

NEW MEXICO LAW ENFORCEMENT ACADEMY

BOARD MEETING

September 3, 2014

9:00 a.m.

Ruidoso Convention Center

111 Sierra Blanca Drive

Ruidoso, New Mexico 88345

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

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<p>1 ITEM NO. 1: CALL TO ORDER</p> <p>2 MR. KING: I'll call the meeting to order.</p> <p>3 Good morning, everybody. We appreciate you being here</p> <p>4 this morning. It's actually very pleasant to be in</p> <p>5 Ruidoso. So thanks to the city fathers in Ruidoso for</p> <p>6 allowing us to use their facility here.</p> <p>7 We'll get right to it. We have a long agenda</p> <p>8 today, we were just discussing that. And so we're</p> <p>9 going to try to move through it effectively.</p> <p>10 ITEM NO. 2: ROLL CALL</p> <p>11 MR. KING: So the first order of business is</p> <p>12 roll call. Usually we just start and go around the</p> <p>13 table and introduce everybody. So Mr. Quezada.</p> <p>14 MR. QUEZADA: My name is Jaime Quezada with</p> <p>15 the Las Cruces Police Department, and I represent the</p> <p>16 line officers.</p> <p>17 MR. COON: My name is Sheriff Rob Coon, I</p> <p>18 represent the sheriffs. I'm from Chaves County,</p> <p>19 Roswell.</p> <p>20 MR. BARNCASTLE: My name is Pat Barncastle,</p> <p>21 I'm with the District Attorney's Office, and I'm the</p> <p>22 District Attorney representative.</p> <p>23 MR. KORN: My name is Nate Korn and I am one</p> <p>24 of the two citizen representatives.</p> <p>25 MR. KING: Gary King, I'm the Attorney</p>	<p>1 General.</p> <p>2 MR. GRATTON: John Gratton, I'm the other</p> <p>3 citizen representative.</p> <p>4 MR. KASSETAS: Pete Kassetas, State Police</p> <p>5 representative.</p> <p>6 MR. McCALL: Chris McCall, Chief of Police</p> <p>7 from Hobbs, representing the municipal chiefs.</p> <p>8 MR. REYNOLDS: I am not a board member. My</p> <p>9 name is Mark Reynolds, Assistant Attorney General, I'm</p> <p>10 counsel to the Board.</p> <p>11 MR. KING: Okay. And Mr. Jones.</p> <p>12 MR. JONES: My name is Jack Jones, I'm the</p> <p>13 Director of the Law Enforcement Academy.</p> <p>14 MS. MEDRANO: Hi. I'm Monica Medrano, I'm</p> <p>15 the case manager at the Law Enforcement Academy.</p> <p>16 MS. LOPEZ: Monique Lopez, Law Enforcement</p> <p>17 Academy.</p> <p>18 MR. KING: Good. So we have a quorum.</p> <p>19 ITEM NO. 3: APPROVAL OF AGENDA</p> <p>20 MR. KING: So the next item on the agenda is</p> <p>21 approval of the agenda. So are there any additions or</p> <p>22 corrections to the agenda?</p> <p>23 MR. GRATTON: I move for approval of the</p> <p>24 agenda.</p> <p>25 MR. KING: Okay. I have a motion to approve.</p>
<p>Page 8</p> <p>1 MR. KORN: Second.</p> <p>2 MR. KING: All in favor say aye.</p> <p>3 (Those in favor so indicate.)</p> <p>4 MR. KING: Any opposed. Okay.</p> <p>5 ITEM NO. 4: APPROVAL OF MEETING MINUTES</p> <p>6 MR. KING: The next item on the agenda is</p> <p>7 approval of the meeting minutes from July 16th, 2014.</p> <p>8 Any additions or corrections to the minutes?</p> <p>9 MR. McCALL: Move to approve.</p> <p>10 MR. KORN: Second.</p> <p>11 MR. KING: I have a motion to approve and</p> <p>12 seconded. All in favor say aye.</p> <p>13 (Those in favor so indicate.)</p> <p>14 MR. KING: Any opposed. Okay. We've</p> <p>15 approved the minutes.</p> <p>16 I have on the agenda here new business.</p> <p>17 Mr. Korn, any new business?</p> <p>18 MR. KORN: No, Mr. Attorney General.</p> <p>19 MR. KING: Okay. So our plan then is to go</p> <p>20 right into dealing with the issues of misconduct. And</p> <p>21 you will see these. As you all know, certain portions</p> <p>22 of this agenda are in closed meeting.</p> <p>23 All of these portions of the agenda, for</p> <p>24 those of you who haven't been to a meeting before,</p> <p>25 since my office does the administrative presentation</p>	<p>Page 9</p> <p>1 of these cases, I recuse myself from voting on them.</p> <p>2 So I'm going to recuse myself for a time while we work</p> <p>3 through these items.</p> <p>4 Sheriff Coon, you are really good at this.</p> <p>5 Will you sit in the chair and do these.</p> <p>6 MR. COON: Yes, sir.</p> <p>7 MR. KING: Okay. Good. So I'm going to turn</p> <p>8 the gavel over to Sheriff Coon. And I will be nearby.</p> <p>9 And it is a long agenda. This group has been willing</p> <p>10 to work through lunch I know at times.</p> <p>11 So I guess you all will decide if you need to</p> <p>12 take a little break somewhere along the line. So we</p> <p>13 appreciate everybody being here. Thank you.</p> <p>14 MR. COON: Again it's an honor to vice chair</p> <p>15 this meeting. I don't know where Chief Betz is, but</p> <p>16 I'll give it up if he gets here.</p> <p>17 So generally what we do is we go into the</p> <p>18 disciplinary matters of misconduct. What I will do is</p> <p>19 I will call out the name. If you are here and would</p> <p>20 like to address the Board, you're more than welcome to</p> <p>21 do that. We'll go down each name and give you a</p> <p>22 chance to address it.</p> <p>23 ITEM NO. 5: ANDREW GOODMAN</p> <p>24 MR. COON: First under new business is the</p> <p>25 misconduct default orders of stipulation. Number 5 is</p>

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<p>1 Andrew Goodman. Andrew Goodman, are you here? Andrew 2 Goodman. Not here.</p> <p>3 ITEM NO. 6: MANACES ARTEAGA</p> <p>4 MR. COON: Then we go to stipulated orders of 5 suspension. And pardon me for butchering this name. 6 Manaces Arteaga.</p> <p>7 MR. ARTEAGA: Here, sir.</p> <p>8 MR. COON: Would you like to address the 9 Board?</p> <p>10 MS. BARKLEY: Yes.</p> <p>11 MR. COON: Come on up, please.</p> <p>12 MS. BARKLEY: Mr. Chair, Members of the 13 Board, my name is Jamison Barkley. And I am here 14 along with my client, Mo Arteaga, Manaces Arteaga. We 15 are here to recommend that you approve the 16 recommendation of the Director in this matter. And we 17 stand for questions.</p> <p>18 MR. COON: Does anybody have any questions? 19 Anybody. Thank you.</p> <p>20 ITEM NO. 7: NATHAN BARTON</p> <p>21 MR. COON: Number 7, Nathan Barton. Nathan 22 Barton, are you here? There is no Nathan Barton here.</p> <p>23 ITEM NO. 8: LARRY BURNS</p> <p>24 MR. COON: Okay. Number 8 on the agenda, 25 Larry Burns. Larry Burns, are you here? No Larry</p>	<p>1 Burns.</p> <p>2 ITEM NO. 9: VICTOR DURAN</p> <p>3 MR. COON: Number 9 on the agenda is Victor 4 Duran.</p> <p>5 MR. DURAN: Here, sir.</p> <p>6 MR. COON: Mr. Duran, would you like to come 7 up and address the Board, sir?</p> <p>8 MR. DURAN: Yes, sir. Good morning. My 9 representative is Mr. John D'Amato.</p> <p>10 MR. COON: First off, if you wouldn't mind, 11 sir, adjust that mike and speak into it. There you 12 go.</p> <p>13 MR. DURAN: Good morning to everyone. I am 14 here with attorney John D'Amato. I'm not sure if he 15 stepped out for a few. But I did want to come up and 16 speak with you all.</p> <p>17 MR. COON: Is Mr. D'Amato here in the 18 building?</p> <p>19 MR. DURAN: I believe he is, sir.</p> <p>20 MR. COON: Would you like to wait until he 21 gets back?</p> <p>22 MR. DURAN: If I may.</p> <p>23 MR. COON: Okay. Let's skip you real quick.</p> <p>24 MR. DURAN: Thank you.</p> <p>25 ITEM NO. 10: LUIS DAVID GUERRERO</p>
<p>Page 12</p> <p>1 MR. COON: Number 10 is Luis David Guerrero. 2 Luis David Guerrero. Mr. Guerrero is not here.</p> <p>3 ITEM NO. 11: COLBY MORGAN</p> <p>4 MR. COON: Number 11 is Colby Morgan.</p> <p>5 MR. MORGAN: Here, sir.</p> <p>6 MR. COON: Would you like to come up and 7 address the Board.</p> <p>8 MR. MORGAN: Yes, sir. I'm Colby Morgan. 9 And I'm here and request that you approve the 10 Director's stipulated agreement. I'm with my wife 11 Stephanie. She would like to present a summary she 12 has prepared for you all.</p> <p>13 MR. COON: Okay. Go right ahead, ma'am.</p> <p>14 MS. MORGAN: Members of the Board, I am here 15 today to address you in regards to my husband Colby 16 Morgan and the recent suspension of the New Mexico law 17 enforcement certificate.</p> <p>18 Colby has been in law enforcement for ten 19 years. And we chose to move from Texas to New Mexico 20 so that we could be in a friendlier oriented 21 community. We also moved so I could pursue my 22 education. These were things that we considered 23 important to our family. Colby has always been a 24 family man. And we have one son who just graduated. 25 Colby was dedicated and has been dedicated</p>	<p>Page 13</p> <p>1 not only to his family but to his career as well. In 2 the past two years, our family has faced Colby working 3 more and more at work than at home.</p> <p>4 I understand that this job is not a normal 5 job. I also understand it does not have normal hours. 6 I also understand that call-outs are expected and 7 overtime is expected. I also understand that officers 8 can be pushed above and beyond the call of duty on a 9 regular basis. However, there is a point that these 10 officers reach exhaustion and work more than normal.</p> <p>11 During this time he was scheduled to work six 12 average days a week, sometimes 12 hours per shift. 13 When he was home trying to sleep, he would get 14 constant calls from the department interrupting that 15 sleep and his time with his son. After leaving his 16 work, he would come home and attempt to regain some of 17 that sleep, losing even more time with his son.</p> <p>18 During this time my in-laws moved from 19 Colorado to spend time with their grandchildren. They 20 moved in September. And Colby's dad became sick in 21 November. At first the doctors told us it was 22 adjustment to the area from Colorado. He was not 23 improving.</p> <p>24 In December he was put in the hospital for 25 testing. He came home a day before Christmas to spend</p>

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1 with his family and returned to the hospital two days
2 after that. On December 30th he was diagnosed with
3 pancreatic cancer. In January we moved him to hospice
4 care and drove back and forth between Lubbock and
5 Portales.

6 During this time Colby was not allowed any
7 time off. So he slept on hospital floors so he could
8 be there. His father passed on January 3rd. Sorry.
9 We were given two days off to be with his mom and to
10 arrange the funeral that we needed to take care of.

11 During this time Colby as I stated before was
12 not allowed to take time off. So we had to request
13 rollover and an extension to the Board's HR meeting
14 that required us to lose his vacation time.

15 We moved forward. And after the funeral we
16 continued back on six days a week. Our son graduated
17 in May. And Colby had to ask other officers if they
18 could please step up to cover his shift so he could
19 attend our son's graduation.

20 He received the time off. But because of the
21 constant exhaustion and strain, he fell asleep during
22 our son's graduation party. This greatly upset our
23 son and he began to question whether or not he truly
24 had a father.

25 I understand that this does not qualify or

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1 it was after another shift. I was in the middle of a
2 15-day week. I replied that I had been there when I
3 had not.

4 MR. KASSETAS: Did you claim the time,
5 though?

6 MR. MORGAN: I did not claim the time.

7 MR. KASSETAS: You just said you were at the
8 assignment?

9 MR. MORGAN: Yes, sir.

10 MR. KASSETAS: Thank you.

11 MR. GRATTON: Officer Morgan, I have a
12 question. There's something in here about a video
13 that came from the Wal-Mart security video. Were you
14 at Wal-Mart?

15 MR. MORGAN: Wal-Mart is the store next door
16 to Hibbett. The Hibbett parking lot is viewable by
17 Wal-Mart parking lot security.

18 MR. GRATTON: So the security shows you were
19 not there?

20 MR. MORGAN: Correct.

21 MR. GRATTON: Okay. Thank you for your
22 clarification, sir.

23 MR. KASSETAS: Just one more point of
24 clarification, Mr. Vice Chair.

25 MR. COON: Yes, sir.

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1 forgive what happened in the circumstances. I just
2 wanted you to understand what we were going through
3 during this time. Thank you for your time.

4 MR. COON: Mr. Morgan, do you have anything
5 else you would like to add?

6 MR. MORGAN: No, sir, I do not.

7 MR. COON: Anybody have any questions of
8 Mr. Morgan?

9 MR. KASSETAS: I do.

10 MR. COON: Chief.

11 MR. KASSETAS: Mr. Morgan, help me understand
12 a little bit about the circumstances. You were given
13 an assignment to go to a Wal-Mart, correct?

14 MR. MORGAN: Yeah. I received a telephone
15 call to go to an assignment to Hibbett Sports, which
16 is a sporting goods store that sells shoes.

17 MR. KASSETAS: For a certain block of time?

18 MR. MORGAN: Starting at seven a.m., directly
19 after one of my shifts, yes, sir.

20 MR. KASSETAS: And you didn't show up. Did
21 you claim the overtime?

22 MR. MORGAN: Actually I was -- I got an hour
23 of overtime because the paperwork took time. And then
24 I went home and went to bed. I was called two days
25 later. And then when they asked me about it, I was --

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1 MR. KASSETAS: When you were called by the
2 supervisor I assume to ask if you were at the
3 assignment and you said you were, what was the reason
4 for saying you were?

5 MR. MORGAN: I was just so tired I just said
6 I was when I really wasn't.

7 MR. KASSETAS: Okay.

8 MR. COON: I've got a question. What did
9 your department do to you, what were the consequences
10 for not showing up for that assignment?

11 MR. MORGAN: I was placed on administrative
12 leave pending termination.

13 MR. COON: Is that the only blemish on your
14 record at Portales PD for just missing an assignment?

15 MR. MORGAN: Yes, sir.

16 MR. COON: And you were terminated because of
17 that?

18 MR. MORGAN: No, sir. I resigned in lieu of
19 termination.

20 MR. COON: Mr. Korn.

21 MR. KORN: Sir, did you say that that was in
22 the middle of a 15-day shift?

23 MR. MORGAN: I had been working -- I was --
24 yeah. It was day 11 or 12 of 15 days in a row.

25 MR. KORN: You had no time off for the 15

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1 days?
 2 MR. MORGAN: I had time off. I had eight
 3 hours sleep between shifts. I had time off between
 4 shifts. But I was doing 18 consecutive days -- I mean
 5 15 consecutive days.
 6 MR. KORN: With no day off?
 7 MR. MORGAN: With no day off, yes, sir.
 8 MR. KORN: You had eight hours sleep?
 9 MR. MORGAN: I had sleep time, yes, sir.
 10 MR. COON: Was that time, that 18 days or 15
 11 days, was that upon your request or were you forced to
 12 do that or did you volunteer to take that time?
 13 MR. MORGAN: I was the supervisor on shift.
 14 And graveyard shift consisted of myself and two other
 15 officers. Swing shift consisted of a sergeant and
 16 three other officers. Day shift consisted of a
 17 sergeant and three other officers. There was a
 18 sergeant and four other officers in investigations.
 19 I posted some overtime hours availability.
 20 There was no one to cover. Therefore, my shift, I had
 21 to -- I was to cover the hours.
 22 MR. COON: So you volunteered basically to
 23 take the 15 days in a row?
 24 MR. MORGAN: There was nobody else to cover.
 25 MR. COON: Okay. Any other questions?

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1 back in.
 2 MR. D'AMATO: Yes, sir.
 3 MR. COON: Do you have a client here?
 4 MR. D'AMATO: I do. Victor Duran.
 5 MR. COON: Would you like to get up and
 6 address the Board.
 7 MR. D'AMATO: Thank you. Sorry to delay you.
 8 I had a nine clock conference call.
 9 We are here before you today on behalf of
 10 Victor Duran asking you to accept the stipulated order
 11 that is in the packet. Mr. Duran is here to answer
 12 any questions. I would urge you to adopt the
 13 stipulation based on the totality of the circumstances
 14 he was presented that night.
 15 In speaking with the Director, in the
 16 informal process, and myself over the period of time
 17 in which this happened, Mr. Duran will tell you it's
 18 easy to second-guess somebody. But in retrospect he
 19 has learned how he could have handled it differently.
 20 He is a young deputy. He was with Bernalillo
 21 County Sheriff's Department. He was terminated as a
 22 basis in part because of this, was allowed to resign.
 23 But he was on probation during this period. So he had
 24 no real due process rights as a probationary employee.
 25 He was picked up by the Valencia County

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1 MR. KORN: I guess I have one.
 2 MR. COON: Mr. Korn.
 3 MR. KORN: Sir, you took administrative leave
 4 prior to resigning. But did the department issue any
 5 time off?
 6 MR. MORGAN: No, sir. They placed me on
 7 administrative leave.
 8 MR. KORN: With pay or without pay?
 9 MR. MORGAN: With pay. And then I resigned
 10 two days later.
 11 MR. COON: What was your rank, were you a
 12 sergeant?
 13 MR. MORGAN: I was a sergeant.
 14 MR. COON: Any other questions? Thank you,
 15 Mr. Morgan.
 16 MR. MORGAN: Thank you.
 17 ITEM NO. 12: JEREMIAH PHILLIPS
 18 MR. COON: We'll go to No. 12, Jeremiah
 19 Phillips. Mr. Phillips, would you like to address the
 20 Board?
 21 MR. PHILLIPS: Yes, sir. I have
 22 representation on the way, but she's not here yet. If
 23 we could stand by for another ten minutes or something
 24 like that. Is that good?
 25 MR. COON: Sure. Mr. D'Amato, I see you came

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1 Sheriff's Office. Louis Burkhard, Sheriff Burkhard
 2 speaks very highly of him. I have canvassed other
 3 deputies to see what type of deputy this man has
 4 turned into, and all reports are good.
 5 So with that I'm happy to answer any
 6 questions. And Mr. Duran is here to address this more
 7 directly.
 8 MR. COON: Anybody have any questions of
 9 Mr. D'Amato? Mr. Duran, would you like to talk?
 10 MR. DURAN: Yes, sir. Again my name is
 11 Victor Duran, I'm a deputy now with the Valencia
 12 County Sheriff's Department. It's a pleasure meeting
 13 you. It's unfortunate to be here.
 14 But I'm glad to be here and be able to talk
 15 with you about my incident that occurred back in March
 16 of last year. The incident that occurred back on
 17 March 17th of 2013, you know, I was contacted by my
 18 nephew who asked me to -- if I could give him a ride
 19 from a friend's house. He was at a friend's house and
 20 he was drinking that night.
 21 I went over to where he was at to pick him up
 22 so that he wouldn't drive while he was intoxicated.
 23 While I was there, I never imagined in a million years
 24 that the events that happened that night were going to
 25 happen.

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1 You have the sheet in front of you. It
2 basically summarizes what happened that night. I am
3 more than willing to answer any questions that you
4 guys have to the best of my ability.

5 MR. COON: Chef Kassetas.

6 MR. KASSETAS: I have a couple questions.
7 When you got there, did you engage and ask the crowd
8 or someone in the crowd who wanted to jump your
9 cousin?

10 MR. DURAN: Yes, sir. I did ask that
11 question. And I did read this here. This is the
12 first time I read this page.

13 I had no inclination, I did not know that
14 anything of that nature was going on that night. The
15 only thing I knew prior to arriving there was my
16 nephew called me, he was crying. He asked me if I
17 could pick him up.

18 I did ask the question -- he's a 27-year-old
19 man -- why are you crying, what's wrong. He answered
20 by saying can you just pick me up, I'll send you the
21 address. I said yeah. He's my cousin, he's never
22 been in trouble with the law.

23 And I did ask that question when I arrived
24 for him, I asked him what's wrong. And he did say to
25 me they're trying to jump me. And then that's when I

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1 him, you know, let's go, let's get ready to go. And
2 then that's when he went ahead and said, you know, I
3 don't want to leave my car here.

4 That's when I asked, you know, what's wrong,
5 why are you crying. Well, they're trying to jump me.
6 And that's when I asked that gentleman who is trying
7 to jump him and what's going on. And he went on to
8 say we've been friends since middle school, I don't
9 know what he's talking about.

10 And the conversation we had was just --
11 basically was just a conversation. And it was
12 interrupted very quickly when somebody exited the
13 residence and immediately became physical with me.

14 MR. KASSETAS: It says here that there was a
15 reduction of one month for mitigating circumstances.
16 What are those circumstances, do we know?

17 MR. D'AMATO: Yeah. The mitigation was based
18 on the totality of the circumstances. In retrospect,
19 Chief, sir, Deputy Duran or off-duty Civilian Duran
20 could have used a greater situational awareness to
21 avoid this. He could have had the vehicle towed.
22 There are many things he could have done.

23 But based on the level of force that
24 confronted him, there were two or three individuals,
25 one was armed with a bottle, they made physical

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1 asked who is trying to jump you. So yes, I did ask
2 that question while I was there.

3 MR. KASSETAS: Let me back up. Not asking
4 your relative. But did you engage the crowd or the
5 party-goers and essentially ask who wanted to start
6 trouble with your family member?

7 MR. DURAN: Yes, I did ask. When I got
8 there, when I arrived, there were two other subjects
9 with him which I assumed were his friends, they were
10 just out talking. And he did say that to me.

11 I did ask one of the guys that I had shaken
12 hands with. And it was a question. It wasn't trying
13 to be combative or challenging in any way. I just
14 asked, you know, who is trying to jump you.

15 And me and that subject, we actually -- we
16 had a conversation about it until, of course, other
17 people from the party that were intoxicated came out.
18 And that's when things went downhill from there.

19 MR. KASSETAS: So at some point you had your
20 family member with you and you were able to leave. He
21 didn't want to leave his car there, right? So that
22 was a sticking point is what I thought I gathered from
23 this.

24 MR. DURAN: Yes, sir. We were there. At no
25 point did we actually make a motion to go. I asked

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1 contact with him. But for the withdrawing of the
2 firearm to show the badge, the show of force, those
3 individuals were taken into custody or cited.

