

NEW MEXICO LAW ENFORCEMENT ACADEMY  
REGULAR BOARD MEETING

April 17, 2012

9:00 a.m.

The Dona Ana County Government Center  
845 N. Motel Boulevard  
Las Cruces, New Mexico 88007

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

Bean & Associates, Inc.

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4 **BOARD MEMBERS**

5 Gary King, Attorney General, Chairman

6 James R. Coon, Vice Chairman

7 Ray Schultz

8 Nate Korn

9 Harry Betz

10 Mark Myers

11 Robert Shilling

12 John Gratton

13 Patrick Barncastle

14

15 **ALSO PRESENT**

16 Louis Medina

17 Mark Reynolds

18 Monique Lopez

19 Monica Medrano

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1 **ITEM NO. 1: CALL TO ORDER**

2 **MR. KING:** So we'll call the meeting to

3 order, the meeting of the New Mexico Law Enforcement

4 Academy Board. We're pleased to be in Las Cruces

5 today, it's a nice day in Las Cruces.

6 For some of those of you who know our

7 meetings, we've changed the schedule a little bit. So

8 we're going to do the disciplinary matters up front,

9 because in our last two meetings that have had

10 disciplinary matters, we've had a lot of other

11 business to take care of and folks have had to sit

12 around and wait for us to take care of our other

13 business. So I don't know that we're going to do this

14 at every meeting, but I think that it sort of makes

15 sense to do this this morning.

16 **ITEM NO. 2: ROLL CALL**

17 **MR. KING:** To get the meeting started,

18 though, we will do roll call, which normally we just

19 do by getting everybody to introduce themselves down

20 the table. So I'll start down on the right here.

21 **MS. LOPEZ:** Monique, New Mexico Law

22 Enforcement Academy.

23 **MR. MEDINA:** Louis Medina, Director, New

24 Mexico Law Enforcement Academy.

25 **MR. GRATTON:** John Gratton, citizen

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<p>1 representative.</p> <p>2 MR. BARNCASTLE: Pat Barncastle, District</p> <p>3 Attorney's Office.</p> <p>4 MR. COON: Sheriff Rob Coon, sheriff's</p> <p>5 representative from Chaves County.</p> <p>6 MR. KING: Gary King, Attorney General.</p> <p>7 MR. SCHULTZ: Ray Schultz, Albuquerque Police</p> <p>8 Department, chief's representative.</p> <p>9 MR. SHILLING: Robert Shilling, New Mexico</p> <p>10 State Police.</p> <p>11 MR. MYERS: Mark Myers, line officer's rep.</p> <p>12 MR. BETZ: Howard Betz, Chief of Santa Ana,</p> <p>13 Indian Country representative.</p> <p>14 MR. KING: And Mr. Korn. How are you doing.</p> <p>15 Go ahead and sit down and introduce yourself.</p> <p>16 MR. KORN: Thank you. My name is Nate Korn,</p> <p>17 I'm one of the citizen representatives. And I'm sorry</p> <p>18 I'm late.</p> <p>19 MR. KING: No problem. We just got started.</p> <p>20 MR. KORN: Thank you.</p> <p>21 MR. KING: So we obviously have a quorum. I</p> <p>22 think we have everybody here this morning. So it's</p> <p>23 good to see all of you all this morning.</p> <p>24 ITEM NO. 3: APPROVAL OF AGENDA</p> <p>25 MR. KING: We do as the first item on the</p>	<p>1 agenda approval of the agenda. So are there any</p> <p>2 additions or corrections to the agenda? Monique.</p> <p>3 MS. LOPEZ: Yes. There has been three cases</p> <p>4 added and they're right there in your folder there.</p> <p>5 MR. KING: Okay.</p> <p>6 MS. LOPEZ: Items 10A, 10B, and 14A.</p> <p>7 MR. KING: I see. Okay. Any comments or any</p> <p>8 other additions?</p> <p>9 MR. GRATTON: I move for approval of the</p> <p>10 amended agenda.</p> <p>11 MR. KING: We have a motion to approve the</p> <p>12 agenda.</p> <p>13 MR. SCHULTZ: Second.</p> <p>14 MR. KING: Seconded. All in favor say aye.</p> <p>15 (Those in favor so indicate.)</p> <p>16 MR. KING: Any opposed?</p> <p>17 ITEM NO. 4: APPOINTMENT OF NEW DIRECTOR</p> <p>18 MR. KING: The next item which is going to be</p> <p>19 a very great pleasure for us I notice here is the</p> <p>20 appointment of a new director. Are you going to do</p> <p>21 this, Chief? Okay. The Secretary is not here today.</p> <p>22 MR. SHILLING: He's sorry he couldn't make</p> <p>23 it.</p> <p>24 MR. KING: All right. So I'm going to turn</p> <p>25 it over to Chief Shilling.</p>
<p>Page 8</p> <p>1 MR. SHILLING: If it's okay with the</p> <p>2 chairman.</p> <p>3 MR. KING: Please.</p> <p>4 MR. SHILLING: Mr. Chairman, members of the</p> <p>5 board, everyone knows me, I'm Robert Shilling, Chief</p> <p>6 of the State Police. Also by virtue of my position,</p> <p>7 I'm Deputy Secretary of Operations for the Department</p> <p>8 of Public Safety.</p> <p>9 And Cabinet Secretary Eden sends his best</p> <p>10 wishes. He couldn't make it today, but he asked me to</p> <p>11 introduce Louis to the board. And it's my distinct</p> <p>12 pleasure to be able to do so.</p> <p>13 Louis Medina was appointed director of the</p> <p>14 Law Enforcement Academy beginning March 5th of this</p> <p>15 year. And immediately prior to his hiring by the</p> <p>16 Department of Public Safety, Mr. Medina was a special</p> <p>17 agent with the U.S. Treasury based out of Denver,</p> <p>18 Colorado.</p> <p>19 He was also a special agent with the U.S.</p> <p>20 Forest Service. And included in his 31-year law</p> <p>21 enforcement career and background, he started his</p> <p>22 career with the Albuquerque Police Department in</p> <p>23 Albuquerque.</p> <p>24 Louis' background is solidly in law</p> <p>25 enforcement and most notably in those aspects</p>	<p>Page 9</p> <p>1 regarding training and performance, which makes him an</p> <p>2 outstanding candidate and fit to assume the</p> <p>3 directorship for the Law Enforcement Academy here in</p> <p>4 the State of New Mexico.</p> <p>5 He's done things such as supervised a lateral</p> <p>6 entry class at APD, Public Safety Aide cadet training,</p> <p>7 and was an adjunct instructor prior to leaving New</p> <p>8 Mexico with the Law Enforcement Academy in Santa Fe.</p> <p>9 This is a quote from the Cabinet Secretary.</p> <p>10 "Louis competed in a rigorous hiring regimen that</p> <p>11 resulted in his selection from among a number of top</p> <p>12 candidates. It is clear that Louis' diverse</p> <p>13 background in law enforcement will be a great benefit</p> <p>14 to the Department of Public Safety, to the Law</p> <p>15 Enforcement Academy Board, and especially to the</p> <p>16 citizens of New Mexico.</p> <p>17 "Accordingly, pursuant to NMSA 1978, Section</p> <p>18 29-7-4(A), I ask that this Law Enforcement Academy</p> <p>19 Board approve the hiring of Director Louis Medina by</p> <p>20 me, Gordon Eden, Cabinet Secretary, New Mexico</p> <p>21 Department of Public Safety. Thank you very much for</p> <p>22 your favorable action in this regard and for your</p> <p>23 selfless service to the law enforcement community and</p> <p>24 the citizens of New Mexico."</p> <p>25 And Mr. Medina's letter from the cabinet</p>

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<p>1 secretary introducing him to the board is part of your 2 packet this morning as well. And thank you very much, 3 Mr. Chairman. 4 MR. KING: You want to go ahead and make the 5 motion to approve him then? 6 MR. SHILLING: I would be honored to, sir. 7 Mr. Chairman, I move that we approve the hiring of 8 Louis Medina as Director of the Law Enforcement 9 Academy. 10 MR. BETZ: I'll second. 11 MR. KING: Seconded. Okay. Any discussion? 12 I'll take some discussion on this if any of you want 13 to make comments. Okay. 14 Mr. Medina, once we approve you, I'll give 15 you a chance to say a few statements and then you have 16 your director's report. 17 MR. MEDINA: Yes, sir. Thank you. 18 MR. KING: So seeing no discussion, all in 19 favor signify by saying aye. 20 (Those in favor so indicate.) 21 MR. KING: Any opposed? None opposed. 22 Mr. Medina, do you have comments that you want to make 23 currently or do you want to wait for your director's 24 report? 25 MR. MEDINA: If you don't mind, sir, I'll</p>	<p>1 wait for my director's report. 2 MR. KING: All right. We'll do that. 3 MR. MEDINA: Thank you. 4 MR. KING: We do have another brand-new 5 member today. And so I'm thinking maybe -- 6 MR. MEDINA: I would like to do that, sir. 7 MR. KING: Okay. 8 MR. MEDINA: Sir, we're talking about a 9 member of the board; is that correct? 10 MR. KING: Yes. 11 MR. MEDINA: And it is with great pleasure 12 that I introduce the new member of the board. And 13 that would be Pat Barncastle. And I do know him 14 personally from my years in law enforcement, we have 15 crossed paths. 16 And we knew him -- I knew him when I was with 17 the Forest Service. And my brother is a retired Game 18 and Fish officer. And I know that he's retired from 19 the Game and Fish Department. 20 Mr. Barncastle is originally from Las Cruces. 21 And he received his Bachelor's degree from New Mexico 22 State in 1976. He became a Game and Fish Officer and 23 eventually completed the Law Enforcement Academy in 24 Santa Fe in 1976. 25 He served in various district offices</p>
<p>Page 12</p> <p>1 throughout the state and was promoted to Southeast 2 Area Assistant Chief, where he supervised area 3 specialists, district supervisors, district personnel 4 in Southeastern New Mexico. 5 He was primarily responsible for special 6 investigations throughout the state including and 7 involving many federal jurisdiction investigations. 8 He spent 26 and a half years with the Game and Fish 9 Department. 10 And in 2004 he accepted employment as a 11 senior investigator with the Fifth Judicial District 12 Attorney's Office. He is now the lead investigator 13 where he currently supervisors three senior 14 investigators in Chaves County, Eddy County, and Lea 15 Counties. 16 I am pleased to announce and if you would 17 welcome him to the board. Mr. Barncastle. 18 MR. BARNCASTLE: Thank you, sir. 19 MR. KING: I don't think we have to take a 20 vote on that. Any comments that you want to make? 21 MR. BARNCASTLE: I'm just pleased to be part 22 of the staff and I'm looking forward to a challenging 23 time here. That's really about it. Thank you. 24 MR. KING: Okay. Do we have any other 25 preliminary business that we need to take care of?</p>	<p>Page 13</p> <p>1 All right. 2 ITEM NO. 5: CHRISTOPHER LeBATE 3 MR. KING: The next item on the agenda then 4 is disciplinary matters. We'll start with item No. 5. 5 Most folks will kind of know this, but I recuse myself 6 from the disciplinary matters. So I'm going to turn 7 the chair over to Sheriff Coon. 8 And it looks to me like maybe an hour and a 9 half's worth or something like that. So I'll be back 10 in an hour and a half. So I think one of my staffers 11 is here and will kind of keep me informed on this 12 stuff. But I'll be around. But, Sheriff Coon, I'm 13 going to turn the gavel over to you. 14 MR. COON: Okay. We have come to a 15 stipulated order on item No. 5 on the agenda. And it 16 will be Louis is it LeBate? 17 MR. MEDINA: Christopher LeBate I believe. 18 Christopher LeBate. This will be regarding 19 Christopher LeBate, Certification No. 08-011-P, as it 20 pertains to an approved Stipulated Order of Suspension 21 and Probation. This is my first time for presenting 22 these and I'm not sure if I am to read the entire -- 23 MR. KING: Make sure you speak up too. 24 MR. MEDINA: I'm not sure if I'm supposed to 25 read the entire packet on him or just, since the board</p>

<p style="text-align: right;">Page 14</p> <p>1 members have their agenda before them, if we want to 2 just provide that we have a stipulated order 3 agreement.</p> <p>4 MR. COON: I think generally, Mr. Medina, 5 we've been -- you've been reading the misconduct part 6 of it.</p> <p>7 MR. MEDINA: Okay. In the matter of 8 Christopher LeBate, Certification No. 08-0011-P, the 9 misconduct is on January 21st, 2011, respondent 10 battered a household member. A verbal dispute 11 escalated when the respondent put the victim in a 12 wrist lock and attempted to drag her from bed.</p> <p>13 On January 22nd, 2011, after being released 14 from jail for the incident described above, the 15 respondent claimed that he had chased a prowler 16 through the backyard. There was, however, only on the 17 scene a set of footprints. And those footprints 18 matched the footprints that the respondent was leaving 19 on the ground. Additionally the respondent had his 20 duty weapon in his back pocket despite being 21 intoxicated.</p> <p>22 In the informal hearing, the respondent was 23 served with a Notice of Contemplated Action on or 24 around July 12th, 2011. The respondent requested an 25 opportunity for the informal hearing. An informal</p>	<p style="text-align: right;">Page 15</p> <p>1 hearing was schedule for August 11, 2011. As a result 2 a Stipulated Order of Suspension was agreed upon.</p> <p>3 The director's recommendation is approve the 4 Stipulated Order of Suspension, four-month suspension, 5 one-year probationary period, and completion of a law 6 enforcement training course in ethics.</p> <p>7 MR. COON: Is Mr. LeBate here? Mr. LeBate, 8 are you here? Okay. Mr. LeBate is not here.</p> <p>9 ITEM NO. 6: LAWRENCE MARES</p> <p>10 MR. COON: We'll go on to No. 6, Lawrence 11 Mares.</p> <p>12 MR. MEDINA: In the matter of Lawrence Mares, 13 Certification No. 02-0151-P. The misconduct is that 14 on June 6, 2009, the respondent investigated a 15 domestic dispute. The following day he contacted the 16 female involved in the dispute to ascertain if she had 17 obtained information from the Victim Assistance Unit.</p> <p>18 The respondent later met the female victim at 19 a local casino. And he texted her on her phone and 20 they said hi to each other and nothing else. On 21 December 7th, 2009, while in the court setting before 22 the judge, the ex-boyfriend of the victim accused the 23 respondent of having a sexual relationship with his 24 ex-girlfriend. Both the respondent and the victim 25 denied it ever happened.</p>
<p style="text-align: right;">Page 16</p> <p>1 On a different incident, the respondent 2 investigated a traffic accident and started a friendly 3 relationship with the female involved in the traffic 4 accident. The relationship began the day of the 5 accident, when the respondent met the female victim to 6 give her a copy of the report.</p> <p>7 They both started texting each other. And on 8 October 30, 2009, the respondent drove to the female's 9 apartment and they both drove around in his police 10 unit and later parked and they kissed. He then drove 11 to her apartment where he took off his vest, uniform 12 shirt, and gun belt.</p> <p>13 From there they went to a dead-end street 14 near a residential area where they had sexual 15 intercourse in the vehicle. Later on he drove her 16 back to her apartment and dropped her off.</p> <p>17 The respondent told her that he had been in 18 trouble in the past for a relationship with a female. 19 The respondent texted her the next day and asked if 20 she was okay. On November 19th, 2009, the 21 respondent's supervisor received a complaint by the 22 same female against respondent.</p> <p>23 She told the supervisor that she had received 24 a call on November 18, 2009, from a restricted phone 25 number. While on the phone, she could hear a man</p>	<p style="text-align: right;">Page 17</p> <p>1 doing what she believed to be masturbating. And the 2 voice sounded like the respondent's voice and said the 3 same things the respondent had said to her during the 4 time they had engaged in consensual sex.</p> <p>5 During the informal hearing, the respondent 6 was served with a Notice of Contemplated Action. On 7 around August 11th, 2010, the respondent requested an 8 opportunity for an informal hearing. A stipulated 9 order was served and rejected by the respondent. A 10 notice of final determination was served on or around 11 December 10th, 2010. As a result a Stipulated Order 12 of Suspension was agreed upon.</p> <p>13 The director's recommendation is to approve 14 the Stipulated Order of Suspension which is a 15 six-month suspension, one-year probationary period, 16 and completion of a law enforcement training course in 17 ethics.</p> <p>18 MR. COON: Okay. Mr. Mares, are you here? 19 MR. MARES: Yes, sir. 20 MR. COON: Would you like to come up and 21 speak to the board, Mr. Mares. 22 MR. MARES: May I stand behind here, sir. My 23 name is Lawrence Mares with the Albuquerque Police 24 Department. I want to thank you for giving me an 25 opportunity here to speak today. This has been a long</p>

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<p>1 two and a half years, almost a year since this 2 incident first occurred.</p> <p>3 I cannot convey in words to you today how 4 long I've waited to come before you today. I cannot 5 convey in words today how hard I've worked for two and 6 a half years to rebuild my life first with God, my 7 family, with my peers and coworkers around me, and 8 with the citizens of Albuquerque Police Department. 9 Please know -- I'm a little bit nervous. Sorry.</p> <p>10 Please know that I have been in -- I have 11 immersed myself in my church and have been a teacher 12 of religious studies for 15 weeks now with the 13 Archdiocese of Santa Fe at St. Jude Thaddeus Church. 14 I teach sixth graders catechism. This was something 15 that was asked of me by the congregation. I have 16 never asked, this is something that I did through -- 17 for Sacrament of Reconciliation.</p> <p>18 I have also completed numerous ethic courses 19 through Legacy Church, a 15-week course with cleansing 20 work in 2010. And as a matter of fact, when I was 21 placed on admin leave, I did this on my own account, 22 not ever realizing that I would have my job again.</p> <p>23 Please know that my true work has been for 24 God and for my wife, reconciliation with my wife and 25 my three children. It's been hard. But I have a</p>	<p>1 brother who lives with me now who is also part of the 2 police department. And he's helped me with great 3 accountability including my wife and my family around 4 me.</p> <p>5 I am remorseful for having living the 6 lifestyle that I did in 2009. It was really a hard -- 7 from 2007 to 2009 really a hard two years with a lot 8 of -- with being -- I was ill for awhile. And it 9 just -- I was far from the church. I really was.</p> <p>10 But today I come before you as a proud member 11 of the police department knowing that my life has been 12 rebuilt. I just want to convey that to you, that I 13 work hard every day. I've been doing a 15-week Bible 14 study with a scripture group company with the Catholic 15 church. And I've been asked actually to teach Bible 16 study now.</p> <p>17 I am pursuing a Bachelor's degree with Lewis 18 University for Christian studies. And I hope to 19 someday obtain my Master's degree with my theological 20 studies. I just want to thank you again. I know I 21 don't have a whole lot of time to explain myself.</p> <p>22 But I want you to know that I'm a productive 23 member of the police department. I've been working 24 for two and a half years without any complaints. As a 25 matter of fact, with a letter of commendation from my</p>
Page 20	Page 21
<p>1 chain of command in 2011. Thank you again and God 2 bless you.</p> <p>3 MR. COON: Anyone have any questions for 4 Mr. Mares?</p> <p>5 I do. Mr. Mares, what was -- are you still 6 working for Albuquerque Police Department?</p> <p>7 MR. MARES: Yes, sir. I've been on for 8 approximately ten years now.</p> <p>9 MR. COON: Were you suspended for this action 10 or what kind of disciplinary action did you receive?</p> <p>11 MR. MARES: Yes, sir. In 2010 I received a 12 200-hour suspension, loss of my work vehicle for a 13 month. And then I was placed -- after the 200-hour 14 suspension, about a month without pay, I was 15 reinstated to the Southeast Area Command in 16 Albuquerque, where I've continued to work since then.</p> <p>17 I now work in the Northwest Area Command for 18 Commander Steve Warfield, Northwest Albuquerque, in 19 the Ventana Ranch area.</p> <p>20 MR. COON: Anybody have any questions? Thank 21 you, Mr. Mares.</p> <p>22 MR. MARES: Thank you.</p> <p>23 ITEM NO. 7: BRANDON CARR</p> <p>24 MR. COON: Okay. We'll go to No. 7 for 25 Brandon Carr.</p>	<p>1 MR. MEDINA: In the matter of Brandon Carr, 2 Certification No. 08-0222-P, the misconduct is that on 3 November 6th, 2009, the respondent used deadly force 4 when not necessary resulting in the death of Rodrick 5 Jones.</p> <p>6 While investigating a potential burglary, the 7 respondent made contact with Jones who reached into 8 his pocket where there was a brown and silver object. 9 The respondent fired a shot at Jones, who fell. Jones 10 got up and ran to the front door and reached toward 11 his pocket again.</p> <p>12 The respondent fired two more shots at Jones 13 who fled from the scene. Jones was taken into custody 14 and taken to the hospital, where he died from his 15 injuries. The object in the pocket appears to have 16 been a bottle of tequila which had high velocity blood 17 spatter on it, despite the statement of the respondent 18 and the other officer present at the time that it 19 never came all the way out of Jones' pocket.</p> <p>20 The respondent was served with a Notice of 21 Contemplated Action on or around November 15th, 2010. 22 The respondent's attorney responded and requested an 23 informal hearing on November 30, 2010. An informal 24 hearing was scheduled on February 8, 2012. The 25 respondent's attorney was present and agreed to the</p>

