

NEW MEXICO LAW ENFORCEMENT ACADEMY
REGULAR BOARD MEETING

March 8, 2016

8:30 a.m.

New Mexico Law Enforcement Academy
4491 Cerrillos Road
Santa Fe, New Mexico 87507

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

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BOARD MEMBERS

New Mexico Attorney General Hector Balderas, Chairman
Chief Pete Kassetas, Vice Chairman
Sergeant Jaime Quezada
Chief Chris McCall
Sheriff Wesley Waller
Chief Darren Soland
Scot Key
Elisabeth Miller
Kelly Burnham

ALSO PRESENT

Brian Coss, Acting Director
Richard B. Word, Esq.
Monica Medrano

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Attached:
Exhibits 1 through 4 - Certifications of Law
Enforcement Officers

1 ITEM NO. 1: CALL TO ORDER

2 A.G. BALDERAS: Good morning, everyone.

3 Today is Tuesday, March 8th, 8:30 a.m. I hereby call
4 this meeting to order.

5 ITEM NO. 2: ROLL CALL

6 A.G. BALDERAS: The first item of business is
7 roll call. Monica, if you could please call roll.

8 MS. MEDRANO: Attorney General Balderas.

9 A.G. BALDERAS: Here.

10 MS. MEDRANO: Mr. Scot Key.

11 MR. KEY: Present.

12 MS. MEDRANO: Chief Kassetas.

13 CHIEF KASSETAS: Present.

14 MS. MEDRANO: Sheriff Waller.

15 SHERIFF WALLER: Present.

16 MS. MEDRANO: Chief Soland.

17 CHIEF SOLAND: Present.

18 MS. MEDRANO: Chief McCall.

19 CHIEF McCALL: Here.

20 MS. MEDRANO: Sergeant Quezada.

21 SERGEANT QUEZADA: Here.

22 MS. MEDRANO: Kelly Burnham.

23 MS. BURNHAM: Here.

24 MS. MEDRANO: Elisabeth Miller.

25 DR. MILLER: Present.

1 A.G. BALDERAS: Before we move on to the next
2 agenda item, I would like to formally introduce the
3 Law Enforcement Academy's Acting Director, Mr. Brian
4 Coss. Thank you, Mr. Coss, for being here.

5 MR. COSS: Thank you, sir.

6 A.G. BALDERAS: Great. Welcome.

7 ITEM NO. 3: APPROVAL OF AGENDA

8 A.G. BALDERAS: I would like to move on to
9 item No. 3, approval of the agenda. You all have the
10 agenda ahead of time. And at this time, if there are
11 no other questions, I'd like to entertain a motion to
12 review and approve the agenda for today's meeting.

13 CHIEF McCALL: Motion to approve.

14 MS. BURNHAM: Second.

15 A.G. BALDERAS: There is a second to the
16 motion to approve the agenda. All in favor say aye.

17 (Those in favor so indicate.)

18 A.G. BALDERAS: Any opposed? The agenda is
19 approved.

20 ITEM NO. 4: APPROVAL OF MEETING MINUTES

21 A.G. BALDERAS: We will now go to item No. 4,
22 approval of minutes. Those are the December 15th and
23 16th meetings minutes. We need to approve the minutes
24 of the last meeting. Copies of those minutes were
25 distributed as well to the Board Members and made

1 available on the LEA website.

2 Are there any corrections to the meeting
3 minutes by Members of the Board who were present at
4 that meeting? If there are no corrections, I'll
5 entertain a motion to approve the minutes.

6 MR. KEY: I move to approve.

7 SHERIFF WALLER: Second.

8 A.G. BALDERAS: There is a second. All in
9 favor to approve the minutes.

10 (Those in favor so indicate.)

11 A.G. BALDERAS: Any opposed? The minutes are
12 also approved for agenda item 4.

13 ITEM NO. 5: OPEN MEETINGS ACT RESOLUTION

14 A.G. BALDERAS: We now move to agenda item
15 No. 5., the Open Meetings Act resolution. And I will
16 turn it over to Counsel Rick Word from my office who
17 will address that issue.

18 MR. WORD: Thank you, Attorney General
19 Balderas. The Open Meetings Act requires public
20 bodies to annually adopt an open meeting resolution,
21 which basically sets forth their policies with respect
22 to what constitutes public notice of their meetings.
23 And this will be an updated version of the motion that
24 you moved and approved last year.

25 That does not appear to have made it into

1 your packet. That will be distributed. It's going to
2 be identical to the motion last year with the 2016
3 dates in there.

4 A.G. BALDERAS: Where is the resolution?
5 We're trying to locate the actual resolution.

6 MR. COSS: From the past meeting from a year
7 ago?

8 A.G. BALDERAS: I don't have it in my packet.
9 Does anyone have in their packet item 5? So I would
10 suggest we come back to that item at the end of the
11 meeting. We do need to locate it. And I'll direct
12 staff to try to locate the resolution you're referring
13 to.

14 ITEM NO. 6: ELECTION OF VICE CHAIRMAN

15 A.G. BALDERAS: Item No. 6, election of a
16 Vice Chairman. We are going to move on to the
17 election of Vice Chair. So nominations are now in
18 order for the position of Vice Chair. I'll wait for a
19 nomination and a second, if there are any takers.

20 CHIEF SOLAND: Mr. Chairman, I would like to
21 make a motion to nominate Chris McCall.

22 A.G. BALDERAS: Great. There is a motion to
23 nominate Chris McCall as Vice Chair. Is there a
24 second?

25 DR. MILLER: Second.

1 MR. KEY: Second.

2 SHERIFF WALLER: Second.

3 A.G. BALDERAS: There is a second. Board
4 Member McCall is nominated. Are there any more
5 nominations? I'll take that as no poor reflection of
6 my leadership, that there's only one. That would be
7 fine.

8 Seeing that there are no further nominations,
9 nominations are now closed. We'll move to a vote.
10 All in favor of electing Board Member McCall as Vice
11 Chair say aye.

12 (Those in favor so indicate.)

13 A.G. BALDERAS: Are there any opposed? The
14 ayes have it. Congratulations, Vice Chairman. The
15 record will show that Board Member McCall has been
16 elected as Vice Chair of the Board.

17 ITEM NO. 7: DIRECTOR'S REPORT

18 A.G. BALDERAS: We'll move to item No. 7, the
19 Director's report. Next up we have our new Acting
20 Director Coss. You are now recognized and have the
21 floor for your report.

22 MR. COSS: Thank you, Mr. Chairman, Members
23 of the Board. The information you have in front of
24 you in your packet highlights the activities which
25 have taken place at the New Mexico Law Enforcement

1 Academy and other satellite academies around the State
2 since we last met on December 14th.

3 Before we summarize those activities, I would
4 like to begin with discussing with the Board the
5 amount of work that it takes to be able to prepare
6 these things and try to prepare, you know, timely and
7 informational packets to the Board as well as to the
8 public.

9 And I would ask that the Board consider, if
10 we need to back up timelines a little bit more to be
11 able to assure that everybody has comprehensive time
12 to review and add agenda items, we can usually
13 accommodate that.

14 But once alterations to the agenda begin in
15 the finalizing process, it does make it a little bit
16 more difficult to make sure that we have everything
17 for the Board and the public that are necessary for
18 these meetings.

19 So I would just ask the Board's help in
20 accomplishing that, that if there are agenda items or
21 alterations to it, please let us know as early as you
22 can so we can make sure we get everything in there
23 that we'd like to. And I would appreciate that.

24 We started Basic Class No. 192 with 50
25 cadets. The class currently sits at 44. And they are

1 currently in the gymnasium in the defensive tactics
2 block, which is why we have the room. So we have
3 enough room to be able to spread out a little bit.

4 We also started Public Safety
5 Telecommunicator Class No 131 with 32
6 telecommunicators. And they're actually seated in the
7 adjoining classroom. They're scheduled to graduate on
8 March 18th and there are 32 in attendance there.

9 We've also graduated Certification by Waiver
10 of Previous Training Class No. 88 with 13 newly
11 certified or recertified, if you will, officers on
12 February 26th.

13 The Advanced Training Bureau has reviewed and
14 issued just short of 1,300 curriculum accreditations
15 during the past ten months. And when we looked
16 historically, there appears to be about a 30 percent
17 increase in that processing. And those are all --
18 those are all good things. But it does increase the
19 workload slightly.

20 Also the Advanced Training Bureau has
21 processed just a little over 1,000 applications for
22 instructor certifications in advanced level
23 certifications, which again represents over the same
24 time period a slight increase. Again I think those
25 are positive things.

1 As far as the IPRA requests, we're fielding
2 on average about one a day, which seems to be maybe a
3 slight increase, but pretty much steady and consistent
4 throughout.

5 As far as an update on the 2014-2015 biennium
6 agency in-service training reports and affidavits,
7 affectionately called the LEA-84, those are all due in
8 on March 1st. And that was documenting training that
9 occurred up to the end of December of 2015.

10 We're still currently entering that data and
11 developing that for the Board. Currently we have
12 about 120 reports in and on file and have the data
13 entered. And so I hope to have a little bit more
14 comprehensive information for you guys as we move
15 forward to the June meeting. But the numbers actually
16 look pretty good, they look pretty good.

17 The satellite academies, Bernalillo County
18 Sheriff's Office Academy No. 36 graduated 25 officers
19 on December 18th; San Juan Satellite Academy No. 37
20 graduated 11 officers; Dona Ana County Academy Class
21 No. 21 graduated 25 officers; and then Albuquerque
22 Police Department Academy No. 114 graduated 48.

23 So when we look at it comprehensively, when
24 we combine all the academies, we've graduated about
25 122 newly certified officers on the street in the

1 State of New Mexico for the first quarter of this
2 year.

3 Currently there are about 172 basic trainees
4 in process in academies across our State. And all of
5 those are expected to graduate somewhere around July
6 or before July. And so all told, you know, for the
7 first half of the year, calendar year, we're looking
8 at about approximately 294 newly certified officers on
9 the street.

10 If you carry those numbers forward,
11 anticipating, you know, the same numbers coming in for
12 the second part of the year, we're looking at about
13 588 newly certified officers for the year, not
14 including any cert by waiver candidates because those
15 are a little bit harder to track and be able to
16 monitor.

17 But that just truly demonstrates the
18 leadership that's going on around our agencies across
19 the State and the commitment by our satellite
20 academies to be continuing the recruiting process and
21 to assure they provide the very best training that we
22 can.

23 We've had a couple classes through the
24 advanced training side of the shop that are listed
25 there. And at this point I would stop and ask if

1 there are any questions to this point.

2 Seeing none, there was a request by the Board
3 to make some changes to the actual LEA-90 form which
4 is the misconduct form. And if you turn a page back,
5 you'll see the DPS misconduct form. The first one is
6 the one with the changes that the Board recommended.
7 The second one just for your reference then is the
8 existing or the previous form.

9 Then just to kind of summarize the changes,
10 there is now a space for the agency head signature,
11 which is a requirement. There is a mandatory summary
12 or narrative section. And I'll come back to that in
13 just a moment.

14 And there's a space on this form now if
15 there's been any previous sustained misconduct
16 allegations and/or listing any agency-imposed
17 discipline. And that's for the Board's, you know,
18 comprehensive understanding of what has occurred in a
19 particular incident.

20 Backing up to the summary or narrative
21 section, as the Board well knows, there's a couple
22 different processes that these misconduct cases -- or
23 a couple different paths in which these can move
24 through the system.

25 One is the oral response or informal process,

1 if you will. And if the case ends there, that they
2 don't move on to a formal process, it is very
3 beneficial if we have just a brief synopsis contained
4 on that form. And let me explain why.

5 If that particular document is subject to an
6 IPRA request, right, and all that form says at the
7 bottom of it is see attached, right, if it ends at the
8 oral response, right, then the other documentation
9 then is not necessarily public record. All right.

10 So when you're sending out that request and
11 all it says is see attached, then it causes some
12 confusion for the folks that are requesting that. So
13 just as we move forward, I ask -- and we'll
14 communicate that with the agencies. But I just ask
15 that just a brief synopsis be put in there so that
16 there's an understanding of it.

17 Naturally, if the case moves forward to a
18 formal hearing, then all of those documents become
19 public record. And so it doesn't matter from that
20 point forward, they're all discoverable. Are there
21 any questions on the updates to the form?

22 DR. MILLER: I have one question. And I hope
23 I'm not muddying the waters here. Didn't we have a
24 conversation about making sure that this form didn't
25 just respond to filing the LEA-90; but if the officer

1 had moved on to a different department or agency, that
2 they were also notified.

3 MR. COSS: I wasn't part of that
4 conversation. I apologize. But it's something that
5 we can adapt, if we need to.

6 DR. MILLER: If it's something that we're
7 going to respond to, then I would just think a line
8 item of current employer or current location notified
9 as well. Maybe just date notified employer; final
10 action; date notifying reporting employer; final
11 action; and then date noting current employer, if any.

12 MR. COSS: And we can probably add that. If
13 it would work for you, we can probably add that onto
14 that same section, date notified employer, misconduct
15 received. We can just add, you know, one other
16 element describing, you know, future employer.

17 DR. MILLER: That would be sufficient I
18 think.

19 CHIEF KASSETAS: Mr. Chair, Director, I
20 believe that that is the case, that Dr. Miller is
21 correct. That there was a disconnect between times
22 when the notification was going to obviously the file
23 and another agency didn't know about it.

24 So I think that, if the LEA knows about the
25 whereabouts of that particular officer and where

1 they're assigned or hired, it would be an extra step;
2 but it would be worthwhile to try to put that together
3 to make sure everybody is notified. So I agree that
4 we should make that attempt. We may not know. But if
5 we do, we should send it to both.

6 MR. COSS: Board Member Kassetas, I
7 appreciate that. And we track that, the folks that
8 move from one agency to the next, with the LEA-82
9 form. And that could easily trigger -- if there is a
10 pending case, that could easily trigger then
11 notification.

12 And I'll be happy to make that slight
13 alteration to the form. And again, remember, this
14 form is just kind of policy, if you will, adaption.
15 So at least I don't believe it requires an actual
16 vote. It's just informing you all of trying to be
17 responsive to requests in the past. But I'll get that
18 alteration made.

19 MS. BURNHAM: Excuse me. I have just a tiny
20 correction. Misspelled word. Mandatory is
21 misspelled. Kelly Burnham, 1962 Arkansas spelling
22 champion.

23 MR. COSS: I understand. So we will take
24 care of that.

25 MS. BURNHAM: Thank you.

1 CHIEF KASSETAS: Mr. Chair, Director, I
2 believe that, so we can move forward, I would make
3 those two additions. And then we can have the form
4 corrected and start using it immediately unless the
5 Chair has an objection to that.