4 I think when we look at the totality of the
5 circumstances, the force presented to Duran, that's
6 the mitigating circumstance. There was alcohol
7 involved, one sided. Duran was sober, he was not
8 drinking at all that night.

9 So I think basically this is not someone who
10 is an off-duty officer badging someone for their own
11 personal gain or using display of force for their
12 personal gain or just for a show of force for no
13 basically lawful purposes. Duran was confronted with
14 a threat, he perceived a threat.

15 One of the individuals that he perceived a
16 threat from was armed with a bottle. That could have
17 been an open-edged weapon. So when we look at the
18 totality of the circumstances from Duran's
19 perspective, we believe they amount to mitigating
20 circumstances.

21 MR. KASSETAS: And all it seems to me I just
22 want to point out is that all of that would have been
23 mitigated in the event that Mr. Duran had picked up
24 his family member and immediately left.

25 It seems to me that he engaged the crowd,

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1 essentially saying I'm here, my cousin or my family
2 member called me, I want to know who is messing with
3 him. And that's what it appears to me that happened.
4 And then that escalated the situation with the
5 party-goers. Am I reading that wrong?

6 MR. D'AMATO: Partially, sir, with all due
7 respect. Duran is not wired that way first of all.
8 Secondly, he was there to pick up his relative and
9 leave. For whatever reason the relative was afraid of
10 property damage to the vehicle.

11 It was very conversational, the tone was very
12 conversational between the two individuals outside
13 that were with the relative. It only escalated when
14 two other individuals came from the house, the actual
15 residence where this occurred, and became menacing,
16 threatening, and assaulting.

17 They escalated the situation, Duran did not.
18 Duran is a low-key individual, noncombative to begin
19 with. I know I'm biased when I say this. He didn't
20 start this fight.

21 MR. KASSETAS: Thank you.

22 MR. D'AMATO: You're welcome.

23 MR. COON: Mr. Gratton.

24 MR. GRATTON: And this is for Officer Duran.
25 Were you in uniform when you appeared at the scene,

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1 property.

2 Again I created my distance from them, I
3 stepped back out, not only onto the sidewalk, but I
4 actually walked out into the street, where I had
5 enough safe distance where I could pull out my phone
6 once more and call BCSO dispatch again and let them
7 know, you know, what I had confronting me at that
8 time.

9 MR. D'AMATO: If I may add one thing to that
10 point. After that point Deputy Duran did all the
11 right things. He did call BCSO, he did contact his
12 supervisor. He did make everyone that was on a
13 need-to-know basis aware of what had just transpired.

14 I guess, when you overlay that to what had
15 happened just immediately before that, it adds to his
16 state of mind as to a reasonable reaction to what had
17 just occurred. It wasn't like he was trying to keep
18 this off the records, off the books, or not make
19 anyone aware of what had just happened.

20 MR. COON: Were you in a marked unit when you
21 got there?

22 MR. DURAN: No, sir. I was in my personal
23 vehicle.

24 MR. COON: Okay.

25 MR. DURAN: If I can say one thing. I'm not

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1 sir?

2 MR. DURAN: No, sir, I was not.

3 MR. GRATTON: And your weapon, was it in your
4 holster on your hip or was it concealed?

5 MR. DURAN: It was concealed along with my
6 badge.

7 MR. GRATTON: Okay. It was concealed. But
8 you were carrying your badge and your pistol?

9 MR. DURAN: Along with my permission card as
10 well.

11 MR. GRATTON: Okay. Thank you.

12 MR. COON: Mr. Quezada.

13 MR. QUEZADA: I want to try to clarify this a
14 little bit. When you confronted the crowd, was it
15 outside the house or inside?

16 MR. DURAN: This all took place outside.
17 Initially, when I was talking to the first two
18 individuals, we were on the sidewalk actually. So
19 when I got there, I shook their hands. So yes. The
20 entire incident took place outside, outside of the
21 property.

22 For a short period of time, it took place --
23 it moved to the inside of the property when the
24 individuals grabbed me and essentially they tried to
25 batter me. That's when they forced me to the

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1 going to stand here and say that, you know, I did
2 everything right that night.

3 One major thing that I could have changed
4 that I have taken from this incident is this
5 situational awareness. What I was trained back in the
6 academy with Bernalillo County is whether I'm running
7 to the store to buy a gallon of milk or I'm going to a
8 domestic violence call on duty, always run scenarios
9 through your mind.

10 That's what I've always been taught. And I
11 let my guard down that night because my -- I truly
12 know that my nephew -- he's a good person. He didn't
13 mean to put me in that situation. It's not his fault
14 that I was in that situation. It's my fault.

15 I let it get -- I let myself -- I let it
16 happen to me. I'm proud of the way I handled it
17 because I'm here speaking to you today. I wasn't
18 severely harmed, I wasn't killed or anything like
19 that.

20 But if I would have been more aware -- I wish
21 I would have had an inclination that something was
22 wrong. But that's not the case. Even when we go to
23 calls for service, we never know what we're going to
24 go to.

25 And that's the mistake I made that night.

1 And that's why I followed up with making good choices,
2 keeping my calm, staying collected while, you know,
3 these aggressors were trying to engage in a physical
4 altercation with me.

5 I felt the need to notify my supervisor,
6 notify dispatch of what was going on. I know that,
7 even though we're always on duty even when we're off
8 duty, it doesn't help when you have no identifier,
9 everything is concealed, and obviously people are
10 disregarding your badge when you're letting them know
11 that you're a police officer.

12 MR. COON: Let's back up for just one second.
13 Did anybody ever put hands on you?

14 MR. DURAN: Yes, sir. From the very
15 beginning. That's the reason why I made the first
16 call to dispatch. When the subject came out, he used
17 a poor choice of words, if you will. And it was
18 directed toward me.

19 He was looking at me. When he walked towards
20 me, attempted to step back. And one thing he stated
21 to me, he said are you f'ing bad. And that's when he
22 proceeded to bump his chest against me.

23 All I did was create my distance from him.
24 Yes, I did place my hand on his chest so that I could
25 step back safely. And that's when I pulled my phone

1 MR. DURAN: Thank you for your time.

2 MR. COON: Let's go back one. Mr. Phillips,
3 is your attorney here?

4 MR. PHILLIPS: Not yet, sir.

5 ITEM NO. 13: DAWNE ROBERTO

6 MR. COON: Not yet. Okay. Let's go down to
7 No. 13, Dawne Roberto. Dawne Roberto.

8 MR. D'AMATO: Present by counsel only. I
9 believe her chief is here. Ms. Roberto is a Bosque
10 Farms officer. I have a subpoena here to show you
11 that she would be here but for the subpoena. She is
12 in trial today.

13 I don't know what you have before you. But
14 this is one that we would urgently ask you to accept
15 given the totality. Again in these cases this is
16 something that was handled inside the department. She
17 was terminated.

18 I don't believe that what was presented to
19 the LEA Board via the LEA-90 would rise to the level
20 above that which was presented to you. I understand
21 that this is a difficult case for you to consider.

22 But this is one of those cases where it's
23 best to in my opinion accept the stipulation based on
24 not only the facts of the case that are being alleged,
25 but also the history post-termination.

1 out. And I immediately knew I needed to call my first
2 point of contact and let them know exactly what was
3 going on.

4 MR. COON: At what point did you draw your
5 weapon?

6 MR. DURAN: The time that I drew out my
7 weapon was when I had two individuals that had already
8 gone hands on with me. They showed their aggression,
9 they showed their intent. One of the individuals had
10 a bottle in his hand.

11 And I was in fear for my life. I knew that,
12 by me saying that I was a police officer, it wasn't
13 enough. It wasn't -- nothing was working. I was in
14 fear for my nephew's life because he was also out
15 there. And they knew that, you know, obviously I was
16 there to pick him up.

17 So I felt I needed to resort to my show of
18 force. Not the use of my weapon but just a show of
19 force so that I could begin to control the situation a
20 lot more and a lot quicker. And essentially that's
21 why it ended the way it did, was because I drew out my
22 duty weapon; that they no longer came towards me to
23 hurt me or my nephew.

24 MR. COON: Thank you. Anybody else have any
25 questions? Thank you.

1 She has done outstanding as a
2 sergeant/supervisory role with Bosque Farms. She has
3 had a quite stellar record with the Albuquerque Police
4 Department prior to this incident. She was a training
5 officer for APD for many, many years.

6 Her productivity was unsurpassed by any other
7 officers both with DWI arrests and felony arrests with
8 her APD history. And I'll let the chief speak for
9 himself. But I believe she is also in a training role
10 with Bosque Farms.

11 And the reason I tell you all this is
12 because, when you look at the allegations in the
13 LEA-90, although quite important and relevant to APD
14 at the time, they pale in comparison to what she has
15 done as an officer pretermination with APD and
16 post-hiring with Bosque Farms.

17 She is one of the officers that carried with
18 her every element, every character that this Board
19 seeks to instill with other officers. I could speak
20 with you quite frankly. She is what's considered high
21 and tight basically.

22 Everyone that's worked with her in the
23 Albuquerque Police Department, everyone that she has
24 made contact with in Bosque with the Bosque Farms
25 Police Department and the surrounding agencies, Isleta

1 PD, Valencia County Sheriff, and Los Lunas, all speak
2 highly of her.

3 This I submit to you is an anomaly, what you
4 have in the LEA-90. I believe that which was
5 submitted supports the stipulation. And I urge you to
6 carefully consider accepting the stipulation. Chief.

7 MR. JONES: Thank you. Mr. Chair, Board
8 Members, thank you very much for allowing me to speak.
9 Director Jones. I just wanted to tell you that
10 Sergeant Roberto was hired with Bosque Farms in
11 September. In fact, it was September 12th of 2013.

12 Prior to hiring Sergeant Roberto, I did hire
13 her to fill a sergeant's position that was open. We
14 did an extensive background check on her that included
15 previous employers, the Albuquerque Police Department,
16 going through her personnel file and her IA file.
17 There was nothing in her IA file.

18 What we did look for is -- all of us look for
19 in background investigations is a pattern of
20 misconduct or a pattern of bad behavior or anything to
21 indicate that there may be such things. We found
22 nothing in her background to indicate a pattern of
23 misconduct or bad behavior or anything that would make
24 us shy away from hiring her.

25 In fact, looking into her background, we

1 commendation from the community. She received a medal
2 by APD for that.

3 She received a lifesaving award, which was a
4 medal presented by the City of Albuquerque and APD for
5 pulling two people out of a burning vehicle following
6 a traffic crash with a drunk driver. That's what we
7 found with APD.

8 This is the Officer of the Month letter
9 submitted is for February of 2013, where it says,
10 "Officer Roberto has been with the department for
11 14 years. During this time Officer Roberto has
12 completed two Bachelor degrees in law enforcement
13 administration and criminology at UNM.

14 "Officer Roberto's interests are family, yet
15 she still finds time during her very heavy work
16 schedule to participate as a volunteer guest speaker
17 at Central New Mexico University for their law
18 enforcement curriculum and volunteers in Operation
19 Child ID.

20 "Professionally Officer Roberto assists in
21 instructing traffic enforcement classes at the
22 academy. She also devotes time assisting with
23 recruits during every academy class.

24 "In addition to Officer Roberto's normal
25 duties, she also has a collateral assignment as a

1 found that she did receive a B.S. degree from UNM with
2 dual majors in criminology and psychology. While at
3 APD she attended the FBI crisis negotiation training
4 and she became certified as a crisis negotiator.

5 She also completed and was certified as a
6 field investigator with APD, she was a field training
7 officer certified by APD, and she was also a crisis
8 intervention instructor certified by APD.

9 We found that she had received two officer of
10 the months for the entire department with APD on two
11 separate years. The last one was in 2013 in January.
12 She was cited for her numerous felony arrests, her
13 dedication, her working extreme long hours.

14 Her dedication was showed by volunteering to
15 become a field training officer and also to help with
16 the academy. Not only did she teach classes at the
17 academy to the cadets, she showed up at every
18 academy -- and that was a quote in the commendation --
19 as a role player to help the cadets learn how to be
20 police officers.

21 She received the Valley Area Command Police
22 Officer of the year in 2012, the West Side Area
23 Command Officer of the Month in 2007, Foothills Area
24 Command Officer in 2001. She received a community
25 service recognition for having more than 50 letters of

1 field training officer. She is very much sought out
2 by the field service training officer sergeant to
3 evaluate, train, and document new officers and their
4 suitability and performance as a police officer.

5 "Officer Roberto is a seasoned CIT officer
6 whose insight and experience has proven to be
7 extremely instrumental in mitigating the more
8 challenging mental health calls. She has been proven
9 to be a much needed asset as she has completed field
10 investigator certification and often assists officers
11 on their calls when a field investigator is either
12 unavailable or delayed in responding." And that was
13 signed by Chief Raymond D. Schultz.

14 She received a commendation for a call she
15 handled in January of 2013 where a young lady jumped
16 from an overpass on I-40 and was killed. Officer
17 Roberto went the extra mile and contacted the
18 decedent's family. All her family was out of state.

19 Sergeant Roberto obtained a photograph of the
20 deceased and built a memorial at the site that she
21 jumped off the bridge. And I have a copy of the
22 photograph here. Sergeant Roberto purchased flowers
23 with her own money. She took the photograph, had the
24 photograph enlarged, and sent it to each member of
25 this young lady's family.

1 A member of that family wrote to Chief
2 Schultz and said, "I wanted to write and tell you how
3 thankful I am to the Albuquerque Police Department.
4 The loving and caring way that was shown to our family
5 by your department in the passing of Destiny is
6 unbelievably comforting.

7 "I especially want to thank Officer Dawne
8 Roberto. She has gone above and beyond for our
9 grieving family. We have all heard that angels are
10 among us, and Dawne is one of those angels. I'm so
11 happy knowing that she has the love and compassion in
12 her heart to have taken care of Destiny at her time of
13 passing.

14 "For her to lay flowers as well as a picture
15 of our beautiful Destiny at her place of death is
16 overwhelmingly appreciated by her entire family and
17 many, many friends. As far as I'm concerned, she is
18 now part of our family," and the letter goes on. I
19 don't want to consume your time, I know it's valuable,
20 I know you have a busy schedule today.

21 Since being hired with Bosque Farms, Sergeant
22 Roberto has hit the ground running. She has devised
23 lesson plans for three curriculums, submitted them to
24 the LEA, and had them accredited. They were for crime
25 scene photography, field training officer curriculum,

1 pancake benefit.

2 That was all because of Sergeant Roberto.
3 She single handedly organized a senior meal over the
4 holidays of Thanksgiving. And she organized it and
5 helped prepare and serve food at our senior center
6 just prior to Thanksgiving to about 65 seniors.

7 MR. COON: Chief.

8 MR. JONES: Sir.

9 MR. COON: Can I stop you real quick.

10 MR. JONES: Absolutely.

11 MR. COON: Obviously you're very pro her.

12 And we do have a busy agenda. So I want to cut you a
13 little bit short here.

14 MR. JONES: Okay.

15 MR. COON: Does anybody have any questions of
16 the chief?

17 MR. KASSETAS: I do.

18 MR. COON: Chief.

19 MR. KASSETAS: Mr. D'Amato, this is probably
20 more for you than the chief. Thank you, Chief.

21 MR. JONES: Could I just add one thing before
22 I go sit down.

23 MR. COON: Yes, sir.

24 MR. JONES: Many of you know how difficult it
25 is to find seasoned officers who fit the bill and

1 and crisis intervention.

2 She along with Captain Gallegos recently
3 taught two separate 40-hour blocks on CIT. Some of
4 your officers represented here today attended that
5 training at Bosque Farms.

6 And one of the sergeants told his commander
7 that it was the best training he had ever received.
8 And he recommended that the entire department that he
9 belonged to be trained, not just in CIT training, but
10 in Bosque Farms by these two instructors.

11 She has constantly trained her officers by
12 lecture and in practical application high-risk ops,
13 passive restraint system, fingerprinting, warrant
14 writing, FTO program, building searches, and DWI.

15 You remember when Bernalillo County Deputy
16 Robin Hopkins was shot while the individual was
17 driving across Albuquerque and fired numerous rounds
18 from a rifle. Sergeant Roberto orchestrated and held
19 a memorial -- not a memorial. I'm sorry. A benefit
20 pancake breakfast in Bosque Farms.

21 She did the cooking. She was assisted by
22 many people, but she got it going. And we raised
23 money. And we were able to present Bernalillo County
24 Sheriff's Department on behalf of Deputy Hopkins
25 several thousand dollars that was raised during the

1 continue to work well into their career. I implore
2 you to accept this stipulated agreement on behalf of
3 the Village of Bosque Farms and the Town of Peralta
4 that we provide law enforcement to.

5 Sergeant Roberto is an integral and very
6 important part of our team. And if you follow Bosque
7 Farms Police Department history, you know up until
8 about four years ago our history was very tainted.
9 And we have tried to turn that around.

10 And Sergeant Roberto is a very important part
11 of us being a professional police department. And I
12 thank you for your time. And I'm sorry I went long.

13 MR. COON: Thank you, sir.

14 MR. D'AMATO: Yes, sir.

15 MR. KASSETAS: I understand that Ms. Roberto
16 has led a long and distinguished career. I don't know
17 her and I never met her. But unfortunately in this
18 profession it takes one act out of all of those years
19 to discredit that.

20 And I'm not saying that's what happened here.
21 But bottom line what I want to know is, if you're
22 asking us to accept the 60-day suspension of her
23 certification -- is that what you're asking?

24 MR. D'AMATO: Yes, sir.

25 MR. KASSETAS: That tells me that she did

1 exactly what was in this LEA-90 and posted remarks on
2 Eye of Albuquerque against the Albuquerque Police
3 Department, which I assume she worked for at the time,
4 I don't know, and the chief and the mayor. Is that
5 what you're saying, is that in accepting this she did
6 that?

7 MR. D'AMATO: No, not at all.

8 MR. KASSETAS: What you are saying then?

9 MR. D'AMATO: I'm asking you to accept the
10 60-day certification suspension based on conduct that
11 may be misperceived by the public. She denies ever
12 posting anything on a public site in a negative
13 fashion, especially negative towards Albuquerque
14 Police Department.

15 And, Chief, with all due respect, there has
16 been no showing of any posting, only an allegation.
17 There are two main allegations here that Ms. Roberto
18 contests completely. One is that she provided a list
19 of officers' names and area codes to the then mayoral
20 candidate. No proof of that has been shown. She
21 denies that.

22 Secondly, any affiliation with a social
23 networking disparaging Albuquerque Police Department
24 or the City of Albuquerque. She unequivocally denies
25 that. She is accepting some responsibility in this

1 100 percent blameless, don't give her any suspension
2 time.

3 I don't read this case that way. I believe
4 that it's appropriate to get a 60-day suspension based
5 on conduct for lack of a better term unbecoming to the
6 department. She has never been untruthful.

7 She thinks that she -- in this setting this
8 interview was conducted -- and I know you're very
9 busy. I'm going to try to summarize this as quickly
10 as possible.

11 This was not an Internal Affairs
12 investigation. This was a citizen complaint by a
13 police officer's wife saying Dawne Roberto called CYFD
14 on my kid. Okay. It was sent over to the Independent
15 Review Office.

16 I don't want you to be burdened by listening
17 to that interview. At two points during that
18 interview, I was prepared to stop the interview
19 because it was so hostile and aggressive by the
20 interviewers. But we weathered through it.

21 Did she do her best job in answering
22 questions completely? No, she did not. Was she
23 untruthful? No, she was not, sir.

24 So I think the best way to put this behind
25 us, both as a Law Enforcement Academy Board with

1 case.

2 In retrospect could she have handled things
3 differently? Yes, with respect to a police officer's
4 wife's complaints. I think this initially started
5 with an anonymous CYFD referral to a police officer's
6 wife and their child.

7 But she had no role in that whatsoever
8 despite current beliefs of the police officer's wife.
9 She honestly in her heart believes that Dawne Roberto
10 called CYFD on her with regard to an injury on the
11 child. Sergeant Roberto denies that completely.

12 MR. KASSETAS: So if we were to accept the
13 Director's recommendation, what would we be suspending
14 her for? Absolutely nothing is what you're saying?

15 MR. D'AMATO: No, sir. I'm saying that in
16 retrospect she could have engaged in conduct that
17 would have been read by a third party objective as
18 being in the best interests of the City of Albuquerque
19 Police Department, period.

20 I mean is it a moral issue? No. I believe
21 it's more of a conduct issue in retrospect.

22 And, Chief, with all due respect, I am not
23 going to come before you nor I believe would it be
24 appropriate for us to come before you to say you have
25 the LEA-90. She didn't do anything wrong, she's

1 regard to the suspension of her certification and with
2 regard to continuing her pattern of being an excellent
3 police officer, would be to accept the 60-day
4 suspension.

5 I believe that, if this did go to a hearing,
6 with all due respect, Chief, if this did go to a
7 full-blown hearing, a Hearing Officer may reasonably
8 find no violations of a regulation or a statutory
9 basis for suspension. But I believe it's in the best
10 interests of not only the agency, the officer, but
11 also of the academy. This is one you want to get
12 behind you.

13 MR. KASSETAS: Thank you.

14 MR. D'AMATO: You're very welcome.

15 MR. COON: Mr. Korn.

16 MR. KORN: Yes, sir. Mr. D'Amato.

17 MR. D'AMATO: Good morning, sir.

18 MR. KORN: You know, I want to compliment the
19 chief for giving a presentation about Dawne's career.
20 I've known Dawne during her career as well. And I
21 have participated with her in many of the public
22 service events that she's done through my business.

