

1
2
3
4
5
6
7
8
9
10
11
12
13
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NEW MEXICO LAW ENFORCEMENT ACADEMY
REGULAR BOARD MEETING AND PUBLIC HEARING

Thursday, March 27, 2008
9:00 a.m.
1901 University Boulevard, N.E.
Albuquerque, New Mexico 87102

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4 B O A R D M E M B E R S

5 Gary King, Attorney General

6 Robert D. Force

Donald Gallegos

7 Val H. Panteah, Sr.

Bernardo Perez

8 Jeff Remington

Ray Schultz

9 Jocelyn Torres

John Paul Trujillo

10

11

12 A L S O P R E S E N T

13 Monique Croker

Nan Erdman

14 Ernest Holmes

Arthur Ortiz

15 Zachary Shandler

Suzanne Vigil

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1 A G E N D A I T E M I N D E X

PAGE

2	Item	
3	1	Call to Order 5
4	2	Roll 5
5	3	Approval of Agenda 7
6	4	Approval of Minutes, 12/11/07 8
7	5	Director's Report 8
8	6	Public Comments 12
9	7	Public Hearing, Instructor Certification/Revocation Due to Disciplinary Action 30
10		
11	8	Public Hearing, NMAC Rule 10.29.4.8 General Instructor & NMAC Rule 10.29.4.10 Specialized Law Enforcement Instructor, Period of Certification 67
12		
13		
14	9	Discussion, Requests Made to Attend Satellite Academies 72
15	10	Discussion, How We Receive Citizen Complaints and Whether or Not We Will Accept Them 79
16		
17	11	Discussion, Public Comment, Sign-In Sheet, Discuss Training and Discipline 104
18		
19	12	Presentation of PTLA Force in Los Alamos 106
20	13	Initiative to Provide an Abbreviated Police Academy for Current Reserve Officers Proposal 107
21		
22	14	LEA Memorial, Eunice Police Officer Leonard Eugene Daniel (1953) 111
23	15	LEA Memorial, Gallup Police, Sergeant Barney Montoya (1977) 113
24		
25		

3	Certification After Separation, Request for Modification	
4	17 Ratification of Certifications for Law Enforcement Officers	115
5		
6	18 Ratification of Certifications for Public Safety Telecommunicators	116
7	19-41 Disciplinary Matters	117
8	42 Scheduling of Next Meeting	188
9	43 Adjournment	190

10

11

12

EXHIBIT INDEX

13

ADM

14 Exhibit

15	1 Letter from Zachary Shandler to Law Enforcement Academy Board Members Dated 3/11/08	34
16		
17	2 Proposed Changes	34

18

19

20

21

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24

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1 ITEM #1: CALL TO ORDER

2 MR. KING: Good morning. Let's go ahead and get
3 started this morning. I want to get us started on time.

4 And I announced yesterday, but a lot of you weren't here
5 yesterday, that I actually unfortunately have a scheduling
6 conflict with our prison reform task force, which is also
7 going on today. And we have some folks coming in from out
8 of state.

9 So I'm going to call the meeting to order. And I
10 am -- let's actually take roll call first; and then I'm
11 going to turn the meeting over to the head of my
12 litigation division. But -- and basically for roll call,
13 let's just have the members introduce themselves.

14 ITEM #2: ROLL

15 MR. KING: So, Mr. Force, do you want to start on
16 your end and --

17 MR. FORCE: I'm Robert Force. I'm a citizen at
18 large.

19 MR. KING: Sheriff?

20 MR. TRUJILLO: Sheriff Trujillo, Sandoval County
21 Sheriff's Office.

22 MR. REMINGTON: Sergeant Jeff Remington,
23 Albuquerque Police Department, line officer
24 representative.

25 MR. GALLEGOS: Good morning. Donald Gallegos,

6

1 Eighth Judicial District Attorney, DA representative.

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

3 MR. SCHULTZ: Ray Schultz, Albuquerque Police
4 Department, representing municipal chiefs.

5 MR. PANTEAH: Good morning. Val Panteah, Sr.,
6 chief of police representing tribal.

7 MR. KING: Good. And I'm Gary King. I'm the
8 attorney general. And I want to introduce you all to
9 Jocelyn Torres, who is the -- my director of litigation.
10 And I had also told folks yesterday that were here that
11 she is the new Chris Coppin. I think Chris used to sit in
12 for me when I wasn't able to do this.

13 And so, Jocelyn, I'm going to turn the meeting
14 over to you; and let you go from there. And pardon me you
15 all for -- to bug out right after I banged the gavel.

16 MR. GALLEGOS: Thanks, Chief.

17 MR. KING: While we're getting Jocelyn up here,
18 we ought to have all of the staff introduce themselves,
19 too. Art, why don't you guys start over there.

20 (At this time, Mr. King exited the meeting.)

21 MR. ORTIZ: Arthur Ortiz, director of New Mexico
22 Law Enforcement Academy.

23 MS. VIGIL: Suzanne Vigil, secretary to
24 Mr. Ortiz.

25 MR. SHANDLER: I'm Zach Shandler from the

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1 Attorney General's Office, board counsel.

2 MS. ERDMAN: I'm Nan Erdman, also from the
3 Attorney General's Office, prosecuting attorney.

4 MR. HOLMES: I'm Ernest Holmes, investigator for
5 the New Mexico Law Enforcement Academy.

6 MS. CROKER: I'm Monique Croker, Critical

7 Incident Response Training Bureau.

8 ITEM #3: APPROVAL OF AGENDA

9 MS. TORRES: The next item on the agenda is the
10 approval of the agenda. And so does everybody approve the
11 agenda? Art?

12 MR. ORTIZ: Madam Chair, Board Members, we do
13 have an amended agenda; and in your packets Suzanne
14 included the amendment. And that's going to be that we
15 added another stipulated order agreement with Jonathan
16 Todachina.

17 And then we also on the matter on the revocation
18 of default on Keith Farkas, that will be changed to a
19 stipulated order as well.

20 MS. TORRES: Okay.

21 MR. REMINGTON: Motion to accept as amended.

22 MR. GALLEGOS: Second.

23 MS. TORRES: Can we take a vote? Everybody
24 approve?

25 THE BOARD: Aye.

8

1 MS. TORRES: So the agenda is approved.

2 ITEM #4: APPROVAL OF MINUTES, 12/11/07

3 MS. TORRES: And then there were also minutes in
4 your packet. And so call for an approval of the minutes.
5 Is there a motion? These would be from the December 11th,
6 2007 meeting. Is there a motion to approve the minutes?

7 MR. REMINGTON: So moved.

8 MR. PEREZ: Second.

9 MS. TORRES: Vote? Are they approved?

10 THE BOARD: Aye.

11 MS. TORRES: Thank you.

12 ITEM #5: DIRECTOR'S REPORT

13 MS. TORRES: The director's report is also in

14 your packet. And is there a motion to approve the

15 director's report?

16 MR. SHANDLER: Madam Chair, usually the director

17 likes to give a little oral report.

18 MS. TORRES: Update? Okay. Go ahead. And this

19 is Art Ortiz, and he is the director.

20 MR. ORTIZ: Yes, ma'am. Morning. Madam Chair,

21 Board Members, Ladies and Gentlemen in the audience, the

22 director's report since December 11th, 2007, the following

23 has transpired at the Law Enforcement Academy.

24 And I'd like to go over some of the disciplinary

25 matters for the past year that the Board has been

9

1 presented with. There were 96 misconduct cases. Out of

2 the 96 misconduct cases presented, 34 were revocations, 48

3 were suspensions, 7 were cautionary letters, 4 were

4 voluntary relinquishments, and 3 dismissals.

5 So I want to thank the Board, commend the Board

6 for taking I think great action on these misconducts to

7 send that message to law enforcement officers around the

8 state that we will not tolerate or condone any officer
9 misconduct.

10 As of March 13th, 2008, we received 20 misconduct
11 cases so far for 2008. We're kind of staying on the
12 average of 7 cases a month being reported.

13 The first quarter report -- excuse me, the first
14 quarter registry for 2008 was mailed out to all the
15 agencies. Some of them are still a little delinquent.
16 And Suzanne sent letters out to get these agencies in
17 compliance with the registry.

18 Okay. We are currently working on a Wall of
19 Honor at the Law Enforcement Memorial. I sent letters out
20 to all the agencies that have fallen officers. And what
21 we're doing is we're getting these photographs of the
22 officers, and we've created a wall.

23 We've painted a wall there to look like the sky.
24 And it's very nice. We're going to have the frames coming
25 in and were going to display the photographs of the fallen

10

1 officers. And I think it's going to be very nice when the
2 families come up on May 21st for the memorial.

3 So we're looking forward to that. And I thank
4 all the agencies for submitting the photographs to honor
5 these officers. Also, today we'll be discussing two of
6 the fallen officers. One was in 1953 and another in 1977
7 that for some reason were overlooked. And I'll address
8 that later on in the agenda.

9 Again, the Law Enforcement Memorial will be held
10 May 21st, 2008. And I would to put it out to any of the
11 board members if one of them would like to volunteer to
12 present the wreath at the memorial, please let Suzanne
13 know.

14 And I'd also like to acknowledge the staff at the
15 Law Enforcement Academy, Gil Najar, Mark Shae, and the
16 rest of the staff for the physical fitness program that
17 they've developed. We've installed -- instituted a
18 Kettlebells Training. We have the swimming, aerobics.
19 It's a great physical fitness program. And it's working
20 out great for the cadets. So, Gil, I want to thank you
21 for that.

22 I'd also like to recognize Agent Brian Coss with
23 the advanced training. We moved the cert by waiver class
24 out of the basic and put it with the advanced. And I've
25 heard a lot of good, positive comments about Agent Coss

11

1 taking this class on.

2 A lot of them were regretting going back to the
3 academy, but now that they have, they said it was an
4 outstanding class; and they enjoyed it very much. So, for
5 Brian Coss.

6 The bureau reports on the Advanced, I'll let you
7 go ahead and just read in on that. Scott Blackledge is
8 present. I don't know if he would like to say something
9 on his advanced bureau report?

10 MR. BLACKLEDGE: Madam Chair, Members of the
11 Board, Ladies and Gentlemen, I will be here to answer any
12 questions that you have, but basically the report stands
13 for itself.

14 We do have the good news on HR 271, the ensuring
15 child safety upon arrest. The curriculum was forwarded
16 over to us the other day by Children, Youth, and Families
17 Department. Agent Coss has already worked it up and has
18 it into our standardized formatting, and it should be on
19 webpage before the end of the month.

20 At that point any agency can download it and
21 teach it with any general police certified instructor. So
22 it will be there and it can help. But, again, if anyone
23 has any questions.

24 MS. TORRES: Are there any questions? (No
25 response.)

12

1 MR. ORTIZ: On the CIRT incident response bureau,
2 the public safety telecommunicators, they graduated 42
3 dispatchers on February 15th, 2008. And Agent Mary Mabry
4 joined the staff with the CIRT Bureau in January.

5 On the basic side, we currently have 50 cadets in
6 training. We started with 53, and we've only lost 3. And
7 this is completion of their fifth week. Okay. And the
8 rest of it is in the packets.

9 I'll end it there. If there's any questions from
10 the board members? And also at the very end in your

11 packets, there's a letter from the City of Gallup
12 regarding the Wall of Honor. And that's all I have.

13 MS. TORRES: Okay. Thank you.

14 ITEM #6: PUBLIC COMMENTS

15 MS. TORRES: Now, with regard to the public
16 portion of our meeting, the public comment section?

17 Actually, Zach has provided me a script, so I'll just go
18 ahead and go --

19 MR. SHANDLER: Actually, that script is for the
20 next item. Let me get you the clipboard for the general
21 public comments.

22 MS. TORRES: Okay, public comments. Actually,
23 while he's getting that clipboard, is there anybody here
24 that would like to make public comments for the record?
25 If so, would you please raise your hands or stand up?

13

1 Yes, sir. And your name?

2 MR. BROWN: My name is Ron Brown. I'm the
3 sheriff down in Sierra County.

4 MS. TORRES: Ron Brown from Sierra County?

5 MR. BROWN: Yes, ma'am.

6 MS. TORRES: Okay. I think we can -- can we just
7 take the public comments, or is there something....

8 MR. SHANDLER: I'm trying to figure out with
9 Suzanne whether he's talking about an item that's later on
10 the agenda or whether it's just a general public comment.

11 MS. VIGIL: Can you check for me?

12 MR. SHANDLER: One second, Madam Chair.

13 MS. TORRES: I'm sorry about that. Give us a
14 couple minutes.

15 MR. BROWN: No problem.

16 MS. TORRES: Thank you, Mr. Brown.

17 MR. ORTIZ: I would like to just ask if we are
18 going to have you speak, if you could speak loud. We have
19 a transcriptionist here and help her out by raising your
20 voice so she can hear you. Thank you.

21 MS. VIGIL: Madam Chair?

22 MS. TORRES: Take the podium. In my opinion, if
23 somebody's going to speak, it would be better if they
24 would take the podium and the mike.

25 Yes, ma'am?

14

1 MS. VIGIL: He is actually a public comment, so
2 he can actually go ahead.

3 MS. TORRES: Mr. Brown, would you just approach
4 the podium and then go ahead and make your comment.

5 MR. BROWN: Good morning. I'm here to ask if you
6 all was having the same trouble that I'm having in
7 retaining officers that have been enrolled in the academy
8 and their year has been completed, and they've been
9 dismissed by human resources with 18 to 21 days to go
10 before they complete the academy.

11 What I'd like to do, I'd like to request a letter
12 of explanation or something from the Board concerning the

13 law whether -- what the Board's position is. I have been
14 advised if they are in the academy that they be
15 decommissioned and allowed to finish the academy. What's
16 happening in my area, they are being fired on the day they
17 reach their year. We've spent thousands of dollars and I
18 have no bodies.

19 And if anybody's having that problem or anybody
20 has a solution to this problem, I would like the Board to
21 either get a written opinion, as Mr. King said we could
22 probably do, or if -- just somebody waive it to where I
23 don't lose these people after they spent all this money on
24 getting into the academy and they lack two or three weeks
25 getting out and they get fired. This is -- to me it's

15

1 total nonsense.

2 But everybody I ask has got a different
3 interpretation of the law. And I was told that if they
4 were in the academy, that they were just decertified until
5 they got the academy done. But that's not the way my
6 department -- my human resource people understand it.

7 So is there any way we could get a letter that
8 says that if you're in the academy or eligible to go to
9 the academy, you can stay until you get out of the academy
10 without being fired?

11 MR. ORTIZ: Excuse me, Mr. Brown. Madam Chair,
12 Board Members, I am aware of the situation. About six
13 months ago, there was a cadet from Sierra County in the

14 Las Cruces Academy. He was dismissed based on his
15 commissioned status time, the 12 months. They are allowed
16 the 12 months. His 12 months would have expired while he
17 was in the academy.

18 And I talked with the county attorney down there
19 and said once he's in the academy he's considered a cadet;
20 to let him complete the academy and then he would be a
21 certified officer.

22 However, they chose to interpret the law, the
23 statute where they were going to release him, because in
24 the statute it says they have to become certificate within
25 12 months. The way I understand it in speaking with

16

1 Mr. Najar in the past, as long as they were in the academy
2 within that 12-month period they were allowed to continue
3 in the academy.

4 His agency is the only one that was experiencing
5 this. They have experienced it twice.

6 MS. TORRES: Three times, he said.

7 MR. ORTIZ: We've had another one that was --
8 three times? Well, I've been aware of two. And I did
9 everything in my power to try and help to resolve this,
10 where his agency has been paying this officer to attend
11 the academy. His commission expired March 19th of this
12 year. His 12 months was up. And I wrote a letter to let
13 him stay in the academy and graduate.

14 I don't think it makes any sense for him to

15 invest all this money in training and then their human
16 resources dismisses them. They've terminated two
17 officers, and T or C has tried to pick them up. I know
18 T or C picked up the one before and allowed him to finish
19 the academy. He didn't finish. He dropped out.

20 But this latest one we have -- it is a big
21 problem. Now we have a guy that had a month to go to
22 graduate to become a certified officer. He wasn't allowed
23 to do that. Dona Ana County was trying to pick him up.
24 Some issues happened. They weren't able to pick him up.
25 Now this cadet is going to have to attend the full

17

1 academy, and I've offered that he come in July and attend
2 our academy.

3 But the problem seems to be with your human
4 resource department on the way they are interpreting the
5 law.

6 MR. BROWN: Our attorney is interpreting the law
7 for them. And he says, "Well, this is the way it is. I
8 mean, I've researched this, yadda, yadda, yadda. I know a
9 thing about it. And when their 12 months is up, they are
10 gone. Period." And he said all we've got to do is get a
11 waiver from the Board and it's okay.

12 And I said, "Well, we received the letter.
13 That's not what it said."

14 MR. ORTIZ: I sent the letter.

15 MR. BROWN: I said, "I read it and that's not

16 what it said." So I said, "I ain't arguing with you. I
17 know what the letter said. I got a copy of it. What the
18 letter said is if they are in the academy they can
19 complete the academy." I don't know if those are the
20 terms as you put it, but.

21 I've got to have something to correct this. And
22 I don't know where to go except here. And --

23 MR. ORTIZ: It's in state statute. And I
24 apologize; I don't have the statute book, you know, on the
25 police officer's commission having 12 months.

18

1 MR. BROWN: I have one more questions on this.
2 Since I had -- the last people I had employed were all
3 past their year of completed -- their year completed while
4 they was in the academy, do I have to decommission them?

5 MR. ORTIZ: No. Currently, probably out of those
6 50 cadets we have is probably some while they are in the
7 academy their 12 months is going to expire, but they are
8 in there as a cadet, and they are allowed -- when they go
9 back home on the weekends, they are not allowed to go back
10 and work in a police capacity since they are cadets.

11 And then when they complete the academy, they
12 become certified. I'm not aware of any other agencies
13 except down in Sierra County. And we've tried to resolve
14 it with them, send them letters; but their attorney is
15 ignoring it.

16 MS. TORRES: Mr. Gallegos would like to be

17 recognized.

18 MR. GALLEGOS: I think you just answered the
19 question, which was is this the only county that we see
20 having this particular problem. And my suggestion is a
21 couple of things. A county attorney pretty much advises
22 the county, that's it.

23 It's still up to the county to decide what they
24 want to do after the attorney tells them what the pro's
25 and con's are. I would also reach out to the association

19

1 of counties and see what the consensus is there too.

2 And it might be something where your board of
3 commissioners can then let the attorney know, "Thank you
4 for the advice, but we're the only agency doing this. We
5 don't think we want to continue on that basis."

6 You know, you put ten lawyers in a room and you
7 give them a statute and they are going to interpret it ten
8 different ways. But obviously this is the only attorney
9 in the state who is interpreting that -- interpreting it
10 that way.

11 And so I would think that the practical -- the
12 real remedy lies there. I don't know what the Board could
13 do. I think the academy can. And you've written a
14 letter, then I think that should be enough.

15 MR. ORTIZ: Right.

16 MR. GALLEGOS: What we may want to do also is
17 look at the statute to see if any amendments should be

18 made in the next legislative session to remedy this. But
19 I'll tell you the first thing that I would ask the lawyer
20 is what happens in the event that this statute is
21 interpreted a different way.

22 In other words, we go with the status quo, what
23 we've always done in the past. See what that attorney's
24 advice is. I mean, who's going to complain and who's
25 going to -- where's the remedy that's --

20

1 MR. BROWN: Like I said, I had a lengthy
2 discussion with the attorney about this. And his opinion
3 is that's the only opinion. His opinion is all there is.
4 There is no other opinion. Except he said if the Board
5 would sign a waiver.

6 And I said, "The letter come down is a waiver.
7 It explains that" --

8 "No, that's not a waiver." And, folks, I'm
9 lost. I'm totally lost and I'm just kind of here begging
10 the Board to do something to tell these people, "Hey, this
11 ain't going to work," because I have another man right now
12 they just called a while ago. They are going to cut his
13 final check today because he won't be able to complete the
14 academy within his year.

15 He ain't got any academy yet. We couldn't get
16 his paperwork and everything processed in time to get him
17 in the January academy. So he's not even in the academy
18 yet. So they are going to terminate him. And he is a

19 29-year veteran going back to work. It's like we've got
20 to have some way to remedy this, and I don't know what it
21 is. And that's why I'm here begging.

22 MS. TORRES: Mr. Gallegos.

23 MR. GALLEGOS: Just real quick, sir. I don't
24 want to belabor it. But my experience -- and I'm not
25 casting aspersions on anyone out there -- is I have

21

1 noticed on occasions that there are some county attorneys,
2 maybe municipal attorneys who think they run the show.

3 Their only job out there in my opinion is to
4 advise the commission and the departments; and then it's
5 up to you guys to decide whether you're going to take that
6 advice or not. So this attorney does not have any kind of
7 authority over you other than to advise you what he or she
8 thinks the law is, and then you make the decision based on
9 that.

10 So my thing is maybe consultation with the
11 association of counties, maybe with the sheriff's
12 affiliate. And thank him for his advice, but say -- you
13 know, I know you've got to talk to HR about that. But
14 that may be one way to deal with it in the short term, and
15 then of course Art revising his letter to satisfy any kind
16 of legal requirement.

17 MR. ORTIZ: I'd even be willing to go down and
18 meet with county commission. I do see the expense as
19 being thrown away, and it's not helping law enforcement by

20 having a guy a month short of graduation is now being
21 terminated and now he would have to start a 20-week
22 academy all over again.

23 MR. BROWN: This is something we have discussed
24 at our sheriff's affiliate and association of counties.
25 And it's still -- like I said, we still have no

22

1 resolution. But that's why I'm here, to kind of beg
2 however you all -- you know, I think the statute meant
3 that -- changing the statute would probably be the --

4 MR. ORTIZ: The only way.

5 MR. BROWN: -- simplest, easiest way to do it.
6 And if we do that, we need to draft the law to where the
7 average third grader can understand it. When you deal
8 with human resource people, all of a sudden they become
9 important.

10 MS. TORRES: I'd like to recognize Chief Schultz.

11 MR. SCHULTZ: One question for you, Sheriff and
12 maybe Director Ortiz. Would it be possible for your
13 officers in the academy to voluntarily surrender their
14 commission. Commission is no longer an issue since they
15 are not doing law enforcement duties.

16 MR. BROWN: We do that. We do that.

17 MR. SCHULTZ: So if it's already been voluntarily
18 surrendered, it shouldn't be an issue because it no longer
19 exists. If that would be clarified through the director,
20 would that maybe solve the problem?

21 MR. BROWN: We do that already. When they are a
22 cadet, they are a cadet. After their time runs out, they
23 don't work the streets. They go to school.

24 MR. ORTIZ: But in speaking with the attorney
25 saying, "No, the law says they have 12 months to become

23

1 certified;" and they are sticking to that. They are
2 saying, "No, we are terminating them." And I can't
3 understand why they hire them when we only are putting on
4 two academies, if it doesn't fit within that time frame.
5 I don't know if they are ever going to get anybody
6 certified.

7 MR. BROWN: Thank you for your time, and whatever
8 you can do for us.

9 MR. ORTIZ: I'll continue to see what I can do to
10 assist him and meet with the county commission. And if I
11 have to take a trip down there, I'll do that.

12 MS. TORRES: Mr. Brown?

13 MR. BROWN: Yes, ma'am.

14 MS. TORRES: I'd like to see if there's any other
15 comments from the board members or questions.

16 Yes, Mr. Force.

17 MR. FORCE: I guess my question would probably be
18 more targeted to Zach. Zach, what is your -- what's your
19 understanding? Are you familiar with this predicament
20 situation?

21 MR. SHANDLER: Madam Chair, Mr. Force, I did

22 discuss it with the director; and I agree with the status
23 quo interpretation. And it sounds like the director is
24 taking appropriate steps in writing letters. But if you
25 want to task me with other tasks, I'm willing to do that

24

1 as well.

2 MR. FORCE: I guess my issue is would it be
3 inappropriate for the Board -- for Zach to draft a letter,
4 a legal letter that interprets that statute on behalf of
5 the Board and then send it to the county? Would that be
6 appropriate, Zach?

7 MS. TORRES: Actually, you know, in my opinion, I
8 don't want to put, you know, Zach on the spot; but I
9 certainly see that there's room for assistance from the
10 Attorney General's Office. We proposed legislation every
11 single year. We have a person, Stuart Bluestone, that
12 proposes that legislation.

13 And so I would certainly want to look at this
14 because it seems like such a hardship for everybody
15 concerned and such a waste of resources. And if there's
16 something that actually needs to be improved and amended,
17 then I think that we really need to be proactive to assist
18 the academy in doing that and assist the officers and --
19 you know, throughout the state.

20 So that's where I would want to go with this.
21 You know, it might be an action item to follow up on for
22 the next meeting and see exactly where we can go with

23 providing assistance. But it sounds to me from the nature
24 of the problem that what Mr. Brown and Mr. Ortiz are
25 describing, they definitely require legal assistance.

25

1 And I'm in the position that I think our Attorney
2 General's Office should be able to provide to the extent
3 that we possibly can. Of course, we would have to ask the
4 Attorney General and make sure we clear it with him. But
5 I can't imagine the hardship and the waste of resources
6 and how it feels to these cadets to pass and go through
7 all the training and everything else, and then they still
8 cannot become certified law enforcement officers.

9 You know, it doesn't make sense to me. So I
10 think I'd like to at least offer to look into the issue
11 and provide assistance and then follow up next time that
12 we meet with whatever, you know, action we've been able to
13 take.

14 MR. REMINGTON: Sheriff, I have one question.
15 Does your county have the rank of cadet?

16 MR. BROWN: No, we do not have a cadet rank.

17 MR. REMINGTON: Sounds to me like if you just
18 create a job description for cadet and have them move from
19 patrolman to cadet, they could go through the academy and
20 you can circumvent all this.

21 MR. ORTIZ: That's what I've tried saying, that
22 they are classified now as a cadet while they are in the
23 academy. And also I did relay that information. I spoke

24 with Zach, and I informed him that I wanted to get an
25 opinion from the Attorney General's Office. I spoke with

26

1 Zach, and then I relayed that information to the county.

2 MR. REMINGTON: Seems to me like HR people, they
3 need to have, you know, classifications for everything.
4 And if they just made a cadet.

5 MR. ORTIZ: That's a good suggestion.

6 MR. BROWN: I just, again, thank you for your
7 time. And I sure --

8 MS. TORRES: Hold on. Mr. Gallegos has
9 something -- I wanted to ask him just to read the
10 provision of the statute that pertains, because otherwise
11 we're kind of operating in a void, at least for this
12 meeting.

