

NEW MEXICO LAW ENFORCEMENT ACADEMY  
 REGULAR BOARD MEETING AND PUBLIC HEARING  
 December 7, 2010  
 9:00 a.m.  
 Hard Rock Casino - Golf Course Banquet Room  
 Albuquerque, New Mexico 87105

REPORTED BY: Jan A. Williams, RPR, NM CCR 14  
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 (1177J) JAW

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APPEARANCES

BOARD MEMBERS  
 Gary K. King, Attorney General  
 James R. Coon  
 Arsenio Jones  
 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 MR. KING: I'm going to go ahead and call the  
 3 meeting to order. I make it to be right at nine  
 4 o'clock. Sometimes I delay a little bit. I think one  
 5 of our committee members called and said he's on his  
 6 way in. But he'll get here I think by the time we get  
 7 to the meatier part of the agenda.  
 8 I'm Gary King, most of you know me, I'm the  
 9 chairman of the committee. I think to start off with  
 10 roll call, we'll just have folks start, Art, from your  
 11 end of the table and introduce themselves. And we'll  
 12 get the roll while we're doing that.  
 13 ITEM NO. 2: ROLL  
 14 MR. ORTIZ: Good morning. Art Ortiz,  
 15 director, New Mexico Law Enforcement Academy.  
 16 MS. LOPEZ: Monique Lopez, admin assistant.  
 17 MR. JONES: Sergeant Arsenio Jones, line  
 18 officer representative.  
 19 MR. COON: Sheriff Rob Coon, Chaves County.  
 20 I'm the sheriff's representative.  
 21 MR. SCHULTZ: Ray Schultz, Albuquerque Police  
 22 Department, chief's representative.  
 23 MR. SEGOTTA: Faron Segotta, state police.  
 24 MR. REEVES: Ronald Reeves, Tenth Judicial  
 25 District Attorney representative.

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1 MR. SHANDLER: Zach Shandler, board counsel.  
 2 MR. JACKSON: Matthew Jackson, administrative  
 3 prosecutor.  
 4 MR. HOLMES: Ernest Holmes, investigator, New  
 5 Mexico Law Enforcement Academy.  
 6 MR. KING: It appears to me that we have a  
 7 quorum. And I think Nate Korn is on his way in. I  
 8 don't know that we have anybody else coming. Nate  
 9 Korn had called and said he would be here shortly.  
 10 One of the reasons I'm starting right on  
 11 time, unfortunately I have one more meeting today and  
 12 I have to catch a plane to Washington, D.C. So I'm  
 13 going to be leaving the meeting at about 10:45. So if  
 14 we're not done with the business part of our meeting,  
 15 I'll turn the gavel over to Chief Segotta.  
 16 Perhaps we'll be done with the part that we  
 17 usually have to get done before I have to recuse  
 18 myself anyway. But we may have some extended  
 19 discussion this morning. We'll see. And I don't want  
 20 to cut off the discussions.  
 21 ITEM NO. 3: APPROVAL OF AGENDA  
 22 MR. KING: So with that being said, the next  
 23 item on the agenda is approval of the agenda. And  
 24 it's my understanding that there are a couple of  
 25 potential agenda changes. Art.

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1 MR. ORTIZ: Yes. Good morning, Mr. Chairman,  
 2 board members. We have an amended agenda. Item  
 3 No. 12, the Medical Review Board, appeal of Jordon  
 4 Grady, we're going to postpone that until the March  
 5 meeting. That has to be presented back before the  
 6 Medical Review Committee. And so we're going to have  
 7 to table that.  
 8 Then No. 22, under the Revocation By Default,  
 9 Richard Gonzales. That is scratched from today's  
 10 agenda. He did contact me on the last day, on the  
 11 30th day, seeking a hearing.  
 12 Then what is added to agenda is going to be  
 13 item No. 30, and I hope I pronounce it right, Huan  
 14 Dang.  
 15 MR. KING: Let's make it item No. 29 and  
 16 we'll move 29 to 30 because 29 is adjournment. So  
 17 we've got to put it before the adjournment.  
 18 MR. ORTIZ: And then Kevin Fitzgerald. Huan  
 19 Dang, H-u-a-n D-a-n-g. He's added to the agenda as a  
 20 stipulated order. And Kevin Fitzgerald is also added  
 21 to the agenda as a stipulated order.  
 22 MR. KING: Okay. As a matter of fact, since  
 23 those are in the discussion of those -- would those be  
 24 more in the nature of the stipulated orders?  
 25 MR. ORTIZ: Yes, sir.

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1 MR. KING: So let's put those up where the  
 2 stipulated orders are. So that would actually make it  
 3 like items 21A and 21B.  
 4 All right. Are there any other additions or  
 5 corrections to the agenda?  
 6 MR. ORTIZ: No, sir.  
 7 MR. KING: Anybody else on the committee?  
 8 All right. That being said then I'll take a motion to  
 9 approve the agenda as amended.  
 10 MR. COON: Mr. Chairman, I make the motion we  
 11 approve the agenda.  
 12 MR. KING: I have a motion to approve the  
 13 agenda as amended. Second?  
 14 MR. JONES: Second that.  
 15 MR. KING: Okay. Seconded. All in favor say  
 16 aye.  
 17 (Those in favor so indicate.)  
 18 MR. KING: All opposed? Okay. So that  
 19 agenda has been adopted.  
 20 ITEM NO. 4: APPROVAL OF MINUTES, SEPTEMBER 23, 2010  
 21 MR. KING: The next item on the agenda is  
 22 approval of the minutes. Are there any additions or  
 23 corrections to the minutes from the last meeting? All  
 24 right. Seeing none I'll take a motion to adopt the  
 25 minutes.

1 MR. SEGOTTA: So moved.  
 2 MR. KING: We have a motion to adopt the  
 3 minutes. Is there a second?  
 4 MR. SCHULTZ: Second.  
 5 MR. KING: All in favor say aye.  
 6 (Those in favor so indicate.)  
 7 MR. KING: Any opposed. Okay. The minutes  
 8 are adopted, the minutes from September 23rd, 2010.  
 9 ITEM NO. 5: DIRECTOR'S REPORT  
 10 MR. KING: The next item on the agenda is the  
 11 director's report. Director Ortiz.  
 12 MR. ORTIZ: Good morning, Mr. Chairman, board  
 13 members. First of all the staff and I at the Law  
 14 Enforcement Academy want to express our condolences to  
 15 the Bernalillo County Sheriff's Department and to the  
 16 family of Deputy Dean Miera for their tragic loss on  
 17 October 29, 2010.  
 18 Deputy Miera served his community as a law  
 19 enforcement officer for close to ten years. We'll  
 20 keep Deputy Miera and his family in our thoughts and  
 21 prayers. We were hoping to make it through 2010  
 22 without any law enforcement officers being killed in  
 23 the line of duty we had this tragic loss.  
 24 The second thing I'd like to bring to the  
 25 board's attention is Acting Bureau Chief Ed Garcia is

1 He's overseeing the two basic academies that are  
 2 ongoing at this time.  
 3 We do have a little bit of good news. MTD is  
 4 going to transfer Troy Gladfelter who retired from the  
 5 Albuquerque Police Department. He started December  
 6 1st. And he's going to come over and assist us with  
 7 the basic academy.  
 8 With the Basic Training Bureau right now,  
 9 class 180, they started with 51 cadets on  
 10 September 13th of 2010. We now have 46 cadets. We  
 11 did a midpoint evaluation on November 19th and it was  
 12 very, very positive on both cadets, the 180 and 181.  
 13 They were very pleased with the instructors, the  
 14 academy, and the staff overall. So we were very  
 15 pleased to see how things were going.  
 16 And they did want to thank the board for the  
 17 4/10 schedule. That's been very beneficial for them  
 18 and it's working very well.  
 19 The PST academy, class No. 114, the next  
 20 class is scheduled to begin on February 28th, 2011.  
 21 At this time I'd like to -- I have a sheet  
 22 over here. I know there's been some concern about the  
 23 board. I do have it here. Mr. Perez couldn't make it  
 24 today. But his term is until June 30th of 2011.  
 25 Arsenio Jones is July 1st of 2012. Okay.

1 retiring effective December 31st. He served 32 years  
 2 in law enforcement. He was first hired in 1978 by the  
 3 Las Vegas Police Department. And after ten years with  
 4 Las Vegas, he joined the New Mexico State Police where  
 5 he served for 14 years.  
 6 Chief Garcia was very passionate with  
 7 instructing and training law enforcement officers. So  
 8 he then transferred to the New Mexico Law Enforcement  
 9 Academy and worked there for the past eight years.  
 10 Chief Garcia will be missed. And we were  
 11 hoping to present him with a plaque and thank him for  
 12 his service, but he was unable to make it today.  
 13 Misconduct stats updates. I appended a  
 14 statistics sheet. Since preparing this I received  
 15 five new cases. So for this year we have 86  
 16 misconduct cases. And the 16 has now grown to 17 for  
 17 formal hearings. So we're pending 17 formal hearings.  
 18 Instructor Dana Brock, she was hired on  
 19 June 26, 2010. She was a probationary employee. And  
 20 things just didn't work out and she was released. So  
 21 currently we only have one instructor for the basic  
 22 academy and we do not have a bureau chief at the  
 23 academy. So we're very shorthanded.  
 24 Mr. Mark Shea is doing double duty as the  
 25 advanced bureau chief and the basic bureau chief.

1 Then we have Ron Reeves is July 1st of 2013.  
 2 Chief Ray Schultz is December 31st of 2010. Chief  
 3 Segotta, 6/30 -- I know they just renewed yours. So I  
 4 apologize. And then Sheriff Coon is July 1st of 2012.  
 5 I just want to say it's been a pleasure and  
 6 an honor to work together with you as board members.  
 7 And this will be my last board meeting. So I wanted  
 8 to show my appreciation and the appreciation of the  
 9 staff and present you with our gratitude a little  
 10 plaque.  
 11 (Applause.)  
 12 MR. ORTIZ: And we have one for Gary King,  
 13 but my fault, I did not bring that with me.  
 14 MR. KING: Let's all thank everybody on the  
 15 board for their service.  
 16 (Applause.)  
 17 MR. ORTIZ: And I have it in the works and  
 18 I'm trying to get a meeting with the governor elect  
 19 and the transition team. And one of my requests is  
 20 that they keep this board in place. I want to thank  
 21 you. I think you're doing an outstanding job. And  
 22 hopefully I'll get to have that meeting and this board  
 23 will remain in place.  
 24 Another person we would like to honor is Art  
 25 Acevedo. There he is. Mr. Najar.

1 MR. NAJAR: I talked with Art about --  
 2 Mr. Chairman, board members, about Arturo here. In  
 3 2005, as we looked at the physical fitness training  
 4 programs in all nine satellite academies, I really  
 5 couldn't find a structured rhyme and reason for how we  
 6 were doing physical fitness training. Everyone had an  
 7 excellent program.

8 But as we looked at what was going on in the  
 9 field of fitness training, there seemed to be a lack  
 10 of science-based organization and structure to  
 11 physical fitness. And we require physical fitness  
 12 specialists to be certified. Generally we send them  
 13 to the Cooper clinic.

14 But I got ahold of Mr. Acevedo who runs the  
 15 program at the Albuquerque Police Academy. I asked  
 16 him to design a fitness curriculum program, training  
 17 program for all nine satellite academies. The success  
 18 that he has had in reducing injuries and probably has  
 19 the highest average in fitness in the graduating  
 20 classes of the Albuquerque Police Department.

21 He just had the experience, the wealth of  
 22 knowledge. He's a part-time volunteer coach for the  
 23 UNM track team. And just everything that he's done in  
 24 his career for the Albuquerque Police Department.

25 As I sat down with him, he brought me up to

1 Training Bureau report.

2 MR. KING: Go ahead, Mr. Shea.

3 MR. SHEA: Mr. Chairman, members of the  
 4 board, the Advanced Training Bureau for this  
 5 quarter -- we haven't put on a lot of training. As  
 6 you can see, it's a pretty brief list.

7 Unfortunately with the staffing issues at the  
 8 academy and the budgetary issues, it's been quite a  
 9 challenge to get some training up and running,  
 10 especially with the fact that the Advanced Bureau was  
 11 tasked with running a basic training class and now  
 12 we're running two basic training classes.

13 So that's been our main focus, in addition to  
 14 the certification by waiver class 71 that was put on  
 15 and gearing up for 72. But that being said we still  
 16 did manage to put on almost 2,000 contact training  
 17 hours of training during this quarter.

18 If you look at the totals for year to date,  
 19 and I always like to do that at our December meeting  
 20 to kind of give you a recap of the training that we  
 21 have provided out of the Advanced Bureau for the  
 22 12-month period. And you'll see that we have provided  
 23 27,450 contact training hours to 1,077 officers in the  
 24 state of New Mexico with a bureau of three people.

25 In addition to that, we've recertified 45

1 speed on the American College of Sports Medicine and  
 2 the science behind training physical fitness. So  
 3 through his work and effort, we're able to deliver a  
 4 program of training for all nine satellite academies.

5 I think that has improved the quality of the  
 6 graduation of the cadets, their fitness level, and  
 7 their ability to do the job as professional officers.  
 8 So he's a well-recognized and well-known member of our  
 9 law enforcement training community. And since he's  
 10 retiring here on December 31st, we wanted to recognize  
 11 him and honor him for everything he's given to us and  
 12 to all the satellite academies.

13 MR. ACEVEDO: Thank you very much.  
 14 (Applause.)

15 MR. ORTIZ: Okay. At this time I want to  
 16 call Mr. Shea. But first I want to thank Mr. Shea and  
 17 Mr. Najjar. It's been a pleasure to work with them.  
 18 They've made my job so easy to deal with. It's very  
 19 stressful, we're so shorthanded.

20 Like I said Mr. Shea, he's doing two duties.  
 21 Mr. Najjar, the same thing with staff. We only have 14  
 22 people currently at the academy when we should have 22  
 23 positions. But with these cuts everybody is pulling  
 24 together and doing what they can. And I just want to  
 25 thank them. Mr. Shea, I'll let you give your Advanced

1 officers through our certification by waiver training  
 2 program. So we are committed to providing training  
 3 throughout the state with the limitations of our  
 4 staffing and our resources.

5 With basic 180 and 181 now under my  
 6 direction, and I've got one instructor with the basic  
 7 bureau who is coordinating the class 180 that has 46  
 8 cadets. And Bryan Coss, my master instructor out at  
 9 the Advanced Training Bureau, is coordinating 181  
 10 which has 16 cadets in it.

11 We are very fortunate with that class that it  
 12 is a little easier to deal with because there are only  
 13 two agencies represented. We've got six officers or  
 14 cadets from Rio Rancho and ten cadets from Santa Fe  
 15 Police Department. So it's a little easier to manage  
 16 cadets from two agencies than it is with the larger  
 17 class of 46, where you've got quite a few agencies  
 18 that you're dealing with staff issues with them.

19 Elliot Guttman, our staff attorney, has been  
 20 spending the bulk of his time with the basic classes,  
 21 the state police recruit school, the in-service  
 22 training with our certification by waiver of previous  
 23 training, our PST classes. So most of his time has  
 24 been tied up in teaching in the academy curriculum.

25 He will be instructing on Thursday at the

1 Policing in the 21st Century Conference at the Embassy  
2 Suites hotel. I would encourage everyone in the room  
3 here, if you have not signed up to go to the  
4 conference, that that would be a good training session  
5 to go to.

6 His topic is Arizona to New Mexico,  
7 immigration and racial profiling. So he's going to  
8 give a lot of good information to officers that they  
9 can use in their day-to-day work on the street. Plus  
10 he also understands that there is command staff in the  
11 audience. And he also provides information from the  
12 standpoint of best practices and policies and  
13 procedures too. So we look forward to that class.

14 Also I've been working with Jim Burleson with  
15 the Sheriffs and Police Association. I know that Jim  
16 had contacted me and was concerned as Sheriff Coon was  
17 concerned that the statute requires that the Law  
18 Enforcement Academy provides training to new sheriffs.

19 And we had been relying upon our  
20 certification by waiver class to meet that mandate.  
21 And it really isn't a good fit for giving a broad  
22 spectrum of training to new sheriffs coming in and  
23 even some sheriffs who have been in office for awhile.

24 So Jim stepped up to the plate and with the  
25 Sheriffs and Chiefs Association put together a

1 the class we're putting on next week that starts  
2 Sunday, I was fortunate enough to go to the National  
3 Sheriffs Institute in Longmont, Colorado as a first  
4 term sheriff. And I was then fortunate enough to  
5 replace the sheriff that had mentored me.

6 I know some of these new sheriffs that are  
7 coming in. Budget-wise and different things that  
8 we're going to cover in this class, it's going to be a  
9 tremendous help for them. The NSI, 25 sheriffs  
10 throughout the country get to go to that thing once a  
11 year, new sheriffs.

12 And I got my name in -- I was the first one  
13 to get my name in because, when I ran, I didn't have  
14 anybody in my general election. So I knew I had won.  
15 So I got my name in. And it was a big asset to me to  
16 get to go to this -- the national class.

17 This class we're going to put on is even  
18 going to be better than that because we never covered  
19 budgets, we never covered -- I thought I was going to  
20 go up there and they were going to teach me how to do  
21 a budget and things like that. But it was more ethics  
22 and a lot of group participation and stuff like this.

23 This class here is going to be -- the way  
24 it's set up -- I don't know how many instructors we  
25 have scheduled for this. But it's going to be a great

1 curriculum which will be going on later this month to  
2 train our new sheriffs coming into office and to those  
3 sheriffs that are already incumbent that would like to  
4 get some additional information.

5 We are honored to help with that in some  
6 instruction and providing some assistance. But I have  
7 to give the credit to the New Mexico Sheriffs and  
8 Chiefs Association for taking that step to get that  
9 thing going. So we look forward to that being an  
10 ongoing relationship, to make sure that our elected  
11 sheriffs get the training they need to come into  
12 office with -- and be able to hit the ground running.  
13 So we'll look real forward to that.

14 Other than that we are gearing up for cert by  
15 waiver 72 that will start on the 31st of January. And  
16 we are also looking at our public safety  
17 telecommunicator class 114. We've had a couple  
18 classes that were cancelled because of staffing issues  
19 and getting our applications in place.

20 So I know there's been a vacuum there and  
21 we'll probably have a very large class. But we're  
22 gearing up for that one too. And with that I'll stand  
23 for any questions.

24 MR. KING: Questions for Mr. Shea.

25 MR. COON: Mr. Shea, I would like to comment,

1 benefit to these 11 new sheriffs that do show up for  
2 this. So they'll have a little knowledge going in  
3 January 1st.

4 MR. SHEA: Sheriff Coon, I thank you for your  
5 comments, because I did look at the NSI curriculum  
6 when Jim contacted me about what we're doing at the  
7 academy to address that issue.

8 And I had the same thoughts as you did, that,  
9 you know, it looked like a good curriculum, but it was  
10 light on a lot of the practical things and talked more  
11 philosophical issues and leadership to a certain  
12 extent. And the curriculum that's been put together  
13 for the new sheriffs has got a lot of meat and  
14 potatoes in it.

15 MR. COON: Well, about half this class dealt  
16 with jail issues. Most of us have administrators and  
17 we don't mess with the jail part of it. So it was a  
18 yawner for me and for about half the class because I  
19 didn't worry about jails. Back East that's how the  
20 sheriffs make their money and stuff, is through the  
21 jails.

22 There's 3,039 sheriffs in the United States.  
23 You could have put -- out of the 23 sheriffs there,  
24 you could have put about 21 of their counties in  
25 Chaves County. They're little tiny counties. Of

1 course, they've got 2 million population. But they've  
2 got these little postage stamp counties throughout the  
3 Eastern Seaboard that were just blown away by the size  
4 of our counties in New Mexico and Arizona.

5 MR. SHEA: Again we do look forward to that  
6 relationship and continuing to participate and to help  
7 get the new sheriffs and continue ongoing professional  
8 staff development for sheriff staffs also.

9 MR. KING: Anything else, Sheriff?

10 MR. COON: No, sir.

11 MR. KING: Any other questions for Mr. Shea?  
12 Seeing none, thank you.

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

14 MR. KING: Director Ortiz, do you have any  
15 other items?

16 MR. ORTIZ: No, sir. Unless there are any  
17 questions.

18 MR. KING: As the chairman of the Law  
19 Enforcement Academy Board, and I've been the chair for  
20 four years. And, of course, as a matter of getting  
21 reelected and my position, I'll be the chair for the  
22 next four years again.

23 But when I first became the chairman of the  
24 board, I think that there were some issues that I saw  
25 that I thought were important issues for us to

1 service to the board. And so we do have a plaque for  
2 you. And I don't know whether you can come this way.  
3 I'll hand it to you. Thank you for your service.

4 (Applause.)

5 MR. ORTIZ: It's been a pleasure working with  
6 all of you.

7 MR. KING: Do we have a plan for what's going  
8 to happen the day after you retire? Is the deputy  
9 going to take over?

10 MR. ORTIZ: I don't know. I have met with  
11 Mr. Korn. And we're trying to see if I can meet with  
12 the transition committee and see what their plan is  
13 and see what happens there.

14 MR. KING: Well, let's be sure and talk. I'm  
15 curious. And I'm sure we'll keep the board up-to-date  
16 on what the plan is to make sure that we have interim  
17 coverage. And I'm sure that the incoming governor  
18 will want to have some input to all of those kind of  
19 issues too. And I think she's entitled to that.

20 But we do appreciate your service. And we'll  
21 be thinking about what we can do to make sure that we  
22 don't let the ball drop off the edge.

23 MR. ORTIZ: One thing I'd like to add. I  
24 would like to thank all of you, Chief Boone, Sheriff  
25 Gibson, working with you, Sheriff Garrison. I want to

1 address. Most notably one was the backlog of cases  
2 that we had regarding certification and such.

3 And so I had a chance to talk to Art when I  
4 first came on the board. And he agreed that he would  
5 work hard to try and catch us up on that. And so one  
6 of the things I want to commend you for is I think  
7 that the board has done a much better job of catching  
8 up on that.

9 And I'm one of those people that believes in  
10 continuous improvement. I think that there are still  
11 places that we can go. So I understand that there's  
12 still a lot to be done. But I think that Art has  
13 worked very hard to be professional, that we have --  
14 all of us have suffered from budget cuts over the last  
15 three years.

16 And I think a lot of people -- most everybody  
17 in this room will understand. But a lot of people in  
18 the public will not understand what a job it's been  
19 for law enforcement to continue to provide the  
20 protection and the services that we feel like are  
21 really necessary to do and the training that are  
22 necessary to do in order to protect the public.

23 And so I want to commend all of you. But we  
24 want to commend particularly Art for the work that  
25 you've done in operating the academy and in your

1 thank all of you as well. Mr. Wilson, pleasure  
2 working with you. Thank you. Mr. Hall. Many people  
3 to thank.

4 MR. KING: Thanks, Art.

5 ITEM NO. 6: PUBLIC COMMENTS

6 MR. KING: All right. The next item on the  
7 agenda is public comments. I don't show anything on  
8 my agenda to show that anybody specifically signed up.  
9 Let me say, I suspect, when we get to this later item  
10 on the agenda, that there will be a lot of comments.

11 And there will be opportunity in the agenda  
12 items for -- usually I try and make sure that we have  
13 some opportunity for discussion from the attendees as  
14 well as the board on these items. And so we'll try  
15 and do that.

16 But are there any other public comments  
17 currently sort of a more general nature? All right.  
18 Seeing none, we're going to move on today.

19 ITEM NO. 7: DISCUSSION - 10.29.9 CURRICULUM STANDARDS

20 MR. KING: The next item on the agenda is  
21 item No. 7, discussion of curriculum standards.  
22 Mr. Najjar.

23 MR. NAJAR: Mr. Chairman, board members, and  
24 members of the audience, this is an old business item  
25 that we've talked about previously over the years.

