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NEW MEXICO LAW ENFORCEMENT ACADEMY
REGULAR BOARD MEETING AND PUBLIC HEARING

Tuesday, December 9, 2008
9:00 a.m.
1901 University Boulevard, N.E.
Albuquerque, New Mexico 87102

Reported By:
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1 A P P E A R A N C E S

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

5 Jocelyn M. Torres, Assistant Attorney General

6 James R. Coon

 Robert D. Force

7 Arsenio Jones

 Bernardo M. Perez

8 Raymond Schultz

 Faron Segotta

9

10

11

 A L S O P R E S E N T

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 Monique Croker

13 Ernest Holmes

 Matthew Jackson

14 Arthur Ortiz

 Zachary Shandler

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- 1 ITEM #1: CALL TO ORDER
- 2 MS. TORRES: I'm calling the meeting to order.
- 3 This is the New Mexico Law Enforcement Academy regular

4 board meeting on Tuesday, December 9th, 2008, at
5 9:00 a.m., Hilton Hotel, Albuquerque.

6 And I am Jocelyn Torres. I am acting chairman
7 for Gary King. And at this time I would just like to
8 observe a moment of silence for Gary King, his family. He
9 lost his mom, Alice King, wife of the former Governor
10 Bruce King.

11 So if we can just pause for a moment and just
12 observe a moment of silence. And then we will commence
13 the meeting.

14 (There was a pause in the proceedings.)

15 MS. TORRES: Okay. Thank you.

16 ITEM #2: ROLL

17 MS. TORRES: Now, I'd like to go ahead and take
18 roll. As I mentioned before, I am present on behalf of
19 the Chairman Gary King, the Attorney General.

20 Faron Segotta?

21 MR. SEGOTTA: Present.

22 MS. TORRES: Val Panteah? Absent. Chief Raymond
23 Schultz?

24 MR. SCHULTZ: Present.

25 MS. TORRES: Robert Force?

6

1 MR. FORCE: Present.

2 MS. TORRES: Donald Gallegos? Absent. Chief
3 James Coon -- I mean, Sheriff James Coon.

4 MR. COON: Present.

5 MS. TORRES: Sergeant Arsenio Jones?

6 MR. JONES: Present.

7 MS. TORRES: Matt Perez?

8 MR. PEREZ: Present.

9 MS. TORRES: That does it. Okay.

10 ITEM #3: APPROVAL OF AGENDA

11 MS. TORRES: Next on the agenda we will ask for
12 an approval of the agenda for today's meeting. Do I have
13 a motion to approve the agenda?

14 MR. COON: I make a motion to approve the agenda.

15 MR. ORTIZ: Madam Chair, Board Members, there
16 will be one deletion on the disciplinary matters, No. 23,
17 Wesley LaCuesta.

18 MS. TORRES: So we just take that off?

19 MR. ORTIZ: Yes.

20 MS. TORRES: Are there any other changes?

21 MR. ORTIZ: No.

22 MS. TORRES: Okay. Do you want to repeat your
23 motion.

24 MR. COON: I will -- I make a motion to approve
25 the modified agenda.

7

1 MR. SCHULTZ: Second.

2 MS. TORRES: All in favor?

3 THE BOARD: Aye.

4 MS. TORRES: Any opposed? (No response.)

5 ITEM #4: APPROVAL OF MINUTES

6 MS. TORRES: Next on the agenda, approval of the
7 minutes for the September 25, 2008 meeting. Those minutes
8 were included with the Board materials. Are there any
9 modifications, additions, deletions to those minutes?

10 Do we have a motion to approve?

11 MR. SEGOTTA: I make a motion we approve the
12 minutes.

13 MS. TORRES: Do we have a second?

14 MR. JONES: Second.

15 MS. TORRES: All in favor?

16 THE BOARD: Aye.

17 MS. TORRES: Any opposed? (No response.) Okay.

18 The minutes for the September 25th, 2008 meeting are
19 approved.

20 ITEM #5: DIRECTOR'S REPORT

21 MS. TORRES: At this point, we would like to take
22 the director's report from Mr. Art Ortiz.

23 MR. ORTIZ: Good morning, Madam Chairman, Board
24 Members. I also would like to offer our condolences from
25 the staff of the Law Enforcement Academy to Mr. King's

8

1 family.

2 MS. TORRES: Thank you very much.

3 MR. ORTIZ: And I'll also give you -- the
4 following is a description of the activities that have
5 transpired since the September 25th Board meeting in
6 Silver City.

7 I also want to welcome the gentlemen and ladies

8 in attendance here today.

9 During November two new employees were hired at
10 the Law Enforcement Academy. Meliza Romero is the new
11 secretary for Deputy Director Gil Najjar; and Kenneth
12 Alessio also was also hired as the new bureau chief.
13 Mr. Alessio is here present with us today, and I'll
14 introduce him shortly.

15 But Mr. Alessio began as the new basic training
16 bureau chief on November 13th. He has worked in New
17 Mexico state government for over 25 years.

18 He spent 10 years as a special agent with the
19 Attorney General's Office Investigations Division; two
20 years with the First Judicial District Attorney's Office
21 as a special assistant to the DA; and eight plus years as
22 a senior special agent with the New Mexico Securities
23 Division Enforcement section; and five years as the
24 inspector general for the Human Services Department, where
25 he managed the operation of 68 employees in five bureaus.

9

1 He also spent one year as a deputy cabinet
2 secretary for Finance and Administration at HSD.
3 Mr. Alessio retired from state government employment in
4 July of 2004. Prior to coming to New Mexico, Mr. Alessio
5 spent eight years in the U.S. Army, five of which were as
6 a special agent with the Army Criminal Investigations
7 Division at Ft. Bragg, North Carolina.

8 Mr. Alessio has earned an associate's degree in
9 police science from Palomar College in California; a
10 bachelor's degree in criminology from the University of
11 Albuquerque; and a master's degree in public
12 administration from the University of New Mexico.

13 Mr. Alessio was certified in New Mexico via the
14 certification by waiver course at the New Mexico Law
15 Enforcement Academy in June of 1982 while at the Attorney
16 General's Office. He was also cross-deputized by the
17 Santa Fe County Sheriff's Office.

18 Mr. Alessio is married to Gillian Folmar-Alessio,
19 a sergeant with the Santa Fe Police Department. And we
20 are pleased to have these new employees. And I would like
21 introduce -- or to have Mr. Alessio please stand and
22 welcome him.

23 (Applause.)

24 MR. ORTIZ: And he will be giving a basic bureau
25 report here shortly.

10

1 On a sad note, we did lose Suzanne Vigil, the
2 secretary at the LEA and the director's office. She went
3 on to the Aging & Long Term Services Department. And we
4 will miss her.

5 On November 17th, the Attorney General Gary King,
6 Investigator Mr. Holmes, and myself met with the Courts,
7 Corrections and Justice Committee at the state capitol.
8 We did have some of this discussion yesterday with the

9 workshop. And it's just regarding officer misconduct with
10 the citizens from Las Cruces.

11 They went before the legislative committee with
12 some issues about citizen complaints. So we appeared
13 before that board to address some of the misconduct
14 issues. My presentation to the panel was that our system
15 does work.

16 When the agency heads comply with the rules that
17 are in place, that the system does work; and that the
18 Board is holding officers accountable for their actions.
19 The problem that we're having is that some of the agency
20 heads are not complying with the rules that are in place.
21 And I think the legislature is somewhat talking about
22 maybe a statewide citizens oversight review board.

23 So we don't know what's coming in the future; but
24 I would just ask the Board to keep this in mind and see if
25 we can maybe make some alterations or change the language

11

1 and some of the wording in the NMAC to put a little more
2 teeth, as far as the reporting and the failure by the
3 agency heads that don't report misconduct, to see what we
4 can come up with to enforce that.

5 Because I agree. I think the Board we have --
6 you're all men of honor and integrity, and I see you as
7 men that will hold officers accountable and do the job.
8 So I think we need to keep that in mind.

9 On the misconduct cases, currently we have 51

10 open. And I did receive a few more this week. So
11 currently we've received 81 this year. Last year we
12 received 85. So they are increasing. I think we're
13 getting the word out: It's unacceptable and we will
14 handle it appropriately.

15 On November 20th -- I would like to commend APD
16 Officer Glory Chapman, who's present here today, Game and
17 Fish Officer Joshua David, and Torrance County Sheriff
18 Kenneth Groves, who went to the Law Enforcement Academy
19 and met with the 47 basic students and did a presentation
20 regarding their misconduct.

21 Cadets wrote evaluations and even took the time
22 to write letters complimenting the three officers for
23 going and sharing their experiences with them. It was a
24 very valuable experience and eye opening for the cadets to
25 see how they can get in trouble and possibly lose their

12

1 certification.

2 They said it was one of the best courses they had
3 taken, and they think that it should be incorporated in
4 the ethics. And I agree. So I was very pleased for
5 that. Something --

6 MS. TORRES: Excuse me, Mr. Ortiz. Did you say
7 that they are here today?

8 MR. ORTIZ: Glory Chapman is here today.

9 MS. TORRES: Would you stand? Okay.

10 Congratulations. Good job.

11 MR. ORTIZ: Also, next week -- one of the other
12 issues that came up with this legislative panel was the
13 citizens from Las Cruces had a lot of complaints on the
14 tact teams or SWAT teams, saying a lot of SWAT teams
15 around the state were just out of control, violating
16 citizens' rights.

17 This has been a concern to me. I've spoken with
18 Lieutenant Mark Umprovitch, who is in command of the SWAT
19 team for the state police, the tact team. So next week
20 with Mr. Force, again helping us out -- he does have
21 experience as a SWAT commander. And so we are relying on
22 his expertise to chair a committee to study this, to
23 establish some standards and guidelines for certification
24 of SWAT teams throughout the state.

25 I believe APD is the only one that has a

13

1 full-time SWAT team, but I've seen some of the smaller
2 agencies that when there's a crisis that arises, sometimes
3 they just compile with their officers a makeshift SWAT
4 team without the proper training and go out and address
5 the tactical situation.

6 And so I think that the Academy needs to develop
7 some guidelines and standards for certification for the
8 officers' safety, as well as the citizens'. So we'll be
9 addressing that. And I want to thank Mr. Force for
10 helping us out with this cause as well.

11 We're also looking at developing a training

12 program for police chaplains. One of the FBI chaplains is
13 interested in doing some statewide training for all
14 chaplains. So we're looking forward to having that
15 progress at the Academy.

16 In the advanced training, I'll let you go through
17 some of the notes there. Mr. Mark Shae was unable to
18 attend today. As you can see, we're very busy at the Law
19 Enforcement Academy at the training bureau.

20 One thing I would like to point out is Elliott
21 Guttman, the legal update newsletters that he's posted on
22 the website to assist officers in staying up-to-date with
23 the legal changes.

24 Also in the advanced bureau, the secretary's
25 position was filled with Lilliana Miano. She'll be the

14

1 new secretary there. On the critical incident response
2 bureau, I did receive a letter from Mark Christopher, who
3 will be retiring at the end of the year now in December
4 with the cert bureau. So we'll be missing Mark
5 Christopher as well.

6 On the basic training bureau, at this time I'd
7 like to go ahead and turn it over to Mr. Alessio to give
8 us his report.

9 MS. TORRES: Mr. Alessio, would you come stand
10 near the court reporter. And the same goes for anybody
11 else that needs to make a presentation to the Board. And
12 in that way the court reporter can transcribe whatever it

13 is that you're saying.

14 So if you would do that, I would appreciate that.

15 MR. ALESSIO: First, I'd like to say I'm very
16 happy to be aboard at the LEA. I look forward to working
17 with the Board, with the various chiefs, sheriffs, and the
18 various agency heads around the state.

19 And my attitude and approach is going to be that
20 these people are clients, and my job is to fulfill a
21 service to our clients. I recently sent out a letter to
22 chiefs, sheriffs, and agency heads around the state
23 requesting critique and input based on the last several
24 classes that we've run through and the people that have
25 returned to their agencies.

15

1 What we're doing well. What we're not doing as
2 well as we should be doing. And some suggestions. So I
3 hope that that does bring in some response because we're
4 looking at planning the next class, which will start in
5 April.

6 And I would like to be able to make whatever
7 changes necessary, if there are any necessary, to better
8 fulfill the needs of the departments and the agencies.

9 We just graduated Class No. 176 that started back
10 in July. They were originally scheduled to graduate on
11 December 12th but we were able to graduate them on
12 November 26th. We were -- I say "we." Understand I
13 started about a month ago and luckily the staff was very,

14 very good in getting everything completed for me.

15 But one of the things that was done was the
16 curriculum was compressed, the 800 hours was compressed
17 from 22 weeks down to 20 weeks. And I understand that
18 there's still a concern that 20 weeks is difficult for a
19 lot of agencies to have people gone for that long.

20 One of the things we're going to be doing in
21 looking at the curriculum for the next class is being able
22 to hopefully compress that down, still get the required
23 800 hours in, but compress the number of weeks down to
24 hopefully 18, somewhere in that neighborhood.

25 We started with 53 cadets and graduated 47.

16

1 We're looking at this next class probably being even
2 larger because of the amount of time before the next
3 class. So it's vital that people understand with respect
4 to the April 13th class that they get applications in as
5 quickly as possible so we can decide how many -- I'm not
6 sure exactly and I've discussed it with Director Ortiz --
7 total number of people that we can accommodate.

8 We're looking at probably no more than 55 or so,
9 maybe up to 60; but that's probably pushing it,
10 particularly in trying to compress the amount of time.

11 The -- the starting date is April 13th. We
12 haven't determined a completion date yet simply because we
13 haven't gone through that curriculum review and decided
14 what we can compress.

15 And also another initiative is identifying areas
16 that we can do preAcademy training, have these areas that
17 we can identify completed prior to the people coming to
18 the Academy and be able to reduce the amount of time they
19 have to stay at the Academy that way.

20 We haven't actually started that process yet.
21 That will start probably right around the beginning of the
22 year. So we can let agencies know what areas of training
23 that they need to complete prior to the individuals coming
24 to the Academy.

25 We -- with respect to curriculum enhancements for

17

1 Class 176, as it states, we taught the defensive tactics
2 once a week instead of having it in a solid block. And
3 that did seem to have a positive effect with the -- with
4 the cadets. It reduced the injury rate. It didn't shove
5 a lot of physical stuff into one week. It spread it out.
6 And it did seem to have a positive effect.

7 Also, we instituted a new part of PT called
8 Kettlebell training. And I believe the Deputy Director
9 has been the primary instructor in that area. We hope to
10 be able to get a couple of more people, to include myself,
11 certified as Kettlebell PT instructors probably this next
12 class.

13 The program did seem to have a positive
14 acceptance by the cadets. It just gives a little bit more
15 variety in the PT and hopefully adds a little bit of --

16 little bit of fun to the PT.

17 Another initiative we're looking at is whatever
18 classes we have at the Academy reducing the amount of
19 lecture type classes and increasing the -- the practical
20 application type training with the classes; get them out
21 of the classroom; get them more into scenario-based type
22 training. And we'll be looking at that again and probably
23 querying the various agencies for their input on what they
24 feel would help in that area.

25 The Academy instituted a weekly written

18

1 communication requirement for the cadets that allow them
2 on a weekly basis to communicate back with their
3 departments without it coming through us. They fill out a
4 form where they can communicate information back to their
5 agencies. They seal it up and give it to us. And we mail
6 it out.

7 I don't know how they've been using that because,
8 again, we don't see it; and we haven't received any input
9 back from the various agencies with respect to issues or
10 information brought up by the cadets. But it does give
11 them the opportunity to be able to communicate back to
12 their agencies about the academy, not coming through us.

13 Lastly and something that's not in the report, I
14 attended a meeting on the 4th of December -- and this is
15 just in the way of a heads-up -- with representatives from
16 the Federal Highway Administration and the State

17 Department of Transportation.

18 They have a couple of training modules that they
19 are requesting the -- put into the basic training
20 program. Apparently, the federal government is tied to
21 certain federal moneys coming into the highway department
22 that require the federal highway -- the state highway
23 department to provide training to first responders around
24 the state to include law enforcement.

25 The state highway department has no authority to

19

1 require the first responders to take the training, but the
2 feds require them to give the training. So they are
3 looking for a way of providing that training starting at
4 the academy level and then in advanced classes.

5 So they are putting together a training program
6 and a curriculum. They wanted two days. I talked them
7 down to one day. It's one of those areas that may
8 actually be appropriate for preAcademy training.

9 The feds are willing to provide money for at
10 least one trainer initially and money to train trainers
11 that would be state people that could probably go around
12 the state and do this training.

13 And if it's part of the basic training
14 curriculum, it would be pretraining that would take place
15 before they actually came -- we're looking at trying to
16 reduce the amount of time, not expanding the amount of
17 time, so.

18 I look forward to again working with the Board
19 and everyone on the state and hopefully we can make the
20 program as good as it is better. Thank you.

21 MR. COON: It was nice to have the graduation in
22 Glorieta this year. It was plenty of seating and plenty
23 of parking reference the Academy and the gymnasium. It
24 was very nice to have the graduation up there, made it
25 easy on everybody, I think. So that was very nice.

20

1 MR. ALESSIO: And I agree. We're looking at
2 probably trying to have that there all the time. I know
3 the state police just had their graduation there. It's a
4 beautiful facility. The cost was actually right about the
5 same as it was for the past class at College of Santa Fe,
6 Greer Garson. And the facilities are far superior.

7 The problem is any time from probably April
8 through the end of August you have to make reservations
9 there probably close to a year in advance. So if we don't
10 make our reservations for 177's graduation right now,
11 chances are we are not going to be able to have it there.

12 So we're going to try to lock in a graduation
13 date real quick and make that reservation.

14 MR. COON: Again, it was very nice.

15 MR. ALESSIO: Thank you.

16 MS. TORRES: Are there any other comments or
17 questions?

18 MR. SEGOTTA: Ken, on the first responder

19 training that's required by the Federal Highway
20 Administration, what is that, first responder? Can you
21 give us a thumbnail version of that.

22 MR. ALESSIO: They have two modules. One that
23 deals with incident management -- traffic incident
24 management for police officers. And that's the important
25 one. The other one I'm not even sure exactly what they

21

1 call it. I didn't take that part with me. But it's less
2 pertinent to law enforcement.

3 There's a push by the federal government to
4 increase the training and responsibility around the nation
5 for traffic accidents and large events that happen
6 particularly on highways and byways, although they do
7 include urban-area situations.

8 There's also some new state laws that have been
9 proposed.

10 MR. SEGOTTA: Some Quick Clear legislation --

11 MR. ALESSIO: Quick Clear legislation.

12 MR. SEGOTTA: That's what I thought it was.

13 MR. ALESSIO: Move On legislation, so on and so
14 forth, that are going to require this kind of training
15 also to be able to better facilitate traffic and safety
16 around large events that happen on the highways and
17 byways.

18 The training -- the Federal Highway Department
19 has a training module, but it's a week-long program. They

20 are going to take that and try to work it down into a day
21 program and dealing primarily with what the officers on
22 the street actually have to know and do with respect to
23 these kinds of events; and the -- the other resources that
24 are available and who they are, whether it be state
25 highway department people, city parks or streets people,

22

1 if it's in a city kind of situation.

2 The engineers and some of the other people at the
3 highway department, they have all of the books and the
4 manuals and the federal regulations, and that was part of
5 the course that they want to give. We -- I think we
6 convinced them that the officer on the street doesn't need
7 to know all of that stuff.

8 They can know where the information is, how to
9 find it if they want it; but the training has to be boiled
10 down to a good solid day of what they need to know and
11 what they need to do out there on the street when large
12 events happen on the highways and byways.

13 MS. TORRES: Okay. Thank you. Thanks for your
14 report.

15 MR. ALESSIO: Thank you.

16 MR. ORTIZ: Madam Chair, Board Members, there are
17 a couple other things I would like to point out. I would
18 like to thank Sheriff Coon for the court security training
19 that was conducted down in Roswell. I wasn't able to
20 attend. I had court. But I understand that went well.

21 MR. COON: It did. We met with the chief justice
22 of the supreme court and his administrative assistant. I
23 can't think who else was there. Myself, Chief Deputy Pat
24 Jennings, the two contractors, Roy and Connie Dennis.

25 We went through the complete class in eight

23

1 hours. Of course, it was just slide show after slide
2 show. It's going to be a very good class. It's going to
3 be beneficial. The first class will be January 5th
4 through the 9th in Roswell. Go figure.

5 The second one will be the middle of January in
6 Santa Fe. And then the third one will be in Taos. So all
7 the sheriffs are -- should have something coming on the
8 schedule to get all their court security people in this.

9 It will be a 40-hour class to get certified.
10 It's good for their training hours. Plus, it's going to
11 be so beneficial for every courthouse, every sheriff and
12 deputy in those courthouses. They will be singing off the
13 same sheet of music. So we're anxious to get it going.

14 MR. ORTIZ: Thank you for that project as well.

15 Also I'd like to just point out that we graduated
16 PST Class 106 with 40 telecommunicators. I did put an
17 insert on the misconduct. And that was as of 11/21/08,
18 you can see it was 72 cases for 2008. It's currently at
19 81. And after this Board meeting we should clear up the
20 one 2006 case and probably two of the 2007 cases.

21 So I was hoping we could have gone into 2009,

22 which is 2008 cases pending; but some of these are going
23 to formal hearings and we weren't able to. But I think
24 we're making good progress with that.

25 At this time I'm happy to take any questions for

24

1 myself from members of the staff, from the Board on the
2 director's report.

3 MS. TORRES: I think you guys are doing a great
4 job, and I congratulate you for that.

5 MR. PEREZ: Madame Chair.

6 Yes, would you please, Mr. Ortiz, talk to us
7 about this legislative committee. I understand that
8 Senator Cisco McSorley is chairing that. I don't know. I
9 have heard from some of the citizens directly. I'm
10 trying -- I've been asking them to communicate directly
11 with you because I'm just a member of the Board.

12 But it appears that this is a direct challenge to
13 this Law Enforcement Academy Board. They are challenging
14 the validity of it and saying that we are not doing our
15 job and that the people are trying to bring complaints to
16 the Board.

17 And we have had various discussions in saying you
18 have to come through the police departments. And if the
19 police don't want to deal with it, for whatever reason,
20 it's not getting done. So they are going around us. And
21 they are going to disband this Board, I think.

22 There was -- I heard -- I don't know, but I heard

23 that one of the complaints was that all the members of
24 this Board are law enforcement or former law enforcement.
25 They do not represent the citizens. And that is true at

25

1 the moment. I think this is a very serious challenge.

2 I have raised -- I've been on -- this is my fifth
3 year on this Board, and I have raised questions regarding
4 serious allegations against the Santa Fe Police
5 Department. I want this to be on the record. I have
6 asked off the record about a report that is over two years
7 old regarding top officials in the Santa Fe Police
8 Department, serious allegations of criminal wrongdoing.

9 I was told, "Leave it alone. That matter is
10 being handled. Criminally they are looking at it." Well,
11 you cannot look at something criminally for two years. If
12 you don't do something, that's called a coverup. And I
13 know these are hard words.

14 I have asked the Attorney General -- and I'm
15 sorry he's not here. This group from Las Cruces came to
16 this Board I think two meetings ago. And we have a
17 sunshine law here that says that when we have new
18 business, it has to be presented.

19 And this group came here, and he met with them in
20 the hall during recess; did not listen to their complaints
21 on the record. I think that's a serious problem. In
22 their frustration now they have gone to the FBI. And I
23 was the former head of the FBI here. And I'm embarrassed

24 to say that nothing is being done about these complaints.

25 I had been assigned to Washington for 11 years

26

1 during my career, and I worked civil rights matters at
2 headquarters level and in the field. I worked Klan
3 cases. And as a supervisor at headquarters I know that
4 unless somebody is lynched, the U.S. Government is very
5 reluctant to get involved, and it's because of politics.

6 Civil Rights Act was passed in 1963 and '64, and
7 we are still dealing with these problems, racism in
8 America and inequality. And these citizens in Las Cruces
9 are very frustrated. And I am telling them, "I am not
10 your mouthpiece. I am not your person. You have to bring
11 this to this Board officially."

12 They feel frustrated that they cannot do it. So
13 I think that we can continue meeting here, but we're not
14 going to for very much longer if we don't aggressively
15 look at complaints from the citizenry.

16 I attended a very enlightening meeting in
17 September regarding disciplinary matters in law
18 enforcement. And the argument -- or the question was when
19 do you have a complaint? And the Los Angeles Sheriff's
20 Office was very informative in addressing it and saying,
21 "You have a complaint when you hear about it, not when it
22 comes to you in a letter or from a court or from anybody
23 else, from a citizen committee. When you hear about it,
24 you'd better look into it."

25 And we are not doing that in this state. Again,

27

1 Santa Fe Police Department has a very serious problem.

2 It's not being answered. I think it's September there was

3 a front page article about an alleged illegal entry into a

4 motel in Santa Fe. And the chief and his brother were

5 there on film.

6 I asked the Attorney General, "What's going on?"

7 He said, "We're looking at it." The matter has been

8 closed, and I'd like to know -- I want this Board to know

9 what is going on there. I have seen very few chiefs or

10 sheriffs come before this Board except to plea on behalf

11 of officers who are in trouble.

12 I have not seen this Board summons any chief or

13 sheriff to come and answer to us, to explain to us. And I

14 think that that -- we are shirking our duty by not being

15 aggressive in requiring them -- when we hear something is

16 wrong, they should come and explain it to us, rather than

17 having the citizens have to form all sorts of committees

18 to finally come and try to address the issue.

19 And then we go back to the chief or the sheriff

20 and ask them, "What about this?" And he says, "I handled

21 it." End of case. That's not the way it works.

22 This Board is supposed to represent the people,

23 and we are supposed to demand that the law enforcement

24 answer to the people. It's not working that way. I

25 understand that -- there's an article that I have seen

1 here by a man named Jay Miller, a syndicated columnist, in
2 which at that meeting the attorney general was asked --

3 MR. ORTIZ: I think his comment was --

4 MR. PEREZ: -- to get involved in law
5 enforcement. And the attorney general's reply was that
6 his job was to protect the state and not the people. I
7 think that's a distinction without difference. The people
8 is the state.

9 I have here a copy of the Constitution of New
10 Mexico. And it says, "All political power is vested in
11 and derived from the people. All government originates
12 with the people. It is founded upon their will and
13 instituted solely for their good."

14 It does not say that he represents the state. He
15 represents -- he was elected by the people, not by the
16 state. And I think we have to get these things clear and
17 out in the open. And we're making distinctions here.

18 I worked for the FBI, and I could have had said,
19 "Well, I work for director and I answer to him." When I
20 took my oath, it was to protect the Constitution of the
21 United States. I took the same oath here with this
22 Board.

23 And I'm becoming quite angry and frustrated at
24 this and that we're going around in circles and we are
25 ready to hammer a police officer that gets drunk or speeds

1 or runs into a bridge. Those are real easy.

2 But we've got people that are angry and law
3 enforcement agencies, not just officers, engaged in some
4 dubious activities. And we're not asking any questions
5 about what is going on.

6 I cannot talk to the FBI. I don't work for them
7 anymore. They cannot talk to me. I have to go through
8 the Federal Privacy Act. That means I will get answered
9 in about five years. Well, some of us will be dead by
10 then. That doesn't work.

