

NEW MEXICO LAW ENFORCEMENT ACADEMY
REGULAR BOARD MEETING AND PUBLIC HEARING

October 23, 2012

9:00 a.m.

Chaves County Administration Complex
One St. Mary's Place
Roswell, New Mexico 88203

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

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<p>1 ITEM NO. 1: CALL TO ORDER</p> <p>2 MR. COON: I would like to call this regular</p> <p>3 meeting and public hearing on Tuesday, October 23rd,</p> <p>4 to order. First off I would like to thank everybody</p> <p>5 for showing up. This is going to be a long meeting</p> <p>6 probably because we've got a lot on the agenda. We're</p> <p>7 going to try to streamline it a little bit.</p> <p>8 ITEM NO. 2: ROLL CALL</p> <p>9 MR. COON: Right now can we have a roll call,</p> <p>10 please.</p> <p>11 MS. LOPEZ: Pat Barncastle.</p> <p>12 MR. BARNCASTLE: Here.</p> <p>13 MS. LOPEZ: Chief Shilling.</p> <p>14 MR. SHILLING: Here.</p> <p>15 MS. LOPEZ: Sheriff Coon.</p> <p>16 MR. COON: Here.</p> <p>17 MS. LOPEZ: Chief Betz.</p> <p>18 MR. BETZ: Here.</p> <p>19 MS. LOPEZ: Chief Schultz.</p> <p>20 MR. SCHULTZ: Here.</p> <p>21 MS. LOPEZ: Mark Myers.</p> <p>22 MR. MYERS: Here.</p> <p>23 MS. LOPEZ: Nate Korn.</p> <p>24 MR. KORN: Here.</p> <p>25 MS. LOPEZ: John Gratton.</p>	<p>1 (No response.)</p> <p>2 ITEM NO. 3: APPROVAL OF AGENDA</p> <p>3 MR. COON: Okay. On the approval of the</p> <p>4 agenda, Monique, would you like to go ahead.</p> <p>5 MS. LOPEZ: Yes. We have some changes. We</p> <p>6 did add cautionary letters and letters of no action,</p> <p>7 which are 40A through 40H. Clarissa Baca which is</p> <p>8 No. 25, she was a stipulated order. And also No. 39,</p> <p>9 Danny Surratt, moved to a voluntary relinquishment.</p> <p>10 And I believe those are all the changes to the agenda.</p> <p>11 MR. COON: Okay.</p> <p>12 MR. REYNOLDS: Mr. Chair.</p> <p>13 MR. COON: Yes, sir.</p> <p>14 MR. REYNOLDS: If I could, just for the</p> <p>15 record, as the board's counsel, the things that have</p> <p>16 been added to the agenda were done 24 hours beforehand</p> <p>17 and for the record in accordance with the Open</p> <p>18 Meetings Act.</p> <p>19 ITEM NO. 4: BRADY CURTIS</p> <p>20 MR. COON: Okay. Thank you, sir. The new</p> <p>21 practice for the Board is we go into disciplinary</p> <p>22 matters first. That way you don't have to stick</p> <p>23 around for the whole meeting. We used to do it just</p> <p>24 the opposite. This time and the last time we did</p> <p>25 this, we were going to do the disciplinary matters</p>
<p>1 first. And the first one under stipulated orders is</p> <p>2 Brady Curtis. Mr. Medina.</p> <p>3 MR. MEDINA: I'm not quite sure what the</p> <p>4 recommendation of Mr. Korn was going to be.</p> <p>5 MR. KORN: Mr. Vice Chair, if I might</p> <p>6 suggest, perhaps for the expediency of the meeting,</p> <p>7 since the public has a copy of all the synopses, if</p> <p>8 the public would be aware of that, Mr. Medina could</p> <p>9 offer that and we can put it in record and we can hear</p> <p>10 from the parties that are here.</p> <p>11 MR. COON: Okay. That's fine.</p> <p>12 MR. MEDINA: I'm in agreement with that. And</p> <p>13 I think it streamlines the process and makes it more</p> <p>14 efficient.</p> <p>15 MR. COON: There will not be any reading of</p> <p>16 the complaints. If the person is here, they can get</p> <p>17 up and speak for themselves. Mr. Curtis.</p> <p>18 MR. CURTIS: Thank you, you guys, for being</p> <p>19 here today. I apologize for my unfitting actions in</p> <p>20 this matter. You can read that letter. Basically I</p> <p>21 just want to read the letter that I sent to the New</p> <p>22 Mexico Board and Mr. Medina as I first received the</p> <p>23 Notice of Contemplated Action.</p> <p>24 I, Brady Curtis, respectively present this</p> <p>25 letter as a written response in regards to the Notice</p>	<p>1 of Contemplated Action served on August 31st, 2012.</p> <p>2 First I would like to sincerely apologize for my</p> <p>3 unfitting actions on the said incident and following</p> <p>4 investigation during those months.</p> <p>5 I was embodied in pride and arrogance. I</p> <p>6 fully understand now I should have endured the</p> <p>7 aspirations through patience, but I did not. I should</p> <p>8 have humbled my feelings throughout the interviews,</p> <p>9 but I did not.</p> <p>10 I cannot ask for time to turn backwards but</p> <p>11 can only hope for sympathy and understanding in this</p> <p>12 complex endeavor. I politely correct the evidentiary</p> <p>13 findings that I was terminated. Rather I voluntarily</p> <p>14 resigned my position as a Farmington Police Officer on</p> <p>15 July 28th, 2011.</p> <p>16 Without trying to downplay my actions, I</p> <p>17 honestly expressed I did not exit the bar with</p> <p>18 intentions to continue the confrontation but wanted to</p> <p>19 ensure my fellow officers' safety. I should have</p> <p>20 dragged it back inside but mistakenly engaged in the</p> <p>21 course of conduct.</p> <p>22 Since this incident I have not been employed</p> <p>23 as a police officer. I have attempted to gain this</p> <p>24 position once but was unsuccessful. I am seeking</p> <p>25 counseling with the assistance of the Church of Jesus</p>

<p style="text-align: right;">Page 10</p> <p>1 Christ of the Latter Day Saints. 2 I felt I was in good standing with the 3 Farmington Police Department prior to the said 4 incident. Preceding this incident I have not been 5 disciplined with days off or administrative leave. I 6 believe I performed a satisfactory job prior to the 7 said incident. 8 Preceding employment with the Farmington 9 Police Department, I had earned an Associate's degree 10 in criminal justice and nearly completed a Bachelor's 11 degree in criminal justice. I moved my family to 12 Farmington, New Mexico, and began a career in law 13 enforcement at the Farmington Police Department. 14 I feel I have honorably served as a police 15 officer for four and a half years prior to the said 16 incident. After investing eight years in a law 17 enforcement career, I respectfully emphasize that if 18 my certification is revoked, it will be detrimental 19 for me to have any chance of a future in law 20 enforcement. 21 Although I do not fully agree with the 22 interpretations of the entire incident, I honorably 23 and humbly accept responsibility for my actions but 24 ask for compassion. 25 MR. COON: Anybody have any questions of</p>	<p style="text-align: right;">Page 11</p> <p>1 Mr. Curtis? Thank you, sir. 2 ITEM NO. 5: CHARLES DUDLEY 3 MR. CURTIS: Okay. The next one is No. 5, 4 Charles Dudley. Mr. Dudley. 5 MR. DUDLEY: Gentlemen, I'm here with 6 reference to an incident I was involved in on 7 April 26, 2011. It was brought to my attention by the 8 animal control officer that there were two turkeys in 9 our city that were damaging property, assaulting two 10 ladies -- that had assaulted two ladies. And he could 11 not find a remedy to the situation. 12 With Officer Lyle I was able to corral the 13 turkeys outside the city limits in Lea County, an area 14 that is unpopulated with no dwellings. While on duty, 15 I was acting as the police sergeant, I used my issued 16 departmental shotgun, fired one round at each bird, 17 killing both birds instantly. 18 The birds were seized by animal control. Due 19 to the fact I had just returned back from turkey 20 hunting, I had two wild turkey tags in my possession. 21 I asked animal control what they were planning on 22 doing with the birds. They said they were going to 23 bag them and destroy them in our city dump -- in our 24 county dump, excuse me. 25 I placed my tags on the birds and advised the</p>
<p style="text-align: right;">Page 12</p> <p>1 animal control I would take the meat from the birds so 2 that it doesn't go to waste. The birds were 3 transported back to my residence. I advised my 4 current chief at that time, Chief Kevin Burnham, of 5 the situation. At the time he found no issue. 6 Once I was off duty that day, I processed the 7 birds. And from there a woman came forward, a 8 Ms. Dobbs, and filed a complaint that I had killed her 9 two domesticated turkeys. She filed the complaint 10 with the Lea County Sheriff's Department. 11 They investigated the incident. And I was 12 charged with two counts of misdemeanor and cruelty to 13 animals. That trial went to court. Ms. Dobbs 14 testified that, in fact, they were not her 15 domesticated turkeys, they were wild turkeys. The 16 District Attorney asked for all charges to be 17 dismissed. The judge granted that, all charges were 18 dismissed. 19 An Internal Affairs investigation was done by 20 Captain Wilmuth with the Lea County Sheriff's 21 Department. I was given from that action five days 22 off without pay, one-year of probation, and reduced 23 from a sergeant to a patrolman's position. 24 Captain Wilmuth later became our interim 25 chief of police. And during that time, within a</p>	<p style="text-align: right;">Page 13</p> <p>1 four-month period, I was reinstated back to the 2 sergeant's position. I completed my year of probation 3 and I completed my five days without pay. And I am 4 currently still employed as a sergeant with the Eunice 5 Police Department. 6 MR. COON: Anybody have any questions? I've 7 got one. What did they -- in the Internal Affairs 8 investigation, what was their findings? 9 MR. DUDLEY: Their findings was that I took 10 the evidence that was property of the Eunice Police 11 Department and made it my own as meat of the turkeys 12 when I cleaned the birds. 13 MR. COON: Anybody else have any questions? 14 Thank you, sir. 15 ITEM NO. 6: JONATHAN BARRERAS 16 MR. COON: Number 6, Jonathan Barreras. Is 17 he here? Jonathan. 18 ITEM NO. 7: PETRA MARTINEZ 19 MR. COON: We'll go to No. 7, Ms. Petra 20 Martinez. Petra. 21 MS. MARTINEZ: Good morning. I wrote a 22 letter and I gave it to you. I, Petra Martinez, would 23 like to express my sincere apologies to you, the Law 24 Enforcement Academy Board. I have devoted my career 25 of over 20 years and am proud to be a 911</p>

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<p>1 communications operator.</p> <p>2 My actions on January 7, 2011, was</p> <p>3 unacceptable. At the time I was going through some</p> <p>4 personal hardships. And they were devastating to my</p> <p>5 life, yet there is no excuse for what I -- for my</p> <p>6 actions. I have taken full responsibility and I have</p> <p>7 taken steps for it not to occur again.</p> <p>8 I apologize for the light this has shed on</p> <p>9 me, my department, my director, and the law</p> <p>10 Enforcement Academy Board. I have been a role model</p> <p>11 to many and have promoted -- have been promoted in my</p> <p>12 current position and am now the administrative</p> <p>13 assistant for the Espanola/Rio Arriba 911 center.</p> <p>14 I have put this in the past and continue to</p> <p>15 work as a leader and role model to my staff and to</p> <p>16 those around me. I will not disappoint you and will</p> <p>17 strive to be the best I can in the future.</p> <p>18 I ask for leniency as I am needed at my</p> <p>19 position and provide services to the citizens and the</p> <p>20 officers. And I know this will never occur again. I</p> <p>21 am determined to regain the trust of the people that I</p> <p>22 serve and I ask you for a second chance to prove</p> <p>23 myself. Thank you.</p> <p>24 MR. COON: Does anybody have any questions?</p> <p>25 MR. SCHULTZ: Ms. Martinez, those criminal</p>	<p>1 charges, what were the original criminal charges filed</p> <p>2 against you in this case and what was the plea?</p> <p>3 MS. MARTINEZ: It was for a DUI. And they</p> <p>4 couldn't prove it because of my -- the breath test. I</p> <p>5 had to blow six times. And so it got dropped down to</p> <p>6 careless.</p> <p>7 MR. COON: Do you have somebody else who'd</p> <p>8 like to talk? Yes, ma'am.</p> <p>9 MS. GRIEGO: Good morning, Mr. Chair and</p> <p>10 Board Members. It's unfortunate that we have to come</p> <p>11 before you.</p> <p>12 MR. COON: Could we get your name, ma'am.</p> <p>13 MS. GRIEGO: Yes. My name is Marti Griego.</p> <p>14 I'm the director of the 911 center. And again it's</p> <p>15 unfortunate that I have to be here. But I have three</p> <p>16 employees that are facing you here today.</p> <p>17 And it would be detrimental to my agency that</p> <p>18 all three would serve their three months at the same</p> <p>19 time. I only have 12 employees. Three are to be</p> <p>20 suspended and a fourth has just resigned.</p> <p>21 So we handle 29,000 911 calls, 60,000 calls</p> <p>22 for service. We provide EMD. And that wouldn't even</p> <p>23 have two on the schedule if all were -- had to serve</p> <p>24 their suspension at the same time.</p> <p>25 So I'm here to ask that that be considered</p>
<p>Page 16</p> <p>1 when you're taking into consideration what you're</p> <p>2 going to do. And again I apologize for my staff and</p> <p>3 I'm very sorry.</p> <p>4 MR. COON: Anybody have any questions? Thank</p> <p>5 you, all.</p> <p>6 ITEM NO. 8: JEREMY HOLLIER</p> <p>7 MR. COON: We'll go to No. 8, Jeremy Hollier.</p> <p>8 Is Mr. Hollier here? Mr. Hollier, are you here?</p> <p>9 Mr. Holler are you here?</p> <p>10 ITEM NO. 9: JON LOPEZ</p> <p>11 MR. COON: Let's go to Jon Lopez, No. 9.</p> <p>12 Mr. Lopez, are you here? It doesn't look like</p> <p>13 Mr. Lopez is here.</p> <p>14 ITEM NO. 10: JOHN LYTLE</p> <p>15 MR. COON: Let's go to No. 10, John Lytle.</p> <p>16 Is Mr. Lytle here? No Mr. Lytle.</p> <p>17 ITEM NO. 11: CATHERINE MCGUFFIN</p> <p>18 MR. COON: Let's go to No. 11, Catherine</p> <p>19 McGuffin. Ms. McGuffin, are you here?</p> <p>20 ITEM NO. 12: MARK MONTES</p> <p>21 MR. COON: Okay. Let's go to No. 12, Mark</p> <p>22 Montes. Mr. Montes, are you here? Okay. No</p> <p>23 Mr. Montes.</p> <p>24 ITEM NO. 13: RALPH MOORE</p> <p>25 MR. COON: Let's go to No. 13, Ralph Moore.</p>	<p>Page 17</p> <p>1 Mr. Moore, are you here? Yes, he is.</p> <p>2 MR. MOORE: Good morning. On January 21st I</p> <p>3 was on midnight shift working for ENMU Police</p> <p>4 Department. I had just come back from -- well, I was</p> <p>5 on sick leave with pneumonia and should not have been</p> <p>6 at work that day. But I was asked to be there.</p> <p>7 So I showed up. I was on patrol. I was</p> <p>8 accused of being at my apartment for more than four</p> <p>9 hours. I was at my apartment. Not four hours. I</p> <p>10 went to take medication. I stayed there for a little</p> <p>11 bit, went back on patrol, assisted the city.</p> <p>12 I don't know if this is appropriate or not.</p> <p>13 But I've had problems in the past with my previous</p> <p>14 employer from being terminated and was rehired because</p> <p>15 I obtained an attorney. And it just felt like -- not</p> <p>16 saying that I was wrong, because I was at my</p> <p>17 apartment.</p> <p>18 But certainly not for four hours. And I've</p> <p>19 been a police officer for 16 years, I love my job, I</p> <p>20 want to continue my job. And I don't know what else</p> <p>21 to say.</p> <p>22 MR. COON: Anybody have any questions for</p> <p>23 Mr. Moore?</p> <p>24 MR. SCHULTZ: Mr. Moore, what's the proximity</p> <p>25 of where you live to your workstation, how close were</p>

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<p>1 you?</p> <p>2 MR. MOORE: I lived on campus.</p> <p>3 MR. SCHULTZ: So the information we have in</p> <p>4 front of us says you left the area, left it</p> <p>5 unprotected. But you live on campus?</p> <p>6 MR. MOORE: That's my dispute. I was on</p> <p>7 campus, because my apartment was within the vicinity</p> <p>8 of the university.</p> <p>9 MR. SCHULTZ: And did your employer know you</p> <p>10 were taking medication?</p> <p>11 MR. MOORE: I was off for a week with</p> <p>12 pneumonia. He had a doctor's excuse. And they</p> <p>13 were -- both Chief Malden and Sergeant Snook were in</p> <p>14 Albuquerque. And he insisted that I be in work that</p> <p>15 day.</p> <p>16 And so I went to work that day. And they</p> <p>17 came back that night. And apparently they were out to</p> <p>18 spy on me or watching me according to his letter to</p> <p>19 me.</p> <p>20 MR. SCHULTZ: Thank you, sir.</p> <p>21 MR. COON: Mr. Moore, how did they come up</p> <p>22 with four hours? If you have a dispute, how can you</p> <p>23 dispute the four hours?</p> <p>24 MR. MOORE: I responded to a call with</p> <p>25 Officer Lem. I also made -- it was a slow night. I</p>	<p>1 was out and I was seen. I was at the convenience</p> <p>2 stores.</p> <p>3 The only thing I can say that I did not do</p> <p>4 that is correct on here is I did not fill out my daily</p> <p>5 that night. And other than that. But from his time,</p> <p>6 the way that he had it, it doesn't coincide with him</p> <p>7 saying that I'm on the radio and that I'm checked out</p> <p>8 of the places if I would be at my residence for four</p> <p>9 hours.</p> <p>10 MR. COON: How long were you at your</p> <p>11 residence?</p> <p>12 MR. MOORE: I was at my residence for maybe</p> <p>13 an hour. And I did not take a lunch break that day.</p> <p>14 MR. COON: And you did not fill out a daily</p> <p>15 for that?</p> <p>16 MR. MOORE: No, sir, I did not.</p> <p>17 MR. COON: How come?</p> <p>18 MR. MOORE: I have no excuse for that.</p> <p>19 MR. COON: Anybody else have any questions?</p> <p>20 MR. BARNCASTLE: Mr. Moore, the synopsis that</p> <p>21 we have here indicates that you did fill out a daily</p> <p>22 later when asked by your supervisor and that that</p> <p>23 daily didn't match what you actually did that day.</p> <p>24 MR. MOORE: That's not correct.</p> <p>25 MR. BARNCASTLE: It says "The Respondent</p>
<p>Page 20</p> <p>1 submitted a report absent the activity" -- or "similar</p> <p>2 to the daily activity report submitted on</p> <p>3 January 8th."</p> <p>4 MR. MOORE: I turned in the daily that I had</p> <p>5 started that night, which was not complete. That's</p> <p>6 the daily that it's referring to.</p> <p>7 MR. COON: Did you say you had a doctor's</p> <p>8 excuse up to the point of coming back to work?</p> <p>9 MR. MOORE: I should not have been to work on</p> <p>10 Friday, the night that this happened. But he told me</p> <p>11 I would be there or else.</p> <p>12 MR. COON: Anybody else have any questions?</p> <p>13 Thank you, Mr. Moore.</p> <p>14 MR. MOORE: Thank you.</p> <p>15 ITEM NO. 14: KENT O'DONNELL</p> <p>16 MR. COON: Okay. Number 14, Kent O'Donnel,</p> <p>17 has been removed.</p> <p>18 ITEM NO. 15: JON PEREZ</p> <p>19 MR. COON: We'll go to No. 15, Jon Perez.</p> <p>20 Mr. Perez.</p> <p>21 MR. PEREZ: Good morning. I'm Corporal Perez</p> <p>22 with the Artesia Police Department. On July 24th in</p> <p>23 2011, I had gone to my girlfriend's house. I had</p> <p>24 consumed alcoholic beverages prior to driving that</p> <p>25 night. I admitted that totally and freely, I've never</p>	<p>Page 21</p> <p>1 lied about that.</p> <p>2 My girlfriend let me in the house. We talked</p> <p>3 for a little bit. I went to sleep after eating. And</p> <p>4 she found my cell phone and found things on there she</p> <p>5 didn't like. I was awakened by her hitting me. And I</p> <p>6 reached up and I grabbed right here and I pushed her</p> <p>7 off of me.</p> <p>8 She's smaller than me, she's very smaller</p> <p>9 than me. I then got up and I left the residence,</p> <p>10 because she was hitting me and she was very upset. At</p> <p>11 the time I didn't know why. Something flew past me.</p> <p>12 I don't know what it was, I thought it was the remote</p> <p>13 to the TV.</p> <p>14 I then in turn drove home and I went to bed.</p> <p>15 The next day I was woken up by State Police officers</p> <p>16 who advised me that I had been accused of domestic</p> <p>17 battery. They went ahead and did what they needed to</p> <p>18 do. I wasn't arrested or charged or anything, the DA</p> <p>19 didn't prosecute.</p> <p>20 I in turn received a ten-day suspension from</p> <p>21 my employment, from my employer, from the chief. I</p> <p>22 had to do counseling. I've been employed there since.</p> <p>23 I've never been in trouble before.</p> <p>24 And again I do understand whether it was a --</p> <p>25 whether I had a sip of alcohol or a six pack, I</p>

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<p>1 shouldn't have been operating a motor vehicle. I know 2 that. And I messed up. And I'm just asking for 3 forgiveness and leniency. That's all. 4 MR. COON: Any questions? I've got one. 5 Were you -- the ten days you got from the Artesia PD, 6 was it for this incident or for driving after you had 7 been drinking? 8 MR. PEREZ: It was for the driving after I 9 had been drinking, sir. 10 MR. COON: I don't see anything in here about 11 that. Anybody else have any questions? Thank you, 12 sir. 13 ITEM NO. 16: JUAN SAUCEDO 14 MR. COON: Okay. Number 16 is Juan Saucedo. 15 MR. SAUCEDO: Good morning, Board. I'm here 16 on a case that happened about July 2nd of 2011, while 17 I was involved in a domestic altercation with my 18 previous girlfriend. 19 I was working at the time. And I advised my 20 sergeant that I had not been feeling well on that day, 21 even the day before. I asked to leave a couple of 22 hours -- now about an hour and a half early from my 23 job. 24 During that time I was already involved in a 25 verbal altercation with my ex-girlfriend over the</p>	<p>1 phone. She stated she was at a bar in the area of El 2 Paso, Texas, and asked me to pick her up. 3 I proceeded to leave my workplace once I 4 asked my supervisor to approve my leave. I did have 5 overtime that we used as a compensation type for sick 6 leave or any other purpose we needed to take off. 7 So I left, picked up the female, my 8 ex-girlfriend, in El Paso. We continued to have a 9 verbal altercation, which at one point did become 10 physical. I did grab -- attempt to reach a cell phone 11 from her hand, which in that instance she hit me with 12 her right arm once I did remove the cell phone. 13 I continued on to my residence where the 14 altercation continued and continued to have a verbal 15 argument, which at one point it did kind of calm down 16 and we did end up -- we consented. 17 I took the female home the following day. I 18 went back to work -- I'm sorry. The following day I 19 was still feeling ill so I did not go to work. 20 And the next day, which was a Sunday, the 21 3rd, I went back to work. While I was at work, I kept 22 receiving phone calls from my ex-girlfriend and again 23 she started arguing. I got home. She followed me to 24 my residence, where again another altercation, another 25 verbal altercation occurred. And that was it.</p>
<p>Page 24</p> <p>1 I ended up being placed on administrative 2 leave two days later after I found out I was being 3 charged by the Dona Ana County Sheriff's Department 4 for an aggravated assault with a deadly weapon, 5 criminal sexual penetration, battery on a household 6 member, bribery of a witness, inefficient 7 communication, and false imprisonment. 8 I was incarcerated and was released upon 9 bond. And I -- the charges for the criminal sexual 10 penetration and aggravated assault, bribery of a 11 witness, inefficient communication, and the false 12 imprisonment were dismissed by the District Attorney's 13 Office. 14 And I'm still awaiting disposition on the 15 battery on a household member pending that they had an 16 agreement for me to take anger management classes; and 17 once I complete that course, those charges will also 18 be dismissed. 19 MR. COON: Anybody have any questions? 20 MR. KORN: I do, Mr. Vice Chairman. 21 MR. COON: Mr. Korn. 22 MR. KORN: The charges of bribery of a 23 witness, what did that stem from? 24 MR. SAUCEDO: That stemmed from my 25 ex-girlfriend said I had told her not to say anything</p>	<p>Page 25</p> <p>1 of the incidence or I was going to kill her or do 2 something to her, which that never occurred, sir. 3 MR. KORN: You didn't make that statement? 4 MR. SAUCEDO: No, sir, I did not. 5 MR. SCHULTZ: Mr. Chairman, Mr. Saucedo, were 6 the charges against you filed with or without 7 prejudice, can they be refiled by the District 8 Attorney's Office? 9 MR. SAUCEDO: I'm sorry? 10 MR. SCHULTZ: Can the charges be refiled? 11 How were they dismissed by the District Attorney's 12 Office? 13 MR. SAUCEDO: They are going to be dismissed 14 upon my completion of the anger management. 15 MR. SCHULTZ: That's the demeanor charges. 16 The felony charges. 17 MR. SAUCEDO: Right. The felony charges were 18 just an agreement between the attorney -- my attorney 19 and the District Attorney. I specifically don't know 20 whether it was that they did agree upon dismissing the 21 felony charges and re-amending the complaint. 22 MR. SCHULTZ: Did the victim cooperate? 23 MR. SAUCEDO: Yes, sir. 24 MR. SCHULTZ: My next question is for 25 Mr. Medina. Did you review the felony case that was</p>

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<p>1 presented?</p> <p>2 MR. MEDINA: Yes, sir, I did. And based on</p> <p>3 our review, the charges were dropped except the</p> <p>4 battery on a household member; and it will be referred</p> <p>5 when it goes to court or trial.</p> <p>6 MR. SCHULTZ: Were the charges dropped</p> <p>7 pre-indictment or post-indictment?</p> <p>8 Mr. Saucedo, were you indicted in these</p> <p>9 charges for a felony?</p> <p>10 MR. SAUCEDO: Yes, sir, I was initially.</p> <p>11 MR. MEDINA: Based on my notes, they were</p> <p>12 post-indictment.</p> <p>13 MR. COON: Anybody else have any questions?</p> <p>14 Thank you, sir.</p> <p>15 ITEM NO. 17: FILIBERTO SIGALA</p> <p>16 MR. COON: We'll go to No. 17, Filiberto</p> <p>17 Sigala.</p> <p>18 MR. SIGALA: Good morning. First of all, I</p> <p>19 would like to thank the Board for taking the time to</p> <p>20 allow me to speak on my behalf. On May 9th I was</p> <p>21 involved in an incident with my wife. And while I</p> <p>22 know you have a synopsis of it there, it does not get</p> <p>23 too much into the incident itself.</p> <p>24 All those charges have either been changed or</p> <p>25 dropped by the District Attorney as quite honestly</p>	<p>1 unfounded based on what happened. However, despite</p> <p>2 the fact that those have been dropped, I stand here</p> <p>3 taking full responsibility for being there in the</p> <p>4 first place.</p> <p>5 Being a police officer for 11 years and</p> <p>6 devoting my career and everything I can to furthering</p> <p>7 this department, serving the citizens of Albuquerque,</p> <p>8 I'm quite ashamed of the fact that I even showed up at</p> <p>9 the house to begin with.</p> <p>10 I was still in my police uniform that I was</p> <p>11 assigned in a police car and behaving in a manner</p> <p>12 using language that I know much better than to use</p> <p>13 around anybody, more or less my wife, despite what our</p> <p>14 situation and what our relationship was at the time.</p> <p>15 Like I said I served this department for</p> <p>16 11 years to the best of my ability, regardless of what</p> <p>17 my assignment was, be it the field, be it DWI, be it</p> <p>18 wherever I was. And it really brought a lot of shame</p> <p>19 on me for bringing this department into disrepute that</p> <p>20 I love so much.</p> <p>21 It's hard to stand here and tell you that I</p> <p>22 love this department like I do and then turn around</p> <p>23 and put myself in a situation where everything we do,</p> <p>24 you know, leads to news that night. And I happened to</p> <p>25 be the story embarrassing my department that day.</p>
<p>Page 28</p> <p>1 I have learned a lot from what I've been</p> <p>2 through. I've made a lot of changes in my life in the</p> <p>3 past several months. And, you know, whether or not I</p> <p>4 decide to reconcile with my wife, I am proud to say</p> <p>5 that she is now six weeks clean.</p> <p>6 It's been documented in the reports there was</p> <p>7 a problem with drugs. And that's what brought all</p> <p>8 this about, and her drug usage. And like I say I'm</p> <p>9 proud to say that she's clean. We are trying to get</p> <p>10 her a lot of help. And I'm getting myself a lot of</p> <p>11 help as well just dealing with different things.</p> <p>12 I stand here asking for leniency. I know we</p> <p>13 agreed on a suspension. And honestly I take full</p> <p>14 responsibility for the fact that I was there to begin</p> <p>15 with. I have no excuse for the language I used. I</p> <p>16 have no excuse for showing up in the vehicle that I</p> <p>17 was in and bringing the department into disrepute.</p> <p>18 Like I say the charges themselves -- my</p> <p>19 attorney is also here with me. If you want to ask</p> <p>20 specific questions as to the case itself, I'm sure he</p> <p>21 will be more than happy to answer those for you as to</p> <p>22 the charges being dropped or changed to that degree.</p> <p>23 But I do want to stand here and apologize,</p> <p>24 especially to my chief, Chief Schultz, once again for</p> <p>25 bringing this department into disrepute and basically</p>	<p>Page 29</p> <p>1 putting myself in a situation that, after 11 years of</p> <p>2 being a police officer, I knew better than to be in.</p> <p>3 So I'll stand for any questions.</p> <p>4 MR. COON: Anybody have any questions? Are</p> <p>5 you working right now anywhere?</p> <p>6 MR. SIGALA: No, sir, I'm not.</p> <p>7 MR. COON: Okay. Thank you, sir.</p> <p>8 ITEM NO. 18: DARIO SOLIS</p> <p>9 MR. COON: Okay. Now we'll go to No. 18,</p> <p>10 which is Dario Solis. Is Mr. Solis here? Mr. Solis?</p> <p>11 MR. MEDINA: Mr. Vice Chairman, I have a</p> <p>12 letter on behalf of Mr. Solis that he would like us to</p> <p>13 read.</p> <p>14 MR. COON: Okay.</p> <p>15 MR. MEDINA: I'll read the letter at the end</p> <p>16 here, sir, on behalf of Mr. Solis.</p> <p>17 MR. COON: Okay.</p> <p>18 ITEM NO. 19: ROBBY TRUJILLO</p> <p>19 MR. COON: Let's go to No. 19, Robby</p> <p>20 Trujillo. I'm sorry, sir.</p> <p>21 MR. TRUJILLO: Good morning. I've written an</p> <p>22 apology letter I would like to read out to the Board.</p> <p>23 I have written to the LEA Board, my E/RA 911 board,</p> <p>24 and my director, Marti Griego.</p> <p>25 On May 12, 2012, I was placed under arrest on</p>

