

NEW MEXICO LAW ENFORCEMENT ACADEMY
REGULAR BOARD MEETING

June 15, 2010

9:05 a.m.

Albuquerque Police Academy Recruiting Office
5412 2nd Street, N.W.
Albuquerque, New Mexico 87107

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BOARD MEMBERS

Al Lama, Chief Deputy Attorney General
James R. Coon
Arsenio Jones
Bernardino Perez
Ronald W. Reeves
Faron Segotta

ALSO PRESENT

Arthur Ortiz
Zachary Shandler
Ernest Holmes
Matthew E. Jackson

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1 ITEM NO. 1: CALL TO ORDER

2 MR. LAMA: All right. I'm going to call this
3 meeting to order. This is a regular meeting of the
4 New Mexico Law Enforcement Academy Board. The time is
5 approximately five after nine a.m.

6 We are located this morning at the Training
7 Academy for the Albuquerque Police Department. My
8 name is Al Lama. I serve as Chief Deputy Attorney
9 General for Attorney General Gary King. The Attorney
10 General is not able to attend the meeting this morning
11 and so he asked me to be here on his behalf. So
12 welcome, everyone. Thank you for being here, board
13 members. It's nice to see you again.

14 And with that I will ask for the roll call to
15 be taken.

16 ITEM NO. 2: ROLL

17 MR. ORTIZ: The Honorable Gary King.

18 MR. LAMA: Al Lama here on his behalf.

19 MR. ORTIZ: Okay. Mr. Lama. State Police
20 Representative Faron Segotta.

21 MR. SEGOTTA: Present.

22 MR. ORTIZ: Municipal Police Chief
23 Representative Chief Raymond Schultz. Absent.

24 Citizens At Large Representative Robert Force.

25 Absent. And I received a telephone call from him this

1 morning that he would not make the meeting. Citizens
2 At Large Representative Bernardo Perez.

3 MR. PEREZ: Present.

4 MR. ORTIZ: Line Officer Representative
5 Sergeant Arsenio Jones.

6 MR. JONES: Present.

7 MR. ORTIZ: Sheriff Representative Sheriff
8 James R. Coon.

9 MR. COON: Present.

10 MR. ORTIZ: And District Attorney
11 Representative Ronald W. Reeves.

12 MR. REEVES: Here.

13 MR. LAMA: Thank you, Mr. Ortiz. And we do
14 have a quorum.

15 ITEM NO. 3: APPROVAL OF AGENDA

16 MR. LAMA: The next item on the agenda, item
17 No. 3, approval of the agenda. Have the board members
18 had an opportunity to look at the agenda and are there
19 any modifications or changes? If not, can I have a
20 motion for approval.

21 MR. COON: Mr. Chairman, I approve the agenda
22 for this meeting.

23 MR. LAMA: I have a motion. Do I have a
24 second?

25 MR. JONES: Second.

1 MR. LAMA: A motion and a second. Any
2 discussion? All those in favor of the approval of the
3 agenda signify by saying aye.

4 (Those in favor so indicate.)

5 MR. LAMA: We have an agenda approved.

6 ITEM NO. 4: APPROVAL OF MINUTES, MARCH 25, 2010

7 MR. LAMA: Item No. 4, approval of minutes
8 for the March 25, 2010, meeting. I'll give the board
9 members an opportunity to look at those minutes. And
10 I would ask if there are any changes to the minutes?

11 After having an opportunity to review, do I
12 have a motion for approval?

13 MR. COON: Mr. Chairman, I make the motion
14 for the approval of the LEA board meeting minutes of
15 3/25/10.

16 MR. LAMA: I have a motion to approve. Do I
17 have a second?

18 MR. SEGOTTA: Second.

19 MR. LAMA: A motion and a second. Any
20 discussion? All those in favor of the motion signify
21 by saying aye.

22 (All those in favor indicate.)

23 MR. LAMA: The minutes for the meeting of
24 March 25, 2010, are approved. I notice in the review
25 of the minutes that there was a lengthy discussion

1 about reporting of officer discipline.

2 So at the last meeting I attended on behalf
3 of the Attorney General, I remember a lengthy
4 discussion on that issue as well. So I'm glad to see
5 that it's moved forward.

6 ITEM NO. 5: DIRECTOR'S REPORT

7 MR. LAMA: The next item on the agenda is the
8 director's report. Mr. Ortiz.

9 MR. ORTIZ: Yes. Good morning, Mr. Chairman,
10 board members, ladies and gentlemen. I want to thank
11 the Albuquerque Police Department for hosting us here
12 today. Thank you, Lieutenant Carr.

13 The following has transpired at the academy
14 since March 25th. As you all know, on May 19, 2010,
15 we had the Law Enforcement Memorial. And I would like
16 to thank the board members for attending and
17 participating in the memorial. The families were very
18 pleased, I heard a lot of positive comments from the
19 families and they expressed their gratitude and thanks
20 to the board.

21 In June 2010 four contractors began the New
22 Mexico Law Enforcement Training Compliance and Audit
23 to enhance law enforcement as a profession and to
24 improve law enforcement for ensuring compliance with
25 training regulations. Mr. Shea is here today if there

1 are any questions. I spoke with him yesterday.

2 We haven't received any reports from the
3 contractors. But all four of them are out in the
4 field and they have started the audits going. And no
5 negative comments yet, just some questions from some
6 of the agencies. And so hopefully by the next board
7 meeting, we will have some reports for the board. Any
8 questions on that issue?

9 MR. COON: Are these for last year or for
10 what we've got going on so far this year?

11 MR. ORTIZ: It will for this biennium
12 training cycle, the last two years.

13 MR. SHEA: 2008, 2009.

14 MR. COON: Okay. And there are four
15 contractors doing it?

16 MR. ORTIZ: Yes.

17 MR. SHEA: Five.

18 MR. COON: Have they all got together with
19 you all and figured out what they're supposed to look
20 for instead of one looking for one thing and the other
21 one --

22 MR. ORTIZ: Yes. They all came up to the
23 academy for a day and they went through a training.
24 They were given a guide handbook. And I believe I put
25 that in inside your binders along with what they were

1 going to be doing with the audit.

2 And the staff has been auditing the agencies
3 and we've been sending out letters and getting the
4 response from the agencies. And I don't know when the
5 last time it was, Mr. Shea, do you know when the last
6 time an audit was conducted?

7 MR. SHEA: It has been at least two training
8 cycles, two biennium cycles previous that we did a
9 small sample. I think there were only six agencies at
10 that time that had been sampled. And now our goal is
11 to do all agencies in the state.

12 So we'll probably get two-thirds of them done
13 in this budget cycle and then the last one-third of
14 them done when we renew contracts for the FY 11 cycle.

15 MR. COON: How many agencies are we looking
16 at?

17 MR. SHEA: I don't have a total count,
18 Sheriff. I'm venturing to guess out of 235 agencies
19 that we do have in our database in New Mexico that
20 have certified police officers, and we're also doing
21 the public safety telecommunicators, I think we've got
22 about 135 that are on the audit list right now that
23 we're sending auditors out there to look at.

24 MR. ORTIZ: Any questions? Okay. Also the
25 Tribal Representative position, I've been working with

1 the governor's office trying to get that position
2 filled. The governor's office is requesting that we
3 get a Native American representative.

4 The only interest I had was from two tribal
5 chiefs that were not Native American. And there's one
6 individual that contacted me that said there's a
7 possibility he might be getting the chief's position
8 and he is interested in serving as a board member. So
9 if he does get the chief's position, hopefully by
10 September we'll have that position filled.

11 I would also like to just recognize
12 instructor Regis Chavarria, who was recognized by FEMA
13 as a Bronze Level Authorized Trainer. And there is a
14 letter attached at the end of the director's report
15 recognizing Regis Chavarria for his efforts in
16 training.

17 We completed the mandatory five-day furlough
18 plan. The last one was on May 28, 2010. And
19 regarding the misconduct stats update, we've
20 received -- I just received two more cases. So we're
21 now at 31 for 2010. Currently there will be 45 open
22 cases, one for 2007. I believe that 2007 case is
23 going to be presented today. That was a formal
24 hearing.

25 And we have three open for 2008, 22 for 2009,

1 and 19 for 2010. So I believe we're making good
2 progress on the misconduct cases. Ten of the open
3 cases are pending formal hearings and two are pending
4 court hearings.

5 Two interns began working at the academy on
6 June 2nd and they will remain at the academy until
7 July 30th, Katherine Dorn from Albuquerque and Teresa
8 Ryan from Santa Fe. They're students at UNM. And
9 they're great, they've been so helpful in helping
10 catch up with some of the backlog on the registry, the
11 LE 82s and the reception duties.

12 Also what I gave in the handout, something
13 that came to my attention yesterday afternoon is I
14 received a notice from the San Juan County Training
15 Justice Academy from Lonny Anderson. And you'll see,
16 there's a letter in there that he sent on June 11th
17 requesting a waiver.

18 In the rules, and you'll see in the stapled
19 pages, I think the very last page is the rule
20 regarding the waiver. It states "A minimum of ten
21 students must be identified prior to commencing an
22 academy program. A hardship waiver must be applied
23 for and approved by the director if fewer than ten
24 students are identified."

25 What he did is he requested that last year.

1 He had eight students. I granted him a hardship
2 waiver. And out of those eight students that went
3 through the training academy, only five graduated.
4 Two of them resigned during the academy and one was
5 terminated.

6 Well, he's having the same issue again this
7 year, where he has eight students that have -- that
8 they've accepted into the San Juan Farmington academy,
9 which is scheduled to begin May 28th.

10 I told him I would like to bring that to the
11 board's attention for their guidance on how they would
12 like me to proceed on this since the rule says they
13 have to have ten students. He's not meeting that. I
14 already granted him the hardship waiver last year.

15 And out of these eight students, there's one,
16 Stephen Martinez, who applied for our academy, the
17 last one. And there's a letter in there I sent to
18 Sheriff Mascarenas from Rio Arriba County denying
19 Stephen Martinez's admission because he was arrested
20 and indicted and pled guilty to a fourth-degree
21 felony, unlawful possession of a motor vehicle.

22 So he was not allowed admission. And I'm a
23 little disturbed that here we go academy shopping and
24 now the sheriff sends him up to the San Juan Academy
25 and he applies there.

1 You'll also notice on that sheet there,
2 there's a sheet here, the two from Rio Arriba County,
3 they were hired July 1st of 2009, which under 29-7-6
4 their one year will be up July 1st. And they have not
5 attended an academy or been certified.

6 So I'm going to meet with Lonny Anderson
7 regarding Stephen Martinez and his application for the
8 San Juan Academy. And he did later get that reversed
9 to a conditional discharge, which would mean it is not
10 a conviction.

11 But, however, it doesn't mean the act didn't
12 occur. He pled guilty to unlawful possession of a
13 motor vehicle. And, therefore, I denied his admission
14 to our academy, trying to hold the high standards.

15 And my recommendation would be that
16 Farmington would not accept him either. So,
17 therefore, they would be wanting to start the academy
18 with only seven students. So I at this point bring it
19 before you to kind of seek your guidance on how you
20 feel about that issue.

21 MR. SEGOTTA: Mr. Chair, I would support the
22 waiver for a couple of reasons. Everybody knows that
23 not only New Mexico but the entire country is
24 suffering through whatever you want to call it, a
25 recession or a downturn.

1 Most agencies are not hiring police officers.
2 And when they are, they're hiring them one, two,
3 three, four at a time. The size and the number of
4 academies have been reduced by just about every agency
5 in the state.

6 And I think it's important that when agencies
7 have the ability to hire police officers, that this
8 board and the academy should be flexible enough to
9 give them the opportunity to do that. And I know the
10 San Juan Academy, they pay for it and they're willing
11 to put seven students through, I think we should allow
12 them to do it.

13 I don't know that it would make much sense
14 for the State of New Mexico, Director Ortiz, with our
15 academy to run academies for seven people. But I
16 think in an isolated area like that, plus it will
17 address at least one issue there with one of the
18 employees that is about to run his course with the
19 12 months.

20 So my two cents is I would support the
21 waiver. I think you need to resolve the one issue
22 involving Mr. Martinez. I do not support allowing him
23 to be considered for that class. I think his incident
24 is too fresh, it's only from four years ago. But I do
25 support the waiver, Mr. Chairman.

1 MR. LAMA: Thank you. Other board members,
2 comments?

3 MR. COON: I agree with the Chief. If
4 they're willing to do it for seven, you know, that's
5 more power to them. I mean that's seven officers that
6 are going to be out on the road that might not have
7 that opportunity.

8 You know, if they're comfortable with working
9 with that small a number, and they also ought to be
10 getting a great education with just seven of them, the
11 ratio of student to instructor ought to be pretty
12 decent. I have no problem with the waiver.

13 MR. LAMA: Thank you, Sheriff. Anyone else?
14 Yes, Mr. Reeves.

15 MR. REEVES: I just wanted to ask, for these
16 satellite academies, what's the point of the ten
17 student rule? I think I can understand why they would
18 do that for the state academy. So what point does the
19 ten student rule -- you know, why do they have that
20 for the satellite academies?

21 MR. ORTIZ: I'm not sure, because it is
22 private, these are paying students. And if the San
23 Juan Community College wants to make that call and
24 with only seven students, they're not going to be
25 making a lot of money. But I agree with what the

1 Chief and Sheriff Coon said.

2 Yes, I was leaning that way. But I kind of
3 wanted to hear from you and kind of ask that same
4 question, why do we have that ten person rule. It
5 wouldn't make sense for our academy. But for these
6 private ones where they're paying, I don't see a
7 problem if they're willing to do it.

8 MR. LAMA: Mr. Reeves, I think the reason for
9 the rule is that at one point in time, there were
10 concerns about not numbers, but the operational
11 standards of these different programs.

12 And the issue was that there were so few
13 students that it was affecting the educational
14 environments and impacting the level of training that
15 was being provided, because the fewer students that
16 enrolled, the fewer resources were allocated to the
17 programs.

18 And so my question with this is not -- I
19 think the major issue is is the program that's being
20 offered consistent with providing a level of quality
21 training that would authorize the board to certify it.

22 Whether it's one student or 15 or 25, I think
23 it's the quality of the educational opportunity that's
24 being provided that's important to me and I think was
25 what was behind the rule, because in some instances in

1 the past, the fewer students that enrolled, the fewer
2 resources were being allocated by the institution to
3 the operation of the program.

4 So one question that I would have is I don't
5 have any objections to the waiver. But I think it
6 might be helpful to have a conversation with the
7 director of this academy to ensure that the training
8 that's being provided even to this small amount of
9 students is at a consistently high standard, because
10 sometimes resources aren't allocated and programs
11 don't attract paying students.

12 And that's really where the problem lies I
13 think, not the number. That's just a suggestion for
14 maybe part of the discussion you might have with the
15 director of this academy program. Does that provide
16 you with some guidance, Mr. Ortiz?

17 MR. ORTIZ: Yes.

18 MR. LAMA: Great. The next item.

19 MR. ORTIZ: For the next item, I'll turn it
20 over to Mark Shea for the Advanced Training Bureau
21 report.

22 MR. SHEA: Mr. Chairman, members of the
23 board, the Advanced Training Bureau for the period of
24 March 26th, and there's a typo there, it should be 26
25 at the top of the page, through June 15th of 2010, we

1 have conducted 20 training courses.

2 And on No. 20 there is also a typographical.
3 That's June 15th and 16 for the ropes fitness
4 instructor course. But we've conducted 20 classes.
5 And of those 20 classes, we provided training to 672
6 students.

7 With the classes that are in session now and
8 the numbers that we have attending those, we're
9 looking at a total of 11,372 contact training hours
10 provided by the Advanced Training Bureau to certified
11 officers in the State of New Mexico for this reporting
12 period.

13 Keep in mind that we only have two staff
14 members, Brian Coss, our senior master instructor that
15 does a lot of our instructor level courses, and
16 Elliott Guttmann, who is our staff attorney who does
17 our legal updates who is on the road right now down
18 doing training in Carlsbad, then in Roswell and Hobbs.

19 So with that small cadre of instructors,
20 we're also relying upon our contract instructors. And
21 we're moving towards doing some more hosting of
22 courses because our contract money with the budget
23 constraints is -- has become less. So I believe we
24 have provided a considerable amount of training for
25 the resources that we have for this reporting period.

1 I've been sending out emails to chiefs and
2 sheriffs and department heads when I do have training
3 changes and to solicit participation in our classes.
4 I've noticed that our numbers of students have been
5 down considerably. And I know it's because of budget
6 constraints and also staffing levels.

7 We're committed to putting those classes on.
8 Our internal commitment is to have 12 students in a
9 class before we will allow it to proceed for economic
10 purposes. But we've been waiving that with some
11 smaller numbers, with eight and sometimes less
12 students, in order to provide that service to the
13 officers in the State of New Mexico.

14 Also in those emails I've sent out requests
15 for chiefs and sheriffs and department heads to give
16 me some feedback as to what they would like to see in
17 our next training cycle other than what's mandatory in
18 the biennium.

19 Unfortunately I get very little response. I
20 try to make those contacts one on one with phone calls
21 and visits to try to solicit some of that information.
22 But it's really difficult to get a sense in the state
23 as to what agencies really need to provide.

24 We're looking at focusing again on instructor
25 level courses in the next 12 months so that we can

1 multiply the effect of our training dollars to get
2 instructors trained up, get them back to their
3 respective agencies and regions to duplicate training
4 at the local level.

5 Also I'm looking at providing some more
6 executive development courses for chiefs and sheriffs
7 and command level staff. We've been kind of light in
8 that area. So we're looking at some courses that we
9 can offer to bring that to the executive development
10 with agencies.

11 And then we're also looking at some of the
12 technical areas where agencies may not have the
13 internal technical expertise or the money to contract
14 those courses. So we're looking at doing some taser
15 courses, some radar courses.

16 We're hosting a blood stain analysis course
17 here in the fall. And we've done a narcotics
18 investigations course that we brought in from out of
19 state. So we're looking at some of those technical
20 areas also to provide that training to agencies around
21 the state.

22 Most of our ongoing projects have been
23 ongoing for some time. We continue to plod our way
24 through them. One area is the instructor updates.
25 We've focused on the firearms instructors. We have

1 done quite a few. And I can defer to Brian Coss as to
2 what that exact number is.

3 But of all the instructors in the state,
4 we're getting a handle on making sure that all
5 firearms instructors are current and are training the
6 proper techniques and the proper curriculum.

7 And we've found in doing those assessments
8 that we have quite a few instructors in the state that
9 went through an instructor school, but they never made
10 application for a Department of Public Safety
11 instructor certification. So we're picking those up,
12 getting them up to speed.

13 We've also offered in this training cycle the
14 basic police instructor updates also. So we've had a
15 couple of those ongoing. We've got some contractors
16 that are providing those too. When we have an
17 instructor application come through our office, when
18 it is given out, it's for four years.

19 In the letter that they receive, it says that
20 they must attend an update course prior to the end of
21 that four-year cycle to get their instructor update
22 class. And so we've been providing those and making
23 sure that instructors who are coming up for renewal on
24 their certificates do have an opportunity to attend an
25 instructor update.

1 We're also working with the New Mexico Chiefs
2 Association with regard to looking at the firearms
3 curriculum and the state qualification courses for the
4 day and night quals to see if they are really meeting
5 the needs in our state.

6 We're looking at doing some analysis of
7 officer-involved shootings in the state, not just
8 relying upon the national FBI statistics. So that we
9 can look at what our training is, is it really meeting
10 the needs in the state for when officers are involved
11 in a deadly force situation. So that committee is
12 ongoing with the Chiefs and Sheriffs Association, the
13 Municipal Chiefs Association, and we do participate in
14 that and support it.

15 With that -- we also -- I didn't put any
16 numbers down. But we do have an August cert by waiver
17 class coming up. In that class we've got close to 50
18 applications. And we're seeing that a lot of those
19 are retirees that have been hired that are trying to
20 get under the double dipper law so that they can get
21 employed and not have that as an issue as to whether
22 or not they can be employed. So we have definitely
23 seen an impact of that law in the number of
24 applications we've had for our certification by waiver
25 class.