11 We need more rapid response when there are
12 complaints. We have to be able -- we are the people that
13 are supposed to look into it. And I think we should
14 aggressively ask some of these chiefs and sheriffs to come
15 here and answer us.

16 What about this. Rather than we having to -- we
17 have one investigator here, Mr. Holmes; and he cannot
18 conduct these investigations. We would need a panel this
19 big to look into these matters. They know what they are
20 doing and they should answer openly and clearly to us how
21 they are conducting their agencies. Thank you.

22 MR. ORTIZ: Madam Chair and Board Members, and I
23 can't really say, but just to let you know, I am aware of
24 some of these. And I can't say which agency, but I am
25 meeting -- Mr. Holmes and myself -- Thursday with the

2 that we're looking into that.

3 MR. PEREZ: Thank you. That is refreshing. I
4 will not ask you anymore.

5 MR. ORTIZ: And I agree with you that we do need
6 to hold the agency heads accountable. I think the process
7 works. I've said it over and over. It's not all the
8 agency heads. It's probably a few.

9 And I would like to see, like you say, have the
10 Board take some action, have them come before and hold the
11 agency heads accountable. I do agree that the process
12 that we do have in place works if they would just comply
13 with the rules and regulations.

14 MR. PEREZ: They are going to balk because we
15 have not made them do it before. So there's going to be
16 some friction. But I think we are entrusted with this
17 authority by the state; and if we don't do it, we're not
18 doing our job.

19 MR. FORCE: You know, I think about every time we
20 discuss this matter, I think somehow or the other you and
21 I, we seem to get into a conflict. But today in hearing
22 you, I really a hundred percent agree with what you have
23 said on the principle of the issue that the citizens --
24 and it pains me as well to sit on the Board and to watch
25 citizens come forward in tandem and have accusations and

1 allegations against agencies and agency heads.

2 And the way the current rules are written under

3 the NMAC, the only way in which an investigation can be
4 initiated is by an agency head forwarding the complaint.
5 Well, that system works great when you've got good agency
6 heads who are reporting.

7 But since my short tenure here on the Board, it's
8 alarmed me to find out that in many cases agency heads are
9 not reporting, whether it be because they don't understand
10 what the rules are or because of the indifference that may
11 be out there that they don't -- the agency heads feel that
12 they don't have to answer.

13 The second problem that I've seen is when you
14 pick up the newspaper and you read that there are
15 allegations against an agency head, and yet what happens
16 out of it? Nothing. And it's just -- to me it's very
17 embarrassing for the Academy Board, as well as for law
18 enforcement in general here in the state, not to have that
19 accountability.

20 But at the same time when an officer does
21 something wrong and there is no political ties, that
22 officer very quickly is reported to this Board in which we
23 take diligent action. But what happens with the agency
24 heads? Nothing.

25 And I find that very alarming that there is no

1 conduit in order for citizens to come forward and make a
2 complaint and then that complaint be screened as to its
3 validity and it's veracity to be determined whether or not

4 action should be taken by this Board.

5 And, I mean, I really believe that if we're
6 probably behind the eight ball at this point with the
7 legislative committee already making their remarks.

8 But there is a dramatic need that I believe that
9 we need to look at the current NMAC and revise it so that
10 authority can be vested, whether it's by summons from this
11 Board or whether it be by giving more authority to the
12 director, to cause investigations when notice via the
13 public media or wherever it might be that has been brought
14 forward to this Board or to the director's office.

15 Again, it's a -- it's shameful when the citizens
16 have to rally a complaint and they came forward to us and
17 embarrassingly we have to tell them, "I'm sorry, but we
18 can't take your complaint because it doesn't fall within
19 the NMAC."

20 And I understand and we've heard yesterday in the
21 forum yesterday in the open discussion that there would be
22 concerns from the chiefs and sheriffs as to rebutting
23 their authority and how dare the Academy try to take
24 authority over them.

25 Well, to be honest, somebody has to be in

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1 authority to somebody else. The director is in authority
2 to those in the governing positions. The chiefs and
3 sheriffs, whether they like it or not, should be in
4 subjection and under the authority of this Academy Board.

5 And I firmly believe that. And I think that the
6 Academy Board, we do have the power and we should hold the
7 power and we should also exercise the power of making sure
8 that integrity standards in the state of New Mexico are
9 held to the highest degree within the profession of law
10 enforcement.

11 MS. TORRES: Thank you. Any other comments? I
12 guess I have one thing to say about our session
13 yesterday. We had a very good work session and a lot of
14 discussion. And we spent a lot of time on this matter.

15 Another thing that I would like to mention is
16 that Gary King talked to the citizens from Las Cruces I
17 think probably through correspondence, but he did
18 encourage them to go to the legislature to see if we could
19 work on a solution to this problem together.

20 So I think that we are looking at potential
21 solutions. We do acknowledge that there's a problem. The
22 times that I've been involved in chairing this Board, in
23 working with the Law Enforcement Academy with Mr. Ortiz,
24 which has been for the past year, I don't really see
25 anybody trying to sweep us under the rug.

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1 I think that what we need to do is put our heads
2 together, work on a solution that will solve the problem,
3 will actually bring it to light and solve it so that there
4 are not remaining questions and that there is no question
5 as to the function or the successful outcome that can be

6 reached through this Board.

7 And so that's what we're looking at. And I think
8 we're taking a proactive approach. I don't see anybody
9 here, you know, sitting around and saying, "Well, I don't
10 want to do anything about this." I think everybody is
11 trying to think of a solution.

12 And, you know, I think we would be open to
13 comments also of anybody else that can think of potential
14 solutions, because if there is a problem then it needs to
15 be addressed. It needs to be taken care of. And
16 ultimately it needs to be resolved.

17 Okay. Yes, sir.

18 MR. GIBSON: Sheriff Gibson, Torrance County
19 Sheriff's Department.

20 Mr. Force, I'm enjoying our time together. We
21 kind of hit heads at times. But, you know, I thought
22 about the issue we talked about yesterday. I was
23 present. And, you know, I've seen different programs that
24 have assisted in this area. I just want to throw some
25 ideas out to you all to kind of think about.

35

1 This Board -- and my understanding -- and correct
2 me if I'm wrong -- this Board is to certify, check
3 certifications, monitor that issue, okay, in the
4 understanding it's not for the citizens. This is for law
5 enforcement, to make sure the law enforcement
6 certifications are proper.

7 There's a possibility if you look at this
8 issue -- and I thought hard about this after talking to
9 Mr. Force yesterday -- if we initiate another board for
10 disciplinary actions for administration, say three
11 sheriffs, three chiefs, that answer to the director and
12 this Board.

13 If we hear complaints, they have different types
14 of jurisdiction they can deal with and not monitoring just
15 what the Board is dealing with. And they do answer to the
16 citizens. That's their job. That's their mission.

17 So you have the sheriffs and the police chiefs
18 that these people have to come and answer to their peers
19 or what not. But it's a separate -- it's not part of the
20 Board; it's a separate entity that is for citizenry.
21 That's what they are for.

22 So when these complaints come up from Las Cruces,
23 say there's a sheriff from Santa Fe, Taos, and Hidalgo,
24 they are on the board along with Albuquerque police chief
25 and whatnot. They sit down. They listen to the

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1 complaint. They come to the board. They go through the
2 process.

3 They're there for the citizens. And that gives
4 that buffer between what the Board should be doing for the
5 certification of the law enforcement community and giving
6 that -- that vent for the citizens to come to. Then they
7 call that chief or that sheriff forward with that board

8 and meet in conjunction with the Academy and the Board.

9 It's something that I thought about last night.

10 There was really no clear solution yesterday. I mean, we

11 heard one -- one, "Well, maybe we should do this." And

12 listening to just what happened yesterday, you know,

13 dealing with the Director, you know, the issues of him,

14 you know, "We've only got two weeks to get these ready.

15 We've got to get this stuff done."

16 His plate's full. He cannot manipulate this

17 issue also. So you get another board set up with the

18 sheriffs and the chiefs. They establish this disciplinary

19 board or whatnot. However you want to word it. That's

20 where the citizen complaint comes to. Those are the ones

21 who investigate it.

22 Then you're looking at peers, sheriff-to-sheriff,

23 chief-to-chief. And I just think -- you know, that was

24 something that I -- you know, I kind of brought up last

25 night. I don't believe that this Board's mission is for

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1 the citizens, and I could be wrong.

2 It's just from what I have learned. And like I

3 said, my education on this Board has come very rapidly in

4 the past few months. I have not had a lot of time to look

5 into it. But, you know, from my -- you know, from looking

6 outside in, that's what this Board is for. And it's not

7 for the citizens. It's for law enforcement.

8 So we initiate another -- basically just an

9 ethics board or something of that nature that you have a
10 few of the sheriffs, a few of the chiefs. They answer to
11 the citizens. They call that sheriff or that chief
12 forward.

13 Then you're looking at your peers face-to-face;
14 and you're saying, "Here's what we're getting the
15 complaint of. This is what we need to do to fix it." Now
16 you have a conglomerate of law enforcement working on that
17 issue. And then the citizens do have that immediate
18 answer.

19 Just like Mr. Perez said. You know, it's not
20 waiting years and years and years down the road. It's
21 right now. "Look. This is what we've done. This is what
22 we've initiated." Contact the citizens and go with it.

23 That's just something that I want to throw out to
24 you guys. I thought about it a little bit last night, and
25 it's just kind of something that I wanted to throw up

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1 there.

2 MS. TORRES: I mean, I guess I have just a quick
3 comment on the structure part. What we were talking about
4 yesterday -- to inform those that were not present at the
5 work session -- we were talking about potentially giving
6 the Director the authority to investigate.

7 If he would have some kind of reason to inquire
8 into the activities of a certain organization and if that
9 could be verified and substantiated that he had good

10 reason to inquire, then he would have authority to
11 investigate; and to include that in the current structure
12 of the Board and of the NMAC.

13 I tend to like that approach because I think that
14 that's keeping within the current structure, but yet
15 having another person, I guess, to oversee the activities
16 of the different law enforcement agencies throughout the
17 entire state. And he would be the person in the know
18 because he's the one that is either certifying or
19 decertifying cops and monitoring the licensing.

20 So, but I don't think that anybody's adverse to
21 hearing, you know, other opinions or other proposals. I
22 don't, you know, think it's going to be an instant fix;
23 but I do like the idea that we are taking recommendations
24 and we are considering different options.

25 Mr. Ortiz.

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1 MR. ORTIZ: Madam Chair, Board Members, I would
2 just like to add to what Mr. Gibson -- Sheriff Gibson, I
3 did try that with the president of the sheriffs
4 association. I had a conversation with him, telling him
5 to assist me on getting the sheriffs to comply.

6 I said, "You're the president of this
7 association. Yes, the sheriffs are elected officials. I
8 can maybe bring action before the Board and decertify the
9 sheriff, but they are still going to remain a sheriff
10 because they are in an elected position.

11 "Therefore, I need you as president to assist me
12 to hold these other sheriffs accountable. And you guys
13 come together as your group, your association, to show
14 that you will not tolerate the lack of integrity from
15 other sheriffs and you impose some sanctions on them as
16 well, if possible."

17 I have no problem going forward and taking --
18 presenting before the Board for suspension or revocation
19 of an agency's head certification if it's warranted. But,
20 like I said, they are not reporting themselves.

21 And some of the officers that we do get for
22 misconducts, they are here for untruthfulness when they
23 are aware of other things in their agency. And they say,
24 "Why am I here when you should be getting the big fish and
25 what they're doing?" And I agree.

40

1 But if your association and the chiefs
2 association can do anything to assist us, I think, one, we
3 do need to educate them. There probably are some chiefs
4 and sheriffs that are unaware of the process of when to
5 report and what to report.

6 Yes, I need to educate them; but I also need the
7 associations' assistance to help me in educating them and
8 hold them accountable.

9 MR. GIBSON: And I think from what Chief Schultz
10 brought up yesterday, you know, mandating a specific, a
11 specific idea of when we report. The idea that Chief

12 Schultz brought up yesterday, if it's more than a 40-hour
13 suspension, it goes to the Academy. We report it.

14 MS. TORRES: Excuse me, but I'd like to have
15 Chief Schultz just read the proposal that we had yesterday
16 because he's got it written out here.

17 MR. SCHULTZ: Okay. What we had talked about
18 yesterday at the work session was adding under Section
19 10.29.1.11 under grounds for a police officer, would
20 probably be a new No. 6 and would state, "A violation of
21 any statute, law, ordinance, standard operating procedure,
22 or rule that after being investigated by the employing
23 agency that results in a suspension of 40 hours or more,"
24 that would make it a requirement to be, of course,
25 reported to the director.

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1 MR. GIBSON: And having that, you know, a clear
2 mandate and like we discussed yesterday a good education
3 for chiefs and sheriffs to understand what all the Academy
4 Board is for, how to utilize the Academy Board, and to
5 make sure that we're working that process as a unit. I
6 think it would help.

7 I just -- I wasn't really familiar with the
8 Las Cruces incident. I went home and researched it last
9 night. I didn't -- I knew of it. I didn't know a lot of
10 indepth about it. And -- but, you know, getting a little
11 more education on it last night, listening to what we
12 talked about yesterday, it's an option.

13 It's an option to get an immediate response for
14 the citizens. And, I mean, if you have -- it's hard -- I
15 know that what the director does; I know, you know, what
16 the Board does. I have that understanding. Just to throw
17 that on him also -- and I understand a new position, you
18 know, maybe that would be their job only possibility.

19 But in the interim, we show we're being
20 aggressive; that we're not going to tolerate it; that we
21 are going to hold ourselves and, you know, law enforcement
22 as a whole accountable for what's going on.

23 It's something that we put out there. And I
24 agree with the issue of the Board yesterday talking about,
25 you know, we have to address this. We have to be

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1 aggressive on it.

2 And I myself being the sheriff and being proud of
3 the county that I work in, I want the people to know that,
4 you know, I don't want to hide these things. I want to
5 come forward, you know. Just like Mr. Perez said.

6 You know, we learned the process of the Academy
7 when we had a deputy that was in trouble. We came up. We
8 set through the Board. I'm here because I want to be here
9 now. I want to be more involved. I want to understand
10 the concepts and be part of this now.

11 But, you know, we learned because of a trouble
12 issue. Now I'm here because I want to be, you know, more
13 involved and make it a little bit better for the New

14 Mexico law enforcement community as a whole.

15 Now, is there something that we need to do -- I
16 think that the whole premise comes down that, you know,
17 the citizens believe that the municipalities are governed
18 by the county. The county is governed by the state.
19 That's what they see.

20 So if a municipal cop does wrong, the county will
21 take care of it. If a county cop does wrong, the state
22 police will take care of it. It does not work that way.
23 We've had instances that we've called state police and
24 said, "We have an issue with this officer, can you come
25 check it out?" We don't do that no more.

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1 You have to notify the AG or you have to notify
2 here. So, you know, the process of what the citizens are
3 envisioning, you know, cities protected by county,
4 counties protected by state, it doesn't operate that way.

5 There's got to be something that I think they can
6 go to and report and say, "I have a problem with" whatever
7 agency. "This is my problem. I've gone to the chief.
8 I've gone to the counsel. I've gone to the mayor. I've
9 gone to the county sheriff. I've gone to the commission.
10 I've called state police. Nobody will help me. What do I
11 do?"

12 "Well, you have this board in place now. Come
13 and talk to us and we'll deal with it. And then we'll
14 address it as we see fit." It's something that may be an

15 option. And, you know --

16 MS. TORRES: Well, I just have a comment. I
17 mean, I don't see that a citizen would be foreclosed
18 from -- say that Mr. Ortiz was empowered to take
19 complaints. So if a citizen would come to Mr. Ortiz and
20 say, "Boy, I have trouble with the law enforcement system
21 in Dona Ana County" or wherever they want to mention.

22 Okay, then that would cause him to want to
23 inquire into that question. And he would not be
24 foreclosed from initiating an investigation and inquiry
25 under the proposal that we were talking about yesterday.

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1 MR. GIBSON: Correct.

2 MS. TORRES: And we wouldn't have to have an
3 entirely new group spiralling into --

4 MR. GIBSON: Correct.

5 MS. TORRES: -- a completely new board or
6 whatever it would be with completely new requirements. It
7 would be under the existing format of the existing Board,
8 but it would be in my opinion that would help resolve the
9 problem without too much administrative overlay.

10 And that I think -- because that's what we want
11 to do, right? We want to be able to somehow address
12 citizen complaints --

13 MR. GIBSON: Yes.

14 MS. TORRES: -- and have somebody in authority to
15 have the oversight to do that. So, I mean, I personally

16 don't see a problem.

17 Another thing that Mr. Force mentioned yesterday,
18 which I thought was a good idea, is if there was something
19 in the regulations that would say that -- say Mr. Ortiz
20 thought that there was a reason to investigate.

21 Then he could defer back to that law enforcement
22 agency and say, "You know what? I think there's a reason
23 to investigate your agency. You can take it over. You've
24 got 30 days" or whatever. "You take it over and you
25 demonstrate in good faith that you are conducting the

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1 investigation."

2 And then if they say, "Nope, we have no interest
3 in doing that," okay, then the director would be empowered
4 once again to conduct that investigation and to complete
5 it, to conclude it.

6 I think that that also shows proper deference to
7 the law enforcement agency to say, "Okay, you guys can
8 handle this on your own or the director would have to
9 handle it."

10 So I guess as we mentioned earlier, there are
11 many different proposals. And I don't think the Board is,
12 you know, ruling anything in or out at this point in
13 time. But I think it's good to at least be looking at the
14 question and examining it.

15 MR. GIBSON: But just speaking with you all
16 yesterday, it's just, you know, something that came up

17 last night that this could be something that could help
18 and just kind of rolling forward with it, so. Thank you.

19 MS. TORRES: Thank you.

20 MR. ORTIZ: And just to let the Board know, Madam
21 Chair, a lieutenant from an agency did come to me and
22 report some violations on the agency head. I contacted
23 the AG's office. An investigation is going on.

24 So it's not like we're not going to do anything
25 if it's brought to our attention. So just wanted to make

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1 you aware of that.

2 MS. TORRES: Okay. And I think that -- I guess
3 if we had more formalized regulations in that regard and,
4 you know, that would be published and would be common
5 knowledge to be followed would be something in addition to
6 what we're already doing right now. Right?

7 MR. ORTIZ: Yes.

8 MS. TORRES: You know, what we were talking about
9 yesterday. Okay. Any other comments on this issue? Yes,
10 come on up and just identify yourself and then get close
11 to the court reporter.

12 MR. GRIEGO: I'm the police chief for the Cuba
13 Police Department.

14 MS. TORRES: What's your name?

15 MR. GRIEGO: Jason Griego. And I just kind of
16 picked up a little bit as to what's going on. And I agree
17 with a lot of the comments you had to say, Mr. Perez. And

18 where I'm coming from is I kind of look at your seeing
19 here to put another individual in charge of all law
20 enforcement departments to oversee some of the
21 complaints.

22 One of the problems that I ran into when I first
23 took over the department was you had a lot of good ol' boy
24 syndrome going on there. You had a lot of corruption
25 within there. You had a lot of evidence missing. You had

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1 a lot of, I guess if you will, underhanded stuff going
2 on.

3 Complaints were coming from the citizens at the
4 time to the mayor's office, to the city council, to state
5 police, to the sheriff's departments about the
6 municipality itself. However, none of these complaints
7 were getting outside of that immediate area.

8 You know, if it was getting referred over to
9 state police or the sheriff's department, go to the
10 village. Go to the mayor. The mayor goes, "Well, go to
11 the chief." The chief, of course, was handling some of
12 these things and exactly that, just going under the carpet
13 with it.

14 You know, I think it's pretty appalling now with
15 my knowledge, as far as smaller agencies, I'm not sure
16 where a lot of the bigger agencies are at, having come
17 over from state police, you had a structure that was
18 there; but a lot of these things that were occurring in

19 these smaller departments, one of these reasons why I'm
20 here today is an officer misconduct that I reported and
21 brought to the Board, you know, having to come and
22 directly interact with Art and get educated on that.

23 But I think a lot of these new chiefs and new
24 sheriffs ain't educated in the simple process of what do
25 you do. Where do you start. How do you go about the

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1 process. Do I just handle it internally. And if I do, is
2 that sufficient.

3 A lot of the citizen complaints that were coming
4 in in the past when I took over the department, I had to
5 get rid of all the guys because of some of the things that
6 were going on there. It was basic things. Weapons
7 qualifications.

8 Me and Art discussed that indepth about how
9 qualifications were just being written off by former
10 chiefs that were there. You know, going through evidence
11 vaults with evidence back from the 1970's where you didn't
12 have anything tagged.

13 I think what all this leads to is you start
14 breeding police corruption, you start breeding the good
15 ol' boy syndrome. And it even happens in the big
16 departments where you get a selected few that sit there
17 and they continue doing the same thing over and over.

18 And is that sufficient to have one person with
19 that amount of authority over all departments. I think

20 that what you do there is not already overwhelm the one
21 position as it is already.

22 But without -- I think what you want to create in
23 law enforcement is this aquarium, if you will, where
24 anybody can look in there and can say we know exactly
25 what's going on in this department.

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1 What's the big deal if you have two or three
2 civilians or if you have an attorney or if you have a
3 judge or if you have a police officer sitting on a board
4 that is actually going to listen to the complaints of
5 citizens.

6 Because I've seen it in the department that I'm
7 in now. Having taken it over and seeing the things that
8 were going on in there and in my opinion indictments
9 should have come down on some of the officers that were
10 there because of things going on.

11 And I think that if you narrow it down back to
12 one individual or comprise it again of just law
13 enforcement, I think we're wrong. Because I think you
14 need to have the input of the public because we do work
15 for the people, whether it be one civilian, two civilians,
16 a magistrate judge, a district judge, whatever it is,
17 different people from different professions, to include
18 law enforcement on there.

19 What is it that we're -- there's nothing that we
20 need to hide. Everything should be accountable, and it

21 should be on the surface for everybody to look in there
22 and say, "Yes, this is an accountable board."

23 And if somebody has a problem with one of my
24 officers and I fail to do my job, then I as the chief
25 should be held accountable also for neglect to take care

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1 of the problem.

2 Because I think not until we start holding the
3 chiefs, the sheriffs to include that option for the
4 problems that he caused and if I decided to cover this up,
5 then I should be held accountable I think twice as much as
6 if my officer does.

7 MS. TORRES: Okay. I think those are good
8 points. I think they are really well taken. And I think
9 it's something that we need to consider, you know, in
10 looking at possible solutions to the problem. I really
11 do.

12 MR. PEREZ: Madam --

13 MS. TORRES: I mean, I think we want -- let me
14 just finish and then I'll recognize Mr. Perez. I think --
15 I mean, we all want to solve the problem. And the way I
16 look at it is we're all going to work together to come up
17 with potential solutions, you know, what system will
18 work.

19 One of my concerns that I expressed yesterday is,
20 you know, we know Art Ortiz. We trust him. But if we
21 would empower -- if we would provide the director of the

22 Law Enforcement Academy with this much power, well, then,
23 you know, he would also have to have responsibilities.

24 He would have to make sure that, you know,
25 whatever he would report would have to be some kind of

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1 conduct that would really be misconduct. He can just
2 target somebody and then all of a sudden say, "Oh, gosh,
3 I'm going to report you and start investigating you."

4 And so we looked at those parameters that are
5 currently existing for reporting officer misconduct,
6 including the other provision that Chief Schultz
7 mentioned. So obviously -- and that's why I said if the
8 director were given this kind of power, if that position
9 were given that kind of power, then it would have to be
10 verifiable misconduct.

11 It couldn't just be, "I don't like so-and-so
12 because he divorced my sister" or something. It would
13 have to be something that would be verifiable misconduct
14 according to the parameters they we currently have set
15 forth for identifying misconduct.

16 And we also talked about resources. I guess I
17 was the one that brought that up too. You can't just dump
18 everything on the poor director and then say, "Now go do
19 two jobs or three jobs instead of just one and a half."

20 So certainly we would need, you know -- if we
21 were to make such broad changes, we would need to ask for
22 more legislative funding. We would have to provide the

23 director more resources, maybe a couple more assistants to
24 help him with his job.

25 So I guess there are a lot of potential solutions

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1 to the problem. And then now we want to look at what is
2 the structure to solve the problem.

3 MR. GRIEGO: You know, one of the things that I
4 see is accessibility to the government. If you can't
5 access your government as a citizen, then what good is the
6 government. What good is a board if the people who put
7 you in that position cannot access you.

8 And I go back again to one individual, is he
9 going to be that accessible to the entire state versus
10 bringing quadrants of each part of the state, citizens
11 from each part of the state. And we go back to what
12 Mr. Force said about politics.

13 You know, okay, is this guy politically connected
14 so he can destroy his unit while he's drunk or he can beat
15 his wife, cover this up because of who he knows. And yet
16 people within those departments know exactly what this
17 individual has done, but because he's politically
18 connected we're going to cover this entire thing up.

19 And then we can have this next officer -- like
20 you said earlier -- well, he divorced my sister, whatever
21 it was, and he failed to do this thing according to policy
22 and procedure and now we're going to crucify this guy.

23 And I think I'm not too sure exactly on the thing

24 with Las Cruces, but I think when you start bringing
25 people from across the state, from different quadrants

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1 that represent -- whether it be civilians, law
2 enforcement, or whatever it is, you bring a board
3 together, now the people of the state are able to access
4 those representatives.

5 They can bring their complaints to the board, and
6 you are more of an accessible board and you are more
7 transparent in what you're doing in law enforcement.
8 Again, there's nothing that we have to hide.

9 MS. TORRES: Right.

10 MR. GRIEGO: And we shouldn't be hiding
11 anything. And I think that that's the image that is being
12 created over and over repeatedly is that you see things in
13 the news media on officers and then when you come to some
14 of these Board meetings here, you never see that officer's
15 name coming before the Board. Why is that?

16 MS. TORRES: Okay.

17 MR. GRIEGO: And we go back to the same thing of
18 the image that we're painting and the image that we're
19 presenting to the people. And why shouldn't a citizen be
20 allowed to come and say, "This officer pulled me out of
21 the car. This officer did this. I went to the chief. He
22 refused to do anything. Now I am here as a tax payer and
23 as a person that has put you in this position to address
24 this issue."

25 Why wait four, five years down the road when we

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1 get a new chief or a new sheriff or whatever it is, and
2 that officer does another violation, more extreme at that
3 point because it got covered up here.

4 MS. TORRES: Right. I understand that. Thank
5 you. Thank you very much.

6 Mr. Perez.

7 MR. PEREZ: Yes. Again, I apologize for not
8 being at the work session yesterday. I was driving back
9 and forth across this beautiful state in the snow. I had
10 to go to a funeral in Cloudcroft. I wanted to be here.

11 We have the authority. This Board has the
12 authority. We don't have to put our heads together and
13 come up with a solution. It is right here. We are the
14 solution. We can summon police chiefs. We have the
15 authority. We give them their power.

16 And all the police officers in the state, except
17 for the feds, come from this Board. So why can't we say,
18 "Come here and explain. We heard some rumors. We read
19 something in the newspaper. Please come and make a
20 presentation."

21 And we don't have to get Ernie Holmes and 25
22 other people to do an investigation. It isn't necessary.
23 Answer the questions before this Board. If it turns out
24 that it's being complicated, all right, then we can do
25 something else.

1 But these things can be solved very readily. And
2 if the people know that they can come and talk to us --
3 because they have nobody to talk to now. If we're not it,
4 what are we doing here.