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<p>1 the charges of driving while under the influence of 2 alcohol by the Albuquerque Police Department. Since 3 then I have been disciplined both legally and 4 professionally as well as my own personal. 5 I have gone through court proceedings and am 6 going through disciplinary hearings as well as my own 7 personal reflection. I wrote this letter to express 8 my sincerest apologies to the New Mexico Law 9 Enforcement Academy Board, the Espanola/Rio Arriba 911 10 board, as well as Director Marti Griego. 11 The conduct I displayed that night was not 12 reflective of my position and the high standards that 13 have been set for my profession as well as all of us 14 Law Enforcement Academy members. It was 15 inappropriate. 16 And I'm currently in the process of handling 17 the consequences that have been issued to me. I also 18 have since had an alcohol screening test which was 19 court mandated through the Albuquerque Metro Court, 20 which I have passed and stated that I do not require 21 any further substance abuse treatment. 22 I would like to thank the Law Enforcement 23 Academy Board, the E/RA 911 board, as well as Director 24 Marti Griego for the opportunity to explain my actions 25 during this misconduct hearing.</p>	<p>1 I also again want to express my apologies for 2 the actions that I have displayed. And I can ensure 3 to everybody I have mentioned above as well as my 4 fellow coworkers as well as my family that this 5 behavior will never be repeated and a harsh lesson has 6 been learned. 7 MR. COON: Do you have somebody who would 8 like to talk on your behalf again? 9 MS. GRIEGO: Again my name is Marti Griego. 10 I'm the director. And in no way do I condone any of 11 this behavior. I'm very embarrassed for my 12 department. 13 I'm just here to ask again if it could 14 perhaps be staggered, the first one serve from October 15 23rd to January 23rd, Robby from January 24th to 16 April 24th, and the third from April 25th to 17 August 23rd. Thank you again and I apologize. 18 MR. COON: Anybody have any questions of 19 Mr. Trujillo? Thank you. 20 ITEM NO. 20: ALFRED TURRIETA 21 MR. COON: Mr. Alfred Turrieta. 22 MR. TURRIETA: This is in reference to a 23 crash that occurred on April 17th of this year while 24 employed with the Sandoval County Sheriff's Office. 25 The crash that -- you have the synopsis on</p>
<p>1 there. And in reference to the crash, it was found to 2 be preventable. Also I think the question was whether 3 I had been texting and had given them some false 4 information as far as having -- not having my cell 5 phone that day. 6 All of this has come to an IA, which was 7 done. And a notice of termination was completed. 8 Under union -- our union, I did grieve the 9 circumstances. And on Wednesday it was -- I did have 10 my hearing. And as of this day we don't have results 11 as of yet. 12 On September 20th I met with the Director, 13 Louis Medina, and agreed to a four-month probation 14 with one-year -- or excuse me. A four-month 15 suspension with one-year probation and an ethics 16 class. 17 I did take the ethics class on October 16th 18 and completed that. I do want to say that I apologize 19 for being here this morning. I never have been here 20 before and I hope that I don't ever have to be here 21 again. 22 I do take responsibility for my actions. And 23 I would like to plead to the Board to show leniency on 24 the four-month suspension and possibly change that. 25 It has caused me some bad financial problems</p>	<p>1 throughout this whole process. 2 MR. COON: Anybody have any questions? I 3 have one, sir. Were you in hot water with your 4 department for texting or for lying about it? 5 MR. TURRIETA: Well, it started with the 6 texting, because I had -- they had asked me in the 7 crash board meeting whether I had been texting prior 8 to the crash or during the crash, which was the cause 9 of the crash. And I told them no. 10 And the records showed that I was not texting 11 at the time of the crash. But that I had also 12 responded in saying that I did not even have my cell 13 phone that day. And the text records show that I did 14 have it that day, because I had used it prior and 15 after the crash. 16 In the IA that was conducted, I didn't -- 17 they asked me if it was a misunderstanding of words, 18 because I don't recall me answering the latter part of 19 that and saying that I didn't have my cell phone. And 20 the conversation in the crash board meeting was not 21 recorded. So we have no proof of that. But I believe 22 that it was just a misunderstanding. 23 MR. COON: A misunderstanding of what? 24 MR. TURRIETA: Just of the words, of maybe me 25 being nervous at the time of the crash board meeting,</p>

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<p>1 when I was talking to the lieutenant about it, about 2 the crash.</p> <p>3 MR. SCHULTZ: Sir, was the person injured 4 that you hit?</p> <p>5 MR. TURRIETA: No. There was two adults and 6 two children in the vehicle that I rear-ended. They 7 were taken to the hospital and checked, and they were 8 all released right away.</p> <p>9 MR. SCHULTZ: Was there a civil suit as a 10 result of the crash?</p> <p>11 MR. TURRIETA: Not that I'm aware of.</p> <p>12 MR. COON: What caused the crash if you 13 weren't texting?</p> <p>14 MR. TURRIETA: On that particular day, the 15 vehicle in front of me came up to the intersection, 16 attempted to beat the light change, and then suddenly 17 stopped in front of me.</p> <p>18 The vehicle did not have brake lights. And I 19 had told the investigating officer about that. And 20 that was not even described in the police report that 21 was done by Rio Rancho.</p> <p>22 MR. COON: What kind of citation did you get 23 out of that or did you?</p> <p>24 MR. TURRIETA: I did not get a citation.</p> <p>25 MR. COON: Not for following too close?</p>	<p>1 MR. TURRIETA: No, sir. My department did 2 the determination.</p> <p>3 MR. COON: Any other questions? Thank you, 4 sir.</p> <p>5 ITEM NO. 21: JASON WALLER</p> <p>6 MR. COON: Number 21 is Jason Waller. 7 Mr. Waller.</p> <p>8 MR. JASON WALLER: Mr. Chairman, Members of 9 the Board, thank you for the opportunity to speak to 10 you today.</p> <p>11 On December 3rd, 2011, I was involved with an 12 incident with my wife at the time, now ex-wife. At 13 the time of the incident, I was on duty, in uniform, 14 and driving my assigned unit.</p> <p>15 You have the synopsis in front of you of the 16 misconduct. I do apologize and have deeply regretted 17 for being in uniform and being on duty on that day. I 18 have apologized to Chief Shilling and members of my 19 family and others throughout the public for being on 20 duty and the disrespect that I brought to the uniform.</p> <p>21 I've been with the State Police or was with 22 the State Police as a sergeant and an officer for 23 almost 14 years. During that time I had an impeccable 24 record, 19 letters of commendation to include a Medal 25 of Valor, Officer of the Year, and I currently have a</p>
<p>Page 36</p> <p>1 DWI arrest which is being honored at the Smithsonian 2 Institute during my tenure with the State Police.</p> <p>3 As a result of the incident, I was criminally 4 charged with some criminal charges, battering a 5 household member, assault, use of telephone to harass, 6 and criminal trespass.</p> <p>7 Having been trained by the State Police, 8 based upon my training and experience, had a competent 9 investigation been conducted by the Carlsbad Police 10 Department and through an IA investigation, had it 11 been competent as well, I would not be standing here 12 today.</p> <p>13 There was numerous errors that were made 14 through the Carlsbad Police Department's 15 investigation. It was totally one-sided. And they 16 clearly did not understand and use the law books. The 17 charges were ultimately dismissed after less than 18 60 days after going through four judicial districts 19 prior to it being dismissed.</p> <p>20 And I have the evidence and documentation to 21 show the errors that the Carlsbad Police Department 22 along with the State Police investigation -- the lack 23 of competency in conducting it.</p> <p>24 MR. COON: Anybody have any questions of 25 Mr. Waller?</p>	<p>Page 37</p> <p>1 MR. SCHULTZ: Actually I have a question for 2 Mr. Medina. This particular case, it looks like you 3 used some mitigating circumstances to reduce where 4 we're normally at when it comes to domestic violence 5 situations. Can you tell me the thought process.</p> <p>6 MR. MEDINA: If you give me a chance to look 7 at the file, sir.</p> <p>8 MR. COON: I've got a question for 9 Mr. Waller. Did you -- when all this took place and 10 the charges were dropped, did you physically assault 11 your wife at the time?</p> <p>12 MR. JASON WALLER: No. At no time did I ever 13 physically assault my wife.</p> <p>14 MR. COON: How did the charges get brought 15 that you had assaulted her?</p> <p>16 MR. JASON WALLER: She had a purplish in 17 color bruise on the inside of her left elbow. Based 18 upon my training and experience, there is no way 19 physically possible that I hit her or touched her. 20 That bruise was purple in color.</p> <p>21 And the pictures were taken 30 minutes after 22 the Carlsbad Police Department arrived. For a bruise 23 to have occurred like that, it takes two to four days 24 before that bruise turns purple in color.</p> <p>25 My wife even stated -- my wife at the time</p>

<p style="text-align: right;">Page 38</p> <p>1 even stated to the Carlsbad Police Department she 2 didn't know how it happened or when it happened or 3 where it happened, she just knows it wasn't there 4 before. That is in the report taken by the Carlsbad 5 Police Department.</p> <p>6 MR. MEDINA: During the informal hearing, 7 based on his statement regarding the physical 8 confrontation, it was -- I was convinced that there 9 was not a physical confrontation that took place but 10 that the conduct regarding the domestic dispute and 11 the fact that it occurred when he was in uniform, he 12 was driving his police car, and that there was a sense 13 that he was exerting authority in that situation that 14 was inappropriate.</p> <p>15 And the fact that there was no physical 16 confrontation is the reason that I considered 17 mitigating circumstances and only conduct unbecoming.</p> <p>18 MR. COON: Anybody else? Mr. Waller, do you 19 have somebody who would like to talk on your behalf?</p> <p>20 MR. JASON WALLER: I've got actually several 21 issues that dealt with the State Police investigation. 22 I do have my father here who will speak on my behalf.</p> <p>23 MR. COON: Thank you.</p> <p>24 MR. KEN WALLER: Yeah, on Jason's behalf I'm 25 here.</p>	<p style="text-align: right;">Page 39</p> <p>1 MR. COON: Would you state your name.</p> <p>2 MR. KEN WALLER: Yes. I'm Ken Waller, father 3 to Jason. And actually I'm here -- it's kind of a 4 strange situation, because I'm wearing more than one 5 hat per se. My career law enforcement-wise is 6 extensive.</p> <p>7 For those that don't know me here, I started 8 out with the Carlsbad Police Department in '72, did 9 26 years with the State Police, retired in April of 10 2000. I was elected sheriff of Eddy County in 2001. 11 I served two terms there. I am presently chief deputy 12 there. I'm pushing close to 40 years in law 13 enforcement.</p> <p>14 So the embarrassment is we get into -- Jason 15 knows the predicament in a domestic and in looking at 16 the assessments that the Board has to do to weigh 17 these and the fairness in those values.</p> <p>18 What's been very enlightening on me from 19 the -- because of my background, this would be 20 unusual. Most probably fathers don't wind up with the 21 same background and the knowledge that we've got going 22 on with this.</p> <p>23 So when you look at the IA investigations and 24 the shortness that you have to address this, it goes 25 far beyond the domestics. And when we have officers</p>
<p style="text-align: right;">Page 40</p> <p>1 or men and women that show up or respond with a 2 domestic situation, where the nontruths, the 3 innuendoes, the situations of our men and women 4 working, and that situation presents itself, do they 5 have a choice or not, you know.</p> <p>6 And that's part of this situation as many 7 others, when our men and women wind up being hit 8 between the eyes, if you want to, with a spouse that's 9 not being faithful and it happens when we're working.</p> <p>10 Now, the choice process is -- I mean we're 11 always going to come back to I have a choice. Jason 12 understands he has a choice whether or not to confront 13 that or not at the time. That's not in dispute at 14 that point.</p> <p>15 The level of the investigation then goes back 16 to the competency of the IA investigation, because 17 that's what it all boils back down to. That and the 18 initial agency that responded. If you go back through 19 those reports, in looking at them, you give the 20 fairness for the weight of all of this.</p> <p>21 And I know you've got a Director who is 22 assigned to investigate and then to do an assessment 23 with the agencies that did that as well. So trying to 24 do that investigation, I know that it can't be done; 25 because they can't go back through every one of the</p>	<p style="text-align: right;">Page 41</p> <p>1 cases that you've got here, not to thoroughly 2 investigate it.</p> <p>3 That being said, then it falls back on us in 4 the departments. And I can tell you, from years of 5 experience and knowledge with investigations, that the 6 quality of the -- I put a high expectation on State 7 Police Chief Shilling.</p> <p>8 I do that because I'm retired from that 9 agency. I spent a lot of years there, a lot of blood 10 and sweat. But it's a profession, the law enforcement 11 profession that I also worry about, and the men and 12 women that we put back on the streets if this Board 13 doesn't review and do that assessment, which I also 14 agree needs to be done with that part.</p> <p>15 I worry about the individuals that fall in 16 the cracks then that don't meet it but yet just the 17 preponderance of this. It becomes overwhelming with 18 our news media, if you want to.</p> <p>19 I'm struggling a little bit here. The news 20 media weighed heavily with this in the chief's 21 investigation I think, putting their reports on, 22 because of the notoriety. Well, any time law 23 enforcement gets involved, good or bad, the initial 24 spiel out there is the news media.</p> <p>25 So any of our departments to come back and</p>

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<p>1 put that weight on there, back on the men and women 2 until it's cleared, until the actual ruling has been 3 done on there. But the public's perception is already 4 done, the damage is already done. We wear uniforms or 5 not, law enforcement. We get held to a higher 6 standard, but we're still human in that aspect of it. 7 When you go back through and really weigh 8 this and look at the level of investigations, where it 9 all led to, there's a lot of assumptions. The officer 10 that -- the initial officer that first responded on 11 Jason's case was still in training, not certified. 12 So assumptions were made. It says in the 13 report assumption. The officer states that in the 14 report. Actually not in the report. That officer 15 never wrote a report. That was the first officer that 16 responded. In the interview with that officer, from 17 the IA side of it, the officer states that he made an 18 assumption. 19 So based on assumptions -- and we don't work 20 in this business based on assumptions. But that's 21 where it snowballs from, is that one assumption. Then 22 when the level of command goes back through, we wind 23 up in this predicament today. 24 A captain reviews, a major reviews, it goes 25 through the chief's office in a review along with</p>	<p>1 legal. And if they only review the synopsis of this 2 but not really going back to look at the important 3 parts of it, then it scares me that things will fall 4 through the cracks. And our men and women in our 5 profession will get tatoood for something that really 6 wasn't there. 7 But because of the nature of that, they're 8 financially hurting, emotionally hurting, all those 9 fall in there. So it makes it hard for them to fight 10 the system, if you want to, even to appeal. In the 11 State's case, you have to go to Santa Fe. Everything 12 has to be done in Santa Fe. So that's all set up in 13 the statute. So the guys and gals have no questions. 14 When financially -- the wife spent money, did 15 things without Jason knowing about. It snowballed. 16 So all that builds up in that aspect. There's a lot 17 to this. A lot more than we can do right here today. 18 Back to the basics, though, back to the 19 facts. You know, was the case dismissed? Yes, it 20 was. Had it been -- the fact there -- could it have 21 been prosecuted? It could have been through the DA's 22 Office without that of the ex-wife. Yet it wasn't 23 there so they didn't pursue any of that. 24 If you go back then on the -- there was an 25 issue with the officer, the first officer responding</p>
<p>1 to the scene, assuming that Jason, because he was 2 there in uniform, was actually investigating it, not 3 parties to it. That was an assumption on the guy's 4 part. But that snowballs from there. 5 Well, it's an assumption on a young man 6 that's also got less than a year on the department 7 that doesn't -- hasn't really been exposed. It's his 8 first experience in law enforcement. He didn't ask 9 anybody but made this assumption. 10 Now we wind up here on that part of it. You 11 go back and look at the State's direction with part of 12 this, looking at their employee, doing evaluations. 13 Thirteen or 14 years doing evaluations, nothing in 14 that aspect. 15 Promotions, promoted to the rank of sergeant. 16 Actually had turned down the rank of lieutenant 17 recently with that -- as part of another transfer, 18 another move. That's part of what got him here as 19 well, is the job career and choosing to move around 20 and living long distance, which is what had happened 21 prior to this situation arising. 22 So that being said, you've got a tough 23 decision. But it weighs back on the review of the -- 24 what's already there. It's been thoroughly reviewed 25 and thoroughly looked at. And the quality of this</p>	<p>1 investigation leaves a lot to be desired. 2 And I don't say that as a father, I say that 3 as a supervisor, a person that has read the reports, 4 been involved in the report, referred people to this 5 Board for that part of it. I don't know how you get 6 that done. 7 There's no way I know this Board can go back 8 and review all of those in that process. But I worry 9 about the one that's in the cracks, that part of it. 10 Being in uniform, going to call. Good decisions? No, 11 not at all. Not an issue. Those are nonquestions. 12 Jason has never denied that, he's always admitted 13 that. 14 I question the decision of the department, 15 even though they sent him back to work. It should 16 have never happened. Management should have never put 17 somebody that had just gone through that and put them 18 back to work, yet that's what they did. I question 19 that. 20 That led to another incident of being 21 directed -- part of this -- also the end findings from 22 the State was about violating an order, an order to 23 not have any contact during work time. 24 Well, that doesn't relieve his right or his 25 obligation. Not just Jason's, anybody else's as a</p>

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<p>1 parent. We've got kids involved with that part, which 2 he did have. And so his son and stepdaughter being 3 involved, that still requires -- was it still good 4 decisions? No. There were some bad decisions made. 5 That's not the argument. 6 It's just does the punishment fit the crime. 7 I don't feel that it does from a father's side and 8 from a law enforcement side. That's where I really 9 come from, is the professional side. This is my 10 chosen profession. And we have to take care of 11 problems within it and we have to police ourselves. 12 Thank you. 13 MR. COON: Any questions? 14 MR. KORN: I have not so much a question as a 15 comment. I want to state that I have known the Waller 16 family for over 25 years professionally. I know that 17 they have the highest standing in the community for 18 truthfulness and veracity. 19 And given that and the fact that Mr. Medina 20 has already found that there was no physical 21 interaction, I think that's telling in this matter. 22 So I just wanted to state that for the record. 23 MR. KEN WALLER: Thank you. 24 MR. COON: Anybody else? Okay. 25 ITEM NO. 21A: MICHELLE FLORES</p>	<p>1 MR. COON: We'll go to 21A, Michelle Flores. 2 Michelle Flores, are you here? 3 ITEM NO. 22: JUSTIN COON 4 MR. COON: Okay. Next we go to voluntary 5 relinquishments. And No. 22, Justin Coon. He's not 6 here. 7 ITEM NO. 23: XAVIER TAPIA 8 MR. COON: Xavier Tapia. Mr. Tapia. Okay. 9 ITEM NO. 24: RICHARD AYALA 10 MR. COON: Next we go to default orders of 11 revocation. Number 24, Richard Ayala. Is Richard 12 Ayala here? Okay. No Richard Ayala. 13 ITEM NO. 25: CLARISSA BACA 14 MR. COON: Number 25, Clarissa Baca. 15 Ms. Baca. 16 MS. BACA: And I'll remind you there's a 17 stipulated order that I had agreed to. But on 18 January 29, 2012, I was arrested and booked by the 19 Albuquerque Police Department for driving while under 20 the influence of intoxicating liquor. 21 I have no excuse for my actions. I am 22 accepting the responsibility of all the consequences 23 because I know I was in the wrong. And I ask for 24 forgiveness from not only my department head, but the 25 Espanola/Rio Arriba 911 board and the New Mexico Law</p>
<p>1 Enforcement Academy Board as well. And that's it. 2 MR. COON: Anybody have any questions? 3 MR. KORN: Mr. Vice Chair, I have a question 4 for Mr. Medina. So I gather that even though it's 5 under a default order in our agenda, this is really a 6 stipulated order. 7 MR. MEDINA: That's correct, as stated on the 8 amended agenda. 9 MR. COON: I've got a question for 10 Ms. Griego. Ms. Griego, I don't think -- I've been on 11 this Board quite awhile. I've never had three people 12 on one department at a single meeting and all three 13 for DWI. 14 Do you all have a problem with alcohol there 15 at the 911 center or the dispatch in Espanola or are 16 you all making any efforts to do counseling or just 17 say no or something on that behalf? 18 MS. GRIEGO: Sir, this as shocking to me as 19 it is to you and embarrassing to Espanola as well. I 20 have been there 15 years. And this has never happened 21 before, I've never had any of my staff. 22 It seems one happened to be going through a 23 divorce and one happened to be going through a 24 separation and the other one just problems at home. 25 So I don't know. We have offered them counseling and</p>	<p>1 they are partaking in it. 2 And just strict guidelines, our SOP has been 3 revised. We're working hard to not let this happen 4 again. And again I am so embarrassed to be here. And 5 I don't know what to say other than, you know, I would 6 just ask for leniency, because I still have to run 7 that department. 8 And with three of them out, one resignation, 9 I don't know how we would handle public safety. It 10 would really bend us at our knees. And that's why I'm 11 here, you know, taking a day off on their behalf. 12 And you know what, they're not bad employees, 13 they're excellent employees. They had something bad 14 happen. And again I don't condone it, I don't think 15 it's right. I am very upset with them, they know that 16 I am. But there's nothing I can do, I still have a 17 department to run. 18 MR. COON: On each of these, did you -- was 19 there discipline handed down from the department? 20 MS. GRIEGO: Yes, sir, yes, sir, there was. 21 MR. COON: And what was that discipline? 22 MS. GRIEGO: It was three days suspension on 23 each one of them, counseling, a growth plan; that if 24 this ever happened again, it was immediate 25 termination. They were offered counseling. And they</p>

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<p>1 have started counseling and that's where they're at 2 right now. 3 MR. COON: So each of them got three days 4 suspension for drunk driving? 5 MS. GRIEGO: Without pay. 6 MR. COON: Okay. Without pay. Thank you. 7 MS. GRIEGO: I have one more question. I am 8 No. 52 on the agenda. Do I have to come back? 9 Because I have nothing further to add. 10 MR. COON: No. You don't have to come back. 11 MS. GRIEGO: Okay. Thank you. Again I 12 apologize. 13 ITEM NO. 26: WALTER DRUTOK 14 MR. COON: Okay. Now we go to Walter Drutok. 15 Walter Drutok? Obviously he's not here. 16 ITEM NO. 27: ELLEN GONZALES 17 MR. COON: All right. We'll go to No. 27, 18 Ellen Gonzales. Ellen Gonzales. 19 ITEM NO. 28: JOSH GRIGGS 20 MR. COON: Okay. Number 28 is Josh Griggs. 21 Mr. Griggs, are you here? 22 ITEM NO. 29: JOSHUA JACOBS-HERRERA 23 MR. COON: Okay. Number 29 is Joshua 24 Jacobs-Herrera. Joshua Jacobs-Herrera, are you here? 25 ITEM NO. 30: ROBERT HOLGUIN</p>	<p>1 MR. COON: Okay. We'll go to No. 30, Robert 2 Holguin. Mr. Holguin, are you here? Mr. Holguin? 3 ITEM NO. 31: MATTHEW KINDLE 4 MR. COON: Okay. Number 31, Matthew Kindle. 5 MR. D'AMATO: Good morning, Mr. Chair. 6 MR. COON: Mr. D'Amato. 7 MR. D'AMATO: Mr. John D'Amato on behalf of 8 Matt Kindle. By way of clarification, we ask that you 9 adopt the default order of revocation. The Director 10 and my office were in an informal process to negotiate 11 a stipulated surrender or the surrender of a license. 12 Mr. Kindle decided to allow the Board to 13 default revoke him. So we're asking that you adopt 14 that. Mr. Kindle will not be a police officer, he's 15 not currently employed as a police officer, and has no 16 plans to be a police officer at all. He is gainfully 17 employed in another professor right now. 18 So we ask that you adopt the default 19 revocation. Thank you. 20 MR. COON: Okay. Thank you, Mr. D'Amato. 21 ITEM NO. 32: RUDOLFO LOPEZ 22 MR. COON: Okay. Rudolfo Lopez. Rudolfo 23 Lopez, are you here, sir? Rudolfo Lopez? 24 ITEM NO. 33: JOSHUA LUCERO 25 MR. COON: Okay. Number 33, Joshua Lucero,</p>
<p>Page 52</p> <p>1 are you here? Mr. Lucero. 2 ITEM NO. 34: DANIEL MARKHAM 3 MR. COON: Okay. Number 34, Daniel Markham. 4 Mr. Markham? No Mr. Markham. 5 ITEM NO. 35: EDDI MARTINEZ 6 MR. COON: Okay. Number 35, Eddi Martinez. 7 I guess that's Eddi. Eddi Martinez? No Ms. Martinez. 8 ITEM NO. 36: NOAH PESTAK 9 MR. COON: Number 36, Noah Pestak. Noah 10 Pestak? No Noah Pestak. 11 ITEM NO. 37: VIRGIL SANDOVAL 12 MR. COON: Number 37, Virgil Sandoval. 13 Mr. Sandoval, are you here? 14 ITEM NO. 38: DONNA SAYLOR 15 MR. COON: Okay. Number 38, Donna Saylor. 16 Donna Saylor, are you here? No Donna Saylor. 17 ITEM NO. 39: DANNY SURRATT 18 MR. COON: And then No. 39, Mr. Surratt, are 19 you here? I think that went to a voluntary 20 relinquishment? 21 MR. MEDINA: That's correct. 22 ITEM NO. 40: STEVEN TAYLOR 23 MR. COON: Okay. And then No. 40, Steven 24 Taylor. Mr. Taylor, are you here? Steven Taylor? 25 ITEM NO. 40A: KANDI GARCIA</p>	<p>Page 53</p> <p>1 MR. COON: Okay. Then we come into 2 cautionary letters. Kandi Garcia, are you here? 3 Ms. Garcia. 4 MS. GARCIA: Good morning. I'm Kandi Garcia, 5 I work for the Portales Police Department. On July 6 24th, 2012, I went to a local bar in Portales. My 7 sister had bought me a pitcher of beer before she 8 left. And I was with my brother's girlfriend. 9 We went outside to the balcony to smoke. And 10 when we came back in, the pitcher was empty. When I 11 was walking to my table, I asked who drank my beer. 12 This female came up to me and she told me it was her. 13 And I asked her if she was going refill it or if she 14 was going to pay me back. 15 She told me that she didn't have any money 16 right now, but she would pay me in two weeks. And I 17 told her that I didn't want to wait two weeks. She 18 drank my beer. I told her, instead of buying a 19 pitcher, she could just buy me and my brother's 20 girlfriend a beer. She said she also didn't have 21 money for that. 22 And anyways later on we left, me and my 23 brother's girlfriend left. We walked across the 24 street to Subway. And she came up to me and she asked 25 me for my phone number so she could pay me back and we</p>

