

NEW MEXICO LAW ENFORCEMENT ACADEMY
REGULAR BOARD MEETING

September 23, 2010

9:03 a.m.

New Mexico Law Enforcement Academy
4491 Cerrillos Road
Santa Fe, New Mexico 87507

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BOARD MEMBERS

Betsy Glenn, Deputy Attorney General
James R. Coon
Arsenio Jones
Bernardo Perez
Ronald W. Reeves
Faron Segotta
Ray Schultz
Nate Korn

ALSO PRESENT

Arthur Ortiz
Zachary Shandler
Ernest Holmes
Matthew E. Jackson
Monique Lopez

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1 ITEM NO. 1: CALL TO ORDER

2 MS. GLENN: Let's go ahead and call the
3 meeting to order. This is a regular meeting of the
4 Law Enforcement Academy Board. And the time is
5 approximately 9:03 or something like that. We're
6 located this morning in the Law Enforcement Academy in
7 Santa Fe.

8 My name is Betsy Glenn and I'm here today on
9 behalf of Attorney General Gary King. He was unable
10 to attend today so he asked me to be here on his
11 behalf. So I guess now we can take the roll call.

12 ITEM NO. 2: ROLL

13 MS. LOPEZ: Ronald Reeves.

14 MR. REEVES: Here.

15 MS. LOPEZ: Chief Segotta.

16 MR. SEGOTTA: Present.

17 MS. LOPEZ: Sheriff Coon.

18 MR. COON: Present.

19 MS. LOPEZ: Isaac Lujan. Chief Schultz.

20 MR. SCHULTZ: Present.

21 MS. LOPEZ: Sergeant Jones.

22 MR. JONES: Present.

23 MS. LOPEZ: Nate Korn.

24 MR. KORN: Present.

25 MS. LOPEZ: Bernardo Perez.

1 MR. PEREZ: Present.

2 MS. GLENN: Okay. So is that a quorum?

3 MS. LOPEZ: Yes.

4 ITEM NO. 3: APPROVAL OF AGENDA

5 MS. GLENN: So I think the next thing on the
6 agenda is to approve the agenda for the September 23rd
7 meeting. So has everybody had a chance to review the
8 agenda? Okay. Are there any changes or amendments
9 that we need? Okay. Do I have a motion to approve
10 the agenda?

11 MR. COON: Ma'am, I'll make the motion we
12 approve the September 23rd, 2010, meeting of the New
13 Mexico Law Enforcement Academy Board.

14 MS. GLENN: Is there a second?

15 MR. SEGOTTA: Second.

16 MS. GLENN: I have a motion and a second.

17 All those in favor say aye.

18 (Those in favor so indicate.)

19 MS. GLENN: Any opposed? So the motion
20 carries and the agenda is approved.

21 ITEM NO. 4: APPROVAL OF MINUTES, JUNE 15, 2010

22 MS. GLENN: So the next thing is the approval
23 of the June 15th meeting minutes. And those are
24 behind tab 4. Has everybody had an opportunity to
25 review those minutes? Are there any changes,

1 questions? Do I have a motion to approve the minutes?

2 MR. SEGOTTA: Madam Chair, I make a motion
3 that we approve the minutes from the June 15, 2010,
4 meeting of the New Mexico Law Enforcement Academy
5 Board.

6 MS. GLENN: Do I have a second?

7 MR. SCHULTZ: Second the motion.

8 MS. GLENN: All in favor say aye.

9 (All those in favor so indicate.)

10 MS. GLENN: Any opposed? The motion carries.

11 ITEM NO. 5: DIRECTOR'S REPORT

12 MS. GLENN: Okay. And the next thing behind
13 tab 5 is the director's report. So I believe that's
14 Mr. Ortiz.

15 MR. ORTIZ: Yes. Good morning, Madam Chair,
16 board members. Good morning and welcome to New Mexico
17 Law Enforcement Academy. I'd like to begin by
18 introducing a new board member, Mr. Nathan Korn.

19 Mr. Korn has had two different careers since
20 1974, each touching in their own way on his interest
21 and support for the efforts of law enforcement. Since
22 1980 Mr. Korn has been the president of Kaufman's
23 West, a small business in Albuquerque that caters to
24 sporting and outdoor enthusiasts, with a significant
25 portion of the customer mix being members of the

1 military and law enforcement.

2 In this capacity Mr. Korn has had the unique
3 opportunity to meet not only civilians from all walks
4 of life but also to meet literally thousands of law
5 enforcement officers from all agencies around the
6 State of New Mexico and elsewhere. He has had
7 innumerable discussions with officers regarding their
8 training, interests, careers, families, and the
9 hazards they face on the job.

10 He has participated in dozens of ride-alongs
11 with officers and deputies from agencies throughout
12 the state and spent time during their average shift as
13 an observer. He has sat in on training classes for
14 cadets as well as in-service classes for veteran
15 officers.

16 Prior to starting his business career,
17 Mr. Korn practiced law. Admitted to the New York Bar
18 in 1974 and the New Mexico Bar in 1979, he worked for
19 six years as a criminal prosecutor and later as the
20 chief counsel of a state commission investigating
21 organized crime. He was able to participate in
22 building cases with law enforcement officers and then
23 prosecuted them as they proceeded through the judicial
24 system.

25 Mr. Korn has said that this period of his

1 life is when he could see firsthand the special
2 dedication that most law enforcement officers had in
3 serving the public. He also became distinctly aware
4 that there existed a very small percentage of officers
5 who are less worthy of the public's trust.

6 Over the years Mr. Korn has developed a deep
7 respect for the men and women of law enforcement
8 throughout the state as both a prosecuting attorney
9 and businessman with links to both the general public
10 and the law enforcement community. Mr. Korn brings a
11 unique perspective to the New Mexico Law Enforcement
12 Academy Board.

13 Please join me in welcoming Mr. Korn.

14 MR. KORN: Thank you.

15 MR. ORTIZ: And also if you would like to say
16 a few words.

17 MR. KORN: Thank you, Mr. Ortiz. I'm honored
18 to be part of the board and I look forward to
19 executing my duties as faithfully to the statute as I
20 can.

21 MR. ORTIZ: Thank you and welcome.

22 Another gentleman, Mr. Isaac Lujan, the
23 tribal chief from Sandia Pueblo, was appointed by the
24 governor as a tribal representative. However, he was
25 unable to attend today's meeting and hopefully we'll

1 get to meet him in December.

2 To continue on with the director's report, in
3 June 2010 the contractors began the New Mexico Law
4 Enforcement Training Compliance and Audit to enhance
5 law enforcement as a profession and to improve law
6 enforcement through ensuring compliance with training
7 and regulations.

8 Mr. Mark Shea is here. And during his
9 presentation, if you have any questions on the audit,
10 he will be happy to answer those questions.

11 Regarding the misconduct status update,
12 currently we have received 61 misconduct cases for
13 2010. Currently there are 50 open cases; three for
14 2008; nine for 2009; and 38 for 2010. Ten of the open
15 cases are pending formal hearings and eight are
16 pending court hearings. And I also have a sheet
17 attached at the back of the director's report with
18 those stats.

19 Also we want to congratulate Ms. Monique
20 Croker who recently got married and gave birth to a
21 baby daughter in June. And also administrative
22 assistant Marisa Tapia, she just gave birth to a baby
23 girl on the 21st. So she's out on maternity leave.
24 So we're short-handed here and now we're a little
25 short-handed more with her absence.

1 We do have good news. We are looking at
2 hiring another instructor for the basic. He's
3 currently with MTD. And thanks to Chief Segotta and
4 DPS. We're hopeful he's going to accept a position
5 over here and begin with us as soon as possible with
6 training the basic cadets.

7 His name is Troy Gladfelter. He retired from
8 APD, I believe he did 20 years with APD. And then
9 he's been with MTD. And he's looking to come to the
10 academy. So we're looking forward to having him
11 attend. Any questions? Okay. Thank you. At this
12 time I'll turn it over to Mr. Shea for the Advanced
13 Training Bureau report.

14 MR. SHEA: Madam Chairman, members of the
15 board, during the quarter, previous quarter, the
16 Advanced Training Bureau has provided training to over
17 200 students throughout the state, resulting in 4,066
18 contact training hours. We also completed
19 certification by waiver class No. 70 with 22 students
20 for an additional 2,640 contact training hours, for a
21 total over that period of time of 6,706 training
22 hours.

23 We are currently processing applications for
24 certification by waiver of class No. 71 which will
25 occur beginning on October 18th. We currently have 32

1 applications in process. We're hoping to have a full
2 class for that.

3 Something new for the Advanced Training
4 Bureau. Due to the fact that we had a large number of
5 applicants who were eligible to attend the basic
6 training class 180 that started a couple weeks ago, we
7 agreed to hold a second basic class running
8 concurrently with class 180. And that is class 181.
9 And that is being run by the Advanced Training Bureau.
10 So we have 17 cadets in class 181 that started on
11 September 20th and will go through the 26th of January
12 of 2011. So we've got quite a bit going on with the
13 Advanced Bureau.

14 Ongoing projects. We sent Bryan Coss, our
15 master instructor, down to the reality-based training
16 down in La Playas that board had all been invited to,
17 to go down to and attend, to get that knowledge so we
18 can integrate that into our future training projects.

19 Our staff attorney, Elliot Guttman, has been
20 working diligently on developing a model policy to
21 present around the state on immigration for
22 departments that do not have immigration policies.
23 He's been in communication with ICE and the
24 supervisory special agent out of the Albuquerque
25 office.

1 They've been coordinating that and also
2 sending his drafts out around the state to chiefs for
3 their feedback. So we should have a draft policy
4 here. When we have the Policing in the 21st Century
5 conference here in December, he should be able to
6 present that and have that available.

7 We're also continuing with our project to get
8 all firearms instructors in the State of New Mexico,
9 review their records, make sure they're current, and
10 send them through a firearms instructor update course.
11 We've got several file review and firearms instructor
12 update classes coming up in October and November.

13 And we should at that time -- anyone in the
14 state who currently holds a certification as a
15 firearms instructor should have been through those
16 classes by that time. So that we will have a solid
17 cadre of instructors that will all be teaching in the
18 same manner and scoring targets in the same manner as
19 we continue into 2011.

20 We're also working with the chiefs
21 association on updating the firearms qualifications
22 and the curriculum for training instructors and
23 training cadets and recruits in our basic classes.
24 And that's an ongoing project. We've met several
25 times.

1 We've come up with some changes to the day
2 and night qualifications that have gone through first
3 draft for review. And now we'll embrace the sheriffs
4 so that we can get that feedback too and any other
5 agency that has law enforcement functions within the
6 state so that everyone has a chance to give us some
7 feedback on that before we make a presentation to the
8 board. I don't anticipate that would happen until
9 probably the second quarter of 2011.

10 With that we will be continuing to keep
11 ourselves very busy with the Advanced Bureau, with the
12 basic class, and a certification by waiver class. And
13 actually we'll have two certification by waiver
14 classes going while we're teaching the basic class out
15 of the Advanced Training Bureau. I'll entertain any
16 questions. Thank you, Madam Chair.

17 MS. GLENN: Thank you.

18 MR. ORTIZ: I'll just continue on with the
19 Basic Training Bureau. Basic training class No. 179
20 started with 41 cadets on March 28th, 2010. And on
21 August 27th, 2010, 28 of them graduated.

22 As Mr. Shea told you about class 181, 17
23 cadets. Class No. 180 that began on September 13th
24 with 51 cadets, we did lose one gentleman the very
25 first night so that number is now at 50.

1 At the end of class 179, during their
2 evaluations, I just wanted to share with the board how
3 positive and appreciative they were of the 4/10
4 schedule. It helped them out quite a bit with their
5 families, having time to visit with their agencies,
6 attend court. It was very, very beneficial. And they
7 all mentioned it in their evaluations. So I want to
8 thank the board for that as well.

9 Ms. Dana Brock was hired on June 26, 2010.
10 And she's been working with the basic bureau along
11 with Mr. Garcia and Ms. Hill. So there are three
12 right now. We're hoping for Mr. Gladfelter to give us
13 four to work with those 50 cadets.

14 Regarding the Critical Incident Response
15 Bureau, the PST academy No. 113 that graduated 36
16 dispatchers on July 30, 2010. The next PST class is
17 scheduled to start in January. Being that we have a
18 full house with all the cadets, what we had to do is
19 we had to push back the PST class from now in October
20 to January.

21 And I believe there was three dispatchers who
22 had the 12-month rule, but I waived that for them.
23 And I've sent letters. I think two were with state
24 police and one was with Milan PD. And their
25 applications are being processed to start the January

1 class. On the downside, instructor Regis Chavarria
2 resigned on July 2nd, 2010.

3 At this time any questions.

4 MR. COON: Mr. Ortiz, I've got a question
5 regarding the audit on our hours, our training hours.
6 How did that come out statewide, do we have any
7 figures on that?

8 MR. ORTIZ: I'll refer that to Mr. Shea. The
9 reports have been sent to him. I don't think we've
10 received all the reports.

11 MR. SHEA: Sheriff Coon, Madam Chair, members
12 of the board, we closed out at the end of the fiscal
13 year the audit process. What we had put into place,
14 since this had never been done before, is we had
15 contracted with five different auditors.

16 The idea was, since this had never been done,
17 we would like to see some performance instead of
18 baseline so we would know financially what would be a
19 reasonable expectation on how many audits would be
20 done at what price in addition to developing the forms
21 and getting a feel for the quality of the product.

22 During that time we had identified
23 approximately half of the state -- of the agencies in
24 the state and divided those up among the five
25 auditors. They did not complete their full audit list

1 because obviously with us first -- this first go, our
2 anticipated time to complete audits was quite
3 protracted compared to what we had planned on it.

