

AGENDA POLICE STANDARDS ADVISORY COUNCIL



Jim Pillen, Governor

DATE: July 12, 2023
TO: Police Standards Advisory Council
FROM: Mark Stephenson, Interim Director
SUBJECT: Meeting Wednesday, July 19, 2023, 9:00 A.M.
Library, Nebraska Law Enforcement Training Center
3600 North Academy Road, Grand Island, Nebraska 68803

I. CALL TO ORDER

II. APPROVAL OF June 21, 2023 P.S.A.C. MINUTES

III. REPORTS

- A. Director – N.L.E.T.C.**
- B. Deputy Director of Training – N.L.E.T.C.**
- C. Nebraska State Patrol Training Academy**
- D. Crime Commission Report**

IV. OLD BUSINESS

V. NEW BUSINESS

- A. PSD Program Administrator Update-Discussion Item**
Michael Kerby, NLETC
- B. Status of Armed Entrance Security Officers-Discussion Item Attachment 1**
Douglas County Sheriff's Office



C. Waiver of In-Person Management-Voting Action Item Attachment 2

John Stuck, Bellevue Police Department

D. Extension of 1 Year Requirement For Supervision Voting Action Item Attachment 3

Derek Herron, Thurston County Sheriff's Office

E. Academy Instructor Applications-Voting Action Item Attachment 4

Professional Original

Eric Aho, Nebraska State Patrol
Brandon Hahn, Omaha Police Department
Sherie Thomas, Omaha Police Department

Professional Renewal

Matthew Austin, Omaha Police Department

General Original

Joshua Emhovick, Nebraska State Patrol

F. NCO's Eligible for Automatic Extension-Voting Action Item Attachment 5

| <u>Name</u> | <u>Agency</u> | <u>16 Week Deadline</u> |
|-------------------|---------------------------|-------------------------|
| Brandon Samuelson | Beatrice P.D. | 10/25/23 |
| Awilmary Alvarado | Schuyler P.D. | 10/2/23 |
| Bryan Geras | Schuyler P.D. | 10/10/23 |
| Leonardo Davalos | South Sioux City P.D. | 9/25/23 |
| Brandon Huebner | York Co. Sheriff's Office | 10/9/23 |

G. Chief Tracy Wolf Retirement-Discussion Item Attachment 6

VI. OTHER BUSINESS

A. Informational Items

1. Trainees

| | |
|-----------------------------------|--------------------------------------|
| Reynaldo Valdez, Box Butte Co. SO | Steven Zarate, Box Butte Co. SO |
| Keaton Mueller, Dakota Co. SO | Samantha Wissmann, Richardson Co. SO |
| Dwayne Wilson, Frontier Co. SO | Nicholas Conger, Sidney P.D. |
| Joshua Svendsen, Lyons P.D. | Matthew Sample, St. Paul P.D. |
| Brittany McCracken, Polk Co. SO | Brice Beckman, Washington Co. SO |

2. NCO Completed 80 Hours of Training

Brandon Samuelson, Beatrice P.D.
Nathan Hofrock, Frontier Co. SO

Leonardo Davalos, South Sioux City P.D.
Brandon Huebner, York Co. SO

B. Date, Time & Location of Next Meeting

August 16, 2023, 9:00 a.m., Library, Nebraska Law Enforcement Training Center
3600 North Academy Road, Grand Island, Nebraska 68803

REGULAR MEETING OF THE
POLICE STANDARDS ADVISORY COUNCIL
June 21, 2023



I. CALL TO ORDER

Chairman, Assistant Chief Brian Jackson called the meeting to order at 9:00 A.M. Legal notice of the meeting was published in the Lincoln Journal Star on June 14, 2023. Roll call; Asst. Chief Brian Jackson, Lt. Col. Buck Duis, Chief Deputy Greg London, Sheriff Dan Osmond, Deputy Chief Sherie Thomas, Chief Wolf.

Absent from call to order were Sgt. Drew Bolzer and Mr. Matt McCarthy.

2. APPROVAL OF May 17, 2023 P.S.A.C. MINUTES

MOTION

Sheriff Osmond motioned to approve the minutes of the May 17, 2023 meeting with the references to "Chief" Osmond being changed to "Sheriff" Osmond. Chief Deputy London seconded the motion.

Voting in favor; Lt. Col. Duis, Chief Deputy London, Sheriff Osmond, Deputy Chief Thomas, Chief Wolf, Asst. Chief Jackson. Motion carried.

3. REPORTS

A. Director-N.L.E.T.C.

Interim Director Stephenson reported that former Director Urbanek would be attending the 214th Basic Graduation on August 18, 2023 at 11:00 a.m. Reciprocity testing was held May 30, 2023 with two applicants. Both applicants passed the written test and completed the physical skills test.

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

Interim Director Stephenson reported that the 214th currently has 46 enrolled. NLETC conducted or coordinated the courses listed below:



- Blue to Gold Courses: May 30-June 2, 2023
 - Emerging Legal Trends-17 attending
 - CSI Case Law-15 attending
 - Duty to Intervene-14 attending
 - De-Escalation Training-18 attending
- Basic Jail Training-June 5-16th-27 attending

C. Nebraska State Patrol Training Academy

Capt. Ecklund reported that Camp 67 graduated June 16, 2023 with 12 troopers. Camp 68 will begin July 5, 2023 with 11 attending. Inservice was wrapped up on June 8, 2023.

D. Crime Commission Report

Bryan Tuma reported that he was appointed to the Executive Director of the Crime Commission and was looking forward to working with the Council and the law enforcement community.

Executive Director Tuma stated that there are currently a lot of challenges to policing and there is an opportunity to take a look at the policing profession and how the Crime Commission can support them. Governor Pillen has been extremely supportive of law enforcement.

Updates:

Filling the NLETC Director's position: A draft of the posting was reviewed by Dr. Arp who made some changes to the educational requirements for the position. The position identified Master's Degree preferred, with Bachelor's Degree required. Dr. Arp recommended that equivalent experience be considered if there was no degree. Executive Director Tuma will confer next week to address that posting and the other openings at the Crime Commission.