23 But we're not here because of the charges of
24 whether or not she's a good police officer. I think
25 we can pretty much accept that she had a distinguished

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<p>1 career and has a distinguished career at Bosque Farms. 2 I think we're here because we're talking 3 about the allegation of whether or not she 4 participated in the vile and evil blog that brought 5 disrepute and whether she was involved in that, 6 putting disrepute on the law enforcement profession. 7 And this Board has talked in explicit detail in prior 8 cases about the way we feel about that. 9 Now, before I go on, I don't want to engage 10 with Mr. D'Amato. And this is a concept that I want 11 to discuss with the Board again. But we frequently 12 have attorneys more and more so that appear before the 13 Board and their clients are not here. 14 And when the Board originally said we will 15 talk to Respondents, it was in an effort to let them 16 approach the Board, let us see what they're made of, 17 and also ask some questions that were germane about 18 their background. 19 So when an attorney appears without a 20 client -- and I understand you have a subpoena for 21 Ms. Roberto. But when an attorney appears without a 22 client, it provides nothing except an argument for the 23 Board. Argument that should have gone on with the 24 Director or argument that's best done at a formal 25 hearing.</p>	<p>1 But you appeared here with the chief. And I 2 didn't object before you spoke only because you were 3 with the chief. And I thought that's an appropriate 4 thing for the Board to listen to. But in the future I 5 would object to any attorney appearing without a 6 client. 7 Now, to move on, the allegation is such that, 8 even though you're minimizing what the allegation is, 9 you're saying there was no responsibility that the 10 Respondent had as far as wrongdoing. As Chief 11 Kassetas correctly pointed out, she still agrees to 12 take a disciplinary action based on basically nothing 13 if we listen to you. And it goes farther than that. 14 It goes back to her department and her 15 career. She had an excellent career and a 16 long-standing career with APD. But based on nothing, 17 there was the allegation of charges. And then based 18 on nothing, if we were to accept what you're saying, 19 no involvement with this blog at all, she decided to 20 leave her career at APD. 21 So I think that the bare facts of your coming 22 here and asking the Board to disregard an allegation, 23 when so much has preceded it, is basically, 24 Mr. D'Amato, disingenuous. Again I don't want to 25 engage with you. But I think the record has to be</p>
<p>Page 48</p> <p>1 clear. I think it's basically disingenuous. 2 And so if what you're asking us to do is 3 accept 60 days because she says she wasn't involved 4 and we have nothing from the other side, then I'm not 5 so sure that justice is being done without a formal 6 hearing so that all of the events and all of the 7 circumstances can truly be vetted. 8 And if Ms. Roberto has no involvement in the 9 blog, then she should get no suspension. And if she 10 does have involvement with the blog, then our rules 11 are very clear. The penalty for that would be 12 anywhere from several months to revocation. 13 And without having any information before the 14 Board, I would be arguing later in our closed session 15 that justice would prevail by giving full hearing 16 potential. 17 One other thing I would point out. And 18 that's that I don't think anything happens here in a 19 vacuum. And I think that, when so much has gone on in 20 Ms. Roberto's life and she's been an excellent 21 officer, the Board needs to know all the 22 circumstances. 23 And if it goes to a formal hearing, then I 24 think the LEA-90 should be and the understanding 25 should be and the charges would be did or did she not</p>	<p>Page 49</p> <p>1 participate in the blog; and did the blog bring 2 disrespect to the law enforcement profession. And 3 that's the framework in which the Board will be 4 looking. 5 MR. D'AMATO: Thank you, Mr. Vice Chair. 6 MR. KORN: And again I'm not here to -- 7 MR. D'AMATO: Well, I understand that. 8 MR. KORN: There's no response. So that's 9 all I have, Mr. Vice Chair. And I would say that 10 we've heard from Mr. D'Amato, he's been an excellent 11 presenter. But I think that's the end. 12 MR. COON: Thank you, Mr. D'Amato. 13 MR. D'AMATO: Thank you, gentlemen. 14 MR. BARNCASTLE: Mr. D'Amato, Mr. Vice Chair, 15 I have one question. 16 MR. D'AMATO: Yes, sir. 17 MR. BARNCASTLE: Do you know why an Internal 18 Affairs investigation was not conducted? 19 MR. D'AMATO: No, sir. 20 MR. BARNCASTLE: Thank you. 21 MR. COON: Thank you. 22 ITEM NO. 14: JAMES SISCO 23 MR. COON: Okay. Let's go to No. 14, James 24 Sisco. James Sisco. 25 ITEM NO. 15: PAULA ARCHULETA</p>

<p style="text-align: right;">Page 50</p> <p>1 MR. COON: Next is No. 15, Paula Archuleta. 2 MS. GARCIA: Good morning, Vice Chair, 3 Members of the Board. My name is Monica Garcia. And 4 I'm here today on behalf of my client, Ms. Paula 5 Archuleta. After the comments -- 6 MR. KORN: I'm sorry. Again, if your client 7 is not here, I would say as a Board policy we should 8 start to examine this carefully. And I grant you, 9 you've come all the way to Ruidoso and you're 10 representing your client. 11 But again we have a pattern that's increasing 12 more and more where the Respondent -- and the Board 13 has no responsibility to let the Respondent speak 14 before us. That's why there's an informal hearing 15 with the Director. 16 And if the Respondent wants to come and urge 17 us to accept something, then we want to meet the 18 Respondent, we want to ask questions of the 19 Respondent, and we want there to be some interaction. 20 And a professional speaker such as yourself 21 who is representing the Respondent, you know, you've 22 already had your chance with the Director. And again 23 I mean no disrespect to you nor to Mr. D'Amato before 24 you. 25 But I think the Board as a policy should</p>	<p style="text-align: right;">Page 51</p> <p>1 start saying this is time-consuming, it provides 2 nothing except argument, we have no knowledge of any 3 facts more than what the Director has given us after 4 the attorney starts speaking, and it's cutting into 5 our time. And I think as a Board we should say we're 6 not going to accept that anymore. 7 MR. KASSETAS: Can we do that at this 8 juncture? 9 MR. KORN: Sure. I mean we can do it now. 10 We owe no duty to the Respondent to speak. We do that 11 out of courtesy and out of an interest. And 12 Respondent or not, every law enforcement officer is a 13 law enforcement officer that deserves respect. 14 But to not be here for whatever reason and 15 have an attorney come and represent them provides no 16 information to the Board that the Director doesn't 17 already have or that we don't have in the packet. 18 And basically the question would either be to 19 accept what the Director has done or minimize it. And 20 I don't see why the Board should be involved with 21 taking our time to do that, again meaning no 22 disrespect. 23 MS. GARCIA: Well, what I would -- 24 MR. KORN: No, no. This is between the 25 Board. So with all due respect, I would ask, if the</p>
<p style="text-align: right;">Page 52</p> <p>1 counsel doesn't have her client with her or her client 2 can't be here today, I would ask that she be asked to 3 step down. 4 MR. COON: Mark, do we need a motion on that? 5 MR. REYNOLDS: I think it would probably be 6 proper for a vote on this. If you would like to have 7 a Board policy, then you probably should have a vote 8 on it. 9 The only thing I'm concerned about, Mr. Korn 10 and Members of the Board, is that it's not something 11 that we have on the agenda for a vote. So I think the 12 best thing would be to have a formal vote on it. But 13 it's not on the agenda. 14 With respect, my advice would be that, since 15 nobody has any notice of this policy, is to let it go 16 this meeting but put it on the agenda for the next 17 meeting. 18 MR. KORN: And if I may respond to that, 19 there is no need for a motion because this has been a 20 process, not a policy of the Board. The process is we 21 invite and the Director talks to everybody that 22 appears before him and says it would be in your 23 interest to come and appear before the Board. 24 He doesn't say exclusive or inclusive of your 25 attorney. But he invites everybody to come, because</p>	<p style="text-align: right;">Page 53</p> <p>1 as a process we like to see Respondents come. We 2 learn a lot when we talk to them. 3 And this is not a policy that we're changing. 4 This is a process that we're adhering to on the fly. 5 And in addition we can make motions on the fly as 6 well. But I wouldn't go there. I'm just saying this 7 is a process, that we don't have to make a formal 8 motion for the next meeting. 9 MR. REYNOLDS: It's my opinion that the 10 Board, one way or the other, not through official 11 rulemaking or anything, has established a pattern or a 12 practice of allowing the attorneys to speak. We have 13 a meeting here in Ruidoso where we have no notice that 14 the attorney wouldn't be allowed to speak when they 15 got here. 16 So I realize we don't have anything in 17 writing that deals with this. I think there was a 18 reasonable expectation for those coming to this 19 meeting today that they would be able to speak, 20 whether or not the Respondent is here. 21 I think it's a very valid point Mr. Korn is 22 making. I just think that, from a due process grounds 23 and giving everybody an opportunity, it would be best 24 to put it on the agenda, to discuss it, have a formal 25 vote, but to let the process occur as it has in the</p>

1 past at this meeting.
 2 That's my advice. The Board can choose
 3 whether or not that's the proper way to go. That's my
 4 honest advice.
 5 MR. COON: Chief Kassetas.
 6 MR. KASSETAS: One point here. I do my
 7 homework before I come to these. And I think I owe it
 8 to everybody out there to do it. And I find myself,
 9 when an attorney is present without the client, I end
 10 up almost confused honestly.
 11 And I don't have the ability to ask the
 12 officer that should be standing there the question. I
 13 have to go through an attorney who quite frankly just
 14 doesn't know.
 15 So I would offer this at this meeting maybe
 16 to meet halfway. We continue with the meeting. If an
 17 attorney is here without their client, they can give a
 18 brief statement, maybe limit their time to two
 19 minutes, three minutes, and then we can move through
 20 this rather quickly since they did come up here
 21 without notice. And then we could revisit this with a
 22 vote at the end of the meeting or put it on as an
 23 agenda and change it in the future.
 24 MR. KORN: Mr. Vice Chair, if I may.
 25 MR. COON: Yes, sir, Mr. Korn.

1 MS. GARCIA: She is in Rio Arriba. I did not
 2 tell her to be here today. That's my fault. I was
 3 not aware that her presence today was required.
 4 MR. COON: It's for her livelihood.
 5 MS. GARCIA: Right. I understand. However,
 6 you know, she was present at the last Board meeting in
 7 Albuquerque with me. And we both drove up to Santa Fe
 8 for the informal hearing on August 26th and met with
 9 Director Jones.
 10 And I know that doesn't help this Board much.
 11 But I wanted to answer any questions that the Board
 12 does have. And we would ask that the Director's
 13 recommendation and the stipulated order be approved.
 14 If the Board has questions specifically for
 15 my client, for the Respondent, or was hesitating in
 16 approving the stipulated order, then I would ask for
 17 this matter to be placed on the next agenda so those
 18 questions and any concerns the Board has can be
 19 addressed by my client. And I'll stand for questions.
 20 MR. KORN: And again I would say questions
 21 are irrelevant.
 22 MR. KASSETAS: Thank you.
 23 MR. KORN: Thank you.
 24 MS. GARCIA: Thank you.
 25 MR. COON: Okay. Let's go back one more

1 MR. KORN: You know, I assume you're not from
 2 Ruidoso.
 3 MS. GARCIA: Close. I'm from Roswell.
 4 MR. KORN: Okay. So in deference, you know,
 5 the Board always does want to be fair. And I guess
 6 I've made my point. And if the Board wants to accept
 7 whatever attorneys are going to be here without their
 8 client, we can duly note it.
 9 But as a Board we should make reference to
 10 the fact that attorneys without clients would have
 11 very little meaning to the Board when we deliberate.
 12 But it's still an effort.
 13 And so I'll withdraw it. I'll make a formal
 14 motion at the next hearing. And the Board given its
 15 protocols can vote on it.
 16 MR. COON: Okay. We're going to limit you
 17 then.
 18 MS. GARCIA: I will be very brief. And had I
 19 known the Board's concerns about that prior to or that
 20 there would be a policy change announced or a practice
 21 change rather announced, I know that I would have had
 22 my client here, Ms. Archuleta would have been here as
 23 well. Yes, sir.
 24 MR. COON: I've got a question. Where is
 25 your client?

1 time. Mr. Phillips, is your attorney here?
 2 MR. PHILLIPS: Yes. Hello, sir. I'm here to
 3 request that you accept the stipulated order of
 4 suspension and probation that Director Jones has put
 5 forward with the exception that you recognize that
 6 I've been on administrative duty for the last four
 7 months and maybe get credit for time served, if that's
 8 possible. And I am able to answers any questions that
 9 you may have.
 10 MR. COON: Anybody have any questions?
 11 MR. KORN: One, Mr. Vice Chair.
 12 MR. COON: Yes, sir.
 13 MR. KORN: You've been on administrative duty
 14 with what department?
 15 MR. PHILLIPS: Albuquerque Police Department.
 16 MR. KORN: And were you paid on
 17 administrative duty?
 18 MR. PHILLIPS: Yes, sir. I've been
 19 reassigned to the Real Time Crime Center with no sort
 20 of law enforcement authority.
 21 MR. KORN: But you've received your full
 22 paycheck during that time?
 23 MR. PHILLIPS: Yes, sir. I received
 24 discipline in 2012, 120 hours total, for the incident;
 25 40 hours held in abeyance; and 80 served.

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1 MR. KORN: So two weeks off?
 2 MR. PHILLIPS: Yes, sir.
 3 MR. KORN: Okay. I have no further
 4 questions.
 5 MR. COON: Anybody have any questions?
 6 MR. QUEZADA: I have a question. Was there a
 7 certain reason why these two reports were delayed?
 8 MR. PHILLIPS: Initially what happened was my
 9 sergeant requested that I locate the reports. Every
 10 month we have what's known as missing reports, a
 11 report that comes out to the supervisors. I was on it
 12 for two reports.
 13 He requested that I get it fixed. He gave me
 14 the paper with the report numbers on it. I put it in
 15 my car. Unfortunately I forgot about it. He called
 16 me a week later, asked me if I had done them. I told
 17 him yeah, I got them done. It was three o'clock in
 18 the morning. I hadn't slept much that night -- that
 19 day before.
 20 And we have a digital reporting system. So
 21 he was looking for the reports while I was talking to
 22 him on the phone. And he was like, well, I don't see
 23 them anywhere, where are they.
 24 And I told him, okay, sir, I haven't had a
 25 chance to get to them, unfortunately I forgot, I'm

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1 imagine you do.
 2 MR. BROWN: Good afternoon, sirs. Sorry to
 3 be here to take up your time. But I'm here to answer
 4 any questions you have.
 5 MR. COON: Are you gainfully employed right
 6 now?
 7 MR. BROWN: Yes, sir. I'm a police officer
 8 with the City of Bloomfield.
 9 MR. KASSETAS: I have a question.
 10 MR. COON: Chief Kassetas.
 11 MR. KASSETAS: The incident that revolves
 12 around this LEA-90, bottom line, was there anything
 13 criminal about it, was there any type of criminal
 14 investigation or were there criminal charges filed?
 15 MR. BROWN: I was interviewed by the
 16 Farmington Police Department in the very beginning
 17 because of the nature of the allegations. But within
 18 less than two weeks, with the help of the District
 19 Attorney's Office and Farmington Police Department,
 20 they cleared me of any wrongdoing.
 21 MR. KASSETAS: Criminally?
 22 MR. BROWN: Criminally, yes.
 23 MR. KASSETAS: So the next question I have is
 24 the conduct with the individual was clearly off duty,
 25 correct, nothing was on duty?

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1 sorry, which at the time he told me he was probably
 2 going to start an IA investigation for untruthfulness.
 3 MR. COON: Anybody else have any questions?
 4 MR. QUEZADA: Thank you.
 5 MR. COON: Thank you, sir.
 6 ITEM NO. 16: TIMOTHY BROWN
 7 MR. COON: Okay. Number 16, Timothy Brown.
 8 MS. BARKLEY: Mr. Vice Chair, Members of the
 9 Board, I'm Jamison Barkley. And I am here alongside
 10 my client, Officer Timothy Brown. We are here today
 11 to encourage you to accept the stipulated order in
 12 this matter.
 13 Officer Brown has 13 years of good standing.
 14 He has approximately ten commendations in his service.
 15 There was an IA conducted in this matter. He was
 16 exonerated of any wrongdoing. There was no -- excuse
 17 me. The IA demonstrated that there was no knowledge
 18 on Officer Brown's part of any wrongdoing or any
 19 illegal conduct.
 20 Officer Brown has fully accepted
 21 responsibility for his behavior herein. And there
 22 have been no allegations of negative impact on his job
 23 duties. For those reasons we'll stand for questions.
 24 And Officer Brown is here to address you,
 25 should you like to hear from him directly, which I

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1 MR. BROWN: Correct. Clearly off duty.
 2 MR. KASSETAS: Okay. Thank you.
 3 MR. COON: Anybody else? Thank you, sir.
 4 MR. BROWN: Thank you, gentlemen.
 5 MS. BARKLEY: Thank you.
 6 ITEM NO. 17: CHRISTOPHER BLEA
 7 MR. COON: Now we're into cautionary letters.
 8 Number 17 is Christopher Blea. Christopher Blea, are
 9 you here? No Christopher Blea.
 10 ITEM NO. 18: MANUEL FRIAS
 11 MR. COON: Okay. Number 18, Manuel Frias.
 12 Mr. Frias, are you here? Not here.
 13 ITEM NO. 19: FRANCISCO GOMEZ
 14 MR. COON: Next is No. 19, Francisco Gomez.
 15 Mr. Gomez, are you here? Francisco Gomez. Okay.
 16 ITEM NO. 20: CODY LATTIN
 17 MR. COON: Next is No. 20, Cody Lattin. Cody
 18 Lattin, are you here? Okay.
 19 ITEM NO. 21: AUDI MIRANDA
 20 MR. COON: Number 21, Audi Miranda.
 21 Mr. Miranda, are you here?
 22 ITEM NO. 22: ANGELO ROMO
 23 MR. COON: Okay. Number 22, Angelo Romo.
 24 Angelo Romo, are you here? Angelo Romo, are you here?
 25 ITEM NO. 23: CHRISTOPHER SANDOVAL

1 MR. COON: Next is No. 23, Christopher
2 Sandoval. Mr. Sandoval, would you like to address the
3 Board? Come on up.

4 MR. SANDOVAL: Good morning. I am Officer
5 Chris Sandoval, I am employed with the City of Santa
6 Fe Police Department. I am here to represent myself
7 and to recommend to the Board that -- or request of
8 the Board that the recommendation from the Director go
9 forward.

10 MR. COON: Okay. Does anybody have any
11 questions of Mr. Sandoval?

12 MR. KORN: I do.

13 MR. COON: Mr. Korn.

14 MR. KORN: Mr. Sandoval, from the record we
15 have before us, I mean frankly, from the text of it,
16 it's hard to understand why the Director would offer a
17 cautionary letter. I say that because, from the text
18 of it, it appears as if you drove to Walgreens,
19 blocked two handicapped spots, engaged in an
20 obscenity-filled altercation with another patron, and
21 then pulled your gun. So I mean is that basically
22 what happened?

23 MR. SANDOVAL: No, sir.

24 MR. KORN: So perhaps you would like to tell
25 us what your side of it is.

1 As my wife, or at the time girlfriend, was
2 returning from the Red Box, he began walking towards
3 myself. And his girlfriend or his wife or his
4 significant other was pulling him, saying come on,
5 come on. And he pulled away from her as he continued
6 walking towards me.

7 I was still in a seated position inside the
8 vehicle at this point. As he started making his way,
9 he was about ten -- I would approximate ten feet from
10 my wife. And he was still angry and still yelling.

11 And in a state of preparedness, I exited my
12 vehicle. And I did have my weapon in my hand, at
13 which point I started giving him commands. I said get
14 away from us, get away from us, leave us alone, go
15 back inside the store.

16 He yelled back towards me, he says are you a
17 police officer or something. And I said, as a matter
18 of fact, I am. I said get away from us, get away from
19 us. So my wife or my girlfriend had stepped inside
20 the vehicle and closed the door. I got back inside
21 the vehicle and we drove off.

22 MR. KORN: So how did the LEA-90 come about,
23 how did he know your affiliation?

24 MR. SANDOVAL: I'm sorry?

25 MR. KORN: Did you tell him you were Sandoval

1 MR. SANDOVAL: Yes, sir. On February 15th,
2 2013, I had driven to Walgreens to return some Red Box
3 movies. My wife was in the car with me -- or at the
4 time my girlfriend, my wife now. She was in the car
5 with me. She had just been ill.

6 So when we went to return the movies, she
7 asked if I would drop her off right at the Red Box and
8 just wait for her, because it would just take a couple
9 seconds because she wasn't feeling very well. I said
10 okay, that's fine. I parked just before the Red Box.

11 She had exited the vehicle, walked towards
12 the Red Box to return the movies, at which time I was
13 approached by another vehicle behind me. It was a
14 black Jeep. The individual appeared very angry. He
15 was yelling, screaming, he was honking. He was making
16 obscene gestures out the window.

17 And I waved for him to go around. From that
18 point he drove around me at a very high rate of speed
19 and proceeded to park in a parking spot nearby. He
20 exited the vehicle along with his significant other.

21 His significant other and him were holding
22 hands and walking towards the entrance of the
23 Walgreens. He continued yelling obscenities toward
24 me, he was flailing his hands. It was very obvious
25 because he said it, he was wanting to fight me.

1 County?

2 MR. SANDOVAL: No. I'm Santa Fe.

3 MR. KORN: Santa Fe County?

4 MR. SANDOVAL: Yes, sir.

5 MR. KORN: I mean city. Did you tell him you
6 were a Santa Fe city policeman?

7 MR. SANDOVAL: I just said that I was a
8 police officer. I didn't specify which department.

9 MR. KORN: Okay. Thank you. I have no other
10 questions.

11 MR. KASSETAS: I have a question. So the
12 individual, when he approached your vehicle, did you
13 see his hands?

14 MR. SANDOVAL: Yes.

15 MR. KASSETAS: Did he have a weapon?

16 MR. SANDOVAL: No.

17 MR. KASSETAS: As a police officer, aren't
18 you trained in many different techniques before you
19 pull your gun out, defensive tactics or other
20 techniques that would mitigate a situation rather than
21 going immediately to guns?

