

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 Thursday, February 22, 2024 commencing at 2:00 P.M. at 5587
7 Wa Pai Shone Avenue, Carson City, Nevada.

8
9 COMMISSIONERS:

10 Tyler Trouten, Chairman

11 Dan Coverley

12 Kevin McKinney

13 Oliver Miller

14 Jamie Prosser

15 Russ Niel

16 Tim Shea

17 Rob Straube

18 George Togliatti

19 Tiffany Young

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

INDEX	
ITEM:	PAGE:
PUBLIC COMMENT HEARINGS	
1. Call to order	7
2. Roll call of Commission Members	7
3. Public Comment Hearing on Proposed Regulations LCB File R190- 22, R118-23, and R031-23RPI	7
Topics	
A. LCB R190-22 -- Establish standards for the annual behavioral wellness visit as directed by AB336.	
B. LCB R118-23 -- Establish a new regulation for Category III reciprocity requirements.	
C. LCB R031-23RP1 -- Establish a new regulation for a Command Staff Basic Certificate	
II. WORKSHOP	
1. Workshop on proposed regulation change.	15
TOPIC	
Discussion regarding revisions to NAC 290.200(2) to revise the physical requirement for Category I and II reciprocity requirements	15
2. PUBLIC COMMENT	16
III. REGULARLY SCHEDULED MEETING AGENDA ITEMS	
1. Approval of minutes from the October 26, 2023 regularly scheduled POST Commission meeting	19
2. Executive Director's Report	19

- 1 a. Training Division
- 2 b. Standards Division
- 3 c. Administration
- 4 3. The Commission to discuss and may take possible action
- 5 to adopt, amend, or repeal their regulations as follows:
- 6 A. LCB R190-22 -- Establish standards for the annual
- 7 behavioral wellness visit as directed by AB336. 23
- 8 B. LCB R118-23 -- Establish a new regulation for
- 9 Category III reciprocity requirements. 32
- 10 C. LCB R031-23RP1 -- Establish a new regulation for a
- 11 Command Staff Basic Certificate 40
- 12 4. Discussion by the Commission to continue the rulemaking
- 13 process regarding the revision of NAC 289.200(2) to
- 14 update the physical readiness requirements for Category
- 15 I and II reciprocity requirements. 46
- 16 5. Request from the Carson City Department of Alternative
- 17 Sentencing for an Executive Certificate for their
- 18 employee Chief Marlina Stone. 51
- 19 6. Request from the Washoe County Sheriff's Office for an
- 20 Executive Certificate for their employee Deputy Chief
- 21 Corey Solferino. 52
- 22 7. Request from Esmeralda County Sheriff's Office for a 6-
- 23 month extension past the one-year requirement (NRS
- 24 289.550) in order to meet the reciprocity requirements
- 25 for certification for the following Deputies:

- 1 * Deputy Krista Sullivan - Date of Hire January 3, 2023
2 - extension to June 3, 2024
- 3 * Deputy Julian Melendez - Date of Hire, January 3, 2023
4 - extension to June 3, 2024
- 5 * Deputy Janelle Sanchez - Date of Hire January 13, 2023
6 - extension to June 13, 2024 53
- 7 8. Request from the Carson City Sheriff's Office for a 6-
8 month extension past the one-year requirement (NRS
9 289.550) in order to meet the requirements for
10 certification for the following employees:
11 Deputy Bradley Maffei - Date of Hire April 7, 2023 -
12 extension to October 7, 2024
13 Deputy Rhys Finnigan - Date of Hire April 7, 2023 -
14 extension to October 7, 2024
15 Deputy Danielle Sandage - Date of Hire June 29, 2023 -
16 extension to December 29, 2024
17 Deputy Abraham Arellano - Date of Hire June 30, 2023 -
18 extension to December 30, 2024 57
- 19 9. Request from Storey County Sheriff's office for a 6-
20 month extension past the one-year requirement (NRS
21 289.550) to meet the requirements for certification for
22 Assistant Sheriff Matthew Willette, hire date March 13,
23 2023. 62
- 24 10. Request from Mesquite Constable's Office for a 6-month
25 extension past the one-year requirement (NRS 289.550) to

- 1 meet the requirements for certification for Duane
2 Thurston. --
- 3 11. Hearing pursuant to NAC 289.290(1)(h) on the revocation
4 of James Christiansen's (currently employed by the Nye
5 County Sheriff's Office) Category III basic certificate
6 based on a conviction of, or entry of a plea of guilty,
7 guilty but mentally ill or nolo contendere to a
8 misdemeanor. 63
- 9 12. Hearing pursuant to NAC 289.290(1)(g) on the revocation
10 of Brian C. Fisher (formerly employed with the Washoe
11 County Sheriff's Office) Category I and III Basic
12 Certificates based on a conviction of, or entry of a
13 plea of guilty, guilty but mentally ill or nolo
14 contendere to a felony. 77
- 15 13. Hearing pursuant to NAC 289.290(1)(i) on the revocation
16 of Caesar Rios (formerly employed with the Henderson
17 Marshal Service) Category I and III basic certificates
18 based on a conviction of a misdemeanor crime of domestic
19 violence as defined in 18 U.S.C. § 921(a)(33). 78
- 20 14. Hearing pursuant to NAC 289.290(1)(g) on the revocation
21 of Caleb M. Rogers (formerly employed with the Las Vegas
22 Metropolitan Police Department) Category I basic
23 certificate based on a conviction of, or entry of a plea
24 of guilty, guilty but mentally ill, or nolo contendere
25 to a felony. 80

1	15. Request from Commissioner Shea to have the Commission	
2	decide whether to start the process to revise the	
3	language in NAC 289 from state physical fitness	
4	examination to POST Physical Readiness Test.	82
5	16. Public Comments	89
6	17. Schedule upcoming Commission Meeting - possible date of	
7	May 2, 2024, at 8:00 a.m.	91
8	18. Adjournment	92
9		

1 PROCEEDINGS

2 TROUTEN: We'll call the order, the POST
3 Commission Meeting Public Comment hearings and workshop for
4 February 22, 2024. For the record, the time is 2:00 PM. Kathy,
5 would you provide the information on legal postings and open
6 meeting compliance, please?

7 FLOYD: The public comment workshop notice and
8 meeting agenda have been posted in compliance with NRS 241.020.
9 These notices and agendas were physically posted at the POST
10 Administrative Building and the Nevada State Library in Carson
11 City and electronically posted at the POST website, at
12 post.nv.gov, the State of Nevada website at notice.nv.gov, the
13 legislative website at leg.state.nv.gov, and emailed to all
14 (inaudible) and admins on the POST listserv.

15 TROUTEN: All right, thank you. Now proceed with
16 roll call. I'll start. Ty Trouten.

17 MCKINNEY: Kevin McKinney.

18 COVERLEY: Dan Coverley.

19 SHEA: Tim Shea.

20 TOGLIATTI: George Togliatti.

21 NIEL: Russ Niel.

22 STRAUBE: Rob Straube.

23 YOUNG: Tiffany Young.

24 MILLER: Oliver Miller.

25 PROSSER: Jamie Prosser.

1 HASTINGS: Nathan Hastings with the Attorney
2 General's Office.

3 SHERLOCK: Mike Sherlock from POST.

4 FLOYD: Kathy Floyd from POST.

5 TROUTEN: All right, thank you. Move on to the
6 public comment hearing. The public comment hearings will
7 address proposed regulations. The purpose of the hearings is to
8 receive comments from all interested persons regarding the
9 adoption amendment and or repeal of regulations pertaining to
10 chapter 289 of the Nevada Administrative Code. This public
11 comment hearing has been previously noticed as required by NRS
12 Chapter 233(b). Item A, proposed regulation file number R190-
13 22. We'll go to Director Sherlock, if you would provide some
14 background information on that.

15 SHERLOCK: Sure. Mike Sherlock for the record.
16 Just to remind everyone where we're at in the regulatory process
17 for these, this is a proposed NAC that has already been through
18 a workshop. Proposed language was presented to the Commission.
19 At that time the Commission approved and it then goes to LCB,
20 LCB does their magic, and it comes back, and this is the time
21 for public comment on that language from LCB. Once we go to a
22 regular meeting, the regular meeting, you'll have a chance to
23 adopt the language that you see here, but now's the time to take
24 public comment. This particular item is the annual behavioral
25 wellness requirements so were found or brought forth in AB 336

1 from the 2021 legislative session. This one, of course, has
2 been a bit difficult. The Commission had proposed language
3 early on to LCB, LCB wanted to make some changes to that
4 language, those changes were made, and it's kind of been sitting
5 over there for a while as they review that language. As we've
6 said it before, we believe this language that we got back meets
7 the intent of that legislation and at the same time, attempts to
8 address any other issues that may be found in the annual
9 mandate, and this language is our best option. Once public
10 comment is done, I can talk about some of the issues related
11 that we had to overcome to get to this point during the regular
12 scheduled meeting. I would say there is one last thing; we do
13 have quite a bit of contact regarding fiscal notes and fiscal
14 issues. Just so the Commission understands that during the
15 legislative process, fiscal notes are put into the record and
16 when we propose an NAC based out of legislation, those fiscal
17 notes also go back to LCB with our language so they're
18 constantly reminded of those fiscal notes. In this case, we do
19 have one agency that wanted to enter their comments related to
20 this that were not in the original fiscal notes for the
21 legislation, and this is coming from the Washoe County Sheriff's
22 Office. Washoe County Sheriff's Office wants to make it known
23 that they currently have a mental-health clinician on staff who
24 is accessible to both Commission and civilian staff members at
25 their request. Should any regulatory change require a

1 individual visit, they approximate the cost for a second mental-
2 health -- or second mental health clinician would be necessary
3 at \$108,472, considering their 500 Commissioned deputies. I
4 should note that after receiving this request for comment, I did
5 contact Washoe County in regards to this and I explained the
6 language that is currently being proposed and from our
7 perspective is broad enough to allow the continuation of their
8 current program with some minor changes, and they agreed that
9 perhaps it wouldn't require another position from that
10 perspective. So with that, I'll yield back, Mr. Chairman, for
11 public comment.

12 TROUTEN: All right, thank you. We'll now open it
13 up for any comments from the public. Please if you would give
14 your name for the record.

15 CARTER: Joanne Carter with the City of
16 Henderson. In just presenting what we're planning to or
17 attempting to do at the city of Henderson, we already have a two
18 mental health clinicians on staff, that's myself, I'm an LCSW,
19 and an LMFT. A barrier has been sometimes people don't want to
20 speak to people that are employed by the city so we are doing a
21 third-party contract with clinicians that will be doing the
22 mental-health check-in for approximately 30 minutes per peace
23 officer, and we're going to try to extend that to the fire and
24 dispatch and crime scene analysts as well. So that's what we're
25 going to be attempting to do with the language that was

1 presented, and I do understand it said group or individual, but
2 for the purposes of confidentiality, we felt that individual
3 would be the best suited for the officers.

4 TROUTEN: Thank you.

5 CARTER: Thank you.

6 TROUTEN: Additional comments from the public?

7 EASLEY: Maybe not a comment. I have a question
8 for you though. Good afternoon. My name is Wes Easley. I'm
9 the mental health counselor for the Washoe County Sheriff's
10 Office. I am the only mental health clinician within the
11 department of roughly around a thousand employees, roughly
12 around 500 sworn staff. The question I have for you, Mike, is
13 is there any funding statewide for the actual extra position or
14 is this coming out of the department's budget moving forward,
15 and that would be annually? We've looked into third party cause
16 there's no way that just the one clinician can handle the 500.
17 That would be pretty much full-time, all year-round to actually
18 handle AB 336. So that's just more of a question than a public
19 comment. How are we going to work this out? Because I'm
20 fielding calls from multiple agencies within Northern Nevada
21 that have no idea how to go forward with this.

22 SHERLOCK: So, Mike Sherlock for the record. You
23 know, it's really not our position to look at unfunded mandates
24 if that's what it's determined to be. You know, that being
25 said, I think there's some confusion with the intent of the bill

1 and what we tried to, you know, get in to the language here. We
2 know there are grants available. I was planning on talking
3 about the opioid settlement fund and what other states are doing
4 with that, to be honest with you, as an example. And again,
5 that's not something for us but, you know, maybe the sheriffs
6 and chiefs or individual agencies. We know that, for example,
7 the state of Nebraska is using the opiate fund to fund all
8 officer behavioral health issues in the state of Nebraska for
9 all law-enforcement agencies but again, I'm not sure. I mean,
10 that's something to look at from that perspective. I would say
11 that in developing the language on this, we had a lot of
12 discussion on whether or not you can mandate, you know,
13 individual visits. We understand the concern there, but the
14 intent of the legislation was education and to sort of reduce
15 the stigma.

16 EASLEY: Absolutely.

17 SHERLOCK: And so that's why we've included, you
18 know, group-type training to allow them the opportunity to make
19 those appointments or whatever it may be rather than mandate
20 individual ones, and that's why the language is that way.

21 EASLEY: Is there a possibility of doing a
22 presentation if we're going to do groups, but doing a
23 presentation for different shifts, excuse me, different shifts.
24 Cause we work obviously 24 hours a day, seven days a week and so
25 we have people on special teams, we have people vacation, and so

1 it's kind of like herding cats with that many individuals. So
2 would there be a possibility of introducing language that would
3 allow for say -- what we have at Washoe is, it's called Bridge
4 and it's a training platform that all employees have to do their
5 annual training through and we were thinking that if I could put
6 together an hour, half-hour long presentation on the mental
7 health aspects, that that would then possibly fill AB336.

8 SHERLOCK: So again, Mike Sherlock for the record.
9 I think that should the Commission adopt this language, the
10 intent is to not dictate what that specific visit or annual
11 training consists of.

