

## AGENDA POLICE STANDARDS ADVISORY COUNCIL

**DATE:** November 8, 2023

**TO:** Police Standards Advisory Council

**FROM:** Mark Stephenson, Director

**SUBJECT:** Meeting Wednesday, November 15, 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 OCTOBER 25, 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. Extension of the 1-Year Requirement for Management-Voting Item**
  - 1. Kenneth Zane Hopkins-Banner County Sheriff's Office **Attachment 1**
  - 2. Theodore Eichholz-University of Nebraska Kearney P.D. **Attachment 2**

**Law Enforcement Training Center**

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Grand Island, Nebraska 68802-2700

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**B. Academy Instructor Requests** **Attachment 3**

Professional Original-Voting Item

William Henningsen-Omaha Police Department  
Amanda Miller-Omaha Police Department  
Scott Warner-Omaha Police Department  
Jeremy Zipay-Omaha Police Department

**C. NCO's Eligible for Automatic Extension-Voting Item** **Attachment 4**

<u>Name</u>	<u>Agency</u>	<u>16 week deadline</u>
Christopher Leibert	Broken Bow PD	1/30/2024
David Baltz	Broken Bow PD	2/13/2024
Tessa Brown	Lincoln Co SO	3/7/2024
Dawson DeCastro	Ogallala PD	2/4/2024
Deitrik Brueggeman	Ogallala PD	2/12/2024

**D. NCO's Not Eligible for Automatic Extension-Voting Item** **Attachment 5**

<u>Name</u>	<u>Agency</u>	<u>16 week deadline</u>
Kylie Cordry	Beatrice PD	1/13/2024
Nicholas Graner	Beatrice PD	1/13/2024
Christien Vandergrift	Beatrice PD	1/13/2024
Joseph Miller	Madison Co SO	2/2/2024
Juan Aguilar	South Sioux City PD	1/8/2024
Trevor Young	Superior PD	2/5/2024
Kyle Mostrom	York PD	1/18/2024

**E. Appeal Director's Denial to Attend Basic Training-Voting Item**

Kylie Cordry-Beatrice Police Department (23 PSAC 96)

**Attachment 6**

**VI. OTHER BUSINESS**

**A. Informational Items**

**1. Trainees-No action needed.**

Zachary Windeshausen-Dodge Co SO  
Jonas Hansen-Minden PD

**2. NCO Completed 80 hours of Training-No action needed.**

Kylie Cordry-Beatrice PD  
Nicholas Graner-Beatrice PD  
Christien Vandergrift-Beatrice PD  
Dawson DeCastro-Ogallala PD

Juan Aguilar-South Sioux City PD  
Kyle Mostrom-York PD

**B. Date, Time & Location of Next Meeting**

December 20, 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  
October 25, 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 October 18, 2023. Roll call; Asst. Chief Brian Jackson, Sgt. Drew Bolzer, Lt. Col. Buck Duis, Chief Paul Graham, Mr. Matthew McCarthy, Sheriff Dan Osmond, Chief Steve Reeves.

Absent from call to order was Deputy Chief Sherie Thomas and Chief Deputy Greg London.

## II. APPROVAL OF September 20, 2023, P.S.A.C. MINUTES

Asst. Chief Brian Jackson asked if there was a motion to approve the September 20, 2023 minutes.

### MOTION

Sheriff Osmond: I'll move that we approve the minutes from September. Sgt. Bolzer seconded the motion.

Voting in favor; Sgt. Bolzer, Lt. Col. Duis, Chief Graham, Mr. McCarthy, Sheriff Osmond, Chief Reeves, Asst. Chief Jackson. Motion approved.

Chief Deputy Greg London arrived for the meeting at 9:02 a.m.

## III. REPORTS

### A. & B. Interim Director-N.L.E.T.C. Report/Director of Training Report

**Director's Report:** Interim Director Stephenson reported that as of August 12, 2023 all of the applications for the L.E.A.R. payments have been submitted for payment processing.



William Mathis, Business Systems Analyst, was recognized with a Nebraska Leadership Award for his contribution and leadership in the Benchmark project. Benchmark is the new learning management system.

**Director of Training Report:** Interim Director Stephenson reported that the 215<sup>th</sup> Basic is in week 9. 45 recruits are in attendance. Other courses held:

- In-person Management-50 students completed the course.
- Basic Jail Training-26 students completed the course.
- Advanced Crash Investigation course scheduled for October 2-6<sup>th</sup> was cancelled due to lack of enrollment.
- Criminal Interdiction course-12 students enrolled.

### **C. Nebraska State Patrol Training Academy**

Captain Ecklund reported that Camp 68 is currently in week 16. There was one voluntary resignation so there are 6 remaining recruits enrolled. Captain Ecklund reported on courses of instruction completed and those that were upcoming. Graduation is scheduled for December 15, 2023. Final interviews for the next camp will begin November 1, 2023.

### **D. Crime Commission Report**

Executive Director Tuma reported on the NLETC expansion project. The design phase is nearly completed. 47.7 million dollars for the project came from the American Rescue Plan Act. Infrastructure projects that have a long-term impact on government operations qualified the State for that money. About 4.5 million has been expended on the design, engineering and change orders with Dewberry & Associates. Executive Director Tuma testified before the Legislature Appropriations Committee that the design and first cost estimates should be completed by November 15, 2023. 36 acres North of the facility and 24 acres South of the facility have been leased. The annual lease cost will be around 48,000 dollars on a 20 year lease with the option to renew for 20 years thereafter. The lease amount will be added into the Training Center's budget.

Executive Director Tuma reported on an update of the L.E.A.R. program. About 2,500 applications were received. All of them have been processed by NLETC and are in Lincoln with State Accounting.

Executive Director Tuma reported on the First Responder Recruitment and Retention Act. One of the criteria for the act was that officers had to be employed with a city, county sheriff's office, or Nebraska State Patrol agency to qualify. Some State Deputy Sheriffs, Game & Parks officers and University officers have been denied the tuition benefit. The Executive Director has been working with the

Revenue to address the issue and will be submitting legislature to redefine what a law enforcement agency is.

**IV. Old Business**

**V. New Business**

**A. 2024 State Academy Curriculum**

Interim Director Stephenson reported on the updated 2024 State Academy curriculum. Most of the changes were to making the lesson plans more consistent in form. There were some statutory updates in some of the objectives and ensuring that some of the job tasks are moved to a more relevant course. The most notable change was to course 407 "Threat Groups". That material was taken out of 203 "Patrol Procedures" and made 407 "Threat Groups" a stand-alone class. The total training hours are 638, down from the previous 644 hours.

Asst. Chief Jackson asked if there was a motion.

**MOTION**

**Chief Deputy London: I'll make a motion that we accept the proposed curriculum. Mr. McCarthy seconded the motion.**

**Voting in favor: Lt. Col. Duis, Chief Graham, Chief Deputy London, Mr. McCarthy, Sheriff Osmond, Chief Reeves, Asst. Chief Jackson, Sgt. Bolzer. Motion approved.**

**B. Allocation of Basic Training Academy Seats-Title 79 Chapter 6**

Interim Director Stephenson reported that according to Title 79 Chapter 6 003.03 provides that each October the director will provide the Council with information regarding the projected enrollment and recommendations as to how the seats should be allocated for the next year. Director Stephenson recommended that no changes be made to the seat allocation. Class limit will stay at 50 students for the Basic course and non-law enforcement applications will not be accepted. Sheriff Osmond asked if the limit of 50 was due to the student-instructor ratio. Director Stephenson clarified that without an increase in staff and resources, the need to go above 50 would be a hard task.

Asst. Chief Jackson asked if there was a motion.

