

NEW MEXICO LAW ENFORCEMENT ACADEMY

REGULAR BOARD MEETING

March 7, 2017

8:30 a.m.

New Mexico Law Enforcement Academy

4491 Cerrillos Road

Santa Fe, New Mexico 87507

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

Page 2

1	BOARD MEMBERS
2	
3	New Mexico Attorney General Hector Balderas, Chairman
4	Chief Pete Kassetas
5	Sheriff Wesley Waller
6	Scot Key
7	Elisabeth Miller
8	Kelly Burnham
9	
10	ALSO PRESENT
11	
12	Stephan Marshall, Director
13	Brian Coss, Deputy Director
14	Joseph M. Dworak, Esq.
15	Monica Medrano, Case Manager
16	
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21	
22	
23	
24	
25	

Page 4

1	AGENDA ITEM INDEX (Cont'd)
2	ITEM PAGE
3	18 Christopher Blea 85
4	19 Alan Henderickson 86
5	20 Frederick Miller 86
6	21 Koren Vanderweele 87
7	22 Cruz Zavala 87
8	23 Andrea Dobyms 88
9	24 Frederick Gygi 88
10	25 Valerie Wilson 89
11	26 Richard Emmert 89
12	27 Travis Hobbs 90
13	28 Return to Open Session 83
14	29 Adjournment 90
15	
16	Attached:
17	Exhibit 1 - Certifications of Law
18	Exhibit 1 - Certifications of Public Safety
19	Telecommunicators
20	
21	
22	
23	
24	
25	

Page 3

1	AGENDA ITEM INDEX
2	ITEM PAGE
3	1 Call to Order 5
4	2 Roll Call 5
5	3 Approval of Agenda 6
6	4 Approval of Meeting Minutes (December 5, 2016) 6
7	
8	5 Open Meetings Act Resolution 7
9	6 Election of Vice-Chairman 10
10	7 Director's Report 12
11	8 Public Comment 39
12	9 Approve Addition of 2016 Fallen Officers to Law Enforcement Memorial Wall 39
13	10 Ratification of Certifications for Law Enforcement Officers 43
14	
15	11 Ratification of Certifications for Public Safety Telecommunicators 44
16	12 NMAC 10.29.1, General Provisions; proposal to set public hearing for amendments to Board Rules 45
17	13 NMAC 10.29.4, Instructor Certification; proposal to set public hearing for amendments to Board Rules 55
18	14 NMAC 10.29.10, Public Safety Telecommunicator Minimum Standards of Training; proposal to set public hearing for amendments to Board Rules 57
19	15 Request regarding Sheriff Harvey re-entry into Basic Academy 60
20	
21	16 Proposed settlement on pending litigation, Case D-101-CV-2014-02038 84
22	17 Jermaine Harris 85
23	
24	
25	

Page 5

1 ITEM NO. 1: CALL TO ORDER

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

3 hereby call this meeting to order.

4 ITEM NO. 2: ROLL CALL

5 A.G. BALDERAS: We'd like to go to our first

6 item of business, which would be roll call. Monica,

7 if you could please take roll.

8 MS. MEDRANO: Hector Balderas.

9 A.G. BALDERAS: Present.

10 MS. MEDRANO: Scot Key.

11 MR. KEY: Present.

12 MS. MEDRANO: Pete Kassetas.

13 CHIEF KASSETAS: Present.

14 MS. MEDRANO: Sheriff Wesley Waller.

15 SHERIFF WALLER: Here.

16 MS. MEDRANO: Darren Soland. Chris McCall.

17 Jaime Quezada. Kelly Burnham.

18 MS. BURNHAM: Here.

19 MS. MEDRANO: Elisabeth Miller.

20 DR. MILLER: Here.

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

22 I'd like to take this morning to ask that we

23 observe a moment of silence to honor four brave

24 sheriffs who made the ultimate sacrifice in the line

25 of duty this year.

1 Today we honor Sheriff Steve Ackerman,
2 Sheriff Deputy Ryan Thomas, Sheriff John Mooradian,
3 and Sheriff Deputy Christopher Tsosie.

4 (Moment of silence.)

5 A.G. BALDERAS: Thank you for your
6 observance.

7 ITEM NO. 3: APPROVAL OF AGENDA

8 A.G. BALDERAS: I'd like to direct the Board
9 to agenda item three. We need to look over and
10 approve the agenda, which you all got ahead of time.

11 CHIEF KASSETAS: Seeing that we got it ahead
12 of time and I didn't see any issues, I'll make a
13 motion to accept the agenda.

14 A.G. BALDERAS: There is a motion to accept
15 the agenda. Is there a second to approve the agenda?

16 SHERIFF WALLER: I second.

17 A.G. BALDERAS: There is a motion and a
18 second. All in favor to approve today's agenda say
19 aye.

20 (Those in favor so indicate.)

21 A.G. BALDERAS: Any opposition? There is no
22 opposition. The motion passes to approve the agenda.

23 ITEM NO. 4: APPROVAL OF MEETING MINUTES

24 A.G. BALDERAS: I would like to direct the
25 Board to item 4 to approve the minutes. And the

1 minutes were of last year's December 5th meeting. A
2 copy of those minutes were also sent to Board Members
3 and they're also available on the LEA website. If
4 you'll take a brief second.

5 If there are no corrections, I'll also
6 entertain a Board motion, when appropriate.

7 MR. KEY: I make a motion to approve the
8 meeting minutes from December 5th, 2016.

9 CHIEF KASSETAS: Second.

10 A.G. BALDERAS: There is a motion and a
11 second to approve the December 5th minutes as
12 presented. All in favor say aye.

13 (Those in favor so indicate.)

14 A.G. BALDERAS: Any opposition? The motion
15 passes on item 4 to approve the December 5th minutes.

16 ITEM NO. 5: OPEN MEETINGS ACT RESOLUTION

17 A.G. BALDERAS: We now go to item No. 5, Open
18 Meetings Act resolution. Moving on we need to approve
19 this year's Open Meetings Act resolutions.

20 And I will turn it over to counsel from the
21 New Mexico Attorney General's Office who will explain
22 and help facilitate this process. Joe, you can go
23 ahead.

24 MR. DWORAK: Chairman, Members of the Board,
25 this is a resolution similar to the one that you

1 adopted last year. I think the one clarification is
2 the publication requirement. And that just
3 specifically stipulates that the Board publish in a
4 newspaper.

5 And so I think, unless there's any other
6 questions, I can just briefly clarify again that this
7 is a requirement under the New Mexico Open Meetings
8 Act that every public body in the State determine
9 annually what constitutes reasonable notice for that
10 public body.

11 So every public body has the opportunity to
12 determine its own reasonableness requirements. And so
13 if the Board felt as though additional items or
14 changes to its notification requirements were
15 necessary, this would be the time to do it.
16 Otherwise, I would suggest entertaining a motion to
17 adopt the resolution.

18 A.G. BALDERAS: Are there any questions from
19 the Board?

20 CHIEF KASSETAS: Mr. Chair, one question I
21 had. This brings us into compliance with the Open
22 Meetings Act fully, correct?

23 MR. DWORAK: That's correct. And, Chief
24 Kassetas, Members of the Board, this is consistent
25 with the template resolution that our office provides

1 to every public body in the State. And it's posted in
2 our OMA guidebook. And it goes above and beyond those
3 requirements.

4 The additional reasonableness is the
5 publication in one newspaper of general circulation,
6 which was done in the past but wasn't specifically
7 included and now it is. And so that's helpful to
8 clarify.

9 CHIEF KASSETAS: So you would need a motion
10 to accept this document?

11 MR. DWORAK: To adopt, to adopt the OMA
12 resolution. And like the statute says, it's required
13 that every public body adopt annually. So just
14 adopting this resolution annually at the first meeting
15 of the year is the standard that we kind of expect for
16 public bodies.

17 CHIEF KASSETAS: Okay. Any questions? I'll
18 make a motion that we accept the Open Meetings Act
19 resolution.

20 A.G. BALDERAS: There is a motion. Is there
21 a second to adopt the Open Meetings Act resolution?

22 MS. BURNHAM: Second.

23 A.G. BALDERAS: There is a second. All in
24 favor to approve the Open Meetings Act resolution
25 submitted for 2017 say aye.

1 (Those in favor so indicate.)

2 A.G. BALDERAS: Any in opposition? The
3 motion passes to approve the Open Meetings Act
4 resolution for the year 2017.

5 ITEM NO. 6: ELECTION OF VICE-CHAIRMAN

6 A.G. BALDERAS: We now move to item No. 6,
7 the election of vice chairman. I would like to thank
8 my vice chairman for serving. And we now will
9 entertain brave nominations for the position of vice
10 chairman.

11 CHIEF KASSETAS: Mr. Chair, I would like to
12 nominate Chris McCall. He was your prior vice chair
13 for part of the year. And I know he's interested in
14 continuing with that.

15 And we've established a pretty good pattern
16 with him taking care of the meetings, moving them
17 forward, as you recuse yourself in the discipline
18 portion. He has a good understanding and a great
19 working relationship with your staff. So I nominate
20 Chris McCall again.

21 A.G. BALDERAS: There is a nomination for
22 Board Member McCall. Are there any other nominations
23 for vice chair? No.

24 CHIEF KASSETAS: I will not be nominating
25 myself.

1 MR. KEY: I move that we close nominations.

2 A.G. BALDERAS: There is a motion to close
3 nominations. Is there a second to close nominations?

4 MS. BURNHAM: Second.

5 A.G. BALDERAS: There is a motion and a
6 second to close nominations. All in favor.

7 (Those in favor so indicate.)

8 A.G. BALDERAS: Are there any in opposition
9 who would like to be nominated for vice chair? There
10 is no opposition. The motion passes to nominate Board
11 Member McCall.

12 We'll now move to entertain a motion to elect
13 Board Member McCall to serve as vice chair.

14 MS. BURNHAM: So moved.

15 A.G. BALDERAS: There is a motion. Is there
16 a second?

17 MR. KEY: Second.

18 A.G. BALDERAS: There is a motion and a
19 second to elect Board Member McCall. All in favor say
20 aye.

21 (Those in favor so indicate.)

22 A.G. BALDERAS: Any in opposition? There is
23 no opposition. The motion passes to elect Vice Chair
24 McCall to another term.

25 ITEM NO. 7: DIRECTOR'S REPORT

1 A.G. BALDERAS: We now move to item No. 7,
2 the Director's report. So I yield to Director
3 Marshall at this time. Good morning.

4 DIRECTOR MARSHALL: Good morning. Thank you,
5 Mr. Chairman, Members of the Board. I would like to
6 take a few minutes to kind of talk about our goals
7 here for the upcoming year.

8 First, I want to welcome you to our house.
9 It's a privilege and honor for us to host you for this
10 meeting here in our facility.

11 As we speak we have the Basic Police Officer
12 Training Class No. 194 in session with 69 cadets
13 preparing to enter the work force. They're usually in
14 this classroom. They're currently in the gym for
15 defensive tactics.

16 Next door we have Certification-By-Waiver
17 Class No. 91 at 18 officers who are training to either
18 relocate to New Mexico or reenter the law enforcement
19 work force.

20 Down the hall we have State Police Academy
21 No. 91 with 25 cadets. A couple weeks ago we
22 graduated Public Safety Telecommunicator Class No. 134
23 with 27 new professional certified telecommunicators.

24 In addition, we have Sergeant Pat Flores with
25 us from the San Juan Academy who currently has 14

1 cadets in process. And the Southeastern New Mexico
2 Law Enforcement Academy in Hobbs just started and
3 currently has 19 cadets. It started on Sunday.

4 So as we near the end of the first quarter of
5 the calendar year, we look forward to the challenges
6 and the opportunities that are facing law enforcement
7 and the training programs this year.

8 This is my fourth Board meeting. And thanks
9 to the help of an outstanding staff and the experience
10 and advice of my deputy director, Brian Coss, I have a
11 much better appreciation not only for the role of the
12 academy but the opportunities we face.

13 Under our leadership the New Mexico Law
14 Enforcement Academy will collectively meet these
15 challenges in the next year with ideas shaped more by
16 experience and the rule of law than by emotion, more
17 by practice than by politics, and more by intellect
18 than by impulse.

19 With these core principles as a foundation,
20 we will renew our efforts to collaboratively work with
21 our satellite academies, law enforcement agencies,
22 telecommunication agencies, and, of course, the New
23 Mexico Law Enforcement Academy Board.

24 In doing so, we will ensure our officers and
25 telecommunicators are prepared to meet the

1 ever-changing challenges and public expectations.

2 By focusing our collective statewide
3 experience and abilities and looking forward, I am
4 confident we can meet these challenges. We can learn
5 from the past but not be stuck by the quagmires of the
6 past.

7 By first seeking to understand and then to be
8 understood, by searching for and developing a position
9 moved by compromise but anchored in honor, integrity,
10 and principles, I think we can achieve the highest
11 ideals that we are seeking.

12 During the calendar year of last year, we
13 certified a total of 377 new police officers across
14 the State. Additionally, we certified 108 public
15 telecommunicators now on the job. So we now have 485
16 new certified individuals doing the mission.

17 As we enter into the new year, some of our
18 challenges involve budget. Others can be addressed
19 with critical thinking and effort.

20 If I could just for a moment mention this.
21 Some of the challenges we're looking at were addressed
22 recently out of a U.S. News & World Report study that
23 came out. I don't know if the Board had a chance to
24 see that. But it states some interesting numbers.
25 New Mexico is the fifth largest state in area

1 but it's fourth largest in population. And as we
2 know, most of the population is on the I-25 corridor.
3 That creates unique challenges.

4 We have 250 miles of shared border with
5 Mexico. That creates unique challenges. We have a
6 budget that focuses on oil and gas money. And we see
7 what that does to us.

8 But something that the study pointed out,
9 something that we have to consider, New Mexico ranked
10 46th in economic opportunity. In property crimes we
11 ranked 49th. In violent crimes we ranked 48th. In
12 public safety they ranked us as 50th in the country.

13 It's impossible not to see the correlation as
14 well to the fact that, in pre-kindergarten through
15 12th grade education, we ranked 49th. In high school
16 graduation rates, we ranked 50th.

17 We cannot look at our crime problem and we
18 cannot look at our economic problem without
19 considering those issues as well. And I don't think
20 we can address them without trying to address them
21 collectively.

22 As the article pointed out in the Journal
23 yesterday, people in poverty are seven times more
24 likely to become the victims of violent crime. And it
25 seems that poverty doesn't breed predators as much as

1 it breeds prey.

2 So how we can help, how can we work together
3 to find the solutions that we need to look for.
4 First, there's clearly evil in the world. We have to
5 be sure that we don't teach our cadets or view the
6 idea that there's evil behind every door.

7 But there are violent people in almost every
8 community in our state. We must never fool ourselves
9 into thinking that resolving our social problems will
10 change that.

11 We know our officers only survive these
12 encounters with the most modern training available.
13 Nationwide the number of lost officers is decreasing
14 over the last several years. But we still had 22
15 ambush shootings of law enforcement officers last
16 year.

17 And it's my job to make sure that the
18 officers have the best training possible to teach them
19 how to survive those encounters. We must continue to
20 stand between evil and those they prey upon even at
21 the expense of our lives.

22 Just as Officer Chavez did in Hatch or
23 Officer Corvinus did in Alamogordo or Deputy Thomas
24 did in Valencia County last year.

25 In addition, we have 201 names on the wall

1 just outside. People who have faced this challenge
2 before. We have to be ready to fight those
3 challenges, we have to be ready to give the ultimate
4 sacrifice.

5 And I know we all join together in thanking
6 those men and women who do face that sacrifice and
7 meet that challenge.

8 But beyond that, beyond the reactive response
9 to violent crime, we have to move forward. First, we
10 have to secure public support. We work not only to
11 build and improve transparency but to communicate that
12 transparency.

13 We saw those concerns recently at the House
14 Rules Committee, where several of the Board members
15 were ratified. The senators were questioning our
16 commitment to openness based on our efforts ironically
17 enough to improve our openness.

18 Second, we have to work to expand
19 cooperation. We have already made great strides with
20 the Sheriffs' Association and the Police Chiefs
21 Association. We have a strong relationship with
22 Corrections. We're involved with the annual Policing
23 in the 21st Century conference each year.

24 We would like to work closer with prosecutors
25 such as Mr. Key. We work with federal law enforcement

1 and prosecutors. And we will continually strive to
2 improve our connection to the public. And we welcome
3 your guidance and assistance in meeting these goals.

4 Third, we must continue to increase our
5 training opportunities. We are in the final stages of
6 creating a quarterly electronic newsletter which will
7 be distributed statewide.

8 We continue to work with the agencies, the
9 satellite academies, and the Board's rules
10 subcommittee to propose relevant rule changes, three
11 of which you'll be considering today, that improve our
12 overall practice.

13 We have partnered with IADLEST to host a
14 Building Analytical Capacity course in May at no
15 expense to agencies. We're collaborating with the New
16 Mexico State Police in working on finalizing a
17 contract with IPTM to conduct a series of crash
18 investigation courses this year. These complement the
19 other courses that our academy has put together in
20 advanced training.

21 We've added a public safety
22 telecommunications coordinator position filled by
23 Ashley Lopez and under the supervision of our
24 operations manager Joaquin Nielsen. This position
25 will allow for prioritizing public safety

1 telecommunications basic academies, in-service
2 training, advanced training, and desperately needed
3 instructor level training.

4 We're continuing our efforts to move into the
5 21st century in our technology programs. We're still
6 working towards an automated and integrated software
7 program for records management, reporting
8 requirements, and to establish our footprint in the
9 distance learning realm.

10 Should this become a reality, the information
11 will be available to agencies statewide. The new
12 system would allow the reporting agency to generate
13 and submit reports such as firearms score with the
14 click of a mouse.

15 Online registrations, records requests,
16 distance learning modules, agencies being able to
17 review their entire training records, individual
18 officers being able to review his or her records, and
19 distance test administration, all these will be
20 possible under a contemporary, web-based training
21 system.

22 It's not a futuristic system. It's something
23 that everybody else in the world seems to be able to
24 do. We should be able to bring that into New Mexico.

25 In closing, my staff and I look forward to

1 meeting the challenges of the coming year, while
2 building a framework and a foundation for the future.

3 It is unacceptable that we're ranked 50th in
4 the country when it comes to public safety. We can do
5 better than that. On the overall rankings, New Mexico
6 ranked 46th. And we can do better than that.

7 But the only way we can come out of the 50th
8 position, as I said earlier, is to work on other
9 areas, not just law enforcement training, to
10 communicate, cooperate, and that's what we're
11 dedicated to do.

12 So with that I would entertain any questions
13 from the Board.

14 DR. MILLER: I actually have a question.
15 That all sounded very comprehensive and very well
16 thought out. And I appreciate the attention to detail
17 on calling out what challenges the State has.

18 Regarding training, does the academy do
19 anything or is there a specific module related to drug
20 trafficking and drug trafficking organization and
21 cartel activity within the state?

22 DIRECTOR MARSHALL: I don't believe our basic
23 academy has anything specific on drug investigations.
24 We have investigative training. But specifically to
25 drug cartels and drug trafficking, I am not aware of

1 anything.

2 Mr. Coss could probably supplement that if
3 I'm missing something.

4 MR. COSS: The academy does have a specific
5 pod that deals with gangs. And within the gangs then
6 becomes, you know, your street gangs, your prison
7 gangs. And that then obviously has an influence on
8 the cartels and that sort of thing.

9 So there is a module. It's not directly
10 related to the very topic that you're speaking about.
11 But between the investigation block and between the
12 gang investigation block, it covers those.

13 DR. MILLER: Okay. I'm asking because you
14 raised the point about the challenges of poverty and
15 education in the state; the challenges of the I-25
16 corridor and, you know, it's a major drug trafficking
17 route; the challenges of being right along the border;
18 and the crime rate, which in my humble opinion -- and
19 I think it's pretty well documented -- is not just due
20 to factors in the state regarding education and
21 poverty but to the high presence of DTO activities in
22 the state.

23 And so, you know, talking about increasing
24 training opportunities or cooperating with other
25 organizations, I just wondered if it would be possible

1 to -- sorry to do this to you. Build out the
2 curriculum a little bit on that element just to make
3 recruits really, really aware of where some of this is
4 coming from.

5 Because it really isn't coming from New
6 Mexican residents. And, you know, I don't know enough
7 about training to know if that's the appropriate place
8 for it. But I just wanted to bring it up in this
9 context.

10 DIRECTOR MARSHALL: Thank you. Dr. Miller,
11 if I may. As Mr. Coss said, the gang training relates
12 to that considerably. I used to be a gang prosecutor.
13 And I would tell people all the time to look at the
14 gang problem and not the drug problem. It's like
15 looking at the gun problem and not ammunition.

16 I think there are a lot of areas that can be
17 improved in that. And there are certainly advanced
18 training opportunities in that regard that we should
19 work at. But we can certainly look at giving them a
20 better understanding in basic training.

21 One thing that we've looked at implementing
22 with this class is a weekly session to get them out of
23 the dorms and away from the books for a little while
24 to talk about different issues. And that's something
25 I would certainly be happy to address with the current

1 class and then work into the curriculum in the future
2 classes.