1 We've also seen a lot of out-of-state
2 applicants. Down Sheriff Coon's way, we've got --
3 Roswell is going to be sending seven. And they
4 usually are all from Michigan. They usually send six
5 or seven every go-round. So we're seeing a lot of
6 out-of-state applicants that because of economic times
7 are moving into New Mexico and looking for those
8 lateral positions. With that I'll entertain any
9 questions, if you have any.

10 MR. LAMA: Questions, board members?

11 MR. COON: I just have a comment on the
12 Roswell PD. They are recruiting real heavily back
13 East and in Michigan, these different departments that
14 are laying off. And these guys are coming out to New
15 Mexico and just falling in love with New Mexico.

16 And no snow, no salt on the roads, you know,
17 they're cars aren't rusting out. They're just tickled
18 with that and to have the opportunity to come to New
19 Mexico to work.

20 MR. SHEA: Unfortunately a few of them don't
21 realize what 7,000 of altitude is when they come to do
22 their assessments. But yeah, they've been good
23 troops.

24 MR. LAMA: Any other comments?

25 MR. COON: I would like to say, talking about

1 the -- we always forget it seems like in our training
2 the supervisor part of it. You know, Ron Fisher
3 teaches -- used to teach a great course on supervision
4 ethics. Of course, Ron is Kosovo now for the next
5 five years.

6 But at the Police 2000s and stuff like that,
7 he always put on great classes on supervision ethics
8 and upper administration ethics or just whatever you
9 wanted. And we kind of get as administrators kind of
10 left out. We end up going to the classes when we
11 really don't need to to get our 40 hours. It would be
12 great to get in classes that we can use in our kind of
13 work we do.

14 MR. SHEA: And that is indeed a goal as I
15 mentioned. We're also looking at the elections coming
16 up here in the fall. And we're going to see a lot
17 of -- I'm assuming a lot of new sheriffs come in too.
18 And part of our mandate is to provide some orientation
19 training for new sheriffs.

20 What we have done in the past is integrate
21 them into our certification by waiver classes.
22 Depending upon the number of sheriffs coming in, we
23 may hold a class specifically for the new sheriffs
24 coming in and address some of those issues of
25 administration, risk management, ethics, those areas

1 to get the new sheriffs up to speed also.

2 MR. COON: The National Sheriffs Association
3 or NSI, National Sheriffs Institute in Longmont,
4 Colorado, I was fortunate enough to get to go to that.
5 They only pick a handful of sheriffs throughout the
6 United States to get to go to that.

7 But if we can get some of these sheriffs into
8 something like that. Of course, they have to apply
9 for it. And they do it only twice a year. It's
10 100 percent paid for by the government basically, a
11 JAG or whatever grant.

12 But when I went to it, I thought it was going
13 to be about how to prepare a budget, how to do this.
14 Well, it's not. It's basically ethics and how to
15 recruit and retention of your officers, stuff like
16 that.

17 I was kind of looking forward to learning a
18 little bit more about and stuff like that, which none
19 of that was in there, you just have to learn that by
20 the seat of your pants I guess. But if we can find
21 something even similar to how to prepare a budget, how
22 to ask for things through a county commissioner or
23 city council, stuff like that, how to prepare grants,
24 something like that, it would be great.

25 MR. ORTIZ: Sheriff, I will work on a

1 curriculum that will meet those needs.

2 MR. LAMA: Any other comments from board
3 members? Thank you, Mr. Shea.

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

5 MR. ORTIZ: On the Basic Training Bureau
6 report, class No. 279 began on March 28th with 41
7 cadets. Two cadets were released due to injuries and
8 two were released for disciplinary matters and seven
9 chose to leave on their own. Currently it remains at
10 30 cadets.

11 The 4/10 schedule has been working great for
12 the cadet class. And they started week 12 this week.
13 And they're still with EVOC and firearms so they will
14 complete that this week.

15 On May 19 the state personnel office posted
16 our vacant instructor position for ten days. We
17 received eight applications. Of those we contacted,
18 only six showed up and were interviewed. And out of
19 those six, we picked the top three that gave classroom
20 presentations. And then we ranked those individuals.

21 And yesterday that was presented to Secretary
22 Denko and he approved it. So it looks like we're in
23 the process hopefully by the end of the month of
24 hiring another instructor in the Basic Training
25 Bureau.

1 On the Critical Incident Response Bureau, PST
2 graduated 24 students on April 23rd. And Instructor
3 Regis Chavarria continues with the ICS and Sim
4 training.

5 At this time I'll take any questions on the
6 basic or critical or director's report.

7 MR. LAMA: Board members, any questions?

8 MR. SEGOTTA: Mr. Chairman, not a question,
9 just a comment. I want to acknowledge Director Ortiz
10 and his staff for the memorial service that was held
11 last month. I think you did an outstanding job
12 coordinating that.

13 And using a variety of different agencies I
14 think just adds to the whole purpose behind the
15 memorial. And unfortunately, you know, New Mexico law
16 enforcement has had to inscribe officers on the wall
17 since you've been director. And I think you do it
18 with a lot of respect for the families.

19 And I just wanted to acknowledge you, because
20 I know all the work that has to go into preparing
21 something like that and the last minute changes of who
22 is going to be there and who is not going to be there.
23 So congratulations to you and your staff.

24 MR. ORTIZ: Thank you, sir. I will check
25 with the public comments.

1 ITEM NO. 6: PUBLIC COMMENTS

2 MR. LAMA: That's right. The next item on
3 the agenda is public comments. In this portion of our
4 meeting, we offer opportunities for members of the
5 public to address the board and discuss pending issues
6 or make comments. Mr. Ortiz, do we have anyone
7 presenting today?

8 MR. ORTIZ: Yes. I know there is one,
9 Richard Gomez from Playas. And I'll go back and check
10 and see if anybody else has signed on. But at this
11 time, Mr. Gomez.

12 MR. GOMEZ: Mr. Chairman, members of the
13 board. My name is Richard Gomez. I am the director
14 of the Department of Public Safety for Playas Training
15 and Research Center down in Playas. I'm also the
16 Chief of Police for New Mexico Tech campus police in
17 Playas and other duties as assigned.

18 I do also run a program down there, Law
19 Enforcement Field Training Laboratory. It's a program
20 that I developed for New Mexico Tech and the research
21 center in 2006.

22 I just wanted to address the board today,
23 talk to you a little bit about what we are doing in
24 Playas and some of the upcoming training events. And
25 one of them that is hopefully to help out the LEA and

1 the line satellite academies and hopefully the board.

2 As I said in 2006 I wrote a concept letter
3 for the university on the Law Enforcement Field
4 Training Laboratory which is reality-based training
5 for law enforcement.

6 This training program down in Playas, if
7 you're not familiar with Playas, New Mexico Tech
8 purchased the town of Playas from Phelps Dodge
9 Corporation. What we use the town for is
10 reality-based training for law enforcement and
11 military.

12 That is our two areas that we use, that we do
13 training for. We don't actually offer the training,
14 we offer the venue. We have state-of-the-art
15 technology throughout the facility to help advance the
16 training and for after action review for the training
17 in general, it goes on.

18 We are now heavily used by the military. We
19 have recently built an Afghanistan marketplace and a
20 village to go along with our facilities there. So we
21 have that capability now. Special Forces groups on a
22 regular basis are down in Playas training.

23 And one of the neat concepts that's going on
24 there is their roles in Afghanistan and Iraq have
25 changed on the military and these special forces

1 groups. And what's happening to them is they're
2 needing to change their training dynamics. There's a
3 paradigm shift in military training.

4 And these Special Forces operators, they're
5 having to become police officers. They are learning
6 the skills of police officers down in Playas. And
7 like I said with this village, we populated this
8 village and this marketplace with 150 role players.
9 They all spoke Arabic, they were in proper dress, and
10 they lived there for three weeks in these villages.

11 We had Special Forces groups go and embed in
12 these places. And what they're learning is how to be
13 police officers in these areas. And so what's been
14 happening is they've been bringing the Law Enforcement
15 Field Training Laboratory over onto the military side
16 of it saying, you know, we're directing our training
17 and we're changing our training in this direction.

18 And so it's been bringing up the
19 reality-based training concept just over and over and
20 over. It keeps coming up. And in the law enforcement
21 community, I know agencies throughout the state,
22 throughout the country, they are starting their
23 reality-based training programs.

24 They're getting officers out there and
25 they're doing traffic stops and they're buying the

1 marking cartridges and Simunition weapons and all that
2 type of stuff. And they're spending thousands and
3 thousands of dollars throughout the country,
4 throughout the state on buying all this equipment to
5 start the reality-based training programs.

6 One thing that has been overlooked. We're
7 buying all the hardware. But we haven't bought any
8 software for the trainers that are actually out there
9 running these officers through. And that's one of the
10 things that I've seen over time running some training
11 programs down in Playas, is that we're missing an area
12 that is very truly needed.

13 And that's the software, getting the
14 trainers, the instructors to actually know what
15 they're doing to these officers. It goes beyond the
16 skill of talking to a person or using your weapon,
17 using your taser, using your spray.

18 We are actually programming the minds of
19 these officers for their moment of greatest dread, a
20 lethal force encounter. We are programming these
21 officers that whenever they're under this stress, they
22 are no longer thinking with their forebrain, they're
23 in their mid brain, they are -- their actions are just
24 coming out.

25 And with reality-based training, we're

1 filling categories in the mid brain where they can
2 revert back to something that's happened in their life
3 and they can properly go through these situations.
4 It's called Boyd's loop. It's a study that has been
5 done. It's the thinking process a person goes through
6 under a stressful situation.

7 So what we're trying to do is fill in these
8 categories in the model. So a lot of instructors out
9 there aren't really grasping how much we're
10 influencing the officers in this type of training.

11 And so in ways it can be detrimental, if
12 we've got all the hardware and we're putting these
13 officers out there and we're training them and sending
14 them on their way if we don't have all the software in
15 place to make sure that they receive the quality
16 training.

17 There is a gentleman out there, Ken Murray,
18 who wrote Training at the Speed of Light. I don't
19 know if any of you are familiar with this gentleman.
20 This is a class that I have brought to Playas. And I
21 believe it addresses the issues of the software,
22 putting the software in the instructors and in the
23 trainers, to make sure that we're getting the proper
24 training out to the police officers in the
25 reality-based training.

1 Ken Murray has been at this for 25 some odd
2 years, in the training field. He is a cofounder of
3 Simunition. That's basically where he got his start.
4 He sold Simunition and started a new company. And he
5 travels around the country training his concepts in
6 Training at the Speed of Light.

7 I've had him out to Playas. I've given two
8 iterations of his course out there, a five-day
9 instructor course. This last iteration I had Gill
10 Najar and three of his staff members out there at the
11 class. And every time I've had his class, I've had 25
12 students in each.

13 And you can see the light bulbs coming on on
14 these instructors. You know, it's like, whoa, I've
15 missed this, I've done this wrong, I've actually been
16 programming officers for failure instead of for the
17 right action.

18 And it's come up over and over and over.
19 They speak to it every time they're in class. We have
20 open sessions in the class where people are talking.
21 And that's one of the things that comes up, is we've
22 been failing.

23 And in the reality-based training, that's the
24 direction that we need to go in training the police
25 officers, getting them out there, doing the job,

1 learning the job. I know it's taking place throughout
2 the state more and more. But hopefully with what I'm
3 doing in Playas, what we're doing in Playas at New
4 Mexico Tech, that we can help fill in some of those
5 voids.

6 And on August 30th I'm going to have another
7 course with Ken Murray, Training at the Speed of
8 Light, his identify five-day instructor's course. And
9 I have reserved 18 slots for the nine satellite
10 academies for their instructors, talking to Gill
11 Najar, at least two instructors from each of the nine
12 satellite academies to come down and listen to Ken
13 Murray, take part in this course and hopefully to
14 improve their reality-based training segments of their
15 academies.

16 I am slotted 25 positions for these classes.
17 So I have 18 for those instructors. Also I extend an
18 invitation to the academy board to attend this
19 training. I know it's a week long and it's time from
20 your positions. But I do believe if you attended this
21 course, it would have tremendous effect on your
22 thinking on the training. I truly, truly believe
23 that.

24 I have attended many different training
25 venues throughout the state. And we're lacking just

1 this one piece. And I think this would bring us up
2 many levels and be a limelight in the country. And
3 Ken Murray travels the country like I said teaching
4 this course.

5 No state has set a standard on reality-based
6 training as a whole. You have departments that will
7 set a reality-based training standard for their area.
8 But no state has mandated a standard for their
9 reality-based training.

10 And I believe that with the proper training
11 with the proper information, if we can standardize
12 reality-based training throughout the state, we would
13 be leading the country in a very important area.

14 So anyway I would invite the academy board to
15 attend this training. I will -- through contacts with
16 Art Ortiz and Gill Najar, I could get the information
17 to you on the exact dates on the training.

18 Through the Leftel program any of the
19 training that I offer, I do pay for housing and
20 lodging there in Playas. We have housing there in
21 Playas. I pay for the meals and for the training.
22 Anything -- anybody that comes out to the training,
23 all I ask for them is pay their salary and the trip
24 down there. I'll take care of everything else there
25 at the facility.

1 As far as the board members, you could be
2 there as observers or take part of the course. The
3 course -- Ken Murray goes over all the safety aspects
4 of the Training at the Speed of Light, plus he goes
5 over the psychological effects that we're having on
6 the officers.

7 Like I said a tremendous course. I truly
8 believe that you would take away a lot from this
9 course if you were to attend. And hopefully it would
10 help in this paradigm shift in the training at the
11 academies.

12 Also in this course I am working on
13 Congressional observers also. I've had many visits
14 over the past four years working on this program.
15 I've had the Attorney General down there also, put him
16 in the Sims gear and had him out there shooting FX
17 marking cartridges.

18 I get a lot of staffers down, had
19 Congressional visits. But the majority of the time
20 it's staffers. But I get to know all of them by name.
21 But that's what I'm looking for, is more funding and
22 getting this type of training out to the officers.

23 So anyway I just wanted to make you guys
24 aware of the Playas Training and Research Center, the
25 program that I'm working down there. It's focusing on

1 the law enforcement training and through reality-based
2 training and putting out these concepts.

3 I know Captain Hall back here was in my last
4 class. And he's moving the training division on motor
5 transportation, they're moving forward on some of
6 their training for the reality-based training using
7 their concepts.

8 And so there's -- I've had 50 officers
9 through the state that have gone through this
10 instructor school. And they have their little pockets
11 of training going on. But hopefully that will start
12 spilling over. So I just wanted to offer that at the
13 time. And I'll answer any questions if you have any.

14 MR. LAMA: Board members, any questions? I
15 do want to say on behalf of the AG that he did have a
16 great experience there. And I would encourage any of
17 the board members to learn more about what's going on
18 in Playas.

19 It's truly a revolutionary type of program
20 and something that is nationally recognized as being
21 just a first class program. And you're to be
22 complimented for what you do.

23 He regaled us with quite a lot of stories of
24 his adventures in Playas. It really is something that
25 if you have the opportunity to see and to participate

1 in, I would highly recommend it. Thank you so much
2 for your presentation this morning.

3 MR. GOMEZ: Thank you.

4 MR. ORTIZ: I'd like to add, I've been down
5 there with Sergeant McPherson and he put us up. It
6 was great and really wonderful. And that that's why
7 we scheduled that September meeting in the fall I
8 think two years ago, in Silver City, when we had it,
9 because we were hoping to take the whole board down
10 there. But time didn't allow it. But I encourage
11 you, if you do get the opportunity to visit, he will
12 treat you very well.

13 MR. LAMA: Any other public comments?

14 MR. HALL: Mr. Chairman, members of the
15 board, Captain Hall of the New Mexico Motor
16 Transportation Police. I've been asked by my director
17 to ask a few questions about the upcoming audit.

18 First and foremost the Motor Transportation
19 Police will fully comply with the audit and we have no
20 problem doing that. Our question about the audit was
21 the criteria for the selection of the agencies as we
22 didn't find any criteria in the NMAC or in the records
23 guide.

24 And the criteria for the audit as far as
25 types of records to be checked, are they just going to

1 be NM LEA required records that are accredited courses
2 or are they the nonaccredited courses and how was that
3 criteria set forth?

4 Also we would like to know if there are any
5 discrepancies found in any records, what would be the
6 method for handling those discrepancies? Is there any
7 discipline to come back to the agency, are they to be
8 put on notice, are they to be put on probation, what
9 will happen when discrepancies are found?

10 Also we would like to know what the
11 methodology is for the audit. It's not spelled out in
12 the NMAC or the state statute or the reference guide.
13 And we would ask for that methodology just so that in
14 the future, if we wanted to conduct our own audits, we
15 could conduct our own internal audits or have another
16 agency conduct those audits.

17 I have spoken with other agencies, for
18 example, the Santa Fe PD. And they have the same
19 concerns that we do. We've talked to each other about
20 going out and auditing each other to make sure that we
21 stay within the standards of the LEA. Those are our
22 questions. We're just looking at the criteria set
23 forth for this audit and how it was established.

24 MR. LAMA: Director Ortiz, do you have any
25 comments or impressions regarding the audit?

1 MR. ORTIZ: Yes, Mr. Chairman and board
2 members. Mr. Hall, what it is, it's all agencies in
3 New Mexico that have certified officers are being
4 audited. We're not selecting just a few, all of them
5 are on the list with the five contractors.

6 They've been split up amongst the
7 contractors. And our goal is to have all of the
8 agencies audited to see that they are in compliance.
9 We are not doing it to hold anybody -- to take
10 disciplinary action.

11 It's to get them in compliance. If they are
12 not in compliance, we are going to work with that
13 agency to make sure that they correct the deficiencies
14 to come in compliance. It's something that's been
15 long overdue that needs to be done.

16 MR. HALL: And I'm not -- Motor Trans is not
17 arguing that point. We have no problems with the
18 audit at all. We want people to come and look at our
19 records. Our question was of the 235 agencies that
20 are listed in the State of New Mexico, you said that
21 135 are put on the list.

22 Our question is what is the time period for
23 the audit and how were those 135 selected? When will
24 you be done with the other 235 understanding the
25 budgetary constraints?

1 MR. ORTIZ: Right. Well, some of those that
2 are on the list are like Navajo PD and BIA that don't
3 fall under our jurisdiction to conduct the audits. So
4 it is the agencies that fall within our jurisdiction
5 within the State of New Mexico that are going to be
6 audited.

7 MR. HALL: Okay. I guess our other question
8 is will there be a published record of the criteria
9 for the audit so that in the future, if we wish to go
10 audit our own records, we could use that criteria?

11 MR. ORTIZ: Yes. In the letter that was sent
12 out, it indicates what they are going to be looking
13 for. Give me just a minute.

14 MR. HALL: I have that letter. And in that
15 letter it states that you're going to be looking all
16 law enforcement officers' training records, our
17 affidavit that we send you for our firearms
18 recertification, our affidavit that we send you for
19 the biennium training, instructor accreditation,
20 course accreditation, and lesson plans.

21 I guess I'm looking at if you already have
22 copies of a lot of those, why are we providing those
23 to your auditor again if we've already given those to
24 you once? That was my boss' question.

25 MR. ORTIZ: Yes. We're just going to verify

1 that they're maintaining their records appropriately
2 and check them. And we're not going to be asking for
3 all officers. What it is is agencies with ten or
4 less, they will be 100 percent audited, each officer's
5 training will be evaluated.

6 Agencies with 11 to 40 will have a minimum of
7 ten audited or 50 percent, whichever number is larger.
8 Agencies with 41 to 100 will have a minimum of 20
9 audited or 25 percent of the total, whichever number
10 is larger. And agencies over 100, a minimum of 30
11 officers will be audited or 20 percent of the total,
12 whichever is larger.

13 MR. HALL: Okay. So then my boss' question
14 is that -- he told me to direct is that based on what
15 you're reading, can we get a copy of that criteria or
16 is that published someplace for public record, the
17 number of officers to be audited per agency?

18 MR. ORTIZ: Yes, we can provide that.

19 MR. HALL: Okay. Thank you, sir. I can at
20 least go back and report that. And there's no
21 penalty, correct, for any discrepancies that are
22 found, it's just going to be try to get you in
23 compliance?

24 MR. ORTIZ: It will have to be evaluated and
25 see. If outright disregard or if it's blatant, where

1 they're trying to cover something up, there may be
2 some disciplinary action. But if it's some other
3 errors, then like I said we will get them in
4 compliance.