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1 We're looking at today just a discussion item  
2 to allow the board an opportunity to see what our  
3 recommendations are plus an opportunity for the  
4 audience to look at those recommendations and see if  
5 there are additional issues or changes that the  
6 individuals here would like to see us make to Part 9  
7 of New Mexico Administrative Code, which Part 9 is the  
8 section under which the 800 hours or the basic  
9 certification curriculum falls under.  
10 I'll walk through the recommended changes.  
11 You'll see those things that are underlined are the  
12 recommendation for his modification of the existing  
13 rule as posted on the New Mexico Administrative Code  
14 website.  
15 So some of these are basically transfers from  
16 other blocks of instruction to a more logical block of  
17 instruction, where it fits better. So some of it  
18 didn't make sense, why we had put it where it was at.  
19 I think the -- there's one exception here,  
20 where we have added -- kind of added some training.  
21 And it has to do with officer-involved suicide and  
22 officer-involved domestic violence. We were covering  
23 those previously under blocks 9 and 10.  
24 But we wanted to move those out of that  
25 specific block into where we cover stress management

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1 for police officers and handle that as separate item  
2 and not lump that training with the general domestic  
3 violence.  
4 And when we talk about suicide and barricaded  
5 subjects and that stuff, pull that out because  
6 officers who become involved and are the subjects or  
7 potential offenders in those situations is a little  
8 different for addressing that from a training  
9 perspective.  
10 But 10.29.9.8 in your agenda item there, the  
11 only thing we're doing is we're taking cultural  
12 diversity from where it was. And you'll see where  
13 I've crossed it out later on in the blocks of  
14 instruction. So we're moving it here under block one.  
15 That's the first change. Under block two we're moving  
16 Spanish language out of where it was previously and  
17 placing it here into introduction to law enforcement  
18 in New Mexico.  
19 There is one kind of cosmetic change that  
20 we're making here. The University of Texas El Paso is  
21 not going to participate any longer with us for those  
22 testing situations where an officer either to cert by  
23 waiver or an officer that gets injured in basic  
24 academy can't run the mile and a half.  
25 We will now strictly send them to the

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1 University of New Mexico for testing there on the  
2 ergometer. So that's just eliminating UTEP and their  
3 lab from that process.  
4 You'll see there under No. 3 C, physical  
5 fitness, the emotional health was previously what we  
6 addressed there in stress management. We've added  
7 then officer suicide and officer-involved domestic  
8 violence as the additional training topics in that  
9 area. And so the hours changed there from two to four  
10 hours of instruction.  
11 Under laws and procedures, block four, we had  
12 the juvenile and juveniles and their problems in  
13 another section that again did not make sense. So  
14 we're moving it here under the law block.  
15 Crimes motivated by hate, that's the other  
16 things that we're doing now. All nine academies have  
17 been teaching the mandated hours required by the  
18 legislature. Those are what we refer to as our  
19 biennium hours for the in-service side for the  
20 incumbent officers. So we just had not ever  
21 formalized what is in statute into the New Mexico  
22 Administrative Code.  
23 So some of these like crimes motivated by  
24 hate is required by state statute. We're just now  
25 formalizing that and putting it in here so that it is

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1 part of the New Mexico Administrative Code.  
2 And hopefully that ensures that anyone who  
3 questions whether or not that's being done, because  
4 the legislative statute requires it be taught to the  
5 basic academies and it be taught to incumbent  
6 officers. So that's why that's there. And you'll see  
7 the other parts of those legislative requirements.  
8 Under block five, this came about in last  
9 year's legislative session. The missing person and  
10 AMBER Alert has been added as part of the requirements  
11 there. Again that is another biennium training  
12 requirement for incumbent officers. HAZMAT has just  
13 been moved from another section to this section.  
14 We'll drop down to block seven. This is --  
15 two years ago we added the Off-Highway Motor Vehicle  
16 Act training requirement. We're just formalizing it  
17 and placing it into the New Mexico Administrative Code  
18 here.  
19 Number nine has been kind of a recurring  
20 request by law enforcement agencies. We ask your  
21 consideration of whether or not that should be a part  
22 of the training curriculum. For a lot of the  
23 academies it already is. It is not for the academy in  
24 Santa Fe.  
25 So the request has been for us to teach

1 Intoxilyzer operation and certification and for radar.  
2 So number nine and ten are the two additional ones  
3 which would add an additional 16 hours to the training  
4 curriculum. So just bear that in mind in your  
5 consideration.

6 And if anybody here is -- from the law  
7 enforcement community really, really -- it is  
8 important for them to see us start training in those  
9 areas. During the comment section, we would  
10 appreciate their comments on this. Or on the  
11 alternative, if they don't want us to teach it, we  
12 would like to hear that as well.

13 Under block eight you can see where we  
14 removed hazardous materials and traffic accident  
15 report forms and put those in more appropriate  
16 sections and just bumped up the traffic report forms.

17 You can see here where we struck our cultural  
18 diversity and Spanish, where we moved those into  
19 blocks one and two. Under block 11 it had the largest  
20 modification that was titled always domestic issues.  
21 But we had the juvenile stuff in there.

22 So that is kind of more of a fix. Nothing  
23 new added to that other than you'll see here the  
24 legislative requirement of ensuring child safety.  
25 We've placed that here in this block of instruction.

1 MR. SEGOTTA: No. Ten. Because you went  
2 from eight to two so that's six less. Sixteen minus  
3 six. Ten I think. It's been awhile since I took a  
4 math class.

5 MR. NAJAR: It will be around ten, ten  
6 additional hours of training total.

7 MR. SCHULTZ: And I know during the next  
8 legislative session there's already moves afoot for a  
9 whole lot more additional mandated training. I know  
10 the NAMI folks are out pushing an additional 40 hours  
11 minimum for every officer for CIT as well as several  
12 other groups that have their own individual training  
13 requests and requirements.

14 So my question would be I mean are we kind  
15 of -- one, there's going to be a change in directors,  
16 change in cabinet secretary, change in legislative  
17 session. Aren't we kind of putting the cart before  
18 the horse, wouldn't it be better to table this and see  
19 what happens after the session and the change in  
20 administration?

21 MR. KING: I think this is just for  
22 discussion today anyway, Chief. We're not going to --

23 MR. SCHULTZ: Right, right. I know we don't  
24 have to vote on it. But we could also -- the normal  
25 process is for it be carried over to the next meeting

1 And from there we can drop all the way down  
2 to operation of a patrol vehicle, block 16 of the  
3 instructs. And there we've just formalized a little  
4 better what it is that we are requiring in terms of  
5 the proficiencies that must be demonstrated by the  
6 cadet for graduation and certification. So it's just  
7 that additional language in that section there.

8 And insofar as block nine is concerned,  
9 that's it in terms of the changes. What you see that  
10 follows is related to one of the other items on the  
11 agenda. So that continuation of certification and  
12 separation, we'll address that later. So with that  
13 I'll stand for any questions on Part 9, recommended  
14 changes.

15 MR. KING: Questions of Mr. Najjar. Chief  
16 Schultz.

17 MR. SCHULTZ: What's the net change, total  
18 number of hours net change?

19 MR. NAJAR: There's an additional 16 hours  
20 that radar -- let me see if I can do this in my head.  
21 And Intoxilyzer. We dropped down -- we're doing I  
22 think the ensuring child safety.

23 MR. SEGOTTA: From eight to two.

24 MR. NAJAR: Right. So 14 additional hours to  
25 the 800 hours curriculum.

1 and make it a formal item then. But I think that  
2 might even still be premature pending the legislative  
3 session.

4 MR. NAJAR: And you'll see that we did not  
5 touch block nine and ten, Mr. Chairman, Chief Schultz.  
6 And that's where we do have the CIT -- primarily the  
7 CIT training anticipating -- NAMI did come in and meet  
8 with us.

9 In our discussion with them, they are  
10 concerned about the CIT training and the level of  
11 training we're doing in New Mexico. But our  
12 understanding was their focus was going to be  
13 specifically to chiefs and sheriffs at this next  
14 legislative session and a requirement imposed only on  
15 chiefs and sheriffs.

16 Again it's up in the air. We want everybody  
17 to have an opportunity to at least to look at this,  
18 because one of the criticisms I think that occurs  
19 generally is that we have a public hearing. And a lot  
20 of times our communication to the law enforcement  
21 community has been lacking.

22 So I don't know that we're anticipating doing  
23 anything in the first quarter, possibly the second  
24 quarter, definitely after the legislative session.

25 MR. COON: Mr. Najjar, on the Spanish language



1 for 16 hours in block two, how in depth -- I mean at  
2 16 hours you can't learn a whole lot other than a few  
3 commands. I took Spanish all the way through college.  
4 And if you don't use it, you lose it.

5 It seems to me whether 16 hours is either too  
6 little or not worth the time to maybe even present  
7 that. But saying that, then down here on the police  
8 suicide, officer-involved domestic violence, and  
9 stress management for four hours, we see this board  
10 every time on the domestic violence issues of  
11 officers. We're losing a lot of certifications to  
12 domestic violence.

13 And then over here in the Intoxilyzer  
14 operation and certification for eight hours, the  
15 deputies I have coming out, you're not teaching it in  
16 Santa Fe. We have to get them back through a class as  
17 soon as we can. I think that's something we need  
18 to -- they need to learn in the academy.

19 And the domestic violence and the ethics and  
20 moral issues, I know you can't teach ethics to people  
21 that are not ethical. I think we need to -- the  
22 ethics that we see coming through this board and the  
23 domestic violence are some of the things that get  
24 these guys in hot water.

25 I think maybe in my opinion we need to focus

1 additional input on those topics. And we are  
2 prepared, we have made some contacts as far as the  
3 Intoxilyzer training is involved to see if, one, the  
4 equipment could be purchased for the academy; and two,  
5 that the instructors would be available to us.

6 It looks like we're fairly well off in terms  
7 of availability of instructors for Intoxilyzer  
8 certification. So I'm hoping that would not be a  
9 problem. It would just be a matter of the equipment.  
10 We definitely would appreciate any additional comments  
11 in those areas.

12 MR. KING: Other questions or comments  
13 currently? Okay. I'm going to ask Mr. Shandler. But  
14 I think that this is -- I agree with Chief Schultz  
15 actually I think. But we would have to do this as a  
16 rulemaking anyway, is that correct, to make these  
17 changes or whenever we go through our formal  
18 rulemaking process?

19 MR. SHANDLER: Yes, Mr. Chairman.

20 MR. KING: So would we have to publish this  
21 again at some point in time for a future meeting  
22 anyway for the rulemaking? How far ahead of time do  
23 we have to publish it before we're going to actually  
24 put it on the agenda for a vote?

25 MR. SHANDLER: Mr. Chairman, you are correct.

1 a little bit more time on -- and if it's nothing more  
2 than bringing the officers in that have been in  
3 trouble to address the class on this. I think maybe  
4 we can add a few hours somewhere and subtract some on  
5 the domestic violence and the ethics portion at the  
6 academy.

7 MR. NAJAR: Mr. Chairman, Sheriff Coon, I  
8 think you would find that all nine satellite academies  
9 are in agreement with you. The ethics block and the  
10 number of hours that are presented within that is not  
11 really sufficient to build a solid foundation as to  
12 what the expectations of board are and what the State  
13 of New Mexico expectations are as to the conduct of  
14 officers.

15 So I think I know we struggle with trying to  
16 fit in a good solid ethics foundational course in the  
17 basic academy with those hours assigned. And I think  
18 that looking at that, in addition to the domestic  
19 violence part of that, the unfortunate thing, we don't  
20 have a specific curriculum developed so we could not  
21 gauge. And the hours that we have in here may be way  
22 too short for effectively addressing training on  
23 officer-involved domestics, officer-involved suicides,  
24 those kind of things.

25 Again we definitely would be interested in

1 Staff would have to publish it. And off the top of my  
2 head, I don't know if it's 30 or 60 days is the  
3 requirement. Staff would be able to familiarize you  
4 with that requirement. But there is some lead period  
5 of time, yes, sir.

6 MR. KING: I'm guessing -- it's kind of up to  
7 the board. But I'm guessing it would be better to put  
8 this on -- or sort of the general topic on as a  
9 discussion item in our next quarterly meeting. When  
10 is our next meeting, is it after the legislature?

11 MR. NAJAR: Generally it's in March.

12 MR. KING: Yeah. The legislature will be  
13 done mid-March. So, Chief Schultz, I think you're  
14 right. I think it would be a good idea to know what  
15 else might go in here.

16 But at that point in time then, I think we  
17 ought to look at sort of what we want to add and get  
18 this on track for our rulemaking. Any comments? I  
19 don't think that we need an action to do that. But  
20 that's what I would intend to do if there's not any  
21 dissension.

22 Okay. Let's kind of do that. Let's kind of  
23 keep it on the agenda for discussion. I think that's  
24 a good idea. But let's see what the legislature comes  
25 up with. And we'll discuss it again in March. And

1 then we'll try to put it on track for a rulemaking  
 2 after that.  
 3 MR. NAJAR: Okay. Mr. Chairman, thank you.  
 4 MR. KING: Thank you, Mr. Najjar.  
 5 ITEM NO. 8: RATIFICATION OF CERTIFICATIONS FOR LAW  
 6 ENFORCEMENT OFFICERS  
 7 MR. KING: The next item on the agenda, new  
 8 business, ratification of certifications for law  
 9 enforcement officers. Mr. Ortiz.  
 10 MR. ORTIZ: Mr. Chairman and board members,  
 11 item No. 8, ratification of certification for law  
 12 enforcement officers. The director has verified the  
 13 list of police officers beginning with Certification  
 14 No. 10-0143-P, 10-0144-P, 10-0193-P through 10-0211-P,  
 15 and 03-0064-P have all met the standards and  
 16 requirements for law enforcement certification. And I  
 17 request that the board ratify their certification.  
 18 MR. KING: Questions? Seeing none I'll take  
 19 a motion then.  
 20 MR. SEGOTTA: Mr. Chairman, I move that we  
 21 accept the ratification for certification of police  
 22 officers.  
 23 MR. KING: Okay. I have a motion to accept.  
 24 Is there a second?  
 25 MR. JONES: Second.

1 of this audit was the 2008/2009 biennium in-service  
 2 training plus the firearms qualifications for those  
 3 two years of that biennium cycle.  
 4 If you look at the sheet that had been  
 5 provided to you, you'll see that out of 36  
 6 agencies out of the 235 agencies in the State of New  
 7 Mexico that were audited in this first round, we only  
 8 had one-third compliance, a 33 and a third percent  
 9 compliance.  
 10 And the numbers are a little skewed there, it  
 11 doesn't add up to 100 percent, because we had some  
 12 areas where we didn't get conclusive results to have a  
 13 yes or no on some of these.  
 14 And in the second column, when we're talking  
 15 about the firearms obviously, when we did also audit  
 16 not just our law enforcement agencies, but where we  
 17 had separate communication centers that had certified  
 18 dispatchers, we were auditing those also.  
 19 So some of the audits were strictly for the  
 20 public safety telecommunicators if it was a regional  
 21 emergency communication center. So you can see that  
 22 on the firearms qualifications, we were looking at  
 23 about a 50 percent, 46.7 percent compliance rate of  
 24 the 36 agencies that were audited.  
 25 Then we also looked at -- we tried to draw a

1 MR. KING: Second. All in favor say aye.  
 2 (Those in favor so indicate.)  
 3 MR. KING: Any opposed? So those  
 4 ratifications are completed. And I'm sorry,  
 5 Mr. Ortiz. But I'm used to seeing communications  
 6 officers too.  
 7 MR. ORTIZ: Right. We didn't have any  
 8 dispatchers this quarter to graduate.  
 9 ITEM NO. 9: DISCUSSION: SPRING 2010 AGENCY TRAINING  
 10 AUDITS  
 11 MR. KING: Okay. All right. The next item  
 12 on the agenda then is a discussion of the spring 2010  
 13 agency training audits. Mr. Ortiz.  
 14 MR. ORTIZ: Yes. I'm going to yield that to  
 15 Mr. Mark Shea.  
 16 MR. KING: Okay. Mr. Shea.  
 17 MR. SHEA: Mr. Chairman, members of the  
 18 board, you had been emailed an updated copy of a  
 19 summary sheet on the audits that had been conducted in  
 20 June of 2010. We had a real short window that we had  
 21 completed those audits in.  
 22 What we had done is contract with five  
 23 different contractors to get as many audits done as  
 24 possible so we could start the process and find out  
 25 just exactly where we were with compliance. The focus

1 correlation between whether they were in compliance  
 2 with the audit and had they turned in their biennium  
 3 in-service training affidavit for the 2008/2009  
 4 training cycle. And also had they updated their  
 5 registry.  
 6 So we looked at what their employment status  
 7 was for officers during that period compared to what  
 8 our records showed to see if we had compliance there.  
 9 And you'll see the same thing.  
 10 We had a fairly low correlation of what we  
 11 show in our database as officers employed by that  
 12 agency to what the actual employment of officers were,  
 13 which lends itself to our discussion later on with  
 14 regard to that issue of certification and the officer  
 15 maintaining that certification versus the agency  
 16 reporting that certification.  
 17 That's kind of something that came out of  
 18 this audit that we saw, that we have some problems  
 19 with regard to officers moving between agencies during  
 20 the two-year cycle, who is responsible for that  
 21 training.  
 22 When our auditors went out to agencies and  
 23 looked at who were employed during that two-year cycle  
 24 and we couldn't find training records for them in a  
 25 lot of the cases, that was because that officer was

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1 hired during that cycle from another agency; and the  
2 other agency did not provide the training records to  
3 the hiring agency. So we've got a disparity there  
4 with regard to the mobility of training records from  
5 one agency to another.  
6 I think by and large the numbers are  
7 alarming, that we show a 30 percent compliance rate.  
8 But if you drill down a little deeper into those  
9 numbers, some of our audit reports are, you know,  
10 three or four inches thick. I've got two boxes out in  
11 my vehicle.  
12 I can bring actual audit copies in sometime.  
13 Or if the board wants to look at actual audits, we can  
14 make those available to you so that you can see the  
15 depth of which we did look at the agencies.  
16 But we did several things in looking at their  
17 training records. And we found that a lot of times  
18 the training was occurring. But for purposes of  
19 reporting, we were having a very difficult time  
20 finding the documentation.  
21 So we had a real sense that the officers were  
22 getting the training. But when we asked the agency to  
23 produce the documentation, it was unavailable. The  
24 officers were keeping their own documentation and it  
25 was not coming back to a central repository with a

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1 training coordinator or someone responsible, either  
2 the agency head or somebody that had been designated  
3 to track that training.  
4 So that's another issue that we identified,  
5 that those recordkeeping systems sometimes are  
6 nonexistent. And it's something that perhaps we need  
7 to look at, is coming up with a standardized  
8 recordkeeping system that we can use as a best  
9 practice and get out to all agencies and as an  
10 expectation of this is how we want records to be kept.  
11 We had a work session yesterday to talk about  
12 this issue a little bit. There were some good  
13 comments that were made with regard to some of the  
14 things that we could possibly do to rectify the  
15 situation.  
16 And again that was -- a lot of the focus was  
17 one that providing the training since the mandated  
18 training seems to be the big issue. The discretionary  
19 training agencies are more apt to be compliant with  
20 that. But the statutory and board mandated training  
21 are the ones where we see the lower compliance because  
22 of the availability of those courses.  
23 We do offer them obviously through the Law  
24 Enforcement Academy agencies to do their in-house  
25 training. But the availability of that especially to

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1 the smaller agencies we have identified as being a  
2 problem. So that's something that we need to work on  
3 to make sure that if we're going to expect compliance,  
4 we also make that training available so the officers  
5 and the dispatchers can meet mandates that we do have  
6 mandated training.  
7 With that I will stand for any questions.  
8 Again Deputy Director Najjar worked real diligently on  
9 putting this process together. So he's a wealth of  
10 information too.  
11 MR. KING: Questions.  
12 MR. COON: Mr. Shea.  
13 MR. KING: Go ahead, Sheriff.  
14 MR. COON: On the registry discrepancy, what  
15 are some of the -- are the departments just not  
16 showing all their deputies or officers on the list?  
17 MR. SHEA: That's the biggest thing. We send  
18 out the quarterly reports and get those returns back.  
19 With the movement of staff between agencies, there is  
20 an issue with the LEA-82s being submitted by agency  
21 heads.  
22 We have a lot of times -- we will look at our  
23 database. And an officer has gone through more than  
24 one agency and is currently employed by an agency that  
25 may be shown as hired -- on a hire date in our

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1 database. But the two that they had in transition  
2 between what's in our records were never reported.  
3 So that is a big issue, is the agency heads  
4 are not filling out the LEA-82s to get them into our  
5 registries.  
6 MR. KING: Others questions, Sheriff?  
7 MR. COON: No, sir.  
8 MR. KING: Okay.  
9 MR. SEGOTTA: Mr. Chairman, Mr. Shea, just so  
10 that I understand, when you went out and did the  
11 audit, the number of samples that you audited were  
12 based on size of the agency; is that correct?  
13 MR. SHEA: That is correct, Chief Segotta.  
14 If it was ten men or less department, we did a full  
15 audit. Then we broke it down by size as to a  
16 percentage. And then we did a random sampling. We  
17 didn't make that in such a manner that we did a random  
18 sampling based upon assignment of rank. It was just  
19 strictly based upon the registry.  
20 MR. SEGOTTA: So to follow up I guess, by the  
21 luck of the draw, when you did your random sampling,  
22 that could have greatly skewed the numbers here. For  
23 example, if you just got -- and I'll throw darts at my  
24 own agency and pick A through Z officers out of my  
25 agency.

1 And for whatever reason, one-half to  
2 one-third or whatever, there's some type of  
3 discrepancy. But as an agency you may be in a  
4 90 percent compliance rate because of the size of the  
5 agency, correct?

6 MR. SHEA: That is possible, yes, sir.

7 MR. SEGOTTA: Okay. I just was wanting to  
8 understand. I know the numbers are alarming to some  
9 extent. But it's not a scientific sampling of the  
10 entire audit. And I don't think it's representative  
11 of all of law enforcement in New Mexico.

12 But as a chief of an organization, it's  
13 incumbent upon us to make sure that we have our ducks  
14 in a row and our filing system are in place so we can  
15 meet the requirements of the statute. And more  
16 importantly, when asked questions by the public, the  
17 media, or one of the legislative bodies that we all  
18 are answering to, that we have correct answers.

19 I appreciate all the work that went into this  
20 because I know sifting through paperwork and tracking  
21 things down takes a lot of man-hours to come to the  
22 results. But I just wanted to put that out there,  
23 that I think that because some -- you may have just  
24 been unlucky when your agency had some people polled.

25 MR. SHEA: And, Chief Segotta, Mr. Chairman,

1 responsibility. But our goal was to find out just  
2 exactly where we were with training in the state so we  
3 could take corrective actions.

4 Part of the audit process too was  
5 recommendations from the auditors, if they do find  
6 that an agency was not in compliance. And if you see  
7 a was in compliance, no, that's a pretty harsh  
8 statement. But we may have audited, you know, 20  
9 people in that agency and 19 of them were in  
10 compliance and one was not.

11 So if you look at the full audit report, it  
12 does have that breakdown as to if there were some that  
13 were not in compliance. And then we also looked at if  
14 there was a report filed as to that deficiency and a  
15 plan was in place to get them into compliance. But  
16 still it would reflect in the report as a no.

17 The auditors were also -- as they went out,  
18 as they looked at the training records, they were  
19 making recommendations on recordkeeping. They were  
20 also making recommendations on strategies that the  
21 agencies could use to get into compliance.

22 What we have not done in the next portion of  
23 this project obviously is we would like to see all  
24 agencies audited so we have a better sense statewide,  
25 all 235 agencies. Unfortunately with our staffing we

1 we were cognizant of the fact that our sampling was  
2 strictly random. And ideally if we were going to do a  
3 representative sample, it would be -- you know, we  
4 would break it down demographically more so that we  
5 can scientifically look at where we're drawing those  
6 numbers from.

7 The intent of the audit this first time was  
8 to just kind of get that sense. We really didn't  
9 know -- you know, we're relying upon agencies to  
10 maintain their own records and to report via an  
11 affidavit every two years of compliance.

12 And we really hadn't been out to agencies on  
13 a regular basis to actually look at the paper copies  
14 or the electronic copies of how they were maintaining  
15 those records and tracking those records.

16 So it was a gut check for us to go out and  
17 see what was happening in the state so that we can  
18 start doing some planning on how we can rectify some  
19 of those discrepancies.

20 When we sent the audit letters out to  
21 agencies, the tone of which -- and the sense that we  
22 sent to the agency heads was that we're not head  
23 hunting, we're not looking for noncompliance so that,  
24 you know, we can enforce a rule.

25 Ultimately, you know, we do have that

1 cannot do it. And we went to contracting to do this.  
2 We spent \$30,000 to get this representative sample  
3 that we have now.

