

NEW MEXICO LAW ENFORCEMENT ACADEMY
BOARD MEETING

February 11, 2014

9:05 a.m.

Albuquerque Police Academy

5412 2nd Street, N.W.

Albuquerque, New Mexico 87107

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

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4 **BOARD MEMBERS**

5 Nate Korn, Vice Chairman

6 James R. Coon

7 Harry Betz

8 Patrick Barncastle

9 John Gratton

10 Jaime Quezada

11 Chris McCall

12

13 **ALSO PRESENT**

14 Jack F. Jones

15 Mark Reynolds

16 Rick Word

17 Monique Lopez

18 Monica Medrano

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

2 **MR. KORN:** We're going to call this meeting

3 of the Law Enforcement Academy Board to order. My

4 name is Nate Korn, I'm the Vice Chair. The Chairman

5 is Gary King. He is unavoidably detained today and so

6 I will be conducting the meeting. He may show up

7 later and then he will be the Chair.

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

9 **MR. KORN:** So the way the Law Enforcement

10 Board works is we start, of course, with roll call.

11 And the roll call would be by each person introducing

12 themselves and telling their affiliation. So if I can

13 start from my left.

14 **MR. QUEZADA:** Jaime Quezada, Las Cruces

15 Police Department, representing the line officers.

16 **MR. McCALL:** Chris McCall, Hobbs Police

17 Department, representing the chiefs of police.

18 **MR. COON:** Rob Coon, Sheriff of Chaves

19 County, I represent the sheriffs in the state.

20 **MR. KORN:** My name is Nate Korn again and I

21 am one of the two citizen representatives.

22 **MR. BARNCASTLE:** Pat Barncastle and I

23 represent the district attorneys throughout the state.

24 **MR. BETZ:** Harry Betz, Chief of Police Santa

25 Ana, representing Indian Country.

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<p>1 DR. GRATTON: I'm John Gratton, I'm president 2 of NMSU Carlsbad, and I'm the second citizen rep on 3 the board.</p> <p>4 ITEM NO. 3: APPROVAL OF AGENDA</p> <p>5 MR. KORN: The next item on the agenda is 6 approval of the agenda. In that regard I have an 7 addition to make. I learned just yesterday from our 8 Director that we have been served with an Open 9 Meetings Act violation by the LEA Board.</p> <p>10 And this is something that just came to my 11 attention. Because we are threatened with legal 12 action, I would like to place this on our agenda and 13 discuss it in closed session with our attorneys.</p> <p>14 And, Mr. Reynolds, I think you might have an 15 observation.</p> <p>16 MR. REYNOLDS: Yes, Mr. Vice Chair. That 17 would be fine to do as long as the Board is aware of 18 that. We can discuss it in the executive session. 19 But because it does not appear on our agenda today 72 20 hours beforehand, we can't actually take action on it. 21 So we can discuss it but not take action on it.</p> <p>22 MR. KORN: Thank you. So as our attorney has 23 indicated, we can discuss the implications of the OMA 24 as far as how it affects us legally. We won't be able 25 to take action on it because it's just the day of the</p>	<p>1 meeting.</p> <p>2 ITEM NO. 16A: DISCUSSION: OPEN MEETINGS 3 ACT VIOLATION</p> <p>4 MR. KORN: So I would add that to the agenda 5 as item No. 16A. And we will discuss that in closed 6 session when we discuss the misconduct matters in 7 closed session.</p> <p>8 So I would make that motion, that we add this 9 to the agenda. Do I have a second?</p> <p>10 MR. BETZ: Second.</p> <p>11 MR. KORN: A second by Chief Betz. All in 12 favor please signify by saying aye. 13 (Those in favor so indicate.)</p> <p>14 MR. KORN: Opposed. Let the record reflect 15 that the ayes are unanimous.</p> <p>16 I should also ask, is the agenda other than 17 that approved as it stands, do we have a motion?</p> <p>18 MR. COON: Mr. Vice Chair, I make a motion 19 that we approve the agenda.</p> <p>20 DR. GRATTON: Second.</p> <p>21 MR. KORN: A motion by Sheriff Coon, a second 22 by Dr. Gratton. All those in favor indicate by saying 23 aye. 24 (Those in favor so indicate.) 25 MR. KORN: Opposed. Let the record reflect</p>
<p>1 that the ayes are unanimous.</p> <p>2 ITEM NO. 4: APPROVAL OF MEETING MINUTES</p> <p>3 MR. KORN: Moving on next, we have the 4 approval of the minutes. Do we have a motion?</p> <p>5 MR. QUEZADA: Mr. Vice Chair, I would like to 6 make a motion we approve the minutes of our last 7 meeting.</p> <p>8 MR. KORN: Officer Quezada.</p> <p>9 MR. McCALL: I'll second.</p> <p>10 MR. KORN: Officer Quezada makes the motion, 11 the second is by the chief. All in favor signify by 12 saying aye. 13 (Those in favor so indicate.)</p> <p>14 MR. KORN: All opposed. Let the record 15 reflect that the ayes have it and the Vice Chair has 16 very bad pronunciation.</p> <p>17 ITEM NOS. 5 AND 6: PAUL GALLEGOS AND 18 JEREMIAH PHILLIPS</p> <p>19 MR. KORN: The next order of business is our 20 misconduct matters. The way the Board typically works 21 its misconduct matters is we give an opportunity to 22 everybody that's been on the agenda regarding 23 misconduct to approach the Board and speak, if they 24 desire. 25 There's no requirement that they do so. But</p>	<p>1 if they would like to do so, that's certainly 2 encouraged and invited. So I will call the names 3 basically in groups of two or three. And if you're 4 here, please signify by raising your hand.</p> <p>5 So the first group is default orders of 6 revocation. Item No. 5 is Paul Gallegos and item 7 No. 6 is Jeremiah Phillips. Is either Mr. Phillips or 8 Mr. Gallegos in the room today? Let the record 9 reflect that they are not.</p> <p>10 ITEM NOS. 7, 8, AND 9: ISAAC MARTINEZ, JOSHUA 11 VANDEVER, AND JAMIE FASSLER</p> <p>12 MR. KORN: Next are stipulated orders of 13 suspension. The names on that is item No. 7, Isaac 14 Martinez; No. 8, Joshua Vandever; and No. 9, Jamie 15 Fassler. Are any of you three folks in the room with 16 us today?</p> <p>17 Let the record reflect that none of the 18 people under stipulated orders of suspension, item 19 Nos. 7, 8, and 9, are in the room.</p> <p>20 ITEM NOS. 10 AND 10A: RAYMOND SMITH AND 21 KENNETH MARTINEZ</p> <p>22 MR. KORN: Next would be cautionary letters. 23 The two people under that are Raymond Smith and 24 Kenneth Martinez. Raymond Smith has indicated he's 25 here.</p>

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<p>1 MS. QUINTANA: Mr. Vice Chairman, Yvonne 2 Quintana on behalf of Mr. Martinez who is unable to 3 attend. I am his legal counsel. 4 MR. KORN: Okay. Thank you. So let the 5 record reflect that either the Respondent or the legal 6 counsel for the Respondent is here for the cautionary 7 letters. And I think we will start with Mr. Smith. 8 Would you like to come forward and address 9 the Board? 10 MR. SMITH: Yes, sir, I would. 11 MR. KORN: Please come up. 12 MR. SMITH: Good morning, Mr. Vice Chair, 13 good morning, Board. 14 MR. KORN: Just one moment. Mr. Smith, thank 15 you for coming here today. 16 MR. SMITH: Yes, sir. Good morning. I just 17 come here to answer any questions that the Board may 18 have on my behalf and try to seek the recommendation 19 that the Director has recommended to the Board, sir. 20 MR. KORN: So do you want to tell us any of 21 the events surrounding what happened or broaden what 22 the Director has written? Do you have a copy of the 23 Director's narrative, Mr. Smith? 24 MR. SMITH: Yes, sir, I do. 25 MR. KORN: And do you want to perhaps broaden</p>	<p>1 that for us. 2 MR. SMITH: Sir, some of the items that is 3 in -- my wife asked me to not give out her medical 4 conditions due to HIPAA policies. 5 MR. KORN: You don't have to give us any 6 medical conditions. 7 MR. SMITH: Okay. Pretty much the Director's 8 letter that he did submit was -- I had returned back 9 from my deployment. I was gone for six months. I was 10 supposed to be gone for a year. I came back. 11 And I found out that my wife was diagnosed 12 with cancer. And at the time, the day in question, 13 which was on the 4th of June, she had a medical doctor 14 appointment and she had some medical procedures done. 15 She had an actual surgery where she had -- 16 she was under the influence of certain medications. 17 We came back to our residence. And on our way back, 18 she had told me that there were some issues that had 19 occurred while I was gone, sir. And we rectified the 20 problems, we came home. 21 The next day -- well, while I was at the 22 doctor's office, I had been texting Lieutenant 23 Cunningham about my next day, the 5th. I was supposed 24 to come back to work and qualify my firearms, off-duty 25 firearms and stuff like that, because I was supposed</p>
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<p>1 to start back to work. 2 Around eight o'clock my wife went to bed. 3 And I started laying everything out for work, shining 4 my boots, cleaning my firearms. My closet is probably 5 about, I don't know, ten feet long by six feet wide. 6 And that's where I keep all my firearms. We have 7 three little girls. 8 And so my wife was in our bed. We had a 9 newborn baby that was laying in the bed. She was 10 approximately six months old at the time. And since 11 my wife was under the influence of a drug and I didn't 12 want to be inside our garage where we clean -- where I 13 usually clean my firearms, I cleaned my firearms in my 14 closet. 15 And at the time I also had drank a couple 16 glasses of wine. And I was just cleaning, looking 17 through my wife's phone. And she got up and she 18 became pretty hysterical about me cleaning my firearms 19 in the closet due to some of the stuff that she had 20 told me earlier. 21 And she proceeded to leave the house. And 22 she got on my portable radio because I had her phone. 23 But we have a home phone in every room of our 24 residence. And she got on my portable radio and asked 25 for help.</p>	<p>1 And she said that she wasn't asking for help 2 as in help for -- help as in like I was hurting her. 3 The help was that she felt that I was in need of help 4 because of some of the stuff that was going on. 5 She left the residence with our six-month-old 6 child. And I followed down the road. I was later 7 pulled over by -- a block away from my house pulled 8 over by a deputy sheriff. They detoxed me on that 9 incident. No other charges were pursued or anything 10 else. 11 MR. KORN: Questions by the Board. 12 MR. COON: I do. 13 MR. KORN: Sheriff Coon. 14 MR. COON: You drank one or two glasses of 15 wine? 16 MR. SMITH: Yes, sir. 17 MR. COON: And they detoxed you? 18 MR. SMITH: Yes, sir. 19 MR. COON: How big were your glasses of wine? 20 MR. SMITH: Just normal glasses, sir. 21 MR. COON: Two glasses of wine and they had 22 to take you to detox? Why didn't they arrest you for 23 drunk driving if they detoxed you? 24 MR. SMITH: I had also taken some sleeping 25 pills. I was still trying to convert over from my</p>

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<p>1 time of being overseas. So I was also -- I had taken 2 a couple of sleeping pills as well. 3 MR. COON: How many kiddos do you have, 4 three? 5 MR. SMITH: Yes, sir. There was one at the 6 residence and the two was with their other parent. 7 MR. COON: Okay. 8 MR. KORN: Other questions from the Board? 9 Chief Betz. 10 MR. BETZ: Mr. Smith, it shows on this that 11 you had seven deployments? 12 MR. SMITH: Yes, sir. 13 MR. BETZ: What branch? 14 MR. SMITH: U.S. Navy, sir. 15 MR. BETZ: Thank you. 16 MR. SMITH: Thank you, Chief. 17 MR. KORN: Other questions? I have some 18 questions. 19 MR. SMITH: Yes, sir. 20 MR. KORN: Did they arrest you or did they 21 just take you into custody for detox? 22 MR. SMITH: Detox, sir. 23 MR. KORN: So were you ever accused or 24 arrested for DWI? 25 MR. SMITH: No, sir, I was not.</p>	<p>1 MR. KORN: And your department, did they take 2 any action on this? 3 MR. SMITH: Yes, sir. Hobbs Police 4 Department, they conducted an Internal Affairs 5 investigation. And I resigned on the 23rd of 6 September, sir. 7 MR. KORN: And are you looking for other work 8 in the law enforcement field? 9 MR. SMITH: I am currently working, sir. 10 MR. KORN: Where are you working? 11 MR. SMITH: Eddy County Sheriff's Office. 12 MR. COON: Did you know the officer that 13 stopped you? 14 MR. SMITH: I knew him, but I did not 15 personally know him, sir. 16 MR. COON: You don't think you got any 17 favorable treatment because you were a policeman? 18 MR. SMITH: No, sir, I did not. 19 MR. COON: But you still went to detox? 20 MR. SMITH: Yes, sir. 21 MR. COON: Okay. 22 MR. KORN: And you were never charged with 23 any -- you were never charged with any crime? 24 MR. SMITH: I believe that they did try to 25 charge me for interference with an emergency telephone</p>
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<p>1 call. But the D.A.'s Office later refused to 2 prosecute that, sir. 3 MR. KORN: Any other questions based on any 4 of this? No. Mr. Smith, thank you very much for 5 coming down. 6 MR. SMITH: Thank you. 7 MR. KORN: Next up would be Kenneth Martinez. 8 And he is represented. You were here before. But for 9 the record could you tell us your name, please. 10 MS. QUINTANA: My name is Yvonne Quintana, 11 I'm an attorney out of Espanola representing 12 Mr. Kenneth Martinez. 13 MR. KORN: Thank you, Ms. Quintana. Would 14 you please address the Board. 15 MS. QUINTANA: On behalf of Mr. Martinez, he 16 couldn't be here today. He's teaching a class and he 17 could not get a substitute instructor. He thinks that 18 this is very important and regrets that he can't be 19 here to answer your questions personally. But I will 20 endeavor to try to answer any questions that you may 21 have regarding the incident that leads us to be here 22 on his behalf today. 23 We did meet with the Director and we are in 24 agreement with the recommendation. We would ask that 25 you adopt that recommendation. Mr. Martinez did</p>	<p>1 provide testimony of other officers surrounding the 2 incident that led to the allegations of misconduct. 3 Mr. Martinez was working in Santa Fe for the 4 Santa Fe Police Department. And unfortunately his 5 employment ended there. I think that there was 6 discord in his employment at or around the time that 7 he exited that employment that led to this. 8 It was unfortunate that there appeared to be 9 more of a personnel issue than a misconduct issue. 10 And I think we presented sufficient evidence to 11 substantiate that. 12 There was also an issue with regard to a 13 course that Mr. Martinez had attended which resulted 14 in a Bachelor's degree. He was provided with 15 information from that university. It's an online 16 university that reflected that it was an accredited 17 institution. 18 He turned in paperwork to that effect to his 19 employer. And after his termination he was reported 20 to this Board for falsifying information. We did 21 provide all of the documentation that we were able to 22 obtain from that online university with regard to 23 their accreditation status in order to try to resolve 24 this. 25 MR. KORN: Ms. Quintana, maybe you can help</p>

1 us with something. The information before the Board
2 is completely lacking on what charges were in the
3 LEA-90. So what was Mr. Martinez accused of in the
4 first place?

5 MS. QUINTANA: He was accused I believe of
6 turning in paperwork that said that he had a
7 Bachelor's degree from an accredited university.

8 Because he is in military service as well as
9 a law enforcement officer, he pursued his education
10 through -- I believe he did a local Associate's degree
11 and then he finished up his degree through an online
12 program.

13 And that online program, later they published
14 information on their website that it was not
15 accredited and that he had to pay an additional fee
16 for proof of accreditation. It was a little bizarre.

17 Since then, in addition to completing that
18 degree, he completed the same degree through another
19 online university. He only had to take a couple of
20 courses to do that to clarify any questions that
21 existed.

22 But we provided all of the documentation
23 concerning the advertisement and information that he
24 was provided when he enrolled, which I believe is
25 something that is commonly done by individuals that

1 DR. GRATTON: Mr. Vice Chair.

2 MR. KORN: Yes, Dr. Gratton.

3 DR. GRATTON: That doesn't make any sense.
4 Either an institution is accredited or it's not
5 accredited. I have never heard of having to pay a fee
6 to determine if you were accredited. Do you know the
7 name of the university that came into question?

8 MS. QUINTANA: You know, off my memory I
9 don't. But we did submit the paperwork that reflects
10 that that's exactly what they wanted him to do, was to
11 pay a fee that so he could get the documentation that
12 would show that it was accredited.

13 It was an online university. I don't
14 remember the name of the university. But we did
15 provide that documentation as well as the degree that
16 he received, the documentation where he could submit
17 for payment of that additional fee, as well as the new
18 diploma that he received from another online
19 university where he has completed that with an
20 accredited university.

21 The real difference is that I believe that
22 Mr. Martinez was accused of providing false
23 information in order to receive a pay increase. He
24 received a \$50 per month increase because he already
25 had a number of credit hours prior to that. So it

1 are serving in the military. It's the only way to
2 complete their education while still serving their
3 country.

4 MR. KORN: So are you saying that, when he
5 applied to the university to get his degree, he was
6 responding to information and that said it was an
7 accredited university.

8 MS. QUINTANA: Correct.

9 MR. KORN: And he later found out it was not
10 accredited. And then he took courses from an
11 accredited university and got a Bachelor's degree?

12 MS. QUINTANA: Well, we've never been able to
13 clear up completely whether or not that first
14 university was accredited or not. The information he
15 had and that we have provided reflects that it was
16 accredited.

17 Subsequently he was given the opportunity to
18 pay an additional fee for documentation that would
19 prove that it was accredited. But in the meantime
20 these charges arose.

21 And he did complete the degree elsewhere just
22 so that there would be no question. What he didn't
23 want to do was pay a fee for more documentation from
24 something that was already in question.

25 MR. KORN: Okay.

1 wasn't a significant increase. But he did clarify
2 that for them.

3 MR. KORN: More questions from the Board?

4 MR. COON: I've got one.

5 MR. KORN: Sheriff Coon.

6 MR. COON: Did this happen when he was at
7 Santa Fe PD or Rio Arriba County Sheriff's Office?

8 MS. QUINTANA: It was Santa Fe.

9 MR. COON: Why was he terminated from the Rio
10 Arriba County Sheriff's Office? It shows here Santa
11 Fe PD, 12/11 of '99 to 3/27 of '07, terminated with
12 seven years and 106 days. Rio Arriba County Sheriff's
13 Office, 7/16 of '07 to 1/30 of '08.