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<p>1 could hang out.</p> <p>2 And I told her it wasn't necessary anymore,</p> <p>3 to drop it. And the point was to drink in a bar, but</p> <p>4 I'm on way home now. And she kept on asking me for my</p> <p>5 phone number, and I told her to leave me alone. I</p> <p>6 kept on walking and I told her to leave me alone, to</p> <p>7 get in the car and just, you know, leave me alone.</p> <p>8 We kept on walking. She left. We got about</p> <p>9 a block and a half away to walking back to my house</p> <p>10 and a vehicle pulled up. She got back out and she</p> <p>11 asked me for my phone number. And I told her I didn't</p> <p>12 want to give her my number.</p> <p>13 I called her a name. We got into a scuffle.</p> <p>14 And she -- they had -- she had got off of me. So my</p> <p>15 brother's girlfriend and I, we walked to his house,</p> <p>16 which was actually just a block away from where all</p> <p>17 this happened.</p> <p>18 And one of the patrol officers called me and</p> <p>19 asked me where I was at. I told him I was at home.</p> <p>20 And I called my sergeant and I told him what had</p> <p>21 happened and that I was actually at my brother's</p> <p>22 house.</p> <p>23 But the patrolman called me and told me -- I</p> <p>24 mean I had him I was not home. And he told me to stay</p> <p>25 there. The next day they called me and told me to go</p>	<p>1 down to the police department. They put me on an IA</p> <p>2 for fighting in a liquor establishment.</p> <p>3 After my IA I was suspended for two days. I</p> <p>4 lost my privileges to take my patrol unit home for</p> <p>5 30 days. I went to an alcohol screening, which I'm</p> <p>6 actually going to counseling for now. And for the</p> <p>7 next year I will be doing unannounced alcohol testing</p> <p>8 and formal quarterly reviews for the next 12 months.</p> <p>9 MR. COON: Anybody have any questions? Were</p> <p>10 you intoxicated when all this was taking place?</p> <p>11 MS. GARCIA: Yes.</p> <p>12 MR. COON: Was it worth it over a pitcher of</p> <p>13 beer, what you're going through now?</p> <p>14 MS. GARCIA: Definitely not. I have learned</p> <p>15 my lesson. I love my job very much. And it's not</p> <p>16 worth it. I don't even know what I was thinking.</p> <p>17 MR. COON: Okay. Thank you.</p> <p>18 ITEM NO. 40B: TROY BAKER</p> <p>19 MR. COON: Okay. Troy Baker. Mr. Baker is</p> <p>20 here.</p> <p>21 MR. BAKER: Okay. Mr. Chairman and the</p> <p>22 Board, I was involved in an incident. We were</p> <p>23 investigating a domestic violence report in March of</p> <p>24 2010. The vehicle was -- the individual left the</p> <p>25 scene. They described the vehicle.</p>
<p>Page 56</p> <p>1 That vehicle was subsequently found leaving</p> <p>2 the scene. It was stopped by another officer. I was</p> <p>3 the supervisor on duty that night. I had stayed over</p> <p>4 from a previous shift because they were short-handed</p> <p>5 on commanders.</p> <p>6 The individual was subsequently arrested and</p> <p>7 charged. The arresting officer had training when it</p> <p>8 was scheduled for court. He didn't go to court. He</p> <p>9 submitted an extension for the trial. They verbally</p> <p>10 over the phone agreed, yes, to give a continuance.</p> <p>11 But on the paperwork, they signed that it was not</p> <p>12 continued. So the charges were subsequently dropped</p> <p>13 even though probable cause was found.</p> <p>14 Based on the dropping of the charges, the</p> <p>15 individual filed a tort claim for false arrest or an</p> <p>16 intent to a civil suit, which he never followed</p> <p>17 through on. And based on that tort claim notice the</p> <p>18 city received, the department initiated an Internal</p> <p>19 Affairs investigation.</p> <p>20 That Internal Affairs investigation cleared</p> <p>21 all the officers of the charges. And the results of</p> <p>22 that Internal Affairs investigation were not signed</p> <p>23 off on by the chief at that time. He stepped down,</p> <p>24 leaving it for the follow-on chief that was appointed</p> <p>25 immediately thereafter, the current chief, Chief Rael,</p>	<p>Page 57</p> <p>1 to review.</p> <p>2 His third day in office he overturned eight</p> <p>3 Internal Affairs investigations. He said he didn't</p> <p>4 agree with the findings. He did not specify why he</p> <p>5 disagreed with the findings, that we were cleared of</p> <p>6 the allegations.</p> <p>7 And so he initiated another investigation,</p> <p>8 which was an investigation -- he assigned it to a</p> <p>9 deputy chief to review or reinvestigate. At that</p> <p>10 point she took six weeks, never interviewed anybody,</p> <p>11 didn't read the initial investigation, didn't read</p> <p>12 anything, just came to her own conclusions based on a</p> <p>13 book that she read by her own admission.</p> <p>14 So they came to the conclusion that we had</p> <p>15 falsified the report because my report -- I had the</p> <p>16 incident -- the sequence of events out of order. Not</p> <p>17 that it didn't happen that way, it's just the sequence</p> <p>18 that I had.</p> <p>19 It was based on my report, it was based on my</p> <p>20 recollection, I didn't review the videotape. There</p> <p>21 were three other officers -- actually four other</p> <p>22 officers all together. And out of that there was two</p> <p>23 of us that did not review the videotapes of our in-car</p> <p>24 cameras prior to doing our reports.</p> <p>25 So our sequence of events were not consistent</p>

1 with what they saw on the video. So they came to the
2 conclusion that we had lied on our report. I
3 explained that during the Internal Affairs
4 investigation.

5 I was 17 and a half hours into a shift. I'm
6 checking reports from my shift previous and the
7 reports from the shift that I was working at that time
8 and trying to do my report. All that and do
9 everything by memory. I admitted, yes, the sequence
10 of events was out of order; but it still happened.

11 I was terminated for five and a half months
12 for apparently falsifying a report. We took that to
13 arbitration. The arbitrator also ruled that I did not
14 falsify my report. I was reinstated with full back
15 pay and benefits.

16 I'm currently a patrol sergeant on the Santa
17 Fe Police Department. And this is before you today.
18 The report that was submitted to the academy that this
19 was all based on was the findings of the deputy chief
20 that was assigned to find whatever she was going to
21 find.

22 Again she never interviewed anybody. She
23 admitted that she didn't read the actual Internal
24 Affairs investigation very thoroughly by our
25 lieutenant here that's in charge of Internal Affairs.

1 the apartment complex. And officers contacted him.
2 And basically we ran a check on him, basically telling
3 him he wasn't allowed to go back over to the
4 apartments.

5 He was released. He kept coming back,
6 threatening the officers. And he left his wallet on
7 the scene. One of the following officers here that
8 was involved in the same incident tried to take his
9 wallet out to him. He made threats toward the
10 officers at the scene.

11 And then he was like, well, I'm not going to
12 deal with you out here. So he brought the wallet back
13 to the car. It was going to be impounded anyway so it
14 would be inventoried with the property. And then he
15 all of a sudden decided he wanted his wallet back
16 then.

17 He came back and was threatening officers on
18 the scene. And one of the deputy -- one of our
19 officers said to him, you know, like don't look at us
20 like you want to fight. He was sitting there
21 mad-dogging the officers. And he, you know, made an
22 inappropriate comment, which I agree, it was not
23 acceptable at that time.

24 MR. KORN: Who did?

25 MR. BAKER: One of the other officers on the

1 It even went to the academy's use of force
2 expert. They went through the video frame by frame,
3 step by step, and found that we had reacted
4 appropriately based on the circumstances.

5 The individual that we dealt with has a
6 history of doing just that, filing tort claims. He's
7 in trouble, filing tort claims. He has a couple
8 against the Albuquerque Police Department, Bernalillo
9 County. And we have -- about a month and a half, two
10 months ago, we just did a raid on this guy. He's a
11 narcotics dealer, and that's how he makes his living.

12 MR. COON: Anybody have any questions?

13 MR. KORN: I do, Mr. Vice Chair.

14 MR. COON: Mr. Korn.

15 MR. KORN: Sir, I don't think you went into
16 the incident. What was the incident from which it was
17 alleged undue force?

18 MR. BAKER: We were responding to a domestic
19 violence deal at an apartment complex. The
20 individual -- the officers arrived prior to my
21 arriving on the scene. And they advised that he had
22 left in a car. He was seen by officers leaving that
23 scene in the specified car that they described.

24 I went to the scene. He ended up pulling
25 over in a Wal-Mart parking lot, which is right next to

1 scene. He was conducting another investigation of the
2 driver of the car now on a -- for a DUI and for
3 driving on a revoked license. It ended up not being a
4 DUI, but she was driving on a revoked license.

5 This gentleman was a passenger in the car.
6 But he come back over there mad-dogging the officers.
7 He had already made several threats. We had been
8 dealing with this guy for, you know, 15 or 20 minutes
9 on the scene, him making threats to us.

10 And we basically told him, you know, just
11 leave, just leave, just leave. And then he decided to
12 come back and get his wallet. He was mad-dogging the
13 officers on the scene. There was ice on the trunk of
14 the car.

15 The wallet was placed on the trunk of the
16 car, it slid off on the ground. He made some comments
17 about that. "Throwing his shit," is what he said.
18 The officer picked it up, said "Get your wallet and
19 go. I didn't mean to throw it, it slid off because
20 the trunk is icy." Very clear on the video.

21 And he came back -- once the wallet hit the
22 ground, he was clenching his fists and he was staring
23 at the officers. And the officer made a statement, he
24 said, "Don't look at me like you want to fight,
25 because you're not going to win." And he says, "I do

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<p>1 want to fight." 2 And so we all closed in on him, you know, 3 wasn't allowing him to carry out any threats based on 4 his behavior from the very beginning. So that was the 5 incident. He was arrested and transported to jail. 6 So like I said, based on the dropping of the 7 charges -- because the continuance that was verbally 8 granted on the phone was disapproved on paper when the 9 paper came in front of the judge. It was faxed to the 10 court because the officer had training, his three-day 11 mandatory training. 12 And so what they verbally told him and what 13 had actually happened was two different things. So 14 the charges were dropped. So that's why he filed the 15 tort claim. 16 MR. KORN: So four officers effectuated an 17 arrest? 18 MR. BAKER: Yes. 19 MR. KORN: And was there a lot of fighting 20 involved? 21 MR. BAKER: No. We just took him to the 22 ground and that was it. 23 MR. KORN: A normal arrest? 24 MR. BAKER: Right. 25 MR. KORN: And did this incident happen in</p>	<p>1 June? 2 MR. BAKER: No. It happened in March. He 3 filed a tort claim because they dropped his charges. 4 MR. KORN: Thank you. So in June they filed 5 the misconduct, but it happened in March? 6 MR. BAKER: Right. And they didn't 7 investigate it until December. 8 MR. KORN: Okay. Thanks. 9 MR. COON: Any other questions? Thank you, 10 sir. 11 ITEM NO. 40C: MATTHEW CHAMPLIN 12 MR. COON: The next one is Matthew Champlin. 13 I think this is following up, the same thing. 14 MR. CHAMPLIN: Yes, sir. 15 MR. COON: Mr. Champlin, do you have anything 16 you would like to add versus what Mr. Baker said? 17 MR. CHAMPLIN: A couple of things really. As 18 far as the continuance goes, the charges -- I was the 19 arresting officer. And I did do the charges. I was 20 in training, mandatory training. 21 And I contacted the Santa Fe Magistrate 22 Court. And via the phone they said, "We can go ahead 23 and continue this, but we need an official 24 continuance, a written continuance." So I went ahead 25 and completed the continuance.</p>
<p>Page 64</p> <p>1 I faxed it over there. I did a supplement to 2 my report. I took that faxed confirmation and the 3 continuance, and I attached that to my report. Around 4 June I realized I had not gotten a subpoena for this 5 case yet. 6 So I went out to nmforce.com, because I like 7 to follow the disposition of my cases and see where 8 they're at if I don't hear from them again; and 9 especially incidents of use of force, you know, 10 involving multiple officers. 11 And look at it and it says dismissed due to 12 lack of officer prosecution, which I know to mean -- 13 means the officer didn't show up to court. So this is 14 wrong. It had been my understanding that the 15 continuance had been approved as far as verbally goes. 16 I guess it either didn't make it there or it 17 got disapproved by some other action. At that time I 18 wrote a memo to the chief's office saying -- bringing 19 that to their attention. Because it was my 20 understanding that his attorney had got it dismissed 21 with prejudice, which we all know we can't refile. 22 So I wanted to bring this to the attention of 23 the chief's office and say, hey, look, this was a 24 misunderstanding. I tried to get a continuance. For 25 whatever reason I didn't get it.</p>	<p>Page 65</p> <p>1 And this was a use of form involving multiple 2 officers. He had threatened on scene several times 3 that he had lawyers, he was going to sue us. And his 4 behavior led me to believe that he might do that. So 5 I didn't want to forego the criminal case. That was 6 important. 7 And unfortunately there was an exchange of 8 power going on at this time in our department. Chiefs 9 were being asked to step down, new chiefs were being 10 promoted. And a lot of exchange of power was going on 11 and it got overlooked. Nobody ever got back to me. 12 My sergeant signed off on that memo, my lieutenant 13 signed off on it. And once it left that, we never saw 14 it again. 15 As far as the incident goes, I would like to 16 add this case is a totality of the circumstances. 17 It's not any single, individual act in this case that 18 made it what it is. It was the totality. 19 Like Sergeant Baker prior said, we responded 20 to a -- it wasn't a domestic violence. It was a 21 disorderly conduct. But it was an individual who was 22 at home -- who was trying to force his way into a 23 home. And there was a female who was standing there 24 trying to prevent him from coming in. 25 She stated that he was angry, he was</p>

<p style="text-align: right;">Page 66</p> <p>1 intoxicated. She didn't know why he was angry, but 2 that he appeared to be angry or frustrated. So the 3 guy pulled up into the scene and then he left. 4 And we had a vehicle description. And the 5 vehicle that pulled up matched his -- the vehicle that 6 pulled up. So we followed it. We never stopped the 7 vehicle, it stopped itself in Wal-Mart. It was just 8 around the block. 9 We went up and we made contact. And as soon 10 as we made contact on the passenger side, I put in my 11 report -- I didn't know which better way to explain 12 it. I said, "He angrily looked at me." As a human 13 being, that's just what I recognized. Not only as an 14 officer, but just as a human being. I could see this 15 guy was -- for lack of a better word, he was pissed 16 off at something. 17 And that's how the interaction went 18 throughout the scene. He was just -- he had a chance 19 where he could be cooperative and he had a chance 20 where he would venture into that not cooperative, you 21 know, yellow portion. So he went back and forth. 22 I've been told several times as an officer, 23 which I'm sure several of you have, that if somebody 24 wants to fight us or they call us a bad name or 25 whatever the case may be. And based upon the totality</p>	<p style="text-align: right;">Page 67</p> <p>1 of the circumstances in this case, I believed this 2 guy. 3 When he actually said I do want to fight, it 4 wasn't just I want to fight. I've been told someone 5 wants to fight me several times in my career. I know 6 that as police officers we're trained to deal with 7 that and to cope with that. 8 But in this case it was the totality of the 9 circumstances. The way he acted at the apartment, the 10 way he acted when I first contacted him. The reason 11 he went into handcuffs at one point was because I felt 12 that this was going to go bad. He was intoxicated, he 13 was angry, he was starting to get mouthy. And I just 14 didn't want to get into this altercation with him. 15 I put him in handcuffs. Once our 16 investigation was done, we released him. We said, you 17 know, you're free to go, go ahead and just don't go 18 back to this apartment and go home. Get away from 19 here, we don't want you anymore, because now we were 20 dealing with the driver who was revoked or suspended. 21 When he came back for his wallet -- and like 22 Sergeant Baker had said earlier, there was frost on 23 the back of the trunk. And the officer slid the 24 wallet. And it slid -- you can see it on the video. 25 It slides across the trunk and it falls out in front</p>
<p style="text-align: right;">Page 68</p> <p>1 of Mr. Schaefer, which was the complainant. 2 I don't know if he took this as an offense, 3 like the officer did it on purpose. But the officer 4 on the video says, "Look, I'm sorry, I didn't mean to 5 do that. Go ahead and get your stuff and go." 6 Now, there's about a two to three-second -- 7 and I'm standing behind the suspect at this time, 8 about two to three feet, maybe four feet behind him. 9 And there's a two to three-second delay where nobody 10 is talking. It's just -- and I'm standing behind the 11 suspect. 12 So I can't see where he's staring. But I can 13 gather that he's staring at Officer Parsons, which is 14 across the trunk, which is the officer that slid the 15 wallet. And the hair on the back of my neck stood up. 16 And I remember thinking what's about to happen right 17 now, because there just was a tense situation when the 18 wallet hit the ground. 19 And I remember the officer saying, "Don't 20 look at me like you want to fight because you're not 21 going to win that." At the time I took that -- could 22 he have said something better? Sure. 23 But at the time I took it, look, there's five 24 officers here. You're not going to win this, it's not 25 worth it. Get your stuff, you're free to go, get out</p>	<p style="text-align: right;">Page 69</p> <p>1 of here. And instead of doing that, he said, "I do 2 want to fight." 3 And in the State of New Mexico, there is two 4 subsections to assault on a peace officer. One is the 5 overt act. One comes, he tries to take a swing at 6 you, he tries to hit you, that's the assault or the 7 overt act. 8 And the other one is that any threats, 9 unlawful act, or menacing conduct that leads that 10 officer to believe that that battery could be 11 possible. And in this case that's exactly how I felt. 12 When he said, "I do want to fight," I felt that, with 13 the totality of the circumstances and how this guy had 14 behaved the whole time, that he meant it. So I placed 15 him under arrest. 16 There was a question about if there was a 17 long altercation. There was about 20, 25 seconds, 18 maybe 20 seconds from the time of hands on to the time 19 of in handcuffs. 20 There was one thing that Sergeant Baker left 21 out there. Once we picked him up, we noticed he had a 22 cut on his ear. We took him to the hospital. And 23 once we got him to the hospital, he proceeded to -- he 24 was handcuffed. 25 And there was an isolation cell. And he had</p>

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<p>1 a cut on his ear. So he proceeded to exacerbate his 2 wound on the wall. And he would walk, dragging the 3 side of his head across the wall. And left a lot of 4 blood trails in the hospital, which we photographed 5 and documented as such.</p> <p>6 I think that about covers it. The only thing 7 I'd like to say is, you know, with the Internal 8 Affairs investigation, it was a long investigation 9 that we went through, a thorough investigation. And 10 as a result of that, we were cleared by this gentleman 11 right here. So do you guys have any other questions? 12 MR. COON: Any questions? 13 MR. BARNCASTLE: What was he initially 14 charged with? 15 MR. CHAMPLIN: He was initially charged with, 16 sir, with the assault on a peace officer, he was 17 charged with resisting or obstructing, and he was 18 charged with the disorderly conduct at the hospital. 19 And at the hospital -- let me explain a little bit 20 more. 21 There was a point where we brought him out of 22 the isolation cell. And he was in a public corridor 23 now. And the ER nurse comes over to deal with him. 24 And the ER is full at this point, there's women, men, 25 elderly, little people, children.</p>	<p>1 And I remember at one point he's saying some 2 disgusting things. And I have testified to this in my 3 Internal Affairs interview and I told the Director, 4 this is one of the most vile guys I've ever dealt 5 with. He's just a vile guy, that's just the way he 6 is. And he was saying some pretty disgusting stuff. 7 And there was a husband and a wife and there 8 was two little girls that were just right next door to 9 him. And the stuff that he was saying -- I'm not 10 going to repeat it here. But the stuff that he was 11 saying -- I remember the dad taking the two little 12 girls and pushing their heads together and covering 13 their ears and turning around and walking back into 14 their room because it was disgusting. 15 And one of the nurses came over to me and 16 said, "Look, we need to, like, put this guy somewhere 17 else because I've had enough. He's disgusting." And 18 at that point it was a stretch -- it was far-fetched. 19 But I sat down and looked over the disorderly conduct. 20 And it talks about profane and boisterous and 21 whatnot. And we all know what disorderly conduct is. 22 And I looked at it like this: If he had been in 23 handcuffs and he had kicked an officer, he would have 24 been charged with battery on a police officer. 25 Because he's in handcuffs doesn't give him the right</p>
<p>1 to continue to commit crimes. 2 And I felt that he had enough at this point 3 for the disorderly conduct. So to answer your 4 question, the assault on a peace officer, resisting, 5 and disorderly conduct. 6 MR. BARNCASTLE: The initial -- or you 7 initially received a report that he was intoxicated. 8 MR. CHAMPLIN: Yes, sir. 9 MR. BARNCASTLE: Did you stop him while he 10 was driving? 11 MR. CHAMPLIN: He wasn't driving, sir. He 12 pulled up to a -- he came to the house. She said he 13 was intoxicated. And he actually walked across to 14 another apartment. We made contact at that apartment. 15 He was no longer there. 16 And there was an individual there, I even 17 remember his first name, his name was Fred. He said 18 that Mr. Schaefer, which was our suspect, had just 19 left his apartment with Fred's girlfriend in a 20 brown -- 21 MR. BARNCASTLE: So he was not driving a 22 motor vehicle? 23 MR. CHAMPLIN: No. There was an implication 24 that the female was intoxicated that was supposedly 25 driving the vehicle. But he wasn't driving,</p>	<p>1 Mr. Schaefer was only a passenger. 2 MR. BARNCASTLE: Thank you. 3 MR. COON: Any other questions? 4 MR. KORN: Mr. Vice Chair. 5 MR. COON: Yes, sir, Mr. Korn. 6 MR. KORN: Just for the record, you said 7 there is a gentleman that did the IA that's cleared 8 you and is here and you pointed to somebody in the 9 audience. 10 MR. CHAMPLIN: That's right. I didn't 11 know -- I wasn't -- I didn't ask him to be here today. 12 I don't know why he's here. I'm assuming it's in his 13 professional capacity of the police department and 14 he's here just to observe what's going to happen with 15 us. But yes, he is here. That's Lieutenant Dale 16 Lettenberger right here. He was the primary officer. 17 And he also consulted with the gentleman to the right, 18 which is Captain George Ortiz. 19 MR. KORN: Thank you for identifying them. 20 MR. CHAMPLIN: You're welcome. 21 MR. COON: Thank you, sir. 22 ITEM NO. 40D: STEPHEN COSBAN 23 MR. COON: Stephen Cosban. 24 MR. COSBAN: Good morning, gentlemen. This 25 is in reference to the same incident, the last two you</p>

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1 just heard. And my take on it is on that date, it was
 2 March 2010, March 17th, 2010. We were responding -- I
 3 was actually a backup officer. I was attempting to
 4 locate a vehicle that had left the area, the Rufina
 5 Road area.
 6 It originally came out as a disorderly
 7 conduct. But the individual attempted to force his
 8 way into a house. The description of the vehicle was
 9 given out. And I came from a different location at
 10 that time just to look for the vehicle.
 11 When I did arrive on the scene, the other
 12 three officers were there. And I arrived
 13 simultaneously with Sergeant Baker. I observed what
 14 was going on. Mr. Schaefer at the time, the suspect
 15 at the time, was out of the vehicle.
 16 And from my vantage point, what I observed,
 17 he was being very belligerent with Officer Champlin.
 18 He was taunting him and holding his license over his
 19 head. I still stood by because there was three
 20 officers there. And not to make the incident any
 21 worse or provoke it, I just stayed back.
 22 And in that time he continued provoking
 23 Officer Champlin. And then when they closed distance
 24 to handcuff him, I just came in to make sure
 25 everything was all right. They brought him back to

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1 That's when we closed in just to contain him and not
 2 let him carry out his threats.
 3 He began being very belligerent, he was
 4 throwing his hands up in the air, screaming, stop it,
 5 stop it. And he actually at one time even grabbed me
 6 and pushed me. I got behind him, was able to get
 7 behind him. As soon as he went to the ground, I was
 8 done. The other two officers had him and I left. At
 9 that time I stayed on scene while he was taken to the
 10 hospital.
 11 I was accused of falsifying a report. And
 12 when I asked specifically what was that about, they
 13 said that my verbiage was just different from what
 14 they saw. At one point they said he was more defiant
 15 than belligerent. And I said, "Well, in my
 16 opinion" -- this was the later investigation, not the
 17 original.
 18 My opinion was he was belligerent. He was
 19 screaming and yelling and cursing. It's all on the
 20 video. And then at that point I -- I left the scene.
 21 I did the tow sheet on the vehicle, handed in my
 22 report. I did it right there on scene at the
 23 computer.
 24 I handed it in, never saw it again. And they
 25 said that my -- my -- what I said matched someone

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1 his vehicle. He came back.
 2 Two officers were with the female who
 3 originally was in the -- driving the vehicle in
 4 reference to her driving intoxicated as well as she
 5 was possibly driving on a suspended license. And then
 6 Mr. Schaefer was in another vehicle with the other two
 7 officers, they were with him. I was just in between,
 8 seeing what I could do to help out.
 9 At that point we identified whose property
 10 was what. Mr. Schaefer was going to leave. He went
 11 to leave. I said, "Don't forget your wallet," went
 12 over to bring it to him. He continued. And when I
 13 got over, he continued -- started cursing and yelling
 14 at me, even threatened my life at one time.
 15 I thought it was best that -- not to go up to
 16 Mr. Schaefer in the way he had been acting the whole
 17 time, screaming and yelling and being very upset. And
 18 I put the wallet back on the trunk of the vehicle.
 19 He walked up. And the other officer, Officer
 20 Parsons at the time, he gave him the wallet, slid it
 21 over, and it fell on the floor. He then looked at
 22 Officer Parsons like he wanted to fight him.
 23 He said -- and then Officer Parsons took his
 24 don't look at me like you want to fight. And at that
 25 point he looked up and said, "I do want to fight."

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1 else's, which I had no idea. And it was, because it's
 2 exactly what I remember happening.
 3 I was cleared by the initial IA. The initial
 4 IA I was done over a three-month period. It was very
 5 thorough, very -- I answered every question possible.
 6 And they cleared us of all charges.
 7 That was rejected by the second
 8 administration that came in. And after only I think
 9 it was six days or ten days they came down and said
 10 no, we don't agree. And then another report was done.
 11 The investigator at the time, her name was
 12 Gillian Alessio, never investigated, never questioned,
 13 never spoke to me whatsoever. And she even said, "I
 14 can never do an investigation without speaking to
 15 you." And I agreed. I never said anything.
 16 At that time, it was two months later, they
 17 terminated me. I went through an arbitrator. They
 18 found that I did not falsify a report. They gave me
 19 back my back pay, back my benefits, and reinstated me.
 20 And from there I was also promoted to a field training
 21 officer at that point.
 22 And that ended that. And then I was cleared
 23 again. And then it came up and Director Medina then
 24 cleared us. And then we're here again on this.
 25 MR. COON: Anyone have any questions? Thank

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1 you, sir.
 2 ITEM NO. 40E: TERRY COLWELL
 3 MR. COON: We'll do one more and then we'll
 4 take a break. Terry Colwell, are you here?
 5 MR. COLWELL: Yes, sir. Good morning, Board.
 6 On June 20th of this year, I was scheduled for
 7 magistrate court at three in the afternoon. That
 8 morning myself and my daughter both had fevers, we had
 9 strep throat. I wasn't able to find daycare for my
 10 daughter.
 11 And I was under the impression that my court
 12 case was not going to go that afternoon, that it was
 13 going to be continued. I made several attempts to
 14 call the ADA that morning, get ahold of her at court,
 15 whatnot. I made contact with her secretary. I asked
 16 her secretary to give her a message for me to call me
 17 as soon as she could.
 18 At the end of that conversation with the
 19 secretary, she advised that she was not going to be
 20 able to give her this message, she did not have her
 21 cell phone number. And I asked -- so I asked the
 22 secretary who her supervisor was just because I had
 23 some questions about some other cases.
 24 As soon as I got off the phone with the
 25 secretary, I immediately drove down to the magistrate

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1 acknowledge that I had behaved inappropriately.
 2 During my Internal Affairs investigation, I
 3 had stated that we had two or three-minute
 4 conversation and that I was sitting down the whole
 5 time, that I never shouted or yelled or anything.
 6 The complainant was the ADA. And she had
 7 said that at one point I had shouted in that
 8 conversation. She also stated that during that
 9 conversation she had told me, "You come in here
 10 shouting at me and upset." And my response to her
 11 was, "I'm not shouting at you, you called it
 12 shouting."
 13 At that point I did not believe I had
 14 shouted. And during my interview I had also said that
 15 I hadn't believed I had shouted. The untruthful part
 16 of the whole investigation was that she had said I
 17 shouted I said I didn't.
 18 I advised her that it was a matter of
 19 perception. I then believed I hadn't shouted and
 20 during my interview I believe I had not shouted.
 21 The chief felt as though he needed to report
 22 this to District Attorney Hicks. And so she issued a
 23 Giglio letter, saying that she would not take my
 24 cases. And so that's why the department is moving to
 25 terminate me. My hearing is the 30th of this month.

