



AGENDA POLICE STANDARDS ADVISORY COUNCIL

DATE: October 13, 2021

TO: Police Standards Advisory Council

FROM: Brenda L. Urbanek, Director

SUBJECT: Regular Meeting Wednesday, October 20, 2021, 9:00 A.M.
Library, Nebraska Law Enforcement Training Center,
3600 N. Academy Road, Grand Island, Nebraska 68801

- I. CALL TO ORDER
- II. APPROVAL OF SEPTEMBER 22, 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.
- IV. CRIME COMMISSION REPORT
- V. OLD BUSINESS
 - A. Discussion Drug History



VI. NEW BUSINESS

- A. Request for Waiver of Certification Training as Agency Head Attachment #1**
Chief Philip Lukens, Alliance Police Department
- B. Waiver of Reciprocity Certification Training Attachment #2**
Chief Dave Albers, Holdrege Police Department
- C. Waiver of Management In Lieu of FBI National Academy Attachment #3**
Rich Zimmerman, Saline County Sheriff's Office
- D. Waiver of Management for Jeff Dunton of N.S.P. Attachment #4**
In Lieu of Leadership in Police Organizations by International Association of Chiefs of Police and Northwestern School of Police Staff and Command
- E. Waiver of One Year Basic Training Requirement Attachment #5**
Sam Cafferty, Chadron Police Department
- F. Waiver of One Year Basic Training Requirement - Hardship Attachment #6**
Officer Geoffrey Willmann, Wymore Police Department
- G. Academy Instructor Certifications Attachment #7**
General Original

Zachary Lorang – N.S.P.

Professional Original

Larry Gibbons – N.S.P.
Daniel Miller – Omaha P.D.
Thomas Prevo – N.S.P.
Dhankumar “Ravi” Singh – N.S.P.
- H. OPD 2021 Academy Inspection Attachment #8**
- I. Omaha Police Department Reciprocity Curriculum Attachment #9**
- J. Projected Enrollment – Admission Priorities to NLETC Attachment #10**
Title 79, Chapter 6, 003.03

VII. OTHER BUSINESS

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

**REGULAR MEETING OF THE
POLICE STANDARDS ADVISORY COUNCIL
SEPTEMBER 22, 2021**

I. CALL TO ORDER

Chairman Chief Deputy Greg London called the meeting to order Chairman, Chief Deputy Greg London called the regular monthly meeting of the Police Standards Advisory Council to order at 9:05 A.M. Legal notice of the meeting was published in the Lincoln Journal Star on Monday September 13th, 2021.

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

Others present: Director Brenda Urbanek, David Stolz, Don Arp Jr., Captain Gregory Miller, and Kay Fielding. Several others were present in person and via Zoom.

II. APPROVAL OF AUGUST 18, 2021 P.S.A.C. MINUTES

Chief Wolf motioned to approve the minutes. Sheriff Osmond seconded the motion. Voting in favor; Chief Deputy Greg London, Sheriff Dan Osmond, Lieutenant Colonel Buck Duis, Chief Tracy Wolf, Assistant Chief Brian Jackson, Chief Timothy Larby, and Mr. Matthew McCarthy. Motion carried.

III. ACADEMY REPORTS

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

Director Urbanek reported she had worked on several recent revocation complaints to include the recent conviction of a sitting sheriff for domestic violence, an officer who had been charged criminally and had committed suicide prior to his trial so that is a case that goes away and two officers that recently were charged with felonies and I am following the status of their cases.



The new software package that the Training Center will be implementing, we are at the point of rolling it out to several agencies in a beta test to make sure it works at their end. William Mathis will be presenting at the NSA/POAN Conference to introduce the new software is to grant each individual office a portal into their own training record. They will also be some administrative capabilities so in the future continuing education and Firearms reporting will be done through INFORMA, the software program, rather than NCJIS.

Training Center staffing, we did conduct interviews for the Deputy Director of Training, we are still working with Personnel to finalize a legitimated offer. We have a staff attorney II position open at the Training Center. Dave Stolz is the Attorney to the Crime Commission and the Police Standards Advisory Council but not for the Training Center or the Director of the Training Center.

We will take Dennis Leonard, the full time instructor and make him and Investigator/Instructor, so when we have revocations, misconducts, background investigations, etc. they will be his duties.

We will then back-fill Instructor Leonard's position.

We will have a new staff assistant which will be a training coordinator too help solicit and bring in continuing education opportunities beyond what the Training Center staff will be providing.

LB51 has gone into effect. I presented on webinar's for NACO, LARM and presented at the Nebraska chapter of the FBI, retainer two weeks ago in Kearney. We will have some changes to some of our forms. On today's agenda we have a new change in status form, there were some modifications due to statutory changes.

Basic Class began August 28th with 50 students, they are currently in week 4 with 42 students.

C. Nebraska State Patrol

Captain Miller reported that Camp 65 finished week 10 of 22. The last two weeks two cadets were separated for injuries. One for an off-duty incident, so we are down to 14 right now.

Last week we had a recruit test positive for Covid so they were sent home and we are following the protocol guidelines for that. As an extra step we sent them home this week to stay away an extra week but we are still on track to graduate December 17th.

Camp just finished Defensive Tactics training and when they return they will begin Emergency Vehicle Driving Course.

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

No report given

IV. CRIME COMMISSION REPORT

Mr. Arp you may get an email notification invite for an LR hearing in October. As of now the Commission has not been invited to attend but could change. This will be looking at whether or not the Training Center has enough staff and resources.

Hopefully by the next PSAC Meeting we will have a new conference and counsel table so we will have a more official setup. There will be a horseshoe setup for 10 members, kind of a city council setup to try to make this room more of an official hearing room. That then Dave can use as a courtroom during training.

V. OLD BUSINESS

Director Urbanek passed out an article that came out of the July issue of *Police Magazine*, titled, "Don't relax the standards," The officer shortage has reached critical levels but law enforcement agencies still need to make sure they hire the right people.

VI. NEW BUSINESS

A. TC-001 Personal Change-In-Status

If they are hired as a trainee, the 16 week clock doesn't run because they cannot work as a law enforcement officer. The statute number was changed and added can only work for 16 consecutive weeks.

The draft form has a typo the form reflects 10 of 21 and it should be 9 of 21.

MOTION

Chief Larby motioned to approve TC-001 with the recommended changes. Assistant Chief Jackson seconded the motion. Voting in favor of the motion; Chief Deputy Greg London, Sheriff Dan Osmond, Lieutenant Colonel Buck Duis, Chief Tracy Wolf, Assistant Chief Brian Jackson, Chief Timothy Larby, Mr. Matthew McCarthy, and Chief Deputy Greg London. Motion passed unanimously.

B. Model Duty to Intervene in Excessive Force Events (Action Needed)

Executive Director Arp stated in §81-1414 .17 sub 1 requires that by January 1, 2022, each law enforcement agency adopt and provide to the Commission their own policy on duty to intervene in excessive force situations or adopt the Commission's model policy. Similar to what we have done in the past with traffic stops or racial profiling.

Executive Director Arp entertained questions or PSAC's approval of the model policy presented so it could be taken to the Commission in October for their final approval.

MOTION

Chief Larby motioned to approve the model duty to Intervene in Excessive Force Events. Sheriff Osmond seconded the motion. Voting in favor of the motion; Chief Tracy Wolf, Assistant Chief Brian Jackson, Chief Timothy Larby, Mr. Matthew McCarthy, Chief Deputy Greg London, and Sheriff Osmond. Motion passed unanimously.

**C. Agency Accreditation Program Manual
(Action Needed)**

Executive Director Arp stated per requirement in LB51 requires that by January 1, 2023, all law enforcement agency's meeting the definition of a law enforcement agency under statute are required to be accredited by the Crime Commission in a program or process developed by the Crime Commission. Statute gives about three or four sentences that say more or less the same thing that we just have to setup what their criteria are. Some agencies will not seek accreditation but they will not receive grant funding.

According to the rule on page 7, agencies with officers whose certification status has been for non-qualification of firearms or continuing education and failure to obtain a waiver, will not receive accreditation.

MOTION

Assistant Chief Jackson motioned to approve the Agency Accreditation Program Manual. Lieutenant Colonel Duis seconded the motion. Voting in favor of the motion; Chief Tracy Wolf, Assistant Chief Brian Jackson, Chief Timothy Larby, Mr. Matthew McCarthy, Chief Deputy Greg London, and Sheriff Osmond. Motion passed unanimously.

**D. Appeal 20-PSAC-79 Denial to Basic Law Enforcement Training
Blake Swicord, A/K/A Kendel Blake Swicord**

**E. Appeal 21-PSAC-85 Denial to Reciprocity Training
Philip Lukens, Alliance Police Department**

Philip Lukens v. Nebraska Law Enforcement Training Center

21 PSAC 85

1
2
3 Chair: The matter now before the Police Standards Advisory Council is Philip Lukens v. the
4 Nebraska Law Enforcement Training Center, Case Number 21 PSAC 85.

5 I will now call this hearing to order at 4:41 PM. I will note the following Council members
6 are present:

7 Myself, Chief Deputy Greg London, Sarpy County Sheriff's Office

8 Sheriff Dan Osmond, Custer County Sheriff's Office

9 Lieutenant Colonel Buck Duis, Nebraska State Patrol

10 Chief Timothy Larby, Atkinson Police Department and

11 Mr. Matthew McCarthy Northeast Community College.

12 The Council has been asked by the Petitioner, Philip Lukens to consider reversing Director
13 Urbanek's denial of Mr. Lukens' entrance into the Reciprocity Certification Course in lieu
14 of attending Basic Officer Certification Course.

15 The Council is here pursuant to its authority as stated in Nebraska Revised Statute §81-
16 1403, its related statutes and Title 79 of the Nebraska Administrative Code.

17 I will note that the petitioner is present and is represented by counsel, Steve Delaney.

18 The Nebraska Law Enforcement Training Center's Director Brenda Urbanek is present.

19 Mr. Jason Bergevin of the Nebraska Attorney's General's Office is here to represent the

20 Training Center and Director Urbanek and he will present the reason(s) for Director

21 Urbanek's denial of the petitioner's applicant admission into the Reactivation course.

22 Does either party contest the Council's authority to hear this type of case?

23 Chair: Mr. Bergevin?

1 Bergevin: No sir.

2 Chair: Mr. Delaney?

3 Delaney: No

4 Chair: Please note for the record there were no objections.

5 Chair: Title 79 in Nebraska Administrative Code, Chapter 3, addresses the requirements that must
6 be met by an applicant in order to be eligible for the reciprocity certification program.

7 Specifically section 004 sets out the initial eligibility requirements which require that the

8 applicant have been directly employed as a law enforcement officer for 108 consecutive

9 days within two years of making application for the reciprocity course, and that the

10 applicant provides a letter or letters from his or her previous law enforcement agencies that

11 he, or she had an appointment with those agencies in good standing. Additionally, section.

12 004.03 requires that the applicants for reciprocity certification, meet the standards set out in

13 State Statutes §81-1410 & 81-1414 and Title 79, Chapter 8.

14 Pursuant to Title 79, Chapter 8 section 009.02, upon request of an applicant or agency the

15 Council will conduct a hearing in order to determine whether the applicant meets the

16 minimum qualification for admission and do a certification course. The burden during the

17 appeal hearing is on the applicant to demonstrate by clear and convincing evidence that he

18 meets admission qualifications.

19 Per Title 79, Chapter 13 section 004.02G, the issues of this appeal will be limited to those

20 raised in the request for review and reconsideration as provided in section 004.02C and the

21 director's written decision in response. The decision of the Council, is final.

22 Mr. Lukens, I want to go over your rights in this Administration Hearing.

1 You have a right to be heard in person, or by counsel, who you have hired at your own
2 expense. You also have a right to notice, that is to receive a statement from the state, the
3 Nebraska, Law Enforcement Training Center, detailing, or justifying his actions in this
4 matter. Do you understand these rights?

5 Lukens: Yes, I do.

6 Chair: Thank you. Did, you receive such notice via the letters from Director Urbanek stating her
7 reasons for your denial of your reciprocity application.

8 Lukens: Yes.

9 Chair: Did you notice any defects in those letters that prejudiced you from presenting
10 your case?

11 Lukens: (No response)

12 Chair: Were there any problems with the letters from Director Urbanek?

13 Lukens: As far as, I disagreed with them.

14 Chair: Mr. Delaney, I'll ask the question one more time. Is there anything in the letters that
15 prejudiced you from presenting your case?

16 Delaney: No.

17 Chair: Thank you. Additionally, you have the right to present evidence at this hearing, a right to
18 the Council's findings and the right to seek judicial review thereafter.
19 Do you understand your rights?

20 Lukens: Yes

21 Chair: The Police Standard Advisory Council shall act as the hearing board for this appeal.
22 Neither I nor any other council member will be a witness for either side and I am not aware

1 of any matter which I believe may be grounds for challenge by either side against me or the
2 other members.

3 I have not had any personal information conveyed to me nor do I have any personal
4 knowledge of this case.

5 Does any council member have any personal knowledge of the case?

6 Chair: Sheriff Dan Osborn?

7 Osborn: No

8 Chair: Lieutenant Colonel Buck Duis?

9 Duis: No

10 Chair: Chief Timothy Larby?

11 Larby: No

12 Chair: Mr. Matthew McCarthy?

13 McCarthy: No

14 Chair: Does either side have any further questions or challenge for cause against any member of
15 this Council?

16 Delaney: No sir.

17 Bergevin: No.

18 Chair: Mr. Bergevin, do you have any procedural documents for this case and if so, please present
19 them to the Council.

20 Bergevin: Thank you. Respondent will describe his exhibits and offer them in their entirety at the
21 conclusion.

22 Exhibit #1 is Mr. Lukens Application for training, Reciprocity Certification along with the
23 Character Affidavit.

1 Exhibit #2 is Mr. Lukens Personal Character Affidavit submitted as part of his Reciprocity
2 application.

3 Exhibit #3 is Investigator Leonard's Background Investigation Summary Report

4 Exhibit #4 are letters from law enforcement agencies where Mr. Lukens was previously
5 employed.

6 Exhibit #5 is a General Release and Separation Agreement between Mr. Lukens and the
7 City of Louisville, Colorado.

8 Exhibit #6 is a letter from Director Urbanek to Mr. Lukens denying his request that the
9 Director reconsider his intent to attend Reciprocity Training.

10 Exhibit #7 is Notice of Intent to Appeal submitted on behalf of Mr. Lukens.

11 Exhibit #45 is Director Urbanek's initial denial of Reciprocity Training sent to Mr. Lukens.

12 Exhibit #46 is Email correspondence from Mr. Lukens regarding his intent to have his
13 decision by Ms. Urbanek reconsidered.

14 Exhibit #47 is Chapter 3 Administrative Code of Title 79

15 Exhibit #48 is Chapter 8 of Administrative Code of Title 79

16 Respondent offers these exhibits in their entirety.

17 Chair: So 1 through 7 and 45 through 48?

18 Bergevin: Yes sir.

19 Chair: Mr. Delaney, have you looked at the Exhibits offered?

20 Delaney: I have.

21 Chair: Let the record reflect that the Exhibits are accepted and entered into the record.

22 Mr. Delaney, do you have exhibits?

23 Delaney: I do.

1 Chair: Why don't you present them?

2 Delaney: We will be offering Exhibit #1, or excuse me. Exhibit #8 Application to Reciprocity
3 Training.

4 Exhibit #9 Reciprocity Packet

5 Exhibit #10 Lukens response to the Director which includes the names of the witnesses

6 Exhibit #11 Applicants Additional Response to Urbanek dated 2/1/21

7 Exhibit #12 Urbanek notice after letter dated 5/13/21

8 Exhibit #13 Response from Urbanek rehearing request dated 5/14/21

9 Exhibit #14 Denial Letter dated 6/2/21

10 Exhibit #15 Lukens Response with Attorney to Urbanek dated 6/7/21

11 Exhibit #16 Appeal Notice dated 6/11/21

12 Exhibit #17 Chapter 3 of Title 79

13 Exhibit #18 Chapter 8 of Title 79

14 Exhibit #19 Reciprocity Curriculum Comparison

15 Exhibit #20 Training History Report from the Colorado POST

16 Exhibit #21 Training Records from the Erie Police Department

17 Exhibit #22 Original POST Certificate

18 Exhibit #23 Resume' of the Petitioner

19 Exhibit #24 Lukens Reference from Louisville, Colorado

20 Exhibit #25 Lukens Reference from Lafayette, Colorado

21 Exhibit #26 Lukens Reference from Erie, Colorado

22 Exhibit #27 Alliance Background Report

23 Exhibit #28 Seth Sorensen Letter of Recommendation

- 1 Exhibit #29 Randy Waggener Letter of Recommendation
2 Exhibit #30 Release and Separation Agreement, Louisville, Colorado
3 Exhibit #31 Gene McCause Letter
4 Exhibit #32 Stewart Preservation Letter
5 Exhibit #33 Texts with Kim Stewart
6 Exhibit #34 University of Northern Colorado Conditional or Provisional Admittance
7 Exhibit #35 Email with Kim Stewart re Letter dated 2/8/19
8 Exhibit #36 Photographs
9 Exhibit #37 Cody Buskirk Email to Urbanek dated 5/14/21
10 Exhibit #38 David LaDuke Email to Urbanek dated 5/20/21
11 Exhibit #39 Hayes Preservation Letter dated 9/20/21
12 Exhibit #40 Kaytlin Norris Email to Urbanek dated 5/17/21
13 Exhibit #41 Kirk Felker Email to Urbanek dated 5/17/21
14 Exhibit #42 Lukens Reference – CU Boulder 9/20/13
15 Exhibit #43 Lukens Promotions with Louisville
16 Exhibit #44 Colorado POST Director’s Listing of Lukens’ Employment

17 Chair: Mr. Bergevin, do you have any objections to those exhibits?

18 Bergevin: No

19 Chair: Let the record reflect that Exhibits 8 through 44 have been received and are entered into the
20 record.

21 Does either side wish to present any other preliminary matters?

22 Mr. Bergevin?

23 Bergevin: No

1 Chair: Mr. Delaney?

2 Delaney: No

3 Chair: Mr. Lukens, as the petitioner, either you or your counsel, you may make an opening
4 statement at this time.

5 Delaney: Thank you.

6 It's been a long day, and I know we're tired of looking at paperwork but we're talking
7 about a livelihood in this case. We're talking about an individual who applied for, was
8 investigated and got a job as the Chief of Police in Alliance, Nebraska.

9
10 Philip Lukens was originally an officer in Colorado, worked with several departments there
11 left the last one, with the City of Louisville and retired, as you'll see from the
12 documentation from that department, and then came to Alliance, Nebraska to become the
13 Chief of Police. Alliance did their background check pursuant to Chapter 8 of Title 79,
14 which they're obligated to do, and they found that Chief Lukens was of good character, met
15 all the minimum requirements for that job, and he applied for reciprocity so that his
16 certification in the state of Colorado would be carried over here. He met all of the
17 requirements for certification. You'll see in Chapter 3, when they talk about reciprocity, he
18 meets all those standards. His education, training, all those things transferred over and are
19 fine for reciprocity with the State of Nebraska.

