

AMENDED AGENDA POLICE STANDARDS ADVISORY COUNCIL

DATE: August 12, 2021

TO: Police Standards Advisory Council

FROM: Brenda L. Urbanek, Director

SUBJECT: Regular Meeting Wednesday, August 18, 2021, 9:00 A.M.
Library, Nebraska Law Enforcement Training Center,
3600 N. Academy Road, Grand Island, Nebraska 68801

Meeting Live Via Zoom at:

<https://us02web.zoom.us/j/84532042478?pwd=WjlDTHBLWXVOTGVlVGxQWk9iVlFyUT09>

COUNCIL MEMBERS MUST BE PRESENT TO VOTE

- I. **CALL TO ORDER**
- II. **APPROVAL OF JUNE 16, 2021 P.S.A.C. MINUTES**
- III. **ACADEMY REPORTS**
 - A. **Director – N.L.E.T.C.**
 - B. **Deputy Director of Training – N.L.E.T.C.**
 - C. **Nebraska State Patrol**
 - D. **S.L.D.E.A.**
- IV. **CRIME COMMISSION REPORT**
- V. **OLD BUSINESS**



VI. NEW BUSINESS

- A. 2021 Lincoln Police Department Academy Inspection** Attachment #1
- B. Waiver of One-Year Supervision Regulation (Hardship)**
Sergeant Jason Stehlik, Douglas County Sheriff's Office
- C. Appeal 20-PSAC-82 Denial to Basic Training**
Amanda Cole, Lyons Police Department
- D. Academy Instructor Certifications** Attachment #2
General Original
- Justin Brase – N.S.P.
Cory Townsend – N.S.P.
- Professional Certification**
- Jason Cvitanov – Omaha P.D.
Clayton Dishong – N.S.P.
Queno Martinez – Omaha P.D.
Christopher Slocum – N.S.P.
- Professional Recertification**
- John Fencil – Lincoln P.D.
Sean Fontana - Omaha P.D.
Marlene Rieder – Omaha P.D.
Nicole Walker – Omaha P.D.
Ryan Witzel – Lincoln P.D.
- E. Waiver of One-Year Basic Training** Attachment #3
Deputy Brian Reissig, Cass County Sheriff's Office
- F. Waiver of One-Year Basic Training**
Jason Hudson, Frontier County Sheriff's Office
- G. Revocation of Law Enforcement Certification – Voluntary Surrender**
Paul Kruse, LR-200-21

H. Revocation of Law Enforcement Certification – Voluntary Surrender
Nicholas Bridgmon, LR-163-19

I. Revocation of Law Enforcement Certification – Voluntary Surrender
Jason Gale, LR-213-21

J. Discussion Drug History – Character Affidavit

VII. OTHER BUSINESS

A. Date, Time & Location of Next Meeting
September 22, 2021, 9:00; Library, Nebraska Law Enforcement Training Center,
3600 North Academy Road, Grand Island, Nebraska

NEBRASKA

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COMMISSION ON LAW ENFORCEMENT
AND CRIMINAL JUSTICE

REGULAR MEETING OF THE POLICE STANDARDS ADVISORY COUNCIL June 16, 2021

I. CALL TO ORDER

Chairman, Chief Deputy Greg London called the regular monthly meeting of the Police Standards Advisory Council to order at 9:01 A.M. Legal notice of the meeting was published in the Lincoln Journal Star on Saturday, June 5th, 2021.

Roll call; Chief Deputy Greg London, Sheriff Dan Osmond, Lieutenant Colonel Buck Duis and Acting Chief Brian Jackson were present. Chief Timothy Larby, Mr. Matthew McCarthy, and Chief Tracy Wolf were not present.

Others present: Director Brenda Urbanek, David Stolz, William Keeling, Don Arp Jr., Captain Gregory Miller, and Kay Fielding. Several others were also in attendance.

II. APPROVAL OF MAY 19, 2021 P.S.A.C. MINUTES

Chief Deputy Greg London asked for a motion to approve the May 19, 2021 PSAC Minutes.

MOTION

Sheriff Dan Osmond so moved. Assistant Chief Jackson seconded the motion. Voting in favor of the motion; Chief Deputy London, Sheriff Osmond, and Lieutenant Colonel Duis. Motion carried.

Chief Deputy London welcomed Acting Chief Brian Jackson, Lincoln Police Department, he just joined the Police Standards Advisory Council.

Brenda L. Urbanek, Director
Law Enforcement Training Center

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III. ACADEMY REPORTS

A. Director – N.L.E.T.C.

Director Urbanek Attended SLDEA's graduation May 21st. I also met with the Lincoln Police Department's Training Staff for their annual inspection.

On 6/2/2021, I administratively revoked the Law Enforcement Certification of John Lichty, LRF-200-20. This has been entered on the National Decertification Index.

6/4/2021 I attended the retirement reception for Holdrege Police Chief Dennis Damoude, where I had the opportunity to meet with Chief Albers, the new chief, who comes to Nebraska from a career with the Kansas State Highway Patrol.

In the past month we processed 17 application packets for SDLEA and 18 application packets for the Nebraska State Patrol Academy. Both academies are set to begin July 6th.

I conducted the Lincoln Police Department final exam test on June 7th and all students passed the exam. The data from the exam was shared with Lincoln Training Staff for their use.

June 9th I attended the NSA meeting here at the Training Center the issue of the number of legal exam failures was brought forward and I had some numbers and statistics to show that only three percent of students who leave the academy are failing out on legal exams. There was also a discussion on PRET failures that Sheriff Osmond brought up on a previous meeting and we discussed it again.

Executive Director, myself and legal counsel held a work session on LB51, we are starting to receive some calls on what it all means so we will come up with some updates to share with agencies so they have answers to their questions.

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

Deputy Director Keeling reported the 208th Basic was currently in its 7th week of training. We still have 32 students of the original 37. Last week they completed firearms training qualifications with all of them qualifying, next week they will be on the rifle range for patrol rifle training. This week they will be emergency vehicle operations and defensive vehicle operations and defensive tactics.

Our last student separation took place on May 25th for a disciplinary action. The remaining 32 should be able to complete training however there are three students sitting on two test failures right now. One student had a minor leg injury during defensive tactics and will be required to return during the 209th basic

C. Nebraska State Patrol

Camp 64 is at its final week, week 22, 8 will graduate Friday. This week they are doing refreshers on defensive tactics, firearms and motor vehicle law. 18 final offers were given out for Camp 65 beginning July 6th.

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

Director Wagner stated he had just finished up the administrative work from the previous class, the 5th recruit class that graduated on May 19th. We will begin our next class on July 6th with 23.

IV. CRIME COMMISSION REPORT

With the passage of LB51 and becoming active in September there is a lot going on with the budget becoming active July 1. Various expenditures and planning and programs to get established. Some of you and some other administrators across the state are being contacted regarding accreditation and some of the other things we have to set up even though they are not required by the LB. Mainly for accreditation my hope is to bring it, probably in August or September, for PSAC review and approval and to the Commission in October for final approval so we can get that process rolling because it is a two-year accreditation cycle the first year being providing document review and the second year being on sight assessments and that type of thing. Been working with Dave Stolz and Brenda on a plan for how we roll in the increased appropriations and also the increased responsibilities with how we are going to handle staffing here at the Training Center. So I think it is very positive, we got a lot of resources we didn't have before, also we got some additional responsibilities, those are key. I think it's a pretty bright time for the Training Center I think we'll have some good things coming the next couple of months. We'll be pretty busy.

V. OLD BUSINESS

No Old Business

VI. NEW BUSINESS

Chairman London took items out of order beginning with item VI. C.

C. Request to Address the Council - Firearms Instructor Certification Braden Lang, Pawnee County Sheriff's Office

Director Urbanek referred to Attachment #3, email attachment, stating she told Sheriff Lang he was welcome to come before the Council to express his thoughts before the Council about his concerns that he lays out in the email. Sheriff Lang was not present at this time during the Council meeting either in person or via Zoom. No action was needed by the Council. The current practice is to not notify officers when their certificates are soon to expire.

