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NEW MEXICO LAW ENFORCEMENT ACADEMY
REGULAR BOARD MEETING AND PUBLIC HEARING

Monday, June 29, 2009
9:03 a.m.
Ruidoso Convention Center
111 Sierra Blanca Drive
Ruidoso, New Mexico 88345

Reported By:
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Los Lunas, New Mexico 87031

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 Gary King, Attorney General

6 James Coon

Robert Force

7 Donald Gallegos

George Jojola

8 Arsenio Jones

Bernardo Perez

9 Raymond Schultz

10

11

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 A L S O P R E S E N T

13

Monique Croker

14 Ernest Holmes

Matthew Jackson

15 Arthur Ortiz

Zachary Shandler

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2 MR. KING: Well, good morning, everybody. I'm

3 Gary King. I'm the Attorney General and the Chairman of

4 the Law Enforcement Academy Board. And we appreciate all
5 of you being here today. Looks like we have quite a bit
6 of business to carry on today, so we'll try and move
7 through it fairly expeditiously.

8 ITEMS #1 & 2: CALL TO ORDER, ROLL

9 MR. KING: The first item on the agenda is the
10 call to order and roll call. And I think for roll call
11 usually we just have everybody at the front table
12 introduce themselves. So I'll start over here on this
13 end. And even you guys who aren't on the commission can
14 introduce yourselves.

15 MR. HOLMES: My name is Ernest Holmes. I'm the
16 investigator for the New Mexico Law Enforcement Academy
17 Board.

18 MR. JACKSON: I am Matthew Jackson. I am an
19 assistant attorney general. I'm the prosecutor for this
20 Board.

21 MR. SHANDLER: Zack Shandler, Board counsel.

22 MR. SCHULTZ: Ray Schultz, Albuquerque Police
23 Department, chief representative.

24 MR. FORCE: Robert Force, citizen at large.

25 MR. JOJOLA: George Jojola, chief of police,

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1 Isleta Tribal Police, Native American representative.

2 MR. GALLEGOS: Good morning. Donald Gallegos,
3 Eighth Judicial district attorney, DA's representative.

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

5 MR. COON: Rob Coon, Chaves County sheriff,
6 sheriff's representative.

7 MR. JONES: Arsenio Jones, Eddy County Sheriff's
8 Department, line officer representative.

9 MS. CROKER: Monique Croker, New Mexico Law
10 Enforcement Academy.

11 MR. ORTIZ: Arthur Ortiz, director of the
12 New Mexico Law Enforcement Academy.

13 MR. KING: So it appears to me that we have a
14 quorum. Actually, we may have anybody. Are we missing
15 anybody?

16 MR. ORTIZ: Chief Segotta will not be present.

17 MR. KING: That's right, yes. The next item on
18 the agenda is Item No. 3 -- actually, I'm going to --
19 before I get to Item No. 3, I know that you asked to have
20 to air conditioner turned on. Are you guys warm?

21 I'm going to -- in the legislature I'm going to
22 do what we call uninvoking the rule and allow people to
23 take their jackets off if they want to. It's kind of warm
24 in here this morning. And I'll set the lead. I guess the
25 desert dwellers aren't used to the humidity up here on the

7

1 mountain.

2 ITEM #3: APPROVAL OF AGENDA

3 MR. KING: Next item on the agenda is Item No. 3,
4 Approval of the Agenda. And has everybody had an
5 opportunity to take a look at their agenda? Any

6 comments?

7 MR. ORTIZ: Yes, Mr. Chairman, Board Members,
8 Item No. 17, Mr. Armando Medina, is going to be pulled off
9 the agenda. He did respond and is requesting a hearing.

10 And Item No. 28, the appeal on the revocation of
11 certification, Kenneth Martinez. I was contacted by his
12 attorney and neither one of them could be present today,
13 so they asked that we put it on the next Board meeting
14 agenda.

15 MR. KING: Okay. Any other changes to the
16 agenda?

17 MR. GALLEGOS: I would move to approve as
18 amended.

19 MR. KING: A motion to approve as amended.
20 Second?

21 MR. COON: Second.

22 MR. KING: All in favor say aye.

23 THE BOARD: Aye.

24 MR. KING: Any opposed? (No response.) All
25 right. The agenda is approved.

8

1 ITEM #4: APPROVAL OF MINUTES, MARCH 26, 2009

2 MR. KING: Next item on the agenda is approval of
3 the minutes, which are in Item 4 of your books. Any
4 discussion with regard to the minutes? Any additions or
5 corrections? Seeing none, I'll take a motion to approve.

6 MR. COON: Mr. Chairman, I make a motion to

7 accept the minutes.

8 MR. PEREZ: Second.

9 MR. KING: All in favor say aye.

10 THE BOARD: Aye.

11 MR. KING: All opposed? (No response.) The
12 minutes are approved.

13 ITEM #5: DIRECTOR'S REPORT

14 MR. KING: The next item on the agenda is the
15 director report. Mr. Ortiz.

16 MR. ORTIZ: Yes. Good morning, ladies and
17 gentlemen, Mr. Chairman, Board Members. On Tuesday night,
18 June 9, New Mexico State Police Sergeant Andy Tingwall and
19 Officer Wesley Cox went on a rescue mission in the Pecos
20 wilderness to rescue lost hiker Ms. Yamamoto.

21 Sergeant Tingwall died in a helicopter crash,
22 which I'm sure everyone is well aware of, while trying to
23 save Ms. Yamamoto. Officer Cox has since been released
24 from the hospital. He's doing well. And we're -- I'm
25 asking everybody to keep the families in their thoughts

9

1 and prayers.

2 And I also received a proclamation from the state
3 senate, Senator Mary Jane Garcia. And I'd like to ask the
4 Attorney General to read it.

5 MR. KING: Thank you. And at the beginning, I'll
6 add my condolences to the family and to the extended
7 family, all of the officers. I know that Sergeant

8 Tingwall was particularly well liked and respected, and
9 we're going to miss him greatly.

10 "The New Mexico State Senate, Having Learned of
11 the Death of Sergeant Andrew F. Tingwall, Does Hereby
12 Extend its Sincere Heartfelt Condolence and Sympathy to
13 the Bereaved Family and Friends of the Deceased; and

14 "Whereas, New Mexico State Police Sergeant
15 Andrew Francis 'Andy' Tingwall passed away during a search
16 and rescue mission on June 11, 2009 at the age of
17 thirty-six; and

18 "Whereas, Andy, as he was fondly known to family
19 and friends, was born on June 10, 1973 in Long Island, New
20 York; and

21 "Whereas, Andy graduated from the New Mexico
22 Military Institute in 1991 and earned an associate degree
23 from the New Mexico Military Institute Junior College in
24 1993; and

25 "Whereas, Andy proudly and honorably served his

10

1 country in the United States Marines on active duty from
2 1992 to 1993 and as a reservist assigned to Delta Company
3 4th Reconnaissance Battalion where he served in the
4 reserve unit until 1997; and

5 "Whereas, Andy was commissioned with the New
6 Mexico State Police on December 1, 1995 and started his
7 career in the Gallup district; and

8 "Whereas, Andy transferred to the Training and

9 Recruiting Division at the New Mexico Law Enforcement
10 Academy as a lead instructor where he touched the lives of
11 hundreds of officers with one goal in mind to make each
12 and every one of them the best State Police officer; and

13 "Whereas, Andy was part of the New Mexico State
14 Police Tactical Team for five years as an entry man; and

15 "Whereas, in 2002 Andy requested to become a
16 pilot and realized a lifelong dream by training in fixed
17 wing and helicopter and ultimately becoming the New Mexico
18 Police pilot in 2003; and

19 "Whereas, Andy was named the '2008 Officer
20 of the Year' by the New Mexico Sheriffs and Police
21 Association for his lifesaving effort in an August 2008
22 arroyo rescue; and

23 "Whereas, Andy was a loving and devoted husband,
24 father, brother, uncle and friend who cherished the time
25 he spent with his family; and

11

1 "Whereas, Andy is survived by his beloved wife
2 Leighann; two daughters, Alexis Ryann and Jenna Nicole;
3 and

4 "Whereas, Andy is also survived by his brothers,
5 New Mexico State Police Agent Steven Tingwall, Douglas
6 Tingwall and Ty Cord Gosnay and many other relatives and
7 friends; and

8 "Whereas, Andy will be greatly missed by his
9 loving family, friends and all who knew and loved him;

10 "Now, Therefore, be it resolved by the Senate of
11 the State of New Mexico that heartfelt condolences be
12 extended to the family and friends of New Mexico State
13 Police Sergeant Andrew Francis 'Andy' Tingwall, a kind,
14 dedicated and loving New Mexican."

15 Signed by Timothy Jennings, president pro tem of
16 the Senate, Senator Mary Jane Garcia of the New Mexico
17 State Senate, and Lenore Naranjo, chief clerk of the New
18 Mexico State Senate.

19 Let's all take just a minute of silence for
20 Sergeant Tingwall, please.

21 (There was a pause in the proceedings.)

22 MR. KING: Thank you very much. Thank you,
23 Mr. Ortiz.

24 MR. ORTIZ: Yes, sir. Mr. Chairman, committee
25 members, the director's report.

12

1 MR. KING: Go ahead. Do you all need him to talk
2 out of the microphone? This is a pretty small room. If
3 anybody can't hear, then let us know.

4 MR. ORTIZ: I'd like to begin by introducing
5 Adrianna Gatt. She's one of the summer interns that
6 joined us at the Law Enforcement Academy. And we also
7 have Hadley Furlano, who is still in Santa Fe working
8 today. But they've been a great asset to us there at the
9 Law Enforcement Academy being as short handed as we are.
10 So, thank you.

11 The second quarter registry had been mailed out
12 to all the agencies on May the 12th. And the annual
13 firearms requalifications report, which was due on
14 March the 1st, we still have quite a few agencies that are
15 noncompliant.

16 Out of the 200 agencies, only 63 have submitted
17 the paperwork in time. And Agent Mabry is working on
18 getting the other agencies in compliance.

19 Contractors will be submitting bids regarding the
20 audit project. As you'll see in Tab 5, there is a draft
21 in there about the audit that the Law Enforcement Academy
22 is proposing. What we're going to do is we're going to
23 contact the agencies, educate them about what's going to
24 be happening, and then hopefully get one of these
25 contractors to go down and audit these agencies to make

13

1 sure that they are in compliance.

2 And so it will be an education process to make
3 sure that they are reporting what is required.

4 Misconduct stats update. So far this year we've
5 received 62 misconduct cases for 2009. Two of those have
6 been sent by private citizens, and they were closed. No
7 action were taken on those two cases.

8 Currently there are 33 open cases; three for
9 2007; five for 2008; and twenty-six for 2009. Nine of the
10 open cases are pending a formal hearing, and eight of
11 those are pending court cases. So I think we're doing

12 very well in getting rid of the backlog, and most cases
13 are fairly current. And also attached on Tab 5 is the
14 stats, and I think that was as of June 17th.

15 The director and the staff attended the Chiefs'
16 Association meeting in Albuquerque on May 22nd and the
17 Sheriffs' Association meeting on June 4th down in Hobbs.

18 A representative from both groups met with the
19 director and staff in Albuquerque and provided input on
20 some of the training going on at the Law Enforcement
21 Academy, along with the LEA-90A form, which we have
22 proposed having the agencies do a quarterly reporting on
23 the LEA-90 form. And we'll discuss that a little bit
24 further in the agenda.

25 Due to the hiring freeze, three positions still

14

1 remain vacant at the Law Enforcement Academy.

2 At this time, I'd like to turn it over to
3 Advanced Training Bureau Chief Mark Shea with a report.

4 MR. SHEA: Thank you, Director Ortiz.

5 MR. KING: Make sure that that microphone is
6 turned on because you're going to have your back to
7 people.

8 MR. SHEA: Mr. Chairman, Members of the Board,
9 I'd like to give you a brief overview of what the Advanced
10 Training Bureau has been involved in since we last met at
11 the end of the March.

12 You do have in your briefing book under the

13 director's notes a list of all the courses that the
14 Advanced Training Bureau has conducted. I have left -- at
15 your table there was a handout with everything that was
16 updated since that book was sent out to you. So there are
17 some updates, and they will be reflected in red.

18 Just some of the highlights, rather than reading
19 through each one of those courses since it is rather
20 extensive. Since March 27 through June 30th, for this
21 reporting period, we have had a large number of classes,
22 31 to be exact, that we have provided to New Mexico law
23 enforcement over this period of time.

24 What's of interest of that is the fact that of
25 those 31 courses 12 of those have been instructor-level

15

1 courses. Our goal since we have such a small staff --
2 I've got a staff attorney, Elliott Guttmann, and a master
3 instructor, Brian Coss, as part of my bureau. That is my
4 staff, with the exception of Liliana Miano, who is our
5 administrative assistant.

6 So providing training throughout the state with
7 one lawyer and one instructor is a rather daunting task.
8 So we rely heavily upon adjuncts. We also rely upon
9 contracts, that we contract other training providers. And
10 something that we have started in this cycle is hosting
11 some courses where we're bringing training providers in.

12 Rather than paying for them on contract, we are
13 hosting. So we provide the facility. They are charging

14 their tuition and collecting that, but we provide that
15 training. So I'm trying to get a lot of training out to
16 the state with the limited resources of both budget and
17 staffing.

18 So that's why we have 12 instructor-level
19 courses. One of my goals is to train the local
20 jurisdictions, officers that are with agencies as
21 instructors so they can replicate that training at the
22 local level rather than relying upon the Department of
23 Public Safety and the Law Enforcement Academy to provide
24 training directly from the Academy.

25 Also in that 31 courses we had three

16

1 management-level and leadership-level courses that we
2 offered. One of my other goals is to look more closely at
3 the needs of law enforcement within the state, try to get
4 out of that thought of, you know, commissioned officers,
5 one size fits all.

6 We have different needs for different levels of
7 law enforcement with our management level, our command
8 level, and our street officers. There are very distinct
9 different needs for training in those levels, so I'm
10 trying to provide training at those different levels
11 across the state to meet some of those needs.

12 If you look at the updated handout that I gave
13 you, as of today we have trained 590 officers. And we
14 don't only just train officers; some of our mandates with

15 the moneys that the legislature has given us is for first
16 responders in public safety.

17 So we're picking up some of the fire and
18 emergency medical services, some of the other providers
19 within the broader law enforcement community to provide
20 training to them also, not just our officers, our
21 commission officers.

22 So those 590 officers and civilian staff that
23 have attended our training through the Advanced Training
24 Bureau have received 11,192 contact training hours over
25 this period. With two staff members, I think that's quite

17

1 a bit of training to provide.

2 One of the courses that we have been really
3 spending a lot of time on is our firearms instructor
4 updates. Our firearms instructors throughout the state
5 traditionally once they go through the firearms instructor
6 course and receive their certificate in the past they
7 would renew that every four years, and there was really no
8 check and balance to make sure that what they were
9 teaching remained current.

10 Some weren't doing a lot of teaching, so their
11 ability to stay current in that curriculum was limited.
12 So we have instituted a firearms instructor update. This
13 is the first phase. What we would like to do is do
14 instructor updates on all levels.

15 We're looking at the high-risk training areas

16 first, and we've had three courses that we have put on so
17 far this year. And what we're doing is training our
18 master-level instructors in the update curriculum so that
19 they can go out and around the state and provide that
20 training to the instructors so we can get every firearms
21 instructor in the state who is interested in maintaining
22 that credential, get them current.

23 We have produced a DVD that shows all of the
24 physical techniques that are required of a firearms
25 instructor to demonstrate and to teach to their officers.

18

1 And we've also provided a CD which has all of the lesson
2 plans, both for the basic firearms instructor course and
3 the update course and our ongoing in-service courses.

4 So they have everything available to them. When
5 they go through this two-day course, they have to
6 demonstrate those skills. They are given an academic
7 test, which they must pass showing they know the
8 material.

9 We've had a lot of positive feedback. I just
10 jotted down a couple of the comments on the last
11 evaluation from the last class. And I'd just like to read
12 those to you.

13 One was: "Great class. Positive changes. Well
14 demonstrated." Another comment: "Excellent training,
15 best since gunsight and firearms instructor school." And
16 another comment: "Good class to standardize everyone."

17 From a standpoint of negative comments that we
18 received from that class is that there is so much material
19 over a two-day period consistently they've asked for three
20 days. It's kind of interesting.

21 We always come across this that when you mandate
22 some training everybody comes kicking and screaming
23 saying, "Why are you making us do this?" And then once
24 they attend it, they're saying, "Well, this wasn't long
25 enough."

19

1 And that's kind of what we're experiencing with
2 the firearms update. We will continue to push that
3 process out. We're going through the file review.

4 One of the things that has to happen before a
5 firearms instructor can attend one of these classes is
6 they have to go through a file review where we look at
7 what training they've done, what their qualification
8 scores are to show that they are proficient with the
9 weapons systems they are training on and teaching.

10 And then once they have gone through that file
11 review they are eligible to go to the firearms instructor
12 update class.

13 If you go down, the next section is on our
14 current certification by waiver of our previous training
15 class, which will start on July 6th. We had 47 applicants
16 in the process for this class. Of those 47 at the time
17 that we had our mandatory assessment, physical assessment

18 with the mile and a half and 300 meter, which they must
19 complete at the 50th percentile, we had 30 that were
20 scheduled that had complete packets to do that on the 23rd
21 of June.

22 Of those we had three no-shows. Two did not
23 assess because they had high blood pressure. We're
24 required before we can allow them to participate in the
25 physical assessment that they have to have a blood

20

1 pressure -- believe it or not -- of less than 160 over
2 100, which in my mind is extremely high.

3 But that's what the Cooper standard says. If
4 they are beyond that, then we are not allowed to test
5 them. So we had two that did not meet that 160 over 100
6 blood pressure, and we did not allow them to test. Of
7 those that we did test, seven of them failed the
8 assessment.

9 And so we are looking now at our classes start on
10 July 6th of 32 people attending. Of those, approximately
11 14 retirees, which are exempt from the physical
12 assessment. Also, out of that 47, eight that were in the
13 process because of various reasons have requested to be
14 moved back to the certification by waiver class in
15 September, No. 68. So we have eight that have already
16 been pushed back to our CBW 68 in September.

17 On personnel matters, I know when we met last, I
18 had let the Board know that our staff attorney Elliott

19 Guttman was off on medical leave, that he had had
20 surgery. He has since returned. He's in good health,
21 good spirits.

22 And I want to thank everyone who kept him in
23 their thoughts and prayers. And he is back in the saddle
24 and ready to do the legal update throughout the state and
25 also help with our basic academy class, our certification

21

1 by waiver class, state police recruit school.

2 We keep him extremely busy and I'll talk about
3 that in just a moment. But, again, thank you for keeping
4 him in your thoughts and prayers.

5 Also, we didn't mention in the last meeting that
6 our first quarter, employee of the quarter was Liliana
7 Miano, who is the administrative assistant for the
8 Advanced Training Bureau.

9 She's done an excellent job of tracking all the
10 training, getting the documentation together, and also
11 taking care of the billing, getting the agency's invoices
12 out and collecting those funds so that we can pay for the
13 training.

14 I'll talk about this a little bit later, but I
15 just wanted to let you know that in April I did send out a
16 training survey to every agency in the state. And my goal
17 in that training survey -- well, they were several goals.

18 One was to get a feel for what agencies would
19 like to see in the 2010-2011 biennium. And we'll talk

20 about that in another -- a little later. But also I
21 wanted to know what type of training they would like to
22 see us offer on the advanced in-service side.

23 So, and I broke that down into different areas
24 because we have funding sources in different areas. Just
25 a general law enforcement. We have our domestic violence,

22

1 child abuse, and DWI money that's set aside for those
2 particular topic areas.

3 And we also have contract money that was just set
4 aside on the previous legislature for stress management,
5 stress reduction for first responders. And if you look at
6 the course offerings that were in this particular
7 three-month cycle, you'll see there were a lot of stress
8 management classes.

9 That was due to the fact that we were
10 anticipating this funding being available in FY10, and it
11 was not in our FY09 budget. Then we found out that it had
12 been put in our FY09 budget but no one had told us.

13 So in April I was scrambling to get contractors
14 in place to provide that training throughout the state
15 before the end of the budget cycle, which we did. We have
16 training going on now in Tucumcari and Santa Fe and
17 another one in Clovis tomorrow.

18 So we're pushing it right to the last day of the
19 budget in order to get that training out to everybody in
20 the state. We have requested from the Department of

21 Homeland Security some additional funding.
22 We had done at the first of the year three
23 training cycles for court security at our district
24 courts. And that was at the behest of the Supreme Court
25 Justice Ed Chavez, and we conducted that training. We did

23

1 quite a bit. We had very positive feedback.

2 We went back to the Department of Homeland
3 Security to see if we could get more grant money to fund
4 that to catch those court security officers who did not
5 receive the training and that's in process. It looks like
6 we'll be able to do that through the rest of the budget
7 year.

8 The advanced training and instructor Brian Coss
9 did attend the IACP leadership course and has been
10 assisting as an instructor with that. I know that we're
11 looking at that being something that New Mexico State
12 Police -- I don't know if Inspector Valverde would like to
13 speak on it -- but looking at offering the IACP leadership
14 course as an ongoing class since we do not have in-house
15 instructors to provide that training.

16 I know that the inspector has shanghaied me into
17 going to that class with the next one coming up, so I look
18 forward to attending that class.

19 We also received a \$30,000 grant from the New
20 Mexico Crime Reparations Commission through the Violence
21 Against Women's STOP grant to produce two DVD's, which we

22 will be doing here shortly.

23 One will be a roll call DVD, involving domestic
24 violence issues of domestic violence, which will be a very
25 short one that can be played at briefings, and then a

24

1 longer one which will be a facilitated DVD to assist
2 officers in getting up to speed with what the current laws
3 are with domestic violence and how to appropriately
4 respond to domestic violence calls and what they need to
5 do to follow up.

6 Again, I had mentioned that Elliott Guttman, our
7 legal instructor, is back. He is already geared up to
8 provide the training for Certification by Waiver 67 and
9 the New Mexico State Police Recruit School 80 in-service
10 with the New Mexico State Police.

11 He's been on the phone helping out the agencies
12 across the state with their questions about legal
13 matters. Of course, and providing legal assistance to the
14 staff here at the New Mexico Law Enforcement Academy.

15 One of the big things that he's working on now
16 is -- we had provided all the satellite academies the
17 complete updated law block curriculum at our last meeting
18 of the satellite academy directors.

19 What we are doing from that point is we're taking
20 that curriculum and he's reworking it. Rather than being
21 instructor based, he's developing each one of those
22 modules into an on-line course that can be downloaded from

23 our website.

24 We're looking at the first phase will be a
25 text-base course, perhaps put into a PowerPoint, that can

25

1 be used at the agency level to do ongoing in-service
2 training. Ultimately, what we would like to do is create
3 that into a truly interactive, on-line course.

4 And I know that Department of Public Safety is
5 looking at some public domain software that allows that
6 type of training to be done. We're putting that on our
7 computers now and we're going to see if we can get that up
8 and running so that we can provide a lot more on-line
9 training so officers do not have to take time off from
10 work to travel, to attend an instructor-facilitated
11 class.

12 They can do it from a computer at their agencies,
13 in their cars if they have that capability. So we're
14 working towards providing the legal updates using that
15 venue.

16 One of the things that we're also looking at
17 doing -- and we've had several meetings; we're getting the
18 curriculum finalized -- is to provide some training to our
19 New Mexico courts, the drug courts on the compliance
20 officers.

21 They are doing visits on probation -- or
22 probationers. They are not trained. The AOC has set some
23 policies on getting them trained, and we're trying to

24 facilitate that in getting some curriculum in place and
25 providing some instructors to get that out to those

26

1 compliance officers around the state.

2 I talked about the firearms instructor update.

3 We've had three classes. Again, we'll get our master
4 instructors to assist us as we continue to create more
5 classes. We continue to develop our range operator
6 course.

7 And what that's going to be is those who are
8 responsible for conducting qualifications and managing
9 ranges -- they may not be doing training; they may not be
10 training new officers; they may not be training new hires;
11 but they are doing that function.

12 And it is not a good use of resources to send an
13 officer to a 78-hour firearms instructor course for
14 handgun and then another 16 hour -- or 24 hours for
15 shotgun and then another 40 hours for rifle just to have
16 them manage a range.

17 So we're creating a school -- a 32-hour school
18 for range management, a range operator school so those
19 agencies that have somebody that is maintaining their
20 range, making sure they have a safe range in doing
21 qualifications, but they are not doing training, that that
22 gives them a venue to be able to conduct that training,
23 certify the officers that have met compliance with their
24 annual qualifications.

25 That course is on our calendar. I did provide

27

1 for you too a paper copy of the 2009 classes that we
2 currently have on our calendar. Those do not show the
3 July through December classes, which we will have
4 contracts in place.

5 So there will be more classes on that training
6 calendar. But the range operator course is already on
7 there. And we're committed to putting that on.

8 We did run our firearms instructor school. We
9 have changed the way we do our firearms instructor
10 school. We've changed it from a shooting school to a
11 teaching school.

12 Traditionally, in the past what we would do is
13 the firearms instructor candidates would come out and they
14 would go through the firearms instructor school and then
15 they would teach each other. So they would pair up and
16 co-teach firearms to their fellow firearms instructor
17 candidates.

18 Well, we thought about that, and it just didn't
19 make sense that you're trying to teach somebody who is a
20 proficient firearms -- proficient with the use of firearms
21 how to learn to shoot because they already know.

22 And what that became was that they were -- each
23 of them were spending a lot of time shooting a lot of
24 rounds and having a good time but were they actually
25 learning how to teach?

1 We felt that we could better serve them by
2 turning it into a teaching school rather than -- or
3 teaching them to be good instructors rather than letting
4 them just become more proficient when they already were
5 proficient with their firearms.

6 So what we've done is we worked in conjunction
7 with the Basic Training Bureau. And our firearms
8 instructor school now runs in conjunction with our basic
9 academy class. So our firearms instructor candidates will
10 come to a two-day orientation.

11 They must score a 90 or better to show that they
12 are proficient with their weapons system. And then they
13 are given -- prior to attending the class they are given
14 the DVD and the CD. They are responsible for all that
15 material.

16 They have to demonstrate that they can -- they
17 properly know the techniques and they know the material.
18 Then we put them for a week and a half with the actual
19 basic class. So they are teaching the basic cadets.

20 And then we have master instructors that are
21 standing behind them making sure that what they are
22 teaching our cadets is correct. That way we have instant
23 feedback. We found with our current basic classes the
24 first time we did it normally we'll have six to eight
25 cadets who will not qualify.

1 During our firearms block instruction, we have to
2 go through remediation to get them up to speed before they
3 graduate. Some of them don't even make it before
4 graduation, and we have to do remediation to bring them
5 back to the full block with the next academy class.

6 With this current academy class using this new
7 model, we've had I believe one who did not qualify.
8 Everyone else qualified during that block of instruction.
9 Comments from the cadets were that it was fantastic that
10 they got instant feedback.

11 When we paired up instructors with the cadets,
12 that cadet stayed with that instructor for the entire
13 block of instruction. So he didn't have three or four
14 instructors walking the line and saying, "Well, try this;
15 well, try this; well, try this," and then the cadet
16 becomes confused because they are getting information
17 which may be good information from three or four different
18 instructors trying to troubleshoot where they may be
19 having some trouble.

20 So it's worked out very well. The firearms
21 instructor candidates, we've had very positive comments
22 from them that they learned a lot and now they know how to
23 teach rather than just continuing to increase their skill
24 level with shooting their weapon systems.

25 We are also working with the critical incident

2 with the SWAT and tactical curriculum review committee,
3 helping to develop that curriculum, setting up a group of
4 subject matter experts to develop what the basic
5 curriculum would be for a SWAT officer so that all
6 officers within the state or agencies within the state
7 that would like to have a SWAT team or do have a SWAT team
8 or bringing new members onto it, we can set some minimum
9 standards so that we make sure that we're all doing the
10 same thing with the resources that we have.

11 We're also assisting with the deputy director and
12 the critical incident response training bureau in
13 developing some crisis intervention team training. We're
14 looking long term of being able to provide that statewide
15 to all agencies.

16 All officers -- we believe that every officer
17 who's on the street, they are going to run across people
18 who have violated the law, that have mental illness, and
19 need some diversion rather than just go to jail.

20 So I know with Albuquerque with Chief Schultz
21 they've had their CIT in place for some time. Down south
22 in Las Cruces, they've had a strong team going for some
23 time now. We'd like to replicate that and provide that
24 training in Bernalillo County also.

