps me keep going and keep going  
8 with my counseling and keep going to make sure that I'm  
9 not going to be doing this again and making sure that  
10 other people will be able to avoid when they see the  
11 signs.

12 And to know that you are going to be held  
13 accountable. If something happens like this you have to  
14 deal with it. You've got to stand up, be a man, and say,  
15 "Hey, I did this. It's my issue. That's where it's at."

16 MR. ORTIZ: Mr. Chairman, Board Members, one of  
17 the things we look for very that's important to us in the  
18 informal hearings is honesty. And we felt that Mr. Holmes  
19 was very honest with us. And I think it would be a  
20 benefit for others to hear his story.

21 MR. GALLEGOS: Anything else from the Board?

22 MR. JOJOLA: Mr. Holmes, what was the reason for  
23 you to resign?

24 MR. PHILLIP HOLMES: I resigned because I felt it  
25 was the right thing to do at the time. As a matter of

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1 fact, it's actually on the record. I'm actually  
2 rehireable with the Taos Police Department. And there has  
3 been personal endorsements from my chief and from other  
4 members of the law enforcement there in the Taos area.

5 And on top of all that, it was also said that if  
6 anything was to happen where, you know, I was to get back  
7 into law enforcement, that they would be giving me  
8 recommendations. I'm also listed as rehireable officially  
9 from the personnel side by the Town of Taos.

10 MR. JOJOLA: So no other issues were coming up  
11 between the department, the chief about this incident?  
12 Anything else?

13 MR. HOLMES: No. Dumb, drunk, and stupid.  
14 That's what it comes down to.

15 MR. ORTIZ: There is a representative from the  
16 Taos Police Department. I don't know if he would like to  
17 speak.

18 MR. GALLEGOS: As soon as we're done with  
19 Mr. Holmes, that would be fine. Does the Board have any  
20 other questions of Mr. Holmes?

21 MR. PEREZ: You resigned from Taos Pueblo PD.

22 Why was that?

23 MR. PHILLIP HOLMES: Because I was able to  
24 continue as a school resource officer, which is kind of my  
25 first love. I was -- the Town was looking for a school

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1 resource officer. Taos Pueblo PD budget was not allowing  
2 them to continue the school resource officer program. And  
3 I was able to continue that, as well as doing the things  
4 with the -- as being a senior car seat technician, going  
5 into getting my instructor certificates, things of that  
6 nature.

7 MR. PEREZ: Where are you working now?

8 MR. PHILLIP HOLMES: Right now I'm a temporary  
9 employee for the post office.

10 MR. PEREZ: With whom?

11 MR. PHILLIP HOLMES: The post office, the United  
12 States Post Office.

13 MR. PEREZ: You said that. Thank you.

14 MR. PHILLIP HOLMES: And they, again, the postal  
15 inspectors have done their investigations and everything.  
16 Of course, they knew about the incident. And they have,  
17 of course, cleared me for employment or I wouldn't be  
18 working there.

19 On top of that, like I said, with the other  
20 departments they also are fully aware of this incident,  
21 fully aware of what's going on and pending the Board and  
22 -- which is, again, why I asked for the leniency because

23 they are actually looking at me being a candidate for  
24 hire, depending on what the Board's decision is and what  
25 can be done, if anything, with the suspension.

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1 MR. GALLEGOS: Anything else for the Board? Yes,  
2 sir.

3 MR. HOLMES: I think that, Mr. Chairman, one of  
4 the reasons also that we thought he was a good candidate  
5 because as you see there's a great relationship between  
6 domestic violence and alcohol. And this is one of the  
7 things that needs to be emphasized to recruits, that  
8 alcohol and law enforcement don't mix.

9 And this is what led up to the problem. Here's a  
10 guy with good education, probably came up -- the  
11 department, came up. According to what he tells me of his  
12 background, I know he went through a lot growing up. And  
13 he worked his way up to become a law enforcement officer  
14 because it was something he always wanted to do.

15 And I think he would be a great asset for the  
16 Academy to tell the recruits how he came about that he got  
17 into trouble. And it was alcohol, like he just  
18 mentioned. That was one of the main factors.

19 MR. GALLEGOS: Okay. Is there anything else?  
20 Thank you, Mr. Holmes. Is there someone to speak on your  
21 behalf or about the issue?

22 MR. WEAVER: I actually showed up just to support  
23 Mr. Holmes, unless there's any questions I can answer.

24 MR. GALLEGOS: Does anyone on the Board have any  
25 questions for Officer Weaver?

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1 MR. JOJOLA: Just one for clarification. It says  
2 Taos Pueblo Police Department. And then there's Taos  
3 Police Department. Is there two separate law enforcement  
4 agencies? That's tribal law enforcement and then  
5 there's the Taos Police Department.

6 MR. WEAVER: Good afternoon. David Weaver, Taos  
7 Police Department. I actually came up just to be next to  
8 Mr. Holmes. I really hadn't intended to address the  
9 Board. But since I'm here, as you can tell by the way he  
10 spoke to you, my experience with Mr. Holmes is that he  
11 will stand on his own two feet. He will accept  
12 responsibility.

13 And if he tells you he's going to do something,  
14 he will do it. He has a number of issues to work through,  
15 obviously. And from the time that this happened, I have  
16 seen him just really confront this issue and go forward  
17 with it.

18 So I have absolutely no doubt that when  
19 Mr. Holmes tells you he will do something, he will do it.  
20 So anything I can answer for the Board?

21 MR. GALLEGOS: Any questions? {No response.}  
22 Thank you, Officer. Let's go to the next item, 34,  
23 Patrick Martinez.

24 ITEM #34: PATRICK MARTINEZ

1 County Sheriff's Office initiated an investigation  
2 targeting Mr. Martinez as a suspect for falsifying payroll  
3 time sheets, both by submission of false overtime claims  
4 and by submission of untrue time sheets to payroll.

5 Coworkers noticed the falsification of overtime  
6 worksheets by the respondent Mr. Martinez. And they  
7 reported the matter through the chain of command,  
8 triggering an investigation.

9 The investigation revealed numerous discrepancies  
10 involving overtime that could not be satisfactorily  
11 explained by Mr. Martinez. The money paid to Mr. Martinez  
12 for overtime was time and a half instead of straight  
13 time.

14 He submitted seven overtime worksheets from March  
15 through September of 2008, so a six-month period. Was  
16 paid \$990.88 for time and a half, which should have been  
17 straight time pay only.

18 During the same time period, the same six-month  
19 time period, Mr. Martinez claimed overtime on other  
20 assignments that he did not work and was paid a total of  
21 \$739.01. The discrepancies noted included overtime taken  
22 on periods when he had called in sick, rendered him  
23 ineligible for overtime pay. One has to work more than  
24 86 hours before accumulating time and half.

25 On March 5th of this year, there was an informal

1 hearing with the respondent, his attorney, and the  
2 director. And he accepted responsibility for his actions.  
3 He apologized. He was remorseful. And the director  
4 obtained sufficient information to recommend the  
5 stipulated agreement, which Mr. Martinez has agreed.

6 And that is for a 90-day suspension, a one-year  
7 probation, an ethics course, and 16 hours of community  
8 service.

9 MR. GALLEGOS: Any questions. Yes, Chief  
10 Schultz.

11 MR. SCHULTZ: The status of the criminal case and  
12 has restitution been paid.

13 MR. JACKSON: As of the hearing -- and this may  
14 have changed -- I believe the criminal case -- I don't  
15 know what happened with the criminal case. I know that  
16 the restitution was not being permitted pending resolution  
17 of the criminal case.

18 Director Ortiz may have further comment on the  
19 criminal --

20 MR. ORTIZ: Correct. That's my recollection as  
21 well, is that they were trying to work out some  
22 restitution.

23 MR. JACKSON: Yeah.

24 MR. GALLEGOS: Any other questions from the  
25 Board? No. Is Mr. Martinez here today?

1 MR. ORTIZ: His attorney was here this morning,  
2 but I do not see his attorney here now.

3 MR. GALLEGOS: For the record, no one's here, so  
4 go onto the next item, No. 35, Shawn Montoya.

5 ITEM #35: SHAWN MONTOYA

6 MR. JACKSON: On April 28th of 2008, the State  
7 Police initiated an investigation involving fraud and  
8 embezzlement allegedly committed by Mr. Montoya by  
9 inappropriately using a department gas card and by  
10 getting -- claiming and getting paid for overtime not  
11 worked.

12 The misuse of the credit card involves charges of  
13 gasoline credit to Mr. Montoya's assigned police unit,  
14 which is a Crown Victoria, has the capacity of 19 gallons.  
15 However, between October of 2007 and February of 2008,  
16 they are 20 gas receipts showing purchases in excess of 19  
17 gallons on the card, indicating that the fuel was being  
18 put into some sort of container.

19 Assuming that the tank was completely empty those  
20 20 times, and only those 20 times, the estimated extra  
21 gasoline amounts to about 60 gallons at \$3 over that  
22 six-month period -- I'm sorry, \$3 a gallon over that  
23 six-month period.

24 Mr. Montoya asked the Las Vegas Police Chief Gold  
25 whether it was possible to pay the money back and was told



2 handling the respondent's case.