6 A.G. BALDERAS: I don't.

7 CHIEF KASSETAS: There you go.

8 MR. COSS: Thank you. We will make those two
9 corrections and then begin publishing the new form.

10 The next item on the Director's report is I
11 would respectfully ask the Law Enforcement Academy
12 Board to consider the creation of a rules
13 subcommittee, a standing board to -- as questions come
14 up, as revisions are identified or become necessary,
15 if there was a subcommittee of the Board impaneled,
16 then that -- those potential discussions and
17 processing of rule changes could actually go through a
18 subcommittee.

19 That subcommittee could have a set number of
20 individuals as the primary body. But then, if it was
21 necessary, if it was reviewing something in a medical
22 case as an example, right, then that subcommittee may
23 pull in a couple physicians, right, to join that -- to
24 join that committee.

25 If it's dealing with, you know, House Bill

1 93, handling the mentally ill or something like that,
2 right, then that subcommittee could engage the
3 appropriate individuals to help provide the insight.

4 But I think that a rules subcommittee would
5 add a broader perspective, statewide perspective, as
6 well as having a panel in place that, as these items
7 started to move forward in the future, that there be
8 an official venue, if you will, to be able to vet
9 those and to be able to process those through. And
10 that is just a request for consideration for the Board
11 to consider.

12 Operationally, personnel in the New Mexico
13 Law Enforcement Academy, operations manager, Joaquin
14 Nielsen, who is diligently trying to keep our AV and
15 audio up and running this morning for us, is currently
16 overseeing the registry procession for both
17 telecommunicators and law enforcement officers across
18 the State.

19 And he's also overseeing the certification by
20 waiver of previous training coordination application
21 processing and then issuance of certifications for
22 both officers and telecommunicators. So just trying
23 to gain an organizational perspective as there has
24 been a couple changes necessitated by staffing.

25 Administrative Assistant Ashley Lopez has

1 taken on the additional responsibilities of
2 coordinating our public safety telecommunicator
3 dispatcher classes, which include all the applications
4 and all the paperwork on the front side and then the
5 actual conduction and logistics of the classes.

6 Administrative Assistant Layla Reyes has
7 accepted the additional responsibility of firearms day
8 and night qualifications. And since I drafted this
9 report, which is only a couple days ago, we were
10 fortunate enough to offer Ms. Reyes the position of
11 executive administrative assistant which she applied
12 for. And she did indeed accept that position. So she
13 will begin March 12th serving in that capacity, which
14 means we'll be advertising the position she currently
15 fills.

16 Case Manager Monica Medrano has accepted the
17 additional responsibility of coordinating the
18 logistics for the Board meetings, the packets, getting
19 all those kind of things situated.

20 And then lastly but not least, we have hired
21 Joshua Lynn as our newest basic training instructor.
22 He comes to us with about eight years of federal and
23 tribal and most recently up in San Juan County
24 experience, including a number of instructor
25 certifications. He also brings with him a fair amount

1 of EMS and fire experience as well. And he is a
2 welcome presence.

3 The last paragraph in my Director's report,
4 we're still working to fill that executive secretary.
5 As I told you just in the last couple days, we were
6 able to fill that position. So we are able to move
7 forward. I would stand for any questions the Board
8 may have.

9 A.G. BALDERAS: Are there any questions?
10 Thank you, Director Coss, for your report.

11 ITEM NO. 8: PUBLIC COMMENT

12 A.G. BALDERAS: We are now moving to item
13 eight. We moved up public comment. We are now ready
14 to open the floor. We do have three members of the
15 public. And comments from each member of the public
16 are limited to three minutes at this time.

17 The Chair recognizes Mr. Chris Goad for the
18 Safe Pursuit Act. You have the floor. Good morning.

19 MR. GOAD: Good morning. Thank you. The
20 Safe Pursuit Act of 1978 specifies the form that the
21 pursuit policies of law enforcement agencies must
22 follow. It designates the LEA Board as the body
23 responsible for overseeing pursuit policies throughout
24 the State.

25 The Board has all of the needed authority to

1 enforce compliance with the act since it certifies all
2 officers in the State, a certification which should be
3 denied for officers bound by legal policies.

4 Nonetheless, the policies of most law
5 enforcement agencies in the State are in violation of
6 the statute. And this has led to needless deaths.
7 Fatalities were barely avoided in a legal pursuit here
8 in Santa Fe this past Saturday.

9 The LEA Board has taken no action on the
10 matter despite complaints over the past two years by
11 citizens and pleas to the Board by relatives of the
12 dead victim, Jeanette Anaya, of the illegal pursuit
13 policy of the DPS. The DPS policy remains illegal to
14 this day.

15 How has this contradiction between law and
16 policy persisted at the heart of the law enforcement
17 system of our State. I request again that the Board
18 act on its responsibilities and address this issue.
19 Thank you.

20 A.G. BALDERAS: Thank you. Thank you,
21 Mr. Goad, for your time.

22 The Board now calls on Ken Mayers, training
23 reference the mentally ill. Good morning.

24 MR. MAYERS: Good morning. Pardon my
25 laryngitis. I think the juniper are getting to me.

1 I'm one of the cofounders of the Veterans for
2 Peace chapter in Santa Fe. And we have a particular
3 interest in the issue of training of police officers
4 for handling the mentally ill.

5 I'm requesting that one or more members of
6 Veterans of Peace be permitted to monitor the police
7 training, the LEA training, in weeks two and weeks 12
8 I believe it is, the training that deals with the
9 handling of the mentally ill and domestic violence.

10 The motivation for this is the intersection
11 of two unfortunate statistics. One statistic is that
12 one-third of all of the VA hospital patients currently
13 being admitted from overseas duty are suffering from
14 either PTSD or traumatic brain injury or a combination
15 of both. The other statistic is that, in the first
16 six months of 2015, across the nation an average of
17 two veterans per month were shot by police officers.

18 I think the situation is compounded because a
19 lot of police officers understandably are veterans.
20 And the training we received in the service runs
21 counter to the training that's required to deal with
22 the mentally ill and with those suffering from
23 traumatic brain injury.

24 We believe it would be helpful if we were
25 allowed to sit in on some of these classes so we get

1 an idea of how the training is conducted, what the
2 content of the training is, and from our experience if
3 we may have any recommendations we may want to make to
4 the training. Thank you very much.

5 A.G. BALDERAS: Thank you, appreciate it.
6 Good morning. How are you. You have the floor, sir
7 for three minutes on Board function.

8 MR. MECHELS: Good morning. This mike
9 doesn't seem to work.

10 A.G. BALDERAS: It's a little muffled. You
11 can speak closer to it.

12 MR. MECHELS: First, I'd like to say that I
13 certainly support what Mr. Mayers -- oh. I'm sorry.
14 Mr. Chair. I should address you more properly.

15 Mr. Chair, Members of the Board, first I
16 support what Mr. Mayers just said. Part of the reason
17 it's so important that the vets be allowed to sit in
18 these classes is because sadly we cannot find out
19 what's going on in those classes without sitting in
20 those classes as I will be addressing in a later
21 agenda item.

22 We cannot get the lesson plans for those
23 classes. We have been shut out. But I will be taking
24 up that later. So I think his request is very
25 important to this Board so it can actually understand

1 what's going on better. And it's desperately
2 important to people of that community.

3 Looking at this documentation provided this
4 morning, I applaud Mr. Coss. It is more thorough than
5 it has been in the past. It is still very incomplete,
6 which basically shuts the public out of these
7 meetings. I look at page after page of this.

8 It says, "Support documentation will be
9 handed out at the time of the meeting." I have
10 requested at two previous meetings that I have
11 attended and I have not been able to get copies of the
12 support documentation that is being discussed.

13 I will request again, when the speakers come
14 forward with an agenda item, can we please have a copy
15 of their documentation. As you know, I sent my
16 documentation to all the Board Members. That is what
17 you should all have from everyone, because your NMAC
18 requires the Director to send you the material ten or
19 seven days before the meeting.

20 Why don't you have it seven days before the
21 meeting? I would suggest in the long term that you
22 look forward to putting it up on the website so the
23 public might actually be enabled to participate.

24 You are shutting us out. You have been
25 shutting us out. And I have been unable with very few

1 exceptions in getting documentation in any way to
2 understand what you're doing.

3 Another item that's coming up here which I
4 think needs to be taken up now is the placement of the
5 public comment. What we're looking at here is the
6 beginning of a meeting. We cannot possibly comment on
7 what's coming after this comment period.

8 If we can't get a look at the issues to be
9 discussed with the supporting documentation, how can
10 we make a public comment about something that we have
11 no documentation for which hasn't been discussed? We
12 can't. You shut us out.

13 If you're going to proceed as you are, the
14 public comment period should be at the end so that we
15 might actually have heard the discussion and seen the
16 supporting documentation. Right now this is
17 meaningless. We can't comment meaningfully on what
18 comes after this.

19 We don't get to see the information, with one
20 exception. And again I appreciate that Mr. Coss has
21 actually provided it unlike other meetings. He has
22 actually provided the substance of some of his
23 material that he's bringing forward, the rules
24 changes.

25 The problem we have with the rules change --

1 and this is a cautionary note. As far as I know, I
2 applaud the fact that unlike what the agenda says
3 here, you're looking toward a rules change on the
4 in-service training. That was very confusing to me.
5 At your last meeting, it looked like you were not
6 going to --

7 A.G. BALDERAS: Mr. Mechels, we've exceeded
8 the three minutes.

9 MR. MECHELS: Okay. Let me just finish up.
10 A cautionary note. As far as I know -- and I'm happy
11 to discuss this with anyone from the Board's counsel
12 or whatever.

13 As far as I know, you don't have a legal
14 rules hearing format. That is as far as I know. And
15 that might be worth considering before you start
16 having more rules changes hearings. Thank you.

17 A.G. BALDERAS: Thank you. Yes, sir.

18 MR. ARASIM: Thank you. I missed the sign-up
19 sheet. My name is Charles Arasim and I live in Rio
20 Rancho. I have a question or I'd like to put it out
21 there.

22 It was recently on one of local news stations
23 that a deputy sheriff who operates in my county is
24 also a card-carrying medical marijuana user. And it's
25 my understanding that the federal government restricts

1 medical marijuana users from having firearms and
2 ammunition. And I just wanted to know if anybody is
3 looking into this. The gentleman's name is Darren
4 White.

5 A.G. BALDERAS: Thank you for your comment.

6 I will state for the record that, as to the
7 four public comments, I'll take those under
8 advisement. And I'll meet with my staff and review
9 some of the comments that were made today.

10 ITEM NO. 9: APPROVE ADDITION OF 2015 FALLEN OFFICERS
11 TO LE MEMORIAL

12 A.G. BALDERAS: We would like to move on to
13 item No. 9 on our agenda today. I'd like to turn it
14 over to our interim director to discuss the Fallen
15 Officers Memorial Wall. Thank you.

16 MR. COSS: Thank you, Mr. Chairman, Members
17 of the Board. I would love to be able to come before
18 this Board and tell you that we've lost nobody this
19 year and that there are no additions to the memorial
20 wall. Unfortunately I cannot.

21 This process begins with looking at officers
22 that we've lost within the calendar year 2015. Those
23 are identified and then there is a discussion among a
24 committee of individuals. And those individuals would
25 head up the sheriffs' association, the chiefs'

1 association, and then the state representative of the
2 FOP.

3 And so there is dialogue that occurs to
4 confirm the three individuals that we will be
5 nominating for consideration to this Board today. And
6 all of the parties unanimously have agreed that these
7 heroes should be honored as inductees onto our
8 memorial wall.

9 The three names are Daniel Scott Webster,
10 Albuquerque Police Department; Gregg Anthony Benner,
11 Rio Rancho Police Department; and Alex Yazzie, Navajo
12 Division of Public Safety.

13 In the Board packet, you have a short
14 summation of the events that these officers ultimately
15 lost their lives in. And I would respectfully request
16 that Mr. Chairman and the Board nominate these three
17 individuals for induction onto the New Mexico Law
18 Enforcement Academy Memorial Wall. And I will stand
19 for any questions the Board may have.

20 A.G. BALDERAS: Are there any questions for
21 Director Coss? I'll take a motion to approve the
22 addition of these three fallen officers to the Law
23 Enforcement Memorial Wall.

24 MR. QUEZADA: Mr. Chair, if it's okay, I
25 would love to take the honor of having our fellow

1 brothers put on the wall for Officer Webster, Officer
2 Benner, and Officer Yazzie.

3 CHIEF KASSETAS: Second.

4 A.G. BALDERAS: Thank you, Chief. All in
5 favor to approve these fallen officers say aye.

6 (Those in favor so indicate.)

7 A.G. BALDERAS: Are there any opposed? The
8 motion passes. Thank you, Director.

9 ITEM NO. 10: RATIFICATION OF CERTIFICATIONS FOR LAW
10 ENFORCEMENT OFFICERS

11 A.G. BALDERAS: Item 10, ratification of
12 certifications for the law enforcement officers is the
13 next agenda item, which will also be facilitated by
14 our Acting Director. We will approve officers by
15 exhibit. And all the information for the process is
16 in each of your packets.

17 Director, you have the floor again.

18 MR. COSS: Thank you, Mr. Chairman, Members
19 of the Board. I'll start with Exhibit 1. This will
20 be Certification Nos. 15-00425-P, 15-00426-P, and
21 15-00430-P.

22 MR. KEY: Move to ratify those
23 certifications.

24 A.G. BALDERAS: Is there a second to ratify
25 the certifications?

1 MR. QUEZADA: Second.

2 A.G. BALDERAS: All in favor say aye.

3 (Those in favor so indicate.)

4 A.G. BALDERAS: The motion passes to approve
5 certifications for the officers on Exhibit 1.

6 MR. COSS: Thank you, Mr. Chairman.

7 Exhibit 2, Certification Nos. 15-0428-P and 15-0431-P.

8 A.G. BALDERAS: Is there a motion to approve?

9 MR. KEY: So moved.

10 A.G. BALDERAS: Is there a second?

11 MR. QUEZADA: Second it.

12 A.G. BALDERAS: All in favor say aye.

13 (Those in favor so indicate.)

14 A.G. BALDERAS: Any nays? The motion passes.

15 MR. COSS: Thank you, Mr. Chairman.

16 Exhibit 3, Certification No. 15-0427-P.

17 A.G. BALDERAS: Is there a motion to approve
18 Exhibit 3?

19 SHERIFF WALLER: Move to approve.

20 A.G. BALDERAS: Is there a second?

21 CHIEF SOLAND: Second.

22 A.G. BALDERAS: All in favor say aye to
23 approve Exhibit 3.

24 (Those in favor so indicate.)