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<p>1 voluntary relinquishment on behalf of the respondent.  2 MR. COON: Okay. Is Mr. Carr here? Brandon  3 Carr? Mr. Carr is not here.  4 ITEM NO. 8: BERT LOPEZ  5 MR. COON: Let's go on to No. 8, Bert Lopez.  6 MR. MEDINA: In the matter of Bert Lopez,  7 Certification No. 05-0287-P, during the months of June  8 or July 2011, while in uniform and displaying his  9 badge of office, the respondent was caught on a Santa  10 Fe County Sheriff's Department pole camera having sex  11 with an unknown female on the hood of a gray Honda  12 four-door passenger car.  13 The respondent's action brought discredit and  14 disrepute upon himself as a law enforcement officer as  15 well as upon the Department of Public Safety and New  16 Mexico State Police.  17 The respondent was served with a Notice of  18 Contemplated Action around February 16th, 2012. The  19 respondent requested an opportunity for an informal  20 hearing. An informal hearing was scheduled for  21 March 22nd, 2012. As a result a Stipulated Order of  22 Suspension was agreed upon.  23 The director's recommendation is to approve  24 the stipulated order of suspension, two-month  25 suspension, one-year probationary period, and attend</p>	<p>1 and complete an ethics training course.  2 MR. COON: Okay. Mr. Lopez, are you here?  3 Bert Lopez? Okay. Mr. Lopez is not here.  4 MR. SCHULTZ: Mr. Chairman, if I may.  5 MR. COON: Yes, sir.  6 MR. SCHULTZ: A question for the director.  7 Why the discrepancy in the difference between case  8 No. 8 with Mr. Lopez and case No. 6 with Officer  9 Mares? Both of them involve sexual acts on duty. And  10 there seems to be a pretty big difference between the  11 proposed discipline.  12 MR. MEDINA: Hold on just a minute, sir.  13 Mr. Lopez was the first informal hearing that I had --  14 that I conducted while -- after I took the position of  15 director. And based on the penalty assessment  16 guidelines, I made the decision on Mr. Lopez. The  17 decision made on Mr. Mares had been made prior to my  18 arrival.  19 MR. SCHULTZ: So you didn't look at previous  20 cases to kind of get a feel of how the board -- I mean  21 not just Mares. But other cases where there's been  22 acts that have been obviously in the case of Mr. Lopez  23 very much out in the media.  24 I mean I think we all saw that news clip on  25 the news for about a week and a half on every</p>
<p>1 newscast. I mean that's one of the things I know the  2 board takes very seriously, is misconduct, especially  3 misconduct that paints all of law enforcement in a  4 very bad light because of the fact that it is out in  5 the public and the media.  6 Historically something like Mr. Lopez is  7 usually a suspension, a revocation of about 90 days,  8 and usually we'll allow things to go -- to be  9 mitigated. Did Mr. Lopez do anything to basically  10 mitigate or take responsibility for his actions?  11 MR. MEDINA: Yeah. Based on my recollection  12 of the informal hearing, he was, of course,  13 remorseful. He had told me that he was attending  14 counseling with his wife, that he was able to keep his  15 marriage intact, and that he was going through  16 counseling with his wife for his marriage and for  17 other counseling regarding himself regarding his  18 behavior.  19 He told me that he was also being consulted  20 by District Attorney's Offices who were still  21 continuing to prosecute his cases. And he was acting  22 as an advisor to the cases at that time.  23 I realize there is a discrepancy. I take  24 full responsibility for the decision I made knowing  25 that there was a discrepancy. And no, I didn't</p>	<p>1 research anything on prior cases. And I know that  2 this may not be a good reflection, but that was the  3 determination I made at the time. And I would accept  4 the board's -- any of the board's recommendations to  5 change that.  6 MR. SCHULTZ: Thank you, sir.  7 MR. GRATTON: Mr. Chairman, Director Medina,  8 Sheriff Coon, and Chief Schultz, I don't see a whole  9 lot of difference between Mr. Mares' case and  10 Mr. Lopez's case. And to me it stands out one is  11 getting six months.  12 And what -- Mr. Mares came before us and told  13 us the actions he's taken is similar to what the  14 director says that Mr. Lopez is saying. I just don't  15 think it's fair to give one a six-month suspension and  16 the other one two. Something just doesn't mesh with  17 me on that one.  18 MR. COON: Okay. Anybody else have anything?  19 Chief Shilling, is he still working State Police?  20 MR. SHILLING: No, sir. He's no longer  21 employed in the agency.  22 MR. COON: Okay. Any other questions?  23 MR. MEDINA: And I might add that during our  24 informal hearing, he did state that he had applied for  25 a couple police departments. He said that he was</p>

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<p>1 rejected by UNM PD because they didn't hire people who 2 had been terminated.</p> <p>3 Another was that he was in the process at the 4 time at Rio Rancho PD. And there was not -- he had 5 gone pretty far in the process and as of that time had 6 not yet been hired. They knew of his situation 7 pending before the board. And as far as he knew, he 8 believed that there was a very likelihood of 9 potentially being hired by the Rio Rancho Police 10 Department.</p> <p>11 MR. COON: Any other comments or questions? 12 Chief Shilling.</p> <p>13 MR. SHILLING: Mr. Vice Chairman, just kind 14 of in defense of Director Medina, he wasn't in the 15 state of New Mexico during that firestorm involving 16 this case. So he didn't have that frame of reference 17 for lack of a better term in adjudicating this case. 18 So I just wanted to get that on the record.</p> <p>19 MR. COON: Okay. Thank you, Chief.</p> <p>20 ITEM NO. 9: BENJAMIN AZACARTE</p> <p>21 MR. COON: Let's go to No. 9, Benjamin 22 Azacarte.</p> <p>23 MR. MEDINA: In the matter of Benjamin 24 Azacarte, on June 15th, 2010, the respondent was 25 involved in an off-duty incident which occurred at</p>	<p>1 1201 East Amador in Las Cruces. The respondent 2 identified himself as a sheriff to Mike Catalino, a 3 person he had a verbal altercation with in the bowling 4 alley.</p> <p>5 The respondent was arrested for negligent use 6 of a firearm. During the investigation allegations 7 revealed that the respondent displayed and worked the 8 action of a pistol when Mr. Catalino walked past his 9 truck. The respondent said he never removed the 10 pistol from the holster. But he did admit to moving 11 his pistol from the door to the center console of his 12 truck.</p> <p>13 The respondent was served with a Notice of 14 Contemplated Action. On around February 8, 2012, the 15 respondent requested an opportunity for an informal 16 hearing. The hearing was scheduled for March 6th, 17 2012. As a result a Stipulated Order of Suspension 18 was agreed upon.</p> <p>19 The director's recommendation is to approve 20 the Stipulated Order of Suspension, a 90-day 21 retroactive suspension beginning on the 12th day of 22 September 2, 2011, one-year probationary period, and 23 attend and complete an alcohol screening program once 24 a quarter during the one-year probationary period. 25 I would also like to add during this time,</p>
<p>Page 28</p> <p>1 this was the first informal hearing that I was present 2 with during Acting Director Hubbard's -- this was the 3 first informal hearing that was conducted. And this 4 was conducted by the former Acting Director Bill 5 Hubbard. And he conducted this informal hearing while 6 I sat back and watched. And that's how the 7 determination was made on this case.</p> <p>8 MR. COON: Thank you, sir. Mr. Azacarte, are 9 you here?</p> <p>10 MR. AZACARTE: Yeah.</p> <p>11 MR. COON: Would you like to come up. Please 12 state your name.</p> <p>13 MR. AZACARTE: Good morning. I'm Benjamin 14 Azacarte. Thank you for giving me the opportunity to 15 speak. That was -- I spent two years with that on my 16 shoulders. I was put on paid leave right after the 17 incident. And I was terminated from the Sheriff's 18 Department July 1st of that year.</p> <p>19 I spent a good while unemployed. And then I 20 went back to my old teaching job, which was teaching 21 after school soccer program to kinder through second 22 grade. I did that for almost seven months. I had 23 stayed unemployed.</p> <p>24 I stopped drinking, stopped going out and 25 partying, changed my way of life, became a homebody</p>	<p>Page 29</p> <p>1 and just stayed in shape, trying to get on with 2 another police force. I got the opportunity to get on 3 with the town of Mesilla Marshalls. And I've been 4 there since September of this year. So seven months, 5 going on seven months.</p> <p>6 That was just a lot of weight on my shoulder. 7 I'm glad it's off. And I hope that you guys give me 8 the opportunity to continue with my law enforcement 9 career. I know I'm young at the career, barely two 10 years in. But it's a career that I want to continue 11 in and hope to make big strides in. So thank you.</p> <p>12 MR. COON: Thank you. Anybody have any 13 questions of Mr. Azacarte?</p> <p>14 MR. SCHULTZ: Mr. Chairman, I have a 15 question. Mr. Azacarte, when did you receive your 16 certification in law enforcement?</p> <p>17 MR. AZACARTE: Do you mind if I check my -- 18 MR. SCHULTZ: Well, if I tell you it was 19 January of 2010.</p> <p>20 MR. AZACARTE: Yes, sir.</p> <p>21 MR. SCHULTZ: And this incident happened in 22 June of 2010. So basically within six months of 23 graduating from the academy.</p> <p>24 MR. AZACARTE: Yes.</p> <p>25 MR. SCHULTZ: And the reason why I bring that</p>



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<p>1 to your attention and for everybody else in the 2 audience, obviously it's one of the things this board 3 looks at, is when the misconduct takes place in 4 respect to when you went to the academy. 5 MR. AZACARTE: Yes, sir. 6 MR. SCHULTZ: And do you remember the classes 7 in the academy that talked about your duties as a 8 police officer? 9 MR. AZACARTE: Yes, sir. 10 MR. SCHULTZ: Negligent possession of a 11 firearm, alcohol, and all the problems that it can 12 cause for officers? 13 MR. AZACARTE: Yes, sir. I learned it the 14 hard way. 15 MR. SCHULTZ: Thank you, sir. 16 MR. AZACARTE: Okay. 17 MR. COON: Any other questions, comments? 18 MR. MYERS: I have one. Mr. Azacarte, what 19 was the disposition on your charge? 20 MR. AZACARTE: It was dropped down to 21 disorderly conduct. And I got a conditional 22 discharge. And I served I think it was a six-month 23 probation. No jail time or nothing else. 24 MR. COON: Anybody else have any questions? 25 MR. SHILLING: Real quick.</p>	<p>1 MR. COON: Yes, sir. 2 MR. SHILLING: Is any of your current chain 3 of command here today to speak on your behalf? 4 MR. AZACARTE: No, sir. 5 MR. SHILLING: Okay. Thank you. 6 MR. COON: Anybody else? 7 MR. KORN: I have a question, Mr. Vice Chair. 8 MR. COON: Yes, sir. Mr. Korn. 9 MR. KORN: For Mr. Medina. The penalty is a 10 90-day retroactive suspension as I read it. 11 MR. MEDINA: Yes, sir. 12 MR. KORN: But in general the board has a 13 policy against retroactive suspensions. 14 MR. MEDINA: That came to my attention after 15 this was imposed and that's when I became aware of it. 16 MR. KORN: Thank you. 17 MR. MEDINA: Yes, sir. 18 MR. COON: Anybody else? Thank you, 19 Mr. Azacarte. 20 MR. AZACARTE: Thank you. 21 ITEM NO. 10: JEFFREY GAZDIK 22 MR. COON: We come to No. 10, Jeffrey Gazdik. 23 MR. MEDINA: In the matter of Jeffrey Gazdik, 24 on September 20, 2011, the respondent received as 25 evidence from a business establishment a suspected</p>
<p>Page 32</p> <p>1 counterfeit \$10 bill that had been accepted by the 2 business establishment during the normal course of 3 business and later discovered by the management to be 4 a suspected counterfeit bill. 5 Subsequently the respondent placed the 6 suspected counterfeit bill in the property locker as 7 evidence and marked it with a case number. 8 Approximately a month later, it was noted that the 9 respondent had failed to fill out an evidentiary 10 inventory sheet, which should have been filled out at 11 the time the evidence was turned in with information 12 identifying the suspected \$10 bill. 13 The respondent was informed by his supervisor 14 to fill out the inventory sheet as soon as possible. 15 The following day the respondent provided an evidence 16 inventory sheet along with an evidence bag containing 17 a \$10 bill identified as a counterfeit \$10 bill and 18 had previously been turned in as evidence. 19 When questioned about the second \$10 bill, 20 the respondent admitted that he had forgotten that he 21 had already turned in the suspected counterfeit bill; 22 and thinking that he had lost it, he attempted to 23 falsify the evidence by substituting a legitimate \$10 24 bill for the counterfeit \$10 bill that had already 25 been tagged into evidence.</p>	<p>Page 33</p> <p>1 As a result of this incident, the respondent 2 became a target of an Internal Affairs investigation, 3 which revealed other inappropriate acts listed below 4 which could be construed as misconduct. 5 Incident No. 1, on Saturday October 15, 2011, 6 the respondent and his girlfriend consumed alcoholic 7 beverages in a bar in Ruidoso, New Mexico. While at 8 the same bar, a male person -- a male individual 9 bought several drinks for the respondent's girlfriend. 10 Later, after leaving the bar, the respondent 11 became extremely angry, punching the steering wheel. 12 And his aggression turned mentally into wanting to 13 hurt or kill the male person that had bought the 14 drinks for her. The respondent drove with an open 15 container and later retrieved his personal firearm 16 from the glove compartment and allegedly threatened 17 suicide by pointing his handgun to his head. 18 Incident No. 2, on October 31st, 2011, the 19 respondent was involved in an argument with a motorist 20 after the respondent was observed speeding in an area 21 where kids were trick or treating. Respondent 22 admitted speeding and apologized to the people who 23 were in the area. 24 He indicated that the other motorist threw 25 what he thought was a can of spray paint at his</p>

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<p>1 vehicle because he was accused of speeding. And 2 that's one of the reasons they argued. Later the same 3 night, the respondent was reported waiting on the 4 street and yelling and very upset.</p> <p>5 When contacted by a supervisor who located 6 the respondent yelling on a public street, the 7 respondent appeared to be highly intoxicated and told 8 the supervisor that he could not handle anymore. 9 Although the respondent was being disrespectful to his 10 supervisor, the supervisor was able to convince the 11 respondent to accept a ride to his sister's house.</p> <p>12 Respondent was served with a Notice of 13 Contemplated Action on or around March 15, 2012. 14 Mr. Gazdik responded and requested an informal 15 hearing. The hearing was scheduled for April 10, 16 2012. As a result a Stipulated Order of Suspension 17 was agreed upon.</p> <p>18 The director's recommendation is to approve 19 the Stipulated Order of Suspension, one-year 20 suspension, two-year probationary period, obtain an 21 alcohol screening and assessment, and completion of a 22 law enforcement training course in ethics.</p> <p>23 MR. COON: Thank you, Mr. Medina. Is 24 Mr. Gazdik here? 25 MR. JEFFREY GAZDIK: Hello, gentlemen. Thank</p>	<p>1 you for the opportunity to speak with you. The 2 allegations from the police department regarding my 3 discipline and things like that I've spoken with the 4 director about is being embellished and out of context 5 and also moved in sequential order. Some of those 6 things didn't happen in the order that they are 7 documented.</p> <p>8 The frustrating thing for me is the -- is 9 having been dealing with that. I'm not employed by a 10 law enforcement agency. I'm employed by a detention 11 center currently. I'm going to be remaining there 12 until October of this year, the 22nd, when I'll be 13 shipping out to Fort Benning, Georgia. I enlisted 14 into the Army.</p> <p>15 I'm not here to, you know, let you all know 16 that I'm staying in law enforcement and I want to keep 17 my certification. What I'm here to do is clear my 18 name. If it was factual, I would just say, hey, I did 19 it, it's factual. But like I said there's a lot of 20 embellishment, things are taken out of context.</p> <p>21 And it's frustrating. They're getting third 22 and fourth-hand information that just isn't accurate. 23 I was very compliant with the investigation process 24 and I told them everything that had happened and took 25 responsibility for the actions that I did. And I</p>
<p>Page 36</p> <p>1 disputed the ones that I didn't. 2 And that's what I've done throughout this 3 process. I do have letters from -- a commendation 4 letter from October 16th from the chief of the police 5 department. I have a letter from a citizen commending 6 me from my service that same summer prior. I have a 7 letter from my current boss commending me for my 8 service at the jail.</p> <p>9 I was recently promoted to a shift 10 supervisor. These incidents are isolated. This was a 11 rough time in my life in which, you know, I was taking 12 certain medication for HIV. I was exposed to blood in 13 a hospital setting. And those medications made me 14 hallucinate and act quite weird for about a week and a 15 half.</p> <p>16 And if any of you have taken that, I would 17 hope you understand it's not a fun thing to be in. 18 But that's what I've got. And if I can present those 19 letters for the board to review, I would appreciate 20 it. That's all I have to say.</p> <p>21 MR. COON: Anybody have any questions of 22 Mr. Gazdik? 23 Mr. Gazdik, when you were taking these drugs, 24 were you still working? 25 MR. JEFFREY GAZDIK: Yes, sir.</p>	<p>Page 37</p> <p>1 MR. COON: And you had this anxiety, yet you 2 kept working while you were taking these drugs that 3 were making you hallucinate? 4 MR. JEFFREY GAZDIK: I was keeping my 5 supervisor abreast of what was happening. I would 6 tell him everything of what had happened. One day I 7 did go home sick because of a pounding headache, I 8 just couldn't handle it. All of the hallucinations 9 happened after off-duty hours.</p> <p>10 But at the same time, I was keeping my 11 supervisor abreast. One of the reasons -- I would 12 have just called in the whole thing. But I had quite 13 a bit of overtime, about 36 hours in that same week 14 that I didn't want to lose. So I tried to tough 15 through it.</p> <p>16 I also will add that I am eligible for 17 reemployment with the City of Roswell. And I -- 18 through an agreement with the city, I resigned.</p> <p>19 MR. BARNCASTLE: Mr. Gazdik, did your 20 supervisor document the reports that you made to him 21 regarding your medication and was that brought forward 22 during the internal investigation? 23 MR. JEFFREY GAZDIK: No, sir. The internal 24 investigation -- like I said none of this came up 25 after the internal investigation. All this had</p>

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<p>1 happened before. I was put on administrative leave 2 before my investigation. Then I was put on 3 administrative leave again after the internal 4 investigation began.</p> <p>5 MR. BARNCASTLE: Were those reports that you 6 made to him documented?</p> <p>7 MR. JEFFREY GAZDIK: He didn't document them, 8 no, sir. They referred me to the psychologist there 9 at the -- that they have working for the police 10 department. And I spoke with him, shared everything 11 with him. He cleared me to go back to work.</p> <p>12 However, the police department didn't even 13 receive a letter that I was cleared to go back before 14 they called me back to work. I still have not 15 received a letter of clearance or anything like that.</p> <p>16 And that was in October, that was before -- 17 or I'm sorry. Yes, sir, in October is when that had 18 happened. October 7th is when I was exposed. And I 19 was referred to the psychologist after the incident 20 October 15th.</p> <p>21 MR. COON: You said you had been cleared of 22 the charges?</p> <p>23 MR. JEFFREY GAZDIK: Yes, sir.</p> <p>24 MR. COON: And you were afforded your job 25 back at Roswell Police Department?</p>	<p>1 MR. JEFFREY GAZDIK: I was -- in an agreement 2 with them, I told them that I did not want to go back 3 to the police department. One, because of the way it 4 was handled. I told them I didn't want to go back. I 5 wanted to maintain my certification and continue in 6 law enforcement in this state. But I've chosen a 7 different path in the last probably about four months 8 or two months.</p> <p>9 MR. COON: Anybody else have any questions of 10 Mr. Gazdik?</p> <p>11 MR. KORN: I have a question, Mr. Vice Chair.</p> <p>12 MR. COON: Mr. Korn.</p> <p>13 MR. KORN: Mr. Gazdik, if you have chosen 14 another profession and you're going to be going into 15 the military, would you be willing to relinquish your 16 law enforcement certification to the board?</p> <p>17 MR. JEFFREY GAZDIK: You know, I don't 18 understand what that -- those repercussions would be 19 later on. I'm not familiar with how I would go 20 obtaining it later and everything like that, sir. I 21 wouldn't be able to make an informed decision because 22 I'm not familiar with that.</p> <p>23 MR. KORN: So as for voluntarily 24 relinquishing your certification since you'll be 25 taking a new path, you wouldn't be interested in that?</p>
<p>Page 40</p> <p>1 MR. JEFFREY GAZDIK: Is there a wait period 2 from the period of time that -- I mean if I completed 3 my military career and wanted to come back, I mean I'm 4 wondering how long it would be relinquished for?</p> <p>5 MR. KORN: These are the things you can talk 6 to the director about afterwards. I had one other 7 question for you. Our packet says that you were 8 saying that you couldn't handle it anymore. Are these 9 things that you were screaming during that second 10 incident?</p> <p>11 MR. JEFFREY GAZDIK: Whenever I spoke with 12 him, the screaming at the time was him calling me on 13 the phone, was my family calling me on the phone. And 14 I just didn't want to talk to them. I was just leave 15 me alone, I'm walking, just leave me alone.</p> <p>16 When I had spoke with him, I told him the 17 same thing, hey, I don't -- I don't want to talk, I 18 don't want to do anything. And he said, hey, just 19 talk, me to you. And he was familiar with some of the 20 things I had gone through, losing a child and things 21 like that, that were tough for me.</p> <p>22 And the statement that I made as far as that 23 goes is everything that was going on there at the 24 police department regarding the discipline and 25 everything like that, I told him I'm just at my wit's</p>	<p>Page 41</p> <p>1 end. I don't know what I'm doing anymore, I'm at a 2 complete loss. I mean it just seems like every time I 3 come back to work, I'm getting in trouble again. And 4 I didn't know what was going on.</p> <p>5 MR. KORN: I understand you were under a lot 6 of stress. But had you said those words?</p> <p>7 MR. JEFFREY GAZDIK: Yes, sir.</p> <p>8 MR. KORN: I gather you had. Thank you. 9 Thank you, Mr. Vice Chair.</p> <p>10 MR. COON: Thank you. Mr. Gazdik, did you 11 bring letters for everybody or just one set?</p> <p>12 MR. JEFFREY GAZDIK: I brought one set.</p> <p>13 MR. COON: You can bring them up and we'll 14 review them.</p> <p>15 MR. JEFFREY GAZDIK: The top two are copies, 16 the rest are originals.</p> <p>17 MR. COON: Is that all you have, Mr. Gazdik?</p> <p>18 MR. JEFFREY GAZDIK: Yes, sir.</p> <p>19 MR. COON: Okay. Thank you.</p> <p>20 ITEM NO. 10A: ERIC PADILLA</p> <p>21 MR. COON: Okay. Now, we go to the amended 22 agenda with Eric Padilla.</p> <p>23 MR. MEDINA: In the matter of Eric Padilla, 24 Certification No. 10-0219-P, on May 27th, 2011, the 25 respondent was arrested by New Mexico State Police on</p>