13 MR. GALLEGOS: I think we have some practical
14 suggestions that have been relayed, but I see where the
15 lawyer or the attorney is probably getting hung up on the
16 language.

17 And it says, "A person employed as a police
18 officer by any law enforcement agency in this state shall
19 forfeit his position unless no later than 12 months after
20 beginning his employment as a police officer the person
21 satisfies the qualifications for certification set forth
22 in Subsection A of this section and is awarded a
23 certificate attesting to the fact."

24 Well, if you look at that paragraph alone and

25 don't look at it in conjunction with Paragraph A, then I

27

1 think your attorney is correct. The problem is when you
2 have the practical reality, which is the academy is being
3 staggered, I think -- and Zach probably knows this better
4 than I do -- under statutory construction you have to
5 give -- I forget what the magic language is. I think you
6 even quote it in one of your footnotes.

7 You have to give everything necessary to carry
8 out what the statute was intended to do. And so I think
9 it's just being hung up on a technicality is my -- my
10 opinion. And I think, you know, maybe the political
11 solution is the right one in talking to your board of
12 commissioners.

13 And, you know, at least for now, maybe the letter
14 will take care of it and then the amendment should be very
15 simple. I mean, we just toy with that language of the 12
16 months and just put, you know, until they complete the
17 training requirements set forth by the academy, whatever
18 else, but. Anyway, I just wanted to bring that up.

19 MS. TORRES: Thank you. We can take short
20 comment from the public. Is there anybody else that wants
21 to address this issue that's been presented? (No
22 response.) All right. Thank you, sir.

23 MR. BROWN: Thank you, ma'am. I'm just glad
24 nobody else has this problem.

25 MS. TORRES: That's a good thing. Thank you,

1 sir. And the other thing I just want to ask just as a
2 matter of form is, once again, whether the Board accepts
3 the director's report, and I'd like to take a voice vote
4 on that item of the agenda.

5 So does everybody accept the director's report as
6 stated both in writing and as communicated today by
7 Mr. Ortiz?

8 MR. TRUJILLO: Yes.

9 MR. REMINGTON: Motion to accept.

10 MS. TORRES: Please --

11 MR. REMINGTON: Motion to accept.

12 MR. SCHULTZ: Second.

13 MS. TORRES: And vote?

14 THE BOARD: Aye.

15 MS. TORRES: Are there any no's? (No response.)

16 Okay, so the director's report is accepted.

17 Are there any other public comments before we get
18 onto old business? (No response.) Okay. Having no other
19 public comments, we will move onto the next item of the
20 agenda, Item No. 7, Old Business.

21 And this is the part where I have the script.

22 The hearing record is now declared as being open. The
23 staff has proposed some changes to the Board --

24 MR. REMINGTON: Madam Chair?

25 MS. VIGIL: That's okay. You can continue.

1 MS. TORRES: The staff has proposed some changes
2 to the Board rules and the staff will provide testimony on
3 why these rules should or should not be adopted. The
4 Board is free to ask questions.

5 Then anybody from the audience can also provide
6 testimony. And we should hold off -- the Board should
7 hold off on any deliberations among ourselves until we
8 receive all the testimony that is to be offered.

9 And when we have received all the testimony, I
10 will close the hearing record. Then the Board may start
11 deliberating on the merits of the rule. I will entertain
12 a motion to accept, modify, or reject the proposed rule.

13 We may modify the rule as long as it is the
14 logical outgrowth of the rule as published in our packet.
15 Two legal items are necessary to be stated for the
16 record. The rules become effective 30 days after they are
17 filed at records and archives. Second, the legal standard
18 is that we need to inform the public of our reasoning when
19 we choose to amend our rules.

20 The comments of one member on the record, if it
21 explains our reasoning, satisfies this legal standard.

22 And we are ready for Mr. Ortiz to make his presentation.

23 Thank you.

24

25

2 INSTRUCTOR CERT./REVOCATION DUE TO DISCIPLINARY ACTION

3 MR. ORTIZ: Madam Chair, Board Members, Ladies
4 and Gentlemen of the audience, what we want to do is have
5 a revocation for instructor certification at the Law
6 Enforcement Academy. The rules don't cover that.

7 The Board took action on an officer last year
8 that was an instructor also. It was for a sexual
9 misconduct case. Then during his suspension time, I found
10 out this officer was at the Law Enforcement Academy
11 teaching defensive tactics.

12 He had no business in there, so I went in there.
13 Sure enough, he was in there. I pulled him out of there.
14 And I started thinking about liability issues. Here we
15 have an officer that's on suspension and yet he's saying,
16 "Well, I'm a certified instructor." And yet we had no
17 action to take on him there.

18 Therefore, I started thinking if one of those
19 students -- a female student and it was in the newspaper
20 about a sexual misconduct were to see that and then
21 approach me and say "he touched me inappropriately and I'm
22 suing you because you allowed him to stay certified and
23 allowed him to teach," I think there's no way I could
24 defend that.

25 The liability on me would be huge. Therefore, we

1 decided we have to do something to take their instructor
2 certification as well. If the Board takes action on them

3 for police misconduct and they are suspended or revoked,
4 we should also do something on their instructor
5 certification.

6 Therefore, we proposed -- I looked at
7 statewide -- there's 36 other states that do revoke their
8 instructor's certification for any type of misconduct. So
9 we came up with 10.29.4.12, Revocation of Instructor
10 Certification. And this is a draft.

11 Yesterday we had a work session here. And we do
12 have some changes to it which I think the Board might want
13 to implement. We believe that since the academy issues
14 this certification that we should be allowed to suspend or
15 revoke that certification as well.

16 Then we get into the issue of an appeal process.
17 And what we came up with yesterday in the board session is
18 there was a couple different options. One is if we do, we
19 could kind of proceed with the officer misconduct where we
20 have -- we issue a notice of contemplated action.

21 If we receive word that he's involved in
22 misconduct or he's not an effective instructor, he has
23 poor evaluations and he should not be instructing, then
24 that employing agency can report it; or if it comes to my
25 attention, then we can take action, send a notice of

1 contemplated action, and start the process of we would
2 have an informal hearing. And he can present his
3 evidence.

4 Then I would make the decision whether to suspend
5 or revoke his instructor certificate. If he chooses to
6 appeal my decision, what I believe we can do is we can
7 either go with some of his peers, some experts in the
8 subject matter. Say it's a DWI. If he's a DWI instructor
9 and he gets arrested for DWI, then we could have some
10 other instructors hear his appeal and let them make that
11 decision. Or a firearms instructor or so forth.

12 Another option is we can convene some of the
13 directors from the other academies to be the ones to hear
14 his appeal. So that is open for discussion, and whatever
15 the Board may prefer. Any questions?

16 I could read the -- what we have here with some
17 of the changes -- and I believe maybe Zach can cover --
18 but on "A. An instructor certification may be revoked
19 when an instructor:" -- and what we were thinking of
20 inserting is: "A. An instructor certification may be
21 revoked by the director when an instructor: (1) fails to
22 meet minimum standards; or (2) displays a lack of good
23 moral character or behavior that adversely affects their
24 credibility as an instructor; or (3) lacks the ability to
25 effectively communicate or instruct in the academy

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1 setting; or (4) has his/her professional certification
2 suspended or revoked."

3 Then under "B. The employing agency or the
4 director can request the revocation of instructor

5 certification by submitting the request to the director in
6 writing including all the supporting documentation.

7 "C. The director shall review the request for
8 revocation. The director shall inform the affected
9 instructor in writing that his/her instructor
10 certification has been revoked and the reasons for the
11 revocation and their right to appeal."

12 And then in "D" when we get into the appeal, what
13 they have now is: "A person whose instructor
14 certification has been revoked may appeal the action
15 before the New Mexico law enforcement academy board."

16 I don't think we want to take it to the Board. I
17 think we can handle this at the academy level, since we're
18 the ones issuing the certificate.

19 And another revision I think is on the LEA65,
20 which is the application for an instructor. We can revise
21 that form and have some language that if they are involved
22 in officer misconduct that their instructor certification
23 can be suspended or revoked, or if there's poor
24 evaluations or bad -- he gets bad evaluations, then we'll
25 look at it.

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1 So I think that would put somebody on notice when
2 they applied for that instructor certification that -- if
3 there's a possibility it could be suspended or revoked.

4 MR. SHANDLER: Zach Shandler from the Attorney
5 General's Office. And I have two written exhibits that

6 I'm going to ask to be placed on the record. The first
7 one is a letter that I submitted in the packet to the
8 board members regarding the appeal process. So if that
9 could be Exhibit No. 1.

10 And then I just handed out what I'd like labeled
11 Exhibit No. 2, which is some proposed changes based out of
12 yesterday's work session that the Attorney General asked
13 me to put in front of you.

14 So if that's okay, Madam Chair, if you could
15 admit those two exhibits into the record.

16 MS. TORRES: Yes, I admit those exhibits into the
17 record.

18 (Exhibits No. 1 & 2 admitted.)

19 MS. TORRES: And then, Mr. Shandler, if you would
20 just describe the rationale behind those changes, I think
21 it would help the members of Board and the public to
22 understand what went on yesterday at the work session.

23 MR. SHANDLER: Okay. There are additional
24 documents. If anyone from the public wants copies, they
25 are next to the court reporter. But I'll try to explain

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1 them. And I tried to underline the changes. And these
2 are just suggested changes.

3 My instructions from AG King was to just lay out
4 all the different options. So you can accept or reject
5 all of this. In sentence A, he thought it will be helpful
6 to have a clarification that it was the director that was

7 the person doing the revocation. And so I put "The
8 Director" at the beginning of that sentence.

9 The next change that was suggested is there was
10 discussion among the lawyers there wasn't sufficient due
11 process written into the rule. And so I proposed saying a
12 preponderance of evidence standard for the director in
13 weighing whether one of the four categories was met.

14 That way if someone failed to meet the minimum
15 standards, the director would know that it would require a
16 preponderance of evidence that the person failed to meet
17 the minimum standards, as opposed to getting to maybe a
18 "he said/he said" thing about whether the instructor did a
19 good job.

20 The next proposed change that came out of the
21 work session was to paragraph B where there was discussion
22 about whether the director himself may initiate the action
23 and not just have to wait for an employing agency. And
24 there's two different ways to phrase that.

25 Mr. Ortiz in his presentation said to either have

36

1 the employing agency or the director in the first
2 sentence. But the Attorney General said give me the
3 option of something -- a second sentence that "The
4 director may initiate the action, sua sponte" -- which is
5 a legal term for on his own -- "on an instructor
6 certification."

7 And the rationale having a second sentence is

8 that the predicate of the first sentence talks about
9 submitting documents to the director. So if we just kept
10 it one sentence, the Attorney General's concern would be
11 "The employing agency or the director may request an
12 action and submit documents to the director." So his
13 concern was the director would be submitting documents to
14 the director. So that's why he suggested a second
15 sentence.

16 "C," I put in some proposed language in there
17 about these due process issues. And there was a debate at
18 the work session whether that was necessary or not. Some
19 people argued that it wasn't necessary to write more
20 specific due process in there because this is something
21 within the academy and the academy can handle. That was
22 one argument.

23 The second argument is once you start writing in
24 due process issues, you could probably write several pages
25 instead of just a paragraph. But the Attorney General,

37

1 like I said, wanted me to give you some options.

2 So one option would be to put some due process
3 considerations in there. Where it says the director as
4 part of his review, "These steps may include" -- and I
5 used the word "may" so it's permissive; it's not
6 required. But that would be "...issuing written notice to
7 the instructor of the specific allegations no later than
8 thirty (30) days after receiving the request for

9 action...."

10 So that would kind of model after the NCA process
11 that goes on for officer certification. And it also put
12 in specific timetables: "...conducting an informal
13 meeting with the instructor no later than sixty (60)
14 days...." Again, that follows the model that they use for
15 officer certification. And then "...issuing a final
16 decision no later than one-hundred twenty (120) days...."
17 Again, that follows that model.

18 The dates are a little bit different but I wanted
19 to give both the instructor and the academy some time
20 tables so they felt that there was due process -- that it
21 was proceeding.

22 And then, as Mr. Ortiz mentioned, the proposal as
23 presented talks about a right to an appeal. And there was
24 discussion yesterday to change that language to a right to
25 review. And so that's put into the very end of C, "a

38

1 right to review."

2 And that gets the first exhibit that I presented
3 to you is that as presented, the proposal has an appeal
4 process to the Board. And I'm concerned about that. I'm
5 trying to steer you away from that. But as Mr. Gallegos
6 says, as a lawyer, I'm just here to tell you the pro's and
7 con's and you decide what's best.

8 My concern about having you as the appeal body
9 for instructors is, A, this is an academy instructor

10 matter. It's not a certification matter. And the type of
11 evidence that would come up in an appeal hearing would be
12 much more akin to evaluations, performance reviews as
13 opposed to the evidence that you'll hear later today about
14 IA reports and licensing certification matters. So my
15 concern is it would turn you into an employment board.

16 And -- but the down -- I guess the -- let me try
17 that again. The upside to keeping the language that
18 you're an appeal body is that you would provide check and
19 balance and you would be an unbiased party because you
20 wouldn't be involved in the investigation.

21 So let's say that you decide not to include the
22 Board as the appeal body. Mr. Force suggested a subject
23 expert panel. That was the buzz word that he used
24 yesterday. And so in the language that I provided in
25 Exhibit {sic} D, I tried to incorporate that.

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1 So it would read, "An instructor whose
2 certification has been revoked may request a review by a
3 subject expert panel no later than thirty (30) days after
4 receiving the Director's final decision." So first the
5 appeal would go to a subject expert panel, and then there
6 would be a specific time period for appeal.

7 And if the instructor waited too long, they
8 wouldn't have that right to a -- or a review, I should
9 say. "The panel may be made up of instructors with
10 expertise in the topic area, satellite office" -- that

11 probably should say satellite academy instructors --

12 "Academy instructors or Academy managers."

13 And there you might want to change the language.

14 I think we had some testimony yesterday that there is

15 expertise out there at the satellite academies and maybe

16 they should be part of this review panel.

17 And then I tried to put in some dates in there

18 that the panel would convene within 60 days and would

19 issue a written decision within 60 days. And then

20 language that "The Director, or any person that

21 participated in the initial review of the matter, cannot

22 serve on the subject expert panel."

23 And that was based on discussion that it really

24 wouldn't be fair if the director decided to revoke you

25 that you appeal to the director; doesn't seem like you

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1 would have a full fair opportunity there.

2 And because we also discussed that maybe the

3 right of review should go to three senior members in the

4 academy staff. So those are some of the things that were

5 tossed around yesterday. So do you have any questions

6 about any of the proposed language or some of the options

7 that the Attorney General King wanted presented in front

8 of you today?

9 MS. TORRES: Are there any questions from the

10 Board?

11 MR. SCHULTZ: Madam Chair, Mr. Shandler, I agree

12 that the Board definitely does not want to become an
13 extension of an employment or personnel board. What would
14 be the problem with the director's decision being final
15 and binding, if we were to agree with that?

16 MR. SHANDLER: That's a valid point. But I think
17 Mr. Ortiz was concerned that there should be some type of
18 review or appeal process; is that a fair statement?

19 MR. ORTIZ: Yes. Just kind of coinciding with
20 the officer misconduct, I thought, you know, give them due
21 process because he may have an attorney and he may bring
22 up the questions about they're not giving him due process
23 for any appeals or reviews.

24 MR. SCHULTZ: But we're just talking about a
25 certification only to be an instructor.

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1 MR. ORTIZ: Right.

2 MR. SCHULTZ: And who's to say -- you know, if we
3 say, "We trust you; we trust your decision-making" -- it's
4 obviously gone through a process. You've reviewed it just
5 like you do with stipulated orders. I mean, why prolong
6 this?

7 Why don't we just say that you're the director in
8 charge of the State Law Enforcement Academy. If you find
9 and you deem that somebody is unworthy to be an instructor
10 and you make the decision, and we live with it. I don't
11 see any problem with that.

12 MR. ORTIZ: That's fine by me, sir. I agree with

13 that. I'm just kind of playing devil's advocate here with
14 some of the attorneys that might get involved. We want to
15 cover all the bases and make sure we're not going to have
16 any issues or lawsuits against us.

17 MR. SCHULTZ: You'll get sued no matter what.

18 MR. ORTIZ: Yeah.

19 MR. SCHULTZ: If we can avoid another step in the
20 process. I mean, I think it makes perfect sense to -- I
21 like amendment two. I think it's very clear that there is
22 an opportunity for the grieved instructor to argue his or
23 her point to you. And I think we pay you a lot of money
24 to make decisions, and we allow you to make decisions.

25 MR. ORTIZ: Well.

42

1 MS. TORRES: Is there any response to that,
2 Mr. Shandler? Do you have a response to Chief Schultz's
3 comment?

4 MR. SHANDLER: Madam Chair, Chief Schultz, we
5 discussed this in the work session trying to balance out
6 making it an expeditious process as opposed to the due
7 process issues. And in the context of this would be an
8 employment issue since you're just an instructor and not
9 a -- not a certification issue where the Attorney General
10 King made a point that that's your livelihood.

11 So we discussed this. And I don't think we came
12 to a firm answer. I think it's somehow we have to balance
13 it out. So you have a valid point. It's complicated.

14 MS. TORRES: Does anybody else have questions or
15 comments? (No response.) I have a question for
16 Mr. Ortiz. Do these instructors get paid? I'm assuming
17 that they get paid. Do they get paid?

18 MR. ORTIZ: Yes, ma'am. They'll be paid by their
19 employing agencies, the majority of them. We do have some
20 that come on contract. But it doesn't really matter. My
21 main goal was the certified police officers, if they are
22 involved in misconduct they should not be allowed to go
23 out and continue to instruct.

24 MS. TORRES: So my observation is that in some
25 ways -- even if it's just a supplemental income and it's

43

1 probably not a lot of money, but in some ways it does
2 affect their income, it does affect their livelihood to
3 some extent; is that fair?

4 MR. ORTIZ: The only issue I would see is if they
5 had supplemental income from their department, if their
6 department allowed them to go out on their own and teach.
7 And if this is accredited through DPS and they are
8 portraying themselves as a DPS certified instructor and
9 they've been involved in misconduct, we should not allow
10 them to make profit over that.

11 MS. TORRES: Right. I'm just wondering do they
12 get paid above and beyond what they make in their regular
13 job?

14 MR. ORTIZ: No. No.

15 MS. TORRES: So then I have another question. So
16 of what benefit is it to these officers to be
17 instructors? What benefit do they receive from the fact
18 that they become certified instructors?

19 MR. ORTIZ: There's numerous benefits. It helps
20 them enhance their abilities as a police officer, going
21 and testifying in court that, yes, they are experts on a
22 matter; that they are also instructors in that field. And
23 it helps to train their own staff, train other officers.

24 MS. TORRES: So it improves I guess their
25 credentials basically.

44

1 MR. ORTIZ: Yes.

2 MS. TORRES: On their resume.

3 MR. ORTIZ: Yes.

4 MS. TORRES: And -- okay. Their notoriety
5 throughout the law enforcement personnel.

6 MR. ORTIZ: Yes, ma'am.

7 MS. TORRES: Thank you.

8 MR. SHANDLER: Madam Chair, there was discussion
9 of the different categories. We discussed yesterday about
10 I guess the private sector instructors. So that would be
11 a different group that I guess would -- they would get
12 contract moneys from instructing.

13 And we talked about the academy -- the actual
14 instructors at the academy. And we talked about I guess
15 the largest group is officers that work for other agencies

16 that are instructors. So it sounds like there's three

17 different categories. That's all I have on that.

18 MS. TORRES: Okay. Mr. Gallegos.

19 MR. GALLEGOS: I think you may have answered it.

20 And I apologize for not being here yesterday. Just

21 couldn't make it. Art, if I'm clear, again, this is just

22 concerning those personnel who are from other agencies who

23 are training at the Law Enforcement Academy, not being

24 paid -- I mean, well, not being paid by the academy?

25 MR. ORTIZ: Yes. Madam Chair, Board Members,

45

1 Mr. Gallegos, this would -- yes, it would entail any DPS

2 certified instructor.

3 MR. GALLEGOS: Okay.

4 MR. ORTIZ: We may have some that come from out

5 of state that aren't DPS certified instructors. If they

6 put on a bad class and we're aware of it, we don't invite

7 them back again. We can't take action on them.

8 MR. GALLEGOS: So I guess the way I'm kind of

9 looking at it, Zach, also is that there wouldn't be an

10 issue of a property right or an interest in this

11 particular job because it's something that the academy is

12 saying, "We'd like to have your help." You know, right?

13 So the academy should have -- and I think I agree

14 with the Chief -- the ability to say, "You're not

15 certified anymore, so we don't want you anymore." And I

16 think that's kind of where the rule -- or the changes are

17 encompassing, as far as that's concerned.

18 I agree with Zach. I don't want to be an appeal
19 board for that issue. I don't think it falls within the
20 purview of our statutory or rule requirements. So
21 whatever -- my position is whatever we can do to not have
22 us be an appeal board in that process I'm okay with.

23 MR. SHANDLER: Madam Chair, I think Mr. Force
24 yesterday talked about this group of private sector
25 instructors. Maybe you can explain that part to

46

1 Mr. Gallegos?

2 MR. FORCE: Yeah. I think we're -- I think we're
3 trying to -- bottom line, I think we're broadening this
4 way too much. And I do agree with Chief Schultz. To me
5 the bottom line is I think that the director should have
6 the final decision, end of story.

7 There is a group of professional lecturers that
8 get certification from the academy, and they do make a
9 livelihood off of their teaching ability. However, the
10 certification that the Law Enforcement Academy gives them
11 does not either make nor break their ability to teach.

12 Frankly, if people are out there teaching, they
13 can still teach curriculum. It should not harm their
14 livelihood. What the nicety is when they go to the
15 academy and get a state certification as an instructor, it
16 gives them the ability to get into the department and have
17 that certified instructor training.

18 And so in response, I mean, I think it should
19 apply to all instructors, both professional as well as
20 employed by agencies, which the majority of these we're
21 talking about as we discussed yesterday are not the
22 professional lecture instructors. These are the agency
23 instructors.

24 So the property issue I don't think is -- I think
25 it's a moot issue when it comes down to push and shove.

47

1 So I do agree. I think paragraph D ought to be stricken
2 because I don't think that we ought to look at an appeal
3 process. It should be like Chief Schultz said, the
4 director's decision is final.

5 MS. TORRES: Okay. So then I have a question for
6 Zach Shandler. And my question is, then I'm assuming that
7 if it's just a private instructor then there wouldn't be a
8 property right in their employment anyway, right?
9 Wouldn't that apply more to the public -- the instructors
10 that are employed by the public agencies?

11 So one thing that -- just to familiarize the
12 Board and the audience with what Attorney General King
13 said yesterday is maybe there's not really a due process
14 right. If there's not a right to due process, then maybe
15 that issue doesn't really have to be addressed in this
16 type of regulation.

17 So, can you speak to that? Are you prepared to
18 speak to that? Or would that take more research.

19 MR. SHANDLER: Madam Chair, I think that would
20 take more research, but I think that's the general
21 consensus. Although when we were talking yesterday our
22 concern was that instructors' attorneys would try to
23 assert that right. So that's why it was discussed
24 yesterday.

25 MS. TORRES: Okay. So my concern and I think

48

1 that the concern that had been originally addressed in the
2 proposed rule as it was originally written that we
3 discussed yesterday, is if there is any sort of property
4 right that really is inherent in this type of instructor
5 certification, then I would want to make sure that, you
6 know, that the regulation was addressing that in an
7 appropriate way.

8 And I think that -- I mean, it looks to me that
9 the amendments that Mr. Shandler has drafted would address
10 that appropriately because basically due process is known
11 as an opportunity to be heard.

12 The one question I would have on the amendments
13 would be the subject expert panel. There's a good job of
14 defining this panel, but then I think we would need to say
15 how many people would be on that panel. Would it be
16 three, four, ten? How many -- the number of people that
17 would be on that panel -- two? -- if that were to be
18 accepted.

19 The other alternative that I see is we could --

20 we would table this issue until additional research can be
21 done on the employment issue because that is -- I've been
22 a lawyer 26 years and I've done employment law in some
23 respect during that entire time.

24 And in my opinion that's an important issue to
25 make sure that we've researched that, we've addressed

49

1 that, and that we're solid on that issue and that we've
2 covered the issue legally to the extent that we need to
3 without belaboring it.

4 I don't want to belabor it forever and ever, but
5 I would like to have a firm decision one way or the other
6 to make sure that the regulation is appropriate.

7 So, Mr. Shandler, do you have any comments as to
8 those comments?

9 MR. SHANDLER: Madam Chair, that is one option to
10 table it to the next meeting and to have me come back and
11 give you a letter with citations to give the Board full
12 comfort that you're not going to run into any employment
13 issues. That's definitely an option that's always on the
14 table.

15 MS. TORRES: Any other comments? Chief Schultz?

16 MR. SCHULTZ: I'd like to make a motion that we
17 accept draft No. 2 with the following --

18 MR. SHANDLER: Let me interrupt for just a
19 second. So under the rule-making process we still have to
20 hear from the public and then when they are all done then

21 you can make your motions.

22 MR. SCHULTZ: Okay. Then I'll reserve that.

23 MS. TORRES: Are there any comments from the
24 public? Can you approach the mike, please, and identify
25 yourself and then you can go ahead and state your

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1 comment.

2 MR. HINDS: I'm Billy Hinds. I used to be with
3 the Rio Arriba Sheriff's Department. But I'm just like
4 looking in the future for this amendment. You might want
5 to include all instructor certifications, because I know
6 there's a few that maybe have two or three.

7 Are you going to relate it to certain -- whatever
8 charges he's being checked on for that certification or
9 for all of --

10 MR. ORTIZ: No, it's for all.

11 MR. HINDS: I'd stipulate all the certifications
12 on it. Because let's say he was in there for sexual
13 harassment and he's doing defensive training with male and
14 female. But then he has certification for something
15 else. I just think they should just stipulate all
16 certifications be suspended or revoked until the hearing
17 is over.

18 MS. TORRES: Okay. So can you clarify that,
19 Mr. Ortiz, please?

20 MR. ORTIZ: Yes. I think he's just trying to say
21 that some officers don't hold just one instructor

22 certificate. There might be instructors in DWI, driving,
23 firearms. So this would apply to all of their instructor
24 certificates that they hold. Thank you.