5 We want to form another committee, a special
6 committee to undo this committee when you have -- when you
7 can't get anything done, what you do is form committees to
8 look into it.

9 And that's what happened to this U.S. Government
10 right now. Where did all of our money go? "Oh, let's
11 look into it." Because people were not doing their jobs.
12 We don't need any more laws. We don't need any more
13 committees. We don't need any more boards.

14 We need this Board to do their job. And we're
15 talking about reasons and excuses, "Let's give it to
16 Ernie. Let's get an investigator." Let's do our job
17 here. Let's call up a sheriff or a chief and say, "Sir,
18 please explain to us what we have heard. We don't know
19 whether it's true or not."

20 Let him talk. These are highly paid people,
21 elected officials by the people; and we're appointed by
22 the governor, who is appointed by the people, not by the
23 state, whatever that is, to ask questions for the people.

24 So why don't we do it. And I don't think we need
25 any more discussion about it to form a committee to look

1 into what I just said.

2 MS. TORRES: I think I won't be politically
3 correct, but that was what I was going to ask us to do,
4 was form a committee to at least evaluate the problem and
5 look at the solution, you know, in more detail and more
6 depth and what we can do, you know, during one of these
7 meetings.

8 Or even -- we had a pretty lengthy work session
9 yesterday. We were all very involved in that work
10 session. But, you know, that's four hours. That's not
11 really enough time to cover the problem.

12 I mean, would that be appropriate, Mr. Ortiz, to
13 try to appoint a subcommittee from this group? Or how
14 would you like to do that?

15 MR. ORTIZ: Well, when we find out about it --
16 Mr. Holmes and Elliott Guttman, they are always scanning
17 the papers. If they find out about something, they bring
18 it to my attention. I will contact that agency head to
19 make sure that report is coming, to educate them in case
20 they don't know the process.

21 So we're not turning a deaf ear on anything
22 that's brought to our attention, whether it be a chief or
23 a sheriff. We're aggressively going to go after it. But
24 I do agree with Mr. Perez and Mr. Griego to bring some of
25 those agency heads here that are noncompliant, that are

1 aware of the rules and that are not following the rules.

2 MS. TORRES: Chief Schultz and then Mr. Force.

3 MR. SCHULTZ: Madam Chair, I think -- I've been
4 sitting here kind of quite for a while. First of all, I
5 think what's most important is that we need to do what our
6 charge is, and that is to investigate officer misconduct
7 and get compliance from the respective agencies, first.

8 I'm afraid that we're putting the cart in front
9 of the horse here and we're actually going to create a
10 monster. If we were to start doing investigations or
11 requiring investigations based on rumor or what we read in
12 the paper, then we might as well just throw in the towel
13 right now.

14 Because I can tell you right now firsthand
15 dealing with police oversight in the form of a formalized
16 commission nominated by politicians with a former federal
17 magistrate as the independent review officer that we
18 receive a lot of complaints from citizens.

19 Over 80 percent of them are unfounded or
20 exonerated because it's a misunderstanding, because
21 complaints are initiated based on rumor and what people
22 read in the paper. And we're going to waste a whole lot
23 of time. I think we can start with the basics; and that
24 is to get compliance with the agencies, to hold the
25 agencies responsible for reporting the necessary

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1 misconduct.

2 As far as oversight, how many bites of the apple

3 are people going to get at oversight. You've got county
4 commissions. You've got city council boards. You've got
5 mayors. You've got county commissioners who can all
6 initiate internal investigations, as well as necessary
7 chiefs and sheriffs.

8 Some cities, such as Albuquerque, already have a
9 police oversight commission. So are we going to say that
10 someone can go to the police oversight commission in
11 Albuquerque, not like the answer, and then go to
12 Mr. Ortiz. That's a waste of time. It's a waste of
13 resources. And it's making a mockery of the system.

14 We also have a very aggressive judicial system,
15 and we can be sued for misconduct or for inappropriate
16 actions of our officers. That is the best oversight
17 that's out there, because that is a decision being made by
18 a jury or by a judge.

19 And there's very hard sanctions against the
20 chief, against the city, against the police department,
21 against the mayor, or against the state.

22 I'm worried that the direction we're going here
23 is we're going to create a monster, not to mention the
24 individual employee who's not happy with his sergeant, his
25 lieutenant, his chief, his sheriff, who comes forward to

1 this Board and says, "I want an investigation done."

2 I'm just worried that you're going to create a
3 monster, and we're going to lose sight of what our charge

4 is, and that's individual officer misconduct, as well as
5 setting training standards for officers on certifications
6 for the state of New Mexico.

7 MS. TORRES: Thank you. Mr. Force.

8 MR. FORCE: In fact, I was similar in what
9 Chief Schultz was kind of going down the line was. My
10 concern is, again, I think there's a -- we kind of -- we
11 digress in the discussion I think about what the principle
12 to me is.

13 The principle, very simply, is when you get a
14 group of citizens that comes forward, that makes a
15 statement that they have exhausted the appealing process
16 or review process, and we see the citizens going through a
17 red tape process, and then they come in front of the Board
18 and then we basically turn them out, I just don't think
19 that's correct.

20 And I do agree with Chief Schultz that, you know
21 what, I don't want to get involved in every Tom, Dick, and
22 Harry coming forward and making an accusation and then
23 blowing that into some huge investigation.

24 But I do believe that there is balance. And the
25 balance should be that at the director's discretion --

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1 because every complaint that comes in doesn't -- doesn't
2 warrant a full investigation.

3 On its face value there are many complaints that
4 are -- like Chief Schultz said, that are just simple

5 misunderstandings. But my concern is at this point the
6 only way that we get complaints of misconduct is from the
7 chief or sheriff.

8 And what happens in the event where at least on
9 the appearance of what's coming out on the reports or in
10 the newspaper, whatever, or through citizens that all of a
11 sudden there's an awareness that something probably needs
12 to be done, an inquiry needs to be looked into the
13 certifications process and whether there should be a
14 review.

15 And I do believe that there should be some
16 authority that the director has to investigate those cases
17 or cause an inquiry of them to determine whether or not
18 there is sufficient information for us to review that
19 matter.

20 So, again, I do agree with Chief Schultz. I
21 don't want to open the door to everybody and their brother
22 comes in and complains. There is a review process, but I
23 do think that the director should be given the authority
24 so that we have the conduit of listening to the complaints
25 or having an assurance that that complaint has been

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1 voiced.

2 MS. TORRES: Okay. All right. Any more comments
3 on this? Yes, Mr. Holmes.

4 MR. HOLMES: Yes. I attended the meeting with
5 Mr. Ortiz that was in front of the legislative committee.

6 And they were talking about serious cases. They weren't
7 talking about petty misdemeanor. They were talking about
8 people who have been murdered. Those are the kind of
9 cases that they were focusing on, they were bringing up
10 for discussion.

11 What I think from our perspective I think there's
12 a lot of ambiguity, as far as the rules and regulations of
13 the Academy. What Mr. Ortiz and I have thought about
14 doing to clarify a lot of this matters that are being
15 brought up before the Board or being discussed here is
16 going to every department and explaining to them exactly
17 what their responsibilities are.

18 A lot of departments don't need that because they
19 already know. Chief Schultz, he's already aware.
20 Chief Segotta and other departments. But there are other
21 departments that are not aware.

22 And what Chief Schultz would consider a 40-hour
23 suspension or beyond that, some other department might not
24 consider a serious incident that doesn't even deserve 40
25 hours. So, therefore, it's swept under the rug, like it's

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1 been mentioned here.

2 I think that -- and I'm in agreement with a lot
3 of things that have been said here. I think you can open
4 up a bucket of worms. There's a lot of jurisdictions
5 here. I'm going to be stepping on toes.

6 But I think there's a lot of things in the rules

7 and regulations of New Mexico Law Enforcement Academy that
8 are implied, not necessarily written but are implied, and
9 the Board has an authority.

10 One of the things that I think subpoena power.
11 We have -- I think the Board has the power to subpoena,
12 but I think they can only subpoena persons and not
13 records. Is that correct, Mr. -- Zack?

14 MR. SHANDLER: Yes.

15 MR. HOLMES: So you can only subpoena the person
16 but not the records. So those are the things that -- but
17 I'm in agreement as far as I don't think you need another
18 committee. Right here the Board can take care of it.

19 However, there are rules for improvement as far
20 as clarifying some of this ambiguities that even the
21 legislature, some of those people on the committee, were
22 not very clear on, you know, what, for example, that word
23 "conviction" was brought up.

24 And they are willing to work with us and change
25 whatever needs to be changed, but we just have to let them

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1 know what we want. That might be a good reason to form a
2 committee within the Board here itself to talk to some of
3 these legislators.

4 One of the things that we notice is that when you
5 talk to a big committee in the legislature, some people
6 are talking to another person and it seems like they are
7 not really focusing on what you're trying to put across.

8 It might be a good idea to -- if there's a -- if
9 the Board here decides they want to have two or three
10 people contact some legislators and their committees and
11 just have a small group from their committee meet and then
12 this -- I think all these problems that we're discussing
13 can come across a lot better because there's more time,
14 there's more of a personal contact instead of one member
15 here and then another member here.

16 And then you have people on those committees that
17 have no idea what law enforcement is all about. And it's
18 very hard to put something across to somebody who's never
19 been in law enforcement.

20 You know, one of the critical -- when they were
21 kind of critical on -- one of the ladies, I think, but I
22 -- or somebody. "Well, aren't there any civilians?"
23 Yeah, so we mentioned there are two civilians here. But
24 they seemed to want to have more civilians. And I don't
25 know if that's a good idea myself.

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1 I don't think it's a good idea. I think you have
2 to have civilians, but also you have to have people that
3 have been in the business because they know what
4 they're -- they understand. It's not only the citizens we
5 have to be concerned about, we have to be concerned about
6 the officers.

7 The officers are not here to be punished. They
8 are here also to -- you know, there's a lot of complaints

9 that come to us; and we exonerate the officers right there
10 and then because there's not enough to bring those
11 accusations to verify or to -- we always give the benefit
12 to the officer.

13 But we always let them know, hey, you know, there
14 was a complaint made, and we can't prove -- or the agency
15 couldn't prove, so they brought a -- it's kind of they
16 leave it up to us. And that's when Mr. Ortiz and I, we
17 listen to these cases in the informal hearings.

18 And from there we decide, well, it doesn't really
19 rise to the level of Board action. It could be a policy
20 violation. Something very minor. Things like that. So
21 but if they're serious, we let them know it's a serious
22 matter, and it will be brought up to the Board.

23 But, anyway, I just have to say that.

24 MS. TORRES: Thank you. I appreciate your
25 comments. Any other comments on this issue? Okay. So

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1 are we in a position to want to appoint a subcommittee of
2 this Board right now? Or did we want to just let it go?
3 I don't want to make a motion if nobody's really
4 interested.

5 MR. ORTIZ: I'm pleased with the Board we have.
6 And I agree with Chief Schultz and Mr. Holmes. I think
7 what we have in place now is enough. We just have to get
8 after it and educate people and hold them responsible for
9 not complying with the rules.

10 And maybe we start utilizing that subpoena power
11 and subpoena some of these agency heads that are aware of
12 the rules and that are being noncompliant.

13 MR. HOLMES: Madam Chairperson, if I may. Really
14 you don't have to form a committee within this committee.
15 Actually, all you need is three volunteers to go talk to
16 the legislators instead of forming a committee.

17 MS. TORRES: That's what I was wondering.
18 Right. I guess my concern is that the legislative session
19 is coming up. This is I think our last Board meeting
20 before it starts. Right?

21 MR. ORTIZ: Right.

22 MS. TORRES: So I think that if we would continue
23 on this proactive approach, as far as like what Mr. Holmes
24 is saying and some of the rest of us have said, you know,
25 look into this further; how do we address the problem.

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1 If what we have right now is enough to address
2 the problem, then that's it. But then also to be able to
3 present it to the legislators so that they can understand
4 it and they can present it to the other members of the
5 legislature.

6 Because if they don't even understand it, then
7 they are going to be clueless, as far as when they make
8 their decision. Or at least they won't know our
9 position. They may know their own position or somebody
10 else's position, but they may not know the Law Enforcement

11 Academy Board's position.

12 So I guess that's my concern is would we have
13 volunteers from this Board to take on that responsibility
14 and if so then what would that involve.

15 MR. ORTIZ: I agree. I think that's a good
16 recommendation to have some Board members meet with the
17 legislators.

18 MS. TORRES: Is there any more discussion from
19 the Board members.

20 MR. SEGOTTA: Madam Chair, I volunteer to be one
21 of those to go visit the legislature. We have dealt with
22 this issue in the past. I think every year there's a move
23 by the legislature to create an oversight or steering
24 committee of the Department of Public Safety, so I'm
25 familiar with the issue and some of those that are

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1 involved with it.

2 I have no problem sitting on the -- whatever
3 noncommittee on going forward with it and visiting with
4 them.

5 MR. SCHULTZ: Madam Chair, I've got firsthand
6 experience. I deal with it the first Thursday of the
7 month, so. Live on Government 16. If anybody who wants
8 to watch that, it's streamed on www.cabq.gov. Watch one
9 of those sessions. It's painful.

10 MS. TORRES: Okay. Do we have anybody else that
11 would like to volunteer?

12 MR. COON: I volunteer.

13 MS. TORRES: So we've got three volunteers. I
14 will talk to the Attorney General, and I'll see how much
15 we can help. And I'm not in a position where I can
16 volunteer right now, but I certainly would like to see if
17 the Attorney General would like to offer our assistance as
18 well.

19 So I will get back with the three volunteers and
20 let you know. And with Art. I guess I'll get back with
21 Art, and he can let everybody -- okay.

22 MR. HOLMES: Before we go any further, I think
23 with this committee or this volunteers here, if we could
24 meet with them with the Director and myself so we can
25 apprise you of some of the issues that we face before you

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1 go to the committee -- the legislative committee.

2 MS. TORRES: And also for the record, Sheriff
3 Coon has volunteered; Chief Schultz has volunteered; and
4 Chief Segotta has volunteered so far. And I have maybe
5 volunteered on behalf of the Attorney General.

6 But I will talk to Gary and make sure as to what
7 position he wants to take on this subcommittee -- or
8 volunteers. Group of volunteers.

9 ITEM #6: PUBLIC COMMENTS

10 MS. TORRES: Okay. If there's nothing else on
11 this topic, then it's time to take public comment. And
12 there should be a sign in.

13 MR. ORTIZ: Nobody signed in. I am aware of one
14 individual. Should we take a vote and see if we want to
15 let him speak since he didn't sign in? Or should we allow
16 him to speak?

17 MS. TORRES: Oh, let's take a vote. No, just
18 kidding. Go ahead.

19 MR. ORTIZ: Chief Sanders.

20 MR. SANDERS: Thank you, Madam Chair and Members
21 of the Board and Director Ortiz. Let me explain first of
22 all why I didn't sign in. I got a letter from the
23 Director giving the address of the --

24 MS. TORRES: And what's your name again?

25 MR. SANDERS: J.D. Sanders. I'm chief of police

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1 in Hobbs. I'm sorry.

2 MS. TORRES: Thank you.

3 MR. SANDERS: I got a letter from the Director
4 about what the address to this place was. And I got my
5 wife a handy-dandy little GPS locator for Christmas. I
6 thought I'd try it out. Well, I found out there's three
7 1901 University Boulevards in Albuquerque.

8 One of them is northeast and southeast. And
9 that's the two I went to. The third one is not listed on
10 my GPS locator. So I had to make a mad dash to Art to
11 find out where you guys are. So I didn't get here in time
12 to sign up, but I did call.

13 And I know that you all haven't got enough

14 reading material, so I wanted to make -- would you pass.

15 MS. TORRES: Can you let us know what you're
16 passing out.

17 MR. SANDERS: Yes. That is basically a
18 discussion of cert by waiver. And in particular my cert
19 by waiver. I think it's kind of explanatory. And if it's
20 okay. Is it proper to pass it out?

21 MS. TORRES: I think we're talking about cert by
22 waiver.

23 MR. SANDERS: Right.

24 MS. TORRES: That's one of the agenda items.

25 MR. SANDERS: Not for me. I evidently didn't get

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1 to the -- or request to be on the agenda.

2 MS. TORRES: That's okay. All right. Go ahead.

3 MR. SANDERS: And I'll try to be brief. I know
4 you all have had a long discussion already.

5 I began my law enforcement career in 1981 as a
6 dispatcher in Martin, Tennessee. 1982 I was promoted to
7 patrol officer. And in 1984 attended the Tennessee State
8 Basic Law Enforcement Academy. And those things are
9 spelled out there. I won't go through those because it
10 would be too timely.

11 I've spent my career with Martin, Tennessee. And
12 in 1993 was honored to be selected and attend the 172nd
13 session of the FBI National Academy. 1995 I was appointed
14 chief of police in Martin.

15 And then through the next few years, 1998 I
16 attended the Law Enforcement Executive Development seminar
17 in leads in Quantico for two weeks. And also an
18 additional week for Tennessee leads. It's called T-leads,
19 which is basically a scaled-down version of the same
20 thing.

21 I attended a two-week school for the National
22 Center of Rural Law Enforcement Executive Management
23 Institute, which is a very similar course to the FBI
24 National Academy, only smaller.

25 In 19 -- excuse me. In the year 2000, I was

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1 selected -- or elected as the president of the Tennessee
2 Association of Chiefs of Police. I served two terms. I
3 was elected the president of the FBI National Academy
4 Chapter in 2001, served one term.

5 And I won't go through all those things and point
6 out each and every thing that I've had the honor of being
7 able to do in my career. But one of the things I'd like
8 to point out because it's kind of on the subject that you
9 guys were just talking about.

10 I am also a member of the Law Enforcement
11 Innovation Center in Knoxville, Tennessee, in an -- a
12 instructor for the Department of Justice in Ethics and
13 Integrity through the Law Enforcement Innovation Center.

14 I've been doing that since 1997 and have taught
15 in every state in the southeast United States since that

16 time, since 1997. So I'm very familiar with these acts of
17 ethical violations and things like that.

18 Also, I'd like to step back just a second and let
19 you know that in 1996, after 14 years of struggling, I
20 finally was able to get my bachelor of science degree in
21 criminal justice from the University of Tennessee.

22 I said all that to say this: In looking at the
23 rules and the codes, it grants the director -- by my
24 reading, it grants the director the discretion of allowing
25 certifications by waivers.

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1 There's basically two ways that law enforcement
2 officers that have received certification in other states
3 and come to New Mexico, they are probably most likely
4 going to be in two positions. One is a patrol officer.
5 One is a chief of police.

6 There's hardly any that's going to be hitting
7 that middle part anywhere. I think that the basic -- the
8 cert by waiver class, the three-week class, is probably a
9 really good thing, especially for somebody that's going to
10 work the line, be a patrol officer.

11 I think it might be superfluous and a little
12 redundant for a police chief who has served for 27 years
13 and had the basic training and education -- and I'm not
14 bragging. I've been very fortunate but -- through the
15 level that I've had.

16 In addition to those things -- and I haven't been

17 able to get the documentation on it because it goes in the
18 archives at the Tennessee Law Enforcement Board of
19 Responsibility. But I've received 40 hours of inservice
20 training from '82 to 2003. Twenty-one years of 40 hours
21 in addition to the things that I have there.

22 I believe also that in going to a cert class for
23 three weeks, which is scheduled in January, that it puts
24 an undue hardship on the citizens of Hobbs and my city to
25 send me to be there three weeks.

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1 I've looked through the class -- and you've all
2 got it -- the class curriculum. And out of the 120 hours,
3 there's only 19 that I feel like would give me any benefit
4 whatsoever at all. I've qualified in firearms twice a
5 year from '82 to 1990 and then since then quarterly.

6 I've just recently qualified three different
7 times here in New Mexico in my department. So the
8 firearms and things like that, I believe is just putting
9 somebody through the motions just to say that you are.

10 And, you know, I believe in standards. I believe
11 that you've got to have standards and do this stuff. But
12 I also believe that sometimes there's overkill. And
13 forcing someone to go to a three-week school that is
14 absolutely no benefit whatsoever to the things that they
15 are -- that they are going to be doing.

16 Ironically during that three-week school, there's
17 a school -- I believe it's in Albuquerque. Art, help me

18 out here, if you will -- the PERF school that's going on
19 for a three-day leadership school for chiefs and sheriffs
20 in New Mexico, which is more aligned to things that would
21 help an incoming police chief than going through pursuit
22 training, which I write policy on, critical incident
23 management, which I'm a national certified instructor on.

24 And several others. I won't list them all, but
25 over half of the courses that's in that three-week academy

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1 class I teach. And I just think it's just a little bit of
2 overkill.

3 The one question that I probably would have for
4 this Board in doing research on this, I'm unable to find
5 any other kind of rules or policies that's been published
6 other than what's in the New Mexico Code. Are you all
7 aware of any published or unpublished rules that's been
8 promulgated by this Board by your office in regards to the
9 polices in considering cert by waiver.

10 MR. ORTIZ: Madam Chair, Board Members, in my
11 discussion with you and researching it, the only thing I
12 could I find on the certification by waiver is state
13 statute 29-7-10 where it says the director shall with the
14 approval of the board waive the basic law enforcement.
15 Just the basic law enforcement.

16 There's no mention of waiving the certification
17 by waiver. That has been accepted by the Board that every
18 out-of-state officer that comes into the state of New

19 Mexico, eligibility of out-of-state police officer, in the
20 event a certified officer from another state or dually
21 commissioned officer from a federal agency makes
22 application for certification in the state of New Mexico
23 and must meet the qualifications.

24 And then it goes to say that they would also have
25 to attend the certification by waiver, the 120-hour

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1 course.

2 MR. SANDERS: Okay.

3 MR. ORTIZ: And you are not a retiree, is my
4 understanding also.

5 MR. SANDERS: Well, I'm in one of those technical
6 things. I'm not technically retired because you can't in
7 Tennessee under the rules until you're age 55. I have my
8 time in to retire, but you can't effect your retirement
9 until you're age 55. And, unfortunately, I'm at 53 for
10 that fact.

11 So technically I fly under the radar screen. But
12 I also believe -- and I had our city attorney to research
13 this too, and that was the reason I was asking for any
14 other rules or whatever. I also believe that that is
15 clearly giving discretion to this Director and to this
16 Board with approval of the Board to waive those
17 certification classes.

18 And that's all I'm asking. You know, I'm not too
19 good. I'm not even better than anybody else. But in

20 January, for an example, for three weeks a line patrol
21 officer that we were talking about, if he comes in most
22 likely he can make amends for it. And, you know, you
23 cover your shifts.

24 We're in the process right now of remodeling a
25 building that I'm meeting weekly with an architect with.

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1 We're also -- with Sheriff Coffman and I are heading a
2 team that begins next week that's going to have weekly
3 meetings on consolidating our 911 dispatch.

4 Those are going to be weekly meetings because
5 they've got a timetable that has to be done by February.
6 I think I'm better serving the folks in Hobbs to be in
7 those meetings and be involved in those things that they
8 are depending on me to be there for than going back
9 through pursuit driving class and defensive tactics.

10 I mean, it comes a point in time where I think
11 you get trained enough in those basic things. And I stand
12 here before you saying I believe I've had plenty of it and
13 plenty of experience to do with it too.

14 That I believe I can represent this state well as
15 a certified police officer. And one of the things I
16 discussed with Art, there are 19 hours out of that 120
17 that I think could be of benefit to me. And those are in
18 regards to New Mexico laws and new constitutional updates
19 and things like that.

20 I can get that right there in my hometown in

21 Hobbs at our academy there during their session. And
22 that's all I'm asking. If you can, I understand. If you
23 can't, I'm respectful of this Board. But I do believe
24 that there comes a point in time where you can say enough
25 is enough.

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1 MS. TORRES: What I'd like to do now, sir, would
2 be to take a break. And then I'd like to discuss this a
3 little bit more during the break with Mr. Ortiz and with
4 Mr. Shandler. And then we'll get back with you.

5 MR. SANDERS: Thank you kindly.

6 MS. TORRES: Let's take a 15-minute break. Thank
7 you.

8 (Off the record from 10:38 until 10:56 a.m.)

9 (At this time, Mr. Schultz is not present.)

10 MS. TORRES: As we resume, Chief Schultz had a
11 press conference to go to. He will be back shortly.

12 The last item that we were listening to was
13 J.D. Sanders had asked for a waiver of certification
14 requirements of Statute Section 29-7-10 of the New Mexico
15 statutes and of the regulations.

16 I did have a chance to speak with
17 Director Ortiz. And I move that we not waive those
18 requirements. Those are mandated by statute and by
19 regulation. They are applied throughout the state to all
20 officers that need to be certified. And so I move that
21 there be no waiver.

22 MR. PEREZ: Question.

23 MS. TORRES: Yes.

24 MR. PEREZ: Can the chairman make a motion or
25 should the Board members do that? She'd be the

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1 tiebreaker.

2 MR. SHANDLER: Our office does not advise on
3 Robert's Rules of Order, so it's up to the Board. But,
4 actually, you don't have to do a motion because there was
5 no formal agenda item requesting an override of the
6 Director's decision.

7 So the director has made a decision, and you
8 don't think there's a need to override it, then there's no
9 need to take a motion. And that way you don't have to
10 worry about the Open Meetings Act.

11 MS. TORRES: All right. So that's what it's
12 going to be.

13 MR. SEGOTTA: Madam Chair, can I just make one
14 comment on that?

15 MS. TORRES: Sure.

16 MR. SEGOTTA: Because of the retirement issue and
17 they're varied from state to state, I think it's something
18 that maybe we ought to look into it. If you're eligible
19 to retire in another state that it's based on the age but
20 you have the time in, maybe it's something that we ought
21 to look at and consider in the future.

22 I don't know. I'm throwing it out there because

23 it seems to me that in our state he would qualify with 21
24 years under certain plans and in another state he doesn't
25 because there's also an age requirement.

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1 I just think it may be something that we might
2 spend a little time discussing at a future board meeting
3 with some input from the director's office on what has
4 been the history in the past and that.

5 MR. COON: Madam Chair, doesn't that only have to
6 do with the physical fitness part --

7 MR. ORTIZ: Yes.

8 MR. COON: -- of the retirement? You don't have
9 to do the physical fitness part?

10 MR. ORTIZ: Right. They are exempt from the
11 physical fitness if they are a retiree.

12 MS. TORRES: Which would be how many hours?

13 MR. ORTIZ: Along with the testing.... Well, it
14 would be the mile-and-a-half run, the 300-meter fitness
15 test, Agility Course I and Agility Course II is what he
16 would have to complete.

17 I don't have a breakdown on the exact amount of
18 hours in that 120-hour block for the -- Gil, do you know
19 the exact hours? I think it's nine.

20 MR. NAJAR: Those are preAcademy requirements
21 that they would have to pass. There aren't any hours
22 associated trainingwise for that.

23 MS. TORRES: So if they are retired, then how

24 many hours do they have to complete?

25 MR. ORTIZ: Well, they just don't have to take

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1 those tests.

2 MS. TORRES: Okay. But do they have to complete

3 the 120 hours still?

4 MR. ORTIZ: Yes.

5 MR. COON: Yes.

6 MS. TORRES: Okay. So if we do not accept this

7 waiver then -- or the request for the waiver, then we're

8 applying it equally across the board to everything,

9 right?