20 Ms. Urbanek does her own investigation, which is not authorized under the rules and they
21 say, well, he had problems in Colorado and, as this board has already heard, sometimes you
22 just don't leave a department and have happy people that you work for and so there's a
23 there's this requirement that you have to have a letter of good standing. Although good

1 standing has never been defined under Title 79 and we've had this discussion before but
2 good standing is an idea but there's nothing that says what constitutes good standing. Now,
3 I will submit to you that in this case you are going to hear that from that position in
4 Louisville, Chief Lukens retired, I don't know, it's not a resignation in lieu of, it is a
5 retirement that is what the paperwork from the City of Louisville says about his previous
6 employment. I don't know how you cannot interpret a retirement to mean the same thing as
7 a letter of good standing for leaving in good standing. It is not a letter, but we've had that
8 discussion as well. You can't always get a letter from an employer who's not happy that
9 you've left their department.

10 The reasons that Ms. Urbanek denied reciprocity basically is (inaudible). She said he
11 doesn't have a letter of good standing. Okay, we provided a letter saying that he retired
12 that should have taken care of it. That didn't take care of it, we're still here. She said,
13 well, he was less than honest on his application and he didn't disclose some items from
14 Louisville. Well, as you'll hear there was a separation agree that had a provision in there
15 that he's not allowed to discuss and so you run into that problem of do you face civil
16 penalties, perhaps litigation, when you have a, they call it a gag order, you can't reference
17 this until finally he gets approval from Louisville who says ok you can disclose that you
18 have a separation agreement and the separation agreement says that you retired from the
19 City of Louisville, and so we have a lot of to-do about nothing when in fact the Chief filled
20 out an application, he is qualified, he meets all the standards. But because of that
21 discrepancy or they say, okay well, the chief that is there now says, well, I thought about
22 firing you because of this last I.A. Okay, that is not what it says in the paperwork from the
23 City of Louisville, it says he retired, it says there were no findings on that and so we've got,

1 and I will tell you that the attorneys in Colorado now have instituted preservation clauses
2 which are in your materials, where okay, City of Louisville, this goes against what our
3 agreement was, this isn't what you said you were going to do. We abided by it, and they did
4 not and so there's ramifications for them down the road, but are we going to let that cost
5 the livelihood of Phil Lukens and the answer to that is you shouldn't. Don't let that
6 happen. He's qualified to be in the Reciprocity program. He meets all the requirements of
7 the reciprocity program. That's what this board needs to do or this council needs to do is
8 reverse the decision of the director in this case and allow him to enter the reciprocity
9 program, so he can continue with his work for the City of Alliance. Thank you.

10 Chair: Thank you.

11 Mr. Bergevin

12 Bergevin: Council members, the Director's decision to deny Mr. Lukens' application to attend
13 Reciprocity training was based on three different reasons, first that he was unable to submit
14 a letter of good standing as required by Chapter 3 section 004.04, you will have an
15 opportunity to review the letter that was submitted by his most recent employer the
16 Louisville Police Department and you will see it outlines the dates that he work there and
17 nothing more and then you'll hear testimony from investigator. Dennis, Leonard who went
18 to Louisville, Colorado and talked to the Chief of Police in Louisville, who indicated he
19 was not willing to provide a letter of good standing for Mr. Lukens because of the
20 circumstances surrounding his employment.

21 Investigator Leonard will tell you about three (3) separate internal affair investigations that
22 surrounded Mr. Lukens during his time with the Louisville Police Department. In the first
23 case it was determined that he exceeded law enforcement authority and failed to activate

1 the body camera for which he received a written warning. In the next case. He failed to
2 disclose or omitted material facts in connection with an internal investigation and received
3 a 3-day suspension. He appealed that matter, but left his employment prior to the hearing
4 in that case and the final incident involved an allegation that he engaged in retaliatory acts
5 against a witness in the case I mentioned previously and as part of his separation agreement
6 with the City of Louisville, that internal affairs case was closed and none of that
7 information was provided to the Training Center when Mr. Lukens applied to attend
8 Reciprocity Training. He completed two (2) character affidavits the agency head affidavit,
9 and the personal character affidavit. And the information that I just described is omitted
10 from both affidavits and you'll have an opportunity to review the settlement agreement,
11 nothing that prohibited him from being honest and forthright with that information and as a
12 result Director Urbanek found that he made a deliberate omission, falsifications for
13 misrepresentations on his application in violation of Chapter 8, section 005.04A2. That
14 same omission led Director Urbanek to find that Mr. Lukens cannot be characterized as a
15 person who is honest, truthful and trustworthy as required by Chapter 8, section 005.02A5
16 because he signed the attestation on both character affidavits that there were no willful
17 misrepresentations, omissions or falsifications in the affidavit, despite knowing that these
18 internal affair events were in the past. After considering all of the evidence, the respondent
19 is going to ask you to affirm the Director's decision.

20 Chair: Now's the time further evidence can be presented to the council? This may include written
21 evidence, witness testimony and or any unsworn statements by yourself.

22 Chair: Mr. Delaney, do you have any additional written evidence to present on behalf of Mr.
23 Lukens.

1 Delaney: Not at this time.

2 Chair: Mr. Delaney do you have any witnesses to testify on Mr. Lukens' behalf?

3 Delaney: We do, we would call Chief Lukens and this examination will be done by Ms. Shupe. Just
4 for the record it is S-H-U-P-E.

5 Stolz: One (1) P or two (2)?

6 Delaney: One (1).

7 Shupe: Good evening Chief Lukens.

8 Chair: I'm sorry, can I swear him in?

9 Shupe: Yes, absolutely.

10 Chair: Good evening. Chief Lukens,

11 Lukens: Yes sir

12 Chair: Do you swear or affirm that the testimony you are about to make at this hearing shall be the
13 truth, the whole truth and nothing but the truth.

14 Lukens: I do.

15 Chair: Please state your name, tell us your title and where you're from.

16 Lukens: Philip Lukens, Chief of Police, Alliance, Nebraska

17 Chair: Thank you.

18 Shupe: Good evening Mr. Lukens. I want to start off by just going through some, some
19 background information about you. What's your highest level of Education?

20 Lukens: I have some graduate classes towards my Masters.

21 Shupe: And so you hold a Bachelor's degree

22 Lukens: Yes

23 Shupe: And where is that degree from?

1 Lukens: Colorado Technical University

2 Shupe: And what is that Bachelor's degree in?

3 Lukens: Criminal Justice.

4 Shupe: You mentioned you're working on obtaining, a master's degree?

5 Lukens: Yes

6 Shupe: Where are you doing that?

7 Lukens: University of Northern Colorado in Greeley

8 Shupe: And about how far into that program are you?

9 Lukens: Probably about 25%. I put it on hold, it's been on hold for a few years. I can reactivate it

10 as soon as I know, I'm going to go check my schedule and with everything changing so

11 much to do here.

12 Shupe: That's a goal of yours to complete?

13 Lukens: Absolutely,

14 Shupe: Go ahead

15 Lukens: and further.

16 Shupe: Did you complete a Police Academy training program?

17 Lukens: Yes

18 Shupe: Where was that?

19 Lukens: At Red Rocks community College

20 Shupe: When did you finish that?

21 Lukens: 1999

22 Shupe: Where were you born and raised?

23 Lukens: Sterling Colorado, it's in Northeastern Colorado almost Nebraska, but that's the panhandle.

1 Shupe: And are you married?

2 Lukens: Yes

3 Shupe: Do you have any children?

4 Lukens: Yes

5 Shupe: And what are the names and ages of your children?

6 Lukens: I've been married 20 years almost to my wife Bree. My oldest is Lily she's 14. Emma and
7 Kate are 12, and Hailee is 9.

8 Shupe: And these are your children present today?

9 Lukens: Yes

10 Shupe: And do they rely upon your employment for their care and support?

11 Lukens: Yes

12 Shupe: And has your career in law enforcement allowed you to provide for your family?

13 Lukens: Yes.

14 Shupe: And is providing for your family kind of contingent on maintaining Law Enforcement
15 employment?

16 Lukens: I solely work, my wife stays home and homeschools.

17 Shupe: At what point in time did you move from Colorado to Nebraska?

18 Lukens: As soon as I got the job I started renting a place.

19 Shupe: And how is the transition from Colorado to Nebraska for you?

20 Lukens: It's been hard. I stayed there, went back and forth part time and put our property under
21 contract, as a provision of the contract, we were able to lease the property so we moved our
22 camper up and we lived in the camper for several weeks, to buy property in Colorado. It's a
23 complex property because we own a gravel mine, and we have lots that we have subdivided

1 off, we were trying to sell everything off and comes in Homes and a 1031 Exchange, which
2 made it difficult to get property in Nebraska within a 15-mile radius that I needed of
3 Alliance. So we got one property. Long story short, our property went under contract, went
4 out of contract, went back under contract, and went out of contract right before the
5 deadline. So we lost all of our earnest money and then we lost the property that we were
6 staying at, so then we had to move our camper back, sell our camper, so we could recover
7 from how much money we lost and so I can still stay in my friend's apartment in Antilock,
8 which you do sometimes and then I'm having to drive back and forth right now because
9 due to this financially and what we lost in this earnest money, I'm pretty much upside
10 down taking this job.

11 Shupe: Fair to say, it's been a journey for you to get here

12 Lukens: That's Correct.

13 Shupe: But it's, despite those hardships it's still your goal to be the Chief of Police of Alliance.

14 Lukens: Yes, that's why I worked so hard at it.

15 Shupe: And it's your goal to raise our family here?

16 Lukens: That's correct.

17 Shupe: Mr. Lukens, going through your law enforcement career, what age did you first begin
18 working with law enforcement?

19 Lukens: I was 15 as a police explorer.

20 Shupe: How long did you do the Police Explorers program?

21 Lukens: So I started the police explorers when I was fifteen (15). I started volunteering and doing a
22 lot of extra activities. The city had gotten a lot of grants and so they were working on
23 getting a lot of statistics, they was just starting to get NBT's in cars, but that wasn't working

1 very well, so they were still having people do hand logs on patrol officers, I did a lot of that
2 volunteering working to help coordinate that stuff and keeping that information for a
3 lieutenant that was doing grant recording and so I got very familiar with the department
4 and when they had an opening for a code enforcement officer, I was 18 or 19 and I applied
5 for that position and then that position actually morphed into a community service officer,
6 so we did all of the animal control code enforcement and then code reports, like burglaries
7 and property damage accidents and sort of thing as long as there were no suspects on the
8 scene. And I work that job while I put myself through the Police Academy full time.

9 Shupe: So once you were old enough to go to the academy you did so?

10 Lukens: That's correct. You had to be 21.

11 Shupe: And you finished that program.

12 Lukens: that's correct.

13 Shupe: What year were you certified?

14 Lukens: I think right in the beginning of January ish.

15 Shupe: And so following your certification where would your first certified law enforcement
16 position?

17 Lukens: At the town of Erie

18 Shupe: Did you work for the city of Lafayette before that at all?

19 Lukens: That's where I was working as a code enforcement, the City of Lafayette, that's where I
20 was a Police Explorer as well.

21 Shupe: And this may be easier Mr. Lukens. Do you have a copy of the exhibits?

22 Lukens: (Looking)

23 (Given Exhibits)

1 Shupe: Chief Lukens if you would flip to tab 16, which is Exhibit 23. Is that a copy of your
2 resume?

3 Lukens: Yes

4 Shupe: And that would reflect your law enforcement career correct?

5 Lukens: That is correct?

6 Shupe: You mentioned your first certified position was with the City of Erie. Is that correct?

7 Lukens: That's correct.

8 Shupe: When did you first work for the Erie Police?

9 Lukens: I started out as a reserve officer because I wasn't sure that I wanted to be full time at the
10 time and finally I accepted a full-time position at Spring Hill so I started out in 2003 as a
11 reserve and then I took the full-time position in 2007.

12 Shupe: And how long did you work for Erie?

13 Lukens: Until 2016

14 Shupe: While you were employed there, what were your assignments, your duties, and your tasks?

15 Lukens: I started out as a patrol officer, we had three levels, PO1, PO2 and PO3 and so I attained
16 each of those levels. I was a FTO after about two (2) years there. I worked, it was a smaller
17 department. I worked investigations that sort of thing, as well as working in patrol, and I
18 also was assigned code enforcement because the city didn't have code enforcement and you
19 remember that, I had that in Lafayette, and so they put that on my plate as well to
20 coordinate different activities in town, clean up days and those sort of things. So I had
21 multiple collaterals as far as I was on the Chiefs (inaudible), awards at one point, taught at
22 the citizens academy, was an instructor in multiple things, a crash reconstructionist, pretty
23 broad and diversified

1 Shupe: What was your rank when you left Erie?

2 Lukens Corporal

3 Shupe: And as part of that, did you over see other officers?

4 Lukens: Yeah, so in Erie the way the system worked was things worked was they had sergeants and
5 corporals opposite sides of the week? So they were three sergeants, and corporals and
6 should we work opposite of the sergeant and so, in essence, I supervised my shift which
7 most of the times was swing shifts and I supervised two officers to five officers depending
8 on an overlap and special events and things like that.

9 Shupe: Why did you leave Aerie?

10 Lukens: I was kind of headhunted, quite frankly, to go to Louisville.

11 Shupe: And when you left Erie, did you leave in a good position with that office?

12 Lukens: Yeah I did they threw a going away party for me and everybody signed a picture for me
13 wishing me well and that sort of thing. I guess if, how I went to Louisville, the sergeant
14 that I work for in Lafayette was promoted over the years to Commander, he retired from
15 Lafayette went to Louisville because they were rebuilding the apartment and he told me
16 that there would be an opportunity for me to go there. And so that's why I applied for fly
17 from Louisville.

18 Shupe: And what dates are you employed at Louisville?

19 Lukens: I started in Louisville May of 2016.

20 Shupe: And how long did you work there?

21 Lukens: Until February? 1st, 2019.

22 Shupe: And while employed there, what were your assignments and duties?

1 Lukens: So when I first started Louisville I was a Corporal. They had me take over acting Sergeant
2 duties, but didn't pay me for that initially. And so, as soon as I had gone through a basic
3 department, orientation training for it was about a month and I was on my own managing a
4 shift on day shift. They put me in charge of the school resource officers. So I coordinated
5 some different aspects with the school resource officers. I also became the senior liaison.
6 So I started coordinating efforts at the assisted living facilities, as well as, the senior center
7 and the long-term care facility where people may go for two months or whatever to heal
8 from a broken hip and so I would also coordinated that stuff.

9 Shupe: What was your rank when you left, Louisville?

10 Lukens: It was a Sergeant.

11 Shupe: Did you ever have any commander duties while you were there?

12 Lukens: Yeah, so it got interesting, so Louisville had so many changes going on that as a Corporal. I
13 was acting sergeant and then there was an opportunity to test for the commander and
14 during that process they had us work as Acting Commander. So, I worked as acting
15 commander in the fall for several weeks, and during that time. I was promoted to Sergeant,
16 but I was still Acting Commander, remained Acting Commander and then ultimately went
17 back to the street and I worked as a Sergeant and that's that.

18 Shupe: Did you have any difficulties with the Louisville Police Department?

19 Lukens: I did.

20 Shupe: Describe those for the Council.

21 Lukens: So initially in law enforcement they talk about people when you are getting promoted you
22 have a Rabbi, you have somebody that is pushing you up through the ranks and I was
23 getting to all LPO, IACP, FBI-LEEDA, supervisory institute and the chief was putting me

1 through Northwestern Executive School of Staff and Command but I had all of these
2 different trainings that were going but after having worked as Acting Commander, there
3 were some, some moral issues that I was very concerned about that I personally just could
4 not do and in relation to staff and other things that were required so that started to cause me
5 to say and I actually had a discussion with the Chief where I said, Chief 80% of what you
6 are doing I'm right on with but there's about 20% that I'm not quite tracking with and so I
7 continued to work he made it very appealing for me to go through Northwestern where I
8 could work from home one day a week while I was doing school, but I had to do the rest of
9 it on duty. So I managed graveyard shift while I was going through Northwestern and had
10 one day that I, I was able to try to catch up, which ended up being more than that on my
11 time off.

12 Shupe: So you mentioned that you had moral issues working at that department. Tell the Council
13 what you mean by that.

14 Lukens: Just, the Chief would make a decision or call out something and we were to make it our
15 own whether or not we agreed with it, which I understand to a large extent. I have
16 experience in that in that capacity, but there are certain things that I couldn't do like call in
17 officer so and so at 5 a.m. and we're going to mess with him because I don't like what he's
18 doing with some of his different decisions and it wasn't a verbal counseling. It was a mess
19 with him session to think that they're about to be in an I.A. or be fired. And that, I don't
20 think that's the way you operate a Police Department. I don't think that's the way you
21 operate staff and there were multiple issues like that. Or for instance I was trying to book
22 out for an Oktoberfest event and the Chief had sent me an authorization and said, I want
23 you to get this staffed out with OT, so I'm working with staff trying to get it staffed out and

1 I walk into the chief's office. I said, I'm having trouble getting this staffed, I can't get
2 anybody to sign up. Can I get some Boulder County SO deputies that we can contract for
3 the event and he said I did not authorize that, and I literally set the email on his desk, that
4 he sent to me and he said don't come in here, half-cocked acting like that, and I'm just like
5 What do I say? What do I do? If we don't invite a time? We don't have all night that was
6 ongoing and routine. It was very, very difficult up to and including when I saw other
7 Command Staff doing this on it.

8 Shupe: And what do you mean by command staff doing dishonest things?

9 Lukens: Specifically, commander Fitzgibbons, was in Northwestern class with me and in
10 Northwestern you have projects didn't have to do when you have these assignments to go
11 out. So we have this community projects. We have to work on a small three-page paper and
12 its part of your final and I come to work one day and the Sergeant is stressing out, and I
13 said, what's going on and he's like, I can't get this paper done in time, and I said, what
14 papers, and he said this code enforcement paper my Commander wants me to do and my
15 bells went off because I knew in class, the commander was doing a code enforcement
16 project as his final, but I'm like you've got to be kidding me. I said, when's the deadline?
17 He told me the deadline, I went, this is for him for his Northwestern project and so I
18 complained about it and nobody seemed to think anything of it.

19 Shupe: So essentially you thought you saw a position where someone was having a subordinate, do
20 an assignment for them.

21 Lukens: Yeah and they were lying that it was his work.

22 Shupe: So did you feel that someone higher up needed to be aware of that?

23 Lukens: Absolutely

1 Shupe: And did you bring it to a higher up and do?

2 Lukens: I did.

3 Shupe: And what was the end result of you bringing that to their attention?

4 Lukens: I was simply ignored, but I got my annual review from that same Commander, which was
5 not truthful, and so I wrote a rebuttal to that annual review and I went to human resources
6 and I lodged a complaint and said, something has to be done here, this is not right. Not
7 only, is he not truthful in my annual review he's lying in class and cheating, and human
8 resources said that you got to take that to his chief and I said, they're not doing anything
9 about it and human resources at that point said, well, it's going to have to be something
10 pretty dramatic before human resources would actually be able to investigate that. .

11 Shupe: And so did you feel that you faced any sort of harsher treatment because you brought that
12 to your higher-ups attention?

13 Lukens: Yeah, I believe that's when they went on a witch hunt for me and obviously human
14 resources told the Chief that I was concerned about the annual review and it just started the
15 I.A.'s.

16 Shupe: So prior to Louisville did you have a history of being disciplined within your Police
17 Department?

18 Lukens: Well I had a letter or two or a talking to, no doubt about it, but I never had anything
19 egregious I mean, I did get letter I wrecked a car once, minor but

20 Shupe: But coming into Louisville, how many internal investigation or how many internal
21 investigation were you apart of?