4 So we didn't complete all the audits on their
5 list. They have submitted their audits to us. We are
6 in the process of reviewing them. And the short
7 answer, Sheriff Coon, is that we have not compiled
8 those statistics and plan on providing all of that
9 information to you at the December class -- or the
10 December meeting.

11 And we're also looking at going to a bid
12 proposal for just one audit from the five that had
13 submitted their preliminary audits. So that we'll
14 contract with one auditor to go back out or possibly
15 two to continue the audit process.

16 Our goal is to make sure that every agency in
17 the state goes through an audit of their 2008/2009
18 training records and for us to make recommendations,
19 if there are deficiencies, on how to get them into
20 compliance, provide paperwork or auditing or
21 recordkeeping processes, if they don't have them in
22 place to assist them.

23 Our goal, of course, is to get everyone into
24 compliance. But it's not -- we're not looking at
25 disciplinary actions against individual officers or

1 agencies in this audit phase. It's kind of a
2 fact-finding and an educational thing so everyone
3 understands what the process is so we can be on track
4 with the 2010/2011.

5 MR. COON: They came to our office. And they
6 were very thorough, they were very professional. And
7 I was quite pleased with the way they handled their
8 business and again was very thorough with it.

9 MR. SHEA: Thank you, Sheriff. I mean we had
10 given the auditors that charge. They are there, one,
11 to gather the information; but also to help the
12 agencies. Thank you, Madam Chair.

13 MR. ORTIZ: I think that's the end of
14 director's report unless there are any questions.

15 ITEM NO. 6: PUBLIC COMMENTS

16 MS. GLENN: Okay. Thank you. So that takes
17 us to agenda item 6. This the public comments part of
18 the meeting. It gives an opportunity for members of
19 the public to make comments or ask questions about
20 issues regarding the Law Enforcement Academy. Is
21 there a signup sheet?

22 MR. ORTIZ: Yes. We only have one. And I'll
23 introduce this lady at this time. Okay.

24 Board members, this is Lisa Valenzuela.
25 She's a Valencia County sheriff's deputy. She's

1 currently a cadet in the class. But she would just
2 like to share some information with you regarding the
3 misconduct cases that came to address the class last
4 week.

5 MS. VALENZUELA: Good morning, sirs, ma'am.
6 My name is Cadet Valenzuela, I'm with class 180. And
7 a few days ago we had an ethics class. And one of the
8 things that was brought into our ethics class was
9 actually two people who had -- I guess they were being
10 reviewed for misconduct. And I thought that that was
11 very -- it was a very powerful part of our ethics
12 class because it brought reality to us, especially as
13 new -- as cadets and hopefully new officers.

14 And one of the things that is being reviewed
15 for misconduct is DWI. And that really hit me
16 personally, because I am a victim of DWI. My sister
17 was killed by a drunk driver 12 years ago. And I am
18 very active with Mothers Against Drunk Driving and I
19 facilitate a victims impact panel in Valencia County.
20 And I was a victims' advocate. And so I work very
21 closely with Mothers Against Drunk Driving.

22 So when I heard this, I've seen people who --
23 I guess who are sorry because they got caught. But
24 then I've also seen a lot of people who actually and
25 truly want to change that behavior and who are

1 sincerely -- I don't want to say sorry because they
2 are sorry. But who want to make a difference and who
3 want to change their bad choice into something
4 positive.

5 And I really and truly feel that by bringing
6 these two people in to speak to us and it bringing the
7 reality of what could happen and the higher standard
8 that we have to uphold, I really feel that that was
9 very powerful to us. And that's what I wanted to
10 share with you today as far as my perception of that
11 part of what they're doing. So if there's any
12 questions, I would be happy to answer them. Thank you
13 so much.

14 MS. GLENN: Thank you. Are there any other
15 public comments, board members? Okay.

16 ITEM NO. 7: PUBLIC HEARING: NMAC 10.29.7.8
17 In-Service Training - Missing Person and Amber Alert
18 Training

19 MS. GLENN: We'll go to the next item on the
20 agenda. That's behind tab 7. This is a rules hearing
21 on a rule that I think was probably presented before.
22 So I think -- Zach, is this where I take over on the
23 script?

24 MR. SHANDLER: Yes.

25 MS. GLENN: Zach Shandler, the board's

1 counsel, has prepared a script. So I'll go through
2 this on the rules hearing on this particular rule.
3 This is proposed Rule 10.29.7.8, in-service training
4 cycle for law enforcement officers.

5 So I now declare the hearing record open for
6 the rules hearing. Staff has proposed these changes.
7 And we will start with staff providing testimony on
8 why these rules should or should not be adopted. The
9 board is free to ask any questions during this
10 process.

11 At that point we'll allow anyone from the
12 audience who wishes to to provide testimony on the
13 rule. At some point the board will deliberate, but
14 this will be after all the testimony is provided. And
15 once we've received all the testimony, then I'll go
16 ahead and close the hearing record.

17 At that point the board may start
18 deliberating on the merits of the rule. There will be
19 a motion to accept, modify, or reject the proposed
20 rule. The board can modify the rule as long as any
21 modifications proposed are a logical outgrowth of the
22 rule that's published in the packet. And, of course,
23 that's just intended to make sure that any rule that's
24 adopted, it doesn't differ substantially from what was
25 presented to the public as the proposed rule.

1 There are two legal things, legal items that
2 I need to state at this time for the record. The
3 first is that the rules themselves will not become
4 effective. No matter when the board adopts them, the
5 actual rule will not become effective until 30 days
6 after they're filed at the state records and archives.

7 The second thing is -- and I think that this
8 is fairly recent. I'm not sure. But there is a legal
9 standard for the adoption of these rules. We need to
10 inform the public of the board's reasoning when we
11 choose to amend the rules. And this is achieved by
12 the comments of at least one member on the record that
13 explains the reasoning for the rule, behind the rule,
14 and that will satisfy this particular legal standard.

15 Okay. So now at this time we are ready for
16 Director Ortiz or his staff to make the presentation
17 on the rules.

18 MR. SHEA: Madam Chairman, members of the
19 board, Mark Shea, bureau chief with the Advanced
20 Training Bureau.

21 A little bit of history. Back in the
22 December meeting of 2009, the board adopted the
23 biennium in-service training criteria for the
24 2010/2011 cycle. At that time a statute was not in
25 place that this request of the rule change affects.

1 At the time that we adopted that rule, we had put into
2 the optional category for in-service training the
3 missing persons and the AMBER Alert training.

4 In the January session, the legislature
5 passed and the governor signed Senate Bill 55 which
6 mandated that training, both at the academy level and
7 as ongoing training for officers. As such the academy
8 staff had proposed a rule change that would reflect
9 what the statute required. And that is what we are
10 presenting -- have presented and are requesting
11 adoption today.

12 If you look at the rule itself that you have
13 a copy of and you look at Section 10.29.7.7A and then
14 you go to paragraph 8 or section 8, you'll see that
15 has been struck that says "Remaining hours may be in
16 maintenance or advanced areas."

17 It is replaced with eight which says "A
18 minimum of two hours shall be in missing persons and
19 AMBER Alert training pursuant to the Law Enforcement
20 Training Act and Missing Persons Information and
21 Reporting Act."

22 I had left at the desk -- at the time that we
23 sent this over to archives and state records for
24 review, we did not have the 2010 statutes yet. So the
25 actual statute number was given to you. But the

1 language here references that statute that you have a
2 copy of.

3 And then finally what had been struck out as
4 eight has now been replaced as nine "Remaining hours
5 may be in maintenance of advanced -- or advanced
6 areas." And then if you go further down into
7 paragraph B, section 3, where we had originally put
8 that as optional training, we have struck that out.
9 So you'll see in section 3, "Entering missing persons
10 into NCIC, curriculum developed by the NM DPS law
11 enforcement records bureau" has been struck since that
12 will now be mandatory and not an optional training.

13 As an aside we have placed curriculum on our
14 website so that all agencies can download that that
15 can do in-service training at this time. Obviously
16 the statute requires that training to occur. So
17 regardless of whether or not we integrate it into the
18 requirements for the biennium in-service training,
19 that does not relieve the individual officers and
20 agencies of conducting that training on an annual
21 basis and the academy training.

22 And with that I'll make a recommendation that
23 the board approve this rule change and entertain any
24 questions.

25 MR. SCHULTZ: Madam Chair, one quick

1 question. The attachment handout that was given us
2 referring to 29.7.7.4 talks about a minimum of four
3 hours training annually.

4 MR. SHEA: No. Chief Schultz, that is for
5 the academy training, the four hours references
6 academy training. There is no time set for the
7 ongoing in-service training.

8 MR. SCHULTZ: But it says --

9 MR. SHANDLER: The first sentence is for the
10 cadets. And then the second sentence is for
11 in-service. And for whatever reason the legislature
12 did not duplicate the minimum four hours into the
13 second sentence. I think that's the point he's
14 making.

15 MR. SHEA: That is correct.

16 MR. SCHULTZ: Okay.

17 MR. SHEA: We had met with Major Schilling
18 with the records bureau who maintains the missing
19 persons database and does the AMBER Alert. And upon
20 his recommendation was the hours that we had selected.
21 And we have been teaching this class from the
22 standpoint of in-service with our biennium at this
23 point and found that the two hours is adequate. And
24 we've also developed the four-hour curriculum for the
25 academy. Thank you, Madam Chair.

1 MS. GLENN: Thank you. Is there anybody from
2 the audience who wishes to provide testimony on this
3 rule change, proposed rule change? Okay.

4 Any discussion amongst the board about the
5 merits or about the rule? Okay. Mr. Shandler, did
6 you get enough on the record as far as the rationale
7 for the rule?

8 MR. SHANDLER: Yes, Madam Chair. And if
9 there's no further testimony, I advise you to close
10 the record and then to move to deliberations.

11 MS. GLENN: Okay. I will close the hearing
12 record now. Do I have a motion to approve the rule?

13 MR. SEGOTTA: Madam Chair, I move that we
14 approve the rule as submitted.

15 MS. GLENN: Do we have a second?

16 MR. SCHULTZ: Second.

17 MS. GLENN: Any discussion? All voting in
18 favor signify by saying aye.

19 (Those in favor so indicate.)

20 MS. GLENN: Any opposed? Hearing none the
21 motion carries.

22 ITEM NO. 8: RATIFICATION OF CERTIFICATIONS FOR LAW
23 ENFORCEMENT OFFICERS

24 MS. GLENN: Agenda item 8 is the
25 certifications for law enforcement officers. Director

1 Ortiz, have the listed individuals met the
2 requirements for certification under the Law
3 Enforcement Training Act?

4 MR. ORTIZ: Yes, Madam Chair and board
5 members, Item No. 8, ratification of certification for
6 law enforcement officers. I have verified the list of
7 police officers beginning with certification
8 No. 10-0090-P through 10-0192-P; and 00-0143-P,
9 81-0016-P, 81-0288-P, 82-0220-P, 85-0209-P, 87-0364-P,
10 88-0136-P, 89-0185-P, 92-0149-P, and 97-0253-P have
11 all met the standards and requirements for the law
12 enforcement certification. And we request that the
13 board ratify their certification.

14 MS. GLENN: Okay. Do I have a motion to
15 ratify the certifications?

16 MR. SCHULTZ: Madam Chair, I would like to
17 make a motion that we ratify as provided.

18 MS. GLENN: Do I have a second?

19 MR. COON: Second.

20 MS. GLENN: It's been moved and seconded.
21 Discussion? All in favor of the motion please signify
22 saying aye.

23 (Those in favor so indicate.)

24 MS. GLENN: Any opposed? Seeing none the
25 motion carries.

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

3 MS. GLENN: Agenda item 9 is the ratification
4 of certifications for public safety telecommunicators.
5 Director Ortiz, have the listed individuals met the
6 requirements for certification under the Law
7 Enforcement Training Act?

8 MR. ORTIZ: Yes, Madam Chair and board
9 members. The director has verified that the list of
10 dispatchers beginning with certification No.
11 10-0055-PST through 10-0090-PST have met the standards
12 and requirements for certification. And we request
13 that the board ratify their certification.

14 MS. GLENN: Okay. So we have a
15 recommendation for a ratification of these
16 certifications. Do I have a motion to that effect?

17 MR. SEGOTTA: Madam Chair, I move that we
18 accept the certification of public safety
19 telecommunicators.

20 MS. GLENN: Do I have a second?

21 MR. JONES: I second.

22 MS. GLENN: It's been moved and seconded that
23 we ratify the certification for public safety
24 telecommunicators. All in favor vote by saying aye.

25 (Those in favor so indicate.)

1 MS. GLENN: Any opposed? Okay. The motion
2 carries.

3 MR. ORTIZ: One thing I failed to add is we
4 do have one on the back page. It's an old one, a
5 certification that was reinstated, 01-0104-PRD, to
6 have the board include that one.

7 MS. GLENN: Okay.

8 MR. SEGOTTA: Madam Chair, can I amend my
9 motion?

10 MS. GLENN: Yes.

11 MR. SEGOTTA: I want to amend my motion --
12 wow. My motion to include certification 01-0104-PRD.

13 MS. GLENN: Okay. So the motion is amended
14 to basically include everybody that was on the list
15 including the one just read.

16 MR. ORTIZ: I apologize.

17 MS. GLENN: Do I have a second?

18 MR. JONES: Second.

19 MS. GLENN: All in favor signify by saying
20 aye.

21 (Those in favor so indicate.)

22 MS. GLENN: Any opposed? The motion as
23 amended carries.

24 ITEM NO. 10: DISCUSSION: REWRITE/UPDATE OF PART 9 &

25 10 NMAC

1 MS. GLENN: So agenda item 10. Now, this
2 is -- I think this is a discussion item only. And
3 it's a rewrite or update of certain rules. So I think
4 staff probably has a presentation on this. Yes.