D. Waiver of NLETC Management Course Requirement
Captain Tarvis Banks, Lincoln Police Department

Director Urbanek stated Sergeant Roach was requesting a one-year waiver of Management School due to staffing and Covid last year. Captain Banks was unable to attend the 2020 course that we offered. The next course is scheduled again October 25-29th, 2021. He was promoted on October 15th. I would recommend granting the waiver.

Chairman London asked if there was a motion.

MOTION

Lieutenant Colonel Duis; I make a motion that we grant the one-year waiver for Captain Tarvis Banks. Sheriff Osmond; I would seconded the motion. Voting in favor; Sheriff Osmond, Lieutenant Colonel Duis, Chief Deputy London. Acting Chief Jackson Abstained. Motion carried.

E. Instructor Certification/Recertification for Handgun and Patrol Rifle Programs
Bellevue P.D., Douglas Co. S.O., La Vista P.D., Papillion P.D., Sarpy Co. S.O.

Lt. Greg Sampson with Douglas County Sheriff's Office I wrote the curriculum for the Sarpy, Douglas Law Enforcement Academy with the hopes that as an academy we can start certifying our own firearms and patrol rifle instructors. Instructor Mark Stephenson with the NLETC has reviewed the curriculum we provided to that of the NLETC and it is my understanding that he made the comparisons and has approved the curriculum and our agency that can certify law enforcement firearms instructors, patrol rifle instructors and to recertify the same and I am happy to answer any questions you may have.

Director Urbanek asked if this was only for employees of the five agencies listed

Lieutenant Greg Sampson stated that was the plan, yes.

Lieutenant Colonel Duis asked Deputy Director Keeling if Instructor Stephenson had seen and reviewed the curriculum and was good with all the information provided.

Deputy Director Keeling stated Instructor Stephenson sent a copy of the checklist that he had gone through and he had checked off all the objectives and said that the programs they were proposing meet or exceeded everything we are doing here and had no problem with it. I just talked to him about the rifle program this morning and he just had a chance to quickly review it this morning and said it was basically the same program that we present and if it was then he had no problem with it. It meets or exceeds the program.

Mr. Stolz asked Director Urbanek with the other academies, Nebraska State Patrol, Lincoln, P.D., and Omaha P.D. all currently do this correct. Do they have to resubmit each year?

Director Urbanek stated they do have to resubmit each year.

Chairman London asked Director Wagner why he wanted this and if he would explain it to the Council.

Director Wagner stated with us having the academy I have tried to schedule the adjunct instructors who have other duties for their main job with that it can change and we need a very large number to include also we have up to 23 recruits this coming class which will put more instructors on the range for safety aspect. I know you can get caught up in numbers in respect to the rifle certifications and recertification's and also the handgun times classes to be run. If we can do this on the side of us doing this at our own place we will be able to control the numbers a little bit better and get the people certified.

Bellevue PD spoke stating this would take a load off the NLETC.

Sarpy County Sheriff's Office stated they currently have 16 slots for firearms instructors and currently 10 firearms instructors on the books. They just hired 3 new firearms instructors and the chances of getting those instructors certified in the next couple years are very slim due to NLETC class sizes and we will need to hire about three more. So if we can get this approved it would help us out a great deal.

Douglas County Sheriff's Office; we fully support this by echoing what has been said by the other agencies, we are running into some of the same issues as the other issues we have 137 deputies and needing to be certified and keeping them certified and it is very important to us to keep our training staff certified in all their areas. This would definitely benefit us in those areas.

Director Urbanek stated this has been an issues for a couple of years with agencies having a number of firearms on the roster and they didn't get a priority. All we can take in a Firearms Course is 20, so what I told Mark Stephenson and Steve Gobel to do for attendance on the courses from now on, is to take 15 for the agencies that have no firearms instructors or patrol rifle, the other 5 spots will go to agencies who have people but need more, so we have adjusted how this is being done to try to accommodate some of those requests, can we meet 25 who want to be firearms and patrol rifle instructors from SLDEA's academy – no . I am in favor of this much like I was for Lincoln and Omaha from the simple standpoint of they have an academy so the structure is in place to ensure that all the professional training will take place because there is an understanding of documentation and lesson plans and all of those requirements. We have fielded a few inquiries from independent agencies who want to do their own state firearms instructor certification and we've basically told them you don't have an academy and that's what has allowed these other agencies to do this under the umbrella. I think the proposal helps both sides.

(Sheriff Lang called in to attend via Zoom.)

Asst. Chief Jackson clarified there are a couple things that have to happen to do this; who you train and has to be resubmitted every year.

Director Urbanek stated this request will train only these five agency officers.

Lieutenant Colonel Duis stated if I make a motion, is it necessary or would it be helpful to specifically layout in the motion to layout that it needs to be reviewed annually or will it just fall under the curriculum.

Mr. Stolz stated it would be nice to have it on the record.

MOTION

Lieutenant Colonel Duis made a motioned that we approve the request for SDLEA to conduct Instructor Certifications and Recertification's for the other agencies which is; Bellevue Police Department, Douglas County Sheriff's Office, La Vista Police Department, Papillion Police Department and the Sarpy County Sheriff's Office with that curriculum being reviewed on an annual basis by the training center. Sheriff Osmond seconded the motion. Voting in favor of the motion; Lieutenant Colonel Duis, Acting Chief Jackson, Sheriff Osmond, and Chief Deputy London Abstained.

Director Urbanek asked Director Wagner to send the dates once a class has been scheduled and then send a roster of those who have successfully completed so we can enter and reflect them as firearms instructors in the state database.

Chairman London returned to item VI. C. allowing Sheriff Lang to address members of the Council.

Sheriff Lang stated essentially as a rural sheriff he was working 80-100 hours per week with a couple full-time deputies and part-time deputy. If he has to attend the full week course for firearms instructor, it will cost him around \$2,000.00 and ammo plus overtime for me punishment for the constituents. I know it's a policy and I know it's exactly how everything has to go, but the way that this all went down was the stopping of the notifications. I was depending on the notification from the academy. The way it was done in the past was they would send out notification in a packet, sort of a packet, that had a task that you had to complete and you did an actual training that you set up for the firearms instructor qualification, say my last one was I think, transitions between rifle and handgun, or something like that, and you'd spend 20 hours of training specifically for the academy and they would use that for trainings for other agencies that were requesting training programs. But, I was kind of using that as an alarm to know when I had to go back in and do the reactivation training, which was a failure on my part of course but apparently there were other numerous other law enforcement firearms instructors that were doing the same thing as me because we had two separate counties around here that had the same thing happen. I understand that there have been purges of law enforcement instructors in the past to get rid of, there are some agencies that had far too many people unqualified people, but as you can see from my letter, with my shooting abilities, I am not one of those people. There are some things that need to be revamped in the system as well like, having it every 3 years is too soon to have to do the reactivation and the fact that the handgun and the rifle are done in off years most of the time because you can't have a rifle instructor until you're already a handgun instructor. So you go back in 3 years to requalify and then in another two years to requalify for the rifle and keeping track of all that, there has got to be another system. I talked to our County

Attorney about the whole situation that I'm in and she actually, one of our commissioners is waiting to talk with Senator Slama about introducing a bill to streamline this process. It's frustrating that I will have to go back and train basic students to get my certification back and paying the overtime for my people. I would have never intentionally let my certification lapse. So that's my piece.

Council members had no questions.

Director Urbanek stated there was no mechanism in Chapter 11 for reactivation. Director Urbanek stated she would have the staff do some in-house reviews of the processes to see if there was anything we could do to streamline things. She stated some things have been changed in terms of handgun and patrol rifle instructor certifications so I will encourage the staff to reach out to you to get some input because you do represent a customer base that is impacted by this.

