

NEW MEXICO LAW ENFORCEMENT ACADEMY

REGULAR BOARD MEETING

December 5, 2016

8:30 a.m.

Albuquerque Marriott

2101 Louisiana Boulevard, N.E.

Albuquerque, New Mexico 87110

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

BOARD MEMBERS

New Mexico Attorney General Hector Balderas, Chairman

Chief Chris McCall, Vice Chairman

Chief Pete Kassetas

Chief Darren Soland

Jaime Quezada

Scot Key

Elisabeth Miller

Kelly Burnham

ALSO PRESENT

Stephan Marshall, Director

Brian Coss, Deputy Director

Joseph M. Dworak, Esq.

Monica Medrano, Case Manager

AGENDA ITEM INDEX

	ITEM		PAGE
1	1	Call to Order	5
2	2	Roll Call	5
3	3	Approval of Agenda	6
4	4	Approval of Meeting Minutes (September 7 and 8, 2016)	6
5	5	Director's Report	7
6	6	Public Comment	25
7	7	Ratification of Certifications for Law Enforcement Officers	37
8	8	Ratification of Certifications for Public Safety Telecommunicators	41
9	9	Consideration on whether the NMLEA should begin reporting to the National Decertification Index (IADLEST)	42
10	10	Request by Jerrell E. Harvey	51
11	11	Discuss Approval of the LEA Santa Fe Class Schedule and Content	61
12	12	Update on New Disciplinary Procedures	61
13	13	Scheduling of 2017 Board Meetings	83
14	14	Year End Review	85
15	15	Request by Levi Chavez for Reinstatement of Law Enforcement Certification	97
16	16	Request by Benjamin Kirby for Reinstatement of Law Enforcement Certification	99
17	17	Request by Michael Parrish for Reinstatement of Law Enforcement Certification	99
18	18	Justine Schraeder	104

AGENDA ITEM INDEX (Cont'd)

	ITEM	PAGE
1		
2		
3	19 Matthew Ashley	105
4	20 Erica MacKinnon	105
5	21 Patrick Mosley	106
6	22 Raul Romero	106
7	23 Stephan Borders	107
8	24 Warner Burnor	107
9	25 Deshaun Epps	108
10	26 Justin Fedric	109
11	27 Justin Romero	109
12	28 Jose Sierra	110
13	29 Jesse James Casaus	110
14	30 Gilbert Gonzales	111
15	31 Joseph Baca	112
16	32 John Doyle Update	112
17	33 Return to Open Session	104
18	34 Adjournment	112

Attached:

Exhibits 1 and 2 - Certifications of Law
Enforcement Officers

Exhibit 1 - Certifications of Public Safety
Telecommunicators

1 ITEM NO. 1: CALL TO ORDER

2 A.G. BALDERAS: Good morning. I hereby call
3 this meeting to order.

4 ITEM NO. 2: ROLL CALL

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

7 MS. MEDRANO: Attorney General Hector
8 Balderas.

9 A.G. BALDERAS: Present.

10 MS. MEDRANO: Mr. Scot Key.

11 MR. KEY: Present.

12 MS. MEDRANO: Chief Pete Kassetas.

13 CHIEF KASSETAS: Here.

14 MS. MEDRANO: Sheriff Wesley Waller.
15 Chief Darren Soland.

16 CHIEF SOLAND: Present.

17 MS. MEDRANO: Chief Chris McCall.

18 CHIEF McCALL: Here.

19 MS. MEDRANO: Sergeant Jaime Quezada.

20 MR. QUEZADA: Here.

21 MS. MEDRANO: Ms. Kelly Burnham.

22 MS. BURNHAM: Here.

23 MS. MEDRANO: Dr. Elisabeth Miller.

24 DR. MILLER: Here.

25 A.G. BALDERAS: Thank you, Monica.

1 ITEM NO. 3: APPROVAL OF AGENDA

2 A.G. BALDERAS: We move to item three. You
3 all have the agenda ahead of time. We'll take a few
4 minutes, if you need. But I'll take a motion to
5 approve the agenda for today's meeting.

6 MR. KEY: Motion to approve.

7 CHIEF KASSETAS: Second.

8 A.G. BALDERAS: There is a motion to approve
9 the agenda and a second by Chief Kassetas. All in
10 favor say aye.

11 (Those in favor so indicate.)

12 A.G. BALDERAS: Any opposed to the motion?
13 The motion passes, the agenda for the day is approved.

14 ITEM NO. 4: APPROVAL OF MEETING MINUTES

15 A.G. BALDERAS: Item No. 4, we will consider
16 approving the minutes for September 7th and 8th, we
17 need to approve the minutes from the last meeting of
18 the Board, which occurred in September. Copies of
19 those minutes have been distributed to Board Members
20 and are always available on the LEA website.

21 Are there any corrections to the minutes as
22 presented? We'll take a few minutes to look this
23 over.

24 CHIEF KASSETAS: I would like to make a
25 motion to approve the minutes.

1 MS. BURNHAM: Second.

2 A.G. BALDERAS: There is a motion to approve
3 the minutes and a second. All in favor.

4 (Those in favor so indicate.)

5 A.G. BALDERAS: Are there any opposed? The
6 minutes for the September Board meeting are approved.

7 ITEM NO. 5: DIRECTOR'S REPORT

8 A.G. BALDERAS: We now move to item No. 5,
9 the Director's report. Are you ready, Director
10 Marshall?

11 DIRECTOR MARSHALL: Yes, sir. Thank you,
12 Mr. Chairman, Members of the Board.

13 It's my privilege to once again address this
14 regular Board meeting to highlight some of the
15 activities that the academy has been doing under the
16 supervision of this Board.

17 The New Mexico Law Enforcement Academy Basic
18 Class No. 193 started a class on July 24th of this
19 year. They graduated on November 16th of 2016. We
20 started with 69 cadets, which was I think the largest
21 class we've started.

22 We graduated 57 cadets representing 27
23 different agencies. So I think we had pretty good
24 success putting a lot of new officers and deputies out
25 on the street.

1 The Advanced Training Bureau had started
2 working on providing and coordinating the next cycle
3 of biennium training that has to be completed in the
4 next calendar year. We've got several scheduled, more
5 that we're looking at, to make sure that everybody has
6 the opportunity to get the mandatory training this
7 year.

8 On October 28th of this year, the New Mexico
9 Law Enforcement Academy graduated Public Safety
10 Telecommunicator Class No. 133, consisting of 27 new
11 certified telecommunicators.

12 For the satellite academies, the Southeastern
13 New Mexico Law Enforcement Academy started Class
14 No. 37 on August 8th of 2016, graduating 21 officers
15 and deputies on December 2nd.

16 On November 17th of 2016, the San Juan
17 Academy graduated 16 officers and deputies in Class
18 No. 39.

19 On October 28th of 2016, the Southern New
20 Mexico Law Enforcement Academy graduated a Public
21 Safety Telecommunicator class with 11
22 telecommunicators certified.

23 Additionally, the Bernalillo County Sheriff's
24 Office Academy is expecting to graduate 19 cadets on
25 December 9th.

1 The Albuquerque Police Department started
2 class on June 27th of this year and is expecting to
3 graduate 38 on December 30th of 2016.

4 And the New Mexico State Police Academy
5 started a class of 36, expecting to graduate on
6 May 5th of next year.

7 So we've been pretty busy throughout all the
8 academies, satellite academies, running as many cadets
9 through as we can properly train. I think we're
10 probably on track to train more officers and deputies
11 this year than we ever have. So it's been a pretty
12 good year in that regard.

13 Additional topics I want to cover real
14 briefly. There was a request at the last meeting to
15 permit Sheriff Elva Harvey the opportunity to rejoin
16 the academy at the point where she was released last
17 year.

18 I have looked on as many different academy
19 websites as I could find. I couldn't find anybody
20 that particularly addressed it. I think the only
21 thing that would be similar would be on the
22 collegiate-based academies, where people can drop out
23 of a college and come back in at another point.

24 But that's dealing with entire courses, it's
25 not talking halfway through a course. I don't know of

1 any example that would be applicable where somebody
2 would be allowed to drop out of a class halfway
3 through and come back at another iteration of the same
4 class.

5 The problem as we discussed last time is the
6 schedule is not always consistent. It depends on
7 availability of instructors. Even our academy, which
8 has a number of full-time instructors on staff, still
9 relies heavily on adjunct instructors or other
10 specialties from around the State.

11 So often our schedule depends on how those
12 adjunct professionals are available. I don't think
13 there's any way that we can guarantee that somebody
14 dropping out of week 12 of a class and then coming
15 back at week 12 of the next class is going to have the
16 same training. Based on that I just don't see any way
17 it's feasible to make it work.

18 And the other problem obviously is, if we do
19 that with that exception, I don't know how we don't
20 apply the same rule to anybody that we flunk out of
21 the academy or that drops out on their own volition.

22 And I just think it puts us in an untenable
23 position to ensure that the students that are
24 graduating have the necessary training that the people
25 of this State deserve.

1 So that's kind of where we stand. Again I
2 wasn't able to find any examples specifically to allow
3 it. I still think that it's just untenable for us
4 from a training perspective.

5 CHIEF KASSETAS: Director Marshall, real
6 quick, was there an action item on that or is the
7 Board supposed to make a decision?

8 DIRECTOR MARSHALL: No. It was just
9 requested that we look at it last time. It was not
10 requested to be put back on the agenda. But since it
11 was requested that we look at it, I just wanted to
12 advise that we had taken a look.

13 CHIEF KASSETAS: Okay.

14 DIRECTOR MARSHALL: And I would assume that,
15 if they wish to have a vote on it, then Sheriff Harvey
16 or somebody else would put it on the agenda for a
17 future meeting.

18 CHIEF KASSETAS: Thank you.

19 DR. MILLER: In relation to Sheriff Harvey
20 and then some of the other things that have come up in
21 the past couple of meetings regarding fitness, both in
22 adjusting for altitude and then a couple of people
23 really having issues passing the physical fitness
24 portion and that's where they're falling short, is
25 there a pre-fitness program that cadets are given and

1 encouraged to do so that they don't arrive at the
2 academy at a subpar level of fitness?

3 DIRECTOR MARSHALL: I haven't seen a program
4 that specifically addresses those requirements. There
5 is a requirement that they pass the fitness test a
6 couple of weeks prior to arriving at the academy.

7 DR. MILLER: But that's a lower bar than what
8 happens in the middle of actual training, isn't it?

9 DIRECTOR MARSHALL: It's the same test they
10 have to meet when they start the academy, they have to
11 pass two weeks before. And then the requirements get
12 more difficult midway and more difficult at the end.

13 DR. MILLER: Right. So it's a higher bar
14 each time?

15 DIRECTOR MARSHALL: Right. We do work on
16 training them throughout the academy to get them from
17 that starting point to the finish point.

18 In fact, I think all of my basic instructors
19 are scheduled to attend a training next week I believe
20 from the Cooper Institute that's being put on in
21 Albuquerque to try to help improve their skills at
22 knowing how to improve the fitness level without
23 injuring people, which is always the other neat trick.
24 You're working really hard to push them to get better,
25 but you don't want to hurt them.

1 DR. MILLER: Is there any way to have a
2 pre-fitness program? Because it looks like this is
3 sort of a continual -- a small problem. But a
4 continual problem.

5 DIRECTOR MARSHALL: That's certainly
6 something that we could do together. Especially once my
7 instructors attend the class next week, we can get
8 together and see if there's something they can
9 recommend and put it out to the applicants as soon as
10 we find out that they're applying.

11 Part of the trick is sometimes there's a very
12 short window between the time that they apply and the
13 time that we start.

14 DR. MILLER: I recognize that. It just seems
15 like we're tripping up some people that are otherwise
16 quality candidates, which is to our detriment. Theirs
17 too, but ours as well.

18 DIRECTOR MARSHALL: I mean the standards are
19 public. I mean we can let them know what the
20 requirements are in each category. And obviously
21 there's a certain self-responsibility there.

22 But I think we could come up with a plan so
23 they could seek it out before applying. Again I think
24 the biggest trick with that is from the time we get
25 the application until the time they have to pass that

1 first test can be a very narrow window.

2 But we can make a program available if they
3 inquire. Once we have the training next week, I think
4 we can put together something that we can make
5 available to anybody who requests it.

6 DR. MILLER: I just don't see the harm, when
7 people are like submitting their applications or
8 whatever, telling them this has been a failing point
9 for a lot of candidates and being proactive and
10 telling them and not waiting for them to ask.

11 It appears that some people just really
12 aren't taking the physical portion seriously up front
13 or they might think it's easier than it is. And it
14 just seems like it would be a good service for the
15 candidates. I mean these questions wouldn't be coming
16 up that are sticky wickets for us.

17 DIRECTOR MARSHALL: We wouldn't have the
18 pretest two weeks out if it wasn't for the fact that
19 we're making it very clear how important this is. So
20 I think it is once they apply.

21 CHIEF KASSETAS: Director, this isn't a huge
22 problem. I mean the majority of people that enter an
23 academy get through it just fine, it's the ones and
24 twos. And I like the education point of it.

25 But logistically, you know, all these

1 agencies are spread out. And a certain amount of
2 responsibility falls on the home agency to get the
3 people ready for the LEA, to attend the academy.

4 DR. MILLER: I agree with you. It's a small
5 problem. It just keeps coming before us. And it just
6 seems like it keeps rising to the level that, if we're
7 hearing about it, then surely there is something
8 proactive that can be done. Even if it's an advisory
9 to the home agencies, hey, you need to get your people
10 ready.

11 DIRECTOR MARSHALL: I can tell you that I
12 have talked to numerous sheriffs and chiefs and their
13 staffs who do make a very big point of getting their
14 people in shape.

15 I know Undersheriff Mark Shea is here. I
16 know he talks to his people about it extensively. I
17 know numerous other agencies, they really push their
18 people to get in shape and they advise them.

19 But we can certainly put together a program
20 and share with them to assist in that regard. And we
21 can take a look at that. Like I said, as soon as my
22 guys get back from the training next week, I'll have
23 them start to address it.

24 I would point out also that we lost 12 people
25 I think out of our last class. Only two of them were

1 due to fitness issues. There were a couple of
2 injuries, there were a couple of bad life choices made
3 while they were at the academy and a few other things,
4 and several on their own volition. But only two out
5 of 69 I believe left because they couldn't pass the
6 fitness test.

7 CHIEF McCALL: Director, have we made any
8 notification to Sheriff Harvey of our findings on
9 this?

10 DIRECTOR MARSHALL: No, not yet.

11 CHIEF McCALL: Do we plan to?

12 DIRECTOR MARSHALL: I can, yes, sir. I would
13 be happy to advise her. Would it be the Board's
14 request that I advise her that, if she wishes to put
15 it to a vote, that she get it scheduled on a future
16 agenda?

17 CHIEF McCALL: In my personal opinion, I
18 don't know how the rest of the Board feels, I think
19 your review of the situation and your recommendation
20 should stand. That seems like something that should
21 be at the Director's discretion.

22 DIRECTOR MARSHALL: All right. I will advise
23 her of such.

24 The next thing I wanted to talk about briefly
25 was our rules committee. We are working on trying to

1 get better at reviewing the rules and modifying them.
2 We've had a few rules that we addressed.

3 Dr. Miller was kind enough to chair a hearing
4 on it. We got some rules that we finally got through.
5 I think we spent so much time trying to figure out how
6 to comply with the requirements administratively that
7 we didn't spend enough time explaining the purpose of
8 the rule changes.

9 And I think it was frustrating for a lot of
10 Members of the Board when we're changing rules that
11 are designed to improve transparency, and the
12 accusation from some critics is that we were trying to
13 limit transparency. I mean it was exactly the
14 opposite of what we were trying to do.

15 So our plan in the future, with the Board's
16 concurrence, is the rules committee will be sent
17 justifications for any rule changes by email up front.
18 Not just the changes but the reason we want the
19 changes, the reason that they're needed, along with a
20 strikethrough and underlined version of the proposed
21 changes.

22 While the rules committee is reviewing this
23 information, hopefully they will be receiving input
24 from those affected by those rules as well as other
25 Board Members.

1 After a couple of weeks, we will then have a
2 conference call with the members of the rules
3 committee, the Director, the Deputy Director, and
4 Board counsel to discuss the proposed changes. So
5 everybody knows what it is we're looking to do and
6 more importantly why.

7 Once the rule changes have been proposed,
8 based on the rules committee, we'll then send them to
9 the committee again for review in a final format.
10 We'll have a second conference call. We'll make sure
11 that we have all the formatting straight, we'll have
12 all the justifications straight, then it will be
13 presented to the Board as a final agenda item.

14 Once we have all that information available
15 on the website and discussed, then it will be up to
16 the Board to vote on it. Then we will have the
17 committee hearing and move forward.

18 It lengthens the process only in theory. I
19 think in reality it's not going to be any longer. But
20 I think it will do a better job of getting the word
21 out as to why we want to make these changes so that we
22 don't find ourselves trying to defend ourselves like
23 we did with the last one. I think it will be more
24 clear why it is that we need these changes.

25 There are several things that need to be

1 changed. Among the areas that we would like to see
2 addressed is the process for handling cases like we
3 have on our agenda this afternoon of people seeking to
4 overturn revocations. We don't have a process for
5 that. There probably should be if we're going to have
6 to continue to address them.

7 So those are just a few of the things we're
8 looking at in the rules area. Again it's not so much
9 changing the way we do the final portion of it, it's
10 changing the public perception, letting everyone know
11 what it is we're doing and why. Any questions on
12 that?

13 DR. MILLER: I think this sounds like a great
14 plan. I have a question that might be better
15 addressed to counsel. And I recognize this is a
16 really picayune detail.

17 But both Ms. Burnham and I, when we have
18 reviewed these rules, rule changes, we find
19 grammatical errors that grate on our ears and spelling
20 errors. And we would like the permission to address
21 those during this process. It speaks to a level of
22 professionalism for us. And then like I said it
23 grates on my ears.

24 DIRECTOR MARSHALL: I think the beauty of the
25 proposed system is will give us a lot more time to

1 address those. But the changes that the committee can
2 make after the hearing are limited to nonsubstantive
3 changes as we found out with this last process.

4 Everything that I outlined here today are
5 changes that we can make without problems, because all
6 these changes have been made before they come up for
7 the first Board vote.

8 So everybody will have a chance to review and
9 modify and correct and everything else before it ever
10 comes up as an agenda item for the Board. So that's
11 one thing I think this new process will help.

12 DR. MILLER: Okay. I think I can speak for
13 Ms. Burnham too, that both of us are happy to be the
14 picayune detail people and look at that stuff to
15 absolve the rest of you having to worry about it.

16 DIRECTOR MARSHALL: And we appreciate that
17 greatly. Any other questions on that?

18 A.G. BALDERAS: Director, I just want to echo
19 as well, I think the why and then also the detail
20 would gladly be welcome at a preliminary process.

21 I will tell you that what we're speaking
22 about is not unimportant to governance. For years and
23 decades, this Board has obviously struggled to put in
24 writing a certain level of rule of law that any
25 average citizen could understand.

1 And as you can see, this is not an easy
2 process we're committing to. But I think we're
3 committing to a longer-term, more detailed process so
4 that it's fully transparent.

5 I will artfully state the point that I'm
6 trying to make. This Board very proudly did follow
7 and attempt to bring this Board into full compliance
8 with the Open Meetings Act, which every other State
9 government agency in the State of New Mexico complies
10 with. And they did that with the last process.

11 And that was overshadowed a little bit by
12 unfortunate misinformation and allegations. But
13 that's a good example where this Board set a high
14 standard of accountability and said we want to comply
15 fully with the Open Meetings Act in any way and form
16 as every other State agency and local government is
17 required to do.

18 And yet there was misinformation about that.
19 There was confusion that we needed to comply with a
20 different standard. So that's why I want to commend
21 you and commend our Board Members to really committing
22 to a detailed process.

23 But explaining why we're changing the rules
24 in the interest of the public is absolutely a good
25 process. And I think you're trying to carve that out.

1 But that's a good example of where this Board
2 now, the way we create an agenda, fully complies with
3 the Open Meetings Act as every other State agency
4 complies. And this Board should be commended for
5 that. And unfortunately it wasn't reported that way.

6 DIRECTOR MARSHALL: I think part of the issue
7 last time was we put the rules to a vote as an agenda
8 item prior to having everybody give it a hard review.
9 And I think, under this new plan, it will have a
10 chance to be modified more thoroughly before it comes
11 up to the Board than it was previously.

12 A.G. BALDERAS: Thank you, Director. Do you
13 have additional items on your report?

14 DIRECTOR MARSHALL: Just one more, sir. We
15 continue to try to improve the LEA-90 process. We
16 want to expeditiously move cases through the system
17 while striving for fairness and consistency in the
18 recommendations.

19 We recognize the importance to the citizens
20 of the State of New Mexico that our law enforcement
21 officers are held to the highest of standards. But
22 the officers deserve a fair and consistent treatment
23 as well. And that's what we're shooting for here.

24 There have been new rules that were put in
25 place as part of this rules process that have just

1 kicked into play as to some of the processes that
2 we'll follow. I believe Board counsel has a few words
3 on that he's going to address later in this meeting.

4 And I think it's improved the process, I
5 think it will make it a smoother process. I have
6 addressed the sheriffs conference, the police chiefs
7 conference, and various other law enforcement entities
8 around the State about the process. Not only the new
9 rules, but the process in general.

10 I think we're doing a pretty good job of
11 getting word out there as to exactly the sort of
12 things that need to be reported to us, the sort of
13 things that we can take action on.

14 In 2016 there were 55 cases received of
15 LEA-90 complaints, 55 separate complaints made, 17
16 since the last Board meeting.

17 There are six awaiting additional
18 information, nine are pending a response to the
19 initial Notice of Contemplated Action, three have
20 requested an oral response that are still pending,
21 three are pending a response to the Notice of Final
22 Decision, and ten are pending a formal hearing. And
23 there are 14 scheduled to be disposed of at today's
24 meeting.

25 So the numbers have been -- I think they're

1 getting more in line with what we need to be
2 reviewing. I think the agencies are getting a better
3 understanding of what should be reported and what
4 doesn't need to be reported. So I think we're making
5 some progress in that regard.

6 And I think the new rules that we approved
7 that were just published to the first of this month
8 are going to go a long way toward making the system
9 more fair and a little more expeditious. And that's
10 all I have. I'll stand for any other questions the
11 Board has.

12 MR. KEY: Director Marshall, one quick
13 question about the Southeastern Academy. Any analysis
14 as to why there were so many people that did not
15 finish the academy?

16 DIRECTOR MARSHALL: I did not realize there
17 was a large number that didn't in the Southeastern.

18 MR. KEY: Well, 37 started the class and 21
19 graduated.

20 DIRECTOR MARSHALL: I believe that is going
21 to be a mistake on my part. I don't think the numbers
22 were anywhere near that high of a number.

23 CHIEF McCALL: This is the first academy they
24 have ever started where they graduated the entire
25 class. They started with 21 and graduated 21 on

1 Friday.

2 DIRECTOR MARSHALL: The number you're looking
3 at is the class number, not the number of students.
4 Each academy class has a number. Our last class was
5 class No. 193. Their class number was 37. So they
6 started 21 and graduated 21.

7 MR. KEY: Thank you very much.

8 DR. MILLER: One more question. Just in
9 regards to that academy, do we know who is running it
10 now? It's my understanding that the past -- I don't
11 know what her title was.

12 DIRECTOR MARSHALL: The Director has stepped
13 down. There was a dean over that academy, Dr. August
14 Fons. He is still there. They are looking at
15 restaffing that position. So Dr. Fons is still in
16 place.

17 Angela Byrd was a real asset to that school.
18 She's going to be greatly missed. We're optimistic
19 that they can find someone to take her place with the
20 same sort of dedication and devotion to the job that
21 she had. Thank you very much.

22 A.G. BALDERAS: Thank you, Director.

23 ITEM NO. 6: PUBLIC COMMENT

24 A.G. BALDERAS: We now move to item No. 6,
25 public comment. We're ready to open up the floor to

1 public comment. We do have a sign-in sheet here.

2 And Mr. Mark Shea I would like to invite up
3 for public comment. Thank you for being here.

4 MR. SHEA: Thank you, Mr. Chairman. I have a
5 handout I would like to give to the Members of the
6 Board. My apologies for not getting placed on the
7 agenda so that this was given to you in advance. I'll
8 give you a chance to digest the information.

9 What I have given to you is a briefing packet
10 that I put together. Not I. I should say a committee
11 that consists of myself; Elliott Guttman, who is a
12 staff attorney there at the law enforcement academy;
13 Marty Vigil, who is the chief investigator for the
14 13th Judicial; the newly promoted Lieutenant Hoffman
15 with the Albuquerque Police Department; Denise
16 Gutierrez, who is with the U.S. Attorney's Office; and
17 Robin Hopkins, a retired deputy with Bernalillo County
18 Sheriff's Office.

19 We came together. And this was kind of
20 brought about by Robin Hopkins' shooting back in 2013,
21 in October, where she was wounded trying to apprehend
22 here in Albuquerque an individual who had commandeered
23 an APD vehicle and was shooting at officers.

24 And she put herself in harm's way. He shot
25 her with an AK-47 in the leg. She was able to put a

1 tourniquet on or not -- she was starting to. And
2 fortunately it happened in front of a fire department.
3 And the paramedics were out there and got the
4 tourniquet on her leg. Had that tourniquet not been
5 applied, she would have died.

6 Since I've been in law enforcement -- not to
7 date when I started. But since I started my career in
8 law enforcement in New Mexico, 70 officers and
9 deputies, public safety first responders, 70 have died
10 in the line of duty during my career in this State.

11 I don't know how many of those may have been
12 saved by a trauma kit or a tourniquet. But I know
13 that Robin Hopkins would have. So that was what kind
14 of brought this to fruition, that we need to do this
15 on a State level, not just an individual agency level.

16 As we started to talk about it, you know, it
17 was brought about, well, you know, the State doesn't
18 have any money. We can go to the private sector and
19 find funding to do this.

20 My concern with that was that, if we go to
21 the private sector and find funding and we buy
22 tourniquets and trauma kits for all the current law
23 enforcement officers in the State and then I retire
24 and somebody else takes my place and this is not
25 something that's a passion for them, then the new

1 officers and deputies coming in four years down the
2 road, there's nothing in place. So the whole program
3 atrophies.

4 So the idea was let's institutionalize this
5 so that every officer who goes through an academy,
6 they get the training during the academy as part of
7 their basic curriculum. And they are issued a trauma
8 kit and a tourniquet upon graduation from the academy.
9 Same thing with cert-by-waiver classes.