3 I think that there are a lot of things that
4 we have looked at as a society that we didn't consider
5 the long-term implications in that regard. Perhaps a
6 good example is the forfeiture bill from the last
7 legislative session, which basically took the position
8 that money going back to the cartels is preferable to
9 money being taken away from the bad guys. That seems
10 short-sighted to me.

11 But yes. I think it's certainly something we
12 can look at. I think there are several areas that
13 overall can be incorporated under that.

14 But yes. I will definitely look at putting
15 it into the next curriculum. The problem is we're
16 booked on hours. So it will be a matter of modifying
17 some of the curricula to include that, such as gangs,
18 where it's already appropriate.

19 So we can do that. It will just take a
20 little bit of creativity on our part. But certainly I
21 can address the current class about it in the evening
22 session and let them look at some of the challenges
23 that we're facing, such as interdiction and the shared
24 border.

25 CHIEF KASSETAS: Mr. Chair, if I may add to

1 that. You know, there is really a finite amount of
2 time in our recruit schools. And it is so
3 overwhelming.

4 It is more of an advanced approach to patrol
5 tactics that does fall in the realm of advanced
6 training. Not that it can't or shouldn't be mentioned
7 in some of these blocks early on. But really we like
8 the officers to get out there and start developing
9 themselves in the field.

10 And I think what other components you may be
11 alluding to, Elisabeth, is that there's an
12 intelligence link that sometimes we see that the field
13 doesn't grasp onto because there's not a good conduit
14 to get that down to the line officers.

15 There may be some room to look at how to
16 better communicate what's actually going on there with
17 the DTOs and some of the tactics being used that are
18 successful and then sharing those. It's just hard to
19 figure out what platform because you're sharing
20 sensitive information.

21 That could be something that advanced
22 training from DPS could offer at a quarterly level, a
23 DTO update or intelligence update. And then agencies
24 can sign up to send the folks up here or we can take
25 it on the road. That's more of that what can DPS

1 offer to the greater law enforcement community moving
2 forward. You could tie it to that.

3 DIRECTOR MARSHALL: If I may follow up on
4 that, Chief. There are other law enforcement entities
5 out there that do information sharing in that regard.
6 There are meetings with HIDTA with different groups
7 where they talk about these things.

8 I will reach out to those groups before the
9 next meeting and see if we might be able to
10 incorporate and, rather than reinvent the wheel, merge
11 us with them and get them up here to talk about it.

12 DR. MILLER: That's sort of what I was
13 thinking about, was leaning on HIDTA a little bit,
14 taking advantage of their regional expertise.

15 DIRECTOR MARSHALL: We have the HIDTA. We
16 have, down in El Paso, their intel center. There are
17 some resources out there on the federal level that
18 I've worked with in the past. I think we can
19 certainly move that together.

20 I think one of the tricks, when we start
21 talking about interdiction as a primary method, when
22 we talk about the I-25 corridor, is that interdiction
23 is a very complicated issue to do right. We have to
24 be wary of profiling, we have to be wary of pretext
25 stops in New Mexico, we have to wary of a lot of other

1 challenges that some of the other states don't face.
2 So it's not a simple thing to teach. But we
3 can certainly give them a basis in that understanding
4 and direct them toward advanced training that can
5 teach them to be better at it I think.

6 A.G. BALDERAS: Any other questions?

7 MS. BURNHAM: I have a question. You
8 mentioned an electronic newsletter. That would be
9 online and available to the public or is it for law
10 enforcement only?

11 DIRECTOR MARSHALL: Mr. Chairman, I
12 considered more of an email version. But we can
13 certainly put a perhaps redacted version on the
14 website. I wouldn't want to commit to putting the
15 whole thing on the website until we get further into
16 the content of some of them.

17 There are some things that are law
18 enforcement sensitive that we still might want to
19 share with the agencies around the state. And I
20 wouldn't want to moot our ability to talk about that
21 information by virtue of the fact that it's going to
22 be published.

23 But what I can commit to is we can take a
24 look at it and do at least a publicly accessible
25 version coupled with the one that goes to the law

1 enforcement agencies.

2 MS. BURNHAM: The reason I ask is that one of
3 your goals is to communicate better with the public.
4 And we sort of took a hit when we went up for
5 confirmation hearings in front of the Senate, some of
6 us; particularly Chief McCall, who represented us
7 beautifully.

8 But there was a concern about transparency
9 and about the ability of the public to communicate
10 with the Board. And as Dr. Miller repeatedly points
11 out and reminds me, one of the ways the public can
12 communicate with the Board is through us.

13 We're citizen representatives. And we want
14 the public to communicate with us. But I don't think
15 the public knows about that avenue.

16 Also, as part of our rules, I believe that
17 there's a public comment portion to every meeting that
18 we have. We have a signup sheet where a member of the
19 public can come and meet with the Board quarterly.
20 But I don't think the public knows about those things.

21 And there's another way, but I have forgotten
22 it. But I know the rule of three, the three little
23 bears, all that. I know there's three ways that they
24 can contact us. And I want the public to know that.
25 Because we're not hiding the ball, we're trying to be

1 accessible.

2 And I just commend you for wanting to
3 communicate with the public. And that's one of the
4 ways, one of the things that I hope we do, communicate
5 better to them.

6 DIRECTOR MARSHALL: I agree. Mr. Chairman,
7 if I may, Chief Kassetas has been working to improve
8 our website design because ours is I would say a tad
9 archaic. But we have a meeting scheduled tomorrow to
10 talk about ways to improve our design overall.

11 I think that might be a good opportunity for
12 us to look to not only have a place for the
13 newsletter, but also an explanation of our structure,
14 contact information for the Board in general, and
15 particularly the citizen representatives.

16 We can certainly look at that as we try to
17 move our website into the next era. So I think that
18 would be an excellent idea.

19 CHIEF KASSETAS: Mr. Chairman, Director, I'll
20 comment that, yes, the State Police is investing their
21 own budget to revamp and overhaul the entire web page
22 for the DPS structure.

23 And I think that, when we have our upcoming
24 meetings with the designer, when we get to the LEA
25 portion, the Board portion, maybe with what has been

1 said with Kelly and where we want to take this as far
2 as outreach to the public, that those draft pages, I
3 can share them with the Board members so they can get
4 a good look at it.

5 Maybe they have some good ideas. There
6 should be direct links to each of our emails and
7 explaining what our position is and what it means.
8 It's pretty vague as it stands now. We can really
9 work to dress that up.

10 So we'll do that. I'll do that for the
11 Board. I'll make sure that, when we get to that
12 development part, we send it out to everybody and get
13 input. There can be links directly to the A.G.'s page
14 for open records stuff and whatnot. So we have an
15 opportunity to really make that a very viable
16 resource.

17 A.G. BALDERAS: Fine with me. I appreciate
18 that.

19 CHIEF KASSETAS: Yes.

20 DIRECTOR MARSHALL: If I may, Mr. Chairman.
21 As we mentioned earlier in the report, I know we were
22 all frustrated by the fact that, especially during
23 Chief McCall's session, that we were being challenged
24 on openness after we had created rules for the sole
25 purpose of increasing openness.

1 So I think we all recognize the irony of
2 that. And that's why we have to communicate better I
3 think to the public as to what we're attempting to do
4 with these things so they can maybe appreciate our
5 attempts and help us move forward to accomplish that
6 mission.

7 A.G. BALDERAS: Any other questions?

8 Director, I have a couple questions. I also
9 appreciate your approach and thoroughness on all the
10 topics, but a couple piqued my curiosity.

11 The first is, when you say 50th in public
12 safety, do you recall what some of the elements or
13 methodology were driving that ranking?

14 DIRECTOR MARSHALL: I looked at it. I cannot
15 recall off the top of my head all the factors they
16 looked at. I can pull the report and send it to all
17 of you, if you would like to read it. It's all
18 online.

19 A.G. BALDERAS: That would be great. Yes,
20 that would be helpful, if you could send that to the
21 Board and to me as well. I'm curious to see what's
22 driving that.

23 I think I asked this Board to take kind of
24 a -- I don't want to say risky. But I definitely
25 asked the Board to do more than what was required in

1 recently looking at the policies and procedures of
2 departments across the board.

3 And I really appreciate the Board's support,
4 because that clearly is us digging a little deeper
5 than we have in the past.

6 DIRECTOR MARSHALL: Yes, sir.

7 A.G. BALDERAS: But one of things I want to
8 include in this review is an executive summary about
9 what risks officers are facing nowadays.

10 And I think that ranking 50th in public
11 safety I would venture would also have some driver
12 components that the general public and including the
13 legislators should really be aware of and get them
14 also more accountable and more involved.

15 So I want to work with you on maybe
16 broadening an executive summary that compares and
17 contrasts not only departments' policies and
18 procedures, not only how we train officers, but also
19 what is the environment that they're going into. I
20 think that is an interesting area for us to kind of
21 venture into.

22 My other question, besides what is driving
23 the 50th ranking in public safety, on the securing
24 public support, expanded cooperation, and increasing
25 training opportunities, do we have a citizen academy,

1 do we have an ability to bring in community members?

2 Not open up what it is you do daily so that
3 they take away or compete with your time, because you
4 have a very extensive mission and you have a lot of
5 cadets to train.

6 However, is there something where, if a
7 citizen is nominated, they can come in and experience,
8 in a 24 or 48-hour mini experience, what it is that
9 you're doing in a way that they collectively could be
10 ambassadors at a later date?

11 And I'll share with you my idea, if we don't
12 have that already, why I think it could be helpful in
13 this securing public support and expanded cooperation
14 among other community leaders. Do we have anything
15 like that?

16 DIRECTOR MARSHALL: We don't have on an
17 academy level. I know some of the agencies have them.
18 APD has a very active citizens academy.

19 When I was with the FBI prior to taking this
20 job, we had a very active academy for over a decade
21 that I was very much involved with on a weekly basis.
22 It was an eight-week program I believe, a weekly three
23 or four hours once-a-week evening program, where we
24 focused exactly on that, on showing the public what it
25 is we were doing on a daily basis.

1 And I think we developed a group of very
2 supportive community leaders as a result of that. So
3 I think it worked very well for the FBI. I think it's
4 worked very well for APD. I see no reason to think it
5 wouldn't work for us as well.

6 A.G. BALDERAS: Yes. I would be willing to
7 commit some of our leveraged resources from our
8 office, just the way we have a policy of law. We
9 could talk a little bit later at a later date.

10 But I think a couple things that were really
11 compelling to me personally was just participating in
12 that officer shooting simulation myself, putting
13 myself into that kind of scenario, and then
14 accidentally shooting innocent people myself in that
15 simulation. It was pretty amazing how that heart rate
16 got up.

17 And so what I'm thinking is that we, as the
18 Chair and the Board, could toss around some ideas with
19 mutual staff about is there a benefit to doing maybe
20 two hours. We can start small, not ambitious. Two or
21 three hours.

22 Where we go out and we identify ten or 15
23 community leaders. And then we put them through kind
24 of a little bit of an experience of what you guys are
25 doing with the training, the topics. I think it could

1 be a good, positive experience.

2 So if you're open to something like that or
3 you think you're open to ideas on how to build
4 community support, we at the A.G.'s Office would love
5 to lend some of our talent. We do that
6 professionally, we do community outreach.

7 But this is a real important topic that I
8 think could bridge those communities.

9 DIRECTOR MARSHALL: Mr. Chairman, as I said,
10 I volunteered extensively with the Bureau academy
11 because I was a very strong believer in what they were
12 doing.

13 We started out the first year essentially
14 begging people to come. And by the time I left, we
15 were turning down -- we were taking about 20 percent
16 of the applicants because we had such a great response
17 to it. So I think it's a great program. It is
18 labor-intensive. But it's certainly doable.

19 A.G. BALDERAS: Yeah. And I would love to be
20 able to counter citizen or legislative interests, when
21 they have an opinion, to invite them to that
22 three-hour simulated training opportunity. You know,
23 come on and learn about exactly what we do rather than
24 just read letters.

25 I was nominated by a lieutenant colonel to

1 participate in and attended the War College at the
2 National Security Seminar, where they open it up to
3 certain key civilian members to come. And it was the
4 same kind of experience. I think that experience
5 breeds other nominations.

6 So I would easily see like a citizen academy
7 being a real coveted nomination. For someone to take
8 a day out of their professional career and come and
9 experience a little bit of what you all are doing
10 would be exciting I think. And we would naturally be
11 creating ambassadors. I would love to chat with you
12 more about it.

13 DIRECTOR MARSHALL: If I may, Mr. Chairman.
14 One thing that we have been trying to push here is to
15 try to get past the concept that we saw coming from
16 the rules committee and others, that we've enhanced in
17 any way an us-versus-them law enforcement mentality.

18 We are trying very hard to convey to our
19 cadets that we're not a military force, that we're not
20 an occupying force, that we're not separate from the
21 citizens. We've pushed to get away from terms such as
22 civilians when we talk about people who aren't police
23 officers.

24 We're all civilians. I think we're really
25 trying to push the concept here at the academy that we

1 are members of the community, not separate from the
2 community.

3 I think what you're suggesting would go a
4 long way toward encouraging that kind of recognition
5 from the public. Maybe those who are still suspicious
6 of our motives, to let them see what we're training,
7 what we're teaching, and how we're trying to get to
8 where we need to be.

9 A.G. BALDERAS: I'll tell you, I think they
10 would be utterly impressed and I think they would
11 really get a lot out of it. But we can talk about it.

12 If there is some interest on the Board to
13 maybe help out at the next meeting, I might nominate a
14 subcommittee after we have maybe a little bit of
15 ideas. We'll brainstorm with you offline. And maybe
16 we can present something to the committee for
17 consideration at the next meeting.

18 DIRECTOR MARSHALL: Yes, sir. I would be
19 happy to assist.

20 A.G. BALDERAS: And I apologize for your
21 confirmation process. I was not invited, I wasn't
22 there. So I'm curious. Was there any other Senate
23 comment that particularly stuck with you, Director, in
24 terms of where we need to go direction-wise?

25 DIRECTOR MARSHALL: I think, Mr. Chairman,

1 they were basing their entire questioning on a letter
2 that they received from a critic of the Board. But
3 there was concern of two things.

4 One was a lack of transparency and two was
5 the militarization of law enforcement, the view in
6 general that we've over-militarized. And I think that
7 mostly those questions got sent to Chief McCall. He
8 handled them very well I think.

9 But again we are pushing for more openness,
10 we are pushing for transparency. We have been since
11 before the criticism arose. We are pushing to change
12 the image of law enforcement as an occupying force.

13 A.G. BALDERAS: I just want to tell you too,
14 as Chair, at least under our couple years' watch, we
15 have not been subject to any litigation or violations
16 in any way. So I just want this Board to know. I
17 feel real strongly about that.

18 So I don't know what our rebuttal was to some
19 of those concerns. But there's been a pretty stellar
20 record the last two years of that. So I'm real proud
21 of that. But we can talk too, as well. If there's
22 anything I need to do to talk to the legislative
23 members, please let me know.

24 DIRECTOR MARSHALL: Yes, sir. If I may add.
25 The one concern they seemed to have was the public

1 comment section. I think they didn't recognize that
 2 we added a public comment section to a rule that
 3 didn't already call for it, which I thought was moving
 4 in the right direction.

5 But there was concern as to whether we were
 6 willing to listen to the public. I think all the
 7 Board members made it very clear, and Chief McCall
 8 made it very clear, that we are very much open to what
 9 the public has to say.

10 I think that goes a long way toward
 11 accomplishing the goals we've already discussed. I
 12 don't think there's any question that we're a very
 13 open public organization.

14 A.G. BALDERAS: And just joking with Chief
 15 Kassetas, sometimes he's very animated to get engaged
 16 with the community and comment and discussion. And
 17 so, if anything, this committee is very open and very
 18 engaging.

19 All right. Any questions?

20 SHERIFF WALLER: Mr. Chair, Director, can we
 21 get a copy of your report.

22 DIRECTOR MARSHALL: Yes, sir.

23 SHERIFF WALLER: Thank you.

24 A.G. BALDERAS: Any other questions? Thank
 25 you, Director, for your report at this time.

1 ITEM NO. 8: PUBLIC COMMENT

2 A.G. BALDERAS: Great. The irony of No. 8,
 3 public comment. Anybody here for public comment?

4 No one.

5 ITEM NO. 9: APPROVE ADDITION OF 2016 FALLEN OFFICERS
 6 TO LAW ENFORCEMENT MEMORIAL WALL

7 A.G. BALDERAS: We can move to item No. 9, we
 8 are going to approve the addition of 2016 fallen
 9 officers to the Law Enforcement Memorial Wall.

10 I'll also yield to Director Marshall to
 11 conduct item No. 9.

12 DIRECTOR MARSHALL: Mr. Chairman, Members of
 13 the Board, there are three officers that have been
 14 nominated for this year that were voted on by the
 15 standard committee of the Sheriffs' Association; the
 16 Chief's Association; the FOP, the Fraternal Order of
 17 Police; and us.

18 We have three officers who we already
 19 mentioned earlier, Jose Chavez from Hatch, Clint
 20 Corvinus from Alamogordo, and Deputy Sheriff Ryan
 21 Thomas from Valencia County. There are brief
 22 summaries in your binders that talk about each of
 23 these officers.

24 With that being said, I would ask that they
 25 be approved for inclusion on the wall this year. We

1 will have a memorial at the end of May to dedicate
 2 their names to the wall. Certainly we would welcome
 3 all of you present at that memorial service. But we
 4 would ask that you approve the addition of these
 5 names.

6 A.G. BALDERAS: Thank you for your
 7 presentation. Are there any questions?

8 MR. KEY: Mr. Chairman, I do have a question.
 9 In terms of the synopsis of the events, I'm curious.
 10 Would this ever be published or presented perhaps at
 11 the wall in a presentation to the general public?

12 DIRECTOR MARSHALL: I don't know that it's
 13 presented, sir. I believe these at one time were on
 14 the website. They should be on the modified website.
 15 But I'll defer to Chief Kassetas. He seems to have
 16 some information.

17 CHIEF KASSETAS: Mr. Chair and Board, I think
 18 what we should do in this case is a press release.
 19 Once the Board makes its decision, we can draft -- I
 20 say we.

21 I think the DPS drafting a press release from
 22 the Board I believe would be appropriate announcing
 23 it. And then maybe referencing in the upcoming --
 24 it's in May, right, the memorial?

25 DIRECTOR MARSHALL: Yes.

1 CHIEF KASSETAS: If you could, have staff,
 2 for the Board at least, send out an invite because our
 3 calendars fill up rather quickly. But I've never
 4 really ever seen the entire Board there, the majority.
 5 It would be great to have us there. And it's here at
 6 the DPS complex. So we can get the date out to the
 7 members.

8 But I think we should agree to do a press
 9 release on it once we confirm this or vote on it.
 10 That would be a start. And then, of course, at the
 11 memorial, the families are in attendance or invited.
 12 And there is a presentation done there before the
 13 crowd and then that's also covered by media. Does
 14 that help, Scot?

15 MR. KEY: It does. Obviously we have close
 16 connections to the Corvinus family. And one reason I
 17 mentioned that was the sensitivity of the matters
 18 involved in his death and all of the deaths of these
 19 heroes.

20 I see some inaccuracies in this description.
 21 And I would be concerned that the Corvinus family
 22 might see those inaccuracies and become upset over
 23 them.

24 And so I would hope that there would be some
 25 editorial function of the Law Enforcement Academy

1 Board, whoever develops the press releases and
2 anything that goes in the program, to make sure that
3 it's accurate and it would be viewed by their families
4 and the public in general as being accurate.

5 CHIEF KASSETAS: And I don't think we need to
6 go into a lot of detail. It would be more honoring
7 their service. And I see that the gentleman from the
8 A.G.'s Office has the Officer Down Memorial Page
9 printouts. We usually go by those and keep them
10 pretty nondescript.

11 But certainly, since you're familiar with
12 that case, we can send a press release out for prior
13 review. But you're right. It's an opportunity to
14 honor and remind the public of the sacrifice those
15 officers made. So we can do that upon taking a vote.
16 Good idea.

17 MR. KEY: Thank you.

18 A.G. BALDERAS: Are you asking for a motion
19 to approve?

20 DIRECTOR MARSHALL: Yes, sir. I'm asking for
21 a motion to approve.

22 A.G. BALDERAS: I'll entertain a motion to
23 approve Director Marshall's additions to the 2016 Law
24 Enforcement Memorial Wall.

25 CHIEF KASSETAS: So moved.

1 MR. KEY: I would second.

2 A.G. BALDERAS: Great. There is a motion and
3 a second to approve Director Marshall's addition of
4 the 2016 fallen officers to the Law Enforcement
5 Memorial. All in favor say aye.

6 (Those in favor so indicate.)

7 A.G. BALDERAS: Any in opposition? The
8 motion does pass to include the 2016 addition of the
9 fallen officers to the Law Enforcement Memorial Wall.

10 DIRECTOR MARSHALL: Thank you, sir.
11 ITEM NO. 10: RATIFICATION OF CERTIFICATIONS FOR LAW
12 ENFORCEMENT OFFICERS

13 A.G. BALDERAS: We now move to item No. 10,
14 ratification of certifications for law enforcement
15 officers. This will also be presented by Director
16 Marshall.