22 MR. SANDOVAL: Yes.

23 MR. KASSETAS: Did you feel that was really
24 your only option, to pull your weapon out, and why?

25 MR. SANDOVAL: Again in a state of

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<p>1 preparedness, I was in fear for not only my safety, 2 but more importantly my girlfriend's. Not to make 3 excuses and sit here and justify what I did, I had 4 been sick as well for three days prior to that. I was 5 in no physical shape to have to physically defend 6 myself or my wife at that time. 7 MR. KASSETAS: You were driving a motor 8 vehicle at the time? 9 MR. SANDOVAL: Yes. 10 MR. KASSETAS: Okay. Thank you. 11 MR. COON: Any other questions? 12 MR. QUEZADA: A couple questions, Vice Chair. 13 I kind of want to know what was your thought process 14 when he was coming toward you, what were you feeling? 15 MR. SANDOVAL: I was, you know, at first in 16 fear as he started walking towards me. But then his 17 path changed and I saw him walking towards my 18 girlfriend at the time. 19 MR. QUEZADA: Explain in a little more 20 detail. 21 MR. SANDOVAL: Okay. At that point, as soon 22 as I started walking towards her, that's when I exited 23 the vehicle. And, you know, out of fear the last 24 thing in the world I want is for my significant other 25 to be injured.</p>	<p>1 I'm very protective over my family, 2 especially my wife. You know, if she was going to be 3 receiving some type of battery, I was willing to 4 intervene any way I could. 5 MR. QUEZADA: I guess what was his demeanor? 6 I understand that he was upset. But did it look like 7 he was going to hit her, did you think he was going to 8 come and hit you? 9 MR. SANDOVAL: Initially I did think, sir, 10 that he was going to come and try to fight me, because 11 he said let's fucking do this. I mean excuse my 12 language, but that's what he said. 13 So at that point, when my wife was returning 14 to the vehicle, his path changed and he started 15 walking towards her, which, you know, immediately 16 that's when I exited the vehicle to prepare myself. 17 MR. QUEZADA: Did you actually point your 18 weapon at him? 19 MR. SANDOVAL: No. I did not point my weapon 20 at him. I didn't even point. It was behind -- I had 21 opened the door. I was behind the door. It was 22 positioned in my chest. I was screaming for him to 23 leave us alone and to get away from us. 24 MR. QUEZADA: So it was more of a show of 25 force rather than actually pointing it out at him?</p>
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<p>1 MR. SANDOVAL: That's correct. 2 MR. KASSETAS: And you didn't identify 3 yourself as a police officer until after he asked you? 4 MR. SANDOVAL: Correct. 5 MR. GRATTON: Officer Sandoval, so were those 6 handicapped spots that you pulled up in front of the 7 Red Box or did you actually block two handicapped 8 spots? 9 MR. SANDOVAL: No, sir. 10 MR. GRATTON: They weren't handicapped spots? 11 MR. SANDOVAL: No, sir. 12 MR. GRATTON: Okay. But because you were ill 13 and your partner at the time was ill, you parked 14 there, even though it was a nonparking spot, because 15 of your illness; is that right? 16 MR. SANDOVAL: That was for her so she didn't 17 have to walk so far. 18 MR. GRATTON: How far was the nearest parking 19 place? I mean how many steps did that save by doing 20 that? 21 MR. SANDOVAL: Maybe 50 feet, 75 feet. 22 MR. GRATTON: Okay. Thank you. 23 MR. COON: Yes, Mr. Barncastle. 24 MR. BARNCASTLE: Mr. Sandoval, what was your 25 department policy on displaying the use of force as</p>	<p>1 you did? 2 MR. SANDOVAL: That that was not acceptable. 3 MR. BARNCASTLE: Okay. And did you notify 4 your supervisor when this occurred or how did your 5 department learn of this incident? 6 MR. SANDOVAL: I was contacted by the Rio 7 Rancho Police Department. They did actually end up 8 arresting me at that point. And I was able to contact 9 my supervisor once that had happened. 10 MR. BARNCASTLE: Okay. So when you display 11 the use of deadly force, you're required, whether on 12 or off duty, obviously to notify your supervisor as 13 per policy? 14 MR. SANDOVAL: Yes. 15 MR. BARNCASTLE: And you did not do that? 16 MR. SANDOVAL: I hadn't had a chance, no, 17 sir. 18 MR. BARNCASTLE: How soon after this incident 19 did the Rio Rancho Police Department contact you? 20 MR. SANDOVAL: I would say within about 21 30 minutes, 45 minutes. 22 MR. BARNCASTLE: They went to your house? 23 MR. SANDOVAL: Yes. 24 MR. BARNCASTLE: That's all I have. Thank 25 you.</p>

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<p>1 MR. COON: Anybody else have any questions of 2 Mr. Sandoval? Thank you, sir. 3 MR. SANDOVAL: Thank you. 4 ITEM NO. 23A: JERRY BOYER 5 MR. COON: Now we come to 23A, which is Jerry 6 Boyer. Are you here, Mr. Boyer? Step on up, please. 7 MR. BOYER: Good morning, Mr. Vice Chairman, 8 Members of the Board. My name is Jerry Boyer, I'm an 9 officer with the Eunice Police Department. 10 And I'm here to request that you accept the 11 recommendation of the Director of the letter of 12 caution and the refresher in defensive tactics for an 13 incident which occurred on September 3rd of 2013. And 14 I'm willing to answer any questions that you may have. 15 MR. COON: Does anybody have any questions of 16 Mr. Boyer. 17 MR. KORN: I do. 18 MR. COON: Mr. Korn. 19 MR. KORN: Mr. Boyer, just a couple 20 questions. If I read the narrative correctly, there 21 were two or three instances of excessive force that 22 you're accused of? 23 MR. BOYER: From this specific incident? 24 MR. KORN: Was there more than one? 25 MR. BOYER: Not from this incident, no, sir.</p>	<p>1 MR. KORN: You have been accused of other 2 excessive force incidents? 3 MR. BOYER: Yes, I was. 4 MR. KORN: How many others other than this 5 one? 6 MR. BOYER: One. 7 MR. KORN: And was that with Hobbs PD also? 8 MR. BOYER: Yes. 9 MR. KORN: When was that? 10 MR. BOYER: That was in I believe 2012. I 11 don't recall exactly. 12 MR. KORN: Did you receive any administrative 13 action on that? 14 MR. BOYER: Yes, sir. I received I believe 15 it was 83 hours of unpaid leave. 16 MR. KORN: Okay. And so you were accused of 17 excessive force in the past. And that was found to be 18 correct, and then you got 83 hours of leave? 19 MR. BOYER: Yes, sir. 20 MR. KORN: Now, on this one in particular, 21 over the course of that evening on September 3rd, was 22 it three or four times that you were accused of 23 excessive force as least according to what we have 24 before us? 25 MR. BOYER: I believe it was -- if I recall</p>
<p>Page 72</p> <p>1 correctly, I believe it was two. 2 MR. KORN: Two incidents? 3 MR. BOYER: Two actions from the same 4 incident, sir. 5 MR. KORN: Two manipulations that you did 6 that you were accused of excessive force? 7 MR. BOYER: Yes. 8 MR. KORN: And the latter of the two was 9 witnessed by a sergeant who told you to take it easy? 10 MR. BOYER: Yes. 11 MR. KORN: So I guess can you talk to those 12 so the Board has a better understanding. Because on 13 the face of it, it seems hard to understand, you know, 14 why just a cautionary letter if, in fact, you were 15 using excessive force. 16 MR. BOYER: Yes, sir. While I was walking 17 the suspect or subject to my patrol unit, he began to 18 walk at a faster pace than what we originally started 19 walking toward my patrol unit with. And what I did 20 was I tightened my grip on his bicep. 21 And he complained because I tightened my 22 grip. When we got to my unit, I told Sergeant Wright, 23 who was on the other side, that I needed to finish 24 patting down the subject. 25 And what I did was I placed his elbow around</p>	<p>Page 73</p> <p>1 my belt line and I had his wrist by my right hand. 2 And as I'm patting him down, his hands are moving 3 behind him. 4 And from my understanding from Sergeant 5 Wright -- or I'm sorry. Yeah, Sergeant Wright and 6 Lieutenant Cunningham, because my facial expression 7 changed is what caused that comment by Sergeant 8 Wright. 9 My thought process at that time was, if he's 10 moving his hands, my focus is going from the pat-down 11 to what is he doing with his hands. There was no 12 malicious intent whatsoever to injure this subject. 13 Officer Torres, myself, and the subject did 14 not become injured at all during this incident. In 15 fact, this internal investigation was started by the 16 Hobbs Police Department and not the subject that was 17 arrested. 18 MR. KORN: And what happened with the Hobbs 19 Police Department, did you retire? 20 MR. BOYER: I resigned. 21 MR. KORN: Was it under the threat of being 22 terminated? 23 MR. BOYER: That's what I believed, yes. 24 MR. KORN: Okay. 25 MR. COON: Anybody else have any questions?</p>

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<p>1 MR. QUEZADA: I have a question. 2 MR. COON: Yes, sir. 3 MR. QUEZADA: Did the subject receive any 4 medical attention after this? 5 MR. BOYER: No, he did not. He did not 6 request any. There was no marks or injuries or cuts 7 or scrapes or anything on him. 8 MR. QUEZADA: And so you're saying that the 9 reason he said easy, Jerry, was it more of alerting 10 you because he's moving a lot as an officer safety 11 thing or clarify that for me. 12 MR. BOYER: From my discussion with Sergeant 13 Wright afterwards, he felt that I was becoming 14 agitated or frustrated with the subject. 15 MR. QUEZADA: And you're telling me that the 16 reason you started doing the pat-down was more of an 17 officer safety because of the movement he was doing? 18 MR. BOYER: The initial pat-down was not 19 completed because he was concealing I believe it was 20 8.1 grams of methamphetamine in his underwear. After 21 I grabbed his waistband and it fell out on the 22 sidewalk, he stepped on it and tried to grind it into 23 the sidewalk. 24 That's when Officer Torres and I took him to 25 the ground. So we didn't have an opportunity to</p>	<p>1 complete the pat-down before getting to my unit. 2 MR. KASSETAS: If I may. 3 MR. COON: Chief. 4 MR. KASSETAS: So you take the individual to 5 the ground. What's the purpose of the strike it looks 6 like from an elbow to the neck and head area while 7 handcuffed? 8 MR. BOYER: There was no strike to the head 9 or elbow -- or the head or neck area whatsoever. 10 MR. KASSETAS: Let me read this, "According 11 to the video recording, after trying to place Sandlin 12 into a seated position, the Respondent struck Sandlin 13 with an elbow and a strike to the neck and head area. 14 He then grabbed Sandlin's hips and jerked him, placing 15 him on his stomach." That didn't happen? 16 MR. BOYER: No, sir, it did not. 17 MR. KASSETAS: Okay. There's video 18 associated with all this? 19 MR. BOYER: There is, sir. 20 MR. KASSETAS: Okay. Thank you. 21 MR. JONES: Chief, we're going to show the 22 video at the break. 23 MR. KASSETAS: Okay. That's all I have. 24 MR. COON: Anybody else have any questions? 25 Thank you, sir.</p>
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<p>1 MR. BOYER: Thank you very much. 2 ITEM NO. 23B: JOHN BOERTH 3 MR. COON: We'll go to 23B, John Boerth. Is 4 Mr. Boerth here? John Boerth is not here. 5 ITEM NO. 24: JOSEPH BACA 6 MR. COON: Okay. We'll go to letters of no 7 action, No. 24, Joseph Baca. Mr. Baca. 8 MR. BACA: Mr. Chair, Members of the Board, 9 good morning. My name is Officer Baca. I'm here to 10 ask that you proceed with the recommendation done by 11 Director Jones. And I'm here to answer any questions, 12 if you have any. 13 MR. COON: Anybody have any questions of 14 Mr. Baca? Thank you, sir. 15 MR. BACA: Thank you for your time. 16 ITEM NO. 25: RANDALL WHITE 17 MR. COON: Okay. We'll go to No. 25, Randall 18 White. Randall White, are you here? Randall White. 19 No Randall White. Okay. 20 ITEM NO. 26: STEVEN KOEHNKE 21 MR. COON: Now we'll go to voluntary 22 relinquishment. And I'm going to butcher this last 23 name. Steven Koehnke, are you here? Okay. 24 Mr. Koehnke is not here. 25 ITEM NO. 27: BENJAMIN KIRBY</p>	<p>1 MR. COON: Okay. Next is letters to address 2 Board, misconduct, No. 27. Benjamin Kirby, are you 3 here? Mr. Kirby, would you like to come up. 4 MR. KIRBY: Mr. Vice Chairman, Board, 5 Director Jones, my name is Benjamin Kirby. I'm a 6 former police officer with the Albuquerque Police 7 Department. I was terminated in October of 2006 for a 8 violation of department policy. 9 I'm here to ask for your consideration in 10 rescinding the revocation of my law enforcement 11 license in the State of New Mexico. I've been 12 exploring and looking into agencies and stuff to get 13 back into law enforcement. It's something that just 14 never leaves your blood. And that's for your 15 consideration in the revocation. Are there any 16 questions of the Board about the incident? 17 MR. COON: Refresh us in 2006 why you lost 18 your certification? 19 MR. KIRBY: I was a police officer on the 20 Albuquerque Police Department. I was working in a 21 SWAT capacity at the time. I made a decision to ask a 22 favor of a police officer to make an exception for a 23 friend of mine who was arrested that evening for DWI. 24 I did not ask that officer to in any way 25 dismiss charges or, you know, kind of release him. I</p>

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<p>1 asked him if he would release him into my custody in 2 lieu of him actually being booked in jail to the 3 Bernalillo County Detention Center.</p> <p>4 In regards to that incident, an investigation 5 was launched that evening. I voluntarily returned -- 6 after actively involving myself in the incident, I 7 voluntarily returned the individual to the BAT Mobile 8 location where I had met with him. And that's when 9 everything kind of came about.</p> <p>10 MR. COON: This was a DWI roadblock? 11 MR. KIRBY: No, it wasn't, sir. Initially it 12 was an arrest that was made and had occurred at a BAT 13 Mobile outside of the substation, the main police 14 station downtown.</p> <p>15 I would just like to say to the Board that, 16 in the last almost eight years of my life, you know, 17 I've grown a lot quite significantly as a result of 18 this incident. You know, I've grown up a lot. I made 19 an error, I made an error in judgment.</p> <p>20 In my file prior to this incident, I had 21 sustained no disciplinary action. I had a number of 22 commendations from the department. I believe I 23 actually had one sustained. I was involved in a minor 24 fender bender involving a police vehicle that I 25 received a letter of reprimand on.</p>	<p>1 I'm sorry. It's been a little while, I'm 2 struggling up here a little bit. So I would be 3 willing to answer any questions of the Board at all.</p> <p>4 MR. COON: Any questions? Mr. Gratton. 5 MR. GRATTON: Mr. Vice Chair. Mr. Kirby, 6 have you completed any ethics courses or advanced 7 training courses since this incident in 2006 or what 8 have you been doing? You said you've grown, you've 9 changed. What have you been doing since then to show 10 that you're a different person now than then? 11 MR. KIRBY: I've stayed active in the 12 Albuquerque community. I did as a result of this 13 incident go through a divorce, which I think forces 14 anybody to grow up rather quickly. I stayed in the 15 Albuquerque Metro area.</p> <p>16 I worked for the Harley-Davidson dealership 17 there. I achieved the capacity of a sales manager. 18 I've been actively involved in my community as well as 19 my kids' lives. I've grown up.</p> <p>20 I can't say that I was completely immature at 21 the time by any means. I had a lot of responsibility. 22 And I thought, out of the thousands and thousands of 23 decisions made as a police officer in the prior seven 24 years, this was one of them that was an error in 25 judgment.</p>
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<p>1 As far as my own personal growth, I have 2 achieved a number of different certifications in 3 different fields as far as personal training. I 4 continue to be an avid firearms shooter.</p> <p>5 This incident, you know, for me was I was at 6 what I felt was the pinnacle of my career, achieving 7 SWAT. When it all came crumbling down along with my 8 personal life at the time, it made me take a step back 9 and reflect on a lot of things that had gone on, you 10 know, at that time period of my life.</p> <p>11 And the decisions and stuff that I made at 12 that time were the ones that I've learned from 13 dramatically. And I continue to strive and move 14 forward with good decisions.</p> <p>15 The one thing, though, that I think that most 16 of the law enforcement individuals in this room will 17 understand as well as any prior service members in the 18 military it's in your blood. It doesn't go away. 19 It's a calling.</p> <p>20 And I want to do everything I can to make 21 sure that I answer that the one day down the road I 22 don't regret showing up in front of this Board and 23 asking for this opportunity again.</p> <p>24 I have been in touch in the last year or so 25 with different agencies around the State of New Mexico</p>	<p>1 that would be interested in my employment. However, 2 without the certification, that's not possible. And 3 that's why I'm here. I hope that answered your 4 question.</p> <p>5 MR. COON: Okay. Anybody else have any 6 questions? Mr. Korn. 7 MR. KORN: Mr. Kirby, I knew Mr. Kirby during 8 his entire career. And I can say that he was an 9 exemplary officer and he rose through the ranks and he 10 did a great job.</p> <p>11 I'm also struck with the circumstances, 12 because it's a shame that in our youth sometimes as 13 children we guide our direction as adults. And I 14 understand what you're saying about immaturity at the 15 time.</p> <p>16 But by the same token and by the same course, 17 a prior Board has spoken and revoked your 18 certification. You know, I don't know that we have 19 any precedent for removing that. So I did want the 20 Board to know as full disclosure that I have a great 21 deal of respect for Mr. Kirby. But by the same token, 22 I don't know that we can reverse what a prior Board 23 has done.</p> <p>24 MR. KIRBY: Thank you, Mr. Korn. 25 MR. COON: Any other questions?</p>

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1 MR. McCALL: I have one question. It says
 2 you were revoked by default. Did you choose not to
 3 follow through the process?
 4 MR. KIRBY: No, sir. At the time I was
 5 following the guidance of my attorney. As a result I
 6 believe it was about six to eight months after my
 7 termination with the department that I was seeking
 8 additional employment.
 9 This was prior to the revocation, the Board
 10 process. But the sequence of events was I was going
 11 to seek to try to get my job reinstated with the
 12 department. And at the time frame, a criminal
 13 investigation was launched. And there was a criminal
 14 indictment that went into place.
 15 So at the guidance of my attorney, I was to
 16 not appear in front of the Board to argue the case for
 17 my license because there was an ongoing criminal
 18 investigation. And that was the reason why I didn't
 19 show up to this Board I believe it was in the latter
 20 part of 2007 or 2008. I apologize. I have a 700-page
 21 folder at home with all of this in it and I should
 22 have brought it with me.
 23 MR. McCALL: What was the outcome of the
 24 criminal case?
 25 MR. KIRBY: All the charges were dismissed

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1 portion of this meeting.
 2 ITEM NO. 35: MISCONDUCT CASES: BOARD REVIEW OF
 3 MISCONDUCT CASES, TRACKING AND MANAGEMENT
 4 MR. KORN: Mr. Vice Chair, if I may.
 5 MR. COON: Yes, sir, Mr. Korn.
 6 MR. KORN: Mr. Vice Chair, what we have done
 7 in prior Board meetings is this may be an appropriate
 8 time to move one of our agenda items into our process
 9 for the misconduct matters in closed session.
 10 And so if it would be okay, I would like to
 11 make a motion that I'm sure Mr. Reynolds will help me
 12 kind of fashion so that we can move agenda item
 13 No. 35, which is the misconduct cases, into our closed
 14 session.
 15 MR. COON: Okay. Mr. Reynolds.
 16 MR. REYNOLDS: Sure.
 17 MR. KORN: So I have a series of cases that I
 18 can say we want to discuss.
 19 MR. REYNOLDS: Can you identify those.
 20 MR. KORN: Yes. I'll identify them. These
 21 would be the cases identified on our management
 22 snapshot in yellow. And, Jan, I'll read these
 23 quickly, but I'll give you this list. And we can do
 24 the numbers later.
 25 The names would be, starting on page 2,

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1 less a petty misdemeanor. What it boiled down to was
 2 asking a favor of a public official is a petty
 3 misdemeanor crime in the State of New Mexico.
 4 Everything else was dismissed without prejudice.
 5 MR. COON: Any other questions? Mr. Kirby,
 6 would you be willing to go through the 16-week academy
 7 again?
 8 MR. KIRBY: Yes, I would. I've looked into
 9 the -- my understanding of this procedure is I
 10 understand there is a cert by waiver. But if I was
 11 given the opportunity to work for an agency again in
 12 this state, I would attend the academy again,
 13 absolutely.
 14 MR. COON: Okay. Any other questions? Thank
 15 you, sir.
 16 MR. KIRBY: Thank you, Mr. Chairman, Board,
 17 Mr. Jones.
 18 ITEM NO. 28: TOMMY RODELLA
 19 MR. COON: Okay. Last on the list is Tommy
 20 Rodella.
 21 MR. JONES: Mr. Vice Chair, we've been
 22 notified by phone that Mr. Rodella will not be
 23 attending the meeting, sir.
 24 MR. COON: Okay. So obviously Mr. Rodella
 25 won't be here. That concludes the disciplinary

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1 Michael Clifton, Humberto Flores, Nick Ramos, Billy
 2 Merrifield, Jonathan Davis, Timothy Brown, Paula
 3 Archuleta, Jerry Boyer, Joshua Vandever, Christopher
 4 Merrill, and Donna Rice. And how do we do this?
 5 MR. REYNOLDS: I believe what I can do now is
 6 articulate a motion for a member of the Board to
 7 adopt, if you so like.
 8 MR. KORN: I think he's going to fashion a
 9 motion.
 10 MR. REYNOLDS: Mr. Chair, the motion that I
 11 would propose for a member of the Board to adopt is to
 12 go into closed session pursuant to NMSA 1978 Section
 13 10-15-1(H)(1) to discuss the licensing matters
 14 identified just now on the record by Mr. Korn and
 15 those licensing matters identified on the agenda as
 16 item Nos. 5 through 28.
 17 MR. GRATTON: So moved.
 18 MR. COON: Is there a second?
 19 MR. KORN: Second.
 20 MR. COON: All in favor say aye.
 21 (Those in favor so indicate.)
 22 MR. COON: Okay.
 23 MR. KORN: And, Mr. Vice Chair, if I may
 24 reserve, there may be portions of this that we may
 25 want to make public in the meeting afterwards.