10 So that we continue to keep that level, that
11 standard, throughout the profession as people come in
12 and people leave. Plus when somebody uses that kit,
13 there are expendable items.

14 And I do have a kit. I'll just kind of start
15 this around, if you want to all look at this. This is
16 just from one vendor so you have an idea what we're
17 talking about.

18 The idea is that, if they use the clotting
19 agent in that kit, obviously that needs to be
20 replaced. Who is going to replace it?

21 We want to put into place a methodology for a
22 central repository to where it would fall under the
23 Department of Public Safety or more specifically under
24 the Law Enforcement Academy to be the custodian of
25 that, to make sure that all kits remain current.

1 If items need to be replaced, that they can
2 be replaced so that those first responders in the
3 field have those tools available to them. And we're
4 not just looking at saving the lives of officers and
5 deputies, this is also for saving the lives of
6 citizens.

7 As you look through some of the news articles
8 that are attached to the documentation there, you'll
9 see that there's a lot of cases where, in vehicle
10 crashes or other incidents where there's major
11 injuries, the first responders, while waiting for
12 advanced life support or basic life support with
13 ambulance and EMS services, before they arrive, they
14 were able to save lives.

15 So what we're looking at doing is trying to
16 institutionalize this. And the vehicle for
17 institutionalizing it would be to request some of the
18 reverting funds from the LEPF to be allocated to
19 purchase and to maintain and also do the training.

20 I have talked with Director Marshall. He's
21 on board with this. Shortly before him leaving the
22 FBI, he was instrumental in getting the FBI to do a
23 similar program at the FBI level. So the academy is
24 in support of it. And we obviously need the Board's
25 support on this too.

1 One, it's going to be a financial issue. But
2 two, down the road, if it's accepted and brought into
3 place, there will be some curriculum impact into
4 putting this into the basic academy at the satellites
5 and the State Police Academy and the basic academy in
6 Santa Fe. Plus doing the cert by waiver, doing the
7 training there. So there will be some curriculum
8 impact if this is approved.

9 The reason I came before you today is, as
10 you'll look through there, I had sent a letter out or
11 an email out -- and each one of you had received
12 that -- before I went before the LEPF in October -- or
13 before the legislative finance committee, I'm sorry,
14 in October to make this presentation and requesting
15 letters of support.

16 And I did get letters of support from many
17 agencies around the State. Chief McCall with his
18 agency. Also with the New Mexico Municipal League and
19 the Municipal Chief's Association. The New Mexico
20 Sheriffs' Association is on board with it. And I
21 don't have a formal commitment from the New Mexico
22 Association of Counties. But in talking with them,
23 they are in support of it also.

24 So one of those pieces that I would like to
25 take to the legislature is we draft a bill to see if

1 we can make some modification to the Law Enforcement
2 Protection Fund would be the support of the Board
3 itself and a letter of support.

4 As you look through the documentation there,
5 you'll see that, when the legislature put into place
6 the LEPF, that money was meant for training and
7 equipment for law enforcement statewide.

8 Traditionally, since that has been in place,
9 more money is taken in from the insurance policies
10 that are written, that a fee is taken out of that for
11 the LEPF traditionally. There is more money taken in
12 than is doled out. Between 5 million and I think
13 \$17 million reverts back every year to the general
14 fund. And then the legislature uses that money in the
15 general fund.

16 My opinion is that that money was -- when
17 that bill passed and the Law Enforcement Protection
18 Fund came into place, that money was earmarked for
19 training and equipment for law enforcement. And it's
20 not right that we're reverting that money back to the
21 general fund for things other than public safety.

22 So I would like to tap that and propose a
23 bill that -- you do not have a bill in the packet.
24 There is House Bill 62, which was in the last
25 legislative session, that was asking the legislature

1 to up the amount that each agency received for
2 training and equipment.

3 And that bill did not get through the
4 legislature. But we would like to use that as a model
5 to draft a new bill and request specifically the
6 funding for trauma kits, the training, and the
7 tourniquets and the training for that.

8 So I bring that to you and ask for your
9 support and would ask for, at some time before the
10 legislature begins, if it's the Board's pleasure, that
11 we receive a letter of support from the Law
12 Enforcement Academy Board for this initiative. With
13 that I'll stand for any questions.

14 A.G. BALDERAS: Thank you. Any questions
15 from the Board?

16 MR. SHEA: Mr. Chairman, Members, thank you
17 for your time.

18 A.G. BALDERAS: We appreciate it. We'll take
19 it under advisement.

20 MR. SHEA: Thank you.

21 A.G. BALDERAS: We now move on to an
22 additional member of the public, Mr. Ellis. Good
23 morning. You have the floor.

24 MR. ELLIS: Thank you, sir. Well, I have a
25 lot to say, but I'll keep it real short here.

1 My name is Kenneth Ellis, I'm the father of
2 the Iraq war veteran who was shot and killed by
3 Albuquerque Police in 2010. I'm prior military. I
4 took an oath of office to defend this country against
5 all enemies, foreign and domestic. And I didn't
6 understand the domestic part of it until recently.

7 I'm very upset at what's been going on. As
8 you well know, we got a DOJ report that's very
9 scathing. And I see progress, I see stuff that's
10 happening. And it's encouraging. But the bottom line
11 is that the city is trying to make and we're trying to
12 establish use-of-force laws.

13 Well, my thought on that is that we can put
14 all the laws and rules in place. They're not
15 following the ones we have now. So the bottom line
16 is, if we don't have accountability and we're not
17 enforcing the rules that we have now, what's the use
18 in making new rules.

19 So it's up to you folks to -- it's really
20 hard. I can put myself in law enforcement shoes. I
21 have law enforcement in my family. And it's really
22 hard to discipline one of your brothers or call one of
23 your brothers-in-arms out.

24 But the reality is we have this blue code of
25 silence. And simply put we are not holding our

1 officers accountable for their actions. It's up to
2 you folks to do that. And to reinstate an officer
3 you've already decided that he's not fit for the job
4 is absurd to me.

5 We absolutely have to have accountability,
6 period. These men need to be held accountable. Chief
7 Gorden Eden said we have officers that shouldn't be
8 officers. That was his words.

9 So, you know, I know we go through a rigorous
10 screening process. But when you get out there and
11 your job performance and, you know, you have a lot of
12 complaints against you and you're out there bullying
13 the public or whatever, you know, you need to be
14 reined in.

15 This blue code of silence needs to be
16 eliminated. Basically what we're doing is we have,
17 you know, the fox guarding the henhouse here. You
18 know, how does that work.

19 Absolutely we need to have a civilian,
20 someone that's not connected to law enforcement,
21 someone that's not on the blue team to hold these
22 officers accountable. And I don't see that happening
23 anytime soon.

24 So it's up to you folks to do the right
25 thing. You've got to look at yourself in the mirror

1 and you're going to have to answer to someone one of
2 these days.

3 And I've said it before and I'll say it
4 again, you know. We're in this world, each and every
5 one of us. And we've all got a chance to earn our
6 wings for heaven or earn our horns for hell. So I'll
7 leave it at that, folks. Man, we got to get this
8 thing reeled in, we've got a big problem. So I'll
9 stand for any questions.

10 A.G. BALDERAS: Thank you.

11 MR. ELLIS: There a lot of new faces up here.
12 That's encouraging. I see what's going on with a lot
13 of other things, and all that is very encouraging.

14 But the fact is that, you know, the man that
15 murdered my son has not been held accountable. And
16 that's very disturbing. He's been proven in a court
17 of law. Summary judgment. He violated my son's
18 rights.

19 He killed my son. We sued him. Monetarily,
20 okay, that's all fine and dandy for my grandson. But
21 I still haven't gotten justice. The man that murdered
22 my son is still walking around out there.

23 And he doesn't deserve to be a police
24 officer. Look at his record. He should have never
25 been a cop in the first place. And we have that

1 problem with a lot of our police officers.

2 Mr. Balderas, I know that this is probably
3 not the right place. But I would like to hand you
4 this, if I may.

5 A.G. BALDERAS: Sure.

6 MR. ELLIS: You had given me this about six
7 months ago along with Steve Torres to fill out. And I
8 actually, as you well know, gave you a stack of
9 documents concerning my son's case and my dilemma.

10 So I'm still hoping and praying for justice.
11 All I want is the officer that killed my son to have
12 his badge taken away and have that gun that he killed
13 my son with taken away. And he needs to go ahead and
14 go be security somewhere or do something else.

15 He doesn't deserve to be a cop. And there
16 are a lot of them out there. And you guys have got to
17 clean the house. So please, do your jobs and look
18 yourselves in the mirror; check your scruples, check
19 your moral values.

20 A.G. BALDERAS: Mr. Ellis, thank you for
21 coming this morning.

22 MR. ELLIS: All right. Thank you,
23 Mr. Balderas. And thank you. I love the idea of
24 saving lives.

25 A.G. BALDERAS: I believe that concludes our

1 public comment period.

2 ITEM NO. 7: RATIFICATION OF CERTIFICATIONS FOR LAW
3 ENFORCEMENT OFFICERS

4 A.G. BALDERAS: We now move to item No. 7,
5 Director Marshall, for ratification of certifications
6 of the law enforcement officers.

7 DIRECTOR MARSHALL: Thank you, Mr. Chairman.
8 Our first group of officers in Exhibit 1 we would
9 certify have met the requirements. And we would move
10 for ratification of Certification Nos. 16-0242 through
11 16-0251 as well as 16-0252 and 16-0253. These are
12 certification-by-waiver candidates who came from
13 another jurisdiction and this is the first time they
14 have a New Mexico certification.

15 Additionally, we have certification
16 Nos. 11-0088 and a couple of others.

17 A.G. BALDERAS: I'm sorry, Director. Are you
18 going beyond the 16-0253?

19 DIRECTOR MARSHALL: We will, sir. Yes.
20 They're on the second exhibit. They would be from the
21 new officer class, the basic class.

22 We also have 12-0204, 11-0009, 04-0045, and
23 89-0345. Again the reason these are not sequential is
24 because these are officers who have come back after a
25 break in service. So we would move those as part of

1 Exhibit 1 to be certified, sir.

2 A.G. BALDERAS: And are they currently on our
3 Exhibit 1 list that I have in this exhibit or are you
4 referencing additional numbers?

5 DIRECTOR MARSHALL: They should be on the
6 list, but I don't see them either, sir.

7 DR. MILLER: I believe in our binders we only
8 have the 16s.

9 DIRECTOR MARSHALL: There's an 11-0088 on the
10 list, but that's where I was getting lost. We have
11 four others on my list that weren't listed on the
12 exhibit. And I'm not sure why I just noticed that
13 too.

14 At this time we would ask for the ones that
15 are listed on the exhibit, and I will find out where
16 the others have gone.

17 A.G. BALDERAS: Okay. Can you give me the
18 exact certification numbers that are additional to the
19 exhibit we have.

20 DIRECTOR MARSHALL: Yes, sir. It's
21 12-0204 --

22 DR. MILLER: That's on mine.

23 DIRECTOR MARSHALL: I'm sorry. Yes, it is.
24 12-0204 is on the list and 11-0088 is on the list.
25 But I'm also showing on my agenda 11-0009, 04-0045,

1 and 89-0345.

2 A.G. BALDERAS: Okay. I'll ask staff, are
3 they on the agenda?

4 MR. DWORAK: They're on the agenda so there's
5 not an issue with notice. It's been posted 72 hours
6 and complies with OMA. So because it's not on the
7 exhibit, that's one thing. But we have satisfied all
8 the Open Meetings Act requirements. But it is listed
9 on the agenda so the Board can vote on it.

10 A.G. BALDERAS: So we can entertain a motion,
11 and I'll state those three additional numbers. If you
12 could actually write those down for me and I'll make
13 sure they're in the motion properly.

14 DR. MILLER: It looks like only 11-0009 is
15 missing.

16 A.G. BALDERAS: Just nine?

17 DR. MILLER: Yes. Well, 12-0204 and 11-0088
18 are on mine.

19 DIRECTOR MARSHALL: There's also 04-0045 and
20 89-0345.

21 A.G. BALDERAS: I'll entertain a correct
22 motion from Dr. Miller referencing those three
23 numbers, if the rest of the exhibit is appropriate.

24 DIRECTOR MARSHALL: Yes, sir. I don't know
25 why it failed to get on the exhibit. We'll

1 double-check it next time.

2 A.G. BALDERAS: I'll take a motion to approve
3 the individuals that are listed and stated.

4 MS. BURNHAM: Excuse me. Do we have the
5 names of those persons?

6 MS. MEDRANO: I will look those up.

7 DR. MILLER: But we're not approving those
8 three right at this moment in time or are we?

9 A.G. BALDERAS: You can include it. But if
10 there's additional information you need, we can skip
11 over it.

12 MS. BURNHAM: That's what I'd like to do. I
13 know a lot of people and I always look at the names.
14 And if there's anybody I knew anything about, I would
15 say so.

16 A.G. BALDERAS: Name and department would be
17 great.

18 DIRECTOR MARSHALL: We'll get those for you,
19 sir.

20 A.G. BALDERAS: I think we can come back to
21 that as an agenda item and go to Exhibit 2, if that's
22 a completed exhibit.

23 DIRECTOR MARSHALL: Yes, sir. Exhibit 2 is
24 Basic Police Officer Class Certification Nos. 16-0254
25 through 16-0310. And we would state that those have

1 met the basic requirements.

2 A.G. BALDERAS: I'll entertain a motion at
3 this point.

4 DR. MILLER: So moved.

5 CHIEF KASSETAS: Second.

6 A.G. BALDERAS: There is a motion and a
7 second to approve Nos. 16-0254 through 16-0310. All
8 in favor say aye.

9 (Those in favor so indicate.)

10 A.G. BALDERAS: Are there any opposed to
11 approving these certifications? There are no nays.
12 The motion passes to approve all certifications
13 between 254 and 310.

14 ITEM NO. 8: RATIFICATION OF CERTIFICATIONS FOR PUBLIC
15 SAFETY TELECOMMUNICATORS

16 A.G. BALDERAS: Director, you can proceed.

17 DIRECTOR MARSHALL: Yes, sir. We would then
18 move to item No. 8. The exhibit in that one is for
19 the Public Safety Telecommunicators with Certification
20 Nos. 16-0069 through 16-0094. We would state that
21 these persons have all met the requirements for the
22 telecommunicator certification and ask that they be
23 certified as well.

24 A.G. BALDERAS: I'll entertain a motion to
25 approve.

1 MR. KEY: I'll make a motion to approve all
2 those contained in Exhibit 1.

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

4 MR. QUEZADA: I'll second it.

5 A.G. BALDERAS: There is a motion and a
6 second to approve 16-0069 through 16-0094, all
7 certifications within Exhibit 1. All in favor say
8 aye.

9 (Those in favor so indicate.)

10 A.G. BALDERAS: Any opposition to that
11 motion? The motion passes to approve all items in
12 Exhibit 1.

13 DIRECTOR MARSHALL: Thank you. We will find
14 out the information on the others and have that for
15 you in a few minutes.

16 A.G. BALDERAS: Great. We will come back to
17 the ratifications subject to the information that's
18 being completed.

19 ITEM NO. 9: CONSIDERATION ON WHETHER THE NMLEA
20 SHOULD BEGIN REPORTING TO THE NATIONAL
21 DECERTIFICATION INDEX (IADLEST)

22 A.G. BALDERAS: We now move to item 9,
23 consideration of whether the New Mexico LEA should
24 begin reporting to the National Decertification Index.
25 This agenda item will be presented by Deputy Director

1 Coss. You do have the floor, sir.

2 MR. COSS: Thank you, Mr. Chairman, Members
3 of the Board. The International Association of
4 Directors of Law Enforcement Standards and Training is
5 an international organization that has developed a
6 database for officers that have been decertified.

7 We're here before you today to seek guidance
8 to be able to report those that have been decertified
9 or revoked, if you will, to this national outlet.

10 Again this would be a means by which to
11 increase transparency. And it also is a mechanism by
12 which -- I think the common term is gypsy cops running
13 from one state to another state and running away from
14 any baggage that they have.

15 It seems, in reviewing the IADLEST website,
16 that there was a period of time, about 2008 to about
17 2011, that we did collectively report revocations to
18 IADLEST. I'm not sure why it started or why it ended,
19 which is the reason we placed this as an agenda item,
20 to be able to execute the wishes of the Board.

21 In considering this, we would consider a
22 proposal that would look something like this. If we
23 waited 160 days let's say from the date of the final
24 order, the date that the Board signed that order --
25 and that would allow any appeals processes, any other

1 kind of logistics, right, before we publish with
2 IADLEST.

3 That would give sufficient time should there
4 be any other legal remedies or options for an
5 individual, those would have expired by the time we
6 reach this 160-day -- technically it's 120 days. But
7 just giving it a little bit more room before we would
8 report should the Board choose to report those.

9 CHIEF KASSETAS: So may I ask, before we move
10 on, you would give a six-month window, correct? That
11 is enough time for a decertified officer to move to
12 another state to get a job.

13 Why wouldn't you report upon the Board's
14 determination of decertification and then let them
15 work through that process. And if it is overturned
16 for whatever reason, is there a way to get them off
17 the list?

18 MR. COSS: There absolutely is. We would be
19 the ones entering them on the list and we would be the
20 ones taking them off the list. So I'm totally
21 comfortable with whichever avenue the Board chooses to
22 move forward.

23 It is a resource that we do use when we're
24 reviewing our cert-by-waiver applicants that are
25 coming from another state or public safety

1 telecommunicators.

2 The agencies are responsible for doing the
3 backgrounds. But it gives us one final quick check
4 before we enter them into or accepting that
5 application for training and/or certification.

6 CHIEF KASSETAS: Brian, is it free for any
7 agency head to check that or do you have to be a
8 member and pay?

9 MR. COSS: You need to be a member of
10 IADLEST. But you absolutely can sign in. And then
11 actually what they will do is IADLEST will come back
12 to us and will verify that indeed you're with that
13 agency, you are who you say you are.

14 And technically IADLEST gives you the
15 permission. But it comes to us for the final
16 permission.

17 So once I click that button that says, yes,
18 you know, Chief Pete Kassetas is who he is, once that
19 button is clicked, then you have the ability to go in
20 and review these things. Right now in our State I
21 believe there's 13 folks that are on that list to
22 review.

23 DR. MILLER: So there would be then two
24 opportunities to correct the input of a
25 decertification? The first time would be if we knew

1 and proactively removed them; and secondly, if someone
2 checked on it and we had yet to proactively remove
3 them, then we could respond with the correct
4 information?

5 MR. COSS: Yes, ma'am.

6 CHIEF KASSETAS: So part of it is educating
7 agencies that are doing background investigations that
8 this is a tool, right, for them to use, correct?

9 MR. COSS: Absolutely.

10 CHIEF KASSETAS: And can we go back from
11 2011, from now back to 2011, and enter the folks that
12 have been decertified?

13 MR. COSS: Yes, sir. We can. There will be
14 some logistics naturally in getting the data entry
15 done. When are reference those years, 2008 to 2011,
16 there's a handful of records that were entered from
17 '98, 1998 cases.

18 So there was some backlog, if you will, it
19 seems entered in around 2008. But yes, sir, we do
20 have a vehicle by which to do that.

21 CHIEF KASSETAS: Great. Okay.

22 A.G. BALDERAS: Deputy Director, do you have
23 an estimated cost for agencies to participate in that,
24 do you have an idea?

25 MR. COSS: If I'm not mistaken, I believe

1 membership is around \$30 more or less for an
2 individual to join that organization. It is not cost
3 prohibitive in any way, shape, or form.

4 A.G. BALDERAS: Okay.

5 MR. COSS: So the agency as a whole, you
6 know, if you have 400 folks in the agency, naturally
7 you don't need that. You could have, you know, half a
8 dozen folks, if you will, if you've got a larger
9 agency, right, that would have the ability to be able
10 to access this information for you.

11 CHIEF McCALL: How many other states
12 currently report to that?

13 MR. COSS: There are a number, Chief. I
14 couldn't give you a number right off the top of my
15 head, just a guess it's over two-thirds.

16 A.G. BALDERAS: So at this point, though, you
17 will be asking this Board to consider, at least from a
18 Law Enforcement Academy perspective, to report to this
19 decertification database?

20 MR. COSS: Correct.

21 A.G. BALDERAS: Okay. I think your request
22 is well noted. Does the Board want to entertain a
23 motion or do we want to take it under advisement?

24 DR. MILLER: With the correction that you
25 would report right away and then go back and take

1 someone out if perchance their case wound up where
2 they were not decertified.

3 MR. COSS: Okay. If I could, Dr. Miller,
4 just as a point of clarification, from the date the
5 order is signed?

6 DR. MILLER: Yes.

7 MR. COSS: Okay. Very well.

8 CHIEF KASSETAS: I would also like to add
9 that I think we should go back and look at everybody
10 that's been decertified retroactively. It's a serious
11 matter. And that actual action is only as good as
12 people can access it and find out about it.

13 So I think it's very transparent. And as the
14 last gentleman speaking in public comment spoke of, it
15 does start to put folks on point that, if you do step
16 out of the boundaries of what we took an oath to do
17 and what we're trained to do, there are repercussions
18 for that. And that may follow you to Colorado or
19 California or elsewhere, which it should.

20 So I would like to do those things and
21 immediately get it on there upon approval and also as
22 fast as the LEA can do the research, because there's
23 legwork there, and go back and retroactively put folks
24 on there that have been decertified up to a certain
25 point, if that's possible. I support it.

1 MR. COSS: Chief, we will be glad to. And
2 just to your point, in my I guess year and a half or
3 so coming back and serving with you all, there's been
4 two applicants that I personally have caught in this
5 process that made it through an agency background that
6 were recommended by the agency for training and
7 certification that stopped here.

8 That's a pretty valuable tool I would think.
9 While the number is relatively low too, that's two
10 that we otherwise wouldn't have caught in any other
11 kind of mechanism.

12 A.G. BALDERAS: Just so I'm clear, Deputy
13 Director, you're saying that they were decertified in
14 other states and they attempted to get licensed in the
15 State of New Mexico?

16 MR. COSS: That is correct, sir.

17 MR. KEY: So do we have a motion?

18 A.G. BALDERAS: We're close.

19 MR. QUEZADA: I have a question. To be a
20 member on this, once you're a member, are you having
21 to not hire someone if they're on the list or can a
22 state make a decision within themselves?

23 They see that person is decertified in New
24 Mexico. But can Colorado still say, okay, well, I
25 still want to give them a shot and hire them still; or

1 is it part of the membership that, if you're on that
2 list, we're all sticking together, we're not
3 certifying anybody?

4 MR. COSS: That's a viable question. All of
5 this would be, at least in my humble opinion, another
6 vehicle for the agency to enhance their background.
7 That's what I would see this as.

8 DR. MILLER: But then it would be on them and
9 not our mistake if that occurred?

10 A.G. BALDERAS: I think I'll entertain a
11 motion to accept the recommendation that the NMLEA
12 begin reporting to the National Decertification Index
13 from the date of the order immediately, and that we go
14 back and amend those reportings to include any
15 retroactive decertifications as well. Do I understand
16 that motion?

17 DR. MILLER: So moved.

18 A.G. BALDERAS: Is there a second to that
19 motion?

20 CHIEF SOLAND: Second.

21 A.G. BALDERAS: So there is a motion and a
22 second to adopt the recommendation for the Law
23 Enforcement Academy Board to begin reporting. All in
24 favor say aye.

25 (Those in favor so indicate.)

1 A.G. BALDERAS: Are any in opposition to this
2 motion? The motion does carry to begin reporting
3 immediately and from the date of order and go back
4 retroactively to update the decertification index.

5 Congratulations. Thank you. I think this is
6 a great measure.

7 MR. COSS: Members of the Board, thank you
8 very much.

9 ITEM NO. 10: REQUEST BY JERRELL HARVEY

10 A.G. BALDERAS: We now move to item No. 10,
11 request by Jerrell Harvey for review of medical review
12 form due to it being performed by a Nurse
13 Practitioner. Good morning.

14 MR. HARVEY: Good morning, Board Members. My
15 name is Jerrell Harvey. I was in the process of
16 becoming recertified through waiver or by waiver. And
17 I passed all the qualifications up to the point of the
18 physical examination.

19 And then I went to Manzano Medical and a
20 Nurse Practitioner gave me the entire examination. So
21 then the doctor came back and signed off, saying that
22 I wasn't fit for the position of court security.

23 So my understanding is that it has to be --
24 the physical has to be given by a licensed physician.
25 And she wasn't a licensed physician. So I would like

1 to get another physical through somebody that's an
2 internal doctor or endocrinologist, because I'm a
3 diabetic.

4 A.G. BALDERAS: Are there any questions from
5 the Board?

6 MR. KEY: I have a question. So the doctor,
7 the licensed physician in this case, signed off on an
8 employee or a Nurse Practitioner's work?

9 MR. HARVEY: Yes, sir.

10 MR. KEY: In the same office?

11 MR. HARVEY: The same office, yes, sir.

12 CHIEF KASSETAS: So there was oversight by a
13 medical doctor that was licensed. You're reading the
14 rule as to say that it has to be a licensed physician?

15 MR. HARVEY: That's correct. That's the way
16 I'm reading the rule. A licensed physician has to do
17 the examination.

18 CHIEF KASSETAS: Physician assistants do
19 those as they're trained and licensed to with the
20 oversight of an actual licensed medical doctor. Did
21 you realize that?

22 MR. HARVEY: I didn't realize that, no.

23 CHIEF KASSETAS: Unless I have it wrong.

24 MR. HARVEY: So a Nurse Practitioner can do
25 the examination. And then the doctor looks it over

1 and makes a ruling on it, is that what you're saying?

2 CHIEF KASSETAS: I've seen that before. I've
3 actually been seen by a Nurse Practitioner and been
4 treated by one through going to the doctor. And
5 there's always oversight by a true physician. I think
6 the question you have before us is you want to get
7 another physical and then challenge that decision?

8 MR. HARVEY: Yes.

9 CHIEF KASSETAS: That's the question at hand,
10 whether it was a physician or not. And I don't know
11 how the LEA handles that. Director Marshall, maybe
12 you could give us some insight.

13 DIRECTOR MARSHALL: I believe Mr. Coss was
14 looking at this more. He might have a better
15 understanding.

16 MR. COSS: I would be more than happy to,
17 Mr. Chairman, Members of the Board. This did not come
18 to the Law Enforcement Academy as a question of
19 certification. If I remember correctly, this is
20 Bernalillo County. And it came up to the agency. And
21 then the agency gave the news to Mr. Harvey.