25 A.G. BALDERAS: Any opposed? Exhibit 3

1 passes, the certifications are approved.

2 MR. COSS: Thank you, Mr. Chairman.

3 Exhibit 4, Certification No. 15-0429-P.

4 A.G. BALDERAS: Is there a motion to approve
5 Exhibit 4?

6 CHIEF McCALL: Motion to approve.

7 A.G. BALDERAS: Is there a second?

8 MR. KEY: Second.

9 A.G. BALDERAS: All in favor say aye.

10 (Those in favor so indicate.)

11 A.G. BALDERAS: Any opposed? The motion
12 passes for Exhibit 4, the certifications are approved.

13 MR. COSS: Thank you, Mr. Chairman.

14 Exhibit 5, Certification No. 15-0400-P through
15 15-0424-P.

16 A.G. BALDERAS: I'll entertain a motion to
17 pass Exhibit 5.

18 MR. KEY: So moved.

19 A.G. BALDERAS: Is there a second?

20 MS. BURNHAM: Second.

21 A.G. BALDERAS: All in favor say aye.

22 (Those in favor so indicate.)

23 A.G. BALDERAS: Any opposed? The motion
24 passes to approve Exhibit 5.

25 MR. COSS: Thank you, Mr. Chairman.

1 Exhibit 6, Certification No. 16-0001-P through
2 16-0011-P.

3 A.G. BALDERAS: Thank you. I'll entertain a
4 motion to approve Exhibit 6.

5 SHERIFF WALLER: Move to approve Exhibit 6.

6 A.G. BALDERAS: Is there a second?

7 MR. QUEZADA: Second it.

8 A.G. BALDERAS: All in favor to approve
9 Exhibit 6 say aye.

10 (Those in favor so indicate.)

11 A.G. BALDERAS: Any opposed? The motion
12 passes to approve Exhibit 6.

13 MR. COSS: Thank you, Mr. Chairman.

14 Exhibit 7, Certification No. 16-0013-P through
15 16-0032-P.

16 A.G. BALDERAS: I'll entertain a motion to
17 approve Exhibit 7.

18 MR. KEY: So moved.

19 A.G. BALDERAS: Is there a second?

20 MR. QUEZADA: Second it.

21 A.G. BALDERAS: Thank you. All in favor say
22 aye.

23 (Those in favor so indicate.)

24 A.G. BALDERAS: Any opposed? The motion
25 passes to approve Exhibit 7 certifications.

1 MR. COSS: Thank you, Mr. Chairman.

2 Exhibit 8, Certification No. 16-0033-P through
3 16-0041-P, 09-0212-P, 98-0267-P, and 93-0097-P.

4 A.G. BALDERAS: Thank you. I'll entertain a
5 motion to approve all individuals in Exhibit 8.

6 CHIEF McCALL: Motion to approve.

7 A.G. BALDERAS: Thank you. Is there a
8 second?

9 CHIEF SOLAND: Second.

10 A.G. BALDERAS: All in favor say aye.

11 (Those in favor so indicate.)

12 A.G. BALDERAS: Are there any opposed? The
13 motion passes to approve Exhibit 8 certifications for
14 all officers.

15 MR. COSS: Thank you, Mr. Chairman.

16 A.G. BALDERAS: Thank you.

17 ITEM NO. 11: NMAC 10.29.6, CERTIFICATION BY WAIVER
18 RULE CHANGE DRAFT

19 A.G. BALDERAS: The next three agenda items
20 pertain to NMAC changes. And each will be presented
21 by Acting Director Coss. Mr. Coss, please proceed.
22 And be sure to let us know when you're moving from one
23 agenda item to the next.

24 MR. COSS: Thank you, Mr. Chairman.

25 Mr. Chairman, Members of the Board, we're

1 discussing a rule change to specifically Title 10,
2 Chapter 29, Part 6. And as you work through the
3 suggested rule change material, you will see that the
4 added or additional information is in red font. And
5 then it will be bold or struck through if there are
6 omissions that are in existing language.

7 I hope that, by doing it this way, the Board
8 can have an understanding of the existing as well as
9 the recommendations for the additional materials
10 within the rule change.

11 To summarize this discussion on the
12 certification by waiver of previous training course,
13 under 10.29.6.6, Objective, we list out there that the
14 training will be increasing from a 40-hour block of
15 instruction, which currently includes the biennial
16 training, and then sitting for the Law Enforcement
17 Officer Certification Exam. We'll be recommending
18 increasing that to 80 hours.

19 And then the specific subblocks are listed
20 there, Ethics and Sexual Harassment; Search and
21 Seizure; New Mexico Legal Block; Dealing with the
22 Mentally Ill or HB 93; Use of Force, Response to
23 Resistance, and Training Simulator; Domestic Violence
24 and Human Trafficking, Reality-Based Training
25 Scenarios; Administrative Time; and then naturally the

1 Certification Exam time in there as well.

2 As we move forward down to 10.29.6.8, there
3 is a two-part application process for certification by
4 waiver of previous training. Part one essentially is
5 documenting the fact that you have attended and
6 successfully completed a basic training certification
7 program either in this state or in another state. If
8 it is in another state, then that review includes does
9 it meet the basic criteria of our existing standards.

10 Part two then of the application process is
11 essentially the same process as any officer would be
12 going through. It includes a medical, psychological,
13 those sorts of things.

14 So this section just spells out those two
15 requirements to become eligible to attend the
16 certification by waiver of previous training program
17 and/or ultimately certification. Those two elements
18 are just a little bit better articulated within that
19 section of the code.

20 A.G. BALDERAS: I have a couple questions.

21 And I welcome the Board, as we go through the proposed
22 changes, to ask questions as we go through.

23 Mine is just comparing I believe it's C
24 reference, we're going from 40 to 80 hours of
25 accredited training?

1 MR. COSS: Yes, sir.

2 A.G. BALDERAS: And then earlier, in
3 Objective 10.29.6.6, you referenced minimum standards
4 such as dealing with the mentally ill or use of force.
5 Were those trainings that were not in the curriculum
6 previously or are they just certifying them as a rule
7 at this point?

8 MR. COSS: Well, there are elements of it in
9 the current program. The biennium training would
10 include such things as domestic violence or a block on
11 House Bill 93. So there are elements that were
12 contained or are currently contained in the existing
13 rule and the existing cert by waiver program. These
14 would just be expanding on those.

15 You'll see a much greater increase on such
16 things as search and seizure and the law block. Okay.
17 You'll see a little bit more application time, such as
18 spending time in a simulator or spending time in
19 reality-based training; application type settings
20 rather than just cognitive knowledge.

21 So it does build upon that. This was an
22 assessment and had input previous. This has been in
23 the works for probably about six months.

24 And so when I received this information, I
25 sent it back out to all of our satellite academies

1 around the State to assure that they had their input
2 into this as well, to make sure that we weren't
3 missing something that one agency or another needed to
4 add.

5 So it had a number of assessments I guess
6 previous to my role. And then I sent it back out
7 again just to assure that it was there.

8 A.G. BALDERAS: Okay. Thank you.

9 MS. BURNHAM: May I ask a question.

10 A.G. BALDERAS: Sure.

11 MS. BURNHAM: The New Mexico legal block,
12 basically what is that?

13 MR. COSS: Well, that would cover such things
14 as elements of crimes. That would cover elements of
15 probable cause, reasonable suspicion. That would also
16 include some civil liability and those sorts of
17 things.

18 MS. BURNHAM: And those things are
19 specialized to New Mexico law?

20 MR. COSS: Yes, ma'am.

21 MS. BURNHAM: Gotcha.

22 MR. COSS: And in many cases very uniquely
23 specific to New Mexico. New Mexico has a number of
24 standards that other states or even the federal
25 government does not have.

1 CHIEF McCALL: Just a comment. I appreciate
2 the academy taking a look at these. I appreciate all
3 the work that went into it. I know Director Byrd did
4 a lot of work, I know she sent it out to a lot of our
5 local agencies in Southeastern New Mexico.

6 So I think this was vetted very well as far
7 what we needed to get into a two-week time frame to
8 really prepare people moving from certification from
9 outside the State or people recertifying within the
10 State to really cover the topics that they really
11 need.

12 I think this is a giant step forward from
13 where we sit just covering biennium training. I think
14 this actually will help prepare our officers in
15 transition much better than we currently are. Thank
16 you.

17 MR. COSS: I concur.

18 A.G. BALDERAS: Thank you, Board Member. I
19 want to add to those sentiments.

20 I think that, with ongoing law enforcement
21 challenges and what I hear from constituents in terms
22 of being one of the most impoverished states, being
23 one of the most violent states, with both rural and
24 urban challenges, this is a very understated
25 achievement, doubling the training in areas such as

1 ethics, sexual harassment, dealing with the mentally
2 ill, use-of-force issues.

3 I hear directly from tribal members wanting
4 more cultural sensitivity. I hear from citizens
5 demanding a better understanding of the communities
6 that our law enforcement officers are engaging and
7 partnering with. So I think this is a huge step.

8 Going from 40 hours to 80 hours is something
9 that should be commended here. But I think we need to
10 also discuss this with community leaders, that this is
11 a huge step in the right direction in bridging
12 community and law enforcement. So I'm quite pleased
13 with the development.

14 This is just a draft form. So as Board
15 Members think about or want more specific information,
16 I think this is a very huge achievement for this Board
17 as well. So thank you.

18 MS. BURNHAM: May I ask just one more
19 question.

20 A.G. BALDERAS: Sure.

21 MS. BURNHAM: Where in here is the Safe
22 Pursuit Act covered?

23 MR. COSS: The Safe Pursuit Act is not in
24 this component. But the Safe Pursuit Act remains a
25 requirement in your biennium training.

1 So if they have attended a basic academy,
2 then you know they're going to have that. But the
3 elements of that still are contained within your
4 biennium training. So it won't be missed, it will
5 still continue to be picked up.

6 MS. BURNHAM: Thanks.

7 MR. COSS: Mr. Chairman, if I could also
8 build upon your comments, this was, you know, a
9 product that Director Byrd and others have been
10 working on for some time.

11 You know, I picked it up in the state that it
12 was in and then just sent it back out to assure that
13 it was meeting the needs. So the work on this was
14 essentially done before I accepted this current
15 position. So I appreciate all their help on that.
16 All I did was just add it as suggestions into the
17 rule.

18 MR. KEY: Mr. Chairman, if I may ask a
19 question.

20 A.G. BALDERAS: Sure.

21 MR. KEY: Since this is a draft and I've
22 heard some comments about it, what's the next step in
23 the adoption of the change?

24 MR. COSS: Well, the next step would be
25 making any type of other additions to this, deletions

1 that either the Board or anyone else would see fit for
2 at least consideration. Then we would place it on the
3 agenda for rulemaking at our next meeting. And then
4 there would naturally be the advertisement of the
5 information, those sorts of elements.

6 A.G. BALDERAS: Thank you. I want to see if
7 counsel has anything to add to that process.

8 MR. WORD: Thank you, Mr. Chair, Members.
9 Just to clarify, the next step would actually be a
10 vote to go forward to a formal rule hearing process.
11 So it's a two-step process.

12 There's a vote to go forward to a rulemaking.
13 And then the second step is the actual rulemaking
14 hearing after proper notice, at which time public
15 comment is received. And then the Board votes on
16 whether or not to adopt the proposed rule.

17 A.G. BALDERAS: I was going to suggest as
18 Chair that we take some time to read these drafts
19 before we put it to a vote.

20 I have a couple follow-up -- they're not
21 really questions. I know there was a reference to
22 accreditation in the rule. And then some of the topic
23 areas I would like to explore a little bit more are
24 the specifics behind, like, for instance, training and
25 the mentally ill. There was a reference to veterans

1 and PTSD and brain development.

2 But I also have a big concern on dealing with
3 special needs. There was a very difficult situation
4 with a Down's syndrome individual in San Diego. And
5 that was an extreme learning environment for the
6 sheriff's office in San Diego as well.

7 So I would propose that we push this to the
8 next meeting to take more of a formal vote. That
9 gives the Board enough time to kind of think about it
10 and follow up with any questions we might have for
11 you, Director.

12 CHIEF McCALL: Just to make sure I understand
13 the timeline, that would be two more meetings before
14 this will be eligible to be placed into service?

15 A.G. BALDERAS: Is it two meetings?

16 MR. COSS: If I understand the process
17 correctly, it would take two more meetings.

18 A.G. BALDERAS: Is it two more or one more?

19 MR. WORD: Two votes. Mr. Chair, Board
20 Members, one to go forward to a rulemaking hearing.
21 And then there is a hearing held. And following the
22 hearing, there's a vote by the Board on whether or not
23 to adopt the proposed rule.

24 CHIEF McCALL: So if we made that first vote
25 today -- are we able to make that first vote today?

1 That would still give us time prior to finalizing it
2 to the next meeting.

3 MR. WORD: If you make a vote to go forward
4 today, you are pretty much restricted to holding a
5 rule hearing on this language. If you think there are
6 going to be some tweaks or adjustments to this
7 language, I recommend that you not vote to go forward
8 to a rule hearing until the next meeting.

9 And just a reminder, this Board can schedule,
10 and boards often do schedule, rule hearings at special
11 meetings, where that's the only item of business.
12 There's the hearing, and then it's immediately
13 followed by a board meeting to make a final decision
14 on the rule.

15 DR. MILLER: Is it possible that there would
16 be further changes in light of the hearing outcome?

17 MR. WORD: It is possible. That sometimes
18 happens. But you want to avoid it because, if those
19 changes are very substantive, then you have to start
20 over again.

21 So the goal is to go to the rule hearing with
22 your absolute best effort at final language. But it
23 does happen, in the course of the hearing, that issues
24 are raised by commenters that lead a board to redraft
25 the proposed rule.

1 CHIEF McCALL: My concern with that is this
2 is the second time we've had this on the agenda for
3 discussion. And this is a topic that I think we need
4 to get moving on in New Mexico rapidly, because we
5 continue to turn out folks coming in from other states
6 through training that I believe is inadequate from our
7 standpoint of what we're requiring. And we're laying
8 that off on the agencies to step up and fill that gap.

9 A.G. BALDERAS: I'm open to either scenario.
10 If you want to move forward to enter a formal
11 rulemaking process, we can go with this draft.

12 CHIEF McCALL: I'm comfortable with that,
13 because I have reviewed this numerous times. I don't
14 know where the rest of the Board sits on that.

15 A.G. BALDERAS: I'm open to a motion. My
16 only concern is I know that there was -- and I do
17 apologize. Several tribal members have communicated
18 cultural sensitivity training and a federal track.
19 But I'm willing to engage that issue as well in the
20 formal rulemaking.

