

NEW MEXICO LAW ENFORCEMENT ACADEMY  
REGULAR BOARD MEETING

October 19, 2011

9:00 a.m.

New Mexico Law Enforcement Academy

4491 Cerrillos Road

Santa Fe, New Mexico 87507

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1 APPEARANCES

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4 BOARD MEMBERS

5 Scott Fuqua, Assistant Attorney General

6 James R. Coon

7 Ray Schultz

8 Nate Korn

9 Harry Betz

10 Mark Myers

11 John Gratton

12

13 ALSO PRESENT

14 Gregg Marcantel

15 Zachary Shandler

16 Matthew E. Jackson

17 Ernest Holmes

18 Monique Lopez

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1 ITEM NO. 1: CALL TO ORDER

2 MR. FUQUA: Good morning, everybody. It's

3 just a couple of minutes after nine o'clock, it seems

4 like maybe we ought to get started.

5 My name is Scott Fuqua. I'm the director of

6 the Litigation Division of the New Mexico Attorney

7 General's Office. I'm filling in today for the

8 Attorney General as chairman.

9 Bear with me as we go through the agenda

10 today. This is not only the first academy meeting

11 that I have chaired but the first one I have attended.

12 So there may be some protocol items that I'm not going

13 to know as we go forward. And I appreciate

14 everybody's patience and indulgence as we move.

15 I don't know if I'm supposed to do anything

16 more formal than the call to order. But if not, I

17 think we can consider the meeting open.

18 ITEM NO. 2: ROLL CALL

19 MR. FUQUA: The next item on the agenda is

20 the roll call. And I believe that we have someone at

21 the board here who is going to formally make that roll

22 call. Is that right?

23 MS. LOPEZ: Yes.

24 MR. FUQUA: Good.

25 MS. LOPEZ: Scott Fuqua.

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<p>1 MR. FUQUA: Here.  2 MS. LOPEZ: Chief Shilling.  3 (No response.)  4 MS. LOPEZ: Sheriff Coon.  5 MR. COON: Here.  6 MS. LOPEZ: Chief Betz.  7 MR. BETZ: Here.  8 MS. LOPEZ: Chief Schultz.  9 MR. SCHULTZ: Here.  10 MS. LOPEZ: Mark Myers.  11 MR. MYERS: Here.  12 MS. LOPEZ: Nate Korn.  13 MR. KORN: Here.  14 MS. LOPEZ: John Gratton.  15 MR. GRATTON: Here.  16 ITEM NO. 3: APPROVAL OF AGENDA  17 MR. FUQUA: The next item on the agenda is  18 the approval of the agenda. It's my understanding  19 that there is an amended agenda that was distributed  20 to the members of the board this morning. Has  21 everybody got a copy of that?  22 MR. KORN: Mr. Chairman, I don't have a copy.  23 I don't think I do.  24 MR. SCHULTZ: In your folder?  25 MS. LOPEZ: It's in your gray folder.</p>	<p>1 MR. MARCANTEL: Thank you, Mr. Chair, members  2 of the committee. I just want to open up this morning  3 by saying thank you to each and every one of you. I  4 think, since the last meeting in Ruidoso, I have  5 frequently called upon various different members to  6 discuss kind of operational functioning needs of the  7 academy.  8 And everyone has made themselves available.  9 We've even had Member Korn visit with us to some of  10 the satellite academies. And the re-accreditations I  11 will speak to in a moment.  12 I would also like to recognize the director  13 of SID, Bill Hubbard, who is with us today in the  14 audience. Mr. Hubbard, in my kind of interim absence  15 from DPS over at DOC right now, he's really helped the  16 staff I think fill in some of the gaps in my absence.  17 So I really appreciate that.  18 And lastly, and not meaning it to be a  19 formality, I want to throw an appreciation to the  20 staff. They continue to work 50 percent roughly under  21 manning levels. They continue to be doing their best  22 to keep up with all the growing demands that the  23 academy has on them.  24 I will report in a positive way that we  25 have -- although our first recruitment cycle didn't</p>
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<p>1 MR. KORN: Oh. In the gray folder. I do.  2 Thank you.  3 MR. SCHULTZ: Mr. Chairman, I'll move that we  4 accept the amended agenda that we received this  5 morning.  6 MR. GRATTON: I second that, Mr. Chair.  7 MR. FUQUA: We have a motion and a second.  8 Are there any objections? Hearing none the agenda  9 will be approved.  10 ITEM NO. 4: APPROVAL OF MINUTES, AUGUST 3, 2011  11 MR. FUQUA: The next item on the agenda is  12 the approval of the minutes from the August 3rd, 2011,  13 meeting. I believe those are attached to the  14 materials the board members have.  15 MR. COON: Mr. Chairman, I make a motion that  16 we accept the minutes of the August 3rd, 2011,  17 meeting.  18 MR. BETZ: I'll second.  19 MR. FUQUA: We have a motion and a second.  20 Are there any objections to accepting these minutes?  21 Hearing none the minutes will be accepted.  22 ITEM NO. 5: DIRECTOR'S REPORT  23 MR. FUQUA: The next item on the agenda is a  24 report from the director, Gregg Marcantel. I will  25 turn it over to Mr. Marcantel at this time.</p>	<p>1 produce the candidates that we wanted for some of the  2 instructor positions, we have reposted. And we've  3 gotten some very interesting responses back from  4 retirees from the FBI and some others.  5 So I'm looking very positively at what this  6 recruitment cycle is going to be. And I hope that  7 that works out well as far as bringing a little bit of  8 relief to some of the staffing kind of problems that  9 we have at the academy.  10 Okay. So out front the basic police officer  11 training class would be pod No. 182. It currently has  12 40 cadets. There have been no resignations or  13 dismissals. And I'll give a caveat to that in a  14 moment that deals specifically with an incident, when  15 I apprise you of an incident.  16 We're currently in the 16th week of training  17 with an overall GP of 91.68. The PFT, the physical  18 fitness assessment average, is roughly 84.78. So  19 about 85 percent. All cadets have passed firearms and  20 emergency vehicle operations with this caveat.  21 We did have at one point through some adjunct  22 instructorships for lack of a better term, we had some  23 techniques that were thrown out to our basic cadets  24 that probably were not techniques that were of the  25 basic level. And that was as a result of again some</p>

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<p>1 adjunct staff that we brought in.</p> <p>2 We were apprised of that. There were some</p> <p>3 concerns pursued. There was an inquiry made. We're</p> <p>4 going through and about complete with all the</p> <p>5 interview processes to assure that there's no</p> <p>6 confusion between the more advanced techniques that</p> <p>7 were provided as illustration and what they have and</p> <p>8 understand to practice at the basic level.</p> <p>9 So we're encouraged that that's not going to</p> <p>10 be a problem. But it was potentially. And we have</p> <p>11 pursued a remedy for that.</p> <p>12 There was also a second firearms incident at</p> <p>13 the academy that's been addressed. And that had to do</p> <p>14 with potentially an inadvertent directing of a muzzle</p> <p>15 towards another student. We can't determine whether</p> <p>16 or not that was simply horseplay or was that the</p> <p>17 result of cleaning and putting the slide and</p> <p>18 reassembling the firearm.</p> <p>19 We have to err on the side of what we do</p> <p>20 know. What we do know is that that did happen, that a</p> <p>21 muzzle was pointed. Frankly inadvertently or not the</p> <p>22 standard for the academy that we'll keep is that</p> <p>23 intent really doesn't have a role. Safety trumps it</p> <p>24 all out.</p> <p>25 Originally there was a consideration to</p>	<p>1 Pennsylvania. Anyway so that will be at nine o'clock</p> <p>2 on November 10, 2011.</p> <p>3 Regarding satellite academy re-accreditation,</p> <p>4 visits and assessments of each satellite have</p> <p>5 occurred. And I've got to tell you, it was a</p> <p>6 wonderful opportunity for me to get out and meet and</p> <p>7 see. And I was nothing short of impressed with most</p> <p>8 of our academies.</p> <p>9 We do have kind of a cautionary approach that</p> <p>10 we'll be putting out to the Western Academy just in an</p> <p>11 agreement with the president of the university that</p> <p>12 they will be working between now and the fall of 2012</p> <p>13 to reinvest into the infrastructure there in terms of</p> <p>14 the obstacle course and the gymnasium and those sorts</p> <p>15 of things.</p> <p>16 So we've come to an agreement with the</p> <p>17 university on that. And we'll be working in following</p> <p>18 that up in the fall of 2010. Or 2012, excuse me.</p> <p>19 House Bill 93, current curriculum</p> <p>20 development, I think the staff has now completed all</p> <p>21 the lesson plans. And the training hours are roughly</p> <p>22 16 and a quarter hours per police officer, peace</p> <p>23 officer, and six for telecommunicators.</p> <p>24 Dr. Troy Rogers has partnered with us on it.</p> <p>25 And he has been selected as our SME, our subject</p>
<p>Page 11</p> <p>1 dismiss that cadet. I have had some calls from that</p> <p>2 cadet's sheriff who has imparted upon me the value of</p> <p>3 that young man in his department in the future.</p> <p>4 So we have made some alternate agreements to</p> <p>5 address that issue with that cadet by a five-day</p> <p>6 unpaid suspension from the academy in his department.</p> <p>7 He will be pursuing a written project stating what</p> <p>8 he's learned from the event. And he will also come</p> <p>9 back to the next pod and attend the weapons handling</p> <p>10 and safety block and successfully test out on that.</p> <p>11 So that will be the remedy there.</p> <p>12 We've also had kind of a delay in reporting</p> <p>13 on the incident. So there are some cautionary letters</p> <p>14 and letters of discipline that will be going to other</p> <p>15 cadets relating to the fact that they have an</p> <p>16 obligation to report it promptly.</p> <p>17 So those are the only two incidents that I</p> <p>18 will report that were a deviation from what we want to</p> <p>19 see in the academy. But they I believe are being</p> <p>20 handled in a balanced way.</p> <p>21 This graduation for this particular class</p> <p>22 will be occurring in the gymnasium. It's scheduled</p> <p>23 for one of the better days in American history,</p> <p>24 November 10, the birthday of the Marine Corps. And it</p> <p>25 will be in the gymnasium. 10 November, Tun Tavern,</p>	<p>Page 13</p> <p>1 matter expert. He will be reviewing the curriculum</p> <p>2 and making any modifications he might deem necessary</p> <p>3 from the perspective of his subject matter expertise.</p> <p>4 Once he completes that review, we will</p> <p>5 disseminate the curriculum to some of our stakeholders</p> <p>6 in the community, some of the special interest groups,</p> <p>7 the National Alliance on Mental Illness, the Veterans</p> <p>8 Administration, and whatnot to try to vet it through</p> <p>9 all of our different stakeholders out there. And we</p> <p>10 will be convening the DPS crisis intervention training</p> <p>11 committee to get their review.</p> <p>12 Once the feedback is reviewed, the final</p> <p>13 officer telecommunicator and chiefs curriculum and</p> <p>14 hours will be formally established. We will then be</p> <p>15 prepared to conduct the training conference. I won't</p> <p>16 bore you with some of the details on the training</p> <p>17 conference.</p> <p>18 But as you probably know by this point, it</p> <p>19 will involve the trainer class with a practicum,</p> <p>20 chiefs and sheriffs class with a practicum, law</p> <p>21 enforcement officer basis first-line responders class</p> <p>22 with a practicum, a telecommunicators class with a</p> <p>23 practicum, and kind of a reality-based class for</p> <p>24 scenario development.</p> <p>25 Moving on, we have convened -- well, we will</p>

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<p>1 formally convene the first meeting of the working 2 group that I had spoke to you at our last meeting to 3 take a look at where we're at in terms of our training 4 hours required by the state for basic peace officer 5 certification.</p> <p>6 We want to make sure, as I mentioned, the 7 last time we looked at training and related that to 8 the job task analysis was back in 2002. As we all 9 know, that curriculum has grown since that time.</p> <p>10 And I want to make sure -- I think it's time 11 to revisit that, make sure that we're attaching our 12 training needs and hours and requirements for the law 13 enforcement community to some agreed-upon confidences 14 for the workplace.</p> <p>15 So the membership there that we've asked to 16 be involved in reviewing that is Chief Bob Boone with 17 the Rio Rancho Police Department; Director Fred 18 Radosevich over the Village of Los Ranchos DPS; 19 Sheriff Todd Garrison down in Dona Ana County; Sheriff 20 Rod Coffman, Lea County; Deputy District Attorney 21 Henry Valdez out of the 13th Judicial District 22 Attorney's Office; and Lieutenant Mark Cage I think is 23 here today with the Portales Police Department.</p> <p>24 What we tried to do is kind of select kind of 25 a sampling throughout geographically the state, some</p>	<p>1 asked her to just specifically and fully dedicate 2 herself to helping and being a part of reinstating a 3 different approach to handling.</p> <p>4 We're trying to adapt as I mentioned kind of 5 a work model similar to criminal and civil court 6 docket for case management. So the idea is that we 7 will have a case file that will have integrity. We 8 will share the needs of that case file by digital ways 9 between the AG's office and our investigators and Law 10 Enforcement Academy staff and try to bring some speed 11 to it.</p> <p>12 I would like to invite, if you don't mind, 13 Mr. Chair, members of the board, Ms. Medrano up to the 14 podium here for a second just to kind of explain some 15 of the work in progress that she's made for the 16 board's understanding.</p> <p>17 MS. MEDRANO: Good morning, Chairman, members 18 of the board. My name is Monica Medrano. And I was 19 brought over like Gregg mentioned to bring in some 20 uniformity to these cases and bring some integrity 21 into our files.</p> <p>22 And over the past four weeks, what I've 23 basically spent my time doing is going through these 24 files and making them uniform so that we have 25 everything set in the files exactly the same way as it</p>
<p>Page 15</p> <p>1 agencies with more people, some with less. And we 2 just think that they're going to do real well in 3 helping us.</p> <p>4 We'll be meeting for the first time -- I 5 don't know what day it is next week. But it's 6 October 25th. I don't know what day of the week that 7 is right now. We'll be meeting out at the Rio Rancho 8 Police Department. They're hosting us on that.</p> <p>9 Regarding misconduct case work model, the 10 reorganization on that, we have made I believe some 11 very encouraging inroads on our success in trying to 12 get a handle on those cases. Let me just throw out 13 real quickly, you do have in the gray file an 14 attachment that indicates misconduct handling table.</p> <p>15 I would ask you today to disregard those 16 numbers. Those numbers were pulled for you. But as 17 we've been able to watch out, a better understanding, 18 a deeper inquiry into our files, I think those numbers 19 might be inaccurate.</p> <p>20 So I would ask of the board to allow 21 Ms. Medrano -- and I'll speak about Ms. Medrano, our 22 case manager, in a second -- to email a better and 23 more accurate updated version following the meeting.</p> <p>24 But in terms of the reorganization approach 25 on this, we have brought over Monica Medrano. We've</p>	<p>Page 17</p> <p>1 is from one file to the next file.</p> <p>2 That way when we're looking for something, 3 it's a lot easier to find something and send it 4 electronically. Or if Ernie is in need of something, 5 it's a lot easier now to go ahead and locate those 6 items and get those to the right person.</p> <p>7 I have also spent my time going file by file 8 and completing spreadsheets that was already in work 9 but had a lot of missing pieces. And what I've done 10 is kind of gone through, put in those missing pieces, 11 and compiled a list now of those that we do have 12 outstanding and those that have closed.</p> <p>13 We have a better understanding. And it's 14 only gone back maybe partway through 2010. But I do 15 have 2011 in there. And I hope for the most part it 16 is complete.</p> <p>17 I did meet with Matt Jackson and Ernie and 18 Director Marcantel last week. And we are still in the 19 process of going through this list and reconciling 20 with Matt and making sure that I do have these files 21 in the correct spot, whether they're closed, whether 22 we have an NCA out, whatever it might be, just to make 23 sure that we are on the right page and we are all on 24 the same page.</p> <p>25 So basically that's where I'm at right now</p>

<p style="text-align: right;">Page 18</p> <p>1 with the four weeks that I've been here. And I do  2 appreciate Director Marcantel's -- the opportunity to  3 come in and his trusting me to come in here and do a  4 good job. And I hope that I do do a good job for all  5 of you. Thank you.</p> <p>6 MR. MARCANTEL: And just to conclude on that  7 issue, I really do think that we're getting the better  8 handle since I've been here with DPS than we've had in  9 understanding what cases are open. Again I would  10 throw my appreciation to Mr. Jackson, Ms. Medrano, and  11 Mr. Holmes for their specific work in that.</p> <p>12 But Ms. Medrano's work really, just because  13 it's at issue here at this particular point in the  14 agenda, it really is a representation of what we  15 really have as a work product amongst the remainder of  16 the staff at the academy right now.</p> <p>17 Last but not least, in our last meeting,  18 there was a direction of the board to present sort of  19 a white paper outlining those issues that might be  20 most important for the board to consider should there  21 be a request in the future for an additional academy  22 to be added to the satellite system of the New Mexico  23 Law Enforcement Academy.</p> <p>24 I think what you have in front of you -- I  25 won't bore with you details because you will -- if you</p>	<p style="text-align: right;">Page 20</p> <p>1 was done on this white paper. It's very, very  2 comprehensive, very, very thorough. The only thing  3 you may want to consider is Section 3.</p> <p>4 Since I think we're going to see more and  5 more emphasis coming from educational facilities,  6 community colleges wanting to have their own satellite  7 academy. Specifically, if it isn't an educational  8 facility or faculty or entity that's asking to create  9 the satellite academy, that that be spelled out, that  10 it will be linked to Eastern New Mexico Community  11 College or whatever the case may be.</p> <p>12 MR. MARCANTEL: Yes, sir. Thank you.</p> <p>13 MR. KORN: Mr. Chairman, can I interpose  14 something as well.</p> <p>15 MR. FUQUA: Of course.</p> <p>16 MR. KORN: I would like to point out an  17 observation, that Director Marcantel in his brief  18 period here has made some significant inroads into  19 making our Law Enforcement Academy Board a much more  20 professional organization.</p> <p>21 I think he alluded to the fact that it's been  22 almost ten years since their curriculum has been  23 examined. And it's being examined now. It's been  24 almost ten years I believe since any of the satellite  25 academies actually were visited.</p>
<p style="text-align: right;">Page 19</p> <p>1 haven't already had the opportunity to read it, you  2 will.</p> <p>3 But what we tried to do as you will see is  4 section out kind of a model that we would ask a  5 written requester to follow to provide information to  6 the board to consider that just from some of the basic  7 information to what the fiscal impact is going to be  8 for capital outlay, operating budget, those sorts of  9 things over all the way through community  10 stakeholders, law enforcement support, to the impact,  11 the functional need, and some of the legalities and  12 whatnot.</p> <p>13 So I think what you have in front of you,  14 should you have any questions, we certainly could  15 entertain those. But this will be the recommendations  16 of the New Mexico Law Enforcement Academy staff, that  17 we follow this format on a request to where we could  18 provide this information in detail to the board should  19 the board be asked to consider a new satellite academy  20 at some point in the future.</p> <p>21 With that said that would conclude my report.</p> <p>22 MR. FUQUA: Thank you, Director Marcantel.  23 The next item is --</p> <p>24 MR. SCHULTZ: If I may, just one item for  25 Mr. Marcantel. And I really appreciate the work that</p>	<p style="text-align: right;">Page 21</p> <p>1 And Director Marcantel, in his brief period  2 here, has visited each and every satellite academy  3 with his staff and made significant inroads in  4 understanding what goes on. And I accompanying him on  5 one or two of them also could see what really  6 magnificent job some of these satellites are doing.  7 But I think it took Director Marcantel to actually go  8 around and make that a priority.</p> <p>9 And as many of us know, Director Marcantel is  10 pulled in about 15 different directions. He's the  11 Deputy Secretary of Public Safety and now of  12 Corrections. And yet he's still finding the time to  13 do this.</p> <p>14 And the last thing is in regard to the files  15 with Monica Medrano. The fulcrum of everything that  16 the Law Enforcement Academy does is understanding what  17 the files are and understanding what the prior history  18 of every law enforcement officer is.</p> <p>19 And as I've started to do hearings, I've  20 recognized that we really don't have a good filing  21 system. And Director Marcantel has realized the same  22 thing. And I've heard nothing but compliments from  23 Director Marcantel about the work that Monica is  24 doing.</p> <p>25 And I as a board member am very appreciative</p>

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<p>1 to actually see a level of professionalism going there 2 as well. So I wanted to compliment both the director 3 and Monica. And thank you very much. 4 MR. MARCANTEL: Mr. Chair, Mr. Korn, thank 5 you. 6 ITEM NO. 6: PUBLIC COMMENTS 7 MR. FUQUA: If there are no other comments 8 from the board, we'll move to the next agenda item, 9 which is public comments. 10 I'm not exactly sure how this normally 11 proceeds. But my assumption would be that members of 12 the public who are here to make comments to the board 13 are able to do that at this point. Do we have any? 14 MS. LOPEZ: There is no public comments. 15 MR. FUQUA: There are. Okay. 16 MS. LOPEZ: There is no public comments. 17 MR. FUQUA: No public comments. Very good. 18 ITEM NO. 7: PUBLIC HEARING: 10.29.9 POLICE OFFICER 19 MR. FUQUA: With that then we'll move to item 20 No. 7 on the agenda. This is under the heading of old 21 business. And this is related to the public hearing 22 on I believe an amendment to Rule 10.29.9. 23 As we have moved to that agenda item, it is 24 now appropriate for us to open the record. And the 25 record is now open on this item.</p>	<p>1 change to a rule -- we need to inform the public of 2 our reasoning when we choose to amend the rules. And 3 the comments of one member on the record, if those 4 comments appropriately explain the board's reasoning, 5 satisfy that legal standard. And with that, 6 Mr. Najar, we are ready for your presentation. 7 MR. NAJAR: Thank you, Mr. Chairman, members 8 of the board, and members of the audience. My name is 9 Gilbert Najar, I'm with the Law Enforcement Academy. 10 The initial public hearing here is on Title 11 10, Chapter 29, Part 9, titled Police Officer. And I 12 will walk through the specific changes as they occur 13 here and skip that part of the rule where we are not 14 having changes made. 15 So the first change you'll see in the rule is 16 under 10.29.9.8 titled Police Officer Minimum 17 Standards of Training. Letter A, Block I, 18 Introduction to the Academy, you'll see a change there 19 from eight hours to 12 block hours. If you'll drop 20 down to No. 7, that is the addition, a new item to 21 letter A, Cultural Diversity has been moved from 22 another section to this section. So those are the 23 first two changes. 24 The next change under letter B, Block 2, 25 Introduction to Law Enforcement in New Mexico. You'll</p>
<p>Page 23</p> <p>1 Mr. Najar, before you begin, there are just a 2 couple of things that I think I need to put into the 3 record. What's happening now is that we will hear 4 testimony about a proposed rule change. The board, of 5 course, is free to ask any questions of those who are 6 making presentations or those who are providing 7 testimony. 8 Those in the audience are also entitled to 9 ask questions of people providing that testimony. The 10 board will hold off on deliberating any of the rules 11 or any of the comments that have been made until all 12 of the testimony is in. And when we have finished 13 leaving that testimony, the record will close. 14 At the close of the record, the board will 15 then deliberate the merits of the rule. At that point 16 I would entertain a motion to accept, modify, or 17 reject the proposed rule. And, of course, we're able 18 to modify that rule as long as it's the logical 19 outgrowth of the rule that is published in our packet. 20 And finally there are two things that I need 21 to state for the record, two legal items. The first 22 is that rules become effective 30 days after they are 23 filed with the records and archive center. 24 And the second is that the legal standard 25 that we apply in determining whether or not to make a</p>	<p>Page 25</p> <p>1 see the hours are stricken out of 29, replaced by a 2 total block hours of 45. You'll drop down and see 3 where those hours are coming from. 4 Item No. 6 is Spanish Language. Again that 5 has been moved from another section to this section. 6 And then 16 hours will be taught under Block 2. 7 The next item letter C, Block 3, Physical and 8 Emotional Readiness. Again blocked out is 76 hours 9 and it's been upgraded to 78 total block hours. If 10 you go over onto page 2 at the bottom, letter X of the 11 section, you'll see that we have kind of a 12 housekeeping modification here. 13 We had had a tentative agreement verbally 14 with the University of Texas at El Paso to conduct 15 some of the testing there on the exercise physiology 16 laboratory. When it came to actually do some of the 17 testing, they backed out because they wanted a formal 18 written contract with us. And it was something that 19 we couldn't proceed with at the time. 20 And so we're striking out the reference to 21 University of Texas at El Paso. And the University of 22 New Mexico will continue to be the only facility where 23 we do the laboratory testing on the ergometer for 24 those individuals that qualify for that testing. So 25 that's the change there.</p>

