



Pete Ricketts  
Governor

STATE OF NEBRASKA  
NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE  
Darrell Fisher  
Executive Director

MEETING OF THE  
POLICE STANDARDS ADVISORY COUNCIL  
July 15, 2015

I. CALL TO ORDER

Vice Chair Mr. Matthew McCarthy called the regular monthly meeting of the Police Standards Advisory Council, hereinafter P.S.A.C., to order at 9:06 A.M.

As amended by LB 898, 2006 Legislature, a current copy of the *Nebraska Open Meetings Act* was available for public review and reference. Notice of the meeting was published in the Lincoln Journal Star on June 9, 2015.

Members in attendance: Mr. Matthew McCarthy, Sheriff Larry Koranda, Chief Robert Lausten, Captain Genelle Moore, Lieutenant Colonel Thomas Schwarten, and Sheriff Jerry Watson. Chief Timothy Larby was unable to attend. Crime Commission and N.L.E.T.C. staff present: Darrell Fisher, David Stolz, and Kay Fielding. Others present: Officers Mitchell Robinson and Matthew Austin both of the Omaha Police Department.

II. APPROVAL OF June 17, 2015 P.S.A.C. MINUTES

MOTION

Sheriff Koranda motioned to approve the minutes as presented. Captain Moore seconded the motion. **Voting in Favor:** Mr. McCarthy, Sheriff Koranda, Chief Lausten, Captain Moore, Lieutenant Colonel Schwarten, and Sheriff Watson. Motion carried.

III. ACADEMY REPORTS

Ms. Urbanek joined the meeting while on break from the "Fair and Impartial Policing Training," class she was attending.

A. Director – N.L.E.T.C.

Mr. Muldoon was absent due to his attendance in the "Fair and Impartial Policing Training."

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

Ms. Urbanek reported the 191<sup>st</sup> Basic was in week 6 with 39 students. It began with 47 students; we lost 4 before the course actually began and 2 were dismissed last week due to academic failures. 2 students have a retake exam tomorrow night.

In the past, students leaving basic due to academic failure would be given a spot in the next basic, this time students wanting to comeback due to academic failure will not get a spot because they have already had their opportunity and for whatever reason were academically unable to make the grade. We will not bump an agency that is doing everything by the rules the way they are supposed to for somebody who is struggling. It is possible that some of those will be asking for a waiver of the one-year requirement because they couldn't get into the academy.

Last week 12 Reciprocity and Reactivation students were on site for training. There were 13 people in the course but 1 was unable to attend due to an injury obtained while working at his agency. Monday they will begin Unit III, the Legal test, and then the final test is August 24<sup>th</sup>.

We are hosting Fair and Impartial Policing Training of the trainers this week with 24 people in attendance. It has been an interesting course, not what I had anticipated, it's a course that deals with implicit bias and done in a very good fashion, I'm pleased to say a good portion of what they are teaching, we already address in basic. Overall everybody feels very positive about the message of the course. A consistent theme that I am hearing and picking up on is it is a class that chief's and sheriff's need to attend before the police officer because officer's attending will go back to their agency and try to lead from the bottom. As human beings we all have implicit biases, you need to identify those biases, don't let them interfere with how you do your job and then go from there. It is a mindset of an agency. The mantra of the agency has to be established at the top, the Colonel has to be the one who says, "This is a program I believe in and want my officers to emulate as they go about and do their job, then the Sergeants will have no problem teaching it.

Before returning to the Fair and Impartial Policing class I do recommend approval of all the upcoming instructor certifications.

## **C. Nebraska State Patrol**

Captain Williams stated the Patrol had begun their selection process for Class 57 with class scheduled to begin February 22 through August 19, 2016. Applications are being taken now till the first week of September and planning on 25 – 30 cadets. The Training Academy staff provides a one-hour informational meeting to applicants first thing so they know what they are getting themselves into and they also facilitate the physical fitness part of the selection process.

Sergeant Kavan was representing Nebraska at the National Special Olympics Torch Run in California.