17 DIRECTOR MARSHALL: Mr. Chairman, Members of
18 the Board, we would ask for the ratification of
19 certifications for the following law enforcement
20 officers. From the Bernalillo County Sheriff's
21 Academy No. 37, Certification Nos. 16-0347-P through
22 16-0364-P.

23 SHERIFF WALLER: Mr. Chairman, I move that we
24 ratify the certifications listed in Exhibit 1.

25 CHIEF KASSETAS: Second.

1 A.G. BALDERAS: Great. There a motion and a
2 second to approve officer certifications ending in 347
3 all the way through 364 in Exhibit 1. All in favor
4 say aye.

5 (Those in favor so indicate.)

6 A.G. BALDERAS: Any opposition? The motion
7 does pass to accept the certifications in Exhibit 1.

8 ITEM NO. 11: RATIFICATION OF CERTIFICATIONS FOR
9 PUBLIC SAFETY TELECOMMUNICATORS

10 A.G. BALDERAS: Next is item No. 11.
11 Director Marshall.

12 DIRECTOR MARSHALL: Mr. Chairman, Members of
13 the Board, we would move for the ratification of
14 certifications for the Southeastern New Mexico Law
15 Enforcement Academy PST Class No. 11, Certification
16 Nos. 16-0095-PS through 16-0105-PS.

17 A.G. BALDERAS: I'll entertain a motion.

18 CHIEF KASSETAS: So moved.

19 MR. KEY: Second.

20 A.G. BALDERAS: There is a motion and a
21 second to approve certifications ending in 0095 all
22 the way through 0105. All in favor say aye.

23 (Those in favor so indicate.)

24 A.G. BALDERAS: Any opposed? The motion
25 passes to approve certifications ending in 095 all the

1 way through 0105.

2 DIRECTOR MARSHALL: Thank you, Mr. Chairman.
3 ITEM NO. 12: NMAC 10.29.1, GENERAL PROVISIONS;
4 PROPOSAL TO SET PUBLIC HEARING FOR
5 AMENDMENTS TO BOARD RULES

6 A.G. BALDERAS: We now move to item No. 12.
7 The next three agenda items relate to work that has
8 been undertaken by our subcommittee. And I now defer
9 to Board Member Miller and Deputy Director Coss to
10 provide an update.

11 DR. MILLER: Okay. So as a review the rules
12 committee of the Law Enforcement Academy Board has
13 recommended revisions to the Board's Administrative
14 Code. The revisions provided to the Board are found
15 under NMAC Title 10, Chapter 29, Part 1, Part 4, and
16 Part 10.

17 The proposed changes were discussed and
18 deliberated by the committee on conference calls held
19 on January 19th and February 2nd of this year. The
20 committee recommends the revisions as amended and
21 presented to the Board today.

22 So I'm going to go part by part to highlight
23 some of the justifications and rationale for the
24 proposed revision, and then yield to the Board and
25 either Director Marshall or Deputy Director Coss for

1 each one.

2 So for Part 1, general provisions, the
3 revisions would increase transparency of the Board's
4 rulemaking procedures. The proposed changes further
5 clarify requirements for the Board to provide adequate
6 public notice of any proposed rule changes and
7 requires allowance for individuals to submit public
8 comment.

9 The language as written requires the Board to
10 provide sufficient justification for adopting rules
11 and will help ensure the Board's rulemaking process or
12 processes meet all legal standards and prevent any
13 adverse action on review by the district court.

14 Proposed revisions also would require
15 certified officers and telecommunicators to maintain a
16 current mailing address with the academy in order to
17 help ensure that the academy and Board are able to
18 deliver official communication to each certificate
19 holder. So do we want to talk about Part 1 first?

20 MR. COSS: Mr. Chairman. Thank you,
21 Dr. Miller. I would, if we could, I would ask the
22 Board to consider each part separately so if there are
23 any questions.

24 DR. MILLER: Well, I have justifications for
25 4 and 10. I thought we would just do Part 1 and then

1 the others.

2 MR. COSS: Yes, ma'am. I think that would
3 make it as clean as could be. Do we have any
4 questions on 10.29.1?

5 MS. BURNHAM: I have a question. Because I
6 know that there is a rule which requires us to put on
7 the agenda the opportunity for public comment, I agree
8 with this part of our changes.

9 But I can't remember where the opportunity
10 for public comment is specifically set out in the
11 rules. It's not in this section. And I need help,
12 because I want to assure myself that there is in the
13 rules a requirement that we have that public comment
14 part of our agenda. And it's not in this part.

15 MR. COSS: The agenda requirement is I think
16 articulated in the rule, that anybody could petition
17 either any member of the Board or the executive
18 secretary of the Board, the Director of the Law
19 Enforcement Academy, for consideration of an agenda
20 item. The specific requirement for public comments --

21 MS. BURNHAM: That's what I'm talking about.

22 MR. COSS: -- I believe was the section that
23 we just added into the specific language in these
24 changes.

25 MS. BURNHAM: As long as it's there, I'm

1 good.

2 MR. COSS: It is. It is covered. And I'll
3 let counsel --

4 MS. BURNHAM: It's just not in this section,
5 it's in a different section. Okay. Sorry to be
6 confusing.

7 MR. DWORAK: So to clarify, and correct me if
8 I'm wrong, Brian, the change that we're looking at is
9 adding clarification regarding public comment to rule
10 hearings for when the Board is considering proposed
11 rule changes.

12 So the public comment for a regular meeting
13 outside of a rulemaking I think is something that --
14 I'm looking. I thought it might have been in here.
15 It could be added as an agenda item.

16 DR. MILLER: I believe that's where we had
17 mentioned putting it. So I think it looks just like a
18 typo oversight that it didn't get in Section D(6),
19 because I believe we had discussed adding it there.

20 MR. COSS: We had. And if that finalized
21 version does not have that language, I apologize.
22 That was what the committee had ultimately decided,
23 that there would be a very brief sentence adding that
24 in there.

25 But just to kind of further address Board

1 Member Burnham's concern, actually we've increased the
2 opportunity for the public to participate. We've done
3 that through anybody being able to contact the rules
4 committee individually with their concern.

5 As always they can contact the Director. But
6 now they've got the rules committee that they can also
7 contact as these proposals are kind of moving forward.
8 Then we have this meeting in this case where folks can
9 make public comment on the proposed rule changes.

10 MS. BURNHAM: And my concern is with the
11 public's ability to come to this meeting and be heard.
12 And I want that to be required. I personally would
13 like to see that required in the rules.

14 Not discretionary with anybody. I want
15 people to be able to come here and sign up as they
16 clearly are so eager to do.

17 MR. COSS: And that has been the past
18 practice.

19 MS. BURNHAM: I know. But if somebody calls
20 me on the telephone for comment, instead of fumbling
21 all over myself, which I tend to do when I'm called by
22 a newspaper person, I want to be able to say we meet
23 four times a year and the public has a right to appear
24 before us.

25 I just want to be sure that that's covered.

1 Maybe not by this rule but the right rule.

2 MR. DWORAK: If I may, just to make this
3 easier, because I know that this was a discussion of
4 the Board. The Board can easily just make a motion
5 now to have this in the rule that's published.

6 So just to clarify the next steps for the
7 process with this, this language is not finalized
8 until the Board votes on it today. So if the Board
9 wanted to make a lot of changes, you certainly could
10 today. That's within the Board's discretion.

11 But once it's voted on today and published,
12 that's when no more changes can be made, at least
13 substantive changes could be made. So I think it's
14 just easier having an individual motion adding that in
15 here.

16 It would be under 10.29.1.8D(6). And I think
17 after that paragraph C, approval of minutes, to add
18 public comment, I believe that's where the Board and
19 the committee wanted it before.

20 If that was a motion either made by the Board
21 or stipulated by the Board when it made its motion to
22 publish these rules, there's absolutely no legal
23 prohibition with that.

24 So just to make that short, so we don't need
25 to open up the rules and change them again, you

1 certainly can clarify that addition today.

2 MS. BURNHAM: I would move to add, as counsel
3 has indicated we can, the words public comment to
4 10.29.1.8D(6). And it would come as D, opportunity
5 for public comment.

6 CHIEF KASSETAS: Should it read opportunity
7 for public comment, length and duration to be
8 determined by Chair?

9 MS. BURNHAM: As long as I get that
10 requirement in there, I will be a happy camper.

11 A.G. BALDERAS: There is a motion to add
12 public comment, 10.29.1.8, No. 6, as item D.

13 MS. BURNHAM: Yes.

14 A.G. BALDERAS: And obviously the remainder
15 portions of the agenda, order of business I should
16 say, at regular meetings would also I would assume
17 have proper correlating letters in order.

18 MS. BURNHAM: Right.

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

21 DR. MILLER: Second.

22 A.G. BALDERAS: There is a second.

23 MR. KEY: May I ask a question, Mr. Chair.
24 Does the motion and the second include the language,
25 the parenthetical, length and duration to be

1 determined by the Chair, or not?

2 A.G. BALDERAS: I believe we should discuss
3 that. I only put it in as public comment. I did not
4 add any additional language to the motion. If you
5 believe that's defective, we should talk about that.

6 CHIEF KASSETAS: The ability for the public
7 to comment in front of this forum and Board is
8 extremely important. And I get that. And I've been
9 part of this Board for close to four years I think.
10 The question is managing that with the time that we
11 have.

12 So is it built into the process that the
13 Chair -- it doesn't have to be said in the rule. But
14 that the Chair can manage that? Maybe it's not built
15 in. But it is an acceptable practice for the Chair to
16 control that portion of public comment so the Board
17 still can conduct its business as it needs to.

18 So maybe we need it vague. And then whoever
19 is sitting in that chair, in the Chair's position, can
20 further define what is or isn't -- and I know we have
21 a five minute time limit now.

22 And based on the topic, it could even be, at
23 that point in time, raised by the Chair. He or she
24 could say, well, this is a topic that we want to spend
25 15 minutes on discussing with that individual.

1 So maybe we leave it vague and it's more of a
2 returning question. Can the Chair still be empowered
3 to set those parameters.

4 MS. BURNHAM: I personally think that he or
5 she could. I mean the Chair is in charge of the
6 meeting from start to finish. And if somebody goes on
7 unreasonably long, I think that's up to the Chair to
8 stem that.

9 CHIEF KASSETAS: Would the attorney from the
10 A.G.'s Office agree with that?

11 MR. DWORAK: Chairman, Chief Kassetas, yes.
12 I think that there's no restriction at all. And
13 consistent with other boards, I think that that's
14 reasonable.

15 The main advice I would generally give is
16 that, if public comment is restricted, it needs to be
17 done so in terms of time consistently. So if it's
18 five minutes at that meeting, it would be five minutes
19 for everyone.

20 CHIEF KASSETAS: That clears it up for me.
21 Consistency is good, especially with other boards.
22 Again it's not to hinder any public comment, it's to
23 manage the time of the Board. And I appreciate that.

24 So I would pull back my suggestion, because
25 it wasn't a motion that we add that extra verbiage in

1 there. If you're okay with that, Scot.

2 MR. KEY: I'm fine with that.

3 A.G. BALDERAS: Any further questions or
4 discussion on the motion? All in favor to add to
5 10.29.18, No. 6, which would be item D, public
6 comment, say aye.

7 (Those in favor so indicate.)

8 A.G. BALDERAS: Any in opposition? The
9 motion does pass to add item D, public comment, to the
10 order of business regular Board meetings.

11 We can now move to the next portion of your
12 rules presentation.

13 MR. DWORAK: Just to clarify, the motion on
14 the table still would be to continue to consider
15 Part 1, and then the Board would need to adopt all of
16 Part 1.

17 MR. COSS: Thank you. So I would ask the
18 Board to consider adopting 10.29.1 as amended to move
19 forward to rulemaking.

20 MR. KEY: I would make a motion that we
21 approve the proposed 10.29.1, general provisions,
22 obviously with the prior approved addition of public
23 comment.

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

25 MS. BURNHAM: Second.

1 MR. DWORAK: May I clarify one thing.

2 A.G. BALDERAS: Sure.

3 MR. DWORAK: Thank you, Mr. Chair. Members
4 of the Board, just to clarify, because I want to make
5 it clear to the Board and for the record. The Board
6 is only approving these to be published and then set
7 for hearing.

8 So the Board will have another opportunity to
9 actually vote to adopt them. So the Board is not
10 voting to adopt this.

11 A.G. BALDERAS: It's just for publishing in
12 the NMAC.

13 MR. DWORAK: Correct.

14 A.G. BALDERAS: That actually is a good
15 clarification.

16 So there is a motion and a second to publish
17 to continue rulemaking process the adoption of
18 10.29.1, general provisions. All in favor.

19 (Those in favor so indicate.)

20 A.G. BALDERAS: Any in opposition? The
21 motion does pass to begin publishing.

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

23 ITEM NO. 13: NMAC 10.29.4, INSTRUCTOR CERTIFICATION;
24 PROPOSAL TO SET PUBLIC HEARING FOR
25 AMENDMENTS TO BOARD RULES

1 A.G. BALDERAS: We can move to the next
2 agenda item.

3 MR. COSS: The next consideration is for
4 10.29.4, instructor certifications. And I'll yield to
5 Dr. Miller.

6 DR. MILLER: So for 10.29.4, instructor
7 certification, the proposed revisions would bring the
8 academy into current standards of training and clarify
9 requirements for the individual to train and apply to
10 be an instructor.

11 The revisions create consistency and
12 transparency by aligning the rules with the Law
13 Enforcement Training Act. Proposed revisions will
14 help ensure candidates receive timely and relevant
15 training unique to New Mexico and that training
16 requirements are provided in clear and understandable
17 language.

18 MR. COSS: Thank you. I'll stand for any
19 questions the Board may have on specifically 10.29.4,
20 instructor certification.

21 A.G. BALDERAS: Are there any questions?

22 I'll entertain a motion to approve for
23 publishing.

24 CHIEF KASSETAS: So moved.

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

1 MS. BURNHAM: Second.

2 A.G. BALDERAS: There is a motion and a
3 second to approve for publishing instructor
4 certifications, 10.29.4. All in favor.

5 (Those in favor so indicate.)

6 A.G. BALDERAS: Any opposition? The motion
7 does pass to begin publishing for the Administrative
8 Code 10.29.4, instructor certification.

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

10 ITEM NO. 14: NMAC 10.29.10, PUBLIC SAFETY
11 TELECOMMUNICATOR MINIMUM STANDARDS OF TRAINING;
12 PROPOSAL TO SET PUBLIC HEARING FOR
13 AMENDMENTS TO BOARD RULES

14 A.G. BALDERAS: Mr. Coss, go ahead.

15 MR. COSS: Mr. Chairman, Members of the
16 Board, we offer consideration for a proposed rule
17 change to 10.29.10, public safety telecommunicator
18 minimum standards of training. And I'll yield to
19 Dr. Miller.

20 DR. MILLER: So for 10.29.10, public safety
21 telecommunicator, the revisions update outdated
22 language and clarify terminology used in the current
23 rules. Proposed revisions would bring the academy
24 into current standards and industry best practices
25 relating to training for public safety

1 telecommunicators.

2 The changes provide more transparency for
3 training requirements and add additional training
4 requirements.

5 MR. COSS: Thank you, Dr. Miller. And I
6 stand for any questions the Board may have on
7 10.29.10, public safety telecommunicator minimum
8 standards of training.

9 A.G. BALDERAS: I'll entertain a motion to
10 publish.

11 MS. BURNHAM: I move to publish the public
12 safety telecommunicator minimum standards of training
13 rule change.

14 A.G. BALDERAS: Is there a second to that?

15 SHERIFF WALLER: Second.

16 A.G. BALDERAS: There is a motion and a
17 second to adopt publication of public safety
18 telecommunicator training. All in favor say aye.

19 (Those in favor so indicate.)

20 A.G. BALDERAS: Any opposition? The motion
21 does pass to approve for publishing in the
22 Administrative Code rulemaking process 10.29.10,
23 public safety telecommunicator minimum standards of
24 training.

25 MR. COSS: Thank you.

1 A.G. BALDERAS: Thank you.

2 Are there questions as to what the next steps
3 are for this publication? I would just quickly
4 clarify, Counsel, the opportunity for public or
5 further Board input on this process.

6 MR. DWORAK: Sure. Chairman, Members of the
7 Board, the next step in this process is finalizing the
8 rules and the format required by the records center,
9 which I think is pretty much there except for the one
10 minor alteration.

11 And then from that point the Board's proposed
12 rules will be published for a minimum of 30 days in
13 both the State Register as well as a newspaper. And
14 then we will hold a rule hearing, at which time the
15 public can make comments, you know, proposed changes,
16 or provide any documentation or evidence related to
17 the rule change.

18 And then from there we'll have a transcript
19 and complete the record of the rule hearing. And then
20 it will be brought back before the Board as we did
21 last in September.

22 And then at that point the Board will review
23 the records, you know, look at whatever public comment
24 may have been made, and then vote to adopt the rule
25 change. So that's it in a nutshell.

1 A.G. BALDERAS: Great. Any questions? Thank
2 you, Counsel.

3 ITEM NO. 15: REQUEST REGARDING SHERIFF HARVEY REENTRY
4 INTO BASIC ACADEMY

5 A.G. BALDERAS: We now go to item No. 15.
6 Agenda item 15 was placed on the agenda at the request
7 of Sheriff Elva Harvey.

8 Ms. Harvey, you do have the floor. Thank you
9 for being with us.

10 SHERIFF HARVEY: Thank you for having me.

11 Good morning, Chairman and Members of the
12 Board. So today I'm here to follow up on an item that
13 was placed on the agenda on September 6th of last
14 year. It was for my reentrance to the academy at week
15 11, where I left off.

16 So I'm just here to follow up and see what
17 legal advice you have received and to see what --
18 there was supposed to be research from the Director on
19 other states. I'm just here to follow up.

20 A.G. BALDERAS: Thank you. Are there any
21 questions from the Board?

22 CHIEF KASSETAS: Mr. Chair, what is the
23 research from the Director? What did you do, Steve,
24 since September? When did you mention you were last
25 here?

1 SHERIFF HARVEY: September 6th.

2 CHIEF KASSETAS: We did not make a decision
3 or were asked to make a decision at that point. You
4 had asked the Board to allow you to reenter in week
5 11.

6 SHERIFF HARVEY: Yes.

7 CHIEF KASSETAS: Did you do anything since
8 then?

9 DIRECTOR MARSHALL: Mr. Chair, Chief
10 Kassetas, we looked at other academies online, looked
11 through various other issues, and we talked about it
12 at the last meeting. I don't believe Sheriff Harvey
13 attended the last meeting.

14 We talked about it during the Director's
15 report last time. I haven't been able to find
16 anything that says anybody else has done it. I can't
17 find a similar system, not only in the academies, but
18 in other educational options.

19 I think the problem, as we discussed at the
20 last meeting, is I can't guarantee that what training
21 she would get coming in at week 11 would correlate
22 with the training she would have received at week 11
23 the last time.

24 CHIEF KASSETAS: I understand that. Shifting
25 back focus to what you're trying to do, you're the

Page 62

1 sheriff of what county?
 2 SHERIFF HARVEY: De Baca County.
 3 CHIEF KASSETAS: De Baca. You were voted in?
 4 SHERIFF HARVEY: Yes, sir.
 5 CHIEF KASSETAS: And you did not have a prior
 6 law enforcement certification?
 7 SHERIFF HARVEY: No.
 8 CHIEF KASSETAS: Where was your experience,
 9 did you have experience as a law enforcement officer
 10 ever?
 11 SHERIFF HARVEY: Yes. There in De Baca
 12 County.
 13 CHIEF KASSETAS: In De Baca County?
 14 SHERIFF HARVEY: Uh-huh.
 15 CHIEF KASSETAS: You were never certified,
 16 though?
 17 SHERIFF HARVEY: No. Just prior to the
 18 academy.
 19 CHIEF KASSETAS: So you were a deputy?
 20 SHERIFF HARVEY: Uh-huh.
 21 CHIEF KASSETAS: You were going through the
 22 process, you got to week 11, and then now you're the
 23 sheriff?
 24 SHERIFF HARVEY: Yes.
 25 CHIEF KASSETAS: So, one, does the sheriff

Page 64

1 academy.
 2 I had made the motion and requested that the
 3 academy staff address this to let us know if that's
 4 possible, what types of problems that might create for
 5 the academy, if it was workable or not.
 6 I also requested the Attorney General's
 7 Office provide us with some legal guidance, because I
 8 think we've had a number of these requests in the
 9 past. And there's always this big question mark over
 10 those, do we have jurisdiction to address that or not.
 11 And so that's where we left off two meetings
 12 back. I missed the last meeting. I did read in the
 13 minutes where Director Marshall did address the
 14 academy's concerns.
 15 CHIEF KASSETAS: And directly to your
 16 request, your asking us as a Board to green-light you
 17 going back into and finishing week 11 is problematic
 18 for me in two ways. One is that the curriculum and
 19 structure has changed since you went through in 2015?
 20 SHERIFF HARVEY: Yes.
 21 CHIEF KASSETAS: And two, it's a managerial
 22 or a management issue in managing that 16 weeks. I do
 23 think that then, if we set a precedent that at any
 24 time, whether you drop out because of an injury -- not
 25 because you're kicked out. Normally people that are

Page 63

1 have to be certified in the State of New Mexico?
 2 SHERIFF HARVEY: No.
 3 CHIEF KASSETAS: Two, from a management
 4 perspective, if we allowed you to come back in week 11
 5 and the academy runs a 16-week process, that would
 6 then open the door for anybody that dropped out at any
 7 time to reenter the academy at that particular week.
 8 Wouldn't you say that would be true if we allowed you
 9 to do this?
 10 SHERIFF HARVEY: Not necessarily. I think
 11 it's case-by-case at this point. I think my situation
 12 is different from let's say somebody that did
 13 something to deserve to be kicked out.
 14 SHERIFF WALLER: Mr. Chair, we had discussed
 15 this two meetings back. This was the case where we
 16 adjusted our standard.
 17 At that time Scott Conner was the De Baca
 18 County Sheriff. And he presented to the Board
 19 requesting a change on the standard to make allowances
 20 for the elevation during the run at the academy. The
 21 Board did approve those changes.
 22 And this was the case that was addressed with
 23 that request. Then she became sheriff and approached
 24 the Board, requesting that she be allowed to begin the
 25 next academy where she had left off with the previous

Page 65

1 kicked out don't come back because they're sponsored
 2 by their agency.
 3 And I don't recall your circumstance. But if
 4 it was an injury or sometimes people self-remove
 5 themselves from the academy for personal reasons and
 6 then decide to come back, we are then bound to put
 7 folks through academies at certain time periods. And
 8 that is a very difficult thing to manage.
 9 I would only think that the prudent thing to
 10 do would be go back through the 16-week school. And
 11 nothing precludes you from doing that. Personally
 12 there may be something.
 13 I couldn't support allowing you -- and I'm
 14 just one Board Member -- to come back at week 11. I
 15 think you should come back and start over from the
 16 beginning.
 17 DR. MILLER: Didn't we have a conversation
 18 about the time management of this, about how you were
 19 serving the role of sheriff and then at the same time
 20 completing your training?
 21 SHERIFF HARVEY: Yes.
 22 DR. MILLER: And didn't you say it was
 23 possible that -- I don't remember how this worked. It
 24 was like weekends you could do the training? You had
 25 some sort of schematic.

