

NEW MEXICO LAW ENFORCEMENT ACADEMY
REGULAR BOARD MEETING

January 17, 2012

9:00 a.m.

New Mexico Law Enforcement Academy

4491 Cerrillos Road

Santa Fe, New Mexico 87507

REPORTED BY: Jan A. Williams, RPR, NM CCR 14

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(3050K) JAW

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4	BOARD MEMBERS
5	Gary King, Attorney General, Chairman
	James R. Coon
6	Ray Schultz
	Nate Korn
7	Harry Betz
	Mark Myers
8	
9	
10	ALSO PRESENT
11	Bill Hubbard
	Zachary Shandler
12	William J. Moon
	Monique Lopez
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1	ITEM NO. 1: CALL TO ORDER
2	MR. KING: I'm going to go ahead and call
3	this meeting to order. I think the clock up behind me
4	is a little bit slow and we're a little bit behind the
5	chairman's clock now. But I'm going to call the
6	meeting to order.
7	ITEM NO. 2: ROLL CALL
8	MR. KING: The first item on the agenda is
9	roll call. And we'll just do that like usual. We'll
10	start down on the far right end of the table and have
11	everybody introduce themselves.
12	MR. SHANDLER: Zach Shandler, board counsel.
13	MR. BETZ: Harry Betz, Chief of Police, Santa
14	Ana.
15	MR. SCHULTZ: Ray Schultz, Chief, Albuquerque
16	Police Department.
17	MR. SHILLING: Robert Shilling, Chief, State
18	Police.
19	MR. COON: Rob Coon, Sheriff, Chaves County.
20	MR. MYERS: Mark Myers, detective with the
21	Las Cruces Police Department.
22	MR. KING: Go ahead, Nate.
23	MR. KORN: I'm Nate Korn, I'm the citizen
24	representative to the board.
25	MR. HUBBARD: I'm Bill Hubbard, I'm the

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1 acting director of the academy.
2 MS. LOPEZ: Monique Lopez, New Mexico Law
3 Enforcement Academy.
4 MR. KING: I'm Gary King, I'm the Attorney
5 General and the chairman of the board. And it appears
6 that we have a quorum. We're missing one of our
7 public members today, aren't we?
8 MR. KORN: He got a new job as the president
9 of the Carlsbad office of New Mexico State University.
10 So I think today is his first day.
11 MR. KING: Okay. So good for him.
12 ITEM NO. 3: APPROVAL OF AGENDA
13 MR. KING: The next item on the agenda is
14 approval of the agenda. Are there any additions or
15 corrections to the agenda? I have a few things that
16 I'm going to say, but I think that they'll fit in,
17 Mr. Korn, with your item No. 12, when we're talking
18 about all of those policy things. So I'm not going to
19 add a line, I think we can just do it during that time
20 period.
21 MR. COON: Mr. Chairman, I make a motion we
22 adopt the agenda provided January 17, 2012.
23 MR. KING: Okay. I have a motion to approve
24 the agenda. Is there a second?
25 MR. BETZ: I'll second.

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1 MR. KING: Okay. All in favor say aye.
2 (Those in favor so indicate.)
3 MR. KING: Any opposed? Okay. The agenda is
4 approved.
5 ITEM NO. 4: APPROVAL OF MINUTES, OCTOBER 19, 2011
6 MR. KING: The next item on the agenda is
7 approval of the October 19th minutes. They're in your
8 books as item No. 4. Any additions or corrections to
9 the October 19th minutes? Seeing none I'll take a
10 motion to approve.
11 MR. SCHULTZ: Mr. Chairman, I move we approve
12 the minutes as presented for October 19th, 2011.
13 MR. KING: Okay. We have a motion to
14 approve. A second.
15 MR. SHILLING: Second.
16 MR. KING: All right. It's been seconded.
17 All in favor say aye.
18 (Those in favor so indicate.)
19 MR. KING: Any opposed? Okay.
20 ITEM NO. 5: APPROVAL OF MINUTES, DECEMBER 13, 2011
21 MR. KING: The next item on the agenda is
22 approval of the minutes from the December 13th
23 meeting, item No. 5 in your book. Any additions or
24 corrections to the minutes from the December 13th
25 meeting? Seeing none I'll take a motion to approve.

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1 MR. KORN: I would make the motion to
2 approve.
3 MR. KING: Mr. Korn moves to approve.
4 Second.
5 MR. COON: Second.
6 MR. KING: Sheriff Coon. All in favor say
7 aye.
8 (Those in favor so indicate.)
9 MR. KING: Any opposed? All right. The
10 December 13th minutes are approved.
11 ITEM NO. 6: ELECTION OF VICE CHAIR
12 MR. KING: The next item on the agenda is
13 election of the vice chair. I think, Chief Schultz,
14 you've been serving as the vice chair, haven't you, up
15 until this point in time?
16 MR. SCHULTZ: Yes, sir.
17 MR. KING: I see that Sheriff Coon is sitting
18 on my right. I don't know if that telegraphs
19 anything.
20 MR. SCHULTZ: That will teach you to be late.
21 MR. COON: I was here on time. I beat you
22 here. What are you talking about?
23 MR. KORN: Mr. King.
24 MR. KING: Yes.
25 MR. KORN: I would make a motion that we

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1 elect Sheriff Coon as the vice chair this year. He's
2 actually the number two man in seniority to our board
3 after Ray Schultz.
4 And although Chief Schultz is a hard act to
5 follow, Sheriff Coon has about 30 years of law
6 enforcement experience. He's well received by
7 everyone that knows him, has a great reputation around
8 the state, and would make an excellent vice chair.
9 MR. KING: I agree with all of those things.
10 And, Sheriff, I don't know if anybody has talked to
11 you about this previously. But we have a motion to
12 nominate Sheriff Coon for vice chair. Is there a
13 second?
14 MR. MYERS: I'll second.
15 MR. KING: Second. We have several seconds.
16 Are there any other nominations? Seeing none I don't
17 know that I necessarily need this, but I'll take a
18 motion that the nominations cease and that we accept
19 Sheriff Coon as vice chairman by acclamation.
20 MR. KORN: I would so move.
21 MR. MYERS: Second.
22 MR. KING: Okay. That motion made by
23 Mr. Korn and seconded. All in favor say aye.
24 (Those in favor so indicate.)
25 MR. KING: Any opposed? Congratulations,

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1 Sheriff Coon. We're very happy to have you.
2 MR. COON: I don't have my Robert's Rules of
3 Order or anything with me.
4 MR. KING: You know, actually let me say
5 something. As you all know that are sitting out
6 there, it's a very important job in this case; because
7 even though statutorily I'm the chairman, once we get
8 through all of the normal sort of business agenda
9 items and get into the certification hearings, I
10 always recuse myself because the Attorney General's
11 Office does the administrative prosecutions in those.
12 And I believe that that creates a conflict
13 that is one that's important enough for me not to
14 serve on the board during that period of our meetings.
15 And so the vice chair carries a lot of duties in this
16 board. And, Sheriff Coon, we appreciate your
17 willingness and your ability to carry out those
18 duties. Thank you very much.
19 MR. COON: Thank you.
20 MR. KING: I do have -- and I didn't
21 introduce him and we didn't go through the crowd
22 today. As you all might be able to tell, I'm kind of
23 pushing because I want to get the meeting done or at
24 least my part of the meeting done in time so that I
25 can go attend the governor's state of the state speech

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1 today. So I'm trying to move things along.
2 But Dave Peterson from my office is here.
3 Dave is likely to be my designee on the board as a
4 general rule when I'm not able to be here. You all
5 may remember, I've introduced him previously. But he
6 was previously a state legislator, City Attorney for
7 the City of Gallup.
8 When he was in the legislature, he was the
9 chair of the house judiciary committee for a number of
10 years. So Dave has a lot of good experience. Plus
11 the fact that he's been a practicing attorney for
12 around 30 years plus or minus. So Dave may carry out
13 some of these duties as well.
14 ITEM NO. 7: DIRECTOR'S REPORT
15 MR. KING: Okay. The next item on the agenda
16 is the director's report. Director Hubbard.
17 MR. HUBBARD: Thank you, Mr. Chairman.
18 MR. KING: Are you going to do it from there?
19 MR. HUBBARD: I will.
20 MR. KING: Okay. Make sure that microphone
21 is up close where people can hear you.
22 MR. HUBBARD: Mr. Chairman and members of the
23 board, I'm still hanging in there as your acting
24 director for now. My director's report is under tab 7
25 in your binders there. These are the things that have

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1 transpired since the October 19th meeting of the
2 board.
3 Mr. Chairman, with your permission I would
4 like to recognize Basic Bureau Chief Phil Gallegos.
5 Mr. Gallegos, would you come to the podium, please.
6 Mr. Gallegos is the basic bureau chief of the
7 training academy. Right next door he's got 49 -- 49
8 today?
9 MR. GALLEGOS: Forty-eight.
10 MR. HUBBARD: Forty-eight today. We started
11 with 52, we're down to 48 today. Mr. Gallegos has not
12 been introduced to the board. He's been with us at
13 the academy for about seven months now.
14 Mr. Gallegos was born and raised in the Watts
15 neighborhood of Los Angeles, is a 23-year veteran of
16 law enforcement, has previous experience with the City
17 of Torrance, California. He came to New Mexico in
18 1996 and has been with the Espanola Police Department
19 as well as being the Assistant Chief of the Jicarilla
20 Police Department.
21 I would be remiss if I did not also mention,
22 Mr. Chairman, that from 1980 to 1991 Mr. Gallegos was
23 a United States Marine and is still very proud of that
24 as evidenced by the tie wear that he wears. We are
25 extremely pleased to have Mr. Gallegos on the staff.

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1 But his reason for being before the board
2 today, we have succeeded in hiring three new
3 instructors at the academy. And, Mr. Gallegos, with
4 the chair's permission, I turn the floor over to you
5 to introduce your new staff members, please.
6 MR. GALLEGOS: Thank you, Mr. Director.
7 MR. KING: Mr. Gallegos, go ahead.
8 MR. GALLEGOS: Members of the board, members
9 of the community. As Mr. Hubbard said, I'm Phil
10 Gallegos, I'm the basic bureau chief. And we have a
11 vision. Part of our vision starts with the gentlemen
12 that we have just hired. And I'd like to introduce
13 the entire basic staff, if you would.
14 I'd like to start with Troy Gladfelter. He's
15 a retired officer from APD, where he served in various
16 capacities. He worked undercover, he worked
17 narcotics, he worked street patrol, and he worked
18 detectives. We are fortunate to have his level of
19 expertise here.
20 Once he left APD retiring, he joined APS and
21 worked there for awhile. And then he also worked for
22 MTD. He brings a wealth of knowledge in traffic,
23 undercover operations, which can assist the basic
24 cadets in understanding the various operating
25 functions within a police department.

1 The next one I have is Mr. Curt Voiles. Curt
2 Voiles, another California boy. He started his law
3 enforcement career with the Border Patrol. He
4 eventually made his way to Rio Rancho PD, where he
5 retired. Mr. Voiles has been working for the state
6 capitol building in security before coming here.

7 He has a wealth of knowledge, especially
8 pertaining to community oriented policing, where he
9 helped establish some of the very first lesson plans
10 in community organized -- oriented policing here in
11 the State of New Mexico.

12 I would next like to introduce Mr. Tony
13 Maxwell. Mr. Maxwell comes to us from the Federal
14 Bureau of Investigation. Mr. Maxwell has well over
15 40 years of experience in law enforcement. He started
16 off as a street cop in California, eventually working
17 his way into the Federal Bureau of Investigation.

18 I cannot begin to touch on his expertise when
19 it comes to investigative procedures. He's
20 investigated the Oklahoma City bombing, the Twin
21 Towers bombing, he's worked overseas investigating the
22 various embassy bombings that we have. And he's going
23 to be very instrumental in helping us reshape our
24 investigative protocols that we teach to the basic
25 cadets.

1 The next instructor that we have is
2 Mr. George Puga. George comes to us from the state of
3 California where he retired after 34 years as a law
4 enforcement officer for the City of Bell Gardens. He
5 has various assignments that he worked in Bell
6 Gardens, starting from being a street police officer
7 all the way to detectives.

8 He has worked internationally with various
9 police organizations from Israel to Belgium to former
10 republics of the Soviet Union in teaching security and
11 policing matters. One other item with Mr. Puga is
12 from the state of California he is also a Medal of
13 Valor recipient, where he earned that award for his
14 respective agency.

15 What I'd like to point out is that, with
16 these gentlemen on board, it will help us in one goal
17 that we would like to establish here at LEA; that is,
18 revamping the current curriculum that we have in order
19 to bring it to the board for approval down the road
20 and into the future.

21 I'm hoping that now that they are on board,
22 we might be able to accomplish this task in the near
23 future. Hopefully by July be able to bring this to
24 the board as an option. We are looking at trying to
25 reduce the hours rather than increase the hours and

1 streamline how we teach.

2 And I believe their expertise -- each of
3 these gentlemen have an extensive instructional
4 background in law enforcement. I believe this is the
5 needed shot in the arm that we have been waiting for
6 and we can now move forward.

7 With that, Director, I would like to close
8 and say thank you for allowing me this opportunity to
9 introduce the new instructors to the board.

10 MR. HUBBARD: Thank you.

11 MR. KING: Questions of the board.

12 MR. COON: Mr. Gallegos, I have a comment. I
13 appreciate the fact that -- and I think you were the
14 only one that was doing this. We were kind of getting
15 a report card from you and a phone call occasionally,
16 but mainly a report card letting us know how our
17 recruits are doing grade-wise.

18 It's kind of like your kids at home. I
19 didn't always see my kids' report cards. I never knew
20 when they were due. And they kind of stonewalled me a
21 few times. But it's nice to have you there sending
22 out kind of a report card or a grade on how our
23 recruits are doing up here. And I appreciate that.

24 MR. GALLEGOS: Well, thank you. And so that
25 you're aware, what we have done is together we came up

1 with and we devised a team effort plan, where on a
2 monthly basis each of these gentlemen is assigned to
3 one of the four squads that we have with this basic
4 academy.

5 And on a monthly basis they will be
6 conducting monthly evaluations on the cadets, which
7 will then go out to the respective agencies. And that
8 should happen on a monthly basis now. Before Troy and
9 I were a two-man operation and it was kind of
10 difficult to get those out every month. But with
11 these gentlemen on board, it will facilitate that a
12 little bit better.

13 MR. COON: Well, I appreciate it. And I'm
14 sure the other chiefs and sheriffs do.

15 MR. GALLEGOS: Thank you, sir.

16 MR. KING: Any other questions or comments?
17 Okay. Thank you, Mr. Gallegos.

18 MR. GALLEGOS: Thank you, sir.

19 MR. HUBBARD: Welcome aboard, gentlemen.

20 MR. KING: Mr. Director, before we move to
21 the next part of your report, just in case he has to
22 leave early too, I neglected to -- and either you can
23 introduce him or I'll introduce him. But we do have
24 Gorden Eden, the director of the -- or the -- do they
25 call you secretary or director, what is your title?

1 From the Department of Public Safety. So Gordon,
 2 thanks. We're happy to have you here.
 3 MR. EDEN: Glad to be here.
 4 MR. KING: All right. Mr. Hubbard.
 5 MR. HUBBARD: Thank you, Mr. Chairman,
 6 members of the board. Moving on in my report, the
 7 master instructor, Brian Coss, is here today. And
 8 he'll be speaking to you in a little while. He's on
 9 the agenda. The modification to the public safety
 10 telecommunicator basic training is on the agenda today
 11 for public hearing.
 12 Since October 19th the training that has gone
 13 on is summarized in my report there, capsulized at the
 14 bottom. 268 students have attended our training
 15 sessions for a total of 6,896 contact training hours.
 16 I would draw your attention to the
 17 December 12th through 14th training that we held in
 18 Albuquerque. It was the first crisis response summit.
 19 This was legislatively mandated training that had been
 20 developed on contract by the academy. Deputy Director
 21 Gil Najar has been instrumental in getting this
 22 drafted and enacted.
 23 The training was attended by 120 attendees.
 24 This was the first time that we held training under
 25 this legislative mandate. We know where our strengths

1 and weaknesses are to be able to polish it up a little
 2 bit more. But we are in compliance with the mandates
 3 of the legislature in this training. And it went very
 4 well, we put on a really nice school there.
 5 Mr. Elliott Guttmann, as you can see, in
 6 other ongoing training has continued teaching
 7 throughout the state. And also with Mr. Coss the
 8 Advanced Training Bureau staff has completed the
 9 integration of the nationally accredited curriculum
 10 for the Public Safety Telecommunicator academy
 11 curriculum. And upon the board approval, it will be
 12 implemented in the upcoming February class.
 13 Basic class 182 graduated on November 10,
 14 2011, with 39 cadets. I'm proud to say that all 39 of
 15 those cadets passed the certification exam first run
 16 at it. We were pleased with that. A lot of that has
 17 to do with the leadership behind Chief Gallegos that
 18 you just met.
 19 Basic class 183 is in session next door here.
 20 They have as of today 48 cadets. They started out
 21 with 52 a week ago.
 22 Upcoming the cert by waiver class will begin
 23 at the end of this month and run into February. And
 24 the Public Safety Telecommunicator class is scheduled
 25 to begin on January 27th.

1 On to the progress that we've made with the
 2 disciplinary cases. Since the emergency meeting that
 3 the board held on December 13th, me and my staff have
 4 just absolutely been spending an immense amount of
 5 time going through the case files, making notes, and
 6 trying to determine where each and every case lies.
 7 I have incorporated some new tracking devices
 8 that will be in the case, notes so far as chronologies
 9 of the case. As I was picking up some of these cases,
 10 every time you picked up a new file, you had to dig
 11 back through it to find out what the last thing was
 12 that was done in the case.
 13 I've streamlined that with a notes process
 14 much like was done at the district attorney's office
 15 where I served for seven and a half years. And I've
 16 incorporated some of the best practices for tracking
 17 cases that we had at the Eighth Judicial District
 18 Attorney's Office for being able to keep up with the
 19 status of the cases that are pending before the board.
 20 So far I have reviewed 59 of the --
 21 personally I have reviewed 59 of the backlog of cases
 22 and have given assignments out to my staff largely.
 23 And I'd like to recognize Monica Medrano at the back
 24 of the room back there. Wave to us, Monica.
 25 She is my go-to administrative assistant

1 where the disciplinary cases are concerned. And you
 2 will see there that, as a result of these reviews, of
 3 the 59 of the backlog that I've gotten to so far, I
 4 have issued nine cautionary letters, nine Notice of
 5 Contemplated Actions, nine Notice of Final Decisions,
 6 three cases have been prepared for formal hearings,
 7 five formal hearings have been held, eight default
 8 orders of revocation have been prepared. Is there a
 9 typo here somewhere?
 10 MS. LOPEZ: It's actually five default.
 11 MR. HUBBARD: The default orders, Mr. Chair,
 12 members of the board, we'll change that from eight to
 13 five. There's a typo there.
 14 And 16 files have been given to Investigator
 15 Ernie Holmes for additional information. And I
 16 drafted or received -- nine LEA-90s have been
 17 submitted. So as we have been trying to move the
 18 cases, of course, new complaints of officer misconduct
 19 have been coming in.
 20 I direct your attention now to the purple
 21 file folders that have been distributed to you. One
 22 thing I'd like to draw to the board's attention is the
 23 process that we are trying to follow as I've set up
 24 communication with Mr. Bill Moon who is the new
 25 prosecutor that's been assigned by the Attorney

1 General's Office to prosecute the cases.
 2 The first document that you'll find in the
 3 purple folder is referenced in my report but we hadn't
 4 completed it. But what we have for you there is the
 5 grid of the NM LEA misconduct report that shows that
 6 as of the 6th of -- and there's another typo there.
 7 It's not 2011, it's 2012. We have 130 open cases.
 8 As we discussed at the emergency board
 9 meeting where we are knocking around about 115 cases,
 10 new cases are continuing to come in. And the board
 11 will be taking action on some of the cases today,
 12 which should bring that number down a little bit.
 13 Stapled together inside your files, inside
 14 your purple binders, is a letter that all of you
 15 received, it was directed to me, dated December 22nd.
 16 It's a letter of introduction that we received from
 17 Mr. Moon, who is with us today at the back of the room
 18 wearing the red tie, Mr. Moon, welcome, introducing
 19 himself to the board. And attached to that, as you
 20 board members received this I think by email, is the
 21 timeline that was proposed by Mr. Moon.
 22 And this is where there's a bit of a bump in
 23 the road that I will leave to the board's attention as
 24 I have communicated back and forth with Mr. Moon and
 25 tried to smooth this up a little bit. Mr. Moon

1 drafted this timeline or flow chart in the two pages
 2 steps one through ten that you received attached to
 3 his introduction letter.
 4 The next document that you will find there is
 5 an email that I directed to Mr. Moon in regards to
 6 this flow chart or this timeline. Seeing that it
 7 dawned on me that I thought that the board needed to
 8 see this timeline and possibly act upon this timeline
 9 to give me some direction as to if, in fact, this was
 10 how these cases were to flow; and if the board was in
 11 agreement, that the cases should flow this way.
 12 I personally had some problems with some
 13 portions of the timeline. I think that we could
 14 smooth up the process and expedite things at several
 15 stages of the timeline that was proposed by Mr. Moon.
 16 And I brought it to his attention with this email that
 17 I sent to him on January 4th basically stating that.
 18 And that I thought that that timeline should be hashed
 19 out by the board on the January 17th meeting.
 20 On the next day which was January 5th which
 21 is the next page, I received back an email from
 22 Mr. Moon that is attached there. And the second
 23 sentence of that email told me that it is not and was
 24 not a request for input or approval where this --
 25 where this timeline was concerned.

1 And I had a problem with this, because it
 2 seemed to me that the timeline was being set in stone
 3 and more or less forced upon me without any input from
 4 me as to where I thought or where my staff thought we
 5 might be able to streamline this process.
 6 Further on in paragraph 5, I had stated to
 7 Mr. Moon in my email that I thought that this was --
 8 the timeline in particular was something that needed
 9 to be discussed and maybe even ratified by the board.
 10 He tells me that in his opinion that approval of the
 11 board as to this process is neither necessary or
 12 appropriate.
 13 I understand his reasoning that the board
 14 sits as the judge and, therefore, his reasoning is
 15 that the board should not have say in the process that
 16 the cases go through. I understand that that's what
 17 he's telling me. I disagree with it. And that's why
 18 I brought it to the attention of the board.
 19 And I will let -- I will leave it at that,
 20 because we have further agenda items on down in
 21 today's agenda, in particular item No. 12 to be
 22 brought by Mr. Korn, where these things may come into
 23 sharper focus. So far as my director's report, that's
 24 what I have for the board, Mr. Chairman. And I would
 25 stand for questions.

1 MR. KING: Thank you, Mr. Hubbard. Questions
 2 for Mr. Hubbard. I'll address -- maybe I should do it
 3 now and then we can have some discussion. I think the
 4 point that I believe of those two emails in this, and
 5 Mr. Moon will correct me if I'm wrong, is that
 6 Mr. Moon files like the timeline that he laid out just
 7 comes from the statutes and rules and regulations of
 8 the board.
 9 And so, therefore, it wouldn't be subject to
 10 changing that timeline short of what we are going to
 11 discuss when we get to Mr. Korn's topic, which is
 12 whether we should change some of those things or not
 13 and how we would do that by rulemaking.
 14 I also think it's my understanding of
 15 Mr. Korn -- I mean of Mr. Moon's response to that is
 16 that if the board desires to have legal input on the
 17 rules and such, it would be more appropriate to direct
 18 those questions to Mr. Shandler who is the board's
 19 attorney rather than Mr. Moon who is essentially the
 20 administrative prosecutor and who feels bound by these
 21 guidelines because that's what's set in the statutes
 22 and rules.
 23 Mr. Moon, did I do a good job of synopsisizing
 24 your point on that?
 25 MR. MOON: Yes, sir.