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<p>1 charges of battering a household member, interference 2 with communications, and criminal damage to property. 3 The respondent and his live-in girlfriend 4 were involved in an argument about another female the 5 respondent was having a relationship with. During the 6 argument respondent followed the girlfriend into her 7 den and broke through the door to get his cellular 8 phone. 9 The respondent stated that the two began to 10 argue. And he grabbed her by the shoulders and pushed 11 her away from his possessions. He held her by the 12 arms to keep her from calling the police. 13 The respondent was served with Notice of 14 Contemplated Action on or around March 16, 2012. The 15 respondent requested an opportunity for an informal 16 hearing. An informal hearing was scheduled for 17 April 12th. As a result a Stipulated Order of 18 Suspension was agreed upon. 19 The director's recommendation is to approve 20 the Stipulated Order of Suspension regarding a 21 four-month suspension, one-year probationary period, 22 and provide proof of completion of life skills 23 training imposed by a preprosecution diversion. And 24 that was in relation to this criminal matter. 25 MR. COON: Okay. Thank you, Mr. Medina.</p>	<p>1 Mr. Padilla, are you here, Eric Padilla? Eric 2 Padilla? Okay. Mr. Padilla obviously is not here. 3 ITEM NO. 10B: RICHARD AYALA 4 MR. COON: Then we'll go to 10B, Richard 5 Ayala. 6 MR. MEDINA: In the matter of Richard Ayala, 7 Certification No. 09-0033-P, on December 16, 2010, the 8 respondent visited his cousin who was an inmate at the 9 Southern New Mexico Correctional Facility. 10 During this visit respondent provided the 11 inmate with confidential law enforcement information. 12 This was done without authorization. And the 13 respondent was not forthcoming with information about 14 the conversation except when asked specifically about 15 it. 16 The respondent was served with a Notice of 17 Contemplated Action around July 12th, 2011. 18 Respondent failed to respond. Respondent was served 19 with a Notice of Final Decision on or around 20 December 30th, 2011. The respondent responded and 21 requested an informal hearing. A stipulated order was 22 agreed upon. 23 The director's recommendation is approve the 24 Stipulated Order of Suspension for one-year 25 suspension, two-year probationary period, 24 hours of</p>
<p>1 community service, and complete a law enforcement 2 training course in ethics. 3 MR. COON: Thank you, sir. Mr. Ayala, are 4 you here? Richard Ayala? 5 MR. SCHULTZ: Mr. Chairman, a question for 6 the director. 7 MR. COON: Yes, sir. 8 MR. SCHULTZ: Mr. Medina, the nature of the 9 information that was given to the inmate, was that 10 information of a nature that would put a police 11 officer's life into jeopardy should it come into the 12 wrong hands or would it have compromised an officer's 13 safety I guess is the best way of saying that? 14 MR. MEDINA: Sir, I don't know. This was a 15 case that was -- the informal hearing was conducted on 16 July 12th, 2011. Just give me a minute here, sir. 17 MR. COON: Are you familiar with the case? 18 MR. MEDINA: I'm not familiar with the case. 19 MR. COON: You fellows from Las Cruces, would 20 one of you come up and explain to us the case on this. 21 MR. MILLER: Hi. Chris Miller, Deputy Chief 22 of the Las Cruces PD. I don't have all the facts at 23 hand. But from my recollection he contacted his 24 cousin or his brother in prison, gave him the 25 information, including a snitch's name.</p>	<p>1 And we felt that that information could 2 potentially be used against an officer or put that 3 other party's life at risk. But I'm sorry, I don't 4 have all the exact details. 5 MR. COON: I think that's plenty right there. 6 MR. MYERS: I do have one question. Did his 7 cousin have any affiliation with any gang members or 8 security threat groups? 9 MR. MILLER: If I remember correctly, his 10 cousin was a leader in the Barrio Aztecas. 11 MR. COON: Thank you, Chief. Anybody else 12 have any comments on Mr. Ayala? 13 Now, we move to voluntary relinquishments. 14 MR. SHILLING: Mr. Vice Chair, just real 15 quick, item No. 10, that officer's father is in the 16 audience. And he asked me about addressing the board. 17 And I had him sign on the comments portion. But I 18 didn't know if the board wanted to entertain him 19 before you move on from stipulated orders. 20 MR. COON: Anybody have any problem? That 21 would be fine. On No. 10, Mr. Gazdik. 22 MR. TERRY GAZDIK: Hi. I'm Terry Gazdik, 23 Jeff's dad. I know you all are talking about my son's 24 honesty. And I don't think there's a better man here 25 today as far as his honesty, his integrity, his</p>

<p style="text-align: right;">Page 46</p> <p>1 willingness to do his job.  2 I went through a lot of this with him when he  3 was going through his medication. And why they put  4 him back to work, I didn't quite understand it, but  5 they did.  6 And, you know, some of his faults may be his  7 honesty. The information that they have here they  8 wouldn't even have had they not said, Jeff, let us  9 know what's going on with you, we can work with you,  10 we can help you.  11 Well, he turns around and unloads on them and  12 they file charges on him. To me that's not the police  13 department helping. I mean I just don't quite  14 understand it. I understand that a lot of these  15 choices were his. I'm not saying that he's a perfect  16 person. I know I'm not.  17 As far as the gun going to his head, that  18 night he probably shouldn't have touched his weapon.  19 But he was off. And I have hallucinated so I  20 understand where he's coming from. When you lose  21 control, it's a scary thing.  22 He unloaded his weapon and he threw it in the  23 back seat. If he had handed it to his girlfriend, you  24 know, she doesn't know what to do with it. But that  25 was the best thing he could do at the time. He had to</p>	<p style="text-align: right;">Page 47</p> <p>1 make a decision. I stand behind that decision.  2 As far as the gun, you know, what are we all  3 trained? You're trained to unload your gun and put  4 the hammer down. He put the hammer down, the gun went  5 in the back seat, the chamber was empty.  6 And she read into it -- she calls my  7 daughter. My daughter had just gone through a  8 traumatic thing with her boyfriend or her husband,  9 lost a dear friend. He had just shot himself. This  10 is all within like three days.  11 Well, she reacts. I tried to talk with Jeff  12 to understand what was going on. I did and he  13 explained to me what had happened. Well, she called  14 the police department and turned him in for suicide.  15 That was not true. And it's not taken off the record.  16 I went up and tried to talk to the police  17 department. And they said, well, it's an ongoing  18 investigation, we can't do anything about it. But the  19 records still stand. And there are so many untruths  20 in that.  21 Boy, when they asked for evidence, they  22 didn't say your paperwork was missing. They said  23 evidence was missing. Well, the evidence, the only  24 evidence there was that \$10 bill. So he looks through  25 three different cars that he had within a week's time</p>
<p style="text-align: right;">Page 48</p> <p>1 because of transmission problems and other things that  2 were going on with it. He finally finds a \$10 bill,  3 turns it in, thank heaven, and they file charges on  4 him.  5 It's a pretty big mixup. And I understand  6 that you have to make a decision as you go with those.  7 But when the evidence is out of context, I just really  8 hope you give it a good thorough look here. There  9 were things that we tried to change. They just  10 wouldn't allow us to.  11 He's the kind of guy that runs into things,  12 not away from it. He didn't go with counsel because  13 he figured, if he told the truth, it would stand.  14 Well, he's told the truth and this is where we are.  15 The state makes promises that they don't  16 keep. By him turning in his resignation, they were  17 supposed to pull this. Well, the chief doesn't  18 remember that now. Thank heaven he had the letters he  19 turned in today for rehire, because they denied that.  20 But it's in writing.  21 And you, sir, you just asked him what about  22 resigning your license. This is how we got to this  23 point. Every time he gets somewhere, they say, well,  24 what about resigning this or what about quitting the  25 police department, what about -- and now here you are</p>	<p style="text-align: right;">Page 49</p> <p>1 saying what about resigning. Every time they just  2 take a little nip out of him. I'm really frustrated  3 with it. I appreciate the time to talk. Thank you.  4 MR. COON: Thank you, Mr. Gazdik.  5 ITEM NO. 11: LONNIE BERRY  6 MR. COON: Now, we'll go to voluntary  7 relinquishment. Lonnie Berry.  8 MR. MEDINA: In the matter of Lonnie Berry,  9 Certification No. 85-0282-P, on December 8th, 2011,  10 the respondent was arrested in Roosevelt County on a  11 criminal complaint filed by a special agent of the  12 Roosevelt County District Attorney's Office.  13 The charges included three counts of  14 tampering with public records without lawful authority  15 by removing, shredding, or concealing eight traffic  16 citations issued by Portales police officers. On  17 February 16th, 2012, the respondent entered into a  18 guilty plea agreement in the Ninth Judicial District  19 Court.  20 Under the terms of the agreement, the  21 respondent agreed to relinquish his police officer  22 certification with the New Mexico Law Enforcement  23 Academy Board and in accordance with New Mexico  24 Statutes Annotated 29-7-13. The respondent also  25 agreed not to reapply for any law enforcement</p>

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<p>1 certification or law enforcement position and/or job.  2 The director's recommendation is ratify  3 voluntary relinquishment.  4 MR. COON: Okay. Is Mr. Berry here? Lonnie  5 Berry?  6 ITEM NO. 12: MICHAEL EISKANT  7 MR. COON: Okay. Let's go to No. 12.  8 MR. MEDINA: Number 12 would be Michael  9 Eiskant.  10 MR. COON: Michael Eiskant.  11 MR. MEDINA: In the matter of Michael  12 Eiskant, Certification No. 97-0182-P.  13 MS. MEDRANO: This one didn't come about in  14 regards to an LEA-90. This came about as a  15 disposition made by the Second Judicial District  16 Court.  17 MR. MEDINA: Well, on April 5th, 2012, the  18 respondent entered into a plea and disposition  19 agreement in the Second Judicial Court. Under the  20 terms of the agreement, the respondent agreed to  21 immediately resign his certification as a sworn law  22 enforcement officer in the State of New Mexico. The  23 respondent also agrees to never again become a  24 certified law enforcement officer anywhere in the  25 United States.</p>	<p>1 The director's recommendation is ratify  2 voluntary relinquishment. At this time, board  3 members, his misconduct to the best of my recollection  4 is regarding some criminal matters involving sexual  5 matters.  6 MR. COON: Is Mr. Eiskant here? I think this  7 has been very documented on the news also.  8 MR. MEDINA: The director's recommendation is  9 to ratify voluntary relinquishment.  10 ITEM NO. 13: NICOLE BREESE  11 MR. COON: And now to No. 13, Nicole Breese.  12 MR. MEDINA: In the matter of Nicole Breese,  13 Certification No. 08-0005-PST, between the dates of  14 June 17th, 2010, and June 18th, 2010, the respondent  15 was employed as a 9/11 telecommunicator with the  16 Albuquerque Police Department, at which time she used  17 her position to harass her ex-boyfriend, father of her  18 children, by sending officers to detain him based on a  19 warrant that did not exist.  20 When it was determined that there was no  21 outstanding warrant for the ex-boyfriend, the  22 respondent was questioned by investigators and was  23 untruthful when answering questions related to the  24 nonexistent warrant. The respondent was terminated by  25 her employing agency.</p>
<p>Page 52</p> <p>1 The respondent was served with a Notice of  2 Contemplated Action on or around June 15th, 2011. She  3 did not respond to the Notice of Contemplated Action.  4 On January 5th, 2012, the respondent was served with a  5 Notice of Final Decision via certified mail. The  6 respondent has failed to respond.  7 The director's recommendation is revocation  8 by default. The respondent failed to respond to the  9 NCA and the NFD.  10 MR. COON: Is Nicole Breese here, Nicole  11 Breese? Okay. Ms. Breese is not here.  12 ITEM NO. 14: PHILLIP RAEL  13 MR. COON: Let's go on to No. 14, Phillip  14 Rael.  15 MR. MEDINA: In the matter of Phillip R.  16 Rael, Certification No. 95-0072-P, on May 30th, 2011,  17 two seasonal employees requested to speak with  18 Mr. Jimenez, Park Superintendent, regarding the  19 respondent's behavior due to an incident that occurred  20 on May 22, 2011.  21 The two employees informed the park  22 superintendent that the respondent was looking in at  23 one of the two female employees while she was in the  24 women's bathroom located on the east side of Elephant  25 Butte Lake State Park, the main administrative</p>	<p>Page 53</p> <p>1 building.  2 As a result of the accusation of voyeurism,  3 the Superintendent Dunlap requested the assistance of  4 the New Mexico State Police. On Tuesday, June 7th,  5 2011, an agent interviewed the respondent after he was  6 informed of his Miranda rights and was also informed  7 of the incident he was investigating.  8 The respondent initially stated that he did  9 not recall the incident. Later he recalled the  10 incident and denied looking into the bathroom window.  11 However, the respondent stated that he had gone  12 outside to the back of the building to call his wife.  13 When the agent asked to see his phone and to pull up  14 the exact call so his statement could be verified, he  15 refused.  16 This incident is not the first time the state  17 Parks Division has received a complaint about the  18 respondent inappropriately watching women in bathrooms  19 located within Elephant Butte Lake State Park.  20 On July 30th, 2006, a park visitor reported  21 that she had removed her clothing and entered the  22 women's shower at the Rock Canyon Comfort Station.  23 Her husband left to go to town and get coffee. While  24 shampooing her hair, she reached for a dry towel to  25 dry her face, when she saw an Hispanic male watching</p>

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<p>1 her through the gaps in the shower door.</p> <p>2 Upon her husband's return, they proceeded to</p> <p>3 the main office to the park. The Hartfords were</p> <p>4 reporting the incident to Ranger Burns. As soon as</p> <p>5 Ranger Burns learned that a park employee was</p> <p>6 possible, she called her supervisor which happened to</p> <p>7 be the respondent.</p> <p>8 When the respondent arrived at the Hartfords,</p> <p>9 the Hartfords identified the respondent as the</p> <p>10 employee they saw at the Rock Canyon Comfort Station.</p> <p>11 Ms. Hartford identified the respondent as the person</p> <p>12 that was looking at her. In a written statement</p> <p>13 provided by the respondent, he admitted to being in</p> <p>14 the area during the same time the incident occurred.</p> <p>15 On August 18th, 2006, as a result of the</p> <p>16 investigation, the respondent received a letter</p> <p>17 notifying him that his authority as a law enforcement</p> <p>18 employee with the park was suspended until further</p> <p>19 notice.</p> <p>20 On September 20, 2006, the respondent was</p> <p>21 provided a letter conditionally reinstating his law</p> <p>22 enforcement authority based on his successful</p> <p>23 participation and training on ethics and avoiding</p> <p>24 sexual harassment claims.</p> <p>25 The respondent was served with a Notice of</p>	<p>1 Contemplated Action on or around February 10, 2012.</p> <p>2 He did not respond to the Notice of Contemplated</p> <p>3 Action. On February 29th, 2012, the respondent was</p> <p>4 served with a Notice of Final Decision via certified</p> <p>5 mail. The respondent has failed to respond.</p> <p>6 The director's recommendation is revocation</p> <p>7 by default. Respondent failed to respond to a Notice</p> <p>8 of Final Decision.</p> <p>9 MR. COON: Thank you, sir. Mr. Rael, are you</p> <p>10 here? Phillip Rael?</p> <p>11 ITEM NO. 14A: ALLAN GARLEY</p> <p>12 MR. COON: Okay. We'll go on to No. 14A,</p> <p>13 which is Allan Garley.</p> <p>14 MR. MEDINA: In the matter of Allan J.</p> <p>15 Garley, Certification No. 09-0213-P, on November 23rd,</p> <p>16 2010, the respondent provided an applicant packet</p> <p>17 containing personal history, a personal history</p> <p>18 statement to the Sandoval County Sheriff's Office for</p> <p>19 employment.</p> <p>20 Based on the information provided by the</p> <p>21 applicant, he was hired by the Sandoval County</p> <p>22 Sheriff's Office as a deputy on probationary status.</p> <p>23 On January 5th, 2011, the sheriff received information</p> <p>24 that the respondent may have provided false or</p> <p>25 incomplete information on the personal integrity</p>
<p>Page 56</p> <p>1 questionnaire that the respondent had filled out as</p> <p>2 part of the background hiring process.</p> <p>3 Through further investigation, it was</p> <p>4 revealed that there were two civil actions against</p> <p>5 Valencia County arising from incidents related to the</p> <p>6 respondent's official duties as deputy sheriff</p> <p>7 representing Valencia County.</p> <p>8 In one of the questions that specifically</p> <p>9 addressed if the applicant was ever a plaintiff,</p> <p>10 petitioner, or respondent in a civil action or</p> <p>11 proceeding, the respondent answered no. Based on that</p> <p>12 information, the respondent was told that he was going</p> <p>13 to be terminated. And he asked and was given the</p> <p>14 opportunity to resign instead of being fired.</p> <p>15 The respondent was served with a Notice of</p> <p>16 Contemplated Action around February 8th, 2012. He did</p> <p>17 not respond to the Notice of Contemplated Action. On</p> <p>18 March 1st, 2012, the respondent was served with a</p> <p>19 Notice of Final Decision via certify mail. The</p> <p>20 respondent has failed to respond.</p> <p>21 The director's recommendation is revocation</p> <p>22 by default. The respondent failed to respond to the</p> <p>23 NFD.</p> <p>24 MR. COON: Thank you, Mr. Medina. Is Allan</p> <p>25 Garley here? Allan Garley? Okay. He is not here.</p>	<p>Page 57</p> <p>1 ITEM NO. 15: DAVID ANTONELLI</p> <p>2 MR. COON: Okay. Number 15 is a formal</p> <p>3 hearing on David Antonelli.</p> <p>4 MR. SCHULTZ: That's for closed session.</p> <p>5 MR. COON: Oh. I'm sorry.</p> <p>6 MR. SHILLING: Mr. Vice Chair.</p> <p>7 MR. COON: Chief Shilling.</p> <p>8 MR. SHILLING: On disciplinary matters on the</p> <p>9 agenda, when you go to closed session, for the record</p> <p>10 I will be abstaining from item No. 8 and item No. 12.</p> <p>11 MR. COON: Anybody else need to recuse</p> <p>12 themselves? Chief.</p> <p>13 MR. SCHULTZ: Mr. Chairman, if I may, for the</p> <p>14 record I will be required to recuse myself on item No.</p> <p>15 6, Lawrence Mares; No. 7, Brandon Carr; No. 13, Nicole</p> <p>16 Breese; and No. 15, David Antonelli.</p> <p>17 MR. COON: Anybody else need to recuse? Yes,</p> <p>18 sir.</p> <p>19 MR. MYERS: Sheriff Coon, I'll be recusing</p> <p>20 myself from 10B, Richard Ayala.</p> <p>21 MR. COON: Anybody else need to recuse</p> <p>22 themselves from anything? Okay. We need to take a</p> <p>23 roll call to go into closed session.</p> <p>24 MS. LOPEZ: John Gratton.</p> <p>25 MR. GRATTON: Yes.</p>