5 MR. HALL: Okay. Thank you, sir. I'll let
6 my boss know. Thank you, members of the board.

7 MR. LAMA: Thank you. Any other public
8 comments? Seeing none, we will move on to the next
9 item on the agenda.

10 ITEM NO. 7: DISCUSSION: SENATE BILL 55 - MISSING
11 PERSON AND AMBER ALERT TRAINING

12 MR. LAMA: That is old business, item No. 7,
13 discussion of Senate Bill 55, the missing person and
14 AMBER Alert training requirement. Mr. Shea and
15 Mr. Shilling.

16 MR. PEREZ: Excuse me. Are we still on old
17 business?

18 MR. LAMA: We're just starting item 7, old
19 business.

20 MR. PEREZ: Okay. Thank you.

21 MR. SHEA: Mr. Chairman, members of the
22 board, at the last meeting, we brought before the
23 board the fact that Senate Bill 55 had been passed and
24 signed by the governor. And that had occurred after
25 we had approved and set into place our biennium

1 in-service training cycle for the 2010/2011 cycle.

2 And at that time I brought before the board
3 that with that Senate Bill 55, there was a training
4 component as a part of that that mandated that all
5 basic academy cadets undergo four hours of training
6 with regard to missing persons and AMBER Alert and an
7 unspecified number of hours for all postacademy
8 incumbent officers.

9 At that time I contacted Major Shilling with
10 the records bureau. Major Shilling had worked with
11 this bill and with Lieutenant Governor Denish on
12 drafting it and getting it in place. So the records
13 bureau has been working diligently to draft a
14 curriculum.

15 At the time that we met last time, Chief
16 Schultz had made a comment that he had requested that
17 we try to keep that incumbent officer in-service
18 training down to one hour. We have worked very
19 diligently to try to keep it at a minimum but also to
20 make sure that the spirit of the statute and the
21 content that is necessary to get out to all officers
22 in the state is met.

23 So what we're looking at doing is going --
24 requesting that the board allow us to go to rulemaking
25 on an amendment to the 10.29.7 of NMAC on in-service

1 training requirements. It will be 10.29.7.8,
2 paragraph A. What we will be looking at is adding an
3 item No. 8 which will be a minimum of two hours of
4 training in missing persons and AMBER Alert.

5 Unfortunately the Senate bill has not been
6 drafted into final statute format so we don't have a
7 copy of how the NMAC will be specifically addressed in
8 the language. But we just wanted to bring it before
9 the board that we're looking at that two hours.

10 And you have in your packet the curriculum
11 that has been preliminarily drafted by Major
12 Shilling's staff. And I'll let Major Shilling speak
13 to that.

14 The other portion is the four hours of
15 training. And we will integrate that into the basic
16 police officer training without adjusting the total
17 800 hours required in the NMAC now. We'll put that
18 under the radio procedures block of instruction. And
19 we'll also include that four hours in the
20 certification by waiver of previous training
21 curriculum. So new officers or officers recertifying
22 who are inactive will get the full four hours.

23 With that I'll turn it over to Major Shilling
24 so he can explain to you exactly what the curriculum
25 will entail.

1 MR. SHILLING: Mr. Chairman, distinguished
2 members. Thank you for the opportunity to stand
3 before you. The training is going to be basically
4 very straightforward as it always has been, which the
5 law has been in existence for 15 plus years I believe,
6 since 1995, when the clearinghouse was established at
7 DPS dealing with missing persons.

8 So it's basically going to be statutory
9 overview, enlightening law enforcement as to their
10 obligations under the law regarding missing persons,
11 AMBER Alert, things of that nature.

12 The way we envision it and one thing I
13 continually pushed in dealing with bill drafters and
14 politicians during the roundhouses, you know, the
15 mandatory training on law enforcement, the LEA and
16 everyone else involved needs to have the flexibility
17 to do it in-house.

18 We're looking at developing some web-based
19 stuff. Or if you have a certified trainer within your
20 organization, we'll just send you the materials, you
21 can knock it out at a shift briefing, whatever the
22 case might be. So we're working through some of those
23 issues to make it low cost to no cost for every agency
24 in the state.

25 Additionally, the records bureau which houses

1 the missing persons clearinghouse, if your agency
2 wants the training, give us a call. We'll send some
3 staff down and knock it out for you real quick, in a
4 day, part of a day, whatever you need to accommodate
5 those agencies.

6 Just a few other side notes. Additionally,
7 during the regular session of the legislature, Senate
8 Bill 167, a bill sponsored by Linda Lopez, passed and
9 was signed. It was signed before Senate Bill 55. And
10 it also amends some of the language in the missing
11 persons statute dealing with endangered persons.

12 It's going to be a tricky statute for law
13 enforcement because it includes in the dangerous
14 person portion of missing persons those who have been
15 or are currently under a protection order or have been
16 the victim of domestic violence.

17 The language is ambiguous at best. And law
18 enforcement is just going to be to look at some
19 in-house rules on how you're going to handle those
20 kinds of things and policy development at the agency
21 level and how you're going to handle some of those
22 things.

23 Additionally, Senate Joint Memorial 49 was
24 transmitted to the Department of Public Safety, asking
25 us to convene a task force to look at some of the

1 issues surrounding missing persons. And it also
2 delved into some domestic violence issues and things
3 like that.

4 I sent out a letter to the required agencies
5 to invite them to put together a task force, the
6 Association of Counties, Association of Cities, some
7 advocacy groups, things of that nature. To date I
8 have only received one response. And that's from the
9 sheriff of Roosevelt County I believe, who said he
10 expressed an interest in helping out. I sent him an
11 email and haven't got a response back.

12 A lot of the issues that I think a task force
13 would or could address have already kind of been
14 looked at or studied to a certain degree. But we
15 certainly welcome -- at DPS we're not out, you know,
16 looking to hammer law enforcement in the way they deal
17 with missing person cases. Our job is to assist and
18 bring everybody along.

19 But certainly we would welcome any input from
20 the law enforcement community involving curriculum,
21 cheat sheets, things like that. We have a nice book
22 we're putting together to assist law enforcement in
23 controlling their clipboard to help them comply with
24 the law. And we think that's going to go a long way.

25 And with that I would stand for any

1 questions. Again we're basically still in curriculum
2 development because we haven't seen, with the two
3 bills being signed where they're going to fall
4 statutorily in the statute.

5 And only one other comment is the new law in
6 Senate Bill 55 did some tweaking to the very last
7 subsection of that statute having to do with the
8 Attorney General's Office and compliance and things
9 like that. That would be an interesting discussion in
10 the legal world.

11 We have gotten great response and support
12 from the AG's office under the old law. I believe
13 they sent a letter out to every law enforcement agency
14 in the state just reminding them of their obligations
15 under Chapter 29 under missing persons statutes.

16 And that's all we're looking for, is when
17 this issue was studied, is there's a huge disconnect
18 in the law enforcement community about general
19 knowledge of the statute and even its existence and
20 their obligations under that law. Thank you.

21 MR. LAMA: Major, I have a question. As a
22 result of that letter, did you get some positive
23 feedback, did law enforcement agencies respond back to
24 you at all?

25 MR. SHILLING: Mr. Chairman, I think

1 generally speaking we didn't get a direct response
2 from law enforcement. But we're seeing a lot more
3 compliance in the cross-reporting to the clearinghouse
4 as a result of that. The light bulb came on, guys
5 started looking at the statute book under Chapter 29
6 going, oh, I need to do this, you know.

7 And on that note one thing we're looking at
8 doing is we have a switch replacement project for NCIC
9 coming on line in the next 12 to 18 months. We want
10 to eliminate the double paperwork required by law
11 enforcement in filling out multiple forms and
12 reporting to the clearinghouse.

13 When that entry is made into NCIC about
14 missing persons, we're going to salvage that data when
15 it passes through the message switch for NCIC and
16 populate the clearinghouse with it. And, in essence,
17 law enforcement has met their requirement for
18 cross-reporting once they enter that person into NCIC
19 and it's done. And we'll go from there.

20 MR. LAMA: Thank you very much. Let us know
21 if we need to do anything else in addition to the
22 letter that we sent.

23 MR. SHILLING: Will do. Thank you,
24 Mr. Chairman.

25 MR. LAMA: Thank you. Any questions on that

1 item? Thank you very much.

2 MR. SHEA: Thank you, Mr. Chairman. We do
3 need to go to rulemaking then to make that amendment
4 to the in-service training portion. And if the board
5 approves the two hours as a reasonable amount for the
6 curriculum, then we'll move forward with that.

7 MR. LAMA: Very well.

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

9 MR. SHANDLER: Do you want a vote, Mark? Do
10 you want them to vote on that?

11 MR. SHEA: If that's necessary for us to move
12 to rulemaking on it, to make the amendment to the rule
13 itself.

14 MR. SHANDLER: Customarily that's what they
15 do.

16 MR. SHEA: Mr. Chairman, I would ask for a
17 vote on moving it to rulemaking.

18 MR. LAMA: Very well. Board members, do we
19 have interest, does someone wish to propose a motion
20 to move the matter to rulemaking?

21 MR. SEGOTTA: So moved.

22 MR. LAMA: I have a motion to move the matter
23 to a rulemaking hearing.

24 MR. COON: I'll second.

25 MR. LAMA: The motion is seconded. Any

1 further discussion? Very well. All those in favor of
2 the motion signify by saying aye.

3 (All those in favor so indicate.)

4 MR. LAMA: Anyone opposed? The motion
5 carries. We'll move that to rulemaking.

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

7 MR. LAMA: Mr. Perez, do you have an item of
8 old business that you wish to discuss?

9 MR. PEREZ: Yes. This is a continuing matter
10 of old business. It's been more than two years now
11 since I have asked the Attorney General to look into
12 the matter regarding allegations made against the
13 Santa Fe Police Department, in particular the chief
14 and his brother, the then chief of detectives.

15 Both have since retired. And the last time
16 that I asked the Attorney General at our last meeting,
17 he replied to me, comments accepted. Well, I was not
18 making a comment. I was asking him a question, when
19 is this matter going to be brought to our attention
20 again. He commented, quotes, it's the policy of my
21 office not to comment on ongoing criminal
22 investigations.

23 And our issue with all other agencies is that
24 our standard is preponderance of evidence, not beyond
25 a reasonable doubt. And this matter is lingering.

1 And we are all replaceable by a vote or by
2 appointment. And I am concerned that this matter will
3 go unattended.

4 These two people still have their
5 certifications. And there are vacancies coming up in
6 time for Secretary of Public Safety and such other
7 positions. And they would be eligible. And nobody
8 has looked at this, it has not been referred to us.

9 And I think that is within our jurisdiction.
10 And I ask that this board be answered to the director,
11 to Mr. Ortiz, if it's an ongoing law enforcement
12 matter. But somehow that we be told rather than just
13 accepting questions as comments.

14 MR. LAMA: Well, let me just clarify. I
15 wasn't at the last meeting, Mr. Perez, so I don't know
16 the context in which the Attorney General responded to
17 your question. However, it is the policy of the
18 Attorney General's Office at least as it relates to a
19 criminal investigation not to offer public comment on
20 that.

21 MR. PEREZ: I understand.

22 MR. LAMA: This is a public meeting, this is
23 a public forum. It would be inappropriate for our
24 office to comment on the status of a criminal
25 investigation or if there was a criminal investigation

1 ongoing.

2 MR. PEREZ: I understand.

3 MR. LAMA: So that does not prevent the
4 academy from initiating their own separate inquiry as
5 to whether or not the actions of these individuals
6 constitutes a violation of the training act.

7 And that is something that the academy can do
8 independent of any ongoing investigation into whether
9 or not criminal charges should be brought for alleged
10 wrongdoing. And I don't know the status of what the
11 academy has done relative to initiating an internal
12 investigation regarding discipline or disciplinary
13 matter.

14 But I want to make sure that we're not mixing
15 apples and oranges here. If the academy director is
16 interested in pursuing that or if that is something
17 that is ongoing at the decertification level, that's
18 something that we can certainly work with the director
19 in discussing.

20 Again those are not a matter for public
21 discussion, at least until the director makes a
22 determination whether they want to initiate a
23 decertification matter.

24 MR. PEREZ: I understand that.

25 MR. LAMA: So that's about all I can comment

1 on it at this point in time.

2 MR. PEREZ: Is there any reason why the
3 director could not be given a copy of the Internal
4 Affairs report so that he could determine if we could
5 proceed with possible decertification or whether there
6 is grounds for that?

7 MR. LAMA: Generally speaking there are
8 reasons why certain information is shared amongst law
9 enforcement agencies, if there is some confidentiality
10 associated with that, that they cannot -- that he
11 could not receive it. I don't know the specifics of
12 what's been generated in this process to know whether
13 that's something that can be provided or not. But I
14 can certainly look into it.

15 MR. PEREZ: If you could look into that and
16 at least answer us that maybe that report does contain
17 such sensitive information that it would adversely
18 affect a possible criminal investigation. If not,
19 that an expurgated version or at least the director
20 could be informed if there is or there is not
21 something there that we might be concerned about.

22 MR. LAMA: Sure. And I'm happy to do that.

23 MR. PEREZ: Thank you.

24 MR. LAMA: Thank you. Any other items of old
25 business?

1 MR. JONES: Second.

2 MR. LAMA: I have a motion and a second. Any
3 discussion on the motion? Seeing none, all those in
4 favor of the motion signify by saying aye.

5 (Those in favor so indicate.)

6 MR. LAMA: Any opposed. The certifications
7 identified in the motion have been ratified.

8 ITEM NO. 9: RATIFICATION OF CERTIFICATIONS FOR PUBLIC
9 SAFETY TELECOMMUNICATORS

10 MR. LAMA: The next item is ratification of
11 certification for public safety telecommunicators.

12 MR. ORTIZ: Yes, Mr. Chairman and board
13 members, the director has verified that the list of
14 dispatchers beginning with Certification No.
15 10-0031-PST through 10-0054-PST have met the standards
16 and requirements for certification. And we would
17 request that the board ratify their certification.

18 MR. LAMA: Thank you, Mr. Ortiz. Do I have a
19 motion for ratification of the telecommunicators
20 certification?

21 MR. SEGOTTA: I move that we ratify the
22 certifications for public safety telecommunicators as
23 listed in tab nine.

24 MR. PEREZ: Second.

25 MR. LAMA: I have a motion and a second. Any

1 discussion? All those in favor of the motion signify
2 by saying aye.

3 (Those in favor so indicate.)

4 MR. LAMA: Any opposed? The motion carries.

5 ITEM NO. 10: DISCUSSION: REWRITE/UPDATE OF
6 PART 9 & 10 NMAC

7 MR. LAMA: Item No. 10, discussion regarding
8 the rewrites and/or update of part 9 and 10 of the
9 NMAC. Director Ortiz.

10 MR. ORTIZ: Yes, under tab ten you'll find
11 Part 9 and 10. I met with Deputy Director Najjar. And
12 we've been looking at the NMAC and have decided on
13 making some changes to it. And you'll see on the next
14 page, it's listed page 6, block No. 9, human
15 relations. That would be changed from human relations
16 to basic law enforcement communication skills. That
17 would go from a total of 29 hours down to 22 hours.

18 And then on No. 1, perceptions of human
19 behavior, that would be stricken out. Culture
20 diversity which was three hours, that will be moved
21 over to block No. 1 which is the introduction to the
22 academy.

23 The Spanish language which is 16 hours will
24 be moved over to block No. 6, principles of criminal
25 investigations. And then some new curriculum would be

1 added in which would be managing aggression, four
2 hours, effective communication, nonverbal
3 communication, defusing strategies, and introduction
4 to tactical communication skills.

5 Going on to block 10, crisis management, that
6 would be stricken and it would be changed to
7 fundamentals of managing crisis behavior. The
8 40 hours would remain. And there would be some
9 changes. The behavior management and crisis
10 intervention would be changed to mental illness. And
11 that would be six hours.

12 Dispute intervention/conflict management
13 would be changed to pharmacology down to four hours.
14 Handling the mentally ill and other special
15 populations would be changed to behavioral health
16 issues and go down to two hours.

17 The suicide, barricaded person, hostage
18 situations would be changed to mental health and the
19 law, changed from eight hours to four hours. And then
20 some of the new items would be stigma and mental
21 illness, two hours; advanced de-escalation skills,
22 four hours; suicide and suicide by police, two hours.

23 Stigma and mental illness, it looks like that
24 was repeated, two hours. Video practicum, eight
25 hours; practicum and proficiencies, eight hours; and

1 then consideration for youth in crisis and PTSD.

2 And so what we're doing at this meeting is
3 just an introduction to put it out there to the law
4 enforcement community. So for the next board meeting,
5 for the discussion, they'll have an opportunity to
6 know what's there and come prepared for any discussion
7 on that.

8 MR. LAMA: Mr. Ortiz, can you just give me a
9 general sense of the basis for the proposed changes
10 and what the thinking is behind this reorganization.

11 MR. ORTIZ: Well, I wish Mr. Najjar were here
12 today, but he's attending class. But he has attended
13 extensive training on dealing with managing crisis
14 behavior. And so with some of the training that he
15 has attended, he has learned some of these changes
16 that would be more efficient and a better attempt to
17 get updated. And so we're just wanting to put it out
18 there for introduction at this time.

19 MR. LAMA: Any comments from the board?

20 MR. COON: I have a comment.

21 MR. LAMA: Yes, Sheriff.

22 MR. COON: Mr. Ortiz on J 7, the Suicide and
23 Suicide by Police, you know, suicide or the cop
24 killers of policemen. Also suicide by police is one
25 of the hottest topics, open up any police magazine. I

1 think the two hours is kind of thin on that.

2 I mean if you can't give a half a day for at
3 least knowing what to look for, suicide by police, and
4 maybe we could save a few of our own if we reiterated
5 there are all kinds of programs out there for that
6 depression or for the fact that you kill somebody with
7 a suicide by police, you turn around and do it
8 yourself.

9 I think two hours is kind of slim on that.
10 Maybe look at bumping that up a little bit. That's
11 something that is dear to everybody's heart, you know.
12 That's just my comment on that.

13 MR. ORTIZ: Thank you.

14 MR. LAMA: Other board members, comments?

15 All right. At this time I understand we
16 don't have to take any action, this is just an
17 informational item.

18 MR. ORTIZ: Yes, sir.

19 ITEM NO. 11: DISCUSSION: ADDITIONAL NMAC CHANGES

20 MR. LAMA: All right. Would you like to move
21 on to item 11 then, facing other NMAC changes.

22 MR. ORTIZ: Yes. And the same thing with
23 item 11. And you will see under Title 10, Chapter 29,
24 Part 9, I'll refer you over to page 1 at the bottom,
25 introduction to the academy. The eight hours will be

1 changed to the 11 hours because we'll be adding three
2 hours of the cultural diversity which is at the top of
3 page 2. That will be added.

4 Then in block 2 it will be changed from
5 29 hours over to the 45 by adding the 16 hours of the
6 Spanish language under block 2. And another change on
7 block No. 3, page 3, under -- see, some of the
8 language we're going to strike out is the University
9 of Texas at El Paso for the bicycle test. They were
10 an alternative to the running.

11 And we contacted the University of Texas at
12 El Paso and they withdrew and they did not want to
13 participate in the program. So all the alternative
14 testing will be done by the University of New Mexico.
15 So we will strike that University of Texas at El Paso
16 out of the NMAC.

17 Moving over to page 4 on block 4, that will
18 be increased by five hours. On No. 9 you'll have
19 juvenile justice which will be increased two hours.
20 And the handling of juveniles and their problems,
21 three hours.

22 At the bottom of the page, block 5, patrol
23 procedures, that will be increased by eight hours,
24 from 99.5 to 107.5. And hazardous materials will be
25 moved into that block.

1 On G, block 7, there's a correction there.
2 There was a typo in the previous, where it said 33.
3 Motor vehicle law enforcement, it had 33.5 hours. The
4 correct total should be 35.5. So make that
5 correction.

6 Block No. 8, motor vehicle collision
7 investigation and related issues, will go from
8 34 hours down to 26 by moving the hazardous materials,
9 those eight hours, over to the patrol procedures in
10 block No. 5. And then we've already covered blocks 9
11 and 10.

12 Going down to block No. 11, domestic issues,
13 that will be decreased from 22 down to 18 hours by
14 moving the juvenile law and justice over to block 4,
15 which is the laws and procedures. And handling
16 juveniles and their problems also moves over to block
17 4 under the laws and procedures.