25 To that end, we've also -- if you look at our

1 website, on the first page of our website, if you come up
2 to it, you'll see on the right-hand column at the bottom

3 that we've got several sponsored classes. Albuquerque
4 Police Department, Bernalillo County Sheriff's Department
5 are putting on a 40-hour CIT.

6 They've been very gracious to have 10 slots open
7 for anybody in the state that would like to attend that.
8 So we posted that on our website. We've got a couple
9 other trainings -- one-day training with regard to
10 critical incident -- or crisis intervention team training
11 that we're trying to provide throughout the state.

12 The final thing is, is that we are assisting the
13 critical incident response training bureau with the public
14 safety telecommunicator academy providing staff to -- as
15 adjunct instructors for a three-week PST instructor
16 training.

17 And with that, I'll invite any questions or
18 clarifications. Chief Coon.

19 MR. COON: Mr. Shea, I've got three here. On the
20 training survey that was sent out to everybody on the
21 biennium training and only 20 percent responded, well, I'm
22 one of those 80 percent who didn't. I was totally
23 confused and have no idea how to fill that out.

24 I mean, it was -- it just wasn't I don't think
25 put very well together, the way it was set up. And I had

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1 no clue on what -- how to -- what you wanted on that.

2 MR. SHEA: My apologies for that.

3 MR. COON: And I think that's maybe where your

4 other 80 percent came from, probably as stupid as I was
5 maybe on something like that. No offense to anybody.

6 MR. SHEA: And I appreciate your comments. And
7 that is exactly what we would like to hear, is that if
8 we're not being effective in communicating with the
9 agencies in getting feedback on the training, then we
10 certainly want to know about that.

11 And I would certainly invite anyone in the room,
12 yourself included, to please if there are training needs
13 that weren't brought forth in that survey because of some
14 confusion, then please bring them to our attention so that
15 we can meet them.

16 I know in the last meeting you had expressed a
17 concern about report writing. We did get a training
18 contractor that's working with you to provide that. Our
19 basic bureau chief will talk about a collaboration we're
20 doing with Central New Mexico Community College to utilize
21 their on-line report writing as part of the basic
22 program.

23 And we'd like to expand that into making it
24 available around the state so that any agency in the state
25 could have their officers be involved in that type of

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1 training.

2 MR. COON: Now, No. 2: The request has been made
3 through the Department of Homeland Security to renew court
4 security training. I still haven't been paid for the per

5 diem on my guys for the first go around. And I know there
6 are some other sheriffs that haven't either.

7 MR. SHEA: And when I had talked with Roy Dennis,
8 it's my understanding that they had. I will get ahold of
9 Susan Walker at DHSEM and follow up on that. I know we
10 had some glitches with regard to their staffing not coming
11 to the trainings to properly explain how those documents
12 should have been filled out.

13 Then when I went back to them they said that they
14 had an impromptu audit, that feds came in to audit, so
15 that delayed their payment. But it was my understanding
16 that those had been made, but I will follow up on that and
17 let you know.

18 MR. COON: Okay. Now, No. 3: Is there any way
19 you all can send out an e-mail or some kind of
20 notification on what is required of biennium classes for
21 2008-2009? Because we're now in the last six months of
22 this two-year cycle.

23 Is there any way you can send out what is
24 needed? Not what each department needs, but what is
25 required on those biennium classes; you know, the VB, and

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1 the pursuit policy, things like that, to where we -- I
2 know I get confused sometimes what cycle we're in, as far
3 as is it the BV this time or is it the pursuit driving or
4 whatever.

5 Anybody -- if you-all could send out something to

6 notify the sheriffs and chiefs and training officers on

7 what is required for this two-year cycle.

8 MR. SHEA: I will do so. If you look at our

9 website -- on the first page as you open up our website,

10 the NMAC requirements for 2008-2009 is up there that you

11 can download as a PDF that spells out each one of the

12 requirements.

13 If you look in the right-hand column, all of the

14 mandatory training, that curriculum is on the website.

15 That can be downloaded and taught by your in-house staff.

16 So that the number of hours and the curriculum is up on

17 the website, but I will send out an e-mail trying to

18 clarify some of that for you.

19 MR. COON: Thank you, sir. That's all I have.

20 MR. KING: Thank you, Sheriff Coon. Anybody else

21 with questions? Mr. Perez.

22 MR. PEREZ: You remarked that the Las Cruces

23 Police Department has a good crisis intervention team?

24 MR. SHEA: Yes, sir.

25 MR. PEREZ: The handling of it is good down

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1 there?

2 MR. SHEA: I went down there and observed the

3 training that was being done by Ron Gurley with the New

4 Mexico State University. He trained both the Las Cruces

5 City Police and the Dona Ana County Sheriff's Department

6 with the 40-hour crisis intervention team training.

7 I met with him at a meeting up in Las Vegas here
8 a couple weeks ago and I had asked him how things were
9 going in Las Cruces. And I believe he said they had like
10 60-some officers that have gone through the training and
11 were currently CIT trained.

12 So what they have in place from the standpoint of
13 policies and procedures I can't speak to, but I know from
14 a training perspective that through Mr. Gurley with the
15 New Mexico State University that he's been providing that
16 ongoing training and has been working very diligently to
17 get local funding to get that program up and running in
18 Dona Ana County.

19 MR. PEREZ: The Academy provides training. Is
20 there any program for assessing what they have or how they
21 do currently? Do we have any authority in that?

22 MR. SHEA: From a standpoint of their
23 proficiency, once they've attended training?

24 MR. PEREZ: Yes. Yes.

25 MR. SHEA: Mr. Perez, as far as I know, other

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1 than instructor ratings, once an officer receives training
2 other than the testing that they receive in the course
3 itself, we do not have anything in place that would go
4 back and check their proficiency after they had attended
5 the class.

6 MR. PEREZ: I'm reading here from an article that
7 we were given, a Las Cruces newspaper article, "Las Cruces

8 Hire Recommends Police Auditor," in which they mention a
9 total of 74 complaints of excessive force were filed
10 against Las Cruces police officers and "None of the
11 complaints about excessive force was deemed valid after
12 internal police reviews over the three-year period, in
13 contrast to the national average of eight to 10 percent of
14 complaints for use of force being sustained..." in cities
15 of the same size.

16 Also, it says that the city attorney Fermin Rubio
17 said that the city was involved in 200 -- I'm sorry, 20
18 excessive force lawsuits since 2000 and have paid out
19 \$596,000. Of these lawsuits there were -- three were
20 dismissed, eight were pending, nine lawsuits were settled
21 and six claims were settled without lawsuits.

22 And "...37 officers, out of 244 department
23 employees, including civilians, had received three or more
24 public complaints over the three years...." Seven
25 officers had received four complaints. Four officers

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1 received five complaints. And one officer received nine
2 complaints.

3 And my question would be have those complaints
4 risen come to our Board?

5 MR. ORTIZ: No, sir.

6 MR. PEREZ: None of them? So I think we have a
7 big problem here. And apparently there was a report that
8 was done -- an audit was done by an outside agency and

9 found that things were rather dismal down there.

10 And, again, apparently we have good on the
11 front-end training. But then whether they are using this
12 training or what they are doing on a day-to-day basis and
13 unless we receive these complaints here, we don't have the
14 whole picture.

15 But, apparently, the training is good and that's
16 your part; but we'll have to deal with the back end of
17 it. Thank you.

18 MR. SHEA: Certainly. And, again, anything that
19 the Advanced Training Bureau can do to facilitate changing
20 those numbers from the standpoint of providing training,
21 we are -- that's what we're here for.

22 If there's an identified need -- training that
23 needs to occur or a methodology for doing follow-up on
24 that, then we're certainly open to developing that and
25 providing it.

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1 MR. PEREZ: Thank you.

2 MR. SHEA: Thank you, Mr. Perez.

3 MR. KING: Other questions? Seeing none, thank
4 you, Mr. Shea.

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

6 MR. KING: Hang on a second. We don't always
7 take questions from the audience, but I'm willing to
8 entertain one. I have a question here. Yes, sir.

9 MR. BORUNDA: Yes. The question I have is --

10 MR. KING: Please tell us your name.

11 MR. BORUNDA: My name is Paul Borunda. I'm from
12 Las Cruces. And the question I have, Gentlemen, is -- or
13 more or less a question and comment.

14 MR. KING: We have a comment -- are you signed up
15 for the comment period?

16 MR. BORUNDA: Yes, sir.

17 MR. KING: Okay. You can make your comment then,
18 but if you have a question -- because otherwise we'll be
19 here all morning.

20 MR. BORUNDA: Question. It was a question. The
21 question is then is training always a deterrent of an
22 officer engaging in misconduct on the outside versus the
23 training? Training does -- in other words, does training
24 eliminate the possibility of misconduct only? Or is there
25 a possibility an officer out in the field will commit

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1 misconduct despite the training?

2 MR. SHEA: I think the training facilitates
3 preventing misconduct; but, no, it will not eliminate it.
4 We do everything we can to provide the best possible
5 training to officers, but how they react in the field is
6 beyond the training portion of it.

7 We train them on what the proper thing to do is.
8 And, obviously, when we have misconduct cases, they may
9 well know what the right thing to do is but they may elect
10 not to take that course of action.

11 Everything that we do in training is geared
12 towards giving them the right tools. And we always have
13 the ethical component to our training; not only teach them
14 this is what you need to do, but this is why you need to
15 do it, and this is why it's the right thing to do.

16 Beyond that, we have no control over the
17 individual, the choices that they make in the field if
18 they go contrary to what we've trained them in.

19 MR. KING: Thank you, Mr. Shea. I appreciate
20 it. Mr. Ortiz, do you have other parts of your director's
21 report?

22 MR. ORTIZ: Yes. Just briefly on the Critical
23 Incident Response Bureau, on April 24th we had 37
24 dispatchers graduate. And Mary Mabry also had some
25 courses down in Hobbs, March 2nd through 6th. And I'd

40

1 like to thank Dr. August Fons for hosting that training
2 down there in Hobbs.

3 We also had some in Lordsburg, at the Albuquerque
4 Aviation, in Santa Fe, and in Ruidoso. So she's been very
5 busy with the cert bureau. Any questions on that? Okay.

6 MR. KING: I don't see any.

7 MR. ORTIZ: At this time, I'd like to turn it
8 over to Bureau Chief Kenneth Alessio from the basic
9 bureau.

10 MR. KING: Go ahead, Mr. Alessio.

11 MR. ALESSIO: Thank you, Mr. Chairman, Board

12 Members. We're in the 11th week of our Basic Police
13 Officer Training Class No. 177. The class started on
14 April 13th. We started with 46 cadets.

15 In the first eight days or so of the class we
16 lost six cadets that dropped out voluntarily for various
17 personal reasons. Since then we've released two cadets on
18 academic failures. We have released five for disciplinary
19 and/or safety issues.

20 One was the released for PT failures. And one
21 resigned as a result of disciplinary action at his
22 department. He was subsequently released by his
23 department, so he resigned from the academy. And we
24 released one cadet for multiple skills area training
25 failures.

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1 So we currently have 30 cadets. And, again,
2 we're in the 11th week of the class. The class will
3 graduate on August 28th at the Glorieta Conference
4 Center. We kicked off Class 177 with the Day One Program,
5 and I believe I briefly mentioned it at the previous
6 meeting.

7 This is a program developed by Dr. August Fons of
8 the Southeastern New Mexico Law Enforcement Academy.
9 They've done it for a few years now. This was our first
10 time using the Day One Program.

11 The program was designed basically to do four
12 different things: To provide an initial orientation to

13 the structure and discipline required for an effective law
14 enforcement learning environment; to reinforce the
15 critical nature of study, ethical behavior,
16 self-discipline, and practical application; to develop a
17 fairly immediate sense of teamwork and an understanding of
18 its necessity not only in the academy environment, but
19 also in the workplace or in the field later on for these
20 people; and to instill a sense of confidence in the
21 cadet's ability to function under stress in a
22 problem-solving environment.

23 The program -- again, the first time at the New
24 Mexico Academy -- was a fantastic success. It did all of
25 those things and more. And we plan to make it a permanent

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1 part of each Academy class, kicking off the Academy.

2 It basically starts with classroom lectures,
3 covering a lot of the block one issues, role and function
4 of the academy, role and function of the Board, academy
5 objectives, missions, physical fitness lectures,
6 nutrition, those kinds of things, all of the very basic
7 block one issues.

8 There's PT orientation, team-building exercises,
9 various confidence building exercises. They participated
10 in skills-based scenarios as an introduction to the
11 various skills-based training they receive later on.

12 And Day One did exactly what it was designed to
13 do. It rapidly took this large group of people that

14 didn't know each other and brought them together as a
15 solid, functioning team. So we're very, very happy with
16 that.

17 All of the LEA staff of 177 agrees that a week or
18 two into the class they were in those areas just light
19 years ahead of classes in the past. An unintended
20 consequence of the Day One Program was the fact that it
21 rapidly and very dramatically identified the class
22 leadership, the class leader and the potential squad
23 leaders. They all stood out dramatically.

24 And those people have been in those positions
25 ever since. And it's made a significant difference in the

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1 success of the class itself.

2 We ask the cadets to then write a short paper on
3 their first weekend home what they thought of the Day One
4 Program, considering they are the ones that went through
5 it; get their assessment of success.

6 There's a summary sheet in your book. And I
7 don't know if you've actually looked at the comments. I
8 suggest that at your leisure you should read through the
9 comments, what the cadets themselves have said about Day
10 One.

11 Things like, "I conquered a big fear, repelled
12 down from a height. It was very hard, but I did it." "It
13 was physically and mentally exhausting, but a wonderful
14 program." "The Day One experience taught me that I was

15 capable of feats and endurance that I never thought
16 possible. I also learned of my strength and weaknesses,"
17 which for a lot of them was a big part of the program.

18 They came out of that 24, 26 hours better knowing
19 what they needed to work on and what they needed to
20 concentrate on. "The Day One truly began our team
21 building here. We got to know each other and in turn
22 helped each other. The Day One will be a great asset to
23 your LEA program."

24 There is lots and lots of comments on the summary
25 sheet. Again, I urge you to read through them to get an

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1 idea of the success of that program.

2 As usual, we're holding preassessments on the
3 first Tuesday of each month or as scheduled on our
4 website. With regard to the extremely poor showing of our
5 last mandatory assessment coming into Class 177 -- and we
6 touched on it at the last meeting -- the Board asked
7 whether there was any prenotification of what the
8 requirements were and what needed to be done.

9 Attachment 2 is a letter that we've been sending
10 out now for several years that actually does go into that
11 and it points out the mandatory assessment, the fact that
12 it is mandatory; the percentile levels they have to pass
13 at.

14 I did though add an additional paragraph to the
15 letter that is now going out, and it hopefully more

16 emphasizes the issue about the preassessment, the
17 mandatory assessment, and the physical requirements.

18 So along with the other things in the letter
19 we're now telling them that, "It is highly recommended
20 that prospective cadets be involved in a regular PT
21 routine in preparation for the mandatory assessment in the
22 Academy PT program.

23 "The Academy offers a voluntary assessment every
24 first Tuesday of the month to allow prospective cadets to
25 determine their fitness level with respect to the entrance

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1 standards and see in which, if any, areas they need to
2 improve."

3 Past that, there really isn't a whole heck of a
4 lot that we can do with respect to getting these people
5 ready physically to come into the academy. It's -- most
6 of them know a month, sometimes two, three, four months
7 prior to the academy class they need to take the
8 initiative, their departments need to take the initiative
9 to see that they are prepared physically for that
10 mandatory assessment.

11 Again, this past mandatory assessment we lost --
12 I forget the exact number -- I believe it was 17
13 prospective cadets, people that had otherwise already
14 passed all the other requirements. And that was pretty
15 sad.

16 The first aid and CPR block, we have taken it out

17 of the academy -- this is the first class we have done
18 that with -- and made it a pre-academy requirement. With
19 respect to all of the cadets that entered the class, all
20 came in with their first aid and CPR certification or
21 their department certifying that they had received the
22 proper training.

23 Only two for this first class did not come in
24 with that, and they will finish it by the end of the
25 academy class. Starting next class, which starts on

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1 September 14th, I believe, it will be a requirement for
2 entrance into the academy.

3 That certification document will have to be
4 submitted with their application packet. The basic bureau
5 and the academy, we have entered into a partnership with
6 Central New Mexico Community College with respect to the
7 report writing course. I know we talked a little bit
8 about it last time also.

9 It has been formalized. They will provide a
10 45-contact hour report writing course to prospective
11 cadets. Attachment 3 is a copy of a letter that I sent
12 out with all of the details concerning that. And there
13 are attachments to that letter that deal with the cost
14 structure requirements of the school, so on and so forth.

15 There was I believe a small misunderstanding with
16 our presentation of this issue to I believe the chiefs'
17 meeting that we went to and then the committee meeting

18 with the chiefs' and sheriffs' association back a month or
19 so ago.

20 The State Academy is undertaking this program and
21 the partnership with CNM. We have not and I believe
22 cannot actually impose it on any of the satellite
23 academies. We are going to do it, and we're going to
24 start with the -- the first class will be the first class
25 in 2010, which starts in April.

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1 So there's at least two semesters that they can
2 enroll and go through the course. We will run this
3 program for at least two classes to see how well it
4 works. I hope it will work well. I hope that the report
5 writing will be -- of graduating cadets will be greatly
6 enhanced.

7 If that's the case, then we will continue it --
8 continue that program; and we will ask the Board that they
9 make that standard through all of the academies. But at
10 this point we're doing it, and we'll do it for hopefully
11 two classes to test it out.

12 One of the nice things about going with CNM --
13 and I know there was some question about whether agencies
14 could use other schools, other facilities, which the
15 letter does address. And the answer is yes.

16 The nice thing about CNM is they have an on-line
17 program that has been used now for several years. It's a
18 very good, well-tested, easy-to-use program. And there's

19 basically no cost for people in district for CNM. The
20 class is free. For people out of district, it's only \$10
21 a credit hour. It's a three-hour class. So it's a fee of
22 \$30. You can't beat that for even a community college
23 level class.

24 Along those same lines -- and Mr. Shea did touch
25 on it because it is part of what Elliott Guttmann has been

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1 working on both for advanced and for the basic bureau.

2 We're looking at extending some of the pre-academy
3 requirements into the law block.

4 The law block is 44 hours. Of those 44 hours,
5 there's some are in the neighborhood of 20 hours of one-
6 and two-hour blocks of very straightforward, very easy law
7 block issues: gaming law, liquor law, juvenile law,
8 Indian law. They are all very straightforward, short
9 blocks. They don't necessarily need a face-to-face class
10 with an attorney teaching it.

11 The lesson plans that Mr. Guttmann is preparing
12 we're going to put on our website. It will be a lesson
13 plan. It will be quizzes. It will be reference
14 material. What we hope to be able to do is take initially
15 maybe about 10 hours, require prospective cadets to
16 complete those 10 hours on-line.

17 There's no cost because it's on our website.
18 Right now it won't be interactive. Hopefully later on it
19 will be. He'll be able to read through the lesson plans,

20 answer questions, use the reference material.

21 When they then come to the academy at the
22 beginning of the law block, Mr. Guttman will then do a
23 two- or three-hour review class for all of those small
24 blocks, where cadets can then get their questions answered
25 if they had questions about a particular point of law or

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1 didn't understand something.

2 And then we'll give them the block test on those
3 right away. We hope to be able to -- if that proves to be
4 successful, we hope to be able to cut out up to 20 hours
5 of the law block at the academy, further reducing the
6 amount of time cadets are going to have to spend in a
7 residential setting at the academy. That we would like to
8 be able to have on-line again for the April 2010 class.

9 We have started a -- I guess an upgraded more
10 aggressive PT program for this particular class, and
11 hopefully we'll continue on with that. And it's already
12 proven its value.

13 As of the first in-academy PT assessment, which
14 is in the fifth week of the academy -- we have four
15 assessments through the academy -- the vast majority of
16 the class -- and, actually, I got better numbers just a
17 few days ago, so they are not in your book -- all of the
18 cadets and the first assessment at the fifth week have
19 already passed the 60th percentile, which is the exit
20 standard.

21 So bottom line is if we expect more, they'll give
22 us more. If we set the standards higher, they'll rise up
23 to those standards.

24 We've also invested in a lot of new equipment for
25 the PT program to include things like -- they're really,

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1 really neat -- heart rate monitors, but they are not the
2 type you have to put around your chest and use a watch.

3 They just wrap around your forearm. They have a
4 nice, big dial. And at any time during PT you can always
5 see exactly what an individual's heart rate is. This
6 will, one, help us determine whether the people are
7 actually working up to their capacity; but the flip side
8 of that is that it will also tell us, particularly during
9 the summer months, whether the people are working over
10 their capacity based on the Cooper standards. So it's a
11 safety issue also.

12 The ethics block, this class we're doing a little
13 bit differently. I've broken it up into one large block
14 upfront and several small blocks as we go through to
15 hopefully keep ethics, character, and those kinds of
16 issues in the forefront in their minds all the way through
17 the academy.

18 What we've also done for this class and hopefully
19 we'll continue it -- it was Director Ortiz's idea and it's
20 worked out exceptionally well. Disciplined officers will
21 come into the class and address the class for 5, 10, 15

22 minutes each with respect to their problems, their issues,
23 and what happened and the ramifications of disciplinary
24 action against police officers. And so far it has been
25 very, very effective.

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1 Another initiative we're taking with this class
2 is using professional role-player actors in one of our
3 blocks as opposed to in the scenario-based training using
4 other officers. It makes it much, much more real and life
5 like. We're going to use it in handling the mentally ill
6 block.

7 These people are specifically trained in this
8 type of role playing and acting. And all reports so far
9 is that it makes a huge difference. I believe APD Academy
10 has been doing this right along, and their reports are
11 that it's a great program.

12 If it does work out for us, we'll then later
13 extend it into domestic violence and other areas. When
14 you're role playing with the guy that ordinarily sits next
15 to you anyhow or you work with, it loses a sense of
16 reality, a sense of realness. So this should help upgrade
17 our scenario-based training. And we hope to expand that
18 across several areas.

19 With respect to staffing, part of the vacant
20 positions that the director mentioned are still two
21 instructor positions in the basic bureau. We're operating
22 with three instructors for the entire class, which again

23 is a interesting challenge.

24 We depend totally on adjunct instructors from
25 departments around the state. With budgets the way they

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1 are, with staffing the way they are in some departments,
2 it's getting more and more difficult for us to be able to
3 bring in adjuncts.

4 But hopefully they will continue to cooperate and
5 provide that staffing for us because bottom line is we
6 cannot conduct an 800-hour, 20-week academy class with
7 three instructors. It just cannot work.

8 I will be talking about setting some academic and
9 some skills based standards for not just the State
10 Academy, but across all academies. But I'll address that
11 later as a separate issue. Any questions, comments,
12 please.

13 MR. KING: Questions for Mr. Alessio? Okay.
14 Seeing none, thank you. Mr. Ortiz.

15 MR. ORTIZ: Yes. Mr. Chairman, Board Members,
16 one thing I would like to add about the training bureau
17 and even the basic is a lot of this information is
18 provided out there to the law enforcement community.

19 It is on the website. And they know that's one
20 of the things we need to do is educate them a little more,
21 because the information is there. We're going to start
22 the regional training to let the agencies know if they
23 have any questions or they need to know what's available,

24 what training, it's there on the website.

25 So I commend both Mr. Alessio and Mr. Shea.

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1 They've done a terrific job in their bureaus. And it is
2 available to them. So I'm going to work on educating the
3 agencies to make sure they access that information.

4 MR. SHEA: And that's probably something both the
5 chiefs' association and the sheriffs' association should
6 get out to their members because we do receive calls on a
7 daily basis with questions about things that are there on
8 the website and usually fully explained on the website.

9 So it could just save the agencies a lot of time
10 and hassle.

11 MR. BORUNDA: I have a question.

12 MR. KING: Mr. Borunda, why don't you come up to
13 the microphone again so we can hear your question.

14 MR. BORUNDA: Yes. And the question is: Since
15 Las Cruces has its own police academy, do any of these
16 initiatives or training that you're going to implement,
17 does that affect it, being the Las Cruces Police
18 Department?

19 MR. SHEA: Directly, no. As I said, with respect
20 to the report writing initiative and the law block
21 initiative, the State Academy, we will be doing this. We
22 will be in essence piloting programs. If we find that the
23 program is successful as a general benefit, then I will
24 recommend to the Board that they set that as a standard

25 for their academies.

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1 But we do not have the authority to impose those
2 things on the satellite academies.

3 MR. KING: I don't want to get too deeply into
4 this, Mr. Ortiz, but actually that's kind of an
5 interesting question. How do we enforce standards on
6 the -- there's an academy in Cruces. Is there one in
7 Hobbs?

8 MR. ORTIZ: Yes, sir. There's nine -- there's
9 eight satellite academies. And that's one of the things
10 we are going to address in Agenda Item No. 14 about having
11 some minimum standards statewide for all the academies to
12 make.

13 MR. KING: Good. All right. So we'll address
14 that a little bit later on. Anything else, Mr. Ortiz?

15 MR. ORTIZ: No, sir. Thank you.

16 MR. KING: Okay. Any other questions on the
17 director's report? Okay. You guys had long reports this
18 morning.

19 ITEM #6: PUBLIC COMMENT

20 MR. KING: I am going to recommend that we go
21 ahead and go to public comment. And then my plan will be
22 to take a short break after public comment, depending on
23 how long it all is; and then we'll go from there.

24 So I have three people that have signed up to
25 make public comment. I think we always ask that people

1 keep their comments sort of on-point and succinct.
2 Usually, we expect about five minutes, but as long as
3 you're talking about something that is a meaty subject for
4 us, I'm not going to cut you off.

5 But I'll at least exercise the prerogative of the
6 chair to keep things moving along. So the first person
7 who signed up on the list is Dan Brooks. Mr. Brooks has a
8 comment on -- it says biannual training.

9 MR. BROOKS: Yes. Thank you, Mr. Chairman,
10 Members of the Board. Dan Brooks, chief of law
11 enforcement, New Mexico Game and Fish. Anyways, I'm here
12 today just to promote the biannual training for
13 off-highway vehicle enforcement.

14 It's become an issue at the legislature. It was
15 in 2005, 2008, then 2009. I recently at the department
16 took it over. I know you will be getting a presentation
17 later by Mark Shea, but I assume that this is my time,
18 since it said, "Public Comment," so I wanted to be sure
19 and let the Board know that it's been an issue for
20 numerous years now.

21 Citizens keep coming forward. Off-highway
22 vehicles are one of these things that take kids' lives.
23 And also our safety issues in communities. So recently
24 with the 2009 legislative session, the legislature gave
25 the Department of Game and Fish authority over the

1 program, but it really is a statewide enforcement issue.

2 And so one of the things that happened in 2008
3 was the Senate Joint Memorial 40 passed and, of course,
4 there was a study. And the report came out in December
5 '09 right before the legislative session.

6 But one of the things in the report -- and I
7 won't bore you all with all the details because it was a
8 huge report. But one of the recommendations that went
9 back to the legislature is that off-highway vehicle
10 enforcement become a biannual requirement.

11 So since then I've been talking to Mark Shea.
12 We'd like to make that at least as less burdensome on the
13 agencies as possible. Mark and I have been talking about
14 trying to do an on-line interactive course.

15 So I'm here just to promote for the Board to
16 consider that this be a biannual requirement in 2010-2011
17 cycle. There's a lot of provisions. It's in Chapter 66.
18 It's now a penalty assessment misdemeanor. Before, they
19 were full misdemeanors. The majority of it is penalty
20 assessment misdemeanors so people can opt to take the
21 penalty assessment, send in the money.

22 There's a whole lot of prohibitions in there from
23 whenever you see pedestrians or horse -- equestrians, you
24 have to go 10 miles an hour within 200 feet. You can't
25 ride on the pavement. You can't ride on the side of the

2 And I bring this all forward to the Board because
3 I can almost guarantee that people in this room have seen
4 people drive by on these ATV's either on the paved roads
5 or beside the paved roads and it's not legal, but we're
6 really not seeing a lot of action being taken right now.

7 And part of that is the law has been complicated,
8 and now it's changed numerous times. So that's what I'm
9 here is just to promote that with you all. The Department
10 of Game and Fish, we only have about 70 conservation
11 officers located in the field.

12 We can't do that by ourselves. It truly is a
13 statewide problem. And I'll just point out that in the
14 new legislation that passed the legislature actually put
15 in there that conservation officers, state police, and all
16 peace officers could enforce the off-highway vehicle
17 provisions.