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<p>1 Over on the next page, page 3 of your packet, 2 you'll see where those additional hours come from. 3 Under item No. 3, just above letter D there, you'll 4 see Emotional Health. We have added Officer Suicide 5 and Stress Management, which increases the hours from 6 two to four.</p> <p>7 Moving on to letter D, Laws and Procedures, 8 you'll see that 44 hours has been changed to 50 total 9 block hours. And if you'll drop down to the new items 10 to this section, item Nos. 9, 10, and 11, nine adds 11 Juvenile Law and Justice, two hours; ten adds Handling 12 Juveniles and Their Problems, two hours; and 11 adds 13 Crimes Motivated By Hate, two hours.</p> <p>14 Dropping down to paragraph E, Patrol 15 Procedures and Operations, you'll see that 99.5 is 16 stricken. The new hours are 107.5 total block hours. 17 If you'll follow me over to page 4, you'll see the 18 additions here are Nos. 15 and 16.</p> <p>19 Fifteen is adding Missing Persons and AMBER 20 Alert, four hours. And 16 is adding Hazardous 21 Materials, eight hours, which from our previous 22 discussion were already in the curriculum. We're just 23 moving them to this section.</p> <p>24 We skip letter F, drop down to letter G, 25 Motor Vehicle Law Enforcement. Stricken is</p>	<p>1 are deleted. Cultural Diversity and Spanish Language 2 have been moved to other sections. So we are keeping 3 No. 1, Perceptions of Human Behavior, in this section. 4 In Block 10 there are no changes.</p> <p>5 Block 11, letter K, Domestic Issues. You'll 6 see it has gone from 22 to 20 total block hours. And 7 you will see just some adjustments in that to reflect 8 where we've moved some of these courses. Item No. 1 9 you see stricken, Juvenile Law and Justice. Item No. 10 2, Handling Juveniles and Their Problems, two hours.</p> <p>11 Those two have been placed in another 12 section. So we've just basically moved the items 13 below that up. So Domestic Violence and Police 14 Response, eight hours, becomes item No. 1; Victims 15 Assistance Laws, two hours, becomes item No. 2; 16 Ensuring Child Safety Upon Arrest becomes item No. 3 17 for two hours; Domestic Violence Simulation Practicum 18 then becomes item No. 4, eight hours. And you'll see 19 that that adjustment results in the deletion of the 20 existing item No. 5.</p> <p>21 Now, if you'll follow me down to letter P and 22 if you'll look at your gray folder, there should be an 23 insert to that from the previous verbiage or language 24 that we had in this section. There are just some 25 minor adjustments to include adding minutes to the</p>
<p>Page 27</p> <p>1 33.5 hours. And the new total hours is 36.5. We'll 2 drop down to item No. 7 under this paragraph, 3 Commercial Motor Vehicle Enforcement.</p> <p>4 That change from four to two hours -- and 5 we'll have to do the formatting to correct the four 6 there on that. But item No. 8 then is Off-Highway 7 Motor Vehicle Act, three hours, which is now included 8 as mandated by state statute.</p> <p>9 Paragraph H, Motor Vehicle Collision 10 Investigation and Related Issues, was originally 11 34 hours. It has been reduced to 26 total block 12 hours.</p> <p>13 You will see here that the item No. 2, 14 Hazardous Materials, is stricken. And as you 15 previously noted, it's been moved to another section. 16 And we have then renumbered item No. 3 to No. 2, 17 Traffic Accident Report Forms to total out to 26 total 18 hours.</p> <p>19 Letter I, Human Relations, there is a typo in 20 this section. And I'll correct that now. We see that 21 the correct hours go from 29 to 10 total hours. 22 Number 1 remains in place. So Perceptions of Human 23 Behavior will stay as item No. 1 for that, for a total 24 of ten hours.</p> <p>25 And the other two items within this section</p>	<p>Page 29</p> <p>1 times; because if you read this, you didn't know if 2 the 105 was an hour and five minutes or one minute and 3 five seconds.</p> <p>4 So I'll read the corrections here. Block 16, 5 Operation of a Patrol Vehicle, goes from 40 to 56 6 total block hours. The language change begins right 7 after "lolly-pop and backing courses" and starts with 8 the words "with a precision course closed and a 9 precision open course. Passing time for open 10 precision course is 1:05 minutes with no errors, 11 passing time for overall clean course is 2:25 minutes, 12 and a minimum of two night time orientation runs on 13 the overall course." So those are the changes to 14 letter P, Block 16.</p> <p>15 And I'll ask you to go ahead and turn then to 16 page 8 in your packet for the next change. You'll see 17 under 10.29.9.13, Fingerprint Clearance for 18 Admission/Certification. And if you'll turn over then 19 to page 9, you'll see the reflected change under 20 letter F.</p> <p>21 If you'll drop down to letter F, what we have 22 done is about the middle of the paragraph, we are 23 deleting the existing language and replacing it with 24 the language in state statutes so the section is 25 consistent with state law. So what is deleted is "any</p>



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<p>1 other than an honorable discharge from any of the 2 armed forces of the United States" is deleted. 3 What is in state statute is "Under 4 dishonorable conditions from any of the Armed Forces 5 of the United States." And the respective statutory 6 citation is there next to it. 7 And the next section, if you'll turn to page 8 13, under 10.29.9.16 which is titled Renewal of 9 Certification After Absence, if you'll drop down to 10 paragraph C, Military Service Impact on in-Service and 11 Firearms Credits, and if you'll look over on page 14 12 at the top, you'll see the change that we've made 13 there. And I'll read that to you. 14 "In the event that a certified law 15 enforcement officer's or dispatcher's period of 16 separation due to active military service exceeds two 17 years, the individual must complete a certification by 18 waiver training program with the exception of having 19 to complete any of the entrance or testing 20 requirements." That is the change, sole change there 21 in that paragraph. 22 And I'll ask you to -- in fact, that is the 23 last item of our recommended changes to the rules 24 under 10.29.9. If there are any questions. 25 MR. FUQUA: Thank you, Mr. Najjar. Are there</p>	<p>1 regionally met the same standards as they have at the 2 University of New Mexico was the University of Texas 3 at El Paso. And that was the only reason we didn't 4 contact anybody else. 5 MR. FUQUA: Mr. Najjar, I had actually a 6 question for you. In looking at the materials, one on 7 page 4 and one on page 6, I think there may have been 8 two changes that we didn't discuss. 9 On page 4, this is under Section E, Block 5, 10 item No. 11, Radio Procedures, it looks like there 11 was -- the rule originally included five hours for 12 that. And it looks like there's a change to one hour 13 I'm not sure that that's one that came up in your 14 presentation. I just wanted to make the board aware 15 of that change. 16 The same thing on page 6, under paragraph S, 17 Variances to Required Subject Hours. The number 800 18 has been stricken and replaced with 824, which without 19 doing the math, I assume that that 824-hour 20 requirement is the total of all of the hours that have 21 been changed in the changes that you did discuss. 22 MR. NAJAR: Mr. Chairman, board members, that 23 is correct. That's an oversight on my part. I 24 apologize. Those two are additional changes that we 25 are recommending to the board.</p>
<p>1 any questions from the board? 2 MR. COON: I've got one. Mr. Najjar, on the 3 last one you did on the certified officer separation 4 due to active military service, what that says, if 5 you've got a deputy or an officer that's been gone 6 from your department two years on military leave, he 7 has to go back to a cert by waiver class? 8 MR. NAJAR: That's correct. He would have to 9 attend the three weeks of training in order for him to 10 be eligible to be reactivated within the agency. 11 MR. COON: Okay. 12 MR. GRATTON: Mr. Najjar, I had one question. 13 On page 2, under Police Officer Minimum Standards of 14 Training, we struck the University of Texas at El Paso 15 as an alternative site. 16 Did we talk to Eastern New Mexico University 17 or to New Mexico State as to their availability for 18 that testing so that officers would have a chance to 19 perhaps go to sites besides driving all the way to 20 Albuquerque from other parts of the state? 21 MR. NAJAR: What I relied on at the time was 22 the input from the University of New Mexico. And I 23 asked them to identify for me any facility that had 24 equivalent laboratories for testing. 25 And the only one they advised in that</p>	<p>1 MR. FUQUA: Thank you. As I indicated 2 earlier, the members of the public also have the 3 opportunity to ask questions about the proposed 4 changes. 5 If any of the members of the public who are 6 in attendance at the meeting today have those 7 questions, now is the time to ask. Okay. Seeing 8 none. 9 MR. KORN: Mr. Chairman, could I ask one 10 question. 11 MR. FUQUA: Of course. 12 MR. KORN: Of Mr. Najjar. Just following up 13 on the previous question about the University of New 14 Mexico, if some of the other state universities in New 15 Mexico were able to later have this test, would it not 16 be -- as my fellow board member has asked, if at some 17 point that test became available at some of the 18 southern universities, rather than have to go back for 19 a rule change, shouldn't we maybe put in or consider 20 having the University of New Mexico or equivalent. 21 Really I think there's a lot of competition 22 between universities. And for UNM to say they're the 23 only one in the state could be somewhat self-serving. 24 So we don't know if there are other universities now 25 that have the same thing or that might in the future</p>

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<p>1 have it. This way we wouldn't have to have another 2 rule change if we said "or equivalent." 3 MR. NAJAR: Mr. Chairman, Mr. Korn, we would 4 support that change. I think that makes sense. 5 MR. BETZ: I have a question for Mr. Najar. 6 Basically you're going from 800 to 824. Will that 7 have an impact on the recert by waiver for those 8 coming out of the law enforcement training center? 9 MR. NAJAR: Insofar as what the certification 10 by waiver program and their curriculum, those hours 11 are already part of that established curriculum. So 12 it won't increase the hours for certification by 13 waiver. 14 MR. BETZ: Thank you. 15 MR. FUQUA: It's probably easier, sir, for 16 the record, just to make sure that the reporter can 17 hear you, if you ask a question from the podium. I 18 don't know if that's the way this normally happens. 19 But just to be sure, I think that's the best way for 20 us to do it. And for the record please state your 21 name. 22 MR. BLUE: My name is Brian Blue, I'm a 23 lieutenant with the Hobbs Police Department. Just on 24 Section Q, Block 17, under First Aid and CPR, you have 25 16 total block hours; but subsection 1 and 2 only adds</p>	<p>1 three items. The first is First Aid, four hours; the 2 second is Cardiopulmonary Resuscitation, nine hours; 3 and the third is Bloodborne Pathogens, three hours. 4 So for those of you that don't have that third item in 5 the materials, that is, in fact, part of the rule that 6 the board is considering. 7 Are there any other questions from either the 8 board or from the members of the public? I'll take 9 the silence as an indication that there are not, at 10 which point we will then close the record for this 11 rule. 12 At this point I believe it is appropriate for 13 the board to deliberate this proposed rule change. 14 MR. SCHULTZ: Mr. Chairman, I don't think 15 there's a whole lot -- much need for a lot of 16 deliberation. Obviously we have talked about this 17 item at previous board meetings. 18 This does meet compliance of New Mexico State 19 statutes. And, of course, we know that there is also 20 a working committee looking at the entire curriculum 21 for a possible reduction in the number of hours that 22 will be addressed at a future meeting. 23 So at this point in time, I'm willing to make 24 a motion that we accept the proposed rule changes as 25 provided to the board today.</p>
<p>Page 35</p> <p>1 up to 13. And do we -- right now we're -- you 2 currently have to have your officer certified in that 3 before sending them to the academy. So how is that 4 going to affect the total hours? 5 MR. GRATTON: Would you repeat your question, 6 please. 7 MR. BLUE: On Section Q, Block 17, First Aid 8 and CPR, it says 16 total block hours. If you add one 9 and two together, it only comes out to 13 hours. 10 MR. SCHULTZ: There's a third one. 11 MR. BETZ: I think there's a third number. 12 MR. BLUE: No, I don't have that on mine. 13 MR. GRATTON: There's an item 3, Bloodborne 14 Pathogens, that should be added to that that's in our 15 packet. 16 MR. BLUE: Okay. Well, it's not on the one 17 that we got. I'm sorry. 18 MR. FUQUA: That's okay. 19 MR. KORN: Thank you. 20 MR. FUQUA: I don't know if everyone was able 21 to follow that. But it sounds like there may be a 22 discrepancy between what it is that the board is 23 looking at and what has been distributed to members of 24 the public. 25 Here on item Q, Block 17, there are actually</p>	<p>Page 37</p> <p>1 MR. COON: I'll second. 2 MR. FUQUA: Just so we're clear, the motion 3 is to adopt the rule with the amendment that Member 4 Korn suggested earlier about including language for 5 equivalent facilities to UNM. 6 MR. SCHULTZ: Yes, sir. 7 MR. FUQUA: With that motion and second, all 8 in favor. 9 (Those in favor so indicate.) 10 MR. FUQUA: All opposed? Hearing no 11 opposition the rule will be adopted as amended. 12 ITEM NO. 8: PUBLIC HEARING: 10.29.7 13 IN-SERVICE TRAINING 14 MR. FUQUA: The next item on the agenda, item 15 No. 8, is the public hearing on Rule 10.29.7, 16 In-Service Training. I will not bore everybody with 17 repeating the things that I said earlier about the way 18 that this process works. I hope everyone will keep 19 them in mind. And, of course, they're a matter of the 20 record now. With that we are I believe prepared for 21 Mr. Shea's presentation. 22 MR. SHEA: Mr. Chairman, members of the 23 board, my name is Mark Shea, I'm the bureau chief for 24 the Advanced Training Bureau. I will be going through 25 the proposed changes to the in-service training</p>

<p style="text-align: right;">Page 38</p> <p>1 requirements. This will affect the next two-year 2 cycle for the biennium in-service training for 3 January 1 of 2012 through December 31st of 2013. 4 Specifically we were looking at 10.29.7.8. 5 And we have -- everywhere you see dates, we have made 6 the appropriate changes to reflect the next two-year 7 cycle. So the 2010-2011 has been struck and replaced 8 with 2012-2013 in the title. 9 The first change will be in paragraph A, 10 Section 4. What has been added here, and it may not 11 be in the audience packets, we, the SFST DWI oversight 12 committee that reviews certification of SFT 13 instructors and curriculum met. And a proposal was 14 made at that meeting. 15 And the oversight committee accepted it to 16 add an alternative to the NHTSA required four-hour 17 retrainer for SFST. And that is indicated in the 18 underlying section here, which says "or successful 19 course completion of the NHTSA approved 16-hour 20 Advanced Roadside Impaired Driving Enforcement 21 course." 22 This ARIDE course obviously is 16 hours 23 versus the four hours for just the SFST refresher. 24 But part of that 16-hour course encompasses that 25 four-hour refresher. So for a matter of meeting the</p>	<p style="text-align: right;">Page 40</p> <p>1 So anyone coming back into law enforcement or 2 starting their careers in law enforcement will get 3 that training. But incumbent officers should have had 4 that training in the two-year cycle previously in 5 there. It's not necessary since there have been no 6 changes to the statute to continue to have them do 7 that in in-service. 8 We have replaced that with a minimum of two 9 hours of child abuse incident training pursuant to 10 section 29-7-4.2. That was -- our current legislature 11 had passed that requirement as part of the bills that 12 were passed. And it has been given a statute number. 13 So it is now in place in our in-service training 14 requirements. 15 If you go to page 2, item 8, a minimum of 16 four hours has been -- the four hours have been 17 struck. And that has been reduced to "One hour shall 18 be in missing persons and AMBER Alert training 19 pursuant to." 20 And again the language has been struck and 21 the statute has been put into place since it was not 22 in place at the time this was adopted, Section 23 29-7-7.4. Of note here the records and archives 24 published four hours in the NMAC rule. However, at 25 the September 23rd board meeting, the board had</p>
<p style="text-align: right;">Page 39</p> <p>1 requirement, we included that. 2 So that those who have gone through the ARIDE 3 course understood that they have met the requirements 4 for maintaining their SFST certification rather than 5 having to go through another four-hour SFST 6 certification in addition to the ARIDE course they 7 have attended. 8 Under Section 5, we have struck the Law 9 Enforcement Training Act and Criminal Procedure Act 10 which was originally put in there because the rule -- 11 or the statute change that the legislature at that 12 time had passed had not been given a statute number. 13 So we have replaced it with Section 29-7-7.3. So 14 that's just a little language cleanup. 15 Under Section 7, "A minimum of three hours of 16 academy approved training in the enforcement of the 17 off-highway Motor Vehicle Act," that language has been 18 struck since everyone has been through that training 19 in this cycle. So everyone should be up to speed. 20 There's been no statute changes. 21 So those who will be coming to the basic 22 academy, as Deputy Director Najjar pointed out, will 23 receive that training in the basic academy curriculum. 24 And it's also included in our certification by waiver 25 of previous training curriculum.</p>	<p style="text-align: right;">Page 41</p> <p>1 approved two hours for the missing persons and AMBER 2 Alert. 3 So we have a discrepancy there into what had 4 been published as to what the board had approved. We 5 will reach out to all law enforcement agencies to make 6 sure they are clear of that, if they go up to the 7 website for records and archives, and read the four 8 hours. 9 We'll make that change. But we'll also make 10 sure that all agencies understand that in order to 11 meet the biennium in-service training requirements for 12 this current two-year cycle. That's not to say, if 13 they do four hours, that they obviously have met the 14 requirements of the board and they've also met the 15 requirements of the statute. 16 Under item 9, we have struck "Remaining hours 17 may be in maintenance or advanced areas." And we have 18 added to that "A minimum of four hours shall be in 19 academy accredited interaction with persons with 20 mental impairments training pursuant to Section 21 29-7-7.5." That was House Bill 93 for the dealing 22 with the mentally impaired. 23 We left the language very broad at the last 24 board meeting. There was discussion about what those 25 hours should be. The statute says a minimum of two.</p>

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<p>1 We have put four in there. In reviewing the 2 curriculum initially, four seemed to be reasonable. 3 Since we have put the language in there that 4 says academy accredited training, as Deputy Director 5 Najar pointed out and Director Marcantel pointed out, 6 we have built that curriculum. We will make that 7 curriculum available to all agencies. 8 We will be doing a train the trainer to get 9 instructors trained up, to get actors trained up, and 10 to do initial first responder training for officers, 11 deputies, and other commissioned personnel. So 12 keeping it broad, that gives the opportunity for other 13 training providers to develop curriculum, submit it to 14 the academy for accreditation, and then that will meet 15 the requirement. 16 We took out the language that specified 17 scenarios and the number of hours of scenarios because 18 that number varies depending upon the number of 19 students that are attending a training session. 20 So obviously it takes considerably more time 21 to get 30 officers in an in-service through scenario 22 training than it does to get five officers. So we've 23 left that very generic so that we can meet those 24 different needs depending upon class size. 25 Under item 10, "A minimum of two hours shall</p>	<p>1 accreditation number would be applicable to their 2 meeting their biennium in-service training 3 requirements. 4 So items A through C are suggested topic 5 areas. But if certified officers attend training that 6 falls outside of A through C, it is covered in item D. 7 If you go to paragraph B, Section 3, you'll 8 see that recommended training topics including human 9 trafficking investigations, a curriculum developed by 10 the New Mexico Attorney General's Office, and legal 11 update, a curriculum developed by the Advanced 12 Training Bureau, have been struck because those are 13 addressed in paragraph A 11, Sections A through D. So 14 we've just taken that out so we don't have the 15 duplication there. 16 If you go to Section E -- or actually Section 17 D, implementation to begin on January 1, 2010, has 18 been struck and 2012 in its place to reflect the new 19 cycle. In section E all the numbers have been 20 changed. This deals with officers who are certified 21 somewhere within that two-year period to make an 22 adjustment to the fact that they have not been 23 employed as an officer for the full two-year cycle. 24 So officers obtaining certification between 25 January 1st, 2010, has been struck, 2012 in its place.</p>
<p>Page 43</p> <p>1 be in academy accredited legal update training to 2 include changes in New Mexico state statutes and 3 recent state and federal case law." Item 11, 4 "Remaining hours shall be in maintenance or advanced 5 areas from the following general topic areas. 6 "A, Ethics, use of force, report writing, 7 critical incident management, defensive tactics, 8 communications skills, or emergency vehicle 9 operations; B, first line supervisors and 10 mid-managers: Ethics, principles of supervision, 11 field training and evaluation, performance appraisals, 12 coaching, mentoring, vicarious liability, or 13 communication skills; C, Agency executives and command 14 staff: Ethics, leadership, policy development, 15 strategic planning, goal setting, budgeting, human 16 resources management, or employment law; D, Other 17 approved advanced and specialized training/education 18 or any maintenance training area which is designated 19 to improve upon or add to the knowledge, skills, and 20 abilities of the certified law enforcement officer." 21 So the board had directed at the last board 22 meeting that item D be modified to include just 23 approved, not accredited. So those attending training 24 out of state or training that is applicable but may 25 not have been submitted to the academy for an</p>	<p>Page 45</p> <p>1 So everywhere you say 2010, it has been removed with 2 2012. And then we've moved up -- all references to 3 2011 have been moved up to 2013. 4 At the very end of that sentence, where it 5 says "January 1, 2012," that has been removed. And 6 2014 has been in that place. And that refers to 7 officers that will need to start their biennium 8 in-service training in the next two-year cycle which 9 will begin in 2014. 10 If you go down to 10.29.7.9 at the bottom of 11 page 2, again same language changes, the 2010-2011 12 have been replaced with 2012 and 2013. This 13 section -- or this portion of the NMAC deals with our 14 telecommunicators. 15 Under paragraph A, this is the first time 16 that we have had a statutory mandate by our legislator 17 for training, specific training for our 18 telecommunicators. So item 1 has been placed, "A 19 minimum of two hours in academy accredited interaction 20 with persons with mental impairment training pursuant 21 to Section 29-7-7.5 has been put into place." And 22 again as previously noted, the curriculum has been 23 developed by the academy to meet that requirement. 24 The renumbering had gone from that point. 25 The paragraph B had been removed and everything had</p>

1 been added to paragraph A. So B is now subsection 2,  
2 "The remaining training may be in academy approved  
3 advanced and specialized training/education or any  
4 maintenance training area which is designated to  
5 improve upon or add to the knowledge, skills, and  
6 abilities of the telecommunicator."

7 Again language or cleanup. So C now becomes  
8 B. And as we work through, C becomes -- or D becomes  
9 C, E becomes D, and F becomes E. Again the numbers  
10 have been changed. So it becomes effective in  
11 section -- or paragraph D in 2012 rather than 2010 to  
12 reflect the new biennium cycle.

13 And in E the same language changes for those  
14 who get certified somewhere within that two-year  
15 period, the reduced number of hours required for them  
16 to meet the biennium in-service training requirements.  
17 So all the 2011 have been changed to 2013. And the  
18 2012 was changed to 2014. The 2010 were changed to  
19 2012. With that I will entertain any questions.

20 MR. FUQUA: Thank you, Mr. Shea. Are there  
21 any questions from the board?

22 MR. COON: I've got one. Mr. Shea, on the  
23 very -- on page 1, on the NHTSA 16-hour advanced  
24 roadside impaired driving enforcement course, it's  
25 gone from four hours to 16. So a half a day to two

1 the ARIDE course will not have to go through an  
2 additional four hours in order to maintain their SFST  
3 certification. So it just gives another avenue for  
4 maintaining that certification without having to  
5 duplicate their training effort.

6 MR. COON: Okay.

7 MR. SHEA: With regard to that training, it  
8 is offered through the Traffic Safety Bureau and the  
9 contract they have to provide the SFST training and  
10 the DRE training. So that is available throughout the  
11 state.

12 MR. COON: Okay. But again, you know,  
13 they -- the legislature has good intent when they  
14 mandate these two and four-hour blocks. But it just  
15 kills some of us. They don't realize the hassle. And  
16 some of it -- to me some of it is very important, some  
17 of it is not.

18 It's just -- every department has a hard time  
19 doing the mandates that they want us to do. I don't  
20 think they realize -- you know, it's only two hours.  
21 But if three or four different people are putting  
22 these in all the time, now we're going to end up  
23 40 hours of biennium stuff every year instead of --  
24 we're going to have to go biannually now to 80 hours  
25 instead of 40 because of all the stuff they're putting

1 days.

2 Will DPS have instructors that will come out  
3 and teach that? How are we going to -- how are we  
4 going to -- and like the legislature does to us every  
5 year, they mandate us two, four, six, eight, ten extra  
6 hours.

7 They don't realize a lot of small departments  
8 don't have the resources or the money to send their  
9 guys in and out. I'm not a small department, but I'm  
10 not a big department. It's a struggle to get 43 guys  
11 through classes like this.

12 Is there going to be any -- will DPS have a  
13 road show out doing this or are we going to have to  
14 train the trainer on all these?

15 MR. SHEA: Mr. Chairman, Sheriff Coon, that  
16 section that includes the ARIDE, that is just as an  
17 alternative. To maintain your SFST certification will  
18 only require four hours of training.

19 The 16-hour course, agencies are not required  
20 to teach or send people to that course. That's one  
21 that is offered through the Traffic Safety Bureau as a  
22 NHTSA approved course. So it includes a lot of  
23 additional information, DRE and SFST. But part of the  
24 SFST curriculum meets the four hour requirement.

25 So we added that so that those who go through

1 on us.

2 MR. SHEA: Mr. Chairman and Sheriff Coon,  
3 it's been our position that the training needs for  
4 certified officers and telecommunicators in the state  
5 lies with the Law Enforcement Academy Board.  
6 Unfortunately the legislature does pass statutory  
7 mandates which are outside of our control.

8 We build those into the biennium in-service  
9 training requirements to facilitate making sure the  
10 statutory requirements are met. Technically those  
11 statutes stand in and of themselves separate from the  
12 board rules.

13 So we could write the biennium in-service  
14 training requirements without integrating those  
15 mandates. And it would be upon each law enforcement  
16 officer and agency to meet the statutory mandates. So  
17 this is to facilitate that.

18 We would certainly like to see the control of  
19 law enforcement officer training fall back on the  
20 board. And, of course, that would mean the statute  
21 changes, removing statutes that have been  
22 long-standing.