5 MR. NAJAR: Madam Chair, board members,
6 Gilbert Najjar with the Law Enforcement Academy. And
7 really what we would like to present here is just an
8 update as to where we're at on both items 10 and 11
9 and answer any questions that you may have about it.
10 We will be in a position to move towards discussion I
11 think in the fourth quarter board meeting.

12 But at this point I just wanted to let you
13 know what the progress was on the rewrite of parts 9
14 and 10. There was one missing item that we had not
15 had an opportunity to look at. And that was the
16 accredited CIT which is crisis intervention training
17 program that Bernalillo County and Albuquerque Police
18 Department utilize in their curriculum. So I was able
19 to sit in on that about three weeks ago.

20 So now we have the Las Cruces curriculum, the
21 Bernalillo County/Albuquerque curriculum, we've got
22 Mary Justice curriculum, and we've got the basic
23 crisis intervention components that are in the
24 existing basic curriculum, which we now are going to
25 compile the existing training information we have and

1 all those curriculums, reconvene the crisis
2 intervention training committee, and have them go
3 through that entire curriculum from these sources and
4 come up with a recommendation for one curriculum which
5 will then be brought back to the board for discussion
6 so that we can do the rewrites and modification of
7 blocks 9 and 10 which is probably the area where we
8 most closely address all the crisis intervention type
9 training.

10 So I think that and with the assistance and
11 participation of our CIT committee, it will really be
12 a great upgrade and bring us I think into a position
13 where the nine academies are teaching our CIT
14 curriculum.

15 Basically right now you've got Albuquerque
16 and Bernalillo County which cover the 40-hour CIT
17 curriculum within their training academies. This will
18 allow all the other academies to do the same thing
19 with this valuable training and important training.

20 So that's where we are on that. As we get
21 closer to a proposed model for statewide
22 accreditation, we'll bring that back to you for that.
23 That will be one of the changes that we will come to
24 you as a proposal later on for modification of the New
25 Mexico Administrative Code, because that is included

1 in Part 9 of our code.

2 So that's where we're at on the status of
3 that. And I've had tremendous assistance from Mary
4 Justice, Ron Gurley, Dr. Troy Rodgers at APD and his
5 staff from APD, Bernalillo County, and around the
6 state including the people up in Las Vegas at the
7 hospital there. So we've had a tremendous amount of
8 input from people. And I think we're going to be able
9 to present to you an improved product on training for
10 that. If there aren't any questions on that part of
11 it, I'll move to the next item.

12 MS. GLENN: Okay.

13 ITEM NO. 11: DISCUSSION: ADDITIONAL NMAC CHANGES

14 MR. NAJAR: What we're proposing to do again
15 for the next item is just update you where we're at.
16 We will have in hand for you the draft of all the
17 proposed changes that we're seeking in Part 9. I
18 think there's 11 blocks of instruction that you'll see
19 in which there's going to be some proposed change to
20 the New Mexico Administrative Code.

21 Some of it is just housekeeping, cleaning up
22 of the language. Some of it is moving parts of the
23 curriculum around so that it makes more sense, it's
24 more logical in where they're found within the
25 training curriculum. Some of it is just an adjustment

1 to things that were basically typos that were never
2 corrected previously to this.

3 So it is our hope to have drafts of each of
4 these for you for your review and for open discussion.
5 We would probably anticipate that nothing be moved to
6 public hearing until the first or second quarter of
7 2011.

8 But given what we're trying to do in the
9 previous tab and what we want to do here in this tab
10 for the blocks 9 and 10 and then the quite a few
11 changes to 11 blocks of the New Mexico Administrative
12 Code, we would like to request the consideration by
13 the board of a working session for the next quarterly
14 board meeting so that we have a working session of a
15 half a day prior to the board meeting.

16 And generally those have been, in the
17 practice of the board, informal meetings. No official
18 action is taken during the working session. It just
19 allows the board members and any members of the public
20 who wish to attend to see what it is we're proposing
21 prior to the official and formal board meeting.

22 So we ask for your consideration of us to
23 present those proposed changes to the NMAC. At that
24 time we won't have anything as far as blocks 9 and 10
25 for the fourth quarter, that will come a little later.

1 With that, if you have any questions, I would be glad
2 to respond to them.

3 MR. SCHULTZ: Madam Chair, Mr. Najar, I know
4 based on a couple things; one, based on the number of
5 disciplinary hearings and, of course, we're going to
6 hear a number of those today, and previous
7 discussions, we've also talked about having a block of
8 instruction talking about domestic violence in law
9 enforcement specific.

10 Is that going to be addressed in the new
11 curriculum? I know we've talked about it about two
12 years ago and it kind of dropped off the face of the
13 map. Is that something that could be included prior
14 to having your final rewrite?

15 MR. NAJAR: I know in our discussions -- and
16 we've approached the board previously with that issue.
17 And I'll confer with Director Ortiz. But I don't see
18 why not. We can definitely include that for your
19 consideration.

20 The only other item I want to address kind of
21 independent of these two tabs was that as you heard
22 from Bureau Chief Mark Shea, for the fourth quarter we
23 will be presenting to you the results of our audit
24 that we did in June. We hope to continue with that
25 audit now in the fourth quarter for the remaining

1 agencies and complete that on our remaining agencies.

2 And we will be presenting for discussion
3 purposes only also a proposal for a new system for
4 renewal of certification. Right now the system that
5 we have incorporates an affidavit system whereby
6 agencies inform us that all their officers have
7 completed and are in compliance with all the training
8 requirements that the board has established.

9 We have looked at and I've had the Advanced
10 Training Bureau develop a proposal for you. We're not
11 anticipating any action this year or even the first
12 two quarters of next year but your consideration for
13 discussion and dissemination -- and we'll have that at
14 the next board meeting -- a system that basically
15 models -- was built on the models already established
16 in other professions such as doctors, lawyers, EMTs,
17 where there's a renewal fee based system.

18 And it would require all officers to report
19 directly to the Law Enforcement Academy that they are
20 in compliance, which means all 5,000 plus officers
21 would have to report their training records to us, to
22 shift the burden off of the chiefs and sheriffs of
23 having to sign that affidavit and rely on their
24 personnel and staff to ensure that that was done.

25 Similar to I guess what EMTs do about every

1 two years, similar to what the bar association
2 requires and the medical profession requires of their
3 members. So we're just introducing that. We want to
4 introduce that in the December meeting for initial
5 discussions and considerations for you as well.
6 That's all I have at this time.

7 MR. SEGOTTA: Madam Chair, Mr. Najar, I
8 notice here in block 10, item J, New Youth in Crisis
9 and PTSD. I don't know about other agencies, but I
10 can tell you that within the state police we are
11 seeing or have experienced issues with combat veterans
12 and PTSD.

13 And I'm very interested to see what we're
14 going to be doing in that area. I know that the IACP
15 has recently released -- I don't know if you want to
16 call it a model policy or a guide for law enforcement
17 agencies who have officers that have been deployed and
18 now are returning to their employment as police
19 officers.

20 I think the Inspector Valverde was attempting
21 to get some of that information from the IACP so that
22 our agency could review it to make sure that we are
23 aware of the concerns with PTSD.

24 I know that we try to reintegrate our
25 officers, if necessary, putting them back through

1 field training officer program and things of that
2 nature just to make sure that their skill set is what
3 it needs to be. But I'm very, very interested to see
4 what you're going to be doing on that front.

5 MR. NAJAR: And that has -- as we've had
6 these CIT meetings around the state, in part of my
7 ability to travel around and see what agencies are
8 doing, that has been highlighted as a concern not only
9 for us here but around the state.

10 I know during one CIT training down in
11 Cruces, I spoke with officers in the CIT training who
12 when they returned from Afghanistan, a week later they
13 are patrolling the streets of Las Cruces with no
14 reintegration, reorientation, or none of that.

15 So definitely the PTSD is one of the
16 components we hope to be able to recommend to the
17 board as part of the required training and obviously
18 the corresponding development of model policies for
19 all agencies in terms of reintegration and
20 reorientation of the soldiers that are coming back.

21 It's a concern I think for a lot of people
22 when we see someone who is in a combat role a week
23 later patrolling the streets of your city without any
24 effort there to do some of reorientation and
25 reintegration of that officer. So we definitely are

1 looking at that.

2 We've looked at models and training
3 curriculums in Ohio and Connecticut and Georgia where
4 they are addressing that already. Texas has gone to a
5 mandatory mental health certification system. We're
6 looking at that model as well for a certification
7 program here. Every officer in Texas is mandated to
8 have basically the equivalent of CIT training.

9 We know recently Houston certified 600 CIT
10 officers. So part of that includes looking at the
11 PTSD component and as well as developing curriculums
12 for youth in crisis. And we've kind of neglected that
13 area of training for us as well. But those will be
14 things we hope to bring to the board here for
15 consideration. Thank you, Madam Chair.

16 MS. GLENN: Thank you. So other than
17 disciplinary matters, is there anything else that the
18 board would like to discuss at this time? Okay. My
19 understanding is that at this portion is when I leave
20 and the vice chair takes over. And that's Mr. Perez I
21 believe.

22 MR. PEREZ: Yes, ma'am.

23 MS. GLENN: Okay.

24 MR. COON: Mr. Vice chair, before you get
25 seated, can we take a break real quick.

1 MR. PEREZ: Yes. We'll take a ten-minute
2 break until 10 o'clock.

3 (Break.)

4 MR. PEREZ: It is 10:04. We are now back in
5 session. Director Ortiz, are you going to --

6 MR. ORTIZ: Mr. Jackson I believe.

7 MR. PEREZ: Mr. Jackson, Assistant Attorney
8 General Matt Jackson, will present the case
9 information regarding disciplinary matters. Go ahead,
10 sir.

11 MR. JACKSON: Gentlemen, can you hear me? I
12 think there's a mike over here if there's a problem.
13 All right.

14 ITEM NO. 12: ABRAHAM BACA

15 MR. JACKSON: Item No. 12 is Abraham Baca.
16 The allegation against Mr. Baca is that he drove while
17 intoxicated and was dishonest during the investigation
18 of his conduct. He was pulled over for failure to
19 maintain his lane of traffic and showed signs of
20 impairment during a field sobriety test. He agreed to
21 but then later refused to take a breath test.

22 He gave inconsistent answers about his
23 alcohol consumption during the investigation. And
24 during the IA investigation, he said that he hadn't
25 consumed alcohol in over a year. But while he was

1 being administered the field sobriety test, he said
2 that he had had two or maybe three. And he was
3 terminated as a result of this.

4 He met with the director. And there is a
5 stipulated agreement in place for a 120-day
6 suspension, one year probationary period, ethics
7 training, alcohol screening and assessment, and eight
8 hours of community service. And I believe Mr. Baca is
9 here today.

10 MR. BACA: Yes.

11 MR. PEREZ: Would you like to speak?

12 MR. BACA: If you guys got any questions.

13 MR. PEREZ: Please identify yourself.

14 MR. BACA: My name is Abraham Baca.

15 MR. PEREZ: And what department are you with,
16 sir?

17 MR. BACA: I was currently with New Mexico
18 State Police. I'm no longer employed with them.

19 MR. PEREZ: Go ahead.

20 MR. BACA: Just on the aggravated DWI part,
21 the refusal -- the refusal I took has it being done
22 because it was being done incorrectly. At the time I
23 had gum in my mouth.

24 The 20-minute deprivation period was -- I
25 wasn't informed of the 20-minute deprivation period.

1 I was just asked to blow into the machine. Like I say
2 I refused it because of it was being incorrectly. If
3 I could go back in time, I would have blown into every
4 machine they would have gave me.

5 MR. PEREZ: You admit that you were dishonest
6 in the investigation?

7 MR. BACA: The dishonesty part, they asked me
8 about drinking. I hadn't drank in over a year. The
9 question was that -- I believe he asked me how many
10 containers I had in the vehicle. It's not that -- two
11 or three. I don't remember the question of him asking
12 me how many drinks I had.

13 MR. COON: Were you intoxicated when he
14 pulled you over?

15 MR. BACA: I had been drinking earlier in the
16 day, 12 hours before. At that time I had been already
17 in bed and called out by friends at two o'clock in the
18 morning.

19 MR. COON: That's not what I asked you.
20 That's not what I asked you.

21 MR. BACA: Okay. What was the question?

22 MR. COON: Were you intoxicated when you were
23 pulled over?

24 MR. BACA: No, sir.

25 MR. COON: We'll never know since you refused

1 a breath test, right?

2 MR. PEREZ: Any other questions.

3 MR. KORN: Yes, Mr. Chairman. May I ask,
4 Mr. Baca, I'm not sure I understand. You didn't take
5 the breath test you're telling us now because you had
6 gum in your mouth and you thought it was being
7 improperly administered?

8 MR. BACA: Yes. The deprivation consists of
9 a 20-minute observation period by the officer of
10 nothing being in your mouth for those 20 minutes.

11 MR. KORN: But you hadn't had any intoxicants
12 in the last 12 hours?

13 MR. BACA: Yes.

14 MR. KORN: So it wouldn't have registered
15 anyway if you were intoxicated?

16 MR. BACA: Yes.

17 MR. KORN: So what difference does it make
18 whether they had gum or chewing tobacco or anything.
19 I mean it wouldn't have registered anything, would it?

20 MR. BACA: No. And I realized that when
21 somebody else brought it through a different question.

22 MR. KORN: But you were a police officer, you
23 would have known that?

24 MR. BACA: Yes.

25 MR. KORN: And you still refused?

1 MR. BACA: Like any other officer, I just
2 wanted it done correctly I guess. Like I say, if I
3 could redo it, I would have taken all those tests all
4 over again.

