

1 STATE OF NEVADA

2 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

3
4 A Workshop and Regularly Scheduled Meeting of
5 the Commission on Peace Officer Standards and Training was held
6 on May 4, 2023 commencing at 9:00 a.m. at 5587 Wa Pai Shone
7 Avenue, Carson City, Nevada.

8
9 COMMISSIONERS:

10 Tyler Trouten, Chairman

11 Dan Coverley

12 Oliver Miller

13 Kevin McKinney

14 Jamie Prosser

15 Russ Niel

16 Tiffany Young

17 Tim Shea

18 Rob Straube

19 George Togliatti

20 STAFF:

21 Kathy Floyd, POST F

22 Nathan Hastings, Attorney General's Office

23 Mike Sherlock, POST F

24
25 TRANSCRIBED BY: Marsha Steverman-Meech

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1 PROCEEDINGS

2 TROUTEN: Good morning everyone. We'll go ahead
3 and call this workshop to order. It is 9:00 AM on Thursday, May
4 4th, 2023. There's a lot of activities this afternoon I know we
5 want to get to, so we'll try to be expeditious in this. Kathy,
6 could you provide the posted and open meeting law compliance
7 information please?

8 FLOYD: The workshop notice and meeting agenda
9 have been posted in compliance with NRS 241.020. These agendas
10 were physically posted at the POST Administrative Building and
11 the Nevada State Library in Carson City, and electronically
12 posted at: post.nv.gov; State of Nevada website at
13 notice.nv.gov; legislative website at leg.state.nv.gov; and
14 emailed to all SPOC's and admins on the POST serve list.

15 TROUTEN: Great, thank you very much. I will
16 start off with roll call. I'll start with myself. Ty Trouten,
17 Elko PD. Jamie?

18 PROSSER: Jamie Prosser from LVMPD.

19 TOGLIATTI: George Togliatti, Nevada Department of
20 Public Safety.

21 MCKINNEY: Kevin McKinney, Carlin Police
22 Department.

23 NIEL: Russ Niel, Nevada Gaming Control Board.

24 STRAUBE: Rob Straube, City of Las Vegas DPS.

25 YOUNG: Tiffany Young, community member.

1 SHEA: Tim Shea, Boulder City Police.

2 SHERLOCK: Kathy, go ahead.

3 FLOYD: Oh, Kathy Floyd, POST, sorry.

4 SHERLOCK: Mike Sherlock from POST.

5 HASTINGS: Nathan Hastings, Attorney General's
6 Office.

7 MILLER: Oliver Miller, Reno Police Department.

8 TROUTEN: All right. Thank you. And with that,
9 we'll start the workshop. The purpose of the workshop is to
10 solicit comments from interested persons on the following topics
11 that may be addressed in future proposed regulations. Workshop
12 has been previously noticed pursuant to the requirements of NRS
13 Chapter 233(b), and it is intended to solicit a discussion
14 regarding the addition of a new regulation regarding the
15 creation of an executive level basic certificate and its
16 requirements. Mike, can you provide some background
17 information, please?

18 SHERLOCK: Certainly. Mike Sherlock for the
19 record. So, as the Commission may recall, last meeting we had
20 an agenda item related to agencies looking to hire executive
21 level positions and to make it, for lack of a better word,
22 easier to bring them on board, especially those either from out
23 of state or those who may have been in Nevada as a peace
24 officer, but have had more than five year's lapse since they
25 were a peace officer. You know, staff recognize these positions

1 are somewhat unique in terms of job tasks and duties. Staff's
2 concern has always been we have one basic certificate so if you
3 water down that or make exceptions, we could see someone receive
4 a basic certificate, say in an executive level scenario, who
5 then could leave and go work uniform patrol somewhere so you got
6 to be careful with the standards under our current
7 configuration. The Commission agreed to continue the process to
8 look at the concept of an executive level basic certificate.
9 This workshop is to invite ideas from interested parties. We
10 have included some sample language that addresses some of the
11 concerns that were already recognized. So if you look at that
12 language in your book, we do address things such as the physical
13 requirements, which has come up quite often with the Commission.
14 This language would allow the agency for this particular
15 certificate to either use the POST Physical Readiness Test or
16 the Cooper Law Enforcement Physical Test. We've heard the
17 concerns about the PT tests for this category of peace officer
18 as it relates to gender or age and that kind of thing, so as
19 most of you know, the Cooper test is scaled for those classes.
20 It is a fitness test rather than a job task test, which is the
21 POST readiness test. This language also would include an 80-
22 hour online basic training academy with an emphasis on Nevada
23 basic training competencies, but with management and executive
24 level duties in mind. To address other concerns about misuse or
25 expansion of this concept, the executive level basic would be

1 limited to the highest level of executive within an
2 organization, but leaves that sort of discretion to the
3 executive officer of that agency or chief executive, I should
4 say, and the current language, as you see in there as an idea,
5 the certificate is limited to two active executive level basic
6 certificates within an agency and as you might recall, there was
7 discussion not only about agencies recruiting for executive
8 level openings, but also from staff's perspective to address the
9 elected executive and say that person's Undersheriff, for
10 example. This would help us to focus more on that single
11 executive level, one time certification need instead of creating
12 a full basic academy for that elected official who'd been a
13 peace officer in the past. This would help kind of expedite
14 that process also. So with that, staff would recommend you open
15 further discussion within this workshop for any interested party
16 in the audience.

17 TROUTEN: So I'll open it up first to comments
18 from the public, or questions or concerns. Please come forward
19 and state your name so we can get it on the record.

20 RESHAW: Albert Reshaw. Sit, stand?

21 TROUTEN: Yeah, sit, whatever's most comfortable
22 for you, please.

23 RESHAW: Yep. Very briefly. My name's Al
24 Reshaw. I'm a 35-year veteran of California law enforcement. I
25 served as Chief of police at two different agencies. I have

1 worked in a municipality. My career, which started in 1975 and
2 earned certificates in California at the basic, intermediate,
3 advanced, supervisory, management level. I have survived
4 instances where others have not. So now that I'm retired, I
5 wanted to give back. So I took a job at Douglas County
6 Department of Alternative Sentencing as an adult probation
7 officer, but the current NAC mandates of my attendance to a
8 basic academy is required to keep my job. So I just completed
9 the Category II academy that's currently in progress and I have
10 written a letter to the Board offering -- asking a request. I'm
11 here today just so you can put a face with the name and to
12 reinforce the fact that I would like to be part of a solution.
13 If you need the help, if you have questions, I'd like you to
14 take a look at the NAC. It's all there in the letter. There's
15 a large untapped resource pool of people like me that would like
16 to continue to serve. I'm fortunate that my on-duty injuries
17 throughout the years allowed me to barely get through the
18 physical side of the academy. It was fun meeting some of the
19 instructors who were former officers of mine as a chief and as I
20 currently teach here in Nevada, I also ran into students that
21 I've taught not only here at POST, but at the regional training
22 center and at Department of Public Safety. So I ask, when you
23 get the letter, you just read it, please take it under
24 consideration, and if I can help in any way, I'm here. It's
25 kind of the opposite of what you're talking about now, where

1 someone at the executive level wants to be at the basic but
2 because I had a lapse in service, mandated my requirement. The
3 last thing I'd like to share with you, having done well over
4 several thousand pushups over the last several months, the
5 academy here and the training staff is some of the finest that
6 I've ever been involved with, and I shared those thoughts with
7 the director. You're lucky to have 'em. So thank you for your
8 time.

9 TROUTEN: Thank you, sir. I will note, I believe
10 we've all received a copy of your letter as well.

11 RESHAW: Thank you. Be careful.

12 FURLONG: I'll chit chat.

13 TROUTEN: Come on up, Sheriff.

14 FURLONG: For the record, Ken Furlong, Sheriff of
15 Carson City. Thank you, Mr. Sherlock, I appreciate the
16 introduction. I'm going to try and stay on track. There's just
17 two issues that I would like to address or suggest to the
18 Commission that agencies not be restricted to just two. That is
19 agency specific. We all are designed differently. Our rank
20 structures, while the titles may be similar, they're not always
21 the same, and I appreciate Mr. Sherlock's comments that the
22 chief of the agency have a substantial amount of say in who
23 should be awarded those executive certificates even at the basic
24 level. I strongly suggest that we do not limit our agencies to
25 just two. Second thing, and I'll just bring it up, the physical

1 fitness performance test. I use that in my agency as a
2 promotion requirement. However, I don't know that as it comes
3 to executive level that that is necessarily -- should
4 necessarily be a requirement of the position. Most of our
5 executive level positions are not out on the front line doing
6 much of what the officers are doing on a regular basis. They're
7 administrating executive authorities over the agencies. I would
8 suggest and encourage that that issue be dropped. Thank you.

9 TROUTEN: So I have a quick question for you,
10 Sheriff Furlong. When you talk about not limited to only two
11 certificates per agency, and I seem to recall we had a
12 discussion about limiting it to two levels, the top two levels
13 within an agency. Is that --

14 SHERLOCK: Mike Sherlock for the record. I want to
15 make sure -- I think we're starting to see confusion between the
16 professional development executive certificate. This what we're
17 talking about is a basic POST certificate. So what you're
18 talking about is we talked about that with, I believe that's
19 true, right, Sheriff, that with the executive certificate,
20 professional certificate, it was limited. This is about a basic
21 POST certificate that gives someone the authority to exercise
22 peace officer powers in the state but also recognizes that
23 they're in an executive level position, and that's what we're
24 trying to create, which is two different things.

1 FURLONG: So when you said limited to two, what
2 exactly are you meaning?

3 SHERLOCK: So again, Mike Sherlock for the record.
4 I think staff's concern is once we start issuing executive basic
5 certificates, there may be a tendency to issue more than and
6 create a two-tiered system within the state and, you know, cause
7 an issue for us in terms of tracking an executive basic POST
8 certificate as opposed to a regular basic POST certificate. And
9 I'm not sure it's in the best interest to have an agency that is
10 comprised wholly of executive basic POST certificates, if that
11 makes sense. So our thought on having that different standard
12 is specific to those two highest, you know, the sheriff and the
13 undersheriff who gets elected, instead of creating a whole new
14 academy for them, for one person or two persons, they can use
15 this process to get a basic POST certificate, or in the case of
16 Reno, hire someone from out of town, out of the state that has a
17 lot of experience in another state instead of going through, you
18 know, a normal basic POST certificate. And at the same time,
19 we're confident that that person is not going to be a line
20 level, you know, two years from now and use that certificate to
21 -- you know, to move to a line level where it's a different
22 standard than those other line level positions and that's why we
23 are looking at suggesting that perhaps you limit that to two
24 executive level positions because it is specific to that
25 executive level.