Expansion Project: There will be a meeting on June 28, 2023 at NLETC.

Revocations: Executive Director Tuma has been learning the history of the active investigations and the process of revocations.

Organization Structure of the Crime Commission: Will be making some changes as the new director. Focus will be on supporting the training center and PSAC.

Crime Victims Reparations: The Governor has made some appointments to the CVR board and are reviewing the processes for possible changes.

4. Old Business

A. Police Service Dog Program Review

Interim Director Stephenson reported that Mr. Kerby has begun a reconciliation of records on file at NLETC. Mr. Kerby was able to reconcile the records and resolved some anomalies that he found with what is allegedly out there to what we actually have. Mr. Kerby was invited to observe the Lincoln Police Departments PSD training session on June 22nd. Mr. Kerby has sent an email invitation to any agency or academy who conducts PSD training to make himself available to either answer their questions or observe the training. There is a meeting scheduled for June 29th for any PSD Judges who are available at NLETC. The meeting is to begin evaluating current standards vs. practice and certifications. Mr. Kerby will report his findings to the Council.

B. Open seat on the Police Standards Advisory Council

Executive Director Tuma reported that he is working with the Governor's office regarding appointments. The filibuster at the last legislative session created a backlog of appointments that they were unable to have confirmation hearings. A list of vacancies requiring the Governor's appointments has been sent to the Governor's office.

C. L.E.A.R. Program Update

Jessica Wagoner reported that NLETC has been processing applications for 35 days. 1,265 applications have been approved and denied 984. The denials are mostly paperwork issues with some that the officers have a break in service. The total dollar amount is almost 1.3 million. Jessica Wagoner reported on the steps of the process. Changes have been constantly made to make the application process easier including a step-by-step video that is online for officer to view. Asst. Chief Jackson asked how many were eligible for the payment. Jessica Wagoner estimated that there were 4,200. Mr. Stolz reported that they had started to field questions on tax issues. There would be no taxes withheld at the time of payment and there was nothing in the program that stated that the payment would be tax exempt or deferred. Mr. Stolz reached out to the Dept. of Revenue to clarify. It was his understanding that it would be taxable income.

Asst. Chief asked about the status of Title 79 Chapters 8 and 10. Mr. Stolz reported that 10 made it through PRO with no changes so it will go to the Commission for a vote and if approved it will go the Attorney General's office for review. Chapter 8 is still at the Governor's office.

1 **5. New Business**

2 **A. Appeal Director's Denial to Attend Reactivatioin**

3 Brandon Shimmin, North Platte Police Department

4 **Chair:** The matter now before the Police Standards Advisory Council is Nebraska North
5 Platte Police Department on behalf of its applicant, Brandon Shimmin, v. the
6 Nebraska Law Enforcement Training Center, Case Number 23 PSAC 93.

7 I will now call this hearing in order at 0922 hours. I will note the following Council
8 members are present:

9 Myself, Assistant Chief Brian Jackson, Lincoln Police Department

10 Sheriff Dan Osmond, Custer County Sheriff's Office

11 Chief Deputy Greg London, Sarpy County Sheriff's Office

12 Lt. Colonel Buck Duis, Nebraska State Patrol

13 Chief Tracy Wolf, Lexington Police Department and

14 Deputy Chief Sherie Thomas, Omaha Police Department.

15 **Chair:** The Council has been asked by the petitioner, North Platte Police Department, to
16 consider reversing Director Urbanek's denial of Mr. Shimmin's entrance into the
17 Basic Law Enforcement Officer Certification Course.

18 **Chair:** The Council is here pursuant to its authority as stated in Nebraska Revised
19 Statute §81-1403, its related statutes and Title 79 of the Nebraska Administrative
20 Code.

21 **Chair:** I will note that the petitioner, Chief Steven Reeves is present along with the
22 petitioner's applicant Brandon Shimmin. Are you represented by counsel?

23 **Reeves:** No we are not.

24 **Chair:** The Nebraska Law Enforcement Training Center's Interim Director Mark
25 Stephenson is present and will present the case on behalf of NLETC. Is there an
26 attorney present for NLETC.

27 **Stephenson:** No.

28 **Chair:** Does either party contest the Council's authority to hear this type of case?

29 **Reeves:** No.

30 **Stephenson:** No.

31 **Chair:** Title 79 of the Nebraska Administrative Code, Chapter 8, specifies the
32 requirements that must be met by an applicant in order to be eligible for the Basic
33 Law Enforcement Officer Certification Course.

34

35 **Chair:** Pursuant to Title 79, Chapter 8, section 009.02, upon request of an applicant or
36 agency, the Council will conduct a hearing in order to determine whether the
37 applicant meets the minimum qualification for admission into a certification
38 course. The burden during the appeal hearing is on the applicant to demonstrate
39 by clear and convincing evidence that he or she meets admission qualifications.

40

41 Per Title 79, Chapter 13, section 004.02(g), the issues of this appeal will be
42 limited to those raised in the request for review and reconsideration as provided
43 in section 004.02(c) and the director's written decision in response.

44 **Chair:** The decision of this Council is final.

45 **Chair:** Chief Reeves, I want to go over your rights in this Administrative Hearing.

46 **Chair:** You have the right to be heard, either in person or by counsel who you have
47 hired at your own expense. You have the right to notice; that is to receive a

48 statement from the State, the Nebraska Law Enforcement Training Center,
49 detailing or justifying its actions in this matter.

50 **Chair:** Do you understand these rights?

51 **Reeves:** Yes.

52 **Chair:** Did you receive such notice via letters from Director Urbanek stating her reasons
53 for her denial of your basic application?

54 **Reeves:** I did.

55 **Chair:** Did you notice any defects in those letters that prejudiced you from presenting
56 your case?

57 **Reeves:** No.

58 **Chair:** Additionally, you have the right to present evidence at this hearing, a right to the
59 Council's finding and a right to seek judicial review thereafter. Do you understand
60 these rights?