10 MR. ORTIZ: Yes.

11 MS. TORRES: And that's my point. I don't want

12 to treat anybody any more or less favorably than anybody

13 else. Those requirements are standardized by statute and

14 by regulation. And they should be applied equally to all,

15 so. Sorry, Mr. Sanders, but that's my decision at this

16 time. Okay.

17 ITEM #7: PUBLIC HEARING: POLICE OFFICER

18 REQUIREMENT RULE REGARDING HIGH SCHOOL DIPLOMA

19 MS. TORRES: The next item on the agenda is to

20 look at rule making. And there's a script which I guess I

21 had a chance to rehearse yesterday. Okay.

22 And this is Agenda Item No. 7 pertaining to NMAC

23 Rule 10.29.1.10. This is a public hearing on changes to

24 the Board's rules. I now declare the hearing record

25 open. The staff has proposed these changes, and we will

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1 start with the staff providing testimony on why these

2 rules should or should not be adopted.

3 The Board is free to ask questions. Then the

4 audience may provide testimony. The Board will hold off

5 on deliberations until we receive the testimony. Once

6 we've received all the testimony, I will close the hearing

7 record.

8 The Board may start deliberating the merits of

9 the rule. At that point, I will entertain a motion to

10 accept, modify, or reject the proposed rule. We may

11 modify the rule, as long as it is the logical outgrowth of

12 the rule as published in our packet.

13 There are two legal items that I will state for

14 the record. Rules become effective 30 days after they are

15 filed at records and archives. The legal standard is that

16 we need to inform the public of our reasoning when we

17 choose to amend our rules.

18 The comments of one member on the record if it

19 explains our reasoning satisfies this legal standard. And

20 we would like for Mr. Ortiz or his staff to make their

21 presentation.

22 MR. ORTIZ: Madam Chair, Board Members, Agenda

23 Item No. 7, the proposed changes to NMAC Rule 10.29.1.10

24 is qualifications for admission to the academy, is

25 highlighted in Section A.

1 Qualifications. Qualifications for police
2 officer admission Subsection A(2) and the language we want
3 to insert here is "holds a United States high school
4 diploma or its equivalent." And in Subsection B,
5 qualifications for telecommunicator admission, to "hold a
6 United States high school diploma or its equivalent from
7 an accredited institution."

8 And the reason we're proposing this language is
9 just to get some clarification. Apparently speaking with
10 the staff in the past, there has been some issues
11 regarding some applicants that did not possess a United
12 States high school diploma.

13 So, therefore, we just want the Board to input
14 some clarification. We have no problem -- I know other
15 countries, their standards may be higher in education.
16 We're just saying that we need something equivalent to
17 what the United States has.

18 And we're not trying to discriminate against any
19 other countries, just hold anybody that comes into the
20 United States as a citizen to have the same standard as a
21 U.S. citizen by having that education that's equivalent.

22 And that's what we just want is that
23 clarification.

24 MS. TORRES: Okay. Just to elaborate on the
25 discussion we had yesterday at the work session. We

1 looked at, you know, probably "United States" should be
2 capitalized if it's appropriate to do so, as far as the
3 rule-making requirements.

4 The other thing that we talked about is if you're
5 looking at a high school diploma from the United States,
6 we all know that what that is. So it helps clarify what
7 the standard would be. If you just say "a diploma," "a
8 high school diploma," you know, to us it means one thing
9 and maybe to another country it means something else.

10 And so that -- in my opinion, that's a very good
11 standard to include the words "United States" to make sure
12 that it is clarified that that is what you're looking for
13 as a basic requirement.

14 Any other comments from the Board? Yes,
15 Mr. Perez.

16 MR. PEREZ: Yes. I met with the Supreme Court
17 Justice Patricio Serna to ask him about this matter
18 because I have some serious concerns that this -- that we
19 have already violated EEO law in that the requirement is
20 that at the current time that you have a high school
21 diploma or its equivalency.

22 We have an officer in the Academy -- or a cadet
23 in the Academy who was asked to take a GED. That's above
24 and beyond. That is unfair treatment. And Judge Serna
25 asked that his opinion be read into the record here. And

1 I will make a copy available to you. And I would like to

2 read this for consideration by the Board.

3 He said, "Requiring USA highschool diplomas or
4 their equivalent for law enforcement applicants will most
5 definitely have a disproportionate impact on Hispanic
6 applicants and will adversely affect the community that
7 these individuals serve. The impact will be especially
8 severe in the Southwest, and in particular New Mexico,
9 because we are a border state to Mexico and have a large
10 Spanish-speaking population.

11 "Undoubtedly, requiring applicants to have USA
12 diplomas or equivalents will screen out many bilingual
13 applicants whose diplomas or equivalents come from
14 Spanish-speaking countries. Being bilingual in New
15 Mexico, especially in the field of law enforcement, is
16 definitely an asset; it leads to more effective
17 communication with the Spanish-speaking citizens and
18 non-citizens of New Mexico.

19 "This affects the ability of law enforcement to
20 succeed in its mission, which is to protect all citizens
21 and non-citizens, regardless of language, as well as to
22 ensure the equal access to justice that is guaranteed by
23 both our federal and state constitutions.

24 "The New Mexico Constitution specifically
25 provides for protection of its citizens who are not

1 proficient in the English language. For example, in New
2 Mexico, a non-English speaking citizen cannot, per the

3 state Constitution, be excluded from jury service because
4 of his or her inability to understand or speak English.

5 "For these reasons, requiring USA highschool
6 diplomas or their equivalent would be discriminatory in
7 effect to Hispanic applicants and an injustice to
8 Spanish-speaking New Mexico citizens and non-citizens
9 alike."

10 I would like to point out also that I'm a student
11 of history. I'm not an expert. And I like to read it.
12 But when this -- when New Mexico became Mexico in about
13 1820, it was through a revolution.

14 The American government had designs on taking the
15 Southwest. And this was called Manifest Destiny, or you
16 take the United States all the way across to the ocean.
17 When they got to New Mexico, the state basically
18 collapsed. It fell in without much of a battle.

19 And so did California, Arizona, what is now
20 Arizona that was then New Mexico. New Mexico went all the
21 way to California. Anyway, it was a very bitter battle
22 between the United States and Mexico, the Mexican-American
23 War. It was a land grant.

24 And it was a shameful incident. And that had
25 been stated by President Grant and many others. General

1 Lee. The fighting stopped when the Treaty of Guadalupe-
2 Hidalgo was proposed.

3 And in this treaty they said those citizens in

4 what was then Mexico, now New Mexico, will retain their
5 rights and their religion and their language and their
6 customs. And that no laws would be imposed upon them that
7 would infringe upon those.

8 Very efficiently, you might say, that treaty was
9 never ratified. In other words, it is not binding by
10 law. The United States government also made many treaties
11 with the Native Americans here in this country.

12 They were very high-sounding, noble treaties
13 written down. The Indians agreed and the signers of the
14 treaties agreed. And those treaties were not ratified by
15 the Congress. It did not make them binding. We still
16 inherit these problems today.

17 I think this will be a very serious issue. If we
18 change this law, I could not qualify to be a law
19 enforcement officer in New Mexico. I do not have a high
20 school diploma. I went to a school that was a six-year
21 school, four years of high school and two years of
22 college. Then I received my AA diploma, not a high school
23 diploma.

24 So technically I don't have a high school
25 diploma. I think this is way too limiting. I think the

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1 law as it is now says a high school diploma or its
2 equivalency. That is left to the discretion of
3 Mr. Ortiz.

4 This officer I understand served in Iraq. So

5 this man was able to defend his country, operate firearms
6 and other things like that. He has a good enough
7 knowledge of English, and yet we want him to pass a GED.
8 I think this is insulting and discriminatory.

9 Thank you.

10 MS. TORRES: Do you have any comments on that,
11 Mr. Ortiz?

12 MR. ORTIZ: No.

13 MS. TORRES: Anybody else have any other
14 comments? So I guess is there a motion to either accept
15 the proposed change or not?

16 MR. COON: I make a motion we -- we keep the
17 change with the United States high school diploma, and the
18 wording of this.

19 MS. TORRES: So we accept the change?

20 MR. COON: Yes, ma'am.

21 MS. TORRES: Is there a second?

22 MR. FORCE: I'll second.

23 MS. TORRES: Is there a vote? All in favor say
24 aye.

25 THE BOARD: Aye.

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1 MS. TORRES: Opposed?

2 MR. PEREZ: No. Nay.

3 MS. TORRES: Okay. So one opposed and the
4 remainder favors the change. Okay.

5 ITEM #8: PUBLIC HEARING:

6 RESERVE OFFICER TRAINING PROGRAM

7 The next is Agenda Item No. 8, NMAC Rule 10.28.8,
8 officer transition training program. And we refer to
9 Mr. Ortiz to explain this.

10 MR. ORTIZ: That will be Mr. Najar.

11 MR. NAJAR: Gilbert Najar. Agenda Item No. 8 is
12 the public hearing for the officer transition training
13 program. The addition to the New Mexico Administrative
14 Code is 10.29.8.

15 Last March of this year, this Board met and
16 appointed a committee to be chaired by Board Member Robert
17 Force to look into the question that had been brought
18 before the Board about our ability -- the Board's ability
19 to certify individuals who are involved in law enforcement
20 reserve programs for agencies in New Mexico.

21 The committee was formed and met and came up with
22 the recommendation. The previous section, 10.29.8, had
23 been a reserve section. It is now using that to propose
24 the adoption of this section, which covers the transition
25 training program for individuals that have achieved

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1 reserve basic training and for future reserve basic
2 training academy. So it covers two different areas.

3 The language in here was incorporated in such a
4 way that it does not recognize or define or formalize
5 reserve officer or reserve academies in the state of New
6 Mexico. Those would still be under the review of the

7 authority of the jurisdiction of each individual agency.

8 So it really has no impact on reserve officer programs

9 directly.

10 What this proposed rule change will enable is

11 that if you have a reserve officer that has achieved a

12 certain number hours of training towards law enforcement

13 certification, then we would look at those reserve hours;

14 make a comparison between the basic 800 hours requirement;

15 and then identify the missing hours that would enable that

16 person to eventually achieve then law enforcement

17 certification applying previously earned training hours to

18 that 800 hour basic requirement.

19 So none of the standards would be lowered. They

20 would still have to achieve the same minimum standards of

21 800 hours of training, all the requirements within that in

22 terms of the medical, psychological, physical fitness

23 requirements all stay in place.

24 It does not require any reserve officer to become

25 state certified. It merely offers an option for any

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1 reserve officer in New Mexico to attempt to become

2 certified through this process.

3 And as it's broken out within here, it sort of

4 addresses what we're kind of calling the existing reserve

5 officers, kind of our grandfather program for them

6 achieving that.

7 And we have a sunset date in here of 2011,

8 whereby any existing reserve officer would not be eligible
9 to achieve that certification if they don't take advantage
10 of it between now and 2011.

11 Effective 2012, any future reserve officers would
12 have to -- the agency would know who would want to be
13 achieving law enforcement certification would have to go
14 through the same process academywise in terms of approvals
15 and submissions and the packets, all the requirements for
16 future reserve officer training.

17 That would mirror regular academy. The
18 difference would be between instead of a 20- or 30-week
19 academy, then that academy period would be extended to
20 one, two, three years, whatever that agency decided. All
21 that information gets forwarded to the state for our
22 review and approval.

23 So that's in essence kind of the intent of the
24 rule that we have here.

25 MS. TORRES: Are there any questions or comments

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1 from the Board members?

2 MR. SEGOTTA: Madam Chair, I'm going to put a
3 different hat on. I'm currently president of the New
4 Mexico Chiefs Association, and I've received some phone
5 calls from a number of chiefs that are a little bit
6 concerned about changes that are being proposed.

7 What they've asked me to do is ask this Board to
8 table this item until such time that the chiefs

9 association and maybe the sheriffs association can have a
10 regular meeting to discuss some of the things they feel
11 that this program may impact their specific agencies.

12 So with that, that's what I'm asking, that maybe
13 that we should table this and give those associations an
14 opportunity to collectively sit down and discuss some of
15 the issues so that the associations can come forward to
16 the Board and express any concerns that that may have with
17 the recommended changes.

18 MR. FORCE: Madam Chair. I would not be opposed
19 to that at all. I mean, being I chaired the committee. I
20 would like to state on the record, however, that this --
21 the committee -- there was actually a posting that went
22 out publicly. And we did advocate for the sheriffs
23 association, as well as the chiefs association, for their
24 attendance, for their insight, and for their input.

25 In the sake of diplomacy, I really would not have

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1 a problem in postponing this matter; and at the same time
2 between now and the next meeting impanel another committee
3 meeting at which time --

4 Chief Segotta, if I could let you know when that
5 next meeting is if you would ensure that that information
6 gets passed on.

7 Because in the process of time that we had this
8 committee, we've had a variety of people coming in and had
9 interest. So I really I don't mind postponing at all.

10 That's my view.

11 MS. TORRES: Okay. I guess I have a question

12 before we take action on this -- on this officer

13 transition training program, is that what this one is?

14 Yes. Okay. Then yesterday we talked about -- actually

15 Chief Schultz was the one that brought it up.

16 But yesterday we talked about 10.29.8.7(E). We

17 talked about including a modification that would include

18 the actual date. So it would say certification by prior

19 basic reserve training means the validation of approval of

20 a comparable basic training program for prior reserve

21 training conducted in New Mexico as recognized and

22 approved by the director through December 31st, 2011.

23 And then that would -- because it looks like

24 there's an actual gap right now of a year between those

25 dates. And so we just wanted to clarify that.

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1 So, I guess, is there a motion to propose to

2 amend that one section and then we can decide what we do

3 with the whole rule?

4 MR. FORCE: Madam Chair, I would -- I'd make a

5 motion that we postpone this item until the next meeting.

6 MS. TORRES: Okay.

7 MR. FORCE: And along with that motion that that

8 would also be considered in the next committee for

9 reproposal.

10 MS. TORRES: Is there a second?

11 MR. COON: I'll second.
12 MS. TORRES: All in favor?
13 THE BOARD: Aye.
14 MS. TORRES: Anybody opposed? (No response.)
15 Okay. All right. So that item is tabled until the next
16 Board meeting.

17 ITEM #9: DISCONTINUATION OF
18 ADVANCED LEVEL CERTIFICATION EFFECTIVE 1/1/2009

19 MS. TORRES: The next item is new business. Item
20 No. 9, Discontinuation of Advanced Level Certification
21 Effective January 1st, 2009. And Deputy Director Najar.

22 MR. NAJAR: Agenda Item 9 is something we're
23 bringing before the Board for discussion. There is not a
24 direct rule or requirement on the Academy to provide
25 advanced level certifications. And as just about every

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1 agency in the State of New Mexico, we try to prioritize
2 those things that we would like to expend our efforts and
3 time on and try to figure out what things are of a higher
4 priority than others.

5 And so the advanced certification criteria, which
6 deals with Intermediate I, Intermediate II, Advanced I,
7 Advanced II, First Line Command, and Executive Level
8 Certificates is a program that you don't find anywhere in
9 NMAC or state statute.

10 And what we are requesting for discussion is
11 effective January 1, 2009, New Mexico Law Enforcement

12 Academy Training and Recruiting Division will no longer
13 process or issue advanced level certifications.

14 The process of issuing these certifications is
15 labor intensive, time consuming, and diverts the limited
16 resources and staff we have for more critical tasks and
17 duties of the advanced training bureau.

18 The processing of these certifications negatively
19 impacts the primary tasks and duties involving the
20 scheduling and delivery of statewide advance training,
21 including the development of specialized courses, such as
22 the recently developed court security program; scheduling
23 and delivery of annual certification by waiver courses,
24 which now is the responsibility to the advanced training;
25 the scheduling and performance of state-wide training

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1 agency compliance audits and participation of other
2 regional training coordinators and oversight committees.

3 So it's just a matter of I guess limited
4 resources. We'd like, especially since this requires so
5 much effort on the part of the bureau chief, since he
6 doesn't have a staff person really that does his work for
7 him.

8 We've got two instructors in the advanced
9 training. One's an attorney and the other one is an
10 advanced training instructor, Brian Coss. So it's left to
11 the bureau chief to process all these applications along
12 with his administrative assistant.

13 We would just like, I guess, your input and
14 feedback on whether or not you would approve of such a
15 discontinuation of an advanced level certification
16 process. And, again, the majority of state law
17 enforcement agencies in New Mexico do not utilize this
18 advanced level training process.

19 But those on the other side that do use them use
20 them for important purposes, such as pay raises and
21 promotions. So it would have a negative impact on those
22 law enforcement agencies who have come to rely on us for
23 these advanced level certifications. Thank you.

24 MS. TORRES: Thank you. Are there any questions
25 or comments from the Board members?

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1 MR. FORCE: Pursuant to our discussion yesterday,
2 let's just kind of get the rest of the Board up to speed
3 on it.

4 One of the concerns that we had yesterday that we
5 discussed was what the impact would be if the process was
6 completely discontinued and how that would affect -- what
7 is it, about 25 agencies you were thinking, Mr. Najjar? --
8 that it would affect them as far as promotions as well as
9 the requirement I guess in some agencies that they have to
10 have these certifications.

11 We discussed yesterday about retooling the
12 process to where there would be a checklist, that if the
13 process was continued that the Academy could put a

14 checklist together for the applicants that would
15 streamline and hopefully reduce the amount of time of
16 review along -- and secondly, from what I recall, looking
17 at increasing the amount of funds for the application
18 process.

19 I think probably in 1991, \$10 was a pretty good
20 wallop, I guess. But today when you look at offsetting
21 the administrative process, \$10 is extremely minimal. So
22 maybe even a payment schedule where we could look at
23 coming back.

24 So I guess getting the Board up to speed just for
25 the sake of the workshop yesterday. Either, A, I think

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1 the question is whether we would be in support of the
2 Academy staff discontinuing this process; or, B, if they
3 were to continue it, maybe come back with the report and a
4 study on maybe what needs to be retooled in the process so
5 we can approve that process.

6 Would that be about right, Mr. Ortiz?

7 MR. ORTIZ: Yes. One of the things we did
8 consider is to just instead of the seven groups, comprise
9 it down to five, where your intermediate would just
10 consist of 200 hours. Once you've obtained your 200
11 hours, you would get your intermediate certificate. Then
12 the advanced, just one advanced certificate as well. Once
13 you obtain 400 hours of the advanced, you would get the
14 advanced certificate.

15 And then just raise the fee on those as well.
16 Maybe for the intermediate, it would be a \$25 charge; for
17 the advanced, 50; and then when you get up to the
18 executive level it might be a \$100 because it's a
19 promotion as well.

20 MR. FORCE: Chief Segotta, we -- I think your
21 agency came up yesterday about how I guess there was some
22 understanding about the state police and how you used the
23 certification.

24 MR. SEGOTTA: We use the certification for
25 promotional process. But I can tell you right now we've

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1 already met with our research and development to modify
2 our policy. And what we're basically going to do is still
3 hold the same criteria available that you've established
4 and making sure when an employee is eligible for a
5 promotion that they've met the number of hours.

6 We don't need the certificates. We're going to
7 make it the responsibility of the employee to demonstrate
8 to the promotional board that they have the hours. So
9 we're good either way. We're going to continue utilizing
10 it in our promotional process, but we don't need the
11 certificates, basically, what I'm saying.

12 MR. FORCE: Well, my concern would be what would
13 the impact -- after we got rid of this, wouldn't the
14 sheriffs association and chiefs of police be in
15 agreement. Because, you know, I would hate to pull a

16 program and all of a sudden they find out by the school of
17 hard knocks that, oh, they don't do that anymore. Because
18 there are many chiefs that just don't attend the meetings
19 here.

20 So, I mean, it would be nice just to get rid of
21 the whole process to me. But the only thing I'm reluctant
22 on going that way is because of the impact it would have
23 with the law enforcement agencies.

24 MR. SEGOTTA: And on this particular
25 recommendation, I haven't received any input from any of

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1 the other chiefs out there through the association if this
2 is going to adversely impact them.

3 So I'm only speaking on my behalf. We're going
4 to deal with it basically by just changing some language
5 in our policy. So, you know, I understand what you're
6 saying that there could be the possibility that once it
7 becomes the change, that other chiefs will come forward
8 and say, "Hey, wait a minute. That's really affecting the
9 way we do business" with their particular agency. And I
10 understand that.

11 MR. FORCE: What I would like, Mr. Ortiz, if
12 there was a way that you can come back to us and just hold
13 on to this program before spending more effort in maybe
14 retooling it and going to the next chiefs meeting and
15 sheriffs association saying, "Hey, we're looking at
16 getting rid of it. And is it going to cause any great

17 burden upon you?" And if not, let's get rid of it.

18 MR. ORTIZ: That will work.

19 MS. TORRES: That works? Okay. So the next
20 agenda item -- oh. There was no more discussion on that
21 item, I take it? Okay. All right.

22 ITEM #10: RATIFICATION OF CERTIFICATIONS FOR LAW
23 ENFORCEMENT OFFICERS

24 MS. TORRES: The next item for new business is
25 Agenda Item No. 10, Ratification of Certifications for Law

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1 Enforcement Officers. And there's a list.

2 MR. ORTIZ: Madam Chair, Board Members, I did
3 hand out some gray folders with the list of the officers.
4 Everybody should have that.

5 MS. TORRES: Here it is. Got it.

6 MR. ORTIZ: Madam Chair, Board Member, the
7 director has verified that the listed police officers
8 beginning with Certification No. 08-0200-P through
9 08-0304-P, 98-0151-P, 98-0019-P, 00-0381-P, 02-0065-P, and
10 76-2554-P have all met the standards and requirements for
11 law enforcement certification. And we request that the
12 Board ratify their certification.

13 MS. TORRES: Okay. Is there a motion to ratify
14 the certification?

15 MR. SEGOTTA: I make a motion that we ratify the
16 certification.

17 MS. TORRES: Is there a second?

18 MR. JONES: I second it.

19 MS. TORRES: Vote. All in favor say aye.

20 THE BOARD: Aye.

21 MS. TORRES: Any opposed? It's unanimous.

22 ITEM #11: RATIFICATION OF CERTIFICATIONS

23 FOR PUBLIC SAFETY TELECOMMUNICATORS

24 MS. TORRES: Now we're up to Item No. 11, new

25 business, Ratification of Certifications For Public Safety

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1 Telecommunicators. Mr. Ortiz.

2 MR. ORTIZ: Madam Chair, Board Members, the

3 director has verified that the list of dispatchers

4 beginning with Certification No. 08-0108-PST through

5 08-0147-PST have met the standards and requirements for

6 certification. And we request that the Board ratify their

7 certification.

8 MS. TORRES: Is there a motion to ratify the

9 certifications?

10 MR. JONES: I make a motion to ratify all the

11 certifications.

12 MR. COON: I'll second it.

13 MS. TORRES: All in favor.

14 THE BOARD: Aye.

15 MS. TORRES: Any opposed? (No response.) Okay.

16 MR. ORTIZ: I just like would like to thank

17 Monique for putting this all together at the last minute.

18 It was hard work on her part. Thank you.

19 MS. TORRES: Thanks to both of you. At this
20 point I will recuse myself, as the Attorney General does
21 not sit in on disciplinary matters; and I will turn the
22 chair over to Chief Segotta.

23 If you will.

24 MR. SEGOTTA: Yes, I guess I will.

25 MS. TORRES: Thank you.

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1 (At this time, Ms. Torres exited the hearing.)

2 MR. SEGOTTA: Zack, you're going to have to walk
3 me through this.

4 MR. SHANDLER: Okay.

5 MR. SEGOTTA: As I understand, we're going to go
6 over the disciplinary matters beginning with the default
7 part of revocation. Is this the point where the
8 presentation is made and then those that are here are
9 given the opportunity to present their case as well?

10 MR. SHANDLER: Yes, sir. Mr. Jackson is ready
11 with his presentations.

12 ITEM #12: FRED DIXON

13 MR. JACKSON: Mr. Chair, Director, Board Members,
14 we'll be starting with Agenda Item No. 12. This is a
15 default order of revocation in the matter of Fred Dixon.

16 This is an old case, July 7th, 2006.

17 A victim of Mr. Dixon was seen walking along the
18 frontage road of I-25. Mr. Dixon had been called to
19 respond to an incident to try to get this man out of his

20 sister's house. He offers the man a choice between going
21 to jail or taking a beating.

22 The man says that he doesn't want to go to jail.

23 Mr. Dixon and another officer take him to the frontage
24 road. They beat him. Dixon points a gun at him. And
25 then they leave him.

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1 A notice of contemplated action was issued.

2 There was no response. A notice of final decision was
3 issued. There was no response. And so default order of
4 revocation has been issued.

5 Is there any questions on this one?

6 MR. COON: Was there any charges filed against
7 this --

8 MR. JACKSON: There were charges filed. I
9 believe the charges were filed in Sandoval County. And
10 then they were dismissed for lack of venue.

11 MR. ORTIZ: Excuse me. It was the other way.
12 They filed in Bernalillo instead of Sandoval.

13 MR. JACKSON: So there has been no subsequent
14 criminal action to my knowledge.

15 MR. PEREZ: You said -- it says here there are
16 police reports available. Ernie, would you summarize what
17 the police did.

18 MR. HOLMES: Yes. What happened is like -- and
19 let me elaborate a little bit more. This man, Native
20 American, went to his sister's house. He was inebriated.

21 She didn't want him in the house, so she called the
22 sheriff's department.

23 The deputy responded. And I guess this deputy
24 had dealt with this guy before. But he made some
25 comments, "We don't need your kind around here." And he

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1 shouldn't.... So he gave him the opportunity, "Either you
2 go to jail or do you want to get a good beating?" So the
3 guy said, "I don't want to go to jail."

4 And he was taken outside the county of
5 Bernalillo, Sandoval County; and there he was assaulted
6 and beaten up and left there. The following day, the
7 victim in this case was walking on the frontage road.

8 And he was observed by an officer from one of the
9 tribes. And he picked him. And there he found out what
10 had occurred. And then there was a report made to the
11 sheriff's office.

12 They did make a report. The guy was -- the
13 deputy who actually did the beating was indicted. But
14 here, again, wrong venue. And so as a result there was no
15 further prosecution on that case. And we thought that was
16 kind of odd.

17 But, again, that's not our choice. But that was
18 very obviously a civil rights violation. The other
19 deputy -- there was two deputies who responded. The other
20 deputy gave a statement indicating what this other -- what
21 the respondent had done.

22 And he was the one that was charged, the one who
23 did the beating. The other one was in charge of him.

24 MR. ORTIZ: Mr. Chairman, Board Members, just to
25 add, the other officer, you will be seeing his case

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1 probably at the next Board meeting.

2 MR. PEREZ: Did the police agency recommend or
3 take any action against the officer?

4 MR. HOLMES: He was terminated. He was
5 terminated, but -- when the indictment came down, it was
6 an automatic termination.

7 MR. PEREZ: He was terminated.

8 MR. HOLMES: Yes.

9 MR. PEREZ: Is he an active officer now?

10 MR. HOLMES: I'm going to say he -- that
11 Mr. Ortiz got a call from some agency wanting to know
12 about the status of this particular officer. And, of
13 course, Mr. Ortiz informed them that there was some action
14 pending on his certification.

15 MR. PEREZ: Thank you.

16 ITEM #13: WILLIAM HOGGARD

17 MR. JACKSON: All right. Item No. 13 is
18 William Hoggard. On September 15th, 2007, Mr. Hoggard was
19 acting chief during the chief's absence. This was I
20 believe in Artesia.