22 MR. HARVEY: Yes.

23 MR. COSS: So to give you a little
24 background, 2009, is that correct, you went through an
25 academy?

1 MR. HARVEY: I went through the academy.

2 MR. COSS: You completed a BCSO satellite
3 academy. If I remember correctly, and help me
4 remember that, but you worked a very short period of
5 time upon completion of the academy?

6 MR. HARVEY: Yes, I did.

7 MR. COSS: If I remember the number, it was
8 about ten days.

9 MR. HARVEY: Yes.

10 MR. COSS: You resigned and now are coming
11 back in a setting where he is requesting his
12 certification be reinstated. This was an agency. The
13 Law Enforcement Academy did not receive this
14 information, it's the agency that took the action to
15 stop the application process moving forward.

16 So I would believe the relief would be that
17 Mr. Harvey would go back to the agency and request a
18 second independent medical review and completion of
19 the entire LEA-3, which is the medical application
20 side of those things. Unless I'm missing something in
21 between.

22 MR. HARVEY: Yes, correct.

23 MR. COSS: That would be the relief that I
24 would think would be appropriate for your
25 consideration.

1 CHIEF KASSETAS: And have you asked the
2 Bernalillo County Sheriff's Office to do that yet?

3 MR. HARVEY: Well, I asked them if there was
4 a type of appeal, and they said there's no appeal
5 process to it. That's why I'm asking you, if I can
6 appeal it, if I can have another doctor give me
7 another examination and challenge the first one.

8 Because I passed the first one. The doctor
9 just said, me being a diabetic, he doesn't want me to
10 be in law enforcement. I mean I'm fully capable of
11 doing the job. I did the job for four months. I had
12 no problems with it.

13 MR. QUEZADA: If we were in a position to
14 grant you that second one, is Bernalillo County going
15 to recognize it and is it still willing to offer you a
16 position?

17 MR. HARVEY: I believe so, yes, sir.

18 CHIEF KASSETAS: I don't think that's within
19 our scope of authority. I mean I feel for your
20 situation. But I don't think this Board would oversee
21 that particular decision unless counsel wants to weigh
22 in.

23 MR. DWORAK: Chief Kassetas, Members of the
24 Board, the Board's rules are not entirely clear on the
25 process for these appeals. The first question is

1 whether or not this individual is defined as a
2 candidate or not.

3 So the rules under the Board's process, it
4 does say examination by a licensed physician. So
5 there could be some ambiguity as to whether or not a
6 physician signing off on an exam done by another
7 healthcare provider is an examination by a physician
8 or not. So that would be one question.

9 I'll read from the rules just to give the
10 Board some clarification. The rules say, "If a
11 candidate is rejected by an examining physician under
12 the medical selection guidelines due to a medical
13 condition of particular severity which includes
14 diabetes and he or she feels that he or she can
15 perform the essential tasks, he or she can appeal to
16 the Medical Review Board," which is an interim
17 committee as this Board is aware.

18 "At the candidate's initiation and expense,
19 the candidate may present evidence, testimony,
20 demonstrations of his or her ability to perform the
21 essential tasks without posing a direct risk to his or
22 her health, safety, and that of others.

23 "The Medical Review Board cannot determine
24 whether accommodations are reasonable or unreasonable
25 since those are matters which are exclusive to the

1 applicant and the employer.

2 "The Medical Review Board will review the
3 information presented by the applicant and make a
4 recommendation to the Academy Board as to whether or
5 not he or she could be admitted to the academy. After
6 consideration of the Medical Review Board
7 recommendation, the Academy Board will make a final
8 determination."

9 So that would be for admitting to the academy
10 itself. But in terms of matters of employment, that
11 would be an employee/employer matter.

12 MR. HARVEY: So is this a way that I can have
13 another examination and send it to --

14 CHIEF KASSETAS: You're not petitioning us to
15 go through an academy, right? You've already been
16 through an academy.

17 MR. HARVEY: Well, I just need to get
18 recertified by waiver.

19 CHIEF KASSETAS: See, that doesn't speak to
20 that. It speaks to the academy. It doesn't speak to
21 it directly.

22 MR. HARVEY: I have already done an academy.
23 I'm just trying to get recertified by waiver.

24 CHIEF KASSETAS: This is my opinion. If he
25 was coming here right now to challenge the fact that

1 medically he was told he couldn't participate in an
2 academy, then we would have purview over that.

3 But now he's been through an academy, been
4 certified, and a bunch of times passed. And now he
5 wants to go back and get the cert by waiver.

6 CHIEF McCALL: Do we still take all of those
7 academy application forms for the cert by waiver as
8 well, correct?

9 MR. COSS: That is correct, Chief McCall.
10 It's actually a more exhaustive process for CBW.
11 Part 2 of that application is the medical, the
12 psychological, the background, et cetera.

13 But there's also a Part 1, establishing your
14 former academy training and that sort of thing. So
15 it's actually a more exhaustive process than the
16 initial application.

17 CHIEF McCALL: I think, until that
18 application reaches the academy and is rejected,
19 that's not under our purview as I would see this. I
20 think this is with Bernalillo County and their
21 applicant right now.

22 DR. MILLER: So the cert by waiver is done by
23 Bernalillo County and not LEA?

24 MR. COSS: The cert by waiver would be done
25 by us. Bernalillo County hasn't done a cert by waiver

1 class in quite sometime.

2 DR. MILLER: Okay.

3 MR. QUEZADA: Bernalillo County just needs to
4 accept him and send him to us.

5 MR. COSS: The application process would
6 still have to come through no matter what academy they
7 attended.

8 DR. MILLER: But if Bernalillo County
9 recommended that he could attend the cert by waiver,
10 would he then have the option to either redo the
11 medical or request a Medical Review Board?

12 MR. COSS: Well, it would come before you as
13 a certification question. And at this point it hasn't
14 risen quite to that level.

15 DR. MILLER: Because they were just
16 discussing and learning that this was there.

17 MR. COSS: Correct. This was Mr. Harvey's
18 request, that through employment he was going through
19 the initial application for recertification, if you
20 will, and as part of that the medical.

21 Then the medical came up as he has described.
22 And so, you know, there's other options such as
23 self-sponsoring. There's a number of options that are
24 there. But this is the point that we're at right now.

25 DR. MILLER: At this point there's no real

1 action for us to take except to be aware of the issue.
2 And Mr. Harvey can either self-sponsor to do the cert
3 by waiver or see if he can get BCSO to sponsor him.

4 Mr. HARVEY: Well, I'm working on that
5 through BCSO right now, through mediation and stuff.
6 I just wanted to come here and see if there was
7 anything that you could do for me as far as, you know,
8 helping with another examination.

9 DR. MILLER: Well, at this point it sounds
10 like it actually comes from BCSO or you have to begin
11 the cert by waiver process before that could happen.
12 Is that what we're saying?

13 MR. HARVEY: I've already finished
14 everything. It was just the physical was the last
15 thing I needed to take care of.

16 MR. QUEZADA: I think Bernalillo County --
17 you need to work it out with them, if they're willing
18 to allow you to go through a second and then accept
19 that and file that with the academy.

20 MR. HARVEY: Okay. Then I will do that then.
21 Because that's my next step, is with EEOC and
22 everything like that. All right. Thank you for your
23 time.

24 A.G. BALDERAS: Thank you.

25 ITEM NO. 11: DISCUSS APPROVAL OF THE LEA SANTA FE

1 CLASS SCHEDULE AND CONTENT

2 A.G. BALDERAS: We now move to item 11,
3 discuss approval of the LEA Santa Fe class schedule.
4 Item 11 was placed by Mr. Mechels and I don't believe
5 he's here. Did he provide materials?

6 DR. MILLER: We don't have materials from
7 him. We didn't receive any via email either.

8 A.G. BALDERAS: Okay. He is not in
9 attendance. We will now skip over item 11 and take
10 that under advisement.

11 ITEM NO. 12: UPDATE ON NEW DISCIPLINARY PROCEDURES

12 A.G. BALDERAS: Item No. 12 is update on new
13 disciplinary procedures. And that will be presented
14 by our counsel.

15 MR. DWORAK: So I have some information to
16 share with the Board. And I'll stand up here so it's
17 easier for everyone to hear me.

18 There have been a lot of questions about the
19 Board's proposed -- well, they're enacted now. The
20 last set of proposed changes that the Board considered
21 and voted on in September. Those rule changes went
22 into effect five days ago, on November 30th. And one
23 of the significant changes was the disciplinary
24 process under Part 1 of the Board's rules.

25 Over the years I personally had heard

1 directly and from other people that there was a lot of
2 confusion regarding the disciplinary process, with how
3 the Board reviews and takes action on officers'
4 certifications.

5 So with the assistance of talking with a
6 number of folks, we came up with some revisions to the
7 process that maintained the individual nature of this
8 Board. It's unique in the sense that the process it
9 follows is different than the other licensing boards
10 in the State, other professional licensing boards.

11 So the rule changes do still reflect the
12 autonomy that's given to the Board's Director when
13 reviewing the process and also some autonomy that is
14 also granted to the Hearing Officers and how they
15 review.

16 So I just wanted to briefly go over the
17 process and stand for any questions, if the Board has
18 any. Any LEA-90s received as of November 30th will go
19 through this process. There are new time requirements
20 that the Board can actually comply with.

21 There were issues in the past that were
22 raised on appeal that were just unworkable with the
23 Board meeting four times a year; deadlines, you know,
24 where decisions had to be made within a certain amount
25 of time and that could not feasibly line up with the

1 Board's meeting schedules and things like that. We
2 will not have that issue any longer with these
3 changes.

4 I won't read through all of this word for
5 word, but I'll go through the process briefly.

6 What used to be called the Board's Notice of
7 Contemplated Action is now going to be called a Notice
8 of Investigation. Investigation is a term that's used
9 not exactly in the literal sense because the Board
10 does not conduct its own investigations.

11 But basically what would happen is, when the
12 Academy and the Director receives an LEA-90, they
13 would review the matter and determine whether or not
14 they want to pursue more information regarding the
15 allegation.

16 So at that point the Director would then in
17 his discretion issue a Notice of Investigation to the
18 officer. The officer would be given the opportunity
19 to respond back either in writing or request an oral
20 response similar to what has been the past practice.

21 Those timelines are more or less the same.
22 But some of them are adjusted to accommodate a little
23 more flexibility and to make sure that the Board can
24 satisfy all the requirements and the rules.

25 So if the individual requests an oral

1 response, basically the same deadlines that were
2 provided before in the rules still would apply. From
3 the oral response, the Director then would be given
4 an -- well, he has the discretion and a few different
5 options.

6 The first would be trying to resolve the
7 matter through a proposed early settlement. Any
8 settlement that the Director proposes with the
9 individual officers, say a period of suspension for
10 six months or two years or what have you, would be
11 subject to Board review and approval. So the Board
12 could reject that.

13 The second option the Board Director would
14 have is a recommendation to the Board to dismiss. The
15 Board could either accept that or reject it. If the
16 Board rejects the dismissal, then it would be referred
17 for administrative prosecution.

18 And then the third option is the Director
19 himself would have the authority to refer the matter
20 for prosecution. And I keep making these references
21 to prosecution.

22 In the past the Director would initiate the
23 disciplinary proceeding by issuing his own Notice of
24 Contemplated Action or the Notice of Final Decision.

25 The problem that we had experienced is that

1 the Director generally is not a practicing attorney
2 and is not a prosecutor of the State; and, therefore,
3 there was some confusion as to what exactly was the
4 charging document for initiating an administrative
5 prosecution.

6 So now that's changed. It's referred to the
7 Office of the Attorney General to a different
8 division, the Litigation Division. And the same
9 prosecutors in the office would draft the charging
10 document.

11 So it would be a clear document. It would
12 lay forth what the allegations are, the specific
13 violations of the Board rules, and also a summary of
14 the facts that they're focusing on.

15 Sometimes we get complaints that have all
16 sorts of information. And it's really important to
17 provide the individual officer proper notice as to
18 exactly what they are charged with. And so that's
19 what the Notice of Contemplated Action will do.
20 That's drafted by the prosecutor.

21 That process, within 90 days of being
22 referred, a Notice of Contemplated Action shall be
23 issued unless an extension is agreed upon with the
24 Director. So that was somewhat of a compromise.

25 In the past the prosecutors had no wiggle

1 room with the timelines for prosecution. They were
2 handed a file. And usually within a month, they would
3 have to prosecute the case, which just isn't enough
4 time for them to prep an administrative prosecution in
5 most cases.

6 So that allows for them to do their job more
7 effectively. And then generally the rest of the
8 process aligns similarly to how it has been conducted
9 in the past under the prior rules.

10 The Board actually has the discretion, if it
11 chooses, to hear cases. But generally these are
12 assigned to a Hearing Officer, who would conduct the
13 hearing; and as an extension of the Board, would be
14 advised by me or another attorney who represents
15 boards and commissions in our office.

16 The Hearing Officer would review the matter
17 and mostly be a factfinder. They would make proposed
18 findings. They do not make proposed conclusions,
19 that's up to the Board. And then at the end the Board
20 would accept or reject or amend the proposed findings.
21 And then I would draft the order that has the Board's
22 final conclusions. Any questions?

23 CHIEF KASSETAS: I have a question. I can
24 wait until the end or now.

25 MR. DWORAK: Any time.

1 CHIEF KASSETAS: So on the formal hearings,
2 we commonly read those reports. That's what you're
3 talking about now. Are those reviewed by an attorney
4 on staff at the AG's office before they go out?

5 MR. DWORAK: Generally I have been trying to
6 review them. But I was also waiting for this process
7 to actually sit down and have a formal education
8 session with the Hearing Officers just to make sure
9 that we're all on the same page. So they are
10 consistent.

11 I mean some of these Hearing Officers will
12 provide pages and pages of summary and some provide a
13 paragraph and then just enumerated findings.

14 What I would like to try to work towards,
15 which is consistent with the other administrative
16 boards that we work with, is have at most a very short
17 summary and then most of the findings be enumerated
18 listed findings.

19 CHIEF KASSETAS: I want to point out I think
20 that's a great thing. At the end of the day, many of
21 these reports, we just want to know the facts, right.
22 Sometimes there is commentary on there about
23 supervisory issues and/or departmental leadership.

24 And I'll just go on record as a Board Member,
25 I don't think that should be in there by the formal

1 Hearing Officers. Stick to the facts. Get us to the
2 point of what happened, what didn't happen, and then
3 we can make a decision in closed session.

4 But I think you can convey that to that group
5 as you bring them in to train them. And I don't fault
6 them due to the fact that I don't think that's
7 formally been done yet. So I appreciate you doing
8 that.

9 MR. DWORAK: And I'm glad you brought that
10 up, Chief Kassetas. I think that the Hearing Officers
11 have been as confused as others in this process. All
12 they have received sometimes is the LEA-90.

13 And so as we know the LEA-90 may include a
14 lot of internal complaints, you know, employment
15 matters that are not under the Board's purview. But
16 the Hearing Officer gets distracted by that. So they
17 don't understand necessarily what they're really
18 looking at.

19 But by having a prosecutor draft the charging
20 document, I think that the Hearing Officers will get a
21 better idea of really what they're supposed to be
22 looking at. And I can't say that that will eliminate
23 them from looking at things that aren't under the
24 Board's rules, but hopefully it will reduce it.

25 CHIEF KASSETAS: Well, we want chiefs and

1 sheriffs and department leaders to bring these actions
2 forward to the LEA. We want to be on the cusp of
3 issues that address officer misconduct.

4 And for an agency head to then read a report
5 that is ultimately public about someone's opinion on
6 how they ran their agency in a particular
7 investigation is not a good place for us to be.
8 There's probably other avenues we can utilize to take
9 that up. So that's just a point I wanted to make.
10 And I appreciate that. Thank you.

11 MR. DWORAK: Are there any other questions
12 generally?

13 MS. BURNHAM: Yes. I have some. One is just
14 a comment. Under No. 11, Notice of Contemplated
15 Action, the word days is left out, "Evidentiary
16 hearing within 30 days."

17 MR. DWORAK: Well, I appreciate that. This
18 is just mostly notes for my assistance and the Board
19 staff. So I apologize for that, but that was my
20 omission.

21 MS. BURNHAM: I mean is it 30 minutes?

22 MR. DWORAK: No. It's definitely 30 days.

23 MS. BURNHAM: I'm sorry to be a pain in the
24 tuckus.

25 MR. DWORAK: No. That's okay. I appreciate

1 that.

2 MS. BURNHAM: Under No. 25 it says who gets
3 copies of what. And I'm supposing that copies go to
4 the Respondent as well, although that's not listed
5 there.

6 MR. DWORAK: Yes.

7 MS. BURNHAM: All right. And then No. 34
8 talks about the appeal. And the Board is informed of
9 the appeal or its outcome, right?

10 MR. DWORAK: Absolutely.

11 MS. BURNHAM: Okay.

12 MR. DWORAK: This Board is different. Many
13 licensing boards in the State fall under an act called
14 the Uniform Licensing Act. And that act provides an
15 automatic right to appeal. So they just file a notice
16 of appeal.

17 With this Board the appeals fall under Rule
18 75. So they actually have to petition. And the
19 district court has to grant the appeal. It's a low
20 bar. Most are granted.

21 MS. BURNHAM: My last question has to do with
22 how many case managers do we have?

23 MR. DWORAK: Right now Monica is the case
24 manager.

25 MS. BURNHAM: Monica is everything, I want

1 you all to know that Monica is everything. If you
2 look at this list, the case manager has something to
3 do with -- 75 percent of the steps that are taken here
4 are taken by the case manager. And we just simply
5 couldn't get by without her. I hope she doesn't get
6 sick.

7 MR. DWORAK: I think she just might hate me.
8 One of the frustrations that I've heard also from
9 people in the process is that there's just not a lot
10 of uniformity.

11 MS. BURNHAM: And she is the key person.

12 MR. DWORAK: And there had been a time to my
13 understanding when Monica had performed a lot of these
14 duties but was asked to then step back and have the
15 Hearing Officers take care of it.

16 But right now the Hearing Officers are taking
17 care of things like driving to the post office and
18 sending things via certified mail, calling all the
19 parties to schedule, you know, rooms and all that
20 stuff.

21 And frankly it's not an efficient use of
22 their time. And we've seen also instances where they
23 can't keep track of things and it's hard to expect
24 them to I think at least in the structure that we
25 have.

1 So I think that this will be obviously a
2 learning experience for everyone, but we're going to
3 try to make sure it works. And, you know, this
4 process may change a little bit. The rules themselves
5 don't say case manager on everything.

6 MS. BURNHAM: Well, I commend you for having
7 a central person. I just worry about the burnout of
8 that central person, because we don't want to lose
9 her.

10 MR. DWORAK: I worry about that too.

11 MS. BURNHAM: She gets us all together.

12 CHIEF KASSETAS: Well, the reality behind it
13 is that it is an unfunded mandate to do all this
14 through the LEA to a certain extent. And it's about
15 how much manpower we can throw at it.

16 I've been in positions internally where we
17 had discussions about can we add another FTE or
18 position to LEA to complement this and who is going to
19 pay for it, right. It's difficult.

20 I think, though, what's important is you're
21 setting the groundwork for future administrations.
22 Because we've had Attorney Generals come in here prior
23 to Attorney General Hector Balderas that took
24 absolutely no interest or initiative to help the
25 process.

1 It's never been better now as far as the
2 internal workings of the Board and trying to look at
3 things and make them make more sense. So we were kind
4 of feeling our way through the dark for years. And I
5 was on this Board with the transition.

6 So I do appreciate your office doing that.
7 And I think keeping in mind that what we're doing here
8 hopefully will just carry over, because too many times
9 a new Chair will get seated and you start from the
10 beginning. That's not fair to the public nor the
11 officers coming before us. So this is a good thing.
12 Thanks.

13 MS. BURNHAM: Thank you.

14 MR. DWORAK: Absolutely. Just a couple last
15 points and then I'll see if there are any other
16 questions.

17 The way the Board will review these Hearing
18 Officer reports, as I explained before and what is
19 happening now and will continue to happen, is that the
20 Board has an opportunity to review the entire record
21 of each of these matters. And it's important that
22 that review take place.

23 You know, one of the issues raised on appeal
24 often is that decisions by the Board are arbitrary.
25 The Board orders now have conclusions of law, many of

1 them, that tie the facts to conclusions that the Board
2 is making to support any discipline it takes.

3 So that will always be included in orders. I
4 know that there had not always been that practice in
5 the past. So my hope is that setting a precedent
6 would be helpful with this.

7 One last thing I wanted to just highlight
8 also. Although it already was in the rules, it's
9 written more clearly now, is the directive for
10 agencies to report discipline. There were multiple
11 deadlines depending on whether the IA lasted more than
12 a 30-day period, but there was a 90-day deadline.

13 Now it just simply clarifies that any
14 evidence of alleged misconduct, regardless of whether
15 or not there's a final determination, especially in
16 those issues of voluntary resignation in lieu of
17 discipline -- which an agency has a right to do.

18 But the rules state that there is an
19 obligation to still report it to this Board. And that
20 timeline is just 90 days. So it just clarifies the
21 process.

22 You know, I think that the Board has been
23 concerned that not all have been coming to it. And I
24 think some people have been saying, well, if we don't
25 ever conduct an investigation, we don't have to report

1 it.

2 But the old rule you could glean that from.
3 But I don't think people could make an argument either
4 way. But now it's clear I think.

5 Are there any questions, other questions?

6 CHIEF KASSETAS: So this is not for
7 dissemination with an agency, this is purely a draft
8 at this point in time.

9 MR. DWORAK: I don't have necessarily a
10 problem with this. This was made for my use of being
11 able to explain the process first to the LEA staff and
12 also to the prosecutors. But I don't have a problem
13 with it being shared. Certainly maybe some of the
14 grammatical changes I could fix.

15 CHIEF KASSETAS: I think the Director should
16 take note that the other arm of this is educating the
17 agency heads as to the process so they understand it.
18 I would think something would go out from your office
19 saying please review this update of the process and
20 rules adopted by the Board.

21 I get a lot of calls as a Board Member, you
22 know, I don't understand this process, how did it go
23 from here to here to here. And maybe they will get a
24 better idea. And I think we should actually list it
25 on the website so people can reference it, even the

1 public.

2 MR. DWORAK: So one thing I was planning to
3 do was to include in the Notice of Hearing, which will
4 be a new Notice of Hearing that's revised a little
5 bit, to explain this process, is to put in layman's
6 terms, even if it's an attachment to it, how things
7 work.

8 If there are any preliminary motions, this is
9 how they should being filed. The prosecutor may be
10 contacted this way. I think especially pro se, you
11 know, licensees, officers who aren't represented by an
12 attorney, are a little confused by the process.

13 And truthfully attorneys are just as confused
14 sometimes because administrative law is a small area
15 of law. And this process is unique, there's no other
16 board like this in the State.

17 So I would like to provide a little bit more
18 information. And that's the expectation at some point
19 moving forward, when we get into the swing of things
20 with these new rules. Okay.

21 MR. QUEZADA: Is it current right now that
22 only the agency can deal with their own officers as
23 far as sending in an LEA-90 or can one agency file it
24 against an officer from another agency?

25 MR. DWORAK: The rules are not explicit in

1 that. And I don't know if that's intentional. But I
2 can't speak further. It does not require or prohibit
3 either. So I don't know.

4 CHIEF KASSETAS: We've had that happen
5 before. It's pretty broad because you don't want -- I
6 think, in the creation of the process, you don't want
7 to dissuade anybody from bringing items of attention
8 to the Board.

9 We've even had where a chief or a sheriff has
10 made a decision on discipline and suspended someone
11 for 40 days and thought it was a done deal, only for a
12 sergeant who didn't agree with that to send it up to
13 the Board. It's kind of an awkward process.

14 MR. DWORAK: Historically I've seen a DA file
15 one.

16 MR. QUEZADA: I didn't know if there had been
17 more.

18 MR. DWORAK: And looking at this, you know,
19 it was just a recommendation for fixing the process.
20 I was trying to avoid any serious policy changes
21 intentionally. I mean I don't think there are. I
22 think it's mostly just procedural to clarify the
23 process and make it more clear.

24 So I think that there are many of those more
25 policy-related issues that still could be resolved

1 with these rules. And I think the expectation is,
2 with the rules committee, that this Part 1 will be
3 looked at again. And perhaps some of these more
4 policy-related issues can be addressed and see if the
5 Board is interested in making any changes or
6 clarifications.

7 SERGEANT QUEZADA: And I know we had the
8 process for the past couple years of reducing the
9 officer being able to speak to the Board, whether it
10 was the attorney or family or like that, and now we've
11 taken it out completely. Is that what I'm
12 understanding on this?

13 MR. DWORAK: That's correct. And the rules
14 always stated that. So I don't know what the practice
15 necessarily was. And I think the concern from a legal
16 standpoint is that the record is complete.

17 I mean it's one thing to make an emotional
18 summary of their case. But I think the problem then
19 is that we don't necessarily know if they're going to
20 start introducing new evidence. And then the
21 prosecutor then doesn't have an opportunity to object,
22 you're having a whole other hearing. I mean, if
23 there's an argument for that, it's not in there.

24 MR. COSS: If I may, just to build upon your
25 point, Chief, the new form that -- in formatting of

1 that form, the LEA-90 form that the Board approved a
2 couple meetings ago, it actually requires the
3 department head's signature.

4 So that prevents the sergeant from sending
5 one up that the chief didn't have any understanding
6 of. Or, in the case that you're talking about, you
7 know, another agency, without that other chief
8 administrative officer having an understanding of the
9 level and the information that's passing forth.

10 So that one small change to the form has
11 definitely helped in that process. At least the
12 chief, you know, of that agency has an understanding
13 of what's occurring.

14 MR. QUEZADA: And I thought one time there
15 was even someone public that filed an LEA-90. Is that
16 being recognized at all in any way?

17 DIRECTOR MARSHALL: If I may. We do receive
18 occasionally public-submitted forms that are available
19 on the website. We take a look at them.

20 Generally they get referred to the agency for
21 their consideration initially. But we have considered
22 and addressed several that were publicly filed,
23 because again the form is on the website.

24 In practice most of them state issues that
25 really don't apply to us. That's why we send them

1 back to the agency. Most of them are just more broad
2 complaints. But we do receive them on a regular basis
3 and we do review each of them.

4 MR. DWORAK: And I know there have been
5 educational efforts in trying to explain to the
6 departments that employment matters that don't fall
7 under the purview of the Board shouldn't be referred.
8 And I don't know if there's been a reduction in that
9 or not yet.

10 MR. KEY: So, Brian, just one last question.
11 For a DA referral of an LEA-90, did we specifically
12 discuss that in changing the form, that the policy was
13 to not encourage that, was that the intent of the
14 Board in doing that?