18 On the last page, page 7, under old block 15,
19 the basic firearms course, we would strike out the
20 language "This unit of instruction will familiarize
21 the student with the operation and maintenance of a
22 firearm, firearms safety, safety equipment, and
23 fundamentals of marksmanship."

24 And the suggestion we would change that over
25 to is "This unit of instruction is inclusive of all

1 administrative tasks to include travel, breaks, and
2 meal time. This training will familiarize the student
3 with the operation and maintenance of a firearm,
4 firearms safety, safety equipment, and the
5 fundamentals of marksmanship."

6 And those are the proposed changes. We want
7 to get that out to the law enforcement community and
8 have a discussion at the next board meeting. Any
9 questions or comments?

10 MR. LAMA: Questions from board members?

11 MR. SEGOTTA: Just one. You pointed it out,
12 Art, when we were talking earlier on block 10J. You
13 duplicated stigma and mental illness. If you'll make
14 sure that you catch that one before you send it out.

15 MR. ORTIZ: Right. We have that in 5 and 8.

16 MR. SEGOTTA: Yes, that's correct. That's
17 all I have, Mr. Chairman.

18 MR. LAMA: Thank you, Sheriff. I have just
19 one comment. I note there won't be an alternative
20 for -- a facility for an alternative test in Southern
21 New Mexico. Are there any other resources that could
22 be -- since the University of Texas at El Paso is no
23 longer available, is there any other facility in
24 Southern New Mexico that can serve as an alternative
25 for these tests?

1 MR. ORTIZ: Well, the last one we had was
2 J.D. Sanders from Hobbs. We tried to get him in under
3 El Paso and they would not take it. And that's when
4 that came up. So he had to come up to Albuquerque to
5 do the alternative bike test.

6 MR. LAMA: Okay. Well, just a comment that,
7 you know, the travel issue is always -- it's
8 difficult.

9 MR. ORTIZ: I think the chief rode his bike
10 so he could prepare for the test from Hobbs to
11 Albuquerque. And that's how he passed.

12 MR. LAMA: Just in consideration of our
13 friends in Southern New Mexico, that's just posing a
14 question, if there are opportunities. Okay. Very
15 good. Anything else on this item, Mr. Ortiz?

16 MR. ORTIZ: No, sir.

17 MR. LAMA: All right. Are there any other
18 matters other than disciplinary matters that should be
19 presented to the board at this time? All right. If
20 not, we can move into that portion of the meeting
21 regarding disciplinary matters.

22 And as is the custom, the Attorney General's
23 Office typically does not chair this portion of the
24 meeting. So I will turn it over to the vice chairman
25 to conduct those proceedings. That's Mr. Perez?

1 MR. ORTIZ: I think Mr. Perez is.

2 MR. PEREZ: Does the board need a short
3 break? It's now 10:30.

4 MR. COON: Sure.

5 MR. PEREZ: We'll take a break until 10:35.

6 (Recess.)

7 ITEM NO. 12: MARISA BARRAGAN

8 MR. PEREZ: We are now back in session and we
9 will go to item 12, disciplinary matters. Our
10 Assistant Attorney General, Matt Jackson, will make
11 the presentation. If any of the personnel involved
12 are here, they will be allowed to address the board if
13 they wish.

14 And after we go through these items then, we
15 will ask that the -- we will go into a closed session,
16 at which time only those matters that are presented
17 for us will be discussed. And then we will come back
18 and go into public session again and give our
19 findings. Mr. Jackson.

20 MR. JACKSON: Yes. Item No. 12 is Marisa
21 Barragan. This item was actually presented to the
22 board at the March meeting by Ms. Erdman as I was
23 unable to attend that meeting. But there was a lack
24 of a quorum on Ms. Barragan's item.

25 To refresh the board's memory, this

1 individual while off-duty at a birthday party
2 discharged her taser and hit a friend, but it did not
3 close the circuit for whatever reason, either one of
4 the prongs was loose or something.

5 That's essentially the misconduct. There was
6 alcohol involved at the party. And the director after
7 meeting with the respondent has approved a 60-day
8 suspension with a one-year probation, ethics training,
9 alcohol training and assessment, eight hours of
10 community service. And he believes that she is a
11 candidate to address the cadet class. And I think she
12 may have already done that at this point.

13 MR. ORTIZ: No.

14 MR. JACKSON: She has not?

15 MR. ORTIZ: I'm sorry. You're correct, she
16 has. It was down in Hobbs.

17 MR. JACKSON: All right.

18 MR. SHANDLER: Could I just ask a question.
19 There was some concern that she might have lied to her
20 supervisor in the process. As the director what do
21 you think about that?

22 MR. ORTIZ: Yes. Well, she said she was
23 scared for it and that was her first reaction, was to
24 lie. And she came forward later and corrected it and
25 took responsibility.

1 MR. SHANDLER: Just if I could press you a
2 little bit further, the composition of this board
3 really takes lying as an act of misconduct and
4 detrimental to future police activities. So can you
5 elaborate a little bit more, maybe another sentence on
6 why you think the 60 days is appropriate?

7 MR. ORTIZ: Well --

8 MR. SHANDLER: I mean if you could break it
9 down. Was it the taser thing that was the main thing
10 or was it the lying or was it a 50/50 or she just
11 doesn't want them in 30 days, did you do any of those
12 type of calculations?

13 MR. ORTIZ: I think we split it 30 and 30, 30
14 for the taser incident and 30 for the untruthfulness.

15 MR. JACKSON: And if I might add to that, the
16 sanction of addressing a cadet class usually mitigates
17 the length of the suspension. So the suspension would
18 have been longer otherwise.

19 MR. ORTIZ: And also just to let the board
20 know, I did receive a telephone call from her, that
21 she was not going to be able to attend today. And she
22 asked that I just ask the board -- she was going to
23 send a letter. I asked her to put it in writing.

24 Since we had to table it because of the lack
25 of a quorum, I believe one of you gentlemen had to

1 recuse yourself, Mr. Jones, we did not have a quorum.
2 She asked, if the board was able to approve it, if
3 they could do a retroactive. I know she is not
4 employed at this time in law enforcement.

5 But I just told her I would mention that to
6 the board. But I don't know if we're going to be able
7 to even vote it because I think we're going to be in
8 the same situation, with Mr. Jones having to recuse
9 himself and not a have a quorum.

10 MR. SHANDLER: I think today I would advise
11 Mr. Jones that he is eligible to vote but the vote
12 recused. I think giving law enforcement officers
13 multiple meetings is a possible procedural issue.

14 I think my advice is that we go ahead. And
15 there are three people that were passed over last
16 time. I think it's unfair to them in the big picture
17 to wait until September.

18 That's what I'll advise you to do, Mr. Jones,
19 is you're eligible to vote but vote recused. So my
20 advice today is you still retain your quorum.

21 ITEM NO. 13: DON BEGAY

22 MR. JACKSON: Moving on to item No. 13, this
23 is Don Begay. Again I believe this was also on the
24 March meeting. This is an aggravated DWI. The
25 respondent failed a field sobriety test and then on

1 consecutive tests registered a .16 and then a .17 on
2 the breath test.

3 The director and the respondent came to an
4 agreement for a 90-day suspension, one year probation,
5 ethics training, DWI school, and then also alcohol
6 screening and assessment and to address the
7 telecommunicator training class, because he is a
8 telecommunicator, not an officer. Are there any
9 questions on this item?

10 ITEM NO. 14: JOSEPH GALINDO

11 MR. JACKSON: We'll go on to item No. 14,
12 Joseph Galindo. This is another DWI. Mr. Galindo was
13 arrested in Durango, Colorado. He admitted to
14 consuming alcohol. He refused to perform a field
15 sobriety test and opted instead to have the
16 breathalyzer which was administered. And he
17 registered a .156.

18 We did have the informal hearing on this
19 during which Mr. Galindo took responsibility for his
20 actions. And as a result of that, the director and
21 Mr. Galindo have agreed to a 90-day suspension,
22 probation, ethics training, alcohol screening and
23 assessment.

24 He will address the police cadet class. And
25 then eight hours of community service at the New

1 Mexico National DWI Victims Memorial of Perpetual
2 Tears and he will attend a victim impact panel
3 meeting. And he is here.

4 MR. GALINDO: Thank you for letting me stand
5 before you gentlemen. Like I said I took full
6 responsibility. It was just one of those things where
7 I love my job, I was working a lot, put my job before
8 my relationship, things got sour with my girlfriend.

9 And then our relationship -- we went up to
10 Durango, Colorado, with some friends. I hadn't drank
11 in a year and a half. I decided okay, I'm a
12 responsible police officer, I can drink and handle it.
13 Well, I tried to drink like I used to back in my
14 college days.

15 I don't recall anything. You know, I drank
16 so much I don't remember. I just remember getting
17 pulled over. And like I said I apologized to the
18 officer for putting him in that situation. He
19 apologized to me. I told him not to apologize, it's
20 my fault, I put myself in that situation, I put him in
21 that situation.

22 I have a lot of regrets to it. I resigned
23 from my department immediately once I got to town. I
24 talked to the department. I didn't feel that I could
25 be working under those conditions, you know, waiting.

1 I resigned immediately, took responsibility for my
2 actions.

3 Part of the things that Director Ortiz told
4 us at the academy I remember. When I spoke to him, I
5 told him, I remembered what he told us, to put God,
6 family, and the job first. I mean I guess I love my
7 job more than my girlfriend and I didn't realize it
8 affected me that much, that after not drinking for a
9 year and a half, I went and drank, you know.

10 It's my mistake. Like I told Mr. Ortiz, I'm
11 willing to take any punishment that comes my way for
12 it. I've got to live up to what I did.

13 As part of the conditions, I know they're not
14 set in stone that Director Ortiz gave me. I did
15 attend the Memorial of Perpetual Tears, eight hours of
16 community service there, which I have a letter here
17 also. I also attended the Mothers Against Drunk
18 Driving Victim Impact Panel, which I also have a
19 letter here.

20 I was going to attend one of the classes, but
21 I believe EWOC and firearms were going on. That's why
22 I have not talked to one of the academy classes, which
23 he suggest that I do two classes where I let them know
24 my story, you know. And hopefully they can learn from
25 my mistakes like I'm learning from my mistakes now.

1 So I just thought I would come and let you guys know
2 the situation on that.

3 MR. PEREZ: You are not currently employed?

4 MR. GALINDO: I'm currently not employed,
5 sir, no. I resigned that Tuesday after the event
6 happened on that.

7 MR. COON: I have a question. Why did you
8 refuse to perform the field sobriety tests?

9 MR. GALINDO: Like I said I was in a
10 blackout. I don't remember getting into the vehicle.
11 I knew at that point I couldn't -- I knew I was
12 intoxicated. I knew I couldn't pass them. And I
13 figured I would just take the breath test on that.

14 MR. PEREZ: Any other questions? Any other
15 comments?

16 MR. ORTIZ: Mr. Chairman, board members, can
17 I just have -- I don't know if all of you are familiar
18 with the DWI Victims Memorial out there near Moriarty.
19 I attended out there. And I thought it would be
20 something good for the community service, if these
21 officers get involved in DWI, to go out there and
22 perform the community service.

23 And if you would, Mr. Galindo, if you could
24 just kind of inform the board a little bit more about
25 what you did and what is out there.

1 MR. GALINDO: Basically I went on -- I
2 believe it was two weeks ago, I went on a Saturday.
3 They had a memorial going on. What it is is it's a
4 memorial for all the victims in the State of New
5 Mexico that have died because of a DUI.

6 The woman that started it, I talked to her,
7 Ms. Sonya Brittain I believe was her name. She
8 started it. Her son got killed in a motorcycle
9 accident. And so as a way to keep her son's memory
10 alive, she started it.

11 If you go over there, there's a little
12 plaque -- it's not a plaque. It's a little metal
13 piece that represents each life that has been lost due
14 to DWI. I showed up that morning, I met up with her,
15 she gave me a little tour of it.

16 And then for eight hours that day she had me
17 pulling weeds, clearing stuff out there for her. I
18 also attended a candlelight vigil that they had there
19 for the victims also. I mean it opened up my eyes a
20 lot just seeing how it affects a lot of people.

21 There was a lot of families there that have
22 lost someone due to it. I mean it wasn't just because
23 they got hit by someone that was drunk, it was
24 actually like -- I think there was a family there who
25 lost their teenage son because he was drinking and

1 driving and speeding.

2 It was a really good eye-opener. The lady
3 was really nice, all the people there were heartfelt,
4 you know, they've been affected by DUIs. And I let
5 them know my story also. And they gave me full
6 support and everything, they hope everything goes well
7 for me.

8 Like I said I would suggest anything with
9 misconduct, like Mr. Ortiz said, I was the first one
10 to go there. I would advise people to go there every
11 time, it's a good eye-opening experience.

12 MR. PEREZ: Thank you, sir.

13 MR. GALINDO: Thank you.

14 MR. PEREZ: Next item.

15 ITEM NO. 15: CHRIS KEMP

16 MR. JACKSON: The next item is Chris Kemp.
17 Mr. Kemp was involved in a domestic incident. The
18 police responded to a 911 call at his residence. He
19 was very agitated and very intoxicated. And he was
20 throwing various items around.

21 He pushed one of the responding officers and
22 he threw a planter at another officer, striking him in
23 the foot. The officers arrested him. And they placed
24 him in detox, where his erratic behavior continued.

25 He attempted to choke himself with his shirt.

1 And he threatened to ram his head through the window
2 of his cell. And he was stunned and restrained for
3 part of his detention. He resigned in lieu of
4 termination from the Lea County Sheriff's office.

5 There was an informal hearing held between
6 the director and the respondent via telephone as I
7 believe Mr. Kemp no longer lives in New Mexico, after
8 which the director and Mr. Kemp agreed to a one-year
9 suspension with two years probation, ethics training,
10 alcohol screening and assessment, anger management
11 counseling, again address the cadet class, and then
12 eight hours of community service.

13 MR. PEREZ: Did you say he no longer lives in
14 New Mexico?

15 MR. JACKSON: Yeah, I believe he lives in
16 Texas now.

17 MR. PEREZ: Is Mr. Kemp here? Okay.

18 MR. COON: I've got a question. Do you know
19 why he wasn't -- what was he charged with? Just drunk
20 and disorderly. There was an assault here on a police
21 officer.

22 MR. ORTIZ: They didn't charge him with that.
23 It was disorderly conduct.

24 MR. HOLMES: Actually was for some reason
25 they only booked him for detox. They didn't charge

1 him.

2 MR. ORTIZ: Oh, that's right.

3 MR. PEREZ: Any other questions? Next item.

4 ITEM NO. 16: EUGENE RODELLA

5 MR. JACKSON: Number 16 is Eugene Rodella.

6 Mr. Rodella while on probation for a previous
7 misconduct before this board got into an altercation
8 at a tattoo parlor/hookah lounge. We believe that
9 Mr. Rodella and his brother went to the business
10 because a relative of theirs had gotten into a fight
11 there with the employees or others in the business the
12 previous night.

13 This was originally set for formal hearing.
14 And the formal hearing began. And during the course
15 of the formal hearing, during a recess, we came to an
16 agreement on a four-year suspension, a five-year
17 probationary period, ethics training, anger management
18 counseling or psychological or psychiatric treatment
19 for post-traumatic stress disorder.

20 I don't know whether Mr. Rodella is here
21 today. I don't think I see him.

22 MR. PEREZ: Is Mr. Rodella here?

23 MR. JACKSON: Are there any questions?

24 MR. PEREZ: Next item.

25 ITEM NO. 17: JESUS ROYBAL

1 MR. JACKSON: The next item is Jesus Roybal.
2 Mr. Roybal was involved in a verbal altercation with a
3 state police officer outside of a bar in Santa Rosa.
4 The respondent, Mr. Roybal, was intoxicated and let
5 the incident get out of hand.

6 He was charged with assault on a peace
7 officer, disorderly conduct, and resisting, evading,
8 or obstructing an officer. He pled nolo to just the
9 disorderly conduct and received a deferred sentence
10 and was ordered to write a letter of apology.

11 We had an informal hearing at the academy
12 with Mr. Roybal and the director. And at that hearing
13 Mr. Roybal took responsibility for his actions.
14 Consequently the director agreed to a 30-day
15 suspension with a one-year probationary period, ethics
16 training, anger management, and alcohol screening and
17 assessment. And Mr. Roybal is here today.

18 MR. ROYBAL: Good morning, members. I thank
19 you for allowing me to speak in front of you. First
20 off I would like to extend my apologies to you as
21 officers, as I was an officer, working as an officer.

22 I apologize for my actions. They were
23 unruly, unbecoming, unprofessional. At the time I was
24 not an acting officer, I was a city administrator in
25 Santa Rosa. But on this particular incident, it goes

1 deeper.

2 It wasn't the perception that was put in the
3 news for the month that it was in the news and the
4 Albuquerque Journal and everywhere else. It is an
5 issue with this one officer that I have or he has with
6 me, I'm not sure.

7 But when I was chief of police of Santa Rosa,
8 this officer reported me to DPS for me not having my
9 officers certified with firearms. I felt that that
10 was a little, you know, unprofessional on his part,
11 that we work in the same district and that he would do
12 that, try to get me in trouble with Mr. Ortiz.

13 And Mr. Ortiz did sent me a letter outlining
14 the rules and regulations of firearms training within,
15 you know, a year and so on and so forth, which I knew
16 about them.

17 So I called my city administrator and I asked
18 him to have a meeting with this officer, with his
19 sergeant. We set up a meeting in my office. We sat
20 down and we talked about the issue. The officer says,
21 well, this isn't an issue about me not being a state
22 police officer, this is about me being a citizen of
23 Santa Rosa.

24 And I said, well, you know what, officer, I
25 have an open-door policy. If you have an issue as a

1 citizen of this community that I preserve, then you're
2 welcome to come to my office and I will let you --
3 show you any training that I give my officers or
4 up-to-date trainings that my officers have.

5 Well, that actually -- the reason it all
6 began was I had an officer that was on the FTO
7 program. And this officer was riding with another one
8 of my officers who was an FTO officer. And what
9 happened was this state police officer and my officer
10 raced their units.

11 Now, when I found out about my officer doing
12 this with this FTO officer that was with him, I
13 terminated my officer's take-home vehicles --
14 take-home vehicle for two weeks. Well, that's where
15 this came up.

16 The officer that he was racing with is this
17 officer that reported me to DPS. Okay. Well, we
18 shook hands and we said it would never happen again.
19 I said okay, I've got no problem, we took care of
20 that, I figured it was over. Well, that was just the
21 beginning.

22 There was another incident in July of '08,
23 where I -- with the city I ran a concession stand. If
24 you're not familiar with Santa Rosa, there's a lake in
25 the city. And there's a concession stand that we had

1 that we -- actually I started three years ago that I
2 would sell wristbands to generate money for the city.

3 And I also would sell floating devices, stuff
4 for the kids and the tourists that come by there to go
5 out there. Well, in part of this -- I had a contract
6 with the city. And part of this contract I had to
7 have a license, a business license.

8 Well, that was no problem for me because I
9 also owned the local newspaper. And so I already had
10 a business insurance. So I just put my concession
11 stand as a -- added to my -- I had it covered to
12 anybody.

13 And what it is is anything with five feet or
14 ten feet I think, five to ten feet radius of that
15 concession stand is no longer the City of Santa Rosa's
16 obligation, it's mine. And if someone were to get
17 hurt, get tripped, fall, or something happened, my
18 business insurance would cover those people.

19 Well, it was the Fourth of July weekend.
20 Everyone had left. My family was there. I was there
21 with some friends. We were drinking some beer. And
22 the mayor -- there is a rule that you see when you go
23 on the lake that you cannot have liquor.

24 Well, the mayor, then Jose Campos, did allow
25 liquor as long as it was in a cup. If you had it in a

1 bottle or a can, the law enforcement in that area
2 would have to cite individuals.

3 Well, this same officer came with two rookie
4 officers who are no longer with state police,
5 Richardson and Sooley. And he came to my concession
6 stand. And he says I should give you a ticket for
7 open container.

8 I go Juan -- the officer's name is John. I
9 go hold on, John, this is private property. I go
10 Constitution-wise you can't come to my private
11 property and -- you just can't. I'm an adult, I'm 21,
12 no one here is underage. We had been drinking and we
13 will find a ride home.