23 The case, you know, the most -- the notorious  
24 one is the Safe Pursuit Act, which if you have an  
25 agency that has a policy of no pursuits and you're

<p style="text-align: right;">Page 50</p> <p>1 required by statute to do training on that, then it's 2 not time well spent in training our officers and 3 deputies. 4 But again that's outside of our purview. And 5 it's, you know, a statutory requirement that we've 6 incorporated into the NMAC so that it facilitates 7 making sure that training happens. 8 MR. COON: Well, you know, I'm not mad at DPS 9 for training. It's just frustrating as an 10 administrator to try to get everybody the hours 11 because they change it on us every year. Every 12 legislature there's somebody's new pet project that 13 requires how the cops do it for -- what's four hours, 14 you know. 15 And it just keeps coming and coming and 16 coming. And eventually that's what we're going to do, 17 we're going to be in the classroom more than we're out 18 on the highway. You know, training is good, don't get 19 me wrong. 20 But it just gets frustrating as an 21 administrator trying to get your people through all 22 these classes that they mandate on us without any 23 compensation money-wise. You know, it all comes out 24 of our budgets. And again I'm just frustrated. I'm 25 not mad, I'm just frustrated.</p>	<p style="text-align: right;">Page 52</p> <p>1 MR. SHEA: Mr. Chairman, you are correct. 2 That is a recommended change. And I did not cover it. 3 We had discussed that at the last board meeting. And 4 my error in not entering that into the record. 5 MR. FUQUA: Thank you, Mr. Shea. Are there 6 any other questions from the board members? Any 7 questions from the public? Seeing none I would 8 entertain a motion to adopt. 9 MR. BETZ: I make a motion to adopt. 10 MR. FUQUA: Is there a second? 11 MR. KORN: I'll second. 12 MR. FUQUA: We have a motion and a second to 13 adopt the proposed changes to Section 10.29.7.8 and 14 10.29.7.9. All in favor. 15 (Those in favor so indicate.) 16 MR. FUQUA: All opposed. Hearing no 17 opposition the amendments will be adopted. 18 ITEM NO. 9: PST CURRICULUM 19 MR. FUQUA: The next item on the agenda is 20 PST Curriculum. And I believe we have a presentation 21 from Mr. Brian Coss. 22 MR. COSS: Mr. Chairman, thank you. Members 23 of the board, thank you. I am Brian Coss with the 24 Advanced Training Bureau. And this is still a 25 discussion item following up on our meeting in</p>
<p style="text-align: right;">Page 51</p> <p>1 MR. SHEA: Thank you, Sheriff Coon. 2 MR. FUQUA: Are there any other questions 3 from the board? 4 Mr. Shea, to make sure that I was clear on 5 this, because I may have missed. But there were two 6 items that I have in my materials that I don't know if 7 your presentation covered. They may have. But under 8 10.29.7.8, paragraph A 2, I see a change, "A minimum 9 of one hour will be in domestic abuse," which has been 10 stricken -- abuse has been stricken and replaced with 11 violence. 12 MR. SHEA: Mr. Chairman, that's correct. I 13 overlooked that as I was going through the NMAC 14 change. 15 MR. FUQUA: The second one, and this one I'm 16 really not sure you may have covered, this is in 17 paragraph A 6. The addition "No more than one hour 18 shall be in classroom lecture. A minimum of three 19 hours training, divided equally between day and night 20 training, and shall consist of practical exercises 21 using live fire, simmunitions, airsoft, or other 22 firearms training systems." 23 I have that as a change in my materials. And 24 I don't know if that's one that you had identified or 25 not.</p>	<p style="text-align: right;">Page 53</p> <p>1 Ruidoso. 2 We've been able to hold a number of meetings, 3 consulted with a number of the stakeholders from 4 communications supervisors, many of whom are in the 5 room with you today, to fire service, to EMS, 6 emergency management. There's been a number of 7 meetings that have been conducted since we last had 8 this as an item of discussion. 9 What you have before you now articulates the 10 total number of hours unit by unit. And again we're 11 just in an item of discussion here. But there's been 12 a slight change in thinking. The basic 800-hour 13 curriculum is all articulated in blocks, cert by 14 waiver curriculums articulated in blocks. These are 15 designated as units in a more modular kind of a 16 system. 17 But you have all the hours sitting in front 18 of you, which total to 132 total hours for a basic 19 public safety telecommunicator. This is a slight 20 increase. The current curriculum is 118 hours. So 21 this does up the number of hours. 22 But you will notice in the language there 23 that 12 of these hours are going to be distance 24 learning and will be completed prior to coming to the 25 public safety telecommunicator class. So essentially</p>

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<p>1 the contact hours, if you will, are going to be 2 identical.</p> <p>3 The curriculum in itself, as well as the New 4 Mexico Administrative Code, is a complete rewrite from 5 start to finish. Essentially nothing will be the 6 same. It's absolute start to finish a complete 7 turnover.</p> <p>8 As we discussed in the meeting in Ruidoso, 9 the job task analysis for telecommunicators was last 10 done I believe in '99. So we're even more dated than 11 on the law enforcement side of things.</p> <p>12 The director has discussed validation and 13 making the curriculum or assuring that the curriculum 14 that is being taught here is coming from a defensible 15 platform. Without the ability of the finances to be 16 able to do the job task analysis for 17 telecommunicators, what we did is we started 18 researching curriculum.</p> <p>19 And we found some national curriculum that 20 was already validated, that job task -- built upon job 21 task analysis and continually gets revised. We 22 purchased that curriculum.</p> <p>23 And then in these number of meetings that 24 we've had with telecommunicators, law enforcement, 25 fire, EMS, all the stakeholders, we have identified</p>	<p>1 well as our own sections, so that there won't be any 2 confusion between those two. Other than that the 3 document that you have sitting in front of you stands 4 as is.</p> <p>5 Again this has been a tremendous amount of 6 hard work on stakeholders from across the state. And 7 I'm fortunate to be standing here in front of you to 8 report to you that they still keep returning my calls 9 and they still keep returning my emails, because I am 10 not the guy. I'm not a telecommunicator.</p> <p>11 I have sat the radio only when I've been 12 broken because that was our light-duty detail. And I 13 wasn't very good at it when I did it. I have an 14 extreme appreciation for it.</p> <p>15 But again this whole program and this whole 16 revamping of the program has been built with the 17 efforts of many of the people that are sitting in this 18 room today and many others that weren't able to be 19 here.</p> <p>20 We have received nothing but resounding 21 support. There's been some good course direction. 22 There's been a few folks that have been kind enough to 23 slap me on the back of the head and ask me what I was 24 thinking and kind of redirect me. And that's exactly 25 what we needed.</p>
<p>Page 55</p> <p>1 the true core objectives of -- and their expectancy of 2 a basic graduate of a public safety telecommunicator 3 class. And that's essentially what you have sitting 4 before you.</p> <p>5 There's a couple slight changes. And these I 6 apologize for. These are my mistakes. When you look 7 on page No. 5 of what you have sitting in front of 8 you, No. 5, it says "Units 6 through 10 academic 9 testing."</p> <p>10 That is already -- unit 6 has already tested 11 in a previous mention within the proposed code. So 12 that change will list units 7 through 10 academic 13 testing. I was testing two blocks twice apparently. 14 At least in my work through this.</p> <p>15 The second change is page No. 6, Nos. 2 and 16 3. In our discussion with the EMS Bureau, a division 17 of the Department of Health, remember, this is a 18 post-academy offering, if you will, for a public 19 safety telecommunicator and emergency medical 20 dispatch. The EMS Bureau uses the words certification 21 and licensure interchangeably.</p> <p>22 So the change then will be 23 certification/licensure. It will just include both 24 words so that we are consistent with Section 7 of the 25 New Mexico Administrative Code for the EMS Bureau as</p>	<p>Page 57</p> <p>1 But this is truly a statewide get-together of 2 all the stakeholders within this program and at least 3 at this point has had nothing but resounding support.</p> <p>4 If the board has any questions or if the 5 audience has any questions, I would be glad to stand 6 for those questions. The overall goal here would be 7 to move towards rule change in the December meeting, 8 in the fourth quarter meeting.</p> <p>9 MR. GRATTON: Mr. Chairman, Mr. Coss, I have 10 one question. On page 3, No. E, Unit 4A, where you 11 cite the hours. You're citing 19 hours there and 12 you've got 13 hours of theory and four hours of 13 practical. Are we missing two hours somewhere?</p> <p>14 MR. COSS: Apparently, sir. I will check on 15 that. I apologize.</p> <p>16 MR. GRATTON: I think 15 hours of theory and 17 four hours of practical is my thought.</p> <p>18 MR. COSS: Okay. I will absolutely go 19 through and look at that. Once again it's probably 20 testing, you know, block six twice. I apologize, sir.</p> <p>21 MR. GRATTON: No, no.</p> <p>22 MR. KORN: Mr. Chairman, if I may.</p> <p>23 MR. FUQUA: Of course.</p> <p>24 MR. KORN: Mr. Coss, I'd like to point out 25 that I think it was very smart of you to get as a</p>

<p style="text-align: right;">Page 58</p> <p>1 nucleus of your program the book from your prior 2 course material that was nationally recognized. I 3 think that makes it much easier for us to keep up with 4 the current changes and stay on top of things. 5 Also I wanted to point out that I'm delighted 6 that you have support from the telecommunicators 7 around the state. I think the telecommunicators, the 8 job they do is one of the unsung heroes of law 9 enforcement. And it's nice that you're taking the 10 position of changing it and that the telecommunicators 11 around the state buy into it and like it as well. So 12 my compliments. 13 MR. COSS: Thank you, sir. Thank you, sir. 14 Again it's all built in conjunction with them. 15 There's people that started there before me. I just 16 am driving the boat currently, sir. 17 MR. KORN: Well, it's nice to see that since 18 1999 there have been no changes. And now, you know, 19 at this stage we're making needed advances. Thank 20 you. 21 MR. COSS: Thank you. 22 MR. SCHULTZ: Mr. Chairman, a question for 23 Mr. Coss. Is there an exemption for -- and I know we 24 have AFD here in the room -- for fire dispatch 25 personnel that have limited telecommunication use? I</p>	<p style="text-align: right;">Page 60</p> <p>1 Maybe even breaking it into or recommending 2 breaking this into levels of certification as a 3 telecommunicator. Instead of a one-size-fits-all, 4 then, you know, we have a level one, if you will, 5 telecommunicator and a level two and those very 6 specific components. 7 There's others in this field as well. 8 Albuquerque Public Schools, you know, they don't have 9 any NCIC equipment there at all but yet we still have 10 to train them and test them on it. Well, that's a 11 skill set that they're never going to use if they stay 12 employed with Albuquerque Public Schools. 13 So I think there's a number of things that we 14 can see, you know, continuing to evolve after we kind 15 of lay this groundwork. But I think that's part of 16 this process, is getting a firm foundation built. 17 And then once we get that foundation built, 18 starting to figure out how we can best serve their 19 needs, how we can best deliver the service to them. 20 And if that's levels of certification, in my mind 21 that's kind of where this is headed at some point. 22 Our statewide information technologies 23 system. Well, you know, they dispatch folks to repair 24 our computers, which for me is a good thing because I 25 can break them and I don't know how to fix them.</p>
<p style="text-align: right;">Page 59</p> <p>1 mean if you have a 911 center that's taking the calls, 2 but then you have fire that dispatching with the 3 medical protocols, et cetera. I don't know if AFD 4 would like to comment on that as well. 5 MR. COSS: There currently isn't. It's a 6 statutory requirement that our telecommunicators be 7 certified. Now, this is something that I'm in 8 communication with the folks from Albuquerque Fire and 9 many other fire departments as well. 10 Albuquerque is a unique entity, though. And 11 they're not a model that's going to be replicated too 12 many times around the state. But, nonetheless, we are 13 looking at trying to help merging those programs and 14 helping meet their needs. 15 As we discussed this morning, having their 16 folks attend a three-week academy as a basic 17 telecommunicator and maybe a quarter of that whole 18 curriculum meeting what they actually do for their 19 job. So there's many things we still need to look 20 into. There absolutely is. 21 But I think this is a good starting point. I 22 think from -- as we continue to look forward, I think 23 I can see some of this going to a distance learning 24 program down the road. I think there's many options 25 that we can start coming into.</p>	<p style="text-align: right;">Page 61</p> <p>1 But they have to go through the same class. 2 You know, they don't have any NCIC. They're not going 3 to be dispatching law enforcement. There's going to 4 be no -- I won't say emergency because, when the 5 computers go down, it is an emergency. But no true 6 emergencies like we know them today. 7 So I think we're going to have to be more 8 dynamic as we continue to forecast our way forward. 9 And I think we're all willing to do that. 10 MR. FUQUA: Are there any further questions 11 or comments from the board? Thank you, Mr. Coss, for 12 your presentation. 13 MR. COSS: Thank you, sir. 14 <b>ITEM NO. 10: RATIFICATION OF CERTIFICATIONS FOR</b> 15 <b>LAW ENFORCEMENT OFFICERS</b> 16 MR. FUQUA: The next item on the agenda is 17 under the heading of new business, item No. 10. This 18 is ratification of certifications for law enforcement 19 officers. And I note on the agenda that the 20 responsibility for this is apparently 21 chairman/director. And rather than punt I think what 22 I'll say is that I will defer to Director Marcantel on 23 this. 24 MR. MARCANTEL: Mr. Chair, members of the 25 board, what you see in tab 10 represents the meeting</p>



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<p>1 of certification of cert by waiver class 73, Western 2 New Mexico University's Law Enforcement Academy class 3 56, Dona Ana County Sheriff's Office class 17, 4 Southeastern New Mexico Law Enforcement Academy 5 No. 26, APD cert by waiver No. 2, and the Bernalillo 6 County Sheriff's Department basic academy No. 30. 7 What you see represented in ten, each of 8 these officers previously provided satisfactory 9 evidence meeting the prerequisites for certification 10 as a peace officer according to the Law Enforcement 11 Training Act. 12 Furthermore, each of these officers have 13 successfully completed the minimum standards of 14 training required in that act for basic police officer 15 certification. So with that said I would respectfully 16 request that the board ratify those individuals 17 indicated under tab 10 for certification. 18 MR. GRATTON: Mr. Chair, I make a motion to 19 ratify these officers. 20 MR. FUQUA: Is there a second? 21 MR. MYERS: Second. 22 MR. FUQUA: Having a motion and a second, all 23 in favor of ratification. 24 (Those in favor so indicate.) 25 MR. FUQUA: All opposed? Hearing no</p>	<p>1 MR. FUQUA: Did I hear a second? Very good. 2 With a motion and second, all in favor of adopting the 3 ratification. 4 (Those in favor so indicate.) 5 MR. FUQUA: All opposed? With no opposition 6 the ratification will be adopted. 7 Item No. 12 on the agenda is -- oh, sure. 8 There's been a request for a short break. I'm 9 certainly not opposed to that. 10 I note, looking at the agenda, I don't see an 11 agenda item for lunch. But maybe we can work our way 12 towards that. So why don't we -- ten minutes, does 13 that work for everybody, come back about 10:30. At 14 that point we'll be off the record. Thank you. 15 (Break from 10:20 a.m. to 10:35 a.m.) 16 MR. FUQUA: We'll go ahead and go back on the 17 record. 18 We had left off when we took our break that 19 we just finished agenda item No. 12. But during the 20 break it came to my attention that there was something 21 we had not done on agenda item nine, the PST 22 curriculum. 23 And it's my understanding that we need 24 formally to move the consideration of these rules at 25 the next board meeting scheduled -- well, not yet</p>
<p>Page 63</p> <p>1 opposition. That ratification will be adopted. 2 ITEM NO. 11: RATIFICATIONS OF CERTIFICATIONS FOR 3 PUBLIC SAFETY TELECOMMUNICATORS 4 MR. FUQUA: Item 11, ratifications of 5 certifications for public safety telecommunicators. 6 Again we'll defer to Director Marcantel. 7 MR. MARCANTEL: Yes, sir. What you see under 8 tab 11 is a culmination of those folks from the PST 9 classes 16 and 17 here at the New Mexico Law 10 Enforcement Academy. 11 As the case with the basic police officer 12 certification, each of these telecommunicators in tab 13 11 have also previously provided satisfactory evidence 14 regarding the prerequisites outlined for certification 15 as a telecommunicator in the public safety 16 telecommunicator component of the Law Enforcement 17 Training Act. 18 Again each of these telecommunicators have 19 successfully completed the minimum standards of 20 training for basic telecommunicator certification. 21 Mr. Chair, members of the board, I would respectfully 22 request ratification of the individuals enumerated in 23 tab 11 for certification as basic telecommunicators. 24 MR. MYERS: I'll make the motion. 25 MR. BETZ: I'll second.</p>	<p>Page 65</p> <p>1 scheduled but that will be held in December. 2 Mr. Coss, I don't know if there was anything 3 else that you wanted to put on the record for that. 4 MR. COSS: No. 5 MR. FUQUA: And frankly I'm not sure 6 procedurally if this is the kind of thing that 7 requires a motion and a second. Someone might be able 8 to help. 9 MR. SHANDLER: A motion and a second. 10 MR. FUQUA: Okay. So do we have a motion 11 then to include -- 12 MR. MARCANTEL: Mr. Chair, may I just 13 interject a request. 14 MR. FUQUA: Please. 15 MR. MARCANTEL: That the motion include the 16 next meeting instead of a specific -- the specific 17 month of December based on a presentation I would like 18 to make. 19 MR. FUQUA: Oh, sure. Of course. 20 MR. GRATTON: I make the motion, Mr. Chair, 21 that the PST curriculum be placed at the next meeting 22 of the board on the agenda. 23 MR. FUQUA: Do we have a second? 24 MR. COON: I'll second. 25 MR. FUQUA: So there is a motion and a second</p>

<p style="text-align: right;">Page 66</p> <p>1 then to place on the agenda for the next meeting of 2 the Law Enforcement Academy Board consideration of the 3 rules that Mr. Coss has discussed for the PST 4 curriculum. 5 MR. SCHULTZ: Mr. Chairman, one question and 6 point of clarification. Mr. Coss had talked about 7 having options and maybe a multitiered level of 8 training and/or certification. Would that be included 9 in the discussion points at the next meeting or is it 10 a -- this the one and only certification for all 11 telecommunicators? 12 MR. FUQUA: I think the way that that would 13 probably work is that what was on paper today would be 14 up for consideration for the board at the next 15 meeting. At that point certainly, if the board wanted 16 to entertain a modification of those proposed rules to 17 include the tiered certifications that Mr. Coss 18 identified earlier, there's nothing that would prevent 19 the board from taking that into consideration at the 20 moment. 21 But given that what we have in the materials 22 today and the nature of the motion, I think what would 23 be placed on the agenda would be the materials that 24 Mr. Coss provided today. And that, of course, is a 25 discussion --</p>	<p style="text-align: right;">Page 68</p> <p>1 agenda for the next board meeting. Thank you, 2 Mr. Coss. 3 ITEM NO. 12: PRESENTATION: VIOLENCE AGAINST 4 INDIVIDUALS WITH DISABILITIES 5 MR. FUQUA: I believe we are now to item 6 No. 12 on the agenda. This is a presentation from 7 Marcy Davis, violence against individuals with 8 disabilities. Ms. Davis. 9 MS. DAVIS: Mr. Chairman, board members, and 10 Director Marcantel, thank you for the opportunity to 11 be with you this morning. My name is Marcy Davis. I 12 should also introduce you to Whistle, my assistance 13 dog. 14 And we're here today representing the New 15 Mexico Coalition of Sexual Assault Programs. And you 16 have some information in your packets regarding the 17 prevalence of violence against individuals with 18 disabilities. So I won't go through all of those 19 statistics. But it does share with you information 20 about the prevalence both nationally and in New 21 Mexico. 22 And what I'm asking for today and asking for 23 your consideration is that the academy would consider 24 developing a training specifically regarding violence 25 against individuals with disabilities. As you know</p>
<p style="text-align: right;">Page 67</p> <p>1 MR. GRATTON: Mr. Chair, may I amend my 2 motion then. 3 MR. FUQUA: Sure. 4 MR. GRATTON: That would allow the board to 5 consider further amendments to the rule? 6 MR. FUQUA: Sure. 7 MR. GRATTON: Is that okay? 8 MR. FUQUA: That's perfectly fine. 9 MR. GRATTON: Then I amend my motion please 10 to allow that to happen. 11 MR. FUQUA: Very good. Is there a second 12 to that motion? 13 MR. MYERS: Second. 14 MR. FUQUA: Okay. Just so everybody is 15 clear, there is a motion and a second to include on 16 the agenda for the next meeting of the Law Enforcement 17 Academy Board the PST curriculum that Mr. Coss 18 presented today with the understanding that the board 19 can entertain modifications to that curriculum at that 20 meeting whenever that meeting is scheduled. 21 With that understanding all in favor of the 22 motion. 23 (Those in favor so indicate.) 24 MR. FUQUA: Any opposition? Hearing none the 25 motion carries. And the item will be placed on the</p>	<p style="text-align: right;">Page 69</p> <p>1 there are certain unique aspects of working with crime 2 victims with disabilities. 3 At the coalition we have developed several 4 types of training materials, one of which we just 5 completed that the Attorney General is actually a part 6 of graciously and helped us with this project. And we 7 will be sending these out to all the law enforcement 8 agencies within the state. 9 And it is a CD that actually has a DVD of 10 issues around violence against people with 11 disabilities. And it has this booklet. And our hope 12 is that every law enforcement officer in the state 13 will have this booklet, will have access to it. 14 But we believe that it really needs to go a 15 step further than that, that there needs to be a 16 requirement for training. And I certainly understand 17 how full your training curriculum is and the 18 requirements that you have. 19 But we would hope that you would look at some 20 alternatives. I think there are lots of ways that you 21 could explore training, through distance learning and 22 some other options. And at the coalition we would be 23 honored to work with you in that process and to 24 support you in any effort to do that. 25 MR. FUQUA: Are there any questions?</p>

<p style="text-align: right;">Page 70</p> <p>1 MR. MARCANTEL: Actually, Mr. Chair, members 2 of the board, I have one comment and actually a 3 question for Ms. Davis. 4 First of all, Ms. Davis, I applaud you. When 5 you heard earlier Sheriff Coon's frustrations 6 regarding unfunded mandates that come through the 7 legislature, the folks who see needs to help us 8 develop the law enforcement community really have two 9 choices when they do that. 10 They can go to their lawmakers or they can 11 come to where we really can flesh out the best work 12 here. And that's amongst law enforcement 13 professionals and collaborations like the coalition. 14 And so by you coming here and making that 15 choice, it helps us kind of wrestle through how we 16 incorporate the needed training to develop the law 17 enforcement community in a way that's both 18 comprehensive and allows us to figure out how to 19 incorporate it and fund it and those sorts of things. 20 So I applaud you for giving us the 21 opportunity to consider your needs. My question would 22 be do you see the development of specialized training 23 to be something -- a function of the basic training or 24 do you see it beginning at the level of an advanced 25 course, what would be your opinion?</p>	<p style="text-align: right;">Page 72</p> <p>1 multiple types of training and resources available to 2 officers in alternative forms of communication and 3 multiple types of training needs, but again being 4 realistic about what our abilities are as far as 5 funding and time constraints. But we would love to 6 explore those with you and your staff. 7 MR. MARCANTEL: Thank you. 8 MR. SCHULTZ: Mr. Chairman, Mr. Marcantel, 9 and Ms. Davis, you know, I don't know if you're 10 familiar or not. But the current curriculum, basic 11 academy curriculum, and we actually discussed it here 12 earlier today, does include already blocks of 13 instruction for working with what's described here as 14 special populations of 12 hours. 15 And then there's another two-hour block that 16 deals with specifically victims assistance laws and 17 other things that are available to victims with 18 special needs. 19 I know we've got some of our academy 20 directors here. And if any of them want to speak just 21 a little bit about that this is addressed. You know, 22 obviously maybe not as thoroughly as it should be. 23 But, you know, there are already blocks of instruction 24 time in the basic LEA curriculum. 25 And it may just be a matter of you and your</p>
<p style="text-align: right;">Page 71</p> <p>1 MS. DAVIS: Thank you for that question. And 2 I guess ideally I would see it as both. But I know 3 with the time constraints that you have and the 4 funding restraints. 5 So I really am interested in your idea of 6 collaborating and looking at funding opportunities. 7 And I can think of one funding opportunity that will 8 be coming available in January through the Department 9 of Justice that's a violence against individuals with 10 disabilities grant. 11 And coalition would be very interested in 12 partnering with the academy and with the Department of 13 Public Safety to pursue a grant opportunity like that 14 that would provide the funding to create both a basic 15 training and an advanced training. 16 But with the statistics and with the number 17 of people with disabilities in New Mexico and their 18 risk for being victimized, you know, the chance that 19 officers are going to encounter an individual with 20 severe disabilities, as we've seen in the news this 21 week with the case in Philadelphia, with the 22 individuals with identity theft, there are some 23 horrific things out there that officers are 24 encountering. 25 So I think it would be optimal to have</p>	<p style="text-align: right;">Page 73</p> <p>1 group working with Mr. Marcantel and the board to make 2 sure that the lesson plans that are currently in place 3 are as thorough as you think they should be and 4 address some of the needs that you get from your 5 constituency that find themselves involved as victims 6 of crime that maybe are not being discussed as 7 thoroughly as they should. 8 So I think we've got a good base there. It's 9 just a matter of getting the right people talking and 10 making sure that the lesson plans aren't outdated 11 obviously as people with special needs get more and 12 more integrated into the community. And obviously, as 13 we've seen recently, the propensity for them to be 14 victims of crime unfortunately is increasing. 15 MR. MARCANTEL: Mr. Chair, members of the 16 board, that's -- thank you for that, Chief Schultz, 17 because that was kind of where I was going with it, 18 because we do have that base core that might be 19 something that we could like extend collaboration to 20 as the chief pointed out to kind of tweak the spokes 21 if there is that need. 22 That's why I opened my question about the 23 possibility of maybe looking stronger at a more 24 specific advanced training course that somewhere up 25 the road we could offer. So thank you. Thank you for</p>

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1 your clarification.

2 MS. DAVIS: Thank you, Chief Schultz. And we

3 would be honored to be a part of that and to work with

4 you on your current curriculum and on future

5 enhancements. Thank you.

6 MR. FUQUA: Are there any further questions

7 or comments for Ms. Davis?

8 MR. KORN: No.

9 MR. FUQUA: Thank you for your time.

10 MS. DAVIS: Thank you.

11 ITEM NO. 13: MISCONDUCT CASE POLICY CHANGE DISCUSSION

12 MR. FUQUA: Our next agenda item is item

13 No. 13, misconduct case policy change discussion. I

14 believe the agenda indicates this one will be led by

15 Director Marcantel.

16 MR. MARCANTEL: Mr. Chair, members of the

17 board, I would respectfully request that we forego and

18 table this particular agenda item to allow me a bit

19 more collaboration with the board as well as kind of

20 the development of some of the ideas that I have on

21 some adjustments that we could make in the future to

22 better use our resources in this particular area.

23 MR. FUQUA: Do we have a motion to table item

24 13?

25 MR. COON: I make a motion we table item 13.

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1 MR. KORN: I second.

2 MR. FUQUA: Thank you. With a motion and a

3 second to table item 13, misconduct case policy change

4 discussion, all in favor.

5 (Those in favor so indicate.)

6 MR. FUQUA: All opposed? Hearing no

7 opposition item No. 13 will be tabled.

8 ITEM NO. 14: NMLEA BOARD MEETING SCHEDULING

9 DISCUSSION

10 MR. FUQUA: The next item then, No. 14, New

11 Mexico Law Enforcement Academy Board meeting

12 scheduling discussion. And this item also I believe

13 is led by Director Marcantel.

14 MR. MARCANTEL: Yes, sir. Mr. Chair, members

15 of the board, this is not one I wouldn't want to table

16 because I think it could be brief. But earlier this

17 month we had a meeting that we threw together members

18 of the municipal chiefs association and the sheriffs

19 association to kind of flesh out ideas about the

20 directions of the law enforcement community,

21 legislation, those sorts of things.

22 I had a discussion with the -- a few chiefs

23 about the -- I guess the value of that sort of a

24 setting. And folks seemed to think that that was a

25 remarkable thing, that we made a lot of progress in

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1 that meeting.

2 So one of the ideas that I have is that we --

3 to try to make sure that we're involving the law

4 enforcement leadership community especially as it

5 relates to the functioning of the Law Enforcement

6 Academy, I have tried to begin to consider possibly

7 asking for four meetings a year of our chiefs and

8 sheriffs and making them in conjunction with our Law

9 Enforcement Academy Board meetings.

10 The idea that I have is something that we

11 might invite chiefs and sheriffs the day before the

12 meeting to flesh out ideas, discuss things. They

13 don't have to be limited to the Law Enforcement

14 Academy, but certainly there is the opportunity. And

15 then ask them or invite them to attend the board

16 meeting the next day.

17 So that's kind of the general idea. And I

18 think that it will allow us to better forge a future,

19 a vision that's comprehensive amongst the chiefs, our

20 executives, our CEOs of all of our organizations, our

21 chiefs and sheriffs.

22 NMAC 10.29.1.8 Subsection D provides that the

23 board is to meet at a minimum of four times a year.

24 So it's an NMAC rule. But I would say alternatively

25 Article 29-7-4 Subparagraph F, which is basically

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1 relating to the powers and the duties of the board,

2 that allows the board the authority to establish rules

3 and regulations concerning the operation and

4 functioning of both the New Mexico Law Enforcement

5 Academy as well as the New Mexico Law Enforcement

6 Training Act.

7 So with that said I think the board has the

8 power, if we chose, to forego a meeting. The reason

9 that I'm asking for ultimately to forego the meeting

10 in December and schedule that meeting during the --

11 what is it, third Tuesday of January each year is when

12 the regular session convenes.

13 I think it would be a great idea to schedule

14 our meeting during that particular week, when many of

15 the law enforcement executives will be here in Santa

16 Fe for a variety of legislative concerns.

17 We could convene a meeting amongst the

18 sheriffs and chiefs prior to that scheduled board

19 meeting, allow them to discuss their concerns and

20 issues, probably come together in that particular

21 meeting in January and discuss their legislative

22 concerns, as well as attend the meeting while they're

23 here and not be an increased expense on each of our

24 organizations.