5 MR. KORN: You understand how unlikely that
6 seems for us to believe, that that's really what
7 happened?

8 MR. BACA: I understand that, sir.

9 MR. PEREZ: Any other questions? Thank you,
10 sir. Next item.

11 MR. BACA: May I be excused for the day?

12 MR. PEREZ: We will hear the other cases.
13 And then we will go into closed session. And you can
14 remain here and you will hear what our determination
15 is. We will hear the director's recommendation and
16 whether we accept or reject it.

17 MR. BACA: Thank you, sir.

18 ITEM NO. 13: DAVID BARDE

19 MR. JACKSON: The next item is No. 13, David
20 Barde. Due to alcohol impairment, Mr. Barde was --
21 while on standby, on-duty status, Mr. Barde failed to
22 respond to a fatality crash. It took numerous
23 attempts to try and contact him. And when he was
24 initially aroused, he appears to have gone back to
25 bed.

1 The next day he left his duty areas twice
2 without authorization and without notifying his chain
3 of command. He was terminated from his employer for
4 various alcohol-related violations, enumerated as
5 insubordination, inaccessibility, inattention to duty,
6 alcohol use on duty, abandoning duty post assignment
7 reports and other daily required paperwork, abide by
8 law and county policies, behavior not becoming a
9 sheriff's department employee, home life inattention,
10 uncooperative, on-call duty, substance and alcohol
11 abuse, absence and tardiness, unauthorized work,
12 unexcused absence, performance, and violation of the
13 last-chance agreement.

14 There was an informal hearing held
15 telephonically with the director. And as a result of
16 that hearing, the director has agreed to a 60-day
17 suspension, a one-year probationary period, ethics
18 training course, alcohol screening and assessment,
19 eight hours of community service, and a requirement
20 that the respondent obtain a psychological evaluation
21 and provide a letter from the psychologist to the
22 director reporting that he is fit for duty before
23 returning to on-duty status.

24 Is Mr. Barde here?

25 MR. BARDE: Yes.

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

3 MR. BARDE: Good morning, board members. My
4 name is David Barde. I'm here today to take
5 responsibility for my actions. I don't deny what had
6 occurred. But I'm here to take responsibility for my
7 actions.

8 MR. PEREZ: Which actions are these in
9 particular?

10 MR. BARDE: Well, as a crash
11 reconstructionist, I was on call that day. And during
12 the daytime hours, I did have a few shots of alcohol.

13 MR. PEREZ: Could you say a number.

14 MR. BARDE: Three, I had three shots of
15 alcohol during the day. It was Christmas Eve.

16 MR. PEREZ: You were on standby?

17 MR. BARDE: Yes. I was on call that week.

18 MR. PEREZ: Continue.

19 MR. BARDE: Right before I went to bed, I had
20 been having a headache for a couple hours. So I took
21 some Tylenol PM. And that's how come I had trouble
22 waking up.

23 MR. PEREZ: What about all these other
24 things, alcohol use on duty?

25 MR. BARDE: Those are all the same incident.

1 MR. PEREZ: All of these?

2 MR. BARDE: Yes. The alcohol use while on
3 duty is because I was on call.

4 MR. PEREZ: What is this home private life,
5 what does that mean?

6 MR. BARDE: Basically drinking at home. I'm
7 not sure exactly what that policy states in the county
8 manual.

9 MR. PEREZ: What department are you with?

10 MR. BARDE: I was with the Dona Ana County
11 Sheriff's Department.

12 MR. PEREZ: All of these charges were related
13 to that one incident?

14 MR. BARDE: Yes, to the same incident.

15 MR. PEREZ: Any questions from the board?

16 MR. SEGOTTA: Mr. Chairman, good morning,
17 Mr. Barde. Do you think you have a problem with
18 alcohol?

19 MR. BARDE: I did at the time. But in
20 January I did a 30-day treatment at Mesilla Valley
21 Hospital for alcohol use.

22 MR. SEGOTTA: And have you drank since then?

23 MR. BARDE: I've had a few. Like for my
24 birthday, special occasions. But I don't abuse it
25 like I did.

1 MR. SEGOTTA: Okay. No more, Mr. Chairman.

2 MR. PEREZ: Any other questions? Thank you,
3 Mr. Barde.

4 MR. BARDE: Thank you.

5 MR. JACKSON: I would like to apologize to
6 Mr. Barde for mispronouncing his name earlier.

7 ITEM NO. 14: ROBERT BRUNHOEBER

8 MR. JACKSON: The next item is No. 14, Robert
9 Brunhoeber. On November 2nd of 2009, the respondent
10 deactivated his recording devices while conducting a
11 traffic stop on a 19-year-old female citizen for
12 speeding 20 miles over the posted speed limit.

13 The complainant, this female citizen, was
14 neither cited for the speeding violation nor taken
15 into custody by the respondent who knew that she had
16 an outstanding traffic warrant. Instead the
17 respondent told the complainant to put her hands
18 behind her back in a handcuffing position as if he was
19 going to arrest her. He placed his knee on her
20 buttocks and then let her go.

21 The complainant described his demeanor as
22 playful. The respondent later explained to his
23 superiors that during the play arrest, he might have
24 unintentionally brushed against complainant's buttocks
25 while he was trying to show her what could happen if

1 she continued to disregard warrants.

2 On November 5, 2009, the respondent went to
3 arrest the complaint on the traffic warrant and told
4 her relatives that he would let her ride in the front
5 seat of his car and would allow her to buy lunch at
6 McDonald's if she went along with him to take care of
7 this traffic warrant. He was suspended for 80 hours
8 by his employer. And there were additional sanctions
9 imposed which are in your binders.

10 In lieu of an informal hearing,
11 Mr. Brunhoeber submitted a written response which is
12 also in your binder. After reviewing the response and
13 the allegations, the director has agreed to a 60-day
14 suspension, a one-year probationary period, ethics
15 training course, eight hours of community service, a
16 psychological evaluation, six-month improvement
17 performance plan, remedial training, and close
18 monitoring by supervisors after the expiration of the
19 suspended time.

20 Is Mr. Brunhoeber here?

21 MR. PEREZ: Apparently he is not. Any
22 questions of the acting Attorney General? I'm sorry.
23 Assistant Attorney General. Pardon me for the
24 inadvertent promotion. Next item.

25 ITEM NO. 15: DAVID COLEMAN

1 MR. JACKSON: The next item is No. 15, David
2 Coleman. Mr. Coleman committed a hit-and-run on a
3 parked vehicle and then staged his vehicle in a
4 parking lot and claimed that it was his vehicle that
5 had been the subject of a hit-and-run.

6 He called dispatch to report a hit-and-run
7 involving his unmarked unit while it was parked
8 outside a local restaurant. He told the responding
9 officer that when he came out of the restaurant, he
10 noticed the front end damaged on the car. He said
11 that the car must have left the scene while he was in
12 the restaurant and he had no description of the
13 purported driver or vehicle.

14 The evidence at the scene was inconsistent
15 with what the respondent described. And when
16 confronted with these inconsistencies, Mr. Coleman
17 admitted that it had occurred at a different area,
18 when he struck a parked truck from behind and left the
19 scene without contacting the owner of the truck.

20 After this information was obtained, he was
21 placed on administrative leave and resigned during the
22 Internal Affairs investigation. There was an informal
23 hearing with the respondent. His attorney was present
24 telephonically. And he agreed to a settlement of
25 one-year suspension, two-year probation, ethics

1 training, eight hours of community service, and he
2 will address the cadet class.

3 Is Mr. Coleman here?

4 MR. COLEMAN: Yes. Good morning, ladies and
5 gentlemen. My name is David Coleman. I'm a former
6 employee with the Rio Rancho Department of Public
7 Safety. I stand before you today to take full
8 responsibility for my actions and bear the punishment
9 of being unforthright, deceitful, and dishonest with
10 the members of my department as well as betraying the
11 public trust that had been entrusted to me through my
12 position.

13 I've had the opportunity since meeting with
14 Director Ortiz to speak with the cadet class. And
15 ultimately my hope and the outcome of that is that
16 potentially I may be able to sway at least one person
17 that may have the opportunity -- or be in a position
18 where they are faced with a difficult choice and the
19 option of either choosing the high road or the low
20 road.

21 I sincerely hope that when I did address the
22 cadet class, that I was able to reach someone and
23 potentially give them a tangible memory of the
24 repercussions of losing -- choosing not to follow your
25 integrity.

1 MR. PEREZ: Any questions of Mr. Coleman from
2 the board?

3 MR. COON: I have one, sir. Are you with the
4 Taos PD or the Rio Rancho?

5 MR. COLEMAN: Rio Rancho, sir.

6 MR. ORTIZ: Excuse me. Sheriff,
7 Mr. Chairman, board members. My apology. Apparently
8 there are two Mr. Colemans. And we printed the wrong
9 one from Taos. He is from Rio Rancho. That is an
10 error on our part and I apologize.

11 MR. COON: How long were with you Rio Rancho?

12 MR. COLEMAN: I was four and a half years
13 with Rio Rancho. And prior to going to Rio Rancho, I
14 spent a year and a half in Los Lunas.

15 MR. COON: Was there alcohol involved in any
16 of this?

17 MR. COLEMAN: No, sir.

18 MR. PEREZ: Any other questions of
19 Mr. Coleman? Thank you, sir. Mr. Jackson.

20 ITEM NO. 16: LIZETTE HERNANDEZ-DEPEW

21 MR. JACKSON: The next item is item No. 16,
22 Lizette Hernandez-Depew. The allegations here are
23 domestic violence. And then while intoxicated --

24 MR. ORTIZ: Matt, excuse me for interrupting.
25 But I think there are a couple of other gentlemen that

1 wanted to speak on Mr. Coleman's behalf.

2 MR. JACKSON: Oh, I'm sorry.

3 MR. WISEMAN: No, that's okay. I didn't know
4 the process.

5 MR. PEREZ: No, I'm sorry. That was my
6 fault. Yes, sir. Identify yourself, please.

7 MR. WISEMAN: Jerry Wiseman, captain with Rio
8 Rancho Police. Chairman Perez, board members, thank
9 you for giving me the opportunity --

10 MR. PEREZ: Would you spell your last name.

11 MR. WISEMAN: Yes, sir, W-i-s-e-m-a-n.

12 MR. PEREZ: Thank you, sir. Go ahead.

13 MR. WISEMAN: Thank you for the opportunity
14 to speak before you today on behalf of Dave Coleman.

15 I can tell you that I supervised Dave Coleman
16 as a first-line supervisor when he began with our
17 department. And since then I've had the -- I've been
18 his supervisor throughout the last four years.

19 I can tell you that since the incident has
20 occurred, I've gotten to know Dave Coleman a lot
21 better than I knew him when I worked with him. And I
22 can tell you through our meetings that he shared a lot
23 with me. And I believe he's a sincere person.

24 He has never once mitigated his culpability.

25 He has even -- prior to this incident, he was

1 forthright in some of the incidents he was involved
2 in, previous wrecks on the department that I had to
3 take disciplinary action on. And he was forthright
4 during those incidents.

5 He's come a long way. And I believe that he
6 deserves a second chance. I wouldn't stick my name
7 out for just anybody. And I believe Dave Coleman is
8 sincere and I believe he's taken full accountability
9 for his actions.

10 I wish things could be different. I wish he
11 would have told the truth the first time. He didn't.
12 He has paid the price by losing his job with Rio
13 Rancho. And I hope he can make a home someplace else.
14 Does the board have any questions?

15 MR. SEGOTTA: Mr. Chairman, Captain Wiseman,
16 Rio Rancho Police Department, how do they address
17 fleet accidents? Is there a process where the
18 employee, if they are deemed to be at fault, receives
19 some discipline. And then over a period of time, if
20 they have another accident, is that discipline
21 ratcheted up?

22 MR. WISEMAN: Yes, sir. It goes along the
23 lines of progressive discipline. I believe this was
24 Mr. Coleman's fourth crash. I handled two of the
25 crashes. And the third crash I had suspended him or

1 he received a suspension. I don't recall the length.
2 And he lost his take-home car privileges for two
3 weeks. And this was his fourth crash that led to this
4 incident here.

5 MR. SEGOTTA: And maybe Mr. Coleman will have
6 to answer this. Do you believe that you were not
7 truthful because you feared more disciplinary action
8 because it was your fourth accident?

9 MR. COLEMAN: Yes, sir, I did. I felt
10 that -- I believed for whatever reason that the
11 probability was losing my position with the
12 department.

13 MR. SEGOTTA: Thank you.

14 MR. PEREZ: You resigned? Or captain, I'll
15 address the captain. He resigned. How is it that he
16 is now before us again, how did this come about?

17 MR. WISEMAN: He has resigned from the Rio
18 Rancho Police Department. But apparently he's here to
19 maintain or hopefully keep his certification.

20 MR. PEREZ: Okay. I understand. Any other
21 questions of Captain Wiseman?

22 MR. WISEMAN: Thank you very much.

23 MR. PEREZ: Anybody else wish to speak?

24 MR. D'AMATO: Thank you, Mr. Vice chairman,
25 members of the board. My name is John D'Amato. I

1 represented Mr. Coleman through the informal process
2 with the director and Mr. Holmes. Two things I would
3 like to point out. I will not reiterate that which
4 the captain spoke to because those are my feelings as
5 well.

6 A review of the file will indicate that
7 Mr. Coleman was in an unmarked undercover, if you
8 will, civilian vehicle, a BMW, a used BMW. It was not
9 a Rio Rancho Police department car. One of the
10 purposes of his trip to that location was to gather
11 intelligence on what they believed, what Rio Rancho
12 Police Department believed to be a task force target.