14 He goes no, you're going to get a ticket. I
15 go, John. I lost my cool then. The same incident
16 that happened with this incident was almost
17 duplicated. I said, you know, you need to call your
18 sergeant, you know, this is B.S. and what have you.

19 So he called his sergeant. And he goes we're
20 going to walk -- well, I had to walk over to where the
21 sergeant was. The sergeant had parked about 100 yards
22 away. We walked over. And I said, John, you know,
23 give me a damned ticket. I guarantee you it will be
24 dismissed tomorrow, because you know what, you're
25 wrong. This is private property and you have no right

1 to enforce on private property.

2 We get to the sergeant. I tell him the
3 situation. The sergeant says you know what, I'm
4 sorry. Go on and go back. I went back. Again the
5 sergeant knew about this incident. I figured it's got
6 to end here.

7 Well, a few weeks later, maybe a few months,
8 my son gets pulled over. He's not the driver, he's
9 the passenger. He's a passenger of a vehicle. He's
10 calling me on the phone. He goes, dad, it's John
11 again, he's pulling us over. I go okay. Well, you
12 know, is your driver -- what's wrong with your driver?
13 Well, the driver had been drinking.

14 I go are you drunk? He said no, I haven't
15 drank, I'm the passenger. I go okay. Well, the next
16 thing I hear, my son calls me back and says John
17 arrested me. I go what. Yeah, John arrested me.

18 So I drove to the state police office. John
19 had my son in the back of the car. And I sat in the
20 car, John allowed me to sit in the front of the car.
21 And I go what's going on. And John goes, well, I told
22 your son that he needed to put his phone away at a
23 traffic stop and so I arrested him for obstruction.

24 I go, John, in 1996 the Supreme Court ruled
25 that you cannot talk to a passenger unless you've got

1 probable cause. You cannot. The driver is your
2 priority. The driver is -- unless you've got probable
3 cause on a passenger. What's your problem, you know.

4 We stayed talking. And he says, okay, take
5 him home. Just tell him the next time I give him a
6 order, that he needs to stop. I said fine. I talked
7 to my son in the back. He says fine. We go home.

8 Two weeks later there's a summons in the
9 mail. He cites him into court. Well, ultimately it
10 got dismissed. So there was a history with this
11 officer.

12 On this particular night, I was at a
13 nightclub. I was there. The officer walks in. Okay.
14 He walks in, checks one ID, walks out. Nothing,
15 nothing. Okay. Ten minutes pass by, you know. You
16 can't smoke in the bar. So my friends got together
17 outside and they were smoking.

18 So I went out there to see what they were
19 doing. And the officer was still out in the parking
20 lot. And I went up to the officer. And I asked the
21 officer, I go what are you doing. He's like I'm doing
22 a bar check. I go yeah, but you only checked one guy.
23 I mean are you going to check some other people. I
24 mean come on. He goes I can do whatever I want.

25 Okay. I lost my cool. I did. I told him my

1 First Amendment right. I flipped him off, I put my
2 middle finger right up in his face, about two inches,
3 and I said F you, who the F do you think you are. I
4 know.

5 And again with my history I assumed perhaps
6 that he was out to get me. He makes the comment while
7 we're arguing that if I drive, he's going to give me a
8 DWI. I go you must think I'm really stupid. You
9 think I'd get a DWI. I have a designated driver. He
10 goes who's the driver? He's right over there.

11 He goes come over so I can give you a field
12 sobriety. I go hold on here. You didn't stop him for
13 traffic, you can't -- I said if you want, go ahead and
14 give him a field sobriety. If he allows you, fine.
15 If no. The guy came out and he gave him a field
16 sobriety. He hadn't been drinking.

17 And, you know, the altercation got real loud.
18 I used -- as you probably saw in the news I used
19 vulgarities. Again very unprofessional. I should not
20 have, I should not have done what I did. But it's
21 just the frustration that built up. I'm not a
22 drinker.

23 You know, one of the recommendations that the
24 director had asked is that I go get counseling. Well,
25 I have already went and taken that assessment. I've

1 got that today as well as anger management. I've
2 taken that assessment.

3 And I concur with what the director has put
4 forth as regards to my punishment. And I stand for
5 ethically of standing up for what I've done wrong
6 because it was wrong, it was unprofessional. And I
7 just ask that the court consider also concurring with
8 the director of my punishment and I will take that
9 punishment.

10 MR. COON: I have a question. You say you're
11 not a drinker. Every one of these incidents involved
12 alcohol or a place where they served alcohol. Every
13 incident you just named there was alcohol involved.
14 But you're not a drinker?

15 MR. ROYBAL: I'm an occasional drinker. I'm
16 not a social drinker, I don't drink because I'm
17 stressed at work, I don't drink on weekends. I drink
18 at birthdays, holidays. That's what I mean by
19 occasional.

20 MR. COON: Well, it just seems like every one
21 of these incidents that you just talked about, there
22 was alcohol involved.

23 MR. ROYBAL: Well, one was Fourth of July and
24 this one was a birthday.

25 MR. COON: And I don't quite understand where

1 you say a private property park. You're in a state
2 park or a city park and you're claiming that's private
3 property?

4 MR. ROYBAL: Well, the place where I was at,
5 it's considered under the contract; because I have to
6 get it insured under my business insurance, it's no
7 longer an obligation of the city.

8 MR. COON: Well, I still think --

9 MR. ROYBAL: I mean ultimately the city --

10 MR. COON: My question is just because you
11 rented a little part of that or have control of that,
12 that's not private, that's still in public, if you're
13 drinking in that five foot area you're talking about
14 or whatever.

15 I still would -- I would think that would
16 still be -- and I'm not arguing your case. But I
17 think that still -- if you are at Blue Hole or
18 whatever you were at. Is that where it's at?

19 MR. ROYBAL: You're absolutely correct. And
20 I can give you an example. We lease out one of our
21 lakes to a country club. And every time there's an
22 incident there, the country club insurance pays for
23 the incident. But they ultimately come to the city as
24 a secondary or for deeper pockets. And you're right,
25 you're absolutely correct.

1 MR. COON: Also I see here that you worked at
2 Edgewood?

3 MR. ROYBAL: Yes, sir.

4 MR. COON: And you resigned?

5 MR. ROYBAL: Yes.

6 MR. COON: Where are you working at now? Are
7 you in the police business anywhere?

8 MR. ROYBAL: No.

9 MR. COON: You weren't in Edgewood very long.

10 MR. ROYBAL: No. I left Santa Rosa to go
11 get -- to Edgewood. And I went to Edgewood just for
12 the purpose of it being a new department. I wanted to
13 be part of a new department and help it get started.
14 I had heard about this being a new department in the
15 state.

16 And ultimately the mayor of Santa Rosa asked
17 me to be his city manager when his manager went to Las
18 Vegas. I had been the chief for seven years in Santa
19 Rosa.

20 MR. COON: Thank you.

21 MR. PEREZ: This officer that you were
22 involved with, is he a state police officer?

23 MR. ROYBAL: Yes.

24 MR. PEREZ: Chief, do you know about this
25 incident?

1 MR. SEGOTTA: I know some of the history
2 behind the officer he's referring to, yes.

3 MR. PEREZ: Has there been any
4 disciplinary --

5 MR. ROYBAL: I never filed a complaint. I
6 never filed a complaint.

7 MR. PEREZ: You did not?

8 MR. ROYBAL: Never. I just thought that the
9 fact that the two incidents that I had where a
10 sergeant was present, I thought it would have been
11 resolved. But I never filed a complaint against this
12 officer nor will I.

13 MR. PEREZ: Why not?

14 MR. ROYBAL: We learned -- I mean, you know,
15 my son's intent on that, that's a Constitutional
16 issue. My son is of, he's 22 years old. I can't
17 be -- you know. I explained to him what his options
18 were and he chose not to.

19 MR. PEREZ: He was 22 at the time that he was
20 arrested?

21 MR. ROYBAL: Yeah. But again he was a
22 passenger, he wasn't the driver. And actually the
23 driver had been drinking.

24 MR. PEREZ: What was the charge against your
25 son?

1 MR. ROYBAL: Obstructing.

2 MR. PEREZ: For not putting down his phone.

3 MR. ROYBAL: His phone.

4 MR. PEREZ: Any further questions? Thank
5 you, sir.

6 MR. ROYBAL: Thank you, board.

7 MR. PEREZ: Next item.

8 ITEM NO. 18: FLAVIO SALAZAR

9 MR. JACKSON: The next item is Flavio
10 Salazar. This case is from April 2007. Mr. Salazar
11 responded to a domestic call and was told that the
12 person involved had left the area and was observed
13 walking away from that residence towards another
14 residence.

15 And upon arriving at the second residence,
16 the respondent encountered a gate. And from outside
17 the gate he attempted to ascertain whether the suspect
18 was there. The homeowner told the respondent that the
19 person he was looking for was not there, to get away,
20 and if he didn't leave, that the homeowner was going
21 to get a gun and shoot him.

22 The homeowner went back inside, came out with
23 what the respondent perceived to be a gun but was, in
24 fact, a phone. The respondent called for backup. And
25 a supervisor and another officer arrived to assist.

1 And the homeowner also called for police assistance.
2 And dispatch said the police were already there and
3 advised him to leave the house and open the gate.

4 When he came out of the gate, he was taken
5 down, handcuffed, and arrested for aggravated assault
6 on a peace officer. And this has been the subject of
7 some litigation on the homeowner's part because of
8 injuries that he allegedly sustained during this
9 incident.

10 The officer searched the residence and the
11 immediate property in an attempt to locate a gun, but
12 there was none found. The administrative
13 investigation was conducted, found that the arrest and
14 the charges were not proper; and, therefore, that any
15 force that was used to arrest the homeowner was,
16 therefore, excessive.

17 The investigation also found that the
18 respondent never identified himself which led to this
19 entire escalation of the incident. And there was no
20 way for the homeowner to know that the person talking
21 to him was, in fact, a police officer. The gate was a
22 wooden gate and came up to about here. For the court
23 reporter, that's about shoulder height.

24 And during the testimony before the grand
25 jury, the respondent said that he had identified

1 himself as a police officer. And this was later shown
2 not to be true. The respondent was terminated. And I
3 believe the termination was upheld by an arbitrator.
4 Mr. Salazar and his counsel are here. I'm sure that
5 if I'm incorrect on that, they will correct me.

6 There was an informal hearing held after
7 which the director recommended a six-month suspension
8 and other standard sanctions, no alcohol screening.
9 This was not an alcohol -- yeah, it's just six months,
10 one-year probation, ethics training and eight hours.

11 Counsel for the respondent advised his client
12 to accept a 90-day suspension. The director did not
13 agree to that and recommended six months. And
14 respondent, Mr. Salazar, would like to address the
15 entire board and resolve this matter with the
16 understanding that he will accept the board's decision
17 on this matter.

18 MR. SHANDLER: Let me ask a question,
19 Mr. Ortiz. What was the misconduct? There were in
20 the narrative several things. But what specifically
21 did you focus on?

22 MR. ORTIZ: His untruthfulness to the grand
23 jury.

24 MR. SHANDLER: It had nothing to do with the
25 force? Was he the arresting officer, was he involved

1 with the alleged forceful event?

2 MR. ORTIZ: Yes, he was.

3 MR. SHANDLER: But you're focused on the
4 so-called grand jury aspect?

5 MR. ORTIZ: Yes, because he felt at the time
6 that the individual had a weapon and that he was
7 trying to apprehend a suspect in a battery incident.

8 MR. SHANDLER: So you thought six months for
9 lying to the grand jury is -- why did you feel that
10 was an appropriate penalty?

11 MR. ORTIZ: I wanted to get the matter
12 resolved. He was terminated from his job. And he
13 felt -- in his explanation to me he felt that he had
14 identified himself to the individual. And apparently
15 he didn't. And I guess he was persistent with the
16 grand jury in thinking that he had when evidence was
17 later provided that he had not identified himself as a
18 police officer.

19 MR. SHANDLER: Okay. My job is just to build
20 a record and ask focusing questions, because I imagine
21 Mr. Salazar is going to make a presentation as well.

22 MR. PEREZ: Is Mr. Salazar here?

23 MR. SALAZAR: Yes, sir.

24 MR. PEREZ: Go ahead.

25 MR. SALAZAR: Good morning, Mr. Chairman,

1 members of the board. On August 17th or rather
2 August 16th, I went and handled a domestic about two
3 blocks away from this man's residence. The suspect of
4 that domestic was observed walking in the direction of
5 this man's house.

6 And they had just had a party at his house.
7 I thought I had enough there to go to Mr. Rael's house
8 and see if I could make contact with the suspect.
9 Right when I got to Mr. Rael's house --

10 MR. PEREZ: What is his name?

11 MR. SALAZAR: Mr. Rael. His name is
12 Mr. Rael. Or his first name?

13 MR. PEREZ: No. Just his last name.

14 MR. SALAZAR: Rael.

15 MR. PEREZ: R-a-e-l?

16 MR. SALAZAR: Yes, sir. When I got to
17 Mr. Rael's house, there's a doorbell. I rang the
18 doorbell. Dogs came out, a lot of barking. Mr. Rael
19 came out. And the situation kind of immediately
20 escalated.

21 I was trying to tell him that I was there
22 handling a domestic, that I was looking for
23 Mr. Espinosa, that I was -- and that they had just had
24 a party at this house. And he told me to get off his
25 property or he was going to go get a gun and shoot my

1 ass.

2 I was trying to tell him that I wasn't
3 trespassing, that I was outside of the gate. And I
4 thought -- I thought I had identified myself to him at
5 the initial onset. I thought my uniform was visible
6 because the gate -- I thought the gate came up to
7 about here and my badge would have been up here.

8 MR. PEREZ: What time was this?

9 MR. SALAZAR: It was about 12:30 I think in
10 the morning.

11 MR. PEREZ: Go ahead.

12 MR. SALAZAR: And there was a motion detector
13 light outside. He told me to get off his property or
14 he was going to get a gun and shoot my ass. And I
15 told him that he shouldn't do that because it was
16 going to be problematic for him or something to that
17 effect. He went into the garage.

18 I stayed kind of looking in the window to see
19 if anybody else was getting up or getting out. And
20 when he came back out, he had what I thought was a gun
21 and what I still think was a gun. He held it up and
22 pointed it at me. And I was behind a wooden gate. I
23 told him to drop the gun, told him to drop the gun,
24 told him to drop the damned gun. He told me he would
25 drop it when I left.

1 He turned around and he walked inside his
2 house. And I ducked behind the garage. I thought I
3 had identified myself as a police officer. I
4 proceeded as such, requested a supervisor, requested
5 additional units. They showed up about ten minutes
6 later.

7 During that time he called dispatch, said
8 there was a man outside of his house with a BB gun.
9 And dispatch told me that he was asking for police.
10 And I told him that I -- I told him just to stand
11 outside because the police were already there. And I
12 placed him under arrest for aggravated assault on a
13 police officer and for negligent use of a deadly
14 weapon.

15 I took him to the jail, went to the office,
16 did the search warrant. I left an officer there
17 actually after we conducted a protective sweep of the
18 house. I went back, conducted a search, didn't find a
19 gun. Wrote out the report, said we didn't find the
20 gun, let the charges go. And I put that case away.

21 Three and a half months later, when we went
22 to grand jury, I still had the recollection that I had
23 identified -- or that I had told him I was a police
24 officer, that I was handling a domestic, et cetera,
25 et cetera. So I told them that. I told them that I

1 had identified myself as a police officer because that
2 was my recollection. Later it turned out I hadn't.

3 MR. PEREZ: How did they prove you did not?

4 MR. SALAZAR: It was all on tape.

5 MR. PEREZ: You had your own recorder on?

6 MR. SALAZAR: Yes, sir, I had the V6, the
7 video camera going.

8 MR. PEREZ: In the car?

9 MR. SALAZAR: Yes, sir. The feds asked for
10 discovery, I provided discovery. Anybody who wanted
11 the report, I gave him the report, I gave them copies
12 of the search warrant and gave them copies of the
13 tape, I made two or three copies of the tape. I at no
14 time thought I had perjured myself to the grand jury.

15 MR. PEREZ: Hadn't you reviewed your own
16 tape?

17 MR. SALAZAR: I reviewed it when I was doing
18 the search warrant, sir. And I realized that I hadn't
19 told him that I wasn't trespassing, that everything I
20 thought I was trying to say, none of it came out.

21 MR. PEREZ: But then after that you went
22 before the grand jury?

23 MR. SALAZAR: Yes, sir. And they played the
24 tape during the grand jury.

25 MR. PEREZ: And you told them you still

1 thought that you had?

2 MR. SALAZAR: Yes, sir, I did.

3 MR. PEREZ: Even though it didn't pick it up?

4 MR. SALAZAR: No, sir.

5 MR. PEREZ: How far away was the unit?

6 MR. SALAZAR: The unit picked up the audio,
7 sir. The unit was parked right in front of the house
8 all along the curb.

9 MR. PEREZ: It picked it up clearly?

10 MR. SALAZAR: Yes, sir, it did.

11 MR. PEREZ: Go ahead.

12 MR. SALAZAR: That's it, sir.

13 MR. PEREZ: Any questions?

14 MR. SEGOTTA: Mr. Chairman, I have a
15 question. As I understand at one point Mr. Rael or
16 somebody called dispatch or somebody called him to
17 tell him that the police were there, correct? Can you
18 go over that scenario or that part of this incident
19 there.

20 MR. SALAZAR: Yes, sir. While I was outside,
21 I requested that my sergeant go to the scene and that
22 another officer show up. During that process dispatch
23 told me that Mr. Rael was calling the police.

24 Actually when he was going into his house, he
25 said I'm going to call the sheriffs. I was like right

1 on, because I'm a city cop. I told him I don't care
2 who you call or go ahead and call them I think I told
3 him. He went inside. Like I said I ducked behind the
4 garage.

5 Dispatch told me that he was asking for a
6 cop. And I told him that I -- because there was
7 somebody outside of his gate. And I told them I
8 already identified myself to that man as a cop, tell
9 him the cops are here. So then afterwards he came
10 out. Did I answer your question or did I not?

11 MR. SEGOTTA: Yeah. I'm just trying to
12 figure out how this guy didn't know that you were a
13 police officer. When you came out and you apprehended
14 him, you were in uniform, correct?

15 MR. SALAZAR: Yes, sir, I was.

16 MR. SEGOTTA: Okay. And somebody on the
17 telephone told him that the police were already there?

18 MR. SALAZAR: Yes, sir. He had the gates --

19 MR. SEGOTTA: No. I understand that. The
20 initial contact, he's saying that he couldn't
21 recognize you as a police officer because the gate
22 would have hidden your uniform, your badge of office,
23 and stuff like that.

24 MR. SALAZAR: Yes, sir.

25 MR. SEGOTTA: But as this thing continues, he

1 gets a phone call or he makes a phone call and they're
2 telling him the police are already out there; when he
3 comes out, you place him under arrest. At that point
4 anybody sitting in this room or probably on this
5 planet would have recognized you as a police officer,
6 right, because you're wearing a uniform, you've got a
7 badge, you've got a gun, and all that, right?

8 MR. SALAZAR: Yes, sir.

9 MR. SEGOTTA: Okay. I just wanted to figure
10 this out, that this guy is using this that I didn't
11 know he was a police officer defense. I just wanted
12 to figure that out in my own mind, because at some
13 point he knew you were a police officer.

14 MR. SALAZAR: Yes, sir.

15 MR. SEGOTTA: Okay. Because not only you
16 were there in uniform, but the dispatcher told him
17 that the police were there and that he should just
18 come out; and he indicated he was even going to call
19 some more police officers.

20 MR. SALAZAR: When -- after our exchange he
21 went inside the house. And that was the last thing he
22 told me, he says I'm going to go call the sheriff's
23 department. And I perceived that as his acknowledging
24 that I was a city police officer, because he lives
25 within the city limits of Santa Fe.

1 So I didn't understand the need to call a
2 sheriff other than that he wanted an outside agency to
3 handle it. So I had the perception that he knew I was
4 a police officer.