## MOTION

**Sheriff Osmond: I would make a motion that we leave the number of basic students at 50 and not accept non-law applicants at this time. Chief Deputy London seconded the motion.**

**Voting in favor: Chief Graham, Chief Deputy London, Mr. McCarthy, Sheriff Osmond, Chief Reeves, Asst. Chief Jackson, Sgt. Bolzer, Lt. Col. Duis. Motion approved.**

### **C. Police Service Dog Curriculum**

Interim Director Stephenson reported that staff instructor Mike Kerby was appointed as the Police Service Dog Program Administrator in 2023. He was tasked with ensuring that the Police Service Dog program was in compliance with Title 79 Chapter 18.

Michael Kerby reported that on April 19, 2023 the Council tabled proposed modifications to Nebraska's Police Service Dog standards and challenged the presenters to find a workable solution that would meet the needs of all of Nebraska's PSD handlers. On October 12, 2023 the PSD Standards Committee met in Lincoln to produce the final proposal. There was a unanimous consensus for current mandatory PSD standards for both Patrol and Narcotics Detector Dog certification. The committee also recommended no changes to Explosive Detector Dog Certification, Human Remains Dog Certification, and SWAT Dog Certification. The Patrol Dog standards have been termed as "Basic Certification" that ever PSD Team in Nebraska would meet to be considered suitable for service.

Mr. Kerby recommended allowing the Agency Head to determine whether their department will deploy a Handler Control Dog (bite and hold) or a Detention Dog (bark and hold). The certification would be the same with only the apprehension behavior being different. Mr. Kerby also recommended adding an additional exercise to the mandatory Basic Patrol Dog Certification. The "Courage Test of a Combative Suspect" was previously an advanced certification exercise, however, due to the proliferation of violence against police dogs, it is recommended that it be added to the Basic Certification.

Mr. Kerby also recommended renaming the Advanced Certification. The advanced certification is usually obtained by PSD teams that have been seasoned and have some field experience and they want to take that next step to a level of certification. It is currently offered but the committee recommends it being made formal. The exercises available under the current process include; Out of Sight Apprehension, Recapture a Fleeing Felon, and a Tactical Windscenting Exercise.

The annual certification issued to each PSD team by NLETC on behalf of the Council would be modified to represent the team's level of certification.

The committee also recommended a multi-day in-service training for all existing Judges and Evaluators to maintain grading consistency under the proposed new guidelines. The training would include classroom as well as field evaluations.

Mr. Kerby respectfully requested approval of the proposed standards.

Asst. Chief Jackson asked if there were any questions. Chief Deputy London wanted clarification if the consensus was unanimous. Mr. Kerby answered that it was. Asst. Chief Jackson asked if any of the new proposals would cause a need for changing Title 79 Chapter 18. Mr. Kerby answered that it would not. Chief Reeves asked how Evaluators were selected. Mr. Kerby described the steps of certifying Evaluators. Lt. Col. Duis stated that one of the arguments for going to a mandatory state standard was consistency. Lt. Col. Duis questioned the use of either the Detention Dog or Handler Control Dog team and what Mr. Kerby's thoughts were on having 2 different Certification standards. Mr. Kerby stated that the certification process was the same except for the last apprehension part of the certification. The agencies will be taking on the liability to choose which team to deploy. Mr. McCarthy asked if there were more handler controlled dogs or detention dogs statewide. Mr. Kerby was unable to answer but referred the question to Sgt. Pignotti who had done the comprehensive research in preparation for committee. Asst. Chief Jackson asked if agencies would be able to change which certification they would use. Mr. Kerby stated that on the team's annual certification they would have to declare whether they were a Handler Control or Detention team.

Asst. Chief Jackson asked if anyone else wished to testify to this item.

Sgt. Randy Pignotti of the Omaha Police Department reported that as a member of the Omaha Police Department for the past 21 years and a dual purpose K-9 handler for the past 13 years he voiced his support of the proposed changes. Sgt. Pignotti reported that the Omaha Police Department and the Douglas County Sheriff's Office reached out to over 220 departments across the country and found that approximately 87% of the departments use canines under the Handler Control method.

Asst. Chief Jackson asked if there was a motion for approval of the changes outlined by Mr. Kerby.

### **MOTION**

**Chief Deputy London: I'll make a motion that we accept the police service dog changes as presented by Mike Kerby. Sheriff Osmond seconded the motion.**



**Voting in favor: Chief Deputy London, Mr. McCarthy, Sheriff Osmond, Chief Reeves, Asst. Chief Jackson, Sgt. Bolzer, Chief Graham. Voting against: Lt. Col Duis. Motion approved.**

**D. Extension of Patrol Rifle Instructor Certification**  
Joseph Summers-Papillion Police Department

Interim Director Stephenson reported that Officer Joseph Summers was injured during a training incident. Officer Summers was scheduled to conduct his Patrol Rifle Instructor Recertification on September 20, 2023. He is currently on light duty and will not be medically cleared to complete the course on the last certification date in 2023. Director Stephenson recommended that he attend the first available Patrol Rifle Instructor Recertification course in 2024 after he is medically cleared to attend.

Asst. Chief Jackson asked if there was a motion.

**MOTION**

**Sheriff Osmond: I'll make the motion that we extend the time frame for Joseph Summers of the Papillion Police Department for his Patrol Rifle Instructor Certification with the note that he would have to attend the next available after he is cleared. Chief Graham seconded the motion.**

**Voting in favor: Mr. McCarthy, Sheriff Osmond, Chief Reeves, Asst. Chief Jackson, Sgt. Bolzer, Lt. Col. Duis, Chief Graham, Chief Deputy London. Motion approved.**

**E. NCO'S Not Eligible for Automatic Extension**  
Gregory Deaton-Dawes County Sheriff's Office  
Rylie Mason-Scottsbluff Police Department

Interim Director Stephenson reported that there were two NCO's not eligible for the automatic extension. Gregory Deaton from the Dawes County Sheriff's Office failed to meet the admission requirements for the Reciprocity program. Rylie Mason from the Scottsbluff Police Department's Change-In-Status form was submitted past the seven day requirement.

Asst. Chief Jackson asked what their status would be with a denial. Interim Director Stephenson answered that they could be made Trainees which would not allow them to be able to interact with the public as law enforcement officers.

Asst. Chief asked if there was a motion.

**MOTION**

**Chief Deputy London: I'll make the motion for Gregory Deaton and Rylie Mason not to be eligible for automatic extension regarding their NCO status. Mr. McCarthy seconded the motion.**

**Voting in favor: Sheriff Osmond, Chief Reeves, Asst. Chief Jackson, Sgt. Bolzer, Lt. Col. Duis, Chief Graham, Chief Deputy London, Mr. McCarthy. Motion approved.**

**F. Waiver of Management Training In-Lieu-Of NLETC Management Course**

**1. Justin Grint-Nebraska State Patrol**

Interim Director Stephenson reported that the Nebraska State Patrol submitted verification of training and a request for a waiver of his training in-lieu-of the NLETC in-person Management course. After reviewing the training submitted, Interim Director Stephenson recommends approval of the waiver with the stipulation that he would be required to take the on-line portion of the training.

Asst. Chief Jackson asked for clarification that just LPO training wasn't being used for the waiver of the Management course. Interim Director Stephenson responded that LPO training was used as an automatic waiver for Supervision. However, he looks at the additional training hours to make sure that everything meets or exceeds the NLETC Management course.

Asst. Chief Jackson asked if there was a motion.

**MOTION**

**Sheriff Osmond: I'll make the motion that we waive the Management training for Justin Grint of the Nebraska State Patrol. He still has to get his on-line training completed. Sgt. Bolzer seconded the motion.**

**Voting in favor: Chief Reeves, Asst. Chief Jackson, Sgt. Bolzer, Chief Graham, Chief Deputy London, Mr. McCarthy, Sheriff Osmond. Abstained: Lt. Col. Duis. Motion approved.**

**2. Paul Jacobson-Nebraska State Patrol**

Interim Director Stephenson reported that the Nebraska State Patrol submitted verification of training and a request for a waiver of his training in-lieu-of the NLETC in-person Management course. After reviewing the training submitted, Interim Director Stephenson recommends approval of the waiver with the stipulation that he would be required to take the on-line portion of the training.