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<p>1 MS. LOPEZ: Nate Korn.  2 MR. KORN: Yes.  3 MS. LOPEZ: Mark Myers.  4 MR. MYERS: Yes.  5 MS. LOPEZ: Chief Schultz.  6 MR. SCHULTZ: Yes.  7 MS. LOPEZ: Chief Betz.  8 MR. BETZ: Yes.  9 MS. LOPEZ: Sheriff Coon.  10 MR. COON: Yes.  11 MS. LOPEZ: Chief Shilling.  12 MR. SHILLING: Yes.  13 MS. LOPEZ: Pat Barncastle.  14 MR. BARNCASTLE: Yes.  15 MR. COON: What we're going to ask you all to  16 do is everybody is going to have to leave. Feel free  17 to roam the halls or whatever. But we will call you  18 all back in after we've finished our closed session.  19 (Recess from 10:15 a.m. to 11:35 a.m.)  20 MR. COON: We're back from closed session.  21 Let the record reflect that the only thing discussed  22 during the closed session was what pertained to the  23 disciplinary portion of our meeting.  24 And with that I would call for a roll call  25 please, ma'am.</p>	<p>1 MS. LOPEZ: Pat Barncastle.  2 MR. BARNCASTLE: Here.  3 MS. LOPEZ: Chief Shilling.  4 MR. SHILLING: Here.  5 MS. LOPEZ: Sheriff Coon.  6 MR. COON: Here.  7 MS. LOPEZ: Chief Betz.  8 MR. BETZ: Here.  9 MS. LOPEZ: Chief Schultz.  10 MR. SCHULTZ: Yes.  11 MS. LOPEZ: Mark Myers.  12 MR. MYERS: Yes.  13 MS. LOPEZ: Nate Korn.  14 MR. KORN: Yes.  15 MS. LOPEZ: John Gratton.  16 MR. GRATTON: Here.  17 MR. COON: We're back now on No. 5,  18 Christopher LeBate. Does the board have a  19 recommendation on Mr. LeBate?  20 MR. SCHULTZ: Mr. Chairman, I make the motion  21 that we accept the director's recommendation in the  22 Stipulated Order of Suspension, the suspension being  23 four-months, one-year probationary period, and  24 completion of a law enforcement training course on  25 ethics.</p>
<p>Page 60</p> <p>1 MR. COON: Do I have a second?  2 MR. GRATTON: Second.  3 MR. COON: All in favor say aye.  4 (Those in favor so indicate.)  5 MR. COON: Okay. What is the pleasure of the  6 board on No. 6, Lawrence Mares? Do we have a motion  7 on the recommendation on Mr. Mares?  8 MR. KORN: Mr. Vice Chairman, I would make a  9 motion that we approve the director's recommendation  10 and the agreement of Mr. Mares to accept a six-month  11 suspension, one-year probation, and the completion of  12 a law enforcement training course in ethics.  13 MR. COON: Thank you.  14 MR. MYERS: I'll second.  15 MR. COON: Mr. Myers seconded. All in favor  16 say aye.  17 (Those in favor so indicate.)  18 MR. SCHULTZ: Mr. Chairman, if the record  19 would please reflect that I recused myself in the  20 matter of Lawrence Mares.  21 MR. COON: Okay. Thank you, sir. Number 7,  22 Brandon Carr. What's the board's pleasure on that?  23 MR. KORN: Mr. Vice Chair, I make a motion  24 that we accept the director's recommendation of  25 voluntarily relinquishment of his law enforcement</p>	<p>Page 61</p> <p>1 certification.  2 MR. BETZ: I second that.  3 MR. COON: A second. All in favor say aye.  4 (Those in favor so indicate.)  5 MR. COON: Thank you.  6 MR. SCHULTZ: Mr. Chairman, the same comment,  7 that I recused myself in the case of Brandon Carr.  8 MR. COON: Okay. On No. 8, Bert Lopez,  9 what's the board's wishes on that?  10 MR. SCHULTZ: Mr. Chairman, I would make the  11 motion that we reject the Notice of Contemplated  12 Action as recommended by the director in this  13 particular case due to the fact that this is not  14 consistent with other cases that have been in front of  15 the board, that a more appropriate recommendation  16 would be a suspension in the area of four months, plus  17 the one-year probationary period, and training in  18 ethics; and would recommend the director take that  19 offer or recommendation back to Mr. Carr.  20 MR. COON: Thank you. Do I have a second?  21 MR. GRATTON: I'll second.  22 MR. COON: Mr. Gratton seconded. All in  23 favor say aye.  24 (Those in favor so indicate.)  25 MR. SHILLING: Mr. Vice Chairman, please let</p>



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<p>1 the record reflect that on item No. 8, Bert Lopez, I 2 recused myself. 3 MR. COON: Thank you, Chief Shilling. 4 Okay. Number 9, Benjamin Azacarte. What is 5 the board's pleasure on that? 6 MR. MYERS: I would make a motion that we 7 reject the recommendation based on the fact that it 8 would be more consistent with our practices that the 9 suspension not be retroactive. 10 MR. COON: To make it what? 11 MR. MYERS: To make it a 90-day suspension 12 starting -- a 90-day suspension beginning the 12th day 13 of -- or as of this day with a one-year probationary 14 period and a ten-day complete alcohol screening 15 program once a quarter during the one-year 16 probationary period. 17 MR. COON: Okay. Do I have a second? 18 MR. SHILLING: Second. 19 MR. COON: All in favor say aye. 20 (Those in favor so indicate.) 21 MR. COON: Okay. On Jeffrey Gazdik, what's 22 the board's wishes on that? Do I have a motion on 23 Mr. Gazdik? 24 MR. KORN: Mr. Vice Chair, I make a motion 25 that we accept the recommendation of the director as</p>	<p>1 he had indicated. 2 MR. COON: Which is, Mr. Korn? 3 MR. KORN: Which is one-year suspension, 4 two-year probationary period, obtain an alcohol 5 screening and assessment, and completion of a law 6 enforcement training course on ethics. 7 MR. COON: Okay. Do I have a second? 8 MR. MYERS: Second. 9 MR. COON: All in favor say aye. 10 (Those in favor so indicate.) 11 MR. COON: Number 11 we can do -- well, 11 12 and 12, we'll just do them one at a time. On Lonnie 13 Berry on a voluntary relinquishment, what is the 14 board's wishes? 15 MR. MYERS: I make a motion that we accept 16 the recommendation for voluntary relinquishment. 17 MR. COON: Do I have a second? 18 MR. KORN: I second. 19 MR. MEDINA: Mr. Vice Chair, I think we might 20 have missed 10A and 10B, sir. 21 MR. COON: You're right. Let's go ahead and 22 finish this one. All in favor say aye. 23 (Those in favor so indicate.) 24 MR. COON: Okay. On No. 10A, Eric Padilla. 25 MR. GRATTON: Mr. Vice Chair, I make a motion</p>
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<p>1 that we accept the Stipulated Order of Suspension, a 2 four-month suspension, one-year probationary period, 3 and provide proof of completion of life skills 4 training. 5 MR. COON: Do I have a second? 6 MR. SCHULTZ: Second. 7 MR. COON: All in favor say aye. 8 (Those in favor so indicate.) 9 MR. COON: Number 10B, Richard Ayala. 10 MR. SCHULTZ: Mr. Chairman, I make the motion 11 that we reject the director's recommendation as 12 proposed here today. 13 MR. COON: Okay. 14 MR. SCHULTZ: Let the record reflect that the 15 board feels that the recommendation by the director is 16 insufficient and a more severe discipline would be 17 more appropriate in this particular matter. 18 MR. COON: Okay. 19 MR. GRATTON: I'll second that. 20 MR. COON: Okay. We've got a motion and a 21 second. All in favor say aye. 22 (Those in favor so indicate.) 23 MR. COON: The motion carried. 24 MR. MYERS: Mr. Vice Chair, would you make 25 the note that I recused myself in that case.</p>	<p>1 MR. COON: I sure will. Now, we've already 2 done 11. Let's do 12, Michael Eiskant. 3 MR. MYERS: I make a motion that we accept 4 the voluntary relinquishment for Mr. Eiskant. 5 MR. BETZ: I'll second it. 6 MR. COON: A motion and a second. All in 7 favor say aye. 8 (Those in favor so indicate.) 9 MR. SHILLING: Mr. Vice Chairman, please let 10 the record reflect that I recused myself from 11 Mr. Eiskant as well. 12 MR. COON: Okay. On No. 13, the default 13 order of revocation on Nicole Breese. 14 MR. SHILLING: Mr. Vice Chairman, I make a 15 motion that we accept the recommendation of the 16 director for the relinquishment of certification. 17 MR. COON: Okay. And for the record Chief 18 Schultz recused himself on this. 19 MR. SCHULTZ: As a point of order, 20 Mr. Chairman, on this particular case, I believe the 21 recommendation was revocation by default. So the 22 record probably needs to actually reflect that. 23 MR. SHILLING: I'll restate my motion, that 24 we accept the director's recommendation of revocation 25 by default.</p>

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<p>1 MR. MYERS: I'll second.  2 MR. COON: All in favor say aye.  3 (Those in favor so indicate.)  4 MR. COON: Okay. Number 14, Phillip Rael.  5 What's the board's pleasure?  6 MR. SCHULTZ: Mr. Chairman, I make the motion  7 that we accept the director's recommendation of  8 revocation by default in the case of Phillip Rael.  9 MR. COON: Okay. Do I have a second?  10 MR. SHILLING: Second.  11 MR. COON: Chief Shilling seconded. All in  12 favor say aye.  13 (Those in favor so indicate.)  14 MR. COON: And then on No. 15, David  15 Antonelli.  16 MR. SCHULTZ: It's 14A.  17 MR. COON: Sorry. On No. 14A.  18 MR. MYERS: I make a motion that we accept  19 the director's recommendation for a revocation by  20 default on Mr. Garley.  21 MR. COON: Do I have a second?  22 MR. GRATTON: Second.  23 MR. COON: Okay. Mr. Gratton seconded. All  24 in favor say aye.  25 (Those in favor so indicate.)</p>	<p>1 MR. COON: Number 15, David Antonelli on a  2 formal hearing. Do I have a recommendation or a  3 motion on Mr. Antonelli?  4 MR. KORN: Mr. Vice Chair, I would make a  5 motion that we accept the hearing officer's  6 recommendation to deny the application to the  7 respondent at this time.  8 MR. GRATTON: Second.  9 MR. COON: Okay. I have a motion and a  10 second. All in favor say aye.  11 (Those in favor so indicate.)  12 MR. COON: Okay.  13 MR. REYNOLDS: Mr. Vice Chair, if I may, the  14 record should reflect that Mr. Medina was excused from  15 executive session for the board's deliberation of that  16 matter.  17 MR. SCHULTZ: Mr. Chairman, also I would  18 recuse myself from this case as well since the  19 gentleman was an applicant to the Albuquerque Police  20 Department.  21 MR. COON: Chief Schultz recused himself. I  22 think that is it as far as all disciplinary matters.  23 Mr. King is not here.  24 MR. SCHULTZ: Yes, he is.  25 MR. COON: Okay. You're back there.</p>
<p>Page 68</p> <p>1 MR. KING: I'm thinking, Mr. Chairman, that  2 you guys might need a break. But let me get up there  3 and we'll talk about the rest of our schedule today  4 and then we'll decide what we're going to do.  5 Okay. So let's have a little discussion  6 about our schedule here and we'll kind of decide I  7 think whether we want to work through lunch or  8 whatever we have.  9 Just looking at the agenda, approval of the  10 minutes obviously doesn't take long. The director's  11 report, Mr. Director, how long do you think it will  12 take for your report?  13 MR. MEDINA: No more than ten minutes, sir.  14 MR. KING: Okay. Public comments, do we have  15 anybody signed up for public comments? Okay.  16 Ratifications, those go pretty quickly. Discussion of  17 proposed rule change, I suspect that that's really  18 just a proposal that won't take too long.  19 I actually believe that Mr. Korn's items  20 won't take as long as we have in some meetings past.  21 But people may want to get some lunch and get  22 fortified before we get into that part. And then  23 schedule the next meeting.  24 So it would be my hope that we could wrap up  25 by around two o'clock today or so so people can try</p>	<p>Page 69</p> <p>1 and get on the road and get back to where they are  2 going. And I think that is doable.  3 So the question I sort of have for the  4 committee is do you want to take a half an hour or  5 45-minute break for lunch or something and maybe do it  6 now or do you want to go for a while and see how we  7 get along and see if we can get done in time so that  8 we can just break and go get lunch on our way home?  9 I'm a little bit amenable to any of those.  10 Discussion from the board? Do you want to try and  11 keep working for awhile and see how we move?  12 MR. BARNCASTLE: I'm okay with that.  13 MR. KING: Okay. I don't know if you guys  14 have had any breaks. Should we take a ten-minute  15 break?  16 MR. COON: We just finished one.  17 MR. KING: Okay. If you took a break, that's  18 fine. I just wasn't here for that.  19 ITEM NO. 16: APPROVAL OF MINUTES, MARCH 1, 2012  20 MR. KING: All right. In that case let's  21 move on to new business. The first item on new  22 business is item No. 16, approval of the minutes. Is  23 there any discussion or additions or corrections to  24 the minutes?  25 MR. KORN: Mr. Chairman, could I comment on</p>

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<p>1 those minutes, please.</p> <p>2 MR. KING: I'm sorry. Mr. Korn.</p> <p>3 MR. KORN: May I make a comment on the</p> <p>4 minutes.</p> <p>5 MR. KING: Go ahead.</p> <p>6 MR. KORN: I have sat here almost two years.</p> <p>7 And during those two years, we've had the same</p> <p>8 stenographer almost all the time. And I have seen</p> <p>9 many, many stenographers over the course of practicing</p> <p>10 law for 35 years. And I can say that Jan Williams is</p> <p>11 probably the best stenographer that I've ever seen.</p> <p>12 And I know that because I read the minutes.</p> <p>13 There's never an issue that I've ever found. And we</p> <p>14 always approve the minutes without commenting because</p> <p>15 we take it as a matter of almost, you know,</p> <p>16 computer-like purpose. But in truth there's a lot of</p> <p>17 skill and art involved.</p> <p>18 And she does an absolutely excellent job.</p> <p>19 And I think it's worthy of noting on the record what a</p> <p>20 great job we get from the stenographer that we have</p> <p>21 facing our presence.</p> <p>22 MR. KING: Agreed. Thank you, Mr. Korn. I</p> <p>23 think we all agree with that.</p> <p>24 (Applause.)</p> <p>25 MR. KING: Thanks, Nate. I appreciate that.</p>	<p>1 MR. KORN: Thank you.</p> <p>2 MR. KING: So seeing no additions or</p> <p>3 corrections, I'll take a motion to approve.</p> <p>4 MR. GRATTON: Move for approval.</p> <p>5 MR. KING: We have a motion to approve. Is</p> <p>6 there a second?</p> <p>7 MR. COON: I'll second.</p> <p>8 MR. KING: Seconded by Sheriff Coon. All in</p> <p>9 favor say aye.</p> <p>10 (Those in favor so indicate.)</p> <p>11 MR. KING: Any opposed? All right. The</p> <p>12 motion is carried.</p> <p>13 ITEM NO. 17: DIRECTOR'S REPORT</p> <p>14 MR. KING: The next item on the agenda is the</p> <p>15 director's report. And, Mr. Director, I was thinking</p> <p>16 while we were here, I wonder if everybody can hear</p> <p>17 better if we move that podium sort of sideways a</p> <p>18 little bit. And would that help you?</p> <p>19 Yeah. Let's move the podium just a little</p> <p>20 bit sideways so that the director is -- I know that</p> <p>21 makes him kind of talk to the wall there. But I think</p> <p>22 that you folks out in the audience will be able to</p> <p>23 hear him a little bit better too. Not so far away</p> <p>24 that the stenographer can't hear you. Go ahead.</p> <p>25 MR. MEDINA: Thank you. Board members,</p>
<p>Page 72</p> <p>1 members in the audience, my name is Louis Medina. And</p> <p>2 I'm Director of the New Mexico Law Enforcement</p> <p>3 Academy.</p> <p>4 The following information is a description of</p> <p>5 the activities at the New Mexico Law Enforcement</p> <p>6 Academy that have transpired since the March 1st,</p> <p>7 2012, board meeting which was held in Albuquerque, New</p> <p>8 Mexico.</p> <p>9 I would like to introduce you to our</p> <p>10 assistant director, Major Andy Montoya, of the New</p> <p>11 Mexico State Police who has been assigned to the New</p> <p>12 Mexico Law Enforcement Academy as the assistant</p> <p>13 director. Major Montoya is a native of Taos, New</p> <p>14 Mexico. He has a total of 21 years law enforcement</p> <p>15 experience and 18 of those years with the New Mexico</p> <p>16 State Police.</p> <p>17 His last command was as the district</p> <p>18 commander in Albuquerque. He is a captain in the New</p> <p>19 Mexico National Guard and recently served a one-year</p> <p>20 deployment as a provost marshal of Camp Bondsteel in</p> <p>21 the country of Kosovo.</p> <p>22 He is a graduate of St. Mary of the Plains</p> <p>23 College in Dodge City, Kansas, and a graduate of the</p> <p>24 Police Executive Research Forum. Please join me in</p> <p>25 welcoming Major Montoya as the Assistant Director of</p>	<p>Page 73</p> <p>1 the Law Enforcement Academy.</p> <p>2 (Applause.)</p> <p>3 MR. MEDINA: Also I would like to point out</p> <p>4 and make note that the staff of the Law Enforcement</p> <p>5 Academy performs admirably. And they have been asked</p> <p>6 to do insurmountable things unfortunately with</p> <p>7 personnel that don't exist anymore. We're down three</p> <p>8 instructors. We are missing an administrative staff</p> <p>9 person. And it's forced us to reorganize and become</p> <p>10 the training and recruiting division.</p> <p>11 Normally we consist of the basic academy, the</p> <p>12 advanced, and cert bureau. Right now we're circling</p> <p>13 the wagons. And we are becoming one training and</p> <p>14 recruiting division until we can get our resources</p> <p>15 back up to speed.</p> <p>16 But we continue to serve our customers under</p> <p>17 demanding conditions due to transfers, resignations,</p> <p>18 and vacancies. And like I said we've reorganized the</p> <p>19 training bureau and combined the duties of instructors</p> <p>20 and redistributed duties among the administrative</p> <p>21 staff.</p> <p>22 Currently Basic Police Officer Training Class</p> <p>23 183 is in their 15th week with 47 cadets. All the</p> <p>24 police cadets have successfully completed defensive</p> <p>25 tactics, firearms training, and emergency vehicle</p>

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<p>1 operations, not without incident on the emergency 2 vehicle operations.</p> <p>3 We had a slight accident a couple weeks ago 4 that was minor. And thankfully it was due to -- it 5 happened in training. And no one was injured. And we 6 learned the more for it.</p> <p>7 The basic cadet class is scheduled to 8 graduate on June 1st, 2012, at nine o'clock in the New 9 Mexico Law Enforcement Academy gymnasium.</p> <p>10 The certification by waiver course has now 11 come under the basic bureau. And it's scheduled to be 12 conducted beginning August 6, 2012.</p> <p>13 We have a summary of advanced and in-service 14 training that was conducted by the advanced bureau. 15 And as you can see in the director's report, it's a 16 very -- various courses regarding certification by 17 waiver, homicide investigation, general instructor 18 updates, response to domestic violence, crisis 19 response, public safety and telecommunicator class, 20 instructor development, and use of force. We had 251 21 students attend the above training for a total of 22 10,000 hours -- 10,000 contact training hours.</p> <p>23 Mr. Elliott Guttman continues to serve our 24 bureau in a very fine way by conducting updates for 25 the legal class. He was the featured speaker at the</p>	<p>1 District Attorney's conference in Ruidoso, New Mexico.</p> <p>2 And I mentioned our bureau changes. We've 3 lost at least two instructors in the advanced bureau 4 who resigned, another transferred to the Motor 5 Transportation Division, and we lost an administrative 6 support staff. And like I said the waiver 7 certification by waiver left the advanced bureau and 8 is now under the basic bureau.</p> <p>9 Regarding officer misconduct cases, due to 10 the -- I believe they've gone very well. And I've got 11 Ms. Monica Medrano to thank and be thankful for for 12 processing those cases administratively.</p> <p>13 I believe that what Mr. Hubbard, the Acting 14 Director, left in the wake of what he's done has left 15 me in a way to be -- allowed me to be successful in 16 the cases that I've processed so far. And he's given 17 me a good path to follow.</p> <p>18 And I believe since we've been -- since I 19 have taken the directorship at the Law Enforcement 20 Academy, the process that we've done so far is 21 receiving the complaint that comes in from an agency. 22 And I take personal responsibility for reviewing that 23 complaint and making a determination of whether or not 24 there's enough information in here in the complaint to 25 issue a Notice of Contemplated Action.</p>
<p>Page 76</p> <p>1 Once I've made a thorough review of what is 2 needed, what makes us file a complaint, we make the 3 determination to send the Notice of Contemplated 4 Action and/or reach back out to the agency who 5 conducted the investigation or other agencies who were 6 involved in the investigations and make sure that we 7 have adequate investigative materials to make an 8 informed decision to send out a Notice of Contemplated 9 Action.</p> <p>10 When we do that and it's properly received by 11 the respondent, the officer who it's intended for, 12 many of those cases are coming before the director in 13 the form of an informal hearing. Other of those NCAs, 14 Notices of Contemplated Actions, they take various 15 shapes and forms.</p> <p>16 Sometimes they're not received, sometimes we 17 receive them back. It takes all forms. And we're 18 sometimes just not able to contact that respondent or 19 that officer in time. So we make sure that we pay due 20 diligence to make sure that everything is completed in 21 the package so that we can serve that officer well and 22 be responsive to that officer regarding the 23 allegations that come up against him.</p> <p>24 My staff and I reviewed 23 misconduct files 25 since the March 1st, 2012, meeting, and have been able</p>	<p>Page 77</p> <p>1 to accomplish one cautionary letter, 16 Notices of 2 Contemplated Actions, five Notices of Final Decisions, 3 two cases are being prepared for formal hearing, one 4 formal hearing was held, three default orders of 5 revocation, four files were provided to Investigator 6 Ernie Holmes for additional information, 23 LEA-90s 7 were submitted since the last board, six Stipulated 8 Orders of Suspension were prepared, and three 9 voluntary relinquishments were prepared also.</p> <p>10 We are in the process of reviewing and 11 assessing the certification by waiver process and the 12 basic police training curriculum and persons with 13 mental impairments, which has previously been brought 14 before the board. And these items are going to be 15 presented individually during the board meeting.</p> <p>16 Additionally, since my arrival at the 17 academy, I've been able to open up a line of 18 communication with the Attorney General's Office in 19 relation to -- in relation to the way that cases would 20 be conducted for administrative hearing, legal 21 counsel, and other sensitive matters that have since 22 come up in the director's office regarding sheriffs 23 deputies and police officers. And that's what I have.</p> <p>24 MR. KING: Questions for the director. 25 MR. SCHULTZ: Mr. Chairman, if I may.</p>