5 MR. SEGOTTA: Okay.

6 MR. COON: Mr. Salazar, I've got a question.
7 You said you listened to the tape as you were doing
8 your report.

9 MR. SALAZAR: As I was doing the search
10 warrant, yes, sir.

11 MR. COON: Okay. Doing the search warrant.
12 Did you hear yourself say on tape or identify yourself
13 as a police officer?

14 MR. SALAZAR: No, sir. I wasn't really
15 paying attention for that. I wasn't trying to listen
16 for that information, I was more listening to what he
17 told me about getting his gun and shooting my ass.

18 MR. COON: Is that the only time you listened
19 to the tape?

20 MR. SALAZAR: Prior to grand jury, yes, sir.
21 And it was the night of the arrest.

22 MR. COON: My question is why wouldn't you go
23 back before you go into the grand jury and listen to
24 that tape instead of perjuring yourself by saying I
25 did identify myself when, in fact, obviously you

1 didn't if it's not on the tape, why you wouldn't go
2 back and listen to your tape just for that reason?

3 MR. SALAZAR: Well, sir, I felt that I had a
4 really clear recollection of what happened. And I was
5 confident in -- I was confident in my recollection.

6 MR. COON: How long between the arrest and
7 the grand jury?

8 MR. SALAZAR: About three and a half months.

9 MR. COON: That's still a long time to go
10 without -- I think anybody sitting out here would have
11 at least listened to your tape just to get your facts
12 straight.

13 MR. SALAZAR: Yes, sir. The other part of
14 that is I always identify myself as a police officer.
15 It's just my practice. And during that time, in that
16 three and a half months, I handled -- I drew 140 case
17 numbers. I had 108 arrests, I wrote like 160
18 citations.

19 I am fairly active or I was fairly active at
20 the time, sir. And everything was done pretty much
21 the same. I mean I get there, I handle the call, I
22 tell them who I am, I tell them what I'm doing, and
23 then we start.

24 And then after I'm done with the case, I get
25 the case and I kind of put it away and I move on to

1 the next day. And that's exactly what I did here. I
2 did the case, I felt that I had prepped it for
3 litigation or for it to be adjudicated. And then I
4 came back to work the next day and I started working.
5 It's what I've always done.

6 MR. COON: Does this gentleman still have an
7 active tort claim?

8 MR. SALAZAR: No, sir, the tort claim
9 settled.

10 MR. COON: But I mean he collected some cash
11 off you, right?

12 MR. SALAZAR: Yes, sir, he did.

13 MR. SEGOTTA: Mr. Chairman, I have one more
14 follow-up question. Mr. Salazar, is it on tape that
15 you told Mr. Rael that you were there investigating a
16 domestic?

17 MR. SALAZAR: No, sir. I told him I was
18 looking for Mr. Espinosa. And when I was -- like I
19 said, when I was trying to tell him I was handling a
20 domestic, the word domestic never came out; because
21 while I was doing that, he told me get the hell off my
22 property.

23 And I said, sir, I'm looking for Joseph
24 Espinosa. Who are you looking for? I said I'm
25 looking for Joseph Espinosa. And he said not here.

1 And I said I know -- I know it didn't happen here. I
2 was -- like every time I tried telling him -- the
3 whole exchange lasted about ten or 15 seconds. And
4 then after that he disappeared, came back, and pointed
5 a gun at me or pointed a cell phone at me.

6 MR. SEGOTTA: Okay.

7 MR. SALAZAR: And then after that everything
8 took a turn, then it was just drop the damned gun,
9 drop the damned gun, drop the damned gun. And I
10 didn't think the gate came this high. If I knew it
11 had come over my shoulders, I would have drawn my
12 weapon beforehand.

13 But I didn't. I was afraid to move because I
14 was afraid that it would cause him to discharge his
15 weapon. And he already had the drop on me. So there
16 wasn't -- I was already behind the curve.

17 MR. SEGOTTA: I have another question.
18 Sorry. Did Mr. Rael say he wouldn't drop it until you
19 left?

20 MR. SALAZAR: I told him drop the damned gun,
21 drop the damned gun, and he said when you leave.

22 MR. SEGOTTA: When you leave. So he didn't
23 dispute he had a gun?

24 MR. SALAZAR: No, sir.

25 MR. SEGOTTA: Later he did.

1 MR. SALAZAR: Later he did.

2 MR. SEGOTTA: Okay. I get that. Thanks.

3 MR. PEREZ: And he pointed it at you?

4 MR. SALAZAR: Yes, sir. During the
5 investigation he showed how he pointed it at me. And
6 he had his right arm outstretched in front of him
7 pointed towards the gate.

8 MR. PEREZ: How old is this man?

9 MR. SALAZAR: He's 63.

10 MR. PEREZ: He's not hearing impaired?

11 MR. SALAZAR: No, sir.

12 MR. PEREZ: Any further questions?

13 MR. REEVES: Yes. Were you in a marked squad
14 car?

15 MR. SALAZAR: Yes, sir, I was.

16 MR. REEVES: Was that gate high enough to
17 hide the marked squad car from this gentleman?

18 MR. SALAZAR: Sir, there's -- he has a stucco
19 wall kind of around the courtyard area. And I parked
20 in the street. So I guess it was blocked by that.
21 And then the gate is five feet, five feet high is what
22 they told me.

23 MR. REEVES: So you don't think he could see
24 your car?

25 MR. SALAZAR: He's saying he couldn't see me

1 clearly. So I don't know.

2 MR. PEREZ: And this was midnight you said?

3 MR. SALAZAR: Yes, sir, it was midnight.

4 MR. REEVES: I'm sorry. You said earlier
5 there was a motion detector light, like a porch light
6 that comes on automatically.

7 MR. SALAZAR: Yes, sir. When I approached
8 the residence, the light came on.

9 MR. REEVES: So there wasn't enough light for
10 you to tell whether or not he had a gun?

11 MR. SALAZAR: Sir, I clearly saw a gun. He
12 said he had a cell phone. He said he pointed his cell
13 phone at me. But I saw a gun.

14 MR. REEVES: You're saying he did have a gun?

15 MR. SALAZAR: I'm saying he had a gun. I've
16 been saying he had a gun the entire time. He said he
17 had a cell phone.

18 MR. REEVES: Okay. Thank you.

19 MR. COON: If he was going to call the
20 police, you would think he would have called them
21 right there on his cell phone instead of going inside.

22 MR. SALAZAR: Yes, sir.

23 MR. PEREZ: Any further questions? Thank
24 you, Mr. Salazar.

25 MR. SALAZAR: Thank you, sir.

1 MR. PEREZ: Next item.

2 MR. FOSTER: Before we continue, I'm David
3 Foster, I represent Mr. Salazar. There were a couple
4 questions --

5 MR. PEREZ: Please identify yourself, sir.

6 MR. FOSTER: David Foster. I'm Mr. Salazar's
7 counsel, I'm union counsel for the Santa Fe PD. There
8 was a couple questions about the excessive force
9 issue. During the course of the IA, that was found to
10 be unfounded. The excessive force was because they
11 thought -- he was arrested for aggravated assault on a
12 peace officer.

13 And they didn't think he identified himself,
14 that the arrest was to be unfounded because he
15 couldn't know it was a peace officer. And, therefore,
16 then everything that followed was, therefore,
17 technically excessive even though no excessive force
18 was used.

19 MR. PEREZ: Physical force.

20 MR. FOSTER: Right. And Mr. Rael was fairly
21 intoxicated that evening as well.

22 MR. PEREZ: We didn't hear that.

23 MR. SALAZAR: Oh, I'm sorry, sir. He was
24 intoxicated. And after he was arrested, the detention
25 center gave him the option of being held in the

1 medical ward which is more secure. And he waived that
2 and he opted to be in general population. So he
3 didn't complain of any injury, he didn't complain.

4 MR. FOSTER: And even when we came out of the
5 gate, he was still pulling back and resisting with
6 several other officers in uniform as well as Officer
7 Salazar. Thank you.

8 MR. SALAZAR: Thank you, sir.

9 MR. PEREZ: Next item.

10 ITEM NO. 19: RAY WILLIAMS

11 MR. JACKSON: The next item is Raymond
12 Williams. Respondent battered a suspect who was in
13 custody. The victim had been stopped after a car
14 chase. He appeared to be very intoxicated. He was
15 pulled out of his vehicle, put on the ground, and
16 handcuffed with his hands behind his back.

17 Respondent picked him up from the ground and
18 then threw him down face first. This was captured on
19 video. And the victim appeared to have lost
20 consciousness briefly and he began to vomit profusely.
21 He was taken by ambulance to a medical facility and
22 was then released to the custody of the police.

23 There was an informal hearing held
24 telephonically with Mr. Williams. He admitted his
25 mistake and took responsibility for his actions. And

1 he agreed with the director to 60 days suspension with
2 a one-year probation, ethics training, anger
3 management counseling, and eight hours of community
4 service. I don't think Mr. Williams is here today,
5 but he may be.

6 MR. PEREZ: Is Mr. Williams here?

7 MR. COON: Mr. Chairman, I believe we heard
8 that last time and we didn't have a quorum. And I
9 don't think it's fair again to prolong this any
10 longer. Maybe we can like Zach said --

11 MR. SHANDLER: Right. I'm similarly going to
12 advise Sergeant Jones that he's eligible to vote and
13 vote recused. And I'm advising that it will count
14 towards the quorum.

15 MR. PEREZ: Thank you.

16 MR. SEGOTTA: Mr. Chairman, just one question
17 on this.

18 MR. PEREZ: Yes, sir.

19 MR. SEGOTTA: Would it be appropriate to ask
20 the director about the discipline on this? He wasn't
21 at the March meeting. But I have a question about the
22 recommended discipline. Is that appropriate at this
23 time or do we do that.

24 MR. SHANDLER: I would do that, yes.

25 MR. SEGOTTA: Okay. I go back to the one

1 case, I think it was December '08, we were at the
2 Hilton. And the APD female officer was being
3 disciplined for punching out a guy down at the booking
4 facility. What did we end up giving her?

5 MR. ORTIZ: I think my recommendation was a
6 45-day suspension and I think the board reduced it to
7 a cautionary letter to my recollection.

8 MR. COON: I believe so.

9 MR. SEGOTTA: What's the difference here?
10 Battery is battery. And that's just -- nobody has to
11 respond to it. Battery is battery. I don't get it.

12 MR. SHANDLER: I think it's a valid question.
13 There's always debate within -- among the respondents'
14 counsel about what's the appropriate penalty for an
15 allegation of excessive force.

16 MR. ORTIZ: I believe my initial was a 60-day
17 on her. But being that she was going to address the
18 cadets, we felt she was a good candidate, I dropped
19 15 days and made the recommendation to the board with
20 a 45-day suspension and that she address the cadet
21 class.

22 I think that's when we first started up with
23 having them address the cadet class. So she had asked
24 for that. And that was presented to the board as a
25 45-day suspension. And she addressed the class.

1 MR. PEREZ: In the case of that female
2 officer, was the arrested person handcuffed when she
3 struck him?

4 MR. ORTIZ: Yes, correct.

5 MR. HOLMES: That was a female person that --
6 this female that the chief was talking about. And she
7 did it because when she was -- she was being very
8 disorderly at the booking place there.

9 And then she called this lady you're an old
10 wrinkled person, a woman. And that set her off and
11 she struck her. But she admitted in her report that
12 she had done something wrong, immediately reported it
13 to a supervisor.

14 MR. PEREZ: Did the person go down?

15 MR. HOLMES: No. But I think there was some
16 blood trickle.

17 MR. SEGOTTA: Mr. Chairman, just to make sure
18 we get the entire story, as I recall the APD officer
19 said something that if she didn't react in the manner
20 in which she did, she would be useless out on the
21 streets because she would be weak or something. I
22 don't know. I don't want to -- I'll just make my vote
23 when we vote on this.

24 MR. ORTIZ: On this one here, though, there
25 was a chase. And when this officer arrived, another

1 guy was jumping out of the truck trying to get in the
2 house, they were afraid of people coming out of the
3 house. The driver had been placed on the ground by
4 other officers but wasn't secured.

5 Then Mr. Williams arrives. And like I said
6 there's a lot of things going on. And he's trying to
7 get this guy up I believe to get him secured. And the
8 guy is not getting up. And so he kind of grabs him.
9 And when the guy is not compliant, then he just puts
10 him down to the ground.

11 MR. PEREZ: But he was cuffed at the time
12 that he was put down or not?

13 MR. ORTIZ: No. Was he cuffed?

14 MR. JACKSON: Yes, he was.

15 MR. ORTIZ: Okay. That's correct, he was.

16 MR. PEREZ: Okay. Any other comments,
17 questions? Next item.

18 MR. ORTIZ: Mr. Chairman, board members, I
19 notice before -- that's the end of the stipulated
20 orders. We're going to go into others. But I notice
21 that Marisa Barragan arrived. And I don't know if the
22 board would like to hear from her. And also
23 Mr. Roybal asked if he could address the board once
24 again. He said he left out some information.

25 MR. PEREZ: We'll do it in reverse order.

1 Mr. Roybal, go ahead.

2 MR. ROYBAL: Members of the board, one thing
3 I forgot. Once again just to prove the vindictiveness
4 of this officer, when this incident happened on an
5 early morning of Sunday or late Saturday, he took his
6 audio to one of my city councilmen on Monday and gave
7 him a copy of the audio.

8 Now, I didn't get a summons in the court for
9 four weeks after this incident, but yet he was giving
10 his evidence to a councilman, which resulted in them
11 having an emergency meeting on Monday to have me
12 terminated. I just wanted you to know about that.

13 And, of course, Channel 7 was there. And
14 Channel 7 had Ramirez then. He called a lieutenant
15 too who was a PIO of believe Garcia, Lieutenant -- to
16 ask -- he asked the PIO why is it that the council is
17 able to get the evidence when we asked for it and you
18 guys said it was an ongoing investigation.

19 The lieutenant said if it's there, then there
20 should be no charges. Well, that's just some
21 information that I wanted to pass on. Thank you.

22 MR. PEREZ: Thank you. Ms. Barragan, do you
23 wish to address the board?

24 MS. BARRAGAN: Yes, sir.

25 MR. PEREZ: This is No. 12.

1 MS. BARRAGAN: Good morning. This is for
2 you.

3 MR. PEREZ: This is again the lady who was at
4 your birthday party and the person was tasered.

5 MS. BARRAGAN: Yes, sir.

6 MR. PEREZ: Did the taser activate, was there
7 electrocution or electricity passed or not?

8 MS. BARRAGAN: No. It was so fast. It
9 was -- like it's called the spark test. So it was an
10 on/off kind of thing. It was so quick, it was like
11 that. She didn't fall to the ground or tense up or
12 anything like that. It was very quick.

13 MR. PEREZ: Okay. What would you like to
14 say?

15 MS. BARRAGAN: I'm just here to ask if my
16 suspension can be retro'd back to the first meeting
17 that I attended. I'm just ready to put this behind me
18 and move on with my career. I know this is ultimately
19 my fault.

20 But I would just like to ask you to consider
21 that. I have complied and completed all my sanctions
22 asked of me by Director Ortiz. As of this date, I
23 think we're just waiting for -- did you receive the
24 results from the alcohol screening?

25 MR. ORTIZ: I'll have to check your file.

1 I'm not sure.

2 MS. BARRAGAN: Okay. But I have completed
3 everything. But that's all I wanted, I came to ask,
4 is if you would consider retro'ing it back to the last
5 meeting that I was at.

6 MR. PEREZ: In this write-up here, it says
7 that "The respondent prepared a very vague report and
8 later admitted to a supervisor that she had lied."
9 How much later from the time you wrote the report
10 until you told your supervisor?

11 MS. BARRAGAN: It was within 24 hours. I was
12 at -- it was a graveyard shift. At the beginning
13 of -- the shift starts from eight to eight. At the
14 beginning of the shift, I told him -- I had told him
15 before what had happened, that I had discharged my
16 taser.

17 So at the beginning of the shift, we
18 discussed it again. And that's when I told him that
19 it did not strike anybody. So I made the report. I
20 went home that morning at eight.

21 And then about one or two in the afternoon, I
22 called him up on the phone. I knew it was wrong. I
23 felt really bad about it. So I called him up and told
24 him this is what really happened. So it was within
25 24 hours.

1 MR. PEREZ: Okay. Now, on your police
2 report, did you falsify it, did you say anything false
3 in the report?

4 MS. BARRAGAN: No, I did not. I did not say
5 anything that wasn't true. It was just very vague.

6 MR. PEREZ: You didn't say everything,
7 though?

8 MS. BARRAGAN: Correct.

9 MR. PEREZ: Any questions? Thank you,
10 Ms. Barragan.

11 MS. BARRAGAN: Thank you.

12 ITEM NO. 20: MIGUEL TREVIZO

13 MR. PEREZ: Mr. Ortiz, you were saying now we
14 go into agenda item 20?

15 MR. ORTIZ: Agenda item 20, request for
16 reinstatement.

17 MR. PEREZ: This is regarding Miguel Trevizo.

18 MR. TREVIZO: Yes, sir.

19 MR. PEREZ: Go ahead, sir.

20 MR. TREVIZO: Good morning. I'd like to
21 thank you guys for allowing me to be here this
22 morning. I'm here before you for an incident that
23 occurred in 2002. I believe November of 2002. I was
24 employed by the Deming Police Department.

25 MR. PEREZ: Can you speak up.

1 MR. TREVIZO: I'm sorry. I was employed by
2 the Deming Police Department for approximately three
3 months after being certified. I did consume illegal
4 narcotics, cocaine, which then I was tested and I did
5 come back positive. I was then terminated in
6 November, I believe November 12th of 2002.

7 On February of 2003, I was eligible to go --
8 I applied for the Hurley Police Department. And Chief
9 Bobby Reece is here to speak on my behalf, he hired
10 me. During the employment of the Hurley Police
11 Department, I was able to get promoted to sergeant. I
12 also -- when the chief was gone, I did take over his
13 duties.

14 I was then hired by -- I then applied for the
15 Mesilla Marshals I believe in April of 2004. I was
16 hired by them. I stayed employed with them until I
17 got married and moved back to Silver City. During
18 that time I'm clean, you know, I passed numerous drug
19 tests.

20 MR. PEREZ: Have you used it?

21 MR. TREVIZO: No, sir, absolutely not. From
22 that day of that incident, that was the last time. I
23 then -- I married. I have three beautiful kids.

24 Right now I am employed as an electrician
25 there in Silver City, but I'm also taking -- I took a

1 second job at Ace Hardware. Of course, everybody
2 knows the way the economy is going. So as far as
3 electricians, right now there ain't really much
4 demand.

5 I did learn from my wrong decision. It's
6 actually helped me out because it's made me the person
7 that I am now. I am dependable, I am trustworthy, and
8 I would just ask the board for -- to consider so I can
9 go with the career that I had the second chance of
10 going after my incident and was positive -- that it
11 had the positive outcome.

12 MR. COON: Have you applied with any agency
13 right now?

14 MR. TREVIZO: No, sir I haven't.

15 MR. COON: Are you planning on that?

16 MR. TREVIZO: Yes, sir, absolutely. If, of
17 course, you guys do grant me the reinstatement. The
18 agency that I would apply for, it would be the Hurley
19 Police Department.

20 MR. SEGOTTA: Mr. Chairman, this is for
21 Director Ortiz. What's the stipulation on applying
22 for the use of cocaine, is it three years, five years?

23 MR. ORTIZ: I'm not sure.

24 MR. SEGOTTA: Okay. Because we have that to
25 consider, correct?

1 MR. ORTIZ: Yes. Let me look at that.

2 MR. SEGOTTA: I mean you could reinstate.

3 But that might be a disqualifier, I don't know, on the
4 application for employment.

5 MR. ORTIZ: It's three years for
6 misdemeanors.

7 MR. SEGOTTA: Okay. I just want to make sure
8 that we don't do something that would create a
9 problem.

10 MR. ORTIZ: Right.

11 MR. SEGOTTA: That would create another
12 problem.

13 MR. ORTIZ: The board in April of 2005 was
14 signed by Mr. Perez, the board revoked his
15 certification April 2005.

16 MR. TREVIZO: I did also do the -- I guess
17 the informal hearing. I went through the steps. I
18 believe at that time it was Director Tom Lyons. I did
19 go before him. I did not go before him to appeal.

20 I do -- I did wrong. I know I did. I take
21 all responsibility. I went with him to ask him for a
22 suspension instead of a revocation. I believe I even
23 mentioned to him that if I had a five-year, ten-year
24 suspension, that would be fine. I just did not want
25 to be revoked.