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1 MR. KING: Okay. So I don't think it's
2 designed to be confrontational. It's just designed to
3 point out that we don't feel like there is -- that
4 this timeline comes from the statutes and the rules.
5 And it's important for the board to know what those
6 are. So there will be some opportunity I think for
7 the board to decide what to do with that.
8 Just as a little preview, and like I said I
9 can be a little more specific. One of the things the
10 board asked me to do was to appoint a study group to
11 study that. And we have a study group appointed. And
12 I was going to roll that out for you today. And maybe
13 this is the best time to do that.
14 We have asked Felicia Orth who is a hearing
15 officer from the New Mexico Environment Department who
16 has many years of experience as an administrative
17 hearing officer. Mark Radosevich who is one of our
18 hearing officers. We put out a request to Tom Lyons.
19 And I didn't see Tom come in today. But he is a
20 former director of the Law Enforcement Academy Board
21 and we feel like would have good input from the
22 director position.
23 And Henry Valdez has agreed to serve, a
24 former district attorney and a member of this board.
25 As a matter of fact, Mr. Valdez was on the board when

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1 the Law Enforcement Academy became a police officer
2 standards and training entity. He was heavily
3 involved in the process of setting up the original
4 rules and regulations for discipline.
5 And so it's certainly our intention to get
6 this blue ribbon panel to look at all of this timeline
7 and all of those things. And I'm sure, Mr. Hubbard,
8 that you will have a lot of opportunity at that point
9 to interact on what -- where you think that
10 streamlining could come in.
11 We also are sort of fortunate in that we have
12 a new hire at the AG's office who is not a new lawyer,
13 Assistant Attorney General Michael Williams, who I am
14 going to assign to be the technical advisor to the
15 task force. He was a hearing officer in the state of
16 Colorado for many years and has come to New Mexico and
17 is now working for our civil division.
18 So we actually have some expert staff that
19 can work with that group too. So I am guessing
20 hopefully that that group will be able to, over the
21 course of 30 or 60 days, I don't know how long they'll
22 think it takes, to provide us with some input on this
23 issue too.
24 So I think that as the board directed, we're
25 moving forward fairly rapidly with looking at what we

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1 can do to streamline the process. And we certainly
2 are expecting and hoping that Mr. Hubbard will be
3 involved in that process for as long as the governor
4 leaves him as the director.
5 MR. HUBBARD: Thank you, Mr. Chairman.
6 MR. KING: So thank you. And as you can see
7 from the director's report, they've done a lot to
8 address some of those backlog of cases. And I can
9 talk a little bit later on about what we've done in
10 the AG's office to address that backlog as well.
11 But I think that between ourselves and the
12 Law Enforcement Academy staff, that we have made quite
13 a lot of progress in the last really essentially two
14 weeks because the holidays intervened in all of that
15 to address the backlog. So thank you, Mr. Hubbard,
16 for all that. I think that your group has done a good
17 job.
18 MR. HUBBARD: Thank you, sir.
19 MR. KING: Questions then or comments for
20 Mr. Hubbard.
21 MR. KORN: Mr. Chairman, I have some
22 questions -- or some comments and questions.
23 MR. KING: Okay. Mr. Korn.
24 MR. KORN: First I would like to have the
25 record -- put on the record my appreciation for Acting

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1 Director Hubbard.
2 He is acting director, of course. He is in
3 charge of the SID division of the Division of Public
4 Safety, which is a full-time job in and of itself.
5 And as those of us on the board knows, everybody
6 that's a director of the academy is more than a
7 full-time job. So he really has two full-time jobs.
8 But it's the way he approached the second one
9 where he's only an acting director that really
10 impressed me, because where he could have sat back and
11 said, you know, I'm just a place keeper and I'll let
12 the next guy handle the problems, he has dived in,
13 he's been a real team player, he's been involved in
14 disciplinary cases, he comes up to Santa Fe and works
15 with the staff, making our Law Enforcement Academy
16 Board better. So I can't congratulate him enough for
17 taking an active role in what we're trying to do here.
18 So I give him my applause.
19 Secondly, I do think it's important to
20 address some of the issues that were just raised by
21 Attorney General King. And I refer to him as Attorney
22 General King because my concern, my fear is that when
23 he spoke as the chairman of the Law Enforcement
24 Academy Board, he was actually speaking as Attorney
25 General King.

1 He spoke on behalf of his staff, which was
2 Bill Moon. He spoke on behalf of the way Bill Moon
3 will be interrelating with Zach Shandler. He spoke on
4 behalf of Bill Moon's letter. And he did that all as
5 the employer of Bill Moon, the Attorney General. And
6 what concerns me is that when Mr. King sits down in
7 the chair he's sitting as the chairman of our board,
8 one would think that the direction of the board would
9 be key.

10 And when Bill Hubbard raises questions about
11 the way the board is operating, questions about
12 timelines, and then it's explained by Mr. King as the
13 employer of Bill Moon, that raises a concern for me;
14 because what we see here, what I'm starting to have a
15 feeling of is conflicts of interest, because we're
16 sitting on the board as the chairman, we have people
17 employed by us that are reportable to us.

18 And just like Mr. King says he recuses
19 himself from the disciplinary part of this, I question
20 whether Mr. King can be the chairman without recusing
21 himself from everything if he's going to take an
22 active role as the employer of Bill Moon.

23 The other thing I would like to raise is --
24 and this is just a point of order. Because Mr. King
25 said that the board asked him to appoint a study

1 group. And my recollection of the way the minutes
2 were at our emergency meeting is the board didn't ask
3 him that question. The board didn't even raise it.

4 The person that raised it was Zach Shandler,
5 another member of the Attorney General's Office that
6 works for Mr. King. And so Zach Shandler, Mr. King's
7 right arm, asked Mr. King, the left arm, to appoint a
8 study group. And Mr. King did that and then says it
9 was the board that asked that.

10 On top of that, besides Mr. Shandler whom
11 obviously rounded up this blue ribbon panel, Mr. King
12 has graciously added Michael Williams from his office
13 who is going to also be involved in the panel. So my
14 concern is that more and more and more this isn't
15 becoming the Law Enforcement Academy Board, this is
16 becoming an arm of the Attorney General's Office. And
17 I think the two of these things ought to be separated.

18 And finally I want to talk to some of the
19 issues that Mr. Hubbard raised. And that's in regards
20 to the timeline. And while it's true that Bill Moon
21 in putting together his timeline basically enumerated
22 sections of our rules that had to do with the way our
23 times would be administered, he added a lot of other
24 things to that timeline.

25 And those things were -- you know, I'm not

1 trying to knock Bill Moon because I've talked to him
2 on the phone and I kind of like the guy. But, you
3 know, he's pretty dictatorial in this. He's dictating
4 what the director of our academy is going to put
5 together to have presented to Mr. Moon. And then
6 Mr. Moon is going to evaluate what our director has
7 done and then make decisions that are going to affect
8 our board.

9 The problem is that Mr. Moon works for us. I
10 mean Mr. Moon is the prosecutor assigned to the board.
11 We are the client. Just like if we were a private
12 industry, we would hire a law firm, in this case the
13 Attorney General's Office. They would assign an
14 attorney, in this case Bill Moon.

15 Bill Moon would not be dictating to the
16 people that are his employers how he's going to be
17 acting. He would want to be cooperative and ask us
18 how he can work as a team member for us.

19 And so when Mr. Hubbard questioned the
20 timeline, what I see here is a question about how can
21 Mr. Moon go outside of our rules and demand certain
22 activities before he'll review a case. And then the
23 depth of review that Mr. Moon has expected from
24 Mr. Hubbard certainly seems excessive to me for the
25 preliminary stages of this.

1 And finally -- and I can't not address this.
2 But I don't want to get in a fight with the Attorney
3 General's Office. But I cannot fail to address this,
4 because the tones of these letters and the tones of
5 these emails are hardly team efforts.

6 They're dictatorial, they come across as
7 arrogant. I can't believe this is the way our two
8 offices should be working together. It's not
9 conducive to team efforts. Those are my comments,
10 Mr. King.

11 MR. KING: Thank you, Mr. Korn. I suppose
12 that the only response I have to that is that I do
13 think that -- and hopefully it's one of the things
14 that the blue ribbon task force will be able to
15 address. Is that there continues to be a fair amount
16 of misunderstanding about the role of different
17 lawyers from the Attorney General's Office. And I
18 don't know how I can be anything other than the
19 Attorney General whether I'm sitting in this chair or
20 anywhere else. So those comments I don't quite
21 understand.

22 But just so the public that's here will
23 understand, there are indeed two roles that the
24 Attorney General's Office plays with regard to the Law
25 Enforcement Academy Board. Actually three. One is

1 that I am statutorily appointed as the chairman of the
 2 board. And so I serve here because the legislature
 3 has directed that I serve here as the chairman of the
 4 board.
 5 Two, as does every board and commission that
 6 desires that there are actually some -- some boards
 7 and commissions that don't have attorneys from the
 8 Civil Division of the Attorney General's Office that
 9 represent the board, give them advice on rulemaking,
 10 which we're going to do a rulemaking this morning in a
 11 little bit. And that Mr. Shandler serves that purpose
 12 on this board and provides legal advice to the board
 13 and essentially is the lawyer for the board.
 14 My office also for a number of professional
 15 boards provides administrative prosecutorial services
 16 from our Litigation Division. Mr. Moon works for the
 17 Litigation Division of the Attorney General's Office.
 18 And those lawyers represent the interest of the state
 19 and very much the way that -- well, I shouldn't say
 20 that.
 21 It's not the same as a prosecutor in court.
 22 But obviously we have sometimes made the analogy of
 23 the fact that the board here sits in certification
 24 hearings very much like in a quasi-judicial capacity
 25 as the judge. The board does appoint hearing officers

1 to hear cases.
 2 In those cases, one of the parties, the
 3 state, is represented by the Attorney General's Office
 4 with an administrative prosecutor. The other party
 5 either represents themselves or they hire an attorney
 6 to represent them. And the hearing officer serves as
 7 a quasi-judicial officer.
 8 And so when Mr. Korn says that Mr. Moon works
 9 for the board, I think that that is a total
 10 misunderstanding of the relationship between the
 11 Litigation Division of the Attorney General's Office
 12 and the board.
 13 The Litigation Division represents the
 14 interests of the state very much in the way that we do
 15 when we're prosecuting cases in court or the district
 16 attorneys do when they prosecute a case in court.
 17 And so my point is and has continued to be
 18 that it's inappropriate for the board to direct how
 19 Mr. Moon will do his job just in the way it would be
 20 inappropriate for a judge to tell a prosecutor how
 21 they're going to prosecute their case. And so I
 22 think, as we move through this year obviously and we
 23 go through these cases, we'll hone that out and figure
 24 it out.
 25 But I certainly think that Mr. Korn is

1 mischaracterizing the relationship between the
 2 prosecutions, the administrative prosecutions of the
 3 Attorney General's Office, and the Law Enforcement
 4 Academy staff, who as I said I believe have been
 5 working together.
 6 And there certainly is not always total
 7 agreement between the staff and the administrative
 8 prosecutor as to how things ought to work. But
 9 certainly I don't think that anybody who was at that
 10 meeting last month can disagree that over my objection
 11 there was direction from the board for the Attorney
 12 General's Office to make changes in how we're doing
 13 the prosecution of these cases.
 14 I let you know that I would take your advice
 15 and I would act on your advice. And that's what I've
 16 been doing. And so we have a report today to let you
 17 know that we're moving forward and have made
 18 significant strides. And we have done that by working
 19 with the staff of the Law Enforcement Academy Board.
 20 And I think that the director is the guy
 21 that's kind of in a tight spot, because indeed the
 22 board may give him some direction. I don't know,
 23 Mr. Hubbard, that you consider yourself an employee of
 24 the board or an employee of the Law Enforcement
 25 Academy. But I know that you take advice from the

1 board and we appreciate that.
 2 And so we all are trying to work together
 3 here. But if we're going to work together, you know,
 4 we'll have to be able to have some frank discussion
 5 about what everybody's role is in this so that we can
 6 move forward.
 7 Other questions?
 8 MR. KORN: Mr. King. Oh, I'm sorry. Is
 9 there another question?
 10 MR. KING: I see something down there. Yes.
 11 Chief Betz.
 12 MR. BETZ: Mr. Chairman, I just have a
 13 question for Mr. Hubbard. And it's off what you guys
 14 were speaking about. I just happened to see the CBW
 15 class scheduled in January. And I believe 76 isn't
 16 scheduled until August. Is that because of lack of
 17 interest in the field or you just can't get the bodies
 18 to fill the classes?
 19 MR. HUBBARD: Is Mr. Shea present? I would
 20 call upon Advance Bureau Chief Mark Shea to respond to
 21 that, please.
 22 MR. SHEA: Chief Betz, members of the board,
 23 the reason the next class is not scheduled until
 24 August is primarily a matter of logistics. With a
 25 basic class in session, a recruit school with State

1 Police in session, our Public Safety Telecommunicator
2 class is in session, our academy resources are
3 stretched with cafeteria use, with the track, with the
4 gymnasium, with classroom space, with firearms range.
5 It's a matter of logistics to be able to schedule
6 classes in order to meet that.

7 We do have a partner with the satellite
8 academy in Hobbs which has been very helpful in trying
9 to take some of that slack up for us and run CBW
10 classes and PST classes in the southern part of the
11 state to pick up some of that gap.

12 We have noticed in the past with our
13 scheduling that we have not been filling our CBW
14 classes. We can hold 25. The class that will start
15 here next week will have less than ten in it. And a
16 lot of that is due to the fact that we had a lot of
17 applicants that came to the mandatory assessment that
18 failed the physical portion of that.

19 But from the standpoint of do we fill a class
20 and have a waiting list in the last several years, we
21 have not reached that capacity. We had 33 in one
22 class several years ago right before the return to
23 work bill came into effect, when we had a lot of
24 retirees. Now we only have two in this class. The
25 rest are primarily from out of state that are coming

1 in.

2 MR. BETZ: Thank you, Mr. Shea.

3 MR. KING: Thank you, Mr. Shea. Chief,
4 anything else? Chief Schultz.

5 MR. SCHULTZ: Mr. Chairman, if I may, getting
6 back on point about the director, just I guess for the
7 record, looking at the rules, Rule 10.29.1.8 talks
8 about the academy director and very clearly says the
9 academy director is the chief executive officer of the
10 academy.

11 It goes on to say that the board may direct
12 the director to implement or carry out or finalize any
13 particular policy and/or agreement. Obviously
14 discipline is a policy issue that this board hears.

15 Further going on into the rules, it talks
16 about authority. And under 10.29.1.11, under grounds
17 for a denial, revocation, or suspension of a police
18 officer or telecommunicator, it very clearly says that
19 it's the director who may seek to deny, suspend, or
20 revoke an officer's certification.

21 So I think the director has much more power
22 here in this entire process and it's the director who
23 actually dictates the process and whether we're going
24 to go forward with discipline to include exactly as
25 the statute says, to deny, suspend, or revoke an

1 officer's certification.

2 So I think it's the director who makes those
3 decisions and it's this board that provides per
4 statute very clear direction to the director.

5 MR. KORN: Mr. Attorney General, if I could
6 follow up on Chief Schultz's remarks.

7 MR. KING: Go ahead, Mr. Korn.

8 MR. KORN: The characterization that Mr. Moon
9 is the administrative prosecutor and not subject to
10 the -- not subject to the board ignores the fact that
11 as administrative prosecutor, he has two functions.

12 Number one he, of course, prosecutes cases.
13 He finds the substantive part of a case, the elements
14 of proof, the witnesses, and then presents them to a
15 hearing officer to resolve disputes regarding
16 penalties and misconduct.

17 But the other thing he does, and I think this
18 is following up on what Chief Schultz was bringing up,
19 is that he also administers the calendar. I mean
20 we've had long discussions in the emergency meeting
21 and I'm sure a lot more today about the fact that our
22 calendar is 120 cases backlogged. And 120 cases old
23 means that it's a full year old.

24 And this is to be administered by the
25 administrative prosecutor. And this board has every

1 right to find out what the administrative prosecutor
2 is going to do as far as moving our cases, what the
3 speed is that he's going to review, review the cases,
4 how quickly he's going to respond to our director.

5 And missing from the timeline, which was a
6 two-page timeline -- there was all kinds of stuff from
7 the rules, there was all kinds of stuff on demands on
8 our director. But missing from that timeline was any
9 indication of what his work would be. And I think
10 that that has to be part and parcel of everything we
11 discuss.

12 And as Chief Schultz pointed out, we have a
13 right to demand that of our director and our director
14 has a right to demand it and inquire of Mr. Moon. So
15 when Mr. Moon replies to our director and dismisses
16 his entire inquiry by saying that I don't have to tell
17 you any more, this is the timeline I'm doing, this is
18 the timeline that's in place, and I don't have to
19 report to the board, that's arrogance and it's also an
20 inability to work with us. And it doesn't bode well
21 between the Attorney General's Office and the board.

22 And that is the dovetail into you acting as
23 either the Attorney General or as our chairman,
24 because you can't be both when you're sitting in that
25 chair is what I would suggest. And what I'm seeing --

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1 it's almost as if you wrote the letter. I mean I
2 would ask you, did you have anything to do with
3 writing Mr. Moon's letter?
4 MR. KING: I did not.
5 MR. KORN: Did you approve it before it went
6 out?
7 MR. KING: I did not.
8 MR. KORN: Did you give ideas for it before
9 it went there?
10 MR. KING: I did not. I did receive a copy
11 of it. I read it and I do approve of it.
12 MR. KORN: Well, it's almost like you're
13 quoting part and verse from it. So it's obviously an
14 idea that's been floated around your office and
15 brought to us. And I think that's an idea that the
16 board -- that's an anathema to the board.
17 I don't think this is in -- I don't think
18 it's in the board's best interest not to have an
19 administrative prosecutor that answers to us. And
20 frankly I just don't think it's good for you in your
21 role to not take an interest in what the board's
22 outlook is, even though that might be contrary to the
23 outlook to you as the Attorney General. And I'm not
24 sure it is contrary to you as Attorney General.
25 MR. KING: Well, and I want to state on

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1 record that you've totally mischaracterized what it is
2 that I'm doing here. And I guess that meets your
3 purposes, Mr. Korn. But frankly like I said the
4 direction I got was to move these cases. And we're
5 going to move them.
6 And I think that that's going to require some
7 attention from the Law Enforcement Academy Board
8 staff. I think it's going to require some attention
9 from the board including myself or Mr. Peterson,
10 whoever sits in here. But we're dedicated to knocking
11 down this backlog.
12 And I assigned a number of lawyers in my
13 agency to go through the files as they said. And I
14 think that you'll see in the director's report -- and
15 I think that some of that occurred because of work
16 that was done between my office and the director.
17 They reviewed 59 of the backlog misconduct
18 files. My office reviewed about 70 some of those and
19 returned them to the board staff with our analyses of
20 what needed to be done as far as either more
21 investigation or I think that there were some that we
22 found needed either Notices of Contemplated Action or
23 some of them needed Notices of Final Decision. I
24 think the board is moving forward with those.
25 And so frankly, Mr. Korn, your

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1 characterization of what's going on really just seems
2 to be designed to inflame further what's going on
3 here. But as far as I know, with only just the fact
4 that there was some give-and-take about who sets the
5 schedule and what the schedule is, that my office and
6 the Law Enforcement Academy staff are working very
7 efficiently and aggressively together to knock down
8 the backlog.
9 MR. KORN: And, Mr. Attorney General, I
10 really don't want to escalate these between us. And I
11 have no agenda. I don't run for public office. This
12 is the only board I'm on. And I assure you, when I'm
13 done with this board, I will be done from anything
14 that looks like public life.
15 And so I don't want to escalate things
16 between us. But I do want to point out that the
17 director's report, the things that he says happened
18 this month were all things that he did.
19 They weren't things that were done in
20 cooperation with Mr. Moon. They weren't things that
21 Mr. Moon presented to him. I mean the fact that we
22 have movement in this calendar is because as I
23 understand it Director Hubbard moved the cases along.
24 Am I correct in that?
25 MR. HUBBARD: Yes, sir.

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1 MR. KORN: Have there been any cases that
2 you've received from Mr. Moon for you to act on?
3 MR. HUBBARD: Mr. Moon has prosecuted cases,
4 Mr. Korn. And the -- my director's report,
5 Mr. Chairman, members of the board, reflects what I
6 have done along with Ms. Medrano and with the help of
7 Ms. Lopez, my staff here.
8 There's somewhat of a standoff for lack of a
9 better term between what we're doing over here and
10 what is happening at the Attorney General's Office.
11 We've received an email from Mr. Jackson inquiring
12 about the status of some cases.
13 And I hashed through those and then sent my
14 response to Mr. Moon rather than responding to
15 Mr. Jackson so far as their inquiry, I think it was
16 28 cases, as to where those cases stood so far as our
17 files at the LEA were concerned. And I responded to
18 Mr. Moon.
19 MR. KORN: And, Mr. King, I'm willing to --
20 you know, I mean I think we've made our points and
21 counterpoints. I'm willing to stand down. My agenda
22 item No. 12 is one of -- and I'll grant you, it's not
23 one of further -- I'm not trying to cast aspersions on
24 the Attorney General's Office.
25 I really want this board to be as efficient

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1 as it can be. I want cases to move along. I think
 2 everybody in this room feels the same. So I'm willing
 3 to stand down on this point. But I can't stand down
 4 without your cooperation.
 5 MR. KING: I haven't indicated any lack of
 6 cooperation from our office. We're more than happy to
 7 work with the staff. Like I said I've got my folks
 8 working on files. If they haven't received all of our
 9 comments back yet, they will be getting them pretty
 10 soon. I thought that they had probably received
 11 comments on all 70 of those files.
 12 Mr. Hubbard, if you haven't received them
 13 yet, I'll go back to my office today and make sure
 14 that you get them soon.
 15 All right. Any other questions or comments?
 16 ITEM NO. 8: PUBLIC COMMENTS
 17 MR. KING: Okay. The next item on the agenda
 18 is public comment. Do we have a sign up, is there any
 19 public comment?
 20 MS. LOPEZ: Nobody signed up.
 21 MR. KING: Okay. Nobody signed up. In that
 22 case we'll move on.
 23 ITEM NO. 9: PUBLIC HEARING - RULE 10.29.10 PUBLIC
 24 SAFETY MINIMUM STANDARDS OF TRAINING
 25 MR. KING: The next item on the agenda is

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1 item No. 9, public hearing, Rule 10.29.10, public
 2 safety minimum standards of training. I have a little
 3 script here so let me see if I have to start with
 4 this.
 5 So I already said that the next item on the
 6 agenda is those changes to the rules. I'll declare
 7 that public hearing on the record open on the rule.
 8 Staff has proposed changes to the rules. And we'll
 9 start with staff providing testimony on why the rules
 10 should or should not be adopted.
 11 The board is free to ask any questions. Then
 12 we'll allow anyone from the audience to provide
 13 testimony, if there's testimony on the rules. We
 14 should hold off on any deliberations amongst ourselves
 15 until we receive all of the testimony. And when we
 16 have received all the testimony, I'll close the
 17 hearing record.
 18 Then we'll go on and have -- we'll be able to
 19 deliberate on the rule. And after we've deliberated,
 20 I'd entertain a motion to accept, modify, or reject
 21 the proposed rule. We may modify the rule as long as
 22 it's the logical outgrowth of the rule as published in
 23 our packet. I need to state two legal items for the
 24 record.
 25 First rules become effective 30 days after

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1 they're filed at Records and Archives. Second, the
 2 legal standard is that we need to inform the public of
 3 our reasoning when we choose to amend our rules. The
 4 comments of one member on the record, if it explains
 5 our reasoning, satisfies this legal standard.
 6 So now we're ready for Mr. Coss to make his
 7 presentation. Mr. Coss.
 8 MR. COSS: Thank you, Mr. Chairman, members
 9 of the board. I believed you were all provided a copy
 10 of the proposed rule change and have that in your
 11 packet. And I will provide a copy to our
 12 transcriptionist so that she can kind of keep up as
 13 well.
 14 And I think it will also facilitate a little
 15 time here as opposed to reading into the record all of
 16 the things that will be stricken and all of the things
 17 that will be added by providing a brief synopsis.
 18 Starting with Mr. Chairman, your need for
 19 this and the reason that we are bringing this to the
 20 board. The last recorded work that I can see or find
 21 at least from an historical perspective here at the
 22 academy dates back to about 1998 for a comprehensive
 23 review of the Public Safety Telecommunicator training,
 24 the basic curriculum.
 25 Now, that's not to say that many things

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1 haven't been changing over time. They have. But a
 2 comprehensive review of everything start to finish was
 3 back in '98. And that's what we undertook back in
 4 December of '09.
 5 This information has been brought to you in
 6 discussion form for two previous board meetings now.
 7 And you've had some public comment and input on it as
 8 well. And this work is basically the result of a
 9 whole bunch of people that have come together in the
 10 Public Safety Telecommunicator field and helped us to
 11 provide the best product that we can for them.
 12 At least in my ten and a half years here at
 13 the Law Enforcement Academy, this will be the first
 14 working group or roundtable or whichever name you want
 15 to put on a focus group that has been 100 percent
 16 successful. And that's never occurred in any other
 17 thing, having participated in many of these roundtable
 18 discussions and that sort of thing.
 19 There has been absolutely zero negative input
 20 at least. It's all been positive and all been
 21 consensus building from telecommunicators and
 22 supervisors across the state. And it's with their
 23 effort that we are here.
 24 So the need is based on trying to make it a
 25 state-of-the-art program. How that was accomplished

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1 as we discussed in previous meetings was we started by
 2 trying to come up with a job task analysis for our
 3 state, which doesn't exist. That being pretty costly,
 4 we then reached out and started looking at nationally
 5 validated curriculums.

6 And that's ultimately where we rested and
 7 where we started to build this program off of, a
 8 nationally validated curriculum that's accepted by
 9 some of the national organizations such as APCO and
 10 NENA and the professions within the telecommunication
 11 field on a national level.

12 Out of that we collectively with several
 13 meetings extracted the basic core curriculum. And
 14 that is essentially what you have sitting before you
 15 for rule change today.

16 It takes it from a 120-hour program as it
 17 currently is in place and moves it to 132-hour program
 18 with 12 hours -- or up to 12 hours being distance
 19 learning or decentralized learning prior to attending.
 20 In other words, some learning will take place prior to
 21 them arriving at the academy. There will be
 22 documentation or proof that they've completed that
 23 training prior to their first day. And then they'll
 24 move forward with 120 contact hours.