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<p>1 MR. KING: Chief Schultz.  2 MR. SCHULTZ: I would like to thank Director  3 Medina. My staff had come to me a couple weeks ago  4 about some issues that had come to their attention in  5 a recent telecommunicator training class with some  6 lack of some professionalism on behalf of some of the  7 adjunct staff and the preparedness to do that class.  8 And Director Medina jumped in and took care  9 of the problem, briefed my staff last Friday I believe  10 it was.  11 MR. MEDINA: Yes, sir.  12 MR. SCHULTZ: And I wanted to let him know  13 how much I appreciate that, the fact that this is  14 something with changes that this board has made and  15 recommending changes in the training with the  16 telecommunicator class, that the last thing we could  17 afford would be to have problems with classes being  18 changed and the delivery has changed to have issues.  19 So my staff appreciates it. And my staff  20 appreciates you jumping on that and taking care of it  21 as quickly as possible.  22 MR. MEDINA: Thank you, Chief.  23 MR. KING: Other questions, comments?  24 MR. KORN: Mr. Chairman, if I may, I have a  25 question.</p>	<p>1 MR. KING: Go ahead.  2 MR. KORN: Mr. Medina, I have some questions  3 for you in regard to the misconduct process. But I  4 don't want my comments or questions to be mistaken.  5 I'm in no way criticizing. I know this is a lot of  6 stuff for you to get your arms around. I'm merely  7 asking questions about what you perceive the future to  8 be.  9 MR. MEDINA: Yes, sir.  10 MR. KORN: So in the past we adopted certain  11 guidelines about the way we were going to deal with  12 the backlog, which has been a matter of great issue  13 over the last six months or so. And the board has  14 taken the position with the prior director,  15 Mr. Hubbard, that the cases would be dealt with in a  16 way that kept ourselves current on the current LEAs,  17 LEA-90s, that are coming in and also chip away at the  18 old ones at the rate of five or six a week and sending  19 out Notices of Contemplated Action on five or six of  20 the older cases.  21 Were you planning on continuing that sort of  22 process of action?  23 MR. MEDINA: Yes. I'm very much aware of  24 what was agreed upon. I did study the transcripts  25 from the last meeting. And that is my plan. I think</p>
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<p>1 that that makes it run smooth. I think that I want to  2 avoid the logjam, the backup.  3 And I have no reason to change it from what  4 was previously discussed already for making them run  5 smooth and for making sure that the director does an  6 adequate review of the cases and make sure that we  7 don't send anything into the pipeline that we're not  8 prepared to write a Notice of Contemplated Action for.  9 MR. KORN: So as I would understand it or as  10 I think what the board has already settled prior to  11 your time, if we get about ten new LEA-90s a month,  12 that's about two or three a week, plus the six or  13 seven of the old ones that we're going to chip away  14 at, that would mean that you would send out about nine  15 or ten Notice of Contemplated Actions per week.  16 MR. MEDINA: Well, that would be my intent.  17 And I would work very diligent to do that. And I  18 can't -- don't have an answer -- I can't specifically  19 say that we've sent out that many per week.  20 MR. KORN: Oh, no. I mean obviously you  21 haven't done that. But you just came into this  22 brand-new and you're just trying to learn all the  23 facets of your job. I know you couldn't -- you  24 couldn't reasonably do that up to this time.  25 But I'm just asking you going forward, after</p>	<p>1 this meeting, is that something the board can expect,  2 that there would be approximately ten Notice of  3 Contemplated Actions going out per week?  4 MR. MEDINA: Per week.  5 MR. KORN: That would be the two or three  6 that you have every week come in brand-new.  7 MR. MEDINA: Yes.  8 MR. KORN: Plus I think six or seven from the  9 old ones.  10 MR. MEDINA: I will make very diligent effort  11 to pursue that. And I don't know that I can make a  12 promise. But I know that I will make every effort  13 possible to make sure that we can meet that goal.  14 Does that satisfy your answer?  15 MR. KORN: Oh, yes. And obviously, if you're  16 sending out that many per week, you're presumably  17 going to be getting a series of equivalent matters for  18 informal hearings in the weeks to follow.  19 MR. MEDINA: That's correct.  20 MR. KORN: Are you prepared to do that many  21 hearings?  22 MR. MEDINA: Informal hearings?  23 MR. KORN: Informal hearings.  24 MR. MEDINA: Prepared to do how many?  25 MR. KORN: Well, presumably for every Notice</p>

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<p>1 of Contemplated Action, there would be an informal 2 hearing in the near future.</p> <p>3 MR. MEDINA: That's correct. Well, that's 4 correct. And like I said they don't always come back. 5 In other words, some are unreachable. I believe we've 6 processed 18 informal hearings. I believe we've 7 processed 18.</p> <p>8 MS. MEDRANO: We've had 18 new ones come in 9 in April -- I mean in March.</p> <p>10 MR. KORN: You have 18 new ones that are 11 coming in next week?</p> <p>12 MR. MEDINA: No.</p> <p>13 MS. MEDRANO: We had 18 new LEA-90s come in 14 just in the month of March.</p> <p>15 MR. KORN: Just in the month of March. So 16 that would be a little above normal.</p> <p>17 MS. MEDRANO: Yes.</p> <p>18 MR. KORN: And hopefully there would be some 19 months where it's below normal and even out. But I 20 mean that's what the board had set up so that in six 21 months your backlog would be over.</p> <p>22 MR. MEDINA: And, of course, it's my intent 23 to follow the direction that was given by the board. 24 And I will pay due diligence to make sure that that's 25 done.</p>	<p>1 MR. KORN: That's all I ask.</p> <p>2 MR. MEDINA: I appreciate it.</p> <p>3 MR. KORN: Thank you.</p> <p>4 MR. KING: Is that all?</p> <p>5 MR. KORN: Yes.</p> <p>6 MR. KING: Thank you. Other questions? I 7 have one, but I'm trying to get everybody else. Okay. 8 Mr. Medina, you said that you're down three 9 instructors and a couple of other folks. My question 10 really is is there anything that the board needs to do 11 to help you to deal with that or is that just, you 12 know, you've got to get it advertised?</p> <p>13 MR. MEDINA: We've got to get it advertised. 14 And we've got to deal with our personnel system that 15 we have in the State of New Mexico. And that seems to 16 be a little slow right here.</p> <p>17 MR. KING: Do you have budget issues too?</p> <p>18 MR. MEDINA: No budget issues regarding 19 instructors.</p> <p>20 MR. KING: Okay. Good. Well, if we can be 21 helpful, let us know.</p> <p>22 MR. MEDINA: Thank you.</p> <p>23 MR. SCHULTZ: I believe the director would be 24 willing to take money from the Attorney General's 25 Office.</p>
<p>Page 84</p> <p>1 MR. KING: I'm sure. It's a rare event, but 2 I'm sending money to the Second DA right now to 3 prosecute a case. Occasionally the legislature will 4 flow money through different ways. I don't know about 5 the rest of you, but I have a legislative group that 6 at least keeps track of the budgets.</p> <p>7 MR. MEDINA: That's one of the duties that 8 the director is involved in and we've got a budget 9 person for that.</p> <p>10 MR. KING: Sure.</p> <p>11 MR. MEDINA: And with the help of the 12 assistant director, we're making sure that -- we're 13 also very much aware of how we handle our budget and 14 how it's in the process.</p> <p>15 MR. KING: We don't have a secretary here. 16 And I haven't had a chance to look at the Law 17 Enforcement Academy budget for the next fiscal year, 18 but does it stay pretty flat?</p> <p>19 MR. MEDINA: Sir, I don't know.</p> <p>20 MR. KING: Most everything did this year.</p> <p>21 MR. SHILLING: Mr. Chairman, I could probably 22 help answer that question. Starting in FY13, the Law 23 Enforcement Academy is moving into a new program area 24 at DPS, the Law Enforcement Statewide Services -- 25 Support Services I believe, which currently they're</p>	<p>Page 85</p> <p>1 under the LEP, which is under the umbrella of State 2 Police, MTE, and the LEA.</p> <p>3 And I believe, when they carved out the 4 budget, DPS as a whole got an increase to base for the 5 next fiscal year. And they will share in that 6 increase to base as well.</p> <p>7 But for the record and for the members of the 8 board, one of the big struggles for the Law 9 Enforcement Academy is pay disparity and trying to 10 attract qualified instructors. The double dipping 11 issue in the State of New Mexico, there's tons of 12 qualified people out there that would love to come 13 back and teach; but they can't because of the double 14 dipping.</p> <p>15 And then the state personnel system's new 16 computerized personnel management system as far as 17 getting people in the pipe, getting them interviewed, 18 and getting them hired is cumbersome to say the least. 19 Agencies like the LEA are dealing with four or five 20 months at a whack trying to get just one person hired. 21 And it's almost criminal what they have to put up with 22 through the state personnel system. But we're all 23 trying to work on it.</p> <p>24 MR. MEDINA: Thank you, Chief.</p> <p>25 MR. KING: I mean that's helpful for all of</p>

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<p>1 us to know, because I think we suffer the same 2 problems in moving personnel actions or whatever. So 3 I was just wondering if there was anything we could do 4 now. Excellent. Thank you, Mr. Medina. I'm not 5 seeing any further questions. Thanks.</p> <p>6 ITEM NO. 18: PUBLIC COMMENTS</p> <p>7 MR. KING: The next item on the agenda is 8 public comments. And I have two people that signed up 9 here. Mr. Gurley and I have Terry Gazdik after that. 10 And so, Mr. Gurley, you'll note that we ask people to 11 kind of limit their comments to about five minutes.</p> <p>12 MR. GURLEY: Yes, sir. Mr. Chairman, members 13 of the board, my name is Ron Gurley. I'm an advocate 14 for the mentally ill.</p> <p>15 Back in the day, I was president of NAMI. 16 I've been involved with legislative issues for many 17 years. I gave my comments to your excellent secretary 18 here. As a former West Texan, I read at 120 words a 19 minute. So I'll be out of your way pretty quick. I 20 don't appreciate you moving the podium. My profile is 21 not as good that way for my audience here.</p> <p>22 These comments concern the status of House 23 Bill 93 and your response to the training requirement. 24 It's important to note that your Academy professionals 25 have done an outstanding job in pulling together an</p>	<p>1 excellent and valid curriculum that enhances officer 2 and public safety.</p> <p>3 Moreover, this training upon completion will 4 insulate you and your agency from federal lawsuits. 5 Your personal participation in basic crisis 6 intervention training will more than prepare you and 7 your organization for the future.</p> <p>8 As elected or appointed leaders of your 9 agencies, you must have a clear understanding and be 10 able to articulate the value of crisis intervention 11 training for your organizations.</p> <p>12 As many of you know, you may be called to 13 testify in court as to the knowledge of handling the 14 mentally ill in crisis as opposed to the usual command 15 and control procedures used for routine criminal 16 interventions.</p> <p>17 If you choose not to embrace this type of 18 training, you stand the chance of being guilty of 19 deliberate indifference and, thereby, the nexus of 20 case law that would jeopardize your agency by large 21 monetary federal court settlements or jury findings. 22 Some of your smaller counties will be forced into 23 bankruptcy. And court awards of several million 24 dollars are not uncommon.</p> <p>25 We commend Las Cruces Police Chief Richard</p>
<p>1 Williams for certification of one-third of his 152 2 sworn officers as full 40-hour CIT officers. I might 3 add that Chief Schultz and his folks and the Sheriff 4 of Bernalillo County are up to speed in terms of 5 certifying their officers and, therefore, insulating 6 themselves.</p> <p>7 CIT training is not a trendy, touchy-feely, 8 social worky course that has come along to placate 9 your critics. This training will save lives and big 10 money. Don't stop the momentum. Get on board and 11 take credit for it. You have everything to gain. 12 Thank you.</p> <p>13 MR. KING: Mr. Gurley, are you willing to 14 answer questions if anybody has questions? I don't 15 know. Questions from anybody? Chief Shilling.</p> <p>16 MR. SHILLING: Sir, I thank you for your 17 comments. And I'm an advocate for brain injury. And 18 I'm wondering, is it your opinion that we're 19 adequately addressing the issues we're going to be 20 faced with with veterans coming home with TBI and 21 PTSD?</p> <p>22 MR. GURLEY: Chief, I happen to have a 23 contract -- I've had a contract to train police 24 officers in regard to post-traumatic stress, TBI, 25 de-escalation of those veterans. It is working with</p>	<p>1 the Secretary of Veterans Affairs.</p> <p>2 It is a very, very serious program. And 3 de-escalation for that population is completely 4 different. I know the Ellis case and some of these 5 things. We're going to start up some more training. 6 Your academy ought to incorporate some of this. It's 7 a very serious thing.</p> <p>8 We've down -- in this part of the world, we 9 have 30,000 more troops coming in to Fort Bliss. A 10 lot of those guys are coming in, they're going to 11 be -- those have concussions from accumulated IAD 12 explosions accumulate. I was talking to some of your 13 officers out in the hall. You're going to be hiring a 14 bunch of Iraq and Afghanistan youngsters.</p> <p>15 The Los Angeles Police Department, they don't 16 put them on the street until after a couple of months 17 out of the academy because of TBI and post-traumatic 18 stress. They're quick draw, shoot too quick. They're 19 coming off of it.</p> <p>20 So it's an issue that I look forward to 21 working with Mr. Medina and the rest of the staff up 22 there. We're going to all try to work together to see 23 if we can't have a state-of-the-art training program 24 here.</p> <p>25 MR. SHILLING: Thank you, sir.</p>

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1 MR. KING: Any other questions? Okay. Thank  
 2 you. Mr. Gurley, thank you for bringing that to our  
 3 attention.  
 4 MR. GURLEY: Yes, sir. Thank you.  
 5 MR. KING: Okay. The other person I have on  
 6 my list is Terry Gazdik. He spoke already. Okay.  
 7 All right. So we're complete with that item.  
 8 ITEM NO. 19: RATIFICATIONS OF CERTIFICATIONS FOR  
 9 LAW ENFORCEMENT OFFICERS  
 10 MR. KING: The next item on the agenda is  
 11 ratifications of certifications for law enforcement  
 12 officers. Mr. Medina.  
 13 MR. MEDINA: Board members, I have a list of  
 14 certification for ratification -- for approval of  
 15 ratifications regarding certification by waiver.  
 16 MR. KING: And you don't have to read all the  
 17 names, Mr. Director, you can just give us the range of  
 18 numbers.  
 19 MR. MEDINA: Beginning with 12-0001-P through  
 20 12-0014-P and 99-0122-P and 97-0329-P and 12-0015-P in  
 21 regard to certification by waiver. And regarding  
 22 ratification of certification for public safety  
 23 telecommunicator --  
 24 MR. KING: Let's do them one motion at a  
 25 time. Let's do the law enforcement officer

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1 MR. MEDINA: That would be begin with  
 2 No. 12-0001-PST through 12-0046-PST for public safety  
 3 telecommunicators certification.  
 4 MR. KING: All right. Any questions or  
 5 comments? I'll take a motion.  
 6 MR. SCHULTZ: Mr. Chairman, I make the  
 7 motion that we accept the list of ratifications for  
 8 certifications for law enforcement public safety  
 9 telecommunicators as presented here today.  
 10 MR. COON: Second.  
 11 MR. KING: Seconded. Any discussion? All in  
 12 favor say aye.  
 13 (Those in favor so indicate.)  
 14 MR. KING: Any opposed? Okay. So those  
 15 ratifications are complete. Thank you, Mr. Medina.  
 16 ITEM NO. 21: DISCUSSION: PROPOSED NMAC  
 17 RULE CHANGES FOR CBW  
 18 MR. KING: All right. The next item on the  
 19 agenda is 21, discussion of proposed NMAC rule changes  
 20 for CBW. Bureau Chief, Mr. Gallegos.  
 21 MR. GALLEGOS: Yes, sir. Members of the  
 22 board, members of the audience, what we're proposing  
 23 is a change to the way officers can become certified  
 24 through the certification by waiver process.  
 25 What we're proposing is two things. One is

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1 certification first. So we have a list.  
 2 MR. SCHULTZ: Mr. Chairman, for Director  
 3 Medina, No. 11, 12-0011 has been stricken from the  
 4 record. So that person is not going to be certified?  
 5 MR. MEDINA: Okay.  
 6 MR. SCHULTZ: Is that correct? Just for the  
 7 record.  
 8 MR. MEDINA: That is correct.  
 9 MR. KING: So we have a list in front of us.  
 10 And we'll provide the list for the record too. I  
 11 think that covers it all. So do I have a motion.  
 12 MR. SCHULTZ: Mr. Chairman, I make the motion  
 13 that we accept the list that has been presented to us  
 14 today for certification for law enforcement officers.  
 15 MR. KING: Okay. Is there a second?  
 16 MR. COON: Second.  
 17 MR. KING: Seconded. Any discussion? All in  
 18 favor say aye.  
 19 (Those in favor so indicate.)  
 20 MR. KING: Any opposed? Okay. So those  
 21 ratifications are completed.  
 22 ITEM NO. 20: RATIFICATIONS OF CERTIFICATIONS FOR  
 23 PUBLIC SAFETY TELECOMMUNICATORS  
 24 MR. KING: Now, let's go on to the public  
 25 safety telecommunicator.

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1 to add a military component. And the other is to  
 2 streamline the current process as to how people can  
 3 take the certification exam.  
 4 In the proposal which you have before you,  
 5 what we're changing is Item A of 10.29.6.8(A). Under  
 6 the current requirements, it requires them to complete  
 7 a physical fitness assessment as well as 120 hours  
 8 certification by waiver training program.  
 9 What we're proposing is to change that and  
 10 strike the physical fitness training assessment  
 11 requirement and adding that they would have one of two  
 12 phases in order to get certification.  
 13 Under B it would read "All applicants must  
 14 submit the required packet of previous training for  
 15 determination of eligibility into the  
 16 certification by waiver program." Once that has been  
 17 accomplished, C would say "Once an applicant has  
 18 successfully met the aforementioned requirements, the  
 19 applicant will complete one of the following paths to  
 20 successfully meet the certification requirements."  
 21 The first path would be "The applicant's  
 22 agency will provide documentation attesting to the  
 23 applicant's successful completion of the 40-hour  
 24 biennium training." And once that's been done, the  
 25 applicant will challenge and successfully pass with a



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1 minimum score of 70 percent on the law enforcement  
 2 officer's certification exam or LEOCE.  
 3 The second path would be "If the applicant is  
 4 unable to complete any of the 40-hour biennium  
 5 training or did not successfully pass the LEOCE, the  
 6 applicant will attend a 40-hour  
 7 certification by waiver training program and  
 8 successfully pass the LEOCE with a minimum score of  
 9 70th percentile."  
 10 Everything else pretty much remains the same  
 11 with regards to the certification by waiver process in  
 12 that the applicant will have two opportunities to  
 13 successfully pass the LEOCE. If an applicant is  
 14 unable to pass the LEOCE after the two attempts, they  
 15 will be required to attend and pass the basic police  
 16 officer training program.  
 17 Pretty much the same requirements would stay  
 18 with regards to the counting of the hours and  
 19 determining whether they're eligible for certification  
 20 by waiver and meeting a comparable basic police  
 21 academy.  
 22 The second change that we're proposing has to  
 23 do with under 10.29.6.11. It's a requirement for  
 24 active duty military police applicants. Under A it  
 25 says "Qualified military police must have successfully

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1 Air Force, it's 3PO51 or 3PO91; and for the United  
 2 States Navy, it's a Master at Arms or NEC 9545 and  
 3 completed the NAVEDTRA training of 14137.  
 4 Under D, "Individuals serving in the Armed  
 5 Forces who have completed a basic military police  
 6 course prior to the above dates but had had continuous  
 7 military service in an approved MOS or Air Force  
 8 career classification since completion of the military  
 9 basic course along with continuing education courses  
 10 may be considered. Applicants meeting this criterion  
 11 will be required to complete Part 1 packet listing all  
 12 schools and training to the New Mexico Law Enforcement  
 13 Academy Director for consideration."  
 14 Under section E, "Any of the aforementioned  
 15 military police applicants must attend the 40-hour  
 16 certification by waiver training course and  
 17 successfully pass the New Mexico Law Enforcement  
 18 Certification Examination with a score of 70 percent  
 19 or better."  
 20 Under F, "Applicants currently on active duty  
 21 status must also submit a notarized letter from their  
 22 current command attesting to their current status,  
 23 records of any disciplinary action, and a statement  
 24 attesting the applicant is eligible for a general or  
 25 honorable discharge." And under G, "Members of the

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1 completed a basic military police course and completed  
 2 a four-year enlistment as a military police officer in  
 3 the United States Army, United States Marine Corp.,  
 4 United States Air Force, or the United States Navy."  
 5 Persons serving in the United States Coast  
 6 Guard and DoD police do not meet occupational  
 7 requirements because, in looking at their curriculum  
 8 and their requirements, they do not match up  
 9 accordingly as do the other branches of the service.  
 10 Under B, "Individuals meeting the  
 11 aforementioned qualifications must have successfully  
 12 completed a basic military" -- "one of the following  
 13 military police courses for the military branch they  
 14 served."  
 15 For the U.S. Army, after September 1st of  
 16 2003; for the United States Marine Corp. after  
 17 September 1st of 2003; for the United States Air  
 18 Force, after September 1st, 2005; and for the United  
 19 States Navy, after September 1st, 2005.  
 20 Under C, the proposed changes, military  
 21 occupational specialties or Air Force career  
 22 classifications considered are, number one, the United  
 23 States Army, it's 95B or 31B designees; for the United  
 24 States Marine Corp., it's the 5811 military  
 25 occupational specialty designee; for the United States