13 So in slowing, in trying to gain more vehicle
14 information inside the property, he struck a parked
15 vehicle on the shoulder of the road. At that point he
16 could not report to the owner because I guess he
17 balanced the justification of leaving without
18 notifying the owner of the truck versus the disclosure
19 of the task force operation on that target residence.

20 That was his -- probably a valid reasonable
21 decision on his part. What was not valid and
22 unreasonable and a clear violation of the code was
23 when he misrepresented the crash.

24 I rarely appear before you. I think this is
25 my first formal appearance before you. I'm appearing

1 before you this morning to ask you to review the
2 recommendation and the signed agreement by Mr. Coleman
3 to see if we can cut that time in half.

4 Mr. Coleman is spoken highly of by his peers
5 and supervisors and those folks who know him. I
6 believe that if the instance of untruthfulness in this
7 case is truly an isolated instance; that, if given the
8 opportunity to be law enforcement again in this state
9 or in any other state, he will be a stellar example of
10 what law enforcement is about and what the badge means
11 and what the oath of office stands for.

12 He did speak with the academy class. And I
13 think he will be in a position, a far greater position
14 to help young law enforcement officers to make the
15 right decision. So I would ask respectfully if you
16 would review the stipulated agreement to see if you
17 can cut this in half. I don't ever ask this, I don't
18 think I've ever asked it before in person. But I'm
19 doing so now. And I think it's important that I do
20 so.

21 MR. PEREZ: Are you an attorney, sir?

22 MR. D'AMATO: I am, sir.

23 MR. PEREZ: And you are representing
24 Mr. Coleman?

25 MR. D'AMATO: Yes, sir.

1 MR. PEREZ: Thank you.

2 MR. D'AMATO: Thank you.

3 MR. PEREZ: Any other persons wishing to
4 speak on the matter of Mr. David Coleman? Seeing
5 none, Mr. Jackson, would you continue.

6 ITEM NO. 16: LIZETTE HERNANDEZ-DEPEW

7 MR. JACKSON: Yes. Number 16 again is
8 Lizette Hernandez-Depew. The respondent while
9 intoxicated battered a household member. She did this
10 by scratching the victim's face with her fingernails.
11 When officers arrived to investigate, she was walking
12 away from the scene, ignored multiple commands to stop
13 from the responding officer. She was arrested and
14 charged with resisting, evading, or obstructing an
15 officer and battery against a household member.

16 On December 10th of last year, she pled no
17 contest in magistrate court and received a conditional
18 discharge with a deferred sentence of 364 days in jail
19 requiring a 52-week domestic violence program. In she
20 obeys all laws and completes the program, the charges
21 will be dismissed.

22 And additionally this is not a law
23 enforcement officer, this is a telecommunicator
24 certification that we're dealing with here.

25 There was an informal hearing held. And

1 there's a written statement that was attached to your
2 binder as a result of this. The recommendation is for
3 a 45-day suspension of the telecommunicator
4 certification, one-year probation, ethics training,
5 alcohol screening, anger management counseling, and to
6 address the telecommunicator class. Is
7 Ms. Hernandez-Depew here? Are there any questions for
8 me?

9 MR. SCHULTZ: Mr. Chairman, is this charge a
10 misdemeanor or a felony?

11 MR. JACKSON: This is a misdemeanor.

12 MR. SCHULTZ: So it wasn't charged as a
13 felony, as a preprosecution diversion with a 364
14 deferred sentence? Normally that is a felony.

15 MR. JACKSON: I don't believe so. But let me
16 double-check.

17 MR. COON: If it was in magistrate court, it
18 would have been a misdemeanor.

19 MR. PEREZ: Did you hear the sheriff, chief?

20 MR. SCHULTZ: Yes. I'm just curious about
21 the time.

22 MR. JACKSON: The complaint was filed in the
23 magistrate court. And based on the conduct, I just
24 don't see this being a felony charge.

25 MR. SCHULTZ: Okay.

1 MR. HOLMES: I might also add to it that even
2 though this should have been more like a battery
3 instead of a household member, because they don't live
4 together, it's a jealousy type of situation, boyfriend
5 and girlfriend.

6 MR. JACKSON: Are there any other questions?

7 MR. PEREZ: The next item, Mr. Jackson.

8 ITEM NO. 17: JAVIER PERU

9 MR. JACKSON: The next item is item No. 17,
10 Javier Peru. This is another battery against a
11 household member. There were two counts. These
12 charges developed from an incident that was
13 investigated by state police on February 6th of this
14 year. A domestic disturbance call was reported, where
15 the respondent and other people had been partying in a
16 basement of a residence and drinking.

17 At approximately two in the morning, a fight
18 broke out between the respondent's sister-in-law and
19 another female at the party. The respondent's wife
20 attempted to separate the two and instead ended up
21 getting involved in the fight herself. After everyone
22 was separated by the respondent and no longer
23 fighting, the respondent turned on his wife and
24 attacked her by kicking her and punching her in the
25 face.

1 The sister-in-law attempted to get respondent
2 off of her sister from the back. And while attempting
3 to help her sister out, the respondent elbowed the
4 sister-in-law in the face and pushed her down,
5 knocking her under a table. When she tried to get up,
6 he kicked her, punched her. And there were injuries
7 to the respondent's wife as a result of this.

8 And then on February 16th, in an unrelated
9 incident, the respondent is accused of breaking
10 another individual's jaw with a punch resulting in a
11 jaw being wired shut. The claim by the victim of this
12 is that he and the respondent had argued over a beer
13 issue. And they went outside.

14 The respondent told him that he didn't want
15 to fight. And then shortly after that the victim left
16 the bar. And while walking towards his car,
17 respondent punched him from behind. The victim did
18 not retaliate and instead drove home, where his wife
19 then took him to El Paso for treatment.

20 There was an informal hearing held. And as a
21 result of the hearing, the director has agreed to a
22 six-month suspension, one-year probation, ethics
23 training, alcohol screening, anger management
24 counseling, and eight hours of community service. Is
25 Mr. Peru here?

1 MR. PEREZ: Apparently he is not. Any
2 questions of Mr. Jackson?

3 MR. SCHULTZ: Mr. Chairman, Mr. Jackson,
4 what's the status of the criminal charges.

5 MR. JACKSON: The status of the criminal
6 charges I do not know at this time. I can check. But
7 if I might have a moment.

8 MR. SHANDLER: Mr. Perez, can I ask a
9 question of the director on this? Is that okay?

10 MR. PEREZ: Yes, sir. Go ahead.

11 MR. SHANDLER: First if he can help explain
12 the post status. I'm unclear whether this person is
13 currently employed and when they were hired. And then
14 second, why six months?

15 MR. ORTIZ: He is currently employed with the
16 Santa Clara Police Department. And the reason is his
17 wife came along with him for the informal and she
18 denied that. Their explanation was they were going up
19 the staircase, she pulled him or somebody pulled him,
20 he fell back, they fell down, and that he never struck
21 her. And that's what she explained to us as well.

22 There's always some hesitation because, you
23 know, in these domestic violence, the spouse usually
24 recants their statement. So we have to look at what
25 was in the police reports and what they said to us. I

1 felt that an incident did transpire on there. It was
2 difficult.

3 So I felt six months was adequate for that as
4 well, a six-month suspension for the two incidents.
5 The other incident, he indicated he didn't want to
6 identify the guy, the guy kept on. And so he was
7 defending himself and that's why he punched the
8 individual.

9 MR. PEREZ: Any other questions of Mr. Ortiz?
10 You're still looking, Mr. Jackson.

11 MR. JACKSON: I am still attempting to look.
12 Technology is helpful to us but not perhaps as quick
13 as it can be. I'm sorry. I appear to be having
14 technical difficulties. I will try to provide that
15 information as we go.

16 MR. PEREZ: Okay. We'll go on to Item No. 18
17 then.

18 ITEM NO. 18: ANDREW SCRIBNER

19 MR. JACKSON: Item not 18 is Andrew Scribner.
20 Mr. Scribner was observed failing to maintain his lane
21 of traffic. He was stopped. He showed signs of
22 intoxication and impairment, submitted to a field
23 sobriety test, which he failed. He was then placed
24 under arrest and charged with aggravated DWI. He
25 provided breath test that registered a 0.23.

1 Additionally, he was arrested and charged
2 with domestic violence back in 2008, resulting in a
3 suspension which he has already served. This was
4 brought to the board's attention because it was not
5 part of this incident but just to let the board know
6 that he has been before the board before.

7 There was a telephonic informal hearing held.
8 As a result of that, the director has agreed to a
9 six-month suspension with two-year probation, ethics
10 training, alcohol screening, eight hours of community
11 service, and he will address the cadet class. Is
12 Mr. Scribner here?

13 MR. SCHULTZ: Mr. Chairman, where was he
14 working at the time? If he was fired in 2008 and then
15 this incident in 2010, according to the profile, he
16 hasn't worked since 2008.

17 MR. JACKSON: Well, I don't know where his
18 employment was at the time. However, the fact remains
19 that he had been certified. He was suspended. And he
20 was still certified, even though perhaps not working
21 in a law enforcement capacity at the time. And as a
22 result he's still under the jurisdiction of this
23 board.

24 MR. SCHULTZ: Is that true, Mr. Ortiz?

25 MR. ORTIZ: Yes. He was still certified so

1 Las Cruces sent the misconduct report in.

2 MR. PEREZ: Any other questions? Continue,
3 Mr. Jackson.

4 ITEM NO. 19: LUIS SERRANO

5 MR. JACKSON: The next item is Luis Serrano,
6 No. 19. This is another domestic violence incident.
7 Mr. Serrano is alleged to have battered his wife. He
8 and his wife had been invited to a friend's house to
9 spend the night after a baseball game.

10 And the owner of the house reported that the
11 respondent, Mr. Serrano, had been drinking heavily.
12 And he got into an argument with his wife over an
13 ex-boyfriend of hers. The argument later escalated
14 into a physical argument in the bedroom, when he
15 grabbed her tightly on the face, shook her face from
16 side to side, and held her down.

17 He then bit her on the lip, slapped her twice
18 across the face, while he kept telling her to listen
19 to him. The owner heard the victim crying, went into
20 the bedroom, and told the respondent to leave. He
21 went outside the house and called the police to ask
22 for a ride home.

23 He waited for the police to arrive. And
24 after investigating the police arrested him and
25 charged him with battery against a household member.

1 He was terminated as a result of this from employment.

2 There was an informal hearing, after which
3 the director recommended a six-month suspension, a
4 one-year probationary period, ethics training, alcohol
5 screening, anger management, and eight hours of
6 community service.

7 On this case I do know that the charges are
8 still pending. I believe there's some sort of
9 pretrial conference coming up next month. So there is
10 a possibility that even if this suspension is agreed
11 to, that the board may have to take later action if he
12 is convicted.

13 MR. PEREZ: So he is without employment at
14 the present time with any law enforcement agency?

15 MR. JACKSON: That is my understanding.

16 MR. PEREZ: Okay. But he's still certified.

17 MR. JACKSON: Is Mr. Serrano here?

18 MR. PEREZ: Apparently not. Any questions of
19 Mr. Jackson?

20 ITEM NO. 20: RANDY SILVA

21 MR. JACKSON: Item No. 20, Randy Silva. In
22 May of this year, Mr. Silva made a false police
23 report. He requested police assistance with a
24 drive-by shooting that he alleged had occurred just
25 outside of his residence. In fact, no such incident

1 had occurred.

2 And after the investigating officers didn't
3 find any evidence to support the allegation that there
4 had been a drive-by shooting, Mr. Silva admitted that
5 he had made up the story and that nothing had
6 happened. There was a criminal complaint of filing a
7 false report against Mr. Silva. And he entered into a
8 conditional discharge without adjudication of guilt
9 and it was apparently pursued to a nolo plea.

10 After an informal hearing was scheduled,
11 Mr. Silva told the director that he was unable to
12 attend. However, they did discuss this and have an
13 informal hearing telephonically, after which Mr. Silva
14 and the director agreed with 90-day suspension with a
15 year of probation, ethics training, alcohol screening
16 and assessment, and eight hours community service. Is
17 Mr. Silva here?

18 MR. PEREZ: Apparently not.

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

20 MR. PEREZ: Yes, Sheriff.

21 MR. COON: Mr. Chairman, Matt, what prompted
22 him to do this, does it say?

23 MR. JACKSON: Alcohol was involved. But
24 beyond that it's frankly a bit of a mystery as to why
25 he did this.

1 MR. COON: Okay.

2 MR. PEREZ: This was a green SUV, this was
3 not in Roswell? Apparently Mr. Silva is not here.
4 Any further questions?

5 MR. SHANDLER: Mr. Vice chair, may I ask
6 another question.

7 MR. PEREZ: Yes, sir.

8 MR. SHANDLER: So, Mr. Ortiz, there are a
9 series of officers today that are resigning, out of
10 work, and then they're going to have to serve their
11 suspension while they're kind of out of work. And
12 then it seems like once that period is over, they will
13 apply for a job.

14 Just for the record, what's the process, are
15 they skating or is there some type of red flag when
16 they apply? How does this follow them as they try to
17 apply for a new job?

18 MR. ORTIZ: Well, right when, we get a
19 misconduct report, Mr. Chairman, board members, they
20 are automatically red flagged. If they do seek
21 additional employment, if that agency -- and hopefully
22 so, I've tried to educate agencies to contact the
23 academy so we can inform them of their certification
24 status. Some agencies do contact us and some agencies
25 don't.