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1 court, it's not that far away from my house. I walked
 2 in there. The court lobby was empty. The ADA was
 3 coming out of the courtroom.
 4 And the first thing she says to me is, "So I
 5 heard you want to talk to my supervisor." She was
 6 confrontational right away. She asked me to go into a
 7 witness room because we needed to talk. I went in
 8 there. We had about a two or three-minute
 9 conversation.
 10 At the end of that conversation, I left. The
 11 next morning I go to 10-8s. And I was summoned to the
 12 station by my commander. We went up to talk to the
 13 chief. He put me on administrative leave for
 14 allegedly verbally assaulting the ADA.
 15 I believe two weeks passed. And I received a
 16 letter in the mail from the chief advising me that he
 17 was going to move to terminate my employment because I
 18 had been untruthful during the investigation.
 19 I was totally unaware of what I had been
 20 untruthful about. I asked for discovery. I asked for
 21 all the transcripts, which I received.
 22 A few weeks later I had a pretermination
 23 hearing. At that hearing I again asked what I had
 24 been untruthful about. The untruthful matter -- the
 25 exact thing the chief said was I had -- my failure to

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1 I have made several attempts to contact
 2 District Attorney Hicks to give her my side of the
 3 story. The investigator omitted -- there was three
 4 witnesses to that whole event that day. One witness
 5 said he heard me shouting.
 6 And two other witnesses that were even closer
 7 than him advised that I had not -- they had heard no
 8 shouting, no nothing. The investigator omitted both
 9 those witness statements. And I was only able to
 10 uncover that through all the transcripts.
 11 And so I have tried to contact Janetta Hicks
 12 to advise her of this information that she I'm sure is
 13 unaware of because it wasn't in any of the reports. I
 14 have requested to take a polygraph from the
 15 department. They have given me no response. I have
 16 asked why they will not give me a polygraph. They
 17 won't give me a response.
 18 I have had to tell this story. I have tried
 19 to apply to other departments while I'm on
 20 administrative leave. And I've had to tell this story
 21 to everyone. I have told this story to a bunch of
 22 retired police officers, and no one believes that
 23 there's any remote way I lied about that.
 24 I'm going to fight this as long as I can,
 25 because it's going to ruin my career. And there's

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<p>1 just so much information that they omitted from the 2 report that I have hard core proof of. That's 3 basically it.</p> <p>4 MR. COON: Mr. Colwell, I have a question for 5 you, sir, that maybe has nothing to do with your case. 6 What's your date of birth?</p> <p>7 MR. COLWELL: 12/14/82.</p> <p>8 MR. COON: Okay. Mr. Medina, on this right 9 here, we have his dad's -- because Harry, his dad, 10 used to work for the Chaves County Sheriff's Office. 11 And I thought, man, Harry has really been doing good 12 here lately, he's 30 years younger.</p> <p>13 But on this -- this is 85. And his 14 certification is an 09 number. And the other one, his 15 dad's, is an 85. So we've got the wrong --</p> <p>16 MR. MEDINA: A wrong profile from our 17 deputies.</p> <p>18 MR. COON: Okay. Just make that a point, 19 that we have his dad's profile here.</p> <p>20 MR. MEDINA: Yes, sir. Noted.</p> <p>21 MR. COON: Anybody have any questions of 22 Mr. Colwell?</p> <p>23 MR. SCHULTZ: Mr. Chairman, just a quick 24 question. Have you attempted mediation with the ADA?</p> <p>25 MR. COLWELL: Sir, I have emailed Ms. Hicks</p>	<p>1 twice, I have -- through my attorney. He's had two 2 conversations with her. And she will not meet with 3 me. I'm sure she's unaware of this information I've 4 uncovered. And she will not meet with me for some 5 reason.</p> <p>6 I can't get hired in this district. I live 7 in Artesia, I've been born and raised there. And I 8 cannot continue my law enforcement career in this area 9 until I meet with her and try to convince her that I 10 have not been untruthful about anything. And she will 11 not meet with me.</p> <p>12 MR. BARNCASTLE: What attempts has your 13 attorney had to make attempts to meet with Ms. Hicks?</p> <p>14 MR. COLWELL: He actually caught her at 15 district court one day in the lobby and had a 16 conversation with her. And then he told me about the 17 conversation. And I told him please call her again 18 and beg her. And he called her again and begged her, 19 just give us five minutes, and she still will not talk 20 to us.</p> <p>21 MR. BARNCASTLE: Have any attempts been made 22 to contact any either the Deputy District Attorney or 23 the other -- the chief deputy or the Deputy District 24 Attorney that's in that county?</p> <p>25 MR. COLWELL: No, sir, not that I know of.</p>
<p>Page 84</p> <p>1 When I went to see Mr. Medina, he asked for some 2 additional information. I provided it to him about 3 this investigation. And I sent a letter to him and I 4 asked if maybe by chance he could forward this to Gary 5 King and let him look at it. That's really all I have 6 at this point.</p> <p>7 MR. COON: Any other questions?</p> <p>8 MR. MEDINA: I've got one comment. He did 9 volunteer to take a polygraph.</p> <p>10 MR. COLWELL: I told Mr. Medina I would take 11 one for him, I would take one for anyone. I have not 12 lied about anything. And it's going to ruin my 13 career. And I just need someone to give me that 14 chance just to prove to Ms. Hicks that I don't deserve 15 a Giglio letter.</p> <p>16 MR. BARNCASTLE: Has that letter already been 17 issued?</p> <p>18 MR. COLWELL: I have a letter from Ms. Hicks 19 saying that she's not going to accept my cases. When 20 I went to my pretermination hearing, Ms. Hicks -- and 21 I have done so much research about the Giglio case and 22 everything.</p> <p>23 And from my understanding I won't be subject 24 to a Giglio letter if I'm ever exonerated or found 25 innocent of lying. And she still won't take my cases.</p>	<p>Page 85</p> <p>1 I guess she advises that she still won't, that still 2 has to disclose that, even if I'm exonerated of that. 3 And that's on paper. I have that.</p> <p>4 MR. BARNCASTLE: Thank you.</p> <p>5 MR. COON: Anybody else? Thank you, 6 Mr. Colwell.</p> <p>7 It is now about 13 or 14 minutes before 11. 8 Let's take a break and come back at 11. 9 (Recess.)</p> <p>10 MR. COON: By the way, if you have a letter 11 you would like to read, if you will let her have a 12 copy of it. And if you don't have a copy of it, if 13 you will give it to me at the break, I will burn a 14 copy so she'll have it for the record. Please see me 15 and I will make sure we get a copy of it to her. 16 Thank you.</p> <p>17 ITEM NO. 40F: JAMES MINTER</p> <p>18 MR. COON: Now we're back to the letters of 19 no action. James Minter. Mr. Minter.</p> <p>20 MR. MINTER: Yes, sir. Good morning, sir. 21 On July 9th I had a very -- not a very good day. I 22 had my kids, we were going through a divorce. I got 23 my kids the Friday before. This is Saturday morning.</p> <p>24 I sent them down to my ex-wife's house or 25 then current wife. We were separated. I sent them</p>

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<p>1 down about eight o'clock. I go to breakfast. She 2 sends me a text message and says, "Can you talk." I 3 said, "No, not really." She goes, "Well, I'm going to 4 be out of your life, you know, good luck to you." 5 Okay, whatever. 6 So I stop by there. She's supposed to go to 7 Ruidoso with my kids. I stop by there. An officer or 8 a CSO is standing there at the back of her residence. 9 I say hello to him, I shake his hand. We go in the 10 house. He says so what do you want to talk about. 11 And then we go into why our marriage failed. 12 And I said basically due to your drinking, because 13 that's what it was. She sits on her bed. I'm sitting 14 against the dresser. And she's asking me why she 15 wasn't good enough and, you know, amongst other 16 things. I said it's just your drinking, I'm tired of 17 it. I've been dealing with it for eight years and I'm 18 done. 19 She makes a motion to her wrist with her 20 fingernails. She's got long fingernails. She rubs 21 her wrist across both of them. And in the past she 22 had threatened suicide and just that kind of behavior 23 before. 24 It kind of struck me as odd. She had a 25 ceramic coffee mug, like a Starbucks ceramic mug. And</p>	<p>1 she scoots up to the edge of the bed and just kind of 2 opens her hand and lets that coffee cup hit the top 3 floor of the bedroom. 4 Instead of reaching for a towel, she reaches 5 for a piece of the shard, which is -- you know, it's a 6 coffee cup about that big. I grab her wrist and I 7 said, "You're not going to do that, you're not going 8 to do it, you're not going to do it in front of our 9 kids." I have a little boy and a little girl there. 10 I said, "You're not going to do it." 11 She's yelling, "Get off me, get off me." So 12 my son and my daughter, they come in, they're upset. 13 Let's get a towel, let's clean it up. I'm blocking 14 her from trying to clean it up. I'm trying to scoop 15 it up and get it out of the area. 16 She goes into the bathroom, tries to shut the 17 door. She opens the medicine cabinet, grabs a pair of 18 scissors, throws it in her purse, and starts walking 19 out. I'm right behind her, on her heels, "You're not 20 going to do this." 21 I grab the scissors out of her purse, throw 22 them up on the refrigerator there in the kitchen. She 23 grabs a glass of water and takes ibuprofen or 24 something to that effect, takes one of them. She 25 still has the bottle in her hand. She had two</p>
<p>Page 88</p> <p>1 bottles, one ibuprofen and another bottle. 2 She goes back to the bedroom and we're 3 standing there. She's looking. And all of a sudden 4 she turns up the bottle of pills and eight or ten 5 probably. Immediately I put my fingers right 6 underneath her jaw so she can't swallow. 7 I've got my hand on the back of her neck 8 saying, "Spit it out, spit it out, you're not going to 9 do this." My kids are screaming. She spits out all 10 these pills all over the -- all over the bedroom right 11 there on the dresser. And then she's -- she weighs a 12 buck 0 five soaking wet. 13 And I fling her up on the bed. And I'm 14 laying on her like this yelling at my daughter to call 15 911, call 911. She's screaming. My then wife says, 16 "Don't call them, I'll lose my job if you do." I'm 17 like, "Taylor, call 911." She calls 911 and it just 18 disconnects. 19 I let her up. She goes to leave. She takes 20 my kids outside. I didn't have my cell phone, it was 21 in my pickup. She comes out, she goes back in the 22 house, I try to block her. She punches me in the 23 groin. I push her back. 24 I go to my pickup, I call my sergeant, who I 25 thought was on duty, Sergeant Haskins, and said,</p>	<p>Page 89</p> <p>1 "Angie just tried to kill herself, I need help now." 2 They get there immediately. 3 The sergeant on duty, I tell him the story. 4 He goes, "Well, we can't do anything, we'll call the 5 sheriff's office." We called the sheriff's office. 6 Two deputies arrive -- well, one deputy arrives first. 7 I tell him the story. He was just hanging out for me. 8 You know, I'm pacing back and forth. 9 By that time Sergeant Haskins arrives and I 10 tell him the story. We go around to the front, 11 because it's really hot, trying to get some shade. 12 And the deputy that was investigating it came up and 13 talked to me for about -- not even a fourth of the 14 story. 15 He says, "I'll be right back with you." And 16 at that point I told Sergeant Haskins, I said, "I'm 17 going to go to jail today." He goes, "No, you're not. 18 You didn't do anything wrong, you're not going to 19 jail." Twenty minutes later he comes in and says turn 20 around and put your hands behind your back, you're 21 under arrest for battery on a household member. 22 It was by far the worst day of my life. I've 23 never been in handcuffs. Fifteen years being a 24 policeman, never been in handcuffs. 25 So they transported me to the county</p>

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<p>1 sheriff's office in Carlsbad, put me in a holding 2 cell, did the criminal complaint for battery on a 3 household member. They transported me to the jail, 4 which is across the street.</p> <p>5 The judge found no probable cause and he 6 advised them to release me immediately. I didn't get 7 released for another 45 minutes or so, but that's a 8 whole other issue.</p> <p>9 The chief initially was going to put me on 10 administrative leave. He did not. But I didn't get 11 released. This happened at ten or so in the morning. 12 I was supposed to work graveyard that night. I didn't 13 get released from the jail until 5:30.</p> <p>14 I said, "Chief, I'm not going to come to 15 work, I'm not" -- you know, it was pretty traumatic, 16 you know, being arrested and transported. I said, 17 "Can I take the night off." He goes, "Yes, you can 18 take the night off, but be back to work tomorrow." 19 And that was after he found out that there was no 20 charges, all of it was dropped from the judge.</p> <p>21 I went through the Internal Affairs 22 investigation, was exonerated from all charges, all 23 wrongdoing. I never got suspended, I never got any 24 disciplinary action or anything. And that happened in 25 July. And then I got this letter from Director Medina</p>	<p>1 in August of this year. That's pretty much it.</p> <p>2 MR. COON: Why was this sent up to the Board 3 if there was no action taken or you were exonerated?</p> <p>4 MR. MINTER: I can't answer that. I've 5 asked, and they said because I was arrested.</p> <p>6 MR. COON: Anybody have any questions? Thank 7 you, sir.</p> <p>8 ITEM NO. 40G: ROBERT PLATERO</p> <p>9 MR. COON: Now, we go to 40G, Robert Platero. 10 Mr. Platero, are you here?</p> <p>11 ITEM NO. 40H: MARK ZUNI</p> <p>12 MR. COON: And then we go to 40H, Mark Zuni. 13 Mr. D'Amato.</p> <p>14 MR. D'AMATO: Good morning, Mr. Chair, 15 Members of the Board. I'm here on behalf of Mr. Zuni, 16 who is working today, not as law enforcement. He's 17 trying to get his job back.</p> <p>18 This is one of the cases that has lingered 19 since September of 2008, allegations of 20 September 2008. This summary does provide a synopsis 21 of essentially what happened, but it leaves out a lot 22 of details.</p> <p>23 I'm not going to get into the details now 24 except to say that he has waited since his indictment 25 in March of 2009 until recently, I believe it was</p>
<p>1 sometime this summer. After six days of trial, the 2 State asked the judge to dismiss this case. And the 3 court would not dismiss it.</p> <p>4 So the DA nolle prossed it on the sixth day 5 of trial. And we would ask that you adopt the 6 recommendation of the Director and that no further 7 action be taken in this case. Thank you. Any 8 questions?</p> <p>9 MR. COON: Any questions of Mr. D'Amato?</p> <p>10 MR. D'AMATO: Thank you, gentlemen.</p> <p>11 MR. COON: Thank you. Okay. When we first 12 started this, on No. 5, Charles Dudley, I didn't 13 realize his chief was here. And he had asked me at 14 the break if he could get up and make a comment on 15 No. 5. Does anybody have any problems with that?</p> <p>16 MR. KORN: No.</p> <p>17 MR. COON: Okay. You want to identify 18 yourself, please, sir.</p> <p>19 MR. JONES: Mr. Chairman, Members of the 20 Board, I appreciate you allowing me to speak. My name 21 is Jimmy Jones. I am currently the police chief in 22 Eunice, New Mexico. Sergeant Dudley, Charles Dudley, 23 works for me as a sergeant.</p> <p>24 What I wanted to bring to the attention of 25 the Board is a few things. One is Mr. Dudley is a</p>	<p>1 good man, he's a good police officer. I don't come 2 and speak on folks' behalf and, in fact, I've never 3 even been to one of these hearings, this is my first 4 time ever to be in one of these. So I wasn't real 5 sure how this proceeding took place. That's why I 6 didn't step up awhile ago.</p> <p>7 Mr. Dudley was a police officer when I was a 8 kid, when I was in high school. So he told me not to 9 say that because he was afraid it would show his age 10 here in front of everybody.</p> <p>11 But he's one that influenced me as a young 12 man to become a police officer. He's a staple in the 13 community of Eunice. He's been there for many, many 14 years. He's one of the few people that I know in law 15 enforcement that's actually got a foothold in the 16 community. He's been there for many years.</p> <p>17 He hasn't left Eunice, even though some of 18 the other agencies have offered to pay him more and 19 things like that. He stayed there. His wife is a 20 teacher there in the school. His kids are there at 21 the school. And, you know, Mr. Dudley is a sergeant 22 there at the police department. He's been an FTO, 23 he's a leader within the department.</p> <p>24 This particular incident I would say at best 25 in my opinion, and I've reviewed most of the file in</p>

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1 this case, was a lack of our -- I say poor judgment on
 2 his part in the way some of the things took place. As
 3 far as a criminal matter, the DA's Office did dismiss
 4 this case once they got to reviewing it. It was
 5 dismissed because of the situation.
 6 You know, you have a lot of serious matters
 7 before you today. And I'm sitting here listening to
 8 some of these. I would say this, I just want you to
 9 take into consideration, one, this gentleman has never
 10 had any disciplinary issues in the past. You can look
 11 at his file, his record. He's a good man, he's a good
 12 police officer. He's a leader in our community.
 13 And two, similar to what I heard another
 14 young lady say earlier today, the Eunice Police
 15 Department is a small department. We only have eight
 16 officers. And Mr. Dudley is one of those that works a
 17 shift. And so it will hurt the citizens of Eunice to
 18 take him off the streets, especially in a situation
 19 where, you know, we can't fill that position until
 20 he's -- you know, until he comes back.
 21 So what I'm asking for is I'm wanting the
 22 Board to understand a few things. One is that he's a
 23 good guy. He made a mistake in judgment. However,
 24 what he did was he responded to a call or a situation
 25 where we had received numerous calls at the Eunice

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1 they could locate the turkeys.
 2 They tracked them down. The turkeys were
 3 shot. Mr. Dudley or Sergeant Dudley shot the turkeys
 4 using his department-issued shotgun on duty. As he
 5 had explained to you earlier, the turkeys were shot.
 6 The animal control guy was going to dispose of them.
 7 Mr. Dudley, who is an avid hunter and
 8 sportsman, said, you know what, if you're just going
 9 to take those and throw them away, I have two game
 10 tags. Could I use those and acquire the turkeys and
 11 have the meat. The animal control guy said it was
 12 fine.
 13 Mr. Dudley did speak to the current chief
 14 about the situation. And that's kind of how we got to
 15 where we're at right now. Was it improper handling of
 16 evidence? You know, I would say that there were some
 17 issues there.
 18 However, the Eunice Police Department, the
 19 City of Eunice, after an Internal Affairs
 20 investigation, did give him five days off. They put
 21 him on probation for one year. He was assigned a
 22 series of tasks including a review of the
 23 Constitution. He had to write some papers or reports
 24 over that stuff.
 25 He did all those things, you know, without

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1 Police Department concerning these turkeys.
 2 I know that sounds kind of funny. But we
 3 had -- over a period of several months, we had
 4 received numerous calls complaining about these
 5 turkeys stalking and harassing people basically.
 6 What they were doing is they were from just
 7 outside of town. There were some homes that sit right
 8 on the city limits, where it's pastureland out on the
 9 other side. They were coming in and they were
 10 roosting in some pine trees right on the edge of town
 11 every evening.
 12 So early in the morning, when people would
 13 come out to their vehicles, here are these turkeys up
 14 there. And they got used to the people. Some of them
 15 were feeding them. And they would actually physically
 16 go up almost like you see geese do around a pond, come
 17 up and they wanted food.
 18 So they would chase people around, defecate
 19 all over their vehicles, all over their front doors,
 20 their front porch areas. Numerous people had called
 21 complaining about this matter.
 22 Sergeant Dudley happened to be on duty one
 23 morning when we received one of those calls. He
 24 visited with our animal control guy. And the two of
 25 them decided that they were going to, you know, see if

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1 hesitation and has been great for me, since being the
 2 chief of the police department and helping me with
 3 some guidance and leadership there.
 4 And, you know, I would just ask that you guys
 5 be lenient in this situation because I truly do not
 6 believe that this is a situation that would require
 7 him to be suspended for four months. So I just wanted
 8 to speak my peace on that.
 9 MR. COON: Any questions?
 10 MR. KORN: I do have a question.
 11 MR. COON: Mr. Korn.
 12 MR. KORN: Sir, if I can, because I'm trying
 13 to understand this. Officer Dudley went out with the
 14 animal control officer?
 15 MR. JONES: Yes.
 16 MR. KORN: Did he shoot them under the --
 17 basically with the consent or the request of the
 18 animal control officer?
 19 MR. JONES: They did it together. So I would
 20 say that between the two of them it was a joint
 21 decision that that's what they were going to do.
 22 MR. KORN: Was there another way to handle
 23 the situation or is that what the animal control
 24 officer with his training thought was best?
 25 MR. JONES: You know, I feel like he handled

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<p>1 the situation as far as shooting the turkeys. Based 2 off what I reviewed in the report, I think that that 3 portion of it is not in question here. I think he 4 shot the turkeys because that's what they thought was 5 best for the public, for the community. 6 MR. KORN: And then after the turkeys were 7 killed, Officer Dudley went to his chief and said 8 could I have them? 9 MR. JONES: Right. 10 MR. KORN: And the chief said yes? 11 MR. JONES: Well, my understanding, in 12 reviewing the reports that I've read, is that he 13 actually physically took them after talking to animal 14 control and then told the chief. And the chief said, 15 "I don't have a problem with it," is my understanding. 16 I wasn't around at that point. 17 MR. KORN: Your understanding is that, after 18 he had skinned them, he told the chief, or before he 19 had skinned them? 20 MR. JONES: Afterwards. 21 MR. KORN: Oh. So it's a chronology thing. 22 MR. JONES: Correct. I know -- just on 23 another note, I know I spent many years with the New 24 Mexico State Police. And during my time there, we 25 would have officers that would go out to an accident</p>	<p>1 where someone had ran over a deer or that sort of 2 thing. 3 And Game and Fish I know were notified on 4 many occasions where they would say, hey, I've ran 5 over a deer, you know, I need to let you guys know. 6 And they would come out to the scene on some of those. 7 And they would allow officers to take custody of the 8 meat rather than leave it sitting there on the side of 9 the road. 10 So I know that is something that happens 11 across the State of New Mexico. In this particular 12 situation, rather than use Game and Fish, he was 13 working together with our animal control person. 14 So, you know, like I said I believe there 15 were some issues in there with some evidence handling. 16 But as far as something that would get to the level of 17 criminal and as far as something that would constitute 18 a four-month suspension from his job duties, I just -- 19 in reviewing the case, I just don't see it that way. 20 MR. KORN: And if I may just ask Mr. Dudley 21 because he's to your right, is there a reason that you 22 didn't do the chronologically -- is there a reason 23 that you didn't ask the chief before you put on the 24 tags as opposed to putting on tags and then asking the 25 chief, skinning them and then asking?</p>
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<p>1 MR. DUDLEY: I advised my chief that I have 2 the turkeys at my residence. They weren't processed 3 until I got off duty. So the chief was made aware 4 before the birds were cleaned. 5 MR. KORN: Oh, before they were cleaned. 6 MR. DUDLEY: Yes, sir. 7 MR. JONES: So I was wrong. 8 MR. KORN: And then the chief said okay and 9 you cleaned them? 10 MR. DUDLEY: Yes, sir. 11 MR. KORN: And if he said it wasn't okay, you 12 would have given them back to animal control and they 13 would have had them incarcerated -- or incinerated. 14 Okay. Thank you. 15 MR. BARNCASTLE: I do have a question. 16 Obviously you had said the Game and Fish was not 17 called? 18 MR. JONES: That's my understanding. They 19 were not called at the time, right? 20 MR. DUDLEY: The victim, the alleged victim 21 in this matter did call Game and Fish initially. They 22 refused to handle this case in any manner. So they 23 referred her to the sheriff's department. 24 MR. BARNCASTLE: And she alleged initially 25 that they were her domesticated turkeys?</p>	<p>1 MR. DUDLEY: That was her allegation. 2 MR. BARNCASTLE: And obviously they were not, 3 they were wild turkeys? 4 MR. DUDLEY: Yes, sir. She recanted her 5 story. 6 MR. BARNCASTLE: Okay. My next question 7 was -- you know, I have a little experience with Game 8 and Fish. And we at that time at Game and Fish during 9 certain matters would consider animals as a public 10 nuisance in certain areas. And they would be 11 dispatched for that reason. 12 And they would as you said be receded to an 13 individual that wanted to salvage the meat. And I 14 guess for the most part, Game and Fish would have most 15 likely done that in this incident. But I don't 16 understand why they refused to answer the call. Did 17 you talk to them specifically or somebody else? 18 MR. DUDLEY: My animal control officer did. 19 In hindsight I should have contacted them after I shot 20 the birds. 21 MR. BARNCASTLE: I don't have anything else. 22 MR. COON: But they were inside the city 23 limits of Eunice, they were not on somebody's farm, 24 they were inside your jurisdiction? 25 MR. DUDLEY: Yes, sir.</p>

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<p>1 MR. COON: Doing what turkeys do. 2 MR. DUDLEY: Yes, sir. 3 MR. COON: Any other questions? Okay. Thank 4 you. 5 MR. JONES: Thank you, sir. 6 ITEM NOS. 41 and 42: BENJAMIN AZCARATE 7 and TYLER MARNEY 8 MR. COON: Now let's go to formal hearings. 9 Benjamin Azcarate. 10 MR. MEDINA: I think that's pretty close, 11 sir. 12 MR. COON: Is Mr. Azcarate here? 13 MR. REYNOLDS: Mr. Vice Chair, this is a 14 formal hearing. So you'll make your decision on this 15 matter entirely on the record that was made at the 16 hearing. So there will be no presentations to the 17 Board on either 41 or 42. 18 MR. COON: Okay. So that will go to closed 19 session. Thank you, sir. You told me that earlier 20 and I forgot. 21 ITEM NO. 43: JONATHAN REIDEL 22 MR. COON: And then can we go to the request 23 for reduced suspension right now? 24 MR. REYNOLDS: Yes. 25 MR. COON: Okay. Is Jonathan Riedel here?</p>	<p>1 MR. RIEDEL: Yes, sir. 2 MR. COON: Mr. Riedel. 3 MR. RIEDEL: Good morning. Thank you for 4 letting me speak today. I know you guys are very 5 busy. I'd like to start by asking if the letter I 6 wrote to the Director's office was disseminated to the 7 Board Members? Yes. 8 I don't have much to add to that. Like I 9 said thanks for letting me be here. The only thing I 10 would add is, while you're considering the reduction 11 of suspension, please realize that's only my first 12 step. 13 I do still got to get employed. That's 14 easily a three-month process. I've done my best to 15 improve myself. There's not a day that goes by that I 16 don't wake up and think about what happened that day. 17 I realize my mistakes in the matter. I 18 just -- I hope that, through my letter and through my 19 being here, that you can see that I am very passionate 20 about this job. This suspension can only make me a 21 better police officer in the end. 22 I've had the fortunate opportunity to go work 23 at a courthouse during my suspension. And I've 24 actually probably learned as much at the courthouse as 25 I did on my time of patrol. So thank you again for</p>
<p>Page 104</p> <p>1 just letting me speak here very briefly. And if you 2 guys have any questions, I'll be happy to answer them. 3 MR. COON: Does anybody have any questions of 4 Mr. Riedel? Thank you, sir. 5 MR. RIEDEL: Thank you, sir. 6 MR. COON: That pretty much concludes 7 everything we have on the agenda on the disciplinary 8 matters. We'll be going into closed session. So we 9 are going to ask you all to leave. 10 But let me give you a little chronological -- 11 a little geographical part to Roswell. It's 11:30. 12 It's probably going to take quite awhile to do this. 13 Just down the street here, if you go out this 14 way, there's a Sonic drive-in, a McDonald's, a Long 15 John Silver's. There's a Subway right over here 16 close. It's actually within walking distance if you 17 want to do that. 18 But if not, everything just down south here, 19 there are some fast food places, if you want to grab a 20 hamburger or whatever, or you can go on the north end 21 of town. But this is probably going to take way 22 past -- yes, sir. 23 MR. CHAVEZ: Chairman, my name is Kirk 24 Chavez, I'm the attorney for Tyler Marney. You're 25 going to go to closed session. He was item No. 42, a</p>	<p>Page 105</p> <p>1 formal hearing. We're not going to make 2 presentations. Do you want Mr. Marney to hang around 3 until after the closed session to deliver the report 4 or is Mr. Marney free to go? 5 MR. COON: We can't hold him here. 6 MR. CHAVEZ: You put him on the agenda. And 7 we reported here to you because he was on the agenda. 8 And I informed Mr. Marney I felt he needed to show the 9 Board the respect to show up. 10 MR. REYNOLDS: If there's no further 11 information to get from Mr. Marney today, there 12 wouldn't be any reason for him to stay other than to 13 hear the decision from the Board after they come out 14 of closed session. 15 So they will deliberate in closed session. 16 And then they will announce a decision on it as well 17 as all the other matters when they come out of closed 18 session. So there is nothing for Mr. Marney to 19 present to the Board today. He is free to go. 20 MR. CHAVEZ: Okay. 21 MR. COON: Thank you, sir. 22 MR. KORN: Mr. Vice Chair, before we break, 23 just as a point of order, I was going to also ask that 24 agenda item No. 54, which is misconduct case tracking, 25 be moved to the present time. So that when we go into</p>