3 Patrol staff were attending the Fair and Impartial Policing Class.

The Patrol is gearing up for the Nebraska State Fair; Sergeant Kavan will conduct 3 bicycle training courses before the fair so skill sets are fresh.

Tomorrow 2 interviews will be conducted for the Lieutenant's position at the Academy.

#### **IV. CRIME COMMISSION REPORT**

Mr. Fisher reported the Commission had received a letter on June 23<sup>rd</sup> from the Department of Justice on the findings from their financial and programmatic review done in May. The big finding was the fact that the Department of Justice wants us to do actual time on the grant, but we have no means of capturing it and our budget is built on percentages out of each grant rather than actual time.

William Muldoon, I and several others from the Human Trafficking Workforce are working with Stephen O'Meara, the new Child Protection and Human Trafficking Coordinator for the Attorney General's Office. The Task Force is a standing committee of the Commission but for the first time since I have been at the Commission, I feel like there is some movement to the human trafficking issue. There were 3 directives when the legislation was passed in 2012 and we had met all 3 objectives, but no one else knew what to do. The Attorney General picked this up as a priority this year and appointed a coordinator; we have been asked to participate and our first meeting with him is this Friday at the Attorney General's office.

It appears all three branches of government are moving forward with phase two of the justice reinvestment; the prison overcrowding issue in Nebraska. Along with LB 605 comes a \$500,000 grant from the Bureau of Justice assistance to implement LB 605 as well as another half a million dollars from County Justice Reinvestment program, which is giving money back to the local jails who are housing state prisoners.

Lieutenant Colonel Schwarten stated there was an email with a general summation of LB 605 from the AG's office with the changes to the statutes and the penalties were significant. There are 7 new classifications of felonies and misdemeanors. We met with Liz Neeley; Executive Director of the Nebraska Bar Association, regarding the problem we have with the County Attorney's getting their continuing education credits. Steven Schmidt, a forensic scientist professor at the University of Nebraska, also on the County Attorney Standards Advisory Committee, will start doing webinars for the County Attorney Offices for their continuing education credits. The first one will be on LB 605.

Of the six revocations; two voluntary surrenders are scheduled for today, one is out for investigation, another is at the Attorney General's Office and I understand he plead to a couple lesser charges in addition to voluntarily surrendering his certificates, and two others I will move for dismissal next week.

The Training Center cash fund looks better than we projected last year. Our plan this year is to ask for deficit appropriation of \$200,000.

This body really needs to take a look at LR 320. Senator Murante introduced this legislative resolution to take a look at the composition of the Police Standards Advisory Council. I am not sure what is driving this but Mr. Muldoon, Dave Stolz and I will be meeting with Senator Murante

Wednesday, July 22<sup>nd</sup> at 2:00 PM in Senator Murante's office, room 1423, in the State Capitol, if any members would like to attend the meeting.

Chief Lausten stated his understanding of where this came from was about three years ago the State FOP wanted to legislature to add an additional member to PSAC who would come from the line staff of Sergeant or lower. At the time the board felt there was no representation from the line staff and all the decisions were made from up on high.

Lieutenant Colonel Schwarten stated Major Kyle Otte was the representative for Human Trafficking and attended some meetings with Mr. O'Meara, of the AG's office. The next meeting will be Friday, August 28 and go through the weekend, the Patrol will be working with its allied Nebraska agencies on an I-80 Challenge that will also cover Iowa, states east of there and Wyoming. Just last weekend there was a Trooper in Ogallala that made a simple traffic stop where a kidnapped child from the west coast was in the vehicle. Deb Collins, of our office, will do some media work; the hope is to possibly engage the Governor's office and expand that especially with the locals going into labor day weekend following the 28<sup>th</sup>.