14 MS. QUINTANA: I believe he left that job to
15 go and work for the Department of Homeland Security,
16 where he is presently employed.

17 MR. COON: Well, it doesn't say he left it.
18 It says he was terminated.

19 MS. QUINTANA: I don't know what the nature
20 of the termination was. I don't believe that there
21 was any misconduct out of Rio Arriba. All of these
22 allegations arose out of Santa Fe.

23 MR. COON: So we're looking at a case that's
24 seven years old.

25 MS. QUINTANA: Yes, sir.

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<p>1 MR. COON: Since all this took place. 2 MS. QUINTANA: Yes, sir. 3 MR. COON: Okay. 4 MR. KORN: If I remember correctly, this was 5 one of the ones that was a default order of 6 revocation. And he came in personally last time and 7 asked that that be rescinded? 8 MS. QUINTANA: Yes. He was serving on active 9 duty. He had been deployed at the time that that 10 default was issued. He had hired another attorney to 11 come in earlier to deal with this and that simply 12 never happened. 13 He secured my services. I met with the 14 Director, requested that we be put on the agenda, and 15 filed an appeal so that we could bring this forth. 16 We're really here because Mr. Martinez has actively 17 sought to have his record cleared and to get this 18 issue resolved. But it did come up when he was 19 deployed. 20 MR. KORN: And you personally appeared last 21 time with him, if I remember? 22 MS. QUINTANA: Yes, sir. 23 MR. KORN: Okay. Yes, sir. Chief McCall. 24 MR. McCALL: Did he actually do course work 25 on this degree?</p>	<p>1 MS. QUINTANA: Yes, sir. 2 MR. McCALL: And there's a transcript? 3 MS. QUINTANA: Yes, sir. 4 MR. QUEZADA: How long did he work getting 5 the extra \$50 a month? 6 MS. QUINTANA: It was a short period of time, 7 less than a year. 8 MR. QUEZADA: Was he ever asked to repay that 9 money? 10 MS. QUINTANA: No, he was not. 11 MR. KORN: Other questions? I have one for 12 the Director. Sir, do we have documentation from 13 Mr. Martinez that, when he applied and when he took 14 the courses, that it was an accredited university or 15 advertised to be an accredited university? 16 MR. JONES: Sir, what we have is we have a 17 record from Santa Fe PD that he applied to this 18 university. They brought me information in that 19 showed that, when he applied to the university, at the 20 time it was accredited, sir. 21 And then they had lost their accreditation is 22 what it looked like to me. And in that time when he 23 was deployed and trying to get his accreditation, 24 that's when it was -- they lost their accreditation, 25 this online university. And as they did that, that's</p>
Page 24	Page 25
<p>1 the only thing that I have. I don't have any other 2 documentation than that. 3 MR. KORN: So we have documentation that 4 shows that at least it was accredited at the time that 5 he began to matriculate? 6 MR. JONES: I have the documentation from 7 Santa Fe PD that says that he went to a university. 8 It came back it was nonaccredited. Mr. Martinez 9 brought me the information that said that, at the time 10 that he was taking the course, it was accredited. And 11 I'm looking for that now, sir. 12 MR. KORN: Okay. Any questions? Yes. Dr. 13 Gratton. 14 DR. GRATTON: Mr. Vice Chair, Director Jones, 15 can you get transcripts of that? I would like to look 16 at those and see if I can figure out what the 17 university is and what's going on. I work with 18 accreditation stuff all the time as do some of the 19 people in the audience. And I don't mind 20 investigating what's going on with this particular 21 institution. 22 MR. JONES: Sure, sir. I don't have the 23 course work that he did. But we'll work on it, sir. 24 We'll get it for you. 25 DR. GRATTON: Okay. Thank you, sir.</p>	<p>1 MR. KORN: Can you tell us the name of the 2 university. 3 MR. JONES: I was just looking for it, sir. 4 MR. KORN: Do you know? 5 MS. QUINTANA: Not off the top of my head. I 6 do have it outside. I can go out and get that 7 information and make sure that you have it by the time 8 you go into your executive session. I will get that 9 to the Director. 10 MR. KORN: Mr. Barncastle. 11 MR. BARNCASTLE: That's all, I just wanted to 12 know the name of the university. 13 DR. GRATTON: Yes. That's what I want to 14 know. 15 MS. QUINTANA: And I do have that for you. 16 It escapes me. I apologize. But I will get it into 17 your hands before you recess to go into closed 18 session. 19 MR. KORN: And we have a few other cases. If 20 you'll raise your hand, I'll recognize you and you can 21 give it to us then. 22 MS. QUINTANA: Thank you, sir. 23 MR. KORN: Thank you. Any other questions? 24 Okay. Thank you very much, ma'am. 25 ITEM NO. 11: MARTIN VALENZUELA</p>

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1 MR. KORN: Next on the agenda is letters of
2 no action. And that's Martin Valenzuela. Is he in
3 the room with us today? Let the record reflect that
4 he is not.

5 ITEM NO. 12: DELINDA CHAVEZ

6 MR. KORN: The next one is revert to
7 voluntary relinquishment from a default order of
8 revocation. And that's Delinda Chavez. Is she in the
9 room? Let the record reflect she is not.

10 ITEM NOS. 13 AND 14: THOMAS GARZA AND
11 BRIAN SCHAMBER

12 MR. KORN: Item Nos. 13 and 14, voluntary
13 relinquishment. There are two names under this
14 heading. The first is Thomas Garza and the second is
15 Brian Schamber. Is either Mr. Garza or Mr. Schamber
16 in the room with us today? Let the record reflect
17 they are not.

18 ITEM NOS. 15 AND 16: DANIEL ALCON AND PETER DWYER

19 MR. KORN: So we move next into formal
20 hearings where there is no appearance before the
21 Board. So this has been the fastest misconduct
22 session in my memory of four or five years. So we
23 would move now into closed session. And to do that
24 Mr. Reynolds always helps me get this right.

25 MR. REYNOLDS: Mr. Vice Chair, I would

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1 MS. LOPEZ: Nate Korn.
2 MR. KORN: Yes.
3 MS. LOPEZ: John Gratton.
4 DR. GRATTON: Yes.

5 MR. KORN: So the Board has spoken. We have
6 taken a unanimous vote to go into closed session.
7 We would ask the Director, when Ms. Quintana
8 comes back, if you could just get the name from her.
9 So with that the way we do it is we stay and we ask
10 you to retire.

11 (Recess from 9:30 a.m. to 11:15 a.m.)

12 MR. KORN: So we're back in open session.
13 And let the record reflect that, while we were in
14 closed session, we discussed only the matters on the
15 agenda items and nothing else.

16 Do we need a roll call?
17 MR. REYNOLDS: No. You don't need a roll
18 call. And actually let the record reflect that you
19 discussed only those items that were identified in the
20 motion to go into closed session.

21 MR. KORN: Thank you for the correction. Let
22 the record reflect as Mark indicated that we discussed
23 only those items that were identified before we went
24 into closed session.

25 So we will go through the items that we have

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1 suggest your language for the motion for the Board to
2 enter into closed session to discuss the items
3 identified on the agenda under Nos. 5 through 16A
4 under NMSA Section 10-15-1(H)(1) and also the section
5 of the Open Meetings Act that allows for discussion of
6 threatened litigation.

7 MR. KORN: Thank you. So we have the motion
8 as stated by Mr. Reynolds. Do we have an offer for a
9 motion?

10 DR. GRATTON: I so move.
11 MR. KORN: Dr. Gratton makes a motion.
12 MR. BARNCASTLE: I'll second.
13 MR. KORN: A second by Mr. Barncastle. This
14 will have to be a roll call vote. So would Monique
15 call the roll, please.

16 MS. LOPEZ: Pat Barncastle.
17 MR. BARNCASTLE: Yes.
18 MS. LOPEZ: Sheriff Coon.
19 MR. COON: Yes.
20 MS. LOPEZ: Chief Betz.
21 MR. BETZ: Yes.
22 MS. LOPEZ: Chief McCall.
23 MR. McCALL: Yes.
24 MS. LOPEZ: Sergeant Quezada.
25 MR. QUEZADA: Yes.

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1 a resolution for. And then we will be going back into
2 closed session. So this is going to be a very short
3 time.

4 We did not discuss the OMA addition to the
5 agenda which would be item No. 16A. So that's one of
6 the items we will be discussing when we go back into
7 closed session.

8 So with that having been said, we're here to
9 give some of the resolutions that the Board has
10 adopted in regard to the penalty matters.

11 The first items would be item Nos. 5 and 6,
12 Paul Gallegos and Jeremiah Phillips. Do we have a
13 motion?

14 MR. BETZ: Mr. Vice Chair, I would like to
15 make a motion to approve the default order of
16 revocation on agenda item Nos. 5 and 6.

17 DR. GRATTON: Second.
18 MR. KORN: A second by John Gratton. All
19 those in favor signify by saying aye.
20 (Those in favor so indicate.)
21 MR. KORN: All opposed nay. Let the record
22 reflect the ayes are unanimous.

23 The next item would be item No. 7, Isaac
24 Martinez.

25 MR. BARNCASTLE: Mr. Vice Chairman, I would

1 like to move to accept the Director's recommendation
2 of three months including one-year probation and to
3 provide proof of completion of the inpatient
4 counseling.

5 MR. KORN: We have a motion by
6 Mr. Barncastle.

7 MR. BETZ: I'll second.

8 MR. KORN: A second by Chief Betz. All those
9 in favor signify by saying aye.

10 (Those in favor so indicate.)

11 MR. KORN: All opposed. Let the record
12 reflect the ayes are unanimous.

13 The next item is item No. 8, Joshua Vandever.

14 DR. GRATTON: Mr. Vice Chair, I make a motion
15 that we reject the Director's recommendation and send
16 it back to the Director for reclassification.

17 MR. KORN: Do we have a second?

18 MR. McCALL: Second.

19 MR. KORN: A second by Chief McCall on a
20 motion by John Gratton. All those in favor signify by
21 saying aye.

22 (Those in favor so indicate.)

23 MR. KORN: All opposed. Let the record
24 reflect the ayes are unanimous.

25 Next is item No. 9, Jamie Fassler. Do we

1 those in favor signify by saying aye.

2 (Those in favor so indicate.)

3 MR. KORN: All opposed nay. Let the record
4 reflect the ayes are unanimous.

5 Next is No. 11, Martin Valenzuela. Do we
6 have a motion?

7 MR. COON: Mr. Chair, I would like to make a
8 motion to go with the Director's recommendation of a
9 letter of no action. And this case here is a case
10 where an officer stops a ten-year-old boy at 11:30 at
11 night walking on a busy highway and stops and takes
12 him into custody -- or not custody but for safe being.

13 And he gets jammed up by his boss for doing
14 his job and keeping this kid from getting run over. I
15 can't believe they would send something up like this.
16 And it just appalls me that they wasted our time and
17 they think this is some kind of infraction. And I'm
18 off my soapbox.

19 MR. KORN: So we have a long motion by
20 Sheriff Coon.

21 MR. BETZ: I'll second.

22 MR. KORN: A second. All in favor signify by
23 saying aye.

24 (Those in favor so indicate.)

25 MR. KORN: All opposed nay. Let the record

1 have a motion?

2 MR. COON: Mr. Vice Chair, I would make a
3 motion that we accept the Director's recommendation
4 for a four-month suspension and a one-year
5 probationary period.

6 DR. GRATTON: Second.

7 MR. KORN: We have a second by John Gratton.
8 All those in favor signify by saying aye.

9 (Those in favor so indicate.)

10 MR. KORN: All opposed nay. Let the record
11 reflect the ayes are unanimous.

12 Next is item No. 10, which the Board is going
13 to pass on for the moment.

14 Next after that is item No. 10A, Kenneth
15 Martinez. Do we have a motion?

16 MR. QUEZADA: Yes. Vice Chair, I make the
17 motion to reject the Director's recommendation and
18 recommend that the Director issue a letter of no
19 action. The Board believes that Mr. Martinez was not
20 at fault for what the initial university did and they
21 basically took advantage of him.

22 MR. KORN: We have a motion. Is there a
23 second?

24 DR. GRATTON: Second.

25 MR. KORN: A second by John Gratton. All

1 reflect the ayes are unanimous.

2 I think, when we discussed this one, the
3 Board thought he should get a letter of commendation,
4 not an LEA-90.

5 Next would be item No. 12, Delinda Chavez.
6 Do we have a motion?

7 MR. McCALL: Mr. Vice Chair, I would make a
8 motion to accept a voluntary relinquishment of
9 Ms. Chavez's certification and changing that from a
10 previous default of revocation.

11 MR. KORN: So we have a motion. Is there a
12 second?

13 MR. BARNCASTLE: I'll second.

14 MR. KORN: A second by Pat Barncastle. All
15 those in favor signify by saying aye.

16 (Those in favor so indicate.)

17 MR. KORN: All opposed. Let the record
18 reflect the ayes are unanimous.

19 Next is Thomas Garza, No. 13. Actually
20 Thomas Garza and Brian Schamber we can take as a group
21 for a voluntary relinquishment. Do we have a motion?

22 MR. McCALL: Mr. Vice Chair, I would like to
23 make a motion to accept the voluntary relinquishments
24 on both Thomas Garza and Brian Schamber.

25 MR. KORN: A motion by Chief McCall. Is

1 there a second?
 2 MR. QUEZADA: I'll second that.
 3 MR. KORN: A second by Mr. Quezada. All
 4 those in favor indicate by saying aye.
 5 (Those in favor so indicate.)
 6 MR. KORN: All opposed nay. Let the record
 7 reflect that the ayes are unanimous.
 8 And the Board requests that the Director
 9 indicate that the voluntary relinquishment was during
 10 the pendency of an investigation for misconduct.
 11 Now we're moving into the formal hearings.
 12 The first formal hearing is item No. 15, Daniel Alcon.
 13 Do we have a motion?
 14 MR. BARNCASTLE: Mr. Vice Chairman, I move to
 15 accept the Hearing Officer's findings and reports and
 16 impose the decision of revocation.
 17 DR. GRATTON: Second.
 18 MR. KORN: We have a motion and a second by
 19 John Gratton. All those in favor indicate by saying
 20 aye.
 21 (Those in favor so indicate.)
 22 MR. KORN: All opposed nay. Let the record
 23 reflect that the ayes are unanimous.
 24 Finally the last formal hearing is Peter
 25 Dwyer, No. 16. Is there a motion?

1 closed session. And that is true. All conversations
 2 having to do with the matter of Mr. Smith were done
 3 without the presence of Chief McCall in the room.
 4 Sir, we thank you for addressing us. Could
 5 you tell us your name, please.
 6 MR. BELYEU: Yes, sir. My name is Brian
 7 Belyeu. I'm a lieutenant with the Hobbs Police
 8 Department.
 9 MR. KORN: Brian Belyeu.
 10 MR. BELYEU: Yes, sir.
 11 MR. KORN: B-e-l-e-w?
 12 MR. BELYEU: B-e-l-y-e-u.
 13 MR. KORN: B-e-l-y-e-u. Okay. Lieutenant,
 14 we would be pleased to hear what you have to say.
 15 MR. BELYEU: In regards to Mr. Smith's
 16 incident that occurred on the night in question, I was
 17 the officer that was assigned to our Internal Affairs
 18 investigation.
 19 There was just a lot of points that were I
 20 believe left out or not addressed. I believe
 21 Mr. Smith indicated to you this morning that it was at
 22 eight something at night. However, his wife's plea
 23 for help over our PD primary channel was at almost
 24 midnight.
 25 She came on the radio, pleaded for help, gave

1 MR. QUEZADA: Mr. Chairman, I make the motion
 2 to accept the Hearing Officer's findings and report
 3 and to impose the discipline of revocation.
 4 MR. KORN: We have a motion. Is there a
 5 second?
 6 MR. BETZ: I'll second.
 7 MR. KORN: A second by Chief Betz. All those
 8 that favor indicate by saying aye.
 9 (Those in favor so indicate.)
 10 MR. KORN: Opposed. Let the record reflect
 11 the ayes are unanimous.
 12 So having said that, that takes us back to
 13 item No. 10. It came to the Board's attention in
 14 discussions with the Director during our closed
 15 session that there was a representative from the Hobbs
 16 Police Department who was here during the time that we
 17 took Mr. Smith's testimony. And the Board would be
 18 interested in hearing from that gentleman.
 19 Is there a gentleman from Hobbs PD here.
 20 MR. BELYEU: Yes.
 21 MR. McCALL: Mr. Vice Chair, I would like the
 22 record to reflect that I recused myself from that
 23 conversation.
 24 MR. KORN: Chief McCall brings up the fact
 25 that he did recuse himself from the conversation in

1 her name, her address. However, you couldn't hear it
 2 very clearly until you listened to it numerous times.
 3 She then was eventually able to get out of the house
 4 and go to another officer's home that was not far from
 5 her location, at which that time that officer had
 6 called our dispatch center to let them know that she
 7 was there.
 8 At that time she indicated to our dispatch
 9 center that they just observed Mr. Smith's vehicle
 10 drive past the house. That was when Mr. Smith was
 11 stopped by the Lea County Sheriff's Department.
 12 It transpired from there, an investigation by
 13 the Sheriff's Department as into domestic violence and
 14 some other issues that were there, the DWI being one
 15 of them. For whatever reason it was all captured on
 16 the Sheriff's Department's in-car cameras when I was
 17 reviewing the video.
 18 The sergeants that prepared the report that
 19 subsequently detoxed Mr. Smith, there's again a lot
 20 more evidence that was there. In New Mexico our
 21 standards that we utilize for detox is the same
 22 standard that we have to fulfill for DWI.
 23 In his reports he detailed all the tests that
 24 he had performed. And even a letter from the District
 25 Attorney's Office stated that that was -- there was

1 enough clues there that, you know, Mr. Smith could
2 have been arrested for DWI.

3 Without getting into the IA file or the
4 investigation, just based on the reports and the
5 in-car video, if it would have been any citizens or so
6 forth, they probably would have had several charges.

7 I just felt like that may have been
8 overlooked or not all disclosed on how it came out. I
9 don't know if our report wasn't complete, which I
10 thought it was.

11 But I just felt like the Board needed to know
12 that. Because a letter of cautionary -- we as
13 officers have set ourselves to a higher standard. And
14 if it had been anybody else, I'm saying anybody else
15 as a citizen, they probably would have been charged
16 with several crimes.