4 I left all my paperwork at home, I have to  
5 apologize. I did do a cost analysis to show exactly  
6 what it cost per record reviewed. So I looked at what  
7 it cost us per record reviewed and I looked at the  
8 cost per agency audited.

9 And we were looking at what we spent -- our  
10 average cost of an audit was about \$577 to send  
11 somebody out to an agency. And sometimes it was over  
12 a several day period that they were able -- that they  
13 had to be there in order for records to be retrieved  
14 and reviewed. So there is -- it's time intensive to  
15 do these audits.

16 The average cost for the individuals, the  
17 record that was actually reviewed, it came to about  
18 \$41 per record reviewed. So when we look at the 5,000  
19 officers in the state and then close to 1,000 public  
20 safety telecommunicators, when you extrapolate that  
21 out, you can see where it would be a huge amount of  
22 money to continue to contract to do that.

23 So we've got some decisions to be made as to  
24 if we are going to audit, what our strategies are  
25 going to be to audit, how we're going to do that, if

1 we're going to make changes to recordkeeping and make  
2 recommendations to agencies on how to maintain records  
3 and report compliance. Those are some large issues  
4 that are ahead of us that we need to address. Yes,  
5 sir.

6 MR. COON: Mr. Shea, did you all get all the  
7 contractors together in one room and say this is what  
8 we want you to look for and how we want it done or was  
9 it just random that they went out -- did everybody  
10 sing off the same sheet of music?

11 MR. SHEA: Sheriff Coon, we did put together  
12 a manual. We had an audit manual that went through it  
13 step by step, what our expectations were. We had  
14 sample forms for them to use.

15 We did give them an opportunity, if they were  
16 using electronic methods of gathering information,  
17 that they could vary from our information gathering  
18 forms. But their summary sheets and the process and  
19 what records we wanted them to look at and how we  
20 wanted them to look at it, that was all -- we brought  
21 them together as a group.

22 And we had a training session so that they  
23 were going back out to do those audits and being as  
24 consistent as possible. Obviously there's going to be  
25 some variance in how they approach the agencies. But

1 audits because problems had been reported to the  
2 academy about specific agencies.

3 And, of course, we would go in and look at  
4 training records over previous years when those came  
5 to light. But from the standpoint of doing a  
6 statewide audit of all agencies, there has been no  
7 methodology in place, there was no baseline  
8 information to do a comparison of what we were finding  
9 versus what we had on the record.

10 MR. KORN: If we compare that to, say, a  
11 political poll, where they say the margin of error is  
12 within two or three percentage points, you have no way  
13 of telling us what the margin of error is?

14 MR. SHEA: That is correct, Mr. Korn.

15 MR. KORN: So if you didn't do that, how can  
16 you do the next audit and know that you're going up or  
17 down or the results were meaningful or showing  
18 progress?

19 MR. SHEA: From the standpoint of -- the  
20 intent of the audit at this point was not to do a  
21 second phase audit to show a comparison of an increase  
22 or decrease in compliance.

23 The intent of this audit was to show what the  
24 status of the individual agencies were and then  
25 take -- start taking corrective measures. So we

1 they were given very specific information on how to  
2 conduct.

3 MR. COON: They audited us. And they were  
4 very professional. And I was very pleased with the  
5 way they handled their business and gave us some tips  
6 on some things we could do different. I guess we  
7 passed. I hope we did.

8 MR. SHEA: And you'll notice that you just  
9 have audit numbers here, you don't have agency names.  
10 If the board would like to discuss or look at specific  
11 agencies, then we can obviously provide that  
12 information to you.

13 But for purposes of this summary, it was to  
14 look at what the status was in the state, not to look  
15 at specific agency performance to report back to the  
16 board.

17 MR. KING: Other questions? Mr. Korn.

18 MR. KORN: Mr. Chairman, Mr. Shea, I have a  
19 question, to follow up on one by Chief Segotta.  
20 Before you went into the audits, did you not have any  
21 kind of statistical methodology set up for reviewing  
22 the records?

23 MR. SHEA: No, we had nothing in place.  
24 This audit process -- this is the first time that we  
25 have attempted to go out. We've done some informal

1 really weren't at the point where statistically we  
2 were looking at institutionalizing an audit process  
3 and continuing to gather data so that we could show  
4 success or failure.

5 Now, that would obviously be -- in the grand  
6 scheme of things, that would be the ultimate goal,  
7 would be to have the system in place in order to get  
8 that type of statistical feedback. And when we first  
9 embraced this audit concept, it was just to find out  
10 just exactly where we were in the state because we  
11 didn't know.

12 MR. KORN: And one other follow-up question,  
13 if I may. All these audits records are at the  
14 individual agencies around the state, you don't  
15 maintain currently any information about individual  
16 officers or complements of staff?

17 MR. SHEA: Other than what is reported to us,  
18 statutorily the individual officer does not have to  
19 report their training that they have over their  
20 career. They may report that. If they do, we enter  
21 it into their training transcript at the academy. But  
22 it's not statutorily or by rule required.

23 So we have officers in the state that have  
24 30 years of service and have been doing, you know,  
25 literally thousands of hours of training. And if you

1 pull their permanent file out of our records, it will  
2 show their transcript from when they graduated from  
3 the academy and nothing more.

4 When we receive the affidavits from agency  
5 heads on the biennium in-service training compliance,  
6 that record is kept showing the compliance. And if  
7 there are deficiencies, when those deficiencies are  
8 brought up, that record is kept with the agency  
9 record.

10 But it is not currently reflected in the  
11 individual officer's training record. And that's one  
12 of the issues. Again it's a resource and staffing  
13 issue. Even with those who elect to report, we've got  
14 stacks like this that will come in of class rosters.

15 When an in-service training occurs at an  
16 agency that likes to get that training reported to the  
17 academy, we have one person that does data entry.  
18 And, of course, they have to go through that roster.  
19 And those are all handwritten.

20 So a lot of times it's very time intensive to  
21 try to look at people's supposed printed name and try  
22 to figure out what it is. And they also have to put  
23 their cert number or their Social Security number. So  
24 if we can't read the name, trying to go through the  
25 database and find out exactly who that person is and

1 column firearms compliance, if you audited ten, 20,  
2 the highest number I see here is 54, if one of  
3 those -- well, we don't have numbers for that anyway.  
4 So around 20 people.

5 If one of those people in that group that was  
6 compliant, one of the personnel did not meet their  
7 firearms compliance, then that would show a no; is  
8 that right?

9 MR. SHEA: On this summary sheet, yes,  
10 Mr. Chairman. Now, from the standpoint of the -- as I  
11 had mentioned, on the audit summary that we have for  
12 the individual agency, that is broken out. So it  
13 does -- we do have a sense, when we look at that, that  
14 it was 49 in compliance, one not in compliance.

15 MR. KING: So here's where I'm going. But  
16 let me ask my other question. So the biennium  
17 compliance, is that like if there are not documents  
18 available or something or other, how do we get a yes  
19 or a no on the biennium compliance?

20 MR. SHEA: What we required of the auditors  
21 when they went out was to -- and this is another issue  
22 that we have. We had kind of gravitated toward being  
23 a certificate-based recordkeeping system. So if  
24 somebody attends training, the expectation is that  
25 they will receive a certificate saying that they

1 then get them entered.

2 And then, of course, the issue of records  
3 with Social Security numbers on them, maintaining  
4 security on those and destroying them after they're  
5 entered. So for the records that we do receive, it's  
6 very labor-intensive to get them into the database.  
7 And we've talked about some systems for automating  
8 that.

9 As you recall in the work/study session we  
10 had yesterday, that was some of the issues that we  
11 talked about, is trying to come up with a system where  
12 we can gather the training records electronically  
13 rather than rely upon the records residing in the  
14 individual agencies. And also relying upon these  
15 paper files that are kept by the various agencies or  
16 the individual officers that are subject to loss or  
17 destruction and then we lose that training history  
18 completely.

19 MR. KORN: Thank you, Mr. Shea.

20 MR. KING: Any other questions? I have some  
21 of my own, but I want to get the committee members  
22 first. Okay. I'm not seeing any others.

23 Mr. Shea, let me ask this. I think I'm  
24 understanding. You answered part of this question  
25 with Chief Segotta already. So, for instance, in the

1 attended class X for X number of hours and that that  
2 is in a record somewhere.

3 We have found that a lot of agencies, and  
4 rightfully so, when they do in-service training, roll  
5 call training, where it may be an hour or two of  
6 training and briefing, it is legitimate training. But  
7 they don't -- logistically it's next to impossible to  
8 print out certificates for that very brief training.  
9 They rely upon their training rosters.

10 So when there was no certificate and only a  
11 roster, it was problematic to make sure that those  
12 records were accurate.

13 MR. KING: But for right now -- and we're  
14 trying to move on. Just tell me how you got a yes or  
15 a no here. If they didn't have certificates, did they  
16 get a no; or if they didn't have a roster, they got a  
17 no?

18 MR. SHEA: They had to have a certificate or  
19 a roster.

20 MR. KING: A certificate or a roster. Okay.  
21 Because here is what I'm going to recommend. I mean I  
22 think it would be useful for us and maybe for you guys  
23 too. Even in the sort of synopsis evaluation that you  
24 have here, it would be helpful for me to know sort of  
25 how many of these agencies were not 100 percent, which

1 is what you've given us here, but maybe how many  
2 weren't 75 percent and how many weren't 50 percent,  
3 you know. If we could just -- and it sounds like  
4 you've got the data to do that.

5 MR. SHEA: Mr. Chairman, yes. We can break  
6 that out and give you partials to show you 51 and 42,  
7 you know.

8 MR. KING: Because I think if you said how  
9 many of these agencies were 75 percent compliant, then  
10 this number would go up quite a bit basically.

11 MR. SHEA: You're correct, Mr. Chairman.

12 MR. KING: But if it didn't, if we went down  
13 to, say, 50 percent and we still had only 30 percent  
14 that had complied, sort of 50 percent compliance, then  
15 that would cause me to believe that we had a severe  
16 problem, for instance.

17 So can you do that for us maybe for the next  
18 meeting or email them out to us or something like  
19 that.

20 MR. SHEA: Yes, Mr. Chairman.

21 MR. KING: I think that would be useful. My  
22 basic question which is just rhetorical at this point  
23 in time is, you know, what we can do as board members  
24 to try and help improve the level of compliance.

25 But I think it would be more useful for us to

1 ITEM NO. 10: DISCUSSION: FEE BASED LICENSING SYSTEM

2 MR. KING: All right. The next item on the  
3 agenda also for discussion, item No. 10, fee-based  
4 licensing system. Director Najjar is going to start us  
5 out on this discussion.

6 And then like I said this is one where I  
7 assume that there will be not only some discussion  
8 from the committee, but I assume that we'll have  
9 some -- I think we should have some opportunity to  
10 listen to you all and see what you think about this  
11 too.

12 But once again this is not -- I think  
13 everybody should understand, this is not at the  
14 rulemaking stage yet. So we're just tossing these out  
15 here and we're going to see what we've got. It sounds  
16 like you had some discussion. I'm sorry that I missed  
17 the last meeting. Mr. Najjar, go ahead.

18 MR. NAJAR: Gilbert Najjar, Law Enforcement  
19 Academy. Mr. Chairman, board members, guests, this is  
20 a related item to the presentation Mr. Shea just had.  
21 And it's an historical item for us and for this board.  
22 It goes back quite a few number of years.

23 The director and previous directors have  
24 worked with the board to try to come up with a system  
25 where we would feel some confidence that officers are

1 start thinking about, okay, how can we take an agency  
2 that's only 50 percent compliant and get them  
3 75 percent compliant and how can we take an agency  
4 that's 75 percent compliant and get them 90 percent.

5 I don't know that 100 percent is a good  
6 number actually. I'll defer to some of the folks that  
7 have much more law enforcement experience like Chief  
8 Segotta. You know, how hard it would be to get an  
9 agency 100 percent compliant. That might be kind of a  
10 hard thing to do.

11 And it may not be a rational goal for us to  
12 be shooting for here or maybe it is. So we can have  
13 that discussion later on. But if you get the numbers  
14 in a form so we can kind of see how big the problem  
15 is, that would be helpful to me.

16 MR. SHEA: Yes, Mr. Chairman, I can do that  
17 for you.

18 MR. KING: Thank you, Mr. Shea. Any other  
19 questions? All right. Seeing none, thank you. I  
20 think this is sort of helpful, but I think you've  
21 heard some of the questions that have been raised.

22 There might be ways that we can improve the  
23 methodology here so that it would be more helpful for  
24 us. And we can keep working on that one.

25 MR. SHEA: Thank you, Mr. Chairman, board.

1 adhering to the training requirements established by  
2 the board and/or by the legislature.

3 And so there's been some work between both  
4 the law enforcement community, this board, and the  
5 director to see what is always feasible especially  
6 with budgetary constraints and what is workable in  
7 terms of the logistics and the amount of data and  
8 information that can possibly be gathered.

9 So the last instance we had, there was an  
10 agreement to modify the biennium reporting form that's  
11 due every two-year cycle from the heads of the  
12 agencies or chiefs and sheriffs.

13 And so in the most recent biennium cycle, we  
14 did some changes to that. So it was explicitly listed  
15 on the biennium reporting form the mandated hours. So  
16 a chief or sheriff would say yes, every one of my  
17 officers did the domestic violence; and yes, every one  
18 of my officers did that. And they went through the  
19 list of the mandated training.

20 And there were some compromises that have  
21 been made on this, where if your officers are not  
22 directly in a patrol assignment, where they're not  
23 going to be making DWI arrests, those training  
24 requirements for DWI could be determined by the head  
25 of the agency would not be applicable to those

1 officers, somewhat like the Highway Motor Vehicle Act.  
 2 So there has been some working with the law  
 3 enforcement community to kind of get this system  
 4 working. We have had in the past requests from  
 5 counties to come in and do specific audits because  
 6 they were not confident that their officers were  
 7 getting the training they're supposed to. We have  
 8 done formal audits on those.  
 9 We have had one or two mayors contact us to  
 10 do formal audits on their agencies because they  
 11 weren't comfortable that their officers were getting  
 12 training as well.  
 13 We have had previously both anonymous calls  
 14 and letters sent to the director saying that the  
 15 records that have been submitted to the LEA or  
 16 reviewed by the LEA were false. Officers have not  
 17 been receiving training, have not been doing forms,  
 18 qualifications. So it's kind of been a mixed bag of  
 19 positives and negatives over the years.  
 20 And so what I asked Mark Shea and Bryan Coss  
 21 do in the in-service training bureau was to look at  
 22 fee-based licensing systems in New Mexico to see how  
 23 they're working, see if something of an alternative  
 24 could be used for law enforcement.  
 25 And they looked at what the lawyers'

1 the training status of their officers. That doesn't  
 2 always happen.  
 3 And if you read the papers, you know that  
 4 Bernalillo County had an issue with that as well,  
 5 where I think in large part we found that every  
 6 officer in that agency had 40 plus hours of training.  
 7 They just were not in compliance with the  
 8 statutorily mandated hours. And those are the hours  
 9 we have to do every two-year cycle. So that was the  
 10 direction of the legislature and that's what the law  
 11 requires of us.  
 12 So as we look at all these factors, we know  
 13 that in addition to the board buying into a new  
 14 system, this fee-based licensing proposal for you to  
 15 consider and tear apart would require legislative  
 16 support, probably legislative action.  
 17 From a funding budgetary standpoint, if a  
 18 fee-based licensing system were to work, the only  
 19 reason it is fee-based is because obviously we don't  
 20 have the staff to run such a licensing system. The  
 21 fees would be specifically utilized for the employment  
 22 of one to two individuals to run the fee-based  
 23 licensing system.  
 24 That would require legislative support and  
 25 action obviously, to have that a nonreverting fund to

1 profession does, they looked at what the doctors'  
 2 profession does. We looked at some of the -- even  
 3 barbers, all those that are required licenses.  
 4 The EMS licensing system is what you have  
 5 before you in large part in this agenda item. So that  
 6 language and stuff in here is really a reflection of  
 7 what we found within the EMS licensing system.  
 8 We recognized that going to such a system is  
 9 not a simple one-year or two-year process and may even  
 10 take us four years to get there because a lot of  
 11 things have to be put in place. One, we must convince  
 12 you guys that it is a better system to go to than our  
 13 annual forms of reporting it.  
 14 I think we're not confident at the Law  
 15 Enforcement Academy that our agencies are, in fact, in  
 16 compliance with those mandated training standards.  
 17 The audits do not appear to us at this time to be a  
 18 feasible option, because we're probably looking at  
 19 about \$50,000 a year in expenditures to keep up with  
 20 the 200 plus agencies to on a regular basis conduct  
 21 these audits.  
 22 There is a communication issue internally  
 23 that poses problems sometimes for agency heads, where  
 24 they're relying on commanders and directors of  
 25 training to provide them accurate information as to

1 the general fund. So those fees would have to stay  
 2 internally within the Law Enforcement Academy for this  
 3 system to work. And that's a whole task and political  
 4 issue for us to address.  
 5 Plus we've got a new governor coming in. And  
 6 we have no idea where the new governor would stand on  
 7 anything like this. So we know there are a lot of  
 8 hurdles, a lot of obstacles and issues.  
 9 But I guess our message to you is we are not  
 10 confident that our annual reporting system, whether it  
 11 be for firearms or the two-year biennium reporting  
 12 system, is working for us today. Prior boards have  
 13 heard pleas from the director for assistance with  
 14 this.  
 15 We have sent out threatening letters in the  
 16 past. I think in our files today, of the 200 plus  
 17 agencies that were supposed to send in their two-year  
 18 biennium report, we have probably achieved -- about 90  
 19 agencies have actually submitted those reports to  
 20 date. Those were due March 1st of this year.  
 21 I won't go necessarily through and read all  
 22 this to you. I think that would take a lot of time.  
 23 Just understand again that we're taking something  
 24 that -- I think the EMS system had about 7,000 EMS  
 25 certified individuals.



1 I think they run it with one, possibly two --  
2 one and a half individuals actually are able to keep  
3 up every two-year cycle. It's a fee that's paid once  
4 every two years to renew your license.

5 Part of it is that we don't have jurisdiction  
6 or authority over agencies and over agency heads  
7 specifically to require them to ensure that the  
8 training is tracked.

9 One of the recurring things that we heard in  
10 our audits is that, well, what is it you want from  
11 Santa Fe. Some of them were not really -- we did take  
12 samples of individual training files. This is what  
13 your training files should look like. Your training  
14 records -- we accepted rosters, we accepted  
15 certificates.

16 Any documentation to establish that some  
17 training took place we were willing to accept at that  
18 time. And unfortunately some of these agencies had  
19 absolutely -- didn't even have rosters for that and  
20 weren't tracking it.

21 So there is definitely an educational part of  
22 it, a training part of it, that we need to work with  
23 all our agencies to kind of get them on track and to  
24 follow procedures. That may be another item for  
25 sheriffs to address in their training, if those

1 be kept by the agencies as opposed to the individual  
2 officer himself? Because we're talking about only  
3 agencies. But how did it get to be the agencies'  
4 requirement to keep these records?

5 MR. NAJAR: I think the agency requirement  
6 stems from specifically case law, where there has been  
7 established the standard of deliberate indifference  
8 for not ensuring that your officers are properly  
9 trained and capable of performing.

10 But under 29-7 it makes specific reference to  
11 maintaining and reporting the status of training  
12 officers or of officers' training records. But it  
13 does not anywhere specifically require that I am aware  
14 of that any officer or agency maintain records.

15 Under the system that we have for retention  
16 of records for academies and satellite academies, it  
17 is specific there that those training records must be  
18 maintained. And there is a retention period for those  
19 and a destruction period.

20 MR. KORN: I guess what I'm really getting  
21 at, though, is whose responsibility is the requirement  
22 of these hours of training, is it the agencies' or is  
23 it the individual officer, to make sure that he's  
24 appropriately maintained and current in what he has to  
25 do?

1 procedures are tracked in their training within the  
2 agency.

3 But the license, the certification is  
4 individual to each officer in the State of New Mexico.  
5 And that's where this board does have the power and  
6 authority to remove, suspend, or revoke that  
7 certification.

8 I don't know that we want to look at  
9 penalizing an agency or the head of an agency for  
10 failure to ensure that his officers are maintaining  
11 and in compliance with the training standards. So  
12 again this is one alternative that we're proposing to  
13 you for your consideration.

14 We definitely welcome any input from the law  
15 enforcement community. Again just to reiterate, we  
16 don't anticipate that this is anything within the next  
17 year, possibly even within the next two years. It may  
18 be a four-year long process to get to a fee-based  
19 system. With that I'll answer any questions.

20 MR. KING: Thank you, Mr. Najjar. I think  
21 that that's a good explanation of what we're doing  
22 here.

23 Questions from the committee? Mr. Korn.

24 MR. KORN: Mr. Chairman, Mr. Najjar, is there  
25 something in the statute that requires these records

1 MR. NAJAR: I think the rule and the statute  
2 says the officer must -- it is the officer's  
3 responsibility to ensure that he takes the training.  
4 And I don't think that the record itself is referenced  
5 at all.

6 MR. KORN: So if we compare that to, say,  
7 lawyers or doctors or even barbers, who where the  
8 individual is responsible for his own records and  
9 making sure he gets his own training, that doesn't  
10 appear to be followed through in law enforcement  
11 community?

12 MR. NAJAR: And again probably that's why we  
13 have the reforms we have in the past history. I  
14 think -- part of it I think logistically, for the Law  
15 Enforcement Academy to one-on-one deal with all 5,000  
16 officers, that was not feasible.

17 And I think in the ensuing dialogue that has  
18 taken place between the director of the academy and  
19 the law enforcement community, where should those  
20 records be retained, where is it more feasible for  
21 them to be retained, and in whose best interest is it  
22 for those records to be maintained.

23 Generally speaking the law enforcement  
24 community and agencies have taken that upon  
25 themselves, to make sure that their training records

1 were held by the agency and not by the individual  
 2 officer.  
 3 There are exceptions to that. I think Las  
 4 Cruces is one of them, where I went down there earlier  
 5 this year to do an audit of their firearms  
 6 instructors' training records. And each individual  
 7 officer has a binder where they have the transcript of  
 8 their individual academy training all the way through  
 9 current date, every training they've ever attended,  
 10 rosters and certificates.  
 11 We have generally assumed I think that an  
 12 agency is going to be responsible for maintenance of  
 13 those records. And it's a little -- we know that by  
 14 law personnel records and those things, obviously  
 15 there are things that must be maintained by any  
 16 agency. Training records is kind of in a gray area.  
 17 MR. KORN: I guess what I'm getting at is if  
 18 an officer is responsible for his own training, to  
 19 make sure he has the right training, then the agency  
 20 merely needs to ask the officer to prove that he's  
 21 properly trained in order to keep him employed. I  
 22 mean isn't there some sort of correlation? Much like  
 23 lawyers would have or CPAs or doctors.  
 24 MR. KING: Mr. Ortiz, do you have an answer  
 25 to that?