12 EASLEY: Okay.

13 SHERLOCK: POST is not going to regulate exactly,
14 you know, what the content is. So I think with this language,
15 if adopted by the Commission, would allow you to do that, for
16 sure.

17 EASLEY: Okay, great cause. yeah, that the visit
18 part is very specific --

19 SHERLOCK: Right.

20 EASLEY: -- and doesn't really have a lot of
21 wiggle room. All right. Thank you very much. I appreciate
22 your time.

23 TROUTEN: Thank you. Additional comments? Okay,
24 hearing none, we'll move on to Item B. This is proposed

1 regulation file number R118-23. Again, we'll go to Director
2 Sherlock for background information.

3 SHERLOCK: Mike Sherlock for the record. Again, so
4 this is coming back from LCB. This is time for public comment.
5 During the regular meeting, the Commission will have a chance to
6 adopt this regulation change. This, as you recall, was complete
7 a workshop and discussion within the Commission regarding the
8 reciprocity process for Category III employees here in the
9 state. Prior to this, we did not have reciprocity in Category
10 III, and this regulation would allow for that.

11 TROUTEN: All right, thank you. Do we have public
12 comments on this item? All right, hearing none, we'll move
13 forward to item C, proposed regulation file number R031-23RPI.
14 Again, Director Sherlock.

15 SHERLOCK: Again, Mike Sherlock for the record.
16 This is the command level basic certificate that again, has gone
17 through the process. It simply allows for a limited basic
18 certificate for command level directed at those who had been
19 Nevada Peace officers and as you recall, it was amended from the
20 original language to limit it to Nevada prior experience, where
21 they have been out of policing beyond the five years. Later on
22 the agenda, you'll have an opportunity to adopt this change, and
23 there's another agenda item in which this proposed change to the
24 regulation would be applicable and we can talk about it then,

1 but this is simply the creation of the command level basic
2 certificate with the requirements for that certificate.

3 TROUTEN: All right, thank you. Do we have public
4 comment on this item? Okay. Hearing none, we will move then to
5 the workshop portion of this meeting. The purpose of the
6 workshop is to solicit comments from interested persons on the
7 following topics that may be addressed in future proposed
8 regulations. This workshop has been previously noticed pursuant
9 to the requirements of NRS Chapter 233(b). The workshop is
10 intended to solicit discussion on the changing of the physical
11 readiness requirements for the reciprocity of a person who has
12 been certified as a Category I or Category II peace officer, or
13 its equivalent, by the certifying authority of another state, or
14 who has successfully completed a federal law enforcement
15 training program that is equivalent to the Category I or
16 Category II peace officers certificates in this state. Director
17 Sherlock, could you provide some background again?

18 SHERLOCK: Thank you. Mike Sherlock for the
19 record. So just as a reminder, the Commission had asked staff
20 previously to look into changing the reciprocity standards for
21 Category I and II applicants, we have included some proposed
22 language, and this workshop then seeks to solicit input from any
23 concerned parties on that change. There will be an agenda item
24 in the regular schedule meeting where the Commission can decide
25 whether or not to continue the rulemaking. I know I've had

1 conversation with some of the Commissioners individually and we
2 can address those concerns at the meeting. At this time, Mr.
3 Chairman, we would suggest that anyone in the audience who had
4 wished to address the proposed sample language, now is that
5 time. And again, we submit just sample language that's
6 consistent with the regulation currently just as sort of a
7 guideline.

8 TROUTEN: Thank you. So we'll open it up for
9 public comment or questions on this item. Do we have any?

10 MELENDEZ: Good afternoon. My name is Julian
11 Melendez, I'm a deputy from Esmeralda County, and I was
12 currently participating in the reciprocity program through
13 Esmeralda County. Actually my name's on here in Item Number 7,
14 however, this issue concerning Category I actually affects us.
15 So I just wanted to give you some information to help you when
16 you finally get to that phase where you make a decision
17 regarding the language. Just some facts: I have over 30 years
18 of law-enforcement experience all in California; I have a
19 management certificate from California POST. The other person
20 in Item Number 7, Deputy Krista Sullivan, also has over 30 years
21 of California law-enforcement experience and has an advanced
22 certificate. We started the reciprocity program in January
23 through Esmeralda County and in our attempts to take the
24 physical fitness examination, I failed at the sit-up portion of
25 it. I can do 25 in the 60 seconds, just can't do 30 in 60

1 seconds. I'm 57 years old, couple of months away from 58.
2 Deputy Sullivan, who's 59, fails at the Illinois Agility test in
3 less than a second. So the two of us are unable to continue
4 with the program. That's why in Item Number 7, we're asking for
5 a six-month extension. But again, I just want you to know the
6 facts for our particular situation. In Esmeralda County, just
7 to give you a picture of our agency, when you include the
8 sheriff, a supervisor, and five deputies, we have seven patrol
9 responding personnel and that really is a snapshot. That
10 doesn't include what happens throughout a given year because I'm
11 sure, as you know through your respective agencies, that picture
12 changes. We had a deputy in canine training gone for several
13 months, we had one of our deputies go through the POST Academy,
14 so was gone from July to November, and then we've had various
15 other issues such as injuries throughout the course of the year,
16 whether it's on duty or off duty. And then because of our
17 remote situation being in rural Nevada, it can take us about an
18 eight-hour shift just to transport a car to a local city just to
19 get it serviced, and that doesn't even include travel time, you
20 know, responding to the other side of the county, which could
21 take about an hour and a half one way. So when you put all
22 those factors together, we're in a unique situation. So as I
23 talk to you here today, we no longer have these seven patrol-
24 ready bodies to respond. That number is currently at four. And
25 again, that includes the sheriff, a deputy who's fully

1 certified, and then that graduate that I told you who graduated
2 in November, is participating in a structured FTO process. And
3 then one of our deputies also had been away from law enforcement
4 for a few years, so had gone through some close supervised
5 remediation. So at best, you know, today to respond to
6 something in patrol, we have a two-man unit and a one-man unit.
7 So, getting back to the language that's being proposed, simply
8 changing it to a may, and I read the minutes from last meeting,
9 I heard or saw the discussion, and I see both sides of the
10 argument. You know, as a Commission statewide, you want to set
11 the standard, you want to set a bar, and you want your employees
12 to meet that bar. However, you know, given unique situations
13 with all of the agencies throughout the state, sometimes it
14 might be better off to allow a police executive like yourself or
15 those throughout the state to make their own decisions given
16 their unique situations because at its heart, you know, they
17 have to provide public service for their communities. So I just
18 wanted to give you that specific example of where I'm coming
19 from as it relates to Item Number 7 and if you have any
20 questions specifically for my particular situation, I could
21 answer them. Thank you.

22 TROUTEN: Thank you. Do we have any questions
23 from the Board? All right, thank you.

24 MELENDEZ: Thank you, sir.

1 TROUTEN: Other comments from the public? Okay,
2 hearing none, we'll move forward then with the actual Commission
3 meeting. Item Number 1, this item is for discussion, public
4 comment, and for possible action, approval of the minutes from
5 October 26, 2023, regularly scheduled POST Commission meeting.
6 Are there any public comments first? Any comments from the
7 Commissioners? Hearing none, do we have a motion to approve the
8 minutes?

9 PROSSER: I move.

10 TROUTEN: Thank you, Ms. Prosser. Do we have a
11 second?

12 UNIDENTIFIED: I'll second.

13 TROUTEN: Thank you. All those in favor signify
14 by saying aye.

15 MEMBERS: Aye.

16 TROUTEN: I also vote aye. Any opposed? All
17 right, Item Number 2, go back to Director Sherlock for your
18 monthly report, POST activity, please, sir.

19 SHERLOCK: Thanks. Mike Sherlock for the record.
20 I'll try to keep it short. I don't know if I can. I'll just
21 try to concentrate on things I think may be of interest to the
22 Commission itself. Some of us attended the Western States
23 IALE's (phonetic) meeting in November, which was a bit eye-
24 opening. The big topic of course was recruitment and standards
25 and changes that might improve recruitment. I really was

1 surprised sort of by the deer in the eye, you know, deer in the
2 headlights look of the states that were there. Some of the
3 states had reluctantly admitted recruitment issues though none
4 of them there had made any real regulatory or statute changes to
5 improve or increase recruitment. Of those that did is usually
6 agency-specific monetary incentives, sign-on bonuses, that type
7 of thing. I will say that most agreed that those monetary
8 incentives only had limited success in terms of recruitment.
9 None removed any requirements, written tests, PT tests, none of
10 that. In fact, much of the talk was the trend to include, or if
11 you already have it, to improve written tests for entry into
12 academies, which we don't currently do, but a lot of states do.
13 Washington State has implemented a mandatory PT test that has
14 four levels in their academy they have to complete at a certain
15 level or they're removed from the program, which I thought was
16 interesting. California has increased requirements as a result
17 of a lot of, you know, here, SB2 in their state. They're
18 currently modeling, where their law allows, Nevada
19 certification, revocation, and denial process. They've come
20 over and visited with us. The only change in California in
21 terms of recruitment was they now allow permanent residents,
22 green-collared holders, to be employed in some, not all of their
23 law-enforcement agencies. We don't allow that here, obviously
24 in Nevada. Again, it was -- California, Oregon and Washington
25 grudgingly admitted vacancy issues for their agencies. We all

1 know they're hurting otherwise, but again, they haven't changed
2 any real hiring standards, but are rather looking at how they
3 recruit that type of thing. Again, you have to put it in
4 perspective. Some of those areas, by their own admission, that
5 are hit the hardest with recruiting problems are are often
6 dealing with political issues more than, you know, standards for
7 employment or hiring practices, that kind of thing. States like
8 Idaho and Arizona, and then it happened to be that Tennessee and
9 Texas were both present at this meeting, said it is not an issue
10 in their states. I'm not sure that's a hundred percent
11 accurate, but clearly they don't see it as much as a problem as
12 some of the other states. So all that said, I wanted the
13 Commission to have a perspective on where we are and what we've
14 done and what we've presented in terms of any changes that we've
15 made recently, and just to remind everyone, a short list of what
16 reg changes we have made here in Nevada recently: the entrance
17 PT test is now optional; certification PT 16-week time mandate
18 has been removed for academies; the CAT III is pending on the
19 reciprocity and no PT; marijuana convictions no longer are a
20 disqualifier; marijuana use no longer disqualifier by statute;
21 and limited questioning on marijuana now; we've removed the five
22 year-rule for command level basic certificates; removal of basic
23 training for command level; and removal of the PT requirement
24 for command level; part-time assignments are now sufficient to
25 maintain the basic certificate; we now allow out-of-state

1 applicants to use their time in that other state; their training
2 and their professional certificates are now considered part of
3 reciprocity, and they can get those certificates; and then
4 broaden the requirements for the management and executive
5 certificates. Again, just to keep everyone up to speed on what
6 we've changed and hopefully it does help in terms of
7 recruitment, and that's the short list. At POST, we have one
8 big project going at POST right now, and that is to once again
9 try to change over our data management system. Beginning way
10 before my time POST have struggled to get funding for data
11 management. This last budget cycle, we were approved to get a
12 new data management system, the funding though was lacking for
13 sure, and you get what you pay for. That said, we are working
14 with the data manage provider right now that is also working
15 with 11 other state agencies and we got lumped in with them. It
16 has been a struggle. We are hoping to make some progress. The
17 Governor's Information Office is now involved, and that seems to
18 be improving things for us in terms of their response to our
19 needs, so we're getting there on it but frankly I still
20 anticipate to once again -- or are planning to once again ask
21 for a budget for implementing a real data management system.
22 This next go round, we'll try again. There is some
23 encouragement. In the past, we were bound by court assessment
24 revenue, we were bound by the two-time rule and the one shot
25 budget rules, now we're hoping under the new funding mechanism

1 we'll have better luck on getting some help in that area in
2 terms of data management, and it doesn't affect all of you,
3 don't get me wrong, but many of the agencies across the state
4 use our online reporting system, and that's where our trouble's
5 been or that we're trying to improve right now, you know, from
6 that perspective. So with that, I'll send it back to you, Mr.
7 Chairman. That's what's going on.

8 TROUTEN: Thank you, sir. Do we have any
9 questions from the Board on the reports?

10 SHEA: I'd like to get a copy of that listed of
11 the things that we have modified and changed because frankly, I
12 can't remember all those, but it'd be nice to see what we've
13 accomplished and where we're at if you wouldn't mind sending
14 that out to us, it'd be --

15 SHERLOCK: Sure.

16 SHEA: -- a good reference tool.

17 SHERLOCK: Yeah, for sure. Kathy definitely knows.
18 She's the one who has to fight with LCB so.

19 TROUTEN: Additional questions or comments? All
20 right, we'll move to Item Number 3 then, discussion, public
21 comment, and for possible action, the Commission is to discuss
22 and take possible action to adopt, amend, or repeal their
23 regulations as follows: we have three regulations, so we can
24 start with item A and once again, Executive Director, I'll give
25 it back to you for background.

1 SHERLOCK: Yeah, Mike Sherlock for the record. So
2 again, this is the behavioral wellness legislation and
3 regulatory change. The language that you have before you was
4 approved by LCB. Again, there was a lot of back and forth on
5 this one, but we believe the concerns were addressed and it
6 meets the intent of the legislation, which is always the issue
7 for us, and staff would recommend that we adopt this language
8 that came back from LCB.

9 TROUTEN: All right, thank you. So, do we have
10 comments or questions from the Board?

11 SHEA: I had the opportunity to go over to
12 Henderson's Wellness Center and spend some time with their fine
13 folks there and I know I was pretty impressed with what they're
14 doing and how they're doing it and their plans they have and how
15 they have everything set up, and I know Deputy Chief Johnson
16 feels the same way. And as far as I could tell, this regulation
17 supports what they're doing, hopefully one of them will correct
18 me if I'm wrong, and I think that if the rest of us are able to
19 mirror in some way or some fashion what they're doing, we'd be
20 exactly where the legislation's supposed to put us. So I think
21 this works out, at least from my standpoint and my limited
22 experience and my interaction with them, I think this is a good
23 way to go.