21 MR. KEY: Mr. Chairman, I would like to make
22 a motion that we go forward with the rule changing
23 procedure. And I make a formal motion to begin that
24 process by taking a vote today.

25 MS. BURNHAM: I second.

1 A.G. BALDERAS: There's a motion and a second
2 to move forward into the formal rulemaking process
3 with I believe both drafts, is that correct, or do you
4 want to reference your second draft?

5 So we'll move forward with the rulemaking on
6 item No. 11, 10.29.6, Certification by Waiver, through
7 10.29.6.13. There is a motion and second. All in
8 favor to proceed to rulemaking say aye.

9 (Those in favor so indicate.)

10 A.G. BALDERAS: Any against, any nays? The
11 motion passes to proceed with rulemaking on this
12 draft.

13 ITEM NO. 12: NMAC 10.29.7.8, 2016-2017 IN-SERVICE
14 TRAINING FOR LAW ENFORCEMENT

15 A.G. BALDERAS: You can go to your next item,
16 sir.

17 MR. COSS: So this will be agenda item
18 No. 12. And it is specifically 10.29.7.8, 2016-2017
19 In-Service Training Cycle for Law Enforcement
20 Officers. Members of the Board, you'll notice that
21 there are no changes recommended until we get to
22 specifically item A.(10), which will be on the back
23 side of the second page.

24 "A minimum of one (1) hour shall be in
25 academy accredited sexual assault investigation

1 training, which will have an automatic sunset clause
2 ending this requirement January 1, 2018."

3 And then you will see that there are a number
4 of items that are struck out. And those items then
5 would be the optional training within the 40-hour
6 biennium.

7 And those items that are not mandated either
8 statutorily, through the New Mexico Administrative
9 Code or otherwise, such as NHTSA for DWI/SFST
10 training, that the balance of those hours would be
11 optional training.

12 And it would be up to those agencies to best
13 utilize those handful of optional training hours left
14 in the biennium to meet their needs. The only other
15 changes that you will see in there are simply updating
16 the dates to reflect, you know, the current year
17 cycle.

18 A.G. BALDERAS: I have a quick question. The
19 reference to the sunset clause, what is the background
20 on that?

21 MR. COSS: This topic will be taught very
22 soon in all of our basic academies. So the sense is
23 that, within a two-year cycle, a two-year period,
24 every officer that's out there will have received the
25 training in it. And then it will also be taught in

1 the basic academy.

2 A.G. BALDERAS: I see. So it layers into a
3 more structured --

4 MR. COSS: Correct. We will have caught
5 everybody. We will have encompassed every certified
6 officer in the state currently, and then we will catch
7 on the front side every basic officer as they are
8 coming through.

9 A.G. BALDERAS: Thank you for that
10 clarification.

11 CHIEF KASSETAS: Mr. Chair, Director, so I'm
12 clear, this brings us into compliance with the
13 requirements of the legislature, correct? Nothing
14 less.

15 MR. COSS: Nothing less.

16 CHIEF KASSETAS: Nothing less. And it seems
17 like we're going to always be going to the NMAC to
18 change a date. How do we avoid that?

19 MR. COSS: I have spent a few hours on this.

20 CHIEF KASSETAS: It's more of an attorney
21 question maybe.

22 MR. COSS: And I can't come up with one. I
23 think probably, with some wordsmithing, it could be
24 done. I just couldn't come up with the correct words.
25 But coming back every two years, if we

1 address this correctly -- you know, let's say the last
2 half of the biennium cycle we are coming before the
3 Board with the proposal for the next biennium, right.
4 I think that continues to be, at least in my
5 estimation, a necessary product.

6 That, if there is, you know, changes that
7 need to be made, that, you know, you all have the
8 input in those changes. And so it continues to be
9 kind of dynamic element.

10 I do understand it's difficult coming back
11 every two years just for the biennium. And in this
12 case, since we're already in that biennium, we're a
13 little bit behind the curve.

14 CHIEF KASSETAS: Definitely. Thank you.

15 A.G. BALDERAS: Are there any more questions?
16 I'll also entertain a motion.

17 MR. KEY: I'll make the motion that we take a
18 vote today to enter into the rulemaking process for a
19 rule change to NMAC 10.29.7.8.

20 A.G. BALDERAS: There is a motion. Is there
21 a second?

22 CHIEF SOLAND: Second.

23 A.G. BALDERAS: There is a motion and a
24 second to approve 10.29.7.8 to go to a rulemaking
25 hearing, the official rulemaking process. All in

1 favor say aye.

2 (Those in favor so indicate.)

3 A.G. BALDERAS: Any opposed? The motion
4 passes to take this to the formal rulemaking process.

5 MR. MECHELS: I have an administrative
6 correction here, an administrative correction as part
7 of the language. The language needs to be corrected
8 in one area.

9 A.G. BALDERAS: What are you referencing?

10 MR. MECHELS: I'm referencing the second
11 page, B.(3), Curriculum Developed by the Training and
12 Recruiting Division. I think you probably need to
13 strike division.

14 I think the language is inappropriate for the
15 current structure of the curriculum developed by the
16 Training and Recruiting Division. I don't think that
17 language is correct. Mr. Coss, I turn to Mr. Coss.
18 That language doesn't appear to me, sir, to be
19 currently correct.

20 MR. COSS: With the restructuring it is
21 statutorily entitled New Mexico Law Enforcement
22 Academy. But that is consistent language throughout
23 the code. Training and Recruiting Division is how the
24 Law Enforcement Academy is referred to.

25 MR. MECHELS: Was referred to.

1 MR. COSS: Well, it still is contained within
2 various sections. But that is correct. So if it
3 please the Chairman, we can easily make that
4 correction.

5 MR. MECHELS: Thank you.

6 A.G. BALDERAS: Well, I appreciate the
7 discussion. I think we'll just move forward with the
8 motion as passed.

9 ITEM NO. 13: NMAC 10.29.7.9, 2016-2017 IN-SERVICE
10 TRAINING FOR TELECOMMUNICATORS

11 A.G. BALDERAS: If there's nothing further,
12 Director, I'll take you now to item No. 13, In-Service
13 Training for Telecommunicators.

14 MR. COSS: Thank you, Mr. Chairman. I
15 apologize to the Board members. Technically we're
16 under tab 13. But we're still listed on the exact
17 same page where we left off of the in-service
18 training, because the training cycles run
19 contiguously. So this is 10.29.7.9, 2016-2017
20 training cycle for telecommunicators.

21 A.G. BALDERAS: Great.

22 MR. COSS: And essentially this is doing
23 nothing other than updating to the current year
24 biennium with a couple of grammar changes such as in
25 B.(1).

1 The CIRT bureau is struck out and it just
2 lists the academy. The CIRT bureau is no longer a
3 functional bureau within the New Mexico Law
4 Enforcement Academy. So other than those small
5 changes, it's simply a change in adoption into the
6 current year biennium training cycle.

7 A.G. BALDERAS: Thank you, Director. I will
8 clarify as well. I'll entertain a motion to take
9 10.29.7.9 to a formal rulemaking process. Is there a
10 motion?

11 SHERIFF WALLER: I move to approve.

12 A.G. BALDERAS: Is there a second?

13 CHIEF SOLAND: Second.

14 A.G. BALDERAS: All in favor to take
15 10.29.7.9 to rulemaking say aye.

16 (Those in favor so indicate.)

17 A.G. BALDERAS: Is there any opposition? The
18 motion passes to take 10.29.7.9 to a formal rulemaking
19 process as stated.

20 Great. Thank you, Director.

21 We're going to take a quick five-minute
22 break, which would put us back on the record at 9:45.
23 Thank you.

24 (Recess.)

25 ITEM NO. 14: PUBLIC SAFETY AND LAW ENFORCEMENT

1 INSTRUCTOR CERTIFICATIONS

2 A.G. BALDERAS: I'm going to bring us back
3 and reconvene the meeting. I'd like to direct the
4 Board's attention to item 14. Agenda item 14 will be
5 presented by Ms. Angela Byrd. Ms. Byrd, you have the
6 floor.

7 MS. BYRD: Mr. Chairman, Mr. Vice Chairman,
8 thank you very much. I just want to bring the Board's
9 attention under 10-21-4-11. It's under the
10 certifications for instructors certificates.

11 And we've had some confusion whether the
12 master instructor, someone who is qualified and has
13 met all the qualifications for the master instructor
14 cert, that if they are required to teach new
15 instructors.

16 We've had several calls on it; that if we're
17 going to do a train the trainer, if it's required for
18 a master instructor to teach other instructors. And
19 in the past, historically, it's been yes; if you were
20 a master instructor in that subject, you could teach
21 new instructors.

22 But there's been some confusion in the
23 language under 11. And it doesn't specifically say
24 yes, you have to be one or that you don't. And so I'm
25 trying to get some clarification so, when I'm called

1 on it or somebody asks me, that I can answer that
2 correctly. It's kind of ambiguous in the language.

3 So I'm just asking that the Board look at
4 that and see if we can make some clarifications on
5 that. Currently, if you go to an instructor school
6 and you've never taught it, then under the current
7 language, you can then go teach it to a new
8 instructor, not having ever taught it to anybody else.

9 So I think that we need to address that issue
10 and make sure that we're, you know, giving the best
11 training that we possibly can. So I'd like to just
12 bring that to the Board's attention.

13 A.G. BALDERAS: I appreciate those comments.
14 Are there any questions for Ms. Byrd?

15 CHIEF KASSETAS: Mr. Chair, Ms. Byrd, it
16 sounds like an obviously good point to clarify. Is
17 there cause to work with Brian Coss to address this
18 issue?

19 Then the Board can, you know, take your
20 recommendations on any adjustments maybe to NMAC or
21 the rule process or maybe at the Directors' level and
22 put out clarification to the academy directors, which
23 is probably what you want, is a quicker turnaround on
24 that. I'm sure that could happen between the two of
25 you, correct.

1 MS. BYRD: Yes. We discussed it just today
2 actually. And we agreed that it needed to be brought
3 up to the Board.

4 CHIEF KASSETAS: So we'll rely on the
5 Director I would suppose, Mr. Chair, to provide us
6 some sort of information prior to the next Board
7 meeting. Then maybe we can act on it and straighten
8 it out. Thank you.

9 MS. BYRD: Okay.

10 A.G. BALDERAS: We appreciate that feedback.
11 I'm sure he will make it part of his report at the
12 following meeting.

13 ITEM NO. 15: FOLLOW-UP TO ADA REASONABLE
14 ACCOMMODATIONS TO FIREARMS QUALIFICATIONS REQUEST BY
15 OFFICER ROMERO

16 A.G. BALDERAS: Item No. 15, I will now ask
17 Board Member Miller to present agenda item 15. This
18 is a follow-up to ADA reasonable accommodations
19 related to the firearms qualifications request by
20 Officer Romero.

21 DR. MILLER: Okay. So at our previous Board
22 meeting, we moved to have the Director impanel a
23 Medical Review Board in order to consider Officer
24 Romero's case and request.

25 That Medical Review Board, per NMAC

1 10.29.9.17, was comprised of several officers, a
2 disability advocate, myself as a representative of the
3 Board, and Mr. Coss as Acting Director of the academy.

4 In that Medical Review Board meeting, we had
5 a substantive conversation with Officer Romero about
6 his actual abilities to do the essential physical
7 skills and tasks as delineated in the NMAC and on the
8 medical forms, medical review forms, form three I
9 think it is.

10 We also had a very substantive discussion
11 about the integrity of the New Mexico law enforcement
12 certification and what it means to all of the officers
13 in New Mexico who carry that certification and rely
14 upon it as a marker of their expertise.

15 I would like to call out the disability
16 advocate that we used on the Board, Susan Gray. She
17 was particularly helpful assessing Officer Romero's
18 abilities and particularly helpful in ensuring that no
19 one on the Medical Review Board considered the
20 situation from a perspective of what can this person
21 not do, but thinking in terms of what can this person
22 do.

23 And I feel like with her participation we got
24 a very credible representation and opinion about that
25 differentiation in phrasing and consideration. The

1 transcript of the meeting is in your packets for your
2 review.

3 The end result of the meeting was that the
4 Medical Review Board does not recommend to the Law
5 Enforcement Academy Board any accommodations to the
6 firearms testing or biennium training at this time.
7 So does anyone have any questions about what I've just
8 said or any questions from the transcript?

9 A.G. BALDERAS: Board Member Miller, am I
10 correct, you were recognizing the advocate to come up
11 and explain or you were just referencing her?

12 DR. MILLER: I just wanted to call her out
13 specifically and thank her as an integral piece in
14 ensuring that Officer Romero got fair consideration
15 for his request.

16 A.G. BALDERAS: So as I understand it, you've
17 been very concise and direct on updating us. I guess
18 I have a question, and maybe this is for a later
19 meeting, but what the actual no modification position
20 does to Officer Romero. And I don't know if that's a
21 slightly different topic.

22 DR. MILLER: It's a slightly different topic
23 insofar as Officer Romero can still work with the
24 Bernalillo County Sheriff's Office on this issue.

25 Part of our concern and part of the

1 discussion was the integrity of the primary
2 certification. It is possible that Officer Romero can
3 find an outcome he desires through the Bernalillo
4 County Sheriff's Office.

5 A.G. BALDERAS: Okay. So I think, between
6 your explanation and counsel's, it appears that the
7 recommendation is to not modify as I understand it.
8 Thank you for updating. And as it relates to how it
9 affects Officer Romero's service, that's something
10 that we can continue to monitor; that's ongoing, that
11 he's working out with his own department.

12 DR. MILLER: Correct.

13 A.G. BALDERAS: And there are some
14 qualification tests that his department can make and
15 we can monitor. And we can maybe update the progress
16 of Officer Romero at a later date; is that correct?

17 DR. MILLER: Yes.

18 A.G. BALDERAS: I just want to make that
19 clarification for the audience as well. Are there any
20 other additions?

21 DR. MILLER: No. If no one has any more
22 questions, then I would move that the Board accept the
23 Medical Review Board's decision, that they do not
24 recommend any accommodations to the firearms testing
25 or biennium training at this time.

1 A.G. BALDERAS: Are you making a motion?

2 DR. MILLER: Yes.

3 A.G. BALDERAS: Is there a second to approve
4 the motion?

5 MS. BURNHAM: I'll second.

6 A.G. BALDERAS: There is a second to approve
7 Board Member Miller's motion on agenda item 15. All
8 in favor say aye.

9 (Those in favor so indicate.)

10 MR. BALDERAS: Is there any in opposition?

11 The motion passes to accept your report and the
12 Medical Review Board's recommendation.

13 CHIEF KASSETAS: Mr. Chair, if I may, before
14 we move forward, I would like the record to reflect
15 that I recused myself from item 15.