25 I would like to take it a step further and I

1 would like to say that we identify specific dates for  
2 2012 beginning in that third week of January. And  
3 then just leave here today with an understanding that  
4 maybe with a follow-up we'll agree for the next  
5 calendar year our meetings to where we won't have as  
6 many conflicts.

7 But my request based on what I believe to be  
8 the authority of the board, certainly speaking again  
9 to the concerns of Sheriff Coon, when he speaks about  
10 unfunded mandates and those sorts of things, I think  
11 there's a need for the law enforcement community to  
12 meet as their leadership at least four times a year.

13 And I believe that the New Mexico Law  
14 Enforcement Academy Board's meeting structure is  
15 already an infrastructure in place that would be a  
16 good invitation for that. I believe that if we meet  
17 in December and then ask that meeting to occur in  
18 January, that's a bit much.

19 So at the end of the day, I would ask  
20 consideration that for the next meeting we table that  
21 meeting in December and we agree to meet during the  
22 regular session beginning, which is the third Tuesday  
23 in January.

24 MR. COON: May I say something. The  
25 Association of Counties always meet that first week of

1 approach that will probably benefit us better next  
2 session than this session, because we now find  
3 ourselves in October.

4 There has been some discussion amongst the  
5 executive law enforcement leadership throughout the  
6 state on -- even in this last meeting that we had here  
7 in October.

8 So I'm thinking more honestly about creating  
9 a business model that might work better for the  
10 future. So probably thinking more about really being  
11 prepared through that approach for the regular session  
12 to follow this one.

13 MR. FUQUA: Are there any other questions or  
14 comments for Director Marcantel? I guess my only  
15 question is exactly what it is we're hoping to  
16 accomplish with the agenda item.

17 I understand, Director Marcantel, that you  
18 are asking to move the board meeting that would  
19 otherwise be scheduled in December to the beginning of  
20 the year. And I think you also said that you wanted  
21 to discuss today the dates for all of the meetings  
22 that would happen in 2012. So that we leave today  
23 with a schedule for those 2012 meetings. Is that  
24 understanding correct?

25 MR. MARCANTEL: Mr. Chair, members of the

1 the legislature. And all the sheriffs are together.  
2 We've found out that you're so far behind the eight  
3 ball, if you all meet at the first or second, third  
4 day of the session and you have an agenda, you're not  
5 going to get anything through because they already  
6 have their agenda set.

7 If you propose a bill or whatever, they never  
8 get heard unless you have that ready two or three  
9 months before the session. And you can go out and  
10 lobby your legislators for that. So it's hard to get  
11 anything going if you meet at the first of the  
12 session.

13 And it's a good idea for everybody to meet.  
14 But you're not going to get anything done  
15 legislatively if you meet in the session and say,  
16 well, let's all get together and propose this bill.  
17 It won't get done. They will blow you off.

18 It has to be a couple, three, maybe six  
19 months before the session. Get the agenda you want.  
20 And then you've got to go lobby your legislators to  
21 get it done.

22 MR. MARCANTEL: Mr. Chair, members of the  
23 board, Sheriff Coon, I couldn't agree with you more.  
24 What I'm proposing is less tactical and more  
25 strategic, to create the muscle memory for kind of an

1 board, for the most part. Conceptually I don't know  
2 that we could agree upon all of those dates today  
3 before I leave, and I wouldn't put the audience  
4 through that process, for 2012. But I certainly  
5 believe that we could agree that within the ensuing  
6 next week or two, that staff could get up with members  
7 of the board.

8 So what I was hoping was to do two things. I  
9 offered why I wanted to do it. When it comes down to  
10 my request to the board, it would really be simply to  
11 just forego the December meeting with the caveat that  
12 we meet in January.

13 And when we leave today, that we agree  
14 that -- we all agree on the utility of in the next few  
15 weeks agreeing upon those meeting date dates for 2012,  
16 where we won't have such a scheduling conflict next  
17 year as we've kind of had this year. Those are the  
18 only two things.

19 MR. FUQUA: I appreciate that clarification.  
20 With that why don't we take this sort of in the  
21 opposite direction. I don't think it would be too  
22 difficult for the board to reach an understanding that  
23 we will over the next couple of weeks have the  
24 communication that you were just describing, Director  
25 Marcantel, about scheduling 2012 meetings.

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<p>1 Having said that, is there anyone on the 2 board who thinks that that will be a difficulty? 3 Okay. Hearing no opposition to that, I think we can 4 all leave today with the understanding that that 5 communication will occur over the next couple of 6 weeks. 7 The first item, though, moving the board 8 meeting from December to January, are there any 9 questions or comments from the board members about 10 that proposal? 11 MR. MARCANTEL: Mr. Chair, members of the 12 board, just for clarification, if we -- I don't know 13 that technically it's a move. I think technically 14 what we would be doing is foregoing our fourth meeting 15 of the calendar year that's laid out in NMAC, and 16 agreeing that we would forego that rule this year and 17 only have three with the caveat that we'll have four 18 prescheduled meetings in 2012. 19 MR. FUQUA: That is an important 20 clarification. I appreciate that. That's right. It 21 is not moving a meeting, it is foregoing one with the 22 agreement to meet in January for the first meeting of 23 2012. 24 With that clarification are there any 25 questions or comments from the board about that</p>	<p>1 MR. FUQUA: With that it may actually not be 2 necessary for a formal motion. But I'll leave this to 3 the board. If the board would like to move, second, 4 and adopt a recommendation that the board meet the 5 third week of January, we can certainly do that. 6 But I think, with the understanding that 7 there will be conversations over the next couple weeks 8 about scheduling the meetings for 2012, we probably 9 don't need that. 10 MR. MARCANTEL: Mr. Chairman, members of the 11 board, I appreciate the foregoing of this meeting. We 12 will have staff in touch with members of the board to 13 make certain that we're scheduled every meeting for 14 2012. 15 MR. FUQUA: Very good. 16 MR. KORN: Mr. Chairman, can I ask just one 17 point of clarification. 18 MR. FUQUA: Of course. 19 MR. KORN: And I know we've already voted on 20 this. And I would direct this to Mr. Shandler who has 21 a better understanding of the rules. But is there not 22 a rule that requires a certain review by the board of 23 hearings that are open within 60 days that might 24 affect some of the hearings that are coming due 25 presumably with a decision in November?</p>
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<p>1 proposal? Hearing none is there a motion to forego 2 the fourth meeting in 2011? 3 MR. MYERS: I'll make that motion. 4 MR. FUQUA: And a second? 5 MR. GRATTON: Second. 6 MR. FUQUA: All in favor of foregoing the 7 December 2011 meeting of the Law Enforcement Academy 8 Board. 9 (Those in favor so indicate.) 10 MR. FUQUA: All opposed. Hearing no 11 opposition that motion will carry. 12 And I sort of inadvertently broke this into 13 two pieces. So is there a motion before the board to 14 convene -- and before we actually make the motion, 15 Mr. Marcantel, what would your recommendation be for 16 the first meeting in 2012? 17 MR. MARCANTEL: Mr. Chair, members of the 18 board, what I would like to do is set up a regular 19 expected kind of muscle memory, if you would, from 20 here on out that our New Mexico Law Enforcement 21 Academy Board meetings would happen annually, the 22 first meeting, in that third week of January each 23 calendar year. And then from that point on, we 24 will -- we'll schedule every year a year ahead the 25 remaining three meetings.</p>	<p>1 MR. SHANDLER: Mr. Chairman, the board rules 2 require a board decision 90 days after the hearing 3 record by the hearing officer is closed. 4 MR. KORN: Ninety days after the record. 5 MR. SHANDLER: Yes. 6 MR. KORN: Okay. Thank you. That answers my 7 question. 8 ITEM NO. 15: SUBPOENAS: POLICY CHANGE 9 MR. FUQUA: Very good. If there are no other 10 comments or questions, we can move to the next agenda 11 item. This is agenda item 15, policy change 12 concerning subpoenas. And at this point I will turn 13 it over to Member Korn. 14 MR. KORN: Thank you. In being involved with 15 the hearings more and more, I've become aware that one 16 of the simpler things we do is issue subpoenas. And 17 in issuing them, the way our current informal policy 18 has been -- for decades has been to allow the 19 investigator for the Law Enforcement Academy to serve 20 the subpoena. 21 And the way he would serve the subpoena is 22 either serving it himself or sending it to a member of 23 the organization from which most of the time a police 24 officer would be working in. This puts a great 25 burden -- this does two things.</p>

<p style="text-align: right;">Page 86</p> <p>1 One is it puts a great burden on the sole 2 investigator to administer subpoena rules. And he is 3 really tied up with -- everything that has an 4 investigatory aspect of the board goes to one man. 5 And then -- that's Mr. Holmes who ably satisfies his 6 requirements. But then it puts this additional burden 7 on him to issue subpoenas. 8 By the same token, the return of the 9 subpoena, which is to say the certification that it's 10 been served and appropriately served on a witness, 11 either goes to Mr. Holmes or goes to the department 12 that issues no return. 13 So the problem there is that the defense 14 attorney or the prosecuting attorney that issued or 15 asked for the issuance of the subpoena in the first 16 place would have no specific knowledge about whether 17 his witness has been served. 18 So what I'm proposing is a simple informal 19 change. I think, since we've existed for one, two, or 20 possibly three decades without having a rule, I'm not 21 suggesting that we change this to a rule. I'm 22 suggesting that we make a simple change so that we are 23 able to have the subpoenas issued and then the person 24 serving them be the attorney for either side. 25 So I had asked that the documents we</p>	<p style="text-align: right;">Page 88</p> <p>1 And then number three, pro se respondents, 2 which would be, of course, those without attorneys 3 that would have no way of serving it on their own, can 4 continue to request that the board serve the subpoena 5 as before which would be through Mr. Holmes or our 6 investigator. So I'm asking the board to approve an 7 informal procedure change. 8 MR. FUQUA: Thank you, Mr. Korn. 9 MR. KORN: Thank you. 10 MR. FUQUA: Are there any questions or 11 comments concerning this proposal? No. Okay. I 12 think then -- actually there was one thing that I did 13 want to say about this. 14 This it seems to me, Mr. Korn, sort of 15 mirrors the way that subpoenas are handled typically 16 at least in civil litigation, where attorneys as 17 officers of the court have the authority to issue 18 subpoenas themselves. They don't even have to go to 19 the court to request them. 20 But as I understand your proposal, the 21 hearing officer would be the person signing the 22 subpoena and the attorney who had requested the 23 subpoena would then serve it. 24 MR. KORN: Mr. Chairman, thank you for the 25 point. Your point was similar to my point, to my</p>
<p style="text-align: right;">Page 87</p> <p>1 submitted have certain procedures in them. But in 2 doing that, Mr. Shandler has correctly pointed out 3 that it raises my proposal to a level that we don't 4 need to raise it to that would almost sort of be 5 rulemaking. 6 So I would change my proposal to the 7 following: The proposed informal procedure that would 8 continue with that rule would be, number one, a party 9 can request a hearing officer sign the subpoena unless 10 the hearing officer directs otherwise. So there will 11 be a standing order to approve all subpoena requests 12 and authorize pro forma hearing officer signature. 13 That's because I don't think that -- subject 14 to reasons that I can't even imagine, that a hearing 15 officer would ever tell a party that he wouldn't issue 16 a subpoena when he doesn't know what the witness is 17 going to say. Of course, he should issue the subpoena 18 always unless there is a reason not to that -- for 19 reasons I can't imagine as we sit here. 20 Then number two in my proposal is once signed 21 the subpoena would be returned to the requesting 22 attorney. And that person would be responsible for 23 service and the proof of service; therefore, he would 24 know whether the witness had been served and would be 25 available for the hearing.</p>	<p style="text-align: right;">Page 89</p> <p>1 original thoughts on this. But Mr. Shandler pointed 2 out to me that the statute currently reads that the 3 board will issue subpoenas. 4 And because it says the board, originally I 5 was going to transfer that to the requesting attorney. 6 But it just seemed cleaner to keep it as the board. 7 The hearing officer would pro forma approve all of 8 them and then give it back to the requesting attorney. 9 MR. FUQUA: And just one question about the 10 pro forma nature of the approval. Certainly not to 11 suggest there are reasons that will come up very 12 frequently for a subpoena not to be issued, but is 13 there a process in place now for the board by which a 14 party can object to a subpoena that has been issued? 15 MR. KORN: There is really not. When a 16 subpoena gets -- when the request comes to the hearing 17 officer, it's not an interactive request and both 18 parties are asking for it. It's usually just one 19 party would ask for it. And so the hearing officer as 20 a matter of protocol doesn't ask the other party if 21 they approve or reject. 22 MR. FUQUA: So this may be a question that, 23 Mr. Shandler, you might have some input into. But I 24 mean what happens if a party wants to quash a subpoena 25 that has been issued, is that something that happens?</p>

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1 MR. SHANDLER: Mr. Chairman, to my  
 2 recollection that has not occurred in the last five to  
 3 seven years. But the issues about subpoenas, when  
 4 there is dispute, it's been my experience that the  
 5 attorneys will try to rely on the court rules to find  
 6 a resolution.  
 7 MR. FUQUA: And would I be correct then in  
 8 assuming that the hearing officer would ultimately  
 9 determine whether or not an issued subpoena should be  
 10 quashed?  
 11 MR. SHANDLER: Mr. Chairman, based on  
 12 experience, that usually is the order of operations.  
 13 But there has been cases out there where attorneys  
 14 have jumped immediately to the courts to get the  
 15 courts to intervene.  
 16 MR. FUQUA: Mr. Jackson.  
 17 MR. JACKSON: Mr. Shandler's last comment I  
 18 think provides an opportunity to segue into a gap that  
 19 I don't think has been explained here, which is that  
 20 by statute the board has the power to issue subpoenas.  
 21 But the informal proposal here is that the hearing  
 22 officer would have the standing, there would be a  
 23 standing pro forma from the hearing officer.  
 24 We had a case in early 2009 in which a  
 25 respondent's attorney wanted a district court to issue

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1 subpoenas for a formal hearing. And the district  
 2 court judge here in Santa Fe said that the board's  
 3 subpoena power was something that could and properly  
 4 was delegated to the hearing officer. So that's why  
 5 it's appropriate for a hearing officer's decision on  
 6 these kinds of matters.  
 7 MR. FUQUA: I recognize -- the question I'm  
 8 asking, it sounds like Mr. Shandler is more  
 9 hypothetical than anything that it's really never come  
 10 up before.  
 11 But if I can summarize just so that the other  
 12 members of the board are all on the same page and make  
 13 sure that I'm on the same page, it sounds like the  
 14 hearing officer does have appropriately delegated  
 15 authority to issue a subpoena and would also then by  
 16 extension have the authority to determine any dispute  
 17 that arose from the issuance of such a subpoena. If  
 18 I'm incorrect in that summary, please let me know.  
 19 MR. SHANDLER: Mr. Chairman, you're exactly  
 20 right. The question is what rules would the hearing  
 21 officer follow or what guidelines. And a specific  
 22 example, respondent's counsel subpoenas Gregg  
 23 Marcantel for a hearing. Okay.  
 24 The prosecution does not want Gregg Marcantel  
 25 to testify for whatever reason, lack of personal

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1 knowledge, et cetera. So what does the prosecutor do.  
 2 He files a motion to quash that subpoena.  
 3 And I think what's been the past practice is  
 4 that the attorney would follow Rule 45 I think it's B  
 5 or maybe C about the quash process. And then he would  
 6 try to interpose that into the administrative hearing  
 7 and advise the hearing officer to follow those general  
 8 guidelines. But it's not black and white.  
 9 MR. JACKSON: And there is an additional  
 10 potential issue here, which is that by rule prehearing  
 11 motions are proscribed. So you would have -- you  
 12 would probably need to have at least the subpoenaed  
 13 party's counsel show up to the actual date of the  
 14 hearing to make a motion.  
 15 MR. FUQUA: I see.  
 16 MR. KORN: And if I can interject.  
 17 MR. FUQUA: Sure.  
 18 MR. KORN: A lot of this is speculative and  
 19 hasn't happened -- well, it happens once or twice in  
 20 decades. I don't think it's worth making a rule and  
 21 making more legislation and taking more time of the  
 22 board. I think we should let it roll the way it  
 23 rolls. And the hearing officer can make the decision  
 24 at the time, if there is one to be made.  
 25 MR. FUQUA: Sure. And I did try to recognize

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1 that some of the questions were more hypothetical than  
 2 anything.  
 3 MR. KORN: Sure.  
 4 MR. FUQUA: It sounds like this hasn't been  
 5 an issue. But it seems to me like it may be in two  
 6 pieces anyway. The first is the question of how  
 7 subpoenas will be issued. And the second would be the  
 8 question of how to handle a dispute about a subpoena  
 9 that has been issued.  
 10 And I understand your proposal to address the  
 11 second -- or the first rather. And if a proposal  
 12 needs to be proposed to address the second, I suppose  
 13 we can take that up at the time.  
 14 MR. KORN: Sure. It wasn't part of my  
 15 proposal.  
 16 MR. FUQUA: Sure. I apologize for that sort  
 17 of extended discussion on things that I think a lot of  
 18 folks may not be terribly interested in. But are  
 19 there any other questions or comments about the  
 20 proposal from Member Korn?  
 21 MR. SCHULTZ: Mr. Chairman, if I may. And  
 22 I'd like to start off by thanking Member Korn for  
 23 bringing this proposed policy change in front of the  
 24 board. Having been on the board for awhile, I know  
 25 Sheriff Coon has been a hearing officer. I've had a



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1 chance to talk with folks that have been hearing  
 2 officers both past and present.  
 3 I know one of the frustrations they have is  
 4 when the hearing is taking place, and we see that in  
 5 the documents that are provided to us as part of the  
 6 formal hearing process and the duties of the board to  
 7 review those cases, the fact that very often there's  
 8 more information that the board wishes was presented  
 9 to that formal hearing. And it never happened because  
 10 the party was not there to provide testimony.  
 11 I think this change in the ability to have a  
 12 subpoena issued to make sure that the parties are  
 13 there to provide relevant testimony will really go a  
 14 long way in not only helping the hearing officer come  
 15 to his or her conclusion, but also help the board.  
 16 And make sure that all the facts are out and  
 17 available for that final decision for what should be  
 18 done with that particular case. So I do appreciate  
 19 the work done by Mr. Korn on this.  
 20 MR. FUQUA: Thank you. Are there any other  
 21 comments or questions? If not, is there a motion that  
 22 the board adopt this informal procedure concerning the  
 23 issuance of subpoenas?  
 24 MR. SCHULTZ: Mr. Chairman, I would like to  
 25 propose that the board does adopt the informal policy

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1 change as presented here today to the council.  
 2 MR. FUQUA: And a second.  
 3 MR. COON: Second.  
 4 MR. FUQUA: With a motion and second to adopt  
 5 the informal procedure that has been proposed by  
 6 Member Korn, all in favor.  
 7 (Those in favor so indicate.)  
 8 MR. FUQUA: All opposed. Hearing no  
 9 opposition that motion will carry and that informal  
 10 procedure will be adopted.  
 11 ITEM NO. 15A: APPEAL ON ANITA RITTER  
 12 MR. FUQUA: The next item on the agenda is  
 13 labeled item 15A, appeal on Anita Ritter. We have on  
 14 the agenda identified I believe Jennie Rennie for  
 15 discussion. Ms. Rennie.  
 16 MR. RENNIE: First of all I would like to  
 17 identify myself. I'm Director Rennie with the  
 18 Regional Emergency Dispatch Authority formerly the  
 19 Eddy County Central Communications Authority.  
 20 We are the consolidated dispatch for Eddy  
 21 County. I'd like to thank the board and director for  
 22 your time and consideration in the matter of my  
 23 employee, Anita Ritter.  
 24 For a little background information on it,  
 25 Anita was arrested for a worthless check in 2003. At

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1 that time she pled no contest to the charge which was  
 2 later dismissed in 2004. We have proof of the  
 3 dismissal from the court, it's been established.  
 4 At this point she is not considered a felon  
 5 under anything that we have been able to establish  
 6 through the court. She is allowed access to a federal  
 7 law enforcement training center where we work every  
 8 day through the Department of Homeland Security, has  
 9 been cleared through their clearance.  
 10 The EMS Bureau has her licensed as a first  
 11 responder which also is not allowed if she is  
 12 considered to be a felon. She is a voting member in  
 13 the State of New Mexico.  
 14 We applied for academy for her to be  
 15 accepted. She was accepted. We received the  
 16 acceptance package. We believe it was a couple of  
 17 days before the academy received a phone call from  
 18 Mr. Najjar, advising that -- the issue of her arrest.  
 19 I again submitted all the paperwork showing  
 20 that we had the dismissal and that everything was  
 21 there. At that point we apparently inadvertently or  
 22 accidentally received a second confirmation from the  
 23 academy that she was accepted, sent her up here, and  
 24 she was returned home that Sunday.  
 25 I am asking for consideration from the board

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1 in looking -- and again I have all the documentation  
 2 with me that Anita is not a felon and that she be  
 3 allowed acceptance into the dispatch academy.  
 4 She is a very valued member of our  
 5 department. She has been an outstanding employee in  
 6 her year with the Eddy County Central Communications  
 7 Authority. She has taken it upon herself to -- in a  
 8 lot of home study, a lot of work with the other  
 9 supervisors, training coordinators, she has began  
 10 training other employees on her own working as a tack  
 11 officer.  
 12 She was unanimously selected as employee of  
 13 the quarter by the entire department. She is truly a  
 14 joy to work with, someone who truly and honestly  
 15 believes in her heart that this is a profession and a  
 16 calling, and that this is something that she wants to  
 17 do for the rest of her adult career. And I hate to  
 18 see one mistake that occurred nearly ten years ago  
 19 keep her from being able to do that.  
 20 MR. SHANDLER: Let me ask a threshold  
 21 question of the parties. Under the board rules, when  
 22 an applicant is denied admission by the director, they  
 23 may appeal it to the board.  
 24 And they may follow the rules of an appeal  
 25 for any other officer including going in front of a

<p style="text-align: right;">Page 98</p> <p>1 hearing officer, being represented by counsel, 2 appearing in front of a hearing officer, submission of 3 exhibits, and witnesses. Are you waiving all those 4 rights today? 5 MS. RENNIE: When I contacted Director 6 Marcantel and Najar, the response that I got from them 7 was to bring it to the academy board. I'm sorry. 8 This is my first time of ever having to deal 9 with anything with the board with an issue with an 10 employee. And I was not aware that we could go before 11 a hearing officer honestly prior to -- my direction or 12 recommendation was that we bring it before the board. 13 MR. MARCANTEL: Mr. Chair, members of the 14 board, and if there is -- in speaking to counsel's 15 comments, if there are other remedies that are more 16 appropriate that Ms. Rennie should be able to pursue, 17 then I would respectfully request that they be allowed 18 to consider that. 19 I can tell you that to me, in my response to 20 this, it was a clear -- as we discussed it was a clear 21 rule on it. And the evidence that I had in front of 22 me, I didn't see this as a dispute of fact like you 23 might, whether or not a witness saw one thing or 24 another. There were salient tangible documents and a 25 salient tangible rule.</p>	<p style="text-align: right;">Page 100</p> <p>1 anything in those rules that would indicate that these 2 two options are mutually exclusive? 3 In other words that by coming to the board 4 today to make this appeal, as you say the rights to a 5 hearing and consideration by a hearing officer would, 6 in fact, be waived; or would it still be possible, 7 after the presentation that Ms. Rennie has made on 8 behalf of Ms. Ritter, that a hearing could happen in 9 the future even in the face of a decision that the 10 board would make today. 11 So more concretely, if the board were to vote 12 today to reject the request that Ms. Ritter has just 13 made, would Ms. Ritter still have the opportunity to 14 have that hearing? 15 MR. SHANDLER: Mr. Chairman, I don't think 16 the rules are black and white on this subject. I 17 think that most commonly, as in past experience, when 18 parties come to the board to try to resolve things, 19 it's a plural, with the director's position and the 20 applicant or officers trying to have an agreed 21 stipulation. 22 And in past experience the board sometimes 23 has rejected those stipulations and they have then 24 gone to a full factual hearing. That's the past 25 experience.</p>
<p style="text-align: right;">Page 99</p> <p>1 And so my response was that, if it's simply a 2 rule issue, that if we were ever going to deviate from 3 the rule, that that would be a matter for the board. 4 So if there are other remedies and I provided 5 Ms. Rennie incorrect information, then we probably 6 should make that clear to where they can understand 7 how to best pursue the remedy that they may seek. 8 MR. SHANDLER: Mr. Director, I'm glad you 9 spoke up, because I should have invited the question 10 to you as well. Because there are two parties at the 11 table presenting in front of the board. 12 So also you would have had an opportunity to 13 present witnesses and exhibits and discovery and do 14 cross-examination. So I guess it's really between the 15 two parties. 16 If they want to come all the way directly to 17 the board, I suppose if it's purely a legal issue, 18 perhaps that's permissible. But I just wanted to make 19 sure the two parties were aware of their rights. 20 MR. FUQUA: Thank you, Mr. Shandler. And 21 actually before -- yeah, before we get too much 22 further down the road, a question that I have for you, 23 Mr. Shandler. 24 Because I am almost completely unfamiliar 25 with the rules to which you're referring, is there</p>	<p style="text-align: right;">Page 101</p> <p>1 My concern would be that absent maybe 2 establishment that this is an extraordinary situation 3 because it's a purely legal fight, I don't want to 4 advise the board to set the precedent that if an 5 officer is unhappy with the Notice of Final Decision 6 from the director, that they can just come directly to 7 the board and then try to pitch the board with the 8 idea. 9 And if the board doesn't accept it, then it 10 goes back to hearing. I think suddenly these board 11 meetings will go on for two days because they'll turn 12 into mini-trials for every case. So I don't want to 13 set the precedent without the director being 14 comfortable with that precedent being set as well. 15 MR. FUQUA: Well, I mean this might be the 16 kind of thing that would be more appropriately 17 discussed in the context of rulemaking or even 18 executive session. I don't know. 19 But one thing that comes to my mind is the 20 possibility of treating a situation like this as one 21 in which the party has, in fact, waived the 22 opportunity to have the hearing and is instead 23 appealing directly to the board, knowing full well 24 that the consequence of that appeal to the board is 25 that that's the only remedy available. One</p>

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1 possibility.

2 The other possibility I suppose would be that

3 the person could make this kind of appeal and still

4 retain the right to have a hearing, though I have some

5 concern without thinking it through much more than I

6 have just in the last few minutes that if that were

7 the case and the board did reject the appeal, you

8 know, there could I suppose be an argument that the

9 board having already made that decision to hearing

10 would not adequately protect the due process rights of

11 the person under consideration.

12 That said I'm not really sure exactly where

13 we would go from there. And maybe it comes back to

14 the question that you first asked of Ms. Rennie and

15 Ms. Ritter.

16 Do you intend by appearing before the board

17 today to waive your right to have this matter

18 adjudicated in a more formal proceeding presided over

19 by a hearing officer?