25 MS. TORRES: Did you have a comment, sir?

51

1 MR. PEREZ: I think we're beating a dead horse.
2 It says, "When a power is conferred by statute, everything
3 necessary to carry out that power and make it effective
4 and complete is implied." So, otherwise, we have a
5 director. You are the director, so direct.

6 MR. ORTIZ: Yes, sir. Thank you. That's -- I'm
7 on board for that. Just trying to keep the audience and
8 everybody happy.

9 MS. TORRES: There's another public comment --
10 actually, from the staff. Mr. Najjar.

11 MR. NAJAR: Gilbert Najjar, New Mexico Law
12 Enforcement Academy. And this is kind of stringing --
13 Assistant Director Inspector Mike Valverde and I were
14 conferring on this; and how we missed this I'm not sure.

15 But the amendment changes that Zach has suggested
16 we make I think are the way we need to go because in
17 considering the body of instructors out there, I didn't
18 think to look at our instructors and our staff.

19 They are hired strictly on the basis of their
20 instructors. So if they were to lose their instructor
21 certification -- it's mandated that for them to teach
22 cadets they must be certified, so.

23 MS. TORRES: So there's your property right.

24 MR. NAJAR: Yeah. I can't transfer them to

25 graveyard or put them on patrol. I can't send them --

52

1 their sole purpose, their job is to be instructors.

2 That's the glitch that we just identified here in the last

3 few minutes. So I think the proposal that Zach has before

4 the Board is probably the way we need to go.

5 MS. TORRES: Okay. Thank you, sir. Any other

6 public comments? (No response.) Any other comments from

7 the Board?

8 MR. SCHULTZ: Madam Chair, Mr. Najjar, why would

9 that not go to a state personnel board and why would it go

10 back to here? Because now it's an employment issue with

11 the State of New Mexico. So this Board wouldn't really

12 have anything to do with that license certification. It's

13 an action being taken with regard to employment, wouldn't

14 it go the state route?

15 MS. TORRES: Go ahead. Would you approach the

16 mike.

17 MR. NAJAR: Right. I don't think there would be

18 any employment action that I could take other than I would

19 have to remove the person from his job duties and

20 responsibilities. Then we would have to exist -- use the

21 existing personnel rules and regulations in order to take

22 further action with that.

23 Either way I don't think it would be coming

24 before the board at all. It would either go to the
25 subject expert panel as an appeal of that decision. If

53

1 that decision was upheld then, yeah, it would come back to
2 us and we'd have to go through the personnel rules and
3 regulations in terms of what action possibly we would
4 decide to take on that instructor.

5 MS. TORRES: Any other questions or comments?

6 MR. REMINGTON: Madam Chair, I believe that
7 Director Ortiz is a fair person. And I just -- I am
8 sitting here and I need to -- I feel like I need to say
9 something in support of Subsection D. You know, you're
10 not going to be the director forever. And I just -- I
11 believe in due process.

12 I believe that the next person may not be as fair
13 as you are. Possibly. And it's -- I always believe that
14 it's a good idea to have some kind of review. So I just
15 wanted to speak out in favor of that. That's all.

16 MS. TORRES: Thank you. Any other comments? I
17 guess I have a question for Mr. Ortiz and for
18 Mr. Shandler. I mean, would it -- if we were to accept
19 this language as amended -- and I'm sure that we will.
20 But if we were, would it be appropriate to say the number
21 of members on that panel so that it could be a specified
22 amount?

23 MR. SHANDLER: Madam Chair, yes, that was an
24 oversight. Someone mentioned three senior officers at the

25 academy as an option. And I should have typed that in

54

1 yesterday afternoon. So, yes, you could have a
2 three-member subject panel.

3 MS. TORRES: Okay. And so can you clarify that
4 for the court reporter so that she understands what we're
5 doing here.

6 MR. SHANDLER: Okay. Madam Chair, one option
7 would be under D is that once the Board is ready to make
8 motions, to amend the first sentence of D to include the
9 phrase "review by a three-person subject expert panel."

10 MS. TORRES: Three person or three member?

11 MR. SHANDLER: I guess "member" is probably the
12 better way to go with terminology.

13 MS. TORRES: I tend to agree with Officer
14 Remington. I've done employment defense for the City of
15 Albuquerque with Mr. Schultz for a couple years and I've
16 done a lot of plaintiffs' actions in employment law. And
17 lawyers are going to be lawyers.

18 And they are going to dig around and they are
19 going to try to find loopholes. And if there's anything
20 that they could potentially say is arbitrary; capricious;
21 there's a loophole; it's biased, whatever, that's what
22 they are going to do. That's what they are paid to do.

23 And I personally agree with the comment also that
24 I perceive Mr. Ortiz is a very fair person, but we don't
25 know who's going to succeed him. We don't know what those

1 circumstances would be. We don't know what potential
2 allegations would be about "this isn't fair."

3 And I guess I was thinking about it yesterday and
4 even today. You know, when you go to a retail store and
5 you take something back and you're dealing with the
6 salesperson and they say, "Well, I can't help you. You
7 know, I don't have any authority. I can't help you."

8 And you say, "Well, let me at least talk to your
9 supervisor." And then they usually don't have any
10 authority. They can't help you, right? Then you say,
11 "Okay. Well, then can I at least talk to the store
12 manager?"

13 So I'm thinking just in every day inconsequential
14 in the total scheme of things, things in our life, we do
15 have a right of appeal. And I think that at least
16 public -- the public nowadays they come to expect "Well,
17 who else can I talk to? What's my right of appeal?"

18 And then when you get your final say, then,
19 "Okay. I guess that's the way it is."

20 Yes, Mr. Force.

21 MR. FORCE: Madam Chair, I understand and I can
22 sympathize with the position of keeping in Subsection D.
23 But the analogy that you use actually isn't I think
24 practical of what's going on here. This is an issue of
25 where the academy at the director's whim, at his choosing,

1 at his authority has signed a certificate saying, "I am
2 trusting this individual," to issue a certification to go
3 out and represent the State of New Mexico as a certified
4 law enforcement instructor.

5 There's no monetary impact. And I think
6 Mr. Najjar's issue I think is well thought. But when we're
7 looking at the general theme of what's going on here, it's
8 an issue of trust where the director signs and says, "You
9 know what" -- no different than a chief of police that
10 says, "I want you to go and represent my department. I'm
11 going to pay you, whether you're represented or not in
12 this case in instructing."

13 And at the same time I believe that Director
14 Ortiz ought to have the authority to say, "You know what?
15 I can't trust you anymore. I don't want you representing
16 law enforcement to go out and teach."

17 We're not talking about whether an individual
18 gets pay increases, whether they don't get pay increases,
19 where they get employed, where they don't get employed.
20 This is really just an issue and if we look at it from a
21 practical basis there are a lot of law enforcement
22 officers in New Mexico that are issued these
23 certificates.

24 We're talking about a very, very small group of
25 officers who typically under disciplinary issues need to

1 have their certification revoked or pulled. And I think

2 that the gatekeeping on quality -- and this is an issue of
3 training -- the quality standard has to be held high. It
4 should be very difficult to enter into the gate and yet
5 very easy for the director to exit.

6 And you know what? If we get another director in
7 the future that is not of the caliber and integrity
8 standards that Director Ortiz is, that's the way the
9 system works. And I hate to say it, but you know what?
10 That's the way the system works.

11 He's a man in authority, and he ought to be
12 exercising his authority. This is clearly within his
13 purview. The only concern I do have I think is what
14 Mr. Najar brings up, but I think Chief Schultz's remarks
15 if it came down to an academy instructor being yanked for
16 a certification that would be handled I think as a
17 personnel matter versus revoking his license -- or his
18 certification and then terminating him.

19 So I'm all in favor. Let's -- you know, let's
20 get on with it. Again, I don't agree with Subsection D.
21 I think everything else is well put together.

22 MR. SHANDLER: Madam Chair, another comment on
23 Subsection D. And I guess maybe I anticipated some public
24 comment on this, is that the right of review is only with
25 the instructor and not with any aggrieved party.

58

1 And so let's say an instructor works for San Juan
2 College or something. I don't know the examples very

3 well. If a director on his own sua sponte does this --
4 looks into it. San Juan had no problem with it. It was
5 the director. And the director ends up revoking. Should
6 San Juan have a right to an appeal to the expert panel?

7 I'm just -- that's a hypothetical. I don't know
8 if that really happens, but I did want to put that out in
9 the public record in case anyone wanted to consider that.

10 MS. TORRES: Any other comments?

11 MR. REMINGTON: Madam Chair? I stand by what I
12 said. But I will tell you that the frustration I think
13 that everybody is feeling is that we put these process
14 into place, and if you've done something wrong as an
15 instructor or as a person, whatever, step up to the plate;
16 take your punishment; don't appeal it because it's the
17 time wasting that has these people debating this back and
18 forth, people that don't have the intestinal fortitude to
19 say, "I messed up" and not ask for that review.

20 So I will sit here and I'll defend D --
21 Subsection D, but it's those people that don't take their
22 punishment when they deserve it that's part of the
23 problem. Thank you.

24 MS. TORRES: Okay. Please step up to the
25 podium. Identify yourself, basically, where you come

59

1 from. And that would help the court reporter, I'll bet.

2 MR. MARTINEZ: Good morning. Madam Chair,
3 Members of the Board, I'm Bob Martinez. I'm with the

4 fraternal order of police. And in reviewing the proposal
5 and everything, there's a reference to a subject expert
6 panel. Given the fact that there are a number of areas of
7 training, subject areas, would a better term be a peer
8 review panel as opposed to a subject expert panel?

9 Because if you have instructors that are
10 overseeing this and they are making up that particular
11 panel, it would appear the subject expert -- you know, you
12 have -- does that create some issues or questions,
13 additional questions that you have to have a panel that is
14 constituted based on this particular subject area as
15 opposed to instructors for our peers in reviewing actions
16 or whatever is being considered by that particular panel
17 regarding those instructors.

18 So it's just a comment in terms of clarification
19 about what you'd you call that.

20 MS. TORRES: I'd like to respond. We spent a lot
21 of time on this. Mr. Martinez, if you would just stay at
22 the podium just the case.

23 MR. MARTINEZ: Sure.

24 MS. TORRES: We spent a lot of time on this
25 discussion yesterday. And this is what we thought would

60

1 be a good proposal. And then what I think is really good
2 about this amendment that Zach has prepared is that we
3 were talking about it needs to be defined.

4 So I think there's two types of panels. I mean,

5 one would be a peer review panel, and then one would be a
6 subject expert panel. And then I'm going to also defer to
7 Mr. Shandler about his reasoning on this; but as I
8 remember yesterday, the consensus at least if we were
9 going to propose an amendment for today's meeting and for
10 consideration, we wanted it to be described as a subject
11 expert panel.

12 And then that's kind of self-defined within
13 Subsection D here. But I'll defer also to Zach because
14 he's the one that wrote the language.

15 MR. SHANDLER: And I'll defer to Mr. Force
16 because you came up with that buzz word. What do you
17 think about this other buzz word?

18 MR. FORCE: Well, I think it's in regard to the
19 quote, unquote peer review panel -- actually, that I think
20 is an issue what we're trying to do as a subject expert
21 panel. If you have a firearms instructor whose
22 certification under Subsection D is now going to go under
23 review, then the appropriateness would be to impanel
24 firearms instructors.

25 So that way it's those peers of that same

61

1 likeness of instructor qualifications reviewing the
2 suspension or revocation of the license. So it is in
3 truth if you have a peer is -- should be somebody that has
4 the same, similar, and like kind certification.

5 MR. MARTINEZ: So clearly then what you're

6 talking about is you would have a series of -- depending
7 on how that is constituted or made up depending on the
8 area -- of the subject area, that panel would be comprised
9 of those people who have the expertise in that area?

10 So clearly in terms of just understanding because
11 that I think would have to be clarified because the --
12 that then creates, if you will, consideration for having
13 several -- several panels, depending on the --

14 MR. ORTIZ: Right. Yeah. He brings up a good
15 point. I was just thinking. Say he not only has a
16 firearms instructor but DWI. We're going to take all of
17 the certificates. Now our panel is -- right. I think we
18 just maybe go with three peers, maybe a firearms, a DWI,
19 whatever he may be. And just get three of them so we're
20 not having to get three from each different certificate
21 that he holds to have multiple hearings. I think that
22 would be a waste of everybody's time.

23 MR. REMINGTON: So a peer of relevant?

24 MR. ORTIZ: Right, because he may hold ten
25 certificates; but we get three members.

62

1 MR. FORCE: Well, the way you've got it worded,
2 it says a panel "may be." It doesn't say "shall be" made
3 up of one or the other. So under Subsection D would give
4 you the latitude to either have a subject expert or to
5 bring in --

6 MR. ORTIZ: Right.

7 MR. FORCE: -- academy instructors or satellite

8 instructors. So I think the language is broad enough.

9 MR. ORTIZ: Okay.

10 MS. TORRES: Okay. Are there any more comments

11 or is there any more testimony?

12 MR. GALLEGOS: Madam Chair, just out of

13 curiosity. Art, based on the last year or so, how many

14 situations have you had where an instructor has fallen

15 into this particular scenario?

16 MR. ORTIZ: The only ones would be officers that

17 the Board has taken action on their officer certification.

18 MR. GALLEGOS: Sure. What ballpark number can

19 you say over the last year?

20 MR. ORTIZ: I would probably say about 30 percent

21 of them or higher.

22 MR. GALLEGOS: 30 percent of what?

23 MR. ORTIZ: Of the officers that come before the

24 Board for action on their police certification are

25 instructors.

63

1 MR. FORCE: There was 96 actions last year?

2 MR. ORTIZ: Yes, there was 96. I probably would

3 say even more. The majority of police officers are an

4 instructor in some field.

5 MR. GALLEGOS: Then again a portion of that, as

6 someone pointed out earlier, I think Sergeant Remington,

7 most of them are going to own up to it and not bother with

8 it. So all we're doing is guessing that out of that maybe

9 another third may contest it.

10 That was just to see what kind of more personnel,
11 manpower resources it would take up. Thank you, Madam
12 Chair.

13 MS. TORRES: Sure. Sure. Mark, yes.

14 MR. RADOSEVICH: Thank you, Madam Chair. My name
15 is Mark Radosevich, and I have a comment and two
16 questions, I believe. One, I support the director's
17 authority and responsibility to act and provide control
18 over the instructor certifications as they are distributed
19 and monitored and controlled. I support that entirely.

20 The idea of revocation to me and from what I
21 understood the Board to do in the past is permanent in
22 nature. Is it -- and I can't determine or -- for an
23 extended period of time.

24 I can't determine from this is the intent, if
25 there's some action taken against an instructor

64

1 certificate, it would then be all instructor certificates
2 that that individual would hold and they would be
3 prohibited from holding any certificate for that five-year
4 period?

5 MR. ORTIZ: Yes.

6 MR. RADOSEVICH: So in theory if the Board were
7 to -- if I entered into a stipulated agreement with the
8 director on a disciplinary matter having nothing to do

9 with my instructor certificates, I could also lose those
10 for a period of five years even though the suspension or
11 the stipulated agreement for the original violation was
12 much less? And that would certainly be at the
13 director's -- he would have discretion over that.

14 The property right issue. There are some
15 agencies, as I understand it, that would hire individuals
16 for the sole purpose of providing instruction to members
17 of that agency or other agencies that would require this
18 particular certification.

19 And that if that individual were to lose the
20 instructor certification, it would affect that
21 individual's employment with that agency even though the
22 Board has no authority over the agency. And I think that
23 there needs to be some appeal process in some form or
24 fashion.

25 And I don't believe it needs to be elaborate, but

65

1 I would hate to see a situation, much like Sheriff Brown
2 discussed today, where an individual is hired must have
3 this particular certification, and the director takes that
4 certification and there has been no hearing. And then
5 that employee loses their employment simply because they
6 no longer hold it.

7 And I would support that idea of some type of
8 review. But, again, I support the director's authority to
9 control this. Thank you, Madam.

10 MS. TORRES: I have a comment in response to your
11 comments. I mean, the way you're describing it -- and
12 you're retired as an instructor, right, with the police
13 academy?

14 MR. RADOSEVICH: Yes.

15 MS. TORRES: I mean, I guess it would be
16 comparable to like a teacher certification; is that
17 similar in a certain way? If a teacher gets decertified,
18 there goes their livelihood. They are not teachers
19 anymore.

20 MR. RADOSEVICH: Madam Chairman, I think that
21 there are some instances where it would preclude an
22 individual from gaining employment because of the loss of
23 that certificate.

24 And I'll give you this "for instance" in the
25 strictest sense and no negative reflection on the

66

1 director. That if, for instance, there was a complaint
2 about a class that I taught that was a basic general
3 class. It was a poor class. There was a problem. There
4 was something.

5 And there was enough action taken so that the
6 director decided that he did not want me teaching class A
7 anymore. But then that would now affect all the other
8 certificates that I would hold. I don't know how fair
9 that would be, but I would certainly think he would have
10 the authority to do that.

11 MS. TORRES: Okay.

12 MR. RADOSEVICH: Thank you.

13 MS. TORRES: Any other comments or questions?

14 (No response.) Having heard nothing further, I will

15 entertain a motion to accept, modify, or reject the

16 proposed rule I would say as amended? I think we should

17 start there, because it's the most recent version that

18 we've got. Chief Schultz?

19 MR. SCHULTZ: Madam Chair, I would like to make a

20 motion that we accept Exhibit 2 with the following

21 modifications as provided by Mr. Shandler.

22 Under Section A, "The Director may revoke or

23 suspend," and the rest would continue to "...instructor

24 certification."

25 Going down to Paragraph C, the very last sentence

67

1 should read, "The Director shall inform the instructor in

2 writing whether the instructor certificate has been

3 revoked or suspended and the reasons for the revocation or

4 suspension." Period. New sentence, "The Director's

5 decision shall be final." And Subsection D is struck.

6 MR. PEREZ: I second that.

7 MS. TORRES: Okay. Is there any discussion on

8 the motion? (No response.) I would like to go ahead and

9 take a vote then. And I'm going to ask each individual if

10 you would please cast your vote. Mr. Force?

11 MR. FORCE: Yes.

12 MS. TORRES: And Sheriff Trujillo?
13 MR. TRUJILLO: Yes.
14 MR. REMINGTON: Nay.
15 MR. GALLEGOS: Yes.
16 MR. PEREZ: Yes.
17 MR. SCHULTZ: Yes.
18 MR. PANTEAH: Yes.
19 MS. TORRES: And I would say nay. All right. So

20 the yeses have it. And it's passed as amended by

21 Mr. Shandler and Chief Schultz. Thank you.

22 ITEM #8: PUBLIC HEARING - NMAC RULE 10.29.4.8 GENERAL

23 INSTRUCTOR & NMAC RULE 10.29.4.10 - SPECIALIZED LAW

24 ENFORCEMENT INSTRUCTOR - PERIOD OF CERTIFICATION

25 MS. TORRES: We're onto the next order of

68

1 business then. And the next order is on the specialized

2 law enforcement -- okay, this is the period of

3 certification. Director Najar, is that correct? Okay.

4 Mr. Najar.

5 (At this time, Ms. Torres exits the meeting.)

6 MR. NAJAR: Madam Chair, Board Members, Ladies

7 and Gentlemen, this next proposed rule change surfaced

8 during our meeting in Las Cruces. The issue was brought

9 up by Lieutenant Kendall of the Gallup -- or McKinley

10 County Sheriff's Office.

11 And the problem that we encountered and in the

12 prior discussion had to do with our ability to issue

13 multiyear instructor certification. Presently the rule
14 only allows us to issue a four-year instructor
15 certification.

16 So the academy had backed off on issuing
17 instructor certification for specialties such as taser,
18 verbal judo, CPR, first aid, since those are limited two
19 years or three years.

20 And so it was the request of the McKinley County
21 Sheriff's Office before the Board that we create an
22 amendment to the existing rule under the instructor
23 certifications to have a multiyear flexibility for issuing
24 instructor certificates.

25 And so, therefore, under Title 10, Chapter 29,

69

1 Part 4 and Section General Instructor 10.29.4.8 under
2 paragraph D, the amendment would strike the words "four
3 years" and insert the words "two or more years."

4 The last sentence of paragraph D would also be
5 struck. That makes reference to a prior condition in
6 which there was a probationary period that no longer
7 exists that occurred years ago. So that language there is
8 no longer required or needed.

9 Everything that follows thereafter under
10 10.29.4.9, which is your professional lecturer, we drop
11 down to paragraph D, the section there, that is changed.
12 It's identical: it's the "four years" are struck; "two or
13 more years" is inserted.

14 Drop down to Specialized Law Enforcement
15 Instructor, 10.29.4.10. Again, the "four years" is
16 inserted -- or struck. And the "two or more" years is
17 inserted. Again, that last reference to that -- the last
18 sentence in that is again struck.

19 Then finally on 10.29.4.11, the section for
20 Master Instructor. Similarly, "four years" is deleted --
21 struck; and "two or more" years is inserted.

22 And is there any questions from the Board or the
23 audience?

24 MR. GALLEGOS: At this time we'll entertain any
25 questions for Mr. Najjar from the Board. And before I do

70

1 that, Zach, did we do the script? Do we have to do it on
2 this one also?

3 MR. SHANDLER: I think it's sufficient that she
4 read the script for the first --

5 MR. GALLEGOS: So that should cover the whole
6 rule-making process, okay.

7 Any questions from the Board? I don't see any
8 responses for the record, so we'll go ahead and go out to
9 the audience then. Are there any comments or questions
10 from the audience on this particular rule -- amendments?
11 Okay. I don't see any for the record. I'll call one more
12 time. Anybody? Raise your hand.

13 Seeing none, then I guess we will proceed to
14 deliberations from the Board on this particular proposed

15 change to the rule.

16 MR. REMINGTON: Motion to adopt.

17 MR. PEREZ: Second.

18 MR. FORCE: Second.

19 MR. GALLEGOS: We've got a motion and a second.

20 I guess just to make sure we're clear on the record, is
21 there any discussion on the motion? Seeing none for the
22 record, then we'll go ahead and entertain a vote. I
23 believe this has to be by roll call?

24 MR. SHANDLER: It doesn't, but as chair you can
25 exercise that prerogative.

71

1 MR. GALLEGOS: We'll do that just to make the
2 record clear. Mr. Force?

3 MR. FORCE: Yes.

4 MR. GALLEGOS: Mr. Trujillo?

5 MR. TRUJILLO: Yes.

6 MR. GALLEGOS: Mr. Remington?

7 MR. REMINGTON: Yes.

8 MR. GALLEGOS: Mr. Perez?

9 MR. PEREZ: Yes.

10 MR. GALLEGOS: Chief Schultz?

11 MR. SCHULTZ: Yes.

12 MR. GALLEGOS: Chief Panteah?

13 MR. PANTEAH: Yes.

14 (At this time, Ms. Torres re-enters the meeting.)

15 MR. GALLEGOS: Okay. And I'm going to vote yes

16 also.

17 MS. TORRES: Yes.

18 MR. GALLEGOS: Ms. Torres votes yes also. So it
19 passes then. And I will go ahead and turn the gavel back
20 over to you, Madam Chair.

21 MS. TORRES: Thank you. Okay. The next
22 discussion is Item No. 10 on the agenda, how we receive
23 citizen complaints and whether or not we will accept
24 them. And I will defer to Zach Shandler.

25 MR. SHANDLER: Actually, Madam Chair, we're not

72

1 that quick yet.

2 MS. TORRES: I'm sorry. That's right. I lost my
3 place. Sorry.

4 ITEM #9: DISCUSSION

5 REQUESTS MADE TO ATTEND SATELLITE ACADEMIES

6 MS. TORRES: Discussion, requests made to attend
7 satellite academies. And this is also Director Ortiz and
8 Zach Shandler.

9 MR. ORTIZ: Madam Chair, Board Members, possibly
10 another hot topic coming here. Okay. This discussion I
11 know has come up many times before where the director's
12 officer gets a request to allow a state employee to attend
13 one of the satellite academies.

14 I review it on a case-by-case basis. And if
15 there's a legitimate hardship, I'll allow it. I have done
16 one here this past year. However, others I have denied.

17 And the reason for denying those is because of the strain
18 it would put on the Law Enforcement Academy regarding our
19 operations.

20 It's a business decision. We would lose that
21 revenue and, therefore, it would not only affect the
22 academy but officers statewide for training purposes by
23 not collecting this revenue. So I would ask the Board
24 that officers employed with state agencies would be
25 mandated to continue to come to the Santa Fe academy.

73

1 MS. TORRES: Yes, Mr. Gallegos.

2 MR. GALLEGOS: I have had at least one -- and
3 Mr. Ortiz and I have talked about this -- but on behalf of
4 the district attorneys, I have had at least one request
5 from some of the outlying areas. This one I believe was
6 Silver City, where a district attorney's office will
7 employ a certified police officer as an investigator or
8 someone who wants to become certified.

9 And because of their requirements of the job and
10 the logistics of traveling to Santa Fe has made it a real
11 big difficulty on particularly the district attorney's
12 offices. And so that -- I know I brought to it
13 Mr. Ortiz's attention already.

14 And the request from the DA down there was why
15 can't I just use the Las Cruces satellite academy. You
16 know, they keep the person closer to home. They are able
17 to work on whatever needs to be worked on. And they are

18 not gone to Santa Fe and out of the office for that period
19 of time.

20 And so I just wanted the Board to know that that
21 was one of the concerns specifically from the district
22 attorneys. One office in particular, but also in talking
23 to some of the other -- some of the more outlying areas,
24 they also echoed the fact that it could possibly become an
25 issue. So just throw that up before the Board.

74

1 MS. TORRES: Any other questions or comments from
2 any board members? (No response.) Any comments or
3 questions from the public? Yes, sir. If you would
4 approach the podium and identify yourself again and state
5 your question, please.

6 MR. HINDS: I'm Billy Hinds. I'm with the -- I'm
7 a school resource officer at this time with the Chama
8 Valley Schools. I've worked with people that come out of
9 the satellites, and I personally don't believe -- I think
10 the academy is the best place to go through because a
11 bunch of them washed out and landed up going to these
12 colleges for 3, 4 hundred dollars.

13 And disciplinewise and mentalwise they are not
14 getting what the academy provides. I mean, to me they are
15 coming out kind of soft. So I really don't believe on
16 those satellites. It's almost like a college setting,
17 really.

18 MS. TORRES: Okay. So then you're definitely in

19 favor of making the training at the academy in Santa Fe?