16 DR. MILLER: Before you wrap up this item, do
17 we need to have a Board decision, a Law Enforcement
18 Academy Board decision on this topic, or is this
19 sufficient, that we just accept the recommendation?

20 A.G. BALDERAS: No, I don't think so. And
21 the record will reflect that you did recuse yourself
22 on that vote, Chief.

23 CHIEF KASSETAS: Thank you.

24 ITEM NO. 16: ADMINISTRATIVE PROCESS OVERVIEW

25 A.G. BALDERAS: Moving on to item No. 16, the

1 administrative process overview, I did see Assistant
2 Attorney General Mr. Ari Biernoff here from our
3 office. Thank you for being here, Ari. You do have
4 the floor to present.

5 MR. BIERNOFF: Thank you, Mr. Chairman and
6 Members of the Board. I'm Ari Biernoff, I'm with the
7 Litigation Division of the Attorney General's Office.
8 I just wanted to introduce myself and also give a
9 brief overview of our process as we pursue
10 administrative prosecutions on behalf of the Board.

11 First of all, I want to thank the Board for
12 reposing your trust in our office, not only to provide
13 counsel to you, but also to prosecute on your behalf.

14 We have two prosecutors, Josh Granata and
15 Jose Puentes. Each of them work more than half of
16 their caseload on Law Enforcement Academy Board
17 prosecutions. And in future meetings I will want to
18 have them meet you as well.

19 They're both very dedicated prosecutors with
20 significant experience in the criminal justice system
21 before coming to our office. And I think they're a
22 great asset to our administrative prosecution program.

23 We prosecute on behalf of dozens, several
24 dozen licensure boards. And LEAB is far and away the
25 most complex. And so that's why we have two attorneys

1 involved in these prosecutions.

2 In terms of the sequence of what we do, you
3 may already be familiar. But let me just give a quick
4 overview. After an informal decision, if a Respondent
5 requests a formal hearing, that is when we get the
6 file.

7 We will top to bottom evaluate the file.
8 We'll want to make sure that we understand what kind
9 of discovery might need to be provided to the
10 Respondent as well as what kind of fact investigation
11 we have to undertake.

12 And that typically involves, once a Hearing
13 Officer has been appointed, issuing subpoenas to the
14 employing law enforcement agency and in some cases to
15 other law enforcement agencies, doing witness
16 interviews. And this part is very important, making
17 contact with the Respondent if they're pro se or their
18 attorney, if they're represented by counsel.

19 On my way in, I noticed at least one attorney
20 for Respondents we've worked with a number of times in
21 the past. And we really appreciate the role that
22 Respondents' counsels, play because it is an
23 adversarial process.

24 And having an attorney on the other side to
25 represent the law enforcement officer oftentimes

1 brings us closer, if not to a resolution, at least to
2 a definition of the issues that are in question. So
3 we're very grateful for attorneys who provide that
4 service to Respondents, even though we're in some
5 cases on the other side of the dispute with them.

6 One thing that we are increasingly focusing
7 on in evaluating files that come to us for prosecution
8 is finding cases that are appropriate for settlement
9 proposals. And just like in criminal cases, a lot of
10 prosecutions end up being resolved through plea
11 agreements.

12 Most civil litigation ends up being resolved
13 through settlement as opposed to trials. And
14 similarly, we think that there are opportunities, not
15 in every case, maybe not even in most cases, but in a
16 number of cases to find a point of resolution with
17 Respondents or their counsel. And so that's something
18 that we're increasingly interested in building into
19 our process.

20 Now, of course, the end point of the process,
21 if there's not a settlement that's presented to this
22 Board, is the hearing and the Hearing Officer's
23 decision. And then, of course, that recommendation is
24 presented as everybody knows to this Board for
25 approval.

1 Mainly I wanted to highlight what we think of
2 as an opportunity in a number of cases to find,
3 alongside Respondents or their counsel, an appropriate
4 point where the parties can meet on the question of
5 what discipline or what outcome is appropriate in that
6 particular case.

7 So that's something that we're interested in,
8 not only for the sake of making sure that the ultimate
9 sanction that a Respondent might experience is
10 proportionate to the charge as well as to the facts
11 that are in the file or that we uncover through
12 discovery or through file review or witness interviews
13 that support the charge; but also it's a way
14 collectively, not just for the Attorney General's
15 Office but also for Respondents and for their
16 attorneys and for the Board, of focusing resources on
17 the most important cases; the cases that either pose
18 an especially serious violation or a pattern of repeat
19 violations or for whatever reason call out for
20 additional attention.

21 In some cases we do have two prosecutors
22 involved in a case. And that's something we want to
23 do more of, because of the number of witnesses or
24 because of the volume of documentary material that
25 require another attorney to be involved. And so we do

1 hope to be able to bring that process to bear a little
2 bit more.

3 A.G. BALDERAS: Ari, can you estimate the
4 size of the caseload for the Board and also the
5 estimated time from the beginning to the end of a
6 proceeding.

7 MR. BIERNOFF: Thank you, Mr. Chair. Yes.
8 We have right now about 15 cases that are in what I
9 would call our active pipeline. What do I mean by
10 that? Cases that have come to us, we've opened the
11 file, we've started the discovery process, all the way
12 to cases that we're preparing for hearing.

13 So I'm not including cases that have already
14 resulted in a hearing, where we may be awaiting the
15 Hearing Officer's report. We also may be awaiting the
16 Board's decision on the Hearing Officer's conclusions.
17 There's more cases that fall into that category.

18 And, of course, there are additional cases
19 post-Board action, where Respondents have elected to
20 appeal the Board's decision in district court. That's
21 our active caseload right now. And these proceedings
22 tend to, compared with prosecutions for a lot of other
23 boards, more frequently involve counsel on the other
24 side.

25 And like I said earlier, that's something we

1 welcome, because having an attorney on the other side
2 often helps everybody focus on the issues that are
3 really in contention. And it also means that there's
4 a little bit more symmetry between our side and
5 advocacy on behalf of the Respondents.

6 But because attorneys are more regularly
7 involved in LEAB prosecutions, that means that there's
8 going to be oftentimes not as many delays in bringing
9 a case to hearing. We will often ask for
10 continuances, Respondents will often ask for
11 continuances for the sake of preparing the case.

12 And we try to be fair and hope for the same
13 with the Respondents. But the typical LEAB
14 prosecution, from when the file is opened to hearing,
15 even though the rules called for a 90-day setting, I
16 would say that about half of the hearings take place
17 within that and the others are continued. We aim to
18 have hearings completed as quickly as possible.

19 A.G. BALDERAS: Okay. Are there any
20 questions about the administrative prosecution
21 process?

22 MR. KEY: Mr. Chairman, can I ask a few
23 questions.

24 A.G. BALDERAS: Sure.

25 MR. KEY: I'm a prosecutor, Ari. And

1 probably there is some likenesses between what you and
2 I do. I'm curious about your position and your staff
3 attorneys in the Litigation Division. Do you find
4 that there's procedural hiccups or time limit issues
5 that detract from successfully prosecuting
6 administrative hearings?

7 MR. BIERNOFF: Thank you. I would say that
8 probably one of the most difficult issues in that
9 respect that we've encountered in the past has been
10 improving quite a lot recently, and that is getting
11 Hearing Officers assigned quickly.

12 And that's important, because we don't issue
13 subpoenas on our own. Just like if we were in court
14 in a criminal or a civil case, we would need to go to
15 court to enforce the subpoena.

16 Here we go to the Hearing Officer. And this
17 is true for Respondents as well, if they want to
18 depose a witness or if they want to get records.

19 And so we've noticed that the pace of
20 appointment of Hearing Officers has picked up a lot.
21 And we're very grateful for that, because that means
22 that we can begin our fact investigation a lot faster.
23 In the past that has been, to use the phrase you used,
24 a hiccup, if there's been a delay in getting the
25 Hearing Officer in place.

1 Last year, for example, there were several
2 prosecutions where we got a Hearing Officer like a
3 month before the hearing was supposed to happen. And
4 that gave us very little time to subpoena the records
5 that we needed. But like I said, that's not happening
6 so much anymore.

7 For the most part, getting records from law
8 enforcement agencies is a very smooth process. Since
9 I've been involved in overseeing our administrative
10 prosecutions, I don't think we've encountered any
11 difficulties with that. And we're certainly grateful
12 to the agencies for working with us in that respect.

13 MR. KEY: My second question has to do with
14 what you mentioned, the time element, continuances
15 either from your office or from Respondents'
16 attorneys.

17 The Board has talked about tightening up
18 those time limits and trying to adhere to the rules
19 regarding those time limits. Have you seen any
20 kickback, if you will, from Respondents' counsel or
21 anyone else for that matter wanting more delays rather
22 than trying to get to a resolution?

23 MR. BIERNOFF: Thank you again for that
24 question. No, not particularly. You know, in our
25 experience it is both sides that may ask, depending on

1 the case, for a continuance. I have not in the last
2 little more than a year observed any LEAB prosecutions
3 where there's been any abuse of that.

4 I think, for the most part, the attorneys
5 that represent Respondents, when they are represented
6 by counsel, are attorneys who our office is familiar
7 with and has worked with. And we extend the same
8 courtesies to each other that we would expect in civil
9 or criminal litigation.

10 Certainly, in prosecutions for other boards,
11 we have seen abuse of the time limits and Respondents
12 who have requested five continuances in a row. This
13 is not this Board, this is other boards.

14 And we've had to take action to try to limit
15 that by asking Hearing Officers to exclude witnesses
16 or information that those Respondents might bring up,
17 you know, without having disclosed it to us.

18 But that's not been a problem from our point
19 of view here. Actually we think that it's an
20 important safety valve to have, because we understand
21 and respect that, whether it's a Respondent pro se or
22 an attorney, that people do have other things going on
23 in their lives.

24 That doesn't mean that anyone is not taking
25 the allegations that are in the prosecution very

1 seriously. But attorneys on the other side may have
2 conflicting trial settings, we may have conflicting
3 court appearances.

4 Josh and Jose, while LEAB prosecutions are
5 their top priority in terms of their time, they do
6 prosecute for other boards. And so sometimes, if
7 there's a conflict, a schedule conflict, we'll ask,
8 you know, for the Respondent to agree to a
9 continuance. And for the most part we get those and
10 we provide those as well.

11 MR. KEY: Thank you very much, I appreciate
12 it.

13 CHIEF KASSETAS: I have a question and a
14 comment. On this Board I would much rather spend my
15 time doing what we did this morning, which was looking
16 at issues that better the academy, the law enforcement
17 agencies, the satellite academies as far as the
18 processes and training to ensure that we have the most
19 up-to-date, high-speed process for certifying and
20 training officers in New Mexico.

21 And at times I feel that the Board spends an
22 inordinate amount of time dealing with discipline,
23 which is another part of the job we understand that we
24 took.

25 I think it is time to loosen the grip on how

1 we look at some of these cases from the prosecution
2 level, because in Board meetings past we have never
3 done that. We've just said no. And I know that there
4 at times is room for that.

5 And I also want to make sure that, in the
6 process you described, the Board still has oversight,
7 correct? There may be an agreement between yourself
8 and an attorney. The Board still is in a position to
9 ratify that through this very process, correct?

10 MR. BIERNOFF: Yes, sir. Any settlement
11 proposal is just that, a proposal, at our level. Just
12 like this Board decides whether to adopt or modify or
13 reject a Hearing Officer's findings and what to do in
14 a case that goes all the way to hearing, likewise this
15 Board is the body that decides whether a particular
16 case is appropriate for settlement.

17 And we do our best in those cases. And I
18 think, as we're talking about this, this is a little
19 bit of a new process. But in those cases we do our
20 best to determine the appropriate outcome for the
21 case. And if that's something that we can reach an
22 agreement on as between counsel, we'll then bring that
23 to this Board.

24 CHIEF KASSETAS: I just don't want to send
25 the message that every formal case comes down

1 to obviously let's make a deal. We deal with that
2 same issue in law enforcement on the criminal side of
3 things. This is different obviously.

4 And I agree with the process. And I think
5 that, if it's used sparingly and applied when the
6 requirements meet that and it's explained to the
7 Board, then I don't see why I would not support that.
8 I do.

9 And there are cases certainly we should take
10 to the mat many times and there are others that might
11 meet that criteria. And I think, if that's explained
12 to us in detail at the time, then there's no reason to
13 hinder the process and move it forward for everybody.
14 So thank you.

15 MR. BIERNOFF: I certainly appreciate that,
16 Chief Kassetas. We agree that it is not every case
17 that's suitable for having a settlement discussion and
18 for making a settlement proposal for this Board.

19 I would say that it's the minority of cases
20 at this point that we think, based on our assessment
21 of the strength of the case, facts, the violation, and
22 the informal level of discipline, that settlement is
23 appropriate. But I appreciate the Board's interest in
24 considering this as a possibility for resolving
25 certain cases.

1 CHIEF KASSETAS: Thank you.

2 A.G. BALDERAS: Are there any other
3 questions? Thank you, Ari, for being here. Your
4 presentation was insightful. I appreciate it.

5 MR. BIERNOFF: Mr. Chairman, thank you.

6 ITEM NO. 17: CORRESPONDENCE FROM OR ISSUES
7 RAISED BY THE PUBLIC

8 A.G. BALDERAS: Item 17, we'll go now to our
9 spelling bee champion, Ms. Burnham. She'll be
10 presenting on the topic of correspondence from or
11 issues raised by the general public. Board Member
12 Burnham, you have the floor.

13 MS. BURNHAM: Thank you, Mr. Chairman, fellow
14 Members of the Board, ladies and gentlemen of the
15 public. Since I was appointed by the governor as a
16 citizen representative to this Board, citizens from
17 time to time have contacted me about issues that
18 they're concerned about.

19 And specifically I've been contacted several
20 times by Mr. Mechels and within the last month by a
21 person named Bill Ponderosa, also signing himself as
22 Dignam.

23 As a citizen representative on the Board, I
24 want to be responsive to the public. But I do not
25 want to act on my own and cannot without the counsel

1 and the experience and the expertise of my fellow
2 Members of the Board.

3 And I certainly don't want to run afoul of
4 the Open Meetings Act by sending materials on that
5 I've received to Members of the Board, raising the
6 issue that we're discussing outside of this public
7 meeting. So I've been very careful in how I have
8 responded to citizens. And I just wanted to let you
9 all know the reasons for my care.

10 I'm especially concerned about any contact I
11 might have with a represented person. As you know,
12 the Board from time to time is sued. And if there's a
13 lawsuit ongoing and I don't know about it and I'm
14 communicating with a party to that lawsuit -- I am a
15 former prosecutor and a member of the bar.