20 MS. RENNIE: I will defer to the employee.

21 This is ultimately her career.

22 MR. FUQUA: Certainly. And I apologize for

23 springing this question on you. It's probably not

24 something you had thought about before you got here

25 today.

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1 MS. RENNIE: And I apologize for my ignorance

2 on the process.

3 MR. KORN: Mr. Chairman, if I could just make

4 a question.

5 MR. FUQUA: Of course, please.

6 MR. KORN: If you're asking Ms. Ritter to

7 make a decision whether she would waive her rights,

8 then you're also presuming that the board will

9 basically have an informal hearing or a formal hearing

10 now.

11 MR. FUQUA: Would make a decision, that's

12 right. That's right. And I guess the question there

13 is whether or not that's something that the board

14 would like to do, whether the board feels that that's

15 appropriate.

16 MR. KORN: Well, I guess where I'm leading

17 with that is I think, if the board did decide to have

18 an informal hearing now, I don't know why she would

19 have to waive her rights for a formal hearing later if

20 we did an informal hearing now. I don't know why she

21 wouldn't get another bite at the apple.

22 This informal hearing might raise questions

23 that would have to be fleshed out later in a more

24 formal hearing. So I guess what I'm suggesting is

25 could we perhaps proceed informally if the board --

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1 because we would gather a little bit of information

2 here; we would informally talk about it in private as

3 a board; and if we needed more information, we would

4 come back and suggest a formal hearing. And all that

5 would be without her waiving any rights.

6 MR. FUQUA: I see.

7 MR. MARCANTEL: Mr. Chairman, members of the

8 board, I would respectfully request out of respect for

9 all of the Eddy County visitors here today that we do

10 what we can to facilitate looking at their request, if

11 we can, in the context of today. It's quite a long

12 drive.

13 I won't disrespect the agenda. But I think

14 at some point I need a little bit more clarity from

15 the board in regard to -- you know, I see this issue

16 and I have seen this issue as an issue of law. There

17 are tangible records in front of us that indicate an

18 issue. And it's in violation of law.

19 And I saw this as an issue that Ms. Rennie

20 and Ms. Ritter may have some arguments on why it is we

21 should deviate from the current rule. And I believe

22 they may have good arguments on that that the board

23 should hear.

24 But I didn't see this as any sort of a

25 dispute about facts. And so at some point we'll --

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1 I'll have to get a little bit more guidance from the

2 board because I don't want to waste people's time.

3 But with that in mind, I would like to do

4 what we can to respect their travels, if that's

5 possible. I see as Mr. Korn points out allowing for

6 some sort of an informal hearing at this point is no

7 different than we're handling any other case that's

8 being alleged now that we handle in that manner.

9 MR. FUQUA: Mr. Korn, let me ask you the

10 question. If your proposal would be to proceed as

11 though this is an informal hearing of some kind, what

12 would you see the nature of the board's decision to

13 be? Would the board be making a binding decision

14 today?

15 MR. KORN: I think that's up to the board to

16 decide when we talk about it privately. But I think

17 we could take an informal -- we could start taking

18 formal testimony as it were. And as Director

19 Marcantel pointed out, most of it is legal, not

20 factual -- well, not having to do with a set differing

21 facts.

22 Then the board could be in closed session

23 like any other personnel matter and make a decision.

24 And that decision could either be to accept their

25 point or reject their point or refer it to a hearing

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1 officer.

2 MR. FUQUA: Okay. Mr. Jackson.

3 MR. JACKSON: I have a couple of concerns

4 here. And again I haven't really gotten a chance to

5 consult with the director who is my client in my role

6 as prosecutor of this board on this.

7 But while treating this as sort of an

8 informal hearing, I'm not sure that there's any legal

9 problem with that per se. The informal hearing

10 process is in 10.29.1.12. However, the procedures for

11 the appeal of a denial of admission to the academy,

12 whether it be for law enforcement or for a

13 telecommunicator, specifies that the procedures to be

14 followed are 10.29.1.13 through 15.

15 So it doesn't include the predetermination

16 process that's in .12. So if the board were to have

17 an informal hearing, that would be an entitlement that

18 exceeds what is required by the rule.

19 The second item of concern that I've got is

20 that just in the presentation that we've had here,

21 there is already one factual issue that isn't

22 self-evident from the materials that's been raised

23 by -- and I'm sorry. Ms. Rennie?

24 MS. RENNIE: Yes, Jennie Rennie.

25 MR. JACKSON: And that is something that I

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1 think would require clarification, which leads me to

2 the third point, which is this sort of thing has been

3 done once before with Flavio Salazar.

4 And in that case the respondent stated that

5 he would agree to whatever discipline the board

6 imposed, in a sense agreeing to the Notice of Final

7 Decision, but then appeared and addressed the board

8 unsworn. And the prosecution was not offered a

9 sufficient chance to respond to that unsworn and I

10 believe incorrect testimony.

11 So I would have concerns advising my client

12 to go forward at this point unless we were absolutely

13 clear and there were stipulations as to fact issues in

14 place and that any testimony was under oath.

15 MR. KORN: And if I may, I think Director

16 Marcantel -- I'm sorry, Mr. Chairman.

17 MR. FUQUA: No, no. Go ahead.

18 MR. KORN: I think Mr. Marcantel is of the

19 opinion that we should proceed, if we can.

20 MR. FUQUA: That was certainly the

21 implication I got from his comments earlier, that he

22 wanted to dispose of the matter to the extent that the

23 board can. I think, though, that there are some real

24 questions about whether or not the board can dispose

25 of this matter in the way that it's been presented to

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1 this point.

2 Having said that, let me put that on hold for

3 just a moment and ask Ms. Rennie and Ms. Ritter, was

4 there anything else that you wanted to present to the

5 board today?

6 MS. RENNIE: No. As Director Marcantel

7 stated, I mean it's pretty factual. There's no two

8 sides of the story. I think there was a mixup in some

9 of the paperwork between the academy sending

10 acceptances and then discovering it after the fact in

11 too short of a time frame for us to have a decision

12 for her to make it into that academy obviously because

13 it was starting the next morning.

14 I don't think there's really any factual

15 basis that is an argument. It's more of a legal issue

16 of whether the dismissal that was done after the fact

17 will stand in the board's eyes as absolving her of

18 that charge.

19 MR. FUQUA: And, Ms. Ritter, was there

20 anything else that you wanted to make the board aware

21 of today.

22 MS. RITTER: No.

23 MR. KORN: Mr. Chairman, if I could raise --

24 the paperwork that we have would raise -- would raise

25 an issue, a question about --

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1 MR. SHANDLER: Let me interrupt, because I

2 don't think the board has made a decision on what to

3 do. I think the best step is to maybe take a

4 five-minute break, let the lawyer talk to his client,

5 and then the parties can meet.

6 And maybe it doesn't have to be a five-minute

7 break now, maybe in a half hour. But I think the

8 parties need five minutes to talk things through. And

9 then they can come back and see if everyone is okay

10 with proceeding. I just think that's the best due

11 process step, just allow the parties five minutes to

12 talk to each other.

13 MR. FUQUA: I think, Mr. Shandler, that

14 certainly would address some of the concerns that I

15 have, particularly as this is the first time I've ever

16 chaired one of these meetings.

17 I certainly want to make sure that whatever

18 it is the board does here does adequately take account

19 of the due process rights that Ms. Ritter has. And I

20 want to make sure that the parties both go into this

21 with their eyes open and know exactly what it is they

22 would be doing and what the potential ramifications

23 might be. With your suggestion --

24 MR. SHANDLER: And to further sell you on it,

25 if the board decides it is a disciplinary matter, the

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1 chairman has traditionally recused himself so then you  
 2 will be free to go.  
 3 MR. FUQUA: Well, having said that, let me --  
 4 I think I can excuse the two of you from the podium.  
 5 So there's no need for you to stand any longer while  
 6 we continue to discuss this matter.  
 7 MS. RENNIE: Again I appreciate the  
 8 consideration.  
 9 MR. FUQUA: The next question that I would  
 10 have then would be whether we want to take that break  
 11 now or whether we would ask Ms. Rennie and  
 12 Ms. Calicoat to make whatever presentation they were  
 13 going to make to the board before we take that break.  
 14 I think my preference would be that we take  
 15 it before that presentation is made so that all of the  
 16 parties know basically where it is we're headed with  
 17 this. If anybody has a different feeling, please let  
 18 me know. Otherwise I think, yeah, we would take a  
 19 short break at this time.  
 20 MR. MARCANTEL: Mr. Chair, members of the  
 21 board, I might suggest that we -- well, we would be  
 22 breaking out to discuss the resolutions on the  
 23 remainder of the cases in the agenda. Might that be a  
 24 time that we could -- if we could impose upon the  
 25 folks from Eddy County to remain around the time, that

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1 we could maybe flesh this out and then come back and  
 2 be able to decide on whether or not we would be in a  
 3 position to pursue a remedy today or not.  
 4 MR. FUQUA: If I understood you correctly,  
 5 and tell me if I did or not, you're right. I mean  
 6 there is a time where the board would break and  
 7 discuss disciplinary matters. And, in fact, if the  
 8 board were not to hear at this time from Ms. Rennie  
 9 and Ms. Calicoat, I think this would be the time when  
 10 we would make that break.  
 11 MR. MARCANTEL: Yes, sir.  
 12 MR. FUQUA: And that's kind of what I was  
 13 suggesting, that we go ahead and break now and the  
 14 parties can -- and when I say the parties, let me be  
 15 clear. I'm talking about agenda items 15A and 15B can  
 16 speak with you, Mr. Marcantel, and with your attorneys  
 17 to determine how it is the board wants to proceed  
 18 today on those two matters.  
 19 And yeah, whatever it is that the board  
 20 decides to do in those two matters would be taken up  
 21 with the agenda items on the disciplinary matters. So  
 22 with that understanding why don't we take -- I want to  
 23 say a short break. But it will be as long as it has  
 24 to be to get all this hashed out. And we'll be back  
 25 on the record as soon as we can.

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1 (Break from 11:35 a.m. to 11:55 a.m.)  
 2 MR. FUQUA: I think we're ready to go back on  
 3 the record.  
 4 It looks like we got this worked out pretty  
 5 well during the break. Here is basically the way that  
 6 this is going to proceed. We finished with agenda  
 7 item 15A and we still have agenda item 15B to  
 8 consider.  
 9 And what we're going to do is permit  
 10 Ms. Rennie and Ms. Calicoat to make their presentation  
 11 to the board. Before that happens, though, I just  
 12 want to make sure that everybody is clear on the  
 13 process.  
 14 I think the decision that we reached was that  
 15 the board does have the authority in its hearing, in  
 16 its meeting today, to consider these appeals and  
 17 consider them sort of informally. But the board does  
 18 have I think the authority to make the determination  
 19 today, if it so chooses, to permit both Ms. Ritter and  
 20 Ms. Calicoat to enroll at the academy.  
 21 If the board makes the determination not to  
 22 admit either Ms. Ritter or Ms. Calicoat, Ms. Ritter  
 23 and/or Ms. Calicoat would still have the opportunity  
 24 to make a formal appeal and make their case in the  
 25 formal process to a hearing officer and ultimately to

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1 the board. But that determination will be made in  
 2 executive session.  
 3 So what we'll do, Ms. Rennie, Ms. Calicoat,  
 4 you can make your presentations. And then we will  
 5 move into the stipulated orders, which I think are  
 6 under the heading disciplinary matters, and these are  
 7 agenda items 16 to 22, at which point the board will  
 8 go into executive session to make its determinations  
 9 on those disciplinary matters including items 15A and  
 10 15B.  
 11 Is there anything that I've left out or  
 12 misstated, please?  
 13 MR. JACKSON: Will there be a chance for the  
 14 director or really the prosecution to respond to the  
 15 statements of Ms. Ritter and Ms. Calicoat?  
 16 MR. FUQUA: I think that, for purposes of the  
 17 board's determination, unless the board disagrees, I  
 18 think that would be helpful to the board in making its  
 19 determination in the informal process.  
 20 MR. SCHULTZ: Actually, Mr. Chairman, I think  
 21 what we need to do here today is -- the first thing is  
 22 the director needs to tell us what his contemplated  
 23 action is, if he either accepts these two women or to  
 24 deny them.  
 25 And then we go from his decision to accept or

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<p>1 deny to the respondent's or petitioner's or whatever                  2 you want to call them, to their presentation. And                  3 then again a response back from Mr. Jackson and from                  4 the director as to what their decision is.                  5 I mean obviously I come to the conclusion                  6 that the director is going to deny the two applicants.                  7 But no one has said that yet.                  8 MR. FUQUA: Mr. Jackson.                  9 MR. JACKSON: Mr. Chair and Chief Schultz,                  10 the facts here are actually a little bit different on                  11 these two items. And if we're just discussing                  12 Ms. Ritter at this point, the director has already                  13 sent a rejection, whether it was given orally or in                  14 writing. But that decision was made. And this is an                  15 appeal of that decision.                  16 The Calicoat case is a little bit different.                  17 And we can discuss that one when we get to it.                  18 MR. FUQUA: Well, okay. So yeah, let's go                  19 ahead and break those into two pieces.                  20 With Ms. Ritter I think, Chief Schultz, the                  21 suggestion has been that yes, the director has already                  22 denied admission to the academy. And Ms. Ritter is                  23 here today to seek a determination informally from the                  24 board as to whether or not that denial should stand,                  25 with like I said earlier the understanding that if the</p>	<p>1 that correct?                  2 MR. JACKSON: There's a denial. But the                  3 question on the Calicoat is when can she reapply.                  4 MR. FUQUA: Right. And I don't know, Chief                  5 Schultz, if that satisfies the question that you asked                  6 about the director's recommendation on that case.                  7 MR. SCHULTZ: Again in that case I can only                  8 come to one conclusion, the fact that Ms. Calicoat is                  9 here, the director has denied the request to go to                  10 2012 and keep it at 2013. Right? I mean otherwise we                  11 wouldn't be here.                  12 MR. FUQUA: That's my understanding.                  13 Director Marcantel.                  14 MR. MARCANTEL: Mr. Chair, members of the                  15 board, I want to clarify that the rules don't give me                  16 any discretion in the face of the evidence that's been                  17 presented to me. It doesn't say may, it says shall.                  18 So I am not able -- the board is able to                  19 exercise discretion in these matters. But I am not in                  20 my position. So you are correct to say that there has                  21 been this plea presented to me previously, even though                  22 the first letter had gone out by the previous director                  23 in terms of Ms. Calicoat's case.                  24 I have had discussions with Ms. Rennie thus                  25 far and held to the existing rule, because again it</p>
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<p>1 board today reaches the determination that it should                  2 stand, Ms. Ritter still does have the opportunity to                  3 make the formal appeal that the rules provide.                  4 Now, Mr. Jackson, you said that the situation                  5 is a little bit different for Ms. Calicoat. Has the                  6 director not issued a denial of admission in that                  7 case?                  8 MR. JACKSON: Again in that case the                  9 situation is that there was a previous application                  10 back in 2010 that was denied. And Ms. Calicoat was                  11 informed that she could reapply in three years. So                  12 this is -- so I believe -- and I don't want to speak                  13 for her and she may correct me when she gets up here.                  14 So I believe that she wants to move that up                  15 to 2012 instead of 2013. So in that case it's really                  16 not an appeal of a denial for this admission. It's an                  17 appeal to change the terms of a previous agreement. I                  18 think it was an agreement.                  19 MR. FUQUA: So I think for purposes of the                  20 question that you were asking, Chief Schultz, and you                  21 tell me if this answers that question, it sounds to me                  22 under those circumstances that there was a denial                  23 previously of admission. This is not a request                  24 necessarily that the board change its determination on                  25 that denial. But there is a denial on the record; is</p>	<p>1 dictates to me that I shall, not may for the record.                  2 MR. FUQUA: Thank you, Mr. Marcantel. Does                  3 that --                  4 MR. SCHULTZ: Yes, sir.                  5 MR. FUQUA: Okay. Just so that the record                  6 is -- well, I don't know if this is going to make it                  7 clear or not. But what the board will be considering                  8 then for Ms. Ritter is an informal appeal of her                  9 denial to the academy. And what the board will be                  10 considering for Ms. Calicoat is an informal appeal of                  11 the determination that she cannot apply for admission                  12 to the academy until 2013.                  13 With that understanding that the board has                  14 already heard from Ms. Ritter, unless there's anything                  15 else any members of the board would like to say on the                  16 matter, I think we can move to 15B.                  17 MR. SCHULTZ: Mr. Chairman.                  18 MR. FUQUA: Yes.                  19 MR. SCHULTZ: Obviously I mean there's one                  20 big item here in the packets that have been provided                  21 to us today. There's an LEA 6. An Applicant                  22 Affidavit of Criminal History has been provided to the                  23 board for consideration that has some very important                  24 information. I think it needs to be addressed by                  25 Ms. Ritter as to why this was filled out in the form</p>

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1 and manner in which it was.  
 2 MR. FUQUA: And, Chief Schultz, would you  
 3 like the opportunity then to ask those questions of  
 4 Ms. Ritter?  
 5 MR. SCHULTZ: Yes.  
 6 MR. FUQUA: It probably makes the most sense  
 7 then for us to take this in those pieces. And,  
 8 Mr. Jackson, as you had indicated earlier, there may  
 9 be something that you would like to put on the record  
 10 for the board's consideration in this informal  
 11 proceeding.  
 12 So why don't we do that, why don't we let  
 13 Mr. Jackson say what he might have to say about the  
 14 case. And then we can open it up to the board for  
 15 questions.  
 16 Mr. Jackson.  
 17 MR. JACKSON: Actually it may be that most of  
 18 the points that I would raise are going to be  
 19 addressed by the board. I would like to note before  
 20 the questioning, though, again that this is not sworn  
 21 testimony. But it may be that the board's questions  
 22 will address the issues that I would raise.  
 23 MR. FUQUA: Okay. Then let's move to that  
 24 questioning. And, Mr. Jackson, if the questions do  
 25 not address the issues you would like to raise, you

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1 are, of course, free to ask your own questions. With  
 2 that questions from the board for Ms. Ritter.  
 3 MR. SCHULTZ: Mr. Chairman, if I may.  
 4 Ms. Ritter, we've been provided today a copy of LEA 6.  
 5 It's an Applicant Affidavit for Criminal History. And  
 6 on there there are two items that are of interest to  
 7 myself and the board.  
 8 The first one stated have you ever been  
 9 arrested. And you checked no. We've also been  
 10 provided with a copy of an SRE response from the FBI  
 11 from Clarksburg, West Virginia, showing you being  
 12 charged with issuing worthless checks as well as a New  
 13 Mexico Department of Public Safety Law Enforcement  
 14 Request Form showing you having been arrested under  
 15 the name of Anita Cheatham. The question is why did  
 16 you check no on the affidavit and swear that you had  
 17 not been arrested?  
 18 MS. RENNIE: If I may answer for her and then  
 19 Anita can answer as well. I and the department take  
 20 full responsibility for that. I am required to sign  
 21 off on those. I have a brand-new training officer  
 22 that had taken over. This was her first set of  
 23 applications that she sent to the academy.  
 24 As being promoted to that position after  
 25 Anita had already worked with us for about eight

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1 months, she was unaware of Anita's arrest, basically  
 2 assisted her with filling out the packet, kind of did  
 3 the sign here, sign here, sign here. And that was  
 4 completely overlooked.  
 5 And I will take full responsibility for that.  
 6 That is not -- in any way, shape, or form was she  
 7 trying to hide the fact that she had been arrested.  
 8 We knew it. We knew it before we ever hired her and  
 9 had to get the documentation for our own department to  
 10 provide that ahead of time before she was ever  
 11 employed. So I will take full responsibility for  
 12 that.  
 13 MR. SCHULTZ: So I guess my question would be  
 14 either to you or Ms. Ritter, the actual checking the  
 15 boxes no, was that done by another employee or by  
 16 Ms. Ritter, did she check the boxes?  
 17 MS. RENNIE: You'll have to ask her. I  
 18 didn't actually do that.  
 19 MS. RITTER: To be honest with you, I'm not  
 20 sure if that was done by me or another employee. I  
 21 don't know. It might have been done by me. I was  
 22 under the assumption since it was dismissed that you  
 23 check no because it's not -- it's not supposed to be  
 24 on your record any longer.  
 25 MR. SCHULTZ: Okay. Going back to the

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1 affidavit, the second question talks about "Have you  
 2 ever been pardoned, entered into a preprosecution  
 3 diversion program, or received a suspended or deferred  
 4 sentence for any crime?"  
 5 That one I can see that argument being an  
 6 issue to be considered by the board. But the first  
 7 item is very clear, have you ever been arrested. It  
 8 doesn't matter, convicted or not. Physically  
 9 arrested.  
 10 And that's my concern here today, is we've  
 11 got an affidavit, it's a notarized document. And now  
 12 to hear that you might not even have filled it out  
 13 yourself is very concerning.  
 14 MS. RENNIE: The training officer is the one  
 15 that notarized the documents that assisted her with  
 16 filling out the packet.  
 17 MR. SCHULTZ: And I guess my question is is  
 18 the training officer here today?  
 19 MS. RENNIE: The training officer is not here  
 20 today. That issue has been addressed. We have gone  
 21 back through all other applications that we currently  
 22 have pending or others that have already been  
 23 submitted to make sure that everything is correct.  
 24 She has been instructed that she is not to  
 25 fill out any portion of the application for the

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<p>1 employee other than what is to be done by the 2 department, that that is their sworn statement, not 3 the department's sworn statement. 4 MR. FUQUA: And let me ask you, Ms. Ritter. 5 You say you're not sure whether you checked these 6 boxes or whether someone else checked these boxes for 7 you. 8 If it's the latter, somebody else checked the 9 boxes for you, I mean would it be your assertion to 10 the board that they did that without any input from 11 you, that someone just took this form, checked a bunch 12 of boxes, and handed it to you for your signature; or 13 did you tell them the answers to these questions, did 14 anybody ask you have you ever been arrested and then 15 checked the box no after you said no? 16 MS. RITTER: No. Nobody asked me that 17 question. 18 MR. FUQUA: So if you are not, in fact, the 19 person that checked these boxes, the person that did 20 so did so without your input? 21 MS. RITTER: Uh-huh. 22 MR. GRATTON: Mr. Chairman, Ms. Ritter, 23 Ms. Rennie, but you did -- that is your signature on 24 the bottom of that form, is it not, Ms. Ritter? 25 MS. RITTER: Yes.</p>	<p>1 that you have now satisfied the conditions and you no 2 longer have any existing legal liability based on the 3 charges that you were found guilty? 4 And it's confusing, no doubt. But there is a 5 difference between a dismissal from supervision, 6 probation, or parole and a dismissal of charges. 7 I think the record indicates fairly clearly 8 that there was not a dismissal of charges or you 9 wouldn't be on probation and paying restitution if the 10 charges were dismissed. 11 MS. RENNIE: And in speaking with the DA's 12 office and the court -- and I'm sorry once again. I'm 13 not familiar with the process or I would have had the 14 witness for the documentation to back that up. 15 Their assertion at the DA's office and the 16 court in Eddy County is that it is dismissed and off 17 of her record. There is nothing on the local records 18 showing. And there's -- like I said and everything 19 else. Even a background check that was done through 20 the federal law enforcement training center shows her 21 to be cleared. 22 MR. MARCANTEL: But both our state and law 23 enforcement mechanisms are reporting her conviction. 24 MS. RENNIE: Yes. It comes back with the 25 conviction that's on there. And she readily agrees</p>
<p>Page 123</p> <p>1 MR. GRATTON: So when you signed that, you 2 are attesting that the above -- or the submissions are 3 correct. Is that not correct? Is that not what you 4 did? I mean you indicated that the boxes checked were 5 correct? 6 MS. RITTER: Yes. 7 MR. COON: I've got a question. You said it 8 was dismissed. 9 MS. RITTER: Yes, sir. 10 MR. COON: "One year unsupervised probation, 11 \$568.71 restitution, \$175 fine and fees" in the 12 report. 13 MS. RENNIE: She actually did -- as stated in 14 the previous information we had, she did make the 15 agreement with the court. And this was issued, this 16 dismissal, after the fact. 17 MR. MARCANTEL: Mr. Chair, members of the 18 board, may I ask a question. Are we looking at a 19 document -- because we have that document. 20 MS. RENNIE: Yes, sir. 21 MR. MARCANTEL: And I just want clarity on 22 it, because I see that document to be a dismissal from 23 probation. That's not a dismissal of the charges. 24 So basically what that document in my mind I 25 think, and that's why I asked clarification for it, is</p>	<p>Page 125</p> <p>1 that she pled no contest at the time. 2 MR. MARCANTEL: So there's really no dispute 3 of the facts that she was convicted of a felony 4 charge? 5 MS. RENNIE: Yes. 6 MR. MARCANTEL: No dispute. 7 MS. RENNIE: Yes. 8 MR. MYERS: Mr. Chairman. I do have a 9 question. I guess this is for Ms. Ritter. At the 10 time -- were you the director when she applied? 11 MS. RENNIE: Yes. 12 MR. MYERS: And throughout this process when 13 were you notified of her conviction and subsequent 14 dismissal or what time during the process? 15 MS. RENNIE: When she was applying. 16 MR. MYERS: So you knew when she put in her 17 application, irregardless of what this says, that she 18 was subject of this -- 19 MS. RENNIE: Yes, yes. We knew all along. 20 It's always been in her personnel file. In fact, if 21 you will look -- I'm sorry. This one isn't -- I 22 believe the copy that you all have is the one out of 23 my file showing that that was received in 2009, when 24 she was in the application process with us. 25 That was received by me. And at that time,</p>



1 to basically meet the standards of our internal  
2 background checks, everything that I was able to get  
3 from the DA's office and from the court all showed her  
4 to be cleared. As well as like I said we have to  
5 submit for all of our employees to Department of  
6 Homeland Security and to FLETC for access to the  
7 facility.

8 MR. MARCANTEL: Mr. Chair, members of the  
9 board, if I could like move this along, because I  
10 think realistically we have no dispute that there's a  
11 felony conviction. We're not here convening to make  
12 any value judgments on any potential oversights or any  
13 conditions that Eddy County dispatch may choose to  
14 hire employees.

15 Our single role here is to look at the facts  
16 as they relate to certification standards. And so  
17 just to try to keep us focused on what I think really  
18 is at the center of what we need to decide upon, if  
19 there's no dispute of the conviction, we have a clear  
20 NMAC rule on it that as I mentioned before doesn't  
21 give me any latitude, it says shall, should we not be  
22 talking to why it is we should depart from the rule?

23 The fact base is pretty established on this.  
24 So I think what we might want to spend our time doing  
25 is talking about why this case is different and maybe

1 defrauded out of money.

2 But it was not a crime where she hurt anyone  
3 else. It was not a drug-related crime, it was not an  
4 alcohol-related crime, it was nothing involving moral  
5 turpitude to the extent of there was no real intent  
6 committed in going back and reading the case file that  
7 was there.

8 There was obviously a lot of circumstances.  
9 I'm not going to argue guilt or innocence, that's  
10 already been established. That's my request to the  
11 board, is that they take that into consideration for  
12 Anita.