1 SHERIFF HARVEY: It was if I attended the
2 academy in Hobbs, if I were to have to do the whole
3 academy again. Because I believe they're a
4 four-day -- they have a four-day curriculum.

5 DR. MILLER: Okay. So there is the option
6 for you to go through the academy at Hobbs. And
7 you're doing like a four-day/three-day split?

8 SHERIFF HARVEY: Uh-huh.

9 DR. MILLER: Do you know if your department
10 supports you doing that from a time management
11 perspective?

12 SHERIFF HARVEY: Yes.

13 DR. MILLER: So it's your decision?

14 SHERIFF HARVEY: Yes. Basically it's my
15 decision. My concern is that if I leave, you know,
16 the sheriff, you know, the head of the department, you
17 know, it's crucial for me to be there and be there for
18 my deputies and my community as well.

19 So that's what my concern is, a 16-week
20 course versus a five-week course, you know, to finish.
21 And I do believe it was 2016. And I was injured and I
22 was kicked out.

23 CHIEF KASSETAS: Well, kicked out is a
24 term -- if you're injured, you can't complete it. I
25 don't want there to be anything disparaging on the

1 academies. When someone injures themselves in the
2 course of the academy, the doctors won't allow them to
3 participate. There's no way they can keep you.

4 You know, it's being discussed in the
5 legislature now, is why are there not standards for
6 sheriffs; because it is an elected law enforcement
7 position. And you're right in the middle of that.

8 And that bill was tabled because there are
9 certain people that look at that and say it's a
10 Constitutional right for folks that are voted in to
11 not have to have those standards. But we're an
12 organization with some very high standards, wouldn't
13 you say, as far as law enforcement goes.

14 So I see what you want to do. You don't need
15 that certification, but you want to carry a badge and
16 a gun. And the right thing to do is to get it. The
17 question is what is the vehicle to do that, what is
18 the right thing to do in this case.

19 And in my opinion the right thing to do is to
20 start and finish the academy, again remake that
21 commitment, and hopefully you don't get injured again.

22 Or else we open up a scenario where every
23 academy director is going to have to deal with a
24 precedent set that, anytime you're injured, you can
25 reenter at a certain point in time; not knowing that

1 there could be some consistency issues with the
2 training that was put in place.

3 Again it's nothing personal. It's just a
4 matter of management and moving forward. It's
5 probably the best and right thing to do in my opinion,
6 one Board member's opinion.

7 DR. MILLER: How much longer is your term of
8 office?

9 SHERIFF HARVEY: Until December 31st of 2018.

10 DR. MILLER: So a year and a half more or
11 less.

12 SHERIFF WALLER: Chief, I agree with what you
13 said. I think it would be a logistical nightmare for
14 the academy if this was the common practice. My
15 concern with this particular case was, as a standards
16 board, we adjust to the standard based upon this case.

17 I would support this on a one-time basis
18 because of the circumstances that surrounded this and
19 the action that the Board took as a result of what
20 happened with your situation.

21 DR. MILLER: I appreciate that, because
22 you're an elected official, that means the residents
23 of De Baca County do trust you because they voted you
24 into office.

25 As someone who is here to represent citizen

1 opinions, however, I want my law enforcement officers
2 to have all the training available to them and to have
3 the full force of a law enforcement certification
4 behind them.

5 And I would think that, from a campaign
6 standpoint, if you were running for reelection, to say
7 that you had done this would be points in your favor
8 for residents of De Baca County.

9 So where I net out is I don't want to open
10 the door to all and sundry to come back. It's not
11 that I'm not sympathetic, it's not that I don't
12 understand your rationale, it is not that I think you
13 would somehow be negatively affected in your training
14 if you slotted back in at some point.

15 It really comes to the bigger picture of
16 everybody. And, you know, as you heard in the
17 Director's report, with the State's challenges, it
18 just sets us up to allow for a chink in the armor in
19 law enforcement training.

20 And so I still net out at I appreciate that
21 you're thinking, oh, gosh, you know, so much time.
22 And I also know, just from your own personal time
23 management and your personal life, it's going to be
24 hard.

25 But I still net out in that I think there's

1 honor in doing it. And I think, if you did it that
2 way, you would be really proud of yourself. And I
3 think the residents of De Baca County would be too.

4 CHIEF KASSETAS: Mr. Chairman, I would like
5 to add that I don't know if this Board has the
6 authority to make this decision. Could you imagine
7 getting appeal upon appeal upon appeal. Not only from
8 the sheriff, but others.

9 We started our academy with 40 people? And
10 four were injured? Say four, five, six. Would the
11 Board then make a decision and then tell me, as the
12 State Police Chief running an academy, let those four
13 people back in?

14 Whose real decision is that? I have my
15 opinion and I've stated it. But is it the director's
16 decision for that particular academy, is it the Law
17 Enforcement Academy's decision? Where does that lie?
18 And that is a legal question that I don't know the
19 answer to.

20 For all intents and purposes, we could say,
21 yeah, sure, send the sheriff back through; and then
22 have the academy director say it's not possible, it's
23 not feasible, it doesn't work for this academy, we
24 can't do it.

25 How do we figure that out and do we need to

1 do that research? I think that's what we kind of
2 asked before but maybe not directly. That is a lawyer
3 question. And I always state at every meeting I'm not
4 a lawyer.

5 MR. KEY: Sheriff, you should note that part
6 of our approval for publication and the further
7 rulemaking procedures of these rules that you've
8 listened to, I see that in 10.29.1.10D, there's a
9 section that was drafted and will go to rulemaking;
10 and maybe it will make it through.

11 But it is entitled Withdrawal, Dismissal, and
12 Enrollment. And it says, "During the course of an
13 academy program, if an enrolled student is unable to
14 complete the full course of academy instruction,
15 whether due to personal absence, withdrawal, or
16 dismissal by the academy, the student will be required
17 to reenroll and complete the academy course in its
18 entirety regardless of drop date."

19 Now, that's the proposed language. And maybe
20 it will make it through the rulemaking process. And
21 if it will, it kind of directs, you know, academy
22 attendees as to what is out there in terms of the
23 requirement to attend the whole academy.

24 Looking back in September of 2016, when you
25 made your first presentation, we talked about it. And

1 I remember the comments from the Board that this was
2 kind of a new area.

3 And our Director and Deputy Director
4 indicated to all those in attendance and to you that
5 we hadn't -- there's no rules that allow us to do it.

6 And I think Chief Kassetas is kind of
7 probably right in the analysis that I guess, from your
8 point of view, that there's a window of opportunity
9 for you to try to get back in at a particular week of
10 the academy.

11 But I think especially now, when we have the
12 rulemaking process, we may be looking forward to other
13 folks that have been injured to come forward in the
14 appeals process or lawsuits or whatever.

15 And so I think this kind of exemplifies that
16 we probably can't do it for legitimate reasons,
17 although we probably all support you in your efforts.
18 And I think you've done a wonderful presentation here
19 and back in September as well.

20 I personally don't think I would be able to
21 vote for it for the very real reasons that we may be
22 opening the door for litigation and probably people
23 coming forward to the Director's office knocking on
24 the door saying I need for you to waive the rules in
25 order for me to reenter.

1 So I guess I don't know if that was designed
2 for Sheriff Harvey or whether it was for all of these
3 things. I don't recall how that got in there. But
4 certainly I appreciate you being here. I support you
5 being sheriff.

6 SHERIFF HARVEY: Thank you. And I would just
7 like to bring up that there is a deputy in my
8 department that went through the Hobbs academy in I
9 want to say 2012. And he was injured and had to have
10 knee surgery and he was allowed to go back.

11 So that's why I've been, you know, so
12 persistent on this. Because I know it's been done
13 before. And so I just thought I would give it another
14 shot. Thank you all.

15 MR. KEY: Can I ask you a question about
16 that. Do you happen to know whether that deputy was
17 allowed back in because of the director's discretion
18 under the old director or one of the old directors?

19 SHERIFF HARVEY: I do not know, sir.

20 MR. KEY: Okay. And I should not be a
21 betting man. But I'll bet you in that situation it
22 did not come before the Board.

23 SHERIFF HARVEY: I don't think so. I don't
24 think it got that far.

25 MR. KEY: It probably went through the

1 Director's office.

2 CHIEF KASSETAS: I unfortunately don't think
3 we have an answer for you here yet because we have to
4 determine as a Board what our parameters are.

5 And I think in my opinion, looking back, this
6 would have been a moot point; because you would have
7 already completed the 16-week academy.

8 You need to make a decision on whether you
9 enter the next one in Hobbs, when that starts, or you
10 continue to wait on us to figure out if there are
11 rules that are promulgated or any historic background
12 that can shed light on this. I'm sure the Director
13 will look into that. That was probably a one-off
14 situation.

15 Again I just want to reiterate, from a
16 management perspective, this is an impossible thing to
17 manage. Can you imagine how many people come through
18 all of our academies, nine satellite academies. How
19 many people are injured unfortunately and then having
20 to reenter those folks.

21 It is an unbelievable amount of management
22 effort. Maybe it should be done. But I don't know
23 how it would be done. So I don't think we have an
24 answer for the sheriff today from this Board, which is
25 not problematic because you can continue to do your

1 role, correct, as an elected official?

2 SHERIFF HARVEY: Yes, sir.

3 A.G. BALDERAS: Are you running for
4 reelection?

5 SHERIFF HARVEY: Yes, sir.

6 A.G. BALDERAS: Are we aware of what the
7 practice is on the academy leader's discretion on
8 letting cadets back in after an injury? Can we
9 respond to that.

10 DIRECTOR MARSHALL: Mr. Chairman, if I may,
11 the understanding I have of the situation in Hobbs was
12 someone who was injured at the conclusion of training.
13 It wasn't a matter of coming back into the class and
14 taking the next academy class. He was injured at the
15 conclusion of the training.

16 The only other situation I'm aware of, where
17 this was requested, was out of the Hobbs academy I
18 think a year or so later, with a cadet who got
19 pregnant during the class and had to drop out of the
20 class.

21 She came forward asking to come back in
22 similarly, and the Board voted against it. I believe
23 that was decided at the Gallup meeting. So the issue
24 has come before the Board on one other occasion.

25 The Board denied the ability to come back in

1 partway through. Like I said, I believe the training
2 had been concluded on the other cadet was my
3 understanding.

4 CHIEF KASSETAS: Okay. Sheriff, did that
5 clarify that or do you disagree factually?

6 SHERIFF HARVEY: I would have to ask him
7 again, I would have to ask my deputy and see what his
8 situation was specifically.

9 CHIEF KASSETAS: Mr. Chair, that may be a
10 conversation between the sheriff and the Director, if
11 you feel comfortable giving the name of your deputy.

12 SHERIFF HARVEY: Sure.

13 CHIEF KASSETAS: That way we can do some
14 research and look at that at least to give us a
15 baseline.

16 A.G. BALDERAS: Sheriff, I appreciate you
17 coming by and asking, one, if we had made any progress
18 toward a decision or a conclusion. I think you've
19 heard various feedback. It doesn't sound like we have
20 a remedy at this time to vote on that would satisfy
21 your request.

22 So as other Board members stated, we are very
23 supportive. And I think you can hear that we are very
24 conflicted to actually vote on directing the academy
25 to let you back in at week 11.

1 However, I will say as well, and I would want
2 to clarify with Board Member Key, that it seems like,
3 if you go on and win reelection and we have not voted
4 on a remedy -- and I think the majority of us are
5 concerned that, not only is there a direct rule
6 governing the readmission, but there are clear
7 provisions on what allows somebody to be admitted.

8 And then there's clear authority, which we're
9 all very comfortable with, in decertifying officers.
10 But you are in a very gray spot considering there's
11 not a direct rule for the remedy.

12 However, I will say this, if you're willing
13 to stay active and involved, just because we're not
14 able to vote directly on your specific request, I am a
15 little concerned as the chair -- and I know we've
16 wrestled with this before -- what is the definition of
17 a medical injury. And this got into the pregnancy of
18 a previous cadet.

19 So we've done reviews. I will say you should
20 stay involved in the rulemaking process because I
21 think your experience would be valuable. I don't see
22 the rule that is up for proposal and consideration.
23 There's a clear prohibition on reentry.

24 I do think there could be some strengthening
25 of the rule concerning the status of a cadet changing

1 once they leave. There need to be definitions. And
2 there does need to be more due process and
3 notification of what a cadet is walking away from and
4 what limited ability we will have moving forward.

5 And so I would stay engaged in that. I think
6 that's an area where you can strengthen, especially if
7 it was a practice every now and then, to let under
8 discretion individuals back in. I think the process
9 should be more fair and definitely more detailed.

10 And I know we're worried about litigation and
11 being fair and consistent. But I do think that's an
12 area where academies could improve the documentation,
13 the process by which they determine medical injury,
14 and almost like an abundance of built-in disclosures,
15 both to the academy and to the cadet.

16 Because I think, when it gets to our level,
17 there is not a consistency in practice. You're
18 advised to come petition. We hear oral reports.

19 But unless we do a review, which I don't
20 think is a healthy or, as you can tell, an efficient
21 process, between September and now, I don't know that
22 we've gotten more authority or more detail in your
23 unfortunate situation.

24 So that is an area of the rule that I think,
25 if we just request within the rule itemization of what

1 the cadet's understanding is, what the Director's
2 understanding is. There is a way to beef that process
3 up so that the cadet is more informed rather than
4 months and years later coming back for a request. I
5 think that that's an area of the rule we can improve
6 on.

7 CHIEF KASSETAS: Mr. Chair, it's an awkward
8 position we're put in, because the academy doesn't
9 make that decision in a vacuum. Not in your case,
10 Sheriff. I'm not saying that.

11 But there's a doctor involved. And there's
12 documentation that says this particular person cannot
13 continue forward unless the academy is willing to
14 allow them to possibly not participate.

15 If it's a defensive tactics two-week block,
16 they're going to miss it; if the doctor had said,
17 well, after that they can make up that time. There's
18 some flexibility built in there. But at the end of
19 the day, if they're unable to participate, a decision
20 has to be made by the cadet, the academy, and, of
21 course, the sponsoring agency.

22 But the bigger question is do we even have
23 that authority as a Board to allow someone to ask us
24 to reenter an academy. It's not just this academy.
25 Remember, there are nine satellite academies.

1 So we're talking about Albuquerque Police
2 Department may be bound to our decision, New Mexico
3 State Police. And I would have a hard time living
4 with putting someone back in our academy in a
5 particular time frame because that curriculum does
6 change. It's a tough scenario that you put us in.
7 Not you personally, but we were put in. Thank you.

8 SHERIFF HARVEY: Thank you.

9 A.G. BALDERAS: Thank you, Sheriff.

10 SHERIFF HARVEY: So just for closure I guess,
11 where would I go from here?

12 A.G. BALDERAS: That's a good question. So
13 we don't keep exhausting your time, I don't believe
14 we've taken action on your request.

15 I think some of the advice from the Board was
16 not only that a readmission is probably the best
17 advice, but I think there's even discussion as to
18 making it clear in the rule, because we didn't have a
19 rule to act upon, that for withdrawals or dismissals
20 by the academy, the student will be required to
21 reenroll.

22 So I think the general direction is this
23 Board, for fairness and consistency, is going to be
24 requiring a reenrollment unfortunately. What I was
25 saying, to be more specific, was you have reenrollment

1 as an option.

2 But I was even saying that I think where I'm
3 already reading the future potential rule is there's a
4 deficiency in the rule; not that we require specific
5 knowledge of what the Director and the cadet's
6 communication is.

7 But there should be at least a uniformity of
8 what that is, what was the process by which a student
9 disenrolled and left the academy; because there are
10 major consequences once they leave.

11 So I was thinking more of a uniformity of
12 like if there's a one-hour meeting and that these
13 three disclosures were provided to the cadet and the
14 cadet understood them. You know, in other words, what
15 is that process and that there be some consistency
16 with the academies.

17 I think that is probably the area of dispute
18 that we don't have a lot of information on, especially
19 if we're not going to have authority and there are
20 going to be strict consequences of disenrollment. So
21 I wish I had a better answer for you.

22 CHIEF KASSETAS: I can maybe surmise it. You
23 have two choices, which is continue in your current
24 capacity as an elected sheriff, not needing that
25 certification; and if it's something you personally

want, to reenroll in the whole new 16-week academy. Now, that may change down the road when we do these rule changes. But you're just waiting for us to make a decision. I think those are the two choices you have today. Anybody else on the Board?

MS. BURNHAM: Sheriff, I would just encourage you to go ahead and bite the bullet, just go ahead and do the whole academy. We're still up in the air about it. But you need some closure.

I admire you so much. And I salute you for your leadership. And for you to be in limbo until this rule change tells everybody clearly and, from the very beginning, this is what will happen if you drop out, I just think I would get on with my life and get the certification the hard way and be done with it.

In 16 weeks you'll be done. And you've waited 16 weeks now. You would be done. And there's something to be said for that. But that's just on a personal note.

SHERIFF HARVEY: Thank you.

A.G. BALDERAS: Thank you, Sheriff.

SHERIFF HARVEY: Thank you.

A.G. BALDERAS: So we now would ask the members of the community if they could just step out. I'll actually entertain a motion to go into executive

session.

CHIEF KASSETAS: So moved.

A.G. BALDERAS: Is there a second?

MR. KEY: Second.

MR. DWORAK: Just to clarify for the record, that's for the pending litigation exception to the Open Meetings Act. And we need a roll call vote.

MS. MEDRANO: Hector Balderas.

A.G. BALDERAS: In favor.

MS. MEDRANO: Scot Key.

MR. KEY: Yes.

MS. MEDRANO: Pete Kassetas.

CHIEF KASSETAS: Yes.

MS. MEDRANO: Sheriff Wesley Waller.

SHERIFF WALLER: Yes.

MS. MEDRANO: Kelly Burnham.

MS. BURNHAM: Yes.

MS. MEDRANO: Elisabeth Miller.

DR. MILLER: Yes.

A.G. BALDERAS: Any in opposition? Okay.

The motion does pass to go into executive session.

(Recess from 10:22 a.m. to 12:13 p.m.)

ITEM NO. 28: RETURN TO OPEN SESSION; ACTION ON MATTERS DISCUSSED IN CLOSED SESSION

CHIEF KASSETAS: This Board is back in open

session and on the record. The current time is 12:13 p.m.

Let the record show that the matters discussed during the closed session were limited only to those specified in the motion for closure and that no votes or official action were taken.

So now we're back in our open meeting. There's no vote necessary to go back into open session. And we are going to deal with the disciplinary matters.

ITEM NO. 16: PROPOSED SETTLEMENT ON PENDING LITIGATION CASE D-101-CV-2014-02038

CHIEF KASSETAS: Let's go back to agenda item 16, pending litigation. Do we have a motion in this matter?

DR. MILLER: Yes. Mr. Chairman, I move to accept the proposed settlement on pending litigation Case D-101-CV-2014-02038.

CHIEF KASSETAS: Do we have a second?

SHERIFF WALLER: Second.

CHIEF KASSETAS: All those in favor.

(Those in favor so indicate.)

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

ITEM NO. 17: JERMAINE HARRIS

CHIEF KASSETAS: We're going now to proposed dismissals. Item No. 17, Jermaine Harris.