22 Lukens: That I was subject to?

23 Shupe: Yes

1 Lukens: I mean, for sure for sure the car and you're talking about in Louisville.

2 Shupe: In Louisville?

3 Lukens: Oh, none, I'm talking about the car.

4 Shupe: In Louisville were there attempts to bring Internal Affairs Investigations out about you?

5 Lukens: Not until right at the end there.

6 Shupe: So following your issues with your annual review is when internal affairs investigation
7 started?

8 Lukens: That's correct.

9 Shupe: And there's allegations brought about today that you were are subject of multiple discipline
10 actions. So I would like to address those with you.

11 There's an allegation contained in the, in the investigation that was part of your denial that
12 there was an incident alleged that you threatened to arrest the hospital administrator where
13 no crime appear to have occurred. Do you have any recollection of what that incident was
14 about?

15 Lukens: That incident was, I was graveyards. I was going to Northwestern so I was working in the
16 office on my assignment. They aired that there was a carjacking of somebody that just
17 escaped the mental hospital. So I ran out the door, I did not have my body camera on and
18 we were headed to the hospital. The guy had gotten in the car and we didn't know where,
19 we were trying to shut down the traffic to figure out where this guy had gotten with the car.
20 Meanwhile I had sent an officer to the mental health hospital and nobody answered the
21 door and nobody knew that we called the police, yet to say.

22 They seem to have that the mental health people on the line. So long story short the guy
23 gets away, we don't know where he's at, we are trying to figure all of this out and I asked to

1 speak with the hospital administrator. I made sure another officer that had their body cam
2 on was present with me. This was not out of control, this was not yelling and screaming
3 and no cussing. This isn't what the issue was. I addressed with the hospital worker that
4 there could be ramifications for them not talking to us or even giving us any information,
5 but simply leaving us locked out of a hospital after telling us that somebody in this hospital
6 had escaped and nobody in the facility even knows anything about it. This got blown
7 completely out of proportion and they took that on from there.

8 Shupe: But do you recall ever being disciplined for this incident?

9 Lukens: No, I know I wasn't and in fact we have the HR records. There was an intent to suspend
10 me, okay. I had a meeting with the chief regarding that intent to suspend me, this never
11 happened. Because by this time, they kept stacking I.A.'s on me and I was already
12 coordinating with human resources about the issue with the commander lying and
13 ultimately she said you're going to have to resign before HR can investigate this case.
14 I said, okay. I said that I'm getting a bad shake you guys haven't taken care of me. You
15 guys know I'm being, you know, I'm being steamrolled here and HR told me then she said
16 Phil you can you can get a separation agreement and we can give you some pay for
17 severance and we can just drop this whole thing and she said I can continue to investigate
18 this other incident and so that's what I, worked with our attorney so they wouldn't ruin me,
19 although it looks like they are continuing to try, and for that other incident to be
20 investigated which ultimately because I observed body cam footage of an officer who had
21 gotten into a pursuit and it resulted into a crash and nobody had initiated an internal affairs
22 investigation as to why that happened why you continue to pursue when it's clearly a
23 violation of department policy. So I wrote a memo to have that investigated and then I get,

1 I'm retaliating on a witness of the investigation, which had nothing to do with that. It had
2 to do with the fact that he had gotten in a pursuit and had crashed the car and it was
3 brushed under the rug.

4 Shupe: And you were in a supervisor role at this time, correct?

5 Lukens: That's correct.

6 Shupe: And you believed that that incident should be investigated?

7 Lukens: That would be what a Sergeant would do if a sergeant would observe their officer get into a
8 pursuit that is unauthorized, they most assuredly would send that up the chain.

9 Shupe: And so you were not disciplined for that action?

10 Lukens: No

11 Shupe: You were never suspended, correct?

12 Lukens: No

13 Shupe: Now, you mentioned, you were in talks with your HR department. Do you recall about
14 when that was, that HR proposed a separation agreement?

15 Lukens: They, she started talking to me about that in December and then lawyers started
16 negotiating, or maybe, it had to have been the first part of December, but by the time, they
17 had given a proposal to the attorney I don't know that he dates, but I know that was into
18 January.

19 Shupe: And so was this, all of the kind of difficulties you were experiencing in Louisville, coming
20 to a head.

21 Lukens: Yes

22 Shupe: And so as part of that, as part of your separation agreement, is it your understanding that
23 the any pending Internal Affairs investigation against, you was going to be dismissed?

1 Lukens: Yes and everything was supposed to be closed out as basically the city's way of trying to
2 make, right. I mean my conversation with Kathleen given this other information was that
3 this would put all of this to rest and stop everything.

4 Shupe: And as part of that, you retired from the Louisville. Police Department correct?

5 Lukens: that is correct and that was not as a result of going to be terminated and it was not even on
6 the table it was the city, offering me money to make this all stop because they knew that
7 the chief was burying me, but they didn't enough

8 Shupe: I want to be clear. You didn't resign in lieu of termination.

9 Lukens: That's correct.

10 Shupe: You were retired.

11 Lukens: That's Correct and what city gives people going away money for resigning. It just doesn't
12 happen it.

13 Shupe: And at this time you were actually looking into bringing further investigations and further
14 complains to HR correct?

15 Lukens: Correct.

16 Shupe: I'm going to have you flip in your binder to tab 23, which is Exhibit #30.
17 And that's a copy of the separation agreement, correct?

18 Lukens: Yes

19 Shupe: And again, it's your understanding that this allows you to retire from the Louisville, Police
20 Department

21 Lukens: That's correct.

22 Shupe: And that it resolved any pending potential discipline actions against you.

23 Lukens: Yes

1 Shupe: Now, there's brought about an allegation that you failed to disclose some of those details on
2 your application. Did you believe that there's a few agreement in place prevented you from
3 discussing the terms?

4 Lukens: that's correct

5 Shupe: Now following your retirement from Louisville, which obviously came to be Alliance
6 Police Department, how did you first hear about that position?

7 Lukens: My friend at a feedlot east of town saw a Facebook posting and he sent it to me.

8 Shupe: And who hired you?

9 Lukens: City, as far as, a Randy Waggener and Tara Johnson, made the final call, as interim city
10 managers.

11 Shupe: And did they know about some of the issues that you had with Louisville?

12 Lukens: So the day I submitted my application to Alliance, I submitted letters of reference and one
13 of those letters of reference, we will talk about later, which from Gene McCause which
14 talked about Louisville Police Department, it was open for discussion from the day I
15 applied.

16 Shupe: And as part of their hiring of you did they do their own background investigation?

17 Lukens: Yes they did.

18 Shupe: If you want to flip to tab 20, which is exhibit 27, I believe.
19 That's a copy of the background screening report, correct

20 Lukens: Correct.

21 Shupe: And Essential Screens did this?

22 Lukens: Yes

1 Shupe: And as you flip through that page, they've been able to verify employment information
2 about you.

3 Lukens: Yes

4 Shupe: And this would be an accurate copy of that background report, correct?

5 Lukens: Yes

6 Shupe: With your employment and your position, at the Alliance Police Department have you been
7 able to bring about different types of programs to the community?

8 Lukens: Yes, numerous.

9 Shupe: What are some of the things you have implemented?

10 Lukens: We have almost done, it will be finished hopefully training starts the fourth of October, we
11 will finally have upgraded power radio system to the P25 state radio system, that was quite
12 an under taking to get done and I also established volunteers of policing or VIPs we are
13 utilizing, we have a very limited budget, so we are utilizing citizen members to help with
14 people that are suffering with chemical addiction and or drug or alcohol addition,
15 sometimes we don't even have even victim advocates that are really available except for
16 jobs we are trying to get a lot of things in place to give the community more support in fact
17 on my drive up here today I was on a conference call with the Region 1 Health Department
18 because we are trying to get tablets so instead of putting people on EPC holds and holding
19 them in the hospital for 12 hours or whatever they can actually have admission right there
20 on the street so we can work on safety plans and have things taken care of and people that
21 maybe don't necessarily meet the criterial of an EPC could still get help and start getting
22 connected to resources. So I still have that program underway, it's not done by any stretch

1 I am still trying to work out the logistics with the Box Butte County Hospital as far as
2 heading and responsibility.

3 We enacted PAARI, which is a chemical, so you have CIT Training and in then PAARI,
4 we're the first agency in the State of Nebraska that actually works with people that are
5 suffering from chemical dependency, which is difference then a mental health disorder as
6 far as schizophrenia and stuff. CIT works with schizophrenia and some of these other
7 mental health issues to train officers on, but what do you do about the person that has all
8 these chemical dependency issues. So, we worked with PAARI, we're getting training for
9 all of our officers, did the victim's training to send out Statewide and even if the other
10 states with International Association of Chiefs of Police to get training together for officers
11 on Victims Advocacy, especially in the Panhandle are agencies that was very, very poor
12 and there were not a lot of victim services and victim support for people who end up
13 having victimization because we're not working through that is well and then we're
14 working on some evidence-based policing programs.

15 We just got everybody cell phones as of last week because of our new budget. It's starting
16 October 1st. So we just got the new cell phones and got them an app on their phone where
17 they are able to utilize a playbook that's put out from Georgetown University, Evidence-
18 Based, Policing Program, and that basically gives the officers more information in their
19 playbook on how they can investigate a burglary and then put all of the community
20 policing components in it. Just be nice to people that they don't understand like how it
21 integrates in every aspect that you do with the job. And then we also started the
22 Criminopoly game, which is a program where officers get rewarded with department
23 dollars for doing proactive, policing and work in the community. Simple things like unlock

1 garage doors or unlock cars. Really getting them to get out of their cars and integrate with
2 the community and working also with the some evidenced based policing programs. Dairy
3 Queen, giving kids Blizzards and stuff like that, the list goes on. By the time,
4 Shupe: Do you believe you have the support of the department to continue in your role as Chief?
5 Lukens: Oh absolutely.
6 Shupe: Do you believe you have the support of the community?
7 Lukens: Yes
8 Shupe: I'm going to have you flip in that binder to, its tab 30, Exhibit #37. And that's an email
9 from Cody Buskirk. Who is Cody Buskirk to you?
10 Lukens: He's the Lieutenant at the Police Department.
11 Shupe: And did you ask him to write this email on your behalf?
12 Lukens: I did not.
13 Shupe: And in there, if you look down, he has a bullet point list that I'd just like to go over, where
14 he highlights these are items you've done. That you've implemented a take-home car
15 program, correct?
16 Lukens: Yes, stayed under budget, in the same with the budget I inherited.
17 Shupe: And you offered a 5-year strategic plan?
18 Lukens: Yes
19 Shupe: And Mister, Buskirk believe that you made amends with the local sheriff?
20 Lukens: Yes
21 Shupe: And you're working on rewriting the department policy manual?
22 Lukens: That's correct,
23 Shupe: And you created and began a Community Partnership program?

1 Lukens: Correct

2 Shupe: And began the volunteers in policing program.

3 Lukens: Correct:

4 Shupe: And initiated the process to start a Police Explorer Post

5 Lukens: That's correct

6 Shupe: And re-wrote the Dispatch Center Policy Manual?

7 Lukens: Ah, yes, it's not quite done yet.

8 Shupe: And opened a Channel of Communication with Department of Personnel?

9 Lukens: Yes

10 Shupe: And if you flip to the next Exhibit, 38 that's an email from David LaDuke. Did you ask

11 him to write this?

12 Lukens: No

13 Shupe: And is also another letter in support of your remaining as Chief of Police?

14 Lukens: I haven't read this one. Can you give me a second?

15 Shupe: Sure, (Pause) and as you've read through that, that appears to be a letter in support of your

16 position, I've been reading as chief, is that correct?

17 Lukens: Yes

18 Shupe: Tab 33 in your binder, it appears to be an email from Kaytlin Norris? Who is Kaytlin

19 Norris to you?

20 Lukens: She would be the City Manager's secretary,

21 Shupe: So she doesn't work within your department?

22 Lukens: No

23 Shupe: And did you ask her to write this letter on your behalf?

1 Lukens: No, I hadn't even read it.

2 Shupe: And same with, if you flip to Exhibit #41, which is Exhibit 34 at appears to be an email
3 from Kirk Felker. Who is Kirk Felker to you?

4 Lukens: He is the Sergeant

5 Shupe: Within your department?

6 Lukens: Yes

7 Shupe: And did you ask him to write a letter on your behalf?

8 Lukens: I did not.

9 Shupe: So he took it upon himself to do it anyway.

10 Lukens: Yes

11 Shupe: Chief Lukens do you wish to continue remaining in your role as the Chief of police of
12 Alliance.

13 Lukens: I do.

14 Shupe: And do you need entry into the Reciprocity program in order to do so?

15 Lukens: Yes

16 Shupe: Do you believe you meet the requirements under Title 79 of the Nebraska Administrative
17 Code to be admitted entry into that program.

18 Lukens: I do

19 Shupe: If you flip to tab 11 in your binder, it's is exhibit 18, this is Chapter 8, Title 79 of the
20 Administrative Code and section 005 of that sets out the Basic requirements to be admitted
21 into the training program in Nebraska. Do you believe that you meet those?

22 Lukens: Yes I do.

23 Shupe: And as we go through those; are you a U.S. citizen?

1 Lukens: Yes

2 Shupe: Are you over the age of 21?

3 Lukens: Yes

4 Shupe: Have you been fingerprinted?

5 Lukens: Yes

6 Shupe: Do you have a valid motor vehicle operator's license?

7 Lukens: Yes

8 Shupe: Do you have vision correctable to 20/30?

9 Lukens: Yes

10 Shupe: Have you ever been convicted of a crime punishable of one year or more?

11 Lukens: No

12 Shupe: Do you believe you possess good Character?

13 Lukens: Yes

14 Shupe: Are you a high school graduate?

15 Lukens: Yes

16 Shupe: Have you ever been convicted of a DUI?

17 Lukens: No

18 Shupe: Have you passed a physical examination?

19 Lukens: Yes

20 Shupe: And you've never been discharged from the Armed Forces.

21 Lukens: No

22 Shupe: And you've never had your certification revoked,

23 Lukens: No

1 Shupe And you've never been denied certification.

2 Lukens: No

3 Shupe: Have you ever been convicted of a crime?

4 Lukens: No

5 Shupe: Chief Lukens, you said that you believe you possess the qualities of a good character. Do
6 you have a past that would indicate incompetence or neglect of your law enforcement duty?

7 Lukens: No

8 Shupe: Do you have a past that would indicate physical mental or emotional incapacity.

9 Lukens: No

10 Shupe: Have you ever been convicted of a crime was convicted of criminal violations of such
11 frequency that would indicate it disrespect for the law for others?

12 Lukens: No

13 Shupe: Have you ever been convicted of traffic violations with such frequency that would indicate
14 a disrespect for traffic laws or disregard for the safety of others?

15 Lukens: The only traffic ticket was on the, for the crash.

16 Shupe: Do you say, you can be characterized as being honest, trustworthy and truthful?

17 Lukens: Yes

18 Shupe: And the letters that we just went through written by people within the community of
19 Alliance, is it your belief that the people within your community and department would say
20 that you are honest, trustworthy and truthful?

21 Lukens: Yes in fact many of them are upset because they can't watch this Zoom feed, they have
22 been trying all day.

23 Shupe: I understand you have a long drive from Alliance.

1 As part of your application for reciprocity training, you are a certified law enforcement
2 officer correct?

3 Lukens: Yes I am.

4 Shupe: I don't believe it's being disputed that you are certified and you submitted records of your
5 training as part of your application correct?

6 Lukens: Yes

7 Shupe: Do you believe that you meet all the training standards.

8 Lukens: Yes

9 Shupe: Now one of the issues that come up would be your requirement to produce letters of good
10 standing. Do you believe that you've done so?

11 Lukens: Yes

12 Shupe: I will have you turn to Exhibit 25, which is tab 18 in your binder.

13 Is that a letter from the city of Lafayette, Colorado?

14 Lukens: Which one is that?

15 Shupe: It's tab 18 in your binder.

16 Lukens: Yes.

17 Shupe: And in that letter it states that you were a Community Service Officer from April 13th,
18 1998 to September 19th, 2001.

19 Lukens: Yes

20 Shupe: And that you left in good standing.

21 Lukens: Yes.

22 Shupe: And if you flip to the next exhibit, which would be 26. Is that a letter from the Erie Police
23 Department?

1 Lukens: Yes

2 Shupe: And that appears to be authored by a Chief of Police Kimberly Stewart.

3 Lukens: Yes

4 Lukens: And in there she states that you were employed at that agency from June 17th, 2004 to April
5 25th, 2016.

6 Lukens: Yes

7 Shupe: And that you left in good standing.

8 Lukens: Yes

9 Shupe: Now I'll have you flip back to exhibit 24, which would be tab 17 in your binder?
10 And that's a letter from the Louisville, Police Department, correct?

11 Lukens: Yes

12 Shupe: And that's authored by Chief of Police David Hayes,

13 Lukens: Yes

14 Shupe: And it states that you were employed with City of Louisville. Police Department from May
15 2nd 2018 to February 1st, 2019, correct?

16 Lukens: Yes

17 Shupe: And it goes on to state that you retired from employment.

18 Lukens: That's correct

19 Shupe: And it gives you're retiring rank as sergeant?

20 Lukens: yes

21 Shupe: Now your experience, Chief Lukens, would you have been allowed to retire from the police
22 department if you weren't in good standing?

23 Lukens: No

1 Shupe: And yet you were denied reciprocity into the training program, correct?

2 Lukens: Yes.

3 Shupe: And one of the reasons for that denial was failure to produce a, a letter of good standing,

4 Lukens: That's correct.

5 Shupe: But it's your position that, we think in a retirement role, that you would not have been

6 allowed if you were not in good standing, correct?

7 Lukens: Correct.

8 Shupe: When you were denied entry into the reciprocity training, did you receive that as a letter

9 from Director Urbanek?

10 Lukens: Yes

11 Shupe: And after that initial denial, did you respond?

12 Lukens: I did.

13 Shupe: Do you want to flip to Exhibit 10, which is tab 3 in your binder.

14 If you flip to page 2 of that exhibit, that's a letter from Director Urbanek to you, correct?

15 Lukens: Yes.

16 Shupe: And in there she asks you to provide names of individuals that could corroborate what

17 happened with the previous agencies, correct?

18 Lukens: Yes.

19 Shupe: And on page 1 to 2 of that exhibit is your response to her, correct?

20 Lukens: Yes

21 Shupe: And in there you have provided her names.

22 Lukens: That's correct.

23 Shupe: I believe there's about a dozen names and phone numbers in there that you provided.

1 Lukens: That's correct.

2 Shupe: Do you know, if any of those individuals were ever contacted?

3 Lukens: Nobody was, maybe Bob Johnson because there was some sort of reference in the
4 background, oh and then one of them was deceased. I was trying to get the point across that
5 people that have left have committed suicide there that made that some sort of issue in this
6 investigation for whatever reason.

7 Shupe: So, well, do you know if anyone from the Erie Police Department has named you provided
8 was ever contacted?

9 Lukens: No, never.

10 Shupe: As part of your retirement, from the Louisville Police Department. Did you receive any
11 retirement benefits?

12 Lukens: Yes

13 Shupe: And again, do you believe that they would have given you a retirement benefits if you had
14 left in anything less than good standing?