25 The rule as it sits is 10.29.10.8. And

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1 sections A through K as they exist currently in the
 2 New Mexico Administrative Code will be completely
 3 stricken start to finish and will be replaced with
 4 10.29.10.8, sections A as in Adam through N as in
 5 Nora. This is broken out into 12 specific units which
 6 each contain subunits.

7 And just to read the basic units into the
 8 record in an effort to save a little time, unit one
 9 will be Introduction to New Mexico Telecommunications.
 10 This will include some of the New Mexico
 11 Administrative Code governing the Public Safety
 12 Telecommunicator profession as well as some history
 13 and some of those kind of things.

14 Unit number two will be Call Receiving. And
 15 there be a total of 14 hours. Unit number three will
 16 be Enhanced 911 Systems. Unit four, Principles of the
 17 Law as a Public Safety Telecommunicator.

18 Unit 4A as in Adam will be Critical Incident
 19 Management and Interdisciplinary Incident Command
 20 System. Unit 4B will be High Performance Team Police
 21 Radio Communications. Unit five will be High
 22 Performance Team Fire Communications.

23 Unit six, High Performance Team Medical
 24 Communications. Unit seven will be Emergency Radio,
 25 Lifeline to Responders. Unit eight will be

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1 Accountability, Responsibility, and Liability for
 2 Telecommunicators.

3 Unit nine will be Crisis Intervention -
 4 Dangerous Opportunity, which will also include some of
 5 the components as articulated in 29.7(C)(7) of the New
 6 Mexico state statutes recently adopted at the last
 7 legislative session.

8 Unit ten will be 911 Stress Management and
 9 Wellness. Unit 11 will be Practical Application of
 10 Core Abilities, specific practical application of
 11 theory learned throughout their time at the academy.

12 And then unit 12 is simply Administrative
 13 Time. That would be such things as graduation,
 14 academic unit testing, student handbook orientation,
 15 those kind of things.

16 Mr. Chairman, members of the board, that
 17 spells out the 132-hour basic Public Safety
 18 Telecommunicator curriculum in its entirety. I would
 19 be more than happy to answer any questions that the
 20 board may have. Like I say it's been about 14 months
 21 worth of work on a whole bunch of people's part. And
 22 if I can't answer them, hopefully I've got people in
 23 the room that can.

24 MR. SHILLING: Mr. Chairman.
 25 MR. KING: Questions. Chief Shilling.

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1 MR. SHILLING: Mr. Chairman, Brian, I'm way
 2 behind the power curve on this. For my edification,
 3 with the NCIC stuff, has DPS basically -- this whole
 4 certification process through the server switch and
 5 the Internet, that satisfies that. So you guys at PST
 6 don't have to worry about that stuff anymore, right?

7 MR. COSS: That is correct, Chief. Most of
 8 the agencies -- their TACs, agency TACs are providing
 9 that training. And as I understand that's within
 10 90 days. And they're actually receiving their
 11 certification in that. And that represents about
 12 95 percent of the folks prior to coming to a basic
 13 telecommunicator academy class.

14 MR. SHILLING: I knew it had always been a
 15 sticking point with various agencies, especially fire,
 16 who they could care less about --

17 MR. COSS: Correct. And actually you'll see
 18 that in the curriculum reduced considerably. It was a
 19 32-hour block. It now encompasses eight hours of
 20 theory and eight hours of practicum. Now, that's not
 21 dedicated just to NCIC.

22 But telecommunicators will be running through
 23 scenarios, running vehicle checks, running driver's
 24 license inquiries, running article inquiries,
 25 et cetera. So it has been addressed and it's much

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1 more streamlined. And that's been coordinated through
2 Ms. Maybridge, the NCIC coordinator.
3 MR. SHILLING: Thank you. Thank you,
4 Mr. Chairman.
5 MR. KING: Chief. Other questions?
6 MR. KORN: Mr. Chairman.
7 MR. KING: Mr. Korn.
8 MR. KORN: I would just like to thank Brian
9 Coss for all the time he has put in, coming up with a
10 plan to bring us into the next generation of
11 telecommunicator expertise in our academy. What year
12 did you -- how long has it been since you said it has
13 been not changed?
14 MR. COSS: Well, '98 is the last recorded
15 history that I could find in its entirety.
16 MR. KORN: Fourteen years.
17 MR. COSS: Again elements have been changed
18 throughout time. And many people have been very
19 progressive in keeping the program as progressive as
20 it can be. But this is starting from the rule change
21 to curriculum to unit test to certification.
22 MR. KORN: Thanks for taking the lead in
23 this.
24 MR. KING: Other questions?
25 MR. HUBBARD: Mr. Chairman.

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1 MR. KING: Yes, Mr. Hubbard.
2 MR. HUBBARD: I would like to reiterate what
3 Mr. Korn said. Largely what Master Instructor Coss
4 took on here was a very thankless job of a huge, huge
5 task and something that needed lots of attention. And
6 it has required just an immense amount of time of
7 sitting at a computer, sitting at his desk, and
8 hashing away at this.
9 And I've been friends with Mr. Coss for
10 15 years I guess. And he's a go-out-and-do kind of
11 guy and not a sit at a desk and pound away at a
12 computer. And he did it because the state needed it.
13 And the leadership that he has shown in gathering the
14 key people from across the state so far as dispatching
15 is concerned, telecommunicators, was just immense.
16 And the State of New Mexico and all of our
17 dispatch centers are going to be the recipients and
18 the beneficiaries of his hard work for a long time to
19 come. And just from my perspective, the thankless job
20 that he did and the grace and the style and the
21 leadership that he showed in doing this, I commend you
22 highly. Thank you, Mr. Coss.
23 MR. KING: Okay. Seeing no further questions
24 from the board, we'll have an opportunity for any
25 public testimony. Is there anybody here that wants to

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1 comment on the rule? I thought I might have seen a
2 telecommunicator or two out there. All right. I see
3 no raising of hands for public testimony.
4 So in that case, Mr. Shandler, do I need to
5 state specifically that we're closing the record?
6 MR. SHANDLER: Yes, sir.
7 MR. KING: Okay. So we're going to close the
8 record on this hearing on this rule and begin to
9 deliberate the rule.
10 So I'll take any comments from the board as
11 to whether they think that there needs to be any
12 modifications to the rule. And, if not, I will take a
13 motion to accept the rule. Yes?
14 MR. SHANDLER: That is correct, sir.
15 MR. KING: Any discussion on modifications?
16 Seeing none I'll take a motion to accept the rule.
17 MR. BETZ: I'll make the motion to accept the
18 rule.
19 MR. KING: I have a motion to accept the
20 rule. Is there a second?
21 MR. MYERS: Second.
22 MR. KING: Second. All in favor say aye.
23 (Those in favor so indicate.)
24 MR. KING: Any opposed. All right. The
25 record will show that everybody attending voted in

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1 favor of the rule change.
2 Mr. Coss, thank you very much for all of your
3 hard work. I think that this will be a great
4 improvement in the training. Thank you, sir.
5 MR. COSS: Thank you, sir.
6 ITEM NO. 10: RATIFICATION OF CERTIFICATION FOR LAW
7 ENFORCEMENT OFFICERS
8 MR. KING: The next item on the agenda is new
9 business, ratification of certifications for Law
10 Enforcement Academy officers. Mr. Hubbard, are you
11 going to present those?
12 MR. HUBBARD: Yes, sir. Mr. Chairman and
13 members of the board, under tab ten in your binders is
14 a good long list of basic academy. I would present to
15 the board Certification Nos. 11-0242-P through
16 11-0316-P to the board for ratification.
17 Further, following 11-0316-P, individuals
18 79-0069-P, 82-0393-P, 83-0271-P, 87-0354-P, 96-0054-P,
19 and 99-0054-P have all met the requirements and stand
20 ready for ratification.
21 MR. KING: Okay. Questions of the board?
22 Seeing none I'll take a motion to ratify the
23 certifications.
24 MR. MYERS: So moved.
25 MR. KING: Okay. We have a motion. A

1 second.
 2 MR. COON: I'll second.
 3 MR. KING: Seconded by Sheriff Coon. All in
 4 favor say aye.
 5 (Those in favor so indicate.)
 6 MR. KING: Any opposed. The motion is
 7 carried. All of those officers will have their
 8 certifications ratified.
 9 I'm just going to ask this. It's not on the
 10 agenda. But sometimes we have telecommunicators too.
 11 Are there no telecommunicators?
 12 MS. LOPEZ: Not at this time.
 13 ITEM NO. 11: PRESENTATION - CHILD PASSENGER
 14 SAFETY (CPS)
 15 MR. KING: Okay. Then we will move on to
 16 item No. 11, presentation on child passenger safety.
 17 Kevin Bruno, sergeant with the New Mexico State
 18 Police. Sergeant Bruno.
 19 MR. BRUNO: Good morning, sir.
 20 MR. KING: Thank you. Good morning. Please
 21 come on up.
 22 MR. BRUNO: Absolutely.
 23 MR. KING: Go ahead, Sergeant.
 24 MR. BRUNO: Are you ready?
 25 MR. KING: Yes, we're ready.

1 MR. BRUNO: We're excited. I don't want you
 2 to miss anything.
 3 MR. KING: Oh, no.
 4 MR. BRUNO: What do you think, a restroom
 5 break?
 6 MR. KING: That might be a good idea. Are
 7 you guys up for a five-minute break?
 8 MR. BRUNO: I know I'm not the chairman.
 9 MR. KING: Before you go on, let's take a
 10 five-minute break.
 11 (Recess.)
 12 MR. KING: I'm going to call us back in from
 13 our recess. And we've already called up the next
 14 item, item No. 11. So, Sergeant Bruno, please
 15 proceed.
 16 MR. BRUNO: Mr. Chairman, members of the
 17 board, my name is Kevin Bruno, I'm a sergeant with the
 18 New Mexico State Police. I have been with this
 19 department for 17 wonderful years. And during that
 20 tenure I've gotten to experience a lot of different
 21 things.
 22 Over the last eight or nine years, I have
 23 found myself becoming an advocate for child passenger
 24 safety. I'm currently a certified instructor for
 25 child passenger safety for the technicians. And I've

1 been a technician for just about seven, seven and a
 2 half years now.
 3 With that being said, I've noticed a
 4 deficiency in some of the information that we're
 5 getting out to the officers regarding child passenger
 6 safety. What I'm going to ask of you guys today, it
 7 may be a stretch, because I understand that we just
 8 added a bunch of hours to -- based on the legislative
 9 session last year to dealing with mentally ill and
 10 dealing with those persons with mental disabilities.
 11 So I understand that the curriculum base for
 12 the in-service and the curriculum base for training is
 13 already inundated with everyone's interests. But I
 14 come to you in the hopes that my presentation will be
 15 enough to sway the board to think that this two-hour
 16 block of instruction that I'm asking you to approve is
 17 something that we can accommodate.
 18 What I'm looking at and what I would like to
 19 present to the board is child restraints and the
 20 identification of misuse. Oddly enough four out of
 21 five car seats are installed incorrectly nationwide,
 22 which means we have an issue. We have a problem.
 23 Parents aren't reading the brochures, they're
 24 not reading the manuals, they're not doing maybe that
 25 little extra effort to make sure their seat is safe in

1 their car. It may be that they're doing everything
 2 that they possibly can. But the issue comes in that
 3 they may not know the mechanics of their car. And so
 4 there's a lot of things that we take for granted when
 5 we put our children in our car.
 6 So what I've prepared for you today is kind
 7 of a brief overview. I identified the goal, which is
 8 to teach law enforcement officers the basics about car
 9 seats and how to identify misuse. And then I
 10 identified what the objectives of this course should
 11 be.
 12 I can go over them real briefly. But the
 13 first one is to identify the stats relating to
 14 children injured or killed in automobile crashes;
 15 identify what the child restraint law is, just a basic
 16 refresher; identify the components of a child
 17 restraint, which is very relevant to what it is I'm
 18 going to be teaching; list the different types of
 19 child restraints used today by the American consumer;
 20 and identify what to look for when trying to identify
 21 misuse.
 22 Now, as a law enforcement officer, when I
 23 would go out and patrol -- and when I would go out and
 24 patrol, it's a little different for me now. But when
 25 I would go out and patrol, I would make several stops

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1 throughout a day and throughout a shift. And when I
2 would do that, I would come across numerous people
3 that have child restraints in their vehicle.
4 And prior to receiving the 32 hours of
5 training as a technician, I had no idea if they were
6 in there right. I had no idea. And I am going to
7 guess that the majority of law enforcement probably
8 don't either. If the seat looks like it's in there
9 and the kid is strapped in, that's usually good
10 enough.
11 And I hate to say that, I really do. But
12 without the education, without the knowledge, it's
13 hard to really say, you know, how this particular seat
14 is going to perform in a crash or even in a minor
15 crash.
16 Child fatalities and major injuries in 2009
17 were significant. Now, the number may sound low. But
18 when we're talking about our children, who all of us I
19 would imagine have them or have grandchildren or are
20 around them, cousin, nieces, nephews, I know we all
21 have family. Twenty-three children under the age of
22 14 died in automobile crashes in 2009. That's 23 kids
23 that I believe did not have to die.
24 Now, every situation is going to be
25 different. And I can't tell you what every one of

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1 those crashes entailed. But my understanding of these
2 and my understanding of child restraints lends me to
3 believe that 23 of these deaths should not have
4 happened.
5 323 children under the age of nine were
6 seriously injured in automobile crashes in 2009. That
7 number is significant. It's a lot of kids that have
8 debilitating injuries that are going to last them the
9 rest of their lives. And I'm not talking about minor
10 injuries, I'm talking about serious injury. And these
11 stats are obtained from DOT again which come from our
12 crash reports, the reports that we provide as law
13 enforcement.
14 So with this block of instruction, what I'm
15 asking is I'm asking for you to help me help the
16 officers of the State of New Mexico have just that
17 little bit of education, so that when they approach a
18 car, they know what it is they're looking at, they
19 know what it is -- they can tug on the seatbelt and
20 identify if there's misuse or they can look at the car
21 seat and identify if there's misuse.
22 Now, the class structure for this class would
23 be very, very minimal. But it is I think significant.
24 I identified in the bottom of the form the structure.
25 The first ten minutes would be identification -- or

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1 excuse me. The introduction and the statistical data.
2 At 8:10 we would go over the statutes
3 regarding passenger safety to include the adult
4 seatbelt law. At 8:20 we would go over child
5 restraint devices, what the parts are, what the
6 officers should look at, what they should know about
7 child restraint devices so that they're educated, so
8 that they understand it.
9 I have included a ten-minute break. I like
10 breaks. At nine o'clock we would come back. And the
11 first thing we would get into was what to look for.
12 Again when you approach a vehicle, when you're on a
13 traffic stop and you approach a vehicle, as a law
14 enforcement official, it's incumbent upon you to make
15 sure that those people are safe in that vehicle.
16 And that's what our job is. We want to make
17 sure that people are safe. It's not my job to
18 penalize people. It's part of it. But that's not
19 what my goal is. I want to make sure that everyone
20 driving down the road is safe. So I'm going to spend
21 20 minutes identifying with the students what to look
22 for, what little things that they can identify with.
23 The last or the next half hour would be a
24 misuse practical. Now, I've got a couple of different
25 ideas for this. The first idea would be -- I think

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1 easier to put out to the instructors throughout the
2 state would be by the use of a slide projection or
3 video projection, a PowerPoint projection with photos
4 of misuse.
5 And as we go through them, we can identify,
6 you know, what the officer would be looking at. So my
7 idea is to take photographs of these misuses and then
8 have the students go through them systematically and
9 identify what they can articulate based on the photo.
10 We also have the capability of obtaining
11 child safety seats, putting them in a car, and having
12 the officer not only install them, but identify the
13 misuse that would come along with them.
14 The one positive thing that I've got going
15 for me is I already have the instructors. Law
16 enforcement officers throughout the state are
17 Certified Child Passenger Safety Technicians. Right
18 now there's 114 of them that involve 24 different law
19 enforcement agencies.
20 With that being said, those officers have all
21 gone through a 32-hour block of instruction. With
22 that block of instruction, they spend three days going
23 over child restraints, going over vehicles, vehicle
24 manuals, child restraint manuals, the different types
25 of child restraints. They spend a lot of time.

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1 And it's kind of funny because, when we teach
 2 this class, the students come in and they seriously
 3 ask if we're going to spend four days learning how to
 4 install car seats. And for most of us, four days is a
 5 long time to be spending looking at car seats. Oddly
 6 enough it's not enough time.
 7 The last day of the four-day class we spend
 8 actually in the field with the students. And it's
 9 called a practical portion of the class. And we have
 10 a car seat clinic. And during that car seat clinic,
 11 we make arrangements, make appointments with people
 12 that have called in.
 13 And we have these cars come in. And we have
 14 these technicians, these newly certified technicians
 15 go through and they install these seats. It's amazing
 16 even to this day how many seats actually come in not
 17 installed -- not installed correctly or not installed
 18 at all or things are missing or minor, minor little
 19 things.
 20 I want to bring this to the board's attention
 21 and to the audience's attention as well because I
 22 think it's important. But the simplest of things can
 23 make that seat unsafe for a child. If the parent does
 24 not know that they need to lock the seatbelt in place,
 25 that seat will become loose as it drives.

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1 Car manufacturers make cars for adults. They
 2 don't think about the kids necessarily being in the
 3 back seat. So with that being said, when you buckle a
 4 seatbelt through a child restraint and you don't lock
 5 it into place, you've done that child absolutely no
 6 good. And amazingly enough a lot of cars come into
 7 these car seat clinics that way.
 8 It's an easy, easy way to identify misuse.
 9 All you have to do is reach into the car and tug on
 10 the seatbelt a little. If it's locked, it won't move.
 11 If it's not locked, you're going to be able to pull
 12 it.
 13 Now, to lock it all you have to do is pull it
 14 all the way out and allow it to go back in, put a
 15 little pressure on the seat, and then you can tug it
 16 up and it's nice and tight. That child is now going
 17 to be ten times safer than they were before.
 18 The instruction is very thorough. It really
 19 is. In those four days, it's very thorough. What I'm
 20 asking of you today is to give me just two hours. Two
 21 hours during an in-service for -- I understand 2012
 22 and '13 are already done. But I'm looking ahead.
 23 And I would like to see two hours for the
 24 '14/'15 year and possibly even get this involved in
 25 the current passenger safety portion of the

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1 requirements through the LEA and through the academy
 2 as it is now.
 3 As I stated before, there's 114 officers that
 4 are certified technicians. Of those 114 I would have
 5 to find out how many of them are actually certified to
 6 teach, how many have an instructor's certificate,
 7 which wouldn't take me much at all. But those people
 8 can, in fact, teach this block of instruction because
 9 of their knowledge base.
 10 The implementation I think would be extremely
 11 easy as well. Safer New Mexico now is a nonprofit
 12 affiliated with the State of New Mexico through DOT
 13 that does this. This is what they do, this is what
 14 they're about. They're the ones that oversee this
 15 project. They're the ones that take care of these
 16 things. And it's an amazing group of people.
 17 And I have made contact with Ms. Kelloff, the
 18 president, and I explained to her what I was going to
 19 ask of you today. And with that being said, they have
 20 a meeting every year, a Buckle Up conference. It's a
 21 two-day conference. Those officers that show up would
 22 be able to receive a two-hour block of training on
 23 this so that they know what to present to the students
 24 as this is actually implemented into the field.
 25 So for those that are representing academies

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1 in the room, this wouldn't be a huge endeavor. It
 2 wouldn't be a very costly endeavor. The curriculum
 3 would be provided by myself and Safer New Mexico. And
 4 it would be submitted to LEA for approval. And I
 5 think it's a very realistic thing. At least I hope
 6 I'm not asking for too much.
 7 Again I understand the parameters of the
 8 in-service and I understand that it can be -- it's
 9 already a little cumbersome as it is. I'm asking you
 10 for two hours. And I'm really only asking you for the
 11 '14/'15 year cycle because once we get all the
 12 certified officers on board with this and
 13 understanding this, I think that it would now just be
 14 incumbent upon us in the academies to take care of it
 15 from that point forward. And that, sir, is my
 16 presentation.
 17 MR. KING: Okay. Thank you, Sergeant Bruno.
 18 Director Hubbard, do you want to address any of that
 19 before we go to questions of the board? I mean can
 20 you tell us sort of how hard you think that would be
 21 to work in? I think that Sergeant Bruno recognizes
 22 that there are a lot of requirements already.
 23 MR. HUBBARD: Thank you, Mr. Chairman.
 24 Mr. Chairman, members of the board, I have some
 25 initial thoughts on this as I well think that some of

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1 our other police, chief executives may have.
2 Initial reaction is that we're constantly
3 coming out with more and more blocks of training that
4 are mandated. If you see the biennium for 2012 and
5 2013, those requirements, we have more specified
6 training blocks in that than we've ever had before.
7 We've even separated it out and said, you
8 know, executives in police agencies need to have this
9 kind of training on this subject and supervisors need
10 to have this kind of training and rank and file have
11 this kind of training.
12 And basically we've continued to mandate a
13 40-hour block of training for officers through the
14 biennium. I think that what Sergeant Bruno is
15 proposing here is very doable. And he's said, you
16 know, he's honed it down to where this is two hours.
17 The initial question that Chief Shilling and
18 others may better be able to address is whether the
19 appropriate direction to go for this is to mandate it
20 as part of the biennium cycle and then dictate to the
21 agencies again what areas that they have to have
22 training in. For example, crisis intervention,
23 domestic violence, Katie's Law, those things have all
24 come to us as being mandated as being part of the
25 biennium training cycle.

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1 What Sergeant Bruno I think would agree with
2 me on is that this is immediately doable for any
3 agency that wants to buy into it, because really all
4 it takes is an accredited curriculum that is
5 accredited through the academy.
6 And once the curriculum is accredited and the
7 officers who would be attending the training get
8 certified training for that, for the agencies that
9 want to voluntarily incorporate that as part of their
10 in-service, this is basically ready to go. Am I
11 correct there, Sergeant?
12 MR. BRUNO: Yes, sir. We're not too far from
13 it. But yes, sir, I've got the basis of it.
14 MR. HUBBARD: And having done accredited
15 courses before and submitted them to the academy to
16 get those courses accredited, that would be the next
17 step. And he would not -- Sergeant Bruno would not
18 even need to wait for the next biennium cycle. That
19 would be what would be required in order for that to
20 be required training for all police officers across
21 the State of New Mexico.
22 But a selling point that the sergeant has
23 with it as it stands now is that for the agencies that
24 want to go on and incorporate this into their
25 training, all it needs is an accredited curriculum

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1 syllabus and somebody to teach it that has a general
2 police instructor's certificate. So for agencies like
3 APD and New Mexico State Police and stuff, when you
4 bring officers in for in-service training, it's very
5 doable for them to go put them through this training.
6 My point being with 114 -- is that correct?
7 MR. BRUNO: Yes, sir.
8 MR. HUBBARD: -- officers that are already
9 out in the state that are cognizant of this that may
10 or may not have general police certification, I don't
11 know if the more expeditious route is to appeal to
12 those officers who already are qualified to teach this
13 to, through Sergeant Bruno's leadership, supply them
14 with an accredited course curriculum and go on and
15 move towards those 114 officers, appealing to the
16 agencies under their span of control to please contact
17 them. And let's not wait for a biennium requirement,
18 let's move on towards doing this, because then it's
19 just a matter of doing this as part of regular
20 in-service training that police agencies do.
21 And it might be more expeditious to see this
22 come to fruition through a voluntary commitment,
23 through police agencies inviting some of these 114
24 officers to come in and start doing this two-hour
25 training.

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1 My question is do we want to dictate more in
2 the biennium requirements as to more niches of
3 training that is required or do we want to see this
4 work voluntarily. I could build you a good argument
5 for either direction here.
6 And I would defer to the sheriff and to the
7 police chiefs that we have on our board who could
8 probably address that more as to what kind of a crimp
9 that puts into their style in being able to get the
10 training out to their officers. Thank you,
11 Mr. Chairman.
12 MR. KING: Thank you, Mr. Hubbard. Go ahead,
13 Sheriff.
14 MR. COON: Sergeant Bruno, I think this is a
15 great idea. Again I've complained up here about
16 what's been crammed down our throats for the biennium
17 stuff. Stuff that I personally don't believe we need
18 to spend as much time on. But the legislature not
19 only mandated it, they didn't fund any of it.
20 This is a program that does save lives. It
21 would take effect tomorrow if some mother knew how to
22 put her seat in or some dad. That's saving that kid's
23 life tomorrow, not six months or a year down the road.
24 That's something that's very important right now.
25 I would love to see us trim some of our

1 biennium and get this inserted. I don't know if
2 that's doable or not. In 2014/'15 it might be. You
3 know, you can only teach Katie's Law or the AMBER
4 Alert so many times in a row that guys -- I mean it's
5 so repetitious. You know, every five years let's do
6 Katie's Law or let's do AMBER Alert because -- it's
7 just repetitious.

8 But something like this, as a grandfather I
9 was terrible about trying to figure out how to put in
10 the car seat, about a half dozen of them. You know,
11 we had one in every car. But were they put in right?
12 You know, I don't know. And nobody in my department
13 really knew. So we got lucky.

14 MR. BRUNO: Yes, sir.

15 MR. COON: But I think it's a great
16 opportunity. And I would like to see maybe the LEA or
17 Safer New Mexico put on another 32-hour class and get
18 some more of these guys involved in -- and gals to
19 learn this. I know I would send some of my people to
20 it because it's that important.

