

AGENDA POLICE STANDARDS ADVISORY COUNCIL

DATE: June 9, 2021

TO: Police Standards Advisory Council

FROM: Brenda L. Urbanek, Director

SUBJECT: Regular Meeting Wednesday, June 16, 2021, 9:00 A.M.
Library, Nebraska Law Enforcement Training Center,
3600 N. Academy Road, Grand Island, Nebraska 68801

Meeting Live Via Zoom at;

<https://us02web.zoom.us/j/83580865052?pwd=VlFwYTQ2NUt1OXlRRnkxTXFoM2Nrdz09>

Meeting ID: 835 8086 5052

Passcode: 873617

COUNCIL MEMBERS MUST BE PRESENT TO VOTE

- I. CALL TO ORDER
- II. APPROVAL OF MAY 19, 2021 P.S.A.C. MINUTES
- III. ACADEMY REPORTS
 - A. Director – N.L.E.T.C.
 - B. Deputy Director of Training – N.L.E.T.C.
 - C. Nebraska State Patrol
 - D. S.L.D.E.A.

Brenda L. Urbanek, Director

Law Enforcement Training Center

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IV. CRIME COMMISSION REPORT

V. OLD BUSINESS

VI. NEW BUSINESS

- A. Appeal – 21-PSAC-87 Denial to Attend SDLEA Academy** Attachment #1
Ashley Harry, Douglas County Sheriff's Office
- B. Appeal – 21-PSAC-84 Denial to Attend NLETC Academy** Attachment #2
Jake Andersen, University of Nebraska at Omaha
- C. Request to Address the Council - Firearms Instructor Certification**
Braden Lang, Pawnee County Sheriff's Office Attachment #3
- D. Waiver of NLETC Management Course Requirement** Attachment #4
Captain Tarvis Banks, Lincoln Police Department
- E. Instructor Certification/Recertification for Handgun and Patrol Rifle Programs**
Bellevue P.D., Douglas Co. S.O., La Vista P.D., Papillion P.D., Sarpy Co. S.O.
Attachment #5
- F. Safe Policing for Safe Communities Credentialing**
Vote required

VII. OTHER BUSINESS

- A. Date, Time & Location of Next Meeting**
July 21, 2021, 9:00; Library, Nebraska Law Enforcement Training Center,
3600 North Academy Road, Grand Island, Nebraska

**REGULAR MEETING OF THE
POLICE STANDARDS ADVISORY COUNCIL
May 19, 2021**

I. CALL TO ORDER

Chairman, Chief Deputy Greg London called the regular monthly meeting of the Police Standards Advisory Council to order at 9:01 A.M. Legal notice of the meeting was published in the Lincoln Journal Star on Friday, May 7th, 2021.

Roll call; Chief Deputy Greg London, Sheriff Dan Osmond, Chief Timothy Larby, Mr. Matthew McCarthy, Chief Tracy Wolf, and Lieutenant Colonel Buck Duis.

Others present: Director Brenda Urbanek, David Stolz, Don Arp Jr., William Keeling, Captain Gregory Miller, Lieutenant Andrew Ecklund, and Kay Fielding.

II. APPROVAL OF MARCH 17, 2021 P.S.A.C. MINUTES

MOTION

Sheriff Osmond motioned to approve the March 17, 2021 minutes. Mr. McCarthy seconded the motion. Chief Deputy Greg London, Sheriff Dan Osmond, Chief Timothy Larby, Chief Tracy Wolf, Mr. Matthew McCarthy, and Lieutenant Colonel Buck Duis. Motion carried 6-0

III. ACADEMY REPORTS

A. Director – N.L.E.T.C.

Director Urbanek reported in April of 2021, 791 had been in effect for 3 years and in that time frame we have received 78 reports from agencies. We currently have 14 cases being reviewed to determine whether or not to file informal complaints, other cases have either had informal complaints filed or we have dismissed them. 26 of the 78 cases have been dismissed. Additionally as of earlier this month we had 14 informal complaints that number has probably gone up probably two or three in the last two or three weeks.