17 MR. KORN: Okay. Questions for Lieutenant
18 Belyeu. Sheriff Coon.

19 MR. COON: Lieutenant Belyeu, was there any
20 damage in the house?

21 MR. BELYEU: Yes, sir.

22 MR. COON: Did you see a struggle or anything
23 between him and her?

24 MR. BELYEU: From what I understand by the
25 report and if I remember correctly, there was not any

1 was recorded on the 911 calls at the dispatch center.
2 And that, yes, that she was scared.

3 MR. KORN: But was she scared of something
4 that was real or was she scared just because of her
5 medical condition?

6 MR. BELYEU: The report didn't indicate that.
7 And I don't remember if it was covered in the IA.

8 MR. KORN: Because it doesn't sound like
9 Officer Smith, just based on what you're saying, had
10 an interaction with her that threatened her. I mean
11 notwithstanding the door.

12 MR. BELYEU: In the telephone conversation
13 from Officer Valenzuela talking with dispatch with
14 Ms. Smith right there, she was saying that she was
15 being held there. She was trying to get out, she
16 couldn't get out. And she was finally able to get
17 out.

18 And he indicated -- or she indicated that he
19 had taken the phone -- disabled the phones, that he
20 had took her cell phone. And, in fact, when he was
21 stopped, he had her cell phone in his possession.
22 Then he indicated that, you know, he was just
23 listening -- using her phone to listen to Pandora was
24 what he told me.

25 MR. KORN: Okay. Questions from the Board?

1 physical contact. However, there was an inner door
2 that was kicked open. And there was pictures that was
3 entered into evidence by the Sheriff's Department of
4 the door, the damage to the door being kicked open.

5 And that's what Mr. Smith's wife had
6 indicated, that he forced that door open to get to
7 her. But that was all -- there was actually not
8 anything of physical confrontation between the two
9 other than he was supposedly not allowing her to leave
10 the residence.

11 MR. COON: Did he mess with the phones or
12 anything like that?

13 MR. BELYEU: In the report it states -- in
14 the Sheriff's Department's report, the deputy, when he
15 talked to -- interviewed Ms. Smith, indicated that he
16 had disabled the phones. And I guess an alarm also,
17 that they have an alarm, which she pressed the panic
18 button to a home alarm system.

19 MR. COON: Thank you.

20 MR. KORN: Did your investigation reveal that
21 she felt threatened by him or was she having any kind
22 of a --

23 MR. BELYEU: In just reviewing the audio,
24 from when the officer -- when Ms. Smith left the house
25 and went to the other officer's house, the recording

1 MR. BARNCASTLE: What charges were actually
2 presented to the District Attorney's Office?

3 MR. BELYEU: I believe there were some -- I'm
4 not for sure what the letter stated. The one deal
5 that I read from the District Attorney's Office was
6 there appears to have been sufficient evidence for
7 the -- for the DWI.

8 But since he was not arrested and given
9 implied consent and evidence collected, that they
10 would not pursue on that. And I believe the reason
11 that I was told for the -- for the not following on
12 the domestics was the victim was going to be an
13 uncooperative victim.

14 MR. BARNCASTLE: Okay. Was there a firearm
15 in the vehicle when he was stopped?

16 MR. BELYEU: No. There were no firearms in
17 the vehicle.

18 MR. BARNCASTLE: He was in his POV?

19 MR. BELYEU: He was in his personal vehicle,
20 yes, sir.

21 MR. BARNCASTLE: That's all I have.

22 MR. BELYEU: Now, he did -- he did say that
23 he was cleaning his firearms. And there are Sheriff's
24 Department photos of the handguns laid on the shelf in
25 the closet.

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<p>1 MR. BARNCASTLE: That's all I have. Thank 2 you.</p> <p>3 MR. BELYEU: And I would like to also add, 4 when I reviewed the photos, when he said he was 5 cleaning the guns, however, there was no cleaning -- 6 there was no cleaning materials there for cleaning the 7 gun. The guns were just laid out. And the holsters 8 were on a nightstand I believe.</p> <p>9 MR. BARNCASTLE: Thank you.</p> <p>10 MR. KORN: Any more? Other questions from 11 the Board? No. Lieutenant, thank you for coming in.</p> <p>12 MR. BELYEU: Yes, sir.</p> <p>13 MR. JONES: I have a question.</p> <p>14 MR. KORN: Director, yes.</p> <p>15 MR. JONES: Was Ms. Smith under any 16 medication that you know of?</p> <p>17 MR. BELYEU: Not that I'm aware of, sir.</p> <p>18 MR. JONES: Okay.</p> <p>19 MR. KORN: Had you asked her the question?</p> <p>20 MR. BELYEU: Pardon?</p> <p>21 MR. KORN: When you say not that you're aware 22 of, did you ask her if she was under medication and 23 she replied in the negative or did you just not ask 24 that?</p> <p>25 MR. BELYEU: I did not ask that.</p>	<p>1 MR. KORN: Okay.</p> <p>2 MR. BELYEU: She was not interviewed in the 3 investigation.</p> <p>4 MR. KORN: Okay. Any other questions from 5 the Board? Lieutenant Belyeu, thank you very much.</p> <p>6 MR. BELYEU: Thank you, sir.</p> <p>7 MR. KORN: In fairness does the Board want to 8 hear from Mr. Smith again in case he has anything to 9 say?</p> <p>10 MR. COON: Yes.</p> <p>11 MR. KORN: Mr. Smith, you're in the room. 12 You could approach and talk to the Board, if you would 13 like to. You don't have to.</p> <p>14 MR. SMITH: Yes, Mr. Vice Chairman.</p> <p>15 MR. KORN: Mr. Smith, there is a question 16 from Sheriff Coon.</p> <p>17 MR. SMITH: Yes, sir.</p> <p>18 MR. COON: Is what the lieutenant said pretty 19 much the facts?</p> <p>20 MR. SMITH: When I said earlier eight o'clock 21 or 20:00, that's whenever I provided the emails to 22 Mr. Jones. I had wrote her emails saying we can work 23 things out. That's what I meant by eight o'clock. 24 She was in bed at that time.</p> <p>25 But there were some facts that -- she was not</p>
<p>Page 44</p> <p>1 interviewed. And I think that, if she would have been 2 brought in, that some of this stuff would have been 3 clarified.</p> <p>4 The damage to -- my door was damaged. But it 5 was not kicked in. It was done earlier that morning 6 before we left. And the door wasn't damaged to the 7 point to where we had to replace the door. I just had 8 to rescrew the bolts back on.</p> <p>9 My daughter was locked inside the bedroom. 10 We have a joint bathroom. And just that one door had 11 to be forced open. But it was not done that night. 12 It was not kicked. There was no evidence it was 13 kicked at all, sir.</p> <p>14 MR. COON: How about the phones, did you 15 interfere with the phones in the house, the panic 16 alarm, or anything like that?</p> <p>17 MR. SMITH: Sir, we had an alarm. And it was 18 activated. I did deactivate it because she was 19 leaving. And I had her cell phone. And I was being 20 nosy going through it during that time.</p> <p>21 MR. COON: Did you rip the phone off the wall 22 or anything like that?</p> <p>23 MR. SMITH: No, sir. I provided phone 24 records to Mr. Jack Jones that states that we had a 25 phone -- or that we had phone service at the house.</p>	<p>Page 45</p> <p>1 And we had phones in every bedroom as well.</p> <p>2 MR. COON: Thank you.</p> <p>3 MR. KORN: Other questions from the Board?</p> <p>4 DR. GRATTON: Mr. Smith, did you physically 5 restrain your wife from leaving the house that night?</p> <p>6 MR. SMITH: No, I did not. I've never laid a 7 hand on my wife, sir.</p> <p>8 MR. QUEZADA: I have a question.</p> <p>9 MR. KORN: Mr. Quezada.</p> <p>10 MR. QUEZADA: When you decided to leave 11 driving, did you believe you were impaired?</p> <p>12 MR. SMITH: At the time I knew that my wife 13 was under the influence. And I was concerned because 14 she had taken my child with her. And I probably had a 15 couple drinks and plus with the sleeping medicine. 16 There could have been a good chance, yes, sir.</p> <p>17 MR. QUEZADA: So being a law enforcement 18 officer at that time, do you believe that you did 19 wrong by driving?</p> <p>20 MR. SMITH: Yes, sir. I do admit that, yes, 21 sir.</p> <p>22 MR. KORN: And you are admitting to being 23 wrong in terms of driving or your interaction with 24 your wife?</p> <p>25 MR. SMITH: Driving, sir.</p>

1 MR. KORN: Was there anything that you think
2 you did wrong with your interaction with your wife?
3 MR. SMITH: I believe, if I could have
4 just -- instead of trying to calm her down -- because
5 that's what I was trying to do, was calm her down.
6 But it wasn't working. And so I was just done. I
7 didn't want to -- I didn't want it to escalate at that
8 point. So I just let her go.
9 MR. KORN: Other questions by the Board? No.
10 Sir, thank you. Thank you for reappearing before us.
11 Director, do you have anything?
12 MR. JONES: Was your wife under medication
13 from the trip that you had taken to Lubbock that day?
14 MR. SMITH: Yes, sir. She was diagnosed with
15 breast cancer that day. And they had did the biopsy.
16 And she was under Valium and also Hydrocodone and
17 Lortab starting at four p.m. So she was not in the
18 right coherent state of mind to be driving.
19 And I believe that whenever she saw me
20 cleaning my guns -- and I did have cleaning supplies.
21 And it was on my left shelf. And I was trying to put
22 everything up because I didn't want anything to be
23 left out because like I said we have kids.
24 And if I leave a firearm out or anything, the
25 kids get involved and it doesn't work. So like he

1 two years.
2 At no time during drill weekends has there
3 been any indications of ever any disputing whatsoever.
4 They're a very loving couple. Every time we drill,
5 she comes to our unit. She helps in our unit as a
6 civilian. He allows her to come in and she helps us.
7 They drive in together. They leave together.
8 She speaks highly about him every time we're alone.
9 He speaks highly about her when they're alone. All
10 I've seen is a loving couple in my eyes.
11 He probably was there with some stressors
12 back in November, when he found out he was getting
13 deployed. I'm going to bring in a little bit of
14 personal stuff but nothing that is too bad.
15 But, you know, his wife was pregnant. He
16 gets orders to go oversees to Afghanistan or Djibouti.
17 And he asked the Navy, hey, can I get an extension
18 because my wife is due in December and I leave
19 December.
20 The Navy pretty much told him no at first.
21 So here is his wife going to have to have a baby by
22 herself while he is getting deployed. So there were
23 stressors there.
24 He ends up getting a 30-day extension. She
25 has the baby. He's here for 30 days and he gets

1 said all my guns were put up at the time. And that's
2 just a habit of mine. I put my firearms up on the top
3 shelf. And I did have cleaning supplies in there as
4 well.
5 MR. KORN: Director, did you have other
6 questions?
7 MR. JONES: No, sir.
8 MR. QUEZADA: I have one question. Had she
9 been drinking that evening also?
10 MR. SMITH: No, she had not.
11 MR. QUEZADA: Thank you.
12 MR. KORN: Sir, thank you again for coming
13 back.
14 MR. SMITH: Yes, sir.
15 MR. KORN: With that --
16 MR. JASLER: Mr. Vice Chair, if I may speak
17 on behalf of Mr. Smith.
18 MR. KORN: Sure. Who are you?
19 MR. JASLER: Mr. Vice Chair, I'm Fred Jasler.
20 I work for the Law Enforcement Academy. But I'm not
21 here representing them. I'm here to represent him
22 just on a personal basis.
23 I've known Mr. Smith due to the Navy. I'm
24 still in the Navy currently. I was in the same unit
25 as Mr. Smith. I've known him and his wife for about

1 deployed. While he's out there in Djibouti is when he
2 finds out that his wife actually has breast cancer.
3 He gets leave. So there's that stressor there too for
4 both ends, her and him.
5 He gets leave. He comes back. It ends up to
6 be bigger than what it is. So he's going through his
7 channels to try and stay home. Eventually the
8 commanding officer there at his deployment overseas
9 allows him to stay and they cancel his orders.
10 That's the kind of husband he is. He wants
11 to be here through those kind of issues. A, he's
12 missing his baby that him and his wife just had. And
13 not just that, now they've got personal issues. The
14 wife having cancer.
15 So that's the kind of person he is that I've
16 always seen in the last two years, is he's always
17 there to take care of the family.
18 With all those stressors, when service
19 members come back and things happen, is there drinking
20 involved? Yes. Most of our critical incidents with
21 service members are due to drinking. If it's
22 postdeployment activities that are occurring to try to
23 cope with everyday issues, it happens.
24 But I can't make -- and I don't know the
25 situation that night or that evening. I'm just

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<p>1 talking as a whole. I've never seen anything that he 2 would put his family or his wife in danger. All he is 3 is about his family.</p> <p>4 And that's why he was stressing so hard at 5 trying to get back for his wife and his newborn, to 6 take care of them versus, you know, serving the 7 country, which he's done seven times.</p> <p>8 MR. KORN: Thank you, Mr. Jasler. The Board 9 may have questions.</p> <p>10 MR. BETZ: I've got one.</p> <p>11 MR. KORN: Chief Betz.</p> <p>12 MR. BETZ: Do you know if he was afforded any 13 type of decompression counseling by the military when 14 he returned?</p> <p>15 MR. JASLER: Yes. We do have -- what's the 16 acronym. It's the postdeployment. All sailors need 17 to go to postdeployment. He's gone to one. I believe 18 he even took his wife, because it just doesn't affect 19 the service member themselves, it affects the family. 20 There are issues that can happen, there's PTSD that 21 can occur.</p> <p>22 So the counselors and everybody, when they go 23 to this postdeployment, that's what they talk about. 24 Not just for the service member but for family as 25 well.</p>	<p>1 MR. BETZ: Thank you.</p> <p>2 MR. KORN: Thanks, Fred. Other questions for 3 Mr. Jasler? Thank you very much for coming and 4 speaking. Okay.</p> <p>5 We will go back into closed session to deal 6 with this matter and also to deal with the Open 7 Meetings Act question that is now on the agenda. And 8 do we need to take another vote?</p> <p>9 MR. REYNOLDS: Yes. You need to have another 10 motion and another vote.</p> <p>11 MR. KORN: Okay. So would you like to frame 12 the motion.</p> <p>13 MR. REYNOLDS: Sure. The motion would be the 14 same as going into closed session the last time. So 15 the motion will be to go into executive session and 16 discuss the licensing matters pursuant to NMSA 17 Section 10-15-1(H)(1), the item identified on the 18 agenda as No. 10, and to also discuss the pending 19 threat of litigation regarding the OMA.</p> <p>20 MR. KORN: Very good. So with the motion 21 framed, does somebody want to make a motion?</p> <p>22 MR. BARNCASTLE: I'll move that we accept the 23 motion recommendations that were just provided to us.</p> <p>24 DR. GRATTON: Second.</p> <p>25 MR. KORN: A motion by Mr. Barncastle and a</p>
<p style="text-align: right;">Page 52</p> <p>1 second by Dr. Gratton. And we'll take a voice vote.</p> <p>2 MS. LOPEZ: Pat Barncastle.</p> <p>3 MR. BARNCASTLE: Yes.</p> <p>4 MS. LOPEZ: Sheriff Coon.</p> <p>5 MR. COON: Yes.</p> <p>6 MS. LOPEZ: Chief Betz.</p> <p>7 MR. BETZ: Yes.</p> <p>8 MS. LOPEZ: Chief McCall.</p> <p>9 MR. McCALL: Yes.</p> <p>10 MS. LOPEZ: Sergeant Quezada.</p> <p>11 MR. QUEZADA: Yes.</p> <p>12 MS. LOPEZ: Nate Korn.</p> <p>13 MR. KORN: Yes.</p> <p>14 MS. LOPEZ: John Gratton.</p> <p>15 DR. GRATTON: Yes.</p> <p>16 MR. KORN: So with that vote having been 17 said, we will adjourn to go into closed session. And 18 you know the routine by now. We stay.</p> <p>19 MR. JONES: And we would like to ask that 20 everybody take their personal stuff with them.</p> <p>21 MR. KORN: Yes. And as a matter of protocol, 22 all personal items should be going with you so we're 23 not responsible for them.</p> <p>24 (Recess from 11:45 a.m. to 1:15 p.m.)</p> <p>25 MR. KORN: So we're back in session for the</p>	<p style="text-align: right;">Page 53</p> <p>1 afternoon. And for the record we'll announce that the 2 only items we discussed during our closed session were 3 those things that we had noticed prior to going into 4 our closed session.</p> <p>5 So with that in mind, the one open item is 6 item No. 10, Raymond Smith. Do we have a motion?</p> <p>7 DR. GRATTON: Mr. Vice Chair, I make a motion 8 that the recommendation of the Director be approved.</p> <p>9 MR. KORN: We have a motion. And usually we 10 get a second and then we take our vote. But in this 11 case the Board thought in our closed session that we 12 should have some discussion, because this case was 13 something that gave us great pause, because we want to 14 do the right thing both for Mr. Smith, Officer Smith, 15 but also for the citizens of the state.</p> <p>16 So our decision-making had to do with the 17 fact that Officer Smith's wife had been taking 18 medication and had come to the Director and explained 19 to the Director that some of the actions and reactions 20 she had were caused by medication and that, had she 21 not been under medication, she would have perhaps 22 reacted differently.</p> <p>23 We also look at the fact that were this not 24 an officer, were it anybody in the world, that there 25 was no probable cause to make the stop. And indeed as</p>