21 MR. BRUNO: I will get you dates.

22 MR. KING: Chief Shilling.

23 MR. SHILLING: Mr. Chairman, springboarding
24 off of the sheriff's comments, I think this board
25 needs to get a little more active in bracing up the

1 legislature on some of these issues having to do with
2 biennium.

3 This is the way you get training implemented
4 in law enforcement. This is the right way to do it.
5 Legislating it and not putting a sunset clause on it
6 causes us problems. And we need to get some of that
7 stuff repealed. And I know we're already too late, a
8 day -- you know, a day late and a dollar short with
9 this 30-day session.

10 But maybe gearing up for the next 60 days, if
11 we could collectively as a board come up with some
12 ideas about repealing some of that stuff or having it
13 adjusted and making it more realistic to make room for
14 things like this. Because again the sergeant went
15 about it the right way.

16 And every time I've been braced up by the
17 legislature, I say have your advocates give a
18 presentation to the board. And no, they just
19 legislate the training and there we are and we're
20 stuck with it. So those are my two cents. And a
21 great presentation. And we'll implement it in State
22 Police if we can today. Thank you.

23 MR. BRUNO: Thanks, Chief.

24 MR. KING: Anybody else?

25 MR. MYERS: Mr. Chairman.

1 MR. KING: Yes.

2 MR. MYERS: Mr. Chairman, Sergeant Bruno, I
3 echo everyone's sentiment. I think it's a great
4 presentation, I think it's a great idea. And I think
5 it's an opportunity for the board to proactively
6 institute some of our own important training matters
7 instead of waiting for -- I mean it seems like the
8 legislature reacts to these catastrophic events that
9 happen very infrequently.

10 And I think that's why we get, you know, some
11 of these mandates. And I think this would be a great
12 opportunity to proactively implement some real-life
13 training that's going to impact people's lives every
14 day instead of the occasional catastrophe that comes
15 on to the citizens of the state.

16 MR. KING: Any other questions or comments?

17 MR. KORN: If I may.

18 MR. KING: Mr. Korn, please.

19 MR. KORN: I too would like to mirror the
20 sentiments of everybody else and thank Sergeant Bruno
21 for coming here. I've known Sergeant Bruno since he's
22 charmed the State Police when he was shy. So it's
23 great to see you presenting this and taking your own
24 impetus to bring this up to us.

25 MR. BRUNO: Thank you, sir.

1 MR. KORN: Thank you.

2 MR. KING: Questions or comments? I'm not
3 exactly sure what action we can take at this point in
4 time. We could -- and I think you're probably right,
5 Sergeant Bruno. It may be a little late to -- and it
6 may be that we don't want to get the legislature
7 directly involved in this.

8 I will say as a former legislator, I always
9 pretty much opposed the legislature setting specific
10 curriculum for any of these things because of the
11 problems that it causes. So I agree with the
12 sentiment of the board on that.

13 It sounds like individual agencies can
14 implement this. I don't know, if we wanted to
15 implement it as a training at the academy, I assume
16 that we would have to do a rulemaking like the one
17 that we did this morning essentially or I don't know
18 what flexibility you have.

19 MR. HUBBARD: Mr. Chairman, members of the
20 board, that would be correct. But I think that the
21 helpfulness that the academy could offer at this point
22 is to encourage Sergeant Bruno to get with the
23 Advanced Training Bureau to develop and get accredited
24 your course curriculum to where that, once it's
25 accredited, we could even post it as available on the

1 website.

2 And then agencies -- we could put out a
3 directive to agencies letting them know that it's
4 available. And officers who had general police
5 certification could brace up on the accredited course
6 curriculum and to be able to teach that as part of
7 their in-service.

8 And I would go so far as to volunteer that
9 the LEA staff would assist in expediting that to see
10 that your proposed course curriculum would -- and
11 there's a step-by-step process on how to do that's on
12 the website. And that once we get that approved and
13 accredited, we will take the initiative to let
14 agencies know that it's there and that it's available,
15 encourage them to begin to do this training in their
16 own agencies.

17 And that's a stopgap measure that we can
18 begin to do immediately and get this out here to the
19 agencies to get this taught without it having -- while
20 we're still waiting to decide what the next biennium
21 requirements are going to look like.

22 MR. KING: I suppose we could do like a
23 letter from the board. But it may be better if it's
24 just a directive that comes from you once the class is
25 certified. I like your idea, Mr. Director, on that.

1 So it sounds good to me.

2 And like I said I don't know that we need an
3 action on behalf of the board at this stage then to
4 deal with that. But if the board members want to send
5 a letter from the board or create a letter from the
6 board encouraging agencies throughout the state to
7 consider the training, we could do that too I suppose.
8 I don't know if we do that very often.

9 MR. BRUNO: If I may, Mr. Chairman.

10 MR. KING: Go ahead.

11 MR. BRUNO: I understand exactly what you're
12 saying. And the next Buckle Up conference will be
13 this March. At that conference and prior to that
14 conference, I'll make sure that the course curriculum
15 is submitted to LEA. I'll make sure that everything
16 is prepared and done. And I'll see to it that it gets
17 sent over as quickly as we can so we can get the
18 accreditation taken care of.

19 My hope is -- and I know that there's already
20 a block within the LEA requirement, the 824 hours,
21 that we do passenger safety. My hope is that someday
22 we may be able to add even just a small portion of
23 this to that, because I believe there's already
24 curriculum developed for that portion going over
25 seatbelts and seatbelt laws and passenger safety in

1 that regard.

2 To add this I would hope it wouldn't be too,
3 too much. And maybe that's something that we could
4 look forward to in the future. As far as getting it
5 out to the field, I'll make sure that it gets done. I
6 will put together the program, I'll put together the
7 PowerPoint, I'll make sure that at this next
8 conference it gets distributed to those that are
9 certified to instruct, that we can get started with it
10 immediately.

11 But again I'm hoping that it's something that
12 we can incorporate within the academy setting so that
13 it is some of that education that they get immediately
14 so that it doesn't have to be refreshed on such a
15 regular basis.

16 MR. HUBBARD: Mr. Chairman, members of the
17 board, Sergeant Bruno, I think that that's very doable
18 within the current blocks of training in the basic
19 academy. We are in the early stages of a curriculum
20 review and seeing what we can tighten up there.

21 I think that as we look to tighten up the
22 course curriculum and once your two-hour course is
23 accredited, that incorporating that or finding the
24 wiggle room, if you will, to be able to throw that
25 into the basic training that all academy attendees

1 get, I think that's very doable. And we'll work with
2 you on that.

3 MR. BRUNO: Great. Thank you very much, sir.

4 MR. KING: Okay. That being said I don't
5 think there's any specific action for us to take. So
6 thanks, Sergeant Bruno. It sounds like everybody
7 knows what they need to do moving forward. Excellent
8 presentation. And I think we all agree with you that
9 this is something specifically we should all be
10 concerned about because of the danger to kids. So
11 thank you.

12 MR. BRUNO: Thank you very much, sir. I
13 appreciate all your time. Thank you.

14 ITEM NO. 12: NMAC RULES REGARDING PROCEDURES FOR
15 DENIAL, SUSPENSION OR REVOCATION OF POLICE OFFICER OR
16 TELECOMMUNICATOR CERTIFICATION: DISCUSSION AND
17 IMPLEMENTATION OF METHODS TO IMPROVE BOARD
18 ADMINISTRATION AND STREAMLINING PROCESS

19 MR. KING: Okay. The next item on the agenda
20 is item No. 12, NMAC rules regarding procedures for
21 denial, suspension, or revocation of police officer or
22 telecommunicator certification: Discussion and
23 implementation of methods to improve board
24 administration and streamlining process. Mr. Korn.

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

1 may, I'll take the podium so I may address the board.
 2 MR. KING: That's fine. Do you have a
 3 handout for us?
 4 MR. KORN: I will.
 5 MR. KING: Okay.
 6 MR. KORN: Mr. Chairman, in the interest of
 7 speed, I might suggest, since Number 13 is so closely
 8 related to No. 12, I might present both of them at the
 9 same time. I think it will be more efficient.
 10 MR. KING: I think that's all right. Any
 11 objection to that? I think that's good. Go ahead.
 12 ITEM NO. 13: PENALTY GUIDELINES
 13 MR. KORN: Mr. Chairman, fellow members of
 14 the board, I'm here to talk about streamlining our
 15 process. And I wanted to talk about -- a little bit
 16 about why I think that's so important, because
 17 obviously we've spent quite a bit of time talking
 18 about a process that's morassed in delays.
 19 And we know that delays cause various bad
 20 things to happen to people that we have taken an oath
 21 to support. So I want to talk a little bit about why
 22 delays are so bad, which is something we all know.
 23 We all know that we have a duty of
 24 responsibility to the citizens of the state. We have
 25 that duty to police our own and to make sure police

1 officers are certified appropriately and that the ones
 2 that create possible misconduct come before us quickly
 3 and get administered quickly.
 4 It's the speed of the administration of the
 5 misconduct cases that's the big part of what we need
 6 to talk about, because what we're seeing is that we
 7 have a year-long delay from the time a person is
 8 accused of misconduct until the time they come before
 9 us.
 10 This delay is pervasive, repetitive, it's
 11 been going on for decades. It went on before Mr. King
 12 was the Attorney General and it's existing now. And
 13 what I have is the suggestion of a plan that I'd like
 14 the board to consider and hopefully adopt that will
 15 take those delays and diminish them rapidly.
 16 Our duty to the public cannot allow things
 17 that -- misconduct accusations to take a year. But we
 18 have also duties to the people that are accused
 19 officers. As we know 90 percent of the officers
 20 accused of misconduct will come back as officers.
 21 Frequently to the department they left.
 22 Frequently, most of the time, these officers
 23 made a mistake. And most of the time the mistake is
 24 something they regret or learn to regret. And then
 25 they'll go on after they are accepted back into the

1 police community to hopefully go through the rest of
 2 their career without ever coming before this board
 3 again.
 4 We owe them the duty of lifting whatever
 5 cloud there would be over their heads and the heads of
 6 their family and the heads of all the department when
 7 an officer is accused of misconduct. We have that
 8 duty to lift that cloud as rapidly as we can.
 9 We also have a duty to the officers that are
 10 never coming before this board to let them know that
 11 we deal with misconduct seriously and rapidly.
 12 There's a sense of urgency I think this board should
 13 have. And up to now I think that sense of urgency has
 14 been lacking.
 15 I want to point out that the number of cases
 16 that we get in a year is absolutely tiny. I mean it
 17 seems large. But it's so tiny. We get -- and if you
 18 look at the handout that Director Hubbard gave us
 19 today, in the year 2011 we had 120 cases for that
 20 year.
 21 Now, 120 cases a year obviously is ten cases
 22 a month. That's two and a half cases a week of
 23 misconduct. If any of us had only two and a half
 24 matters that we had to deal with a week, we would be
 25 able to have no staff working for us, we would get rid

1 of those cases immediately. Mr. Hubbard is laughing
 2 because he could get rid of his entire staff and do it
 3 himself.
 4 But instead we have a backlog of cases that
 5 go on and on and on. Why can't we deal with two and a
 6 half cases a week. And the reason I think is because
 7 it's embedded in kind of a red tape bureaucracy that
 8 we built for ourself. And my presentation here is to
 9 get rid of all the red tape that we've created, go
 10 back to the way the rules and the statutes have us
 11 doing originally, and go back to the basics of dealing
 12 with our own matters.
 13 In order for us to know how to change, we
 14 have to kind of briefly go into the history of what
 15 got us here in the first place. I'm passing along a
 16 timeline. You've seen this at the last hearing. It's
 17 revised a little bit. I don't want to go through the
 18 whole timeline. But I want to point out to you and
 19 for the public that here is what it is in my opinion
 20 that drags us down in timeliness of case production.
 21 This is the way it's been in 2011 and as far
 22 as I can tell for the decades that preceded that.
 23 First of all we have a pipeline threshold, what I call
 24 a pipeline threshold, and a post pipeline. The
 25 threshold for the pipeline is when cases get into our

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1 system that are dictated by rules and regulations and
2 statute.
3 Once they get into our pipeline, we have a
4 certain number of days to process it. But until they
5 get into that pipeline, they're reviewed and reviewed
6 and reviewed. And it goes from our office to the
7 Attorney General's Office and it kicks around there.
8 And by the time it gets back to our office, we
9 administer it and then move on it.
10 That timeline, that pre-pipeline timeline
11 that's never covered by any regulation or statute
12 historically has been where the majority of that year
13 has been. Once it gets into our system, we issue a
14 Notice of Contemplated Action by the director. And
15 then things start to move by the regulations.
16 But it still has little fallback plans, where
17 it takes awhile. And if you go down to my blue box on
18 the top, the pre-pipeline is 120 cases that are up to
19 three years old. The next big delay is when it goes
20 back and forth between the Attorney General's Office
21 to draft and help us draft a Notice of Contemplated
22 Action.
23 Then after that it's back and forth to the
24 Attorney General's Office to dictate -- or to draft
25 the Notice of Final Decision. And then it finally

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1 enters into our pipeline to get into the hearing
2 process, all times that are dictated by statute -- or
3 by rules I should say.
4 But as far as we're concerned, we can always
5 go faster than the rules, but we don't do it. We go
6 only at the pace of the rules. And what that takes us
7 to, the bottom line, and that's the blue box on page
8 2, the pre-pipeline years and months. And the post
9 pipeline is 255 days. 255 days if there's a hearing,
10 90 days if there's a stipulated order.
11 Ninety days is misleading because, remember,
12 it took a year to get to that 90 days. 255 days if
13 there's a hearing. And that's a year or several years
14 before it gets to the 255. So, you see, at best this
15 is what we have. This is what we've always had.
16 Years and years before people get administered.
17 What I'm suggesting is we take bold action.
18 We make changes. We can adopt them right now and we
19 can get through our pipeline. We can get into our
20 pipeline in three days. Three days compared to a
21 year. And then when it administers through the
22 pipeline, I'm suggesting a way where we can get into
23 the pipeline and a resolution in 90 percent of those
24 cases in 14 days.
25 I want to pass out my second handout.

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1 We as a board are uniquely suited for change
2 right now, at this moment, because of certain things
3 that have come together like a perfect storm of
4 competence. We have a board that I'm honored to serve
5 on. A board of distinguished people.
6 We also have an administrator in Acting
7 Director Hubbard that's superlative. I commented at
8 his director's report. But it's worth saying again,
9 he's unique in that he's pushed every case along and
10 he's treated this like his own, even though it's an
11 acting director position.
12 Because Mr. Hubbard is articulate,
13 intelligent, he's shared with me that he's written
14 books, he has also written two books or three books.
15 He has a Master's degree. And I point these things
16 out because he's intelligent, articulate, he can move
17 cases along.
18 And in addition to that, Mr. Hubbard has
19 served in one of his career choices as a
20 representative to the DA's office that understands
21 file management, moving cases. He's a 34-year veteran
22 of law enforcement.
23 And he is assisted by somebody who is just a
24 wonderful administrator for our cases. And that is
25 Monica Medrano who is here as well. And she has been

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1 able to take our cases from a mass of jumble and
2 organize them. So for the first time now, after being
3 with us for maybe four months, we actually know what
4 our background of cases are, what our backlog is, and
5 where everyone is. And they're on a spreadsheet.
6 This plan that I'm suggesting to you has been
7 vetted with Mr. Hubbard. It's been vetted with
8 Secretary Eden, because I thought it best to make sure
9 that Mr. Hubbard has buy in, help me make any changes
10 that were necessary to make it efficient.
11 And that Mr. Eden, Secretary Eden, also have
12 an opportunity to either buy into it or not, because
13 if Mr. Hubbard is only acting and we have a successor
14 to Mr. Hubbard, it's Gorden Eden who is going to have
15 to carry the ball to make that it's a torch that is
16 worth carrying.
17 So let me go through this timeline with you.
18 First of all I go to the basics, that we as a board
19 are responsible for the progress of our cases. It
20 does nobody any good for Mr. King and myself or
21 members of his staff to be pushing at each other. In
22 the end pointing fingers and casting blame does nobody
23 any good, because in the end the responsibility is
24 that of the board.
25 It doesn't matter if I think that the

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1 prosecutors do a good job or a bad job or take too
2 long on a case. What really matters is that we have
3 the responsibility to deal with this by statute. And
4 that's the job we took on as a board. So the plan
5 involves no blame gaming.
6 The plan involves win/win. This should be a
7 win where we're able to achieve and the Attorney
8 General's Office is able to achieve as well. So
9 without further ado, let me kind of go through this in
10 having set the stage for that.
11 The first page as you'll see talks about
12 cases coming into our system. They come into our
13 system as we know by an LEA-90. The director reviews
14 the LEA-90. If it's sufficient to show the basics of
15 the misconduct charge at issue, he can issue that.
16 And he can read it fast. And he can make a decision
17 in three days. Three days even given his time frame.
18 And once he makes that decision that there's
19 enough evidence, he issues a Notice of Contemplated
20 Action and it's in the pipeline. We're starting our
21 time clock now. If he makes a decision that it's not
22 enough evidence to issue an NCA, then he goes back to
23 the agencies.
24 But he doesn't send a letter to the agency.
25 He calls the agency or his staff does and says, hey,

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1 you sent the LEA-90, we need more documentation, we
2 need it now, we want to get it into the pipeline.
3 This is a matter of urgency for the public and for
4 your officer. Three days it's in the pipeline or
5 barely a little bit more. Once it gets into the
6 pipeline, what happens then.
7 And by the way obviously I left out the
8 Attorney General in this process because that's part
9 of the win/win. Currently the Attorney General's
10 Office assigned to Mr. Moon would review all these
11 cases. 120 cases a year plus 120 that are on backlog.
12 Well, we know 90 percent of these, when it
13 reaches the position of an informal hearing, will be
14 resolved. They will be negotiated and settled.
15 There's no need for the Attorney General's Office to
16 go through the repetitive notion of approving or
17 disapproving and reviewing every file.
18 Mr. Hubbard is capable of doing that and
19 he'll get it done in three days. The Attorney
20 General's Office can save hours, man-hours and
21 attorneys' hours, by not having to be involved in the
22 minutiae of that detail.
23 Seven days after that Notice of Contemplated
24 Action is issued, the officer is required to advise
25 whether he wants an informal hearing. They almost

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1 always want an informal hearing because they want to
2 tell their side and get it resolved.
3 The director then has 14 days to set up a
4 hearing. But under this proposal the director will be
5 able to set up a hearing in a week. And the reason
6 he'll be able to set it up in a week is because we do
7 time management. We say, hey, the director is going
8 to have a block of time every week and every month.
9 Every Monday or Wednesday of this particular
10 week he's going to put aside for hearings. He might
11 not have informal hearings. But he'll have the time
12 set aside for it. So when an officer writes and says
13 I want an informal hearing, the director can say
14 great, I have a slot next Tuesday and Wednesday, which
15 would you like. The accused officer talks to his
16 attorney, figures out the slot, and comes in.
17 That's when the negotiation begins, because
18 this is a negotiation. By that time the director
19 looks at what the accusations are. The accused
20 officer brings his attorney in and comes in and
21 explains the process to the director.
22 Now, I've sat as a board member for almost --
23 well, a year and three-quarters. And I've seen many,
24 many defense attorneys come in and complain that this
25 is their method of being able to approach the board so

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1 that they can get the best deal. And let's face it,
2 it is a negotiation for the best conclusion. It's a
3 negotiation that meets the interest of justice.
4 What I'm suggesting is that we also make
5 penalty guidelines. The guidelines that we have in
6 our closed session that we've never written down, I
7 say let's write them down. Let's put this in the
8 light of day. Let's give those penalty guidelines to
9 the defense attorneys and the accused officers so that
10 we all know that, if you do a DWI and if you're .12,
11 that your likely proposal of a penalty falls in this
12 range.
13 That way they'll know, when they come in for
14 the negotiated settlement, that this is something that
15 they're given that's a good deal, a bad deal. If they
16 make their negotiation with the director now, it's the
17 best deal they'll get. If they go before the board,
18 it could be much worse. That way they know what
19 they're getting and they don't have to be conjectural
20 that they're not getting the best thing that they can
21 have for them.
22 At the end of that settlement conference, one
23 of two things happen. Now we're 14 days into it. One
24 of two things. Either a settlement is made or a
25 settlement is not made. Ninety percent of the time

1 the settlements will be made. Historically the
2 officer leaves, his attorney leaves, and it's left to
3 the AG's office to write up a settlement order or it's
4 left to the director.

5 I say while that officer is there, while his
6 attorney is there, and while the director is there,
7 they write up a settlement order on the spot. All it
8 is is a form. It's in our word processor. Monica
9 Medrano can get that thing going with some of the
10 other administrative staff.

11 And they leave there with their settlement
12 order signed waiting for the next board hearing.
13 Fourteen days it's over. If they say they don't want
14 it, great, that's understandable.

15 Then that 10 percent that isn't going to take
16 the settlement order, that want to go on to our
17 hearing, they wait five minutes. Monica Medrano
18 writes up a Notice of Final Decision. The director
19 signs it, gives it to the officer, and the time clock
20 starts for the hearing.

21 The formal hearings. If it goes on to a
22 formal hearing, there's a lot of rulemaking as far as
23 timelines. The rulemaking has to do with affording
24 the accused officer time to get an attorney, indicate
25 what he wants to do, and notify us of what his

1 defenses are going to be.

2 For the benefit of the accused officer, those
3 times would be hardwired. But they don't have to be
4 hardwired for our director. Because our director,
5 even though he might have ten days to write his
6 response to the accused attorney and then 20 days to
7 schedule an order, can do both of them at the same
8 time.

9 That accused officer goes through one case in
10 a lifetime hopefully. Our director goes through
11 120 cases a year. We ought to be able to do our
12 scheduling order, our responses, and everything within
13 ten days or less.

14 And my point is that there's lots of ways to
15 abridge where we're going with this system. So that
16 even if the officer, the accused officer asks for a
17 hearing, we can give him a speedy hearing, much faster
18 than the other way would have been even thoughtful or
19 possible.

20 So if you go to the last page, where I have
21 again the blue box, this summarizes up the timeline.
22 The pre-pipeline is going to be three days. The post
23 pipeline, when it actually gets into the system, it
24 will be 90 percent of the cases resolved in 14 days
25 once it gets into the pipeline.

1 And for the balance, depending on when we
2 have a board meeting, depending on how quickly we move
3 this, the balance will happen from 97 days to
4 127 days.

5 Consider, on the other sheet that I showed
6 you, it's 255 statutory days. We'll be knocking down
7 that time by a third or a half doing no extra work,
8 affording all the rules and regulations that -- or
9 following all of our rules and regulations, giving the
10 officer his due process day in court.

11 That's the nutshell of the plan. So let me
12 talk about some little nuts and bolts of where we are.
13 I propose, I suggest that we consider dealing with
14 this thing immediately starting today. And I suggest
15 that we deal with this from a backlog standpoint and
16 also by a current case standpoint.

17 We do this kind of like we would do it with
18 creditors' rights, if any of you are familiar with
19 that. People that have trouble paying their
20 MasterCard bill, the MasterCard company will say,
21 okay, you keep this bill current and let's chip away
22 at the backlog.

23 And that's what I'm suggesting here. Two and
24 a half cases a week. The director can deal with that.
25 Every case that comes in from now on will be dealt

1 with in the method I'm suggesting. That man or woman
2 will have his case resolved 90 percent of the time in
3 14 days. As for the backlog, we deal with that in a
4 regular orderly fashion that's consistent.

5 I've talked with the director. The director
6 agrees that four cases a week is easily doable. Four
7 old cases. Four old cases a week will be 16 old cases
8 a month. In six or seven months, we will be over with
9 our backlog for the first time in a decade. And the
10 probability is it will be faster than that. We're
11 just picking a time that seems the easiest doable.
12 There's lots of cases out there that will go faster.

13 There is some other components to this.
14 Obviously, when cases are going faster, we as a board
15 need to be more responsive to them. Moreover, we as a
16 board need to be more responsive to our director.
17 It's been nice to meet here every quarter. It's been
18 swell.

19 We show up. We pretend that we know what's
20 going on, because pretend is a big word. Nobody
21 running any business -- and that's really what we are,
22 we're the board of a company. No board of a company
23 really knows what's going on when they spend a few
24 hours every quarter coming in here and finding out.
25 The director needs our support and our case management

1 needs our oversight.
2 I suggest that, for the period of time that
3 we have this backlog, and that's for those six to
4 seven months, that we meet much more frequently. I
5 suggest we consider meeting monthly. And thereafter I
6 would point out to the board that we're a different
7 board than we were when the rules were set up that we
8 meet quarterly.

9 You know, you only have to look at this
10 director's report to see that it goes back to 2003.
11 In 2003 that was a banner year for our board. We had
12 all of 41 cases before us. It was easy to meet once a
13 quarter because we only talked about ten cases. Now
14 we have 120 cases, three times as many. It would be
15 foolish for us to keep on the same schedule of once a
16 quarter when we have three times as many cases.

17 So I think that we as a board have to kind of
18 suck it up and say we may have to meet more frequently
19 going forward. But during this period of working on
20 our backlog, I think we need to move more frequently
21 like every month.