1 responsibilities.  
 2 There is a responsibility I think for all  
 3 agents to ensure that they are in compliance with any  
 4 mandates or statutory requirements that their officers  
 5 should be complying with. But that license again I  
 6 think, and that's maybe where you're going, is  
 7 individual to the officer. I guess it would be our  
 8 position that that requirement lies primarily with the  
 9 officer.  
 10 But it is I think incumbent upon agencies to  
 11 ensure as well that some cross recordkeeping, matching  
 12 recordkeeping occur so that they are in a position  
 13 where they can defend the action of the officers. But  
 14 I don't know of anywhere where it specifically refers  
 15 to records and who must maintain records.  
 16 MR. KING: Can I add to that, Nate. I mean  
 17 in my agency, for instance, with lawyers, I mean I've  
 18 got 80 lawyers more or less. Each one of the lawyers  
 19 are sort of responsible for -- they have to have -- I  
 20 forget what we have to have now. Twenty some hours,  
 21 12 hours of CLE, including like one professionalism  
 22 and one ethics or whatever.  
 23 So each lawyer is sort of responsible. But  
 24 as an agency, we pay the licensing fees for all the  
 25 lawyers that work for our agency. And we frankly will

1 MR. ORTIZ: Yes, sir.  
 2 MR. KING: Thank you. You want to read it,  
 3 Nate.  
 4 MR. KORN: Sure. Mr. Ortiz has given me  
 5 29-7-7.2 entitled "Reports. Every law enforcement  
 6 agency in the state shall submit a quarterly report to  
 7 the director on the status of each police officer  
 8 employed by the law enforcement agency. These reports  
 9 shall include the status of in-service law enforcement  
 10 training. The reporting forms and submittal dates  
 11 shall be proscribed by the director," which I  
 12 appreciate you giving me.  
 13 I'm more -- I guess I'm not so much going for  
 14 the reports as I am for the essence of who's  
 15 responsible for the officer's training. Is it the  
 16 individual officer or is it the department that is  
 17 responsible to make sure that they're properly  
 18 trained?  
 19 MR. NAJAR: Right. And I guess our position  
 20 would be that it is not defined or articulated  
 21 anywhere that we're aware of. It has always been the  
 22 understanding that the agency has a vested interest in  
 23 ensuring that they have the documentation to defend  
 24 the actions of their officers in terms of anything  
 25 that occurs within the scope of their duties and

1 help them with the cost of training, you know. Some  
 2 of it depends on what they want to do.  
 3 If they want to go take one of the courses  
 4 that costs \$1,000 or something or other, then we won't  
 5 generally pay for that. But if they are taking  
 6 courses from the bar and those kinds of things, then  
 7 we'll pay those. And we offer some in-house training  
 8 too and they do that.  
 9 But frankly if a lawyer at the end of the  
 10 year doesn't make sure that his license fees are paid  
 11 and that he did all of the -- he or she did all of the  
 12 continuing education and they lose their license, then  
 13 they would just lose their job with my agency because  
 14 they've got to be licensed to work for my agency.  
 15 So basically what I would do first, if it  
 16 looked liked they lost their license, is we work with  
 17 them to see what we had to do at the bar to get their  
 18 license up to date or something. So I'm assuming that  
 19 this process will be something like that.  
 20 But interestingly enough there's not a  
 21 statute that requires me to do that either. I could  
 22 just probably say, oh, you guys have got to get your  
 23 CLE. But we just do it as a matter of policy within  
 24 my office. And I assume that the district attorneys  
 25 have the same process.

1 MR. REEVES: Yes.  
 2 MR. KING: So I don't know if you need a  
 3 statute for that.  
 4 MR. NAJAR: We would look to the board for  
 5 guidance on that, in defining the responsibility for  
 6 recordkeeping. And obviously input from the law  
 7 enforcement community.  
 8 MR. KING: The hammer is that if you don't  
 9 have a license, you can't keep working for the agency,  
 10 right?  
 11 MR. NAJAR: Right. And currently under the  
 12 rules the director is authorized to suspend an  
 13 officer's certification where an audit has revealed  
 14 that they are not in compliance. The rule then  
 15 requires that that officer personally come before the  
 16 board for reinstatement of that certification.  
 17 So there is a mechanism there for I guess  
 18 auditing and requiring compliance. We just felt that  
 19 a new system, fee-based system would better allow us  
 20 to conduct education and awareness and might be a  
 21 long-term process for us to get that.  
 22 But a lot of officers even today are not  
 23 aware of mandates of the training. And the  
 24 repercussions and the impacts that it has on their  
 25 specific license and certification to be a police

1 So that it's merely a matter of a printout,  
 2 if I can use that term, of what agency is -- at what  
 3 point where they are with all their employees meeting  
 4 the biennium training. Because there are so many  
 5 things that can go wrong in the process.  
 6 And I'm sure your auditors pointed that out,  
 7 with keeping this information. When we have an agency  
 8 that has hundreds of employees, you have thousands of  
 9 documents. There's got to be a better way of doing  
 10 this.  
 11 And I think that's what the task at hand is,  
 12 is to develop a system where we can from our desks  
 13 input that data so that you have it. So that again  
 14 we're accountable to the citizens, we're accountable  
 15 to our boards, our commissions, the legislature,  
 16 whoever it is, that we can ensure them that our agency  
 17 is meeting the requirements of our profession, because  
 18 it is a profession.  
 19 And the only way that we can maintain that  
 20 professionalism is that we can show that we follow our  
 21 responsibility to be licensed. Again I appreciate the  
 22 work that the audit did because I think it shed some  
 23 light on something that's been going on for years and  
 24 years, about maintaining good documents and who is  
 25 going to be the central repository for that.

1 officer, they just assume that the officer -- that the  
 2 agency that they work for is going to cover them on  
 3 that in terms of ensuring that they are sent to  
 4 training. If nothing else, I think we would like to  
 5 educate the officers on their responsibility for that.  
 6 MR. KING: Okay. Thank you. Mr. Korn, any  
 7 other questions?  
 8 MR. KORN: No, sir.  
 9 MR. KING: Okay. Chief Segotta.  
 10 MR. SEGOTTA: Gil, real quick again, I  
 11 appreciate the work everybody did on the audit because  
 12 I think there are probably a lot of things out there  
 13 that we need to be attentive to.  
 14 I don't think there's any agency that's  
 15 immune from recordkeeping issues, fat finger entries,  
 16 or if you're putting files -- if you have three  
 17 Smiths, you put the wrong documentation into the wrong  
 18 file.  
 19 I think it's interesting, though, that we are  
 20 so advanced now with computer systems and a way of  
 21 central reporting that we have to develop a mechanism  
 22 where the training component of each agency can go  
 23 into a database maintained by the Law Enforcement  
 24 Academy and input their own data in terms of the  
 25 officers with that supporting documentation.

1 There has been talk about send everything to  
 2 the LEA. And then like you said you're sifting  
 3 through thousands of documents trying to determine  
 4 where they go and get them in. But I think this is a  
 5 good topic of discussion.  
 6 It is like you said probably something that's  
 7 going to take a few years to develop. But it needs to  
 8 be addressed. We need to make sure that all of the  
 9 officers that we employ meet the requirements of the  
 10 statute so that they maintain a valid certification.  
 11 I'll get off my soapbox. Thank you.  
 12 MR. NAJAR: Mr. Chairman, Chief Segotta, that  
 13 is one of the areas over the years that you've heard  
 14 Mark Shea throw out, Skills Manager, Training Manager,  
 15 as software programs that we utilize for our database  
 16 for tracking training.  
 17 Two years ago we were told they're getting  
 18 ready to roll out their web-based system. They're  
 19 still kind of in the process of getting ready to roll  
 20 out their web-based system. We envision on the  
 21 horizon that that will be that electronic solution for  
 22 us that will enable every single agency in the state  
 23 to directly report, enable every single officer to go  
 24 online web based and view his training records and  
 25 training history with the Department of Public Safety.

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1 So we're still working towards that. We hope  
2 that in the next two to four years that also becomes a  
3 reality for us. That will definitely not even require  
4 us to have I think discussions of this nature, do  
5 audits in the future, because it will all be  
6 electronic and available to us.  
7 With those things again there's budgetary  
8 restraints and then what is the feasibility and where  
9 are those records going to be maintained, on whose  
10 server. We'll have to work through that part of it.  
11 But there are solutions out there. We know  
12 other states are currently doing this. It's just we  
13 want to ensure that we can maintain the current  
14 software that we're using. They are working I think  
15 every year to try to roll that system out for us. It  
16 will get here eventually. I think a lot of this will  
17 go away, a lot of these problems will go away.  
18 MR. KING: Anything else from the committee?  
19 And I'm going to -- as I said I'm going to have to  
20 leave pretty soon. So let me kind of get this process  
21 started. And I don't know, maybe there won't be a lot  
22 of comment. But I'd like to open this up to comment  
23 from those of you who are chiefs and such.  
24 Mr. Eshley, why don't you start. Let's have  
25 people who are going to comment come up to the podium

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1 here. Mr. Burleson, I'm sorry. That's my fault.  
2 MR. BURLESON: You have sincerely wounded me.  
3 MR. KING: You should be sincerely wounded.  
4 Let's have comments. I'm going to turn it over to  
5 Chief Segotta to keep you all in a ruly basis.  
6 But I think this is a good opportunity to get  
7 some of these comments on the record. And then this  
8 will be a good part of the record for us to get to the  
9 governor-elect I think or to her group that are doing  
10 this, because I think that something like this really  
11 would require a lot of input from the new  
12 administration too before we think about that.  
13 So, Mr. Burleson, I'm sorry. Go ahead.  
14 MR. BURLESON: Dr. King, members of the  
15 board, my name is Jim Burleson, I'm the director of  
16 the New Mexico Sheriffs and Police Association.  
17 And although I do fully support compliance  
18 and adherence to the biannual training, I do take  
19 exception to prematurely throwing out an example of  
20 fee-based. And here is my premise, is that if you  
21 operate under a baseline budget where staffing is  
22 somewhat satisfactory and all of the assignment assets  
23 are exhausted, then you start asking for additional  
24 funding from external sources.  
25 And the academy at this point is somewhere in

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1 the neighborhood of 38 percent down. Those local  
2 agencies around the state who comprise 92 percent of  
3 the affected group are counting on the central  
4 efficiencies and staff effort from the academy. And  
5 when they're 38 percent down, it's very difficult to  
6 say, well, the cure is money and money should come  
7 from the locals.  
8 And I'll be specific. And I don't want to be  
9 political or nasty. But the majority of agencies in  
10 state government are not 38 percent down. And when  
11 we're looking for the advice, the umbrella, the  
12 safety, the leadership of the academy board to be  
13 somewhat independent from in this case administrative  
14 attachment to the Department of Public Safety, we  
15 expect we're going to be somewhere close to the norm  
16 of budgetary restraint.  
17 Now, budgetary constraints also means there's  
18 discretion. And if the discretion of the cabinet  
19 secretary or the governor so affects 91, 92 percent of  
20 the external customers to a disadvantage of now we are  
21 not only getting the lack of training because we don't  
22 have the academy staff, you're getting a lack of  
23 compliance because we have a lack of staff due to  
24 budget.  
25 And that has been caused to some degree to

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1 that level by the discretion of the administrator.  
2 It's tough to say let's take on additional financial  
3 responsibilities at the local level.  
4 So my suggestion is that you forego any  
5 further discussion of fee-based where the local  
6 agencies are affected until such time as the academy  
7 is stabilized, we have some two, three, four-year  
8 experience of relatively full capacity, and we know  
9 what their capabilities are as far as getting more  
10 advanced training out there so that local agencies can  
11 take advantage of low-cost, high-class training.  
12 Also if they're fully staffed and able to do  
13 compliance and assistance with compliance. We just  
14 don't know. So yes, money is an issue. Yes, money  
15 and manpower should be devoted to the academy,  
16 centralized there, to further benefit the 92 percent  
17 plus of the affected group and not start off with a  
18 conversation of, well, we want to charge you at the  
19 local level first. I appreciate your time.  
20 MR. SEGOTTA: Any questions of Mr. Burleson  
21 from the committee? Okay. Thank you, Jim.  
22 MR. BURLESON: Yes, sir.  
23 MR. WIGGINS: Good morning, board members.  
24 Captain Tom Wiggins the city police department in  
25 Santa Fe.

1 I believe the main -- the primary motivator  
2 for the most part is the civil liability generated, of  
3 course, from the failure that we're finding ourselves  
4 in now. Having said that, I certainly agree with  
5 Mr. Burleson in terms of mandating these issues for  
6 local police departments.

7 I think there are first -- things that we  
8 should identify first are I think we have some  
9 statutory weaknesses, policy weaknesses in terms of  
10 who is actually responsible. And I think that would  
11 need to be clarified first.

12 Although we all have to have our -- maintain  
13 our certifications, there is no clear delineation  
14 whether that's our responsibility, the agency's  
15 responsibility, the academy's responsibility, although  
16 they have discretionary issues over who is licensed.  
17 So I think that needs to be clarified first before we  
18 look at mandating on a personal level to each  
19 individual officer or licensee, their tenure.

20 Secondly, I think the fee-based system -- and  
21 one of the examples is the EMT ZMS. I don't believe  
22 there's the transparency there. I think we need a  
23 mechanism of accountability. When we get it back to  
24 if it does fall on the individual officer, there has  
25 to be a mechanism for that transparency, that

1 the workshop. And I think it's a good idea to get the  
2 discussion going. Well, we've had it for years, about  
3 the training and the records and all that stuff.

4 It's something -- Director Ortiz just gave  
5 Mr. Korn was the thing on the quarterly reporting of  
6 employment. I don't know if you caught that. But it  
7 also says we're supposed to be doing quarterly  
8 reporting of our training based on the form. But the  
9 form doesn't require that.

10 I think the point that I want to make is I  
11 think the audits are a good thing. I'm a little  
12 concerned that we haven't followed up on that to make  
13 sure that everybody is going to become in compliance,  
14 if they weren't in compliance.

15 But the system is broken. And I don't think  
16 you add a fee-based thing just to fix the system.  
17 Because if the board would pass this rule today and  
18 then the governor says or the legislature says we're  
19 not going to hire any additional employees, we're  
20 going to pay the \$35 or \$25 a person, the academy  
21 doesn't have the staff to do the input and the  
22 tracking, so then we're all noncompliant again.

23 So I really think in -- law enforcement is a  
24 little bit different than the lawyers or the doctors  
25 or cosmetologists or a barber. And I stated this

1 accountability, so that we can be assured that indeed  
2 the information is accurate.

3 And lastly I believe that before we would  
4 move to a fee-based structure, that those things -- I  
5 believe we would need to check on those things first.  
6 And having the web-based system that was alluded to  
7 earlier, certainly there is always that on the  
8 horizon.

9 I think that definitely is the solution in  
10 terms of in this age of information technology an  
11 upload system or program. Very similar to the way we  
12 are all responsible for our NCIC access. And that's  
13 administrated by DPS, something similar to that on an  
14 upload system. That would probably be I believe far  
15 more effective in my opinion.

16 And mostly the mandate on the agencies right  
17 now in the current fiscal times is I think something  
18 we need to take an alternative to look at. That's all  
19 I have to say. Thank you.

20 MR. SEGOTTA: Thank you. Any questions for  
21 Mr. Wiggins. Any other comments?

22 MR. RADOSEVICH: Mr. Chairman, you didn't  
23 think I was not going to say anything, did you? Fred  
24 Radosevich with the Village of Los Ranchos.

25 We discussed this a little bit yesterday at

1 yesterday. You don't have to be employed to become a  
2 lawyer or to pass the bar.

3 In order to become a certified police  
4 officer, if a citizen goes to the academy, which they  
5 have every right to do, they are not certified until  
6 what? They become employed. So it's not a, you know,  
7 whose responsibility is it, the law enforcement  
8 officer or the agency. I don't know.

9 Where a lawyer, if you quit working for the  
10 DA's office tomorrow and go into private practice,  
11 you're still a lawyer, right? Well, if I leave law  
12 enforcement and I'm not employed, you know, whatever,  
13 I don't do the training or whatever. So it's a  
14 complicated system. And I think what we need to do is  
15 really sit back and look at this, what we're trying to  
16 accomplish.

17 And I want to go back to the audit for a  
18 minute, because I think there's an issue there. If --  
19 what they presented to us yesterday, that shows to me  
20 we've got some serious problems in law enforcement.

21 And I'll tell you what, I would sure hate to  
22 see some of the civil attorneys get ahold of those  
23 audits and go in there and start looking and digging  
24 in all that stuff because I think we open up a  
25 Pandora's box on that.

1 So I think we need to get that fixed. I  
2 think we need to make sure the agencies are compliant  
3 and we need to make sure the officers are compliant.  
4 But more importantly, as I told Director Ortiz  
5 yesterday -- and I've been in small departments all my  
6 career.

7 When my training officer or whatever gives me  
8 that form to sign and says, chief, everybody is in  
9 compliance, I sign off on it, right? Same thing that  
10 you all just did when the director said, on the last  
11 certification that you just ratified, that those  
12 people received that training.

13 Do you all know that? I can tell you you  
14 didn't because the academy, before they put on an  
15 academy, is supposed to submit to the director a list  
16 of all the instructors, right, a list of all the  
17 courses and everything.

18 We all know that that didn't happen, that you  
19 just ratified those certifications because you're  
20 doing it in good faith just like I was when I was  
21 signing those things, hoping that my guys were correct  
22 when they said all the training was done.

23 I think this needs to be a good discussion.  
24 But I think we need to move past that and not having  
25 the distrust or whatever from the academy or the board

1 the back burner. I think this needs to be kept on the  
2 front burner and get everybody together and come up  
3 with a system that's going to work. Thank you.

4 MR. SEGOTTA: Any questions from the board?  
5 Thanks, Fred. Chief Boone.

6 MR. BOONE: Good morning, Mr. Chairman,  
7 members of the board. I would just like to reiterate  
8 a little bit about what's already been said. Bob  
9 Boone, B-o-o-n-e, chief, Rio Rancho.

10 I think the board was very astute in their  
11 recognition that this isn't an overnight fix. It's  
12 something that we need to explore. I think we're all  
13 in favor of having some type of a central repository  
14 for records and information that we can check not only  
15 for our own staffs but for applicants that are coming  
16 in.

17 But I think especially with the financial  
18 implication, it's something that we need to take back  
19 and study before we go forward with it. With that  
20 I'll rest.

21 MR. SEGOTTA: Any questions for the chief?

22 MR. KORN: I have a question for Chief Boone.  
23 I'm sorry. Mr. Chairman, Chief Boone, just out of  
24 curiosity, do you think that the responsibility for  
25 being current in the credentialing for ongoing

1 to the chiefs or the sheriffs. How do we get this  
2 system fixed and get those officers the training that  
3 they need. I think that's the first thing.

4 And I would ask the board along with the  
5 director and the chiefs association and the sheriffs  
6 association, we all need to sit around a table and get  
7 back on the same page again and really work through  
8 this and come up with a system of how we're going to  
9 make sure that those officers are receiving the  
10 training and then make sure that it's all documented  
11 the same way.

12 Chief Segotta, just like you said, you know,  
13 I know some of the auditors were going around, if you  
14 didn't have a certificate but you had the training  
15 record, they wouldn't accept it because they wanted a  
16 certificate. And vice versa.

17 And we need to say this is what we need.  
18 January 1st everybody has got to have a certificate  
19 for the training, you have to have the sign-in sheet,  
20 you've got to have this. And that way we know what  
21 the rules are. And we can set the files up that way.

22 So I think this is a good thing for  
23 discussion. But I hope it doesn't just die here. You  
24 know, a lot of things have happened in law  
25 enforcement. We've talked about it and it gets put to

1 education rests in the agency or in the individual  
2 officer?

3 MR. BOONE: Mr. Korn, Mr. Chairman, I believe  
4 it's a mutual responsibility. I think the officer is  
5 responsible to make that sure he's trained when he  
6 goes out there in the street and he has his tools and  
7 his abilities in order to do the job.

8 But at the same time, I think there's a lot  
9 of liability that falls onto the department and the  
10 agency's chief to ensure that we meet the requirements  
11 for that officer to go out there and police our  
12 community.

13 MR. KORN: But if there was one kind of  
14 central area that he was responsible for, do you think  
15 the officer has the responsibility to make sure he  
16 gets the appropriate credits or do you think that's  
17 more of a guiding by the department?

18 MR. BOONE: Mr. Korn, Mr. Chairman, I believe  
19 it falls basically upon the department to ensure that  
20 their people are well trained and well equipped when  
21 they go out there in the street to enforce the laws in  
22 our communities.

23 MR. KORN: Thank you, Chief.

24 MR. BOONE: You're welcome.

25 MR. SEGOTTA: Any other comments from the

1 board? Okay. Sheriff.  
2 MR. GIBSON: Mr. Chair, board, Sheriff  
3 Clarence Gibson, Torrance County.

4 I would like to address -- I think I can help  
5 Mr. Korn out a little bit also as far as who is  
6 responsible, who should keep the records, things of  
7 that nature. As the sheriff of Torrance County, also  
8 the instructor for firearms, EVOG, general police,  
9 things of that nature, also being a clandestine  
10 laboratory technician, things of that nature, there  
11 are so many facets of our job that we specialize in.

12 I know that if I'm going to do a meth lab, I  
13 have to keep my certification up every two years. I  
14 have to go in, OSHA requirements, things of that  
15 nature. So that's my responsibility as an individual  
16 deputy.

17 As far as being the sheriff of Torrance  
18 County, I have a deputy that works meth labs. So I  
19 correlate with him, when did you have your last cert,  
20 it's this time, we need to get a class set up or  
21 whatnot.

22 So like Chief Boone said, it's the  
23 responsibility of the officer, number one. If I want  
24 to work meth labs, I want to make sure I have the  
25 understanding and the capability and the certification

1 twice a year we do our firearms. I have to keep that  
2 together for me.

3 If I go to court, hopefully it doesn't  
4 happen, but one of my deputies is involved in a  
5 shooting. I have to go up there and say he was  
6 trained by me on this date, at this time, whatever, my  
7 training came through the LEA academy. And so it's my  
8 responsibility.

9 I think we have to get better sheriffs and  
10 chiefs to get it up to the LEA central depository like  
11 Chief Segotta was saying, if we can get something  
12 electronically to send up there.

13 So it kind of comes down to a whole aspect of  
14 an officer has got to take care of his stuff. The  
15 head of the agency has got to make sure that when we  
16 investigate something, it's there. And then the LEA  
17 has got to have something on record that they can pull  
18 quickly and say this guy is not up to speed, let's get  
19 it done.

20 So I hope it clarifies. I hear bits and  
21 pieces and we all talk about it. But I think it falls  
22 on that officer. If I want to investigate a meth lab,  
23 I've got to make sure, you know, I'm OSHA compliant  
24 and everything else. So I make sure I do that every  
25 two years.

1 to do that job. If I don't want to work meth labs,  
2 I'm going to let my cert go. So that's on me, what I  
3 want to do.

4 You have several officers -- my undersheriff  
5 right now, Patrick Ness, homicide detective, an  
6 incredible man. He makes sure every year he goes to  
7 certain classes to find new updates, new skills that  
8 are coming out, things of that nature. So that's his  
9 responsibility.

10 As the sheriff, if I'm going to have my  
11 department investigate a homicide, I want to make sure  
12 that everyone -- if we go to court, that if somebody  
13 comes up and says is this an expert in whatever, blood  
14 spatter or whatnot, he is.

15 So it's a job that both of us have to do.  
16 The sheriff has do it. And the individual deputy has  
17 to make sure, you know, I do the meth labs, I need my  
18 cert done so I'm going to get it accomplished. I  
19 think it's upon us -- as a department I keep my  
20 training file together.

21 We went through the audit. I think we had a  
22 few nicks here and there. But overall the deputies  
23 that do certain specialized investigations or whatnot,  
24 we had that stuff together and in order. Every two  
25 years we make sure our training is done. Every year

1 It's kind of a hard fix right now. I think  
2 Chief Segotta hit it right where it needs to be. If  
3 we had an electronic system that I could sit down as  
4 an instructor and do my firearms quals, do my  
5 four-hour training, get it knocked out, I could type  
6 it in, shoot it up, it's done. And then I think that  
7 is a good way.

8 I don't see any other solution. It's going  
9 to -- it depends on every one of us. We have a  
10 profession, but we have a special profession. When  
11 you look at -- like the Attorney General was saying,  
12 his lawyers do a certain job all the time.

13 I may be doing a homicide where Chief Schultz  
14 has a team that comes out and does it. The sheriff of  
15 Torrance County, I'll be out there helping to  
16 investigate. So it's going to depend on the size of  
17 your agency, the number of specialized positions, and  
18 whatnot.

19 We utilize the Albuquerque Police Department,  
20 Bernalillo County, state police, we call for help.  
21 But in a small agency, I'll do domestics, I'll write a  
22 ticket. I wrote a ticket just the other day. So it's  
23 really hard.