24 TROUTEN: Other comments from the Board? I would
25 just like to I guess make a comment. We just underwent a

1 mandatory "visit" for all of my sworn personnel with the
2 provider. I was anticipating a great deal of pushback from the
3 troops, concerns over different things, and was very pleasantly
4 surprised that out of my roughly 41 active sworn, I had only two
5 who basically attended, signed the notice, but did not really
6 participate and came back and reported as such that I was there,
7 I attended the visit, I listened, but that was it. The overall
8 feedback from the troops just talking amongst themselves and
9 sharing is they appreciated it. The providing of resources,
10 information, things to watch for, different things like that,
11 going so far as I think to build some strong rapport with the
12 provider. So I think that's a very positive thing.

13 Unfortunately it does cost, and again, this is one of those
14 unfunded mandates from the legislature. I am fortunate in my
15 situation that I simply took it to my city and said we are
16 forced to do this, I need an increase in my line items to cover
17 this, much as we have to pay for the yearly physical evaluations
18 pursuant to heart-lung bill and they acquiesced and provided
19 that funding. So I'm hopeful that other government bodies will
20 back up their law-enforcement agencies as well in that but
21 again, I think this is a good change to the regulation and I
22 think will serve the purposes both intended by the legislature
23 as well as actually do some good for our troops.

24 SHEA: If I could just make one more comment.
25 One thing I was a little slightly concerned about only cause I

1 don't know what kind of position we might be placing the mental
2 health professionals in is Section 5. And while I understand
3 that officers do not want to go to an assessment on fitness for
4 duty, and that's a big fear for them, what happens to the mental
5 health professional who, in talking to this person, this officer
6 dispatcher, firefighter, comes to realize that this person is in
7 serious distress right now and something needs to be done maybe
8 with almost an immediacy, how does that reconcile where it says
9 they will conduct no evaluation or test to diagnose whether the
10 peace officer has any mental, emotional, behavioral disorder,
11 but it pops up right in front of 'em? How do they address that
12 and are they allowed to report that, or what do they do with it
13 other than try to convince the officer or firefighter to seek
14 additional help? I don't know. I just wonder if we're putting
15 them in a real catch-22 position where they know that this
16 person's in real trouble and I need to do something immediate.

17 YOUNG: And this Commissioner Young. I believe,
18 and I'm no mental health professional, but they are mandated
19 reporters and so in this situation, where there is a risk to
20 themselves or the people around them, regardless of this
21 statement, they still have their requirements to mandate any
22 reporting of safety issues.

23 SHERLOCK: Yeah. Mike Sherlock for the record.
24 And that's one of the issues that came up in the language. And
25 if you can see that, you know, there is a statement that unless

1 the disclosure is authorized, and so you see the mesh between
2 the policing profession, and --

3 TROUTEN: That's in 4. Item 4.

4 SHERLOCK: Oh, in 4, yeah, but, you know, the
5 conflict there between, you know, policing and what the mental
6 health profession is required to do, and so in those cases, they
7 would be able to -- again, the big issue was fitness for duty
8 and so there's the issue with the back and forth on the
9 language.

10 SHEA: What I didn't know is if there was a law
11 that requires a mental health professional to report something
12 or take action if they detect something, that's all.

13 HASTINGS: And it's not just required to authorized
14 by, so it may not be a mandatory.

15 SHEA: Okay. I just didn't want to place them
16 in an impossible situation.

17 HASTINGS: And, Director, maybe you can comment,
18 this is Nathan Hastings for the record, as to that potential
19 concern. This item as it's written here in Number 5, does that
20 stem from -- and I just don't know this off the top of my head
21 and haven't read it for a while, the bill itself, cause this may
22 be helpful to the question as well, where this concept, whether
23 it's exactly word for word, but does this come from the bill,
24 this limitation, or did it derive from something else?

1 SHERLOCK: Mike Sherlock for the record. So from
2 an education standpoint of the bill, to educate the employee or
3 the officer on the value of mental wellness visits, it did come
4 from the bill.

5 HASTINGS: What I mean is the concern here where
6 Chief Shea's pointing out that it could be read -- 5 could be
7 read to say that the person shouldn't do X, and would that limit
8 them in a way that would cause a safety concern or something,
9 the language itself does here, where it's limiting that hey,
10 this isn't actually supposed to be an individual assessment,
11 does that come from the bill?

12 TROUTEN: I believe that follows from actual
13 federal law about when you can conduct assessments, evaluations,
14 and whether they are compulsory. There's federal language on
15 that as well as AB 244, which provides additional restrictions
16 and limitations on that. So in constructing this language,
17 we're very careful to use the word visit, which has a medical
18 definition and has a very broad meaning. You know, perhaps a
19 discussion within a visit could elicit such comments to make the
20 provider aware that this person is a risk to themselves or
21 others, at which times they are under obligation to report that
22 as a mandated reporter but absent that, doctor/patient privilege
23 is invoked. And so in the reporting of these, it's merely the
24 mandating of the visit, the attendance of it, which is all the
25 information the agencies have and that as I understand it POST

1 would be looking for is the agency says all of my sworn
2 personnel had their visit for this time period.

3 YOUNG: And I'm not sure -- Commissioner Young.
4 I'm not sure if it needs to be in here or not, but regardless of
5 this language, the mental health professionals won't be removed
6 from their mandated requirement. So even if it says must, may,
7 or should, or shall, right, but I don't know if that needs to be
8 a conversation because regardless of the wording of this, it
9 doesn't remove the mental health professional from their
10 mandated reporting requirements in the event that they find that
11 an individual is at risk.

12 SHEA: So Tim Shea. Is it permissible, since
13 we have some experts in the field here, to ask them their
14 opinion and whether or not they believe it's restrictive or not,
15 if they're, they're good with it cause they're in the field now
16 doing this now? Can we do that or is that not allowed during
17 this process?

18 TROUTEN: I believe we certainly can because it
19 does have an avenue for public comment so.

20 SHEA: We just happen to have some experts
21 here.

22 HASTINGS: I was going to say and Wes ducked out.

23 CARTER: Joanne Carter. Ms. Young's right, we
24 are mandated reporters regardless. Even if I am at my child's
25 game and I hear a suicidal statement or something that I see as

1 a risk, I would have to call the police in this circumstance.
2 And so the two therapists that we are contracted with, we've
3 deeply discussed this. What they're going to do with the
4 officer is say I'm going to -- you know, we're going to have to
5 talk about, you know, a legal. I can also call your team at the
6 wellness center to come and assist with us as well, and get
7 their verbal or written in that meeting in case they don't want
8 to just go through the 911 dispatch or however, you know, just
9 to make it as easy for them as possible. I don't foresee this
10 happening quite quickly, but I believe you said that we want to
11 build rapport, so we're hoping that they see the same therapist
12 every single year and then get to them before it becomes an
13 issue where it is illegal.

14 SHEA: So you don't see this language as being
15 restrictive or tying your hands?

16 CARTER: No.

17 SHEA: Perfect.

18 TROUTEN: And if I could just answer Nate's
19 question, the back and forth --

20 HASTINGS: I just think that answer probably --

21 TROUTEN: Okay.

22 HASTINGS: -- makes it moot cause I was just trying
23 to, like, say look, if the legislature, whether it was the bill
24 that brought this on, or other laws like you say, federal or
25 some other statute, that makes this language required, then the

1 interpretive principle in law is that the legislature does not
2 intend to create two contradictory laws and if they can be read
3 so that they coincide together and both can work, then that's
4 the reading that a court, if there was ever litigation on the
5 issue, would use as the interpretation. So I think based on the
6 testimony and based on the discussion that's happened, I think
7 that you're probably, from a legal interpretation standpoint,
8 could feel comfortable moving forward.

9 TROUTEN: All right. Thank you all. Thank you.

10 COVERLEY: Commissioner, I have a comment. Dan
11 Coverley for the record. One thing that I think that I like the
12 language in this, and I think that it provides some latitude for
13 each agency because not every community has the same resources
14 as, for example, Henderson may and so there has to be some
15 flexibility to be able to do the best that they can with what
16 they have, but this does not do away with the responsibility of
17 the agency if they see an employee that's in distress or having
18 a hard time with mental health that they just wait for the visit
19 to take care of it. So I think -- you know what I mean? So
20 this is very broad, but you know, the real responsibility to
21 take care of our personnel is to the agency and to watch each
22 other and to make sure that, you know, our people are getting
23 the help that they need when they need it, rather than waiting
24 for their annual visit, whenever that may be.

1 TROUTEN: Thank you. Do we have any additional
2 comments from the Board or from the public? Hearing none, I
3 would entertain a motion to adopt LCB file R190-22 as presented.

4 YOUNG: So moved. Commissioner Young.

5 TROUTEN: Thank you. Do I have a second?

6 UNIDENTIFIED: Second.

7 TROUTEN: Thank you. We have a motion and a
8 second. All those in favor please signify by saying aye.

9 MEMBERS: Aye.

10 TROUTEN: Do we have any opposed? I also vote
11 aye. Motion carries. We'll move on to Item B. Executive
12 Director Sherlock.

13 SHERLOCK: Mike Sherlock for the record. I believe
14 you have the standard there in your books. This is for a
15 Category III reciprocity process. The standards you see there
16 include: an online basic training program that POST will create,
17 we've already done it historically anyway; no PT test; and a CAT
18 III written certification test where it would be the standard.
19 This was as you may recall, was presented as a sort of a
20 critical need for recruitment, specifically the largest Category
21 III employer's Department of Corrections, and they had a
22 presentation, as you recall. They have been using this concept
23 since it was approved. We do not have any data to bring back.
24 I don't know where that has -- if it has helped them or what

1 effect it's had so I can't present that to you, but that's what
2 this is in regards to for this item.

3 TROUTEN: All right, thank you. Questions and
4 comments from the Board?

5 MCKINNEY: I have a comment. Kevin McKinney for
6 the record. I guess my issue is with the lack of physical
7 fitness requirement for this bill. And again, I have no data
8 either, but anecdotally, when I was the jail commander in Elko,
9 I could almost predict who would get injured and it was usually
10 those officers that weren't in physical condition. I believe we
11 have an obligation as POST to ensure that our sworn officers are
12 physically fit to perform their job, and I think we need to
13 reconsider eliminating the POST physical test for CAT III
14 officers in a reciprocity situation.

15 TROUTEN: Other comments from the Board?

16 PROSSER: Jamie Prosser, did you say eliminate it
17 or -- clarification?

18 MCKINNEY: To reconsider the elimination of that
19 test.

20 PROSSER: So the way we have it written is that
21 you may require --

22 MCKINNEY: Right.

23 PROSSER: -- based on the agency.

24 MCKINNEY: Yes, I believe it should be shall, or
25 that's my opinion.

1 SHEA: Tim Shea for the record. I look at this
2 rules and regulations, they're not hiring standards. These are
3 certification standards. So an agency right now is free to hire
4 a person and place them in the job with absolutely no physical
5 test of any kind. They can work for a year, a year-and-a-half
6 with extensions and do the job. If they come from out of state,
7 they're required to do this. If they're in state and they took
8 the test 20 years ago, they never have to take it again, no
9 matter what shape the person is. So there is no guarantee that
10 the person who was in shape 20 years ago is still in shape
11 today. I think giving agencies the ability to make the decision
12 on what's appropriate for their agency at hiring is the
13 appropriate thing to do to meet changing situations as they
14 occur, and telling folks that they can hire people, but we're
15 not going to certify them until you prove to us via test that
16 they can do the job, and these are laterals, that they're
17 currently doing in another venue. It seems difficult to me to
18 say well, you can work and do this in Arizona, but you can't do
19 it here but if you had taken our physical agility test for Reno
20 20 years ago, you can do it here, and that's where I think each
21 agency should have the ability to decide what's appropriate for
22 them, given the circumstances. I don't think it should be
23 eliminated completely. I think it needs to be applied when
24 necessary, when necessary by the chief executive of the agency.

1 TROUTEN: So Ty Trouten for the record, and I have
2 a couple concerns with that. First is then entities will be
3 subject to the whims of whatever executive is currently in
4 position and I think that would, in the long term, probably
5 create liabilities for those entities. Why do you require it
6 this year, but you didn't the year before? Why did you change
7 the test? And depending upon what test those agencies, should
8 they choose to do one, utilize, is it validated in some way that
9 would support that? We're just having discussion earlier today
10 about the yearly physicals that we do and a short matter of a
11 couple weeks afterwards, somebody tips over from a heart attack
12 even though we have these yearly physicals, which got my mind
13 thinking towards one of maybe the unintended consequences of
14 this in that we bring people in who maybe come from a state such
15 as, one I seen that had I would consider much more lenient PT
16 requirement for their officers, Hawaii, and when they arrive
17 here, they shortly thereafter have some medical injury as Chief
18 McKinney mentioned, or something, injury, whatever, and what do
19 we do to all of ourselves and all of our entities, but up the
20 work-comp claims and costs? I think it would be easier if we
21 could say that every state in the union has the same physical
22 requirements as we do and then it would be Chief Shea's argument
23 that well, they passed it at some point, like our in-state
24 laterals have, we don't need to be worried about it down the
25 line. But unfortunately, the physical requirements vary

1 drastically from state to state. Nevada's actually towards, I
2 would characterize the lower-middle portion in terms of
3 difficulty on those requirements. So I guess one thing is we
4 represent the state as the Board setting the minimum standard.
5 I don't see those standards as being impossible or even maybe
6 all that difficult and while we just again finished debating
7 changes to help our people on the mental-health side, physical
8 wellness is just as much part of that as the mental side if
9 we're looking at the overall wellness of the officer. So I've
10 had to rethink this. I know we discussed this before in
11 allowing it, and I understand the need for it or the I guess
12 claimed need for it to increase recruitment and bring people in,
13 I'm just not sure that's actually a wise move and where it's
14 going to lead us.