18 So I tried to keep my comments brief and
19 succinct. So any questions I'd be glad to answer.

20 MR. KING: Questions for Mr. Brooks?

21 MR. GALLEGOS: I have more just a comment, but
22 thanks. I know there's been a lot of work on that. I
23 think maybe it probably should have been an agenda item
24 rather than in the public comments. Because it looks like
25 something that has to take -- so I'm not sure what the

1 next procedure is, but.

2 MR. ORTIZ: It is included in the biennium cycle,

3 which Mr. Shea will be presenting a little later.

4 MR. GALLEGOS: All right. Sounds good.

5 MR. KING: Other questions for Mr. Brooks?

6 MR. BROOKS: Thank you.

7 MR. KING: Thank you, Mr. Brooks. We appreciate

8 that. Actually, I appreciate you bringing that to our

9 attention. Hopefully, you can hang around long enough

10 until we get to our discussion on that too.

11 All right. The next person I have on this list

12 is Paul Borunda. Now you've got a chance for your

13 comment.

14 MR. BORUNDA: All right. Thank you. May I

15 approach the Board?

16 MR. KING: Yeah. If you have something you want

17 to pass out or?

18 MR. BORUNDA: Yes.

19 MR. KING: Why don't you just --

20 MR. BORUNDA: I want to make this a public

21 record, please.

22 MR. KING: Oh, okay. We can do that. Let's just

23 let the record reflect that Mr. Borunda gave us a package

24 of material. Is there something for each one of us?

25 MR. BORUNDA: No. It's one packet for you,

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1 Mr. King Chairman.

2 MR. KING: Let me have it first then. All

3 right. So, yeah.

4 MR. BORUNDA: I apologize. I couldn't make
5 enough copies for all of you because I didn't know how
6 many of there would be.

7 MR. KING: That's fine. We'll log it in, and
8 we'll make it available.

9 MR. BORUNDA: Thank you. First of all, I want to
10 thank you, Mr. King, and the Board for allowing me some
11 time to speak here. I hope I can be heard. It's a very
12 important issue I bring forth from our community here in
13 Las Cruces.

14 And about December of 2007, if you recall, myself
15 and several citizens approached the Board at the Farm and
16 Ranch Heritage Museum in a meeting similar to what we are
17 here today. We didn't know up until that point how
18 many -- that there was a Board even existed.

19 We didn't know how to complain. We didn't know
20 who to complain to. Since December of 2007 I can -- well,
21 now I know who to complain to. And so from our quest at
22 that point in time, December of 2007, we began
23 communications with Mr. Ortiz; and we were hoping to learn
24 how to go about complaining and who we could complain to.

25 And on July 8th of 2008, Mr. -- and this is going

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1 to be important. I want to read it because it's relevant
2 to what Mr. -- Mr. Perez here asked and one of the other
3 -- the other gentleman is both here -- on what is
4 happening in Las Cruces based on this report that we just

5 did. I'll get to it in just a bit.

6 But back on July 8th of 2008, there was a
7 letter -- and it's one of the first letters in the packet
8 I gave you -- from Mr. Ortiz to myself. And in it in that
9 second paragraph he's mentioning -- and I'm mentioning to
10 what's part of the process, what to use.

11 And it says, "The statutory and regulatory
12 framework, as currently written, does not provide an
13 avenue for a citizen to directly file a complaint with the
14 Board--regardless of whether the act is something minor,
15 such as inaccurately writing a speeding ticket, or a major
16 act, such as physical violence on a citizen.

17 "There is also no statutory and regulatory
18 framework, as currently written, for a citizen to file a
19 complaint with the Board against an entire local
20 enforcement agency. It is up to the state legislature or
21 a local city council to address these statutory framework
22 issues."

23 And then it goes on to say other -- other
24 things. We got a letter dated August 11th, 2008 from
25 Cabinet Secretary John Denko basically telling us the same

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1 thing that the letter from Mr. Ortiz had told us, that
2 there was no way for citizens to file complaints against
3 police department officers.

4 However, then we have a letter here written to
5 me -- to Mr. Ortiz by Albert Lama, which is mentioning the

6 statutory regulations, the state regulations on the issue
7 of process or filing complaints in certification
8 disciplinary matters.

9 So I'm not here to point fingers as to who did
10 what or who's guilty of what or whatever. The documents
11 speak for themselves. But basically what we're at the
12 point now -- the letter that Mr. Lama from the Attorney
13 General's Office sent on January 22nd of 2009 points out
14 to Mr. Ortiz that there are state statute and regulations
15 thereby allowing citizens to complain directly to this
16 Board.

17 I asked a question earlier of a gentleman, one of
18 the speakers here, did the training process or what --
19 what the state Board can do. He said, made a statement
20 that it did not affect the Las Cruces Police Academy.
21 Nothing affects the Las Cruces Police Academy.

22 Mr. Ortiz made a statement that supposedly it's a
23 satellite. Would you please someone explain to me what do
24 you mean by they are a satellite? And who gives authority
25 to set up a satellite without putting the same regulations

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1 at the state training board would have on all satellites.

2 I don't know who came up with this, but that's
3 been part of the bigger problem that we're having in
4 Las Cruces perhaps.

5 I'll get to some of the issues that we're
6 facing. Most recently within the last three weeks a LCPD

7 undercover officer cited in early morning crash. This
8 particular officer was -- had been drinking with some of
9 his fellow officers at their home, ran into a brick wall,
10 left the vehicle, left his revolver, alcohol in his truck
11 and everything else.

12 And the sheriff's department deputies were
13 called. He shows up the next morning trying to explain to
14 the sheriff's department -- sheriff deputy that he only
15 had two drinks. This gentleman, this police officer,
16 undercover officer just retired a week ago -- two weeks
17 ago with full retirement, full benefits. And his name was
18 never sent to the police academy.

19 He is with our understanding going to work now
20 for the federal government. Still able to have his
21 certification. No disciplinary from this Board because
22 his name has never been sent to the Academy for process.

23 MR. ORTIZ: Excuse me. I'd like to make a
24 correction there.

25 MR. BORUNDA: Yes.

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1 MR. ORTIZ: It has been received. I've been in
2 contact with the sheriff's department and they are in the
3 process of getting me the reports. But we have received
4 the LEA-90, and it is in -- on --

5 MR. KING: Normally, I wouldn't allow
6 interruption and that, but that's a good point for you to
7 know that it has been received by --

8 MR. BORUNDA: Yes. It was -- he mentioned the
9 sheriff's department?

10 MR. ORTIZ: Yes.

11 MR. BORUNDA: This was a Las Cruces police
12 officer. Was it reported by the Las Cruces police?

13 MR. ORTIZ: Yes, they did. And I'm in the
14 process of obtaining the police reports from the sheriff's
15 department.

16 MR. BORUNDA: Thank you, sir.

17 MR. ORTIZ: But it is in the works, sir.

18 MR. BORUNDA: We have another -- another -- many,
19 many issues similar like what I just read. I do want to
20 make comment on an article that was in the Las Cruces
21 Sun. And it's part of your packet here. And this was
22 from Wednesday, June 24th, 2009. And it does say that,
23 "Ex-Mesilla Marshal Gets DWI Probation."

24 And this does mention Mr. Ortiz's comments about
25 the process that's going -- that he's going to take and

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1 that he had read it in a newspaper article, whatever. And
2 I do want to congratulate you on this part of it, at least
3 in this particular issue of the ex-Mesilla marshal getting
4 adjudicated.

5 But there are -- there are just numerous,
6 numerous, numerous issues involving similar issues like
7 that. We have had five -- we have had five deaths within
8 the last two years in Dona Ana County. They are

9 supposedly investigated by the state police, I'm assuming,
10 internal affairs from the Las Cruces Police Department.

11 The district attorney is the deciding factor here
12 whether charges would be filed against the police officer
13 or not. And all five shootings have been substantiated as
14 using lethal force was necessary. Five citizens have lost
15 their life.

16 Now, getting to the issue that Mr. -- that
17 Mr. Perez asked of an earlier speaker is the issue of
18 the -- of the audit report. This complete audit report is
19 in your packet. And it lists many of the deficiencies.
20 The audit was undertaken by the Las Cruces Council -- City
21 Council.

22 I approached the Las Cruces City Council
23 approximately three and a half to four years ago, but I
24 have been working on these issues for the last 10 to 15
25 years.

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1 Three and a half years ago with the assistance of
2 then-Congressman Steve Pearce, he sent a letter to the
3 city council and asked a meeting or a forum to be set up
4 with the Las Cruces Police Department and the council and
5 the mayor and the city manager and anyone and everyone
6 involved. City attorney.

7 They refused to have such a meeting. Well, we
8 persisted. I persisted. And it finally led to the
9 council requesting an audit be done of their police

10 department by Dr. Craig D. Uchida, with his staff,
11 Lieutenant Mike Wells, who is a lieutenant retired out of
12 Los Angeles; and Ms. Shelly Solomon, who is part of his
13 staff; with the assistance of Arturo Gallegos, another
14 lieutenant from California police department and several
15 others.

16 Well, the report does mention very -- it's very
17 critical of the Las Cruces Police Department. And I'm
18 willing to read real briefly from a June 9, 2009 editorial
19 in our Las Cruces Sun News, which is also part of your
20 packet.

21 And it reads real briefly: "We've longed
22 suspected based on the number of complaints we've heard
23 over the years that there were problems within the Las
24 Cruces Police Department in terms of use of force,
25 responsiveness to citizens' complaints.

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1 "A report to the city by the private company
2 Justice & Security Strategies, Incorporated, which
3 conducted an extensive audit of the Las Cruces Police
4 Department, suggests that the problem is worse than we
5 suspected.

6 "And the report found that Las Cruces police
7 received three times the number of use of force complaints
8 as the average department its size, the more than twice
9 the rate of all police agencies in the country.

10 "From 2000 to 2008, 31 lawsuits were filed

11 against the department resulting in 650,000 paid out in
12 settlements. Perhaps most troubling is the fact that 74
13 complaints alleging excessive force that were filed in the
14 last three years none were substantiated.

15 "The internal review procedures used by the
16 department found in favor of the officer every single
17 time. The national average is for 8 to 10 percent of
18 complaints to be substantiated.

19 "No wonder so many people felt they weren't
20 getting a fair hearing. Supervision and accountability
21 appear to be inconsistent throughout the department, the
22 report found. This applies not only to disciplinary
23 matters, but also to general supervision in the field,
24 case investigation reviews.

25 "The report found strong opinions both among

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1 supporters and detractors of the department. Justice &
2 Security Strategies, Incorporated, was asked to consider
3 whether a citizens' review board would be helpful, instead
4 suggested to hiring of a police auditor, a full-time
5 employee who would have the power to probe the
6 department's policies and procedures and insure that
7 needed changes are made.

8 "More than just reviewing the individual
9 complaints, a police auditor could focus on organizational
10 change. This report should be an eye-opener for the city
11 council as well as a call to action."

12 On the same date -- on the same date, Tuesday,
13 June the 9th, "A Thin Blue Line" by J.R. Stewart,
14 President of Las Cruces Police Officers' Association:
15 "Citizens, over the past few months it seems as if every
16 person with a grudge against the Las Cruces Police
17 Department has come out of the woods -- out of the
18 woodwork to slander your department.

19 "As president of the Las Cruces Police Officers'
20 Association, I would like to assure you that your
21 department is one of the best in the nation."

22 How he got that conclusion, I don't know. But
23 it's all on the same date. And I could go on and on and
24 on. We have hundreds of reports like this. We have
25 victims left and right. Some in jail today, others in

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1 prison because of the poor management of the police
2 department.

3 Constitutional rights violations against the
4 citizens. Civil rights violations against the citizens.

5 And up to this point I could not understand why no one in
6 the state government could help us.

7 Coming here today has clarified to some degree
8 why we're in trouble: for the lack of the responsibility
9 of the state government, beginning with Mr. Denko, and
10 this Board for failure to enforce the rules and state
11 statutes in allowing citizens' complaints.

12 If things have changed, I want to congratulate

13 you. But that does nothing for the poor people who have
14 been victimized by the Las Cruces Police Department, who
15 have sat in jail or have been sent to prison for false
16 arrests and many of the other atrocities that our Las
17 Cruces Police Department have imposed on the citizens of
18 Las Cruces.

19 As part of the report, Dr. Uchida mentions that
20 citizens have an option of using under the color of law
21 action to be taken against all elected officials of Las
22 Cruces and the police department and the elected state
23 senators or legislatures or whoever is involved who have
24 been given the opportunity by the citizens too, giving
25 them the power of the mayor, our city council, our elected

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1 officials, our district attorney, our judges, all working
2 together to hold the citizens accountable to the letter of
3 the law based on the law; but yet they violate the law on
4 a daily basis and no one does anything about it.

5 Our district attorney has violated the
6 constitutional rights of due process; has violated the
7 issues of -- of due process, keeping evidence from the
8 plaintiffs for weeks and months and sometimes even years
9 to where they cannot have a defense.

10 No one investigates the police department. No
11 one investigates the district attorney. No one at the
12 state level does much of anything.

13 And I'm about ready to conclude here, but I could

14 go on and on, Mr. Chairman. I think that I testified back
15 on November 16th of 2008 before Cisco McSorely and the
16 judiciary committee on courts and justice.

17 I was hoping that something would have come out
18 of that testimony. Dr. -- excuse me. Judge White also
19 testified. Nothing ever came of it. And now I'm
20 beginning to get the bigger picture as to why.

21 And it saddens me to see that all of these people
22 who consider themselves and call themselves honorable and
23 law-abiding representatives who took on the responsibility
24 that the citizens have given to them and they have abused
25 it. Coverup after coverup from all levels, from the state

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1 government on down to the janitor of the Las Cruces Police
2 Department.

3 Mr. King, we need help. What we are as citizens
4 going to do at this present time is formulate a complaint
5 to be forwarded to Mr. Eric Holder, the U.S. Attorney -- I
6 mean, office in Washington. We're going to get as many
7 signatures, if at 15, 20 thousand, if possible, to call
8 for a special investigation by his office of the Las
9 Cruces Police Department and the Third Judicial District
10 Court and the district attorney and all involved in this.

11 The reason it was important, Mr. King, that I
12 read from this letter that Mr. Ortiz sent to us on July
13 the 8th of 2008 because it points out here, "There is also
14 no statutory and regulatory framework, as currently

15 written, for a citizen to file a complaint with the Board
16 against an entire local enforcement agency."

17 This report here condemns the entire Las Cruces
18 Police Department. And to make matters worse -- the
19 silver lining there that there were 38 good honest police
20 officers in the Las Cruces Police Department that did
21 speak to Mr. Uchida and their comments are included in
22 this report, which helped solidify the condemnation of our
23 Las Cruces Police Department.

24 Now, this letter here written July 8th of 2008
25 also says that, "It is up to the state legislature or a

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1 local city council to address these statutory framework
2 issues." Does that also then include the Office of the
3 Attorney General of the State of New Mexico? And its
4 condemnation of what is happening to us in Las Cruces, New
5 Mexico? Yes or no is what we need to know from this
6 Board.

7 Thank you for listening to me. And I apologize
8 to the good officers out of the police departments in the
9 state of New Mexico that you have been tainted because of
10 what is happening to us in Las Cruces.

11 But I'm hoping that the citizens of the state of
12 New Mexico follow our lead and contact their U.S.
13 Attorney's office filing complaints and getting as many
14 signatures of the citizens throughout the state, because
15 it is a shambles in my understanding almost in every

16 community and police department throughout the state.

17 Here is a video of our city council meeting as to
18 how our mayor and city council handled it and our city
19 manager and our -- the city attorney. They still don't
20 believe that it is that bad even after the audit that they
21 requested from Dr. Uchida and his company.

22 Thank you, Mr. King.

23 MR. KING: Thank you, Mr. Borunda. I appreciate
24 the comment. Let me -- I took notes. I'm going to
25 address two or three things that you said more as just a

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1 matter to get them on the record. But we appreciate your
2 comment, and maybe later on we'll have some opportunity
3 for more discussion off-line.

4 With regard -- since I'm in the good position for
5 the members of the Board to be aware of the discussion
6 about the letters that Mr. Borunda is talking about, I
7 think that -- I think that what Mr. Ortiz wrote is
8 basically correct. I think that our office tried to
9 clarify that a little bit. And I think maybe,
10 Mr. Borunda, it is not still quite clear in your mind.

11 But it is true still I believe that this Board
12 and perhaps no particular state agency has the authority
13 to hear citizen complaints about an entire agency,
14 although we appreciate what you gave us here and there may
15 be -- frankly, it seems to me like the appropriate agency
16 to address this first is indeed the city government in Las

17 Cruces.

18 And it sounds like they intend to do that, I
19 mean, because they are the ones that have the oversight
20 authority over their entire police agency. And, of
21 course, you as citizens have oversight over the -- over
22 who operates your city.

23 Now, I let you talk, just let me talk.

24 MR. BORUNDA: Yes.

25 MR. KING: Okay. But I think that you generated

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1 a lot of good discussion amongst the members of the agency
2 and in the Attorney General's Office so that we looked and
3 I think that it probably is true that with regard to
4 certification issues, which is what this Board has
5 authority to deal with, that citizens do have some
6 opportunity under our statutes to bring issues that relate
7 to certification of police officers.

8 Is that your understanding, too, Mr. Ortiz, from
9 what we said?

10 MR. ORTIZ: Yes.

11 MR. KING: So to the extent -- for instance, when
12 you were talking about a police officer who is arrested
13 for DWI, if that doesn't come to us from the police
14 agency, then it may very well be appropriate for it to
15 come from a citizen complaint as well.

16 So with regard to the individual actions of a
17 police officer that falls within those list of items that

18 could cause them to lose their certification, we expect
19 those to come to us from the police agency itself; but
20 they could potentially come to us from citizens.

21 And I think in large part because of your
22 presentation to our commission about a year ago, we have
23 an item on the agenda today that I think is designed for
24 us to make sure that police agencies are reporting that
25 misconduct. And so we're actually working on that.

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1 I know that the wheels of government spin slowly
2 sometimes. But I do think that your comments have led us
3 to address that, so we appreciate that.

4 With regard to the authority of satellite
5 training centers, it sounds like we're going to have some
6 discussion about that. So I think that you raised a good
7 comment there.

8 MR. BORUNDA: Yes, sir.

9 MR. KING: With regard to -- you know, sometimes
10 if all of you wonder, you know, when do your comments
11 start to get outside of -- and I let you go a little bit,
12 but -- get outside of what it is that we have authority to
13 do, I guarantee you that this agency does not have any
14 authority of oversight over the district attorney's
15 offices.

16 And so when you have a complaint against the
17 district attorney's office, you know, I let you talk about
18 it here a little bit today; but we don't have any

19 authority over the district attorney's office, nor even
20 does the Attorney General's Office have any authority over
21 the district attorney's offices, because they are
22 individually elected officials, too.

23 So, once again, the ultimate authority over the
24 district attorneys comes from the public who vote for them
25 and who place them in office. And so it sounds like you

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1 have a handle on how you're going to deal with that.

2 And you made a comment about management of the
3 department in Las Cruces is still a problem. I think that
4 is -- that's that dividing line that I know is very
5 frustrating to you, but I still don't think that our
6 agency, the Law Enforcement Academy Board, has any
7 superintending control over the management of an entire
8 agency.

9 I mean, I just -- it's just not within our
10 purview. It's up to the mayor and the city council. In
11 the case of a police agency, it's up to the sheriff who's
12 an elected official -- in the case of a sheriff's
13 department -- to deal with those management issues by and
14 large, I think.

15 But I do want to say that we -- like I said, we
16 appreciate your comment. I think that you will see at
17 least two items on the agenda today that address previous
18 comments that you made. And so, thank you, Mr. Borunda
19 for being here today --

20 MR. BORUNDA: Thank you, Mr. Chairman.

21 MR. KING: -- and giving us those comments.

22 The next person on the agenda -- and it's the

23 only one that I have written on here, although I will ask

24 for a show a hands to see if we've got everybody -- is

25 John Tate. Mr. Tate on reserve certification.

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1 MR. TATE: Yes, sir.

2 MR. KING: Please, come on up.

3 MR. TATE: It's my intent to be brief. It's a

4 tough act to follow. My name is John Tate. I live in

5 Lincoln County. Full disclosure, I'm a mounted patrol

6 officer; I am not here representing the mounted patrol;

7 I'm not here representing any law enforcement agency.

8 My comment actually is your Agenda Item No. 7.

9 And I would like to commend the Law Enforcement Academy

10 and the Law Enforcement Academy Board for this

11 initiative. I think, as has been said, giving people

12 standards to live up to is a superb tool to set goals.

13 And there are a lot of reserve officers that

14 might pursue a great deal more professional training if

15 they saw there was some light at the end of the tunnel and

16 it might carry over. I endorse the concept. I endorse

17 the design.

18 I want to comment that I think reserve officers

19 are an important liaison function between the public and

20 law enforcement. They see both sides on a daily basis.

21 Second, I think reserves are awfully important,
22 especially if they are properly trained, because obviously
23 if they are not they can contribute to considerable
24 liability, both civil and messing up criminal cases.

25 This was brought up I believe in probably '97-'98

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1 time frame. The questionnaire was sent out to various law
2 enforcement agencies trying to determine how their
3 officers should be trained.

4 And a county sheriff obviously has more
5 delegation authority or delegation license than a police
6 agency and how he assigns his people. But when you're
7 talking about training people and training reserves, that
8 may or may not be a factor to consider geography, agency,
9 and agency assignment.

10 Because what's in here right now is just like the
11 Law Enforcement Academy. You're going to certify a guy to
12 be a general purpose cop. That may be something to think
13 about. But there are three areas I wanted to mention as
14 concerns.

15 One is on page 1, the window for recognizing
16 prior training. I'm not sure how you intended that to be
17 that after that window you would not consider any prior
18 training or you wouldn't consider prior training after
19 that 2012 window closed. I'm just mentioning that that
20 may be an issue because it may take some people time to
21 get their paperwork in.

22 Second, this may be more important than anything
23 else as a general comment. For police agencies that want
24 to as part of due diligence and screening that want to
25 consider psych exams, it is crucial that you understand

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1 that the Law Enforcement Academy standards of a law
2 enforcement psychologist giving the exam, there are many
3 types of screenings.

4 They're screening in; they're screening out.
5 Most people use screening out. They use what's called the
6 clinical database of wackos. And if you check these
7 blocks and don't have a face-to-face to resolve those --
8 and I know agencies that have done that -- you screen out
9 the very people you want that are high-risk people.

10 I'm a retired naval officer. Ask me if it
11 bothers me to kill people. Pardon my job; they deserved
12 it. But that's not the point. If a guy checks that block
13 on his psych exam, "Do you routinely get in fights at
14 work?" Get a guy who's a police officer, "Yes, I do."
15 You don't want a shoe salesman at Wal-Mart to check that
16 block.

17 The right psych test is going to be crucial. And
18 in the political environment we live in, having a guy say
19 that he failed the psych test because he was given the
20 wrong psych test for his purpose, you're going to cripple
21 some people. So we need to make sure that people
22 understand, give the right psych test.

23 Finally, this was brought up several times by
24 Mr. Ortiz and Mr. Shea. I've been using the same
25 technique of giving police officers reading material

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1 outside of class that we discuss when they get in class.
2 In particular, this applies to law and subjects of that
3 ilk where there's lot of background reading that's
4 required.

5 The Law Enforcement Academy has lots of their
6 training set up on an hours -- contact-hours basis. And
7 for reserve officers in particular, I would caution
8 against that --

9 (At this time, a ringing occurred.)

10 MR. TATE: That's not my buzzer; I've still got a
11 minute. I would caution -- I would caution against the
12 focus on hours as opposed to subject matter mastery,
13 because reserve officers typically have a job outside.
14 They have an outside life. They can't dedicate all that
15 time, the 800 hours, to training that maybe they should.

16 Well, they may be able to dedicate the time but
17 it may not be classroom time that can be effected in Las
18 Cruces or Santa Fe or Albuquerque. Maybe they can do some
19 of this at home.

20 This remote training that they're talking
21 about -- I've been using this for several years for
22 in-service training credit where the officer reads these
23 materials and then comes and discusses it intelligently

24 and gets credit for reading.

25 I know Mr. Shea is somewhat familiar with some of

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1 the packages I sent out. It's legal update in-service
2 training, but read this stuff and study it and discuss it
3 intelligently. You've demonstrated that you took the time
4 to read it.

5 Well, that's something I request that you
6 consider when you're talking about reserve officers is
7 time management and training for mastery as opposed to
8 classroom seat hours.

9 And that's all I have, 5 minutes, 12 seconds. I
10 will take, obviously, any questions or comments.

11 MR. KING: We appreciate that. Questions for
12 Mr. Tate?

13 MR. TATE: Thank you, Gentlemen.

14 MR. KING: By telling us, Mr. Tate, that -- I am
15 aware that you are -- we were talking about people who are
16 good shooters, that you -- that Mr. Tate is a crack shot.

17 MR. TATE: With lots and lots of practice.

18 MR. KING: So, thank you. All right. Is there
19 anybody else that has comments to make during the public
20 comment period? We will try move things along.

21 Mr. Perez.

22 MR. PEREZ: I'm sorry. Mr. Najjar.

23 MR. KING: Oh, yes. There's a young lady back
24 here. Yes, ma'am. Come on up here and introduce

25 yourself.

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1 MS. SANDOVAL: Mr. Chairman, Members of Board, my
2 name is Michelle Sandoval. I'm with the New Mexico Motor
3 Transportation Division. My question is to Mr. Art
4 Ortiz. In the recent changes to the CPR/first aid
5 becoming a prerequisite, what curriculum should we utilize
6 for our officers?

7 MR. ORTIZ: I'm aware there's three different
8 agencies, the American Red Cross -- I believe they are all
9 acceptable. So I think that was a decision is if they did
10 get one of the three that are out there, that's
11 acceptable.

12 MS. SANDOVAL: Okay. My next question is the
13 state is currently under a hiring freeze. We are
14 periodically able to hire mission essential personnel.
15 However, a lot of times we're faced with a dilemma that
16 they come on board the Saturday before they're getting
17 ready to start the academy.

18 So is there any leeway that you will give for
19 them to complete the first aid/CPR and the report writing
20 prior to attending the Academy or will they have to be put
21 on hold and attend at a later date?

22 MR. ORTIZ: I'll let Mr. Alessio -- we did
23 discuss that briefly. Go ahead, Mr. Alessio.

24 MR. ALESSIO: The first aid and CPR, considering
25 the fact that it's only 13 hours total, if it's a

1 situation where an individual's hired just right before
2 the academy class starts, they can have some leeway in
3 finishing that up within the first month or so within the
4 academy.

5 When we start the report writing, the -- there's
6 three semesters that people can attend on-line or in
7 class. Hopefully, they'll be able to attend one of the
8 semesters prior to coming in.

9 If a semester starts any time within a week or
10 two one side or the other of an academy class starting, we
11 will allow them to register in that semester and then
12 complete the report writing during the class as long as
13 they have completed it by the end of the academy class.

14 We do have a computer lab they could use nights
15 during the week and they can complete it on weekends from
16 home or from the office.

17 MS. SANDOVAL: Thank you.

18 MR. KING: Good. All right. Thanks.

19 MR. PEREZ: I understand that the director of the
20 fraternal order of police from Las Cruces is here, as well
21 as staff members from the Las Cruces Police Department.
22 And I know you're considering a break, but I'd just like
23 to ask if they would be willing to speak regarding the
24 issue addressed by Mr. Borunda after the break.

25 MR. KING: We can do that. Let's take a little

1 break. Before the break I'll recognize that we do have
2 Representative Barela here. I think he's actually working
3 today, but we always appreciate having a member of the
4 state legislature here.

5 I've gotten to sit in a lot of his hearings, and
6 so he's sitting in one of mine today. Representative
7 Barela, it's nice to have you today.

8 All right. Let's take a 10-minute break. We'll
9 be back here five minutes after 11:00.

10 (Off the record from 10:54 until 11:13 a.m.)

11 MR. KING: All right. I'm going to call us back
12 into order now. Thank you. That was a bit more than 10
13 minutes. Some of us needed to run over and check out of
14 our rooms during the break, I think.

15 The next item on the agenda -- oh, actually, we
16 had a request. And I meant to see during the break -- and
17 I didn't see them -- if the folks from Dona Ana County
18 want to make a comment, we'll leave the public comment
19 open.

20 And you're entitled to -- we're not a debating
21 society, so I don't want to get into a lot of give-and-
22 take. But I'm more than willing to allow some time for
23 comment if you desire to do so or you can send us written
24 comments.