MR. KEY: Mr. Chairman, I make a motion that we approve the dismissal of this matter.

CHIEF KASSETAS: We have a motion for dismissal. Do we have a second?

MS. BURNHAM: Second.

CHIEF KASSETAS: All those in favor.

(Those in favor so indicate.)

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

ITEM NO. 18: CHRISTOPHER BLEA

CHIEF KASSETAS: Proposed orders of suspension, No. 18, Christopher Blea. Do we have a motion?

SHERIFF WALLER: Mr. Chairman, I move to approve the order of suspension for six months.

CHIEF KASSETAS: We have a motion for an order of suspension for six months. Do we have a second?

MR. KEY: Second.

CHIEF KASSETAS: All those in favor.

(Those in favor so indicate.)

CHIEF KASSETAS: Any opposed? Hearing none the motion carries. Please let the record reflect

1 that I recused myself from item No. 18, Christopher
2 Blea.

3 ITEM NO. 19: ALAN HENDERICKSON
4 CHIEF KASSETAS: Next is item No. 19, Alan
5 Henderickson. Do we have a motion?

6 MS. BURNHAM: Yes. Mr. Vice Chairman, move
7 to approve the order of suspension for a period of
8 90 days.

9 CHIEF KASSETAS: We have a motion for a
10 90-day suspension. Do we have a second?

11 MR. KEY: Second.

12 CHIEF KASSETAS: All those in favor.

13 (Those in favor so indicate.)

14 CHIEF KASSETAS: Any opposed? Hearing none
15 the motion carries. Please let the record reflect
16 that I recused myself from item No. 19, Alan
17 Henderickson.

18 ITEM NO. 20: FREDERICK MILLER

19 CHIEF KASSETAS: Item No. 20, Frederick
20 Miller.

21 DR. MILLER: Mr. Chairman, I move that the
22 Board approve the order of a three-year suspension.

23 CHIEF KASSETAS: We have a motion for a
24 three-year suspension. Do we have a second?

25 SHERIFF WALLER: Second.

1 CHIEF KASSETAS: We have a second. All those
2 in favor.

3 (Those in favor so indicate.)

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

6 ITEM NO. 21: KOREN VANDERWEELE

7 CHIEF KASSETAS: Item No. 21, Koren
8 Vanderweele. Do we have a motion?

9 SHERIFF WALLER: Mr. Chairman, I move that we
10 approve the order of suspension for one year.

11 CHIEF KASSETAS: We have a motion for a
12 one-year suspension. Do we have a second?

13 MS. BURNHAM: Second.

14 CHIEF KASSETAS: All those in favor.

15 (Those in favor so indicate.)

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

18 ITEM NO. 22: CRUZ ZAVALA

19 CHIEF KASSETAS: Proposed orders of
20 revocation. Number 22, Cruz Zavala. Do we have a
21 motion?

22 MR. KEY: Mr. Vice Chair, I move for the
23 revocation of Mr. Zavala.

24 CHIEF KASSETAS: Do we have a second?

25 MS. BURNHAM: Second.

1 CHIEF KASSETAS: All those in favor.
2 (Those in favor so indicate.)

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

5 ITEM NO. 23: ANDREA DOBYNS

6 CHIEF KASSETAS: Proposed settlements. Item
7 No. 23, Andrea Dobyns.

8 DR. MILLER: Mr. Chairman, I move that the
9 Board approve the stipulated settlement agreement of a
10 six-month suspension.

11 CHIEF KASSETAS: Do we have a second?

12 SHERIFF WALLER: Second.

13 CHIEF KASSETAS: All those in favor.

14 (Those in favor so indicate.)

15 CHIEF KASSETAS: Any opposed? Hearing none
16 the motion carries. Please let the record reflect I
17 recused myself from item No. 23, Andrea Dobyns.

18 ITEM NO. 24: FREDRIC GYGI

19 CHIEF KASSETAS: Item No. 24, Fredric Gygi.

20 MS. BURNHAM: Mr. Chair, I move to approve
21 the proposed settlement agreement in this matter with
22 the provision that language changes are made on the
23 conditions as discussed with Board counsel.

24 CHIEF KASSETAS: Do we have a second?

25 SHERIFF WALLER: Second.

1 CHIEF KASSETAS: All those in favor.
2 (Those in favor so indicate.)

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

5 ITEM NO. 25: VALERIE WILSON

6 CHIEF KASSETAS: Item No. 25, Valerie Wilson.
7 Do we have a motion?

8 MS. BURNHAM: Mr. Vice Chairman, I move that
9 we reject the proposed settlement agreement.

10 CHIEF KASSETAS: Do we have a second?

11 DR. MILLER: Second.

12 CHIEF KASSETAS: We have a second. All those
13 in favor.

14 (Those in favor so indicate.)

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

17 ITEM NO. 26: RICHARD EMMERT

18 CHIEF KASSETAS: Formal Hearing Officer
19 reports. Item No. 26, Richard Emmert. Do we have a
20 motion?

21 SHERIFF WALLER: Mr. Chairman, I move that we
22 adopt the findings of fact and that we found no
23 violation and we take no action.

24 CHIEF KASSETAS: Do we have a second?

25 MS. BURNHAM: Second.

1 CHIEF KASSETAS: We have a second. All those
 2 in favor.
 3 (Those in favor so indicate.)
 4 CHIEF KASSETAS: Any opposed? Hearing none
 5 the motion carries.
 6 ITEM NO. 27: TRAVIS HOBBS
 7 CHIEF KASSETAS: Item No. 27, Travis Hobbs.
 8 Do we have a motion?
 9 MR. KEY: Yes. Mr. Vice Chair, I make the
 10 motion that we accept the findings, that we found no
 11 violation, we take no further action, and that we
 12 close this matter.
 13 CHIEF KASSETAS: Do we have a second?
 14 SHERIFF WALLER: Second.
 15 CHIEF KASSETAS: We have a second. All those
 16 in favor.
 17 (Those in favor so indicate.)
 18 MR. KEY: Any opposed? Hearing none the
 19 motion carries.
 20 CHIEF KASSETAS: That is the end of the
 21 discipline portion of this meeting.
 22 ITEM NO. 29: ADJOURNMENT
 23 CHIEF KASSETAS: Having no other agenda
 24 items, do we have a motion to adjourn?
 25 SHERIFF WALLER: So moved.

1 MR. KEY: Second.
 2 CHIEF KASSETAS: All in favor.
 3 (Those in favor so indicate.)
 4 CHIEF KASSETAS: Any opposed? Hearing none
 5 the meeting is now adjourned.
 6 (At 12:20 p.m. the meeting was adjourned.)
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1 REPORTER'S CERTIFICATE
 2
 3 I, JAN A. WILLIAMS, New Mexico CCR #14, DO
 4 HEREBY CERTIFY that on March 7, 2017, the proceedings
 5 in the above captioned matter were taken before me,
 6 that I did report in stenographic shorthand the
 7 proceedings set forth herein, and the foregoing pages
 8 are a true and correct transcription to the best of my
 9 ability.
 10 I FURTHER CERTIFY that I am neither employed
 11 by nor related to nor contracted with (unless excepted
 12 by the rules) any of the parties or attorneys in this
 13 case, and that I have no interest whatsoever in the
 14 final disposition of these proceedings.
 15
 16
 17
 18
 19
 20
 21
 22
 23 _____
 24 JAN A. WILLIAMS, RPR
 25 New Mexico CCR #14
 License Expires: 12/31/17

A

A.G 5:2,5,9,21 6:5,8,14,17,21,24 7:10,14,17 8:18 9:20,23 10:2,6 10:21 11:2,5,8,15,18,22 12:1 26:6 29:17 30:7,19 31:7 33:6 34:19 36:9,20 37:13 38:14,24 39:2,7 40:6 42:18,22 43:2,7,13 44:1,6,10,17,20,24 45:6 51:11 51:14,19,22 52:2 54:3,8,24 55:2 55:11,14,20 56:1,21,25 57:2,6 57:14 58:9,14,16,20 59:1 60:1,5 60:20 75:3,6 76:16 80:9,12 82:21,23 83:3,9,20	act 3:7 7:16,18,19 8:8,22 9:18,21 9:24 10:3 56:13 80:19 83:7 action 46:13 68:19 80:14 83:23 84:6 89:23 90:11 active 32:18,20 77:13 activities 21:21 activity 20:21 add 23:25 37:24 50:17 51:2,11 52:4 53:25 54:4,9 58:3 70:5 added 18:21 38:2 47:23 48:15 adding 48:9,19,23 50:14 addition 3:11 12:24 16:25 39:5,8 40:4 43:3,8 51:1 54:22 additional 8:13 9:4 52:4 58:3 Additionally 14:14 additions 42:23 address 15:20,20 22:25 23:21 46:16 48:25 64:3,10,13 addressed 14:18,21 63:22 adequate 46:5 adjourn 90:24 adjourned 91:5,6 Adjournment 4:14 90:22 adjust 68:16 adjusted 63:16 administration 19:19 Administrative 45:13 57:7 58:22 admire 82:10 admitted 77:7 adopt 8:17 9:11,11,13,21 54:15 55:9,10 58:17 59:24 89:22 adopted 8:1 adopting 9:14 46:10 54:18 adoption 55:17 advanced 18:20 19:2 22:17 24:4,5 24:21 26:4 advantage 25:14 adverse 46:13 advice 13:10 53:15 60:17 80:15,17 advised 78:18 agencies 13:21,22 18:8,15 19:11 19:16 24:23 26:19 27:1 32:17 agency 19:12 65:2 79:21 agenda 3:1,5 4:1 6:7,9,10,13,15 6:15,18,22 45:7 47:7,14,15,19 48:15 51:15 56:2 60:6,6,13 84:13 90:23 ago 12:21 agree 28:6 41:8 47:7 53:10 68:12 agreement 88:9,21 89:9	ahead 6:10,11 7:23 57:14 82:7,7 air 82:8 Alamogordo 16:23 39:20 Alan 4:4 86:3,4,16 Albuquerque 80:1 aligning 56:12 allow 18:25 19:12 61:4 67:2 69:18 72:5 79:14,23 allowance 46:7 allowances 63:19 allowed 63:4,8,24 73:10,17 allowing 65:13 allows 77:7 alluding 24:11 alteration 59:10 amazing 33:15 ambassadors 32:10 35:11 ambitious 33:20 ambush 16:15 amended 45:20 54:18 amendments 3:16,19,21 45:5 55:25 57:13 ammunition 22:15 amount 24:1 74:21 analysis 72:7 Analytical 18:14 anchored 14:9 Andrea 4:8 88:5,7,17 animated 38:15 announcing 40:22 annual 17:22 annually 8:9 9:13,14 answer 70:19 74:3,24 81:21 anybody 39:3 47:16 49:3,14 61:16 63:6 82:5 anytime 67:24 APD 32:18 33:4 apologize 36:20 48:21 appeal 70:7,7,7 appeals 72:14 appear 49:23 applicants 34:16 apply 56:9 appreciate 20:16 29:17 30:4,9 31:3 53:23 68:21 69:20 73:4 76:16 appreciation 13:11 approach 24:4 30:9 approached 63:23 appropriate 7:6 22:7 23:18 40:22
---	---	---

approval 3:5,6 6:7,23 50:17 71:6
approve 3:11 6:10,15,18,22,25 7:7
 7:11,15,18 9:24 10:3 39:5,8 40:4
 42:19,21,23 43:3 44:2,21,25
 54:21 56:22 57:3 58:21 63:21
 85:4,17 86:7,22 87:10 88:9,20
approved 39:25 54:22
approving 55:6
archaic 28:9
area 14:25 31:20 72:2 78:6,12,24
 79:5 81:17
areas 20:9 22:16 23:12
armor 69:18
arose 37:11
article 15:22
articulated 47:16
Ashley 18:23
asked 30:23,25 61:3,4 71:2
asking 21:13 42:18,20 64:16
 75:21 76:17
assist 36:19
assistance 18:3
Association 17:20,21 39:15,16
assume 51:16
assure 47:12
Attached 4:15
attempting 30:3
attempts 30:5
attend 71:23
attendance 41:11 72:4
attended 35:1 61:13 66:1
attendees 71:22
attention 20:16
attorney 2:2 7:21 53:9 64:6
attorneys 92:12
authority 70:6 77:8 78:22 79:23
 81:19
automated 19:6
available 7:3 16:12 19:11 26:9
 69:2
avenue 27:15
aware 20:25 22:3 31:13 75:6,16
awkward 79:7
aye 6:19 7:12 9:25 11:20 43:5 44:4
 44:22 54:6 58:18

B

Baca 62:2,3,11,13 63:17 68:23
 69:8 70:3
back 23:8 53:24 59:20 61:25 63:4

63:15 64:12,17 65:1,6,10,14,15
 69:10,14 70:13,21 71:24 72:9,19
 73:10,17 74:5 75:8,13,21,25
 76:25 78:8 79:4 80:4 83:25 84:7
 84:8,13
background 74:11
bad 23:9
badge 67:15
Balderas 2:2 5:2,5,8,9,21 6:5,8,14
 6:17,21,24 7:10,14,17 8:18 9:20
 9:23 10:2,6,21 11:2,5,8,15,18,22
 12:1 26:6 29:17 30:7,19 31:7
 33:6 34:19 36:9,20 37:13 38:14
 38:24 39:2,7 40:6 42:18,22 43:2
 43:7,13 44:1,6,10,17,20,24 45:6
 51:11,14,19,22 52:2 54:3,8,24
 55:2,11,14,20 56:1,21,25 57:2,6
 57:14 58:9,14,16,20 59:1 60:1,5
 60:20 75:3,6 76:16 80:9,12
 82:21,23 83:3,8,9,20
ball 27:25
based 17:16 52:22 68:16
baseline 76:15
basic 3:22 12:11 19:1 20:22 22:20
 60:4
basically 23:7 66:14
basing 37:1
basis 26:3 32:21,25 68:17
bears 27:23
beautifully 27:7
beef 79:2
begging 34:14
beginning 65:16 82:13
believe 20:22 27:16 32:22 40:13
 40:22 47:22 48:16,19 50:18 52:2
 52:5 61:12 66:3,21 75:22 76:1
 80:13
believer 34:11
benefit 33:19
Bernalillo 43:20
best 16:18 57:24 68:5 80:16 92:8
bet 73:21
better 13:11 20:5,6 22:20 24:16
 26:5 27:3 28:5 30:2 81:21
betting 73:21
beyond 9:2 17:8,8
big 64:9
bigger 69:15 79:22
bill 23:6 67:8
binders 39:22

bit 22:2 23:20 25:13 33:9,24 35:9
 36:14
bite 82:7
Blea 4:3 85:12,14 86:2
block 21:11,12 79:15
blocks 24:7
board 1:6 2:1 3:17,19,21 6:8,25
 7:2,6,24 8:3,13,19,24 10:22
 11:10,13,19 12:5 13:8,23 14:23
 17:14 20:13 27:10,12,19 28:14
 28:25 29:3,11 30:21,23,25 31:2
 33:18 36:12 37:2,16 38:7 39:13
 40:17,19,22 41:2,4 42:1 43:18
 44:13 45:5,9,12,14,21,24 46:5,9
 46:17,22 47:17,18 48:10,25 50:4
 50:4,8,8,18,20,21 52:7,9,16
 53:23 54:10,15,18 55:4,5,5,8,9
 55:25 56:19 57:13,16 58:6 59:5
 59:7,20,22 60:12,21 61:4 63:18
 63:21,24 64:16 65:14 68:6,16,19
 70:5,11 72:1 73:22 74:4,24
 75:22,24,25 76:22 77:2 79:23
 80:15,23 82:5 83:25 86:22 88:9
 88:23
Board's 18:9 31:3 45:13 46:3,11
 50:10 59:11
boards 53:13,21
bodies 9:16
body 8:8,10,11 9:1,13
booked 23:16
books 22:23
border 15:4 21:17 23:24
bound 65:6 80:2
brainstorm 36:15
brave 5:23 10:9
breed 15:25
breeds 16:1 35:5
Brian 2:12 13:10 48:8
bridge 34:8
brief 7:4 39:21 48:23
briefly 8:6
bring 19:24 22:8 32:1 56:7 57:23
 73:7
brings 8:21
broadening 31:16
brought 59:20
budget 14:18 15:6 28:21
build 17:11 22:1 34:3
building 18:14 20:2
built 52:12,14 79:18

built-in 78:14
bullet 82:7
Bureau 34:10
Burnham 2:7 5:17,18 9:22 11:4
 11:14 26:7 27:2 47:5,21,25 48:4
 49:10,19 51:2,9,13,18 53:4
 54:25 57:1 58:11 82:6 83:16,17
 85:7 86:6 87:13,25 88:20 89:8
 89:25
Burnham's 49:1
business 5:6 51:15 52:17 54:10

C

C 50:17
cadet 75:18 76:2 77:18,25 78:3,15
 79:3,20 81:13,14
cadet's 79:1 81:5
cadets 12:12,21 13:1,3 16:5 32:5
 35:19 75:8
calendar 13:5 14:12
calendars 41:3
call 3:3,4 5:1,3,4,6 38:3 83:7
called 49:21
calling 20:17
calls 45:18 49:19
campaign 69:5
camper 51:10
candidates 56:14
capacity 18:14 81:24
captioned 92:5
care 10:16
career 35:8
carries 84:24 85:11,25 86:15 87:5
 87:17 88:4,16 89:4,16 90:5,19
carry 67:15
cartel 20:21
cartels 20:25 21:8 23:8
case 2:14 3:24 40:18 42:12 49:8
 63:15,22 67:18 68:15,16 79:9
 84:12,18 92:13
case-by-case 63:11
CCR 1:21 92:3,23
center 25:16 59:8
century 17:23 19:5
Cerrillos 1:10
certain 35:3 65:7 67:9,25
certainly 22:17,19,25 23:11,20
 25:19 26:3,13 28:16 34:18 40:2
 42:11 50:9 51:1 73:4
certificate 46:18 92:1

certification 3:18 43:21 44:15
 55:23 56:7,20 57:8 62:6 67:15
 69:3 81:25 82:15
Certification-By-Waiver 12:16
certifications 3:13,14 4:16,18
 43:11,14,19,24 44:2,7,8,14,21,25
 56:4 57:4
certified 12:23 14:13,14,16 46:15
 62:15 63:1
CERTIFY 92:4,10
chair 8:20 10:11,12,23 11:9,13,23
 23:25 33:18 37:14 38:20 40:17
 51:8,23 52:1,13,14,15,19,23
 53:2,5,7 55:3 60:22 61:9 63:14
 76:9 77:15 79:7 87:22 88:20
 90:9
Chair's 52:19
chairman 2:2 7:24 10:7,8,10 12:5
 26:11 28:6,19 29:20 34:9 35:13
 36:25 39:12 40:8 43:17,23 44:12
 45:2 46:20 53:11 55:22 57:9,15
 59:6 60:11 70:4 75:10 84:16
 85:3,16 86:6,21 87:9 88:8 89:8
 89:21
challenge 17:1,7
challenged 29:23
challenges 13:5,15 14:1,4,18,21
 15:3,5 17:3 20:1,17 21:14,15,17
 23:22 26:1 69:17
chance 14:23
change 16:10 37:11 48:8 50:25
 57:17 58:13 59:17,25 63:19 80:6
 82:2,12
changed 64:19
changes 8:14 18:10 45:17 46:4,6
 47:8,24 48:11 49:9 50:9,12,13
 58:2 59:15 63:21 82:3 88:22
changing 77:25
Chapter 45:15
charge 53:5
chat 35:11
Chavez 16:22 39:19
Chief 2:3 5:13 6:11 7:9 8:20,23
 9:9,17 10:11,24 23:25 25:4 27:6
 28:7,19 29:19,23 37:7 38:7,14
 40:15,17 41:1 42:5,25 43:25
 44:18 51:6 52:6 53:9,11,20
 56:24 60:22 61:2,7,9,24 62:3,5,8
 62:13,15,19,21,25 63:3 64:15,21
 66:23 68:12 70:4,12 72:6 74:2

76:4,9,13 79:7 81:22 83:2,13,25
 84:13,19,21,23 85:1,5,8,10,13,18
 85:22,24 86:4,9,12,14,19,23
 87:1,4,7,11,14,16,19,24 88:1,3,6
 88:11,13,15,19,24 89:1,3,6,10,12
 89:15,18,24 90:1,4,7,13,15,20,23
 91:2,4
Chief's 39:16
Chiefs 17:20
chink 69:18
choices 81:23 82:4
Chris 5:16 10:12,20
Christopher 4:3 6:3 85:12,14 86:1
circulation 9:5
circumstance 65:3
circumstances 68:18
citizen 27:13 28:15 31:25 32:7
 34:20 35:6 68:25
citizens 32:18 35:21
civilian 35:3
civilians 35:22,24
clarification 8:1 48:9 55:15
clarify 8:6 9:8 46:5 48:7 50:6 51:1
 54:13 55:1,4 56:8 57:22 59:4
 76:5 77:2 83:5
class 12:12,17,22 22:22 23:1,21
 44:15 75:13,14,19,20
classes 23:2
classroom 12:14
clean 47:3
clear 38:7,8 55:5 56:16 77:6,8,23
 80:18
clearly 16:4 31:4 49:16 82:12
clears 53:20
click 19:14
Clint 39:19
close 11:1,2,3,6 41:15 52:9 90:12
closed 83:24 84:4
closer 17:24
closing 19:25
closure 80:10 82:9 84:5
Code 45:14 57:8 58:22
collaborating 18:15
collaboratively 13:20
collective 14:2
collectively 13:14 15:21 32:9
College 35:1
colonel 34:25
come 20:7 27:19 32:7 34:14,23
 35:3,8 49:11,15 51:4 63:4 65:1,6