1 FURLONG: Again, for the record, Furlong. I just
2 would recommend and suggest that agencies not be limited to two.

3 TROUTEN: Thank you --

4 FURLONG: Thank you.

5 TROUTEN: -- Sheriff.

6 BECHT: Bill Becht, I'm the undersheriff with
7 Nye County. I see some disparities in the way this is being
8 handled and written. I worked for 24 years in the state of
9 Nevada. I'm now the undersheriff, small agency. As much as I
10 hate sitting behind the desk and do that, I also have to answer
11 on the street. But my question is a out-of-state officer come
12 in with less than five years break in service and obtain a in-
13 lieu certificate or a lateral certificate. Ten years in Nye
14 County -- or 24 years of Nye County ten years prior and I have
15 to attend the full academy in order to get a basic certificate.
16 I just -- I don't see where the parity is in that in how that is
17 being handled. And it's not a matter of going through the PPFT,
18 not a matter of going through getting a basic training, it's a
19 matter of time away from my agency. Our current academy is 700-
20 some odd hours, basic Nevada POST, I believe is 500 and change,
21 and that's a long time to be away from where you're trying to
22 rebuild an agency and be part of a new administration. So I
23 just think there should be some considerations to the fact of I
24 retired, I obtained the record of Captain before I retired, and

1 all I'm trying to do is get back in the game to help out the
2 community. So thank you very much.

3 SHERLOCK: Mr. Chairman, if I could just clarify.
4 Mike Sherlock for the record. So this is exactly for a person
5 in your position that would help you not have to go through a
6 full basic academy, one. Two, I think in the sample language
7 that we're presenting is when you're talking about the out-of-
8 state people, they have to have at least five years of service,
9 much like the election law is written for Clark County, so it
10 kind of matches that requirement. So it's not an -- you know,
11 for a basic POST certificate, someone who has one year in
12 California, yes, they could get a basic POST, but for this
13 executive level basic certificate, the current sample language
14 includes that time requirement that you're suggesting in there.

15 BECHT: Oh.

16 SHERLOCK: If that helps.

17 BECHT: So somebody from within the state?
18 Cause as I also understand, the other problem to executive,
19 basic, or basic executive is that good Lord willing -- I'm
20 sorry, Sheriff McGill, lasts eight years, and then I'm done.
21 But otherwise, if I decide I want to continue in that position
22 or any position, he's gone, I'm gone, I'm no longer
23 undersheriff, and my POST certificate expires, the day I am no
24 longer undersheriff. Is that correct?

1 SHERLOCK: Mike Sherlock for the record. In the
2 current language, and again, this is about developing the
3 language, but in the sample that we provided, yes.

4 BECHT: Yes. Okay.

5 SHERLOCK: That immediately is inactive when you
6 leave that executive level position, and obviously the reasons
7 that staff wanted that in there.

8 BECHT: Correct. The standards are pretty much
9 the same for the executive and the lateral as far as POST
10 standards are being proposed?

11 SHERLOCK: Again, Mike Sherlock for the record. So
12 again, it goes back to what you were talking about. They have
13 to have a certain amount of time before they're eligible for
14 that executive level position if they're coming from out of
15 state.

16 BECHT: But I mean, as far as the PPFTs --

17 SHERLOCK: Cooper test.

18 BECHT: -- (inaudible) training and things like
19 that is the same?

20 SHERLOCK: Yes.

21 BECHT: Or comparable?

22 SHERLOCK: Yes.

23 BECHT: Yes. Okay. All right. Thank you.

24 TROUTEN: Any questions from the Board?
25 Clarifications?

1 SHEA: I'm sorry, I'm confused. Tim Shea. I'm
2 confused by this, Mike. I don't understand. You come this
3 isn't meant for somebody who has not been out of police work for
4 five years or more, is that what this is designed for? Because
5 otherwise, if you're coming here as a lateral entry officer, you
6 don't have to have five years experience, you can only have one.
7 The testing, the classes here are the online course that any
8 lateral would take, right? The physical agility for the Cooper
9 test is harder than our physical fitness test. So we're telling
10 them you have to do what any lateral officer does coming to this
11 state but because you hold an executive level position, it's
12 only good for when you're an executive level but yet it's no
13 different than any other lateral coming to the state. So why is
14 there a restriction? In fact, why do we even have it? We
15 already have lateral entry. What does this accomplish unless
16 it's designed for people who have been out of police work for
17 five or more years, which then requires you to go to the
18 academy, there is no way around it, but this doesn't say
19 anything about that. It doesn't reference anything about five
20 years, you know, over five years, current service, it just says
21 you have to have five years. Well, if Mr. Togliatti decides to
22 hire somebody at an executive level who has two years
23 experience, we're telling them, well, tough, your requirements
24 aren't good enough, you have to have five years but yet he can
25 bring him on as a lateral entry officer and put him anywhere he

1 wants. There's no requirement that I say well, yes, you just
2 came to me from Orange, California and you were there for two
3 years and I'm going to make you a deputy chief cause you're
4 going to have a basic certificate just like I have. So I don't
5 understand this and I don't understand why we have a physical
6 test assigned to it that's harder than our physical test that we
7 give. The newest guy coming in is going to be a patrol officer.
8 I'm just confused by this.

9 SHERLOCK: Again, Mike Sherlock for the record. So
10 a couple things. One, you're right. What was brought to us is
11 for those areas where they've been gone for five years or more
12 and they have to go to a full academy, that was what was brought
13 to staff in terms of this. So was there a way that we could
14 bring someone in as an executive, who has years of experience
15 but they've been gone for five years or more, without having to
16 go through a full basic academy, one. Two was also the same
17 thing with the physical fitness requirements that we have a
18 physical readiness test that is tied to job tasks that an
19 executive does not do. So what would we do in terms of physical
20 fitness? And again, this is just you -- the Commission will
21 design a language. We're throwing this out there. The Cooper
22 test is used, it's scaled by gender and age, which has been a
23 concern that's been brought to us in the past and that's why
24 that was there. The big issue was that five years have lapsed
25 and they have all this experience, but have to go to a full

1 academy. That's what was brought to us that, you know, an
2 agency hires an executive level, and yet they're in a basic
3 academy with their own line-level recruits and how can we fix
4 that, and this was some sample language that staff brought
5 forward to address that issue and also the election issue,
6 right, where we have a lot of new sheriffs that have been out
7 for five years or more that are looking to POST to create a
8 full, basic academy because of the current regulation. And this
9 would address that issue also, and that's why the sample
10 language was developed.

11 TROUTEN: Ty Trouten for the record. I apologize.
12 I should have reminded the Board again. We'll have this as a
13 discussion item for ourselves, so if we have questions or
14 clarifications from the public on this, that's the purpose of
15 the workshop cause I want to make sure we give the public time
16 to speak on this. Are there any other comments from the
17 audience here today?

18 MCGILL: Sheriff Joe McGill, Nye County. I just
19 want to address mostly the issue of more the physical fitness or
20 physical readiness or however you want to address that.
21 Oftentimes, the whole point in my undersheriff being in the
22 position that he's in is I tried to get metro people that I knew
23 that were retired and still had their basic certificates or
24 whatever. I couldn't match their retirement pay so I had to go
25 somewhere else and you can go to the retired pool and simply

1 because under undersheriff Becht has been out of the force for
2 more than five years, we have to bring him back into, as the
3 standard is now a basic full academy. The fact is is he did 26
4 years in law enforcement, he has that knowledge, he has those
5 skills, he has that experience that can be a great value to any
6 agency here, but I challenge a lot of us, when we've come to the
7 point in our careers where we are in an executive position, God
8 knows I'm not going to be able to pass physical fitness tests,
9 the physical readiness. We have been injured over our lives, we
10 broke a bone at home and we're just not there anymore, but our
11 minds are still there, our experience is still there. Those
12 years are of value to any agency that you can name and I think
13 that maybe even eliminating altogether the physical aspect of
14 this, yes, that executive member is going to be in the office 90
15 percent of his day. Is he able to go out and do a traffic stop?
16 Is he able to go out and do even a foot pursuit? I'll jump into
17 a foot pursuit just like any of us. Am I at that physical point
18 or physical agility in my life anymore? No, I'm not and I'm
19 going to be honest with that. None of us are when we get to
20 this age and this time in our careers. So if we eliminate the
21 physical aspect, capitalize on the knowledge and the skills and
22 the abilities that we have or that our executive level has and
23 tailor it to that, that's what we're looking for. That's the
24 reason why we hire an outside person who has maybe been retired
25 a long time to be our undersheriff or our deputy chief or our

1 assistant sheriff or whatever you -- or assistant director or
2 whatever you may want to call it. You're hiring him or her for
3 their experience and their skills, you're not hiring them to go
4 out and do a full (inaudible) week.

5 TROUTEN: (Inaudible.) Questions from the Board
6 for Sheriff McGill?

7 MCKINNEY: Kevin McKinney. I had a question.
8 Sheriff, I appreciate your comments. I have a clarifying
9 question though. Are you -- you discussed the physical fitness
10 readiness test. Are you challenging the validity of the test or
11 are you trying to say that your undersheriff should not be
12 physically ready to perform the duties of the job?

13 MCGILL: No, I'm not doubting -- I'm not saying
14 that he shouldn't be physically ready to do the job.

15 MCKINNEY: Okay.

16 MCGILL: You or I now, once you've started your
17 job, do you have to perform annually? Some departments may have
18 a requirement for that, but the state requirement for your
19 physical ability is a physical annually, and that's it. We
20 aren't required to go out and perform pushups and sit ups and a
21 mile-and-a-half run anymore. Once you're hired, it's no longer
22 a standard. So I'm just saying again, like I said earlier, in
23 this position, you're not expected to go out and work the street
24 all day every day, you're expected to be in the office making
25 managerial decisions, writing policy, addressing disciplinary

1 actions, things like that. You're not expected to be at the
2 level of your typical street cop. If that answers your
3 question.

4 MCKINNEY: It does to some degree. My follow-up
5 question, do you have a suggested alternative to ensure that a
6 peace officer would be physically able to perform the duties of
7 the job that would fulfill a requirement for certification?

8 MCGILL: I think -- and you're talking about the
9 executive level --

10 MCKINNEY: Yes.

11 MCGILL: -- basic. I think that the physical,
12 what do you call it, a clinical physical, medical physical, the
13 seeing a doctor and doing the treadmill and doing a chest x-ray
14 and doing the pulmonary, I think should be sufficient at this
15 level. At this level.

16 MCKINNEY: Okay. Thank you.

17 MCGILL: So to make that be the standard that
18 you're able to pass and get a medical professional to say that
19 you are physically fit to do this job.