22 I also think that we're going to need more
23 hearing officers. We have one hearing officer now.
24 In my opinion that hearing officer, who we all know,
25 his name is Mark Radosevich, is bright, capable,

1 long-term in law enforcement. He does a great
2 hearing. And we're lucky to have him as our hearing
3 officer.

4 But he's only one hearing officer. I suggest
5 that we need to step up and say we need more hearing
6 officers. We're going to have more activity over the
7 course of the next six months to a year. I suggest
8 that each of us as board members owes a responsibility
9 to say let us each step up and be a hearing officer.

10 I've been a hearing officer after I've been
11 on the board for over a year. My eyes were not open
12 to the way this board operates, its deficiencies and
13 its great parts. My eyes were not open until I became
14 a hearing officer. I know Sheriff Coon has been a
15 hearing officer. Would you agree with me?

16 MR. COON: Yes.

17 MR. KORN: It's fundamental. We as managers
18 learn more when we get involved in the process. I
19 think, as I look around, we have -- well, the reason
20 we're on this board is because we've had some degree
21 of involvement in our law enforcement and our
22 community.

23 That's why we have the chiefs of the largest
24 departments on our board. And the chiefs of some of
25 the most -- the sheriff of one of the most active

1 sheriff's departments and one of the few investigators
2 in Las Cruces. So I mean we're all busy people.

3 But what I'm suggesting -- and, of course,
4 you know, Harry Betz, I don't want to leave you out,
5 who runs the Indian pueblos in Santa Ana. But my
6 point is that not every one of us can be a hearing
7 officer on every case. But I think all of us should
8 volunteer to be a hearing officer as our time permits.

9 And then I think that when our time is
10 called, that we will say yes, I'd be a hearing
11 officer, my schedule permits; or no, that month of
12 March, I'm so booked I can hardly think I'll get four
13 hours of sleep a night.

14 And if we decline, that's fine. You know, we
15 can't change our business. But we can be available.
16 And then maybe the next time it comes around, Chief
17 Shilling or Chief Schultz or Sheriff Coon will be
18 available.

19 And let me point out what this will do. If
20 we all say we'll be hearing officers, we have an
21 opportunity to be hearing officers in our community.
22 Mark Myers, Las Cruces; Sheriff Coon, Roswell; John
23 Gratton, Hobbs. We have a whole half of our state
24 that we make come to us as if they're coming to the
25 mecca of Santa Fe to follow their case.

1 Why can't we have a southern contingent going
2 around the infrastructure of the hearing officer. So
3 that if there's a case down south, maybe in Hobbs,
4 maybe in Las Cruces, or maybe in Roswell, it's Sheriff
5 Coon that might be asked would you be able to be a
6 hearing officer. Then they travel to him.

7 My suggestion is if it's within a 75 or
8 100-mile radius, the board can decide of where our
9 hearing officers are. Why not let the hearing take
10 place there. The accused officer is there, his
11 defense attorney is there, his witnesses are there,
12 and the hearing officer is there.

13 We bring our board to our constituents. We
14 make ourselves available. And in doing that we make
15 it less expensive for the accused officer, we make it
16 less onerous for the witnesses, we make our board part
17 of our community.

18 The prosecution before the board. The
19 prosecution would be by the Attorney General's Office
20 if they agree. Historically, and I've been told, that
21 the Attorney General's Office has taken the position
22 that if they don't initiate a case with a Notice of
23 Contemplated Action, they won't prosecute the case.
24 Obviously, if that is their circumstance, then we
25 would ask Attorney General King if they would be

1 available to prosecute our cases.
 2 MR. KING: You know, when we get all the way
 3 to the end, we can -- and I might get a little input
 4 from Bill. But I don't know that there's anything
 5 that requires us to draft a Notice of Contemplated
 6 Action. I mean I'll have to look at that and see.
 7 MR. KORN: And I know because I've read the
 8 rules. I mean the Attorney General -- it's all
 9 director. Every part of the rule says the director
 10 shall. I'm asking you, Mr. King, will your office
 11 prosecute the case if it goes to a formal hearing?
 12 MR. KING: It would have been nice of you to
 13 ask me that question a little while ago so I could
 14 think about it. But I'll think about it.
 15 MR. KORN: Well, I'm asking -- thank you.
 16 MR. KING: I don't know the answer to that.
 17 Obviously I'm going to have to look at the statutes
 18 and what our obligation is. I'm not going to
 19 volunteer to do something that would violate one of my
 20 obligations under statute.
 21 MR. KORN: Well, under statute you have no
 22 obligation. The Attorney General's Office does not
 23 enter our statute in the prosecution of cases.
 24 MR. KING: Well, that's what you say.
 25 MR. KORN: I'm asking if you'll continue to

1 prosecute our cases if you don't start the Notice of
 2 Contemplated Action?
 3 MR. KING: You and I go through this a lot.
 4 You know, you can ask the question as many times as
 5 you want. When I've had time to examine the question,
 6 I'll give you an answer.
 7 MR. KORN: Okay. So we're lucky enough to
 8 have the Attorney General on our board, but we don't
 9 have an answer. If the answer is that they won't
 10 participate in our process, then we have alternatives
 11 that we have to examine immediately and forthrightly,
 12 because the Attorney General does not appear in our
 13 statute or in our rules at any place except where it
 14 says the Attorney General is the chairman of our
 15 board.
 16 We can look elsewhere. And there are
 17 alternatives. I would suggest our best alternative is
 18 the Attorney General. If he declines, our
 19 alternatives are stuff that the board can look at and
 20 find out.
 21 We can go, for example, to the UNM law school
 22 and ask if they'll start a clinic program to have
 23 professors work with students who are interested in
 24 administrative law so that they can start prosecuting
 25 our cases under a trained attorney. We can go to the

1 bar association and ask for retired law enforcement --
 2 I'm sorry.
 3 Retired prosecutors or retired attorneys that
 4 might want to be involved as a pro se matter to help
 5 law enforcement in our community and come and be our
 6 prosecutors. We have alternatives. The plan does not
 7 require the Attorney General. But I'm hoping the
 8 Attorney General will participate.
 9 So my motions which I would propose after the
 10 discussion which I'm sure will ensue cover all those
 11 items.
 12 And finally the last thing I would point out
 13 is the assignment of the hearing officer; the
 14 assignment of the prosecutor; if it not be the
 15 Attorney General's Office; and the assignment of the
 16 hearing date comes back to the board and it goes back
 17 to the director. Up to this point, it's been the
 18 Attorney General's Office through Mr. Shandler.
 19 So my point is we take responsibility for our
 20 board. We take responsibility for our cases. We move
 21 them through quickly and afford everybody full due
 22 process. And we do it swiftly with a sense of
 23 urgency. Thank you.
 24 MR. KING: Thank you, Mr. Korn. Questions
 25 for Mr. Korn.

1 MR. MYERS: I have more of a comment.
 2 MR. KING: Go ahead.
 3 MR. MYERS: I would just like to say for the
 4 record I really think we need to get behind expediting
 5 this process, because one thing that is kind of left
 6 out is the disciplinary process that happens before
 7 anything ever gets to our board.
 8 And I can't speak for the other agencies in
 9 the state. But I know in our agency that could be
 10 anywhere from 120 days to well over a year. So I
 11 really stand behind what Nate Korn's plan is. And I
 12 really believe that we should work hard to expedite
 13 these cases once we get them as a board.
 14 MR. KING: Chief Shilling.
 15 MR. SHILLING: Mr. Chairman, some comments
 16 and then a question. Kind of springboarding off of
 17 his is one of the fundamental issues that I deal with
 18 as an agency administrator is getting your mind around
 19 the reality of the stress and the issues having -- let
 20 alone having an IA hanging over your head. And then
 21 having to wait another six, eight, ten, 12 months for
 22 resolution of your certification process.
 23 And that's why I'm extremely interested and
 24 supportive of this. You know, we as an agency years
 25 ago made a concerted effort from a discipline

1 standpoint, 30 days; and if you don't get it done in
2 30 days, you win some, you lose some, and you move on,
3 unless the case is so complex that it requires an
4 extension of time.

5 But, you know, unfortunately I've dealt with
6 some pretty significant issues over the last year.
7 And to turn around a complex case in 30 days and mete
8 out discipline -- the point I'm trying to get to is I
9 think we're in the cross-hairs. And I think that if
10 we don't fix it, someone is going to fix it for us.
11 And we always complain about the legislature. And I
12 don't want to see that happen from that respect.

13 And the only question I have of you,
14 Mr. Korn, is on your penalty matrix that you brought
15 up about -- talking about that. That's a big topic of
16 discussion in law enforcement from a discipline
17 standpoint, because administrators like to have that
18 flexibility, a little bit of flexibility to include
19 aggravating circumstances, mitigating circumstances,
20 and dole out discipline based on some of those factors
21 that come into play in cases.

22 What are your thoughts about painting the
23 board into a corner on discipline by employing a
24 matrix, because there may be those odd cases where
25 there's really tremendous aggravating circumstances

1 but they're not part of the charge, and we're painted
2 into a corner from a discipline standpoint.

3 MR. KORN: Chief Shilling, I must tell you, I
4 appreciate your bringing that up. I'm remiss that I
5 didn't send this around. I had said in the beginning
6 I would like to make the penalty guidelines part of
7 the same. So let me pass this by.

8 Chief Shilling has raised the issue of the
9 penalty guidelines, which I neglected to give out,
10 although I wanted it to be part of the presentation.
11 We have heard defense attorneys frequently talk about
12 our processes being a matrix.

13 In my opinion monkeys can do matrixes. I
14 mean you say it's DWI. And the monkey can read along
15 the line and say that's five months. But that's
16 exactly the opposite of what our board is. The reason
17 our board is composed of people with so much
18 experience that we have on it is so that we can figure
19 out exactly what Chief Shilling said, aggravating and
20 mitigating circumstances for every issue that comes
21 along.

22 So the matrix is something that I didn't
23 develop. The matrix is something that I wrote down in
24 our closed hearings where we meted out disciplinary
25 action over the course of a year and a half. I wrote

1 it down and I put it here.

2 This is what our penalties look like. I mean
3 this is a window into what we do. This is the rules
4 by which we've been playing with. But we haven't
5 given it to anybody. So let's give it to everybody.

6 Let accused officers know, okay, you know,
7 this is what we say. Dereliction of duty, four months
8 to revocation. DWI, DV, two months to six months.
9 And then there's aggravating and mitigating
10 circumstances, because everybody has a story and no
11 two cases are alike.

12 And for us to mete out penalties in the
13 fairest, most impartial way that's consistent with
14 everything before us, we have to have exactly like
15 Chief Shilling said, aggravating and mitigating
16 circumstances. So I think the penalty guidelines
17 should be part and parcel of what we're doing so that
18 when the settlement negotiations come, the director
19 can point this out.

20 There was one other thing I forgot in my
21 preliminary stuff. And that's to do with the
22 penalties. We have people that have waited in our
23 agency, in our pipeline, a year. Without
24 even getting -- without even getting into our
25 pipeline, they have waited a year.

1 I think like Chief Shilling pointed out,
2 there's a cloud over these peoples' heads that exists
3 for them, their families. As Mr. Myers pointed out,
4 it's same in Las Cruces. I mean it's a horrible
5 situation.

6 I think that we ought to empower the director
7 for the limited purpose of the backlog of cases to
8 give a special compensation on negotiation over and
9 above whatever the penalty guideline would come out.
10 I would suggest we consider saying, for certain cases
11 and certain people under certain issues, that we would
12 empower the director in his good judgment to give a
13 discount, a break, of 20 percent from whatever the
14 penalty guideline would be just as an expression of
15 moving our cases along and in the interest of justice.

16 So does that answer your question about the
17 penalty, the guidelines?

18 MR. KING: Sheriff Coon.

19 MR. COON: Mr. Chairman, Mr. Korn, you know,
20 in looking at this, these are -- a lot of these --
21 these guys and gals have already been punished by
22 their departments. A lot of them have been fired. I
23 mean a first offense DWI with a new officer you're
24 going to get fired. I'm sorry. At my place you are.
25 You should. And then you do the one to four months.

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1 That is really -- once they leave here or
2 once they get their -- that started, four months is
3 very little. I mean they're not hunting a job. But
4 we're not really -- this is not a time or a penalty
5 guidelines for a department when they fire somebody or
6 lay them off.
7 A lot of our people that come in front and
8 stand in front of that podium there are already fired
9 or are already doing six months off. So we're just
10 adding to it. So I don't really think that we're
11 hurting anybody that's already without a job. They
12 can't come back into law enforcement for one to four
13 months. They can go do something else.
14 MR. KORN: It has no effect on them.
15 MR. COON: It has no effect on them other
16 than them wanting to find another job in law
17 enforcement. And I don't know if you really
18 understand what I mean.
19 MR. KORN: I do. And just so you know, I'm
20 not an advocate for these. I'm just describing them.
21 MR. COON: Oh, I understand.
22 MR. KORN: I'm just telling you it's what
23 we've done.
24 MR. COON: We've got to have what's good for
25 Paul is good for Peter. You know, you've got to stay

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1 consistent. And bringing up the hearing officer
2 thing. I've been a hearing officer three or four
3 times.
4 With Zach over there, he -- you know, I was
5 very intimidated the first time I did it. Because
6 you've got a lawyer in there. I'm not a lawyer. I
7 really don't know what legal issues I can bring up.
8 Zach has always been good to help you out on being
9 that. He'll write your brief for you at the end, if
10 you need to, which you being an attorney, you could do
11 your own.
12 But then you've got the high-powered lawyers
13 that come in and try to bully you. And you know that
14 for a fact. That try to set the standards, that try
15 to tell us how to run our show. And you really got to
16 watch those guys. And then you've got some that just
17 want to come in and plead the guy out and get paid and
18 go on about their business.
19 But there's such a diversity in the lawyers
20 that are going for the jugular vein or the lawyers
21 that just want to get this guy back home and with his
22 family. But it's tough being a hearing officer
23 because of the fact, if you don't know the law, if
24 you're not an attorney, it kind of -- and if you're
25 not intimidated, something is wrong, because you've

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1 got a guy there that's, you know, throwing stuff out.
2 But Zach is very good about keeping it under
3 control and not letting things get out of hand.
4 Sometimes I don't know when to shut up or when to
5 listen or when to not listen. But Zach will keep you
6 on track when that happens.
7 MR. KORN: And those are all well-positioned
8 comments. I think that the issue of the board being
9 hearing officers is also subject to a training
10 program, a training program of, hey, this is kind of
11 what happens, this is what to expect, this is how to
12 handle things, because in the end what we're looking
13 for is ultimate fairness.
14 Fairness to the accused officer, fairness for
15 the board and the state. And who is going to be more
16 fair than the people on this board that have taken an
17 oath to listen to penalty cases and be evenhanded
18 about it.
19 And, of course, when we're hearing officers,
20 we are a microcosm of the board, just like we could
21 have all the accused officers come before the board
22 and administrator -- administrate it. None of us --
23 well, I'm an attorney. But most of the board members
24 aren't. We could listen to it in the same way and
25 decide in the same method.

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1 So I think your point is well-taken. But I
2 think, as you said earlier also, it's a learning curve
3 for us to see how things go and how things are in the
4 trenches of a hearing officer, how our prosecutors are
5 behaving, and what happens in the hearing from the
6 standpoint of the accused officer, are they contrite
7 or are they antagonistic.
8 MR. COON: Thank you.
9 MR. KORN: Thank you.
10 MR. SCHULTZ: Mr. Vice Chair, if I may, some
11 comments. Earlier previously I talked about the
12 authority the director has. And I think statute and
13 by rule here it's very clear that the director has the
14 ability to initiate and do the Notice of Contemplated
15 Action.
16 How the Attorney General's Office got ruled
17 into that initial assessment, I don't see that
18 anywhere in the rule. And I think what Mr. Korn is
19 proposing here today will really do exactly what he is
20 proposing and saying it will, is it will eliminate the
21 number of cases.
22 Obviously I see as many cases as anybody else
23 on the board because they come from my agency. And
24 it's not uncommon, when that initial discipline is
25 being given to the officer, that the officer asks is

1 this an incident that will be sent to LEA. And I tell
2 them it is.

3 And I actually even go further than that and
4 I actually tell the officer it would be in their best
5 interest to contact the director as quickly as
6 possible to try to get this resolved. And I think
7 that would go hand in hand.

8 And I think if more chief law enforcement
9 officers across the state would do the same thing and
10 the director had the ability to -- discipline gets
11 handed out. And even if it is termination or
12 separation from employment, that that officer can go
13 and have a meeting, an informal hearing with the
14 director, and get that resolved. They've already lost
15 their employment. But at the same time, it's going to
16 help them get on with their life quicker to maybe get
17 employed with another agency.

18 If they stay within the organization, they
19 know they're going to have to take their suspension or
20 whatever other issues of discipline have been handed
21 down by their respective agency. But they also want
22 to get the LEA suspension behind them as well.

23 I just think it makes a lot of sense to
24 have -- give the director that authority. And I think
25 it will accomplish exactly what Mr. Korn is saying.

1 We won't see that many formal hearings. I think most
2 people are going to negotiate with the director.

3 And if we use a set of guidelines --
4 obviously the guidelines still need to be expanded a
5 little bit. I mean the one that's missing is a felony
6 conviction. I think a felony conviction is a felony
7 conviction, it should be revocation, period.

8 But I think this is a good start. And I
9 think, if we were to start with this process, I
10 think -- and have the director report back to us and
11 if we were to meet monthly or every other month, I
12 think we would see the number of cases go down very,
13 very quickly.

14 MR. COON: I absolutely agree. Any comments
15 on what Chief Schultz had to say? What do we need do
16 now?

17 MR. KORN: Well, Mr. Vice Chair, I would like
18 to make motions.

19 MR. COON: Okay.

20 MR. KORN: Shall we proceed?

21 MR. COON: Is he coming back? Can we just
22 hold off, Mr. Korn, until the Attorney General gets
23 back.

24 MR. KORN: Well, Mr. Vice Chair, if it's
25 okay, I'll pass these out then.

1 MR. COON: Sure, absolutely. Mr. Korn, I
2 would like to say that it is hard for me to get up and
3 drive to Santa Fe for a four-hour meeting and then
4 drive all the way back -- or to Albuquerque for a
5 hearing.

6 I think, if we did this regionally, we've got
7 southwest, southeast, the middle, the middle, the
8 middle, and we have nothing really up north, way up
9 north. But still Santa Fe is easy for the northern
10 part to come down to. That would make -- logistically
11 that would be a big relief.

12 That way I'm not gone all day. I can do it
13 at my office, we can do it at the -- somewhere. And I
14 think that's a great idea to do this regionally. And,
15 you know, that saves me and that officer and his
16 attorney from Roswell to drive all the way up here and
17 then drive all the way back for a meeting we could
18 have had across the street from each other and had it
19 resolved in a couple, three hours versus the drive
20 back and forth.

21 MR. KORN: That was my thinking. While
22 Mr. King was gone, I asked the court reporter to mark
23 two exhibits.

24 (LEA Exhibit Nos. 1 and 2 marked.)

25 MR. KORN: Mr. Chairman, I would like to make

1 a series of motions based on my presentation. The
2 first motion would involve this flow sheet that I
3 sent. I've asked the court reporter to mark this for
4 identification as LEA No. 1, because this is the
5 process basically in a flow sheet format that I would
6 ask the board to adopt effective today for the board
7 director to carry out tomorrow.

8 So my motion would be to adopt the proposed
9 misconduct process for 2012, identify it as LEA 1 as
10 contained in this timeline effective immediately
11 regarding LEA Board misconduct processing.

12 MR. KING: Okay. Let's deal with these
13 motions one at a time. We have a motion from
14 Mr. Korn. Is there a second so we can discuss this?

15 MR. MYERS: Second.

16 MR. KING: Okay. We have a second. So we're
17 on that item, discussion of the motion at this stage.
18 So actually go ahead, if you want. Do you have other
19 explanation or you were done with your presentation?

20 MR. KORN: I think I'm basically done. This
21 encapsulates everything I said except for dealing with
22 the backlog and some of the other issues that will be
23 successive motions. And, Mr. Attorney General, we
24 passed out the list of motions. You have it there.

25 MR. COON: I gave him mine.

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1 MR. KING: I have the list of motions. Let
2 me first actually, and I'll have discussion at the end
3 I suppose, elicit my concern that changing the rules,
4 that there really are -- notwithstanding what our NMAC
5 rules are or whatever, that there are other things
6 like the Open Meetings Act, the rules that apply to
7 changing NMAC and all those things that actually
8 require a number of steps, and that I can't imagine
9 that what we're doing here today meets any of those.
10 So I'm happy at some point in time to get
11 some advice from our counsel as far as, you know, what
12 we can change and what we can't change. But just with
13 regard to discussion of the policy topics here, I
14 asked Mr. Moon out in the hall what he thought about
15 your proposal that the AG's office not review Notices
16 of Contemplated Action.
17 And it's kind of like I thought. I don't
18 know that it's required. There are actually some
19 reasons why it's been being done. But I would
20 recommend to the board that we give Mr. Moon, since
21 he's been sitting here and listening to this, a couple
22 of minutes to talk about sort of what he thinks about
23 how this process has been working, because he's been
24 thinking about it a lot, if that's okay with the
25 board.

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1 MR. KORN: I think that's a great idea. But
2 can I just respond to one thing you said. There's
3 nothing in my proposal that changes any rules. We're
4 changing simply a procedure that isn't written. And
5 we're making it a better procedure.
6 MR. KING: Oh, and let me say this. I think
7 that there are a lot of really good ideas here. I'm
8 actually not -- you know, I don't know why any of you
9 guys would think that I would be opposed to speeding
10 up all the things that we can speed up.
11 I'm not aware that it would even take any
12 direction from the board in cases where it says the
13 director will do something within ten days. If he
14 wants to commit to doing it in 24 hours instead of ten
15 days, I mean the ten-day guidelines is a maximum.
16 It's not a minimum. And so those things could all be
17 done certainly.
18 With regard to tossing the files over the
19 transom to the AG's office and back, I think you have
20 some good ideas on how that can be shortened up. I
21 will say that, with regard to your little blue box
22 here that says Attorney General has a backlog of 120
23 cases, some up to three years old, one is -- I'm only
24 aware of a couple of cases that are that old.
25 Most of the cases are indeed about a year

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1 old. And I think you did a good job of talking about
2 why -- you know, how that process works that way.
3 Some of the cases that are older I suspect, and I
4 don't know if you've done the evaluation on them, are
5 cases where there is a criminal case that's going on
6 simultaneously and the board has actually opted not to
7 pursue those cases until the criminal actions are
8 done, although I don't know if that's true in all of
9 those cases. But I know that there are a few cases
10 out there where that's the case.
11 In cases where you're recommending that times
12 for the responses by the officer be shortened up, you
13 know, you could say that that's not changing the rule.
14 But it strikes me that it is changing the rule. And
15 there certainly are court cases that indicate that we
16 can't change the procedures for people that are in the
17 process already.
18 I think that your ideas for a change in the
19 process for people that are coming into the process is
20 a good one and that we should consider that. But I
21 think that we should do it in a way so that it can't
22 be challenged later on by a bunch of clever defense
23 attorneys. And so I just want us to think about that
24 as we do this.
25 I'm not actually opposing this motion

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1 currently other than I've never seen a state agency
2 adopt a flow chart. I don't know that it's necessary.
3 It's like you said, if it's something that the
4 director can just do, then why doesn't he just do it,
5 right. I mean that's got to be the point.
6 But for these -- of the files that we're
7 aware of that got tossed over to the transom to us
8 just before this, about 70 files or so, a lot of them
9 really don't have what we would consider to be
10 complete investigation.
11 And so one of your proposals here is that all
12 of this three-day stuff be done by the director,
13 assuming that all of the files that come to him
14 have -- you know, have complete investigation from the
15 agencies or that he doesn't need to assign anybody on
16 his staff to do an investigation that will take more
17 than three days.
18 And, Mr. Hubbard, if you're willing to
19 volunteer to do that, more power to you. I think that
20 you will find that a three-day turnaround on a lot of
21 those files is going to be difficult. But like I
22 said, you know, if the board wants to adopt a flow
23 chart, I'm not sure that there's anything that says
24 that you can't either.
25 Just as, you know, something that we're going

1 to pass out to our Law Enforcement Academy staff and
2 say this is what we want you to strive for, that one
3 of the problems with doing that also might be that
4 once you adopt this flow chart, even for those
5 purposes, if you don't meet all of the deadlines in
6 here, even though some of them are sort of voluntary,
7 by adopting that you might give clever defense lawyers
8 an argument that they can make that says, well, look,
9 you know, they're violating their own procedures, it
10 says they'll do this in three days and they didn't do
11 it in three days or whatever is spelled out.

12 So, you know, there should be a little
13 contemplation to this I think prior to its adoption.
14 But that's my own personal opinion.

15 MR. KORN: Mr. Attorney General or
16 Mr. Chairman, if I may, I appreciate your thoughts and
17 they're all good ones. If I can respond to them.

18 MR. KING: Go ahead. And then we'll let
19 Mr. Moon speak up.

20 MR. KORN: Yes. And I hope Mr. Moon will
21 address this as well.

22 But first these are just guidelines. These
23 aren't adopted procedures. These aren't rules. These
24 are just guidelines from which we hope that we can
25 achieve the speed we put down. If we can't, we can't.