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<p>1 a result of that there was no arrest. There's no real 2 evidence of DWI or of being impaired.</p> <p>3 The Board also took great notice from a 4 person who we have a great deal of respect for, and 5 that's Fred Jasler, who spoke in quite detailed 6 accounts about the integrity of Mr. Smith and also the 7 integrity of their relationship with each other, both 8 him and his wife, and also about his character.</p> <p>9 And finally having said all that and having 10 made these decisions that the Board has made and the 11 motion that soon will be voted on, having said all 12 that, the Board cannot ignore the fact that Mr. Smith 13 served not one or two but seven tours of duty 14 protecting our country and all of us.</p> <p>15 So as an accumulation of all those things, 16 the Board has come to the conclusion to accept the 17 Director's recommendation. So that would be my 18 discussion. Does anybody have anything to add to 19 that?</p> <p>20 So with that in mind, we have a motion. Do 21 we have a second?</p> <p>22 MR. COON: Second.</p> <p>23 MR. KORN: A second by Sheriff Coon. All 24 those in favor signify by saying aye. 25 (Those in favor so indicate.)</p>	<p>1 MR. KORN: All opposed nay. Let the record 2 show that the vote is unanimous.</p> <p>3 MR. McCALL: Mr. Vice Chair, I recused myself 4 from that vote as I did the conversation.</p> <p>5 MR. KORN: Yes. Thank you, Chief. As in the 6 prior meeting, Chief McCall was not in the room and 7 did not take part in any of our discussions and it was 8 totally without his involvement.</p> <p>9 ITEM NO. 17: DIRECTOR'S REPORT</p> <p>10 MR. KORN: Moving ahead, the next item would 11 be item No. 17, which is the Director's report. 12 Director Jones.</p> <p>13 MR. JONES: Mr. Vice Chair, Chairman, 14 Members, ladies and gentlemen, it gives me great 15 pleasure in stating to the New Mexico Law Enforcement 16 Academy Board members the Director's Report.</p> <p>17 The following information is a description of 18 the activities that have taken place in the New Mexico 19 Law Enforcement Academy since the last New Mexico Law 20 Enforcement Academy Board meeting held in Albuquerque 21 on December 10th.</p> <p>22 The New Mexico Law Enforcement Academy did a 23 physical assessment of 89 participants on January 6th, 24 2014. Of those 89 who tested under the new physical 25 assessment standards, eight individuals failed the</p>
<p>1 assessment, three women and five men. The two women 2 were given the opportunity to retest on January 8th, 3 2014, with one passing and one failing.</p> <p>4 The New Mexico Law Enforcement Academy 5 started basic class 187 January 19th, 2014, with a 6 full class of 64 cadets. Twenty-five that passed the 7 physical assessment will be allowed to attend class 8 188. That class will start March 9th, 2014. The 9 physical assessment date for basic class 188 will be 10 February 24th, 2014.</p> <p>11 Director Angela Byrd of the Southeastern New 12 Mexico Law Enforcement Academy started basic class 13 A-14-32 on January 13th, 2014, with 22 cadets that 14 will graduate or will possibly graduate May 2nd, 2014. 15 Director Gil Najar of Western New Mexico University 16 started basic class No. 59 with nine cadets.</p> <p>17 The following is a summary of the in-service 18 training conducted from December 12th, 2013, through 19 February 10th, 2014. December 16th to 19th, 2013, 20 biennium in-service training in Santa Fe and ten 21 attended. January 20th through 31st, 2014, basic 22 defense tactics instructor class, Santa Fe, and 16 23 attended.</p> <p>24 January 27th through 31st, 2014, crisis 25 response train the trainer in Albuquerque and 20</p>	<p>1 attended. January 27th through 31st, 2014, 2 certification by waiver. This was the first 3 transition with honor that was done for the military 4 veterans that are coming back that have a military 5 police background or an MA, master of arms background, 6 from the United States Navy.</p> <p>7 We had 22 people attend. Several came from 8 Kirtland Air Force Base, three from Alamogordo, and 9 one from an Air Force base in Texas. So anyway we had 10 several National Guard members and Air National Guard 11 members.</p> <p>12 On February 3rd through the 7th, 2014, we had 13 an introduction to digital forensics in Santa Fe and 14 17 attended. On February 3rd through the 7th, 2014, 15 we had the first APCO public safety telecommunicator 16 instructor class in Santa Fe, New Mexico. 102 17 students attended the above training for a total of 18 4,720 contact training hours.</p> <p>19 The New Mexico Law Enforcement Academy hosted 20 an Association of Public-Safety Communications 21 Officials, APCO, public safety telecommunicator 22 instructor class in Santa Fe. From February 3rd to 23 February 7th, 2014, there were 17 that attended this 24 class. Now the State of New Mexico has 17 new PST 25 instructors with state and national credentials and</p>
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1 certifications.

2 This could not have been possible without

3 Director Angie Byrd, Southeastern New Mexico Law

4 Enforcement Academy, and Ms. Robbie McCormick from

5 Regional Emergency Dispatch Authority in Artesia.

6 This advanced training for New Mexico

7 dispatchers will give them all an opportunity for more

8 and advanced training. And I would like to have

9 Director Byrd talk for just a minute on the advantages

10 of what APCO brings to the State of New Mexico.

11 MR. KORN: Thank you, Director Jones.

12 Director Byrd, it's always a pleasure to have you

13 address us.

14 MS. BYRD: Thank you, Vice Chairman. Oh,

15 let's see. February 3rd we had 16 representatives

16 from different dispatch authorities come into this

17 APCO training. We had the State Police, people from

18 Rita, Clovis, Albuquerque. And we went through the

19 PST 1 course.

20 What it did was it certified all of them to

21 teach PST 1, which is just the basic course at the

22 academy level. Okay. And also, once they are

23 certified to teach at the basic level, they then can

24 teach at their agency.

25 Several across the state have gone to PST 1

1 stating that that's a lot of the calls that they have

2 that they don't know how to deal with, and we didn't

3 address it in the basic class for PST. So now we will

4 be doing that. So they get that training as well

5 while they're in the academy.

6 We had 16 graduate. And they were all very

7 adamant about being a part of helping write the

8 curriculum, the rest of the curriculum, and also

9 instructing at the academies. So we set up an actual

10 schedule. And we are going to try this program in --

11 March 31st is when it starts. Questions?

12 MR. KORN: Questions from the Board? No.

13 Thank you, Director Byrd.

14 MR. JONES: The New Mexico Law Enforcement

15 Academy is very fortunate to have an attorney

16 instructor, Elliott Guttmann. He continually

17 impresses everybody around the State of New Mexico

18 with his prowess in legal and what he does to help law

19 enforcement throughout the State of New Mexico.

20 This last couple months he's taught the basic

21 class 187, the State Police recruit class 87. He's

22 taught down at the Southeastern New Mexico Law

23 Enforcement Academy class 13-31, also their new class

24 14-32.

25 He worked with the Santa Fe DA's Office to

1 APCO. And they have now stated, APCO has, that those

2 people can teach in-house so that they can get through

3 the first week of training. So when I went through

4 the NMAC, it shows that we do have a cert by waiver

5 option for PST.

6 So we met after our training and everybody

7 got input into this. And we decided that, if agencies

8 are PST 1 APCO certified, they can teach in-house,

9 certify those people, and then they only need to come

10 to the academy for the second and third week.

11 So it's like a cert by waiver type. The

12 biggest complaint of PST is that it's redundant for

13 them, they already have it, because they have it

14 in-house. And then they have to come sit through it

15 at the academy.

16 So this way they will have to show their

17 PST 1 certification. And then they will come to the

18 law block, CIM, fire, EMS, for the second two weeks.

19 That helps everybody with staffing. As you know with

20 dispatchers it's -- they're always constantly short

21 people. So this allows them to just be gone two weeks

22 instead of three and be taught in-house. So we voted

23 on that.

24 We also added suicide and domestic violence

25 to the curriculum. They were the ones that were

1 teach courtroom testimony for the New Mexico Law

2 Enforcement Academy class 186. He did a legal update

3 for DA investigators. He attended the AG DWI training

4 at Santa Fe Community College.

5 He taught two days of class with

6 telecommunicator operators. He designed and developed

7 with Chief Mark Shea legal update training handouts

8 that are posted to the New Mexico LEA website for

9 downloading. He designed and developed with Chief

10 Mark Shea New Mexico Law Enforcement Academy

11 newsletters. And he emails legal updates to agencies

12 to distribute internally as new court cases are

13 decided.

14 MR. KORN: If he retires, you're going to

15 have to get three people to replace him.

16 MR. JONES: We are, sir. Personnel changes

17 to the New Mexico Law Enforcement Academy.

18 Administrative assistant Michelle Himbarger was a

19 probationary employee and was released from the New

20 Mexico Law Enforcement Academy on Friday,

21 February 7th.

22 Lieutenant Fred Jasler from the New Mexico

23 Law Enforcement Academy applied and was selected from

24 three candidates as the new bureau chief. Fares

25 Martinez from the New Mexico State Police applied and

1 accepted the position as an instructor at the New
2 Mexico LEA.
3 Roger Jimenez from the Santa Fe Police
4 Department applied and accepted a position as an
5 instructor. Jason Hatch from the Bosque Farms Police
6 Department applied and accepted a position as an
7 instructor.
8 The New Mexico Law Enforcement Academy would
9 like to recognize several agencies that have assisted
10 in the training at the New Mexico LEA. It must be
11 acknowledged and documented that the New Mexico Law
12 Enforcement Academy could not produce the dynamic,
13 reality-based, and high-intensity scenario development
14 training that is being performed without the
15 assistance of these agencies and other academies.
16 The Alamogordo Police Department, the
17 Albuquerque Police Department and Albuquerque Police
18 Academy, Bernalillo County Sheriff's Office, Hobbs
19 Police Department, New Mexico State Police, New Mexico
20 Police Academy, Roswell Police Department, Santa Fe
21 Police Department, Santa Fe County Sheriff's
22 Department, San Juan County Criminal Justice Authority
23 Academy, San Juan Communication Authority,
24 Southeastern New Mexico Law Enforcement Academy.
25 In recognition and appreciation of their

1 questions.
2 DR. GRATTON: No, sir.
3 ITEM NO. 18: PUBLIC COMMENT
4 MR. KORN: Next would be public comment. Do
5 we have a sign-in sheet? So we have three people on
6 the sheet for public comment.
7 And before we do this, we'll just kind of
8 give an indication. It's basically been the Board's
9 policy that there's a time limit on comments. Today
10 it would be about three minutes. If somebody can't
11 finish what they're saying in three minutes, the Board
12 can extend that time, if they need to or if they want
13 to.
14 So the first person on is Chris Mechels. And
15 I should say there are three people who have signed
16 up. Mr. Mechels, welcome.
17 MR. MECHELS: Mr. Chairman, Members of the
18 Board. First off, I think three minutes is
19 inadequate. I thought we would get at least five from
20 your past practice.
21 MR. KORN: In light of --
22 MR. MECHELS: Your past practice. It's
23 ordinarily been five minutes. And I have 20 minutes
24 worth of material.
25 MR. KORN: Not to debate this with you, but

1 personnel with exceptional leadership, knowledge of
2 tactics, techniques, firearms, communications, and
3 devotion to the profession of arms in supporting the
4 New Mexico Law Enforcement Academy and the Basic
5 Police Officer Training Program, the staff of the New
6 Mexico Law Enforcement Academy would like to express
7 our most sincere thanks.
8 These individuals and agencies have earned
9 our utmost confidence and respect. And the New Mexico
10 Law Enforcement Academy thanks them for all that they
11 have done and what they do to continue to support law
12 enforcement, our mission, and other requirements
13 within New Mexico. This is where law enforcement
14 begins. This is respectfully submitted from Jack
15 Jones. Any questions? Sir.
16 MR. COON: Did you say the State Police was
17 in their 87th academy?
18 MR. JONES: Yes, sir.
19 MR. COON: My goodness. That's 56 between me
20 and them right now. Holy smokes.
21 MR. BARNCASTLE: And he's still around.
22 MR. JONES: And he's still around.
23 MR. KORN: Thank you, Director Jones.
24 MR. JONES: Thank you, Mr. Chair.
25 MR. KORN: I assume there were no other

1 there are times when the public comment has not a lot
2 of work behind it and there are times when public
3 comment has a lot of work behind it, and this is one
4 of those times.
5 However, if what you're saying is something
6 that the Board would like to expand on, the Board can
7 always do that. And if you can't finish in three
8 minutes, then you can express that and the Board can
9 make its decision then. At any rate you have three
10 minutes. That was from about a half a minute ago.
11 Two and a half minutes.
12 MR. MECHELS: Well, in two minutes all I can
13 tell you I guess is that what you did last year is the
14 most important to address, which is basically that you
15 changed your policies in September to a policy which
16 just basically destroyed your use of the rules-making
17 process to make the curriculum.
18 Using the rules-making process to make the
19 curriculum in the academy has always been the way the
20 curriculum has been made. And part of that is -- and
21 part of the result of doing it that way is that the
22 curriculum has always been public.
23 What you've done since September is, in your
24 first curriculum-making which wasn't public -- you had
25 no public input making your curriculum. I have been

1 advised now that the curriculum is not to be public.
 2 It's to be private, held for distribution
 3 only within the police community, in spite of the fact
 4 that Mr. Reynolds advised us back in September that
 5 part of the new process, the curriculum and the lesson
 6 plans would be, in fact, public.
 7 This was part of the deal back in September.
 8 Mr. Reynolds spoke to that. And now we're faced with
 9 the fact that the lesson plans and the curriculum are
 10 not public. This is part of the problem when you move
 11 away from rules-making, is this risk of excluding the
 12 public from the process.
 13 That's why all the boards and commissions in
 14 the state have always used the rules-making process.
 15 And I will suggest to that what you did was illegal.
 16 You cannot move away from the rules-making process
 17 because it is encoded in the statutes and that is
 18 beyond your reach.
 19 So part of the issue with the open meetings
 20 is the meetings which set up this event. And if the
 21 Open Meetings Act should fail either by your failure
 22 to take action or in the courts, you can look for two
 23 other suits on equally strong positions.
 24 I think you've made a great mistake. And
 25 what I would suggest to you is that the quickest way

1 MR. KORN: So you will reserve until then?
 2 MR. GOAD: Yes. But, you know, if time is
 3 relevant, if Mr. Mechels --
 4 MR. KORN: Mr. Mechels is part of your --
 5 MR. GOAD: He's not going to be part of the
 6 pursuit policy issue. I just wanted to donate time to
 7 him.
 8 MR. KORN: You can't donate time.
 9 MR. GOAD: Okay.
 10 MR. KORN: We don't do that.
 11 MR. GOAD: I was just asking.
 12 MR. KORN: Next up would be Peter DiVasto.
 13 DR. DiVASTO: Mr. Vice Chairman, I'll speak
 14 in place of Dr. Rogers for item 22.
 15 MR. KORN: Are you speaking as a public
 16 comment or are you speaking in place of Dr. Rodgers?
 17 DR. DiVASTO: When my turn comes up, I will
 18 speak for Dr. Rodgers.
 19 MR. KORN: Did you also have a public comment
 20 you wanted to make?
 21 DR. DiVASTO: No, I don't.
 22 MR. KORN: Thank you, Dr. DiVasto. We're
 23 past the public comment now.
 24 ITEM NO. 19: RATIFICATION OF CERTIFICATIONS
 25 FOR LAW ENFORCEMENT OFFICERS

1 to avoid having this get worse is to, for the time
 2 being, go back to your old curriculum, which at least
 3 is legal. And if you wish to do a 16-week curriculum,
 4 bring it forward to the public in a rules-making
 5 process as has always been done and get their input.
 6 And I suggest that the reason -- that you may not get
 7 what you want.
 8 MR. KORN: You are at your three-minute mark.
 9 Did you have more that you wanted to say?
 10 MR. MECHELS: Yes.
 11 MR. KORN: Would the Board entertain more
 12 minutes for Mr. Mechels or not? Anybody?
 13 MR. BARNCASTLE: I don't think so.
 14 MR. KORN: Okay. Mr. Mechels, thank you very
 15 much.
 16 The next up would be Mr. Christopher Goad.
 17 Am I pronouncing that correctly?
 18 MR. GOAD: Yes, you are. Thank you. You
 19 informed me actually that I would have a chance to
 20 comment during the pursuit policy. So I don't need
 21 any time now, if it's possible.
 22 MR. KORN: Oh, yes. And Mr. Mechels can join
 23 you. You're both on the agenda item. That's a whole
 24 different story.
 25 MR. GOAD: Okay. Fine.

1 MR. KORN: So we're talking about
 2 ratification of certifications for law enforcement
 3 officers. So in that regard the last time we changed
 4 matters so that we could put in a group of names. Is
 5 that still the way we're going to do it, Director
 6 Jones?
 7 MR. JONES: Yes, sir.
 8 MR. KORN: Do you have that group of names
 9 that you can offer to us?
 10 MR. JONES: Yes, sir, I do.
 11 MR. KORN: So just for the record, the way we
 12 used to do it is read in all these numbers that were
 13 parts of the certifications that the officers had
 14 attained. But I think our new rule is to have a list
 15 of names that we will insert into the web page.
 16 MR. JONES: Yes, sir.
 17 MR. KORN: And you are going to identify in
 18 some fashion by exhibit what you're going to be
 19 offering as to the names that we should be voting on?
 20 MR. JONES: Yes, sir. Mr. Vice Chair, agenda
 21 item No. 19, attachment of list of certifications for
 22 ratification. First is a cert by waiver challenge
 23 which was 2013. These cert numbers are applied from
 24 13-0244-P to 13-0323-P.
 25 So what I'd like to do is submit this list of