13 MR. MARCANTEL: So it's been what, eight  
14 years since the event?

15 MS. RENNIE: Yes.

16 MR. MARCANTEL: So your argument is that this  
17 happened at a very young point in her life, it's been  
18 eight years since, she's been a stellar public service  
19 employee for you, and her age is a mitigating factor  
20 in this case because her progression in life has shown  
21 that that hasn't been the case from that point  
22 forward?

23 MS. RENNIE: Yes.

24 MR. MARCANTEL: Are there any other  
25 mitigating facts associated with the lack of

1 this rule is not as appropriate for this individual as  
2 it is for the general masses that it's been put in  
3 place for. Would you agree?

4 MS. RENNIE: Yes.

5 MR. MARCANTEL: So would there be any  
6 discussion that either one of you would have regarding  
7 why the rule should be -- the board should consider  
8 deviation from the rule would be my question?

9 MS. RENNIE: I guess the argument that I  
10 would have, and specifically with it being the case of  
11 Anita and knowing her, working with her, like I said  
12 this is a very hard profession.

13 She has 100 percent heart into the job and  
14 the profession. She was a 19-year-old kid that made a  
15 very stupid mistake. She readily admits that, has  
16 from the very beginning.

17 I feel very much that there should not be one  
18 mistake in someone's life that shapes the rest of it.  
19 She has never been in trouble since, has been an  
20 exemplary employee, been in emergency services since  
21 early twenties I believe with being a first responder,  
22 volunteer departments, EMS service.

23 Obviously I'm an advocate for her. It was  
24 not a violent crime. It was -- there was to an extent  
25 a victimless crime. Obviously there was someone

1 intentionality that you alluded to that should be part  
2 of this consideration?

3 MS. RENNIE: I have never seen any intent or  
4 maliciousness whatsoever in Anita or in dealing with  
5 her.

6 MR. MARCANTEL: I meant in the index crime  
7 here that's --

8 MS. RENNIE: Oh. As far as the --

9 MR. MARCANTEL: You alluded to it wasn't  
10 intentional. And maybe I misunderstood you. So if  
11 there were some facts about the conviction that are  
12 mitigating points that there wasn't a malicious act  
13 done --

14 MS. RENNIE: In the understanding of it,  
15 Anita unfortunately was associated with one of our  
16 less savory individuals in Eddy County who still is in  
17 and out of prison at the time and had a child with  
18 him. This was all involved in that circle of events  
19 with her life.

20 Very much of my opinion, and this is  
21 something that is just my opinion in reading the case  
22 file, is she basically took a fall for the guy that  
23 she was with in accepting the responsibility for the  
24 checks.

25 MR. KORN: If I can ask one question,

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1 Mr. Chairman.  
 2 MR. FUQUA: Please.  
 3 MR. KORN: Ma'am, did you say that the DA's  
 4 office has told you that the case has been dismissed?  
 5 MS. RENNIE: Yes. That was back in 2009,  
 6 when I questioned the initial documentation that I  
 7 received from them.  
 8 MR. KORN: So would they be willing to make  
 9 the appropriate application to have the case  
 10 dismissed?  
 11 MS. RENNIE: I would be happy to request that  
 12 from them. Like I said I -- and I apologize again  
 13 especially for the audience in dragging all of this  
 14 out of my being unfamiliar with the process. I have  
 15 no problem contacting the DA's office and requesting  
 16 that documentation. I believe that they would.  
 17 MR. KORN: It seems to me there's two issues.  
 18 One is that she is a convicted of a felony so she is a  
 19 felon despite the affidavit. And the second is the  
 20 issue of how she checked the boxes, whether it was  
 21 under correct --  
 22 MS. RENNIE: And again I believe that to be a  
 23 fault on the side of the department. And I will take  
 24 responsibility for that. I believe -- and again I was  
 25 not present for it.

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1 But I believe that the training officer, in  
 2 assisting her with filling out the paperwork and it  
 3 being her first time doing it as well, just kind of  
 4 went through and no, you didn't do this, no, you  
 5 didn't do this, and not knowing because she had not  
 6 been in a position of a supervisor or the training  
 7 officer at the time she was hired. I don't discuss  
 8 that type of thing with any of the other employees.  
 9 MR. KORN: But the board still has a false  
 10 document in front of us and unfortunately a convicted  
 11 felon perhaps too. So what I'm suggesting is  
 12 shouldn't we see if you can get the appropriate  
 13 paperwork so that if there was a mistake, she wouldn't  
 14 be a convicted felon; and if there was a mistake in  
 15 filling out the form, she correctly fill out the form  
 16 and re-present it or reapply here at the board, isn't  
 17 that where we really need to be going?  
 18 MR. MYERS: Can I respond to Mr. Korn,  
 19 Mr. Chairman.  
 20 MR. FUQUA: Of course.  
 21 MR. MYERS: On that dismissal form, the very  
 22 last line on that dismissal form, it says "It is  
 23 hereby ordered that the above cause be and hereby is  
 24 dismissed." Now, that's -- and the attorneys may know  
 25 this too. But to me in my experience that pertains to

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1 the cause number, which is the entire case.  
 2 MR. KORN: Generally it is the case.  
 3 MR. MYERS: So that tells me that case has  
 4 been dismissed, the entire case.  
 5 MR. KORN: That's the way you would read it.  
 6 MS. RENNIE: And I'm sorry. But that is how  
 7 I took it.  
 8 MR. MARCANTEL: Mr. Chair, members of the  
 9 board, with the caveat that when you read the document  
 10 in totality, it says "Satisfactorily completed the  
 11 period of probation without revocation."  
 12 So realistically, while I would argue that  
 13 there might be reasonable confusion on the point of  
 14 Ms. Rennie, I'm not sure that this document isn't  
 15 dismissing the probationary liability in respect to  
 16 Mr. Myers.  
 17 MR. FUQUA: Are there any additional  
 18 questions from the board concerning Ms. Ritter's  
 19 conduct?  
 20 MR. KORN: If I might point out to the board  
 21 member, thanks for pointing that out. My documents  
 22 have Anita -- oh, Anita Cheatham. That is you or that  
 23 was your prior name?  
 24 MS. RITTER: Yes.  
 25 MR. KORN: Oh, I see. So your point is that

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1 the whole cause has been dismissed?  
 2 MR. MYERS: Correct, because the probation is  
 3 spelled out in the paragraph. And below that it says  
 4 "The cause is hereby dismissed."  
 5 MR. KORN: Sure. Thank you. Thanks for  
 6 clarifying.  
 7 MR. FUQUA: Are there any additional  
 8 questions?  
 9 MR. JACKSON: I don't have questions. I do  
 10 have a couple of points that I would like to make  
 11 based on what we've heard and to maybe clarify some  
 12 matters that the board will be looking at in its  
 13 executive session.  
 14 Whether or not the cause was dismissed -- and  
 15 I think the proper reading of the order is that the  
 16 cause was dismissed because of completion of a  
 17 deferred sentence. That is not what the statute and  
 18 the rule provide for.  
 19 The statute regarding admission to the  
 20 academy provides that the director shall reject  
 21 anybody who has pled guilty or nolo to a felony or a  
 22 crime of moral turpitude. Now, hot checks is both.  
 23 So the director did not have any discretion in  
 24 rejecting this candidate.  
 25 And while looking at the statutes just now

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<p>1 during this discussion, the board's hands are                  2 apparently similarly tied. I know that the board in                  3 its disciplinary proceedings deals mainly with law                  4 enforcement officers as opposed to the                  5 telecommunicators.                  6 And in 29.7.13 which is the law enforcement                  7 statute, that gives the board the power -- it says it                  8 "may deny, suspend or revoke a law enforcement                  9 certification." However, in 29.7.C.9 which is the                  10 parallel provision for public safety                  11 telecommunicators, it says that the board "shall                  12 refuse to issue or shall suspend or revoke a                  13 telecommunicator's certification after consultation                  14 with the employing safety agency if the board                  15 determines that," and under three here it says "has                  16 been convicted of, pled guilty to, or entered a plea                  17 of nolo contendere," which is undisputedly what                  18 happened here, to a felony or a crime of moral                  19 turpitude.                  20 So I'm not sure that the board has any                  21 discretion here based on the facts to overturn the                  22 director's decision to deny this candidate admission                  23 to the academy. Thank you. That's all I have.                  24 MR. FUQUA: If there are no further questions                  25 or comments from the board. Ms. Ritter, thank you for</p>	<p>1 finding of guilt in the case. You still have to take                  2 the arrest, but with an explanation.                  3 MS. RENNIE: May I make one other request                  4 then possibly. Upon the decision of the board and at                  5 this point, I can only assume that they're going to                  6 say no. Is there a possibility, if there is a denial,                  7 that she be issued an extension to continue employment                  8 while obtaining the expungement from her file, is that                  9 something that is even a possibility?                  10 MR. FUQUA: Well, we're getting a little bit                  11 ahead of ourselves, because the board hasn't, in fact,                  12 made a determination. It would be made after the                  13 executive session.                  14 I think what I would suggest -- and if                  15 there's a better way to handle this, please let me                  16 know. But I think what I would suggest is if the                  17 board does, in fact, deny the appeal, the informal                  18 appeal, that Ms. Ritter has made today, that she could                  19 make whatever application to the board she thought she                  20 would need to make in order to continue her employment                  21 while she went through the expungement process.                  22 If there is a better way to handle that, I'm                  23 certainly all ears. But it seems to me that from                  24 where we stand right now, because the board hasn't yet                  25 made a decision, that's probably the best way for us</p>
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<p>1 your time.                  2 MS. RENNIE: May I say one other thing,                  3 please.                  4 MR. FUQUA: Of course.                  5 MS. RENNIE: In reference to what he was                  6 saying and in Mr. Korn's statements, with that being                  7 said, if a dismissal, complete dismissal of the case                  8 was provided, would that allow eligibility at all?                  9 Because he's stating whether it's dismissed, pardoned,                  10 anything, that if you ever plead guilty, that's it.                  11 Am I understanding that correctly?                  12 MR. FUQUA: Well, I think that's certainly                  13 the case that he's making, yes. That I think is the                  14 suggestion that he's making to the board, that                  15 dismissal of the charges isn't something that's                  16 contemplated by the statute.                  17 I mean it will ultimately be up to the board                  18 to determine whether or not it thinks that that is the                  19 right reading of the statute. But I think for the                  20 record that was the contention that Mr. Jackson made.                  21 MS. RENNIE: Okay. Thank you.                  22 MR. SCHULTZ: There is still one option.                  23 That would be the issuance of an expungement by a                  24 court to have the entire case expunged, at which time                  25 then you can check the no finding of fault or no</p>	<p>1 to approach it.                  2 MR. MARCANTEL: Mr. Chair, members of the                  3 board, just to clarify it. I do have the authority                  4 for extensions. But as pointed out by the chairman,                  5 that would require a second action on your part if the                  6 response was not favorable.                  7 MS. RENNIE: Okay. Thank you very much. I                  8 appreciate your time.                  9 MR. FUQUA: Was there anything else?                  10 MS. RENNIE: No. Thank you very much.                  11 ITEM NO. 15B: APPEAL ON SKYLAR CALICOAT                  12 MR. FUQUA: Don't go too far, Ms. Rennie,                  13 because the next agenda item is 15B, appeal on Skylar                  14 Calicoat.                  15 MS. RENNIE: And I am so sorry to everybody                  16 in the audience that this has drug out. As I said                  17 once before, I'm very unfamiliar with the process.                  18 Knowing what I know now after the last ordeal, I                  19 probably would have handled this differently as well.                  20 Skylar Calicoat is an employee that I have                  21 here. She was hired as a dispatcher. And there has                  22 been the entire case file presented to the previous                  23 Director Ortiz.                  24 He made a decision at that time, due to the                  25 fact that she was arrested for false reporting and</p>

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1 pled no contest to that, that because of moral  
 2 turpitude, that she was to be eligible in three years  
 3 to attend the academy.  
 4 The request that we have today, Skylar -- and  
 5 so you all understand, Skylar is no longer employed  
 6 obviously as a dispatcher. It is well past her year  
 7 eligibility. And once that she was denied from the  
 8 academy, she no longer met the requirements for that  
 9 position and resigned.  
 10 She came back to us about four or five months  
 11 later as a call taker. She has worked in that  
 12 capacity for almost a year now. She has proven in  
 13 that year that she is dedicated to it. That is a very  
 14 thankless position.  
 15 It has no benefits, it is basically PRN. But  
 16 she has made herself available to us 24 hours a day  
 17 seven days a week and is very dedicated in that  
 18 position and continuing in a law enforcement career in  
 19 the future. Our only request today is that the  
 20 possibility for her to attend one of the academies in  
 21 2012 instead of in 2013.  
 22 Originally -- and we've had a shifting of  
 23 directors. I understand the understaffing completely.  
 24 But I submitted the first request to Mr. Najar, who  
 25 initially gave us a clearance that she would be

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1 allowed to attend -- she would actually be eligible  
 2 immediately to go ahead and attend the academy.  
 3 After researching it a little further, he  
 4 responded back that they should possibly stick with  
 5 the 2013 designation unless brought forward to the  
 6 board. I contacted Mr. Marcantel again. He's kind  
 7 of -- his hands are tied in that position and  
 8 suggested that my best bet would be to bring it to you  
 9 all for a decision.  
 10 Skylar has said that she will continue in the  
 11 position that she is in. She is dedicated enough to  
 12 the job, to the profession itself that she will stay  
 13 as a call taker until 2013, if that is the ultimate  
 14 decision. But obviously she would rather revert back  
 15 into a communications specialist position and attend  
 16 the academy and actually do the job that she truly  
 17 loves.  
 18 MR. MARCANTEL: Mr. Chair, just for  
 19 clarification of the record, to make sure I  
 20 understand, your position was again not a dispute of  
 21 facts as much as it is a request of the board to  
 22 reconsider the existing rule as it relates to Skylar.  
 23 And in our conversations, just for the record of the  
 24 board, I had never had any direct conversations with  
 25 Ms. Skylar.

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1 MS. RENNIE: No.  
 2 MR. MARCANTEL: It was only you advocating on  
 3 behalf of your organization.  
 4 MS. RENNIE: Yes.  
 5 MR. MARCANTEL: And that's why you're here  
 6 today.  
 7 MS. RENNIE: Yes, sir. There is no dispute  
 8 of the fact. She did plead guilty to the charge of  
 9 false reporting. The case file is very lengthy. It's  
 10 very much a he said/she said. And again being very  
 11 young at that time, I believe she was 19 when that  
 12 incident occurred in 2009, thinking that if I just  
 13 plead guilty, it goes away kind of thing. I do  
 14 probation.  
 15 It was an agreement with the judge who has  
 16 since written a letter to myself and this academy on  
 17 her behalf basically in support of her position to  
 18 continue with her career. But there is no dispute of  
 19 the fact that she did plead guilty to that crime.  
 20 Our only request today is to lengthen  
 21 basically her sentence -- sorry. Shorten. I'm sorry.  
 22 It's been a long day. I've been up since 2:30 this  
 23 morning.  
 24 MR. SCHULTZ: Mr. Chairman, if I may, looking  
 25 at this here, it appears as if Mr. Ortiz used the day

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1 the probationary period ended. What was the day of  
 2 the entry of the plea?  
 3 MS. RENNIE: If you'll hold on just a moment,  
 4 I'll check.  
 5 She actually completed -- you can look at the  
 6 end of it. She completed the probation --  
 7 MR. SCHULTZ: We have that. I just want to  
 8 know when. So she pled on March 31st, 2010?  
 9 MS. RENNIE: Yes. That was the plea date.  
 10 MR. SCHULTZ: So the probationary period was  
 11 six months longer basically.  
 12 MS. RENNIE: Yes. It ended up being a full  
 13 year.  
 14 MR. FUQUA: Can I see that. Just for the  
 15 record, the document to which we're referring is an  
 16 order from the Magistrate Court in Eddy County, Case  
 17 File No. M-17-MR-2009. It's dated at the bottom  
 18 June 8, 2010.  
 19 MS. RENNIE: That's the date that I received  
 20 it.  
 21 MR. FUQUA: Right. Well, the date of the  
 22 signature also, June 8, 2010. Right. I think  
 23 March 31st, 2010, is the date of the appearance.  
 24 Are there any other additional questions or  
 25 comments from the board? Ms. Rennie, Ms. Calicoat, is

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<p>1 there anything else that you wanted to present to the 2 board?</p> <p>3 MS. CALICOAT: No.</p> <p>4 MS. RENNIE: No, sir.</p> <p>5 MR. FUQUA: Thank you very much for your 6 time.</p> <p>7 MS. RENNIE: Thank you again for your time.</p> <p>8 ITEM NO. 16: BERTO CHAVEZ</p> <p>9 MR. FUQUA: Okay. With that we'll move on to 10 the next item on the agenda. These are disciplinary 11 matters. And it's my understanding at this point that 12 I am required to recuse myself from the hearing. I 13 don't know who it is that takes over at that point.</p> <p>14 MR. COON: Chief Schultz does.</p> <p>15 MR. FUQUA: Very good. Just so that I'm 16 clear, because I don't want to do something I'm not 17 supposed to do, I don't think there's anything else 18 that I can play a role in at this point on the agenda; 19 is that correct?</p> <p>20 MR. SCHULTZ: I believe so, yes, sir.</p> <p>21 MR. FUQUA: I will recuse myself. Thank you, 22 gentlemen, for your time. And I hope the rest of the 23 day goes smoothly.</p> <p>24 MR. SCHULTZ: I think it's the first time 25 that we want to just continue to move right into</p>	<p>1 believe predate any disposition of the criminal case. 2 I don't know what the status of that case is at this 3 time.</p> <p>4 MR. SCHULTZ: Any other questions of 5 Mr. Jackson? Is Berto Chavez here? I do not see 6 Berto Chavez here.</p> <p>7 ITEM NO. 17: PHILLIP GRAYBULL</p> <p>8 MR. SCHULTZ: We'll go on to item No. 17, 9 Phillip Graybull. Mr. Jackson.</p> <p>10 MR. JACKSON: This is a telecommunicator I 11 should note because the certification naming scheme 12 has changed since Mr. Graybull was initially certified 13 some years ago. This is a domestic violence. 14 Respondent battered his wife. He admitted to the 15 conduct at the informal hearing.</p> <p>16 And after the hearing the director 17 recommended a 60-day suspension along with the other 18 sanctions. This was a two-year probation, 16 hours of 19 community service, and anger management counseling. 20 Mr. Graybull is here. But I would certainly field any 21 questions before he does.</p> <p>22 MR. SCHULTZ: Any questions from the board of 23 Mr. Jackson? Mr. Graybull, would you like to address 24 the board, sir.</p> <p>25 MR. GRAYBULL: Chief Schultz, other members</p>
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<p>1 disciplinary matters or did we want to take a break?</p> <p>2 MR. KORN: Keep going.</p> <p>3 MR. SCHULTZ: So the will of the board is to 4 continue on. So we'll move forward with the 5 disciplinary items. The first item is No. 16, Berto 6 Chavez. Mr. Jackson.</p> <p>7 MR. JACKSON: Yeah. This is a DWI case. 8 Respondent was on his motorcycle, he was stopped at a 9 checkpoint. It was apparent early on in the field 10 sobriety tests that he was not going to pass them, at 11 which point he declined to participate further and 12 would not submit a breath sample.</p> <p>13 There was an informal hearing held, after 14 which the director recommended a 90-day suspension of 15 the respondent's certification along with other 16 sanctions in the stipulated order. These sanctions 17 include probation of one year, ethics course, 16 hours 18 of community service, and an alcohol screening and 19 such treatment as that screening recommends. Are 20 there any questions on this matter?</p> <p>21 MR. SCHULTZ: Any questions from the board 22 for Mr. Jackson?</p> <p>23 MR. BETZ: Did he ever actually go to court, 24 was he convicted, dismissed?</p> <p>25 MR. JACKSON: The report and the NCA I</p>	<p>1 of the board, thank you for your time. When I spoke 2 with Director Marcantel, Mr. Jackson, and Mr. Holmes 3 from the -- at the informal hearing, I received my 4 stipulated order for suspension and I read through it.</p> <p>5 I consulted with my attorney about it, 6 because when all this happened with my estranged 7 spouse, I was actually employed with the City of Rio 8 Rancho as a telecommunicator. I was put through an 9 internal investigation.</p> <p>10 As a result of that investigation, I was 11 criminally charged through the Albuquerque Metro Court 12 system or the Bernalillo County Metro Court. And I 13 have subsequently lost my employment. And I agreed to 14 the stipulated order that I read.</p> <p>15 And I do have one request. Since I have been 16 unemployed since June of this year, I request of the 17 board that the 60-day suspension of my certification 18 be counted from the time that I was terminated from my 19 employment, if that is acceptable to the board. If 20 not, I understand. Does anybody have any questions 21 for me?</p> <p>22 MR. SCHULTZ: Sheriff Coon.</p> <p>23 MR. COON: Mr. Chairman, sir, were you 24 convicted of this or is it still in litigation?</p> <p>25 MR. GRAYBULL: Actually it's still in</p>

<p style="text-align: right;">Page 146</p> <p>1 litigation. My trial date was actually pushed back to 2 November 3rd.</p> <p>3 And according to the stipulations and 4 according to what I discussed with Director Marcantel 5 and Mr. Jackson, it's not a felony case. It is a 6 metropolitan case so it's a misdemeanor. So I do not 7 believe it would affect my status to keep my 8 certification even if I was found guilty.</p> <p>9 MR. COON: Thank you.</p> <p>10 MR. GRATTON: Chief Schultz, Mr. Graybull, 11 when were you terminated?</p> <p>12 MR. GRAYBULL: I was terminated June 3rd of 13 this year, sir.</p> <p>14 MR. SCHULTZ: Any questions of Mr. Graybull? 15 Mr. Graybull, could you talk about the extent 16 of injuries to your wife.</p> <p>17 MR. GRAYBULL: Chief Schultz, other members 18 of the board, as to the case as it pertains to the 19 injuries to my wife, how it all started was an 20 argument between she and I about an incident that 21 happened involving herself and another male 22 counterpart.</p> <p>23 And based on an agreement that we had -- 24 because my wife and I shared an open marriage. So we 25 had other marital partners. There were some</p>	<p style="text-align: right;">Page 148</p> <p>1 MR. SCHULTZ: Mr. Graybull, was alcohol 2 involved in this incident?</p> <p>3 MR. GRAYBULL: No, sir.</p> <p>4 MR. SCHULTZ: Is there a TRO present in this 5 case at this point in time?</p> <p>6 MR. GRAYBULL: Not a formal TRO. There is 7 a -- because I was released on my own recognizance by 8 Judge Fitzwater through the Metropolitan Court, I'm to 9 have no contact with my wife and she is to have no 10 contact with me. I haven't spoken to her since like 11 June 20 -- like June 20th, after I had my last EAP 12 counseling session through work.</p> <p>13 MR. SCHULTZ: Any other questions of 14 Mr. Graybull? Thank you, sir.</p> <p>15 MR. GRAYBULL: Thank you, sir. Thank you, 16 board members, for your time.</p> <p>17 ITEM NO. 18: JEANNIE MADSEN</p> <p>18 MR. SCHULTZ: Item No. 18, Jeannie Madsen. 19 Mr. Jackson.</p> <p>20 MR. JACKSON: This is another domestic 21 violence. Respondent, Ms. Madsen, learned of an 22 affair the victim was having. And she admitted to 23 kicking and striking him. She was arrested and 24 charged with battery against a household member. 25 At an informal hearing, she did take</p>
<p style="text-align: right;">Page 147</p> <p>1 discrepancies that were made with an agreement between 2 my wife and her partner that she later relayed to us, 3 to myself and my other partner.</p> <p>4 And we argued about it. And during the 5 course of the argument, she kicked me in the leg. 6 When I became angrier, I stood up to walk out of the 7 house. She grabbed me by the arm, took -- tried to 8 force me to take my keys out of my pocket.</p> <p>9 And I grabbed her about the throat with my 10 left hand, pushed her against the wall, and knocked 11 her glasses off her face. I realized what I had done, 12 stopped, sat down on the chair, and we continued to 13 discuss it.</p> <p>14 And then we continued to argue about it 15 before I actually left the house. But that's all that 16 happened. APD was not called that day. And it wasn't 17 until an internal investigation that happened through 18 work that they were notified. And this was two months 19 after the fact.</p> <p>20 The incident happened on March 7th. And I 21 think I spoke to APD on May 11 I believe. I don't 22 have a copy of the police report. But they were -- 23 APD was contacted through the internal investigating 24 officer, Sergeant Alderete, with the Rio Rancho Police 25 Department.</p>	<p style="text-align: right;">Page 149</p> <p>1 responsibility for her actions and admitted to the 2 conduct. She agreed with the director to a proposed 3 stipulated order of suspension with a 60-day 4 suspension, a one-year probationary period, an ethics 5 training course, 16 hours of community service, and 6 anger management counseling.</p> <p>7 My understanding is that the charges in this 8 case ended up being disposed of without a conviction. 9 I don't remember whether it was through a PPD -- yeah. 10 Mr. Holmes is showing me that it was, in fact, a 11 preprosecution diversion, the terms of which -- I 12 don't see a timeline in the order there.</p> <p>13 Anyway, the program was entered into on 14 August 24th of this year. So there is no conviction 15 that would bar Ms. Madsen from carrying a weapon. Are 16 there any questions on this matter?</p> <p>17 MR. SCHULTZ: Any questions of Mr. Jackson 18 from the board? Is Ms. Madsen present? Would you 19 like to address the board, ma'am.</p> <p>20 MS. MADSEN: Hello, members of the board.</p> <p>21 MR. SCHULTZ: Any questions of Ms. Madsen? I 22 would like to ask the same question, was alcohol 23 involved in this incident?</p> <p>24 MS. MADSEN: No, it wasn't.</p> <p>25 MR. SCHULTZ: Was there a TRO involved?</p>