65:14,15 69:10 72:13 73:22
74:17 75:21,24,25 78:18
comes 20:4 69:15
comfortable 76:11 77:9
coming 20:1 22:4,5 35:15 61:21
72:23 75:13 76:17 79:4
commend 28:2
comment 3:10 27:17 28:20 36:23
38:1,2,16 39:1,3,3 46:8 47:7,10
47:13 48:9,12 49:9,20 50:18
51:3,5,7,12 52:3,7,16 53:16,22
54:6,9,23 59:23
comments 47:20 59:15 72:1
commit 26:14,23 33:7
commitment 17:16 67:21
committee 17:14 35:16 36:16
38:17 39:15 45:12,18,20 48:22
49:4,6 50:19
common 68:14
communicate 17:11 20:10 24:16
27:3,9,12,14 28:3,4 30:2
communication 46:18 81:6
communities 34:8
community 16:8 25:1 32:1,14
33:2,23 34:4,6 36:1,2 38:16
66:18 82:24
compares 31:16
compelling 33:11
compete 32:3
complement 18:18
complete 59:19 66:24 71:14,17
completed 74:7
completing 65:20
complex 41:6
compliance 8:21
complicated 25:23
components 24:10 31:12
comprehensive 20:15
compromise 14:9
concept 35:15,25
concern 27:8 37:3,25 38:5 49:1,4
49:10 66:15,19 68:15
concerned 41:21 77:5,15
concerning 77:25
concerns 17:13 37:19 64:14
concluded 76:2
conclusion 75:12,15 76:18
conditions 88:23
conduct 18:17 39:11 52:17
conduit 24:13

conference 17:23 45:18
confident 14:4
confirm 41:9
confirmation 27:5 36:21
conflicted 76:24
confusing 48:6
connection 18:2
connections 41:16
Conner 63:17
consequences 81:10,20
consider 15:9 23:4 46:22 54:14,18
considerably 22:12
consideration 36:17 47:19 56:3
57:16 77:22
considered 26:12
considering 15:19 18:11 48:10
77:10
consistency 53:21 56:11 68:1
78:17 80:23 81:15
consistent 8:24 53:13 78:11
consistently 53:17
constitutes 8:9
Constitutional 67:10
Cont'd 4:1
contact 27:24 28:14 49:3,5,7
contemporary 19:20
content 26:16
context 22:9
continually 18:1
continue 16:19 18:4,8 54:14 55:17
74:10,25 79:13 81:23
continuing 10:14 19:4
contract 18:17
contracted 92:11
contrasts 31:17
control 52:16
conversation 65:17 76:10
convey 35:18
cooperate 20:10
cooperating 21:24
cooperation 17:19 31:24 32:13
coordinator 18:22
copy 7:2 38:21
core 13:19
correct 8:22,23 48:7 55:13 75:1
92:8
corrections 7:5 17:22
correlate 61:21
correlating 51:17
correlation 15:13

corridor 15:2 21:16 25:22
Corvinus 16:23 39:20 41:16,21
Coss 2:12 13:10 21:2,4 22:11 45:9
45:25 46:20 47:2,15,22 48:2,20
49:17 54:17 55:22 56:3,18 57:9
57:14,15 58:5,25
counsel 7:20 48:3 51:2 59:4 60:2
88:23
counter 34:20
country 15:12 20:4
county 16:24 39:21 43:20 62:1,2
62:12,13 63:18 68:23 69:8 70:3
couple 12:21 30:8,10 33:10 37:14
coupled 26:25
course 13:22 18:14 41:10 66:20
66:20 67:2 71:12,14,17 79:21
courses 18:18,19
court 46:13
covered 41:13 48:2 49:25
covers 21:12
coveted 35:7
crash 18:17
create 56:11 64:4
created 29:24
creates 15:3,5
creating 18:6 35:11
creativity 23:20
crime 15:17,24 17:9 21:18
crimes 15:10,11
critic 37:2
critical 14:19
criticism 37:11
crowd 41:13
crucial 66:17
Cruz 4:7 87:18,20
curiosity 30:10
curious 30:21 36:22 40:9
current 22:25 23:21 46:16 56:8
57:22,24 81:23 84:1
currently 12:14,25 13:3
curricula 23:17
curriculum 22:2 23:1,15 64:18
66:4 80:5

D

D 51:4,12 54:5,9
D-101-CV-2014-02038 3:24 84:12
84:18
D(6) 48:18
daily 32:2,25

Darren 5:16
date 32:10 33:9 41:6 71:18
day 35:8 79:19
days 59:12 86:8
De 62:2,3,11,13 63:17 68:23 69:8 70:3
deal 67:23 84:9
deals 21:5
death 41:18
deaths 41:18
decade 32:20
December 3:6 7:1,8,11,15 68:9
decertifying 77:9
decide 65:6
decided 48:22 75:23
decision 40:19 61:2,3 66:13,15 70:6,11,14,16,17 74:8 76:18 79:9,19 80:2 82:4
decreasing 16:13
dedicate 40:1
dedicated 20:11
deeper 31:4
defective 52:5
defensive 12:15 79:15
defer 40:15 45:8
deficiency 81:4
define 52:20
definitely 23:14 30:24 78:9
definition 77:16
definitions 78:1
deliberated 45:18
deliver 46:18
denied 75:25
department 66:9,16 73:8 80:2
departments 31:2
departments' 31:17
deputies 66:18
deputy 2:12 6:2,3 13:10 16:23 39:20 45:9,25 62:19 72:3 73:7 73:16 76:7,11
description 41:20
deserve 63:13
design 28:8,10
designed 73:1
designer 28:24
desperately 19:2
detail 20:16 42:6 78:22
detailed 78:9
determine 8:8,12 74:4 78:13
determined 51:8 52:1

developed 33:1
developing 14:8 24:8
development 29:12
develops 42:1
different 22:24 25:6 48:5 63:12
difficult 65:8
digging 31:4
direct 6:8,24 26:4 29:6 77:5,11
directing 76:24
direction 38:4 80:22
direction-wise 36:24
directly 21:9 29:13 64:15 71:2 77:14
director 2:11,12 12:2,4 13:10 20:22 22:10 25:3,15 26:11 28:6 28:19 29:20 30:8,14 31:6 32:16 34:9 35:13 36:18,23,25 37:24 38:20,22,25 39:10,12 40:12,25 42:20,23 43:3,10,15,17 44:11,12 45:2,9,25,25 47:18 49:5 60:18 60:23 61:9 64:13 67:23 70:22 72:3,3 73:18 74:12 75:10 76:10 81:5
director's 3:9 11:25 12:2 61:14 69:17 70:15 72:23 73:17 74:1 79:1
directors 73:18
directs 71:21
disagree 76:5
disciplinary 84:10
discipline 10:17 90:21
disclosures 78:14 81:13
discretion 50:10 73:17 75:7 78:8
discretionary 49:14
discuss 52:2
discussed 38:11 45:17 48:19 61:19 63:14 67:4 83:24 84:4 88:23
discussing 52:25
discussion 38:16 50:3 54:4 80:17
disenrolled 81:9
disenrollment 81:20
dismissal 71:11,16 85:4,6
dismissals 80:19 85:2
disparaging 66:25
disposition 92:14
dispute 81:17
distance 19:9,16,19
distributed 18:7
district 46:13
doable 34:18

Dobyns 4:8 88:5,7,17
doctor 79:11,16
doctors 67:2
document 9:10
documentation 59:16 78:12 79:12
documented 21:19
doing 13:24 14:16 32:9,25 33:19 33:25 34:12 35:9 65:11 66:7,10 70:1
door 12:16 16:6 63:6 69:10 72:22 72:24
dorms 22:23
DPS 24:22,25 28:22 40:21 41:6
Dr 5:20 20:14 21:13 22:10 25:12 27:10 45:11 46:21,24 48:16 51:21 56:5,6 57:19,20 58:5 65:17,22 66:5,9,13 68:7,10,21 83:19 84:16 86:21 88:8 89:11
draft 29:2 40:19
drafted 71:9
drafting 40:21
dress 29:9
driver 31:11
driving 30:13,22 31:22
drop 64:24 71:18 75:19 82:13
dropped 63:6
drug 20:19,20,23,25,25 21:16 22:14
DTO 21:21 24:23
DTOs 24:17
due 21:19 71:15 78:2
duration 51:7,25
duty 5:25
Dworak 2:13 7:24 8:23 9:11 48:7 50:2 53:11 54:13 55:1,3,13 59:6 83:5

E

eager 49:16
earlier 20:8 29:21 39:19
early 24:7
easier 50:3,14
easily 35:6 50:4
economic 15:10,18
editorial 41:25
education 15:15 21:15,20
educational 61:18
efficient 78:20
effort 14:19 74:22
efforts 13:20 17:16 19:4 72:17

eight-week 32:22
either 12:17 45:25 47:17 50:20
El 25:16
elect 11:12,19,23
elected 67:6 68:22 75:1 81:24
election 3:8 10:5,7
electronic 18:6 26:8
element 22:2
elements 30:12
elevation 63:20
Elisabeth 2:6 5:19 24:11 83:18
Elva 60:7
email 26:12
emails 29:6
Emmert 4:11 89:17,19
emotion 13:16
employed 92:10
empowered 53:2
encounters 16:12,19
encourage 82:6
encouraging 36:4
enforcement 1:5,9 3:12,13 4:17
 12:18 13:2,6,14,21,23 16:15
 17:25 20:9 25:1,4 26:10,18 27:1
 35:17 37:5,12 39:6,9 41:25
 42:24 43:4,9,12,14,19 44:15
 45:12 47:19 56:13 62:6,9 67:6
 67:13 69:1,3,19 70:17
engaged 38:15 78:5
engaging 38:18
enhanced 35:16
enrolled 71:13
Enrollment 71:12
ensure 13:24 46:11,17 56:14
enter 12:13 14:17 74:9
entertain 7:6 10:9 11:12 20:12
 42:22 44:17 56:22 58:9 82:25
entertaining 8:16
entire 19:17 28:21 37:1 41:4
entirety 71:18
entities 25:4
entitled 71:11
environment 31:19
era 28:17
especially 29:22 53:21 72:11 78:6
 81:18
Esq 2:13
essentially 34:13
establish 19:8
established 10:15

evening 23:21 32:23
events 40:9
ever-changing 14:1
everybody 19:23 29:12 69:16
 82:12
evidence 59:16
evil 16:4,6,20
exactly 32:24 34:23
example 23:6
excellent 28:18
excepted 92:11
exception 83:6
exciting 35:10
executive 31:8,16 47:17 82:25
 83:21
exemplifies 72:15
exhausting 80:13
Exhibit 4:16,18 43:24 44:3,7
expand 17:18
expanded 31:24 32:13
expect 9:15
expectations 14:1
expense 16:21 18:15
experience 13:9,16 14:3 32:7,8
 33:24 34:1 35:4,4,9 62:8,9 77:21
expertise 25:14
Expires 92:23
explain 7:21
explaining 29:7
explanation 28:13
extensive 32:4
extensively 34:10
extra 53:25
extremely 52:8

F

face 13:12 17:6 26:1
faced 17:1
facilitate 7:22
facility 12:10
facing 13:6 23:23 31:9
fact 15:14 26:21 29:22 89:22
factors 21:20 30:15
factually 76:5
fair 78:9,11
fairness 80:23
fall 24:5
fallen 3:11 39:5,8 43:4,9
familiar 42:11
families 41:11 42:3

family 41:16,21
far 29:1 67:13 73:24
favor 6:18,20 7:12,13 9:24 10:1
 11:6,7,19,21 43:5,6 44:3,5,22,23
 54:4,7 55:18,19 57:4,5 58:18,19
 69:7 83:9 84:21,22 85:8,9,22,23
 86:12,13 87:2,3,14,15 88:1,2,13
 88:14 89:1,2,13,14 90:2,3,16,17
 91:2,3
FBI 32:19 33:3
Fe 1:11
feasible 70:23
February 45:19
federal 17:25 25:17
feedback 76:19
feel 37:17 76:11
felt 8:13
field 24:9,12
fifth 14:25
fight 17:2
figure 24:19 70:25 74:10
fill 41:3
filled 18:22
final 18:5 92:14
finalized 48:20 50:7
finalizing 18:16 59:7
find 16:3 61:15,17
findings 89:22 90:10
fine 29:17 54:2
finish 53:6 66:20 67:20
finishing 64:17
finite 24:1
firearms 19:13
first 5:5 9:14 12:8 13:4 14:7 16:4
 17:9 30:11 34:13 46:19 71:25
five 52:21 53:18,18 70:10
five-week 66:20
flexibility 79:18
floor 60:8
Flores 12:24
focus 61:25
focused 32:24
focuses 15:6
focusing 14:2
folks 24:24 49:8 65:7 67:10 72:13
 74:20
follow 25:3 60:12,16,19
following 43:19
fool 16:8
footprint 19:8

FOP 39:16
force 12:13,19 35:19,20 37:12
 69:3
foregoing 92:7
forfeiture 23:6
forgotten 27:21
Formal 89:18
format 59:8
forth 92:7
forum 52:7
forward 10:17 13:5 14:3 17:9
 19:25 25:2 30:5 49:7 54:19 68:4
 72:12,13,23 75:21 78:4 79:13
found 45:14 89:22 90:10
foundation 13:19 20:2
four 5:23 32:23 49:23 52:9 70:10
 70:10,12
four-day 66:4,4
four-day/three-day 66:7
fourth 13:8 15:1
frame 80:5
framework 20:2
Fraternal 39:16
Frederick 4:5,9 86:18,19
Fredric 88:18,19
front 27:5 52:7
frustrated 29:22
full 69:3 71:14
fully 8:22
fumbling 49:20
function 41:25
further 26:15 46:4 48:25 52:20
 54:3 59:5 71:6 90:11 92:10
future 20:2 23:1 81:3
futuristic 19:22

G

Gallup 75:23
gang 21:12 22:11,12,14
gangs 21:5,5,6,7 23:17
gas 15:6
general 2:2 3:16 9:5 28:14 31:12
 37:6 40:11 42:4 45:3 46:2 54:21
 55:18 80:22
General's 7:21 64:6
generally 53:15
generate 19:12
gentleman 42:7
getting 70:7
give 17:3 26:3 53:15 73:13 76:14

giving 22:19 76:11
go 5:5 7:17,22 33:22 36:3,24 42:6
 42:9 45:22 57:14 60:5 65:10
 66:6 71:9 73:10 77:3 80:11 82:7
 82:7,25 83:21 84:8,13
goals 12:6 18:3 27:3 38:11
goes 9:2 26:25 38:10 42:2 53:6
 67:13
going 23:8 24:16 26:21 31:19 39:8
 45:22 62:21 64:17 67:23 69:23
 79:16 80:23 81:19,20 84:9 85:1
good 5:2 10:15,18 12:3,4 23:6
 24:13 28:11 29:4,5 34:1 42:16
 48:1 53:21 55:14 60:11 80:12
gosh 69:21
gotten 78:22
governing 77:6
grade 15:15
graduated 12:22
graduation 15:16
grasp 24:13
gray 77:10
great 10:18 17:19 30:19 34:16,17
 39:2 41:5 43:2 44:1 60:1
greater 25:1
green-light 64:16
group 33:1
groups 25:6,8
guarantee 61:20
guess 72:7 73:1 80:10
guidance 18:3 64:7
guidebook 9:2
gun 22:15 67:16
guys 23:9 33:24
Gygi 4:9 88:18,19
gym 12:14

H

half 68:10
hall 12:20
handled 37:8
happen 73:16 82:13
happened 68:20
happy 22:25 36:19 51:10
hard 24:18 35:18 69:24 80:3
 82:15
Harris 3:25 84:25 85:2
Harvey 3:22 60:3,7,8,10 61:1,6,12
 62:2,4,7,11,14,17,20,24 63:2,10
 64:20 65:21 66:1,8,12,14 68:9

73:2,6,19,23 75:2,5 76:6,12 80:8
 80:10 82:20,22
Hatch 16:22 39:19
head 30:15 66:16
healthy 78:20
hear 76:23 78:18
heard 49:11 69:16 76:19
hearing 3:16,18,21 45:4 55:7,24
 57:12 59:14,19 84:23 85:10,24
 86:14 87:4,16 88:3,15 89:3,15
 89:18 90:4,18 91:4
hearings 27:5 48:10
heart 33:15
Hector 2:2 5:8 83:8
held 45:18
help 7:22 13:9 16:2 30:5 36:13
 41:14 46:11,17 47:11 56:14
helpful 9:7 30:20 32:12
Henderickson 4:4 86:3,5,17
heroes 41:19
hiding 27:25
HIDTA 25:6,13,15
high 15:15 21:21 67:12
highest 14:10
highlight 45:22
hinder 53:22
historic 74:11
hit 27:4
Hobbs 4:12 13:2 66:2,6 73:8 74:9
 75:11,17 90:6,7
hold 59:14
holder 46:19
honor 5:23 6:1 12:9 14:9 42:14
 70:1
honoring 42:6
hope 28:4 41:24
hopefully 67:21
host 12:9 18:13
hours 23:16 32:23 33:20,21
house 12:8 17:13
humble 21:18

I

I-25 15:2 21:15 25:22
IADLEST 18:13
idea 16:6 28:18 32:11 42:16
ideals 14:11
ideas 13:15 29:5 33:18 34:3 36:15
identify 33:22
image 37:12

imagine 70:6 74:17
implementing 22:21
implications 23:5
important 34:7 52:8
impossible 15:13 74:16
impressed 36:10
improve 17:11,17 18:2,11 28:7,10
 78:12 79:5
improved 22:17
impulse 13:18
in-service 19:1
inaccuracies 41:20,22
include 23:17 31:8 43:8 51:24
included 9:7
including 31:12
inclusion 39:25
incorporate 25:10
incorporated 23:13
increase 18:4 46:3
increased 49:1
increasing 21:23 29:25 31:24
INDEX 3:1 4:1
indicate 6:20 7:13 10:1 11:7,21
 43:6 44:5,23 54:7 55:19 57:5
 58:19 84:22 85:9,23 86:13 87:3
 87:15 88:2,14 89:2,14 90:3,17
 91:3
indicated 51:3 72:4
individual 19:17 50:14 52:25 56:9
individually 49:4
individuals 14:16 46:7 78:8
industry 57:24
influence 21:7
information 19:10 24:20 25:5
 26:21 28:14 40:16 81:18
informed 79:3
injured 66:21,24 67:21,24 70:10
 72:13 73:9 74:19 75:12,14
injures 67:1
injury 64:24 65:4 75:8 77:17
 78:13
innocent 33:14
input 29:13 59:5
instruction 71:14
instructor 3:18 19:3 55:23 56:4,6
 56:10,20 57:3,8
integrated 19:6
integrity 14:9
intel 25:16
intellect 13:17

intelligence 24:12,23
intents 70:20
interdiction 23:23 25:21,22
interest 36:12 92:13
interested 10:13
interesting 14:24 31:20
interests 34:20
investigation 18:18 21:11,12
investigations 20:23
investigative 20:24
investing 28:20
invite 34:21 41:2
invited 36:21 41:11
involve 14:18
involved 17:22 31:14 32:21 41:18
 77:13,20 79:11
IPTM 18:17
ironically 17:16
irony 30:1 39:2
issue 25:23 64:22 75:23
issues 6:12 15:19 22:24 61:11 68:1
item 3:1,2 4:1,2 5:1,4,6 6:7,9,23
 6:25 7:15,16,17 10:5,6 11:25
 12:1 39:1,5,7,11 43:11,13 44:8
 44:10 45:3,6 47:20 48:15 51:12
 54:5,9 55:23 56:2 57:10 60:3,5,6
 60:12 83:23 84:11,13,25 85:2,12
 86:1,3,4,16,18,19 87:6,7,18 88:5
 88:6,17,18,19 89:5,6,17,19 90:6
 90:7,22
itemization 78:25
items 8:13 45:7 90:24