20 MCKINNEY: Thank you.

21 TROUTEN: Any other questions? Thank you,
22 Sheriff.

23 MCGILL: Thank you.

24 TROUTEN: Do we have any other comments from the
25 public? All right. Hearing no further comments, we'll close

1 the workshop and we'll now transition over to our regular
2 Commission meeting. We'll be coming back this topic, but for
3 the moment we'll start with Item 1, approval of minutes from
4 February 9th, 2023, regular POST Commission meeting. Has
5 everyone had a chance to review those? Are there any additions
6 or corrections to be made? Any from the public? All right,
7 hearing none, I'd entertain a motion to approve minutes for the
8 February 9th, 2023 meeting.

9 MCKINNEY: Kevin McKinney, I so move.

10 TROUTEN: Thank you. Is there a second?

11 PROSSER: Prosser. Second.

12 TROUTEN: Thank you. All those on the Commission
13 in favor of approving the minutes, signify by saying aye.

14 MEMBERS: Aye.

15 TROUTEN: Any opposed? And I also vote aye. Item
16 Number 2, go over to Mike Sherlock for some comments and updates
17 on POST activities.

18 SHERLOCK: Thank you, Mr. Chairman. Mike Sherlock
19 for the record. Just a quick update, I hope, from POST staff.
20 We have graduation is the 18th of this month. Everybody's
21 invited. Anybody who would like to show up for that is welcome.
22 It's at 1:00 on the 18th. In your book, there's a summary of
23 audits performed by our audit person. You may recall, we've
24 talked about it a lot, part of our audit from the Governor's
25 Finance Office Division of Internal Audits, one of the areas

1 that they would that they suggested we change or make
2 improvements on was reporting back to the Commission those
3 deficiencies that we commonly see, or those major deficiencies,
4 to just be sure that there's not some action that the Commission
5 wants to take on trying to correct some common issues but. So
6 we've created a report that we can report to the Commission each
7 meeting that summarizes that and that's in your book, and I
8 won't read the, the audit report completely, but if you look at
9 that, you can see some of the common deficiencies that our
10 people find when they're doing audits and each level of those
11 audits, whether it's an agency background audit, training audit,
12 that type of thing, some of the common things that we find are
13 in there. So we wanted to make sure we report that to you. One
14 of the other areas from that audit, interestingly enough --
15 well, a big part of that audit was our budget, was budget
16 issues. One of the things that they asked of us recently in
17 terms of the audit was what are we doing to sort of look for
18 other avenues of revenue and funding and that kind of thing.
19 You know, staff's kind of caught in the middle of that. We rely
20 on the governor and we're within the executive branch and that
21 kind of thing. I will say that we just finished our last budget
22 hearing and passed out a committee, and at this point over at
23 the legislature, we are in the general fund, which we have
24 fought for the entire time I've been here. Pretty encouraging
25 that we were able to do that. It just stabilizes our funding.

1 We're cash poor right now, we can't pay our bills, not enough
2 court assessments coming in, we don't have enough cash on hand
3 to, you know, make payroll even, we have to borrow, so in the
4 end, this would be huge for us and so we've worked at it that
5 way. The other issue was what have we done to continue
6 soliciting for our EVOC (phonetic) course? We have property
7 over here for that. It is still over at CIP It hasn't
8 officially been denied. We're not real confident, but there's
9 not many avenues for us in terms of developing on our own, some
10 sort of funding source for EVOC and that kind of thing, but
11 we'll keep pushing to do that. Some of the other things going
12 on, litigation, we've got a few going -- we did, as the
13 Commission may recall, that staff denied the certification of a
14 person who was revoked out of state, revoked for life. That
15 agency appealed to the Commission on that decision. The
16 Commission agreed with the denial. That agency filed litigation
17 basically alleging that the Commission didn't act within their
18 authority improperly (SIC) and district court found in, in our
19 favor that the Commission did in fact have the authority
20 discretion to deny that certificate. That agency has appealed
21 that decision so we continue with that litigation right now. I
22 will say that the district court wrote a fairly lengthy opinion
23 that I thought was well written and supportive of the
24 Commission's actions. We're still -- yeah, and everybody knows
25 what's going on with the legislature, a lot of bills out there.

1 We are particularly interested in AB 225 that addresses some of
2 those issues dealing with certification and the National
3 Decertification Index. We'll see where that one goes. I think
4 everybody is aware of AB 336 from the previous session on the
5 behavioral health, behavioral wellness issues. The Commission
6 agreed and moved forward some language that we sent to LCB.
7 They have responded back to us and their legal feels that the
8 language doesn't fully meet the intent of that particular bill
9 so we will be bringing that back at the next Commission meeting
10 and looking at rulemaking in a workshop. Basically the issue is
11 legal believes that the bill requires a visit and a standard for
12 that visit, but we are in conflict or trying to walk the line.
13 IACP just finished a big study on this. Only one other state
14 even attempts this. The Supreme Court is clear that you cannot
15 arbitrarily demand a fitness-for-duty exam and so our problem is
16 with the language is, and this is from those that we've talked
17 to, that that language cannot include an evaluation or
18 assessment of the individual because then it becomes a fitness-
19 for-duty exam, and you can't arbitrarily order a fitness-for-
20 duty exam. So our difficulty is creating sample language for
21 the Commission to approve that fits the intent of the bill
22 without getting us into that issue with fitness for duty
23 arbitrarily, and so we'll be looking at that and we'll be able
24 to bring forward some ideas for the Commission at the next
25 meeting but, in terms of that behavioral wellness visit, so

1 we're working on that. It didn't -- we tried to make it as
2 generic as possible to give agencies flexibility, and it just --
3 the LCB just is just not going for it. So we'll see what
4 happens there. The only other thing I would add is we are in
5 transition. We were funded last session for a new database.
6 We're getting close hopefully to getting that done. We'll be
7 getting rid of our, those of you that know, current method of
8 reporting training and that kind of thing to us will be much
9 more user friendly and efficient so hopefully we'll get that
10 going very soon and get that out, and I think that's about it
11 for POST right now.

12 TROUTEN: All right. Thank you, Director
13 Sherlock. One question: location of the POST graduation, is it
14 here?

15 SHERLOCK: It's at -- Mike Sherlock for the record,
16 it's at Brewery Arts Center, which is downtown Carson Center.

17 YOUNG: Hi, this is Commissioner Young. I have
18 a question on the audits. Earlier you stated there we're cash
19 poor, I think that's what you said and so we've obviously spent
20 some time and money on conducting this, and I just want to know
21 what then will be the purpose of moving forward. I see
22 recommendations, do we hold that? What happens with the audit
23 on here?

24 SHERLOCK: So -- Mike Sherlock for the record. So
25 it wasn't our budget --

1 YOUNG: Okay.

2 SHERLOCK: -- that the audit was done. This is
3 from Governor's Finance Office.

4 YOUNG: Okay.

5 SHERLOCK: And they've made recommendations, which
6 we've implemented, those that we can. Some of those
7 recommendations deal with securing new funding and it's just
8 really -- there's -- we don't have a lot of discretion in that
9 area. I --

10 YOUNG: Okay.

11 SHERLOCK: You know, staff, we can't go out and
12 solicit money. We have made inquiries with the, you know,
13 legislative branch on some ideas. That being said, the budget
14 has moved us into general fund, which is huge. If everybody
15 understands that, one, we're funded July 1, and so we don't have
16 that issue with cash flow, but also gives us access to the
17 contingency fund and that kind of thing if things go bad. Just
18 to let everybody know, what that does is we've -- I've spent
19 years building up our reserve, so we had a very large reserve
20 that was wiped out during the pandemic but one of the questions
21 that is posed to us is how are you going to operate without that
22 huge reserve? The fact of the matter is we are authorized a
23 particular budget. It doesn't change. So our issue has never
24 been that we go over budget. We never do. Our issue has been
25 there's not enough court assessments coming in to pay our bills

1 and so that reserve was used to pay our bills. Moving into
2 general fund, we don't need that reserve because we don't
3 overspend and we're funded up front and so we should be in a
4 much better position as far as that goes. The other issues with
5 the governor's audits were dealing with procedure, for instance,
6 reporting, providing the Commission with the report of our
7 audits and that kind of thing, which we've done here today. If
8 that helps.

9 TROUTEN: Further questions? The public? All
10 right. Oh, go ahead.

11 MCGILL: Just in reference -- Sheriff McGill, Nye
12 County. Just in reference to the report and the revocation of
13 the POST, the deputy that we had from out of state, you
14 mentioned that the agency is -- that we are appealing that court
15 decision?

16 HASTINGS: Notice of appeal's been filed with the
17 Nevada Supreme Court by counsel for the account -- the agency.

18 MCGILL: Okay. Just for the record, that is not
19 on behalf of the agency, that's on behalf of the individual.

20 HASTINGS: That's not our understanding.

21 MCGILL: It's news to me. We need to talk.

22 HASTINGS: Sounds good. Thank you.

23 TROUTEN: Thank you, Sheriff. Okay. We'll move
24 on to Item Number 3, discussion, public comment, for possible
25 action. This is discussion with the Commission to decide

1 whether to continue the rulemaking process to create an
2 executive level basic certificate and the requirements for that
3 certificate. We've just recently run down this. Is there any
4 further, I guess, details from you, Director Sherlock?

5 SHERLOCK: Mike Sherlock for the record. Again, we
6 just had a workshop on this issue. You know, if the Commission
7 decides to continue, we will bring back draft language again
8 based on the comments that you make today and then once that --
9 you know, if there's a motion to accept that language that you
10 develop that language then goes to LCB, LCB massages it, it
11 comes back, and there's public comment and for final approval.
12 So you'll have every step of the way to make changes or not
13 approve it, or not continue. Today it's up to the Commission,
14 but that's where we're at.

15 TROUTEN: Okay. Thank you. Open it up to the
16 Board first for questions and discussion.

17 PROSSER: Jamie Prosser. When we talk about
18 physical fitness, I really -- I do believe we have to have
19 something, some type of standard. However, this is too much for
20 an executive level. I still believe that it should be up to the
21 agency, but if we put a standard in there that the recipient of
22 this has to run a mile and a half within the standard set by the
23 agency or something to that effect, and reason being is my fear
24 would be you put on this uniform and you walk out in public, and
25 if you're not physically able to handle a situation that you

1 might encounter, then that's bad on us for allowing somebody to
2 put on a uniform and go out there. So that would just be my
3 suggestion. I don't know what that looks like. I think it's
4 something we need to talk about, but I don't believe that an
5 executive level needs to complete the physical standard as a,
6 you know, 21-year-old recruit.