<p style="text-align: right;">Page 150</p> <p>1 MS. MADSEN: No, sir, there wasn't.  2 MR. SCHULTZ: And are you still residing with  3 your husband?  4 MS. MADSEN: Yes, sir, we are. We're still  5 together.  6 MR. SCHULTZ: And you're still employed by  7 the Roswell Police Department?  8 MS. MADSEN: No, sir, I'm not.  9 MR. SCHULTZ: What's your current employment  10 status?  11 MS. MADSEN: As of August 22nd, August 22nd,  12 when the agreement came into -- when I came into  13 agreement with the District Attorney's office -- okay.  14 Let me back up. I'm sorry. I'm kind of still -- it's  15 still -- it was ten months ago.  16 What caused the incident -- there was no  17 alcohol involved. I came home. I was working -- I  18 was on a callout. And I came home. And my husband's  19 cell phone was in the back. At the time he was a  20 sergeant with the police department also.  21 His cell phone started a text message. I  22 looked at the text message. And it was from a  23 recruit, Vanessa Jimenez Aldani, who at the current  24 time was a subordinate. And she was attending the  25 academy here.</p>	<p style="text-align: right;">Page 152</p> <p>1 He slept in the house in the other room, I  2 slept in my room. And the next morning he got up and  3 he wanted to still make it work. I said no. We're  4 not going to make it work. Come Monday morning --  5 because this was a Sunday.  6 I said come Monday morning I'm going to tell  7 the department. I'm going to report that you're  8 having an affair with a subordinate. I went to look  9 at the documents on the Internet for divorce. He saw  10 that. So he left the house.  11 This was 11 hours later. And I figured he  12 went to the police department, and he did. He went to  13 go talk to another sergeant who had been in trouble  14 for the same thing, for having an affair with a  15 subordinate.  16 He went to go get advice from him of what to  17 do, because this sergeant, Jimmy Preston, never -- was  18 never in trouble. So he wanted to kind of do damage  19 control on his part.  20 I was going to the police department. And so  21 I got dressed, took care of my grandmother because my  22 grandmother lives with us. I went to the police  23 department. They asked me what happened. They read  24 me my rights.  25 And at that time I signed off I knew my</p>
<p style="text-align: right;">Page 151</p> <p>1 The text message was telling how much she  2 loved him, how much she wanted to be with him, and she  3 knew that I was working and that she wanted to see  4 him. I had no idea. We had been together nine years,  5 my husband and I. I had no idea there was an affair  6 going on.  7 I confronted -- I left the house. I was  8 texting her like I was him. I said to meet her,  9 Vanessa Aldani -- I mean Vanessa Jimenez Aldani. She  10 saw that it was me, she took off. And she called me  11 because I called her husband -- or fiance at the time  12 to tell her to call me.  13 She called me. She told me -- she's 21 years  14 old. She told me that she was pregnant. My husband  15 and I have been trying for four years to get pregnant.  16 I went home and confronted my husband. He  17 admitted it. I threw his cell phone at him. He was  18 sitting on the couch. I kicked him. He jumped up to  19 hold me and hug me. And I kicked him again to leave  20 me alone.  21 And he was apologetic. He said that he was  22 sorry, he wanted to make it work. I said no. And  23 that was it. This happened about 9:30 at night. He  24 went -- he kept all night, he wanted to make it work.  25 I said no, we're done, we're done, we're done.</p>	<p style="text-align: right;">Page 153</p> <p>1 rights and I told them what happened. And I was  2 arrested. And it went into -- it went to court. It  3 went to -- first of it went to Clovis. There was a  4 problem in Clovis.  5 And then it went to Las Cruces. And I  6 entered into the diversion program. The diversion  7 program was on August 22nd. This whole entire time  8 the department -- I've never had anything done to me  9 administratively. But they said since I went into the  10 diversion program, they went ahead and terminated my  11 employment with the Roswell Police Department.  12 On August -- I'm sorry. On February 14th I  13 got information -- on February 14th they moved me to  14 the dispatch center, Pecos Valley Regional  15 Communications. They moved me there. And they cut my  16 pay like \$10 an hour.  17 I was making 23.99 an hour and they moved me  18 to 13.99 an hour. And they also changed my PERA, they  19 changed all that, and they moved me to dispatch. And  20 I haven't talked to the police department since then.  21 And then my supervisor calls me in  22 August 31st and says I'm no longer employed with the  23 City of Roswell, that I'm permanently at the Pecos  24 Valley Communications Dispatch Center.  25 So I asked them to put that in writing and</p>

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<p>1 they refused. So at this point -- and they're trying 2 to actually get me certified to come to the academy as 3 a dispatcher. But that's -- dispatching is hard. But 4 it's not.</p> <p>5 MR. SCHULTZ: So you're currently employed 6 with Pecos Valley?</p> <p>7 MS. MADSEN: With Pecos Valley.</p> <p>8 MR. SCHULTZ: Thank you. Any other questions 9 of the board?</p> <p>10 MR. COON: Jeannie, would you tell the board 11 what happened to your husband?</p> <p>12 MS. MADSEN: He was terminated for sexual 13 harassment. But in her statement -- and she even told 14 me that she loved him, she wanted to be with him. But 15 I had no idea there was an affair.</p> <p>16 MR. SCHULTZ: Any other questions of the 17 board?</p> <p>18 MS. MADSEN: Right after this happened too, I 19 took anger management on my own. It wasn't court 20 ordered. I went to anger management. I immediately 21 went to counseling on my own.</p> <p>22 I acted inappropriately. I did. But I 23 wasn't a police officer, I was a betrayed wife. I had 24 no idea. The person who is supposed to take care of 25 me is the one who hurt me the most. And I'm very</p>	<p>1 suspension that was in line with what the board has 2 previously done in similar cases of driving while 3 intoxicated.</p> <p>4 The allegations are -- this is supported by 5 video. That Mr. Vigil drove while intoxicated. He 6 was stopped for failure to maintain his lane. He 7 failed the SFST battery.</p> <p>8 He did agree to a breath test, which 9 registered a 0.19. And I should note that during the 10 stop Mr. Vigil did mention that he was a police 11 officer and that this situation would cause him some 12 problems.</p> <p>13 The recommendation is a 90-day suspension, 14 one-year probationary period, ethics training course, 15 alcohol screening and counseling and whatever 16 treatment is recommended as a part of that process, 17 and 16 hours of community service.</p> <p>18 And I see that Mr. Vigil and his attorney are 19 here today. But are there any questions for me at 20 this time?</p> <p>21 MR. SCHULTZ: Are there any questions for 22 Mr. Jackson from the board? Mr. Vigil, would you like 23 to address the board through your attorney, sir.</p> <p>24 MR. FOSTER: Good afternoon, members of the 25 board. My name is David Foster and I was counsel for</p>
<p>Page 155</p> <p>1 apologetic for what I did.</p> <p>2 And the requirements from the diversion 3 program is to continue counseling, because it 4 affected, you know, my career and then, of course, my 5 personal life. And I'm still doing counseling, of 6 course.</p> <p>7 And prior to this, in October of last year, I 8 did get officer of the year for Character Counts. I 9 just reacted like a human being. I wasn't a police 10 officer. I'm sorry to bring disgrace.</p> <p>11 MS. SCHULTZ: Thank you, Ms. Madsen. Thank 12 you for your time.</p> <p>13 MS. MADSEN: And I would ask that -- the 14 60 days I understand. But if consideration could be 15 taken into the circumstances or maybe the 60 days. I 16 haven't worked as a police officer since the whole 17 entire incident occurred.</p> <p>18 MR. SCHULTZ: Thank you, ma'am.</p> <p>19 ITEM NO. 19: JAMES VIGIL</p> <p>20 MR. SCHULTZ: We'll move to item No. 19, 21 James Vigil. Mr. Jackson.</p> <p>22 MR. JACKSON: This is a DWI. There was no 23 informal hearing held in this matter. I and the 24 director were approached by Mr. Vigil's counsel who 25 represented that he would be willing to take a</p>	<p>Page 157</p> <p>1 Mr. Vigil throughout his DWI case.</p> <p>2 Mr. Jackson, I couldn't hear. I don't know 3 if it says 0.15 or 0.19.</p> <p>4 MR. JACKSON: It said 0.19.</p> <p>5 MR. FOSTER: Okay. It was 0.15, which is a 6 difference, because one is aggravated and one is not.</p> <p>7 Mr. Vigil admitted everything right from the 8 beginning. He blew. He cooperated fully with the 9 officer, the state police officer who stopped him. 10 And things proceeded. There was an Internal Affairs 11 investigation. He always admitted that he had been 12 drinking and he was stopped for DWI.</p> <p>13 There are some things in his background as an 14 officer, not as an excuse for it, but that kind of led 15 him to be to that point in life. That's been 16 addressed. He worked undercover narcotics for many 17 years and had some things happen in that capacity that 18 affected him worse than -- or in a manner he could not 19 realize.</p> <p>20 The case actually -- he was convicted of a 21 simple DWI. Actually that matter was actually 22 appealed. And actually the judge has actually thrown 23 out the breath results in the case in district court.</p> <p>24 So things are still -- the case is still 25 pending. But it's in limbo at this point as to what's</p>



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<p>1 happening. But he's never denied, he's always 2 admitted that he should not have been drinking that 3 night. I think he would like to address the board on 4 some issues or, if there are any questions for 5 Mr. Vigil, he's here to answer them. 6 MR. SCHULTZ: Mr. Vigil. 7 MR. VIGIL: First and foremost I want to 8 apologize to the board. I'm so sorry. I'm sorry to 9 the State of New Mexico and I'm sorry to my family to 10 put them through all this mess. 11 I worked undercover narcotics with the FBI, 12 at which time a person was killed in front of me. Not 13 only that, my best friend who was a State Police 14 officer was found dead in his residence. 15 And I started boozing it up a lot, a lot, to 16 the point where I didn't know I had a problem. I 17 thought I was okay. I was DUI because I was DUI. No 18 excuses. And I apologize for it. And it's wrecked my 19 life. 20 I went to rehab, 30-day inpatient in Denver, 21 Colorado. I still receive treatment for it. I still 22 go to counseling. I still -- I see a shrink for 23 post-traumatic stress disorder. And I'm still trying 24 to get through this. 25 I was terminated from my job. And once again</p>	<p>1 1.15, is that undisputed? 2 MR. FOSTER: I'm sorry? 3 MR. KORN: Or 0.15, that's undisputed? 4 MR. JACKSON: The reports are unclear. There 5 was a portable test which yielded a 0.19. And then on 6 the Intoxilyzer, there were two samples taken. It was 7 a 0.15 and a 0.16. 8 MR. KORN: Okay. Is the portable one 9 authorized in court? It's not, is it. 10 MR. JACKSON: I'm not a DWI prosecutor. 11 MR. FOSTER: No. It's not. It's to detect 12 the presence. 13 MR. KORN: Okay. Thank you. 14 MR. SCHULTZ: Any other questions from the 15 board? Thank you. 16 MR. FOSTER: We would just urge you to follow 17 the stipulated agreement. 18 MR. VIGIL: Thank you. 19 ITEM NO. 20: GEORGE DIESAL 20 MR. SCHULTZ: Item No. 20, George Diesal. 21 Mr. Jackson. 22 MR. JACKSON: Mr. Diesal, this is another 23 DWI. This one resulted in a wreck. The breath test 24 yielded a 0.139 in this case. And the vehicle that 25 was wrecked was an unmarked unit I believe. And</p>
<p>Page 159</p> <p>1 I would just like to say sorry. But there is no 2 excuse for what I did. I was drunk and I was driving. 3 I'm sorry. 4 MR. SCHULTZ: Any questions from the board 5 for Mr. Vigil and Mr. Foster? 6 MR. GRATTON: Chief Schultz, Mr. Foster, and 7 Mr. Vigil, you said something about the breathalyzer 8 test was being challenged. Can you give us any more 9 information on that, as to the circumstances why 10 that's being challenged. 11 MR. FOSTER: Sure. There was an appeal to 12 district court on the conviction. Just from legal -- 13 for legal reasons there was an issue regarding the 14 stop and whether -- the basis for the stop as well as 15 the conviction. 16 And there was an issue. I don't know if 17 you're familiar with Bullcoming. And that's why the 18 judge suppressed -- he's thrown out the results of the 19 breathalyzer because -- under Bullcoming. 20 MR. GRATTON: Thank you, sir. 21 MR. SCHULTZ: Any other questions from the 22 board? 23 MR. KORN: Mr. Chairman, I have a question. 24 MR. SCHULTZ: Mr. Korn. 25 MR. KORN: Mr. Foster, the breathalyzer of</p>	<p>Page 161</p> <p>1 Mr. Diesal is here. But I would happily field any 2 questions. 3 MR. SCHULTZ: Any questions from the board of 4 Mr. Jackson? Mr. Diesal. 5 MR. BETZ: Has it been resolved yet? 6 MR. JACKSON: I don't know. I think 7 Mr. Diesal will be able to answer that. 8 MR. DIESAL: Good afternoon, board. Thank 9 you for your time. Just to keep it short, I never 10 have and will never make any excuse for my misconduct. 11 And I've done everything in my power from the moment 12 it occurred to take responsibility for that action. 13 I continue to do so. At this point I would 14 just respectfully request that the board adopt the 15 proposed stipulation for discipline in my matter. 16 MR. SCHULTZ: Any questions from the board 17 for Mr. Diesal? 18 MR. GRATTON: I have one. Chief Schultz, has 19 Mr. Diesal been terminated? 20 MR. DIESAL: Yes, I have. I resigned. 21 MR. SCHULTZ: Yeah. For the record -- 22 MR. DIESAL: Resigned in lieu of termination. 23 MR. GRATTON: Resigned, sir? 24 MR. DIESAL: Yes, sir. 25 MR. COON: Mr. Chairman, were you working</p>

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<p>1 when this happened?  2 MR. DIESAL: No, sir.  3 MR. COON: Were you in an undercover capacity  4 or were you --  5 MR. DIESAL: No, sir. I was in a detective  6 unit and, therefore, had an unmarked vehicle.  7 However, I was not on duty at the time.  8 MR. COON: Working for APD?  9 MR. DIESAL: Yes, sir.  10 MR. SCHULTZ: Any other questions for the  11 board?  12 MR. GRATTON: Were there any injuries, Chief  13 Schultz or Mr. Diesal, with the -- you wrecked the  14 unmarked vehicle. Was there any injuries to yourself  15 or others?  16 MR. DIESAL: No, sir.  17 MR. GRATTON: Thank you.  18 MR. SCHULTZ: Sheriff Burkhard, did you want  19 to address the board?  20 MR. BURKHARD: I am Louis Burkhard, the  21 Valencia County Sheriff. Mr. Diesal applied to my  22 agency this last February and was not considered at  23 that time.  24 About the first of September, we allowed him  25 to participate in our hiring process. And he was</p>	<p>1 MR. SCHULTZ: Moving on, item No. 21, Adam  2 Lem. Mr. Jackson.  3 MR. JACKSON: Mr. Lem, the allegations  4 against him are that he was dishonest about an  5 incident in which he backed into a gas meter, damaging  6 both the meter and his police car.  7 He initially claimed that he didn't know that  8 he had hit the meter and didn't notice the damage to  9 his car. But there were eyewitnesses that claim that  10 after striking the meter, he did get out of the car  11 and take a look at the damage. When confronted with  12 this, Mr. Lem did admit to striking the meter and to  13 his previous dishonesty.  14 There was an informal hearing held with  15 Mr. Lem and Director Marcantel, Mr. Holmes and myself,  16 at which Mr. Lem took responsibility for his actions  17 and additionally had another supervising officer at  18 his new employment with Portales speak up for him.  19 And I believe that that officer and Mr. Lem are here  20 today. Are there any questions from the board?  21 MR. SCHULTZ: Any questions from the board  22 for Mr. Jackson? Mr. Lem.  23 MR. LEM: Yes, sir. Board members, chairman,  24 again I want to thank you for your time and  25 considering my case. This incident happened in</p>
<p>Page 163</p> <p>1 hired and has successfully completed our field  2 training program. Mr. Diesal has been a great asset  3 to our department. He's in training at -- we pulled  4 him out of training today to be here at this hearing.  5 And I would just say that this young man has  6 accepted full responsibility for what has occurred.  7 And I personally believe that there will never be  8 another incident involving Mr. Diesel in the future.  9 And I would like for the board to consider that.  10 MR. SCHULTZ: Any questions from the board?  11 MR. BETZ: I have a question for Mr. Diesal.  12 Was this ever adjudicated in court?  13 MR. DIESAL: No, sir.  14 MR. BETZ: Is it still pending?  15 MR. DIESAL: No, sir. There's nothing  16 pending.  17 MR. COON: You mean not adjudicated, it's  18 gone away or is it --  19 MR. DIESAL: There was never any criminal  20 charges filed, if that's what you're asking, sir.  21 MR. COON: You were never arrested for DWI?  22 MR. DIESAL: No, sir.  23 MR. SCHULTZ: Any other questions of the  24 board? Thank you, gentlemen.  25 ITEM NO. 21: ADAM LEM</p>	<p>Page 165</p> <p>1 Roswell, New Mexico, when I was working for Roswell  2 Police Department. A fairly new officer.  3 I was at -- my residence is where it  4 occurred. And backing out of my driveway and hit my  5 gas meter. At the time I just -- being so new to the  6 job and all the war stories from the other -- my  7 coworkers about how strict. And things went through  8 my head. And I was dishonest about it, didn't want to  9 lose my job, in which case I made things worse for  10 myself.  11 I later admitted to my supervisors about the  12 incident, told them everything that happened. At that  13 point the department decided to give me the option to  14 be terminated or resign. I chose to resign.  15 I was off for about a month, at which point I  16 was applying for different departments. I applied for  17 Portales Police Department. They picked me up. I  18 told them everything that happened. I was honest  19 about everything.  20 Of course, they already knew everything.  21 They had called ahead and, you know, figured out why I  22 was -- what my problem was over there. But I had told  23 them everything that happened. And just very  24 regretful of what happened.  25 I've been there for almost a year now going</p>

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<p>1 on -- well, ten months doing very well. I think my 2 department is pretty happy with me. I'm just doing 3 everything I can to make myself better and just trying 4 to go on with my law enforcement career, if you'll 5 allow me to do so.</p> <p>6 And 20 years from now I'll retire and be able 7 to go into instructor maybe. I have goals in my life 8 and my career. And hopefully help other officers out 9 with their bad mistakes that they may have made and go 10 on.</p> <p>11 MR. SCHULTZ: Any questions from the board 12 for Mr. Lem? I have a couple questions. When did you 13 go to the academy?</p> <p>14 MR. LEM: I attended the academy -- I believe 15 it started March of 2010.</p> <p>16 MR. SCHULTZ: And you completed it?</p> <p>17 MR. LEM: Yes, sir.</p> <p>18 MR. SCHULTZ: What day did you graduate?</p> <p>19 MR. LEM: August 27th, 2010.</p> <p>20 MR. SCHULTZ: So this happened just months 21 after graduating from the academy?</p> <p>22 MR. LEM: Yes, sir.</p> <p>23 MR. SCHULTZ: Just months after you took the 24 oath of office?</p> <p>25 MR. LEM: Yes, sir.</p>	<p>1 He's done us a great job. I've had no 2 indication of any dishonesty on his part. I 3 specifically directed his sergeant, his direct 4 supervisor, to test him a little bit. And he has. 5 Sergeant Pat Gallegos reports directly to me. And he 6 has said nothing but exemplary things about Officer 7 Lem.</p> <p>8 I would urge the board to consider what -- 9 the stipulated agreement that has been suggested. 10 When Director Marcantel asked me if I put my 11 reputation on the line for this young man, I do. And 12 I told him I do.</p> <p>13 And I still -- I maintain that today. So I 14 really hope that we can keep him as an officer, keep 15 molding him. And I'm sure one day he's going to be a 16 good sergeant and even farther on. So thank you for 17 your time.</p> <p>18 MR. SCHULTZ: Any questions of the board?</p> <p>19 MR. GRATTON: Yeah. Chief Schultz, Mr. Cage, 20 Mr. Lem, when did you resign from Roswell PD?</p> <p>21 MR. LEM: I believe my actual resignation, 22 the date was December 20, 2010.</p> <p>23 MR. GRATTON: Okay. That says that's the 24 incident. So that's when you resigned, the same day?</p> <p>25 MR. LEM: The incident was on the 18th.</p>
<p>1 MR. SCHULTZ: You said that you came forward 2 with information about the accident. Was that before 3 or after the eyewitnesses came forward?</p> <p>4 MR. LEM: Well, I believe it was afterwards. 5 But I didn't know they had eyewitnesses at the time.</p> <p>6 MR. SCHULTZ: So you originally denied the 7 accident to your supervisor?</p> <p>8 MR. LEM: Yes, sir.</p> <p>9 MR. SCHULTZ: Any other questions based on 10 that? Lieutenant.</p> <p>11 MR. CAGE: Chief Schultz, members of the 12 board, I appreciate your time. I'm Lieutenant Mark 13 Cage, Portales Police Department. I'm the patrol 14 commander. I'm here to stand up for my officer.</p> <p>15 He is a young man who made a mistake at 16 Roswell PD. When he applied with us, I checked with 17 some officer supervisors whom I know and trust in 18 Roswell. They said he was worth giving another shot.</p> <p>19 I was a young officer at one time. I was a 20 young sailor at one time in the Navy. I made some 21 mistakes. Regrettable mistakes sometimes. I 22 understand where this young man is coming from.</p> <p>23 I went with my gut instinct after he came and 24 talked to me. And I recommended him to the chief 25 personally for hiring. And I stand behind that today.</p>	<p>1 MR. GRATTON: Okay. But you resigned 2 December 20, right?</p> <p>3 MR. LEM: Yes.</p> <p>4 MR. GRATTON: Okay. And when did you start 5 work at Portales?</p> <p>6 MR. LEM: I started January 24, 2011.</p> <p>7 MR. GRATTON: Okay. Thank you, sir.</p> <p>8 MR. SCHULTZ: Any other questions from the 9 board? Thank you, gentlemen.</p> <p>10 ITEM NO. 22: RUBEN J. SANCHEZ</p> <p>11 MR. SCHULTZ: And the last item under 12 disciplinary matters, item No. 22, Ruben Sanchez. 13 Mr. Jackson.</p> <p>14 MR. JACKSON: This is another domestic 15 incident. This is an assault, it's not a battery. 16 The allegations which are admitted are that 17 Mr. Sanchez had a verbal disagreement with his wife. 18 And it escalated when he began throwing and 19 breaking things. He did not strike her either with 20 his fists or feet or with any of the things that he 21 threw. But he did put her in reasonable fear of 22 immediate battery.</p> <p>23 There was an informal hearing held with the 24 director and Mr. Sanchez and Mr. Holmes. And after 25 that the director recommended a 60-day suspension</p>

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<p>1 along with a year probation, ethics, 16 hours of 2 community service, and anger management counseling. 3 There is no allegation there was alcohol 4 involved in this incident. It took place in the 5 morning. I believe Mr. Sanchez is here. But I would 6 happily field any questions from the board before he 7 comes up. 8 MR. SCHULTZ: Any questions from the board of 9 Mr. Jackson? Mr. Sanchez. 10 MR. SANCHEZ: Good afternoon, Chief Schultz, 11 members of the board. My name is Ruben James Sanchez. 12 I have been a police officer in the State of New 13 Mexico for the past 18 years. This is the first 14 referral to the academy in my career. And it will be 15 the last referral. 16 I totally take responsibility for the actions 17 on January 7th. And don't want to feel like I'm 18 minimizing the situation or placing the blame on 19 anyone else. But at this point I will stand open for 20 any questions from the board. And I can get into 21 further detail, if you wish. 22 MR. SCHULTZ: Sheriff Coon. 23 MR. COON: Were you arrested for this? 24 MR. SANCHEZ: Yes, sir, I was. 25 MR. COON: What charges?</p>	<p>1 myself from that and give her some time to think about 2 things and give myself some time to think about 3 things. On that day I went home. I waited until my 4 kids went to school. I have three kids still in 5 school. 6 I waited until they went to school because I 7 did want to talk to Jennifer about the situation and 8 wanted to resolve it. I was sick of living like that. 9 I didn't want to run away from my problems, I wanted 10 to face them and get some results. 11 On that morning I showed up at the house. 12 And she didn't look very pleased to see me. I did 13 talk to her and ask her if she was still talking to 14 this individual. She denied it. 15 She proceeded to get in the shower to get 16 ready for the day. Again as a police officer I just 17 followed my instincts. And I started looking around 18 for any indications of any telephone calls or 19 anything. 20 I did find some telephone calls to the house 21 on our DirecTV receiver. And I went into the bathroom 22 where she was. And I calmly asked her if she was 23 still talking to the individual. And she said no. 24 And I said, well, if I can prove you were, will you 25 agree to get a divorce. And she said yes.</p>
<p>Page 171</p> <p>1 MR. SANCHEZ: They charged me with four 2 charges, assault, battery, false imprisonment, and 3 criminal damage of property. 4 MR. COON: Has it been adjudicated as a -- 5 MR. SANCHEZ: It's been nolle prosequi'd. I 6 received a notice from the court that it's been 7 nolle'd. And my attorney has spoken with the ADA who 8 feels confident that they're going to go ahead and 9 close this case out completely. 10 MR. COON: Where did this happen at, I mean 11 what city? 12 MR. SANCHEZ: It happened in Belen, Valencia 13 County. 14 MR. SCHULTZ: Any other questions of the 15 board? 16 MR. GRATTON: Mr. Sanchez, do you feel 17 comfortable giving the board any information as to 18 what led to this type of dispute between you and your 19 wife? 20 MR. SANCHEZ: Yeah, I can get into a little 21 further detail. On January 7th -- I had been staying 22 with my nephew for about a week prior to that date 23 because I did have suspicion that my wife was talking 24 to someone else. 25 And I felt it was wise just to separate</p>	<p>Page 173</p> <p>1 So she got out of the shower. And I showed 2 her what I had found on the DirecTV receiver, his 3 numbers calling my home phone. And this really upset 4 me. You know, I have two young kids in the house. 5 And this individual has no respect to my family, to 6 myself, calling my house. I was upset. 7 You know, at that point I grabbed the phone 8 and I threw the phone. I broke the phone against the 9 wall. And I punched the wall. I never, ever 10 threatened my wife. I never, ever pointed -- I didn't 11 throw anything at her. It was just reaction. It was 12 a reaction. 13 Again I should have acted more professional. 14 We are held to a higher standard. And I take full 15 responsibility for my actions. 16 At that point she grabbed her cell phone and 17 she proceeded to walk around the house. I followed 18 her throughout the house. I never impeded her 19 movement. She had full ability to come and go, leave 20 the house if she wanted. And that was documented in 21 the police report. 22 She went into the bathroom. I suspect that 23 she was calling the police at that point to have me 24 removed. I immediately called my captain from State 25 Police, Captain Chris Martinez. And I advised him of</p>