24 It's really hard to see where we're going to  
25 go with this, because you've got to look at every

1 agency and try to help them in their specialized  
 2 areas. So it's going to be a hard fix. I think Chief  
 3 Segotta has got it.  
 4 If we have a main depository and we can do it  
 5 electronically, that will solve most of the problems.  
 6 I know it will make it a lot harder on the LEA. But I  
 7 see that as the easier thing to do. So thank you.  
 8 MR. SEGOTTA: Questions from the board? Any  
 9 more comments from the public? Yes.  
 10 MR. MACE: Board, chairman, thank you.  
 11 Undersheriff Tony Mace, Cibola County Sheriffs  
 12 Department. I'm kind of new at this.  
 13 So as far as keeping up on our training,  
 14 there is an issue across the board. We do need to  
 15 figure out how we're going to fix this problem. I  
 16 know a lot of agencies, we got the biennium required  
 17 training.  
 18 At the last minute, everybody is rushing to  
 19 get this training. They have compiled it to where the  
 20 officer can go in and get that training all in I think  
 21 a week's time frame, get their biennium training.  
 22 Like the chief said, if we had some type of  
 23 records management system, where as an agency we can  
 24 go in and input our data into that. Us as a smaller  
 25 agency, I have 22 employees. It's a little easier for

1 discussion, add domestic violence. Art, who is going  
 2 to be presenting that? Gil. Okay.  
 3 MR. NAJAR: Gilbert Najjar again with the Law  
 4 Enforcement Academy. This item here is kind of a  
 5 resurrection of something this board previously looked  
 6 at I think in the 2004, 2005 time frame. It's not  
 7 necessarily a proposal from us.  
 8 But since that issue is a recurring thing in  
 9 terms of the misconduct that comes before the board,  
 10 previously the board had looked at specifically  
 11 defining domestic violence as a category upon which  
 12 suspension or revocation of certifications could  
 13 occur.  
 14 We are basically bringing that back before  
 15 the board to see if there is an interest in opening  
 16 that -- reopening that discussion of that item.  
 17 You'll see under part 1, qualifications for admission  
 18 to the academy, there's a new section there that would  
 19 be -- that's under letter A. Under letter B would be  
 20 the current kind of language that exists for the  
 21 process for suspicion or revocation of certification.  
 22 So on letter A -- and it probably should read  
 23 "is found to have committed any acts of domestic  
 24 violence" as opposed to what is found not to. I think  
 25 it's just the previous language was taken verbatim.

1 me to keep up versus state police or Albuquerque  
 2 Police Department that have a huge staff.  
 3 I'm a training officer. I keep all the  
 4 records for each individual officer. They stay in my  
 5 office. Unfortunately, if we get audited, they come  
 6 down and look at that stuff. It could save them a  
 7 trip if we had some type of records management system  
 8 to input stuff into and they can go in and look at it.  
 9 I don't think that -- for a county we have a  
 10 budget -- well, we all have budgets. But we have a  
 11 small budget that we operate off of. And I think  
 12 throwing a fee out there is just going to -- I don't  
 13 see how that's going to fix the problem.  
 14 I think we just need to figure out some way  
 15 to get a better records management system and put it  
 16 on that agency to have a specific training officer  
 17 that would keep those records and then input them into  
 18 a database system. I think it would work a lot  
 19 better. Thank you for your time.  
 20 MR. SEGOTTA: Questions from the board? Any  
 21 other public comments? Okay.  
 22 ITEM NO. 11: DISCUSSION: 10.29.1 ADD DOMESTIC  
 23 VIOLENCE  
 24 MR. SEGOTTA: Unless there's anything else  
 25 from the board, let's move on to item No. 11,

1 Over on the other side, it's clear there,  
 2 it's committing any acts of domestic violence. So the  
 3 key thing here is that we're not relying on a  
 4 conviction, we're not relying on the three-year window  
 5 that the -- the section under No. 4 deals specifically  
 6 as it enumerates, those acts for which in the prior  
 7 three years there has to be a conviction for in order  
 8 for this board to take action on.  
 9 So again we had looked at additional training  
 10 in the domestic violence area, additional training  
 11 for -- specifically for officer-involved domestic  
 12 violence. And so we weren't sure if this would be an  
 13 additional issue that this board wanted to take on and  
 14 reopen discussion of. And that's the only reason for  
 15 it here today.  
 16 MR. SEGOTTA: Questions from the board? Not  
 17 seeing any, this is again just up for discussion. And  
 18 this starts the process of getting this placed on the  
 19 agenda again for review. Any more questions from the  
 20 board? Any comments from the public on this? Thanks,  
 21 Gil.  
 22 MR. SCHULTZ: Mr. Chairman, for the record I  
 23 think this is going to be another one of those items  
 24 that will be discussed in depth at the legislature. I  
 25 know it's already been talked about. And at this



1 point I think that no action would be the best action.

2 MR. SEGOTTA: Thank you. Before we move into  
3 disciplinary matters, let's take about a five-minute  
4 break. Everybody get up and stretch. And we'll give  
5 our reporter a break too. Thank you.

6 (Break.)

7 ITEM NO. 13: REQUEST REINSTATEMENT TO ATTEND PST  
8 ACADEMY

9 MR. SEGOTTA: We'll get back on the record  
10 here. We're going to go into disciplinary matters.  
11 And we are going to start with item No. 13, request  
12 reinstatement to attend the Public Safety  
13 Telecommunication Academy. Ms. Jeannine Chavez. Is  
14 Jeannine here?

15 MS. CHAVEZ: Yes. Good morning. I'm  
16 Jeannine Chavez. I was an Albuquerque Police  
17 Department dispatcher from 1992 until 2004. I now  
18 have been employed with New Mexico State Police  
19 District 5 for approximately seven months. And I'm  
20 super busy. I'm nervous, I've never done this.

21 I'm here to request hopefully the Law  
22 Enforcement Academy Board reinstatement to attend the  
23 PST academy in February. I do have to mention that in  
24 2005, after my employment with the Albuquerque Police  
25 Department, I did and was arrested for DWI not once

1 MR. SEGOTTA: Thank you. Questions from the  
2 board? Mr. Holmes, do you have anything to add?

3 MR. HOLMES: Yeah. Ms. Chavez is here. She  
4 was revoked based on the fact that she didn't respond,  
5 but also the fact that of the arrest and DWI. I think  
6 at that time she was also going through a program for  
7 drugs. And I think you were taking cocaine at that  
8 time?

9 MS. CHAVEZ: Yeah.

10 MR. HOLMES: So that's what's on the report  
11 that we have. The board never took action because it  
12 was revoked because she didn't show up, she didn't  
13 respond to the allegations.

14 MR. SEGOTTA: Just for everyone's  
15 understanding, what Ms. Chavez is asking is to start  
16 the process again on her revocation by default. So  
17 she wants to come back to the board. Is that correct?

18 MR. ORTIZ: No. If you look at the report,  
19 the very last page.

20 MR. SHANDLER: This is page 4 of 5 of the  
21 default order in your packet.

22 MR. ORTIZ: Correct. I'll read it. "The  
23 respondent shall not be eligible to apply for  
24 certification under the Law Enforcement Training Act  
25 until after more than three years from the date of

1 but twice.

2 At the time of my arrest, I said some pretty  
3 insulting and offensive things to the field officers  
4 that were doing the investigation, which I do  
5 apologize for. And I apologize to Chief Schultz and  
6 the Albuquerque Police Department for my misconduct  
7 and the mark that I left at that time in my life.

8 I successfully completed all of my court  
9 ordered sentences. I also enrolled in an outpatient  
10 program that lasted approximately eight months. That  
11 was also successful. Through the years I have worked  
12 different dispatching places. But my heart has always  
13 been with the first responders.

14 I love being a part of the team, taking the  
15 first call, getting the information from the public  
16 and making sure that I have all the knowledge that is  
17 possible to ensure that the officers go to every call  
18 with the resources and the information that they need  
19 to protect themselves and the public.

20 This is my passion. This is what I do. It's  
21 what I know. Chief Polisar had at one time even wrote  
22 me a very nice letter of commendation. I accept full  
23 responsibility for everything I said and everything  
24 that I've done to disgrace the profession. But I  
25 guess I'm here today to ask for a second chance.

1 entry of this default order.

2 "After three years the respondent shall have  
3 the burden of satisfying the board that she is  
4 qualified as a public safety telecommunicator, that  
5 violations alleged in the NCA have been appropriately  
6 addressed and remedied, and that respondent does not  
7 pose a risk of harm to the public.

8 "Moreover, the respondent shall satisfy all  
9 minimum requirements for certification established by  
10 the board and shall take and pass the examination for  
11 public safety telecommunicator certification."

12 So we're at that point where after the three  
13 years she's coming back. And the board has to make  
14 the decision to allow her back into the PST academy.  
15 And then if she's successful there, then she will  
16 become certified.

17 MR. SEGOTTA: Any questions from the board of  
18 Ms. Chavez?

19 MR. SCHULTZ: Ms. Chavez, do you have any  
20 sponsoring agency, have you already been offered  
21 employment?

22 MS. CHAVEZ: I've been employed with New  
23 Mexico State Police since May 15th, sir.

24 MR. SEGOTTA: Mr. Korn.

25 MR. KORN: Thank you, Mr. Chairman.

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1 Ms. Chavez, in your past you had been arrested for  
2 DWI?  
3 MS. CHAVEZ: Yes. It was after my employment  
4 with APD.  
5 MR. KORN: And are you still drinking?  
6 MS. CHAVEZ: No, I am not. I progressively  
7 keep myself in check and attend meetings and make sure  
8 that I get to work every day. I was in a different  
9 place at that time. I'm in a much better place now.  
10 MR. KORN: That was in 2005?  
11 MS. CHAVEZ: Yes.  
12 MR. KORN: And did you go to AA?  
13 MS. CHAVEZ: Yeah. But there was also an  
14 outpatient program. And it consisted of group  
15 counseling and also individual counseling. That  
16 helped me get through a lot of the demons that were  
17 out there.  
18 MR. KORN: So how long have you been free of  
19 alcohol?  
20 MS. CHAVEZ: Since 2005. 2006. I was  
21 convicted in November of 2005. So now technically  
22 it's been five years.  
23 MR. KORN: Did I understand there were drugs  
24 involved too?  
25 MS. CHAVEZ: It was a one-time thing and it

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1 happened. I didn't get caught doing anything. I  
2 volunteered the information to an immediate supervisor  
3 at the Albuquerque Police Department, asking for the  
4 right direction. I accepted responsibility for it.  
5 But that was never -- alcohol was my issue.  
6 MR. KORN: So you've been free of drugs as  
7 well?  
8 MS. CHAVEZ: No, sir.  
9 MR. KORN: Okay. Thank you.  
10 MS. CHAVEZ: You're welcome.  
11 MR. KORN: Thank you, Mr. Chairman.  
12 MR. SEGOTTA: Any other questions?  
13 MR. ORTIZ: I'd just add that I've spoken to  
14 Lieutenant Pat Garrett, her supervisor at District 5.  
15 And I thought he was going to be here today.  
16 But he said she's been there the last seven  
17 months and he's been pleased with the work that she's  
18 been doing. He feels that she would be a successful  
19 dispatcher with him.  
20 MR. SHANDLER: So do you think that she has  
21 met all the minimum requirements for certification?  
22 MR. ORTIZ: That she's met them? Yes. In  
23 talking with her and with Lieutenant Garrett, I  
24 believe she's eligible to be reinstated.  
25 MR. SEGOTTA: Any other questions, comments?

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1 Okay. Ms. Chavez, when we go into executive session  
2 later, we'll come back out of executive and we'll give  
3 you our decision.  
4 MS. CHAVEZ: Okay. Is that today? Do I  
5 wait?  
6 MR. SEGOTTA: Yes.  
7 MS. CHAVEZ: Okay. I've never done this  
8 before. Okay. Thank you. Thank you for your time.  
9 ITEM NO. 14: LADIO CANALES  
10 MR. SEGOTTA: We're moving on to item No. 14.  
11 stipulated orders. Ladio Canales. Is Mr. Canales  
12 here?  
13 MR. HOLMES: No.  
14 MR. JACKSON: Actually, if I may, as has been  
15 the practice for the last several meetings, some of  
16 these stipulated orders have not had the involvement  
17 of the Attorney General's Office. So if I could deal  
18 with -- if we could take matters out of order.  
19 MR. SEGOTTA: Okay.  
20 MR. JACKSON: If that's all right with the  
21 board.  
22 MR. SEGOTTA: That's fine, Mr. Jackson.  
23 MR. JACKSON: In that case I will be  
24 addressing items 15, 16, 18, and 23.  
25 ITEM NO. 15: KELSEY COTTON

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1 MR. SEGOTTA: Then let's move on to item  
2 No. 15, Ms. Kelsey Cotton. And I believe Ms. Cotton  
3 is here.  
4 MS. COTTON: My name is Kelsey Cotton.  
5 MR. SHANDLER: Before you begin let's let  
6 Mr. Jackson give a summary.  
7 MS. COTTON: Okay.  
8 MR. JACKSON: Just briefly the allegation was  
9 that the respondent, Ms. Cotton, received a 911 call  
10 and did not take the call seriously, did not dispatch  
11 an officer. And as this is sort of the central duty  
12 of a telecommunicator, the director felt that  
13 discipline was warranted.  
14 And the director and Ms. Cotton have agreed  
15 to a stipulated order subject to the board's approval,  
16 which would include a 45-day suspension, one-year  
17 probation, ethics course, and the respondent has  
18 agreed to address the telecommunicator class. Are  
19 there any questions from the board?  
20 MR. COON: Where would the ethics class come  
21 in on this? I mean what ethics were broke other than  
22 she did not do her job?  
23 MR. JACKSON: Well, the duty that the  
24 telecommunicator has is an ethical duty. The law  
25 enforcement officer is the bulwark between the citizen

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1 and those who would injure the citizen. In this case  
2 it was a domestic incident.  
3 But if the officer doesn't know about it  
4 because the conduit between the reporting party and  
5 the officer has failed, then there is a breach of  
6 duty. And this is an ethical duty as well as a  
7 professional duty.  
8 MR. COON: Okay. Thank you.  
9 MR. SEGOTTA: Ms. Cotton, are you currently  
10 employed by a law enforcement agency?  
11 MS. COTTON: No, I am not.  
12 MR. SEGOTTA: Okay. This is your opportunity  
13 if there are no more questions from the board.  
14 Anything further, Mr. Jackson?  
15 MR. JACKSON: I have nothing further.  
16 MR. SEGOTTA: Go ahead.  
17 MS. COTTON: I really don't have any excuse  
18 as to why I didn't do it. I'm not going to sit here  
19 and try and sugarcoat it. I made a mistake. And I am  
20 fully prepared to take my punishment for that.  
21 I don't want my certification taken away  
22 because it was -- it was a mistake. But nobody got  
23 hurt, thank God. And I just don't think my  
24 certification should be taken away from me. Because  
25 it is what I've done for a profession and I enjoy it

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1 and I've made a living doing it.  
2 And I would like to go back to that with law  
3 enforcement. I took a little bit of a break for  
4 personal reasons. But I would like to go back  
5 someday. So I would like that opportunity.  
6 MS. SEGOTTA: Questions from the board?  
7 MR. SCHULTZ: Ms. Cotton, you left three  
8 previous employers while on probation. Were you asked  
9 to leave any of those positions, either with Cibola,  
10 Bernalillo, or Grants?  
11 MS. COTTON: No.  
12 MR. SCHULTZ: You left one of them it looks  
13 like 20 days after you were certified.  
14 MS. COTTON: Is that Grants? Oh, yes.  
15 Because I got a job at Bernalillo County.  
16 MR. SCHULTZ: Did that make Cibola really  
17 happy, the fact that they paid for your certifications  
18 and you left 20 days later?  
19 MS. COTTON: Probably not.  
20 MR. SEGOTTA: Any other questions or comments  
21 from the board? Okay. Ms. Cotton, we'll go into  
22 executive session later and come out and let you know  
23 what our decision is. Thank you.  
24 MS. COTTON: Thank you for your time.  
25 ITEM NO. 16: ED FLORES

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1 MR. SEGOTTA: Moving on to item No. 16, Ed  
2 Flores.  
3 MR. JACKSON: Yeah.  
4 MR. SEGOTTA: Is Mr. Flores here? If you'll  
5 just come up. We're going to have Mr. Jackson go  
6 through the case real quick.  
7 MR. JACKSON: This is a DWI case. The  
8 respondent was stopped by the Las Cruces Police  
9 driving recklessly. He failed a field sobriety test  
10 and submitted to a breath test, which registered a  
11 blood alcohol content of 0.17 on consecutive  
12 administrations; that is, both the first and the  
13 second test yielded the 0.17.  
14 After consultation with the director, the  
15 respondent has agreed to a 120-day suspension,  
16 probationary period of one year, ethics training,  
17 alcohol screening and assessment, eight hours of  
18 community service, and the respondent has agreed to  
19 address the cadets.  
20 That's all I have. And I would field  
21 questions on this matter.  
22 MR. SEGOTTA: Questions from the board?  
23 MR. SCHULTZ: Mr. Flores, what happened with  
24 the criminal case?  
25 MR. FLORES: That's still pending, sir.

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1 MR. SCHULTZ: Still pending. Do you have an  
2 attorney?  
3 MR. FLORES: Yes.  
4 MR. SCHULTZ: You're disputing the claims?  
5 MR. FLORES: They haven't made a decision  
6 yet. It will come up to the court system on the 21st  
7 of this month.  
8 MR. SEGOTTA: Any other questions or more  
9 comments in the board? Okay. Mr. Flores.  
10 MR. FLORES: Well, I want to thank you for  
11 the opportunity to be here. When I spoke to  
12 Mr. Ortiz, I mean I don't deny anything that happened.  
13 I take full responsibility. It was a very bad  
14 decision that I made. And it's cost me more than I  
15 could ever imagine.  
16 At the time I was thinking about myself. But  
17 now I think about my family and the community of Las  
18 Cruces. And I'm very sorry for that.  
19 MR. SEGOTTA: Questions from the board?  
20 MR. COON: Were you terminated by Las Cruces  
21 PD?  
22 MR. FLORES: I worked for the Dona Ana  
23 Sheriffs office. But I resigned.  
24 MR. COON: Excuse me?  
25 MR. FLORES: I resigned.

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1 MR. COON: You resigned?  
2 MR. FLORES: Yes.  
3 MR. COON: Are you working anywhere now?  
4 MR. FLORES: I work for AT&T. I'm not  
5 working anything with law enforcement at the time.  
6 MR. SEGOTTA: Mr. Flores, have you attended  
7 any alcohol/substance abuse program?  
8 MR. FLORES: No, no.  
9 MR. SEGOTTA: Questions from the board?  
10 Mr. Flores, we will go into executive session. When  
11 we come out, we'll let you know what our decision is.  
12 MR. FLORES: Thank you.  
13 ITEM NO. 18: RICHARD GUZMAN  
14 MR. SEGOTTA: Moving on to agenda item No.  
15 18, Mr. Richard Guzman. If you'll come forward. And  
16 Mr. Jackson will present.  
17 MR. JACKSON: Additionally I'll also be  
18 handling item 21B, Kevin Fitzgerald, when we get to  
19 that.  
20 MR. SEGOTTA: Okay.  
21 MR. JACKSON: This, the case against  
22 Mr. Guzman, is another DWI. The Bernalillo County  
23 Sheriff's Office was notified of an erratic driver.  
24 It turned out to be respondent. Respondent failed a  
25 field sobriety test and registered a 0.11 BAC. I'm

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1 sorry. A 0.011 BAC. That I believe is a typo. It is  
2 an error in the Notice of Contemplated Action. The  
3 blood alcohol content was 0.11, not 0.011.  
4 And the respondent retired in lieu of  
5 terminating him. The director and the respondent have  
6 agreed to a 90-day suspension, probationary period,  
7 ethics training, alcohol screening and assessment,  
8 eight hours of community service, and the respondent  
9 has agreed to address the cadets.  
10 Are there any questions on this matter?  
11 MR. COON: Sir, are you planning on going  
12 back into law enforcement?  
13 MR. GUZMAN: Sir, at this point in time, I'm  
14 not exactly sure what I would like to do. I would  
15 like to stay in public service at some capacity. So  
16 at this point I would like to keep the certification  
17 to keep those options available.  
18 MR. COON: So you are retired now?  
19 MR. GUZMAN: I am retired, yes, sir.  
20 MR. COON: Do you realize what the PERA has  
21 done to us as far as retirement and return to work and  
22 giving up your retirement? Are you aware of that?  
23 MR. GUZMAN: I'm fully aware of that, sir.  
24 MR. SEGOTTA: Other questions from the board?  
25 MR. SHANDLER: Mr. Ortiz, the previous one

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1 was 120 days for Mr. Flores. This is 90 days. Can  
2 you explain the difference.  
3 MR. ORTIZ: Yes. The one before was  
4 aggravated, over a 0.16. And it is the board's wishes  
5 that any aggravated or refusal gets an additional  
6 30 days.  
7 MR. SEGOTTA: Questions from the board?  
8 Okay. Mr. Guzman.  
9 MR. GUZMAN: Thank you very much for allowing  
10 me the opportunity to speak with you this morning.  
11 The events surrounding the circumstances of my stop on  
12 that -- when the incident occurred, I would like to  
13 state that I made the decision that morning to drive  
14 knowing full well that I should have not. I accept  
15 responsibility for my actions.  
16 I did realize at the time that I shouldn't  
17 have been driving, although it was too late. I did  
18 pull off to the side of the road when I realized that  
19 I was not available -- or the ability to drive. I  
20 stopped, put on the safety hazards, and pulled off the  
21 side of the road.  
22 Unfortunately I had already made the decision  
23 to drive even though I was no longer driving. I  
24 accept that responsibility. Since this has occurred,  
25 I did retire from the Albuquerque Police Department, a

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1 job that I really, really enjoyed. I enjoy serving  
2 the public. And that's why I'm here.  
3 I would like to keep that certification to  
4 keep that option available to serve the public. I  
5 will do that in some form, some capacity. I'm  
6 currently attending school full time. I hope to  
7 transfer to UNM, I'm currently at CNM, and to keep  
8 that option available.  
9 As I stated earlier, I accept full  
10 responsibility for my actions. Since that occurred I  
11 have met with some colleagues of mine, family,  
12 friends, and some respected officers that retired from  
13 the Albuquerque Police Department to get from them  
14 their judgment as to what steps I should take, sort of  
15 to give me direction.  
16 One of the things that we talked about was  
17 whether I should enter into some sort of alcohol rehab  
18 or screening of some sort. At that point in time,  
19 from their advice, I have not. And this was due to  
20 their advice.  
21 They took into account the totality of the  
22 circumstances that occurred. And at this time I have  
23 not. But I am willing to accept the consequences of  
24 my action and whatever decision the board may have.  
25 Thank you.

1 MR. SEGOTTA: Questions from the board? I  
2 have one question, Mr. Guzman. What's the results of  
3 the criminal?

4 MR. GUZMAN: Sir, that's scheduled to go to  
5 court next Tuesday.

6 MR. SEGOTTA: Okay. Any other questions?  
7 Mr. Guzman, we'll go into executive session and come  
8 out of executive session and let you know what our  
9 findings are. Thank you.

10 MR. GUZMAN: Thank you very much.

11 ITEM NO. 21B: KEVIN FITZGERALD

12 MR. SEGOTTA: Okay. Moving on down to -- do  
13 you want to take 21B or 23?

14 MR. JACKSON: Let's do 21B first.

15 MR. SEGOTTA: We're going to move to 21B,  
16 Kevin Fitzgerald.

17 MR. JACKSON: The allegation against  
18 Mr. Fitzgerald was that he had taken a CD burner from  
19 the police department in Albuquerque. And this was  
20 confirmed by a security camera footage.

21 The respondent, Mr. Fitzgerald, apparently  
22 took the CD burner home to download some data from  
23 what it says is Toughbook, which I believe is some  
24 sort of impact resistant laptop. I'm not entirely  
25 sure.

1 over how long and bring it back, he would have  
2 objected to any of that?

3 MR. FITZGERALD: My guess is no, sir.

4 MR. SEGOTTA: Any other questions from the  
5 board? Mr. Shandler.

6 MR. SHANDLER: Mr. Ortiz, can you tell us  
7 your rationale. Because there was an allegation of --  
8 in the category of theft. I mean that's probably not  
9 the correct legal term. And then also comments to his  
10 supervisor that may be incorrect. How did you get to  
11 the 90-day suspension?

12 MR. ORTIZ: At this time let me yield to  
13 Mr. Fitzgerald and let him explain it to you. And  
14 then maybe you'll have some understanding of how I  
15 came to that decision.

16 MS. SEGOTTA: Go ahead, Mr. Fitzgerald.

17 MR. FITZGERALD: Thank you, sir. Thank you,  
18 board, for listening to me today. The basic situation  
19 is on April 24 I did remove the CD drive from the  
20 northeast substation.

21 I did not have permission to use it. I  
22 had -- my intent was to take it out to my patrol car.  
23 And the Toughbook that Mr. Jackson had mentioned is  
24 the in-vehicle computer that we use to receive  
25 dispatches and write our reports.

1 The real problem here is that initially, when  
2 confronted by his supervisor, the respondent was not  
3 honest. He said that he had taken it because it  
4 looked similar to one that he had at home. But when  
5 he was asked to bring the similar unit from home so  
6 that they could be compared, he admitted that there  
7 was no such unit.