Asst. Chief Jackson asked if there was a motion.

**MOTION**

**Chief Deputy London: I'll make a motion that we grant a waiver of Management training to Paul Jacobson from the Nebraska State Patrol. He will be required to do the on-line Management portion. Chief Graham seconded the motion.**

**Voting in favor: Asst. Chief Jackson, Sgt. Bolzer, Chief Graham, Chief Deputy London, Mr. McCarthy, Sheriff Osmond, Chief Reeves. Abstained: Lt. Col. Duis. Motion approved.**

- G. Waiver of Supervision Training In-Lieu-Of NLETC Supervision Course**  
Nathan Eymann-Nebraska State Patrol  
Jeremiah Foster-Nebraska State Patrol  
Michael Lassen-Nebraska State Patrol

Interim Director Stephenson reported that the 3 listed on the agenda completed the 3 week LPO class. Interim Director Stephenson recommends the approval of the waiver of the NLETC Supervision course for all of the officers listed.

Asst. Chief Jackson asked if there was a motion.

**MOTION**

**Sheriff Osmond: I'll make a motion that we waive the Supervision training for the three individuals listed on the agenda of the Nebraska State Patrol. Chief Graham seconded the motion.**

**Voting in favor: Sgt. Bolzer, Chief Graham, Chief Deputy London, Mr. McCarthy, Sheriff Osmond, Chief Reeves, Asst. Chief Jackson. Abstained: Lt. Col. Duis. Motion approved.**

- H. Extension of the 1-year Requirement for Management Training**  
Brian Piernicky-Nebraska Game & Parks Commission

Interim Director Stephenson reported that Brian Piernicky from the Nebraska Game & Parks Commission submitted a request for an extension of the 1-year requirement to complete Management. He was scheduled to attend the October 2023 course but was unable to attend. Interim Director Stephenson recommended the approval of the extension for Brian Piernicky to complete both the on-line and in-person Management courses in 2024.

Asst. Chief Jackson asked if there was a motion.

## MOTION

Chief Deputy London: I will make a motion that we grant an extension for the 1-year requirement for Management for Brian Piernicky from the Nebraska Game & Parks Commission. He will have to take the course in 2024. Mr. McCarthy seconded the motion.

Voting in favor: Lt. Col. Duis, Chief Graham, Chief Deputy London, Mr. McCarthy, Sheriff Osmond, Chief Reeves, Asst. Chief Jackson, Sgt. Bolzer. Motion approved.

### I. Academy Instructor Requests

#### Professional Original

Wendi Ground-Lincoln Police Department  
Douglas Headlee-Lincoln Police Department  
Sara Prewett-Lincoln Police Department  
Robert Markve-SDLEA

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

Asst. Chief Jackson asked if there was a motion.

## MOTION

Sheriff Osmond: I'll make a motion to approve the Professional Original instructor applications for Wendi Ground, Douglas Headlee, and Sara Prewett of the Lincoln Police Academy and Robert Markve of SDLEA for the subject areas that are marked approved on the instructor application provided in the agenda packet. Chief Deputy London seconded the motion.

Voting in favor: Chief Graham, Chief Deputy London, Mr. McCarthy, Sheriff Osmond, Chief Reeves, Sgt. Bolzer, Lt. Col. Duis. Abstained: Asst. Chief Jackson. Motion approved.

The Council took a break at 9:54 a.m. and returned to business at 10:06 a.m.

### J. Revocations

#### 1. August Hogan (LR-261-23)-Voluntary Surrender

Mr. Stolz entered the Consent to Revocation of Law Enforcement Certificate and notice of waiver of hearing for August Hogan 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. Hogan's Law Enforcement Officer Certification be revoked for violation of his statutory duties and code of ethics per Nebraska Revised Statute 81-1403(6)(c).

Asst. Chief Jackson asked if there was a motion.

### MOTION

**Chief Deputy London asked Mr. Stolz to summarize the motion.**

**Mr. Stolz: I think the motion should be that you accept his relinquishment and recommend to the Commission that his certificate be revoked based upon rational presented by Counsel.**

**Chief Deputy London: So moved. Sheriff Osmond seconded the motion.**

**Voting in favor: Chief Deputy London, Mr. McCarthy, Sheriff Osmond, Chief Reeves, Asst. Chief Jackson, Sgt. Bolzer, Lt. Col. Duis, Chief Graham. Motion approved.**

#### 2. Brian Wasson (LR-262-23)-Voluntary Surrender

Mr. Stolz entered the Consent to Revocation of Law Enforcement Certificate and notice of waiver of hearing for Brian Wasson 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. Wasson's Law Enforcement Officer Certification and Management Certificate be revoked based upon violations of his statutory duties and code of ethics per Nebraska Revised Statute 81-1403(6)(c).

Asst. Chief Jackson asked for clarification of whether Mr. Wasson had a Supervision certificate. Mr. Stolz answered that he did not have a Supervision certificate.

Asst. Chief Jackson asked if there was a motion.

### MOTION

**Chief Deputy London asked Mr. Stolz to summarize the motion.**

**Mr. Stolz: I think your motion should be that you accept his relinquishment and recommend to the Commission that his Law Enforcement Officer Certificate and**

his Management Certificate be revoked based upon a violation of his statutory duties and code of ethics.

Chief Deputy London: So moved. Mr. McCarthy seconded the motion.

Voting in favor: Mr. McCarthy, Sheriff Osmond, Chief Reeves, Asst. Chief Jackson, Sgt. Bolzer, Lt. Col. Duis, Chief Graham, Chief Deputy London. Motion approved.

1    **The Council took a short break to get the Dundy County Attorney's Office on**  
2    **speakerphone to hear the Good Cause Hearing.**

3           **K.     Good Cause Hearing, Neb. Rev. Stat. 23-1701.01**

4           Clinton Smith, Dundy County Sheriff

5    **CHAIR:**     The Good Cause Hearing of the Police Standards Advisory Council. The matter  
6           now before the Police Standards Advisory Council is Clinton J. Smith, Dundy  
7           County Sheriff, Good Cause Hearing. Case number 23 PSAC 95GCH.

8    **CHAIR:**     I will now call this hearing in order at 10:19. I will note the following Council  
9           members are present; myself, Assistant Chief Brian Jackson, Lincoln Police  
10          Department; Sgt. Drew Bolzer, Lancaster County Sheriff's Office; Lt. Col. Buck  
11          Duis, Nebraska State Patrol; Chief Paul Graham, Aurora Police Department; Chief  
12          Deputy Greg London, Sarpy County Sheriff's Office; Mr. Matthew McCarthy,  
13          Northeast Community College; Sheriff Dan Osmond, Custer County Sheriff's  
14          Office; and Steve Reeves, North Platte Police Department.

15   **CHAIR:**     This matter before the Council is to determine whether Good Cause exists for  
16          Clinton J. Smith, Sheriff of Dundy County Nebraska not to have complied with  
17          Nebraska Revised Statute §23-1701.01(2).

18   **CHAIR:**     Nebraska Revised Statute §23-1701.01(2) mandates that each sheriff shall attend  
19          the Nebraska Law Enforcement Training Center and receive a certificate attesting  
20          to satisfactory completion of the Sheriff's Certification Course within eight months  
21          after taking office unless such sheriff has already been awarded a certificate by the  
22          Nebraska Commission on Law Enforcement and Criminal Justice attesting to  
23          satisfactory completion of such course or unless such sheriff can demonstrate to  
24          the Nebraska Police Standards Advisory Council that his or her previous training

25 and education is such that he or she will professionally discharge the duties of the  
26 office.