## **V. OLD BUSINESS**

### **A. Discussion - Granting Additional Time to Complete Council Mandated Physical Tasks**

Mr. Stolz passed out a handout with ideal language of appropriate standards for Reciprocity and Reactivation students stating reciprocity was a little different than reactivation because they do not complete the requirements of the reciprocity course. Chapter 3, section 004.07 says if the applicant does not meet the criteria, then they may enroll in the next available basic, so reciprocities are only given one shot. With that in mind, the handout refers to Option 1, 2, and 3. With Option 1 – if they don't meet the physical tasks, the box or wall for example, while they are here for Reciprocity training, the training is terminated and they have to enroll in the next available basic. Option 2 gives the applicant time to meet the standards, and Option 3 gives the applicant till the start of the next reciprocity course to meet the standards.

Reactivation follows Chapter 4, section 004.02B(4) for officers who have been out of law enforcement for 2 to 10 years and reactivating are required to complete the Council-approved Reciprocity certification course which includes all academic requirements, performance skills and physical tasks. Option 1, if you don't make it, it is treated like the reciprocity and you go to basic. Option 2 and 3 are the same as those from Reciprocity.

Ms. Urbanek and I also discussed the one-year conditional appointment; allowing that officer to work the road when that officer cannot meet the physical tasks as established by this body and the job task analysis?

Captain Moore felt smaller agencies needed people and the people who come to them are not in the best physical shape and she would be willing to give them a little more time.

Mr. McCarthy stated the one issue he had with holding them different than basic was you don't have an instructor 2 or 3 times a week in PT teaching the techniques or somebody in Box Butte County teaching you how to get over the wall.

### MOTION

Chief Lausten motioned to adopt Option 1 from Reciprocity and Option 1 from the Reactivation. Lt. Colonel Schwarten seconded the motion. **Voting in favor:** Sheriff Koranda, Chief Lausten, Lieutenant Colonel Schwarten, and Sheriff Watson. **Voting against:** Captain Moore and Mr. McCarthy.

## **VI. NEW BUSINESS**

### **A. Revocation LR-095-13; Cory Cooper**

Mr. Stolz marked the Consent to Revocation of Law Enforcement Certificate and Waiver of Notice and Hearing by Cory Cooper as Exhibit 1, gave a summary of the revocation process for LR-095-13; Cory Cooper and asked the Council to accept his relinquishment and surrenderment and make a recommendation to the Council that the respondent's law enforcement certification be revoked.

Mr. McCarthy accepted Exhibit 1 into the record.

### MOTION

Captain Moore motioned: Based upon the fact that the respondent has signed a consent to revocation of law enforcement of certificate and waiver of Notice and Hearing and has voluntarily surrendered his certificate and certification, I make a motion that the Council accept the surrender by Cory Cooper, LR-095-13, Nebraska Law Enforcement Certificate as evidence of incompetence and neglect of duty. Said revocation to be effective upon review and acceptance of the surrender by the Nebraska Commission on Law Enforcement and Criminal Justice. Lieutenant Colonel Schwarten seconded the motion. **Voting in favor:** Chief Lausten, Captain Moore, Lieutenant Colonel Schwarten, Sheriff Watson, Mr. McCarthy, and Sheriff Koranda.

### **B. Waiver – Driving Program for Recruit Officers Omaha Police Department**

Officer Mitch Robinson and Officer Matt Austin of the Omaha Police Department addressed the Council on OPD's driving course for recruit officers and passed out a map of the current course the academy was using. They asked that their current course be waived beginning with the July 20<sup>th</sup>, 2015 class effective for a period of 3 recruit classes to gather data on an estimated 50 recruits per class allowing them to set a new standard and qualification time with the data gathered for entry level recruit officers on the newly proposed course. We need 200 runs with trainees to validate. Upon conclusion, we will submit our new driving course for the council's approval.

Mr. Stolz stated the Council could grant a waiver with the end date Omaha suggested in their letter and if they needed more time, they could come back and request another waiver. Chapter 14

section 006.06 the Law enforcement academy is required to develop evaluation criteria for all performance objectives that are not tested. I think if you were going to waive the testing standard, as long as they have criteria, you are well within the rule.