7 SHERLOCK: Yeah, Mike Sherlock for the record. You
8 know, we've had lots of discussion on PT and fitness levels and
9 that kind of thing. We did discuss, and I think it was
10 discussed here, about some sort of language that allows the
11 agency to create a job-related physical requirement for that,
12 and we're just worried about the language of that, you know, and
13 how you do it. The other issue, if you might imagine from
14 staff's perspective, is we certify that the moment we give you
15 that certificate, you have the physical ability to complete the
16 critical physical tasks of that job, based on a validation
17 study, the moment we give that to you. So it's hard for staff
18 to wrap their mind around that if we're going to give a basic
19 certificate to someone that isn't required to demonstrate, and
20 in the case of executive, I understand there's a different job
21 task category, right, but to say that that person doesn't have
22 to meet that, it's tough for us from the big picture, right,
23 that we're certifying that at that moment you have the physical
24 ability to complete those tasks, and that's the only reason we
25 suggest keeping it in there. And again, from our perspective,

1 if you have an executive level position that is not going to
2 exercise peace officer powers, they're never going to chase
3 someone. They're never -- you know, why would POST certify
4 them? So it's that constant for us is we're certifying someone
5 because they're going to perform the duties of a peace officer,
6 and we have no jurisdiction over other people that aren't going
7 to perform the duties of a peace officer. So the question for
8 us becomes if they're not going to perform the duties of a peace
9 officer, and so there is no physical requirement, why is there a
10 requirement that POST certifies 'em? That's just kind of the --
11 you see what I'm saying? From our perspective, but we'll just
12 throw that out just from staff, who we serve.

13 YOUNG: Commissioner Young for the record. I'm
14 still confused on the five consecutive years. So I heard what
15 Commissioner Shea was saying, and is it five consecutive years
16 here, away, lateral move? Can you -- it's just five consecutive
17 years.

18 SHERLOCK: Yeah. Mike Sherlock for the record.
19 Again, that's up to the Commission. We looked at Clark County's
20 requirements to become the chief executive, the sheriff, and
21 that's the language they used. But again, that up to the
22 Commission. We are looking at this: the reason you get this
23 basic certificate, and you don't have to go through the full
24 academy as a basic recruit is because you are being appointed to
25 an executive level position and you have at least some basic

1 background that justifies you getting that POST certificate and
2 being appointed in that executive level position. So that five
3 years was just -- I'm not saying it's arbitrary because it did
4 come from the election law, and that's why we use that. And
5 it's five years anywhere, certified. California, New York, it
6 doesn't matter, federal.

7 SHEA: Tim Shea again. Sorry, I jumped the
8 gun. Sorry. So I understand a requirement for so many years if
9 you're looking at somebody who no longer is a peace officer
10 somewhere, someplace. If you are one now, and you could lateral
11 here as a line-level officer, but yet to be the undersheriff,
12 you have to -- you're saying you have to have five years for
13 this certificate. I don't even know why the certificate's
14 necessary. I don't understand what it accomplishes because I
15 can get a basic certificate now meeting all the criteria in here
16 except for the five years. The other thing is when it comes to
17 the physical fitness for executive position, we give people a
18 physical -- according to the NAC, we don't have a physical
19 readiness test, we have a physical fitness test we must give.
20 We've never changed the name, the body's never changed it. The
21 physical redness test does not exist except in terminology but
22 there's nothing that defines what that is. The assumption is,
23 ah, that's the test in the NAC. So anyway, I take that test 25
24 -- well, I didn't take it 25 years ago because prior to 2010,
25 this test didn't exist. So I took this test back then, I now

1 promote through the ranks. There is no physical fitness test I
2 have to take to get promoted to the rank of undersheriff, I have
3 to do the heart and lung. If I get injured during the course of
4 my tenure and my department sends me to a fitness-for-duty
5 examination, it is not the physical fitness test, it is a
6 medical doctor saying yes, you can do this job. But what we're
7 saying is that that same doctor doing that same standard is not
8 applicable unless you can run around a field in a mile and a
9 half, but we don't require that in the same circumstances for a
10 serving officer. It makes no sense to me to have these two
11 separate standards and I don't understand what we're trying to
12 accomplish. Because if I can come back to duty after an injury
13 because the doctor says I'm fit to go, why can't that same
14 doctor not say I'm fit to do this job at an executive level
15 because 15 years ago I did a physical fitness test at another
16 agency that was much harder than this one. And that's where I
17 kind of -- I don't understand why we're doing this and in some
18 cases, PPFT test, that (inaudible) test, in some cases, I don't
19 have to do anything. I'm exempt. So there is no physical
20 fitness test for some people, depending on your age, some things
21 you don't have to do anymore, and if you're a younger age, you
22 have to perform more than the lateral officer coming here as an
23 entry level police officer. So again, I don't know what we're
24 trying to accomplish. I agree with having a system in place
25 that allows us to give people an executive level without putting

1 standards of performance on them that we would not put on people
2 internally for the same position. I don't understand why we
3 would do that. And that's where my rub comes. And also, like
4 I've talked before, we have a physical job. We have a physical
5 fitness standard test we put into place. Fire service has a
6 physical job. They have no physical standards. There is no
7 state requirement for anywhere for firefighters, none, and yet
8 we doggedly hold this thing, and I don't know anywhere, any
9 place where this test says this makes for a better cop. Because
10 again, you only have to do it once in your career and we have
11 many, many serving officers now doing a fine job every day that
12 could not pass the physical fitness test.

13 SHERLOCK: Mike Sherlock. I just want to make sure
14 we clarify here. You're talking two different things, right?
15 We're talking about certifications, so --

16 SHEA: Mm-hmm.

17 SHERLOCK: -- POST doesn't get involved in
18 promotions. We're saying at the moment you get that
19 certification, you've met this certain standard or whatever you
20 decide the standard is, that that's the difference between a
21 promotion and a POST certificate.

22 PROSSER: Jamie Prosser for the record. Sorry
23 (inaudible). As Commission, would it suit us just to change
24 letter G to say that the peace officer passes a physical
25 readiness examination as determined by their agency? Because

1 then it takes it off of POST, we're not telling them what it has
2 to be, and therefore if they put on a uniform and get their butt
3 beat, it's not on us. But -- and it could be, like, your agency
4 could say can you walk a mile?

5 SHEA: I agree. I think it should be up to the
6 individual agency to determine what they need for their
7 personnel. I don't think it's up to the state with a blanket
8 thing that says -- and the thing about the certification I
9 understand, which we -- the POST certificate means you met our
10 standards and qualifications. This group, this Commission,
11 decides what those are. So if we say this is the conditions
12 under which we want the certificate issued, that's what's being
13 issued. So as long as it's meeting the standards of the
14 statute, we're good.

15 SHERLOCK: Yeah. Mike Sherlock for the record.
16 Absolutely, you decide the standards. There's no doubt about
17 that. I would just give some perspective on the physical
18 fitness test. We've been successful in litigation and across
19 the country been successful because it's a physical readiness
20 test, because our test is tied to job tasks. That's what you
21 see across the country. That's how it's been successful. We
22 personally, here in Nevada, POST has been successful because of
23 that. But that's a litigation issue.

24 TOGLIATTI: George Togliatti for the record. Just
25 listening to the testimony of the sheriff's. I'm definitely in

1 support of the idea that it has to be flexible enough to leave
2 it up to the agencies. I think these, whether it's a major
3 metropolitan area, rural area, whether you're talking state, I
4 have positions that are deputy positions that the biggest fear
5 is a paper cut and you have to have people who are so really
6 adapt -- adept, rather, at dealing with the legislature, dealing
7 with budgets and so on and so forth, but happen to be a police
8 officer and maybe worked their way up through the ranks, and you
9 could find a keeper like this gentleman who give us a letter
10 that your agency may have an opening for someone like this who
11 may not, because of their career and the service to the country,
12 may have an injury or whatever, they can't pass a physical
13 fitness test or a readiness test or whatever name you want to
14 put on it. I think it's important that we have enough latitude
15 in whatever we decide to leave it up to the heads of agencies to
16 decide who they should hire as far as that physical-fitness
17 part.

18 MILLER: Ollie Miller for the record, I too am in
19 agreement with giving the individual agencies the latitude, the
20 ability to decide what the physical fitness testing would look
21 like and, you know, I think perhaps there's space to look at
22 Subsection A, which talks about the actual number of executive
23 level posts that we would allow for this basic, and I think this
24 speaks to Sheriff Furlong's point. Different agencies need
25 different things that -- you know, we at the Reno Police

1 Department have four executive chief, assistant chief, deputy
2 chief levels that we could plug individuals like this into. So
3 perhaps there's another methodology for selecting what that
4 number is, whether you go with agency -- you know, a percentage
5 of what the agency is, you know, no more than 2 percent, or you
6 limit it to certain ranks within an agency. And I know that
7 we're all different, but I think that perhaps there's space to,
8 I don't know, create more latitude for the individual agencies
9 with regard to that.

10 SHEA: Tim Shea for record again. There's
11 another trend that's going on. I look at trends. You'll see
12 agencies across the country begging for retired guys to come
13 back to work. It's going on all over the place. I employ
14 several retired officers from other agencies from around the
15 country in jobs that are commissioned. We, of course, can't --
16 if they're in state and, you know, they're still been there five
17 years, I don't have to put 'em through anything other than to
18 meet the requirements of 289, short physical fitness test. If
19 they're one day over, then basically have start all over. And I
20 would just like to have this also loosened up. So we're talking
21 about wellness for our folks into the future and taking care of
22 our people that are severing services and allow them to come in
23 and work some part-time positions and things like -- my guys
24 like this are all part-time. Couple are metro, I got some from
25 out of state, and other agencies. And to make this whole system

1 work a little bit, and we can do things like this and we can
2 bring people in like this gentleman here, or like the sheriff's
3 looking for, I think it's absolutely critical. I know from one
4 of my prior agencies, they're searching the country now trying
5 to get deputy chiefs and I can guarantee you if people going to
6 be deputy chiefs at Seattle Police Department are not going to
7 be going to the basic law enforcement academy. The chief they
8 brought in from out state, he didn't go to the basic law
9 enforcement academy. You know, they didn't make him run around
10 the field down at the academy, but you could get those
11 positions. So I really think we need to take a look at what's
12 going on around the country and why it's going on, and realizing
13 that we're going to fall into that same basket and we need to
14 have a system in place to allow us to bring the people in to do
15 the jobs we need. Otherwise, we're going to have critical
16 vacancies, or we're going to put people in the positions just
17 because we need somebody there.

18 TROUTEN: Other comments from the Board?

19 MILLER: Yeah. Ollie Miller for the record one
20 more time, and I didn't want it to go unsaid. I thought you
21 made a very good point earlier, staff that with regard to not
22 having an agency comprise 100 percent, even 50 percent of these
23 executive basic certificates, right? So, you know, I do think
24 that, I believe that there should be, you know, a cap on it.
25 Just how we get to that number should be more tailored and give

1 the individual agencies more opportunity to fit what their needs
2 are.