15 MCKINNEY: Yeah. Kevin McKinney again for the
16 record. Chief Shea's observation is correct. In Nevada, when
17 they test initially, they don't have to -- I mean, they do have
18 to pass the physical fitness, but then they never do again.
19 Personally, I think we should, as sworn peace officers, take it
20 annually. That's my position. I think just the opposite. I
21 think we're doing a disservice to the public if we're not in the
22 position to actually perform our job. You know, I understand
23 what he's saying, but I feel we're not we're not doing our due
24 diligence to make sure that our officers are fully capable of

1 performing their job. I think we're taking a step backwards in
2 this rather than a step forward.

3 SHEA: Tim Shea again.

4 PROSSER: Jamie Prosser. I disagree.

5 SHEA: I understand those feelings. Like I
6 say, had the test in this state been the current test that a
7 person took 10, 12 years ago might be a little different, but it
8 wasn't. The test has changed and it's morphed over the years
9 and changed into something different. Now we have something
10 where people are failing by a second in one event and they're
11 failing the entire test. We have no ability for people that
12 have great upper body physical strength and things like this,
13 but maybe they can't sprint a mile or run a mile-and-a-half in
14 exactly, for example, 17 minutes. It's 16 minutes and 59, 58
15 seconds. They fail everything. It's like they did nothing.
16 And that's where my thing comes, it's all or nothing, and I'm
17 not sure that we're serving ourselves the best way. And when I
18 look at our brother services such as fire, there is nothing like
19 this for them. There is no physical standard requirement, it
20 doesn't exist, and their job is very physical. But in checking
21 with our fire chief who sits on the very (inaudible) and does
22 fire work all over the country, there are no national standards
23 or state standards. There's certainly none in Nevada that you
24 must meet. Each department establishes their own as meets their
25 criteria. And we're not talking about hiring people again cause

1 they can come here and do the job, we're talking about whether
2 or not they're capable of being certified to do the job they're
3 doing. And if I hire somebody who's not physically fit to do
4 the job, shame on me. If I hire somebody who can't write well
5 enough to write reports, shame on me. There's no state standard
6 on that person can't spell. If I hire somebody with the wrong
7 mental acuity, the wrong mental, that's on me. That's not on
8 the state. The state has no requirements on any of this stuff
9 other than we accomplish something. If I sent a person to a
10 mental-health evaluation required to hire someone, it's up to me
11 to determine whether or not what his -- if he's an A, B, or C or
12 whatever rating they use is good for me. It may not be good for
13 another agency, but it's good enough for us. I'll take a C or a
14 D, maybe another agency will take an A or a B. It's up to me.
15 We have no standards anywhere. The only thing that we do to the
16 nth degree is this and for the life of me, I don't know why it's
17 different. Why does a Category III do so many pushups or have
18 to jump higher than a Category II or Category I? I don't know.
19 I know we have a valid test. It's been validated (inaudible),
20 but I don't understand the differences and I don't understand
21 how it could be pass/fail on one second out of a multi-tier
22 event. That's kind of where it falls to me on this is if we had
23 something that had a little more flexibility into it and allowed
24 us to have some more flexibility and decision making, I'd be a
25 little more apt to say this is a really good idea but in this

1 case, it's not. And I'm speaking from someone -- this test
2 isn't that hard. I passed it at 61 years old. So it's not like
3 this is a killer test, but it's making it difficult for us to
4 hire people, especially people who are doing this job and we all
5 know in all of our agencies, we have officers and deputies out
6 there today doing the job, doing a great job, who cannot pass
7 this test but they passed a different test 15 years ago.

8 MILLER: Ollie Miller, for the record. I agree
9 with a lot of what was said here with regard to this, but while
10 physical standards are extremely important, I believe that it's
11 also important for our communities' appointed and elected
12 officials to be able to make decisions individually what they
13 need for their community, especially when recruiting and
14 retention is so difficult. So I concur with everything that
15 Chief Shea said.

16 TOGLIATTI: George Togliatti for the record. I
17 concur with those comments and those of Chief Shea and I believe
18 that the agencies should have the power to be able to make those
19 types of decisions and although I'd love to have everyone in
20 perfect physical condition to be able to pass running, jumping
21 and all that stuff, there's still certain talents that people
22 have that maybe they can run a little faster, but they're also
23 maybe not quite as strong. I don't think one test is going to
24 solve or make any definitive measure of somebody's health. I
25 think there's more important exams for that and that would be

1 the physical exams by medical professionals as with heart and
2 lung and so on and so forth.

3 TROUTEN: Additional comments from the Board?

4 NIEL: Yeah. Russ Niel for the record. I
5 agree with Director Togliatti and Ollie Miller's comments as
6 well. I think it should leave it up to the agency, specifically
7 speaking to reciprocity applicants. I think we should keep our
8 own in-state standards the way they are but when it comes to
9 these laterals coming from out of state, they've already proven
10 the fact that they can pass a POST academy or equivalent to that
11 but, you know, when I went to Texas, I've said this to for
12 several people, I didn't have to pass their physical fitness
13 test to become TCOLE-certified. They recognized the fact I went
14 to POST, they recognized the fact I had an advanced certificate
15 or done that, so I think we should, you know, be consistent with
16 those kind of practices. Yep. That's all that.

17 TROUTEN: Comments from the public? So I would
18 entertain a motion relative to LCB file R118-23 as presented and
19 as related to the creation of a Category III reciprocity
20 pathway.

21 NIEL: Russ Niel. So moved.

22 TROUTEN: Do I have a second?

23 PROSSER: Jamie Prosser second.

24 TROUTEN: Have a second. All those in favor
25 please say aye.

1 MEMBERS: Aye.

2 TROUTEN: Any opposed.

3 UNIDENTIFIED: Nay.

4 TROUTEN: And I also vote nay. Motion carries.

5 Moving to Item C. Again, over to Executive Director Sherlock
6 relative to LCB file, R031-23 as presented and related to the
7 creation of a command level basic certificate.

8 SHERLOCK: So again, this is Mike Sherlock for the
9 record. Again, this language is for the command level basic
10 certificate. As you recall, the Commission sort of vetted this
11 several proposed language choices. It will apply to prior
12 Nevada certified officers as currently drafted and those that
13 have gone the five-year/60-month limit. I would just add that
14 later on in the agenda, this very regulation would affect that
15 individual in terms of being certified.

16 TROUTEN: All right, thank you. Do we have
17 comments or questions from the Board?

18 PROSSER: Jamie Prosser, I have one clarifying
19 question. Under G it says the peace officer passes a state
20 physical fitness examination approved by the employee agency of
21 the peace officer. So as far as we have three state physical
22 fitness examinations, is that what you would consider Cat I, Cat
23 II, Cat III, or would it be based on the employee agency to
24 determine what that examination would be?

1 SHERLOCK: So Mike Sherlock for the record. The
2 intent there, and I didn't see that, but it is the agency
3 determines what that test is for that level, for that command
4 level certificate, and we only have one state physical fitness
5 test.

6 PROSSER: Okay.

7 SHERLOCK: So you see what I'm saying? So that
8 language, so this is about the agency and what they --

9 PROSSER: So as we move forward with the approval,
10 will we just vote to strike out state, the word state?

11 HASTINGS: So at this stage you can't make a
12 modification to something LCB has sent back with language with a
13 simple modification at the adoption hearing. Everything would -
14 - it'd have to go back again and have another go-around with
15 LCB. You can decide not to move forward and adopt today and
16 enter into proceedings to make changes if you deemed to do that,
17 but you can't make a change and adopt today.

18 SHERLOCK: Yeah. Mike Sherlock for the record. So
19 that's something they put in, we did not, so I don't know why
20 they added the word state to it. That's not how it went over to
21 them.

22 TROUTEN: I do have a question relative to that as
23 well, since it does not say passes. The state says a state.
24 Could that be construed that they choose another state?

1 SHERLOCK: Well, I wouldn't want it to be construed
2 that POSTs create another state PT test where -- you know. I
3 just believe that this creates a -- it does nothing I think in
4 this regard and creates confusion with that --

5 TROUTEN: I agree. Yeah.

6 SHERLOCK: -- section. Yeah. Yeah, yeah, yeah.
7 Well, again, Mike Sherlock for the record, I would suggest that
8 we send it back to LCB and tell 'em we don't want that in there
9 if that's what the Commission prefers.

10 TROUTEN: Do we need a motion --

11 SHERLOCK: Just to be clear.

12 HASTINGS: No. So your agendized potential action
13 items are adopt, amend, adopt, amend but again, that relates to
14 what's come back from LCB and you're not repealing anything.
15 So, but any public body has authority under their agendas and as
16 posted here too, at their discretion, remove an item from the
17 agenda or delay discussing an item at any time. So yeah, you
18 wouldn't make a motion cause there's no agendized item to do it
19 that way, but administratively it can just be removed from the
20 agenda so that this can go back to LCB.

21 SHEA: Before we move, could I ask one more
22 question of Mike on what we're going to do? Number 4, it says
23 the basic certificate expires immediately upon separation of a
24 peace officer from an executive level position. So Washoe
25 County brings somebody in and a sheriff appoints somebody and

1 the sheriff's leaving and the police chief at Reno says that's a
2 great person, I'd like to appoint him here in my position.

3 Would he have to start all over again or could that certificate
4 remain in force because he's still in an executive position?

5 He's leaving one and go into another.

6 SHERLOCK: Mike Sherlock for the record. Again, I
7 think that -- so we have it as it's currently written if they
8 don't already have a command level basic certificate at Reno, as
9 you say, they could bring them over. Right? I'd have to look
10 at that.

11 SHEA: What I'm saying is Reno brought a person
12 in under these guidelines. After eight years there or Washoe
13 County, after eight years at Washoe, the sheriff's leaving so
14 his appointments are leaving also and the Reno police chief says
15 I'd like to appoint him as a deputy chief. Would that person
16 who received his certificate under Washoe County Sheriff's
17 Office have to start all over again and do all this again to get
18 another executive certificate to work at the other agency or can
19 it be moved to this second agency?

20 SHERLOCK: I'd have to -- Mike Sherlock for the
21 record. I, I mean that -- it probably would have to start over,
22 I suppose.

23 SHEA: Okay.

24 SHERLOCK: You know, the problem is we've limited
25 the number per agency so, you know, I'm not sure that we would

1 use the resources. They've already done it and Reno's not
2 exceeding their limit of command level basics. From a practical
3 standpoint, you know, I don't know that this demands that they
4 do it again.

5 SHEA: You think you could have the authority,
6 as the executive director of POST, to allow it to be moved?

7 SHERLOCK: Mike Sherlock for the record. I don't
8 know that I would read it that way.

9 SHEA: Okay. Okay.

10 SHERLOCK: And maybe if this language is going back
11 anyway, that's something we could clear up.

12 SHEA: Because I could then -- if I wanted to
13 appoint this person as the police chief, or I could also ask for
14 a waiver of doing this all over again and just transferring. I
15 don't know if this would ever happen, but in theory it could.

16 SHERLOCK: Right. True. I think the concern
17 always is that separation, right, that --

18 SHEA: Right.

19 SHERLOCK: -- because what we're addressing here
20 already is a 60-month rule --

21 SHEA: Right.

22 SHERLOCK: -- and so once they leave one agency,
23 from a data-management standpoint, that clock starts ticking,
24 and so that's -- you know, that's why it's written that way but
25 certainly we could look at how that applies.

1 SHEA: I always try to find --

2 SHERLOCK: And try to clean it up.

3 SHEA: I always try to find these obscure
4 situations that confuse you.

5 SHERLOCK: I can't imagine it happening, but it
6 could happen.

7 TROUTEN: Other discussion from the Board?
8 Comments from the public? So do we have a motion on this or
9 desire to take no action?

10 UNIDENTIFIED: Do we need a motion to take no action?

11 HASTINGS: I'm sorry, I was reading something else.
12 To reiterate, you do not, and in fact, I don't think that
13 there's an agendized action to take consistent with what the
14 Commission wants to do right now.

15 TROUTEN: All right. So absent a motion, we'll be
16 moving on.

17 PROSSER: And that automatically goes back to LCB?

18 HASTINGS: Well, just administratively, staff will
19 do that.

20 PROSSER: Thank you.

21 SHERLOCK: And it'll come back to you with the new
22 language.

23 TROUTEN: Okay. All right. Item number 4,
24 discussion, public comment, and for possible action discussion
25 by the Commission to continue the rulemaking process regarding

1 the revision of NAC 289.200(2) to update or remove the physical
2 readiness requirements for Category I and Category II
3 reciprocity standards. Director Sherlock, some background
4 please.

5 SHERLOCK: Mike Sherlock, for the record. Again,
6 so we just had a workshop on this issue. At this point, should
7 the Commission to decide to continue with the rule making, there
8 is sample language in there in your books in terms of that
9 development of the language.

10 TROUTEN: Do we have comments from the Board?

11 COVERLEY: Dan Coverley. I have a question. So is
12 this just to change the language from physical fitness test to
13 physical readiness test within? No, my --

14 SHERLOCK: No. Mike Sherlock for the record. So
15 this is a proposal to remove the mandated physical readiness
16 test for Category I and I reciprocity applicants.

17 COVERLEY: So changing it from shall to may?

18 SHERLOCK: Yeah. Mike Sherlock for the record. So
19 the sample language there is changing it to the agency may
20 require.