1 But at least we're striving for a goal and the goal is
2 speed.

3 You are right. I put down cases are one to
4 three years old. And I painted it with the broad
5 brush of the Attorney General. But, you know, this is
6 something that the board shares the blame on and the
7 board carries the blame. It's not the Attorney
8 General that carries the blame. It's the board. And
9 it's the board that needs to get out from under this.

10 As for the criminal actions, the board having
11 said that we wouldn't prosecute criminal actions if a
12 case is currently underway, I want to point out and
13 remind the board that in June of this year, of last
14 year, 2011, the board said quite the opposite.

15 The board said every criminal matter needs to
16 run its own track. Criminal matters run their track,
17 administrative through the board run its own. So it
18 was never the intent of the board. But somehow it got
19 painted with a broad brush and there they are. I
20 think the director will be dealing with those.

21 And finally the only thing you said that was
22 contrary to what I proposed, and it might have been my
23 delivery, we are not shortening the times for the
24 accused officers. Those are hardwired in our rules.
25 Those stay the same. It would be folly to do that.

1 It wouldn't be fair anyway. I'm not
2 proposing that. I'm only proposing that for our
3 director, to the extent he can make our rules shorter,
4 he do so. In talking with the director, I think it's
5 possible. And that's what we should strive for. We
6 should have that sense of urgency.

7 And if Director Hubbard can't get documents
8 quickly to do it again within three days, well, that
9 may be. But it won't be for lack of Director
10 Hubbard's trying. I know him well enough for that.
11 So that's our goal. Urgency is the goal. And to the
12 extent that -- Mr. Moon, would you like to talk from
13 there or take the podium?

14 MR. KING: I think he should come up to the
15 podium where we can see him.

16 MR. KORN: Great.

17 MR. KING: And I'm going to ask him not to
18 talk about specific cases once again because we're not
19 going to talk about specific cases here. But he's
20 been working on this for a month and so he can talk
21 about some concerns.

22 I am going to let the board know, and
23 Mr. Peterson may take my place, around noon-ish or so
24 I've really got to go because I don't want there to be
25 a big stink that I'm snubbing the governor by not

1 showing up for her speech.

2 MR. MOON: Mr. Chairman, members of the
3 board, thank you very much. A couple things. The
4 current situation we find ourselves in now is one
5 where there are four cases currently on the hot list,
6 list of open cases, that are more -- that were filed
7 before 2011. Four. Everything else has an LEA of
8 2011 and forward.

9 There are 78 cases, 28 of which were sent to
10 the Attorney General's Office. And let's back up.
11 Cases and files are different. All right. Cases --
12 as a former district attorney, and I thought it was a
13 joke when they gave it to me, the state district
14 attorney's association gave me an award for being the
15 rookie prosecutor of the year one year because I was
16 doing cases faster than people were supposed to and I
17 didn't know that.

18 I like winning. I'm motivated that way. So
19 every case we handle here should be a case we are
20 going to come out of on the winning side of. Now,
21 your procedures are not my business. I'm just the
22 board prosecutor. Your procedures belong to you and
23 Mr. Shandler's advice.

24 My letter I think pointed out my strong
25 desire as a prosecutor never to be here. To integrate

1 the prosecutorial function with the adjudicative
2 function, which is you, would be a little bit like the
3 district attorney going to lunch with the judge during
4 the trial. And it creates at least a bad impression.

5 Up in TA there was only one restaurant. And
6 we did it regularly, but we sat at opposite ends of
7 the room. All right. So what I'm here to talk about
8 is the practical aspects of the situation we find
9 ourselves in.

10 You could do very, very little to the
11 existing system and clear the backlog fairly quickly.
12 All right. Part of the problem, of the 78 cases, 28
13 of which are simply file folders with a piece of paper
14 in them. As a prosecutor I would never prosecute that
15 case.

16 I would go back to my police officer and say
17 look, it refers to a witness statement here. It
18 refers to an audiovisual disk here. It's not in the
19 file. How are we going to prosecute this?

20 And so if I'm going to do a target letter
21 even on a prosecution which is what an NCA basically
22 is, it's a target letter, it would be unethical and a
23 disservice to the officer to go forward with that NCA
24 if we didn't have all the facts. And that would be
25 Director Hubbard's problem.

1 In that letter where I listed everything that
2 I would want as a prosecutor, that's the least I would
3 accept from my police officers when I prosecuted
4 cases. I lost one case in two years. All I did was
5 serious felonies. In 24 months we did 31 serious
6 felony trials and I lost one. And it irritates the
7 heck out of me to this day. And the reason was we
8 didn't have a fact that we could have had.

9 The other day we went to a hearing, last
10 Friday. And an hour before the hearing something that
11 should have been simple to have discovered in the
12 investigation of that case came to light that caused
13 it to come to a screeching halt.

14 For ethical reasons and for legal reasons, we
15 had to curtail the event at that moment. I was on the
16 phone several times to Director Hubbard. And I do
17 want to say he and I -- I like people who head-butt
18 when they do their job, because I want to know your
19 honest interpretation of the facts fast.

20 I don't want to walk down a road for an hour
21 and a half, find out that you knew that I was on the
22 wrong road, and have to walk back up and go down the
23 other one. Let's do it now. I like working with
24 headstrong people. It's sometimes hard to work with
25 friends because you may have to fire them later.

1 But the thing that we're talking about here
2 is the degree of the investigation. What I was going
3 to recommend, where I asked on other issues, is the
4 very same letter that I sent to each member of the
5 board -- and by the way, the three of you who sent me
6 very complimentary responses I appreciate. I knew
7 that wouldn't last very long, but it was appreciated.

8 Send that variation of that same letter to
9 each law enforcement agency so that the director,
10 Mr. Hubbard at this point or his successor at some
11 point in the future, then gets a complete file. He
12 can turn it around in three days.

13 I spent approximately 34 hours myself Friday,
14 Saturday, Sunday, and Monday gathering every email,
15 every list, every reference tool list of every case
16 that ever existed. And it came to 164 cases.

17 After sitting down and sorting through --
18 some of the cases were duplicates. All right. Cases.
19 I'm talking about file folders now, not cases that I
20 could actually make. But of the 130 -- I talked to
21 Monica, who, God bless you for your spreadsheet.

22 Because after I got done doing mine, I
23 cross-referenced it with hers. And the substantial
24 overlap really helped. Seventy-eight of those cases
25 aren't prosecutable at this time. As a prosecutor I

1 would return them to the officer.

2 Now, I've never been asked to take a job
3 where things were going well. I used to be a football
4 coach. And I took over seven programs, none of which
5 had a winning season in the prior decade. And my most
6 unsuccessful season was up in Rio Arriba. And I guess
7 I screwed that one up good. But everybody else made
8 the playoffs in three years.

9 I used to rebuild companies or businesses.
10 Nobody calls me unless there's a crash. I'm a little
11 bit like the first responding officer. The first
12 thing you do, you come to the scene and you appraise
13 the situation. Who is where, who is what, and calm
14 down, let's get everybody in the right place.

15 We got into this mess because -- as a
16 football coach, I'll use a football analogy. We had
17 some people playing out of position and we had some
18 people trying to do jobs on the football field that
19 they're not designed to do. We've all seen the
20 lineman pick up the ball and try and run with it. And
21 it wasn't because they were doing anything wrong.
22 It's because they were really trying to help sort out
23 the problem.

24 And so like that ball of string you've got in
25 your drawer somewhere that's all balled up in a knot,

1 if you pull on it, it's just going to get worse. If
 2 we just work through it.
 3 Now, I have no real comments about what
 4 you're proposing for the procedures on your board
 5 because as prosecutor I don't enter the system there.
 6 Technically I only enter the system when there's a
 7 Notice of Hearing. Then it's my case. And how I
 8 prosecute it is my call. All right.
 9 Now, the problem you're going to get in the
 10 system is what information comes into your system. If
 11 you have a complete LEA-90 report from the reporting
 12 agency with all the audiovisual that's referred to in
 13 that one piece of paper, with the witness
 14 statements -- all right.
 15 We've got files with no contact information
 16 for the witnesses. There's no way -- you know, I've
 17 gone to Google and I'm sure you have, Dex, and
 18 everybody else trying to find a number for these
 19 people. It's not going to happen. So if the
 20 reporting agencies all understand that they're going
 21 to get this back and say we've got to have this
 22 information before it gets to the director, that's
 23 number one.
 24 Number two, I volunteered in my concept of a
 25 flow chart to do all NCAs, because there have been in

1 the past, having talked to past directors, what I
 2 would refer to as rogue NCAs; that is, they're
 3 unprosecutable. This guy is a bad guy.
 4 We all know it, we saw it on the nine o'clock
 5 news, but there's nothing in the file. I can't go to
 6 the hearing officer and say remember Larry Barker on
 7 the 15th? That's not going to make it. All right.
 8 So what we need is a complete file in to the
 9 director with a full and complete thorough
 10 investigation in to the director. Yeah, then he can
 11 turn these over faster. But then what happens?
 12 What if it gets to the AG's office at the
 13 Notice of Hearing and the attorney looks at it and
 14 says ethically I can't go forward, I've got to have
 15 evidence on every prima facie element. What do I do?
 16 Do I dismiss? I dismiss a case that you guys have
 17 already taken that far? Or do we step out and say we
 18 won't prosecute it?
 19 Mr. Korn asked the question, will the
 20 Attorney General's Office prosecute cases. I won't
 21 prosecute a case if to do so would be unethical. I'll
 22 say no. If it's there and it's a makeable case,
 23 folks, I love -- there's nothing worse practicing law
 24 than not being in court.
 25 All the law -- look at what you're doing

1 today. You're law enforcement officers. Do you like
 2 doing this, is this your first love? Well, for a
 3 lawyer preparing the case is like practicing football
 4 for 15, 18 hours and then they tell you on Friday you
 5 can't play in the game.
 6 I love playing in the game. It's the only
 7 reason I'm still doing it. If you can't tell, I was
 8 eligible for retirement a few years and nobody had the
 9 good sense to tell me I should have done it. All
 10 right.
 11 So my point is I still love the game. I
 12 still want to prosecute cases. And I still love
 13 winning. I'm one of those old-fashioned people. I
 14 hate losing. But I don't want to prosecute an
 15 innocent man.
 16 I don't want to prosecute a man that -- the
 17 Supreme Court has already spoken on this. The
 18 Attorney General's Office is the gatekeeper for the
 19 rights of the accused. So as Mr. Korn pointed out, I
 20 agree entirely. I'm old-fashioned. I represent the
 21 people of New Mexico first and foremost.
 22 I represent every good cop that goes to work
 23 every day and does it right. And by the way, the
 24 Supreme Court requires me in some sense to represent
 25 the accused. So yeah, we need to turn these cases

1 over. And we can do it.
 2 Four of them are older than a year from the
 3 LEA standpoint. I was fortunate enough to have the
 4 assistance of Mr. Shandler, who -- you may or may not
 5 buy into. The Attorney General was asked if he
 6 participated in writing the letter. No.
 7 One of the nice things working at the
 8 Attorney General's Office is I'm pretty much free to
 9 practice law as an adult in a free and independent
 10 forum. And if I screw up, I'm sure somebody will come
 11 down with a pink slip and let me know. And I do it
 12 that way so that I don't appear on some bar list of
 13 cases that have not yet been tried.
 14 Mr. Shandler sat down and we went over each
 15 case from a procedural point of view, which ones are
 16 ripe for prosecutions, which ones can be prosecuted,
 17 and which ones can't. And I think, as it stands right
 18 now, as I said there are four cases that are beyond
 19 more than a year from the date of the LEA.
 20 One of the issues that you brought up was
 21 let's go to the locale to have the proceedings and
 22 everything. As the attorney that would make that
 23 trip, I can tell you that's two days of work. That's
 24 travel time, hearing time, and travel back time. All
 25 right. Now, I understand, I would prefer not to

1 travel. I would prefer everybody else travels.
 2 That's purely selfish.
 3 But once again I don't make the rules of the
 4 board. You call it that way, I'll play it that way.
 5 Just like in football, you know how big the field is.
 6 I'll play inside the lines.
 7 Before I got these cases, about five months
 8 ago, I was approached to take over the LEA board,
 9 because we were losing the two most senior attorneys
 10 in our division, 45 years of experience. And I had
 11 previously worked on a community policing civilian
 12 board. I was the chairman in Santa Fe of that
 13 project.
 14 I've been a two -- I was a DA for two years.
 15 I had my own practice suing doctors for medical
 16 malpractice for several years. And I defended law
 17 enforcement officers and law enforcement agencies when
 18 I was with Jerry Walz's office.
 19 So I was approached and they said would you
 20 be interested in taking over the LEA board. I said
 21 sure, Coach, whatever play you call, whatever
 22 assignment you give me I'll run. I didn't know.
 23 The 19th I came and I joked with Mr. Korn.
 24 Yeah, apparently this was my destination, you know. I
 25 could see from that last meeting that this was just

1 going to be a bundle of joy. But it's the kind of job
 2 I invariably get.
 3 Now, whatever procedures you pick up, I'll
 4 run it that way. But the prosecuting belongs to me.
 5 And I'm very protective of it because I like to win.
 6 I'm a former head coach. I was an assistant coach for
 7 14 years. I took -- and nobody ever knew my name. I
 8 was a lineman. Nobody ever knew my name. So when you
 9 call me arrogant, I'm kind of flattered because that's
 10 a personality trait my mother always wished I had.
 11 The investigation problem, you also might
 12 have a problem in adopting a change in the rules with
 13 your collective bargaining agreement. I don't know.
 14 But I'm not your civil attorney to discuss that. If
 15 it's designed into the collective bargaining
 16 agreement, making some changes might be a problem.
 17 We have 28 informational cases and 78 cases
 18 which currently are not in the status that can be
 19 prosecuted. And again I go back to my experience as a
 20 prosecutor. That NCA should be your target letter.
 21 And it should not go out unless you've already won
 22 your case.
 23 I believe in the federal -- you know, the
 24 U.S. Attorney's Office. We all joke they never even
 25 file a case they haven't already won before they put

1 it in the court system.
 2 I think the officers that you represent and
 3 that I may have to prosecute deserve that before we
 4 file the NCA, we've won the case. We have evidence,
 5 solid evidence on every single item, which by the way
 6 will mean settlement becomes extremely easy. One of
 7 the reasons they settled so many of those federal
 8 cases is the case is won before it gets filed. And
 9 the defense attorney knows it.
 10 But I know that the men who risk their lives
 11 deserve our best. And that's what I want, to provide
 12 to my client, the people of the State of New Mexico --
 13 and by the way, this is only the third time I've ever
 14 addressed the board.
 15 I represented 11 boards prior to being
 16 transferred to this board. And I don't do business
 17 with the adjudicator. I do business through the
 18 director and through its administrative staff, because
 19 the merging of the prosecutorial function and the
 20 adjudicative function is dangerous to the integrity of
 21 the process.
 22 If you have any questions, I'll be happy to
 23 answer them. But I had 148 cases when I took over in
 24 Rio Arriba. And we cleared those up in about a year.
 25 They either pled out or I took them to trial. And

1 like I said, I enjoy trial. It's the only fun part of
 2 being a lawyer.
 3 I always talk to guys who do probate and I go
 4 why do you want to do that, your client is dead.
 5 That's got to be the dumbest form of law. Between
 6 that and undertakers, I don't understand it.
 7 MR. KING: Thank you, Mr. Moon.
 8 MR. KORN: Mr. Attorney General.
 9 MR. KING: Hang on just a second. I haven't
 10 recognized you yet, Mr. Korn.
 11 MR. KORN: Before he leaves, I just didn't
 12 want him to leave.
 13 MR. KING: No, no. I'm just getting ready to
 14 ask questions for Mr. Moon. All right. Mr. Korn.
 15 MR. KORN: Thank you, Mr. Chairman.
 16 Mr. Moon, thank you for talking to us. A couple
 17 questions for you. The files that -- based on what
 18 you've talked to us about, I gather you have no
 19 particular problem at all with the recommendations
 20 that I put forward?
 21 MR. MOON: To be honest with you, sir, as
 22 earnestly as I tried to take notes, I hate to report
 23 to you I was never a very good student and I took
 24 lousy notes. So without sitting down to digest them,
 25 off the top of my head at this moment, I see no red

1 flags. There is no --
 2 MR. KORN: The key thing that would involve
 3 your office or you personally would be the NCAs and
 4 the NFDs. You don't have any problem with the
 5 director pursuing the files, vetting the files that
 6 have nothing in them just like you're doing, getting
 7 the additional information, and then going through
 8 that process of it?

9 MR. MOON: I don't see a problem other
 10 than -- and again I would defer to Mr. Shandler
 11 because the process -- you're talking about process of
 12 your board?

13 MR. KORN: No, no.

14 MR. MOON: But simply as a prosecutor, the
 15 only problem I see is what happens after the NFD is
 16 issued, that it comes to my office, and the game is
 17 not ready to play.

18 MR. KORN: Right. No. We're not asking for
 19 a legal opinion from Mr. Shandler. Currently or
 20 what's gone on for the last decade you might have
 21 heard is that the NCA goes to the AG's office for
 22 review, which would be you in this case. You don't
 23 have any problem at all in referring that back to the
 24 Attorney General and relieving yourself of those
 25 volume of cases, do you?

1 MR. MOON: That's like which side of the
 2 quarter do you like. There's a yes and a no to it.
 3 Yes, I have no problem with that simply because what
 4 person wants to assign himself more work. All right.

5 From the flip side of that, however, I think
 6 it would assist, one, the director with the load that
 7 is going to -- I mean we're in a chain collision, a
 8 chain car collision now. Now, the way you've
 9 described what you want to do, that collision will
 10 happen earlier and it will happen in his office.

11 MR. KORN: Right. It just won't happen in
 12 yours.

13 MR. MOON: And so what would happen what I
 14 would say is I would be pleased -- and I've been booted
 15 roundly by a lot of people that I've asked to get
 16 experience, former directors and former prosecutors
 17 who are no longer with the Attorney General's Office.
 18 I would be pleased to do that.

19 I did all the NCAs for all 11 boards. And
 20 that caseload was 120, 125 cases a year. That wasn't
 21 a problem. It saved a lot of problems later in the
 22 prosecution, because I knew -- when the target letter
 23 goes out, I named the causes of action. I named the
 24 facts under each cause of action so that there's no
 25 due process argument later, you know, I didn't get

1 notice. So I'm happy to do it either way.

2 But it's in or out. In other words, the mess
 3 we're in is because so many of us have tried to do
 4 somebody else's job. The guard has got to do the
 5 guard's job, the tackle has got to do the tackle's
 6 job, the running back has got to carry the ball.

7 And let's separate it, segregate it, get
 8 everybody to run the play as called. You tell me what
 9 the procedure is on your board, I'll run the play
 10 called no matter what. But I can get behind it either
 11 way.

12 MR. KORN: Excuse me just for a minute.
 13 Mr. King, I take it that this gentleman is taking your
 14 spot?

15 MR. KING: I've got to go. Again I'm going
 16 to turn it over to Mr. Peterson to be my
 17 representative.

18 MR. KORN: Just so that I can -- just so that
 19 I can reference that, I don't think Mr. Peterson can
 20 be your substitute. We have a vice chair. And I
 21 think the vice chair is your substitute.

22 MR. KING: The vice chair can run the meeting
 23 if he wants to. Mr. Peterson is my representative on
 24 the board when I'm not here. And unless the AG's
 25 office has got a conflict, we've been doing this for

1 how many years. Who has been here a long time? How
 2 many years has the AG had somebody represent them
 3 whenever the AG can't be here? Chief Schultz.

4 MR. SCHULTZ: Well, for over five years.

5 MR. KING: Okay.

6 MR. KORN: The problem is that it's not
 7 permitted by the rules, it's not permitted by the
 8 statute. Now, Mr. Peterson can be here. But he needs
 9 to sit in the public area would be the appropriate
 10 spot. He can't run the meeting and he can't be
 11 involved in the process of voting.

12 MR. KING: Of course, he can. Read your
 13 rules.

14 MR. KORN: Oh, I know the rules by heart,
 15 sir.

16 MR. KING: Okay.

17 MR. KORN: I would be willing to give you all
 18 those rules now. But there's no way that Mr. Peterson
 19 can appear in your stead. There's no way that he can
 20 vote any more than my wife can vote for me. I ask
 21 Mr. Peterson to step down.

22 MR. KING: Well, hang on a second. Zach, do
 23 you know the statute? I'm pretty sure the statute
 24 says the AG or his designee.

25 MR. KORN: Oh, no. It absolutely doesn't.

1 MR. KING: Well, hang on a second. I'm
 2 asking Zach. Zach, do you know?
 3 MR. SHANDLER: It's going to take me a minute
 4 to take a look at that statute.
 5 MR. KORN: I'll get it for you, Zach.
 6 MR. KING: Well, I'll tell you what, I don't
 7 care whether Mr. Peterson votes or not.
 8 MR. KORN: Well, I care if he sits on the
 9 board in your stead. He's not allowed on the board.
 10 MR. KING: Of course, he is.
 11 MR. KORN: No, sir, he is not.
 12 MR. KING: Of course, he is.
 13 MR. KORN: No, sir, he is not. The statute
 14 is very specific. The AG is the chairman of the
 15 board. There are no substitutes. Hey, I can't make
 16 it sometimes. Maybe I'll have somebody that works for
 17 me make it.
 18 It says the vice chairman shall act in the
 19 capacity of the chairman in the absence or
 20 unavailability of the chairman. We have a vice
 21 chairman. He's the one running the board. And I just
 22 think that we need to go back to the way the rules are
 23 written, go back to the basics of it, and reexamine
 24 everything that's going on.
 25 MR. KING: Mr. Shandler will research that.

1 Mr. Korn, I think you're wrong. Mr. Peterson -- I
 2 actually don't care. You guys will have all the votes
 3 wired anyway. So Mr. Peterson can sit back in the
 4 back over there and he'll report back to me. But I do
 5 have to go. I have important state business to take
 6 care of. Mr. Coon, you have the gavel.
 7 MR. KORN: Just for the record, I have
 8 important state business on this board. I will
 9 remain.
 10 MR. KING: Good.
 11 MR. SHANDLER: My advice to the board is,
 12 absent the time to research the statue, you should
 13 continue with your existing practice. And, therefore,
 14 it's my advice to the board, you're free to reject it,
 15 is that Mr. Peterson can remain as the proper designee
 16 of the Attorney General's Office.
 17 MR. KORN: And that's like saying you don't
 18 know the answer so let's just make it up. I know the
 19 answer. They're here in the rules. It says the vice
 20 chairman shall act in the capacity of the chairman in
 21 the absence or unavailability of the chairman.
 22 Later it says all meetings should be called
 23 to order and business of the meeting conducted by the
 24 chairman of the board or in his absence the vice
 25 chairman. It doesn't say that you can have somebody

1 from the AG's office pinch hit for the chairman any
 2 more than Chief Shilling can find himself unavailable
 3 and want to have one of his deputy chiefs.
 4 We don't have a board by proxy. We have a
 5 board by attendance. And a board by selection. And
 6 all of us have been selected except Mr. King who has
 7 been by statute. And if the statute wanted or the
 8 rules wanted Mr. King to be able to have people by
 9 proxy, he wouldn't have to have a vice chairman. He
 10 has 100 some people in his office.
 11 MR. SHANDLER: Mr. Vice Chair, I have
 12 provided my advice about the long-standing policy of
 13 this board and other boards for ex officio officers.
 14 The board is free to accept or reject my advice.
 15 MR. COON: Any other comments?
 16 MR. KING: I have a comment just to finish
 17 off. I don't want people to think that I'm just
 18 walking out of here angry or whatever. I actually
 19 have business to take care of. And I think you'll all
 20 understand because a lot of you work for the
 21 government.
 22 I will say this. Mr. Korn has misstated
 23 what's always been done on the board here. And we'll
 24 do some research. But in order to avoid conflict
 25 today so that we can move forward, I asked

1 Mr. Peterson to step down. And it's fine.
 2 The difference between me appointing somebody
 3 to sit in my chair and one of you appointing somebody
 4 I believe is that the statute that makes the Attorney
 5 General the chair says that the Attorney General or
 6 his designee will be the chair.
 7 The reason that we have the vice chair to
 8 chair the meetings during certain other parts of the
 9 meeting is because there's a conflict that applies not
 10 just to me, but to anybody that I could designate as
 11 my person because of what I've talked about, the
 12 conflict analysis that says it's inappropriate for the
 13 Attorney General to sit in judgment whenever a
 14 prosecutor from the Attorney General's Office is
 15 prosecuting.
 16 Interestingly enough, I think if at some
 17 point in time everybody decides that they want to have
 18 some other agency do the prosecuting, then I would be
 19 allowed to sit here on the decertification hearings
 20 and sit in judgment, because it wouldn't be one of my
 21 employees who was doing the prosecution.
 22 Other than that the rule allows for good
 23 operation of the meeting for me to turn the gavel over
 24 to the vice chair, which I do quite often. The
 25 statute I believe says that the chair will be the

1 Attorney General or their designee.
2 If I'm wrong -- and Mr. Shandler actually,
3 since he's not sure, I might be wrong. If I'm wrong,
4 then we will have dealt with it today because
5 Mr. Peterson is just going to sit and watch. So thank
6 you all for your consideration. And I will give the
7 governor your regards. Thank you.

8 MR. KORN: I could read it to you,
9 Mr. Attorney General. It says a board shall be
10 composed of the Attorney General who shall serve
11 automatically by reason of his office. It doesn't say
12 designee.