F. Safe Policing for Safe Communities Credentialing
Vote required

Mr. Arp stated before the election last year President Trump and the Department of Justice issued Safe Policing for Safe Communities Credentialing process. Pretty much what it came down to was there were multiple methods for agencies to comply with to receive direct funding from the DOJ so it wasn't necessarily funding of taxes of commission but it was direct DOJ to agency funding. Agencies had to choose a credentialing body, which is the PSAC and the Commission, attest or approve that they were compliant with prohibiting chokeholds which were defined as restricting airflow and that their use of force policies complied with all state and federal laws. As I presented the Credentialing Process to PSAC at the end of last year it was determined that we would go with an attestation letter option provided by the DOJ where the agency administrator from agency's interested could sign a letter attesting that their agency was compliant. With the election of President Biden the DOJ Credentialing Process was slightly on hold because they weren't sure what the new administration was going to do with the process they then determined for the short term that they would like the Credentialing letters to go ahead and be issued to the agencies that attested or approved their compliance but they are going to ask for it in grant applications that are directly between agencies and the DOJ. I have heard from Omaha P.D. they have asked for their letter because DOJ asked for it as part of a grant they were submitting directly to the Department of Justice. So what I am presenting here today is I have a list and I can present the list as part of the record, there are 83 agencies in the state that submitted a letter attached to the letter of Credentialing Status, the DOJ has also directed us to keep trying to credential agencies that there no foreseeable into the program so if agencies that aren't credentialed now want to be can be. We'll just keep the process open. But in order to issue those letters, I would like to get your approval to do so.

MOTION

Sheriff Osmond motioned to approve Director Arp's request for Safe Policing for Safe Communities Credentialing. Chief Deputy London seconded the motion. Voting in favor; Acting Chief Jackson, Chief Deputy London, Sheriff Osmond, and Lieutenant Colonel Duis. Motion carried.

1 Chair: The Nebraska Law Enforcement Training Center's Director Brenda Urbanek is
2 present. She will present the reasons for the denial of the petitioner's applicant
3 admission into the Basic Law Enforcement Officer Certification Course.

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

5 Urbanek: No I do not.

6 Hudson: No I do not.

7 Chair: There were no objections.

8 Title 79 of the Nebraska Administrative Code, Chapter 8, addresses the
9 requirements that must be met by an applicant in order to be eligible for the Basic
10 Law Enforcement Officer Certification Course. Specifically, section 005.02
11 requires that the applicant possess Good Character. As part of that Good Character
12 determination any applicant cannot have used marijuana for any purpose in the last
13 two years prior to application.

14 Pursuant to Title 79, Chapter 8, section 009.02, upon request of an applicant or
15 agency, the Council will conduct a hearing in order to determine whether the
16 applicant meets the minimum qualification for admission into a certification
17 course. The burden during the appeal hearing is on the petitioner and/or the
18 applicant to demonstrate by clear and convincing evidence that the applicant meets
19 admission qualifications.

20 Per Title 79, Chapter 13, section 004.02G, the issues of this appeal will be limited
21 to those raised in the request for review and reconsideration as provided in section
22 004.02C and the director's written decision in response.

23 The decision of the Council is final.

1 I want to go over the rights that Douglas County Sheriff's Office and Ms. Harry
2 have in this Administrative Hearing.

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

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

8 Chair: Do you understand these rights?

9 Hudson: Yes

10 Chair: Did you receive such notice via the letters from Director Urbanek stating her
11 reasons for her denial of your basic officer application?

12 Hudson: Yes we did.

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

15 Hudson: No I do not.

16 Chair: Additionally, you have a right to present evidence at this hearing, a right to the
17 Council's findings and the right to seek judicial review thereafter.

18 Chair: Do you understand these rights?

19 Hudson: Yes I do.

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

1 I have not had any personal information conveyed to me nor do I have any
2 personal knowledge of the case.
3 Does any Council member have any personal knowledge of the case?
4 Osmond: No
5 Jackson: No
6 Duis: No
7 Chair: Does either side have any further questions or challenge for cause against any
8 member of this Council?
9 Urbanek: No sir.
10 Hudson: No
11 Chair: Director Urbanek do you have any procedural documents for this case and if so,
12 please present them to the Council.
13 Urbanek: I have two exhibits. The application packet for Ms. Harry and one is a copy of the
14 denial documentation. I will offer them at this time.
15 Stolz: I will take the application packet first.
16 Urbanek: For the record, that has already been redacted.
17 Stolz: Thank you.
18 Chief Deputy, are you familiar with the contents of the application packet for
19 Ashley Harry?
20 Hudson: I am.
21 Stolz: And the second exhibit you are offering is the denial of application dated May 24th,
22 2021, and Chief Deputy you have seen that as well?
23 Hudson: I have.

1 Stolz: Here is Exhibit #2 Kay.

2 Then the third exhibit you are offering is from the Chief Deputy Hudson here, an
3 email correspondence dated May 26th, 2021 and this is in response to your letter?

4 Urbanek: Yes, it was a request for reconsideration.

5 Stolz: (to C.D. Hudson) and I am assuming since you authored it, you are familiar with
6 it?

7 Hudson: I am.

8 Stolz: Mr. Chair, I would receive those three exhibits into the record.

9 Chair: Let the record reflect Exhibits 1 – 3 have been received and are entered into the
10 record.

11 Chair: Does either side wish to address any further preliminary matters?
12 Director Urbanek?

13 Urbanek: No

14 Chair Chief Deputy

15 Hudson: I do have one letter that I sent to Ms. Fielding that I wanted to have entered.

16 Stolz: It is just one letter with multiple copies right?

17 Hudson: Yes.

18 Stolz: That will be Exhibit #4?

19 Urbanek: No, I have not objections.

20 Stolz: And Director Urbanek you have seen it?

21 Urbanek: Could I review to make sure?

22 Stolz: Sure.

23 London: Do you have any other exhibits?

1 Hudson: I do not.

2 Stolz: You have no objections to receiving Exhibit #4?

3 Urbanek: No objections.

4 London: Let the record reflect that Exhibit #4 has been received and is entered into the
5 record.

6 London: I'll continue with my previous questions. Does either side wish to address any
7 further preliminary matters? Director Urbanek?

8 Urbanek: No

9 London: Deputy Chief?

10 Hudson: No

11 London: Chief Deputy Hudson, on behalf of the petitioner, do you wish to make an opening
12 statement at this time?

13 Hudson: I do.

14 Chairperson London and other members of the Police Standards Advisory Council,
15 thank you for allowing me to address this body today. With me today are
16 members of the Douglas County Sheriff's Office to include Lieutenant John
17 Kramer our Office of Professional Standards Lieutenant who is responsible for
18 conducting the background check on Ms. Harry and Jennifer Birkhofer our
19 Administrative Services Lieutenant. We're here today to request that Ms. Ashley
20 Harry be allowed to attend the July 2021 session of the Sarpy, Douglas Law
21 Enforcement Academy. Ms. Harry entered our highly process March 2021 Ashley
22 Harry rigorously test and interview process Ms. Harry was placed on our eligibility
23 list. Several individuals that were placed above Ms. Harry failed and made

1 mistakes on the hiring process which consist of a polygraph examination and a
2 thorough background investigation. Some failed because they lied about their drug
3 use during the initial interview. Throughout our hiring process Ms. Harry was
4 very truthful about her use of marijuana in the previous two years. Ms. Harry
5 stated that while on vacation in Las Vegas from July 30th to August 2nd 2019, she
6 consumed an edible item that contained marijuana. Ms. Harry stated that she has
7 not used any illegal drug since the listed date. In fact the DCSO could only find
8 this one drug use incident. This information was verified by Lieutenant Kramer
9 and Sergeant John Kramer who is our polygraph examiner. If we use the earliest
10 date of her trip, that puts her 24 days shy of the two-year ruling. We are not
11 advocating for someone that we have known for an initial hiring process Ms. Harry
12 joined our agency in May 4, 2020 as a Building Security Officer. The Building
13 Security Officer position is a position of trust. In the relatively short time that Ms.
14 Harry has been employed with us she has shown to be trustworthy and a
15 professional employee. We are confident if allowed to become a sworn deputy,
16 she will be a leader amongst her peers. We at the Douglas County Sheriff's Office
17 truly understand that diversity and race and gender with an organization brings
18 about thoughts and ideas which can only improve the overall operation of our
19 organization. Also we understand that our community wants us to see, want to see
20 our law enforcement agency as a reflection of the community. The DCSO is
21 actively recruiting those ethnically and gender areas that are underrepresented
22 within our agency. My agency has 137 sworn of which 124 are white, 8 are
23 African American, 2 Hispanic and 3 other. In regards to gender, we have 15

1 female, which is 10 percent of our agency. Although we are actively trying to
2 increase our ethnic and gender numbers we will never sacrifice quality for
3 quantity.