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1 National Guard or Reserves are not eligible for the  
 2 certification by waiver program."  
 3 I'd like to go back under the eligibility for  
 4 retirees under 10.29.6.10. There were a couple of  
 5 changes mainly having to do with the firearms  
 6 qualifications. We struck from the old one section D.  
 7 And B, that the separation period should not exceed  
 8 20 years.  
 9 This is the proposal that we're making to the  
 10 board for the changes regarding certification by  
 11 waiver. Yes, sir.  
 12 MR. KING: Chief.  
 13 MR. SHILLING: Mr. Chairman, do you take  
 14 questions, sir?  
 15 MR. GALLEGOS: Yes, sir.  
 16 MR. SHILLING: The first thing that popped up  
 17 that I would make a recommendation on 10.29.6.8, under  
 18 C, No. 2, everywhere in the documents, successfully  
 19 completing the LEOCE at 70 percent except for in No.  
 20 2, we might want to add 70 percent in there just so  
 21 you don't get challenged on that.  
 22 MR. GALLEGOS: Yes, sir.  
 23 MR. SHILLING: And then my second question is  
 24 under 10.29.6.11, under G, the way that's worded, if a  
 25 guy is active duty, say, until 2009 and then goes into

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<p>1 the Guard or the Reserves, he automatically becomes 2 ineligible for cert by waiver based on this; because 3 it says "Members of the Guard and Reserves are not 4 eligible." 5 And you sound ex-military. So maybe you can 6 educate me to make sure that we don't leave out Guards 7 and Reservists just because of that language in there. 8 MR. GALLEGOS: This is for persons that have 9 only served in the Guard. They don't have prior 10 active duty or have attended those schools. 11 MR. SHILLING: So maybe we need to clarify 12 that. 13 MR. GALLEGOS: Yes. Clean it up a little 14 bit. 15 MR. SHILLING: Thank you, sir. 16 MR. KING: That's actually a good catch, 17 Chief Shilling. Sheriff Coon, go ahead. 18 MR. COON: Did I hear you right, on the cert 19 by waivers now, there's no physical fitness 20 requirements? 21 MR. GALLEGOS: Under the current 22 requirements, there is. Under the current 23 requirements, they have to do three physical 24 assessment tests. The first one has to do with taking 25 a portion of the Cooper standards and running the 1.5</p>	<p>1 mile plus the 300 meter sprint. They also have to run 2 two agility courses. 3 Under the proposal, what we're proposing is 4 to do with away with the physical fitness requirement 5 and allowing them to -- 6 MR. COON: So running one mile and a half. 7 Boy, is J.D. Sanders going to be mad about that. 8 MR. GALLEGOS: Sir, not that we meant to do 9 that. But we understood that there were a lot of 10 problems with that in the past. 11 MR. BETZ: Mr. Chair. 12 MR. KING: Chief Betz. 13 MR. BETZ: Mr. Gallegos, I just have two 14 questions. I initiated and engaged Deputy Secretary 15 Marcantel on this. One is up under the top, just so I 16 have a clear -- I don't know if that's waiverable or 17 not. 18 We have some -- how about if you have an 19 officer working in the field that's -- because I'm 20 coming from Indian Country. We do have some people 21 out there that actually have been out of the academy 22 more than three years. So what will happen with them 23 if they try to apply? 24 MR. GALLEGOS: More than three years? 25 MR. BETZ: More than three years.</p>
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<p>1 MR. GALLEGOS: What we've done is we've added 2 a stipulation under B of 10.29.6.9. Any applicant who 3 has not been employed as a full-time law enforcement 4 officer for a period not exceeding eight years is 5 eligible for certification by waiver process. 6 And any applicant -- under C, any applicant 7 who has successfully completed an accredited law 8 enforcement academy from another state or federal 9 academy to include FLETC but has never been certified 10 must secure a law enforcement position with a 11 recognized New Mexico law enforcement agency within 12 three years of the academy completion and must meet 13 all other qualifications and requirements as 14 determined by the director. 15 MR. BETZ: Okay. So as long as he's 16 employed. 17 MR. GALLEGOS: Yes, sir. 18 MR. BETZ: Okay. That's number one. And 19 number two, like you being former military, I'm 20 looking down at the 95Bs and 31Bs. There's also 90 -- 21 unless they changed, there was 9110s. 22 MR. GALLEGOS: It's changed. 23 MR. BETZ: This was an enlisted status here. 24 But you've excluded the officer status. 25 MR. GALLEGOS: The officers attend a</p>	<p>1 different school than the actual enlisted personnel. 2 And that was one of the reasons for it. We looked at 3 the different -- 4 MR. BETZ: So their school isn't any good any 5 more then. I was just curious. 6 MR. GALLEGOS: But it's one of those things. 7 If a person feels that they meet the qualifications, 8 they submit the packet. It's reviewed by the 9 director. And we would go through the process of 10 looking at their training as well as the curriculum 11 that they attended. And then a further determination 12 could be made. 13 MR. BETZ: Okay. Thank you, sir. 14 MR. GRATTON: Mr. Chairman, Mr. Gallegos, 15 under 10.29.6.11, can you just for my own interest 16 explain why the people in the United States Coast 17 Guard or DoD police would not meet the standards for 18 consideration. 19 MR. GALLEGOS: Their schools -- when the 20 review was done of the curriculum for their particular 21 schools, it did not meet the hour requirement or the 22 contact hour. 23 MR. GRATTON: Have they been told that, I 24 mean are they considering adjusting that or they don't 25 care?</p>

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1 MR. GALLEGOS: They were part of the process  
 2 of being polled as far as providing us with the  
 3 information and notified that this was why we needed  
 4 that information.  
 5 MR. GRATTON: Okay. Thank you.  
 6 MR. KING: Chief Schultz.  
 7 MR. SCHULTZ: Mr. Chairman, there's a little  
 8 concern over the eligibility of retirees. Obviously  
 9 you've made some changes, getting rid of the 20 years.  
 10 In the firearms qual, on the very first line  
 11 under eligibility of retirees, to add "in the event a  
 12 nonmedical retired certified officer," because I can  
 13 see many situations where someone has received a  
 14 medical retirement from another state, comes here, and  
 15 tries to get right back into the same process,  
 16 especially since we are removing some of the physical  
 17 agility components as a way for them to beat the  
 18 system.  
 19 MR. GALLEGOS: Yes, sir. We can add that.  
 20 And part of the process, the eligibility of retirees,  
 21 they still have to complete the medical packet.  
 22 MR. SCHULTZ: The physical. But if someone  
 23 had received a medical retirement because they had a  
 24 severe break of the leg so to speak, ran out of their  
 25 Workers' Comp time, received a medical retirement.

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1 Zach. Mark, are you familiar with --  
 2 MR. REYNOLDS: I am. So the board can decide  
 3 right now to go ahead and authorize to publish them  
 4 right now for public comment after making the changes  
 5 suggested here. If you're not comfortable with that,  
 6 you can direct them to bring it back and look at it  
 7 one more time before you authorize it to be published  
 8 for public comment.  
 9 MR. KING: Yeah, that's kind of where I'm  
 10 getting to, is whether we should -- if you guys are  
 11 comfortable enough with this, if we make these  
 12 changes, to say go ahead and publish it, because once  
 13 it's published and you have public comments, we still  
 14 can make changes because obviously you need to have  
 15 the opportunity to make changes after the public  
 16 comment.  
 17 MR. GALLEGOS: Yeah, you can make changes at  
 18 that point as long as it's derived from what was  
 19 initially published. So after it goes out to the  
 20 public, if it comes back, you can't make whole new  
 21 changes or revisions. It has to be derived from what  
 22 was first published. So with that limitation you can  
 23 make changes after it comes back.  
 24 MR. KING: Okay. I'm certainly comfortable  
 25 with the changes. I think that Chief Schultz made a

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1 That's all I'm saying.  
 2 MR. GALLEGOS: Yes, sir.  
 3 MR. KING: Other comments? I have more of a  
 4 process question. Actually what we have in our packet  
 5 I'm having a hard time seeing. Is this all a new rule  
 6 or it's additions to the rule that exists?  
 7 MR. GALLEGOS: It's changes to the rule, the  
 8 existing rule.  
 9 MR. KING: So process-wise I'm assuming that  
 10 once we are happy with the changes, then we would want  
 11 to type it up in a way where we can publish it where  
 12 the public can look at it and have time for public  
 13 comments.  
 14 MR. GALLEGOS: Yes, sir.  
 15 MR. KING: Is that something that -- are we  
 16 anticipating publishing this soon or are we  
 17 anticipating bringing this back to the next meeting  
 18 with the changes that we've recommended?  
 19 MR. GALLEGOS: Well, I can have the changes  
 20 ready by the end of the week to present the board.  
 21 And whether we want to bring it before the board again  
 22 at the next meeting or if they want to bring it up  
 23 before the public, that would be for the board to  
 24 decide.  
 25 MR. KING: These are questions I usually ask

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1 good -- made a good recommendation. And I think that  
 2 Chief Shilling made good recommendations, most of  
 3 which are pretty straightforward.  
 4 So I think the action that I sort of would  
 5 like to take here is to go ahead and give permission  
 6 to publish it, because I think we need to move forward  
 7 with it. Are you guys comfortable with that? Are  
 8 these small enough changes or do you want to see these  
 9 changes maybe come back? Chief Shilling.  
 10 MR. SHILLING: I would recommend -- and I  
 11 don't know the legalities of it. If we could just  
 12 circulate it via email and look at it and get it  
 13 published as soon as possible once the recommended  
 14 changes are taken into consideration or account. I  
 15 don't know if we can do that or not, because otherwise  
 16 we'll be waiting a whole other quarter.  
 17 MR. SCHULTZ: Mr. Chairman, wouldn't the  
 18 recommendation be that we move forward for a public  
 19 hearing on proposed changes as discussed here today.  
 20 MR. REYNOLDS: Yes.  
 21 MR. SCHULTZ: So that's my motion.  
 22 MR. MYERS: Second.  
 23 MR. KING: We have a motion and second to  
 24 move forward on this. What will happen is you guys  
 25 will decide when to get it published. But it will

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<p>1 have to be in a time frame such that it will meet our</p> <p>2 next meeting requirements, right? And so I don't</p> <p>3 think that there's anything that would keep this from</p> <p>4 being circulated before you publish it.</p> <p>5 MR. REYNOLDS: You can circulate it. But to</p> <p>6 avoid noncompliance with the Open Meetings Act, you</p> <p>7 really shouldn't be discussing it amongst yourselves</p> <p>8 outside of a public meeting.</p> <p>9 So maybe what you can do is you can make the</p> <p>10 changes, get the authorization from the board to</p> <p>11 publish it with the changes that were discussed here</p> <p>12 today, circulate it; absent hearing an objection from</p> <p>13 any board member, go ahead and publish it.</p> <p>14 MR. KING: I think that's the point. We're</p> <p>15 not recommending other changes and I'm not expecting</p> <p>16 other changes. But just to circulate it perhaps so</p> <p>17 that we can read it and see that it complies with what</p> <p>18 we saw today. That's probably what we should do.</p> <p>19 MR. REYNOLDS: Yes.</p> <p>20 MR. KING: So that's what I would recommend.</p> <p>21 Go ahead and make those changes that we made here</p> <p>22 today.</p> <p>23 MR. GALLEGOS: Yes, sir.</p> <p>24 MR. KING: And send that to us so we can look</p> <p>25 at it and make sure that everybody agrees that it</p>	<p>1 covered everything we talked about.</p> <p>2 MR. GALLEGOS: Yes, sir. Will do.</p> <p>3 MR. KING: So we have Chief Schultz's motion</p> <p>4 and a second. So any discussion on the motion? Okay.</p> <p>5 None other appearing, all in favor say aye.</p> <p>6 (Those in favor so indicate.)</p> <p>7 MR. KING: Any opposed? So we'll look</p> <p>8 forward to that. Thank you.</p> <p>9 MR. GALLEGOS: Thank you, sir.</p> <p>10 ITEM NO. 22: DISCUSSION: PROPOSED NMAC RULE CHANGES</p> <p>11 REGARDING PERSONS WITH MENTAL ILLNESS</p> <p>12 MR. KING: The next item, item No. 22,</p> <p>13 proposed NMAC rule change regarding persons with</p> <p>14 mental illness. Director Medina.</p> <p>15 MR. MEDINA: Members of the board, this is</p> <p>16 regarding in-service requirements for persons with</p> <p>17 mental illness. And I know it was previously brought</p> <p>18 before the board in order for it to be a rule in the</p> <p>19 New Mexico Administrative Code.</p> <p>20 And my proposal is to make it consistent</p> <p>21 with -- to make the New Mexico Administrative Code</p> <p>22 number of hours consistent with the house bill and</p> <p>23 with the state statute. The House Bill 93 calls for</p> <p>24 two hours of training. And the statute calls for two</p> <p>25 hours.</p>
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<p>1 But the New Mexico Administrative Code</p> <p>2 regarding training for officers appears to be</p> <p>3 excessive and requires four hours. And my</p> <p>4 recommendation is just to change it to be consistent</p> <p>5 with the statute and what the house bill is, to make</p> <p>6 it for two hours.</p> <p>7 And the reason for that is it doesn't mean</p> <p>8 that -- it doesn't mean the departments and agencies</p> <p>9 cannot provide in excess of that. But we want to just</p> <p>10 bring consistency to the New Mexico Administrative</p> <p>11 Code rule on that.</p> <p>12 MR. KING: Can you just for me cite the</p> <p>13 administrative code section number. Do you have the</p> <p>14 section number there? I forgot to bring my book.</p> <p>15 MR. MEDINA: It's 10.29.7.1, sir. Well,</p> <p>16 10.29.7.8 is where it begins.</p> <p>17 MR. KING: 7.8.</p> <p>18 MR. MEDINA: Yes, sir, 10.29.7.8.</p> <p>19 MR. KING: And in that section there's a</p> <p>20 requirement for four hours and you're recommending we</p> <p>21 change it to two hours.</p> <p>22 MR. MEDINA: That is correct. Currently it</p> <p>23 reads "as a minimum of four hours shall be an academy</p> <p>24 credit interaction with persons with mental</p> <p>25 impairments training." And like I said the proposal</p>	<p>1 would be to change it, to make the rule change to two</p> <p>2 hours to be consistent with the statute and with the</p> <p>3 house bill.</p> <p>4 MR. KING: Questions, comments? Chief</p> <p>5 Schilling.</p> <p>6 MR. SHILLING: A comment, Mr. Chairman. I</p> <p>7 believe I've commented on this in the past and I'll</p> <p>8 reiterate it. That we as a board in conjunction with</p> <p>9 the director need to look -- the legislature is quick</p> <p>10 to memorialize in the statue training requirements for</p> <p>11 law enforcement without ever sunseting some of those.</p> <p>12 And I think in the upcoming legislative</p> <p>13 session we have enough time hopefully to address some</p> <p>14 of those outdated training requirements and either</p> <p>15 have them sunsetted or get them stricken from the</p> <p>16 statute so that we're staying modern.</p> <p>17 You know, I've argued with many a legislator</p> <p>18 about not memorializing training requirements in the</p> <p>19 statute. That's what the academy board is for and the</p> <p>20 rules are for. But it continues to happen year in and</p> <p>21 year out. Maybe if we can again make an effort to try</p> <p>22 and address some of that before January of 2013.</p> <p>23 MR. MEDINA: And that is on our agenda,</p> <p>24 Chief.</p> <p>25 MR. SHILLING: Thank you.</p>

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1 MR. KING: Once again that's something we can  
 2 help on too I think, if you let us know what sections  
 3 you think are outdated. And I have Mr. Peterson here  
 4 with me today. Dave was the chairman of the judiciary  
 5 committee.  
 6 MR. PETERSON: Yeah. I'm trying to figure  
 7 out if I can find the statute and see what it says  
 8 right now.  
 9 MR. KING: I actually agree with you, Chief  
 10 Shilling, about that. You know, for one, I don't  
 11 think that the legislature should be setting the  
 12 curriculum not only for these, but for the schools and  
 13 all those other things, because once it's in the  
 14 statute, it's very difficult to change. So if we can  
 15 help to take out outmoded statues, we certainly can  
 16 help with that too.  
 17 MR. SHILLING: Just as an example,  
 18 Mr. Chairman, you know, AMBER Alert and missing kids,  
 19 that's been memorialized in the statute for years.  
 20 And it's probably time to move on with some of that  
 21 stuff.  
 22 MR. KING: So let me jump back then to this  
 23 question, actually if there are other questions. But  
 24 if we're going to publish this other rule change and  
 25 if everybody is agreeable to this change, we ought to

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1 to provide additional training and that, just to be  
 2 qualified to comply with the statute, because you do  
 3 have to do at least two. And it does seem of some  
 4 utility to make everything consistent, because that's  
 5 what the bill said and I'm sure that's what the  
 6 statute says.  
 7 MR. KING: That's why you publish it.  
 8 They'll have a chance to come in and comment on it  
 9 once we publish it.  
 10 MR. MEDINA: Okay. And we want to make sure  
 11 that we're able to serve the police department and the  
 12 sheriffs department in a fair way and not impose more  
 13 than is required by the statute or by the bill and  
 14 especially the NMAC, New Mexico Administrative Code.  
 15 MR. KING: Okay. Any other questions or  
 16 comments? Chief Schultz, you can probably make your  
 17 motion again.  
 18 MR. SCHULTZ: Mr. Chairman, I would make the  
 19 motion that we move this forward for a proposed rule  
 20 change for discussion at the next meeting and publish  
 21 it as such.  
 22 MR. KING: Great. Is there a second?  
 23 MR. GRATTON: Second.  
 24 MR. KING: Any other discussion? All in  
 25 favor say aye.

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1 track it on the same path probably. I mean this is  
 2 pretty straightforward.  
 3 But are there discussions? I don't see  
 4 Mr. Gurley still here. Have you talked to Mr. Gurley  
 5 about this? If he were here, would he complain about  
 6 going from four hours to two hours?  
 7 MR. MEDINA: I have not spoken to him and I  
 8 don't know.  
 9 MR. PETERSON: Mr. Chairman, the statute  
 10 talks about terms of minimum of two hours. And in all  
 11 of those some may call them the boutique kind of  
 12 things, Chief Shilling, that have been added over the  
 13 last several years, they all talk about that. It's a  
 14 minimum of whatever.  
 15 And that's -- any other issues it's sort of  
 16 just compressing into the 40 curriculum. It also says  
 17 that. It's 40 hours, but then we keep adding all of  
 18 these specialized two hours and two hours here.  
 19 MR. MEDINA: It eventually becomes more than  
 20 40 hours.  
 21 MR. PETERSON: Exactly. I don't know how you  
 22 can get around some of that because -- it talks again  
 23 about minimum. So I think it's okay to probably do  
 24 that and conform it and then, you know, you could  
 25 leave it to the department's discretion if they wanted

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1 (Those in favor so indicate.)  
 2 MR. KING: Any opposed? Okay.  
 3 MR. SCHULTZ: Mr. Chairman, if I may, for  
 4 Director Medina, in the future, when we have these  
 5 proposed rule changes, if you could put the current  
 6 language in, strike it out, and then put the new  
 7 language right next to it and underscore it. It makes  
 8 it easier for us to compare so we don't have to go  
 9 back and forth between books and computers. It just  
 10 makes it a little bit easier for us.  
 11 MR. MEDINA: Certainly, sir.  
 12 MR. KING: Maybe you could talk to -- the  
 13 legislative council service has a way that they do  
 14 that. We have a way that we do that. So talk to some  
 15 of us and we'll get you fixed up.  
 16 MR. MEDINA: Okay. Thank you, sir.  
 17 ITEM NO. 23: CONFLICT OF INTEREST  
 18 (CONTINUED FROM MARCH 1, 2012, BOARD MEETING)  
 19 MR. KING: Okay. The next item on the  
 20 agenda, item No. 23, which is kind of a holdover from  
 21 discussion that we had at the last meeting. And we  
 22 held off that motion because I didn't think it had  
 23 been noticed where people would know what we're doing  
 24 and now we do because it's in here. Mr. Korn.  
 25 MR. KORN: Mr. Chairman, could I recommend we

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1 take a brief break before we do this last group. Most  
 2 of them are mine and I think we can go through them  
 3 relatively quickly.  
 4 MR. KING: I believe we can. You know, I  
 5 actually think that we can finish by maybe even 1:30,  
 6 but certainly by two o'clock. We'll stay in recess  
 7 until one o'clock.  
 8 (Recess.)  
 9 MR. KING: Let's go ahead. We've been making  
 10 good progress. So let's go ahead and try and get  
 11 started here. And it's going to continue to be my  
 12 goal I think to be done by two o'clock. And I bet we  
 13 can do that.  
 14 Oh, you know, before we -- Mr. Korn, if you  
 15 don't mind, before we go on to you, it turns out that  
 16 there was a little bit of a mistake in our adoption of  
 17 the certifications. Whereas, in our books it looked  
 18 like that number 11, I forget the total number, was  
 19 blacked out, it actually just was gray on the  
 20 original. And so it wasn't blacked out. And so we  
 21 need to approve the certification for police officers  
 22 of No. 12-0011-P.  
 23 We took it out in that last motion, but we  
 24 need to put it back in because it's an artifact of how  
 25 this was copied. It doesn't mean that they black them

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1 take the podium.  
 2 MR. KING: Please.  
 3 MR. KORN: Mr. Chairman and fellow board  
 4 members, my agenda items are No. 23, 24, 25, and 26.  
 5 So in regard to 23, 24, and 26, in light of the fact  
 6 that we have a new director and he's getting his arms  
 7 around processes, I would ask to table those motions  
 8 and discuss them at the next board meeting.  
 9 MR. KING: Okay. Motion to table item Nos.  
 10 23, 24, and 26; is that right?  
 11 MR. BETZ: I'll make that motion to table 23,  
 12 24, and 26.  
 13 MR. KING: That's actually not a debatable  
 14 motion. So was there a second?  
 15 MR. SCHULTZ: Yes. Chief Betz.  
 16 MR. KING: Okay. So it's been moved and  
 17 seconded. All in favor of the motion say aye.  
 18 (Those in favor so indicate.)  
 19 MR. KING: Any opposed? Thank you, Mr. Korn.  
 20 ITEM NO. 25: MISCONDUCT CASE TRACKING:  
 21 ADOPTING PROCEDURE AND SPREADSHEET  
 22 MR. KORN: Thank you, Mr. King. And in  
 23 regard to No. 25, misconduct case tracking, in that  
 24 regard I passed out three documents. Hopefully  
 25 everybody has that.