61 **Reeves:** Yes.

62 **Chair:** The Police Standards Advisory Council shall act as the Hearing Board for this
63 appeal. Neither I, nor any Council member, will be a witness for either side and I
64 am not aware of any matter which I believe may be grounds for challenge by
65 either side against me or the other Council members.

66 As it pertains to your appeal of the director's decision to deny your applicant
67 entrance into the basic officer certification course, I have not had any personal
68 information conveyed to me nor do I have any personal knowledge of this case.

69 Does any Council member have any personal knowledge of the petitioner's
70 appeal for entrance into the basic officer certification course? Sheriff Osmond?

71 **Osmond:** No.

72 **Chair:** Chief Deputy Greg London?

73 **London:** No.

74 **Chair:** Lt. Col. Buck Duis?

75 **Duis:** No.

76 **Chair:** Chief Tracy Wolf?

77 **Wolf:** No.

78 **Chair:** And Deputy Chief Sherie Thomas?

79 **Thomas:** No.

80 **Chair:** Does either side have any further questions or challenges for cause against any
81 member of this Council?

82 **Stephenson:** No sir.

83 **Reeves:** No.

84 **Chair:** Director Stephenson, do you have any procedural documents for this case and if
85 so, please present them to the Council.

86 **Stephenson:** I do. I have two exhibits that I would like to be accepted into evidence at this
87 time. Both of the exhibits are contained in this binder. I would like to go through
88 both of these on the list and then I will present the binder. All of the exhibits have
89 been shared with Chief Reeves as well as Mr. Shimmin. The first exhibit of the
90 Nebraska Law Enforcement Training Center filed for Mr. Shimmin and all of his
91 personal identifying information has been redacted. We have a change in status,
92 the application for training, employment verification form, character affidavit, law
93 enforcement agency background verification, authority to release and 791
94 release form which are identified under tab Exhibit 1. The second exhibit is a
95 copy of the original letter of denial dated May 1st 2023, the intent to appeal letter
96 from Chief Reeves dated May 2nd 2023, the initial appeal letter from Chief
97 Reeves dated May 19th 2023, the final denial letter dated May 31st 2023 and then

98 the appeal letter to the Police Standards Advisory Council dated June 1st of 2023.

99 May I approach?

100 **Chair:** Yes.

101 **Stephenson:** Both exhibits are here, and they are tabbed.

102 **Chair:** Chief Reeves you got an opportunity to see these exhibits?

103 **Reeves:** I have.

104 **Chair:** Do you have any objections to any of the exhibits described?

105 **Reeves:** No.

106 **Chair:** Let the record reflect that exhibits 1 and 2 have been received and have been
107 entered into the record.

108 **Chair:** Does either side wish to address any further preliminary matters?

109 **Reeves:** No.

110 **Stephenson:** No.

111 **Chair:** Thank you. Chief Reeves, as the petitioner, either you, you may make an
112 opening statement at this time.

113 **Reeves:** The only thing I have to offer, other than the exhibits is that it wasn't my intention
114 to exercise this particular process. We brought Mr. Shimmin on board. We as an
115 agency, we misunderstood Title 79 Chapter 8 Section 5.01. Thinking that it was
116 addressing, it was a lengthy way of saying felony when it turned out it was a
117 lengthy way of saying Class 1 Misdemeanor so we had a misunderstanding. We
118 brought him on board and led us to this process. It was never our intent to bring
119 him on board and exercise this process.

120 **Chair:** Ok. Director Stephenson, do you wish to make an opening statement?

121 **Stephenson:** I would. Members of the Council Brandon Shimmin is currently employed with the
122 North Platte Police Department and has applied for the NLETC Reactivation

123 program. Director Urbanek of the Nebraska Law Enforcement Training Center
124 review Mr. Shimmin's application. The review consisted of comparing the
125 information supplied by Mr. Shimmin and his agency as well as additional
126 background information against the standards set forth in Nebraska
127 Administrative Law Title 79, Chapter 8. The basis for Director Urbanek's initial
128 denial of Mr. Shimmin's application was founded on the grounds in Nebraska
129 Administrative Code Title 79, Chapter 8, Section 005.01(f), provides that
130 individuals with an unpardoned conviction for crimes that would be punishable by
131 imprisonment for a term of 1 year or more not be eligible for admission. Mr.
132 Shimmin had made previous application to the Nebraska Law Enforcement
133 Training Center to attend a basic training in 2014. Where his conviction of a
134 Class 1 Misdemeanor went through the admission process undiscovered. Mr.
135 Shimmin completed his basic training and was certified in 2014 and Mr. Shimmin
136 worked as a law enforcement officer in the State of Nebraska until 2018 when he
137 resigned. Upon applying for the Nebraska Law Enforcement Training Center's
138 Reactivation program in April 2023, Director Urbanek reviewed Mr. Shimmin's
139 application and found a Class 1 Misdemeanor conviction which occurred in 2005.
140 Upon confirmation of this information Chief Reeves was notified of the finding
141 and that Mr. Shimmin would be denied admission into the Reactivation program.
142 He advised Director Urbanek that he would send a letter per Title 79 Chapter 8
143 for additional review. Following Title 79 Chapter 13, Chief Reeves appealed the
144 initial denial of Mr. Shimmin's application. Director Urbanek reviewed the
145 information supplied and found that no mitigating or new information was
146 provided to overturn her original denial.

147 **Chair:** Now is the time for further evidence can be presented to the Council. This may
148 include written evidence, witness testimony or any unsworn statements by
149 yourself. Chief Reeves, do you have any written evidence for us to consider on
150 behalf of your agency for Mr. Shimmin?

151 **Reeves:** No.

152 **Chair:** Chief Reeves, do you have any further evidence to offer?

153 **Reeves:** I would just like to address this particular...the crime occurred in 2005. At the
154 time, Mr. Shimmin was coming off of a deployment in Iraq. Returned home and
155 found another man living in his house. He was arrested later that year for this
156 DUI and he obtained counsel and went through the process and served the
157 sentence. We did the background, other than a traffic offense, maybe two, found
158 nothing in his criminal backgrounds after the 2005 arrest for the DUI and
159 subsequent conviction so we brought him on board. We found him to be a good
160 fit at our department. He's a little older, good with people and we would like to
161 keep him around.