21 During the evening on that date, Mr. Hoggard
22 called a subordinate and asked for assistance, having

23 injured himself when he lost control of his motorcycle on
24 his driveway and tried to pick it up. Several officers
25 went to check on Mr. Hoggard and found him complaining of

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1 back pain. Mr. Hoggard smelled of alcohol and displayed
2 signs of intoxication.

3 Mr. Hoggard was remiss in his responsibilities
4 when he decided to consume alcohol while taking
5 prescription drugs, which affected his ability to make
6 important decisions, putting the department in a
7 precarious position in case of an emergency situation.

8 There are also indications that Mr. Hoggard
9 interfered with the Internal Affairs during an ongoing
10 investigation. And on one occasion made a statement to a
11 coworker that he would not hesitate to put a bullet in the
12 coworker's head.

13 The statement was referring to the same coworker
14 that accused Mr. Hoggard of interfering with the Internal
15 Affairs investigation that we'll be discussing in just a
16 moment.

17 In October of 2007, the state car assigned to
18 Mr. Hoggard was reported speeding on the highway at a
19 hundred miles an hour near Vaughn. And in the summer of
20 2007, Mr. Hoggard developed an inappropriate personal
21 relationship with an intern that raised concerns in other
22 employees.

23 The relationship consisted of e-mailing back and

24 forth, over-friendliness in the workplace, and taking her
25 out on patrol in his unit. While the investigation into

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1 the alleged misconduct was being conducted, respondent was
2 evasive and untruthful in some parts of the investigation,
3 such as not telling the truth when questioned about a
4 passenger in his unit when he was observed speeding near
5 Vaughn.

6 And yet another incident Mr. Hoggard suggested
7 that a friend having difficulty with a neighbor take a
8 baseball bat and take care of the problem himself and that
9 Hoggard would volunteer to help him with the baseball bat.

10 The respondent was terminated and was served with
11 a notice of contemplated action on July 15th. The
12 certified mail was returned unclaimed. And there was the
13 final decision that was issued, and we haven't had any
14 response. Any questions on this one?

15 MR. SEGOTTA: I guess I should have asked
16 earlier, is Mr. Hoggard here?

17 MR. COON: No.

18 MR. FORCE: Mr. Chairman.

19 MR. SEGOTTA: Yes, sir.

20 MR. FORCE: Just so we have it on the record.

21 Would you ask if Mr. Dixon is here.

22 MR. SEGOTTA: Is Mr. Dixon here? I don't see
23 that he is. Thank you.

24 ITEM #14: PAUL IELACQUA

25 MR. JACKSON: All right. Agenda Item No. 14 is

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1 Paul Ielacqua. And on November 28th of 2007, an internal
2 investigation was initiated against Mr. Ielacqua to
3 ascertain his personal connection with people of ill
4 repute operating an escort service suspected of being
5 involved in prostitution activities.

6 On one occasion while assigned to investigate
7 suspicious activity at a local hotel, Mr. Ielacqua went to
8 the hotel and was there for approximately 30 minutes and
9 then reported that no suspicious illegal activity was
10 going on and that no one was at the scene.

11 It was later determined that Mr. Ielacqua had
12 made contact with two females who worked for the escort
13 service in question and who had been in the room with an
14 unidentified male.

15 Mr. Ielacqua later admitted that while at the
16 hotel with -- on that particular assignment, he called and
17 met the owner of the escort service in reference to the
18 girls working at the hotel that night.

19 The respondent, Mr. Ielacqua, was told by his
20 supervisor to write a report concerning his encounter with
21 the owner of the escort service that night. Mr. Ielacqua
22 did not comply.

23 Subsequent investigation revealed that
24 Mr. Ielacqua by his own admission was remiss in his
25 responsibilities by abandoning his assigned post while on

1 duty to engage in sexual activity with numerous females.

2 He admitted that in a period of approximately
3 five years he left his assigned area approximately 10
4 times. And during the course of a five-year period, he
5 had sexual relations while on patrol duty approximately 25
6 times.

7 The respondent was terminated from his place of
8 employment, which I believe was APD.

9 MR. ORTIZ: Aviation.

10 MR. JACKSON: Aviation. I'm sorry. Thank you.

11 The notice of contemplated action was issued, and
12 a notice of final decision was issued. Now, we know that
13 Mr. Ielacqua received these and just chose not to
14 respond.

15 Is Mr. Ielacqua here today? (No response.)

16 MR. SEGOTTA: Thank you.

17 ITEM #15: JOHNNY PESHAKAI

18 MR. JACKSON: Item No. 15 is Johnny Peshlakai.

19 On January 2nd, 2008, sufficient evidence exists to find
20 that Mr. Peshlakai drove his department-issued vehicle
21 while having alcohol in his system. Mr. Peshlakai was
22 involved in a one-vehicle rollover.

23 He was air lifted to a medical facility and his
24 female passenger was taken to a medical facility by
25 ambulance. Mr. Peshlakai submitted to a blood test, which

1 revealed a .14 alcohol content in his system. He was
2 charged for DWI.

3 He resigned from the Navajo Department of Law
4 Enforcement while under investigation on January 25th.
5 The NCA and NFD were issued.

6 Is Mr. Peshlakai here today? (No response.)

7 ITEM #16: KEITH SALAZAR

8 MR. JACKSON: Agenda Item No. 16 is Keith
9 Salazar. In October and November 2007, Mr. Salazar
10 engaged in the conspiracy to distribute controlled
11 substances, notably methamphetamine.

12 Salazar's role included agreeing to use his law
13 enforcement access to research potential sources of
14 methamphetamine precursors, tipping off his
15 co-conspirators about impending search warrants, alerting
16 them about confidential informants, passing them
17 information about the activities of the narcotics task
18 force, including agreeing to find out the residential
19 address of a task force member, and agreeing to provide a
20 co-conspirator with law enforcement drug test kits.

21 This conduct has resulted in a multiple count
22 federal indictment against Mr. Salazar. Once again, the
23 NCA and NFD were issued.

24 Are there any questions about this case? Is
25 Mr. Salazar here today? (No response.) All right. That

1 concludes the default orders of revocation.

2 ITEM #17: GABE BEARDSLEY

3 MR. JACKSON: Now, we have a number of stipulated
4 orders beginning with 17. No. 17 is Gabriel Beardsley.
5 Mr. Beardsley, though married, became romantically
6 involved with a fellow employee, who was receiving
7 firearms training from him.

8 On June 1st of 2008, Mr. Beardsley's wife
9 discovered text messages from his girlfriend on his
10 phone. This led to an argument which escalated to
11 violence when Mr. Beardsley tried to take the phone from
12 his wife by force.

13 Mrs. Beardsley, frightened, ran out of the
14 house. And when Mr. Beardsley followed her, she ran back
15 in to retrieve her keys so that she might leave.
16 Mr. Beardsley then cornered her, telling her that she
17 could not leave.

18 She pushed past him, got into her car, and though
19 shaking from fear, got the car started and left.
20 Mr. Beardsley's violent acts left visible bruises on
21 Mrs. Beardsley's right arm and left fingers, as well as a
22 swollen area on the left foreman.

23 Now, the NCA was issued. And there was an
24 informal hearing. And I actually do not have a copy of
25 the stipulated order. What was agreed to in this case?

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1 Oh, here we are. Yes. This is a -- the
2 respondent has agreed to a suspension of 14 days,

3 probation of one year, course in ethics, counseling, and
4 eight hours of community service.

5 Is Mr. Beardsley here today?

6 MR. ORTIZ: But his chief is here, and his chief
7 would like to speak.

8 MR. JOJOLA: Good afternoon -- or the morning.
9 My name is George Jojola. I'm the chief of police for
10 Isleta Tribal Police Department in Isleta, New Mexico.
11 The incident did take place. I came not to vouch for my
12 officer but to sustain that, yes, disciplinary action was
13 handled within our department according to our policies
14 and procedures.

15 Also internal investigations were conducted by
16 the Bureau of Indian Affairs Office of Justice Services,
17 the Office of Professional Standards Division. So
18 whatever disciplinary action that the lieutenant may
19 receive, in my authority, my jurisdiction, he did receive
20 adequate or summary action, disciplinary action for his
21 actions on that particular day.

22 Keeping in mind that the officer's
23 indiscriminatory with another female were not that of
24 the norm for him. The other -- the ex-spouse was also
25 another law enforcement officer from a different agency.

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1 So actions on both parts came into consideration
2 with the actions that I took, disciplinary actions that I
3 took, once the investigation -- the Internal Affairs

4 investigation was conducted.

5 Pending the outcome of this, there's still some
6 other ramifications that could happen to the lieutenant at
7 this time where the council, as well as the governor's
8 administration, could elect to dismiss him from employment
9 from my department, which would be a great -- or a very --
10 loss of a very good asset.

11 Some of you know that he used to be a trainer at
12 the Law Enforcement Academy. Not saying that his actions
13 are condoned, but dealing with a human being, not a robot,
14 regardless of what status you may hold as a law
15 enforcement officer, you're still held to those higher
16 standards.

17 But, once again, I just want to reiterate that
18 the discipline that was taken on my part was based on our
19 Internal Affairs investigation.

20 MR. SEGOTTA: Any questions for the chief?

21 MR. COON: What kind of discipline did he get
22 from your department?

23 MR. JOJOLA: He received a three-day suspension.
24 He received a permanent letter of reprimand on his record,
25 plus he has administrative orders until I see fit that it

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1 no longer exists. And that's the -- administrative orders
2 deal with his conduct while as a law enforcement officer
3 and dealing with his children from his marriage.

4 MR. COON: Is he still a lieutenant?

5 MR. JOJOLA: Yes, he is.

6 MR. SEGOTTA: Any other questions? Thank you,
7 Chief.

8 MR. JOJOLA: Thank you.

9 MR. JACKSON: Are there any other questions on
10 this case?

11 ITEM #18: GLORY CHAPMAN

12 MR. JACKSON: We'll move on to Agenda Item
13 No. 18, Glory Chapman. On August 12th, 2007, Ms. Chapman
14 was dispatched to Grand Central Station to transport a
15 female prisoner for another officer.

16 The prisoner was intoxicated and verbally abusive
17 towards Ms. Chapman. Upon arrival at the PPC, the
18 prisoner refused to exit the patrol car. And Ms. Chapman
19 had to pull her out.

20 The prisoner was escorted inside the facility
21 where the prisoner continued to be verbally abusive. The
22 prisoner called Ms. Chapman several names. Ms. Chapman
23 was standing next to the prisoner when the prisoner stood
24 up and continued calling names.

25 And Ms. Chapman then punched the prisoner, sort

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1 of an upper cut, and told her to shut up. Ms. Chapman
2 notified her supervisor that she had hit the prisoner.
3 Upon searching the prisoner, dried blood was found in the
4 left ear.

5 The PPC refused to accept the prisoner until she

6 was examined at the hospital. And Ms. Chapman did
7 transport the prisoner to the hospital. The dried blood
8 appears to be unconnected with the incident at the PPC.
9 It seems to have been a preexisting thing.

10 There was an informal hearing held, under which
11 Ms. Chapman has agreed to a suspension of 45 days, a
12 probationary period of one year, and ethics course, anger
13 management counseling, and as we have heard earlier today
14 she has agreed to address the cadets. And this portion
15 has already been satisfied.

16 I know that Ms. Chapman is here today, and so.

17 MS. CHAPMAN: Thank you for having me. I'm not
18 disputing the fact that I broke the law. It took less
19 than two seconds. The prisoner taunting me all the way
20 down the freeway, it didn't affect me. And it got
21 personal. When it got personal, I was in a place -- it
22 was Friday night.

23 And I looked at the male prisoners that were
24 watching me. She was using challenge words, egging me on
25 to fight. And it was less than two seconds, like I said.

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1 It was instant. They were watching me to see what I was
2 going to do, and those bad guys are the ones I'm going to
3 meet on the street.

4 I walked up. Told her to shut up. I hit her
5 once. I backed off. The thing that sets me apart from a
6 lot of other things -- I'm not -- I'm not disputing the

7 fact that I did it. I called my sarge. I didn't hide
8 under a bush for three days and wait to be exposed and
9 then come and tell the truth and say, "Oh, look at my
10 integrity. I'm telling the truth."

11 I did it that moment. I did it that moment.
12 Even in two seconds' worth. I didn't tune her up when she
13 was in my -- she's still in my custody because I had to
14 take her to medical for a pre-existing injury.

15 I didn't tune her up in the back of my car. I
16 didn't tune her up behind some building. She was still in
17 my custody. I still maintained my professional demeanor
18 with her during the entire time I was with her. Okay.

19 (At this time, Mr. Schultz entered the hearing.)

20 MS. CHAPMAN: It never happened before. It's
21 never going to happen again. Why? Because I ratted
22 myself out. That's why I'm here before you is because I
23 ratted myself out. I got -- and God bless my chief. And
24 he's an honorable man. He's wearing his stripes.

25 He asked me when I went before him what my

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1 punishment should be. Well, I already learned my lesson.
2 Do I want more days off. He left me with it will be
3 between one day and 40 hours. He saw fit to give me the
4 full punishment, 40 hours without pay. Okay.

5 I didn't complain. I didn't go bad mouth him to
6 my squad. That's not me. I did the crime. I did the
7 time. Okay. Then I go before the informal panel. I made

8 an impression. I still got a stipulated agreement of 45

9 days. Would you teach a class? Yes, I did.

10 Did I go teach a class telling them how angry I

11 was, how bitter I was. No. He (indicating) can testify I

12 taught the class very well. Can I expect anything like a

13 letter of reprimand from you. No. Precedent's been set.

14 Throw the book at her.

15 Coming here was a good idea at first, mostly

16 because I really don't want my badge suspended because

17 that's very hard for a cop to go through. I'm not

18 disputing what I did.

19 I'm saying I was different in that I didn't wait

20 to be found out and then tell the truth. That's how you

21 know it's never going to happen again. Okay. I've

22 already taught the class. I've also -- the other thing

23 I've done is I've taken steps to -- it's not stamped yet,

24 but my anger management is in the works.

25 I've already taken my steps. So I don't know if

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1 I could get a letter of reprimand or the Board's going to

2 throw the book at me. That's where I'm at.

3 Do you have any questions?

4 MR. SEGOTTA: Any questions from the Board?

5 MR. FORCE: I have one question, thinking about

6 it. What do you think, Ms. Chapman, is appropriate at

7 this point? Because we're going to discuss your case.

8 We're going to go over the elements of it in camera and

9 come to a conclusion.

10 So I want to hear at least right today what do
11 you think is fair and right. Do you agree with the
12 stipulated order?

13 MS. CHAPMAN: What I've learned on the street is
14 that I have discretion. I have the power to throw the
15 book at somebody every time I stop them for a traffic
16 stop. But do I always throw the book at them? No.
17 There's people that make mistakes. They make violations
18 of traffic law. I don't always throw the book at them.

19 I've learned who deserves it and who doesn't.
20 I'm going to make mistakes, okay. And maybe I give the
21 wrong guy a break and maybe I ticket somebody else, you
22 know. But in the overall scheme you learn to size people
23 up.

24 You don't always have to throw the book at them
25 just because precedent is set, and I have the power to do

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1 it. I don't know what I deserve. I mean, I certainly --
2 I certainly called my sergeant and my lieutenant right
3 away. I certainly knew I did wrong. I certainly owned up
4 to everything. And not after the fact. That moment.

5 I don't know. I mean, you know, if I hope for
6 less than 40 hours, I get 40 hours. If I hope for 30
7 days, I got 45. If I hope for a letter of reprimand, I
8 don't think I have any power. I don't have friends in
9 politics. I don't play politics, you know.

10 I'm a cop out on the street. I can't -- you
11 know, I give people breaks as I see them on the street.
12 Just because I have the power, I don't always throw the
13 book at them. I don't know. I honestly can't tell you.

14 MR. FORCE: Well, I want to press you a little
15 further. If -- it almost sounds like the punishment here
16 is not an issue of correction, is what I'm hearing from
17 you. Because you've realized "What I did was wrong. I
18 have no excuse." Correct?

19 MS. CHAPMAN: And I corrected my action, yes.
20 Yes, sir.

21 MR. FORCE: So now what we're dealing with is a
22 meeting out of what justice is. So if you were to change
23 the role of my position or any of the other Board's
24 position, what would you think would be justice, what
25 would be due and fair given who you know yourself to be

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1 and what is right.

2 MS. CHAPMAN: What can I say? I mean, I would
3 ask for the biggest break I could get because of all the
4 reasons I gave. My integrity. And like I said, not after
5 the fact. See, what I say to somebody is -- I always tell
6 them to tell the truth.

7 If I'm going to lie -- I made a decision a long
8 time ago not to. That's it. I'm a cop, okay. You don't
9 belong in law enforcement if you're going to lie. Okay.
10 I know you guys here, and maybe you have other stories. I

11 know me. Okay. I know what decision I made.

12 When I gave my vows to my husband -- I've been
13 married 24 years, okay. People say wow. No. I made my
14 vows. I'm committed to my word. My word is gold to me.
15 There will be no others, through the good and bad, all the
16 things that we say but we don't really mean them five
17 years later. Well, to me that was my integrity. I gave
18 him my integrity.

19 When I stand before all of you, I say I won't do
20 it again. I already know me. Do I want a break? Yeah.
21 A letter of reprimand, that would be like a miracle from
22 God to me. I would love that. Could I ask for it? Yes.
23 Could I expect it? I know the Board's hard. I've already
24 heard.

25 Look at what you're going through. Precedent's

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1 already been set. You have the power to throw the book at
2 me. So would I ask for a break? Yeah, because I -- you
3 sized it up. You heard me. I don't come groveling like
4 give me a break, oh, please, I deserve it. I don't think
5 I deserve anything. I did the crime, you know.

6 MR. FORCE: Okay. Thank you.

7 MR. ORTIZ: I'd just like to add on that topic
8 integrity. She really did an excellent job with the
9 cadets on integrity. She went over and over and went over
10 about the line. And her attorney had contacted me after
11 asking if we can get it reduced from a 45-days -- my

12 initial was 90 days.

13 With her going to the Academy, I did cut it in
14 half to the 45. But seeing the impact she had and her
15 attorney -- this has been traumatic for her; and she's
16 been very remorseful -- asked if we could maybe cut it to
17 a 30-day.

18 And I said that I'll just mention that to the
19 Board because she did an excellent job with her
20 presentation if they would consider a 30 day.

21 MR. COON: Have you already done your time with
22 APD?

23 MS. CHAPMAN: (Nodded.)

24 MR. PEREZ: Ma'am, have you had any other
25 incidents of anger problems on the force?

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1 MS. CHAPMAN: Absolutely not.

2 MR. PEREZ: Thank you.

3 MR. SEGOTTA: Any other questions from the
4 Board? (No response.) Thank you.

5 ITEM #19: WALTER DRUTOK

6 MR. JACKSON: All right. Moving on. We have
7 Agenda Item No. 19. This is Walter Drutok. On Thursday,
8 July 3rd of this year, a security officer for Lovelace
9 noticed what appeared to be an Albuquerque Police
10 Department officer and a public safety aide engaging in
11 sex in a PSA vehicle in the Lovelace parking lot.

12 An investigation was initiated. And it was

13 determined that Mr. Drutok was the officer involved and
14 had been reported by the security officer. Now, the
15 stipulation here is for suspension of 30 days, one year
16 probation, ethics course, counseling, and eight hours of
17 community service.

18 Are there any questions on this?

19 MR. SEGOTTA: Is Mr. Drutok here? (No response.)

20 ITEM #20: PETE HERNANDEZ

21 MR. JACKSON: All right. Item No. 20 is Pete
22 Hernandez. On September 27th of this year, Mr. Hernandez
23 committed a battery on a household member. Police were
24 called the next day to investigate a domestic disturbance,
25 which occurred at Mr. Hernandez's wife's home.

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1 The couple had been separated for about three
2 months. And he was living on his own, and she on her
3 own. The wife told officers that Mr. Hernandez had
4 committed battery on her the night before. Officers
5 observed signs of the battery on the left side of her neck
6 and behind her ear.

7 She told officers that Hernandez came by the
8 house to see the children. She told him that she was
9 speaking with a man on the telephone and that she wanted
10 him to learn it from her. She said that she didn't think
11 it was going to be a problem since he had been dating
12 someone else for some time.

13 Initially, Hernandez acted normally but then he

14 suddenly began to demand to know who the man was and how
15 they met. Hernandez pushed her to the bed, grabbed her by
16 the throat, and pushed her against the headboard of the
17 bed.

18 He then slapped her on the left side of the head
19 with an open hand twice. He told her he knew how to hit
20 her without leaving any marks. She tried to dial 911. He
21 grabbed the phone and threw it against the wall, breaking
22 it into pieces.

23 He continued to demand information about the
24 other male. She wouldn't give it to him. He then threw
25 her to the ground, twisted her arm, and continued to twist

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1 it until she told him everything he wanted to know.

2 He also intimidated a potential witness
3 immediately after the events described just a --
4 previously. He allegedly said that if she was going to
5 make problems for him or file a report that he would come
6 back and kill her. He repeated this several times.

7 He also said that since he was an officer, that
8 the police department would cover for him and not believe
9 her. He admitted to both the battery and the
10 intimidation. While being taken to the police station, he
11 said, "Sergeant, I'm not going to lie to you. I did smack
12 her." He continued to express remorse over the incident
13 at the station.

14 Respondent admitted to throwing her on the bed,

15 slapping her on the head, and throwing her on the ground.

16 He admitted to grabbing the cell phone and throwing it

17 against the wall. He said that she was not trying to call

18 the police, that she was trying to call someone else.

19 When asked who she was calling, he didn't know.

20 He did admit that he told her he knew how to hit

21 people without leaving marks. He also said that he would

22 hurt her if anything went wrong with his job and he told

23 her this twice. He was arrested. Charges have been

24 filed.

25 MR. ORTIZ: Just, I'd like to add --

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1 MR. JACKSON: Did he just plead guilty?

2 MR. ORTIZ: -- he did plead guilty; therefore, it

3 came into effect on the Brady Bill, not being able to

4 possess. And I met with him and his attorney and we did

5 come to -- excuse me, just with him. And he is here

6 today. And we had this agreement.

7 However, he's contacted an attorney. And I'm

8 sorry. I maybe should have mentioned it before. He did

9 not -- his attorney advised him not to sign this

10 stipulated order, which -- and Wesley LaCuesta was another

11 one similar. And he contacted me. And he was not going

12 to sign it.

13 But since Mr. Hernandez did appear, I thought we

14 could present and bring his dilemma to the Board because

15 our hands are somewhat tied by the federal law based on

16 his guilty plea that he cannot possess a weapon.

17 Therefore, the agency has to terminate him and that we

18 would -- we should decertify him, unless he gets this

19 overturned or expunged.

20 Therefore, I could be left -- and I was going to

21 visit with Zack. Just continue through the process since

22 he did not accept this, send them the notice of final

23 decision, go through the formal hearing and all that, even

24 though our hands are tied by federal law.

25 So I don't know what we would accomplish by doing

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1 all that if we're going to get to this same result. So

2 I'd kind of like some guidance on that. Can we proceed?

3 He is here today and he is willing to address the Board.

4 MR. SHANDLER: Well, is he going to sign the

5 stipulated or not?

6 MR. ORTIZ: I guess we can ask him and see if

7 he's had a change of heart.

8 MR. SEGOTTA: Mr. Hernandez, would you come

9 forward.

10 MR. PEREZ: Excuse me. Mr. Ortiz, the Brady Law

11 requires that if there is a conviction --

12 MR. ORTIZ: A conviction.

13 MR. PEREZ: It has to be a conviction?

14 MR. ORTIZ: Yes.

15 MR. PEREZ: Therefore, then.

16 MR. ORTIZ: He did plead guilty to a simple

17 assault --

18 MR. HERNANDEZ: A simple battery, sir.

19 MR. ORTIZ: Yes. A simple battery. But that's

20 still a conviction.

21 MR. PEREZ: Okay. Thank you.

22 MR. SHANDLER: Before you go into your recital of

23 the facts, are you interested in signing the settlement

24 agreement or no?

25 MR. HERNANDEZ: Yes.

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1 MR. SHANDLER: You are?

2 MR. HERNANDEZ: Yes.

3 MR. SHANDLER: Okay. Then proceed.

4 MR. HERNANDEZ: As of now, my court case is going

5 to be overturned. New evidence has come into light. My

6 estranged wife has come forward with the truth. She has

7 told what actually happened. I know on paper it seems bad

8 in what I did. I did defend myself.

9 I know I had no right to put my hands on a woman,

10 but my wife's not a small woman. She outweighs me. She's

11 bigger than me. And I've taught her how to defend

12 herself. So she knows what she's doing.

13 All these charges should be dropped. They are in

14 the court system now. And here shortly, hopefully, I

15 won't even have a simple battery. I've just been advised

16 by this new lawyer that if we would have gone through

17 trial there was no way I would have been convicted.

18 She came forward to all the district attorneys.
19 She tried to contact the Carlsbad attorney. "I don't want
20 nothing to do with this. The story I told was wrong."
21 She wanted to come today, even though we're not together,
22 to speak for me.

23 But I didn't want to project that I had intimidated
24 her, because that was one of the original charges. I
25 didn't. It's all going to back to court. Whatever you

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1 all decide I'll go with because, hopefully, I want to have
2 an appeal on the suspension, revocation, whatever you all
3 decide.

4 My name will be cleared. It's going to take some
5 time and some money, but it will be cleared.

6 MR. SEGOTTA: Any questions from the Board?

7 MR. FORCE: I don't know that I heard you
8 correctly. First, are you willing -- are you in agreement
9 to sign the stipulated order of revocation for five
10 years?

11 MR. HERNANDEZ: Yes, sir.

12 MR. FORCE: And yet at the very end you said
13 something about making an appeal on that?

14 MR. HERNANDEZ: Is it possible?

15 MR. FORCE: Is that what you're -- did I hear
16 that?

17 MR. HERNANDEZ: Yes. After all of my charges are
18 dropped, because it's going to go probably back to

19 retrial.

20 MR. FORCE: Well, that's just weird. Why would
21 you make an agreement -- because you're making an
22 agreement with the director for a five-year revocation
23 that today you're saying, well, even though I'm going to
24 sign that, I'm still going to look at appealing that.

25 MR. HOLMES: Can I clarify that? I think on the

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1 agreement he's indicated there that provided if it's
2 overturned that he be given an opportunity to come back
3 before the Board.

4 MR. FORCE: Oh, to come back to?

5 MR. HOLMES: Yes. It's contingent upon --

6 MR. FORCE: So if you get it all overturned --
7 your intention is if it gets overturned, then you would
8 then have another appearance before the Board so we can
9 consider --

10 MR. HERNANDEZ: Yes, sir.

11 MR. FORCE: Okay.

12 MR. PEREZ: Excuse me. Did you hit her?

13 MR. HERNANDEZ: I pushed her away from me. I
14 never choked her. When she came towards me, instinctively
15 my hand went out. I never had my fingers on her throat or
16 anything.

17 MR. PEREZ: Did you threaten witnesses?

18 MR. HERNANDEZ: What I said was if I were to get
19 arrested for domestic disturbance that I could kill you

20 financially, that would kill us financially. Those are
21 the words that came out. I would never hurt my wife like
22 that -- or estranged wife. I'm not that kind of man.