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<p>1 names that attended the cert by waiver challenge for 2 2013 and have them ratified.</p> <p>3 MR. KORN: Can we call that Exhibit A for 4 this particular meeting.</p> <p>5 MR. JONES: Exhibit A, yes, sir.</p> <p>6 MR. KORN: And just so we make sure we've 7 done our housekeeping, the same exhibit numbers that 8 we used in the last meeting, are they on the web page 9 yet?</p> <p>10 MR. JONES: Yes.</p> <p>11 MR. KORN: So if we can give that to the 12 court reporter, would you make that as part of the 13 record for our meeting.</p> <p>14 MR. JONES: Okay. (Exhibits A through F marked.)</p> <p>15 MR. KORN: So with that in mind, we would 16 take a motion for a vote on those names.</p> <p>17 MR. BETZ: I have one question.</p> <p>18 MR. KORN: Yes.</p> <p>19 MR. BETZ: What were the numbers through 20 again?</p> <p>21 MR. JONES: It's 13-0224-P, 13-0321-P, 22 13-0322-P, 13-0323-P.</p> <p>23 MR. KORN: Actually, just to make this easy, 24 we can just do the names. It's the six classes that 25</p>	<p>1 are in your agenda?</p> <p>2 MR. JONES: Right.</p> <p>3 MR. KORN: So we're voting on those six 4 classes that are in the agenda.</p> <p>5 MR. BETZ: I apologize. I thought he was 6 just talking about the cert by waiver.</p> <p>7 MR. JONES: Sir, we did the cert by waiver 8 challenge 2013.</p> <p>9 MR. KORN: That's the top item.</p> <p>10 MR. JONES: Okay. The next one, Exhibit B, 11 will be the Southeastern New Mexico Law Enforcement 12 Academy cert by waiver No. 14. It had two 13 individuals. The cert numbers were 13-0245-P to 14 13-0257-P.</p> <p>15 Basic police academy No. 186, Exhibit C, the 16 cert numbers are from 13-0258-P to 13-0291-P. New 17 Mexico State Police Academy, which will be Exhibit D, 18 class No. 86, cert Nos. 13-0294-P to 13-0320-P.</p> <p>19 BCSO Academy No. 34, Exhibit E, cert 20 Nos. 13-0325-P to 13-0338-P. Western New Mexico 21 University Academy No. 58, Exhibit F, cert 22 No. 13-0324-P. That's it.</p> <p>23 What we would do is we would like to ask for 24 approval and ratification of the certifications, sir.</p> <p>25 MR. KORN: So do we have a motion?</p>
<p>Page 72</p> <p>1 DR. GRATTON: Mr. Vice Chair, I move for 2 ratification of these certifications.</p> <p>3 MR. COON: Second.</p> <p>4 MR. KORN: A motion by Dr. Gratton and a 5 second by Sheriff Coon. All those in favor signify by 6 saying aye.</p> <p>7 (Those in favor so indicate.)</p> <p>8 MR. KORN: All opposed nay. Let the record 9 reflect the ayes are unanimous. Thank you, Director.</p> <p>10 MR. JONES: Thank you.</p> <p>11 ITEM NO. 20: LEA MEMORIAL WALL-SERGEANT ROBERT BARON 12 SANDOVAL COUNTY SHERIFF'S DEPARTMENT</p> <p>13 MR. KORN: Moving on, next we have the LEA 14 Memorial Wall, agenda item No. 20.</p> <p>15 Mr. Director, are you going to be offering 16 this?</p> <p>17 MR. JONES: Mr. Vice Chair, Members of the 18 Board, the New Mexico Law Enforcement Academy on 19 agenda item No. 20, Law Enforcement Academy Memorial, 20 Sandoval County Sheriff's Department, Sergeant Robert 21 Baron, we would propose authorization to place 22 Sergeant Baron on a memorial wall located on the New 23 Mexico Law Enforcement Academy grounds.</p> <p>24 MR. KORN: Is that subject to the Board's 25 agreement?</p>	<p>Page 73</p> <p>1 MR. JONES: Yes, sir, it is.</p> <p>2 MR. KORN: Okay. So we'll take a motion for 3 that.</p> <p>4 MR. COON: Mr. Chairman, it would be my honor 5 to make the motion to accept Sergeant Robert Baron 6 onto the Law Enforcement Academy Memorial Wall.</p> <p>7 MR. BARNCASTLE: I'll second that motion.</p> <p>8 MR. KORN: A motion by Sheriff Coon, a second 9 by Mr. Barncastle. All those in favor signify by 10 saying aye.</p> <p>11 (Those in favor so indicate.)</p> <p>12 MR. KORN: All opposed. Let the record 13 reflect that the ayes are unanimous.</p> <p>14 MR. BETZ: Mr. Vice Chair, can I bring up the 15 recent error on the thing for the name and the agency 16 on item No. 20 versus the letter.</p> <p>17 MR. KORN: Sure. What do you want to bring 18 up?</p> <p>19 MR. BETZ: It says here Robert Potter, unless 20 you have a second one.</p> <p>21 MR. JONES: No. We do not have a second one.</p> <p>22 MS. LOPEZ: That was my typo. I apologize.</p> <p>23 MR. BETZ: I'm looking at it and I knew 24 Sergeant Baron. I was trying to relate the two 25 events.</p>

1 MS. LOPEZ: That was the one from last year.
 2 I apologize.
 3 MR. KORN: Let the record reflect the ayes
 4 are unanimous. We would be honored to place the name
 5 of Sergeant Robert Baron on our wall.
 6 MR. JONES: And that will be done before the
 7 memorial. And the memorial this year, Mr. Vice Chair,
 8 will be May 8th at the Law Enforcement Academy.
 9 MR. KORN: Thank you.
 10 ITEM NO. 21: DISCUSSION: APPROVAL OF ACADEMY-DONA
 11 ANA COUNTY COMMUNITY COLLEGE
 12 MR. KORN: Moving along, next would be the
 13 discussion of the Dona Ana Community College. Is
 14 Mr. Richard DeRouen in the room?
 15 MR. DeROUEN: Yes, sir.
 16 MR. KORN: Did I pronounce your name
 17 correctly?
 18 MR. DeROUEN: Yes, sir.
 19 MR. KORN: Welcome to our board meeting.
 20 MR. DeROUEN: Thank you. Mr. Vice Chairman
 21 and Members of the Board, my name is Richard DeRouen.
 22 I'm here to represent Dona Ana Community College.
 23 I've also brought with me Dr. Fred
 24 Lillibridge, L-i-l-l-i-b-r-i-d-g-e, who is our vice
 25 president for institutional effectiveness. He can

1 answer many of the questions that I cannot regarding
 2 certain aspects of our accreditation -- current
 3 accreditation efforts and other operational issues
 4 that I'm not familiar with with our institution.
 5 I submitted to the Board an application back
 6 in October of 2012 -- I'm sorry. 2013, regarding our
 7 wanting to initiate a new academy at Dona Ana
 8 Community College. We have a certificate program in
 9 place that has been approved by the higher education
 10 department of the State of New Mexico and also by the
 11 Higher Learning Commission.
 12 Our request is in accordance to the academy
 13 certification handbook dated October of 2011.
 14 Hopefully you have received the packages or at least I
 15 hope you did. I sent them awhile back.
 16 MR. KORN: I think the Director sent them to
 17 all of us.
 18 MR. DeROUEN: Okay. All right. If I could
 19 provide some information regarding the history, the
 20 Las Cruces Police Academy was organized in 1966. That
 21 was ten years before Dona Ana Community College
 22 physically existed.
 23 In addition to that, the Dona Ana Sheriff's
 24 Department formed their academy shortly after that and
 25 began training officers for each agency independently

1 of each other. And the New Mexico Law Enforcement
 2 Academy did afford them their academy status which
 3 served that particular need at the moment.
 4 Since that time Dona Ana Community College
 5 has been formed. We have grown tremendously. In 2003
 6 the Criminal Justice Department finally obtained
 7 enough stability to where we had 200 students in place
 8 and one full-time instructor. Ten years later we're
 9 looking at three full-time instructors and
 10 approximately 1,200 students within our programs.
 11 We've had the great opportunity to introduce
 12 some new programs that have not been presented
 13 normally through the New Mexico State system to
 14 include traffic collision investigation; practical
 15 field investigation, which is a hands-on field
 16 investigations course for officers or practitioners; a
 17 practical terrorism course dealing with the issues of
 18 terrorism, foreign and domestic; introduction to
 19 Homeland Security, which piggybacks onto a Bachelor's
 20 degree through our College of Arts and Sciences, a
 21 Bachelor's degree in Homeland Security; introduction
 22 to juvenile delinquency specifically focusing on that
 23 issue; and then also police supervision and police
 24 patrol procedures along with legal aspects of law
 25 enforcement.

1 So we've been able to implement a lot of new
 2 classes that have not been previously offered at our
 3 institution or through New Mexico State University.
 4 So we're in a growth period at this point.
 5 We have quite a diversity of officers that
 6 teach for us. Not only that are in-service
 7 practitioners but retired officers with many years of
 8 experience. Most of our officers have Bachelor's
 9 degrees in addition to many -- a majority of them
 10 having advanced degrees in their related fields of
 11 criminal justice or similar areas.
 12 So at 2013, as we are growing, we are at this
 13 point contemplating starting an academy. We have all
 14 of the facilities in place to accommodate currently a
 15 law enforcement academy at our East Mesa campus.
 16 Since 2008 we've maintained our articulation
 17 agreement with the New Mexico Law Enforcement Academy,
 18 affording any peace officer in the state, having gone
 19 through an NMLEA-certified academy, to obtain
 20 approximately 16 credits towards an Associate's
 21 degree.
 22 The condition is that the officer has to
 23 complete an additional 12 credits with our
 24 institution. We do this currently at no cost and we
 25 have been doing it at no cost. Additionally, we have

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<p>1 articulation agreements with the New Mexico Department 2 of Corrections and also the Federal Law Enforcement 3 Training Center.</p> <p>4 So we have tried to maintain these solid 5 relationships with our allied agencies in New Mexico 6 and surrounding federal agencies in order to give the 7 law enforcers and enforcement professionals a chance 8 to maybe piggyback onto some higher education.</p> <p>9 In 2009 we were approached by the City 10 Manager of the City of Las Cruces. That was Terrence 11 Moore. He asked us to look into the concept of 12 building a regional academy for Southern New Mexico.</p> <p>13 He was looking at two things. Cost and then 14 also creating some stairstep opportunities for 15 officers to move into higher education. It is an 16 opportunity to promote and develop those officers 17 professionally.</p> <p>18 We've been collaborating with local agencies. 19 And as you can see on the second page of my 20 presentation information, you can see that we have 21 supported not only our local agencies, but also 22 Western New Mexico Law Enforcement Academy.</p> <p>23 The Las Cruces Police Department, we have 24 been working with them, trying to offer what we can at 25 no cost to these agencies or academies. We try, if</p>	<p>1 anything, to utilize our resources as an open access 2 resource for law enforcement agencies in our region.</p> <p>3 We've also assisted the U.S. Marshals 4 Apprehension Unit based in Las Cruces. With the 5 sequester they have not had the ability to train well. 6 So we have opened up our facility to them.</p> <p>7 MR. KORN: Mr. DeRouen, if I could just 8 interrupt your presentation.</p> <p>9 MR. DeROUEN: Yes.</p> <p>10 MR. KORN: Is it your intent to ask the Board 11 to open Dona Ana Community College as a satellite 12 academy?</p> <p>13 MR. DeROUEN: Yes, sir.</p> <p>14 MR. KORN: You've been talking for ten 15 minutes and I don't want to interrupt you. I know you 16 came a long way.</p> <p>17 MR. DeROUEN: Right. I'm almost there.</p> <p>18 MR. KORN: But if that's your purpose, can I 19 suggest we get right to that.</p> <p>20 MR. DeROUEN: Okay, sir.</p> <p>21 MR. KORN: The Board can ask you questions 22 about any of this. Otherwise we're just going to run 23 out of time.</p> <p>24 MR. DeROUEN: Right. I've got that. I 25 appreciate that, sir. That is our intent, is to ask</p>
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<p>1 the Board if we are able to open an academy as 2 requested through our application process.</p> <p>3 MR. KORN: Okay. And the Board I'm sure will 4 have some questions for you. I have a main one.</p> <p>5 MR. DeROUEN: Yes, sir.</p> <p>6 MR. KORN: Dona Ana County is Las Cruces.</p> <p>7 MR. DeROUEN: Yes, sir.</p> <p>8 MR. KORN: And there are two academies now 9 currently in Las Cruces?</p> <p>10 MR. DeROUEN: That's true, sir.</p> <p>11 MR. KORN: So are you proposing to be the 12 third one down in Las Cruces?</p> <p>13 MR. DeROUEN: Yes, sir, absolutely.</p> <p>14 MR. KORN: And have you talked with the other 15 two academies about incorporating themselves into your 16 academy?</p> <p>17 MR. DeROUEN: We've talked about working 18 together with those other agencies at this particular 19 point. We have a memorandum of understanding to use 20 their current facilities in that regard, both at the 21 sheriffs and with Las Cruces, the City of Las Cruces.</p> <p>22 MR. KORN: Okay.</p> <p>23 MR. DeROUEN: We can pursue incorporation if 24 the city chooses to do so or if the county chooses to 25 do so.</p>	<p>1 MR. KORN: But so far they're not joining 2 with you in your application?</p> <p>3 MR. DeROUEN: No. That was not our intent, 4 sir.</p> <p>5 MR. KORN: Well, I mean if the Board agrees 6 to have you have a satellite academy, at the 7 conclusion of that agreement, there will be three 8 satellite academies. It's not like you're going to 9 supersede one of the other two.</p> <p>10 MR. DeROUEN: I'm not sure if supersede would 11 be the accurate description.</p> <p>12 MR. KORN: Fold themselves into your academy. 13 In other words, there's no talk between the county and 14 the city to let you run the academy down in Dona Ana 15 County and they won't do academies anymore?</p> <p>16 MR. DeROUEN: No, sir. We haven't done that. 17 That has not been part of our primary discussions.</p> <p>18 MR. KORN: Okay. Questions from the Board.</p> <p>19 MR. COON: I've got a question. Las Cruces 20 and Dona Ana County both have in-house programs.</p> <p>21 MR. DeROUEN: Yes, sir.</p> <p>22 MR. COON: Where they bring their new hires 23 in to get certified.</p> <p>24 MR. DeROUEN: Yes, sir.</p> <p>25 MR. COON: What you're proposing is a college</p>

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<p>1 curriculum to where you can bring students in, they 2 can be certified, and then kind of go out to bid to be 3 recruited by law enforcement agencies throughout the 4 state? 5 MR. DeROUEN: Yes, sir. It would be an open 6 enrollment style academy. We are currently restricted 7 from having -- and correct me if I'm wrong, 8 Dr. Lillibridge. From having just peace officers in 9 our class environments based upon our current funding 10 structure. We have to include at least a student 11 element within those environments. 12 That kind of goes to your first question, 13 Mr. Vice Chairman, regarding why we haven't thought 14 about doing this yet until we can sort out the funding 15 issues associated with that, because we're trying to 16 use current educational dollars. 17 And it is a significant factor. If we're to 18 be a cost savings to agencies, we would have to 19 incorporate some students. If we did it only with 20 peace officers from each agency, then it would turn 21 into a contract relationship, which would increase the 22 costs significantly. 23 MR. COON: But what I'm getting at is, if I 24 just turned 21 and want to be a policeman, I can go to 25 Dona Ana Community College, take the curriculum, come</p>	<p>1 out as a certified peace officer, and then go job 2 hunting. And hopefully somebody will pick me up as an 3 officer? 4 MR. DeROUEN: That would be the concept, yes. 5 But the person has to meet the federal and state 6 standards for peace officer status; that is, 7 background checks, psychological and physical testing. 8 MR. COON: Right. 9 MR. DeROUEN: Additionally they're not 10 certified until they are hired by an agency. Our 11 admonishment to any person coming into the program 12 that you have one year to be hired by an agency under 13 the State codes. 14 And then if they miss that window, then they 15 have to go through a certification by waiver process 16 again. So it would be like either a modified lateral 17 or a lateral or a new hire, depending upon how the 18 agency wishes to do that. 19 MR. COON: But what it would do would save me 20 from sending somebody to Hobbs or Santa Fe that 21 expense. 22 MR. DeROUEN: Yes, sir, it would. 23 MR. COON: The burden would be on the student 24 to pay for all this and then come out job hunting? 25 MR. DeROUEN: Yes, sir.</p>
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<p>1 MR. COON: Okay. 2 MR. DeROUEN: Agencies would be afforded a 3 significant discount, though. We would have to charge 4 for our basic tuition, which is at this point just 5 under \$1,600 based upon our current tuition structure. 6 MR. COON: If I wanted to be a policeman in 7 New Mexico and I went to your college, how long would 8 it take me to come out ready to be hired and certified 9 as a police officer? 10 MR. DeROUEN: We are looking at modeling 11 either the current 15-week curriculum or a 20-week 12 model. 13 MR. COON: Okay. But again the student would 14 pay for that tuition? 15 MR. DeROUEN: Yes, sir. 16 MR. COON: And then he could come out in the 17 work force looking for a job. You would have a big 18 recruiting day come graduation. And everybody would 19 go in and kind of pick and choose who they want, 20 interview them or whatever. Would that basically be 21 the way this would work? 22 MR. DeROUEN: Yes, sir. Hopefully before 23 graduation. But yes. 24 MR. COON: Okay. 25 MR. KORN: Other questions by the Board?</p>	<p>1 MR. McCALL: Do you currently have agencies 2 that are interested in utilizing your service if you 3 do this? 4 MR. DeROUEN: Yes. Well, now that he's 5 retired, Chief Williams had talked to us about 6 creating a modified lateral transfer process with the 7 Las Cruces Police Department. We do know that the 8 Sunland Park and Anthony Police Departments have 9 indicated interest along with New Mexico State 10 University Police Department. 11 MR. KORN: Other Board questions? 12 Mr. Director, does the Director have a position on 13 Dona Ana Community College? 14 MR. JONES: Sir, at this time we don't have a 15 position on it. We just know that there is not enough 16 student base that's interested in law enforcement in 17 the State of New Mexico to take care of what happens 18 in Southeastern New Mexico with what we've looked at 19 from what is recruited over at Western University and 20 over at Southeastern University in Hobbs. 21 So what we've looked at is, when they come to 22 Las Cruces or Las Cruces to Dona Ana County, they 23 recruit specifically for that. Right now Western had 24 a class that starts with nine people. They're below 25 the minimum of ten to go to an academy. And they took</p>

1 four from the Grants and Gallup area down there to
2 ensure that they got that nine. So they're not able
3 to meet that.

4 This year Southeastern started with a class
5 of 22. Last year they graduated a class of 22. And
6 they started with -- where are you at right now?

7 MS. BYRD: I'm 26 right now.

8 MR. JONES: There are 26 right now in this
9 class. We don't know that there is a base there that
10 would support this.

11 MR. KORN: And are there costs associated
12 with the Law Enforcement Academy to monitor and audit
13 and do all the work that's required?

14 MR. JONES: Absolutely, sir. We would have
15 to have additional staff members come over. We're
16 short-staffed at this time.

17 And what we would have to do is we would have
18 to go to Las Cruces. And we would have to monitor
19 this every three months, look at their curriculum,
20 what they're doing, look at their academy itself.
21 That would be at the end of the first 12 months, then
22 it would go to every six months, and that would happen
23 for three years.

24 MR. KORN: So do you have the funding and the
25 manpower to afford this?

1 book from them yesterday. So I haven't had time to
2 review their whole curriculum or anything.

3 MR. KORN: With that in mind, would you like
4 to perhaps put it on the agenda for next time?

5 MR. DeROUEN: Sure. That would be fine, sir.

6 MR. KORN: Or you can communicate with the
7 Director. Perhaps it's premature. So rather than put
8 it on the agenda, you can perhaps communicate with the
9 Director and see if the Director would like to talk to
10 some of the Board members and see if it's appropriate
11 to put it on the agenda. You can always put it on the
12 agenda. I'm just trying to save you some time.

