

NEW MEXICO LAW ENFORCEMENT ACADEMY  
REGULAR BOARD MEETING

January 8, 2013

9:05 a.m.

Albuquerque Police Academy

5412 Second Street, N.W.

Albuquerque, New Mexico 87107

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

Bean & Associates, Inc.

Professional Court Reporting Service

201 Third Street, Northwest, Suite 1630

Albuquerque, New Mexico 87102

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<p>1 ITEM NO. 1: CALL TO ORDER</p> <p>2 MR. KING: All right. Good morning. We'll</p> <p>3 call the meeting to order this morning for the Law</p> <p>4 Enforcement Academy regular board meeting this</p> <p>5 Tuesday, January 8th.</p> <p>6 ITEM NO. 2: ROLL CALL</p> <p>7 MR. KING: The first item on the agenda is</p> <p>8 roll call. And as you know we normally do that just</p> <p>9 by having everybody introduce themselves. So I'll</p> <p>10 start down on this end and we'll just go down the</p> <p>11 line.</p> <p>12 MR. BARNCASTLE: Pat Barncastle with the</p> <p>13 District Attorney's Office.</p> <p>14 MR. BETZ: Harry Betz, Chief, Santa Ana PD.</p> <p>15 MR. KORN: My name is Nate Korn, I'm one of</p> <p>16 the citizens at large.</p> <p>17 MR. SHILLING: Robert Shilling, State Police.</p> <p>18 MR. COON: Rob Coon, Sheriff, Chaves County.</p> <p>19 MR. SCHULTZ: Ray Schultz, Albuquerque Police</p> <p>20 Department, chiefs representative.</p> <p>21 MR. GRATTON: John Gratton, citizen at large.</p> <p>22 MS. LOPEZ: Monique Lopez, Law Enforcement</p> <p>23 Academy.</p> <p>24 MR. KING: And I'm Gary King, I'm the</p> <p>25 Attorney General, and I'm the chairman of the</p>	<p>1 committee. And we have a quorum today.</p> <p>2 ITEM NO. 3: APPROVAL OF AGENDA</p> <p>3 MR. KING: So the next item on the agenda</p> <p>4 will be approval of the agenda. And we all have the</p> <p>5 agenda in front of us here. Are there any additions</p> <p>6 or corrections to the agenda?</p> <p>7 MR. GRATTON: I move for approval.</p> <p>8 MS. LOPEZ: We actually have one. Agenda</p> <p>9 item No. 26, Stephanie Coon, will be tabled until the</p> <p>10 next meeting.</p> <p>11 MR. KING: Okay.</p> <p>12 MS. LOPEZ: And No. 32, Vince Crespin, has</p> <p>13 been removed as well.</p> <p>14 MR. KING: So 26 and 32.</p> <p>15 MS. LOPEZ: Yes, sir.</p> <p>16 MR. KING: Okay.</p> <p>17 MR. COON: Did you say 32 was tabled?</p> <p>18 MR. GRATTON: Number 32 was taken off.</p> <p>19 MS. LOPEZ: Yes, sir.</p> <p>20 MR. COON: Just taken off.</p> <p>21 MR. KING: Okay. Any other corrections to</p> <p>22 the agenda?</p> <p>23 MS. LOPEZ: No, sir.</p> <p>24 MR. GRATTON: I move for approval of the</p> <p>25 amended agenda.</p>
<p>1 MR. COON: I'll second.</p> <p>2 MR. KING: We have a motion for approval of</p> <p>3 the amended agenda and a second. All in favor say</p> <p>4 aye.</p> <p>5 (Those in favor so indicate.)</p> <p>6 MR. KING: Any opposed? All right. The</p> <p>7 agenda is approved.</p> <p>8 The next item on the agenda is disciplinary</p> <p>9 matters. We've kind of as you all know flip-flopped</p> <p>10 our agenda a little bit. So we try to do the</p> <p>11 disciplinary matters first so people don't have to sit</p> <p>12 around and wait for us to do that because we all have</p> <p>13 to be here.</p> <p>14 I note actually that there are members of the</p> <p>15 press here this morning. I don't know where my</p> <p>16 lawyers are. The disciplinary matters -- oh, there</p> <p>17 they are. Closed meeting, open meeting, the</p> <p>18 disciplinary matters?</p> <p>19 MR. REYNOLDS: There will be a presentation</p> <p>20 of the disciplinary matters. But then the Board will</p> <p>21 be entering closed session to discuss them, yes. And</p> <p>22 then the Board will announce the decisions after the</p> <p>23 closed session.</p> <p>24 MR. KING: But the presentations are part of</p> <p>25 the open meeting?</p>	<p>1 MR. REYNOLDS: Yes.</p> <p>2 MR. KING: So you all can stay during the</p> <p>3 open meeting part of the meeting and then there will</p> <p>4 be a closed meeting part of the meeting. And then</p> <p>5 we'll resume with the rest of our agenda after the</p> <p>6 disciplinary matters are dealt with.</p> <p>7 As you all know, it's -- maybe some of you</p> <p>8 don't know. Since our lawyers participate in the</p> <p>9 disciplinary matters, I recuse myself from that</p> <p>10 portion of the meetings. And so I'm going to turn the</p> <p>11 meeting over to Sheriff Coon who will conduct the</p> <p>12 meeting for the disciplinary matters. Sheriff.</p> <p>13 MR. COON: Thank you, sir.</p> <p>14 ITEM NO. 4: RACHELLE ABERNATHY</p> <p>15 MR. COON: Okay. Next is new business,</p> <p>16 disciplinary matters under stipulated orders. Number</p> <p>17 4 is Rachele Abernathy. Rachele Abernathy? Is</p> <p>18 Rachele Abernathy here? Rachele Abernathy is not</p> <p>19 here.</p> <p>20 ITEM NO. 5: EDDIE JAMES ACREE, III</p> <p>21 MR. COON: Okay. Number 5 is Eddie James</p> <p>22 Acree. Eddie James Acree? Are you here, Mr. Acree?</p> <p>23 ITEM NO. 6: STEPHEN DEVOTI:</p> <p>24 MR. COON: Let's go to No. 6, Stephen Devoti.</p> <p>25 MR. DEVOTI: Here.</p>

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<p>1 MR. COON: Mr. Devoti, would you like to 2 address the group here, please. 3 MR. DEVOTI: Yes, I would. 4 MR. COON: Come on up. 5 MR. DEVOTI: I would just like to say that 6 I've already entered into a stipulated order of 7 suspension and probation with Mr. Medina. And I will 8 accept that. And if it was to be discussed further, I 9 would ask that the members of the Board -- that Chief 10 Schultz and Mr. Betz who are former employees would 11 recuse themselves from the discussion. 12 MR. COON: Thank you, sir. Anybody have any 13 questions of Mr. Devoti? Thank you, sir. 14 MR. DEVOTI: Thank you. 15 ITEM NO. 7: DESIDERIO GARCIA 16 MR. COON: Okay. Number 7 under stipulated 17 orders -- you're going to have to help me with the 18 first name. Desiderio Garcia? Mr. Garcia, are you 19 here? Okay. Mr. Garcia? No Mr. Garcia. 20 ITEM NO. 8: LESLIE LOPEZ 21 MR. COON: Next, No. 8 is Leslie Lopez. 22 MS. MOSS: Ms. Lopez is present. And I am 23 Nicole Moss, her attorney. 24 MR. COON: Come on up. 25 MS. MOSS: Good morning, gentlemen and lady.</p>	<p>1 We are here today to -- 2 MR. COON: Ma'am, would you please state your 3 name. 4 MS. MOSS: I'm sorry. Nicole Moss, M-o-s-s. 5 We are here today hopefully to enter into the 6 stipulated order of suspension and probation on behalf 7 of Ms. Lopez. 8 In reviewing the agenda item here, I did 9 notice a couple errors I wanted to just bring to the 10 Board's attention, just small issues. But I think the 11 most important one here was that it says that the 12 respondent was found not guilty on four of the charges 13 when it went to trial. 14 Actually what happened was the prosecutor 15 ended up dismissing three of the counts of the 16 indictment before it went to trial because he had 17 determined that there had been no crime committed. So 18 it was initially a seven-count indictment. And it was 19 reduced to a four-count indictment. And then we 20 proceeded to trial. 21 I'm sorry. He dismissed four of the counts. 22 And we went to trial on three counts, of which one she 23 was found not guilty; and two, it was a hung jury. 24 And then they dismissed the balance of the charges 25 after trial, realizing that they didn't have</p>
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<p>1 sufficient evidence to retry it. So there is a small 2 discrepancy. 3 MR. COON: Okay. 4 MS. MOSS: Thank you. 5 MR. KORN: I have a question. 6 MR. COON: Yes. Mr. Korn. 7 MR. KORN: The four counts that were 8 dismissed and the three that went to trial, can you 9 tell us what those were. 10 MS. MOSS: Yes, sir. It was a seven-count 11 indictment of tampering with public records. It was 12 accused that Ms. Lopez had knowingly removed public 13 records that belonged to the police department to her 14 home. 15 And after investigating it further and 16 completing all of the pretrial interviews of 17 witnesses, the prosecutor in the case who was Michael 18 Fricke -- he's the head of white collar crimes in the 19 Second Judicial. He determined that several of the 20 counts were not warranted because it was actually 21 records that she appropriately maintained as a police 22 officer. 23 Such as copies of tax plans that she had 24 executed as a sergeant and various other records that 25 were completely appropriate for her to have. So those</p>	<p>1 charges were dismissed. 2 MR. KORN: The allegation that she removed 3 her IA file, did that go to trial or did that -- 4 MS. MOSS: That did go to trial. And she was 5 found not guilty on the IA file. There was never an 6 IA file recovered in her home. 7 MR. KORN: And then what are the two counts 8 that had a hung jury? 9 MS. MOSS: The hung jury were two -- two 10 investigations of another police officer in the 11 department that were found allegedly in Ms. Lopez's 12 home. And those two counts -- after hearing the 13 evidence, the jury returned not guilty verdicts or 14 they were not able to reach a verdict in those two 15 counts. 16 MR. KORN: And was there a marijuana charge 17 that was dismissed? 18 MS. MOSS: There was never marijuana 19 indicted. The police officers claim they found 20 marijuana during the search. But it was never tagged 21 into evidence, it was never tested. They claimed they 22 found it and they just left it there. 23 MR. KORN: Thank you, Ms. Moss. 24 MR. COON: Ms. Lopez, do you have anything 25 you would like to say?</p>

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<p>1 MS. LOPEZ: No, sir.  2 MR. COON: Okay. Thank you. Anybody else  3 have any questions?  4 ITEM NO. 9: FRANK TILLMAN  5 MR. COON: Okay. Let's go to No. 9, Frank  6 Tillman. Mr. Tillman.  7 MR. TILLMAN: Good morning, gentlemen, ma'am.  8 I would like to accept the stipulated order of  9 suspension and probation. That's it.  10 MR. KORN: I have a question for Mr. Tillman.  11 I know you're here for the text messages. But were  12 you ever -- just on balance have you received any  13 awards from the department?  14 MR. TILLMAN: Yes, I have.  15 MR. KORN: What are they?  16 MR. TILLMAN: Outstanding Service Medal from  17 the MCorp.  18 MR. KORN: And what was that for?  19 MR. TILLMAN: Outstanding Service Medal for  20 being a first responder.  21 MR. KORN: Did you assist in saving a life?  22 MR. TILLMAN: I assisted as going into the  23 active shooter -- the first assault team.  24 MR. KORN: Where?  25 MR. TILLMAN: Excuse me?</p>	<p>1 MR. KORN: Where?  2 MR. TILLMAN: At the MCorp.  3 MR. KORN: Thank you. Just in the interest  4 of balance of your background.  5 MR. TILLMAN: Thank you.  6 MR. COON: Anybody else have any questions  7 for Mr. Tillman? Thank you, sir.  8 MR. TILLMAN: Thank you.  9 ITEM NO. 10: ROYCE VIGIL  10 MR. COON: Number 10 is Royce Vigil. Is  11 Mr. Vigil here? Royce Vigil? Okay. No Mr. Vigil.  12 ITEM NO. 10A: CHRISTOPHER JUAREZ  13 MR. COON: Okay. No. Ten A, Christopher  14 Juarez. Is Mr. Juarez here? Mr. Juarez? He's not  15 here.  16 ITEM NO. 11: ADAM CROSBY  17 MR. COON: Number 11 is Adam Crosby.  18 Mr. Crosby, would you like to come up and address the  19 Board please, sir.  20 MR. CROSBY: Good morning, sir, ladies and  21 gentlemen.  22 MS. PIERCE: I'm Teri Pierce, counsel for  23 Adam Crosby.  24 MR. CROSBY: And I'm Adam Crosby. Good  25 morning. Ladies and gentlemen, I met with the Board</p>
<p>Page 16</p> <p>1 just before the Christmas holiday. And I entered into  2 a letter of caution to be placed into my file. After  3 reading the synopsis here for the misconduct, I would  4 just like to clarify that on date in question, May  5 16th, 2011, I did respond to the area of Southern  6 Boulevard and 60th to allow a party that was actually  7 ongoing in the intersection.  8 We did have information going into the call  9 from party-goers that were leaving that there were a  10 large number of juveniles and adults there drinking  11 and doing drugs. There were only two deputies as well  12 as myself that were responding to the call, one of  13 which was my trainee. And it was our first day of  14 training, his first day of FTO with me.  15 Upon arriving to the scene, we realized that  16 it was way more people than we had expected. There  17 were probably over 100 people there in the middle of  18 the intersection. The plan was for the primary  19 officer, Officer Comadina, to take the traffic going  20 to the south of 60th and I was going to take the  21 traffic coming from the far west end of Northern  22 coming up.  23 Upon getting out, I did make contact with  24 Ms. Kelly who had demonstrated signs of intoxication.  25 And contact was made. I attempted several times to</p>	<p>Page 17</p> <p>1 get her to stop. And she failed to obey commands to  2 stop exchanging some obscenities with me.  3 It ultimately led with me trying to make  4 contact with her to secure her, to identify her first  5 of all. It ended up that she dropped her purse as I  6 ordered her to do. I slid it back. When I slid the  7 purse back, she lunged for her purse. And she ended  8 up being tased as a result of that.  9 The two probes did not make full contact with  10 her. One probe did make contact. The other one I  11 assume went into her purse. It didn't strike her  12 because the tase was not effective. She then took off  13 running. She was subdued a short distance away from  14 where the initial altercation took place.  15 After she tripped over a berm, we were able  16 to make contact with her. She did sustain one more  17 dry stun tase as she was fighting us on the ground.  18 It wasn't until after she was handcuffed and secured  19 that we realized that she wasn't an adult. She  20 initially said she was 18. She later said that she  21 was 16 and that she was a runaway from Albuquerque.  22 She later confided in us that she was 16,  23 that she was a runaway, that she had been on a  24 three-day drinking and drug binge, and that she had  25 also been seen at Presbyterian Hospital for a drug</p>