15 MR. COSS: No, sir. I don't believe so. I
16 don't believe so. You know, the chief administrative
17 officer of that organization, be it the DA's Office,
18 the DA themselves, being the chief administrative
19 officer. That's what it was trying to encourage.
20 That's all it was.

21 CHIEF KASSETAS: I think if you or one of
22 your ADAs had sent up the form, the LEA would look at
23 it and say, well, we need to make a phone call.

24 MR. QUEZADA: Thank you.

25 A.G. BALDERAS: Any more questions? Thank

1 you. That concludes item No. 12. Thank you, Joe.

2 DIRECTOR MARSHALL: Mr. Chairman, if the
3 Board would like to go back to item No. 7, we have the
4 answer.

5 ITEM NO. 7: RATIFICATION OF CERTIFICATIONS FOR LAW
6 ENFORCEMENT OFFICERS (Resumed)

7 A.G. BALDERAS: Let's go back to the
8 certifications on agenda item No. 7, please.

9 DIRECTOR MARSHALL: I apologize to the Board
10 for the oversight. I should have caught it on review,
11 it's entirely my fault. I apologize for wasting your
12 time.

13 What happened was we used a previous agenda.
14 We added these numbers during copying and pasting.
15 The last three numbers, 11-0009, 04-0045, and 89-0345,
16 that are on the agenda were approved at the last Board
17 meeting.

18 So it was just simply a matter that they
19 didn't get deleted from the format. Again I apologize
20 for not catching it in review.

21 What we would submit would be Certification
22 Nos. 16-0242 through 16-0253, 12-0204, and 11-0088,
23 which are the first numbers on the agenda. Those are
24 the numbers contained within the exhibit which are
25 correct.

1 Like I said, the last three numbers on the
2 agenda have already been approved by this Board. And
3 I apologize for not catching it before now. But we
4 would move that those be certified.

5 A.G. BALDERAS: And then you did find the
6 officer information and department information?

7 DIRECTOR MARSHALL: We found that they had
8 been approved the last time.

9 MS. MEDRANO: If you want to look at them,
10 they're on the minutes from the last meeting.

11 CHIEF KASSETAS: They've already been
12 approved, right?

13 DIRECTOR MARSHALL: Yes. There should be no
14 concerns. It's just I didn't get them taken off the
15 agenda. And it's my fault, I apologize.

16 CHIEF KASSETAS: I would like to make a
17 motion to ratify item No. 7.

18 DR. MILLER: Second.

19 A.G. BALDERAS: There is a motion to ratify
20 the certifications listed in item 7, Nos. 16-0242
21 through 16-0253. All in favor say aye.

22 (Those in favor so indicate.)

23 MR. DWORAK: Director Marshall, just to
24 clarify, is it also 12-0204 and 11-0088 that need to
25 be approved?

1 DIRECTOR MARSHALL: Yes, sir. They do. And
2 those two are contained within the exhibit.

3 MR. DWORAK: Okay.

4 A.G. BALDERAS: Just so I'm clear, was that
5 the intent of the motion?

6 CHIEF KASSETAS: Yes.

7 MR. DWORAK: They are listed on the exhibit.

8 DR. MILLER: Yes. And they are actually
9 contained within that 16 number range that you read
10 out.

11 A.G. BALDERAS: Is there any opposition to
12 the motion to pass LEA Certification Nos. 12-0204 and
13 11-0088? There is no opposition. The motion does
14 pass to approve item 7-A with all the respective
15 certifications.

16 ITEM NO. 13: SCHEDULING OF 2017 BOARD MEETINGS

17 A.G. BALDERAS: We will now go back to item
18 13 on the agenda, scheduling of 2017 Board meetings.
19 I do appreciate the Board's support in allowing the
20 Chair's discretion to recommend locations.

21 Obviously we do that with consultation of the
22 Board members. We made a commitment to also see rural
23 New Mexico and be as transparent to diverse
24 communities across New Mexico.

25 As we come to the end of 2016, I would like

1 to talk about locations for 2017 and also take a look
2 back at the two years that we've been visiting various
3 parts of the State. And I want to commend your
4 support for that.

5 One of the things that's always been
6 important is continuing to increase access to both
7 rural and urban New Mexicans. To that end we'll
8 continue the practice of two locations in rural New
9 Mexico and two in Central New Mexico.

10 What I'm proposing at this point, if it's
11 allowable with your support, is that we hold Board
12 meetings in Santa Fe, Silver City, Hobbs, and
13 Albuquerque.

14 As of now the following dates that have been
15 tentatively blocked out will be March 7th and 8th in
16 Santa Fe and June 6th and 7th in Silver City. We're
17 considering September 12th and 13th to visit Hobbs and
18 closing the year on December 5th and 6th in
19 Albuquerque.

20 Now, we have those tentatively blocked off at
21 two-day increments. But I'm also willing, with the
22 support of the Board and staff, to adjust to a one-day
23 meeting if we think that the agenda is developing in a
24 way that we only need one day.

25 And I'll entertain any questions or comments

1 from the Board at this time on the proposed schedule.

2 CHIEF McCALL: I love the idea of coming to
3 Hobbs.

4 MS. BURNHAM: I like Silver City.

5 MR. QUEZADA: That was Santa Fe, Silver City,
6 Hobbs, and then Albuquerque, correct?

7 A.G. BALDERAS: Yes. If there are no further
8 questions or discussion on that, I'll have staff
9 forward to you the dates proposed. And we can begin
10 communicating whether we need one or two days.

11 ITEM NO. 14: YEAR END REVIEW

12 A.G. BALDERAS: I would like to take us now
13 to item No. 14, year end review.

14 First I want to thank each of you for not
15 only your patience and your efforts, but your real
16 commitment to the works of this Board. Looking back
17 over the past two years, I'm really proud of the work
18 that we have accomplished.

19 We made a real commitment to improving Board
20 governance and oversight of this body. And as you can
21 see, whether it is from improving decertification of
22 officers or being more transparent in our discipline
23 process or being very active in our training mission,
24 you've had considerable movement in supporting that
25 and strengthening the rule of law across the board.

1 And those were the three priorities that we
2 set here, that we would work aggressively towards
3 having the best trained law enforcement agencies in
4 the country. Also being more transparent and
5 accountable in our discipline process. And we have
6 seen very strong movement in the rule of law there.

7 And then also fully complying with Open
8 Meetings, setting a high standard of governance here,
9 where we would not shy away from improving our process
10 the best we can.

11 I am now taking this in a direction that I
12 think sets a real leadership role for the State of New
13 Mexico. And even though we've already had successes
14 in considering discipline matters and modernizing the
15 way we function, I believe that it's a real
16 appropriate time to take a leadership role in the
17 State of New Mexico.

18 I'm hopeful that, in the coming years, we can
19 take specifically a leadership role by proactively
20 engaging very important issues that we're all dealing
21 with in our own communities. Especially the ones that
22 enforce the law enforcement community and community
23 members within our respective areas.

24 One of those issues that I'm asking the NMLEA
25 Board to take a leadership role in is how agencies

1 across the State are responding to officer-involved
2 shootings and use-of-force incidents.

3 As we all know, these tragedies have become
4 increasingly common in our communities. And I believe
5 that this Board is strategically positioned to review,
6 audit, and also make recommendations on how
7 departments can better comply with balancing community
8 safety and law enforcement safety.

9 I'm formally proposing today that this Board
10 commit to advancing this critical public safety issue.
11 And as a way to start this process, I would be
12 appointing a subcommittee today to conduct an
13 administrative review and audit the policies and
14 procedures of each and every law enforcement agency
15 that relies upon this Board's guidance in the areas of
16 officer-involved shootings and use-of-force incidents.

17 The goal of this committee would be very
18 simple. With the help of my staff and the
19 subcommittee's leadership, we will request policies
20 and procedures from all law enforcement agencies in
21 the State of New Mexico in order to understand fully
22 what it is that different departments are doing when
23 they engage in this very difficult issue.

24 The second is that this Board and the
25 supportive staff would create a report that gives a

1 general overview and identifies best practices and
2 also potential blind spots as well as strengths.

3 The goal of this report, of course, is to
4 increase transparency, uniformity, accountability, and
5 timeliness in how law enforcement agencies across the
6 State are handling these very important issues.

7 The completed report would then be presented
8 to this Board I believe in June of 2017 for us to
9 consider the information presented and begin to
10 formulate some real improvements in these areas.

11 It's important that this Board I think have a
12 seat at the table. And as you can tell, my office has
13 been meeting with family members over the past year.
14 As you can tell, we're an open format, we listen to
15 community members.

16 And unfortunately tragedies harm both good
17 law enforcement officers and agencies as well as
18 community members and family members who are suffering
19 through this.

20 So I'm open to discussion here today about
21 the process. But I know this Board can work together
22 with agencies and community leaders. And with that I
23 will consider appointing Chief Kassetas, Sheriff
24 Waller, and Chief Soland to lead this committee.

25 However, I would open up full participation

1 to every and all Board Members who want to be involved
2 in this important matter. And I'm also contributing
3 New Mexico AG staff as well so that you can feel free
4 to support it.

5 I'll now open it up for any questions or
6 comments.

7 MS. BURNHAM: I vote to help.

8 A.G. BALDERAS: Great. Chief.

9 CHIEF KASSETAS: It's an interesting concept.
10 It's going to a place the Board has never been to. I
11 can only imagine that agencies in New Mexico would
12 benefit from knowing what best practices are out there
13 and what's being done in New Mexico.

14 Through IACP, PERF, and CALEA, there are
15 policies in place that have been tried and tested
16 throughout the nation when it comes to use-of-force or
17 officer-involved shootings. And there are 230
18 agencies in New Mexico, is that right, is that close,
19 Brian?

20 MR. COSS: It's 193 active. There are a
21 number of spin-offs of that that do total 230. Yes,
22 sir.

23 CHIEF KASSETAS: I would only think that they
24 would have policies that address both. And if not, we
25 can help in guiding them that way to shoring that up.

1 I'm interested in knowing, though, Chairman,
2 once that study is done with the help of your staff,
3 because it is a heavy lift, and the Board reviews what
4 is essentially taking place in New Mexico, what's the
5 potential outcome after that?

6 Is it to provide a resource and information
7 to the agency heads in New Mexico to hopefully get
8 them to consider propping up and developing more
9 robust policies and procedures and training as it
10 relates to officer-involved shooting investigations
11 and use-of-force issues, is that the ultimate goal or
12 is it more of a we want to start passing regulatory
13 type of policy for them to follow?

14 A.G. BALDERAS: Well, Chief Kassetas, as you
15 said, this Board is venturing out into a matter that
16 has been left for departments and traditional advocacy
17 in the past I guess.

18 First, I believe, as you mentioned earlier,
19 there are many unfunded mandates. The New Mexico
20 Legislature and community activists are demanding many
21 times that departments look at themselves or are left
22 for traditional civil litigation.

23 This Board and this report could be very
24 helpful to at least identify what is really going on
25 as it relates to departments. And then I believe they

1 would serve as a real guide for departments, if there
2 are deficiencies, to identify a real road map to
3 bridge community with department practices.

4 And I think the three areas that I think this
5 review will at least consider are improving the
6 timeliness of how departments respond to these very
7 difficult matters and also improve uniformity across
8 New Mexico.

9 As you know, I'm very concerned that
10 resource-strapped agencies are handling these matters
11 in many different ways. And then ultimately to
12 improve the effectiveness of community safety and law
13 enforcement safety is at the helm I think of this
14 report.

15 So where it leads to and what types of
16 improvements or reforms or resources, I think the sky
17 is the limit. I think this is a trusted Board of
18 experts. And I believe our office has committed in
19 the past year to studying other states. And we've
20 also been meeting with family members and many law
21 enforcement leaders.

22 But I'm now at the place in our office's
23 involvement to really partner with this Board to begin
24 to understand the practices and processes that are
25 currently underway. Ultimately we certify these

1 officers, we train them, and then we ask them to go
2 under other department leaders.

3 And I think that, at least at this point, my
4 expectation is just that we gather the information,
5 take a leadership role, and then we would probably
6 withhold judgment until we have the information back
7 and then at that point maybe consider making
8 recommendations. But ultimately it's to improve
9 officer safety and community safety across the board.

10 CHIEF KASSETAS: Sure. There's no way I
11 cannot embrace making New Mexico law enforcement
12 better through the review of processes.

13 And to be honest with you, being more
14 transparent and letting this Board and the public know
15 exactly what happens in an officer-involved shooting,
16 I think there are a lot of things assumed. I think
17 there are a lot of assumptions that shouldn't be
18 there.

19 And that's a byproduct of the nature of those
20 investigations. And that's a veil that we could lift.
21 I don't think we also do the officers justice by
22 certain District Attorney's offices making decisions
23 two or three years later. That's another component.

24 We as the public and law enforcement leaders
25 put our officers in those positions to have to make

1 life-or-death decisions within seconds, only to be
2 dissected for months and years to come. And it needs
3 to be done.

4 But I think, at the end of the day, if we can
5 be a Board that makes recommendations to help either
6 the training, the leadership, and, of course, the
7 citizens of New Mexico understand that process and
8 even have input, that's a better place to be.

9 I just want to make sure. We have chiefs and
10 sheriffs for a reason. I don't want to be put into a
11 position to be running departments. And I've always
12 said that about this Board.

13 It's the chiefs' and sheriffs' jobs to
14 discipline their people. It's our job to look at
15 their certifications and make sure that they meet
16 State requirements. And this is an area that we've
17 never been in.

18 I'm definitely on board. I like the idea. I
19 just don't want to see it spiral out of control where
20 I'm sitting behind this table and telling a chief or
21 sheriff what he or she may or may not do. And I don't
22 think you're advocating that, Mr. Chair. And I
23 appreciate that.

24 I also think that the subcommittee -- that's
25 the first I've heard of the formulation. But you've

1 put three law enforcement officers on there that have
2 25 plus years in the business. I would think that it
3 would be better to maybe mix that up.

4 We can talk about that, if you would like.
5 But to put a little more of a diverse group on there
6 from this Board that would hopefully, you know,
7 balance some of that. Ask us those questions, because
8 we may make the assumption in the subcommittee that,
9 well, that's easily understood, when it may not be to
10 someone outside of that. That makes no sense to me.

11 A.G. BALDERAS: We will ask our Board Member
12 Burnham to maybe chair that.

13 MS. BURNHAM: Oh, I won't chair.

14 CHIEF KASSETAS: I second that.

15 MS. BURNHAM: I won't chair, but I will
16 write.

17 A.G. BALDERAS: I can assure you that we're
18 going to be very heavily involved. I know some Board
19 Members are already dealing with this issue in the
20 community. And my staff will fully keep everyone
21 apprised so this Board can feel informed.

22 DR. MILLER: In terms of the composition, it
23 might be helpful to have both citizen representatives
24 involved. And then, of course, we're perfectly
25 capable of consulting all of the other Board Members

1 as we have questions, if they came up.

2 A.G. BALDERAS: Sure. That would seem to be
3 appropriate. We welcome your full participation. And
4 as I said earlier, we'll have Attorney General staff
5 fully staffing this committee. So every Board Member
6 will be apprised as this develops.

7 CHIEF KASSETAS: So who is on it?

8 A.G. BALDERAS: So our two citizen members,
9 Chief Kassetas, Chief Soland, and --

10 MR. QUEZADA: I would have no problem being
11 on it.

12 A.G. BALDERAS: Okay.

13 CHIEF KASSETAS: We have to limit it to four.

14 MR. QUEZADA: I'll be available.

15 A.G. BALDERAS: Okay. We have the two
16 citizen members, Kassetas, and Soland. So two and
17 two.

18 CHIEF KASSETAS: What is it called,
19 Mr. Chairman, the subcommittee?

20 A.G. BALDERAS: Yes. This will be a
21 subcommittee to review officer-involved shootings and
22 use-of-force incidents in New Mexico.

23 CHIEF KASSETAS: Not incidents. We would
24 reviewing policy and procedure, right?

25 A.G. BALDERAS: Impacting those issues, yes.

1 CHIEF KASSETAS: We're not reviewing specific
2 instances, just policy.

3 A.G. BALDERAS: No. A subcommittee to review
4 policies and procedures for departments on how they
5 handle officer-involved shootings and use-of-force
6 incidents.

7 CHIEF KASSETAS: Thank you for that
8 clarification.

9 CHIEF McCALL: Mr. AG, can I make an
10 observation.

11 A.G. BALDERAS: Sure.

12 CHIEF McCALL: I think this is a valuable
13 dive into this topic. I think it transcends this
14 Board, though. I think this is bigger than this
15 Board. And it should include members of this
16 committee outside of this Board to really get the full
17 picture of what's going on and solid input from
18 multiple sources.

19 I think this kind of transcends our authority
20 as a certification and training Board. This is I
21 think an important issue that I definitely see your
22 office running with. But I would encourage you to
23 look also outside of this Board and find members that
24 may have other things to offer as well.

25 A.G. BALDERAS: Thank you. I appreciate that

1 feedback. I do believe it's a good idea, when the
2 four members meet, that we do consider your
3 recommendation as well.

4 I can assure you that, even in just
5 gathering, gaining, and auditing policies and
6 procedures of departments, I'm sure this committee
7 will carve out a place for community input and
8 community information as well with respect to those
9 departments. So I'm certain that your recommendation
10 is well-taken.

11 If there are no further questions or comments
12 at this point about the subcommittee or any other
13 issues, why don't we take a brief break. And then
14 we'll come back to reconvene for disciplinary matters.
15 We'll take a 15-minute break.

16 (Recess.)

17 CHIEF McCALL: We'll come back into open
18 session. We'll move to disciplinary matters, item
19 Nos. 15, 16, and 17. If those individuals are
20 present, we will allow them to address the Board.

21 ITEM NO. 15: REQUEST BY LEVI CHAVEZ FOR REINSTATEMENT
22 OF LAW ENFORCEMENT CERTIFICATION

23 CHIEF McCALL: We'll start with item 15,
24 request by Levi Chavez to reinstate his law
25 enforcement certification.

1 MR. CHAVEZ: Good morning. I'm really happy
2 to be here today. I have a lot of respect for this
3 Board and what you guys do. I first want to say thank
4 you for accepting my surrender of my certification a
5 few years ago.

6 At that time I just had gotten out of a very
7 in-depth criminal trial. And as you can imagine,
8 economically, spiritually, emotionally I couldn't
9 really deal with this. And at the time the
10 certification wasn't something I was really chasing.

11 I really didn't think I wanted to be a law
12 enforcement officer again at that point. I still
13 believe that, if I wasn't a law enforcement officer, I
14 would have never been prosecuted to begin with at all.

15 Three years later here we are. I've done a
16 lot since then. I've completed my graduate degree in
17 psychology. I am in my second year of law school. I
18 do have a lot of personal and professional goals, and
19 this certification would help with both.

20 Again I really don't have much to say. If
21 you guys have any questions, I'm happy to answer them.
22 Other than that, I just want to say thank you for
23 hearing my case today.

24 CHIEF McCALL: Thank you. We'll take that
25 under advisement, we will be discussing this in closed

1 session.

2 MR. CHAVEZ: Thank you, sir.

3 ITEM NO. 16: REQUEST BY BENJAMIN KIRBY FOR
4 REINSTATEMENT OF LAW ENFORCEMENT CERTIFICATION

5 CHIEF McCALL: Item No. 16, a request by
6 Benjamin Kirby for reinstatement of his law
7 enforcement certification. Is Benjamin present? No.

8 ITEM NO. 17: REQUEST BY MICHAEL PARRISH FOR
9 REINSTATEMENT OF LAW ENFORCEMENT CERTIFICATION

10 CHIEF McCALL: We'll move to item 17, request
11 by Michael Parrish for reinstatement of his law
12 enforcement certification.

13 MR. PARRISH: Good morning, ladies and
14 gentlemen of the Board. I'll keep this under five
15 minutes.

16 My name is Michael Parrish. I was revoked by
17 this Board in August of last year for my nonattendance
18 at a priority one domestic violence call, where I was
19 on duty and I was on another call for service.

20 The recommendation came from Hearing Officer
21 Louis Medina. I went to a formal hearing to give my
22 full side of the story, which was unfortunately not
23 presented in the report you were given last August.

24 In this matter the Hearing Officer determined
25 that I did not clear my call and respond to the

1 domestic violence call. The Hearing Officer concluded
2 that I was directed to respond to the call by the
3 dispatcher and the supervisor and yet failed to do so.

4 However, in making this conclusion, the
5 Hearing Officer disregarded the witness' own admission
6 confirming a dispatch from communications is an
7 official order. As confirmed by the witness herself,
8 when dispatch gives a directive to officers such as a
9 dispatch, it is construed as an order.

10 The reality is I was complying with the
11 duties of my position, following APD's policies and
12 its requirements that I obey the dispatcher as much as
13 if the order were coming from the chief of police,
14 which the witness partially confirms and admits.

15 The witness testified that, prior to arriving
16 at the domestic violence call, she pulled up her squad
17 on the police units computer and saw that I was logged
18 on another call; yet she did not give me any order to
19 clear and to respond.

20 The witness also further confirmed that, had
21 I not obeyed the dispatcher's order sending me to
22 another call for service and had responded to her call
23 instead, I would be committing another violation.

24 I was clearly in a predicament where there
25 was no outcome beyond criticism by the only witness

1 that testified against me. Mr. Medina also stated
2 that evidence also suggests that Respondent's failure
3 to respond to a priority one domestic violence call
4 indicates he is possibly afraid of getting hurt.

5 In the formal hearing, the witness testified
6 she knew me as an officer who touted ground-fighting
7 skills, that her and I have always had a good working
8 relationship, and that we have taken several calls
9 together in the past.

10 Furthermore, having worked the streets of
11 Albuquerque for 11 years, the allegation of me being
12 afraid was still in the report, despite the agency
13 sending me for a full fitness-for-duty, which was done
14 by Dr. Pete DiVasto, in which I was deemed fit for
15 duty with no concerns or recommendations.

16 Since my revocation I have been working at
17 the Bernalillo County Juvenile Detention Center. We
18 don't house shoplifters, we only hold the most violent
19 and dangerous youthful offenders who regularly
20 threaten staff and want to fight. So to conclude that
21 I'm afraid and I won't back up another officer is
22 bizarre and utterly false.

23 Even though Mr. Linthicum recommended a term
24 suspension of my certification, Mr. Medina recommended
25 revocation without any aggravating circumstances to

1 support it. During the formal hearing, I testified to
2 several mitigating factors that fall under this
3 Board's own rules; but they were left out of the
4 report provided to you.

5 Lastly, the Hearing Officer refused to accept
6 lapel camera video evidence that I attempted to
7 provide him with on a flash drive that would have
8 cleared me and proven the allegations against me were
9 false.

10 Based on the multiple errors in the Hearing
11 Officer's analysis and several contradictions and
12 inconsistencies in the witness' testimony, I
13 respectfully ask you to reinstate my certification so
14 I can return to work with another agency.

15 In closing I want you to know that I have a
16 love and passion for this profession and that I'm
17 willing to go through any training or retraining to
18 prove I am not the person that the agency or the
19 Hearing Officer claims that I am. And I can assure
20 you, I do not lack any good moral character. Thank
21 you for your attention. Any questions?

22 CHIEF McCALL: Thank you, Mr. Parrish. We'll
23 take your statements under advisement in closed
24 session.

25 MR. PARRISH: Thank you.

1 CHIEF McCALL: At this portion of the
2 meeting, the Board will enter into closed session to
3 discuss disciplinary matters pursuant to the Open
4 Meetings Act exceptions related to licensing and
5 administrative adjudicatory proceedings, NMSA 1978
6 Sections 10-15-1(H)(1) and (3). No vote or formal
7 action on these matters shall take place during the
8 closed session. We'll take a roll call vote.

9 MS. MEDRANO: AG Hector Balderas.

10 Mr. Scot Key.

11 MR. KEY: I agree.

12 MS. MEDRANO: Chief Pete Kassetas.

13 CHIEF KASSETAS: Yes.

14 MS. MEDRANO: Chief Darren Soland.

15 CHIEF SOLAND: Yes.

16 MS. MEDRANO: Chief Chris McCall.

17 CHIEF McCALL: Yes.

18 MS. MEDRANO: Sergeant Jaime Quezada.

19 MR. QUEZADA: Yes.

20 MS. MEDRANO: Ms. Kelly Burnham.

21 MS. BURNHAM: Yes.

22 MS. MEDRANO: Dr. Elisabeth Miller.

23 DR. MILLER: Yes.

24 CHIEF McCALL: We're in closed session.

25 (Recess from 11:00 a.m. to 12:40 p.m.)

1 ITEM NO. 33: RETURN TO OPEN SESSION

2 CHIEF McCALL: We'll come back into open
3 session. During the closed session, no votes or
4 actions were taken on behalf of the Board. We'll
5 resume with our agenda on our disciplinary matters.

6 We'll start with item Nos. 15, 16, and 17,
7 requests for reinstatement of law enforcement
8 certifications. The Board will take no action on
9 these requests as there is no process currently in
10 place for reinstatements of certifications.

11 ITEM NO. 18: JUSTINE SCHRAEDER

12 CHIEF McCALL: We'll move on to item No. 18,
13 proposed dismissals. Can I get a motion related to
14 item No. 18, Justine Schraeder.

15 MR. KEY: Yes, Mr. Chairman. I move for a
16 dismissal of the action against Justine Schraeder.

17 CHIEF McCALL: I have a motion for dismissal.
18 Do I have a second?

19 CHIEF SOLAND: Second.

20 CHIEF McCALL: I have a second. All in
21 favor.

22 (Those in favor so indicate.)

23 CHIEF McCALL: Any opposed? The motion
24 carries.

25 ITEM NO. 19: MATTHEW ASHLEY

1 CHIEF McCALL: Next is proposed orders of
2 suspension. Item No. 19 is Matthew Ashley. Do I have
3 a motion in reference to Mr. Ashley?

4 SERGEANT QUEZADA: Mr. Vice Chair, I would
5 like to make a motion to approve the order of
6 suspension for Matthew Ashley.

7 MR. DWORAK: Just to clarify, what is it?

8 SERGEANT QUEZADA: I'm sorry. The
9 recommendation was 90 days suspension.

10 CHIEF McCALL: I have a motion. Do I have a
11 second?

12 CHIEF SOLAND: Second.

13 CHIEF McCALL: All in favor.

14 (Those in favor so indicate.)

15 CHIEF McCALL: Any opposed? The motion
16 carries.

17 ITEM NO. 20: ERICA MacKINNON

18 CHIEF McCALL: Item No. 20 is Erica
19 MacKinnon. Do I have a motion in reference to
20 Ms. MacKinnon?

21 CHIEF SOLAND: Mr. Chair, I make a motion to
22 approve the findings of fact and accept the Director's
23 recommendation of a one-year suspension.