23 I didn't have my letters of character to bring to
24 you because I didn't have enough time to get them.

25 MR. PEREZ: You said you would kill her

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1 financially?

2 MR. HERNANDEZ: It would kill us financially.
3 And it would kill her financially. When I get mad I tend
4 to stutter, and that's what came out. I never said, "I'm
5 going to kill you." And she'll tell you that. There's no
6 way. She's the mother of my children. And I wouldn't do
7 that. I wouldn't say that.

8 MR. COON: Did you tell the Internal Affairs or
9 the chief of the PD there that you knew how to hit her
10 without leaving the marks?

11 MR. HERNANDEZ: No, sir. No.

12 MR. COON: But you -- you claim that that's what
13 you said in the investigation.

14 MR. HERNANDEZ: Yes, sir.

15 MR. COON: But you never made those comments?

16 MR. HERNANDEZ: Sir, it's been -- I don't know.
17 I've been through so much.

18 MR. COON: Now, back up here. I mean, that's
19 pretty important.

20 MR. HERNANDEZ: Yes, sir.

21 MR. COON: That you told the IA investigator --

22 MR. HERNANDEZ: I've never spoke to IA, sir.

23 MR. COON: Okay. You told the chief -- Roswell

24 PD hadn't IA'd you on this at all?

25 MR. HERNANDEZ: No, sir. Nobody's contacted me.

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1 I've had no support from my police department since

2 September 26th.

3 MR. COON: But you did tell the chief or you told

4 somebody that investigated this that, "I know how to hit

5 you without leaving a mark." You made that statement,

6 right?

7 MR. HERNANDEZ: I don't recall that, sir. I

8 don't. I honestly don't.

9 MR. COON: Have you ever been in any hot water

10 with the Roswell PD other than this?

11 MR. HERNANDEZ: I had a traffic accident. And

12 here a year ago I went to look at my IA record, and I had

13 nothing in it. I've had the typical complaints that

14 officers receive; but other than that, my IA folder is

15 clean except for the accident.

16 MR. COON: Okay. Thank you.

17 MR. HOLMES: Just to clarify something here. On

18 this, the reason for this revocation is because and he's

19 agreeing to is because of the Gun Control Act. There's no

20 choice. But it doesn't mean that it can be amended if

21 it's overturned, and you can still take action on what he

22 did.

23 So then -- but it doesn't necessarily have to be
24 a revocation. It could be two years, three years, depends
25 on whatever the Board decides. But this matter here is no

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1 choice because of the guilty plea, and it does come under
2 the Brady Bill.

3 MR. HERNANDEZ: May I say something? I pled
4 guilty to a simple battery under the impression that I
5 could keep my gun and to keep my 14-year-old daughter from
6 going to court. She's gone from 169 pounds to 126 pounds
7 in a short period of time.

8 I couldn't put her through that. So that's why I
9 signed it. That's the only reason, to protect her. I
10 didn't know this was going to come about. I honestly
11 didn't. I was given bad advice by a lawyer. I fired
12 him. I got a new lawyer.

13 I went with the public defender the first time,
14 and I've got a letter from him that shows his
15 interpretation of law in here. And it's -- according to
16 him, I can still carry a gun. And that's why I agreed.

17 Now that I went to this new lawyer, he's advising
18 what you guys -- advised under the federal Brady Law I
19 can't carry a gun. So that's why it's getting overturned
20 now. And that's the only reason I pled to simple battery
21 is because of my daughter.

22 MR. FORCE: Mr. Hernandez, in signing this

23 agreement or being in agreement with the agreement, it
24 sounds to me that you're going against the advice of your
25 attorney in signing that agreement; is that correct?

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1 MR. HERNANDEZ: Yes, sir. I want to come back.

2 If I have to come back before you guys, I will.

3 MR. FORCE: So you're doing that knowingly?

4 MR. HERNANDEZ: Yes, sir.

5 MR. FORCE: You're not obeying -- or not taking
6 the counsel of your attorney; you know that, right?

7 MR. HERNANDEZ: No, I want my chance to get my
8 badge back.

9 MR. HOLMES: I think I can perhaps maybe get a
10 little bit further into this. I think when he agreed to
11 sign that or a stipulated order was because some of this
12 time that he has served could be considered by the Board
13 as -- in other words, the time he's revoked -- if he's
14 revoked now, if he signed the order and agreement that he
15 signed, then that could be counted for time later on if
16 it's overturned and appealed and you still impose some
17 sanctions on him, like say a 90-day or whatever.

18 Is that understood? Did I make myself clear on
19 that one?

20 MR. SEGOTTA: Yes. Kind of good-time philosophy.

21 MR. PEREZ: Did you report this yourself or did
22 it come to the attention of your superiors some other
23 way?

24 MR. HERNANDEZ: She reported it a full day and a
25 half afterwards, I believe.

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1 MR. PEREZ: You didn't report it?

2 MR. HERNANDEZ: No, sir. I was going to go talk
3 to my supervisor on Monday.

4 MR. PEREZ: Why didn't you do it right away?

5 MR. HERNANDEZ: I don't know, sir. I have no
6 answer for that.

7 MR. PEREZ: Thank you.

8 MR. SEGOTTA: Any other questions? (No
9 response.) Thank you, Mr. Hernandez.

10 MR. ORTIZ: You can remain for their decision if
11 you'd like, which will be later on in the day; or you can
12 leave and I can contact you.

13 MR. HERNANDEZ: Okay. Thank you, Board, for your
14 time.

15 MR. JACKSON: There are no other questions on
16 this one?

17 MR. SEGOTTA: I don't think so.

18 ITEM #21: CLINT HOLMES

19 MR. JACKSON: We'll move on to Item No. 21, Brian
20 Clint Holmes. From June 23rd through June 28th, 2008
21 while on duty and using a department issued computer,
22 Mr. Holmes is alleged to have been involved in an online
23 sexual relationship with a 16-year-old female.

24 He allegedly communicated in sexually explicit

25 dialogue with the minor over the internet on his assigned

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1 mobile dispatch terminal, which is intended for police
2 business only. The incident was reported after the
3 grandfather of the minor found inappropriate dialogue that
4 had been communicated on MySpace.

5 An investigation was initiated based on suspicion
6 and the possibility that Mr. Holmes might have engaged in
7 sexual intercourse with the minor female. A subsequent
8 investigation led to the conclusion that this had not
9 occurred.

10 Mr. Holmes claims that the minor is the one who
11 initially sought him out and would ask him charged
12 questions. And he tried not to take them seriously.

13 He was given a four-day suspension by Roswell
14 Police Department and resigned shortly thereafter. There
15 was an informal hearing, after which the Director and
16 Mr. Holmes agreed to a 90-day suspension, probation for
17 one year, ethics course, counseling, and eight hours of
18 community service.

19 Is Mr. Holmes here today? (No response.) Are
20 there any questions?

21 MR. FORCE: I have a question. Director Ortiz,
22 I'm looking at this individual's employment history.

23 MR. ORTIZ: Yes. Yes, I had noticed that he
24 moved around quite a bit. And I inquired if that was
25 regarding misconduct. And he indicated no, that it was

1 due to family issues, I believe, that he was moving.

2 And also in there is that another fellow officer
3 investigated the incident who did not view any messages
4 that he found were inappropriate. And they felt that this
5 16-year-old did exaggerate some of the stuff.

6 But he did admit, yes, he did inappropriately
7 send some messages, but not with sexual connotations.

8 MR. SHANDLER: I thought we'd talk about this a
9 little bit more because a year ago there was -- and this
10 is public record -- De La Garza. And the Board went 30
11 days. So the message is similar to the type that De La
12 Garza gave out? I mean, why 90 days, not 30 days.

13 MR. ORTIZ: Well, I'm sorry and no disrespect to
14 the Board, but I didn't agree with the Board on their
15 decision of 30 days on Mr. De La Garza. I felt it should
16 have been higher. And I felt this was appropriate.

17 MR. SHANDLER: Well, the defense that he offered
18 was that, you know, he was just trying to counsel a minor
19 and while it could be seen as inappropriate never crossed
20 the line to sexual stuff.

21 So, I mean, are these messages similar to what
22 they saw before? Or do we have copies of the messages
23 here that they could look at?

24 MR. ORTIZ: No, we didn't get copies.

25 MR. HOLMES: I think the difference -- if I may,

1 Zack -- is that De La Garza erased all the messages that
2 he had. He only provided the ones that were -- that
3 didn't incriminate him.

4 But out of -- and this went on for a long time
5 with De La Garza. It went on for -- I don't know, but it
6 wasn't like -- this was only a short time, this one we're
7 talking about. But this one did -- the officer himself
8 did admit it was inappropriate, the message.

9 De La Garza never admitted that he said anything
10 that was inappropriate. As a matter of fact, he said he
11 was counseling. But I'm in agreement with the Director.
12 I thought Mr. De La Garza should have been higher because
13 to us it's a serious offense.

14 MR. PEREZ: De La Garza, was that involving a
15 minor also?

16 MR. ORTIZ: Yes, it was.

17 MR. SEGOTTA: Any other questions?

18 ITEM #22: LEVI IRWIN

19 MR. JACKSON: All right. Agenda Item No. 22 is
20 Levi Irwin. We heard this initially in Silver City back
21 in September. This is the bobcat shooter. This stems
22 from a January 25th incident where Mr. Irwin was with two
23 other employees with Game and Fish and shot a bobcat.

24 He was the one who actually shot the bobcat.
25 This came before the Board in September with a stipulated

1 order of six months, which was rejected by the Board. The

2 Board recommended, I believe, one year. And there is now
3 a stipulated order for a one-year suspension, two years
4 probation, ethics training, and eight hours of community
5 service. Are there any questions on this case?

6 MR. SEGOTTA: Is Mr. Irwin here? (No response.)

7 MR. HOLMES: He was found guilty.

8 MR. JACKSON: Yeah.

9 MR. PEREZ: What was the last --

10 MR. HOLMES: He was found guilty.

11 MR. PEREZ: He was found guilty.

12 MR. JACKSON: What is it? The illegal possession
13 of a fur bearer. Yeah.

14 ITEM #23: WESLEY LACUESTA

15 MR. JACKSON: Then we have Agenda Item No. --

16 MR. SEGOTTA: Hold on.

17 MR. ORTIZ: I just want to address the Board and
18 Zack on Agenda Item No. 23. We had a similar situation
19 with Mr. Hernandez, where he pled guilty to a simple
20 assault under the Gun Control Act that applies.

21 And my question now is he has refused to sign and
22 agree with this. So I would issue him a notice of final
23 decision and just proceed with the formal, if that's what
24 he requests.

25 And I'm just saying that if we go through the

1 formal hearing with the federal law intact, are we wasting
2 our resources and our expenses by -- I know he has a due

3 process and a right to the hearing; but based on the
4 federal law, the results aren't going to be changed.

5 And my question is do we expend our resources and
6 the money, provide him with a formal hearing; or just take
7 action based on the Brady bill?

8 MR. PEREZ: He has pled guilty.

9 MR. ORTIZ: He has pled guilty. And he's in the
10 same process of trying to get it expunged. But my deal
11 with him is, well, we're going to revoke you until you get
12 that expunged. If you do get it expunged, then you have a
13 right to appear before the Board. But it's just matter of
14 due process, to allow him the due process.

15 MR. SHANDLER: Yes, you allow them to have due
16 process.

17 MR. ORTIZ: Okay.

18 MR. SEGOTTA: Any other questions on that?

19 MR. JACKSON: I assume that Mr. LaCuesta is not
20 here.

21 ITEM #24: LAWRENCE MARES

22 MR. JACKSON: Moving on to No. 24, Lawrence
23 Mares. On April 18th, 2008, a woman contacted the West
24 Side command here in Albuquerque reporting that she was
25 getting telephone calls and text messages from her

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1 ex-boyfriend, who is the respondent in this case.

2 An investigation revealed that he had been having
3 an extra-marital affair with her for about two years. He

4 kept telling her that he was going to leave his wife, but
5 he never did. She ended the relationship, telling him not
6 to contact her anymore.

7 After about a month, he began calling, sending
8 text messages, and going by her residence uninvited. And
9 they would argue about their relationship. She then
10 contacted his wife and told her -- and asked her to get
11 the husband, who is Mr. Mares, to stop calling her or she
12 would file a restraining order.

13 Now, a subsequent investigation shows that there
14 is -- there are a lot of mixed signals here. Her behavior
15 was not entirely that of one who did not want to continue
16 a relationship. It was a very dysfunctional
17 relationship.

18 And the Director and Mr. Mares have agreed to a
19 suspension of 14 days, probation of one year, ethics, and
20 counseling. He is going to talk to the cadets, which I
21 believe he did.

22 MR. ORTIZ: Not yet.

23 MR. JACKSON: He has not done that yet? And
24 complete eight hours of community service.

25 Is Mr. Mares here today? (No response.) Are

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1 there any questions? He is back with his wife now, so he
2 apparently has broken off contact with this woman.

3 ITEM #25: ANDREW MCCLAY

4 MR. JACKSON: All right. We have Item No. 25,

5 Andrew McClay. This is one of the passengers in the
6 bobcat shooting; was before you in September. Again, this
7 is from the January incident where the bobcat was killed
8 by the Game and Fish officers.

9 This came before the Board with a stipulated
10 order of 30 days, which was rejected. The Board then
11 recommended a year. We now come to you with a stipulated
12 order for 45 days suspension, one-year probation, ethics
13 training, and eight hours of community service.

14 Is Mr. McClay here? (No response.) Are there
15 any questions on this one?

16 MR. SHANDLER: Well, try to persuade the Board.
17 They asked for a year and you gave him 15 more days.

18 MR. JACKSON: Well, the feeling here is that
19 though the passengers in this incident did do wrong by
20 failing to report and failing to prevent the incident,
21 they are in point of fact not the person who shot the
22 bobcat.

23 And they did not -- it wasn't -- it wasn't like
24 they had days and days to report this thing. They were
25 found out fairly quickly.

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1 MR. ORTIZ: They were young officers as well,
2 just out of the Academy. Looking to him as --

3 MR. JACKSON: He represented an authority
4 figure.

5 MR. COON: They were not that far out of the

6 Academy. Two years. A year and 298 days.

7 MR. SCHULTZ: Was alcohol involved in this
8 incident?

9 MR. JACKSON: No. They were just out.

10 MR. SEGOTTA: Any other questions?

11 MR. FORCE: No, the only thing I just remark is
12 when we discussed this in the last Board meeting, I don't
13 think that information had gotten to us about his -- he
14 had just gotten out of the Academy like six months before
15 this incident if I'm right; isn't that correct, Director
16 Ortiz? It shows that he's almost a year and a half --

17 MR. ORTIZ: A little under a year and a couple of
18 months. Graduated in December in '06. This incident
19 occurred in January of '08. So about a year and two
20 months. Approximately a year.

21 MR. FORCE: In your meeting with him on the
22 informal, it was apparent to you that he was following the
23 senior officer's lead pretty much.

24 MR. ORTIZ: Yes. They were remorseful. These
25 are good officers.

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1 MR. FORCE: Okay.

2 MR. SEGOTTA: Any other questions? (No
3 response.) We'll move on.

4 ITEM #26: MICHAEL PADILLA

5 MR. JACKSON: Next, I have Item No. 26, Michael
6 Padilla. On July 14th of this year, Mr. Padilla's wife

7 was hit by a bicyclist on the sidewalk as she left the
8 store. When this happened, he fell off the bike, got up,
9 maybe apologized to her, maybe didn't, claims that he
10 apologized to her, and then he left.

11 Now, she went back into the store, called
12 Mr. Padilla, and let him know what happened. Then he went
13 looking for the cyclist, and he found the guy and beat him
14 up. So there were some injuries to the shoulder and to
15 the ribs of the cyclist. And they were treated at the
16 facility the next day.

17 Of course, the causation problem here is not
18 entirely clear, what might have resulted from his contact
19 with the -- the cyclist's contact with Mr. Padilla and
20 what might have resulted from the collision that knocked
21 Mrs. Padilla over.

22 The Director and Mr. Padilla have agreed to a
23 30-day suspension, one-year probation, anger management,
24 ethics, and eight hours of community service.

25 Is Mr. Padilla here today?

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1 MR. MONTANO: No, sir, he's not; but I would like
2 to speak, please. Good morning, Mr. Director,
3 Mr. Chairman, and Respective Members of the Board. I'm
4 Christian Montano, deputy chief of police, Las Vegas.

5 Mr. Padilla was on the way up here. I'm not sure
6 he was going to say anything. But he had some issues with
7 his kidneys. He's on his way for a CAT scan now. I

8 believe he telephoned you, Mr. Ortiz. I'm not too sure.

9 MR. ORTIZ: (Shook head.)

10 MR. MONTANO: Okay. But I'm just here on his
11 behalf to find out what the Board decides, as well as
12 relay the message from Chief Gold that himself and I
13 continue to support the decisions of this Board.

14 Thank you.

15 MR. PEREZ: Sir, were assault and battery charges
16 filed against this officer?

17 MR. MONTANO: I don't believe so. I know an IA
18 was conducted, and it was not sustained due to lack of
19 witness cooperation. I'm not too sure, as far as criminal
20 charges.

21 MR. PEREZ: The witness to the incident or the
22 victim?

23 MR. MONTANO: I believe the witness, sir. State
24 police investigated the criminal portion. And from what I
25 recollect, no charges were filed.

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1 MR. ORTIZ: And the Internal Affairs showed it to
2 be unfounded and even recommended -- I forget what --
3 something that the chief wrote in the letter.

4 As far as the injuries, when the bicyclist hit
5 the victim, he was projected off the bicycle and he hit a
6 vehicle and then fell to the ground. And the respondent
7 admitted to slapping him, but he said that the victim
8 approached him in the standoff. So he said he slapped

9 him.

10 And that's the only thing he admitted to. He
11 said he never punched him or he kicked him. He said he
12 didn't go looking for him. He was on the way home
13 following his wife when he saw the bicyclist at the gas
14 station near the Kentucky Fried Chicken.

15 He knows he was wrong and he should have
16 contacted the agency and let them investigate the
17 incident.

18 MR. HOLMES: I have pictures here of the wife of
19 her injuries. She got struck by the bicycle, and this is
20 some of her injuries that I have pictures of.

21 MR. SEGOTTA: Any more questions on this?
22 Anything else you'd like to say?

23 MR. MONTANO: No, sir. Thank you.

24 MR. SEGOTTA: Thank you.

25 MR. JACKSON: While those pictures are making the

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1 rounds, does anybody mind if we move on to the next item?

2 MR. SEGOTTA: Move forward.

3 ITEM #27: NATHANIEL ROMEO

4 MR. JACKSON: Agenda Item No. 27 is Nathaniel
5 Romeo. This is the other passenger in the bobcat
6 shooting. And I believe we discussed most of the issues
7 here. The new stipulated agreement is also for 45 days,
8 just as Mr. McClay's is.

9 And, again, I believe the Director feels and I

10 feel that there are different levels of culpability here
11 and that both Mr. Romeo and Mr. McClay showed sincere
12 remorse. And I don't think that they are likely to repeat
13 their actions.

14 Are there any questions on Mr. Romero? (No
15 response.)

16 ITEM #28: THOMAS SALAZAR

17 MR. JACKSON: All right. Agenda Item No. 28,
18 Thomas Salazar. On or about January 9th of 2008,
19 Mr. Salazar was arrested inside the boundaries of
20 Jicarilla Apache Nation and charged with aggravated
21 assault, negligent use of a weapon, and driving while
22 intoxicated.

23 Prior to being arrested, he had gone to his
24 wife's place of employment in an inebriated condition and
25 created a disturbance by arguing with her, accusing her of

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1 being unfaithful. When told to leave the premises by
2 staff members, he allegedly threatened to kill them by
3 putting bullets in their heads.

4 The police were called. And Mr. Salazar drove
5 off and was shortly, thereafter, arrested and taken into
6 custody. A search of his vehicle produced a loaded
7 handgun found in the pocket on the driver's side door.

8 Mr. Salazar exhibited signs of intoxication and was
9 administered a breath test, which showed a reading
10 of .12. Earlier the same day he is alleged to have

11 expressed suicidal wishes to other family members.

12 There was an informal hearing held on this where
13 these incidents were discussed. Mr. Salazar denied
14 threatening to kill anyone; said that he had lost his job
15 and was depressed because he had lost everything that was
16 important to him.

17 He also said that he had been diagnosed with
18 PTSD, but he will not take medication for it. He took
19 some responsibility for his actions and indicated that he
20 has only about six more months before he's eligible for
21 retirement.

22 He felt he had not been treated fairly by his
23 previous employer. He wants to be given the opportunity
24 to retire from his present employment, which will be in
25 about six months from the time of the hearing.

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1 The Director obtained sufficient information to
2 recommend this settlement agreement for the Board. This
3 settlement agreement is for a 90-day suspension, a
4 probationary period of one year, ethics course, anger
5 management with a licensed psychologist, alcohol
6 screening, and eight hours of community service.

7 And I believe Mr. Salazar is here.

8 MR. SALAZAR: Yes, sir, I am.

9 MR. JACKSON: Yes. Please.

10 MR. GRIEGO: First of all, I've known --

11 MR. SEGOTTA: Can you please introduce yourself.

12 MR. GRIEGO: Yes. Chief Jason Griego from the
13 Cuba Police Department. I've known Officer Salazar for
14 approximately 10 years. I've worked with him both as a
15 coworker with state police and currently as his supervisor
16 as a chief.

17 I disagree with the comment that Tom Salazar told
18 the Board -- or the informal board about his former
19 employer. I do agree with what Chief Segotta did, as far
20 as the termination after I attended the hearing -- on his
21 employment hearing.

22 I was not given all the facts during our
23 background investigation when he contacted his former
24 employer at that time. However, you're also correct on
25 the statement that you said that Tom Salazar went into a

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1 depression after his termination.

2 And I guess one of the comments was he lost
3 everything that he had. And I think that the focus point
4 for me at that point was as I began -- I hired Officer
5 Salazar on December 20th of 2007. This incident took
6 place January 9th of 2008, approximately 10 to 15 days
7 there.

8 And I recall one of our conversations while we
9 were at lunch that I failed to recognize I guess as a
10 supervisor. We were eating lunch. I asked him how are
11 you doing. He continued saying, well, you know what? I
12 was terminated. I don't feel I was given a fair deal.

13 He kind of kept going back at that. He said, "My
14 goal was to retire as a state police officer." And we
15 began discussing different issues that had come up. In
16 this conversation, Tom Salazar broke down crying in the
17 restaurant, stating a lot of things that he had dealt
18 with, I guess, as far as a criminal agent, 10 years with
19 the New Mexico State Police.

20 We ended our conversation there. We went on days
21 off. Two days later I get a call from the Dulce Police
22 Chief at that time; advised me that they had incarcerated
23 Officer Salazar. I asked him what the charges were. He
24 advised me.

25 I left my home in Rio Rancho and traveled up to

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1 Chama at that point to Dulce. I arrived there that night
2 with Officer Salazar's sister in the vehicle and myself.
3 And I was approached at that time by the chief, who asked
4 me -- well, he actually explained to me that Officer
5 Salazar had actually worked five years prior to that with
6 the Dulce Police Department prior to getting on with the
7 state police for 17 years.

8 He explained to me that Officer Salazar was his
9 coach officer, and he asked me what do you want to do with
10 this? I said, "You do what you need to do. You file the
11 charges. Do whatever it is that's within your means
12 because that's not the reason why I'm here. I'm here
13 merely for the moral support of the officer and to see

14 what's going on."

15 I then asked to enter into the cell. The 10
16 years that I knew Officer Salazar, I've never seen him in
17 that condition. He broke down crying. He continued
18 saying, "Chief, just let me get out of here. I have
19 nothing to look forward to."

20 And my question to him again was why. He said,
21 "Who am I now?" He said, "I work for a small PD. I'm no
22 longer a state cop." He kept going back to the status of
23 the state police.

24 I explained to Officer Salazar that it wasn't the
25 end of the world. And that you know what? I'm a strong

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1 believer in God and in Christ, and I believe that God
2 takes you through trials for a certain reason.

3 I explained that to him. I asked him where he
4 stood with God. We got down on our knees, and we prayed
5 right there in the cell. You know, after that he was
6 booked into the detention center.

7 And, you know, I think there was a total of six
8 other state police officers that showed up and began
9 talking to Tom and making him realize that you know what?
10 It wasn't the end of the world.

11 Yes, did he make a mistake. Yes, was Chief
12 Segotta in his rights in my opinion at that time to
13 terminating him, yes. Immediately after his release from
14 the detention center, I brought him that next morning to

15 see a psychologist.

16 And he had went through counseling. He also went
17 through counseling at Calvary of Albuquerque through one
18 of the churches. And we continued going through that.
19 But I take a step back, and I look at what he was faced
20 with, termination from New Mexico State Police after 17
21 years.

22 And I guess what opened my eyes was actually
23 sitting at the detention center with other officers that
24 were there saying, well, you know what? Some of the
25 things that he's talking about, yeah, we see I guess the

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1 horrors of life or society at its worst and we never have
2 an outlet.

3 Should we have an outlet and go talk to the
4 department psychologist for the department, what happens.
5 You're labeled. Therefore, we keep our mouths shut. And
6 this was a consensus across with most of the officers that
7 were in there, with the exception of one that said, "You
8 know what? I don't need anybody. I don't need anything
9 here. And it doesn't matter what you guys believe. This
10 is the one way, black and gray, and that's all it was."

11 During the course of I guess over the past
12 approximately a year I would say, you know, I've seen
13 Officer Salazar go from losing his marriage, losing his
14 house, losing his vehicles, losing a relationship with his
15 daughter.

16 And, you know, I step back; and I question the
17 events leading up to that, saying there was an individual
18 that was crying out for help. I think New Mexico State
19 Police, myself, and other people in his life failed to
20 recognize that he was actually crying out for help.

21 Is it the right thing to at this point throw the
22 guy out the door and wash my hands of him? I served five
23 years U.S. Army Rangers as an EOD tech and you never left
24 anybody behind. And that's where I'm at today. I refuse
25 to leave this individual behind, and I refuse to allow him

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1 to end up back on the ground.

2 He's at the mercy of the Board at this point. I
3 ask you not to hold any punches at the same time. But
4 there are some inconsistencies, because the night that I
5 did arrive at the Dulce Police Department, I asked to see
6 the breath score.

7 And upon speaking with the correctional officer
8 there, we walked up to the IR8000. Inside on the IR8000,
9 there's a little fan that keeps the formula going. That
10 was not going. I questioned the officer at that point.
11 Was this thing unplugged? Was it -- he says, no, because
12 I could blow into it for you, he goes. And we'll put
13 whatever score we want on there.

14 I then asked what all the officer was going to be
15 charged with. I was told three counts of aggravated
16 assault. I asked did he pull a weapon out. Is there

17 video surveillance. Yes, there was video surveillance. I

18 asked if I could see that.

19 Speaking with one of the officers that arrived on
20 scene, he stated that the weapon in fact was under the
21 passenger side seat and the weapon that was in the
22 driver's side door was a Daisy BB gun. Two weapons were
23 relinquished to me that night.

24 I asked the chief at that point, "You're charging
25 this officer with aggravated assault. Why are you giving

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1 me this weapon? Yes, it's my weapon. It's a department
2 weapon. Why are you relinquishing it to me?"

3 He said, "Well, this wasn't involved. In fact,
4 this was the one that was in the driver's side," which was
5 the BB gun. As a result of that, I contacted the Board --
6 I should say the Director.