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1 closed session, we can also discuss matters I think
 2 would be relevant to raise at that time.
 3 And towards that end I would have a motion if
 4 the Board would -- or if you would allow the moving of
 5 that agenda item. I had one small observation to
 6 make, and then I wanted to make a presentment in the
 7 closed hearing also.
 8 MR. COON: Okay. Go ahead.
 9 MR. KORN: I just wanted to point out that,
 10 as part of the misconduct case tracking, it's been the
 11 Board's desire over the last year to get all of our
 12 cases streamlined and to get caught up on cases that
 13 long before Mr. Medina's time had been left to
 14 languish and grow larger and larger.
 15 The Board has long had the position that it's
 16 the ultimate fairness to the public and all the
 17 accused officers to get to each case quickly and
 18 administer it and move through them so that the
 19 accused officers can get back on with their lives,
 20 serve whatever penalty may be imposed by the board,
 21 and then start living their lives again without the
 22 cloud of the possible misconduct decision hanging over
 23 their heads, the heads of their families, and the
 24 heads of the department.
 25 So towards that end I wanted to compliment

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1 caught up on our backlog within the next two to three
 2 meetings by my estimation.
 3 So on my behalf, I can't speak on behalf of
 4 the Board, I would like to compliment Mr. Medina and
 5 thank him for his efforts this quarter and compliment
 6 him and hope that that would be the way of the future
 7 again.
 8 MR. MEDINA: Thank you, Mr. Korn. I give all
 9 the credit to Ms. Medrano, Mr. Holmes. And you can't
 10 do this job alone. And they are excellent in what
 11 they do. Their advice, their counsel, their hard
 12 work, we couldn't have done it without them. And it
 13 all goes to Ms. Medrano. I give her the credit, sir.
 14 MR. KORN: And I have complimented
 15 Ms. Medrano before in this forum and I do that again.
 16 I know she's a great right hand for you. And I send
 17 my congratulations to her as well.
 18 And I had one other matter prefatory to our
 19 going to closed meeting. There would be -- under the
 20 Open Meetings Act, there would be several things that
 21 I would like to discuss with Mr. Medina, that I would
 22 propose that the Board discuss with Mr. Medina.
 23 So I would make a motion that, when we go
 24 into closed session, that we also talk in private to
 25 Mr. Medina under the Open Meetings Act, Section

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1 Mr. Medina and his staff, because regardless of the
 2 outcome of the cases we've heard and we've all sat
 3 through this morning come out, it's interesting to
 4 note that Mr. Medina and his staff has presented to us
 5 48 cases.
 6 Out of the 48, there have been 27 new cases.
 7 I'm talking over the past quarter since we met last.
 8 So that means that Mr. Medina and his staff have been
 9 able to go through the backlog to the tune of
 10 approximately 20 cases.
 11 A year ago, when we started the misconduct
 12 case evaluations and we looked at the huge backlog, we
 13 were able to determine that if the Director could do
 14 20 cases a quarter, we would be caught up within a
 15 year.
 16 And although in the beginning, when
 17 Mr. Medina first came on, it was a little difficult I
 18 think for him to get his arms around the whole
 19 process. This quarter for the first time he has moved
 20 the cases to the tune of taking care of 20 cases of
 21 our backlog, which is good for everyone.
 22 So we're pleased about that. That is the
 23 expectation of the Board, that we will do -- that we
 24 will take 20 more resolutions than we have new cases
 25 every quarter. And with that in mind, we should be

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1 10-15-1, which talks about the exceptions to the Open
 2 Meetings Act, especially in terms of limited personnel
 3 matters.
 4 And those limited personnel matters would be
 5 attributed to the following cases which the board has
 6 on a snapshot and which Mr. Medina has been provided
 7 with. And for the record, after talking to our
 8 counsel, I would like to identify those matters so the
 9 public is well aware.
 10 And it would be the following cases: The
 11 case of James Gallegos of Espanola, No. 12-072; the
 12 case of Matthew Borrego of Mora County Sheriff's
 13 Department, No. 12-064; the case of David K. Sherman,
 14 State Police, No. 12-037; Pete Vargas, No. 12-035, of
 15 Tucumcari Police; Luis Monarez, Sunland Park, No.
 16 12-030; it would be Steven Miller of APD, No. 12-001;
 17 Robert Woolever of APD, No. 11-107; John Doyle of APD,
 18 No. 11-106; Peter Dwyer of APD, No. 11-079; Daniel
 19 Barde of State Police, No. 11-066; Levi Chavez of APD,
 20 No. 11-042; Tank Guenther of APD, No. 11-005; Sean
 21 McGarry of Dona Ana County Sheriff, No. 10-020;
 22 Bradley Ahrensfield of APD, No. 10-003; Mark Zuni of
 23 Isleta tribe, which we have as part of the
 24 stipulations today, No. 09-001; and Kenneth Martinez
 25 of Santa Fe, 07-001.

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<p>1 So I would make a motion that, when we go 2 into closed session for the penalty matters, that we 3 discuss those matters as well. Thank you, Mr. Vice 4 Chair. 5 MR. COON: Okay. We have a motion. Do we 6 have a second? 7 MR. MYERS: I'll second. 8 MR. COON: Seconded by Mr. Myers. Any 9 discussion? All in favor say aye. 10 (Those in favor so indicate.) 11 MR. COON: I've got one thing. And I don't 12 know if this will be out of line. Sheriff Rodella has 13 come here from Rio Arriba County. He's way down on 14 the list. I don't think his presentation is going to 15 be very long. He's just going to make an explanation 16 I believe. Is that not right, Sheriff? 17 MR. RODELLA: Mr. Chair, yes. 18 MR. COON: If we could hear Mr. Rodella 19 before we go into closed session so he can get back to 20 Rio Arriba County. Anybody have a problem with that? 21 MR. KORN: I don't have one. 22 ITEM NO. 51: REPORT: HIRING of ALFRED LOVATO WITH 23 RIO ARRIBA COUNTY SHERIFF'S OFFICE 24 MR. COON: Sheriff Rodella. 25 MR. RODELLA: Thank you, Mr. Chair. I</p>	<p>1 appreciate the opportunity to come before this Board. 2 I don't know if you have the letter that I sent to the 3 Members of the Board. 4 I want to start off by saying that I've been 5 in office now for a year and ten months. And there's 6 been several matters out of the Rio Arriba Sheriff's 7 Office that have come before you that really were the 8 property or the problems of my predecessor. But I 9 addressed them and I brought them forward. 10 And to say the least, reading the minutes of 11 the meeting that occurred in Farmington in the month 12 of July, I was a little disheartened to realize that 13 the Board believed that some of these problems were 14 really attributed to me. So I just wanted to have a 15 moment to clear the air and be heard. 16 MR. COON: Sure. Go right ahead. 17 MR. RODELLA: The matter in question -- and I 18 apologize first of all, because I really don't want to 19 discuss Alfred Lovato's matter. And for one reason, 20 there's family members that actually believe that I 21 brought the Alfred Lovato matter to your attention, 22 which is not true, Mr. Chair. I think you can agree 23 with that. Alfred Lovato was not someone I hired. 24 And I would rather not discuss that matter any 25 further.</p>
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<p>1 But what's really concerning was there was 2 Members of the Board that thought that the current 3 sheriff, and that would be me, should somehow be 4 sanctioned for having hired Alfred. And I just wanted 5 to make it clear, I had nothing to do with the hiring. 6 I wasn't the sheriff at the time. 7 MR. COON: Mr. Rodella, I think that we just 8 had our timelines, you know, screwed up. We assumed 9 that you, being the sheriff of Rio Arriba County, and 10 you've been there nearly two years, that you were the 11 one that had done that. We didn't even think that 12 Sheriff Mascarenas might have done this. 13 So we just saw Rio Arriba County, not the 14 sheriff himself. We made that assumption. So I 15 apologize for the Board for dragging your name into it 16 since you had nothing to do with the hiring of 17 Mr. Lovato. 18 MR. RODELLA: Mr. Chair, I appreciate it. 19 And from where I sit, members of this committee, I 20 just want to say that I wish that the board that was 21 here three years ago would have been as diligent as 22 you have, because I wouldn't have my hands full like I 23 do today cleaning up the mess my predecessor left 24 behind. Mr. Chair, thank you for your time, sir. 25 MR. COON: Thank you. Anybody have any</p>	<p>1 questions of Sheriff Rodella? 2 MR. SCHULTZ: Mr. Chairman, if I may, I would 3 also like to also thank the sheriff for coming down. 4 And obviously there was no ill intent specifically at 5 you and your office. The case, you know, obviously 6 has one that's been in the media. 7 And one of the issues, as you've said to the 8 Board, is trying to address these major issues of 9 gross misconduct and officers who kind of fall through 10 the cracks. And this particular case with this 11 particular officer, on the face it, it looks like it's 12 one of those individuals who was able to keep his 13 certification while facing some very, very serious 14 allegations and get hired by an agency within the 15 State of New Mexico. 16 So nothing directed at you specifically. 17 It's mainly being used as an example of why the Board 18 wants to take some of the actions that it wants to 19 take in the future, by giving the Director the 20 authority and the ability to quicker move these cases 21 through the process and in some cases suspend the 22 officer's certification so they don't create 23 situations where the officer gets hired by another 24 agency while facing some very serious allegations. 25 MR. RODELLA: Thank you, Chief.</p>

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<p>1 MR. COON: Anybody else? Thank you, sir. 2 MR. RODELLA: Thank you, sir. 3 MR. COON: And, Ms. Griego, you don't need 4 to -- did you want to talk? You've already said 5 mainly what you wanted on behalf of your three 6 dispatchers. 7 MS. GRIEGO: Right. Thank you for hearing me 8 again. I apologize for my staff. And it was one day 9 that they got with no pay. And we really would 10 appreciate anything you can do for us to stagger those 11 suspensions so that you don't shut us down so that we 12 can provide service for the agencies and the public 13 that we serve. And again I apologize. 14 MR. COON: Thank you. Okay. I would guess 15 you could probably come back at about 1:30. And if 16 those doors are closed, we're still in closed session. 17 It's going to be quite awhile because we've got 40 18 something here to look at. So take a long lunch. 19 MR. REYNOLDS: Mr. Vice Chair, I need to make 20 sure that we go into closed session properly under the 21 Open Meetings Act. 22 MR. COON: I was going to ask for a roll 23 call. 24 MR. REYNOLDS: So let me invite the Board to 25 make a motion to take a roll call vote to go into</p>	<p>1 executive session under NMSA 1978 Section 2 10-15-1(H)(1) and (2) to discuss the licensing matters 3 Nos. 4 through 43 on the agenda and the licensing and 4 personnel matters identified in Mr. Korn's earlier 5 motion. 6 MR. COON: Thank you, sir. 7 MR. MYERS: So moved. 8 MR. SHILLING: I'll second. 9 MR. COON: All in favor say aye. 10 (Those in favor so indicate.) 11 MR. REYNOLDS: You need a roll call. 12 MR. COON: We need a roll call now. 13 MS. LOPEZ: Pat Barncastle. 14 MR. BARNCASTLE: Yes. 15 MS. LOPEZ: Chief Shilling. 16 MR. SHILLING: Yes. 17 MS. LOPEZ: Sheriff Coon. 18 MR. COON: Yes. 19 MS. LOPEZ: Chief Betz. 20 MR. BETZ: Yes. 21 MS. LOPEZ: Chief Schultz. 22 MR. SCHULTZ: Yes. 23 MS. LOPEZ: Mark Myers. 24 MR. MYERS: Yes. 25 MS. LOPEZ: Nate Korn.</p>
<p>Page 116</p> <p>1 MR. KORN: Yes. 2 MR. COON: Okay. Come back at about 1:30 and 3 see how it's going. 4 (Recess from 11:40 a.m. to 2:25 p.m.) 5 MR. COON: We'll call this back into session. 6 I will affirm that nothing was discussed 7 other than the disciplinary matters of this board in 8 our closed session. So if I could get a roll call, 9 please. 10 MS. LOPEZ: Pat Barncastle. 11 MR. BARNCASTLE: Here. 12 MS. LOPEZ: Chief Shilling. 13 MR. SHILLING: Here. 14 MS. LOPEZ: Sheriff Coon. 15 MR. COON: Here. 16 MS. LOPEZ: Chief Betz. 17 MR. BETZ: Here. 18 MS. LOPEZ: Chief Schultz. 19 MR. SCHULTZ: Here. 20 MS. LOPEZ: Mark Myers. 21 MR. MYERS: Here. 22 MS. LOPEZ: Nate Korn. 23 MR. KORN: Here. 24 MR. COON: Okay. Moving on to disciplinary 25 matters, No. 4, Brady Curtis, do I have a</p>	<p>Page 117</p> <p>1 recommendation from the Board? 2 CHIEF SCHULTZ: Mr. Chairman, I make the 3 recommendation that we accept the director's 4 recommendation of a four-month suspension, one-year 5 probationary period, and also a requirement to attend 6 a course in ethics. 7 MR. COON: Okay. I need a second. 8 MR. BETZ: Second. 9 MR. COON: All in favor say aye. 10 (Those in favor so indicate.) 11 MR. COON: Okay. Going on to No. 5, Charles 12 Dudley. What is the Board's pleasure on No. 5, 13 Mr. Dudley? 14 MR. SCHULTZ: Mr. Chairman, I make a 15 recommendation that the Board reject the 16 recommendation by the Director and ask Mr. Dudley to 17 meet with the Director. And I believe they will be 18 able to come up with an equitable solution to present 19 back to the Board hopefully before the end of the 20 meeting. 21 MR. MYERS: Second. 22 MR. COON: Okay. We have a motion and a 23 second. All in favor say aye. 24 (Those in favor so indicate.) 25 MR. COON: So if you will meet with</p>

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<p>1 Mr. Medina directly, you can work something out. 2 Number 6, Jonathan Barreras, what is the 3 pleasure of this Board? 4 MR. MYERS: Mr. Chairman, I would make the 5 motion to accept the Director's recommendation of a 6 four-month suspension and one-year probationary period 7 and to attend an alcohol screening. 8 MR. COON: I have a motion. Do I have a 9 second? 10 MR. SHILLING: Second. 11 MR. COON: I have a motion and a second. All 12 in favor say aye. 13 (Those in favor so indicate.) 14 MR. COON: Okay. Number 7, that's Petra 15 Martinez. What is the pleasure of the board? 16 MR. SCHULTZ: Mr. Chairman, I make a 17 recommendation that we accept the recommendation of 18 the Director in this particular case of a three-month 19 suspension, one-year probationary period, and an 20 alcohol screening process. 21 And also, taking into consideration the 22 request of the director of the communications center 23 and since there were multiple employees from this 24 respective agency, we have agreed to do a limited 25 staggering in the case of Ms. Martinez, Mr. Trujillo,</p>	<p>1 and Ms. Baca. 2 The first suspension for Ms. Martinez will be 3 served 10/24 through 1/24. This will allow proper 4 staffing and not put the public safety in jeopardy, 5 especially during the holidays. However, the next two 6 persons, Mr. Trujillo and Ms. Baca, that both of those 7 be concurrent together, 1/24 through 4/24 of '13. 8 MR. COON: Do I have a second? 9 MR. KORN: Second. 10 MR. COON: A second with Mr. Korn. All in 11 favor say aye. 12 (Those in favor so indicate.) 13 MR. COON: Okay. Number 8 is Jeremy Hollier. 14 What is the pleasure of the Board? 15 MR. KORN: Mr. Vice Chair, I would make a 16 motion that we accept the Director's recommendation as 17 it is in the record. 18 MR. COON: Okay. Do I have a second? 19 MR. MYERS: Second. 20 MR. COON: I have a motion and a second. All 21 in favor say aye. 22 (Those in favor so indicate.) 23 MR. SCHULTZ: Would the record please reflect 24 that I did recuse myself from voting in this 25 particular item and actually left the room when items</p>
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<p>1 concerning the Albuquerque Police Department were 2 discussed. 3 MR. COON: Okay. Thank you, Chief. 4 Okay. Number 9 is Jon Lopez. What is the 5 pleasure of the Board on Mr. Lopez? 6 MR. SHILLING: Mr. Chairman, I make a motion 7 that we accept the Director's recommendation as 8 reflected in the record. 9 MR. COON: Okay. I have a motion. 10 MR. BETZ: I'll second. 11 MR. COON: I have a second. All in favor say 12 aye. 13 (Those in favor so indicate.) 14 MR. COON: Okay. Number 10. I may add that 15 on No. 10 Chief Shilling recused himself on this and 16 did leave the room. 17 MR. SHILLING: Mr. Vice Chairman, no, because 18 this is stemming from a separate agency. 19 MR. COON: That's right. I'm sorry. On 20 Mr. Lytle what is the pleasure of the Board? 21 MR. MYERS: Mr. Vice Chair, I would make a 22 motion that the Board reject the Director's 23 recommendation and send it back to him for further 24 review. 25 MR. COON: Okay. I have a motion.</p>	<p>1 MR. KORN: I second. 2 MR. COON: Mr. Korn seconds. All in favor 3 say aye. 4 (Those in favor so indicate.) 5 MR. COON: Okay. Number 11, Catherine 6 McGuffin. 7 MR. BARNCASTLE: Mr. Vice Chair, I'll make a 8 recommendation to accept the Director's 9 recommendations as reflected in the minutes -- or 10 reflected in the motion. 11 MR. COON: Okay. I have a motion. 12 MR. KORN: Second. 13 MR. COON: And a second from Mr. Korn. All 14 in favor say aye. 15 (Those in favor so indicate.) 16 MR. COON: And I would like to add that Chief 17 Schultz recused himself and stepped out of the room 18 when we voted on this. 19 MR. COON: Okay. Number 12 is Mark Montes. 20 What is the pleasure of the Board on Mr. Montes? 21 MR. KORN: Mr. Vice Chair, I make a motion 22 that we accept the recommendation of the Director as 23 reflected in the record. 24 MR. COON: Okay. We have a motion. Do I 25 have a second?</p>

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<p>1 MR. MYERS: Second.</p> <p>2 MR. COON: A second by Mr. Myers. All in</p> <p>3 favor say aye.</p> <p>4 (Those in favor so indicate.)</p> <p>5 MR. COON: Number 13 is Ralph Moore. What is</p> <p>6 the Board's pleasure?</p> <p>7 MR. MYERS: Mr. Vice Chair, I would make a</p> <p>8 motion that the Board accept the Director's</p> <p>9 recommendation as reflected in the record.</p> <p>10 MR. COON: Okay. I have a motion and a</p> <p>11 second now.</p> <p>12 MR. BETZ: I'll second.</p> <p>13 MR. COON: Okay. We've got a second. All in</p> <p>14 favor say aye.</p> <p>15 (Those in favor so indicate.)</p> <p>16 MR. COON: Okay. We removed No. 14. We'll</p> <p>17 go to No. 15, Jon Perez. What is the pleasure of the</p> <p>18 Board on No. 15, Mr. Perez?</p> <p>19 MR. SCHULTZ: Chairman, I make a</p> <p>20 recommendation that we accept the recommendations from</p> <p>21 the Director of a six-month suspension, one-year</p> <p>22 probationary period, and a law enforcement course on</p> <p>23 ethics be adopted.</p> <p>24 MR. COON: I have a motion.</p> <p>25 MR. MYERS: Second.</p>	<p>1 MR. COON: A second by Mr. Myers. All in</p> <p>2 favor say aye.</p> <p>3 (Those in favor so indicate.)</p> <p>4 MR. COON: Number 16 is Juan Saucedo. What</p> <p>5 is the pleasure of the Board on Mr. Saucedo?</p> <p>6 MR. KORN: Mr. Vice Chair, I would make a</p> <p>7 motion that we reject the recommendation of the</p> <p>8 Director.</p> <p>9 MR. BARNCASTLE: I second that.</p> <p>10 MR. COON: We have a motion and a second.</p> <p>11 All in favor say aye.</p> <p>12 (Those in favor so indicate.)</p> <p>13 MR. COON: Number 17 is Filiberto Sigala.</p> <p>14 What is the pleasure of the Board on Mr. Sigala?</p> <p>15 MR. MYERS: Mr. Vice Chair, I would make a</p> <p>16 motion that the Director's recommendation be rejected.</p> <p>17 MR. COON: Okay. I have a motion to reject.</p> <p>18 Do I have a second?</p> <p>19 MR. BETZ: Second.</p> <p>20 MR. COON: Okay. Seconded by Chief Betz.</p> <p>21 All in favor say aye.</p> <p>22 (Those in favor so indicate.)</p> <p>23 MR. COON: And Chief Schultz again recused</p> <p>24 himself on this and was not in the room when we talked</p> <p>25 about this. Okay.</p>
<p>Page 124</p> <p>1 Number 18 is Dario Solis. What is the</p> <p>2 pleasure of the Board on Mr. Solis?</p> <p>3 MR. BARNCASTLE: Mr. Vice Chairman, I will</p> <p>4 make a recommendation that the Board accept the</p> <p>5 Director's recommendations as reflected in the record.</p> <p>6 MR. KORN: Second.</p> <p>7 MR. COON: I have a motion and a second. All</p> <p>8 in favor say aye.</p> <p>9 (Those in favor so indicate.)</p> <p>10 MR. COON: I would like to say that Mark</p> <p>11 Myers recused himself on this and left the room while</p> <p>12 we discussed this matter.</p> <p>13 Okay. Number 19 is Robby Trujillo. Do I</p> <p>14 have a motion on Robby Trujillo?</p> <p>15 MR. SCHULTZ: Mr. Chairman, I make a</p> <p>16 recommendation that we accept the Director's</p> <p>17 recommendation of a three-month suspension, one-year</p> <p>18 probationary period, and a requirement to attend</p> <p>19 alcohol screening; and this suspension will take place</p> <p>20 1/24 through 4/24 of 2013.</p> <p>21 MR. COON: Okay. I have a motion.</p> <p>22 MR. MYERS: Second.</p> <p>23 MR. COON: Seconded by Mr. Myers. All in</p> <p>24 favor say aye.</p> <p>25 (Those in favor so indicate.)</p>	<p>Page 125</p> <p>1 MR. COON: Okay. Number 20, Alfredo</p> <p>2 Turrieta. What is the pleasure of the Board on</p> <p>3 Mr. Turrieta?</p> <p>4 MR. KORN: Mr. Vice Chair, I would make a</p> <p>5 motion that we accept the recommendation of the</p> <p>6 Director as reflected in the record.</p> <p>7 MR. COON: Okay. I have a motion. Do I have</p> <p>8 a second?</p> <p>9 MR. BARNCASTLE: I'll second that.</p> <p>10 MR. COON: Okay. Mr. Barncastle seconded it.</p> <p>11 All in favor say aye.</p> <p>12 (Those in favor so indicate.)</p> <p>13 MR. COON: Okay. Number 21, Jason Waller.</p> <p>14 What is the pleasure of the Board on Mr. Waller?</p> <p>15 MR. SCHULTZ: Mr. Chairman, I would make the</p> <p>16 recommendation that the Board accept the Director's</p> <p>17 recommendation for the suspension of two months,</p> <p>18 one-year probationary period, and anger management</p> <p>19 program.</p> <p>20 However, we reject the way it's actually</p> <p>21 worded here today and ask Mr. Waller to meet with the</p> <p>22 Director. And I believe, at this point in time, the</p> <p>23 Board would be amenable to looking at the abeyance of</p> <p>24 the two months due to extenuating circumstances</p> <p>25 brought forward to our attention during this case.</p>

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<p>1 MR. COON: I have a motion. Do I have a 2 second? 3 MR. BETZ: I second. 4 MR. COON: I have a second. All in favor say 5 aye. 6 (Those in favor so indicate.) 7 MR. COON: And I would like to add that Chief 8 Shilling recused himself and did leave the room while 9 we discussed this matter. 10 Number 21A is Michelle Flores. What is the 11 recommendation of the Board on Ms. Flores? 12 MR. KORN: Mr. Vice Chair, I make a 13 recommendation that we accept the Director's 14 recommendation as reflected in the record. 15 MR. COON: Okay. Do I have a second? 16 MR. SHILLING: Second. 17 MR. COON: A second from Chief Shilling. All 18 in favor say aye. 19 (Those in favor so indicate.) 20 MR. COON: Okay. Then we go to Nos. 22 and 21 23, which are voluntary relinquishments of Justin Coon 22 and Xavier Tapia. They're voluntary relinquishments. 23 What is the pleasure of the Board on the two 24 voluntary relinquishments? 25 MR. SHILLING: Mr. Vice Chairman, I have a</p>	<p>1 note here. Do we want to add No. 39 into that group 2 as well, Danny Surratt, that's actually a voluntary 3 relinquishment as well, and do all three. 4 MR. COON: Yes. We can do all three, 5 Nos. 22, 23, and 39. What is the pleasure of the 6 Board? 7 MR. BETZ: Mr. Vice Chairman, I would like to 8 go ahead and make a motion to approve the voluntary 9 relinquishment of the certificates of Nos. 22, 23, and 10 39. 11 MR. COON: Okay. Do I have a second? 12 MR. KORN: I'll second. 13 MR. COON: We have a second. All in favor 14 say aye. 15 (Those in favor so indicate.) 16 MR. COON: Now, we are on to default orders 17 of revocation, No. 24. 18 MR. SCHULTZ: Mr. Chairman, if I may, 19 shouldn't you take No. 25 first? 20 MR. COON: Okay. Let's do No. 25 first, 21 which is Clarissa Baca. What is the pleasure of the 22 Board on No. 25, Clarissa Baca? 23 MR. SCHULTZ: Mr. Chairman, I would make the 24 recommendation we accept the recommendations of the 25 Director for a 30-day suspension, one-year</p>
<p>Page 128</p> <p>1 probationary period, alcohol screening, and that this 2 suspension also take place 1/24 through 4/24 of 2013. 3 MR. COON: Okay. I have a motion. Do I have 4 a second? 5 MR. BETZ: Second. 6 MR. COON: Chief Betz seconded. All in favor 7 say aye. 8 (Those in favor so indicate.) 9 MR. COON: Okay. Now, we'll do 24 and 26 10 through 40, excluding No. 39 that we've already done, 11 on the orders of default. What is the Board's 12 pleasure on these default orders of revocation? 13 MR. SHILLING: Mr. Chairman, I'll make a 14 motion that we accept the default orders of revocation 15 on agenda items 24 and 26 through 38 and 40. 16 MR. COON: Okay. Do I have a second? 17 MR. BETZ: I'll second. 18 MR. COON: Okay. All in favor say aye. 19 (Those in favor so indicate.) 20 MR. COON: And I would like to point out that 21 Chief Schultz sat out on 26, 31, and 38 and was not in 22 the room when we discussed these matters. 23 Mr. Myers sat out on Nos. 24 and 30 and was 24 out of the room when we discussed these while we were 25 in closed session.</p>	<p>Page 129</p> <p>1 Okay. Now, we'll go to 40A. We can do this 2 as a block. 40A through 40H on the cautionary 3 letters -- no. Numbers 40A to 40E on the cautionary 4 letters. Do I have a motion? 5 MR. MYERS: Vice Chair, I would like to make 6 a motion that we accept the Director's recommendation 7 for cautionary letters, items 40A through 40E. 8 MR. COON: I have a motion. Do I have a 9 second? 10 MR. KORN: I'll second. 11 MR. COON: We have a second by Mr. Korn. All 12 in favor say aye. 13 MR. COON: Okay. Letters of no action on 40F 14 through 40H. In the case of James Minter, what is the 15 Board's pleasure on 40F, James Minter? 16 MR. SCHULTZ: Mr. Chairman, I believe we can 17 do these three together. And I would make the 18 recommendation that we do accept the recommendation of 19 the Director, that these cases do warrant the issuance 20 of letters of no action. And I appreciate the time 21 spent by the Director and the persons who showed up to 22 explain these particular cases to us here today. 23 MR. COON: Do I have a second? 24 MR. MYERS: Second. 25 MR. COON: Seconded by Mr. Myers. All in</p>