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<p>1 overdose on heroin a couple months prior to this 2 incident.</p> <p>3 As a result of that, she did receive 4 treatment from EMS. And she did sustain an evaluation 5 at Presbyterian Hospital in Rio Rancho. She was 6 charged with disorderly conduct and resisting and 7 evading. And I'm not sure where the charges stood.</p> <p>8 Since this altercation I never received a 9 subpoena or summons for court. So I don't know where 10 the charging ended with her, if it was dismissed or 11 not.</p> <p>12 But the sheriff subsequently, during the 13 Internal Affairs investigation, right after it was 14 announced, did make a statement to the news stating 15 that an Internal Affairs investigation was ongoing and 16 that he did not feel the arrest or the tasing to be 17 warranted.</p> <p>18 The Internal Affairs investigation that they 19 completed ruled that I was found to be -- have used 20 excessive force. I do not agree with that. I do not 21 agree with the fact that he made statements to the 22 news before the IA was even completed.</p> <p>23 There are a lot of other issues going on with 24 the case. But as far as what's in this misconduct 25 report that comes to you, that's what I have to say.</p>	<p>1 And I don't feel that it was unnecessary use 2 of force. She was actively resisting. She was 3 obstructing traffic in the middle of a public roadway 4 having a party. She was intoxicated. She was three 5 times the legal limit. She has no recollection of the 6 altercation or the tasing at all. She sustained no 7 injuries. That's it.</p> <p>8 MR. COON: Anybody have any questions? 9 I've got one. What did your department do to 10 you on this?</p> <p>11 MR. CROSBY: As a result of my wish to go 12 back to nursing school, I actually resigned. I placed 13 a letter of resignation in. I served full capacity 14 for two weeks and resigned the department.</p> <p>15 But going forward I did request, and it was 16 at my request, that they complete the Internal Affairs 17 investigation; because I felt I had done nothing 18 wrong. And they did complete it at my request. Most 19 people leave a department running from something and I 20 didn't want that to be an image. I wasn't running 21 from anything. I'm in my last year of nursing school.</p> <p>22 MR. COON: What was the outcome of their 23 internal investigation?</p> <p>24 MR. CROSBY: Well, I was not notified from 25 the department. But a reporter called me to let me</p>
<p>Page 20</p> <p>1 know that the department had deemed that the use of 2 force was substantiated.</p> <p>3 MR. COON: Anybody have any questions of 4 Mr. Crosby? Thank you, sir.</p> <p>5 ITEM NO. 10A: CHRISTOPHER JUAREZ</p> <p>6 MR. COON: Let's go back to No. 10A. 7 Mr. Juarez, would you like to address the Board?</p> <p>8 MR. JUAREZ: Just briefly, yes.</p> <p>9 MR. COON: Go ahead, sir.</p> <p>10 MR. JUAREZ: Good morning. My name is Chris 11 Juarez and I was employed with APD for 11 years. I 12 recently resigned two months ago, on November 2nd, 13 2012. My situation was involving a high school -- I 14 had a baseball coaching program position.</p> <p>15 And I decided to change my flight itinerary 16 for training in Vail, Colorado, which -- and I failed 17 at that point to advise my supervisor of the changes 18 in order to go to that coaching interview.</p> <p>19 I accept full responsibility of my actions in 20 deceiving my supervisor of the plans of that 21 itinerary. And I just ask the Board to take into 22 consideration. I have lost half my income. My wife 23 is still working, but I'm not. But I'm actively 24 seeking employment at this time elsewhere. That's 25 pretty much it.</p>	<p>Page 21</p> <p>1 MR. COON: Did you just not show up for work 2 that day that you were supposed to have been there on 3 the change of the itinerary?</p> <p>4 MR. JUAREZ: Yes, sir.</p> <p>5 MR. COON: You didn't let anybody know and 6 you didn't show up work, is that the deal?</p> <p>7 MR. JUAREZ: Yes, sir. The travel day was 8 the day that the school board had originally told me 9 that they were going to have the interview. And I 10 told them that I had to be in Vail, Colorado, for 11 training that day to see if they could change it to 12 earlier in the morning because my flight was at one 13 o'clock.</p> <p>14 They called me later and said they couldn't 15 change it because they had already assembled the panel 16 for the interview. And so at that point is when I 17 decided to change my flight and take the next flight 18 the following day.</p> <p>19 MR. COON: Anybody have any questions of 20 Mr. Juarez? Thank you, sir.</p> <p>21 MR. JUAREZ: Thank you.</p> <p>22 ITEM NO. 12: DONALD DURAN</p> <p>23 MR. COON: Let's go to No. 12, Donald Duran.</p> <p>24 MR. DURAN: Good morning. I wanted to accept 25 my letter of caution.</p>

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<p>1 MR. COON: Does anybody have any questions of 2 Mr. Duran? Anybody have any questions? Thank you, 3 sir. 4 MR. DURAN: Thank you. 5 ITEM NO. 13: SAMUAL HANNA 6 MR. COON: Okay. Number 13 is Samual Hanna. 7 MR. HANNA: Yes. 8 MR. COON: Come on up, sir. 9 MR. HANNA: Good morning, gentlemen, 10 Ms. Lopez. As it states there in the agenda, I would 11 like to receive the letter of caution in my file. At 12 this point in time, I've been terminated from the 13 Bosque Farms Police Department in reference to this 14 incident. 15 It was very stupid of what I've done. I'm 16 changed. I know better. It was a bad time for a 17 practical joke to be pulled, especially using any type 18 of equipment, whether it be a flashlight, a taser, or 19 a baton, at any time for a joke on duty or off duty. 20 And I am embarrassed now just standing here in front 21 of my peers, in front of other officers and leaders. 22 I do apologize for the actions. 23 MR. COON: Have you been terminated from 24 Bosque Farms? 25 MR. HANNA: Yes, sir, I have.</p>	<p>1 MR. COON: Are you working anywhere else 2 right now? 3 MR. HANNA: No, sir, I am not. 4 MR. COON: Anybody have any questions? Chief 5 Schultz. 6 MR. SCHULTZ: Mr. Hanna, you've been 7 terminated from two other agencies? 8 MR. HANNA: Yes, sir. 9 MR. SCHULTZ: Did any of those previous 10 terminations involve an incident similar to this? 11 MR. HANNA: No, sir. 12 MR. SCHULTZ: Thank you. 13 MR. COON: Anybody else? Thank you, sir. 14 MR. HANNA: Thank you. 15 ITEM NO. 14: ROBERT HOLGUIN 16 MR. COON: Okay. Number 14, Robert Holguin. 17 MR. HOLGUIN: Good morning, Mr. Chairman, 18 Members of the Board. My name is Robert Holguin. I 19 have prepared a letter. If I may read from it. 20 MR. COON: Yes, sir. 21 MR. HOLGUIN: Thank you, sir. I'm very sorry 22 to be here in front of the Board to present this 23 letter and to discuss the unfortunate incident which 24 has brought me here. I've been in law enforcement for 25 my entire adult life, 28 years, and have never</p>
<p>Page 24</p> <p>1 experienced any matter such as this. 2 Quite simply it was a mistake, if not 3 misconduct. What was witnessed was a disagreement 4 between me and my girlfriend. This was not a domestic 5 violence situation. I would never harm or treat any 6 human being with any kind of disrespect. 7 I am currently employed by the Santa Ana 8 Police Department. The Bureau of Indian Affairs, 9 which has ultimate oversight of my employment status, 10 declined to investigate the case that was brought 11 before them. 12 My Chief, Harry Betz, had spoke with the Rio 13 Rancho Police Chief, Robert Boone, which was the 14 agency that arrested me who felt that the case should 15 not have had any -- or should not have come to 16 fruition. My department conducted an internal 17 investigation and cleared me of any wrongdoing. 18 The case had been bounced around the 13th 19 Judicial District. And due to my familiarity with the 20 ADAs and the judicial system, I elected to go with a 21 deferment on the advice of my counsel because I just 22 wanted to get this terrible event in my life over 23 with. 24 In my presentation of all the facts to the 25 Law Enforcement Director, Mr. Medina, he acknowledged</p>	<p>Page 25</p> <p>1 that he didn't think I should have been arrested for 2 the offense. I explained to him the entire situation 3 and that I was acting on the safety and betterment of 4 my girlfriend by picking her up in the manner in which 5 I did, an affectionate manner, and I was giving her a 6 hug and it was just horseplay. 7 I have the greatest and only the greatest 8 respect for people and have had a rewarding and 9 decorated career as a police officer. I sincerely 10 apologize if this brought any disrespect to my badge. 11 I greatly appreciate the opportunity of serving the 12 public as a police officer. 13 And during my meeting with Director Medina, 14 he advised me or presented me with a cautionary 15 letter, which I completely understand and I accept. 16 And I stand before any questions. 17 MR. COON: Any questions for Mr. Holguin? 18 MR. KORN: I have a question. 19 MR. COON: Yes, sir. Mr. Korn. 20 MR. KORN: Thank you, sir. Mr. Holguin, 21 you've never appeared before this Board, have you? 22 MR. HOLGUIN: No, sir. 23 MR. KORN: Do you have a son by the same 24 name? 25 MR. HOLGUIN: No, sir. Same name, different</p>

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<p>1 person.</p> <p>2 MR. KORN: Yes. I didn't think you had. I</p> <p>3 just wanted to make sure.</p> <p>4 MR. HOLGUIN: Yes, sir.</p> <p>5 MR. COON: Anybody else? Thank you, sir.</p> <p>6 MR. HOLGUIN: Thank you.</p> <p>7 ITEM NO. 15: ROGER JIMENEZ</p> <p>8 MR. COON: Number 15, Roger Jimenez.</p> <p>9 MR. JIMENEZ: Good morning, gentlemen,</p> <p>10 Members of the Board, ma'am. I just wanted to --</p> <p>11 MR. COON: Please state your name.</p> <p>12 MR. JIMENEZ: I'm sorry. Roger Jimenez,</p> <p>13 Santa Fe Police Department. I just want to humbly</p> <p>14 request that I do be given a caution letter as</p> <p>15 directed by Director Medina. I want to apologize to</p> <p>16 you, the Board, and all my peers here for the mistake</p> <p>17 that I made. It was a stupid mistake, a stupid</p> <p>18 incident.</p> <p>19 I've never appeared here before you guys.</p> <p>20 This is the first time I've had any violation or</p> <p>21 incidents in my file. I humbly request you guys take</p> <p>22 that into consideration.</p> <p>23 MR. COON: Anybody have any questions?</p> <p>24 I've got one. Why did you swap guns? Was</p> <p>25 yours dirty?</p>	<p>1 MR. JIMENEZ: Yes, sir, it was.</p> <p>2 MR. COON: Okay. Yes, sir.</p> <p>3 MR. SCHULTZ: I have a question.</p> <p>4 Mr. Jimenez, you notified another supervisor. Did you</p> <p>5 ever go back and make things right with the first</p> <p>6 supervisor?</p> <p>7 MR. JIMENEZ: I was told, sir, by that</p> <p>8 supervisor that she was going to take care of it. So</p> <p>9 no, sir, I didn't speak to the initial supervisor</p> <p>10 after that.</p> <p>11 MR. COON: Any other questions? Thank you,</p> <p>12 sir.</p> <p>13 MR. JIMENEZ: Thank you, sir.</p> <p>14 MR. MOONEY: Mr. Chairman, if I may.</p> <p>15 MR. COON: Yes, sir.</p> <p>16 MR. MOONEY: My name is Pat Mooney. And as a</p> <p>17 private citizen and former supervisor for Officer</p> <p>18 Roger Jimenez, I would just like to tell the Board</p> <p>19 that I would concur with a recommendation for a</p> <p>20 cautionary letter.</p> <p>21 I've known Roger since 2005. He worked -- I</p> <p>22 worked with him and he worked also for me when I was a</p> <p>23 supervisor over at the Special Investigations</p> <p>24 Division. He was an excellent officer and he was an</p> <p>25 outstanding undercover officer and gang officer when</p>
<p>Page 28</p> <p>1 he worked for me.</p> <p>2 He made a stupid mistake. And the Santa Fe</p> <p>3 PD gave him 30 days off for his offense. And any</p> <p>4 other thing like a suspension would probably result in</p> <p>5 his termination. I hate to see a good officer -- I</p> <p>6 hate to see all of us lose a good officer on the</p> <p>7 street.</p> <p>8 And his partner too that he borrowed the gun</p> <p>9 from, Paul Ytuarte, I haven't know as long. But once</p> <p>10 again I would endorse cautionary letters that were</p> <p>11 recommended. Thank you very much.</p> <p>12 MR. COON: Anybody have any questions?</p> <p>13 MR. BARNCASTLE: Mr. Jimenez, I have one.</p> <p>14 Was this inspection like shortly after a</p> <p>15 qualification?</p> <p>16 MR. JIMENEZ: I believe it was about</p> <p>17 approximately a month after, sir, maybe shorter. I</p> <p>18 can't remember exactly. But we did recently qualify,</p> <p>19 yes, sir.</p> <p>20 MR. BARNCASTLE: Any reason why that weapon</p> <p>21 went that long without being cleaned?</p> <p>22 MR. JIMENEZ: Ultimately, sir, it was my</p> <p>23 responsibility to keep the weapon clean and I failed</p> <p>24 to do so.</p> <p>25 MR. BARNCASTLE: Thank you.</p>	<p>Page 29</p> <p>1 ITEM NO. 16: LOUIS REYNOLDS</p> <p>2 MR. COON: Number 16, Louis Reynolds.</p> <p>3 Mr. Reynolds.</p> <p>4 MR. REYNOLDS: Good morning, Board and</p> <p>5 Director. I'm Officer Louis Reynolds with the</p> <p>6 Department of Public Safety in Alamogordo, New Mexico.</p> <p>7 I met with Director Medina on December 3rd. And he</p> <p>8 has advised that I get a cautionary letter. I accept</p> <p>9 the cautionary letter that Mr. Medina has issued to me</p> <p>10 if it is approved by the Board. Any questions from</p> <p>11 the Board?</p> <p>12 MR. COON: Chief Schultz.</p> <p>13 MR. SCHULTZ: Mr. Reynolds, was there a</p> <p>14 relationship between yourself and the victim of this</p> <p>15 particular incident?</p> <p>16 MR. REYNOLDS: It was not the victim. There</p> <p>17 was a relationship with -- it would be Mrs. Kelly. We</p> <p>18 did have a relationship. There's a lot of history</p> <p>19 that goes back there between her and I. My previous</p> <p>20 career was I worked at a funeral home for 23 years,</p> <p>21 retired from that, and became an officer. She was one</p> <p>22 of our secretaries.</p> <p>23 MR. SCHULTZ: So what eventually happened</p> <p>24 with the underlying criminal charges in this case?</p> <p>25 MR. REYNOLDS: As far as I know, I just</p>