7 We spoke about it. I've requested six times for
8 their cooperation, either in interviews and relinquishing
9 anything else that they had as far as for evidence for us
10 to go forward with this. As of this point, I get to be
11 contacted back by the Dulce Police Department.

12 I then contacted the district attorney's office,
13 which was AJ Salazar. He forwarded everything that he had
14 to me. Based off of that, I brought the officer in. We
15 did our Internal Affairs investigation. I gave him a
16 10-day suspension, revoked his community privileges for 90
17 days.

18 But I go back to the same thing is do we wash our
19 hands of an individual who -- again speaking with his
20 supervisors with state police -- had 17 years of a stellar
21 career, did his best. Does that signify and does that
22 justify what he did? No, it doesn't. It doesn't.

23 But I don't think there's a member sitting on
24 this Board that isn't capable off falling back into what
25 he fell into. Losing your job, losing your wife, losing

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1 your house, is it anybody's fault. No, it's not anybody's
2 fault.

3 I think it's actions that Tom failed to recognize
4 both in his spiritual life with God, in his life with his
5 family, and his dedication to his job. And I think
6 looking back on it, Tom can stand before you and say, "I
7 dedicated too much time to my job at that point. And it
8 was a place for me to isolate myself because that's what I
9 was good at. People recognized that I was good at that.
10 And when I came home, I wasn't that superstar that I was
11 in the field."

12 I'll let Officer Salazar speak.

13 MR. SALAZAR: Thank you for your time. If I get
14 a little emotional, I apologize. Chief Segotta, I've
15 worked for your department for 17 years. If I caused you
16 any embarrassment or any undue respect, I apologize to
17 you, sir.

18 MR. SEGOTTA: Thank you.

19 MR. SALAZAR: As far as the Dulce incident, I'm
20 not going to stand before you Board and say that I didn't
21 do nothing wrong. I did. Is it exactly the way the Dulce
22 Police Department put it? It's not.

23 But I'll be honest. I don't have the money, the
24 time, or the energy to continue with this battle. I stand
25 before you and I commend the female officer and her

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1 integrity. And she also just gave me a fine example.

2 Did I do wrong? Yes, I did wrong. I did hire an
3 attorney to fight the charges. And I was never prosecuted
4 on them. There was no way to prosecute on them. I agree
5 to 90 days and every other stipulation. I'll take it.

6 I'll take it.

7 But in my defense, I was a good cop. And Chief
8 Griego was right. I would much rather do 14, 15 hours
9 behind my desk than been going home. And that was my
10 downfall. My biggest downfall is that I turned my back on
11 my (crying), and I figured I could fix it myself. And I
12 only made it worse.

13 I'd ask you, Board members, for anything. I ask
14 for compassion and understanding. And I accept my
15 punishment. And I thank you for your time.

16 MR. PEREZ: Sir, Mr. Salazar.

17 MR. SALAZAR: Yes, sir.

18 MR. PEREZ: Couple of questions, please. Did you
19 threaten to kill anybody?

20 MR. SALAZAR: No, sir, I did not.

21 MR. PEREZ: You did not. Did you take out your
22 firearm at any time?

23 MR. SALAZAR: No, sir, I did not.

24 MR. PEREZ: And this is a rather -- this is an
25 important question. If you were allowed to remain, do you

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1 think that you can continue as a good officer or would you
2 be willing to seek professional help? Do you think you
3 need help?

4 MR. SALAZAR: Sir, I've been -- it was a
5 blessing. The incident in Dulce was a blessing because I
6 was the last person to realize that I needed help.

7 MR. PEREZ: Good.

8 MR. SALAZAR: And from that point I have been
9 receiving help.

10 MR. PEREZ: Good.

11 MR. SALAZAR: And I will continue to receive
12 help. They mentioned that I was diagnosed with PTSD.
13 They say I don't want to make medication, and I won't. I
14 won't.

15 MR. PEREZ: What was that from, sir?

16 MR. SALAZAR: That was from the gentleman I seen
17 here in Albuquerque, Dr. Reed.

18 MR. PEREZ: No. I said what was the PTSD?

19 MR. SALAZAR: Post traumatic stress syndrome.

20 MR. PEREZ: From the military or what, sir?

21 MR. SALAZAR: From state police.

22 MR. PEREZ: State police.

23 MR. SALAZAR: I refuse to take medications. I
24 don't want to be addicted to anything. I don't feel that
25 taking medicine or medication for -- just dealing with the

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1 problem.

2 MR. PEREZ: But you're willing to deal with the
3 problem, however?

4 MR. SALAZAR: I deal with it spiritually and
5 through professional help.

6 MR. PEREZ: I understand. Thank you, sir.

7 MR. FORCE: Chairman. Officer Salazar, it's --
8 and I know on the Christian walk we believe it's not how
9 you begin; it's how you end.

10 MR. SALAZAR: I couldn't agree with you more,
11 sir.

12 MR. FORCE: So in that same limelight, I've
13 noticed you're real close to retirement at this point,
14 right?

15 MR. SALAZAR: Yes, sir.

16 MR. FORCE: So how much longer do you have before
17 retirement?

18 MR. SALAZAR: Actually, I could -- when I checked
19 into it, I could leave now. But I was told if I stayed
20 two more years I would increase my retirement
21 substantially.

22 MR. FORCE: Okay. And is that your goal right
23 now is to stay in for the two more?

24 MR. SALAZAR: Yes. My wife and I have since
25 separated. I've lost everything. The only thing I had a

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1 hold on was my son. And I'm trying to -- he's 16. So if
2 I can get him through high school and until he's 18, I'll
3 be very thankful.

4 MR. FORCE: Okay. Thank you.

5 MR. ORTIZ: He's currently living in housing
6 provided by the Cuba Police Department as well.

7 MR. FORCE: I only commend you with -- sometimes
8 it does take a horrific incident to wake us up. Again,
9 it's not how you started your career, it's how you
10 finish. And I would just urge you with whatever
11 discipline is given out today, finish your career well and
12 hold your head high.

13 MR. SALAZAR: I am grateful that I was humbled,
14 sir. I'm ashamed for what it took to humble me.

15 MR. FORCE: Thank you.

16 MR. SEGOTTA: Any other questions from the
17 Board?

18 MR. SCHULTZ: I have a question for the chief of
19 Cuba. What was the 10-day suspension for?

20 MR. GRIEGO: That was for his code of conduct,
21 for the fact that he consumed alcohol. He did take the
22 weapon while he was under the influence of alcohol.

23 The discrepancy that I was following under, that
24 I had a problem with was the fact of the actual threats.
25 When I attempted to contact his spouse and a gentleman

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1 that -- when Officer Salazar walked into the gym, his wife
2 and this gentleman were off, I guess, the beaten path.

3 And I attempted to contact all three, and they
4 refused to articulate anything to me, refused to speak
5 with me. So I went based off of the code of conduct,
6 which was the decision that he made to go up there, the
7 fact that he did consume alcohol, and the fact that he did
8 have his duty weapon on him.

9 MR. COON: Did they aggravate the DWI with the
10 firearm enhancement?

11 MR. GRIEGO: Well, here was the thing on the DWI.
12 Again, when it got to the DA's office, they asked for a
13 breath score. The machine had not been tested. The DWI
14 citation was not done on an actual DWI citation. It was
15 done under traffic citation. Implied consent was never
16 read to Mr. Salazar.

17 And, therefore, all the charges were dismissed at
18 that point.

19 MR. SEGOTTA: Any other questions? Thank you.

20 ITEM #29: NICHOLAS ZEPEDA

21 MR. JACKSON: We have one more stipulated order.
22 This is a stipulated order of revocation. This is Agenda
23 Item No. 29, Nicholas Zepeda. This is an old case.

24 On August of 2006, Mr. Zepeda while off duty and
25 intoxicated was involved in two separate fights with the

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1 same person in Las Cruces. The first occurred outside of
2 a liquor establishment and the second shortly after that
3 one at an apartment complex outside the other party's
4 residence.

5 In the first incident, insults were exchanged
6 inside the bar between the respondent and the victim. And
7 they continued outside where Mr. Zepeda claimed he was
8 sucker punched. And then there was a fight. They were
9 separated by bystanders.

10 The second altercation was outside of the
11 victim's apartment after he had been phoned by
12 Mr. Zepeda's friend and that gave directions to his
13 apartment. Mr. Zepeda and two of his friends went to the
14 victim's apartment and confronted him outside.

15 The other party struck Mr. Zepeda on the side of
16 the head with an empty beer bottle, cutting his ear. The
17 fight continued. The victim was stabbed, resulting in
18 serious injuries, requiring ambulance transportation to a
19 medical facility.

20 Mr. Zepeda was indicted by a grand jury on August
21 31st of 2006 for aggravated battery with a deadly weapon.
22 Based on information received from Las Cruces DA's office,
23 on March 14th, 2008, Mr. Zepeda was found guilty of a
24 misdemeanor charge and served a 60-day jail sentence.

25 There was an informal hearing held with the

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1 Director via telephone, after which the respondent,

2 Mr. Zepeda, agreed to a five-year revocation.

3 MR. ORTIZ: Chairman and Board Members, last week

4 I did receive a telephone call from Mr. Zepeda advising if

5 the Board can reconsider possibly three years or two

6 years. He's been offered a job with another agency, he

7 advised. And so he has that possibility of employment.

8 I told him I would just inform the Board of that,

9 but my recommendation was the five-year based on this

10 incident.

11 MR. PEREZ: Excuse me. Question, sir. It says

12 here that the victim was stabbed. Who was the stabber?

13 MR. ORTIZ: Mr. Zepeda is alleged to have stabbed

14 the victim.

15 MR. PEREZ: And it says there was serious injury,

16 but then it was -- it's aggravated battery with a deadly

17 weapon. And it was a misdemeanor? It was not life

18 threatening? Was it that serious to be life threatening?

19 MR. FORCE: I think the question is was it pled

20 down from aggravated down to a misdemeanor.

21 MR. JACKSON: I may be incorrect on this; and the

22 Director can correct me. My understanding is that the

23 circumstances of the fight and the way that it proceeded

24 were not at all clear.

25 MR. PEREZ: Stabber and stabbee were not --

1 MR. JACKSON: That it was -- I mean, you had
2 somebody hitting with a beer bottle to start it. And it
3 just sort of went downhill from there. So it's not
4 entirely clear what happened.

5 MR. ORTIZ: In his story he maintains as they
6 were fighting around on that broken glass he believes that
7 the guy was punctured with the broken glass.

8 MR. PEREZ: Not necessarily a knife.

9 MR. ORTIZ: Right.

10 MR. PEREZ: Was he armed at the time?

11 MR. ORTIZ: He did have a knife. The police did
12 seize a knife.

13 MR. PEREZ: Did it have blood on it?

14 MR. ORTIZ: He said it did not have blood.

15 MR. PEREZ: Interesting.

16 MR. ORTIZ: But he was convicted by a jury. It
17 did go to a jury trial, and he was convicted.

18 MR. PEREZ: Thank you.

19 MR. HOLMES: And just to clarify something.

20 Mr. Zepeda was observed making stabbing motions at the
21 victim by a witness.

22 MR. PEREZ: Okay.

23 MR. JACKSON: Is Mr. Zepeda here? (No response.)

24 All right. That concludes the stipulated orders.

25

1 ITEM #30: EXEVIUS SEALS

2 MR. JACKSON: There are now two appeals on
3 suspensions. The first is Agenda Item No. 30. And I
4 am -- this one has sort of passed on beyond the litigation
5 section of the Attorney General's Office, and so
6 Mr. Shandler is going to handle it.

7 MR. SHANDLER: I have a favor to ask of
8 Chief Segotta and Mr. Ortiz. To make your life easier,
9 why don't you physically leave the room. Physically leave
10 the room.

11 (At this time, Mr. Segotta and Mr. Ortiz exited
12 the hearing.)

13 MR. SHANDLER: And since Chief Segotta is not
14 here, do we have a volunteer to chair this item?
15 Chief Schultz?

16 MR. SCHULTZ: We're there.

17 MR. SHANDLER: Okay. So on this item here, the
18 Board has previously, based on a hearing officer's report
19 and findings of fact, issued a decision. I think it was a
20 six-month suspension. And then the officer has appealed
21 that to district court, and that's pending in district
22 court.

23 And that case is assigned to Assistant Attorney
24 General Adrian Terry, who is here in case you have any
25 questions.

1 MR. TERRY: Good afternoon.

2 MR. SHANDLER: But I believe Mr. Seals has
3 come -- he wanted to come back to the Board and make some
4 type of presentation. So you have two options. One
5 option is you could hear his presentation today; or you
6 could decide option number two, since the case is pending
7 in court, then maybe just to let the court continue to
8 have the jurisdiction over the case.

9 So your two options are to hear his presentation
10 or defer that to once the court case is over. Is there a
11 sense from the Board?

12 MR. COON: I think if he made the effort to come
13 all the way up here, we ought to at least give him a shot
14 to listen to him.

15 MR. SCHULTZ: Sure.

16 MR. SHANDLER: Okay. So if he wants to come
17 forward, Officer Seals.

18 MR. SEALS: Good afternoon, gentlemen. My name
19 is Exevius Seals. I'm a deputy with the Valencia County
20 Sheriff's Department. Prior to that, I was an officer
21 with the state police almost five and a half years.

22 We've gone through several different incidents,
23 as far as court is going. Right now I was granted a stay
24 by the 11th {sic} Judicial District out of Los Lunas from
25 the suspension.

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1 There were different things that come to light,
2 as far as the evidence that was presented to the Board.

3 It was my opinion that the Board might have rendered a
4 decision not based on all the evidence.

5 I have since exhausted my financial means, as far
6 as being able to obtain an attorney to represent myself.
7 So I've been doing it pro se. We've been going back and
8 forth, myself and Mr. Terry here, as far as different
9 motions and things like that.

10 I guess what I'm here for right now is I didn't
11 have the opportunity to appear before the Board in
12 Red River. I believe that's when you guys had it in
13 June. I didn't have the opportunity to appear then.

14 This, I -- basically, I'm asking for a little
15 compassion, a little understanding, as far as the
16 situation that I'm in because I've fought so hard to get
17 to where I'm at. There were things that were brought out
18 in the hearing, the hearing notes, the actual record that
19 I felt were pertinent that were not presented before the
20 Board.

21 And in light of the matters, I recently did a
22 statement of appellate issues that I had to submit to the
23 courts. And it was about nine pages of discrepancies that
24 I found with -- in regards to the evidence that was
25 presented before the Board, what was actually said in the

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1 finding of facts.

2 To me, that's important. I believe that you guys
3 might look at it a little bit more objectively given --

4 having all the facts. So what I'm asking is that you guys
5 reconsider your decision. I've already served 90 days of
6 the proposed 180-day suspension.

7 In my opinion, I believe that it was excessive
8 given what the allegations were. There was nothing
9 criminal. It was more procedural, policy type things that
10 in my opinion weren't necessarily substantiated.

11 So as I come before the Board, I ask that --
12 basically, I'd like to say can we let bygones be bygones.
13 I am prepared to go as far as I can go, as far as through
14 the court systems, the appeal, because I feel that if I'm
15 right, I'll fight until I don't have breath in my lungs.

16 If I'm wrong, yes, I will stand up and be
17 accountable. If I mess up, yes, I will. But in this
18 instance, I feel so strongly that I'm right I have no
19 other choice. I'm not fighting this for notoriety. This
20 is out of necessity.

21 I don't have any other avenues, so to speak, but
22 to resist this matter. So by all means this is what I'm
23 asking the Board for leniency, reconsideration, and just
24 basically take the totality of it and say does the
25 punishment fit the crime.

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1 And that's what I'm asking the Board to do today
2 is to -- I know I did a letter on the advice of Mr. Terry
3 to the Board. I believe that's the reason why
4 Director Ortiz resubmitted me before the Board, given

5 the -- given the new evidence, I guess, or the evidence
6 that wasn't heard.

7 So I'm just trying to save, I guess, Mr. Terry
8 from having to come back down to Valencia County, tax
9 payers' money. To do another 90 days for me, it's almost
10 financial suicide. So I don't really have much -- much
11 choice but to continue on.

12 And if you guys render a decision that says,
13 "Okay, look, he's done his 90 days -- or he's done 90 days
14 and we feel that's sufficient," we can alleviate the
15 pending court schedule. And I don't have to go trouble
16 Judge Pope anymore, and Mr. Terry doesn't have to go back
17 down to Valencia County.

18 But if you guys choose to say, "We're going to go
19 ahead and go forward," then I really don't have much of a
20 choice than to go on with what I'm doing, which is
21 appealing the decision. So I ask the Board now for
22 leniency and compassion and understanding of what I'm
23 going through.

24 MR. COON: Would you refresh us -- at least my
25 memory. I remember your name in the Red River, but I

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1 can't remember what the case was.

2 MR. SEALS: Well, sir, it's been -- there were
3 four separate incidents, I believe. There was four
4 Internal Affairs investigations that were done against me
5 by New Mexico State Police.

6 I believe one of them was concerning a daily that
7 was submitted in 2005 the day after Thanksgiving, where in
8 Valencia County I was stationed in the subdistrict there
9 at Los Lunas. I was a day shift officer.

10 We were required to transport what we call 10-5,
11 which I'm sure you guys are aware of that. Court
12 documentation to the courts. I was working solo. I was
13 by myself. What was the norm was to gather up the court
14 documentation and take it to the courts throughout the
15 county.

16 It was the day after Thanksgiving. I was by
17 myself. And I gathered up the court documentation and
18 took it to the courts. My first court that I went to was
19 Belen Magistrate Court. As I got there, I didn't realize
20 that the courts were closed. Maybe I had my head up my
21 butt and wasn't necessarily thinking.

22 I was working by myself. Got there. The courts
23 were closed. Didn't dawn on me at the time that they were
24 celebrating President's Day, which was normally recognized
25 in February, on the day after Thanksgiving.

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1 So after I left there, I went to the district
2 attorney's office, which is in Los Lunas. So I drove from
3 Belen to Los Lunas to give documentation. Long story
4 short, I visited all the courts within Valencia County.

5 Well, I did documentation on my daily, which we
6 would normally do, which is a two-hour block time. I

7 indicated a two-hour block time on my daily. I never

8 indicated afterwards that the courts were closed.

9 When I submitted my daily, my supervisor called
10 me in November 30th, which was five days after the
11 incident, and questioned me about it. He said, "How could
12 you take the court documentation to the courts if they
13 were closed?"

14 And I said, "I didn't realize they were closed."

15 He says, "Well, why didn't you indicate that on
16 the your daily?"

17 I told him, "I forgot. It didn't dawn on me. I
18 didn't miss any calls. I wasn't late for anything. I
19 just" -- basically, I had a brain fart.

20 And he said, "Okay, well" -- and he explained a
21 few things to me. And that's where I felt I thought it
22 was going to stay. Well, about three weeks later, I was
23 hit with a target letter stating I was being investigated
24 for falsification of documentation.

25 And I was -- there was an IA launched on me for

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1 that. My supervisor at the time never disputed that I
2 went to the courts. He never said anything like that. In
3 fact, in our hearing that we had, he actually came to bat
4 for me and said, "No, I never had a problem with him. He
5 was a good officer. It was just this particular
6 incident."

7 I believe Mr. Force here asked him, "Could you

8 have given him the opportunity to correct the matter?"

9 And he stuttered a bit and says, "Well, I don't
10 know if I could have done that." That was just one of the
11 incidents.

12 But there's three others that are somewhat
13 similar, as far as paperwork documentation; but nothing
14 that would indicate any kind of criminal or anything like
15 that. It was timely reports or things like that.

16 MR. COON: Thank you.

17 MR. SCHULTZ: Mr. Seals, let me get this right.
18 So you served 90 days. You've asked the court to
19 intervene. The court has intervened, sustained -- or
20 suspended the suspension, so to speak?

21 MR. SEALS: Yes, sir.

22 MR. SCHULTZ: And you're back at work, correct,
23 for Valencia County Sheriff's Department?

24 MR. SEALS: Yes. Yes, sir.

25 MR. SCHULTZ: Was this a full hearing?

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1 MR. FORCE: Yeah, it was a complete full hearing
2 that we had. Mr. Seals had legal representation. The
3 Attorney General's Office presented the case. So that's
4 what -- I was going to ask the same question. So to
5 clarify in my mind the Board in Red River, we administered
6 a 180-day suspension?

7 MR. SEALS: Yes, sir.

8 MR. FORCE: And then you appealed that suspension

9 to the district court?

10 MR. SEALS: Yes, sir.

11 MR. FORCE: You've now served 90 days of the
12 suspension?

13 MR. SEALS: Yes, sir.

14 MR. FORCE: And there has been a stay on the
15 court? Is that --

16 MR. TERRY: That's correct.

17 MR. FORCE: -- on the remaining time until
18 there's a trial or?

19 MR. TERRY: Until this matter goes to hearing,
20 yes.

21 MR. FORCE: So are you still employed by the
22 Valencia County Sheriff's Department?

23 MR. SEALS: Yes, sir, I am.

24 MR. FORCE: And, sir, did you already -- were you
25 suspended for 90 days?

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1 MR. SEALS: Yes, sir.

2 MR. FORCE: So you were out of a job for 90
3 days.

4 MR. SEALS: Yes, sir. I was not -- I was not
5 performing my police duties.

6 MR. COON: But were you still working for
7 Valencia County --

8 MR. SEALS: I was working in court security, yes,
9 sir, in plain clothes.

10 MR. SCHULTZ: So you were getting paid?

11 MR. SEALS: Yes, sir.

12 MR. COON: Deputy salary or court security

13 salary?

14 MR. SEALS: I believe it was deputy salary, sir.

15 Yes, sir.

16 MR. FORCE: Were you carrying a badge and a gun

17 during that time?

18 MR. SEALS: No, sir. No, sir. I was actually

19 sitting in the -- I guess the camera room. Yes, sir.

20 MR. COON: If this doesn't pan out on your good,

21 are you going to be able to keep doing that for the next

22 90 days?

23 MR. SEALS: As far as court security?

24 MR. COON: Uh-huh.

25 MR. SEALS: That would rest on my sheriff. I

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1 know that my job is dependent on my certification. And if

2 I am to lose my certification, obviously, I can't be an

3 officer. I know that Valencia County is in desperate need

4 of deputies as it is.

5 And I know that Sheriff Rivera can't necessarily

6 afford to have me not on the street.

7 MR. SCHULTZ: Other questions?

8 MR. PEREZ: What was the evidence that was

9 withheld or improperly relayed? What was that about?

10 MR. SEALS: Yes. The evidence that was -- that

11 they said that I had mishandled was it was a DVD of an
12 interview that I had conducted on a gentleman who was
13 alleged to have been molesting his 15-year-old daughter.

14 During that investigation, I had met with the
15 district attorney at the time. His name was Steven
16 Scott. Prior to making any type of arrests or anything
17 like that, being that criminal sexual penetration of a
18 minor is a very serious charge, before we jump the gun, we
19 want to make sure we have all our ducks in a row.

20 So as I had got the statement from the
21 15-year-old, I then went to the district attorney's
22 office. I explained to them what I had. He said
23 interview him first.

24 I explained everything to her. She was very
25 uncooperative. Her stories were very inconsistent.

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1 Basically, it boiled down to she was a disobedient teen
2 that didn't like her stepfather administering discipline
3 to her keep her basically in line.

4 So when I did the taped interview, I put the --
5 before I had done any charges on him, I put the DVD in my
6 desk. I had a lock -- locked desk that it was located by
7 the Internal Affairs investigator, which was Darrell
8 Kindig, by mere chance.

9 He had come to the office, and he had asked me to
10 get a carbon copy of the report that I had done, the rough
11 draft. He said, "Well, meet me down at the office" --

12 "Bring it back." He was at the Albuquerque office. He

13 said, "Bring it back to me."

14 So I drove down there in my POB. Went down

15 there. And as I was working, he drove down, I guess,

16 behind me. And when he came to the office, he was -- he

17 saw me as I was getting my paperwork. And he looked and

18 he says, "What is this?"

19 I said, "It's a DVD."

20 And he started looking at it. And he said,

21 "Well, what is it of?" He didn't know what it was.

22 I said, "This is a interview of Mr. Olguin."

23 And he says, "Oh, okay. Well, you might want to

24 put that away."

25 I said, "Okay." No big deal. So then that was

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1 where he said, "Well, you mishandled evidence. And I know

2 that our whole office at the time would keep things in our

3 desks. It was a secured building and a locked desk. I

4 thought it was more of a charge of opportunity.

5 MR. PEREZ: He thought you should have filed it

6 in the file or --

7 MR. SEALS: He said that I should have put it in

8 the evidence locker, which was just down the hall, which

9 was basically a converted locker that was taken out of

10 an -- one of the local middle schools.

11 MR. PEREZ: And what else?

12 MR. SEALS: That was it, the DVD. And then there

13 were two little cassette tapes that were all located in my
14 drawer.

15 MR. PEREZ: You did not destroy those or convert
16 them to your use?

17 MR. SEALS: Not at all.

18 MR. PEREZ: You just didn't happen to put them
19 into the --

20 MR. SEALS: That was it.

21 MR. PEREZ: You hadn't taken them home?

22 MR. SEALS: No. No, sir.

23 MR. FORCE: Mr. Seals --

24 MR. PEREZ: Excuse me. I'm sorry.

25 MR. FORCE: I thought you were done.

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1 MR. PEREZ: But were you going to put them into
2 the file?

3 MR. SEALS: Absolutely, sir. Yes, sir.

4 MR. PEREZ: And you said that was sort of an
5 accepted procedure that was being done by others?

6 MR. SEALS: Absolutely. Absolutely.

7 MR. PEREZ: It was not out of the ordinary?

8 MR. SEALS: There were -- I mean, we have limited
9 space in the Los Lunas office regardless. And like I
10 indicated before, I felt it was just more of a charge of
11 opportunity.

12 MR. PEREZ: And we didn't -- this Board did not
13 have that information? Just the way you relayed it?

14 MR. SEALS: I'm not -- not in the file.

15 MR. PEREZ: From what you saw.

16 MR. SEALS: No, it wasn't.

17 MR. PEREZ: That was not relayed, what you had

18 done, you had kept it, and --

19 MR. SEALS: No, sir. No, sir.

20 MR. PEREZ: Thank you. Excuse me, Mr. Force.

21 MR. FORCE: Mr. Seals, I understand -- I mean,

22 you're asking us to have compassion on you so you can go

23 back to work, right?

24 MR. SEALS: Yes, sir.

25 MR. FORCE: And be done with this matter and not

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1 have to go through the appeal process at all?

2 MR. SEALS: Yes, sir.

3 MR. FORCE: And everything that I'm seeing in

4 here is basically saying it's causing a hardship on you

5 and all that. Bottom line, did you do anything wrong?

6 Because I haven't seen anything in here saying, "You know

7 what? I was wrong. And I paid 90 days of it. And I just

8 think based on me being wrong 180 days is just too much."

9 Are you admitting to any wrongdoing at all?

10 MR. SEALS: Mr. Force, yes, I can admit to as far

11 as I had indicated to you before, with hindsight being

12 20/20, yes, I can say that should I have put the tape in

13 into the evidence locker? Yes, I can say that. Would it

14 have caused me less stress and hardship? Absolutely.

15 Do I have remorse for it? Yes, I do. Of course
16 I do. There's no reason I would want to naturally come up
17 and have to stand before a board and explain my actions.
18 Do I feel that there was some type of, you know, collusion
19 or anything? No, I don't.