20 MR. HINDS: Yes.

21 MS. TORRES: Yes, sir. Would you please come to
22 the podium, identify yourself, and give us an idea where
23 you're from?

24 MR. JIMENEZ: I'm Mike Jimenez, and I'm with the
25 Grant County, also an adjunct instructor at the satellite

75

1 academy at Western. And I was part of the testing process
2 for the young lady that wanted to go to the academy there
3 at the satellite academy.

4 But in response to that, I think that a lot of
5 the students that are going to satellite academies are
6 getting good, quality instruction, whether -- and I went
7 to a different academy, so I know that that is very
8 helpful for some of these students to be close to home
9 with their family. And I've seen the other side of that.

10 So I think that if they are allowed to go to the
11 academy because of a hardship, as Mr. Ortiz has said, it's
12 very beneficial to that individual. However, he's able to
13 review it on a case-by-case basis.

14 But in response to the comment of them being
15 soft, I think it's -- that's somewhat unfair to the -- to
16 the satellite academies throughout the state that are
17 working very hard and diligently trying to put these
18 officers out on the street.

19 MS. TORRES: Okay. So just to summarize, you're

20 in favor of the satellite training?

21 MR. JIMENEZ: Yes, ma'am.

22 MS. TORRES: Thank you. Anybody else from the
23 audience have any other comments? (No response.)

24 Mr. Shandler, you'd like to speak?

25 MR. SHANDLER: Madam Chair, this matter was

76

1 discussed at the work session. Let me just provide a
2 summary of that discussion.

3 MS. TORRES: Yes.

4 MR. SHANDLER: This came up at the last meeting
5 down in Las Cruces when a New Mexico State Police
6 Department request -- there was a request to attend a
7 satellite academy instead of coming to Santa Fe.

8 What did I say?

9 MR. ORTIZ: State Police.

10 MR. SHANDLER: Oh, I'm sorry. New Mexico State
11 University. And it was tabled to this meeting so we could
12 do additional research. So I met with the director in the
13 interim and Mr. Najjar, who's in the back of the room. And
14 there's a legal reason and a practical reason behind the
15 director's position.

16 One, the statute allows them to request payment
17 and it's in the statute for the basic training. There was
18 some discussion about whether the statute could be read a
19 little more broadly to allow New Mexico State University
20 to pay the academy the money but still keep the person

21 down there.

22 And I think the discussion yesterday was that
23 might be a little too flexible of a reading of the statute
24 because it deals with a money issue and LFC and DFA. And
25 if the local agencies want to do that, they probably

77

1 should pursue a statutory change on that to make it
2 perfectly clear so there's no question about how the money
3 is flowing back and forth.

4 The practical reason that was stated yesterday by
5 the director is that the funds that are used -- that are
6 collected as part of the basic training is then turned
7 over and used for advanced training.

8 And I probably should defer to Mr. Najjar, but I
9 think you said around 30 percent of the advanced training
10 budget comes from the money you collect from the basic
11 training.

12 So the question is for the academy and the
13 overall policy question is, if you lower the amount of
14 people that come in, then that lowers the amount of money
15 available for the current officers for advanced training.
16 So that's the policy question they are struggling with.
17 So that was a summary of the legal and policy discussion
18 from yesterday.

19 MS. TORRES: That's correct. Any comments in
20 response to Mr. Shandler's comments? (No response.) I
21 would like to I guess get some feedback from the Board as

22 to whether the Board is in support of satellite training

23 or not.

24 MR. FORCE: Madam Chair, if I could. I don't

25 think the question is whether the satellite training is a

78

1 quality issue of whether it's good or bad. I think if I

2 could -- if I'm -- correct me if I'm wrong. I think the

3 issue here is that we've been discussing has been whether

4 or not allowances should be regularly given, I guess for a

5 better word, to state employees desiring to attend

6 satellite academies.

7 Up to this point it's pretty much been adhered to

8 except for one or two cases due to hardship that all state

9 employees must go to the state academy. Of course, the

10 state police has their own academy. I think that's the

11 issue -- am I right, Zach -- if we're trying to stay

12 focused on what the discussion was.

13 MR. SHANDLER: That was the issue brought up at

14 the last meeting, correct.

15 MR. FORCE: To me it's not the issue of whether

16 or not there's a quality training or not at the satellite

17 academies. That isn't the issue. The issue here is

18 whether or not state employees should be regularly allowed

19 to attend those satellite academies.

20 On that discussion topic, I'm completely in favor

21 of state employees continuing in the same effort of going

22 to the Santa Fe academy for continuity and consistency of

23 training standards outside of the satellite academies,

24 unless the director sees a specific case of hardship.

25 I think -- I like the way it's been going. I

79

1 think it's good.

2 MS. TORRES: Any other comments?

3 MR. SCHULTZ: I agree with Mr. Force. I think it

4 goes back to the discussion we had on the previous two

5 items. Basically, Mr. Ortiz is in the position. We trust

6 him to make the right decisions, and I think he does. So

7 I see no reason for change.

8 MS. TORRES: Okay. So basically we've agreed

9 then that we'd like to maintain status quo? Is there a

10 motion -- I mean, it's just discussion. So, yeah, there's

11 no need for a motion. That's what I was thinking.

12 Okay. Any other comments from the audience

13 before we move on? (No response.)

14 ITEM #10: DISCUSSION - HOW WE RECEIVE CITIZEN COMPLAINTS

15 AND WHETHER OR NOT WE WILL ACCEPT THEM

16 MS. TORRES: Okay. The next item is the one that

17 I tried to get to last time. Discussion, how we receive

18 citizen complaints and whether or not we will accept

19 them. And that is myself and Zach Shandler. And I would

20 just ask Zach to go ahead and summarize this issue.

21 MR. SHANDLER: Madam Chair, at the last meeting

22 in public session, a group of citizens from in the Las

23 Cruces area came to the Board and had questions about who

24 they could complain to about the Las Cruces Police
25 Department. And that's all in the minutes. And that's my

80

1 summary of it.

2 And so the Attorney General, who was the chair,
3 asked us to -- us being the director and myself -- to
4 discuss this item in advance of this meeting about how to
5 receive citizen complaints and the process. And so I did
6 meet with Mr. Ortiz, and he did provide some information
7 yesterday in the work session. So let me turn the mike
8 over to him.

9 MR. ORTIZ: Madam Chair, Board Members, audience,
10 when I do receive a complaint from a citizen regarding an
11 officer, my first order of business is to refer him to
12 that agency, to their internal affairs -- to the chief and
13 to the internal affairs.

14 Secondly, I'll contact that chief myself, advise
15 him I had a citizen complaining, and if they are going to
16 look into the matter. If a citizen says he has already
17 taken those avenues and wasn't satisfied, then I'll refer
18 him to the district attorney's office and then to the
19 state police to look into the matter.

20 Also to the Attorney General's Office. And then
21 if it's a civil rights violation, that these allegations
22 then to the FBI. So I give them multiple avenues to try
23 and resolve the issue. But first is with the agency.

24 MS. TORRES: Okay. Are there any questions or

25 comments from the board members? Yes, Mr. Gallegos.

81

1 MR. GALLEGOS: You know, I totally agree with
2 that procedure. I don't know that there's anything in the
3 statutes or the rules that makes us -- this Board a place
4 to air out those type of complaints. I think the controls
5 are internal or they are to the agencies you recommended;
6 and that they are even political.

7 If you don't like what your police officer is
8 doing, you've got a chief, you've got a sheriff, you've
9 got a lieutenant, and you've got a mayor, you've got a
10 counsel, you've got a county commission -- that's the
11 avenue that you go to.

12 But I think it's way beyond our authority or
13 anything of this Board to start entertaining those types
14 of complaints. I'm uncomfortable with it, and I would say
15 we don't do it. That's just my feeling.

16 MS. TORRES: Yes, Mr. Perez.

17 MR. PEREZ: I disagree completely. I think that
18 we are appointed by the Governor to represent the citizens
19 of the state. And if the citizens cannot come to us, I
20 think we're blocking -- we're censoring information.

21 And I have here two articles. This is from the
22 New Mexican, Friday, March 2008, about a man accusing an
23 officer of assault and defamation, Steve Altonji, who was
24 arrested by the FBI last year for drug dealing, theft, and
25 other matters.

1 There's another article here that I just saw
2 yesterday. This is from a lesser known publication about
3 the Santa Fe Police Department may have been dealing with
4 fighting, drugs, and stolen cash. And that's just inside
5 the department. This is dated June 20th through 26th of
6 2007.

7 Raising the matter of Mr. Altonji, I have had
8 numerous citizens come to me who have gone to their
9 departments and been rebuffed. And one of the most
10 disturbing things that I have heard is that the Attorney
11 General's Office has a complaint regarding -- an IA
12 complaint regarding top level officials in the Santa Fe
13 Police Department since May of last year.

14 I have not heard about this officially. I
15 understand that investigations have to be done, but
16 investigations also have a way of dying. And if the
17 citizens cannot come directly to us -- and not in the
18 first instance, I agree.

19 They should exhaust everything. They should go
20 to the department first, go to IA, go through the course
21 that you mentioned. But if that fails -- and particularly
22 the case of Dona Ana County, I was approached about that
23 five years ago before I became a member of this board,
24 shortly before I got on this board.

25 And I just reupped for my second four-year term

1 on this board. And I was in Las Cruces and approached by
2 many of these same citizens who were complaining then
3 about the district attorney, who apparently was married or
4 is married to a former deputy and former Las Cruces police
5 officer.

6 And she was targeting citizens for investigation
7 and siccing the cops -- or the sheriff on them. I was in
8 town for approximately three weeks, and I was warned to be
9 careful, particularly about having a beer in a bar and
10 then going to my motel. And I picked up a tail very
11 quickly.

12 Part of the work that I was doing there involved
13 interviewing four former state judges who had been
14 targeted by the district attorney and driven from Dona Ana
15 County. They were still living there, but they had to
16 work in other counties. There is a problem down there.

17 I suggested that they go to the FBI, my former
18 agency. And I'm ashamed to say that the FBI has dropped
19 the ball. And I have been told that by high-level
20 sources.

21 I then went to the United States Attorney's
22 Office in Las Cruces and tried to make an introduction for
23 the citizens to talk to the United States Attorney's
24 Office. And I found out later that the AUSA that I was
25 talking to was a very close friend of the district

2 That person did not tell me that.

3 I got the message later that information did not
4 go to the US attorney himself, but went directly to the
5 district attorney in Dona Ana County.

6 If they cannot come to us directly after that, I
7 don't know where the citizens can go. The only recourse
8 that I know would be going to the attorney general, who
9 apparently does not know the definition of torture. So I
10 don't have much hope in him.

11 There's a thing called the federal strike force.
12 And I see the situation in Santa Fe is so serious right
13 now that I would like to recommend to this Board that we
14 approach the attorney general of the United States
15 regarding rampant organized crime not only in Santa Fe,
16 but throughout the state.

17 Organized crime is always looked upon usually as
18 people of Italian descent or Sicilian descent or the
19 Russian Mafia. But I find that the greatest organized
20 crime is usually in government. Because the enemy is we.
21 And we don't look at ourselves.

22 So I think we have a very serious problem. We've
23 gone on here for a long time fine-tuning what a panel
24 means and how many people on a panel. And I think we're
25 not looking at the elephant that is sitting in the room,

85

1 and that's law enforcement in New Mexico.

2 This whole business of the Santa Fe Police

3 Department, we need a preponderance of evidence. We do
4 not need evidence beyond a reasonable doubt, which the
5 courts need.

6 Mr. Altonji still carries his commission, as does
7 Danny Ramirez, who both have been investigated by the
8 FBI. And this is a good one: Danny Ramirez recently plea
9 bargained so that he does not have to rat out Altonji, his
10 boss; and he's probably not going to go to jail.

11 A great amount of money is involved and narcotics
12 being recycled in Santa Fe by the police department. The
13 attorney for Mr. Ramirez and the AUSA who has the case
14 play tennis together. Nobody wants to look at this.

15 I think it is the duty of this Board to look at
16 it and to see that it is handled properly.

17 MR. FORCE: Madam Chair?

18 MR. PEREZ: Excuse me. At the last meeting,
19 these citizens approached the Attorney General himself who
20 was with us. And I'm sorry he was not here. And
21 basically he took them in a hall at recess to listen to
22 their complaint.

23 We have sunshine laws here in New Mexico, where
24 we are supposed to hear before the Board complaints or
25 what problems are. And that was -- that was shunted. As

1 long as I'm on this Board, I want to hear citizens'
2 complaints after they have gone through the proper
3 process. But if they cannot bring them to us, I think we

4 have problems in this state. Thank you.

5 MS. TORRES: Mr. Perez, I just have just one -- I
6 mean, I totally respect your opinion. Just on a point of
7 order, I mean -- you know, we have some topics that may be
8 perceived by some to be more important than others.

9 But I think each one of them, even if we were
10 going to accept that one provision, how many members would
11 be on that panel, you know, I think that's still
12 important. It could be important to maybe people here.
13 It could be important to people that are not represented
14 here.

15 So but I totally respect and understand your
16 comments as well. But in my opinion as acting chair
17 today, you know, we're going to try and give every item on
18 this agenda a fair review. Mr. Force.

19 MR. FORCE: I understand where Mr. Perez is
20 coming from; however, it somewhat concerns me that we had
21 this as an open discussion item yesterday. It was on the
22 agenda. It was also posted, and yet Mr. Perez didn't show
23 up for the meeting.

24 We discussed this item pretty much in detail, had
25 no public comment that I could remember. Nobody came

87

1 forward yesterday making any complaints or anything else.
2 I guess my concern is this. And I'm not here to put my
3 head in the sand at all, but I do have a tremendous amount
4 of confidence and trust in the law enforcement officers

5 here in New Mexico.

6 There's no doubt in my mind because we recruit
7 from the human race there are those individuals that have
8 done wrong or who are currently doing wrong. But that is
9 our job here on this Board to winnow through the
10 complaints that come forth in front of the Board.

11 There's a diligence, and there's also a
12 properness in how we handle these complaints. The nilly
13 willy accusations, picking up a newspaper and reading an
14 allegation against an officer, that's not the purpose of
15 this Board.

16 This Board is to take a validated complaint,
17 something that has been looked into, investigated, there's
18 been all the diligence and techniques of proper
19 investigative functions have been employed, where we can
20 make the best determination based on the facts and based
21 on the information we have in front of us to make the
22 determination whether that officer should have a
23 revocation or suspension.

24 To allow this Board to open the opportunity for
25 just anybody to walk up in front and make defamatory

88

1 remarks -- and picking up newspapers and reading an
2 article in the newspaper without it even being confirmed
3 is no place that ought to be in this Board.

4 This Board, our disciplinary measures of things
5 in which we hear of, in things in which we act upon need

6 to have a process in which there is complaints that are
7 processed properly and then are acted upon and brought
8 back to this Board.

9 MR. PEREZ: These are not accusations in here.

10 MR. FORCE: So --

11 MR. PEREZ: These are reportings --

12 MR. FORCE: Mr. Perez --

13 MR. PEREZ: These are reportings of --

14 MR. FORCE: Those are newspapers. And you know
15 what?

16 MS. TORRES: Okay. Point of order.

17 MR. FORCE: Those have not been argued, and they
18 have not --

19 MS. TORRES: Recognize the Chair before speaking,
20 please, because otherwise it gets to be an argument. And
21 I don't think that's where we want to go. Go ahead and
22 finish, Mr. Force.

23 MR. FORCE: The issue here is that -- again, the
24 issue that we have been -- discussed yesterday and that
25 we're here to discuss right now is to whether or not it's

89

1 good or bad for just people to come in and make complaints
2 and how do we handle those complaints; that's the issue.

3 And, you know, as we talked yesterday, I think it
4 may be good in the future to look at the current regs that
5 we've got, the code, and have some language in there where
6 the director can cause an investigation based on

7 information that he became aware of, whether it's on news,
8 television, something like that or maybe it's been from a
9 citizen complaint.

10 But having citizens walk in front of the Board
11 and us entertaining those complaints and somehow or the
12 other propping a complaint against an officer, I don't
13 think that's our role.

14 MS. TORRES: Mr. Perez and then Mr. Gallegos.

15 MR. PEREZ: I was on the FBI for 34 years. And I
16 worked civil rights cases in the south in Tampa. I worked
17 against the Klan. There were no complaints from citizens
18 regarding the Klu Klux Klan. We got our complaints from
19 newspapers, reports of cross burnings.

20 The citizens would not complain. I think if
21 you'll ask most police departments, females report rapes
22 at a very low rate. They do not complain about it. Women
23 do not complain about abuse from husbands. That doesn't
24 mean it doesn't happen.

25 People do not complain about police brutality.

90

1 The FBI picks up I would say 50 percent of their
2 complaints from newspapers, and then they look into them
3 and find out if they are true. The newspapers, the media
4 is part of the American system.

5 Now, I'm not talking about complaints about the
6 police department. I'm talking about complaints in here
7 about lack of police investigation, lack of justice being

8 done. They are not making allegations against the police
9 officers. They are saying, "Nothing is being done."
10 Who's going to do it?"

11 MS. TORRES: Mr. Gallegos.

12 MR. GALLEGOS: I want to make just two points.
13 I've looked at the statute again. I don't see anything in
14 the statute that gives the Board -- and again I'll ask for
15 Zach whether he agrees or there's something else there. I
16 haven't looked at all the regs. The regs pretty much
17 mirror the statute from what I understand. -- that gives
18 this body, this Board, that duty or that power. And
19 unless and until we have that, then I don't believe it's
20 proper.

21 Second, on the concerns raised by Mr. Perez --
22 because we all know that there have been abuses in every
23 single state of the union that are either government
24 agency caused or government agency involved, et cetera, et
25 cetera. But I do know that there is a system of checks

91

1 and balances that generally does work.

2 And if not, at least in my jurisdiction, I've got
3 a good handful of private lawyers who file a heck of a lot
4 of police brutality cases out of nuisance if nothing else,
5 because they are going to get 5,000 here, 6,000 there,
6 3,000 there.

7 And they are not timid at all in any way, shape,
8 or form to bring everybody's name into it, the DA, the

9 judge, the sheriff, everybody else; and then in the end
10 get a check for 4 or 5 thousand dollars or whatever. I
11 think the checks and the balances are there.

12 And then just one last comment. I mean,
13 newspapers, you've got newspapers and then you've got
14 newspapers. The First Amendment is a wonderful thing we
15 have in this country, but it also allows a lot of abuse.

16 And when you're a public official and you're the
17 subject of some of these newspapers, for lack of a better
18 word, who don't cite sources, who don't have sources, who
19 say they have sources but don't reveal them; and their
20 only agenda out there is to see a political or a sheriff
21 or a chief or somebody fall because maybe they had a
22 problem with them.

23 It goes both ways is what I'm trying to say
24 here. And to put this Board in the position without I
25 believe adequate resources for thorough investigative --

92

1 other than what we do already now on disciplinary
2 complaints and stuff -- and then to make us the forum and
3 maybe the arbiters of what citizens perceive as being a
4 problem, I don't believe is authorized. I don't think I
5 want to go there.

6 And, again, in the end I do believe in the
7 system. It may not always work perfectly. But if you
8 don't like your DA -- and I understand the DA in
9 Las Cruces doesn't even have an opponent. So somebody

10 down there who has a lot of problems with the DA didn't
11 even get the political power together -- and I know there
12 may be some difficulties -- to put an opponent against the
13 DA or an opponent against the mayor and the council.

14 And so that's really what I want to make very
15 clear. Unless I find something in the statutes or the
16 rules that says we have that ability or that's part of our
17 duties, then I'm going to say we don't belong there.

18 MR. SHANDLER: Madam Chair, let me answer the
19 statutory and regulatory question.

20 MS. TORRES: Thank you, Mr. Shandler.

21 MR. SHANDLER: It came up yesterday. And there
22 doesn't appear to be a statute that authorizes a citizen
23 to come to you about with a complaint against a specific
24 person or against an entire department.

25 There is a rule that talks about forms, and that

93

1 rule talks about how agencies are supposed to self-report
2 individual officers. And yesterday we had a long
3 discussion about whether that rule should be broadened --
4 in different ways it could be broadened whether a citizen
5 should be allowed to fill out an LEA90 against an
6 officer.

7 And it's my understanding that the director under
8 his own authority is allowing citizens to fill out an
9 LEA90 occasionally; is that true?

10 MR. ORTIZ: It's after looking into it to see if

11 it has merit. I'm not going to be looking at them every
12 time they get a speeding citation or a seatbelt citation
13 they are going to file a complaint on the officer. I
14 don't want to open that up.

15 MR. SHANDLER: Okay. So there was discussion
16 about the rule, whether it should be broadened to put that
17 express power in there as it's being exercised in an
18 applied manner.

19 There was a public policy debate about whether
20 the academy staff itself has enough investigators. And we
21 talked about I think there's only one investigator on
22 staff, and that's why they usually have to refer things to
23 state police, which have more resources.

24 And then there was also some discussion about
25 requiring agencies to send in more reports on

94

1 individuals. And then there was a discussion about will
2 this open up the flood gates to a citizen upset about a
3 traffic citation filing a LEA90 and starting the process.
4 That was one part of the discussion.

5 Then there was a part of the discussion about
6 what if there's corruption allegations against an entire
7 department. And the Attorney General himself was thinking
8 about that out loud and trying to think of examples of
9 that. And we didn't really specifically talk about the
10 Santa Fe Department as you talked about today. And so we
11 really focused just on the complaints against an

12 individual person.

13 We talked a little bit about if there is --

14 whether there's value in having citizen advisory boards.

15 I'm not sure if that's the exact buzz word. I guess some

16 jurisdictions have them. I think the Attorney General

17 said that this Board doesn't have that statutory charge,

18 and it's up to the legislature, the ones to expand that.

19 So that was kind of the discussion about the

20 statute and the rules yesterday. And we just talked

21 briefly about this issue about whether they are systemwide

22 and how to handle that. And since the AG is at the prison

23 meeting, maybe we should delay that discussion until he's

24 next available or when he has a chance to talk to his

25 designee.

95

1 We really didn't get into that part that you want

2 to talk about today. And I think he would want to be part

3 of that discussion.

4 MR. PEREZ: Again, I'm not saying that we

5 disregard any system that we have. But we're saying we

6 have no legislative authority to hear complaints or

7 receive them. But again it says here, statutory, "When a

8 power is conferred by statute, everything necessary to

9 carry out that power and make it effective and complete is

10 implied." We are a board. We are supposed to hear about

11 disciplinary matters regarding police.

12 Director Ortiz, before you -- and I think you

13 have discussed this with us, we had a problem about
14 agencies reporting to us.

15 MR. ORTIZ: Yes, sir.

16 MR. PEREZ: Has that been a serious problem in
17 past and is it still?

18 MR. ORTIZ: It's still a problem today just
19 trying to get all agencies to comply with the reporting.

20 MR. PEREZ: Because some agencies think that they
21 do not have to report to you; is that correct? That's
22 their department; that's their business?

23 MR. ORTIZ: Correct.

24 MR. PEREZ: Yet we have a statute that says it's
25 supposed to be reported to you.

96

1 MR. ORTIZ: Yes, sir.

2 MR. PEREZ: So things are not getting reported.

3 MR. ORTIZ: We've doubled. The average the past
4 six years was three cases a month. And now we're getting
5 seven. So I'm trying to educate these administrators that
6 it is their responsibility to follow the rules and
7 report.

8 MR. PEREZ: There's nothing that says we have
9 authority to take complaints, but there is nothing that
10 says we have authority to reject complaints or not to
11 accept them. I say, no, we're not our own police. We
12 should refer them back.

13 "Have you gone through all these channels." If

14 they say they have, I think we should then -- they should
15 come to you, and not to us directly, but through the
16 channel.

17 At the beginning of the first World War, a Polish
18 soldier transmitted a message to his headquarters saying,
19 "The German are attacking."

20 The message went back, "This is preposterous, and
21 what are you doing transmitting out of code?" That
22 soldier was dead, of course, by then. And the Germans
23 took over Poland. Because shoot the messenger.

24 I'm saying we should be open to receive the
25 message. And there's a lot going on in this state that we

97

1 are not looking at because it's not in our little
2 jurisdiction here. Well, there's nothing that says we
3 can't listen to it. Somebody has to listen to it.

4 I intend to go to the director of the FBI, whose
5 chair I sat in before, who is known as a stealth special
6 agent in charge. Nobody ever sees him. And I intend to
7 go to the U.S. Attorney, who's an interim U.S. Attorney,
8 to see if he will look at this matter of Altonji and the
9 rest of this. Altonji is in the middle. What's above?

10 We always look down. We deal with police
11 officers for DWI, for whacking their girlfriends, for not
12 showing up on duty. In five years I have not had a case
13 here regarding a chief or a deputy chief or a lieutenant.
14 It's always the bottom -- the bottom rung.

15 But when good things happen, credit goes right to
16 the top. When bad things happen, that bad officer did
17 it. Let's start looking up.

18 MS. TORRES: I think I'd like to -- oh, I'm
19 sorry. Did you have more?

20 MR. PEREZ: That's it.

21 MS. TORRES: Okay. I think I'd like to go ahead
22 and ask for a motion based on Mr. Shandler's
23 recommendation that we continue this discussion at the
24 next meeting. And then I would ask the Attorney General
25 to be present and also participate in this discussion.

98

1 And there was quite a bit of discussion, as Mr. Shandler
2 has reported, yesterday.

3 MR. SHANDLER: Madam Chair, it's fine for you to
4 sit in as well. That will give him an opportunity to talk
5 to you about the issue and his thoughts. It's a
6 discussion item, so you could just say, "I'd like to
7 instruct the director as the chair person to put this on
8 the agenda the next time," or you can call for a vote.
9 Either one I think is permissible.

10 MS. TORRES: I'd like to call for a vote. Is
11 there a motion and a second as far as putting this on the
12 agenda next time -- ask Mr. Ortiz to put it on the agenda
13 the next time as something that still needs to be
14 discussed further.

15 Yes, sir? You need to come up here. We've got a

16 court reporter. She'll get frustrated with me because I
17 didn't ask you to do that.

18 MR. MESCALL: Good morning. My name is Tom
19 Mescall, a citizen. I'm not in law enforcement. Are you
20 inviting public comment now or would that be at the
21 next -- in the next meeting because I really do think this
22 is --

23 MS. TORRES: I think if you would like to
24 comment, please feel free. We've taken public comment on
25 other issues.

99

1 MR. MESCALL: Well, I just want to do it when
2 it's appropriate. I don't know if it's appropriate now.

3 MS. TORRES: Go ahead. Go ahead.

4 MR. MESCALL: I just want to -- I'm a criminal
5 defense attorney. And I just -- I would ask the Board to
6 strongly consider entertaining citizen complaints. And
7 that's just based on my experience as a criminal defense
8 attorney just because I think there's lot of value to
9 that.