13 MR. DeROUEN: That would be fine, sir.

14 MR. KORN: In other words, there's no
15 interest now in making a motion to have you as a
16 satellite. That may change. You could put it on the
17 agenda again.

18 DR. LILLIBRIDGE: Can I comment?

19 MR. KORN: Sure.

20 DR. LILLIBRIDGE: Hello. I'm Fred
21 Lillibridge, I'm the associate vice president of Dona
22 Ana Community College. I'm here representing our
23 president, Andy Burke, and our vice president for
24 academic affairs, Monica Torres.

25 MR. KORN: Thank you for coming.

1 MR. JONES: Not at this time, sir.

2 MR. KORN: Okay. Thank you. Are there
3 questions for the Director based on any of this? No.
4 And in light of that, what is it you're
5 hoping the Board will do now for you?

6 MR. DeROUEN: Well, sir, I would like the
7 Board to consider the fact that we have approximately
8 21,000 students to recruit from as far as our program
9 is concerned. Many students have had a good
10 experience at Dona Ana Community College with our
11 program. So we have a slightly different base to draw
12 from that -- Western is a smaller school.

13 MR. KORN: I guess what I'm getting at is did
14 you want the Board to take a vote to accept you as a
15 satellite academy, is that what you're hoping we would
16 do?

17 MR. DeROUEN: Yes, sir. I would ask for
18 that, unless there is something that we can do to
19 improve our position. And maybe it should be delayed
20 at this point until we improve the position or
21 demonstrate to the Board otherwise.

22 MR. KORN: Does anybody on the Board have an
23 interest in making such a motion?

24 MR. BETZ: Mr. Vice Chair, I would just like
25 to have a little bit more time. I just received the

1 DR. LILLIBRIDGE: And I just want to say
2 that, like all programs at the community college, ours
3 is community based, meaning we listen to the people
4 that we serve.

5 This is a project that's been -- we've worked
6 on for a number of years. And we've invested a
7 significant amount of money, state money, federal
8 money, built a whole building around it. And we
9 understand your concern.

10 And I think the right thing to do is, in
11 fact, give us a little more time. Perhaps we can, you
12 know, actually get -- I'm in the data business. You
13 know, we'll find out for sure whether we've got
14 interest and what kind of people would be interested.

15 We think it's there. You know, we just
16 didn't dream this up. I mean people came to us. And
17 we did everything we could to do the right thing. So
18 we have a heck of a facility with good faculty. And
19 it's already been accredited by our regional
20 accreditor, which is no simple task.

21 And the last thing about the costs that you
22 were talking about, this program is eligible for
23 federal financial aid, which means students can get a
24 significant portion of the expenses paid for through
25 Pell grants and all sorts of other kinds of financial

1 aide.

2 So it's a good idea, we still think it's a

3 good idea. We understand, we can do the math. Three

4 in one place is perhaps an issue. Things do change.

5 I mean it wasn't that way when we started. And now

6 we've gone a long ways down the road.

7 So we want to make sure that we don't do

8 anything that would hinder us from eventually getting

9 to where we want to go in serving our citizens.

10 MR. KORN: And to respond to that, we all got

11 your brochure. Personally I looked through it. I

12 think it's beautiful. And I think you put a lot of

13 work into your program, you've put a lot of thought

14 into it, it looks like a very nice facility.

15 I think the thing that's the hangup at least

16 for me, not speaking on behalf of the Board but just

17 for me, is we're really saturated in that area. And

18 if there was some sort of, you know, assemblage of

19 academies to become yours, that would make a lot of

20 sense.

21 But other than that it seems difficult to

22 saturate the area. As Sheriff Coon pointed out, if

23 students are willing to go there and be hired

24 afterwards, that might be an advantage.

25 And if you can come up with some numbers and

1 something you can show us next time, you can put it

2 back on the agenda.

3 DR. LILLIBRIDGE: Yeah. We appreciate that

4 opportunity and we look forward to doing that.

5 MR. KORN: Other comments? No. Dr. Gratton?

6 DR. GRATTON: Mr. Vice Chair, one other

7 thing. I might have to abstain from these.

8 Dr. Lillibridge and I are very good friends. We work

9 together all the time. And this is a sister campus to

10 the campus I'm president of. So it would probably be

11 best if I abstained from voting on these issues, if

12 that's okay with the Board.

13 MR. KORN: Thank you for noting that. Thank

14 you, sir, for coming. Thank you both for coming.

15 ITEM NO. 22: DISCUSSION: PSYCHOLOGICAL REQUIREMENTS

16 MR. KORN: Moving ahead, the next item on the

17 agenda is item No. 22. And I understand substituting

18 for Troy Rodgers is Dr. Pete DiVasto.

19 DR. DiVASTO: Good afternoon, Mr. Vice

20 Chairman, Board Members. I've been involved with the

21 psychological screening process of applicants since

22 its inception, approximately 35 years ago.

23 And approximately 15 years ago the then

24 Assistant Director of the Academy, Mark Demassio,

25 asked some of the psychologists who were involved in

1 the process to come up with an appeals process for

2 those applicants who failed the initial psychological

3 exam.

4 In fairness to them, it was thought that

5 there should be at least someone reviewing that

6 failure and seeing if perhaps there was a reason to

7 offer the person a second psychological exam.

8 So very quickly, to walk you through the

9 process, the applicant fails. They have 30 days in

10 which to appeal to the academy for that failure to be

11 sent out for review.

12 The reviewing psychologist then gets

13 typically the report that the initial psychologist

14 did. And they then communicate with Director Jones

15 and say, yea or nay, I agree this failure should

16 stand, I disagree this person should be reevaluated.

17 If the failure stands, they're ineligible to reapply

18 for a year.

19 On the other hand, if this reviewing

20 psychologist -- and I've been in all three positions

21 in this process. If the reviewing psychologist says,

22 well, I don't think this is quite right, I think

23 DiVasto missed the boat on this applicant, then the

24 applicant goes for a new evaluation to now a third

25 psychologist. So hopefully that's clear to the Board

1 what that process is.

2 The problem that we run into both -- I serve

3 currently the Las Cruces Police Department and the

4 Dona Ana County Sheriff's Office. And the problem we

5 run into is applicants who fail the initial exam, the

6 academy sends it out for review, they're offered a new

7 bite of the apple. But the reviewing -- the

8 psychologist conducting the second evaluation has not

9 read the first one. It's not sent to them as a matter

10 of routine.

11 In addition to that sort of concomitant

12 problem is that, when an applicant requests a

13 second -- a second review, they do that directly of

14 us. The academy says you go call Pete DiVasto and

15 tell him you need a second opinion. I have no way of

16 knowing if the applicant has gone through the process,

17 if they have indeed been reviewed.

18 So what I would like to propose is a change

19 to rule 10.29.9.12(D)(3), which I'm sure you're all

20 intimately familiar with. I'll show it to you.

21 As the NMAC rule currently reads, the

22 language is a little conflicting. This is Section 3.

23 So at this point the person has failed, has been

24 reviewed, and the reviewer is saying, yeah, this

25 person needs a second evaluation.

1 In Section A it says -- excuse me. Section B
2 says, "A psychologist will review" -- this is the one
3 rendering the second opinion. "A psychologist will
4 review all test data." However, in the second
5 evaluation, it says, "The psychologist may review the
6 original report."

7 And I can tell you what happens to the
8 applicant. They find out why they failed. And if it
9 was for an issue that has to do with their background,
10 if they're not asked about it in the second
11 evaluation, they don't disclose it.

12 I had a young lady with 1,300 uses of
13 marijuana who neglected to tell the second
14 psychologist that her drug use was at that level.
15 And -- well, I'm not sure if she was asked or not. It
16 was not in the second report.

17 So what I'm proposing that we do is put some
18 of the onus on the academy to send the original
19 psychological report to the psychologist doing the
20 second opinion. That will in turn do two things.

21 It will, one, provide the data to that
22 psychologist. The other is that the psychologist
23 doing the second opinion will know that this has been
24 blessed by the academy, that this isn't just some
25 young man or woman picking up the phone saying, gee, I

1 they're not going to be suitable for a law enforcement
2 position.

3 I also as a veteran feel an obligation to
4 send them off to the VA for treatment. But in
5 actuality the diagnosis of PTSD is not always
6 incompatible of being a police officer.

7 MR. BARNCASTLE: Will there be any HIPAA
8 issues regarding the release of these documents and
9 records and information?

10 DR. DiVASTO: Excellent question. All
11 applicants sign a release at the beginning of the
12 testing process that says, although they are the
13 subject of the evaluation, they are not the holder of
14 the privilege. The agency is the holder of the
15 privilege.

16 Otherwise somebody who fails could withhold
17 that information from Chief Betz or Sheriff Coon. We
18 make them release the information before the
19 evaluation. Even in those cases where they're
20 self-paid.

21 Like the folks -- presumably the people who
22 go to some of the junior college academies. Some of
23 them are paying their way through and paying for their
24 own evaluations. Even in those cases, they have to
25 agree to releasing information. So this gets around

1 want a second opinion.

2 So it serves two purposes. Providing the
3 information and also putting the stamp of approval on
4 the academy that this person has actually gone through
5 the process.

6 MR. KORN: Questions from the Board for
7 Dr. DiVasto. Chief Betz.

8 MR. BETZ: I have one. Dr. DiVasto, just out
9 of curiosity, if you get anybody with a TBI or PTSD or
10 anything like that, if they bring that out, is that
11 something that's going to be -- how does that apply to
12 them?

13 DR. DiVASTO: Specifically TBI and PTSD?

14 MR. BETZ: Yeah.

15 DR. DiVASTO: Well, to give you a good
16 example, I've had applicants who are being compensated
17 by their VA for PTSD. However, if you look at how it
18 affects their lives and in what way and to what degree
19 it affects their lives, it does not appear it's going
20 to impact their suitability to be a police officer.

21 Other people are -- I've had applicants who
22 were un -- just undiagnosed cases of PTSD. Young
23 people drinking 12 to 24 beers on a weekend, getting
24 into fights, you know, exhibiting PTSD-related
25 symptoms and never been diagnosed with it. So clearly

1 that issue.

2 MR. KORN: Other questions?

3 MR. BETZ: Thank you.

4 MR. KORN: I have a question for you.

5 DR. DiVASTO: Certainly.

6 MR. KORN: And I know that or I believe that
7 the psychological testing is as much an art as a
8 science. So even the tester or the psychologist has
9 subjective biases. So when you would be the second
10 reviewer, seeing the whole report from the first
11 reviewer, you can't help but be biased one way or
12 another.

13 DR. DiVASTO: Possibly, yeah.

14 MR. KORN: Possibly. So I guess I'm a little
15 unclear. Why wouldn't they start exactly from
16 scratch?

17 DR. DiVASTO: Because there's no standardized
18 process for the evaluation. There's no standardized
19 history form, for example.

20 MR. KORN: But taking a whole new history --

21 DR. DiVASTO: Yeah. I might ask about fights
22 at work, a bad sign. Other psychologists may not ask
23 that. I might ask about insubordination with
24 supervisors. Other psychologists might not ask that.

25 MR. KORN: But that's exactly the point. I

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<p>1 mean it's all the art as much as the science. 2 DR. DiVASTO: Correct. 3 MR. KORN: So if it's art as well as science, 4 shouldn't it be a fresh evaluation, giving the 5 candidate a fair start? This way he's starting from 6 the starting line, not from the middle of the track. 7 DR. DiVASTO: Right. I think, if you ignore 8 information, you do so at your own peril. 9 MR. KORN: Yeah. But we're talking about 10 doing a psychological evaluation on somebody from 11 scratch. 12 DR. DiVASTO: But if you don't ask about 13 those areas and we send somebody along without having 14 inquired into those areas, I feel like you're doing a 15 disservice to the agency. 16 MR. KORN: But it's also covering the 17 psychologist. I mean the psychologist has more at 18 risk if he doesn't do a proper evaluation from the 19 get-go, asking all the appropriate questions. I mean 20 that's the burden on the psychologist. 21 DR. DiVASTO: Right. 22 MR. KORN: So why shouldn't he start from 23 scratch just like the first one did? 24 DR. DiVASTO: I think the more information 25 you have about the applicant, the better you do. And</p>	<p>1 that includes polygraph data, background information. 2 I mean I have the privilege of working for two 3 agencies that do very, very thorough screening. 4 MR. KORN: But wouldn't the second 5 psychologist have advantages of the polygraph data, 6 the criminal history, or whatever? 7 DR. DiVASTO: No. I mean that's typically 8 based within the agency. So, for example, I just did 9 somebody who -- a second opinion for someone who is 10 going to the academy at Western. 11 And I had to -- I didn't have any of the 12 information Western had. I had to rely -- I did get 13 the first psychologist's report. And that contained 14 some of the information that Western had. 15 MR. KORN: But the first psychologist has the 16 polygraph, right? 17 DR. DiVASTO: Not necessarily. Not all 18 agencies do them. 19 MR. KORN: But if there was a polygraph, he 20 would have it? 21 DR. DiVASTO: Presumably, yeah. 22 MR. KORN: So the second psychologist could 23 ask for the same polygraph that the first one had? 24 DR. DiVASTO: Correct. 25 MR. KORN: So if we follow this to the</p>
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<p>1 extreme, the second psychologist would have all the 2 information that the first one would have except he 3 wouldn't have the first one's evaluation. 4 DR. DiVASTO: A lot of that information is 5 embedded in the evaluation. I suspect some of them 6 won't go to the trouble to get that information. 7 MR. KORN: You mean the second psychologist? 8 DR. DiVASTO: Yeah. 9 MR. KORN: But they could. 10 DR. DiVASTO: They could. We want to make 11 sure they get it. 12 MR. KORN: But along with it comes the whole 13 evaluation from the first psychologist that turned 14 down the applicant. 15 DR. DiVASTO: But you're talking about data, 16 not opinion. 17 MR. KORN: In the psychology report? 18 DR. DiVASTO: Yeah. You're talking about 19 1,300 uses of marijuana. That's not my opinion, 20 that's what the young lady told me. That's data. 21 MR. KORN: But at the final analysis, though, 22 the only one that's getting the second report is 23 because the applicant -- because the first 24 psychologist failed the applicant. 25 DR. DiVASTO: Correct.</p>	<p>1 MR. KORN: So the second psychologist can't 2 be immune to the fact that the first one failed 3 because of certain reasons. I mean it would be up to 4 the second psychologist to find it on their own I 5 would think, if it was there. 6 DR. DiVASTO: Well, I don't think we should 7 rely on that. I think we should provide the 8 information. 9 MR. KORN: Okay. 10 MR. COON: Dr. DiVasto, would you -- and I 11 know you're a man of honor. Because Dr. Rodgers 12 failed a guy, would you go against Dr. Rodgers and 13 pass a guy? I mean is there that much -- is there -- 14 I don't even know how to go about asking this 15 question. I mean is there some honor amongst 16 psychologists? 17 DR. DiVASTO: Actually about a third of the 18 ones that I review I overturn, I feel like the 19 psychologist made a mistake. 20 MR. COON: Okay. That's what I was asking. 21 DR. DiVASTO: Yeah. About a third of the 22 time. 23 MR. COON: You know, or do you all stick 24 together? 25 DR. DiVASTO: Or hang separately.</p>

1 MR. COON: Or hang separately.
 2 DR. DiVASTO: Yeah. About a third of the
 3 time I disagree with the first psychologist typically
 4 because they're over-relying on test data, ignored the
 5 person sitting in front of them. I mean that's the
 6 most common reason I end up overturning them.
 7 MR. COON: Okay. That was my question.
 8 MR. KORN: Okay. Thank you. Other
 9 questions? Sergeant Quezada.
 10 MR. QUEZADA: So the first psychologist that
 11 does the testing fails him. You're wanting the
 12 testing from the first psychologist so you can review
 13 it. And it's my understanding that certain people who
 14 have been in law enforcement or the military or
 15 something, sometimes they don't pass that first test.
 16 DR. DiVASTO: Not at all true. That's a
 17 myth. I have probably screened 500 lateral
 18 applicants. I think I've had one fail and that was
 19 because he stole \$5,000 from his last employer. That
 20 business about, if you've been a cop for 20 years, you
 21 can't pass a psychological, that's a myth.
 22 MR. QUEZADA: So it doesn't change your way
 23 of questioning anything the second time around?
 24 DR. DiVASTO: Certainly. I mean I'm going to
 25 follow up on the issues raised by the first

1 psychologist.
 2 MR. QUEZADA: So that would help you out to I
 3 guess --
 4 DR. DiVASTO: I mean I never do a second
 5 evaluation without reading the first one. I've never
 6 been in a situation where I suffered because I had too
 7 much information.
 8 MR. KORN: Is that all?
 9 MR. QUEZADA: Yes.
 10 MR. KORN: Other questions for Dr. DiVasto?
 11 So for the Director, does the Director have a position
 12 on the doctor's suggested changes?
 13 MR. JONES: No, sir, we do not.
 14 MR. KORN: Neither for or against?
 15 MR. JONES: No, sir.
 16 MR. KORN: So you're proposing we change the
 17 NMAC rule?
 18 DR. DiVASTO: I am.
 19 MR. KORN: And, Mark, what is our position,
 20 how do we move from here?
 21 MR. REYNOLDS: Well, if the Board wants to
 22 pursue it further, the proper thing to do would be to
 23 put it on the agenda at a subsequent meeting, either
 24 the next meeting or a subsequent one, to decide
 25 whether or not to vote on a proposed rulemaking.