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<p>1 MR. REYNOLDS: Mr. Chair, I'm sorry. One 2 more thing. Open Meetings Act requires that that 3 motion have a roll call vote. 4 MR. COON: Okay. Roll call, please. 5 MS. LOPEZ: Pat Barncastle. 6 MR. BARNCASTLE: Yes. 7 MS. LOPEZ: Chief Kassetas. 8 MR. KASSETAS: Yes. 9 MS. LOPEZ: Sheriff Coon. 10 MR. COON: Yes. 11 MS. LOPEZ: Chief Betz. Chief McCall. 12 MR. McCALL: Yes. 13 MS. LOPEZ: Sergeant Quezada. 14 MR. QUEZADA: Yes. 15 MS. LOPEZ: Nate Korn. 16 MR. KORN: Yes. 17 MS. LOPEZ: John Gratton. 18 MR. GRATTON: Yes. 19 MR. KORN: Do we need another motion for all 20 the other cases or did you incorporate them? 21 MR. REYNOLDS: I incorporated them all into 22 the one. 23 MR. KORN: All right. 24 MR. COON: Okay. Now we've got that settled. 25 Now we go into closed session. This is going to take</p>	<p>1 awhile, folks. 2 MR. GRATTON: Do we take a voice vote to go 3 into closed session? 4 MR. COON: Do we need to have another roll 5 call for closed session? 6 MR. REYNOLDS: No. That's what we just did. 7 MR. COON: This is going to take a couple, 8 three hours. So have a nice lunch. It's a quarter to 9 11. I wouldn't even think about coming back here 10 until 1:30 or two o'clock. 11 (Recess from 10:45 a.m. to 2:45 p.m.) 12 MR. COON: We're going to be back in session 13 here. Thank you all for your patience. I know it's 14 been a long afternoon and it's been longer for us. 15 We need a roll call. 16 MS. LOPEZ: Pat Barncastle. 17 MR. BARNCASTLE: Here. 18 MS. LOPEZ: Chief Kassetas. 19 MR. KASSETAS: Here. 20 MS. LOPEZ: Sheriff Coon. 21 MR. COON: Here. 22 MS. LOPEZ: Chief McCall. 23 MR. McCALL: Here. 24 MS. LOPEZ: Jaime Quezada. 25 MR. QUEZADA: Here.</p>
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<p>1 MS. LOPEZ: Nate Korn. 2 MR. KORN: Here. 3 MS. LOPEZ: John Gratton. 4 MR. GRATTON: Here. 5 MR. REYNOLDS: Mr. Chair, let the record 6 reflect that only those items identified in the motion 7 to go into executive session were actually discussed 8 in the executive session. 9 MR. COON: Okay. We'll go back now to the 10 misconduct, default orders of suspension. And we'll 11 start out with No. 5, Andrew Goodman. 12 MR. GRATTON: Mr. Vice Chair, I move that the 13 recommended penalty be rejected and be sent back to 14 the Director for consideration. 15 MR. COON: Okay. We have a motion on that. 16 MR. KORN: I'll second. 17 MR. COON: All in favor say aye. 18 (Those in favor so indicate.) 19 MR. REYNOLDS: Mr. Chair, can you also see if 20 there are any opposed. 21 MR. COON: Sorry. Any opposed. Thank you. 22 Next is No. 6, Manaces Arteaga. 23 MR. McCALL: Mr. Vice Chair, I make a motion 24 that we accept the Director's recommendation in the 25 matter of Manaces Arteaga.</p>	<p>1 MR. COON: Okay. Do I have a second? 2 MR. KORN: I'll second. 3 MR. COON: Mr. Korn seconds. All in favor 4 say aye. 5 (Those in favor so indicate.) 6 MR. COON: All opposed. 7 MR. KASSETAS: Mr. Vice Chair, let the record 8 reflect that I recused myself from this case. 9 MR. COON: Thank you, sir. Number 7, Nathan 10 Barton. 11 MR. QUEZADA: Mr. Vice Chair, I would like to 12 make a motion to accept the Director's recommendation. 13 MR. COON: Do we have a second? 14 MR. GRATTON: Second. 15 MR. COON: All in favor say aye. 16 (Those in favor so indicate.) 17 MR. COON: All opposed. 18 MR. KASSETAS: Let the record reflect that I 19 recused myself from this case. 20 MR. COON: Okay. Number 8, Larry Burns. 21 MR. KASSETAS: Mr. Chair, I would recommend 22 that we reject the Director's recommendation and send 23 it back to him. 24 MR. COON: Okay. Do I have a second? 25 MR. McCALL: Second.</p>

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<p>1 MR. COON: Chief McCall seconds. All in 2 favor say aye. 3 (Those in favor so indicate.) 4 MR. COON: All opposed. Okay. 5 Number 9, Victor Duran. 6 MR. BARNCASTLE: Mr. Vice Chair, I would like 7 to make a motion to accept the Director's 8 recommendation and approve the stipulated order of 9 suspension. 10 MR. COON: Do I have a second? 11 MR. McCALL: Second. 12 MR. COON: Chief McCall seconds. All in 13 favor say aye. 14 (Those in favor so indicate.) 15 MR. COON: All opposed. 16 Number 10, Luis David Guerrero. 17 MR. KORN: Mr. Vice Chair, I would make a 18 motion to accept the Director's recommendation. 19 MR. GRATTON: Second. 20 MR. COON: All in favor say aye. 21 (Those in favor so indicate.) 22 MR. COON: All opposed. Thank you. 23 Number 11, Colby Morgan. 24 MR. GRATTON: Mr. Vice Chair, I would like to 25 make a motion that the recommended penalty be rejected</p>	<p>1 and we send it back to the Director, with the Board's 2 recommendation that the penalty be adjusted to five 3 months suspension with three months off for mitigating 4 circumstances. So the result is a two-month 5 suspension. 6 MR. COON: Okay. Do I have a second? 7 MR. QUEZADA: I'll second. 8 MR. COON: All in favor say aye. 9 (Those in favor so indicate.) 10 MR. COON: All opposed. 11 Number 12, Jeremiah Phillips. 12 MR. QUEZADA: Mr. Vice Chair, I make a motion 13 to return it back to the Director and reject his 14 recommendation. 15 MR. COON: Okay. Do I have a second? 16 MR. GRATTON: Second. 17 MR. COON: All in favor say aye. 18 (Those in favor so indicate.) 19 MR. COON: All opposed. 20 Number 13, Dawne Roberto. 21 MR. McCALL: Mr. Vice Chair, I would like to 22 make a motion to reject the Director's recommendation 23 and return it to the Director. 24 MR. COON: Okay. Do I have a second? 25 MR. KORN: I'll second.</p>
<p>Page 92</p> <p>1 MR. COON: Mr. Korn seconds. All in favor 2 say aye. 3 (Those in favor so indicate.) 4 MR. COON: All opposed. Okay. 5 Number 14, James Sisco. 6 MR. KORN: Mr. Vice Chair, I make a motion to 7 accept the Director's recommendation. 8 MR. COON: Okay. Do I have a second? 9 MR. GRATTON: Second. 10 MR. COON: We have a second. All in favor 11 say aye. 12 (Those in favor so indicate.) 13 MR. COON: All opposed. 14 MR. QUEZADA: Mr. Vice Chair, may the record 15 show that I recused myself on the matter related to 16 Mr. James Sisco. 17 MR. COON: Thank you. Number 15, Paula 18 Archuleta. 19 MR. QUEZADA: Mr. Vice Chair, I make the 20 motion on that one to reject it and return it back to 21 the Director. And also the Board directs the Director 22 to issue a letter of no action. 23 MR. COON: Okay. Do I have a second? 24 MR. GRATTON: Second. 25 MR. COON: Second by Mr. Gratton. All in</p>	<p>Page 93</p> <p>1 favor say aye. 2 (Those in favor so indicate.) 3 MR. COON: All opposed. Okay. 4 Timothy Brown. 5 MR. GRATTON: Mr. Vice Chair, I make a motion 6 that the Director's recommendation be accepted. 7 MR. COON: Okay. Do I have a second? 8 MR. KORN: Second. 9 MR. COON: Mr. Korn seconds. All in favor 10 say aye. 11 (Those in favor so indicate.) 12 MR. COON: All opposed. Okay. 13 Number 17, Christopher Blake. 14 MR. BARNCASTLE: Mr. Vice Chairman, I move to 15 accept the Director's recommendation as stipulated to 16 in the document we have before us. 17 MR. COON: Okay. Do I have a second? 18 MR. McCALL: Second. 19 MR. COON: Chief McCall seconds. All in 20 favor say aye. 21 (Those in favor so indicate.) 22 MR. COON: All opposed. 23 MR. KASSETAS: Mr. Vice Chair, let the record 24 reflect that I recused myself in that case. 25 MR. COON: Thank you, sir.</p>

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<p>1 Number 18, Manuel Frias. 2 MR. McCALL: Mr. Vice Chair, I would like to 3 make a motion to accept the Director's recommendation 4 and approve the letter of caution to include a 5 one-year probation. 6 MR. COON: Do I have a second? 7 MR. GRATTON: I'll second. 8 MR. COON: All in favor say aye. 9 (Those in favor so indicate.) 10 MR. COON: All opposed. 11 MR. QUEZADA: Mr. Vice Chair, on agenda item 12 No. 18, Mr. Manny Frias, let the record show that I 13 did recuse myself from that one. 14 MR. COON: Thank you, sir. 15 Number 19, Francisco Gomez. 16 MR. KASSETAS: Mr. Vice Chair, I would like 17 to make a motion to accept the Director's 18 recommendations. 19 MR. COON: Okay. Do I have a second? 20 MR. McCALL: Second. 21 MR. COON: Second by Chief McCall. All in 22 favor say aye. 23 (Those in favor so indicate.) 24 MR. COON: All opposed. Okay. 25 MR. QUEZADA: Mr. Vice Chair, the same thing</p>	<p>1 with item No. 19, let the record show that I did 2 recuse myself in the matter related to Francisco 3 Gomez. 4 MR. COON: Okay. Thank you. 5 Number 20, Cody Lattin. 6 MR. KASSETAS: Mr. Vice Chair, I would like 7 to make a motion to return it to the Director and 8 reject the recommendation. 9 MR. COON: Okay. Do I have a second? 10 MR. GRATTON: Second. 11 MR. COON: Second by Mr. Gratton. All in 12 favor say aye. 13 (Those in favor so indicate.) 14 MR. COON: All opposed. Okay. 15 Number 21, Audi Miranda. 16 MR. QUEZADA: Mr. Vice Chair, I would like to 17 make a motion to reject the Director's recommendation 18 and direct the Director for a letter of no action in 19 the matter of Audi Miranda. 20 MR. KORN: I'll second. 21 MR. COON: Okay. We've got a second. All in 22 favor say aye. 23 (Those in favor so indicate.) 24 MR. COON: All opposed. 25 MR. KASSETAS: Mr. Vice Chair, let the record</p>
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<p>1 reflect that I recused myself from this case. 2 MR. COON: Okay. Number 22, Angelo Romo. 3 MR. BARNCASTLE: Mr. Vice Chair, I would like 4 to make a motion to accept the Director's 5 recommendation and approve the letter of caution and 6 the reinstatement of Mr. Romo's certification with a 7 five-year probationary period. 8 MR. COON: Okay. Do I have a second? 9 MR. McCALL: Second. 10 MR. COON: Second by Chief McCall. All in 11 favor say aye. 12 (Those in favor so indicate.) 13 MR. COON: All opposed. Okay. 14 Number 23, Chris Sandoval. 15 MR. GRATTON: Mr. Vice Chair, I move that the 16 Director's recommendation be rejected and that this 17 matter be sent back to the Director for 18 reconsideration. 19 MR. COON: Okay. Do I have a second? 20 Mr. Jones. 21 MR. JONES: Mr. Vice Chair, I have talked to 22 Mr. Sandoval. And Officer Sandoval has accepted the 23 Board's recommendation of two months suspension. 24 MR. COON: Okay. Thank you. 25 MR. REYNOLDS: So I would suggest taking</p>	<p>1 another motion to approve the two-month suspension. 2 MR. COON: Do we have a motion to approve 3 that? 4 MR. GRATTON: I move that we accept the 5 Director's recommendation of a two-month suspension 6 for Mr. Sandoval. 7 MR. COON: Do I have a second? 8 MR. KORN: I would second. 9 MR. COON: All in favor say aye. 10 (Those in favor so indicate.) 11 MR. COON: All opposed. 12 Number 23A, Jerry Boyer. 13 MR. KASSETAS: Mr. Vice Chair, I move to 14 reject the recommendation of the Director and issue a 15 letter of no action. 16 MR. COON: Okay. 17 MR. GRATTON: I'll second. 18 MR. COON: Mr. Gratton seconds. All in favor 19 say aye. 20 (Those in favor so indicate.) 21 MR. COON: All opposed. 22 MR. McCALL: Mr. Vice Chair, I would like to 23 let the record reflect that I recused myself in this 24 matter. 25 MR. COON: Thank you, Chief.</p>

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<p>1 Number 23B, John Boerth. 2 MR. BARNCASTLE: Mr. Vice Chair, I would like 3 to make a motion to reject the Director's 4 recommendation and issue a letter of no action. 5 MR. COON: Okay. Do I have a second? 6 MR. GRATTON: Second. 7 MR. COON: Mr. Gratton seconds. All in favor 8 say aye. 9 (Those in favor so indicate.) 10 MR. COON: All opposed. Okay. 11 Number 24, Joseph Baca. 12 MR. McCALL: Mr. Vice Chair, I would like to 13 make a motion to accept the Director's recommendation 14 and approve the letter of no action. 15 MR. COON: Okay. Do I have a second? 16 MR. QUEZADA: I'll second. 17 MR. COON: A second by Sergeant Quezada. All 18 in favor say aye. 19 (Those in favor so indicate.) 20 MR. COON: All opposed. 21 MR. KASSETAS: Mr. Vice Chair, let the record 22 reflect that I recused myself from this case. 23 MR. COON: Okay. 24 Number 25, Randall White. 25 MR. QUEZADA: Mr. Vice Chair, I would like to</p>	<p>1 make the motion to accept the Director's 2 recommendation of approving the letter of no action. 3 MR. COON: Okay. Do I have a second? 4 MR. BARNCASTLE: Second. 5 MR. COON: All in favor say aye. 6 (Those in favor so indicate.) 7 MR. COON: All opposed. Okay. 8 Number 26, Steven Koehnke. 9 MR. KASSETAS: Mr. Vice Chair, I move that we 10 accept the Director's recommendation. 11 MR. COON: Okay. Do I have a second? 12 MR. BARNCASTLE: I'll second. 13 MR. COON: Pat Barncastle seconds. All in 14 favor say aye. 15 (Those in favor so indicate.) 16 MR. COON: All opposed. Okay. 17 Letters to address the Board for 18 reinstatement, Benjamin Kirby. 19 MR. QUEZADA: Mr. Vice Chair, at this time I 20 would like to make a motion that at this time the 21 Board is going to deny the request by Mr. Kirby for 22 reinstatement. 23 MR. COON: Okay. Do I have a second? 24 MR. BARNCASTLE: I'll second. 25 MR. COON: Okay. Mr. Barncastle seconds.</p>
<p style="text-align: right;">Page 100</p> <p>1 All in favor say aye. 2 (Those in favor so indicate.) 3 MR. COON: All opposed. Okay. 4 That last one on the list is No. 28, Tommy 5 Rodella. At this time Mr. Rodella's certification is 6 suspended pursuant to notification. And it has 7 already been sent to the Director and will remain 8 suspended. Okay. We've got that out of the way, the 9 disciplinary. 10 The Attorney General had to leave so you're 11 stuck with me for the business part of it. So if your 12 case has been heard and you don't want to stay here, 13 you surely don't have to. So for you all that did 14 come in, thank you. You're free to stay, if you would 15 like to. Okay. 16 ITEM NO. 29: DIRECTOR'S REPORT 17 MR. COON: We'll go into No. 29, the 18 Director's report. Mr. Jones. 19 MR. JONES: Mr. Vice Chair, Chairman, 20 Members, ladies and gentlemen. This is the 21 September 3rd, 2014, New Mexico Law Enforcement 22 Academy Board, the Director's report is as follows. I 23 have given each one of you a copy of it. 24 To make it more brief, what I'll do is I'll 25 go through and talk about what the law enforcement</p>	<p style="text-align: right;">Page 101</p> <p>1 academies across the state have done. 2 If we move on down, Director Joseph Wolf of 3 the Albuquerque Police Department Academy started 4 Basic Class 111 on June 16th, with a graduation on 5 December 19th. 6 Craig Sevier from Bernalillo County Regional 7 Training Academy started Basic Class 35 on June 16th 8 and will graduate on the 21st of November. 9 Captain Greg Garland, Dona Ana County 10 Sheriff's Academy, started Basic Class 20 on July 21st 11 with graduation on December 18th. 12 Director Angela Byrd, with the Southeastern 13 New Mexico Law Enforcement Academy, started Basic 14 Class 33 on August 18th, with graduation on 15 December 9th. Master Defensive Tactics Instructors 16 Dr. Fons and Director Byrd taught a use-of-force 17 instructor class that was the first that we've done in 18 preparation for the new use-of-force guidelines to be 19 put out in the State of New Mexico. 20 The Law Enforcement Academy started Basic 21 Class 189 on August 25th, with graduation on December 22 19th. 23 Sergeant Shane Brisco with the Las Cruces 24 Police Training Academy will start Basic Class 44 on 25 September 22nd, with graduation on February 6th.</p>

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1 The New Mexico Law Enforcement Academy
 2 conducted in-service training from July 16th through
 3 September 3rd. Ninety-four students attended
 4 in-service training at the Law Enforcement Academy,
 5 with a total of 2,756 contact hours.
 6 Training provided by the Advanced Training
 7 Bureau Instructor Elliott Guttman, he updated law
 8 block and taught law block for PST Class 126, Cert By
 9 Waiver Class 82, and Southeastern New Mexico Law
 10 Enforcement Academy Basic Class 23 from August 25th
 11 through the 28th.
 12 Elliott has taught several different legal
 13 blocks. We're very excited about what he's been doing
 14 with his updates on legal issues that he sends out to
 15 all the agencies. There are approximately 976
 16 recipients of his emails that receive his law block
 17 updates.
 18 The New Mexico Law Enforcement Academy has
 19 been inundated with an unusual amount of Inspection of
 20 Public Records Act requests.
 21 The Law Enforcement Academy would like to
 22 recognize several agencies that have assisted with the
 23 training of the New Mexico Law Enforcement Academy.
 24 The Alamogordo Police Department, the Albuquerque
 25 Police Department and the Albuquerque Police Academy,

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1 of that discussion so at least they will have
 2 something to talk about as we discuss our issues.
 3 MR. COON: Sure. Absolutely. Okay.
 4 ITEM NO. 31: RATIFICATION OF CERTIFICATIONS FOR LAW
 5 ENFORCEMENT OFFICERS
 6 MR. COON: Number 31 is ratification of
 7 certifications for law enforcement officers.
 8 MR. JONES: Mr. Vice Chair, if you go to tab
 9 31, what you'll have is you'll have three exhibits.
 10 These are for the law enforcement officers. So what
 11 I'd like to do is see if we can't ratify the lists in
 12 Exhibit 1 and then ratify Exhibit 2 and then
 13 Exhibit 3.
 14 MR. COON: Okay. Would somebody like to make
 15 a motion to ratify these?
 16 MR. BARNCASTLE: Mr. Vice Chair, I'll make a
 17 motion that we accept for ratification Exhibit 1,
 18 items 14-0172-P through 14-0175-P, as listed.
 19 MR. COON: Okay. Do I have a second?
 20 MR. GRATTON: Second.
 21 MR. COON: Okay, sir. I have a second on
 22 that by Mr. Gratton. All in favor say aye.
 23 (Those in favor so indicate.)
 24 MR. COON: All opposed. Thank you.
 25 MR. GRATTON: Mr. Vice Chair, I move to

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1 the Bernalillo County Sheriff's Department, the Hobbs
 2 Police Department, New Mexico State Police and New
 3 Mexico State Police Academy, Roswell Police
 4 Department, Santa Fe Police Department, Santa Fe
 5 County Sheriff's Department, San Juan County Criminal
 6 Justice Authority Academy, San Juan Communication
 7 Authority, and the Southeastern New Mexico Law
 8 Enforcement Academy.
 9 This is respectfully submitted today for your
 10 consideration, sirs.
 11 MR. COON: Thank you, Director Jones. Any
 12 comments from the Board? Any questions from the
 13 Board? Thank you, Director Jones.
 14 MR. JONES: Yes, sir.
 15 ITEM NO. 30: PUBLIC COMMENT
 16 MR. COON: Our next agenda item is No. 30,
 17 it's public comment. This is the opportunity for any
 18 member of the general public to discuss any related
 19 issues regarding the New Mexico Law Enforcement
 20 Academy. Is there anyone out there that would like to
 21 come up and address the Board?
 22 MR. KORN: Mr. Vice Chair, if I may, some of
 23 these agenda items, as we go along, particularly the
 24 PT standards and the firearms training standards,
 25 would it be okay if we have public comment after some

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1 ratify Exhibit 2, Nos. 14-0176-P through 14-0197-P and
 2 No. 11-0256-P.
 3 MR. COON: Okay. I have a motion. Do I have
 4 a second?
 5 MR. BARNCASTLE: I'll second.
 6 MR. COON: Mr. Barncastle seconds. All in
 7 favor say aye.
 8 (Those in favor so indicate.)
 9 MR. COON: All opposed.
 10 MR. BARNCASTLE: Mr. Director, we still have
 11 Exhibit 3.
 12 MR. JONES: Yes. We need to do Exhibit 3,
 13 yes, sir.
 14 MR. BARNCASTLE: I'll make a motion that we
 15 ratify the listing on Exhibit 3, 14-0198-P through
 16 14-0221-P, as listed.
 17 MR. GRATTON: I second.
 18 MR. COON: There are also a couple of extras
 19 in there. There's No. 06-0020-P, David Long, and
 20 No. 96-0108, Arthur Smith.
 21 MR. BARNCASTLE: Okay. Listed also in
 22 Exhibit 3 which I would like to include would be
 23 Nos. 06-0020-P and 96-0108-P.
 24 MR. COON: Do I have a second?
 25 MR. GRATTON: I'll second.

1 MR. COON: Mr. Gratton seconds. All in favor
 2 say aye.
 3 (Those in favor so indicate.)
 4 MR. COON: All opposed. Thank you.
 5 MR. JONES: Thank you very much, Mr. Vice
 6 Chair.
 7 ITEM NO. 32: RATIFICATION OF CERTIFICATIONS FOR
 8 TELECOMMUNICATORS
 9 MR. COON: Next is agenda item No. 32,
 10 ratification of certifications for telecommunicators.
 11 Okay. I need a motion on the telecommunicators.
 12 MR. GRATTON: Mr. Vice Chair, I make a motion
 13 to ratify the certifications of the telecommunicators
 14 listed on Exhibit 1 from 14-0032-PST through
 15 14-0056-PST and 08-0138-PST.
 16 MR. COON: Okay. I have a motion. Do I have
 17 a second?
 18 MR. QUEZADA: Second.
 19 MR. COON: All in favor say aye.
 20 (Those in favor so indicate.)
 21 MR. COON: All opposed.
 22 Okay. Exhibit 2 under telecommunicators.
 23 MR. McCALL: Mr. Chair, I would like to make
 24 a motion to approve Exhibit 2, Nos. 14-0057-PST
 25 through 14-0073-PST.