27 **CHAIR:** Pursuant to Title 79 of the Nebraska Administrative Code, Chapter 1, §004.44  
28 Sheriff's Certification Course: Basic Training, as identified in Nebraska Revised  
29 Statute §81-1414(2) for all sheriffs whether appointed or elected after July 18,  
30 1980, and as specified in Chapter 1 §004.09.

31 **CHAIR:** Subsection four (4) of Nebraska Revised Statute §23-1701.01 provides that unless  
32 a sheriff is able to show good cause for not complying with subsection two (2) of  
33 this section or obtains a waiver of the training requirement from the Council, any  
34 sheriff who violates subsection two (2) shall be punished by a fine equal to such  
35 sheriff's monthly salary. Each month in which such violation occurs shall constitute  
36 a separate offense.

37 **CHAIR:** The Council is here pursuant to its authority as stated in Nebraska Revised Statute  
38 §23-1701.01, §81-1403, its related statutes and Title 79 of the Nebraska  
39 Administrative Code.

40 **CHAIR:** I will note that Dundy County Sheriff Clinton J. Smith is present. Are you  
41 represented by counsel?

42 **SMITH:** Yes I am.

43 **CHAIR:** Thank you. And I would ask, we do have some people on the phone, if we can talk  
44 loud so other people can hear it. It is my understanding that you are represented  
45 by Mr. Emeka Igbokwe as your attorney. If he is I will direct my comments to him.  
46 Mr. Igbokwe is your representative today?

47 **SMITH:** Yes he is.

48 **CHAIR:** Thank you. Ms. Elizabeth Gau, Assistant Attorney General from the Nebraska  
49 Attorney General's Office is present and is the Nebraska Law Enforcement



50 Training Center's Interim Director, and so is the Law Enforcement Training  
51 Center's Interim Director Mark Stephenson. They will present the necessary  
52 procedural information pertaining to Sheriff Smith's case.

53 **CHAIR:** Mr. Igbokwe do you contest the Council's authority to hear this type of case?

54 **IGBOKWE:** Uh, no.

55 **CHAIR:** Ok. There is no objection to the Council hearing this case so, pursuant to Nebraska  
56 Revised Statute §23-1701.01, the burden is on Sheriff Smith to demonstrate that  
57 good cause exists for not imposing the sanction set out in section four (4) of this  
58 statute.

59 **CHAIR:** Pursuant to Title 79 Nebraska Administrative Code 1, §004.27 Good Cause is  
60 defined as justifiable grounds for the Council to provide an extension as outlined in  
61 Nebraska Revised Statute §81-1414, which would in turn be applicable to 23-  
62 1701.01.

63 **CHAIR:** The decision of this Council is final.

64 **CHAIR:** Sheriff Smith, I want to go over your rights in this Administrative Hearing.

65 You have the right to be heard, either in person or by counsel who you have hired  
66 at your own expense.

67 You also have the right to submit evidence, either testimony or written evidence, to  
68 this body in order to demonstrate good cause.

69 Do you understand those rights?

70 **SMITH:** Yes sir, I do.

71 **CHAIR:** The Police Standards Advisory Council shall act as the Hearing Board for this  
72 matter. Neither I, nor any Council member, will be a witness. I am not aware of any  
73 matter which I believe may be grounds for challenge against me or the other  
74 members.

75 **CHAIR:** As it pertains to this case, I have not had any personal, direct information conveyed  
76 to me nor do I have any personal knowledge of this case.  
77 Does any Council Member have any personal knowledge of this matter before the  
78 Council?  
79 **CHAIR:** Sgt. Bolzer?  
80 **BOLZER:** No.  
81 **CHAIR:** Lt. Col. Duis?  
82 **DUIS:** No.  
83 **CHAIR:** Chief Graham?  
84 **GRAHAM:** No.  
85 **CHAIR:** Chief Deputy London?  
86 **LONDON:** No.  
87 **CHAIR:** Mr. McCarthy?  
88 **McCARTHY:** No.  
89 **CHAIR:** Sheriff Osmond?  
90 **OSMOND:** No.  
91 **CHAIR:** Chief Reeves?  
92 **REEVES:** No.  
93 **CHAIR:** Mr. Igbokwe do you have any challenge for cause against any member of this  
94 Council?  
95 **IGBOKWE:** No.  
96 **CHAIR:** Thank you. Ms. Gau do you have any challenge against any member of this  
97 Council?  
98 **GAU:** No.

99 **CHAIR:** Thank you. Ok Ms. Gau do you have any procedural documents or other evidence  
100 that will establish how this matter has come before the Council? If so, please  
101 proceed.

102 **GAU:** I do. I hand the packet to you and then go over them?

103 **CHAIR:** Ok. Thank you.

104 **GAU:** So exhibit one (1) is Statute 23-1701.01 as previously discussed. I would also like  
105 to offer, there is no exhibit two (2), but exhibit three (3) is a letter from former  
106 director Brenda Urbanek congratulating Sheriff Smith on his election and  
107 explaining the process of application and it is dated November 18, 2022. Exhibit  
108 four (4), dated January 9, 2023 is a Personal Change-In-Status form received by  
109 the training center from Sheriff Smith indicating that he was appointed as a law  
110 enforcement officer as of January 5, 2023. Exhibit five (5) is dated May 16, 2023, it  
111 is a certificate of completion of a valid law enforcement peace officer certification  
112 course by Clinton Smith, granted by the Pueblo Law Enforcement Academy.  
113 Exhibit 6 (6), dated March 19, 2014, grants that a State of Colorado police officer  
114 certification for Clinton Joe Smith. Exhibit seven (7), dated December 12, 2022, is  
115 a letter from the Colorado post from Megan Dimpsey, Compliance Coordinator,  
116 and it explains that certifications in Colorado remain active as long as you are  
117 employed as a certified officer and for three years after. It also explains that Sheriff  
118 Smith's basic certification expired exactly three years after it was awarded on  
119 March 19, 2017. Exhibit eight (8) is an application for training submitted on January  
120 12, 2023. It was originally submitted as Reciprocity. At the top of the application, at  
121 some time Sheriff Smith crossed out the box and initialed it and submitted it as an  
122 application for basic. Exhibit nine (9), opposing Counsel will stipulate, is a  
123 representation of the Personal Character Affidavit submitted by Sheriff Smith on

124 January 12<sup>th</sup>. The whole packet has a lot of personal information that wasn't  
125 necessarily relevant, so I am submitting this as just an indication of the timeline.  
126 Exhibit ten (10) is an email to Sheriff Smith from course registrar Martha  
127 Hutchinson indicating that she received his application packet and noting that it  
128 was incomplete, asking for additional personal character affidavit pages, the signed  
129 attestation form was blank, and the equivalent training was blank. Exhibit eleven  
130 (11) is another Personal Character Affidavit submitted by Sheriff Smith on February  
131 2<sup>nd</sup> and again that is just the first page so you can see when it was received.  
132 Exhibit twelve (12) is an email to Sheriff Smith from course registrar Martha  
133 Hutchinson indicating that she had received the second application packet and  
134 noting additional items that were missing. Exhibit thirteen (13) dated March 20,  
135 2023, is an email to Sheriff Smith from Investigator Dennis Leonard notifying him  
136 that he had not yet submitted his psych evaluation. It was on the file that he was to  
137 submit them. Exhibit fourteen (14) dated April 10, 2023, is a letter to Sheriff Smith  
138 from former director Brenda Urbanek notifying him that he had, the PRET test that  
139 he took on April 10, 2023, that he failed that. Exhibit fifteen (15) is some email  
140 correspondence received on April 11<sup>th</sup> between Sheriff Smith and former director  
141 Urbanek where he asks for an extension to complete the PRET, retake the PRET.  
142 Exhibit sixteen (16) dated June 5, 2023, is a letter to Sheriff Smith from Interim  
143 Director Mark Stephenson formally denying his application for basic training.  
144 Explaining that the application was denied for two reasons. One, of having  
145 deliberate omissions, falsifications, or misrepresentations during the application  
146 process. Including, not including allegations of sexual harassment and separation  
147 from employment from a previous law enforcement agencies. And number two, for  
148 not being a person that can be characterized as honest, truthful, and trustworthy

149 because he signed an attestation form and later admitted during his background  
150 interview that some of the information was incorrect. And then exhibit seventeen  
151 (17) is an email from Martha Hutchinson to Sheriff Smith dated June 8, 2023 which  
152 was sending him a copy of Chapter 13, the appeal regulations, and informing him  
153 of his right to appeal. And exhibit eighteen (18) is a letter from Interim Director  
154 Mark Stephenson to Sheriff Smith informing him that because he had not appealed  
155 the denial of admission to the academy within ten days that the matter is  
156 considered closed. That is all I have as exhibits.

