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PEACE OFFICERS STANDARDS AND TRAINING

PUBLIC MEETING

November 1, 2016

04:00 p.m.

The Commission on Peace Officer Standards and Training
South Point Hotel & Casino
9777 Las Vegas Boulevard
Las Vegas, Nevada

1 **MEMBERS PRESENT:** **Ronald Pierini**, Sheriff - Chairman,
2 Douglas County Sheriffs' Office
3
4 **Michele Freeman**, Chief
5 City of LV Department of Public
6 Safety
7
8 **Kevin McKinney**, Undersheriff
9 Elko County Sheriff's Office
10
11 **James Ketsaa**, Chief
12 Clark County School District Police
13 Department
14
15 **Gary Schofield**, Deputy Chief
16 Las Vegas Metropolitan Police
17 Department
18
19 **Troy Tanner**, Police Chief
20 Mesquite Police Department
21
22
23
24 **STAFF PRESENT:** **Michael Sherlock**, Executive Director,
25 Commission on Peace Officers
26 Standards and Training
27
28 **Michael Jensen**, Senior Deputy
29 Attorney General
30 Department of Motor Vehicles and
31 Department of Public Safety
32
33 **Scott Johnston**, Bureau Chief,
34 Commission on Peace Officers
35 Standards and Training
36

1 RONALD PIERINI: POST Commission meeting,
2 November 1, 2016. Test.

3 It is at 4:02 and today is on November 1,
4 2016, the Commission on Police Officer Standards and
5 Training is held here at South Point Hotel and
6 Casino in Las Vegas, Nevada. I'd also like to
7 mention to our commissioners we have, before we get
8 started, reminder to the public, anyone in here that
9 hasn't signed in the back over there, we would
10 appreciate it if you did so and also to mention what
11 agency you are from. I remind the public that their
12 name and their agency before speaking to the public
13 table and this is where that is up here if you wish
14 to make any comment. I remind the commissioners to
15 state their name before speaking and don't forget
16 that all the information that we are going to have
17 here is going to be recorded and we ask you that
18 your cell phones are going to be turned off. We
19 would appreciate that.

20 When we make a motion, the most important
21 thing for the Commissioners, if they share, that
22 they list their name or mention their name.

23 I would like to go right now with a call
24 of order and if we could start with on the left over
25 here if we could.

1 JAMES KETSAA: Jim Ketsaa, Chief, Clark
2 County School District Police.

3 KEVIN MCKINNEY: Kevin McKinney, Elko
4 County Sheriff's Office.

5 TROY TANNER: Troy Tanner, Mesquite
6 Police.

7 MICHELE FREEMAN: Michele Freeman, City of
8 Las Vegas Department of Public Safety.

9 GARY SCHOFIELD: Gary Schofield, Las Vegas
10 Metropolitan Police Department.

11 RON PIERINI: Ron Pierini, Douglas County
12 Sheriff.

13 MIKE JENSEN: Mike Jensen, Attorney
14 General's Office.

15 MICHAEL SHERLOCK: Mike Sherlock from POST.

16 SCOTT JOHNSTON: Scott Johnston, POST.

17 RONALD PIERINI: Okay, thank you. And we
18 have three that are not here, Commissioners, at
19 leastwise at this point, James Wright, Director of
20 Department of Public Safety; Dan Watts, the Sheriff
21 in White Pine County; Russell Pedersen from -- the
22 Chief Deputy from Washoe County Sheriff's Office,
23 are absent.

24 And if we could, Scott Johnston, if you
25 could give us an idea of where we have posted this

1 information?

2 SCOTT JOHNSTON: Thank you. Scott
3 Johnston for the record. The postings for the
4 notice for this meeting in Carson City was at the
5 Blasdel Building at 209 East Muster Street, Nevada
6 State Library at 100 Stewart Street, the Capitol
7 Building at 101 North Carson Street, POST
8 Administrative Building at 5587 Wa Pai Shone Avenue.

9 In Las Vegas, it was posted at the Grant
10 Story Building at 555 Washington Avenue. In Ely at
11 the White Pine County Sheriff's Office at 1785 Great
12 Basin Boulevard. The notice was also e-mailed to
13 all the agency point of contacts that we have listed
14 in our system and the web postings were done at the
15 POST website of POST.state.gov and the state notice
16 website at notice.nv.gov.

17 RONALD PIERINI: Thank you, Scott. Okay.
18 We're going to go onto number 3, discussion of
19 public comment and for possible action, approval of
20 the minutes from the August 24, 2016 regularly
21 scheduled POST Commission Meeting. I am hoping that
22 the commissioners have all taken the time to look at
23 that and has anybody found any kind of errors or
24 mistakes?