162 **Chair:** Director Stephenson, do you have any written evidence for us to consider?

163 **Stephenson:** No.

164 **Chair:** Director Stephenson, do you have any witnesses to testify?

165 **Stephenson:** No.

166 **Chair:** Director Stephenson, do you have any further statements at this time?

167 **Stephenson:** No.

168 **Chair:** Chief Reeves, do you any other additional, anything additional to offer in light of
169 the training center's evidence?

170 **Reeves:** I do not.

171 **Chair:** Ok. Chief Reeves, you may make your closing argument at this time.

172 **Reeves:** At the time of this conviction, Mr. Shimmin was 27 years old. He's been through a
173 career in the Army Reserve. He's retiring and is working a civilian job that
174 required him to be an active member of the Army Reserve. He has served in the
175 Reserves for 21 years and he is retiring from that civilian job. Wanted to get back
176 into law enforcement. Applied at North Platte and we hired him. From his
177 conviction at age 27, he's now 44 years old, he is married, he's raised seven
178 children. We found his character to be good. We found his background to be
179 good. After the 2005 arrest, we brought him onboard again, not intending to go
180 through this process, but we certainly want to keep him employed.

181 **Chair:** Did Mr. Shimmin wish to address the Council.

182 **Shimmin:** I do not sir.

183 **Chair:** Director Stephenson, you may make a closing argument at this time.

184 **Stephenson:** Mr. Shimmin was certified as a law enforcement officer despite having a Class 1
185 Misdemeanor that was not discovered at the time of his initial certification. His
186 past law enforcement work was not adversely impacted by his conviction.
187 However, he still has to meet the certification requirements in order to obtain
188 active status again. In an effort of transparency, the Class 1 Misdemeanor
189 conviction needs to be addressed by this body in order to follow the admission
190 requirements as set out by Title 79. I would submit this matter to Council so the
191 record is clear for both Mr. Shimmin and his agency.

192 **Chair:** Are there any questions from the Council of either Interim Director Stephenson or
193 Chief Reeves?

194 **Chair:** Ok. Both sides have rested. Is there a motion to go into executive session?

195 **London:** I would move that the Council go into executive session based on the prevention
196 in needless injury to the reputation of Brandon Shimmin and for the purposes of

197 executive session we will allow the following to remain in the room: all Council
198 members, Council Secretary and Legal Advisor Dave Stolz and that would be it.

199 **Chair:** Is there a second.

200 **Thomas:** Second.

201 **Chair:** Ok. Would you please call the roll

202 **Secretary:** Chief Deputy London?

203 **London:** Yes.

204 **Secretary:** Sheriff Osmond?

205 **Osmond:** Yes.

206 **Secretary:** Deputy Chief Thomas?

207 **Thomas:** Yes.

208 **Secretary:** Chief Wolf?

209 **Wolf:** Yes.

210 **Secretary:** Asst. Chief Jackson?

211 **Chair:** Yes.

212 **Secretary:** Lt. Col. Duis?

213 **Duis:** Yes.

214 **Secretary:** Motion approved.

215 **Chair:** At this time I would remind those present in executive session that they must
216 restrict their discussion in closed session to the issues currently before the
217 Council.

218 **Chair:** We are now in executive session. The time is 9:35.

219 **Chair:** The meeting of the Police Standards Advisory Council will come to order. Is there
220 a motion to come out of executive session?

221 **London:** I make a motion that we come out of executive session.

222 **Chair:** Is there a second?

223 **Osmond:** Second.

224 **Chair:** It's been moved and seconded that we come out of executive session. Please
225 call the roll.

226 **Secretary:** Sheriff Osmond?

227 **Osmond:** Yes.

228 **Secretary:** Deputy Chief Thomas?

229 **Thomas:** Yes.

230 **Secretary:** Chief Wolf?

231 **Wolf:** Yes.

232 **Secretary:** Asst. Chief Jackson?

233 **Chair:** Yes.

234 **Secretary:** Lt. Col. Duis?

235 **Duis:** Yes.

236 **Secretary:** Chief Deputy London?

237 **London:** Yes.

238 **Secretary:** Motion approved.

239 **Chair:** All parties present when the Council went into executive session are again
240 present.

241 **Chair:** The time is 0938 hours.

242 **Chair:** Is there a motion?

243 **Wolf:** Yes. I'd make a motion to grant the waiver to allow Mr. Shimmin back into
244 Reactivation.

245 **Chair:** Is there a second?

246 **Thomas:** Second.

247 **Chair:** There's a second by Chief Deputy Thomas. Any discussion? All right. Please call
248 the roll.

249 **Secretary:** Deputy Chief Thomas?

250 **Thomas:** Yes.

251 **Secretary:** Chief Wolf?

252 **Wolf:** Yes.

253 **Secretary:** Asst. Chief Jackson?

254 **Chair:** Yes.

255 **Secretary:** Lt. Col. Duis?

256 **Duis:** Yes.

257 **Secretary:** Chief Deputy London?

258 **London:** Yes.

259 **Secretary:** Sheriff Osmond?

260 **Osmond:** Yes.

261 **Secretary:** Motion approved.

262 **Chair:** Chief Reeves, as you have heard the Council has granted your appeal. The
263 Council will prepare a written finding of fact and conclusion of law pertaining to
264 today's hearing and the Council's decision. Where would you like that finding to
265 be sent?

266 **Reeves:** North Platte Police Department.

267 **Chair:** Ok. North Platte Police Department.

268 **Stolz:** Chief, can it be sent via email?

269 **Reeves:** Yes.

270 **Chair:** According to Title 79 of the Nebraska Administrative Code, Chapter 8, section
271 009.02, the Council will render a decision and reduce its decision in writing within

272 two weeks of the hearing; however, I am going to extend this deadline to 60
273 days. Is that acceptable to both sides? The decision has been made today it's
274 just the rendering to written form 60 days. Is that ok?