3 Mr. Montoya told the investigating officer that  
4 Chief Gold had agreed that Mr. Montoya can pay back the  
5 money. It was during a subsequent interview that  
6 Mr. Montoya made the false statement that Chief Gold had  
7 agreed and had made the agreement regarding the  
8 restitution.

9 During the informal hearing on this, Mr. Montoya  
10 was remorseful for his actions. He advised that he is  
11 currently the chief of police in Springer, which is --  
12 which was at the time of the hearing a two-man  
13 department.

14 I understand that it is now a one-man department.  
15 I think that the other officer left there; is that  
16 correct?

17 MR. ORTIZ: Yes.

18 MR. JACKSON: And Mr. Montoya has agreed to  
19 assume and accept responsibility for his conduct in the  
20 underlying matter. He's agreed to a six-month suspension,  
21 one-year probationary period, an ethics training course,  
22 counseling, and 16 hours of community service.

23 MR. GALLEGOS: Any questions from the Board?

24 Yes, Mr. Perez.

25 MR. PEREZ: So if he's suspended for six months,

1 then Springer will have no chief of police or no police at  
2 all?

3 MR. ORTIZ: No, they won't have any. The  
4 sheriff's department or the State Police would have to  
5 cover.

6 And also I would like to add -- and I apologize,  
7 but I think in that synopsis there was another -- there  
8 were other allegations regarding some overtime slips of  
9 fraud between Wal-Mart and the Las Vegas Police  
10 Department.

11 MR. JACKSON: I could actually comment on those  
12 briefly, if you'd like.

13 MR. ORTIZ: Okay.

14 MR. JACKSON: We looked at the overtime. And,  
15 again, this was over roughly a six-month period. And it  
16 ended up coming to I think about \$200 worth of overtime,  
17 where he was claiming city time when he was in fact  
18 working at Wal-Mart. So that also is part of the  
19 agreement here.

20 MR. PEREZ: Has this matter -- I've heard that  
21 this matter has become rather -- everybody in Springer  
22 knows about it. It has been in the newspapers. Is that  
23 public loss of confidence in law enforcement is the  
24 issue? Is that true?

25 MR. ORTIZ: Yes. In fact, the mayor is here from

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1 Springer and Mr. Montoya is here as well. Maybe the mayor  
2 would like to address that question.

3 MR. PEREZ: Mr. Mayor, would you --

4 MR. ORTIZ: As the Board well knows, I did  
5 receive a letter from a citizen that I responded to and  
6 forwarded copies to the Board members.

7 MR. GALLEGOS: And we'll go ahead and do that if  
8 there are no more questions from the Board. Is there  
9 anything else from the Board?

10 At this point, Mr. Montoya, I believe we'll go  
11 ahead and start with you.

12 MR. MONTOYA: Board, I'm sorry to put you in this  
13 position. Yes, I am the chief of police in Springer. And  
14 in reference to those allegations, they are correct.  
15 During that time frame was, you know, during the  
16 legislature. And I did use the gas card to travel from  
17 Las Vegas to the legislature because I was not going to  
18 pay for it.

19 But I took it in my own responsibility of doing  
20 this. I have no excuse for that. There's just no  
21 excuse. Even though I'm doing for the agency -- you know,  
22 I brought in \$2.8 million that year. But I have no excuse  
23 of taking those actions.

24 And during that time frame, I was traveling back  
25 to Las Vegas straight to Wal-Mart, which I was working

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1 loss prevention, not paying attention to the time frame,  
2 which added up to the number of 12 hours, \$200 worth.

3 You know, I was wrong. You know, and I learned  
4 from my mistakes. I'm only human. This will not happen

5 again. I do ask for some remorse. I will do whatever I  
6 have to to -- if it's increasing the amount of probation  
7 or years to be added, even teaching a course in reference  
8 to ethics.

9 I've been continuously educating myself. I have  
10 taken an ethics class since this has been going on and I  
11 have learned a great deal that even though you think  
12 you're doing good for somebody else, you're not. You just  
13 need to make sure you follow procedures and document,  
14 document, document. Do you have any questions for me?

15 MR. SCHULTZ: You were hired by Springer. Was  
16 there a full disclosure of your activities in Las Vegas?

17 MR. MONTROYA: Yes, I did disclose that to the  
18 mayor and council, sir.

19 MR. COON: When you were taking this gas, were  
20 you putting it in a container or was it going straight  
21 into your fuel tank?

22 MR. MONTROYA: According to their investigation  
23 from the State Police officer, he -- I don't know what  
24 information he got in reference to a container. It was  
25 going into my vehicle.

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1 MR. COON: A full tank?

2 MR. MONTROYA: No. I was just putting in only  
3 what was needed to travel from -- to and from. And I used  
4 the gas card right there in front of the gas people. I  
5 mean, there was no gas can.

6 MR. GALLEGOS: Any other questions from the  
7 Board? No. All right. Thank you, Mr. Montoya. Do you  
8 have anything else, sir?

9 MR. MONTOYA: Yes. I'd like to introduce you to  
10 Mayor Chavez to speak on my behalf also.

11 MR. GALLEGOS: Yes. Good afternoon, Mayor.  
12 Welcome.

13 MR. CHAVEZ: Thank you.

14 MR. GALLEGOS: How are things in Springer?

15 MR. CHAVEZ: They're good.

16 MR. GALLEGOS: Has it snowed yet?

17 MR. CHAVEZ: Well, maybe by the time we get back.

18 Mr. Chairman and Board Members, thank you for a  
19 few minutes of your time here. I know you've been here a  
20 whole day and been here most of the morning. We did hire  
21 Officer Montoya, Chief Montoya knowing under the  
22 circumstances that he had a hearing coming up and unsure  
23 of what the final result of this hearing was going to be  
24 today.

25 We had interviews for a chief at the time. And I

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1 don't know if the Board is aware here as the Mayor, we  
2 lost a chief and two officers that we had on board. We  
3 are a three-man team. And all three of them -- one of  
4 them left to another agency, and our chief resigned, and  
5 the officer that was under him was in command and didn't  
6 want the responsibilities of being an acting chief or

7 being put in that position, resigned also to go to Raton

8 Police Department, another agency.

9       So we were left without any officers for a couple  
10 of months. And their sheriff's department for Colfax  
11 County and the State Police did a tremendous job in  
12 helping us out during that lapse of time.

13       We did advertise it; had a couple of individuals  
14 apply; and the choice was to hire Officer Montoya knowing  
15 the possibilities of him maybe having some issues down the  
16 road here with the Board.

17       We felt he was our best candidate, being a local  
18 graduate from Springer, knowing the community, coming back  
19 to his hometown. We thought that was a good thing for our  
20 community. We are a small community that doesn't have a  
21 lot of budget to hire officers. And that was the reason  
22 why we have two now.

23       I can just say that the chief that we had working  
24 for us and the two officers, the two officers that we had  
25 were probably less than three years of time frame and were

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1 making \$12 an hour, which is ludicrous. And that's what I  
2 inherited as a mayor. And in my opinion public safety is  
3 very important.

4       So we hired a chief and we hired another  
5 officer. We tried to pay them more money, which didn't  
6 allow us in our budget this year to hire a third officer  
7 until our new fiscal year comes in. So we are in somewhat

8 of a bind.

9 Mr. Montoya in my opinion visiting with him was a  
10 case of very poor judgment. He knows he made some bad  
11 decisions. We talked about those incidences and what I  
12 would expect from him as a chief or as a regular officer  
13 within our department and our agency.

14 And there's a lot of different ways to handle the  
15 situations that he brought forth. He's very active with  
16 the legislature and has done so even with the Town of  
17 Springer and trying to receive funds and grant writing not  
18 only for the police department, but for our parks and rec  
19 department for the kids, and real active with the school.

20 So I would just like to say on behalf of  
21 Mr. Montoya that I would like to see him have some  
22 leniency or request some leniency on his length of time  
23 for his suspension. Six months is a long time. It does  
24 put a pretty big crash on the Town of Springer.

25 We are currently advertised for the second

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1 position. And we will be starting all over again. We  
2 just barely got afloat from the last three months where we  
3 were without officers. And I would hope -- I can't speak  
4 totally on behalf of Mr. Montoya, but I would hope that he  
5 has learned his lesson.

6 I grew up with him in Springer. I'm a native  
7 from there, as he was. I went to school with his older  
8 brothers. So I've known him for a long time. And not

9 only as an employer, I felt like I've taken him a little  
10 under the wing as a big brother, showing him there's just  
11 a different ways to handle these types of situations.

12 And we'll take this one right up front and tackle  
13 it nose-to-nose and try to move on. But it would really,  
14 really benefit us if we could have his suspension reduced  
15 so we might be able to keep him on Board. But six months  
16 would just completely annihilate us as a police  
17 department.

18 MR. PEREZ: If he is suspended, will he receive  
19 pay?

20 MR. CHAVEZ: If he's suspended from you guys?

21 MR. PEREZ: Yeah.

22 MR. CHAVEZ: That would be up to the council. I  
23 would have to go back and make a recommendation to the  
24 council as far as whether we would be able to obtain him  
25 in capacity of an admin police chief and hire another one

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1 to kind of carry the workload until his suspension would  
2 be complete.