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<p>1 favor say aye. 2 (Those in favor so indicate.) 3 MR. COON: Okay. On the formal hearings, 41, 4 Benjamin Azcarate, what is the pleasure of the Board 5 on Mr. Azcarate? 6 MR. SCHULTZ: Mr. Chairman, I make the 7 recommendation that we accept the findings of the 8 Hearing Officer, that information does exist to prove 9 the lack of good moral character in this particular 10 case based on the actions of the officer, and the 11 proposed discipline of a suspension of four months of 12 certification be imposed. 13 MR. COON: I have a motion. 14 MR. KORN: I'll second. 15 MR. COON: Mr. Korn seconds. All in favor 16 say aye. 17 (Those in favor so indicate.) 18 MR. COON: Okay. Now, under formal hearing, 19 Tyler Marney, what is the pleasure of the Board on 20 No. 42, Tyler Marney? 21 MR. SCHULTZ: Mr. Chairman, I make the 22 recommendation that the Board accept the findings of 23 the Hearing Officer, that information did exist to 24 show lack of good moral character in this particular 25 case, and that the recommended discipline be imposed</p>	<p>1 by the Board of a suspension of 60 days. 2 MR. COON: Okay. I have a motion. Do I have 3 a second? 4 MR. MYERS: Second. 5 MR. COON: Seconded by Mr. Myers. All in 6 favor say aye. 7 (Those in favor so indicate.) 8 MR. REYNOLDS: Mr. Vice Chair, let the record 9 reflect that Director Medina was not present in the 10 room when the Board discussed those two matters, 41 11 and 42. 12 MR. COON: Okay. Thank you, sir. Mr. Medina 13 was not in the room when we discussed 41 and 42. 14 Okay. 15 Then the final one is No. 43, a request for 16 reduced suspension by Jonathan Riedel. What is the 17 pleasure of the Board on No. 43, Mr. Riedel? 18 MR. KORN: Mr. Vice Chair, I would make a 19 motion that the Board reject the request for reduced 20 suspension by Mr. Riedel. 21 MR. COON: Okay. I have a motion. 22 MR. BETZ: I'll second. 23 MR. COON: Okay. Second from Chief Betz. 24 All in favor say aye. 25 (Those in favor so indicate.)</p>
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<p>1 MR. COON: Okay. And Mr. Myers was not in 2 the room when we discussed this matter, he recused 3 himself. 4 MR. COON: Okay. That concludes the 5 disciplinary part of this meeting. If you all would 6 get with Mr. Medina and work out whatever Mr. Medina 7 proposes here, we'll go on to the next agenda item. 8 I hate to do this this late. Let's take ten 9 minutes so they can iron these out. 10 MR. MEDINA: I appreciate that. 11 MR. COON: We'll come back at three o'clock. 12 (Recess.) 13 MR. COON: Okay. Let's go back into session. 14 It's three o'clock. We want to get this over by dark. 15 ITEM NO. 44: APPROVAL OF MINUTES, JULY 24, 2012 & 16 AUGUST 28, 2012 17 MR. COON: New business. Number 44, approval 18 of the minutes of July 24th, 2012, and August 28th, 19 2012. We do have the minutes that were sent to us. 20 So I need approval of the minutes for the July 24th 21 meeting, which was in Farmington, and the August 28th 22 meeting, which was in Albuquerque. Do I have a 23 motion? 24 MR. BETZ: Mr. Vice Chairman, I would like to 25 make a motion to approve the minutes of July 24th,</p>	<p>1 2012, and August 28th, 2012. 2 MR. COON: Okay. I have a motion. Do I have 3 a second? 4 MR. MYERS: Second. 5 MR. COON: Okay. Mr. Myers seconded. All in 6 favor say aye. 7 (Those in favor so indicate.) 8 ITEM NO. 45: DIRECTOR'S REPORT 9 MR. COON: Okay. Now, to the Director's 10 report. Mr. Medina. 11 MR. MEDINA: Mr. Vice Chairman, like I 12 mentioned earlier, I want to make sure that I bring to 13 the Board's attention and to the public's attention 14 the work of the members of the Law Enforcement Academy 15 also known as the Training and Recruiting Division. 16 They work tirelessly to run the programs. 17 Ms. Monica Medrano runs the officer 18 misconduct program. Without her knowledge, skills, 19 and abilities, this program would be in big, deep 20 hurt. 21 Also I want to bring to your attention our 22 bureau chief, Phil Gallegos, who runs the Basic 23 Bureau. Bureau Chief Gallegos and his staff work 24 tirelessly many long hours. They started this Sunday 25 on dispatcher class. And it will go for three weeks.</p>

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1 They start Sunday night, that's required for
 2 orientation.
 3 Mr. Ernie Holmes, who also assists us in the
 4 officer misconduct program, I rely heavily on his
 5 counsel when we conduct these informal hearings;
 6 Mr. Mark Shea, who runs our advanced training bureau;
 7 Ms. Monique Lopez, who tirelessly works in putting
 8 this program together every time that we meet for a
 9 board meeting; Ms. Michelle Montes, who is our
 10 business operations person; and everybody else. They
 11 work tirelessly. And I'm grateful for the work that
 12 they do.
 13 MR. COON: Can you hold on one second.
 14 MR. MEDINA: Yes, sir.
 15 MR. COON: I would like to thank Elliott
 16 Guttman, because he has kept us constantly updated on
 17 the new search and seizure laws that have come out.
 18 I've gotten two emails from him in the last three
 19 weeks on search and seizure. And, of course,
 20 everybody loves Elliott. But I think he does a
 21 tremendous job too. And I know you know that.
 22 MR. MEDINA: Absolutely. Thank you.
 23 Unfortunately Deputy Director Andy Montoya,
 24 who was assigned to us from the State Police, retired.
 25 We are in the process of advertising for a new deputy

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1 then, 18 stipulated orders of suspension, two
 2 voluntary relinquishments, and one final order of
 3 suspension was prepared.
 4 Additionally, the allegation regarding the
 5 Crime Stoppers complaint that was forwarded to us that
 6 the law enforcement officer certification exam was
 7 compromised, we had an inquiry board conduct an audit
 8 regarding that. And they determined that the
 9 allegations were found to be without merit. And that
 10 is the Director's report.
 11 MR. COON: Okay. Anybody have any questions
 12 of Mr. Medina? Okay.
 13 ITEM NO. 46: PUBLIC COMMENTS
 14 MR. COON: We'll go to No. 46 now, which is
 15 public comments. I have four people signed up here.
 16 Mr. D'Amato. Thank you.
 17 MR. D'AMATO: Thank you, Mr. Vice Chair and
 18 Members of the Board. My name is John D'Amato. And
 19 as you all know, I represent mostly the Albuquerque
 20 Police Officers Association and other law enforcement
 21 officials throughout the State of New Mexico.
 22 I'm speaking to you today on behalf of the
 23 proposal that's been published in the agenda, the
 24 amendments to New Mexico Administrative Code
 25 10.29.1.11.

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1 director. That was announced on Friday last week.
 2 It's scheduled to be out for three weeks. If need be,
 3 if will be announced even longer than that. But for
 4 now it's a three-week announcement.
 5 We hired one person in the Basic Bureau,
 6 Mr. Craig Yazzie. Since then also we have conducted
 7 two certification by waiver courses under the new
 8 program, cert by waiver No. 76 and 77. We conducted a
 9 public safety telecommunicator course. Basic police
 10 officer training class 184 is in their 16th week. And
 11 we have 42 cadets.
 12 In the Advanced Training Bureau, we have
 13 conducted various and many courses regarding firearms
 14 instructor update, general instructor refresher,
 15 domestic violence, AR-15 training, and ethics
 16 refresher.
 17 Regarding the officer misconduct cases, since
 18 the last board meeting, we issued five letters of no
 19 action, six cautionary letters, 35 Notice of
 20 Contemplated Actions were prepared, 32 Notice of Final
 21 Decisions were prepared, eight cases were being
 22 prepared for formal hearing.
 23 Two formal hearings were held. Eighteen
 24 default orders of revocation were prepared, 29 law
 25 enforcement misconduct reports were submitted since

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1 MR. REYNOLDS: Mr. D'Amato, if I may, we are
 2 going to on agenda item 49 have a public rule hearing
 3 on those amendments. So your comments to that would
 4 be appropriate when we get to that part of the agenda.
 5 I apologize.
 6 MR. D'AMATO: All right. I'll defer to that.
 7 Thank you.
 8 MR. COON: Okay. Next we have on the list
 9 Juan Saucedo. Did he leave?
 10 MS. MEDRANO: I believe he was in the
 11 hearing.
 12 MR. COON: And then Jimmy Preston from the
 13 Roswell Police Department. Did Jimmy leave?
 14 MS. O'BRIEN: He did.
 15 MR. COON: Would you like to get up and talk
 16 on his behalf, Erica? Erica O'Brien, Roswell Police
 17 Department.
 18 MS. O'BRIEN: Thank you. One of our major
 19 concerns is the academy packets that we've been having
 20 issues with. And I think the main question that he
 21 wanted to bring up and bring today is, if the cert by
 22 waiver is no longer requiring a physical requirement
 23 as far as mile and a half run and that kind of stuff,
 24 then why a medical is needed on them?
 25 If it's going to be up to the agency as to

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<p>1 what the physical requirements are going to be on a 2 cert by waiver, why the State needs a medical on 3 those. 4 MR. BETZ: Are you talking about a medical 5 physical or are you talking about psychological? 6 MS. O'BRIEN: Yes, medical physical. And 7 that was the thing that we had discussed when we 8 decided that we were all coming today. That was our 9 big concern as to why that's needed when there is no 10 physical requirement any longer. 11 MR. MEDINA: And that's in regard to the cert 12 by waiver only? 13 MS. O'BRIEN: Yes, on the cert by waiver 14 only. 15 MR. MEDINA: Well, we never considered it. 16 And I think it might be good for discussion. And I 17 would like to maybe hear something from the Board 18 Members. 19 MR. SCHULTZ: Mr. Chairman, if I may, I 20 believe the reason for still requiring the medical is 21 that does show a minimum level of physical 22 preparedness to be able to do the position without 23 having to do the physical agility testing. 24 At least a basic medical exam shows that the 25 person does have basic abilities and skills to perform</p>	<p>1 the essential functions of the job. So I think that's 2 pretty much it. 3 MR. MEDINA: I would agree with the chief, 4 that their medical condition, that their physical 5 condition should meet the standard as if they were to 6 attend the formal academy or have to participate in 7 physical fitness, if that was part of the regimen when 8 they attended the cert by waiver course. 9 MS. O'BRIEN: Okay. Thank you. I appreciate 10 it. 11 MR. COON: So if you'll go back and tell 12 Hobbs Chief Sanders, thank you. We took his advice 13 three years later. 14 MR. COON: The next one is Dr. Fonz. 15 DR. FONZ: Sir? 16 MR. COON: You signed up to speak. 17 DR. FONZ: I'll respectfully decline. I 18 don't know how my name got on there. I have nothing 19 to offer the Board at this point. Thank you for the 20 opportunity, though. 21 MR. SCHULTZ: You've also bid on 15 auction 22 items. 23 DR. FONZ: Maybe I do have something to talk 24 about. 25 MR. COON: Well, somebody either forged your</p>
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<p>1 name, because I remember what it looked like from 2 Alamogordo. You might have signed up thinking it was 3 just an attendance roster. 4 MR. FONZ: I'm getting a little older too. I 5 may have forgotten. 6 MR. COON: Okay. That's all we have for 7 public comments that have signed up. Would anybody 8 out here like to do a public comment that didn't sign 9 up maybe? 10 ITEM NO. 47: RATIFICATION OF CERTIFICATIONS FOR 11 LAW ENFORCEMENT OFFICERS 12 MR. COON: If not we'll go on to the next 13 one, ratification of certifications of law enforcement 14 officers, No. 47. 15 MS. LOPEZ: We ask that you guys ratify 16 Nos. 12-0153-P to 12-0171-P. And we also include 17 04-001-P, 85-0150-P, 07-0219-P, and 88-0061-P. All 18 have met the requirements. 19 MR. COON: Do we have a motion to ratify the 20 these certifications? 21 MR. BETZ: I would like to make a motion to 22 ratify the certifications. 23 MR. COON: Do I have a second? 24 MR. SHILLING: Second. 25 MR. COON: Second by Chief Shilling. All in</p>	<p>1 favor say aye. 2 (Those in favor so indicate.) 3 ITEM NO. 48: RATIFICATION OF CERTIFICATIONS 4 FOR PUBLIC SAFETY TELECOMMUNICATORS 5 MR. COON: Okay. Then the ratification of 6 certifications of public safety telecommunicators. 7 MS. LOPEZ: We ask that you ratify 8 12-0082-PST through 12-0100-PST. 9 MR. COON: Okay. May I have a motion to 10 ratify the certifications for public safety 11 telecommunicator. Do I have a motion? 12 MR. BETZ: I'll make that motion to ratify 13 the operators from 12-0082-PST down to 12-0100-PST. 14 MR. COON: Do I have a second? 15 MR. BARNCASTLE: I'll second that motion. 16 MR. COON: Mr. Barncastle seconds. All in 17 favor say aye. 18 (Those in favor so indicate.) 19 ITEM NO. 49: PUBLIC HEARING: 10.29.1.11, GROUNDS FOR 20 DENIAL, REVOCATION, OR SUSPENSION OF POLICE OFFICER OR 21 TELECOMMUNICATOR CERTIFICATION 22 MR. COON: Okay. Number 49, I will let the 23 Board Counsel explain this one. 24 MR. REYNOLDS: Mr. Vice Chair, Members of the 25 Board, we'll now enter a public hearing phase of your</p>

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1 meeting to consider proposed rules. This is a public
 2 hearing of the New Mexico Law Enforcement Academy
 3 Board to consider proposed amendments to the rules.
 4 The authority for the Board to adopt, amend,
 5 or appeal rules is Section 29-7-4(F) NMSA 1978. This
 6 hearing is occurring within the Board's regular
 7 meeting held on October 23rd, 2012, in accordance with
 8 the Open Meetings Act. This hearing is being recorded
 9 by a court reporter. That recording is the record of
 10 this hearing.
 11 The proposed rule change to be discussed
 12 today was first proposed at a meeting of the Board on
 13 August 28th, 2012. Public notice of this proposed
 14 change was provided at that August 28th, 2012,
 15 meeting. It was published in the Albuquerque Journal.
 16 And the proposed rules were also published in New
 17 Mexico Register at least 30 days prior to this
 18 meeting.
 19 Mr. Vice Chair and Chief Schultz, if it's
 20 your pleasure, I think the best way to proceed would
 21 be to have Chief Schultz present the proposed rules.
 22 And the Board can then hear any oral comments from the
 23 audience that is here today.
 24 MR. COON: Thank you. Chief Schultz.
 25 MR. SCHULTZ: Mr. Chairman, thank you very

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1 And we have seen cases where officers have
 2 actually gone to other agencies and continued to
 3 perform in the full function and capacity of a sworn
 4 law enforcement officer, as well as officers having
 5 the ability to resign and/or be terminated and leave
 6 the state and apply for another position with a
 7 prospective employing law enforcement agency and be
 8 able to truthfully fill out a questionnaire saying
 9 that they are currently certified in the State of New
 10 Mexico.
 11 So what we had talked about doing was
 12 proposing the ability to allow the Director to take a
 13 more immediate and decisive action against the license
 14 of the certified police officer or telecommunicator
 15 who has been arrested or indicted for a felony charge.
 16 So when we brought this to the Board for a
 17 special meeting held on August 28th, we originally
 18 talked about allowing the Director to have the ability
 19 to immediately suspend the certification. Obviously
 20 that did bring about quite a bit of discussion.
 21 I have been contacted by many folks from
 22 throughout the community, including attorneys, police
 23 chiefs, and officers and deputies, saying that they
 24 had some concerns specifically about a suspension
 25 without having the ability to explain their case.

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1 much for having the opportunity to talk a little bit
 2 today about this proposed rule change. Obviously what
 3 we want to talk about is Title 10, Chapter 29, Part 1,
 4 of the New Mexico Public Safety and Law Enforcement
 5 Academy General Provisions Act of our governing rules.
 6 Specifically what brought this to my
 7 attention and to the attention of other executives of
 8 the law enforcement community across the state are
 9 cases involving law enforcement personnel who were
 10 involved in many cases crimes of such an egregious
 11 nature that they are actually arrested for a felony
 12 charge or in many cases indicted on a felony charge.
 13 What we've seen occur in the state is that
 14 officers who meet that criteria or fall into that line
 15 of criteria so to speak are allowed in many cases to
 16 continue to perform their duties as law enforcement
 17 officers because their certification is not in
 18 jeopardy at that time based just on an arrest or an
 19 indictment.
 20 Very often the host agency or the employing
 21 agency may take administrative action against the said
 22 officer and actually separate their employment. But
 23 the officer, since they still have their
 24 certification, has the ability to move to another
 25 agency.

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1 So what I wanted to be able to do today or
 2 this afternoon now is discuss what the original
 3 proposals were. And I know Mr. D'Amato wants to talk
 4 about this.
 5 But I think I might be able to head him off a
 6 little bit at the pass with making a floor substitute
 7 to the proposal that is in front of each one of the
 8 Board Members today that would much quicker start the
 9 suspension and/or revocation process but not allow
 10 that suspension to take place without an opportunity
 11 for due process.
 12 I think what we can do is we can make a
 13 couple quick changes here that would start the process
 14 to suspend an officer upon arrest or indictment, and
 15 then basically allow that case to be decided or at
 16 least come in front of this Board within 90 days of
 17 the notification of the LEA-90 being filed with the
 18 Director.
 19 So if I may, going to Section 10.29.1.11, and
 20 this is on page 5 of the attachments that all the
 21 Board Members have, this is what was proposed: "The
 22 Director, upon being notified that a certified peace
 23 officer or telecommunicator has been arrested or
 24 indicted on any felony charge, shall immediately
 25 suspend certification of the officer or

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1 telecommunicator."
 2 That is probably the most important sentence.
 3 Upon talking with several attorneys including
 4 Mr. D'Amato, I had concerns about the wording saying,
 5 "shall immediately suspend," saying that the employee
 6 needs to have an opportunity for due process.
 7 So what I would like to suggest for
 8 consideration by this Board, and I would make this as
 9 a floor amendment, that that first sentence read this
 10 way: "The Director, upon being notified that a
 11 certified peace officer or telecommunicator has been
 12 arrested or indicted on any felony charge, shall
 13 immediately notify the officer or telecommunicator of
 14 the intent to suspend the certification of the officer
 15 or telecommunicator."
 16 Then it would continue on as already
 17 proposed. The procedures set forth in 10.29.1.12
 18 shall not apply to the immediate suspension. Notice
 19 of the immediate suspension shall be served on the
 20 officer or telecommunicator. Upon service of the
 21 notice, the officer or telecommunicator shall have
 22 15 days to request to be heard at the next regular
 23 meeting of the Board.
 24 At the meeting the officer or
 25 telecommunicator may present evidence, witnesses, or

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1 notified that a certified peace officer or
 2 telecommunicator has been" -- it currently says,
 3 "arrested or indicted on any felony charge shall
 4 initiate the revocation process."
 5 I believe, based on the presentation that we
 6 did on August 28th, that should read, "The Director,
 7 upon being notified that a certified peace officer or
 8 telecommunicator has been convicted on any felony
 9 charge, shall initiate the revocation process."
 10 At that point in time, we've got a filing
 11 with a court and a conviction has taken place. And I
 12 think that's all we need for the Director to move
 13 forward with initiating the true revocation process of
 14 the officer's certification.
 15 So with that I would like to ask the Board to
 16 consider the floor substitutes that we have provided
 17 here today. And I would like to ask for additional
 18 discussion and input from the Board on this proposed
 19 change.
 20 MR. COON: Chief, would you go over that
 21 again, "The Director, upon being notified that a
 22 certified peace officer and telecommunicator has been
 23 arrested or indicted on any felony charge, shall
 24 immediately" --
 25 MR. SCHULTZ: -- "notify the officer or

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1 argument as to why their license should not be
 2 suspended. The Board may deliberate and shall issue a
 3 decision on the suspension at that time in the
 4 meeting.
 5 So I think, if Mr. D'Amato gets up to speak
 6 under the public portion, maybe hopefully that will
 7 take care of some of the concerns that he has. This
 8 also goes in line with some of the comments that have
 9 been forwarded to the Director.
 10 I have been provided by Ms. Lopez a couple of
 11 emails that have been forwarded to the Director's
 12 office from the law enforcement community. And that
 13 seems to be the crux of their questions as to what
 14 happens with an officer during that time should the
 15 Director do the immediate suspension.
 16 So I think by making this change, that kind
 17 of curtails that, because it is just a proposal of a
 18 suspension upon a notification. And the employing
 19 agency would know that the next Board hearing is where
 20 that decision will be made. And that's where a case
 21 could be presented to this board.
 22 And then continuing on under that same
 23 section, section 2, the proposed rule change, I think
 24 this is just a typo. It says here, as presented to
 25 the Board today, No. 2, "The Director upon being

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1 telecommunicator of the intent to suspend the
 2 certification of the officer or telecommunicator." So
 3 basically, as soon as the Director receives the
 4 LEA-90, they will immediately send a letter to the
 5 said employee and let them know that there is intent
 6 to suspend them.
 7 And then they have a requirement within
 8 15 days to request to be heard at the next meeting.
 9 If they fail to do that, then obviously the suspension
 10 would take place by a vote of this board at the next
 11 meeting.
 12 MR. COON: It was brought up in our meeting
 13 in August that some of the departments don't send up
 14 their LEA-90 forms, even if the guy was arrested for a
 15 felony or indicted, but you see it on the news.
 16 Is that going to give Mr. Medina an
 17 opportunity to do his own LEA-90 on this officer or
 18 deputy, if he has firsthand information, but there's
 19 not been anything sent out by a PD or the sheriff's
 20 department that is notorious -- and we have quite a
 21 few of them -- for not sending up stuff to the LEA?
 22 MR. SCHULTZ: Mr. Vice Chairman, I believe we
 23 did have some discussions on that on August 28th. And
 24 I believe the Attorney General had made some comments
 25 that, once there is an official filing within a

<p style="text-align: right;">Page 150</p> <p>1 respective court anywhere in the State of New Mexico, 2 that that would be enough to initiate the suspension 3 and revocation process. 4 MR. COON: But don't you think we need to put 5 some teeth in that, that these departments have to 6 send up the LEA-90 on their own, we don't need to hear 7 about it on the six o'clock news, that there should be 8 some kind of -- 9 MR. MEDINA: Mr. Vice Chair. 10 MR. COON: That we can come back on that 11 department for not doing that? 12 MR. MEDINA: That's stated already in the 13 NMAC rule, that upon hiring anybody or termination or 14 firing or any kind of misconduct, they have 30 days to 15 send the LEA-90 to our office to report the allegation 16 of misconduct. 17 MR. COON: Yeah. But we all know a lot of 18 them don't do that. 19 MR. MEDINA: That's true, that's true. That 20 does occur. So you're looking for teeth? 21 MR. COON: I'm looking for like a sanction to 22 the department that does not play by the rules and 23 does not notify us. And maybe it's in a remote area 24 where nobody knows -- where there's no news at. 25 MR. MEDINA: Just last week I was in touch</p>	<p style="text-align: right;">Page 151</p> <p>1 with a law enforcement agency, who in my mind it was 2 very obvious that, since I've been in the position, we 3 have not received misconduct reports. 4 And they were very receptive to my 5 communication with them. I have an appointment with 6 that agency this week to educate them and to inform 7 them of what the requirement is. 8 I would like to try to reach out to some of 9 those agencies. And if you're aware of some of those, 10 I think it would probably -- my recommendation to be 11 to allow me to reach out to them, inform them that we 12 have not seen these come to our office, even though 13 the news reports a major or a notable arrest or 14 misconduct regarding an officer, and at least have a 15 phone conversation with that law enforcement director 16 or with that chief or that sheriff and bring them into 17 compliance that way. That's a recommendation. 18 Whatever your pleasure is we can do. 19 MR. COON: I would even go as far as saying, 20 if you're not playing by the rules of the LEA-90, 21 don't send any of your people to any of our academies 22 until you start doing this. We will not certify them 23 in any academy in the State of New Mexico until you 24 start playing by the rules. 25 MR. MEDINA: I think that's something to</p>
<p style="text-align: right;">Page 152</p> <p>1 consider. Obviously it's very harsh. But there is a 2 lot -- you're right. We need people to comply with 3 the NMAC rule. And that's what we're doing. 4 I think we're making headway by educating the 5 sheriffs and the chiefs by attending meetings that are 6 going on throughout the state. I think we have the 7 authority -- I think the Director has the discretion 8 to do that. It certainly does light a fire. And 9 we'll bring it to their attention. 10 MR. COON: Anybody else have any discussion 11 on this? 12 MR. SCHULTZ: Mr. Vice Chair, I think when it 13 comes to notification, I think things have changed 14 probably in the last couple of years because of the 15 advances in social media. I think there are no more 16 secrets anywhere in the state. 17 If a law enforcement officer or 18 telecommunicator is arrested or indicted on a felony 19 charge, I think one way or another, between the 20 Attorney General's Office and the Director, we will 21 receive notice. And if those departments refuse to 22 initiate the LEA-90, I think it would be incumbent 23 upon the Attorney General or director do it 24 themselves. 25 MR. REYNOLDS: Mr. Vice Chair, if I could</p>	<p style="text-align: right;">Page 153</p> <p>1 make two points. 2 MR. COON: Sure. 3 MR. REYNOLDS: One is a very valid point and 4 needs to be discussed and perhaps acted upon. But we 5 haven't opened up that part of the rule in this 6 proposed rulemaking. So we wouldn't be able to take 7 action on that today. We would have to give notice of 8 the desire to change that first. So we wouldn't be 9 able to take action. 10 The second point is it's always been our 11 position that the Director need not wait for an LEA-90 12 to take action on an officer and can do so on his own 13 accord and can, in fact, initiate an LEA-90 himself 14 against the officer if he hears about it on the news. 15 Obviously that's not optimal. But we don't have to 16 get an LEA-90 from an agency in order to start the 17 process. 18 MR. COON: Thank you, sir. 19 MR. REYNOLDS: If there's no further comments 20 from the Board, it may be an appropriate time to 21 invite public comment, anybody who would like to speak 22 about the proposal rule. 23 MR. COON: Mr. D'Amato, are you still here? 24 There he is. You were first in line. 25 MR. D'AMATO: Thank you, sir. Mr. Vice</p>