25 I think that these are important issues to work

1 on, and I think that it's not just the Law Enforcement

2 Academy Board that will be working on this. So, all
3 right. I'm not seeing any -- oh, yes. Come on up and
4 introduce yourself.

5 MR. STANDRIDGE: Bill Standridge. I am with the
6 Fraternal Order of Police, the Las Cruces Police Officer
7 Association. It was requested that I come up and make a
8 statement on it.

9 Before I do so, I would like to make a written
10 statement to this, concerning Mr. Borunda's allegations or
11 statements, whatever it was.

12 I would like to have a copy of that report so I
13 could respond to it accordingly, whether it comes from
14 this Board or whether it comes from Mr. Borunda himself.

15 MR. KING: Let me address that. It's public
16 record when it comes to us. I don't know that you have to
17 file a public records request, but you could. But if you
18 want one, I'll ask Mr. Ortiz to make it available to you.

19 MR. STANDRIDGE: Thank you, Mr. Ortiz.

20 MR. ORTIZ: Yes, we will.

21 MR. BORUNDA: You can obtain one from the city
22 manager.

23 MR. KING: All right. That being said, the
24 public comment period is closed.

25 ITEM NO. 7: DISCUSSION: RESERVE OFFICER TRAINING PROGRAM

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1 MR. KING: And we will move onto Item No. 7, Old
2 Business -- and this is something that was for which there

3 was some comment raised as well in the public comment
4 period -- Reserve Officer Training Program.

5 Mr. Force, who's been working on this -- do you
6 need the microphone, Mr. Force?

7 MR. FORCE: I don't think I do.

8 Mr. Chairman and Members of the Board, the
9 general public, this has been an issue that's been going
10 on for longer than I've been on the Board, actually. And
11 it deals with the transition or the certification of
12 reserve personnel within the state of New Mexico.

13 And just to update the Board, we've brought this
14 in front of the Board two meetings ago as an open
15 discussion and then it was on the agenda in the last
16 meeting of which I was unable to attend, which I'd like to
17 give an apology.

18 And since two meetings ago what has occurred is
19 in the portion of the direction of the Board I was asked
20 to meet with the chiefs' association and to have a
21 follow-up meeting with the reserve committee, in which
22 both of these took place.

23 I believe it was in the May chiefs' meeting this
24 was brought up. This current proposal is stated and
25 written in front of us. And the chiefs' association

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1 actually had a fairly good discussion on the issue.

2 And the only concern during the chiefs' meeting
3 was the inclusion, which is on pages 6 and 7. And that is

4 dealing with the certification by waiver process, as well
5 as the ability of what we call grandfathering prior
6 training that reserves may currently have obtained in
7 order to obtain a certification by waiver ability.

8 The chiefs had a very lively discussion. We had
9 a dialog with them, explained to them that the standards
10 that are set forth here for a reserve to undergo
11 certification are duplicated, they are identical to the
12 standards that a police officer would undergo, a full-time
13 officer hired by an agency.

14 The chiefs did voice a very strong concern. In
15 fact, they even took a vote of nonsupport of the last two
16 paragraphs, but did support the remaining of this
17 proposal. Their concern, again, was basically issues of
18 allowing backdooring and I believe in my words what I
19 understood was a quality assurance of whether or not those
20 training standards, prior training would have met the
21 current standards that are delivered today.

22 Last week I had a reserve committee. We sent a
23 posting out through Mr. Gil Najar's office. And
24 unfortunately there was not a quorum of the members that
25 we had identified as being on the committee that were in

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1 attendance.

2 However, there was a strong attendance.
3 Undersheriff McCloskey was in attendance with Mr. Najar
4 and I. And there was one full-time officer from

5 Albuquerque Police Department. And then outside of that
6 there were various representatives from the Albuquerque
7 Police Department Reserve Program, as well as Bernalillo
8 County Reserve Program, and then the Santa Fe County
9 Sheriff's Department Reserve.

10 With that, we had a fairly good discussion that
11 talked about these issues. And that group were in very
12 strong support to include the latter two provisions to
13 allow grandfathering.

14 Along with that, they recommended that there
15 would be some language that would actually require that
16 once the mandatory training hours were met, that a reserve
17 prior to certification would attend the certification by
18 waiver program.

19 And, I'm sorry. In that meeting was Mr. Ortiz.

20 But that was one of the things that this last
21 group, in discussion with them, they did feel that it was
22 a proper thing in order to have all the prior to
23 certification. And this grandfathering actually changed
24 from a grandfathering clause to a continuation clause.

25 It would be reworded to say that prior to

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1 certification that a reserve officer would attend a
2 certification by waiver as approved by the New Mexico Law
3 Enforcement Academy.

4 And that that certification course would be
5 geared and the curriculum approved by the Academy as

6 well. So I believe that's it. So I stand for any

7 questions or any comments.

8 MR. KING: And let me explain I think -- and,
9 Zack, you can correct me if I'm wrong. I show this on our
10 item right now for discussion, but there's a rule that at
11 some point in time if we get to where we want to do this,
12 we'll put it on for a rule-making or?

13 MR. SHANDLER: Yes, sir.

14 MR. KING: Okay. So this would be a good time to
15 talk about any -- any ideas that you have to be put in
16 here. But there will still be some formal opportunity if
17 we try to promulgate this as a rule for that kind of
18 comment and rule-making, too. Yes?

19 MR. SHANDLER: Yes, sir.

20 MR. KING: So, comments? Mr. Tate, do you have
21 further comment on this issue? I know you said you were
22 hanging around, but.

23 MR. TATE: I was hanging around in case Mr. Force
24 had a question on some issues that we've directly worked
25 on. The only comment I would make is just to repeat what

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1 I said, I endorse the concept. If it needs to be worked
2 over, massaged in the future, that's fine.

3 But get your foot in the door with the idea for
4 those who support it and then massage it when you have
5 some experience with the initiation and implementation.
6 There will be lessons learned.

7 If it's aimed at reserves, they are not regular
8 officers; recognize that. So, therefore, duplicating
9 things may not be always appropriate.

10 One avenue would be you're a reserve, these
11 things count; and then there's still some sort of a
12 certification by waiver process to verify that before you
13 go full-time you're up to speed. There's lots of options.

14 I'm not going to get into those. I'm saying as I
15 understand the legal legislative process, get something
16 going. If it's a good thing, get something going; and
17 then clean it up later. Thank you.

18 MR. COON: What is the -- how many hours does it
19 take a mounted patrolman to get certified as a mounted
20 patrolman right now academywise?

21 MR. TATE: As always, I'll try to give you a
22 straight answer. We have multiple academies. We have
23 several academies that are duplicating a full 800 hours
24 that the Law Enforcement Academy requires. We have some
25 academies that are only doing around 400.

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1 What we are trying to do, what we are trying to
2 implement as a standard for our officers, as when I work
3 with you I can do anything you expect me to do. And
4 either by basic training in our academies or by post-
5 training after that -- field sobriety testing.

6 As I understand it, standardized field sobriety
7 testing -- don't answer; this is not a challenge -- I'm

8 just saying, as I understand it, that's not taught at the

9 basic academy. It may be; it may not be.

10 Radar operations, as I understand it, that's

11 taught at the state police academy, not at the basic

12 academy. We're trying to give our officers all of these

13 things so that those that want to get out and assist you

14 to the full capacity can do it.

15 So we have things that are in the basic

16 academy -- let's say a guy went to a 400-hour basic

17 academy. And then he comes to me and says, "I want a

18 radar course." I give him the National Transportation

19 Highway Safety Administration radar course. For whatever

20 reason, these guys have blessed me to teach radar.

21 So we try to bring them up to the highest

22 standards we can for you. But to answer your basic

23 question, you're guaranteed that a guy had 400 hours; and

24 it's supposed to be a curriculum that was approved some

25 years ago by the Law Enforcement Academy in accordance

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1 with the statute.

2 MR. FORCE: Mr. Chairman. Sheriff Coon, you

3 bring up probably the centermost issue that I guess has

4 concerned me. Since impaneling and being a chair on this

5 committee, I've spoken to many of the individuals with the

6 New Mexico Mounted Patrol as well as Albuquerque Police

7 Department, the Santa Fe County Sheriff's Department,

8 Bernalillo County Sheriff's Department and with many other

9 departments that have reserve programs.

10 And I guess what really concerns me is that many
11 of these agencies are undergoing a very identical
12 curriculum to what the Academy is offering towards
13 certification.

14 But the real issue is today every mounted patrol
15 officer who's undergone even the exact curriculum
16 standards in training that the basic academy requires,
17 those officers come out of that training program and they
18 are not certified because there is no mechanism in place
19 under our NMAC that gives a reserve the ability to be
20 recognized as being certified.

21 That right there is the issue of why I'm
22 personally very much in support of getting a standard in
23 place that these officers can have certified, recognized
24 training and having established that standard.

25 MR. COON: Thank you.

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1 MR. KING: Mr. Sheriff Coon? Other questions?

2 Yes, Sheriff.

3 MR. GIBSON: Sheriff Gibson, Torrance County
4 Sheriff's Office. I apologize to Mr. Force. It seems
5 every time we set up one of these reserve meetings
6 something in my county kicks off and we can't go.

7 But did you guys happen to discuss the physical
8 fitness standards? Did any of that come into play with
9 cert by waiver?

10 MR. FORCE: Yes, it did. Yes. And I would
11 probably give that to Mr. Najar. Because we did talk
12 about the physical fitness standards and the standards
13 that are established under the current requirement for a
14 basic police officer are on exit had to be achieved by
15 each one of the individuals for certification.

16 And in the case of where they'd go through a cert
17 by waiver, they would have to meet that standard.

18 MR. GIBSON: Correct.

19 MR. FORCE: Mr. Najar, would you add anything
20 else?

21 MR. NAJAR: Mr. Chairman, Mr. Force. I think at
22 that discussion and especially in terms of what you have
23 before you was designed for meeting the 800-hour
24 curriculum at the 60th percentile.

25 The follow-up discussion where we would then

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1 modify that to require a cert by waiver would then require
2 us to actually lower that so that they would only be
3 required to meet the 50th percentile, if we're going to
4 mandate the certification by waiver, which isn't really
5 presented here straightforward in those terms.

6 MR. KING: Other discussion? Mr. Force, are you
7 guys going to then recommend some different language for
8 those last two paragraphs or will this sort of continue
9 being an open item of discussion?

10 MR. FORCE: Well, Mr. Chairman, what I would

11 recommend -- I don't know the exact appropriate process --
12 is to move this forward so we could look at invoking it
13 into the NMAC. And then maybe at the first reading we can
14 look at modification. Maybe Mr. Najjar and I can work on
15 that prior to then with Mr. Shandler.

16 I'm not exactly sure what the process would be.
17 We have to move from it here to I guess the first reading;
18 is that correct?

19 MR. SHANDLER: Mr. Chairman, Mr. Force, there are
20 several different options. One option would be to move
21 this to rule-making and published as is. And the standard
22 under the law is that during -- out of the public hearing
23 you could make changes that are the logical outgrowth of
24 what's published here. That's one option.

25 Another option would be we need -- we and maybe

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1 the three people that you've mentioned may need to refine
2 J a little bit more, and then come back one more time for
3 the full Board with a final-final. And at that point the
4 full Board could say, "Okay, that's the language that we
5 want to send to the rule-making."

6 And maybe the advantage of that would be there
7 would be less tweaking at the actual rule-making session
8 in September or December. Another option that I've seen
9 in the past is that if the tweaking is just kind of minor,
10 the Board can say, "This is ready to go to rule-making."
11 We're going to appoint a little subcommittee just to tweak

12 it."

13 And you have the authority to tweak it a little
14 bit, but make sure that tweak-version is published and
15 sent out to everyone. So everyone is on notice that
16 what's here today is going to be slightly changed but
17 every -- the final-final will be published.

18 So those are the three different options I've
19 seen used in the past. And I guess it kind of depends on
20 if you think J is going to be tweaked a lot or a little.

21 MR. FORCE: Mr. Chairman. Mr. Shandler, I
22 wouldn't expect that we're going to tweak it
23 tremendously. I could see just a bit of probably
24 wordsmithing. Would you agree, Mr. Najar?

25 MR. NAJAR: (Nodded.)

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1 MR. FORCE: Yeah. So in that I would request
2 that we would move with it as it's currently worded into
3 as a proposal for adoption? Is that --

4 MR. SHANDLER: Mr. Chairman. That language is
5 fine. I think just that you're making a motion to set it
6 for rule-making at the next Board meeting.

7 MR. FORCE: And I would so move, Mr. Chairman.

8 MR. KING: All right. We have a motion to take
9 these -- what are changes to the NMAC 10.29.8; is that
10 right? Or does it create a new 10.29.8?

11 MR. SHANDLER: Mr. Chairman. Gil, is this a
12 brand new part? Every part of it new or is there --

13 MR. SCHULTZ: Yeah.

14 MR. NAJAR: Mr. Chairman. Zack, this is the
15 original one that was presented when we were first
16 scheduled for the public hearing, and that was tabled.

17 MR. SHANDLER: Right. But this is a brand new
18 section of NMAC, right?

19 MR. NAJAR: It's a brand new section. And one of
20 the changes you'll see, the reference to 2008, so those
21 would be kind of the minor updates that we would have to
22 do to it, move it to 2009 and those kind of date changes.

23 MR. KING: I'll take this motion then to take
24 this new section of the NMAC and put it on the track for
25 rule-making so it will be officially on our agenda at the

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1 next meeting.

2 MR. SHANDLER: Yes, sir. It will be an action
3 item, rule-making. And then after the rule-making, you'll
4 have to opportunity to modify, adopt, or reject.

5 MR. KING: Okay. But I'll take that as being
6 with the -- at least with the sort of minor typographical
7 changes and such to make it fit the current date. All
8 right. I have that motion. Is there a second?

9 MR. SCHULTZ: Second.

10 MR. KING: It's been seconded. Any other
11 discussion? Seeing none, all in favor of the motion say
12 aye.

13 THE BOARD: Aye.

14 MR. KING: Any opposed? (No response.) So this
15 then will show up as an action item on our next Board
16 meeting.

17 MR. SHANDLER: Yes, Mr. Chairman.

18 MR. KING: Thank you, Mr. Force.

19 ITEM #8: DISCUSSION: ELIGIBILITY OF RETIREES

20 MR. KING: The next item is Item No. 8, the
21 discussion of eligibility on retirees. Mr. Shandler.

22 MR. SHANDLER: Mr. Chairman, this is the same
23 type of setup where the Board has to decide is this
24 something ready to move forward to rule-making in
25 September or does there need to be some discussion about

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1 maybe some possible changes? Or the Board always has the
2 option to maybe table it to another meeting. That's the
3 procedural set up.

4 You'll have in your packet a letter that I sent
5 to the director on June 9. And it's a public letter, so
6 it should be available for everyone. At a previous
7 meeting, Chief Sanders brought forward some options for a
8 rule change.

9 The Board tasked me with providing some more
10 options. And so this June 9 letter presents four options
11 of a possible rule change. For the public record, Option
12 No. 1 is the status quo which is in the administrative
13 code. And it's dealing with what the definition of a
14 retiree is. That's what my letter focuses on.

15 So Option No. 1 is a retiree is someone who is
16 receiving a retirement check. And according to my
17 research that's what New Mexico and Colorado uses.

18 Option No. 2 is the language offered by Hobbs
19 Police Chief Sanders at the March 26th meeting. And I
20 tried to cut and paste identically from the handout that
21 he provided.

22 Option No. 3 is my modification of some of that
23 language to give you a different type of option.

24 And Option No. 4 is the retiree is someone who
25 has fulfilled all of the requirements in order to be

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1 eligible for retirement. And based on my research, that's
2 how Arizona defines that term.

3 So that's the setup. It probably would be
4 prudent for me to turn it over to the chair or to the
5 chief if he wants to make some comments since this is his
6 proposal and I've kind of run with it a little bit. And
7 so that's how I'm going to handle it, but I guess do you
8 want to take it from here, Mr. Chair, or the chief?

9 MR. KING: Actually, at this point, I'm willing
10 to have some comment from the chief. Any -- have you had
11 a chance to look at the options? And I know we had -- we
12 indeed had some discussion on this at the last meeting.

13 But are there any of these that you think sort of
14 would not -- wouldn't solve the issue that you have,
15 Chief?

16 MR. SANDERS: Yes, sir. I think Option No. 3
17 would probably be the fairest, and that's just from --
18 this is first chance I've had to read 3 and 4. I
19 obviously was aware of what the status quo is and what the
20 option that I've placed in there.

21 It's just, Mr. Chairman, the point regardless of
22 which option it is, it's just important for me to develop
23 something in a rule that's fair, that can be applied no
24 matter who it is. And right now in my opinion that the
25 status quo is not a fair rule for anyone.

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1 So that's basically my comments on it. I think
2 I've probably wore this Board out with my comments on
3 this. And I'd stand for any questions, but that's all I
4 have to say, really.

5 MR. KING: Sure. All right. Thank you, Chief.

6 Questions of the Board?

7 MR. FORCE: Mr. Chairman.

8 MR. KING: Yes, Mr. Force.

9 MR. FORCE: I would like to hear from Mr. Ortiz.
10 In looking at considering the four different options -- I
11 guess my concern, Mr. Ortiz, is that with Options 3 and
12 4 -- probably more specifically Options 3 and 4 give the
13 Academy -- it gives your office a tremendous amount of
14 leeway.

15 And in your position, it's probably a good thing
16 right now. But understanding your authority it may seem

17 like it's too much authority that would be too
18 subjective. So I would just like to hear from you.

19 MR. ORTIZ: No, I agree. And I wasn't in this
20 position when you had this issue I believe with the chief
21 of police from Farmington when he was denied that
22 request. I'll go by the order of the Board. Whatever the
23 Board decides, I will enforce those rules.

24 I understand it would be -- it would be somewhat
25 difficult. I've received a lot of comments from different

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1 folks that believe that the PT should be enforced for even
2 retirees now. But that board made that decision a while
3 back to exclude the retirees, and I'll abide by that.

4 And I'll go along with whatever the decision the
5 Board makes here.

6 MR. FORCE: Mr. Chairman. I guess one of the
7 concerns that I had with Option No. 1 is that if that goes
8 into the NMAC, there would have to be -- am I right,
9 Mr. Shandler -- you would have to have a retiree that
10 actually receives a paycheck or a retirement check from
11 the agency in which he retired, whatever state that may be
12 from.

13 And it's my concern there is that you may have an
14 individual coming here that has a very good record, served
15 well, but for some reason in that state there may be a
16 postponement or some other caveat that takes place where
17 that retiree may not be receiving a check.

18 And I look at cases where you have an individual
19 who serves 20 years in law enforcement in whatever state
20 and maybe that state doesn't allow that recipient to
21 receive a check until that individual is at a certain
22 age.

23 And, personally, I don't like Option No. 1 for
24 that because I think the principle of the issue is a
25 twenty-year service. And --

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1 MR. KING: If I'm right, though, Option 1 is the
2 way it is now.

3 MR. SHANDLER: Yes, that's the law of New Mexico
4 right now.

5 MR. KING: That's what Chief Sanders essentially
6 is saying is quite unreasonable.

7 MR. FORCE: So with that in Option 3, Option 3 to
8 me is too subjective because you could get a director that
9 at his own -- it almost gives the director too much leeway
10 and on the other end not enough ground to defend the
11 position that he would be making as to making that
12 consideration of acceptance or denial.

13 And then Option 4 just seems kind of vague,
14 because what are the requirements as set forth in the
15 state of New Mexico? That I guess may fall back to
16 Option 1, that the individual has to receive a check. So
17 that's what I look at.

18 MR. KING: Other questions, comments? Go ahead,

19 Chief.

20 MR. SANDERS: One of the reasons, Mr. Force, that
21 I thought a reasonable compromise in this would be to have
22 someone coming out of state at least meet the New Mexico
23 standards is because as you well know each year in the
24 legislature there's attempts made to change that from 20
25 years to 25 year retirement. We don't know what 10, 15

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1 years is going to bring.

2 And then if it was set at a 20-year rule, then
3 someone could get in with a lesser standard than folks in
4 New Mexico; and I just think it should be the same. As
5 closest as it can be. It may always be a little bit of
6 director's call in this.

7 But, you know, in order to make it fair for
8 everyone, I think that they should be at least to what New
9 Mexico requires of a retiree. Period. It shouldn't be
10 any less for sure.

11 MR. KING: Other comments. I have one myself,
12 but I'm trying to get everybody else's. Here's my
13 philosophy. I think Mr. Force is in some ways right in
14 that Option No. 3 gives discretion -- some discretion to
15 the director to look at the materials that have been
16 provided to him and decide whether it's sufficient or
17 not.

18 But that's -- from my perspective, it's actually
19 a good thing over Option 2, which doesn't say how you

20 decide what the standard is. I mean, it depends on
21 whether you're comfortable with the director being the
22 person who exercises the authority.

23 But in the long run somebody will have to, either
24 a court or the Board or the director or something. So the
25 nice thing about the drafting of Option 3 -- I'm really

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1 proud of my lawyers, actually; I think it's the best
2 drafted one, but -- is that it does make it clear how you
3 make the decision and who makes the decision.

4 And I think that that's important. So from my
5 perspective, Option 3 is the better of the options. I
6 think Option 4 just sort of begs for an attorney general's
7 opinion or a court opinion or something or other to
8 decide. It's probably worked in Arizona, but.

9 And otherwise 2 and 3 essentially would do the
10 same thing. It's just that 3 makes it clear who makes the
11 decision. So that's my thoughts on that.

12 Chief Schultz.

13 MR. SCHULTZ: Mr. Chairman, if I may. One of the
14 things that we do see and it hasn't been brought up yet is
15 someone who very often will retire pending discipline.
16 Not uncommon for people to end their career when they get
17 in trouble and find the opportunity to buy blue sky time
18 or find a way to get out.

19 I think Option 3 allows the director to utilize
20 his discretion should we find someone who is fleeing

21 another state because of a disciplinary issue, trying to
22 slip into New Mexico back into law enforcement.
23 I would feel much more comfortable with the
24 director being able to contact the respective agency state
25 to make sure that there are no underlying reasons for a

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1 hasty departure from other agencies. I think 3 does
2 provide that. For that reason, I like 3 better.

3 MR. KING: The language that's in the rule
4 already says it tends to be somebody that's appropriately
5 separated from law enforcement, which I assume deals with
6 that issue. Although you might be right; maybe what we
7 should think about is making that language a lot more
8 clearer what we mean by "appropriate" and "separated."

9 But, I don't know. Mr. Ortiz, do you know that
10 to have ever been an issue or --

11 MR. ORTIZ: In good standing?

12 MR. KING: Yes.

13 MR. ORTIZ: Yeah, I've had issues where I have
14 denied people admission to the cert by waiver based on
15 them not having good standing with their agency.

16 MR. FORCE: Mr. Chairman. This is almost -- I
17 don't want to make the same course we've made with the
18 reserve officer certification, where it goes on and on and
19 on for a year. But it almost seems to me that when we --
20 in every one of these there are issues of the
21 requirements.

22 And I would -- to be honest with you, I'm a bit
23 leery on every one of these options because we don't
24 really outline what those requirements are, just like
25 Chief Schultz said -- I mean, I think there ought to be

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1 some language on the issue of what is required for an
2 individual who comes out of state and comes here so we
3 close the gate on individuals who are looking to reenter
4 into law enforcement or escaping from a past discipline,
5 as well as what are the requirements for the years of
6 service.

7 You know, are those years of service that you
8 have an applicant who jumps for 20 years in one state or
9 goes from one state to another to another to another and
10 spends two years here, two years there, and two years
11 there; and then all of a sudden accumulates some time in
12 his history of a 20-year period and then comes here and
13 now we're looking at saying, "Well, he's eligible as a
14 retiree equivalent to what is here in New Mexico"

15 I mean, in some ways I would like to see the
16 languaging of what is a requirement cleaned up and
17 actually identified, this is what the requirement is. No
18 different than what we look at for the basic recruit. We
19 say here's Requirement A, boom, boom, boom, boom.

20 Because I think the language is just very open
21 and it's vague. And I guess my viewpoint in support of
22 the director's office, whatever that decision may be, he

23 would be on better ground with going down a criteria of
24 what is required; that he's making more of an objective
25 decision than a subjective decision.

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1 MR. KING: Yeah, and I -- maybe I'm going to say
2 the same thing to Mr. Shandler. I mean, if you look on
3 page 2, there are the requirements A through G that are
4 what will follow under that.

5 MR. SHANDLER: Here's a copy here.

6 MR. FORCE: Okay.

7 MR. KING: So we're just talking about insertions
8 into language in the first sentence of 10.29.6.10. But I
9 don't know that that actually exactly answers your
10 question, Mr. Force, because my guess is that we've had
11 discussions as to whether this laundry list of
12 requirements is sufficient.

13 I think that was part of the discussion we've had
14 in the past. One of the good points that you raised is
15 if -- I think -- and, Chief, correct me if I'm wrong --
16 but your anticipation was that it would be somebody who
17 had -- who really had qualified for retirement from an
18 agency, whereas you could -- I could see -- this is what
19 lawyers do, where you could make an argument that somebody
20 who spent two years in an agency here and two years there
21 and two years there and so they did 10 different agencies
22 but they served 20 years might be able to make an argument
23 even under the language of No. 3 that says, "Well, I have

24 a service record that would be equivalent to the
25 requirements because I served 20 years," but it's like two

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1 years at each agency.

2 Normally, I wouldn't think that you would be able
3 to qualify for retirement unless you had served a certain
4 minium number of years at an agency. I don't know that it
5 has to be 20, but there has to be some vesting period,
6 probably.

7 MR. SANDERS: That's the reason in my language,
8 the one that I presented, was continuous service. Because
9 you can have that. But -- and I agree with Mr. Force.
10 Sometimes it's really difficult to put somebody that's an
11 arbitrator in this I guess in a difficult position to try
12 to -- to determine what language is.

13 But as the director said, there's already things
14 in place for him to look at separation -- or the proper
15 separation of an officer from another state coming in here
16 anyway, whether they are in good standing or not. And he
17 already has the authority to drop that.

18 And all this is -- and the chairman's exactly
19 right. All this is is changing the language in the rule
20 that's already there or adopting the language of change of
21 the rule that's already there with the stipulations that's
22 already in place there.

23 And I do think -- and this is just my opinion. I
24 do think that there needs to be a little bit of discretion

25 given to the director because you can't write a rule for

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1 everything. You just can't. You can't come up with a

2 rule to cover every hypothetical thing comes up.

3 And there's a thing in place here. If somebody

4 is not happy with the director's decision, they can always

5 appeal to this Board and -- whether he's made a good

6 decision or not.

7 But I think this Board's always going to -- or I

8 think the Department of Safety is always going to have

9 good directors, one that's got enough training and common

10 sense to apply discretion to these things.

11 MR. FORCE: Mr. Chairman, I do agree. I don't

12 think -- and I agree, Chief, that we can't put every

13 single criteria in there. But in looking at -- in looking

14 at the criteria that's currently in there, it's very

15 vague. It is very, very vague.

16 And, I mean, I -- and maybe Zack could help me

17 out after this. But under B it says, "Separation periods

18 shall not exceed 20 years." I'm like, what does that

19 mean? It's almost like that's a retiree but you can't be

20 retired more than 20 years to be -- I don't know what that

21 means.

22 But my point is, is that what we're looking at

23 these transfer issues, I think that there ought to be some

24 clarification of additional requirements that covers a

25 base on what is it we're looking at within service and

1 transferring people from one state into here and looking
2 at some basic quality assurance.

3 Because one of the things I think is that issue
4 of setting forth more of an objective standard of looking
5 at what we expect the director to be reviewing. Because
6 this language is very vague on what we have before us,
7 even with the requirements under A through G.

8 MR. KING: Mr. Najar.

9 MR. NAJAR: Mr. Chairman and Board Members and
10 audience, I don't want to really get into the issue of the
11 merit of continuous service and how important that is that
12 we recognize that in terms of the ability to attain
13 certification in New Mexico.

14 But I just want to ensure that the Board doesn't
15 lose sight of what we're talking about in the basic
16 certification of law enforcement officers. In your
17 reference guide you have a job description of what an
18 officer's -- a police officer-- a certified police
19 officer's job here is in New Mexico.

20 That has never been changed, even though we have
21 lowered the standard for certification -- for cert by
22 waiver. We dropped it from the 60th percentile to the
23 50th percentile. Then the justification before the Board
24 to exempt retirees came forward because of the wartime
25 conditions. Makes sense to me.