1 In fact, there is one case where an agency
2 contacted us on somebody that the board had dealt with
3 in the past. I advised them that additional
4 misconduct was pending. That individual now has filed
5 a tort claim against myself and the academy saying we
6 are blackballing him from employment. And all I
7 advised that agency was that a misconduct was pending.

8 So I will do that with the agencies if they
9 contact us to check on their certification. I am
10 disturbed to know that it is happening around the
11 state, that some agencies are hiring these individuals
12 with misconduct actions pending on them. And we've
13 brought that to the chief's association, the sheriff's
14 association to educate these agencies to please
15 contact us.

16 AUDIENCE SPEAKER: Do you inform them of past
17 misconduct?

18 MR. ORTIZ: No. I do tell them, if the board
19 has already dealt with it, it's a matter of public
20 record, it is online, and they can research that on
21 our website. Or if they file a public records
22 request, then I have to comply and provide them with
23 what occurred with the board.

24 MR. PEREZ: Go ahead, Mr. D'Amato.

25 MR. D'AMATO: Thank you. Is it more likely

1 that the applicant make that self-disclosure during
2 the application process with the recruit? I mean
3 that's what I'm advising my folks. You know, do the
4 disclosure during the application process so that
5 there are no surprises and that we can address at the
6 earliest any concerns the hiring agency may have.

7 MR. ORTIZ: Right. Well, that's up to those
8 individual agencies to deal with their own background
9 before they hire someone. And one of them should be
10 to contact the Law Enforcement Academy and check on
11 their certification status. That is being done by
12 some agencies but not all agencies.

13 MR. PEREZ: Any further questions?
14 Mr. Jackson.

15 MR. JACKSON: Briefly, though, I would like
16 to return to item No. 17 to answer Chief Schultz's
17 question.

18 MR. PEREZ: Go ahead, sir.

19 MR. JACKSON: It appears that there was a
20 guilty plea proceeding on September 10th. The
21 aggravated battery of a household member was dismissed
22 as per plea. It looks like the plea was reduced to
23 disorderly conduct with 182 days suspended sentence
24 and a \$500 suspended fine and then a probation period
25 of 182 days.

1 That's what it appears to be. I don't
2 actually have the order. But that's what the court
3 lookup is telling me. So there is a conviction, but
4 the conviction is not for battery against a household
5 member against Mr. Peru.

6 MR. PEREZ: The conviction is for what?

7 MR. JACKSON: It is not for battery.
8 Disorderly conduct.

9 MR. PEREZ: Thank you.

10 ITEM NO. 21: JESUS ROYBAL

11 MR. JACKSON: Moving on I would ask to skip
12 No. 21 at this time. It's a reconsideration. I don't
13 feel that I'm really the appropriate person to address
14 that matter. I think that should probably be
15 addressed by Mr. Shandler, though he may disagree.

16 MR. SHANDLER: Mr. Vice chair, item No. 21,
17 Jesus Roybal. All you'll recall at the last meeting,
18 and it's reflected in the minutes, there was a
19 proposed stipulation between the director and the
20 party. And the board rejected that and asked the
21 parties to come back with a new deal, with a suggested
22 recommended penalty of a one-year suspension.

23 And it's my understanding that Mr. Roybal has
24 not agreed to that proposed sanction. In lieu of
25 that, it appears that he has submitted a written

1 letter. And I don't see him in the audience today.

2 MR. ORTIZ: I received a telephone call from
3 him yesterday at five o'clock indicating that he would
4 not be coming today, to just present the board with
5 his letter.

6 MR. SHANDLER: So it sounds like he in his
7 letter is asking to I guess return to the deal that
8 was on the table last meeting or something like that.
9 And I stand for any questions.

10 MR. COON: Mr. Shandler, according to his
11 letter, it was dated August 23rd, 2010. He was hired
12 by the Portales PD 8/16 of 2010. He went -- to me he
13 went behind our back for employment, knowing that his
14 certification was suspended. And then after he got
15 the job, then he writes this letter wanting to be
16 reinstated.

17 I mean what part of no don't you understand.
18 As far as this gentleman here, when you're on a year
19 suspension, you take the job, and then you ask for an
20 appeal after you've taken the job.

21 MR. SHANDLER: Mr. Vice chair, the board can
22 discuss this more thoroughly in executive session.
23 The one correction for the record is he's not under a
24 suspension right now. He was in the stipulated order
25 part. And the process works either he agrees to it or

1 he has to request a formal hearing.

2 So right now he is not suspended. But he
3 certainly has that potential of that occurring. If he
4 wants a formal hearing, he'll go in front of your
5 hearing officer.

6 MR. COON: Well, how long does he have to go
7 before he goes -- once the board makes the decision at
8 our last meeting, before he starts his one-year
9 suspension?

10 MR. SHANDLER: We can talk about this more in
11 executive session. Mr. Ortiz.

12 MR. ORTIZ: Yes, I would like to add
13 something. And I apologize. But it is in the file.
14 On August 16th I did receive a written letter from him
15 requesting a formal hearing. And after the meeting on
16 June 15th in Albuquerque, after the board's decision,
17 he came to me.

18 He was upset about the board's decision for a
19 one-year suspension. He did not agree at that time.
20 And he verbally requested a formal hearing. And I
21 advised him of the process. And then on August 16th I
22 did get a written -- and it is in the file. I
23 apologize for not making a copy. He did request a
24 formal hearing in writing on August 16th. And then I
25 received this letter on August 23rd.

1 But as far as being hired, in fact, I
2 received two calls regarding his employment with
3 Portales. And Portales is one of the agencies that
4 did not contact us to check on his status. And they
5 hired him.

6 MR. PEREZ: Any further questions? Next
7 item.

8 ITEM NOS. 22: RON HALEY

9 MR. JACKSON: The next item -- item Nos. 22
10 and 23 are defaults.

11 Item No. 22 is Ron Haley. Mr. Haley was
12 arrested attempting to smuggle a Mexican National into
13 the United States at the San Ysidro, California,
14 crossing. I believe he represented that she was to
15 work for his security company. This incident managed
16 to attract some media attention.

17 He was served with an NCA. Certified mail
18 was unclaimed, return to sender. The second NCA was
19 sent out after verification of his address. He has
20 not responded. We ask for a revocation by default.

21 ITEM NO. 23: DAVID MAES

22 MR. JACKSON: And item No. 23, Dave Maes. On
23 October 4, 2007, respondent sexually assaulted a
24 female prisoner in his custody. He was tasked with
25 guarding the victim at Lovelace Hospital in

1 Albuquerque.

2 While in the hospital room, he immediately
3 started making nasty remarks. He drew the curtain,
4 unzipped his pants, and pulled out his penis. He
5 zipped up his pants, went to the right side of the
6 bed, and once again pulled it out and touched her
7 mouth with it.

8 He said please don't tell nobody, this will
9 be our secret. He said that he would get fired, that
10 he would lose his fiancée. And after this she was
11 released from the hospital. And then he criminally
12 sexually penetrated the victim, told her that if she
13 could keep her mouth shut, he would talk to the
14 officer that had arrested her initially and get some
15 of her charges dropped.

16 Court records show that this was resolved in
17 a criminal system on March 12th. He pled no contest
18 to one count of criminal sexual penetration by force
19 or coercion and to one count of false imprisonment.

20 He was sentenced without adjudication of
21 guilt to five years of unsupervised probation and
22 other conditions after the no contest plea. His
23 probation was transferred out of state to Colorado I
24 believe. He was given a conditional discharge.

25 He was served on April 7th. And it was

1 delivered April 9th. It was received by his attorney.
2 An FD was issued. And there's been no response. We
3 ask for revocation by default.

4 MR. PEREZ: Any questions? Next item.

5 MR. JACKSON: That concludes my part of the
6 presentation.

7 MR. PEREZ: Okay. I will then entertain a
8 motion to go into closed session to discuss only those
9 disciplinary matters which have been brought before us
10 and considering only that evidence which is available
11 to us here. Do I hear such a motion?

12 MR. COON: Mr. Chairman, I make a motion we
13 go into closed session.

14 MR. PEREZ: Do I hear a second?

15 MR. KORN: I'll second.

16 MR. PEREZ: The motion is seconded. Any
17 discussion? All those in favor say aye.

18 (Those in favor so indicate.)

19 MR. SHANDLER: Roll call.

20 MR. PEREZ: Roll call, please.

21 MS. LOPEZ: Ronald Reeves.

22 MR. REEVES: Yes.

23 MS. LOPEZ: Chief Segotta.

24 MR. SEGOTTA: Yes.

25 MS. LOPEZ: Sheriff Coon.

1 MR. COON: Yes.

2 MS. LOPEZ: Chief Schultz:

3 MR. SCHULTZ: Yes.

4 MS. LOPEZ: Sergeant Jones.

5 MR. JONES: Yes.

6 MS. LOPEZ: Nate Korn.

7 MR. KORN: Yes.

8 MS. LOPEZ: Mr. Perez.

9 MR. PEREZ: Yes. We will now go into closed
10 session and we ask that the room be cleared. And then
11 after this may return.

12 (The board goes into executive session.)

13 MR. SHANDLER: You are now back in open
14 session. Customarily you take a motion to return to
15 open session with a second and then a roll call vote.

16 MR. PEREZ: Can I have a motion to go back
17 into open session?

18 MR. COON: I make a motion we go back into
19 open session.

20 MR. PEREZ: Second?

21 MR. JONES: Second.

22 MR. PEREZ: It's been moved and seconded. We
23 will now call the roll.

24 MS. LOPEZ: Ronald Reeves.

25 MR. REEVES: Yes.

1 MS. LOPEZ: Chief Segotta.

2 MR. SEGOTTA: Yes.

3 MS. LOPEZ: Sheriff Coon.

4 MR. COON: Yes.

5 MS. LOPEZ: Chief Schultz:

6 MR. SCHULTZ: Yes.

7 MS. LOPEZ: Sergeant Jones.

8 MR. JONES: Yes.

9 MS. LOPEZ: Nate Korn.

10 MR. KORN: Present.

11 MS. LOPEZ: Mr. Perez.

12 MR. PEREZ: Yes.

13 MR. SHANDLER: Okay. You are now in open
14 session. And just for the record, can you verify that
15 only the matters discussed in the executive session
16 were those listed on the agenda. Can you so verify?

17 MR. PEREZ: Yes, sir.

18 MR. SHANDLER: Okay. So let's go to item
19 No. 12 in the stipulated orders. And as everyone
20 turns to that one, let me just preface it by telling
21 the director that the board has been together for
22 awhile now and they're starting to see some repeat
23 offenders. They're starting to see recent cadet
24 offenders.

25 And so I think they're going to authorize you

1 to be more strict in some of these proposed penalties.
2 And I know that's a conversation that you've had and a
3 position I think you've taken before, that you would
4 be willing to be more strict. And so we'll talk
5 through some of those things today. Okay.

6 MR. ORTIZ: Okay. And I would just like to
7 go on the record, I would like you to relay that to
8 Gary King and ask that he provide me with more
9 assistance with the prosecutor's office assisting us
10 through the process.

11 MR. SHANDLER: Right. And we'll talk through
12 all that stuff, absolutely. So let's start with
13 No. 12, Abraham Baca. And the purpose of the next
14 couple items is whether the board accepts or rejects
15 the stipulated order. And here the proposed
16 stipulated order for Mr. Baca is 120 days suspension
17 with a series of other items as listed in the
18 narrative.

19 It's my understanding that the board -- there
20 are two types of events in this conduct. One, the DWI
21 based on the failure to take the breath test. And
22 that customarily is 120 days for the first offense.
23 But there's also the inconsistent answers during the
24 process. And the board also believes that there was a
25 concurrent -- or maybe I'm using that word

1 incorrectly.

2 But a second offense of lying to coworkers
3 and supervisors. And for that type of action, a
4 six-month suspension is the floor. And so based on
5 that alone and maybe some aggravating factors based on
6 the narrative, I think the board is going to vote to
7 reject the proposed stipulation. So will you
8 entertain such a motion, Mr. Chairman?

9 MR. PEREZ: Yes, yes. Do I hear a motion to
10 reject the director's recommendation?

11 MR. COON: Mr. Chairman, I make a motion we
12 reject the director's recommendation and make that
13 a one-year suspension, one-year probation, ethics
14 training course, alcohol screening and assessment, and
15 eight hours community service.

16 MR. PEREZ: Do I hear a second?

17 MR. JONES: Second.

18 MR. PEREZ: Any discussion? All those in
19 favor say aye.

20 (Those in favor so indicate.)

21 MR. PEREZ: All opposed?

22 MR. SEGOTTA: Mr. Chairman, just for the
23 record I was not present in the room when Mr. Baca's
24 case was presented before the board and, therefore, I
25 recuse myself.

1 MR. PEREZ: Chief Segotta recuses himself
2 from this case. That's correct.

3 MR. JACKSON: Just for clarification
4 purposes, is the board recommending a one-year
5 suspension followed by a one-year probation? Because
6 just normally, when we do that, it's referred to as a
7 one-year suspension and a two-year probation, because
8 the probation starts at the same time as the
9 suspension.

10 MR. PEREZ: Was that your recommendation?

11 MR. COON: I will change my recommendation to
12 a two-year probation.

13 MR. PEREZ: That was his motion, for a
14 two-year probation. Do I hear a second?

15 MR. JONES: Second.

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

17 (Those in favor so indicate.)

18 MR. PEREZ: All those opposed? The motion
19 carries. Next item.

20 MR. SHANDLER: So the parties can stay
21 around. And if they can agree to that, they can agree
22 to that. If not, the process will continue on.

23 The next item on the agenda is David Barde,
24 with a proposed 60-day suspension with a variety of
25 other things listed in the narrative. Before the

1 board votes on whether they accept or reject that,
2 they did have a question for the director.