20 I don't think that -- I don't feel that I was
21 trying to deceive anyone at all. I was doing my job, and
22 I felt that I was doing it -- I felt I was good at my
23 job. I know I'm good at my job.

24 But, I mean, we can -- we can take any officer or
25 any deputy and say, "Well, you could have done this. You

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1 could have done that." And say, "Well, yeah, I could
2 have, but, you know" -- I mean, it's objective.

3 Now, of course, I have remorse. Of course, I
4 don't want to -- you know, I wouldn't -- my intent was not
5 to deceive anyone. You know, never. I'm very good at
6 what I do. I'm very proud to be an officer. I've been an
7 officer for 14 years. And I think I'm very good at what I
8 do.

9 But as far as being sorry for something that I
10 didn't do, no, I can't apologize for something that I
11 didn't do. The things that I did do, yes, hold me
12 accountable for, yes. But at the same time hold me
13 accountable within reason, you know. Hold me -- hold me
14 accountable within reason.

15 Okay. He should have put the tape in. I'm

16 sorry, but how many others of us have done that before?

17 Put secured evidence in our trunks or things like that.

18 All I'm saying is just look at me as anyone else.

19 MR. PEREZ: Do you feel, sir, that you were

20 treated in a disparate manner?

21 MR. SEALS: That has been -- that has been an

22 issue. That has definitely been an issue.

23 MR. PEREZ: Is it from one person or from

24 several? Where is this coming from?

25 MR. SEALS: Without pointing fingers, sir, I

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1 mean, I don't really want to get -- I don't necessarily

2 want to get into that. I mean, I understand --

3 MR. PEREZ: But if you're being treated unfairly,

4 somebody's doing it.

5 MR. SEALS: Well, sir, I've been through the EEOC

6 process. I have pending charge that were filed. I've

7 been through a previous mediation agreement, where my

8 supervisors were removed for -- for conduct they shouldn't

9 have been doing; but yet they were later promoted.

10 MR. PEREZ: Interesting.

11 MR. SEALS: So as far as my take on it, you know,

12 I can sit around and tell you guys war stories all day.

13 But I know that's not what we're here for.

14 MR. PEREZ: Do you think you were treated fairly

15 in this matter right here?

16 MR. SEALS: Absolutely not. No, I don't.

17 MR. PEREZ: Okay. Thank you.

18 MR. SCHULTZ: Sergeant Jones?

19 MR. JONES: No, my question was answered.

20 MR. SCHULTZ: Does this go to closed door?

21 MR. SHANDLER: Yes. Since this is a licensing

22 matter and it's under litigation, we can discuss it in

23 closed session.

24 MR. SCHULTZ: Thank you.

25 MR. RIVERA: Okay. I would also -- I'm Sheriff

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1 Rene Rivera. Mr. Seals does work for me, and I would like

2 to speak on his behalf also. At this point, Mr. Seals has

3 been working for me for over a year now. At this point, I

4 can say that Mr. Seals is one of my best deputies in

5 Valencia County.

6 And another thing is that something that happened

7 with state police, when he was working with state police,

8 I feel that right now me as the sheriff of Valencia County

9 is taking the punishment also for what transpired with

10 state police, being that instead of having Deputy Seals

11 out on the streets for 90 days, I mean, I had him in court

12 security when I'm shorthanded, you know, out at -- out on

13 the field.

14 And then with Deputy Seals having to go to court,

15 having to go and see his attorneys and stuff, I mean,

16 every time that he leaves my county, well, it's hurting

17 me; it's hurting the people of Valencia County.

18 And with that said, you know, I want to see if we
19 can go ahead and resolve the problem that we have with
20 Deputy Seals so we can stay in the county and work with
21 the people out there. Thank you.

22 MR. SCHULTZ: One more.

23 MR. SHANDLER: One more. And I'll get the two
24 people....

25 MR. JACKSON: While we're waiting on the Director

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1 and Chief Segotta, I'd just like to thank you for your
2 patience. This is the first meeting that I've had to run
3 as the prosecuting attorney for the Attorney General's
4 Office.

5 So thank you for your patience, and I welcome any
6 comments that you have after we're done here.

7 MR. COON: I have a question. When it comes from
8 a PD or the sheriff's office, it goes to Art, or DPS. And
9 then it goes to you. You all do the paperwork the way it
10 is written up right here (indicating)?

11 MR. JACKSON: Yeah. Generally, there's an
12 initial draft that comes to us and then we review it, make
13 sure that it matches the material that we've got and it's
14 supportable. And then we send it back, and it's issued by
15 the director.

16 (At this time, Mr. Ortiz and Mr. Segotta entered
17 the hearing.)

18 MR. COON: Thank you. I'm still pretty new at

19 this.

20 ITEM #31: ERIC JAMESON

21 MR. SHANDLER: Okay. Mr. Ortiz and Chief

22 Segotta, we're now up to Item 31.

23 MR. JACKSON: This is Eric Jameson. This is an

24 appeal of a revocation that was issued at the Silver City

25 meeting. Mr. Jameson has requested to go before the Board

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1 to discuss this. He owns the house where the mail was

2 delivered. This is the NCA and NFD, but he did not

3 receive those mails, as he was relocating from Carlsbad to

4 Hobbs.

5 There was an informal hearing conducted in

6 anticipation, you know, in case this appeal is granted.

7 And Mr. Jameson has agreed to a stipulated order of six

8 months. This is stemming from a DWI.

9 Mr. Jameson is here. Please come.

10 MR. JAMESON: Yes, I'm Eric Jameson. I was

11 certified as a police officer in the state in 2001. And

12 then in March of this year, March I believe 23rd, I was

13 arrested for DWI, aggravated first offense and giving no

14 notice of an accident, which was all true, very true.

15 But I own a home in Carlsbad, where I was living

16 at the time of the arrest. And I actually left that home

17 to move to Hobbs. And left my home in Carlsbad fully

18 furnished for the FLETC program, basically, to -- that's

19 my home.

20 I want to go back to it probably within a couple
21 years. I don't really know. It depends on what happens
22 here today. But I moved off thinking that that was still
23 my home in Carlsbad. I went to the post office and
24 forwarded my address to my address in Hobbs, where I
25 received my normal bills and normal coupons and stuff like

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1 that.

2 I didn't receive a letter from the Academy Board
3 until the third one. And I had actually been in contact
4 with the Academy. I had actually been -- attended
5 training classes after my arrest. The advanced training,
6 I was keeping those hours up. Because I had contacted the
7 Academy Board and they worked with me on that.

8 And I talked to other officers from the Roswell
9 PD, where I was employed. And they said, yes, if you
10 receive a letter from the Academy Board, then there's
11 issues. If not, then you're fine. You're good to go.

12 That's when I called the Academy. And I don't
13 remember exactly who I spoke to. I know whoever it was I
14 spoke to took the place of a female. It was a female
15 voicemail and a male answered.

16 Anyway, he basically advised that I could
17 continue my hours of training to keep my certification
18 valid. So that's what I was doing. So the third letter
19 that I had received in Hobbs through the forwarding
20 address was what I thought was going to be like a receipt,

21 of the Academy receiving the certification hours.

22 Instead, it was a letter of revocation by default
23 for not receiving the first two letters. So right away I
24 contacted Director Ortiz, talked to him over the phone.
25 He wasn't very pleased with everything I had to say.

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1 So I asked him if I could come up there and speak
2 with him in Santa Fe. And he actually told me to don't
3 waste my time. Just call. And then I kind of went, well,
4 I'm on the begging level.

5 I explained I was a good officer. I explained I
6 had a lot of letters of commendation. Officer of the Year
7 2003 through '04 throughout the state. National Police
8 Officer Hall of Fame, Purple Heart, Super Star, Metal of
9 Valor. And made F shield quickly, made SWAT quickly. A
10 lot of advanced work there.

11 Anyway, he told me to go ahead and call. And if
12 I could prove what I was saying about being a good police
13 officer, to mail it to him, whatever I had to do to get it
14 to him so he could review it.

15 Well, I didn't call him. I went ahead and
16 responded to Santa Fe to meet with him face to face. Gave
17 him the folder I had of all my commendations. And he had
18 an hour and a half to review it before I came back to see
19 him at two o'clock that afternoon.

20 Well, when I got into the conference room with
21 the investigator, he basically holds the envelope up and

22 says, "This, you know, actually is investigation
23 documents." Saying, "This is out of your character. This
24 right here is a good police officer. What the heck
25 happened here."

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1 And I just explained that the last -- like in
2 '07, it was a real rough year, as far as a drawn-out
3 really lengthy divorce. I was married for 17 years. I
4 was with my wife since 8th grade. So I went from a home
5 with rules and curfews and homework to being married. So
6 whenever she left, it was like devastation big time.

7 And so the night that I got arrested, I wasn't
8 out just crying or being a whine bag. I was out trying to
9 be social and just trying to figure out a new lifestyle.
10 That's it.

11 MR. SEGOTTA: Questions from the Board.

12 MR. SCHULTZ: We do have a stipulated agreement?

13 MR. JACKSON: Yeah. The stipulated agreement is
14 for a six-month suspension, probation of one year, ethics
15 training, alcohol screening and assessment, eight hours of
16 community service. And he agrees to address the cadets.

17 MR. HOLMES: If I may say something. We did the
18 interview. And I think Director Ortiz and myself, we felt
19 that this man made a mistake. He did hit one of those
20 directional signs. He didn't take the test for alcohol,
21 and that's the reason for six months.

22 But I was kind of surprised when I looked at his

23 credentials. This man was in a gun battle. He saved his
24 partner's life. He's been through a lot of things that
25 certainly we consider at least because he's very

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1 courteous, impeccable, except for that one incident where
2 he -- like he admitted, he had been drinking.

3 He did crash into that sign. He was taking off.

4 But everything went wrong for him. The horn went sounding
5 off, so he woke up the whole neighborhood.

6 MR. JAMESON: The damage was pretty minimal to my
7 vehicle. I hit one of those orange barrels that direct
8 traffic to one lane. And then in return I believe I hit
9 the trailer. So my vehicle sustained like the plastic
10 bumper -- it's a Mustang.

11 The bumper was cracked where the horn was
12 located, causing the horn to continue to go off. The
13 front bender was caved in.

14 MR. SHANDLER: Let me ask the Director and
15 Mr. Holmes. So the first time DWI is usually 90 days.
16 Here you've gone more than that.

17 MR. ORTIZ: He refused to take the breath test.

18 MR. SHANDLER: So that's now an aggravating
19 factor that you consider it?

20 MR. ORTIZ: Motor Vehicle considers it, and I
21 agree with them. So I'm going to consider it as well.

22 MR. COON: Where are you working at now?

23 MR. JAMESON: WIPP.

24 MR. HOLMES: I think I might add also because he
25 hasn't mentioned it but I think you should know. He was

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1 shot himself. And he was critical. And so was your
2 partner, right?

3 MR. JAMESON: Yes, sir.

4 MR. HOLMES: Both men were shot. He managed to
5 take the suspect down. I don't know how you managed it,
6 but you did it.

7 MR. JAMESON: I don't either, but I can't talk no
8 more. Sorry.

9 MR. SEGOTTA: Any other questions from the
10 Board? (No response.) Thank you.

11 MR. JACKSON: That concludes my portion.

12 MR. SHANDLER: Mr. Chairman, I want you to take a
13 second or the Board, if you will, from looking at Items 17
14 through 31 and in your mind figure out if there's any that
15 you need to not participate in before we go into the
16 executive session.

17 I'm also going to presume that you want to press
18 on and not take lunch.

19 MR. SEGOTTA: Yes, that's correct. I have two
20 that I will recuse myself from: Item 28, Thomas Salazar
21 and Item 30, Exevius Seals.

22 MR. SHANDLER: What about 29?

23 MR. SEGOTTA: Yes, I'm sorry. Nicholas Zepeda,
24 yes.

25 MR. SHANDLER: Anyone else?

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1 MR. JONES: Item 31, Eric Jameson.

2 MR. SCHULTZ: And I have a number as well. I

3 believe 18, 19, 24. That's what I have.

4 MR. SHANDLER: Anyone else? Okay.

5 MR. COON: Could we take like five minutes?

6 MR. SHANDLER: Chief, your group would like to
7 take five minutes. But can I walk you through the motion
8 and take a five-minute break?

9 MR. SEGOTTA: Yes.

10 MR. SHANDLER: So to go into executive session,
11 I'm looking for a motion to go into executive session
12 based on licensing and attorney/client privilege. Someone
13 make that motion.

14 MR. PEREZ: I so move.

15 MR. SHANDLER: And would there be a second.

16 MR. COON: I'll second.

17 MR. SHANDLER: Could we have someone on staff
18 just do a roll call of the members?

19 MR. SEGOTTA: We are only considering Items 17
20 through 31.

21 MS. CROKER: Chief Faron Segotta.

22 MR. SEGOTTA: Present.

23 MS. CROKER: Sheriff James Coon.

24 MR. COON: Present.

25 MS. CROKER: Val Panteah. Chief Ray Schultz.

1 MR. SCHULTZ: Present.

2 MS. CROKER: Sergeant Arsenio Jones.

3 MR. JONES: Present.

4 MS. CROKER: Robert Force.

5 MR. FORCE: Yes.

6 MS. CROKER: Matt Perez.

7 MR. PEREZ: Present.

8 MR. SHANDLER: Okay, Mr. Chairman, we're now in

9 executive session. Let's take a five-minute break, and

10 we'll reconvene and we'll clear the room.

11 (Off the record from 1:28 until 2:16 p.m.)

12 MR. SHANDLER: Okay. Mr. Chairman, if I could

13 walk you through.

14 MR. SEGOTTA: Sure.

15 MR. SHANDLER: Will there be a motion to return

16 to open session?

17 MR. COON: I make a motion we return to open

18 session.

19 MR. SHANDLER: And can there be a second?

20 MR. SCHULTZ: Second.

21 MR. SHANDLER: Then a roll call to be consistent,

22 please.

23 MS. CROKER: Chief Faron Segotta.

24 MR. SEGOTTA: Present.

25 MS. CROKER: Sheriff James Coon.

1 MR. COON: Present.

2 MS. CROKER: Chief Ray Schultz.

3 MR. SCHULTZ: Present.

4 MS. CROKER: Sergeant Arsenio Jones.

5 MR. JONES: Present.

6 MS. CROKER: Robert Force.

7 MR. FORCE: Yes.

8 MS. CROKER: Matt Perez.

9 MR. PEREZ: Present.

10 MR. SHANDLER: Can I get the Chairman to confirm
11 that only the matters discussed in closed session were
12 those ones that were listed in the original motion. Can
13 you confirm that?

14 MR. SEGOTTA: For the record, that is correct.

15 MR. SHANDLER: Okay. Mr. Chairman, for
16 expediency, I'll walk you through these. Disciplinary
17 matters 12 through 16 are default orders. Can there be
18 a -- one motion to accept those default orders?

19 MR. PEREZ: I move that we accept the default
20 orders 12 through 14.

21 MR. SHANDLER: 16.

22 MR. PEREZ: 12 through 16.

23 MR. FORCE: Second.

24 MR. SEGOTTA: I have a motion and a second. Any
25 discussion on that? All in favor.

1 THE BOARD: Aye.

2 MR. SEGOTTA: Any opposed? Motion carries.

3 MR. SHANDLER: Mr. Chairman, No. 17, Gabe

4 Beardsley. There's a proposed stipulated order of 14

5 days. Is there a motion to accept or reject?

6 MR. FORCE: I make a motion to accept.

7 MR. PEREZ: Second.

8 MR. SEGOTTA: I have a motion and a second. Any

9 discussion on the motion? All in favor.

10 THE BOARD: Aye.

11 MR. SEGOTTA: Any opposed? None opposed. Motion

12 carries.

13 MR. SHANDLER: Mr. Chairman, Item 18,

14 Glory Chapman. The proposed settlement agreement was 45

15 days. The Director has said that he's willing to mitigate

16 it down to 30 days. There may be discussion about whether

17 that's appropriate or a different sanction.

18 Does someone have a motion on this matter?

19 MR. FORCE: I'd like a motion, Mr. Chairman, that

20 we reject the Director's recommendation; and with that

21 motion to have a warning letter issued along with the

22 remaining parts of the stipulated agreement. So the

23 warning letter would be in replacement of the 30 days.

24 MR. PEREZ: Second.

25 MR. FORCE: I'm sorry. 45 days.

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1 MR. PEREZ: Second.

2 MR. SHANDLER: So, Mr. Ortiz, would you consent

3 to that new stipulated order of a letter of warning or
4 caution?

5 MR. ORTIZ: Yes.

6 MR. SHANDLER: And Officer Chapman, would you
7 consent to changing the stipulated order to just the
8 letter of caution?

9 MS. CHAPMAN: Yes. Thank you.

10 MR. SHANDLER: All right. So the parties have
11 agreed. So now you just need to vote on it.

12 MR. SEGOTTA: We have a motion and a second. Any
13 discussion? All in favor.

14 THE BOARD: Aye.

15 MR. SEGOTTA: Any opposed? None opposed. Motion
16 carries.

17 MR. SCHULTZ: Mr. Chairman, for the record, I did
18 recuse myself from Glory Chapman from the Albuquerque
19 Police Department.

20 MR. SHANDLER: Next item, 19, Walter Drutok. The
21 proposed settlement is 30 days. Is there a motion to
22 accept or reject.

23 MR. PEREZ: I move that we accept the 30-day
24 suspension.

25 MR. COON: Second.

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1 MR. SEGOTTA: Motion and a second. Any
2 discussion? All in favor.

3 THE BOARD: Aye.

4 MR. SEGOTTA: Any opposed? None opposed. Motion
5 carries.

6 MR. SCHULTZ: Mr. Chairman, again, I recused
7 myself from voting on this item.

8 MR. SHANDLER: Item No. 20, Pete Hernandez. The
9 proposed stipulated order is a five-year revocation with
10 some contingent language.

11 Chief Schultz, did you want to talk about that
12 contingent language and your possible concern with how
13 it's worded.

14 MR. SCHULTZ: Mr. Chairman, Director Ortiz,
15 during discussion on this, the Board would feel I believe
16 a little bit more comfortable with language that the
17 five-year revocation would be conditional.

18 However, changing the last sentence and the
19 language to include "only if overturned on appeal."
20 Instead of "changed or overturned by a proper court of
21 law." Like to actually go through a proper legal
22 proceeding.

23 MR. ORTIZ: Okay.

24 MR. SHANDLER: Okay. Do you understand that
25 change?

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1 MR. ORTIZ: Yes.

2 MR. SHANDLER: I don't know if Mr. Hernandez is
3 still here.

4 MR. ORTIZ: No. He left.

5 MR. SHANDLER: Well, what I would recommend is
6 that the Board could make the motion contingent on his
7 approval of that changed language. And if he approves it,
8 then the matter, you don't have to do it next meeting.
9 Does that make sense?

10 MR. SCHULTZ: It does. And I'd like to make the
11 motion as stated.

12 MR. PEREZ: Second.

13 MR. SEGOTTA: Motion and second. Any
14 discussion? All in favor.

15 THE BOARD: Aye.

16 MR. SEGOTTA: Any opposed? None opposed. Motion
17 carries.

18 MR. SHANDLER: Item No. 21, Clint Holmes. The
19 proposed stipulated order is 90 days. Is there a motion
20 to accept or reject.

21 MR. SCHULTZ: Motion to accept.

22 MR. FORCE: Second.

23 MR. SEGOTTA: I have a motion and a second. Any
24 discussion? All in favor.

25 THE BOARD: Aye.

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1 MR. SEGOTTA: Any opposed? Motion carries.

2 MR. SHANDLER: Item No. 22, Levi Irwin. As
3 discussed by your prosecutor, this was rejected last time
4 for six months; but they have now come back with a
5 one-year stipulated order. Do you accept.

6 MR. COON: I make a motion we accept.

7 MR. JONES: Second.

8 MR. SEGOTTA: I have a motion and a second. Any
9 discussion? All in favor.

10 THE BOARD: Aye.

11 MR. SEGOTTA: Any opposed? None opposed. Motion
12 carries.

13 MR. SHANDLER: Mr. Chairman, No. 23, Wesley
14 LaCuesta was removed from the agenda, for the record.

15 Item No. 24, Lawrence Mares. The proposed
16 stipulated order is 14 days. It deals with a romantic
17 situation. Earlier in Item 17 there was also a romantic
18 situation was also 14 days. So there would be some
19 consistency there. Do you accept or reject the proposed
20 settlement agreement.

21 MR. JONES: I make a motion to accept.

22 MR. PEREZ: I second.

23 MR. SEGOTTA: Motion and a second. Any
24 discussion? All in favor.

25 THE BOARD: Aye.

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1 MR. SEGOTTA: Any opposed? Motion carries.

2 MR. SCHULTZ: For the record, I did recuse myself
3 from voting on this.

4 MR. SHANDLER: Item No. 25, Andrew McClay. He
5 was a passenger in the bobcat incident. For the record,
6 the new stipulated order for this meeting is 45 days. Do

7 you accept or reject it.

8 MR. COON: I make a motion we accept.

9 MR. PEREZ: Second.

10 MR. SEGOTTA: A motion and a second. Any

11 discussion? All in favor.

12 THE BOARD: Aye.

13 MR. SEGOTTA: Any opposed? Motion carries.

14 MR. SHANDLER: Mr. Chairman, Item 26, Michael

15 Padilla. The proposed stipulated order is 30 days. Do

16 you accept or reject the stipulated order.

17 MR. FORCE: Mr. Chairman, I move to accept.

18 MR. PEREZ: Second.

19 MR. SEGOTTA: Motion to accept and a second. Any

20 discussion? All in favor.

21 THE BOARD: Aye.

22 MR. SEGOTTA: Any opposed? Motion carries.

23 MR. SHANDLER: Item 27, Nathaniel Romeo, another

24 passenger in the bobcat incident. Consistent with the

25 previous passenger, Andrew McClay, this one is 45 days.

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1 So that would be consistent among those two. Do you

2 accept or reject the stipulated order.

3 MR. COON: I make a motion we accept.

4 MR. PEREZ: Second.

5 MR. SEGOTTA: Any discussion on the motion? All

6 in favor.

7 THE BOARD: Aye.

8 MR. SEGOTTA: Any opposed? Motion carries.

9 MR. SHANDLER: Mr. Chairman, Item No. 28, Thomas
10 Salazar. The proposed stipulated order is 90 days. In
11 answer to your question raised, Mr. Salazar in a previous
12 employment, there was an LEA90, but it was -- it didn't
13 go -- well, explain again what happened with the LEA90 and
14 previous employment.

15 MR. ORTIZ: My office reviewed it in conjunction
16 with the Attorney General's Office where Mr. Salazar had
17 struck an elk while driving a vehicle, and his BAC .03 --

18 MR. HOLMES: .02.

19 MR. ORTIZ: .02/.03. So we did not take any
20 action on that.

21 MR. SHANDLER: Okay. So that was the previous
22 incident. But now the proposed settlement agreement
23 between the parties is 90 days. Is there a motion to
24 accept or reject.

25 MR. SCHULTZ: Move to accept.

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1 MR. PEREZ: Second.

2 MR. SEGOTTA: Any discussion on the motion? All
3 in favor.

4 THE BOARD: Aye.

5 MR. SEGOTTA: Any opposed? For the record, Zack,
6 I recused myself on Item No. 28.

7 MR. SHANDLER: Thank you. Mr. Chairman, Item 29,
8 Nicholas Zepeda. The proposed stipulated order between

9 the parties is a five-year revocation. Do you accept or
10 reject.

11 MR. PEREZ: I move that we accept.

12 MR. FORCE: Second.

13 MR. SEGOTTA: Discussion on the motion? All in
14 favor?

15 THE BOARD: Aye.

16 MR. SEGOTTA: Any opposed? Motion carries. And,
17 again, I recused myself from Item No. 29.

18 MR. SHANDLER: Item No. 30, Mr. Chairman, Exevious
19 Seals, is a request for reconsideration or it's a
20 settlement offer of a proposed case. What is the wishes
21 of the Board?

22 MR. SCHULTZ: Chairman, I move that we reject the
23 settlement offer and the letter.

24 MR. JONES: I second.

25 MR. SEGOTTA: Any discussion on the motion? All

200

1 in favor?

2 THE BOARD: Aye.

3 MR. SEGOTTA: Any opposed? Motion carries. And,
4 again, I recused myself from Item No. 30.

5 MR. SHANDLER: For the record, Chief Segotta did
6 not vote; and Mr. Ortiz took no role in Item 29 -- I'm
7 sorry, Item 30. Item 30.

8 Item 31, Eric Jameson. The proposed stipulated
9 order is six months. Does the Board accept or reject.

10 MR. FORCE: Motion to accept.

11 MR. COON: Second.

12 MR. SEGOTTA: Any discussion on the motion? All
13 in favor?

14 THE BOARD: Aye.

15 MR. SEGOTTA: Any opposed? Motion carries.

16 MR. JONES: Mr. Chairman, just for the record, I
17 did not vote on Eric Jameson.

18 MR. SHANDLER: The last item on disciplinary
19 matters is that I'm going to need to find some hearing
20 officers for some other cases. So Officer Jones and
21 Sheriff Coons, I think you volunteered before. So if you
22 could stay afterwards so we can sign you up as a hearing
23 officer.

24 Thank you very much, Mr. Chairman.

25 MR. ORTIZ: We will need somebody to sign them.

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1 MR. HOLMES: Chief Segotta is going to sign.

2 I'll take them to his office, and he can sign them there.

3 ITEM #32: SCHEDULING OF NEXT MEETING

4 MR. SEGOTTA: Let's move to Item No. 32 on the
5 agenda, scheduling of the next meeting.

6 MR. ORTIZ: We're looking at March in Santa Fe.

7 I don't have a date, but I'm going to check with you and
8 your schedules and see what's going on in the month of
9 March before we do set a date.

10 MR. SEGOTTA: The only thing that I would ask is

11 you do it after the session ends, which is the middle of

12 March, somewhere around the 15th, 17th.

13 MR. ORTIZ: Maybe around the 27th of March,

14 around that, in Santa Fe.

15 MR. FORCE: On a Friday?

16 MR. ORTIZ: That's a Friday.

17 MR. FORCE: The 27th of March is a Friday.

18 MR. ORTIZ: We'll look either a Tuesday or a

19 Thursday, depending on what else might be going on that

20 week.

21 ITEM #33: ADJOURNMENT

22 MR. SEGOTTA: Is there any other business that

23 the Board needs to address at this time? If not, I'll ask

24 for a motion to adjourn.

25 MR. PEREZ: I move that we close.

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1 MR. JONES: Second.

2 MR. COON: Second.

3 MR. SEGOTTA: All in favor.

4 THE BOARD: Aye.

5 MR. SEGOTTA: Thank you.

6 (The hearing adjourned at 2:28 p.m.)

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1 C E R T I F I C A T E

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3 I, Tanya M. Nims, a Certified Court Reporter, do
4 hereby certify that the Proceedings of the above-entitled
5 hearing were reported by me stenographically on
6 December 9, 2008, and that the within transcript is a true
7 and accurate transcription of my shorthand notes.

8 I further certify that I am neither an attorney
9 nor counsel for, nor related to or employed by any of the
10 parties to the hearing, and that I am not a relative or
11 employee or any attorney or counsel employed by the
12 parties hereto, or financially interested in the hearing.

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