3 If it's a three-month, that's a long time for us  
4 to ask somebody to just sit there in an office. We need  
5 somebody out in the field working. I don't know that the  
6 council would agree to keep him on board as a chief if the  
7 suspension was lengthy.

8 He would be paid if we kept him on board working  
9 in different capacities. As I noted, Shawn is pretty



10 active in a lot of the grant writing for the town, which  
11 he does on his own time and not through the police  
12 department.

13 So it's just his way of wanting to bring money to  
14 the town for the kids and stuff, whatever he can promote  
15 for the town. We would do our best to try to keep him  
16 paid.

17 MR. PEREZ: My second part is these other two  
18 people, the other two applicants, did they have flawed  
19 backgrounds like his?

20 MR. CHAVEZ: Actually, the basis of it was one of  
21 the officers that had applied was a certified officer from  
22 another state and had not been certified in New Mexico.  
23 He did apply. He was scheduled to come to the Academy, I  
24 believe now in April, and didn't pass the physical  
25 training. I think part of it.

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1 So he was not accepted; is that correct?

2 MR. ORTIZ: Yes.

3 MR. CHAVEZ: So that was part of the reason  
4 because the two -- and the third one backed out. The two  
5 that applied that were the main front runners was Officer  
6 Montoya and another officer from another neighboring  
7 municipality. And I was really considering hiring them  
8 both, one working for the other.

9 Either way, I thought they were both qualified  
10 and could bring a lot to our department. However, our

11 council in the overview didn't feel like it would be in  
12 our best interest to hire a certified Officer Montoya to  
13 work for a chief that was not certified.

14 So the pick was made to hire the certified  
15 officer as the chief. And as it turns out, the other  
16 officer didn't get certified. So we would have kind of  
17 been back to square one. It was somewhat of a roll of the  
18 dice.

19 MR. GALLEGOS: Any other questions from the  
20 Board? Zack.

21 MR. SHANDLER: Mr. Ortiz, I'm always trying to  
22 build the record. So the previous one, Patrick Martinez,  
23 was 90 days for falsification of documents. This one is  
24 180 days. Why the difference? And have you heard  
25 anything today that would change your mind?

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1 MR. ORTIZ: During the informal hearing, like I  
2 said, honesty is a big part. And that's what we look at  
3 in the informal hearing. And we did not feel in the  
4 informal hearing that Mr. Montoya was totally honest with  
5 us.

6 MR. GALLEGOS: Anything else, Zack?

7 MR. SHANDLER: No, sir.

8 MR. GALLEGOS: Anything from the Board on that?

9 MR. CHAVEZ: Thank you for your time.

10 MR. GALLEGOS: Thank you, Mayor. Let's go on to  
11 Item 36, Eugene Rodella.

12 ITEM #36: EUGENE RODELLA

13 MR. JACKSON: On Monday, March 24th, 2008,  
14 Mr. Rodella's wife contacted the Espanola Police  
15 Department reporting that Mr. Rodella had battered her  
16 while at her residence on February 23rd, 2008 and that the  
17 battery had been witnessed by her four-year-old son.

18 The battery consisted of her being kicked on her  
19 lower-left leg and being punched with a closed fist on her  
20 right eye, lacerating above the right cheekbone. The  
21 victim stated that she had not reported the assault to the  
22 police because she was afraid of Mr. Rodella and instead  
23 called her mother-in-law, who arrived short thereafter and  
24 bandaged the laceration that was below the eye.

25 She did not seek any other kind of medical help.

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1 Since she worked at the hospital, she didn't want  
2 coworkers to find out about the history of domestic  
3 violence between her and Mr. Rodella or the long-term  
4 abusive nature of their marital relationship.

5 She claims that during those eight years of their  
6 marriage, he has hit her five times. She reported one of  
7 those incidents, which was investigated by the State  
8 Police on December 4th, 2006, but no action was taken  
9 because she refused to participate in the investigation  
10 and didn't want the investigation to continue.

11 On that occasion, she told a friend that  
12 Mr. Rodella had attempted to run her over with a police

13 car and had told her that dead men don't talk.  
14 Mr. Rodella's oldest daughter witnessed the incident,  
15 saying that the victim was struck by the vehicle when  
16 Mr. Rodella was backing up.

17 No apparent injuries were sustained due to the  
18 presumably the low rate of speed and the victim landing in  
19 soft snow when she fell to the ground. The victim claims  
20 that Mr. Rodella is an Iraq veteran and becomes abusive  
21 when inebriated.

22 A petition for a temporary order of protection  
23 against Mr. Rodella was issued on the 27th of March of  
24 2008. And on the 28th of March 2008, Mr. Rodella filed a  
25 petition for an order of protection against the victim.

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1 He denies all allegations made by her against him  
2 and claims that the victim in this case is in fact the  
3 abuser. There was an informal hearing conducted on  
4 November 21st of 2008 between Mr. Rodella, his attorney,  
5 and the director, during which they discussed the  
6 incident.

7 Mr. Rodella and his wife have a very turbulent  
8 relationship. They contemplated divorce many times. He  
9 and his wife have been married since 2003. They've been  
10 dating since 1999. She has made false reports in the past  
11 and then recanted.

12 As a result of the meeting, the director and  
13 Mr. Rodella came to an agreement for a 30-day suspension,

14 one year of probation, ethics class, anger management,  
15 alcohol screening and assessment, and eight hours of  
16 community service.

17 And I would add that this 30-day suspension is  
18 lower than it is typically issued in a domestic violence  
19 case; however, we do have problems with proof given the  
20 turbulent nature of their relationship here.

21 MR. GALLEGOS: Thank you. Any questions from the  
22 Board?

23 MR. SCHULTZ: The reason for the April 2000  
24 discharge from Santa Fe County Sheriff's Department?

25 MR. JACKSON: I am not aware of the reason for

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1 that discharge.

2 MR. GALLEGOS: Do you know that, Art?

3 MR. ORTIZ: I don't recall. You may have some  
4 notes in there, Mr. Holmes.

5 MR. GALLEGOS: Do you know that, Ernest?

6 MR. ORTIZ: Do you recall the reason that he was  
7 discharged from the Santa Fe County Sheriff's Department.

8 I know he was discharged, but I don't --

9 MR. HOLMES: I think the chief of police from  
10 Espanola is here, and he might have that answer.

11 MR. GALLEGOS: By the way, is Mr. Rodella here?  
12 But there's someone to speak on his behalf? No. So we  
13 don't know the answer to that, then.

14 MR. PEREZ: The chief of Espanola is here.

15 MR. GALLEGOS: Oh, the chief is here. Sorry.  
16 Let me make sure there are no other questions, and we'll  
17 probably get that answered. Any other questions from the  
18 Board? No. All right. Chief.

19 MR. GONZALES: Julian Gonzales, chief of public  
20 safety for Espanola. I'll make it quick. I don't know  
21 the answer. Okay?

22 MR. GALLEGOS: Is there anything else? Can we  
23 ask if you will entertain a question, if it's all right?

24 MR. GONZALES: Sure.

25 MR. PEREZ: It says here that apparently he has a

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1 daughter at least. How old is that daughter; do you  
2 know?

3 MR. GONZALES: I'm not sure. They are from I  
4 believe his wife's previous marriage.

5 MR. PEREZ: Did they witness any of this?

6 MR. GONZALES: It's my understanding that the  
7 daughter witnessed the car incident the year previously  
8 and maybe the young boy witnessed the incident that he's  
9 up here for.

10 MR. PEREZ: But you don't know how old this  
11 daughter is?

12 MR. GONZALES: No, I don't.

13 MR. PEREZ: Were they interviewed by your  
14 department during the investigation; do you know?

15 MR. GONZALES: No, sir. We did that -- we

16 referred that over to the State Police. They handled the  
17 investigation.

18 MR. PEREZ: And did you receive a copy of the  
19 investigation from the State Police?

20 MR. GONZALES: I did, yes.

21 MR. PEREZ: Do you recall in there whether they  
22 were interviewed?

23 MR. GONZALES: I don't recall.

24 MR. PEREZ: If the daughter is, you know, 5 or 6  
25 or maybe she's 18, she might have been a witness to some

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1 of this?

2 MR. JACKSON: I'm sorry. Mr. Perez, I believe  
3 the daughter is -- well, at least one of the daughters is  
4 four. Yeah, I believe that's the one.

5 MR. PEREZ: You said the oldest daughter?

6 MR. JACKSON: Oh, sorry, the oldest.

7 MR. PEREZ: I think that that might mean there  
8 were two daughters.

9 MR. JACKSON: I'm not seeing --

10 MR. PEREZ: You don't see that they were  
11 interviewed?

12 MR. JACKSON: Yeah, there was an interview. It  
13 is not by the reporting officer here. And it does not  
14 have her age in the report that I'm looking at.

15 MR. PEREZ: Did she furnish any adverse --

16 MR. JACKSON: This was the incident where she was

17 knocked by the vehicle into the snow. And the information  
18 is just what was given, the report that's in the binder  
19 there.