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<p>1 received a phone call that I am to meet with the 2 Attorney General this afternoon. I just found out 3 that Monday. So that was yesterday. 4 MR. SCHULTZ: Okay. So that's for your part. 5 But what about the original crime? 6 MR. REYNOLDS: I was asked by my department 7 and my lieutenant at that time to not get involved in 8 the case anymore, turn all the evidence over to the 9 lead officer. And that's what I did, sir. So as far 10 as the original crime, I stayed away from that. I was 11 advised to by my department, sir. 12 MR. SCHULTZ: So you don't know what the 13 outcome was? 14 MR. REYNOLDS: I never asked. I just thought 15 it would be in my best interests at that point to stay 16 away from it. 17 MR. COON: Did you get any disciplinary 18 action? 19 MR. REYNOLDS: I did, sir. I got three days 20 from my department, sir. 21 MR. COON: Any other questions? 22 MR. KORN: Mr. Vice Chair, I have a question. 23 MR. COON: Mr. Korn. 24 MR. KORN: I'm a little unclear about the 25 \$120 gift card. How did that figure into that?</p>	<p>1 MR. REYNOLDS: You and me are unclear about 2 that. This is the second time I've heard of a \$120 3 gift card from the victim. She said that that's what 4 she offered from -- and what had happened was I was -- 5 like it states here, I was playing the middleman. 6 I was trying to make it a civil issue, which 7 we do as officers a lot. But apparently she didn't 8 take it that way. Ms. Robinson and the victim are 9 neighbors. They were best friends. Ms. Robinson took 10 care of the victim's children. And in one night's 11 time they became enemies basically. 12 MR. KORN: But was the \$120 gift card offered 13 so the charge would be dropped? 14 MR. REYNOLDS: The gift card -- I don't know 15 the amount. But the gift card was offered to replace 16 items that were taken from a vehicle that belonged to 17 the victim's children. And like I said the victim's 18 children, Ms. Robinson, would take care of them as 19 neighbors. 20 MR. KORN: But did you offer the \$120 gift 21 card? 22 MR. REYNOLDS: I offered to -- I offered 23 her -- you know, if she's willing -- if there was 24 gifts taken from your children, she was offered to 25 replace them because she had watched the children and</p>
<p>1 became very close to them. 2 MR. KORN: So you were offering the gift card 3 if the woman would drop -- 4 MR. REYNOLDS: I would never -- if she would 5 drop the charges. I never got -- I mean she took it 6 that way I guess. I don't know. I can't speak for 7 her. She's not here. 8 MR. KORN: I'm just speaking for you. I'm 9 just asking you, when you made the offer of the gift 10 card, what was the offer? 11 MR. REYNOLDS: If she would take the gift 12 card for the children. 13 MR. KORN: So to release any charges? 14 MR. REYNOLDS: I never made that indication, 15 sir. 16 MR. KORN: Okay. And another question. It 17 says here that you told another police officer to -- 18 the summary that we have says that you told another 19 police officer that had collected DNA evidence and 20 fingerprints that that wouldn't be necessary anymore. 21 MR. REYNOLDS: I would never tell an officer 22 to dispose of evidence, sir. 23 MR. KORN: So this summary would be 24 incorrect? 25 MR. REYNOLDS: I would not tell an officer --</p>	<p>1 he may ask me, sir, if I needed the evidence, I would 2 tell him I don't need any evidence. But I would not 3 tell an officer to dispose of it. That's not what we 4 do in our profession, sir. 5 MR. KORN: So the summary would be incorrect? 6 MR. REYNOLDS: I would agree it would be 7 incorrect, sir. 8 MR. KORN: Okay. Thank you. Thank you, 9 Mr. Vice Chair. 10 MR. COON: Any other questions for 11 Mr. Reynolds? Thank you, sir. 12 MR. REYNOLDS: I would like to say to the 13 Board and my fellow officers, I have tarnished the 14 badge. And what I did to my officer in Alamogordo is 15 I have left them shorthanded. And that's who I hurt, 16 is them and my family. My wife knows about this. So 17 I feel that the letter of cautionary is -- I approve 18 it if the Board approves it. Thank you. 19 MR. BARNCASTLE: I have one question, 20 Mr. Reynolds. Was there an internal investigation 21 conducted concerning this matter? 22 MR. REYNOLDS: Yes, sir, there was. 23 MR. BARNCASTLE: What was the outcome of 24 that? 25 MR. REYNOLDS: The outcome of it is I got</p>

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<p>1 three days suspension for violating some policies and 2 procedures in our department. 3 MR. BARNCASTLE: Okay. What specific 4 policies were those? 5 MR. REYNOLDS: One of them was not getting 6 involved in a close relationship, a family member. 7 When I got the phone call of the investigation, I 8 should have turned it over to the other officer. 9 MR. BARNCASTLE: Did they surface this issue 10 regarding evidence in a possible criminal matter? 11 MR. BARNCASTLE: I'm sorry, sir? 12 MR. BARNCASTLE: Did they surface any 13 information or evidence concerning this criminal 14 matter? 15 MR. REYNOLDS: They as the other officers? 16 MR. BARNCASTLE: They as the Internal Affairs 17 investigators. 18 MR. REYNOLDS: I don't think so. I don't 19 know, sir. 20 MR. BARNCASTLE: Were you provided a copy of 21 the outcome of that? 22 MR. REYNOLDS: I just got a copy of my 23 three-day suspension and the reason. I never asked 24 for the IA investigation report, sir. Is that the 25 question you're asking?</p>	<p>1 MR. BARNCASTLE: That's fine. Thank you. 2 MR. COON: Thank you, sir. 3 ITEM NO. 17: CARLOS SALAZAR 4 MR. COON: Okay. Number 17, Carlos Salazar. 5 MR. SALAZAR: Carlos Salazar. Good morning. 6 I've been given a letter of caution from my Director 7 Medina which I accept. I want to assure the Board 8 that, although I was not -- I did not do what I was 9 accused of, I still made some pretty stupid decisions 10 of which I have paid a heavy price and I have learned 11 a valuable lesson. 12 I did disrupt the prosecution of this DWI. 13 And the reason I did that was because I had been 14 transferred to a new district. Prior I was in 15 Albuquerque, in the Albuquerque district. 16 I was one of the top producers in DWI 17 activity. And when I left Albuquerque, I still had 18 quite a few DWIs on the docket. When I got 19 transferred to my new district in Santa Fe, I was on 20 day shift for a couple of weeks and then I had been 21 rotated over to graveyard. 22 During the time that I was on graveyard, two 23 to three times a week at least, I would have to work a 24 graveyard shift. And then I have to be at Metro Court 25 at 8:30 or nine in the morning. Sometimes I would be</p>
<p>Page 36</p> <p>1 home by 10:30, sometimes I wouldn't get home until two 2 just depending if something went to trial. 3 For this reason I took it upon myself to 4 evaluate my dockets and see -- look for weaker cases 5 that I had. And I chose this one out of a few others. 6 The reason being is I wasn't the original -- the 7 original stopping -- or I wasn't the officer who made 8 the traffic stop and I didn't observe the violations. 9 During the time that I had gone to the pretrial, that 10 original agency hadn't turned in the reports yet. 11 So I became a little upset and didn't have 12 the right attitude that day. And I disrupted the 13 prosecution of this DWI by conspiring to dismiss the 14 DWI. Once again that's my wrongdoing. I want to 15 assure the Board that I certainly did not do what I 16 was accused of by my accuser. 17 I underwent an Internal Affairs investigation 18 by the New Mexico State Police. It was very 19 thorough -- I stuck around from June 4th to 20 August 17th and I waited. And I want to assure you, I 21 didn't run from anything. I sat there and I waited 22 until the outcome of that investigation. 23 As far as the allegations that were made upon 24 me, they were found not sustained. However, I was 25 charged with conduct unbecoming an officer and failure</p>	<p>Page 37</p> <p>1 to perform my duties, which I agree with. At that 2 point I felt it was in my best interests to walk away 3 and leave the New Mexico State Police, which was part 4 of a painful lesson. 5 I was a 14-year veteran there. For 14 years, 6 regardless of what district that I was at, I was a 7 leader. I was a top producer in every district that I 8 was. I was always one, two, No. 3, first, second, or 9 third in my districts or wherever I was at for 10 activity. 11 I was a coach officer for 12 years. 12 Everybody that I've coached is probably a lieutenant 13 or a captain right now with that department. I was on 14 the dive team for 12 years. And I gave all that up 15 based on a stupid decision. 16 So I have paid a heavy price. I have had to 17 face public humility, face my family. And I can 18 assure all you that I have learned -- I have never 19 been this kind of officer before, I have never come 20 here and had to stand before you all ever. And I just 21 want you to know that I've learned my lesson. 22 I since have moved on and I applied with the 23 Santa Fe Police Department. And as part of their 24 procedures, just as anywhere else, I underwent a very 25 extensive background investigation. Obviously this</p>

1 was a huge issue for them and I understand that.  
2 I underwent a polygraph examination and I  
3 underwent a case specific polygraph examination, which  
4 was case specific to this incident. The questions  
5 were just straight up, did you do it. And there was  
6 probably about 12 to 16 questions, if I recall, and I  
7 passed the polygraph.

8 I since have been employed by them. I really  
9 enjoy it there. I can assure you that I'm a different  
10 person and I have learned from this. It's made me a  
11 better person through it. And you won't see me here  
12 again. I humbly accept my letter of caution. And I  
13 just want to thank you for this time.

14 MR. COON: Chief.

15 MR. SCHULTZ: Mr. Salazar, one of the issue  
16 that we see in front of us is the untruthfulness  
17 issue, saying that you first had denied the contact  
18 with the victim. Was that untruthfulness issue with  
19 your first line supervisor or was it part of an  
20 official internal investigation?

21 MR. SALAZAR: That was part of an official  
22 internal investigation. And I'm actually glad you  
23 brought that up, because it wasn't an issue of  
24 untruthfulness, it was an issue of recollection.

25 This matter had come about two years after

1 her and ask her not to tell anybody?

2 MR. SALAZAR: Oh, yeah, I did. I just said,  
3 you know what, don't say nothing. Actually the main  
4 purpose of my phone call initially -- because I had  
5 looked online to see if I could find who her defense  
6 attorney was. And I couldn't find that. So I called  
7 her. And to see -- one of the first questions was who  
8 her attorney was.

9 And I says, look, don't say anything, but I'm  
10 not going to show up to court. So if you show -- the  
11 case might go away. And for me it was one last DWI  
12 that I had to deal with in the Metro Court system and  
13 having to come back to Albuquerque. That was my  
14 intention. Like I said it was stupid. But that was  
15 the purpose for my call.

16 MR. SCHULTZ: Okay. And that subsequent  
17 court case, did you not show up?

18 MR. SALAZAR: Yes. I did not show up.

19 MR. SCHULTZ: Thank you.

20 MR. COON: Mr. Salazar, where all have you  
21 been stationed with the State Police?

22 MR. SALAZAR: I was stationed up in the Las  
23 Vegas district for seven years, I was in District 5  
24 for five years, and I've been at Santa Fe for two.

25 MR. COON: Okay. You give up Albuquerque to

1 the arrest. And when they first had asked me, I was  
2 brought in on about three hours notice from the time I  
3 had been advised of the allegations to my interview.  
4 And I was having a hard time recollecting everything  
5 that was happening on that case.

6 To this day there's one thing that I don't  
7 recall. I had given the arrestee's girlfriend a ride  
8 to the hotel, because we didn't have anywhere to go.  
9 My sergeant told me give her a ride to a hotel on your  
10 way to the jail.

11 To this day -- because during that same  
12 interview, I had stated that my sergeant had given her  
13 a ride. And that's what I had remembered. But it was  
14 actually me who did that. And the only reason I  
15 learned that was because of the catalogs.