4 In closing, in conversation with Ms. Harry she recognizes that her brief lapse in
5 judgement in consuming a marijuana edible is something that cannot happen if she
6 becomes a law enforcement officer. Law Enforcement Officers are expected to
7 conduct themselves on and off duty in such a way to maintain the public's trust
8 and respect. Sheriff Tom Wheeler and I both feel to allow Ms. Harry to attend the
9 SDLEA in July 2021 would not cause disrespect to the two-year rule on the use of
10 marijuana.

11 That's all I have.

12 Chair: Thank you Chief Deputy.

13 Chair: Director Urbanek do you wish to make an opening statement?

14 Urbanek: Thank you Mr. Chair. Members of the Council Ashley Harry is scheduled to begin
15 employment as a trainee on June 28, 2021 at the Douglas County Sheriff's Office.
16 This is according to her Change in Status Form and part of her application packet.
17 Douglas County submitted an application for Ms. Harry for admission to the
18 SDLEA Basic Certification program which is set to begin July 6, 2021. The
19 application submitted was denied the denial was appealed for reconsideration and
20 after denial of the reconsideration the denial was appealed to this body. Later I
21 will provide further information as to what the grounds for denial were. After the
22 opening.

23 Chair: Thank you.

1 Now is the time further evidence can be presented to the Council.
2 This may include written evidence, witness testimony and/or any unsworn
3 statements by yourself.
4 Chief Deputy Hudson, do you have any written evidence for us to consider on
5 behalf of the petitioner and I think we already, well I know we already admitted
6 Exhibit #4.

7 Hudson: I have nothing further.

8 Chair: Chief Deputy Hudson, do you have any witnesses to testify?

9 Hudson: The only witness I have to testify is Sergeant Kramer, as to her truthfulness and
10 what he found as far as her, if there were any other type of drug use.

11 Stolz: I have a question, procedural question, this that he is going to testify about, is he
12 going to testify about any type of polygraph that was administered?

13 Hudson: It's probably back on investigation. He has the polygraph report here as part of the
14 packet.

15 Stolz: I'll remind, the reason that I ask that is, the Nebraska Supreme Court has ruled that
16 polygraphs are inadmissible in criminal, civil and administrative hearings so the
17 results to the findings of the polygraph can't be considered by this body. The
18 information about the background that you found is and I want to make that clear
19 that those two can be separated. My advice to the Chair is you can't consider those
20 things, you have to give the training center objectionable grounds quite honestly.
21 Just to clarify.

22 London: Please stand and raise your right hand.

1 London: Do you swear that the testimony you are about to make at this hearing shall be the
2 truth the whole truth and nothing but the truth?
3 Kramer: (Right hand raised) I do.
4 London: Thank you.
5 Chair: Please state your name and where you work.
6 Kramer: John Kramer. Douglas County Sheriff's Office. I am in charge of professional
7 standards. I've been in in that capacity for about two years and six months. Part
8 of my job I do the internal affairs but I also conduct the background investigations
9 for our agency. I share that responsibility with some other investigators as we do
10 our hiring we do a large group of them and it becomes an overwhelming task to do
11 those so sever of the lieutenants and Captains participate in the background portion
12 and then I oversee it as it comes through the process. With regards to Ashley
13 Harry she went through our process, she scored high on the test to achieve an
14 interview scored high through our interview process where she rose through our
15 eligibility rank to a part where she was offered a polygraph and a background
16 when we do our process we do the poly and then the background and then we offer
17 a conditional offer of employment subsequent to that. So they kind of, because of
18 that process it doesn't always do a lot of medical questions until after the
19 conditional is made. So we don't include that in our process. She did use
20 marijuana one time in mid July - August while on a trip to Las Vegas. That
21 marijuana usage consisted of one chocolate bar which she took one bite of, did not
22 like the taste of it and did not eat the remainder of the bar. I don't know the level
23 of marijuana that was in that bar but it was only one bite. She has not used

1 marijuana since. I found nothing in her background and the other investigators in
2 that process found no other marijuana usage in her background. She did provide a
3 drug screen that's part of their hiring process. That was negative for marijuana.
4 She was found to be honest not only for the polygraph machine but also for our
5 background investigators as well as her current employers, us, as well her
6 supervisors. Nobody has found her ever to be a person of deceit. We also realize
7 that when she successfully completes the academy she will have passed that two
8 year mark and we just respectfully request a waiver of that two year. Thank you.

9 Chair: Director Urbanek, you have the opportunity to cross examine the witness.

10 Urbanek: I just some date clarification for the Lieutenant.

11 How long has she been employed by Douglas County Sheriff's Office?

12 Kramer: Since 19. May 4th, 2020.

13 Urbanek: Okay and the reported abuse was Julyish, August 2019, before she was employed?

14 Kramer: Correct

15 Urbanek: I don't have any further questions.

16 Chair: Anyone on the Council have any questions for the witness?

17 Osmond: How come Ashley isn't here today?

18 Hudson: She works our overnight shift on our Building Security Division and I didn't want
19 to have her work the overnight shift and then come in. We're shorthanded on the
20 overnight shift so we could not give her a day off.

21 Stolz: If no one else has a question, I have one.

22 Chair: Yes sir.

1 Stolz: If the waiver is not granted by this body, what will her employment status be with
2 Douglas County?

3 Hudson: She will still be employed as a Building Security Officer.

4 Stolz: Will you rescind, the Douglas County Sheriff's rescind the offer for a deputy
5 sheriff's position?

6 Chair: We would have to, yes. We will be one short.

7 Stolz: Okay, thank you.

8 Hudson: If I can, I would like to make another statement.

9 Chair: Okay

10 Hudson: One of the problems we have at the Sheriff's Department is Nebraska State Law
11 that says for every one position you can consider the top three. That hinders us
12 from resupplying the department because if we only have a handful of minorities
13 or females (inaudible) for the test the probability getting high enough to get into
14 that rule of three is slim. So I told people like this to those that don't understand
15 the rule of three if Tommy Warren, who is the Police Chief of Omaha Police, if he
16 took our test and he and he were fourth and we only had one position, he would
17 not get the position. He would not get in. That hurts so when you have a good
18 candidate like this, yes she's just 20 days short, we are going to do everything we
19 can to (Inaudible)

20 Chair: Can you hold the conditional until the January 22 class?

21 Hudson: We could possibly do that but we certify another time frame but that eliminates her
22 from (inaudible) according to our merit issues.

1 Urbanek: Mr. Chairman, may I ask a question.

2 Chair: Yes.

3 Urbanek: Is there any thought at all to sending her to Grand Island's class which starts the
4 end of August and would be outside of the two-year window?

5 Hudson: That came up but my understanding is since we had a local Academy, we can't
6 send anyone to Grand Island anymore.

7 Chairman: Bellevue has done that, haven't they?

8 Stolz: Twice

9 Hudson: It was not recommended.

10 Urbanek: We don't have a priority, but the class sizes have been under capacity for quite
11 some time so each time Bellevue has made that request it's been able to get the
12 people in.

13 Chair: I can't speak for your agency, but I know what we would do, we would just
14 continue to conditional offer. Regardless of whether you had another the certified
15 list.
16 Anyone else from the Council
17 Yes Chief?

18 Jackson: Direct question for Brenda. The Title 79 indicates the pattern of substance abuse,
19 just for your, my understanding, is one use considered a pattern based on the
20 application of this rule?