24 CHIEF McCALL: I have a motion. Is there a
25 second?

1 MS. BURNHAM: Second.

2 CHIEF McCALL: A motion and a second. All in
3 favor.

4 (Those in favor so indicate.)

5 CHIEF McCALL: Any opposed? The motion
6 carries.

7 ITEM NO. 21: PATRICK MOSLEY

8 CHIEF McCALL: Next is item No. 21, Patrick
9 Mosley. Do I have a motion in regards to Mr. Mosley?

10 MR. DWORAK: There is no action needed.

11 CHIEF McCALL: I apologize. No action on
12 Mr. Mosley.

13 MR. DWORAK: Just to clarify, there's already
14 been action at the last Board meeting to revoke his
15 license.

16 ITEM NO. 22: RAUL ROMERO

17 CHIEF McCALL: Next will item No. 22, Raul
18 Romero.

19 CHIEF KASSETAS: Mr. Vice-Chair, I would like
20 to make a motion to accept the Director's
21 recommendation of a 90-day suspension.

22 CHIEF McCALL: I have a motion to accept the
23 Director's recommendation. Do I have a second?

24 MR. KEY: Second.

25 CHIEF McCALL: All in favor.

1 (Those in favor so indicate.)

2 CHIEF McCALL: Any opposed? The motion
3 carries.

4 SERGEANT QUEZADA: Mr. Vice Chair, just for
5 the record I did recuse myself on item No. 22.

6 CHIEF McCALL: Please let the record reflect
7 that Mr. Quezada recused himself.

8 ITEM NO. 23: STEPHAN BORDERS

9 CHIEF McCALL: Next is proposed orders of
10 revocation, item No. 23, Stephan Borders. Do I have a
11 motion regarding Mr. Borders?

12 MR. KEY: Mr. Chairman and Members of the
13 Board, I make a motion that we revoke his
14 certification.

15 CHIEF McCALL: I have a motion for a
16 revocation. Do I have a second?

17 CHIEF SOLAND: Second.

18 CHIEF McCALL: And a second. All in favor.
19 (Those in favor so indicate.)

20 CHIEF McCALL: Any opposed? The motion
21 carries.

22 ITEM NO. 24: WARREN BURNOR

23 CHIEF McCALL: Next is item No. 24, Warren
24 Burnor. Do I have a motion?

25 CHIEF SOLAND: Mr. Chair, I make a motion to

1 accept the order of revocation.

2 CHIEF McCALL: I have a motion. Is there a
3 second?

4 SERGEANT QUEZADA: Second it.

5 CHIEF McCALL: All in favor.

6 (Those in favor so indicate.)

7 CHIEF McCALL: Any opposed? The motion
8 passes.

9 ITEM NO. 25: DESHAUN EPPS

10 CHIEF McCALL: Item No. 25 is Deshaun Epps.
11 Do I have a motion in regards to Mr. Epps?

12 SERGEANT QUEZADA: Mr. Vice Chairman, I would
13 like to make a motion to adopt the Director's
14 recommendation to approve the revocation.

15 CHIEF McCALL: I have a motion. Do I have a
16 second?

17 DR. MILLER: Second.

18 CHIEF McCALL: A motion and a second. All in
19 favor.

20 (Those in favor so indicate.)

21 CHIEF McCALL: Any opposed? The motion
22 carries.

23 CHIEF KASSETAS: Mr. Vice Chair, let the
24 record reflect that I recused myself from this
25 individual's process.

1 CHIEF McCALL: Very good.

2 ITEM NO. 26: JUSTIN FEDRIC

3 CHIEF McCALL: Next is item No. 26, Justin
4 Fedric.

5 DR. MILLER: Mr. Chair, I move that we accept
6 the Director's recommendation to revoke.

7 CHIEF McCALL: I have a motion. Do I have a
8 second?

9 CHIEF SOLAND: Second.

10 CHIEF McCALL: A second. All in favor.

11 (Those in favor so indicate.)

12 CHIEF McCALL: Any opposed? The motion
13 carries.

14 CHIEF KASSETAS: Mr. Vice Chair, please let
15 the record reflect I recused myself in this particular
16 action.

17 ITEM NO. 27: JUSTIN ROMERO

18 CHIEF McCALL: Next is item No. 27, Justin
19 Romero.

20 MS. BURNHAM: Mr. Chairman, I move to approve
21 the order of revocation.

22 CHIEF McCALL: I have a motion. Do I have a
23 second?

24 MR. KEY: Second.

25 CHIEF McCALL: All in favor.

1 (Those in favor so indicate.)

2 CHIEF McCALL: Any opposed? The motion
3 carries.

4 CHIEF KASSETAS: Mr. Vice Chair, again I
5 recused myself from this particular action.

6 ITEM NO. 28: JOSE SIERRA

7 CHIEF McCALL: Now, we'll move to item
8 No. 28, Jose Sierra.

9 DR. MILLER: Mr. Chair, I move that we accept
10 the Director's recommendation to revoke.

11 CHIEF McCALL: I have a motion for
12 revocation. Do I have a second?

13 SERGEANT QUEZADA: Second that.

14 CHIEF McCALL: I have a second. All in
15 favor.

16 (Those in favor so indicate.)

17 CHIEF McCALL: Any opposed? The motion
18 carries.

19 ITEM NO. 29: JESSE JAMES CASAUS

20 CHIEF McCALL: Next are items related to
21 formal Hearing Officer reports. Item No. 29, Jesse
22 James Casaus. Do I have a motion in regards to
23 Mr. Casaus?

24 MS. BURNHAM: Move to dismiss the allegations
25 in this case.

1 CHIEF McCALL: I have a motion to dismiss. A
2 second?

3 MR. KEY: Second.

4 CHIEF McCALL: And a second. All in favor.
5 (Those in favor so indicate.)

6 CHIEF McCALL: Any opposed? The motion
7 carries.

8 CHIEF KASSETAS: Mr. Vice Chair, please let
9 the record reflect I recused myself from this action.

10 ITEM NO. 30: GILBERT GONZALES

11 CHIEF McCALL: Next is item No. 30, Gilbert
12 Gonzales.

13 DR. MILLER: Mr. Chair, I move that we accept
14 the Hearing Officer's findings of fact and
15 recommendation to revoke.

16 CHIEF McCALL: I have a motion. Do I have a
17 second?

18 CHIEF SOLAND: Second.

19 CHIEF McCALL: A motion and a second. All in
20 favor.

21 (Those in favor so indicate.)

22 CHIEF McCALL: Any opposed? The motion
23 carries.

24 CHIEF KASSETAS: Again, Mr. Vice Chair, let
25 the record reflect I recused myself from this item.

1 ITEM NO. 31: JOSEPH BACA

2 CHIEF McCALL: Item No. 31, Joseph Baca.

3 SERGEANT QUEZADA: Mr. Vice Chair, I would
4 like to make a motion to adopt the facts found by the
5 Hearing Officer and impose a one-year suspension.

6 CHIEF McCALL: I have a motion. Do I have a
7 second?

8 MS. BURNHAM: Second.

9 CHIEF McCALL: All in favor.

10 (Those in favor so indicate.)

11 CHIEF McCALL: Any opposed? No opposed. The
12 motion carries.

13 CHIEF KASSETAS: Mr. Vice Chair, again I
14 recused myself from this action, No. 31.

15 ITEM NO. 32: JOHN DOYLE UPDATE

16 CHIEF McCALL: Next is item No. 33, John
17 Doyle. There's no action taken on that as it was just
18 a discussion matter for the Board.

19 As we are done with our disciplinary matters,
20 I open it up to any Board member that has any
21 announcements.

22 ITEM NO. 34: ADJOURNMENT

23 CHIEF McCALL: All right. If there's nothing
24 else, we will adjourn this meeting.

25 (At 12:50 p.m. the meeting was adjourned.)

REPORTER'S CERTIFICATE

1
2
3 I, JAN A. WILLIAMS, New Mexico CCR #14, DO
4 HEREBY CERTIFY that on December 5, 2016, the
5 proceedings in the above captioned matter were taken
6 before me, that I did report in stenographic shorthand
7 the proceedings set forth herein, and the foregoing
8 pages are a true and correct transcription to the best
9 of my ability.

10 I FURTHER CERTIFY that I am neither employed
11 by nor related to nor contracted with (unless excepted
12 by the rules) any of the parties or attorneys in this
13 case, and that I have no interest whatsoever in the
14 final disposition of these proceedings.
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22

23 JAN A. WILLIAMS, RPR
24 New Mexico CCR #14
25 License Expires: 12/31/16

A

- A.G** 5:2,5,9,25 6:2,8,12,15 7:2,5,8
20:18 22:12 25:22,24 32:14,18
32:21 35:10 36:5,20,25 37:4,17
38:2,17 39:2,10,16,21 40:2,9,16
40:20 41:2,6,10,16,24 42:3,5,10
42:16,22 46:22 47:4,16,21 49:12
49:18 50:10,18,21 51:1,10 52:4
60:24 61:2,8,12 80:25 81:7 82:5
82:19 83:4,11,17 85:7,12 89:8
90:14 94:11,17 95:2,8,12,15,20
95:25 96:3,11,25
- a.m** 1:9 103:25
- ability** 45:19 47:9 56:20 113:9
- able** 11:2 26:25 29:14 43:8,20
47:9 75:11 78:9
- absolutely** 21:24 34:5,19 44:18
45:10 46:9 70:10 72:24 73:14
- absolve** 20:15
- absurd** 34:4
- academies** 8:12 9:8,8,22
- academy** 1:5 7:15,17 8:9,13,17,20
8:24 9:4,16,18 10:7,21 12:2,6,10
12:16 14:23 15:3 16:3 24:13,15
24:23 25:4,9,13 26:12 28:5,6,8
28:24 29:23 30:4,5,5 32:12
47:18 50:23 53:18,25 54:1,3,5
54:13 57:4,5,7,9,15,16,20,22
58:2,3,7,14,18 59:6 60:19 63:12
- accept** 50:11 59:4 60:18 64:15
66:20 102:5 105:22 106:20,22
108:1 109:5 110:9 111:13
- accepted** 30:2
- accepting** 45:4 98:4
- access** 47:10 48:12 84:6
- accommodate** 63:22
- accommodations** 56:24
- accomplished** 85:18
- accountability** 21:14 33:16 34:5
88:4
- accountable** 34:1,6,22 35:15 86:5
- accusation** 17:12
- act** 21:8,15 22:3 39:8 70:13,14,14
103:4
- action** 11:6 23:13,19 48:11 54:14
60:1 62:3 63:7 64:24 65:19,22
69:15 103:7 104:8,16 106:10,11
106:14 109:16 110:5 111:9
112:14,17
- actions** 34:1 69:1 104:4
- active** 85:23 89:20
- activists** 90:20
- activities** 7:15
- actual** 12:8 48:11 52:20
- ADAs** 80:22
- add** 48:8 72:17
- added** 81:14
- additional** 9:13 22:13 23:17 32:22
38:4,18 39:11 40:10
- Additionally** 8:23 37:15
- address** 7:13 15:23 19:6,20 20:1
23:3 69:3 89:24 97:20
- addressed** 9:20 17:2 19:2,15 23:6
78:4 79:22
- addresses** 12:4
- adjourn** 112:24
- adjourned** 112:25
- Adjournment** 4:18 112:22
- adjudicatory** 103:5
- adjunct** 10:9,12
- adjust** 84:22
- adjusted** 63:22
- adjusting** 11:22
- administrations** 72:21
- administrative** 64:17 65:4 66:4
67:15 76:14 79:8 80:16,18 87:13
103:5
- administratively** 17:6
- admission** 100:5
- admits** 100:14
- admitted** 57:5
- admitting** 57:9
- adopt** 50:22 108:13 112:4
- adopted** 75:20
- advance** 26:7
- advanced** 8:1 29:12
- advancing** 87:10
- advise** 11:12 15:18 16:13,14,22
- advised** 66:14
- advisement** 32:19 47:23 61:10
98:25 102:23
- advisory** 15:8
- advocacy** 90:16
- advocating** 93:22
- afraid** 101:4,12,21
- afternoon** 19:3
- AG** 89:3 96:9 103:9
- AG's** 67:4
- agencies** 7:23 15:1,9,17 24:2
30:17 45:2 46:7,23 74:10 86:3
86:25 87:20 88:5,17,22 89:11,18
91:10
- agency** 15:2 21:9,16 22:3 27:15
30:18 32:1 45:7,13 47:5,6,9 49:5
49:6 50:6 53:20,21 54:12,14,17
69:4,6 74:17 75:7,17 76:22,23
76:24 79:7,12,20 80:1 87:14
90:7 101:12 102:14,18
- agenda** 3:1,5 4:1 6:1,3,5,9,13
11:10,16 16:16 18:13 19:3 20:10
22:2,7 26:7 38:25 39:3,4,9 40:21
42:25 43:19 81:8,13,16,23 82:2
82:15 83:18 84:23 104:5
- agent** 28:19
- aggravating** 101:25
- aggressively** 86:2
- ago** 36:7 61:22 79:2 98:5
- agree** 15:4 77:12 103:11
- agreed** 65:23
- ahead** 6:3 36:13
- AK-47** 26:25
- Albuquerque** 1:10,12 9:1 12:21
26:15,22 33:3 84:13,19 85:6
101:11
- aligns** 66:8
- allegation** 63:15 101:11
- allegations** 21:12 65:12 102:8
110:24
- alleged** 74:14
- allocated** 29:18
- allow** 11:2 43:25 60:18 97:20
- allowable** 84:11
- allowed** 10:2
- allowing** 83:19
- allows** 66:6
- altitude** 11:22
- ambiguity** 56:5
- ambulance** 29:13
- amend** 50:14 66:20
- amount** 15:1 32:1 62:24
- analysis** 24:13 102:11
- and/or** 45:5 67:23
- Angela** 25:17
- announcements** 112:21
- answer** 35:1 81:4 98:21
- anybody** 9:19 10:20 14:5 40:14
50:3 77:7
- anytime** 34:23
- APD** 26:23
- APD's** 100:11

apologies 26:6
apologize 69:19 81:9,11,19 82:3
 82:15 106:11
appeal 55:4,4,6 56:15 62:22 70:8
 70:9,15,16,19 73:23
appeals 43:25 55:25 70:17
appears 14:11
applicable 10:1
applicant 57:1,3 58:21
applicants 13:9 44:24 49:4
application 13:25 45:5 54:15,19
 58:7,11,16,18 59:5,19
applications 14:7
applied 27:5
apply 10:20 13:12 14:20 64:2
 79:25
applying 13:10,23
appointing 87:12 88:23
appreciate 20:16 32:18 68:7 69:10
 69:17,25 73:6 83:19 93:23 96:25
apprehend 26:21
apprised 94:21 95:6
appropriate 39:23 54:24 86:16
 95:3
approval 3:5,6,15 6:1,14 48:21
 60:25 61:3 64:11
approve 6:5,6,8,17,25 7:2 40:2
 41:7,12,25 42:1,6,11 83:14
 105:5,22 108:14 109:20
approved 6:13 7:6 24:6 30:8 79:1
 81:16 82:2,8,12,25
approving 6:16 40:7 41:11
arbitrary 73:24
area 19:8 76:14 93:16
areas 19:1 86:23 87:15 88:10 91:4
argument 75:3 78:23
arm 75:16
arrive 12:1 29:13
arriving 12:6 100:15
artfully 21:5
articles 29:7
Ashley 4:3 104:25 105:2,3,6
asked 55:1,3 71:14
asking 31:25 47:17 55:5 86:24
asset 25:17
assigned 66:12
assist 15:20
assistance 62:5 69:18
assistants 52:18
Association 30:19,20,22 43:3

assume 11:14
assumed 92:16
assumption 94:8
assumptions 92:17
assure 94:17 97:4 102:19
atrophies 28:3
attached 4:19 29:8
attachment 76:6
attempt 21:7
attempted 49:14 102:6
attend 12:19 13:7 15:3 59:9
attendance 61:9
attended 59:7
attention 77:7 102:21
attorney 2:2 5:7 26:12 65:1,7
 66:14 67:3 72:22,23 76:12 78:10
 95:4
Attorney's 26:16 92:22
attorneys 76:13 113:12
audit 87:6,13
auditing 97:5
August 8:14 25:13 99:17,23
authority 55:19 64:19 96:19
automatic 70:15
autonomy 62:12,13
availability 10:7
available 6:20 10:12 14:2,5 18:14
 29:3 79:18 95:14
avenue 44:21
avenues 69:8
average 20:25
avoid 77:20
awaiting 23:17
aware 56:17 60:1
awkward 77:13
aye 6:10 41:8 42:8 50:24 82:21

B

Baca 4:15 112:1,2
back 9:23 10:3,15 11:10 15:22
 26:20 31:13,20 37:24 40:20
 42:16 45:11 46:10,11 47:25 48:9
 48:23 49:3 50:14 51:3,21 54:11
 54:17 58:5 63:19 71:14 80:1
 81:3,7 83:17 84:2 85:16 92:6
 97:14,17 101:21 104:2
background 46:7 49:5 50:6 53:24
 58:12
backgrounds 45:3
backlog 46:18

bad 16:2
badge 36:12
baggage 43:14
balance 94:7
balancing 87:7
Balderas 2:2 5:2,5,8,9,25 6:2,8,12
 6:15 7:2,5,8 20:18 22:12 25:22
 25:24 32:14,18,21 35:10 36:2,5
 36:20,23,25 37:4,17 38:2,17
 39:2,10,16,21 40:2,9,16,20 41:2
 41:6,10,16,24 42:3,5,10,16,22
 46:22 47:4,16,21 49:12,18 50:10
 50:18,21 51:1,10 52:4 60:24
 61:2,8,12 72:23 80:25 81:7 82:5
 82:19 83:4,11,17 85:7,12 89:8
 90:14 94:11,17 95:2,8,12,15,20
 95:25 96:3,11,25 103:9
bar 12:7,13 70:20
based 10:16 18:8 102:10
basic 7:17 12:18 28:7 29:12 30:4,5
 37:21 40:24 41:1
basically 34:16 63:11 64:1
basis 80:2
BCSO 54:2 60:3,5,10
beauty 19:24
becoming 51:16
beginning 73:10
begins 32:10
behalf 104:4
believe 12:19 16:5 23:2 24:20
 36:25 38:7 45:21 46:25 53:13
 54:16 55:17 61:4 80:15,16 86:15
 87:4 88:8 90:18,25 91:18 97:1
 98:13
benefit 89:12
Benjamin 3:21 99:3,6,7
Bernalillo 8:23 26:17 53:20 55:2
 55:14 58:20,23,25 59:3,8 60:16
 101:17
best 86:3,10 88:1 89:12 113:8
better 12:24 17:1 18:20 19:14
 24:2 53:14 68:21 73:1 75:24
 87:7 92:12 93:8 94:3
beyond 37:18 100:25
biennium 8:3
big 15:13 35:8
bigger 96:14
biggest 13:24
bill 30:25 31:17,23,23,24 32:3,5
binders 38:7

bit 21:11 44:7 72:4 76:5,17
bizarre 101:22
blind 88:2
blocked 84:15,20
blue 33:24 34:15,21
board 1:6 2:1 3:18 6:18,19 7:6,12
 7:14,16 11:7 16:18 17:10,25
 18:4,13,16 20:7,10,23 21:6,7,13
 21:21 22:1,4,11 23:2,16 24:11
 26:6 29:21 30:20 31:2 32:12,15
 39:9 43:3,20,24 44:8,21 47:17
 47:22 50:23 51:7,14 52:5 53:17
 55:20,24 56:10,16,17,23 57:2,4
 57:6,7 59:11 61:16,20 62:3,8,17
 62:20,23 63:9,23 64:11,11,13,14
 64:15,16 65:13 66:10,13,19,19
 67:24 69:18 70:8,12,17 73:2,5
 73:17,20,24,25 74:1,19,22 75:20
 75:21 76:16 77:8,13 78:5,9 79:1
 80:7,14 81:3,9,16 82:2 83:16,18
 83:22 84:11,22 85:1,16,19,25
 86:25 87:5,9,24 88:8,11,21 89:1
 89:10 90:3,15,23 91:17,23 92:9
 92:14 93:5,12,18 94:6,11,18,21
 94:25 95:5 96:14,15,16,20,23
 97:20 98:3 99:14,17 103:2 104:4
 104:8 106:14 107:13 112:18,20
Board's 16:13 17:15 29:24 32:10
 44:13 55:24 56:3 61:19,24 62:12
 63:1,6 66:21 68:15,24 83:19
 87:15 102:3
boards 62:9,10 66:15 67:16 70:13
body 85:20
Borders 4:7 107:8,10,11
bottom 33:10,15
Boulevard 1:11
boundaries 48:16
break 37:25 97:13,15
Brian 2:14 45:6 80:10 89:19
bridge 91:3
brief 97:13
briefing 26:9
briefly 9:14 16:24 62:16 63:5
bring 21:7 32:8 68:5 69:1
bringing 77:7
broad 77:5 80:1
brothers 33:22
brothers-in-arms 33:23
brought 26:20 27:14,17 30:2 68:9
build 78:24

bullying 34:12
bunch 58:4
Bureau 8:1
Burnham 2:9 5:21,22 7:1 19:17
 20:13 40:4,12 69:13,21,23 70:2
 70:7,11,21,25 71:11 72:6,11
 73:13 85:4 89:7 94:12,13,15
 103:20,21 106:1 109:20 110:24
 112:8
Burnor 4:8 107:22,24
burnout 72:7
business 5:5 94:2
busy 9:7
button 45:17,19
buy 27:21
byproduct 92:19
Byrd 25:17

C

cadets 7:20,22 8:24 9:8 11:25
CALEA 89:14
calendar 8:4
California 48:19
call 3:3,4 5:1,2,4,6,6 18:2,10 33:22
 80:23 99:18,19,25 100:1,2,16,18
 100:22,22 101:3 103:8
called 63:6,7 70:13 95:18
calling 71:18
calls 75:21 101:8
camera 102:6
candidate 56:2,11,19
candidate's 56:18
candidates 13:16 14:9,15 37:12
capable 55:10 94:25
captioned 113:5
care 60:15 71:15,17
career 27:7,10
carries 104:24 105:16 106:6 107:3
 107:21 108:22 109:13 110:3,18
 111:7,23 112:12
carry 51:2 73:8
carve 21:25 97:7
Casaus 4:13 110:19,22,23
case 2:16 36:9 48:1 52:7 66:3
 70:22,23 71:2,4 72:5 78:18 79:6
 98:23 110:25 113:13
cases 19:2 22:16 23:14 29:9 46:17
 66:5,11
catching 81:20 82:3
category 13:20

caught 49:4,10 81:10
CBW 58:10
CCR 1:22 113:3,23
Center 101:17
central 28:22 72:7,8 84:9
cert 30:6 58:5,7,22,24,25 59:9
 60:2,11
cert-by-waiver 28:9 44:24
certain 13:21 15:1 20:24 48:24
 62:24 72:14 92:22 97:9
certainly 13:5 15:19 75:13
CERTIFICATE 113:1
certification 3:20,22,23 37:10,14
 37:15 38:18 40:24 41:19,22 45:5
 49:7 53:19 54:12 59:13 81:21
 83:12 96:20 97:22,25 98:4,10,19
 99:4,7,9,12 101:24 102:13
 107:14
certification-by-waiver 37:12
certifications 3:9,11 4:20,22 37:2
 37:5 41:11,12,14 42:7 62:4 81:5
 81:8 82:20 83:15 93:15 104:8,10
certified 8:11,22 38:1 41:23 58:4
 71:18 82:4
certify 37:9 91:25 113:4,10
certifying 50:3
cetera 58:12
chair 17:3 73:9 93:22 94:12,13,15
 105:4,21 107:4,25 108:23 109:5
 109:14 110:4,9 111:8,13,24
 112:3,13
Chair's 83:20
Chairman 2:2,3 7:12 26:4 32:16
 37:7 43:2 53:17 81:2 90:1 95:19
 104:15 107:12 108:12 109:20
challenge 53:7 55:7 57:25
chance 20:8 22:10 26:8 35:5
change 72:4 79:10
changed 19:1 65:6
changes 17:8,17,18,19,21 18:4,7
 18:21,24 19:18 20:1,3,5,6 61:20
 61:21,23 62:11 63:3 75:14 77:20
 78:5
changing 17:10 19:9,10 21:23
 80:12
character 102:20
charged 65:18
charging 65:4,9 68:19
chasing 98:10
Chavez 3:20 97:21,24 98:1 99:2