1 MR. COON: Okay. I have a motion. Do I have
 2 a second?
 3 MR. KORN: I'll second.
 4 MR. COON: All in favor say aye.
 5 (Those in favor so indicate.)
 6 MR. COON: All opposed.
 7 MR. JONES: Mr. Vice Chair, thank you very
 8 much.
 9 MR. COON: Thank you.
 10 ITEM NO. 33: PHYSICAL STANDARDS REQUIREMENTS
 11 MR. COON: Now we're going into physical
 12 fitness standards.
 13 MR. McCALL: Mr. Chair, I asked to put
 14 physical fitness standards back on the agenda. After
 15 our last meeting, I felt we acted slightly hastily
 16 when we went back to our old PT standards.
 17 I wanted to look at that and look at some
 18 data. And I know Mr. Korn has done some extensive
 19 research and some of his associates have done some
 20 extensive research into the topic.
 21 My primary concern is I looked at the
 22 standards we are currently using in reference to
 23 females and particularly the number of pushups that we
 24 were requiring females to do.
 25 I had my department look at our female

1 applicant numbers just to try to get an idea if we
 2 were having an issue with that. And through this year
 3 we've lost somewhere in the area of eight female
 4 applicants out of 20 to PT standards.
 5 Particularly all of those had an issue with
 6 the pushups. The remainder we've lost due to
 7 background or some other issues that were unrelated to
 8 physical fitness.
 9 I'll yield the floor here to Mr. Korn to
 10 discuss some of the research that he's done. I've
 11 looked over it as well. And I think we need to
 12 discuss and come to a consensus on where we want to
 13 set that going forward.
 14 MR. COON: Okay. Mr. Korn.
 15 MR. KORN: Thank you. And I might also point
 16 out that I know the Attorney General's Office has done
 17 research on the law. So shall I begin?
 18 MR. REYNOLDS: Go ahead. And then I'll fill
 19 in.
 20 MR. KORN: Okay. So I have material that I
 21 wasn't able to email to the Board but that I put
 22 together. And I thought I could pass that out now.
 23 So if I can begin. When the Board discussed
 24 this last time, we were examining whether there was
 25 diversity allowed under the standards for the physical

1 fitness.
 2 And the goal of the Board, of course, is to
 3 do two things. One is to maximize the number of
 4 applicants that go into our academy that can succeed
 5 and do a good job in New Mexico.
 6 And the second is to as closely as possible
 7 have the applicants and ultimately the officers in New
 8 Mexico mirror the diversity of our citizenry. So
 9 towards that end we want to make sure that the fitness
 10 standards that we adopt don't limit certain groups.
 11 And I think that the standards that existed
 12 for a decade prior to this year were based on an
 13 attempt to make it fair, because arguably men are
 14 stronger than women and do better on certain tests.
 15 So men were always allowed to have a higher
 16 standard. And then women, who were considered to be
 17 not as strong, were given an easier standard. And
 18 then older folks, which we also want to come into our
 19 department to have maturity, were given an easier
 20 standard as well.
 21 Then there's been an examination of whether
 22 there should be one standard, one standard for
 23 everybody. And that was put into effect by our
 24 Director at the beginning of this year. And that
 25 standard was widely liked for a number of reasons.

1 One of those reasons is that, for the first
2 time, we lowered the difficulty for young men to get
3 into our academy. And by doing that we had more young
4 men enter our academy.

5 But what the Director proved in doing this
6 was the young men succeeded in our academies even
7 though the standard was easier.

8 So there are a lot of things we learned from
9 the Director that were very good. But the examination
10 that the Board had was, while we're doing that, did we
11 also make it more difficult for women and older folks.

12 And so what I'm going to discuss in no way is
13 reflective of the Director, because the Director was
14 using cutting edge, trying to move ahead, think
15 outside the box, and taught us a lot of things. But I
16 think along the way inadvertently it became
17 discriminatory to women and older folks.

18 So towards that end I would point out the
19 first document that's the single pager that says
20 Discriminatory New Mexico Change. And when I say
21 discriminatory, obviously we're not talking about
22 purposefully discriminatory. We're talking about
23 discriminatory in fact.

24 So as you can see, the pink is on the top.
25 And that was the original age/gender norm that existed

1 for a decade prior to 2014. Then in yellow in the
2 middle is the 2014 standard that the Director adopted.
3 And so you can easily compare the pink to the yellow.

4 Now, at the bottom it shows what groups were
5 made easier by the single standard and what groups
6 were made more difficult. And I should point out that
7 there is a typo in this that I just noticed last
8 night.

9 If you look in the bottom there, where it
10 says "Male, age 30 to 39," it's in that kind of orange
11 color, and it says "5 easier." That should really be
12 "5 harder," and it should be in the blue color. The
13 point of the orange and the blue is to demonstrate
14 what I think has happened; inadvertently, but it's
15 happened.

16 And probably the best category to look at
17 that is the pushups; because as Chief McCall pointed
18 out, he lost eight women because they couldn't compete
19 in the pushups category on the single standard. So
20 let me just go through the pushups one first because
21 it's the most blatant.

22 If you were a young man in 2012, you had to
23 do 29 pushups. Under the new single standard, the
24 young men still have to do 29 pushups. But then when
25 you go down to the first category of older people,

1 which would be older males, those people had to do 29
2 pushups under the single standard; but under the
3 original age/gender standard, they only had to do 24.
4 So they had to do, in effect, 20 percent harder work
5 in order to get into the academy.

6 Now, the rubber really hits the road when you
7 go down to the women in the same category. The
8 younger women had to originally do 15, if you go up to
9 the pink. Well, under the single standard now, the
10 women had to do 29. Now, 29 is almost double the
11 number of pushups for women in the young women's
12 category.

13 But go to the older women. When you go to
14 the older women, they originally only had to do 11.
15 Now they have to do 30, almost three times harder for
16 the women. So in this one category alone, when you
17 look at the young men, they did fine. Nothing
18 changed. But everybody else had to go harder.

19 And what we see is that, as Chief McCall said
20 and as Dona Ana County last time said, women are
21 having a difficult time passing our standards. And
22 you can see it in every category.

23 I mean you can go to the mile-and-a-half run.
24 Again the orange means it's easier. So in the
25 mile-and-a-half run, if you're a young man, well,

1 heck, you can do it in two minutes less time, which is
2 a good 15 percent easier for the young men. For the
3 older men, you've got to do it in a minute and 47 less
4 time. So that's 10 percent easier for the older men.

5 You go to the women. And, you know, it's in
6 the orange because it's a quarter of a second faster.
7 It's still a little faster, easier for the younger
8 women. But look at the older women. For them it's a
9 minute and 15 seconds harder.

10 And more importantly, if you'll look at these
11 numbers, even though for the young women it got a
12 little easier, what you're really facing is the fact
13 that, you know, really it didn't get as easy as it did
14 for the younger men.

15 So my point is only that, if you'll look
16 through this, inadvertently we have a system that is
17 discriminatory. When any one group benefits at the
18 risk of any other group, you have discrimination. And
19 what's going on is that the women and the older folks
20 are not being able to compete as easily as the younger
21 men.

22 So from that I tried to look at other
23 jurisdictions. And I also tried to examine the law.
24 And I'm telling you this process that I went through
25 just so you can see, you know, a lot of examination

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<p>1 went through this. I spoke with people all over the 2 state and I spoke with other agencies as well. 3 So if you go to the national law enforcement 4 standards, I just wanted to see is it really true that 5 everybody is going to the single standard. I mean is 6 this the wave of the future. And then I also tried to 7 find out is there a law that's going to stop us from 8 actually going to whatever standard we want to adopt. 9 And what I came away with was twofold. 10 Number one, I don't think there's any law anywhere 11 that says we can't adopt the standards we want. I 12 think the standard is basically fairness, what's going 13 to be fairest to the people in our community when 14 they're going to be applying to be officers. 15 As you can see, there are huge departments 16 all around the nation that have both the single 17 standard and the age and gender standards; for 18 example, New York State Police, Illinois, Ohio, you 19 can read them through here, all have the age and 20 gender norm. 21 And then there are other huge agencies, 22 Pennsylvania, places in California, that all have 23 single standards. The fact of the matter is that all 24 these departments presumably went through a process 25 like we're starting to do now. And that process</p>	<p>1 hopefully is going to give us a fair way of examining 2 candidates so they can get in. 3 The thing I found most interesting, though, 4 is that there's no clear-cut law that requires us to 5 go one way or another. There's no clear-cut example 6 of a department to follow. What we have is we are our 7 own state, we can set our own standards, we are as 8 smart as anybody else. 9 So the interesting thing in making this chart 10 is wondering whether the single standard we have 11 adopted that I say is discriminatory based on the 12 numbers, how that compares to other places that also 13 have a single standard. 14 And so on this chart the way I set it up is 15 that on the top of every page are the New Mexico 16 standards so you can compare. As you go through the 17 chart, everything in orange is easier than our 18 standard. Everything in blue is harder than our 19 standard. 20 And as you go through it, you'll see lots and 21 lots of places; in fact, probably more places than not 22 have an easier standard than what we have adopted. 23 Finally I get to what do I think we should be doing. 24 And for that I have to tell you that I spoke 25 with a lot of people that I respect. I spoke with</p>
<p>1 lots of departments around the state. 2 I spoke with J.D. Maes who is in the back who 3 is from Albuquerque Police Department who is 4 distinguished in that he's the only exercise 5 physiologist that's actually working for a department, 6 he works for APD. 7 And as they put through their candidates, he 8 actually tests them, analyzes what they're going 9 through, and analyzes their fitness for doing the 10 defensive tactics. And he's here today and hopefully 11 he will speak. And I picked his brain and then I 12 spoke to members of the community. 13 What I found more than anything -- and I'm 14 approaching this from the standpoint that we can pick 15 an age/gender norm or we can pick a single standard. 16 What I found more than anything is that more 17 people around the state like the idea of a single 18 standard. They like the idea that it's the same job 19 for men and women so they should be held to the same 20 standard as men and women. 21 And so if we can do whatever we want, I'm 22 thinking that we should adopt a single standard that 23 works. Because this seems to be the way more people 24 are leaning. 25 Now, along the way I was exposed to other</p>	<p>1 ideas. There's not just age/gender norming and 2 there's not just single standard. There is also the 3 notion of agility tests. And an agility test is 4 fascinating because it doesn't differentiate the sexes 5 in any way and it doesn't do age/gender norming. 6 What it is is a course always in a gym that 7 frequently can be done in ten minutes or less. It's 8 very strenuous. And it demonstrates certain portions 9 of ideas that arguably are what law enforcement 10 officers do. And personally I like that the most. 11 But that would take a lot of time for us to 12 incorporate. 13 So what I'm ultimately recommending is that, 14 number one, we adopt a single standard; but we change 15 it from the way it was existing. I suggest we set up 16 a single standard that's more geared towards the 17 female side. 18 Now, that will make it easier, we'll get more 19 applicants. The fear, of course, is you will get more 20 flabby men. But there's also a process because 21 there's an exit standard as well. And that exit 22 standard is at a level that everybody is going to have 23 to rise to before they can leave the academy. They 24 have to be fit for duty. 25 But more importantly through the academy they</p>

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<p>1 have to be able to do, as Director Jones pointed out 2 the last time, defensive tactics which are very 3 strenuous, firearms which are strenuous, being on 4 their feet and doing other things that they are taught 5 in the academy.</p> <p>6 So during the academy people will be held to 7 a standard that they will have to pass throughout the 8 academy. So I think that, even though we're making I 9 propose the standards easier, we will still get a fit 10 person by the time the academy is over.</p> <p>11 So let me show you what I'm proposing. Of 12 course, this is up for the Board to discuss. I know 13 several people in the audience are coming to talk 14 about it. I'm specifically hoping J.D. Maes will get 15 up.</p> <p>16 I will point out ahead of time that J.D. 17 doesn't necessarily agree with me on everything. But 18 we're sitting in different seats. I'm a Board Member. 19 I'm here to make this the best we can possibly make it 20 for the department. He's a PT guru and he wants the 21 most fit. And I'm hoping there will be a balance here 22 where we can adopt it and still have the most fit.</p> <p>23 So to go through this, the way I got to these 24 numbers and the way I worked it out primarily with 25 J.D. is the pink again represents all the things that</p>	<p>1 are the age and gender norming. The yellow is the 2 Director's recommendation from last time. And the 3 green is what I would propose that the Board at least 4 begin our discussions with and hopefully adopt.</p> <p>5 So if you go through the entrance exam in the 6 pink, just to start with the mile and a half run, 7 originally older women had to do it in 16:35; younger 8 men had to do it in 13:09.</p> <p>9 I'm recommending 15:54 as an entry standard 10 and a departure standard of 14:15. You can compare 11 that back to what the Director had in the yellow. 12 You'll see that it's not that much farther.</p> <p>13 But it puts us right in the middle between 14 where we would have been with females older and 15 younger. And that's how I'm trying to strike that 16 balance. In between the females older and younger is 17 what I think the standard should be.</p> <p>18 So if you jump to the pushups part, in the 19 pushups originally the females were 15 and 11. I'm 20 suggesting we have a female starting point of 15 and 21 that we end at 25.</p> <p>22 Now, you can see that's easier than what is 23 in the yellow that the Director had recommended, but 24 it's harder than what was always existing in the ten 25 years previous for the fitness standards for women.</p>
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<p>1 My point here also is that we have no real 2 fitness standards for whether getting the 25 pushups 3 is enough to exit the academy successfully. And so we 4 have no standards at all knowing what is going to be 5 required to exit the academy successfully.</p> <p>6 So the other part of my recommendation to the 7 Board is that we actually adopt a panel. And that 8 panel will study all this for about a year. And on 9 that panel will be not just Members of the Board but 10 also members of the community.</p> <p>11 I hope, if the Board adopts it, that we can 12 have J.D. Maes on it, for example, as our exercise 13 physiologist. There's the chief of police from 14 Roswell who has some experience in physical fitness 15 from other departments that I'm hoping might sit on 16 this panel.</p> <p>17 And this panel can actually examine how are 18 we doing for the next year in our academies. And if 19 we're doing well, we can adopt it. And if we're doing 20 badly, we can adjust it. And along the way we can 21 also look and see what the agility tests are. Maybe 22 in a year from now we can start to adopt that with 23 more input and more knowledge.</p> <p>24 But I think this should be an ever-changing 25 thing, that we in New Mexico can be trendsetters</p>	<p>1 around the nation, not just sitting back and watching 2 other people float by and trying to adopt what they're 3 doing.</p> <p>4 So with that, Mr. Vice Chair, I would 5 ultimately ask for discussion. But then I would like 6 to make a motion that we adopt the proposed single 7 standard.</p> <p>8 MR. COON: Okay. Do we have any discussion 9 on this?</p> <p>10 MR. McCALL: I think, Nate, as you and I 11 talked before, the pushup standard, I think we've kind 12 of gone to the other end of the spectrum on that. I 13 don't feel that's where we need to be. There may be a 14 couple other things that we need to adjust. But I 15 would like to hear from the public input, what their 16 input is.</p> <p>17 MR. COON: Okay. Do you want to call up 18 anybody?</p> <p>19 MR. KORN: I don't know. I suppose, J.D., if 20 you would like to come up, or maybe there are other 21 people that might like to speak. It's kind of an open 22 forum now.</p> <p>23 MR. MAES: Good afternoon, Mr. Vice Chair, 24 Members of the Board, Director Jones. Thank you for 25 having me. Some of the input that I have is to keep</p>

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<p>1 in mind that obviously this impacts us all, it impacts 2 a lot of officers, it impacts our training, and it 3 impacts our safety both now and in the future. So 4 obviously it's a very important issue.</p> <p>5 Some of the things to keep in mind are that 6 all of the highlighted areas in pink, the age and 7 gender norm standards that we had before, we're at the 8 40th percentile. And so they were a measure of 9 fitness, but they were set at the 40th percentile.</p> <p>10 If you're familiar with percentiles, 50th is 11 right in the middle. Fiftieth means that 50 percent 12 of the population your age and gender is less fit and 13 50 percent is more fit. And so setting the bar, which 14 was low already, at the 40th percentile means that the 15 bar was kind of low already. All right. So I think 16 that was a pretty acceptable standard on both sides.</p> <p>17 In terms of one standard, one single standard 18 versus an age/gender standard, single standard is 19 definitely the way to go. I think we're all on board 20 with that. The Civil Rights Act of 1991, Section 106, 21 further backs that up, saying that same job and same 22 standard is definitely the way to go.</p> <p>23 In terms of the proposed changes, I brought 24 some research with me. And just bear with me, I would 25 like to read it out. The Cooper Institute did several</p>	<p>1 validation studies. A validation study means they 2 come to each department -- they went to over 180 3 agencies, federal, state, and local. And they did 4 these tests on all the officers and all the recruits 5 in the academy. And they got certain averages.</p> <p>6 And so, for instance, for the mile-and-a-half 7 run, the averages on these 180 municipalities were in 8 between 14 minutes and 40 seconds and 15 minutes and 9 54 seconds, which is right in line with what Mr. Korn 10 is proposing for an entrance standard.</p> <p>11 In terms of the 300-meter run, what they 12 found was 64 minutes -- excuse me. Sixty-four seconds 13 and in between 66 seconds was what they proposed, 14 which is a little bit faster than what's proposed 15 here.</p> <p>16 But as long as that's an entrance standard I 17 think that's good as well. Obviously after 16 weeks 18 or in our case 26 weeks of training, we can get them a 19 whole lot faster.</p> <p>20 The situps, what this research indicated was 21 in between 30 and 38. This one is a little lower, 22 it's close to 30. But at 27 I think we're 23 competitive. I think that's good. It's not so low 24 that we should be worried about it.</p> <p>25 The pushups is where we get really low. The</p>
<p>Page 124</p> <p>1 Cooper Institute research states in between 25 and 34 2 is the average they found. Keep in mind, this is for 3 incoming officers and at cadets in the academy. And 4 so a good exit standard is what that looks like.</p> <p>5 Mr. Korn's numbers are right in line with 6 that, 15. I mean it still is a measure of fitness. A 7 little low. But again I know there's concerns with 8 lowering that as well. If anything, that's the only 9 number I would like to see just a little bit higher.</p> <p>10 I can understand that as an entrance standard as long 11 as we're not decreasing our exit standard a whole lot.</p> <p>12 That's what I think about these numbers. Are 13 there any questions for me on any of this?</p> <p>14 MR. KORN: I have a question. So you 15 basically agree with all my numbers, but you would 16 like to see the pushups be a little higher for an 17 entrance standard?</p> <p>18 MR. MAES: For an entrance maybe just a 19 little bit, just because it was higher before.</p> <p>20 Pushups is a very important test. There's a lot of 21 upper body strength that we do in the academy.</p> <p>22 One of the reasons that I'd like to see good 23 standards -- and these are good standards. But one of 24 the reasons they're important is because of injuries 25 in the academy.</p>	<p>Page 125</p> <p>1 When you lower the fitness standards, you 2 have more less fit people. You're just more at risk 3 for injury no matter what you're doing, whether it's a 4 physical training aspect, the defensive tactics 5 training. They're on their feet a lot.</p> <p>6 We want to make sure that we've got a level 7 of fitness that's going to allow them to sustain that 8 training. So that's my only concern with lowering the 9 numbers from where we are -- we were, was that it 10 increases that risk, which is a liability for every 11 agency.</p> <p>12 MR. KORN: But the 15, you know, just to play 13 counterpoint to what we discussed, the 15 has been the 14 number for women always for at least the past decade 15 and a half.</p> <p>16 So in a way would you agree with me that we 17 don't know if 15 is too low? You would like to see it 18 a little higher. But we could examine it for a year 19 and then actually know whether it was too low or not 20 by checking for injuries, checking for completion, 21 checking for the ability to do the exit standard. 22 Would that be fair?</p> <p>23 MR. MAES: Ultimately what we're testing is 24 the ability to do the job and the ability to do the 25 job task, whether you're a male or a female. And so</p>

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<p>1 whether the number of 15 for a certain age group 2 before at that 40th percentile was a good number or 3 not or predictive to do the task, that's a different 4 question. 5 So we want to know the ability, can this 6 person handle physical stress and can they -- is it 7 predictive of the ability to do their job. Any time 8 we lower the number, that predictability gets lower. 9 MR. KORN: And we all know that, when you're 10 talking about doing the job, you're talking about 11 doing the job of a police officer. 12 MR. MAES: Yes, sir. 13 MR. KORN: But, of course, as we know there 14 are no standards for police officers once they get out 15 of the academy. So once a person graduates from the 16 academy, I mean we don't even know if they would meet 17 the entry standards much less the exit standards. 18 So to get through the academy what I'm 19 suggesting is the tough one and the one that we should 20 be gearing towards. Wouldn't you agree? I mean the 21 first threshold is the academy and whether they can 22 pass that? 23 MR. MAES: Yes, absolutely. I do agree with 24 that. I mean they definitely need the fitness level 25 to do that. Absolutely. And I mean other than -- I</p>	<p>1 mean it's hard to say what incumbent scores are. We 2 do have testing. 3 But without having mandatory testing and 4 being able to look at that research, it's hard to say 5 what every -- what the average of every incumbent 6 officer is other than looking at the data from other 7 departments or other agencies throughout the country. 8 MR. KORN: If we did create a panel and you 9 were on the panel and were able to look at all the 10 agencies throughout the entire state, not only APD, 11 you would be able to form some sort of conclusion 12 based on that whether 15 was too low or 15 was just 13 right? 14 MR. MAES: I think we could. In terms of 15 forming a validation type of study, looking at that 16 research would be the best way to go; because as a 17 state we're all one group. 18 And if we're all having the same standard, 19 then it would be fair to look at every agency out 20 there and look at the numbers for entrance testing and 21 especially for exit testing and whatever we can as far 22 as the incumbent officers. If we can get our hands on 23 that research and analyze it, then we absolutely know 24 where to go with it. 25 MR. KORN: Plus injuries as you pointed out.</p>
<p>Page 128</p> <p>1 MR. MAES: Yes, sir. 2 MR. KORN: Because that would be a big deal. 3 MR. COON: What are the APD standards, what 4 are you all using right now? 5 MR. MAES: As far as entrance you mean? 6 MR. COON: Yes. 7 MR. MAES: The same as what we were going 8 with. So the single standard that came out just not 9 too long ago, which I actually like. 10 MR. COON: Any other questions of Mr. Maes? 11 MR. KASSETAS: I have a question real quick. 12 You know, what I look for, especially with the State 13 Police recruit school, is an improvement. Entrance is 14 one thing. But the improvement of physical fitness 15 over time. 16 And if we work up to that obviously, and most 17 academies do, you don't start defensive tactics week 18 one probably for the reason that three-quarters of the 19 class would gas out because they don't have that 20 fitness level. 21 And I've heard some of the directors 22 discussing the fact that individuals are not coming to 23 the academies ready, they're not fit. And I've talked 24 to my major about that. And it's just that the makeup 25 of our hiring pool it seems is not understanding that</p>	<p>Page 129</p> <p>1 a lot of this falls on them to a certain extent. 2 So if they enter the academy under a single 3 standard, and maybe for pushups that number seems low, 4 I'm more looking at the end number and how that 5 academy prepares them to get through that. And so be 6 it if they fall out on defensive tactics or they can't 7 keep up or whatever other strenuous stuff, as long as 8 we properly work them up to that. 9 But up until this point, until I saw the 10 video on the Montano agency there that did an agility 11 test, I never even considered that. And I found it to 12 be really interesting in watching how they did the 13 agility test, because obviously it put a strain on the 14 officer and what he did. And it simulated a lot of 15 what we do. 16 I probably have officers that can do 50 17 pushups but running after a suspect won't get 30 yards 18 or after running after the suspect can't get them 19 cuffed because they're so tired. 20 So I'm just wondering in your professional 21 opinion, obviously you have a background in this, 22 what's your thought process on agility tests versus 23 these standards? 24 MR. MAES: I think the agility test is great 25 because it maps back to job task analysis. And it's</p>