20 MR. PEREZ: Have you conducted an investigation  
21 regarding this matter, an internal investigation?

22 MR. GONZALES: No, sir, we haven't. We're  
23 waiting for the decision by the district attorney whether  
24 they are going to prosecute the case or not.

25 MR. PEREZ: So then you are -- he has an

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1 attorney?

2 MR. GONZALES: Yes, he does.

3 MR. PEREZ: So you're precluded from interviewing  
4 him directly?

5 MR. GONZALES: Well, we would interview him  
6 offering him to be interviewed for the internal affairs  
7 investigation. If he chose to have an attorney, he could  
8 have an attorney, yes.

9 MR. PEREZ: Do you know if he has been candid?

10 MR. GONZALES: It only would be conjecture on my  
11 part. And I rely on facts.

12 MR. PEREZ: Okay.

13 MR. GALLEGOS: Are there any other questions from  
14 the Board for the chief? I'm sorry, Mr. Perez. Go ahead.

15 MR. PEREZ: Not for the chief, but if the State  
16 Police did an investigation, do we have access to that?

17 MR. GALLEGOS: Let me see first if there are no



18 other questions for the chief. Anything else from the  
19 Board? Thank you, Chief. Now, we'll go that, Mr. Perez.

20 MR. PEREZ: I apologize.

21 MR. JACKSON: Also the director has found in the  
22 file here this is an affidavit by Mrs. Rodella, where  
23 she's recanting. Yeah. It concludes, "My husband,  
24 Eugene, did not hit me. I said he hit me because I was  
25 upset, angry, and hurt. I did exaggerate that he hit me

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1 because I was extremely hurt and that he did leave and I  
2 was very, very hurt."

3 So this is the problem that I'm talking about, as  
4 far as if this case were to proceed to a formal hearing.  
5 We've got this.

6 MR. PEREZ: Not strong evidence. We've got this  
7 recanting.

8 MR. JACKSON: Yeah. I'm saying that our main  
9 witness keeps going back on her story.

10 MR. GALLEGOS: Anything else? All right. Seeing  
11 none, let's go onto the next item, 37, Dennis Saavedra.

12 ITEM #37: DENNIS SAAVEDRA

13 MR. JACKSON: On January 17th of this year,  
14 Mr. Saavedra was observed driving his personal vehicle  
15 through three stop signs without stopping -- without  
16 making a complete stop. He was pulled over.

17 He stopping officer noticed that Mr. Saavedra  
18 displayed signs of intoxication. Field sobriety tests

19 revealed signs of impairment. Mr. Saavedra was off duty  
20 at the time, was arrested, and refused to submit to a  
21 breath test.

22 On February 23rd of this year, there was a  
23 informal hearing held with Mr. Saavedra and the director.  
24 He appeared to be honest and remorseful for his actions.  
25 He is willing to accept responsibility for the incident.

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1 And the director recommends the following  
2 agreement be approved by the Board, which is a six-month  
3 suspension, a one-year probationary period, ethics  
4 training course, alcohol screening assessment, and eight  
5 hours of community service.

6 MR. GALLEGOS: Any questions from the Board?  
7 Seeing none, is Mr. Saavedra here by any chance? Zack,  
8 did you have something? I'm sorry.

9 MR. SHANDLER: I do. Mr. Ortiz, 180 days as  
10 opposed to 90 days; what's the reason?

11 MR. ORTIZ: He refused to take the breath test.  
12 I find that to be a problem. And just like Motor Vehicle,  
13 if you take the breath test, they'll suspend your license  
14 for 90 days. If you refuse to take the breath test,  
15 they'll suspend your license for a year.

16 And I feel that he should get an additional 90  
17 days for refusing to take the breath test, which he agrees  
18 to as well.

19 MR. SHANDLER: And was there any criminal action

20 against him?

21 MR. ORTIZ: You have to refresh my memory. I'm  
22 sorry. I do not recall. Yes. He's contesting it. And I  
23 think that might still be pending in court, I believe.  
24 And as far as his driver's license, Motor Vehicle has  
25 revoked his driver's license for a one-year period.

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1 MR. SHANDLER: Okay. And if someone was ever  
2 charged with DWI and then was acquitted, would that change  
3 your recommendation? Would you say that that shows that  
4 they are innocent of all charges and there shouldn't be a  
5 disciplinary case?

6 MR. ORTIZ: No, sir. I believe if the act  
7 occurred they should be held accountable for their  
8 actions.

9 MR. SHANDLER: Just to build the record more.

10 MR. ORTIZ: He did admit to drinking. And now  
11 that he looks back on it, he realizes he made a mistake.  
12 He wishes he would have taken the breath test. He lost  
13 his driver's license for an additional -- for a year.

14 MR. SHANDLER: Okay. Thank you.

15 MR. GALLEGOS: Okay. Any other questions? Is  
16 Mr. Saavedra here by any chance? Seeing none, we'll move  
17 onto the next one, Item 38, Pedro Silvas.

18 ITEM #38: PEDRO SILVAS

19 MR. JACKSON: At the end of September of last  
20 year, Mr. Silvas' supervisor received information from a

21 concerned citizen, gone to the Roswell Police Department  
22 to ask about the procedures for turning in firearms to  
23 have them destroyed.

24 The supervisor determined that Mr. Silvas had  
25 told the concerned citizen that she could turn the

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1 firearms over to the police department for destruction or  
2 she should sell the firearms.

3 Mr. Silvas told the concerned citizen that he was  
4 willing to buy the firearms from her and that he wanted a  
5 gun for off-duty use. He offered to buy both guns that  
6 the concerned citizen had for \$100.

7 The concerned citizen later returned to furnish  
8 the two guns. Prior to the gun sale taking place,  
9 Mr. Silvas left his duty station to go get the money.

10 When later questioned by his supervisor about the  
11 location of the weapons, Mr. Silvas lied to his sergeant  
12 by telling him that the purchase was going to transpire  
13 that evening, though it had already in fact transpired.

14 When the supervisor asked Mr. Silvas for the  
15 address of the concerned citizen, where the transaction  
16 was allegedly going to take place, Mr. Silvas then said  
17 that he had already bought the weapons from the citizen,  
18 which was two pistols. He had placed them in the trunk of  
19 his police unit.

20 When asked why he lied, he answered that he was  
21 afraid of getting in trouble because he was conducting

22 personal business while on duty and he had left his duty  
23 station to get money to pay for the pistols in question.

24 The Roswell Police Department took disciplinary  
25 action for untruthfulness, and he was suspended for one

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1 day. And informal hearing was not held in this case. The  
2 respondent through his attorney waived the informal  
3 hearing.

4 He has agreed to a 14-day suspension, a one-year  
5 probationary period, ethics training course, and eight  
6 hours of community service.

7 MR. GALLEGOS: Any questions from the Board?  
8 No. Seeing none, is Mr. Silvas here by any chance? Yes,  
9 sir. Would you care to address the Board?

10 MR. SILVAS: Chairman, Board Members, I apologize  
11 for having your time here. My name is Pedro Silvas. I  
12 have no excuse for my actions. My supervisor that I had,  
13 apparently me and him had some disputes back -- you know,  
14 several times. And I thought he was going to blow it out  
15 of proportion, and that's the reason I did what I did.

16 And there's no excuse for my actions.

17 But I would like to have the Board and  
18 Mr. Chairman consider the 14 days of suspension. I don't  
19 know if the Roswell Police Department is going to allow me  
20 to work on those days.

21 And right now I'm currently going through -- I'm  
22 legally divorced, but I'm going through divorce

23 proceedings and have an excess of \$18,000 of debt to my  
24 attorney. And I can't be out of work at this time.

25 And I know I agreed for 14 days, and I would like

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1 the Board to consider the 14 days taken off and maybe more  
2 community service. Like I said, you know, it was  
3 something ridiculous. If I could take those two seconds  
4 that I took to commit this lie, I'd take it back.

5 And thank you for allowing me to talk right now.

6 MR. GALLEGOS: Thank you, sir. Any questions  
7 from the Board? We'll start with Mr. Perez and then Chief  
8 Schultz.

9 MR. PEREZ: You resigned twice from Artesia PD.  
10 Why was that?

11 MR. SILVAS: No. It was only one time.

12 MR. PEREZ: I see here on January 1st, 2007 and  
13 then July 19th, 2006.

14 MR. SILVAS: I work for the Roswell Police  
15 Department, sir.

16 MR. PEREZ: I'm sorry?

17 MR. SILVAS: I work for the Roswell Police  
18 Department. And then I worked for the Artesia Police  
19 Department for six months.

20 MR. PEREZ: Okay. I see.

21 MR. SILVAS: Pending some other incident.

22 MR. PEREZ: What was that other incident?

23 MR. SILVAS: It was -- it was an incident that I

24 was -- had with a citizen. He was claiming that I had  
25 flipped him off. And I told the truth, and they said that

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1 I was apparently untruthful. They suspended me for six  
2 months. The arbitrator ruled in my favor, and I got my  
3 job back.