21 COVERLEY: Right. Okay.

22 UNIDENTIFIED: Question. Is this the similar to what
23 we just approved with the Cat III?

24 SHERLOCK: Yes.

25 UNIDENTIFIED: Okay.

1 NIEL: Russ Niel for the record, State Gaming.
2 I agree with this language and or at least the concept of it for
3 the same reasons I previously stated over the Cat III
4 discussion. So I mean, these people have already shown that
5 they can attend academy and pass it, including the PPFT
6 requirement, and there's probably seasoned cops coming in so I
7 like where we're going with this.

8 TROUTEN: This is Ty Trouten for the record. I'll
9 be the stick in the mud once again. My concern, not every state
10 has our same requirements, so they really haven't ever met RPPRT
11 requirement or physical readiness test requirement. I am also
12 curious, we're changing this on the premise that it is going to
13 make some significant difference in hiring candidates and so
14 forth. I did some research on this and reached out to several
15 states, contacts I have there, to see how they do it. I found
16 it interesting that many of them have removed the requirement,
17 not because of actually the line troops and their difficulty in
18 passing their state physical tests, but because of the
19 administrators in their older years who were unable to meet
20 their POST state standards so they just wiped it out entirely
21 for laterals. We just circumvented that earlier with this basic
22 executive certificate. I guess I'm almost of a mind I would
23 like to see if what we have done on the Category III reciprocity
24 and with the executive basic certificate, if that has some sort

1 of effect that is positive for our state, or if we're just
2 throwing away a standard without benefit.

3 NIEL: Russ Niel for the record. Not to
4 beleaguer the point, but I screen all the applicants for all of
5 our offices in Northern Nevada Gaming Control and when we start
6 setting people up for testing and interviewing and things like
7 that, one of the things they push back on, especially seasoned
8 cops coming in who already POST certified or whatever, TCOLE
9 certified, whatever they call it, is their comments are, I'm
10 already certified, you know, why am I doing this again, kind of
11 thing, and so they pull back. And so we're losing an
12 opportunity to bring someone who's got a good experience, solid
13 investigator, no problems otherwise, over a run time and some
14 sit ups, you know, so that's the where we stand. I know my
15 chief supports this direction we're going here with this
16 language so, you know, I would be behind it all way.

17 TOGLIATTI: George Togliatti for the record. I
18 concur. As an agency that's hit critical mass as far as its
19 ability to hire people and the competition between all of our
20 agencies on getting the best of the best, it sounds like we're
21 trying to appeal for other states, but at the same time, there's
22 some really qualified people out there and I'd hate to lose them
23 based on the fact that we have to, you know, subject them to
24 something like this when we should leave it up, again, to the
25 agency heads and a panel of people who are qualified and do the

1 hiring for us, who will say, this person is here, here or here,
2 and this is the quality of the person we need to hire. I'd hate
3 to take that away from the individual agencies, and I'd hate to
4 get rid of that pool of people that are out there in other
5 states that would really love to come to Nevada and do a great
6 job.

7 TROUTEN: Other comments from the Board?

8 COVERLEY: Dan Coverley for the record. If this
9 passes today or just like the other one, when does it take
10 effect? When does this go into effect or when would it?

11 SHERLOCK: So based on the input today, we would
12 send language over to LCB. We're getting close to session prep,
13 but there's a chance we would have it back by May just cause
14 they want to get it out of the way before session, and at that
15 time, you would adopt, if we get it back by then.

16 SHEA: So in essence, what this does is directs
17 us to go to LCB for them to review it, and then to come back to
18 us for a final discussion and vote?

19 SHERLOCK: Yes.

20 SHEA: Okay.

21 TROUTEN: Comments from the public? Hearing none,
22 is there a motion?

23 SHEA: Tim Shea. I'll make a motion to pass
24 and move on to LCB.

25 TOGLIATTI: George Togliatti, I'll second.

1 TROUTEN: Okay. All those in favor signify by
2 saying aye.

3 MEMBERS: Aye.

4 TROUTEN: Those opposed?

5 UNIDENTIFIED: Nay.

6 TROUTEN: I also vote nay. Motion carries. Item
7 5, discussion, public comment and for possible action request
8 from the Carson City Department for an executive certificate for
9 their employee, Chief Marlina Stone. Possible action may
10 include issuance or denial of the executive certificate. Go
11 over to Director Sherlock for the background on this and
12 requirements.

13 SHERLOCK: Mike Sherlock for the record. Staff has
14 reviewed the application for an executive certificate for Chief
15 Stone and finds that Chief Stone does meet the training and
16 service requirements, and staff would recommend that the
17 Commission issue that executive certificate.

18 TROUTEN: Okay. Is Chief Stone present?
19 Questions or comments from the Board? Public comment? Is there
20 a motion?

21 MCKINNEY: Kevin McKinney. I so move.

22 TROUTEN: Is there a second?

23 MILLER: Ollie Miller. Second.

24 TROUTEN: We have a motion and a second. All
25 those in favor signify by saying aye.

1 MEMBERS: Aye.

2 TROUTEN: Any opposed? I also vote aye. Item 6,
3 discussion, public comment, and for possible action, request
4 from the Washoe County Sheriff's Office for an executive
5 certificate for their employee, Chief Deputy Corey Solferino.
6 Possible action may include issuance or denial of the requested
7 executive certificate. Again, back to you, Director Sherlock.

8 SHERLOCK: Yeah, Mike Sherlock for the record.
9 Staff has reviewed the application for an executive certificate
10 for Chief Deputy Corey Solferino, and finds that the chief does
11 meet the training and service requirements and staff would
12 recommend the issuance of that executive certificate.

13 TROUTEN: All right, is Chief Solferino here?
14 Questions, comments from the Board? Public comment? Is there a
15 motion?

16 YOUNG: Commissioner Young. So moved.

17 TROUTEN: Is there a second?

18 SHEA: Tim Shea. Second.

19 TROUTEN: We have a motion and a second. All
20 those in favor, signify by saying aye.

21 MEMBERS: Aye.

22 TROUTEN: Any opposed? I also vote aye. Motion
23 carries. Item number 7, discussion, public comment, and for
24 possible action request from the Esmeralda County Sheriff's
25 Office for a six-month extension past the one-year requirement,

1 NRS 289.550, in order to meet the reciprocity requirements for
2 certification for the following deputies: Deputy Krista
3 Sullivan, date of hire, January 3, 2023, extension to June 3,
4 2024; Deputy Julian Melendez, date of hire, January 3, 2023,
5 extension to June 3, 2024; and Deputy Janelle Sanchez, date of
6 hire, January 13, 2023, extension to June 13, 2024. Possible
7 action may include approval or denial of the requested
8 extensions. Would you like to speak again on this, sir?

9 MELENDEZ: Yes, sir.

10 TROUTEN: Please.

11 MELENDEZ: Thank you, sir. Again, for the record,
12 Julian Melendez, Deputy Esmeralda County, participating in the
13 reciprocity program. First, just a few clarification points
14 because I said most of my comments on the prior workshop, it's a
15 request for a six-month extension for the reciprocity program
16 for Krista Sullivan and Julian Melendez. In the letter that was
17 submitted to the POST staff to be added to the agenda for this
18 meeting, those were the only two names of people participating
19 in the reciprocity program. Deputy Janelle Sanchez is a
20 Category III deputy working the jail. She did go to the POST
21 academy in January and failed the sit ups by one sit up. So
22 we're requesting an extension for her, but not through the
23 reciprocity program. Second point of clarification, it looks
24 like it's worded as a six-month extension, but doing the math
25 January to June is five months so I just wanted I guess some

1 clarification on that, that if it is a six-month extension, that
2 it'd be to July 3rd for Melendez and Sullivan and July 13th for
3 Sanchez. And then the last point, I guess just a question, in
4 looking at the agenda, I see asterisk next to the three names.
5 I don't see an explanation for what the asterisk are, so just
6 asking a question.

7 FLOYD: It's just the formatting of the
8 (inaudible).

9 MELENDEZ: Okay. So if it's just formatting, I
10 just wanted it in the record that I raised the issue and it's
11 been answered. And then just I know I've taken up your time
12 before, but just to add to it, Deputy Sullivan and I have had
13 our annual physicals back in May, and we are both certified
14 medically for field duty and as soon as possible, I would like
15 to get back to work and promise to wear my Class A uniform on my
16 first day. Thank you very much.

17 TROUTEN: If you could, I do have one question for
18 you. I hope perhaps you can answer this, but in the letter sent
19 by, I believe it's Sheriff Don Darrell --

20 MELENDEZ: Yes, sir.

21 TROUTEN: -- reference that you were originally
22 giving 12 month extensions, am I correct in presuming that that
23 actually means you had the initial 12 months for certification?
24 It wasn't the 12 month extension somehow granted previously?

1 MELENDEZ: That's correct. I'm actually the ghost
2 writer of that document, so I'm the one who worded it that way.

3 TROUTEN: Okay. Thank you.

4 MELENDEZ: You're welcome, sir.

5 TROUTEN: Any other questions from the Board?

6 Okay. Discussion from the Board? And then I guess, Director
7 Sherlock, we could use -- do you have any input on this one as
8 well?

9 SHERLOCK: Mike Sherlock for the record. No, we
10 would recommend the extension for Esmeralda County.

11 HASTINGS: So just, Nathan Hastings for the record,
12 this is hyper technicality, but just if someone makes a motion,
13 maybe just make reference to the six-month extension and not the
14 June dates and then it can just be six months. It doesn't have
15 to be the dates listed on the agenda, but if the motion is made
16 to just be the extension as it's on the agenda, then there's
17 potentially a discrepancy. So a motion for a six-month
18 extension to July as opposed to June would make sure that
19 there's not a discrepancy.

20 TROUTEN: And then I have a question as well
21 probably for Mike. So the academy began January 16. Even a
22 six-month extension puts this in July, let's say 13th or 16th,
23 whatever. When does the academy in July start with that, allow
24 them to get into that academy? Cause I think we've had this
25 discussion before that it's not the completion of, but at least

1 enrollment in the academy to be certified. Is that going to
2 reach that date and the second question, I don't believe we have
3 any other avenue around it.

4 SHERLOCK: Yeah, so Mike Sherlock for the record.
5 So generally what we recommend that -- and it'll be close,
6 you're right. We have an academy starts in July. I think some
7 of these are reciprocity though but that being said, you know,
8 it's that short amount of time we recommend that that employee
9 not exercise peace officer powers, that's what the certificate
10 is about, and whatever that means to that agency, it's up to
11 them but during that period, they, you know, are not authorized
12 to exercise peace officer powers until they're certified. Once
13 they're in the academy, they're not exercising peace officer
14 powers from our perspective and it's not an issue.

15 TROUTEN: All right, thank you for that.
16 Questions or comments further from the public? Do we have a
17 motion for six-month extensions?

18 MCKINNEY: Kevin McKinney. I'll move that we
19 approve six-month extensions for Janelle Sanchez, Krista
20 Sullivan and Julian Melendez.

21 TROUTEN: Do we have a second?

22 NIEL: Russ Niel, I'll second.

23 TROUTEN: We have a motion and a second. All
24 those in favor signify by saying aye.

25 MEMBERS: Aye.

1 PROSSER: (Inaudible) July?

2 TROUTEN: No, six-month extension.

3 PROSSER: Okay. Aye.

4 TROUTEN: And I also vote aye. Any opposed?

5 Okay. Motion carries. Item number 8, discussion, public

6 comment and for possible action request from the Carson City

7 Sheriff's Office for a six-month extension past the one-year

8 requirement NRS 289.550 in order to meet the requirements for

9 certification for the following employees: Deputy Bradley

10 Maffei, date of hire, April 7, 2023, now I'm hesitant if the

11 math's right here, date of which would be an extension to

12 October 7, 2024; Deputy Rhys Finnigan, date of hire, April 7,

13 2023, extension to October 7, 2024; Deputy Danielle Sandage,

14 date of hire, June 29, 2023, extension to December 29, 2024;

15 Deputy Abraham Arellano, date of hire, June 30, 2023, extension

16 to December 30, 2024. Possible action may include approval or

17 denial of the requested extensions. Do we have anybody from

18 Carson City to address the Commission on this?

19 SHERLOCK: Mr. Chairman, Sheriff Furlong asked me

20 to present his arguments and since I am going to do that for

21 him, let me say this, we would like to stress the importance of

22 basic training and the advantages of training people first.

23 That being said, we understand the difficulty in recruiting.

24 Sheriff Furlong, as you can see, has a large pool of new hires.

25 It makes it difficult for an agency of his size to get everyone

1 into the academy at the same time in terms of staffing and
2 considering this, we would recommend the extension of time for
3 Sheriff Furlong and his people.

4 TROUTEN: All right, thank you. Comments and
5 discussion from the Board.

6 COVERLEY: Dan Coverley for the record. I have a
7 question. So these are brand-new hires that are assigned, no
8 previous experience, so right off the street.

9 SHERLOCK: Mike Sherlock for the record. So it's a
10 mix. Some are Category III certified and they are being moved
11 to patrol duties and so they're using that time, right, on some
12 of them, and so some of them will remain in the jail until they
13 do go to the academy, but the time to be certified as Cat I is
14 going to expire before he can get 'em into the academy.

15 COVERLEY: And not to pick on Sheriff Furlong, but
16 this seems unusual. Is this the exception, not the rule? I
17 mean, something got messed up.

18 SHERLOCK: Yeah, really, Mike Sherlock again. I
19 don't know what happened, if the floodgates opened or --

20 COVERLEY: Okay.

21 SHERLOCK: -- you see there's several of these
22 here, so somehow people are hiring and as you can see here, this
23 is a large group for Carson City to fill some of their
24 vacancies. And again, trying to put that many people into the
25 academy for Carson City is a difficult thing to do.

1 SHEA: Mike, have our academy classes at POST
2 academy been filled and not everybody can get in, or we had
3 vacancies?