15 Lukens: Well I think you get your retirement regardless because I got full invested retirement and I
16 got, they gave me health insurance continuing on for a period of time, but that was part of
17 the agreement for the separation and that was not Cobra, they just paid for me to continue
18 as (inaudible)

19 Shupe: And again, as part of your separation agreement, to be clear, you didn't resign in- lieu-of
20 termination.

21 Lukens: No I did not.

22 Shupe: You retired.

23 Lukens: That's correct.

1 Shupe: And did you believe that that separation agreement prohibited you, from disclosing the, the
2 contents and the facts surrounding that, that separation agreement

3 Lukens: Absolutely or even to the form that we filled out, said, no willful misrepresentation. That's
4 exactly, there was nothing that I was willfully trying to misrepresent. There's a legal reason
5 for not putting that information in there.

6 Shupe: And as part of that separation agreement, do you believe it was supposed to prohibit the
7 chief of the Louisville Police Department from disparaging you?

8 Lukens: that's correct, that was why we agreed upon a letter and why this whole thing came out in
9 the first place.

10 Shupe: Well, to your knowledge, has the chief of police of Louisville Police Department
11 disparaged you?

12 Lukens: Yes.

13 Shupe: And in fact, you have an attorney in Colorado, correct?

14 Lukens: Yes.

15 Shupe: Who he's now sent letters to Chief Hayes to address that situation, correct?

16 Lukens: Yes.

17 Shupe: Now, Chief Lukens, I don't believe there's any, dispute here that you left, the Erie Police
18 Department in good standing, correct?

19 Lukens: Not that I have heard of, that was part of the background assessment that I did.

20 Shupe Well that letter that we looked at earlier states that, from the chief of police that you left in
21 good standing.

22 Lukens: And I did.

23 Shupe: Okay, and that's Chief Kimberly Stewart, correct?

1 Lukens: Yes

2 Shupe: And when you left you remained friendly with Chief Stewart correct?

3 Lukens: Correct

4 Shupe: And hasn't it now come to your attention that there were maybe statements she made as
5 part of this investigation that weren't consistent with your own communications with her.

6 Lukens: Yes

7 Shupe: I'm going to have you flip to tab 26 in your binder its Exhibit 33. Are those text messages
8 between you and Kimberly Stewart?

9 Lukens: Yes

10 Shupe: And about when did these take place?

11 Lukens: December of 2016 and 2017 of February

12 Shupe: And would that have been after you left her Department?

13 Lukens: Yes

14 Shupe: And what's the nature of your communication?

15 Lukens: As far as Isaac, there was communication that should she knew she was going to work on
16 having two command positions and I was interested in coming back. For that other
17 commander position.

18 Shupe: Now, if you flip to page two of that your first text message to her use date. Remember? I'm
19 a dedicated hard worker. I'll make you proud. You see that?

20 Lukens: Yes

21 Shupe: And her response is, I know you are stay safe over there? You see that? And you said, you
22 too miss our jokes. Do you see that?

23 Lukens: Yep,

1 Shupe: And then her response is, we're pretty funny folks, how are things over there? I get
2 different responses. But many seem very unhappy, which makes me sad. Do you recall
3 receiving that message?

4 Lukens: Yes

5 Shupe: And at this time were you employed at the Louisville Police Department?

6 Lukens: I was

7 Shupe: And so, did you interpret her message of things over there as thing at the Louisville. Police
8 Department?

9 Lukens: Yeah, I think, just background, people have to understand that Kim Stewart and Dave
10 Hayes, she was commander and he was the deputy chief so they were tight and then they
11 both go to Boulder County agencies, but yours and Bolder County has all the time. So if
12 there's still a very much. So a tightness goes on there, and there's a lot of talk between these
13 agencies. We all share the same care for (inaudible). So there's just a lot of talk soon. She's
14 talking about over there. She's talking about Louisville.

15 Shupe: And again, this would have been after you left her department and you were employed at
16 Louisville. And if you flip to page 3 of that Exhibit as your Communications go on the last
17 sentence of her last text. She writes I had hoped Gene would pave the way but I'm not sure
18 he can do that for anyone. I am sad for him too. Do you see that?

19 Lukens: Yes

20 Shupe: And who is Gene that she's referencing?

21 Lukens: Gene McCarthy.

22 Shupe: And is Gene McCarthy employed at Louisville as well?

23 Lukens: Yes

1 Shupe: And what, and did he have a similar reaction to you with that department?

2 Lukens: He had a similar situation, yes.

3 Shupe: And so as these text go on with you and Kim Stewart, is it fair to say that you remained
4 friendly even after you left the department?

5 Lukens: Yes.

6 Shupe: If you flip to page 9 of that same exhibit and again these text messages between you and
7 Kimberly Stewart, correct?

8 Lukens: Yes.

9 Shupe: In her first message to you on that page it includes the line, did you hear Chester is gone?
10 He resigned Tuesday, in lieu of being terminated. Do you see that?

11 Lukens: Yes

12 Shupe: And you know who Chester is that she's referring to?

13 Lukens: Yes

14 Shupe: Was that someone who worked at the Erie Police Department?

15 Lukens: Yes

16 Shupe: And so during this communication she's sharing with you things that are going on with her
17 in her own department.

18 Lukens: That's correct.

19 Shupe: So, would it be fair to say that you felt, she had a certain level of trust in you.

20 Lukens: Yes

21 Shupe: So again, if she's making a statements about you now, they're not consistent with these
22 messages. Did not come as a surprise to you.

23 Lukens: It did.

1 Shupe: And your Colorado attorney has also sent a preservation letter to Ms. Stewart. Is that
2 correct?

3 Lukens: Yes.

4 Shupe: Chief Lukens, the other grounds for denial in this matter of was an allegation that you had
5 made deliberate omissions in your application for reciprocity.

6 Chair: I'm sorry, why don't we take a break, this is probably a good stopping point for ten
7 minutes and then we can come back. Thank you.

8 5:59 PM

9 Chair: Hearing reconvened at 6:05 PM

10 Shupe: Chief Lukens as part of your request for reciprocity you submitted an application for that,
11 correct?

12 Lukens: Yes.

13 Shupe: And that's marked as Exhibit 8 and that's the very first exhibit in your binder.
14 Exhibit #8 is a copy of that application, correct?

15 Lukens: Yes

16 Shupe: And if you flip to page 11 of that includes the character affidavit. Correct?

17 Lukens: Correct.

18 Shupe: Now one of the allegations contained in Director Urbanek's, denial is that you? You failed
19 the answer this accurately. Do you believe that these, these statements were answered
20 truthfully?

21 Lukens: Yes

1 Shupe: And if you look at question seven (7) of that statement it reads I have not been denied law
2 enforcement certification status or had my certification revoked or currently suspended in
3 the state or another jurisdiction. And you mark that as true, correct?

4 Lukens: Yes

5 Shupe: And that statement is correct.

6 Lukens: Yes

7 Shupe: And if you flip to page 27 of that exhibit and if you look at question number 9, it asks, if
8 you've ever been terminated, suspended, disciplined, or permitted to resign in lieu of
9 termination from any job? And you marked yes, correct

10 Lukens: Yes

11 Shupe: And below that you included an explanation that you've received verbal counseling's and
12 one right up in Erie and it was for having the patrol car in an accident, and again, it is your
13 position that you were not disciplined in Louisville, correct, that any pending Internal
14 Affairs investigation was dismissed pursuant to your separation agreement

15 Lukens: That's correct.

16 Shupe: Okay, and so it's your testimony that this was a true and accurate way to answer that
17 question, correct?

18 Lukens: Yes

19 Shupe: Now as part of the investigation that was included in your denial. There are a couple of
20 allegations that I want to address that aren't necessarily included in Director Urbanek's
21 denial letter but that are deemed to be dishonest.

22 Bergevin: Objection, relevance. It's not a basis for denial.

23 Stolz: Counsel, can you give a little bit more insight where you are going?

1 Shupe: Well we've been provided these investigation summaries that include statements that state
2 it is the finding of the investigator that this was dishonest and although it's not contained as
3 a direct listing in the denial letter, it's still contained in the investigative report.

4 Stolz: That question is allowed, go ahead.

5 Shupe: Okay, I just want to address some of the allegations that are included in that investigative
6 summary. It is stated that you made a statement on Amazon.com on a book listing that you
7 were selling, that stated that you were pursuing a
8 Ph. D. Do you recall that as part of the investigative summary?

9 Lukens: Yes

10 Shupe: Now can you explain that to the council?

11 Lukens: Yeah, it's my life long goal to get a Ph.D. I'm trying to get there while working. I've been
12 working all of my degrees. All the schools. I've gone to I've gone while I worked, I didn't
13 go to college right after high school, should have but I didn't and so yes, it's a lifelong
14 ambition and someday before I die I will have a Ph.D.

15 Shupe: There is another statement on amazon.com that you've been involved in law enforcement
16 since 1995. Do you recall that?

17 Lukens: Yes

18 Shupe: And when was your first involvement with law enforcement?

19 Lukens: As a Police Explorer in 1995. Even before that my grandpa was the town cop and I used to
20 ride around with another kid all the time.

21 Shupe: But again, you were in a Police Explorers Post since 1995.

22 Lukens: Yes

1 Shupe: Now there's an allegation that you misrepresent said your commander status. Do you work
2 all that?

3 Lukens: Yes

4 Shupe: And that was contained in a mini press release, you recall?

5 Lukens: Yes

6 Shupe: Now at one point and time, you were acting commander in the Louisville Police.
7 Department.

8 Lukens: Yes

9 Shupe: Is that correct?

10 Lukens: Yes

11 Shupe: And if you flip to Exhibit 43, which is have 36 in your binder this is a listing of your
12 positions that you held at the Louisville Police Department, and this appears to be from
13 Kathleen Hix?

14 Lukens: Yes.

15 Shupe: And, in there the line that begins 27, 1028. It goes on to read but an acting position for
16 both sergeant and Commander, is that correct? And the next line down starts 2017 9:16. It
17 says acting Sergeant. Has your rate of pay to acting police commander. Is that correct?

18 Lukens: Yes

19 Shupe: So is that your position that you were in a roll of acting Commander?

20 Lukens: Yes

21 Shupe: You were performing the duties of commander and clearly there's documentation from
22 your Police Department that you were functioning in a commander roll.

23 Lukens: Yes

1 Shupe: And they recognize that.

2 Lukens: Yes

3 Shupe: Chief Lukens you are currently performing functions of a law enforcement officer?

4 Lukens: Yes

5 Shupe: Do you believe that you're adhering to the duties of the chief of police?

6 Lukens: Yeah.

7 Shupe: Do you believed that the community is benefiting from your presence in Alliance?

8 Lukens: Yes

9 Shupe: And it's something that you're actually seeking to better yourself at all the time, Correct?

10 Lukens: Yes

11 Shupe: Which is why you're still pursuing that master's degree.

12 Lukens: Yes, I mean I haven't been able to get back at it but I have left it on the status, that when I
13 want to go back. I'm hoping to going back, I just have to let the people know that I'm
14 coming back.

15 Shupe: If you flip to tab 27 in your binder, but it's Exhibit 34 that's an email that states your
16 acceptance to the University of Northern, Colorado, correct?

17 Lukens: Yes.

18 Shupe: And actually within this document, you forwarded your acceptance to Kimberly Stewart,
19 correct?

20 Lukens: Yes.

21 Shupe: And you are actually thanking her for helping you get there. Is that right?

22 Lukens: Yes, she wrote me a letter of recommendation for that as well when I was at grad school.

1 Shupe: So then when you accepted or when you were accepted to the program, you let her know
2 that you had been admitted

3 Lukens: That's correct.

4 Shupe: And her response to you was congratulations, and that she wishes you the best.
5 And again, this was after you left her department correct.

6 Lukens: Yes

7 Shupe: And if you flip to the next Exhibit, this is another, it's tab 28 in your binder, this is another
8 email string between you and Chief Stewart, correct?

9 Lukens: Ah ha.

10 Shupe: And you're asking her for that letter of employment and states that you left in good
11 standing. Is that right?

12 Lukens: Yes

13 Shupe: And she responded right away and provided that to you, correct?

14 Lukens: Yes

15 Shupe: I think it's actually the same day that she attaches that letter.

16 Lukens: Yes

17 Shupe: So, fair to say the two of you were still on good terms.

18 Lukens: Yes

19 Shupe: I will have you put to the next exhibit after that one? So this is Exhibit 36 and that's a
20 photograph. Tell the council, who's in that picture.

21 Lukens: So that was the Chief of Police for Erie at the time, Marco Vasquez and I when I left Erie
22 and he is giving me a plaque for my service to the Department at my going-away party.

23 Shupe: So when you left Erie, they threw you a going-away party.

1 Lukens: Yes, Kim Stewart did.

2 Shupe: Kim Stewart threw you a going away party.

3 Lukens: Yes.

4 Shupe: Chief Lukens, prior to Louisville, did you have a history of discipline within law
5 enforcement?

6 Lukens: No.

7 Shupe: And again, I think you testified to one right up and verbal counseling.

8 Lukens: Yes.

9 Shupe: And fair to say that you clashed with Chief Hayes of the Louisville Police Department.

10 Lukens: Yes

11 Shupe: And you weren't the first person to do, so.

12 Lukens: That's correct.

13 Shupe: And when you have difficulties when you need things like a letter of good standing after
14 you have left.

15 Lukens: Correct.

16 Shupe: And again, it is your position that you left in good standing because you were allowed to
17 retire?

18 Lukens: Yes

19 Shupe: And Chief Lukens are you asking the council to reverse the decision of the director and
20 allow you entry into the reciprocity training program?

21 Lukens: Yes

22 Shupe: I have nothing further at this time.

1 Bergevin: Mr. Lukens, good evening. Is it your testimony that you were certified in Colorado in
2 1999?

3 Shupe: I think it was right at the first of the year of 2000. I would have to look at my certificate,
4 but I believe it was right around Y2K. Maybe it was 2000-2001.

5 Bergevin: During your testimony I wrote down 1999, and now

6 Lukens: I went to the academy I believe in 1999.

7 Bergevin: Alright

8 Lukens: My certificate, because the Academy ended in the fall and then we started was it in 2000,
9 its 99 or 2000, I'd have to look, it's 20 years ago. I don't remember exactly what date it is.
10 It's in between there.

11 Bergevin: You believe it is a significant moment in a law enforcement officers' career when he or she
12 becomes certified.

13 Lukens Yes

14 Bergevin: But you don't remember the year when that happened.

15 Lukens: No, but we can look at the certificate.

16 Bergevin: You worked for Louisville Police Department for 3 years, right?

17 Lukens: Not quite.

18 Bergevin: Less than three years, between two and three.

19 Lukens: Yes.

20 Bergevin: And when you left, it was not on good terms?

21 Lukens: I left in good terms.

22 Bergevin: You left in good terms, okay. Did they have a party for you like they did with the other
23 agencies?

1 Lukens: No they did not.

2 Bergevin: Did they give you a signed picture?

3 Lukens: No

4 Bergevin: Did they give you a plaque?

5 Lukens: No

6 Bergevin: they did give you this release and separation agreement to sign and let's talk about some of
7 those terms as part of that agreement, you were agreeing that you were going to leave and
8 not apply for a position with the city of Louisville ever again.

9 Lukens: Yes, that's correct.

10 Bergevin: And in return, they were going to close an I.A. Case No. 19-1, tab 23, or Exhibit 5 clipped
11 everyone who can help us through these. So the first paragraph 7, employee agrees that he
12 will not seek employment with the City in the future.

13 Lukens: Yes

14 Bergevin: Okay, Paragraph number 3 on the first page indicates that the city is going to close I.A.
15 Case No. 19-1 correct?

16 Lukens: Yes

17 Bergevin: And paragraph number 2 is the other significant paragraph that outlines the money that you
18 were to receive in exchange for leaving the city of Louisville Police Department.

19 Lukens: Yes

20 Bergevin: Right. While you were with the City of Louisville, there were Internal Affairs matters,
21 which you were the subject of the investigation.

22 Lukens: Yes.

1 Bergevin: You would agree that you did not disclose that fact on either, your agency head affidavit or
2 the character affidavit as part of your application for training.

3 Lukens: Cuz I believed it was all part of the separation agreement.

4 Bergevin: Okay, I'd like you to look back at the separation agreement and find the language that you
5 believe supports that argument.

6 Lukens: I see it only shows only 19-1.

7 Bergevin: And with regard to 19-1 it says, employee shall not disclose the terms. Employee, shall not
8 disclose the terms. And conditions of this agreement for the circumstances for negotiations,
9 relating to the matters herein. So at best that can be read to mean that you're not to disclose
10 the circumstances relating case 19-1, correct?

11 Lukens: State the question again.

12 Bergevin: At best, that language can be read to mean that you can't disclose the circumstance of case
13 19-1.

14 Lukens: That's not the way I understood it.

15 Bergevin: Then explain to the council how you understand this language?

16 Lukens: Like I said before, it was my understanding, when I left there all of that stuff was squashed
17 in the new I.A. they were bringing the case closed and the other I.A. were basically
18 becoming nonexistent, the only one that was going to exist was 19-1.

19 Bergevin: Does it say anything along the lines of what you just explained in this agreement?

20 Lukens: No.

21 Bergevin: The entire agreement between you and the city of Louisville, is contained in this document.
22 Would you agree with that?

23 Lukens: For the most part.

1 Bergevin: And getting back to an earlier question. You did not provide any information about I.A.
2 cases with you and the city of Louisville on your character Affidavit or your agency
3 affidavit.

4 Lukens: That's correct?

5 Bergevin: I'd like to direct your attention to the letters of good standing. Exhibit #4

6 Lukens: What tab?

7 Stolz: What exhibits are we talking about counsel?

8 Bergevin: This is Exhibit #4, three pages, it's all three of the letters provided by the prior employers.

9 Delaney: Do you have a copy of the Exhibits for the witness?

10 Bergevin: No, I have my copy and

11 Delaney: If you could tell him what number it is in your stack that would expedite things.

12 Shupe: It's tab 17 through 19.

13 Bergevin: So if I heard correctly, 17 is the first letter from which agency?

14 Delaney: Well, I got the first one from Louisville, but you showed me Lafayette first, so, it's okay
15 we'll go.

16 Bergevin: The letter that was provided by the city of Lafayette indicates that you work for that agency
17 from April 13th, 1998, September, 19th, 2001 and left in good standing. Did I read that
18 correctly?

19 Lukens: Yes

20 Bergevin: And next I'd like to ask you about the letter from the Erie Police Department. That letter
21 indicates that you worked for the Erie Police Department from June 17th. 2004 to April
22 25th, 2016. And then you left the department in good standing. Did I read that correctly?

23 Lukens: Yes.

1 Bergevin: And then finally the letter from the Louisville Police Department indicates that you worked
2 for that agency from May 2nd, 2016 to February 1st, 2019, and when you retired from your
3 employment, with the city, you were Sergeant with the Louisville Police Department. Did
4 I read that correctly?

5 Lukens: Yes.

6 Bergevin: There is no language about you leaving that agency in good standing is there?

7 Lukens: I ain't going to lie.

8 Bergevin: Finally want to ask you some questions about these other representations that you made
9 that the director deemed to be less than true.
10 First about the author section with your first book in 2002, you indicated that you were
11 pursuing your Ph.D. do you agree with that?

12 Lukens: Yes

13 Bergevin: And your explanation for that today is that it's a lifelong dream to get a Ph.D.

14 Lukens: Yeah, I've been pursuing it.

15 Bergevin: You've been pursuing it in the sense that someday you may get one.

16 Lukens: Yes

17 Bergevin: Not that you're actively studying for Ph.D. in a Ph.D. program.

18 Lukens: That is correct.

19 Bergevin: And then next, you indicated that you have someone discussing your experience indicated
20 that you've been in law enforcement since 1995.