J

Jaime 5:17
Jan 1:21 92:3,22
January 45:19
Jermaine 3:25 84:25 85:2
Joaquin 18:24
job 14:15 16:17 32:20
Joe 7:22
John 6:2
join 17:5
joking 38:14
Jose 39:19
Joseph 2:13
Journal 15:22
Juan 12:25
jurisdiction 64:10
justification 46:10

justifications 45:23 46:24

K

Kassetas 2:3 5:12,13 6:11 7:9
 8:20,24 9:9,17 10:11,24 23:25
 28:7,19 29:19 38:15 40:15,17
 41:1 42:5,25 43:25 44:18 51:6
 52:6 53:9,11,20 56:24 60:22
 61:2,7,10,24 62:3,5,8,13,15,19
 62:21,25 63:3 64:15,21 66:23
 70:4 72:6 74:2 76:4,9,13 79:7
 81:22 83:2,12,13,25 84:13,19,21
 84:23 85:1,5,8,10,13,18,22,24
 86:4,9,12,14,19,23 87:1,4,7,11
 87:14,16,19,24 88:1,3,6,11,13,15
 88:19,24 89:1,3,6,10,12,15,18,24
 90:1,4,7,13,15,20,23 91:2,4
keep 42:9 67:3 80:13
Kelly 2:7 5:17 29:1 83:16
key 2:5 5:10,11 7:7 11:1,17 17:25
 35:3 40:8 41:15 42:17 43:1
 44:19 51:23 54:2,20 71:5 73:15
 73:20,25 77:2 83:4,10,11 85:3
 85:21 86:11 87:22 90:9,18 91:1
kicked 63:13 64:25 65:1 66:22,23
kind 9:15 12:6 30:23 31:20 33:13
 33:23 35:4 36:4 48:25 49:7 71:1
 71:21 72:2,6,15
knee 73:10
knocking 72:23
know 10:13 14:23 15:2 16:11 17:5
 21:6,16,23 22:6,6,7 24:1 27:22
 27:23,24 29:21 32:17 34:22
 37:16,18,23 40:12 47:6 49:19
 50:3 52:20 59:15,23 64:3 66:9
 66:15,16,17,20 67:4 69:16,21,22
 70:5,18 71:21 73:1,11,12,16,19
 74:22 77:15 78:10,21 81:14
knowing 67:25
knowledge 81:5
knows 27:15,20
Koren 4:6 87:6,7

L

labor-intensive 34:18
lack 37:4
language 46:9 47:23 48:21 50:7
 51:24 52:4 56:17 57:22 71:19
 88:22
largest 14:25 15:1

law 1:5,9 3:12,13 4:16 12:18 13:2
 13:6,13,16,21,23 16:15 17:25
 20:9 25:1,4 26:9,17,25 33:8
 35:17 37:5,12 39:6,9 41:25
 42:23 43:4,9,11,14,19 44:14
 45:12 47:18 56:12 62:6,9 67:6
 67:13 69:1,3,19 70:16
lawsuits 72:14
lawyer 71:2,4
LEA 7:3 28:24
leader's 75:7
leaders 32:14 33:2,23
leadership 13:13 82:11
leaning 25:13
learn 14:4 34:23
learning 19:9,16
leave 53:1 66:15 78:1 81:10
left 34:14 60:15 63:25 64:11 81:9
legal 46:12 50:22 60:17 64:7
 70:18
legislative 23:7 34:20 37:22
legislators 31:13
legislature 67:5
legitimate 72:16
lend 34:5
length 51:7,25
let's 63:12 84:13
letter 37:1
letters 34:24 51:17
letting 75:8
level 19:3 24:22 25:17 32:17 78:16
leveraged 33:7
License 92:23
lie 70:17
lieutenant 34:25
life 69:23 82:14
light 74:12
limbo 82:11
limit 52:21
limited 78:4 84:4
line 5:24 24:14
link 24:12
links 29:6,13
listed 43:24
listen 38:6
listened 71:8
litigation 3:23 37:15 72:22 78:10
 83:6 84:12,14,17
little 22:2,23 23:20 25:13 27:22
 31:4 33:9,24 35:9 36:14 77:15

lives 16:21
living 80:3
logistical 68:13
long 36:4 38:10 47:25 51:9 53:7
long-term 23:5
longer 68:7
look 6:9 13:5 15:17,18 16:3 19:25
 22:13,19 23:12,14,22 24:15
 26:24 28:12,16 29:4 59:23 67:9
 74:13 76:14
looked 22:21 23:4 30:14,16 61:10
 61:10
looking 14:3,21 22:15 31:1 48:8
 48:14 71:24 72:12 74:5
looks 48:17
Lopez 18:23
lost 16:13
lot 22:16 23:3 25:25 32:4 36:11
 42:6 50:9 81:18
love 34:4,19 35:11

M

M 2:13
ma'am 47:2
mailing 46:16
main 53:15
maintain 46:15
major 21:16 81:10
majority 41:4 77:4
making 80:18
man 73:21
manage 52:14 53:23 65:8 74:17
management 19:7 63:3 64:22
 65:18 66:10 68:4 69:23 74:16,21
manager 2:14 18:24
managerial 64:21
managing 52:10 64:22
March 1:7 92:4
mark 64:9
Marshall 2:11 12:3,4 20:22 22:10
 25:3,15 26:11 28:6 29:20 30:14
 31:6 32:16 34:9 35:13 36:18,25
 37:24 38:22 39:10,12 40:12,25
 42:20 43:10,16,17 44:11,12 45:2
 45:25 61:9 64:13 75:10
Marshall's 42:23 43:3
matter 23:16 68:4 75:13 84:15
 85:4 88:21 90:12 92:5
matters 41:17 83:24 84:3,10
McCall 5:16 10:12,20,22 11:11,13

11:19,24 27:6 37:7 38:7
McCall's 29:23
mean 53:5
means 29:7 68:22
media 41:13
medical 77:17 78:13
Medrano 2:14 5:8,10,12,14,16,19
 83:8,10,12,14,16,18
meet 13:14,25 14:4 17:7 27:19
 46:12 49:22
meeting 1:6 3:6 5:3 6:23 7:1,8
 9:14 12:10 13:8 18:3 20:1 25:9
 27:17 28:9 36:13,17 48:12 49:8
 49:11 53:6,18 61:12,13,20 64:12
 71:3 75:23 81:12 84:7 90:21
 91:5,6
meetings 3:7 7:16,18,19 8:7,22
 9:18,21,24 10:3,16 25:6 28:24
 51:16 54:10 63:15 64:11 83:7
member 10:22 11:11,13,19 27:18
 45:9 47:17 49:1 65:14 77:2
member's 68:6
members 2:1 7:2,24 8:24 12:5
 17:14 29:3 32:1 35:3 36:1 37:23
 38:7 39:12 41:7 43:17 44:12
 55:3 57:15 59:6 60:11 76:22
 82:24
memorial 3:12 39:6,9 40:1,3,24
 41:11 42:8,24 43:5,9
men 17:6
mentality 35:17
mention 14:20 60:24
mentioned 24:6 26:8 29:21 39:19
 41:17 48:17
merge 25:10
method 25:21
methodology 30:13
Mexican 22:6
Mexico 1:5,9,11 2:2 7:21 8:7
 12:18 13:1,13,23 14:25 15:5,9
 18:16 19:24 20:5 25:25 44:14
 56:15 63:1 80:2 92:3,23
middle 67:7
miles 15:4
militarization 37:5
military 35:19
Miller 2:6 4:5 5:19,20 20:14 21:13
 22:10 25:12 27:10 45:9,11 46:21
 46:24 48:16 51:21 56:5,6 57:19
 57:20 58:5 65:17,22 66:5,9,13

68:7,10,21 83:18,19 84:16 86:18
86:20,21 88:8 89:11
mini 32:8
minimum 3:20 57:11,18 58:7,12
58:23 59:12
minor 59:10
minute 52:21
minutes 3:6 6:23,25 7:1,2,8,11,15
12:6 50:17 52:25 53:18,18 64:13
missed 64:12
missing 21:3
mission 14:16 30:6 32:4
modern 16:12
modified 40:14
modifying 23:16
module 20:19 21:9
modules 19:16
moment 5:23 6:4 14:20
money 15:6 23:8,9
Monica 2:14 5:6,21
months 79:4 85:17,19
Mooradian 6:2
moot 26:20 74:6
morning 5:2,22 12:3,4 60:11
motion 6:13,14,17,22 7:6,7,10,14
8:16 9:9,18,20 10:3 11:2,5,10,12
11:15,18,23 42:18,21,22 43:2,8
44:1,6,17,20,24 50:4,14,20,21
51:11,20,24 52:4 53:25 54:4,9
54:13,20 55:16,21 56:22 57:2,6
58:9,16,20 64:2 82:25 83:21
84:5,14,24 85:3,5,11,15,18,25
86:5,9,15,23 87:5,8,11,17,21
88:4,16 89:4,7,16,20 90:5,8,10
90:19,24
motives 36:6
mouse 19:14
move 10:6 11:1,12 12:1 17:9 19:4
25:19 28:17 30:5 39:7 43:13,23
44:13 45:6 51:2 54:11,18 56:1
58:11 84:16 85:16 86:6,21 87:9
87:22 88:8,20 89:8,21
moved 11:14 14:9 42:25 44:18
56:24 83:2 90:25
moving 7:18 10:16 25:1 38:3 49:7
68:4 78:4
mutual 33:19

N

name 76:11

names 16:25 40:2,5
National 35:2
Nationwide 16:13
naturally 35:10
near 13:4
necessarily 63:10
necessary 8:15 84:8
need 6:9 7:18 9:9 16:3 36:8,24
37:22 42:5 47:11 50:24 52:18
54:15 67:14 70:25 72:24 74:8
78:1,2 82:9 83:7
needed 19:2
needing 81:24
needs 52:17 53:16
negatively 69:13
neither 92:10
net 69:9,20,25
never 16:8 41:3 62:15
new 1:5,9,11 2:2 7:21 8:7 12:18,23
13:1,13,22 14:13,16,17,25 15:9
18:15 19:11,24 20:5 22:5 25:25
44:14 56:15 63:1 72:2 80:2 82:1
92:3,23
News 14:22
newsletter 18:6 26:8 28:13
newspaper 8:4 9:5 49:22 59:13
Nielsen 18:24
nightmare 68:13
nine 74:18 79:25
NM 1:21
NMAC 3:16,18,20 45:3,15 55:12
55:23 57:10
nominate 10:12,19 11:10 36:13
nominated 11:9 32:7 34:25 39:14
nominating 10:24
nomination 10:21 35:7
nominations 10:9,22 11:1,3,3,6
35:5
nondescript 42:10
Normally 64:25
Nos 43:21 44:16
note 71:5 82:19
notice 8:9 46:6
notification 8:14 78:3
nowadays 31:9
number 16:13 64:8 87:20
numbers 14:24
nutshell 59:25

O

observance 6:6
observe 5:23
obviously 21:7 41:15 51:14 54:22
occasion 75:24
occupying 35:20 37:12
offer 24:22 25:1 57:16
office 7:21 8:25 33:8 34:4 42:8
53:10 64:7 68:8,24 72:23 74:1
officer 12:11 16:22,23 33:12 42:8
44:2 62:9 89:18
officers 3:11,13 4:17 12:17 13:24
14:13 16:11,13,15,18 19:18 24:8
24:14 31:9,18 35:23 39:5,9,13
39:18,23 42:15 43:4,9,12,15,20
46:15 69:1 77:9
official 46:18 68:22 75:1 84:6
offline 36:15
oh 69:21
oil 15:6
okay 9:17 21:13 45:11 48:5 54:1
66:5 73:20 76:4 83:20
old 73:18,18
OMA 9:2,11
once 40:19 41:9 50:11 78:1 81:10
once-a-week 32:23
one-hour 81:12
one-off 74:13
one-time 68:17
one-year 87:12
online 19:15 26:9 30:18 61:10
open 3:7 4:13 7:16,17,19 8:7,21
9:18,21,24 10:3 29:14 32:2 34:2
34:3 35:2 38:8,13,17 50:25 63:6
67:22 69:9 83:7,23,25 84:7,8
opening 72:22
openness 17:16,17 29:24,25 37:9
operations 18:24
opinion 21:18 34:21 67:19 68:5,6
70:15 74:5
opinions 69:1
opportunities 13:6,12 18:5 21:24
22:18 31:25
opportunity 8:11 15:10 28:11
29:15 34:22 42:13 47:7,9 49:2
51:4,6 55:8 59:4 72:8
opposed 44:24 84:23,24 85:10,24
86:14 87:4,16 88:3,15 89:3,15
90:4,18 91:4
opposition 6:21,22 7:14 10:2 11:8
11:10,22,23 43:7 44:6 54:8

55:20 57:6 58:20 83:20
option 66:5 81:1
options 61:18
oral 78:18
order 3:3 5:1,3 39:16 46:16 51:15
 51:17 54:10 72:25 85:17,19 86:7
 86:22 87:10
orders 85:13 87:19
organization 20:20 38:13 67:12
organizations 21:25
outdated 57:21
outreach 29:2 34:6
outside 17:1 48:13
outstanding 13:9
over-militarized 37:6
overall 18:12 20:5 23:13 28:10
overhaul 28:21
oversight 48:18
overwhelming 24:3

P

p.m 83:22 84:2 91:6
page 3:2 4:2 28:21 29:13 42:8
pages 29:2 92:7
paragraph 50:17
parameters 53:3 74:4
parenthetical 51:25
part 10:13 23:20 27:16 29:12
 45:15,15,16,22,22 46:2,19,22,25
 47:8,14,14 52:9 54:15,16 71:5
participate 35:1 49:2 67:3 79:14
 79:19
participating 33:11
particular 63:7 68:15 70:16 72:9
 79:12 80:5
particularly 27:6 28:15 36:23
parties 92:12
partnered 18:13
partway 76:1
Paso 25:16
pass 43:8 44:7 54:9 55:21 57:7
 58:21 83:21
passes 6:22 7:15 10:3 11:10,23
 44:25
Pat 12:24
patrol 24:4
pattern 10:15
pending 3:23 83:6 84:11,14,17
people 15:23 16:7 17:1 22:13
 33:14 34:14 35:22 49:15 64:25

65:4 67:9 70:9,13 72:22 74:17
 74:19
percent 34:15
period 86:7
periods 65:7
persistent 73:12
person 49:22 79:12
personal 65:5 68:3 69:22,23 71:15
 82:19
personally 33:11 49:12 53:4 65:11
 72:20 80:7 81:25
perspective 63:4 66:11 74:16
Pete 2:3 5:12 83:12
petition 47:16 78:18
picture 69:15
piqued 30:10
place 22:7 28:12 68:2
placed 60:6,13
platform 24:19
please 5:7 37:23 85:25 86:15
 88:16
pod 21:5
point 21:14 52:23 59:11,22 61:3
 63:11 67:25 69:14 72:8 74:6
pointed 15:8,22
points 27:10 69:7
police 12:11,20 14:13 17:20 18:16
 28:20 35:22 39:17 70:12 80:1,3
policies 31:1,17
Policing 17:22
policy 33:8
politics 13:17
population 15:1,2
portion 10:18 27:17 28:25,25
 52:16 54:11 90:21
portions 51:15
position 10:9 14:8 18:22,24 20:8
 23:7 29:7 52:19 67:7 79:8
positive 34:1
possible 16:18 19:20 21:25 64:4
 65:23 70:22
possibly 79:14
posted 9:1
potential 81:3
poverty 15:23,25 21:14,21
practice 13:17 18:12 49:18 52:15
 68:14 75:7 78:7,17
practices 57:24
pre-kindergarten 15:14
precedent 64:23 67:24

precludes 65:11
predators 15:25
preferable 23:8
pregnancy 77:17
pregnant 75:19
prepared 13:25
preparing 12:13
presence 21:21
present 2:10 5:9,11,13 36:16 40:3
presentation 40:7,11 41:12 54:12
 71:25 72:18
presented 7:12 40:10,13 43:15
 45:21 63:18
press 40:18,21 41:8 42:1,12
pretext 25:24
pretty 10:15 21:19 29:8 33:15
 37:19 42:10 59:9
prevent 46:12
previous 63:25 77:18
prey 16:1,20
primary 25:21
principles 13:19 14:10
printouts 42:9
prior 10:12 32:19 42:12 54:22
 62:5,17
prioritizing 18:25
prison 21:6
privilege 12:9
probably 21:2 68:5 72:7,16,17,22
 73:25 74:13 80:16 81:17
problem 15:17,18 22:14,14,15
 23:15 61:19
problematic 64:17 74:25
problems 16:9 64:4
procedures 31:1,18 46:4 71:7
proceedings 92:4,7,14
process 7:22 13:1 36:21 46:11
 50:7 52:12 55:17 58:22 59:5,7
 62:22 63:5 71:20 72:12,14 77:20
 78:2,8,13,21 79:2 81:8,15
processes 46:12
professional 12:23 35:8
professionally 34:6
profiling 25:24
program 19:7 32:22,23 34:17
 42:2 71:13
programs 13:7 19:5
progress 76:17
prohibition 50:23 77:23
promulgated 74:11

proper 51:17
property 15:10
proposal 3:16,18,20 45:4 55:24
 57:12 77:22
proposals 49:7
propose 18:10
proposed 3:23 45:17,24 46:4,6,14
 48:10 49:9 54:21 56:7,13 57:16
 57:23 59:11,15 71:19 84:11,17
 85:1,13 87:19 88:6,21 89:9
prosecutor 22:12
prosecutors 17:24 18:1
proud 37:20 70:2
provide 45:10 46:5,10 58:2 59:16
 64:7
provided 45:14 56:16 81:13
provides 8:25
provision 88:22
provisions 3:16 45:3 46:2 54:21
 55:18 77:7
prudent 65:9
PST 44:15
public 3:10,15,16,18,20,21 4:18
 8:8,10,11 9:1,13,16 12:22 14:1
 14:14 15:12 17:10 18:2,21,25
 20:4 26:9 27:3,9,11,14,15,17,19
 27:20,24 28:3 29:2 30:3,11
 31:10,12,23,24 32:13,24 36:5
 37:25 38:2,6,9,13 39:1,3,3 40:11
 42:4,14 44:9 45:4 46:6,7 47:7,10
 47:13,20 48:9,12 49:2,9,23
 50:18 51:3,5,7,12 52:3,6,16
 53:16,22 54:5,9,22 55:24 57:10
 57:12,17,20,25 58:7,11,17,23
 59:4,15,23
public's 49:11
publication 8:2 9:5 58:17 59:3
 71:6
publicly 26:24
publish 8:3 50:22 55:16 58:10,11
published 26:22 40:10 50:5,11
 55:6 59:12
publishing 55:11,21 56:23 57:3,7
 58:21
pull 30:16 53:24
purpose 29:25
purposes 70:20
push 35:14,25
pushed 35:21
pushing 37:9,10,11

put 18:19 26:13 33:23 47:6 52:3
 65:6 68:2 79:8 80:6,7
putting 23:14 26:14 33:12 48:17
 80:4

Q

quagmires 14:5
quarter 13:4
quarterly 18:6 24:22 27:19
question 8:20 20:14 26:7 31:22
 38:12 40:8 47:5 51:23 52:10
 53:2 64:9 67:17 70:18 71:3
 73:15 79:22 80:12
questioning 17:15 37:1
questions 8:6,18 9:17 20:12 26:6
 30:7,8 37:7 38:19,24 40:7 46:23
 47:4 54:3 56:19,21 58:6 59:2
 60:1,21
Quezada 5:17
quickly 41:3 59:3

R

raised 21:14 52:23
ranked 15:9,11,11,12,15,16 20:3,6
ranking 30:13 31:10,23
rankings 20:5
rate 21:18 33:15
rates 15:16
ratification 3:13,14 43:11,14,18
 44:8,13
ratified 17:15
ratify 43:24
rationale 45:23 69:12
re-entry 3:22
reach 25:8
reactive 17:8
read 30:17 34:24 51:6 64:12
reading 81:3
readmission 77:6 80:16
ready 17:2,3
real 34:7 35:7 37:17,20 70:14
 72:21
reality 19:10
really 22:3,3,5 24:1,7 29:8,15 31:3
 31:13 33:10 35:24 36:11 41:4
 69:15 70:2
realm 19:9 24:5
reason 27:2 33:4 41:16
reasonable 8:9 53:14
reasonableness 8:12 9:4

reasons 65:5 72:16,21
rebuttal 37:18
recall 30:12,15 65:3 73:3
receive 56:14
received 37:2 60:17 61:22
Recess 83:22
recognition 36:4
recognize 30:1 38:1
recommended 45:13
recommends 45:20
record 37:20 55:5 59:19 83:5 84:1
 84:3 85:25 86:15 88:16
records 19:7,15,17,18 29:14 59:8
 59:23
recruit 24:2
recruits 22:3
recuse 10:17
recused 86:1,16 88:17
redacted 26:13
reelection 69:6 75:4 77:3
reenroll 71:17 80:21 82:1
reenrollment 80:24,25
reenter 12:18 61:4 63:7 67:25
 72:25 74:20 79:24
reentrance 60:14
reentry 60:3 77:23
referencing 40:23
reflect 85:25 86:15 88:16
regard 22:18 23:5 25:5
regarding 3:22 20:18 21:20 48:9
 60:3
regardless 71:18
regional 25:14
Register 59:13
registrations 19:15
regular 1:6 48:12 51:16 54:10
reinvent 25:10
reiterate 74:15
reject 89:9
relate 45:7
related 20:19 21:10 59:16 92:11
relates 22:11
relating 57:25
relationship 10:19 17:21
release 40:18,21 41:9 42:12
releases 42:1
relevant 18:10 56:14
relocate 12:18
remainder 51:14
remake 67:20

remedy 76:20 77:4,11
remember 47:9 65:23 72:1 79:25
remind 42:14
reminds 27:11
renew 13:20
repeatedly 27:10
report 3:9 11:25 12:2 14:22 29:21
 30:16 38:21,25 61:15 69:17 92:6
REPORTED 1:21
REPORTER'S 92:1
reporting 19:7,12
reports 19:13 78:18 89:19
represent 68:25
representatives 27:13 28:15
represented 27:6
request 3:22 60:3,6 63:23 64:16
 76:21 77:14 78:25 79:4 80:14
requested 64:2,6 75:17
requesting 63:19,24
requests 19:15 64:8
require 46:14 81:4
required 9:12 30:25 49:12,13 59:8
 71:16 80:20
requirement 8:2,7 47:13,15,20
 51:10 71:23
requirements 8:12,14 9:3 19:8
 46:5 56:9,16 58:3,4
requires 46:7,9 47:6
requiring 80:24
research 60:18,23 71:1 76:14
residents 22:6 68:22 69:8 70:3
resolution 3:7 7:16,18,25 8:17,25
 9:12,14,19,21,24 10:4
resolutions 7:19
resolving 16:9
resource 29:16
resources 25:17 33:7
respond 75:9
response 17:8 34:16
restricted 53:16
restriction 53:12
result 33:2 68:19
Return 4:13 83:23
returning 53:2
revamp 28:21
review 19:17,18 31:8 42:13 45:11
 46:13 59:22 78:19
reviews 77:19
revision 45:24
revisions 45:13,14,20 46:3,14 56:7