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1 out. So that being said, I'm just going to -- Chief,  
 2 maybe I'll just cede the floor to you to make that  
 3 motion.  
 4 MR. SCHULTZ: Mr. Chairman, therefore  
 5 realizing that there was a mistake on agenda item No.  
 6 19 which is the certification for ratification of  
 7 police officers, that that be amended to include item  
 8 12-0011-P. And I have no idea what this person's name  
 9 is, we can't see it.  
 10 MS. LOPEZ: It's Matthew Burns.  
 11 MR. SCHULTZ: That Matthew Burns be accepted  
 12 and certified as a law enforcement officer.  
 13 MR. KING: So we have a motion. Is there a  
 14 second?  
 15 MR. BETZ: Second.  
 16 MR. KING: All in favor say aye.  
 17 (Those in favor so indicate.)  
 18 MR. KING: Any opposed? Okay. Thank you,  
 19 Chief. I thought the same thing that you did in  
 20 looking at that. It was just an artifact.  
 21 All right. The next item on the agenda then  
 22 is item No. 23. Mr. Korn, you've got three items.  
 23 You can do them in whatever order you want if it works  
 24 better to do them in a different order.  
 25 MR. KORN: Thank you, Mr. Chairman. May I

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1 MR. MEDINA: I don't know if Monica got  
 2 everything?  
 3 MS. MEDRANO: Yes.  
 4 MR. KORN: One is called summary report case  
 5 management, the other is called LEA case management  
 6 snapshot, and the third is LEA appeals snapshot.  
 7 MS. MEDRANO: I don't have the appeals.  
 8 MR. KORN: We'll get that to you. You know  
 9 what, these spreadsheets are something that I'm  
 10 suggesting that the board consider, because what I  
 11 found as a board member going through these cases is  
 12 we have historically received documents from the  
 13 director's office that gives us kind of an idea of  
 14 what cases we have in terms of volume but never in  
 15 terms of who they are and what's preceding.  
 16 So from the standpoint of knowing how old our  
 17 cases are that are backlogged and knowing what cases  
 18 the director is choosing to get through the backlog on  
 19 and how we're keeping ourselves current, the board  
 20 really has no current knowledge. The board actually  
 21 had no historical knowledge either.  
 22 I have said many times before these board  
 23 meetings that I believe that the entire misconduct  
 24 case management, the responsibility of this lies with  
 25 us, the board. We have advisors and we have legal

1 counselors. But really, when the buck stops, it stops  
2 at the board. And each of us I think individually  
3 have a responsibility to make sure we know what's  
4 going on.

5 So in the past we know that we had at one  
6 time 130 cases that were backlogged. But none of us  
7 as board members really could identify which case was  
8 which. And as things came to light and as I started  
9 working with Monica and with the former director, we  
10 have cases going back years and years.

11 Some people are awaiting felony trials, some  
12 people have felony convictions, and those people still  
13 have law enforcement certifications. But the board  
14 has no idea who these people are or how far back they  
15 go. And what these forms are trying to do is give  
16 full disclosure and total transparency so that we know  
17 agency by agency, name by name, who is pending action  
18 and why it's waiting so long.

19 Now, we know that the director is going to go  
20 through these cases hopefully around five a week on  
21 the embedded stuff, the older stuff, which will be 20  
22 to 22 cases per month for the old stuff, which going  
23 back historically to one of our meetings a couple of  
24 months ago meant that our backlog was going to be done  
25 in six months from January.

1 So I don't think we kept on that course  
2 during the last six weeks. But Louis Medina was  
3 brand-new to the job and he obviously wants to proceed  
4 now. So this is an opportunity for us to know exactly  
5 what he has done.

6 So if I may go through these with you.  
7 They're not that complicated. At least I'll show you  
8 the way I think they should go. And by the way --  
9 unfortunately Monica Medrano has stepped out.

10 MR. MEDINA: She'll be back.

11 MR. KORN: I'll save my comments then. But a  
12 lot of this is set up in a format that will be easy  
13 for her to kind of interrelate with our forms. So we  
14 start with the LEA case management snapshot.

15 The big deal on the snapshot that I consider  
16 to be big deals are first it tells when our next LEA  
17 meeting is in the upper right. And it gives a  
18 snapshot date, because the goal would be to have our  
19 snapshot dates consistently happening at each time ten  
20 days before the next meeting. That way we know from  
21 meeting to meeting how many cases have come in and  
22 what the processes have been on those cases.

23 The next thing is we have the columns.  
24 You'll see two skinny columns on the left-hand side.  
25 A new LEA-90 comes into our office. I think we need

1 to know when the LEA-90 comes in and what happens with  
2 it, because the director has lots of control that he  
3 exercises rightfully so. But the board would never  
4 know about it.

5 So some cases might be dismissed for lack of  
6 evidence. Some cases may be dismissed with -- or in  
7 effect dismissed by a cautionary letter. These  
8 things -- we would never as a board know who gets a  
9 cautionary letter and what case is dismissed.

10 And by that same token, it gives an  
11 opportunity to have a discussion and a dialogue with  
12 the director of how much work do we go through to find  
13 out why the case was dismissed or why a cautionary  
14 letter was sent out, because I think we as managers,  
15 just as if we were managers of a company, have a need  
16 to know what's going on in our process.

17 So with these two checkmarks, we'll be able  
18 to see which cases are new to the system from an  
19 LEA-90. And then the next checklist tells was an NCA  
20 issued, because we need to know that; because our  
21 goal, our stated goal and our timeline, is to make  
22 sure that every LEA-90 that comes in gets processed  
23 within two weeks.

24 It doesn't mean that there will be an NCA  
25 issued because he might not have the information. But

1 it does mean it gets processed. And at least we'll be  
2 able to see not only how the director is doing, but  
3 also how the cases are coming in to us. We'll learn a  
4 lot simply from this.

5 Now, moving across, it gives names, the last  
6 name, first name. I have spoken with the director.  
7 And, you know, I tossed this out. He and I share the  
8 viewpoint that it doesn't matter that we have names on  
9 this, because after all, these are all public  
10 proceedings, the names come out anyway. If any  
11 members of the board have problems with names, we can  
12 put down numbers that are never changing.

13 Moving over it tells what agency. I think it  
14 behooves us to know what agencies we have, because  
15 consider, long term, because short term is to get rid  
16 of our backlog. But long term is to go through the  
17 state and find out what agencies really aren't  
18 reporting their LEA-90s.

19 I mean it's a requirement of the statute. We  
20 know that there are agencies that never come before  
21 us. And it defies logic to assume that they don't  
22 have misconduct cases like everybody else. So this is  
23 one way that empirically we can start to see who are  
24 we hearing from and more coincidentally who are we not  
25 hearing from.

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<p>1 Then following across it tells when we 2 receive the LEA-90, what the offense was in the 3 LEA-90, and the date of the offense. This gives us an 4 idea -- because the next column tells when we got it, 5 it gives us an idea when the offense happened and how 6 quickly it is we get an LEA-90 after that; because 7 this is the formation in my opinion of creating data 8 that we'll understand our own cases better.</p> <p>9 Then moving across we see the date of the 10 NCA. And then we find out what happens to it from 11 there. Did it go to an informal hearing within a 12 couple weeks, are we going through our backlog that 13 quickly. And finally the stipulated agreement, was 14 there one made; and if not, the formal hearing date.</p> <p>15 Now, you'll notice that there's a lot of 16 stuff that goes on that we don't have on this form, 17 like when notices are sent out, whether the notices 18 came back through certified mail. As a board that's 19 minutiae that I don't think we need to deal with. I 20 tried to put in stuff that only matters to us.</p> <p>21 Finally are comments or disposition so that 22 Monica can put in meaningful information to the board 23 that we understand. Now that Monica is back, I wanted 24 to make sure that I take the opportunity, because I 25 hate for a board meeting to go by without doing this.</p>	<p>1 Is to compliment her on her organization, her 2 keeping track of our cases, assisting -- I know at 3 least three directors she has assisted. And they rely 4 on her as you can see. And it's because of Monica 5 that we have the opportunity to really do some data 6 collection here. So she gets my highest vote.</p> <p>7 MR. SHILLING: Mr. Chairman, Mr. Korn. 8 MR. KING: Chief Shilling.</p> <p>9 MR. SHILLING: You know, and I would like to 10 get board counsel involved in this. We're a unique 11 animal. And one of the issues that comes up that the 12 agency continually deals with is IPRA requests for 13 information from the board, like the names and things 14 like that.</p> <p>15 But it keyed me on the issue of the back and 16 forth that I know I have gone through in various 17 positions with the agency of who is the custodian of 18 record, what is releasable. As an example, if I send 19 an LEA-90 along with a bunch of Internal Affairs 20 documentation to the academy, then who is our 21 custodian of records and who is responsible for 22 redacting and holding those records and things like 23 that.</p> <p>24 And I don't know if we've ever been provided 25 solid, clear direction on that. And I was wondering</p>
<p>Page 124</p> <p>1 maybe if we can address that along with this, because 2 we're creating a new document that's going to be 3 IPRA-able under IPRA and the associated documentation 4 behind it.</p> <p>5 Who is responsible for vetting that, doing 6 the redactions, if it's redactable, or denying the 7 request, if it's a protected matter of personal 8 opinion and things like that. And I thought maybe I 9 would get you engaged since it popped into my head.</p> <p>10 MR. KING: Chief, if you don't mind, can we 11 kind of sit on that question for a second until 12 Mr. Korn gets sort of to the end of discussing this.</p> <p>13 MR. SHILLING: Sure.</p> <p>14 MR. KING: But I think it's really an 15 important question. And then you can be thinking 16 about it. Is that all right, Nate?</p> <p>17 MR. KORN: Oh, yeah. I think that's a great 18 question, a great point to raise.</p> <p>19 MR. KING: No. But I mean for you to kind of 20 finish talking about your forms.</p> <p>21 MR. KORN: Sure. And I think obviously what 22 we're doing is documenting. That dovetails -- I mean 23 we're documenting something that already existed. It 24 just never had transparency to the board.</p> <p>25 So the next sheet -- and again this isn't</p>	<p>Page 125</p> <p>1 rocket science. But I wanted you to see why I put 2 these things down and why I think they're meaningful 3 and why I selected these particular items to put down.</p> <p>4 The next sheet is a summary sheet. And the 5 summary sheet does nothing more than gives us again, 6 as managers of our organization, the law enforcement 7 board, it gives us quick visual with a date and a 8 snapshot of a date how all of our cases work. So the 9 first thing would be -- on the summary report I'm 10 talking about now would be new cases.</p> <p>11 So it would be the total of new LEA-90s 12 received and the number of NCAs put out on the 13 LEA-90s, because that gives us a quick analysis, did 14 we get 100 in and only send 15 Notices of Contemplated 15 Action out or are we kind of tracking the way our goal 16 was: For every one that comes in, we also get a 17 Notice of Contemplated Action out within two weeks.</p> <p>18 The next group is our total number of cases, 19 because as we know we let it rise to 130 or higher 20 actually once upon a time. And this gives us an 21 opportunity to say, hey, with the new cases and the 22 old cases, how many do we have in there, how many were 23 in the last snapshot, how many are in this snapshot, 24 so that we can actually see things going down. We can 25 always drill down into this other -- back into the</p>



<p style="text-align: right;">Page 126</p> <p>1 snapshot and see what the cases are.  2 Finally is the Notice of Contemplated Action  3 and the hearings. There are two main hearings, of  4 course, it would be the informal hearing and then the  5 formal hearing. It gives us a quick idea of how many  6 of these things we're having and how many of the  7 Notice of Contemplated Actions reduces to a hearing  8 and how many of those informally are introduced to a  9 formal hearing.  10 And finally the total number of Notices of  11 Contemplated Action, because as the board has said and  12 as we discussed with Mr. Medina, there should be  13 approximately ten per week, nine or ten per week,  14 going out, which comes out to approximately 30 to 40 a  15 month. That's the numbers that we should be seeing  16 here.  17 Finally the resolutions. We would have how  18 many resolutions are by informal hearings, how many  19 resolutions by formal hearings. And finally something  20 new to the board, and that's the number of appeals,  21 because I at the last meeting was surprised to learn  22 that we had at that time five appeals.  23 The board has never to my knowledge -- and  24 I've been here two years. Chief Schultz and Sheriff  25 Coon have been here longer than me. But I have never</p>	<p style="text-align: right;">Page 127</p> <p>1 in two years heard about a single appeal. And I  2 recognize or I realize now maybe they have been  3 ongoing all the time, but we haven't heard about them.  4 That, of course, is a direct corollary to  5 what our board does. We need to know what the appeals  6 are, what the appealable issues are, and what the  7 resolutions of these things in court are. And we  8 should know not only for our own edification and for  9 managing ourselves, but also to see the efficacy of  10 our procedures and of our attorneys.  11 And so when it comes to the appeals, that's  12 the appeals snapshot. And again without belaboring  13 all the columns in it, it basically tells us the same  14 thing, what matters are coming up for an appeal, what  15 the purpose of the appeal is -- you know, if you're  16 all looking at version No. 1, I think I miswrote this.  17 I actually copied the other document and  18 failed to change the columns. But the point of the  19 appeals snapshot would be basically to do the same  20 thing. What matters are going up for appeals, who  21 they're for, who's handling it, and what the current  22 processes are in processing. So those are my  23 recommended forms for managing our cases and our  24 board. Are there any questions?  25 MR. KING: Now shall we talk about the IPRA</p>
<p style="text-align: right;">Page 128</p> <p>1 issue first?  2 MR. MEDINA: Can I respond?  3 MR. KING: Yes. Director Medina, why don't  4 you go first.  5 MR. MEDINA: Mr. Korn, you may or may not  6 have seen it, it sounds like your concern is  7 transparency. And that may not have been presented to  8 the board in the past regarding the status of the  9 cases, where they stand. But certainly Monica Medrano  10 maintains a list of a lot of what you just described.  11 MR. KORN: Exactly. Beautiful job.  12 MR. MEDINA: She does a good job. And maybe  13 we might not be too far off in what you proposed and  14 maybe we need to compare the way that Monica tracks it  15 compared to your recommendation.  16 MR. KORN: Mine is merely a subset of hers.  17 So all I'm doing is taking hers almost in the order in  18 which she does it so that there's no extra work for  19 Monica and just distilling that into a format that's  20 more user friendly for our board.  21 You'll find many of the columns that Monica  22 has -- well, actually mine -- every column I think I  23 have Monica already has. She has a lot more columns  24 that we don't really need. And there are a couple  25 other things that I put in such as identifying which</p>	<p style="text-align: right;">Page 129</p> <p>1 ones are new LEA-90s, because those do not appear on  2 the form that I'm aware of, following through the  3 whole misconduct decision-making by the director.  4 And, of course, hers doesn't have the snapshot dates.  5 MR. MEDINA: Okay. I just want to make sure  6 that we're not going to be redundant.  7 MR. KORN: Oh, no, no. It should be a subset  8 of what Monica is doing. Just primarily given as a  9 management tool for the board. That's why, if you  10 look over my form compared to Monica's, Monica's has I  11 think almost everything in it that mine has. The  12 summary sheet, of course, is new.  13 MR. MEDINA: So are you proposing we drop the  14 way that we're tracking or do you just want to use  15 this as a way to present it to the board?  16 MR. KORN: Right. There are two different  17 purposes. Monica is tracking for you, because you  18 need all the information that she's tracking and  19 Monica needs all the information too.  20 But there's a lot of minutiae there the board  21 doesn't need. You know, when the NCA was sent out,  22 who the attorneys are, whether they responded. That  23 stuff really doesn't matter to the board. All that  24 matters to the board is the specific items that I  25 think I have listed.</p>

<p style="text-align: right;">Page 130</p> <p>1 That's why it should be relatively easy for  2 her to do. And it just gives us a summary of what  3 she's working on.  4 MR. MEDINA: Thank you.  5 MR. KORN: Thank you. And I thank Monica.  6 It really originated from her beautiful work.  7 MS. MEDRANO: Thank you.  8 MR. KING: So, Mark, can you address a little  9 bit -- actually I think those are really good  10 questions about who is the custodian of records when  11 these come from an agency to the Law Enforcement  12 Academy Board and whether -- if there are things that  13 are not subject to IPRA, where they're at in the  14 police agency, would they become subject to IPRA or do  15 they become subject to IPRA under circumstances when  16 they go to the Law Enforcement Academy Board.  17 MR. REYNOLDS: Yes. And actually we just had  18 a meeting on these very issues, what was it, Louis, a  19 couple weeks ago now maybe not even that long ago now?  20 MR. MEDINA: Last week.  21 MR. REYNOLDS: Last week. And I think -- and  22 I believe, Louis, you can jump in at any time. I  23 think we have a process in place. The first step is  24 identifying who is the custodian of record.  25 Part of the problem is that there is one very</p>	<p style="text-align: right;">Page 131</p> <p>1 capable woman, Regina I believe it is, in DPS who is  2 acting as custodian of record for both DPS and the Law  3 Enforcement Academy Board.  4 So we had a long discussion about identifying  5 when the Law Enforcement Academy is the custodian of  6 record and when is DPS. After some discussion along  7 those lines, I left that meeting very confident that  8 Regina was confident that she could identify when it's  9 an LEA record and when it's a DPS record or some other  10 law enforcement agency's record, but most likely DPS.  11 So we've given direction to Regina Chacon I  12 believe her last name is --  13 MR. MEDINA: Correct.  14 MR. REYNOLDS: -- to identify when it's --  15 who is the custodian of record. The process that we  16 established after that is that she would then forward  17 that to the Law Enforcement Academy staff when it is a  18 Law Enforcement Academy record.  19 The Law Enforcement Academy staff will gather  20 everything that could possibly be responsive without  21 making any determinations themselves of whether or not  22 it's exempt or not exempt under IPRA. Once they  23 gather all of it, they send it to Regina. Regina will  24 then send it to me when it's Law Enforcement Academy  25 records.</p>
<p style="text-align: right;">Page 132</p> <p>1 I will then review every IPRA request -- I  2 have four on my desk right now since we started this  3 process. I will review every IPRA request that's made  4 of the Law Enforcement Academy and make determinations  5 under IPRA of what is exempt and not exempt. And then  6 I will make that -- then it will go back to Regina to  7 be released to the requester, those things that are  8 not exempt.  9 MR. SHILLING: Mr. Chairman.  10 MR. KING: Yes, Chief Shilling, go ahead.  11 MR. SHILLING: Just a quick question. Let me  12 turn the tables a little bit and say submitted with  13 the LEA-90 is a packet from Chief Schultz's agency.  14 Is it safe to assume that APD is the  15 custodian of that attachment and we shouldn't be  16 messing around with trying to figure out whether or  17 not something should or should not be released under  18 IPRA, we should refer the requesting entity to the  19 true custodian of that record, which is APD?  20 MR. REYNOLDS: Unfortunately -- that would be  21 great. But unfortunately that doesn't work under the  22 Inspection of Public Records Act request, because as  23 soon as it gets in the LEAB -- the LEA's hands, they  24 have a copy of it, they're a custodian, whether or not  25 it originated with some other police agency or with</p>	<p style="text-align: right;">Page 133</p> <p>1 them.  2 As soon as it's sent to them, under the law  3 they're a custodian. So they have it and they have to  4 figure out what do with it at that point.  5 I think it makes complete sense to work in  6 cooperation with the submitting agency and  7 determining, you know, with their attorneys or whoever  8 it is whether or not this is something that is exempt  9 or not exempt. But the LEAB under the law needs to  10 issue the -- issue it or hold it back, making their  11 own determination.  12 MR. SHILLING: Mr. Chairman, just a follow up  13 on his explanation of the process that's in place. I  14 think it would serve us well if we delineated that  15 procedure in writing in some way so that we have  16 something to reference back to. Because with all due  17 respect to Regina, a great gal but busy, because she's  18 dealing with hundreds of IPRA requests just from my  19 agency alone let alone LEA or any of the satellite  20 attachments to DPS.  21 The other thing that is in the realm of  22 discussion is DPS is a signatory to a settlement  23 agreement with certain members of the media. The LEA  24 Board is not.  25 MR. REYNOLDS: Correct.</p>

1 MR. SHILLING: And neither is the LEA as an  
2 entity. We as an agency are signatories to that. And  
3 that could potentially muddy the waters too. And I  
4 want to make sure that everyone is aware of that as  
5 well.

6 MR. REYNOLDS: Yeah. I have talked with DPS  
7 counsel extensively about that issue and keeping the  
8 LEA matters separate from the DPS matters, because  
9 it's our position that the LEA matters are not subject  
10 to that settlement agreement.

11 MR. SHILLING: Gotcha. Thank you.

12 MR. KING: I think, Chief Shilling, that kind  
13 of gives you an idea. You're more than welcome to  
14 chat with Mark more if you need to.