1 And so those enumerated A through G were a result
2 of us trying to ensure that we can enlarge and attract
3 additional officers while the wartime conditions existed.
4 The job description is still the same, yet we've already
5 created two different categories of officers that are not
6 meeting the same standards physically. Same job
7 description.

8 This job description was not designed for a
9 sergeant, for a chief, for a lieutenant, for a major, for
10 a captain. But under the law it is their duty and
11 responsibility to meet those requirements that are
12 enumerated in the job description, their ability to make
13 arrests, to chase people, to climb over fences, all those
14 kind of things are part of what you ratify when you ratify
15 his certification.

16 So we're now looking at another standard for a
17 different set of people. And it's important to recognize
18 continuous service. But now they are going to also be
19 exempt from meeting the requirements that are there and
20 already in place for basic law enforcement certification.

21 And I think we may be losing sight of that. I
22 think it would be preferable for the Board to consider
23 completely eliminating 10.29.6.10 or at least establishing
24 a sunset clause for that so that we know that every
25 certified officer in New Mexico has met the identical

1 standard academically and physically.

2 That's all I have, Mr. Chairman.

3 MR. KING: Thank you, Mr. Najar. Other
4 discussion? I don't know whether we're at a point where
5 the Board is willing to make any motions or not. We can
6 certainly spend some time discussing this some more.

7 Mr. Force, you can have some time with
8 Mr. Shandler or we can talk with Mr. Ortiz or we can have
9 a motion -- sort of like we did on the last one -- to put
10 one of these on the list for rule-making; and then it will
11 get discussed officially in rule-making.

12 I'm sort of willing to leave that to the
13 discretion of the Board. If there aren't any motions, it
14 would just get moved on for more discussion, I suppose.

15 MR. FORCE: Mr. Chairman.

16 Mr. KING: Mr. Force.

17 MR. FORCE: I would make a motion to move this to
18 rule-making to set it for the next meeting and looking at
19 Option No. 3. And then with the intent that the Board
20 would actually take action one way or the other.

21 Because at that meeting -- Zack, am I correct --
22 we could still modify anything?

23 MR. SHANDLER: As long as it's a logical
24 outgrowth of what's published.

25 MR. FORCE: So I'd like to make that motion,

1 Mr. Chairman.

2 MR. KING: The motion is to set -- and I think

3 that moves us forward. The motion is to set Option No. 3
4 on for rule-making at our next meeting. Does everybody
5 understand that basically? Okay. Is there a second.

6 MR. SCHULTZ: Second.

7 MR. KING: Seconded. All in favor say aye.

8 THE BOARD: Aye.

9 MR. KING: Any opposed? Give you a chance to
10 oppose this one. (No response.) Okay. Motion passed.

11 MR. PEREZ: A point of information.

12 MR. KING: Mr. Perez.

13 MR. PEREZ: If the director of No. 3, would that
14 still be with our advice and consent you would determine
15 his qualification; but if you say he should be certified,
16 will you still certify him? The Board, would that be put
17 to us?

18 MR. ORTIZ: If he meets all the requirements that
19 I have?

20 MR. PEREZ: Yes.

21 MR. ORTIZ: Yes, then he would be allowed to
22 attend the cert by waiver and certification.

23 MR. PEREZ: But that has to be still certified by
24 the entire Board?

25 MR. ORTIZ: Yes.

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1 MR. PEREZ: So there's still a fallback because
2 we can ask you how did you determine this?

3 MR. ORTIZ: Right.

4 MR. KING: All right. Thanks. Important issues.
5 I appreciate that. We're getting close to noon. I
6 believe that most of the rest of these items will go
7 fairly quickly. But let me get the temperature of the
8 Board. Do you want and try to get something brought in
9 for you guys so that you can work through lunch?

10 I, of course, at the end of this part of the
11 meeting will end up recusing myself, so I'm a little more
12 flexible than you all are. But do you want to break for
13 lunch? Do you want to get through at least this part of
14 the agenda before we break for lunch?

15 MR. PEREZ: I say we continue.

16 MR. KING: We'll keep crunching at least. And
17 then at the end of the new business we'll have another
18 short discussion as to whether you want a break or whether
19 you want to try and get some lunch.

20 Frankly, since I do have some flexibility, if you
21 guys want sandwiches, I'll go get sandwiches from
22 McDonald's and bring them back, if you want to keep
23 working. All right.

24 ITEM #9: DISCUSSION: LEA-90A

25 AFFIDAVIT FOR REPORTING MISCONDUCT

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1 MR. KING: Let's press on then. Item No. 9,
2 Discussion of LEA-90A, Affidavit for Reporting
3 Misconduct. Mr. Ortiz.

4 MR. ORTIZ: Yes, Mr. Chairman, Board Members,

5 audience. At the last Board meeting in Santa Fe we
6 proposed the creation of a LEA-90A form. And the reason
7 was to try and get -- the majority of the agencies are in
8 compliance. I appreciate them working with the Academy.

9 But we do have some agency heads that are
10 noncompliant; they are not reporting the misconduct. So
11 we had some discussion. And we shared -- excuse me, we
12 met with the sheriffs' association on June 4th and with
13 the chiefs' association on May 22nd.

14 In meeting with them, we asked for some committee
15 members -- and Board Member Sheriff James Coon was
16 gracious enough to chair that Board meeting that we -- or
17 committee meeting that we had in Albuquerque on
18 June 8th -- excuse me, June 11th.

19 So we had representatives from both groups
20 there. And nobody could really come to an agreement on
21 it. A lot of people are in favor of having this form and
22 some are opposed. We did go with the recommendation of
23 Chief Schultz to insert that it was a completed
24 investigation.

25 And Zack Shandler from the AG's office -- which

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1 you'll see on Tab 9 on the second page is a quarterly
2 misconduct report form that we decided to go with. And
3 that was presented to this committee.

4 As I stated at that July 11th meeting, nothing
5 was really clear-cut. And I think the committee members

6 that were there want to take this to their committees, the
7 sheriffs' and chiefs' association and have it discussed
8 with them.

9 I agree. I think we should go ahead and get a
10 little bit more input from the sheriffs' association and
11 the chiefs of police association and get their input and
12 see if we can work with this.

13 One of the questions was the notarizing. And my
14 question to them -- and I think Sheriff Coon's is too --
15 is why do you fear having this document notarized? You
16 know, during that quarter, if you have misconduct -- you
17 are the agency head. You should be aware of what's going
18 on in your agency.

19 And you should report that to the Law Enforcement
20 Academy based on the recommendation of Chief Schultz that
21 that investigation is complete. So we don't know, but
22 some of them are apprehensive of that. And so we want to
23 go ahead and get a little more input from the
24 associations.

25 And hopefully at the next meeting we can make a

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1 decision on that. And at this time I stand for any
2 questions.

3 MR. KING: Comments from the commissioners? Or
4 questions?

5 MR. GALLEGOS: Real quick, Mr. Ortiz. And I may
6 have forgotten this, but what are the consequences for not

7 submitting the quarterly misconduct report or submitting
8 it inaccurately?

9 MR. ORTIZ: Reading the rules, it's very vague.
10 It doesn't really have any consequences for the agency
11 head. One of them would be that that agency head would
12 appear before the Board, and the Board impose some
13 sanctions on that law enforcement agency head.

14 I got a call in dealing with one here recently
15 that was brought to my attention by the news media on a
16 DWI that, no, I had not received that LEA-90 on that
17 officer. And I'm learning that this officer is going to
18 go to another agency now.

19 And the news reporter contacted that agency head
20 that used to be over there and asked him why he failed to
21 report. And he said, "It's not my job. It's the mayor's
22 job." So the reporter contacted the mayor. And the mayor
23 said, "No, it's not my job. It's the agency head's."

24 And I agree, it is the agency head's job. That
25 agency head failed to do it. And he left to another

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1 agency. And it's my understanding now he's trying to
2 bring this officer along with him has been involved in two
3 DWI's.

4 So I'm going to take action on this one officer
5 for the DWI, but I may also send him -- the chief of this
6 new agency a letter to come before you and explain why he
7 is not complying with the rules and regulations that you

8 have established.

9 MR. GALLEGOS: Just a follow-up, then. Should
10 we -- I know we discussed it the last time. The only
11 reason it's vague is because -- should we also take a look
12 at those rules that provide accountability for the head of
13 the agency because I know -- I understand what's going
14 on.

15 We talked about the notarization also. And the
16 thing was that if it's notarized, there may be
17 accountability there because of falsifying, at least. If
18 they are submitting one that's notarized and if they are
19 falsifying or fudging or doing whatever on it, then
20 there's a potential remedy there.

21 I don't know that it's a practical remedy. I
22 really don't. And I don't know -- and I may be wrong. It
23 would be interesting to talk to my brother and sister
24 DA's, are they going to prosecute an officer for, you
25 know, inaccurate reporting on a document that should be

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1 notarized.

2 So I think the more effective thing that maybe we
3 ought to look at those rules and provisions on how the
4 heads of those agencies are going to be held accountable.
5 That's all I have.

6 MR. FORCE: This is probably more of a
7 question -- I would like to hear from Mr. Shandler as well
8 as Mr. Ortiz. Under 10.29.1.11(D), it says, "Reports -

9 Any agency employing a certified law enforcement officer
10 or telecommunicator who has committed any act or acts
11 identified in Subsection B or C" ...of this act..."shall
12 report such conduct to the director within thirty (30)
13 days."

14 And it says, "The director will establish a
15 reporting form to be completed by the agency. An agency's
16 delay or failure to report such conduct does not divest
17 the board of jurisdiction to take action under NMSA 1978,
18 Section 29-7-13...."

19 So when I read that, Mr. Ortiz -- and please
20 correct me if I'm wrong, Mr. Shandler -- it appears to me
21 that the consequence if the sheriff or chief does not
22 report and it is known by the Academy, by your office,
23 that there was an allegation of misconduct, whether you
24 read that in the newspaper or you heard it on the media or
25 whether somebody called you, however; and that agency

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1 failed to report within the 30-day period, it seems to me
2 that gives you the authority to initiate an investigation
3 regardless of receiving the form.

4 Is that my understanding of this? It doesn't
5 divest the jurisdiction? Would that be correct,
6 Mr. Shandler?

7 MR. SHANDLER: That is correct.

8 MR. ORTIZ: One of the problems we've seen though
9 is the 30 days. And that always comes up, 30 days from

10 when. And that's a big issue. Thirty days from when the
11 investigation is complete. And we have contacted agencies
12 to ask them about this, and their answer to us is always
13 "It's not complete."

14 A few months go by, contact them, "It's not
15 complete yet." So I understand what Chief Schultz -- and
16 I agree with him. But that's -- with the word
17 "completed," that does create an issue for us; that they
18 delay it.

19 But I have no problem with my office -- except
20 with this agency head, I feel it's risen to the level of
21 misconduct by him not doing his job and forwarding it; and
22 to send him a notice of contemplated action and then let
23 the Board take action. And we could decertify him.

24 However, when it gets to a sheriff, we can
25 decertify a sheriff, but he can continue working because

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1 he's an elected official. So we can't do anything there.

2 MR. FORCE: Mr. Ortiz, with all the experience
3 you have in these matters that you've obtained in the last
4 couple of years, what is your -- what would you prefer to
5 see within this that's cleaned up? Within the 30 days of
6 the complaint? Within 30 days of the outcome of an
7 investigation?

8 I mean, what do you see would be -- would clean
9 this language up? I see that is a communication issue,
10 that a chief and a sheriff don't know when does that clock

11 tick. And that's because we're not making it clear within
12 the NMAC.

13 MR. ORTIZ: Right. I would say 30 days from when
14 they learned of the misconduct. I think it's usually a
15 high priority for an agency when there's allegations
16 against one of their officers, the procedure is
17 administrative leave for three days right away.

18 And I think most agency heads will immediately
19 initiate an investigation and look into it. And I would
20 think that within 30 days they should have some
21 determination on these allegations if there's some
22 legitimacy to these allegations.

23 MR. COON: On something like this, if you're
24 going to go over 30 days, you are a phone call away from
25 calling you and saying, "This is a little more complex.

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1 Please give me another 30 days. Give me another 15
2 days." You know, you've got to communicate back and
3 forth.

4 As a sheriff or a chief, I think I would be
5 remiss if I didn't pick up the phone and say, "I need a
6 little more time on this," and keep you apprised of it and
7 keep that ball rolling instead of just dropping the ball
8 and -- you know, it's not going to go away.

9 MR. ORTIZ: Right.

10 MR. COON: Like a lot of them hope it will. It's
11 going to fester. But you need to just communicate.

12 That's all it takes is a phone call or a simple e-mail.

13 MR. GALLEGOS: I would propose maybe a couple of
14 things. Number 1 is that we look at that particular rule
15 and maybe see if we can work on that 30 days, make it a
16 little more definitive. I think in that particular case
17 where the agency head knew about the DWI and -- that's
18 fairly deliberate.

19 MR. ORTIZ: Yes.

20 MR. GALLEGOS: But we're also going to have to
21 anticipate those incidents that may be either one of
22 negligence or something. "I forgot to do it. I had it on
23 my desk. It didn't happen." Those kind of things.

24 So maybe the flexibility in there. But if we can
25 maybe define that a little more clearly and work on that.

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1 Interestingly -- why I brought that up is I took
2 a quick look at 29-7-13. And something similar to what
3 we're talking about, it says, "After consultation with the
4 employing agency, the board may refuse to issue, or may
5 suspend or revoke" -- or whatever. Among other things,
6 paragraph 2, "committed acts that constitute dishonesty or
7 fraud."

8 Now, that's different than just negligence or
9 maybe even misfeasance, not malfeasance. So if an agent
10 head arguably did not report within the 30 days, but it
11 wasn't intentionally done, I don't think we have
12 jurisdiction to bring that in front of us. And I would

13 like that clarified so we're not dealing with this.

14 On the other hand, if they're -- it's been 30
15 days and they knew or should have known and they didn't
16 bring it up to us -- and I agree. I thank Mr. Force for
17 pointing that out. We do have the ability to review
18 them.

19 So I would just propose that maybe for the next
20 meeting, or whenever would be the procedures act, we can
21 look at amending that particular rule provision. And
22 maybe you guys can come up with some proposed language or
23 something.

24 MR. KING: Other comments? I'll toss out one
25 idea that just came across my head is that I -- you know,

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1 you can put two triggers in there. You could say that
2 they have to report within 30 days after a completed
3 investigation, but in no event later than 90 days after
4 they've discovered the event occurred or something like
5 that.

6 So that you give them some time to do an
7 investigation, but basically make it clear to them that if
8 their investigation is not done in 90 days they've got to
9 report it anyway. I mean, we could do something like
10 that.

11 MR. ORTIZ: And also to hold them accountable
12 because sometimes we have contacted them and they say,
13 "Look, he resigned. He doesn't work for me any longer.

14 So it's out of my hands. It's not my responsibility."

15 And I disagree. If the misconduct occurred while
16 he was working for that agency, it is that agency head's
17 responsibility to forward that to us.

18 MR. FORCE: Mr. Chairman. Just along the same
19 line. The other -- because I didn't really want to
20 distract everybody, but on the employee profile, this New
21 Mexico POST Employee Profile that you had a look -- draft
22 it up. I'd like to see that actually go into the rule as
23 well where there is an authorization and a direction from
24 the Board to the Academy that these, the POST event
25 disciplinary issues are actually posted, as it is here,

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1 without any identifier to the individual officer.

2 So that way the public can know what's going on;
3 that, you know, law enforcement does have an integrity
4 system that's in place for internal inspections and that
5 there is integrity.

6 And, secondly, that officers would have the
7 ability to look on-line and take a warning that there is
8 some severity about holding the preciousness of that
9 certification. It doesn't belong to them; it belongs to
10 the citizens of New Mexico.

11 So I agree with Mr. Gallegos. I'd like to see
12 this move maybe toward a rule-making, if we would bring it
13 back for modification.

14 MR. SHANDLER: Mr. Chairman, if I understand

15 then, my advice is it's not ready for rule-making just
16 yet. It needs to go back to the drafters. And then the
17 next meeting, we can do some more specific language.

18 Also for clarification, the affidavit though, put
19 that on the back burner until after the rule-making or do
20 they go concurrently or?

21 MR. FORCE: I think it ought to be in the same
22 package.

23 MR. SHANDLER: Okay.

24 MR. KING: This will give you time to talk to the
25 sheriffs' and police associations a little bit about the

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1 language in the affidavit. Let me point out -- I mean, we
2 talked a lot in the affidavit about this not just being a
3 "gotcha" for somebody who didn't know that something had
4 occurred or had a really good faith belief that what did
5 occur wasn't worth reporting or whatever.

6 But I think that's why we have changed this
7 language to say that, "I've made a good faith effort to
8 identify and report all officer and telecommunicator
9 misconduct." So it's not a -- you know, it's not a hard
10 and fast if you don't report this you're going to be in
11 trouble.

12 It's -- once again we end up with a little bit of
13 subjectivity, but there's opportunity then for the
14 appropriate agency, which is probably us, to look at one
15 of these signed report forms and say, "Yes, okay. We

16 understand why you didn't report that" or "this is
17 complete misfeasance or malfeasance" or whatever.

18 But I do think that we have to send a message
19 indeed that we intend to hold agencies accountable for
20 this reporting. And it sounds like part of what we need
21 to do is to build some adequate teeth into our authority
22 so that they know that we're going to enforce that.

23 Any other questions or comments? In that case, I
24 think -- oh, I've got a couple comments out in the crowd.
25 And I'm happy to do that. Yes, sir. Come on up and

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1 identify yourself.

2 MR. HATCHER: Roger Hatcher, Tucumcari Chief of
3 Police. Chairman, Board Members, I'd like to thank
4 Director Ortiz for taking the time to meet with the chiefs
5 and the sheriffs.

6 And I'd like to see that when we go back and
7 visit with our respective counterparts and then bring
8 something from them to be able to meet with Director Ortiz
9 again before this comes to the Board for a vote.

10 Because I think that we do have to have some
11 continuity between the chiefs and the sheriffs and then an
12 agreement on how we want to do this.

13 One of the areas of contention revolves around
14 the moral turpitude part. I think that's the part of it
15 that's very vague. And I had the opportunity to go to
16 Santa Fe for a hearing. I wasn't allowed in the hearing,

17 but I was allowed to go up there.

18 And I got to speak with the attorney from the
19 Attorney General's Office. And he said the majority of
20 the hearings that they are hearing are in reference to
21 moral issues, the moral turpitude, as was the one that my
22 former officer was involved in.

23 If we could get some kind of clarification on
24 that. His suggestion -- and it has been brought up with
25 the chiefs, I know -- is that there needs to be some

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1 legislative action on this. Something more -- a little
2 bit more clear-cut.

3 Because the -- I don't want to say the
4 misconduct, but the criminal acts and things like that
5 that officer does, they are without question. And there
6 should be no reason that a chief or a sheriff to not
7 report that in a timely manner and do whatever is
8 necessary to make sure that that action is taken before
9 this Board.

10 The other parts, that's where we're having a
11 little bit of trouble. And we are going to work with
12 Director Ortiz to make sure that we can get this done.
13 Because I think that -- I can't speak for everybody, but
14 the majority of chiefs and sheriffs that I know do not
15 want a bunch of cops running around that are doing things
16 that are detrimental to the citizens of the state.

17 If you would allow us that opportunity before

18 this does come for rule-making to meet with Director Ortiz
19 after we've had the chance to meet with our counterparts,
20 I would appreciate it. Thank you.

21 MR. KING: Just for my general idea is that it
22 would be at least two meetings from now before this could
23 come up for a rule-making way we're doing this. So it
24 would be six months, probably, would be the quickest that
25 this will come up.

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1 MR. HATCHER: Hopefully, we should be able to get
2 together and come up with something by then. Thank you.

3 MR. KING: Thanks, Chief.

4 Hang on a second, Mr. Borunda. I've got Mr. Tate
5 first.

6 MR. TATE: John Tate, Lincoln County. I
7 apologize for my ignorance. Does the existing statute,
8 the one you're discussing, use the word "allegation"?

9 MR. KING: Mr. Gallegos has got the statute up in
10 front of him.

11 MR. TATE: Well, here was my point. You were
12 talking about vagueness. And my only issue was going to
13 be if there is some refinement to the existing
14 administrative code entry that there be some firm
15 definition of the level of certainty.

16 Are we talking about a citizen complaint that's
17 been not found -- that has not been determined to be
18 founded or unfounded. Are we talking about reasonable

19 suspicion. Are we talking about probable cause that would
20 support a charge but no charge has been made.

21 Are we talking about a charge that's actually
22 been made and may subsequently be found to be invalid or
23 certainly insufficient for a conviction.

24 If the word "allegation" is there -- I didn't say
25 it was. I'm curious. If the word "allegation" or

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1 "charge" or whatever -- I'm just suggesting that the
2 foundation for this issue needs to be well defined,
3 because there's so much room in the issue of complaints
4 and levels of certainty. That's all.

5 MR. KING: Thanks, Mr. Tate. The statute
6 actually is pretty clear. It says, "either conviction or
7 a committed act." And I don't know how they define the
8 acts of moral turpitude. I mean, that goes to that one
9 question about how we define moral turpitude, though.

10 Mr. Gallegos.

11 MR. GALLEGOS: Moral turpitude is defined in the
12 regulations. In 10.29.1.7(D), "'Moral turpitude' means
13 any criminal act done contrary to justice, honesty, or
14 with disregard to one's responsibilities to society in
15 general."

16 So if I -- the way I read that it's in the
17 disjunctive. It means any criminal act that was done
18 contrary to justice, honesty, or an act with disregard to
19 one's responsibility to society in general. So it is

20 defined. If it needs to be further defined, I guess I

21 leave that up to you guys.

22 MR. KING: Mr. Borunda, do you have a comment?

23 MR. BORUNDA: Yes, I do. Paul Borunda. I have a

24 comment. And, first of all, I'd like to -- first

25 question. I have a question, actually, for Mr. Ortiz.

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1 This -- what I'm reading from is a decision by the United

2 States Court of Appeals, Tenth Circuit Court out of

3 Denver.

4 And this is involving the James York and Jodie

5 York case. And it's got a date of April 22nd, 2008, where

6 they found that three police officers from the Las Cruces

7 Police Department violated Mr. York's and Mrs. Jodie

8 York's constitutional rights and civil rights and held for

9 the plaintiffs.

10 The officers in question had appealed to the

11 Tenth Circuit Court of Appeals on the basis of immunity.

12 And the Tenth Circuit Court of Appeals ruled that anytime

13 that a police officer violates -- it's not point-blank;

14 but, I mean, it gives you an idea here that anytime that a

15 police officer violates their constitutional rights, their

16 civil rights of a citizen, they lose their immunity.

17 This is -- was decided by three -- four judges,

18 Kelly, McKay, Anderson and Anderson {sic} from the Tenth

19 Circuit Court of Appeals. Now, this goes to my question

20 to what one of the Board members, Robert D. -- I can't see

21 that well.

22 MR. FORCE: Force.

23 MR. BORUNDA: -- Force -- thank you -- made a
24 good point on the reporting process. Should an agency
25 have to wait until they know of the allegation? They have

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1 to wait 30 days or do they have to wait for adjudication?

2 And my next question is in this particular case,
3 has Mr. Chris Gallegos, Frank Lucero, and Greg Martinez
4 from the Las Cruces Police Department been -- their names
5 have been submitted to the Board?

6 And this is from the Tenth Circuit Court of
7 Appeals dated April 22nd, 2008. So we have a problem
8 about the reporting process. And it doesn't necessarily
9 mean that we have to wait until they're adjudicated
10 because depending on the police department it could take
11 months and years.

12 And this case the -- the chief of police from the
13 Las Cruces Police Department informed us that, "Well,
14 nobody complained."

15 MR. KING: Okay. Yeah. Mr. Borunda --

16 MR. BORUNDA: Thank you.

17 MR. KING: No, it's a good point. I don't want
18 to discuss specific cases today because we decided we're
19 going to push this off for --

20 MR. BORUNDA: Yes, sir. But I'm giving you an
21 example.

22 MR. KING: And it's a good example. And we'll
23 think about that. Thank you.

24 MR. BORUNDA: Thank you.

25 MR. KING: Seeing no further comment, we will --

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1 what we're going to do is we're going to put this on for
2 discussion. We know what we're going to discuss for the
3 next meeting. We're going to take some time.

4 Mr. Ortiz, you're going to meet with the sheriffs
5 and the police chiefs again and then maybe we'll have some
6 concrete ideas by the next meeting that we can then move
7 into rule-making by the meeting after that.

8 ITEM #10: RATIFICATION OF CERTIFICATIONS
9 FOR LAW ENFORCEMENT OFFICERS

10 MR. KING: Next item on the agenda is
11 Item No. 10, Ratification of Certifications for Law
12 Enforcement Officers. This one doesn't take too long.

13 MR. ORTIZ: This will go quick.

14 In your packets I said that we did not have any.
15 But I want to compliment Monique. She worked diligently
16 to make sure that we did have some for you to ratify.

17 Mr. Chairman and Board Members, the director has
18 verified that the listed police officers beginning with
19 Certification No. 09-0031-P through 09-0066-P have all met
20 the standards and requirements for the law enforcement
21 certification. And I request that the Board ratify their
22 certification.

23 MR. KING: Is there a discussion? A motion?
24 MR. GALLEGOS: Move to ratify.
25 MR. KING: We have a motion to ratify. Second?

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1 MR. COON: Second.
2 MR. KING: All right. Seconded by Mr. Coon. All
3 in favor say aye.

4 THE BOARD: Aye.

5 MR. KING: Any opposed? (No response.) All
6 right. Those officers will be -- certifications will be
7 ratified.

8 ITEM #11: RATIFICATION OF CERTIFICATIONS
9 FOR PUBLIC SAFETY TELECOMMUNICATORS

10 MR. KING: The next item would be then
11 Ratification of Certification for Public Safety
12 Telecommunicators.

13 MR. ORTIZ: Yes. Mr. Chairman, Board Members,
14 the director has verified that the listed dispatchers
15 beginning with Certification No. 09-0036-PST through
16 09-0072-PST have met the standards and requirements for
17 certification. And I request that the Board ratify their
18 certification.

19 MR. KING: Questions?

20 MR. GALLEGOS: Move to ratify.

21 MR. KING: A motion to ratify by Mr. Gallegos.

22 MR. PEREZ: Second.

23 MR. KING: Seconded by Mr. Perez. All in favor

24 say aye.

25 THE BOARD: Aye.

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1 MR. KING: Any opposed? (No response.) All

2 right. Those ratifications are completed.

3 Thank you, Mr. Ortiz.

4 ITEM #12: DISCUSSION: HUMAN TRAFFICKING TRAINING

5 FOR 2010-2011 IN-SERVICE TRAINING CYCLE

6 MR. KING: The next item on the agenda -- and,

7 actually, I'll make mine fairly quick then. I would love

8 to regale you with some stories of human trafficking, but

9 I have a -- I will just quickly tell you that about a year

10 ago the New Mexico Human Trafficking Statute became

11 effective. We passed it two sessions ago.

12 And our office has been conducting training

13 sessions around the state with regard to that. But we

14 believe I think that there is a -- that the bill requires

15 training of law enforcement officers to identify and to

16 understand what the requirements of the statute are for

17 protection of victims of human trafficking.

18 And so my office has actually submitted a letter

19 to the Board, which is in your packet, requesting the

20 consideration of adding the human trafficking training to

21 to the curriculum.

22 And I really do understand -- and we've had this

23 discussion today -- that there are lots and lots of things

24 that police officers need to be trained on. But I hope

25 that -- Mr. Ortiz, I imagine you've had a chance to kind

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1 of consider this and what impact it has on the

2 curriculum.

3 I will just say that one of the interesting
4 things I've learned about the victims of human trafficking
5 is that they are not prone to self-report. Normally they
6 are under some -- as a part of the definition as a matter
7 of fact, they are under some force or threat or coercion
8 to do what they are doing.

9 And they've been threatened with "we're going to
10 kill your family" or "we're going to kill you" or
11 "something bad will happen to you if you report this."

12 And so we think that training of law enforcement
13 officers -- and as a matter of fact, my office intends to
14 do some training of the public, to do some public
15 notification issues to let people know that, say, if
16 you're a clerk in a convenience store and you see somebody
17 that's always, you know, looking down and they are with
18 somebody that doesn't let them talk and doesn't let them
19 do -- at least there might -- you know, that there's this
20 whole list of ideas.

21 But I think it's particularly important for
22 police officers to be able to recognize, one, how to
23 recognize these victims of trafficking. Because I believe
24 we do have human trafficking in the state of New Mexico.