4 SHERLOCK: We are close to full every academy. We
5 don't want to turn anyone away at this point, so we have gone
6 over what traditionally would've been our capacity, but that
7 hasn't been an issue, you know, currently with the recruiting
8 issues and that kind of thing, but even with the recruiting
9 issues, we're remaining right around full.

10 STRAUBE: Rob Straube for the record for Director
11 Sherlock. Are these, just for my knowledge, on- time extensions
12 for these individuals, and is there a limit on extensions?

13 SHERLOCK: Mike Sherlock for the record. Yeah. So
14 the agency can request one six-month extension and that's it.
15 No more than that.

16 STRAUBE: I have a clarifying follow-up question.
17 If the individuals are currently Cat III certified and are still
18 working in the jail until they go to the academy, why is there a
19 necessity for an extension because they're Cat III certified
20 working in the jail?

21 SHERLOCK: Right. And so Mike Sherlock for the
22 record again. I think that Sheriff Furlong will move these
23 people and could move them into field training prior to the
24 start of the academy, and that's my understanding, gives them
25 the flexibility to do that but they're still reporting their

1 hire date as their Cat I hire date. If you understand the
2 extension, extension allows a person to exercise peace officer
3 powers during that period that they're not certified.

4 STRAUBE: But I'm still confused because you said
5 that they were still working in the jail.

6 SHERLOCK: But the year's going to expire and so if
7 the year expires, they won't be able to move 'em to field
8 training.

9 SHEA: To go to field training program before
10 they go to the academy?

11 SHERLOCK: That's correct.

12 UNIDENTIFIED: It's the agency's decision, sir.

13 SHEA: I'm -- again, I'm just trying to learn.
14 I don't have a problem with Sheriff Furlong in any way, shape or
15 form, I want to support him as much as I can, but if a person's
16 a Category III, and I as sheriff want him to become a Category
17 I, and I elect to put a Category III into field training, since
18 they don't have to go to an academy and don't have to be
19 certified to work, can I do that or do I have to have some sort
20 of extension to become Category I certified to put a Category
21 III into field training, even though nothing prevents me from
22 putting Category III into field training, does it?

23 SHERLOCK: It does. So if that hire date is
24 expired, they're prohibited from exercising peace officer power.
25 So the categories are training issues, as you know --

1 SHEA: Yep.

2 SHERLOCK: -- and they're no longer working in the
3 jail. The Category III doesn't apply to patrol.

4 SHEA: And Category III cannot exercise any law
5 enforcement authority under that category but as a brand-new
6 hire with no previous certification, can I not be put into field
7 under Nevada law and operate previous, before I go to an
8 academy?

9 SHERLOCK: Yes, you can.

10 SHEA: Up to a year?

11 SHERLOCK: Yes.

12 SHEA: Okay, I get it now. I understand what's
13 going on.

14 SHERLOCK: So the year's going to expire, see --

15 SHEA: Yeah, I understand. I understand. So
16 if we forget they're Category III, just say these are new hires
17 basically, and he wants to put 'em into field training, but his
18 time's going to expire and he needs six months to get 'em into
19 the program and through the academy is what he's trying to
20 accomplish.

21 SHERLOCK: Yes, that's correct. And to Sheriff
22 Furlong's defense, Carson City by practice doesn't normally work
23 people in the field without first going to the academy.

24 SHEA: Yeah. If this happened, I think there's
25 a very good reason knowing that gentleman.

1 SHERLOCK: Yes.

2 TROUTEN: Any further discussion from the Board?

3 Public comment? Do I have a motion?

4 COVERLEY: Dan Coverley. So moved.

5 SHEA: Tim Shea, second.

6 TROUTEN: Thank you. We have a motion and a
7 second for six-month extension for Carson City. All those in
8 favor, please signify by saying aye.

9 MEMBERS: Aye.

10 TROUTEN: Any opposed? I also vote aye. Motion
11 carries. Item number 9, discussion, public comment and for
12 possible action, request from Storey County Sheriff's Office for
13 a six-month extension past the one-year requirement, NRS
14 289.550, to meet the requirements for certification for
15 Assistant Sheriff Matthew Willette. Hire date March 13, 2023.
16 If approved, a six-month extension will give Assistant Sheriff
17 Willette until August 13, 2024 to be certified. Possible
18 actions may include approval or denial of the requested
19 extensions. And do we have anyone here from Storey County on
20 this?

21 SHERLOCK: Mr. Chairman, Mike Sherlock again. I
22 believe Sheriff Cullen's riding up with Sheriff Furlong back
23 north and asked if I could present this for them. Here, Storey
24 County is seeking an extension for a command level position.
25 Assistant Sheriff Willette was previously certified in Nevada

1 but he is beyond the 60 months, and so the extension would allow
2 time for this new command level basic to be implemented, and he
3 would seek a certification in that way and this extension would
4 allow him to do that.

5 TROUTEN: Thank you for that. Questions or
6 comments from the Board? Any other public comment? Would
7 entertain a motion.

8 NIEL: Russ Niel. So moved.

9 TROUTEN: Do I have a second?

10 SHEA: Tim Shea, second.

11 TROUTEN: I have a motion, a second for six-month
12 extension. All those in favor, please signify by saying aye.

13 MEMBERS: Aye.

14 TROUTEN: Any opposed? I also vote aye. Motion
15 carries. It's my understanding that Item Number 10 has been
16 pulled. Is that correct? So we'll move on to Item Number 11,
17 discussion, public comment, and for possible action, hearing
18 pursuant to NAC 289.290 (1)(h) on the revocation of James
19 Christiansen's, currently employed by the Nye County Sheriff's
20 Office, Category III basic certificate based on a conviction of,
21 or entry of plea of guilty, guilty but mentally ill, or nolo
22 contendere to a misdemeanor. The conviction which has led to
23 this action are Count I battery, a violation of NRS 200.481, a
24 misdemeanor. Possible action may be revocation of the Category

1 III basic certificate. And on this one we'll go over to our
2 attorney general representative, Nathan Hastings, please.

3 HASTINGS: Thank you, Commissioners. For Agenda
4 Items 11 to 14, let's take a minute here to lay a basis
5 foundation for the admissibility and validity of the materials
6 that you would refer to and rely on in making any decisions
7 here. So I'm going to ask, and maybe we give that, Mike, to
8 Kathy, yeah, Chief Floyd some questions about these documents to
9 establish a record for what they are, their validity and
10 viability for purposes of Agenda Items 11 to 14. Chief Floyd,
11 for the records or documents that are contained in these meeting
12 materials for the offenses addressed in Agenda Items 11 to 14,
13 did you obtain those items or records directly from the courts?

14 FLOYD: Yes, I did.

15 HASTINGS: Have you maintained those documents in
16 the ordinary course of your record keeping since you obtained
17 them from the courts?

18 FLOYD: Yes, I have.

19 HASTINGS: And are the versions of those documents
20 that are contained in the meeting materials true and accurate
21 copies of those materials?

22 FLOYD: Yes, they are.

23 HASTINGS: Thank you. Commissioners, based on
24 Chief Floyd's testimony, I advise you that the materials
25 provided for Agenda Items 11 through 14 constitute valid public

1 records of charges and convictions that uphold the regulatory
2 standards for revocation in these matters and that those
3 materials may be admitted for your consideration as to these
4 four agenda items. And having so advised, first of all, does
5 anyone have any questions for me about the admissibility or
6 legal validity of the items that have been provided for you?
7 We'll go ahead and move into each of these agenda items then but
8 first, just to state for the record that each of these four
9 agenda items and hearings are brought and conducted pursuant to
10 NRS 289,510, that's your statutory authority to have adopted
11 regulations and establish standards for certification and de-
12 certification of officers. The regulation 289.290 has been
13 adopted and acts as your authority and establishes the causes
14 for the Commission to revoke or suspend certificates. So,
15 moving to Item Number 11 and just referring you to the materials
16 that you have, first, Exhibit A under Item 11 is the notice of
17 intent to revoke that was sent to the officer here, Mr.
18 Christiansen, and I do want to point out this is an important
19 distinction for this one. That under the statute there separate
20 provisions of authority for a gross misdemeanor, a felony, a
21 gross misdemeanor that's a domestic violence offense, and just a
22 straight misdemeanor. That's the h that's referred to here. So
23 the agendized item and the notice that was provided was for
24 potential for revocation under h for a misdemeanor. Why does
25 this matter? The underlying offense, there are some nuanced

1 arguments about whether it was in fact a misdemeanor that
2 constituted domestic violence as well but I'm going to advise
3 you that if one of you ultimately makes a motion here and
4 decides that the certificate should be revoked for this officer,
5 that you do it under h as a plain misdemeanor and not a domestic
6 violence misdemeanor because that's the way it was agendized and
7 that's the way it was noticed, just to avoid any potential
8 liability, any potential claim that an open meeting law
9 violation occurred by taking an action that wasn't consistent
10 with the way it was agendized. All right, having said that, so
11 Exhibit A is the notice of intent and that was provided. Most
12 of the time I ask Chief Floyd to indicate whether or not the
13 person made any response indicating that they were going to come
14 and contest the revocation, and in almost all cases, the answer
15 is no, no one made any response. Here we have a different
16 situation because under the regulation, sub item h provides that
17 when it's a misdemeanor, the other triggering factor is that the
18 employing law enforcement agency has to request the revocation.
19 So POST, the Commission has authority to revoke based on a
20 simple misdemeanor if the employing agency requested it. So the
21 first sub-item here that I'm going to refer you to in your
22 materials is Exhibit D. So this is a letter dated June of last
23 year from the Sheriff's Office, Nye County Sheriff's Office,
24 from Sheriff McGill, who's present and there's some nuance here.
25 In just a second, you may have a question or two for him after I

1 present some of this to you. Wherein I'm going to avoid trying
2 to characterize what he said, you have the letter and can read
3 it for yourself but basically, the Sheriff's Office deemed that
4 the offense was a domestic violence offense that under federal
5 and state prohibits would preclude Mr. Christiansen from
6 possessing a firearm into the future and therefore being able to
7 be a viable candidate in their organization. And so the
8 arguments described here are those legal arguments. I'll just
9 direct you then to Exhibit G, is the judgment of conviction for
10 the battery conviction. It was pled down from a child abuse
11 initial charge to plain battery. Based on that, I'll refer you
12 to, sorry, Exhibit K, an attorney for Mr. Christiansen wrote a
13 letter to POST making a legal argument that because the offense
14 had been pled down from a child abuse, which would be a domestic
15 violence offense, to a plain battery that did not have a
16 domestic violence element, that Mr. Christiansen would not be
17 prohibited from possessing a firearm, and that the Sheriff's
18 Office basis for asking for revocation was not valid. He also
19 argues in the letter about an alleged communication promise
20 assurance from the Sheriff's office to Mr. Christiansen and his
21 counsel in the underlying criminal case that if he would plead
22 to this reduced charge, that he'd be able to get back to work,
23 and I'm not going to try to characterize that any further
24 either, but you can ask questions to Sheriff McGill about that
25 if you deem it appropriate. So the two arguments that counsel

1 for Christiansen was making that revocation was not appropriate
2 was that he was a valid possessor of a firearm because the
3 prohibitors would not apply to him, and that there were promises
4 made to him that if he would plead guilty to this reduced
5 offense, he'd be able to get back to work. Those dates were in
6 June and September of last year. You may or may not remember
7 that in last October's meeting, this item was initially on that
8 agenda, but we wanted to look further into the legal issues
9 about the firearm prohibitor arguments that were being made. I
10 mean, I don't want to take a bunch of time talking about it
11 today, but I will refer you just very quickly to Exhibit I,
12 which is a federal FBI/ATF guidelines for states on how they
13 apply the firearm prohibits and Exhibit J is a declaration from
14 Nevada RCCD's Firearm Background Check Unit on how they apply
15 the federal law that affirms that someone who is convicted of a
16 battery in Nevada, that that is an offense that includes a use
17 of force for purposes of federal firearm prohibitors, and that
18 if the relationship between the two people was a domestic
19 relationship, regardless of whether it was pled down to a simple
20 battery without a domestic element, that the prohibitor still
21 apply and it is considered a crime of domestic violence for
22 purposes of the federal prohibitor, in effect showing that in
23 operation and in practicality, Sheriff McGill's point was
24 correct on that and that Mr. Christiansen and his attorney were
25 not correct. Subsequent legal research, there is a United

1 States Supreme Court case from 2008 where the same arguments
2 were made and the US Supreme Court expressly ruled that if there
3 is use of force and there is a domestic relationship, regardless
4 of what it was pled down to, the federal prohibitors do apply to
5 constitute an offensive domestic violence and the person's
6 prohibited from possessing a firearm. Once that case was
7 revealed to the attorney that wrote the letter, they indicated
8 they were not going to come today and uphold that argument, but
9 did indicate that their letter, again which is Exhibit K, and
10 its arguments about potential promises or communications that
11 were relied on, that they still assert that and would put that
12 before the Commission as a basis for saying that revocation
13 would not be fair or proper. I'm not going to make any
14 statements, representations, arguments, advice on that issue.
15 If you have any questions for the sheriff, he's here and you
16 could ask him those, but ultimately there is a conviction for a
17 battery. Under (1)(h) of the regulation, because there's a
18 conviction and there's the request from the employing agency,
19 period, regardless of any interpretation on domestic violence
20 issues, you may revoke under the regulation. I've tried to just
21 make you feel comfortable and clear that you're on good standing
22 on the domestic violence gun prohibitor as well ultimately, but
23 the counter argument before you at this point is just on that
24 issue of potential representations and assertions that were made
25 that if he would plead that he'd be able to get back to work.

1 TROUTEN: All right, thank you. Just one
2 clarifying question because I did not see anything to this
3 effect in the packet. Was there any documented proof of such
4 assertions provided to POST?