4 MR. PEREZ: Thank you.

5 MR. SCHULTZ: Mr. Silvas, what did you intend to  
6 do with the two pistols?

7 MR. SILVAS: Nothing, sir. I just -- like I  
8 said, it was a .25 caliber and a .22 caliber. And I just  
9 wanted to have guns, I guess. I'm not a very -- I don't  
10 have much guns. I only have my duty holster, and I was  
11 thinking of probably having one of those as an off-duty  
12 weapon or just to have it.

13 MR. COON: Did you -- it says in here you left  
14 your duty post or your station. Where were you at when  
15 this happened?

16 MR. SILVAS: At the time I was the desk officer,  
17 they called it. And you take walk-ins at the police  
18 department. And you're not in full uniform. You're in  
19 formal clothes. And I was taking -- I just went out to my  
20 park -- to the parking lot to get my wallet from my police  
21 unit; and I came back.

22 MR. GALLEGOS: Anything else? No. All right.  
23 Thank you. We have one -- next item is Item 39, Elroy  
24 Zunie.

1           ITEM #39: ELROY ZUNIE

2           MR. JACKSON: Yeah, this is a voluntarily  
3 relinquishment. Last November Mr. Zunie resigned his  
4 position in lieu of termination following an investigation  
5 which sustained alleged misconduct of assault and criminal  
6 mischief. The allegations were sustained.

7           On September 24th of 2008, Mr. Zunie attacked and  
8 struck a man about seven times in the face, resulting in  
9 serious injuries which required medical treatment for a  
10 broken nose; two lacerations, one on the top of the nose  
11 and another between the eyebrows; two loosened front  
12 teeth; a swollen lip.

13          This assault occurred because of a relationship  
14 between Mr. Zunie's wife and the victim of the assault.  
15 Mr. Zunie was aware of the affair between the victim and  
16 his wife. He intended to file for divorce.

17          And his wife was trying to get him to reconsider  
18 filing for divorce because she was trying to break off her  
19 relationship with the victim of the assault. She told  
20 Mr. Zunie that the victim had raped her during the time  
21 that the affair was going on.

22          She gave Mr. Zunie the victim's telephone  
23 number. And he later called the victim, made threatening  
24 remarks, and advised him to leave his wife alone otherwise  
25 there would be consequence.



1 Same day while off duty, Mr. Zunie saw the victim  
2 traveling in his vehicle and followed him beside the  
3 Tribal building parking lot where the fight took place.  
4 There were criminal charges pending. I do not know the  
5 eventual disposition of those.

6 He wanted to resolve this without the need for a  
7 formal hearing, so he has voluntarily relinquished his  
8 certification and will not work again in law enforcement  
9 in the state.

10 MR. GALLEGOS: Okay.

11 MR. SCHULTZ: For the record, looking at this,  
12 looks like he actually retired, correct?

13 MR. ORTIZ: Yes. He was eligible for retirement.

14 MR. GALLEGOS: Any other questions? All right.  
15 Thank you. Let's move on to -- well, I'd better check to  
16 see if Mr. Zunie is here to speak. No response, so let's  
17 move onto Item 40.

18 ITEM #40: MANUEL R. TEJEDA

19 MR. JACKSON: Item 40. This is something that we  
20 haven't addressed here for at least not while I've been  
21 the Board prosecutor. This is a child support suspension  
22 of certification for Manuel R. Tejada.

23 He has failed to comply with the Parental  
24 Responsibility Acts and has not met his child support  
25 obligation, which are grounds for the Board to suspend his

1 certification indefinitely until he makes good on those  
2 obligations.

3 MR. GALLEGOS: Okay. Pretty straightforward.

4 Any questions for the Board? No. Seeing none, is

5 Mr. Tejada here by any chance? Okay. No response.

6 Move onto Item 41 -- oops. All right. At this

7 point I believe we're going into executive session.

8 Zack?

9 MR. SHANDLER: Mr. Vice-Chair, let's first look

10 through the list of 26 through 38 and see for the record

11 who may have a conflict. So just take a second and see

12 if...

13 MR. GALLEGOS: And then what I'll do is I'll

14 start from my right-hand side and then let us know if

15 anybody has a conflict.

16 MR. JOJOLA: No, sir.

17 MR. JONES: Item No. 38, Pedro Silvas. I worked

18 with him for a period of time in Artesia. I was not

19 employed by the police department, but I did work that

20 same shift a couple of times.

21 MR. SHANDLER: And that was 38, you said?

22 MR. JONES: Yes.

23 MR. GALLEGOS: And I do have a conflict with

24 No. 33, Phillip Holmes. It's my office that the matter

25 was referred to. It's my jurisdiction.

1 I do want to note for the record also that

2 regarding No. 35, Shawn Montoya, Springer is in my  
3 district. The incident didn't happen in my district, so I  
4 don't believe I would have a problem with that. I just  
5 wanted to bring it up to the Board. And that should be  
6 it.

7 MR. COON: I'm fine. I have none.

8 MR. SCHULTZ: Mr. Chairman, I'll have to recuse  
9 myself from three items, Item No. 26, Ana Bruciaga; Item  
10 No. 28, Jason Clarke; and Item No. 32, David Hill.

11 MR. GALLEGOS: What was after 26, Chief?

12 MR. SCHULTZ: No. 32, David Hill. No. 28, Jason  
13 Clarke.

14 MR. GALLEGOS: Three?

15 MR. SCHULTZ: Yes, sir.

16 MR. GALLEGOS: And Mr. Perez?

17 MR. PEREZ: No, none.

18 MR. SHANDLER: Mr. Chairman, then I'm looking for  
19 a Board member to make a motion to go into executive  
20 session pursuant to the licensing exception.

21 MR. COON: Can we take a two-minute break?

22 MR. GALLEGOS: What I want to do is entertain the  
23 motion, get the vote on it, and then we'll take a break.  
24 That gives people time to clear out and stuff.

25 MR. COON: I make a motion to go into executive

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1 session.

2 MR. PEREZ: I second.

3 MR. SHANDLER: We need a roll call vote, please.

4 MS. CROKER: David Gallegos?

5 MR. GALLEGOS: Donald Gallegos.

6 MS. CROKER: Donald, I'm sorry.

7 MR. GALLEGOS: Yes.

8 MS. CROKER: Faron Segotta. James Coon.

9 MR. COON: Yes.

10 MS. CROKER: George Jojola.

11 MR. JOJOLA: Yes.

12 MS. CROKER: Raymond Schultz.

13 MR. SCHULTZ: Yes.

14 MS. CROKER: Arsenio Jones.

15 MR. JONES: Yes.

16 MS. CROKER: Robert Force. Bernardo Perez.

17 MR. PEREZ: Yes.

18 MR. GALLEGOS: Motion passes, so we will go into  
19 executive session. The Board will have a quick break.  
20 (The executive session was held from 2:27 until  
21 3:27 p.m.)

22 MR. SHANDLER: Mr. Chairman, I'm looking for a  
23 motion to return to open session, please.

24 MR. GALLEGOS: I'll entertain a motion at this  
25 time.

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1 MR. PEREZ: I move that we return to open  
2 session.

3 MR. JONES: Second.

4 MR. GALLEGOS: Moved by Mr. Perez. Seconded by

5 Mr. Jones.

6 MR. SHANDLER: May we have a roll call vote,

7 please.

8 MS. CROKER: Donald Gallegos?

9 MR. GALLEGOS: Yes.

10 MS. CROKER: Faron Segotta. James Coon.

11 MR. COON: Yes.

12 MS. CROKER: George Jojola.

13 MR. JOJOLA: Yes.

14 MS. CROKER: Raymond Schultz.

15 MR. SCHULTZ: Yes.

16 MS. CROKER: Arsenio Jones.

17 MR. JONES: Yes.

18 MS. CROKER: Robert Force. Bernardo Perez.

19 MR. PEREZ: Yes.

20 MR. SHANDLER: Mr. Chairman, could I get you to

21 attest that only the matters discussed in the executive

22 session were the ones listed on the agenda.

23 MR. GALLEGOS: I so attest for the record,

24 Mr. Shandler. Thank you.

25 MR. SHANDLER: Let's start with Items 16 through

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1 24. These are the default orders.

2 MR. GALLEGOS: At this point, would it be proper

3 for me to entertain a motion to approve those as a group?

4 MR. SHANDLER: Yes, sir.

5 MR. SCHULTZ: Mr. Chairman, I'd like to make a  
6 motion that we accept Items 16 through 24, the  
7 disciplinary matters that are identified as the default  
8 orders of revocation as a group and accept those.

9 MR. GALLEGOS: Okay. We have a motion. Do we  
10 have a second?

11 MR. JONES: Second.

12 MR. GALLEGOS: Seconded by Sergeant Jones. All  
13 these in favor say aye.

14 THE BOARD: Aye.

15 MR. GALLEGOS: Any nays? {No response.} Okay.  
16 Motion passes.

17 MR. SHANDLER: Mr. Chairman, Item No. 26, Ana  
18 Bruciaga. And for transparency for the audience, what  
19 happened in the executive session is the Board deliberated  
20 the facts that were presented. And they've been presented  
21 with stipulated orders for -- or akin to kind of a plea  
22 bargain. And it's their job now to either accept or they  
23 can reject these proposed stipulated orders.