56:11,13 57:21,23
revocation 87:20,23
Richard 4:11 89:17,19
right 21:17 25:23 38:4,19 40:24
 42:13 49:23 50:1 51:18 67:7,10
 67:16,18,19 68:5 72:7
risks 31:9
risky 30:24
road 1:10 24:25 82:2
role 13:11 65:19 75:1
roll 3:4 5:4,6,7 83:7
room 24:15
route 21:17
RPR 1:21 92:22
rule 13:16 18:10 27:22 38:2 46:6
 47:6,16 48:9,11 49:9 50:1,1,5
 52:13 57:16 58:13 59:14,17,19
 59:24 77:5,11,22,25 78:24,25
 79:5 80:18,19 81:3,4 82:3,12
rulemaking 46:4,11 48:13 54:19
 55:17 58:22 71:7,9,20 72:12
 77:20
rules 3:17,19,21 17:14 18:9 27:16
 29:24 35:16 45:5,11 46:10 47:11
 47:13 49:3,6,13 50:22,25 54:12
 55:25 56:12 57:13,23 59:8,12
 71:7 72:5,24 74:11 92:12
run 63:20
running 69:6 70:12 75:3
runs 63:5
Ryan 6:2 39:20

S

sacrifice 5:24 17:4,6 42:14
safety 3:15,20 4:18 12:22 15:12
 18:21,25 20:4 30:12 31:11,23
 44:9 57:10,17,20,25 58:7,12,17
 58:23
salute 82:10
San 12:25
Santa 1:11
satellite 13:21 18:9 74:18 79:25
satisfy 76:20
saw 17:13 35:15
saying 72:24 79:10 80:25 81:2
says 9:12 61:16 71:12 79:12
scenario 33:13 67:22 80:6
scheduled 28:9
schematic 65:25
school 15:15 65:10

schools 24:2
score 19:13
Scot 2:5 5:10 41:14 54:1 83:10
Scott 63:17
searching 14:8
second 6:15,16,18 7:4,9,11 9:21
 9:22,23 11:3,4,6,16,17,19 17:18
 43:1,3,25 44:2,19,21 51:19,21
 51:22,24 54:24,25 55:16 56:25
 57:1,3 58:14,15,17 83:3,4 84:19
 84:20 85:6,7,20,21 86:10,11,24
 86:25 87:1,12,13,24,25 88:11,12
 88:24,25 89:10,11,12,24,25 90:1
 90:13,14,15 91:1
secretary 47:18
section 38:1,2 47:11,22 48:4,5,18
 71:9
secure 17:10
securing 31:23 32:13
Security 35:2
see 6:12 14:24 15:6,13 24:12 25:9
 30:21 33:4 35:6 36:6 41:20,22
 42:7 49:13 60:16,17 67:14 71:8
 76:7 77:21
Seeing 6:11
seeking 14:7,11
seen 41:4
self-remove 65:4
Seminar 35:2
Senate 27:5 36:22
senators 17:15
send 24:24 29:12 30:16,20 41:2
 42:12 70:21
sensitive 24:20 26:18
sensitivity 41:17
sent 7:2 37:7
sentence 48:23
separate 35:20 36:1
separately 46:22
September 59:21 60:13,24 61:1
 71:24 72:19 78:21
Sergeant 12:24
series 18:17
serve 11:13
service 40:3 42:7
serving 10:8 65:19
session 4:13 12:12 22:22 23:7,22
 29:23 83:1,21,23,24 84:1,4,9
set 3:16,18,20 45:4 47:10 53:3
 55:6,24 57:12 64:23 67:24 92:7

sets 69:18
settlement 3:23 84:11,17 88:9,21
 89:9
settlements 88:6
seven 15:23
shaped 13:15
share 26:19 29:3 32:11
shared 15:4 23:23
sharing 24:18,19 25:5
shed 74:12
sheet 27:18
sheriff 2:4 3:22 5:14,15 6:1,2,2,3
 6:16 38:20,23 39:20 43:23 58:15
 60:3,7,10 61:1,6,12 62:1,2,4,7
 62:11,14,17,20,23,24,25 63:2,10
 63:14,18,23 64:20 65:19,21 66:1
 66:8,12,14,16 68:9,12 70:8,21
 71:5 73:2,5,6,19,23 74:24 75:2,5
 76:4,6,10,12,16 79:10 80:8,9,10
 81:24 82:6,20,21,22 83:14,15
 84:20 85:16 86:25 87:9 88:12,25
 89:21 90:14,25
Sheriff's 43:20
sheriffs 5:24 67:6
Sheriffs' 17:20 39:15
Shifting 61:24
shooting 33:12,14
shootings 16:15
short 50:24
short-sighted 23:10
shorthand 92:6
shot 73:14
show 84:3
showing 32:24
sign 24:24 49:15
signup 27:18
silence 5:23 6:4
similar 7:25 61:17
similarly 75:22
simple 26:2
simulated 34:22
simulation 33:12,15
sir 31:6 36:18 37:24 38:22 40:13
 42:20 43:10 62:4 73:19 75:2,5
sitting 52:19
situation 63:11 68:20 73:21 74:14
 75:11,16 76:8 78:23
six 70:10 85:17,19
six-month 88:10
slotted 69:14

small 33:20
social 16:9
society 23:4
software 19:6
Soland 5:16
sole 29:24
solutions 16:3
somebody 49:19 53:6 63:12 77:7
sorry 22:1 48:5
sort 21:8 25:12 27:4 65:25
sound 76:19
sounded 20:15
Southeastern 13:1 44:14
speak 12:11
speaking 21:10
specific 20:19,23 21:4 47:20,23
 77:14 80:25 81:4
specifically 8:3 9:6 20:24 47:10
 56:19 76:8
specified 84:5
spent 52:24
split 66:7
sponsored 65:1
sponsoring 79:21
spot 77:10
staff 10:19 13:9 19:25 33:19 41:1
 64:3
stages 18:5
stand 16:20 56:18 58:6
standard 9:15 39:15 63:16,19
 68:16
standards 3:20 46:12 56:8 57:11
 57:18,24 58:8,12,23 67:5,11,12
 68:15
standpoint 69:6
stands 29:8
start 24:8 25:20 33:20 41:10 53:6
 65:15 67:20
started 13:2,3 34:13 70:9
starts 74:9
state 8:8 9:1 12:20 14:14,25 16:8
 18:16 20:17,21 21:15,20,22
 26:19 28:20 59:13 63:1 70:12
 71:3 80:3
State's 69:17
stated 70:15 76:22
states 14:24 26:1 60:19
statewide 14:2 18:7 19:11
status 77:25
statute 9:12

stay 77:13,20 78:5
stellar 37:19
stem 53:8
stenographic 92:6
step 59:7 82:24
Stephan 2:11
steps 50:6 59:2
Steve 6:1 60:23
stipulated 50:21 88:9
stipulates 8:3
stops 25:25
street 21:6
strengthen 78:6
strengthening 77:24
strict 81:20
strides 17:19
strive 18:1
strong 17:21 34:11
strongly 37:17
structure 28:13,22 64:19
stuck 14:5 36:23
student 71:13,16 80:20 81:8
study 14:22 15:8
stuff 29:14
subcommittee 18:10 36:14 45:8
subject 37:15
submit 19:13 46:7
submitted 9:25
substantive 50:13
successful 24:18
sufficient 46:10
suggest 8:16
suggesting 36:3
suggestion 53:24
summaries 39:22
summary 31:8,16
Sunday 13:3
sundry 69:10
supervision 18:23
supplement 21:2
support 17:10 31:3,24 32:13 34:4
 65:13 68:17 72:17 73:4
supportive 33:2 76:23
supports 66:10
supposed 60:18
sure 16:5,17 29:11 42:2 49:25
 55:2 59:6 70:21 74:12 76:12
surgery 73:10
surmise 81:22
surrounded 68:18

survive 16:11,19
suspension 85:14,17,19 86:7,10
 86:22,24 87:10,12 88:10
suspicious 36:5
sympathetic 69:11
synopsis 40:9
system 19:12,21,22 61:17

T

table 54:14
tabled 67:8
tactics 12:15 24:5,17 79:15
tad 28:8
take 5:7,22 7:4 12:6 23:19 24:24
 26:23 29:1 30:23 32:3 35:7
 89:23 90:11
taken 23:9 80:14 84:6 92:5
talent 34:5
talk 12:6 22:24 25:7,11,22 26:20
 28:10 33:9 35:22 36:11 37:21,22
 39:22 46:19 52:5
talked 61:11,14 71:25
talking 21:23 25:21 47:21 80:1
teach 16:5,18 26:2,5
teaching 36:7
technology 19:5
telecommunication 13:22
telecommunications 18:22 19:1
telecommunicator 3:20 12:22
 57:11,17,21 58:7,12,18,23
telecommunicators 3:15 4:18
 12:23 13:25 14:15 44:9 46:15
 58:1
telephone 49:20
tell 22:13 36:9 37:13 70:11 78:20
tells 82:12
template 8:25
ten 33:22
tend 49:21
term 11:24 66:24 68:7
terminology 57:22
terms 35:21 36:24 40:9 53:17
 71:22
test 19:19
thank 5:21 6:5 10:7 12:4 22:10
 38:23,24 40:6 42:17 43:10 45:2
 46:20 54:17 55:3,22 56:18 57:9
 58:5,25 59:1 60:1,8,10,20 73:6
 73:14 80:7,8,9 82:20,21,22
thanking 17:5

thanks 13:8
thing 21:8 22:21 26:2,15 35:14
 55:1 65:8,9 67:16,18,19 68:5
 74:16
things 23:3 25:7 26:17 27:20 28:4
 30:4 31:7 33:10 37:3 73:3
think 8:1,5 14:10 15:19 21:19
 22:16 23:3,11,12 24:10 25:18,20
 26:5 27:14,20 28:11,17,23 30:1
 30:3,23 31:10,20 32:12 33:1,3,3
 33:4,10,25 34:3,8,17 35:4,10,24
 36:3,9,10,25 37:6,8 38:1,6,10,12
 40:17,21 41:8 42:5 47:2,15
 48:13,17 50:13,16 52:9 53:4,7
 53:12,13 59:9 61:19 63:10,11
 64:8,23 65:9,15 68:13 69:5,12
 69:25 70:1,3 71:1 72:6,11,15,18
 72:20 73:23,24 74:2,5,23 75:18
 76:18,23 77:4,21,24 78:5,8,11
 78:16,20,24 79:5 80:15,17,22
 81:2,17 82:4,14
thinking 14:19 16:9 25:13 33:17
 69:21 81:11
Third 18:4
Thomas 6:2 16:23 39:21
thoroughness 30:9
thought 20:16 38:3 46:25 48:14
 73:13
three 6:9 18:10 27:22,22,23 32:22
 33:21 39:13,18 45:7 81:13
three-hour 34:22
three-year 86:22,24
tie 25:2
time 6:10,12 8:15 12:3 22:13 24:2
 32:3 34:14 38:25 40:13 52:10,21
 52:23 53:17,23 59:14 61:15,23
 63:7,17 64:24 65:7,18,19 66:10
 67:25 69:21,22 76:20 79:17 80:3
 80:5,13 84:1
timely 56:14
times 15:23 49:23
Title 45:15
today 6:1 18:11 45:21 50:8,10,11
 51:1 60:12 74:24 82:5
today's 6:18
tomorrow 28:9
top 30:15
topic 21:10 34:7 52:22,24
topics 30:10 33:25
toss 33:18

total 14:13
tough 80:6
trafficking 20:20,20,25 21:16
train 31:18 32:5 56:9
training 3:20 12:12,17 13:7 16:12
 16:18 18:5,20 19:2,2,3,17,20
 20:9,18,24 21:24 22:7,11,18,20
 24:6,22 26:4 31:25 33:25 34:22
 36:6 56:8,13,15,15 57:11,18,25
 58:3,3,8,12,18,24 61:20,22
 65:20,24 68:2 69:2,13,19 75:12
 75:15 76:1
transcript 59:18
transcription 92:8
transparency 17:11,12 27:8 37:4
 37:10 46:3 56:12 58:2
Travis 4:12 90:6,7
tricks 25:20
true 63:8 92:8
trust 68:23
try 28:16 35:15 72:9
trying 15:20 27:25 35:14,18,25
 36:7 61:25
Tsodie 6:3
turn 7:20
turning 34:15
two 33:20,20 37:3,4,20 63:3,15
 64:11,18,21 81:23 82:4
two-week 79:15
types 64:4
typo 48:18

U

U.S 14:22
Uh-huh 62:14,20 66:8
ultimate 5:24 17:3
ultimately 48:22
unable 71:13 79:19
unacceptable 20:3
unbelievable 74:21
understand 14:7 61:24 69:12
understandable 56:16
understanding 10:18 22:20 26:3
 75:11 76:3 79:1,2
understood 14:8 81:14
undertaken 45:8
unfortunate 78:23
unfortunately 74:2,19 80:24
uniformity 81:7,11
unique 15:3,5 56:15

unreasonably 53:7
upcoming 12:7 28:23 40:23
update 24:23,23 45:10 57:21
upset 41:22
us-versus-them 35:17
usually 12:13 42:9
utterly 36:10

V

vacuum 79:9
vague 29:8 52:18 53:1
Valencia 16:24 39:21
Valerie 4:10 89:5,6
valuable 77:21
Vanderweele 4:6 87:6,8
various 61:11 76:19
vehicle 67:17
venture 31:11,21
verbiage 53:25
version 26:12,13,25 48:21
versus 66:20
viable 29:15
vice 10:7,8,9,12,23 11:9,13,23
 86:6 87:22 89:8 90:9
Vice-Chairman 3:8 10:5
victims 15:24
view 16:5 37:5 72:8
viewed 42:3
violation 89:23 90:11
violations 37:15
violent 15:11,24 16:7 17:9
virtue 26:21
volunteered 34:10
vote 41:9 42:15 55:9 59:24 72:21
 76:20,24 77:14 83:7 84:8
voted 39:14 50:11 62:3 67:10
 68:23 75:22 77:3
votes 50:8 84:6
voting 55:10

W

wait 74:10
waited 82:17
waiting 82:3
waive 72:24
walking 78:3
wall 3:12 16:25 39:6,9,25 40:2,11
 42:24 43:9
Waller 2:4 5:14,15 6:16 38:20,23
 43:23 58:15 63:14 68:12 83:14

83:15 84:20 85:16 86:25 87:9
 88:12,25 89:21 90:14,25
want 12:8 26:14,18,20 27:13,24
 29:1 30:24 31:7,15 37:13,16
 46:19 47:12 49:12,14,22,25
 52:24 55:4 66:25 67:14,15 69:1
 69:9 73:9 74:15 77:1 82:1
wanted 22:8 50:9,19
wanting 28:2
War 35:1
wary 25:24,24,25
wasn't 9:6 36:21 53:25 75:13
watch 37:14
way 20:7 27:21 32:9 33:8 35:17
 36:4 37:16 38:10 44:3,22 45:1
 67:3 70:2 76:13 79:2 82:15
ways 27:11,23 28:4,10 64:18
we'll 11:12 29:10 36:15 59:18
we're 14:21 17:22 18:15 19:4,5
 20:3,10 23:15,23 27:13,25,25
 30:3 35:19,19,20,24,24 36:6,7,7
 38:12 48:8 67:11 77:8,13 78:10
 79:8 80:1 81:19 82:8 84:7 85:1
we've 10:15 18:21 22:21 35:16,21
 37:6 38:11 49:1,2 64:8 77:15,19
 78:22 80:14
web 28:21
web-based 19:20
website 7:3 26:14,15 28:8,17
 40:14,14
week 60:14 61:4,21,22 62:22 63:4
 63:7 64:17 65:14 72:9 76:25
weekends 65:24
weekly 22:22 32:21,22
weeks 12:21 64:22 82:16,17
welcome 12:8 18:2 40:2
went 27:4 64:19 73:8,25
Wesley 2:4 5:14 83:14
whatnot 29:14
whatsoever 92:13
wheel 25:10
Williams 1:21 92:3,22
willing 33:6 38:6 77:12 79:13
Wilson 4:10 89:5,6
win 77:3
window 72:8
wish 81:21
withdrawal 71:11,15
withdrawals 80:19
women 17:6

wondered 21:25
wonderful 72:18
words 51:3 81:14
work 12:13,19 13:20 16:2 17:10
 17:18,24,25 18:8 20:8 22:19
 23:1 29:9 31:15 33:5 45:7 70:23
workable 64:5
worked 25:18 33:3,4 65:23
working 10:19 18:16 19:6 28:7
world 14:22 16:4 19:23
worried 78:10
wouldn't 26:14,20 33:5 63:8
 67:12
wrestled 77:16
written 46:9
wrong 48:8

X

Y

yeah 34:19 70:21
year 5:25 8:1 9:15 10:4,13 12:7
 13:5,7,15 14:12,12,17 16:16,24
 17:23 18:18 20:1 34:13 39:14,25
 45:19 49:23 60:14 68:10 75:18
 87:10
year's 7:1,19
years 16:14 37:20 52:9 79:4
years' 37:14
yesterday 15:23
yield 12:2 39:10 45:24 56:4 57:18

Z

Zavala 4:7 87:18,20,23

0

0095 44:21
0105 44:22 45:1
095 44:25

1

1 3:3 4:16,18 5:1 43:24 44:3,7
 45:15 46:2,19,25 54:15,16
10 3:8,13 43:11,13 45:15,16 46:25
10.29.1 3:16 45:3 47:4 54:18,21
 55:18
10.29.1.10D 71:8
10.29.1.8 51:12
10.29.1.8D(6) 50:16 51:4
10.29.10 3:20 57:10,17,20 58:7,22
10.29.18 54:5

10.29.4 3:18 55:23 56:4,6,19 57:4
57:8

10:22 83:22

108 14:14

11 3:14 44:8,10,15 60:15 61:5,21
61:22 62:22 63:4 64:17 65:14
76:25

12 3:9,16 45:3,6

12/31/17 92:23

12:13 83:22 84:2

12:20 91:6

12th 15:15

13 3:18 55:23

134 12:22

14 1:21 3:20 12:25 57:10 92:3,23

15 3:22 33:22 52:25 60:3,5,6

16 3:23 64:22 82:16,17 84:11,14

16-0095-PS 44:16

16-0105-PS 44:16

16-0347-P 43:21

16-0364-P 43:22

16-week 63:5 65:10 66:19 74:7
82:1

17 3:25 84:25 85:2

18 4:3 12:17 85:12,14 86:1

19 4:4 13:3 86:3,4,16

194 12:12

19th 45:19

2

2 3:4 5:4

20 4:5 34:15 86:18,19

201 16:25

2012 73:9

2015 64:19

2016 3:6,11 7:8 39:5,8 42:23 43:4
43:8 66:21 71:24

2017 1:7 9:25 10:4 92:4

2018 68:9

21 4:6 87:6,7

21st 17:23 19:5

22 4:7 16:14 87:18,20

23 4:8 88:5,7,17

24 4:9 32:8 88:18,19

25 4:10 12:21 89:5,6

250 15:4

26 4:11 89:17,19

27 4:12 12:23 90:6,7

28 4:13 83:23

29 4:14 45:15 90:22

2nd 45:19

3

3 3:5 6:7

30 59:12

31st 68:9

347 44:2

364 44:3

37 43:21

377 14:13

39 3:10,12

4

4 3:6 6:23,25 7:15 45:15 46:25

40 70:9

43 3:13

44 3:15

4491 1:10

45 3:17

46th 15:10 20:6

48-hour 32:8

485 14:15

48th 15:11

49th 15:11,15

5

5 3:3,4,6,7 7:16,17

50th 15:12,16 20:3,7 30:11 31:10
31:23

55 3:19

57 3:21

5th 7:1,8,11,15

6

6 3:5,6,8 10:5,6 51:12 54:5

60 3:22

69 12:12

6th 60:13 61:1

7

7 1:7 3:7,9 11:25 12:1 92:4

8

8 3:10 39:1,2

8:30 1:8

83 4:13

84 3:24

85 3:25 4:3

86 4:4,5

87 4:6,7

87507 1:11

88 4:8,9

89 4:10,11

9

9 3:11 39:5,7,11

90 4:12,14 86:8

90-day 86:10

91 12:17,21