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<p>1 written in there, they've got to be able to run, 2 they've got to be able to implement their rest and 3 whatnot.</p> <p>4 The only issue with that is that, in terms of 5 validating, they're all so new that we can't say that 6 it's specifically proven unless we test all our 7 officers. So if we can start getting research, 8 testing our officers, testing our recruits, getting 9 average times, then we can start saying that we can 10 absolutely hold them to this because that's what our 11 officers do.</p> <p>12 And so it is the wave of the future. Many 13 states have done it, many departments have done it, 14 and it's a great idea. We just need to back it up by 15 research. And that's the only issue with it. Other 16 than that it's a great idea.</p> <p>17 MR. KASSETAS: Thank you.</p> <p>18 MR. COON: Anybody else have any questions of 19 Mr. Maes?</p> <p>20 MR. JONES: I do. Have you seen the job task 21 analysis that was done for 2008 and 2010 in the State 22 of New Mexico that was quite extensive about what our 23 physical agility tests are when we leave the academy 24 and what we have to test out on, those last two tests?</p> <p>25 MR. MAES: Yes, I have.</p>	<p>1 MR. JONES: So those are invalid?</p> <p>2 MR. MAES: They're not invalid in terms of, 3 you know, are we able to do them or not. But in terms 4 of their research, I think --</p> <p>5 MR. JONES: We spent \$60,000 on those JTAs.</p> <p>6 MR. MAES: Are these the obstacle courses?</p> <p>7 MR. JONES: These are the JTAs, yes, for the 8 last two obstacle courses that we had to do. There 9 was \$120,000 spent on those JTAs.</p> <p>10 MR. MAES: Okay. I haven't seen the research 11 on that. So if there is, that's great. And so I was 12 more speaking towards a new test, you know.</p> <p>13 MR. JONES: To do something like what Montana 14 State Police does in the gymnasium sort of thing?</p> <p>15 MR. MAES: Yes, sir.</p> <p>16 MR. JONES: Okay.</p> <p>17 MR. MAES: A great idea is, if we've already 18 got research on it, that's a good starting place.</p> <p>19 MR. JONES: Okay. I was curious whether 20 you've seen the research that has been done. I would 21 be glad to give it to you.</p> <p>22 MR. MAES: I would love to see it.</p> <p>23 MR. JONES: Okay.</p> <p>24 MR. COON: Any other questions?</p> <p>25 MR. KORN: I would like to just publicly</p>
<p>Page 132</p> <p>1 thank J.D. for educating me and spending time with me 2 and kind of bringing me up to speed on how all this 3 works. Thank you.</p> <p>4 MR. MAES: Certainly. Thank you, all.</p> <p>5 MR. COON: Is there anybody else in the 6 audience that would like to come up and address this 7 issue?</p> <p>8 MR. CAGE: Mr. Vice Chair, Members of the 9 Board, I'm Mark Cage, I'm Eddy County undersheriff. 10 I've been teaching DT in New Mexico for almost 11 20 years now. And one of the problems I've seen over 12 and over again is injuries when I'm teaching veteran 13 officers. It never fails. Every time I teach a class 14 someone gets hurt.</p> <p>15 Now, the problem -- and how this is germane 16 to the physical fitness talk right now is we do a lot 17 of talk about getting into the academy and getting out 18 of the academy.</p> <p>19 And I remember 20 years ago, when I was a 20 patrolman and I was saying these things, all the 21 old-timers were getting pretty mad at me. But I'm an 22 old-timer now, I'm fixing to be 50 years old, and I've 23 been here for awhile.</p> <p>24 I think the most important thing we need to 25 address is physical fitness after the academy. Nobody</p>	<p>Page 133</p> <p>1 ever wants to address that, nobody ever wants to take 2 it on. I don't think everybody that's my age should 3 be out there running a mile and a half doing whatever 4 that a recruit has to do. I get that. I get that 5 that's probably not going to work out too well.</p> <p>6 But I think that we need to find something, 7 maybe what Mr. Korn is talking about, an obstacle 8 course. And I understand that we're going to have to 9 probably grandfather people in and it will be a slow 10 process to move it into where that's the standard for 11 New Mexico.</p> <p>12 But I would encourage whoever this panel is 13 that's looking at this and I would encourage the Board 14 to consider at least talking about some type of an 15 ongoing physical fitness standard for peace officers 16 in New Mexico.</p> <p>17 MR. COON: Back in the early nineties, the 18 State Police had a physical fitness test. Do you all 19 still have one?</p> <p>20 MR. KASSETAS: It's not mandated is the 21 problem.</p> <p>22 MR. COON: Ours was mandated. Every officer, 23 male, female, agent had to get out and run the mile, 24 mile and a half, situps, pushups. We failed miserably 25 at it. I didn't, but a lot of guys did. That was</p>

1 back when I was a little thinner.
 2 But there was no key to it. They threatened
 3 firing, they threatened days off. They finally came
 4 up with a solution. Anybody who was grossly
 5 overweight went to Santa Fe to a health class for a
 6 week. And they ate apples and took nature walks.
 7 That was your punishment absolutely and
 8 simply because we were afraid of a lawsuit. Because
 9 I'm 30 pounds overweight and can't run a mile and a
 10 half with a 25-year-old, you can't fire me. And that
 11 was the general consensus back then.
 12 And I don't think it's probably changed much.
 13 A lot of agencies have tried and a lot of agencies
 14 have failed. Not only in New Mexico but throughout
 15 the United States. You're going to get beat in court
 16 most of the time is the problem.
 17 Would I love to have one? Sure. I've got a
 18 world class weight room in our office. I've got guys
 19 that live in there and I've got guys that don't even
 20 know it exists. So you've got those two kinds, you've
 21 got the ones that want to do it and then the ones that
 22 are just no way.
 23 But you can't mandatorily I don't think make
 24 these guys stay in shape. Would we all love to have
 25 six-foot-three, 200-pound officers out there? Yeah.

1 to come into our profession to jump through these
 2 hoops; and then once you get in there, let's get fat.
 3 MR. CAGE: It seems like it's an initiation.
 4 And then once you're done with the initiation and
 5 you're in the club, have at it, do what you want.
 6 But I'm concerned whether, if I get shot,
 7 stabbed, or I'm getting older now, if I have a heart
 8 attack or whatever, if somebody can drag me to safety.
 9 And frankly I'm scared that many peace officers in New
 10 Mexico can't.
 11 And I would also recommend, respectfully
 12 recommend, that look at an overall fitness. I mean I
 13 don't know how many departments do physicals to see if
 14 people are actually medically cleared to be out on the
 15 street. I mean that would have to be part of it I
 16 would think.
 17 MR. COON: Another thing was we went to UNM.
 18 Were you there around then, Pete?
 19 MR. KASSETAS: Probably.
 20 MR. COON: We went to UNM. We had to do
 21 complete blood work, got on the treadmill, they
 22 weighed us in water for our body fat. And we had like
 23 five guys that were told to get off the treadmill
 24 right now and went to Presbyterian or wherever and had
 25 bypasses.

1 But that's not going to happen.
 2 MR. KASSETAS: Interesting you bring that up,
 3 Sheriff. We put so much emphasis on entrance
 4 standards and then after that it's just all gone.
 5 And I shudder every time we hold an
 6 in-service school, so do my commanders, because we're
 7 going to drop three or four people in the field
 8 because they're going on FMLA because we blew out all
 9 kinds of body parts.
 10 It's something we probably should study and
 11 look at in conjunction with what we're doing here.
 12 It's something that's obtainable and it does have
 13 teeth maybe even through the certification process.
 14 This job isn't getting any easier really.
 15 And officers are dying at an alarming from everything
 16 from diabetes to everything else associated with poor
 17 health. I think it's something we probably should
 18 look at as a Board.
 19 I know there are a lot of legal issues. But
 20 let's appoint some experts to see maybe how we can
 21 further that in the New Mexico law enforcement
 22 community.
 23 Like I said, Sheriff, a lot of obstacles.
 24 But we've been talking about fairness, right? It
 25 almost seems unfair to require all the people wanting

1 And they saved probably five or six lives of
 2 guys that were fixing to die of heart attacks. It was
 3 just amazing. And I can name their names. It was
 4 just amazing that these guys were in that shape and
 5 the State Police caught it.
 6 But if they hadn't, these guys were going to
 7 fall over dead of a heart attack in the next year or
 8 so. So we lucked out there. But it's such a
 9 monumental task.
 10 And, you know, if somebody could come up with
 11 this plan to do it and it was successful, he would be
 12 a billionaire because everybody would pay him to try
 13 to do that. And nobody has been able to do that here.
 14 MR. KASSETAS: I think the wheel has been
 15 created. I'm almost sure, and APD personnel can maybe
 16 attest to it, that we have an ongoing PT standard. Am
 17 I correct or am I wrong?
 18 MR. MAES: Yes, sir, we do. Per policy
 19 they've got to take a physical assessment. They are
 20 mandated to participate, but they are not mandated to
 21 have a certain number. And so the guys who are really
 22 into fitness will score really high obviously. The
 23 guys who are not will do one pushup and one situp and
 24 call it a day.
 25 MR. KASSETAS: And that's the problem.

<p style="text-align: right;">Page 138</p> <p>1 Sheriff Coon, I had people walking on the track with 2 cigars five years ago. I mean I think there is 3 give-and-take. But I do appreciate you bringing that 4 to our attention. It is an issue.</p> <p>5 MR. KORN: And if I may. Just to kind of 6 build on what you've said, Undersheriff, in part of my 7 research, I came across this article from the FBI, 8 August 14th of this year, where they had a new 9 statistic from a study which states that 80 percent of 10 police officers are overweight and not physically fit.</p> <p>11 So I mean what you empirically knew the FBI 12 went and did a study on. But I also think you pointed 13 out something else that's serious. We always say 14 what's our job task analysis for police officers as 15 far as physical fitness.</p> <p>16 But really, as we're concluding I think as a 17 group, it's really a job task analysis for the 18 academy. You know, for the four months of initiation 19 as you said just to become a police officer, they have 20 to meet a certain standard to do defensive tactics.</p> <p>21 But once they get out, you know, there is no 22 real job task analysis that we really think is 23 serious; because unlike firearms we never requalify 24 anybody.</p> <p>25 MR. CAGE: I think if we were to look and see</p>	<p style="text-align: right;">Page 139</p> <p>1 how many times, when an officer gets into a fight, how 2 many times they get hurt. And then like Chief 3 Kassetas was talking about, when you do in-service 4 training for DT -- that's how I started this 5 conversation -- how many people get hurt.</p> <p>6 I think we would lower those numbers if we 7 had some type -- even if the bar is set lower, some 8 type of a standard that we have to maintain. So I 9 won't bore you anymore with my comments.</p> <p>10 MR. COON: Thank you, Mark. Anybody else out 11 there? Yes, sir.</p> <p>12 MR. WOLF: Good afternoon. Mr. Vice 13 Chairman, Members of the Board, my name is Joseph 14 Wolf, I'm the director of training for the Albuquerque 15 Police Department. Thank you for hearing me today.</p> <p>16 I rely on J.D. Maes for the exercise science 17 portion of everything I do as far as physical training 18 is concerned. But I want to talk to you a little bit 19 about the policy piece.</p> <p>20 And I would urge the Board, if we take the 21 opportunity to form a task force to take a look at 22 this, to really drill down into the policy piece of 23 this. And you have to ask yourselves a fundamental 24 question. What do you really want a fitness 25 assessment to do for you. That's the question that</p>
<p style="text-align: right;">Page 140</p> <p>1 has to be answered.</p> <p>2 I want to talk about the postacademy piece 3 for a moment as the previous speaker brought up. I 4 work for a number of federal agencies to try to impose 5 a postacademy assessment standard with some 6 enforcement provisions in it.</p> <p>7 They fail time after time after time.</p> <p>8 Primarily because, as the position descriptions are 9 currently written across the profession, there is no 10 fitness standard written into the profession. It's 11 not a condition of employment to remain physically 12 fit. Consequently, that impacts things like 13 collective bargaining agreements.</p> <p>14 Now, you may say your agency doesn't have 15 unionized officers. Well, the agencies that do, they 16 have a lot of influence with decision-makers and with 17 law makers. And they continually can thwart these 18 attempts to put teeth into a fitness standard.</p> <p>19 Before it was abolished, the United States 20 Customs Service where I was employed had a fitness 21 standard imposed across the enforcement professions. 22 It covered about 17,000 people.</p> <p>23 And in it the agency appropriated funds for 24 physical examinations, gym memberships, regular 25 testing, medical review. However, the union was able</p>	<p style="text-align: right;">Page 141</p> <p>1 to thwart it and finally spike it because it wasn't a 2 condition of employment in any of the sworn 3 professions. So even with the money available, the 4 political component agencies have found hard to 5 overcome.</p> <p>6 So it is a big hurdle to get past in dealing 7 with the labor law side of it, to get the teeth that 8 you need. In the Albuquerque Police Department, 9 recognizing that, we incentivize participation in the 10 fitness program.</p> <p>11 And that's really the place where agencies 12 need to look. There are agencies around the state I 13 think that offer as much as 100 hours paid vacation 14 for achieving a certain standard in the fitness 15 assessment. And that really drives competition and 16 encourages officers to participate.</p> <p>17 Ours is not quite as generous as that. But 18 we do have incentives to encourage officers to 19 participate. And it includes simple things like 20 awards, T-shirts, monetary incentives, time off 21 incentives.</p> <p>22 And I think, as law enforcement executives, 23 that's the kind of thing you should look at and 24 encourage in the agencies in order to get a buy-in 25 from the rank-and-file about a lifelong commitment to</p>

1 fitness.

2 On the pretraining side, I think it's really

3 important -- and I want to clarify for Director Jones

4 the distinction between valid and validation when it

5 comes to a physical agility assessment.

6 Just because a piece of physical agility

7 assessment hasn't been validated doesn't mean it's not

8 valid. It basically means that you need enough of a

9 participating population so that your findings can be

10 statistically validated.

11 In Immigration and Customs Enforcement where

12 I was the director of training before I came to APD,

13 we had basically run about 3,000 students through the

14 physical ability standards before we considered it

15 valid.

16 That was a sufficient population to validate

17 the study. And it has since withstood many legal

18 challenges on grounds of denying someone employment

19 because of their inability to complete the standard.

20 Because the population was so large and scientifically

21 valid, we were able to defend it in court repeatedly

22 and it stands to this day.

23 But the question that it begs is what do you

24 want your entry level fitness standard to do. Are we

25 measuring their ability to succeed as police officers

1 connected to age and gender that we're all concerned

2 about here.

3 And, Mr. Korn, if you do head up such a task

4 force, I am happy to participate with you as far as

5 developing a policy piece for future presentation to

6 the Board. But I think this is an ideal opportunity

7 for us to look at that policy piece. And I would urge

8 the Board to consider doing so while examining this

9 really important issue.

10 I thank you for your time. And I would take

11 any questions you would care to offer.

12 MR. KASSETAS: Does the Albuquerque Police

13 Department do physical agility testing in conjunction

14 with some of this?

15 MR. WOLF: Yes, sir, we do. J.D. conducts,

16 along with the basic training staff, a task-based

17 physical agility test that includes pushing a car,

18 dragging a dummy, negotiating an obstacle course once

19 we are convinced that the cadets are sufficiently fit,

20 that we won't sustain unnecessary injuries in doing a

21 task-based course, which is always a risk in a

22 task-based course. You break them, you buy them.

23 And I can tell you that in ICE it got very

24 expensive. Breaking students during the physical

25 agility test, it happened with some frequency, because

1 in the field or are we measuring their ability to get

2 through the police academy. Those are two distinctly

3 different things.

4 The studies that have been conducted by the

5 state give us the benchmarks on what kinds of

6 parameters are set to be successful as a law

7 enforcement officer in New Mexico. We apply those to

8 the academy entrance standard.

9 How are they measured? Well, as you drift

10 away from a task-based standard and you go to these

11 arbitrary analogous standards like pushups, situps,

12 sprint, mile-and-a-half run, they don't directly map

13 back to the job task. They are highly correlative to

14 the kinds of skills we like to see. But they're not a

15 direct map back.

16 And that's why I would make the case for the

17 task-based standard, a physical ability standard, or a

18 physical agility test that actually incorporates the

19 job task requirements, the elements that are specified

20 in the job task for success as a police officer. And

21 we measure those.

22 I think you get a more valid measurement that

23 way, I think you get something that's readily easily

24 defensible, and I think you get something that

25 eliminates most of the discriminatory elements

1 there is some hazard there. And you own them once you

2 break them.

3 So we give them the opportunity to return.

4 But if they can't successfully complete it at any

5 point and we're the cause of the injury, well, they

6 get a lottery ticket and we pay for them for the rest

7 of their lives. So that is the risk.

8 MR. KASSETAS: To clarify, though, that

9 agility test, is that something that needs to be

10 performed prior to leaving your academy?

11 MR. WOLF: Yes. This is not an entry-level

12 test. This is an in-service test while they're in the

13 academy to show their progress, if they can achieve

14 these motor skills that we want them to have before

15 they leave.

16 MR. KASSETAS: And if they fail that, they

17 don't graduate?

18 MR. MAES: Correct. We do have the

19 State-mandated courses that is actually an agility

20 standard or an exit standard. And then we have some

21 other courses that we do as well that we're actually

22 researching on. And so with reference to the mandated

23 ones, then they cannot graduate unless they pass

24 those.

25 MR. WOLF: And we're trying to compile

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<p>1 sufficient data so that we can draw some conclusions 2 from these things.</p> <p>3 MR. GRATTON: Mr. Maes, Mr. Wolf, I see what 4 you're saying, that you require your cadets to reach a 5 certain level of fitness before you even let them take 6 that agility test; is that correct?</p> <p>7 MR. WOLF: Yes, sir.</p> <p>8 MR. GRATTON: To try to cut down on the 9 injuries.</p> <p>10 MR. WOLF: And this is why J.D. is a constant 11 ice pick in my ear about minimizing injury. His 12 primary goal is to safeguard the health and safety of 13 the cadets, while mine is to give them badges and guns 14 and put them on the street.</p> <p>15 That's a necessary tension. And we need that 16 check-and-balance to make sure that only the fittest 17 make it through our academy. And we take that really 18 seriously.</p> <p>19 MR. GRATTON: Thank you.</p> <p>20 MR. KORN: Mr. Wolf, I have to thank you for 21 coming also. I also enjoyed our several 22 conversations.</p> <p>23 MR. WOLF: That's because you like to argue, 24 Mr. Korn. So do I.</p> <p>25 MR. KORN: I learned a lot, though, I learned</p>	<p>1 a lot. And one of the things that is the advantage 2 with J.D. which I forgot to bring up is he has a 3 process for really looking at every cadet so that he 4 minimizes injury. It's almost on a personal basis.</p> <p>5 He evaluates each cadet professionally from 6 the standpoint of his background. So if they have a 7 bum knee, he figures out exercises to strengthen the 8 knee before you do the other work. And I recognize 9 that many of the departments don't have the benefit of 10 having a talent like that on their staff.</p> <p>11 But is this the sort of thing that you think 12 our panel can kind of put together or is that a 13 resource?</p> <p>14 MR. WOLF: It's something that I would highly 15 recommend that you research. If your organization 16 can't subpoena a position of someone who is an expert 17 in exercise science, I would recommend trying to work 18 out a contract on an as-needed basis. It's of 19 tremendous value to me because J.D. also tracks the 20 risk and injury of each cadet as they arc through the 21 academy.</p> <p>22 So I have my own validation data available at 23 my fingertips to tell me here is something we need to 24 do less of because the risk-benefit doesn't wash out, 25 here is something we can do more of because it</p>
<p>Page 148</p> <p>1 improves performance with minimal increase in risk. 2 So the basic training sergeant, J.D., and 3 myself constantly evaluate this, reassess, and make 4 adjustments. Again we don't want to push them to 5 their limit and over it. We want to push them to the 6 point where we're gaining continual improvement 7 through the 25 weeks or so that they're with us.</p> <p>8 And to J.D.'s credit I will say that 9 routinely the class exit performance on the age and 10 gender model exceeds 80 percent. And it has for 11 years. But then again we have the luxury of having 12 them for six months with an exercise physiologist on 13 staff.</p> <p>14 MR. KORN: Actually all of the academies 15 should exceed the exit standards that we're putting 16 down, if things work out right, I think is the goal. 17 So thank you very much. Thank you for appearing and 18 thanks for all your time.</p> <p>19 MR. WOLF: It's my pleasure. Thank you for 20 your time.</p> <p>21 MR. COON: Mr. Korn, would you restate what 22 you wanted to do with this right here.</p> <p>23 MR. KORN: Sure. Are there no other people 24 that want to speak?</p> <p>25 MR. COON: We have one. Gil.</p>	<p>Page 149</p> <p>1 MR. NAJAR: Gilbert Najar with Western New 2 Mexico University Police Academy. Back in 2004 we 3 brought in four of the top consultants in the country 4 to address the Law Enforcement Academy Board about the 5 validation and development of fitness entrance and 6 exit standards for police academies.</p> <p>7 We had workshops the day before Board 8 meetings in which the consultants all presented the 9 legal and proper methodology for validating fitness 10 entrance and exit standards.</p> <p>11 The standards that New Mexico had with the 12 age and gender norms were developed through a job task 13 analysis process and met the requirements that were 14 presented and the methodology by these consultants.</p> <p>15 And so my concern is that what you are 16 proposing today is arbitrary and will not meet the 17 validation standards legally to be defensible from the 18 standpoint that the age and gender norm standards were 19 developed based on a job task analysis done in New 20 Mexico on the existing 5,000 or so officers at the 21 time.</p> <p>22 Those officers provided input as to what the 23 job description was for police officers. It was 24 validated by the immediate first-line supervisors 25 based on criticality and based on frequency.</p>

1 And so what we have resulting is a job
 2 description for a police officer that serves as the
 3 anchor and the basis for the subsequent medical
 4 examination, psychological examination, drug testing,
 5 all that kind of stuff.
 6 Every one of the consultants advised that you
 7 can develop academy-only standards as opposed to what
 8 New Mexico had done, which were job standards. And
 9 New Mexico does have job simulation in their standards
 10 and requirements. They're not at the entrance,
 11 they're at the exit.
 12 You must perform the job simulation, agility
 13 one, and agility two courses which came from the job
 14 task analysis. So if you're to go to an academy
 15 standard and develop standards to identify the fitness
 16 of an academy applicant, what does that do to your
 17 medical examination?
 18 Because that's not designed for academy
 19 applicants, it's designed for law enforcement police
 20 officers. You don't have a job description for an
 21 academy cadet. You have a job description for a
 22 police officer.
 23 So I think some of these are troubling,
 24 because a Board next year or whenever the governor
 25 appoints new Board Members can establish a new

1 standard. If it's not anchored to a job task
 2 analysis, then it becomes arbitrary.
 3 And every Board can come in here when they
 4 feel like it and say, well, based on our experience,
 5 based on our education and knowledge, we believe these
 6 should be the standards for New Mexico. And the
 7 standards should be driven by the officer successfully
 8 doing the job out there. That's how they become
 9 defensible.
 10 Every one of the consultants also said, if
 11 you were to do a valid job task analysis for academy
 12 entrance, it would probably survive legal challenges.
 13 However, then you've got the issue that the chief
 14 referred to about what about the incumbents out there.
 15 There are no fitness standards for the incumbent
 16 officers.
 17 And so when we look at establishing standards
 18 for individuals in the academy when we know up front
 19 that there are officers, a large segment perhaps, who
 20 cannot perform at the level of what we're requiring at
 21 the academy, that is also a conflict to me. I'm not
 22 sure how we resolve that.
 23 In 2004 Cooper posted their opinion that the
 24 age and gender norms were in violation of the Civil
 25 Rights Act and it raised a furor. Eventually the EEO,

1 federal EEO, responded to the Cooper posting of that
 2 information on their website.
 3 And we got a copy of the letter and shared
 4 that with the Board at the time in addition with all
 5 the information from the consultants. And the EEO's
 6 position was that they had not ever had a court rule
 7 on the issue of age and gender norming and they had no
 8 intention of pursuing any agency legally who were
 9 using age and gender norming standards.
 10 So a couple of people have noted that the
 11 difference between a validation of a fitness entrance
 12 requirement and a valid entrance requirement are two
 13 different things. Validation for an academy standard
 14 is different from that of a police officer as well.
 15 And I think where we're at ought to encourage us to
 16 look at forming your committee to look more deeper
 17 into this issue.
 18 I like the standards that you have proposed.
 19 I have absolutely no problem with them. I guess my
 20 only question is with the validity of them and how
 21 defensible would they be if challenged. I think
 22 that's it. Thanks a lot.
 23 MR. KORN: Thank you, Mr. Najar.
 24 MR. COON: Anybody else? Okay. Mr. Korn.
 25 MR. KORN: So, Mr. Vice Chair, my motion

1 would be to establish as a new single standard for the
 2 next year the items proposed in green, which would be
 3 the proposed single standard for the entrance and for
 4 the exit for New Mexico, for all the New Mexico
 5 academies.
 6 And then the second motion would be to
 7 establish a board to monitor the progress of the
 8 academies and also all of the guidelines for entrance
 9 into the various departments, to monitor how the
 10 fitness works, and also to look at other jurisdictions
 11 to see if there's a better way. And then, at the end
 12 of that year, to report back and decide whether to
 13 continue the proposed single standard or to change it
 14 or to go to a whole different standard all together.
 15 MR. COON: Okay.
 16 MR. KORN: So it would be two motions.
 17 MR. COON: Okay. On the first motion, do I
 18 have a second?
 19 MR. GRATTON: I'll second.
 20 MR. COON: Okay. All in favor say aye.
 21 (Those in favor so indicate.)
 22 MR. COON: All opposed. Okay.
 23 Now, on the second, you're going to have to
 24 repeat a little of it.
 25 MR. KORN: You're going to help me with that,

1 aren't you, Mark?