<p>check 36:18,18 45:3,7 checked 46:2 chief 2:3,4,5 5:12,13,15,16,17,18 6:7,9,24 11:5,13,18 14:21 16:7 16:11,17 24:23 26:13 30:17 34:6 41:5 44:9 45:6,18 46:6,10,21 47:11,13 48:8 49:1 50:20 52:12 52:18,23 53:2,9 55:1,18,23 57:14,19,24 58:6,9,17 66:23 67:1,19 68:10,25 72:12 75:6,15 77:4,9 78:25 79:5,7,12 80:16,18 80:21 82:11,16 83:6 85:2 88:23 88:24 89:8,9,23 90:14 92:10 93:20 94:14 95:7,9,9,13,18,23 96:1,7,9,12 97:17,23 98:24 99:5 99:10 100:13 102:22 103:1,12 103:13,14,15,16,17,24 104:2,12 104:17,19,20,23 105:1,10,12,13 105:15,18,21,24 106:2,5,8,11,17 106:19,22,25 107:2,6,9,15,17,18 107:20,23,25 108:2,5,7,10,15,18 108:21,23 109:1,3,7,9,10,12,14 109:18,22,25 110:2,4,7,11,14,17 110:20 111:1,4,6,8,11,16,18,19 111:22,24 112:2,6,9,11,13,16,23 Chief's 30:19 chiefs 15:12 23:6 68:25 93:9 chiefs' 93:13 choices 16:2 choose 44:8 chooses 44:21 66:11 Chris 2:3 5:17 103:16 circumstances 101:25 citizen 20:25 94:23 95:8,16 citizens 22:19 29:6 93:7 city 33:11 84:12,16 85:4,5 civil 90:22 civilian 34:19 claims 102:19 clarification 48:4 56:10 96:8 clarifications 78:6 clarifies 74:13,20 clarify 77:22 82:24 105:7 106:13 class 3:15 7:18,18,21 8:10,13,17 8:21 9:2,5 10:2,4,14,15 13:7 15:25 24:18,25 25:3,4,4,5,5 37:21,21 40:24 59:1 61:1,3 classes 28:9 clean 36:17 clear 14:19 18:24 49:12 55:24</p>	<p>65:11 75:4 77:23 83:4 99:25 100:19 cleared 102:8 clearly 74:9 100:24 click 45:17 clicked 45:19 close 49:18 89:18 closed 68:3 98:25 102:23 103:2,8 103:24 104:3 closing 84:18 102:15 clotting 28:18 code 33:24 34:15 collectively 43:17 college 9:23 collegiate-based 9:22 Colorado 48:18 49:24 come 9:23 10:3 11:20 13:22 20:6 28:11 37:24 40:20 42:16 45:11 53:17 59:6,12 60:6 72:22 83:25 93:2 97:14,17 104:2 comes 20:10 22:10 45:15 60:10 89:16 comfortable 44:21 coming 10:14 14:15 15:5 28:1 36:21 44:25 49:3 54:10 57:25 73:11 74:23 85:2 86:18 100:13 commandeered 26:22 commend 21:20,21 72:6 84:3 commended 22:4 comment 3:8 25:23,25 26:1,3 37:1 48:14 69:14 commentary 67:22 comments 84:25 89:6 97:11 commissions 66:15 commit 87:10 commitment 30:21 83:22 85:16 85:19 committed 91:18 committee 16:25 17:16,22 18:3,8 18:9,17 20:1 26:10 30:13 56:17 78:2 87:17 88:24 95:5 96:16 97:6 committing 21:2,3,21 100:23 common 43:12 87:4 commonly 67:2 communicating 85:10 communications 100:6 communities 83:24 86:21 87:4 community 86:22,22 87:7 88:15 88:18,22 90:20 91:3,12 92:9</p>	<p>94:20 97:7,8 complaints 23:15,15 34:12 65:15 68:14 80:2 complement 72:18 complete 78:16 completed 8:3 40:22 42:18 54:2 88:7 98:16 completely 78:11 completion 54:5,18 compliance 21:7 complies 21:9 22:2,4 39:6 comply 17:6 21:14,19 62:20 87:7 complying 86:7 100:10 component 92:23 composition 94:22 compromise 65:24 computer 100:17 concept 89:9 concern 27:20 78:15 concerned 74:23 91:9 concerning 36:9 concerns 82:14 101:15 conclude 101:20 concluded 100:1 concludes 36:25 81:1 conclusion 100:4 conclusions 66:18,22 73:25 74:1 concurrence 17:16 condition 56:13 conduct 63:10 66:12 74:25 87:12 conducted 66:8 conference 18:2,10 23:6,7 confirmed 100:7,20 confirming 100:6 confirms 100:14 confused 68:11 76:12,13 confusion 21:19 62:2 65:3 Congratulations 51:5 connected 34:20 consider 6:15 43:21 47:17 88:9,23 90:8 91:5 92:7 97:2 considerable 85:24 consideration 3:12 42:19,23 54:25 57:6 79:21 considered 61:20 79:21 considering 43:21 84:17 86:14 consistency 22:17 consistent 10:6 22:22 67:10,15 consisting 8:10 consists 26:11</p>
--	---	--

construed 100:9
consultation 83:21
consulting 94:25
Cont'd 4:1
contacted 76:10
contained 42:2 81:24 83:2,9
Contemplated 23:19 63:7 64:24
 65:19,22 69:14
Content 3:16 61:1
continual 13:3,4
continue 19:6 22:15 28:10 73:19
 84:8
continuing 84:6
contracted 113:11
contradictions 102:11
contributing 89:2
control 93:19
convey 68:4
Cooper 12:20
coordinating 8:2
cop 35:25 36:15
copies 6:18 70:3,3
cops 43:12
copying 81:14
correct 20:9 39:21 44:10 45:24
 46:3,8 47:20 49:16 52:15 53:24
 54:22 58:8,9 59:17 78:13 81:25
 85:6 113:8
correction 47:24
corrections 6:21
correctly 53:19 54:3
Coss 2:14 43:1,2 44:18 45:9 46:5
 46:9,13,25 47:5,13,20 48:3,7
 49:1,16 50:4 51:7 53:13,16,23
 54:2,7,10,23 58:9,24 59:5,12,17
 78:24 80:15 89:20
cost 46:23 47:2
counsel 18:4 19:15 23:2 55:21
 61:14
Counties 30:22
country 33:4 86:4
County 8:23 26:17 53:20 55:2,14
 58:20,23,25 59:3,8 60:16 101:17
couple 11:21,22 12:6 16:1,2 18:1
 37:16 73:14 78:8 79:2
course 9:25 88:3 93:6 94:24
courses 9:24
court 35:16 51:22 70:19
cover 9:13
crashes 29:10

create 22:2 87:25
creation 77:6
criminal 98:7
critical 87:10
criticism 100:25
critics 17:12
current 27:22 28:25 76:21
currently 38:2 47:12 91:25 104:9
curriculum 28:7 30:3,7
cusps 69:2
custodian 28:24
cycle 8:2

D

DA 77:14 80:11,18
DA's 80:17
dandy 35:20
dangerous 101:19
dark 73:4
Darren 2:5 5:15 103:14
data 46:14
database 43:6 47:19
date 27:7 43:23,24 48:4 50:13
 51:3
dates 84:14 85:9
day 6:13 67:20 84:24 93:4
days 35:2 43:23 44:6 54:8 61:22
 65:21 69:15,16,22 74:20 77:11
 85:10 105:9
deadline 74:12
deadlines 62:23 64:1 74:11
deal 76:22 77:11 98:9
dealing 9:24 86:20 94:19
dean 25:13
decades 20:23
December 1:8 8:15,25 9:3 84:18
 113:4
decertification 3:13 42:21,24
 44:14 45:25 47:19 50:12 51:4
 85:21
decertifications 50:15
decertified 43:6,8 44:11 46:12
 48:2,10,24 49:13,23
decided 34:3
decision 11:7 23:22 49:22 53:7
 55:21 64:24 68:3 77:10
decisions 62:24 73:24 92:22 93:1
dedication 25:20
deemed 101:14
defend 18:22 33:4

deficiencies 91:2
defined 56:1
definitely 69:22 79:11 93:18
 96:21
degree 98:16
deleted 81:19
demanding 90:20
demonstrations 56:20
Denise 26:15
department 9:1 26:15 27:2 28:23
 40:16 69:1 79:3 82:6 91:3 92:2
departmental 67:23
departments 80:6 87:7,22 90:16
 90:21,25 91:1,6 93:11 96:4 97:6
 97:9
depending 74:11
depends 10:6,11
deputies 7:24 8:15,17 9:10 27:9
 28:1 29:5
deputy 2:14 18:3 26:17 42:25
 46:22 49:12
described 59:21
deserve 10:25 22:22 35:23 36:15
Deshaun 4:9 108:9,10
designed 17:11
despite 101:12
detail 19:16 20:14,19
detailed 21:3,22
Detention 101:17
determination 44:14 57:8 74:15
determine 56:23 63:13
determined 99:24
detriment 13:16
developed 43:5
developing 84:23 90:8
develops 95:6
devotion 25:20
diabetes 56:14
diabetic 52:3 55:9
died 27:5,9
different 7:23 9:18 21:20 62:9
 64:4 65:7 70:12 87:22 91:11
difficult 12:12,12 72:19 87:23
 91:7
digest 26:8
dilemma 36:9
direct 56:21
directed 100:2
direction 86:11
directive 74:9 100:8

directly 57:21 62:1
Director 2:13,14 7:9,11 11:5,8,14
 12:3,9,15 13:5,18 14:17,21
 15:11 16:7,10,12,22 18:3,3
 19:24 20:16,18 22:6,12,14 24:12
 24:16,20 25:2,12,12,22 29:20
 37:5,7,17,19 38:5,9,20,23 39:19
 39:24 40:18,23 41:16,17 42:13
 42:25 46:22 49:13 53:11,13
 62:12 63:12,16 64:3,8,13,18,22
 65:1,24 75:15 79:17 81:2,9 82:7
 82:13,23 83:1
Director's 3:7 7:7,9 16:21 105:22
 106:20,23 108:13 109:6 110:10
Directors 43:4
disciplinary 3:17 61:11,13,23
 62:2 64:23 97:14,18 103:3 104:5
 112:19
discipline 33:22 74:2,10,17 77:10
 85:22 86:5,14 93:14
discretion 16:21 63:17 64:4 66:10
 83:20
discuss 3:15 18:4 60:25 61:3
 80:12 103:3
discussed 10:5 18:15
discussing 59:16 98:25
discussion 85:8 88:20 112:18
discussions 72:17
dismiss 64:14 110:24 111:1
dismissal 64:16 104:16,17
dismissals 104:13
dispatch 100:6,8,9
dispatcher 100:3,12
dispatcher's 100:21
disposed 23:23
disposition 113:14
disregarded 100:5
dissected 93:2
dissemination 75:7
dissuade 77:7
distracted 68:16
distributed 6:19
district 70:19 92:22
disturbing 35:16
DiVasto 101:14
dive 96:13
diverse 83:23 94:5
division 65:8,8
doctor 51:21 52:2,6,13,20,25 53:4
 55:6,8

document 65:4,10,11 68:20
documentation 29:8 31:4
documents 36:9
doing 7:15 19:11 23:10 29:15 30:6
 30:6 34:16 45:2 46:7 55:11 68:7
 73:6,7 80:14 87:22
DOJ 33:8
doled 31:12
domestic 33:5,6 99:18 100:1,16
 101:3
double-check 40:1
Doyle 4:16 112:15,17
dozen 47:8
Dr 5:23,24 11:19 12:7,13 13:1,14
 14:6 15:4 17:3 19:13 20:12 25:8
 25:13,15 38:7,22 39:14,17,22
 40:7 41:4 45:23 47:24 48:3,6
 50:8,17 58:22 59:2,8,15,25 60:9
 61:6 82:18 83:8 94:22 101:14
 103:22,23 108:17 109:5 110:9
 111:13
draft 30:25 32:5 65:9 66:21 68:19
 75:7
drafted 65:20
drive 102:7
driving 71:17
drop 9:22 10:2
dropping 10:14
drops 10:21
due 16:1 51:12 56:12 68:6
duties 71:14 100:11
duty 27:10 99:19 101:15
Dworak 2:15 39:4 55:23 61:15
 66:25 67:5 68:9 69:11,17,22,25
 70:6,10,12,23 71:7,12 72:10
 73:14 75:9 76:2,25 77:14,18
 78:13 80:4 82:23 83:3,7 105:7
 106:10,13

E

E 3:14
earlier 90:18 95:4
early 64:7
earmarked 31:18
earn 35:5,6
ears 19:19,23
easier 14:13 61:17
easily 94:9
easy 21:1
echo 20:18

economically 98:8
Eden 34:7
educating 46:6 75:16
education 14:24 67:7
educational 80:5
EEOC 60:21
effect 61:22
effectively 66:7
effectiveness 91:12
efficient 71:21
efforts 80:5 85:15
either 38:6 59:10 60:2 61:7 63:19
 64:15 75:3 77:3 93:5
eliminate 68:22
eliminated 34:16
Elisabeth 2:8 5:23 103:22
Elliott 26:11
Ellis 32:22,24 33:1 35:11 36:6,20
 36:22
Elva 9:15
email 17:17 30:11 61:7
embrace 92:11
emotional 78:17
emotionally 98:8
employed 113:10
employee 52:8
employee/employer 57:11
employer 57:1
employment 57:10 59:18 68:14
 80:6
EMS 29:13
enacted 61:19
encourage 80:13,19 96:22
encouraged 12:1
encouraging 33:10 35:12,13
ended 43:18
endocrinologist 52:2
enemies 33:5
enforce 86:22
enforcement 1:5 3:10,20,22,23
 4:21 7:17 8:9,13,20 22:20 23:7
 26:12 27:6,8,23 28:24 31:1,7,17
 31:19 32:12 33:20,21 34:20 37:3
 37:6 43:4 47:18 50:23 53:18
 54:13 55:10 81:6 86:3,22 87:8
 87:14,20 88:5,17 91:13,21 92:11
 92:24 94:1 97:22,25 98:12,13
 99:4,7,9,12 104:7
enforcing 33:17
engage 87:23

engaging 86:20
enhance 50:6
ensure 10:23
enter 14:22 45:4 46:11 103:2
entered 46:16,19
entering 44:19
entertain 39:10,21 41:2,24 47:22
 50:10 84:25
entire 9:24 24:24 51:20 54:19
 73:20
entirely 55:24 81:11
entities 23:7
entry 46:14
enumerated 67:13,17
Epps 4:9 108:9,10,11
equipment 31:7,19 32:2
Erica 4:4 105:17,18
errors 19:19,20 102:10
especially 13:6 74:15 76:10 86:21
Esq 2:15
essential 56:15,21
essentially 90:4
establish 33:12
establishing 58:13
estimated 46:23
et 58:12
everybody 8:5 18:5 20:8 22:8 48:9
evidence 56:19 74:14 78:20 101:2
 102:6
Evidentiary 69:15
exact 38:18
exactly 17:13 23:11 63:9 65:3,18
 92:15
exam 56:6
examination 51:18,20 52:17,25
 55:7 56:4,7 57:13 60:8
examining 56:11
example 10:1 21:13 22:1
examples 11:2
excepted 113:11
exception 10:19
exceptions 103:4
exclusive 56:25
Excuse 40:4
execute 43:20
exhaustive 58:10,15
exhibit 4:22 37:8,20 38:1,3,3,12
 38:15,19 39:7,23,25 40:21,22,23
 41:18 42:2,7,12 81:24 83:2,7
Exhibits 4:20

expect 71:23
expectation 76:18 78:1 92:4
expecting 8:24 9:2,5
expeditious 24:9
expeditiously 22:16
expendable 28:13
expense 56:18
experience 72:2
experienced 64:25
experts 91:18
expired 44:5
Expires 113:23
explain 75:11 76:5 80:5
explained 73:18
explaining 17:7 21:23
explicit 76:25
extension 65:23 66:13
extensively 15:16
extent 72:14

F

faces 35:11
fact 12:18 14:18 35:14 57:25 68:6
 105:22 111:14
factfinder 66:17
factors 102:2
facts 65:14 67:21 68:1 74:1 112:4
failed 39:25 100:3
failing 14:8
failure 101:2
fair 22:22 24:9 73:10
fairness 22:17
fall 28:22 70:13,17 80:6 102:2
falling 11:24
falls 15:2
false 101:22 102:9
family 33:21 78:10 88:13,18 91:20
far 60:7 73:1 76:23
fast 48:22
father 33:1
fault 68:5 81:11 82:15
favor 6:10,11 7:3,4 41:8,9 42:7,9
 50:24,25 82:21,22 104:21,22
 105:13,14 106:3,4,25 107:1,18
 107:19 108:5,6,19,20 109:10,11
 109:25 110:1,15,16 111:4,5,20
 111:21 112:9,10
FBI 29:22,22,23
Fe 3:15 30:6 60:25 61:3 84:12,16
 85:5

feasible 10:17
feasibly 62:25
Fedric 4:10 109:2,4
fee 31:10
feedback 97:1
feel 55:19 89:3 94:21
feeling 73:4
feels 16:18 56:14
field 29:3
fight 101:20
figure 17:5
file 60:19 66:2 70:15 76:23 77:14
filed 76:9 79:15,22
fill 36:7
final 18:9,13 19:9 23:21 43:23
 45:3,15 57:7 64:24 66:22 74:15
 113:14
finally 17:4
finance 30:13
financial 30:1
find 9:19,19 11:2 13:10 18:22
 19:18 25:19 27:19,21 38:15
 42:13 48:12 82:5 96:23
findings 16:8 66:18,20 67:13,17
 67:18 105:22 111:14
fine 14:23 35:20
finish 12:17 24:15
finished 60:13
fire 27:2
first 5:5 14:1 20:7 24:7,23 27:9
 29:2,11 35:25 37:8,13 45:25
 55:7,8,25 64:6 75:11 81:23
 85:14 90:18 93:25 98:3
fit 34:3 51:22 101:14
fitness 11:21,23 12:2,5,22 16:1,6
fitness-for-duty 101:13
five 61:22 99:14
fix 75:14
fixing 77:19
flash 102:7
flexibility 63:23
floor 25:25 32:23 43:1
flunk 10:20
focusing 65:14
folks 33:19 34:2,24 35:7 45:21
 46:11 47:6,8 48:15,23 62:6
follow 21:6 23:2 48:18 90:13
following 33:15 84:14 100:11
follows 62:9
Fons 25:14,15

foregoing 113:7
foreign 33:5
form 21:15 47:3 51:12 78:25 79:1
 79:1,10,23 80:12,22
formal 23:22 30:21 67:1,7,25
 99:21 101:5 102:1 103:6 110:21
formally 68:7 87:9
format 18:9 81:19 88:14
formatting 18:11 78:25
former 58:14
forms 58:7 79:18
formulate 88:10
formulation 93:25
forth 65:12 79:9 113:7
fortunately 27:2
forward 18:17 44:22 54:15 69:2
 76:19 85:9
found 20:3 82:7 112:4
four 28:1 38:11 55:11 62:23 95:13
 97:2
fox 34:17
frankly 71:21
free 45:6 89:3
Friday 25:1
front 14:12 17:17 27:2
fruition 27:14
frustrating 17:9
frustrations 71:8
FTE 72:17
full 21:7 88:25 95:3 96:16 99:22
 101:13
full-time 10:8
fully 21:4,15 22:2 55:10 86:7
 87:21 94:20 95:5
function 86:15
fund 31:2,14,15,18,21
funding 27:19,21 32:6
funds 29:18
further 77:2 85:7 97:11 100:20
 113:10
Furthermore 101:10
future 11:17 16:15 17:15 72:21

G

gaining 97:5
gather 92:4
gathering 97:5
general 2:2 5:7 23:9 31:13,15,21
 65:7 72:23 88:1 95:4
generally 65:1 66:7,11 67:5 69:12

79:20
Generals 72:22
gentleman 48:14
gentlemen 99:14
getting 15:13 18:20 23:11 24:1,2
 26:6 29:22 38:10 46:14 101:4
Gilbert 4:14 111:10,11
give 19:25 22:8 26:5,8 38:17 44:3
 44:10 47:14 49:25 53:12,23 55:6
 56:9 99:21 100:18
given 11:25 26:7,9 36:6 51:24
 62:12 63:18 64:3 99:23
gives 45:3,14 87:25 100:8
giving 44:7
glad 49:1 68:9
gladly 20:20
glean 75:2
go 24:8 27:18,20 34:9 36:13,14
 40:21 45:19 46:10 47:25 48:9,23
 50:13 51:3 54:17 57:15 58:5
 60:18 62:16,18 63:5 67:4,24
 70:3 75:18,22 81:3,7 83:17 92:1
 102:17
goal 87:17 88:3 90:11
goals 98:18
goes 28:5
going 10:15 18:19 19:5 23:3 24:8
 24:20 25:18 28:20 30:1 33:7
 35:1,12 37:18 53:4 55:14 59:18
 63:7 72:2,18 78:19 89:10 90:24
 94:18 96:17
Gonzales 4:14 111:10,12
good 5:2 7:23 9:12 14:14 21:13,24
 22:1 23:10 32:22 48:11 51:13,14
 69:7 73:11 88:16 97:1 98:1
 99:13 101:7 102:20 109:1
Gorden 34:7
gotten 35:21 98:6
governance 20:22 85:20 86:8
government 21:9,16
graduate 8:24 9:3,5 98:16
graduated 7:19,22 8:9,17,20
 24:19,24,25 25:6
graduating 8:14 10:24
graduation 28:8
grammatical 19:19 75:14
grandson 35:20
grant 55:14 70:19
granted 62:14 70:20
grate 19:19

grates 19:23
great 19:13 40:17 42:16 46:21
 51:6 67:20 89:8
greatly 20:17 25:18
ground-fighting 101:6
groundwork 72:21
group 37:8 68:4 94:5
guarantee 10:13
guarding 34:17
guess 47:15 49:2 90:17
guidance 43:7 87:15
guide 91:1
guidelines 56:12
guiding 89:25
gun 36:12
Gutierrez 26:16
Guttman 26:11
guys 15:22 36:16 98:3,21
gypsy 43:12

H

half 47:7 49:2
halfway 9:25 10:2
hand 36:3 53:9
handed 66:2
handful 46:16
handle 96:5
handles 53:11
handling 19:2 88:6 91:10
handout 26:5
happen 60:11 63:11 68:2 73:19
 77:4
happened 27:2 68:2 81:13
happening 33:10 34:22 73:19
happens 12:8 92:15
happy 16:13 20:13 53:16 98:1,21
hard 12:24 22:8 33:20,22 71:23
harm 14:6 88:16
harm's 26:24
Harvey 3:14 9:15 11:15,19 16:8
 51:9,11,14,15 52:9,11,15,22,24
 53:8,21,22 54:1,6,9,17,22 55:3
 55:17 57:12,17,22 60:2,4,13,20
Harvey's 59:17
hate 71:7
head 45:7 47:15 69:4
head's 79:3
heads 75:17 90:7
health 56:22
healthcare 56:7

hear 61:17 66:11
heard 61:25 71:8 93:25
hearing 15:7 17:3 18:17 20:2
 23:22 62:14 66:12,13,16 67:8,11
 68:1,10,16,20 69:16 71:15,16
 73:17 76:3,4 78:22 98:23 99:20
 99:21,24 100:1,5 101:5 102:1,5
 102:10,19 110:21 111:14 112:5
hearings 67:1
heaven 35:6
heavily 10:9 94:18
heavy 90:3
Hector 2:2 5:7 72:23 103:9
held 22:21 34:6 35:15
hell 35:6
helm 91:13
help 12:21 20:11 54:3 72:24 87:18
 89:7,25 90:2 93:5 98:19
helped 79:11
helpful 74:6 90:24 94:23
helping 60:8
henhouse 34:17
hey 15:9
high 21:13 24:22 86:8
higher 12:13
highest 22:21
highlight 7:14 74:7
hire 49:21,25
Historically 77:14
Hobbs 84:12,17 85:3,6
Hoffman 26:14
hold 34:21 84:11 101:18
holding 33:25
home 15:2,9
honest 92:13
hope 71:5 74:5
hopeful 86:18
hopefully 17:23 68:24 73:8 90:7
 94:6
hoping 36:10
Hopkins 26:17 27:13
Hopkins' 26:20
horns 35:6
hours 39:5
house 31:24 36:17 101:18
huge 14:21
humble 50:5
hurt 12:25 101:4

I

IA 74:11
IACP 89:14
IADLEST 3:13 42:21 43:15,18
 44:2 45:10,11,14
idea 28:4,16,18 36:23 46:24 68:21
 75:24 85:2 93:18 97:1
identifies 88:1
identify 90:24 91:2
imagine 89:11 98:7
immediately 48:21 50:13 51:3
impact 30:3,8
Impacting 95:25
importance 22:19
important 14:19 65:16 72:20
 73:21 84:6 86:20 88:6,11 89:2
 96:21
importantly 18:6
impose 112:5
improve 12:21,22 17:11 22:15
 91:7,12 92:8
improved 23:4
improvements 88:10 91:16
improving 85:19,21 86:9 91:5
in-depth 98:7
incidents 29:10 87:2,16 95:22,23
 96:6
include 40:9 50:14 68:13 76:3
 96:15
included 74:3
includes 56:13
inconsistencies 102:12
increase 43:11 84:6 88:4
increasingly 87:4
increments 84:21
independent 54:18
index 3:1,13 4:1 42:21,24 50:12
 51:4
indicate 6:11 7:4 41:9 42:9 50:25
 82:22 104:22 105:14 106:4
 107:1,19 108:6,20 109:11 110:1
 110:16 111:5,21 112:10
indicates 101:4
individual 26:22 27:15 44:5 47:2
 56:1 62:7 63:25 64:9 65:17
individual's 108:25
individuals 40:3 97:19
information 17:23 18:14 23:18
 26:8 40:10 42:14,17 46:4 47:10
 54:14 57:3 61:15 63:14 65:16
 76:18 79:9 82:6,6 88:9 90:6 92:4

92:6 97:8
informed 70:8 94:21
initial 23:19 58:16 59:19
initially 79:21
initiate 64:22
initiating 65:4
initiation 56:18
initiative 32:12 72:24
injuries 16:2 29:11
injuring 12:23
input 17:23 45:24 93:8 96:17 97:7
inquire 14:3
insight 53:12
instances 71:22 96:2
Institute 12:20
institutionalize 28:4 29:16
institutionalizing 29:17
instructors 10:7,8,9 12:18 13:7
instrumental 29:22
insurance 31:9
intent 80:13 83:5
intentional 77:1
intentionally 77:21
interest 21:24 72:24 113:13
interested 78:5 90:1
interesting 89:9
interim 56:16
internal 52:2 68:14 73:2
internally 72:16
international 43:3,5
introducing 78:20
investigation 63:8,8,17 69:7 74:25
investigations 46:7 63:10 90:10
 92:20
investigator 26:13
invite 26:2
involved 89:1 94:18,24
involvement 91:23
Iraq 33:2
issue 22:6 30:1 39:5 60:1 63:2,17
 87:10,23 94:19 96:21
issued 28:7 65:23
issues 11:23 16:1 62:21 67:23 69:3
 73:23 74:16 77:25 78:4 79:24
 86:20,24 88:6 90:11 95:25 97:13
issuing 64:23
item 3:1,2 4:1,2 5:1,4,5 6:1,2,14
 6:15 7:7,8 11:6 18:13 20:10 22:8
 25:23,24 37:2,4 40:21 41:14,18
 42:19,22,25 43:19 51:9,10 60:25

61:2,4,9,11,12 81:1,3,5,8 82:17
82:20 83:14,16,17 85:11,13
97:18,21,23 99:3,5,8,10 104:1,6
104:11,12,14,25 105:2,17,18
106:7,8,16,17 107:5,8,10,22,23
108:9,10 109:2,3,17,18 110:6,7
110:19,21 111:10,11,25 112:1,2
112:15,16,22
items 22:13 28:13 29:1 42:11 77:7
110:20
iteration 10:3

J

Jaime 2:6 5:19 103:18
James 4:13 110:19,22
Jan 1:22 113:3,22
Jerrell 3:14 51:9,11,15
Jesse 4:13 110:19,21
job 18:20 23:10 25:20 34:3,11
44:12 55:11,11 66:6 93:14
jobs 36:17 93:13
Joe 81:1
John 4:16 112:15,16
join 47:2
Jose 4:12 110:6,8
Joseph 2:15 4:15 112:1,2
Juan 8:16
judgment 35:17 92:6
Judicial 26:14
July 7:18
June 9:2 84:16 88:8
jurisdiction 37:13
justice 35:21 36:10 92:21
justifications 17:17 18:12
Justin 4:10,11 109:2,3,17,18
Justine 3:24 104:11,14,16
Juvenile 101:17