10 It seems like a lot of these situations that are
11 being addressed earlier always kind of sometimes arise out
12 of a particular fact pattern that generated the
13 discussion. And I can just see with the current mechanism
14 that's in place, filing an internal affairs complaint; if
15 the doesn't work, go to the district attorney. I hear
16 that. I understand it. I respect it.

17 I just think it's a very imperfect mechanism many
18 times. I just want you to -- one very quick just
19 generalized fact that I'm concerned over. And I think it
20 would be, you know, concerns to like everyone here because
21 it seems like everyone is concerned about better law
22 enforcement.

23 As a citizen complaint of, say, like a law
24 enforcement officer raping a citizen while that officer is
25 on duty or, you know, while using that law -- that -- I'll

100

1 say on duty. And then like the citizen going to someone
2 like me, a lawyer, saying, "You know, can you help me or
3 like what should I do?" And you give them like some
4 advice.

5 And that's I guess a situation like I've
6 encountered, where like a young lady calls and says --
7 like hours after she's allegedly, you know, raped by an
8 officer, like what -- what happens here, you know? And
9 then all you can really do as a citizen is like just maybe
10 take her to a -- for a S.A.N.E. evaluation, a sexual
11 assault nurse evaluation.

12 And now I'm caught up in the middle of this. You
13 know, and I'm just trying to like help a fellow citizen.
14 Not acting as a lawyer, just -- JoJo, I mean, she called
15 me with this just because of my --

16 MR. SHANDLER: Let me -- let me interrupt for a
17 second. I think you're getting a little more specific

18 than I'm comfortable with you getting --

19 MR. MESSALL: Well, and I don't mean to be. I
20 just want you to kind of think about this when you're
21 contemplating like the -- how imperfect the current system
22 is because that young lady can like -- I don't have a dog
23 in the fight. That young lady is the one that may want to
24 file a complaint at the police department or the district
25 attorney's office or something like that.

101

1 But if something does not get done, I still think
2 that like someone like myself would have a valid reason
3 for wanting to report the alleged misconduct, because it's
4 just concerning in general. Or something else to just
5 consider --

6 MS. TORRES: Okay. I think -- I mean, I think
7 that's enough, because we've got the explanation. And I
8 mean, what you're saying is you want another board, you
9 want somebody that stands for law enforcement to be able
10 to hear these complaints. And I think what the Board's
11 position or what we've been questioning or at least
12 discussing is are we the right entity, are we empowered by
13 law to do that.

14 But my preference right now would be to go ahead
15 and -- actually go to break -- but I'd like to either ask
16 Director Ortiz myself to go ahead and put this on the
17 agenda for next time to continue the discussion. You
18 know, if there's a motion and a second and a vote, I'd

19 like to entertain that. If not, then I'll just ask him

20 myself. So is there a motion?

21 MR. PEREZ: Can we let the gentleman finish?

22 MR. MESCALL: Well, I won't go into more --

23 MS. TORRES: I'm going to say as chair I have

24 some -- I'm a lawyer too. And sometimes we tend to as

25 lawyers belabor things by a lot of war stories. I totally

102

1 understand your point, and I understand what Mr. Perez has

2 been saying.

3 You know, and if you'd like to summarize what

4 your position, what your feelings are, whatever, certainly

5 in your own words, I respect your ability to do that. But

6 to make this -- belabor the point any further than what we

7 have already had since we want to also talk about it and

8 put it on the agenda for next time, I would prefer not do

9 that. Go ahead. Just summarize --

10 MR. MESCALL: Well, very briefly. Just from the

11 average citizen's perspective, this -- going through that

12 normal process is just -- I mean, to put like at best very

13 imperfect because it's -- you're going to law enforcement

14 and maybe there's this perception that a complaint is not

15 being processed. And then if you want to go to the

16 district attorney's office.

17 Just the reality is a lot of times law

18 enforcement and the district attorneys work so closely

19 together that that can be problematic or at least there's

20 this perception that a complaint is not being like
21 properly processed.
22 If you want to go to another mechanism like state
23 police and still another law enforcement body and you're
24 still running into the same problems and the same concerns
25 are there, and it just seems like this is no different

103

1 than like the -- that the concerns people have when
2 lawyers are trying to govern the conduct of other lawyers,
3 or judges trying to conduct -- you know, judges taking
4 care of -- a panel of judges dealing with judicial
5 impropriety.

6 MS. TORRES: So is that a fair summation to say
7 that you are saying that there should be some type of
8 neutral entity to entertain these types of complaints? Is
9 that a fair summation of what you're saying?

10 MR. MESSALL: I'm sorry. Run that by me one more
11 time.

12 MS. TORRES: A neutral type of entity, law
13 enforcement entity to review these types of complaints. I
14 mean, I think that's what I hear you saying and would that
15 be this Board? I mean, that's the other question on the
16 table is that what this Board does? Is that what it's
17 designed to do by statute, enable to do by statute.

18 And that's I think where the point is is that I
19 think that's a topic also for future discussion at the
20 next meeting.

21 MR. MESCALL: Well, yes, assuming the Board had
22 the authority to discuss such matters or entertain such
23 matters. I just do think it's a proper forum for citizens
24 to address certain complaints.

25 MS. TORRES: Okay. Thank you. Is there a

104

1 motion?

2 MR. GALLEGOS: I'll move to table until the next
3 meeting.

4 MS. TORRES: Second?

5 MR. GALLEGOS: And, I'm sorry, also part of that
6 motion is to have it put on the agenda.

7 MS. TORRES: Okay.

8 MR. PANTEAH: I'll second.

9 MS. TORRES: Vote? Voice vote I think is
10 appropriate.

11 THE BOARD: Aye.

12 MS. TORRES: Aye. Any nay's? (No response.)
13 Thank you. Break time, 10 minutes. Thank you.

14 (Recess held from 11:16 until 11:31 a.m.)

15 MS. TORRES: Okay. I'd like to call the meeting
16 to order again. Everybody, if you're not sitting down,
17 take your seats. One thing I just wanted to note is that
18 it's freezing in here, so Mr. Ortiz has asked Ernie Holmes
19 to have the air turned down.

20 ITEM #11: DISCUSSION - PUBLIC COMMENT - SIGN-IN SHEET

21 DISCUSS TRAINING AND DISCIPLINE

22 MS. TORRES: So the next item on the agenda --
23 we're still on Old Business, believe it or not; we're
24 trying to move this along, but -- is Item No. 11,
25 Discussion, Public Comment, Sign-In Sheet, Discuss

105

1 Training and Discipline.

2 And it says "Chairman" on here, but I would like
3 to defer to Mr. Shandler. We were both at the work
4 session yesterday. Would you please explain this,
5 Mr. Shandler.

6 MR. SHANDLER: Madam Chair, the staff is to
7 implement a new type of sign-in sheet for public comment.
8 All your meetings always have just a general public
9 comment period, and the sign-in sheet would allow for
10 anyone to sign in and identify themselves.

11 And we're also going to work on some disclaimer
12 language on the sign-in sheet so citizens know exactly the
13 jurisdiction that the Board has, the five things that you
14 regulate, the academy, officers, telecommunicators.

15 That way they will know that's the jurisdiction
16 that you have and if they have something beyond that,
17 they'll have advanced notice that it may be something
18 beyond what you guys can handle. So the item is simply
19 that.

20 And we're going to put a clipboard out. We tried
21 some clipboards today, and we're going to try to implement
22 that with a little more language and specificity so the

23 public when they sign in, they -- we could just give the
24 clipboard to the chairperson and make meetings a little
25 more efficient. And the public will have a little more

106

1 transparency in the process.

2 MS. TORRES: So the action requested on the
3 agenda is for the board members to approve or modify the
4 sign-in sheet it. Sounds like it's been modified to some
5 extent?

6 MR. SHANDLER: Right. I think it's just a staff
7 item that we're giving you an update on. So we're not
8 asking for a vote on this.

9 MS. TORRES: Is there any discussion from the
10 Board? So hearing no discussion, I'd like to go ahead and
11 move onto New Business. And one item that Mr. Ortiz
12 informed me of, Item No. 16, Robert Denny was going to
13 lead that discussion. That's going to be stricken from
14 the agenda because Mr. Denny is having car problems. So
15 any discussion or problems with that? (No response.)
16 Okay. All right. So we'll strike No. 16.

17 ITEM #12: PRESENTATION OF PTLA FORCE IN LOS ALAMOS

18 MS. TORRES: New Business, Item No. 12,
19 Presentation of PTLA Force in Los Alamos, John -- and I'm
20 sorry, but I have no idea how to pronounce his last name.
21 Is John here?

22 MS. VIGIL: Mitsunaga.

23 MS. TORRES: He may be late, so let's go ahead

24 and table Item No. 12 for right now and just in case. I

25 would have no problems taking that out of order if he

107

1 shows up a little bit late.

2 ITEM #13: INITIATIVE TO PROVIDE AN ABBREVIATED POLICE

3 ACADEMY FOR CURRENT RESERVE OFFICERS PROPOSAL

4 MS. TORRES: Item No. 13, Initiative to Provide

5 an Abbreviated Police Academy for Current Reserve Officers

6 Proposal, Matthew Suazo.

7 MR. SUAZO: Yes, ma'am.

8 MS. TORRES: Mr. Suazo? Yes. Thank you.

9 MR. SUAZO: Madam Chair, Members of the Board,

10 I'm Commander Matt Suazo with the Albuquerque Police

11 Department. I asked to speak to you today in an effort to

12 recognize the Albuquerque Police Department Reserve

13 Academy Training so standardized accredited hours can be

14 applied to New Mexico Law Enforcement Certification and

15 future transition academy.

16 In preparation for this presentation, however, I

17 discovered that applicable hours recognized by the state

18 academy needs to be further examined and additionally

19 standardized reserve training needs to be evaluated.

20 Right now a proposal affecting reserve training

21 would be premature and would not be up to the standards

22 expected of this Board. I would rescind my request for

23 review of our reserve academy training and ask that this

24 Board convene a committee, which I understand it has the

25 authority to do, to evaluate and examine the issue of

108

1 reserves transitioning to a full-time certified status.

2 Based on the complexity and the numerous agencies

3 that would be affected and based on the issues involving

4 training, certification, education, I would ask that a

5 committee be convened to address this specific issue. And

6 I submit that for your consideration.

7 MS. TORRES: Is there any discussion on this

8 request?

9 MR. FORCE: Madam Chair.

10 MS. TORRES: Yes, sir.

11 MR. FORCE: I would like to hear from Director

12 Ortiz on -- because, Matt, you've had discussions with the

13 director on this, right?

14 MR. SUAZO: Not directly.

15 MR. ORTIZ: With Mr. Najjar. And I'll have

16 Mr. Najjar also. We're also in agreement for a

17 recommendation for a study. And one of the things we

18 would propose also is that they would be -- that they

19 would have to attend cert by waiver, the 120 hours before

20 becoming certified officers.

21 MR. SUAZO: Of course, that's been discussed as

22 well. There's a lot of complex issues and -- because it

23 is going to involve multiple agencies, I would like to

24 include those representatives as well.

25 MR. ORTIZ: That was going to be my

1 recommendation that we form a committee to study this.

2 MR. FORCE: Have you thought about who would you
3 put on the committee or is that premature?

4 MR. ORTIZ: Do you want to volunteer?

5 MR. FORCE: One more thing.

6 MR. ORTIZ: One more thing, I know. But I don't
7 know if Mr. Najar had anybody in mind yet.

8 MR. NAJAR: Madam Chairman, Mr. Force, it would
9 be our request that the committee members be identified by
10 the Board so that it is an official committee of the Board
11 and that those appointments are being made at your
12 direction and your recommendations.

13 MS. TORRES: So I'm not quite sure what would be
14 the mechanism then at this point in time. Would we move
15 to appoint a committee or to study the issue? Or how
16 would we do that? Is there a motion to appoint a
17 committee?

18 MR. ORTIZ: Is there somebody on the Board who
19 would want to chair this committee?

20 MR. FORCE: I think that -- Madam Chair?

21 MS. TORRES: Sure.

22 MR. FORCE: I think the first issue I think is
23 definitely getting a committee put together. But being
24 that it's stemming from a request from the City of
25 Albuquerque, from Albuquerque PD, and in concert with the

1 academy, I guess the question would be how many -- I guess
2 trying to form a proposal, a what do you call it? A
3 motion?

4 Because I think we have a clear understanding we
5 can do a motion for forming a committee, but by making an
6 appointment out of the actual members, I guess who would
7 handle that later? Would that be correct?

8 MR. REMINGTON: Are you going to be on the
9 committee?

10 MR. FORCE: I haven't even thought about it.

11 MR. REMINGTON: So I'll make a motion to appoint
12 you as chairman of that committee, and then you can choose
13 the -- this is my last board meeting, so I would do it
14 myself, but.

15 Mr. Force, I'll rescind my motion or I'll --
16 yeah, rescind my motion if you don't think you can do it,
17 but if you're willing so we can get the ball rolling on
18 the motion.

19 MR. FORCE: Yeah, I would do that.

20 MR. REMINGTON: So I make a motion to appoint
21 Mr. Force as the chairman of the committee to look at this
22 issue of the initiative to provide an abbreviated police
23 academy for current reserve officers.

24 MR. SUAZO: Correct.

25 MR. REMINGTON: And they'll meet at a place and

1 time specified by Mr. Force. So that's my motion.

2 MS. TORRES: I second. Can I second? I can't

3 second?

4 MR. GALLEGOS: I'll second.

5 MS. TORRES: Okay. I call for a vote. Everybody

6 in favor?

7 THE BOARD: Aye.

8 MS. TORRES: Anybody opposed? (No response.)

9 MR. REMINGTON: Thank you, Mr. Force.

10 MR. ORTIZ: Thank you, Mr. Force.

11 MR. FORCE: I'm not going to ask any more

12 questions.

13 ITEM #14: LEA MEMORIAL - EUNICE POLICE OFFICER

14 LEONARD EUGENE DANIEL (1953)

15 MS. TORRES: Okay. Item No. 14, LEA Memorial,

16 Eunice Police Officer Leonard Eugene Daniel. And this is

17 from Mr. Ortiz.

18 MR. ORTIZ: Yes, ma'am. Madam Chair, Board

19 Members, and audience, first before I forget being that

20 this may be the last meeting for Sergeant Remington, I'd

21 like to take the time to thank him for serving on this

22 board and giving his time and congratulate him on getting

23 promoted to lieutenant here shortly. So I would just like

24 to thank him.

25 (At this time, there was applause.)

112

1 MR. ORTIZ: Madam Chair, the next order of

2 business is on Tab 14, the Law Enforcement Memorial,

3 Officer Leonard Eugene Daniel. On January 27th, 1953,
4 Eunice Police Officer Daniel collapsed after attempting to
5 arrest a man in front of a bar in Eunice.

6 The coroner's report indicates the death by
7 reason of coronary occlusion brought about by overexertion
8 and excitement from trying to make an arrest in the line
9 of duty.

10 Madam Chairman, Board Members, letters were sent
11 out to the committee members, Mr. Dave Heshley, Jim
12 Burrelson, Sheriff Kent Waller, and Chief Faron Segotta;
13 and they unanimously approved the inclusion of Officer
14 Daniel to the Memorial Wall. At this time, I ask the
15 Board to approve this request.

16 MS. TORRES: Is there a motion?

17 MR. REMINGTON: So moved.

18 MR. FORCE: Second.

19 MS. TORRES: Is there a second? Vote? Anybody
20 in favor?

21 THE BOARD: Aye.

22 MS. TORRES: Anybody opposed? (No response.) So
23 moved.

24

25

113

1 ITEM #15: LEA MEMORIAL - GALLUP POLICE

2 SERGEANT BARNEY MONTOYA (1977)

3 MS. TORRES: Item No. 15, LEA Memorial, Gallup

4 Police Officer Sergeant Barney Montoya, 1977. This is

5 Mr. Art Ortiz.

6 MR. ORTIZ: Yes, ma'am. Again, Madam Chair, at

7 this time I'd like to invite Gallup Police Chief Robert

8 Cron to come up as well.

9 Madam Chair, Board Members, Sergeant Barney

10 Montoya was killed in the line of duty on September 4th,

11 1977. He was preceded in death by his wife only a few

12 months prior. He left behind two sons, Scott, age 4, and

13 Daniel, age 7.

14 Both sons have followed his footsteps and became

15 law enforcement officers: Sergeant Scott Montoya with the

16 Gallup Police Department and Deputy Daniel Montoya with

17 the McKinley County Sheriff's Department.

18 On the night of his death, Sergeant Montoya was

19 working in uniform as a desk sergeant. Five years earlier

20 he had been the victim of a felonious assault resulting in

21 a gunshot wound to the leg while on duty. This injury

22 left him in excruciating pain, but he was still committed

23 to the service to the community of Gallup.

24 Sergeant Montoya stayed at the PD past his normal

25 shift to assist another officer with an unruly,

114

1 intoxicated person. After assisting the officer, he left

2 in his vehicle. Seconds later he was hit and killed by a

3 drunk driver that had disregarded the posted stop sign.

4 Mr. Chairman, Board Members, at this time I will

5 ask Chief Cron to say a few words.

6 MR. CRON: Madam chairman, I appreciate this
7 opportunity. This has been something that the two boys
8 have been trying to get done for quite some time. And it
9 would add closure not only to them, but also to some of
10 the police officers that are still on duty in McKinley
11 County right now. They are still carrying around pictures
12 of Barney Montoya in their wallets, newspaper articles,
13 that sort of thing.

14 They know that he died in the line of duty. We
15 have letters from the chief of police showing that he was
16 on duty when he was killed. It was just an oversight.
17 And it is our request that he be placed on the memorial
18 and bring some of these -- bring closure to the community
19 and to the two boys.

20 MS. TORRES: Thank you, sir.

21 MR. CRON: I appreciate it.

22 MR. REMINGTON: Motion to accept the letter from
23 the committee members recommending inclusion to the NMLEA
24 Memorial Wall.

25 MR. PEREZ: Second.

115

1 MS. TORRES: Take a vote? All in favor?

2 THE BOARD: Aye.

3 MS. TORRES: All opposed? (No response.) So
4 moved.

5 ITEM #16: DISCUSSION: RULE 10.29.9.19 CONTINUATION OF

6 CERTIFICATION AFTER SEPARATION - REQUEST FOR MODIFICATION

7 MS. TORRES: As I indicated earlier, we're
8 skipping 16 because Rob Denny won't be here today.

9 (Note: Refer to page 106, lines 11-16 for
10 previous discussion on this item.)

11 ITEM #17: RATIFICATION OF CERTIFICATIONS FOR
12 LAW ENFORCEMENT OFFICERS

13 MS. TORRES: No. 17, Ratification of
14 Certifications for Law Enforcement Officers. And I'll
15 defer to Mr. Ortiz.

16 MR. ORTIZ: Yes, ma'am. Madam Chair, Board
17 Members, audience, on Tab 17 the director has verified the
18 list of police officers beginning with Certification No.
19 07-0210-P to 07-0212-P, 07-0214-P to 07-0264-P, 07-0266-P
20 to 07-0269-P, 07-0271-P to 07-0289-P and 08-0001-P to
21 08-0004-P.

22 They have all met the standards and requirements
23 for the law enforcement certification and we request that
24 the Board ratify their certification.

25 MR. REMINGTON: So moved.

116

1 MR. PEREZ: Second.

2 MS. TORRES: All in favor?

3 THE BOARD: Aye.

4 MS. TORRES: All opposed? (No response.) So
5 moved. It has been ratified. Thank you.

6 ITEM #18: RATIFICATION OF CERTIFICATIONS FOR PUBLIC

7 SAFETY TELECOMMUNICATORS

8 MS. TORRES: Item No. 18, Ratification of
9 Certifications for Public Safety Telecommunicators. I
10 defer to Director Mr. Ortiz.

11 MR. ORTIZ: Madam Chair, Board Members, audience,
12 on Tab 18 the director has verified the list of public
13 safety telecommunicators beginning with Certification
14 No. 08-0001-PST to 08-0041-PST. They have all met the
15 standards and requirements for the law enforcement
16 certification, and we request that the Board ratify their
17 certification.

18 MR. REMINGTON: So moved.

19 MR. PANTEAH: Second.

20 MS. TORRES: All in favor?

21 THE BOARD: Aye.

22 MS. TORRES: All opposed? (No response.) It has
23 been moved as ratified.

24 MR. ORTIZ: Thank you.

25 MS. TORRES: At this point in time, I am recusing

117

1 myself from listening to disciplinary matters. And I will
2 turn the podium to Vice-Chair Donald Gallegos. The one
3 thing I wanted to ask is I guess whether people are going
4 to be taking a lunch break or continue on? Looks like
5 it's going to be continuing on. Thank you.

6 ITEMS #19 - #41: DISCIPLINARY MATTERS

7 MR. GALLEGOS: Good morning. We'll go ahead and

8 proceed. And I want to first of all thank you for
9 breaking down the disciplinary matters in an order. I
10 like it a lot better that way.

11 MS. TORRES: That's courtesy of Mr. Ortiz.

12 (At this time, Ms. Torres exits the meeting.)

13 MR. GALLEGOS: Mr. Ortiz, thank you. It makes it
14 a lot better. And I think I probably recommended last
15 time that it gives us an opportunity to take care of the
16 ones right away, get those out of the bat, the defaults,
17 the voluntaries, the stipulations, and then we get onto
18 the other ones.

19 So without any further delay, I'm going to go
20 ahead and turn it over or ask Ms. -- is it Erdman?

21 MS. ERDMAN: Erdman, yes.

22 MR. GALLEGOS: -- to go ahead and present the
23 cases to us as they are in the agenda.

24 MS. ERDMAN: Absolutely. Items 19 through 25 are
25 default orders. And, Vice-Chairman, some of these -- the

118

1 respondents in the default orders are here either
2 representing themselves or through their attorney.

3 MR. GALLEGOS: Let me ask this then, if you would
4 just take them item by item; and then as we come to those
5 persons who are here and would like to address the Board,
6 just notify us and we'll allow them the opportunity.

7 MS. ERDMAN: Absolutely.

8 Item No. 19 is Michael Arbogast. Officer

9 Arbogast was served with an NCAN, a notice of final
10 decision and didn't make a request for a formal hearing in
11 writing. He is accused of having damage to his police
12 vehicle that was not reported.

13 And there are also accusations against him that
14 he filed divorce papers, signed his wife's name to all of
15 the papers, had them notarized by someone who didn't
16 witness the signatures. And after these divorce papers
17 were filed, his wife, who claims she had never seen them,
18 contends that he signed all the papers, had them notarized
19 by an APD employee.

20 And that divorce process was stopped. Another
21 divorce process that did involve his wife, now ex-wife,
22 was initiated and has been completed. And Officer
23 Arbogast resigned prior to any discipline. The director
24 is recommending revocation.

25 MR. GALLEGOS: Is Mr. Arbogast here? No? Okay.

119

1 You want to go onto the next one?

2 MS. ERDMAN: Yes. And I want to note Item 20 was
3 initially listed under a default order; however, last
4 night, Mr. Farkas' attorney contacted Director Ortiz and
5 ask that they enter into a stipulated order instead of a
6 default order.

7 The default -- the stipulation carries the same
8 disciplinary action as the default order. And I'll go to
9 that in a minute. And on the misconduct alleged here is

10 that Officer Farkas took a computer from -- a desktop
11 computer from the police department that he was working
12 for. He took it home.

13 When he was asked about it, he returned it to the
14 police department garage without telling anyone that he
15 either had it at home or he returned it to the garage. So
16 the accusation is for dishonesty. He was terminated from
17 the Clovis Police Department.

18 His attorney and the director have reached an
19 agreement that there be a 90-day suspension with one year
20 probation, an ethics course, and eight hours of community
21 service. And we're asking that the Board sign -- we do
22 have a stipulated order of suspension and probation, but
23 it has not been signed by Mr. Farkas, so we're asking that
24 the Board sign it in approval -- in contemplation that
25 Mr. Farkas will be signing it on his attorney's word given

120

1 to Mr. Ortiz last night.

2 MR. GALLEGOS: All righty. We'll go to the next
3 one.

4 MS. ERDMAN: The next item is Joey Gomez, and I
5 believe Mr. Gomez's attorney is here.

6 Yeah, you want to start walking up while I --
7 I'll do my overview. Mr. Gomez has been charged with
8 DUI. The blood alcohol content in his -- I'm not sure
9 whether it was a -- what the test was, but the result was
10 .12, which is not quite double but still well over the

11 legal limit.

12 He was also driving his department vehicle at the
13 time. Those charges are still pending. He's resigned
14 from the New Mexico Department of Public Safety. And he
15 didn't respond to the NCA or to the NFD. So we move for
16 default, for revocation of his license. But his attorney
17 would like a chance to speak.

18 MR. GALLEGOS: Mr. Bregman, yes, sir. Good
19 morning.

20 MR. BREGMAN: Good morning to all. Mr. Chairman,
21 Board Members, thank you for this opportunity. I am
22 originally here because I'm representing another officer,
23 John Lytle. And I got the agenda and I looked at it and I
24 saw Mr. Gomez's name on it.

25 I immediately went out -- actually, Mr. Ortiz was

121

1 kind enough and counsel for the Board to give me a copy of
2 the notice of contemplated action. And they do have
3 signed certified receipts from the mail that he did get
4 them.

5 I called up Mr. Gomez, who is now living in
6 Tucson. And when Mr. Gomez first hired me to represent
7 him in the criminal matter, we discussed the fact that if
8 an NCA comes across his line that he needs to contact me
9 and let me know.

10 I called him and he told me that, yes, now he
11 doesn't -- first time I talked to him, he didn't remember

12 anything about any NCA. I called him back and he goes,
13 "Well, is that the thing about the state police and
14 internal affairs and I'm not going to be able to be a
15 state police officer again?"

16 Well, the fact of the matter is no matter any way
17 you cut this up, I am humbly here before you just to
18 simply ask that you give us an opportunity. He
19 misconstrued this notice, rightfully or wrongfully. And
20 he probably should have noticed what it was.

21 But he also said to me, "Well, you were my
22 attorney, and I thought that you would be getting
23 everything that I got." Yes, I had entered an appearance
24 on the criminal matter on the DWI, but I had not entered
25 this because I hadn't received the NCA from him.