21 Urbanek: That's always been the sixty-four thousand dollar question with my predecessors
22 as well and decisions made by this body have lead us to say if you have used

1 marijuana within two years, whether it's been, there is nothing to define,
2 experiment with, it's just have you used it within two years, it a disqualifier.
3 Jackson: In, we are under 5. 103 A, which is extenuating circumstances, it cites; this board
4 to allow to override that decision.
5 Chair: Chief Hudson, do you have any further evidence to offer?
6 Hudson: I do not.
7 Chair: Director Urbanek, do you have any written evidence for us to consider?
8 Urbanek: I do not have any written evidence, I would like to make a factual statement about
9 the case.
10 Chair: Go ahead.
11 Do you swear that the testimony you are about to make at this hearing shall be the
12 truth the whole truth and nothing but the truth?
13 Urbanek: I do (raised right hand)
14 Chair: Thank you.
15 Urbanek: In my capacity as the Director of the Nebraska Law Enforcement Training Center I
16 reviewed Ms. Harry's application packet as submitted by Douglas County Sheriff's
17 Office. In the application packet submitted Ms. Harry disclosed that she had
18 consumed an edible that contained marijuana in August of 2019. In her Personal
19 Character Affidavit received by the Training Center on May 21, 2021, Ms. Harry
20 marked the false response on page 3, item 1. Item 1 states, "I have not used
21 marijuana for any purpose in the two years preceding this application for
22 admission to the Training Center." On page 7 item 2, Have you used marijuana for
23 any purpose in the last two (2) years? Ms. Harry marked "yes." She provided an

1 explanation that she was in Las Vega and had an edible. SDLEA's Academy is
2 scheduled to begin in August 6th, 2021. This self-reported incident occurred
3 approximately 23 months prior to the start of the academy. According to Title 79,
4 Chapter 8, Section 005.02A6 states that the applicant has not used marijuana for
5 any purpose in the last two years. According to Ms. Harry's report of her use of an
6 edible is within the two years preceding admission to the academy.

7 In my role as the Director of Standards it's my duty to insure that all individuals
8 who apply for law enforcement certification in the state meet all of the statutory
9 requirements and the council's rules and regulations necessary for admission to
10 subsequent certification. In the appeal hearing before you I vetted Ms. Harry's
11 application packet and any relevant information that would help me determine her
12 suitability of her seeing a Nebraska Law Enforcement Certification. At the
13 conclusion of this vetting process I determined that Ms. Harry was unable to meet
14 the admission requirement which states that the applicant has not used marijuana
15 for any purpose in the last two years and I thus denied her application.

16 Chair: Chief Hudson do you have any cross examine questions for Director Urbanek?

17 Hudson: Ms. Urbanek, are you aware of the Rule of Three law?

18 Urbanek: No, I am not. Not until you just informed me a little bit ago.

19 Hudson: That's all I have.

20 Chair: Anyone on the council have any questions or comments for Director Urbanek?

21 Council: (No response)

22 Chair: Director Urbanek, do you have any other witnesses?

23 Urbanek: No I do not.

1 Chair: Do you have anything further to offer at this time?

2 Urbanek: I do not.

3 Chair: Chief Hudson, do you have anything else to offer in light of the Training Center's
4 evidence?

5 Hudson: I do not.

6 Chair: Chief, you may make your closing argument at this time.

7 Hudson: Again, we understand the two-year rule. When it comes to Ms. Harry, this is not
8 an individual that we've just known through the application process, she's our
9 current employee and what we're looking at is 24 days in which she slighted the
10 two-year rule. I understand the rules must be enforced but with some of these
11 states now that are opening up and making marijuana legal there needs to be some
12 flexibility in Nebraska. Now I'm not saying that we should totally get rid of it, the
13 entire two-year rule, but sooner or later the marijuana use for recreational use is
14 going to be all around us so with that, again, she is our current employee, she does
15 a good job, it's a 24-day window we're looking at we're asking that this
16 Commission, this Council allow Ms. Harry to attend the July 6th, 2021 Academy.
17 That's all I have.

18 Chair: Director Urbanek, you may make your closing argument at this time.

19 Urbanek: I'll waive closing.

20 Chair: Is there a motion to go into Executive Session.

21 Osmond: I would move that the Council go into Executive Session based on the prevention
22 of needless injury to the reputation of Ashley Harry and for the purposes of

1 executive session we will allow the following people to remain in the room; all
2 council members, Council Secretary and legal advisor.

3 Duis: I will second.

4 Fielding: Acting Chief Jackson

5 Jackson: Yes

6 Fielding: London

7 London: Yes

8 Fielding: Osmond

9 Osmond: Yes

10 Fielding: Duis

11 Duis: Yes

12 Fielding: Motion carried.

13 Executive Session began at 9:45 A.M.

14 Chair: Is there a motion to come to order? Is there a motion to come out of Executive
15 Session?

16 Osmond: So moved.

17 Duis: Second

18 Fielding: Chief Deputy London

19 London: Yes

20 Fielding: Osmond

21 Osmond: Yes

22 Fielding: Duis

23 Duis: Yes

1 Fielding: Acting Chief Jackson
2 Jackson: Yes
3 Fielding: Motion Carried
4 Chair: All parties present when the Council went into Executive Session are present
5 again.
6 The time is 10:32 A.M.
7 Is there a motion?
8 Osmond: Based on the evidence presented to the board today, I would move that we uphold
9 Director Urbanek's decision to deny.
10 Duis: I'll second.
11 Fielding: Sheriff Osmond
12 Osmond: Yes
13 Fielding: Lieutenant Colonel Duis
14 Duis: Yes
15 Fielding: Assistant Chief Jackson
16 Jackson: Yes
17 Fielding: Chief Deputy London
18 London: Yes
19 Fielding: Motion Carried
20 Chair: As you have heard, the Council has upheld the Director's decision and denied the
21 request for admission into the Basic Certification Course. The Council will
22 prepare written Findings of Fact and Conclusions of Law pertaining to today's

1 hearing and the Council's Decision. Where do you want the Findings sent? To the
2 sheriff's office?

3 Hudson: Correct

4 Chair: Is there anything else on your side that needs to be addressed Chief?

5 Hudson: No

6 Chair: Director

7 Urbanek: I would offer that you if you wanted to try and get her into the August class we
8 will do everything we can to expedite that and make that happen.

9 Hudson: Thank you.

10 Chair: This hearing is concluded. The time is 10:33 A.M.

11

12 The Council broke and resumed at 10:39 A.M.

13

14

1 **B. Appeal – 21-PSAC-84 Denial to Attend NLETC Academy**

2 Jacob Andersen, University of Nebraska at Omaha

3 Chair: The matter now before the Police Standards Advisory Council is the University of
4 Nebraska-Omaha v. the Nebraska Law Enforcement Training Center,
5 Case Number 21 PSAC 84.

6 I will now call this hearing to order at 10:39 a.m. I will note the following Council
7 members are present:

8 Myself, Chief Deputy Greg London of the Sarpy County Sheriff's Office

9 Sheriff Dan Osmond -Custer County Sheriff's Office;

10 Lt. Colonel Duis – Nebraska State Patrol, and

11 Acting Chief Brian Jackson of the Lincoln Police Department

12 The following are not present;

13 Chief Timothy Larby – Atkinson Police Department

14 Mr. Matthew McCarthy – Northeast Community College, and

15 Chief Tracy Wolf – Lexington Police Department

16 The Council has been asked by the Petitioner, the UNO Police Department to consider
17 reversing Director Urbanek's denial of its applicant, Mr. Jake Andersen, entrance into
18 the Basic Law Enforcement Officer Certification.

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

21 I will note that the petitioner is not represented by counsel. The petitioner's applicant,
22 Jacob Andersen is present.

1 The Nebraska Law Enforcement Training Center's Director Brenda Urbanek is
2 present. She will present the reason(s) for the denial of the petitioner's applicant
3 admission into the Basic Law Enforcement Officer Certification Course.

4 Does either party contest the Council's authority to hear this case?

5 Chief: No I do no.

6 Chair: Director Urbanek?

7 Urbanek: No

8 Chair: Title 79 of the Nebraska Administrative Code, Chapter 8, addresses the requirements
9 that must be met by an applicant in order to be eligible for the Basic Law Enforcement
10 Officer Certification Course. Specifically, section 005.001F requires that the applicant
11 has not been adjudged or convicted of criminal violation where the crime would be
12 punishable by a term of one year or more.