1 MR. KORN: So would we take a vote to decide
 2 whether we want to put it on the agenda?
 3 MR. REYNOLDS: Yeah, exactly.
 4 MR. KORN: Is there anything else?
 5 DR. DiVASTO: No. I think that covers it.
 6 MR. KORN: Thank you very much for spending
 7 your day here waiting for us to get to you.
 8 DR. DiVASTO: A pleasure. Thank you.
 9 ITEM NO. 23: NMLEA BOARD POLICY REGARDING COMPLIANCE
 10 WITH THE NEW MEXICO INSPECTION OF PUBLIC RECORDS ACT
 11 (IPRA): (REQUESTING DIRECTOR'S CURRENT PROCESS TO BE
 12 ADOPTED AS POLICY)
 13 MR. KORN: The next item is No. 23, which is
 14 the NMLEA Board policy regarding compliance with IPRA.
 15 And that's my agenda item.
 16 So I would like to bring to the Board's
 17 attention what the Director is already doing and give
 18 you a little short history of that so that you have an
 19 idea why he's doing it. And although that's been his
 20 process, I was asking the Board to take a vote on it
 21 as being our policy.
 22 First of all, I should say that as a Board
 23 the Law Enforcement Academy Board has always strived
 24 to be as transparent as we can. We put as many
 25 records as we can online. We take IPRA requests not

1 only from the face value of wanting to comply with the
 2 IPRA statutes, but also wanting to give people that
 3 have requests for information as much information as
 4 they would ask for that we can give.
 5 Having said that, there's also a great burden
 6 in the requests that come in just from the standpoint
 7 of manpower. In the past we have tried to accumulate
 8 information for people that have requested it.
 9 But it's become way greater than the
 10 capability of the staff to produce all that. So we've
 11 gone back to the statute where it indicates that we
 12 have to make it available to them. And that's kind of
 13 where we're at now.
 14 When IPRA requests come in, if it's just a
 15 single document that they can obtain, they might
 16 photocopy it. But other than that they invite the
 17 applicants to come in and review it themselves. So
 18 the three documents that you see under this tab
 19 basically immortalize that idea.
 20 The first document talks about what our
 21 procedures are; that if you ask for an item, we will
 22 make an appointment with you to make it available to
 23 you for you to come in and inspect it. There are
 24 certainly inspection protocols because we're going to
 25 the secure area of the Law Enforcement Academy.

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1 The second is the letter that the Director
 2 would send to the applicant and indicate what our
 3 policy and procedures are and that they can make an
 4 appointment and come in. Or they can actually find
 5 most of the information they're looking for on the
 6 web.
 7 And the third item is the item which
 8 indicates basically the limits or the perimeter of
 9 where the secure area starts and the public area
 10 stops.
 11 I should say that, up to this point, all IPRA
 12 requests are going through the Department of Public
 13 Safety because we haven't had a format for doing this.
 14 So if we adopt this as a policy, then the Department
 15 of Public Safety, who would then send the requests on
 16 to the Director, would be kind of out of the loop.
 17 The questions would go directly to our
 18 Director who would make decisions based on our policy
 19 and then provide the material requested so long as he
 20 was legally able to do so.
 21 So with that prologue, I don't know, is there
 22 a discussion that the Board would like to have on the
 23 matter? And I might say the discussion on these
 24 matters is Board discussions. This is a public Board,
 25 these are public discussions among the Board.

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1 DR. GRATTON: Mr. Vice Chair, so in terms of
 2 Mr. Reynolds' comment then, do we need to add to that
 3 document, discussing or explaining how electronic
 4 requests will be taken care of?
 5 MR. KORN: The way the policy is written, if
 6 they're on the web, then the Director would point them
 7 to where it's on the web or where it's electronic.
 8 It's true, if it is electronic, we would provide that.
 9 But basically everything we have electronic as a Board
 10 is on the web.
 11 DR. GRATTON: Okay. Thank you.
 12 MR. KORN: Am I misstating that, Director?
 13 MR. JONES: No, sir, you are not.
 14 MR. KORN: Thank you.
 15 MR. JONES: Mr. Chair, can I ask you to
 16 please have the people in the audience stop making
 17 their comments. It is very irritating.
 18 MR. KORN: You know, there have been an
 19 abundance of comments from certain people in the
 20 audience. And while I haven't said anything, it's not
 21 like I'm unaware that it's going on.
 22 We're all adults here. If you can keep your
 23 comments to yourself, this is a public meeting. I
 24 want to get through it with decorum. If you're not
 25 happy with something, there are public comments you

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1 So are there members that would like to
 2 discuss the policy?
 3 So with that in mind, I would make a motion
 4 that we adopt the protocols that the Director has been
 5 using so that we can streamline and make effective our
 6 dissemination to the public. So I make a motion to
 7 adopt the procedures as written.
 8 MR. COON: Second.
 9 MR. KORN: A second by Sheriff Coon. I see
 10 you writing.
 11 MR. REYNOLDS: Mr. Vice Chair, the one caveat
 12 I think I would need to point out is that there is a
 13 requirement in IPRA, when a public body has records in
 14 electronic format and those records are requested in
 15 electronic format, to provide them in electronic
 16 format.
 17 So this procedure would not necessarily be
 18 applicable to those records that are kept in
 19 electronic format but would be applicable to those
 20 records that are kept in hard copy.
 21 MR. KORN: Yes, sir.
 22 MR. REYNOLDS: Okay.
 23 MR. KORN: Thanks for bringing that up. Most
 24 of our electronic format documents would be on the
 25 web.

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1 can make next time, you can have your own agenda item.
 2 And, gentlemen, I would ask you to be remaining to the
 3 decorum of our body.
 4 That said, we have a motion by Dr. Gratton.
 5 We have a second by Sheriff Coon. Is there any other
 6 discussion? I'll ask for a vote. All in favor
 7 signify by saying aye.
 8 (Those in favor so indicate.)
 9 MR. KORN: All opposed nay. Let the record
 10 show that the ayes are unanimous. Thank you.
 11 ITEM NO. 24: BOARD ACTION ON IPRA REQUESTS:
 12 ESTABLISHING BOARD COMMITTEE TO PROVIDE GUIDANCE TO
 13 DIRECTOR
 14 MR. KORN: Moving on to the next item, this
 15 will be item No. 24. This one again is my agenda
 16 item. It reads Board action on IPRA requests:
 17 Establishing a Board committee to provide guidance to
 18 the Director.
 19 Now, in this regard the background of this is
 20 that up to this time all IPRA requests as I mentioned
 21 go through DPS. With our accepting agenda item
 22 No. 23, now all items will go to the Director.
 23 At most the far greater percentage of all
 24 these items are easy for the Director to handle. Some
 25 items require consultation. The Board is entitled to

1 consult with the Director to give the Director the
2 guidance that he needs in how to respond. The Board
3 has already established procedures to have committees,
4 small committees that are not a quorum of the body.

5 I would propose that the Board adopt a
6 committee for IPRA requests. I would like to be on
7 the committee. Two people have already asked me,
8 because they saw this agenda item, to be on the
9 committee. One is Chief Kassetas of the State Police
10 and the other is Chief McCall of Hobbs.

11 So with that in mind, if the Board will
12 approve this, first we would make a motion and a vote
13 to see if we have a committee. And second of all,
14 there would be a place on the committee for one
15 additional person.

16 So is there any discussion on the purpose of
17 this item on the agenda or a discussion about it?
18 Anybody? Okay. So I would make the motion that we
19 establish a Board committee to guide the Director in
20 regard to IPRA requests. Do I have a second?

21 MR. McCALL: Second.

22 MR. KORN: A second from Chief McCall. We'll
23 take a vote. All those in favor signify by saying
24 aye.

25 (Those in favor so indicate.)

1 MR. KORN: All opposed. Let the record show
2 the ayes are unanimous. The members of the committee
3 can see me afterwards unless you want to discuss it
4 now.

5 ITEM NO. 25: MISCONDUCT CASES: BOARD REVIEW OF
6 MISCONDUCT CASES, TRACKING AND MANAGEMENT

7 MR. KORN: Moving along, agenda item No. 25,
8 misconduct cases: Board review of misconduct cases,
9 tracking and management, my agenda item.

10 As you know it's been our practice to audit
11 the Director's office regarding misconduct cases. The
12 audit is because we are managers. And the Director's
13 office is, in effect, our chief administrative
14 officer.

15 But we as a Board have taken the position
16 that we always need to audit what's going on, both to
17 find trends, to find mistakes, and mostly to be in
18 sync with what's going on in our misconduct cases.

19 It's been three hearings since we received a
20 report from the Director. We did receive it this
21 time. But there just wasn't enough time for me to
22 organize this into a fashion to give to the Board.

23 So what you have here is the distillation of
24 nine pages of a snapshot from two weeks ago that show
25 all the current cases and all the outstanding cases.

1 Many of the outstanding cases I think have been
2 removed from our listing. So by the next time, we'll
3 have a snapshot that's more in sync with what we have.

4 The one thing that is obvious from this that
5 I'll point out to the Board is that, because Monica
6 numbers the cases as they come in, for example, 13
7 dash, the 13 being 2013 and the dash being the case
8 number, we kind of have an automatic way of figuring
9 out how many cases are coming before the Board.

10 Historically this Board has seen 120 cases a
11 year, year in and year out, for the last eight or ten
12 years. Significantly, in 2013 there were only
13 approximately 84 cases. So we went down about a third
14 of the cases.

15 And if it wasn't such a dramatic number, you
16 know, a third, you would think it wasn't a significant
17 trend. But that much of a drop is very significant
18 because it could be anything. It could be that people
19 are recognizing that the Board is firm and consistent
20 in our penalties or it could mean that LEA agencies
21 aren't reporting.

22 So it's a matter of something for us to
23 follow. And that's the only thing that I have to
24 point out from the management summary. Any questions
25 about this? Thank you.

1 ITEM NO. 26: FORMAL HEARING BACKLOG: BOARD ACTION
2 FOR SOLUTIONS, HEARING OFFICER TRAINING AND MANAGEMENT

3 MR. KORN: Moving along to the formal hearing
4 backlog, this is a matter that you'll recall the Board
5 had taken under advisement about a year ago, when we
6 had about 15 or 18 formal hearing cases and we were
7 totally backed up.

8 Since then we have a Board committee. The
9 Board committee hired a series of Hearing Officers.
10 The Hearing Officers have done their jobs. We are now
11 down to about three or four cases, and most of them
12 are current. So I think, by the next quarter, we'll
13 be totally current.

14 And in that regard we also talked to Mark
15 Reynolds about his analysis of our appeals summary.
16 And, Mark, would you like to give us your offshoot.

17 MR. REYNOLDS: Sure. Just a quick update.
18 There's not a whole lot to report. We have one
19 pending appeal, and that is Cunningham which dates
20 from -- boy, awhile ago now. I'm going to say two
21 years ago.

22 We had a hearing on that in front of Judge
23 Singleton about two weeks ago. And we're still in
24 some talks with the Respondent's attorney. But I
25 think probably by next meeting we may have a proposed

1 solution for that case on the agenda for that.
2 Now, the big news is, since I've become the
3 Board counsel, we have our first two appeals.

4 O'Donnell appealed his revocation, which was taken in
5 December I believe. And also Ricardo Martinez has
6 appealed his revocation.

7 And both of those are very much just in their
8 initial stages. The way it works is they file an
9 appeal. It's actually called a petition for a cert,
10 because they have to get a judge to say, okay, I'll
11 let you take this appeal.

12 The judges almost always let them take the
13 appeal. But as soon as the judge says that, then we
14 work with Monica to put together the record of the
15 whole hearing and of the whole administrative process
16 and then defend the Board's decisions in front of the
17 courts.

18 So those two appeals are very much in their
19 initial stages in that all that has happened is that
20 petition has been filed with the court. We don't do
21 anything until the court actually grants the petition.
22 And then we put together the record and then the case
23 goes forward. So they're very much in the initial
24 stages. So that's all I can report on the new appeals
25 that we have.

1 a placeholder for Dr. Gratton who is in charge of that
2 subcommittee.

3 DR. GRATTON: Thank you, Vice Chairman. In
4 terms of where we are, I was in Santa Fe yesterday to
5 do this. Background: Some information came from law
6 enforcement across the state basically stating that
7 they would like us to pursue an option; rather than
8 have the training requirements mandated by the
9 legislature, to move in the direction maybe that the
10 mandates or the control of that would come from the
11 Law Enforcement Academy Board.

12 The people that helped on this were Chief
13 Harry Betz to my left and, down at the far end, Chief
14 Chris McCall from Hobbs. We have been pursuing this.
15 We have met with counsel. We have met with a member
16 of the house judiciary committee who proposed a bill
17 and has written a bill.

18 The bill has gone to the governor. I was
19 there yesterday to verify that. So Governor Martinez
20 has the bill now on her desk. We're waiting to see if
21 she will actually sign the bill and send it to the
22 legislature. It's a 30-day session and it's going to
23 move very quickly.

24 So, Mr. Vice Chair, I think, if something
25 happens and this bill doesn't go to the house and the

1 MR. KORN: Thank you. And actually a year
2 ago we had something like eight or nine appeals,
3 didn't we?

4 MR. REYNOLDS: We did. I don't know exactly.
5 I think we had about ten when I was taking over as
6 counsel to the Board. So we had one there for a
7 little while, but now we're back up to three.

8 But, you know, I only see that as this Board
9 and the business that it's in and the decisions that
10 it has to make, you're going to be here. So I don't
11 think the fact that we have an appeal speaks one way
12 or the other.

13 It's just going to happen because people are
14 exercising their right to challenge your decision in
15 court. And that's their right. And we'll defend it
16 and see how the courts decide.

17 MR. KORN: Thank you. Any questions for our
18 counsel? No. Okay.

19 ITEM NO. 27: TRAINING MANDATED BY LEGISLATION: BOARD
20 ACTION TO INVESTIGATE EXTENT AND EFFECTIVENESS OF
21 MANDATED TRAINING AND TO ESTABLISH METHODS TO BEST
22 ACHIEVE TRAINING GOALS

23 MR. KORN: Moving ahead, the next item is
24 agenda item No. 27, which is training mandated by
25 legislation. And this has my name on it, but only as

1 senate for consideration this year, then we go to next
2 year into a six-day session and not give up on this.

3 But right now I think Chief Betz and Chief
4 McCall and I have done all we can in terms of getting
5 this to the governor for her consideration.

6 I did talk to one of her policy analysts.
7 And that policy analyst was quite supportive of this
8 initiative. But he is not the governor. So we'll
9 have to see what happens. But that's where we are as
10 of yesterday when I left Santa Fe.

11 MR. KORN: Thank you. Questions for
12 Dr. Gratton? No. And I would just like to say, I
13 have some semblance of all the work that you and your
14 committee have done and I applaud you for doing it.
15 It's an important part of our academy.

16 DR. GRATTON: Thank you.

17 MR. KORN: Thank you.

18 ITEM NO. 28: LETTER TO ADDRESS THE
19 BOARD-PURSUIT POLICY

20 MR. KORN: Okay. We're up to No. 28, letter
21 to address the Board, the pursuit policy. It's listed
22 as Chris Mechels, but really --

23 MR. MECHELS: That was a mistake. It should
24 have been Chris Goad.

25 MR. KORN: Yes.

1 MR. MECHELS: Okay. Thank you.
 2 MR. KORN: Please come forward.
 3 MR. GOAD: Christopher Goad.
 4 MR. KORN: Sir, if I could just preclude your
 5 addressing, just so, you know, we have disclosure, you
 6 and I had a discussion in the hall. And you had asked
 7 me about asking the Board members questions.
 8 And just so you know, the general rule that
 9 we use is the Board members can be addressed; but we
 10 don't really respond to questions.
 11 MR. GOAD: Okay.
 12 MR. KORN: But we're happy to hear whatever
 13 you say. And I think there are two other gentlemen
 14 with you. If you want them to address us as well,
 15 that would be perfectly okay.
 16 MR. GOAD: Okay.
 17 MR. KORN: And the last thing that you and I
 18 talked about in the hallway was that, as a personal
 19 matter, just for me alone, I welcome your being here;
 20 because, you know, what you're saying may or may not
 21 be something the Board agrees with.
 22 But at least it's a dialogue for bringing up
 23 new ideas and for exposing areas that you think need
 24 exposing. So I welcome the dialogue and just ask you
 25 to work within our rules of decorum.

1 DPS policy is, from the point of view of the statute,
 2 illegal.
 3 And a particular instance of this, which is
 4 well known as it happened recently, was the pursuit of
 5 Jeannette Anaya, who was later killed. If that
 6 pursuit -- that particular example, that pursuit was
 7 in keeping with the DPS but illegal from the point of
 8 view of the statute.
 9 So I think we have a problem here; namely,
 10 that there's a statute which is not being realized in
 11 state policy. And unfortunately the statute does not
 12 assign -- it says what the policy should be like in
 13 very clear language. But it doesn't assign anyone
 14 explicitly responsibility for making sure that's the
 15 case.
 16 That's why a petition like this is required.
 17 That's why we're making this petition. It seems to
 18 me -- and, you know, you -- of course, you will know
 19 and I don't really know. It seems to me first of all
 20 that the Attorney General, as the chief law
 21 enforcement officer, does have the authority to
 22 require that the policies be legal.
 23 And second, the LEA certifies every police
 24 officer in the state and in a sense has authority also
 25 in the sense that it can simply decline -- make it a

1 MR. GOAD: Okay.
 2 MR. KORN: And I know this is the third time
 3 I've asked you. But it's Mr. Goad, right?
 4 MR. GOAD: Correct.
 5 MR. KORN: Thank you, sir.
 6 MR. GOAD: Well, the New Mexico Safe Pursuit
 7 Act includes the language that all the written
 8 policies of the individual agencies include -- to
 9 require that law enforcement officers "shall not
 10 initiate or continue a high-speed pursuit when the
 11 immediate danger to the officer and the public created
 12 by the high-speed pursuit exceeds the immediate danger
 13 to the public if the occupants of the motor vehicle
 14 being pursued remain at large."
 15 Let us say pursue only under the condition
 16 that you will do good basically. However, the DPS
 17 policy reads, "A pursuit may be initiated when, in the
 18 officer's opinion, an individual thoroughly exhibits
 19 an intent to avoid arrest by using a motor vehicle to
 20 actually flee."
 21 It doesn't say pursuit is always appropriate
 22 when there is flight. That is essentially at all
 23 times. Whenever someone tries to leave the scene,
 24 pursuit is appropriate. So these are in
 25 contradiction, I mean in direct contradiction. So the

1 requirement that the policies of the departments be
 2 legal if it's going to certify the people coming out
 3 of those academies.
 4 That's really what I had to say. And I'll be
 5 very interested in -- well, first of all -- well, I'll
 6 pose this as a sort of question or nonquestion. I
 7 will be interested in -- a statement/question.
 8 I will be interested in first whether the
 9 Board sees -- you know, sees the contradiction that I
 10 mention, that policies are inconsistent with the law.
 11 And second, whether you think that the authority
 12 exists either on the part of the Attorney General's
 13 Office or on the part of yourselves, the Board, to
 14 correct this problem.
 15 MR. KORN: And, Mr. Goad, I'll just point
 16 out -- and the Board may have questions for you. But
 17 I'll point out that our Board basically is involved in
 18 law enforcement training and penalty matters as you
 19 heard today.
 20 We're not empowered and it's not within the
 21 purview of our act or even what we do to inspect
 22 policies by various departments around the state nor
 23 do we pass on nor do we make judgments whether one
 24 department has a good SOP or a bad SOP. I mean that's
 25 just not in the purview of what the Board does.