3 The phrase alcohol screening and assessment,
4 if you can kind of explain who does that, are there
5 follow-up steps, is it reported to you? What does
6 that phrase mean?

7 MR. ORTIZ: Yes. What they do, it's just
8 like with magistrate courts, with the DWI school, they
9 go for an assessment and a screening to see if they
10 have an alcohol problem. And then they go for
11 recommended treatments. And then I do receive a
12 letter back from the counselor indicating that they
13 have complied with it and what his recommendations
14 were.

15 MR. SHANDLER: And who chooses the counselor
16 or the screener?

17 MR. ORTIZ: They do that in their area. I
18 tell them to go to the local magistrate court and get
19 with somebody that does that in their area and then
20 just provide the -- have them provide the
21 documentation to our office.

22 MR. SHANDLER: And just give me an example of
23 what the recommendations are, how does that process
24 work?

25 MR. ORTIZ: Well, I'll get a report back from

1 the counselor or whoever did it indicating that they
2 had so many sessions with the individual, he complied
3 with it and has been treated, and they don't see any
4 alcohol problems in the future.

5 MR. SHANDLER: Okay. I think that covers the
6 board's questions.

7 MR. COON: I've got a question. Do you ever
8 get any back that say this guy has really got a bad
9 problem and I suggest that we don't --

10 MR. ORTIZ: When it's apparent that there's a
11 problem is when they have numerous sessions. I've
12 seen some that have gone up to 12 sessions. Somebody
13 that doesn't have a problem and they feel that they
14 have it under control, it will be one or two visits.
15 But somebody that does have a problem, I've seen it up
16 to as many as 12 visits. And then we'll get the
17 letter after they've completed their sessions.

18 MR. SHANDLER: Okay. Now, in this particular
19 fact pattern, it's a little unique to some of the
20 board's previous cases, where it deals with my
21 phrasing dereliction of duty. And so the board in its
22 discussions has decided that a four to six-month
23 suspension as a floor is something that the board
24 would be looking for when someone is derelict of their
25 duties.

1 This one is a proposed 60-day suspension. So
2 I'll turn it over to the vice chair for a motion,
3 whether to accept or reject the proposed stipulated
4 order.

5 MR. PEREZ: Do I hear a motion?

6 MR. SCHULTZ: Mr. Chair, I make the motion
7 that we reject the director's recommendation as stated
8 by counsel, this is a four to six-month floor, for
9 discipline between 120 and 180 days plus the other
10 items as recommended by the director.

11 Specifically we have concerns with the
12 numerous violations. The fact that this incident
13 occurred on Christmas day and not having the officer
14 available to respond to the call caused additional
15 hardship to the agency as well as the victims of a
16 fatal accident.

17 It appears that alcohol is still an issue
18 with this individual. And this individual was also
19 found to be in violation of a department last-chance
20 agreement. I consider all those to be aggravating
21 issues in this particular case.

22 MR. PEREZ: Do I hear a second?

23 MR. SEGOTTA: Second.

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

25 (Those in favor so indicate.)

1 MR. PEREZ: All opposed? The motion carries.

2 MR. SHANDLER: We'll go to item No. 14. The
3 proposed stipulation is a 60-day suspension with a
4 variety of other things provided in the narrative.
5 The board is also prepared to announce that matters
6 where officers are involved with allegations of during
7 the arrest process an abuse of the badge with someone
8 of a different gender is a very serious event, very
9 serious event for the board.

10 And that the complainant in this case may
11 have been held without her full civil rights. It's
12 also dealing with duty issues and the
13 unprofessionalism in duty. And so it might be a
14 matter to also refer to the FBI for civil rights
15 issues. That's an optional consideration for the
16 director. But before the board today is whether it
17 wants to accept or reject the proposed 60-day
18 suspension.

19 MR. PEREZ: Do I hear a motion?

20 MR. SEGOTTA: Mr. Chairman, I move that we
21 reject the stipulated order presented by the director;
22 and because of the seriousness of this and it is the
23 duty of the board to protect the citizens of New
24 Mexico from predator police officers, that the
25 recommendation or guidance to the director would be a

1 revocation.

2 MR. PEREZ: Do I hear a second?

3 MR. JONES: Second.

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

5 (Those in favor so indicate.)

6 MR. PEREZ: All those opposed? The motion

7 carries.

8 MR. SHANDLER: The next item is No. 15 on the
9 agenda, David Coleman. The proposed stipulated

10 agreement is a one-year suspension, a two-year

11 probationary period, ethics training course, eight

12 hours of community service, and to address the cadet

13 class.

14 But during the public portion of the meeting,

15 Mr. Coleman and his attorney asked the board whether

16 that proposed one-year suspension could be reduced.

17 And the board has considered that request.

18 As announced earlier, the board's position is

19 that generally lying to a coworker or a supervisor

20 about an event, making a false report, items like that

21 are 180 days suspension or with the other things

22 listed in the narrative. And so the question is

23 whether the board wants to accept or reject the

24 one-year suspension or whether it wants to realign it

25 with that 180 days proposal. Mr. Vice chairman.

1 MR. PEREZ: Do I hear a motion?

2 MR. COON: Mr. Chairman, I make a motion that
3 we reject the one-year suspension, make it a six-month
4 suspension or 180 days, with a one-year probationary
5 period, ethics training, eight hours community
6 service, and address the cadet class.

7 MR. PEREZ: Do I hear a second?

8 MR. KORN: Second.

9 MR. PEREZ: All in favor say aye.

10 (Those in favor so indicate.)

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

13 MR. SHANDLER: So as mentioned earlier, the
14 parties should stay around. And if that's amenable,
15 maybe there could be a signed agreement today.

16 MR. D'AMATO: Thank you, Counsel.

17 MR. SHANDLER: I think the board's attempt at
18 this meeting is to try to equalize things a little
19 bit. So some things are being treated more severely
20 and some things are trying to be more in line with
21 this 180 days for lying to supervisors.

22 MR. PEREZ: I might note that the board was
23 favorably impressed by Mr. Coleman's statement of
24 remorse and acceptance of responsibility and not
25 attempting to favorably color the incident. And that

1 is very important.

2 We are all agreed that lying is probably --
3 or is one of the most essential violations of the
4 officer's code. And if he lies in his activities,
5 that's one thing. If he lies during an official
6 investigation, that's even more serious because of the
7 fact that this officer will have to testify in court.
8 If he's a liar, the whole system falls down.

9 So we cannot tolerate lying. You have to
10 face your responsibilities and accept your
11 responsibilities. And we're trying to -- this board
12 has been trying, and I think we've done an excellent
13 job, of raising the level which before was just a
14 matter of months or days on these matters.

15 But it is most serious. The issue of moral
16 character has been questioned. And we are the
17 arbitrators of moral character. And these are matters
18 that are a very heavy responsibility. And that's why
19 we determine what it is by a board, not by one person
20 arbitrarily. So do I hear a motion?

21 MR. SHANDLER: I think you already got the
22 motion on that.

23 MR. PEREZ: Okay. We voted. Next item.

24 MR. SHANDLER: The next item is No. 16,
25 Ms. Hernandez-Depew, a telecommunicator. The proposal

1 is a 45-day suspension with other items as listed in
2 the narrative. Recently the board has been focused on
3 a 60-day suspension for allegations of domestic
4 violence. In addition, the board is becoming more
5 focused on recently trained officers.

6 And I'll note for the record it appears that
7 this telecommunicator received recent training, was
8 only on the job for a short period of time, and that
9 those are actually aggravating factors. Someone like
10 that should know better. So it's not a mitigating
11 factor, it's an aggravating factor.

12 So based on that does the board feel that the
13 45-day suspension -- does it accept or reject the
14 stipulated order?

15 MR. PEREZ: Do I hear a motion?

16 MR. SCHULTZ: Mr. Chairman, I would like to
17 make the motion that we reject the director's
18 recommendation, that based on the fact that this
19 particular telecommunicator had been certified less
20 than 30 days within committing this violation, that
21 the floor or the standard be imposed which is a 60-day
22 suspension followed by one-year probationary period,
23 ethics training, alcohol screening, anger management,
24 and also, if necessary and deemed to be appropriate,
25 to address the telecommunicator class.

1 MR. KORN: Second.

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

3 (Those in favor so indicate.)

4 MR. PEREZ: All those opposed? The motion
5 carries.

6 MR. SHANDLER: Mr. Vice chair, the next item
7 is No. 17, Mr. Peru. There are two events of
8 misconduct listed in the narrative. The director's
9 proposed stipulation is for a six-month suspension
10 with a variety of other things listed in the
11 narrative.

12 I think the board would note the seriousness
13 of the violence that was committed and the
14 allegations. So again the board would like the
15 director to look into referring this matter to the
16 FBI. And so the question in front of the board is,
17 based on the misconduct listed and in the narrative,
18 whether it accepts or rejects the proposed six-month
19 suspension.

20 MR. PEREZ: Do I hear a motion?

21 MR. SEGOTTA: Mr. Chairman, I move that we
22 reject the stipulated order as presented by the
23 director and ask that the director go back and visit
24 with Mr. Peru and explain the seriousness of this and
25 offer nothing less than a year, but I certainly would

1 not be unhappy if it was more than that.

2 MR. PEREZ: Do I hear a second?

3 MR. JONES: Second.

4 MR. PEREZ: It's been moved and seconded.

5 All those in favor say aye.

6 (Those in favor so indicate.)

7 MR. PEREZ: All those opposed? The motion
8 carries.

9 MR. SHANDLER: And so for matters of
10 violence, domestic violence, the floor is 60 days.
11 But if there are aggravating events like serious
12 allegations of violence, quickly those aggravating
13 factors go up. So you can go from 60 days to a year
14 pretty quickly based on the narrative description of
15 the violent conduct.

16 Number 18, Andrew Scribner. The proposed
17 stipulated agreement has a six-month suspension and
18 then a variety of other things listed in the narrative
19 including addressing the cadet class.

20 So, Mr. Ortiz, let me ask on the behalf of
21 the board, it's our understanding that this gentleman,
22 while certified at this time, hasn't worked in many
23 years. So why would he be addressing the cadet class,
24 what kind of credibility does he bring to a cadet
25 class?

1 MR. ORTIZ: Well, over the telephone he was
2 very remorseful. And I think he would be a good
3 example of what could happen if you choose to follow
4 his path. He could be an excellent example for them
5 to see by what happens by his choices that he made,
6 the wrong choices.

7 MR. SHANDLER: Is it your sense he's going to
8 get back into law enforcement?

9 MR. ORTIZ: I don't know. But he did over
10 the telephone during our conversation take
11 responsibility for it. And to me that makes him
12 suitable, if they do take responsibility. I'm not
13 going to have somebody go before the cadets and deny
14 it and blame the whole system.

15 But like Mr. Coleman, he addressed them and
16 did an excellent job. And speaking with Mr. Scribner
17 on the phone, it appears that he will be a good
18 candidate to address them as well.

19 MR. SHANDLER: Okay. I appreciate that. The
20 narrative provides this is the second violation for
21 this certified officer within the last two or three
22 years, that he had previously a six-month suspension
23 imposed by this board for an event involving alcohol
24 and domestic violence.

25 And now he's come again for an event

1 involving alcohol and DWI. And the fact that he is a
2 repeat offender but for two different events, both
3 involving alcohol, opens the question for the board
4 whether they think the proposed six-month
5 suspension -- whether they want to accept or reject
6 that.

7 MR. PEREZ: Do I hear a motion?

8 MR. COON: Mr. Chairman, I make a motion that
9 we reject the six-month suspension due to the fact
10 that this is, number one, an aggravated DWI at 0.23.
11 Plus he was in front of this board September 28th,
12 2008, over the domestic violence. Very seldom do we
13 have repeat offenders show in front of us. I propose
14 that we revoke his certification.

15 MR. PEREZ: Do I hear a second?

16 MR. SEGOTTA: Second.

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

18 (Those in favor so indicate.)

19 MR. PEREZ: All opposed? The motion carries.

20 MR. SHANDLER: For the purposes of today, the
21 settlement offer has been rejected with direction to
22 the director to seek a revocation. But that doesn't
23 mean he's revoked today.

24 Okay. We go to item No. 19, Luis Serrano.

25 Again the allegation is within the category of

1 domestic violence. But there can be aggravating
2 circumstances based on a high level of violence in the
3 event. Since it was such a violent offense, again the
4 director may want to consider referring this to the
5 FBI.

6 And the board in its motion may want to
7 include that if the criminal case has some type of
8 disposition, that the director inform the board of
9 that and whether the board may need to adjust their
10 proposed penalty. For the purposes of today, the
11 proposed penalty is a six-month suspension with some
12 other items as described in the narrative. And the
13 question is whether the board is going to accept or
14 reject that stipulated order.

15 MR. PEREZ: Do I hear a motion?

16 MR. SCHULTZ: Mr. Chairman, I make the motion
17 that we reject the director's findings in this
18 particular case. Again as stated by counsel, there
19 are aggravating factors in this case. Mr. Serrano
20 less than a year after graduating the academy was
21 involved in this incident.

22 Of particular concern to this board was the
23 fact that he actually held the victim down, refused to
24 let her get up, which aggravates again the criminal
25 issue, and the fact that the criminal charges are

1 still pending. At this point I might recommend the
2 director go back and talk with Mr. Serrano and come
3 back with a more severe discipline recommendation.

4 MR. PEREZ: Note for the record that Chief
5 Segotta recused himself from these deliberations on
6 this matter.

7 Do I hear a second?

8 MR. JONES: Second.

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

10 (Those in favor so indicate.)