122

1 I would humbly request from all of you to
2 consider the following: That you allow us to start this
3 process again. Mr. Gomez, by the way, as bad as it may
4 sound, we have another incidence -- and we've heard of
5 these before -- where this was during an undercover
6 narcotics buy. Consuming alcohol is this allegation and
7 therefore there's a DWI. We believe we have a decent
8 opportunity in that.

9 But the last thing I want you to consider is that
10 my understanding of this Board's past practice is that
11 when it is a DWI, it's not necessarily an absolute
12 revocation of their -- but usually a suspension of some

13 sort.

14 And I ask you to consider that when I -- and now
15 I'm asking you to allow us to go through perhaps an
16 informal hearing, then a formal hearing, or whatever it
17 may take. But I don't have a good excuse for you on why I
18 didn't get this in better other than to say he was
19 confused, as far as what this concerned.

20 So I would just ask that you let us go through
21 the process again and just start from scratch and get it
22 done. As soon as I saw this was on the agenda, I
23 contacted him. And he very much wants to be able to keep
24 his New Mexico Law Enforcement Certificate and wants to
25 exercise his rights to try and keep that.

123

1 So, thank you, Mr. Chairman, thank you, Board
2 Members for your consideration.

3 MR. GALLEGOS: Thank you, Mr. Bregman. And I
4 guess I'll begin with a question for Zach. Is there a
5 provision whereby a default judgment can be reconsidered
6 or set aside or do you know?

7 MR. SHANDLER: Absolutely. The default order has
8 not been approved yet. And based on past experience, if
9 you proceed, you will lose in court. A judge will
10 overturn it with a lawyer coming forward. So my advice to
11 you is going to be to reset this on the process.

12 MR. GALLEGOS: Okay. Good, then we'll get to
13 that discussion when we're taking action on the items. I

14 don't think we do that now.

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

16 MR. ORTIZ: Chairman?

17 MR. GALLEGOS: Yes, Mr. Ortiz.

18 MR. ORTIZ: I would object to us reopening it. I
19 would offer the 90-day being a DWI and the Board is
20 recommending a 90-day, that he take the sanctions that the
21 Board would impose. Because if we open this up, I have
22 other people here today that did not follow the rules in
23 responding in a timely manner.

24 If we don't do that, we're going to open it up.
25 And then we're never going to get these things resolved.

124

1 The rules are there for a reason. We should all follow
2 the rules. That's what I do with the respondents. If
3 they request a hearing, I give them that opportunity.

4 If they miss the dates, then it's a revocation by
5 default. I'm willing to waive the revocation and go to a
6 suspension of the 90 days.

7 MR. GALLEGOS: Now we've heard the positions from
8 the respective parties and then when we deliberate and
9 then come back and take action, we'll -- we may have
10 additional questions or comments at that time. But for
11 now we are just going to proceed.

12 MR. ORTIZ: Thank you, sir.

13 MR. GALLEGOS: Thank you, Mr. Ortiz.

14 MR. FORCE: Mr. Chair, if I can ask a question.

15 Mr. Bregman, have you had discussions with Mr. Ortiz so
16 far as a stipulated order on this at all?

17 MR. GALLEGOS: Mr. Bregman, before you answer, I
18 think I probably should have -- we do open it to the Board
19 questions as we're going through each item at this point
20 too, so I apologize. So if the Board does have questions,
21 let me know.

22 MR. BREGMAN: Mr. Chairman and Board Members,
23 there has been no discussion at this point. Mr. Ortiz --
24 as you may know, I work with him on a lot of different
25 cases like this -- just learned of our absence of

125

1 knowledge of this today. So he did inform me that he was
2 going to object to this.

3 But just in response to what he said as far as
4 agreeing to something, there's no way I can do that right
5 now. And I think that actually your attorney counsel is
6 correct in that because I'm here, I just want to get the
7 process started. I'm not going to delay anything. We're
8 going to do it in a very timely and efficient way.

9 And at that point I don't think it's going to
10 cause any great harm. He's not currently a police officer
11 anywhere. He did resign immediately from the New Mexico
12 State Police. I just want to be able to give him the
13 chance to be able to do that and have all the options
14 explored. Thank you.

15 MR. GALLEGOS: Any other questions from the

16 Board? (No response.) All right. Let's go to the next
17 one, Item 22.

18 MS. ERDMAN: The next item is Officer Billy
19 Hinds. This is a default as well. He was involved in a
20 motor vehicle collision in his own private vehicle that
21 was in a single car accident that struck a rock pillar.

22 His blood sample obtained upon testing was
23 registered at a .16, which is twice the legal limit. He
24 had a prior DWI arrest in 1994. And the director is
25 recommending revocation by default. Mr. Hinds is also

126

1 here to speak to you today.

2 MR. GALLEGOS: Mr. Hinds.

3 MR. HINDS: Thank you, Board Members. I want to
4 thank Mr. Ortiz because during the time I got this letter
5 I was going through a divorce, so my family kind of -- I
6 tried to hold my family more together than -- that this
7 was.

8 But I just want to let the Board know I've gone
9 through counseling since 2000. I was found not guilty on
10 the thing, but that was a technicality. You know how
11 lawyers are. And I admit to the drinking. I haven't had
12 a drop since 2000. I've been out of law enforcement since
13 2002. Been married, got two little kids. Been a school
14 resource officer for five years now.

15 He was advising me that it's going to be a
16 five-year suspension. What I ask is I think -- every time

17 I look in the mirror I still have the scar right here.

18 That's a constant reminder of the stupid thing I did. If

19 they could lessen that. I've been taking classes now to

20 get my associates in police science.

21 I love being an officer. I love helping the

22 public. And if the Board or Mr. Ortiz feels that the

23 suspension be dropped, I would really love to get back

24 into law enforcement eventually. I appreciate your time.

25 MR. GALLEGOS: Thank you, Mr. Hinds. Any

127

1 questions from the Board?

2 MR. REMINGTON: What department?

3 MR. HINDS: I was with the Rio Arriba Sheriff's

4 Department.

5 MR. GALLEGOS: Any other questions from the

6 Board? Seeing none, thank you. Let's go to the next

7 item.

8 MS. ERDMAN: Next item is No. 23. This is

9 Officer Benjamin Kirby. In August of 2006, Respondent

10 Officer Kirby removed a DWI suspect, Jason Daskalos, from

11 his APD bat mobile after Mr. Daskalos had been processed

12 and charged with DWI.

13 Once it was revealed that Officer Kirby had taken

14 Mr. Daskalos out of the bat mobile and asked that he be

15 given a citation as opposed to being taken in under

16 arrest, Officer Kirby did bring Officer {sic} Daskalos

17 back to the bat mobile where he was later booked and

18 processed.

19 Officer Kirby was terminated by APD on October
20 25th of 2006. He did attend an informal hearing in
21 November. He did not respond to the notice of final
22 decision. It was mailed to him on November 6th of 2008
23 {sic} and was signed for it and acknowledged by him on
24 November 21st of 2007. The director recommends revocation
25 by default.

128

1 MR. GALLEGOS: Is Mr. Kirby here by any chance?

2 MR. REMINGTON: No.

3 MR. GALLEGOS: No? All righty. We'll move onto
4 the next one then.

5 MS. ERDMAN: The next item -- here it is. Rachel
6 Maloy was employed by the Rio Rancho Police Department. A
7 package came to delivery -- I'm sorry. I have the flu, so
8 I'm still having a cough and I'm having a hard time
9 talking. And respondent accepted the package, which
10 turned out to be \$150 in gift card certificates from
11 Target.

12 She then took those gift certificates to Target
13 and cashed them, and they were intended for someone else.
14 When she was questioned about this, she first stated that
15 she gave them to the person to whom they were addressed,
16 to Mr. Tatum. But she is shown on video taking the
17 package and going into the rest room.

18 She's also shown on a Target video taken at

19 Target stores of her cashing the gift certificates. She
20 was given an opportunity to appear at an informal
21 hearing. She received and signed for the NCA. She didn't
22 request a formal hearing. She received and signed the
23 notice of final decision and did not request a formal
24 hearing in this matter. And the director recommends
25 revocation by default.

129

1 MR. GALLEGOS: Is Ms. Maloy here? No. Are there
2 any questions from the Board? All right. Let's go to
3 Item 25.

4 MS. ERDMAN: Item 25 is Tommy Salas. He has pled
5 guilty to a fourth-degree felony, possession of one gram
6 of methamphetamine. Officer Salas came into possession of
7 this methamphetamine during an arrest at a DWI stop. The
8 suspect in the DUI stop and his wife accused Officer Salas
9 of taking the gram of methamphetamine and then instead of
10 registering it into evidence taking it for his own
11 personal use. They also accused him of taking \$150 from
12 the suspect and \$150 from the wife, respectively.

13 When Officer Salas was questioned during the
14 trial of the suspect, he accused the suspect of having the
15 methamphetamine. But the suspect's attorney noted that it
16 had never been taken into evidence. At that time there
17 were charges brought against Officer Salas for possession
18 or attempted possession of the methamphetamine. He pled
19 guilty. And the suspects did pass a lie detector test or

20 a polygraph examination regarding these charges.

21 The respondent did appear at an informal hearing
22 with the director and admits that he pled guilty to that
23 fourth-degree felony. He was served with a notice of
24 final decision and signed for it on November 13th, 2008
25 {sic} and has not requested a formal hearing. The

130

1 director recommends revocation by default.

2 MR. GALLEGOS: Okay. Thank you. Is Mr. Salas
3 here? Okay. I don't see him here. Are there any
4 questions from the Board? Seeing none, we'll move onto
5 the next category, which is under voluntary
6 relinquishments. And the next item is 26.

7 MS. ERDMAN: Just give me a minute to get my
8 files together. The next item on the agenda has already
9 been the topic of some discussion today. This is Stephen
10 Altonji, who's had federal drug charges brought against
11 him. As part of his plea agreement and those federal drug
12 charges, he has agreed to permanently relinquish his New
13 Mexico Law Enforcement Certification.

14 And so what we have to present to you for your
15 approval is a stipulated order of voluntary
16 relinquishment, which if you'll note I think on page 3,
17 paragraph 5A, respondent agrees to voluntarily and
18 permanently relinquish his New Mexico Law Enforcement
19 Certification and to never reapply for certification as a
20 law enforcement officer in New Mexico in the future.

21 MR. GALLEGOS: Is Mr. Altonji here? Any

22 questions from the Board? Okay, seeing none --

23 MR. PEREZ: Excuse me.

24 MR. GALLEGOS: Oh, I'm sorry.

25 MR. PEREZ: Regarding, again, without going into

131

1 the merits of the case, would it be proper to ask at this

2 time why we are allowing him to submit his resignation

3 rather than having revoked it in the past? Or would that

4 be subject for a later --

5 MR. SHANDLER: You can ask your prosecutor why

6 she accepted this. That's acceptable.

7 MS. ERDMAN: Because the result is the same.

8 He's relinquishing his license, and he's relinquishing it

9 permanently. And so as the prosecutor for the Board, our

10 concern is that he not practice as a law enforcement

11 officer in New Mexico again. And that's the result that

12 we've achieved without having to go through the time and

13 expense of a hearing having to prove allegations against

14 him.

15 MR. PEREZ: My question is though the notoriety

16 of his public act and the fact that he was arrested with

17 serious felony charges, would that have not been enough

18 for us to act at that time to pull -- to revoke it at that

19 time?

20 MR. ORTIZ: Yes, we would still have to go

21 through the process, though, through the hearings, through

22 the informal and the formal hearings.

23 MR. PEREZ: We did not begin that at the time?

24 MR. ORTIZ: No.

25 MR. PEREZ: Okay. Thank you.

132

1 MR. GALLEGOS: Any other questions?

2 MR. REMINGTON: Yes, I do.

3 MR. GALLEGOS: Yes.

4 MR. REMINGTON: Is this stipulated order stronger
5 than what we would have given him? He's agreeing to
6 permanently give up his license.

7 MR. ORTIZ: It's a lifetime revocation.

8 MR. REMINGTON: And we can revoke somebody's
9 licensure for -- not permanently.

10 MR. ORTIZ: Five years.

11 MR. REMINGTON: So this is better than what we
12 could have done.

13 MR. ORTIZ: Yes.

14 MS. ERDMAN: Essentially, the result is the same
15 or possibly a little better because it's a permanent
16 revocation, which he's agreed to, which could have also
17 been achieved by a stipulated order. But, again, the
18 result is the same. It's just saving the state the money
19 of going through the process of the hearings and the --
20 you know, the informal hearing and then the formal hearing
21 and then the procedure. And the result is as good as we
22 would have gotten through that same process.

23 MR. PEREZ: Thank you.

24 MR. GALLEGOS: Any other questions?

25 MR. TRUJILLO: I have one. Is the fourth-degree

133

1 felony still going to stay in place also?

2 MS. ERDMAN: This doesn't impact his -- and

3 you're talking about --

4 MR. TRUJILLO: The charge itself.

5 MS. ERDMAN: -- the charges itself against

6 Altonji?

7 MR. TRUJILLO: He was charged with a fourth. Is

8 there a conviction of a fourth? Is there a conviction of

9 a fourth --

10 MS. ERDMAN: I don't -- I'm not sure.

11 MR. ORTIZ: We can't answer that at this time

12 because they are still under negotiations. In fact, when

13 we're done with this meeting, we have to call the U.S.

14 Attorney's Office and advise them if the Board approved

15 this.

16 MR. TRUJILLO: Okay.

17 MS. ERDMAN: He is in the middle of working on a

18 plea agreement with the FBI and the U.S. Department of

19 Justice. So I'm supposed to bring this to them this

20 afternoon. But I honestly can't tell you what the charges

21 are. The fourth-degree felony that we were talking about

22 was in one of the prior cases that we talked about.

23 I think the charges against him initially were

24 much more serious than a fourth-degree though.

25 MR. GALLEGOS: Mr. Perez.

134

1 MR. PEREZ: Well, then if we accept this, does
2 that give him leverage in his plea bargaining with the
3 federal authorities? Are we assisting him?

4 MS. ERDMAN: My belief is that we are not
5 assisting him. We are doing through a stipulated
6 agreement what we could have the exact -- achieving the
7 exact same result that we would have through a hearing
8 having his license taken away permanently.

9 MR. PEREZ: Okay. But his voluntarily
10 surrendering his commission now, he's not agreeing to
11 testify or to give us any information regarding the other
12 officer with whom he was involved, right? He's just --

13 MR. ORTIZ: Not to my knowledge. My knowledge is
14 they are still in negotiations. That's why they want to
15 know the outcome.

16 MR. PEREZ: But the state is not involved in the
17 negotiations.

18 MR. ORTIZ: No. Right. The federal government
19 is.

20 MS. ERDMAN: And I have not been involved in the
21 negotiations. The U.S. Attorney's Office contacted us --
22 and correct me if I'm wrong. His case -- the procedure
23 has been with the Law Enforcement Academy Board that the
24 director has to receive an LEA90, a referral from an

25 agency, in order to move forward.

135

1 And it's my understanding, and correct me if I'm
2 wrong, the LEA being never received, an LEA90 on
3 Mr. Altonji; did they?

4 MR. ORTIZ: Yes, we did. We did. It was about
5 the same time that they entered into this agreement.

6 Mr. Holmes went to Santa Fe Police Department and obtained
7 the LEA90.

8 MS. ERDMAN: Okay.

9 MR. HOLMES: Counsel, this recommendation is from
10 the attorney prosecuting the case recommending that the
11 Board decertify him.

12 MR. GALLEGOS: Are there any other questions on
13 that?

14 MR. PEREZ: I don't understand. The Board
15 recommend that we accept this, but we don't know what
16 we're agreeing to by there are more strings attached to
17 this.

18 MS. ERDMAN: No. The only string that the Board
19 needs to know is that he's giving up his certification to
20 be a law enforcement officer in New Mexico, not just for
21 the five years that you're allowed to subscribe under
22 statute, but permanently.

23 MR. PEREZ: But we did not receive an LEA90.

24 MR. ORTIZ: Yes, we did.

25 MS. ERDMAN: Evidently, we did. It wasn't --

1 MR. PEREZ: No. Recently we received it.

2 MR. ORTIZ: He'll have the date. It's stamped on
3 there.

4 MR. PEREZ: But it did not -- it was not received
5 early when this -- when the arrests were made a year ago.

6 MR. ORTIZ: No, sir.

7 MR. PEREZ: It just came in now.

8 MR. ORTIZ: We received it in March, I believe.

9 MR. PEREZ: Is there any -- do we have any
10 procedure for going back to the agency and ask them why
11 they did not submit an LEA90 in a timely fashion?

12 MR. ORTIZ: Again, they are reading the rule.
13 Based on the rule they have 30 days, but they are saying
14 upon conviction. He has not been convicted. And that's
15 what we were discussing in our work session yesterday,
16 that our language may need to be changed 30 days "from the
17 date of the incident." A lot of agencies are not
18 reporting until the courts have taken action.

19 MR. PEREZ: So if the court takes no action, then
20 we're floating.

21 MR. ORTIZ: Right. Then at that point, I
22 initiate it and I contact them to submit the documents.

23 MR. PEREZ: But what about the business with the
24 preponderance of evidence that we have a notorious act --

25 MR. ORTIZ: Right.

1 MR. PEREZ: -- which is public --

2 MR. ORTIZ: Yes.

3 MR. PEREZ: -- serious allegations, felonies. We
4 just sit and wait? We cannot act?

5 MR. ORTIZ: In some cases that's best that we
6 wait and let the courts obtain a conviction. Then once
7 they get that conviction, it's easier for us to revoke
8 their certification. But if the courts don't or the
9 courts dismiss it on a technicality, yes, then we will
10 proceed.

11 MS. ERDMAN: And I'd like to clarify too. We
12 have -- the Board has to approve by a preponderance of the
13 evidence. If you're going on the count that there has
14 been a conviction, they have to prove by a preponderance
15 of the evidence that there's been a conviction. And so
16 the way the statute reads if you read it strictly we
17 cannot merely bring the same allegations that have been
18 brought in a criminal action and propose them in an
19 administrative action.

20 The standard that that Board has to meet if
21 you're going based on a criminal conviction has to be that
22 that respondent either pled or was convicted in a criminal
23 action. And then your burden is to prove that by a
24 preponderance of the evidence. Does that make sense?

25 MR. PEREZ: But we also have qualifications of

2 MS. ERDMAN: Right. And so if you want to go
3 under good moral character is one that you can prove by a
4 preponderance of the evidence.

5 MR. PEREZ: But not without --

6 MS. ERDMAN: Also lying or deceit are acts --
7 those can also be proven by a preponderance of the
8 evidence.

9 MR. PEREZ: So if a person is found innocent in
10 federal court and we have all this, then we are out of the
11 business. It stops.

12 MR. ORTIZ: No.

13 MS. ERDMAN: Well, we have alternatives. One of
14 which is if we can show by a preponderance of the evidence
15 that whatever acts that they took to get themselves in
16 this criminal trouble to begin with, if we can show that
17 those are acts that affect his moral character and affects
18 his ability to do his job, and if we can show that by a
19 preponderance of the evidence, we can still act on those
20 same claims.

21 MR. PEREZ: But we can act before the courts do.

22 MS. ERDMAN: We can also act before the courts
23 do, but it's very helpful in these cases if we have a
24 conviction.

25 MR. GALLEGOS: Any other questions? And I know

1 we've gone through this before and it's been a problem
2 with police agencies, you know, how they are interpreting

3 the statute when to bring the complaint forward because
4 sometimes they have people on payroll for three, four,
5 five years because of the court process.

6 And they are saying they can't do it until after
7 the court process, you know. But it's one of those
8 ongoing things I think we'll work through.

9 MS. ERDMAN: And I think we can handle it --
10 we're working on it now on a case-by-case basis.

11 MR. GALLEGOS: Right.

12 MS. ERDMAN: Like I noted, the Altonji matter
13 didn't come to us until very recently. I don't think that
14 we would have waited for a conviction in that matter.

15 MR. PEREZ: Well, that's the issue: It came to
16 us very recently. I disagree. I think it was in the
17 newspapers, which is the public who were reporting federal
18 activity. And why do we have to wait to remove that
19 person from being a police officer? That's not saying we
20 are judging him guilty of those acts. We're just saying
21 there's enough to revoke his commission.

22 MS. ERDMAN: Right. And that's a very good
23 question and I think it's one that the Board needs to
24 address. Right now we're very unclear about whether the
25 director has the authority to bring an administrative

140

1 action on his own without a referral from the employing
2 agency.

3 And up until now we've been I think pretty much

4 thinking that we had to get an LEA90 referral from the
5 employing agency before the director had authority to act.

6 MR. PEREZ: This issue plagues the nation because
7 at the federal level in Washington D.C. with the White
8 House business with the dismissal of the United States
9 Attorneys, they are trying to get testimony from these
10 people and the White House says no. So then no federal
11 activity can go ahead.

12 So those U.S. Attorneys are -- how can they be
13 reemployed? How can they seek -- they are tainted already
14 because administrative action cannot be taken because
15 legal action is being thwarted. These things can drag out
16 for years.

17 And then we keep a police officer with a
18 commission and we have to explain our qualifications, our
19 preponderance of the evidence that the person is of good
20 moral character and we have acts indicating they are not,
21 I say we revoke them and let them go through the process.

22 MS. ERDMAN: And what I'd recommend as your
23 prosecutor is that you put it on the agenda. And I'm not
24 a member of the Board, and so I can't officially make that
25 motion. But I would recommend that you move to put it on

141

1 the agenda to come to a final resolution about this.

2 The way that the statute is being read right now,
3 the way it's being interpreted is that your director
4 doesn't have authority to act without a formal referral

5 from an employing agency. If you want to give him that
6 authority expressly, I think it needs to be clear
7 statutorily or under code.

8 MR. GALLEGOS: Excuse me. I think what we're
9 going to do because we do need to move on is I think
10 that's a good suggestion. We're going to put it on the
11 agenda. And then I want to focus a discussion just to the
12 particular item. I think it's a good point. Mr. Perez?

13 MR. PEREZ: I think it's already in the statute.

14 MR. GALLEGOS: Well, I think what it is is it's a
15 subject for a discussion item on the next agenda, but
16 right now we're into the disciplinary. And what I want to
17 do is just focus our initial questions on that. So are
18 there any other questions regarding Stephen Altonji?

19 MR. HOLMES: The reason for this -- this -- the
20 city police, they didn't investigate this case here. It
21 was investigated by the federal level. So the FBI was
22 doing the investigation. And, of course, for us to -- for
23 the director to look at this case and recommend any kind
24 of disciplinary action, there has to be some kind of
25 reports so we have some knowledge that this is what is

142

1 alleged to have happened.

2 But we didn't have no reports, and nothing was
3 submitted to us. But as soon as we got that information
4 concerning we -- we started taking some action. But we
5 still don't have an investigation from the federal

6 government. They are investigating it, so. We do have
7 the indictment. That information was submitted to us
8 recently. But we didn't have that information before.

9 MR. GALLEGOS: Well, and I think what's even --
10 what's more important in this particular case is it's a
11 voluntarily relinquishment. And so it's not something
12 that's contested at this point either. So, I mean, I do
13 think Mr. Perez has a good point about procedure, how we
14 get more timely on this. But that to me is a topic for an
15 agenda. So unless there's any other questions about
16 Mr. Altonji, I'm going to move onto Item 27, Paul Sanchez.

17 MS. ERDMAN: Item 27, Paul Sanchez, is also a
18 voluntarily relinquishment. He is a perfect example of
19 what I've heard the Board discuss, someone who has been on
20 the payroll -- on administrative paid leave for years.
21 He's also agreed to permanently revoke his certification.
22 Paragraph 5A states -- sorry, I still can't read.
23 Respondent agrees to voluntarily and permanently
24 relinquish his New Mexico Law Enforcement Certification
25 and to never reapply for certification as a police officer

143

1 in New Mexico.

2 MR. GALLEGOS: Okay. And I believe we also got a
3 copy of that in the folder, right?

4 MS. ERDMAN: A copy of his voluntarily
5 relinquishment should be in the packet that you got this
6 morning.

7 MR. FORCE: I have a question.

8 MR. GALLEGOS: Yes.

9 MR. FORCE: What was his rank?

10 MS. ERDMAN: Excuse me?

11 MR. FORCE: What his rank?

12 MR. ORTIZ: Lieutenant.

13 MR. GALLEGOS: Is Mr. Sanchez here by any

14 chance? I have another question. I don't recall what was

15 the violation or what was the --

16 MS. ERDMAN: There were four underlying domestic

17 violence charges.

18 MR. GALLEGOS: Domestic violence, okay.

19 MS. ERDMAN: They had never been prosecuted. And

20 I think this is a very good result for the Board. Going

21 to a hearing would have been very difficult, and this is

22 the best result we could have achieved.

23 MR. GALLEGOS: All right. Any other questions?

24 (No response.) Let's move onto the stipulated orders.

25 Item 28 is James Acree -- or I'm not sure if that's the

144

1 way you pronounce it.

2 MS. ERDMAN: I'm not sure how to pronounce it

3 either. I've been saying Acree. James Acree is accused

4 of mishandling two domestic abuse cases. And one of the

5 domestic abuse allegations was against a coworker, and he

6 didn't file a formal report. That allegation was

7 essentially not upheld because the victim and the alleged

8 abuser both deny any domestic violence happening.

9 Although he did admit that following that
10 domestic violence dispute he pulled a gun on the accused,
11 who was a fellow officer. And there's a dispute about
12 whether he just pulled the gun out or whether he pointed
13 it at the other officer. In any case, that dispute didn't
14 get resolved properly, and there was an improper use of a
15 weapon.

16 And the second allegation also involves a
17 domestic violence case. And Officer Acree went to the
18 victim and instead of taking a full report decided to
19 handle the situation personally. He began dating the
20 victim. He had a sexual relationship with the victim.
21 And didn't make a formal report.

22 The director's recommendation is a 60-day
23 suspension, one year probation, along with ethics and
24 domestic violence training, individual counseling, and
25 eight hours of community service. And this is the

145

1 agreement that's been reached between the director and the
2 respondent.

3 MR. GALLEGOS: Okay. Any -- well, let me ask
4 first is Mr. Acree or Acree (pronouncing) here? No. Any
5 questions from the Board?

6 MR. SCHULTZ: I do have a question. Previously
7 we've been provided with the officer's New Mexico LEA
8 certification, kind of a sheet that had their picture. It

9 talked about when they were hired, previous revocations
10 and/or suspensions.