16 And I would be in violation of my ethical
17 duties to discuss with members of the public who are
18 represented by counsel any subject of that
19 representation. And that probably sounds like a lot
20 of gobbledegook, but it means that I'm careful.

21 And what I have proposed to do, and the Board
22 can take this under its consideration, is to say that
23 any correspondence that I receive from a member of the
24 public in the future I intend to send to the attention
25 of the Board as it is sent to me so that copies can be

1 disseminated to everyone so that they can be discussed
2 in an open meeting at some point.

3 If I'm in error, the Attorney General's
4 Office and Mr. Word will tell me that my approach is
5 wrong. But I want to address the concerns of the
6 public. And I think this is a way that I can fulfill
7 my responsibilities. Thank you very much,
8 Mr. Chairman.

9 A.G. BALDERAS: Thank you, Board Member
10 Burnham. I'll now recognize our counsel to make some
11 comments.

12 MR. WORD: Thank you, Attorney General
13 Balderas. Board Members, Ms. Burnham, I appreciate
14 your concern.

15 And I would just recommend that, rather than
16 forwarding information to the other Board Members,
17 that it be forwarded to the Director. And the
18 Director can disseminate information to the Board,
19 which can then be discussed at a public meeting
20 properly and properly noticed.

21 MS. BURNHAM: That I shall do. Thank you.

22 A.G. BALDERAS: Great. Thank you Board
23 Member Burnham.

24 ITEM NO. 18: LEA RESPONSIBILITY TO OPEN GOVERNMENT

25 A.G. BALDERAS: I would now like to go to

1 item 18, where Mr. Mechels has requested two Board
2 items. He will be appropriated five minutes each for
3 a total of ten minutes for the two agenda items.

4 I appreciate always your comments. I would
5 just ask, just as someone who -- and this will be a
6 directive also for the Board. In Santa Rosa a Board
7 Member and, Mr. Mechels, you were passionate.

8 I would ask as always that there just be some
9 respect and not overgeneralizations that relate to
10 ongoing litigation or matters that there's no need to
11 be personally offensive in any way.

12 And I think in Santa Rosa a couple of our
13 Board Members also were passionate. And I would
14 rather us have a very intelligent conversation, very
15 respectful. And we would always welcome your
16 comments. So you have the floor for ten minutes, sir.

17 MR. MECHELS: How long did you say, sir?

18 A.G. BALDERAS: Ten minutes, five minutes
19 each for your topics.

20 MR. MECHELS: Five minutes each is not nearly
21 long enough. We're talking about information, Public
22 Records Act practices, lesson plans. How can I cover
23 those in five minutes? Please, at least can you give
24 me ten minutes per.

25 People come up here and say things that you

1 want to hear and there's no time limit. When I come
2 up here with my issues, then all of a sudden we have a
3 time limit. The reason I put that on the agenda is so
4 that we might have enough time to address the gravity
5 of these issues.

6 A.G. BALDERAS: I definitely always welcome
7 your comments. We've always encouraged you to pursue
8 process. And you were also on public comment. I'll
9 defer and give you 15 minutes. It cuts both ways.

10 I also ask people to respect the Board's
11 agenda as it relates to 19 items in the morning. So
12 I'll gladly give you 15 minutes for those two items.
13 If you wish to proceed, we can move forward.

14 MR. MECHELS: Thank you. That's not enough,
15 but it's better.

16 A.G. BALDERAS: Thank you.

17 MR. MECHELS: First I'd like to begin,
18 there's a procedural matter that I think you need to
19 be aware of. As far as I can tell, as I mentioned
20 earlier, if you're looking at going forward to
21 rulemaking, that I believe is a good thing to do.

22 The problem that we seem to have, when you
23 move forward into rulemaking, as far as I can tell,
24 you don't have a legitimate rulemaking process in
25 place, which you must have under the NMACs that define

1 the rules act.

2 So I think, if you move forward with the
3 rulemaking that you've traditionally used, I don't
4 think it's legal. That's just my comment on this for
5 what it's worth. And I have checked this with
6 lawyers.

7 The other thing I think which is significant
8 and again heavily affects the potential for public
9 input is where the public hearing is located. I
10 believe that a public hearing, to be in accordance
11 with the law of New Mexico and with all the other
12 boards and commissions and with the administrative
13 procedures act, for making a rule should be held in
14 Santa Fe.

15 For example, if the Department of Public
16 Safety has a rulemaking, they must have it by law in
17 Santa Fe, because the statute doesn't allow anything
18 else. Your statutes also do not allow you to move
19 rulemakings around the state.

20 I would caution you. I think you should to
21 be correct have your rulemaking hearings in Santa Fe.
22 And otherwise we're stuck with the position of chasing
23 you around the state.

24 I don't doubt that you can have your meetings
25 wherever you wish. I do challenge whether you can

1 have your rulemaking hearings wherever you wish. To
2 be consistent with the rest of the state government in
3 this matter, I believe you should have your public
4 hearings here in Santa Fe.

5 And that directly runs into the issue that we
6 have and that both of these issues share, which is the
7 question of open government and the question of
8 whether citizens can be involved in this government
9 including this Board.

10 One of the big problems I'm having is getting
11 information from the LEA traditionally. That goes
12 back for two years, from my first encounter with the
13 LEA. Currently I've detailed -- and because I'm on
14 very short time here, I won't read it in detail.

15 But I have given the Board a copy of a
16 reduced -- I sent you all the more complete coverage
17 of this. And I appreciate Ms. Burnham's concerns.
18 But I sent you those packets so you could see the
19 complete picture. Right now I'm just dealing with a
20 shortened version, which I gave to you for this
21 meeting.

22 The problem with IPRA -- the one that's
23 obvious is that I can't get your curriculum from the
24 LEA and I can't get the list of certified instructors.
25 I have gotten them in the past. And as the

1 documentation details, I can't get them now. I can't
2 get them now, no reasons supplied.

3 I requested those items. They weren't
4 provided. When I asked why they weren't provided, I
5 can't get a reason. I submitted them to the Attorney
6 General's Office, which are also the same people that
7 provide counsel to this Board and also investigate
8 IPRA compliance.

9 I supplied these complaints to the Attorney
10 General's Office, the Civil Division which processes
11 IPRA complaints, last June. To this point it's not
12 that they won't prosecute. I've been told they will
13 not prosecute these IPRA violations, but I can't even
14 get a decision on it.

15 So we're stuck, as members of the public,
16 unable to get information about the operations of the
17 LEA. And such basic things as the curriculum of the
18 other academies. I don't have this problem when I go
19 to an academy. But their comment frequently is why
20 don't you ask the LEA, we send it to them.

21 What I put within this packet and for your
22 easy access is that your own NMACs that govern your
23 relationship with the satellite academies dictates
24 that all these materials that I'm requesting are
25 supplied to the LEA Director.

1 Obviously these materials are here. Why
2 can't they be provided by the Director? What's going
3 on? Well, part of what seems to be going on, if you
4 look again at the materials supplied, is that we have
5 created an IPRA process which is highly unusual.

6 All IPRA requests, per this documentation and
7 from the previous Board minutes which describe it, are
8 being sent to -- first you're asking the Director to
9 generate all possible information that might be
10 responsive and sending it to Board counsel for his
11 approval.

12 So if it gets rejected -- basically what
13 you're saying is, if I send in an IPRA request, it's
14 being rejected by Board counsel. Then if I complain
15 to the Attorney General's Office, it goes to the same
16 Civil Division that provides Board counsel. So it's
17 like I'm complaining to the guys that did it.

18 The other thing that brings up is that, by
19 sending all possible responses to Board counsel,
20 you're creating a huge administrative load for the
21 Director.

22 The way the IPRA was intended to work and
23 actually did work this way under Gary Johnson, who
24 believed in open government, I could actually walk
25 into a department of this government and ask for any

1 document and it would be given to me.

2 Unfortunately, under Bill Richardson that
3 stopped. And unfortunately, with the current
4 governor, it also does not work. The IPRA is expected
5 to work, that I can walk in and ask for a document and
6 get it.

7 I can't walk in and get a document from this
8 Board. I can't even walk in and get the packets from
9 the minutes of past meetings. I can get the minutes
10 of the past meetings. But the documents that are --
11 like you have before you today, the documents
12 discussed at the meeting were not available.

13 By your own open meetings declaration, the
14 minutes are available. And by your NMACs any
15 information discussed should be available. It is not
16 available. And if I file an IPRA, my IPRA isn't
17 answered. The public is being totally shut out.

18 Now, I'm not going to ask you to make a
19 resolution. There are members on this Board who also
20 are the Attorney General and are also one of the
21 executives in the DPS. This problem is an
22 administrative problem.

23 It should be an easy solution by just
24 changing internal policies. It's a huge problem. We
25 can't get information from the minutes, we can't get

1 information from IPRA. What are we supposed to do,
2 stand here like dummies?

3 Yes, I'm passionate about this because I hate
4 being shut out of meetings. Why shouldn't I be
5 passionate about being shut out of meetings.

6 ITEM NO. 19: LEA BOARD APPROVAL OF LEA ACADEMY LESSON
7 PLANS, WHICH ARE MADE AVAILABLE TO THE PUBLIC ON THE
8 LEA WEBSITE

9 MR. MECHELS: The other concern which is
10 again a huge problem is -- and it relates to the
11 request from Mr. Mayers this morning about sitting in
12 the classes. The reason that someone would ask to sit
13 in these classes is that's the only way you can tell
14 what's going on. We can't see the lesson plans.

15 And this other handout as I mentioned is --
16 and I provided you examples of edited-down lesson
17 plans. You are required by your own NMACs to put the
18 lesson plans online, on the website. They're not
19 there.

20 What's actually on the website, if you look
21 at them, is an edited-down version that shows the
22 public nothing. It's just keeping information from
23 the public. When you take 35 pages and edit it down
24 to four and knock out all the information, what you're
25 doing is not informing the public, you're hiding your

1 information from the public.

2 The lesson plans by your own law should be
3 available on the website. And what is provided
4 instead to the public is edited-down versions that
5 show nothing.

6 And I would ask for a motion of the Board,
7 that they direct the Director to put the full lesson
8 plans that he uses on the website. By your own laws,
9 they should be there. And they're not.

10 So if the public wants to actually see what's
11 happening on crucial issues, such as dealing with
12 domestic disturbance, that's a big one. It accounts
13 for a lot of shootings. Mental health problems
14 account for a lot of shootings. We can't see what's
15 going on unless we come and sit in the class.

16 And I know, from a brief exchange with
17 Mr. Coss last week, it's still open as to whether he
18 will even allow people to come and sit in the classes.
19 If Mr. Mayers can't sit in the class and Mr. Mayers
20 can't see the lesson plans, how can we be involved in
21 this.

22 I mean this Board and other boards and
23 commissions is by our legislative design in the state
24 designed to let the public enter the process. To this
25 point both -- I mentioned these two instances of the

1 lesson plans and the IPRAs. You are freezing the
2 public out of the process, you're freezing us out of
3 information. Please stop, consider what you're doing.
4 Thank you.

5 A.G. BALDERAS: Thank you, Mr. Mechels. In
6 response to your comments, I'm going to go ahead and
7 assign staff to do a review of the website. Some of
8 your records concerns, public record related IPRA.

9 MR. MECHELS: Thank you.

10 A.G. BALDERAS: And if there's a way we can
11 improve transparency, we'll do that. And we'll also
12 have staff meet with Director Coss as well on your
13 concerns. Thank you.

14 MR. MECHELS: The other issue that's very
15 important is that we apparently haven't been getting
16 complete minutes. So when we have minutes and you go
17 and ask for where is the exhibits -- if you're going
18 to travel around the state, I have no particular issue
19 with having a meeting in Las Cruces.

20 But if the effect of that is that, if the
21 documents aren't kept in the Director's office, we
22 can't even tell what happened in Las Cruces. We can
23 see the minutes. But in many cases, without seeing
24 the documents, the minutes don't make any sense.

25 Like right now the people in Hobbs aren't in

1 this meeting. If they want to find out what's going
2 on in this meeting, they're going to have a hard time.
3 They shouldn't have a hard time.

4 I think long term we've got to move towards
5 putting the documents that support the meeting online.
6 All the technology is there to do it.

7 A.G. BALDERAS: We appreciate your comments.
8 Thank you.

9 MR. MECHELS: Thank you.

10 A.G. BALDERAS: We have actually concluded
11 items 1 through 19. We'll be now entering
12 disciplinary matters. I'm going to ask that we go
13 into closed session.

14 To the members of the public, thank you for
15 being here. We're going to go into executive session
16 now. And I'll entertain a motion to go into executive
17 session.

18 CHIEF KASSETAS: I, Pete Kassetas, move that
19 the Board go into closed executive session to discuss
20 only those matters listed on the agenda under
21 executive session pursuant to NMSA 1978 10-15-1(H)(1),
22 (3), and (7). Do I have a second?

23 A.G. BALDERAS: I'll second.

24 MR. WORD: You need a roll call vote.

25 CHIEF KASSETAS: Let's have a roll call.

1 MS. MEDRANO: Chairman Balderas.
2 A.G. BALDERAS: For.
3 MS. MEDRANO: Scot Key.
4 MR. KEY: For.
5 MS. MEDRANO: Chief Kassetas.
6 CHIEF KASSETAS: For.
7 MS. MEDRANO: Sheriff Waller.
8 SHERIFF WALLER: For.
9 MS. MEDRANO: Chief Soland.
10 CHIEF SOLAND: For.
11 MS. MEDRANO: Chief McCall.
12 CHIEF McCALL: For.
13 MS. MEDRANO: Sergeant Quezada.
14 SERGEANT QUEZADA: For.
15 MS. MEDRANO: Kelly Burnham.
16 MS. BURNHAM: For.
17 MS. MEDRANO: Elisabeth Miller.
18 DR. MILLER: For.
19 A.G. BALDERAS: The motion passes. We're now
20 in executive session.
21 (Recess.)
22 CHIEF McCALL: Welcome back, everybody,
23 Members of the Board. The Board is back in open
24 session. I affirm that, while in closed session, it
25 discussed only those matters specified in the motion

1 to close the meeting and listed on the agenda under
2 executive session in accordance with NMSA 1978 Section
3 10-15-1(H).

4 At this time I will turn the meeting back
5 over to Chief Pete Kassetas. Since I've been the Vice
6 Chair now for about an hour, Chief Kassetas is
7 actually prepared to run this disciplinary session as
8 the Vice Chair. And I'll turn it over to him.

9 CHIEF KASSETAS: Thank you, Mr. New Vice
10 Chair. I was remiss in going into closed session. I
11 apologize to those of you that wanted to address the
12 Board if you were on the agenda.