5 HASTINGS: So POST staff and I requested if there
6 was anything in writing on that issue, and I believe that both
7 sides, so to speak, are conceding. That was never any anything
8 in writing. It was verbal communications that they're asserting
9 were made. So verbal communications, if I'm correct, to one
10 party, the person we're talking about revoking certificate and
11 another person who is now deceased, the previous sheriff.

12 UNIDENTIFIED: It was someone within the organization,
13 it was not the former sheriff --

14 HASTINGS: Okay.

15 UNIDENTIFIED: All right.

16 HASTINGS: -- herself, it was a lieutenant or
17 something like that.

18 TROUTEN: Okay. Thank you.

19 SHEA: It was a very good explanation, thank
20 you very much, but I have one question. So if it's a
21 misdemeanor conviction under h but the federal prohibition still
22 attaches under the court decision, even though it's a
23 misdemeanor without the domestic violence enhancement, the fact
24 is the prohibited federal prohibit, again, carrying a firearm,
25 still attaches because of the relationship. Does that not make

1 this a moot point? Because now the federal requirement attaches
2 based upon that court decision?

3 HASTINGS: Correct. So because we did not have
4 that all fully understood legally before the agenda was -- more
5 importantly than the agenda, the notice that was sent saying,
6 you know the intent is to revoke you, it was done under h
7 instead of g. In other words, it was done without reference to
8 reliance on it being a crime of domestic violence.

9 SHEA: I understand that and I say great
10 explanation. Thank you very much. I'm hard to get through, but
11 in my way of looking at this, in this particular instance,
12 because of the circumstances in the federal court rule, the
13 federal restriction attaches. Even though we're looking at h,
14 the fact is it exists.

15 HASTINGS: That's true.

16 SHEA: Okay.

17 HASTINGS: So in reality --

18 SHEA: Yes.

19 HASTINGS: -- he's not employable in that sense,
20 consistent with the sheriff's office's initial request and
21 arguments. That is practically true. I'm just saying legally,
22 for purposes of the motion that should be made for revocation,
23 that should be under h instead of g.

24 SHEA: I understand. I understand. Thank you.

25 HASTINGS: Yeah.

1 UNIDENTIFIED: I have just one question. Because I'm
2 unclear, is he still employed by the Nye County Sheriff's Office
3 or is he -- has he been terminated?

4 HASTINGS: That's probably best a question for the
5 sheriff.

6 UNIDENTIFIED: Okay.

7 TROUTEN: Sheriff McGill, please.

8 MCGILL: Good afternoon, gentlemen and ladies. I'm
9 sorry. For the record, Sheriff Joe McGill. Yes, he is still
10 currently employed. At the time that I took office early
11 January of 2023, this was brought to my attention and at that
12 moment I reassigned the individual to a civilian position as a
13 detention tech still receiving deputy pay pending the outcome of
14 this whole process because I didn't think that at the time that
15 it would be right without his due process to take his money
16 away, but we did reassign him out of a officer position or
17 deputy position.

18 TROUTEN: Are there other questions from the
19 Board?

20 MILLER: Ollie Miller for the record. Can you
21 talk to us a little bit about the commitment that was made to
22 him to get back to work or what you know about that?

23 MCGILL: That representation was made to me by
24 his attorney, Mr. Huntley, and the way it was represented to me
25 was that at the time of the administrative negotiation, the

1 administrative charges, that it was either the late Sheriff
2 Wehrley or former Captain David Boruchowitz presented the offer
3 to him that if you just agree to plead guilty to a misdemeanor
4 battery, that this whole thing will go away, that they would not
5 pursue revocation on him. When this entire thing came to my
6 attention and I started looking into it, first of all, I asked
7 advice from the district attorney in Nye County. He did not
8 support my opinion but I did the research on my own as far as
9 the federal prohibitors and I can tell you that any Joe Schmo
10 that applied for a CCW and this were his circumstances, and
11 that's the way that this actually came up initially to me was
12 his CCW was up for renewal, and our clerk that does that refused
13 and asked for my input, for my advice. If this were any Joe
14 Schmo that was applying for a CCW, I would not issue his CCW
15 based on these circumstances so therefore, why would I continue
16 to employ an individual in a badge wearing, gun carrying
17 capacity that, in my opinion, based on my research, he is not
18 qualified for.

19 MILLER: Okay. So my follow-up question, and I
20 appreciate that, is do you know if the former leadership team at
21 your agency made a commitment or a process?

22 MCGILL: I guess I didn't answer your question,
23 did I? I went off on a tangent. No, I do not know.

24 MILLER: Okay.

1 MCGILL: The attorney, again, that made the
2 initial representation about that agreement I asked him multiple
3 times if there is any email, letter, document. I searched Mr.
4 Christiansen's internal files and nothing was ever produced to
5 substantiate the claim that that agreement was made or offered.

6 MILLER: Thank you, sir.

7 MCGILL: Thank you. I'm sorry.

8 YOUNG: Commissioner Young for the record. So
9 in this new reassignment, is this individual still in possession
10 of a firearm?

11 MCGILL: No, ma'am.

12 YOUNG: Oh.

13 MCGILL: He is currently in possession of
14 firearms because it's my understanding that he's quite the
15 collector, but his concealed weapon permit has been suspended
16 from the time that this was brought to my attention and his duty
17 firearm, his issued duty firearm, has been taken into our
18 custody. He is not authorized to carry a firearm at this point
19 in time.

20 YOUNG: Thank you.

21 TROUTEN: Additional questions?

22 SHEA: Yeah, Tim Shea here. So if I understand
23 this correct, you really don't have a choice because you know
24 that the federal prohibitor attaches based upon the
25 circumstances of the charge he pleaded to, so you can't employ

1 somebody in a position where they are required to carry a
2 firearm because the federal prohibitor by case law now attaches
3 so you're kind of between a rock and a hard spot. Your
4 predecessor may have agreed to something that legally they
5 couldn't agree to and put you in that bind.

6 MCGILL: And I will tell you, this was not the
7 route in response to your comment or question or both?

8 SHEA: Question.

9 MCGILL: This was not the route that I wanted to
10 have to take but after doing the research, I determined that I
11 had to, and as I said, the district attorney was opposing my
12 opinion and for whatever reason, I don't think the district
13 attorney is correct, and I would hope that maybe the Attorney
14 General's Office will represent me if we get sued over this, but
15 if you were to go to the -- and I don't know if you have it in
16 your backup there or not, but in the federal prohibitors, which
17 is on the Justice Department's website, there is a paragraph in
18 italics or that begins with italics that says, "There is no law
19 enforcement exemption," and this is in relation to -- and I
20 won't bore you with reading the entire text, but I'll summarize
21 it. This is talking about this exact set of circumstances, that
22 it's related to the underlying charge being a domestic element
23 and it says, again, in their text, it does not matter what the
24 conviction or plea of no contest was; what matters is the
25 underlying charge and the underlying circumstances of this was

1 it was a child abuse upon his wife's child, his stepchild. That
2 is a domestic violence element. To respond to you, Chief Shea,
3 I had no choice in my opinion.

4 UNIDENTIFIED: Sheriff McGill, I just have one
5 question, I'm not even sure if it's relevant, and I believe I
6 know the answer, your agency doesn't have any Cat III three
7 positions that do not require the use of a firearm, do they?

8 MCGILL: No, sir, we don't.

9 UNIDENTIFIED: Okay.

10 MCGILL: All of our Cat III positions are issued
11 and at times do carry a firearm.

12 TROUTEN: Other questions from the Board? Other
13 public comments? Is there a motion from the Board?

14 COVERLEY: Dan Coverley, so moved.

15 TROUTEN: For revocation?

16 COVERLEY: So I move that the revocation on James
17 Christiansen, currently employed by the Nye County Sheriff's
18 Office, Category III basic certificate based on a conviction of
19 battery, be revoked.

20 TROUTEN: We have a motion. Is there a second?

21 SHEA: Tim Shea, I'll second.

22 TROUTEN: We have a motion and a second. All
23 those in favor signify by saying aye.

24 MEMBERS: Aye.

1 TROUTEN: Any opposed? I also vote aye. We'll
2 now move on to Item Number 12. This is a hearing pursuant to
3 NAC 289.290 (1)(g) on the revocation of Brian C. Fisher,
4 formerly employed with the Washoe County Sheriff's Office,
5 Category I and Category III basic certificates based on a
6 conviction of, or entry of a plea of guilty, guilty but mentally
7 ill, or nolo contendere to a felony. The convictions which have
8 led to this action are Count 1, coercion with physical force or
9 immediate threat of physical force, sexually motivated a
10 violation of NRS 207.190.1C, and NRS 207.190.2A, a Category B
11 felony. Possible action may be revocation of the category one
12 and category three basic certificates. Back over to you, Mr.
13 Hastings.

14 HASTINGS: Thank you. Grateful on this one do not
15 have a lengthy explanation to give. This one's pretty
16 straightforward. Exhibit A of your materials is the notice of
17 intent to revoke that was sent as required by law, by the rules
18 governing these revocation proceedings. You can see that that
19 was provided. Chief Floyd -- well, again, these provide an
20 opportunity for, and again, as required by regulation, the
21 person can indicate that they intend to dispute the revocation
22 and that they'll appear and, Chief Floyd, was any response
23 received indicating any intent to come and dispute this
24 revocation?

25 FLOYD: No, there was not.

1 HASTINGS: Okay, thank you. I will refer you
2 Commissioners to Exhibit I in your materials for this item,
3 which is the judgment of conviction for the felony as described
4 in the action item. Bbased on the felony conviction, under the
5 authority that you have in the regulation, revocation is within
6 your authority and proper under the circumstances.

7 TROUTEN: All right, thank you. Do we have
8 questions or comments from the Board? Hearing none, do we have
9 questions or comments from the public? Again, hearing none, I
10 would entertain a motion for the revocation of a basic
11 certificate Categories I and III for Mr. Fisher.

12 MCKINNEY: Kevin McKinney. I'll move that we
13 revoke the Category I and Category III certification of Brian
14 Charles Fisher.

15 TROUTEN: Thank you. Do we have a second?

16 PROSSER: Jamie Prosser. Second.

17 TROUTEN: We have a motion and second. All those
18 in favor, signify by saying aye.

19 MEMBERS: Aye.

20 TROUTEN: Any opposed? I also vote aye. Motion
21 carries. Item number 13, discussion, public comment and for
22 possible action hearing pursuant to NAC 289.290(1)(i) on the
23 revocation of Caesar Rios, formerly employed with the Henderson
24 Marshall Service, Category I and III basic certificates based on
25 a conviction of a misdemeanor crime of domestic violence as

1 defined in 18 U.S.C 921(a)(33). Possible action may be
2 revocation of the Category I and III basic certificates. Mr.
3 Hastings, back to you again.

4 HASTINGS: Thank you, Commissioners. I'll refer
5 you in the materials for this item to Exhibit A, which is the
6 required notice of intent which was provided timely for purposes
7 of this meeting. This one, instead of asking Chief Floyd the
8 question, this one has a slight little wrinkle, which is if you
9 look at Exhibit B, we have materials provided by the constable's
10 office in Henderson, which was the last known address. So in
11 the regulations, it specifically states that notice is provided
12 at the last known address. So theoretically you could have good
13 enough notice just by sending something to that address, but I
14 just point out that POST made additional effort, and it's
15 documented here by the Henderson Constable, where in the third
16 paragraph on that page indicates that the person that attempted
17 service stated that he was notified by detectives that are
18 searching for Rios, that they believe he's currently living
19 between Mexico and Los Angeles, and is the staff's belief that
20 he's an absconder at this time, and so we don't have an answer
21 one way or the other of whether there was an intent to come and
22 dispute, but just pointing out that all the efforts were made to
23 try to make sure that notice was given. And then the
24 conviction, we don't have a judgment of conviction because this
25 was a jury trial in justice court and it is just reflected in

1 the minutes. So if you go to Exhibit E at page 10 of 15, at the
2 top of the page you have the entry and the minutes of the jury
3 verdict that was filed, verdict of guilty on the same matters
4 asserted in your agenda item and so there's no dispute that
5 there was a judgment entered in this matter that satisfies the
6 authority under the regulation to revoke, and I would advise the
7 Commission that it's within your authority and proper to revoke
8 based on that judgment of conviction.

9 TROUTEN: Thank you, sir. Questions or comments
10 from the Board? Questions or comments from the public? Hearing
11 none, I would entertain a motion.

12 SHEA: Tim Shea. I'll make a motion to revoke.

13 TROUTEN: So we have a motion to revoke,
14 clarification both certificates, Category I and III?

15 SHEA: Both Category I and Category III.

16 TROUTEN: Thank you, sir.

17 TOGLIATTI: George Togliatti, I'll second.

18 TROUTEN: Thank you, sir. We have a motion and a
19 second. All those in favor, signify by saying aye.

20 MEMBERS: Aye.

21 TROUTEN: Any opposed? I also vote aye. Motion
22 carries. Moving on. Item 14, discussion, public comment and
23 for possible action hearing pursuant to NAC 289.290(1)(g) on the
24 revocation of Caleb M. Rogers, formerly employed with Las Vegas
25 Metropolitan Police Department Category I basic certificate

1 based on a conviction of, or entry of a plea of guilty, guilty
2 but mentally ill, or nolo contendere to a felony. The
3 convictions which have led to this action are Count 1,
4 interference with commerce by robbery, a felony 18 U.S.C 1951;
5 Count 2, interference with commerce by robbery, a felony 18 USC
6 1951; Count 3, interference with commerce by robbery, a felony
7 18 USC 1951; and Count 4, brandishing a firearm during and in
8 relation to a crime of violence, a felony 18 USC 924(c).
9 Possible action may be revocation of the Category I basic
10 certificate. Again to you, Mr. Hastings.