13 Pursuant to Title 79, Chapter 8, section 009.02, upon request of an applicant or
14 agency, the Council will conduct a hearing in order to determine whether the applicant
15 meets the minimum qualifications for admission into a certification course. The
16 burden during the appeal hearing is on the petitioner and/or the applicant to
17 demonstrate by clear and convincing evidence that the applicant meets admission
18 qualifications.

19 Per Title 79, Chapter 13, section 004.02G, the issues of this appeal will be limited to
20 those raised in the request for review and reconsideration as provided in section
21 004.02C and the director's written decision in response.

22 Chair: The decision of the Council is final.

1 I want to go over the rights that the UNO PD and Mr. Andersen have in this
2 Administrative Hearing.

3 You have a right to be heard, either in person or by counsel whom you have hired at
4 your own expense.

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

8 Do you understand?

9 Evans: Yes, I understand.

10 Chair: Did you receive such notice via the letters from Director Urbanek stating her reasons
11 for her denial of your basic officer application?

12 Evans: We did.

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

15 Evans: None at all.

16 Chair: Additionally, you have a right to present evidence at this hearing, a right to the
17 Council's findings and the right to seek judicial review thereafter.

18 Do you understand these rights?

19 Evans: Yes

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

1 I have not had any personal information conveyed to me nor do I have any personal
2 knowledge of the case.

3 Does any Council member have any personal knowledge of the case?
4 Chief?

5 Jacobson: No

6 Chair: Lieutenant Colonel?

7 Duis: No

8 Chair: Sheriff?

9 Osmond: No

10 Chair: Does either side have any further questions or challenge for cause against any member
11 of the Council?

12 Evans: No

13 Urbanek: No

14 Chair: Director Urbanek do you have any procedural documents for this case and if so, please
15 present them to the Council.

16 Urbanek: I do Mr. Chair. I have a 35 page document known as the 20-21 Application Packet, I
17 have a 9 page document with the 20-21 appeals, and a 5 page document email
18 exchange between Mr. Andersen and myself.

19 Stolz: The Application Packet has that been redacted?

20 Urbanek: It has been.

21 Stolz: Chief have you seen the application packet?

22 Evans: I have.

1 Stolz: And then with regards to the letters that were sent to you by Director Urbanek which
2 will be Exhibit #2, are you familiar with all that?

3 Evans: Yes

4 Stolz: Exhibit #3, you had correspondence with your applicant, Mr. Andersen, have you seen
5 those Chief?

6 Evans: Um, I know I've seen some but I'm not sure I've seen them all.

7 Stolz: Would you like to see them before they are?

8 Evans: Can I take a look?

9 Stolz: We'll have them marked and I'll bring them around.
10 Do you have any objections to the receipt of Exhibit #1 being entered into the record?

11 Evans: No

12 Stolz: Let the record reflect what has been marked as Exhibit #3 offered but not accepted yet.
13 Do you have any objections to the receipt of Exhibit #3?

14 Evans: No I have none.

15 Stolz: Okay

16 Chair: Do you have any objections?

17 Evans: No

18 Chair: Let the record reflect that Exhibits 1-3 have been received and are entered into the
19 record.
20 Does either side wish to address any further preliminary matters?
21 Director Urbanek?

22 Urbanek: No sir.

23 Chair: Chief

1 Evans: No

2 Chair: Chief Evans, on behalf of the petitioner, do you wish to make an opening statement at
3 this time?

4 Evans: I do. Thank you. I would like to address the board and thank them for mainly hear us
5 today. I would also like to thank Director Urbanek for the time she has taken to
6 probably have to deal with me. Thank her for over all of the years. For her service.
7 I come today with Captain Gerald Baggett and our candidate, Jake Andersen, and I
8 would like to, the facts are, I do come with a written statement as the letter is already
9 there. I think we have spelled everything out in there. I tried to capture the concerns
10 of Mr. Andersen not being able to attend the academy. I do understand the frustration
11 of the Academy and the board of having to deal with these. What I kept getting hung
12 up on and what I hoped would be reviewed today is the difference between the
13 Nebraska Administrative Code where it says punishment of imprisonment of one year
14 or more and then the Nebraska State Statute §28-106 that says not more than a year.
15 But it appears that word “year” connects those by the 24-hour period that the peoples
16 output the year or more or the year and I honestly hate to see it come to 24 hours make
17 the difference to someone who has tried so hard to be a part of the law enforcement
18 family.
19 I’ve worked in law enforcement now for I think my 29th year, I can’t believe I’m
20 saying that. Director Urbanek was one of my instructors so she’s been around longer
21 than fire. I hope you don’t count that against us. But, out of that 29 years, I’ve spent
22 just a little over 15 years in one position or another that was responsible for hiring and
23 I have never, in all of those years ever considered coming before this board. Trying to

1 fight for a candidate or even thinking there is value in doing it. In this particular case I
2 think the reason it's different is that there was, we didn't hire Mr. Andersen as a Police
3 Officer Candidate to start with, he came to us in a security position. So he is now
4 employed by us and has been for about a year and a half now. At that time he couldn't
5 have been more honest, he knew exactly what his history was. He never made
6 excuses. He laid the proverbial jugular out there and explained that he was a kid and
7 everything that he was doing now to make a difference so that he can do something
8 different with his life.

9 We offered to hire him as a security officer at that time and take that chance obviously
10 the rules are different when you hiring a security officer and so we were able to do
11 that. In the last year and a half we have been absolutely impressed. His ability to
12 work with students, his ability to work with staff and faculty, his kind nature, but
13 desire to do the work. He's never in his security role ever acted like he's a police
14 officer he does the role he's supposed to do and he works with the officers very well.
15 So incredibly impressed by this young man.

16 We encouraged him when he stated he was interested in applying for law enforcement.
17 We encouraged him to apply. He tested first in the process. I believe twice now, first
18 and second. So we believe we have a very good candidate. I am not, I don't believe
19 in lowering the standards even in today's world and the difficulty of hiring officers
20 and how bad it is to get people in the door, I'm not interested in lowing the standards
21 but I don't believe we have a lower standard with Mr. Andersen. I believe he honestly
22 is somebody who has worked hard to get himself past what he's be in. So yes, I thank
23 you for listening and we would entertain any questions.

1 Chair: Thanks Chief.

2 Chair: Director Urbanek do you wish to make an Opening Statement?

3 Urbanek: I was in Counsel, Jacob Andersen was currently employed with the University of
4 Nebraska Omaha, (inaudible tape 2, side 1) with an appeal to this body on that further
5 factual basis later in the hearing.

6 Chair: Thank you.

7 Chair: Now is the time further evidence can be presented to the Council.
8 This may include written evidence, witness testimony and/or any unsworn statements
9 by yourself.
10 Chief Evans, do you have any written evidence for us to consider on behalf of the
11 petitioner?

12 Evans I don't think that I'll, there is something in the paperwork that you have that shows
13 that he got, has gotten his, the set aside and that is in there. So can I speak to that?

14 Chair: Yeah, sure.

15 Evans: That I think has also been a question in all of this. I believe that there is a requirement
16 for a Pardon, Mr. Andersen has been able to get a set aside of all charges of his last
17 DUI and I would humbly request that that be considered as part of this process.

18 Chair: Is there an exhibit of that Dave?

19 Urbanek: It's in the application packet.

20 Evans: It's in the application packet and also the emails, Exhibit #3.

21 Chair: Anything further Chief?

22 Evans: No

23 Chair: Chief Evans, do you have any witnesses to testify?

1 Evans: Both Jake Andersen and Captain Baggett.

2 Chair: Jake, why don't you stand up?

3 Do you swear that the testimony you are about to make at this hearing will be the

4 truth, the whole truth, and nothing but the truth?

5 Andersen: Yes (right hand raised)

6 Chair: Thank you.

7 Jake, why don't you state your full name and where you are from.

8 Andersen: Jacob Michael Andersen

9 From Omaha Nebraska

10 Urbanek: Mr. Andersen, is that s-e-n?

11 Andersen: S-E-N correct

12 Chair: Do you have a statement for us?

13 Andersen: I just appreciate you all meeting with me today. I know I've made mistakes I'm not

14 going to sugar coat it. It's hard to talk about it. I mean no one likes to talk about the

15 mistakes of other people. I'm just growing as a human every day, as an individual.