13 So I will call your name out. If you're
14 here, you have a couple of minutes to address the
15 Board and you only, because that's who the Board wants
16 to hear from. So going down the list, I'll call out
17 the last name. If you hear your name, speak up if you
18 want to address the Board. Henderson.

19 MR. HENDERSON: Yes, sir.

20 CHIEF KASSETAS: Scott Chacon. Why don't we
21 knock them off in groups. Come on up, Mr. Henderson.
22 You know there's a proposal to dismiss your case,
23 correct?

24 MR. HENDERSON: Yes, sir. If there are any
25 questions or any comments that anyone has, I'm coming

1 up just in case. Mr. Vice Chairman, Members of the
2 Board, my name is Thomas Henderson. Since there's a
3 recommendation for my -- is a dismissal for the
4 complaint against me, I ask that you take that and
5 follow through with the dismissal of my case.

6 I just came forward to see if there are any
7 questions that might be from my case or any comments
8 or anything that you ask. I'm here to answer anything
9 that could be brought forth.

10 CHIEF KASSETAS: Since you're here, I do have
11 a question.

12 MR. HENDERSON: Yes, sir.

13 CHIEF KASSETAS: You did work the project
14 technically, correct?

15 MR. HENDERSON: Yes.

16 CHIEF KASSETAS: But you fabricated the
17 activity?

18 MR. HENDERSON: I did not fabricate the
19 activity, no. The finding in the Internal Affairs to
20 some degree demonstrated that. However, I had
21 witnesses that came forward with my investigation here
22 that proved that I was where I said I was.

23 CHIEF KASSETAS: You claimed some activity.
24 But you really didn't generate it, other officers
25 actually made the arrest?

1 MR. HENDERSON: Correct. That is correct.
2 At that time the understanding was that he passed it
3 off to another officer. That was the understanding of
4 the program when I worked it.

5 CHIEF KASSETAS: So you would claim a DWI
6 arrest off that?

7 MR. HENDERSON: If I was -- you could claim
8 that, yes, at that time.

9 CHIEF KASSETAS: And then I would claim it
10 because you handed it off to me?

11 MR. HENDERSON: Yes, sir.

12 CHIEF KASSETAS: So now we have two DWI
13 arrests of one person?

14 MR. HENDERSON: Yes, sir.

15 CHIEF KASSETAS: You know, that doesn't make
16 an awful lot of sense to me.

17 MR. HENDERSON: I agree.

18 CHIEF KASSETAS: Okay. And you're saying
19 that was APD's policy at the time?

20 MR. HENDERSON: That's how things were ran at
21 the time, yes, sir. If I was a supervisor at the
22 time, if I was a field supervisor and I stopped a car
23 and there was a drunk driver and I handed it off to
24 another officer, it would be okay to claim both
25 officers having the DWI.

1 CHIEF KASSETAS: Just so I'm clear, you
2 admitted to violating departmental policies. But you
3 never lied to IA?

4 MR. HENDERSON: Correct. I didn't lie to IA.
5 What I did do is I didn't call out traffic stops. I
6 admit to that. I didn't follow up on investigations
7 as I should have. But at no time was I willfully
8 insubordinate and at no time was I untruthful to my
9 lieutenant or to Internal Affairs.

10 CHIEF KASSETAS: Thank you. That's all the
11 questions I have. Any other Board Members have any
12 questions? None. Thank you, sir.

13 MR. HENDERSON: Thank you.

14 CHIEF KASSETAS: Moving on to proposed
15 default orders of suspension. Billiman?

16 MS. BILLIMAN: Here.

17 CHIEF KASSETAS: Duran? Garrison? Billiman,
18 come on up. A couple of minutes.

19 MS. BILLIMAN: I wanted to ask the Board if
20 they could start my suspension from December. I had
21 received a letter that my case was supposed to be
22 heard in December.

23 I resigned from McKinley County Sheriff's
24 Department for that reason, that my hearing was to be
25 in December. And the department received notice that

1 my certification was going to be suspended for six
2 months and they said I could come back in six months.
3 So that's what I'm asking from the Board.

4 CHIEF KASSETAS: Okay. I mean the Board can
5 consider that. Thank you. So if the suspension
6 sticks, you want to back it up to what date?

7 MS. BILLIMAN: From the meeting that was
8 supposed to be in December.

9 CHIEF KASSETAS: Okay. Thank you.

10 MS. BILLIMAN: Thank you.

11 CHIEF KASSETAS: For the proposed stipulated
12 orders, do we have Aquino or Pengelly? No.

13 Proposed default orders of revocation, Karl
14 Dirham, Zachary Garcia, George Martine, Martinez,
15 Meeks, Ponce, Rauch? Nobody there for that.

16 We're going to hear three formal hearings.
17 I'll acknowledge them, but they don't get to address
18 the Board. It's DeAguero, Greer, and King. And then
19 we'll entertain the requests to address the Board
20 after the closed session, correct?

21 MR. WORD: Yes.

22 CHIEF KASSETAS: Have I missed anybody in the
23 crowd that wants to address the Board? No. We're
24 good. Okay.

25 CHIEF McCALL: At this time I'll bring the

1 Board meeting into closed session. So do we have a
2 motion to go into closed session?

3 CHIEF KASSETAS: I move that the Board go
4 into closed executive session to discuss only those
5 matters listed on the agenda under executive session
6 pursuant to NMSA 1978 Section 10-15-1(H)(1), (3), and
7 (7). Do I have a second?

8 CHIEF SOLAND: Second.

9 CHIEF KASSETAS: I'll take a roll call vote.
10 I'll call out the names and you can indicate yes by
11 saying aye. Mr. Scot Key.

12 MR. KEY: Aye.

13 CHIEF KASSETAS: Sheriff Wesley Waller.

14 SHERIFF WALLER: Aye.

15 CHIEF KASSETAS: Chief Darren Soland.

16 CHIEF SOLAND: Aye.

17 CHIEF KASSETAS: Chief Chris McCall.

18 CHIEF McCALL: Aye.

19 CHIEF KASSETAS: Sergeant Jaime Quezada.

20 MR. QUEZADA: Yes.

21 CHIEF KASSETAS: Ms. Elisabeth Miller.

22 DR. MILLER: Aye.

23 CHIEF KASSETAS: Ms. Kelly Burnham.

24 MS. BURNHAM: Aye.

25 CHIEF KASSETAS: So now we're in executive

1 session. Thank you, all.

2 (Recess from 11:20 a.m. to 2:10 p.m.)

3 CHIEF KASSETAS: All right. Let's get
4 started. The Board is back in open session. And I
5 affirm that, while in closed session, it discussed
6 only those matters specified in the motion to close
7 the meeting and listed on the agenda under executive
8 section in accordance with NMSA 1978 Section
9 10-15-1(H). So we're back in open session.

10 ITEM NO. 20: THOMAS HENDERSON

11 CHIEF KASSETAS: Okay. On the orders of
12 proposed dismissals, do I have a motion regarding
13 Thomas Henderson?

14 SHERIFF WALLER: Mr. Chairman, I move that we
15 accept the Administrative Judge's recommendation for
16 Mr. Thomas Henderson.

17 MR. KEY: Second.

18 CHIEF KASSETAS: We have a second. Those in
19 favor.

20 (Those in favor so indicate.)

21 CHIEF KASSETAS: Those opposed? Hearing
22 none, the motion carries.

23 ITEM NO. 21: SHAWN SCOTT

24 CHIEF KASSETAS: Item 21, do I have a motion
25 in the matter regarding Shawn Scott?

1 CHIEF McCALL: I'll like to make a motion to
2 accept the Administrative Judge's recommendation.

3 CHIEF KASSETAS: Do I have a second?

4 MR. QUEZADA: Second it.

5 CHIEF KASSETAS: Those in favor.

6 (Those in favor so indicate.)

7 CHIEF KASSETAS: Those opposed? Hearing none
8 opposed, the motion carries.

9 ITEM NO. 22: PEDRO CHACON

10 CHIEF KASSETAS: Item No. 22, do I have a
11 motion for the matter regarding Pedro Chacon.

12 DR. MILLER: Mr. Vice Chairman, I move that
13 we approve the Administrative Judge's recommendation
14 for dismissal.

15 CHIEF KASSETAS: Do I have a second?

16 CHIEF SOLAND: Second.

17 CHIEF KASSETAS: Those in favor.

18 (Those in favor so indicate.)

19 CHIEF KASSETAS: Opposed? Hearing none
20 opposed, the motion carries. Let the record reflect
21 that I recused myself from item 22.

22 SHERIFF WALLER: Mr. Chairman, the record
23 will reflect that I also recused myself on item
24 No. 22.

25 ITEM NO. 23: GABRIELLE BILLIMAN

1 CHIEF KASSETAS: Proposed default orders of
2 suspension. Do I have a motion in the matter
3 regarding Gabrielle Billiman?

4 CHIEF SOLAND: Mr. Vice Chair, I move to make
5 a motion to accept the Administrative Judge's
6 recommendation for a six-month suspension with
7 suspension date range starting from November 15th,
8 2015, through June 15th, 2016.

9 CHIEF KASSETAS: December, correct?

10 CHIEF SOLAND: I'm sorry. December 15th,
11 2015.

12 CHIEF McCALL: Second.

13 CHIEF KASSETAS: We have a second. Those in
14 favor.

15 (Those in favor so indicate.)

16 CHIEF KASSETAS: Any opposed? Hearing none
17 opposed, the motion carries.

18 ITEM NO. 24: DONALD DURAN

19 CHIEF KASSETAS: Item No. 24, do I have a
20 motion regarding Donald Duran?

21 MR. QUEZADA: Mr. Vice Chair, I would like to
22 make a motion on accepting the recommendation by the
23 Administrative Judge.

24 CHIEF KASSETAS: Do I have a second?

25 MS. BURNHAM: Second.

1 CHIEF KASSETAS: Those in favor.

2 (Those in favor so indicate.)

3 CHIEF KASSETAS: Any opposed? Hearing none
4 opposed, the motion carries.

5 ITEM NO. 25: LAWRENCE GARRISON

6 CHIEF KASSETAS: Item No. 25, I have a motion
7 regarding Lawrence Garrison?

8 CHIEF McCALL: Mr. Vice Chairman, I would
9 like to make a motion to accept the proposed default
10 order of suspension.

11 CHIEF KASSETAS: Do I have a second?

12 MR. QUEZADA: Second it.

13 CHIEF KASSETAS: Those in favor.

14 (Those in favor so indicate.)

15 CHIEF KASSETAS: Any opposed? Hearing none
16 opposed, the motion carries.

17 SHERIFF WALLER: Mr. Chairman, the record
18 will reflect that I recused myself on item No. 25.

19 CHIEF KASSETAS: Thank you. It will.

20 ITEM NO. 26: JOSEPH AQUINO

21 CHIEF KASSETAS: Proposed stipulated orders
22 of suspension. On Joseph Aquino the Board is taking
23 no action on No. 26 for Mr. Aquino.

24 ITEM NO. 27: JAMES PENGELLY

25 CHIEF KASSETAS: On No. 27, do I have a

1 motion regarding James Pengelly?

2 MR. KEY: Mr. Vice Chair, I would like to
3 make a motion that we approve a stipulated order
4 regarding Law Enforcement Academy certification with
5 certain modifications, that being to notify the
6 Director of an intent to seek a job in New Mexico, to
7 complete an ethics training course, and to provide a
8 certificate of completion of that ethics course to the
9 Director of the Law Enforcement Academy.

10 CHIEF KASSETAS: Do I have a second?

11 MR. QUEZADA: I'll second it.

12 CHIEF KASSETAS: Second by Jaime. Those in
13 favor.

14 (Those in favor so indicate.)

15 CHIEF KASSETAS: Any opposed? Hearing none
16 opposed, the motion carries.

17 ITEM NO. 28: KARL DIRHAM

18 CHIEF KASSETAS: We're now on proposed
19 default orders of revocation. Do I have a motion
20 regarding Karl Dirham?

21 SHERIFF WALLER: Mr. Chairman, I move that we
22 approve the default order of revocation.

23 CHIEF KASSETAS: Do I have a second?

24 MR. KEY: Second.

25 CHIEF KASSETAS: Those in favor.

1 (Those in favor so indicate.)

2 CHIEF KASSETAS: Those opposed? Hearing none
3 opposed, the motion carries.

4 ITEM NO. 29: ZACHARY GARCIA

5 CHIEF KASSETAS: Do I have a motion for the
6 matter regarding Zachary Garcia?

7 MR. QUEZADA: Mr. Vice Chair, I would like to
8 make a motion to accept the action requested and
9 approve the default order of revocation.

10 MS. BURNHAM: Second.

11 CHIEF KASSETAS: I have a second. Those in
12 favor.

13 (Those in favor so indicate.)

14 CHIEF KASSETAS: Those opposed? Hearing none
15 opposed, the motion carries.

16 ITEM NO. 30: GEORGE MARTINE

17 CHIEF KASSETAS: Going to No. 30, do I have a
18 motion for the matter regarding George Martine?

19 MR. KEY: Mr. Vice Chair, I move to accept
20 the default order of revocation.

21 CHIEF KASSETAS: Do I have a second?

22 CHIEF McCALL: Second.

23 CHIEF KASSETAS: We have a second. All those
24 in favor.

25 (Those in favor so indicate.)

1 CHIEF KASSETAS: Those opposed? Hearing none
2 opposed, the motion carries.

3 CHIEF SOLAND: Mr. Chair, I want to make a
4 point of information that I recused myself from any
5 action on agenda item No. 30.

6 CHIEF KASSETAS: Darren Soland recuses
7 himself, the record will show that.

8 ITEM NO. 31: DANI MARTINEZ

9 CHIEF KASSETAS: Item 31, reference Dani
10 Martinez. The Board will take no action as there was
11 no Notice of Hearing.

12 ITEM NO. 32: LARRY MEEKS

13 CHIEF KASSETAS: On to item 32, do I have a
14 motion regarding Larry Meeks.

15 CHIEF SOLAND: Mr. Vice Chair, I make a
16 motion to approve the default order of revocation.

17 CHIEF KASSETAS: A second?

18 SHERIFF WALLER: Second.

19 CHIEF KASSETAS: Those in favor.

20 (Those in favor so indicate.)

21 CHIEF KASSETAS: Those opposed? Hearing
22 none, the motion carries.

23 ITEM NO. 33: ABELARDO PONCE

24 CHIEF KASSETAS: Item 33.

25 DR. MILLER: Mr. Vice Chairman, I make a

1 motion to approve the Administrative Judge's
2 recommendation to accept the default order of
3 revocation.