80 spots were requested for the 208th Basic. When the 30-day deadline came and went, we had 51 approved packets. 7 of the 51 were returning either because they left previous training sessions or had not met previous admissions standards of the PRET. I denied three different applications for failing to meet admission requirements so we had 54 packets 3 of which I denied because they failed the admission standards. 38 out of 49 who took the PRET passed and 2 of those who did not meet the entrance standards this was their second attempt. We have not been at capacity, 50 students, for over two and a half years.

Last Friday I went to SDLEA's academy and administered the final/licensing exam. All 15 students passed. Each time we give the exam a test item analysis is conducted on the job tasks to show the areas people struggled with. That information was provided to Director Wagner.

Monday, May 17th I attended the Law Enforcement Memorial Service. I attended the annual Hall County Airport Planning meeting the airport puts on for disasters and situations. It was about four days after they had an armed hostage situation at the airport where a 19-year old kid somehow got onto an airplane with an AR-15 rifle so we were kind of in a lockdown situation here. It was a good experience from the standpoint of it brought out some areas we could work on in the event of a situation happening like that.

After the last hearing we had, we received a change in status form from Walthill indicating Kelvin Grant, was no longer employed and his 30-day deadline to appeal had passed.

I have administratively revoked the law enforcement Certification of Rhonda Rowe based on a felony conviction. She was formerly employed with the Hall County Sheriff's Office. I notified her by certified mail on February 18th of 2021 that I had information she had been convicted of a fraudulent insurance act by an agent, a class I Felony and unlawful taking \$4,999.00 a class IIA felony. The final conviction in District Court was on January 14, 2021. She served her jail sentence and paid her fine. As specified in Nebraska Rev. Stat. 81-1403, sub. 6 an officer's certifications can be revoked upon the final conviction of a felony. Pursuant to Title 79 of the Nebraska Administrative Code Chapter 9, 005.09 I notified Ms. Rowe of my intent to revoke her law enforcement certifications and sent her a copy of Chapter 9 which affords her the opportunity to come before this body and contest it. I did not receive any intent to appeal from Ms. Rowe and consequently I administratively revoked her certification March 22, 2021.

B. Deputy Director of Training – N.L.E.T.C.

Deputy Director William Keeling addressed the Council stating the 207th Class graduated 38 new officers on April 16th. During that class we didn't have any students with Covid issues. Over half the class received the Moderna Vaccine while at the Training Center. We had two students react negatively to the vaccine and one withdrew from the class. Over half of the current 36 were already vaccinated.

49 participated in the 208th Basic PRET with 11 failing and 1 student withdrew before the first day so we started with 37. Of the 11 who failed the PRET almost all were pretty miserable failures.

The class is represented by 26 different agencies. Class started Sunday, May 3rd with graduation scheduled for August 11th. We currently have 36 students after separating 1 Monday, May 17th for disciplinary reasons. Additionally we had 8 failures on the Unit II exam Monday night. I began this basic with very similar rules as the last basic; they come in, get their temperatures checked, they are not allowed to leave campus during the week, and they must be back on Sunday evening for check-in and health screenings. At least for the short term. We continue to reevaluate that as the CDC change their recommendations.

C. Nebraska State Patrol

Captain Greg Miller stated Camp 64 still had 8 cadets. Last week they finished week 18 and received their duty stations. They are off this week. Next week they will continue comprehensive scenarios and are set to graduate June 18th. We are in the selection process for Camp 65 which will begin July 6th.

D. S.L.D.E.A.

In Director Wagner's absence Director Urbanek reported she went to the SLDEA Academy Friday and administered the final exam. It was given electronically and worked out well without any technical problems. Graduation is this Friday at 10:00 A.M. in the Stadium Church across the street from La Vista Police Department. They anticipate starting another class July 6th. I will ask Director Wagner to come in June and talk to the Council about their plans for the July class.

IV. CRIME COMMISSION REPORT

Executive Director Arp Jr. stated Legislature was winding down. LB51 was up for final reading. We don't know if it will actually appear on an agenda this week, we are waiting to see if it gets voted on. If it doesn't, it will get carried over to next year. There is also a legislative resolution to study the Training Center whether it can be a basic and continuing education training, Senator Brewer currently functionality setting. There has been some last minute push back by some agencies on 51.