16 So the point being I just was having a hard  
17 time remembering things initially. After they  
18 refreshed my memory and I reviewed a report, then I  
19 recanted and I said let me go back and correct that.  
20 And yes, I did make the phone call.

21 MR. SCHULTZ: So you did call her and tell  
22 her to deny contact?

23 MR. SALAZAR: Yes. No, not to deny contact.  
24 Just that I wasn't going to show up to court.

25 MR. SCHULTZ: Okay. But did you ever contact

1 go to Santa Fe. Was that your call or was that State  
2 Police's call to be transferred?

3 MR. SALAZAR: It was the State Police's call.

4 MR. COON: For?

5 MR. SALAZAR: A conflict I had with another  
6 officer.

7 MR. COON: Anything come out of that other  
8 than a transfer?

9 MR. SALAZAR: Yes, sir. That was it.

10 MR. COON: Okay. Anybody else? Thank you,  
11 sir.

12 MR. SALAZAR: Thank you.

13 ITEM NO. 18: MARK SULLIVAN

14 MR. COON: Number 18, Mark Sullivan. Is  
15 Mr. Sullivan here? Mr. Sullivan? No Mark Sullivan.

16 ITEM NO. 19: JUSTIN TRUJILLO

17 MR. COON: Number 19, Justin Trujillo.

18 Justin Trujillo, are you here? No Justin Trujillo.

19 ITEM NO. 20: BENJAMIN VALDEZ

20 MR. COON: Number 20, Benjamin Valdez.

21 MR. VALDEZ: Yes, sir. Good morning, ma'am.

22 Good morning, gentlemen. Thank you for the  
23 opportunity for letting me speak to you this morning.

24 I was also given an opportunity to speak with Director  
25 Medina last month about my incident.

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<p>1 I just want to come forward and request 2 humbly that you ratify the recommendation for a 3 cautionary letter. I made a mistake. It's a hard 4 lesson to learn. And I'm ready to move on from that. 5 And I still feel I have a lot to give. Any 6 time that my agency has called upon me, I have 7 delivered each and every time. And I just ask that I 8 be given an opportunity to be that kind of person. 9 And I'll answer any questions that the Board has of 10 me. 11 MR. COON: Anybody have any questions of 12 Mr. Valdez? 13 MR. KORN: Mr. Vice Chair, I have a question. 14 MR. COON: Mr. Korn. 15 MR. KORN: Sir, was there an IA under -- just 16 to make sure I understand, you went to a party in your 17 police car and had alcohol? 18 MR. VALDEZ: I went to meet some people from 19 work at a liquor establishment. It was like a frat 20 party. And it wasn't my intention to go meet them. 21 The reason why I left was because I was 22 leaving an argument that my wife was trying to start 23 with me. So to prevent it from escalating, I left 24 there to prevent things from escalating, sir. 25 MR. KORN: And were you stopped -- how did</p>	<p>1 this come to light I guess? 2 MR. VALDEZ: From the beginning I was working 3 on a big case. My wife came home, she was upset, she 4 wanted to argue. I didn't want to argue with her. 5 She wanted to go places I didn't want to go. I said I 6 just want to stay home. And then from there she 7 continued on. She left for awhile, she came back. 8 MR. KORN: I'm sorry. I don't mean to get 9 into that part of it. I meant how did it come to 10 light that you were driving a police car after you had 11 consumed three drinks? 12 MR. VALDEZ: Going back to what I was saying, 13 sir, the only vehicle I had was my work vehicle. So I 14 left in my work vehicle. I went to go meet my friends 15 just to give her a chance to cool off. I don't have 16 any family here in town. 17 So at that point I was there. I was getting 18 text messages, calls, saying that my children are 19 being taken from me. For someone who cares about 20 their kids like I do, it hurt me really bad. For me 21 it's a lot of stress, especially what I've been 22 through in the past with my relationship. 23 At that point I was pretty upset and I said, 24 well, I won't be going home for awhile. So I had a 25 few drinks. I drank water as well. I was there for a</p>
<p>Page 44</p> <p>1 period of time. After a period of time, I felt I was 2 fine to travel home on my own. I did not feel that I 3 was impaired. 4 I traveled home with no issue. I got home. 5 And again my wife was waiting there to continue an 6 argument that I did not want to have. 7 MR. COON: So did she call the police? 8 MR. VALDEZ: She did not. She waited the 9 next day I believe at approximately two o'clock p.m. 10 to make a frivolous claim that I'm the one that 11 actually woke her up. And from the IA it was -- it 12 pretty much dispelled her statements. 13 I've been truthful through the whole 14 incident. And I take responsibility for my actions 15 and what I did. But I did stand up for the false 16 statements that she did make to law enforcement about 17 my actions. 18 MR. COON: What Mr. Korn I think is asking is 19 how did the Santa Fe Police Department find out you 20 were drinking in their car? 21 MR. VALDEZ: They got a call from I believe 22 the commander from Albuquerque Police the following 23 day after the incident. 24 MR. COON: How did he get involved in it? 25 MR. VALDEZ: I think my wife went to a</p>	<p>Page 45</p> <p>1 substation here in Albuquerque the next afternoon to 2 make a report saying that I made -- that I was in a 3 disagreement with her, like a domestic incident. At 4 that point that's when she stated that I was in my 5 work vehicle. 6 MR. COON: Anybody else have any questions? 7 MR. MEDINA: I have a question. Was it ever 8 determined that you were impaired? 9 MR. VALDEZ: No, sir. 10 MR. COON: How much did you drink that night? 11 MR. VALDEZ: Over the course of three hours, 12 I had two Coronas and I had one Long Island iced tea. 13 They were standard size, they were by no means a 14 fishbowl or a double shot or anything like that. And 15 I was also consuming water there as well. 16 MR. COON: What did Santa Fe PD do to you, 17 what was your disciplinary action from Santa Fe PD? 18 MR. VALDEZ: My IA was sustained. I received 19 one day off with half pay and I lost my take-home 20 privileges for 30 days. And for me that was quite a 21 burden considering the responsibilities I have with 22 the department. 23 I do not live in town. So I had to make 24 other means to get to work. During those times I was 25 subject to an alcohol. So if that occurred, I had to</p>

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<p>1 have resources lined up to get me to work to perform 2 my duties. 3 MR. COON: You drove your police car from 4 Santa Fe back and forth to Albuquerque? 5 MR. VALDEZ: Yes, sir. 6 MR. COON: Anybody else? Thank you, 7 Mr. Valdez. 8 MR. VALDEZ: Thank you. 9 ITEM NO. 21: PAUL YTUARTE 10 MR. COON: The next one is Paul Ytuarte. Did 11 I pronounce that right? 12 MR. YTUARTE: Good morning. My name is Paul 13 Ytuarte. And my incident is related to Mr. Jimenez's 14 incident, who you heard from earlier. I'm the officer 15 who gave him my firearm to present as his own for a 16 weapon inspection. 17 And I take full responsibility for that. It 18 was stupid, it was wrong. I know this. I was 19 disciplined for it, accepted it. And I humbly request 20 that the Board take Director Medina's cautionary 21 letter. He recommended a cautionary letter for me, 22 that you take that into consideration. 23 I've never been in trouble before in my 24 14-year career. This is the first time. It's 25 embarrassing. And I can assure you, nothing like this</p>	<p>1 will happen again, not by me. I wish I could take it 2 back. And not for the fact that I was caught and I 3 was disciplined, but because it was wrong. 4 I not only hurt me and my career, it's a 5 black mark on my career from here on out. It also 6 took a toll on my family. I was told that I could be 7 facing termination. And my wife took that pretty 8 hard. So I apologize for embarrassing my department 9 and my fellow officers. And that's it. 10 MR. COON: Any questions? I've got one. 11 What was your disciplinary action through Santa Fe PD? 12 MR. YTUARTE: I received a two-day suspension 13 without pay. 14 MR. COON: Had they already looked at your 15 gun and saw it was clean and then you just slipped it 16 to your partner or did both of you go at the same time 17 to an inspection and slip the gun back and forth? 18 MR. YTUARTE: We didn't go at the same time, 19 sir. My weapon had already been inspected previously 20 by my supervisor. We have different supervisors. I'm 21 in the recruiting division. Officer Jimenez at the 22 time was in the patrol division. And we used to be 23 shift partners. 24 He came into my office nervous and scared 25 because of the weapon inspection. His weapon was</p>
<p>Page 48</p> <p>1 dirty. And the sergeant that was going to inspect it 2 was very strict. So he knew that there would be 3 consequences for that. 4 And that's when we came up with the idea to 5 switch weapons, because mine was clean, and pass it 6 off as his own. And then after the inspection was 7 completed, he would bring my weapon back to me and we 8 would clean his, because I had a cleaning kit in my 9 car at the time. The reason we didn't do it before 10 the inspection was there was a time issue. 11 MR. COON: Okay. Any questions? Thank you, 12 sir. 13 MR. YTUARTE: Thank you. 14 MR. COON: Okay. That's I guess the end of 15 the cautionary letters. 16 ITEM NO. 21A: TERRA JUAREZ 17 MR. COON: We'll go to the letters of no 18 action. Number 21A, Terra Juarez. 19 MS. JUAREZ: Good morning. My name is Terra 20 Juarez and I'm currently employed with the Albuquerque 21 Police Department. And I've been employed for about 22 11 years. 23 The reason I stand in front of you is I did a 24 time sheet for my husband at the time. He was an 25 Albuquerque police officer also. When I did the time</p>	<p>Page 49</p> <p>1 sheet and I submitted the time sheet, it was correct. 2 I had no intention on defrauding my department or 3 ruining my integrity. 4 I've never been disciplined in the 11 years 5 I've been on the department. I've never even had a 6 missed court notice. Later, after I had submitted the 7 time sheet later that afternoon, the time sheet needed 8 to be adjusted. 9 The policy in our department -- I have done 10 numerous time sheets in the past. When I submit them, 11 they're done correctly. If the time sheet needs to be 12 changed and it's not my time sheet, it's not my 13 responsibility. I did not think twice about the time 14 sheet. 15 So I stand by the fact that, when I submitted 16 that time sheet, it was correct. Hindsight being 17 20/20, when I realized that the time sheet needed to 18 be adjusted, I could have went to his supervisor and 19 advised him the time sheet needed to be adjusted. 20 I did not, because it was his intention, when 21 he returned to work on Monday, to go do a revised time 22 sheet; which in 11 years on this department many 23 officers have done in the past. I have done that in 24 the past. I've turned in a time sheet -- we do our 25 time sheets a little early.</p>

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<p>1 Currently now I do my time sheets on 2 Wednesday. If my child is sick on Friday and I have 3 to call in, first thing on Monday morning I go in and 4 do a revised time sheet. So I do take responsibility 5 that yes, I could have approached his chain of command 6 and advised them the time sheet needed to be changed, 7 which I did not do. But I still stand by the fact 8 that, when I submitted that time sheet, I did it 9 correctly.</p> <p>10 I was brought in for an internal 11 investigation. And during that investigation I ended 12 up having my Loudermill with the chief. And he gave 13 me 120 hours off with no pay. I did serve that 14 120 hours consecutively right after my husband had 15 resigned from the department.</p> <p>16 So our pay got cut in half. And I also did 17 my 120 hours without pay. I still am currently 18 employed with the department. And as I said I've 19 never been in trouble in the past.</p> <p>20 My chain of command up and to my DC 21 recommended that there would be no action against me 22 in my internal investigation. Unfortunately it didn't 23 turn out that way for me. When I went and spoke with 24 the board of recommendations up in Santa Fe, they 25 recommended no action. And I would appreciate it if</p>	<p>1 that's what you guys would do for me.</p> <p>2 MR. COON: Anybody have any questions? Thank 3 you, ma'am.</p> <p>4 MS. JUAREZ: Thank you.</p> <p>5 ITEM NO. 22: ERNEST ARMIJO</p> <p>6 MR. COON: Okay. Voluntary relinquishments. 7 Number 22 is Ernest Armijo. Mr. Armijo, are you here? 8 Mr. Armijo? He's not here.</p> <p>9 ITEM NO. 23: TIMOTHY CARLSON</p> <p>10 MR. COON: Number 23, Timothy Carlson. 11 Mr. Carlson, are you here? Timothy Carlson? Okay. 12 He's not here.</p> <p>13 ITEM NO. 24: JULIE AVILA</p> <p>14 MR. COON: Now, on the default orders of 15 revocation, do you want to do these all at one time or 16 do you want to do them separately?</p> <p>17 MR. KORN: I think at one time.</p> <p>18 MR. COON: One time. With the exception of 19 26, which has been tabled.</p> <p>20 Okay. So Nos. 24, 25, 27, 28, 29, 30, and 21 31 will all go under the default orders of revocation. 22 So we can go to 32.</p> <p>23 MR. REYNOLDS: Mr. Vice Chair, you should see 24 if any of those people are here.</p> <p>25 MR. COON: You're right. I'm sorry. On</p>
<p>Page 52</p> <p>1 these default orders of revocation, Julie Avila? 2 Julie Avila?</p> <p>3 ITEM NO. 25: VICTOR CASTILLO</p> <p>4 MR. COON: Number 25, Victor Castillo. 5 Victor Castillo?</p> <p>6 ITEM NO. 27: JENNIFER GREY</p> <p>7 MR. COON: Number 27, Jennifer Grey. 8 Jennifer Grey?</p> <p>9 ITEM NO. 28: JOE DAN GREEN</p> <p>10 MR. COON: Number 28, Joe Dan Green. Joe Dan 11 Green?</p> <p>12 ITEM NO. 29: ADRIAN NANA</p> <p>13 MR. COON: Number 29, Adrian Nana. Adrian 14 Nana?</p> <p>15 ITEM NO. 30: BRADLEY RILEY</p> <p>16 MR. COON: Number 30, Bradley Riley. Bradley 17 Riley, are you here? Bradley Riley?</p> <p>18 ITEM NO. 31: DAVID SHERMAN</p> <p>19 MR. COON: Number 31, David Sherman. David 20 Sherman?</p> <p>21 Let the record show that nobody under the 22 default orders of revocation are here.</p> <p>23 Okay. Number 32 has been taken off.</p> <p>24 ITEM NO. 33: STEPHEN STOVER</p> <p>25 MR. COON: So No. 33 is Stephen Stover.</p>	<p>Page 53</p> <p>1 Mr. Stover?</p> <p>2 MR. REYNOLDS: Actually, Mr. Vice Chair, this 3 was a formal hearing. So the only thing that you 4 should make your decision on would be items that were 5 presented at the formal hearing. So we will not be 6 accepting comment on this case.</p> <p>7 MR. COON: Okay. Sorry. Thank you, sir.</p> <p>8 ITEM NO. 34: TANK GUENTHER</p> <p>9 Okay. So the proposed dismissal, No. 34, has 10 that been pulled off? That's been added. Thank you. 11 Tank Guenther?</p> <p>12 MR. HART: I don't see Mr. Guenther here. 13 I'm the administrative prosecutor, Walter Hart, in 14 that case.</p> <p>15 MR. COON: Okay.</p> <p>16 MR. REYNOLDS: And if Mr. Guenther is here, 17 he can present. Otherwise that will just be for 18 discussion in closed session.</p> <p>19 MR. COON: What's the pleasure of the Board?</p> <p>20 MR. KORN: I'm not sure what -- what did you 21 say, Mark?</p> <p>22 MR. REYNOLDS: The reason this is on the 23 agenda is for Mr. Guenther to make a presentation, if 24 you would like. But otherwise it's appropriate for 25 discussion in closed session at this point.</p>