3 SHEA: Tim Shea again. Could I make that
4 suggestion that perhaps this whole ball of wax is something that
5 we could ask to put together a comprehensive workgroup from
6 around the state, from different agencies, and have them come
7 out and get together. We've done this before. Some other
8 things. I know Sheriff Furlong, he volunteered to be involved
9 before and get some folks sit down, put together something that
10 they could then bring to y'all that you can put into a draft of
11 what the ordinance would look like and then we could take a look
12 at that because this is very difficult to do in this kind of a
13 format and, you know, have them bring us something by the next
14 Commission meeting or the fall Commission meeting and give them
15 some time to work on this and put this together and do a lot of
16 research so we don't do something haphazard or end up with
17 something that's going to cause us grief in the future or end up
18 with too many people in one agency with something we really
19 didn't intend for, something like that.

20 TROUTEN: So Ty Trouten for the record. A couple
21 points I'd like to make is this is a very difficult state to
22 work in because sometimes your number two is a line-level
23 officer as far as their duties are concerned. Other agencies,
24 there are multiple layers of folks who it would be a very rare
25 circumstance they would be doing anything related to a frontline

1 type of duty. So I believe that may not be a bad suggestion at
2 all if we tried to get something put together. The other thing
3 that strikes me is that this validation test, the PPRT
4 (phonetic), the (inaudible), however we want to characterize it,
5 was set up for that front-line patrol-officer job description
6 and it only becomes less applicable as you move up in ranks,
7 depending on, again, like I said, the size of your agency. So I
8 also like the idea of leaving it somewhat to the discretion of
9 the agencies. Of course, the concern always is that you have
10 some agencies that will then just devolve to the lowest common
11 denominator and try to push this. So I think it's critical that
12 when we do come up with some good language, it is restricted to
13 the executive levels, you know, be that the top level or the top
14 two levels as we've discussed: sheriff, undersheriff, chief, you
15 know, deputy chief, whatever that looks like and again, I think
16 the best way to get there is a workshop or excuse me, a working
17 group or something that can come up with some ideas and get some
18 wide input. I don't see this as working now. The other thing
19 that strikes me is as much as we've talked about the physical
20 test, the POST test that we use now, the PPRT, PPFT, if you
21 compare that and look at this Cooper standard, our test is
22 pretty pathetic. It's pretty low, and you've seen that in --
23 you know, you've been a member of the military, different
24 things. They have some much higher standards. So I really
25 question too of -- you know, if that's the basic job duties, it

1 is not a high threshold for even that, you know, brand new
2 patrol officer on the street. So I just want to be careful that
3 we don't just water this down so far that we're not keeping an
4 eye out for the safety of our people. While, yes, it's on the
5 agency in some regard, it also is going to hit us when it's
6 medical retirements or something else, or you lose an officer
7 because they cannot run, they literally are not in physical
8 health. Speaking to the physical test that we take yearly for
9 the heart lung bill, I have asked the doctor specifically, what
10 would it take to fail that stress EKG, what would that person
11 look like and he goes if you were a couch potato and you had no
12 exercise, you will pass that test. So that too is not a high
13 standard. I just -- I'm leery of getting too easy here when, in
14 my opinion, we already have a reasonable standard for the line
15 level. The trick is how do we match that to the job
16 description, how do we validate a test for the job description
17 of the executive levels?

18 SHEA: Mm-hmm. I agree with you absolutely.

19 HASTINGS: So Nathan Hastings, Attorney General's
20 Office for the record. Not trying to be the stick-in-the mud
21 lawyer in the room, but I just want to be cautious in terms of
22 the way that this is agendized as an action is a decision by the
23 Commission whether to continue the rule-making process. And so
24 I ask staff, because I'm not familiar with this history, if and
25 when there have been a working group functionality that's been

1 utilized to try to move something to a more user-friendly place
2 in the process, has that been done separately agendized as a
3 decision whether to create a working group, or has that been
4 done administratively by staff as a way of "continuing the rule
5 making process?"

6 SHERLOCK: Mike Sherlock for the record.

7 Historically it's been done administratively.

8 HASTINGS: Okay.

9 SHERLOCK: After this level in the agenda.

10 HASTINGS: Okay. Again, my intention here is not
11 to cause problems. I just want to advise you guys and, you
12 know, you can evaluate the conservative approach, or -- which is
13 anytime you're going to do anything, it should say specifically
14 on your agenda, you're going to do that thing in terms of giving
15 public notice of your action as a public body, but I'm also not
16 saying I'm uncomfortable with the prospect of moving forward to
17 create a working group administratively. I would suggest that
18 you not make a motion to do something like that cause that's not
19 on your agenda.

20 TROUTEN: Are there any further comments from the
21 Board?

22 MCKINNEY: Kevin McKinney. I'd like to make a
23 comment. While I understand pretty much, I don't disagree with
24 everything. However, I do believe that with the exception of
25 couple states, I believe Louisiana's one, perhaps Texas, very

1 few states don't set a minimum standard for physical fitness for
2 officer certification and I believe that -- I mean, I think it's
3 our obligation to set a minimum standard. I'm not sure what
4 that is, but I don't believe leaving it entirely up to the
5 individual agencies is the proper way to do it, and so I would
6 tend to disagree with a couple of Board members here on that
7 point specifically, but again, I'm not sure what that statement
8 is, but I do think we need to set a minimum standard for
9 physical readiness to perform the functions of the job.

10 TROUTEN: So Ty Trouten for the record. So if I
11 understand, and I guess for clarification, we're not talking
12 about a basic Category I certificate that is obtained through
13 this academy for rank and file officers, but when it comes to
14 the topic of the physical readiness test, whatever that may look
15 like for an executive level, that that part would be left up to
16 some agency discretion. Is that as you understand it?

17 MCKINNEY: That's -- Kevin McKinney. I understand
18 it, what we're discussing is for that executive certificate
19 solely of allowing the agencies to have that discretion. I
20 still believe that, my opinion is that the state should set a
21 minimum standard, whatever that be but, you know, again, we're
22 in the business of setting the minimum standards. That doesn't
23 mean the agency can't set higher standards, but we should set a
24 minimum standard.

1 PROSSER: Jamie Prosser for the record. Can we
2 just have the heads of every agency do the physical fitness and
3 take the average? Just a suggestion. We don't really know what
4 the standard is.

5 SHERLOCK: Mike Sherlock, for the record. That is
6 essentially what a validation study is. I mean, but again, you
7 know, can we do it here today? I don't know. You know, but
8 again, that's, you know, something we're not budgeted for, to do
9 a validation study at the executive level, what their job tasks
10 are, and what physical tests relate to those job tasks, even if
11 it is just sitting behind a desk that would cost a significant
12 amount of money. I will say as far as the Nevada minimum
13 standard, it continues to be adopted across the country. We
14 hear about the portability studies constantly, and there's quite
15 a few states that do use our test. Not that that changes
16 anything, but they are using it.

17 TROUTEN: Thank you. Ty Trouten for the record.
18 So I think what we're at is we can have a motion to continue the
19 process because I do not believe we have arrived. So if anybody
20 has a motion to continue that, I would entertain that motion.

21 PROSSER: Jamie Prosser so moves.

22 UNIDENTIFIED: Second.

23 TROUTEN: Thank you. All Board members in favor,
24 please signify by saying aye.

25 MEMBERS: Aye.

1 TROUTEN: Any opposed? I also will vote aye.
2 Moving on to Item Number 4, discussion, public comment, and for
3 possible action, discussion with the Commission to decide
4 whether to continue the rule making process to revise NAC
5 289.110(4)(b) to update or make changes as it relates to
6 marijuana offenses. Director, if you could provide us some
7 background again?

8 SHERLOCK: Certainly. So again, Mike Sherlock for
9 the record. As the Commission may recall, this change was or is
10 about criminal convictions. I want to make sure nobody's
11 confused. This is not about last use, background, anything like
12 that. This is simply an attempt to change our current minimum
13 standards for appointment that carves out an exception.
14 Currently, if you're convicted of drug offenses or felonies,
15 you're prohibited. This carves out those marijuana offenses are
16 not automatic disqualifiers. It's always within the discretion
17 of the agency, are not automatic disqualifiers that are specific
18 marijuana convictions that today would not be a crime. And so
19 this language attempts to carve out that exception to, again,
20 give agencies some flexibility in those specific areas.
21 Certainly it doesn't change what an agency can do, it's just not
22 an automatic disqualifier in terms of minimum standards. We
23 know there are some bills out there dealing with last use of
24 marijuana and our regulations but this particular change simply
25 addresses those specific convictions.

1 TROUTEN: Thank you. We'll open it up to
2 discussion by the Board. No one has any comments?

3 MILLER: Ollie Miller for the record. I was in
4 favor of having more ability to have applicants, additional
5 applicants, for the Reno Police Department is specifically those
6 individuals that, you know, made a mistake in their lives. We
7 talked about, I think at our last meeting, barriers for
8 individuals seeking employment in policing and I think this is a
9 good avenue to provide opportunity to applicants, members of our
10 community.

11 SHERLOCK: Mr. Chairman, Mike Sherlock for the
12 record. Just to clarify, you know, we've already had a workshop
13 on this. You continued the rulemaking. This is the language
14 that you see in your book that was developed out of that
15 workshop and comments from the Commissioners. And so at this
16 point, if you continue the rulemaking, this will be sent over to
17 LCB for final draft, which will then come back to you and you
18 can adopt or not adopt at that point but that's where we're at
19 in the process.

20 TROUTEN: Are there any comments from the public
21 on this matter? All right, on this one we may have arrived so I
22 would entertain a motion to continue with the process.

23 MCKINNEY: Kevin McKinney, I so move.

24 YOUNG: Second.

1 TROUTEN: Thank you. All in favor please signify
2 by saying aye.

3 MEMBERS: Aye.

4 TROUTEN: Any opposed? I also vote aye. We'll
5 move on to Item Number 5, discussion with the Commission to
6 decide whether to continue the rule making process revising NAC
7 289.300 (1)(b) to update the requirement that a person must pass
8 the POST Physical Readiness Test Academy entrance test. Mike,
9 once again, sir?

10 SHERLOCK: Mike Sherlock for the record. So again,
11 this is a reg change that we've already had a workshop on.
12 After the workshop, the Commission continued the rulemaking,
13 language was developed. In this particular case, it's
14 specifically looking at the requirement for academy entrance,
15 and this allows some discretion, or full discretion, really to
16 the academies to decide whether or not to use our physical
17 requirements as a screening for the academy. It allows 'em to
18 do so but it's no longer shall; simply changes it to may use our
19 PPRT as a gauge on whether or not they'll complete the academy,
20 and it just puts the discretion back on the agencies. This was
21 not a certification issue, it's an entrance into the academy
22 issue. So again, this language changing that to a may, allowing
23 the academy some discretion, would go over to LCB, and they'll
24 come back with language hopefully at the next meeting.