1 MR. PEREZ: Any other questions? Thank you,
2 sir.

3 MR. REECE: May I address the board.

4 MR. PEREZ: Yes, sir. Chief, come forward
5 please and identify yourself.

6 MR. REECE: My name is Robert Reece, I'm the
7 chief of the Hurley Police Department. And I'm here
8 on behalf of Mr. Trevizo. He did work for me over a
9 year after the incident that happened in Deming.

10 Through the year that he worked for me, he
11 proved himself very dependable. We took him to a UA
12 test and he passed a couple of times with the
13 department. He turned out to be an excellent officer.
14 I wouldn't have no problem hiring him again.

15 I've known him through the community. He is
16 married, has three beautiful kids, and he is a very
17 friendly oriented, he never gets involved with --
18 having any problems or anything like that. He's
19 become very productive. And I would support the board
20 that did allow him to be reinstated. He would be a
21 fine officer.

22 MR. PEREZ: Thank you, sir.

23 MR. ORTIZ: Mr. Perez.

24 MR. PEREZ: Yes, sir. Mr. Ortiz.

25 MR. ORTIZ: I just have some questions. You

1 were never charged with anything or convicted of any
2 felony?

3 MR. TREVIZO: No, sir.

4 MR. ORTIZ: So then it was a policy violation
5 that you tested positive for cocaine and you were
6 released?

7 MR. TREVIZO: Yes, sir.

8 MR. ORTIZ: Okay.

9 MR. COON: I've got a question. Was the
10 cocaine evidence or was it a purchased item?

11 MR. TREVIZO: No, it was -- I'm not
12 understanding your question.

13 MR. COON: The cocaine that you used?

14 MR. TREVIZO: Oh, no, it wasn't evidence.
15 No, sir, it wasn't.

16 MR. COON: Okay.

17 MR. ORTIZ: Because if he was convicted of a
18 misdemeanor, it would be within the three-year period
19 immediately preceding his application. But if he had
20 a felony conviction, then he would not be allowed.

21 MR. PEREZ: There was no conviction.

22 MR. ORTIZ: But there was no felony
23 conviction.

24 MR. PEREZ: Thank you.

25 MR. HOLMES: I might add at the time that he

1 came before the board, we at that time hadn't
2 established a five-year revocation. So a revocation
3 could be forever.

4 But since that time on the prior meetings the
5 board decided, well, some cases should only have a
6 five-year limit. And I believe maybe this might be
7 one of those cases. He's already had more than five
8 years out of law enforcement.

9 MR. PEREZ: Was there not a law passed in the
10 State of New Mexico that made us change, like the
11 rehabilitation of people has to be taken into effect;
12 therefore, we cannot have forever revocations, is that
13 what that's about?

14 MR. SHANDLER: Mr. Chairman, we have had
15 discussions about the Criminal Reemployment Offenders
16 Act. I may have the words mixed up. That law has
17 been in existence for awhile. And when I came on
18 board which is about at that meeting or the meeting
19 after that, we started having discussions about the
20 different options, revocation forever, revocation with
21 some type of time period.

22 And so I think Mr. Holmes is correct, that
23 there was -- I have advised the board that there are
24 these different options out there. It's not always
25 revocation for life.

1 MR. PEREZ: Thank you. Thank you, sir. Next
2 item.

3 ITEM NO. 21: BRIAN BERRY

4 MR. JACKSON: Either Mr. Holmes or the
5 director will present the next item. This is Brian
6 Berry.

7 MR. PEREZ: Mr. Director.

8 MR. ORTIZ: Yes. Item No. 21, disciplinary
9 item with Brian Berry. On January 5, 2010, the New
10 Mexico Law Enforcement Academy received a misconduct
11 report from the Lea County Sheriff's Office describing
12 that the respondent committed various state law
13 violations within two different locations in the
14 state, one down in Roosevelt County and one in Rio
15 Arriba County in the Chama area.

16 The respondent was cited by the Department of
17 Game and Fish officers. Two of the citations issued
18 were on October 12, 2009, in Rio Arriba County for
19 violating posted signs and unlawful hunting or
20 fishing.

21 The respondent appeared before the magistrate
22 court in Chama, was given a deferred sentence, and was
23 found guilty and put on probation for 182 days. One
24 of the conditions was that he was not to consume
25 alcohol during his period of probation.

1 The respondent was cited by an SID agent who
2 observed the respondent drinking alcohol and will have
3 to appear before the same magistrate judge in Chama on
4 a later date for probation violation.

5 Then in November 2001 in Roosevelt County, he
6 was cited by Game and Fish officers for killing a deer
7 and hunting on private property without the
8 landowner's permission. The other citation was
9 failure to legally tag the deer.

10 I sent Mr. Berry a Notice of Contemplated
11 Action. And it was signed for on February 16th of
12 2010, acknowledging receipt. A hearing was set for
13 Mr. Berry. And he contacted me later and asked that
14 we reschedule it for a different date because he could
15 not attend at that time.

16 I did so. I agreed to that and I sent him a
17 waiver of time limits to reschedule it. He agreed to
18 that. I sent the documents back to him. I later
19 rescheduled it for Monday, April 26th, at one o'clock.
20 He failed to appear.

21 I contacted him. No answer. I then sent him
22 a Notice of Final Decision by United States Postal
23 Mail. He received it on May 14, 2010, acknowledging
24 receipt of the Notice of Final Decision. And he has
25 not responded on the Notice of Final Decision.

1 Therefore, my recommendation to the board is
2 revocation by default.

3 MR. PEREZ: Mr. Berry here? No reply.

4 Next item.

5 ITEM NO. 22: CHRIS CONDON

6 MR. JACKSON: The next item is Christopher
7 Condon. Mr. Condon falsely claimed to be a brigadier
8 general in the Army Reserves when he was not, in fact,
9 in the Army Reserves. He used this misrepresentation
10 to obtain fraudulently paid leave from his employer,
11 Ruidoso Police.

12 As a result of this conduct, he was
13 terminated and there were charges filed against him I
14 believe in federal court. And I believe those are
15 still pending. Mr. Condon signed the certified mail
16 receipt both for the NCA and for the NFD, but he did
17 not respond to these. We, therefore, ask for a
18 revocation by default.

19 MR. PEREZ: Is Mr. Condon here? No reply.

20 Any questions? Next item.

21 ITEM NO. 23: BENITO SALAS

22 MR. JACKSON: The next item is Benito Salas.
23 Mr. Salas was using his uniform and a marked vehicle
24 of his employer to conduct his own private business,
25 his side business as a process server while on duty.

1 This business of serving civil summonses and subpoenas
2 was conducted as a sideline to his duties as a deputy
3 with Dona Ana County.

4 Now, it should be noted that the Dona Ana
5 County Sheriff's Department does not serve process for
6 civil summonses and subpoenas. Those are served by
7 private process servers in the area. Not all of the
8 residents of Dona Ana are aware of this, however.

9 And for somebody like Mr. Salas who is
10 employed by the sheriff's -- or was employed by the
11 sheriff's department -- still is, I'm sorry, employed
12 by the sheriff's department, to use his uniform and
13 his marked unit to aid his private business in
14 addition to the problems that that poses in any
15 context, in this particular context, is very harmful
16 because it falsely gives authority or the impression
17 of authority to citizens that is not warranted by the
18 circumstances.

19 He was served with an NCA and signed for that
20 NCA. And likewise with the NFD, but he did not
21 respond. We, therefore, ask for revocation by
22 default.

23 MR. SHANDLER: Let me just ask the question,
24 so he's currently working, is that your understanding?

25 MR. ORTIZ: They suspended him, yes, and they

1 transferred him to the patrol division.

2 MR. SHANDLER: Is there any chance he's going
3 to come back and say, well, you knew where my employer
4 was why didn't you just call me at work?

5 MR. ORTIZ: In fact, I believe I've gotten
6 another misconduct report on him recently, about two
7 weeks ago as well. So I don't --

8 MR. SHANDLER: I mean it seems strange that
9 he would sign for these documents, which does sound
10 like pretty strong evidence that he knows what's going
11 on. But I guess I'm just nervous he's going to come
12 back at the next meeting and say, oh, well, it was my
13 wife's address or something or I didn't really know
14 what was going on, why didn't someone call me, you
15 knew where I was.

16 MR. ORTIZ: And it could be because he got in
17 some more trouble and maybe just didn't want to fight
18 it. Because like I said I received another one here I
19 think a couple weeks ago with his name as well.

20 MR. PEREZ: Is Mr. Benito Salas here? No
21 answer. Next item.

22 ITEM NO. 24: JOE BACA

23 MR. JACKSON: The next item is one more item
24 that was on the agenda for the March meeting. This is
25 a voluntary relinquishment of certification by Joe

1 Baca. Mr. Baca he received cocaine/methamphetamine
2 and approximately \$2,200 in cash from another officer
3 that the officer had obtained during a stop.

4 The investigation by the Albuquerque Police
5 determined that he had embezzled the money and had
6 tampered with the evidence by not tagging it and not
7 turning it over to the evidence custodian.

8 He was asked to account for the evidence and
9 he could not produce it. On questioning he later
10 claimed that he had found the controlled substances in
11 his garage and then tagged them. And he borrowed
12 \$2,200 in cash from his mother-in-law to replace the
13 \$2,200 that he had taken.

14 This creates an evidentiary problem, because
15 it's not the same money. In fact, some of the money
16 that he replaced the seized money with were bills that
17 were issued after the date of the traffic stop on
18 which the \$2,200 had originally been seized.

19 Mr. Baca was terminated by APD. He has sent
20 a letter dated December 7, 2009, which is in your
21 agendas voluntarily relinquishing his certification.
22 And we ask that the board ratify that relinquishment.

23 MR. PEREZ: Any questions? Is Mr. Joe Baca
24 here? No reply. Next item.

25 ITEM NO. 28: KEN MARTINEZ

1 MR. SHANDLER: The next item are formal
2 hearings set for 28, Ken Martinez. That's really
3 actually more akin to a request for reinstatement. So
4 if you go to tab 28, this is a gentleman where there
5 was a revocation by default. He then sent in an
6 affidavit within your packets there.

7 And we've been trying to schedule a meeting
8 where he could come in and he could provide verbal
9 verification of the events of why he did or did not
10 receive the director's documents. His attorney told
11 me he would be here today. So I think he's here today
12 to explain why he didn't receive the director's
13 documents. Do you want to call him forward?

14 MR. PEREZ: Mr. Kenneth Martinez.

15 MR. MARTINEZ: Good morning. For the most
16 part, I never received a letter from revocation.
17 First of all in 2008 I spoke with Director Art Ortiz,
18 the secretary, because I was actually trying to seek
19 employment with a tribal agency. And they wanted me
20 to request a letter from the DPS that I still had a
21 certification.

22 I talked to her. And at that time she told
23 me my certification was flagged but that I could still
24 work because it was an investigation going on or
25 something like that. So I waited three weeks for this

1 letter to arrive. It never did.

2 I called Mr. Ortiz in November of 2009 or --
3 yeah, November of 2009. It was actually November of
4 2008. Three weeks had passed from October to
5 November. So it was November of 2008. And I spoke
6 with Mr. Ortiz myself on a three-way.

7 And I was asking him if I was going to be
8 able to receive this letter. And he himself told me,
9 you know, that they were still waiting, that there was
10 an investigation going on. But he got my address at
11 that time, my correct address.

12 I don't know if at that time if I had
13 mentioned that I had an attorney or I didn't mention
14 that I had an attorney. But I spoke to Mr. Ortiz. I
15 hadn't heard anything in January of 2009.

16 I spoke with Mr. Ortiz again for the third
17 time, that I was still expecting, I was still waiting
18 for the letter. Christmas had gone by, the holidays
19 had gone by. I figured everybody was busy. So I was
20 waiting for it by January so I could take the job at a
21 tribal agency.

22 I never got the letter. In March of 2009, I
23 received a letter. There was actually a child support
24 case that was supposed to have been closed out. It
25 never got closed out. And so I got a letter from DMV,

1 from the New Mexico Law Enforcement Academy.

2 I signed for it. It came to the correct
3 address, I signed for it. I rectified it and cleared
4 this problem up in two days. When they said your
5 certification is going to get suspended, I cleared it
6 up in two days. I signed for it, got it. I never
7 received the letter for default. My attorney never --
8 or claims he never received a letter for a default
9 judgment on my hearing.

10 I had been trying to come in to talk to the
11 board so I could request a hearing so you guys could
12 hear my side of the story. I joined the New Mexico
13 National Guard, I had been on military leave off and
14 on, returning to different classes that I have
15 attended.

16 But for the most part, you guys have never
17 heard my case. I just feel like that I would want you
18 to hear my case and hear my side of the story and just
19 go through the due process of this case. I have never
20 received the letters. My attorney says he never
21 received them. So we're just trying to get a hearing
22 so you guys can -- so the board can hear my case.

23 MR. PEREZ: Any questions?

24 MR. COON: I have a question here. On
25 your -- I guess you call it portfolio here, Santa Fe

1 PD hired 2/11 of '99, terminated 3/27 of '07.

2 MR. MARTINEZ: Yes.

3 MR. COON: Then Rio Arriba County hired 1/5
4 of '98.

5 MR. MARTINEZ: Yes.

6 MR. COON: Terminated 2008.

7 MR. MARTINEZ: Actually I wasn't terminated
8 from there, I actually left to the military during
9 that time.

10 MR. COON: The question is you were working
11 at the Santa Fe Police Department and Rio Arriba at
12 the same time?

13 MR. MARTINEZ: No, sir. I went from Santa Fe
14 PD to Rio Arriba County. I actually started with Rio
15 Arriba County and then I went to Santa Fe PD for nine
16 years and then I went back to Rio Arriba County.

17 MR. COON: Never mind. I see my mistake
18 here. What were you terminated from the Santa Fe PD
19 for?

20 MR. MARTINEZ: There was actually three -- in
21 two years there was three complaints of excessive
22 force that came in in two different years. Those were
23 the only three complaints of excessive force I had in
24 over nine years working with them.

25 And none of the excessive force complaints

1 were sustained. But during one of them, I couldn't
2 remember that I had pended a report. And it was the
3 honest truth. An Internal Affairs lieutenant at the
4 time was asking me about 11 months after the fact.

5 And I remembered the case correctly because I
6 printed a copy of the report before I went to Internal
7 Affairs. But I honestly didn't remember when I turned
8 it in or that I had pended it for four or five days.
9 And I honestly couldn't remember that.

10 And so he thought I was lying to Internal
11 Affairs. And then when we went back and pulled out
12 the original handwritten report, on one part of the
13 report it said the date. I answered something like --
14 when did you turn in your report, he asked me
15 something to that effect.

16 And at Santa Fe PD you turn in your reports
17 before you go home. So I said probably that -- you
18 know, I'm assuming probably that day or -- probably
19 that day. It should have gone in that day. You can't
20 pend them unless it's a felony case that you follow up
21 and stuff on. So he thought I was lying to him so he
22 went and pulled the originals.

23 On one of the originals, it had the date the
24 incident happened. On the other one, it had a date
25 that I finished it which was five days later. What

1 ended up happening is we found out later on that I
2 honestly couldn't remember was that I took off early
3 that morning. And we had 4/10s of three days off. I
4 had three days off.

5 When I came back is when I actually turned it
6 in. That's why it reflected a different date. But I
7 couldn't remember that after the time, 11 months
8 later. I honestly didn't remember pending it. I
9 wasn't the arresting officer, it was just a
10 supplemental report. I honestly didn't even remember
11 pending it.

12 MR. COON: What about Rio Arriba?

13 MR. MARTINEZ: Rio Arriba I just left to the
14 military. And then all this stuff started coming up,
15 all the academy board stuff started coming up. And I
16 actually didn't get terminated.

17 But when I got back from the military, they
18 just said, you know what, you need to clear all this
19 before you can come back or something like that. So
20 I've been dealing with kind of this off and on for a
21 couple of years I guess.

22 MR. COON: Did you get a letter of
23 termination from them?

24 MR. MARTINEZ: No, I did not. I got a letter
25 just saying that you're on probation. We're just

1 going to end your job until you can clear this -- if
2 you clear this up. It wasn't a termination letter at
3 all.

4 MR. COON: Okay.

5 MR. PEREZ: Now, you apparently submitted a
6 Bachelor of Arts degree in criminal justice?

7 MR. MARTINEZ: Yeah. That came up after
8 the -- during the Internal Affairs. But I got a
9 degree from an online university. At the time I got
10 the degree and even now to this day, you can get on
11 this website. They boast all these accreditations.

12 And actually Santa Fe -- the City of Santa Fe
13 actually helped me pay for that degree because they
14 pay a tuition assistance, they actually -- at the time
15 they were accredited. But sometime after I graduated
16 in 2006 from this degree, they lost their
17 accreditation.

18 And so I have a Bachelor's degree that's
19 worthless that I spent a lot of money on initially.
20 So I actually filed a complaint with the federal
21 Attorney General's Office because they were out of
22 Florida.

23 So I've gotten a couple letters from the
24 federal Attorney General's Office. But they're just
25 kind of victim letters, that, you know, you're never

1 going to get your money back, you spent \$4,000.

2 MR. PEREZ: You spent \$4,000?

3 MR. MARTINEZ: I spent 4,000 of my own money.

4 MR. PEREZ: And the city spent how much?

5 MR. MARTINEZ: And the city spent I think --
6 they paid for one of my last classes. And I believe
7 it was, you know, at least a little over \$300, like
8 \$360 or something to that effect.

9 MR. SHANDLER: If you go to reinstate the
10 process, then the process will start. And all these
11 details, his response, the director's position would
12 all be fleshed out. So you probably shouldn't go into
13 any more detail at this time.

14 MR. JACKSON: If I may, I would just like to
15 request for clarification that the matter currently
16 before the board is whether -- reinstatement of the
17 process based on the fact that he did not receive the
18 NCA or the NFD. That's what's before the board. The
19 fact that this as he provides them unsubstantiated,
20 that if the board decides to reinstate the process, we
21 can deal with that later.

22 MR. PEREZ: I see. Thank you. Do you have
23 anything else to say?

24 MR. MARTINEZ: No, sir.

25 MR. PEREZ: Thank you.

1 MR. SHANDLER: With that, Mr. Chairman, let
2 me walk you through the process to get into executive
3 session, if that's okay.

4 MR. PEREZ: Yes, sir, please.

5 MR. SHANDLER: So customarily you accept a
6 motion to go into closed session for disciplinary
7 matters and a second, then there's a roll call vote
8 taken by the director.

9 MR. PEREZ: Okay. Do I hear a motion to go
10 into closed session?

11 MR. COON: Mr. Chairman, I make the motion to
12 go into closed session.

13 MR. PEREZ: Do I hear a second?

14 MR. JONES: Second.

15 MR. PEREZ: Any discussion? All those in
16 favor --

17 MR. SHANDLER: Hold on.

18 MR. PEREZ: Yes, sir.

19 MR. SHANDLER: The director wearing several
20 hats today will call the roll.

21 MR. ORTIZ: Okay. Chief Faron Segotta.

22 MR. SEGOTTA: Yes.

23 MR. ORTIZ: Ronald Reeves.

24 MR. REEVES: Yes.

25 MR. ORTIZ: James Coon.

1 MR. COON: Yes.

2 MR. ORTIZ: Sergeant Arsenio Jones.

3 MR. JONES: Yes.

4 MR. ORTIZ: Bernardo M. Perez.

5 MR. PEREZ: Yes. Now we go into --

6 MR. SHANDLER: Right. Now the recorder will
7 be turned off in just a minute. And by referencing
8 the director having multiple hats, I see that he
9 doesn't have staff today. So we can either stay in
10 this room. I don't know if there's a smaller
11 conference room, I don't know if we want to go into
12 the hallway. Should the board just stay in here?

13 MR. ORTIZ: Yes.

14 MR. PEREZ: We will remain in this room. All
15 except board members are asked to leave. We will now
16 go into closed session and discuss disciplinary
17 matters.

18 (Off the record from 12:05 p.m. to 1:44 p.m.)

19 MR. PEREZ: It is 1:44 p.m. on the 15th and
20 the board is back in session.

21 MR. SHANDLER: Mr. Chairman, usually you'll
22 have a motion to return to open session and a second
23 and then roll call.