275 **Reeves:** Yes.

276 **Chair:** Is there anything else from either side that needs to be addressed?

277 **Stephenson:** No.

278 **Chair:** Chief Reeves, nothing you would like to address?

279 **Reeves:** No.

280 **Chair:** Ok. The time is 0940 hours. You're done.

1 **B. Appeal Director's Denial to Attend Basic Training**

2 Tyler Carson, Nebraska Brand Committee

3 **Chair:** The next item on the agenda is the training application denial for Tyler Carson.

4 Tyler if you would like to come up and sit before the Council.

5 **Chair:** The matter now before the Police Standards Advisory Council is Tyler Carson, v.
6 the Nebraska Law Enforcement Training Center, Case Number 23 PSAC 94.

7

8 I will now call this hearing to order at 0941 a.m. I will note the following Council
9 members are present:

10 Myself, Assistant Chief Brian Jackson, Lincoln Police Department

11 Sheriff Dan Osmond, Custer County Sheriff's Office

12 Chief Deputy Greg London, Sarpy Co. Sheriff's Office

13 Lt. Colonel Buck Duis, Nebraska State Patrol

14 Chief Tracy Wolf, Lexington Police Department and

15 Deputy Chief Sherie Thomas of the Omaha Police Department

16 The Council has been asked by the Petitioner, Tyler Carson, to consider

17 reversing Director Urbanek's denial of his entrance into the Basic Law

18 Enforcement Officer Certification course.

19 The Council is here pursuant to its authority as stated in Nebraska Revised

20 Statute §81-1403, its related statutes and Title 79 of the Nebraska Administrative

21 Code.

22 **Chair:** I will note the petitioner, Tyler Carson, are you represented by counsel?

23 **Carson:** No sir.

24 **Chair:** The Nebraska Law Enforcement Training Center's Interim Director Mark

25 Stephenson is present and will present the case on behalf of NLETC.

26 Is there an attorney present for NLETC?

27 **Stephenson:** No.

28 **Chair:** Does either party contest the Council's authority to hear this type of case?

29 **Stephenson:** No sir.

30 **Carson:** No sir.

31 **Chair:** Title 79 of the Nebraska Administrative Code, Chapter 8, specifies the
32 requirements that must be met by an applicant in order to be eligible for the Basic
33 Law Enforcement Officer Certification Course. Pursuant to Title 79, Chapter 8,
34 section 009.02, upon request of an applicant or agency, the Council will conduct
35 a hearing in order to determine whether the applicant meets the minimum
36 qualification for admission into a certification course. The burden during the appeal
37 hearing is on the applicant to demonstrate by clear and convincing evidence that
38 he or she meets admission qualifications.

39 Per Title 79, Chapter 13, section 004.02(g), the issues of this appeal will be
40 limited to those raised in the request for review and reconsideration as provided
41 in sections 004.02(c) and the director's written decision in response.

42 The decision of the Council is final.

43 Mr. Carson, I want to go over your rights in this Administrative Hearing.

44 You have a right to be heard, either in person or by counsel who you would have
45 hired at your own expense.

46 You also have a right to notice; that is, to receive a statement from the State, the
47 Nebraska Law Enforcement Training Center, detailing or justifying its actions in
48 this matter.

49 Do you understand these rights?

50 **Carson:** Yes.

51 **Chair:** Did you receive such notice via letters from Director Urbanek stating her reasons
52 for her denial of your basic application?

53 **Carson:** Yes.

54 **Chair:** Did you notice any defects in those letters that prejudiced you from presenting
55 your case?

56 **Carson:** No.

57 **Chair:** Additionally, you have a right to present evidence at this hearing, a right to the
58 Council's finding and the right to seek judicial review thereafter.
59 Do you understand those rights.

60 **Carson:** Yes.

61 **Chair:** The Police Standards Advisory Council shall act as the Hearing Board for this
62 appeal. Neither I, nor any other Council member, will be a witness for either side
63 and I am not aware of any matter which I believe may be grounds for challenge
64 by either side against me or the other members.

65 As it pertains to your appeal of the director's decision to deny your applicant
66 entrance into the basic officer certification course I have not had any person
67 information conveyed to me nor do I have any person knowledge of this case.
68 Does any Council member have any personal knowledge of the petitioner's
69 appeal for entrance into the basic officer certification course?

70 **Chair:** Sheriff Osmond?

71 **Osmond:** No

72 **Chair:** Chief Deputy London?

73 **London:** No.

74 **Chair:** Lt. Col. Duis?

75 **Duis:** No.

76 **Chair:** Chief Wolf?

77 **Wolf:** No.

78 **Chair:** Deputy Chief Thomas?

79 **Thomas:** No.

80 **Chair:** Thank you. Does either side have any further questions or challenge for cause
81 against any member of the Council?

82 **Stephenson:** No.

83 **Carson:** No.

84 **Chair:** Director Stephenson, do you have any procedural documents for this case and if
85 so, please present them to the Council.

86 **Stephenson:** I do have two exhibits both of which are contained in the binder here. That I
87 would like to present. The personal information has been redacted and both
88 exhibits have been shared with Mr. Carson. The first exhibit is the Nebraska Law
89 Enforcement Training Center's file for Mr. Carson which includes the Change of
90 Status forms, application for training, employment verification form, character
91 affidavit, law enforcement agency background verification, and authority to
92 release information. The second exhibit is the denial packet which includes a
93 copy of Director Urbanek's original denial letter dated April 17th 2023, the initial
94 appeal email from Chief Investigator Thomas Hughson dated April 19th 2023, the
95 reconsideration letter from Mr. Tyler Carson dated May 2nd 2023, then the final
96 denial letter written by Director Urbanek May 10th, and last there are letters of
97 support that were contained in this packet for Mr. Carson which I have also
98 included.

99 **Chair:** You may present.

100 Mr. Carson you have had an opportunity to see all of these documents?

101 **Carson:** Yes.