K

Kassetas 2:4 5:12,13 6:7,9,24 11:5
11:13,18 14:21 41:5 44:9 45:6
45:18 46:6,10,21 48:8 52:12,18
52:23 53:2,9 55:1,18,23 57:14
57:19,24 66:23 67:1,19 68:10,25
72:12 75:6,15 77:4 80:21 82:11
82:16 83:6 88:23 89:9,23 90:14
92:10 94:14 95:7,9,13,16,18,23
96:1,7 103:12,13 106:19 108:23
109:14 110:4 111:8,24 112:13
keep 28:10 32:25 64:20 71:23

94:20 99:14
keeping 73:7
keeps 15:5,6
Kelly 2:9 5:21 103:20
Kenneth 33:1
key 2:7 5:10,11 6:6 24:12,18 25:7
42:1 49:17 52:6,10 71:11 80:10
103:10,11 104:15 106:24 107:12
109:24 111:3
kicked 23:1
killed 33:2 35:19 36:11,12
kind 11:1 17:3 26:19 27:13 28:14
44:1 49:11 73:3 77:13 96:19
Kirby 3:21 99:3,6
kit 27:12 28:8,12,14,19
kits 27:22 28:25 32:6
knew 40:14 45:25 101:6
know 9:25 10:19 13:19 14:25
15:15,16,17 16:18 19:10 25:9,11
27:11,12,16,17 33:8 34:9,9,11
34:13,17,18 35:4,14 36:2,8
39:24 40:13 45:18 47:6,7 53:10
59:22 60:7 62:23 67:21 68:13,14
71:1,19 72:3 73:23 74:4,22
75:22 76:11 77:1,3,16,18 78:7
78:14,19 79:7,12 80:4,8,16 87:3
88:21 91:9 92:14 94:6,18 102:15
knowing 12:22 89:12 90:1
knows 18:5

L

lack 102:20
ladies 99:13
lapel 102:6
large 24:17
larger 47:8
largest 7:20
lasted 74:11
Lastly 102:5
law 1:5 3:9,20,22,23 4:20 7:17 8:9
8:13,20 20:24 22:20 23:7 26:12
27:6,8,22 28:24 31:1,7,17,19
32:11 33:20,21 34:20 35:17 37:2
37:6 43:4 47:18 50:22 53:18
54:13 55:10 73:25 76:14,15 81:5
85:25 86:3,6,22 87:8,14,20 88:5
88:17 91:12,20 92:11,24 94:1
97:22,24 98:11,13,17 99:4,6,9
99:11 104:7
laws 33:12,14

lay 65:12
layman's 76:5
LEA 3:15 6:20 15:3 42:23 48:22
53:11 58:23 60:25 61:3 69:2
72:14,18 75:11 80:22 83:12
LEA-3 54:19
LEA-90 22:15 23:15 63:12 68:12
68:13 76:23 79:1,15 80:11
LEA-90s 62:18
lead 88:24
leaders 69:1 88:22 91:21 92:2,24
leadership 67:23 86:12,16,19,25
87:19 92:5 93:6
leads 91:15
League 30:18
learning 59:16 72:2
leave 28:12 35:7
leaving 29:21
left 16:5 69:15 90:16,21 102:3
leg 26:25 27:4
legal 44:4 78:15
legislative 30:13 31:25
legislature 30:25 31:5,14,25 32:4
32:10 90:20
legwork 48:23
lengthens 18:18
LEPF 29:18 30:12 31:6,11
let's 28:4 43:23 81:7
letter 30:10 31:3 32:11
letters 30:15,16
letting 19:10 92:14
level 12:2,22 15:6 19:21 20:24
27:15,15 28:10 29:23 59:14 79:9
Levi 3:20 97:21,24
license 106:15 113:23
licensed 49:14 51:24,25 52:7,13
52:14,16,19,20 56:4
licensees 76:11
licensing 62:9,10 70:13,14 103:4
lieu 74:16
Lieutenant 26:14
life 16:2 29:12,12
life-or-death 93:1
lift 90:3 92:20
limit 17:13 91:17 95:13
limited 20:2
line 24:1 27:10 33:10,15 62:25
Linthicum 101:23
list 38:3,6,10,11,24,24 44:17,19,20
45:21 49:21 50:2 71:2 75:24

listed 38:11,15 39:8 40:3 67:18
70:4 82:20 83:7

listen 88:14

literal 63:9

litigation 65:8 90:22

little 21:11 24:9 44:7 53:23 63:22
72:4 76:4,12,17 94:5

lives 29:4,5,14 36:24

local 21:16

locations 83:20 84:1,8

logged 100:17

logistically 14:25

logistics 44:1 46:14

long 24:8

longer 18:19 63:2

longer-term 21:3

look 6:22 11:9,11,12 15:21 20:14
28:15 29:7 30:10 31:4 34:25
35:24 36:17 40:6,13 43:22 48:9
71:2 73:2 79:19 80:22 82:9 84:1
90:21 93:14 96:23

looked 9:18 78:3

looking 8:5 18:5 19:8 25:2,14 29:4
29:15 53:14 68:18,22,23 77:18
85:16

looks 13:2 39:14 52:25

lose 72:8

lost 15:24 38:10

lot 7:24 14:9 17:9 19:25 29:9
32:25 34:11 35:11,12 36:1,16
40:13 61:18 62:1 68:14 71:9,13
75:21 92:16,17 98:2,16,18

Louis 99:21

Louisiana 1:11

love 36:23 85:2 102:16

low 49:9 70:19

lower 12:7

M

M 2:15

ma'am 46:5

MacKinnon 4:4 105:17,19,20

mail 71:18

maintain 29:19

maintained 62:7

major 29:10

majority 14:22

making 14:19 24:4,8 33:18 64:20
74:2 78:5 92:7,11,22 100:4

man 35:7,14,21

manager 2:16 70:24 71:2,4 72:5

managers 70:22

mandate 72:13

mandates 90:19

mandatory 8:6

manpower 72:15

Manzano 51:19

map 91:2

March 84:15

Mark 15:15 26:2

Marriott 1:10

Marshall 2:13 7:10,11 11:5,8,14
12:3,9,15 13:5,18 14:17 15:11
16:10,12,22 19:24 20:16 22:6,14
24:12,16,20 25:2,12 29:20 37:5
37:7,19 38:5,9,20,23 39:19,24
40:18,23 41:17 42:13 53:11,13
79:17 81:2,9 82:7,13,23 83:1

Marty 26:13

materials 61:5,6

matter 48:11 57:11 59:6 63:13
64:7,19 66:16 81:18 89:2 90:15
99:24 112:18 113:5

matters 56:25 57:10 68:15 73:21
80:6 86:14 91:7,10 97:14,18
103:3,7 104:5 112:19

Matthew 4:3 104:25 105:2,6

McCall 2:3 5:17,18 16:7,11,17
24:23 30:17 47:11 58:6,9,17
85:2 96:9,12 97:17,23 98:24
99:5,10 102:22 103:1,16,17,24
104:2,12,17,20,23 105:1,10,13
105:15,18,24 106:2,5,8,11,17,22
106:25 107:2,6,9,15,18,20,23
108:2,5,7,10,15,18,21 109:1,3,7
109:10,12,18,22,25 110:2,7,11
110:14,17,20 111:1,4,6,11,16,19
111:22 112:2,6,9,11,16,23

mean 13:18,19 14:15,22 17:13
55:10,19 67:11 69:21 77:21
78:17,22

means 43:10

meant 31:6

measure 51:6

mechanism 43:11 49:11

Mechels 61:4

mediation 60:5

medical 51:11,19 52:13,20 54:18
54:19 56:12,12,16,23 57:2,6
58:11 59:11,11,20,21

medically 58:1

Medina 99:21 101:1,24

Medrano 2:16 5:7,10,12,14,17,19
5:21,23 40:6 82:9 103:9,12,14
103:16,18,20,22

meet 12:10 93:15 97:2

meeting 1:6 3:6 5:3 6:5,14,17 7:6
7:14 9:14 11:17 23:3,16,24
62:23 63:1 81:17 82:10 84:23
88:13 91:20 103:2 106:14
112:24,25

meetings 3:18 11:21 21:8,15 22:3
39:8 79:2 83:16,18 84:12 86:8
103:4

member 32:22 45:8,9 49:20,20
67:24 75:21 94:11 95:5 112:20

members 2:1 6:19 7:12 17:10,25
18:2 21:21 26:5 32:16 43:2 51:7
51:14 53:17 55:23 83:22 86:23
88:13,15,18,18 89:1 91:20 94:19
94:25 95:8,16 96:15,23 97:2
107:12

membership 47:1 50:1

men 34:6

mentioned 90:18

met 37:9 41:1,21

methodology 28:21

Mexicans 84:7

Mexico 1:5,12 2:2 7:17 8:8,13,20
9:4 21:9 22:20 27:8 30:18,19,21
37:14 42:23 49:15,24 83:23,24
84:9,9 86:13,17 87:21 89:3,11
89:13,18 90:4,7,19 91:8 92:11
93:7 95:22 113:3,23

Michael 3:23 99:8,11,16

middle 12:8

midway 12:12

military 33:3

Miller 2:8 5:23,24 11:19 12:7,13
13:1,14 14:6 15:4 17:3 19:13
20:12 25:8 38:7,22 39:14,17,22
40:7 41:4 45:23 47:24 48:3,6
50:8,17 58:22 59:2,8,15,25 60:9
61:6 82:18 83:8 94:22 103:22,23
108:17 109:5 110:9 111:13

million 31:12,13

mind 73:7

mine 38:22 39:18

minutes 3:6 6:4,14,16,17,19,21,22
6:25 7:3,6 42:15 69:21 82:10

99:15
mirror 34:25 36:18
misconduct 69:3 74:14
misinformation 21:12,18
missed 25:18
missing 39:15 54:20
mission 85:23
mistake 24:21 50:9
mistaken 46:25
mitigating 102:2
mix 94:3
model 32:4
modernizing 86:14
modification 31:1
modified 22:10
modify 20:9
modifying 17:1
moment 40:8
Monetarily 35:19
money 27:18 31:6,9,11,14,16,18
 31:20
Monica 2:16 5:6,25 70:23,25 71:1
 71:13
month 24:7 66:2
months 36:7 55:11 64:10 93:2
moral 36:19 102:20
morning 5:2 32:23 36:21 51:13,14
 98:1 99:13
Mosley 4:5 106:7,9,9,12
motion 6:4,6,8,12,13,25 7:2 39:10
 39:13,22 40:2 41:2,6,12,24 42:1
 42:5,11,11 47:23 49:17 50:11,16
 50:19,21 51:2,2 82:17,19 83:5
 83:12,13 104:13,17,23 105:3,5
 105:10,15,19,21,24 106:2,5,9,20
 106:22 107:2,11,13,15,20,24,25
 108:2,7,11,13,15,18,21 109:7,12
 109:22 110:2,11,17,22 111:1,6
 111:16,19,22 112:4,6,12
motions 76:8
move 6:2 7:8 18:17 22:16 25:24
 32:21 37:4,9,25 41:18 42:22
 44:9,11,22 51:10 61:2 82:4
 97:18 99:10 104:12,15 109:5,20
 110:7,9,24 111:13
moved 41:4 50:17
movement 85:24 86:6
moving 54:15 76:19
multiple 74:10 96:18 102:10
Municipal 30:18,19

murdered 35:15,21

N

N.E 1:11
name 33:1 40:16 51:15 99:16
names 40:5,13
narrow 14:1
nation 89:16
national 3:13 42:20,24 43:9 50:12
naturally 46:14 47:6
nature 62:7 92:19
nays 41:11
near 24:22
neat 12:23
necessarily 68:17 75:9 78:15,19
necessary 10:24
need 6:4,17 15:9 18:24,25 23:12
 24:1,4 27:14 29:1,24 34:6,13,19
 40:10 45:9 47:7 57:17 60:17
 80:23 82:24 84:24 85:10
needed 17:19 21:19 60:15 106:10
needs 28:19 34:15 36:13 59:3 93:2
neither 113:10
never 35:24 73:1 89:10 93:17
 98:14
new 1:5,12 2:2 3:17 7:17,24 8:8,10
 8:13,19 9:4 20:11 21:9 22:9,20
 22:24 23:8 24:6 27:8,25 30:18
 30:19,21 32:5 33:18 35:11 37:14
 37:21 42:23 49:15,23 61:11,12
 62:19 73:9 76:4,20 78:20,25
 83:23,24 84:7,8,9 86:12,17
 87:21 89:3,11,13,18 90:4,7,19
 91:8 92:11 93:7 95:22 113:3,23
newly 26:14
news 29:7 53:21
nine 23:18 39:16
NM 1:22
NMLEA 3:12 42:19 50:11 86:24
NMSA 103:5
nonattendance 99:17
nonsubstantive 20:2
Nos 37:10,16 40:24 41:7,20 81:22
 82:20 83:12 97:19 104:6
note 75:16
noted 47:22
notes 69:18
notice 23:19,21 39:5 63:6,7,17
 64:23,24 65:17,19,22 69:14
 70:15 76:3,4

noticed 38:12
notification 16:8
November 7:19 8:16 61:22 62:18
number 10:8 24:17,22 25:2,3,3,4
 25:5 47:13,14 49:9 54:7 59:23
 62:6 83:9 89:21
numbers 23:25 24:21 38:4,18
 39:11,23 81:14,15,23,24 82:1
numerous 15:12,17
Nurse 51:12,20 52:8,24 53:3

O

oath 33:4 48:16
obey 100:12
obeyed 100:21
object 78:21
obligation 74:19
observation 96:10
obviously 10:18 13:20 20:23
 28:19 29:24 72:1 83:21
occasionally 79:18
occurred 6:18 50:9
occurring 79:13
October 8:8,19 26:21 30:12,14
offenders 101:19
offer 55:15 96:24
office 8:24 26:16,18 33:4 52:10,11
 55:2 65:7,9 66:15 67:4 71:17
 73:6 75:18 80:17 88:12 91:18
 96:22
office's 91:22
officer 28:5 34:2 35:24 36:11
 37:21 40:24 44:11 63:18,18
 65:17 66:12,16 68:16 69:3 73:18
 76:24 78:9 79:8 80:17,19 82:6
 92:9 98:12,13 99:20,24 100:1,5
 101:6,21 102:5,19 110:21 112:5
Officer's 102:11 111:14
officer-involved 87:1,16 89:17
 90:10 92:15 95:21 96:5
officers 3:10 4:21 7:24 8:14,17
 9:10 22:21,22 26:23 27:8,23
 28:1 29:4 34:1,7,8,22 36:1 37:3
 37:6,8,24 43:6 62:14 64:9 67:8
 67:11 68:1,10,20 71:15,16 73:11
 76:11,22 81:6 85:22 88:17 92:1
 92:21,25 94:1 100:8
officers' 62:3
offices 92:22
official 100:7

Oh 94:13
okay 11:13 20:12 35:20 38:17
 39:2 46:21 47:4,21 48:3,7 49:24
 59:2 60:20 61:8 69:25 70:11
 76:20 83:3 95:12,15
old 75:2
OMA 39:6
omission 69:20
once 7:13 13:6 14:3,20 18:7,14
 45:17,18 49:20 90:2
one-day 84:22
one-year 105:23 112:5
ones 14:23 33:15 38:14 44:19,20
 86:21
open 4:17 21:8,15 22:3 25:25 39:8
 86:7 88:14,20,25 89:5 97:17
 103:3 104:1,2 112:20
opinion 16:17 31:16 50:5 57:24
 69:5
opportunities 45:24
opportunity 8:6 9:15 63:18 73:20
 78:21
opposed 6:12 7:5 41:10 104:23
 105:15 106:5 107:2,20 108:7,21
 109:12 110:2,17 111:6,22
 112:11,11
opposite 17:14
opposition 42:10 51:1 83:11,13
optimistic 25:18
option 59:10 64:13,18
options 44:4 59:22,23 64:5
oral 23:20 63:19,25 64:3
order 3:3 5:1,3 43:24,24 48:5
 50:13 51:3 66:21 87:21 100:7,9
 100:13,18,21 105:5 108:1
 109:21
orders 73:25 74:3 105:1 107:9
organization 43:5 47:2 80:17
outcome 70:9 90:5 100:25
outlet 43:9
outlined 20:4
outside 94:10 96:16,23
oversee 55:20
overshadowed 21:11
oversight 52:12,20 53:5 81:10
 85:20
overturn 19:4
overturned 44:15
overview 88:1

P

p.m 103:25 112:25
packet 26:9 31:23
page 3:2 4:2 67:9
pages 67:12,12 113:8
pain 69:23
paragraph 67:13
paramedics 27:3
Parrish 3:23 99:8,11,13,16 102:22
 102:25
part 13:11 22:6,25 24:21 28:6
 33:6 37:25 46:6 50:1 58:11,13
 59:20 61:24 78:2
partially 100:14
participate 46:23 58:1
participation 88:25 95:3
particular 55:21 56:13 69:6
 109:15 110:5
particularly 9:20
parties 71:19 113:12
partner 91:23
parts 84:3
pass 12:5,11 13:25 16:5 83:12,14
passed 31:17 51:17 55:8 58:4
passes 6:13 41:12 42:11 108:8
passing 11:23 79:9 90:12
passion 27:25 102:16
pasting 81:14
patience 85:15
Patrick 4:5 106:7,8
pay 45:8 72:19
pending 23:18,20,21,22
people 9:22 10:24 11:22 12:23
 13:15 14:7,11,22 15:3,9,14,16
 15:18,24 19:3 20:14 24:14 28:11
 28:12 40:13 48:12 62:1 71:9
 74:24 75:3,25 93:14
percent 71:3
perception 19:10
perchance 48:1
PERF 89:14
perfectly 94:24
perform 56:15,20
performance 34:11
performed 51:12 71:13
period 34:6 37:1 43:16 54:4 64:9
 74:12
permission 19:20 45:15,16
permit 9:15
person 49:23 71:11 72:7,8 102:18

personal 16:17 98:18
personally 49:4 61:25
persons 40:5 41:21
perspective 11:4 47:18
Pete 2:4 5:12 45:18 101:14 103:12
petition 70:18
petitioning 57:14
phone 80:23
physical 11:23 14:12 51:18,24
 52:1 53:7 60:14
physician 51:24,25 52:7,14,16,18
 53:5,10 56:4,6,7,11
picayune 19:16 20:14
picture 96:17
pieces 30:24
place 22:25 25:16,19 27:24 28:2
 28:21 30:3 31:5,8,18 33:14
 35:25 36:3 69:7 73:22 89:10,15
 90:4 91:22 93:8 97:7 103:7
 104:10
placed 26:6 43:19 61:4
plan 13:22 16:11 17:15 19:14 22:9
planning 76:2
play 23:1
please 5:6 36:17 75:19 81:8 107:6
 109:14 111:8
pleasure 32:10
plus 28:12 30:6 94:2
point 9:16,23 12:17,17 14:8,24
 15:13,24 21:5 41:3 47:16 48:4
 48:15,25 49:2 51:17 59:13,24,25
 60:9 63:16 67:19 68:2 69:9 75:8
 76:18 78:25 84:10 92:3,7 97:12
 98:12
points 73:15
police 9:1,4 23:6 26:15 30:5 33:3
 35:23 36:1 40:24 100:13,17
policies 31:9 87:13,19 89:15,24
 90:9 96:4 97:5 100:11
policy 77:20 80:12 90:13 95:24
 96:2
policy-related 77:25 78:4
portion 11:24 14:12 19:9 103:1
posing 56:21
position 10:23 25:15 51:22 55:13
 55:16 72:18 93:11 100:11
positioned 87:5
positions 72:16 92:25
possible 48:25
possibly 101:4

post 71:17
posted 39:5
potential 88:2 90:5
practice 63:20 74:4 78:14 79:24
 84:8
practices 88:1 89:12 91:3,24
practicing 65:1
Practitioner 51:13,20 52:24 53:3
Practitioner's 52:8
praying 36:10
pre-fitness 11:25 13:2
precedent 74:5
predicament 100:24
preliminary 20:20 76:8
prep 66:4
present 2:12 5:9,11,16 56:19
 97:20 99:7
presentation 30:14
presented 6:22 18:13 42:25 57:3
 61:13 88:7,9 99:23
pretest 14:18
pretty 7:23 9:7,11 23:10 49:8 77:5
prevents 79:4
previous 81:13
previously 22:11
prior 12:6 22:8 33:3 66:9 72:22
 100:15
priorities 86:1
priority 99:18 101:3
private 27:18,21
privilege 7:13
pro 76:10
proactive 14:9 15:8
proactively 46:1,2 86:19
probably 9:10 19:5 36:2 69:8 92:5
problem 10:5,18 13:3,4 14:22
 15:5 35:8 36:1 64:25 75:10,12
 78:18 95:10
problems 20:5 55:12
procedural 77:22
procedure 95:24
procedures 3:17 61:11,13 87:14
 87:20 90:9 96:4 97:6
proceed 41:16
proceeding 64:23
proceedings 103:5 113:5,7,14
process 18:18 19:2,4,21 20:3,11
 20:20 21:2,3,10,22,25 22:15,25
 23:4,5,8,9 34:10 44:15 49:5
 51:15 54:15 55:5,25 56:3 58:10

58:15 59:5 60:11 61:24 62:2,7,8
 62:13,17,19 63:5 65:21 66:8
 67:6 68:11 71:9 72:4,25 74:21
 75:11,17,19,22 76:5,12,15 77:6
 77:13,19,23 78:8 79:11 85:23
 86:5,9 87:11 88:21 93:7 104:9
 108:25
processes 23:1 43:25 91:24 92:12
profession 28:11 102:16
professional 62:10 98:18
professionalism 19:22
professionals 10:12
program 11:25 12:3 13:2 14:2
 15:19 28:2 29:23
progress 24:5 33:9
prohibit 77:2
prohibitive 47:3
promoted 26:14
proper 65:17
properly 9:9 39:13
proposal 43:22
propose 31:22
proposed 17:20 18:4,7 19:25
 61:19,20 64:7 66:17,18,20 85:1
 85:9 104:13 105:1 107:9
proposes 64:8
proposing 84:10 87:9
propping 90:8
prosecute 66:3
prosecuted 98:14
prosecution 64:17,20,21 65:5 66:1
 66:4
prosecutor 65:2,20 68:19 76:9
 78:21
prosecutors 65:9,25 75:12
Protection 31:2,17
proud 85:17
proudly 21:6
prove 102:18
proven 35:16 102:8
provide 61:5 65:17 67:12,12
 76:17 90:6 102:7
provided 64:2 102:4
provider 56:7
provides 70:14
providing 8:2
psychological 58:12
psychology 98:17
public 3:8,11 4:22 8:9,20 13:19
 19:10 21:24 25:23,25 26:1,3

27:9 28:23 31:21 32:22 34:13
 37:1 41:14,19 44:25 48:14 69:5
 73:10 76:1 79:15 87:10 92:14,24
public-submitted 79:18
publicly 79:22
publish 44:1
published 24:7
pulled 100:16
purchase 29:19
purely 75:7
purpose 17:7
pursuant 103:3
pursue 63:14
purview 58:2,19 68:15 80:7
push 12:24 15:17
put 11:10,16 12:20 13:9 14:4
 15:19 16:14 20:23 22:7,24 26:10
 26:24,25 28:21 31:5 33:13,20,25
 48:15,23 76:5 92:25 93:10 94:1
 94:5
puts 10:22
putting 7:24 30:4

Q

qualifications 51:17
quality 13:16
question 19:14 24:13 25:8 49:19
 50:4 52:6 53:6,9,18 55:25 56:8
 59:13 66:23 70:21 80:10
questions 14:15 19:11 20:17 24:10
 32:13,14 35:9 52:4 61:18 62:17
 66:22 69:11 73:16 75:5,5 80:25
 84:25 85:8 89:5 94:7 95:1 97:11
 98:21 102:21
Quezada 2:6 5:19,20 42:4 49:19
 55:13 59:3 60:16 76:21 77:16
 78:7 79:14 80:24 85:5 95:10,14
 103:18,19 105:4,8 107:4,7 108:4
 108:12 110:13 112:3
quick 11:6 24:12 45:3
quite 59:1,14

R

raised 62:22 73:23
ran 69:6
range 83:9
ratification 3:9,11 37:2,5,10
 41:14 81:5
ratifications 42:17
ratify 82:17,19