11 MR. PEREZ: All opposed? The motion carries.

12 MR. SHANDLER: Next is item 20, Randy Silva.
13 As mentioned earlier the board believes that when you
14 file a false report or lie to a supervisor, they like
15 to see 180 days as the floor. An aggravating
16 circumstance is that his certification was given in
17 2010. So that's an aggravating circumstance. It can
18 bump up maybe 60 days more.

19 So the question in front of the board is
20 whether the 90 days suspension with other items
21 provided in the narrative, whether the board accepts
22 or rejects that proposed stipulation.

23 MR. PEREZ: Do I hear a motion?

24 MR. SEGOTTA: Mr. Chairman, my motion is to
25 reject the stipulated order by the director and ask

1 that 180 days be considered for the appropriate
2 suspension.

3 MR. PEREZ: Do I hear a second?

4 MR. JONES: Second.

5 MR. SCHULTZ: Mr. Chairman, for discussion
6 purposes could I also make a friendly amendment to
7 also include psychological screening and fitness for
8 duty evaluation in this particular case.

9 MR. PEREZ: Yes. The board was unable to
10 make sense out of this story. And, therefore, we
11 recommended a psychological evaluation.

12 MR. SEGOTTA: Not for the board but for
13 Mr. Serrano.

14 MR. PEREZ: Thank you for that. Do I hear a
15 second?

16 MR. COON: I second.

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

18 (Those in favor so indicate.)

19 MR. JACKSON: What was the guidance on that?
20 I didn't hear?

21 MR. PEREZ: I'm sorry?

22 MR. JACKSON: What was the recommendation?

23 MR. PEREZ: The rejection. 180 days. I
24 apologize for that.

25 MR. JACKSON: Thank you.

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

2 (Those in favor so indicate.)

3 MR. PEREZ: All those opposed? The motion
4 carries.

5 MR. SHANDLER: Mr. Chairman, the next item is
6 21, Jesus Roybal. And for the record at the last
7 meeting, Mr. Roybal and the director had agreed to a
8 proposed 30-day suspension with a variety of other
9 things. The board rejected that. And we've learned
10 today that Mr. Roybal has requested a formal hearing.

11 It looks like from the letter dated
12 August 23rd, Mr. Roybal in lieu of holding the formal
13 hearing is asking the board once again to consider
14 whether it will accept the 30-day suspension that you
15 rejected at the last meeting. So the question in
16 front of the board is do you want to go back to the
17 30-day suspension or do you want to reject his request
18 for reconsideration?

19 MR. PEREZ: Do I hear a motion?

20 MR. COON: Mr. Chairman, I make the motion
21 that we not accept the 30 days that Mr. Roybal is
22 asking for and stick with our original one year.

23 MR. PEREZ: Do I hear a second?

24 MR. JONES: Second.

25 MR. PEREZ: Any discussion? All those in

1 favor say aye.

2 (Those in favor so indicate.)

3 MR. PEREZ: All those opposed? The motion
4 carries.

5 MR. SHANDLER: So that matter will go to
6 formal hearing in front of your hearing officer.

7 Mr. Chairman, items 22 and 23 are default
8 orders because they never responded. So you can take
9 that in one motion. And the motion would be to move
10 to revoke Ron Haley and David Maes by default.

11 MR. PEREZ: Do I hear a motion.

12 MR. KORN: Can I be heard, Mr. Chairman.

13 MR. PEREZ: Yes, sir.

14 MR. KORN: On one of these I would prefer --
15 I would like to recuse myself on the matter of Ron
16 Haley.

17 MR. PEREZ: Mr. Korn recuses himself on the
18 matter of Ron Haley. Do I hear a motion to accept the
19 revocation of both of these?

20 MR. SEGOTTA: Mr. Chairman, I make a motion
21 that we accept the revocation by default of Mr. Haley
22 and Mr. Maes.

23 MR. PEREZ: Do I hear a second?

24 MR. SCHULTZ: Second.

25 MR. PEREZ: Any discussion?

1 MR. KORN: I would be voting in the matter of
2 Mr. Maes, not on Mr. Haley.

3 MR. PEREZ: Correct. All those in favor say
4 aye.

5 (Those in favor so indicate.)

6 MR. PEREZ: All those opposed? The motion
7 carries.

8 ITEM NO. 24: JOSHUA COOK

9 MR. SHANDLER: Mr. Chairman, the next item is
10 24, Joshua Cook, applicant to the academy. Your
11 Hearing Officer has provided you a Hearing Officer's
12 report. And also you were provided objections to the
13 Hearing Officer's report by Mr. Cook's attorney.

14 The board has reviewed the Hearing Officer's
15 report at length during its closed session and has
16 also reviewed Mr. Cook's attorney's documents. And
17 the question in front of board is whether you want to
18 accept the Hearing Officer's recommendation that the
19 director acted properly.

20 MR. PEREZ: Do I hear a motion?

21 MR. SEGOTTA: Mr. Chairman, I move that we
22 approve the Hearing Officer's recommendation in the
23 matter of Mr. Cook.

24 MR. PEREZ: Do I hear a second?

25 MR. KORN: I second.

1 MR. PEREZ: Moved and seconded. Any
2 discussion? All those in favor say aye.

3 (Those in favor so indicate.)

4 MR. PEREZ: All those opposed? The motion
5 carries.

6 MR. SHANDLER: A final order will be prepared
7 in that matter. That concludes the disciplinary
8 matters.

9 MR. ORTIZ: Mr. Shandler, I do have one
10 topic to bring up also with the board. This is
11 regarding the formal hearing process and how we can
12 expedite it.

13 It just seems, when we get a formal hearing,
14 some of these are taking three years. And I think
15 it's ridiculous. And I don't know if the board can
16 set a timeline on it, at least a year or something, so
17 that we can move these cases.

18 Some of them have been stagnant at the AG's
19 office for years. And they're not moving. And that's
20 why it's difficult at times when we have our informal
21 hearings to make these recommendations. If I can get
22 the support from the Attorney General's Office and get
23 aggressive on this, then I think we can resolve a lot
24 of these problems that we're facing. But I'm not
25 getting that support from the AG's office.

1 MR. SHANDLER: I think the board has
2 announced some of its proposed penalties and I think
3 that will make it more clear to both the litigation
4 division and to the director. And so that might
5 expedite that process. And then in terms of the
6 formal hearings, I think that you make some valid
7 points.

8 And I think Mr. Radosevich is trying to
9 schedule these as quick as possible. Some of these
10 cases do get bogged down in discovery. And then
11 that's something that, you're right, needs to be
12 looked at. And I'll look into the board rules. And
13 maybe there needs to be some type of speedy trial
14 provisions in there. So let's talk about that some
15 more. You have some valid points.

16 MR. PEREZ: Yes. Can you report back to us
17 on that regarding a recommendation that we might set a
18 requested deadline date to shoot for at least to keep
19 these things moving?

20 MR. ORTIZ: Right. Okay.

21 MR. PEREZ: Thank you, Mr. Ortiz.

22 MR. ORTIZ: Thank you.

23 ITEM NO. 25: SCHEDULING OF MEETING

24 MR. PEREZ: The next item will be that we
25 will have our next meeting scheduled in Albuquerque.

1 Do I hear any suggested places where we meet, Chief
2 Schultz?

3 MR. SCHULTZ: Mr. Chair, sure, we can make
4 the academy available. I would suggest it may be
5 possible to have a meeting scheduled very close to --
6 there's also the New Mexico Sheriff's and Police
7 Officers Association conference as well to be held
8 close to that same time. We may have better
9 participation from agency heads from around the state.

10 MR. ORTIZ: I'll communicate with them on the
11 dates and the times and see if we can work that out
12 and send you an email. Because I know the chiefs
13 association -- Chief Burnham is scheduling a chiefs
14 association meeting right after the conference. So
15 we'll work that out so you're not having to travel so
16 much.

17 MR. PEREZ: That will be the last meeting of
18 this board I understand, because we will be disbanded
19 because we are nominated by the current governor? So
20 we will then be without a job.

21 MR. COON: Now, if you're on a four-year
22 term, do you keep going after that or is it up to the
23 governor?

24 MR. ORTIZ: I'm not sure. I believe it's up
25 to the governor. The new governor would get to look

1 at each board and reappoint or clean them out.

2 MR. PEREZ: Yes. I was at a meeting at the
3 governor's where he had all the board members there.
4 He told us that we were all fired effectively at the
5 end of his term. So there will be new nominations.

6 MR. ORTIZ: I hope that doesn't happen,
7 because I want to comment to the board that I think
8 they do a great job and I think we're getting to where
9 we need to be. And I hate to see him have to start
10 all over again.

11 MR. PEREZ: I want to thank the director for
12 his provision of a very healthy breakfast this
13 morning.

14 MR. ORTIZ: That was Monique.

15 MR. PEREZ: Thank you very much. And do I
16 hear a motion to adjourn?

17 MR. HOLMES: Excuse me, Mr. Chairman. If I
18 may.

19 MR. PEREZ: Yes, sir.

20 MR. HOLMES: I think it wasn't brought up and
21 I think it's important for the board to recognize or
22 at least to be aware as to why some of these decisions
23 that are made by the director as far as sanctions
24 imposed against those that offend or break the law.

25 There is consideration first of all of

1 financial matters. You have to be aware of that
2 because also there's a possibility that increasing the
3 sanctions a lot might lead to these cases ending up in
4 district court, which is going to create a big load
5 for the AG's office and for everybody else involved.

6 Those are things that I don't know if you are
7 aware of. It's going to create I think a lot more
8 problems financially, delays because of the requests
9 for formal hearings instead of accepting what the
10 director recommends. That's part of it.

11 Now, the other part, the other concern that
12 we're concerned with, that I'm concerned with,
13 because -- and I think Mr. Jackson here would agree
14 with me. On some of these cases that you reject, some
15 of these people have accepted a stipulated order of
16 agreement on let's say 90 days, 60 days, whatever it
17 was.

18 And some of these people got revoked here, a
19 recommended revocation. Now, does that mean that we
20 have to take them back for a formal hearing or where
21 do we stand there or are they revoked now?

22 MR. PEREZ: We've been trying to give the
23 director guidance regarding that matter. And in
24 general we're trying to tighten the standards, because
25 we want to be consistent. And that if we give a

1 certain number of days, that can be used against us in
2 the future.

3 So our bottom line is the concern of the
4 citizens of the State of New Mexico. And we
5 understand that there are many elements involved in
6 our considerations. But we are willing to listen.

7 But we are trying to give more guidance to
8 the director so that he doesn't propose these things
9 and then have them rejected by us arbitrarily. We're
10 trying not to do that, but to give him an idea that we
11 want everything tightened basically.

12 MR. HOLMES: That's fine. And we appreciate
13 that. But the question is those that agreed to a
14 stipulated order of agreement or 90 days or whatever
15 the case was and then the board here decides, well,
16 revocation on those cases. So does that mean that
17 they're revoked now or do they have the right to go
18 through the process of a formal hearing?

19 MR. PEREZ: I would say that they're revoked.

20 MR. ORTIZ: No. My understanding in talking
21 with Zach Shandler is that I will notify them of the
22 board's decision. If they want to accept that as an
23 agreement, we make a new stipulated order of
24 revocation.

25 However, I have to advise them that they do

1 have a right to request a formal hearing. If they
2 choose to do so on that, then that would occur. My
3 understanding is if they do request a formal hearing,
4 then the revocation is stayed, there's a stay on the
5 revocation until the process is met and is brought
6 back before the board again after the formal hearing.

7 MR. PEREZ: That's a question I can't answer.
8 Is that the way it is? That if we move to revoke,
9 that that does not take place at that time?

10 MR. SHANDLER: Mr. Chairman, what happened
11 this morning or this afternoon is you just rejected
12 it. They have to start over again. But you gave him
13 some guidance. So no one got revoked except the two
14 people that had revocation by default. They'll have
15 their day in court or their day in front of a hearing
16 officer. And that may be the end result. But not
17 today.

18 MR. HOLMES: Okay. Thank you.

19 MR. PEREZ: Thank you, Mr. Holmes.

20 MR. HOLMES: Thank you.

21 MR. PEREZ: Do I hear a motion to adjourn?

22 MR. COON: May I make a statement. We've
23 been consistent, but we've been consistently low
24 because we've been going by the guidelines. And they
25 were in my opinion and I think some of the others low

1 guidelines. We're going to have to up the bar a
2 little bit. The domestic violence and the DWIs and
3 some of the things we're seeing here, these guys are
4 getting away with a hand slap basically.

5 So we're going to have to raise the bar to
6 set the example to let these guys know that if they
7 screw up, they're going to pay the penalty instead of
8 just a slap on the hand. So I think we've got to up
9 the bar a little bit. This is a professional -- a
10 very ethical profession. We have to bring those
11 ethics back up to where they should be. That's my two
12 cents.

13 MR. PEREZ: Any other comments?

14 ITEM NO. 26: ADJOURNMENT

15 MR. PEREZ: Do I hear a motion to adjourn?

16 MR. SEGOTTA: So moved.

17 MR. PEREZ: Second?

18 MR. JONES: Second.

19 MR. PEREZ: All in favor in adjourning?

20 (Those in favor so indicate.)

21 MR. PEREZ: All opposed? We're adjourned at
22 12:56.

23 (At 12:56 p.m. the meeting was adjourned.)

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REPORTER'S CERTIFICATE

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I, JAN A. WILLIAMS, New Mexico CCR #14, DO
HEREBY CERTIFY that on September 23, 2010, the
proceedings in the above 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.

JAN A. WILLIAMS, RPR
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(1392H) JAW

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RECEIPT

DATE: September 23, 2010

JOB NUMBER: (1392H) JAW

WITNESS NAME: Hearing

CASE CAPTION: NM LEA Regular Board Meeting

ATTORNEY: MR. ARTHUR ORTIZ

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