### MOTION

Chief Lausten motioned to waive the current state mandated recruit driving course for the Omaha Police Department. Understanding that Omaha Police are evaluating an alternate course based upon research feedback and participation of recruit police officers in the Omaha Police Academy. This waiver would be in effect until July 1, 2018. And Omaha Police would be required to return their research to the Police Standards Advisory Council for final approval on or before July 1, 2018. Sheriff Watson seconded the motion. **Voting in Favor:** Captain Moore, Lieutenant Colonel Schwarten, Sheriff Watson, Mr. McCarthy, Sheriff Koranda, and Chief Lausten.

Chief Lausten questioned how many attempts students were given to complete the task. Officer Robinson stated they were trained with for approximately three days, and then a day and a half is spent doing qualifications, where they are given three attempts. If they fail all three attempts, we then bring them in remediate them on each component for at least 30 minutes and then give them 3 more attempts. So far we have never had anyone fail out.

#### **C. Instructor Certification/Recertification** **Legal Recertification**

David A. Stolz – N.L.E.T.C.

#### **Professional Certification**

Brian A. Hayes – Omaha Police Department  
Mitchell W. Robinson – Omaha Police Department

#### **Professional Recertification**

Mark E. Stephenson – N.L.E.T.C.  
Brenda L. Urbanek – N.L.E.T.C.  
Nicole L. Walker – Omaha Police Department

### MOTION

Lieutenant Colonel Schwarten stated; based on the comments made by Deputy Director Urbanek before she went back to class, I would make a motion to approve the Legal Recertification for David A. Stolz here at NLETC, as well as the Professional Certification's of Brian A. Hayes – Omaha Police Department, Mitchell W. Robinson – Omaha Police Department and the Professional Recertification's of Mark E. Stephenson – N.L.E.T.C., Brenda L. Urbanek – N.L.E.T.C. and Nicole L. Walker – Omaha Police Department. Captain Moore seconded the motion. **Voting in Favor:** Lieutenant Colonel Schwarten, Sheriff Watson, Mr. McCarthy, Sheriff Koranda, Chief Lausten, and Captain Moore.

**D. Revocation LR-105-14; Jason Sears**

Mr. Stolz marked the Consent to Revocation of Law Enforcement Certificate and Waiver of Notice and Hearing by Jason Sears, as Exhibit 1 and gave a summary of the revocation process for LR-105-14, Jason Sears and asked the Council to accept his relinquishment and surrenderment and make a recommendation to the Commission that the respondent's law enforcement certification be revoked.

Mr. McCarthy accepted Exhibit 1 into the record.

**MOTION**

Chief Lausten motioned: Based upon the fact that the respondent has signed a consent to revocation of law enforcement of certificate and waiver of Notice and Hearing and has voluntarily surrendered his certificate and certification, I make a motion that the Council accept the surrender by Jason Sears, LR-105-14, Nebraska Law Enforcement Certificate as evidence of incompetence and neglect of duty. Said revocation to be effective upon review and acceptance of the surrender by the Nebraska Commission on Law Enforcement and Criminal Justice. Sheriff Watson seconded the motion. **Voting in favor:** Sheriff Watson, Mr. McCarthy, Sheriff Koranda, Chief Lausten, Captain Moore, and Lieutenant Colonel Schwarten.

**VII. OTHER BUSINESS**

Mr. Fisher referred to an article passed out prior to the meeting from the *Denver Post*, "Colorado laws allow rogue officers to stay in law enforcement," passed out prior to the meeting, and thanked the Council for the patience they have shown in the last 18 months to bring the number of revocations down. Revocations began in Nebraska in 1995.

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

August 19, 2015, 9:00; Library, Nebraska Law Enforcement Training Center,  
3600 North Academy Road, Grand Island, Nebraska 68801

Hearing no further business the meeting adjourned at 10:38 a.m.

Respectfully submitted,

  
Kay Fielding,  
Secretary to the Council