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<p>1 So all of your points may be absolutely 2 correct or they may be absolutely incorrect. We as a 3 Board wouldn't be involved in that debate.</p> <p>4 MR. GOAD: If I may ask, do you think there 5 is any authority within the state -- is this simply a 6 problem that has to be corrected by legislation, does 7 the Attorney General's Office -- I mean I'm just 8 interested as a person.</p> <p>9 MR. KORN: And I think you're kind of asking 10 the wrong folks. I mean, of course, some of these 11 people may have a much better idea than me about who 12 is responsible for it. But I certainly don't. And 13 the Board wouldn't take a position, it just isn't what 14 we do.</p> <p>15 MR. COON: All I can say is my policy in 16 Chaves County is probably a little bit different than 17 the Roswell Police Department or the Hobbs Police 18 Department. You know, I'm in open spaces, they're in 19 the city. The State Police are in open spaces. You 20 know, you've got to remember that.</p> <p>21 We all have to go through, and it's delegated 22 by the legislature, the Safe Pursuit Act. Every year 23 it's part of the biennium that you go through the 24 class. Whether you took it last year or the year 25 before, you go through the safe pursuit class.</p>	<p>1 So everybody is aware of it. And I bet you 2 there's not a whole lot of difference between my 3 policy and the Roswell PD's policy maybe other than 4 just a few minor details. You know, we're all out to 5 save the lives of the public. Unfortunately that 6 doesn't happen all the time, you know. We wreck cars 7 and kill people unfortunately. That's just the nature 8 of the beast sometimes.</p> <p>9 Do we like it? Absolutely not. Our 10 insurance goes up, we get sued. We try to teach it to 11 our deputies and our police officers, how unsafe it is 12 to chase cars at high speeds. They've all gone 13 through the training.</p> <p>14 But again I can't dictate as a Board member 15 what the Roswell Police Department does or the Chief 16 of the Hobbs Police Department. You know, like the 17 Vice Chair said, we're not that powerful a Board that 18 we can dictate to police departments what they do.</p> <p>19 MR. GOAD: Well, I certainly understand the 20 point that the policies should differ in some respects 21 from department to department. This is a sort of very 22 concrete kind of thing, just the question of whether 23 pursuit should be undertaken.</p> <p>24 I mean just the decision about that, which, 25 you know, it did lead -- it has led to several deaths</p>
<p>Page 124</p> <p>1 at least in New Mexico. It certainly led to Anaya's 2 death. It wasn't the only factor, of course.</p> <p>3 So I'm not disagreeing with anything you say. 4 But still just having that element in each policy as 5 the law requires seems to be something that should 6 happen and that would -- would cause the intent of the 7 legislature to be carried out by the departments of 8 the state.</p> <p>9 And I understand -- yeah. You're saying 10 basically I should talk to -- or we should talk to 11 someone else. You're saying you can't do anything 12 about it, that kind of thing. It's not your normal 13 purview.</p> <p>14 MR. COON: And that's like a fire department. 15 You know, I want that fire department to get to my 16 house when it's burning. They crash and kill people 17 too. And ambulances.</p> <p>18 MR. GOAD: There is a difference.</p> <p>19 MR. COON: No. If I'm having a heart attack, 20 I want that ambulance driver to come pick me up. They 21 crash and kill people too. Unfortunately we crash and 22 kill people too doing our jobs.</p> <p>23 MR. GOAD: Yes. I understand that. But 24 still there is this basic requirement in the law that, 25 before a pursuit begins, a reasonable person should</p>	<p>Page 125</p> <p>1 conclude that less harm will be done by the pursuit.</p> <p>2 MR. COON: Absolutely. I agree with you.</p> <p>3 MR. GOAD: And it's just a matter that that 4 be in the policies, that simple thing be in the 5 policies of the agencies. It doesn't seem so hard or 6 strange. And it's just a question of how to have it 7 happen. You know, it would be a good thing for it to 8 happen.</p> <p>9 MR. KORN: Other questions, other comments 10 from the Board members? Anybody? Mr. Goad, thank you 11 for appearing before us.</p> <p>12 MR. GOAD: Thank you.</p> <p>13 MR. KORN: Do you want Mr. Mechels to be part 14 of your agenda item? And, Mr. Mechels, of course, 15 since it's part of the agenda item, it's having to do 16 with the pursuit policy.</p> <p>17 MR. MECHELS: The part of this that I would 18 like to address, and I think Mr. Goad alluded to it 19 already, was the role that the Law Enforcement Academy 20 plays in this. As he described it, we perceive it as 21 a problem.</p> <p>22 The role that the Law Enforcement Academy 23 appears to be playing in this -- Sheriff Coon referred 24 to the biennium training. If you actually look at the 25 training in detail, the training never exposes -- this</p>

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1 is looking at the overhead, this is online.
 2 Never in those overheads exposes the students
 3 to the actual wording of the law, which is within the
 4 Safe Pursuit Act. What they do instead is they train
 5 the students to their own policies.
 6 If their policies are not in compliance with
 7 the law, then they're training their students to
 8 illegal policies. And that's where we question the
 9 Law Enforcement Academy, because you have no
 10 obligation to train students to illegal policies.
 11 If you would just say we first off show the
 12 students the law and show them the fact that the law
 13 may be different from the policies and that you all
 14 have an obligation as sworn officers not to the
 15 policy, you have a sworn obligation to the laws of our
 16 state as represented by the act.
 17 If the policies are different from the act,
 18 then the policies are illegal. And your students
 19 ought not to be trained to them and they should be
 20 aware of that fact.
 21 That is where we think to this point the Law
 22 Enforcement Academy has been remiss. And we hope that
 23 in the future you will make a point of doing much
 24 better on that point. Thank you.
 25 MR. KORN: Thank you, Mr. Mechels. Anything

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1 However, along the way with that, they've
 2 also hooked in various significant parts of our Board.
 3 And it's my opinion that what it does is it completely
 4 neuters the effect and makes us a completely
 5 ineffective Board by doing that. And I want to
 6 explain to you why.
 7 The first thing it does is it takes the Law
 8 Enforcement Academy and makes that a part of the New
 9 Mexico State Police. Now, I love the New Mexico State
 10 Police. But I also love the fact that our Board is
 11 completely independent of any agency because we
 12 regulate every agency.
 13 And if we become a part of the State Police,
 14 then how can we regulate the State Police the same as
 15 the others. And even if we do regulate them the same
 16 as the others, it's the appearance that it gives to
 17 the public that the State Police has an easier shot
 18 because we're part of them. But it gets worse from
 19 there.
 20 It also attempts -- and this is a good part
 21 of the law but also a bad part. It also attempts to
 22 bring the members of our academy, which is to say the
 23 people that do all the work which is the Director and
 24 his staff, to make them part of the State Police as
 25 well.

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1 else from the Board? No.
 2 ITEM NO. 29: INDIVIDUAL BOARD MEMBER COMMENTS
 3 MR. KORN: Okay. We'll move right along to
 4 item No. 29, individual Board comments. I do have a
 5 comment. I know it's late. I don't normally take
 6 advantage of this opportunity, but I do today.
 7 And that's to bring to the attention of the
 8 Board two bills that are going through our legislature
 9 now that affects our Board. And we have talked with
 10 Director Gratton, and that's part of his subcommittee,
 11 that the Board has not been proactive in looking at
 12 legislation that's making it's way through the houses
 13 and seeing what effect it might have on us.
 14 But I think we need to be more proactive and
 15 aware of that. And right now there's legislation
 16 going through that's really coupled with something
 17 unrelated to the Board but deeply affects our Board.
 18 And I want to tell you briefly about that to see if
 19 the Board had the same sort of concerns that I had.
 20 The legislation is to consolidate the
 21 Department of Public Safety. And that is basically
 22 primarily to take motor transportation and also SID
 23 and make that part of DPS, which is a pretty smart
 24 thing to do and it's a pretty good piece of
 25 legislation.

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1 And I understand that affords them greater
 2 pay equity, it affords them better retirement, and
 3 it's well needed. And it also probably gives them
 4 resources that they don't have at the academy. But
 5 what it also does is it takes our Director, who is
 6 responsible only to us, and makes him responsible to
 7 other than us.
 8 Now, right now in Jack Jones we arguably have
 9 the best Director in our academy's history. But the
 10 predecessor, the very predecessor to Jack Jones, who
 11 half the members of this Board remember was arguably
 12 the worst Director in our history. And the only thing
 13 that moved him along so that we could get Jack Jones
 14 is the ability to hire and fire directors.
 15 And what this law does is two things. Number
 16 one, it makes all of our staff State Police. So we
 17 don't have control. And it specifically repeals the
 18 part of the section that says we can fire our
 19 Director.
 20 And what that means, if you bake it all
 21 together, what it means is we become a Board with a
 22 Director we can't control, with policies that we can't
 23 put into place and make sure it happens, all run by an
 24 agency that we're supposed to regulate.
 25 And the net effect of it is it completely in

1 my opinion neuters this Board. It makes us talking
2 heads and makes us faces without any ability to make
3 any decisions for the law enforcement of New Mexico.

4 So this is winding its way through the house
5 now. It has various subcommittees to go to. After
6 the subcommittees it goes to -- it's winding its way
7 through the Senate as well. As I say overall it has
8 great purposes and great advantage. But deep down
9 inside I think it's something that is going to hurt us
10 in the very short run.

11 So for those of you that are interested, I
12 think writing to our legislators is important. And if
13 you'll see me afterwards, I'll give you the numbers.

14 Any other comments as a corollary to that or
15 individual completely different? No.

16 ITEM NO. 30: ELECTION OF VICE CHAIRMAN

17 MR. KORN: Moving along, we are up to the
18 election of Vice Chair, which happens every January or
19 the first meeting of every new year. So it's my last
20 meeting as vice chair. And a brand-new fresh face
21 comes aboard. Do we have any motions?

22 MR. COON: Mr. Vice Chair, I would like to
23 nominate Harry Betz as our new Vice Chair.

24 MR. KORN: We have a motion for Harry Betz.

25 DR. GRATTON: I second the motion.

1 MR. KORN: No, no. Absolutely. So we are
2 going backwards to agenda item No. 29, Board member
3 comments. Sheriff Coon.

4 MR. COON: I would just like to say, I'm sure
5 you all saw it on TV. We had a school shooting in
6 Roswell. And it could have been catastrophic, but it
7 wasn't. It was overplayed quite a bit. We were the
8 lead story for like ten straight nights on the news on
9 all three channels.

10 But that day it happened there was about -- I
11 can't even count how many policemen were out there
12 that quick. Most of our kids and grandkids go to that
13 school, a lot of policemen live in that area.

14 And I was there ten minutes after the
15 shooting. We were just flooded with city PD,
16 sheriff's office, State Police, U.S. Marshals, FBI,
17 DEA, ATF, mounted patrol. They all showed up.

18 And the scene was over real quick. And I
19 want to pat my department on the back a little bit.
20 We had gone to every one of these schools in Roswell,
21 all the high schools, middle schools, and grade
22 schools, and gave active shooter classes.

23 I got there ten minutes after it happened.
24 There was not a kid in that school. I mean it looked
25 abandoned. They were all in lockdown. All the

1 MR. KORN: So Harry Betz is our third ranking
2 member. I think you've been here two and a half
3 years.

4 MR. BETZ: Three.

5 MR. KORN: Three years. You've probably been
6 in law enforcement more than most, what is it, 40?

7 MR. BETZ: Forty-seven.

8 MR. KORN: Forty-seven years in law
9 enforcement. Of course, you represent the Indian
10 tribes. We have a motion to install Harry Betz as our
11 next Vice Chair. Do we have a second?

12 MR. BARNCASTLE: I will second that motion.

13 MR. KORN: We have a second by Pat
14 Barncastle. And so all in favor signify by saying
15 aye.

16 (Those in favor so indicate.)

17 MR. KORN: All opposed nay. I mean I'm not
18 saying nay. All opposed say nay. Let the record
19 reflect that the ayes are unanimous. Harry Betz is
20 our new Vice Chair. Congratulations, Harry.

21 MR. COON: Can we go back to Board member
22 comments.

23 MR. KORN: Yes.

24 MR. COON: I thought you were just talking
25 about you were done with yours.

1 teachers knew exactly what to do. If there had been a
2 second shooter, he wouldn't have had nothing to shoot
3 at.

4 The family of this young man, they're very
5 good people. What made him tick we don't know. But
6 we had an overflow of support from the people there.
7 We evacuated that school to the mall. It was done.

8 And that thing, it will never happen in my
9 town. Well, it happened in our town. It could happen
10 in your town. I think we were prepared for it.

11 When we started doing these active shooter
12 classes the superintendent of schools didn't like it a
13 whole lot. He wasn't really for it. He kind of
14 fought us on it because it was traumatizing the little
15 kids and the teachers wouldn't buy into it.

16 We started doing that, and then it just took
17 off like wildfire. Every teacher in Roswell and in
18 Chaves County actually, even the private schools, have
19 gone through this class. The teachers and the staff
20 out at Berrendo Middle School acted perfect just like
21 they were taught. They got those kids out of the
22 hallways, they locked everything down.

23 And, you know, you hate to say you had a big
24 success over such a tragedy. But we felt like we hit
25 a home run. When it happened, Pat was out there with

1 us. So we want to kind of pat ourselves on the back
2 because we knew it was coming eventually to our town.
3 We didn't stick our head in the sand.

4 And if any of you all would like the class, I
5 can send my instructor. He's going back to Glynco,
6 Georgia, where he was taught all this to be honored
7 because he had taught all these classes. And we have
8 recognized him in front of our county commission.

9 But all the policemen working together, it
10 didn't matter if you had a federal badge or a city
11 badge or a county badge or a state badge, it all came
12 together.

13 Our county manager, his wife is a federal
14 judge there in Roswell. His son was loaded on a bus.
15 Federal marshals have to protect judges and their
16 kids. And this poor 11-year-old kid is sitting on the
17 bus. And the marshal came on and announced himself
18 and said is Gavin Riggs on this bus.

19 And this kid's eyes got about this big
20 around. And he went like this and he said you're
21 coming with me. And he took him straight to his
22 mother, because he's federally protected because his
23 mother is a federal judge.

24 But everything else just sailed right along
25 real well. The State Police did a great job, they

1 Sheriff Coon said within minutes.

2 That was the most chaotic thing I had seen
3 other than the fact that the teachers did exactly what
4 they were trained to do and they locked things down.

5 But one thing that we had talked about having
6 was a debrief or a multiagency get-together to review
7 exactly what we could do better. And I noticed one
8 thing that the District Attorney -- and I personally
9 had her because she had five grandkids and nieces and
10 nephews there.

11 And it was so chaotic, I mean there were cars
12 lined up on the interstate on the highway for a mile
13 and a half both ways trying to get in. You couldn't
14 get out on your cell phone to make a phone call.

15 The decision she made was to notify the media
16 and specifically the radio stations and have them put
17 out the word that -- because everybody was calling in
18 wanting to check on their kids, wanting to contact
19 people. The towers were fried, you couldn't get out.

20 And so the decision she made was to contact
21 the media and have the media let the listening public
22 know that, hey, the victims' families, the two
23 victims' families have been notified. So if you have
24 not been called, your child will be transported by bus
25 to a holding area, which was the mall area, and you

1 took the scene over willingly. We let them have it
2 because of their resources. We were just flooded with
3 good police work out there. And it's all due because
4 of what they had been taught. I'll get off my soapbox
5 here.

6 MR. KORN: Nice job, Sheriff, for having the
7 wisdom to have it taught beforehand.

8 MR. COON: Yes. Thank you.

9 DR. GRATTON: Mr. Vice Chair, if I may add to
10 that comment. In Carlsbad we had a session at the
11 college about a week ago on human trafficking.
12 According to what we were seeing in that area, the
13 proximity of the border, which a lot of us are close
14 to, and also the amount of truck traffic coming
15 through in that area makes us susceptible to human
16 trafficking.

17 So we have had a course in that that was very
18 well received. And we have an active shooter class
19 scheduled for about two weeks using your person. So
20 we're following up on the success you had in terms of
21 making sure that happens. Thank you.

22 MR. KORN: Other Board comments?

23 MR. BARNCASTLE: You know, I'd add one thing
24 to Sheriff Coon's review of that. I was eating his
25 tailpipe dust. And we got there to that scene like

1 can pick them up there.

2 And you can't believe the decline in radio
3 traffic. The phone calls, the airwaves were open back
4 up. And if there's anything that you can go back and
5 tell your agencies, you know, just as a little piece
6 of information that they ought to think of right off
7 the bat, that was probably one of the things that
8 helped us out the most at that time.

9 But credit where credit is due. The sheriff
10 and his troops and putting all those programs, those
11 active shooter programs. Those teachers were awesome.
12 They did exactly what they were trained to do. And
13 they did it right by the numbers.

14 MR. COON: Well, the kids at that school
15 thought it was a drill when it started happening. And
16 they took it serious. A lot of them didn't know --
17 the shots in the gym, they thought those were
18 simulated shots.

19 And they started filing out like they had
20 been taught to do, because we do simulated PepperBall
21 guns out there, just a pop in the air. And they all
22 thought it was a drill and went about their business.
23 It worked out real good for us.

24 MR. KORN: Thank you. Thank you, Pat. Thank
25 you, Sheriff.

1 ITEM NO. 31: SCHEDULING OF NEXT BOARD MEETING
 2 MR. KORN: We're at that point where we talk
 3 about the scheduling of the next Board meeting. I
 4 would like to propose we do that as we usually do,
 5 afterwards getting with all the Board members.
 6 ITEM NO. 32: ADJOURNMENT
 7 MR. KORN: And so we are at an adjournment
 8 time. Do I have a motion?
 9 MR. BETZ: I make a motion to adjourn.
 10 MR. BARNCASTLE: I second.
 11 MR. KORN: A motion by the new Vice Chair, a
 12 second by Pat Barncastle. All in favor signify by
 13 saying aye.
 14 (Those in favor so indicate.)
 15 MR. KORN: Thank you all for attending our
 16 meeting.
 17 (The meeting concluded at 3:05 p.m.)
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1 REPORTER'S CERTIFICATE
 2
 3 I, JAN A. WILLIAMS, New Mexico CCR #14, DO
 4 HEREBY CERTIFY that on February 11, 2014, 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
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 22
 23 _____
 24 JAN A. WILLIAMS, RPR
 25 New Mexico CCR #14
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