25 Asking to the public, if you had the

1 opportunity to do so, you can make a comment.

2 All right. I'm looking for a motion.

3 Commissioner?

4 TROY TANNER: Troy Tanner, motion to move.

5 RONALD PIERINI: Thank you, Mr. Tanner.

6 How about a second?

7 KEVIN MCKINNEY: Kevin McKinney, I'll

8 second.

9 RONALD PIERINI: All right. Thank you
10 very much. Any other questions or comments? Okay.

11 All in favor?

12 MULTIPLE VOICES: Aye.

13 RONALD PIERINI: Anybody against it? No.
14 Okay. So it goes through.

15 Information, this is for Executive
16 Director, Mike Sherlock, and this section is for
17 you.

18 MICHAEL SHERLOCK: All right. Mike
19 Sherlock from POST. I'll just give a real quick
20 update of what we've got going on with staff. In
21 the training division, academy class 2016-2
22 graduates November 10 up at POST in Carson City, our
23 keynote speaker will be Deputy Chief Scott Taylor
24 from Mesquite PD. We thank him for doing that. The
25 next academy begins the last week in January.

1 Beginning in January, we will be including Category
2 3 training in our Basic Academy program with an
3 emphasis on detention rather than prison-type stuff.
4 It adds about one week to our academy as it is now.

5 The new Reserve Officer Training Program
6 was rolled out. We have a date set for December and
7 January. We really believe the program will
8 increase the quality of training for reserves across
9 the state and provide a better more cost-effective
10 option for agencies in training reserves so we're
11 pretty happy with that program.

12 Standards Division, audits continue. We
13 really appreciate those agencies who have
14 participated in an audit this year and we truly are
15 pleased with the level of compliance we've been
16 seeing across the state.

17 Administratively, it's budget season. We
18 have submitted our budget with the recommendation of
19 reducing it by 5%. We'll see what happens at this
20 point. 5% for us is a loss of one position which is
21 a pretty large impact on our small staff so we'll
22 see how that goes.

23 We were chosen as a host state for the
24 Western State IADLEST Conference which will be held
25 December 4, 5, and 6 here in Las Vegas. I've been

1 trying to put that together. I have to thank Metro.
2 Metro will hold part of the -- or host part of the
3 conference over at the academy. They're going to
4 provide some training in terms of basic training
5 programs. Their new PT program within the basic
6 program, presentation on fair and impartial police
7 training. We will include some -- a presentation on
8 incorporating reserve officer training, utilizing
9 your current base of training staff and the national
10 organization will be here to present on Blue Courage
11 and the national certification project.

12 The training in December is really geared
13 towards academy commanders, academy staff, and POST
14 directors but we invite any Nevada law enforcement
15 officer with some interest to attend. It is free.
16 Just get a hold of POST if you are interested in
17 attending that.

18 The last thing I just want to talk about
19 again and I know I speak of this every time but I
20 don't want to beat a dead horse but we continue to
21 get Public Record Act requests. Many are from the
22 media. I'm sure, as the Commission knows, the
23 requests are often related to three areas and those
24 are, do we require DS relation training, do we
25 revoke, and how often do we revoke cops who do bad

1 things and do we have standards and how do we ensure
2 standards from that. Often, the media seeks this
3 information by requesting officer training records.
4 This makes me nervous. We do not necessarily have
5 every individual officer's entire training record.
6 What we're afraid of is our POST training records
7 will be misinterpreted as the officer's entire
8 training package so we have placed -- put into
9 policy that -- and, again, not to put this off on
10 individual agencies but we want to make sure that
11 these public record requests are legitimate and
12 we've simply been including a statement where it's
13 appropriate that -- it says the employing agency is
14 the true custodian of record for the entire complete
15 training record. POST records contain those
16 training records related to POST certification and
17 per professional certificates and only include POST-
18 certified training. We just don't want to get
19 caught in the middle or have our training records
20 used as evidence of the officer's entire training
21 record.

22 And that's all I have.

23 RONALD PIERINI: Would any commissioners
24 like to make any questions or comment?

25 I'd like to make one. So now it's

1 outstanding as far as the reserve training program
2 that you have put together. I know our agency has
3 been there and others have been making comments that
4 this was going to be a positive thing for us.

5 MICHAEL SHERLOCK: Thank you.

6 RONALD PIERINI: The second on the list is
7 on the budget that we're going to be dealing with
8 starting in February. I certainly would like to
9 have the strength of others to show that our POST
10 agency is not doing well on the budget that we have.
11 It's pretty small. So anybody that wants to help
12 with that and certainly, it was mentioned, I
13 believe, at the last time we had a meeting was we
14 were hoping that the Governor's office is going to
15 supply more or at leastwise make a presentation to
16 increase the budget at a different stigma area so
17 we're hoping that's going to work and we're going to
18 certainly be asking others to participate if they
19 wish.