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<p>1 MR. KORN: So you're proposing we discuss 2 this in closed session? 3 MR. REYNOLDS: Yes. 4 MR. COON: Okay. That's fine. 5 Okay. That is all the disciplinary issues 6 right now. What we're going to do is go into closed 7 session. 8 MR. KORN: Mr. Vice Chair, may I say 9 something. 10 MR. COON: Yes, sir. 11 MR. KORN: We have as we have in the past 12 another matter towards the end of our agenda in regard 13 to misconduct cases and board review of misconduct 14 cases. And it might be appropriate in the interest of 15 time if we discuss that in closed session for certain 16 of the items. 17 MR. COON: Okay. 18 MR. KORN: But I'd like to raise that. And 19 also I think Mr. Reynolds had -- were you planning on 20 us discussing in closed session No. 41A? 21 MR. REYNOLDS: Mr. Korn and Mr. Vice Chair, I 22 was. The only thought I had with that is if it's 23 something that's appropriate for the Chair to be 24 present in. So I thought it would be more appropriate 25 to enter into closed session with the Chair present</p>	<p>1 rather than in the context of discussing disciplinary 2 matters. 3 MR. KORN: And can Mr. King be present during 4 that if he has recused himself from the other 5 disciplinary matters? 6 MR. REYNOLDS: I believe so. So we certainly 7 can connect it. He probably just would step out for 8 discussion of the disciplinary matters and then be 9 present for discussing the personnel issues and then 10 the pending litigation. 11 MR. KORN: I see. Mr. Vice Chair, I would 12 like to make one comment, if I may. 13 MR. COON: Yes, sir, Mr. Korn. 14 MR. KORN: In regard to 41A, Mr. Reynolds has 15 been the Board attorney for the better part of a year. 16 And I think, from what I've seen and what he's done, 17 he's been the best attorney that the Board has ever 18 had, which I realize, even as I say this, I should 19 wait for those comments until Mr. King was here so 20 your boss can hear. But I want to thank you for all 21 you've done. 22 MR. REYNOLDS: Thank you, Mr. Korn. I really 23 appreciate that. If I could just make one more 24 statement on the record for the Board, which is we 25 used to read into the record all of the Director's</p>
<p>Page 56</p> <p>1 summary of the cases. 2 We need to have it in the record that the 3 summary is publicly available. Anybody can get a copy 4 of it. It is at the front of the room for anybody to 5 take a copy of it. And those summaries will be made 6 an exhibit to the record instead of taking the time to 7 read them all into the record. 8 MR. COON: Okay. Thank you, sir. Now, we 9 can go into closed session. We'll need a roll call. 10 MR. KORN: Can I make my motion. 11 MR. COON: Yes, sir. I'm sorry. 12 MR. KORN: So I would make a motion that in 13 closed session the Board also discuss agenda item 41 14 and that the session be closed under the Open Meetings 15 Act No. 10-15-1(H)(2) regarding limited personnel 16 matters. 17 And in that regard the cases that I would 18 propose we discuss would be the following. And I'll 19 just read the last name and the case number. So it 20 would be Trujillo, No. 12-098; Sedillo, No. 12-097; 21 Martine, No. 12-096; Pino, 12-094; Chapa, 12-092; 22 Sanders, No. 12-089; Rangel, No. 12-083; Romero, 23 No. 12-061; Matt Vigil, No. 12-045; O'Donnell, 24 No. 12-033; Alcon, No. 12-003; Flynn, No. 11-102; 25 Aguilar, No. 11-003; Ahrensfield, No. 10-003;</p>	<p>Page 57</p> <p>1 Martinez, No. 07-001. In addition, Guenther, 2 No. 11-005; Chavez, No. 11-042; Barde, No. 11-066; 3 Miller, No. 12-001; Woolever, No. 11-107; Doyle, 4 No. 11-106; and Dwyer, No. 11-079. 5 MR. REYNOLDS: Mr. Vice Chair, if I may, 6 since it's gotten a little bit more complicated, I 7 will state a motion for the Board that a Board Member 8 could choose to adopt. 9 The motion would be to enter into executive 10 session to discuss those matters just identified in 11 the record by Mr. Korn under NMSA Section 12 10-15-1(H)(1) and (2) to discuss the pending 13 litigation identified in the agenda under No. 41A 14 under Section 10-15-1(H)(7) and to discuss the 15 disciplinary matters identified on the agenda under 16 Section 10-15-1(H)(1). 17 MR. COON: Do I have a motion? 18 MR. KORN: I would so move. 19 MR. COON: Okay. A second. 20 MR. GRATTON: Second. 21 MR. COON: We have a second. All right. 22 Now, a roll call. 23 MS. LOPEZ: Pat Barncastle. 24 MR. BARNCASTLE: Yes. 25 MS. LOPEZ: Chief Shilling.</p>

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<p>1 MR. SHILLING: Yes.  2 MS. LOPEZ: Sheriff Coon.  3 MR. COON: Here.  4 MS. LOPEZ: Chief Betz.  5 MR. BETZ: Here.  6 MS. LOPEZ: Chief Schultz.  7 MR. SCHULTZ: Yes.  8 MR. LOPEZ: Mark Myers. Nate Korn.  9 MR. KORN: Yes.  10 MS. LOPEZ: John Gratton.  11 MR. GRATTON: Yes.  12 MR. COON: Okay. I'm going to have to ask  13 everybody to leave. This might take awhile. It's ten  14 after ten. I would think maybe including the lunch  15 break with this one.  16 (Recess from 10:10 a.m. to 2:45 p.m.)  17 MR. COON: We apologize for the long wait.  18 We had a lot of business to take care of. We will go  19 back into open meeting, open session. Could I have a  20 roll call, Monique.  21 MS. LOPEZ: Pat Barncastle.  22 MR. BARNCASTLE: Here.  23 MS. LOPEZ: Chief Shilling.  24 MR. SHILLING: Here.  25 MS. LOPEZ: Sheriff Coon.</p>	<p>1 MR. COON: Here.  2 MS. LOPEZ: Chief Betz.  3 MR. BETZ: Here.  4 MS. LOPEZ: Chief Schultz.  5 MR. SCHULTZ: Here.  6 MS. LOPEZ: Nate Korn.  7 MR. KORN: Here.  8 MS. LOPEZ: John Gratton.  9 MR. GRATTON: Here.  10 MR. COON: I would like to say that  11 everything that was discussed was a personnel issue.  12 MR. REYNOLDS: Mr. Vice Chair, let the record  13 reflect that only those items identified in the motion  14 to go into executive session were discussed in  15 executive session.  16 MR. COON: That's what I was going to say.  17 Thank you. We'll get into the disciplinary matters.  18 For the stipulated orders, on No. 4, Rachele  19 Abernathy, what's the board's pleasure on that?  20 MR. SCHULTZ: Mr. Vice Chairman, I would like  21 to make a motion that we accept the Director's  22 recommendation of a three-month suspension, a one-year  23 probation, and completion of a law enforcement ethics  24 course.  25 MR. GRATTON: Second.</p>
<p>Page 60</p> <p>1 MR. COON: I've got a motion and a second.  2 All in favor say aye.  3 (Those in favor so indicate.)  4 MR. COON: Okay. Number 5, Eddie James  5 Acree, III. What's the board's pleasure on Mr. Acree?  6 MR. KORN: Mr. Vice Chair, I would like to  7 make a motion that we accept the Director's  8 recommendation.  9 MR. COON: Okay.  10 MR. BETZ: I'll second.  11 MR. COON: I've got a motion and a second.  12 All in favor say aye.  13 (Those in favor so indicate.)  14 MR. COON: Okay. Number 6 is Stephen Devoti.  15 What's the Board's pleasure on Mr. Devoti?  16 MR. SHILLING: Mr. Chairman, I'll make a  17 motion that the Board accept the Director's  18 recommendation of a stipulated order of suspension of  19 six months and a one-year probation.  20 MR. COON: Okay.  21 MR. GRATTON: I'll second.  22 MR. COON: We've got a motion and a second.  23 All in favor say aye.  24 (Those in favor so indicate.)  25 MR. COON: Okay.</p>	<p>Page 61</p> <p>1 MR. SCHULTZ: Mr. Chairman, would the record  2 please reflect that I myself and Chief Betz both  3 recused ourselves.  4 MR. COON: Thank you, Chief.  5 Number 7, Desiderio Garcia, what's the  6 Board's pleasure?  7 MR. SCHULTZ: Mr. Chairman, I would like to  8 make a recommendation that we accept the Director's  9 recommendation of a four-month suspension, a one-year  10 probation, and a law enforcement ethics course.  11 MR. COON: Okay. I have a motion.  12 MR. SHILLING: I'll second.  13 MR. COON: I have a motion and a second. All  14 in favor say aye.  15 (Those in favor so indicate.)  16 MR. COON: Okay. On No. 8, I have Leslie  17 Lopez. What is the Board's pleasure on that?  18 MR. GRATTON: Mr. Chairman, I make the motion  19 that we accept the Director's recommendation of a  20 four-month suspension, a one-year probation, a law  21 enforcement course in ethics, and eight hours  22 community service.  23 MR. COON: Okay. I have a motion.  24 MR. SHILLING: Second.  25 MR. COON: I have a second. All in favor say</p>



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<p>1 aye. 2 (Those in favor so indicate.) 3 MR. COON: All opposed? 4 Okay. Number 9 is Frank Tillman. What's the 5 pleasure of the Board on Mr. Tillman? 6 MR. BARNCASTLE: Mr. Vice Chairman, I would 7 like to make a motion that we accept the Director's 8 recommendation of a three-month suspension, a one-year 9 probationary period, and to complete counseling in 10 ethics. 11 MR. COON: I have a motion. 12 MR. KORN: Second. 13 MR. COON: I have a motion and a second. All 14 in favor say aye. 15 (Those in favor so indicate.) 16 MR. COON: All opposed? 17 MR. SCHULTZ: Mr. Chairman, if the record 18 could also reflect that I did recuse myself in the 19 case of Officer Tillman. 20 MR. COON: Thank you, Chief. Also, going 21 back to No. 4, Rachele Abernathy, I did recuse myself 22 on Rachele Abernathy. If the record could reflect 23 that. 24 Number 10, on Royce Vigil. 25 MR. SCHULTZ: Mr. Chairman, I would like to</p>	<p>1 make the motion that we reject the Director's 2 recommendation in this particular case due to the fact 3 that there are aggravating circumstances involving a 4 DWI or possibility of a driving while intoxicated 5 offense in this particular case and remand it back to 6 the Director. 7 MR. COON: I have a motion. 8 MR. GRATTON: Second. 9 MR. COON: A motion and a second. All in 10 favor say aye. 11 (Those in favor so indicate.) 12 MR. COON: All opposed? 13 Okay. On No. 10A, Christopher Juarez, what's 14 the Board's pleasure on Mr. Juarez? 15 MR. SHILLING: Mr. Vice Chairman, I'll make a 16 motion that we accept the Director's recommendation of 17 a four-month suspension, a one-year probation, and a 18 law enforcement ethics course completion. 19 MR. COON: I have a motion. 20 MR. KORN: Second. 21 MR. COON: I've got a second. All in favor 22 say aye. 23 (Those in favor so indicate.) 24 MR. COON: All opposed? Okay. 25 MR. SCHULTZ: Also, in the case of</p>
<p>Page 64</p> <p>1 Mr. Juarez, if the record would please reflect that I 2 did recuse myself. 3 MR. COON: Thank you, Chief. 4 Number 11 is Adam Crosby. What's the 5 pleasure of the Board on Mr. Crosby? 6 MR. SCHULTZ: Mr. Chairman, I would like to 7 make a motion that we do not accept the Director's 8 recommendation as provided here today but recommend 9 that the cautionary letter also include a use-of-force 10 training opportunity for Officer Crosby. 11 MR. GRATTON: Second. 12 MR. COON: I've got a motion and a second. 13 All in favor say aye. 14 (Those in favor so indicate.) 15 MR. COON: All opposed? 16 Okay. Number 12, Donald Duran. 17 MR. GRATTON: Mr. Vice Chair, I make motion 18 that we accept the Director's recommendation of a 19 cautionary letter. 20 MR. COON: Okay. I have a motion. 21 MR. BETZ: I'll second. 22 MR. COON: And a second. All in favor say 23 aye. 24 (Those in favor so indicate.) 25 MR. COON: All opposed?</p>	<p>Page 65</p> <p>1 Okay. Number 13 is Samuel Hanna. What's the 2 pleasure of the Board on that? 3 MR. KORN: Mr. Vice Chair, I would make a 4 motion that we reject the recommended disposition by 5 the Director. 6 MR. COON: Okay. I have a motion. 7 MR. SCHULTZ: Second. 8 MR. COON: A second. All in favor say aye. 9 (Those in favor so indicate.) 10 MR. COON: All opposed? 11 Okay. On No. 14, Robert Holguin. 12 MR. SCHULTZ: Mr. Vice Chairman, I would make 13 a recommendation that we accept the Director's 14 recommendation that a cautionary letter be issued in 15 this particular case. 16 MR. COON: I've got a motion. 17 MR. GRATTON: Second. 18 MR. COON: I've got a second. All in favor 19 say aye. 20 (Those in favor so indicate.) 21 MR. BETZ: Mr. Vice Chairman, please have the 22 record reflect that I recused myself. 23 MR. COON: Thank you, sir. All opposed? 24 Okay. On No. 15, Roger Jimenez. 25 MR. GRATTON: Mr. Vice Chairman, I make a</p>