157 **CHAIR:** So just to confirm, exhibits one (1) through eighteen (18) is absent exhibit two (2).

158 **GAU:** Yes.

159 **CHAIR:** Ok. Just wanted to confirm. Mr. Igbokwe do you have any objections to any of the  
160 exhibits presented?

161 **IGBOKWE:** I have no objections to exhibit one (1) the statute. There is no exhibit two (2). With  
162 regards to exhibit number three (3), for the purpose of establishing that timeline, I  
163 have no objection to it. With regards to exhibit number four (4), with the date stamp  
164 to establish a timeline, I have no objection. With regards to Clinton J. Smith's proof  
165 of completion of 672 hours of training May 16, 2013 through the Pueblo  
166 Community College I have no objections to add.

167 **CHAIR:** What exhibit was that sir?

168 **IGBOKWE:** I believe that is exhibit number six (6), five (5), sorry. I actually brought six binders  
169 with the same thing so...

170 **CHAIR:** Sure, no issues. Just wanted to make sure we are on the same page.

171 **IGBOKWE:** Yes. Do I say your honor?

172 **CHAIR:** Absolutely, continue.

173 **IGBOKWE:** That is exhibit number five (5). Exhibit number six (6) is his State of Colorado  
174 Board of Peace Officer Standards and Training Award certificate. It's dated March  
175 20, 2014. I have no objection because I brought the exact same thing in six  
176 binders. The confirmation letter, exhibit number seven (7) I have no objection to it.  
177 Exhibit number eight (8) for the purpose of establishing a timeline, I have no  
178 objections to that. Exhibits number, same with exhibit number nine (9), ten (10),  
179 eleven (11), twelve (12), thirteen (13). In regards to exhibit number fourteen (14) I  
180 just need to clarify it real quick with my client if he ever had the opportunity to get a  
181 redo for the PRET. No objections.

182 **CHAIR:** Thank you.

183 **IGBOKWE:** Exhibit fifteen (15) no objections. And then sixteen (16) no objections. Exhibit  
184 seventeen (17) no objections and exhibit eighteen (18) no objections.

185 **CHAIR:** Ok. Counsel has not objected but has clarified for the purpose of a timeline, do you  
186 have any concerns reference those?

187 **GAU:** I do not.

188 **CHAIR:** I will, exhibits one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve,  
189 thirteen, fourteen, fifteen, sixteen, seventeen and eighteen with no two. They have  
190 been received and entered into the record.

191 **CHAIR:** Mr. Igbokwe, you may make an opening statement at this time.

192 **IGBOKWE:** Thank you and first I will respectfully apologize to all of you if I am not versed in the  
193 PSAC. I discovered for the first time your existence when the Sheriff Clinton Smith  
194 came into my office to ask for my help. I am very honored to be here today and  
195 very proud of what you guys are doing and what you have accomplished. I think I  
196 will start by telling you, just based on my research and what I discovered, and  
197 some of the things I am proud about that you are doing, and some of the areas that

198 I believe if we can talk about the process openly and fairly, in a way that protects  
199 the right to vote of residents of Dundy County, in a way that protects the right to  
200 vote. And in more than fifty counties of the ninety nine counties where the  
201 population is less than 5,000. Where the people in those community want to be  
202 able to vote for their own sheriff, at the same time, collaborate with the Attorney  
203 General's office, collaborate with the executive, and ensure that their sheriff also  
204 meets the standards of excellence that you are trying to accomplish. My  
205 understanding is that the Nebraska Legislature sometime in 2022, in LB 1241, with  
206 the express purpose of extracting and retaining law enforcement officers in the  
207 state of Nebraska codified that bill as part of the law enforcement retention act. It's  
208 contained in Nebraska Revised Statute 81-1458 and the subsequent amendments.  
209 As part of those provisions, I believe that there was another bill LB-51 and it  
210 amended the Sheriff's statutes to include this penalty clause, or forfeiture clause,  
211 for which we are here to talk about and establish the cost. I always presume that  
212 the Legislature is acting constitutionally and rationally when they make laws. And I  
213 believe that from looking at the whole scheme of what the Legislature put together,  
214 they wanted to make law enforcement understand the importance of having those  
215 standards and the importance of completing those standards. The non-certification  
216 clause as pointed out in exhibit one (1) says that if the Sheriff doesn't complete the  
217 certification within eight months in office, whether he is appointed or elected, there  
218 is no distinction, that the penalty clause would apply unless he can show good  
219 cause. And in terms of how good cause is applied, I have gone through the  
220 regulations as best as I can, I believe Chapters 1-18 on the PSAC website and the  
221 mentions that I saw of good cause, were exceptions where you use an extreme  
222 hardship standard to give I believe, a 2-16 week extensions when they have

223 difficulty completing the PRET and things like that. But outside of that and not  
224 incorporated in legal standards that have been traditionally created, it doesn't really  
225 appear that the PSAC has flushed out the standards for good cause. And in order  
226 to be able to make out good cause I'm going to have to advocate a little bit and  
227 persuade and try to make proposals of the kinds of factors that I believe should be  
228 considered generally to apply to everyone as well as factors that I believe exist in  
229 Sheriff Smith's case. Now, just a little bit more of background in my research. In the  
230 spirit of what the Legislature was trying to accomplish, there were some notations  
231 in there that law enforcement officers in Nebraska are, law enforcement  
232 professionals, law enforcement agencies are not retaining law enforcement officers  
233 at a rate sufficient to ensure public safety. Law enforcement officers are a critical  
234 element to public safety in Nebraska communities and it was important to the  
235 Legislature to maintain a robust law enforcement work force and they believe it is  
236 in the best interest of Nebraskans. Now, according to the National Association of, I  
237 believe it is County Officials, when we're, yes Nebraska is a (unintelligible), and we  
238 are all very different, with 99 counties, but the county officials, when they were  
239 looking into improving the county system and how the county system interacts with  
240 the Legislature, with the executive, one of the things that they talked about that  
241 was important to the counties was recognizing local control by the same time with  
242 regards to wages, which is part of what we are discussing, is levying a fine, was  
243 recognizing local control and at the same time providing a basis for establishing  
244 salaries for county officials that provides a livable wage. I believe that when we  
245 look at some of the studies, that were done by the National Association of County  
246 Officials, we are talking about how to make sure county officials who are working  
247 hard in all the different counties were valued and did their job and we look at, we