24 Item No. 26, the proposed stipulated order is a  
25 30-day suspension, one-year probationary period with

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1 ethics training course, an alcohol screening and  
2 assessment, and to address the cadets.

3 Is this acceptable to the Board?

4 MR. GALLEGOS: Do we do that by motion?

5 MR. SHANDLER: Yes, sir.

6 MR. GALLEGOS: So I'll entertain a motion at this  
7 time.

8 MR. PEREZ: I move that we accept the  
9 recommendation of suspension and probation.

10 MR. COON: Second.

11 MR. GALLEGOS: It's been moved and seconded. All  
12 those in favor say aye.

13 THE BOARD (except Mr. Schultz): Aye.

14 MR. GALLEGOS: Any opposed say nay. {No  
15 response.) The ayes have it.

16 MR. SCHULTZ: I would like the record to show  
17 that I did recuse myself from voting in this matter.

18 MR. GALLEGOS: All right. The record shall  
19 reflect that.

20 MR. SHANDLER: Mr. Chairman, Item 27. The  
21 director's recommendation is 90 days' suspension, one-year  
22 probationary period, ethics training course, alcohol  
23 screening and assessment, anger management counseling, and  
24 eight hours of community service. This is Paul Cadena.

25 Is there a motion on that matter.

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1 MR. SCHULTZ: Mr. Chairman, I'd like to make a  
2 motion that we do accept the director's recommendation of  
3 90 days' suspension as aggravating circumstances are  
4 present with the fact that there were children present  
5 during this incident.

6 I would also like to add the fact that this

7 particular case should charges be refiled that this could  
8 come back to this Board for reconsideration.

9 MR. GALLEGOS: I have a motion. Do I hear a  
10 second?

11 MR. PEREZ: Second.

12 MR. GALLEGOS: It's been seconded. All those in  
13 favor say aye.

14 THE BOARD (except Mr. Schultz): Aye.

15 MR. GALLEGOS: Any opposed say nay. {No  
16 response.} Motion passes.

17 MR. SHANDLER: For transparency for the audience,  
18 you'll hear that the Board will sometimes announce  
19 aggravating factors or mitigating factors in accepting or  
20 rejecting the stipulated orders.

21 Mr. Chairman, Item No. 28, Jason Clarke. The  
22 director's recommendation is a 30-day suspension, one-year  
23 probation, ethics course, and anger management  
24 counseling. Is there a motion or discussion on this  
25 item?

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1 MR. GALLEGOS: I'll entertain a motion at this  
2 time.

3 MR. JONES: I make a motion that we reject the 30  
4 days and stipulate to 14 days in addition to probation.

5 MR. GALLEGOS: Did you get the motion, Board?  
6 The motion is to reject the 30 days and 14 days instead.

7 MR. PEREZ: Okay.



8 MR. GALLEGOS: Do I hear a second?

9 MR. COON: Second.

10 MR. GALLEGOS: Seconded by Sheriff Coon. All  
11 those in favor say aye.

12 THE BOARD (except Mr. Schultz): Aye.

13 MR. GALLEGOS: Any opposed say nay. {No  
14 response.} Motion passes.

15 MR. SHANDLER: Mr. Chairman, I don't know if  
16 Mr. Clarke's still here?

17 MR. CLARKE: Yes, sir.

18 MR. SHANDLER: And so now you can work with  
19 Mr. Ortiz and see if you guys are willing to agree to a  
20 new stipulated order of just a 14-day suspension. It may  
21 be -- I know there was some discussion of community  
22 service, so maybe that could be added in.

23 So you can stay around; and if you can agree to  
24 something today, we can get something on the record and  
25 get that all finalized today. So you may want to work

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1 with Mr. Ortiz. We'll give you a few minutes to do that,  
2 okay?

3 MR. CLARKE: Thank you.

4 MR. SHANDLER: And be thinking about whether 14  
5 days is acceptable to you, okay?

6 MR. CLARKE: I appreciate everyone's  
7 consideration.

8 MR. SCHULTZ: For the record, please show that I

9 did recuse myself.

10 MR. GALLEGOS: The record shall reflect that  
11 Chief Schultz did abstain.

12 MR. SHANDLER: Mr. Chairman, the next item, 29,  
13 Robert Cooper. The director's recommendation is 30-days  
14 suspension, one-year probation, ethics, and attend a  
15 firearms instructor course. Is there a discussion or a  
16 motion on this item?

17 MR. GALLEGOS: I'll entertain a motion on Item 29  
18 at this point.

19 MR. SCHULTZ: I would like to make the motion  
20 that we modify the director's recommendation due to  
21 mitigating circumstances that were present in this  
22 particular case. A 30-day suspension would be changed to  
23 a 14-day suspension with the rest of the recommendations  
24 remaining in place.

25 MR. GALLEGOS: Does everybody understand the

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1 motion? All right. Do I hear a second?

2 MR. JONES: I'll second.

3 MR. GALLEGOS: It's been seconded by Sergeant  
4 Jones. All those in favor say aye.

5 THE BOARD: Aye.

6 MR. GALLEGOS: Any opposed say nay. {No  
7 response.} Motion carries.

8 MR. SHANDLER: I'm not aware if Mr. Cooper is  
9 here today. Maybe at a subsequent time, you'll have to

10 work on that to see if he'll accept the 14 days.

11 Mr. Chairman, the next item is No. 30, Bryan  
12 Dominguez. The director's recommendation is a 30-day  
13 suspension, one-year probationary period, ethics training  
14 course, and anger management counseling. Is there a  
15 discussion or a motion on this one?

16 MR. COON: Sir, I'd like to make a motion that we  
17 do away with the 30-day suspension and make that a letter  
18 of reprimand, along with the rest of the probationary  
19 period, the ethics training, and the anger management  
20 counseling.

21 MR. GALLEGOS: We have a motion on the table. Is  
22 there a second?

23 MR. PEREZ: Second.

24 MR. GALLEGOS: Moved by Sheriff Coon and seconded  
25 by Mr. Perez. All in favor say aye.

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1 THE BOARD (except Mr. Schultz): Aye.

2 MR. GALLEGOS: Any opposed say nay.

3 MR. SCHULTZ: Nay.

4 MR. GALLEGOS: We have one nay. The motion does  
5 carry.

6 MR. SHANDLER: I just want to make sure we're all  
7 on the same person. So Bryan Dominguez was the gentleman  
8 tossing the ring, right?

9 MR. GALLEGOS: That's correct.

10 MR. SHANDLER: Right. Now, so it's been lowered

11 down. I don't know if he's still here.

12 MR. ORTIZ: I don't see him.

13 MR. SHANDLER: You don't see him, okay.

14 No. 31, Patrick Duran. The director's  
15 recommendation is a six-month suspension, one-year  
16 probation, ethics, alcohol screening and assessment, and  
17 eight hours of community service. Is there a discussion  
18 or motion on that?

19 MR. GALLEGOS: Is there a motion?

20 MR. COON: Sir, I'd like to make a motion that we  
21 accept the director's recommendation of six-month  
22 suspension, one-year probation, ethics, alcohol screening  
23 and assessment, and eight hours of community service.

24 MR. GALLEGOS: All right. Moved by Sheriff Coon.  
25 Do I hear a second?

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1 MR. JONES: I'll second the motion.

2 MR. GALLEGOS: Seconded by Sergeant Jones. All  
3 those in favor say aye.

4 THE BOARD: Aye.

5 MR. GALLEGOS: Any opposed say nay. {No  
6 response.} Okay. Motion passes.

7 MR. SHANDLER: Item No. 32, David Hill. The  
8 director's recommendation, 90 days suspension, one-year  
9 probation, alcohol screening and assessment, ethics, and  
10 eight hours of community service. Is there a discussion  
11 or motion on that stipulated order?

12 MR. GALLEGOS: Do I hear a motion?

13 MR. JONES: I make a motion that we accept the  
14 director's recommendation of a 90-day suspension, one-year  
15 probation, alcohol screening and assessment, ethics, and  
16 eight hours of community service.

17 MR. GALLEGOS: Is there a second to the motion?

18 MR. JOJOLA: Second.

19 MR. GALLEGOS: Seconded by Chief Jojola. All in  
20 favor say aye.

21 THE BOARD (except Mr. Schultz): Aye.

22 MR. GALLEGOS: Any opposed? {No response.} And  
23 at this point I'll turn the gavel over to Chief Schultz  
24 for Item 33, as for the record I have to abstain from this  
25 item.

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1 MR. SCHULTZ: Before we move onto the next item,  
2 if we could have the matter of David Hill show that I did  
3 recuse myself.

4 MR. GALLEGOS: Okay.

5 MR. SHANDLER: Mr. Chairman, Item 33, Phillip  
6 Holmes. The director's recommendation is a 45-day  
7 suspension, one-year probation, ethics course, alcohol  
8 screening and assessment, anger management counseling, and  
9 to address the cadet class. Is there a discussion or a  
10 motion on this director's recommendation?

11 MR. PEREZ: I move that we reject the director's  
12 recommendation and increase suspension to 60 days. This

13 was because of the violence, the domestic violence

14 involved.