Chief Deputy London asked what the Bill looked like today compared to when it was first introduced.

Mr. Arp stated it now had a sliding scale of the continuing education as second implementation over the next couple of years so it ends up with 28 total hours from the 22 now. Really a lot of it is quiet similar. The database is no longer a database of every disciplinary infraction by every officer ever put in the public list of those who have been decertified and those currently criminally charged so it is all public information. The accreditation process is still in there about as descriptive as it was when we first saw it. It does provide for a grant fund with no money in it. They accepted a lot of our input, so if 51 passes the major difference is in the fiscal note. The Training Center will get an additional attorney and two administrative assistants to handle both the accreditation process and the new process they establish for the non-commissioned, conditional that the pre-certified folks that program.

I think there are also some changes to the Reserves, they were originally cut and have been reestablished but Senator Brewer, in the amendment, removed the hour restriction so Reserves are no longer restricted to 100 hours a year, it's limitless.

Director Urbanek stated it also states that a Reserve will also be in direct physical contact.

If 51 passes, there will be a massive rewrite of Title 79.

Mr. Arp stated the budget went through several elements of this part of it for the Training Center, the instructional staff will receive pay raises, support for the software system, and support for the vehicles. We've shifted a good percentage of the operations, at least more support of the cash fund will increase the general fund, appropriations more or less relying on cash.

One of Senator Wishart's Bills and then one of Senator Ben Hansen's Bills got included in the budget by appropriations. So we will now have another investigator position that we will be able to add to the staff and there was \$142,000 included to provide access to online training for law enforcement officers in the state. Those things will happen for sure.

I am getting ready to sign off on the vendor for the new target system for the west firearms range so targets turn at the same time. Hope to have it installed and fully functional by the end of the year.

V. OLD BUSINESS

A. 2020 Annual Waivers

Robert McFarland, Ashland Police Department

Director Urbanek stated Attachment #1 was a letter sent to Chief Baudler. The Chief attended via Zoom. Additional information for calendar year 2020 was initially requested and as of May 7, 2021, we received none. After the May letter I received an email from the Chief stating McFarland failed his qualification on September, 24, became injured and had been off duty since early November, 2020. I did receive an email from Mr. McFarland outlining his shoulder injury to include a copy of X-rays and MRI. It looks to be a pretty substantial shoulder repair. So that is the initial information on Mr. McFarland's injury that the Council requested.

Chairman London asked Chief Baudler if he had any comments.

Chief Baudler (had trouble with speaker)

Chief Larby asked if there was an estimated time he could return to work.

Director Urbanek stated according to the medical paperwork he went back to the doctor May 12, 2021 and would be off work for an extended period of time.

Lieutenant Colonel Duis stated he attempted to qualify in September, 2020 but failed?

Director Urbanek stated, yes according to the Chief's email.

Chief Baudler (got speaker working) stated he got a message from him the other day and would probably be off work another six months. I will have him requalify before I have him return to work.

MOTION

Lieutenant Colonel Duis; I'll make a motion that we grant the waiver for Robert McFarland for his 2020 firearms qualification. Chief Larby seconded the motion. Roll call vote: Sheriff Osmond, Chief Larby, Chief Wolf, Mr. McCarthy, Lieutenant Colonel Duis, and Chief Deputy London. Motion carried.

VI. NEW BUSINESS

A. PSD Judge/Evaluator/Certification Modifications

Mike Kerby Training Center Staff Instructor addressed the Council stating per a December 22, 2020, directive from Director Urbanek, he submitted correspondence via email to Nebraska's PSD Evaluators and Judges. Pursuant to Title 79 Chapter 18, consideration of changes, additions, deletions or modifications to Chapter 18 standards are to be reviewed by this body of Subject Matter Experts every three years. A return date of February 1, 2021 was set for any such suggestions. Having received none from any agency, I surmised that the current PSD certification and training program in Nebraska was sufficient to meet the needs of Nebraska's police agencies. Thus, no modifications, changes or additions are requested or recommended during this review period. The next review should be conducted January, 2024.

The Council had no questions.