16 As the Chief stated, I've been employed for about a year and a half full-time, I went

17 back to school to get my bachelor's degree in criminal justice and criminology and

18 I've been working on that and will graduate this summer. I have one class left and

19 then I just appreciate the opportunity to sit in front of you guys and go over the appeal

20 and just go from there. That's all I have to say.

21 Chair: Director Urbanek you have the opportunity to cross.

22 Urbanek: I have no questions.

23 Chair: Does the Council have any questions?

1 Duis: I have one. At this hearing in an email that your, or appears to be your first DUI in
2 2017, is that correct?

3 Andersen: 2010,

4 Duis: 2010 correct, my fault my apologies, there is some explanation that you were at a party
5 at you sisters and you went to the car basically but didn't drive it?

6 Andersen: Went to the car but didn't drive.

7 Duis: Tell us about the second DUI?

8 Andersen: So I was in a bad, I was at the lowest point of my life. I was at the NLETC Academy
9 in 2017 as well, I didn't pass one of the law tests and I got a second chance with the
10 law test and I failed it again and I was just in a bad spot and I made one of the poorest
11 decisions of my entire life and I went out and got in trouble for driving under the
12 influence. Since that point I have grown and learned so much, of who I want to be and
13 what I want to do in my life I just made so many strides in my life that I am growing
14 every day and I'm not looking back at the past.

15 Duis: What agency were you employed with when you were at the Training Center?

16 Andersen: Cass County Sheriff's Office.

17 Duis: Where were you arrested for DUI?

18 Andersen: Sarpy County

19 Duis: You tell me you have changed and you are a different person and you have grown a
20 number of ways, tell me how it is that you are not that same person.

21 Andersen: Well like I said, I went back to school, I know what I want to do with my career, I
22 honestly want to help people change and I want to be a police officer. I want to have a
23 career at the University of Nebraska Omaha, they have given me the opportunity to be

1 a security guard for the last year and a half and went with me to sit in front of you
2 guys and just show that I have changed I mean I just the way I present myself towards
3 everyone I just feel like, I know who I want to be and who I'm becoming is. What I
4 strive to be, not what I was in the past.

5 Chair: On the second DUI were you still working for the Cass County Sheriff's Office at that
6 time?

7 Andersen: After I didn't pass the law exam, I was just terminated. I didn't go back for anything.
8 If you don't pass the academy they just, I was done on that day.

9 Chair: So how long after you were dismissed?

10 Andersen: I believe I got dismissed in June, let's just say 20th and I think the DUI was on the 1st
11 of July.

12 Osmond: And at that time you were no longer employed by the Cass County Sheriff's Office.

13 Andersen: The day I did not pass the test I was terminated.

14 Stolz: Mr. Andersen, on the most recent DUI conviction do you recall your sentence?

15 Andersen: Hum

16 Stolz: Were you placed on probation?

17 Andersen: Yes

18 Stolz: Did you have to do any time for the alcohol evaluation

19 Andersen: Yes

20 Stolz: And were you required to take alcohol awareness classes or

21 Andersen: I went to AA meetings, I think it was every day for quite a long time. I learned a lot,
22 just hearing the stories. It got to me.

23 Stolz: Do you still attend the AA meetings?

1 Andersen: I do not.

2 Stolz: Do you still drink alcohol?

3 Andersen: Occasionally, I don't like I did. I know if I'm going to drink I do not drive anymore. I
4 don't even take my car anymore. But yes I will have the occasional beer.

5 Chair: How was the second DUI considered enhanced?

6 Andersen: I think it was above the alcohol legal limit.

7 Duis: Do you know what you tested?

8 Chair: Go ahead

9 Evans: It's a guess, but I believe I remember reading it was .167.

10 Urbanek: That sounds familiar to me too.

11 Chair: Any further questions for Mr. Andersen?

12 Jackson: Was your arrest associated to an accident at any time where injury to others may have
13 occurred?

14 Andersen: No

15 Chair: Alright, thank you.

16 Do you have any further witnesses?

17 Evans: Captain Baggett

18 Chair: Captain, Raise your right hand

19 Do you swear that the testimony you are about to make at this hearing shall be the
20 truth the whole truth and nothing but the truth.

21 Baggett: I do.

22 Chair: Please state your name and where you are from.

1 Baggett Gerald Baggett, I'm a Captain from the University of Nebraska Omaha Police
2 Department and part of my duty is this, to do the hiring process, that I run
3 investigation on the hiring process of perspective duty recruits.

4 Chair: Can you spell your last name?

5 Baggett: Sure, it's B-a-g-g-e-t-t

6 Chair: You may give your statement.

7 Baggett: I'm going to speak briefly about the hiring process obviously we are a newer
8 department and I too can attest to the help that they have given us out here at the
9 Nebraska Law Enforcement Training Center because we really didn't understand the
10 process when we started this. We've gone through two classes now, three of us, two
11 classes in which we have attempted to send officer's down and the first time we tested
12 Jake finished number 2 on the hiring list and we sent his name down for entry to the
13 academy and we did not understand the appeal process at that time, so we let the
14 appeal process go thinking that, I don't know what we were thinking, we screwed it
15 up. So now fast forwarding we hit our second test and Jake finishes number one on
16 that list and we send it down and based on another rejection, we now learn the appeal
17 process, which brings us to today.

18 Throughout the hiring process Mr. Andersen was completely honest with us not only
19 when we went to hire him for security officer but when we attempted to hire him into
20 law enforcement officer. Let me back up a little bit into the year and a half that he has
21 been with us as a security officer like the Chief spoke. He has been a fantastic hire.
22 One I am glad we made then and I am also confident as being law enforcement for 30
23 years that my reputation would not be hurt when I sit here and say that I think he

1 would be a good hire as a law enforcement officer. I have been around Jake for a year
2 and a half now I know that's not a long time but I do know that during that time I've
3 been in a position where I've seen him at different going away parties for different
4 security officers that we've had and at no time did I think, oh my God this guy has got
5 a drinking problem, it's usually water, if it's a beer it's just low amounts of beer, so I
6 do truly think that he has learned his lesson and I think that through this process, let
7 alone the hiring process, but through the process of the appeals and everything that he
8 has gone through not to mention the court hearings and then set aside hearing,
9 everything he has had to go through you guys would not his name come before you on
10 any kind of termination process.

11 His written scores were extremely high, we did the Cooper test first to try to weed out
12 the ones that would fail down here at the Training Center simply because we don't
13 have a lot of equities and a whole lot of spots. He always came to the Cooper Test
14 prepared. He came to the written test prepared and he came to the interview process
15 prepared as witnessed by his number one number two grades at the end of the process.
16 This is a young man that again appears to have learned from his mistakes is caught up
17 on that one-year, up to one year, over one year legalese that I don't get too involved in
18 but I do know that we're not sitting here in a situation like the last appeal was where
19 we say we will send you to the next class because that year, up to a year and over a
20 year will continue to go with us to the point where he can either go to the Pardon
21 Board or to the (inaudible) Process or he is stuck not being a law enforcement officer
22 in Nebraska.

23 Chair: Thank you.

1 Director Urbanek, do you have any questions

2 Chair: Lieutenant Colonel

3 Duis: I would like to go back to Jake if that's okay.

4 Chair: Can we finish with

5 Duis: My apologizes

6 Chair: Any questions for the Captain?

7 Urbanek: No

8 Chair: Thank you. Jake remember you are still under oath.

9 Thank you Lieutenant Colonel.

10 Duis: Thank you.

11 Jake I want to revisit a question I kind of touched on earlier with you and you talked
12 about the fact that you're a different person then you were in 2017 when you were
13 arrested for your second DUI right. And part of that explanation is you have
14 discovered that law enforcement is truly something you want to do. There is no
15 question in my mind that when you sit across the table from somebody from Cass
16 County and told them the same thing in 2017. That didn't work out and then that
17 resulted ultimately in you making what you described as a bad decision and arrest for a
18 DUI. Here is what I want you to understand what you are asking us to do as a board is
19 to overrule Director Urbanek 's decision to deny access into the Training Center and
20 give you an opportunity to join the profession that I and the rest of this board take
21 very, very seriously. What I want you to do is convince me in some way, some form
22 deep inside you how it is how you are different today then you were in 2017 when you
23 told Cass County you wanted to be in law enforcement and they sent you here and

1 then we ended up with the result of failing here and then failing in life by going out
2 and getting into alcohol, which resulted in a DUI. Convince me of that.