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<p>1 the situation.</p> <p>2 And I asked him to come down to my residence</p> <p>3 because I wanted State Police to handle the call. I</p> <p>4 just felt more comfortable with them there. Not</p> <p>5 because I would get preferential treatment but because</p> <p>6 I felt -- I just felt more comfortable with State</p> <p>7 Police at my residence.</p> <p>8 He was in Santa Fe. So he was en route at</p> <p>9 that point. Valencia County arrived. And I felt that</p> <p>10 they should know I was a police officer for my safety,</p> <p>11 so they know there's guns in the house, and for their</p> <p>12 safety so they know I was not a threat to them.</p> <p>13 I did have my badge on. I had my recorder</p> <p>14 on. I put my recorder on. Again it's our policy with</p> <p>15 the state to record everything. And I just felt it</p> <p>16 was in my best interests to have it on. I did know</p> <p>17 the sergeant that showed up. I went to high school</p> <p>18 with him, I knew him.</p> <p>19 Anyway he separated me from the house. And I</p> <p>20 stayed with one of the other deputies. This sergeant</p> <p>21 interviewed my wife, got her statement. Went outside,</p> <p>22 talked to me for maybe 30 seconds, and went back in</p> <p>23 and came back and decided to arrest me and charge me</p> <p>24 with four charges.</p> <p>25 Again I'm not denying the fact that I threw</p>	<p>1 represent me and come up here and talk good things</p> <p>2 about me. I basically have to represent myself.</p> <p>3 So anything you can do I would really</p> <p>4 appreciate it. Director, I appreciate your</p> <p>5 recommendation and everything the academy has done for</p> <p>6 me. And I can assure you that nothing like this will</p> <p>7 ever happen again. And again I appreciate your time.</p> <p>8 And I'm sorry for wasting your time being up here.</p> <p>9 MR. SCHULTZ: Any other questions from the</p> <p>10 board?</p> <p>11 MR. COON: I've got one, Chief.</p> <p>12 MR. SCHULTZ: Sheriff Coon.</p> <p>13 MR. COON: Where did the false imprisonment</p> <p>14 come from?</p> <p>15 MR. SANCHEZ: I don't know, sir. I don't</p> <p>16 understand where half these charges came from. You</p> <p>17 know, it was clearly stated in the report that she was</p> <p>18 free to walk throughout the house. She walked outside</p> <p>19 at one point. And I just followed her.</p> <p>20 I followed her. I never stopped her from</p> <p>21 going anywhere. I never closed the door and told her</p> <p>22 you can't go anywhere. I have no idea. That or the</p> <p>23 battery.</p> <p>24 You know, battery is, you know -- I just do</p> <p>25 not understand where that came from. You know, the</p>
<p>Page 175</p> <p>1 the phone, I broke the phone, I punched the wall. I</p> <p>2 do take full responsibility for that. I've been with</p> <p>3 my wife for 20 years. And nothing of this nature has</p> <p>4 ever happened.</p> <p>5 I've never threatened her, I've never</p> <p>6 battered her, and I never will. Since then I've filed</p> <p>7 for a divorce. I felt it's in our best interests as a</p> <p>8 family to separate and not have any possibility of</p> <p>9 anything like this ever happening again.</p> <p>10 So the State Police did an Internal Affairs</p> <p>11 investigation. They subsequently terminated me from</p> <p>12 employment in February of this year. Since then they</p> <p>13 have allowed me to resign, which will look a little</p> <p>14 bit better on my resume.</p> <p>15 I've applied for a couple of departments.</p> <p>16 And I believe one department is ready to hire me. But</p> <p>17 they will not touch me until this is resolved. Again</p> <p>18 like the other officers, I respectfully request that</p> <p>19 the 60 days on the stipulated agreement will show</p> <p>20 retroactive so I can get back to work and support my</p> <p>21 children.</p> <p>22 My wife does not work. My kids are on</p> <p>23 welfare. And it's embarrassing. It's been hard on</p> <p>24 myself and my family. And I'm not as fortunate as the</p> <p>25 other young man that came up here, to have somebody</p>	<p>Page 177</p> <p>1 criminal damage of property I can understand because</p> <p>2 out of anger I threw my phone, broke it. And I</p> <p>3 understand under the new domestic violence laws that</p> <p>4 you can be charged with that.</p> <p>5 So I never denied that. And the assault, I</p> <p>6 did dispute that, because my wife knows me as an</p> <p>7 individual. And she knows that I would not ever hurt</p> <p>8 her in any way.</p> <p>9 MR. SCHULTZ: Mr. Korn.</p> <p>10 MR. KORN: Mr. Chairman, Mr. Sanchez, a</p> <p>11 question about your prior employment with Gaming.</p> <p>12 MR. SANCHEZ: No.</p> <p>13 MR. KORN: You resigned?</p> <p>14 MR. SANCHEZ: I worked for the Department of</p> <p>15 Public Safety.</p> <p>16 MR. KORN: Did you not work for Gaming?</p> <p>17 MR. SANCHEZ: Yes, I did. Yes. I worked</p> <p>18 with Vickie Duran. She was our commander then.</p> <p>19 MR. KORN: And I notice that you resigned</p> <p>20 from there?</p> <p>21 MR. SANCHEZ: Yes, sir.</p> <p>22 MR. KORN: The circumstances of your</p> <p>23 resignation would be what?</p> <p>24 MR. SANCHEZ: With Gaming Control Board? To</p> <p>25 work with the Department of Public Safety. There was</p>

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<p>1 no disciplinaries, there was nothing pending at all.  2 MR. KORN: So you resigned on one day and  3 took the job with DPS the next?  4 MR. SANCHEZ: Yes, sir.  5 MR. KORN: Okay. Thank you.  6 MR. SANCHEZ: It was just a step up. I  7 wanted to be more proactive in law enforcement and  8 deal more with the public. And instead of doing  9 backgrounds and doing more administrative paperwork, I  10 wanted to get out there and be proactive and try to  11 make more of a difference in law enforcement.  12 MR. KORN: What was your assignment at SID?  13 MR. SANCHEZ: I worked pretty much alcohol  14 enforcement and regulation.  15 MR. KORN: Thank you.  16 MR. SANCHEZ: So we did a lot of minor  17 compliance operations and I'll call enforcement. And  18 we worked a lot with APD and BCSO out of surrounding  19 agencies.  20 MR. KORN: Thank you. Thank you, Mr. Chair.  21 MR. SCHULTZ: Any other questions? Thank  22 you.  23 MR. SANCHEZ: Thank you, Chief.  24 MR. SCHULTZ: I believe this is the point in  25 the meeting, Zack, we go into closed session.</p>	<p>1 MS. LOPEZ: Chief Betz.  2 MR. BETZ: Here.  3 MS. LOPEZ: Chief Schultz.  4 MR. SCHULTZ: Yes.  5 MS. LOPEZ: Mark Myers.  6 MR. MYERS: Here.  7 MS. LOPEZ: Nate Korn.  8 MR. KORN: Yes.  9 MS. LOPEZ: John Gratton.  10 MR. GRATTON: Yes.  11 MR. SCHULTZ: At this point in time, we will  12 go into closed session. I think some food has been  13 delivered. I think we're going to be in this room.  14 So if anybody needs to get anything, get it on your  15 way out.  16 (Break from 1:22 p.m. to 3:15 p.m.)  17 MR. SHANDLER: Okay. Mr. Vice Chair, back on  18 the record. The board customarily takes a motion to  19 return from executive session with a second and a roll  20 call.  21 MR. GRATTON: I so move to return to session.  22 MR. SCHULTZ: We have a motion. Is there a  23 second?  24 MR. COON: Second.  25 MR. SCHULTZ: A second. Roll call, please.</p>
<p>Page 179</p> <p>1 MR. SHANDLER: Mr. Chairman, usually we'll go  2 down the list here of any recusals. And then you'll  3 go for your vote for closed session.  4 MR. SCHULTZ: And looking at the items that  5 will be in front of the board today starting with 15A  6 through 24, I think we've got a good quorum. But just  7 to verify that we don't have issues with recusals, for  8 the record I will be recusing myself from item No. 20,  9 George Diesel.  10 Are there any other board members who will  11 have any recusals? It appears that that will be the  12 only one. So at this point in time I would like to  13 ask for a roll call vote to go into closed session.  14 MS. LOPEZ: Sheriff Coon.  15 MR. SHANDLER: Before you begin, you need a  16 motion and a second and then your speaking part.  17 MR. SCHULTZ: Oh. Okay. Then we'll do a  18 motion to go into closed session.  19 MR. COON: Mr. Chairman, I make a motion we  20 go into closed session.  21 MR. BETZ: I'll second it.  22 MR. SCHULTZ: Okay. Now we'll have a roll  23 call.  24 MS. LOPEZ: Sheriff Coon.  25 MR. COON: Here.</p>	<p>Page 181</p> <p>1 MS. LOPEZ: Sheriff Coon.  2 MR. COON: Yes.  3 MS. LOPEZ: Chief Betz.  4 MR. BETZ: Here.  5 MS. LOPEZ: Chief Schultz.  6 MR. SCHULTZ: Yes.  7 MS. LOPEZ: Mark Myers.  8 MR. MYERS: Here.  9 MR. LOPEZ: Nate Korn.  10 MR. KORN: Yes.  11 MS. LOPEZ: John Gratton.  12 MR. GRATTON: Yes.  13 MR. SHANDLER: Mr. Chairman, as is the  14 practice, can you attest that only the matters listed  15 on the agenda were those discussed in executive  16 session?  17 MR. SCHULTZ: I can, with the inclusion of  18 items 15A and B which on the agenda were not under  19 disciplinary matters, but they were included in the  20 discussions.  21 MR. SHANDLER: Thank you. In order to have a  22 complete record, let the record reflect that the board  23 is entitled to invite anyone back into executive  24 session that they wish.  25 In items 15A through 22, they invited</p>

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<p>1 Director Marcantel under the legal grounds that those 2 were uncontested matters. To be precise 16 through 22 3 were uncontested matters. And 15A and 15B were 4 dealing with the unique situation of applications. 5 Let the record reflect, since items 23 and 24 6 were contested, the board asked Director Marcantel to 7 be excused from the executive session. 8 MR. SCHULTZ: That is correct, sir. 9 MR. SHANDLER: Mr. Chairman, we'll start with 10 item 15A, appeal of Anita Ritter. Does the board 11 after considering what it's heard in the record have a 12 motion? 13 MR. SCHULTZ: Is there a motion from the 14 board on item 15A, the case involving Anita Ritter? 15 I will make a motion, not hearing one coming 16 from the board so to speak. I would like to make the 17 motion that we uphold the findings of the director. 18 But I also would like to add that the board 19 does believe that the director has the ability to take 20 into circumstances mitigating circumstances as to 21 termination of whether an applicant would be eligible 22 to apply for certification as a dispatcher. 23 Since there is a discrepancy between a law 24 enforcement officer and a telecommunicator, that the 25 language that the director may decide whether or not</p>	<p>1 MR. MARCANTEL: May I also put on the record 2 too that the county -- we'll be sending a cautionary 3 letter -- will be sent a cautionary letter regarding 4 the future policing of those applications. 5 MS. RENNIE: Sure. 6 MR. SHANDLER: With the parties on the record 7 and the motion made, you can probably call for the 8 vote unless there's further discussion. 9 MR. SCHULTZ: Is there any further 10 discussion? All those in favor signal by saying aye. 11 (Those in favor so indicate.) 12 MR. SCHULTZ: All those opposed. That 13 passes. 14 MS. RENNIE: Thank you, gentlemen. 15 MR. SHANDLER: Mr. Chairman. 16 MR. SCHULTZ: 15B. 17 MR. SHANDLER: Mr. Chairman, on this matter 18 is there a motion? 19 MR. SCHULTZ: Is there a motion in the item 20 of the case involving Skylar Calicoat? 21 MR. COON: Mr. Chairman, I believe it was -- 22 and correct me if I'm wrong. Let me find my notes 23 here. That the board recommended that Ms. Calicoat 24 could apply after March 31st, 2013. That would cut -- 25 there were how many months off of her --</p>
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<p>1 to allow a person with -- with an item that could be a 2 disqualifier to apply for certification as a 3 telecommunicator. In this particular case, we believe 4 that Ms. Ritter would be allowed to reapply after 5/31 5 of '12, if that makes sense. 6 MR. SHANDLER: That sounds like the form of a 7 motion. 8 MR. MYERS: I'll second that motion. 9 MR. SHANDLER: And the rationale for that 10 particular date for the record? 11 MR. SCHULTZ: That is the date that the 12 applicant's affidavit of criminal history was signed 13 and notarized. The board does believe that question 14 one should have been responded to with a yes. And 15 then the extenuating circumstances and the explanation 16 should have been included upon that affidavit. 17 Albeit there's been information provided 18 today that that was filled out by somebody else, the 19 applicant is still ultimately responsible for items 20 contained within that affidavit. Therefore, she would 21 be disqualified one year from that date. 22 MR. SHANDLER: Okay. And is she still here? 23 So you understand that you cannot enter the academy. 24 But come May 20th, 2012, she can then submit an 25 application to the director.</p>	<p>1 MR. KORN: Three. 2 MR. COON: Three months off of her -- 3 MR. SCHULTZ: Three-year revocation. 4 MR. COON: Yes. Thank you. Three-year 5 revocation. 6 MR. SCHULTZ: We have a motion to accept the 7 director's findings. However, with one amendment, 8 that the date used for the three-year period of 9 uneligibility be changed to March instead of June, 10 which in March was the date of the plea. Is there a 11 second? 12 MR. BETZ: I'll second. 13 MR. SCHULTZ: We have a second. Is there any 14 further discussion? 15 MR. SHANDLER: Let me just make sure the 16 parties understand that. And the director won't 17 accept her application until March of 2013. Do you 18 understand that? 19 MS. RENNIE: (Nodding.) 20 MR. SHANDLER: And, Director, you understand 21 that too? 22 MR. MARCANTEL: (Nodding.) 23 MR. SHANDLER: Okay. With both parties 24 nodding affirmatively in the record, you can proceed 25 with your vote.</p>

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<p>1 MR. SCHULTZ: All those in favor of the 2 proposed item signal by saying aye. 3 (Those in favor so indicate.) 4 MR. SCHULTZ: All those opposed. That 5 passes. Item 16. 6 MR. SHANDLER: Mr. Chairman, does the board 7 accept or reject the proposed stipulated order in 8 Berto Chavez? 9 MR. SCHULTZ: Is there a motion from the 10 board to accept or reject the director's 11 recommendation? 12 MR. GRATTON: I move on behalf of the board 13 to accept the director's recommendation in regard to 14 Mr. Chavez. 15 MR. SCHULTZ: We have a motion to accept from 16 Mr. Gratton. Is there a second? 17 MR. KORN: I'll second. 18 MR. SCHULTZ: A second by Mr. Korn. Any 19 discussion? All those in favor of accepting the 20 director's recommendation for a 90-day suspension, 21 one-year probationary period, ethics training, alcohol 22 screening, and 16 hours of community service signal by 23 saying aye. 24 (All those in favor so indicate.) 25 MR. SCHULTZ: All those opposed. That will</p>	<p>1 agreement that they proposed earlier today and they 2 are proposing a substitute stipulated agreement. 3 Mr. Director, is that accurate and what has 4 changed? 5 MR. MARCANTEL: I withdrew -- as you 6 mentioned, sir, I withdrew the original stipulated 7 order. And the only change in the new agreed-upon 8 stipulated order was a change from a 60-day suspension 9 of her certification, Ms. Madsen's certification, to a 10 30. 11 MR. SHANDLER: It's my understanding that 12 this proposed stipulated order, the original one, was 13 offered by what I will call the substitute director or 14 interim director. And, therefore, we have some unique 15 factual circumstances where now that there is a 16 director that has been approved by the board, that 17 director has entered his own stipulated agreement. 18 Let me turn to Ms. Madsen, if she's still 19 here. Do you accept the new proposed stipulated 20 agreement? She's nodding affirmatively. 21 So, Mr. Chairman, if you want to take a 22 motion or a second on this proposed replacement 23 stipulated agreement. 24 MR. SCHULTZ: Do we have a motion to accept 25 the director's replacement recommendation for a</p>
<p>Page 187</p> <p>1 be accepted by the board. 2 MR. SHANDLER: Mr. Chairman, item 17, Phillip 3 Graybull. Does the board accept or reject the 4 proposed stipulated agreement? 5 MR. SCHULTZ: Is there a motion from the 6 board to accept or reject the stipulated order of 7 agreement? 8 MR. MYERS: I'll make a motion to accept the 9 stipulated order of suspension and probation. 10 MR. GRATTON: I second. 11 MR. SCHULTZ: We have a motion and a second 12 to accept the recommended order from the director of a 13 suspension of 60 days, two years probation, 16 hours 14 of community service, and anger management counseling. 15 Is there any further discussion? All those in favor 16 signal by saying aye. 17 (Those in favor so indicate.) 18 MR. SCHULTZ: All those opposed. That will 19 be accepted as presented. 20 MR. SHANDLER: And for the record absent the 21 board's motion applying retroactively a reduction, 22 it's been the board's practice that all these are 23 applied prospectively without reduction. 24 Item No. 18, Jeannie Madsen. It's my 25 understanding that the parties have withdrawn their</p>	<p>Page 189</p> <p>1 suspension of 30 days, a one-year probationary period, 2 ethics training, 16 hours of community service, and 3 anger management counseling in the case involving 4 Jeannie Madsen, do I have a motion? 5 MR. COON: Mr. Director -- or, Mr. Chairman, 6 I make a motion that we accept the director's new 7 recommendation of 30 days suspension, one-year 8 probation, ethics training, 16 hours community 9 service, and anger management counseling. 10 MR. SCHULTZ: We have a motion from Sheriff 11 Coon. Is there a second? 12 MR. BETZ: I'll second. 13 MR. SCHULTZ: A second from Chief Betz. Any 14 further discussion? All those in favor of accepting 15 the new director's recommendations as stated by 16 Sheriff Coon signal by saying aye. 17 (Those in favor so indicate.) 18 MR. SCHULTZ: All those opposed. That 19 passes. 20 MR. SHANDLER: Mr. Chairman, item 19, James 21 Vigil. Do you accept or reject the proposed 22 stipulated agreement? 23 MR. SCHULTZ: Do we have a motion from the 24 floor -- the board to accept the director's 25 recommendation in the case involving James Vigil of a</p>



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<p>1 90-day suspension, one-year probationary period,                  2 ethics training, alcohol screening, and 16 hours of                  3 community service?                  4 MR. GRATTON: I move to uphold the director's                  5 recommendation.                  6 MR. SCHULTZ: We have a motion from                  7 Mr. Gratton. Is there a second?                  8 MR. MYERS: Second.                  9 MR. SCHULTZ: Mr. Myers. Any further                  10 discussion? All those in favor of accepting the                  11 director's recommendations as stated here signal by                  12 saying aye.                  13 (Those in favor so indicate.)                  14 MR. SCHULTZ: All those opposed. That                  15 passes.                  16 MR. SHANDLER: Okay. Mr. Chairman, I think                  17 you can still preside over No. 20. But I think you                  18 remarked that you won't vote on No. 20.                  19 Number 20, George Diesal, does the board                  20 accept or reject the proposed stipulated agreement?                  21 MR. SCHULTZ: Is there a motion from the                  22 board to accept the director's recommendation of a                  23 90-day suspension, one-year probation, ethics                  24 training, 16 hours of community service, and alcohol                  25 screening in the case involving George Diesal from the</p>	<p>1 community service.                  2 MR. SCHULTZ: We have a motion to accept the                  3 director's recommendation as stated from Sheriff Coon.                  4 Is there a second?                  5 MR. KORN: I'll second.                  6 MR. SCHULTZ: A second from Mr. Korn. Any                  7 further discussion? All those in favor signal by                  8 saying aye.                  9 (Those in favor so indicate.)                  10 MR. SCHULTZ: All those opposed. That will                  11 be accepted.                  12 MR. SHANDLER: Mr. Chairman, item 22,                  13 Ruben J. Sanchez. Does the board accept or reject the                  14 proposed stipulated agreement?                  15 MR. SCHULTZ: Do we have a motion from the                  16 board to accept the director's recommendation in the                  17 case involving Ruben Sanchez of a 60-day suspension,                  18 one-year probation, ethics training, 16 hours of                  19 community service, and anger management counseling?                  20 MR. MYERS: I make a motion to approve the                  21 stipulated order and suspension and probation.                  22 MR. GRATTON: I second.                  23 MR. SCHULTZ: We have a motion and a second                  24 from the board. Any further discussion? All those in                  25 favor of accepting the director's recommendation as</p>
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<p>1 board?                  2 MR. KORN: I would so move.                  3 MR. SCHULTZ: We have a motion to accept from                  4 Mr. Korn. Is there a second?                  5 MR. BETZ: I'll second.                  6 MR. SCHULTZ: A second from Chief Betz. Any                  7 further discussion? Let the record show that I will                  8 not be voting in this case. I have recused myself and                  9 was not present during the discussion of the case                  10 involving George Diesal. All those in favor signal by                  11 saying aye.                  12 (Those in favor so indicate.)                  13 MR. SCHULTZ: All those opposed saying no.                  14 That passes.                  15 MR. SHANDLER: Mr. Chairman, item 21, Adam                  16 Lem. Does the board accept or reject the proposed                  17 stipulated agreement?                  18 MR. SCHULTZ: Is there a motion from the                  19 board to accept the director's recommendation of a                  20 suspension of 60 days, one-year probation, ethics                  21 training, and 40 hours community service involving --                  22 in the case involving Adam Lem?                  23 MR. COON: Mr. Chairman, I make a motion that                  24 we accept the director's recommendation of 60 days                  25 suspension, one-year probation, ethics, 40 hours</p>	<p>1 presented here today signal by saying aye.                  2 (Those in favor so indicate.)                  3 MR. SCHULTZ: All those opposed? That will                  4 be accepted by the board.                  5 ITEM NO. 23: JOHN DAVID SMOKER                  6 MR. SHANDLER: Mr. Chairman, item 23, formal                  7 hearings, John David Smoker. The board was presented                  8 a hearing officer's report and objections from the                  9 state prosecutor. The board reviewed all that matter                  10 and discussed it in closed session.                  11 The board has discretion to accept the                  12 hearing officer's proposed penalty or the full range                  13 from dismissal to revocation. The board has                  14 traditionally used treatment in prisoners three to                  15 nine months. But also there is mitigating                  16 circumstances available.                  17 Does the board wish to make a motion after                  18 reviewing the evidence of the John David Smoker                  19 matter?                  20 MR. SCHULTZ: Mr. Shandler, yes. The board                  21 would like to make a motion in this particular case.                  22 And I will actually make that motion. The motion is                  23 that the board will be rejecting the hearing officer's                  24 recommendation that this case be dismissed.                  25 Having looked at the facts presented in the</p>

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<p>1 case, including the videotape of the incident 2 involving David Smoker and the use of force in this 3 particular situation, the board finds that there is 4 sufficient proof that Mr. Smoker did violate the 5 policies of the Law Enforcement Academy and this 6 board. 7 We recommended a suspension of 60 days of his 8 licensure to be a police officer in the State of New 9 Mexico. And we would also like to make the record 10 reflect that the board feels it's important that the 11 prosecutor in these types of cases present sufficient 12 information to the hearing officer to include the use 13 of experts to explain the use of force and what is 14 acceptable force and when force should be used in the 15 handling of suspects and/or prisoners. 16 We were very discouraged by the fact that 17 there was not the best case possible being presented 18 to the hearing officer and would like to make sure 19 that in the future the prosecutor uses all available 20 resources to help the hearing officer in coming to his 21 or her final decision in the case. 22 MR. SHANDLER: For someone who likes to build 23 a record, I'm the only person in the room so happy 24 that your motion was so long. I do think that was a 25 motion, right?</p>	<p>1 board has come to the decision that the suspension for 2 60 days, if I remember correctly, was discussed by the 3 board involving the acts of dishonesty that were 4 committed by Michael Garcia in this particular case. 5 All those in favor signal by saying aye. 6 (Those in favor so indicate.) 7 MR. SCHULTZ: As those opposed. That passes 8 and will be accepted by the board. 9 MR. SHANDLER: Mr. Chairman, that concludes 10 the disciplinary matters. I'll turn it over to you to 11 conclude the agenda. 12 ITEM NO. 25: INDIVIDUAL BOARD COMMENTS 13 MR. SCHULTZ: The next item on the agenda is 14 item No. 25, individual board member comments. Are 15 there any comments from the board? Seeing no comments 16 from the board, we'll move on. 17 ITEM NO. 26: SCHEDULING OF NEXT MEETING 18 MR. SCHULTZ: The next item, No. 26, 19 scheduling of the next meeting, I believe that's 20 already been discussed. It's the second Tuesday in 21 January. 22 MR. MARCANTEL: Third I believe. 23 MR. SCHULTZ: Third Tuesday in January. Let 24 the record reflect that that's when we will have the 25 next meeting. And that will be in Albuquerque,</p>
<p>Page 195</p> <p>1 MR. SCHULTZ: It was a motion. 2 MR. BETZ: I'll second it. 3 MR. SCHULTZ: We have a motion and a second. 4 Is there any further discussion? All the those in 5 favor. 6 (Those in favor so indicate.) 7 MR. SCHULTZ: All those opposed no. That 8 passes. 9 ITEM NO. 24: MICHAEL GARCIA 10 MR. SHANDLER: Mr. Chairman, item 24, Michael 11 Garcia. We have a hearing officer's report that 12 summarized the evidence in that hearing and the 13 proposed penalty from the hearing officer. Does the 14 board wish to make a motion on this matter? 15 MR. SCHULTZ: Is there a motion from the 16 board to accept or reject the hearing officer's 17 findings in this particular case? 18 MR. MYERS: I make a motion to approve the 19 hearing officer's recommendation. 20 MR. SCHULTZ: We have a motion to accept and 21 approve the hearing officer's recommendation in the 22 case involving Michael Garcia. Is there a second? 23 MR. COON: I'll second it. 24 MR. SCHULTZ: There is a second from Sheriff 25 Coon. I believe for the record for this case, the</p>	<p>Page 197</p> <p>1 correct? 2 MR. MARCANTEL: Mr. Vice Chair, I think the 3 preference may be Santa Fe here for the next meeting, 4 where we can -- 5 MR. SCHULTZ: Okay. Santa Fe. I'm sorry. 6 MR. MARCANTEL: We'll get specific dates. 7 ITEM NO. 27: ADJOURNMENT 8 MR. SCHULTZ: Okay. Is there in any other 9 business for the board? With that I'll take a motion 10 to adjourn. 11 MR. COON: Mr. Chairman, I make a motion to 12 adjourn. 13 MR. SCHULTZ: We have a motion to adjourn. 14 Is there a second? 15 MR. BETZ: Second. 16 MR. SCHULTZ: There's a motion and a second 17 to adjourn. All those in favor say aye. 18 (Those in favor so indicate.) 19 MR. SCHULTZ: All those opposed. We are 20 adjourned. Thank you. 21 (At 3:30 p.m. the meeting was concluded.) 22 23 24 25</p>

REPORTER'S CERTIFICATE

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I, JAN A. WILLIAMS, New Mexico CCR #14, DO  
HEREBY CERTIFY that on October 19, 2011, the  
proceedings in the above matter were taken before me,  
that I did report in stenographic shorthand the  
proceedings set forth herein, and the foregoing pages  
are a true and correct transcription to the best of my  
ability.

\_\_\_\_\_  
JAN A. WILLIAMS, RPR  
Bean & Associates, Inc.  
New Mexico CCR #14  
License Expires: 12/31/11

(2496K) JAW

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RECEIPT

DATE: October 19, 2011  
JOB NUMBER: (2496K) JAW  
WITNESS NAME: LEA Board Meeting  
CASE CAPTION: LEA Board Meeting  
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ATTORNEY: DPS/MARCANTEL  
DOCUMENT: Transcript / Exhibits / Disks / Other \_\_\_\_  
DATE DELIVERED: \_\_\_\_\_ DEL'D BY: \_\_\_\_\_  
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ATTORNEY: ZACHARY SHANDLER  
DOCUMENT: Transcript / Exhibits / Disks / Other \_\_\_\_  
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