8 As a result of this, he was terminated from  
9 his employment. I should be clear here that I do not  
10 recall in the report an allegation that he had  
11 intended to permanently deprive the city of the CD  
12 burner but had taken it home to perform this task in  
13 violation of policy and code and following whatever  
14 procedures would have been necessary to do that.

15 There was an informal hearing with the  
16 respondent's attorney, after which he and the director  
17 have agreed to a suspension and probation, a 90-day  
18 suspension, one-year probation, ethics training, eight  
19 hours of community service, and the director believes  
20 that Mr. Fitzgerald is a good candidate to address the  
21 cadet class.

22 Are there any questions on this matter?

23 MR. COON: I've got one. Mr. Fitzgerald, if  
24 you went to your sergeant and said, hey, can I borrow  
25 this, do you mind if I run this home and use it for

1 My initial intent was to take this drive out  
2 to the car and load some software onto the car. Once  
3 I got out to the car, I started doing some other  
4 things and forgot that I had the drive in my vehicle.

5 The following day happened to be my 43rd  
6 birthday. And then on April 26th -- I have a stepson  
7 from my wife's previous marriage that happens to be  
8 handicapped. He had a pump that had been installed  
9 inside his body. It administers a medicine called  
10 Baclofen.

11 I don't know if any of you have any  
12 familiarity with the drug, but it is a highly  
13 addictive drug. And once a person is taken off of one  
14 of these pumps, they can suffer from organ failure,  
15 respiratory failure, ultimately leading to death. My  
16 thoughts were with my stepson throughout this process  
17 or throughout the incident.

18 I regretfully did take the drive. When I was  
19 first questioned about it by one of the sergeants that  
20 was trying to locate the drive, I forgot that I had  
21 the drive and that I was in possession of the drive.  
22 It was still in my vehicle at the time, my patrol  
23 vehicle.

24 Once I realized that I did have the drive, I  
25 brought it in personally to the substation. I again

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1 spoke with that sergeant. I was ultimately brought in  
2 front of my commander. Both of them, I did tell them  
3 that I had taken the drive by mistake. It was the  
4 first thing that came into my mind I know.  
5 With our profession in law enforcement, truth  
6 is paramount. And being able to tell the truth is the  
7 most important thing for our profession. It is  
8 something that came out. I regretted saying it as  
9 soon as I did say it. I felt I had backed myself into  
10 a corner by saying it initially to the first sergeant.  
11 I continued trying to tell my commander the  
12 same statement until I was pressed to present the  
13 drive. I admitted to the commander and the sergeant  
14 that I had lied. It is something that I have  
15 regretted every day since that fact.  
16 I have actually used that particular incident  
17 to help teach my daughters. I have an eight-year-old  
18 and a seven-year-old daughter at home. And teach them  
19 some of the consequences that can happen to people due  
20 to being dishonest.  
21 Again it is something that I have regretted.  
22 I would like to be able to continue being a police  
23 officer. It is something I've done for 11 years. I  
24 love being a police officer, I love helping the  
25 citizens of the state.

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1 I can also advise you folks that prior to  
2 this incident, my sergeants in the squads that I have  
3 worked for put a lot of faith in my decision ability.  
4 I've been in numerous situations where I could have  
5 used deadly force and would have been warranted to use  
6 deadly force. However, I was able to talk the person  
7 out of whatever weapon they were able to do and get  
8 the person into custody without having to use  
9 violence.  
10 And hopefully that can help show you some of  
11 the good judgment that I have shown throughout my  
12 career. This was a one-time stupid incident. I can  
13 guarantee, whether or not I'm allowed to be a police  
14 officer, it's something that will never happen again.  
15 MR. SEGOTTA: Questions from the board?  
16 Zach, does that answer your question?  
17 MR. SHANDLER: Mr. Ortiz, do you have  
18 anything to add?  
19 MR. ORTIZ: No, sir. I think that's the  
20 story he told me. And I believe he is remorseful and  
21 I believe he could be rehabilitated and be a good  
22 police officer.  
23 MR. SEGOTTA: Mr. Korn.  
24 MR. KORN: Yes, sir. Mr. Chairman and  
25 Mr. Fitzgerald, a question for you. When did you take

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1 the CD originally?  
2 MR. FITZGERALD: It was April 24th.  
3 MR. KORN: So two days before it was  
4 discovered missing?  
5 MR. FITZGERALD: I don't know when it was  
6 discovered missing, sir. I know that the Monday  
7 afterwards is when my stepson had surgery. I happened  
8 to be off the entire week. So I received a phone call  
9 the following Wednesday, which I believe would have  
10 been the 28th concerning it. And on the 29th the  
11 following day is when I brought the device back.  
12 MR. KORN: So you brought it back when they  
13 called you?  
14 MR. FITZGERALD: The day after they called  
15 me. I was called -- it was late in the evening when I  
16 received the phone call.  
17 MR. KORN: And the CD -- the drive was in  
18 your car, not in your home?  
19 MR. FITZGERALD: That's correct. It was in  
20 my patrol car.  
21 MR. KORN: And your last day of work after  
22 the 24th was what?  
23 MR. FITZGERALD: I worked the 25th as well  
24 which happened to be my birthday. And it was covered  
25 underneath my jacket on the front seat. And I just

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1 had completely forgotten that I had the drive in the  
2 vehicle.  
3 MR. KORN: Thank you.  
4 MS. SEGOTTA: Any other questions? Okay.  
5 Mr. Fitzgerald, we'll go into executive session. And  
6 when we come out of executive session, we'll let you  
7 know what our findings are.  
8 MR. FITZGERALD: Thank you, sir.  
9 ITEM NO. 23: SCOTT KELLOGG  
10 MR. SEGOTTA: Let's go on to agenda item  
11 No. 23, Scott Kellogg. Is Mr. Kellogg here?  
12 MR. JACKSON: Yeah. I doubt Mr. Kellogg is  
13 here. This is a request for a revocation by default.  
14 MR. SHANDLER: It's important to ask, though.  
15 MR. JACKSON: It is important to ask.  
16 MR. SHANDLER: So let the record reflect that  
17 the chairman asked for Scott Kellogg and no person  
18 came forward. Go ahead.  
19 MR. JACKSON: This Notice of Contemplated  
20 Action and Notice of Final Decision involved two  
21 incidents, one in March and one in July. The first  
22 was a fight, an unprovoked fight at an IHOP  
23 restaurant, where the respondent got into a fight with  
24 another customer.  
25 The customer said that he had done nothing to

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1 provoke that. And the manager of the restaurant  
2 corroborated the victim's story. A truck registered  
3 to the respondent was parked askew and had been parked  
4 with some force.  
5 The instigator who we allege was the  
6 respondent since his truck was there had fled the  
7 scene. And then in July respondent drove while  
8 intoxicated and registered a 0.18 and a 0.19.  
9 Now, what's significant in this case is that  
10 the respondent was on probation before the board. At  
11 the first quarter meeting in March of this year, the  
12 board approved suspension for a fight in which the  
13 respondent admitted to consuming enough beer to cloud  
14 his judgment, which was later estimated by another  
15 party to be between eight and 12 beers, at a rock  
16 concert in Albuquerque.  
17 And in addition to failing to respond to the  
18 Notice of Contemplated Action or the Notice of Final  
19 Decision, the director believes that the respondent by  
20 engaging both in reckless behavior involving the  
21 consumption of alcohol and in other fights that may  
22 have also been spurred by the consumption of alcohol,  
23 that the respondent did not get the message in March.  
24 And we, therefore, asked for revocation by default.  
25 MR. SEGOTTA: Questions from the board?

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1 MR. KORN: I have a question. Mr. Chairman,  
2 sir, a question about this IHOP. If I understand  
3 things right, his car was in the parking lot. Nobody  
4 identified him?  
5 MR. JACKSON: There was another customer who  
6 identified the instigator as somebody he believed was  
7 a Rio Rancho Police officer.  
8 MR. KORN: Yes, sir. I read that. And that  
9 customer is unidentified.  
10 MR. JACKSON: That's correct.  
11 MR. KORN: So really there's nothing  
12 connecting the truck with Scott Kellogg.  
13 MR. JACKSON: Well, the truck was registered  
14 to him.  
15 MR. KORN: Well, yeah. But you don't know  
16 the driver of the truck.  
17 MR. JACKSON: Again if Mr. Kellogg had  
18 responded, he would have had the opportunity to  
19 confront such witnesses as we would have produced at a  
20 formal hearing to resolve exactly what did happen at  
21 that IHOP. We felt that there were sufficient bases  
22 to allege that the respondent did, in fact, instigate  
23 a fight at that IHOP.  
24 MR. KORN: Well, I'm just trying to be fair.  
25 I mean I understand there's a lot against Mr. Kellogg

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1 here. But this whole incident at IHOP is just  
2 conjecture and speculation and completely without any  
3 basis in fact for connecting Mr. Kellogg to the  
4 incident other than a car registered to him. Would  
5 that be correct?  
6 MR. JACKSON: I would not characterize it  
7 that way, Mr. Korn.  
8 MR. KORN: Okay. That's fine.  
9 MR. SEGOTTA: Any other questions from the  
10 board? Okay. Let's go back to item No. 14, Ladio  
11 Canales. The next items will be presented by  
12 Mr. Holmes, correct?  
13 MR. HOLMES: Yes.  
14 MR. SEGOTTA: Okay. Go ahead.  
15 MR. HOLMES: If I may go to the podium.  
16 My name is Ernest Holmes, investigator to the  
17 New Mexico Law Enforcement Academy.  
18 Mr. Chairman, members of the board, this  
19 case, No. 14, this involves Ladio Canales. It's a  
20 domestic situation that occurred on June 29th this  
21 year. What occurred that night is that the respondent  
22 and his wife had been out to a party and they had  
23 consumed alcohol.  
24 Later, when they arrived home, the wife  
25 looked at the -- got ahold of the cell phone and saw

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1 some text messages that -- and phone numbers that made  
2 her believe that her husband was unfaithful. And so  
3 that led to an argument.  
4 And the respondent at that time told the wife  
5 to get out of the room. And she refused to get out of  
6 the room. So the respondent grabbed her by the arm,  
7 took her downstairs, and then tried to force her into  
8 the garage.  
9 And she was resisting. So she wet herself in  
10 the door. So he grabbed her by the hair and pulled  
11 some hair that was found by the investigating officer  
12 on the floor. The respondent was arrested and charged  
13 with domestic -- with a domestic crime.  
14 Now, later on the wife did recant her story,  
15 saying that she only did it because she was mad at her  
16 husband and she wanted to get him in trouble.  
17 However, as we know this happens quite often. When  
18 the wife -- when they find out what the consequences  
19 are going to be, it's not unusual for them to recant.  
20 So anyway there was a hearing with the  
21 director because he had requested an informal hearing.  
22 And during the informal hearing, the respondent agreed  
23 to a 60-day suspension and a one-year probationary  
24 period, ethics training, alcohol screening, anger  
25 management, counseling, and eight hours of community

1 service. Any questions?  
 2 MR. SEGOTTA: Questions from the board?  
 3 Okay.  
 4 MR. JONES: Mr. Chairman.  
 5 MR. SEGOTTA: Yes, go ahead.  
 6 MR. JONES: Was he ever convicted of anything  
 7 or were the charges dismissed?  
 8 MR. HOLMES: We don't know if he was  
 9 convicted. I think the charges might have been  
 10 pending at one point.  
 11 MR. ORTIZ: I believe the charges were  
 12 dismissed based on her written statement recanting.  
 13 MR. HOLMES: Normally that happens.  
 14 ITEM NO. 17: LORENZO GUERRERO  
 15 MR. SEGOTTA: Item No. 17, Lorenzo Guerrero.  
 16 MR. HOLMES: Lorenzo Guerrero, this involves  
 17 a case in Gallup. This involves gassing up a private  
 18 vehicle with a state police issued gasoline credit  
 19 card. The officer was observed gassing up a civilian  
 20 vehicle by a citizen who reported the incident.  
 21 And as a result an investigation was  
 22 conducted. And it was determined that, in fact, that  
 23 vehicle that was gassed up at that time which was  
 24 about \$28 and something did belong to the respondent's  
 25 wife.

1 other than he was in a financial bind and that's the  
 2 reason he used the gas card for filling up his  
 3 personal car. Any questions?  
 4 MR. SEGOTTA: Any questions from the board?  
 5 MR. KORN: Yes, sir. Mr. Chairman, sir, I  
 6 understand about the six counts. But at the top it  
 7 says he used it 88 times?  
 8 MR. HOLMES: That's correct.  
 9 MR. KORN: Was it 88 times?  
 10 MR. HOLMES: It was 88 times that he used it.  
 11 And 20 of those times I believe he was either off-duty  
 12 or on leave. But the report didn't provide us -- I  
 13 don't think they could determine if he used it for his  
 14 personal vehicle.  
 15 MR. KORN: I see. It was used 88 times. But  
 16 you don't know if that was for his police vehicle or  
 17 his personal vehicle?  
 18 MR. HOLMES: No. That was not indicated in  
 19 the report. And we were unable to determine whether  
 20 it was or not.  
 21 MR. KORN: Thank you.  
 22 MR. SEGOTTA: Any questions?  
 23 MR. SCHULTZ: Mr. Holmes, his current  
 24 employment status?  
 25 MR. HOLMES: I believe he was terminated. He

1 An audit was conducted to determine if there  
 2 were more fraud committed using that credit card for  
 3 unlawful purposes. And it was determined that there  
 4 was an exorbitant amount of gas that was used from  
 5 January to I think it was October.  
 6 But during that period the respondent at  
 7 first denied that he ever used the credit card for  
 8 anything other than his own unit. But later on when  
 9 they came out with the audit and presented him with  
 10 that information, he admitted that he did gas up the  
 11 unit -- not the unit but his private vehicle using his  
 12 credit card issued by the state police at least six  
 13 times. But there's no amount because they didn't put  
 14 an amount as to how much gas he actually put into the  
 15 personal vehicle other than six times.  
 16 The respondent did meet with the director at  
 17 an informal hearing. And he claimed that at the time  
 18 when the citizen reported that he was gassing up his  
 19 personal vehicle, that he had forgotten to take some  
 20 money. And his wife was going to go to Arizona. I  
 21 guess she had cancer and she was being treated. And,  
 22 so, therefore, he used the credit card because he  
 23 didn't have any money to gas up the personal car at  
 24 that time.  
 25 But he had no explanation for the other times

1 did meet with the director. And the director  
 2 recommended suspension and probation, 18 months  
 3 suspension, two-year probationary period, and he has  
 4 to attend an ethics training course.  
 5 MR. SEGOTTA: Any questions from the board?  
 6 Mr. Guerrero, is he here? Let the record show that  
 7 Mr. Guerrero is not present.  
 8 ITEM NO. 19: JONATHAN MARTINEZ:  
 9 MR. SEGOTTA: Okay. Let's move on to item  
 10 No. 13, Jonathan Martinez. Item No. 19, Jonathan  
 11 Martinez.  
 12 MR. HOLMES: This case involved -- the  
 13 respondent was -- it's a sexual harassment case that  
 14 went on for a long time. A coworker was being  
 15 approached constantly for about a year's time by the  
 16 respondent who was trying to have -- get her to have  
 17 sex with him.  
 18 And by his -- that was indicated in the  
 19 messages that was being sent to her and, of course, in  
 20 person. At one point the respondent kissed her  
 21 without her consent. On another occasion he put his  
 22 hand on her inner thigh and proceeded to rub his hand  
 23 back and forth.  
 24 So it was -- after she reported this, after  
 25 about a year of putting up with it, she reported it.



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1 And an investigation was conducted, which sustained  
2 the allegations against the respondent. And as a  
3 result the respondent was terminated from his  
4 employment.  
5 The respondent did meet with the director.  
6 And the director recommended suspension and probation,  
7 90-day suspension, one-year probation, and ethics  
8 training, counseling until such counselor submits  
9 sufficient information to the director that counseling  
10 is no longer needed, sexual harassment training, and  
11 complete eight hours of community service. That's the  
12 recommended sanctions imposed. Any questions?  
13 MR. SCHULTZ: Mr. Holmes, Mr. Martinez was a  
14 sergeant?  
15 MR. HOLMES: He was a sergeant.  
16 MR. SCHULTZ: And I guess the question would  
17 be how come not harsher discipline due to the fact  
18 that he was in a supervisory position?  
19 MR. ORTIZ: Mr. Chairman, Chief Schultz,  
20 Mr. Martinez said it was an ongoing affair with this  
21 lady for two years. He admitted to it. It wasn't  
22 until rumors started to come out in the department  
23 that she denied it and then she made these allegations  
24 on him.  
25 He also provided us with polygraph results,

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1 that he did take a polygraph test. And he was not  
2 deceptive. He admitted to having an affair with her.  
3 But he said it was consensual, both of them were  
4 involved. And she was married. And I guess somebody  
5 found out. He said she tried to cover herself and  
6 then accused him of improper conduct.  
7 MR. HOLMES: And he realized that even though  
8 it was consensual, that it was wrong.  
9 MR. SEGOTTA: Any other questions from the  
10 board. Is Jonathan Martinez here? Let the record  
11 show that Mr. Martinez is not present.  
12 MR. ORTIZ: One other thing. They had asked  
13 that she take a polygraph. And she refused to take a  
14 polygraph. But like I say he did take a polygraph and  
15 he passed.  
16 ITEM NO. 20: CHARLOTTE PLATERO  
17 MR. SEGOTTA: Let's move on to item No. 20,  
18 Charlotte Platero.  
19 MR. HOLMES: This case involves false  
20 accusations being lodged against a coworker. What  
21 happened here is that the respondent had been out on  
22 February 9th of this year, she had been out drinking  
23 with her sister.  
24 For some reason they got into an argument.  
25 And the sister took off after they had gone out to a

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1 bar and took off and left her there. The sister drove  
2 off with her purse and her telephone inside the  
3 vehicle. So the respondent was left stranded on foot.  
4 The respondent finally started walking. And  
5 she was trying to find her way home. She was pretty  
6 intoxicated. And as a matter of fact, while walking  
7 home, she missed a turn where she lives. But she  
8 was -- several officers offered to give her a ride.  
9 And she refused to ride with anybody except  
10 with a coworker who took her home and noticed that she  
11 was very intoxicated. The coworker was concerned that  
12 it was already about four o'clock in the morning. And  
13 the respondent is due to report to work the day shift.  
14 So he notified a commander that the  
15 respondent was pretty inebriated and he was concerned  
16 that in that condition she shouldn't be working.  
17 Anyway as a result of that, there was a  
18 predetermination hearing that was held on  
19 February 12th. And that was confirmed, that they took  
20 some action against her for reporting to work in an  
21 intoxicated condition or at least in a pretty bad  
22 condition.  
23 During that hearing she made accusations  
24 against the person that had reported her. And the  
25 accusations were that she made a comment like I could

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1 easily -- you know what, I could easily take advantage  
2 of you now, but I am a busy acting sergeant, you know.  
3 That's the comment according to her, that the  
4 respondent accused me. That was investigated by human  
5 services. And they determined that it was more a  
6 retaliation against the officer for reporting her.  
7 There was also a private investigator that  
8 was retained to do an investigation of this matter.  
9 He also came out with the same conclusions, that it  
10 was a false allegation that was made against the  
11 officer.  
12 Later on an informal hearing was held with  
13 the director and the respondent. And the respondent  
14 at that point in time admitted that her mental  
15 condition at the time because of her intoxicated  
16 condition was not very clear. So she doesn't deny  
17 that the accusations she made were not true. And I  
18 believe she's here.  
19 MR. SEGOTTA: Questions from the board of  
20 Mr. Holmes? Okay. Charlotte Platero. Ms. Platero,  
21 you want to come forward, please.  
22 MS. PLATERO: Yes. I am Charlotte Platero  
23 from the -- used to be with the Albuquerque Police  
24 Department. Everything that was on that -- that  
25 happened on that day is correct. I was drinking. And

1 upon meeting with the director and Mr. Holmes in Santa  
2 Fe, I have come to realize that, yes, my mental state  
3 was not there at the time. And I may have  
4 misinterpreted what the officer said to me.

5 Upon, you know, thinking about it, there's a  
6 lot of things that I didn't remember and some things  
7 that were bits and pieces here. So I may have taken a  
8 little piece of his comment and, you know, and I  
9 brought that up. That's what I remember.

10 But I might not have remembered that he  
11 possibly said, you know, somebody could have taken  
12 advantage of you, you're lucky I was here, or I may  
13 have misinterpreted that, you know, he made that  
14 comment toward me himself.

15 Like I was telling the director, I have been  
16 employed as a police officer for 11 years. And I have  
17 done a lot of investigations. And one of them is yes,  
18 interviewing intoxicated individuals. And it is hard  
19 to determine what they're saying and so forth.

20 And I kind of changed roles in, you know,  
21 thinking about that, thinking what if I were to ask  
22 myself these questions. And I couldn't answer them  
23 myself. And so I told the director, yes, I did  
24 misinterpret what he said.

25 And it went as far as it is today. And I'm

1 with children.

2 And I do also want to say that the alcohol  
3 thing is not going to happen again. I just recently  
4 had a little baby girl and she means the world to me.  
5 And I'm just not going to ruin, you know, that. And I  
6 do want to keep my certification. And I'm willing to  
7 do everything it takes to keep that.

8 And I guess I am trying to find the right  
9 words to write a letter of apology to this other  
10 officer who was my coworker. And you I just -- I'm  
11 just glad that you guys are here to listen to what I  
12 have to say on my part. And I'm sorry.

13 MR. SEGOTTA: Any questions from the board?  
14 Zach.

15 MR. SHANDLER: Mr. Ortiz, the 180 days, how  
16 did you come to that? Is it because there was a false  
17 accusation/lying about her coworker or was it the  
18 dereliction of duty the next day? How did you get to  
19 the 180 days?

20 MR. ORTIZ: Well, I felt that she put the  
21 officer through quite a bit making that false  
22 allegation because he's married and has a family. And  
23 coming up with the statement that she made, I felt  
24 that was very serious, very detrimental to that  
25 officer, to his reputation, and to his family. So I

1 sorry I made that comment. And I am considering  
2 writing a letter of apology to this officer for, you  
3 know, saying what I said, because I misinterpreted  
4 him, his integrity, you know, to the department, to  
5 his family. I know he has family.

6 And I just want to say I'm sorry. But I'm  
7 still trying to find the right words to -- you know,  
8 to say to this other officer, because I have worked  
9 with him for the past 11 years and I do consider him a  
10 really good worker.

11 And I don't want this to, you know, interfere  
12 with his job and -- you know, it already interfered  
13 with both of our jobs. And I'm sorry for making that  
14 statement. Like I say it was what I heard at the  
15 time, but I wasn't all there at the time.

16 And I would just ask that -- you know, I am  
17 going to do the things that they want me to do. They  
18 have disciplined me. They put me through alcohol and  
19 drug screening, which I did.

20 And they wanted me to do the service, which I  
21 already set up with one of the schools in Gallup,  
22 because the last thing I did at the Gallup Police  
23 Department was to work as a school resource officer.  
24 I just started with that. And I did enjoy that, being  
25 with the kids. So I am going to put in my eight hours

1 considered that a serious offense and came up with a  
2 six-month suspension.

3 MR. SHANDLER: And what about the devil's  
4 advocate criticism, that if this person was drinking  
5 and driving, they would get less of a suspension than  
6 for this, how would you respond to that devil's  
7 advocate question?

8 MR. ORTIZ: The DWI?

9 MR. SHANDLER: Right.

10 MR. ORTIZ: Well, I'm going on the guidance  
11 of the board. The board has agreed to a 90-day  
12 suspension for a DWI. Are you wanting me to compare  
13 this with that of a DWI?

14 MR. SHANDLER: That's right. But if you say  
15 you're basing your position on the board's  
16 recommendations, then I think that informs the board  
17 of your rationale.

18 MR. SEGOTTA: Any other questions from the  
19 board? Thank you, Ms. Platero. We'll go into  
20 executive session. After we return from executive  
21 session, we'll let you know what our findings are.

22 MR. HOLMES: One more comment pertaining to  
23 this case here. She was not -- she didn't mean to  
24 report this incident as such. But when she went to  
25 the predetermination hearing, she mentioned it to the

1 chief and that triggered the investigation. And I  
2 told her once you do that, tell the chief, it's an  
3 automatic.