<p style="text-align: right;">Page 154</p> <p>1 Chair, Members of the Board, I think it was put in the 2 record who I am and what I do. And, Chief, I 3 appreciate the amendment. That does alleviate a lot 4 of our concerns as a whole with regard to due process. 5 And I read the minutes of the last meeting in 6 August. And everyone here, the Board Members, were 7 concerned about due process and notice and an 8 opportunity to be heard. But there was no real meat 9 behind the words. 10 And there are far better attorneys in the 11 Attorney General's staff that I can ever be and there 12 are far smarter people on this Board than I am. But 13 the second part of the due process requirement, I 14 think the notice says, "The notice element has been 15 satisfied at a Constitutional minimum." 16 The second part of the due process 17 requirements that date back as early as 1970 with the 18 Goldberg vs. Kelly case is the opportunity to be 19 heard. And that's a meaningful opportunity to be 20 heard. 21 The way the regulation is drafted as it sits, 22 once the 15 days request to be heard at the next board 23 meeting, do you folks envision that, for example, 24 today, all those who are arrested within the last 25 quarter would have meaningful opportunities to be</p>	<p style="text-align: right;">Page 155</p> <p>1 heard; i.e., witnesses produced, cross-examined, 2 documents introduced? 3 And it's a quite efficient meeting today. 4 But it's going on 3:30 and we're still not finished 5 with business. So do we expect to present a case on 6 an officer who has been arrested or charged with a 7 felony, indicted on a felony, to have the merits 8 hearing at a board meeting, a full board meeting? 9 That's one consideration. 10 The second consideration is the notice that 11 we talked about that's not before us. But my 12 understanding is an officer is arrested today. The 13 Director learns about it tomorrow, however he learns 14 about it. He sends a notice to the officer of 15 contemplated action and suspension. 16 The officer then has 15 days to request a 17 hearing. That hearing will be held at the board 18 meeting, the next regular board meeting. And that I 19 guess would be in December or January of the next 20 quarter. 21 So what happens in the following 90 days or 22 120 days while we're waiting for the Board hearing, 23 for the Board meeting? Is the officer's suspension in 24 abeyance, is it active, can he continue to work or can 25 she continue to work until the final decision of the</p>
<p style="text-align: right;">Page 156</p> <p>1 Board? 2 The second concern with the notice, and I 3 need to touch on it now, is there was a recent case 4 that came out this past summer, late summer, where the 5 Director of an agency received notice on a certain 6 date; but the action occurred well beyond the limits 7 of the administrative agency. And it's a Court of 8 Appeals decision so it may be reversed by the Supreme 9 Court. And I don't have the caption or citation for 10 you today, but I can obtain that. 11 The time starts to run when the Director 12 receives actual notice rather than relating back. So 13 if it's reported in the newspaper and the Director 14 doesn't take any action until he gets an LEA-90 15 form -- and usually my understanding is an LEA-90 form 16 is supported by documentation. 17 If the Director sends notice, based on his 18 watching Channel 13 news -- Francis Smith was arrested 19 last night for a felony DWI. And then the next day he 20 sends out notice to Francis Smith, that officer is 21 entitled to documentation to support the allegations 22 contained in the proposed suspension. 23 So there may be some practical aspects that 24 will cause roadblocks both to the agency and may 25 violate the officer's right under the Peace Officer's</p>	<p style="text-align: right;">Page 157</p> <p>1 Bill of Rights. 2 A few other matters. Chief Schultz, I 3 commend you for listening to some folks and thinking 4 about the due process aspect. 5 The Notice of Contemplated Action does 6 provide notice and opportunity to be heard. Then we 7 get to the second level. If the -- I've had three or 8 four cases where police officers have lingered at 9 least three or four years. One of them you heard 10 today lingered since 2008. 11 Not on the part of the officer or my office, 12 but it was the District Attorney's Office who delayed 13 that case for three or four years. He finally went to 14 trial and was acquitted. 15 What do we expect at the hearing with an 16 officer who is accused of a felony crime? I would bet 17 you in most cases, on the advice of an attorney, that 18 law enforcement officer will come before you and take 19 the Fifth when asked about tell me what happened. 20 And I know as law enforcement our knee-jerk 21 reaction is, when a person takes the Fifth Amendment, 22 he or she is hiding something, he or she is guilty. 23 Well, I would beg respectfully to differ in that we 24 need to protect our clients. And any statements he 25 makes in a public forum can be used in a criminal</p>

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<p>1 setting when liberty is at stake.</p> <p>2 I also noted from the minutes of the last</p> <p>3 meeting that I believe it was Mr. Korn, Board Member</p> <p>4 Korn, who said that this certification, this license</p> <p>5 is a privilege.</p> <p>6 Well, with all due respect again, sir, I</p> <p>7 submit to you it's a privilege to be a police officer.</p> <p>8 It's a privilege to apply for the State of New Mexico</p> <p>9 certification. Once that certification is issued,</p> <p>10 it's a property interest, it's a license. And before</p> <p>11 any license or property interest is deprived, then</p> <p>12 meaningful due process has to occur.</p> <p>13 So these are some thoughts that I think you</p> <p>14 will encounter. Hopefully everything will work well</p> <p>15 and we won't see a felony arrest on an officer. I</p> <p>16 will bet you that the first case you see is -- plays</p> <p>17 out according to what the regulation contemplates.</p> <p>18 But the officer who appears before you upon</p> <p>19 advice of counsel will say I take the Fifth. And then</p> <p>20 what happens? You move on to revocation or you</p> <p>21 continue the suspension.</p> <p>22 The other problem that doesn't cause me much</p> <p>23 of a problem as far as the meaningful confrontation or</p> <p>24 the meaningful hearing under the due process</p> <p>25 provisions, notice and a meaningful opportunity to be</p>	<p>1 heard, is shifting the burden.</p> <p>2 I think the Board may be shifting the burden.</p> <p>3 Okay, we're going to take this action. Now the burden</p> <p>4 is on the officer to show us why we shouldn't.</p> <p>5 I think the existing standard of proof is the</p> <p>6 preponderance. But the burden of proof is on the</p> <p>7 agency who wants to lift the license. So the burden</p> <p>8 is on the agency much like an employment matter,</p> <p>9 personnel matter.</p> <p>10 And the most frequent case that I'm familiar</p> <p>11 with is City of Albuquerque has the burden of going</p> <p>12 forward to showing just cause for termination or just</p> <p>13 cause for discipline by a preponderance of the</p> <p>14 evidence. I would submit to you that's your stake,</p> <p>15 the same burden, by a preponderance of the evidence.</p> <p>16 Now, there are administrative rules on</p> <p>17 informal hearings like this. The rules of evidence do</p> <p>18 not apply, but they are acting as a guide. But you</p> <p>19 still need more than just hearsay evidence.</p> <p>20 There's something called the legal residual</p> <p>21 rule; that, if you're going to make a decision,</p> <p>22 lifting a license, that your decision must be based on</p> <p>23 some legally competent residuum of evidence. Not all</p> <p>24 of it.</p> <p>25 So again I'm anticipating problems where</p>
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<p>1 we're going to act within 90 days. Are you going to</p> <p>2 be vested with the power to subpoena witnesses against</p> <p>3 our clients? Because hearsay isn't going to work. We</p> <p>4 have a right to confront, we have a right to</p> <p>5 cross-examine, we have a right to inspect the</p> <p>6 discovery, test the State's case, in this case the</p> <p>7 State.</p> <p>8 Having said all of that, I understand the</p> <p>9 concern and the policy direction you want to take this</p> <p>10 Board. And there are folks that we all know who have</p> <p>11 been indicted on felony, on standby for six or seven</p> <p>12 years, three or four years on the average, and they're</p> <p>13 working somewhere else as a certified police officer.</p> <p>14 There has to be a solution other than putting</p> <p>15 the officer's certification, his livelihood -- this</p> <p>16 isn't like McDonald's. You know, I can't go work for</p> <p>17 Burger King or Wendy's. I'm a certified law</p> <p>18 enforcement officer. Take that away from me and</p> <p>19 that's all I know.</p> <p>20 So these are really weighty decisions that</p> <p>21 may have unintended effects, understanding all the</p> <p>22 while that your policy direction is commendable and</p> <p>23 some action should be taken.</p> <p>24 And I guess it's all felonies, no</p> <p>25 distinction? And does that do away with an informal</p>	<p>1 on a notice of contemplated suspension within which we</p> <p>2 have 15 days to respond? I would hope that we can</p> <p>3 work these -- foresee as many of these problems as we</p> <p>4 can.</p> <p>5 But I'm almost certain that, if the Board</p> <p>6 goes through with the regulation as proposed, despite</p> <p>7 Chief Schultz's fantastic effort to make it</p> <p>8 Constitutionally impassable, the first officer that</p> <p>9 such action is taken against may have a cause of</p> <p>10 action in district court for equal protection. Why</p> <p>11 are we treating some officers differently than others?</p> <p>12 Why are we taking away the informal process on a</p> <p>13 felony charge, an allegation?</p> <p>14 And then, you know, let's talk about the</p> <p>15 white elephant in the room. I don't represent that</p> <p>16 all of my clients are innocent. But I'll tell you,</p> <p>17 most of my police officers that are charged with</p> <p>18 felonies, especially domestic violence and sexual</p> <p>19 assault, are.</p> <p>20 So how are we going to screen the false</p> <p>21 allegations when all you have is a police report? You</p> <p>22 saw one today, you know. We had felony arrests,</p> <p>23 felony indictment, dismissals, down to a petty</p> <p>24 misdemeanor.</p> <p>25 What happens then when an officer waits or a</p>

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<p>1 false allegation? Are we going to take those facts 2 into consideration? Is there an informal process 3 before we go to the next formal process for a 4 full-blown hearing with witnesses and exhibits? 5 Again the policy direction is commendable and 6 I respect you all for that. I think getting there is 7 a rocky road with a lot of problems and barriers. 8 Thank you. Thank you, Chief Schultz. Thank 9 you, Board Members. Any questions? Thank you. 10 MR. COON: Thank you, Mr. D'Amato. Anybody 11 else like to come up? This is a public hearing. 12 Anybody else want to comment on this? 13 MR. SCHULTZ: Mr. Vice Chair, if I may, 14 Mr. D'Amato talks about what's going to happen in many 15 of these cases. I think what's going to happen in 16 many of the cases is that the officer is arrested or 17 indicted, they will receive notice from the director. 18 The officer doesn't have to come here and say 19 a word. Counsel can come and speak on behalf of the 20 officer. And I think in many cases the officer will 21 probably voluntarily suspend their license themselves. 22 That's the opportunity they have as well as they move 23 forward with the criminal case to try to get it behind 24 them. 25 In many cases many of the agencies -- not</p>	<p>1 all. But many of the more respectable larger agencies 2 do that themselves. They put the officer in an 3 administrative position, they strip the officer of 4 their commission, which gives them the ability to do 5 law enforcement actions. 6 Again the reason why we have to do this 7 proposed rule change is because not everybody does the 8 right thing. Not every agency makes the right 9 decisions and pulls people from enforcement positions. 10 And it's unfortunate that we have to do this 11 as a Board, because 90 percent of the agencies do do 12 the right thing and make the right decisions, but not 13 all do. And then you have those officers who walk in 14 immediately and resign from their agency, but they 15 still have that certification in their pocket. 16 And I think that's where it's a great 17 injustice to the citizens of the State of New Mexico 18 or any other state that they may go to and want to 19 work as a police officer. They've got serious issues 20 that have been alleged against them. And I think it's 21 important that they get that resolved. 22 And we are the body that issues the license 23 to be a certified peace officer in the State of New 24 Mexico. And I think we make those decisions based on 25 information that's provided to us through those</p>
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<p>1 official court documents. 2 And I'd like to hear from counsel. But, you 3 know, upon talking with counsel, I think this probably 4 would stand a challenge. I'll defer to counsel. 5 MR. REYNOLDS: Yeah. Just a couple of 6 points. The points that Mr. D'Amato was making have 7 certainly all been considered by the Attorney 8 General's Office. And yes, we fully expect a 9 challenge to these rule changes at some point in time, 10 whether it be the first one or the 100th one. 11 But I would respectfully disagree on the 12 level and the amount of process that is required here. 13 I don't think we anticipate a full evidentiary 14 hearing. There are situations where due process does 15 require that. 16 The legislature has not put that upon you and 17 has said that you only need to provide notice and 18 opportunity to be heard. I don't think that 19 necessarily means a full evidentiary hearing, but we 20 can cross that bridge when we come to it. The fact of 21 the matter is the legislature has said have a process 22 that provides notice and opportunity to be heard. 23 My position, as I stand here before you 24 today, is that the proposed regulations as presented 25 do just that. Here is what we're going to do and here</p>	<p>1 is your opportunity to come and have us hear from you. 2 Others can take issue on whether or not 3 that's the amount of process that the New Mexico 4 Supreme Court will ultimately require. But the 5 Attorney General's Office is willing to defend this 6 regulation as proposed if the Board decides to pass it 7 here today. 8 Before I go any further, Chief Schultz, you 9 did receive or the academy received written comments 10 to the proposed rules. And what we should do is take 11 those and mark those as exhibits for Jan to include 12 them in the record. 13 MR. SHILLING: Mr. Chairman, can I ask him a 14 question here? 15 MR. COON: Yes, sir. 16 MR. SHILLING: Is there any other licensing 17 boards in the state that provide a model? For 18 example, if an M.D. gets arrested for a felony for 19 assaulting a patient, does the medical board follow a 20 similar process? 21 MR. REYNOLDS: I don't think their standard 22 is if they get arrested for a felony. As I stand here 23 before you, I'm not sure of another board or 24 commission whose standard is, if you get arrested for 25 a felony, we're going to suspend your license and then</p>

<p style="text-align: right;">Page 166</p> <p>1 have a hearing.</p> <p>2 But I do know that there are boards and</p> <p>3 commissions -- and I want to say the medical board is</p> <p>4 one of them, but I'm not for sure on that -- that have</p> <p>5 the process that actually was presented prior to Chief</p> <p>6 Schultz's amendment here today which is even less of a</p> <p>7 due process process, where they say you're suspended</p> <p>8 immediately and then we'll hear from you on this date</p> <p>9 later on. So there actually is less of a process.</p> <p>10 There are other boards and commissions that</p> <p>11 have that. I wish I could give you the names of them</p> <p>12 right now. I'm sorry. I can't do that.</p> <p>13 MR. SHILLING: I'm just curious if there had</p> <p>14 been some standards applied in the past that have</p> <p>15 already cleared the hurdle with respect to this issue.</p> <p>16 MR. REYNOLDS: I do know there are boards and</p> <p>17 commissions whose processes along those lines have</p> <p>18 been challenged and have been upheld. They're a</p> <p>19 little bit different. So I can't say that their</p> <p>20 outcome is determinative and that they're direct</p> <p>21 authority for the change that you're looking to make</p> <p>22 here today. They would be analogous that we would</p> <p>23 look towards.</p> <p>24 But I can't look at those boards and</p> <p>25 commissions and say with absolute certainty that that</p>	<p style="text-align: right;">Page 167</p> <p>1 means that your proposed rule changes would be upheld</p> <p>2 in court.</p> <p>3 MR. SHILLING: Thank you.</p> <p>4 MR. COON: But like in the medical board, if</p> <p>5 you're a doctor and you get stripped of your</p> <p>6 privileges or your certification in New Mexico, can</p> <p>7 you go to Texas and go to another hospital and be a</p> <p>8 surgeon there?</p> <p>9 MR. REYNOLDS: All states have different</p> <p>10 rules. But, you know, by and large, if you've lost</p> <p>11 your certification in one state, you're going to have</p> <p>12 a very difficult time getting certified in another</p> <p>13 state. That's a general rule. And all the states are</p> <p>14 a little bit different.</p> <p>15 MR. KORN: Mr. Vice Chair.</p> <p>16 MR. COON: Mr. Korn.</p> <p>17 MR. KORN: I have a question for you, Mark.</p> <p>18 But I also want to make two comments. One is I want</p> <p>19 to thank Chief Schultz for making the Board really a</p> <p>20 better board and making our rules more ever changing</p> <p>21 to make the law enforcement community be able to be</p> <p>22 respected.</p> <p>23 There are many of us -- and I'm a civilian,</p> <p>24 of course. But I am one of those people that hold law</p> <p>25 enforcement as one of the major pillars of society.</p>
<p style="text-align: right;">Page 168</p> <p>1 And 99.9 percent of the law enforcement officers are</p> <p>2 of the highest degree and caliber of integrity and</p> <p>3 worthy of respect.</p> <p>4 We're talking about the very, very few that</p> <p>5 may not deserve that kind of accolade. And while due</p> <p>6 process is open to them and under criminal law they</p> <p>7 are considered innocent until proven guilty, we as a</p> <p>8 Board, in protecting the public, have to make sure</p> <p>9 that we have only the finest law enforcement officers</p> <p>10 that have their certifications. And as a board we try</p> <p>11 to strive for that.</p> <p>12 But Chief Schultz has brought us to the next</p> <p>13 level, to really examine how we can be more</p> <p>14 spontaneous to reacting to people that have brought</p> <p>15 their law enforcement profession under disrepute and</p> <p>16 then react accordingly.</p> <p>17 I also want to thank Mr. D'Amato, because I</p> <p>18 think, by his representing the defense bar and coming</p> <p>19 before us and raising questions, it makes all of us</p> <p>20 think about all the problems that we want to face and</p> <p>21 provide due process to everybody; because we know most</p> <p>22 of the cases that come before us that aren't felonies,</p> <p>23 the police officer is going to go back in the</p> <p>24 community to protect the public.</p> <p>25 And while we also agree that in criminal law</p>	<p style="text-align: right;">Page 169</p> <p>1 all people are innocent until proven guilty, we have a</p> <p>2 different sort of licensing direction, if you were, as</p> <p>3 a board.</p> <p>4 The matters that Mr. D'Amato pointed out are</p> <p>5 not unlike any of the other matters that in my opinion</p> <p>6 the Law Enforcement Academy Board faces all the time,</p> <p>7 both in evidentiary and procedural and process. But</p> <p>8 it's a consideration for fairness for everybody.</p> <p>9 The question I have for you, Mr. Reynolds, is</p> <p>10 this: Mr. D'Amato did bring up an interesting point</p> <p>11 by pointing out that it was 3:30 when he spoke, it's</p> <p>12 ten of four now. How would the Board be able to</p> <p>13 listen to events at the next board meeting? I wonder</p> <p>14 if you can tell us that.</p> <p>15 When I look at the rules, when the rules say</p> <p>16 that the Board will hear, the rules are always open to</p> <p>17 the Board appointing a Hearing Officer, which we could</p> <p>18 direct the Director to do. So would that be correct,</p> <p>19 that if an accused officer asks to be heard at the</p> <p>20 next board meeting, that in between the next board</p> <p>21 meeting and the time he makes that request, the</p> <p>22 Director could appoint a Hearing Officer who could</p> <p>23 give his findings to the Board?</p> <p>24 MR. REYNOLDS: Yes. You could go that route.</p> <p>25 And these are all things that can be worked out when</p>

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<p>1 the times comes. I believe that's absolutely correct. 2 And the other route is you can call a special meeting 3 as we have done before; for example, a special meeting 4 to talk about this proposed rule. 5 So there are a couple of ways that we have 6 available to us when the situation occurs. We 7 certainly all hope that it doesn't. But when it does, 8 yes, you can appoint a Hearing Officer and have a 9 hearing and have that officer to report back to you by 10 the next board meeting or call a special meeting of 11 the Board itself. 12 MR. KORN: Thank you. And I think that 13 Mr. D'Amato raised questions that we need to deal with 14 but that shouldn't be impediments to our progressing 15 on our rulemaking. Thank you, Mr. Vice Chair. And 16 thank you, Chief Schultz. 17 MR. COON: Anymore discussion on this? 18 Mr. Reynolds, are we to vote on this today? 19 MR. REYNOLDS: If there are no other people 20 in attendance or members who have any other comments, 21 now would be appropriate for you to -- we'll close 22 this portion of this hearing, this rulemaking hearing, 23 at which time it would be appropriate for you to 24 deliberate and vote upon it, if you so desire. 25 It's also perfectly acceptable to decide to</p>	<p>1 take it up at the next meeting. So it's the pleasure 2 of the Board. It's on the agenda. You can deliberate 3 and vote on it today. You have done the deliberations 4 so you can vote on it today or whatever the pleasure 5 of the Board is, put it off until the next one. 6 MR. KORN: May I ask a question, Mr. Vice 7 Chair? 8 MR. COON: Yes, sir. Mr. Korn. 9 MR. KORN: Mr. Reynolds, so Chief Schultz has 10 made a small amendment to the rule the way it stands. 11 Can we vote on the rule with the amendment that Chief 12 Schultz has done, and then it will become in force and 13 effect a rule in 90 days? 14 MR. REYNOLDS: Absolutely. I'm not sure, 15 exactly sure what the State rule says about when it 16 becomes effective. It may be 90 days. 17 MR. KORN: But we can forge ahead? 18 MR. REYNOLDS: Yes. The answer to your main 19 question is yes. With the amendment today, I think 20 it's very clear that the amendment that Chief Schultz 21 has made is what we call a logical outgrowth of the 22 proposed rule change and that it is something that 23 somebody could foresee occurring to the proposed rule 24 change. 25 So it would be proper for you to vote upon</p>
<p>Page 172</p> <p>1 accepting it with the amendment that's been proposed 2 today. 3 MR. KORN: Thank you. 4 MR. COON: What's the pleasure of the Board? 5 MR. KORN: I think Mr. Myers had a question. 6 MR. MYERS: Yeah. My question was we were 7 going to discuss what Nate or Mr. Korn had mentioned 8 about how we're going to hear these cases before we 9 vote on it. 10 MR. KORN: I think the way we would hear it 11 would happen in the normal course of things. I think 12 we would vote on it and then it's on the flow as if it 13 became a rule, just like all of our other flows have 14 developed. 15 MR. SCHULTZ: Mr. Vice Chair, I agree with 16 that assessment by Member Korn, because what we're 17 going to do is we're going to give the officer or 18 telecommunicator notice of intent to suspend. And 19 it's that intent. And then the process I think will 20 develop itself. 21 I think in many cases the Director will be 22 contacted by the employee or their counsel. And I 23 think in many cases they'll agree. You know what, 24 I've been arrested I've been indicted. Let's suspend 25 me, my certification, while we try to get this</p>	<p>Page 173</p> <p>1 resolved through the courts. 2 MR. COON: Any other comments? 3 Mr. Counsel, do we go into closed session for 4 this before we vote? 5 MR. REYNOLDS: No, sir. All your 6 deliberations and a decision on this should be in open 7 meeting. 8 MR. COON: Okay. Chief Schultz, I'll let you 9 make this into a motion. 10 MR. SCHULTZ: Thank you, Mr. Vice Chair. At 11 this point in time then, I would like to make a motion 12 that we adopt the proposed rule change as provided 13 today as the amended change to Section 10.29.1.11, 14 grounds for denial revocation or suspension of a 15 police officer or telecommunicator, Subsections B(1) 16 and (2). So I would like to make that as a motion, 17 sir. 18 MR. COON: Okay. Do we have a second? 19 MR. KORN: I'll second. 20 MR. COON: Okay. Do we have any discussion 21 on this before going any further with the vote? 22 I would like to say I was -- at our August 23 meeting, I wasn't real crazy about this. But since 24 we've changed and amended it, I don't have a problem 25 with it. But I was -- I just wasn't -- I didn't feel</p>

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<p>1 good about the way it was worded the first go-around. 2 But with the way it's amended, notification 3 of intent to the officer, I don't have much of a 4 problem with it anymore. Anybody else? That being 5 said, all in favor say aye. 6 (Those in favor so indicate.) 7 MR. COON: Thank you. 8 MR. SCHULTZ: Thank you. 9 ITEM NO. 50: UPDATE ON BASIC POLICE ACADEMY 10 CURRICULUM 11 MR. COON: Okay. Update of the basic academy 12 curriculum by Bureau Chief Phil Gallegos, No. 50. 13 MR. GALLEGOS: Good afternoon, Board Members 14 and members of the audience. Essentially what I 15 wanted to do was I've given a little outline to all of 16 the Board Members as to some of the work that we've 17 done on a preliminary basis for trying to pare down 18 the basic curriculum. 19 Now, as an example of what we've done so far 20 to get to this point where we're at right now is we 21 took the old job task analysis which was completed in 22 2002, we pared it down into groupings as to what 23 exactly it is that we need to do to make a police 24 officer, what are the job tasks that are essential to 25 a basic police officer.</p>	<p>1 What we then did is we took a 2008 and a 2009 2 job task analysis from the State of California and 3 from the State of Texas and compared it to the 2002 4 job task analysis that was completed for New Mexico, 5 to look for any disparities, any differences, anything 6 that we needed to look at. 7 And the only area we really saw that was 8 different had to do with technological advances. They 9 were in the areas of a taser and then motor -- the 10 MDTs, the mobile data transmitters. And then, of 11 course, fingerprinting that's gone digital now, some 12 of the digital cameras, things of that nature. So 13 those were some of the subtle differences. 14 From there what we did is we looked at the 15 current curriculum of 824 hours. And some of what we 16 found was 88 hours of redundancy. So right off the 17 get-go, we were able to eliminate 88 hours 18 specifically. 19 And as an example, when legislative changes 20 come down the pike and a couple years ago we had the 21 mental illness training come down, nobody really 22 looked at the curriculum to say was it already 23 included or -- that would encompass some of the hours 24 that were required by the legislative actions. 25 Well, what we've done is we've looked at some</p>
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<p>1 of these issues, especially with the legislative 2 actions, and looked at the curriculum. And what we 3 found was, much as in the case with the mental illness 4 and then the Safe Pursuit Act, those items were 5 already in current lesson plan format and in the 6 curriculum prior to it being added to meet the 824 7 hours. 8 So what we've done is we've tried to pare 9 this back. And essentially what we would like to do 10 is go forward with this. We have already identified 11 the instructional objectives that would look at each 12 of these topics. 13 Right now there's 18 blocks of instruction 14 that are listed in the NMAC. This shows nine. 15 Essentially we would be cutting it back to nine blocks 16 of instruction and structuring it in a way where we're 17 not having redundancy, where we're having a better 18 flow throughout the entire academy, where we could do 19 a start all the way to a finish. 20 And right now the high hour that we're 21 looking at is 600 hours. This would go from about a 22 22-week academy down to 15 weeks. That is for a basic 23 academy. Now, this would not change the ability of a 24 satellite academy that wanted to do additional 25 training on top of that. This would just be the basic</p>	<p>1 curriculum to start off with. 2 And what we've done now is we've set a basic 3 meeting with the satellite academies for the month of 4 December, it's the second week of December, to discuss 5 some of these changes. And in talking with some of 6 the satellite members that are here in the audience 7 today, we've gone back and forth on some of the 8 things. 9 And as an example, though it doesn't 10 necessarily say on this sheet mental illness, what 11 we've identified is lesson plans where that already 12 exists. And as an example, in the mental illness, 13 some years ago verbal Judo was taken out of the 14 academy curriculum. 15 Well, in the extended verbal Judo course 16 which is a 24-hour course, not a one-day or a two-day 17 eight-hour or 16-hour course, it does have a component 18 for mental illness, which is a full 16 hours. So that 19 would go towards the 40 hours that's mandated towards 20 the legislative mandate with regards to mental 21 illness. 22 The remaining hours would be down in the 23 patrol procedures with regards to scenario training. 24 Now, it doesn't specifically say scenario training. 25 But it would be in patrol operations.</p>

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<p>1 And I know there are some differences in 2 terminology; for instance, patrol procedures versus 3 officer survival. Sometimes it's one and the same. 4 It is a patrol procedure to always be on your -- to 5 have your wits about you and know what's going on 6 around you. 7 So in some of the differences that I have 8 talked with some of my colleagues, I've already seen 9 some of those subtle little differences that we've 10 already addressed in the document that you have before 11 you. 12 What I would like to ask is your approval to 13 go forward with trying to put together all the 14 curriculum so that hopefully we can bring this to you 15 sooner rather than later so that we can get the 16 academy back down to about 15 weeks. 17 MR. COON: Is that it? 18 MR. GALLEGOS: Yes, sir. 19 MR. COON: Okay. What's the Board's pleasure 20 on this? Does anybody have any suggestions? 21 MR. SHILLING: It will require a rule change, 22 will it not? 23 MR. GALLEGOS: Yes, sir, it will. And what 24 we would like to do is, as we go forward in putting 25 this curriculum together, we will draft the NMAC rule</p>	<p>1 change that would reflect something similar to the 2 document you have in front of you, except that it 3 would be extended. 4 MR. MYERS: You would provide us the full 5 curriculum before you proceeded? 6 MR. GALLEGOS: Yes. I want to have the full 7 curriculum done before I bring it to you and say, 8 look, we've got this done, and then later on we're 9 missing two or three lesson plans. I want to make 10 sure we have the entire curriculum completed before we 11 bring it back before the Board. 12 MR. COON: Okay. Do I have a motion on the 13 floor? 14 MR. BETZ: Mr. Vice Chair, I would like to go 15 ahead and make a motion to allow him to go forward. 16 MR. MYERS: I'll second. 17 MR. COON: Okay. We have a motion and 18 second. All in favor say aye. 19 (Those in favor so indicate.) 20 MR. BETZ: Mr. Vice Chair, can I say 21 something. 22 MR. COON: Yes, sir. 23 MR. BETZ: First of all, I'd liked to thank 24 Bureau Chief Gallegos. Between that and the 25 certification by waiver classes and everything and</p>
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<p>1 through Mr. Medina and, of course, Secretary Eden, I 2 think they've done an outstanding job of trying to get 3 this reorganized for the benefit of all of us. 4 MR. GALLEGOS: Thank you, sir. But a lot of 5 that credit also goes to our staff. I've got a couple 6 of old-timers that are really pushing me hard and I'm 7 pushing them hard. So we're making this work. 8 MR. BETZ: You're not talking about that 9 ex-bureau guy, Maxwell, are you? 10 MR. GALLEGOS: Just one of them, sir. 11 MR. COON: Okay. Anything else? 12 MR. SCHULTZ: Mr. Vice Chair, if I may ask, 13 as Mr. Gallegos moves forward, to please include the 14 New Mexico Municipal League and Association of 15 Counties. 16 I think, from a risk perspective, reducing 17 the amount of training by 280 hours in the course of 18 having reduced training, we will have that brought up 19 in subsequent criminal trials as well as civil trials 20 that there's been a reduction in training, what's the 21 cause and effect on the back end. 22 So I would definitely want to make sure you 23 get their perspective as to how it may influence out 24 generations of officers. 25 MR. GALLEGOS: Yes, sir. And what we plan on</p>	<p>1 doing is getting the satellite academies to assist us 2 with using their stakeholders to get the word out as 3 to where these changes are going to occur and get 4 input so that, as we compile it and further tweak the 5 curriculum, we have a better job. But yes, the chiefs 6 and sheriffs leagues, municipal leagues, all of those 7 we would like to get input as well. 8 MR. COON: Mr. Gallegos, the New Mexico 9 Sheriffs meet the first week of the legislature, 10 during the Association of Counties, our affiliate. 11 Would you be up to coming in and explaining this to 12 all the sheriffs in the state? 13 MR. GALLEGOS: Not a problem, sir. 14 MR. COON: And you won't have to drive far, 15 it's in Santa Fe. 16 MR. GALLEGOS: It doesn't matter. I drove 17 all the way from Farmington to be here today. Thank 18 you. 19 MR. COON: Thank you, Mr. Gallegos. Okay. 20 We've already done 51 and 52 has been spoken to. 21 ITEM NO. 53: REQUEST FROM NM SECURITIES DIVISION 22 MR. COON: So now it's No. 53, the request 23 from the New Mexico Securities Division. I think we 24 have a handout here. I'm sorry you were dead last 25 here.</p>

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1 MR. TANAKA: Good afternoon, Mr. Chair and
 2 Board Members. I appreciate you taking the time to
 3 hear us. I'm here along with Special Agent Kevin
 4 O'Fearghail as well. I'm Daniel Tanaka, T-a-n-a-k-a,
 5 Director of the Securities Division.
 6 We're requesting a waiver on behalf of
 7 Special Agent O'Fearghail on two requirements to
 8 attend the certification by waiver of previous
 9 training. He's going to go into that in more
 10 specifics.
 11 The New Mexico Securities Division is a
 12 highly specialized small state law enforcement agency
 13 that conducts complex financial criminal
 14 investigations relating to investment fraud.
 15 Primarily large scale major frauds.
 16 As a special agent, the responsibilities,
 17 duties, and daily assignments conducting these types
 18 of investigations are substantially different than
 19 that of a general law enforcement officer. And as
 20 such Agent O'Fearghail has some unique background and
 21 experience that I think lends itself particularly well
 22 to our agency.
 23 He has approximately ten years of military
 24 law enforcement experience with the United States
 25 Army, six years full time and four years part time.