Director Urbanek asked if agenda item D. could be moved up as Sheriff Spanel, Loup County needed to work court security this morning. Sheriff Spanel attended via Zoom.

D. Waiver of One-Year Management Requirement Sheriff Dustin Spanel, Loup County Sheriff's Office

Director Urbanek stated Sheriff Spanel requested a waiver of the one-year Management requirement. His letter, Attachment #3, defined the timeline. He was appointed as Sheriff and by rule and the Attorney General's opinion sheriffs have to attend and complete Management. He started the fall Management class and the person sitting next to him asked him to leave because of Covid exposure so he was unable to complete the in person class. He has successfully completed the online class and plans to come back in October for the classroom session. I recommend approval of the waiver for his one-year Management requirement.

MOTION

Chief Larby; I would make that motion. Mr. McCarthy seconded the motion. Roll call vote: Chief Larby, Chief Wolf, Mr. McCarthy, Lieutenant Colonel Duis, Chief Deputy London and Sheriff Osmond. Motion carried 6-0.

B. Revocation of Law Enforcement Certification – Voluntary Surrender LR-152-18; Kenneth White

Mr. Stolz presented the factual basis stating the Respondent officer can voluntarily surrender their certificate after the informal complaint. No formal revocation has been filed but consistent with Title 79, Chapter 9, Section 013, the Respondent officer may voluntarily provide his surrenderment of the certificate once an informal complaint has been made.

Mr. Stolz presented the Consent to Revocation of Law Enforcement Certificate and Waiver of Notice and Hearing signed by Kenneth White, and asked that it be marked as Exhibit #1 and received it into evidence.

Chairman London received Exhibit #1 into the record.

Mr. Stolz stated the Respondent acknowledged he was the current holder of a Nebraska Law Enforcement Officer Certificate issued to him on or about April 14, 2011. He acknowledged a written complaint was made against him to the Executive Director of the Crime Commission on or about July 9, 2018. He had reviewed and was familiar with the contents of the complaint that was made against him and was aware of the circumstances surrounding the allegations. He acknowledges the complaint made against him arose out of the alleged facts and circumstances that occurred while he was a certified law enforcement officer in this state. He is aware of his rights under the statutes, and rules and regulations of the Commission; to resist the complaint, to be represented by Counsel, to have a full administrative evidentiary hearing before this body if the complaint is pursued by the Commission and appeal any adverse decisions of the Council and Commission to the Nebraska Courts. That rather than to resist, contest or dispute the complaint filed against him, he wishes to voluntarily surrender his law enforcement officer certificate and by signing this document, Exhibit #1, he freely and voluntarily consents to the revocation of his Nebraska Law Enforcement Officer Certificate by this body and the Nebraska Commission on Law Enforcement and Criminal Justice and freely and voluntarily waives his right to notice, appearance, and hearing prior to such action being taken.

Based on the foregoing, I would ask this Council to accept his relinquishment and recommend to the Crime Commission that his Nebraska Law Enforcement Certificate be revoked based upon the statutory grounds of neglect of duty, and on the basis of the misdemeanor conviction having a rational connection to the officers fitness to serve as a law enforcement officer and a violation of the officer's oath of office and code of ethics per Title 79 of the Nebraska Administrative Code Chapter 9, Section 003.03 and 003.04.

MOTION

Mr. McCarthy motioned based upon the fact that the respondent has signed a Consent to Revocation of Law Enforcement Certificate and waiver of notice and hearing and has voluntarily surrendered his certificate, I make a motion that the Council accept the surrender of Kenneth White's Nebraska Law Enforcement Certificate as evidence of neglect of duty.

Said revocation to be effective upon review and acceptance of the surrender by the Nebraska Commission on Law Enforcement and Criminal Justice. Chief Wolf seconded the motion. Voting in favor; Chief Wolf, Mr. McCarthy, Lt. Colonel Duis, Chief Deputy London, Sheriff Osmond, and Chief Larby. Motion Carried 6-0.