4 ITEM NO. 21: JOSEPH SERNA

5 MR. SEGOTTA: Item No. 21, Joseph Serna.

6 MR. HOLMES: Here in this case the  
7 respondent, Mr. Joseph Serna, was charged with driving  
8 while intoxicated. He was observed operating a  
9 vehicle in a reckless manner by weaving and crossing  
10 the center lane.

11 The officer -- when he was stopped, the  
12 respondent was -- displayed signs of impairment and  
13 admitted at having been at a local bar, boozing it up.  
14 The respondent was administered a field sobriety test,  
15 which he failed.

16 The respondent was taken into custody and was  
17 given a breathalyzer test which registered 0.15. He  
18 was also charged with negligent use of a firearm due  
19 to the fact that he had a weapon in his vehicle at  
20 that time and that he was operating the vehicle while  
21 intoxicated.

22 An informal hearing was conducted. The  
23 respondent -- the informal hearing was requested and  
24 was scheduled for October 27th, 2010. On  
25 October 26th, 2010, the respondent said it was his

1 But I understand according to -- during the  
2 informal hearing that was held with this person, he  
3 said that's a normal thing that happens. They all  
4 were playing around, they always are joking around.  
5 Well, this night it just got out of hand.

6 When the respondent told the coworker or the  
7 victim in this case what's wrong, are you bleeding or  
8 what, meaning that -- you know, in the wrong way. So  
9 the respondent acknowledged it by saying no, but your  
10 wife is. And that triggered a reaction from the  
11 respondent.

12 And the respondent went and grabbed the  
13 coworker and pulled him back and had him in a choke  
14 hold, threw him on the ground. And he had him in a  
15 lock. The victim at that point felt that the  
16 respondent was trying to kill him because he couldn't  
17 breathe and he was having a hard time. It was broken  
18 up by some other officers who were in the area.

19 After this incident happened, the respondent  
20 walked out of the room. And I guess he was trying to  
21 cool down. And the investigation was conducted. And  
22 as a result of that incident, he was given a 200-hour  
23 suspension with 120 hours actual and 80 in abeyance.

24 An informal hearing was held. The respondent  
25 admitted to the incident. He was remorseful. And

1 birthday. He was celebrating a birthday at a club and  
2 was giving a friend a ride home when he was stopped.

3 Respondent took responsibility for his  
4 actions and was willing to accept the settlement  
5 agreement that the director had approved by the board.  
6 The director recommended suspension and probation, a  
7 90-day suspension, one-year probationary period,  
8 attend ethics training and alcohol screening, and also  
9 eight hours of community service.

10 MR. SEGOTTA: Any questions from the board?  
11 Is Mr. Joseph Serna here? Let the record show that  
12 Mr. Serna is not present.

13 ITEM NO. 21A: HUAN DANG

14 MR. SEGOTTA: I think we have one more,  
15 Ernie, for you. It's listed as item No. 30, but I  
16 think the chairman moved it to item No. 29 ahead of  
17 the adjournment which is Huan Dang.

18 MR. HOLMES: Huan Dang. Okay. This incident  
19 involves an Albuquerque officer with another  
20 Albuquerque officer. While they were in -- in the  
21 officer's room working on reports, the respondent made  
22 a comment to the coworker or victim in this case. And  
23 kind of in a joking manner told him, Huan, so you made  
24 a report -- you have to make a correction on this  
25 report and your sergeant has to correct it.

1 said he never intended to hurt the officer. He was  
2 willing to accept responsibility for his actions.

3 The director recommended a settlement which  
4 is suspension and probation, suspension for 45 days,  
5 one-year probationary period, ethics training, anger  
6 management counseling, and eight hours of community  
7 service.

8 MR. ORTIZ: Mr. Chairman and Mr. Shandler, my  
9 recommendation was 60 days. He had his attorney. His  
10 attorney wanted 30 days. So we reached the middle  
11 ground and that's why we have a 45-day suspension.

12 MR. SHANDLER: This was an officer-on-officer  
13 event?

14 MR. ORTIZ: Yes, in the briefing room.

15 MR. SEGOTTA: Any other questions from the  
16 board? Okay. Thank you, Mr. Holmes.

17 ITEM NO. 24: SANTOS BACA

18 MR. SEGOTTA: Item No. 24 is a noncompliance  
19 with child support decertification. Mr. Santos Baca.  
20 Art.

21 MR. ORTIZ: Yes, sir. Mr. Chairman, board  
22 members. Item No. 24 you'll see, on a monthly basis,  
23 from the Child Support Enforcement Division, I get a  
24 monthly report on officers that are delinquent in  
25 child support payments. What I do is I send them out

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1 a letter, and you'll see that's attached in there, for  
2 them to come in compliance.  
3 I believe I attached one of the board rules,  
4 10.29.1.18, Parental Responsibility Act Compliance.  
5 They will be sent notice. And upon coming into  
6 compliance, they will then provide me with a letter.  
7 And I've had that happen on numerous occasions, where  
8 I've sent letters to officers that were delinquent.  
9 They have then sent a letter, they have come into  
10 compliance, and it ends there.  
11 However, with Mr. Baca, he has never sent me  
12 a letter and he has never responded to the first  
13 letter and then to the Notice of Final Decision. And  
14 you'll also see in your packet where he signed for the  
15 child support letter on September 4, 2009.  
16 You'll see that the address was 4826  
17 Homestead. And then he moved. And that's why there  
18 was a delay. I had sent him additional letters.  
19 Those were sent back to us. I finally got a good  
20 address here in Albuquerque and sent him a Notice of  
21 Final Decision.  
22 He has not responded to these. And,  
23 therefore, based on the rule, I'm asking that he be  
24 decertified.  
25 MR. SEGOTTA: Is Mr. Santos Baca here? Let

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1 the record show that Mr. Baca is not present.  
2 Questions from the board?  
3 MR. SCHULTZ: Mr. Ortiz, his employing  
4 agency?  
5 MR. ORTIZ: No, he is not employed.  
6 MR. SEGOTTA: Any other questions from the  
7 board?  
8 MR. ORTIZ: I apologize. I did not include  
9 that, did I.  
10 MR. SEGOTTA: No. We didn't see his history.  
11 MR. ORTIZ: No. I apologize, Chief Schultz.  
12 But he has not been employed for quite sometime. And  
13 what it does say is that the suspension will be  
14 indefinitely. He will be reinstated only when the  
15 respondent has provided the director with a statement  
16 of compliance from HSD.  
17 MR. SEGOTTA: Okay. Moving along, item  
18 No. 25. These will be formal hearings. Item 25,  
19 Michael Morse.  
20 MR. SHANDLER: Mr. Chairman, items 25 and 26  
21 are formal hearings. The record is closed. And those  
22 will be discussed in executive session.  
23 ITEM NO. 27: DISCUSSION - DAVID SMOKER DISCOVERY  
24 ISSUES  
25 MR. SEGOTTA: Item No. 27, I have a handout

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1 for you. And there will be some discussion in open  
2 session about it.  
3 MR. COON: Mr. Chairman, let the record show  
4 that on item No. 26, I won't be voting since this came  
5 out of my department.  
6 MR. SEGOTTA: Okay. On item No. 26, when we  
7 get into executive, we'll just ask you to leave the  
8 room when we have deliberations on that.  
9 MR. SHANDLER: Okay. Mr. Chairman, let me  
10 walk you through the setup here. And I'll start out  
11 by saying that my positions usually are a little more  
12 reserved at board meetings. But at this one, this  
13 board, I find myself having to be a little more active  
14 because there are these questions about comparison  
15 punishment. And that larger topic is one we're going  
16 to talk about today.  
17 And the setup is the director has sent out a  
18 Notice of Final Decision against J. David Smoker. And  
19 the request is for revocation. And Mr. Smoker has  
20 hired an attorney and requested a formal hearing.  
21 The allegations are that while on duty,  
22 Officer Smoker slapped and then took down a handcuffed  
23 juvenile. We're not going to talk about the details.  
24 We're going to talk about the process today. But  
25 that's public information. And that's going to be

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1 relevant because it's generally categorized in the  
2 database as excessive force.  
3 Okay. The first couple pages of the handout  
4 is a document from Mr. Jackson. And he'll have the  
5 last word. So we're going to skip over that. And  
6 we're going to start with a document entitled David  
7 Smoker's Request to Enforce his First Request for  
8 Production of Documents.  
9 This is a document provided by Mr. Smoker's  
10 attorney who is unavailable today but was given the  
11 option to submit something in writing. In going  
12 through this document here, the history is going back  
13 to November 9, 2009. Mr. Smoker through his attorney  
14 made the following written requests:  
15 One, he requested four disciplinary files of  
16 specific officers, Chapman, Eiskant, Garcia, and  
17 Clark. And then second, and what we're going to talk  
18 about today, is all LEA files concerning in any way  
19 discipline that was proposed or considered for any or  
20 all officers as a result of allegations for the use of  
21 excessive force, battery, commission of a crime of a  
22 sexual nature, and/or domestic violence since January  
23 1, 2006.  
24 Then there's discussion about whether the  
25 attorney believes that this material is relevant

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1 because he believes the proposed penalty from the  
2 director is unreasonable. That's his allegation.  
3 And so what he's trying to do is he's trying  
4 to build I guess his argument that other officers who  
5 have done these types of crimes may have received less  
6 of a sanction. So he wants to know that universe.  
7 So on November 9th or November of last year,  
8 there was a meeting set up. The attorney came over.  
9 And for reasons spelled out in the document, that  
10 request No. 2 was not provided. And Mr. Jackson will  
11 speak to that. I'm trying to be as neutral as  
12 possible. I don't want to be the advocate. I'm just  
13 trying to set up the documents.  
14 So in the last year, what I've tried to do is  
15 I've tried to get the two lawyers together,  
16 Mr. Jackson on behalf of the state and Mr. Yohalem for  
17 Mr. Smoker, and see if they could get past this  
18 discovery dispute. Because your rules do not allow  
19 your Hearing Officer to handle prehearing matters,  
20 discovery disputes.  
21 So the narrative really goes to that, how in  
22 this entire year we've tried to come up with some  
23 resolution. And so please turn to page 4 in this  
24 document, paragraph No. 9 , where on October 6th of  
25 2010, we did have another meeting where Mr. Jackson --

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1 where one of the things that was on the table was how  
2 many things should be presented.  
3 And I think the information is kept in four  
4 different places. One, there's board minutes. And  
5 the board minutes are now verbatim. So a party could  
6 research -- and they're online. So a party, if they  
7 wanted to assemble a lot of data, they could look at  
8 the board minutes.  
9 If a party wanted to assemble a lot of data,  
10 they could also request the board packets. And the  
11 board packets as seen today have these one-page  
12 summary sheets that are public documents. And so  
13 there could be a request, can I see all the summary  
14 sheets. That's the other approach.  
15 The other approach is that the director, and  
16 this precedes even Mr. Ortiz, has kept a database for  
17 many, many years, a classic Excel spreadsheet that  
18 lists the officer's certification number, their name,  
19 their department, the date of incident, and then the  
20 type of misconduct.  
21 And there are several different types, like  
22 unbecoming, excessive force, destruction of property.  
23 And then the end result, whether there was a  
24 cautionary letter issued, whether there was a  
25 suspension. And so another possible resource is to

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1 gain access to this spreadsheet.  
2 And then the fourth resource is that the  
3 director actually keeps the files for these cases.  
4 The more recent ones are kept in his office. Some of  
5 the older ones are kept on the DPS campus, not  
6 directly in his office.  
7 So the parties have been trying to figure out  
8 how to come to some agreement on what kind of  
9 documents can be produced and the actual process. For  
10 example, there was some discussion about -- well, let  
11 me get back to the facts here.  
12 So now I want you to turn to what's labeled  
13 as Exhibit 1 in this packet. And you'll see this is  
14 just the first request for documents which asks for  
15 the four files. And then to reiterate, all LEA files  
16 concerning excessive force, battery, commission of a  
17 crime of a sexual nature, and/or domestic violence  
18 since 2006.  
19 Exhibit No. 2 is since the parties could not  
20 agree to exchange of documents, the hearing initially  
21 set for January 22nd, 2010, I think was rescheduled.  
22 Then we'll go to Exhibit No. 3. And you'll  
23 see a letter from myself to Mr. Smoker's attorney  
24 saying that the director is willing to give this  
25 ten-page database and allow Mr. Smoker's attorney to

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1 look through it and try to identify which cases that  
2 he might want staff to pull out of the cabinets.  
3 And this database is ten pages long. There's  
4 probably around 30 names at least. So there's  
5 hundreds of names. And maybe Mr. Ortiz might even  
6 know kind of the ballpark of how many names are in the  
7 database.  
8 But for our purposes right now, on  
9 February 9th, the director was willing to turn over  
10 this database and he did. He was also willing to turn  
11 over the four specifically named files. And that was  
12 done.  
13 So then we go to Exhibit 4. This is a letter  
14 from Smoker's attorney acknowledging that those files  
15 have been met, the four specific files.  
16 Exhibit No. 5, what I've tried to do is I  
17 keep trying to schedule the hearing in hopes that will  
18 inspire the lawyers to meet and talk. So you'll see  
19 several requests to reschedule the hearing because  
20 this dispute has been unresolved.  
21 So I want you turn to Exhibit No. 5 and  
22 page 2. So Exhibit No. 5, page 2, paragraph 6, "On  
23 March 24th respondent's counsel," so that was  
24 Mr. Smoker's counsel, "hand-delivered a pared-down  
25 list of files in a letter to the counsel to the LEA

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1 board. In an effort to compromise and cooperate with  
2 the LEA, respondent's counsel struck more than half of  
3 the files from the original list." He also proposed  
4 additional streamlining steps.  
5 And to this date he hasn't received a  
6 response. So so far he's gotten this database. And  
7 he struck some of the names, some of the cases that he  
8 doesn't want. But it's still a very long list of  
9 cases.  
10 And paragraph 7 reiterates his legal theory,  
11 so you know it's coming from him and it's not me, that  
12 "The documents requested are necessary for the  
13 respondent's claim that the punishment proposed by the  
14 LEA is disproportionately, discriminatory, and  
15 considerably harsher than the discipline that's been  
16 imposed on other law enforcement officers for serious  
17 incidents.  
18 "In addition, the Law Enforcement Academy  
19 Board does not have a matrix or policy guidance as to  
20 the punishment it administers," which is true.  
21 There's no public document of a matrix for punishment.  
22 Exhibit No. 6 is from Mr. Jackson. And this  
23 is from Mr. Jackson to Mr. Yohalem, saying that in a  
24 follow-up meeting that he had with myself and  
25 Mr. Yohalem, that he's discussed with Director Ortiz

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1 the possibility of providing you with the summaries of  
2 99 cases highlighted on the list. So we've now gone  
3 from ten pages to maybe a universe of 99 cases.  
4 And some of the dispute comes into how the  
5 type of misconduct has been characterized. There are  
6 several that are there for excessive force, which  
7 would seem like a category that would align with his  
8 theory.  
9 But also some of the ones dealing with  
10 unbecoming. And this is a category that I think  
11 Mr. Ortiz's predecessor used a lot more in entering  
12 the database. It could include a whole universe,  
13 whether dereliction of duty or it could be an  
14 excessive force type action.  
15 So it's not just so easy to say just give all  
16 the excessive force ones because there could be some  
17 in the unbecoming. And also I think he wants to build  
18 a case that maybe different crimes get different  
19 punishments and that's not fair.  
20 Exhibit No. 7 is a back-and-forth email chain  
21 between the two attorneys in the case, where they're  
22 trying to work out -- well, they're trying to discuss  
23 the matter. I'll let Mr. Jackson describe those  
24 emails.  
25 And so that's the packet. And in public

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1 session I wanted to methodically go through all the  
2 exhibits so opposing counsel feels like he was  
3 properly heard. And I think it comes down to a  
4 discovery dispute, what does the director want to turn  
5 over.  
6 And Officer Smoker's attorney wants you today  
7 to order Mr. Ortiz to turn over something. And  
8 Mr. Jackson representing Mr. Ortiz is going to also  
9 argue. This is his chance to argue. And so I will  
10 turn it over to Mr. Jackson.  
11 MR. JACKSON: Thank you. Mr. Chair and  
12 members of the board, first to reiterate a point that  
13 Zach was making there towards the end, when you are in  
14 executive session and considering this matter, I  
15 strongly, strongly encourage you to read both sets of  
16 papers thoroughly as Mr. Yohalem is unable to be here  
17 today and has chosen not to send a representative in  
18 his place. But his views do need to be before the  
19 board in making the decision.  
20 Now, briefly I want to discuss -- I don't  
21 want to discuss the core issue of relevancy in this  
22 case. And the threshold for relevancy is typically  
23 lower in discovery than it is in an actual proceeding.  
24 The idea is to cast a little bit wider net. And then  
25 the relevant facts are actually narrowed through the

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1 hearing process.  
2 In this case the director does not concede  
3 the relevancy of any of the sought-after files  
4 including those that have already been produced. We  
5 simply don't believe that the files of other officers  
6 are relevant to the conduct that Mr. Smoker is alleged  
7 to have engaged in.  
8 That objection, that these files are  
9 irrelevant, goes double when the file that's sought is  
10 not a file for excessive force. In the sought-after  
11 files, in addition to the excessive force and the  
12 conduct unbecoming which could be anything from  
13 insubordination to acting in concert with drug  
14 dealers, he has asked for these which were by the way  
15 not part of the original request.  
16 I believe that was triggered because I want  
17 to say the Chapman case was designated in the  
18 spreadsheet as an unbecoming. But also any sexual  
19 misconduct, whether or not it involves force. So in  
20 the allegation of sexual harassment, he wants that. I  
21 don't think that's relevant to an excessive force  
22 case.  
23 Any domestic violence case; that is to say,  
24 acts that an officer engages in when he's not on duty.  
25 Now, those represent a substantial fraction of the

1 disciplinary cases and honestly are probably the bulk  
2 of the cases that would be produced if Mr. Yohalem's  
3 request is granted.

4 Now, leaving those objections aside and just  
5 making clear that we don't waive those for the  
6 purposes of the hearing that we hope to eventually  
7 conduct on this matter, there is a problem I think in  
8 the rules that govern these hearings.

9 And the problem is that there's not a lot of  
10 guidance on discovery disputes and there's not really  
11 a good way to handle them. There's an entire section  
12 of the Rules of Civil Procedure for the district  
13 courts that govern discovery and discovery disputes.

14 And, you know, the typical process is that  
15 somebody serves discovery requests, somebody objects  
16 to them, and then six to eight months and tens of  
17 thousands of dollars later, there's a ruling on what  
18 will be produced.

19 Now, in this rule structure that we're in,  
20 you can't really do that because the rule governing  
21 the conduct of hearings before this board and its  
22 designated hearing officers say no prehearing motions  
23 shall be accepted by the Hearing Officer or by the  
24 board. So there's not really a mechanism for dealing  
25 with anything, any sort of dispute before the actual

1 By comparison the litigation division of the  
2 Attorney General's Office, when representing other  
3 clients and prosecuting before other boards and  
4 commissions, is typically dealing with the framework  
5 of the Uniform Licensing Act which is New Mexico  
6 Statutes Annotated 61-1-1 and following, in particular  
7 61-1-8, which governs the rights of -- the rights of a  
8 person who is having a hearing before a ULA board.

9 And while 61-1-8A provides for access by a  
10 licensee to all relevant documents via subpoena duces  
11 tecum which this board doesn't have the authority to  
12 issue under its enabling statute, the documents that  
13 are available via request to the opposing party are  
14 limited to those documents that might be introduced  
15 into evidence at the hearing.

16 So if we were to follow that standard, then  
17 none of the documents that Mr. Smoker has sought  
18 including those that have already been produced would  
19 have been discoverable except via a subpoena, which  
20 involves an action of the board or its designated  
21 Hearing Officer and, therefore, provides some kind of  
22 a check on an overbroad discovery request.

23 The principle of relevancy that we object to  
24 really governs the hearing more. But the reason that  
25 this fight has been so intractable is that to get into

1 hearing.

2 Now, we've had other discovery requests like  
3 this in the past, most recently in the Cook case,  
4 though there I think the posture was more of a  
5 disparate treatment in an equal protection context is  
6 what his counsel was trying to do as opposed to what  
7 is being tried here, which is to say that the board  
8 has been arbitrary and capricious.

9 In the Cook proceeding, the motion to compel  
10 was -- the motions to compel were ruled on at the  
11 hearing by the Hearing Officer. So they weren't  
12 really prehearing motions. They were denied.

13 The other is that the actual discovery  
14 provision which is in the same subsection of the rule  
15 that governs -- that proscribes the prehearing motions  
16 just says that the parties may engage in discovery  
17 limited to requests for production, requests for  
18 admission, and interrogatories.

19 And that's all it says. There's not even a  
20 basic relevancy requirement. So by a strict reading  
21 of the rule, a party could say give us all the  
22 documents that you've got in your possession.

23 Now, at some point there's a reasonableness  
24 requirement that would interfere. But it's not a  
25 reasonable requirement that is in the rule.

1 the habit of producing the volume of documents that  
2 are sought in this case would make the hearing process  
3 and the disciplinary process completely  
4 inadministrable.

5 There is a lot of police misconduct. On this  
6 meeting's agenda, we have I believe 13 misconduct  
7 cases. I believe we had 13 last time. Now, I should  
8 also point out that at this meeting only 22  
9 certifications were ratified. Now, at the last  
10 meeting, it was 112; but that's still not a great  
11 percentage.

12 We see a lot of misconduct. And there's a  
13 lot of traffic. And particularly given the stern  
14 guidance that the board provided at the last meeting  
15 that stiffer penalties were appropriate for given  
16 classes of conduct, that's going to mean that there  
17 are going to be more formal hearings.

18 And if there are more formal hearings, there  
19 will be more discovery requests. And if there are  
20 more discovery requests that involve the production of  
21 100 files, and again this is not 100 -- this is not  
22 the public documents involving 100 cases. This is 100  
23 files, the entire file on the officer, whether any  
24 action was taken or not. Then the director's office  
25 is really going to bog down.

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1 So what I think is appropriate in these  
 2 circumstances is to deny the request and move forward  
 3 with this hearing on the merits. All of the documents  
 4 that he needs to make his case are public. There are  
 5 sufficient cases I think for him to make his argument  
 6 public.  
 7 Those are public documents. I believe they  
 8 would be noticeable. And then we can move forward  
 9 with this and get some sort of guidance, because this  
 10 would be an issue that Mr. Smoker would appeal to the  
 11 district court on.  
 12 But I also would hope that the board would  
 13 perhaps reconsider its rule on the hearing process and  
 14 provide some parameters to govern discovery disputes.  
 15 We're seeing more of them. And it really is a  
 16 problem. Are there any questions?  
 17 MR. SEGOTTA: Questions from the board?  
 18 Matt, it's my understanding then we're going to deny  
 19 and go to the hearing and see what the results are?  
 20 MR. JACKSON: Well, that's certainly what I'm  
 21 asking for. If Mr. Yohalem were here, he would ask  
 22 for something different as he does in his papers. But  
 23 yeah, I would ask the board to deny the request and  
 24 move forward with the hearing.  
 25 Or another possibility is that Mr. Yohalem

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1 will seek action in a district court to get production  
 2 of these before any hearing happens, in which case  
 3 that's something where perhaps we can get some  
 4 guidance. And, of course, we will abide by any  
 5 court's decision on this.  
 6 But what we are asking for is to deny the  
 7 request, let the hearing go forward, let the Hearing  
 8 Officer decide what the facts were. And then the  
 9 board which is charged with the knowledge of its  
 10 previous decisions can make the appropriate decision  
 11 regarding discipline in this case on the facts that  
 12 will be presented to the Hearing Officer.  
 13 MR. SEGOTTA: Zach, as the board's attorney,  
 14 what is our next step that we need to take today as a  
 15 board?  
 16 MR. SHANDLER: Okay. On this particular  
 17 agenda item, you're free to deliberate in executive  
 18 session about it. Mr. Smoker's lawyer has asked for a  
 19 certain number of files. He hasn't specified the  
 20 number. But he wants this board to order Art to turn  
 21 over a certain number of files and have Art come up  
 22 with some type of methodology that would maybe narrow  
 23 it down from the 100 that are on the database right  
 24 now.  
 25 The state's position is no, Mr. Ortiz does

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1 not have to turn over any files. And so that's what  
 2 the board can deliberate in closed session and come to  
 3 some possible decision.  
 4 MR. SEGOTTA: Okay. Any questions from the  
 5 board?  
 6 At this time we're going to move into  
 7 executive, correct? And need to call the roll?  
 8 MR. SHANDLER: You need a motion and a second  
 9 and a roll call.  
 10 MR. SEGOTTA: We need a motion to go into  
 11 executive session.  
 12 MR. KORN: I so move.  
 13 MR. COON: Second.  
 14 MR. SEGOTTA: The motion is seconded. All in  
 15 favor say aye.  
 16 (Those in favor so indicate.)  
 17 MR. SEGOTTA: Monique, please read off the  
 18 roll.  
 19 MS. LOPEZ: Ronald Reeves.  
 20 MR. REEVES: Yes.  
 21 MS. LOPEZ: Chief Segotta.  
 22 MR. SEGOTTA: Yes.  
 23 MS. LOPEZ: Sheriff Coon.  
 24 MR. COON: Yes.  
 25 MS. LOPEZ: Chief Schultz.