248 have to balance that with the penalty clause that's completely withholding Sheriff  
249 Smith's salary. And you hear that he hasn't received a salary since, I believe,  
250 August 25<sup>th</sup>, so now we are in October, so it's been 2 months. All of the counties,  
251 yes, they want certified law enforcement officers, but at the same time the counties  
252 don't want to lose their (unintelligible), they want to be able to vote for people they  
253 have been approved, who they know. They voted and chose Sheriff Smith. I  
254 believe Dundy County includes the city of Benkelman, Haigler, Max and Parks.  
255 And it is one of the smaller counties, one of those more than 50 of the 99 counties  
256 with a population less than 5,000. I believe Dundy County has a population of  
257 2,400 residents, don't quote me, it's roughly and so how did this all begin?  
258 November 8, 2022 the residents of Dundy County voted for Sheriff Smith. He met  
259 the requirements to get on the ballot, he met the requirements and I believe he had  
260 a primary, ran on the Republican ticket, not that that matters, and he successfully  
261 won his election. In compliance with that statute, he did anything anybody who is of  
262 good leadership stock, and salt of the earth Nebraska person would do. He just  
263 obeyed, he just followed, he applied. He did not take it for granted, he applied, he  
264 completed the application as best as he could but he's from a small county, I think  
265 there are only two deputies in his office, I don't know if he had a secretary, I don't  
266 know how many law firms are in Dundy County, it's a very small county so, he was  
267 doing his job as Sheriff, he's trying to learn everything and he's presented with  
268 probably a bunch of complicated regulations. Yes, in the exhibits we know as part  
269 of the certification process that he completed, I believe a law enforcement does  
270 have legal training in certain subjects, but I don't know necessarily, that he would  
271 have been able to understand all of the regulations, but he kept up with it. All those  
272 exhibits that were lined up, if you notice in every email, if he's emailed today

273 January 11<sup>th</sup>, he's responded. If he's emailed the 12<sup>th</sup>, he's responded right away.  
274 He wasn't sitting on his hands, he wasn't not responding, he was very responsive,  
275 he was very communicative, he was very enthusiastic, he was passionate about  
276 what he was hoping to be able to accomplish as a Sheriff. In all of those emails he  
277 is timely responding. Now, from speaking with the Sheriff and he's very direct, he  
278 tells me the moment he failed the Physical Readiness Exam Test, I believe he was  
279 supposed to be at 30% but he got 13%, just based on the structure that had  
280 already been put in place, the moment he failed that, he wasn't going to meet that  
281 September 5<sup>th</sup> deadline. It was almost like a domino effect. I used to be a chemist  
282 before I became a lawyer and what we called that is a rate limited step. The  
283 moment that step comes in to being, everything else stops. So the moment he  
284 missed that April 10<sup>th</sup>, the physical readiness exam, it didn't matter. At that point he  
285 wasn't going to be able to make the deadline. A lot of the things that happened  
286 afterwards do require some explanations which I will address and make on his  
287 behalf, but I really think the real issue is, yes he didn't complete, we're not  
288 disputing, his complete certification by September 5<sup>th</sup>, but did he have a good  
289 reason? Yes, it was a circumstance outside his control. The physical readiness  
290 exam test, Sheriff Smith is probably 350 pounds, six foot six or six foot seven, I  
291 don't know all of the rigor that is involved in his physical readiness, but it's in terms  
292 of athleticism, its necessary, you guy set forth a standard of 30%. He missed it. He  
293 probably needed to work out because, as a man, when you're in your 20's I could  
294 get down and do sixty push-ups and I can believe that now in my 40's that I still  
295 can, but I probably can't. And the amount of time it would take in my 40's with less  
296 testosterone, less motivation to be able to get back into that physicality, he wasn't  
297 going to be able to re-prepare and take the PRET test and complete it in time to be

298 able to make that September 5<sup>th</sup> deadline. So I believe the great limiting step here,  
299 the key thing that caused him to miss completing his certification by September 5<sup>th</sup>  
300 was really failing that PRET test and his own characteristics as somebody who is  
301 over 40 and he, and the amount of time it would take him to get into shape. I would  
302 ask that the Council consider that a factor in ruling on good cause. Now, the other  
303 evidence that the director shows, that at some point, the allegations that he didn't  
304 timely respond to it and the director made his final, now that's a tough thing for  
305 anybody who is the head of an agency or an elected official to have those direct  
306 accusations. But his application that he submitted at the time, the late it was, he  
307 didn't have a good record to be able to appeal and he made a prudent judgement  
308 which I know that I have to ask and try to persuade this Council to see nothing  
309 would have been gained combatting and trying to nitpick and fight with the director  
310 in the short amount of time of seven days. He is in a position of leadership. He has  
311 a lot of respect for law enforcement. He has a lot of respect for the director. He has  
312 enough training, based on his Colorado certificate from 2014, and of some of what  
313 he's already learned from being in office and working in the Dundy County Sheriff's  
314 office to be able to try handle his day to day responsibilities and then at the same  
315 time, try to re-apply. So I wasn't representing him at the time and I'm kind of doing  
316 a backwards look at the situation. I think that he made a prudent judgement at that  
317 time because had he challenged it, he wouldn't have known what he was  
318 challenging. The notice said there were these allegations. There was no timeline.  
319 There was nothing. And, not to go into details, but these were things that happened  
320 over 10 years ago, and no good leader would go into anything, a situation like that  
321 that's so sensitive after having been elected and presently under the pressures of a  
322 recall and day after day after day things in the newspaper that may not be

323 accurate, that's characterizing what's going on. And he's held and shown fortitude  
324 under pressure. I'm asking this Council and trying to persuade this Council, that I  
325 believe that based on the specific circumstances here and the facts here, I believe  
326 this should be the finding of good cause that allows him to not be subjected to the  
327 fine, which my understanding is if this Council today finds good cause, then the  
328 County would probably release his salary. And at the same we're going to make  
329 every effort to correct and re-apply and address all of those matters now that, as  
330 part of this process, I received generously from the Director's discovery to help  
331 clarify what the original issues were. Sheriff Smith did not respond or appeal. Even  
332 though I wasn't his attorney at the time and not knowing about this until after the  
333 fact, my careful assessment is that this agency cares about law enforcement, cares  
334 about leadership, cares about excellence but at the same time this agency is still  
335 nascent and you're creating a lot of the rules and making adjustments you know,  
336 quickly, and you're very flexible as things come in front of you. I don't believe at the  
337 time he made that application, either January or February, that some of the  
338 regulations that exist now existed, I believe that most of the regulations I've looked  
339 at would span from May 17, 2023, effectively. I could be wrong, but I don't know  
340 that all of the same provisions back then currently existed at the time he made the  
341 application. I believe that at the last September 2023 meeting there were changes  
342 made to the definitions or standards where the omissions would change from willful  
343 to deliberate to just omissions. So there is a lot of changes happening and for  
344 someone who's not an attorney or relatively sophisticated I think he made the  
345 prudent choice based on his limited resources not to challenge the director and to  
346 try and find some other solution to try and plead his case to the Council and to  
347 come up with a way for him to be able to satisfy his responsibility and obligations

348 for the Council and at the same time satisfy his obligations to the office of the  
349 Sheriff in Dundy County and to Dundy County who is his employer and also to  
350 respect and honor the voters who voted for him and put their time and effort. I  
351 believe, I am asking and advocating on his behalf that the Police Standards  
352 Council finds good cause in his circumstance and waive the application of the  
353 section 23-1701.01 and give him an opportunity to re-apply and with his re-  
354 application to the basic address all of the issues that weren't addressed in the prior  
355 application.

356 **CHAIR:** Ok. Thank you. Ms. Gau do you have an opening statement?