25 And, two, there is kind of a laundry list of what

1 you have to do once you've identified the victim of
2 trafficking that's a little different, because we are
3 mandated by the statute to get them into the federal
4 system and get some federal help. And there are other
5 state agencies that have to help, too.

6 So we think that it's an important issue and hope
7 that you all will consider whether it's appropriate to add
8 to the curriculum. And I think that we have volunteered
9 that we'll help develop curriculum. And we have some
10 that's available, computer-based and those kinds of
11 things. So I hope it won't be too onerous.

12 Discussion or comments? Mr. Perez.

13 MR. PEREZ: There are already federal statutes
14 regarding slavery, which are very -- go very much down the
15 same line. And they are very broad. I remember in
16 Los Angeles we found an FBI agent who was convicted of
17 slavery.

18 He had an Indonesian house -- several house
19 people working in his house. They were brought in by a
20 ring who took away their passports, and they had to work
21 off their time. It came out to about six years.

22 So he had slaves in his house and people who were
23 working for nothing, basically. And that agent was
24 convicted. So it is common. It's very common. But it's
25 not always for sexual reasons. But when you deny them,

1 you don't pay them, it's effectively slavery. So there
2 are federal laws also that go in line with this.

3 MR. KING: I think a lot of the New Mexico cases
4 have been forced labor. People, I think, think of
5 trafficking sometimes as forced commercial sex, but there
6 are a lot of forced labor issues, too. Any other
7 questions? I don't think that there's action that needs
8 to be taken on this. I just wanted to bring it to your
9 attention.

10 Mr. Ortiz, you'll -- maybe you can make a report
11 at some later time on whether it's possible -- or does the
12 Board have to -- we don't vote on curriculum; do we?

13 MR. ORTIZ: Mr. Shea is looking at including it
14 in the biennium training cycle for 2010-2011. And he'll
15 be discussing that here shortly.

16 MR. KING: Thank you, Mr. Shea. All right.
17 Let's try and move on, then.

18 ITEM #13: DISCUSSION: 2010-2011

19 IN-SERVICE TRAINING CYCLE

20 MR. KING: Item No. 13 -- so it feeds right into
21 that -- 2010-2011 In-Service Training Cycle. Mr. Shea.

22 MR. SHEA: Thank you, Mr. Chair, members of the
23 Board. As been alluded to, we have a considerable number
24 of pressures upon our law enforcement officers for
25 training concerns. If you look at what we're discussing

1 today is our NMAC 10.29.7.8, which is the biennium

2 in-service training cycle.

3 We are coming to the end of our current 2008-2009
4 cycle. We will need to have in place by January 1 of 2010
5 the Board's recommendation and the changes to the NMAC to
6 direct all of our law enforcement agencies and our
7 certified officers what is required of them in the next
8 two-year cycle.

9 Prior to the 2008-2009 biennium cycle, what was
10 required of agencies was fairly specific. The Board
11 directed several topic areas of which agencies could
12 select to meet those training mandates.

13 And a lot of the feedback that we received from
14 agencies was that we were being very restrictive and to
15 try to set some training requirements one-size-fits-all
16 across the entire state caused local jurisdictions to be
17 forced into doing some training that really wasn't
18 specific to their local needs.

19 And so in the 2008-2009 training cycle, we
20 revamped that and eliminated everything with the exception
21 of what the statutory requirements were. And we did go
22 before the Board.

23 My predecessor with the Advanced Training Bureau
24 had made a request of the Board that we include some
25 firearms training as part of what the Board would mandate

1 in this current training cycle.

2 The Board did make an adjustment to that, and it

3 was recommended for eight hours; and it was reduced to
4 four hours. And that is what we currently have in the
5 2008-2009 biennium cycle.

6 That being the history, I -- my personal thoughts
7 are and the thoughts -- and I make those based upon
8 conversations with agency heads around the state and with
9 staff there at the Academy -- that I think we need to be
10 very careful about going back to creating this very
11 restrictive list of training that we impose upon agencies
12 to apply.

13 And when I say that, we have to consider too what
14 the job task is of an officer. When we say, "you're a
15 certified police officer in the state of New Mexico," we
16 don't make that distinction as to what their job
17 assignment is, with several exceptions.

18 But I think that's the tact that we need to take
19 with regard to the training that we require of our
20 agencies. I've heard, you know, chiefs of agencies say,
21 "Well, why do I have to attend four hours on the Safe
22 Pursuit Act when I'm not working the street?"

23 And there is -- there is some merit to that.
24 They need to be knowledgeable of the law, obviously, to
25 set policies and procedures with respective agencies. But

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1 a lot of the stuff that we have required in the past are
2 actually applied directly to the field and not to some of
3 the management positions that -- supervision positions.

4 So I have a very difficult time with what do we
5 want to set. And that's why I put it on the agenda as a
6 discussion item, because I certainly would like direction
7 from the Board and I would like public comment.

8 When I gave the Advanced Training Bureau report
9 earlier, I had mentioned that I had sent out a survey in
10 April and had about a 20-percent reply to that. When I
11 did send that survey out, one of the areas that I asked
12 for feedback in was what would you like to see in the
13 2010-2011 biennium training cycle.

14 And let me just read you off some of those that
15 were the replies. The IR 8000, for those who are doing
16 DWI, to get trained up on the equipment that they use for
17 for doing the breath tests. Verbal Judo. Increasing
18 domestic violence from two to four hours.

19 Officer survival. Street crimes. Identity
20 theft. AED CPR/first aid. Medical flight landing zone
21 training. Cyber crimes. Defensive tactics. Firearms.
22 Background investigations. Emergency vehicle operations.
23 Report writing. Sexual harassment. Ethics. Dealing with
24 the mentally ill.

25 A lot of those topic areas I think we can address

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1 by offering training courses that are post-academy
2 advanced training. And that is my goal to do that. So I
3 would like to keep what we require of our officers around
4 the state in this biennium cycle as broad as possible so

5 that local jurisdictions, local agency heads can make
6 those selections as to what their community needs are.

7 That being said, looking at our current 2008-2009
8 NMAC 10.29.7.8, we've looked at making some fairly minor
9 changes. Some of it is adding statute numbers where
10 statute numbers do not exist that refer back to what's
11 mandated training.

12 So under what's statutorily mandated, we still
13 have the four hours of Safe Pursuit Act. And I won't read
14 the section numbers in the statutes. We require by
15 statute one hour of domestic abuse incident training.

16 We require two hours in the detection,
17 investigation, and reporting of crimes motivated by hate
18 pursuant to, again, statute. And checking with Elliott
19 Guttman, I'm looking at the cases that have been
20 presented in New Mexico. You can count them on one hand.

21 So we're requiring some fairly substantial
22 training requirements of our officers. And when we look
23 at what they are actually doing in the street and the
24 cases that are being prosecuted, I think we have a
25 disconnect there. And I'll talk about that just in a

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1 second.

2 One area that was added that was a little bit new
3 and in this training cycle was the Ensuring Child Safety
4 Upon Parental Arrest. Under that statute it was mandated
5 by all officers that they attend the training. The

6 curriculum was mandated that a collaboration be done
7 between the Law Enforcement Academy and Children, Youth,
8 and Families in creating that curriculum.

9 What was created at that time was a four-hour
10 block of instruction for all officers in New Mexico
11 post-academy and a two-hour block of instruction in the
12 academy. What we are proposing -- and the statute itself
13 does not mandate hours.

14 It was -- it did mandate that that curriculum be
15 developed through that collaboration. Since we have gone
16 through this two-year cycle, technically everyone in the
17 state of New Mexico, every certified officer in the state
18 of New Mexico, if they are in compliance with NMAC should
19 have received that four hours of training if they had
20 already been through an academy or if they have received
21 the two hours of training in a basic academy if they
22 attended an academy during 2008-2009 cycle.

23 That being said, my suggestion or the bureau's
24 suggestion and the Academy's suggestion is that as a
25 matter of maintenance we reduce that required number of

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1 hours of training to one hour during the 2010-2011 cycle.

2 So that's going to be maintenance training for
3 officers who have already received the four hours in the
4 2008-2009 biennium cycle, which brings me to kind of a
5 side issue that I would like to throw before the Board.

6 We do have the statutory mandates. Safe Pursuit

7 Act for four hours; that's been on the books for many
8 years now. The Safe Pursuit Act has not changed.
9 Obviously, agencies set policies. Those policies by that
10 statute are sent to the state for review to make sure that
11 they are in compliance with the statute. So that's all
12 been in place.

13 So we have officers that are attending four hours
14 of training on the Safe Pursuit Act, but the Safe Pursuit
15 Act has not changed year after year after year. It's our
16 feeling that that is not a good use of our training -- our
17 training hours.

18 We would like to make the suggestion that perhaps
19 we need to go to the legislature and change some of the
20 language of our current statutes. The model that we would
21 like to see is that when a new statute comes into place
22 that we integrate it into -- if it's an issue of law, that
23 we integrate it into our basic law curriculum in the
24 academies and that we mandate it as training for
25 post-academy incumbent officers.

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1 But once they have completed that in the training
2 cycle, if there isn't a change in statute, that training
3 shouldn't be continually required year after year after
4 year if the statute has not been changed and the training
5 had occurred.

6 So as an aside, I would like to throw that out
7 there that we can free a considerable number of training

8 hours to current changes in the law, in current topic
9 areas that are pertinent to agencies and communities
10 without requiring that they attend the same training year
11 after year after year that they've already had. So that
12 being said, let me continue.

13 We did -- as I stated before, we included four
14 hours of firearms training in this 2008-2009 biennium
15 cycle. We would like to see that four hours continue in
16 the 2010-2011 cycle.

17 But what we would like to do is clean up the
18 language on that and open it up -- since everyone should
19 have had four hours of handgun training -- to allow
20 agencies to meet their requirement to include any backup
21 handguns that they may issue or allow their officers to
22 carry.

23 If they allow their officers to carry something
24 other than department-issue weapons that they receive
25 training in that area. That we also include shotgun and

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1 rifles.

2 So that if an agency has trained up all of their
3 officers, they've given them the four hours on handgun
4 refresher under the biennium for 2008-2009, that that
5 gives them the opportunity to use that four hours in this
6 cycle to do some training with the shotgun or training
7 with the rifle or training with alternate weapon systems,
8 if they have backup weapons or those types of weapons that

9 they could better serve providing some additional training
10 for.

11 With regard to some of the other issues that have
12 been brought up with Chairman King with the human
13 trafficking, we've had an issue with regard to missing
14 persons, how those are being reported, how those are being
15 followed up with.

16 We had the issue of off-road vehicle code
17 enforcement. We have several statutes that have come into
18 place that mandate training but they don't specify the
19 type of training, the number of hours of training.

20 And one that I -- let me backtrack just a
21 second. We had House Bill 428 in the 2009 session that's
22 requiring training on prohibiting a bias-based profiling.
23 We would like to include an hour of that since that is a
24 statutory requirement, that we put an hour in for
25 bias-based profiling as part of our training package.

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1 So all the other issues that have come before us
2 as putting pressure on us for the legal update,
3 particularly human trafficking, missing persons, and
4 off-highway vehicle enforcement, we would like to include
5 those under the umbrella of legal update.

6 And right into the language, language similar to
7 what we currently have in place for SFST. Under the
8 standard field sobriety testing the language is written
9 such that it is only mandatory if your job assignment as a

10 certified police officer in the state of New Mexico
11 require that you enforce that law.
12 So what we would like to do is some of these
13 other laws that have come into place that may not be
14 applicable to the entire law enforcement profession, that
15 we write it such that if it is applicable to your job
16 duties and assignments, then you must attend that
17 training.

18 But if it is not, then you can free up those
19 hours to take training that would better serve your
20 particular job assignment.

21 I know that's extremely vague, and that's why I
22 throw it out to the Board for direction as to how
23 restrictive you would like to see the 2010-2011 biennium
24 cycle to be with regard to the options that we offer or
25 require of our individual officers and the agencies that

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1 those officers work for.

2 So with that, I'll entertain comment, direction
3 from the Board and any other comment.

4 MR. KING: Questions?

5 MR. FORCE: Mr. Chairman. Mr. Shea, under --
6 while you were talking, I guess the question I -- first is
7 under 29-7-7.3. It's the ensuring child safety. I
8 remember when that was brought to our attention as the
9 Board. And basically that was when the statute went into
10 effect.

11 But it was my understanding it was four hours.

12 It was by statute. Is that correct? Is that your

13 understanding?

14 MR. SHEA: My understanding was that the four

15 hours was agreed upon by the collaboration between CYFD

16 and at the time Bureau Chief Blackledge when that

17 committee was set to set that curriculum.

18 It was my understanding that four-hour curriculum

19 was designed so that there would be a co-teaching

20 collaborative between a health and social services

21 component and the law enforcement component.

22 I'll have to go back -- and I have to apologize;

23 I don't have the statute in front of me -- to see if that

24 really was codified in the statute for the number of

25 hours.

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1 MR. FORCE: Yeah, that's -- my only concern about

2 that -- although I will say this as a Board member, I

3 think four hours, I just shake my head. And I remember

4 when that came in. It was four hours of training on child

5 safety with the police officer doing his in-service is

6 extremely unreasonable.

7 And I do agree with you that -- personally, I

8 would like to see that just folded into an in-service

9 training process without any mandate, being a one-hour, 30

10 minutes, or whatever it might be.

11 But my concern is that if the statute does state

12 that it's four hours of in-service training that follows
13 through under 29-7-7.3, it says very clearly that that
14 in-service training each year for certified police
15 officers. That's the way the statute's worded.

16 But in that specific statute, it doesn't say four
17 hours. So I urge you to take a look at that.

18 The other --

19 MR. SHEA: Right. Mr. Force, that was my
20 understanding, that it mandated the training but it didn't
21 set the hours. And that was set by that collaboration
22 between CYFD and the Academy at the time when it was
23 initially offered.

24 MR. FORCE: Yeah. And in looking at how the NMAC
25 has been worded in the past -- I think Sheriff Coon

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1 brought this up. I think it's very confusing to chiefs
2 and sheriffs and the training coordinators to take a look
3 at what the NMAC is worded and then try to pick out
4 exactly how many hours has to be required per officer for
5 the biennium period.

6 It's my feeling -- I would like you to really
7 look at just general areas and not make it confusing and
8 give us a proposal that makes it right straight forward
9 that says it's 40 hours and that 40 hours on the mandates
10 must include this. And if it's not mandated by statute,
11 then it ought to be encouraged training that would be
12 involved in that 40-hour delivery.

13 One of the remarks that I also want to make is
14 dealing with firearms training. And I understand the
15 concern, but I think that if we kick it up anymore than
16 four hours a year -- or four hours every two years, I
17 think that that's going to place an unreasonable burden on
18 many of the smaller agencies. I don't think it's going to
19 be practical.

20 MR. SHEA: And we're not requesting any
21 additional. That was to keep the four hours as it exists
22 now, but to broaden the topic areas under firearms to
23 include -- because right now it only specifies the handgun
24 training.

25 We would like to broaden it so that they can be

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1 off-duty weapons, backup weapons, rifle, and shotgun. So
2 it gives more latitude to the agency to do some additional
3 training in those topic areas that aren't currently in
4 this biennium cycle but still keep it at four hours.

5 MR. FORCE: Okay. I apologize. When you were
6 talking, I thought you were wanting more than four.

7 MR. SHEA: No.

8 MR. FORCE: Okay, good.

9 MR. KING: Anybody else? Comments on training.
10 Do we have -- maybe my book -- I'm not sure my book is
11 totally complete. Did you give us a -- like a synopsis, a
12 list -- is it in our materials?

13 MR. SHEA: Mr. Chairman, I apologize. No, I did

14 not. This is strictly a verbal presentation.

15 MR. KING: Maybe you can get that to us at some
16 point in time so we can --

17 MR. FORCE: Mr. Chairman, there is -- if you look
18 under Tab 5, it's about midway through. And it's under
19 the draft of the training standards and the audit
20 procedures.

21 MR. KING: Okay.

22 Mr. COON: Mr. Shea, on the firearms training, if
23 you're going out and shooting your quarterly matches -- or
24 your qualification, is that what we're talking about on
25 the firearms training? Or is that four hours of classroom

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1 somewhere? Or is it four hours of on the range doing your
2 qualifications.

3 MR. SHEA: Sheriff Coon, Mr. Chairman. We
4 were -- the reason that four hours was put in was to make
5 that distinction between qualification and training. We
6 consider qualifications to be a test. You're testing the
7 proficiency of an officer.

8 Now, granted, you can look at an officer
9 performing at a firearms qualification. If they are
10 exhibiting bad habits or improper technique that there is
11 some training going on to correct that mid-course while
12 qualification course of fire is being conducted.

13 But for the most part we're looking
14 qualifications as being a test, not a training. Again,

15 when we did the 2008-2009 firearms block of instruction,
16 that we recommended all the instructional objectives, the
17 requirements that were set before the Board and were
18 adopted, those were really designed to be taught in an
19 eight-hour block of instruction.

20 The Board's direction was to reduce that to
21 four. Unfortunately, at the time we did not make an
22 adjustment on what was required of those instructional
23 objectives. So we've kind of gone through a two-year
24 cycle where we said this is what you need to teach and you
25 need to teach it in a minimum of four hours but

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1 effectively you really need eight to teach it.

2 So we will make that adjustment so that if we're
3 going to continue to adopt the four hours, the
4 instructional objectives that we set forth will be
5 appropriate for a four-hour block of instruction; but it
6 will be in addition to quarterly quals.

7 Also keep in mind everything that is statutorily
8 mandated we have a certified, accredited curriculum up on
9 our website that can be downloaded and taught locally with
10 your instructors.

11 For the most part everything general. A police
12 instructor can teach it. Obviously, the firearms need a
13 firearms instructor. But my goal is whatever the Board's
14 direction is as to topic areas that we would require that
15 officers throughout the state have to have during this

16 next biennium cycle, that we would develop the curriculum
17 and have it available so that they can use that curriculum
18 or they can develop their own.

19 That is not to say you have to teach this one and
20 this one only. But it will be a baseline that any agency
21 can use without having to develop that curriculum
22 themselves, although they can do so. I would not say that
23 you only can teach this curriculum, but this would give
24 them an opportunity.

25 And as we have talked in our bureau reports,

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1 we're putting it up on the website. We're looking at
2 going towards more interactive training so that as we
3 continue to offer these things we will make that type of
4 training available, not just download it and have an
5 instructor teach it with your particular agency.

6 We're looking at pushing it out to where it can
7 be totally done on-line, tested on-line, and reported
8 on-line so that it frees up training coordinators and
9 training staff with respective agencies so that they don't
10 have to pull officers into a formal lecture-based
11 training.

12 They can coordinate and monitor the training that
13 can be done on-line. So that it can be done -- if they
14 are working a graveyard shift, they can take an hour off
15 on graveyard shift to do an on-line course and meet that
16 mandate. That's -- our long-term goal is to make that

17 available.

18 MR. COON: Would a tactical shoot fit in on that
19 four hours of training? If you had how to properly shoot
20 from a car, how to maneuver inside a building, or
21 something like that. Would that count as that four
22 hours?

23 MR. SHEA: Yes, sir. Sheriff Coon, the current
24 curriculum, kind of the major topic areas that we're
25 looking for is some training, a couple hours of training

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1 during the daytime, couple hours of training for
2 nighttime.

3 We're looking at barricaded shooting, shooting on
4 the move, multiple targets. So those are the three major
5 areas that we're looking at post-academy training that we
6 get the skill levels up for our officers and sheriff's
7 deputies.

8 My -- I will put what input I get from the Board
9 today and any input from anyone else into structured
10 changes to the current NMAC, the 10.29.7.8, to present to
11 the Board at our September meeting, keeping in mind that
12 we do need to make the rule change before the end of the
13 year so that our biennium cycle is in place for January 1,
14 2010.

15 MR. KING: That's a good question. Do we need to
16 put this on for action at our next Board meeting then? Is
17 that...

18 MR. SHANDLER: Mr. Chairman, what happened I
19 think two years ago is that the September meeting, it
20 would be red line version. And you will vote to send it
21 to the rule-making. And what happened two years ago,
22 instead of having a January meeting, it was moved up to a
23 December meeting in order to pass it before January 1.

24 MR. KING: So that's the schedule we're looking
25 at again.

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1 MR. SHEA: I know in the past we've tried to have
2 that last meeting at the end of the year and close to
3 the Policing in the 21st Century Conference. So if we
4 continue that same pattern, then that would give us the
5 opportunity to complete this rule by the end of the year.

6 MR. COON: I'd like to make one comment. I know
7 and I'm sure everybody out here is this same way. It's
8 taken me eight months to get ammunition from my vendors
9 here. It's taken me a year to get 223. It's taken me
10 eight months to get 45.

11 So we're having to order way over budget enough
12 to keep. And it's going to get even more scarce the way
13 it is now. With a war going on; everybody is afraid our
14 President is going to tax ammunition, so everything is sky
15 high. Plus, it's already hard to get right now.

16 So just a word of the wise. You're going to see
17 some smaller departments probably not doing the
18 qualifications like they are going to need to.

19 MR. SHEA: In this four-hour block of training
20 does not require live fire. You can do airsoft
21 ammunition. Those types of scenario-based training with
22 other training aids and it does not have to be live-fire
23 training.

24 MR. KING: Any other comments? I don't think we
25 have to take action today. I think that we know what the

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1 schedule will be.

2 MR. SHEA: Thank you, Mr. Chair.

3 MR. KING: Thank you, Mr. Shea.

4 ITEM #14: DISCUSSION: MINIMUM STANDARDS FOR ACADEMIES

5 MR. KING: Item No. 14, and it's the last item on
6 your business list, is Minimum Standards for Academies.

7 It will be my intention at a minimum to take a
8 short break after that, probably another 10-minute break
9 that might get stretched into 15 or something; and then it
10 will be up to the vice chairman to run the schedule after
11 that.

12 So if you can announce what you want everybody to
13 do. So let's do this and then we'll have a short period
14 of discussion and we'll decide what our schedule is going
15 to be after that.

16 MR. ALESSIO: Mr. Chairman, Board Members, I will
17 try to make this as brief as possible; but it does require
18 a little bit of setup.

19 MR. KING: Sure.

20 MR. ALESSIO: The general topic is minimum
21 standards and standardizing those standards across all
22 academies. In talking with some of my counterparts in
23 satellite academies, I became concerned with what the
24 actual minimum standards were with respect to the
25 curriculum, passing the curriculum, not passing the

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1 curriculum.

2 So I talked to the director about it, and he
3 asked me to review all of the academy handbooks and try to
4 come up with an answer to that. I did review all of the
5 handbooks with respect to both the academic areas and the
6 skills based areas.

7 And what I found was, except for in the academic
8 areas, 70 percent was considered passing with the
9 exception of two academies, the State Police Academy and
10 APD. There was no standardization.

11 In the skills based areas, it was the same way,
12 except for with EBAC there are certain subskills that
13 require something to be done in so many seconds. And with
14 firearms you have to obtain certain -- a number percentage
15 to qualify. There were no other standards.

16 So the director asked me to write up some draft
17 standards to propose, and I did that. When I sent those
18 to the director and the deputy director, the deputy
19 director, Mr. Najjar, actually came back and had a few
20 questions for me.

21 He said with respect to the proposed standards,
22 what's the definition of a block test. Because we give
23 block tests to tests on the academic areas. And how many
24 block tests are required. What's a weekly test. Some
25 academies give weekly tests; some don't.

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1 How many weekly tests are required. What's a
2 quiz. How many are required. What's the minimum number
3 of questions per test -- per hour of instruction. If a
4 test covers an entire block, what will be a fair
5 representation of questions from lesson plans.

6 And just a whole series of questions like that.
7 I started doing a little research based on I guess my
8 ignorance of the system and maybe some naivete and found
9 out there are no definitions with respect to those.

10 Bottom line is at the end of an academic class, a
11 complete block, there is absolutely no requirement
12 anywhere in writing in the statute or the NMAC that
13 requires a test, an examination, any way to determine what
14 the level of learning or understanding of that subject
15 was.

16 We give block tests, but there's no definition of
17 a block test. There's no requirement for a block test.
18 At the end of a 44-hour law block, the instructor can
19 simply if he or she wants to ask one or two questions
20 orally to a cadet and that would constitute the
21 examination.

22 The problem is we're not certain that people
23 leaving the Santa Fe -- the state academy or any of the
24 satellite academies are leaving with any similar level of
25 understanding or learning with respect to those blocks.

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1 The only required exam is the LEOCE itself. So
2 what I am proposing, what I'm asking is for the -- well,
3 we had a satellite academy meeting back to about three
4 months or so ago. And this was brought up to the
5 representatives there from the various satellite
6 academies. And there was very little enthusiasm or
7 interest to really doing anything with respect to this.
8 We received no input, no suggestions.

9 What I'm asking is that the Board direct that a
10 committee be formed of the various academy representatives
11 to actually come up with some standards -- some
12 definitions, some standards so we know that someone coming
13 out of the Hobbs Academy and someone coming out of the
14 State Academy are coming out with the same level of
15 learning and understanding.

16 Someone that passes a firearms qualification in
17 any of the academies has the same level of proficiency.
18 Right now in Santa Fe you may be able to attempt to
19 qualify a total of nine times. In another academy, they
20 may get 15 times to qualify. Twenty times, chances to
21 qualify. Same with defensive tactics.

22 How many times are you going to do a skills

23 assessment just to give somebody the opportunity to
24 qualify and say -- for us to say they have passed the
25 test. There's absolutely no standards with the

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1 academics.

2 You give a -- almost everyone does give written
3 tests, but how many opportunities does someone have to
4 pass a written test. There's no standard there. In
5 Santa Fe they get basically three opportunities to fail
6 tests before they are released.

7 All of the academies have different standards.

8 Is somebody going to get five or six or seven
9 opportunities to pass a written test and then maybe luck
10 out and pass the test so now they are -- they are
11 qualified or certified in that area?

12 We believe that there should be some standards
13 for all of these, some definitions made and some
14 standards; and then that be standardized across all of the
15 academies. And I would like to see the academies be
16 required to participate in a committee that will come up
17 with some proposed standards that we can then present back
18 to the Board for action.

19 MR. FORCE: Mr. Chairman. Mr. Alessio, I commend
20 you for identifying this. When this got brought up, to me
21 I just kind of -- it's unimaginable that we don't have a
22 standard across New Mexico for all the satellite academies
23 that are consistent with what's going on in the main

24 academy in Santa Fe.

25 And I think this is a great opportunity that we

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1 have to establish, again, a professional standard, a level
2 of proficiency on the written exams as well as the
3 practicals.

4 The only -- I would like to see you come back
5 with a proposal that we could take an active look and --
6 whether it's a rule change or whether it's a direction,
7 however we can support that. But I would like to see the
8 input from the satellite academies.

9 Because when I think of Las Cruces PD, I think
10 their academy is longer, if I'm right, than the state
11 academy is.

12 MR. ALESSIO: Yes, several of the academies are
13 actually longer.

14 MR. FORCE: Bernalillo County I know is longer
15 and Albuquerque PD. And I believe there has to be some
16 equity in looking at what those more long-term academies
17 are than what the State Academy is because they may be
18 testing more frequently.

19 There may be more tests that cadet goes through
20 in that academy versus the State Academy. So I think
21 there may be some balancing there that you need to
22 consider, so.

23 MR. ALESSIO: And I'm not suggesting that the
24 satellite academies conform to whatever Santa Fe is

25 doing. I'm suggesting that there needs to be a standard

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1 and we should all get together and create that standard.

2 If we give an exam that's a hundred questions on
3 a particular issue and another academy gives a test that's
4 only 50 questions, well, the people in our academy have a
5 a lot better chance of passing because they can answer a
6 lot more questions incorrectly and still pass the test.

7 MR. FORCE: And that's what -- and I'm agreeing
8 with you. I guess the concern that I have is in many ways
9 you almost need a subject expert panel from those
10 satellite academies coming together and breaking down the
11 curriculum and saying each one of these blocks here is a
12 minimum passing, whether it's proficiency on a written or
13 a proficiency on a practical.

14 And then bring that back to us so we can actually
15 adopt. The concern that I have is that -- I mean, some
16 blocks of training may be higher marks than others; and
17 that may be based on national standards versus state
18 standards of the curriculum itself, so.

19 MR. ORTIZ: What the legislature and the Board
20 has mandated is the 800 hours. I just want it to be clear
21 that we can only oversee those 800 hours. Like APD, they
22 might be training the 1200 -- they might have 1200 hours.

23 So what it's going to be based on is those 800
24 hours will have the standardization. Because we don't
25 want, you know, other issues to come up with the academies

1 that have a longer curriculum than ours, and they may be
2 developing something specialized for their department.