11 MR. ORTIZ: Yes, sir.

12 MR. SCHULTZ: That's not present this time for
13 any of these cases. One, why; and if we could get that in
14 the future. And also as we move through these cases, I
15 would like to know if there's a previous history because I
16 think that's important to this Board.

17 MR. ORTIZ: We do have it in his file there with
18 Mr. Holmes, if the Board would like to review it. But I
19 will include it in all your packets.

20 MR. GALLEGOS: If Mr. Holmes is available to
21 please let us know if there's a prior history or not. And
22 then if there is, I'll leave it up to the Board to decide
23 if they want to inquire further into that.

24 Is there a prior history on --

25 MR. HOLMES: That's the only -- that's the report

146

1 that we have that's been reported to us.

2 MR. GALLEGOS: And maybe also for the Board's
3 consideration what agency is this involving because
4 sometimes we do have to recuse ourselves when it involves
5 an agency that we've dealt with or one of us belongs to.
6 So, maybe, yeah, we should do that. So, Mr. Holmes?

7 MR. ORTIZ: He's on the east side, either
8 Portales or Clovis. I believe it's Portales.

9 MR. HOLMES: He's Portales Police Department.

10 MR. GALLEGOS: Before we take action on all of
11 them, maybe what we'll do is if anybody on the Board has
12 any questions about any of the names, then we can have --
13 the ones that we haven't gone through to this point have
14 Mr. Holmes give us the agency so that we can decide
15 whether there's an issue there on abstaining from voting.

16 MR. ORTIZ: If you'd like, I can -- Michael
17 Arbogast is with APD.

18 MR. GALLEGOS: Hold on. Do you guys want to do
19 that now or?

20 MR. SCHULTZ: I think we can probably do it at
21 the end because the first one is the order of default and
22 voluntary relinquishment. That's not an issue, I mean, as
23 much as the additional ones.

24 MR. GALLEGOS: That's a good idea. Let's just do
25 it that way, and then next time we'll make sure we have

147

1 those forms in there. All right. Any other questions on
2 James Acree? Okay. Seeing none, let's move onto Item 29.

3 MS. ERDMAN: Item 29 is Bobby Brookhouser, and he
4 is a police officer at the Luna County Sheriff's Office.
5 And I'm not very good at reading these employee profiles,
6 but his rank is detective.

7 MR. ORTIZ: Yes, that's correct. He's with Luna
8 County as a detective, and he's still active.

9 MS. ERDMAN: He was involved in a domestic
10 dispute. He actually did not harm anyone else, but he

11 made threats against his own life and punched himself in
12 his own right eye causing redness to that eye. He was off
13 duty. He wasn't armed. They were reported.

14 The police showed up. And he was admitted to
15 Mesilla Valley Hospital for evaluation. A psychologist
16 later determined that he was fit for duty; that this was a
17 one-time incident. And he's been going to counseling with
18 a competent provider.

19 He met with the director in an informal hearing
20 and agreed to a 14-day suspension, one year probation,
21 ethics training, individual counseling, domestic violence
22 and anger management counseling, alcohol screening and
23 assessment, and eight hours of community service.

24 MR. GALLEGOS: Thank you. Is Mr. Brookhouser
25 here? It doesn't look like. Any questions from the

148

1 Board? Seeing none, let's move onto the next item.

2 MS. ERDMAN: Item 30 is Conrad Chavirra. He was
3 arrested for DUI. The police report indicates an alcohol
4 level of .13 percent. He pled no contest and was
5 convicted. He was driving a motorcycle at the time.

6 And he's agreed with the director to a 90-day
7 suspension, one year probation, ethics training, alcohol
8 screening and assessment, and eight hours of community
9 service.

10 MR. GALLEGOS: Is Mr. Chavirra here?

11 MR. ORTIZ: And he's employed with DPS with the

12 SID division and he was terminated.

13 MR. GALLEGOS: He was terminated?

14 MR. ORTIZ: He was terminated.

15 MR. GALLEGOS: Any questions from the Board?

16 MR. ORTIZ: Or resigned upon termination.

17 MR. GALLEGOS: Hearing none or seeing none, let's

18 go to Item 31.

19 MS. ERDMAN: Item 31 is Adrian Crespin. He got

20 in a dispute with his wife. During that dispute, he

21 threatened to put a bullet in his head and a bullet

22 through his wife's head. He never pulled out the gun.

23 The gun was in the house but I guess in the back of a

24 closet somewhere.

25 His wife was scared and called 911. The police

149

1 arrived. The report was taken. There were marks on his

2 wife and the children. The case was referred to the

3 Fourth Judicial District Attorney's Office, but no charges

4 were filed because his wife at the time stated that she

5 didn't feel she was really in fear of him actually harming

6 her. These were just empty threats that he was making and

7 that he never went for his gun. She never felt that he

8 was going to follow through on any of these threats.

9 He attended an informal hearing on February 4th

10 and agreed with the director to a 30-day suspension, one

11 year probation, ethics training, and domestic violence

12 counseling.

13 MR. GALLEGOS: And what agency is this?

14 MR. ORTIZ: Las Vegas Police Department. And he
15 is present. Just to clarify. Maybe I heard incorrectly,
16 but I think you stated that there were marks on the wife
17 and the children?

18 MS. ERDMAN: Do I have that wrong?

19 MR. ORTIZ: Yes. There was no marks. That's
20 another case that we'll get to later on.

21 MS. ERDMAN: I'm sorry. I get them mixed up.

22 MR. ORTIZ: But there was no touching of the wife
23 or the children. And Mr. Crespin is here, if he would
24 like --

25 MR. GALLEGOS: Mr. Crespin.

150

1 MS. ERDMAN: And you're absolutely right. There
2 are no marks on the wife or children in this case.

3 MR. GALLEGOS: Sir, would you like to address the
4 Board?

5 MR. CRESPIN: Yes, sir.

6 MR. GALLEGOS: You can come forward.

7 MR. CRESPIN: Good afternoon, Board. My name is
8 Adrian Crespin, a sergeant with the Las Vegas Police
9 Department. It's pretty embarrassing to be up here. I
10 really apologize to my wife, who is here present with me
11 today, and also to my agency and fellow officers.

12 I am here to take responsibility for my actions
13 that I did that night. I have been through counseling

14 also on behalf of my agency and on behalf of ourselves.
15 We have changed our life to where we are involved with our
16 church, a Catholic church. We do marriage enrichment
17 programs and things like that. So we do really....

18 I know the stipulated orders stated I was -- it
19 was for 30 days. And I don't know. That's all I have to
20 say at this time.

21 MR. GALLEGOS: Is there another person? Do you
22 wish to make a statement, sir? Please identify yourself.

23 Yes, Mr. Chairman. I'm Deputy Chief Christian
24 Montano from the Las Vegas Police Department. Board
25 Members, Director, and Counsel, I'd just like it to be

151

1 noted that there's been no other incidents to our
2 knowledge of this nature between the sergeant and his wife
3 and family. Thank you.

4 MR. GALLEGOS: And just go ahead and hold on in
5 case there's any questions from the Board. Anybody from
6 the Board have any questions? No. Seeing none, thank
7 you, gentlemen. Let's go onto the next item.

8 MS. ERDMAN: The next item is Gary Graves. He
9 was elected sheriff of De Baca County.

10 MR. ORTIZ: Excuse me. I'm sorry to interrupt
11 and I apologize for not -- we're going to scratch Gary
12 Graves from the agenda. And I apologize for not coming
13 forward with that.

14 MR. GALLEGOS: That one is not?

15 MR. ORTIZ: Yes. He refused to proceed with the
16 stipulated agreement and has now asked for a formal
17 hearing.

18 MR. GALLEGOS: All right.

19 MR. ORTIZ: I apologize.

20 MR. GALLEGOS: Then we'll go over that one.

21 MS. ERDMAN: Okay. We'll go onto the next.

22 MR. GALLEGOS: I believe Item 33, Ms. Erdman?

23 MS. ERDMAN: The next item is Officer Norman
24 Lee. Police were dispatched to his home during a report
25 of fighting. They investigated the incident and learned

152

1 that he had physically battered a female who was also his
2 wife. Her head struck the pavement and caused a large
3 goose egg on her head. Witnesses observed the incident.

4 The respondent also admitted to drinking
5 alcoholic beverages and becoming very argumentative and
6 verbally confrontational. He had a telephonic informal
7 hearing on February 9th, 2008. He has agreed to a 90-day
8 suspension, one year probation, ethics training, anger
9 management counseling, and eight hours of community
10 service.

11 However, we haven't received the signed
12 stipulated order from him, so we would ask that the Board
13 at this time sign the stipulated order with the
14 contingency that Norman Lee sign it and have it notarized
15 at a later time. If he doesn't sign it, then we'll move

16 forward with a default revocation.

17 MR. GALLEGOS: What agency is this?

18 MR. HOLMES: The Navajo Nation law enforcement.

19 MR. GALLEGOS: Navajo Nation.

20 MS. ERDMAN: And he's currently inactive.

21 MR. GALLEGOS: Okay. Is Mr. Lee here? I don't

22 see him. So any questions from the Board? Seeing none,

23 let's move onto the next one.

24 MS. ERDMAN: The next item is Rodney Morris. He

25 is with the Roswell -- was with the Roswell Police

153

1 Department. He was initially the subject of an
2 investigation concerning sexual harassment charges by an
3 employee, not a police officer, but someone who worked as
4 a civilian in the police department. He had had a sexual
5 relationship with her prior to working with her -- with
6 him at the police department while she was a 17-year-old.
7 However, it was a consensual relationship.

8 When she started working for the police
9 department, though, she felt as though he intimidated her
10 and harassed her. The investigation revealed that Officer
11 Morris had had relationships with two other female
12 subordinates and had numerous sexual activities with them
13 in his marked police unit in addition to at his home.

14 He denies that some of these happened while he
15 was on duty, although there were allegations that some of
16 them had occurred while he was on duty. At an informal

17 hearing on February 27th, he admitted to having
18 relationships with five different employees. He stated
19 that they were all consensual but admitted that they were
20 improper and that perhaps some of his verbal contact with
21 them later was improper.

22 He's agreed to a 90-day suspension, two year
23 probation, ethics training, individual counseling, sexual
24 harassment training, and 16 hours of community service.

25 MR. GALLEGOS: Is Mr. Morris here?

154

1 MR. HOLMES: He's now working for the Hobbs
2 Police Department.

3 MR. SHANDLER: Question, Mr. Chairman?

4 MR. GALLEGOS: Yes, sir.

5 MR. SHANDLER: Mr. Force and I are trying to work
6 out kind of a matrix of the different types of allegations
7 and the range of penalties. So this gentleman here I
8 guess there is sexual harassment, 90 days. The person
9 before, domestic violence against a wife, 90 days. And
10 then early on you talked about Farkas taking a police
11 computer and returning it, 90 days.

12 Tell me why they are all 90 days? Is this a
13 standard you're setting for these different types of
14 crimes. Tell me -- I'm trying to clarify them.

15 MR. HOLMES: Going back on sexual cases we've
16 had, we're trying to stay consistent. And we've had other
17 sexual crimes that have occurred, sexual misconduct by

18 police officers from different agencies. And some of them
19 have been on duty and in uniform. And at one time it was
20 a 30-day suspension even retroactive.

21 So we're trying to find a level ground for some
22 of these cases. Some of these, even like here, when
23 we go -- when they come before us for a hearing,
24 there's -- first of all, it's consensual. It happened in
25 a police unit. Now, you know, there are things like that,

155

1 but we could never prove or there was no indication that
2 it actually happened during duty hours.

3 This was all after duty hours, and it was
4 consensual. So there was -- I think the bad part about it
5 is that he made a comment to one of the girls that had --
6 that he had had a sexual encounter with prior to her
7 coming to work for the same department where he was
8 working.

9 And he made -- I guess he was feeling kind of bad
10 or something. He wasn't feeling up to her normal, I
11 guess, standard. And he asked, "Well, you probably need
12 to get laid." And so she felt at that time that that
13 created a hostile working environment.

14 MR. GALLEGOS: I'm going to interrupt you,
15 Mr. Holmes. I think that's more towards the merits of the
16 particular case. And I don't know that it's addressing
17 Mr. Shandler's question, which is what standards are you,
18 the prosecution, using in these types of cases? Because

19 we've got a pattern now of 90 days on sexual, domestic,
20 DWI, taking computers home, that kind of stuff. I think
21 that was the question.

22 MR. SHANDLER: I just want to put a final point
23 on that if someone does domestic violence against his
24 wife, is that equivalent to sexual harassment? Is that
25 equivalent to taking a computer home and returning it? I

156

1 don't think there's a right answer. I'm just trying to
2 learn more.

3 MR. HOLMES: No. There's --

4 MR. ORTIZ: There's other mitigating
5 circumstances that we look at. They are not all the same,
6 just because they are domestic violence they are all going
7 to fall under the same category. There's other mitigating
8 circumstances to go along with that.

9 One, if he did apply force to his wife, it's
10 going to be a lot different than just an argument. And so
11 that's what we look at all the different factors when we
12 consider these suspensions on something that the Board
13 would be agreeable upon.

14 MR. GALLEGOS: If I may just coattail onto that.
15 Would that also encompass prior referral history?

16 MR. HOLMES: Yes.

17 MR. GALLEGOS: As part of those factors?

18 MR. ORTIZ: Yes. Yes, it does.

19 MR. GALLEGOS: More on the aggravating side than

20 on the mitigating side?

21 MR. SHANDLER: Thank you for your time.

22 MR. FORCE: Mr. Chairman, I've got a question.

23 What was Mr. Morris' rank? Was he an officer; do you

24 remember?

25 MR. ORTIZ: He was a sergeant.

157

1 MR. FORCE: So he was in a position of

2 supervision?

3 MR. ORTIZ: Yes. That's something else we looked

4 at as well.

5 MR. GALLEGOS: Any other questions from the

6 Board? (No response.) All right, let's go to the next

7 item.

8 MS. ERDMAN: Delfred Murphy is the next one. And

9 he was with the McKinley County Sheriff's Office. My note

10 says that he's still active, but I think he's -- no. He's

11 since resigned. He was accused of DWI, driving on

12 roadways laned for traffic, driving in the middle of the

13 road, no insurance, and expired registration.

14 He stated that he had two beers to drink, but

15 there was an open pack of beer in the car. And the police

16 report indicates his alcohol level as .16. He resigned

17 while under investigation for this incident. He's agreed

18 to a 90-day suspension, one year probation, ethics

19 training, DWI school, an alcohol screening program, any

20 recommended treatment by the alcohol screening program,

21 and eight hours of community service.

22 MR. GALLEGOS: Is Mr. Murphy here? No, he's not
23 here. And any questions from the Board?

24 MR. FORCE: Were there any prior -- is there any
25 prior history on Mr. Murphy with alcohol or DWI?

158

1 MR. ORTIZ: No.

2 MR. HOLMES: No. If there was, it would be
3 mentioned. We would certainly mention it here.

4 MR. ORTIZ: And our offer on a second DWI would
5 be six months. A third would be a revocation. Would be
6 my recommendations.

7 MR. GALLEGOS: Any other questions? (No
8 response.) All right. Let's move onto the next item.
9 Frank Romero.

10 MS. ERDMAN: Is Frank Romero here? No. Okay.
11 Frank Romero was investigating a burglary. In
12 investigating the burglary, he subsequently learned that
13 some of the items had been turned into a pawnshop. He
14 went to the pawnshop. He checked the thumbprint that was
15 left with the pawnshop that the items were turned in
16 against the fingerprints that he had taken from the home.

17 When he did that, he certified on an arrest -- an
18 application for a warrant that those fingerprints
19 matched. He just did a visual scan without consulting any
20 experts at all. And he is not a fingerprint expert. When
21 he did that, the judge based on his affidavit for the

22 warrant issued a \$65,000 cash only warrant for the arrest
23 of the suspect.

24 The suspect was arrested, brought in, held. And
25 it was shortly thereafter discovered that those

159

1 fingerprints in fact were not a match. He admits that he
2 made a mistake and has, you know, concerns about following
3 proper procedure with both consulting the district
4 attorney's office and the proper people about confirming
5 fingerprint matches.

6 And he's agreed to a one-year suspension, a
7 two-year probation, ethics training, and to attend a
8 40-hour crime scene investigation course along with eight
9 hours of community service. He -- is he still --

10 MS. VIGIL: He's active.

11 MS. ERDMAN: Is he still active?

12 MR. ORTIZ: Yes. He's with the Taos County
13 Sheriff's Department -- of Office.

14 MS. ERDMAN: Taos County Sheriff's Office. And
15 he's still active.

16 MR. GALLEGOS: Mr. Romero is not here. And are
17 there any questions from the Board? I will just indicate
18 for the record that I will be abstaining from this one as
19 it involved my office and one of my sister agencies.

20 Anything else? (No response.) Let's move onto
21 the next item.

22 MS. ERDMAN: The next item is Mark Sanchez. This

23 is another domestic violence allegation. Respondent
24 arrived home one morning. His wife wasn't home. And she
25 showed up later. She asked their children to play outside

160

1 so that she could talk to her husband.

2 They argued. The argument became physical. This
3 is the case where I was thinking that there were marks
4 both on the victim and on the children. Police came to
5 the scene. I don't have on here -- well, the respondent
6 now says that he has resolved his issues. He is attending
7 counseling and that he's working on his relationships with
8 his family.

9 He was terminated from the Espanola Police
10 Department for this matter. He's agreed to a 60-day
11 suspension, one year probation, ethics training, alcohol
12 screening, and assessment.

13 MR. GALLEGOS: Is Mr. Sanchez here?

14 MR. SANCHEZ: Yes, sir.

15 MR. GALLEGOS: Yes, sir.

16 MR. SANCHEZ: Mr. Chair, Board Members, you know,
17 I come before you today to see the fate of my future, my
18 career. Now, speaking with Mr. Ortiz, Mr. Holmes, I
19 understand that this unfortunate situation I should have
20 taken different action to resolve it in a different
21 manner. I'm currently resolving things with my wife.

22 The time that I've been out on leave has given me
23 the opportunity to get my family put back together. I

24 have since enrolled in marriage enrichment classes of my
25 own free will. Further counseling. I just come before

161

1 you guys today to -- to apologize for my actions, which I
2 know were not right.

3 I've heard that Mr. Ortiz is a very honest man.
4 I believe that. I've also heard that people should be
5 responsible for their actions. And that's what I come
6 here for today. Thank you.

7 MR. GALLEGOS: Are there any questions from the
8 Board? I have a question, sir. What was the
9 misdemeanor?

10 MR. SANCHEZ: The misdemeanor was assault upon --
11 correction, battery upon a household member.

12 MR. GALLEGOS: And you pled guilty to that?

13 MR. SANCHEZ: Yes.

14 MR. GALLEGOS: Any other questions from the
15 Board?

16 MR. FORCE: Where there any charges on striking
17 the children?

18 MR. SANCHEZ: Yes, they were. They were charges.

19 MR. FORCE: And were those dismissed or were
20 those --

21 MR. SANCHEZ: Those were dismissed.

22 MR. GALLEGOS: Any other questions from the
23 Board? (No response.) Thank you, Mr. Sanchez. Does
24 anybody else want to speak? Mrs. Sanchez, no? Yes, you

25 sure can.

162

1 MRS. SANCHEZ: Mr. Chairman, Board Members, I'd
2 just like to say that I'd like your consideration in
3 having him keep his certification. He has been on leave
4 for administrative duties and leave for about a year and a
5 half. And it has put a strain on our family, but we are
6 working things out and attending classes, attending
7 counseling. I think our marriage is very strong right
8 now.

9 I just wanted to mention that he is an 11-year
10 veteran of law enforcement, and in that time he has been a
11 patrol officer, a K9 handler, a detective. And I have to
12 take my hat off to him as well as to every law enforcement
13 officer that's out there protecting myself, my children,
14 our communities.

15 I think he has done an awesome job in his -- in
16 his line of work, and I commend him; and I commend
17 everybody that's out there everyday. I think he is a
18 really good officer. And I think if he can continue to
19 keep his certification that he will continue being a value
20 in our community and our state. Thank you.

21 MR. GALLEGOS: Thank you, Ms. Sanchez. Are there
22 any questions for Ms. Sanchez? If you'll just hold on a
23 second. Okay. None. Thank you, ma'am. Let's go to the
24 next item.

25 MS. ERDMAN: The next item is Tony Sedillo. He

1 retired in lieu of demotion or termination due to
2 accusations of inappropriate behavior and misconduct of a
3 sexual nature with a female subordinate. On one occasion
4 while on duty, Officer Sedillo made an unsolicited advance
5 towards a female subordinate caressing and cupping her
6 breasts.

7 The subordinate was very uncomfortable and her
8 reaction at the time was that she was very upset and
9 disappointed with his behavior. As a result of this
10 incident and other unwanted verbal and telephone advances
11 by the respondent, she felt she was working in a hostile
12 environment and filed a complaint.

13 He has agreed to a 60-day suspension, one year
14 probation, ethics training, individual counseling, and
15 eight hours of community service. And he's no longer with
16 the Roswell Police Department. He's -- he's currently
17 active.

18 MR. ORTIZ: That will be the status showing on
19 his certification, but he's no longer with the Roswell
20 Police Department.

21 MS. ERDMAN: Do you know where he is now?

22 MR. ORTIZ: He's -- he retired. They allowed him
23 to retire, but he wanted to keep his certification in case
24 he wants to get back into law enforcement.

25 MR. PEREZ: What was his rank?

1 MR. ORTIZ: He was a lieutenant. He was a
2 lieutenant.

3 MR. HOLMES: A commander, I think.

4 MS. ERDMAN: My sheet says that he was a
5 commander of the Roswell Police Department.

6 MR. ORTIZ: A lieutenant.

7 MS. ERDMAN: Lieutenant?

8 MR. ORTIZ: Lieutenant commander.

9 MR. HOLMES: I just want to say that while this
10 incident did occur and he was very honest and open about
11 it when he came to the formal hearing. And there was --
12 they were flirting back and forth for a long time, him and
13 the female that felt a hostile environment later on
14 because he touched her.

15 MR. PEREZ: Did she file EEO charges?

16 MR. HOLMES: Just with the department.

17 MR. PEREZ: Did he admit to that to her?

18 MR. HOLMES: Yes.

19 MR. PEREZ: And the department?

20 MR. HOLMES: Yes, he admitted.

21 MR. PEREZ: Was he censured, punished by the
22 department?

23 MR. HOLMES: Well, they give him an opportunity
24 to resign or be terminated.

25 MR. GALLEGOS: Any other questions? I didn't

2 record, he's not. Let's go to the next one, which is

3 Jonathan Todachina.

4 MS. ERDMAN: This is new on the agenda. It's on
5 the amended agenda, if you have the new one. I think it's
6 Jonathan Todachina, if I'm pronouncing that correctly. He
7 was accused of using his department camera to take
8 photographs of females outside the scope of his duty.

9 He was taking photographs mostly of female forms,
10 particularly their buttocks. And he was downloading these
11 pictures onto a computer, although I guess he deleted
12 those pictures from his computer before they could -- his
13 computer could be searched. However, they were found on
14 his department-issued digital camera.

15 He's agreed with the director to a 30-day
16 suspension, one year probation, ethics course, counseling,
17 and eight hours of community service.

18 MR. GALLEGOS: Is Mr. Todachina here? I don't
19 see him. Any questions from the Board? Seeing none,
20 let's go onto the next item.

21 MS. ERDMAN: And then just for the record,
22 Officer Todachina worked for the Gallup Police Department.

23 MR. ORTIZ: Yes.

24 MS. ERDMAN: And my notes say he's currently
25 inactive and he had the rank of patrol officer. Prior to

1 that he was a sergeant with the Zuni Police Department.

2 MR. GALLEGOS: We'll go onto the next one. All

3 righty.

4 MS. ERDMAN: The next one and the last one from
5 my presentation is John Weise or Weise (pronouncing).
6 He's also accused of DUI. He admitted to consuming two
7 beers. His vehicle had empty bottles and an opened beer
8 can. The police report indicates he had an alcohol level
9 of both a .08 and a .07.

10 And he's agreed with the director to a
11 90-suspension, one year probation, alcohol screening and
12 assessment, ethics training, and eight hours of community
13 service.

14 MR. ORTIZ: He's employed with the Sandoval
15 County Sheriff's Department, and this is his first
16 offense.

17 MR. SCHULTZ: Mr. Chairman, was there an accident
18 involved in this case?

19 MR. ORTIZ: No, sir.

20 MR. GALLEGOS: Any other questions from the
21 Board? (No response.) All right. That takes us to then
22 the formal hearing. And I believe, Mr. Shandler, do you
23 have the forming hearing then we go into our deliberations
24 on the other items and then come back out?

25 MR. SHANDLER: Yes, Mr. Chairman. At this time

1 I'd like you to take a look at the list and see if there's
2 any recusals you have. That will help me prepare for the
3 executive session.

4 MR. GALLEGOS: And what I'll do, just to keep it
5 in order, is I'll start on the right side. Mr. Force, are
6 there any recusals you have?

7 MR. FORCE: Yes.

8 MR. GALLEGOS: Or abstentions?

9 MR. FORCE: On the Rachel Maloy case. That's the
10 only one I can see right now.

11 MR. GALLEGOS: That's it? Sheriff?

12 MR. TRUJILLO: John Weise.

13 MR. GALLEGOS: Sergeant, have you had a chance to
14 look at the list and indicate which ones you cannot vote
15 on?

16 MR. REMINGTON: The two APD ones are Ben Kirby
17 and Michael Arbogast.

18 MR. GALLEGOS: And myself is -- I think I said
19 earlier Frank Romero. And Mr. Perez?

20 MR. PEREZ: None.

21 MR. GALLEGOS: And Chief?

22 MR. SCHULTZ: In the case of Michael Arbogast.
23 In the case of Benjamin Kirby. And I will probably have
24 to recuse myself from the case of John Lytle.

25 MR. GALLEGOS: And Chief Panteah?

168

1 MR. PANTEAH: None.

2 MR. GALLEGOS: I think that's everybody then.

3 MR. SHANDLER: Mr. Chairman, I'm looking for a
4 motion from the Board to go into closed session pursuant

5 to the section dealing with licensing matters.