357 **GAU:** I do. Just to clarify before I begin, as Assistant Attorney General, I am not here to  
358 advocate whether or not there is good cause. I am mostly here to make a record  
359 and answer questions about the actions of the training center's process. So, the  
360 issue today is whether there is good cause for Sheriff Smith's failure to become  
361 certified within eight months pursuant to statute. More than eight months have  
362 passed since January 5<sup>th</sup>. He has not obtained a waiver of his requirements from  
363 this Council to not become certified. Shortly after he was elected in November per  
364 Exhibit 3, is a letter Director Urbanek, former Director Urbanek offering assistance  
365 to him and sending him the application materials. And she in that letter did ask for  
366 him to send his application by December 16<sup>th</sup>. And there was a lot of  
367 communication between Sheriff Smith and the training center notifying him when  
368 there were pieces missing or not turned in, answer his questions, I think the  
369 training center was very communicative. And they also made him aware of his  
370 obligation under the statute to become certified within eight months. So he first  
371 submitted and incomplete packet on January 12<sup>th</sup> for Reciprocity certification after  
372 which Martha Hutchinson promptly explained to him that the issues with that

373 application that needed to be corrected and completed. And they continued to ask  
374 for additional information through April because the application was not completed  
375 for those months. Investigator Dennis Leonard was in communication with Mr.  
376 Smith starting in November as well. Talking about how because the training center  
377 is responsible for completing the background investigation for a non-certified  
378 agency head and he was in communication within November explaining the  
379 process and telling him that he needed to get moving quickly as a background  
380 investigation takes a long time. So when Investigator Leonard began his  
381 investigation, he learned that Mr. Smith, who had submitted a reciprocity  
382 application, had obtained a peace officer certification in March of 2014 in Colorado  
383 but when he contacted the post, he learns that those certifications remain active as  
384 long as you are employed as a certified officer and for three years following. And  
385 they told him that Mr. Smith's certification lapsed exactly three years after he was  
386 awarded it on March 19, 2017 and this is because though he had the certification,  
387 he never served in a certified law enforcement position. And then as he discussed,  
388 Mr. Smith took the PRET on April 10<sup>th</sup> and did not pass that. On June 5<sup>th</sup> Interim  
389 Director Stephenson formally denied his application to basic training. I should back  
390 up. I think that after Investigator Leonard learned that his certification had expired  
391 he discussed that with Sheriff Smith and Sheriff Smith changed his application to  
392 one for basic training. So on June the 5<sup>th</sup> Interim Director Stephenson formally  
393 denied in the letter that his application for admission to basic training that was for,  
394 he gave two reasons in that letter. The first was deliberate omissions, falsifications  
395 and misrepresentations during the application process and the background  
396 investigation process. And one of the background facts is that he failed to disclose  
397 that he was terminated from his position with the Logan County Sheriff's Office in

398 Colorado. Also the second reason the second reason for the denial was that he  
399 could not be characterized as an honest, truthful and trustworthy person since he  
400 signed the attestation form and then in the background interview was maybe not  
401 forthcoming and then admitted that not all of the information was correct. Though  
402 Mr. Smith was notified of his right to appeal, they sent him Chapter 13 and in his  
403 denial he had notice of his right to appeal, he did not appeal. It's a seven day, he's  
404 supposed to notify the director under Chapter 13 in seven days, just notify his  
405 intent to appeal. I think they would have taken an email or a phone call of that. And  
406 then after that he would have twenty-one days to right a longer appeal with all of  
407 his facts and get his ducks in a row. I guess I will point out that his application  
408 process started in November when he was aware of the items that he would need  
409 to collect for his application. I think by March they had this background  
410 investigation interview he was aware the issues the training center had with his  
411 application. So he did have a lot of time to kind of get through those things. And  
412 also this is his second time that he applied. He received certification in Colorado,  
413 so he had been through this process before, and he had some knowledge of what  
414 the process detailed. None the less, he did not appeal the denial of admission, so  
415 the matter is now closed, and we are not here, in this, this is not the place to  
416 litigate, to re-litigate at this point, it's final, its final matter, the denial is. So the only  
417 issue before the Council today is whether good cause exists for his failure to  
418 become certified in that time and he has the burden to establish that.

419 **CHAIR:** Thank you. Now is the time further evidence can be presented to the Council. This  
420 may include written evidence, witness testimony and/or any unsworn statements  
421 by yourself.

422 **CHAIR:** Mr. Igbokwe do you have witnesses here to testify on Sheriff Smith's behalf?

423 **IGBOKWE:** No your honor.

424 **CHAIR:** Chair, that's fine. Do you have any written evidence for us to consider?

425 **IGBOKWE:** I would just ask to submit a closing argument in writing. If I would be allowed  
426 seventy two hours or something or twenty four hours I can do a closing argument.

427 **CHAIR:** The hearing is today.

428 **IGBOKWE:** I will just do a closing argument.

429 **CHAIR:** Ok, so you have no written evidence to present? Other than what potentially, I  
430 mean you can submit a written, but we can only consider what's presented...

431 **IGBOKWE:** Today.

432 **CHAIR:** Today. So ok. Ms. Gau do you have any witnesses, witness testimony to offer?

433 **GAU:** No.

434 **CHAIR:** Do you have any written evidence for us to consider?

435 **GAU:** Nothing additional, no.

436 **CHAIR:** Mr. Igbokwe you may make your closing argument.

437 **IGBOKWE:** This is a difficult case. I know whenever any State agency is committed and  
438 striving to accomplish excellence, sometimes it just feels like you know, some of  
439 the concerns of the average people just, is sacrificed to accomplish that  
440 excellence. I think we still have to ask ourselves; I think the Legislature did the right  
441 thing. They set that timeline; they carefully considered it. They probably got input  
442 from police officers and eight months is probably, on average, a reasonable  
443 amount of time. But at the same time, the Legislature was wise and included this  
444 option for a good cause hearing because the Legislature knows that the police  
445 officers in here, with all these tons of experience, not just in your own personal  
446 lives but in dealing with defendants, you know that on a day to day basis, that the  
447 average person who's not very wealthy, might plead guilty to crimes they're not



448 guilty of just to be able to get it done. Might compromise in certain ways that they  
449 might regret later. But you guys are the ones who can calibrate and set the  
450 parameters and the factors that you choose to use for this good cause hearing. I  
451 believe that there's a lot that Sheriff Smith didn't get the opportunity to be able to  
452 tell the committee. I understand that he is facing an election on November 8<sup>th</sup>. Let  
453 me just give you an, just tell you just a little bit about him. Sheriff Smith lived in his  
454 car for several years during that period after he left, he was separated from the  
455 Logan County Sheriff's Office. He suffered tremendous tragedies in his life. Losing  
456 family members. Having to probate an estate that caused his family to fall apart.  
457 He struggled. He's not the same person who was, who he was in 2011-2012 when  
458 he made his mistakes. It was exactly after that separation that he actually enrolled  
459 in Pueblo College to try and get this law enforcement certification. I have never  
460 seen anything like that. If I had got kicked out of the military or any kind of job like  
461 that, the last thing I am going to do is sign up for more punishment. But I think it  
462 says something about his character. He's not perfect. In an administrative role that  
463 I practiced before the courts, the U.S. Supreme Court has said that character is not  
464 about moral excellence. It's a balance. People can have counter balancing equities  
465 that overcome mistakes that they've made. I believe that Sheriff Smith, I think in his  
466 county, was called sometime in April at two in the morning, when there was  
467 flooding, and he went out with his deputies, and they were able to rescue someone  
468 from the flood. A traveler who was traveling through Benkelman. That was an act  
469 of courage and bravery and it's nothing compared to some of the accomplishments  
470 all in this room probably have but he's making that effort and some of the language  
471 that I saw with regards to the good cause, I believe is also aspirational. Part of the  
472 reason that this Council would give a second chance, not just to any officer, but to

473 an officer who's also the head of a small county agency is because your viewing in  
474 him some aspiration, you're giving him an incentive to be able to heal, rise above  
475 the fray, and strive for the same kind of excellence. I really believe that if you give  
476 Sheriff Smith a second chance, and don't punish him in this way, that he has no  
477 income. He has a fiancé. He keeps working and doing the things he's doing for the  
478 residents of Benkelman County. Whether going to the County Commission  
479 meetings, answering calls, doing all these things, and having no compensation. I  
480 genuinely believe that you all know it's not easy to be a police officer. It's not easy  
481 to be a Sheriff. And the last thing that any other sheriff or anybody in that position  
482 should have to worry about is just a minimum livable wage. So based on that, I'm  
483 asking if the Council should grant and find good cause in the case of Sheriff Smith.