4 CHIEF KASSETAS: This is regarding Mr. Ponce,
5 Abelardo Ponce. Do I have a second?

6 MS. BURNHAM: Second.

7 CHIEF KASSETAS: Those in favor.

8 (Those in favor so indicate.)

9 CHIEF KASSETAS: Any opposed? Hearing none
10 opposed, the motion carries.

11 ITEM NO. 34: JERRY RAUCH

12 CHIEF KASSETAS: Do I have a motion regarding
13 Jerry Rauch?

14 CHIEF McCALL: Mr. Vice Chair, I would like
15 to make a motion to accept the default order of
16 revocation.

17 CHIEF KASSETAS: A second?

18 MR. QUEZADA: Second it.

19 CHIEF KASSETAS: Those in favor.

20 (Those in favor so indicate.)

21 CHIEF KASSETAS: Any opposed? Hearing none
22 opposed, the motion carries.

23 ITEM NO. 35: ARTURO DeAGUERO

24 CHIEF KASSETAS: On to formal hearings, item
25 35, Arturo DeAgüero. Do I have a motion regarding

1 Mr. DeAguero?

2 MS. BURNHAM: Yes. I move to adopt the
3 Hearing Officer's findings of fact as set forth in his
4 documentation and to accept the Hearing Officer's
5 recommendation of revocation.

6 CHIEF KASSETAS: Do I have a second?

7 MR. KEY: Second.

8 CHIEF KASSETAS: Those in favor.

9 (Those in favor so indicate.)

10 CHIEF KASSETAS: Any opposed? Hearing none,
11 the motion carries.

12 ITEM NO. 36: CEDRIC GREER

13 CHIEF KASSETAS: Item 36, do I have a motion
14 regarding Cedric Greer?

15 SHERIFF WALLER: Mr. Chairman, I move that we
16 adopt the findings of fact and accept the
17 recommendation of revocation.

18 CHIEF KASSETAS: Do I have a second?

19 MS. BURNHAM: Second.

20 CHIEF KASSETAS: Those in favor.

21 (Those in favor so indicate.)

22 CHIEF KASSETAS: Those opposed? Hearing none
23 opposed, the motion carries. Let the record reflect
24 that I have recused myself from these proceedings.

25 ITEM NO. 37: BRYAN KING

1 CHIEF KASSETAS: Item 37, do I have a motion
2 regarding Bryan King?

3 CHIEF SOLAND: Mr. Vice Chair, I make a
4 motion to adopt the Hearing Officer's findings of fact
5 and recommended decision to not revoke and to dismiss.

6 CHIEF KASSETAS: So we have a motion for
7 Mr. King to not revoke and to dismiss. Do I have a
8 second?

9 CHIEF McCALL: Second.

10 CHIEF KASSETAS: Those in favor.

11 (Those in favor so indicate.)

12 CHIEF KASSETAS: Those opposed? Hearing none
13 opposed, the motion carries.

14 ITEM NO. 38: ADRIAN NANA

15 CHIEF KASSETAS: So we have item 38, Adrian
16 Nana.

17 MR. NANA: Yes, sir.

18 CHIEF KASSETAS: Regarding Adrian Nana,
19 you're here?

20 MR. NANA: Yes, sir.

21 CHIEF KASSETAS: Okay. Why don't you come
22 up. You have submitted a letter to the Board,
23 correct?

24 MR. NANA: Yes, sir.

25 CHIEF KASSETAS: All right. So we're all in

1 receipt of the letter. You are a former NMSP officer?

2 MR. NANA: Yes, sir.

3 CHIEF KASSETAS: As Vice Chair I will
4 overhear the testimony, but I will recuse myself from
5 any decision-making.

6 MR. NANA: Very well, sir.

7 CHIEF KASSETAS: Go ahead.

8 MR. NANA: Vice Chair, Board Members, I thank
9 you for the opportunity to address the Board. I am a
10 former police officer, Adrian Nana. I am here because
11 I allowed prior revocation through a default action, a
12 default order of revocation.

13 I did not think at the time that I had any
14 possibility of ever returning to law enforcement. I
15 was advised by senior officers from the New Mexico
16 State Police that it is a possibility that, if I ask
17 the Board if the default order of revocation can be
18 withdrawn, I can be allowed to go through the process
19 of disciplinary action.

20 I had allowed my personal life to tarnish my
21 professional life as a police officer and I went
22 through legal proceedings. I completed the
23 court-ordered, mandated two-year deferred
24 adjudication, probation, community service, anger
25 management, marriage counseling, and I believe I can

1 be of service to the community.

2 I've dedicated several hours in trying to
3 amend everything I did at the time. If the Board
4 would consider this, I would be grateful.

5 CHIEF KASSETAS: Is that the end of your
6 statement?

7 MR. NANA: Yes, sir. If the Board has any
8 questions, I'll be glad to answer them.

9 CHIEF KASSETAS: Do any of the Board members
10 have any questions? Hearing no questions, I would
11 entertain a motion from the Board regarding Mr. Nana.

12 DR. MILLER: Given that Mr. Nana attested
13 that he received notification of the order of
14 revocation and willfully took no action, I move that
15 the Board reject his request to rescind his revocation
16 order.

17 CHIEF KASSETAS: So we have a motion to
18 reject Mr. Nana's request to rescind his revocation
19 order. Do I have a second?

20 CHIEF McCALL: Second.

21 CHIEF KASSETAS: We have a second. We need
22 to take a vote. Those in favor.

23 (Those in favor so indicate.)

24 CHIEF KASSETAS: Any opposed? Hearing none
25 opposed, that motion carries. I hope you understand.

1 MR. NANA: Thank you, Board Members.

2 ITEM NO. 39: JUSTINE SCHRAEDER

3 CHIEF KASSETAS: Next to request to address
4 the Board is Justine Schraeder. There was some
5 confusion. You can speak to us.

6 MS. SCHRAEDER: Yes, sir.

7 CHIEF KASSETAS: All right. Go right ahead.

8 MS. SCHRAEDER: Good afternoon, Members of
9 the Board. My name is Justine and I'm here to ask you
10 to reopen my file. My certification was revoked. I
11 was unaware that it was in any process when I resigned
12 from my former department.

13 There was never any indication that they were
14 going to come after my certification. As a matter of
15 fact, the chief even offered to rehire me back in a
16 year. So I was unaware that they were going to send
17 anything up to the Board as far as discipline goes.

18 So when I got hired on with my new
19 department, they also didn't inform my new department
20 that there was anything going on at the academy. They
21 told my current employer that everything was taken
22 care of, everything was over.

23 So it wasn't until January that my new
24 department and myself actually learned that my
25 certification had been revoked. So I ask you to

1 reopen my file and allow me the process now that I
2 have knowledge that this is actually occurring. Thank
3 you.

4 CHIEF KASSETAS: Okay. Any questions by any
5 of the Board members? Do I have a motion regarding
6 this request of the Board?

7 DR. MILLER: Yes. Mr. Vice Chairman, I move
8 to rescind the default order of revocation to allow
9 Officer Schraeder to pursue the hearing process.

10 CHIEF KASSETAS: So I have a motion in place
11 to rescind the order and allow Ms. Schraeder to move
12 forward with the process. Do I have a second?

13 MR. KEY: Second.

14 CHIEF KASSETAS: Those in favor.

15 (Those in favor so indicate.)

16 CHIEF KASSETAS: Any opposed? Hearing none
17 opposed, the motion carries. You will be allowed to
18 move through the process again and work directly with
19 the Director to be sure that you follow the process.

20 MS. SCHRAEDER: Thank you, guys.

21 CHIEF KASSETAS: Good luck.

22 ITEM NO. 40: ROBERT ORTEGA

23 CHIEF KASSETAS: Okay. Regarding Robert
24 Ortega, do I have a motion regarding Mr. Ortega? He
25 is petitioning the Board to reinstate his

1 certification. Do we have a motion by any of the
2 Board members?

3 I believe we did review his packet. I'm
4 sorry. Not his packet. But the information regarding
5 him meeting with the Director. Is he here today?

6 MR. ORTEGA: Yes, sir.

7 CHIEF KASSETAS: Go ahead.

8 MR. ORTEGA: Ladies and gentlemen of the
9 Board, once again I thank you for taking the time out
10 of your day to listen to my appeal. I was done a
11 great injustice by my former employer. I presented
12 the packet of everything that they've done to me in a
13 very short version.

14 After meeting with the Director Coss on
15 numerous occasions since the October meeting in Santa
16 Rosa, which I was directed by the Board to do, to meet
17 with the Director, which was Jack Jones at the time,
18 he gave it over to Director Coss.

19 We've met on several occasions. We've
20 compiled a very binder of about four to six inches
21 thick. We shortened it up to a very short and sweet
22 process. And Director Coss presented that to you guys
23 in closed session today.

24 I just ask for your blessings in being able
25 to be reinstated as a police officer. It was a job

1 that I loved, a job that I did with utmost respect for
2 the law and I still have the utmost respect for the
3 law. Regardless of what I've been through, I still
4 have the utmost respect for the law.

5 And I have shown through the whole process
6 that I have done nothing wrong to warrant any of this.
7 I was never notified of any final hearings or any
8 final actions. It's way down the road, when I was
9 going through a civil action against the City of Las
10 Vegas, that's when it was discovered.

11 And it was buried inside attorney's paperwork
12 of my previous attorney, which was fired due to a
13 conflict of interest when it was found out that he was
14 actually aiding the City of Las Vegas in trying to get
15 my job taken away from me, which he succeeded.

16 That's all I have for the Board. If there
17 are any questions, I would be more than happy to
18 answer anything else.

19 CHIEF KASSETAS: You went through this
20 process in 2010, correct?

21 MR. ORTEGA: Yes, sir. I've gone through
22 this process, I've gone through the Board. This will
23 be the third or fourth time that I've actually spoken
24 to the Board.

25 CHIEF KASSETAS: I understand. But your

1 certification was revoked by a Board in 2010, right?

2 MR. ORTEGA: I was never notified until
3 actually about 2011.

4 CHIEF KASSETAS: Whether you were notified,
5 your certification was ultimately revoked by a Board,
6 right?

7 MR. ORTEGA: Yes, sir.

8 CHIEF KASSETAS: So the difficulty that I
9 have as a Board Member is gathering enough information
10 to overturn a revocation. You've presented a little
11 bit of new information here that someone in the
12 organization in Las Vegas was after your job or after
13 you. I've heard in the presentation by the Director
14 that the criminal charges were dismissed, correct?

15 MR. ORTEGA: That's correct, sir.

16 CHIEF KASSETAS: The civil charges were
17 dismissed?

18 MR. ORTEGA: Yes, sir.

19 CHIEF KASSETAS: So why were you revoked?

20 MR. ORTEGA: I was revoked because I was
21 never notified of any final hearing. So I never came
22 to answer before the Board to address any of what was
23 discussed in a hearing. It was, therefore, not that I
24 never wanted my certification back or that I just gave
25 up in the whole process, which I never did.

1 CHIEF KASSETAS: So you've never had a formal
2 hearing?

3 MR. ORTEGA: I had a formal hearing. The
4 formal Hearing Officer was also the Vice Chairman of
5 the Board. So when I came before the Board, I was
6 talking to deaf ears because he didn't want to hear
7 it. He gave me three minutes to speak and he didn't
8 want to hear any more.

9 CHIEF KASSETAS: Who was that?

10 MR. ORTEGA: That was Sheriff Robert Coon at
11 the time. And we went up before him in Farmington. I
12 also did have attorneys with me at that point in time.
13 And they were very shocked at the way things were
14 handled at that point in time.

15 CHIEF KASSETAS: If there are no more
16 questions, I'd like the Board to table this until the
17 next hearing. I think we need to do some more fact
18 gathering on how the Board was situated in 2010.

19 I know that we don't do that anymore, we
20 don't have Board Members holding formal hearings. So
21 we have obviously an appointed judge, hearing judge.

22 So I'll make a motion to table it. Is there
23 a second?

24 SHERIFF WALLER: Second.

25 CHIEF KASSETAS: And in favor.

1 (Those in favor so indicate.)

2 CHIEF KASSETAS: Any opposed to tabling? No
3 one is opposed. So we'll table this to the next
4 meeting. It is a very informationally, you know,
5 intense process. Bear with us. I know that you
6 probably want an answer today.

7 MR. ORTEGA: That's fine, sir. Is there
8 anything else that the Board would like from me to
9 present to you guys?

10 CHIEF KASSETAS: If we do, we'll work through
11 Director Coss and the Attorney General's Office to
12 figure out what we need. But we'll hopefully have you
13 on the agenda for the next meeting, which is three
14 months from now.

15 MR. ORTEGA: Thank you.

16 CHIEF KASSETAS: Let the record show that
17 that was tabled regarding Mr. Ortega.

18 ITEM NO. 41: DAWNE ROBERTO

19 CHIEF KASSETAS: Onto item 41, Dawne Roberto.
20 Do I have a motion regarding Dawne Roberto?

21 MS. BURNHAM: Yes, sir. Move to authorize
22 the settlement on these two terms. The Board moves to
23 allow conditional reinstatement of Ms. Roberto's law
24 enforcement certification on December 31st, 2016,
25 which, in effect, equates to an 18-month suspension as

1 long as she successfully completes an academy ethics
2 class on or before December 31st, 2016.

3 CHIEF KASSETAS: Do I have a second?

4 MR. KEY: Second.

5 CHIEF KASSETAS: Those in favor.

6 (Those in favor so indicate.)

7 CHIEF KASSETAS: Any opposed?

8 CHIEF McCALL: Opposed.

9 CHIEF KASSETAS: Let the record reflect we
10 have one opposed, Chris McCall. Hearing one opposed
11 compared to those in favor, the motion carries.

12 ITEM NO. 42: ADJOURNMENT

13 CHIEF KASSETAS: Do I have a motion to
14 adjourn?

15 CHIEF McCALL: Motion to adjourn.

16 CHIEF KASSETAS: Do I have a second?

17 CHIEF SOLAND: Second.

18 CHIEF KASSETAS: All in favor.

19 (Those in favor so indicate.)

20 CHIEF KASSETAS: Those opposed? Hearing none
21 opposed, we are adjourned. Thank you for showing up.

22 (At 2:35 p.m. the meeting was concluded.)

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REPORTER'S CERTIFICATE

I, JAN A. WILLIAMS, New Mexico CCR #14, DO
HEREBY CERTIFY that on March 8, 2016, the proceedings
in the above captioned matter were taken before me,
that I did report in stenographic shorthand the
proceedings set forth herein, and the foregoing pages
are a true and correct transcription to the best of my
ability.

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

JAN A. WILLIAMS, RPR
New Mexico CCR #14
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