24 MR. PEREZ: May I have a motion to return to
25 open session.

1 MR. COON: Mr. Chairman, I make a motion we
2 go back to open session.

3 MR. PEREZ: Do I hear a second?

4 MR. JONES: I second that.

5 MR. PEREZ: All in favor to go back into open
6 session --

7 MR. SHANDLER: Let Mr. Ortiz call the roll,
8 please.

9 MR. ORTIZ: Chief Faron Segotta.

10 MR. SEGOTTA: Yes.

11 MR. ORTIZ: Ronald Reeves.

12 MR. REEVES: Yes.

13 MR. ORTIZ: Sheriff James Coon.

14 MR. COON: Yes.

15 MR. ORTIZ: Sergeant Arsenio Jones.

16 MR. JONES: Yes.

17 MR. ORTIZ: And Mr. Bernardo Perez.

18 MR. PEREZ: Yes.

19 MR. SHANDLER: Mr. Chairman, you said let's
20 go into executive session. Let's dot all the I's and
21 T's. Can you attest for the record that only the
22 matters discussed in the executive session were those
23 listed on the agenda, can you so attest?

24 MR. PEREZ: Yes, sir, I do.

25 MR. SHANDLER: Okay. Now you can proceed.

1 MR. PEREZ: We are now back into open
2 session. The first case is item No. 12, Marisa
3 Barragan. And the director's recommendation was a
4 60-day suspension. We accept that, but that it be
5 retroactive. A one-year probationary period, ethics
6 training course, alcohol screening and assessment,
7 eight hours community service, and address the police
8 cadet class. That was our ruling.

9 MR. SHANDLER: Let me just explain for the
10 record. So the board does not do retroactive
11 penalties. The one time that they're doing that, and
12 there will be a couple here, is because there were
13 several people that were held over from the last
14 meeting.

15 And so through no fault of their own, just
16 quorum issues, their penalty wasn't imposed on that
17 day. So that is why this time and only this time
18 there are going to be retroactive starting dates going
19 back to the last meeting. Are you clear on that?

20 MR. ORTIZ: Yes, sir.

21 MR. SHANDLER: So, Mr. Perez, you need a
22 motion and a vote on that one as well.

23 MR. PEREZ: Yes. Do we have a motion to
24 accept the director's recommendation but make it
25 retroactive?

1 MR. COON: I make that motion.

2 MR. PEREZ: Do I hear a second?

3 MR. SEGOTTA: Second.

4 MR. PEREZ: All in favor.

5 (Those in favor so indicate.)

6 MR. PEREZ: All opposed. The motion carries
7 with the explanation of Mr. Shandler.

8 Item No. 13, Don Begay. The board's
9 recommended action was that we accept the director's
10 recommendation as effective March 25th, suspension and
11 probation, one-year probationary period, ethics
12 training course, complete DWI school, alcohol
13 screening and assessment, and address the
14 telecommunicators training class. This was not a
15 police officer but a telecommunicator.

16 MR. SEGOTTA: Mr. Chairman, I make the
17 recommendation we accept the director's recommendation
18 and make it retroactive to the last board meeting of
19 March 25, 2010.

20 MR. PEREZ: Do I hear a second?

21 MR. JONES: Second.

22 MR. PEREZ: All those in favor.

23 (All in favor so indicate.)

24 MR. PEREZ: All opposed. The motion carries.

25 Item No. 14, Joseph Galindo. Our finding is

1 that the director's recommendation of suspension and
2 probation be accepted. A 90-day suspension beginning
3 today, a one-year probationary period beginning today,
4 ethics training, and the rest. Do I hear a motion
5 that this be accepted?

6 MR. COON: I'll make that motion.

7 MR. SEGOTTA: I second.

8 MR. PEREZ: All those in favor. I'm sorry.
9 Do I hear a second?

10 MR. SEGOTTA: Second.

11 MR. PEREZ: All those in favor.

12 (All in favor so indicate.)

13 MR. PEREZ: All those opposed. The motion
14 carries. The full recommendation is more detailed
15 than what I said. And we accept that as you stated
16 it.

17 The next item, item No. 15, Chris Kemp. The
18 director's recommendation was suspension and
19 probation. In our discussion we want to up that to
20 two years suspension and three-year probationary
21 period, ethics training course, alcohol screening and
22 assessment, anger management counseling, address the
23 police cadet class, and eight hours of community
24 service. Do I hear a motion to accept the
25 recommendation as stated?

1 MR. COON: Mr. Chairman, I'll make a motion
2 that we reject the director's recommendation, make it
3 a two-year suspension, three-year probation, along
4 with the ethics training, the alcohol screening, anger
5 management counseling, address the police academy, and
6 eight hours community service.

7 MR. PEREZ: Do I hear a second?

8 MR. JONES: Second.

9 MR. PEREZ: All those in favor.

10 (All in favor so indicate.)

11 MR. PEREZ: All those opposed. The motion
12 carries.

13 Item No. 16, Eugene Rodella. The director's
14 recommendation was suspension and probation, four
15 years suspension, a five-year probationary period,
16 ethics training course, and anger management
17 counseling or psychological or psychiatric treatment
18 for post-traumatic stress disorder. Do I hear a
19 motion that we accept this?

20 MR. SEGOTTA: Mr. Chairman, I move that we
21 accept the director's recommendation for the
22 suspension and probation.

23 MR. JONES: Second.

24 MR. PEREZ: All those in favor?

25 (All in favor so indicate.)

1 MR. PEREZ: All those opposed. The motion
2 carries.

3 Jesus Roybal, item No. 17. The director's
4 recommendation was suspension and probation, a 30-day
5 suspension. In our discussion we wanted that up to a
6 one-year suspension and two-year probationary period,
7 ethics training course, anger management counseling,
8 and alcohol screening.

9 The reason for our increasing this is that
10 there is -- throughout the State of New Mexico in
11 particular, you get a DWI, you can lose your license.
12 And we are down to a 30-day suspension. And an
13 officer without his license cannot function. So we
14 want to emphasize the seriousness to our officers of
15 DWI. This is a very serious offense.

16 MR. SHANDLER: That's actually a topic for
17 another thing. Both 15 and 17 for the record dealt
18 with certified officers either showing disrespect or
19 hitting other officers. And I think the board does
20 not tolerate that.

21 And that's why both 15 and 17 -- at least 15
22 there's been a vote to reject and it sounds like 17
23 there may also be a vote to reject. You're in a
24 position of authority, that's your profession, whether
25 as a certified officer or a certified officer and a

1 city official. That misconduct is not tolerated.

2 MR. ORTIZ: Just for clarification, on 17,
3 Jesus Roybal, the recommendation is the board will
4 accept a one-year suspension and a two-year probation?

5 MR. PEREZ: Yes.

6 MR. ORTIZ: Okay.

7 MR. PEREZ: Do we have to have a motion for
8 that?

9 MR. SHANDLER: Yes, sir.

10 MR. PEREZ: Do I hear a motion for a one-year
11 suspension and two-year probationary period, ethics
12 training, anger management counseling, and alcohol
13 screening and assessment.

14 MR. COON: Mr. Chairman, I make a motion that
15 we reject the director's recommendation of a 30-day
16 suspension and one-year probation along with the
17 ethics training, anger management counseling, and drug
18 screening and assessment, and up that to a one-year
19 suspension with two years probation and then the
20 ethics training course, the anger management
21 counseling, and alcohol screening and assessment.

22 MR. PEREZ: Do I hear a second?

23 MR. JONES: Second.

24 MR. PEREZ: All those in favor.

25 (All in favor so indicate.)

1 MR. PEREZ: All those opposed.

2 MR. SEGOTTA: Mr. Chairman, I vote to recuse
3 myself on this case.

4 MR. PEREZ: Okay. Chief Segotta recuses
5 himself, New Mexico State Police.

6 Item No. 18, Flavio Salazar. We discussed
7 this matter. And we are rejecting the director's
8 recommendation of suspension and probation and
9 recommending a letter of caution. Do I hear a motion
10 regarding this matter?

11 MR. SEGOTTA: Mr. Chairman, I make a motion
12 that we reject the director's recommendation and that
13 the board offer an alternative of a letter of caution.

14 MR. PEREZ: And would we have the one-year
15 probationary period or just the letter of caution?

16 MR. SEGOTTA: Just the letter of caution.

17 MR. PEREZ: Okay. Just the letter of
18 caution. Do I hear a second?

19 MR. COON: Second.

20 MR. PEREZ: All those in favor.

21 (All in favor so indicate.)

22 MR. PEREZ: All those opposed. The motion
23 carries.

24 MR. SHANDLER: And the rationale for the
25 record is that the director was asking for the

1 suspension based on conduct in front of the grand
2 jury. And there was testimony -- I don't know what
3 you call it. Officer Salazar provided some
4 information today.

5 And based on that information, they felt that
6 there was a lack of preparation but not an intentional
7 lie. And that's why they rejected your proposal.
8 Now, I guess if you don't agree with them, you can
9 hold a formal hearing.

10 MR. ORTIZ: We'll discuss it.

11 MR. SHANDLER: Okay.

12 MR. JACKSON: If I may, I would like to note
13 for the record that the information presented by
14 Mr. Salazar was presented without an opportunity to
15 challenge by the state at this point.

16 MR. PEREZ: So noted. Our concern was that
17 we -- although apparently the recording did not pick
18 up or there was no evidence that he identified himself
19 as a police officer, he was in full uniform, we did
20 not believe that he was attempting to deceive. He may
21 not have said the actual words I'm a police officer.
22 We were not discussing that. But we did not see an
23 attempt to deceive, which is our concern. So the
24 motion carried.

25 The next item, 19, Ray Williams. The

1 director's recommendation was suspension and probation
2 for 60 days, a one-year probationary period, ethics
3 training course, anger management counseling, and
4 complete eight hours of community service. We
5 rejected that and recommend that -- that there be a
6 60-day suspension, but that it be retroactive. Do I
7 hear a motion?

8 MR. SHANDLER: The same rationale for the
9 record, this item was tabled at the last meeting and
10 that's why it's being placed as retroactive to that
11 last meeting.

12 MR. COON: Mr. Chairman, I make the motion
13 that we accept the director's recommendation of
14 60 days suspension, a one-year probation, an ethics
15 training course, anger management counseling, and
16 complete eight hours of community service to be
17 retro'd back from our last board meeting of 3/25/10.

18 MR. PEREZ: Do I hear a second?

19 MR. SEGOTTA: Second.

20 MR. PEREZ: All in favor.

21 (All in favor so indicate.)

22 MR. PEREZ: All opposed. The motion carries.

23 Item No. 20, Miguel Trevizo. The board
24 previously met and revoked the certification of
25 Officer Trevizo. And in our deliberations, we decided

1 to accept the director's recommendation.

2 Our concern was that he was on duty and in
3 uniform when he purchased the cocaine which is a
4 felony, although he was not convicted or charged with
5 such an act. We do not feel that this is proper for a
6 New Mexico law enforcement officer. So we accept the
7 director's recommendation.

8 MR. SEGOTTA: Mr. Chairman, I make a motion
9 that we not reconsider Mr. Trevizo for reinstatement
10 and uphold the revocation as recommended by the
11 director.

12 MR. PEREZ: Do I hear a second?

13 MR. COON: Second.

14 MR. PEREZ: All those in favor.

15 (All in favor so indicate.)

16 MR. PEREZ: Any opposed. The motion carries.
17 Item 21, Brian Berry.

18 MR. SHANDLER: Mr. Chairman, you can probably
19 do items 21 through 24 in one motion.

20 MR. PEREZ: Items 21 and 24, Brian Berry and
21 Joe Baca.

22 MR. SHANDLER: I'm sorry. I misspoke. We
23 can do 21 through 24.

24 MR. PEREZ: So 21 would be Brian Berry, Chris
25 Condon, Benito Salas, and Joe Baca. And the

1 director's recommendation was revocation by default.

2 Do I hear a motion to accept?

3 MR. SEGOTTA: Mr. Chairman, I make a motion
4 that we accept the director's recommendation of
5 revocation by default for item No. 21, Brian Berry;
6 item No. 22, Chris Condon; item No. 23, Benito Salas;
7 item No. 24, Joe Baca.

8 MR. PEREZ: Do I hear a second?

9 MR. COON: Second.

10 MR. PEREZ: All those in favor.

11 (All in favor so indicate.)

12 MR. PEREZ: All those opposed. The motion
13 carries.

14 ITEM NO. 25: MICHAEL LEBLANC

15 MR. PEREZ: The next item is item No. 25.

16 MR. SHANDLER: Mr. Chairman, two other
17 housekeeping items. Let the record reflect that for
18 items 12 and 19, Sergeant Jones was marked as recused
19 because of prior recusals. And item 24 was a
20 voluntary relinquishment of certification. That's
21 just some housekeeping.

22 Mr. Chairman, item 25 went to a formal
23 hearing. There was evidence presented. There was a
24 Hearing Officer's report. The state prosecutor
25 provided Mr. Jackson the Hearing Officer's report.

1 And the board reviewed all these matters in executive
2 session.

3 And so now the board is prepared to possibly
4 accept the Hearing Officer's report and the Hearing
5 Officer's recommendation of a 30-day suspension or the
6 board can reject and do something different. That's
7 the next step right now.

8 MR. PEREZ: In our discussions we spoke of a
9 30-day suspension and one-year probation and the
10 recommendation that the respondent consider --
11 continue with his psychological treatment for at least
12 one year. Do I hear a motion?

13 MR. SEGOTTA: Mr. Chairman, I make a motion
14 that we accept the Hearing Officer's recommendation of
15 a 30-day suspension, a one-year probation, and a
16 continuation of the psychological counseling for
17 Mr. LeBlanc.

18 MR. PEREZ: Do I hear a second?

19 MR. JONES: Second.

20 MR. PEREZ: All those in favor.

21 (All in favor so indicate.)

22 MR. PEREZ: All those opposed. The motion
23 carries.

24 ITEM NO. 26: JASON RIVERA

25 MR. PEREZ: Item No. 26, Jason Rivera.

1 MR. SHANDLER: Mr. Chairman, this went to
2 formal hearing. This is an applicant for a
3 telecommunicator. According to the record established
4 by the Hearing Officer, he doesn't qualify under the
5 rules. So the Hearing Officer proposed denial of
6 admission.

7 MR. PEREZ: Do I hear a motion that we deny
8 the applicant's request for admission?

9 MR. COON: Mr. Chairman, I make a motion that
10 we do not -- that this does not qualify under our
11 board's -- I don't even know how to say that.

12 MR. PEREZ: Guidelines.

13 MR. COON: Guidelines.

14 MR. PEREZ: Because there was a conviction
15 within that three-year period immediately preceding
16 this application and that was driving while
17 intoxicated. So we don't have to vote on that or do
18 we, Zach?

19 MR. SHANDLER: You still need to formally
20 vote to deny his application.

21 MR. PEREZ: I'm sorry. The sheriff had made
22 a motion. Do I hear a second?

23 MR. JONES: Second.

24 MR. PEREZ: All those in favor.

25 (All in favor so indicate.)

1 MR. PEREZ: All those opposed. The item
2 carries.

3 ITEM NO. 27: JOSEPH VALENCIA

4 MR. PEREZ: Item No. 27, Joseph Valencia.

5 MR. SHANDLER: Mr. Chairman, this matter had
6 multiple days of hearing in front of a Hearing
7 Officer. The Hearing Officer submitted a report that
8 was discussed earlier in the executive session as well
9 as a review of evidence from that hearing. The
10 Hearing Officer's recommendation was at least an
11 eight-year revocation. That was the floor that he
12 set. So the board can take action from there.

13 MR. PEREZ: Do I hear a motion?

14 MR. COON: Mr. Chairman, I make a motion that
15 we do a lifetime revocation on Jose Valencia.

16 MR. PEREZ: Do I hear a second?

17 MR. JONES: Second.

18 MR. PEREZ: All those in favor.

19 (All in favor so indicate.)

20 MR. PEREZ. All those opposed. The motion
21 carries.

22 Mr. Director, there was also a comment made
23 by the board that you might want to look at about
24 making in-service training. The Hearing Officer
25 raised the issue that apparently there was not the --

1 first of all that the records regarding shooting
2 qualifications were not kept up. So you might want to
3 take a look at that.

4 And secondly, it appears that there were
5 allegations that the I think it was Santa Fe Police
6 Department in this matter had not provided some
7 records on a timely basis in discovery. So you might
8 want to look into that and see if that should brought
9 to our attention or not.

10 Item No. 28, Ken Martinez.

11 MR. SHANDLER: Mr. Chairman, the question is
12 whether you want to vote to rescind the revocation by
13 default, thus restarting the NCA process, or whether
14 you wish to take no action.

15 MR. PEREZ: In our discussions we came to the
16 conclusion that the disciplinary process should begin
17 again and that you rescind your revocation,
18 recommendation of revocation. Do we need to vote on
19 that?

20 MR. SHANDLER: Yes, sir.

21 MR. PEREZ: Do I hear a motion that we
22 rescind the revocation?

23 MR. COON: Mr. Chairman, I make a motion we
24 rescind the revocation on Mr. Martinez and start the
25 process all over.

1 MR. PEREZ: Do I hear a second?

2 MR. SEGOTTA: Second.

3 MR. PEREZ: All those in favor.

4 (All in favor so indicate.)

5 MR. PEREZ: All those opposed. The motion
6 carries.

7 ITEM NO. 29: ANTHONY MOLINA

8 MR. SHANDLER: Mr. Chairman, item 29, Anthony
9 Molina, is not a voting item. That concludes the
10 disciplinary section of the meeting.

11 ITEM NO. 30: SCHEDULING OF NEXT MEETING

12 MR. PEREZ: The next item then is the
13 meeting, our next meeting. The county is recommending
14 that it be held in the Santa Fe area?

15 MR. ORTIZ: Yes.

16 MR. PEREZ: You mean the academy?

17 MR. ORTIZ: Yes, looking at mid September,
18 mid to late September.

19 MR. PEREZ: And you will then contact us
20 regarding possible dates?

21 MR. ORTIZ: Yes.

22 ITEM NO. 30: ADJOURNMENT

23 MR. LAMA: Okay. Then do I hear a motion to
24 adjourn this meeting?

25 MR. COON: Mr. Chairman, I make a motion we

1 adjourn this meeting.

2 MR. JONES: Second.

3 MR. LAMA: All those in favor signify by
4 saying aye.

5 (All in favor so indicate.)

6 MR. LAMA: All those opposed. The motion
7 carries. The meeting is adjourned at 2:07.

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REPORTER'S CERTIFICATE

I, JAN A. WILLIAMS, New Mexico CCR #14, do hereby certify that on June 15, 2010, the proceedings in the above-entitled matter were taken before me, that I did report in stenographic shorthand the proceedings set forth herein, and the foregoing pages are a true and correct transcription to the best of my ability.

I FURTHER CERTIFY that I am neither employed by nor related to nor contracted with (unless excepted by the rules) any of the parties or attorneys in this case, and that I have no interest whatsoever in the final disposition of this matter in any court.

JAN A. WILLIAMS, RPR
Bean & Associates, Inc.
New Mexico CCR #14
License Expires: 12/31/10

(912H) JAW

1 RECEIPT

2 DATE: June 15, 2010

3 JOB NUMBER: (912H) JAW

4 WITNESS NAME: Hearing

5 CASE CAPTION: DPS Board meeting

6 *****

7 ATTORNEY: ORTIZ

8 DOCUMENT: Transcript / Exhibits / Disks / Other _____

9 DATE DELIVERED: _____ DEL'D BY: _____

10 REC'D BY: _____ TIME: _____

11 *****

12 ATTORNEY: SHANDLER

13 DOCUMENT: Transcript / Exhibits / Disks / Other _____

14 DATE DELIVERED: _____ DEL'D BY: _____

15 REC'D BY: _____ TIME: _____

16 *****

17 ATTORNEY:

18 DOCUMENT: Transcript / Exhibits / Disks / Other _____

19 DATE DELIVERED: _____ DEL'D BY: _____

20 REC'D BY: _____ TIME: _____

21 *****

22 ATTORNEY:

23 DOCUMENT: Transcript / Exhibits / Disks / Other _____

24 DATE DELIVERED: _____ DEL'D BY: _____

25 REC'D BY: _____ TIME: _____