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1 MR. SCHULTZ: Yes.  
 2 MS. LOPEZ: Sergeant Jones.  
 3 MR. JONES: Yes.  
 4 MS. LOPEZ: Nate Korn.  
 5 MR. KORN: Yes.  
 6 MR. SEGOTTA: At this time we're going into  
 7 executive session. I would ask that the audience  
 8 please wait outside. And when we're done with  
 9 executive, we'll call you back in.  
 10 (Recess from 12:35 p.m. to 2:05 p.m.)  
 11 MR. SEGOTTA: We're back on the record.  
 12 MR. SHANDLER: Okay. Customarily you have a  
 13 motion and a second. And Monique or Mr. Ortiz will  
 14 call roll.  
 15 MR. SEGOTTA: Do we have a motion to go back  
 16 in?  
 17 MR. COON: Mr. Chairman, I make a motion that  
 18 we go back in session.  
 19 MR. JONES: I second that motion.  
 20 MR. SEGOTTA: A motion and a second. All in  
 21 favor say aye.  
 22 (Those in favor so indicate.)  
 23 MR. SHANDLER: Hold on. Roll call.  
 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: Yes.  
 11 MR. SHANDLER: And, Mr. Chairman, for the  
 12 purposes of the record, can you attest that only the  
 13 matters discussed in the closed session were those  
 14 listed on the agenda, can you so attest?  
 15 MR. SEGOTTA: Yes, I can. Only disciplinary  
 16 matters were discussed.  
 17 MR. SHANDLER: Mr. Chairman, we'll start at  
 18 No. 13, request for reinstatement to attend the PST  
 19 Academy by Ms. Chavez. Staff has recommended that  
 20 she's met the minimum requirements. And so the motion  
 21 before you is whether to authorize her to attend the  
 22 academy.  
 23 MS. SEGOTTA: Do we have a motion?  
 24 MR. COON: Mr. Chairman, I make a motion we  
 25 let Jeannine Chavez attend the next academy.

1 MR. SEGOTTA: Second?  
 2 MR. JONES: Second.  
 3 MR. SEGOTTA: All in favor.  
 4 (Those in favor so indicate.)  
 5 MR. SEGOTTA: Any opposed? None. Okay.  
 6 Ms. Chavez --  
 7 MR. SCHULTZ: Mr. Chairman, for the record  
 8 there's five cases -- this is one of the five cases  
 9 which I recused myself on because of either present or  
 10 past employment with the Albuquerque Police  
 11 Department. So I was not present during the  
 12 discussion of this case.  
 13 MR. SEGOTTA: Okay. Ms. Chavez, you're free  
 14 to go and eligible to apply for the upcoming class.  
 15 MS. CHAVEZ: Thank you, Chief. Thank you,  
 16 everybody.  
 17 MR. SHANDLER: Okay. That passes with Chief  
 18 Schultz recused. Number 14, Mr. Canales. Customarily  
 19 the board looks at a domestic violence event as a  
 20 60-day suspension. The proposed stipulated order with  
 21 its accompanying items is within that period of time.  
 22 So, Mr. Chairman, does the board accept the  
 23 stipulated order?  
 24 MR. SEGOTTA: Yes. The board accepts the  
 25 stipulated order.

1 MR. SHANDLER: And so can you entertain a  
 2 motion?  
 3 MR. SEGOTTA: A motion from the board?  
 4 MR. KORN: I would move that we approve and  
 5 accept the stipulated order.  
 6 MR. SEGOTTA: Second.  
 7 MR. COON: Second.  
 8 MR. SEGOTTA: All in favor.  
 9 (Those in favor so indicate.)  
 10 MR. SEGOTTA: Any opposed?  
 11 MR. SCHULTZ: Mr. Chairman, likewise for the  
 12 record I recused myself in this particular case.  
 13 MR. SHANDLER: Mr. Chairman, item 15, Kelsey  
 14 Cotton. As events explained earlier by your  
 15 prosecutor and your prosecutor's staff, the proposed  
 16 suspension is 45 days with an accompanying events. Is  
 17 there a motion to accept or reject that proposed  
 18 suspension?  
 19 MR. SEGOTTA: Do we have a motion?  
 20 MR. KORN: Mr. Chairman, I would make a  
 21 motion that we reject the proposed offer and that we  
 22 ask the director to seek a different negotiated  
 23 settlement up to revocation.  
 24 MR. SEGOTTA: Is there a second on the  
 25 motion?

1 MR. JONES: Second.  
 2 MR. SEGOTTA: All in favor.  
 3 (Those in favor so indicate.)  
 4 MR. SEGOTTA: Any opposed? Okay.  
 5 MR. SHANDLER: Mr. Chairman, No. 16,  
 6 Mr. Flores.  
 7 MR. SEGOTTA: Before we go on, because I know  
 8 that Ms. Cotton is here, you might want to visit with  
 9 Mr. Ortiz right after we're done, Kelsey.  
 10 MR. SHANDLER: Mr. Chairman, there's at least  
 11 three proposed orders regarding DWI events. And the  
 12 board I guess wants to restate that their minimum  
 13 floor is 120 days. And an aggravated DWI either  
 14 because of the BAC or because of aggravating events  
 15 will be 180 days.  
 16 And so the parties that are here, if they  
 17 want to stay around and see if we can agree to that  
 18 baseline. With that being said, Mr. Flores' proposed  
 19 suspension is 120 days. But according to the state's  
 20 case, it was an aggravated event because of the BAC,  
 21 which I guess on your baseline would be customarily  
 22 180. So is there a motion to accept or reject the  
 23 proposed stipulated order for Mr. Flores?  
 24 MR. SCHULTZ: Mr. Chairman, I make the motion  
 25 that we reject the stipulated order as presented here

1 today.  
 2 MR. SEGOTTA: Second?  
 3 MR. KORN: Second.  
 4 MR. SEGOTTA: All in favor.  
 5 (Those in favor so indicate.)  
 6 MR. SEGOTTA: Any opposed? Okay.  
 7 MR. SHANDLER: So, Mr. Flores, if you're  
 8 still here, please stay around. And if you're willing  
 9 to accept 180 days, then that could be signed today.  
 10 That's your option.  
 11 The next item is Mr. Guerrero, item 17. And  
 12 the proposed stipulated order is a year and a half  
 13 with accompanying items. And your prosecutor team  
 14 provided information on this. Do you accept or reject  
 15 the proposed 18 months suspension?  
 16 MS. SEGOTTA: Mr. Chairman, I'm going to turn  
 17 it over to Chief Schultz since I recused myself on  
 18 this case.  
 19 MR. SCHULTZ: A motion from the board to  
 20 accept or reject.  
 21 MR. COON: Mr. Chairman, I make a motion we  
 22 reject the 18 months suspension on Mr. Guerrero. And  
 23 can we move it up now or do we wait?  
 24 MR. SCHULTZ: You can make the motion --  
 25 MR. COON: With a suggestion that we make

1 MR. SHANDLER: So, Mr. Guzman, if you could  
 2 stand around and think about whether you're willing to  
 3 accept 120 days, maybe something could be signed  
 4 today. That's your option. You don't have to make  
 5 that decision today, if you don't want to.  
 6 Number 19, Jonathan Martinez. There were  
 7 allegations based in the general category of sexual  
 8 harassment. The proposed suspension is 90 days with  
 9 accompanying items as spelled out on the documents in  
 10 your board packet. Does the board have a motion to  
 11 accept or reject the suspension?  
 12 MR. COON: Mr. Chairman, I make a motion that  
 13 we accept the 90-day suspension on Jonathan Martinez.  
 14 MR. SEGOTTA: Second?  
 15 MR. SCHULTZ: Second.  
 16 MR. SEGOTTA: All in favor.  
 17 (Those in favor so indicate.)  
 18 MR. SEGOTTA: Any opposed? The motion  
 19 passes.  
 20 MR. SHANDLER: Mr. Chairman, the next item is  
 21 20, Charlotte Platero. The allegations spelled out in  
 22 the binder of false accusations against a coworker,  
 23 lying to supervisors and coworkers, generally results  
 24 in 180 days or a six-month suspension. The proposed  
 25 suspension here is within that parameter and proposes

1 that a 24-month suspension.  
 2 MR. SCHULTZ: Is there a second?  
 3 MR. KORN: Second.  
 4 MR. SCHULTZ: All in favor.  
 5 (Those in favor so indicate.)  
 6 MR. SCHULTZ: All opposed? It passes.  
 7 Is Mr. Guerrero present as well, do you  
 8 remember?  
 9 MR. ORTIZ: No, he's not. I'll contact him.  
 10 MR. SHANDLER: So Chief Segotta recuses on 17  
 11 but returns to the chair on 18.  
 12 Richard Guzman, this is the same thing that I  
 13 mentioned before. The floor for DWI is 120 days. The  
 14 proposed suspension is 90 days. Mr. Guzman is still  
 15 present. But first does the board accept or reject  
 16 the 90-day suspension for DWI?  
 17 MR. COON: Mr. Chairman, I make the motion we  
 18 reject the 90-day suspension.  
 19 MR. SEGOTTA: Second?  
 20 MR. JONES: Second.  
 21 MR. SEGOTTA: All in favor.  
 22 (Those in favor so indicate.)  
 23 MR. SEGOTTA: Any opposed? It passes.  
 24 MR. SCHULTZ: Mr. Chairman, for the record I  
 25 recused myself on this particular matter as well.

1 a variety of other things as stated in the document.  
 2 So does the board accept or reject the proposed  
 3 suspension?  
 4 MR. SEGOTTA: Do we have a motion?  
 5 MR. JONES: Mr. Chairman, I make a motion  
 6 that we accept the director's recommendation.  
 7 MR. SEGOTTA: Second?  
 8 MR. SCHULTZ: Second.  
 9 MR. SEGOTTA: All in favor.  
 10 (Those in favor so indicate.)  
 11 MR. SEGOTTA: Any opposed?  
 12 (Those in opposition so indicate.)  
 13 MR. SEGOTTA: One opposed.  
 14 MR. SHANDLER: But a majority of the quorum  
 15 votes positive so it carries.  
 16 Item 21, Joseph Serna. This is a DWI. Again  
 17 the proposed suspension is 90 days. As we talked  
 18 about earlier, the minimum floor on the board is  
 19 120 days. Does the board accept or reject the 90-day  
 20 suspension?  
 21 MR. SEGOTTA: Do I have a motion to accept or  
 22 reject?  
 23 MR. SCHULTZ: Mr. Chairman, I make the motion  
 24 that we reject director's recommendation at this point  
 25 in time and go with the minimum floor of 120 hours.

1 MR. SHANDLER: 120 days.  
 2 MR. SCHULTZ: I'm sorry. 120 days. In this  
 3 particular case, the concern, of course, is the fact  
 4 that he was in possession of a firearm.  
 5 MR. SEGOTTA: Do I have a second?  
 6 MR. KORN: Second.  
 7 MR. SEGOTTA: All in favor.  
 8 (Those in favor so indicate.)  
 9 MR. SEGOTTA: Any opposed? The motion  
 10 passes.  
 11 MR. SHANDLER: I don't believe Mr. Serna is  
 12 here, correct?  
 13 MR. ORTIZ: No.  
 14 MR. SHANDLER: Item 22 for the record was  
 15 taken off the agenda earlier today.  
 16 Item 23 is Scott Kellogg. This is a  
 17 revocation by default. As is the board's standard  
 18 practice, when a party does not respond to the Notice  
 19 of Final Decision, an order of revocation by default  
 20 is prepared. Does the board accept or does the board  
 21 authorize the revocation by default?  
 22 MR. KORN: Mr. Chairman, if I may, I will not  
 23 be taking part in the voting.  
 24 MR. SEGOTTA: Do we have a motion to accept  
 25 the notice of revocation by default?

1 MR. SHANDLER: Mr. Chairman, going to formal  
 2 hearings, No. 25, Michael Morse.  
 3 MR. SCHULTZ: We have two --  
 4 MR. SHANDLER: You're right. I misspoke.  
 5 Let me try again.  
 6 Mr. Chairman, I apologize to the court  
 7 reporter. I skipped over two items that were labeled  
 8 21A and B. But for the record we're now going to Huan  
 9 Dang, Officer Dang. The proposed stipulated agreement  
 10 is a 45-day suspension with accompanying items. Your  
 11 prosecution team has laid out the facts of this case.  
 12 Do you accept or reject the proposed stipulated order?  
 13 MR. SEGOTTA: Motion to accept or reject?  
 14 MR. JONES: Mr. Chairman, I make a motion  
 15 that we accept the director's recommendation.  
 16 MR. SEGOTTA: Second?  
 17 MR. KORN: Second.  
 18 MR. SEGOTTA: All in favor.  
 19 (Those in favor so indicate.)  
 20 MS. SEGOTTA: Any opposed? The motion  
 21 passes.  
 22 MR. SCHULTZ: Mr. Chairman, for the record I  
 23 was recused from this particular case as well.  
 24 MR. SHANDLER: Mr. Chairman, the next item is  
 25 Kevin Fitzgerald. The state prosecutor has explained

1 MR. COON: Mr. Chairman, I make a motion we  
 2 accept the director's recommendation of revocation by  
 3 default of Scott Kellogg.  
 4 MR. SEGOTTA: Any second?  
 5 MR. JONES: Second.  
 6 MR. SEGOTTA: All in favor.  
 7 (Those in favor so indicate.)  
 8 MR. SEGOTTA: Any opposed? None. The motion  
 9 passes.  
 10 MR. SHANDLER: Mr. Chairman, item 24, Santos  
 11 Baca. In accordance with state law, noncompliance  
 12 with child support results in decertification for all  
 13 licensing boards and licensees. So for the record  
 14 does the board have a motion to decertify Mr. Baca?  
 15 MR. SEGOTTA: Do we have a motion to  
 16 decertify?  
 17 MR. SCHULTZ: Mr. Chairman, I make a motion  
 18 to we accept and decertify the certification of Santos  
 19 Baca.  
 20 MR. SEGOTTA: Second?  
 21 MR. JONES: Second that motion.  
 22 MR. SEGOTTA: All in favor.  
 23 (Those in favor so indicate.)  
 24 MR. SEGOTTA: Any opposed? The motion  
 25 passes.

1 the facts of this case. The proposed suspension is  
 2 90 days with accompanying items as laid out in your  
 3 binder. Does the board accept or reject the proposed  
 4 stipulated order?  
 5 MR. SEGOTTA: Motion to accept or reject?  
 6 MR. COON: Mr. Chairman, I make a motion we  
 7 reject the director's recommendation for 90 days and  
 8 make that 180 days.  
 9 MR. SEGOTTA: Do we have a second on the  
 10 motion?  
 11 MR. JONES: Second.  
 12 MR. SEGOTTA: All in favor.  
 13 (Those in favor so indicate.)  
 14 MR. SEGOTTA: Any opposed? The motion  
 15 passes.  
 16 MR. SCHULTZ: Mr. Chairman, also for the  
 17 record I was recused from this particular item as  
 18 well.  
 19 MR. SEGOTTA: Mr. Fitzgerald, if you'll stick  
 20 around afterwards.  
 21 MR. FITZGERALD: Yes, sir.  
 22 MR. SHANDLER: And so the same thing for the  
 23 record, consider that. If you're willing to accept  
 24 that, you can sign the documents today. But you  
 25 certainly have all legal right to think about that and

1 not make your decision today.  
 2 ITEM NO. 25: MICHAEL MORSE  
 3 MR. SHANDLER: Now, returning to item 25,  
 4 Michael Morse. This was a formal hearing in front of  
 5 your Hearing Officer. The board reviewed the Hearing  
 6 Officer's report and objections filed. The Hearing  
 7 Officer's recommendation is to uphold Director Ortiz's  
 8 decision to deny admission to the academy. Does the  
 9 board have a motion accepting or rejecting the Hearing  
 10 Officer's recommended decision?  
 11 MR. SEGOTTA: Do we have a motion to accept  
 12 or reject the Hearing Officer's decision?  
 13 MR. KORN: Mr. Chairman, I would make a  
 14 motion to accept the Hearing Officer's decision.  
 15 MR. SEGOTTA: Do I have a second?  
 16 MR. COON: Second.  
 17 MR. SEGOTTA: All in favor.  
 18 (Those in favor so indicate.)  
 19 MR. SEGOTTA: Any opposed? The motion  
 20 passes.  
 21 ITEM NO. 26: OSBALDO VASQUEZ  
 22 MR. SHANDLER: Mr. Chairman, item 26,  
 23 Mr. Vasquez. This matter went in front of your  
 24 Hearing Officer. The Hearing Officer prepared  
 25 findings of fact and conclusions of law. The Hearing

1 27, discussion: David Smoker discovery issues.  
 2 Mr. Smoker's attorney has made a request to the board  
 3 to order Mr. Ortiz to provide certain documents.  
 4 Mr. Ortiz's attorney has made a request of the board  
 5 to deny that request. Does the board have a motion on  
 6 the state prosecutor's request?  
 7 MR. KORN: Mr. Chairman, I make a motion to  
 8 deny the defense attorney's request for discovery and  
 9 to invite him to scrutinize public records.  
 10 MR. SEGOTTA: Do we have a second on the  
 11 motion?  
 12 MR. JONES: Second.  
 13 MR. SEGOTTA: All in favor.  
 14 (Those in favor so indicate.)  
 15 MR. SEGOTTA: Any opposed? None. The motion  
 16 passes. Okay. I think that concludes it for you,  
 17 Zach. Do you have anything else?  
 18 MR. SHANDLER: I'm just double-checking that  
 19 I didn't skip over any. Thank you.  
 20 ITEM NO. 28: SCHEDULING OF NEXT MEETING  
 21 MR. SEGOTTA: Okay. I guess the next item on  
 22 the agenda is scheduling of the next meeting, which I  
 23 know it's going to be difficult, Art, to do because  
 24 you'll be leaving at the end of the year and there's  
 25 likely to be an entire new board. We normally have

1 Officer prepared a report I should say.  
 2 The board has reviewed that matter. And the  
 3 proposed recommendation from the Hearing Officer is to  
 4 stay with your general parameter of 60 days for  
 5 allegations of domestic violence. Does the board have  
 6 a motion to accept or reject the Hearing Officer's  
 7 recommendation?  
 8 MR. SEGOTTA: Motion to accept or reject?  
 9 MR. SCHULTZ: Mr. Chairman, I make the  
 10 recommendation to accept the Hearing Officer's  
 11 recommendation to include the 60-day suspension.  
 12 MR. SEGOTTA: Second on the motion?  
 13 MR. JONES: Second.  
 14 MR. SEGOTTA: All in favor.  
 15 (Those in favor so indicate.)  
 16 MR. COON: Mr. Chairman, I would like to add  
 17 that I recused myself from the vote on this.  
 18 MR. SEGOTTA: Any opposed? None. The motion  
 19 passes.  
 20 MR. SHANDLER: Do you want to say anything  
 21 further on that?  
 22 MR. REEVES: Not if it was just on the 60  
 23 days.  
 24 MR. SHANDLER: It was just on the 60 days.  
 25 All right. Mr. Chairman, then we go to item

1 that in February or March?  
 2 MR. ORTIZ: March. And in the legislative  
 3 session, I would think maybe the staff can look at the  
 4 end of March. Sometimes they might do special  
 5 sessions, maybe even the beginning of April.  
 6 MR. SEGOTTA: I guess with that said then,  
 7 we'll all wait with bated breath to see whether we're  
 8 here or not. And we'll get that scheduled with the  
 9 new director.  
 10 ITEM NO. 29: ADJOURNMENT  
 11 MR. SEGOTTA: Before we adjourn I just want  
 12 to thank everybody on the board and Zach and your  
 13 staff and Ernie and everybody for the work that  
 14 they've done over the years. I will be retiring at  
 15 the end of the year so I know I won't probably be a  
 16 member of the next board.  
 17 But it has been my pleasure and my honor to  
 18 work with all of you. I think we have made  
 19 significant strides in trying to police our own  
 20 profession and enhance the discipline to add  
 21 credibility to our profession. And I appreciate all  
 22 the work that everybody does.  
 23 And sometimes it's not easy to make these  
 24 decisions because it affects people's careers. But we  
 25 have to do what's right to protect the citizens of New

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1 Mexico. So with that I will entertain a motion to  
 2 adjourn.  
 3 MR. COON: Mr. Chairman and board, I've had  
 4 the pleasure to know Chief Segotta ever since he was a  
 5 rookie in Raton and watched him come up through the  
 6 ranks. And I think, Faron, you've done a great job in  
 7 your five years as the chief in your career. And may  
 8 God bless you. And life goes on, you know that.  
 9 MR. SEGOTTA: Yes, sir. Thank you, I  
 10 appreciate that very much.  
 11 MR. ORTIZ: I think we all echo that as well.  
 12 MR. HOLMES: One question on this side. But  
 13 what will the board accept on Kelsey Cotton?  
 14 MR. SEGOTTA: I think that will be up to the  
 15 next board, the next director. But up to revocation  
 16 is what we're looking at. There are a lot of issues  
 17 with that particular case.  
 18 MR. HOLMES: Thank you.  
 19 MR. SEGOTTA: Motion to adjourn?  
 20 MR. ORTIZ: I just want to thank all of you.  
 21 God bless you all and best of luck to you.  
 22 MR. SEGOTTA: Thanks, Art.  
 23 MR. JONES: I make a motion that we adjourn  
 24 this meeting.  
 25 MR. SEGOTTA: Second?

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1 MR. KORN: Second.  
 2 MR. SEGOTTA: All in favor.  
 3 (Those in favor so indicate.)  
 4 MR. SEGOTTA: Any opposed? Thank you.  
 5 (At 2:25 p.m. the meeting was adjourned.)  
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1 REPORTER'S CERTIFICATE  
 2  
 3 I, JAN A. WILLIAMS, New Mexico CCR #14, DO  
 4 HEREBY CERTIFY that on December 7, 2010, the  
 5 proceedings in the above captioned matter were taken  
 6 before me, that I did report in stenographic shorthand  
 7 the proceedings set forth herein, and the foregoing  
 8 pages are a true and correct transcription to the best  
 9 of my ability.  
 10  
 11  
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 21  
 22 JAN A. WILLIAMS, RPR  
 23 Bean & Associates, Inc.  
 24 New Mexico CCR #14  
 25 License Expires: 12/31/10  
 (1177J) JAW

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1 RECEIPT  
 2 DATE: December 7, 2010  
 3 JOB NUMBER: (1177J) JAW  
 4 WITNESS NAME: Hearing  
 5 CASE CAPTION: DPS Board Meeting and Public Hearing  
 6 \*\*\*\*\*  
 7 ATTORNEY: MR. ARTHUR D.C. ORTIZ  
 8 DOCUMENT: Transcript / Exhibits / Disks / Other \_\_\_\_\_  
 9 DATE DELIVERED: \_\_\_\_\_ DEL'D BY: \_\_\_\_\_  
 10 REC'D BY: \_\_\_\_\_ TIME: \_\_\_\_\_  
 11 \*\*\*\*\*  
 12 ATTORNEY: MR. ZACHARY SHANDLER  
 13 DOCUMENT: Transcript / Exhibits / Disks / Other \_\_\_\_\_  
 14 DATE DELIVERED: \_\_\_\_\_ DEL'D BY: \_\_\_\_\_  
 15 REC'D BY: \_\_\_\_\_ TIME: \_\_\_\_\_  
 16 \*\*\*\*\*  
 17 ATTORNEY:  
 18 DOCUMENT: Transcript / Exhibits / Disks / Other \_\_\_\_\_  
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