484 **CHAIR:** Thank you. Ms. Gau do you wish to make a closing argument.

485 **GAU:** I would just close with this. The idea that the Council's job for this statute is  
486 defined, whether or not good cause exists, the responsibility to impose the fine  
487 rests with Dundy County and also that any time for any person this fine would be  
488 imposed with a similar hardship. That is all I have.

489 **CHAIR:** Is there a motion to go into executive session?

490 **MOTION**

491 **LONDON:** I would move that the Council go into executive session based on the  
492 prevention of needless injury to the reputation of Sheriff Clinton Smith and  
493 for purpose of executive session we will allow the following to remain in the  
494 room; all Council members, Council Secretary, Legal Advisor Dave Stolz and  
495 that's it.

496 **CHAIR:** Is there a second?

497 **MCCARTHY:** I'll second.

498 **CHAIR:** There is a motion and a second. Please call the roll.

499 **SECRETARY:** Sheriff Osmond?

500 **OSMOND:** Yes.

501 **SECRETARY:** Chief Reeves?

502 **REEVES:** Yes.

503 **SECRETARY:** Asst. Chief Jackson?

504 **CHAIR:** Yes.

505 **SECRETARY:** Sgt. Bolzer?

506 **BOLZER:** Yes.

507 **SECRETARY:** Lt. Col. Duis?

508 **DUIS:** Yes.

509 **SECRETARY:** Chief Graham?

510 **GRAHAM:** Yes.

511 **SECRETARY:** Chief Deputy London?

512 **LONDON:** Yes.

513 **SECRETARY:** Mr. McCarthy?

514 **McCARTHY:** Yes.

515 **SECRETARY:** Motion approved.

516 **CHAIR:** At this time I would remind those present in executive session that they

517 must restrict their discussion in closed session to the issues currently before

518 the Council. We are now in executive session. The time is 11:10.

519 **CHAIR:** The meeting of the Police Standards Advisory Council will come to order. Is

520 there a motion to come out of executive session?

MOTION

521

522 **GRAHAM:** Mr. Chairman, I will make a motion that we come out of executive  
523 session.

524 **CHAIR:** Is there a second?

525 **BOLZER:** I'll second.

526 **CHAIR:** Drew Bolzer. It's been moved and seconded that we come out of executive  
527 session. Please call the role.

528 **SECRETARY:** Chief Reeves?

529 **REEVES:** Yes.

530 **SECRETARY:** Asst. Chief Jackson?

531 **CHAIR:** Yes.

532 **SECRETARY:** Sgt. Bolzer?

533 **BOLZER:** Yes.

534 **SECRETARY:** Lt. Col. Duis?

535 **DUIS:** Yes.

536 **SECRETARY:** Chief Graham?

537 **GRAHAM:** Yes.

538 **SECRETARY:** Chief Deputy London?

539 **LONDON:** Yes.

540 **SECRETARY:** Mr. McCarthy?

541 **McCARTHY:** Yes.

542 **SECRETARY:** Sheriff Osmond?

543 **OSMOND:** Yes.

544 **SECRETARY:** Motion approved.

545 **CHAIR:** All parties are present when the Council went into executive session are  
546 again present. The time is 11:31.

547 **CHAIR:** We are back into session. Is there a motion?

548 **MOTION**

549 **LONDON:** Yes. Based upon the record before the Council, I move that Sheriff  
550 Smith has not demonstrated that there is good cause.

551 **CHAIR:** Is there a second?

552 **BOLZER:** I'll second.

553 **CHAIR:** There is a motion and a second. Call the role.

554 **SECRETARY:** Asst. Chief Jackson?

555 **CHAIR:** Yes.

556 **SECRETARY:** Sgt. Bolzer?

557 **BOLZER:** Yes.

558 **SECRETARY:** Lt. Col. Duis?

559 **DUIS:** Yes.

560 **SECRETARY:** Chief Graham?

561 **GRAHAM:** Yes.

562 **SECRETARY:** Chief Deputy London?

563 **LONDON:** Yes.

564 **SECRETARY:** Mr. McCarthy?

565 **McCARTHY:** Yes.

566 **SECRETARY:** Sheriff Osmond?

567 **OSMOND:** Yes.

568 **SECRETARY:** Chief Reeves?

569 **REEVES:** Yes.

570 **SECRETARY:** Motion approved.

571 **CHAIR:** Sheriff Smith, as you have heard the Council has not found good cause for  
572 not imposing the sanction in Nebraska Revised Statute §23-1701.01(4).

573 **CHAIR:** The Council will prepare written findings of fact and conclusion of law  
574 pertaining to today's hearing and the Council's decision, where would you  
575 like that finding sent?

576 **SHERIFF:** I'm sorry?

577 **CHAIR:** We will do a written...

578 **SHERIFF:** (Unintelligible)

579 **CHAIR:** Where would you like it sent?

580 **SHERIFF:** The Sheriff's Office.

581 **CHAIR:** Ok. Is there anything else from either side that needs addressed?

582 **GAU:** No.

583 **IGBOKWE:** Can I get copy sent to me?

584 **CHAIR:** Ask the question one more time.

585 **IGBOKWE:** Can I get a copy sent to me?

586 **CHAIR:** Sure. And they have your contact information?

587 **IGBOKWE:** Yes.

588 **STOLZ:** Would sending an email copy be acceptable?

589 **IGBOKWE:** Yes.

590 **STOLZ:** Very good sir. Thank you.

591 **CHAIR:** Ok. Having addressed that issue this hearing is now concluded. The time is  
592 11:33.

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**L. Recommendations on NLETC Director**

Asst. Chief Jackson reported on the selection process. Six applications were excepted for phone interviews that were conducted on October 6, 2023 and October 9, 2023. Two candidates were moved forward to an in-person finalist interview on October 18, 2023. The two finalists were Marks Stephenson and Matthew McCarthy.

**MOTION**

**Chief Deputy London: I would move that the Council go into executive session based on a personnel issue with some confidential matters. And for the purpose of executive session we will allow the following to remain in the room; all Council members except Mr. Matthew McCarthy. Also included; Executive Director Bryan Tuma, Sheriff Cardenas, Sheriff Wagner, and Chief Story. Chief Graham seconded the motion.**

**Voting in favor: Sgt. Bolzer, Lt. Col. Duis, Chief Graham, Chief Deputy London, Sheriff Osmond, Chief Reeves, Asst. Chief Jackson. Motion approved.**

**The Council went into executive session at 11:37.**

**MOTION**

**Chief Graham: Mr. Chair, I make the motion that we come out of executive session. Sheriff Osmond seconded the motion.**

**Voting in favor: Lt. Col. Duis, Chief Graham, Chief Deputy London, Sheriff Osmond, Chief Reeves, Asst. Chief Jackson, Sgt. Bolzer. Abstained: Mr. Matthew McCarthy. Motion approved.**

**The Council came out of executive session at 12:12.**

After coming out of executive session Asst. Chief Jackson reported that there were two very good, qualified candidates. By statute the Council would present the names. The number one recommendation is Mark Stephenson and the number two recommendation is Mr. Matthew McCarthy. Asst. Chief Jackson thanked the two candidates for their interest, application, and participation in the process.

**M. Public Comments**

Asst. Chief Jackson seeing that there was no one present for public comments moved on to other business.



**VI. OTHER BUSINESS**

**A. Informational Items**

**1. Trainees**

Interim Director Stephenson reported that the five individuals listed on the agenda were hired as trainees. No action was taken.

**2. NCO Completed 80 hours of Training**

Interim Director Stephenson reported that one officer had completed the 80 hours of training needed to be hired as an NCO.

**B. Date, Time & Location of Next Meeting**

November 15, 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 12:15 p.m.

Respectfully submitted,



Steven Gobel, Office Specialist