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<p>1 motion that we accept the Director's recommendation of 2 a cautionary letter. 3 MR. COON: I have a motion. 4 MR. SCHULTZ: Second. 5 MR. COON: I have a second. All in favor say 6 aye. 7 (Those in favor so indicate.) 8 MR. COON: All opposed? 9 Okay. Number 16, Louis Reynolds. 10 MR. SHILLING: Mr. Vice Chairman, I'll make a 11 motion that we reject the Director's recommendation at 12 this time. 13 MR. COON: Okay. I've got a motion. 14 MR. BETZ: I'll second. 15 MR. COON: I've got a second. All in favor 16 say aye. 17 (Those in favor so indicate.) 18 MR. COON: All opposed? 19 Number 17 is Carlos Salazar. 20 MR. KORN: Mr. Vice Chair, I would make a 21 motion that we reject the Director's recommendation. 22 MR. GRATTON: Second. 23 MR. COON: I've got a motion and a second. 24 All in favor say aye. 25 (Those in favor so indicate.)</p>	<p>1 MR. COON: All opposed? 2 MR. SHILLING: Mr. Vice Chairman, please let 3 the record reflect that I recused myself from the room 4 during the deliberations on this case. 5 MR. COON: Thank you, Chief. Number 18 is 6 Mark Sullivan. 7 MR. GRATTON: Mr. Vice Chairman, I make a 8 motion that we accept the Director's recommendation of 9 a cautionary letter in this matter. 10 MR. COON: Okay. I've got a motion. 11 MR. SCHULTZ: Second. 12 MR. COON: All in favor say aye. 13 (Those in favor so indicate.) 14 MR. COON: All opposed? 15 Okay. Number 19, Justin Trujillo. 16 MR. SCHULTZ: Mr. Vice Chairman, I make a 17 motion that we reject the Director's recommendation of 18 a cautionary letter in this matter. 19 MR. COON: Okay. 20 MR. SHILLING: Second. 21 MR. COON: I've got a second. All in favor 22 say aye. 23 (Those in favor so indicate.) 24 MR. COON: All opposed? 25 Okay. Number 20 is Benjamin Valdez. What's</p>
<p>Page 68</p> <p>1 the Board's pleasure? 2 MR. SCHULTZ: Mr. Vice Chairman, I make the 3 motion that we accept the Director's recommendation 4 that a cautionary letter be issued in this matter. 5 MR. COON: Okay. I've got a motion. 6 MR. SHILLING: Second. 7 MR. COON: Okay. I've got a second. All in 8 favor say aye. 9 (Those in favor so indicate.) 10 MR. COON: All opposed? 11 Okay. Number 21, Paul Ytuarte. 12 MR. GRATTON: Mr. Vice Chairman, I make a 13 motion that we accept the Director's recommendation of 14 a cautionary letter in this matter. 15 MR. COON: Okay. I've got a motion. 16 MR. SCHULTZ: Second. 17 MR. COON: I have a second. All in favor say 18 aye. 19 (Those in favor so indicate.) 20 MR. COON: All opposed? 21 Okay. Number 21A, Terra Juarez. 22 MR. SHILLING: Mr. Vice Chairman, I make a 23 motion that we accept the Director's recommendation 24 and ratify a letter of no action. 25 MR. COON: Okay. I've got a motion.</p>	<p>Page 69</p> <p>1 MR. BETZ: I'll second. 2 MR. COON: I've got a second. All in favor 3 say aye. 4 (Those in favor so indicate.) 5 MR. COON: All opposed? 6 MR. SCHULTZ: Mr. Vice Chairman, may the 7 record please reflect that I did recuse myself in this 8 matter. 9 MR. COON: Thank you, Chief. 10 Number 22, Ernest Armijo. What's the Board's 11 pleasure? 12 MR. SCHULTZ: Mr. Vice Chairman, I make the 13 motion that we accept the Director's recommendation to 14 ratify the voluntary relinquishment of certification 15 in the matter of Ernest Armijo. 16 MR. GRATTON: Second. 17 MR. COON: I've got a motion and a second. 18 All in favor say aye. 19 (Those in favor so indicate.) 20 MR. COON: All opposed? 21 Okay. Number 23 is Timothy Carlson. 22 MR. SCHULTZ: Mr. Vice Chairman, I would like 23 to make a motion that we accept the Director's 24 recommendation to ratify the voluntary relinquishment 25 of the certification in the case involving Officer</p>

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<p>1 Timothy Carlson.  2 MR. COON: Okay. We have a motion.  3 MR. KORN: Second.  4 MR. COON: I've got a second. All in favor  5 say aye.  6 (Those in favor so indicate.)  7 MR. COON: All opposed?  8 Number 24.  9 MR. SHILLING: Mr. Vice Chairman, real quick,  10 even though it's a voluntary relinquishment, I did  11 recuse myself for the record on this matter.  12 MR. COON: Thank you, Chief.  13 Number 24 is Julie Avila.  14 MR. REYNOLDS: Mr. Vice Chair, I believe you  15 can do 24 through 31 in one motion, just excepting  16 item 26 which was tabled.  17 MR. COON: Okay. Let's do that, let's bundle  18 these up. What were the numbers again?  19 MR. GRATTON: Twenty-four through 31.  20 MR. COON: Do I have a motion on Nos. 24  21 through 31?  22 MR. BETZ: Mr. Vice Chair, I'll make a motion  23 to accept the Director's recommendation on the default  24 orders of revocation for Nos. 24 through 31.  25 MR. COON: I have a motion.</p>	<p>1 MR. KORN: Second.  2 MR. COON: All in favor say aye.  3 (Those in favor so indicate.)  4 MR. COON: All opposed?  5 Number 33, Stephen Stover.  6 MR. SCHULTZ: Mr. Vice Chairman, I would like  7 to make the motion that, upon reviewing this case,  8 that we enter a finding that this particular case has  9 been deemed and found by this Board to be not  10 sustained, meaning that there was not enough evidence  11 present to either prove nor disprove the allegations  12 of misconduct.  13 MR. COON: Okay. I have a motion.  14 MR. SHILLING: Second.  15 MR. COON: And a second. All in favor say  16 aye.  17 (Those in favor so indicate.)  18 MR. COON: All opposed?  19 That's it, isn't it?  20 MR. SCHULTZ: Number 34.  21 MR. COON: Okay.  22 MR. REYNOLDS: Mr. Vice Chairman, item 34  23 doesn't require a vote because there was no decision  24 by this Board.  25 MR. COON: Okay. All right. So that</p>
<p>Page 72</p> <p>1 concludes that. If your case was heard, get with  2 Mr. Medina and sign off on it. So is that what we  3 need to do?  4 MR. MEDINA: Correct, with Ms. Medrano. Both  5 of us can do it.  6 MR. COON: Okay. So do you all want to go  7 out and do that now?  8 MR. MEDINA: Can we wait until after we  9 finish the board meeting.  10 MR. COON: Sure, absolutely. Okay. Now I'll  11 give the floor back to my good friend, the Attorney  12 General.  13 MR. KING: Thank you, Sheriff Coon. Thanks  14 for doing a very able job of these. You all did a lot  15 of work today and we appreciate that.  16 ITEM NO. 35: APPROVAL OF MINUTES, OCTOBER 23, 2012  17 MR. KING: The next item on the agenda is  18 item No. 42. Is that right? I'm sorry, 35. I'm a  19 little ahead of time. I was trying to jump us ahead.  20 We actually will try and crunch through these  21 fairly expeditiously. Item No. 35 is approval of the  22 minutes. Is there any discussion on the minutes, any  23 additions or corrections for the minutes from  24 October 23rd?  25 MR. GRATTON: I move for the approval of the</p>	<p>Page 73</p> <p>1 minutes.  2 MR. KING: I have a motion to approve the  3 minutes.  4 MR. BETZ: I'll second.  5 MR. KING: And a second. All in favor say  6 aye.  7 (Those in favor so indicate.)  8 MR. KING: Any opposed? All right. The  9 motion passes.  10 ITEM NO. 36: DIRECTOR'S REPORT  11 MR. KING: The next item on the agenda is  12 item No. 36, the Director's report. Director Medina,  13 come on up, please.  14 MR. MEDINA: Since it's public information,  15 I'll lightly touch on them and give you a slight  16 briefing. I want to first and foremost say that the  17 team members who work at the Law Enforcement Academy  18 in Santa Fe continually strive to do their best to run  19 our organization. And if it wasn't for them, we would  20 be under water.  21 I'd like to acknowledge Ms. Monica Medrano,  22 who manages our misconduct program and who keeps us  23 organized. I'd like to acknowledge Mr. Ernie Holmes,  24 who I rely on greatly when we conduct our informal  25 hearings. I would like to acknowledge Ms. Monique</p>

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1 Lopez, who does a fine job of coordinating these board  
 2 meetings. If it were not for these people who do  
 3 these things, we would not have the team that we have.  
 4 We've hired a new Deputy Director, Mr. Jack  
 5 Jones. He's well-known in the law enforcement  
 6 training community. He is a former State Police  
 7 officer. He's retired from the U.S. Army as a  
 8 colonel. He's been an adjunct instructor throughout  
 9 the United States and most commonly known here at the  
 10 Department of Energy training academy.  
 11 Since the last board meeting, we've conducted  
 12 a certification by waiver dispatcher course. And  
 13 we've been able to graduate two cadet classes since  
 14 then.  
 15 Our Advanced Training Bureau has been able to  
 16 put on many facets of advanced training since the last  
 17 board meeting. We've added a new instructor to our  
 18 Advanced Training Bureau, Mr. Manuel Overby.  
 19 And also we were able to host the Department  
 20 of Energy National Nuclear Security Administration  
 21 secure transportation emergency operations and  
 22 communications training since then also.  
 23 Since the October 23rd board meeting, we have  
 24 reviewed 28 misconduct files, we have issued two  
 25 letters of no action, 11 cautionary letters, 29

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1 think that's very important at the academy, Elliott  
 2 Guttman. He keeps us informed, he keeps the emails  
 3 coming with the legal updates and the cartoons. He  
 4 does a great job and he's a fun guy to be around.  
 5 MR. SHILLING: My guy does the cartoons.  
 6 MR. COON: Norman Rhoades does the cartoons.  
 7 MR. KING: Any other questions for the  
 8 Director? Seeing none, thank you, Mr. Medina, for  
 9 your report.  
 10 ITEM NO. 37: PUBLIC COMMENTS  
 11 MR. KING: The next item on the agenda is  
 12 item No. 37, public comments. I don't know whether we  
 13 had anybody sign up.  
 14 MS. LOPEZ: There's no one.  
 15 MR. KING: No one that signed up. So we'll  
 16 dispense with that item.  
 17 ITEM NO. 38: RATIFICATION OF CERTIFICATIONS FOR  
 18 LAW ENFORCEMENT OFFICERS  
 19 MR. KING: Item No. 38 is ratification of  
 20 certifications for law enforcement officers. And I  
 21 think usually we just have a motion for those. So I  
 22 don't know whose got the sheet to make motion.  
 23 MR. SHILLING: Mr. Chairman, I can entertain  
 24 a motion that we approve and ratify law enforcement  
 25 certifications beginning with 12-0172-P and continuing

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1 Notices of Contemplated Action, 12 Notices of Final  
 2 Decision, eight cases that were being prepared for  
 3 formal hearing.  
 4 We've had three formal hearings held since  
 5 then. We've prepared eight default orders of  
 6 revocation. We've received and prepared 29 Law  
 7 Enforcement Academy misconduct forms and two voluntary  
 8 relinquishments prepared and two final orders of  
 9 suspension have been prepared since then.  
 10 I want to thank the Board Members for their  
 11 confidence in the work that we do. Thank you for your  
 12 work in and the work that you do as Board Members.  
 13 And I'm greatly pleased to be associated with you.  
 14 Thank you very much.  
 15 MR. COON: Mr. Medina.  
 16 MR. MEDINA: Yes, sir.  
 17 MR. KING: Any questions?  
 18 MR. COON: Yes. I would like to make a  
 19 statement. You hit a home run with Jack Jones. I've  
 20 known Jack since 1974. And there's not a more  
 21 honorable guy that deserves that position more than  
 22 Jack. He's a good guy and he's going to do you a heck  
 23 of a good job.  
 24 MR. MEDINA: We're looking forward to him.  
 25 MR. COON: You also left out one person I