13 MR. KING: Is that all it says?

14 MR. KORN: Honestly.

15 MR. KING: You might be right.

16 MR. COON: Well, let's keep going, what do
17 you say?

18 MR. MOON: I'm with you. If you have any
19 questions or anything.

20 MR. COON: Mr. Moon, do you have anything
21 else you'd like to --

22 MR. MOON: I do not. After that I don't
23 think there's anything I could say.

24 MR. COON: Well, Mr. Moon, thank you for --

25 MR. KORN: Mr. Vice Chair, I was in the

1 middle of asking Mr. Moon some questions, if I may.

2 MR. COON: I'm sorry. Yes, sir.

3 MR. KORN: So I understand your point also
4 that -- so just to get to where we were before the
5 interruption, you don't have a problem with who does
6 the NCAs, you do have a problem later on if the NCA
7 isn't sufficient.

8 MR. MOON: I do have a problem with who does
9 the NCAs, yes. But as I understand the code and the
10 rules, the Attorney General doesn't have a role in
11 your procedures until the hearing date is set.

12 So my suggestion that I would do all the NCAs
13 was a courtesy. I think it was the prudent way to
14 proceed given the fact that at some point, when
15 there's a hearing date and the case isn't ready, we
16 either dismiss or the board has to seek private
17 counsel.

18 And it raises one last thing, yes, about
19 using members of the board as hearing officers. I
20 think it's a very dangerous situation. With the
21 civilian boards, I would say about one in ten of my
22 cases end up in some sort of appeal over the due
23 process rights of a member of the board sitting as an
24 adjudicator, part of the adjudicating body, and as the
25 prosecutor.

1 They all recuse themselves when it's time to
2 mete out the penalty after the submission of the
3 findings of fact and conclusions of law. But
4 invariably a respondent will make a challenge.

5 It would save a lot of time, if you're going
6 to use retired lawyers, retired prosecutors, not to
7 use them as attorneys but to enlist their support as
8 hearing officers. And that way you have third parties
9 not related to you.

10 Because frankly, if I were a police officer
11 and I saw the two of you sitting together at this
12 hearing and you were my hearing officer, it's going to
13 be very difficult for me to believe the two of you
14 haven't discussed this. Just like it's very difficult
15 for all of you to believe that Mr. Shandler and I
16 don't discuss these cases.

17 I went to his wedding. And it is kind of
18 difficult to have a conversation when you can't
19 mention a word of work. My longest conversation with
20 Attorney General King was out in that hallway. It was
21 five sentences and the first one was good morning.

22 So I don't talk to the Attorney General, he
23 doesn't talk to me. I'm so far down in the pecking
24 order that that doesn't happen. So that would be my
25 other recommendation with regard to your suggestion.

1 Law students is a very problematical situation.

2 But if you're going to enlist retired people,
3 mediators and whatever, the two gentlemen that retired
4 from the Attorney General's Office with 45 plus years
5 of experience would be extraordinarily good hearing
6 officers. They would never be accepted by opposing
7 counsel, but they would be very good hearing officers.

8 There's a lot of good retired attorneys out
9 there that would probably jump on that. And I
10 think -- forgive me. I mean, you know, to be called
11 arrogant earlier in the thing was kind of funny,
12 because I'm humbled to be in front of this board. I
13 look at the stripes and the epaulets.

14 I've never been on the street. My life has
15 never been threatened. So I'm humbled to be here
16 actually. And I think our officers deserve more than
17 a law student and they deserve a really good attorney
18 for a hearing officer.

19 Mr. Radosevich, I don't know whether he's an
20 attorney. I've appeared in front of him once. He
21 runs a tight ship. He's obviously former military of
22 some kind. And that I appreciate also.

23 We got here because we got loose with our
24 proceedings. That we agree on entirely. What we
25 should do to repair those proceedings is your call. I

1 am not your attorney. I am just the board's
 2 prosecutor and nothing more.
 3 MR. KORN: So if I may follow up on the
 4 question and get back on point, if we are moving ahead
 5 with the plan that I'm suggesting and it comes to a
 6 time when a hearing is set up, will you be available
 7 as the Attorney General's designee to prosecute that?
 8 MR. MOON: I will be available to assess the
 9 case for prosecution. And if it's prepared and
 10 appropriate for prosecution, I would be delighted to
 11 prosecute for this board.
 12 MR. KORN: So as a point of order, speaking
 13 on behalf of your office, you would not deny the case
 14 based on any matter other than the fact that you don't
 15 think the case is prepared sufficiently for the
 16 hearing?
 17 MR. MOON: I only prosecute cases that are --
 18 let's put it in the vernacular. Crimes that are
 19 provable up to the standard required, which in our
 20 hearing is a preponderance of the evidence.
 21 MR. KORN: Sure. And I don't really want to
 22 have point/counterpoint. I'm not trying to trick you
 23 or put you on the spot. But if you get a case that
 24 the director has basically concluded is sufficient and
 25 you look it over and say, you know, I would love to

1 have this witness statement or that witness statement,
 2 notwithstanding the fact that I called you arrogant --
 3 because I've talked to you several times in the
 4 hallway. I don't think you're an arrogant person, but
 5 I think some of your emails were arrogant. But I
 6 don't think you are --
 7 MR. MOON: An email can't be arrogant. It's
 8 an inanimate object. Only the writer can be arrogant.
 9 MR. KORN: Thank you. But my point is I
 10 don't want to have a push going on here. If you
 11 determine that there's not sufficient evidence in that
 12 file, are you going to reject the file or go through
 13 it and talk to the director about what's missing so
 14 that the two of you can get that file put in order for
 15 prosecuting?
 16 MR. MOON: I will vet the file. And if it
 17 can be remedied in a timely way without violating the
 18 accused's due process rights because of evidence that
 19 wasn't previously provided or presented, that's the
 20 way I would proceed. If I determine that the weakness
 21 in the case can't be remedied, I'll move to dismiss it
 22 or return it to the board.
 23 MR. KORN: Well, you would return it to the
 24 board because it's the director's case.
 25 MR. MOON: Once it gets to me, sir, it's

1 mine.
 2 MR. KORN: So you think that you can move to
 3 dismiss it over the protestation of your client, the
 4 director?
 5 MR. MOON: My client, the director, yes, I
 6 can.
 7 MR. KORN: You think that you can take over
 8 from that time from the director and make the final
 9 decision in the case as far as dismissing it?
 10 MR. MOON: Prosecutorial independence is
 11 essential particularly from the board that
 12 adjudicates.
 13 MR. KORN: Well, you're not -- yeah. But
 14 you're not a prosecutor by statute nor by our rule.
 15 You're a prosecutor only because the director has
 16 asked you to intercede and present it as a lawyer.
 17 It's different here.
 18 MR. MOON: I know that.
 19 MR. KORN: So based on that difference, you
 20 have a client. The client is the director. If you
 21 decide that the case can't be presented, you have no
 22 rights in my opinion to dismiss it. You have rights
 23 only to return to your client and say you are unable
 24 to prosecute it. Do we agree on that?
 25 MR. MOON: No. But I understand your

1 opinion. Thank you.
 2 MR. KORN: Well, the opinion is will you
 3 follow up on that opinion or will you not?
 4 MR. MOON: I'll have to look at the case when
 5 it comes to me.
 6 MR. KORN: It's not a case. It's an idea.
 7 MR. MOON: Well, ideas like God are fact
 8 specific. And when the facts arrive, I will evaluate
 9 the facts and act accordingly.
 10 MR. KORN: Well, the question is will you
 11 return the case to the director, if you can't
 12 prosecute it, or do you feel some notion that you have
 13 to make a motion to dismiss?
 14 MR. MOON: If you give me the case and all of
 15 the facts, sir, I'll answer that question.
 16 MR. KORN: Well, the fact is that I don't
 17 know that we as a board want to give you cases if
 18 you're not going to tell us you're going to be
 19 responsive to the director, who is your boss.
 20 MR. MOON: That is always the board's
 21 decision. I act at the will of the board, all right,
 22 in the sense that the board is not my client. But the
 23 board can always seek -- fire its attorney or the
 24 attorney can fire the client.
 25 MR. KORN: This is a matter of semantics.

1 MR. COON: Mr. Korn, I think we're beating a
 2 dead horse here.
 3 MR. KORN: Okay. Thank you.
 4 MR. COON: Mr. Moon, thank you very much.
 5 MR. MOON: Thank you, sir.
 6 MR. COON: Oh, I'm sorry.
 7 MR. SCHULTZ: One simple question. And maybe
 8 this will help move us forward. Looking at the first
 9 sheet which was provided by Mr. Korn, trying to deal
 10 with 90 percent of the cases and looking at it from
 11 being a former prosecutor, the LEA-90 is basically a
 12 charge sheet.
 13 MR. MOON: Yeah. I think that's a good
 14 analogy.
 15 MR. SCHULTZ: So that charge sheet comes in.
 16 It goes to the director. What is the problem with the
 17 director contacting the officer? Because we see cases
 18 every board meeting where the officer comes in front
 19 of us and he just wants it behind him.
 20 Why can't the director and the officer, the
 21 party involved, based on a charge sheet, come to an
 22 agreement and say yes, this is what I want, I want to
 23 get this over with, let's set it up for the next board
 24 meeting and have it ready and basically have it come
 25 in front of us based on guidelines that we know that

1 this falls within this parameter, and you don't even
 2 have to be involved. You only have to concentrate on
 3 the cases that you said earlier are the ones that have
 4 a notice of hearing. Doesn't that make sense?
 5 MR. MOON: Yes, sir.
 6 MR. SCHULTZ: So we all could agree that many
 7 cases can be resolved between the director and the
 8 target of the contemplated action, the officer.
 9 MR. MOON: I would think so, sir. It makes
 10 imminent sense to me. But you have to remember, I've
 11 looked at this process now for about three weeks. And
 12 Mr. Shandler -- I would defer to Mr. Shandler, because
 13 that strikes me more as your board process more than
 14 the prosecutor's process.
 15 We know that 90 percent of all civil cases in
 16 this country are settled long before lawsuits are
 17 filed. And I say that 90 percent figure figuratively.
 18 A vast proportion of them. And that makes imminent
 19 sense.
 20 MR. SCHULTZ: Thank you, sir.
 21 MR. COON: Mr. Betz.
 22 MR. BETZ: Yes, Mr. Vice Chair. One question
 23 for Mr. Moon. You mentioned 78 cases basically were
 24 not prosecutable. Is that based on the fact that
 25 they're beyond the limit, there's no other

1 investigation being done, or what's the basis for
 2 that?
 3 MR. MOON: As part of my own work product, I
 4 will put on the record, I have noted every single
 5 case. Of the 78 cases, 28 are simply, quote,
 6 informational according to Mr. Holmes, the
 7 investigator, that a hard file was sent to our office
 8 merely to alert us that there would be something
 9 coming.
 10 So you take 28 out of that 130, you're down
 11 to 100. There were 11 cases that were already
 12 dismissed or a letter was already sent out disposing
 13 of the case. So now you're down to into the 90s in
 14 terms of a backlog.
 15 You have about 20 cases where there was an
 16 NCA sent. There may have been a formal -- no NFD went
 17 out. So that case is stalled in limbo. So that
 18 knocks us down to about 50.
 19 And you raise a good point here tangentially.
 20 What a case is to the director's office is different
 21 than what a case would be to the prosecutor's office,
 22 because cases he investigates as Chief Schultz
 23 suggested might go away. In our office there are
 24 about 45 or 50 live cases that are still prosecutable.
 25 The 78 lack -- in the informational file or

1 in the file itself it will refer to the video, for
 2 instance. There's a very famous one of -- I'm not
 3 going to talk about any facts. I'm sorry. That's
 4 been on the news. You've seen the video on TV. The
 5 video is not in the file.
 6 I cannot go to a hearing and say remember
 7 Larry Barker. The rules of evidence are relaxed, but
 8 they're not that lax. And our officers deserve more.
 9 There's references to witness statements.
 10 Witness statements are not in the file. There's
 11 references to witnesses. And the addresses, the
 12 contact information, for the witnesses isn't in the
 13 file.
 14 Now, normally what I would do as a prosecutor
 15 is -- and you all know prosecutors are not -- if you
 16 all say prosecute more of my cases, I'll do it. But,
 17 sir, get me the contact information, then I'll vet the
 18 investigation. If the investigation after talking --
 19 you're a domestic violence victim.
 20 Will you testify, will you come forward. No,
 21 I won't. Okay. I've got to vet the investigation.
 22 We've got your original statement. But, you know, it
 23 plays -- it's important. So there's not enough in
 24 there to vet the investigation, to ethically go
 25 forward to a case that we can prevail on out of

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1 respect to that officer.
2 I want to get the bad guys. But I sure as
3 heck don't want to throw my net around the good guys.
4 And as Mr. Korn said, most of these guys make a
5 mistake. You know, if we're going to hell for one
6 mistake, it's going to be real crowded. And four of
7 you guys may be in heaven and we'll all wave. But the
8 rest of us are going to be somewhere else.
9 So I get that. There's a difference. And
10 that's where I want to come down also.
11 MR. BETZ: Thank you.
12 MR. COON: Anybody else?
13 MR. MYERS: I guess I do have one follow-up
14 question to that. So those cases that aren't ready
15 for prosecution, I think what Nate was trying to get
16 to was I think us as a board, we just can't have a
17 prosecutor that's just going to summarily dismiss all
18 those cases at that point if you're only missing a
19 video or you're only missing a witness statement.
20 MR. MOON: No, sir. What I'm saying is I'm
21 missing relevant evidence that would prevent me as a
22 lawyer from ethically going forward with the
23 prosecution.
24 It's the same standard I have with the bar,
25 it's the same standard I had with Henry Valdez when I

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1 worked for him, and it's the same freedom Henry gave
2 me to make those calls. Now, if they were close
3 calls, I'm not letting anything get away. I've told
4 you, I want to win.
5 MR. MYERS: I understand. But what didn't
6 get answered for me at least, unless I missed it, is
7 what's going to happen to that case? Are you going to
8 give it back to the director so he can get you the
9 information or is it going to be summarily dismissed
10 at that point?
11 MR. MOON: If it can be repaired, it will be
12 returned. If there's something constitutional,
13 statutory, code, or ethical, I could turn the question
14 around, would you go forward? And the answer would be
15 obvious.
16 MR. MYERS: Right. But I would give you an
17 answer.
18 MR. MOON: Yeah. Well, if that was the
19 question, that's my answer. That's that simple. I
20 just didn't want to be pinned into a situation where
21 some case comes down the pipe on a unique set of
22 facts, as we were talking about in that grid.
23 Right now I'm going to go forward on a couple
24 of cases where there was physical violence. I don't
25 really have enough evidence in the file at this

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1 moment. But I know I can't send that back to the
2 director, he's got a load coming to him anyway. So
3 I'm going to take up that thing.
4 Now, you've got to understand, the Attorney
5 General doesn't have any investigatorial capacity.
6 The civil side doesn't have any investigatorial
7 capacity. We have investigators on the criminal side.
8 And we can't talk to the criminal side because of the
9 parallel prosecution laws and the case law on that.
10 So we don't have that investigatory capacity.
11 And right now I've got a hearing on Friday.
12 So when I leave here, that's where I go. And I'm also
13 going to investigate those cases where there's been
14 physical violence against an officer, a member of a
15 family, or a member of the public; because that's a
16 threshold for me.
17 I used to have a rule in Espanola. You touch
18 my cop there's no plea, period. We go. But if it's
19 remedial, if the patient can be revived, we'll revive
20 that patient and go after him. It's not a lack of
21 aggression and it's not a lack of laziness. It's
22 constitution. I think you realize the Constitution
23 isn't going to bark too much. But I don't want to
24 leave out the possibility that that may occur.
25 MR. MYERS: Okay. Thank you.

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1 MR. COON: Anybody else have any questions
2 for Mr. Moon?
3 MR. KORN: No. Thank you.
4 MR. COON: Thank you, Mr. Moon.
5 MR. MOON: Thank you, sir.
6 MR. COON: Okay. I think we have -- do we
7 have this as a motion yet?
8 MR. SCHULTZ: We do.
9 MR. KORN: Yes. Can I.
10 MR. COON: Yes, sir. Mr. Korn.
11 MR. KORN: May I go to the podium.
12 MR. COON: Yes, sir. You know, we've let
13 this topic dominate our last three meetings. We need
14 to kind of get this put to bed here pretty quick.
15 MR. KORN: I agree, Mr. Vice Chair. So that
16 the motion I could restate or rephrase?
17 MR. COON: You can restate it, sure.
18 MR. KORN: The first motion would be to adopt
19 the proposed motion process, which I've asked for
20 identification as LEA No. 1, as contained in the
21 timeline effective immediately regarding LEA board
22 misconduct case processing.
23 And I would point out for the board and for
24 the record that this is not a regulation, not a rule
25 of the board, but rather a process that we're trying

1 to attain, a standard we're trying to attain.
 2 MR. MYERS: I would second that motion.
 3 MR. COON: We've got a second. Any
 4 discussion on this? All in favor say aye.
 5 (Those in favor so indicate.)
 6 MR. COON: Okay. Any opposed? Seeing none
 7 the motion carries.
 8 MR. KORN: Thank you. Mr. Vice Chair, I
 9 would like to make the second motion. The second
 10 motion has to do with convening board meetings more
 11 frequently. I've written in my proposal four weeks.
 12 I don't know if you want to have discussion on that
 13 before I make the motion or after.
 14 MR. COON: Any discussion on this?
 15 MR. SHILLING: With the session starting
 16 today, the first meeting in the four-week span there
 17 is going to be a little tough for me I know because
 18 that will be the last week of the session. So we may
 19 punt that one back a little bit I would recommend --
 20 MR. KORN: Five weeks?
 21 MR. SHILLING: -- and go from there.
 22 MR. KORN: Five or six weeks. Would it be
 23 okay if we asked the director to contact us afterwards
 24 to see what our schedules are like rather than take
 25 the time to do it now?

1 MR. COON: That would be fine.
 2 MR. BETZ: A question, Mr. Vice Chair.
 3 MR. COON: Yes, sir. Chief Betz.
 4 MR. BETZ: Under our rules and everything,
 5 we're allowed to miss only so many board meetings, if
 6 I'm correct. So I don't know how that's going to come
 7 for scheduling purposes if we're going to increase our
 8 amount of meetings. I just don't want to find myself
 9 in jeopardy with the board.
 10 MR. KORN: I don't know of any rules that say
 11 we have to attend so many meetings. Do you,
 12 Mr. Shandler?
 13 MR. BETZ: Somebody had mentioned it to me
 14 one day. That's why I ask.
 15 MR. SHANDLER: I don't know. Am I allowed to
 16 research it for a minute? And then I'll get back to
 17 you.
 18 MR. COON: Sure. Absolutely.
 19 MR. KORN: I can move on to another motion.
 20 MR. COON: Okay. Let's go to motion three.
 21 MR. KORN: That the board -- that each board
 22 member agrees to be a hearing officer as their
 23 schedule permits. And so I can point out that that
 24 doesn't mean that when the director calls on them,
 25 they have to be a hearing officer, if their schedule

1 does not permit. It means only that if their schedule
 2 permits.
 3 MR. COON: Okay. We have a motion. We need
 4 a second.
 5 MR. MYERS: Can I just make a suggestion to
 6 that motion. If maybe we can add pursuant to some
 7 kind of training program so we're not called on to be
 8 a hearing officer before we're comfortable.
 9 MR. KORN: Good point. Could I add that to
 10 the motion?
 11 MR. COON: Yes.
 12 MR. KORN: Okay. The motion would be that
 13 each board member agrees to be a hearing officer as
 14 their schedule permits after suitable training.
 15 MR. COON: Do I have a second?
 16 MR. MYERS: I'll second that motion.
 17 MR. COON: Okay. I've got a second. Any
 18 discussion? All in favor say aye.
 19 (Those in favor so indicate.)
 20 MR. COON: Any opposed. Okay. The motion
 21 carries. Number four.
 22 MR. KORN: I make a motion to hold hearings
 23 in parts of the state within approximately 75 miles of
 24 each hearing officer or as the hearing officer
 25 determines.

1 MR. SHILLING: I second that.
 2 MR. COON: We have a second. Any discussion?
 3 Not seeing any discussion, all in favor by saying aye.
 4 (Those in favor so indicate.)
 5 MR. COON: All opposed? The motion carries.
 6 MR. KORN: I make a motion to have the
 7 director be the one that assigns the hearing officers,
 8 the prosecutors, and the hearing dates.
 9 MR. COON: Oak. I have a motion. Do I have
 10 a second?
 11 MR. MYERS: I'll second.
 12 MR. COON: Okay. A second. Do we have any
 13 discussion on this? No discussion. Okay. All in
 14 favor say aye.
 15 (Those in favor so indicate.)
 16 MR. COON: All opposed? Okay. Number five
 17 carries.
 18 MR. KORN: Number six, I make a motion to
 19 adopt the penalty guidelines that I've distributed
 20 with the ability to amend them as circumstances
 21 require and distribute them to the public as
 22 appropriate by the director.
 23 MR. COON: Are we going to add any -- like
 24 Chief Schultz said, on the felonies and anything like
 25 that? Are you talking about these penalty guidelines?

1 MR. KORN: I'm talking about these penalty
2 guidelines. But in my view of this, this is an
3 ever-changing document. So I think it was Chief
4 Shilling? No. Chief Schultz pointed out that it
5 doesn't include felony convictions. And obviously it
6 should.
7 MR. COON: Right.
8 MR. KORN: So we would -- we would grow, the
9 list would grow.
10 MR. COON: Okay. I've got a motion. Do I
11 have a second?
12 MR. SCHULTZ: Second.
13 MR. COON: Okay. Any discussion?
14 MR. BETZ: Mr. Vice Chair. So we can amend
15 this? Because I see a lot of things lacking,
16 Mr. Korn. I'm actually going the other way. I think
17 it needs to be stronger.
18 MR. KORN: I'm only ascribing. This isn't my
19 list. This is what the board has done up to this
20 point.
21 MR. BETZ: Because I see insurance -- you
22 know, we talk about DWIs, we're talking one to four
23 months here. And I see insurance, remove the person
24 for three years for the same thing. And I don't want
25 somebody to float under the radar and all of a sudden

1 be able to come up in another department.
2 MR. KORN: This list isn't meant to be
3 everything in the world and it's not meant to be set
4 in stone. I've just ascribed over the last year and a
5 half of being on the board. This is what the board
6 has done. I have put it down so everybody can see it.
7 I'm assuming we're going to grow with it. As our
8 membership grows and our cases grow, the list will
9 grow.
10 MR. BETZ: Can we go back and can we adopt
11 some others that we can proceed on and actually have a
12 better set of guidelines?
13 MR. KORN: I view them as ever-changing,
14 meeting by meeting. Like today they've already
15 changed with Chief Schultz pointing out it lacks
16 felony convictions. We would want to add that when --
17 presumably when we get a felony in front of us. This
18 hasn't happened --
19 MR. BETZ: So we can get a lot of further
20 amendments in there.
21 MR. KORN: Right. So as we get things in
22 front of us, we would be --
23 MR. COON: Any other discussion? Okay. All
24 in favor say aye.
25 (Those in favor so indicate.)

1 MR. COON: All opposed? Okay. Number seven,
2 Mr. Korn.
3 MR. KORN: Mr. Vice Chair, this is the one
4 that suggests that the board will empower the director
5 only under the right circumstances and the right cases
6 to offer an additional 20 percent less of their -- of
7 the penalty guidelines if the officer has waited 90
8 days or more to even getting into the pipeline.
9 And I'm trying to be very judicious in the
10 way I worded this only because that's not an offer to
11 the director to give it to everybody. It's an offer
12 to the director to give it to those accused officers
13 whose alleged crime is of a type that would benefit
14 from this and the officer is both appropriately aware
15 of his mistake and regrets it.
16 So my motion would be to empower the director
17 to reduce the penalty assessments by up to 20 percent
18 of the penalty guideline and stipulated settlements
19 for those accused officers whose LEA-90s were received
20 over 90 days before the informal settlement hearing
21 and where the set of circumstances warrants such
22 accommodation.
23 MR. COON: I have a motion. Do I have a
24 second?
25 MR. MYERS: I'll second.