15 MR. SHILLING: Thank you, sir.

16 MR. KING: I actually had sort of the same  
17 question. So I'll just follow up a little bit and  
18 then I'll go back to the group for questions. These  
19 documents certainly will be public documents I think,  
20 don't you, Mark, I mean as we prepare these?

21 I suppose they could have information that  
22 should be redacted out occasionally or something like  
23 that. But I really like the idea. I think it is  
24 something that would be a really nice tool, for the  
25 board to have these where we can see how things are

1 moving along.

2 MR. KORN: Thank you.

3 MR. KING: So I like it from that  
4 perspective. But as we look at what's in the forms,  
5 it strikes me it would be worthwhile to at least look  
6 at them to make sure that we're not sort of  
7 automatically putting in something that would have to  
8 be redacted or left out if there was a request for it.  
9 I'm not seeing anything here.

10 MR. KORN: I thought a long time about it. I  
11 didn't see it. That's why I threw it out. I'm sorry.  
12 Was there more discussion? I was going to make a  
13 motion.

14 MR. REYNOLDS: Mr. Chairman.

15 MR. KING: Go ahead, Mark.

16 MR. REYNOLDS: If I may say, Mr. Chair and  
17 Mr. Korn, on the appeals issue, I think it makes  
18 complete sense to have what you're talking about, a  
19 tracking of the appeals. The one thing that I would  
20 caution is I definitely would advise staying away of  
21 getting attorney-client privileged communication on  
22 that tracking.

23 So we can figure out what gets reported on  
24 that sheet and what doesn't. And then it may be  
25 appropriate to put in a consistent manner an item on

1 the agenda under executive session, you know,  
2 attorney-client privileged communication with counsel  
3 about pending litigation, which would be those  
4 appeals.

5 MR. KORN: That would be a great idea. And  
6 what I was thinking would be on the form would be more  
7 or less court record type things, you know, what's  
8 been filed, what the basic issue is in a nutshell.  
9 But yes, that would be wonderful.

10 MR. REYNOLDS: My only thought is that  
11 wouldn't give you a whole heck of a lot of  
12 information. It makes more sense to have that on the  
13 agenda. And then myself or whoever the counsel is can  
14 update you every meeting as to where all of the  
15 pending appeals are.

16 MR. KORN: What it would do is give us an  
17 idea of at what stages the appeals are and also what  
18 things have been filed in court, because some of the  
19 board members, if not all of the board members, would  
20 probably like to have the pleadings. I know I  
21 certainly would.

22 MR. REYNOLDS: Okay.

23 MR. KORN: I would like to have the pleadings  
24 basically to read to see what the issues are and to  
25 see how our attorneys are doing and what the other

1 attorneys on the other side are doing. So hopefully,  
2 if there are issues that we can avoid, we can do that  
3 as a group and fulfill our mission.

4 MR. REYNOLDS: Agreed. Thank you.

5 MR. KING: Other questions for Mr. Korn?  
6 Otherwise we can have a motion.

7 MR. SCHULTZ: Mr. Chairman, one quick  
8 question. Under Law Enforcement Academy case  
9 management, the long form, we have new cases. And you  
10 have the total number of new cases received. Would  
11 you be willing to add one more that says total number  
12 of valid cases, because the total cases and the NCAs  
13 will never match up because not all of them result in  
14 an NCA.

15 MR. KORN: That's a great idea. I think  
16 that's great, to put in invalid, because of valid  
17 cases. That would be under new cases.

18 MR. SCHULTZ: Under new cases.

19 MR. SHILLING: Mr. Chairman.

20 MR. KING: Yes, Chief Shilling.

21 MR. SHILLING: Just one quick follow-up  
22 question for the director I guess more than anything.  
23 Given your lean resources and everything, do you have  
24 any opposition to this? Because it's a little bit of  
25 double entry. And do you have a solid feel that it's

1 not going to be that big of a deal?  
 2 MR. MEDINA: Well, I would ask Ms. Medrano to  
 3 potentially address that. But if it's no more than  
 4 gathering -- if we have the information already and if  
 5 all we have to do is summarize, that's what I'm  
 6 perceiving this is; is that correct?  
 7 MR. KORN: Yes.  
 8 MR. MEDINA: Are you asking us to generate  
 9 another tracking system?  
 10 MR. KORN: Oh, no, no. The idea behind the  
 11 form and the organization of it was totally in track  
 12 with Monica's columns. So really it's the same stuff.  
 13 She can create one form, a master form for herself,  
 14 and then basically excise columns and put it into the  
 15 form I did for us.  
 16 MR. MEDINA: Okay.  
 17 MR. KORN: The only difference that she's  
 18 adding for us are the little checkmarks telling us  
 19 what's new and then following that, because I don't  
 20 think that generally comes across, what new cases have  
 21 happened and what the resolutions are and which ones  
 22 the director has sent out an NCA on and which ones  
 23 he's dismissed and which ones he's sent a letter of  
 24 caution. That's new. And the snapshot dates, that's  
 25 new. So obviously it's five fields we're talking

1 And if you think about it, we've been looking  
 2 at a form very similar to that for the last two years  
 3 since I've been here and probably longer than that for  
 4 Chief Schultz or Sheriff Coon. So I mean we always  
 5 have seen that.  
 6 But it never really came to our consciousness  
 7 of how bad things were until about six or eight months  
 8 ago. And so this will give us more transparency,  
 9 we'll know where we are. And my vote would be Monica  
 10 doesn't have to spend her time on that form anymore.  
 11 MR. MEDINA: Would you agree to a little more  
 12 review of the system that we have and compare it to  
 13 yours again once more before it's finalized?  
 14 MR. KORN: Well, I would like to make a  
 15 motion, because, you know, I mean I've tried to adopt  
 16 this so it's convenient. But really I think the board  
 17 should direct how things go.  
 18 So I would make a motion that we adopt these  
 19 forms and then ask Monica to conform, with the idea  
 20 being that I'm certainly not trying to cause extra  
 21 work. And I can work with Monica to make it easier if  
 22 she has ideas after she gets her arms around about it.  
 23 But I think the board has to dictate the way  
 24 the process is worked and then work with the staff to  
 25 make that efficient.

1 about, four fields. It should be easy.  
 2 MS. MEDRANO: And I don't perceive it being  
 3 more work. And it does good to let me know here the  
 4 date, the cutoff date is going to be ten days prior  
 5 to. That's where I was kind of -- with this last  
 6 meeting, I did prepare this worksheet as well as a few  
 7 other reports that I did give to the director.  
 8 And I was kind of like, okay, well, where do  
 9 I cut it off at, do I cut it off two days before the  
 10 meeting, a week before the meeting. And this kind of  
 11 helps here. But my question is do I continue to  
 12 prepare this for presentation to the board or are we  
 13 just going to stick with these three?  
 14 MR. KORN: And that's a question to me?  
 15 MS. MEDRANO: Yes.  
 16 MR. KORN: I should say that the cutoff date  
 17 was pretty much resolved with -- in talking to you  
 18 about a month or two ago, because it's true, where do  
 19 we do our cutoff. So I thought I would standardize  
 20 that based on our conversation.  
 21 As far as I'm concerned, as a board member,  
 22 that form that you're holding up doesn't disclose a  
 23 lot of information. I mean we -- we have no idea  
 24 where those numbers are coming from or how they  
 25 interrelate to anything else.

1 MR. MEDINA: And potentially adjust after the  
 2 approval of the process, is that what you mean?  
 3 MR. KORN: Well, I mean I think these are our  
 4 management tools. And if the board -- and I would  
 5 make that motion. And if the board agrees with me,  
 6 then these are the management tools. But to the  
 7 extent that Monica may say one column has to be  
 8 changed and switched, I mean I'm sure the board  
 9 wouldn't mind.  
 10 MR. MEDINA: Okay. That's what I'm trying to  
 11 get at. Just a little bit of flexibility.  
 12 MR. KING: And let me add, with regard to the  
 13 motion, you said that you think that the appeals  
 14 snapshot was passed out to us.  
 15 MR. KORN: The appeals snapshot, I'll revise  
 16 it. It basically is -- Mark understands. I just want  
 17 kind of an historical chronology of the way a case  
 18 would go. But not in the detail that the court would  
 19 have, just where are we now in this particular appeal.  
 20 MR. KING: Before you make your motion, I  
 21 don't know exactly what you're going to make. But  
 22 maybe a way to deal with all those questions, and you  
 23 might want to be a little more specific in this, would  
 24 just be to say that it's our request that each of  
 25 these three documents, a case management snapshot, an

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<p>1 appeals snapshot, and a summary, be done for us on 2 these time scales, ten days before the meeting and all 3 that kind of stuff. And then as far as the 4 nitty-gritty of what the columns are going to say or 5 something like that is to let you and Monica and the 6 director work it out. Can we do that? 7 MR. KORN: Well, actually, you know, 8 notwithstanding the appeals one that I was a bad 9 secretary on, I would make a motion that the summary 10 report and the case management be adopted the way they 11 are with the board -- with the board adjusting as time 12 goes on for things that we can't think of now but we 13 wish we had in there. Just like Chief Schultz pointed 14 out that one item that I hadn't thought of. I'm sure, 15 as we grow with this, we'll think of more things. 16 MR. KING: Monica, go ahead. 17 MS. MEDRANO: Chairman, members of the board, 18 my one question here would be we're looking at the 19 LEA-90 offense and date of offense. For most of these 20 prior cases, I do have the offense. But I don't have 21 the date of offense. Now, is this something you want 22 from here forward or do I need to go back through all 23 the cases and review that and get the date of the 24 offense? 25 MR. KORN: No, no. I mean it's a minimum of</p>	<p>1 extra work from here forward. That was my goal, from 2 here forward, unless the board has a different idea. 3 MR. GRATTON: Mr. Chairman, Mr. Korn, and 4 Monica, you know, I bet you, if you're using a 5 software system, you could probably do something that 6 a lot of this data that you're putting in in your form 7 would populate the form that Mr. -- I mean that will 8 save you a ton of work if you can do that. 9 I know that's very possible. But it would 10 keep you from having to manually go in and enter both 11 of those twice. I would definitely recommend you look 12 at that possibility. 13 MS. MEDRANO: Because here it also states new 14 ISS. That isn't something that I'm tracking 15 currently. But I can -- what I can do is when I do 16 the report, I can sort it by the days that they do 17 come in. And I can number them on the side, you know, 18 okay, these are the ones from 2012 that came in, these 19 are the ones -- 20 MR. KORN: Just from this day forward. You 21 don't have to go back on anything. Because we're 22 starting our history now. And I'm not into your doing 23 extra work. You're already busy enough. 24 I can help you with these. It just says -- 25 the first column is is it a new LEA-90. You would put</p>
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<p>1 a checkmark in that column. And then the next column 2 says was an NCA issued. And if it was, you would put 3 a checkmark there. You would have ten a month to do. 4 So you're only talking about ten lines. 5 MS. MEDRANO: Okay. 6 MR. KORN: So, Mr. Chairman, if I may make a 7 motion. 8 MR. KING: Go ahead. 9 MR. KORN: I would make a motion to accept 10 the case management snapshot and the summary report 11 the way it is written with the addition of Chief 12 Schultz's observation about under new cases putting in 13 number of valid cases or was it number of invalid 14 cases? 15 MR. SCHULTZ: Valid. 16 MR. KING: Okay. That's the way I wrote it 17 down. Okay. So I think everybody probably 18 understands the motion. Is there a second? 19 MR. MYERS: Second. 20 MR. KING: Any other discussion or questions? 21 Okay. Seeing none, all in favor say aye. 22 (Those in favor so indicate.) 23 MR. KING: Any opposed? Okay. Thank you, 24 Mr. Korn. And then you're going to provide the 25 appeals snapshot.</p>	<p>1 MR. KORN: Yeah, I'll provide the appeals 2 snapshot. And I can even give that to -- well, 3 basically it might be to Mark. In fact, I'll work on 4 that. Thank you. 5 MR. KING: Thank you, Mr. Korn. 6 ITEM NO. 27: SCHEDULING OF NEXT MEETING 7 MR. KING: All right. So I am thinking the 8 only item left on the agenda is scheduling of the next 9 meeting, which I think has been scheduled already. 10 But, Mr. Medina, you want to fill us in on the next 11 meeting. 12 MR. MEDINA: Mr. Chairman, the dates we have 13 proposed and are under consideration are between 14 May 28th through June 1st or June 4th through June 15 8th. And my recommendation would be in Albuquerque. 16 MR. KING: You guys, I'm usually gone by this 17 time in the meeting. Are you going to set that now or 18 everybody will just give their ideas to Mr. Medina? I 19 guess, if we're going notice it, it's probably good to 20 set it. 21 I am interestingly enough going to be in an 22 Inter-American Bar Association conference meeting in 23 Venezuela talking about human trafficking on both of 24 those dates. So either way I'll get somebody to 25 represent me.</p>

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<p>1 MR. KORN: If I may, Mr. Chairman, I have a 2 question just to pose to the board. What you're 3 talking about is the six-week interlude, right? 4 MR. MEDINA: Yes, sir. 5 MR. KORN: And I know that's something the 6 board had all agreed we were going to do, meet every 7 six weeks until the backlog is over. But I'm 8 wondering -- and I just toss this out as a question, 9 not as a comment. 10 I'm wondering whether it makes sense for this 11 time to let the director get his arms around 12 everything, to give him a full 90 days, unless there's 13 cases that are pushing some deadline that need more 14 board review within the 90 days, if you know. 15 MR. REYNOLDS: I'm not aware of any. 16 MR. KORN: I'm not aware. Are you aware, 17 Louis? 18 MR. MEDINA: No. 19 MR. KING: I'm okay with that. You guys got 20 done with the certifications pretty well today. Just 21 as a matter of questioning on the agenda, should we 22 continue with that format of doing the certifications 23 and revocations first and having the business meeting 24 after or vice versa? It's a little more fair to all 25 the people that just sit out there and are waiting on</p>	<p>1 that. 2 MR. KORN: It's very nice. 3 MR. KING: But I don't know that there's 4 anything magic about how we've been doing it. So if 5 you want to keep doing it that way, we can keep doing 6 it that way for awhile. Good. So that being said, I 7 mean it seems like you got through those pretty well 8 today. So I don't know how many will stack up if we 9 wait 90 days. 10 MR. KORN: Obviously the only reason that it 11 would be good to have an interim one is so that the 12 director would have more feedback from us. 13 MR. KING: It's been good to shorten up the 14 interim a little bit. I think that you can see even 15 from the numbers we know that we're doing some 16 catching up. But I do think, Mr. Medina, we're happy 17 to have you on board, we're really happy to have a 18 full-time director. So it sounds like they're willing 19 to defer to you a little bit. What would work for you 20 guys? 21 MR. MEDINA: Ms. Lopez says that that appears 22 to be our next meeting, in Red River in 90 days. 23 MS. LOPEZ: In July Red River. 24 MR. KING: Well, I was thinking that we were 25 scheduled for Red River.</p>
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<p>1 MS. LOPEZ: July 17th, I was asked to move it 2 a week back, if that's not a problem for any of you 3 guys. 4 MR. SHILLING: So the week of the 9th through 5 the 13th then? 6 MS. LOPEZ: A week back. I mean a week 7 later. I'm sorry. 8 MR. KORN: Are we talking about the July 9 meeting? 10 MR. KING: Yes. 11 MR. KORN: When was it originally scheduled? 12 MS. LOPEZ: July 17th. 13 MR. PETERSON: July 17th is when you set the 14 yearly one. It's set for right now. 15 MR. KING: Moving it up to the week of July 16 10th would be better for me personally. 17 MR. KORN: I have July in Roswell. Is it not 18 Roswell in July? 19 MR. COON: October in Roswell. 20 MR. KING: Actually I have it scheduled on 21 the 17th on my calendar. So that's when it is right 22 now. But you're saying that we want to move it either 23 a week earlier or a week later. I may not be 24 available if we move it a week later. 25 MR. KORN: And while we're talking about the</p>	<p>1 meeting in Red River, can I raise a question. 2 MR. KING: Go ahead, please. 3 MR. KORN: And I know a lot of people like to 4 go to Red River and I may be the scorn of the board, 5 if I'm not already. But the idea I think in setting 6 our board meetings is to go to population centers. 7 So when we came down here to Las Cruces, we 8 were able to see -- I mean we saw officers from Las 9 Cruces, we saw officers from T or C, we saw officers 10 that never come in here. Those officers are high 11 members of their -- are high supervisors of their 12 departments. 13 When we go to a population center, we have 14 that opportunity. When we came to Las Cruces, we have 15 two, not one, but two academies here that I think, 16 should we come to Las Cruces again, it would be good I 17 think if the director would set up a tour for us so 18 that we can see what the academies look like. 19 When we go to Red River, Red River is a nice 20 mountainous community, I grant you. But there are no 21 population centers, there's no population centers of 22 law enforcement, there's no training academy, there's 23 really hardly any reason to go there. 24 And then you compound that with the fact that 25 it's a long ways away, that defense attorneys -- well,</p>

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<p>1 first of all respondents that might want to appear 2 have to travel there. Many of the respondents may be 3 out of work. So they have to travel hours to go to an 4 out-of-the-way place. There are attorneys that they 5 have to pay to do the same thing. 6 So I'm suggesting the board reconsider Red 7 River and do it more in a population center, either 8 preferably one where we have a Law Enforcement 9 Academy. So I would recommend that we switch Red 10 River to Farmington, to Silver City, to Hobbs. 11 MR. MYERS: That's July. 12 MR. KORN: Forget the Hobbs. But I would ask 13 the board to consider rethinking the Red River so that 14 we go to someplace that's more suitable for us as a 15 board. 16 MR. SHILLING: And the following week is 17 still correct, Mr. Chairman? 18 MR. KING: Apparently people would like to 19 move it to the following week. 20 MR. MEDINA: Mr. Chairman, I believe I would 21 definitely follow Mr. Korn's recommendation, because I 22 think it's a good idea to visit the academies and have 23 the board visit the academies. 24 MR. KORN: And if I may, Mr. Chairman. 25 Coincidentally we have a representative from the</p>	<p>1 Farmington academy who is the sergeant of the academy 2 and who comes actually to every single meeting. Sir, 3 if you would perhaps tell us your -- 4 MR. BODE: Chairman King and members of the 5 board, we would welcome you up in Farmington, we would 6 love to have you see the academy and the facilities 7 and everything else. 8 MR. KORN: And I have visited Sergeant Bode 9 in his native habitat. And I can tell you that he has 10 a beautiful academy that is something that I think the 11 board should see. And I commend Sergeant Bode for 12 coming to every meeting. But he's unusual, you know, 13 as you can tell. 14 MR. MEDINA: Mr. Chairman, I would also like 15 to recognize members from the Hobbs academy, who I 16 have not yet met, but I know they're from the academy. 17 August Fons and Angie Byrd, we appreciate their 18 presence here and their interest in the meeting. 19 MR. KING: It's about as far to Las Cruces 20 from Hobbs as it is to Albuquerque from Hobbs, isn't 21 it? Mr. Medina, do we have any contractual 22 obligations in Red River? I mean have we booked hotel 23 rooms? 24 MS. LOPEZ: No, sir. 25 MR. KING: Okay. I'm certainly amenable to</p>
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<p>1 going to Farmington too. 2 MR. MYERS: I think Farmington is a good 3 idea. 4 MR. KING: So the board is thinking now -- 5 I'm just going to say this. Farmington starting on 6 the 24th, is that the request? I'm seeing a lot of 7 nodding of heads. I don't know if we have to have a 8 motion on that. So, Mr. Medina, will you work on that 9 and then notify the board. 10 MR. MEDINA: Yes, sir. We will do that. 11 MR. KING: Okay. And then in the wintertime, 12 who knows, maybe we might want to go down to Hobbs. 13 I'm okay with that too. I think it is good to get 14 around the state. Okay. 15 That being done are there any other agenda 16 items? The only one I've got on here is adjournment. 17 Anything else? 18 MR. KORN: I don't know that we resolved as a 19 board the six weeks interim. 20 MR. KING: I was thinking that was part of 21 the deal, that we've just agreed that our next meeting 22 will be the July meeting. 23 MR. KORN: So we've all affirmatively agreed 24 no interim meeting? 25 MR. KING: Yeah. Is everybody all right with</p>	<p>1 that? 2 MR. KORN: I'm okay with that. 3 MR. GRATTON: I heard July 24 in Farmington. 4 MR. KING: Work on that. You may find out 5 that there's like a baseball tournament or something 6 and there's no hotels in Farmington. So why don't you 7 check on that and see. And we've got plenty of time 8 to notice that. 9 ITEM NO. 28: ADJOURNMENT 10 MR. KING: I'll take a motion to adjourn. 11 MR. BETZ: I'll make the motion to adjourn. 12 MR. COON: Second. 13 MR. KING: Okay. And I heard a second too. 14 All in favor say aye. 15 (Those in favor so indicate.) 16 MR. KING: Any opposed, no? Thank you, 17 everybody. 18 (At 1:50 p.m. the meeting was concluded.) 19 20 21 22 23 24 25</p>

REPORTER'S CERTIFICATE

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I, JAN A. WILLIAMS, New Mexico CCR #14, DO  
HEREBY CERTIFY that on April 17, 2012, the proceedings  
in the above captioned matter were taken before me,  
that I did report in stenographic shorthand the  
proceedings set forth herein, and the foregoing pages  
are a true and correct transcription to the best of my  
ability.

I FURTHER CERTIFY that I am neither employed  
by nor related to nor contracted with (unless excepted  
by the rules) any of the parties or attorneys in this  
case, and that I have no interest whatsoever in the  
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