21 Lukens: Yes.

22 Bergevin: And today you're explaining that being in law enforcement includes being a Junior
23 Explorer.

1 Lukens: Police Explorer.

2 Bergevin: With regard to your time as a commander. How long did it last?

3 Lukens: Six (6) weeks, something like that.

4 Chair: I'm sorry what did you say?

5 Lukens: Six (6) weeks, something like that. I hate to say an exact date cuz then you're going to say
6 something else. If you want me to look at the page to tell you the days. I'll tell you the days,
7 but roughly six weeks. And I don't want you to turn around and say I'm lying.

8 Bergevin: Thank you that's all the questions I have.

9 Shupe: Can I redirect?

10 Chair: Yes

11 Shupe: Chief Lukens, if you will flip back to Exhibit 30 which is tab 23 in your binder, that's a
12 copy of the general release and separation agreement that you were just looking at.

13 Lukens: Yes

14 Shupe: And I have you turn the page five (5) of that and direct your attention to paragraph 17.
15 Would you go ahead and read that first paragraph out loud.

16 Lukens: Confidentiality. As part of the, of the consideration to the city, Employee shall not disclose
17 the terms and conditions of this Agreement or the circumstances or negotiations relating to
18 the matters herein nor shall Employee discuss that information with any third party, except
19 as follows:

20 Shupe: Okay and then it goes on to list who you can disclose it to under that. Now as you read that
21 you are not allowed to disclose the terms and conditions of this agreement or the
22 circumstances or negotiations is it your position that when you filled out your reciprocity
23 application, you could not disclose the terms of this agreement?

1 Lukens: That's correct.

2 Shupe: And if you look further down with the last line of paragraph Seventeen, (17) would you
3 read that out loud?

4 Lukens: It is fully understood by Employee that this provision is an integral part of the Agreement.

5 Shupe: So again it, as you read that, is it your position that all parties involved in this would adhere
6 to a strict confidentiality agreement?

7 Lukens: Yes.

8 Shupe: And again, you retired from the police department? And Council asked you, if you left on
9 good terms, do you remember that?

10 Lukens: Yes.

11 Shupe: And there's a difference between good terms in good standing. Correct?

12 Lukens: Correct.

13 Shupe: Good terms isn't really defined, right? That could be a feeling.

14 Lukens: Correct.

15 Shupe: And you, you testified today about your, your feelings regarding the police department
16 correct.

17 Lukens: Yes.

18 Shupe: And they weren't great at the time.

19 Lukens: No.

20 Shupe: However, you left in a position of retirement, correct.

21 Lukens: Correct.

22 Shupe: So there's nothing in the letter from the Louisville Police Department that indicates that
23 you didn't leave in good standing correct?

1 Lukens: That's correct.

2 Shupe: Again, because you were allowed to retire.

3 Lukens: That's correct.

4 Shupe: And just to clear up any confusion of, I'm going to have you flip to 15 in your binder, it's
5 Exhibit #22. This was provided as part of your exhibits. Is this your certification from the
6 state of Colorado?

7 Lukens: Yes.

8 Shupe: And what's the date on that?

9 Lukens: January 10th, 2001.

10 Shupe: And do you sometimes struggled to recall exact dates and years?

11 Lukens: Yes.

12 Shupe: But you understood that the time that you were certified was roughly two thousand or two
13 thousand one

14 Lukens: Yes.

15 Shupe: And the date on the certification fits into what your recollection was.

16 Lukens: Yes

17 Shupe: And Chief Lukens at the time of your application, you were employed at the Alliance
18 Police Department, correct?

19 Lukens: Yes.

20 Shupe: And you were certified by the state of Colorado, correct?

21 Lukens: I don't have anything further.

22 Bergevin: Chief Hayes in Louisville told you that he was not going to provide a letter of good
23 standing didn't he?

1 Lukens: When I reached out to Chief Hayes for my concealed carry permit, I asked him if he would
2 provide me a letter of good standing he provided me the very letter, I gave you guys today
3 and that's what I submitted for my concealed, carry permit.

4 Bergevin: Did he provide you a letter of good standing saying that you left the Louisville Police
5 Department in good standing.

6 Lukens: And they issued my concealed carry permit. My law enforcement officer concealed carry.

7 Bergevin: So this Council hears evidence that Chief Hayes told you on multiple occasions that you
8 was not going to attest that you left in good standing.

9 Lukens: No, not accurate. He told me that one letter and an email, when I asked him, if I could get
10 the letter and a letter of the letter of good standing for my concealed carry permit. When I
11 first left Louisville, I did not have any letter. There was an agreed-upon letter, but I did not
12 have that letter when I reached out to him and ask him for a copy of the letter. He said, I'm
13 not comfortable with giving you the wording of good standing. I'm giving you this and he
14 wrote the same letter, which was the letter we agreed upon which was the letter of good
15 standing.

16 Bergevin: Okay. You just said he made it clear to you that he would not want to give you a letter of
17 good standing, correct?

18 Lukens: Yes

19 Bergevin: Okay, thank you. That's all.

20 Chair: Any questions from the council?

21 Duis: So you were employed with the City of Louisville Police Department from May 2, of 2016
22 through February 1, 2019, correct?

23 Lukens: Yes

1 Duis: So initially you didn't have any issues and then somewhere along the line you started
2 having issues. How long had you worked there before you started having issues?

3 Lukens: It in initially things weren't too bad and it was okay, it was then when Bob Johnson came
4 and I was tasked with training him for a couple of weeks cuz they were short on FTO's and
5 Bob Johnson have been a cop for thirty (30) something years and he was their very short
6 order, he wasn't even through the FTO and he was like I am getting out of this place, this
7 place is crazy, and I'm like no you know people are trying to make things, you know, good
8 here we're trying to rebuild it, it had some bad issues going on, whatever, and Bob Johnson,
9 leaving that got Dave, Hayes really upset it put him sideways toward McCausey and
10 McCausey left. Things seem to be okay for a little while after that, McCausey left, I want
11 to say, it was probably a year into it roughly, that I was there and then the fall of 2017, is
12 when I was doing the acting commander, so he had probably gone maybe the spring of
13 2017. And that's when the world started changing for me and I realize, this isn't a place for
14 me. Problem was, was anybody that was trying to get out of the agency they were burying
15 any time that they've got. I'm just at your pad and they pay with call. They would reach out
16 to different people. And and so when somebody would get an offer somewhere, all the
17 sudden they would be all the way in a contingent. They're getting through their
18 backgrounds and then they were dropped and so we saw the meetings going on we knew
19 what was happening and some people like one of the names I gave you she went on to
20 another agency and they still tried burying her? There are several agencies now that they
21 have a reputation with that I just know. In fact even in Fort Collins, one of the officers that
22 I gave the names there I just went through and actually talked with the deputy chief of Fort

1 Collins, who was that? We were wondering if this was a one-and-done issue, or if this was
2 a reputation in this department, and that's what they do with, anybody that tries to leave.

3 Duis: And I appreciate your, I certainly get a sense of your frustration but, so you were good for
4 probably what a year?

5 Lukens: Year, year and a half.

6 Duis: Okay, you made reference to staking I.A.'s, how many I.A.'s did, I don't need details or
7 anything like that.

8 Lukens: Yes, all of a sudden I was in, they gave me a letter and said you have an I.A. and you have
9 another one pending and then we started on that I.A. and then they gave me a letter and
10 said there is another one pending, but we won't get to those until we get this one and so
11 they just sat there, in fact, they weren't investigating them. They just sat there while they
12 were dealing with the first, which is the same thing. I watch them do to a sergeant there
13 when they were trying to bury him because the Chief was made that he met with the City
14 Council.

15 Duis: Okay so three or four?

16 Lukens: Just those three (3).

17 Duis: From First to Last, what time frame are we talking about?

18 Lukens: So that started in about Octoberish of 2,000 of 18 or 19, I'm trying to remember my days
19 are getting screwed up. So it would have been the October of 2018 when I first complained
20 about my evaluation, that I got roughly October time. That's when it all of a sudden it
21 started happening and so within that last 3-4 months is when all the sudden they start laying
22 it on.

1 Chair: You received your certification, January 2001, about nine months later you left your
2 department, what you do for the next 2 years?

3 Lukens: I looked into, I work for a company to, I got my series 63 license, a Western States
4 Alliance

5 Chair: The bottom line, is you were out of law enforcement for two years right after you got your
6 certificate.

7 Lukens: Roughly, about that.

8 Chair: I have another question about Louisville. PD,

9 Lukens: Sure.

10 Chair: You had less than three (3) years of employment there. How do you get to the point that
11 you were able to retire? I can't speak for Colorado. But my agency, you surely can't retire
12 working there less than three (3) years. But how did that happen?

13 Lukens: As far as financially?

14 Chair: No, how did they say you were retired versus resigned.

15 Lukens: Oh, that was just basically what the attorneys and they had negotiated that I wanted to
16 retire because at that point and time, I was so burnt from law enforcement. You can see
17 there was a stint, if you only knew how bad it was working in there and what they were
18 doing to people, I literally put my gun up, put my badge up and didn't want to look at any
19 of it again.

20 Chair: If I work there for 3 years, can I retire?

21 Lukens: Well,

22 Chair: If another officer was up there for 3 years, could he or she retire?

1 Lukens: Well probably not necessarily, because they wouldn't be fully vested I don't think at that
2 stage. I think initially going into Louisville. I was fully vested.

3 Chair: Is that because of your previous employment?

4 Lukens: Yes.

5 Chair: Any other questions from the Council?

6 Osmond: I have a question about your Separation Agreement. So it wasn't okay to talk about it but it
7 is okay to talk about it now.

8 Lukens: Yeah, so what I did after I got the denial letter from Ms. Urbanek I reached out to my
9 Colorado attorney and he reached out to the city of Louisville's attorney and obtained
10 authorization for me to disclose this today.

11 Osmond: And isn't, I mean, we're here on Character right, basically the separation agreement is
12 saying, I won't say anything bad that you did if you don't say anything bad that I did. That
13 doesn't set well with character in my eyes. I mean it seems like you got paid \$30,000 to be
14 quiet.

15 Lukens: I get it. I was, I was literally at the stage where I was trying to get things done to, I was a
16 whistleblower and I had gotten so burnt and they were burying me and I was afraid that
17 they were going to try and get something on me that could ruin me forever and so, I wanted
18 to just let bygones be bygones to get out of there before they did something even worse
19 than, that was my fear.

20 I have a family I'm trying to take care of. It wasn't that I didn't have moral character. It
21 was what am I going to do if they completely ruined my law enforcement career?

22 McCarthy: I just had a procedural question about your separation agreement Chief. In that first
23 paragraph under, Separation of Employment, it states Employee by his execution hereof,

1 hereby separates and retires from his position from the City of Louisville Police
2 Department effective February 1, 2019

3 Lukens: Yes.

4 McCarthy: Okay, and then up above, it's dated the 6th of February 2019,

5 Lukens: Yes,

6 McCarthy: I was just kind of wondering how that happened.

7 Lukens: So what happened is the attorneys had been working on getting this taken care of back and
8 forth and were agreeing on finances.

9 McCarthy: Okay.

10 Lukens: And so that hadn't been solidified so they agreed on the day that I would not go back to
11 work, was February 1st, and part of that was because that was our wedding anniversary and
12 they were trying to be difficult even for that day, that's how I remember it so well, but we
13 ultimately got it signed after it started and so that's how it came about.

14 McCarthy: Thank you sir.

15 Lukens: In Colorado a contract is legal even verbally if you set out to start it.

16 Delaney: We have no further witnesses.

17 Chair: Thank you.

18 Mr. Delaney, do you have any further evidence to offer?

19 Delaney: I will have additional evidence, but I will offer it through the other witnesses.

20 Chair: Mr. Bergevin, do you have additional evidence for us to consider.

21 Bergevin: No other written evidence.

22 Chair: Do you have any witnesses to testify.

23 Bergevin: Yes

1 Chair: Go ahead.

2 Bergevin: Respondent calls Dennis Leonard.

3 Leonard: Stands at the witness stand and raises right hand

4 Chair: Mr. Leonard, do you swear or affirm that the testimony you are about to make at this
5 hearing shall be the truth the whole truth and nothing but the truth.

6 Leonard: I do.

7 Chair: Please state your name and state what you do.

8 Leonard: My name is Dennis Leonard, and I am staff instructor interim, deputy director, and there
9 investigator here at NLETC

10 Bergevin: Thank you. Are you a Certified Law Enforcement Officer?

11 Leonard: Yes.

12 Bergevin: How long you been certified?

13 Leonard: Since February 6th, 1987.

14 Bergevin: Could you explain your position when you introduced yourself? What are your duties in
15 those various roles?

16 Leonard: As staff instructor I teach investigative matters here to basic students at NLETC
17 As interim deputy director, I have a broad array of responsibilities, but basically, more
18 broadly, I'm responsible for training activities and as investigator I'm responsible for
19 conducting administrative Investigations that relate to certification matters as law
20 enforcement.

21 Bergevin: Were you tasked with gathering background information about an individual application on
22 Philip Lukens

23 Leonard: Yes

1 Bergevin: Did you receive that assignment from Director Urbanek?

2 Leonard: I did.

3 Bergevin: Approximately when were you tasked with that investigation?

4 Leonard: January 29th of this year 2021.

5 Bergevin: And was the investigations you were asked to do in relation to an application?

6 Leonard: Yes.

7 Bergevin: What training had Mr. Lukens applied to attend?

8 Leonard: He had applied to attend the reciprocity training last spring.

9 Bergevin: Before you started your independent work, did you review any other materials?

10 Leonard: Yes.

11 Bergevin: What did you review?

12 Leonard: I reviewed a summary report that was prepared by then Deputy Director Bill Keeling and
13 some, the request, from Deputy or from Director Urbanek.

14 Bergevin: As part of your investigation, did you have occasion to talk to Louisville Police Chief Dave
15 Hayes?

16 Leonard: Yes.

17 Bergevin: Did you talk to him on the phone or in person?

18 Leonard: Both.

19 Bergevin: Which happened first?

20 Leonard: Cell phone?

21 Bergevin: Actually when did you have that first phone call?

22 Leonard: Roughly about February 10th, I think it was.

23 Bergevin: What was the purpose of your phone call?

1 Leonard: I called to seek some additional details relating to his telephone conversation with Bill
2 Keeling.

3 Bergevin: He provided me some additional details that were concerning because in particular, talking
4 about some additional I.A.'s that were not on the application and I asked if there was any
5 way that I could obtain copies of that information and he told me that he would have to
6 discuss that with the city attorney and then we had a follow-up telephone conversation in
7 which he told me the city attorney said they would not be able to send out documents and
8 lose control of them about Internal Affairs matters, but if I was willing to come to their
9 office I could review them in person.

10 Bergevin: Did you thereafter go to Louisville, Colorado?

11 Leonard: Yes.

12 Bergevin: When did that happen?

13 Leonard: I think it was the 24th of February.

14 Bergevin: Did you meet with any personnel from Louisville Police Department or Louisville city
15 government?

16 Leonard: Yes. I met with Chief. Dave Hayes, Deputy Chief, Jeff Fisher and H.R. Director, Kathleen
17 Hix at the city, at the city offices in Louisville.

18 Bergevin: Did they give you access to Mr. Lukens Internal Investigation files with the Louisville
19 Police Department?

20 Leonard: Kathleen Hix provided those to me, yes, his personnel and his Internal Affairs files.

21 Bergevin: Okay, I want to talk through the contents of those reports beginning with a case that was
22 number 18-7. Do you recall reading about a case that was identified as 18-7?

23 Leonard: Yes.

1 Bergevin: Can you please tell the council what you learned about that particular case?

2 Leonard: That they had received a complaint from a hospital administrator that he had been
3 threatened by Sergeant Lukens with arrest for a crime, that was named and was in the
4 report, but it was not, there was no such crime in Colorado, and so as it turns out it was a
5 stated crime that didn't exist and internal affairs was conducted it was determined to be
6 founded during that Internal Affairs investigation they discovered that Sergeant Lukens did
7 not have his body camera on, there wasn't no recording it turned out that he was not
8 wearing it, which was contrary to department policy and there was a secondary officer
9 present that had his body camera on so they were able to see and hear the entire incident
10 that's what lead to the founding and he was advised of both the finding and discipline
11 which was a written warning in his file.

12 Bergevin: Did you confirm that there was a written warning related to this incident?

13 Leonard: Yes I read that.

14 Bergevin: Next, I'd like to ask about a case that was number 18-8 do you recall reviewing Case 18-8.

15 Leonard: Yes.

16 Bergevin: Please tell the Council, what you learned about that incident.

17 Leonard: In 18-8 there was an employee that was attending training in Boulder and there was, he was
18 authorized, I believe it was 10 hours a week of overtime related to that training, and he
19 turned in a time sheet that had more hours than that and the Corporal that was reviewing
20 the timesheet was aware, but not, he was secondarily aware of the agreement or thought
21 there was an agreement and so he contacted Sergeant Lukens, he was off duty and said,
22 hey, this is what we got and Sergeant Lukens told him to go ahead and approve it so he did
23 and then of course because there was a limited amount of authorized overtime for attending

1 training the officer was called in about claiming more overtime. The officer said that the
2 Corporal had approved it. They called the Corporal in and the Corporal said that Sergeant
3 Lukens had approved it. Then then contacted Sergeant Lukens and his response, in the I.A.
4 file, was I didn't sign anything and so that was taken by the original investigator as a denial,
5 I didn't sign any overtime slip and it was taken by the investigator to mean that he hadn't
6 authorized it and so they initiated further investigation into the Corporal and then returned
7 after the Corporal was held fast to his claim and said that it was a verbal authorization over
8 the phone and they went back and reinterviewed Sergeant Lukens who said well yes he had
9 acknowledged that he had told them that he authorized it because he thought it was wrong
10 that they would have somebody who would put in more hours than they were being paid
11 for and he wasn't dishonest when he said that he hadn't signed anything cause he hadn't
12 and with that the internal affairs investigation on misrepresentation or omission of
13 information in an internal affairs investigation filed against them, that was founded.

14 Bergevin: Was there any consequence.

15 Leonard With the one who as the deputy chief made the recommendation of two-day suspension and
16 when it went to Chief Hayes, he increased it because of the recent prior discipline, and so
17 through progressive, because of progressive discipline he increased it by a day to 3 days.
18 Mr. Lukens was notified of the decision for suspension. His response, Sergeant Lukens
19 response was an appeal to HR, which was within their procedures and HR set a hearing
20 date to hear the matter and he was notified around January 26th, and that hearing never
21 came because negotiations involved in, but the hearing never happened. So Kathleen Hix
22 and the Chief both said the hearing didn't happen. Even though his date was February 1, the

1 agreement for leave was before that date and so within our records and so the discipline
2 stood as a three (3) day suspension.

3 Bergevin: Finally, I'd like to ask you about case, that was number 19-1. Did you learn about that?

4 Leonard: I learned about that as well.

5 Bergevin: Tell us about 19-1 please.

6 Leonard: OK, the Corporal who had signed the overtime agreement, or the overtime authorization on
7 the previous one filed a complaint that Sergeant Lukens was retaliating against him by
8 giving him assignments that were undesirable, the word less desirable and was given him
9 unjust, he thought counseling on things that he wasn't doing or wasn't doing incorrectly and
10 so that investigation was opened their process involves a time where they schedule a time
11 where the officer is, advised of the I.A. and then signs off on the I.A., which he had done
12 on the two, previous ones.