102 **Chair:** Any objection to receiving them as exhibits.

103 **Carson:** No.

104 **Chair:** Let the record reflect that Exhibits 1 and 2 have been received and are entered
105 into the record.

106 **Chair:** Does either side wish to address any further preliminary matters?

107 **Stephenson:** No.

108 **Carson:** No.

109 **Chair:** Mr. Carson, as the petitioner, either you, you may make an opening statement at
110 this time.

111 **Carson:** I would just like to thank you guys for your time for reviewing this. I am here for a
112 Class 1 Misdemeanor from 2006.

113 **Chair:** Director Stephenson, do you wish to make an opening statement?

114 **Stephenson:** I do. Members of the Council, Mr. Tyler Carson was employed as an investigator
115 with the Nebraska Brand Committee when he applied for admission into the
116 Nebraska Law Enforcement Training Center's basic training program. Mr. Carson
117 ended his employment as an investigator on June 9th 2023 but remains in a
118 civilian position as a brand inspector. Director Urbanek of the Nebraska Law
119 Enforcement Training Center reviewed Mr. Carson's application packet. The
120 review consisted of comparing the information supplied by Mr. Carson and his
121 agency as well as additional background information against the standards set
122 forth in Nebraska Administrative Law Title 79, Chapter 8. The basis for Director
123 Urbanek's initial denial of Mr. Carson's application was founded in the following
124 grounds. Nebraska Administrative Code Title 79, Chapter 8, section 005.01(f)
125 provides that individuals with an unpardoned conviction for crimes that would be

126 punishable by imprisonment for a term of 1 year more, are not eligible for
127 admission. Number two, Mr. Carson was also denied admission on Title 79,
128 Chapter 8, 005.04(a)(2), which states any deliberate omission, falsification and/or
129 misrepresentation made on the application or through the application process
130 including the background investigation are grounds for denial of entrance into the
131 Training Academy. Mr. Carson had initially been conditionally accepted to the
132 214th Basic class on May 1st 2023. On April 18th 2023 the Nebraska Law
133 Enforcement Training Center received a fingerprint report on Mr. Carson which
134 identified a conviction of a Class 1 Misdemeanor for procuring alcohol for a minor
135 in 2007. A follow-up NCJIS check confirmed the conviction and classification as a
136 Class 1 Misdemeanor. Upon confirmation of said information, Chief Investigator
137 Hughson was notified of the finding, that Mr. Carson would be denied admission
138 into the 214th Basic class. He advised Director Urbanek...he was advised that
139 Director Urbanek would send a letter that would include Title 79, Chapter 13 for
140 his review. Following Title 79, Chapter 13, Mr. Carson appealed Director
141 Urbanek's initial denial of his application. Director Urbanek reviewed this
142 information supplied by Mr. Carson and found that no mitigating or new
143 information was provided to warrant overturning her original denial.

144 **Chair:** Thank you.

145 **Chair:** Now is the time further evidence can be presented to the Council. This may
146 include written evidence, witness testimony or any unsworn statements by
147 yourself.

148 **Chair:** Mr. Carson, do you have any written evidence for us to consider?

149 **Carson:** All of my witness testimony is in the packet that Director Stephenson gave you.

150 **Chair:** Is that in the form of recommendations?

151 **Carson:** Yes.

152 **Chair:** Do you have any further evidence to offer?

153 **Chair:** Director Stephenson, do you have any written evidence for us to consider.

154 **Stephenson:** No sir.

155 **Chair:** Do you have any witnesses to testify?

156 **Stephenson:** No sir.

157 **Chair:** Director Stephenson, do you have any further statements at this time?

158 **Stephenson:** No sir.

159 **Chair:** Mr. Carson, do you have anything additional to offer in light of the Training
160 Center's evidence?

161 **Carson:** No sir.

162 **Chair:** That was a no?

163 **Carson:** Yes sir.

164 **Chair:** Mr. Carson, you can make your closing argument at this time.

165 **Carson:** I would just like to say that I was young and I had just turned 21 when that went
166 down. Friends and I had decided to party and I was not thinking about the
167 underage friends I still had. Just turning 21 and had I thought about it I would
168 have changed my decisions.

169 **Chair:** Director Stephenson, you may make your closing statement at this time.

170 **Stephenson:** Thank you. Members of the Council, Director Urbanek denied Mr. Carson
171 admission to the Basic Training session as part of her duties to ensure that
172 individuals who apply for law enforcement certification in the State of Nebraska
173 meet all statutory requirements and the Council's rules and regulations
174 necessary for admission and subsequent certification. In the appeal hearing
175 before you, Mr. Carson's criminal course history showed a conviction of a Class

176 1 Misdemeanor for which he had not receive a pardon. This conviction is an
177 automatic failure to meet those standards under Title 79, Chapter 8 of the
178 Nebraska rule and regulation. I have reviewed the packet an concur with Director
179 Urbanek's decision. This denial is being presented to you based on the facts
180 presented in this hearing.

181 **Chair:** Are there any questions from the Council.

182 **Chair:** I will ask a question. The Class 1 Misdemeanor is from 200?

183 **Carson:** 7.

184 **Chair:** 7?

185 **Carson:** I was convicted in 2007, it was from December 2006 when it occurred.

186 **Chair:** The issues with not reporting...

187 **Stephenson:** Under the character affidavit page 3 it asks if you had been convicted of a
188 misdemeanor which would have the term of 1 year imprisonment, and he
189 checked that as false, that he had not, so that was the failure to disclose, the
190 second part of it. It was disclosed later on in the criminal listings of the charges.

191 **Chair:** So he reported the crime, he just didn't report that it was...

192 **Stephenson:** He reported it here but the question number 3, which we see people, and again
193 that happens when they say "prison", as Chief Reeves stated earlier, that's a
194 felony so they mark true that they have never been convicted, but then it's listed
195 over here in the list of crimes.

196 **Chair:** Mr. Carson, would you like to respond to that?

197 **Carson:** I did not realize that it was a Class 1 at the time. I always thought that I would
198 have a Class 3. It never came up prior.