3 So we're just looking at that 800 hours to have
4 the standardized training for.

5 MR. ALESSIO: APD Academy, Dona Ana Academy, they
6 do some department-specific training that other academies
7 don't do.

8 MR. ORTIZ: And we don't want to get in there and
9 dictate to them on that. Just the 800 hours.

10 MR. FORCE: That's pretty good.

11 MR. KING: Other questions? Just a quick
12 question. Is this an issue that -- I mean, I don't know
13 if the legislature has considered this or if there's -- to
14 me it's sort of interesting that there's not some
15 coordination amongst the academies, or more than there
16 is.

17 So I think rather than ask a question, I'll just
18 kind of take that up with you guys and with my brethren in
19 the legislature. Something to think about, whether there
20 should be some standardization --

21 MR. ORTIZ: I think the Board would have the
22 power to do that, to make that standardization on the 800
23 hours.

24 MR. KING: On those we might very well. So if
25 folks want to bring that -- that's the kind of thing that

1 might require a creation of a subcommittee, I would think,
2 to deal with that. But I'm not sure I'm prepared to do
3 that today. Everybody is kind of stunned looking right
4 now. They are hungry.

5 MR. PEREZ: I move that the director get together
6 with the directors of the satellite academies to discuss
7 this matter and report back to us by the next regular
8 meeting.

9 MR. KING: Let's just make that a recommendation.
10 We don't need a motion. Any other questions, comments?

11 We are done with the business agenda for the day
12 then. If the Board members will stay here for a couple
13 minutes and we'll talk about what we can do to make sure
14 that you get fed. But, otherwise, I am going to adjourn
15 the meeting for -- or recess the meeting for 15 minutes.

16 (Off the record from 1:04 until 1:21 p.m.)

17 (At this time, Mr. King is not present.)

18 MR. GALLEGOS: We're back on the record with the
19 New Mexico Law Enforcement Academy Board. It is
20 approximately 1:21 p.m. on June 29th, 2009. We're at that
21 part of our business where we go to disciplinary matters.

22 ITEM #27: FRED DIXON

23 MR. GALLEGOS: I'm going to make a change here to
24 accommodate one of our persons who's here who needs to get
25 back because of a family emergency. So I'm going to ask

1 -- I'm not going to ask. I'm going to exercise the

2 chairman's prerogative and move Item 27 to the front of
3 the line.

4 I understand he's here on business, but we're
5 also honored to have Representative Elias Barela here.

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

7 MR. GALLEGOS: So, sir, we'll let you --
8 actually, no. Hold on. What we have to do first here
9 is -- okay. Let me get a presentation on that then from
10 our prosecutor.

11 MR. JACKSON: He can start without me.

12 MR. GALLEGOS: All right.

13 MR. BARELA: Thank you, Mr. Chairman, Members of
14 the Board. I'd like to first thank you for how hard you
15 guys work. I can see you haven't even had lunch yet and
16 you're still at it. I was telling Art Ortiz that it's
17 amazing how much authority is delegated to the boards and
18 commissions in New Mexico.

19 And also I would like to thank Mr. Ortiz for
20 giving us the opportunity to come before the Board today.
21 We have kind of a unique situation. My client is Fred
22 Pando-Dixon, and that is his legal name. That will be an
23 issue in a bit.

24 I think we're here more on procedural grounds,
25 but what we're hoping to do is get to the substance of the

1 allegations that were made against Mr. Pando-Dixon. And
2 so I want to talk just really briefly about that.

3 In 1992 he became --

4 MR. SHANDLER: Let me interrupt. I'm sorry. I
5 deeply apologize. But we're only a procedural matter. So
6 it's just did he get the notice or not get the notice
7 today.

8 MR. BARELA: Sure. That would be fine.

9 MR. GALLEGOS: Let's just stick with that.

10 MR. BARELA: I think when you talk about the
11 procedural and technical grounds a little bit, if you'd
12 like to call it, that it's kind of a two-edge sword in
13 some ways.

14 The statute clearly enumerates exactly -- and I'm
15 not going to repeat it to you, but it has a list of
16 everything that you can revoke or suspend someone's
17 certification for procedural. Not responding's not one.

18 The thing that's very important about this is
19 it's clear, No. 1, that he did not sign for it. And it's
20 also very clear that if you look at it -- I'm going to
21 pass this out if I might -- that it wasn't in his name.

22 Now, Mr. Pando-Dixon lives in Los Lentos, which
23 is a small neighborhood in Los Lunas. He lives next to
24 his father-in-law, who has also another rental home
25 there. There's also another relative that lives nearby.

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1 There is also another Pando that lives right next door.
2 It's kind of a big compound. And so everybody lives
3 here.

4 You have an address, 2125 Los Lentos, that
5 supposedly this was mailed to. And there's clearly
6 certified mail that went there. It was not picked up. It
7 was unclaimed. Mr. Pando-Dixon at the time was -- he has
8 a hobby of scuba diving, has spent a lot of time in
9 Mexico. He's also a plumber and was traveling throughout
10 the state during that time quite a bit.

11 He doesn't remember the exact dates. He
12 remembers not -- he says he never got this. Now, the
13 question is: Was it correctly addressed even to him,
14 though? He talked to the post master. He couldn't have
15 picked up this mail.

16 As you can see from the thing that I sent --
17 handed out now, Fred is spelt differently and his legal
18 name is Pando-Dixon. It's not Fred Dixon. It's the wrong
19 guy. We're talking about technical grounds here. But
20 we're talking we want to get to the substance of the
21 matter.

22 It's very important. We're trying to get to the
23 substance. So on one side someone's coming before you
24 says, "Well, we did what was technically required. We
25 mailed out certified mail. It's clear he didn't pick it

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1 up."

2 He lives in a compound. I'm telling you, in many
3 places, as you know, especially the county sheriffs and
4 stuff like that, mail is a somewhat challenged thing when

5 you live in large compounds and have an extended family,
6 as Mr. Pando-Dixon does.

7 And I can tell you that even if we go to that
8 technical requirements, I think the technical requirement
9 is that he get something mailed to him. His name's not
10 Dixon. His legal name is Pando-Dixon. That's his last
11 name, Pando-Dixon. And it wasn't mailed to him.

12 I think that when you look at due process, a
13 gentleman has a Fifth Amendment right to earn a living.
14 This is clearly state action.

15 You have a strict scrutiny standard that comes
16 before the Board, you know, that basically asks the
17 question, well, how much procedural due process should we
18 provide in order to not violate the Constitutional rights,
19 the Fifth Amendment right.

20 It's clear that this is what this is. And I
21 think the answer is usually you have to provide as much as
22 possible or as necessary to avoid harming innocent
23 people. And I think that when you see the allegations
24 before you, a lot of these were not billed. The other was
25 dismissed. You don't want to get into. But I think it's

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1 important.

2 And we certainly just want to do that because I
3 think things don't turn out as people think. So what I'm
4 really asking is that if you want to evaluate just the
5 technical grounds, do so with an open mind; and say, okay,

6 what is lost by giving him his hearing?

7 If there's evidence of it, you can still withdraw

8 it. We're very comfortable with that. If there is not

9 sufficient evidence, he gets his certification back.

10 But my hope is that you would look at this and

11 say, wow, you know, the way he lives, the way he was gone

12 and he didn't claim it, clearly. This was after all the

13 charges were dismissed. First one was October. Second

14 was in November.

15 He called Mr. Ortiz because he had applied for

16 and received a position as a law -- that required law

17 enforcement certification. He talked Mr. Ortiz. He said,

18 "Hey, I'm -- you know, what's up with my certification?

19 Is there a problem with it?"

20 And they said, "Well, we suspended you."

21 And he said, "Well, why did you do that?" They

22 talked about it. There was another notice that was sent

23 after that. He didn't get that one either. So he was

24 unaware of this. And it's hard to answer a negative, you

25 know, why didn't he get it.

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1 Well, I don't know; but he didn't get it. And

2 maybe part of the reason is it wasn't mailed to the

3 correct person. With that, I'll stand for questions.

4 MR. GALLEGOS: Thank you, Mr. Barela. And I

5 think the issue before us is, you know, are we going to

6 find that he did not get sufficient notice and then kick

7 it back to start the process again. I believe that's the
8 issue?

9 MR. SHANDLER: Yes, that's the issue.

10 MR. GALLEGOS: And before we get to questions
11 from the committee, I'm going to ask Art to report on what
12 he knows about this.

13 MR. ORTIZ: Thank you, Mr. Chairman, Mr. Barela.

14 As you'll see on page 2, that's the New Mexico POST
15 Employee Profile, and that is the name Fred P. Dixon. And
16 that's how his certification was issued.

17 And at no time did he ever contact -- and I know
18 he was issued back in 1992. I did work with Mr. Dixon
19 when he was with the state police, and I knew him as Fred
20 Dixon. That's the way it was addressed, as Fred P.
21 Dixon.

22 I obtained his address through a -- and it's also
23 included in there. I think it's towards the end. It's
24 the comprehensive report, the ACURIN; and it lists his
25 addresses and even the previous addresses. And it lists

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1 the current address -- you'll see it's 24 pages. I just
2 put a couple of pages, which I believe I've highlighted in
3 your packets.

4 And then if you turn the next page, it gives an
5 address summary. And at the very bottom you'll see that
6 2125 is the Los Lentos address for Mr. Dixon starting in
7 January of 2005 to present, which was -- when this was ran

8 was September of 2008.

9 And on the last page of that, page 4, the active
10 address was Fred P. -- it has Dixon, but it does show the
11 address of 2125 Los Lentos.

12 MR. GALLEGOS: Do you have a recommendation on
13 this, Art?

14 MR. BARELA: May I just add a point, just in
15 terms of rebuttal? It's very --

16 MR. GALLEGOS: Let me see if he's got anything
17 else to say on that as far as recommendation. And then
18 we'll allow rebuttal.

19 MR. ORTIZ: My recommendation based on -- what I
20 would recommend based on the police reports, I would be
21 recommending the revocation of his certification.

22 MR. GALLEGOS: So that what we did, that would
23 stand? The revocation stands?

24 MR. ORTIZ: Yes.

25 MR. FORCE: Mr. Chairman. I really don't want to

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1 get into, you know, Mr. Ortiz says something and then you
2 did kind of a deal, but.

3 Mr. Ortiz, I'm looking in the records that we
4 were given. And it's right behind the misconduct report,
5 on the page right behind. It's a letter that was -- came
6 from the Academy. It was addressed to Sheriff Darren
7 White. And it's in regards to or reference to and the
8 first person was "Phred Dixon."

9 MR. ORTIZ: Yes.

10 MR. FORCE: With the spelling of P-H-R-E-D?

11 MR. ORTIZ: Right.

12 MR. FORCE: And that's the same certification

13 number that comes back onto the report. Is there -- I

14 understand the position that you were asked, but is there

15 any doubt in your mind that Mr. Dixon, either by fluke or

16 maybe data entry issues that had occurred, did not get the

17 notice of contemplated action?

18 Is there a doubt in your mind as to whether he

19 actually received it or not?

20 MR. ORTIZ: No, he did not receive them. I

21 received them all. Each of these documents was tried --

22 the post office tried to serve it on him three times,

23 which I also have in a letter. And he did not receive it,

24 and it came back unclaimed.

25 MR. FORCE: With that, is there any doubt in your

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1 mind that there was -- that the attempting of his

2 location, that the Academy had taken every reasonable

3 effort to attempt his location.

4 MR. ORTIZ: Yes. It's my understanding that

5 it's their -- well, I know it's a state law that if they

6 move, they need to notify motor vehicle within 10 days to

7 correct their address with the motor vehicle department.

8 That was not done in this case.

9 They also have an obligation -- and there is a

10 rule -- that they should notify the Academy of a change of
11 address. That was not done.

12 The reason I went with the spelling with the P,
13 you'll see on the front side it was the misconduct report
14 received from Bernalillo County Sheriff's Office, and
15 that's how they had the certification number down and the
16 name. So when I addressed the letter to Sheriff White, I
17 utilized that spelling.

18 MR. GALLEGOS: Mr. Barela, I believe you had a
19 comment.

20 MR. BARELA: Just really briefly. I'm not trying
21 to get in an exchange here. But Fred used to be Fred B.
22 Dixon back in the day. To -- you know, he was never Fred
23 P. Dixon. Pando is his wife's name. And they were
24 married in 2004. This is when this took place.

25 I think in speaking to Mr. Ortiz, it's very clear

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1 that he talked a lot about you had to get this from the
2 driver's license and the responsibility was to keep that
3 up-to-date; and that's how they turn around and actually
4 send notice.

5 Well, one of the exhibits that I gave you is the
6 driver's license. So I would refer you to that in front
7 of you. The gentleman didn't want to see it, but I
8 believe that he should because if you can --

9 MR. SHANDLER: We're sharing a copy.

10 MR. BARELA: Okay. But it's Fred B. -- which is

11 for Bishop -- Pando-Dixon. And I think that -- I think
12 that when you say there's a doubt, I think it's a little
13 bit more than that. It was incorrectly served upon a
14 person.

15 And, again, we're splitting hairs on technical
16 grounds. Hey, let's just go to the substance. I think
17 that those allegations are really what's most important,
18 because you have a very protected Constitutional right, a
19 person's right to make a living.

20 This certification, this licensure is very
21 important. And for that reason, let's not make an error
22 on a technical ground, is what I'm pleading for the Board.

23 MR. COON: I've got a question here on your
24 driver's license and passport. When were these letters
25 mailed, Mr. Ortiz?

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1 MR. ORTIZ: This one -- let's see. The notice of
2 contemplated action was mailed October 7th of 2008. And
3 it was tried to be -- it was served on the 9th of October,
4 the 17th of October, and on the 23rd of October.

5 MR. COON: Okay. On the driver's license, date
6 of issue was 4/9/2008. Passport, July 16th, 2008.

7 MR. BARELA: The name is the same.

8 MR. COON: Huh?

9 MR. BARELA: The previous one had the same name,
10 though.

11 MR. COON: But what I'm saying was, was he

12 Fred B. Pando-Dixon on the driver's license before this
13 one? And is this the only -- when you got your passport,
14 was this your first passport you ever got?

15 MR. DIXON: Yes, sir.

16 MR. COON: So you're Fred B. Pando-Dixon as of
17 4/9 of '08. And the same on your passport in June
18 of '08. But you're Fred -- you're a different name here,
19 but the addresses are all the same. Just....

20 MR. ORTIZ: Yes.

21 MR. COON: I mean, it looks like....

22 MR. PEREZ: When you became an officer, when you
23 were commissioned, what name did you use?

24 MR. DIXON: It was the Fred.

25 MR. PEREZ: With an F?

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1 MR. DIXON: With an F, yes, sir.

2 MR. COON: What is your God-given name on your
3 birth certificate?

4 MR. DIXON: It's P-H-R-E-D Bishop Dixon. That's
5 my name on my birth certificate.

6 MR. COON: How long has it been Pando-Dixon?

7 MR. DIXON: Since I got married in 2004.

8 MR. PEREZ: But when you were a policeman, it was
9 Fred with an F.

10 MR. DIXON: No. With a P-H.

11 MR. PEREZ: And your last name then was?

12 MR. DIXON: Dixon, D-I-X-O-N.

13 MR. COON: Mr. Dixon, I have another question.
14 My God-given name is James Robert Coon. Everybody calls
15 me Rob. I get a retirement check first of the month, and
16 I know it's from the State of New Mexico.

17 Just because it says James R. Coon on it, I still
18 know that's mine; and I know that it's my retirement check
19 because it's coming from PERA up on the top.

20 Did you ever get a letter that you looked at and
21 said, "Wrong guy, but it's from the Department of Public
22 Safety. This might be something very important I need to
23 open up."

24 MR. DIXON: No, sir. That's the thing, I have
25 not received any letters. And what I had done was -- how

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1 I actually got in contact with Mr. Ortiz -- I had applied
2 to go to work at a police department; and I needed to
3 check my certification because my two years of training
4 was going to expire.

5 And the chief said make sure that if it's going
6 to expire so we can get you in the cert by waiver program
7 if it has expired. I called up and spoke to the
8 director. I can't think of her name. It's a female over
9 at advanced training. I'm not sure of her name. She
10 said, "Your certification is flagged at this time."

11 And I said, "I don't understand what means." And
12 she said, "I don't either. You need to talk to
13 Mr. Ortiz." So then I called several other times to get

14 in contact, and I guess it was about maybe two, maybe
15 three weeks later, that's when he called and notified me
16 that "We're looking at a revocation issue on what had
17 transpired."

18 So I said, "Okay. What do I need to do now?" He
19 said, "If you want to continue with this, contact me back
20 and I will set up a hearing date for you sometime around
21 March." So that's what I was figuring that we were
22 actually going to do, and that was -- that's how it was
23 going to go down.

24 I was actually going to come in and do a
25 revocation and see whether or not the Board said, yes,

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1 this is grounds to revoke me. So I never received any
2 notice, not one.

3 And the thing is I personally went to the post
4 office. I went to the post master. I went in and I said,
5 "Sir, I have a problem here." I took what he had sent us,
6 and I laid them out. I said, "Explain to this to me."

7 He said, "Well, there shouldn't be a problem.
8 Your mailboxes are on Los Lentes." I said, "That's not
9 the case. My address is Los Lentes, 2125. I don't live
10 on Los Lentes. I live an eighth of a mile back on Piro,
11 P-I-R-O, and my mailbox is there."

12 And he goes, "No, your mailbox is on Los Lentes."
13 I said, "No, sir, it's not. It's in the back." And I
14 said, "Another thing that's been happening is, is I keep

15 getting someone else's mail, constantly getting someone's
16 else's mail." So he said, "Well, let's look into those
17 matters further."

18 All right. So I sat there with him. A couple
19 issues had come up. One, our main postal employee had
20 retired. To fill her vacancy for the last six months they
21 had been using subs that they basically picked from other
22 areas or contractors to come in and deliver the mail.

23 He said, "That's the only thing I can think of."
24 And this is my thought: Three letters -- there were three
25 letters. My thing was I should have got at least one

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1 notice. I should have got at least one notice.

2 That's just common thing. There's three
3 letters. They said there's three notices to each one.
4 One of those should have come to me.

5 MR. BARELA: One of the things too is Sheriff
6 White -- he spoke to Sheriff White. And Sheriff White
7 said -- and you can tell it kind of alludes to it in that
8 letter that's in there that you mentioned. He said, "No,
9 we didn't report you or anything like that. We never do
10 that." Or "I don't do that," he said.

11 And I guess he was -- he was misinformed when he
12 told you that. But that's what Sheriff White told him;
13 and, of course, that's hearsay. But there's a lot to it.
14 I just think that when you add it all up, the safe way to
15 do this is have a hearing.

16 If the evidence is there, the revocation will
17 certainly stand. If it's not, then he could have his day
18 in court, if you will, or his day before the Board. And
19 you make that decision then.

20 And all I'm saying is that I think it's the
21 fairest way to treat law enforcement or any person that --
22 you know, he talked about the proudest day of his life to
23 me before was when he became a state police officer.

24 And I think that that's -- it's an important
25 thing. And the matter in the criminal side is completely,

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1 completely just -- it's not what the allegations were.
2 We're asking for the benefit of the doubt on that, not
3 to -- to judge him on that. A lot of people can get
4 accused; another thing to have some evidence.

5 MR. GALLEGOS: Well, let's see if we can take
6 care of that item first, so.

7 MR. ORTIZ: I was just going to read the rule.
8 It's in your packet, which I highlighted, 10.29.1.13, the
9 proceedings for denial, revocation, or suspension. They
10 are under A.

11 The last sentence, "If the police officer or
12 telecommunicator does not mail a request for hearing
13 within the time and in a manner required by this rule, the
14 board may take the action contemplated by the director and
15 such action shall be considered final."

16 And then on the next page, 10.29.1.16, the method

17 of service notice; procedures, which I have highlighted.
18 I believe they are in your books as well under A. "Any
19 notice required by the board rule 10.29.1.15 NMAC may be
20 served upon the police officer or telecommunicator at his
21 or her last known address, either by hand delivery by an
22 officer authorized by law to serve process or by certified
23 mail with return receipt requested.

24 "B. Service of notice is complete when the
25 notice is; (1), hand delivered; or (2), deposited with the

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1 United States postal service by certified mail with return
2 receipt requested, properly stamped and addressed to the
3 last address provided by the officer."

4 MR. FORCE: Mr. Dixon, I -- this is a question I
5 have for you is that -- not on the issues of what the
6 allegations are, but only on the notice. Would you or do
7 you know of any witnesses that could be brought forth that
8 would give testimony as to what you said about you have
9 not been able to receive mail, you had a history of not
10 receiving the mail, that the post master turned over the
11 route of the delivery service?

12 I'll tell you why I'm asking you that is what
13 gravely concerns me is that the Academy in looking at the
14 rules has done everything that is reasonable and what is
15 under their regulations to try to get ahold of you and
16 give you this notice.

17 And what concerns me is that -- I mean, I don't

18 want to open up Pandora's box that every time somebody
19 comes in and says, "Well, I didn't get notice, so I want
20 to go through the whole process again."

21 We have this process in place to hold the door.
22 And what really concerns me is whether or not you really
23 did get tab on these notices that never got into your
24 hands or into your household that became your
25 responsibility to respond.

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1 Honestly, that's what concerns me. And that's
2 why I asked you that question.

3 MR. DIXON: Yes, sir, I can see. The witnesses,
4 of course, would be my wife. And then with the post
5 master, I spoke to him about that. I said, "Can you
6 actually do me a letter to show that we've had a route
7 change and I can deliver that to the Board?"

8 Because I explained what was actually
9 transpiring. And his thing is, he said, "Well, before I
10 would have to do that, I would have to run that through
11 legal for the post office," because he was under the same
12 assumption I was that what was sent -- if you have three
13 letters and there's nine notices, one of those should have
14 got to me.

15 I mean, that's my thing. One of them should have
16 got to me. And then I wonder that. I'm like, well, is
17 there anything else in place. Could there have been if
18 two of them went back a personal service, to where someone

19 could have said, "Mr. Dixon, you're requested by the state
20 reference a revocation hearing."

21 And that's what I'm saying. Truly my only
22 witnesses would be my wife, who could testify; my father
23 and mother-in-law, who also gets other mail from other
24 people; and then on top of it, I don't know I could
25 actually have the post master come in. I don't know how

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1 that transaction would transpire, sir.

2 MR. BARELA: I might add to that. When I spoke
3 to them, they said it's not even on the computer system
4 anymore, I guess. They said that it dropped off after a
5 certain amount of time. And so who was the route delivery
6 person at the time was unclear.

7 And mostly with their review was is again they
8 are trying to prove a negative, you see. And that was --
9 that was a problem for them. But I can clearly say that
10 their attitude was not, "Oh, we're certain you got this."

11 And like I said, in November he called Mr. Ortiz;
12 talked to him about this. He told him in March -- I think
13 Mr. Ortiz might recall that conversation -- he was being
14 in front of the Board again.

15 We're not trying to open up a Pandora's box here,
16 but what is clear is in the statute that Mr. Ortiz read it
17 says "may." That denotes discretion of this Board. Not
18 "shall." It says "may."

19 And I think when you look at the public policy

20 piece of it, the tie should go to the runner on this one
21 because the statute clearly says, "Hey, we're trying to
22 get these guys for this stuff, not on the procedural
23 stuff."

24 And, you know, let's not bluff on the cards;
25 let's put them on the tables and decide whether or not he

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1 did something that merits somewhat being revoked under the
2 statute. And that's all I'm asking for. Let's not bluff
3 with the cards, put them on the table, and they'll land
4 where they should.

5 That's an important part of due process is that
6 you avoid those kind of errors, you know.

7 MR. PEREZ: I agree with you. I think we can
8 save ourselves and everybody a lot of our time and
9 trouble. We have the gentleman right here. Let's ask him
10 some questions right now and get to the meat of it.
11 Forget about the stamps and the mail and the birds and
12 everything else.

13 The reason that we're doing this, we did what we
14 did, was because of what you allegedly did.

15 MR. DIXON: Yes, sir.

16 MR. PEREZ: I want to ask you --

17 MR. DIXON: Yes, sir.

18 MR. PEREZ: -- about what you did.

19 MR. SHANDLER: I don't mean to interrupt.

20 MR. GALLEGOS: We may be out of order on that

21 point also, Mr. Perez. I want to make sure that we're
22 also procedurally correct. What we're here for today, as
23 I understand, Zack, is that there's one very simple
24 issue: Do we have enough in front of us to convince us
25 that he needs to go -- he needs to have a hearing that

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1 could have been his if he had gotten the mail, I guess.

2 I'm trying to put it as succinctly as I can. I
3 don't want to get into the merits of why he was revoked or
4 why he was even reported, because he hasn't had his
5 hearing pursuant to due process, whether that was his
6 fault or not. And I think that's all we have to decide
7 here today. Correct, Zack?

8 MR. SHANDLER: That is correct.

9 MR. GALLEGOS: I just don't want to get us into
10 another can of worms. I really do want to move this. I
11 think our questions are good so far. They are pointed. I
12 would like to know if there's any other examples of other
13 mail that you've gotten that have been rerouted.

14 Was there any other certified return receipt mail
15 that went to this same type of thing. Because for me
16 personally is I've had glitches with the mail, too. I've
17 had glitches with UPS, FedEx and everything out there that
18 proclaims to be a hundred percent accurate. They are
19 not.

20 But I want to know is -- what I want to be
21 convinced of is you or someone in your family saw a letter

22 that said New Mexico Law Enforcement Training Academy and
23 you said, "I don't want to deal with it," because of
24 whatever happened before.

25 If that's the case, then you're barking up a tree

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1 here. But if it's the opposite that you through no fault
2 of your own or maybe minimal fault of your own did not get
3 the required notices, then I would like to know that part
4 of it.

5 Mr. Coon, did you have a question?

6 MR. COON: Arsenio.

7 MR. JONES: Mr. Chairman, my question is the same
8 thing, if you've lost any of your other mail, if you've
9 been getting bills, have you been getting personal letters
10 from family and friends. I mean, obviously one letter or
11 three letters shouldn't all of a sudden just not be
12 delivered and all your other mail gets delivered
13 correctly.

14 MR. DIXON: Exactly. I've got return to sender
15 that has come in where it has went to somebody else and
16 they write "return to sender" on it; and then I guess the
17 post office -- I don't know their process; I don't know
18 the postal system -- reroutes that mail eventually to me.

19 But there's been several things that do not
20 come. There's been bills -- bills that have been
21 misplaced. Several other issues. Of course, UPS and
22 FedEx are totally different because it's just a whole

23 different process.

24 At no time, Gentlemen, did I ever receive a
25 letter from DPS or a notice of a letter from DPS. And I

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1 to do this day would not be setting here if I had not made
2 that telephone call to DPS to find out if I needed to do a
3 cert by waiver.

4 MR. GALLEGOS: I understand. But you do
5 understand that DPS's obligation is just to make sure that
6 got dropped in the mail?

7 MR. DIXON: Yes, sir.

8 MR. GALLEGOS: Not to make sure that you got it
9 in your hand.

10 MR. DIXON: Right. Yes, sir.

11 MR. GALLEGOS: If that's one of the options,
12 would be nice. And that's why we're in the quandary that
13 we're at right now.

14 MR. BARELA: I think one of the things that --
15 one of the -- I think it might have been the post
16 master said is that what happened with that route was you
17 had a very long-term postal employee that retired.

18 And after that, they contracted that route to
19 several different contractors. And he said very, very
20 frankly, "Did they deliver it? I don't know. I can tell
21 you that we tried people on contract and we don't often
22 keep them because they are not delivering the mail
23 correctly or they are having problems. And some of those

24 routes go back to regular postal carriers or we try to get
25 some stability."

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1 He said, "This is clearly a time that there was
2 instability in the mail carrier." But, very importantly,
3 at the time that this had occurred in 2008, he was working
4 out of town. He has a regular trip that he makes for
5 scuba diving in Mexico.

6 But he had already had all charges dismissed of
7 him. Almost all these charges, by the way, were not true
8 billed. There was only one charge that was true billed.
9 And that's very important as you're thinking, "Ah, this
10 guy is trying to get over it."

11 And that's what bothers me about we're getting
12 into a little bit of the substance. I know it's something
13 that plays on your mind. And then what I'm asking you is
14 look at it as if, you know, in our system of justice that
15 he's innocent until proven guilty on some of these things.

16 MR. PEREZ: Sir, this is not a court of law. We
17 have --

18 MR. BARELA: Right.

19 MR. PEREZ: -- a preponderance of the evidence.
20 That's all we have.

21 MR. BARELA: Right.

22 MR. PEREZ: We do not have beyond a reasonable
23 doubt. And on the preponderance of evidence, we can
24 dismiss. This is not a court.