25 TROUTEN: The board for comments, discussion?

1 PROSSER: Jamie Prosser for the record. So
2 clarifying that this basically says that they have to complete
3 this physical test no later than 14 days after they start the
4 basic academy? So within 14 days of starting my academy, I have
5 to pass this test?

6 SHERLOCK: So Mike Sherlock for the record. Under
7 the current regulation, you must pass our current physical
8 requirement at 80 percent, not certification level, either 30
9 days before the academy or up to 14 days into the academy. This
10 changes that and says you don't have to do it at all, you may
11 use this as a gauge. In the validation study, it was determined
12 that if someone on day one passes at 80 percent, in a 16 week
13 academy would be able to -- with a physical fitness requirement
14 in the academy, would be able to pass the certification test by
15 the end of the academy. This recognizes that one, most
16 academies are a lot longer than 16 weeks now and so it's not a
17 fair tool because what's happening with Metro, DPS, some of
18 these -- and even our academy is you're stuck with this
19 requirement even though you know your academy's longer than what
20 it's based on. So this just gives the academies discretion to
21 use it or not use it as a screening tool.

22 PROSSER: Correct. I just think the verbiage is
23 confusing cause the way I read it is that they may be required
24 to pass the physical examination not sooner than 30 days before
25 and not later than 14 days after. Can't we just get rid of all

1 of the numbers and just say that you may be required to pass a
2 physical examination prior to completion of the academy?

3 SHERLOCK: I think the reason staff left that in
4 there is because the validation study, it's a valid tool if
5 those dates are in there and if an academy wants to use that
6 tool, this is what that tool is. They can, they don't have to,
7 but they can't. Does that make sense?

8 PROSSER: Is anyone else confused by this
9 verbiage?

10 SHEA: This is Tim Shea. So I understand that
11 this is the 80 percentile, so this was the 80 percentile you
12 used to -- you required to give for someone to go to the academy
13 basically right now and we're saying we're going to take the 80
14 percentile away. You can do it if you feel like it, but you
15 don't have to, but it has nothing to do with the physical
16 fitness test you must complete to become certified, which is
17 completely different verbiage farther on in this section.

18 SHERLOCK: Yes, Mike Sherlock for the record. I
19 wouldn't say it's -- it is related. That's why those numbers
20 are left in there. It is related to the certification test as a
21 tool should you choose to use it.

22 SHEA: I understand. If I choose to use this,
23 this test is validated that if the person passes this, it's
24 shown that they will more than likely pass the state
25 certification requirement by the end of the academy. If I

1 choose not to do it, I'm rolling the dice and the person may not
2 be able to pass the state certification exam at the end of the
3 six-month academy.

4 SHERLOCK: Yes. Mike Sherlock for the record.
5 Yes, exactly what you guys asked of us.

6 SHEA: Yeah. So if this was completely gone,
7 didn't even exist, it really wouldn't matter towards
8 certification because you still have to take certification tests
9 within a year of being hired as a peace officer in Nevada.

10 SHERLOCK: Yeah. Mike Sherlock for the record.
11 Yeah, you're correct. Yep, that's true.

12 SHEA: Yeah, you don't have to take the
13 physical -- the certification test is not a requirement to
14 complete the academy unless the agency chooses that cause the
15 certification process, you have a year, unless you're a lateral.
16 Then you must take the physical agility test within 12 weeks or
17 16 weeks.

18 SHERLOCK: Sixteen weeks, yeah.

19 SHEA: Yeah, but even though you have a year to
20 get certified. So I --

21 SHERLOCK: Well, Mike Sherlock for the record,
22 understand you have a year to go to an academy too, so that --
23 so it's both a year under the current regulations scheme, and
24 this is the entrance -- was the entrance requirement.

1 SHEA: So the pre-physical test becomes an
2 elective.

3 SHERLOCK: Yes.

4 TROUTEN: So Ty Trouten for the record. I guess I
5 see a different window here. So you have a year to become
6 certified, which does entail passing a POST PPRT within that
7 year. So the problem would be, and we've seen this before where
8 we have agencies due to staffing levels or wherever else comes
9 up where they have that year, we have to grant them a specific
10 extension. If they're in such horrible shape coming into it
11 that there is no way by the end of the academy where they could
12 be certified or whatever, it still allows for the proctors to
13 say look, this isn't going to work. We don't have a sufficient
14 window to take you from say the 70th percentile and in the
15 length of our academy, get them to that, you know, 100th
16 percentile of passing the test. So I think it is still a
17 valuable liability reduction in allowing that discretion so that
18 we have some means of evaluating. It just means that hey, if
19 they're in the ballpark close enough, knowing that the academies
20 are a little bit longer if we have a little bit longer window
21 because when they were hired to when they have to be certified,
22 we have that availability to work with them.

23 SHEA: Tim Shea. I agree with this. So for
24 me, part of my hiring process is candidates have to take the
25 physical fitness test. If they don't pass at 80 percent, they

1 don't move on. I'm not going to roll the dice, and I had this
2 happen to me before where I had to come before this Commission
3 before I was on it and ask for an extension and I said I'll
4 never do that again. So what all they're saying is that
5 agencies are -- I believe many agencies are using this as part
6 of their hiring process. They then take the test again.
7 Frequently, cause the hiring process occurred three months ago,
8 they take the PPFT again to go into the academy and pass at 80
9 percent or, you know, a hundred percent and then they take it
10 again at the end of the academy as part of the certification
11 process. All we're taking out is the middle one. You don't
12 have to do the middle one if you don't want to. That's all.

13 SHERLOCK: Yeah. Mike Sherlock for the record.
14 Just to be clear though, there's no regulatory requirement in
15 the hiring. I know why you do it.

16 SHEA: There isn't.

17 SHERLOCK: There's no requirement that you do that
18 but.

19 TROUTEN: Ty Trouten for the record. I think
20 that's really an issue here is you're doing what I would
21 consider right: you're screening your folks, making sure they
22 can meet that. There's no requirement of agencies to do it in
23 that manner, to do it right, so they can send what they want
24 here. We end up wasting staff time, resources, everything else
25 on somebody who just isn't in that position to get the end the

1 academy with that standard. So I think leaving it in as a may
2 is a useful tool and provides some insulation for the POST staff
3 to do their jobs.

4 NIEL: Russ Niel for the record. Mike, talking
5 about the academy, right? That's what this is addressing is the
6 academies.

7 SHERLOCK: Yes.

8 NIEL: So, like, Nevada POST, I sent one of my
9 agents to your academy, then you may or may not have an entrance
10 physical fitness screening cause I know a lot of people have
11 been dropped over the years on day one cause they missed it by a
12 pushup, sit up, you know.

13 SHERLOCK: So --

14 NIEL: This gives the academy discretion --

15 SHERLOCK: Yes.

16 NIEL: -- to administer that entrance PFT (SIC)
17 or not and (inaudible) has some parameters as far as that goes.

18 SHERLOCK: Correct. Mike Sherlock for the record.
19 So just to give you a perspective, it will be a requirement for
20 our academy for the reasons that --

21 NIEL: Eighty percent, right?

22 SHERLOCK: Yes. Because for us it is an issue,
23 right, and staff time and we have mandatory live-in and to give
24 people a dorm room and knowing that they're not going to, you
25 know, complete the academy is just, you know, not something that

1 we're -- we're not going to roll the dice on. On the other
2 hand, I agree with Chief Prosser. You know, you look at this
3 and go why don't we just get rid of all that other stuff and
4 leave what that 80 percent is. I think the only issue we have
5 with that is these numbers for the 80 percentile need to be done
6 in that time zone around the beginning of the academy or they're
7 not valid as a screening tool. I think that's the only reason
8 we left -- even though it's confusing, that's the only reason we
9 left that in there and just made it discretionary, if that makes
10 sense.

11 MCKINNEY: Kevin McKinney just to again maybe
12 clarify, expand on what Commissioner Niel said, but this would
13 give an academy the -- say a person does miss the sit-ups by
14 one, it allows them to have that discretion to continue on in
15 the academy or not?

16 SHERLOCK: Yes, Mike Sherlock for the record. So
17 if you recall, Metro's exact issue was that, that they have a
18 person that doesn't meet the screening criteria yet they know
19 they have a 22-week academy and they can get them up to speed up
20 to -- even though they didn't make the 80 percent, they know
21 they can get 'em up to a hundred and this addresses that issue
22 for sure.

23 TROUTEN: Other comments from the Board? Comments
24 from the public? Hearing none, is there a motion?

1 MCKINNEY: Kevin McKinney, I'll move to move
2 forward in the process.

3 TROUTEN: Do I have a second?

4 NIEL: I'll second.

5 TROUTEN: Thank you. All members in favor, please
6 say aye.

7 MEMBERS: Aye.

8 TROUTEN: Any opposed? I also vote aye. All
9 right. Item Number 6, discussion, public comment, and for
10 possible action, discussion with the Commission to decide
11 whether to continue the rule making process, revise NAC 289.200
12 (4) (a) and (8) to update or modify the requirement time --
13 excuse me, modify the time requirement for a person to pass the
14 physical readiness test at certification level and modification
15 of the requirement to maintain a basic certificate. All right,
16 sir?

17 SHERLOCK: Mike Sherlock for the record. So if you
18 all recall, we did have workshop on these issues under this
19 single regulation. Two different things going on. This changes
20 the language to allow, again, academy's flexibility on the PPRT
21 to complete that at certification level by the end of the
22 academy and removing the 16-week requirement. So again, we're
23 addressing the issue where most academies are longer than 16
24 weeks, it allows the academies more time to get someone up to
25 speed and physically ready, and this addresses that and allows

1 it -- removes the 16 weeks. So, you know, that will address
2 that issue. Now the second requirement or change is dealing
3 with the certificate itself that currently states that to
4 maintain your basic certificate, you must work full-time. Chief
5 Shea already copped out to his crime that you have part-time
6 reserves. This addresses those issues where you bring back
7 veteran officers to be reserves or part-time employees and their
8 certificate remains active as long as they meet the continuing
9 education. So this just addresses that full-time statement and
10 allows that flexibility with the part-time officers. Again,
11 this will go over -- if approved by the Commission, will go over
12 to LCB, final language will come back for final approval by the
13 Commission.

14 TROUTEN: Questions, comments, discussions from
15 the Board?

16 MCKINNEY: Kevin McKinney. Looking through the
17 book, I don't see a change. It still says on here that the
18 highlighted portion says that the officer's not eligible for
19 certification not later than six -- pursuant to Subsection 2,
20 not later than 16 weeks after the first day of the officer's
21 basic training court. It doesn't show a change.