20 And, again, anybody from the Commission
21 like to make any comment?

22 Okay. We're going to move on to the next
23 one if I could and that is number 5. Information is
24 a presentation of the Las Vegas Metro Police
25 Department MACTAC and the unit on what MACTAC next

1 generation active shooter response is and how their
2 agencies are integrating this process so if we can
3 have Metro come up.

4 FRANK CLARKSON: Well, we have a
5 PowerPoint presentation but police technology
6 doesn't go with HMI so we will do our best to kind
7 of explain what we have for you. Let's see if a
8 service tech will set that up and kind of talk about
9 it.

10 So for everybody -- so MACTAC is, what we
11 do is we are preparing our officers and our valley
12 for an active assailant. I'm sorry.

13 RONALD PIERINI: I just wonder because the
14 audio audience that's here. But would it be better
15 then if we moved our location over on the side and
16 then you could turn and have all of us look that way
17 or would you rather --

18 GARY SCHOFIELD: Whatever is easier for
19 you. This is my first one.

20 RONALD PIERINI: Well, there is a lot of
21 law enforcement people here that probably would like
22 to hear that. So why don't we do that if we don't
23 mind? Move over here on the wall so now we can all
24 face that way. All right? You folks get in.

25 UNIDENTIFIED MALE: And I have my -- one

1 of my guys to come with my mobile projector if it
2 gets here in time and we'll throw it up there. It
3 will only take a second but -- so the MACTAC
4 session, for those who don't know what MACTAC is,
5 the Multiple Assault Counter Terrorism Action
6 Capability and what we do is we train and prepare
7 our officers and our civilian employees and our
8 state holders in the event of a critical incident
9 and something along those lines.

10 The good thing about the training is that
11 we are preparing for an assailant and advise them to
12 [INAUDIBLE 4:13]. This is -- my name is Sgt. Frank
13 Clarkson with the MACTAC section and this is Officer
14 Dean Hennesy with the MACTAC section. He's been
15 with the MACTAC section since its foundation so I'm
16 going to turn it over to Officer Hennesy and you can
17 kind of just -- we'll discuss until we get this
18 projector going and you guys can just - the
19 pictures, I promise you, it's really good but we'll
20 go from here.

21 DEAN HENNESY: All right. Like he said,
22 I'm Officer Dean Hennesy. We started MACTAC late
23 2009, early 2010 [INAUDIBLE] 4:13-37 attacks that we
24 had. Our department looked into the future and saw
25 that we probably needed to have some way to mitigate

1 any kind of terrorist incident that will happen in
2 our valley, being as Las Vegas Valley, you know,
3 funds pretty much everything. Mubi is their
4 regions, Las Vegas, so to speak, a lot of
5 entertainment and things like that. We realized,
6 especially after 9/11 which happened on the East
7 Coast that, you know, we shut down a little bit so
8 we could withstand a 96-hour standoff in a hotel.
9 So not only was it just a Metro thing but we went to
10 L.A. and met with a couple of their agencies out
11 there, LAPD, LASO, Orange County and things like
12 that and got some ideas from them. I'm not ashamed
13 to tell you we kind of stole their name, the MACTAC
14 name from Chief Bratton. He came up with it and we
15 thought it sounded pretty good so we kind of stole
16 that name from him.

17 But, when we got back here, the first
18 thing that we knew is that this could not be just
19 the Las Vegas Metro Police program. All right? We
20 are the big dog on the block, so to speak, down
21 here, and we have the most bodies to throw at things
22 if we need to. However, if there was a major
23 incident and it was a true multiple assault and we
24 look at that worst-case scenario so, say it's a
25 multiple assault by a terrorist organization or

1 other organization, Metro Assault is going to run
2 out of resources pretty quick. All right.

3 So we decided that, since we don't want
4 this to be just a Metro program, we needed to
5 involve everyone else in the valley so we went to
6 all the other state holders, so to speak, all the
7 other law enforcement agencies here in the valley
8 and went to them and said, look, this is a program
9 we're going to push out. We want to know if you
10 want to be on-board with it and if you want to help
11 out with it and we got a very overwhelming response
12 on that. NHP, North Town, Henderson, school police.
13 I could name hundreds of them. The FBI, Secret
14 Service themselves have all been through our
15 training and they all respond the same way we do
16 when they're here so it truly is a Valley-wide
17 program. It's not just us and that's how we really
18 like it.