15 MR. SCHULTZ: We have a motion to not accept the

16 director's original recommendation, change it to 60 days.

17 Is there a second?

18 MR. COON: I'll second it.

19 MR. SCHULTZ: We have a second. All those in

20 favor say aye.

21 THE BOARD (except Mr. Gallegos): Aye.

22 MR. SCHULTZ: Aye. All those opposed say nay.

23 {No response.} Let the record show that we have one

24 abstention, Mr. Gallegos.

25 MR. GALLEGOS: Yes. Thank you.

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1 MR. SHANDLER: So, again, to the parties,

2 Mr. Holmes, we'll give you some time to work with

3 Mr. Ortiz, if you're willing to accept the 60 days instead

4 of 45. We'll keep the Board here to approve that. So be

5 thinking about whether you want to agree to that or

6 whether you don't want to.

7 Item No. 34, Patrick Martinez. The director's

8 recommendation is a 90-day suspension, one year of

9 probation, ethics course, and 16 hours of community

10 service.

11 MR. GALLEGOS: Do I hear a motion on that

12 Item 34?

13 MR. COON: Sir, I make a motion we accept the

14 director's recommendation of 90 days' suspension, one-year  
15 probation, ethics course, and 16 hours of community  
16 service.

17 MR. GALLEGOS: Do I hear a second?

18 MR. JONES: Second.

19 MR. GALLEGOS: Seconded by Sergeant Jones. All  
20 those in favor say aye.

21 THE BOARD (except Mr. Perez): Aye.

22 MR. GALLEGOS: Any opposed say nay.

23 MR. PEREZ: Nay.

24 MR. GALLEGOS: One no. Okay. Motion passes.

25 MR. SHANDLER: Mr. Chairman, Item No. 35 is Shawn

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1 Montoya. The director's recommendation is a six-month  
2 suspension, one-year probationary period, ethics training  
3 course, counseling, and 16 hours of community service. Is  
4 there a discussion or a motion on this matter?

5 MR. GALLEGOS: Do I hear a motion?

6 MR. SCHULTZ: Mr. Chairman, I make a motion that  
7 we accept the director's recommendation and make note that  
8 the six-month suspension is due to the aggravating  
9 circumstances involved in this case.

10 MR. GALLEGOS: Okay. Is there a second?

11 MR. JONES: I second the motion.

12 MR. GALLEGOS: Seconded by Sergeant Jones. All  
13 those in favor say aye.

14 THE BOARD: Aye.

15 MR. GALLEGOS: Any opposition? {No response.}

16 Okay. Motion passes.

17 MR. SHANDLER: Mr. Chairman, the next item is 36,

18 Eugene Rodella. The director's recommendation is

19 suspension -- a 30-day suspension, one-year of probation,

20 ethics, anger management, alcohol screening, and eight

21 hours of community service.

22 I do note that in the open session, there was

23 discussion about previous employment at the Santa Fe

24 County Sheriff's Office and why that was severed. Was

25 staff able to figure out that during a break?

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1 MR. ORTIZ: Yes. Chief of Espanola PD has that

2 information.

3 MR. GONZALES: Yes. Julian Gonzales, chief in

4 Espanola. He was terminated or he resigned prior to being

5 terminated for -- he was assigned to patrol duties and

6 they caught him in a fire station. He had taken off his

7 Sam Browne, his hat, everything. He was basically

8 watching TV on duty.

9 So they were moving to terminate him. They

10 either terminated him or he resigned. Okay.

11 MR. SHANDLER: Well, let me just be methodical.

12 Mr. Director, does that change your recommendation at

13 all?

14 MR. ORTIZ: That was in 2000. I would stay with

15 the recommendation.



16 MR. SHANDLER: Based on that information, do you  
17 want to proceed or do you require more information?

18 MR. GALLEGOS: I'll open it up to a motion.

19 MR. SCHULTZ: Mr. Chairman, I'll make the motion,  
20 since originally I had brought up the original discussion  
21 question about what happened back in 2000. This  
22 particular case talks about the abuse going on for eight  
23 years.

24 I just wanted to make sure that the reason why he  
25 was discharged from his previous employer was not because

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1 of other abuses. It looks like -- unfortunately, it was  
2 an abuse, but not a domestic violence situation.

3 So I have no problem at this point in time making  
4 a recommendation to accept the director's recommendation  
5 of a 30-day suspension and the other items as listed.

6 MR. GALLEGOS: I have a motion. Do I have a  
7 second?

8 MR. COON: Second.

9 MR. GALLEGOS: Seconded by Sheriff Coon. All  
10 those in favor say aye.

11 THE BOARD (except Mr. Perez): Aye.

12 MR. GALLEGOS: Any opposed say nay.

13 MR. PEREZ: Nay.

14 MR. GALLEGOS: We have one no.

15 MR. SHANDLER: Mr. Chairman, the next item on the  
16 agenda is 37, Dennis Saavedra. The director's

17 recommendation is a six-month suspension, a one-year  
18 probationary period, ethics training course, alcohol  
19 screening and assessment, and eight hours of community  
20 service.

21       It was stated on the record that usually for a  
22 first-time DWI offense is 90 days. This one is 180 days.  
23 And I asked the director why that was, and he cited to the  
24 refusal to submit to a breath test as his aggravating  
25 reason.

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1       So the question is whether you want to accept or  
2 reject the director's recommendation.

3       MR. GALLEGOS: I'll open it up for motion.

4       MR. SCHULTZ: I'll make the motion that we reject  
5 the director's recommendation and a new motion be made  
6 that the 90 days' suspension be recommended as to be  
7 consistent with previous disciplines of this type.

8       At the same time I would also ask that this item  
9 or an item concerning people who refuse to take a breath  
10 test be placed on the agenda for discussion at the next  
11 meeting.

12       MR. GALLEGOS: Okay. The motion is to reject the  
13 recommendation and to modify it to a 30-day -- I mean, a  
14 90 day, consistent with DWI.

15       MR. PEREZ: Second.

16       MR. GALLEGOS: It's been seconded. All those in  
17 favor say aye.

18 THE BOARD: Aye.

19 MR. GALLEGOS: Any opposition say nay. {No  
20 response.} Okay. Motion passes.

21 MR. SHANDLER: I don't know if Mr. Saavedra is  
22 here. Item 38 is Pedro Silvas. The director's  
23 recommendation is 14 days' suspension, one-year  
24 probationary period, ethics training course, and eight  
25 hours of community service. Is there a discussion or vote

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1 on that?

2 MR. GALLEGOS: Do I hear a motion?

3 MR. COON: I'll make a motion we accept the  
4 director's recommendation of 14 days' suspension, one-year  
5 probation, ethics training course, and eight hours of  
6 community service.

7 MR. GALLEGOS: We have a motion. Do I hear a  
8 second?

9 MR. JOJOLA: Second.

10 MR. GALLEGOS: It's been seconded. All those in  
11 favor say aye.

12 THE BOARD (except Mr. Jones): Aye.

13 MR. GALLEGOS: Any opposition say nay. {No  
14 response.} Okay. Motion passes.

15 MR. JONES: Mr. Chairman, just for the record,  
16 I'd like to show that I abstained from that vote.

17 MR. GALLEGOS: Okay.

18 MR. SHANDLER: Mr. Chairman, the next item on the

19 agenda was 39, Elroy Zunie. This is a voluntary  
20 relinquishment. This certified officer did spend time  
21 working at the Zuni Police Department. As part of the  
22 voluntarily relinquishment, he agrees to never apply for  
23 recertification, never work in law enforcement in the  
24 state of New Mexico.

25 And I think we have some questions about

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1 jurisdictional matters.

2 MR. JOJOLA: Thank you. Director, what was  
3 brought up is that if he relinquishes his state  
4 certification, would that also include him working for a  
5 tribal law enforcement agency?

6 MR. ORTIZ: My office doesn't have any  
7 jurisdiction over his federal certification.

8 MR. JOJOLA: I think that would -- that's an  
9 issue that we -- as being part of the tribal  
10 representatives needs to be able to discuss if the actions  
11 taken by the director and the Board go for all officers,  
12 it should be in all jurisdictions, whether they be outside  
13 the law enforcement agency or the tribal law enforcement  
14 agency. It should include them all. I don't know.

15 MR. ORTIZ: I'll get together with you, and we'll  
16 see what we can work out, get with the federal authorities  
17 and see what they did on this matter.

18 MR. PEREZ: I move that we reject the director's  
19 recommendation and that he confer with the federal

20 authorities to determine -- and with Mr. Zunie to see if  
21 when he said he would, quote, never again work in law  
22 enforcement in the state of New Mexico, does that include  
23 tribal law enforcement.

24 MR. ORTIZ: He didn't specify on that. My  
25 understanding is as a state certified officer he would not

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1 be allowed to work.

2 MR. GALLEGOS: We do have a motion -- it may be a  
3 point of order at this point, but is it procedurally  
4 better to reject by motion or would a motion to table be  
5 more in order or does it accomplish the same purpose?