25 MR. BARELA: I appreciate that. And so at this

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1 time all this was behind him. He was looking for jobs.

2 He called Art Ortiz in November. He thought he was told

3 that it would be in March.

4 MR. GALLEGOS: Let's do this. And I'm sorry to

5 cut you off, Mr. Barela, but I do want to move this. I

6 guess the bottom-line inquiry, is there any reason why you

7 would intentionally disregard mail from DPS?

8 MR. DIXON: No, sir, there's not. There's

9 absolutely not.

10 MR. GALLEGOS: Then the next question is: Did

11 you intentionally disregard any --

12 MR. DIXON: No, sir, I did not.

13 MR. GALLEGOS: And so then what I think we'll do

14 is -- for the Board, I mean, what do we want to do about

15 that? We could have another hearing where he brings

16 letters from the post master, his wife, his father; but

17 that's not going to be for a few more months. Or we can

18 take action today on this. And I'll leave it up to the

19 Board.

20 MR. SHANDLER: Usually, the process is to run

21 through all the cases, and then you exercise the

22 opportunity to go into executive session. Sometimes

23 you'll go into executive session and come out to expedite

24 certain things and -- or sometimes you don't even go into

25 executive session at all.

1 So you have all those types of options on your
2 table procedurally.

3 MR. GALLEGOS: Thanks for the reminder. And
4 that's what we're going to do. If there aren't any other
5 questions at this point, we'll move onto the next matter.
6 Just so you understand, Mr. Barela.

7 MR. BARELA: You can send us notice. We
8 appreciate that.

9 MR. GALLEGOS: And what we do afterwards is we go
10 through all the items. We present them, and then we go
11 into executive session. And then we come back out and we
12 take action.

13 MR. BARELA: Well, let me just say this: I thank
14 you for your time. I thank you, Art Ortiz, for letting us
15 come before the Board and present this. I know it's a
16 little different, but it was really important for him
17 because he does want to keep his certification. And he
18 always has. So with that, I thank you for your time.

19 MR. GALLEGOS: Great. Are you going to stick
20 around then, right?

21 MR. BARELA: Are you going to issue the decision
22 today?

23 MR. GALLEGOS: We're going to take care of all of
24 this today.

25 MR. BARELA: Okay. So we'll wait.

1 MR. DIXON: Thank you, Gentlemen.

2 ITEM #15: ROBERT CHAVEZ

3 MR. GALLEGOS: So I'm going to flip back over to
4 Item 15, Robert Chavez. Mr. Prosecutor.

5 MR. JACKSON: These first few are revocations by
6 default, whether because of failure to respond or an
7 incompleteness of response.

8 Mr. Chavez was arrested, charged with no seat
9 belt, stop sign, DWI, and a violation of open container
10 laws. He refused the breathalyzer test. We issued an NCA
11 on this. Mr. Chavez responded by a letter saying that
12 because he had not been convicted we couldn't do anything
13 to his certification.

14 The director wrote a letter disabusing him of
15 this notion and set an informal hearing at which
16 Mr. Chavez could present his substantive case. Mr. Chavez
17 did not show for the informal hearing and did not respond
18 to the notice of final decision.

19 Therefore, we ask for his revocation by default.

20 Is he here today?

21 MR. GALLEGOS: For the record, Mr. Chavez is not
22 here today.

23 MR. JACKSON: Are there any questions on this
24 one?

25 MR. GALLEGOS: Okay. Seeing none, let's go onto

1 the next item.

2 ITEM #16: JEFF MARTINEZ

3 MR. JACKSON: The next item is Jeff Martinez. An
4 anonymous source discovered a nude picture of a
5 then-14-year-old male on Mr. Martinez's cell phone. The
6 source recognized the individual in the picture and
7 reported the information to the police providing the name
8 and address of the young male in the photograph.

9 The source knew that Mr. Martinez worked for the
10 Espanola Police Department and was a resource officer for
11 the school system there. An investigation led to a
12 determination that the male had sent the picture to
13 Mr. Martinez at Mr. Martinez's request.

14 A subsequent investigation revealed that
15 Mr. Martinez had befriended two other young males and
16 solicited nude photographs from them. A search warrant
17 was obtained. And a search of his cell phone revealed
18 photographs of a young male exposing his genitals. The
19 other student had sent pictures of his face, but no nude
20 pictures.

21 When questioned by investigators, the students
22 indicated that they had become acquainted with the
23 respondent at the school that they were attending and they
24 had communicated with the respondent, Mr. Martinez, by
25 texting; and at some point in time that became sexual in

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1 nature.

2 They admitted sending nude photographs of

3 themselves to Mr. Martinez, but they felt pressure to do
4 so by his insistent requests. Two of the photographs that
5 depicted nude males were taken when they were 15 and 16.

6 There is -- as a clarification here before I move
7 onto the other matter in the next paragraph, one -- at
8 least one of the pictures was not of the male who sent the
9 picture. He had another picture of somebody else that he
10 sent to Mr. Martinez, and he was sending a photograph of
11 himself.

12 As part of the investigation, the state police
13 seized Mr. Martinez's work laptop and found quite a bit of
14 pornography on it. So an NCA was issued; there was no
15 response. An NFD was issued; there was no response.

16 We, therefore, ask for revocation by default. Is
17 Mr. Martinez here? Are there any questions on this
18 matter?

19 MR. GALLEGOS: Just to note that Mr. Martinez is
20 not present for the record. All right. Next item.

21 ITEM #17: ARMANDO MEDINA

22 MR. JACKSON: I believe Item No. 17 has been
23 pulled from the agenda --

24 MR. GALLEGOS: That's correct.

25 MR. JACKSON: -- because Mr. Medina has contacted

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1 the director.

2 ITEM #18: CHRIS LYLE

3 MR. JACKSON: No. 18 is Chris Lyle. Mr. Lyle was

4 assigned to inspect various racetrack and casino
5 operations. He did not. And his dereliction exceeds the
6 mere policy violation. He apparently never showed up for
7 any work at all. So we issued an NCA; there was no
8 response. We issued an NFD; there was no response.

9 We ask for his revocation by default.

10 MR. GALLEGOS: Is Mr. Lyle here? The record will
11 note that he's not here. Any questions from the Board?
12 Seeing none, let's go to the next item.

13 ITEM #19: RICHARD RAMSDALE

14 MR. JACKSON: Item No. 19 is Richard Ramsdale. A
15 fellow officer noticed that Mr. Ramsdale was behaving
16 erratic. This led to an investigation, which discovered
17 in Mr. Ramsdale's possessions approximately 1.3 pounds of
18 cocaine.

19 We issued an NCA; he did not respond. We issued
20 an NFD; he did not respond. We ask for revocation by
21 default.

22 MR. GALLEGOS: Is Mr. Ramsdale here by any
23 chance? Okay. He is not here, for the record. And any
24 questions from the Board?

25 MR. PEREZ: Do we know if he was arrested?

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1 MR. JACKSON: Yes. He was arrested and charged
2 with trafficking with intent.

3 MR. PEREZ: Thank you.

4 MR. GALLEGOS: Any other questions? Seeing none,

5 let's go to the next item.

6 ITEM #20: RUSSELL CARTER

7 MR. JACKSON: If you'll give me just a minute. I

8 need to shift from the defaults to the stipulations.

9 The first stipulated order of agreement is

10 Russell Carter. Russell Carter --

11 (At this time, thunder boomed.)

12 MR. JACKSON: I won't say his name again. -- is

13 an Albuquerque police officer. He was doing Department of

14 Energy training in Fort Smith, Arkansas. He and another

15 APD officer were involved in an altercation at a bar

16 there.

17 We had an informal hearing after the issuance of

18 an NCA. It appears that Mr. Carter's involvement in the

19 altercation was minimal. We agreed after an informal

20 hearing to a stipulated order of suspension for 15 days,

21 one-year probationary period, ethics training, and eight

22 hours of community service.

23 Is Mr. Carter here today? Are there any

24 questions on this?

25 MR. GALLEGOS: All right. I guess not. Let's go

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1 to the next item.

2 ITEM #21: KENNETH RONZONE

3 MR. JACKSON: Next item is Kenneth Ronzone.

4 Kenneth Ronzone is the other officer involved in the

5 altercation. His involvement was substantial. However,

6 there were mitigating circumstances in both his and the
7 previous respondent's involvement in this fight.

8 After an informal hearing with Mr. Ronzone, the
9 director and Mr. Ronzone came to a stipulated order of
10 suspension of 30 days, with a one-year probation, ethics
11 training course, anger management counseling, alcohol
12 screening and assessment, and eight hours of community
13 service.

14 Is Mr. Ronzone here?

15 MR. GALLEGOS: Mr. Ronzone is not present. Are
16 there any questions from the Board? Seeing none, let's go
17 to the next item.

18 ITEM #22: JOHNNY SIFUENTES

19 MR. JACKSON: Item No. 22 is Johnny Sifuentes.
20 In October of last year, Mr. Sifuentes resigned in lieu of
21 termination. He was assigned in June of last year to
22 assist a stranded motorist. He was given a specific
23 location, but he failed to respond.

24 When he was questioned by a supervisor -- the
25 supervisor informed Mr. Sifuentes that his activity log

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1 didn't support his claim that he responded. Mr. Sifuentes
2 admitted falsifying his mileage but says that it wasn't on
3 purpose; that he drove to what -- the location that he was
4 given and there was nobody there.

5 Another officer did find the motorist at
6 approximately that location. There's some dispute about

7 what location was given.

8 And then in another incident, Mr. Sifuentes
9 admitted that he had lied about being -- an hour after his
10 shift was supposed to begin, his car was still at his
11 house. And he claimed that that wasn't the case. So sort
12 of a general laziness, I think, which is indicative of
13 lack of moral character.

14 After an informal hearing, the director and
15 Mr. Sifuentes agreed to a 30-day suspension, a one-year
16 probationary period, ethics training, and eight hours of
17 community service. Is Mr. Sifuentes here?

18 MR. GALLEGOS: Let the record reflect that he's
19 not here. Any questions from the Board?

20 MR. ORTIZ: His attorney, Henry Valdez, did
21 contact me this morning. They both meant to be here, but
22 they weren't able to make it. And I'll just let it go at
23 that for now.

24 MR. GALLEGOS: All right. Thanks. Next item.

25 MR. JACKSON: That concludes the stipulated

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1 orders of agreement. Now we are moving to voluntary
2 relinquishments of certifications.

3 ITEM #23: LOREN BARELA

4 MR. JACKSON: Item No. 23 is Loren Barela. Loren
5 Barela got into a fight with his live-in girlfriend in
6 front of a bar in Las Cruces. This was reported by two
7 off-duty officers who were inside.

8 During the investigation -- the investigation
9 revealed that during the fight, Mr. Barela pointed a
10 pistol to his girlfriend's head and then turned it back on
11 himself and put it in his mouth.

12 Enough evidence was obtained to justify a search
13 warrant, which led to seizure of anabolic steroids and
14 associated paraphernalia. He was arrested and indicted on
15 eight counts. The charges were dropped after the
16 completion of a preprosecution diversion program.

17 And Mr. Barela has agreed to relinquish his
18 certification.

19 MR. GALLEGOS: Is Mr. Barela here?

20 MR. ELIAS BARELA: No relation.

21 MR. GALLEGOS: Any questions from the Board?

22 Seeing none, we'll go to the next item.

23 ITEM #24: SHAWN MONTOYA

24 MR. JACKSON: Shawn Montoya is the next item.

25 Mr. Montoya was before the Board recently. It has since

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1 been discovered that in addition to the conduct we dealt
2 with at that time he submitted numerous false disability
3 claims.

4 So given that he was already facing discipline
5 when this came to light, he has agreed to relinquish his
6 certification. Is Mr. Montoya here?

7 MR. GALLEGOS: No.

8 MR. SHANDLER: Is he quitting his job?

9 MR. JACKSON: I think they let him go.

10 MR. ORTIZ: He's with animal control with the
11 City of Springer.

12 MR. JACKSON: Yes.

13 MR. GALLEGOS: Any questions from the Board?
14 Seeing none, thank you. We'll go to the next item.

15 ITEM #25: ELROY ZUNIE

16 MR. JACKSON: We have Elroy Zunie, who was also
17 before the Board earlier. This is, however, for the same
18 conduct. His voluntary relinquishment at that time was
19 rejected because there were concerns about its
20 enforceability on the tribal land.

21 And to expand on that, let Mr. Shandler speak.

22 MR. SHANDLER: Mr. Chairman, there was question
23 if he voluntary relinquished his New Mexico certification
24 would he seek some type of tribal commission. There's
25 actually state law on this, 29-1-11, for the record.

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1 And it does give tribes the power to commission,
2 free-up certification; but it's subject to a written
3 agreement with the state chief of police. And he -- in
4 this case it's a he -- has the authority and discretion to
5 take back that commissioning power.

6 So, there is some teeth to this voluntary
7 relinquishment.

8 MR. GALLEGOS: Okay. All righty. And is
9 Mr. Zunie here by any chance? No, he's not here. And is

10 there any questions from the Board? Seeing none --

11 MR. COON: Was he allowed to retire from DPS? He
12 had -- he's got the time. He's got 3 years and 17 years.

13 That's 20 -- 21 years altogether.

14 MR. ORTIZ: In fact, there is a letter from him
15 stating that he no longer wished to work in law
16 enforcement. I don't recall if he had mentioned about
17 retirement.

18 MR. COON: Well, if he paid in PERA under the
19 Zuni Police Department and with DPS, he's got time that --
20 he has time to retire.

21 MR. GALLEGOS: Can anybody answer that?

22 MR. JACKSON: I'm checking.

23 MR. HOLMES: I don't know if the Pueblo would
24 contribute to the retirement pension. So if that's --

25 MR. COON: That's true.

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1 MR. JOJOLA: As it is today, none of the tribal
2 law enforcement agencies contribute to the PERA.

3 MR. GALLEGOS: Any other questions? All right.
4 Thank you. Let's go to the next.

5 ITEM #26: TROY BRACKEEN

6 ITEM #28: KENNETH F. MARTINEZ

7 MR. SHANDLER: Mr. Chairman, the next item is a
8 formal hearing, which you can talk about in executive
9 session. So that concludes your items. I believe 28 was
10 tabled.

11 MR. GALLEGOS: That's right.

12 MR. SHANDLER: So the practice has been that

13 you've gone -- someone has made a motion to go into

14 executive session for licensing matters. It's been

15 seconded, and then you've read the roll call to go in.

16 MR. GALLEGOS: I'll entertain a motion to go into

17 executive session at this point.

18 MR. COON: I make a motion to go into executive

19 session.

20 MR. JONES: Seconded.

21 MR. GALLEGOS: Motion by Sheriff Coon. Seconded

22 by Sergeant Jones. And this will be a roll call.

23 MS. CROKER: Donald Gallegos?

24 MR. GALLEGOS: Yes.

25 MS. CROKER: Chief Coon?

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1 MR. COON: Yes.

2 MS. CROKER: Chief Jojola?

3 MR. JOJOLA: Yes.

4 MS. CROKER: Chief Schultz?

5 MR. SCHULTZ: Yes.

6 MS. CROKER: Sergeant Jones?

7 MR. JONES: Yes.

8 MS. CROKER: Robert Force?

9 MR. FORCE: Yes.

10 MS. CROKER: Matt Perez?

11 MR. PEREZ: Yes.

12 MR. SHANDLER: Before you turn off the court
13 reporter -- or the tape, if you could look at the lists
14 and see if there's any that you need to recuse from and
15 we'll get that on the record.

16 So we'll give you 14 to 15 seconds to look at
17 that.

18 MR. GALLEGOS: Does anybody have any?

19 MR. SCHULTZ: I do. Two employees, No. 20,
20 Russell Carter; and No. 21, Kenneth Ronzone. They are
21 both employees of the Albuquerque Police Department, so I
22 will be recusing myself in both of those actions.

23 MR. PEREZ: What are those numbers? I'm sorry.

24 MR. SCHULTZ: 20 and 21.

25 MR. PEREZ: Thank you.

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1 MR. GALLEGOS: Mr. Force?

2 MR. FORCE: No, sir.

3 MR. JOJOLA: No, sir.

4 MR. GALLEGOS: I didn't see any for myself. What
5 about -- actually, you know what? I should probably
6 recuse myself from Shawn Montoya. He is in Springer.
7 That's in my district.

8 Mr. Perez, nothing. Nothing for Sheriff Coon.

9 And nothing for Sergeant Jones.

10 MR. PEREZ: What about Jeff Martinez? Is he in
11 your district?

12 MR. GALLEGOS: That's Espanola.

13 MR. SHANDLER: With that on the record, we can
14 turn off the tape and excuse the public from the room.

15 (Off the record from 2:13 until 2:45 p.m.)

16 MR. SHANDLER: Mr. Chairman, usually there's a
17 motion to return to open session. It needs to be
18 seconded. And for protocol, another roll call, please.

19 MR. GALLEGOS: We'll entertain that motion right
20 now.

21 MR. COON: Mr. Chairman, I make a motion we're
22 back in session.

23 MR. PEREZ: Second.

24 MR. GALLEGOS: Moved by Sheriff Coon. Seconded
25 by Mr. Perez. We'll go back into regular session.

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1 Roll call, please.

2 MS. CROKER: Donald Gallegos?

3 MR. GALLEGOS: Yes.

4 MS. CROKER: Chief Coon?

5 MR. COON: Yes.

6 MS. CROKER: Chief Jojola?

7 MR. JOJOLA: Yes.

8 MS. CROKER: Chief Schultz?

9 MR. SCHULTZ: Yes.

10 MS. CROKER: Sergeant Jones?

11 MR. JONES: Yes.

12 MS. CROKER: Robert Force?

13 MR. FORCE: Yes.

14 MS. CROKER: Matt Perez?

15 MR. PEREZ: Yes.

16 MR. SHANDLER: For the record, can I get you to
17 confirm that only the matters discussed in the executive
18 session were those listed in the motion.

19 MR. GALLEGOS: Yes, for the record, as stated by
20 Mr. Shandler.

21 MR. SHANDLER: Mr. Chairman, I think you can
22 probably do these in bulk here. So you have the default
23 order of revocation. So if there's a motion to accept
24 those and just list the numbers for the record.

25 MR. GALLEGOS: I'll entertain a motion to accept

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1 or deny on Items 15, 16, 18, and 19.

2 MR. FORCE: So moved.

3 MR. PEREZ: Second the motion to revoke --

4 MR. GALLEGOS: Moved by --

5 MR. PEREZ: -- by default.

6 MR. GALLEGOS: -- Mr. Force and seconded by
7 Mr. Perez. All those in favor say aye.

8 THE BOARD: Aye.

9 MR. GALLEGOS: Any opposition say no. (No
10 response.) The aye's have it. Let's move onto stipulated
11 orders of suspension regarding Items 20, 21, 22.

12 MR. SHANDLER: I would advise that you do 20 and
13 21 as a bulk.

14 MR. GALLEGOS: Oh, that's correct. Thank you,

15 Zack. We'll do 20 and 21, either accept or reject those.

16 And I'll entertain a motion.

17 MR. JOJOLA: I make a motion that we accept 20
18 and 21.

19 MR. JONES: I second.

20 MR. GALLEGOS: Moved by Chief Jojola. Seconded
21 by Sergeant Jones. All those in favor say aye.

22 THE BOARD (except for Chief Schultz): Aye.

23 MR. GALLEGOS: Any opposition say nay. (No
24 response.) I think for the record we should note that
25 Chief Schultz has abstained from voting on Items 20 and

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1 21.

2 MR. SCHULTZ: Correct, sir.

3 MR. GALLEGOS: Now, Item 22, Johnny Sifuentes.

4 I'll entertain a motion to accept or to reject.

5 MR. FORCE: Motion to accept.

6 MR. SCHULTZ: Second.

7 MR. GALLEGOS: Moved to accept by Mr. Force.

8 Seconded by Chief Schultz. All those in favor say aye.

9 THE BOARD: Aye.

10 MR. GALLEGOS: And all those opposed say nay.

11 (No response.) We'll move onto the items of voluntarily
12 relinquishments, Items 23 and 25, I believe we put it that
13 way. I'll entertain a motion to accept or to reject
14 those.

15 MR. JOJOLA: I make a motion to accept 23 and 25.

16 MR. COON: Second.

17 MR. GALLEGOS: It's been moved by Chief Jojola;
18 seconded by Chief Coon -- Sheriff Coon. And just for the
19 record, I should have done this earlier, but Item 23 is
20 Loren Barela and Item 25 is Elroy Zunie.

21 All those in favor say aye.

22 THE BOARD: Aye.

23 MR. GALLEGOS: Any opposition say nay. (No
24 response.) And I will turn the gavel over to Chief Jojola
25 on Item 24.

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1 MR. JOJOLA: Item 24 is Shawn Montoya. I'll
2 entertain a motion to accept the recommendation of
3 voluntary relinquishment.

4 MR. JONES: I make a motion to accept.

5 MR. PEREZ: Second.

6 MR. JOJOLA: We have a motion to accept by
7 Sergeant Jones. And a second by Mr. Perez. All in favor
8 say aye.

9 THE BOARD (except for Mr. Gallegos): Aye.

10 MR. JOJOLA: Opposed? Not in favor? (No
11 response.)

12 MR. GALLEGOS: Abstain.

13 MR. JOJOLA: And Chairman Mr. Gallegos abstained
14 from voting.

15 MR. GALLEGOS: Thank you, Chief Jojola. Let's go
16 to the Item 26, formal hearing. I'll entertain a motion

17 on that.

18 MR. SCHULTZ: Mr. Chairman, I would make a motion
19 that we accept the recommendation of the hearing officer
20 that discipline be issued in this case and that that be a
21 revocation of 30 days.

22 Upon discussion in the hearing, we feel that the
23 30 days is warranted. Albeit there was no conviction for
24 the DWI -- there was actually an acquittal -- this is not
25 an issue of moral turpitude, but more operational

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1 efficiency and the ability in this case as Officer
2 Brackeen not being able to perform his duties as a law
3 enforcement officer due to the fact that his license was
4 revoked for his failure to complete a breath alcohol test
5 as required by New Mexico state law.

6 And his license was revoked. And that was an
7 injustice to the citizens of the city of Artesia. And,
8 therefore, we recommend a revocation of 30 days.

9 MR. SHANDLER: It would be a suspension of 30
10 days.

11 MR. SCHULTZ: A suspension. I'm sorry.

12 MR. GALLEGOS: We do have a motion on the table.
13 Did you all hear the motion?

14 THE BOARD: Yes.

15 MR. GALLEGOS: Do I hear a second?

16 MR. FORCE: Second.

17 MR. GALLEGOS: Seconded by Mr. Force. All those

18 in favor say aye.

19 THE BOARD: Aye.

20 MR. GALLEGOS: Any opposed say nay. (No
21 response.) Okay. Motion carries.

22 And we have the next item, which is No. 27, Fred
23 Dixon. I'll entertain a motion on that.

24 MR. PEREZ: Excuse me. It's Fred Pando-Dixon.

25 MR. GALLEGOS: Fred Pando-Dixon, all right.

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1 Thank you, Mr. Perez.

2 MR. SCHULTZ: Mr. Chairman, I'll make a motion
3 this goes -- we recommend it go to a full hearing.

4 MR. GALLEGOS: And just for clarification, I
5 believe the motion to be styled a motion to vacate and
6 restart the process? Something like that?

7 MR. SHANDLER: Yes. To be perfectly clear, we'll
8 be vacating the revocation; and we'll be instructing the
9 director to restart the process of the NCA, the notice of
10 final decision. And the officer has the right to request
11 a formal hearing.

12 MR. GALLEGOS: Do I hear a second on that?

13 MR. COON: Before that, sir, can we make sure
14 that we've got addresses straight to where Director Ortiz
15 and Mr. Dixon can link up if they need to mail so there's
16 no problems?

17 MR. ORTIZ: Now that he has an attorney, I will
18 deal with the attorney, correspond with his attorney.

19 MR. COON: Very good.

20 MR. ORTIZ: And just something else for the
21 record, that for all of the misconduct cases, letters were
22 sent to all of these individuals about the Board meeting
23 today. So looks like the majority failed to want to
24 appear. But they did all receive letters.

25 MR. GALLEGOS: All right.

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1 MR. FORCE: Do we have a second?

2 MR. GALLEGOS: No, we do not have. But I'll
3 take -- Sheriff Coon, I'll take that also as a second --

4 MR. COON: Yes.

5 MR. GALLEGOS: -- on the motion? All right. So
6 now we can do discussion.

7 MR. FORCE: Yes. I would just like to remark so
8 it's on the record. Although -- I guess this is one of
9 the cases that, as I stated before, really gravely
10 concerns me, because this really goes against what has
11 already been outlaid to us in the history.

12 One of the biggest concerns that really kind of
13 gets at me is that the U.S. passport that you had
14 received, Mr. Dixon, was actually sent to the same address
15 as all the prior notices.

16 And at no time did you ever say that you ever had
17 your utility bills misplaced or any other vital bills that
18 were sent to the same address. And there is somewhat of a
19 doubt in my mind; but at least in the benefit of justice

20 of due process, I do understand why this Board should go
21 the way of giving you due process.

22 MR. GALLEGOS: All right. Any other discussion?

23 MR. PEREZ: Yes. While we're still on
24 disciplinary matters, I would like the Board to consider
25 requesting our director to again ask the Attorney General

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1 if he is finished with his consideration of the
2 allegations brought against the former -- now former chief
3 of police of Santa Fe and his brother.

4 There are some allegations that were made, and I
5 would like to see those.

6 MR. GALLEGOS: All right. And the only reason I
7 didn't cut you off is because we'll make the comment we
8 still need to call for a vote on the motion.

9 MR. PEREZ: I apologize.

10 MR. GALLEGOS: Is there any discussion on the
11 motion? Seeing none, all those in favor say aye.

12 THE BOARD: Aye.

13 MR. GALLEGOS: Any opposition say nay. (No
14 response.)

15 I believe that concludes -- you've got the next
16 item, which is scheduling of the next meeting.

17 Do you have anything else, Mr. Perez?

18 MR. PEREZ: No, I was out of order and timewise;
19 but would you please look into that and ask him if
20 something --

21 MR. ORTIZ: We did. I met with the Attorney
22 General. We had a meeting, and a decision has been made.
23 We do have one officer that we will be sending a notice of
24 contemplated action out on.

25 MR. PEREZ: Thank you.

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2 ITEM #29: SCHEDULING OF NEXT MEETING

3 MR. GALLEGOS: So with that, the next meeting,

4 I've already heard a couple of requests for up north,

5 Angel Fire, Red River. Anybody else? I think it's

6 usually the prerogative of the director or the chair, I

7 believe.

8 MR. ORTIZ: We were trying for Farmington.

9 However, we were advised groups were not available in

10 September in Farmington.

11 MR. JONES: Red River.

12 MR. GALLEGOS: I would be more than happy to have

13 you up in my district, so.

14 MR. ORTIZ: How about -- I know we have the state

15 fair and a few other things going, so probably towards the

16 latter part of September.

17 MR. GALLEGOS: Is it Red River or Angel Fire?

18 Any preference? Either one?

19 MR. FORCE: Either one is fine.

20 MR. ORTIZ: Red River.

21 MR. FORCE: Chief Schultz brought this to my

22 attention. Mr. Dixon's copies of his passport and his
23 driver's license probably should be returned back to him
24 today so that way they are not in our files.

25 MR. GALLEGOS: Is there anything else? At this

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1 point I'll entertain a motion to adjourn.

2 MR. COON: I make a motion we adjourn.

3 MR. JOJOLA: Second.

4 MR. GALLEGOS: Moved by Sheriff Coon and seconded
5 by Chief Jojola. All those in favor say aye.

6 THE BOARD: Aye.

7 MR. GALLEGOS: Any opposition say nay. (No
8 response.) Thank you all.

9 (The hearing adjourned at 2:55 p.m.)

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CERTIFICATE

I, Tanya M. Nims, a Certified Court Reporter, do hereby certify that the Proceedings of the above-entitled hearing were reported by me stenographically on June 29, 2009, and that the within transcript is a true and accurate transcription of my shorthand notes.

I further certify that I am neither an attorney nor counsel for, nor related to or employed by any of the parties to the hearing, and that I am not a relative or employee or any attorney or counsel employed by the parties hereto, or financially interested in the hearing.

TANYA M. NIMS, RPR, NMCCR
NM Certified Court Reporter #168
License Expires: December 31, 2009

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