13 On that one, that was just the scheduled date for that meeting in which he is, advised of
14 I.A., which rides were, was also in late January and as part of the negotiations for his
15 separation that, that meeting never happened and in the agreement I was told by even
16 Captain Hix, the separation agreement, but that matter was closed but would remain in the
17 I.A. file, the allegation, would remain in the I.A. file.

18 Bergevin: In your experience, as a law enforcement officer, have you been part of investigations?

19 Leonard: Yes

20 Bergevin: Is that something that you spent a lot of time doing in your career?

21 Leonard: Quite a lot. I would say and I was commander of internal affairs division for the state patrol
22 for the last 15 months of my career.

1 Bergevin: Are the incidents that you reviewed in Mr. Lukens personnel file, the types of incidents that
2 are appropriately handled through Internal Affairs investigations?

3 Leonard: Typically yes if there's a complaint and in all three of those cases there were complaints.

4 Bergevin: Did you talk to Chief Hayes about Mr. Lukens status when he left Louisville, Police
5 Department?

6 Leonard: Yes.

7 Bergevin: Was he in good standing at that point?

8 Leonard: No.

9 Bergevin: Why not?

10 Leonard: I was told by the chief in the presence of Miss Hix, that even though the investigation was
11 closed, that the allegations, the last allegation was serious enough in the, in the records
12 were solid enough, that it likely would have resulted in his termination, but that in his only
13 year also is only a year as a sergeant, which was from October 28th of 17 to October 28th of
14 18 his performance was below satisfactory and that in what they told me and Hayes that the
15 separation agreement was not a significant amount of money to get him to go away and
16 never come back and it should be in the agreement, that they also let me read the entire
17 agreement while I was there. He agreed not to seek employment with the city of Louisville
18 in any capacity, not just the Louisville Police Department, and also, he shared, he showed
19 me an email exchange that he had in which in order to backup that he left not in good
20 standing for his email exchange in which Mr. Lukens inquired about getting a letter of
21 good standing, that he could submit with his concealed carry application and the chief's
22 written response in the email was, you have named good standing and the only letter that
23 you will ever get from us is the letter that was in your separation agreement. He also told

1 me about a follow-up, not follow up to that incident but a second phone call request for a
2 letter of good standing, pardon me but he inquired about getting a concealed carry, retired
3 law enforcement concealed the chief told me he told me he could not do that because he
4 did not leave the department in good standing.

5 Bergevin: Back to the, the I.A. cases. Did you review Mr. Lukens two affidavits that he submitted as
6 part of his application to Basic Certification Training?

7 Leonard: Yes.

8 Bergevin: On either of those affidavits, did he make any mention of the disciplinary incidents that
9 resulted in I.A. investigations with Louisville?

10 Leonard: No, and as you know, there is a section on there where any such thing is required.

11 Bergevin: Did you prepare a report or memorandum summarizing for background investigation?

12 Leonard: Yes.

13 Bergevin: (I'm showing you Exhibit #3). Okay, do you recognize that as the report that you authored
14 by your investigation?

15 Leonard: Yes.

16 Bergevin: Thank you.

17 After completing your investigation and writing the report, Exhibit #3, did you have any
18 other involvement in this matter?

19 Leonard: No, not after submitting my report to Ms. Urbanek.

20 Bergevin: Thank you. That's all the questions I have.

21 Chair: Thank you Mr. Leonard.

22 Delaney: Thank you, what's your correct title?

23 Leonard: What would you like me to call you, Mr. Leonard?

1 Leonard: Mr. Leonard would be fine.

2 Delaney: Okay

3 Mr. Leonard I want to go through kind of, you were just shown your summary report from

4 Council, do you recall looking at that?

5 Leonard: Yes.

6 Delaney: I don't know if you still have it up there. (Exhibit #3 report)

7 First of all you indicated that you were designed by Director Urbanek to conduct the

8 background investigation, correct?

9 Leonard: Yes

10 Delaney: And under what authority did you have to do that?

11 Leonard: Under Ms. Urbanek's authority.

12 Delaney: Where under Title 79?

13 Leonard: I don't have Title 79 here but we are to, designed to conduct background investigations on

14 new chief or deputies.

15 Delaney: Okay I want you to go to tab 11 of that book.

16 Leonard: Alright.

17 Stolz: Counsel, what is Tab 11 by Exhibit number?

18 Delaney: I apologize, Tab 11 is Exhibit 18.

19 Stolz: Thank you.

20 Delaney: I'm going to have you go to page 8 on the bottom there. Background investigation, is that

21 the reference that you were just talking about?

22 Leonard: 005. Or correction .05.

23 Delaney: Yes

1 Leonard: Yes

2 Delaney: Now under 005.05A, it say the Director or his/her designee, when the applicant is not
3 employed as a law enforcement officer/trainee or when the applicant is newly elected or
4 appointed sheriff or newly appointed agency administrator who is not certified as a law
5 enforcement officer at the time of election or appointment. See that?

6 Leonard: Yes.

7 Delaney: That doesn't apply to Chief Lukens does it?

8 Leonard: Uhm

9 Delaney: He was a certified Law Enforcement Officer.

10 Leonard: Not in Nebraska.

11 Delaney: Does it say that, in Nebraska?

12 Leonard: It doesn't say this, but the whole book is on law enforcement certification in Nebraska. All
13 of Title 79.

14 Delaney: Where does it say that?

15 Leonard: That's what Title 79 is.

16 Delaney: Well I understand what Title 79 is, where does it say that you are limited to just Nebraska
17 for your law enforcement certification?

18 Leonard: Because only the Nebraska certification is valid in Nebraska

19 Delaney: And this Chapter in 79 deals with certification of officers and in particular officers from
20 other jurisdictions. Chapter 3, reciprocity is an example, correct, and Chapter 3 makes
21 reference to Chapter 8, correct, so we are not just talking about just Nebraska officers, we
22 are talking about law enforcement officers throughout the United States who want to be
23 certified in Nebraska.

1 Leonard: That want to be certified in Nebraska.

2 Delaney: Okay so under 005.05A it doesn't say he's not certified in law enforcement in the state of
3 Nebraska does it.

4 Leonard: It does not in that section.

5 Delaney: In fact in 005.05B it says the head of the agency or his or her designee that has appointed
6 the applicant as a law enforcement officer correct

7 Leonard: Yes

8 Delaney: And that's in fact what had happened in this case, is that Cody Buskirk had submitted an
9 agency background verification in which he was the Interim Department head, correct?

10 Leonard: Okay

11 Delaney: Have you ever seen that document sir?

12 Leonard: I'm sure that I saw it in the packet, but it's not impressing on me.

13 Delaney: I'm just going to approach real quick and ask if you've ever seen this document before.

14 Leonard: Yes, I have.

15 Delaney: And that in fact, is the document that complies with 005B correct?

16 Leonard: Not as it was interpreted to me or by me by the director.

17 Delaney: But this is what complies with this section, this says their assigned by Sergeant Cody
18 Buskirk interim Department Head, which is what

19 Leonard: Yes in order to appoint the officer, but it was my understanding that Sergeant Buskirk did
20 not appoint Mr. Lukens which is the head of the agency or his designee that has appointed
21 the applicant and it's my understanding that he had not appointed a new chief.

22 Delaney: He is the designee of the verification in that he is the agency interim agency head
23 Delaney: that did the designation.

1 Delaney: For the purposes of the record we are presenting Exhibit #45 (48)

2 Chair: Any objections?

3 Delaney: No

4 Chair: Let the record reflect Exhibit #45 (#48) and received and is entered into the record.

5 Delaney: Mr. Leonard I want to talk to you a little bit about your investigation. Do you still have
6 your copy of your investigation up here still?

7 Leonard: My summary report?

8 Delaney: Yes, I'm sorry. Now that I understand through Title 79, there is a minimum of five (5)
9 character references that are supposed to be contacted in relation to employment with the
10 application step process, correct.

11 Leonard: I'll take your word for it.

12 Delaney: So I'm in in paragraph two (2), you state of the five (5), former Louisville co-workers
13 listed. I only contacted, I only interviewed Gene McCausey. Do you recall that?

14 Leonard: Yes

15 Delaney: And you made the determination that you didn't want to contact another one cuz he had
16 only been there for less than two months, one was still employed by Louisville Police
17 Department and you're unable to make contact with another one and then you talked to, one
18 was deceased.

19 Leonard: Correct.

20 Delaney: You were also in your third paragraph there you had been informed that Director Urbanek
21 indicated that the Chief had received a settlement due to unfair treatment by the City of
22 Louisville, correct?

23 Leonard: Yes, he had related to her.

1 Delaney: And you found out that there was in fact a settlement.

2 Leonard: Yes.

3 Delaney: And as part of that settlement Chief Lukens had to release all of his claims against the City
4 of Louisville.

5 Leonard: I'd have to see the settlement.

6 Delaney: Do you remember reading the settlement?

7 Leonard: I do.

8 Delaney: Do you recall it saying that?

9 Leonard: I'm, I'm not disputing you. I just don't remember every bit of it. But if you say it's there. I
10 will accept that it is.

11 Delaney: And so the entirety of the agreement was Chief Lukens releasing the city and so they didn't
12 want to be sued by him so he released his claims in that settlement agreement. Do you
13 recall reading that?

14 Leonard: I'm sure that there was something to that

15 Delaney: And they paid him \$30,000 in order to release those claims.

16 Leonard: Absolutely believed what settlement agreements about

17 Delaney: So the settlement agreement, witness Exhibit #5
18 Do you have the settlement agreement in front of you sir?

19 Leonard: Oh yes section 5, Release of all claims.

20 Delaney: And that calls for the employee to retire, correct?

21 Leonard: (No response)

22 Delaney: Third paragraph, page one

23 Leonard: Internal affairs file?

1 Delaney: are you looking at the general release and separation agreement, go to your third paragraph
2 Leonard: Oh okay, where the parties, it is in their mutual interest and benefit that employee retire
3 from his employment.
4 Delaney: Okay, so in your summary, you keep referring to resignation and not retiring. He actually
5 retired, correct. That's what the agreement was. Would you agree?
6 Leonard: Yes
7 Delaney: Okay, there's a difference between resigning and retiring.
8 Leonard: I'm aware, I'm aware of somebody who retires as a law enforcement officer.
9 Delaney: Did you understand my question?
10 Leonard: So it says that they need to retire.
11 Delaney: Yes and that is different than resigning, which is what you kept referring to in your
12 investigative summary.
13 Now as I understand the separation agreement and you got to read it in the presence of Ms.
14 Hix and Mr. Hayes, Chief Hayes?
15 Leonard: Right.
16 Delaney: And I assume that while you were there you got to ask them questions?
17 Leonard: Yes.
18 Delaney: Did they inform you of the fact that chief Lukens had cause of action or potential cause of
19 against the city?
20 Leonard: No.
21 Delaney: Did they tell you that he had made complaints to HR about the city.
22 Leonard: No.
23 Delaney: Did you confer with the Ms. Hix about the complaints he had made to HR at any time?

1 Leonard: She in our discussion, did not mention any such thing.

2 Delaney: Now, in paragraph, five (5) of that release sir, the city is bargaining with Chief Lukens to
3 not sue the city, correct?

4 Leonard: All agreeing not to bring forth his family, his heirs successors, personal representatives,
5 hereby expressly releases and forever discharges the City, its current and former elected
6 and appointed officers, officials, employees agents, servants, attorneys, and insurers, from
7 any and all liability, claims, demands, rights, controversies and damages.

8 Delaney: Well it sounds to me like the city just wanted to make sure that he could never come after
9 them.

10 Leonard: That's what happens with separations

11 Delaney: Which is different from we're going to fire you get out of here.

12 Leonard: right.

13 Delaney: In fact in paragraph six (6) they make him agree that he is not going to instigate any further
14 actions against the city. Is that right?

15 Leonard: Yes

16 Delaney: So then we go to paragraph 17 on page five (5). As part of the consideration to the city
17 Employee shall not disclose the terms and conditions of this agreement or the
18 circumstances are negotiations relating to matters herein nor shall Employee discuss that
19 information with any third party. Correct?

20 Leonard: Correct.

21 Delaney: So this agreement prohibits him from disclosing this information to anyone, correct.

22 Leonard: Anything, in this agreement.

1 Delaney: Correct. Or anything as it relates to the purpose of this agreement or the circumstances
2 surrounding the matters, discussed in the agreement.

3 Leonard: Okay.

4 Delaney: So there's, there's two exceptions to that confidentiality. One is he may disclose this to his
5 spouse, attorneys, accountant, or financial advisor, correct?

6 Leonard: Ah, ha

7 Delaney: Is that a yes?

8 Leonard: That's a yes.

9 Delaney: And the second is that he may do so, by an order of the Court.

10 Leonard: Yes

11 Delaney: Neither one of those two applied to his application, to the Law Enforcement Training
12 Academy, did it, based on the language of this agreement.

13 Leonard: I think the way that I read the applications, there's no obligation to do so, but that's
14 something that you would have to ask an attorney about.

15 Delaney: But you understand sir that this provision prohibited him from disclosing that.

16 Leonard: I don't understand.

17 Delaney: You don't understand that there's a confidentiality agreement here?

18 Leonard: I don't understand where he is required to release that information in order to become a, to
19 be admitted to training. I understand, I understand that he must release that information to
20 attend the training if he chooses not to release it, from my perspective, he's not eligible for
21 the training.

1 Delaney: Let me ask you this and I don't want to parch words with you and I'm not trying to argue
2 with you but can you understand that a person who has this agreement may not believe that
3 they are entitled to disclose the contents of this agreement?

4 Leonard: No I'm not understanding.

5 Delaney: You don't understand that, okay. So this confidentiality provision to you means nothing.

6 Leonard: There was nothing on there about him releasing the terms here, it only has to do with
7 whether or not, that section that he omitted, he had been disciplined, or had been involved
8 with misconduct.

9 Delaney: When it says, the conditions in this agreement or the circumstances of the agreement.

10 Leonard: I don't know an occasion to be in here that the circumstance prior, Internal Affairs events
11 had anything to do with this and again and again it's required in my perspective, since you
12 asked me, if I understood, I cannot understand someone who would omit that, that signed
13 and notarized a form, that says everything on here is true. Knows nothing that would
14 require him to do that.

15 Delaney: Do you understand that by law he is prohibited from doing that based on this provision?

16 Chair: Asked and answered.

17 Stolz: You have made your point Counsel. Can we move it on a bit please? Thank you.

18 Delaney: Going back to, I'm going back to Exhibit 3, in the fourth paragraph in the next-to-last
19 sentence. You state the Chief replied that Lukens had been the subject of three internal
20 affairs investigations in his last year at Louisville. That he received discipline on the first
21 two and then resigned on the onset of the third. Do you see that?

22 Leonard: No, I know that's in the report, but I'm not seeing it in the fourth paragraph on page. I
23 apologize. Is it on the front page, last page?

1 Delaney: Excuse me it's on page two (2). I apologize.

2 Leonard: That's alright.

3 Delaney: Each page has the same heading on it.

4 Leonard: Okay, yes I found it.

5 Delaney: Okay and it is your testimony that the Chief said he resigned, is that correct?

6 Leonard: That is correct.

7 Delaney: And you've seen the letter from the Chief where he actually says that he retired. So that
8 would be incorrect.

9 Leonard: Well maybe he's incorrect, but that's what he told me

10 Delaney: But I'm saying that this statement that the Chief said that he resigned was incorrect because
11 he retired.

12 Leonard: Perhaps, I mean, honestly to me, it seems the same thing, but technically, on the documents
13 it said retired. For me retirement you know it's a little different and so

14 Delaney: So on the next page, page three (3) in that second paragraph, you've got the term resigned
15 in two (2) locations there. Is that, once again, is that the Chief's language versus the
16 language of the separation agreement?

17 Leonard: I'm sorry, it's page three (3), and which paragraph?

18 Delaney: Page three and second paragraph. Second line there, but resigned prior to the appeal,
19 hearing.

20 Leonard: Yes, that is that is the language that was used by Chief Hayes when he discussed it with
21 me.

22 Delaney: So each time when you're putting in the term, resign versus retired, that's because that's
23 what the chief told you, is that correct.

1 Leonard: Yes now, the ones that we discussed so far. And like I said so far. We've had the
2 discussion, he used the term, resigned I obviously saw the term retired in his letter in my
3 mind they were synonymous even though they are not the same word and so there is a
4 possibility that I may have used it on my own initiative after talking to the chief. Not to
5 discourage but that is the way that it was in my head after talking to the Chief.

6 Delaney: You had received from Kathleen Hix a letter detailing, the positions that Chief Lukens had
7 held during his tenure at the Louisville Police Department, correct?

8 Leonard: Yes.

9 Delaney: One of those positions was a Police Corporal,

10 Leonard: Yes

11 Delaney: Acting Sergeant.

12 Leonard: Yes

13 Delaney: Acting Police Commander.

14 Leonard: Yes

15 Delaney: Sergeant.

16 Leonard: Yes

17 Delaney: And so she lists all of those as rolls that he played while in his tenure at the Louisville
18 Police Department.

19 Leonard: Roles that he

20 Delaney: You received a letter from Special Agent Coder in support of Chief, Lukens, correct?

21 Leonard: Yes.

22 Delaney: And he's an FBI agent?

23 Leonard: Yes.

1 Delaney: Now in your summary report you kind of dismiss the information that he includes in his
2 letter do you not.

3 Leonard: I did not, what I said was most of the information that he supplied in his letter was not
4 consistent with the information that I received in the records that I received.

5 Delaney: Now he's making reference to, and you talked about this Ponzi scheme in Colorado do you
6 recall that?

7 Leonard: Yes

8 Delaney: And the FBI agent was, for lack of better, the role that was played by Chief Lukens.
9 Did you also have an opportunity to speak to Fred Joseph, the Securities Commissioner for
10 the Department of Regulatory Agencies, as it related to his letter that he wrote the Chief
11 Hall.

12 Leonard: I didn't speak to him, I read the letter.

13 Delaney: In that letter in fact, singles out Phil Lukens as instrumental in that investigation.

14 Leonard: As one providing information that was helpful in the investigation, which was very
15 different than the agents letter which said that he led the investigation every step of the
16 way. I saw the difference between the letter that said that they appreciated the information
17 that you provided to assist them in their investigation. I thought it was significantly
18 different than the agent's words that he led the investigation every step of the way.

19 Delaney: Where it says please accept my appreciation for the investigatory efforts of the Erie Police
20 Department and Officer Lukens that contributed toward this result that serves to protect
21 Colorado. Investors.

22 Leonard: Yes

23 Delaney: That's different from just, he gave me information.

1 Leonard: No, may I see the letter?

2 Delaney: Sure,

3 Leonard: It says; "in the course of his duties Officer Lukens provided information to the division that
4 for whom Fred Joseph works, that led to the recent conviction of Jason Brooks. He
5 provided information to them.