199 **Chair:** Both sides have rested. Is there a motion to go into executive session?

200 **Osmond:** I would move that the Council go into executive session based on the prevention
201 of needless injury to the reputation of Tyler Carson and for the purpose of
202 executive session we will allow the following to remain in the room; all Council
203 members and Council Secretary and Legal Advisor.

204 **Chair:** Is there a second?

205 **London;** I'll second.

206 **Chair:** Would you call the roll please?

207 **Secretary:** Chief Wolf?

208 **Wolf:** Yes.

209 **Secretary:** Asst. Chief Jackson?

210 **Chair:** Yes.

211 **Secretary:** Lt. Col. Duis?

212 **Duis:** Yes.

213 **Secretary:** Chief Deputy London?

214 **London:** Yes.

215 **Secretary:** Sheriff Osmond?

216 **Osmond:** Yes.

217 **Secretary:** Deputy Chief Thomas?

218 **Thomas:** Yes.

219 **Secretary:** We are in executive session.

220 **Chair:** At this time I would remind those present in executive session that they must
221 restrict their discussion in closed session to the issues currently before the
222 Council.

223 **Chair:** We are now in executive session. The time is 0954.

224 **Chair:** The meeting of the Police Standards Advisory Council will come to order. Is there
225 a motion to come out of executive session?

226 **London:** I'll make a motion that we come out of executive session.

227 **Chair:** Is there a second?

228 **Wolf:** Second.

229 **Chair:** It has been moved and seconded that we come out of executive session. Please
230 call the roll.

231 **Secretary:** Asst. Chief Jackson?

232 **Chair:** Yes.

233 **Secretary:** Lt. Col. Duis?

234 **Duis:** Yes.

235 **Secretary:** Chief Deputy London?

236 **London:** Yes.

237 **Secretary:** Sheriff Osmond?

238 **Osmond:** Yes.

239 **Secretary:** Deputy Chief Thomas?

240 **Thomas:** Yes.

241 **Secretary:** Chief Wolf?

242 **Wolf:** Yes.

243 **Secretary:** Motion approved.

244 **Chair:** All parties present when the Council went into executive session are again
245 present. The time is 10:04 and is there a motion?

246 **Osmond:** I'll make a motion that we grant the waiver of the Class 1 Misdemeanor of Tyler
247 Carson which would make him eligible for admission to the academy granted all
248 other requirements of Chapter 8 are met.

249 **Chair:** Is there a second?

250 **London:** I'll second.

251 **Chair:** There is a motion and a second. Call the roll.

252 **Secretary:** Lt. Col. Duis?

253 **Duis:** Yes.

254 **Secretary:** Chief Deputy London?

255 **London:** Yes.

256 **Secretary:** Sheriff Osmond?

257 **Osmond:** Yes.

258 **Secretary:** Deputy Chief Thomas?

259 **Thomas:** Yes.

260 **Secretary:** Chief Wolf?

261 **Wolf:** Yes.

262 **Secretary:** Asst. Chief Jackson?

263 **Chair:** Yes.

264 **Secretary:** Motion approved.

265 **Chair:** Mr. Carson, as you have heard, the Council has granted your appeal. The

266 Council will prepare written findings of fact and conclusions of law pertaining to

267 today's hearing and the Council's decision. Where would you want that finding

268 sent?

269 **Carson:** Emailed to Tom Hughson and myself please.

270 **Chair:** Do you have that Mr. Stolz?

271 **Stolz:** Steven, do we have that somewhere?

272 **Secretary:** Yes.

273 **Chair:** According to Title 79 of the Nebraska Administrative Code, Chapter 8, section
274 009.02, the Council will render a decision and reduce its decision in writing within
275 two weeks of the hearing; however, I am going to extend this deadline to 60
276 days. Is that acceptable to both sides? Is that acceptable to you?

277 **Stephenson:** Yes.

278 **Carson:** Yes.

279 **Chair:** Is there anything else from either side that needs to be addressed?

280 **Carson:** Does this mean I have a spot in August?

281 **Chair:** This means you're eligible subject to meeting all requirements of Chapter 8. You
282 would have to work with the Training Center's staff. All we've done is granted
283 your waiver.

284 **Carson:** Ok.

285 **Chair:** Maybe when your done stop and chat.

286 **London:** Have you completed the packet Mark?

287 **Stephenson:** The packet was, I believe it was completed, other than this, however, Chief
288 Hughson sent in a change in status form on June 9th, I'm sorry it was effective
289 June 9th we received it the 16th, he is no longer with an agency. Since we are not
290 having non-laws in the academy then he will not be allowed in the academy.

291 **Chair:** You are going to have to work through that. So.

292 **Stephenson:** If he was reinstated by Chief Hughson with the Brand Committee as an
293 investigator then that is something that will start that application process.

294 **Chair:** Ok. This hearing is concluded. The time is 10:07.

C. Revocation of Law Enforcement Certification-Voluntary Surrender

Cody Parker, LR-237-22

Mr. Stolz entered the Consent to Revocation of Law Enforcement Certificate and notice of waiver of hearing for Cody Parker to be entered as Exhibit 1. Asst. Chief Jackson excepted the exhibit and it was entered into the record.

Mr. Stolz gave the factual summary on the details leading up to the revocation. Mr. Stolz asked that the Council accept the relinquishment and recommends that Mr. Parker's law enforcement certificate be revoked for the following reason: based upon Title 79 NAC Chapter 9, §003.02 "Willfully providing false information in connection with obtaining certification, maintaining or reactivating certification status", which was the existing subsection of Chapter 9, when he made application for Basic Training at NLETC. That subsection is now §004.02 under the revised Chapter 9, which became effective on May 19, 2023.

MOTION

Sheriff Osmond: Based upon the fact that the respondent has signed a Consent to Revocation of Law Enforcement Certificate and waiver of notice and hearing and has voluntarily surrendered his certificate, I make a motion that the Council accept the surrender of Cody Parker's Nebraska Law Enforcement Certificate based on the recommendations outlined by Counsel David Stolz. Said revocation to be effective upon review and acceptance of the surrender by the Nebraska Commission on Law Enforcement and Criminal Justice. Chief Wolf seconded the motion.