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1 numerically to 12-0222-P.  
 2 MR. GRATTON: I second that motion,  
 3 Mr. Chairman.  
 4 MR. KING: Okay. We have a motion and a  
 5 second to ratify that list of certifications for law  
 6 enforcement officers. Is there any discussion?  
 7 MR. SHILLING: Mr. Chairman, one amendment to  
 8 that. In the list there's one that's out of numerical  
 9 sequence to be added. That is Certification  
 10 No. 07-250-P.  
 11 MR. KING: Okay. And we have a list of them.  
 12 We'll provide the list for the record too. So with  
 13 the motion being amended to include that other number  
 14 that was out of order, any discussion?  
 15 MR. GRATTON: I second.  
 16 MR. KING: Any discussion? All in favor say  
 17 aye.  
 18 (Those in favor so indicate.)  
 19 MR. KING: Any opposed? All right. So those  
 20 certifications have been ratified.  
 21 ITEM NO. 39: RATIFICATION OF CERTIFICATIONS FOR  
 22 PUBLIC SAFETY TELECOMMUNICATORS  
 23 MR. KING: All right. The next item on the  
 24 agenda is item No. 39, ratification of certifications  
 25 for Public Safety Telecommunicators. Chief, have you

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<p>1 got that too?</p> <p>2 MR. SHILLING: I do, Mr. Chairman.</p> <p>3 Mr. Chairman, I would make a motion that the Board</p> <p>4 approves and ratifies Public Safety Telecommunicator</p> <p>5 certifications, all of these are in numerical order,</p> <p>6 Nos. 12-0101-PST through 12-0105-PST.</p> <p>7 MR. KING: Okay. We've got a motion. A</p> <p>8 second.</p> <p>9 MR. SCHULTZ: Second.</p> <p>10 MR. KING: Any discussion? All in favor say</p> <p>11 aye.</p> <p>12 (Those in favor so indicate.)</p> <p>13 MR. KING: Any opposed? All right. So we'll</p> <p>14 show that those items on that list have been ratified</p> <p>15 for certifications for Public Safety</p> <p>16 Telecommunicators.</p> <p>17 ITEM NO. 40: PSYCHOLOGICAL TESTING REQUIREMENTS</p> <p>18 MR. KING: The next item on the agenda is</p> <p>19 item No. 40, psychological testing requirements.</p> <p>20 Dr. Rogers, come on up. Thanks for being here today.</p> <p>21 DR. ROGERS: Thanks, Board. I appreciate you</p> <p>22 taking the time to hear some of the concerns and some</p> <p>23 of the issues that I would like to bring to the Board.</p> <p>24 Two issues in particular that I'd like the</p> <p>25 Board to consider this afternoon. The first one</p>	<p>1 concerns the New Mexico LEA-4 form. It was brought to</p> <p>2 the attention of the Board about two years ago -- a</p> <p>3 handful of psychologists with concern over the wording</p> <p>4 regarding recommended without reservation and not</p> <p>5 recommended for officers.</p> <p>6 The Board advised psychologists to include</p> <p>7 different levels of recommendations in their reports</p> <p>8 as in recommended, recommended with caution, not</p> <p>9 recommended, strongly recommended, those different</p> <p>10 levels.</p> <p>11 Recently the academy has taken a stance where</p> <p>12 they are not accepting recommended with caution</p> <p>13 recommendations. And as a result what is happening is</p> <p>14 officers or potential cadets who are getting listed as</p> <p>15 recommended with caution, departments are then</p> <p>16 bringing those in so that they can get into an</p> <p>17 academy.</p> <p>18 And the academies are rejecting them, saying</p> <p>19 that there's a discrepancy between the report and the</p> <p>20 LEA-4 form. I attempted to address this with the</p> <p>21 academy. The academy made a pretty strong stance that</p> <p>22 there are two options in reports, which is essentially</p> <p>23 recommended or not recommended.</p> <p>24 Current IACP standards suggest that we have a</p> <p>25 gradation level, a strongly recommended, recommended,</p>
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<p>1 recommended with caution, and not recommended approach</p> <p>2 from the psychological component.</p> <p>3 So I wanted to bring this to the Board's</p> <p>4 attention, ask for guidance for both myself as well as</p> <p>5 a number of other psychologists I've talked with, you</p> <p>6 know, five or six others who have had those same</p> <p>7 concerns. So I wanted to bring that to the Board.</p> <p>8 MR. KING: Questions? Yes, Mr. Shilling.</p> <p>9 MR. SHILLING: Mr. Chairman, Dr. Rogers, for</p> <p>10 the record do you do contract psych evals for State</p> <p>11 Police?</p> <p>12 DR. ROGERS: Yes. I do them for State</p> <p>13 Police, APD, BCSO, about 50 other different</p> <p>14 departments.</p> <p>15 MR. SHILLING: Okay. So that I understand</p> <p>16 it, because I just recently went through chief</p> <p>17 selection for my next academy class, recommended with</p> <p>18 caution may not necessarily be an indicator of</p> <p>19 psychological pathology, if you will.</p> <p>20 But maybe they had money issues in prior</p> <p>21 years or maybe a maturity issue or something like</p> <p>22 that. It's not necessarily an indicator of any</p> <p>23 identifiable psychological peak or valley on the MMPI,</p> <p>24 correct?</p> <p>25 DR. ROGERS: Right. What my typical approach</p>	<p>1 is, when I do pre-employments, is we're looking at</p> <p>2 different areas within that individual's abilities,</p> <p>3 past mental health issues, those sort of things, where</p> <p>4 there are red flags that research shows us would</p> <p>5 predict that that person is not going to do well.</p> <p>6 So if we get an individual who has one or two</p> <p>7 areas of concern and it maybe doesn't reach the</p> <p>8 threshold where we would say this person is not going</p> <p>9 to be a good applicant or a good officer down the</p> <p>10 road, we may say, hey, these are some areas that maybe</p> <p>11 training can enhance or should be monitored during the</p> <p>12 academy in order to see if they reach that threshold.</p> <p>13 So from my standpoint the pass with caution</p> <p>14 tends to give departments more information so that</p> <p>15 they can make better decisions in terms of hiring. It</p> <p>16 allows departments to in some ways rank order their</p> <p>17 applicants from strong candidates down to, you know,</p> <p>18 those that are just over the threshold.</p> <p>19 And what we're finding in after-the-fact sort</p> <p>20 of research is we're finding that the officers that</p> <p>21 end up having more disciplinary issues, the officers</p> <p>22 that struggle a little bit more, tend to be those</p> <p>23 lower level pass with cautions. And it's my opinion</p> <p>24 as a professional consultant that the department needs</p> <p>25 to know that ahead of time when making decisions.</p>

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1 MR. SHILLING: Mr. Chairman, Dr. Rogers, but  
 2 if you pass someone with caution based on a couple of  
 3 little -- just let's call them orange flags instead of  
 4 red flags, it's not necessarily an indicator that they  
 5 are not going to do well or perform well as a police  
 6 officer, because maybe it's a money issue that they  
 7 had ten years ago and they mismanaged and got  
 8 foreclosed on or something like that.  
 9 DR. ROGERS: Right. Completely. I was once  
 10 asked the question, you know, with the terminology  
 11 recommended without reservation, if we use that  
 12 terminology from a psychological standpoint, you know,  
 13 we pass 10 percent of the population.  
 14 Everybody has something in their past that  
 15 would be a yellow flag or an orange flag, but it would  
 16 not necessarily mean they're going to be a poor  
 17 officer.  
 18 MR. SHILLING: Thank you. That's all I have,  
 19 Mr. Chairman.  
 20 MR. KING: Okay. Other questions?  
 21 MR. SCHULTZ: Yes. Mr. Chairman, Dr. Rogers,  
 22 you belong to the IACP, the psychological section of  
 23 the International Association of Chiefs of Police?  
 24 DR. ROGERS: Yes.  
 25 MR. SCHULTZ: And so what you're proposing

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1 the yellow flags and the red flags. When you approve  
 2 with caution or recommend with caution, do you tell  
 3 the agency what the caution is concerning?  
 4 DR. ROGERS: Yes. We do it in a couple of  
 5 ways. What I typically do in my report is I'll say  
 6 recommended with caution. And then I usually have a  
 7 paragraph that follows that, which is the areas of  
 8 concern or monitoring or further investigation.  
 9 I also -- within the body of the report, when  
 10 I'm addressing the different areas that we look at,  
 11 we'll rate the different areas as either excellent,  
 12 acceptable, deficient, or unacceptable. So each area  
 13 can be looked at clearly and identified by the  
 14 department itself.  
 15 MR. KORN: Does the officer or the potential  
 16 officer also have access to this so he can try to  
 17 improve his scores so to speak?  
 18 DR. ROGERS: Our policy with everybody that I  
 19 work with, a best practices sort of thing, we have the  
 20 officer sign a form that gives up their rights to  
 21 access to that report. That report is actually the  
 22 property of the department who does the testing. So  
 23 the officers do not have access to that in most cases.  
 24 MR. KORN: But can they consciously improve  
 25 their score if they know what it is or is that not

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1 here today is basically a best practice based on a  
 2 consensus of psychologists from across the country?  
 3 DR. ROGERS: Yes. It's based on -- as recent  
 4 as about two months ago, with the IACP conference in  
 5 San Diego, this issue was discussed. It is the  
 6 generally considered best practice in doing  
 7 pre-employment psychological screenings at this point  
 8 in time.  
 9 MR. SCHULTZ: Do you know how many states  
 10 follow this type of guideline?  
 11 DR. ROGERS: I don't know necessarily the  
 12 number of states. What I would suggest is, in terms  
 13 of what I've seen in terms of other psychologists at  
 14 national conferences, I would estimate probably about  
 15 70 percent of psychologists are doing it in that frame  
 16 or that form.  
 17 MR. SCHULTZ: And you feel comfortable as a  
 18 psychologist to allow the hiring agency to take that  
 19 into consideration and decide who they want to hire  
 20 and who they may want to pass on?  
 21 DR. ROGERS: Yes.  
 22 MR. KING: Any other questions?  
 23 MR. KORN: I have a question, Mr. Chairman.  
 24 MR. KING: Mr. Korn.  
 25 MR. KORN: Dr. Rogers, I had a question about

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1 part of the process?  
 2 DR. ROGERS: That's a tough question, because  
 3 a lot of the factors they can't necessarily improve  
 4 because there are -- they are static factors, which  
 5 are historical factors. Life history behaviors in the  
 6 past, those sort of things.  
 7 What they could do is try to change their  
 8 answers on some of the testing, which would suggest  
 9 dishonesty. They can also try to minimize things,  
 10 which would suggest more kind of manipulative  
 11 tendencies.  
 12 That in itself is something we need to see  
 13 because it helps to suggest whether they would make a  
 14 good police officer or not. And most of the tests are  
 15 designed to catch that or identify those tendencies,  
 16 which is something we use in the assessment process.  
 17 MR. KORN: Thank you.  
 18 MR. KING: Any other questions?  
 19 Actually I have -- well, I have one. And,  
 20 Chief, you may be able to answer it or somebody on the  
 21 Board may be more likely to answer this or Director  
 22 Medina might. Is it currently up to each individual  
 23 academy to decide what level of people they allow in  
 24 or do we as a Board set some minimum standards or  
 25 something like that? I mean what would be our part to

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<p>1 play in this?</p> <p>2 MR. MEDINA: I would like to address that,</p> <p>3 Mr. Chairman. When we review the packets, the face</p> <p>4 sheet of the psychological exam has two boxes to be</p> <p>5 checked. One is fully recommend and the other one,</p> <p>6 sir, if you would?</p> <p>7 DR. ROGERS: One is recommended without</p> <p>8 reservation and then the other is not recommended.</p> <p>9 MR. MEDINA: Not recommended. And the</p> <p>10 problem that we see sometimes, when it says recommend</p> <p>11 without reservation at the end of the narrative,</p> <p>12 sometimes that narrative is not as strong as the fully</p> <p>13 recommend. And that was our concern.</p> <p>14 And that's when we started having</p> <p>15 conversations with people like Dr. Rogers. It's a</p> <p>16 matter of consistency. But the narrative didn't</p> <p>17 reflect the affirmative statement that was checked on</p> <p>18 the box as strong as it appears on the fully recommend</p> <p>19 compared to the narrative.</p> <p>20 MR. KING: So who designates that form? I</p> <p>21 mean did we approve that in a rule somewhere?</p> <p>22 MR. MEDINA: That's correct. That's a Board</p> <p>23 approved form.</p> <p>24 MR. KING: Okay. Chief Shilling.</p> <p>25 MR. SHILLING: Mr. Chairman, I was just going</p>	<p>1 to follow up. My question is is it memorialized in an</p> <p>2 NMAC rule or is it something the Board can say,</p> <p>3 Mr. Director, can you please change the form and we're</p> <p>4 done with it?</p> <p>5 MR. MEDINA: I think it's just the form. But</p> <p>6 I will find out for sure.</p> <p>7 MR. KING: Let me see if Mark can address</p> <p>8 that. If it's in the rules, then we'll have to have a</p> <p>9 rulemaking to address that.</p> <p>10 MR. REYNOLDS: From my understanding the form</p> <p>11 itself is not memorialized in NMAC. And I'm not -- if</p> <p>12 maybe years ago or something this Board took a formal</p> <p>13 vote to adopt that form, then I can't stand before you</p> <p>14 and you tell you one way or the other.</p> <p>15 But there is a regulation on psychological</p> <p>16 examination that sets forth the process. There's no</p> <p>17 talk in the regulation about having two boxes versus</p> <p>18 four or anything like that.</p> <p>19 So my assessment of the regulation is that</p> <p>20 there is room under your regulation to adopt your</p> <p>21 form. And in a way that may be helpful. However, I</p> <p>22 also need to point out to the Board that you have to</p> <p>23 keep in mind your statute.</p> <p>24 And under your statute one of the</p> <p>25 qualifications for certification is that, after</p>
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<p>1 examination by a certified psychologist, the officer</p> <p>2 is freed of any emotional or mental condition that</p> <p>3 might adversely affect his performance as a police</p> <p>4 officer.</p> <p>5 So in adopting the form, you need to keep</p> <p>6 that statutory requirement in mind. And if something</p> <p>7 there might adversely affect, then under your statute</p> <p>8 that would disqualify them. Okay.</p> <p>9 MR. KING: Okay. Chief Shilling.</p> <p>10 MR. SHILLING: Mr. Chairman, I just had a</p> <p>11 comment for the Board. I've been seeing those in my</p> <p>12 last few chief selections. And I've found it very</p> <p>13 helpful in making decisions. And my training staff</p> <p>14 has found it very helpful in identifying potential</p> <p>15 weaknesses in police candidates and work on some of</p> <p>16 those things throughout the course of the academy.</p> <p>17 Some of those minor things -- obviously we're</p> <p>18 not fixing psychological problems or things like that.</p> <p>19 But in identifying, for instance, maybe maturity</p> <p>20 issues or assertiveness issues, things like that that</p> <p>21 we encounter with applicants in the police pool.</p> <p>22 And I stand in support of a form change to</p> <p>23 allow for some latitude for folks like the doc here to</p> <p>24 have some latitude in making his determinations as</p> <p>25 well.</p>	<p>1 MR. MEDINA: Mr. Chairman, I would be willing</p> <p>2 to get together with Dr. Rogers and come up with a</p> <p>3 proposed change regarding the form and present it at</p> <p>4 the next board meeting.</p> <p>5 MR. KING: I'm okay with that. We should</p> <p>6 talk a little bit too about what you have to do to</p> <p>7 meet the statute. So I think that the action item</p> <p>8 should be for the Director to present a proposed</p> <p>9 change form to the next meeting. And we can all work</p> <p>10 on what that ought to be. And everyone can have input</p> <p>11 since it's not a rulemaking.</p> <p>12 MR. REYNOLDS: As long as the form falls</p> <p>13 within the requirements in your regulation and the</p> <p>14 statute, then you can just adopt a form.</p> <p>15 MR. KING: And I would recommend we have it</p> <p>16 done in time so that, when we publish our next agenda,</p> <p>17 that we can attach it to the agenda so that people can</p> <p>18 see it ahead of time. All right. I don't know that</p> <p>19 that otherwise takes action then on our part to take a</p> <p>20 vote or anything, because we'll take a vote at the</p> <p>21 next meeting. It's you guys' pleasure.</p> <p>22 Okay. I'm saying I don't know whether we</p> <p>23 need a motion today or not. I think we'll have a form</p> <p>24 presented to us. And it will be an action item on the</p> <p>25 next agenda. Is that all right?</p>

