



Citizen Misconduct Referral – Deputy Miguel Bittony – MCSO Case 2026-00010128 – Certification Review Requested

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Mon, Sep 21, 2026 at 11:22 AM

To: [REDACTED]
Cc: "Arballo, Jessica, DPS" <Jessica.Arballo@dps.nm.gov>

Ms. [REDACTED]

Thank you for your follow-up questions. Subsection E of 10.29.1.11 NMAC, and I want to clarify my previous response. Subsection E primarily establishes the reporting obligation of the employing law enforcement agency. It requires an employing agency that becomes aware of alleged misconduct that may constitute a violation of the Board's rules to report that conduct to the Director and provides that agencies should undertake a timely and thorough investigation of the allegations.

However, the final sentence of Subsection E also states: "An agency's delay or failure to report alleged misconduct does not prevent the director from filing a separate report or divest the board of jurisdiction to take disciplinary action authorized under the Law Enforcement Training Act."

With respect to your specific questions:

Who may place such information before the Director for consideration of a separate report?

The current language of 10.29.1.11(E) NMAC does not identify or limit who may provide information to the Director that could potentially result in the Director considering whether a separate report is appropriate. At the same time, the rule does not establish a formal citizen-complaint process comparable to the misconduct-reporting process established for employing agencies.

Is the material I already provided being evaluated for that purpose?

The information you previously provided has been received by LECB. Considering the provision you identified, I have reviewed to determine whether it presents information that falls within the Board's certification jurisdiction and whether any further action under 10.29.1.11 NMAC is appropriate. Receipt or review of the information should not be interpreted as a determination that misconduct occurred, that an investigation has been opened, or that disciplinary action is warranted.

If not, to whom within LECB should it be transmitted for that determination?

LECB staff already has the materials you provided. I have determine based on the information provide and the response you have been provide by NMDOJ that this need to be handled by the agency department head to ensure there's an appropriate internal review process.

Does LECB take the position that it must simply wait for the employing agency to report itself despite the final sentence of Subsection E expressly addressing an agency's "delay or failure to report"?

No. Subsection E does not state that the LECB must wait indefinitely for an employing agency to submit a misconduct report. The final sentence expressly preserves the Director's ability to file a separate report and preserves the Board's jurisdiction when an employing agency delays or fails to report alleged misconduct. At the same time, Subsection E places an affirmative reporting obligation on the employing agency and provides that agencies should conduct timely and thorough investigations to determine whether allegations of misconduct are sustained. The Director's authority to file a separate report does not eliminate the employing agency's independent responsibility under the rule. I appreciate you bringing the specific language of Subsection E to my attention. My intent is to ensure that the information you submitted is handled consistently with the authority and procedures established under the Law Enforcement Training Act and the Board's rules, while also ensuring that no conclusions are reached regarding allegations before the appropriate review occurs.

If the LECB staff finds out about an allegation related to an officer misconduct we will inquire with that agency head. Based on the information you submitted you're alleging the officer or deputy "changed the compliant".

You requested the following "I am asking LECB to open a certification-misconduct investigation into Deputy Miguel Bittony and determine how material facts I reported became progressively smaller as this case moved through his hands and ultimately into a criminal complaint he personally signed." "LECB should determine whether that progression resulted from incompetence, negligence, deliberate distortion, or something else." "But LECB should not wait for it." "If investigation establishes knowing minimization or knowing certification of a materially inaccurate account, LECB should not stop at this one case."

The information and questions you have submitted appear to be asking the LECB and its staff to investigate a personnel and Internal Affairs matter involving employees of the **McKinley County** Sheriff's Office. LECB staff is not the employing agency for the officers involved and does not serve as a substitute for an employing agency's Internal Affairs process. The underlying allegations regarding the deputies' conduct should first be reviewed and investigated by the **McKinley County** Sheriff's Office through its established administrative or Internal Affairs process.

Under 10.29.1.11(E) NMAC, when an employing agency becomes aware of alleged misconduct that may constitute grounds for certification discipline, the agency has a responsibility to report that alleged misconduct to the appropriate director. The rule also provides that agencies should undertake a timely and thorough investigation to determine whether an allegation of misconduct is sustained. If the **McKinley County** Sheriff's Office conducts its investigation and determines that the conduct is sustained and may constitute grounds for certification discipline under the Board's rules, the agency would then be responsible for submitting the appropriate misconduct report to LECB identifying the allegations and the certified individuals involved. As you indicated in your email regarding the response you received from the **New Mexico** Department of Justice, the **McKinley County** Sheriff's Office is better situated to address the underlying issues you have raised. If its investigation identifies conduct that is required to be reported under the Board's rules, the agency should submit that matter to LECB for consideration through the established misconduct-reporting process.

I hope this clarification addresses your questions regarding the respective roles of the employing agency and the LECB. I want to reiterate **McKinley County** Sheriff's Office is better suited to address the issues in your email.

[Quoted text hidden]