22 SHEA: Page 150.

23 YOUNG: Page 150, struck out no later than 16
24 weeks after the first --

1 MCKINNEY: Okay, maybe I'm looking -- I'm not far
2 enough down.

3 SHERLOCK: Yeah, just on the backside of that one,
4 Chief.

5 MCKINNEY: Oh, okay. I'm sorry. My apologies.

6 TROUTEN: Any other comments from the Board? Any
7 from the public? Hearing no comments from the Board or the
8 public, I would entertain a motion to continue with the process.

9 NIEL: Russ Niel, so moved.

10 TROUTEN: Second.

11 PROSSER: Jamie Prosser, second.

12 TROUTEN: Thank you. All members in favor, please
13 say aye.

14 MEMBERS: Aye.

15 TROUTEN: Any opposed? I also vote aye. Motion
16 carries. Item Number 7, discussion, public comment, for
17 possible action, request from North Las Vegas Police Department
18 for an executive certificate for their employee Captain Adam L.
19 Hyde. Possible action may include issuance or denial of the
20 executive certificate. Mike, can you give us the background on
21 this?

22 SHERLOCK: Sure. Mike Sherlock for the record. So
23 staff has received and reviewed the executive certificate
24 application for Captain Hyde. Staff finds he meets the

1 requirements of that certificate, and staff would recommend the
2 Commission approve and grant the executive certificate.

3 TROUTEN: Thank you. Is Captain Hyde here?

4 FLOYD: I don't believe he was going to be able
5 to make it.

6 TROUTEN: All right. Any questions or comments
7 from the Board? Anyone from the public or from his agency who'd
8 like to speak? All right. Would entertain a motion.

9 NIEL: Russ Niel, motion to approve.

10 TROUTEN: Do I have a second?

11 STRAUBE: Rob Straube, second.

12 TROUTEN: Thank you. All members in favor, please
13 say aye.

14 MEMBERS: Aye.

15 TROUTEN: Any opposed? I also vote aye. Motion
16 carries. Item number 8, discussion, public comment, and for
17 possible action, hearing pursuant to NAC 289.290 (1) (g) on the
18 revocation of Destini D. Woodruff's Category I basic
19 certificate. Woodruff is a former employee of Las Vegas Metro
20 Police Department. Hearing based on the conviction or entry of
21 a plea of guilty, guilty but mentally ill, or nolo contendere to
22 a felony. The convictions that led to this action are count 1,
23 child abuse, neglect, or endangerment, a Category B felony --
24 excuse me, B conviction. Nate, sir, if you could lead us off,
25 please?

1 HASTINGS: Yes. So what I thought I would do is
2 just preliminarily, for purposes of agenda items 8, 9, and 10,
3 I'm going to ask from Staff Chief Floyd, can you verify that the
4 materials that are contained in the meeting materials for each
5 of these offenses that include court documents, for example
6 minutes, indictment information, conviction documentation, that
7 you obtained those directly from the courts?

8 FLOYD: That is correct.

9 HASTINGS: And have you maintained those documents
10 in the ordinary course of your record keeping since you obtained
11 them from the courts?

12 FLOYD: Yes.

13 HASTINGS: And are the versions of those documents
14 that are obtained in the meeting materials for the Commission
15 members true and accurate copies of those materials?

16 FLOYD: Yes.

17 HASTINGS: Okay. Based on that, preliminarily, I
18 advise the members of the Commission that the materials in your
19 meeting binder of materials for agenda items 8, 9, and 10
20 constitute valid, public records of charges and convictions that
21 uphold the regulatory standards for revocation in these three
22 matters, so that we wouldn't have to do that each time for each
23 agenda item. All right. Having said that, now is time set for
24 the Commission to consider the potential revocation for Destini
25 D Woodruff's peace Officer Certification. This hearing is

1 conducted pursuant to NRS 289.510, under which the Commission
2 adopted regulations and established standards for certification
3 and decertification of officers and NAC 289.290, which
4 establishes the causes for the Commission to revoke or suspend a
5 certificate of a peace officer. Specifically in this matter, as
6 referenced in the title heading, we are looking at NAC
7 289.290(1)(g), which provides that conviction of entry of a
8 guilty plea and describing other, in this case non-applicable
9 types of pleas, for a felony constitutes cause for the
10 Commission to revoke the certificate of a peace officer. So if
11 you in your materials, I'll refer you to under item 8 exhibit A,
12 this is the notice that was sent, you'll note -- you'll see it's
13 dated March 9th was sent by Commission staff to Ms. Woodruff.
14 It described the offense and conviction and gave her the notice
15 required by the regulation of the date and time that would be
16 set for a hearing for the revocation. She had 15 days to
17 respond, indicate whether she intended to dispute the revocation
18 or appear here at the meeting and did not do either of those
19 things. I'll refer you to within the exhibits to item 8 Exhibit
20 E. If you scroll to Exhibit E, this is the amended indictment
21 and in that indictment, the conduct that that was involved here
22 is described by the charging district attorney. I'm not going
23 to read the whole thing, but just to point out the relevant
24 conduct that was pled to -- let me change, not use that term,
25 which was charged by the district attorney for the crime of

1 child abuse, neglect, or endangerment as a Category B felony,
2 physical injury of a non-accidental nature, and/or negligent
3 treatment or maltreatment of a child and/or causing victim to be
4 placed in a situation where he or she might have suffered
5 unjustifiable physical pain or mental suffering as a result of
6 abuse or neglect to wit; physical injury of a non-accidental
7 nature and/or negligent treatment or maltreatment by punishing
8 the victim, a boy, by purchasing girls' clothing and making
9 victim wear said clothing to school and/or to McDonald's wearing
10 girls' clothing; and or/by beating victim and/or by striking the
11 bare bottom legs and/or back of victim with their hands and or
12 belts and/or unknown objects; and/or by co-defendant grabbing
13 victim by the neck and/or throat and lifting him off the ground.
14 That was the charge conduct and I'll then refer you within the
15 materials to Exhibit G. The very last page of Exhibit G is
16 court minutes dated January 31, 2023, under which the court
17 adjudged defendant Destini Woodruff guilty of child abuse,
18 neglect, or endangerment felony. Based on the foregoing and the
19 language of NAC 289.290(1) (g), I submit to the Commission that
20 all requirements for the Commission's discretionary revocation
21 of this certificate are met, and the conduct satisfying the
22 underlying rationale for those regulations that this person's
23 unfit for duty and would support these -- staff's
24 recommendations to the Commission that the certificate be
25 revoked.

1 TROUTEN: Thank you, Mr. Hastings. Are there any
2 comments from the Board? Questions as to the exhibits or
3 anything else? I --

4 (end of recording 1)

5 (start of recording 2)

6 MILLER: -- will make a motion that we revoke Ms.
7 Woodruff's basic certificate.

8 TROUTEN: Is there a second?

9 NIEL: So moved.

10 TROUTEN: We have a motion to revoke Category I
11 basic certificate for Destini D. Woodruff. All in favor, please
12 state aye.

13 MEMBERS: Aye.

14 TROUTEN: Any opposed? And I also vote aye.
15 Motion carries. Item number 9, hearing pursuant to NAC 289.290
16 (1)(g) on the revocation of John W. Woodruff's Category I basic
17 certificate. Mr. Woodruff's a former employee of Las Vegas
18 Metro Police Department, hearing based on the conviction of or
19 entry of a plea of guilty, guilty but mentally ill, or nolo
20 contendere to a felony. The conviction that led to this action
21 are, or is Count 1, child abuse, neglect, or endangerment, a
22 Category B felony, Category 2, child abuse, gross misdemeanor.
23 Mr. Hastings again, sir?

24 HASTINGS: Thank you. We'll bypass the discussion
25 of the regulation again, and just point you Commissioners to

1 Exhibit A under Item 9 in your materials. This is the notice.
2 It was documented to you that Mr. Woodruff received proper and
3 required notice and documentation of the intent to revoke and
4 also did not provide any response to staff within 15 days of any
5 intent to appear or dispute the intent to revoke. Referring you
6 to Exhibit E within the materials, this is the indictment under
7 which the prosecutor brought charges of child abuse, neglect, or
8 endangerment, Category B felony. The conduct described as
9 exactly the same as what was described in the last matter as
10 they were co-defendants so I'm not going to read that again on
11 the record, but then referring you Commissioners to the 11th
12 page of Exhibit F within these materials, that is the judgment
13 of conviction under which the court adjudged Mr. Woodruff upon
14 his plea of guilty to be guilty of the crime of Count 1, child
15 abuse, neglect or endangerment, Category B felony; Count 2,
16 child abuse, neglect, or endangerment gross misdemeanor, both of
17 which qualify as causes for the Commission to revoke the
18 certificate under NAC 289.290(1)(g) and (e), and based on those
19 matters being matters of public record, a valid conviction
20 entered into in a court of the state of Nevada, I advise the
21 Commission that Mr. Woodruff's Commission (SIC) can properly be
22 revoked and that his conduct constitutes actions that are
23 inconsistent with the nature of serving as a peace officer and
24 again, the Commission is legally justified in revoking his
25 certificate at this time.

1 TROUTEN: Thank you Mr. Hastings. Is Mr. John
2 Woodruff or any of his representatives present? Is there any
3 public comment on this matter? Hearing none, I'll bring it up
4 to the Board if there's any questions, concerns, or statements?
5 Again, hearing none, I would entertain a motion then.

6 TOGLIATTI: George Togliatti, I make a motion to
7 revoke.

8 TROUTEN: Thank you, sir. Do I have a second?

9 YOUNG: Second.

10 TROUTEN: Thank you ma'am. All those in favor of
11 revoking Mr. Woodruff's Category I basic certificate, please
12 signify by saying aye.

13 MEMBERS: Aye.

14 TROUTEN: Any opposed? I also vote aye. Item
15 Number 10, again, discussion, public comment, possible action on
16 hearing pursuant to NAC 289.290(1) (g) on the revocation of
17 Richard B. Bogue's Category III basic certificate. Bogue is a
18 current employee with the Nevada Department of Corrections.
19 Hearing based on the conviction of or entry of a plea of guilty,
20 guilty but mentally ill, or nolo contendere to a gross
21 misdemeanor. The conviction that led to this action is Count 1,
22 inhumanity to a prisoner, a gross misdemeanor. And to you, Mr.
23 Hastings.