2 MR. REYNOLDS: I would only suggest that you
3 would term it a subcommittee of this committee or a
4 task force. I think you can have the motion. You
5 need to work out some of the details. Do you want
6 Board Members, members of the public, representatives
7 from some of the other academies, and that sort of
8 stuff.

9 I would like to hear a discussion of exactly
10 what you have envisioned, whether it's a subcommittee
11 of this Board or if you're just kind of forming a task
12 force.

13 MR. KORN: That's a good point. It would be
14 in my opinion a panel which would be composed of a
15 subcommittee of the Board, either three or four
16 Members of the Board, and a group of people from the
17 public. I mentioned a couple of people. I think J.D.
18 Maes would be critical to our success and I know he's
19 willing. And I've mentioned a chief from Roswell who
20 I think would be appropriate and well-positioned.

21 But other than that I think other Members of
22 the Board could suggest others. And we want to make
23 it large enough to be representative and smart and
24 small enough so that we can work together and actually
25 have meetings where we don't get hung up on time.

1 ITEM NO. 34: FIREARMS TRAINING QUALIFICATIONS

2 MR. COON: Next is No. 34, firearms training
3 qualifications.

4 MR. McCALL: To make this short and sweet for
5 time purposes, after our last meeting, I know I
6 received numerous questions on firearms qualification.
7 And after reviewing the minutes from our last meeting,
8 I can see where there may be some misinterpretation on
9 what qualification course we're going to be using.

10 I would just like to ask Director Jones, for
11 the benefit of the public -- I know the answer, you
12 and I have talked about this. But for the benefit of
13 the public, we're using our previous qualification
14 course at 80 percent, correct?

15 MR. JONES: Yes, sir.

16 MR. McCALL: Okay. I think that squares
17 everything away. There was some misunderstanding as
18 to whether we were using a new qualification course
19 and the standard 80 percent or remaining with the old.

20 That was all I had in reference to the
21 firearms, just clarifying that fact and making sure we
22 make that clear for the rest of the law enforcement
23 community.

24 MR. COON: Any discussion on that?

25 MR. KASSETAS: Further clarification. So the

1 So what I'm proposing is that we as a Board
2 establish a panel. And that after the meeting we can
3 work out the details and then report back to the Board
4 next time.

5 MR. REYNOLDS: Okay. My suggestion would be
6 for that panel to have three Board Members instead of
7 four. I'm a little worried that with four, if you
8 have anybody leaving the Board or anything like that,
9 you're starting to reach the potential of a quorum.

10 So to make it safe under the Open Meetings
11 Act so that you're not violating the Open Meetings
12 Act, just that you have three Members of the Board
13 instead of four.

14 MR. KORN: That's a good suggestion. So that
15 would be the motion then, three Members of the Board
16 and a panel to be determined and a committee to be
17 determined.

18 MR. COON: Okay. Do I have a second on that
19 motion?

20 MR. McCALL: Second.

21 MR. COON: Okay. I have a second. All in
22 favor say aye.

23 (Those in favor so indicate.)

24 MR. COON: All opposed. Okay. That one is
25 out of the way.

1 scoring stays the same and the targeting stays the
2 same, correct?

3 MR. JONES: Yes, sir.

4 MR. QUEZADA: Targeting the same course as
5 prior?

6 MR. JONES: Yes. The old DPS law enforcement
7 qualification courses stay the same.

8 MR. QUEZADA: Okay.

9 MR. KORN: I guess I do have a question. In
10 some of your documents, you say the new course is
11 still optional.

12 MR. JONES: For the Law Enforcement Academy.

13 MR. KORN: Do you have a personal opinion
14 whether we should change the firearms or are you happy
15 with where we are?

16 MR. JONES: We went to a new qualification
17 course because the old qualification course had been
18 shot so many times people can do it in their sleep.
19 What we wanted to do was give them another challenge.

20 For example, in the old qualification course,
21 there was a thing where you have to do a tactical
22 reload under time. You don't do tactical reloads
23 under time. A tactical reload is when you finish the
24 fight and you go and you have cover. You do a
25 tactical reload.

1 What we wanted to do was time them under what
2 a speed reload would be under time versus a tactical
3 reload. So those are some of the things we looked at
4 plus the target changing itself with the number of
5 rounds that were fired -- correction. The scoring on
6 the target itself was harder.

7 And I don't know if you were able to
8 determine that or not. It was harder to get at
9 80 percent because the scoring was harder. But we're
10 going to go back to the old score, we're going to go
11 back to the old target. And that's fine with me.

12 We went to the academies before, we went to
13 firearms instructors before. And I thought we brought
14 it to the Board. Apparently we didn't, not to the
15 satisfaction of the Board. I would be glad to do it
16 again if we want to look at something else in the
17 future.

18 MR. KORN: I don't know that the Board is
19 opposed to new ideas and new cutting edge, are we?

20 MR. QUEZADA: I would recommend that we look
21 into a newer course. I still like the standard of
22 maintaining it still at 80 percent.

23 MR. JONES: One of the things we could do on
24 a new course is that we could change -- what we did on
25 the old target was we went to a credit card, which

1 are not a lot of firing ranges in the State of New
2 Mexico that are certified ranges. So we tried on the
3 new qualification course to fix it so that those
4 officers that had ranges that were not certified could
5 still use it without having to do a lot of things.

6 For example, it says in the NMAC that all
7 officers will qualify on turning targets. There's
8 only one agency in the State of New Mexico that has
9 turning targets. Excuse me. APD.

10 They're the only agency in New Mexico that
11 has an exercise physiologist. It costs money to do
12 these things. And the agencies don't have the ability
13 to do this. So we looked at this stuff.

14 The target we went to and the scoring system
15 we went to is exactly what the FBI does. The FBI
16 realized all of a sudden that gunfights were happening
17 within, you know, seven yards, 21 feet. And then they
18 changed what they did on their firearms
19 qualifications.

20 And what we really looked at was the fact
21 that they were doing speed reloads under time versus
22 tactical reloads under time and had to make a movement
23 in there somewhere where there was a kneeling shot at
24 the five-yard line or you make a left and right move
25 at the 15-yard line.

1 made it harder to get a head shot and score on the
2 head shot on the target.

3 We can go back to the T that we had on the
4 old qualification course and still do the new
5 qualification course. The day qualification course is
6 the same number of rounds. The night qualification
7 course is a little shorter in rounds.

8 We looked at that because it is a proficiency
9 course. When we look at these things, it's people
10 maintaining proficiency. And what we want to do is
11 maintain proficiency at 80 percent.

12 MR. KASSETAS: I think that's to the core of
13 what we need to do. And I think we always have to
14 evolve and have the goal of having the best and most
15 robust training in whatever it is. It's just about
16 that standard and either raising it or keeping it at a
17 certain level.

18 So I definitely think we should explore any
19 options that your different directors come up with and
20 then come back to the Board and tell us how this would
21 enhance how we do business, whether it's physical
22 fitness, defensive tactics, and/or firearms, and maybe
23 make a decision on it.

24 MR. JONES: And it goes back to another issue
25 that we all have in the State of New Mexico. There

1 But there was something that was done
2 different besides standing there on a square range,
3 drawing your weapon, and shooting rounds down range.
4 That's what we tried to look at.

5 MR. KASSETAS: Director, I don't think
6 anybody is advocating not looking at their different
7 types of techniques. It's more the lowering of a
8 standard from whatever percentage to another one that
9 we're concerned about.

10 So you can continue to go down that track and
11 maintain the prescribed standard. I don't think
12 anybody will argue with you on that.

13 MR. McCALL: And I'll tell you, on that
14 firearms course that you had proposed, I can see that
15 the 70 percent standard wasn't lowering that standard.
16 If you've shot that course, it was a much more
17 difficult course, it was more target specific, there
18 was a lot of manipulation of magazines and different
19 shooting stances and styles.

20 It was a much more challenging course I think
21 on the face of the environment at the time. But that
22 scared a lot of people at 70 percent.

23 I think as you said some of targeting,
24 scoring, and things like that, I know I had officers
25 that lost all 12 points on the credit card shot but

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<p>1 still had what would have been scorable hits on 2 previous. 3 MR. JONES: Absolutely. What we wanted to do 4 was get them to be able to tighten up their shots and 5 understand what they need to do. 6 I would rather see the officer take time and 7 put the two rounds down range and put them in the 8 target and miss the other two rounds, but do it in a 9 timely fashion so that you've got, you know, the shots 10 off and you did it in a timely fashion and scored 11 within the timeline. 12 MR. KASSETAS: Okay. 13 MR. GRATTON: Director Jones and Chief 14 McCall, somehow we need to get that information out. 15 If the 70 percent is equal or better than the 16 80 percent we used to use, we've got to get it out. 17 And I'm looking at Sheriff London and Mark 18 out there. We've got to go back to Eddy County and 19 convince the people there that we're not lowering the 20 standards and that our police officers and sheriff's 21 department only can shoot 70 percent where they used 22 to be required to do 80. I don't see that that's 23 going to be accepted well by the community. And 24 that's my concern. 25 MR. JONES: Sir, we're not going to do that.</p>	<p>1 We're going to stay at the 80 percent. 2 MR. GRATTON: But, Jack, we can move to the 3 70 percent, if you feel it's valid. But somehow we've 4 got to get across to the communities that that is 5 equal to what we used to use. 6 MR. JONES: Sir, the 80 percent is valid. 7 It's valid on the targets that we're shooting now and 8 what we need to do. The scoring system that we did on 9 the new system is a little harder. And we need to 10 change that scoring system so that it is equal to what 11 we do now. Eighty percent is fine. 12 MR. GRATTON: Okay. 13 MR. JONES: We're not lowering the standard 14 and we're not going to change the standard. 15 MR. GRATTON: Okay. Thanks. 16 MR. COON: Okay. Any more questions? No, 17 sir. Thank you, Director. 18 Let's take a break. 19 (Recess.) 20 ITEM NO. 36: INDIVIDUAL BOARD MEMBER COMMENTS 21 MR. COON: We're now on agenda item 36. 22 MR. KORN: I think I'll yield the floor to 23 Chief Kassetas. 24 MR. KASSETAS: So not only as a Board Member, 25 but as the Chief of the State Police and having a</p>
<p>Page 164</p> <p>1 relationship with the Law Enforcement Academy under 2 the Department of Public Safety umbrella, I see the 3 challenges that the Law Enforcement Academy and their 4 staff face daily. 5 And it's daunting. There are a lot of moving 6 parts to what they do over there. And we continually 7 come to these meetings on misconduct. And it makes 8 for a long day, but it's important, our work is 9 important. 10 The reality is I don't know if the Director's 11 job can continue with all of the responsibility of the 12 recruit schools, curriculum, advanced training, 13 in-service training, biennium training, can continue 14 with the level of informal hearings that he has to 15 deal with. 16 And I'd like some discussion on, and I think 17 I can pull this off with the DPS budget-wise, is 18 appointing possibly a special Hearing Officer, maybe 19 one of the five or six we have that actually hear 20 formal cases, to hear those informal hearings and 21 prepare the LEA-90s and recommendations to the Board. 22 I don't believe it specifies in NMAC that it 23 has to be the Director. Not that the Director is 24 doing a job that's not meeting a standard. It's just 25 a matter of time and availability to do all this.</p>	<p>Page 165</p> <p>1 It's almost like he's running an Internal 2 Affairs unit on top of an academy. And I've heard 3 Director Jones say several times that, well, I called 4 that chief or I called that officer or I called that 5 witness. Although he has now an investigator on 6 Board, I don't know if at the end of the day it's 7 conducive to having him doing all of that work. 8 MR. KORN: If I may comment. 9 MR. COON: Yes, sir. 10 MR. KORN: Mr. Vice Chair, Chief Kassetas, I 11 think that Director Jones does an admirable job 12 juggling 9 million balls in the air. But I think this 13 would also give him some relief so that he could 14 concentrate on what he needs to do and also be 15 Director over not only the academy, but also 16 misconduct cases as a supervisor instead of as 17 somebody that has to do the work because there's 18 nobody else. 19 And we've already adopted as a Board a 20 committee to have Hearing Officers. And on that 21 committee, of course, is yourself, I'm on it, Sheriff 22 Coon is on it, and Mr. Barncastle. 23 So I think our committee can work towards 24 assigning one of the Hearing Officers we already have, 25 vetting who might be appropriate and available, and</p>

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1 then asking them to start doing the task on a regular
 2 basis hand in hand with the Director's office.
 3 There's a certain infrastructure that has to
 4 go on there to hand off from the Hearing Officer to
 5 the witnesses to the times the room is available to
 6 writing up the results of the informal hearing. I
 7 think it's a good idea. I just think we have the
 8 infrastructure in place to do it on our own.
 9 MR. KASSETAS: We definitely would have to
 10 take the input from not only Director Jones, but
 11 Secretary Fouratt as it deals with the inner workings
 12 of DPS.
 13 I know that it's a standard process, but it's
 14 reliant on a lot of things that we have working for
 15 DPS. So I think that committee can flesh that out and
 16 see if that's the best route to go before the next
 17 meeting. Is that what you're saying?
 18 MR. KORN: That's kind of what I'm saying.
 19 Although I have the highest admiration for Secretary
 20 Fouratt, of course, I look at this as being a Board
 21 mandate. And, of course, you are the liaison, you
 22 would be a Deputy Secretary I would assume. Is that
 23 what you meant?
 24 MR. KASSETAS: Yeah. I mean we can mandate
 25 all we want as a Board. But there are logistics

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1 motion invoked.
 2 MR. KORN: I think it's just our process.
 3 MR. REYNOLDS: So legally I don't care so
 4 I'll leave it to your discretion.
 5 MR. KORN: Is there Board concurrence? I
 6 guess we can get an idea whether we all agree.
 7 MR. KASSETAS: Let's explore it then and
 8 figure out a process and move forward.
 9 MR. REYNOLDS: I would advise, for our next
 10 meeting, to have it as an agenda item so that, if you
 11 want to take a formal vote on it, you can.
 12 MR. KASSETAS: Thank you.
 13 ITEM NO. 37: DISCUSSION: SENDING PENALTY ASSESSMENTS
 14 TO MAGISTRATE COURT VIOLATING STATE STATUTE
 15 MR. COON: Next is No. 37, Judge Harrold
 16 Mansell. Judge Mansell, are you here? Is he here?
 17 Was he here earlier, does anybody know? Okay. We're
 18 going to skip him then since he's a no-show.
 19 ITEM NOS. 38, 39, AND 40: CREDENTIALS CHALLENGE FOR
 20 BOARD MEMBER PATRICK BARNCASTLE, REQUEST FOR ADOPTION
 21 OF AN LEA CODE OF ETHICS, AND SCHEDULING A RULEMAKING
 22 PUBLIC HEARING ON LEA CURRICULUM
 23 MR. COON: Then No. 38. Is Mr. Mechels here?
 24 Mr. Mechels, are you here? Okay. That knocks out
 25 Nos. 38, 39, and 40.

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1 behind it on the DPS side. So I want to take into
 2 account Secretary Fouratt's and Director Jones' input.
 3 So again I like your approach of getting that
 4 committee together and that it come up with a process
 5 to include the DPS side.
 6 MR. KORN: I think communication with DPS
 7 would be important. Of course, the Director is
 8 important to the whole process.
 9 MR. KASSETAS: I don't want to make the
 10 decision in a vacuum. But I do see it alleviating a
 11 couple issues with work overload and the ability to
 12 conduct these investigations as quickly as we can.
 13 And, you know, the Director is put in an
 14 awkward position because he has formed a relationship
 15 with the different department heads and a very good
 16 one. And then he also passes on their employees
 17 discipline. And again it works. It just puts him in
 18 an awkward position. So thank you.
 19 MR. COON: Any other comment on this? I
 20 think that's a great idea myself.
 21 MR. KORN: Is a motion required? It's just a
 22 process, isn't it?
 23 MR. REYNOLDS: If the Board wants to choose
 24 to make it an official action, I think it can. I'm
 25 not sure if it's something that requires a formal

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1 ITEM NO. 36: INDIVIDUAL BOARD MEMBER COMMENTS
 2 MR. COON: Let's go back to No. 36,
 3 individual Board Member comments. And we'll start
 4 over here with Jaime.
 5 MR. QUEZADA: I don't have anything.
 6 MR. BARNCASTLE: I don't have any comments.
 7 MR. KORN: I don't either.
 8 MR. GRATTON: No comments.
 9 MR. KASSETAS: None.
 10 MR. McCALL: No.
 11 MR. COON: Well, I do. You're not getting
 12 off that easy. I just want to thank you all for,
 13 number one, coming to Ruidoso. It was a nice drive,
 14 an hour and 20 minutes, for Pat and I to get down
 15 here. Chris was a little closer, John was a little
 16 closer. I think we were all a little closer except
 17 Nate and Pete.
 18 But thank you all for coming. This will be
 19 my next to the last Board meeting. I'm leaving
 20 December 31st. So there will be a new sheriffs
 21 representative.
 22 I will write a letter to the governor. I've
 23 got somebody in mind that I would love to take my
 24 place, if he's willing to do it. And he will get
 25 along with this Board very well. But again thank you

1 for coming. It's been a long day. So that's all I
 2 have.
 3 ITEM NO. 41: SCHEDULING OF NEXT BOARD MEETING
 4 MR. COON: And then No. 41, scheduling of the
 5 next Board meeting.
 6 MR. JONES: Sir, we need to have one more
 7 Board meeting before the end of December. And we're
 8 looking at November or December. So we'll send out a
 9 notice to see what fits best for the Board where we
 10 can get a quorum.
 11 MR. COON: So we have two meetings left?
 12 MR. JONES: One more meeting.
 13 MR. QUEZADA: I'll welcome you to Las Cruces.
 14 We would love to have you guys down there.
 15 MR. JONES: Sir, Hobbs has a graduation on
 16 December 9th, we have a graduation December 19th. So
 17 I don't know if you would like to collocate that with
 18 a graduation at any one time.
 19 MR. KORN: We historically usually meet in
 20 Albuquerque because there's that Municipal League
 21 event.
 22 MR. McCALL: Policing in the 21st Century.
 23 MR. COON: That starts on a Tuesday. Usually
 24 we always start to have a meeting I think on a Monday.
 25 A lot of us are going to be there anyway so maybe we

1 can work that out.
 2 MR. JONES: The week of December 6th in
 3 Albuquerque.
 4 MR. McCALL: Mr. Vice Chair, one thing you
 5 might want to look at in scheduling is looking at
 6 separating out Board business from disciplinary action
 7 in the future.
 8 MR. COON: Right. You know, this probably
 9 won't affect me too much, but it will affect the rest
 10 of these guys. When we first started this, we were
 11 doing the business meeting first and then we would
 12 start doing the disciplinary.
 13 Well, you know, when you're looking at some
 14 time off or maybe your job being taken away from you
 15 and you have to sit there and listen to everything
 16 else and then drive home in the dark after a long day,
 17 it just wasn't fair.
 18 So we just flip-flopped it to where we did
 19 the disciplinary first so these guys and gals can get
 20 on their way home and not have to sit and listen to
 21 the rest of everything. Most of them could care less
 22 about some of this.
 23 But we need to maybe set up a day for
 24 disciplinary and a day for Board business. But maybe
 25 cut it up into two days, maybe one in the afternoon

1 and one the next morning or something like that. It's
 2 a drain on everybody to have to sit up here for eight
 3 or nine hours, you know, have your lunch brought in.
 4 So that's all I have on that.
 5 ITEM NO. 42: ADJOURNMENT
 6 MR. COON: Okay. I need a motion to adjourn
 7 this meeting.
 8 MR. GRATTON: So moved.
 9 MR. BARNCASTLE: Second.
 10 MR. COON: All in favor say aye.
 11 (Those in favor so indicate.)
 12 MR. COON: All opposed. Thank you all for
 13 coming.
 14 (The meeting concluded at 4:35 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 September 3, 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.
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JAN A. WILLIAMS, RPR
 New Mexico CCR #14
 License Expires: 12/31/14

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