3 Andersen: When I was here in 2017 I don't think I was, I don't think I was ready, I know what it
4 takes and how determined someone has to be to be in law enforcement. Just talking
5 to people that have just gone through the academy and everyone from the University
6 and getting from them seeing how determined they were, I've realized what it actually
7 takes. I know how hard I need to study, that's why I went back to school to get my
8 degree. I know, I've learned how to study, I've learned how to cope with failure, I've
9 had plenty of failures, though I've talked to my inner circle, they've come to, or their
10 always just like, if you need something just come to me and talk to me, so I know I
11 have a strong inner circle that I can go to and talk to. I have just, I am working so hard
12 to get into this career that, unfortunately this is the last stop that I have to try to get
13 into the career and I can't think of anything else that I would want to do in my life. I
14 know I keep saying this but I know I've made mistakes, we all know that, it's really
15 hard to talk about, like I said, but I have grown so much I know that those mistakes
16 will never happen in my life any more.

17 Chair: Thank you

18 Stolz: I would like to go back to the Chief.

19 Chief, was a medical evaluation done on Mr. Andersen to your knowledge?

20 Evans: Yes, not on the first one, yes, actually we did.

21 Stolz: To your knowledge was there any type of alcohol evaluation done as part of that?

22 Evans: No they don't do alcohol evaluation.

23 Stolz: Thank you that's all I have.

1 Duis: Did you conduct a psychological evaluation?

2 Evans: Yes we did.

3 Duis: It would have been done there correct?

4 Evans: He passed the psychological evaluation. I can't speak to the other ones. All was pos
5Let me just say all was fairly positive.

6 Chair: Chief Evans, do you have any further evidence to offer?

7 Evans: Yes sir.

8 Chair: Thank you

9 Director Urbanek, do you have any written evidence other than the exhibits?

10 Urbanek: Written evidence no, only testimony.

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

13 Urbanek: I do.

14 Chair: Thank you.

15 Urbanek: In my capacity as the Director of the Training Center I have reviewed Mr. Andersen's
16 application packet and Mr. Andersen alluded to his first time her with the Cass
17 County. According to our records his last date of employment with Cass County was
18 May 8th of 2017. He initially applied with the University of Nebraska Omaha Police
19 Department on August 21st of 2020, and as was mentioned that was denied because of
20 a Class I misdemeanor conviction and again as mention I kept waiting for the letter, it
21 never came so we even sent an acceptance letter for Mr. Andersen to come to the
22 PRET test with the thought that if his hearing was before this board he could still
23 attend the training so that is why there is a little bit, when you go through the packet,

1 dates may not quite, he was officially hired but they have submitted the application we
2 denied it but don't appeal it.

3 So then we move to later in August and October of 2020 and that's when Mr.

4 Andersen and I had exchanged emails regarding set asides during which time I had
5 explained to him that a set aside does not equate to a Pardon and he would need a
6 Pardon according to rules for the class I to go away from an admission perspective.

7 Then on March 29th of 2021, I received a new application packet for Mr. Andersen
8 again from UNO, I again denied his admission based on Title 79, Chapter 8 Section
9 005.01F, it provides that individuals with an unpardoned conviction of crimes that
10 would be punishable by imprisonment for a term of one-year or more are not eligible
11 for admission. Mr. Andersen was convicted of enhance DUI with one prior conviction
12 Class I Misdemeanor for an offense and his conviction was dated December 21, 2017,
13 in Sarpy County. Mr. Andersen was disclosed all of this information throughout his
14 application process with us.

15 Chief Evans has appealed this denial, has submitted information for reconsideration
16 and that included phone calls and emails and trying to work out a 24 hour difference of
17 time. I still didn't feel I could overturn my initial denial and Chief Evans has
18 subsequently appealed that denial to this body so based on my vetting of it, I can't
19 come to terms with the 24 hour difference and so I denied Mr. Andersen's admission
20 into the Training Center's Academy.

21 Chair: Thank you.

22 Chief, do you have cross?

23 Evans: No

1 Chair: Jake, do you have any questions for the Director?

2 Andersen: No

3 Chair: Council, do you have any questions for the Director?

4 Council: No

5 Chair: Director Urbanek, do you have anything further to offer at this time?

6 Urbanek: I do not.

7 Chair: Chief Evans, do you have anything additional to offer in light of the Training Center's
8 evidence?

9 Evans: No additional evidence, the only thing I would like to say is I appreciate again your
10 considerateness. I greatly appreciate your board because I agree it's an incredibly
11 important role. The one other piece of information I want to share is this last year has
12 been very devastating on Jake to hear the declines and not being able to do what he
13 knows to do. Part of what has impressed me is that he's gone on and looking for ways
14 in working the next step in how he could better himself to do this and in my years I've
15 seen a lot of angry, a lot of upset a lot of quit and a lot of throw a fit. And I have not
16 seen that happen from Jake, not even a moment from him, so that alone is another
17 reason why I'm here.

18 Chair: You can make your closing argument at this time.

19 Evans: Oh, I thought that was it. Thank you.

20 Urbanek: I'll waive closing.

21 Evans: Is there a motion to go into Executive Session?

22 Osmond: I would move that the Council go into Executive Session based on the prevention of
23 needles injury to the reputation of Jacob Andersen and for the purposes of executive

1 session we will allow the following to remain in the room; all Council members,
2 Council secretary, and legal advisor.

3 Jackson: I would second the motion

4 Fielding: Lieutenant Colonel Duis

5 Duis: Yes

6 Fielding: Acting Chief Jackson

7 Jackson: Yes

8 Fielding: Chief Deputy London

9 London: Yes

10 Fielding: Sheriff Dan Osmond

11 Osmond: Yes

12 Fielding: Motion Carried

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

15 The hearing went into Executive Session at 11:19 A.M.

16 Chair: The meeting of the police Standards Advisory Council will come to order.
17 Is there a motion to come out of Executive Session?

18 Duis: I'll make that motion

19 Osmond: Second.

20 Fielding: Lieutenant Colonel Duis

21 Duis: Yes

22 Fielding: Acting Chief Jackson

23 Jackson: Yes

1 Fielding: Chief Deputy London
2 London: Yes
3 Fielding: Sheriff Dan Osmond
4 Osmond: Yes
5 Fielding: Motion Carried
6 Chair: All parties present when the council went into executive session are again present.
7 The time is 11:42 A.M.
8 Is there a motion on the floor?
9 Osmond: Yes, I move that we overturn Director Urbanek's decision to deny entrance into the
10 basic and allow Jake Andersen to attend the next training session
11 Duis: Second
12 Fielding: Lieutenant Colonel Duis
13 Duis: Yes
14 Fielding: Acting Chief Jackson
15 Jackson: Yes
16 Fielding: Chief Deputy London
17 London: Yes
18 Fielding: Sheriff Dan Osmond
19 Osmond: Yes
20 Fielding: Lieutenant Colonel Duis
21 Duis: Yes
22 Fielding: Motion Carried

1 Chair: As you have heard the Council has granted your appeal. The Counsel will prepare
2 written findings of facts and conclusions of law pertaining to today's hearing and the
3 Council's decision. Where do you want the findings sent to?

4 Evans: UNO P.D.

5 Chair: Is there anything else from your side that needs to be addressed?

6 Urbanek: PRET Test will be probably first part of August. We'll send out a letter for that.

7 Other than that. We're good.

8 Evans: Thank you.

9


VII. OTHER BUSINESS

A. Date, Time & Location of Next Meeting

July 21, 2021, 9:00; Library, Nebraska Law Enforcement Training Center,
3600 North Academy Road, Grand Island, Nebraska

Hearing no further business the meeting adjourned at 11:45 A.M.

Respectfully submitted.

A handwritten signature in cursive script that reads "Kay Fielding".

Kay Fielding

Secretary to the Council.