Voting in favor: Chief Deputy London, Sheriff Osmond, Deputy Chief Thomas, Chief Wolf, Asst. Chief Jackson, Lt. Col. Duis. Motion approved.

D. Continuing Education Audit Report

Jessica Wagoner reported that 33 agencies were randomly selected for the 2022 Continuing Education audit. Director Urbanek, Dennis Leonard and Jessica Wagoner conducted in-person audits. Out of the 33 agencies, 20 agencies met all the requirements during the initial inspection. 12 agencies had officers that were missing some of the mandated training. They were given a week to complete the training, or the officer would be suspended. 2 officers failed to make the week timeline and were suspended. One of them completed the requirements and the suspension was lifted and the other is currently inactive. Cedar Bluffs Police Department disbanded in 2022.

E. Lincoln Police Department Academy Inspection

Interim Director Stephenson reported that the annual inspection of the Lincoln Police Department's academy was conducted on May 3, 2023 by Director Urbanek. All requirements were met. Director Stephenson recommended that the approval of the Lincoln Police Department's academy for 2023.

Assistant Chief Jackson asked if there was a motion.

MOTION

Chief Wolf: I'll make a motion for approval. Deputy Chief Thomas seconded the motion.

Voting in favor: Sheriff Osmond, Deputy Chief Thomas, Chief Wolf, Lt. Col. Duis, Chief Deputy London. Abstained: Asst. Chief Jackson. Motion Approved.

F. Academy Instructor Applications

After review by the NLETC staff. Deputy Director Stephenson recommends approval of all the academy instructor applications as presented in the agenda.

Professional Original

Mathiew Perales, Omaha Police Department
Craig Price, Lincoln Police Department

MOTION

Sheriff Osmond: I'll make a motion that we accept the professional original academy instructor applications as presented by Director Stephenson. Deputy Chief Thomas seconded the motion.

Voting in favor: Chief Wolf, Lt. Col. Duis, Chief Deputy London, Sheriff Osmond. Abstained: Deputy Chief Thomas, Asst. Chief Jackson. Motion approved.

Professional Renewal

Eric Dlouhy, Lincoln Police Department
Steven Barnes, Omaha Police Department
Brent Kendall, Omaha Police Department
Lance Worley, Omaha Police Department

MOTION

Chief Wolf: I'll make a motion that we approve it. Sheriff Osmond seconded the motion.

**Voting in favor: Chief Wolf, Lt. Col. Duis, Chief Deputy London, Sheriff Osmond.
Abstained: Asst. Chief Jackson, Deputy Chief Thomas. Motion approved.**

Legal Original

Joni Scheef, Sarpy Co. Attorney's Office
Christopher Turner, Lancaster Co. Attorney's Office

MOTION

Sheriff Osmond: I'll make the motion for approval. Deputy Chief Thomas seconded the motion.

Voting in favor: Asst. Chief Jackson, Lt. Col. Duis, Chief Deputy London, Sheriff Osmond, Deputy Chief Thomas, Chief Wolf. Motion approved.

Legal Renewal

Kevin Slimp, Omaha Police Department

MOTION

Sheriff Osmond: I'll make the motion for approval. Chief Deputy London seconded the motion.

Voting in favor: Lt. Col. Duis, Chief Deputy London, Sheriff Osmond, Chief Wolf, Asst. Chief Jackson. Abstained: Deputy Chief Thomas. Motion approved.

General Original

Andrew Bestenlehner, Nebraska State Patrol

MOTION

Chief Deputy London: I'll make a motion for approval. Sheriff Osmond seconded the motion.

Voting in favor: Chief Deputy London, Sheriff Osmond, Deputy Chief Thomas, Chief Wolf, Asst. Chief Jackson. Abstained: Lt. Col. Duis. Motion approved.

G. NCO's Eligible for Automatic Extension

Weston Goodrich, Cherry County Sheriff's Office
Jayden French, Columbus Police Department

Joshua Brunzell, Hall County Sheriff's Office
Tyler Littau, Scottsbluff Police Department
Maric Vorse, Scottsbluff Police Department

Interim Director Stephenson reported that the NCO's listed for automatic extension have completed all of the requirements for the extension.

MOTION

Chief Deputy London: I'll make a motion for the automatic extension for those listed on the agenda. Deputy Chief Thomas seconded the motion.

Voting in favor: Sheriff Osmond, Deputy Chief Thomas, Chief Wolf, Asst. Chief Jackson, Sgt. Bolzer, Chief Deputy London. Motion approved.

H. Standards and Process for Hiring a New NLETC Director

Executive Director Tuma reported on the steps that will be taken to hire the new director of NLETC. Starting with getting the posting approved and the interview process. Counsel Dave Stolz reminded the Council that if the full body meets, the meeting has to be open to the public. If 4 members were part of the interview team it would not have to be a public meeting. All of the members present were open to serving on the interview panel when that opportunity came around. Then they could make their recommendations in a full meeting for a vote. Counsel Dave Stolz reported that in 81-1403, subsection 3, "this bodies duties are to recommend to the executive director of the commission the names of the person to be appointed to the position of the director of the training center." Historically that has been just one name, but the Council has the option of recommending more than one.

6. OTHER BUSINESS

Informational Items


A. and B. The trainees and NCO's that have completed 80 hours of training were listed on the agenda for the Council. One name, Coy Carson of the Nebraska State Patrol was removed from the trainee list as he is no longer employed by the Patrol. No action taken.

C. Date, Time & Location of Next Meeting

July 19, 2023, 9:00 A.M., Library, Nebraska Law Enforcement Training Center, 3600 North Academy Road, Grand Island, Nebraska 68801

Hearing no further business, Chairman Jackson adjourned the meeting at 10:35 a.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Steven D. Gobel". The signature is written in a cursive style with a large initial 'S'.

Steven Gobel, Office Specialist