6 MR. SHANDLER: Mr. Chairman, it probably  
7 accomplishes the same purpose; but based on experience, I  
8 see a tabling motion on this type of --

9 MR. PEREZ: Then I take back my motion.

10 MR. GALLEGOS: All right. Then the motion has  
11 been withdrawn. Would you like a substitute motion?

12 MR. PEREZ: Yes. I recommend that we ask the  
13 director to do further research in this matter; that we  
14 table the matter for the time being.

15 MR. GALLEGOS: All right. It's been moved to  
16 table this matter until we get further research about the  
17 tribal issue. Do I hear a second?

18 MR. JONES: Second.

19 MR. GALLEGOS: And all those in favor say aye.

20 THE BOARD: Aye.

21 MR. GALLEGOS: Any opposition say nay. {No  
22 response.} Okay. Motion passes.

23 MR. SHANDLER: Mr. Chairman, Item No. 40, Manuel  
24 Tejada, is a child support suspension. And this is  
25 standard through all licensing professions of New Mexico.

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1 Is there a motion on this matter?

2 MR. GALLEGOS: Do I hear a motion?

3 MR. SCHULTZ: Move to accept the suspension for  
4 failure to pay child support.

5 MR. GALLEGOS: It's been moved. Do I hear a  
6 second?

7 MR. COON: Second.

8 MR. GALLEGOS: Seconded by Sheriff Coon. All  
9 those in favor say aye.

10 THE BOARD: Aye.

11 MR. GALLEGOS: Any opposition say nay. {No  
12 response.} Okay. The motion has passed.

13 MR. SHANDLER: If I could ask for a two-minute  
14 break to allow the parties that are here to see if they  
15 can work out a stipulated order. So if we could go off  
16 the record for two minutes.

17 MR. GALLEGOS: We'll be back, then.

18 (Off the record from 3:48 until 3:54 p.m.)

19 MR. SHANDLER: Okay. We're back on the record.  
20 We're going back to Item No. 28, Jason Clarke. There's  
21 now been a modification to the stipulated order. The

22 primary thing has gone from 30 days to 14 days.

23 Mr. Ortiz, are you okay with the new stipulated  
24 order?

25 MR. ORTIZ: Yes.

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1 MR. SHANDLER: Mr. Clarke, are you willing to  
2 accept this?

3 MR. CLARKE: I do.

4 MR. SHANDLER: Okay. Thank you.

5 MR. CLARKE: Thank you, everybody.

6 MR. GALLEGOS: We'll entertain a motion at this  
7 time, then?

8 MR. COON: I make a motion, again, we accept the  
9 director's recommendation now for 14 days, one-year  
10 probation, ethics course, anger management, and extended  
11 community service.

12 MR. GALLEGOS: Do I hear a second?

13 MR. JONES: Second.

14 MR. JOJOLA: Second.

15 MR. GALLEGOS: It's been seconded. All in favor  
16 say aye.

17 THE BOARD (except Mr. Schultz): Aye.

18 MR. GALLEGOS: Any opposition say nay. {No  
19 response.} It passes.

20 MR. SHANDLER: And to be consistent, please note  
21 that Chief Schultz abstained from that vote as well.

22 Let's go to Item 33, Phillip Holmes. There's now

23 a new stipulated order on the record -- on the table, a  
24 60-day suspension, one-year probation, ethics course,  
25 alcohol screening and assessment, anger management

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1 counseling, to address the cadet class.

2 Mr. Ortiz, are you in favor of the new terms?

3 MR. ORTIZ: Yes, I am.

4 MR. SHANDLER: Mr. Holmes, do you voluntarily

5 agree?

6 MR. HOLMES: Yes.

7 MR. SHANDLER: Mr. Chairman, can we have a new

8 motion on the new terms, please.

9 MR. GALLEGOS: Let me hand the matter over to

10 Chief Schultz on this, on Phillip Holmes.

11 MR. SCHULTZ: Do we have a motion to accept the

12 stipulated order as amended today?

13 MR. JONES: Mr. Chairman, I make a motion to

14 accept our new stipulated order of 60 days, the one-year

15 probation, ethics course, alcohol screening and

16 assessment, anger management counseling, and to address

17 the cadet class.

18 MR. SCHULTZ: Do we have a second?

19 MR. COON: Second.

20 MR. SCHULTZ: We have a first and second for an

21 amended 60-day suspension and the other items as listed.

22 All those in favor say aye.

23 THE BOARD (except Mr. Gallegos): Aye.



24 MR. SCHULTZ: All those opposed say nay. {No  
25 response.}

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1 MR. GALLEGOS: One abstention, Mr. Chairman.

2 MR. SCHULTZ: Okay.

3 MR. ORTIZ: I do have a question on Item No. 37,  
4 Mr. Saavedra. I'm sure he's going to accept the reduction  
5 from the six months to the 90 days.

6 So if I contact Mr. Saavedra and I'll send him a  
7 new stipulated order with the Board's recommendation of 90  
8 days, if he signs that, would I need to take it back  
9 before the Board again in June? Or is that acceptable to  
10 just close it out for the 90 days if he signs that  
11 stipulated order?

12 MR. GALLEGOS: I believe -- Zack, you can correct  
13 me -- that if we make -- the motion is made and it's  
14 conditional on his signing off, I believe that should be  
15 adequate. If I'm wrong, then we do have to come back in  
16 June.

17 MR. SHANDLER: I think that's permissible. They  
18 do that in other boards. I don't know. Mr. Jackson, how  
19 have we done it before?

20 MR. JACKSON: I'm trying to think. I think this  
21 is actually a novel situation for me. I think in all  
22 other instances where the Board has recommended a  
23 reduction in the suspension the respondent's been present.

24 MR. SCHULTZ: Could we in the form of a motion

25 authorize Mr. Ortiz to execute such agreement?

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1 MR. SHANDLER: Mr. Chairman, yes. I've seen  
2 other boards do that. So that is a permissible option.

3 MR. SCHULTZ: If that's the case, then I would  
4 like to make a motion we authorize Mr. Ortiz the authority  
5 to execute the agreement if it's signed and agreed to by  
6 Mr. Saavedra.

7 MR. PEREZ: Second.

8 MR. GALLEGOS: We have a motion and a second.  
9 All those in favor say aye.

10 THE BOARD: Aye.

11 MR. GALLEGOS: And any opposition say nay. {No  
12 response.}

13 MR. SHANDLER: Thank you, Mr. Chairman.

14 MR. GALLEGOS: We're done? Okay, we've got 41.

15 MR. JACKSON: Actually, I'm sorry. It might be a  
16 good idea to hear a similar motion for Item No. 29.

17 MR. ORTIZ: Was that Sifuentes?

18 MR. JACKSON: That was Mr. Cooper. There was  
19 also a reduction in suspension and he was not here.

20 MR. ORTIZ: That's correct.

21 MR. PEREZ: I move that we authorize the director  
22 to negotiate with Mr. Cooper to see if he will accept a  
23 change to a 14-day suspension instead of a 30-day  
24 suspension, with a one-year probation, ethics, and attend  
25 a firearm instructor course.

1 MR. GALLEGOS: Do we have a second?

2 MR. JOJOLA: I second.

3 MR. GALLEGOS: All those in favor say aye.

4 THE BOARD: Aye.

5 MR. GALLEGOS: Any opposed say nay. {No  
6 response.} Okay.

7 ITEM #41: SCHEDULING OF NEXT MEETING

8 MR. GALLEGOS: We are ready to go to Item 41.

9 MR. ORTIZ: Scheduling of the next Law  
10 Enforcement Academy Board meeting. We're looking at  
11 Ruidoso, June 25th, which would be a Thursday.

12 MR. COON: Mr. Ortiz, I'm going to be at the  
13 National Sheriffs' Convention in Ft. Lauderdale that whole  
14 week, so.

15 MR. ORTIZ: Bump it up a week to the 18th?

16 MR. SCHULTZ: I think we move to move the meeting  
17 to Ft. Lauderdale.

18 MR. COON: Could we go to the end of the month?  
19 Well, that is pretty much the end of the month.

20 MR. ORTIZ: What I'll do is I'll send out an  
21 e-mail. I'll check with Chief Segotta's schedule and  
22 Robert Force also and see when we can schedule. We're  
23 looking possibly -- we're hoping sometime in June. We'll  
24 see what we can do. If not, we might have to go mid-July.

25

1           ITEM #42: ADJOURNMENT

2           MR. GALLEGOS: All right. Next item then is  
3 adjournment. Do I hear a motion to adjourn?

4           MR. COON: I make a motion we adjourn.

5           MR. PEREZ: Second.

6           MR. GALLEGOS: All those in favor say aye.

7           THE BOARD: Aye.

8           MR. GALLEGOS: Any opposition? I doubt it.

9 Thank you all for your patience.

10          (The hearing concluded at 4:00 p.m.)

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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 26, 2009, and that the within transcript is a true and accurate transcription of my shorthand notes.

I further certify that I am neither an attorney nor counsel for, nor related to or employed by any of the parties to the hearing, and that I am not a relative or employee or any attorney or counsel employed by the parties hereto, or financially interested in the hearing.

---

TANYA M. NIMS, RPR, NMCCR  
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