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1 requires the completion of the full 22-week academy
 2 for those who have not served as a full-time law
 3 enforcement officer in the previous eight years.
 4 And the other one is specific to my
 5 background as a military police officer, Rule
 6 10.29.6.11(B) of the code. It accepts military police
 7 officer basic course training, but only if it is
 8 completed after a certain date; and in my case that
 9 date happens to be 2003.
 10 I don't meet either of those requirements.
 11 So under normal circumstances, I would be required to
 12 attend the full academy. However, my background is a
 13 little bit unique as you probably see by the resume
 14 that's been passed around.
 15 And I believe that that background meets the
 16 spirit of these particular rules. And by the spirit
 17 of these particular rules, I think or I believe at
 18 least that it's evident that these rules are designed
 19 to ensure that New Mexico law enforcement officers, if
 20 they come from another jurisdiction, have an
 21 acceptable minimum level of training based on their
 22 experience, based on their training, or based on a
 23 combination of the two of those things; and that that
 24 experience and training is somewhat recent.
 25 As you can see, my law enforcement experience

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1 He has 15 years of academic teaching experience, 12
 2 years of which -- in the criminal justice system and
 3 three years as a director of a police academy in the
 4 state of Oregon.
 5 And I'd like to invite Agent O'Fearghail to
 6 come up and speak on his own behalf and to flesh out
 7 some of his background and experience and answer any
 8 questions you might have. He has also provided you
 9 with an overview of his background, training, and
 10 certifications as well.
 11 MR. COON: Sir.
 12 MR. O'FEARGHAIL: Good afternoon, Mr. Vice
 13 Chair, Members of the Board. I'd like to thank you
 14 for hearing me today. And I would especially like to
 15 thank Director Medina for getting me onto this agenda
 16 at the very last minute.
 17 As Director Tanaka said, my name is Kevin
 18 O'Fearghail, I'm a special agent with the New Mexico
 19 Securities Division. And I'm here today to ask the
 20 Board to consider my request for the ability for me to
 21 obtain certification by waiver, attending the cert by
 22 waiver course as opposed to the full 22-week academy.
 23 And there's actually two specific rules that
 24 I'm going to ask the Board to waive. The first one is
 25 Section 10.29.6.9(B) of the administrative code, which

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1 dates quite awhile back. In the interim, between
 2 ending my work as a law enforcement officer, I did an
 3 awful lot of teaching of law enforcement and criminal
 4 justice topics, both at a professional level in the
 5 academy as well as in an academic setting.
 6 So I know we're at the end of the day here
 7 and I'm going to try to be as brief as possible and
 8 I'm just going to hit the highlights. And if you have
 9 any questions regarding any specific portion of my
 10 background that I might be able to clarify, I would be
 11 more than happy to stand for those questions.
 12 First of all, my law enforcement experience
 13 as Director Tanaka said is about six years full time
 14 and about four years part time. The full time I can
 15 divide into two sections. The first four years I
 16 spent as a patrol officer. The second two years of
 17 that six years I spent as a criminal investigator
 18 specializing in tax fraud and black market cases.
 19 When I was discharged from the Army, I
 20 immediately signed up with the Nevada National Guard.
 21 And I served for about two years with them as a squad
 22 leader and a platoon sergeant and as a military police
 23 officer specifically.
 24 And what I did in that capacity, we were
 25 activated a few times. But those of you familiar with

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<p>1 the National Guard know that the majority of what you 2 do there is training.</p> <p>3 So I was doing an awful lot of military 4 police specific professional training as well as 5 ensuring that the military police officers under my 6 command were -- or under my supervision rather were 7 prepared and ready to be activated at any point in 8 time.</p> <p>9 The last two years of my military experience 10 I also spent as a military police officer. But it was 11 as a liaison and in a very small unit in the Arizona 12 National Guard doing emergency response planning.</p> <p>13 The second tier, my training background. 14 Obviously, coming out of the military, I went through 15 basic training with all that that entails. And I went 16 through the basic military police course, which at the 17 time was eight weeks long.</p> <p>18 I also went to an eight-week military police 19 investigations course and a number of other resident 20 courses in the military. Some were military police 21 specific, some were just military specific.</p> <p>22 And I attended a number of other trainings 23 outside of the military, law enforcement-related 24 trainings, homicide investigation, and some human 25 trafficking courses, things like that, the basic sorts</p>	<p>1 of annual training that police officers generally go 2 through each year to maintain their certification.</p> <p>3 And I have just a little under 800 hours of 4 professional training that spans from my military 5 service up to basically the present day. I just got 6 through going through a training at the Securities 7 Division.</p> <p>8 In addition to that, those of you who are 9 familiar with the military will know that there is an 10 awful lot of annual training that's both military 11 specific, but also specific to one's profession. So 12 in my case I was doing a lot of military police 13 specific annual training to keep up my skills, arrest 14 procedures, keeping up on procedural changes, 15 procedural law changes, criminal law changes, things 16 of that nature.</p> <p>17 I was required to do an annual skills 18 qualification test each year, which I liken to the -- 19 to taking the post exam every year to ensure that I 20 still remain qualified to do that particular function. 21 And, of course, that skill is specific to your level 22 in the military.</p> <p>23 So I took basically the levels one through 24 three out of four possible levels for the entire ten 25 years that I was in the military each and every year.</p>
<p>Page 188</p> <p>1 And I always scored consistently in the 90 percent 2 range, which was always pretty much at the top of 3 whatever unit I happened to be assigned to.</p> <p>4 I additionally was required to do annual PT 5 tests. Well, I'm sorry. Those were actually 6 semiannual PT tests for the most part. And I 7 consistently scored in the 285 to 300 range out of a 8 300-point scale. So I consider myself relatively 9 physically fit. And I maintain that. I have no 10 problems right now passing the basic requirements for 11 the full academy even in a suit and dress shoes if I 12 have to.</p> <p>13 And finally, as part of that training, I also 14 had to qualify with our service weapons every single 15 year. So every weapon that I qualified on, which 16 included the pistol, rifle, and revolver as well as 17 several other weapons systems, I qualified expert each 18 and every time. And particularly proud of this, I had 19 perfect scores each and every time I went out there. 20 So I don't have any problems with firearms.</p> <p>21 I also in the interim, once I left the 22 service, I enrolled in college at Northern Arizona 23 University at Flagstaff. I received a B.S. in 24 criminal justice from that school as well as a B.A. in 25 history.</p>	<p>Page 189</p> <p>1 I then went to -- I enrolled in a graduate 2 program at the University of Nevada at Las Vegas. And 3 I received an M.A. in history, specifically the 4 history of criminal justice, and am currently a Ph.D. 5 candidate at that same university. The only thing I 6 have left -- I have completed all the comprehensive 7 exams, all the ancillary exams. The only thing I have 8 left to do is finish writing my dissertation and I 9 will have a Ph.D. in that.</p> <p>10 In the meantime I had to work. So as you can 11 see from my resume, I have done an awful lot of 12 teaching. That's I guess what you do with degrees 13 like this, you go into teaching. So I have spent 14 15 years -- probably a little more than 15 years 15 teaching at the college level.</p> <p>16 The majority of that was teaching a variety 17 of upper and lower division criminal justice classes 18 for three different institutions. Two of them were 19 universities, one was a community college. And five 20 of those 15 -- well, I don't know if I said 12 years 21 that was spent teaching criminal justice.</p> <p>22 Five of those years were spent teaching 23 history, which I think is related to a certain degree 24 to this job in that history provides me with a great 25 context for understanding the entire criminal justice</p>

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<p>1 system as well as law enforcement, especially with my 2 specific interest in the history of criminal justice 3 and the history of law enforcement.</p> <p>4 But it also provided me with an opportunity 5 to become really adept at the U.S. Constitution, 6 because everywhere I have taught history it has been a 7 state requirement that the survey history courses that 8 I have taught met a state constitutional education 9 requirement. So I had to spend a lot of additional 10 time teaching both U.S. Constitution as well as state 11 constitutions for each of the states that I taught 12 history in.</p> <p>13 And finally -- well, I'll say one more thing. 14 I'll just add that, while I was a platoon sergeant in 15 the National Guard, I did an awful lot of training 16 courses. I think I said that before, but it bears 17 repeating. I have continually been involved in 18 training at one level or another.</p> <p>19 But I think the most important recent 20 experience that I have is the nearly four years I 21 spent at a community college on the southwest coast of 22 Oregon, a place called Coos Bay, where I was both the 23 director of the criminal justice program as well as 24 the lead instructor there.</p> <p>25 When I took that job, I became the de facto</p>	<p>1 director of their reserve officer training academy 2 that had been -- that went defunct sometime before I 3 got there. And the local chiefs there were clamoring 4 for the program to be brought back into being, brought 5 back up to speed.</p> <p>6 And because that was the desire of the 7 community, and we're there to serve the community, I 8 jumped into that with both feet. And I spent three 9 and a half years ultimately managing that program, 10 directing it. I served in every capacity, from 11 instructor to administrator to director to 12 coordinator.</p> <p>13 I found the instructors for the course, I 14 wrote the entire curriculum from scratch, working in 15 conjunction with the four counties and 15 local 16 agencies that we serve as well as the DPS curriculum 17 specialist who run the basic academy there, the 18 equivalent of the New Mexico DPS.</p> <p>19 And I put together a work in progress, got 20 the academy running. The first year I had to teach 90 21 percent of the courses myself. After the local chiefs 22 saw the value in what I was doing, they started 23 pushing some of their staff to support us a little bit 24 more.</p> <p>25 So I got a lot more volunteers as</p>
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<p>1 instructors, which allowed me to back off the 2 instruction. But during those three years that I 3 taught there and the three -- we ran three academy 4 classes. It was an approximately 340-hour, year long 5 academy, basic academy, a short version of Oregon's 6 full academy, about half as long.</p> <p>7 During those three years, in between teaching 8 classes myself, building the curriculum, and sitting 9 in on every single class that every new instructor 10 taught for me, I sat through or taught the entire 11 academy three years running. That was between 2008 12 and 2011.</p> <p>13 Those are the basics of my background. As I 14 said before I think that, if I don't meet the spirit 15 of those particular rules that I cited -- or the 16 letter, I'm sorry. I do think that I meet the spirit 17 of those particular rules in that my training has been 18 more or less continuous and recent. Thank you.</p> <p>19 MR. COON: Any questions? 20 MR. KORN: I have a question. 21 MR. COON: Yes, sir. Mr. Korn. 22 MR. KORN: Is it O'Fearghail? 23 MR. O'FEARGHAIL: O'Fearghail. 24 MR. KORN: O'Fearghail. I don't know if you 25 were in the room before when Director Medina was</p>	<p>1 talking, but we do have an opening in the law 2 enforcement academy.</p> <p>3 MR. TANAKA: You can't have him. 4 MR. KORN: But surely in the Securities 5 Division, you have certain rules that you operate by? 6 MR. O'FEARGHAIL: Yes. 7 MR. KORN: And if I were to go and want to 8 buy securities and wasn't, let's say, a qualified 9 investor to buy certain securities from you, can you 10 waive those rules for people that want to waive 11 things?</p> <p>12 MR. TANAKA: Mr. Chair, as the director of 13 the Securities Division and as the administrator of 14 the Uniform Securities Act, I do have discretionary 15 authority in a great variety of cases to waive 16 examination requirements, to waive registration 17 requirements for both licensees and individual 18 securities under appropriate circumstances, if I deem 19 it to be in the best interest of the investing public 20 and of the State.</p> <p>21 MR. KORN: So if I wanted to invest in an 22 angel investment but I'm not a qualified investor, 23 would you waive that rule? 24 MR. TANAKA: Well, that's actually a federal 25 law that you're referring to.</p>

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1 MR. KORN: The State administers it, doesn't
 2 it?
 3 MR. TANAKA: The State does not administer
 4 federal law, sir, no. So we have parallel separate
 5 bodies of law that we administer, neither of which
 6 really impinges on the other.
 7 MR. KORN: Thank you.
 8 MR. COON: Mr. O'Fearghail, does the
 9 Securities Division have arrest powers, do you have
 10 full arrest powers?
 11 MR. O'FEARGHAIL: The Law Enforcement Bureau
 12 of the Securities Division does, yes, sir.
 13 MR. COON: What would be a crime you all
 14 would arrest for, I mean put a pair of handcuffs on
 15 somebody?
 16 MR. TANAKA: Mr. Chair, so yes, I'm a
 17 certified serving law enforcement officer in the
 18 Securities Division, I'm the director, I'm a
 19 commanding officer. And we have statutory law
 20 enforcement authority. And I have the power to
 21 appoint commissioned peace officers and do.
 22 So an example would be securities fraud,
 23 which is a third-degree felony under the State of New
 24 Mexico. In addition, any associated financial crimes
 25 like general fraud, money laundering, and there could

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1 was a specialized MPI unit that just investigated tax
 2 fraud and black market activity.
 3 MR. BETZ: Where did you go through your
 4 customs training at for inspector?
 5 MR. O'FEARGHAIL: In Heidelberg, Germany.
 6 MR. COON: Anybody else have any questions?
 7 MR. BARNCASTLE: I have one.
 8 Mr. O'Fearghail, I'll be very frank with you. What
 9 would prevent you from attending the basic academy?
 10 MR. O'FEARGHAIL: Absolutely nothing other
 11 than -- well, nothing would prevent me from attending
 12 it. I would prefer not to attend it.
 13 It's not that I feel that the academy would
 14 have nothing to offer me. It's that I feel that my
 15 level of training is already sufficient that most of
 16 what the academy could offer me I could obtain through
 17 cert by waiver.
 18 MR. TANAKA: Mr. Chair, if I could just
 19 expand on that. Agent O'Fearghail has met the
 20 psychological and medical requirements, he has already
 21 undergone those, as well as our background
 22 investigation. So he's essentially ready, his packet
 23 is ready.
 24 It's really a matter more of workload and
 25 best use of the resources of our staff. And so if I

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1 be a whole host of others that would crop up in a
 2 securities fraud case.
 3 Think the freelance con artist who rips off
 4 primarily the elderly of their life savings. And
 5 that's what we're investigating, the Doug Vaughns of
 6 the world. That Doug Vaughn case was our case. We
 7 initiated it and took it all the way through
 8 prosecution.
 9 And there are other cases that we've worked.
 10 So securities fraud is a third-degree felony. And
 11 there are many other securities-related violations
 12 that are third-degree felonies as well, sir.
 13 MR. COON: Did you go through the New Mexico
 14 Law Enforcement Academy?
 15 MR. TANAKA: I attended certification by
 16 waiver previous training. I had been a peace officer
 17 in the State of New York and had also been a federal
 18 agent prior to working for the Securities Division.
 19 MR. BETZ: Mr. Vice Chair.
 20 MR. COON: Chef Betz.
 21 MR. BETZ: Mr. O'Fearghail, you didn't retire
 22 from the military, did you?
 23 MR. O'FEARGHAIL: No, I did not.
 24 MR. BETZ: Were you MPI or CID?
 25 MR. O'FEARGHAIL: I was actually neither. It

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1 can keep Agent O'Fearghail conducting investigations
 2 based on the workload of the agency, I would prefer to
 3 do that rather than lose him for 22 weeks.
 4 We're preparing to go either way. But for
 5 the resources of our agency -- we're a small agency.
 6 We have eight law enforcement officers to cover the
 7 entire State of New Mexico.
 8 So if we can keep our personnel in the office
 9 working, that's definitely in our agency's best
 10 interest. But we, of course, will respect the
 11 decision of the Board, of course.
 12 MR. BARNCASTLE: Thank you.
 13 MR. COON: Chief, did you have something?
 14 MR. SHILLING: I guess my question is for the
 15 Board Counsel. Do the rules even allow for us to
 16 provide a waiver given the circumstances that are
 17 presented?
 18 MR. REYNOLDS: I was waiting for that
 19 question to come. And I've been looking through the
 20 rules and the statute right now. And as of right now,
 21 I haven't found anything that specifically allows for
 22 a situation to allow a license when they haven't met
 23 the requirements.
 24 I would ask for a little bit more time to
 25 study that. But as of right now, I haven't found a

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<p>1 statute or regulation that would allow for that. If 2 anybody else has any input, maybe Director Medina. 3 MR. MEDINA: Mr. Vice Chair, I know the 4 statute does allow the person to become commissioned 5 for 12 months. And within that 12 months, they're 6 required to attend the academy. 7 I would say that, since he's prepared to 8 attend the academy, I would -- I wouldn't support this 9 request for waiver because he doesn't meet the 10 certification by waiver military component. 11 I would consider his application to attend 12 the academy. I don't deem this to be in the best 13 interest of the citizens of New Mexico. And I would 14 not be in favor of it. 15 MR. COON: Mr. O'Fearghail, when did you 16 start working for the Securities Division, how long 17 has your clock been running here? 18 MR. O'FEARGHAIL: About three and a half 19 months. 20 MR. COON: So you've got about eight and a 21 half months to get through the academy. 22 MR. O'FEARGHAIL: Actually I'm not currently 23 commissioned. I'm working in a regulatory capacity 24 assisting other investigators. So I don't think the 25 clock has started running yet.</p>	<p>1 MR. COON: Okay. Mr. Counsel, do we need to 2 vote on this or do we need to wait to see if we have 3 the authority to vote on this? 4 MR. REYNOLDS: You can choose to do either 5 way. You can take a vote or you can -- I was going to 6 say defer it to your next meeting, but that's not 7 until January. 8 I mean my best assessment right now is that 9 I'm not aware of what -- I'm very sympathetic. And so 10 I was actually looking through these rules trying to 11 find something to give this board the ability to do 12 that. 13 And I haven't been able to come up with that 14 yet other than what, you know, Director Medina 15 mentioned, that it does allow for somebody to work as 16 a commissioned officer while they go through the 17 process. 18 MR. TANAKA: Mr. Chairman, if I may. 19 MR. COON: Yes, sir. 20 MR. TANAKA: Back in June of last year, at 21 your board meeting on June 2nd of 2011, you heard a 22 case. It's certainly not a direct corollary. But you 23 heard a case of an Australian officer who was 24 immigrating to the United States and seeking approval. 25 Even though she did not meet the statutory</p>
<p>Page 200</p> <p>1 requirements to attend cert by waiver either because 2 of foreign education and foreign police training, this 3 board did allow that officer to attend cert by waiver 4 training and waived some of the missing statutory 5 requirements. 6 And it was a highly unusual situation. Not 7 the same as this one. But this is an unusual 8 situation as well. So we would certainly ask for your 9 consideration. 10 MR. COON: Was that a cert by waiver or was 11 that to go through the academy itself? 12 MR. TANAKA: Sir, if I had the transcript -- 13 that was to go through cert by waiver. 14 MR. COON: I remember the lady. But I don't 15 remember if it was a cert by waiver or not. 16 What's the Board's pleasure on this or do we 17 have a motion or any more discussion? 18 MR. KORN: Just as a matter of discussion, I 19 too am very sympathetic. And it would be hard not to 20 be impressed with all your credentials. 21 But my recollection of the Australia woman is 22 that she had great recency of experience and was 23 approvable in that her experience was directly in sync 24 with U.S. experience. So I think that was the reason 25 the Board made that decision.</p>	<p>Page 201</p> <p>1 And while I'm sympathetic with you, I also 2 think that we have a duty to all the officers that are 3 law enforcement officers now and that have gone 4 through the academy to maintain those standards. And 5 it's a standard that every law enforcement officer has 6 met. 7 And once we open the gates to making inroads, 8 even if Mr. Reynolds says we can, which I tend to 9 agree with Mr. Reynolds, that it's probably not in our 10 purview to do. But even if we could and we did, I 11 don't know that that's the best thing for the law 12 enforcement community to do, especially when they're 13 so capable of going through it. 14 And I recognize that it's a smaller office. 15 But I think you would lend an element of great 16 maturity and knowledge to whatever academy class you 17 attended. I think you would benefit not only 18 yourself, but all the other cadets that went through 19 it with you. 20 So that would be the way I feel. Were there 21 a vote, I would probably vote no, without meaning any 22 disrespect to you. 23 MR. MYERS: I think I would share Nate's 24 concern. And another concern I have, and again this 25 is no offense to either one of you, we don't have any</p>

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<p>1 way -- say we grant the cert by waiver because he has</p> <p>2 a specific set of skills that would be wonderful for</p> <p>3 your agency.</p> <p>4 But if he separates from your agency two</p> <p>5 months from now, we have no way to regulate whether or</p> <p>6 not he goes to work for Albuquerque Police Department,</p> <p>7 Bernalillo County. That would be my other concern.</p> <p>8 MR. COON: Do we need this in the form of a</p> <p>9 motion or do we just vote heads up here?</p> <p>10 MR. REYNOLDS: You can invite a motion or you</p> <p>11 can table it to the next meeting. Probably both would</p> <p>12 have the same effect. So maybe just play it straight</p> <p>13 up and go with a motion on it.</p> <p>14 MR. COON: Do we have a motion to waive</p> <p>15 Mr. O'Fearghail's basic academy and go straight into</p> <p>16 the cert by waiver class? Do we have a motion? We</p> <p>17 have no motion. So that's basically a no. Well, it</p> <p>18 is a no.</p> <p>19 MR. O'FEARGHAIL: Thank you.</p> <p>20 MR. COON: Thank you for your time.</p> <p>21 MR. TANAKA: Thank you, Mr. Chairman and</p> <p>22 Members of the Board. And I appreciate you taking so</p> <p>23 much time at the end of your day to hear our case.</p> <p>24 Thank you, all.</p> <p>25 MR. COON: Thank you. Okay. Are we now on</p>	<p>1 No. 54, misconduct cases, board review of misconduct</p> <p>2 cases?</p> <p>3 MR. KORN: No. We covered that.</p> <p>4 MR. COON: We already did that.</p> <p>5 ITEM NO. 55: INDIVIDUAL BOARD MEMBER COMMENTS</p> <p>6 MR. COON: Okay. Individual board member</p> <p>7 comments.</p> <p>8 MR. KORN: I would waive my time to Chief</p> <p>9 Shilling.</p> <p>10 MR. SHILLING: I'll waive my time to the</p> <p>11 other Members of the Board.</p> <p>12 MR. BETZ: Mr. Vice Chair, I have a question.</p> <p>13 MR. COON: Yes, sir.</p> <p>14 MR. BETZ: Earlier, when we had these</p> <p>15 separate discussions, do we have to go over that again</p> <p>16 for the rejects?</p> <p>17 MR. MEDINA: I do have a question. Director</p> <p>18 Medina. I do have a question regarding Mr. Dudley.</p> <p>19 Do we have to bring him back to the Board meeting</p> <p>20 since he was not approved in the motion?</p> <p>21 MR. COON: I don't think so.</p> <p>22 MR. SCHULTZ: Mr. Vice Chair, I believe the</p> <p>23 direction was, if you could work out an agreement with</p> <p>24 Mr. Dudley, you can bring it back to us right now and</p> <p>25 I think we'll deal with that and move forward.</p>
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<p>1 MR. COON: That's fine.</p> <p>2 MR. MEDINA: That should be in front of you,</p> <p>3 sir.</p> <p>4 MR. COON: Okay.</p> <p>5 MS. MEDRANO: It was a cautionary letter,</p> <p>6 which I cannot do at this time. But I think you can</p> <p>7 go ahead and approve that he did agree with your</p> <p>8 provisions.</p> <p>9 MR. SCHULTZ: Mr. Vice Chair, on that I would</p> <p>10 ask the Director to verbally tell us what his</p> <p>11 recommendation is.</p> <p>12 MR. MEDINA: Well, I would recommend that,</p> <p>13 since the initial matter regarding Mr. Dudley was a</p> <p>14 stipulated order, that you would approve a cautionary</p> <p>15 letter for Mr. Dudley with one-year probation.</p> <p>16 MR. COON: Do I have a motion?</p> <p>17 MR. MYERS: So moved.</p> <p>18 MR. BETZ: Second.</p> <p>19 MR. COON: All in favor say aye.</p> <p>20 (Those in favor so indicate.)</p> <p>21 MR. COON: Mr. Dudley, do you understand that</p> <p>22 that will become a cautionary letter?</p> <p>23 MR. DUDLEY: Yes, sir.</p> <p>24 MR. COON: Okay. Thank you for sticking</p> <p>25 around. Did we do the others too, Mr. Waller and some</p>	<p>1 of the others?</p> <p>2 MR. MEDINA: Mr. Waller was done, sir.</p> <p>3 MR. COON: Okay. Any more comments from the</p> <p>4 Board?</p> <p>5 I would just like to say, we're not known for</p> <p>6 space aliens anymore, we're known for space jumpers.</p> <p>7 Myself and Chief Deputy Jennings back there got to go</p> <p>8 out and watch Fearless Felix jump out of the balloon.</p> <p>9 And what a site, what an event that was for not only</p> <p>10 Southeastern New Mexico but Chaves and Roswell. It</p> <p>11 was an honor to go out and watch that.</p> <p>12 MR. BETZ: I heard you wanted to go.</p> <p>13 MR. COON: I would have gone for 6 million</p> <p>14 bucks. Anybody else have any comments? I have signed</p> <p>15 all these so they're ready to go.</p> <p>16 ITEM NO. 56: SCHEDULING OF NEXT MEETING</p> <p>17 MR. COON: Scheduling of the next meeting.</p> <p>18 MR. MEDINA: I believe the next meeting has</p> <p>19 already been scheduled for January in Albuquerque.</p> <p>20 MS. LOPEZ: Yes, Albuquerque. We don't have</p> <p>21 an exact date yet, but I'll get with you guys.</p> <p>22 Usually it's the week before the session starts.</p> <p>23 ITEM NO. 57: ADJOURNMENT</p> <p>24 MR. COON: Okay. Okay. I need a motion to</p> <p>25 adjourn.</p>

1 MR. BETZ: I make a motion to adjourn.
 2 MR. BARNCASTLE: I second.
 3 MR. COON: All in favor say aye.
 4 (Those in favor so indicate.)
 5 (At 4:35 p.m. the meeting was concluded.)
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1 REPORTER'S CERTIFICATE
 2
 3 I, JAN A. WILLIAMS, New Mexico CCR #14, DO
 4 HEREBY CERTIFY that on October 23, 2012, the
 5 proceedings in the above captioned matter were taken
 6 before me, that I did report in stenographic shorthand
 7 the proceedings set forth herein, and the foregoing
 8 pages are a true and correct transcription to the best
 9 of my ability.
 10 I FURTHER CERTIFY that I am neither employed
 11 by nor related to nor contracted with (unless excepted
 12 by the rules) any of the parties or attorneys in this
 13 case, and that I have no interest whatsoever in the
 14 final disposition of these proceedings.
 15
 16
 17
 18
 19
 20
 21

22 _____
 23 JAN A. WILLIAMS, RPR
 24 Bean & Associates, Inc.
 25 New Mexico CCR #14
 License Expires: 12/31/12
 (5547K) JAW

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