C. Academy Instructor Certifications

General Original

Shane Belgum – NSP
Alan Eberle – NSP

MOTION

Sheriff Osmond motioned that we approve Shane Belgum and Alan Eberle for the General Original as presented. Chief Larby seconded the motion. Voting in favor of the motion; Sheriff Osmond, Chief Larby, Chief Wolf, Mr. McCarthy, Chief Deputy London. Lieutenant Colonel Duis, abstained. Motion carried.

General Recertification

Jeff Hillabrand – Lincoln Police Department

Deputy Director Keeling stated Mr. Hillabrand certainly possesses the training, experience and certifications to teach the areas requested and I would recommend approval.

MOTION

Chief Wolf; I make a motion for approval for Jeff Hillabrand of the Lincoln Police Department for General Recertification as presented. Chief Larby seconded the motion. Voting in favor of the motion; Lieutenant Colonel Duis, Chief Deputy London, Sheriff Osmond, Chief Larby, Chief Wolf, Mr. McCarthy. Motion carried.

Professional Original

Matthew Brodecky – NSP
Greg Goltz – NSP

Nicholas Plate – NSP
Dean Riedel – NSP

Deputy Director Keeling stated all four of these individuals have completed the required instructor development and I would recommend approval.

Chief Deputy London made a motion for Matthew Brodecky, Greg Goltz, Nicholas Plate, and Dean Riedel that we accept the recommendation for Professional Original Certification. Chief Larby seconded the motion. Voting in favor of the motion; Chief Deputy London, Sheriff Osmond, Chief Larby, Chief Wolf, Mr. McCarthy. Lieutenant Colonel Duis, abstained. Motion carried.

Professional Recertification

Jason Probasco – NSP

Deputy Director Keeling stated he is a long time investigator qualified to teach in the areas requested and would recommend approval.

MOTION

Sheriff Osmond motioned that we approve the Professional Recertification for Jason Probasco of the NSP. Sheriff Larby seconded the motion. Voting in favor of the motion; Sheriff Osmond, Chief Larby, Chief Wolf, Mr. McCarthy, and Chief Deputy London. Lieutenant Colonel Duis, abstained. Motion carried.

E. 2021 First Line Supervisor Course In-Lieu-Of N.L.E.T.C. Supervision Omaha Police Department

Director Urbanek addressed the Council stating Lieutenant Fox head of the Omaha Training Academy was online. We received an inquiry earlier this winter about the possibility of OPD conducting their own Supervision course for their newly promoted or about to be promoted First-Line Supervisors and had conversations about content and curriculum that needed to be covered and the additional information they wanted to cover that was specific to Omaha. In my comparisons, I agree with Chief Schmaderer's assessment that they cover what has to be covered for our Supervision course and then they expand a little bit in some other areas. I recommend approval for Omaha to be able to conduct the Supervision course as provided in this schedule/curriculum for 2021. I would recommend if they want to continue to offer this course that they ask every calendar year for approval from the body so they are not operating on this action five years from now and the material has changed.

MOTION

Mr. McCarthy motioned to approve the First-Line Supervisor course by O.P.D. In-Lieu-Of N.L.E.T.C. Supervision for the calendar year 2021. Chief Wolf seconded the motion. Voting in favor of the motion; Chief Deputy London, Sheriff Osmond, Chief Larby, Chief Wolf, Mr. McCarthy, and Lieutenant Colonel Duis. Motion Carried.

F. Waiver of One-Year Basic Training Requirement
Deputy Andrea Murphy, Washington County Sheriff's Office

Director Urbanek stated this was a little unusual because it was aggregate time with the same agency but there is quite a break in time. She was originally hired in May of 2007, scheduled to attend, worked during that time frame for approximately 256 days, she was rehired again in March of this year, has passed the background check and they would like to enroll her in the September class. The time would exceed her one-year requirement. The class will begin August 30th and graduate approximately December 18th.

Sheriff Robinson and Chief Deputy Willis from Washington County were present to answer any questions the Council may have.

MOTION

Sheriff Osmond; I would make a motion that we grant the waiver with the understanding that she cannot perform any law enforcement duties after that one year has expired. Mr. McCarthy seconded the motion. Voting in favor of the motion; Sheriff Osmond, Chief Larby, Chief Wolf, Mr. McCarthy, Lieutenant Colonel Duis, and Chief Deputy London. Motion carried.