24 HASTINGS: Thank you, Chief Trouten.
25 Commissioners, I refer you within your reading materials under

1 this agenda item, Exhibit A is the notice dated March 21, 2023
2 that provided Mr. Bogue with the legally required notice of the
3 intent to revoke describing all the requirements under the
4 regulation to give him proper notice of the intent to revoke and
5 the cause there -- the cause for that, and Mr. Bogue did also
6 not provide any notice to staff of any intent to dispute the
7 notice of intent or to appear today. I would then refer you
8 within your materials to Exhibit E, which was the third amended
9 information filed by the charging prosecutor in this case, which
10 was the attorney general's office, charging Mr. Bogue with a
11 gross misdemeanor offense of inhumanity to a prisoner,
12 specifically alleging/charging that while a correctional officer
13 employed by the Nevada Department of Correct Corrections, Mr.
14 Bogue willfully and unlawfully subjected the victim, a prisoner
15 under the defendant's care of custody, to inhumanity or
16 oppression by using deadly weapon and force of violence upon the
17 victim by applying pressure to his neck area with the use of a
18 baton; and/or by pulling the hair of inmate victim; and/or by
19 shoving inmate victim; and/or by dragging inmate victim by his
20 hair; and/or by causing the head of inmate victim to strike a
21 door and/or door frame; and/or wall. That's the charging
22 conduct. I'd refer you Commissioners to the 11th page of
23 Exhibit F in the materials, which is the judgment of conviction,
24 where in December of last year Mr. Bogue pled guilty to the
25 offense of inhumanity to a prisoner as a gross misdemeanor and

1 was adjudged guilty of that offense pursuant to NAC
2 289.290(1)(e), conviction of an entry of plea of guilty to a
3 gross misdemeanor constitutes cause for revocation of
4 certificate based on the conduct charged and Mr. Bogue having
5 pled guilty to the offense and to acknowledge that conduct. As
6 counsel for the Commission, I advise you that the legal basis
7 for revocation is satisfied and that Mr. Bogue's conduct is
8 inconsistent with the nature of serving as a peace officer and
9 that you have good cause to revoke his certificate.

10 TROUTEN: Thank you, sir. Is Mr. Bogue or any of
11 his representatives present to speak? Any members of the public
12 who would like to speak? Any comments or discussion by the
13 Board? Hearing none, I would entertain a motion.

14 PROSSER: So moved.

15 TROUTEN: Is there a second?

16 TOGLIATTI: Second.

17 TROUTEN: Thank you. On the motion to revoke Mr.
18 Bogue's Category III basic certificate, all in favor, please
19 state aye.

20 MEMBERS: Aye.

21 TROUTEN: Are there any opposed? I also vote aye.
22 Carries. Item Number 11, discussion, public comment, and for
23 possible action, discussion and possible action to restart the
24 rule making regarding the language change to NAC 289.270,

1 revising the requirements to qualify for an executive
2 certificate. Mike, can you give us the details?

3 SHERLOCK: Sure, Mike Sherlock for the record. So
4 as the Commission recalls, we addressed this and some proposed
5 language went to the Commission and did not receive a motion to
6 continue. It's sort of an unusual situation for us staff, but
7 at that point the issued died without being brought back, Chief
8 Shea and I talked, he asked that this issue be brought back up
9 as the desire to make changes still exist, and it's still there.
10 So in your books are some sample language that we had used
11 previously. It includes some language where we recognize the
12 out-of-state people coming in where they've got their executive
13 and their management and that kind of thing, and I think we
14 changed that already. So we already do that. That part of the
15 Commission's intent was done, so those out-of-state executive
16 type levels or anyone for that matter that achieve with
17 equivalent requirements in that other state, Nevada POST will
18 now recognize. And we dealt with that so that part of it was
19 taken care of but that being said, there's a desire to continue
20 this. So here we'd be looking at the Commission to restart the
21 rule making, which would bring us back to another workshop and
22 the Commission could decide what language they would want to see
23 with this particular issue, and so we're just looking for
24 whether the Commission wants to reopen that and restart that

1 whole process again and look at the changes for the executive
2 certificate.

3 TROUTEN: Thank you Mr. Sherlock. As I recall,
4 there was still some pretty good consternation and conversations
5 going on about how to define this and to get us there. So are
6 there any I guess comments from the Board or discussion about
7 whether we should or should not restart this process?

8 SHEA: Yeah. Tim Shea for the record. I was a
9 little confused about what we did in July and so I went back and
10 read the notes. At first I went to the NAC to see if we made
11 changes, then I went to the LCB to see what had happened and it
12 had been removed. And I figured well, how in the world did that
13 happen? And then when I read the notes, I realized that instead
14 of making a motion to continue the rulemaking, it just died, and
15 I thought that was not really the majority of the intent and I
16 think it just got kind of away from us. So I asked to bring it
17 back so we could go back over this again and either put it to
18 bed for sure forever or continue to go back with the workshop
19 and revisit this and see if we can make some meaningful changes
20 if those in fact are necessary.

21 TROUTEN: Thank you Chief Shea and also for your
22 diligence on the matter. Are there any other comments or
23 questions from the Board? Do we have any comments from the
24 public on this item? So hearing none, I would entertain a
25 motion, if it pleasure the Board.

1 SHEA: I'll make a motion since I did the
2 (inaudible).

3 TROUTEN: So we have a motion to continue the
4 rulemaking process. Do we have a second?

5 NIEL: I'll second.

6 TROUTEN: With a motion and a second, all in favor
7 of continuing the rulemaking process, please say aye.

8 MEMBERS: Aye.

9 TROUTEN: Any opposed? And I also vote aye. We
10 are down to Item Number 12, public comments. The Commission may
11 not act on any matter considered under this item until the
12 matter is specifically included on an agenda as an action item.
13 This is the time set aside for public comments. Any comments
14 from the public? Going once, going twice, all right. We shall
15 move on then with no public comment. Item 13, discussion,
16 public comment and for possible action schedule our upcoming
17 Commission meeting. I know we are meeting in July, in Ely I
18 believe, on the 26th now is set for the Sheriff's and Chiefs
19 meeting, which we usually try to meet somewhere in that area.
20 What do you have for us, Mike?

21 SHERLOCK: So Mike Sherlock for the record. So
22 again, trying to continue with our theme of two in the north,
23 two in the south, and nothing against Elko or Ely, but avoid
24 that because it's hard for us to get witnesses and all that
25 there. We're still looking at dates so as not to conflict with

1 Ely and we'll get that out to you here, hopefully next week. I
2 was talking to Pam yesterday about it, so we'll get something
3 out very soon on a date in July that doesn't conflict with
4 sheriffs and chiefs.

5 TROUTEN: Okay, so I presume we need a motion to
6 have a meeting in July, probably somewhere other than Ely?

7 SHERLOCK: In Carson City --

8 TROUTEN: In Carson City.

9 SHERLOCK: -- is what we've --

10 TROUTEN: That's not --

11 SHERLOCK: -- previously (inaudible).

12 TOGLIATTI: Quick question. You're going to try to
13 make it where can still go from here to Ely or part of -- any
14 idea?

15 SHERLOCK: Yeah, Mike Sherlock for the record.
16 That's -- you know, that's a difficult thing. You know, I don't
17 know how many of the Commissioners are going to Ely. Usually
18 what happens is only half go to Ely and so it's an issue trying
19 to figure that out and I don't know, is it easier to come from
20 Carson City than go to Ely or just do a different week
21 completely?

22 TOGLIATTI: For me I just assumed scheduled travel
23 and paid for travel with all the one fell swoop.

24 SHERLOCK: Fell swoop. Okay.

25 TOGLIATTI: (Inaudible) to say for everybody else.

1 SHERLOCK: Yeah. Yeah.

2 TOGLIATTI: Otherwise I'll just pick one.

3 SHERLOCK: Yeah, July is always an issue for us
4 trying to get everybody, you know, but we'll put some dates out
5 and we'll run it through the chair.

6 TOGLIATTI: I don't have metro's money in my
7 (inaudible).

8 TROUTEN: Ty Trouten for the record. I guess I
9 would just prefer if we could have the meeting, the POST
10 Commission meeting before that meeting there because we usually
11 are done by noon, which gives us time to get to Ely and --

12 SHERLOCK: Sure.

13 TROUTEN: -- so forth rather than try to rush and
14 get out of there to get here.

15 SHEA: So my question is we don't want to have it at
16 the same location during the same timeframes as the Nevada
17 Sheriff's and Chief meetings going. We're -- you know, we're
18 talking about people coming and witnessing. Well, the reason we
19 have so many people here today is cause they're here because of
20 the other events that are going on so I would think we'd
21 actually have less people here if we did it here at a different
22 time than if we did it in Ely.

23 SHERLOCK: Yeah. Mike Sherlock for the record.
24 It's really more -- was more about revocation hearings and some
25 issues with witnesses and defendants traveling to Ely, and some

1 years ago we changed that, moved away from Ely for specific
2 issue, but we can certainly look at going back to Ely. I can
3 work with Pam on that to get a room there, but that was the
4 issue in the past.

5 SHEA: I just -- in all the revocations we've
6 done, I don't remember one of the people who we were looking at
7 the revocation on ever being here.

8 SHERLOCK: Mike Sherlock for the record. We have -
9 - unfortunately we have. It makes it a much longer process, but
10 yeah, we have in the past.

11 TROUTEN: So Ty Trouten for the record. Well, I
12 do realize that we had one three years ago in Las Vegas, quite
13 lengthy hearing (inaudible). Yeah, but with the thought that --
14 and again, not trying to discourage any agency or anything, the
15 greatest number of officers we have are going to be down in the
16 south, which is a high likelihood of where we see most
17 revocations, I guess. Ely isn't that far from Vegas as compared
18 to Carson City. So if there is appetite for the Board to have
19 the meeting in Ely, I'm good with that too. It's less traveling
20 for me.

21 PROSSER: I've never been to Ely.

22 TROUTEN: It's beautiful.

23 SHERLOCK: And Mike Sherlock for the record. As
24 you know, the usual complaints we get about Ely is you're not

1 flying there, so, you know, but you're going to be there. So
2 it's certainly up to you guys.

3 TOGLIATTI: Mm-hmm. Plus I think it's just
4 convenient, scheduling to know that you have all your meetings
5 kind of the same week, schedule all kinds of other ancillary
6 meetings along with that.

7 SHERLOCK: And we'll be in the general fund by then
8 so we should be able to go. All right. We'll work on getting a
9 room in Ely.

10 TROUTEN: Do we need a motion on that, just this
11 direction?

12 HASTINGS: I think that can be administrative.

13 TROUTEN: All right. Thank you, sir. All right,
14 we're down to item number 14. Looking for a motion for
15 adjournment.

16 YOUNG: So moved.

17 PROSSER: Second.

18 TROUTEN: All in favor, please say aye.

19 MEMBERS: Aye.

20 TROUTEN: Thank you, all.

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