6 MR. GALLEGOS: I'll entertain a motion.

7 MR. PEREZ: So moved.

8 MR. GALLEGOS: Moved by Mr. Perez. Do I have a
9 second?

10 MR. FORCE: Second.

11 MR. GALLEGOS: Second by Mr. Force.

12 MR. SHANDLER: Roll call, please.

13 MR. GALLEGOS: Roll call vote on this. Suzanne?

14 MS. VIGIL: Mr. Gallegos?

15 MR. GALLEGOS: Yes.

16 MS. VIGIL: Chief Schultz?

17 MR. SCHULTZ: Yes.

18 MS. VIGIL: Sergeant Remington?

19 MR. REMINGTON: Yes.

20 MS. VIGIL: Chief Segotta is absent. Mr. Force?

21 MR. FORCE: Yes.

22 MS. VIGIL: Mr. Perez?

23 MR. PEREZ: Yes.

24 MS. VIGIL: Chief Panteah?

25 MR. PANTEAH: Yes.

169

1 MS. VIGIL: And Sheriff Trujillo?

2 MR. TRUJILLO: Yes.

3 MR. GALLEGOS: Okay. We'll go into executive
4 session then.

5 (Off the record from 1:05 until 1:59 p.m.)

6 MR. GALLEGOS: I'll entertain a motion to go back
7 into regular session.

8 MR. REMINGTON: So moved.

9 MR. PEREZ: Second.

10 MR. GALLEGOS: And this needs to be by roll call
11 vote. Suzanne is not here.

12 MR. ORTIZ: I'm here.

13 MR. GALLEGOS: You want to take over, Art?

14 MR. ORTIZ: Yes. Mr. Gallegos?

15 MR. GALLEGOS: Yes.

16 MR. ORTIZ: Chief Schultz?

17 MR. SCHULTZ: Yes.

18 MR. ORTIZ: Sergeant Remington?

19 MR. REMINGTON: Yes.

20 MR. ORTIZ: Chief Segotta, absence. Mr. Force?

21 MR. FORCE: Yes.

22 MR. ORTIZ: Mr. Perez?

23 MR. PEREZ: Yes.

24 MR. ORTIZ: Chief Panteah?

25 MR. PANTEAH: Yes.

170

1 MR. ORTIZ: And Sheriff Trujillo?

2 MR. TRUJILLO: Yes.

3 MR. SHANDLER: Mr. Chairman, can I get you to
4 confirm the only matters discussed in executive session
5 were those listed in the motion to go into executive
6 session. Can you confirm that?

7 MR. GALLEGOS: That is correct.

8 MR. SHANDLER: Mr. Chairman, could I lead you
9 through the disciplinary matters?

10 MR. GALLEGOS: Yes, please, Mr. Shandler.

11 MR. SHANDLER: Before I begin, I just want to
12 look to staff and make sure that it's Keith Farkas and
13 Norman Lee are the two people that there are unsigned
14 stipulated agreements.

15 MR. ORTIZ: That's correct.

16 MR. SHANDLER: I will start with the default
17 order of revocation, Michael Arbogast. And the gentleman
18 did not respond. My notes showed that the two gentlemen
19 from APD will be recusing themselves on this. So I'm
20 looking for a motion to accept the default order.

21 MR. GALLEGOS: Do we hear a motion?

22 MR. TRUJILLO: Motion to accept the
23 recommendation.

24 MR. PEREZ: Second.

25 MR. GALLEGOS: Moved by Sheriff Trujillo and

171

1 seconded by Mr. Perez. All those in favor say aye.

2 THE BOARD: Aye.

3 MR. GALLEGOS: Any nays? Seeing none, you may go
4 onto the next one.

5 MR. SHANDLER: Mr. Chairman, the next one I'll
6 take up is Joey Gomez. He was listed on the default order
7 list. My advice to you is -- since he's now retained an

8 attorney that has appeared at today's meeting to restart
9 the process, my advice to you is to entertain a motion to
10 resend an NCA to Mr. Gomez.

11 MR. GALLEGOS: We'll entertain such a motion at
12 this time.

13 MR. REMINGTON: So moved.

14 MR. GALLEGOS: Moved by Sergeant Remington. Do I
15 hear second?

16 MR. TRUJILLO: I'll second it.

17 MR. GALLEGOS: Seconded by Sheriff Trujillo. All
18 those in favor say aye.

19 THE BOARD: Aye.

20 MR. GALLEGOS: All those opposed say nay?

21 MR. PEREZ: Nay.

22 MR. GALLEGOS: One nay. The aye's have it.

23 MR. SHANDLER: Mr. Chairman, the next item on the
24 agenda is Billy Hinds, also under the default order list
25 but has appeared today at today's hearing. My advice to

172

1 you is to resend the NCA.

2 MR. GALLEGOS: And is there a motion to that
3 effect by the Board?

4 MR. REMINGTON: So moved.

5 MR. GALLEGOS: Moved by Sergeant Remington. Do I
6 hear a second?

7 MR. PANTEAH: Second.

8 MR. GALLEGOS: Seconded by Chief Panteah. All

9 those in favor say aye.

10 THE BOARD: Aye.

11 MR. GALLEGOS: Any opposed say nay. No nays.

12 MR. SHANDLER: Mr. Chairman, the next item is
13 Benjamin Kirby. This gentleman did not respond to any of
14 the documents. I advise that you are -- you can do a
15 default order of revocation. My notes show that the two
16 gentlemen from APD will be recusing themselves.

17 MR. PEREZ: So moved.

18 MR. FORCE: Second.

19 MR. GALLEGOS: So moved by Mr. Perez. Seconded
20 by Mr. Force. All those in favor say aye.

21 THE BOARD: Aye.

22 MR. GALLEGOS: Any opposition say nay. And the
23 record will reflect that Sergeant Remington and Chief
24 Schultz have abstained from voting.

25 MR. SHANDLER: Mr. Chairman, the next item on the

173

1 agenda is Rachel Maloy. This is also a default order.
2 She did not respond to any of the documentation. My
3 records show that Mr. Force will be recusing himself on
4 this matter. I advise you to make a motion to accept the
5 default order.

6 MR. GALLEGOS: I'll entertain such a motion.

7 MR. REMINGTON: So moved.

8 MR. GALLEGOS: Moved by Sergeant Remington. Do I
9 hear a second?

10 MR. PEREZ: Second.

11 MR. GALLEGOS: Seconded by Mr. Perez. All those
12 in favor say aye.

13 THE BOARD: Aye.

14 MR. GALLEGOS: The record will reflect that
15 Mr. Force has abstained from voting on this matter.

16 MR. SHANDLER: Mr. Chairman, this next item on
17 the agenda is Tommy Salas. This is a default order. This
18 gentleman did not respond to the documentation. The Board
19 can entertain a motion to accept the default order.

20 MR. REMINGTON: So moved.

21 MR. GALLEGOS: Moved by Sergeant Remington. Do I
22 hear a second?

23 MR. PEREZ: Second.

24 MR. GALLEGOS: Seconded by Mr. Perez. All those
25 in favor say aye.

174

1 THE BOARD: Aye.

2 MR. GALLEGOS: Any opposition say nay. (No
3 response.) And we do not have any abstentions on that.

4 MR. SHANDLER: Mr. Chairman, the next item on the
5 agenda is voluntary relinquishment. Stephen Altonji, he
6 has come to you with a stipulated agreement for your
7 acceptance or your rejection to voluntarily relinquish his
8 license forever.

9 MR. REMINGTON: Motion to accept.

10 MR. GALLEGOS: Moved to accept by Sergeant

11 Remington. Do I hear a second?

12 MR. SCHULTZ: Second.

13 MR. GALLEGOS: Seconded by Chief Schultz. All

14 those in favor say aye.

15 THE BOARD: Aye.

16 MR. GALLEGOS: Any opposition say nay. No nay's

17 and no abstentions.

18 MR. SHANDLER: Mr. Chairman, the next item is

19 voluntary relinquishment of Paul Sanchez. Before you is a

20 proposed stipulated agreement where he agrees to

21 voluntarily relinquish his license forever. You can

22 either accept or reject.

23 MR. REMINGTON: Motion to accept.

24 MR. GALLEGOS: All right. Moved by Sergeant

25 Remington. Do I hear a second?

175

1 MR. TRUJILLO: Second.

2 MR. GALLEGOS: Seconded by Sheriff Trujillo. All

3 those in favor say aye.

4 THE BOARD: Aye.

5 MR. GALLEGOS: Any nays? Hearing none and no

6 abstentions.

7 MR. SHANDLER: Mr. Chairman, the next set of

8 items are stipulated agreements, so you act as judges.

9 You can either accept or reject the stipulation. If you

10 reject the stipulation, it goes back to the prosecutor to

11 either renegotiate or set a formal hearing.

12 The first item I have on my list is Keith Farkas,
13 a 90-day. And I note for the record that he has not
14 signed the document. And I advised the Board to come up
15 with some type of contingent language, maybe 72 hours
16 after the board meeting he has to sign it, otherwise the
17 agreement is void.

18 MR. REMINGTON: Motion to accept as stated.

19 MR. GALLEGOS: Moved by Sergeant Remington. Do I
20 hear a second?

21 MR. FORCE: Second.

22 MR. GALLEGOS: Seconded by Mr. Force. All those
23 in favor say aye.

24 THE BOARD: Aye.

25 MR. GALLEGOS: Any opposition say nay. No

176

1 opposition.

2 MR. SHANDLER: Let me just pause for a second
3 because I'm trying to collect in my mind what -- is today
4 a Thursday or --

5 MR. GALLEGOS: Thursday.

6 MR. SHANDLER: So 72 hours would get us to
7 Sunday. Under general constructions of law, if the legal
8 deadline ends on a Sunday it's extended to a Monday. Let
9 me pause. Staff, can you get the signature by Monday?

10 MR. ORTIZ: Yes. We'll try.

11 MR. SHANDLER: Okay. The next item on the
12 agenda, Mr. Chairman, is Bobby -- back up, James Acree.

13 The proposed stipulation in front of you to accept or

14 reject is 60 days.

15 MR. GALLEGOS: Entertain a motion.

16 MR. FORCE: I motion that to accept.

17 MR. GALLEGOS: Moved to accept by Mr. Force.

18 MR. PANTEAH: Second.

19 MR. GALLEGOS: Seconded by Mr. Panteah. All

20 those in favor say aye.

21 THE BOARD: Aye.

22 MR. GALLEGOS: Any opposition say nay.

23 MR. PEREZ: Nay.

24 MR. GALLEGOS: One nay. Next.

25 MR. SHANDLER: The next item is Bobby

177

1 Brookhouser. Again, this is a proposed stipulated

2 agreement in front of you. The proposed penalty is 14

3 days. You can either accept or reject.

4 MR. GALLEGOS: Entertain a motion.

5 MR. FORCE: I move to accept.

6 MR. GALLEGOS: Moved to accept by Mr. Force. Do

7 I hear a second?

8 MR. PEREZ: Second.

9 MR. GALLEGOS: Seconded by Mr. Perez. All those

10 in favor say aye.

11 THE BOARD: Aye.

12 MR. GALLEGOS: Any opposition say nay. (No

13 response.) The aye's have it.

14 MR. SHANDLER: The next item is Conrad Chavirra.

15 The proposed stipulated agreement is 90 days.

16 MR. GALLEGOS: Is there a motion to accept or
17 reject?

18 MR. SCHULTZ: Move to accept.

19 MR. GALLEGOS: Moved to accept by Chief Schultz.

20 Do I hear a second?

21 MR. FORCE: Second.

22 MR. GALLEGOS: Seconded by Mr. Force. All those
23 in favor say aye.

24 THE BOARD: Aye.

25 MR. GALLEGOS: Any opposition say nay. (No

178

1 response.) Okay. Motion passes.

2 MR. SHANDLER: Mr. Chairman, the next item is
3 Adrian Crespin. And you heard some testimony about that
4 today. The proposed stipulated agreement is 30 days.

5 MR. FORCE: Motion to accept.

6 MR. GALLEGOS: Moved to accept by Mr. Force. Do
7 I hear a second?

8 MR. TRUJILLO: Second.

9 MR. GALLEGOS: Seconded by Sheriff Trujillo. All
10 those in favor say aye.

11 THE BOARD: Aye.

12 MR. GALLEGOS: Any opposed say nay. (No
13 response.) Okay. Motion passes.

14 MR. SHANDLER: The next item I have is Norman

15 Lee. The proposed stipulated agreement is 90 days. It's
16 my understanding from staff this is unsigned at this time,
17 so I may advise you to have the same type of contingent
18 language that you had above. And you can either accept or
19 reject this stipulated agreement.

20 MR. REMINGTON: Motion to accept as stipulated.

21 MR. GALLEGOS: Moved by Sergeant Remington. Do I
22 hear a second?

23 MR. FORCE: Second.

24 MR. GALLEGOS: Seconded by Mr. Force. All those
25 in favor say aye.

179

1 THE BOARD: Aye.

2 MR. GALLEGOS: Any opposition say nay.

3 MR. PEREZ: Nay.

4 MR. GALLEGOS: One nay. The aye's have it.

5 Motion passes.

6 MR. SHANDLER: Mr. Chairman, the next item on the
7 agenda is Rodney Morris. You heard the prosecutor and
8 your investigator talk about the details of this case.

9 The proposed stipulated agreement is 90 days. Your option
10 is either to accept it or reject it.

11 MR. SCHULTZ: I move to reject.

12 MR. GALLEGOS: We have a motion by Chief Schultz
13 to reject.

14 MR. PEREZ: Second.

15 MR. GALLEGOS: Seconded by Mr. Perez. All those

16 in favor say aye.

17 THE BOARD: Aye.

18 MR. GALLEGOS: Any opposition to the motion which
19 is to eject? (No response.) No opposition. The motion
20 carries. The recommendation is rejected.

21 MR. SHANDLER: Mr. Chairman and Chief Schultz,
22 any particular reason why you rejected this proposed
23 stipulated agreement?

24 MR. SCHULTZ: Mr. Chairman. The Board upon
25 reviewing this case feels that there are extenuating

180

1 circumstances due to the position of Mr. Morris in respect
2 to the victim in this, and some statutory issues as well
3 as to the age of the victim and his age and his position.

4 MR. SHANDLER: Okay. The next item on the agenda
5 is Delfred Murphy.

6 MS. ERDMAN: Can I clarify that though? So is
7 the Board making a recommendation about what they would
8 accept?

9 MR. GALLEGOS: I don't believe at this time. I
10 think what we made clear was the fact that there was at
11 least allegations of a relationship with a 17-year-old and
12 how that potentially could have been statutory rape.
13 Nothing was done about that.

14 The other one is the position of authority. And
15 then I believe this was the one that had him actually
16 physically touching her even though it was over the

17 clothing.

18 MR. FORCE: No. This is -- if I could.

19 MR. GALLEGOS: Right. The other ones were
20 consensuals. Mr. Force.

21 MR. FORCE: What I think based on our
22 deliberation in this case may be better to go back in
23 front of an actual hearing and have the respondent go in
24 front of a formal hearing, have all the information being
25 brought out so that during that hearing the recommendation

181

1 where more information could actually be brought before
2 the Board.

3 Or that Mr. Morris would make an agreement to a
4 more stiffer of an agreement on the suspension period. So
5 we just felt that it was too light based on the facts that
6 were laid out to us.

7 MS. ERDMAN: And that's what I wanted to clarify
8 for the record.

9 MR. PEREZ: It was not clear to us -- he was a
10 sergeant, therefore a supervisor. But it says two other
11 female subordinates. Were they his subordinates or just
12 support staff in the police department. Were they
13 directly under him. That would make a difference.

14 MR. ORTIZ: He said none of these were directly
15 under him.

16 MR. PEREZ: Okay.

17 MR. SHANDLER: I think this is consistent with

18 the Board's previous actions that if you have a -- you're
19 a supervisor and you conduct these types of -- have this
20 type of conduct, that is an aggravating circumstance.

21 MS. ERDMAN: Okay. I want to make sure my
22 direction is clear. You want me to move forward with more
23 severe?

24 MR. PEREZ: More severe.

25 MS. ERDMAN: Okay. Absolutely.

182

1 MR. SHANDLER: Mr. Chairman, Delfred Murphy, the
2 proposal in front of you is 90 days. You can either
3 accept or reject the stipulated agreement.

4 MR. FORCE: Motion to accept.

5 MR. REMINGTON: Second.

6 MR. GALLEGOS: Okay. Moved by Mr. Schultz {sic}.

7 Seconded by Sergeant Remington. All those in favor say
8 aye.

9 THE BOARD: Aye.

10 MR. GALLEGOS: Any opposition say nay.

11 MR. PEREZ: Nay.

12 MR. GALLEGOS: One nay. The motion passes.

13 MR. SHANDLER: The next one on the agenda is
14 Frank Romero. The proposed stipulated agreement is one
15 year. My notes show that the chairman can preside over
16 but will not vote on this matter. You can either accept
17 or reject the stipulated agreement.

18 MR. PEREZ: I move that we reject the stipulated

19 agreement.

20 MR. GALLEGOS: Moved by Mr. Perez to reject the
21 agreement. Do I hear a second?

22 MR. TRUJILLO: Second.

23 MR. GALLEGOS: Seconded by Sheriff Trujillo. All
24 those in favor say aye.

25 THE BOARD: Aye.

183

1 MR. GALLEGOS: Any opposition say nay. (No
2 response.) Okay. Motion passes.

3 MR. SHANDLER: Mr. Perez, do you want to explain
4 to the prosecutor why you rejected this stipulated
5 agreement?

6 MR. PEREZ: Yes. In reviewing this, the Board
7 considered the fact that he lied on an affidavit. And
8 this the -- this goes to the duties of a law enforcement
9 officer to present facts clearly and without bias.

10 He furnished a false statement. The -- because
11 of the severity of the allegations, apparently there was a
12 \$65,000 cash only, and the person was arrested on this
13 basis of a false identification that he made under oath.

14 So we believe that 365 days is not sufficient.
15 That it should be higher.

16 MS. ERDMAN: Okay. So --

17 MR. PEREZ: Recommendation should be for a higher
18 amount.

19 MS. ERDMAN: So the recommendation from the Board

20 is for more stringent disciplinary action.

21 MR. PEREZ: Yes.

22 MS. ERDMAN: Thank you.

23 MR. SHANDLER: Mr. Chairman, the next one on the

24 agenda is Mark Sanchez. And the proposed stipulated

25 agreement is 60 days. You can either accept or reject

184

1 this stipulated agreement.

2 MR. GALLEGOS: Is there a motion?

3 MR. REMINGTON: Motion to accept.

4 MR. FORCE: Second.

5 MR. GALLEGOS: Moved by Sergeant Remington and

6 seconded by Mr. Force. All those in favor say aye.

7 THE BOARD: Aye.

8 MR. GALLEGOS: Any opposition say nay.

9 MR. SCHULTZ and MR. PEREZ: Nay.

10 MR. GALLEGOS: That's two nays. The ayes have

11 it. Motion passes. All right.

12 MR. SHANDLER: Next on the agenda is Tony

13 Sedillo. The proposed stipulated agreement is 60 days.

14 You can either accept or reject the stipulated agreement.

15 MR. FORCE: Motion to reject.

16 MR. PEREZ: Second.

17 MR. GALLEGOS: We have a motion by Mr. Force to

18 reject. Seconded by Mr. Perez. All those in favor say

19 aye.

20 THE BOARD: Aye.

21 MR. GALLEGOS: Any opposition say nay. (No
22 response.) Motion passes. This was rejected. Do you
23 want to --

24 MR. FORCE: Yeah. The reason that in our
25 deliberation to reject this was again based on the same

185

1 previous case. So you have an individual in a rank
2 position of a commander lieutenant who had
3 inappropriateness. We just felt that the recommendation
4 here was too low. There should have been a stronger
5 suspension for it.

6 MS. ERDMAN: So again do you want us to continue
7 to move forward with this case, requesting more stringent
8 disciplinary action?

9 MR. FORCE: Correct.

10 MS. ERDMAN: Okay. Thank you.

11 MR. SHANDLER: Mr. Chairman, the next one on the
12 agenda is Jonathan Todachina. The recommended stipulated
13 agreement has a 30-day penalty. You can either accept or
14 reject this agreement.

15 MR. GALLEGOS: Do I hear a motion.

16 MR. SCHULTZ: Move to accept.

17 MR. GALLEGOS: Moved to accept by Chief Schultz.

18 Is there a second on it?

19 MR. PEREZ: Second.

20 MR. GALLEGOS: Seconded by Mr. Perez. All those
21 in favor say aye.

22 THE BOARD: Aye.

23 MR. GALLEGOS: Any opposition say nay. (No
24 response.) Okay. Motion carries.

25 MR. SHANDLER: Mr. Chairman, the next one on my

186

1 agenda is John Weise. My notes show that Sheriff Trujillo
2 will recuse himself on this vote. The proposed stipulated
3 agreement is 90 days. You can either accept or reject.

4 MR. GALLEGOS: Want to entertain a motion.

5 MR. FORCE: Motion to accept.

6 MR. PANTEAH: Second.

7 MR. GALLEGOS: Moved by Mr. Force. Seconded by
8 Chief Panteah. All those in favor say aye.

9 THE BOARD: Aye.

10 MR. GALLEGOS: Any opposition say nay.

11 MR. PEREZ: Nay.

12 MR. GALLEGOS: One nay. The aye's carry -- the
13 aye's have it. The motion carries. I will note also for
14 the record that Sheriff Trujillo did abstain from voting.

15 MR. SHANDLER: The next item on the agenda is
16 John Lytle. There was a formal hearing on this matter.
17 There was a hearing officer who filed findings of fact.
18 And the Board went to closed session and deliberated it.
19 The two gentlemen from APD will be recusing themselves
20 from this matter.

21 There's a variety of possible motions that the
22 Board could choose. One could be to accept the hearing

23 officer's report. The ramification of that would likely
24 be to include in your motion to dismiss the case. That's
25 one option.

187

1 Another option is to reject the hearing officer's
2 report. And we could discuss the ramifications of that.
3 Let me pause and see what the wishes of the Board are.

4 MR. GALLEGOS: I'll entertain a motion at this
5 time.

6 MR. PEREZ: I move that we accept the hearing
7 officer's report and dismiss the charge.

8 MR. GALLEGOS: Complaint, is that?

9 MR. PEREZ: Complaint.

10 MR. SHANDLER: Complaint is probably more
11 accurate.

12 MR. PEREZ: Complaint.

13 MR. GALLEGOS: Moved by Mr. Perez. I believe
14 everybody understood the motion. Do I hear a second?

15 MR. PANTEAH: I'll second.

16 MR. GALLEGOS: Seconded by Chief Panteah. I'll
17 go ahead and call for discussion at this point. I hadn't
18 before, but is there any discussion on the motion? Okay.
19 Seeing none, I'll call for a vote. All those in favor say
20 aye.

21 THE BOARD: Aye.

22 MR. GALLEGOS: Any opposition say nay. (No
23 response.) And the motion carries. I will note for the

24 record that Sergeant Remington and Chief Schultz did
25 abstain from voting.

188

1 MR. SHANDLER: Mr. Chairman, I believe that
2 concludes all the disciplinary matters.

3 MR. GALLEGOS: Thank you, Mr. Shandler. We
4 always appreciate your assistance.

5 ITEM #42: SCHEDULING OF NEXT MEETING

6 MR. GALLEGOS: Next item on the agenda is
7 scheduling of next meeting. Mr. Ortiz.

8 MR. ORTIZ: Mr. Chairman, Board Members,
9 tentative date of June 19th in Red River for the next
10 meeting.

11 MR. GALLEGOS: Good time to be up there.

12 MR. ORTIZ: Yes, sir. Time to go up to your
13 area.

14 MR. GALLEGOS: That's right. I was going to
15 invite you anyway. So anybody have any problem with or
16 concerns? I mean, it's really your prerogative, right?
17 Is that the way it works?

18 MR. ORTIZ: I want to please you gentlemen.

19 MR. GALLEGOS: We're okay with Red River then.
20 Next item is adjournment -- oh, I'm sorry.

21 MR. REMINGTON: I just want to say this has been
22 a very interesting five years. It's been an honor to
23 serve on this Board and an honor to serve with all of
24 you. Thank you. Thank you for the experience. That's

1 MR. GALLEGOS: I think it's also appropriate if
2 any of us have some well wishes on the record for Sergeant
3 Remington and his service. So I'll begin with Mr. Force.

4 MR. FORCE: It's been a pleasure. I've seen you
5 on the Board for several years now. And I personally
6 appreciate the professionalism that you've instilled into
7 New Mexico law enforcement. I wish you well in your
8 endeavors as a commander.

9 MR. REMINGTON: Thank you.

10 MR. TRUJILLO: Wish you well as a commander.
11 It's been good working with you for five years, and we'll
12 see you out there.

13 MR. REMINGTON: All right.

14 MR. PEREZ: It's been a pleasure working with
15 you. If you do half as well in your future as you did
16 here, you'll do very well.

17 MR. REMINGTON: Thank you.

18 MR. SCHULTZ: I do like to thank Sergeant
19 Remington for his service to the Board. Of course, he
20 started off as an officer assigned to the Board
21 representing the line level officers and as a
22 representative of the Albuquerque Police Officer's
23 Association; has done a job well done making sure that the
24 interests of personnel from throughout the state are heard
25 at this table.

1 MR. REMINGTON: Thank you.

2 MR. PANTEAH: Yes. I just want to say that it's
3 been a pleasure serving with you on the board. It's just
4 been a short time, but I appreciate your service and wish
5 you well in your new position.

6 MR. REMINGTON: Thank you, sir.

7 MR. GALLEGOS: I'll go last, but I also
8 appreciate your service. You know, it hasn't been a long
9 time either, but I've really liked the way you've balanced
10 the concerns of the academy and law enforcement overall,
11 but also a strong advocate for line officers out there.

12 I don't think it's an easy thing to accomplish,
13 but I think you've done it with great honor. You're a
14 credit to law enforcement everywhere. And it's been a
15 pleasure serving with you. I hope we get to work again
16 sometime in the future.

17 MR. REMINGTON: That would be great.

18 MR. GALLEGOS: Best of luck to you, sir.

19 MR. REMINGTON: Thank you.

20 ITEM #43: ADJOURNMENT

21 MR. GALLEGOS: Now I will entertain a motion.

22 MR. PEREZ: I move that we adjourn.

23 MR. REMINGTON: Second.

24 MR. GALLEGOS: Moved by Mr. Perez, seconded by
25 Sergeant Remington. All those in favor say aye.

1 THE BOARD: Aye.

2 MR. GALLEGOS: Any opposition say nay. (No
3 response.) Thank you all. Have a good day.

4 (The meeting adjourned at 2:21 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 27, 2008, 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, CCR
Certified Court Reporter #168
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