Director Urbanek stated she would check with Ms. Wagner and let them know exactly what date that was.

G. Waiver of NLETC Management Course Requirement
Chief Joel Smith, McCook Police Department

Director Urbanek stated Chief Smith was attending via Zoom. He was recently appointed Chief of the McCook Police Department after working with the Nebraska State Patrol for a number of years. He submitted documentation of his training records and was asking for a waiver of attending the onsite Management course based on his previous training experience. I made a comparison of the NLETC Management course and the training he supplied and he meets and exceeds the minimum requirements for the N.L.E.T.C. Management course. He has agreed to take the online Management course. I recommend approval of the request.

MOTION

Chief Larby; I make a motion that we grant the waiver to Chief Joel Smith of the McCook Police Department with the additional amendment that he go through the online portion of the Management. Sheriff Osmond seconded the motion. Voting in favor of the motion; Chief Larby, Chief Wolf, Mr. McCarthy, Lieutenant Colonel Duis, Chief Deputy London, and Sheriff Osmond. Motion carried 6-0.

H. Waiver of One-Year Supervision Training Requirement Officer Lisa Citta, North Platte Police Department

Director Urbanek stated this was kind of unusual, the city of North Platte promotes individuals to positions of investigators and they sometimes work as supervisors out on the street. We didn't flag it as a supervision requirement because of the investigator classification. She has surpassed the one-year but is enrolled in the next supervision class.

MOTION

Chief Larby motioned to grant the waiver of the one-year supervision requirement for Officer Lisa Citta of the North Platte Police Department. Mr. McCarthy seconded the motion. Voting in favor; Chief Wolf, Mr. McCarthy, Lieutenant Colonel Duis, Chief Deputy London, Sheriff Osmond, and Chief Larby. Motion carried.

VII. OTHER BUSINESS

Sheriff Osmond stated just from the Sheriff's Association meetings it has been a topic when he goes to them, there are some that feel they should decide whether somebody should be in basic based on their physical fitness not the Training Center. I let them know if they have a problem with it, get on our agenda and come and talk with us.

Director Urbanek stated she could see why an agency doesn't want this body telling them who can and can't physically do the job. My personal take on that is, if the agency is issuing the certificate, then that's fine, but the certificate allows them to go anywhere in this state and work. The people who struggle the most with passing the PRET are the young 20 year olds who have not prescribed to an active physical regimen program since probable Jr. High and agencies are truly in crisis now in finding applicants.

Lieutenant Colonel Duis stated we are not talking about people on the bubble here, they are not a pull-up or two short of making it. We are talking about 18, 10, and 22 percent.

Mr. McCarthy stated three of my people didn't make it. The poster is hanging on the wall in my office and they hear it every week in class, you have to pass this, so they made a conscious decision to not pass.

Mr. Stolz stated there was always somebody who didn't like the state telling them what the hiring standards should be. Whether it was morale qualifications, that's been an argument forever. That was part of being a certifying body, laying down some of those things.

Lieutenant Colonel Duis stated it was his opinion, and he completely understood Director Urbanek's point, there were agencies desperate to hire and when those times come and a lot of us have been around long enough to know that those times have come and gone and the pendulum has swung both ways, but when those desperate times come for those agencies, the temptation is to lower the standard and in my opinion, this board has a responsibility to make sure that doesn't happen, to not get into that temptation that an individual agency or an individual basis, to fix what they perceive is the problem.

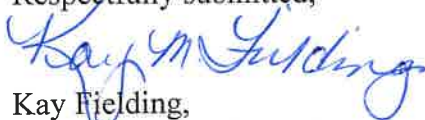
Deputy Director Keeling stated as a side note, one of the individuals in our class is a 40 something year old male with a prosthetic foot and he was able to pass the PRET. 30% is not a particularly high percentage.

A. Date, Time & Location of Next Meeting

June 16, 2021, 9:00; Library, Nebraska Law Enforcement Training Center,
3600 North Academy Road, Grand Island, Nebraska 68801

Hearing no further business Chairman London adjourned the meeting at 10:08 A.M.

Respectfully submitted,



Kay Fielding,
Secretary to the Council