Raul 4:6 106:16,17
reach 44:6
reaches 58:18
read 56:9 63:4 67:2 69:4 83:9
reading 52:13,16
ready 7:9 15:3,10 25:25
real 9:13 11:5 25:17 32:25 59:25
 85:15,19 86:12,15 88:10 91:1,2
reality 18:19 33:24 72:12 100:10
realize 24:16 52:21,22
really 11:23 12:24 14:11 15:17
 19:16 21:21 33:19,21 65:16
 68:17,21 79:25 85:17 90:24
 91:23 96:16 98:1,9,10,11,20
reason 17:18,19 30:9 37:23 43:19
 44:16 93:10
reasonable 56:24
receive 32:11 54:13 61:7 79:17
 80:2
received 23:14 30:11 32:1 62:18
 68:12
receives 63:12
receiving 17:23
recertification 59:19
recertified 51:16 57:18,23
Recess 97:16 103:25
recognize 13:14 19:15 22:19
 55:15
recognized 79:16
recommend 13:9 83:20
recommendation 16:19 50:11,22
 57:4,7 64:14 77:19 97:3,9 99:20
 105:9,23 106:21,23 108:14
 109:6 110:10 111:15
recommendations 22:18 87:6
 92:8 93:5 101:15
recommended 49:6 59:9 101:23
 101:24
reconvene 97:14
record 35:24 67:24 73:20 78:16
 107:5,6 108:24 109:15 111:9,25
records 46:16
recuse 107:5
recused 107:7 108:24 109:15
 110:5 111:9,25 112:14
redo 59:10
reduce 68:24
reducing 78:8
reduction 80:8
reeled 35:8

refer 64:19
reference 46:15 75:25 105:3,19
references 64:20
referencing 38:4 39:22
referral 80:11
referred 64:16 65:6,22 79:20 80:7
reflect 62:11 107:6 108:24 109:15
 111:9,25
reforms 91:16
refused 102:5
regard 9:12 15:20 24:5
regarding 11:21 62:2 63:14
 107:11
regardless 74:14
regards 25:9 106:9 108:11 110:22
regular 1:6 7:14 80:2
regularly 101:19
regulatory 90:12
reined 34:14
reinstate 34:2 97:24 102:13
reinstated 54:12
reinstatement 3:20,21,23 97:21
 99:4,6,9,11 104:7
reinstatements 104:10
reject 64:12,15 66:20
rejected 56:11 58:18
rejects 64:16
rejoin 9:15
related 103:4 104:13 110:20
 113:11
relates 90:10,25
relation 11:19
relationship 101:8
relatively 49:9
released 9:16
relief 54:16,23
relies 10:9 87:15
remain 28:25
remedies 44:4
remember 53:19 54:3,4,7
remove 46:2
removed 46:1
repercussions 48:17
replace 28:20
replaced 28:20 29:1,2
report 3:7 7:7,9 22:13 33:8 43:8
 43:17 44:8,8,13 47:12,18,25
 69:4 74:10,19,25 87:25 88:3,7
 90:23 91:14 99:23 101:12 102:4
 113:6

reported 1:22 22:5 23:12 24:3,4
REPORTER'S 113:1
reporting 3:13 42:20,24 50:12,23
 51:2
reportings 50:14
reports 67:2,21 73:18 110:21
repository 28:22
representatives 94:23
represented 76:11
representing 7:22
represents 66:14
request 3:14,20,21,23 9:14 16:14
 29:17 32:5 47:21 51:9,11 54:17
 59:11,18 63:19 87:19 97:21,24
 99:3,5,8,10
requested 11:9,10,11 23:20
requesting 30:14 54:11
requests 14:5 63:25 104:7,9
require 77:2
required 21:17
requirement 12:5
requirements 12:4,11 13:20 17:6
 37:9 39:8 41:1,21 62:19 63:24
 93:16 100:12
requires 79:2
research 48:22
resignation 74:16
resigned 54:10
resolve 64:6
resolved 77:25
resource 44:23 90:6
resource-strapped 91:10
resources 91:16
respect 97:8 98:2
respectfully 102:13
respective 83:14 86:23
respond 46:3 63:19 91:6 99:25
 100:2,19 101:3
responded 100:22
Respondent 70:4
Respondent's 101:2
responders 27:9 29:2,11
responding 87:1
response 23:18,20,21 63:20 64:1,3
responsibility 15:2
responsible 45:2
rest 16:18 20:15 39:23 66:7
restaffing 25:15
resume 104:5
Resumed 81:6

retire 27:23
retired 26:17
retraining 102:17
retroactive 50:15
retroactively 48:10,23 51:4
return 4:17 102:14 104:1
reverting 29:18 31:20
reverts 31:13
review 3:19 16:19 18:9 20:8 22:8
 45:20,22 51:11,11 54:18 56:16
 56:23 57:2,2,6 59:11 62:15
 63:13 64:11 66:16 67:6 73:17,20
 73:22 75:19 80:3 81:10,20 85:11
 85:13 87:5,13 91:5 92:12 95:21
 96:3
reviewed 19:18 67:3
reviewing 17:1,22 24:2 43:15
 44:24 62:13 95:24 96:1
reviews 62:3 90:3
revised 76:4
revisions 62:6
revocation 101:16,25 107:10,16
 108:1,14 109:21 110:12
revocations 19:4 43:17
revoke 106:14 107:13 109:6
 110:10 111:15
revoked 43:9 99:16
right 12:13,15 16:22 31:20 34:24
 36:3,22 40:8 44:1 45:20 46:8
 47:9,14,25 57:15,25 58:21 59:24
 60:5,22 67:21 70:7,9,15,23
 71:16 72:19 74:17 76:21 82:12
 89:18 95:24 112:23
rights 35:18
rigorous 34:9
risen 59:14
rising 15:6
risk 56:21
road 28:2 30:2 91:2
Robin 26:17,20 27:13
robust 90:9
role 86:12,16,19,25 92:5
roll 3:4 5:4,6,6 103:8
Romero 4:6,11 106:16,18 109:17
 109:19
room 44:7 66:1
rooms 71:19
RPR 1:22 113:22
rule 10:20 17:8,17 18:7 19:18
 20:24 52:14,16 61:21 62:11

70:17 75:2 85:25 86:6
rules 16:25 17:1,2,4,10,16,22,24
 18:2,8 19:8,18 21:23 22:7,24,25
 23:9 24:6 33:14,17,18 55:24
 56:3,9,10 61:24 63:24 64:2
 65:13 66:9 68:24 72:4 74:8,18
 75:20 76:20,25 78:1,2,13 102:3
 113:12
ruling 53:1
running 9:8 25:9 43:12,13 93:11
 96:22
rural 83:22 84:7,8

S

safety 3:11 4:22 8:9,21 27:9 28:23
 31:21 41:15,19 44:25 56:22 87:8
 87:8,10 91:12,13 92:9,9
San 8:16
Santa 3:15 30:6 60:25 61:3 84:12
 84:16 85:5
satellite 8:12 9:8 54:2
satellites 30:4
satisfied 39:7
satisfy 63:24
save 29:14
saved 27:12
saving 29:4,5 36:24
saw 100:17
saying 49:13 51:21 53:1 60:12
 74:24 75:19
says 45:17 70:2
scathing 33:9
schedule 3:16 10:6,11 61:1,3
 71:19 85:1
scheduled 8:4 12:19 16:15 23:23
schedules 63:1
scheduling 3:18 83:16,18
school 25:17 98:17
Schraeder 3:24 104:11,14,16
scope 55:19
Scot 2:7 5:10 103:10
screening 34:10
scruples 36:18
se 76:10
seat 88:12
seated 73:9
second 6:7,9 7:1,3 18:10 37:20
 41:5,7 42:3,4,6 50:18,20,22
 54:18 55:14 60:18 64:13 82:18
 87:24 94:14 98:17 104:18,19,20

105:11,12,25 106:1,2,23,24
 107:16,17,18 108:3,4,16,17,18
 109:8,9,10,23,24 110:12,13,14
 111:2,3,4,17,18,19 112:7,8
secondly 46:1
seconds 93:1
Sections 103:6
sector 27:18,21
security 36:14 51:22
see 10:16 13:8 14:6 19:1 21:1 29:9
 30:25 31:5 33:9,9 34:22 35:12
 38:6 49:23 50:7 57:19 58:19
 60:3,6 73:15 78:4 83:22 85:21
 93:19 96:21
seek 13:23 43:7
seeking 19:3
seen 12:3 53:2,3 71:22 77:14 86:6
selection 56:12
self-responsibility 13:21
self-sponsor 60:2
self-sponsoring 59:23
send 18:8 57:13 59:4 77:12 79:25
sending 71:18 76:23 79:4 100:21
 101:13
sense 62:8 63:9 73:3 94:10
sent 17:16 30:10 80:22
separate 23:15
September 3:6 6:16,18 7:6 61:21
 84:17
sequential 37:23
sergeant 5:19 77:12 78:7 79:4
 103:18 105:4,8 107:4 108:4,12
 110:13 112:3
serious 48:10 77:20
seriously 14:12
serve 91:1
service 14:14 37:25 99:19 100:22
services 29:13
servicing 49:3
session 4:17 31:25 67:8 68:3 97:18
 99:1 102:24 103:2,8,24 104:1,3
 104:3
set 21:13 61:20 86:2 113:7
sets 86:12
setting 54:11 72:21 74:5 86:8
settlement 64:7,8
severity 56:13
shape 15:14,18 47:3
share 15:20 61:16
shared 75:13

Shea 15:15 26:2,4 32:16,20
sheet 26:1
sheriff 5:14 9:15 11:15,19 16:8
 77:9 88:23 93:21
Sheriff's 8:23 26:18 55:2
sheriffs 15:12 23:6 69:1 93:10
sheriffs' 30:20 93:13
shoes 33:20
shooting 22:23 26:20,23 90:10
 92:15
shootings 87:2,16 89:17 95:21
 96:5
shoplifters 101:18
shoring 89:25
short 11:24 13:12 32:25 54:4
 67:16
shorthand 113:6
Shortly 29:21
shot 26:24 33:2 49:25
showing 38:25
shy 86:9
sick 71:6
side 54:20 99:22
Sierra 4:12 110:6,8
sign 45:10
sign-in 26:1
signature 79:3
signed 43:24 48:5 51:21 52:7
significant 61:23
signing 56:6
silence 33:25 34:15
Silver 84:12,16 85:4,5
similar 9:21 29:23 63:20
similarly 66:8
simple 87:18
simply 33:25 71:4 74:13 81:18
sir 7:11 16:12 22:14 32:24 37:19
 38:1,6,20 39:24 40:19,23 41:17
 43:1 46:13,19 49:16 52:9,11
 55:17 80:15 83:1 89:22 99:2
sit 67:7
sitting 93:20
situation 16:19 55:20
six 23:17 36:6 64:10
six-month 44:10
skills 12:21 101:7
skip 40:10 61:9
sky 91:16
small 13:3 15:4 76:14 79:10
smoother 23:5

Soland 2:5 5:15,16 50:20 88:24
 95:9,16 103:14,15 104:19
 105:12,21 107:17,25 109:9
 111:18
solid 96:17
somebody 10:1,13 11:16 27:24
 28:12 52:1
someone's 69:5
somewhat 65:24
son 35:15,19,22 36:11,13
son's 35:17 36:9
soon 13:9 15:21 34:23
sorry 30:13 37:17 38:23 69:23
 105:8
sort 13:3 23:11,12 25:20 58:14
sorts 65:16
sounds 19:13 60:9
sources 96:18
Southeastern 8:12 24:13,17
Southern 8:19
speak 20:12 57:19,20 77:2 78:9
speaking 20:21 48:14
speaks 19:21 57:20
specialties 10:10
specific 65:12 96:1
specifically 11:2 12:4 28:23 32:5
 80:11 86:19
spelling 19:19
spend 17:7
spent 17:5
spin-offs 89:21
spiral 93:19
spiritually 98:8
spoke 48:14
sponsor 60:3
spots 88:2
spread 15:1
squad 100:16
stack 36:8
staff 10:8 26:12 39:2 67:4 69:19
 75:11 84:22 85:8 87:18,25 89:3
 90:2 94:20 95:4 101:20
staffing 95:5
staffs 15:13
stand 11:1 16:20 24:10 32:13 35:9
 61:16 62:17
standard 21:14,20 28:11 86:8
standards 13:18 22:21 43:4
standpoint 78:16
start 12:10 13:13 15:23 28:14

48:15 73:9 78:20 87:11 90:12
 97:23 104:6
started 7:18,20,21 8:1,13 9:1,5
 24:18,24,25 25:6 27:7,16
 43:18
starting 12:17 27:1
state 9:4 10:10,25 21:5,8,9,16 22:3
 22:20 23:8 27:10,15,17,23 30:5
 30:17 39:11 40:25 41:20 43:13
 43:13 44:12,25 45:20 49:15,22
 62:10 65:2 70:13 74:18 76:16
 79:24 84:3 86:12,17 87:1,21
 88:6 93:16
stated 40:3 78:14 101:1
statements 102:23
states 47:11 49:14 91:19
statewide 31:7
stenographic 113:6
step 48:15 60:21 71:14
Stephan 2:13 4:7 107:8,10
stepped 25:12
steps 71:3
Steve 36:7
Stick 68:1
sticking 50:2
sticky 14:16
stop 54:15
stopped 49:7
story 99:22
straight 18:11,12
strategically 87:5
street 7:25
streets 101:10
strengthening 85:25
strengths 88:2
strikethrough 17:20
striving 22:17
strong 86:6
structure 71:24
struggled 20:23
students 10:23 25:3
study 90:2
studying 91:19
stuff 20:14 33:9 60:5 71:20
subcommittee 87:12 93:24 94:8
 95:19,21 96:3 97:12
subcommittee's 87:19
subject 42:17 64:11
submit 81:21
submitting 14:7

subpar 12:2
success 7:24
successes 86:13
sued 35:19
suffering 88:18
sufficient 44:3
suggests 101:2
summary 35:17 65:13 67:12,17
 78:18
supervision 7:16
supervisor 100:3
supervisory 67:23
support 29:12,12,24,25 30:15,16
 30:23 31:2,3 32:9,11 48:25 74:2
 83:19 84:4,11,22 89:4 102:1
supporting 85:24
supportive 87:25
supposed 11:7 68:21
supposing 70:3
sure 8:5 18:10 28:25 36:5 38:12
 39:13 43:18 63:23 67:8 72:3
 92:10 93:9,15 95:2 96:11 97:6
surely 15:7
surrender 98:4
suspended 77:10
suspension 64:9 101:24 105:2,6,9
 105:23 106:21 112:5
swing 76:19
system 19:25 22:16 24:8

T

table 88:12 93:20
take 6:3,4,22 15:21 23:13 25:19
 30:25 32:18 40:2 47:23,25 58:6
 60:1,15 61:9 69:8 71:15 73:22
 75:16 79:19 84:1 85:12 86:16,19
 86:25 92:5 97:13,15 98:24
 102:23 103:7,8 104:8
taken 11:12 31:9,10,11 36:12,13
 71:3,4 78:11 82:14 101:8 104:4
 112:17 113:5
takes 27:24 62:3 74:2
talk 16:24 27:16 84:1 94:4
talked 15:12 29:20
talking 9:25 28:17 30:22 62:5
 67:3 79:6
talks 15:16 70:8
tap 31:22
tasks 56:15,21
team 34:21

technically 44:6 45:14
telecommunicator 8:10,21 41:22
telecommunicators 3:11 4:22
 8:11,22 41:15,19 45:1
tell 15:11 20:21 88:12,14
telling 14:8,10 93:20
ten 23:22 54:8
tentatively 84:15,20
term 43:12 63:8 101:23
terms 57:10 76:6 94:22
test 12:5,9 14:1 16:6
tested 89:15
testified 100:15 101:1,5 102:1
testimony 56:19 102:12
thank 5:25 7:11 11:18 22:12 25:7
 25:21,22 26:3,4 32:14,16,20,24
 35:10 36:20,22,23 37:7 42:13
 43:2 51:5,7 60:22,24 69:10
 73:13 80:24,25 81:1 85:14 96:7
 96:25 98:3,22,24 99:2 102:20,22
 102:25
Thanks 73:12
Theirs 13:16
theory 18:18
thing 9:21 16:24 20:11 28:9 34:25
 35:8 39:7 58:14 60:15 67:20
 73:11 74:7 76:2 78:17
things 11:20 16:3 18:25 19:7
 23:12,13 31:21 35:13 45:20
 48:20 54:20 63:1 68:23 71:17,18
 71:23 73:3 76:6,19 84:5 92:16
 96:24
think 7:20,23 9:9,20 10:12,22
 11:3 12:18 13:22,23 14:3,13,20
 15:25 16:18 17:5,9 18:19,20,23
 19:13,24 20:11,12,19 21:2,25
 22:6,9 23:4,5,10,25 24:2,4,6,21
 31:12 40:20 43:12 47:21 48:9,13
 49:8 50:10 51:5 53:5 54:24
 55:18,20 58:17,20 60:16 67:19
 67:25 68:4,6,10,20 71:7,24 72:1
 72:20 73:7 74:22,24 75:3,4,15
 75:18,24 76:10 77:6,21,22,24
 78:1,15,18 80:21 84:23 86:12
 88:11 89:23 91:4,4,13,16,17
 92:3,16,16,21 93:4,22,24 94:2
 96:12,13,14,19,21 98:11
third 64:18
thoroughly 22:10
thought 33:13 77:11 79:14

threaten 101:20
three 6:2 23:19,21 39:11,22 40:8
 81:15 82:1 86:1 91:4 92:23 94:1
 98:15
throw 72:15
tie 74:1
time 6:3 10:5 11:9 12:14 13:12,13
 13:24,25 17:5,7 19:25 22:7 32:9
 32:17 37:13 38:14 40:1,8 43:16
 44:3,5,11 45:25 54:5 60:23
 62:19,25 66:4,25 71:12,22 75:8
 79:14 81:12 82:8 85:1 86:16
 98:6,9
timeline 74:20
timelines 63:21 66:1
timeliness 88:5 91:6
times 58:4 62:23 73:8 90:21
title 25:11
today 20:4 30:9 43:7 87:9,12
 88:20 98:2,23
today's 6:5 23:23
told 58:1
tool 46:8 49:8
tools 29:3
top 47:14
topic 96:13
topics 9:13
Torres 36:7
total 89:21
totally 44:20
tourniquet 27:1,4,4,12 28:8
tourniquets 27:22 32:7
touted 101:6
track 9:10 71:23
traditional 90:16,22
traditionally 31:8,11
tragedies 87:3 88:16
train 9:9,10 68:5 92:1
trained 48:17 52:19 86:3
training 8:1,3,6 10:16,24 11:4
 12:8,16,19 14:3 15:22 28:6
 29:19 30:7 31:6,19 32:2,6,7 43:4
 45:5 49:6 58:14 85:23 90:9 93:6
 96:20 102:17
transcends 96:13,19
transcription 113:8
transition 73:5
transparency 17:11,13 43:11 88:4
transparent 21:4 48:13 83:23
 85:22 86:4 92:14

trauma 27:12,22 28:7 32:6
treated 53:4
treatment 22:22
trial 98:7
trick 12:23 13:11,24
tried 89:15
tripping 13:15
true 53:5 113:8
trusted 91:17
truthfully 76:13
try 12:21 22:15 67:14 72:3
trying 16:25 17:5,12,14 18:22
 21:6,25 26:21 29:15 33:11,11
 57:23 64:6 67:5 73:2 77:20 80:5
 80:19
tuckus 69:24
two 12:11 14:18 15:25 16:4 30:2
 45:23 49:4,9 64:10 83:2 84:2,8,9
 85:10,17 92:23 95:8,15,16,17
two-day 84:21
two-thirds 47:15
twos 14:24
type 55:4 90:13
types 91:15

U

U.S 26:16
ultimate 90:11
ultimately 69:5 91:11,25 92:8
underlined 17:20
Undersheriff 15:15
understand 20:25 33:6 50:15
 68:17 75:17,22 87:21 91:24 93:7
understanding 24:3 25:10 51:23
 53:15 71:13 78:12 79:5,8,12
understood 94:9
underway 91:25
unfortunate 21:12
unfortunately 22:5 88:16 99:22
unfunded 72:13 90:19
Uniform 70:14
uniformity 71:10 88:4 91:7
unimportant 20:22
unique 62:8 76:15
units 100:17
unreasonable 56:24
untenable 10:22 11:3
unworkable 62:22
update 3:17 4:16 51:4 61:11,12
 75:19 112:15

upset 33:7
urban 84:7
use 28:18 32:4 33:17 44:23 46:8
 71:21 75:10
use-of-force 33:12 87:2,16 89:16
 90:11 95:22 96:5
uses 28:12 31:14
usually 66:2
utilize 69:8
utterly 101:22

V

valuable 49:8 96:12
values 36:19
various 23:7 84:2
vehicle 26:23 29:9,16 46:20 50:6
veil 92:20
vendor 28:16
venturing 90:15
verify 45:12
version 17:20
veteran 33:2
viable 50:4
Vice 2:3 105:4 107:4 108:12,23
 109:14 110:4 111:8,24 112:3,13
Vice-Chair 106:19
video 102:6
Vigil 26:13
violated 35:17
violation 100:23
violations 65:13
violence 99:18 100:1,16 101:3
violent 101:18
visit 84:17
visiting 84:2
volition 10:21 16:4
voluntary 74:16
vote 11:15 16:15 18:16 20:7 22:7
 39:9 89:7 103:6,8
voted 61:21
votes 104:3

W

wait 66:24
waited 43:23
waiting 14:10 29:11 67:6
waiver 30:6 51:16,16 57:18,23
 58:5,7,22,24,25 59:9 60:3,11
walking 35:22
Waller 5:14 88:24

want 9:13 12:25 17:18 18:21
 20:18 21:14,20 22:16 28:15,21
 36:11 47:22,23 49:25 53:6 55:9
 63:14 67:19,21 68:25 69:2 70:25
 72:8 77:5,6 82:9 84:3 85:14 89:1
 90:12 93:9,10,19 98:3,22 101:20
 102:15
wanted 11:11 16:24 60:6 62:16
 69:9 74:7 98:11
wants 55:21 58:5
war 33:2
Warner 4:8
Warren 107:22,23
wasn't 11:2 14:18 22:5 51:22,25
 98:10,13
wasting 81:11
way 10:13,16 13:1 19:9 21:15 22:2
 22:5 24:8 26:24 43:13 44:16
 47:3 52:15 57:12 73:4,17 75:4
 76:10 79:16 84:24 86:15 87:11
 89:25 92:10
ways 91:11
we'll 6:3,22 18:8,10,10,11 23:2
 32:18 39:25 40:18 84:7 95:4
 97:14,15,17,18,23 98:24 99:10
 102:22 103:8 104:2,4,6,12 110:7
we're 8:5 9:9 13:15 14:19 15:6
 17:10 18:5 19:5,7,11 20:21 21:2
 21:2,23 22:23 23:10 24:4 25:18
 25:25 28:16 29:3,15 31:20 33:11
 33:16 34:16 35:4 40:7 43:7
 44:23 48:17 49:18 50:2,2 59:24
 60:12 67:9 72:2 73:7 84:16
 86:20 88:14 94:17,24 96:1
 103:24
we've 7:21 8:4 9:7 17:2 35:5,8
 71:22 72:22 77:4,9 78:10 84:2
 86:13 91:19 93:16
website 6:20 18:15 43:15 75:25
 79:19,23
websites 9:19
week 10:14,15 12:19 13:7 14:3
 15:22
weeks 12:6,11 14:18 18:1
weigh 55:21
welcome 20:20 95:3
well-taken 97:10
went 30:12 51:19 53:24 54:1
 61:21 99:21
weren't 38:11

Wesley 5:14
whatsoever 113:13
whichever 44:21
wickets 14:16
wiggle 65:25
Williams 1:22 113:3,22
willing 55:15 60:17 84:21 102:17
window 13:12 14:1 44:10
wings 35:6
wish 11:15
wishes 16:14 43:20
withhold 92:6
witness 100:7,14,15,20,25 101:5
witness' 100:5 102:12
word 18:20 23:11 63:4,5 69:15
words 23:2 34:8
work 10:17 12:15 34:18 44:15
 52:8 60:17 67:14,16 76:7 85:17
 86:2 88:21 102:14
worked 54:4 101:10
working 8:2 12:24 16:25 60:4
 101:7,16
workings 73:2
works 72:3 85:16
world 35:4
worry 20:15 72:7,10
wouldn't 14:15,17 44:13 49:10
wound 48:1
wounded 26:21
write 39:12 94:16
writing 20:24 63:19
written 31:10 74:9
wrong 52:23

X

Y

year 3:19 7:19 8:4,7,8 9:2,6,11,12
 9:17 31:13 49:2 62:23 84:18
 85:11,13 88:13 91:19 98:17
 99:17
years 20:22 28:1 46:15 61:25
 64:10 73:4 78:8 84:2 85:17
 86:18 92:23 93:2 94:2 98:5,15
 101:11
youthful 101:19

Z

0

04-0045 37:22 38:25 39:19 81:15

1

1 3:3 4:20,22 5:1 37:8 38:1,3 42:2
 42:7,12 58:13 61:24 78:2
10 3:14 51:9,10
10-15-1(H)(1) 103:6
104 3:24 4:17
105 4:3,4
106 4:5,6
107 4:7,8
108 4:9
109 4:10,11
11 3:15 8:21 60:25 61:2,4,9 69:14
 101:11
11-0009 37:22 38:25 39:14 81:15
11-0088 37:16 38:9,24 39:17
 81:22 82:24 83:13
11:00 103:25
110 4:12,13
111 4:14
112 4:15,16,18
12 3:17 10:14,15 15:24 61:11,12
 81:1
12-0204 37:22 38:21,24 39:17
 81:22 82:24 83:12
12/31/16 113:23
12:40 103:25
12:50 112:25
120 44:6
12th 84:17
13 3:18 45:21 83:16,18
133 8:10
13th 26:14 84:17
14 1:22 3:19 23:23 85:11,13 113:3
 113:23
15 3:20 97:19,21,23 104:6
15-minute 97:15
16 3:21 8:17 83:9 97:19 99:3,5
 104:6
16-0069 41:20 42:6
16-0094 41:20 42:6
16-0242 37:10 81:22 82:20
16-0251 37:11
16-0252 37:11
16-0253 37:11,18 81:22 82:21
16-0254 40:24 41:7
16-0310 40:25 41:7
160 43:23
160-day 44:6
16s 38:8
16th 7:19

17 3:23 23:15 31:13 97:19 99:8,10
 104:6
17th 8:16
18 3:24 104:11,12,14
19 4:3 8:24 104:25 105:2
193 7:18 25:5 89:20
1978 103:5
1998 46:17

2

2 3:4 4:20 5:4 40:21,23 58:11
20 4:4 105:17,18
2008 43:16 46:15,19
2009 53:24
2010 33:3
2011 43:17 46:11,11,15
2013 26:20
2016 1:8 3:6 7:19 8:14,16,19 9:3
 23:14 83:25 113:4
2017 3:18 83:16,18 84:1 88:8
21 4:5 8:14 24:18,25,25 25:6,6
 106:7,8
2101 1:11
22 4:6 106:16,17 107:5
23 4:7 107:8,10
230 89:17,21
24 4:8 107:22,23
24th 7:18
25 3:8 4:9 70:2 94:2 108:9,10
254 41:13
26 4:10 109:2,3
27 4:11 7:22 8:10 109:17,18
27th 9:2
28 4:12 110:6,8
28th 8:8,19
29 4:13 110:19,21
2nd 8:15

3

3 3:5 6:1 103:6
30 4:14 47:1 69:16,21,22 111:10
 111:11
30-day 74:12
30th 9:3 61:22 62:18
31 4:15 112:1,2,14
310 41:13
32 4:16 112:15
33 4:17 104:1 112:16
34 4:18 70:7 112:22
36 9:5

37 3:10 8:14 24:18 25:5

38 9:3

39 8:18

4

4 3:6 6:14,15

40 77:11

400 47:6

41 3:11

42 3:13

5

5 1:8 3:3,4,7 7:7,8 31:12 113:4

51 3:14

55 23:14,15

57 7:22

5th 9:6 84:18

6

6 3:5,6,8 25:23,24

61 3:16,17

62 31:24

69 7:20 16:5

6th 84:16,18

7

7 3:6,7,9 37:2,4 81:3,5,8 82:17,20

7-A 83:14

70 27:8,9

72 39:5

75 70:18 71:3

7th 6:16 84:15,16

8

8 3:6,11 41:14,18

8:30 1:9

83 3:18

85 3:19

87110 1:12

89-0345 37:23 39:1,20 81:15

8th 6:16 8:14 84:15

9

9 3:12 42:19,22

90 65:21 74:20 105:9

90-day 74:12 106:21

97 3:20

98 46:17

99 3:22,23

9th 8:25