11 HASTINGS: Thank you, sir. Exhibit A in your
12 materials for this item is the notice of intent that was sent
13 describing the convictions and the intent to revoke. Chief
14 Floyd, was there any response on this item of an intent to
15 dispute the revocation?

16 FLOYD: No, there was not.

17 HASTINGS: Thank you. Refer you, Commissioners, to
18 exhibit E in your materials, which is the initial -- sorry,
19 that's the initial indictment on the charges showing the federal
20 felony charges, and then Exhibit F is the jury verdict showing
21 that at jury trial, Mr. Rogers was found guilty as to all four
22 of those charges. Based on the resulting convictions, his
23 certification is subject to revocation under your authority,
24 under the governing regulations, and I would advise the
25 Commission that revocation is proper at this time.

1 TROUTEN: Thank you, sir. Questions or comments
2 from the Board? Questions or comments from the public? Hearing
3 none, is there a motion?

4 PROSSER: Jamie Prosser moves.

5 TROUTEN: All right, we have a motion for
6 revocation of the Cat I basic certificate. Is there a second?

7 MILLER: Ollie Miller, second.

8 TROUTEN: Have a motion and second. All those in
9 favor, signify by saying aye.

10 MEMBERS: Aye.

11 TROUTEN: Any opposed? I also vote aye. Motion
12 carries. Item Number 15, discussion, public comment and for
13 possible action, request from Commissioner Shea to have the
14 Commission decide whether to start the process to revise the
15 language in NAC 289 from state physical fitness examination to
16 POST physical readiness test. First go to Mike Sherlock for
17 background, then we'll go over you, Commissioner Shea.

18 SHERLOCK: First, let me say that we're going to
19 talk about the PT again. So throwing things at me is a crime of
20 violence for federal prohibitor. So I talked to Chief Shea a
21 little bit about this and I just want to kind of give you a
22 synopsis of where we're at and why it's called a readiness test
23 and how that is not a conflict with the NAC. So some real quick
24 background, I was in federal court on some litigation over our
25 PT test. At one point during depositions, the federal judge

1 asked me is the state physical fitness test a fitness for health
2 test or a readiness test? It's an important distinction in the
3 eyes of the court. Our test is a readiness test. I told the
4 judge that. Our legal advisor at the time, after that hearing,
5 suggested that it would be beneficial to refer to it as a
6 readiness test just so reduces some of the confusion, especially
7 from that perspective. I specifically asked the attorney at
8 that time if we should change the NAC because the NAC says state
9 physical fitness test. His response, and I agreed at the time,
10 was no, the state physical fitness test is the test that POST
11 gives. POST uses a readiness test. The ability to change that
12 is in the fact that POST creates the test, and so his advice was
13 don't change the NAC because if you ever change it from a
14 readiness test to a Cooper or some other test or what have you,
15 you're going to have to change all the NACS again. So at that
16 time, we didn't do that. Keep in mind that at that time, we
17 called it the POST physical fitness test. We've never called it
18 the state physical fitness test. So the only point for us in
19 referring to it as a readiness test was because of those things
20 and advice. Just to give you a quick rundown, in the NAC, it's
21 mentioned 40 times, sometimes as state physical fitness test,
22 sometimes as POST physical fitness test. Our point is the PPRT
23 is the state physical fitness test, it is the POST physical
24 fitness test, and so I just think that staff would recommend
25 that we don't try to change the NAC wording. It doesn't affect

1 us in our ability to give that test, what that test is, and
2 before Kathy slaps me in the back of the head, we did take a
3 look at the -- and I believe we gave this once before, but the
4 current PT test was adopted by this Commission in 2010 after a
5 validation test in 2008, 2009. There have been no changes to
6 the validation, and that's the whole point of a validation, you
7 can't change the test. Prior to 2010, we were working off a
8 Cooper and also an Idaho validated test from 1997 on. In 2001,
9 that test was changed without any validation, making it not
10 defensible and that's why the validation was done and that's why
11 it was implemented in 2010 and hasn't changed since that 2010,
12 if that makes sense. So again, for us, we don't -- again,
13 understanding LCB and those type of things, we don't see --
14 staff would recommend that we don't change the NAC in terms of
15 the state physical fitness test.

16 TROUTEN: All right, thank you, Director.
17 Commissioner Shea.

18 SHEA: My -- and Mike, you and I did speak
19 about this. My concern, not concern but one I wanted the
20 Commission to discuss whether or not it's appropriate for us to
21 make the law match what we're doing, in other words, the law
22 says the same thing what we're doing. If I'm coming from
23 somewhere and I see on our webpage, it says we're taking the
24 POST physical readiness test, and then I go into the NAC and I
25 see the state physical fitness examination, I have to pass that.

1 But the state physical fitness examination is the POST physical
2 readiness test. Somewhere, someplace, I got to figure that out.
3 What I was trying to do was make sure that we provide the
4 statutory backing POST needs, we all need, to administer a test
5 so it's all the same thing. I was just thinking of a person
6 that was out of state looking all this up. Well, the POST
7 readiness test, what is that? Well, it's the state physical
8 fitness test and another place in the law it says the POST
9 physical fitness test, is that the same as the state physical
10 fitness test? So I thought maybe the time was come to get rid
11 of all those different terms, have this body just debate it, and
12 if it's fine the way it is, great, or should we change it so
13 that all the language matches. And whether the test is valid or
14 not, I believe it is, I understand why it was all changed, I
15 have absolutely no problems with any of that part of it, I just
16 want to know if we should change the name to bring it in line
17 with the comments from the judge that spurred us to change the
18 name in our documents. That's all.

19 TROUTEN: Thank you, sir. Comments from the
20 Board?

21 COVERLEY: Dan Coverley for the record. Mr.
22 Hastings, as our legal counsel for the Board, is that a correct
23 description of your purpose?

24 HASTINGS: Well, so as Mr. Sherlock indicated, he
25 was referring to advice from previous legal counsel, and we

1 actually haven't gotten together on this so I wouldn't feel
2 comfortable chiming in on the substance of this issue right now,
3 but based on Mr. Sherlock's description and the very long-time
4 representation of POSTs by my predecessor, I don't have a reason
5 to doubt what staff was previously advised.

6 COVERLEY: So you -- is it fair for me to say that
7 you don't see it necessary for legal reasons for us to change
8 the language?

9 HASTINGS: Without -- at this point, no and
10 especially not without me personally looking into it further.
11 But based on the description and the discussion that I've heard
12 today, having the flexibility of the broader term, which I think
13 was the legal advice that was previously received as I
14 understood the way Mike described it, makes sense to me cause
15 then you put your broader as opposed to narrower. I understand
16 the consistency. That makes sense. It's not a -- it makes
17 sense, but I also see the reason for the prior advice.

18 COVERLEY: Thank you.

19 TROUTEN: Other questions or comments from the
20 Board?

21 UNIDENTIFIED: Well, I'd have a kind of a follow-up
22 question. You said that these POST or the fitness, the current
23 phrasing is inconsistent, right, but it's mentioned in upwards
24 of 40 NACs.

25 SHERLOCK: Yes.

1 UNIDENTIFIED: So we would have to have workshops and
2 submit almost 40 NACs to LCB for approval. Is that what I'm
3 hearing?

4 HASTINGS: Logistically, an LCB submission, like,
5 if you look at your agendas, they each have a number.

6 UNIDENTIFIED: Mm-hmm.

7 HASTINGS: It wouldn't have to be 40 separate
8 things, you can do one submission that touches 40 sub regs.

9 UNIDENTIFIED: Okay.

10 HASTINGS: You see what I'm saying? It wouldn't be
11 40 separate submissions and 40 separate workshops.

12 UNIDENTIFIED: Okay. Because I would not want to
13 inundate LCB with that many changes.

14 SHERLOCK: Well, yeah, but keep in mind that they
15 would have to review those 40 locations for the change, and they
16 still wouldn't be happy with us.

17 HASTINGS: Right. It would be one workshop.

18 SHERLOCK: Yeah.

19 HASTINGS: But it does touch however many places in
20 the regulations.

21 SHERLOCK: If the consensus of the Commission is
22 that you don't -- that it doesn't match, I mean there's two
23 problems with that, it's described two different ways in the
24 NAC, but what I'm thinking is if at your direction we would
25 change our reference on our website or whatever if that is what

1 the Commission feels, I'm just saying the PPRT is the state
2 physical fitness test and I don't know that it's necessary. If
3 they go to the NAC to look for that test, it is described
4 specifically what that test consists of. You see what I'm
5 saying? But if that's what the Commission feels, that there's
6 some sort of conflict, it would make more sense to change our
7 description on the website than the NAC I think. I'm not sure.

8 SHEA: Again, my concern like we spoke, I'm
9 just thinking about the jailhouse lawyer type who for some
10 reason something doesn't go right and says you never
11 administered the test as required under the statute, you
12 administered this other thing. Now it may be the same, but
13 that's not what you administered me. Will they have a legal leg
14 to stand on? I do not know. I was just trying to make sure
15 that us as a body talked about it and two, give you the support
16 you need to do what you need to do.

17 TROUTEN: I guess from my standpoint, more of
18 efficiency level, I'd be more in favor of Mr. Hastings perhaps
19 reviewing it, making sure you're comfortable with it to provide
20 information back to us, but I hate to throw something else at
21 LCB. We just sent something back to him that I think given our
22 extensions, we need to act on quickly. I don't want to tie them
23 up as much as we don't have to for right now. So, other
24 comments from the Board? Comments from the public? Is there

1 any motions we wish to make from the Board, or do we take it as
2 no action?

3 UNIDENTIFIED: Yeah. I think this is a waste of time.
4 Yeah, I say we don't do any --

5 NIEL: It's a matter of semantics, like Mike
6 said. Russ Niel for the record, Mike said the PRT or physical
7 readiness test and the state PPFT physical fitness test, they're
8 the same thing. If they are, you know, that are semantics. I
9 don't think we need to waste our time or the LCB's time on
10 trying to clean that language up.

11 TROUTEN: Okay. No motion. We'll take no action.
12 Move on to item 16, public comments. The Commission may not
13 take action on any matter considered under this item until the
14 matter is specifically included on an agenda as an action item.
15 Do we have any public comments? Do we have any public comments?

16 HEALING: I was still debating in my head if I
17 wanted to make a comment.

18 TROUTEN: Oh, okay. I didn't mean to put you on
19 the spot. My name's Thomas Healing. I'm a lieutenant with
20 Boulder City Police. I don't really know how to begin this, so
21 I'll just kind of verbal vomit here. Forgive me. I've been a
22 police officer, a peace officer for 19-and-a-half years. I
23 started in corrections. I moved to a rural Sheriff's
24 Department, Nye County Sheriff, and then transferred to the
25 Boulder City Police Department. Throughout that time, I've

1 always sought the level of certification for the position I've
2 held within the department. Before I became a police officer, I
3 got an undergraduate degree in criminal justice and at some
4 point I decided that in my career I would pursue leadership. In
5 2013, I attended the University of Nevada Las Vegas and got my
6 graduate degree in public administration. At this point now as
7 a lieutenant, the next level of certification is the management
8 certification. Looking at the NAC, it may sound lazy, but I'm a
9 little frustrated. You can get an advanced certificate, you can
10 get an intermediate certificate with a combination of education
11 and experience, but the management certificate, you're forced to
12 attend a 200-hour management level course certified by POST. I
13 guess what I'm really asking is for the Commission to consider
14 an alternate path of certification, maybe including education
15 through a college or accredited university. If the college or
16 university doesn't meet the requirements set forth that the
17 Commission deems, then a combination of additional training or
18 education through POST I think would be fair, but I think
19 spending two to three years in graduate school studying public
20 administration is sufficient in my opinion, especially looking
21 at the curriculum for the management program. A lot of my
22 transcript classes, if not all of them, meet the requirements
23 set forth in the executive management certification. Thank you.

24 TROUTEN: Thank you. Any other public comments?
25 Hearing none, we'll move on to Item 17, discussion and public

1 comment for possible action, scheduling our upcoming Commission
2 meeting, possible date of May 2nd, 2024 at 8:00 AM. Mike, can
3 you give us the details on that meeting please?

4 SHERLOCK: Sure. Mike Sherlock for the record. So
5 the police memorial up in Carson City is May 2nd at 1:00 PM,
6 The Sheriff's and Chief's meeting is May 1st also in the north.
7 So staff would recommend once again having the Commission
8 meeting on May 2nd at 8:00 AM, the thought being that most of
9 you will already be up there the day before for Sheriffs and
10 Chiefs and will likely be staying for the police memorial, so we
11 could get that meeting done on the 2nd in the morning prior to
12 the memorial and allow everyone to get over to the Capitol in
13 plenty of time for the ceremony.

14 TROUTEN: And proposed location of POST?

15 SHERLOCK: At POST. Yeah.

16 TROUTEN: Thank you. Questions, comments from the
17 Board? From the public? Sir?

18 UNIDENTIFIED: I'd just like some assurance from Mr.
19 Sherlock that we won't get snowed and hailed on this time.

20 SHERLOCK: Never.

21 TROUTEN: Any other comments? All right. Do we
22 have a motion for our next meeting?

23 YOUNG: So moved.

24 TROUTEN: And a second?

25 UNIDENTIFIED: I second.

1 TROUTEN: All those in favor say aye.
2 MEMBERS: Aye.
3 TROUTEN: Any opposed? I also vote aye. Passes.
4 Item 18, adjournment. Do we have a motion to adjourn?
5 UNIDENTIFIED: So moved.
6 TROUTEN: Second?
7 YOUNG: Oh, second. I thought you were
8 seconding yourself.
9 TROUTEN: I would like to. Everybody in favor say
10 aye.
11 MEMBERS: Aye.
12 TROUTEN: Anyone opposed? We are adjourned.
13 Thank you all.

14

15

16

17

18

19

20

21

22

23

24