6 And Yoder's letter it says that he led the investigation every step of the way.

7 Delaney: At the end of that letter, did you talk about the investigatory efforts?

8 Leonard: Yes, I said, he appreciated the efforts.

9 Delaney: Exhibit #46 letter from Department of Regulatory Agencies,

10 Stolz And that's what we were referring to with the investigators Leonard, correct. Thank you.

11 Chair: Let the record reflect Exhibit #46 (49) has been received and is entered into the record.

12 Delaney: Did you, as part of your investigation, contact? David Taylor?

13 Leonard: No.

14 Delaney: Kevin John's

15 Leonard: No

16 Delaney: Mr. Chester

17 Leonard: No

18 Delaney: Dan Niemoth?

19 Leonard: No

20 Delaney: Kevin Jamison?

21 Leonard: No

22 Delaney: Michael Castle?

23 Leonard: No

1 Delaney: Jay McCosky?

2 Leonard: Yes.

3 Delaney: Did you include that information in your report?

4 Leonard: That I contacted Jay McCosky, yes.

5 Delaney: Hudson Chitwood

6 Leonard: No, Hudson Chitwood was the one I made multiple attempts to contact (inaudible)

7 Delaney: Bob Johnson.

8 Leonard: Bob Johnson, if I may ask, was he the deceased?

9 Delaney: No

10 Leonard: Okay, no.

11 Delaney: Shauna Treasure?

12 Leonard: Shauna Treasure, I did not, I checked into it and she was the one I believe who worked
13 from December I think the 17th until February of 18 and so it was nowhere close to the
14 dates of the events that were under investigation.

15 Delaney: Other than talking to their Command Staff, did you talk to any of the other officers in the
16 department?

17 Leonard: No I was under the impression that they were not comfortable for whatever reason that they
18 could talk to me. . It didn't feel to make it. Can you? Well, at least it was before?

19 Delaney: As I understand your testimony sir from the records, all three I.A.'s came within a very,
20 very short period of time. Three months in fact.

21 Leonard: Yeah, I think October to January.

22 Delaney: Right after the time that Chief Lukens complained to HR.

23 Leonard: I don't know that he complained to HR.

1 Delaney: They didn't volunteer that information to you.

2 Leonard: I know it was prior to, the first one was prior to his evaluation and was from an outside
3 source.

4 Delaney: I have nothing further.

5 Bergevin: Sir, I would like to ask you a couple questions about exhibit #45. (48) Background
6 Verification) and that was submitted by Sergeant Buskirk, Alliance Police Department, and
7 on Exhibit #45 (48)

8 Leonard: Yes

9 Bergevin: And on Exhibit #45 Sergeant Buskirk indicates what?

10 Leonard: That Philip Lukens met the minimum qualifications as outlined in Title 79 Chapter 8, he
11 demonstrated good character, that the background investigation had been conducted as
12 directed in Title 79 and that the agency had received and reviewed the employee's previous
13 law enforcement records.

14 Bergevin: Are you aware of whether anyone coming from the Alliance Police Department contacted
15 members of the Louisville Police Department about Mr. Lukens?

16 Leonard: I was told that they had not.

17 Bergevin: By the Department in Louisville?

18 Leonard: In Louisville

19 Bergevin: And when that topic came up was it Chief Page who told you no one from Alliance
20 contacted them?

21 Leonard: Yes

22 Bergevin: And what was his general feeling about not being contacted with regard to Mr. Lukens?

1 Leonard: He said he was very surprised that no one from Alliance Police Department or the City of
2 Alliance had contacted him or his department and that he was also disappointed because
3 there was information that he thought would have been material for their decisions on to
4 hire him or not.

5 Bergevin: You were asked a number of questions on cross-examination about Exhibit# 5 the
6 agreement.

7 Leonard: Yes.

8 Bergevin: And what is the title of that agreement at the top?

9 Leonard: General release and separation agreement.

10 Bergevin: Separation Agreement. Doesn't say retirement agreement.

11 Leonard: No

12 Bergevin: Separation and retirement have different meanings, would you agree with that?

13 Leonard: Uhm, a retirement is a type of separation but not all separations are retirements. That's what
14 it means to me.

15 Bergevin: And when you were conducting the background investigation into Mr. Lukens, you were
16 doing so as the director's designee in this matter?

17 Leonard: Yes

18 Bergevin: Thank you. That's all questions. I have.

19 Delaney: I have nothing further.

20 Chair: Anything from the Council?

21 Council: (No response)

22 Chair: Thank you Mr. Leonard.

23 We'll take a five minute break. The time is 7:36 P.M.

1 Chair: The meeting resumed at 7:43 P.M.

2 Chair: Mr. Bergevin, do you have any other witnesses?

3 Bergevin: Yes, thank you.

4 The Respondent calls Director Brenda Urbanek.

5 Chair: Director, do you swear or affirm that the testimony you are about to make at this hearing
6 shall be the truth the whole truth and nothing but the truth.

7 Urbanek: I do.

8 Chair: Thank you.

9 I'm sorry, could you give your name, title and we all know you are from Grand Island.

10 Urbanek: Brenda Urbanek, Director of the Nebraska Law Enforcement Training Center

11 Bergevin: Good evening. Are you a certified law enforcement officer in Nebraska?

12 Urbanek: Yes, since March of 1985.

13 Bergevin: You said a moment ago you were the Director of the Nebraska Law Enforcement Training
14 Center. How long have you been in that position?

15 Urbanek: Three and a half years.

16 Bergevin: And what are your duties as director?

17 Urbanek: I approve, all packets for admission, for all of the academies in the state. I also conduct
18 investigations into officer misconduct and revocations.

19 Bergevin: Are your determinations about whether applicants will be admitted into certification
20 training guided by Chapter 8, Title 79, Nebraska Administrative Code.

21 Urbanek: As part of it yes?

22 Bergevin: I want to focus your attention on what brings us here tonight. Did you receive an
23 application for a Philip D. Lukens to attend basic certification training?

1 Urbanek: No, it was Reciprocity training.

2 Bergevin: I misspoke, thank you for correcting me.

3 When did you receive that application?

4 Urbanek: I'm not sure if, may I refer to the evidence?

5 Bergevin: I'll direct your attention to Exhibit #1.

6 Urbanek: Yes, Exhibit #1 is the application for training and it was written by hand and was received
7 at the Training Center, as of February, 18th of 2021.

8 Bergevin: What position was Mr. Lukens in when he submitted that application?

9 Urbanek: He had been appointed as the Police Chief in Alliance.

10 Bergevin: Did you review the application materials that he submitted?

11 Urbanek: Yes

12 Bergevin: And I want to focus your attention on two, Exhibit #1 you heard a moment ago, after the
13 cover page, what is included in Exhibit #1?

14 Urbanek: Agency Head, Single Employee Agency Personnel Character Affidavit for Law
15 Enforcement Certification.

16 Bergevin: And then Exhibit #2 is a similar document.

17 Urbanek: Yes

18 Bergevin: What is that?

19 Urbanek: Personal Character Affidavit for Nebraska Law Enforcement Certification, it's
20 handwritten, and stamped that it was received by the Training Center on December 28th,
21 2020.

22 Bergevin: Why are there two affidavits submitted by Mr. Lukens? In this case?

1 Urbanek: The first one submitted in December was evidently submitted because that's what we have
2 for all basic applications. The one submitted in February was after discussion that he was a
3 non-certified agency head and that's a different Character Affidavit form.

4 Bergevin: Is he an agency head because he's a chief of police?

5 Urbanek: Correct.

6 Bergevin: Did you assign someone from your staff to conduct a background investigation into Mr.
7 Lukens?

8 Urbanek: Not initially.

9 Bergevin: Eventually?

10 Urbanek: Yes.

11 Bergevin: What were the reasons that led you to make that assignment?

12 Urbanek: Because, it appeared that it was going to require a lot more time and energy than I had at
13 the moment to conduct that thorough background investigation.

14 Bergevin: Who did you assign to conduct that investigation?

15 Urbanek: Initially it was then, Deputy Director Keeling.

16 Bergevin: Did someone else assist?

17 Urbanek: After Deputy Director Keeling made some initial phone calls I assigned it to Instructor
18 Dennis Leonard.

19 Bergevin: When Investigator Leonard was done with his work. Did you review any documents that he
20 prepared?

21 Urbanek: Yes.

22 Bergevin: Did you make a decision after reviewing that investigation report about whether to accept
23 or deny Mr. Lukens?

1 Urbanek: Yes.

2 Bergevin: Did you also consider other documents and application materials when you made that
3 decision?

4 Urbanek: Yes.

5 Bergevin: What was the decision you made as to Mr. Lukens application to attend reciprocity
6 certification training?

7 Urbanek: I denied that application.

8 Bergevin: Why did you make that decision?

9 Urbanek: Mr. Lukens had provided three letters outlining previous law enforcement employment.
10 Two of them mentioned, good standing and the third did not
11 So the lack of statement from Louisville P.D. that the individual left in good standing was
12 grounds for that denial.

13 Bergevin: Was there another basis that that lead to your denial?

14 Urbanek: Yes, during Mr. Leonard's background investigation he hadn't uncovered three (3) internal
15 affairs investigations of the Louisville Police Department that Mr. Lukens did not disclose
16 on his application, on his Character Affidavit.

17 Bergevin: After your decision to deny his application to training. Did you notify him by mail?

18 Urbanek: Yes.

19 Bergevin: Do you see that letter marked as an exhibit next to you?

20 Urbanek: Yes Exhibit #45 dated May 12th 2021. The letter was sent to both Carla Mayhew, the
21 Human Resource Director at Alliance and Chief Philip Lukens were sent the denial.

22 Bergevin: After sending that letter, did you receive a request from Mr. Lukens, for you to reconsider
23 your decision?

1 Urbanek: Yes.

2 Bergevin: Do you see a documents within an exhibit number that contains that request?

3 Urbanek: Exhibit #46, would be an email exchange between Mr. Lukens and myself.

4 Bergevin: Following that request for reconsideration did Mr. Lukens, provide other information for
5 your review?

6 Urbanek: Yes, he gave me some information in the email?

7 Bergevin: Okay, and did you consider that along with what you already knew about?

8 Urbanek: Yes, as well as the emails from various individuals in Alliance?

9 Bergevin: After considering the materials that. Mr. Lukens submitted did you make a final
10 determination about whether he should be admitted to reciprocity certification training.

11 Urbanek: Yes.

12 Bergevin: What was that final decision?

13 Urbanek: I could not find enough grounds to overturn the original denial.

14 Bergevin: Did you communicate that decision to him.

15 Urbanek: Yes

16 Bergevin: How did you do that?

17 Urbanek: Via letter. Dated June 2nd, 2021.

18 Bergevin: And what exhibit is that?

19 Urbanek: #6

20 Bergevin: Following your notification to Mr. Lukens that you were standing by your initial decision.
21 Did you receive notice of his intent to appeal to this Council?

22 Urbanek: Yes, there was a letter Exhibits #7 on June 11th from Mr. Delaney's firm appealing Chief
23 Lukens to the PSAC.

1 Bergevin: And is that accurate to say that procedurally, that's why we are here before this Council?

2 Urbanek: Yes.

3 Bergevin: Alright, I want to spend a little more time talking about the basis for denial. At first you
4 said it was a lack of letter of good standing from the Louisville Police Department. A letter
5 of good standing, is that something is required by Chapter 3 of Title 79?

6 Urbanek: Yes.

7 Bergevin: I would like you to focus your attention on section 004.04

8 Urbanek: Yes

9 Bergevin: Would you read that Provision for the Council please.

10 Urbanek: Title 79, Chapter 3, section 004.04, the applicant shall have all past law enforcement
11 employer(s)/agency submit written verification to the Director regarding his/her dates of
12 employment, duty assignments, departmental/agency rank, and that the left the agency in
13 good standing.

14 Continue?

15 Bergevin: No, that's fine. Thank you.

16 Now, there, would you agree that there is no definition of what good standing is?

17 Urbanek: There is none in Title 79.

18 Bergevin: Okay.

19 Urbanek: Is there a common understanding in the law enforcement community about what leaving an
20 agency in good standing means?

21 Urbanek: Yes

22 Bergevin: What does that mean?

1 Delaney: I guess I am going to object, if he's asking her to give a legal definition that's not defined
2 under the code.

3 Stolz: I don't think he asked for her to give a legal definition. He asked for a common
4 understanding in the profession.

5 Delaney: Okay, in the terms of semantics, I don't know that this witness can say that her common
6 understanding of other officers

7 Stolz: We're not bound by the rules of evidence, correct.

8 Delaney: Well I understand that but it still has to be relevant matter in order to be admissible here.

9 Stolz: And I think you will be able to cross examine this at that point. I'll allow it.

10 Delaney: Okay. Thank you.

11 Urbanek: Common understanding of what does good standing mean.

12 Bergevin: Leaving an agency in good standing.

13 Urbanek: Are you eligible for rehire, would they take you back.

14 Bergevin: And did you review the letters that were submitted by Mr. Lukens' previous law
15 enforcement agencies?

16 Urbanek: Yes.

17 Bergevin: Those are contained in Exhibit?

18 Urbanek: #4

19 Bergevin: Exhibit #4, does the Erie Police Department letter indicate that he left in good standing?

20 Urbanek: He left the department of good standing to take a position with Louisville, Police
21 Department. Yes.

22 Bergevin: Does the letter from the Lafayette Police Department indicate that he left in good standing?

23 Urbanek: And Left in good standing, yes.

1 Bergevin: Does the letter from the Louisville Police Department indicate he left in good standing?

2 Urbanek: When he retired with his employment with the city, he was a sergeant with the Louisville
3 Police Department.

4 Bergevin: Is it your opinion that,
5 Next, I'd like to focus your attention on Chapter 8 of Title 79, section 005.04A.2. Do you
6 have that in front of you?

7 Urbanek: Yes.

8 Bergevin: Can you please tell the council? What is a provision says?

9 Urbanek: Applicants are under a duty to disclose any and all information that may affect the
10 applicant's qualifications for entrance into certification training. Any deliberate omissions,
11 falsification, and/or misrepresentations made on the application or through the application
12 process, including the background investigations, are grounds for denial of entrance into a
13 Training Academy, suspension from training or termination of training.

14 Bergevin: Did you find that Mr. Lukens had violated that particular provision?

15 Urbanek: Yes

16 Bergevin: In what way?

17 Urbanek: He did not disclose the internal affairs, investigations with the City of Louisville, so he
18 didn't provide all information that is relevant to make a decision on his suitability for
19 admission.

20 Bergevin: Why are you comfortable characterizing that action by him as a deliberate omission,
21 falsification and/or misrepresentation.

22 Urbanek: Because there was one minor traffic infraction accident that he was written up for in Erie,
23 but he did not include the ones from Louisville.

1 Bergevin: Next, I want to focus your attention on section 005.02A from Chapter 8.

2 Urbanek: Alright.

3 Bergevin: Please read that for the Council.

4 Urbanek: The Council finds that a person serving in the capacity of a Nebraska Law Enforcement
5 Officer must be of good moral character. Besides the requirements imposed by sections
6 005.01A through 005.01Q, a person of good character is someone who generally can be
7 defined as

8 Bergevin: And included in that definition of someone of good character does it include that an
9 individual is honest, truthful and trustworthy?

10 Urbanek: 005.02A5 can be characterized as being honest, truthful, and trustworthy.

11 Bergevin: Let's go back to Exhibit #1 now, the character affidavit. I'd like you to turn to page 12,
12 please. Did Mr. Lukens certify anything on page 12 of Exhibit #1?

13 Urbanek: Under the employment section? Under Exhibit #2's Character Affidavit

14 Bergevin: This is Exhibit #2, which is the agency head affidavit?

15 Urbanek: no this is the regular law enforcement certification.

16 Bergevin: Thank you. What is the certification on page 12 of that exhibit?

17 Urbanek: Roman numeral, VIII (8), applicant attestation verification, I am aware that this document
18 constitutes a public record and knowingly making a false entry in, or false alteration of a
19 public record is a violation of Nebraska revised. Statute 28 - 911, I hereby certify there are
20 no local misrepresentations, omissions or falsification in the forgoing statements and
21 answers to questions and statements are true and correct to the best my knowledge and
22 belief. It appears to be signed by Mr. Lukens dated twelve, 22 of 20. With a notary
23 signature attached.

1 Bergevin: Was it your conclusion that he did in fact, willfully misrepresent, omit information or make
2 falsification?

3 Urbanek: Yes.

4 Bergevin: And why did you reach that conclusion?

5 Urbanek: Because the background investigation conducted showed other Internal Affairs
6 investigations that he did not disclose.

7 Bergevin: And as a result, did you determine that he was not being honest, truthful trustworthy.

8 Urbanek: Yes

9 Bergevin: And therefore did not possess good character.

10 Urbanek: Yes

11 Bergevin: Now I would like you to look at the agency head application.

12 Urbanek: Exhibit #1

13 Bergevin: Exhibit #1, direct your attention to page 17. Is there a similar certification in that
14 document?

15 Urbanek: Yes

16 Bergevin: Is it the same language?

17 Urbanek: I am aware that this document constitutes a public record and knowingly making a false
18 entry in, or false alteration of a public record is a violation of Nebraska Revised Statutes
19 28-911. I hereby certify that there are no willful misrepresentations, omissions or
20 falsifications in the foregoing statements and answers to questions, and that all statements
21 and answers are true and correct to the best of my knowledge and belief, and it is signed
22 again with the same signature and dated January 5th of 2021.

1 Bergevin: Did you come to the conclusion that he had in fact, willfully misrepresented omitted facts
2 or falsified information.

3 Urbanek: Yes.

4 Bergevin: And, what led to that conclusion?

5 Urbanek: The fact, that there was no, mention of any disciplinary action, and Internal Affairs at
6 Louisville included.

7 Bergevin: And did that conclusion lead you to deem him as not being honest, truthful, and
8 trustworthy?

9 Urbanek: Yes.

10 Bergevin: And therefore, someone who does not possess good character?

11 Urbanek: Yes.

12 Bergevin: Does Chapter 8, direct you to consider mitigating factors along with aggravating factors in
13 determining, whether an applicant is someone of good character?

14 Urbanek: Yes

15 Bergevin: Did you go through that analysis in this case?

16 Urbanek: Yes.

17 Bergevin: Please tell the council why you ultimately decided that Mr. Lukens was someone who was
18 not fit to serve.

19 Urbanek: I met with Mr. Lukens in January, I drove to Alliance and he mentioned the separation
20 agreement with Louisville, but couldn't really tell me anything about it because of this
21 confidentiality clause. When I got the character affidavits and reviewed the character
22 affidavits there was nothing mentioned on there about any issues with Louisville. (am I
23 saying that right?) When Mr. Leonard completed his review of the internal affairs files, the

1 personnel files from Louisville, I made the determination that the information provided in
2 those files was information that was being withheld for consideration into suitability to
3 coming to the Training Center.

4 Bergevin: I would like you to explain to the council, the authority that you as, the Director have to
5 conduct a background investigation in this type of situation. Based on the provisions of
6 Title 79.

7 Urbanek: Title 79, Chapter 8, 005.05 Background Investigations shall only be conducted by the
8 following individuals or agencies In 005.05A The Director or his/her designee, when the
9 applicant is not employed as a law enforcement officer/trainee or when the applicant is a
10 newly elected or appointed sheriff or newly appointed agency administrator who is not
11 certified as a law enforcement officer at the time of election or appointment.

12 When I look at the scope and the purpose of Chapter 8 on the first page of that Chapter, the
13 scope is to establish admission and procedures for applicants that want to attend
14 certification training or training academies. And the scope says

15 All applicants and law enforcement agencies, requesting admission for the applicant to
16 attend basic, reserve or reciprocity certification or other mandated training at a training
17 academy.