1 MR. COON: Okay. Any discussion? Does
2 anybody have anything they would like to say? Okay.
3 All in favor say aye.
4 (Those in favor so indicate.)
5 MR. COON: All opposed? Seeing none. Okay.
6 Mr. Shandler, did you see anything on number
7 two, the convening board meeting approximately every
8 four weeks and if there was a stipulation on us
9 missing a meeting?
10 MR. SHANDLER: Mr. Vice Chair, a lot of
11 boards do have that language that, if you miss three
12 consecutive meetings, you become disqualified from the
13 board. I haven't found that language yet. But I'm
14 multitasking.
15 Based on my abilities right now, I don't see
16 that prohibition in your statute in the rules.
17 Perhaps, when I have a little more chance over our
18 lunch break or something, I'll get back to you if I
19 find something different, sir.
20 MR. COON: Okay. Well, I really don't see
21 anybody missing three in a row. I mean you might miss
22 one or two. But three in a row.
23 MR. BETZ: Mr. Vice Chair, I've been told it
24 was two. So that's why I just wanted to follow up on
25 it. I wanted to make sure none of us got jeopardized

1 by that.
 2 MR. COON: Okay. So we're going to wait on
 3 number two or do we want to vote on it now or wait for
 4 Zach to come up with an exact figure or whether there
 5 is or not?
 6 MR. MYERS: Can we put our own language in
 7 that supersedes or addresses the absentee issue?
 8 MR. COON: I would suggest that we waive
 9 whatever rule, if there was one, until we got our
 10 backlog caught up and then maybe go back to -- if
 11 there is a number of absences. Yes, sir.
 12 MR. SCHULTZ: I've been scanning through the
 13 rules. I do not see an issue with anybody missing
 14 meetings and being removed from the board. The only
 15 issue I see would be anything that requires a public
 16 hearing has to have no less than 30 days advance
 17 notice.
 18 So I think meetings would have to be
 19 scheduled a minimum, especially if there's going to be
 20 something addressing a public notice, to meet that
 21 part of the rule. And again as Mr. Korn said, this is
 22 just to help us get caught up with the backlog. It's
 23 not going to be long term and/or forever.
 24 So I don't see a problem with going forward.
 25 And maybe Mr. Korn would be amenable to if the board

1 would meet approximately every six weeks. That way we
 2 don't have to worry about anything being within that
 3 30-day rule for a public hearing and be a little bit
 4 more manageable for our schedules.
 5 MR. KORN: And I think six weeks would be
 6 perfectly appropriate. And we can do it meeting by
 7 meeting, if we see we have to speed up or slow it
 8 down.
 9 MR. COON: You want to restate your motion on
 10 Number two, Mr. Korn?
 11 MR. KORN: Yes, sir. My motion would be that
 12 we would convene board meetings from this time forward
 13 approximately every six weeks until the backlog is
 14 deemed to be under control, and that we will
 15 reevaluate the meeting schedule four months from now.
 16 MR. COON: Okay. I have a motion. Do we
 17 have a second?
 18 MR. SHILLING: Second.
 19 MR. COON: Okay. Any discussion on that?
 20 Okay. All in favor say aye.
 21 (Those in favor so indicate.)
 22 MR. COON: All opposed? Okay. The motion
 23 carries.
 24 MR. KORN: Thank you, Mr. Vice Chair.
 25 MR. COON: Thank you, Mr. Korn.

1 MR. KORN: I would like to offer both LEA 2
 2 and LEA 1 into our board record of official documents.
 3 MR. COON: Okay. Go right ahead.
 4 MR. KORN: Thank you.
 5 ITEM NO. 14: INDIVIDUAL BOARD COMMENTS
 6 MR. COON: Now we're going to move along to
 7 No. 14, individual board comments. I'll just open it
 8 up for any comments from the board. Anybody have
 9 anything they would like to comment on before the
 10 board?
 11 MR. SHILLING: There's a gentleman that
 12 raised his hand back there, but we already passed
 13 public comment.
 14 MR. COON: Come on up.
 15 MR. BELYEU: My name is Brian Belyeu. You
 16 had already set board meetings for, you know, the next
 17 few times, one in Red River, Las Cruces, and Roswell.
 18 Now, with the new six weeks, I mean for some of us in
 19 the southeast part, it's, you know, a day and a half
 20 trip and for us it's two days up and so forth.
 21 So I was just kind of wondering, are we going
 22 to help accommodate or are they all going to be up in
 23 the Albuquerque/Santa Fe area?
 24 MR. COON: I think we can still have some
 25 down south, you know, Ruidoso and Roswell maybe. I

1 think those board meetings will probably still be on
 2 the regular agenda.
 3 MR. SCHULTZ: Excuse me. If I may, yeah.
 4 Those board meetings are actually scheduled three
 5 months apart. Six weeks happens to be right in the
 6 middle. So I don't see a reason why we would have to
 7 change those originally scheduled board meetings for
 8 the rest of the year.
 9 MR. BELYEU: Okay. But these new ones that
 10 we've added, were they still going to be primarily
 11 here in the Albuquerque/Santa Fe area?
 12 MR. SCHULTZ: I believe actually that would
 13 be up to the director. Based on the number of cases
 14 and where they're coming from, if we have a whole
 15 bunch of cases, maybe through a board meeting
 16 schedule -- one of those extra board meetings to
 17 schedule them.
 18 And most of -- the majority of the cases come
 19 from the southern part of the state. It would only
 20 make sense to try to accommodate where a majority of
 21 the cases are coming from.
 22 MR. BELYEU: So we'll have a little bit of
 23 lead time on what we need to --
 24 MR. SCHULTZ: I believe the director would
 25 have to be -- it's required by the Open Meetings Act

1 to post the agendas and scheduled meetings.
 2 MR. BELYEU: Okay. Thank you.
 3 MR. SHILLING: Thank you, sir.
 4 MR. COON: Anybody else? Okay. Now we're
 5 going to -- five minutes, take a five-minute break.
 6 (Recess.)
 7 ITEM NO. 15: GARY RODRIGUEZ
 8 MR. COON: Okay. We're back. Now we're
 9 going into disciplinary matters, stipulated orders,
 10 No. 15 on Gary Rodriguez.
 11 MR. SHANDLER: Mr. Vice Chairman, No. 15 is
 12 going to be in executive session. So we can just pass
 13 over that.
 14 MR. COON: Okay.
 15 MR. SHANDLER: And continue on to 16 through
 16 20. Those will be announced in public session.
 17 ITEM NO. 16: CHRIS KEMP
 18 MR. COON: Okay. Number 16, disciplinary
 19 matter on Chris Kemp. The director.
 20 MR. HUBBARD: Mr. Vice Chair and members of
 21 the board, under tab No. 16 concerning Chris Kemp, on
 22 April 10th of 2009, Chris Kemp was involved in a
 23 domestic incident while off duty from his employment
 24 as a sergeant with the Lea County Sheriff's Office.
 25 Officers of the Hobbs Police Department

1 responded to a 911 call at Sergeant Kemp's residence.
 2 Upon arrival they found him highly agitated and
 3 intoxicated. Officers observed many broken items at
 4 the scene including items of Kemp's as well as his
 5 girlfriend.
 6 Sergeant Kemp used profanity towards the
 7 officers and pushed one of officers in an effort to
 8 make them leave his house. Sergeant Kemp threw a
 9 large planter which struck the foot of one of the
 10 officers, whereupon Sergeant Kemp was placed under
 11 arrest and transported to jail.
 12 At the jail Sergeant Kemp's unruly behavior
 13 continued with him threatening to harm himself, which
 14 necessitated the jailers entering his cell. He
 15 actively resisted the jailers, whereupon a drive stun
 16 from a taser was utilized to gain control of him.
 17 Ms. Medrano has the complete file if we have
 18 questions.
 19 The case was heard at the June 15, 2010,
 20 board meeting, which the board wanted to increase the
 21 sanctions of a one-year suspension and two years
 22 probation to a two-year suspension and three years
 23 probation. He was notified and served with a
 24 stipulated order of suspension and probation on
 25 September 19, 2011.

1 A Notice of Final Decision went out on
 2 October 3rd of 2011. And the respondent has failed to
 3 respond. My recommendation is revocation by default
 4 in that the respondent failed to respond to the
 5 stipulated order and the Notice of Final Decision.
 6 MR. COON: Okay. Thank you, sir. Do we vote
 7 on these now?
 8 MR. SCHULTZ: No. Ask if Mr. Kemp is here.
 9 MR. COON: Oh, I'm sorry. Is Mr. Kemp here?
 10 Mr. Kemp? It doesn't look like he's here.
 11 ITEM NO. 17: LIZETTE DEPEW
 12 MR. COON: Agenda Item 17, Lizette Depew.
 13 MR. HUBBARD: Mr. Vice Chair and members of
 14 the board, in the early morning hours of
 15 November 21st, 2009, officers of the Lovington Police
 16 Department were dispatched to a domestic fight in a
 17 public place. They encountered Lizette Depew walking
 18 in the area.
 19 At the time Lizette Depew was off-duty but
 20 employed as a telecommunicator with the Lovington
 21 Police Department. Ms. Depew ignored the officers'
 22 verbal communications and would not respond to them
 23 until they stepped in front of her.
 24 She denied being involved in an altercation.
 25 But officers learned from a witness that she had been

1 involved in a fight with two girls and the witness had
 2 tried to intervene. Ms. Depew battered said witness
 3 by scratching him on the face with her fingernails.
 4 Ms. Depew who appeared intoxicated was placed
 5 under arrest for battery against a household member.
 6 The witness she battered was a former boyfriend. And
 7 she received a conditional discharge from court.
 8 Again Ms. Medrano has the complete case file
 9 here if the board has any questions.
 10 This case was heard at the September 23rd,
 11 2010, board meeting, which the board wanted to
 12 increase the sanctions of a 45-day suspension to a
 13 60-day suspension. My recommendation is revocation by
 14 default in that the respondent has failed to respond
 15 to the stipulated order and subsequent Notice of Final
 16 Decision.
 17 MR. COON: Thank you, sir. Is Depew here?
 18 Is Ms. Depew here? It doesn't look like it.
 19 ITEM NO. 18: LAWRENCE MARES
 20 MR. COON: Let's go on please, sir.
 21 Mr. Director.
 22 MR. HUBBARD: On No. 18, Lawrence Mares, I
 23 would ask the board on this matter to table this for
 24 another board meeting. It is not ready.
 25 MR. COON: Okay. Anybody have any objections

1 to us tabling Lawrence Mares, No. 18? Okay.
 2 ITEM NO. 19: RICHARD FURLANO
 3 MR. COON: Let's go to No. 19. Mr. Director.
 4 MR. HUBBARD: Mr. Vice Chair and members of
 5 the board, in March of 2011, Richard Furlano was
 6 employed as a New Mexico State Police Officer. The
 7 investigation revealed a positive drug test for
 8 marijuana and also the recovery of a burnt marijuana
 9 cigarette.
 10 The case file is available here if you have
 11 any questions.
 12 Mr. Furlano was served a Notice of
 13 Contemplated Action in July of 2011. He never
 14 responded. The Notice of Final Decision was sent to
 15 him on August 22nd of 2011 with no response. My
 16 recommendation is revocation by default. Respondent
 17 has failed to respond to the Notice of Contemplated
 18 Action and the Notice of Final Decision.
 19 MR. COON: Mr. Furlano, are you here?
 20 Mr. Furlano. It looks liked Mr. Furlano is not here.
 21 ITEM NO. 20: BRAD AHRENSFIELD
 22 MR. COON: Okay. Number 20. Mr. Director.
 23 MR. HUBBARD: Mr. Vice Chair, members of the
 24 board, No. 20 is another one that I -- my
 25 recommendation at this time is to table this matter as

1 there is some additional work that needs to be done on
 2 this case before it's ready to present to the board.
 3 MR. COON: Okay. Does anybody have any
 4 problems with No. 20 being tabled? Seeing none. All
 5 right. Now, I guess we go into executive session.
 6 MR. SHANDLER: So, Mr. Chair, if you could
 7 entertain a motion and then you'll need a roll call on
 8 that motion.
 9 MR. COON: Okay. I need a motion to go into
 10 executive session.
 11 MR. KORN: I would so move.
 12 MR. COON: Okay. Mr. Korn. Do I have a
 13 second?
 14 MR. BETZ: Second.
 15 MR. COON: Okay. Roll call, please.
 16 MS. LOPEZ: Chief Shilling.
 17 MR. SHILLING: Here.
 18 MS. LOPEZ: Sheriff Coon.
 19 MR. COON: Here.
 20 MS. LOPEZ: Chief Betz.
 21 MR. BETZ: Here.
 22 MS. LOPEZ: Chief Schultz.
 23 MR. SCHULTZ: Yes.
 24 MS. LOPEZ: Mr. Myers.
 25 MR. MYERS: Yes.

1 MS. LOPEZ: Nate Korn.
 2 MR. KORN: Yes.
 3 MS. LOPEZ: And John Gratton is absent.
 4 MR. COON: Okay. If we would ask you all to
 5 leave so we can go into closed session and discuss
 6 informal hearings or formal hearings.
 7 (Recess from 1:00 p.m. to 2:30 p.m.)
 8 MR. COON: We're back in session. Roll call,
 9 Monique.
 10 MR. SHANDLER: Can we just have the motion to
 11 go back into session.
 12 MR. COON: Oh, I'm sorry. We need a motion
 13 to go back into session.
 14 MR. BETZ: I make the motion to go back into
 15 session.
 16 MR. SHILLING: Second.
 17 MR. COON: All in favor --
 18 MR. SHANDLER: Do a roll call vote, please.
 19 MS. LOPEZ: Chief Shilling.
 20 MR. SHILLING: Here.
 21 MS. LOPEZ: Sheriff Coon.
 22 MR. COON: Here.
 23 MS. LOPEZ: Chief Betz.
 24 MR. BETZ: Here.
 25 MS. LOPEZ: Chief Schultz.

1 MR. SCHULTZ: Yes.
 2 MS. LOPEZ: Mark Myers.
 3 MR. MYERS: Yes.
 4 MS. LOPEZ: Nate Korn.
 5 MR. KORN: Yes.
 6 MR. SHANDLER: Mr. Vice Chair, can you attest
 7 for the record that only the matters discussed in the
 8 executive session were those listed on the agenda.
 9 Can you do so?
 10 MR. COON: I can. And I can also say on No.
 11 21, William Cunningham, Chief Shilling excused
 12 himself.
 13 MR. SHANDLER: Mr. Vice Chairman, the first
 14 item is item 15, Gary Rodriguez under stipulated
 15 orders. Does the board have a motion to accept or
 16 reject the stipulated order?
 17 MR. MYERS: I move to accept the stipulated
 18 order on item 15.
 19 MR. COON: Do I have a second?
 20 MR. KORN: I'll second.
 21 MR. SCHULTZ: Actually, Mr. Vice Chairman, I
 22 believe we need to state that the order does include a
 23 three-month suspension, one-year probation, plus
 24 retaining for the record.
 25 MR. SHANDLER: Is that an accurate statement

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1 of the record, Mr. Moon?
2 MR. MOON: Yes, it is.
3 MR. SHANDLER: And you can just do a voice
4 vote going forward, you don't have to do a roll call.
5 MR. COON: Okay. All in favor say aye.
6 (Those in favor so indicate.)
7 MR. COON: Okay.
8 MR. SHANDLER: Mr. Vice Chairman, items 16,
9 17, and 19 are default orders. You can probably vote
10 on them together. So you can accept a motion to
11 accept or reject the default orders.
12 MR. COON: Okay. In the hearing of Chris
13 Kemp, Lizette Depew, and Richard Furlano, all in favor
14 say aye.
15 (Those in favor so indicate.)
16 MR. COON: All opposed. Okay. Those carry.
17 MR. SHANDLER: Hold on a second. I don't
18 know if I wrote down the motion or the second.
19 MR. SCHULTZ: Actually we need a motion.
20 MR. COON: Oh. Okay. I'm sorry.
21 MR. SCHULTZ: Mr. Chairman, I would like to
22 make the motion that we accept the revocation by
23 default orders on items 16, 17, and 19 in today's
24 agenda.
25 MR. SHILLING: Second.

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1 MR. COON: Okay. I have a second. Now, all
2 in favor say aye.
3 (Those in favor so indicate.)
4 MR. COON: All opposed. Thank you.
5 ITEM NO. 21: WILLIAM CUNNINGHAM
6 MR. SHANDLER: Mr. Vice Chairman, the next
7 item on the agenda is 21, formal hearings.
8 Mr. Chairman, I believe the motion you might be
9 looking for is a motion to accept the hearing
10 officer's report with the proposed penalty of
11 revocation for 18 months, three years concurrent
12 probation, six units of continuing education, as well
13 as language that if respondent violates the probation,
14 commits a second violation during the probation
15 period, the director will create an expedited process
16 or prioritize that matter. That's it.
17 MR. COON: Okay. Thank you. Do we have a
18 motion on that?
19 MR. KORN: I would so move, Mr. Vice
20 Chairman.
21 MR. COON: Second?
22 MR. SHILLING: Second.
23 MR. COON: Okay.
24 MR. SHILLING: Oh, I don't know if I should
25 second that one.

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1 MR. COON: No. You weren't here.
2 MR. SHILLING: No. Yeah, I wasn't here.
3 MR. SCHULTZ: I'll second that one.
4 MR. COON: Okay.
5 MR. SHANDLER: Hold on. Let's back up. Did
6 Mr. Korn make the motion?
7 MR. KORN: Yes. I'll take that back.
8 MR. MYERS: I'll make that motion.
9 MR. COON: Okay. We have a motion and a
10 second. All in favor say aye.
11 (Those in favor so indicate.)
12 MR. COON: All opposed.
13 ITEM NO. 22: CHRISTOPHER PINO
14 MR. SHANDLER: Mr. Vice Chairman, the next is
15 item 22, Christopher Pino. I believe you might be
16 looking for a motion to accept the hearing officer's
17 report. And perhaps -- one of the options, perhaps
18 item No. 2, and perhaps the person that makes the
19 motion might provide a one or two-sentence explanation
20 why the board chose that particular option.
21 MR. COON: Do I have a motion on Christopher
22 Pino?
23 MR. SCHULTZ: Mr. Chairman, I would like to
24 make the motion that we accept the hearing officer's
25 report and that we proceed with recommendation No. 2,

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1 due to the fact that in this particular case the
2 prosecutor had done what's described by this board as
3 a poor job. He was unprepared for the case, did not
4 subpoena the proper witnesses, nor lay the proper
5 foundation through the admittance of evidence
6 necessary for a successful prosecution in this case.
7 MR. COON: Do I have a second?
8 MR. MYERS: I'll second.
9 MR. COON: All in favor say aye.
10 (Those in favor so indicate.)
11 MR. COON: All opposed. Okay. That passes.
12 ITEM NO. 23: ERIC MADSEN
13 MR. SHANDLER: Okay. Mr. Chairman, the final
14 item for disciplinary matters is item 23, Eric Madsen.
15 I believe you might be looking for a motion to approve
16 the hearing officer's report with a proposed penalty
17 of a three-year revocation and a three-year concurrent
18 probation as well as that language about if there's a
19 violation during the probation period, the director
20 will have an expedited process for handling that
21 discipline.
22 MR. COON: Okay. Do I have a motion?
23 MR. SCHULTZ: Mr. Chairman, I'll make the
24 motion that we accept the hearing officer's
25 recommendation and report with a

1 three-year revocation, three-year probation, and any
 2 further violations would result in an expedited
 3 disciplinary process being initiated by the director.
 4 MR. COON: Okay. Do I have a second?
 5 MR. SHILLING: Second.
 6 MR. COON: Okay. All in favor say aye.
 7 (Those in favor so indicate.)
 8 MR. COON: All opposed. Okay that passes.
 9 That concludes our formal hearings.
 10 ITEM NO. 24: SCHEDULING OF NEXT MEETING
 11 MR. COON: Our next order is scheduling of
 12 the next meeting.
 13 MR. HUBBARD: Mr. Vice Chairman, members of
 14 the board, get your calendars out. What did appear to
 15 be a simple process of saying the next scheduled
 16 meeting is April 17th in Las Cruces, because of the
 17 action that the board has taken today, we're going to
 18 need to look at a satisfactory time to have another
 19 board meeting about halfway in between now and
 20 April 17th.
 21 And I know that many of you need to be taking
 22 into consideration items concerning your own agency as
 23 well as the legislative session and such.
 24 So, Mr. Vice Chair, I would request that you
 25 entertain a discussion amongst the board members as to

1 what would be satisfactory with them.
 2 MR. COON: Okay. Does anybody -- this is
 3 open for discussion. Does anybody have a good date
 4 that he would like to present out sometime it looks
 5 like middle -- the first to the middle of March maybe
 6 would be our six weeks.
 7 MR. KORN: Mr. Vice Chair, I would throw out
 8 any time the week of the 28th. That would be about
 9 six weeks. And I would be available that whole week.
 10 MR. HUBBARD: February 28th.
 11 MR. KORN: February 28th.
 12 MR. HUBBARD: February 28th is a Tuesday.
 13 MR. COON: This is a leap year too.
 14 MR. KORN: Oh, the 27th. So the 27th on I
 15 would be available if other board members are.
 16 MR. COON: Anybody opposed to the 27th of
 17 February?
 18 MR. BETZ: That would be a Monday, right?
 19 MR. SHILLING: That would be a Monday.
 20 MR. SCHULTZ: Mondays are usually pretty
 21 difficult. I could suggest March 1st, which is a
 22 Thursday, and make the Albuquerque Police Department
 23 Training Academy available, if that would work.
 24 MR. COON: Mr. Korn?
 25 MR. KORN: That's good for me.

1 MR. COON: Anybody have a problem with
 2 March 1st at the APD academy on what, 4th and Montano?
 3 MR. SCHULTZ: Second and Montano.
 4 MR. COON: Second and Montano.
 5 MS. LOPEZ: I'll make sure and get the notice
 6 out.
 7 MR. COON: Okay.
 8 MR. HUBBARD: Does nine o'clock work,
 9 ten o'clock?
 10 MR. COON: You know, for us that have to
 11 drive a long ways -- and I don't know how long it's
 12 going to be.
 13 MR. HUBBARD: Mr. Vice Chairman, members of
 14 the board, it would appear to me that these six
 15 in-between board meetings, if you will, that are going
 16 to fall in between our regularly scheduled meetings
 17 are largely going to be disciplinary matters; that
 18 normal routine agenda items and such will probably be
 19 at a minimum for these board meetings and we'll be
 20 dealing with the disciplinary matters.
 21 So we could probably cut to the chase and
 22 maybe do these things in a couple hours, three hours.
 23 MR. COON: Well, ten o'clock would work
 24 better for me, it gives me an extra hour to get up
 25 here. And I know driving from Las Cruces the same.

1 MR. SHILLING: Mr. Vice Chair, on that note
 2 real quick, the thought popped into my head in the
 3 hallway too. I don't know if maybe it would require
 4 the consent of the board or not, but to limit agenda
 5 items except for emergent things; maybe at the
 6 concurrence of the board for these special meetings to
 7 just disciplinary matters and not presentations or
 8 items otherwise considered routine that could be
 9 addressed at the regular quarterly meetings.
 10 MR. COON: Is ten o'clock all right with
 11 everybody, if we did it at ten on the 1st. And
 12 Monique will be sending out emails on it. Anybody
 13 else have anything right now they would like to bring
 14 up real quick before we adjourn? I know this has been
 15 another long day.
 16 MR. HUBBARD: Mr. Vice Chair, if I might, I
 17 just want to recognize my administrative assistant,
 18 Monique Lopez, for putting these binders together and
 19 setting up the meeting place and all that sort of
 20 stuff.
 21 MR. COON: She does a great job.
 22 MR. HUBBARD: Between her and Monica Medrano,
 23 me stepping in as the rookie academy director here, it
 24 would just absolutely be impossible. And I want to
 25 commend them publicly for all the assistance that they

1 are to the board and to me personally.
 2 MR. COON: They do a great job. And we
 3 appreciate them.
 4 MR. HUBBARD: Thank you.
 5 MR. KORN: Thank you.
 6 ITEM NO. 25: ADJOURNMENT
 7 MR. COON: Okay. That being said I need a
 8 motion to adjourn.
 9 MR. BETZ: I'll make that motion to adjourn.
 10 MR. COON: Second?
 11 MR. SHILLING: Second.
 12 MR. COON: All in favor say aye.
 13 (Those in favor so indicate.)
 14 MR. COON: We're adjourned.
 15 (At 2:45 p.m. the meeting was concluded.)

1 RECEIPT
 2 DATE: January 17, 2012
 3 JOB NUMBER: (3050K) JAW
 4 WITNESS NAME: LEA Board Meeting
 5 CASE CAPTION: LEA Board Meeting
 6 *****
 7 ATTORNEY: DPS/LOPEZ
 8 DOCUMENT: Transcript / Exhibits / Disks / Other ____
 9 DATE DELIVERED: _____ DEL'D BY: _____
 10 REC'D BY: _____ TIME: _____
 11 *****
 12 ATTORNEY: ZACHARY SHANDLER
 13 DOCUMENT: Transcript / Exhibits / Disks / Other ____
 14 DATE DELIVERED: _____ DEL'D BY: _____
 15 REC'D BY: _____ TIME: _____
 16 *****
 17 ATTORNEY:
 18 DOCUMENT: Transcript / Exhibits / Disks / Other ____
 19 DATE DELIVERED: _____ DEL'D BY: _____
 20 REC'D BY: _____ TIME: _____
 21 *****
 22 ATTORNEY:
 23 DOCUMENT: Transcript / Exhibits / Disks / Other ____
 24 DATE DELIVERED: _____ DEL'D BY: _____
 25 REC'D BY: _____ TIME: _____

1 REPORTER'S CERTIFICATE
 2
 3 I, JAN A. WILLIAMS, New Mexico CCR #14, DO
 4 HEREBY CERTIFY that on January 17, 2012, the
 5 proceedings in the above matter were taken before me,
 6 that I did report in stenographic shorthand the
 7 proceedings set forth herein, and the foregoing pages
 8 are a true and correct transcription to the best of my
 9 ability.
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22 _____
 23 JAN A. WILLIAMS, RPR
 24 Bean & Associates, Inc.
 25 New Mexico CCR #14
 License Expires: 12/31/12
 (3050K) JAW

A

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