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1 MR. KORN: Sure.

2 MR. KING: All right. Dr. Rogers, thank you

3 very much.

4 MR. SCHULTZ: Dr. Rogers, was there a second

5 issue?

6 DR. ROGERS: Yes, there was.

7 MR. KING: Please go ahead.

8 DR. ROGERS: This was the major one. The

9 second one I wanted to mention was just a potential

10 suggestion for the Board to kind of entertain the

11 possibility of an advisory board regarding

12 psychological issues.

13 One of the things we're seeing at this point,

14 these last couple of years, is we're seeing a huge

15 influx in psychologists who are wanting to do some of

16 these re-employments who don't have training

17 backgrounds, who aren't members of IACP. And so

18 standards are potentially becoming a little bit

19 problematic.

20 There are not currently any requirements in

21 terms of training for the folks doing these

22 evaluations. We're especially seeing this with some

23 of the second opinion psych evals, where you're seeing

24 folks who are getting failed by one psychologist and

25 then getting a second opinion by somebody who may not

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1 be? Because right now I believe the affected employee

2 can petition the Director and then pick a psychologist

3 of their choosing.

4 Could we limit like we do the physical

5 testing that you have to utilize the University of New

6 Mexico or you have to use somebody who has been

7 approved by the Director?

8 MR. MEDINA: Mr. Chairman.

9 MR. KING: Mr. Medina.

10 MR. MEDINA: Since I've been doing the job,

11 I've been told that there is a list of second opinion

12 psychologists that were approved by the Board. But I

13 have not been able to find out any history on when

14 that was approved or who approved it. And we do have

15 a list of second opinion psychologists that we do

16 provide and send those on for second opinions.

17 MR. KING: Mark.

18 MR. REYNOLDS: Mr. Chairman, what the

19 regulations say about this is that the reviewing

20 authority, which is the secondary opinion, will be a

21 New Mexico licensed psychologist designated by the

22 Director. That's all your regulations say about who

23 will be the second opinion.

24 MR. SCHULTZ: So would it be appropriate for

25 the Director to meet with Dr. Rogers and some of the

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1 have the background, the knowledge, the expertise to

2 be doing some of those things.

3 And it's putting departments in a pretty

4 difficult situation in terms of liability potential.

5 I will mention that the IACP stance on second opinions

6 is that they should not be used currently in terms of

7 psych evals due to the potential problems.

8 And so these are just some of the emerging

9 issues that are coming to the forefront. And so I

10 kind of wanted to mention those more so so the Board

11 can determine whether an advisory board of

12 psychologists, a group of folks who are doing this,

13 could give some input into some of the standards. So

14 that was just a second kind of issue I wanted to

15 mention.

16 MR. KING: Questions? Chief Schultz.

17 MR. SCHULTZ: Mr. Chairman, I understand

18 exactly where Dr. Rogers is coming from, especially on

19 those failures. And it seems like that second opinion

20 is probably coming from a small group of psychologists

21 that obviously puts a direct conflict between the

22 folks that we're using and then someone who is doing a

23 second opinion.

24 Would it require I guess a rule change for us

25 to certify who that second opinion psychologist would

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1 other psychologists that are primarily used in the

2 employment screening process to come up with a list of

3 people so there are options out there since it is in

4 the rule, but not just so it's an unknown list so to

5 speak?

6 MR. MEDINA: Yes, sir. I would be glad to do

7 that.

8 MR. KING: It sounds like we have a deal with

9 that. As far as the idea about an advisory commission

10 or whatever, I suspect that the Chairman of the Board

11 has enough authority to appoint an advisory commission

12 too, although I would be interested in input from

13 folks, if you want to do it that way.

14 And once again it's something that we could

15 bring -- if we have an idea of who it ought to be, we

16 can bring it to the Board. And everybody can look at

17 it and see if it's acceptable. You'll have to remind

18 me to do it.

19 Usually the chairman of a board has got

20 enough authority to appoint like an advisory group or

21 some committee because they don't have any specific

22 authority. If we wanted to give you authority, then

23 we would have to have a rulemaking of some kind for

24 that. Okay.

25 MR. KORN: May I ask a question.



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1 MR. KING: Nate, go ahead.  
 2 MR. KORN: Dr. Rogers, is this list of  
 3 secondary people that you might work out with the  
 4 Director satisfactory to your thought about an  
 5 advisory committee or do you think the advisory  
 6 committee would be even broader?  
 7 MR. ROGERS: I think this is a good start. I  
 8 think, in terms of the thinking and the discussion  
 9 I've had with other psychologists, I like the broader  
 10 scope of the advisory idea just because it's such a  
 11 small niche of -- you know, of understanding for  
 12 police psychology.  
 13 And there's very few folks that really have  
 14 the training and background to do it. And what we're  
 15 seeing is lots of folks seeing the potential profit in  
 16 doing it or the availability. And so you're getting  
 17 lots of folks that are jumping in, which we foresee  
 18 problematic issues with that in the long run. So I  
 19 think the scope that we were anticipating or I was  
 20 anticipating was a little bit broader.  
 21 But I do like that step in the right  
 22 direction in terms of, you know, looking at the list  
 23 of folks that are doing it, checking to see if folks  
 24 are still doing that kind of work, are still  
 25 qualified, are up to speed in terms of continuing

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1 D-1116-CV12-1095-3  
 2 MR. KING: Okay. And item 41A indeed was an  
 3 item that was discussed in the closed session and it  
 4 says it was discussed in the closed session. So I  
 5 think we can dispense with item No. 41A.  
 6 ITEM NO. 42: INDIVIDUAL BOARD MEMBER COMMENTS  
 7 MR. KING: Now we're on item 42, individual  
 8 Board Member comments.  
 9 MR. KORN: I have one small comment, please.  
 10 MR. KING: Mr. Korn.  
 11 MR. KORN: The Board has from time to time  
 12 put out penalty guidelines which represents what the  
 13 Board has already done so that it's immortalized so  
 14 that the public is aware of it.  
 15 And we haven't made any changes except this  
 16 board meeting and the last board meeting we added one  
 17 item for conduct unbecoming an officer, on duty or off  
 18 duty, two to six months. And so I would expect that  
 19 the Director would be publishing this. And this is  
 20 just to inform the public what we've done by practice.  
 21 Thank you.  
 22 MR. KING: All right. Thank you, Mr. Korn.  
 23 Any other comments from the Board? All right.  
 24 ITEM NO. 42A: ELECTION OF VICE CHAIRMAN  
 25 MR. KING: Item No. 42A, election of a Vice

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1 education, have the specific expertise in this area,  
 2 which is crucial.  
 3 MR. KORN: So at the next meeting you're  
 4 going to be coming back here anyway. Would you at  
 5 that time like to propose whether you still want the  
 6 advisory committee after talking to the Director?  
 7 MR. ROGERS: Sure. We can do that.  
 8 MR. KORN: Thank you.  
 9 MR. KING: Okay. Thank you, Dr. Rogers.  
 10 MR. ROGERS: Thank you.  
 11 ITEM NO. 41: MISCONDUCT CASES: BOARD REVIEW OF  
 12 MISCONDUCT CASES, TRACKING AND MANAGEMENT  
 13 MR. KING: The next item on the agenda is  
 14 item No. 41, Board Review of Misconduct Cases,  
 15 Tracking and Management. Mr. Korn.  
 16 MR. KORN: Mr. Chairman, I think we've  
 17 already dealt with that in closed session. So I would  
 18 waive on that.  
 19 ITEM NO. 41A: THE BOARD WILL DISCUSS THE FOLLOWING  
 20 LITIGATION IN CLOSED SESSION PURSUANT TO NMSA  
 21 SECTION 10-15-1(H)(7): CUNNINGHAM VS. LEAB,  
 22 D-0101-CV-2012-00567; CRESPIAN VS. LEAB,  
 23 D-0117-CV-2011-00429; MENDEZ VS. LEAB,  
 24 D-0101-CV-2012-01093; VALENCIA VS. LEAB,  
 25 D-0101-CV-2010-02474; COATE vs. LEAB,

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1 Chairman. It seems like we just did this not too long  
 2 ago, Sheriff Coon.  
 3 MR. COON: It seems like it. It was about  
 4 five years ago.  
 5 MR. KING: So that being the case, I think  
 6 the floor is open for nominations for Vice Chairman.  
 7 MR. SCHULTZ: Mr. Chairman, I would like to  
 8 nominate Member Korn as Vice Chairman of the  
 9 committee.  
 10 MR. GRATTON: I second that nomination.  
 11 MR. KING: Okay. The nomination is seconded.  
 12 There were lots of seconds actually. Any other  
 13 nominations? All right. Seeing none, I'm willing to  
 14 take a motion that the nominations cease and that we  
 15 elect Member Korn by acclamation. Do I have a motion  
 16 for that?  
 17 MR. GRATTON: So moved.  
 18 MR. COON: I second.  
 19 MR. KING: So the motion is to accept our  
 20 Member Nate Korn as Vice Chairman for the next term by  
 21 acclamation. All in favor say aye.  
 22 (Those in favor so indicate.)  
 23 MR. KING: Any opposed? All right.  
 24 Mr. Korn, you'll be the Vice Chairman. Thank you very  
 25 much, we appreciate your willingness to serve.

<p>Page 98</p> <p>1 Actually I assume you're willing to serve. You voted                  2 yes too?                  3 ITEM NO. 43: SCHEDULING OF NEXT MEETING                  4 MR. KING: The next item on the agenda is                  5 scheduling the next meeting. Director Medina, do we                  6 have a schedule or you'll send it out to us?                  7 MR. MEDINA: I believe it's scheduled for                  8 April.                  9 MS. LOPEZ: April in Hobbs is what you guys                  10 chose.                  11 MR. KING: April in Hobbs.                  12 MS. LOPEZ: I'm looking at the week of the                  13 15th through the 19th, maybe a Tuesday or a Thursday.                  14 MR. KING: Okay. So anybody have any                  15 comments on that otherwise? I know we try and move                  16 our meetings around the State.                  17 MR. COON: Anybody need directions to Hobbs?                  18 MR. MEDINA: Mr. Chairman, does the Board                  19 have a preference on the date?                  20 MR. KING: I haven't even looked at my                  21 calendar.                  22 MR. MEDINA: Would you like us to send out                  23 some options by email?                  24 MR. KING: Yes. I think that would be the                  25 best thing to do. I actually have an AG meeting on</p>	<p>Page 99</p> <p>1 the 15th of April that I'm aware of that's out of                  2 state. So yes. It might be a good idea to just send                  3 a list out.                  4 MR. MEDINA: Okay. Thank you.                  5 MR. KING: Just so everybody is aware that                  6 we're going to be traveling in April.                  7 All right. Any other business to come before                  8 the committee?                  9 ITEM NO. 44: ADJOURNMENT                  10 MR. KING: I'll take a motion to adjourn.                  11 MR. COON: Mr. Chairman, I make a motion we                  12 adjourn.                  13 MR. KORN: Second.                  14 MR. KING: All in favor say aye.                  15 (Those in favor so indicate.)                  16 MR. KING: All right. We're adjourned.                  17 (At 3:30 p.m. the meeting was adjourned.)                  18                  19                  20                  21                  22                  23                  24                  25</p>
<p>Page 100</p> <p>1 REPORTER'S CERTIFICATE                  2                  3 I, JAN A. WILLIAMS, New Mexico CCR #14, DO                  4 HEREBY CERTIFY that on January 8, 2013, 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 &amp; Associates, Inc.                  25 New Mexico CCR #14                  License Expires: 12/31/13                  (6264K) JAW</p>	

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