18 When I look in Chapter 1 at the definition of certificate; a document issued to an individual
19 by the council attesting that a person has met all the requirements to practice law and
20 enforcement in the state and is appointed as a law enforcement officer.

21 So, anyone who does not possess a certificate issued by this Council, would fall under a
22 non-certified individual. In Nebraska.

1 Bergevin: And that is why someone like Mr. Lukens who was certified in Colorado, but not Nebraska
2 is still subject to a background investigation conducted by you or your designee?

3 Urbanek: Correct.

4 Bergevin: After considering all the information in this case, do you stand, by your decision to deny
5 Mr. Lukens' application for admission into reciprocity training?

6 Urbanek: Yes.

7 Bergevin: that's all the questions that I have.
8 Thank you.

9 Delaney: Director Urbanek, I want to go back to that 005.05A.
10 The Director or his or her designee when the applicant is not employed as a law
11 enforcement officer. Now, as I understand, Chief Lukens has been acting in the capacity of
12 a law enforcement officer for the City of Alliance since his hire, correct?

13 Urbanek: Yes, that's my understanding.

14 Delaney: And his certification in Colorado has allowed him to do that correct?

15 Urbanek: No.

16 Delaney: What is the factor that allows him to be a law enforcement officer in the City of Alliance as
17 of right now?

18 Urbanek; The city appointing him as that position. It has nothing to do with the certification status.

19 Delaney: So if he were a plumber in Colorado and came to Alliance and they said you are the Police
20 Chief, this section wouldn't apply?

21 Urbanek: If he was a plumber in Colorado and was appointed by the city of Alliance to be police
22 chief prior to August 28th of this year, he would have one year to gain certification in
23 Nebraska.

1 Delaney: And that's with LB51 correct?

2 Urbanek: August 28th, yes correct.

3 Delaney: And you understand that he has been acting as law enforcement in the city of Alliance
4 since his appointment.

5 Urbanek: Yes.

6 Delaney: And you understand that he was a certified law enforcement officer at the time of his
7 appointment.

8 Urbanek: He was certified in Colorado, yes.

9 Delaney: Okay. Now I want to go back as, I understand we're going to go back to this letter of good
10 standing. I've looked through here, there's no definition of good standing within Title 79,
11 correct?

12 Urbanek: That's correct.

13 Delaney: And as far as I know, there's no statute. That defines good standing.

14 Urbanek: Not that defines it. It references it, but it does not define it.

15 Delaney: And even though you have what you consider to be your interpretation, there's nothing that
16 says that you're right. Correct?

17 Urbanek: There have been cases heard before this Council of what is good standing.

18 Delaney: Is good standing defined in any case law that you know of?

19 Urbanek: Not that I, Not that I can quote.

20 Delaney: So when you said that you're understanding of, or your interpretation of good standing was
21 eligible for rehire, theirs is no that's not a standard anywhere either, correct? There's no
22 case law that says that eligibility for rehire is the definition of good standing.

23 Urbanek: Correct.

1 Delaney: I want to, I want to have you go back to the, it's Exhibit #5.
2 So you understand that there was a separation agreement that was entered into between
3 Chief Lukens and the City of Louisville, correct?
4 Urbanek: Yes
5 Delaney: And understanding is, in looking through my notes is that at some point Chief Logan's got
6 permission from the City of Louisville to disclose this document and the contents of this
7 document with you.
8 Urbanek: With Mr. Leonard, yes.
9 Delaney: And that you then had a conversation or a meeting with him as it related to the separation
10 agreement,
11 Urbanek: Him who, sorry?
12 Delaney: Chief Lukens
13 Urbanek: Okay, I have not spoken with Chief Lukens since I've read this separation agreement.
14 Delaney: Did you ask did you not ask him about it?
15 Urbanek: We discussed it in our January meeting and we had a couple of email exchanges about
16 getting access to it.
17 Delaney: Did you contact, as part of your investigation, did you contact anyone in the state of
18 Colorado about the separation agreement?
19 Urbanek: No
20 Delaney: Did you at any time talk to Reed Elkins about the separation agreement?
21 Urbanek: No, that name doesn't ring a bell.
22 Delaney: Did you talk to Miss Hicks
23 Urbanek: No

1 Delaney: Chief Hayes?

2 Urbanek: No

3 Delaney: When was the first time that you saw the separation agreement?

4 Urbanek: I don't recall.

5 Delaney: Did you review it?

6 Urbanek: I have, yes.

7 Delaney: Do you see the confidentiality clause on page 5, clause 17.

8 Urbanek: Yes

9 Delaney: Do you understand that this confidentiality provision forbid Chief Lukens from discussing
10 the circumstances of the agreement, the agreement itself, or any negotiations relating to the
11 agreement.

12 Urbanek: I can read that, yes.

13 Delaney: And that the only two exceptions to that confidentiality agreement was his, his spouse,
14 attorneys, accountants, financial advisor, or if there's a court order.

15 Urbanek: That's what it says.

16 Delaney: And that when it says the circumstances relating to the agreement for the circumstances,
17 specifically it's referenced in here internal affairs.

18 Urbanek: where are you referencing that?

19 Delaney: Page one (1), paragraph three (3).

20 Urbanek: And your question?

21 Delaney: This document references internal affairs file, correct?

22 Urbanek: It references internal affairs case number 19-1 just 19-1.

1 Delaney: Now as you understand the testimony you've heard, and as testified to by Mr. Leonard, the
2 three I.A.'s that were received by Chief Lukens occurred within a very short period of time
3 at the end of 2018 and I believe the very first time of 2019.

4 Urbanek: Yes

5 Delaney: At that the separation agreement concerned all of those Internal Affairs investigations.

6 Urbanek: The only reference that I see to Internal Affairs case number about confidentiality is 19 – 1.

7 Delaney: I understand that but Mr. Leonard said he spoke to Chief. Hayes who then referenced the
8 other Internal Affairs investigations and then said well, but then he resigned before that
9 could be resolved. Do you recall that?

10 Urbanek: I recall Mr. Leonard testifying that, he spoke with Chief Hayes about them, but to the exact
11 detail, I won't say one way or the other. I'm sorry.

12 Delaney: Okay, so then in the confidentially provision that talks about the circumstances leading up
13 to the agreement would also include those comments made by the chief after those
14 investigations.

15 Urbanek: I don't have any record that the I.A. cases, whatever they were are part of this separation
16 agreement. The only one I have is 19 - 4

17 Delaney: Well except Mr. Leonard said that before they could have an appeal hearing on 18-8 there
18 was a resignation and that they never got to resolve that. Do you recall that testimony?

19 Urbanek: They didn't resolve it because he left employment with Louisville before that.

20 Delaney: Right and he left and there was an agreement signed, right?

21 Urbanek: Yes.

22 Delaney: Okay. Can you envision that a person who has a confidentiality agreement in a document
23 believe that they could be prohibited from disclosing that information.

1 Urbanek: I suppose somebody could.

2 Delaney: have you received information from members of the community in Alliance including the
3 city manager that Chief Lukens is doing a good job up in Alliance?

4 Urbanek: Uhm, I recall an email from David LaDuke, Kurt Felker, Kaytlin Norris, there was one
5 other one, but I can't say that that was the city manager.

6 Delaney: There was Seth Sorenson and letter recommendation to Randy Waggener.

7 Urbanek: I don't recall the.

8 Delaney: I'm going to direct you to tab 21 and 22 of the binder

9 Stolz: And what Exhibits would those be?

10 Delaney: Exhibit #28 and #29.

11 Stolz: Thank you.

12 Urbanek: 28 is a letter to the Nebraska Crime Commission at this address To Whom It May Concern.
13 On behalf of the City of Alliance, I wholeheartedly express my support for Philip Lukens
14 and 22 is a letter of support from Rand Waggener, Finance Director from the City of
15 Alliance.

16 Delaney: And both of those letters talk about the positive changes that Chief Lukens has brought to
17 the City of Alliance.

18 Urbanek: Yes.

19 Delaney: You agree with me that once Philip Lukens, Chief Lukens received permission from the
20 City of Louisville from his counsel, he then provided you a copy of the separation
21 agreement.

22 Urbanek: He gave it to Mr. Leonard, yes.

23 Delaney: And you understand that he had to get permission from the city of Louisville to do that?

1 Urbanek: That's what I've been told.

2 Delaney: I have nothing further.

3 Chair: Are there any questions by the Council?

4 Duis: I do. There was questions about the definition of good standing and Nebraska case law
5 was one of the questions. No definition of good standing in Title 79 but in case law.

6 Urbanek: Not in 79 no, but in case law.

7 Duis: My question would be, in your capacity are you familiar with what this council, this board,
8 has previously used as a definition for good standing.

9 Urbanek: Yes

10 Duis: Which is?

11 Urbanek: That the individual is eligible for rehire with the agency.

12 Duis: Okay. If you would have gotten a letter from the Louisville Chief stating that he was in
13 good standing, would you have conducted the same background investigation?

14 Urbanek: Yes

15 Duis: Okay, is the letter from the Chief, certainly I can see your point that it's not necessarily in
16 good standing would you say it's neutral?

17 Urbanek: Yes, I would agree with that assessment. 04:44:50 - 04:44:59 0.91

18 Duis: You had the general release of separation agreement before you made your determination
19 to reconsider

20 Urbanek: I can't say exactly when I saw that.

21 Duis: Did you have any information as to what the agreement was before you made your decision
22 to reconsider?

23 Urbanek: Based on Mr. Leonard's report yes.

1 Duis: Did you just not feel that that was explanation enough

2 Urbanek: I thought the separation notice accounted for case no. 19-1. That it specified that in the
3 separation notice, that that case was going to be closed that case was listed in terms of the
4 confidentiality. The other Internal Affairs cases are not specified in that separation
5 agreement.

6 Chair: Any other questions counsel?

7 (No response)

8 Mr. Bergevin, do you have any additional information?

9 Bergevin: No sir.

10 Chair: Mr. Bergevin, do you have any further statements at this time?

11 Bergevin: No just closing.

12 Chair: Mr. Delaney, do you have any additional information in light of the training center's
13 evidence?

14 Delaney: No

15 Chair: Mr. Delaney, you may make your closing argument at this time.

16 Delaney: Thank you.

17 It's been a long day so I'll try to keep this as short as I can with the understanding that
18 we're here as I said my opening were talking about someone's livelihood, someone's career
19 and whether that should be short-circuited by whether you want to call it a
20 misunderstanding, a technicality, I am not sure. There's two basis for denial of reciprocity
21 in this case; no letter of good standing and it's not your fault, it's not my fault, but it's not
22 defined anywhere. You can say well this is what we've always done in the past, but we
23 don't have any sort of judicial declaration as to what good standing means. If the person

1 retires from a department and you talk about the department, you know, you can't usually
2 just retire after three (3) years.

3 Okay, well, you know, he's got all those other years but then the city really, really, really
4 wants him to go away and not sue them for being a whistle blower, and so they say well if
5 you look at that release agreement, it's not hey, we're going to fire you and here's what
6 we're going to do. You're going to get out of here now. Please don't sue us. Please release
7 us of all your claims. We're going to pay you this money. We're going to have you retire.
8 You're not resigning. You not being fired retiring. You're retiring, and by the way, we
9 want to make sure that nobody knows that you're going to tell on us and so, we're going for
10 the confidentiality provision in there that says you can't talk about this to anyone unless it's
11 your accountant, your lawyer, your spouse or if there's a court order. So is it fair to say
12 that you don't have good character if you adhere to that agreement. And the minute he
13 finds out that it's a problem he goes to Louisville and says, please let me disclose this
14 agreement and he finally gets permission to do it. So he's not hiding it. He's following what
15 it says you have to do by law.

16 It's a mischaracterization. To say he's hiding it when he's forbidden from disclosing it and
17 you get into that cart before the horse, if you can't just go with it and you don't disclose it.
18 You're a liar. If you do disclose it, you're in trouble because there's a confidentiality
19 provision in there. So do we get him the benefit of the doubt? That this police chief is
20 doing everything he can to better himself, better his family, and better the City of Alliance
21 and the state of Nebraska. Do we give them the benefit of the doubt and say, go through the
22 Reciprocity Program so you become certified in the state of Nebraska. I think that's what
23 you do, so you then look at the no letter of good standing and the 3 internal affairs and Lt.

1 Col. Duis, you asked the question of what time frame are we talking about for this, and, we
2 know that during his testimony he talked about, he had bought some concerns to HR and he
3 starts getting I.A.'s and we're talking about a three (3) month period time. So we've got
4 pretty much a 17 years history and then all of a sudden we have 3 of them right in a row.
5 How we take care of that, pay him a bunch of money to go away. That's not usually how
6 I.A.'s work, usually you don't pay off the people to leave, you usually say you are going to
7 let them resign in lieu of termination. That's the language we all hear. That's why they
8 change the law. Was it 791? Where they said, you can't do that anymore. They also hope
9 we're going to give you that \$30,000 to have you go away. And by the way, sign away all
10 of your complaints against us in this document. That's not how it works.

11 I'm imploring this Council to don't take away, his livelihood. Don't brand him a liar or an
12 untruthful person who doesn't possess good character cause that's not him. We have the
13 letters from the city. We have the letters from all these people. That's not him. He's doing
14 his best to protect his community, to better himself, and to do what he can to be an officer
15 in the state of Nebraska, when mentioned it earlier it's tough to be an officer now days, it
16 tough to be a head of a department. And this what he wants to do. We give him that
17 opportunity. He deserves that opportunity. I would ask that you give it to him. Thank
18 you.

19 Chair: Mr. Bergevin.

20 Bergevin: I need to retrieve two (2) exhibits.

21 Bergevin: Nothing in the separation agreement, Exhibit #5, prohibited Mr. Lukens from
22 communicating that he was the subject of disciplinary actions while employed by
23 Louisville. It appears there's a fundamental disagreement between the parties on that issue.

1 Page five (5), paragraph 17 contains this confidentiality agreement, the council can review
2 it. The employee shall not disclose the terms and conditions of his agreement or the
3 circumstances or negotiations relating to the matters herein. As the Director explained, the
4 only disciplinary action even contemplated by this agreement, is I.A. case, 19-1. There is
5 no mention of 18-7 or 18-8. So as I asked Mr. Lukens at best, this agreement covers 19-1,
6 but it doesn't mean that he couldn't have at least indicated that it was out there. He could
7 have und' the agreement by telling the Training Center that this Case 18-7 or this Case 18-
8 8 is out there and not violated the agreement because in doing so he would not have
9 disclosed the circumstances related to those incidents, but he didn't do that because he
10 didn't want Nebraska certification officials to know about it and as a result, it was
11 reasonable for the director to conclude that, he deliberately omitted those incidents and
12 that's grounds for denial under Chapter 8, section, 005.04A2. And those omissions on both
13 affidavits would conclude that he is not a character of good character because he is not
14 honest, trustworthy or truthful as required by Chapter 8, section 005.02A5.
15 As for the letter of good standing, whatever good standing means, he didn't leave
16 Louisville with it. At best, as Colonel Duis said, it's neutral. It does not say he left in, good
17 standing. The letters from Lafayette and Erie, specifically say he left the position in good
18 standing. Louisville was willing to say he worked here. That does not meet the
19 requirement of Chapter 3, section 004.04 and Mr. Lukens knew that he didn't leave in good
20 standing because Chief Hayes told him he was not going to provide a letter of good
21 standing.
22 The Council ended up hearing evidence about, some other stretches of truth that Mr.
23 Lukens has made in the past. That he was pursuing his Ph.D. in 2002. When as of today,

1 he's not in a Ph.D. program, never has been and that he has been in law enforcement since
2 1995, if you include his involvement in the Police Explorers Program, and then when he
3 wanted to talk about his extensive law enforcement experience, he represented that he was
4 a commander for six weeks on TDY. Left that part out. So it's not a stretch for the Council
5 to conclude that he is someone who has issues with truthfulness. As a result does not
6 possess good character.

7 For those reasons the respondent is asking the Council to affirm the Director's decision, and
8 deny applications reciprocity training. Thank you.

9 Are there any questions from the council?

10 Chair: Is there a motion to go into executive session.

11 Osmond: I would move that the Council go into executive session based on the prevention of
12 needless injury to the reputation of Chief Lukens and for the purpose of executive session
13 we will allow the following to remain in the room. All Council members, Council
14 secretary and Legal Advisor.

15 Larby: Second.

16 Chair: Please call the roll.

17 Fielding: Chief Deputy London.

18 London: Yes.

19 Fielding: Sheriff Osmond.

20 Osmond: Yes.

21 Fielding: Lieutenant Colonel Duis.

22 Duis: Yes.

23 Fielding: Chief Larby

1 Larby: Yes

2 Fielding: Mr. McCarthy

3 McCarthy: Yes

4 Fielding: Motion carried.

5 Chair: At this time I would remind those present in executive session that they must restrict their
6 discussion to the issues currently before the council.
7 We are now in executive session and the time is 8:36 p.m.

8 Chair: The meeting of the Police Standards Advisory Council will come to order. Is there a
9 motion to come out of executive session?

10 Larby: So moved.

11 Osmond: Second

12 Fielding: Chief Deputy London.

13 London: Yes.

14 Fielding: Sheriff Osmond.

15 Osmond: Yes.

16 Fielding: Lieutenant Colonel Duis.

17 Duis: Yes.

18 Fielding: Chief Larby

19 Larby: Yes

20 Fielding: Mr. McCarthy

21 McCarthy: Yes

22 Fielding: Motion carried.

1 Chair: All parties present when the council went into executive session are again present. The
2 time is 9:03 p.m.
3 Is there a motion on the floor?
4 McCarthy: I would make the motion to overturn the decision of the Director however, Mr. Lukens still
5 needs to meet all of the requirements of Chapter 3.
6 Larby: Second
7 Fielding: Chief Deputy London.
8 London: Yes.
9 Fielding: Sheriff Osmond.
10 Osmond: Yes.
11 Fielding: Lieutenant Colonel Duis.
12 Duis: Yes.
13 Fielding: Chief Larby
14 Larby: Yes
15 Fielding: Mr. McCarthy
16 McCarthy: Yes
17 Fielding: Motion carried.
18 Chair: Chief Lukens, as you have heard the Council has granted your appeal,
19 According to Title 79 of the Nebraska Administrative Code. Chapter, 8 section 009.02 the
20 Council will render a decision and reduce its decision in writing within two weeks of the
21 hearing. Given the depth of this case and the fact that there was another hearing involving.
22 Mr. Delaney today, I'm going to extend this deadline to 60 days. Is that acceptable to both
23 sides?

1 Delaney: Yes

2 Bergevin: Yes

3 Chair: Is there anything else that needs to be addressed?

4 Delaney: I don't have anything.

5 Bergevin: No

6 Chair: The hearing is concluded, the time is 9:04 p.m.

7

8 Kay Fielding,

9 Secretary to the Council

10

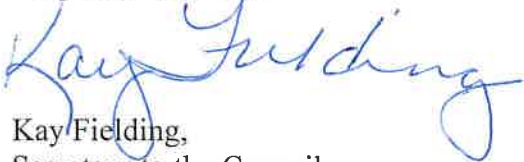
VII. OTHER BUSINESS

A. Date, Time & Location of Next Meeting

October 20, 2021, 9:00; Library, Nebraska Law Enforcement Training Center
3600 North Academy Road, Grand Island, Nebraska

Hearing no further business, the meeting adjourned at 9:04 P.M.

Respectfully submitted,



Kay Fielding,
Secretary to the Council