19 We start off training in the academy with
20 them. We have a day course that we do for all the
21 academy officers when they come in, nothing real
22 intense. We know they drinking from a fire hose at
23 that time so we do put on a long, one-day course for
24 them. We get into core team concepts and how to
25 operate as a team and not just an individual officer

1 because this will be a team effort, a team approach
2 to it. We talk to them with the teamwork, the
3 mindset. We talk to them about over-convergence.
4 Over-convergence is a big thing. We've seen that
5 here in Las Vegas on many critical incidents. A lot
6 of officers take one area and now we have no one
7 else to protect the rest of the Valley so we came up
8 with a program for that too. I'll get into that
9 here in a minute but we talked about over-
10 convergence, standing in your area responsibility.
11 If you're on one side of the Valley and something's
12 happening on the other side, getting over there, by
13 the time you get there, it may be done and now we
14 have no one for you left so I'll get into that a
15 little bit more here. We talked about
16 communication. In fact, the radio channels that
17 we've got, our new radio system. We talked about
18 the SNACC system and NCORE. How are we all going to
19 talk to each other. We take some pages and pardon
20 me if we need to say anything. That's not the fire
21 department because that's not my side of the house
22 but they're really good at things like that so we
23 took some lessons from them as well as far as
24 communication and things or how to have
25 accountability for our officers.

1 We get into the policies of it. We get
2 into what our three activations are, our three
3 response protocols are, our activation on
4 notification. We get into those with them.

5 We do rally points for our officers. We
6 teach them where to go to get rallied up. It works
7 really good for our department because we've got
8 nine substations now and we have some bodies to do.
9 North Las Vegas handles it just a little bit
10 differently but along the same lines, the same
11 protocols that we do. It works really well. When
12 we had our shooting in 2010 at the Federal Court
13 House, North Las Vegas showed up rather quickly to
14 get the team ready to go and that's the big thing
15 about our rally points, is having a team that's
16 cohesive, they know their mission. They're - they
17 have the same running orders, if you will.

18 We -- what we're doing in this academy
19 training, we also go over down officer arresting
20 drill, citizen arresting drill is one of the
21 programs we run into. We talk about hand and arm
22 signals in situations that they're not going to be
23 able to hear. Formation and movements -- a lot of
24 police departments have always trained, you know,
25 right here at the breach, we're going in. Let's do

1 our job. Well, how do we get our officers up to
2 that so that's what we teach them as well in there.
3 Formation of movements, team movements. You know as
4 well as I do, if something happens on the strip,
5 take a Saturday night on the strip, driving down the
6 strip, it's busy. So what happens if we can't get -
7 - drive right up to that area? How are we going to
8 get up through there?

9 We go over reactive contact with them and
10 how to handle that if they are heading to their
11 incident and all of a sudden something comes up from
12 the side or something comes up and they don't know
13 how to deal with that. The one thing that we're
14 really pushing right now is Rescue Task Force.
15 That's something that we've been working on, the
16 fire departments here in the Valley for the last
17 probably about three and a half to four years now
18 have took a little bit to get, you know, policies
19 all lined up and make sure that the fire
20 department's on-board with it but, again, they don't
21 make just great chili. They really do a great job
22 and they're helping us out quite a bit here.

23 And then we used to have a big scenario
24 for them at the end where everything that we taught
25 them that day they can put together and run through

1 to get to the end of the scenario. When that's all
2 done, we go to a squad level training. What we'll
3 do is we'll go out to the squads on a regular basis
4 where, when they call us and come down to our
5 training center but we'll teach those squads
6 everything. We'll run through all of that. If they
7 want to come down for a four-hour active assailant
8 class, will take them through a four-hour active
9 assailant class. Everything we do is the walk,
10 crawl, run kind of method. We walk them through it,
11 we let them move around a little bit on their own
12 and then we start running them through the scenarios
13 on the tougher stuff for them to get on board with
14 it.

15 We have a one- to two-day course that we
16 train so not only in the academy do we have it but
17 we have a one- to two-day course that they can come
18 to and train as well. They just got the projector
19 up. They really are some great pictures.

20 We have ambush training that we come up
21 with them so the officers kind of reacting to ambush
22 and things like that, how to get themselves out of
23 it and now we have a new thing coming up here
24 shortly that's a patrol shield briefing so our
25 patrol officers will have the ability to get a

1 little more protection for themselves during some
2 kind of a critical incident.

3 If you will give me a second or two, I'll
4 let them put this up on the board if you don't mind.
5 Can everyone see this? All right. We can set it
6 here.

7 [SETTING UP PROJECTOR.]

8 OFFICER DEAN HENNESY: So as you can see,
9 we put them through all that training. Like I said,
10 squad level training, the one- or two-day course,
11 some ambush training, patrol shield training that we
12 spend task force so we're going to go ahead and get
13 that pushed out here as quickly as possible.

14 All right. So testing -- kind of separate
15 to Metro, we have in the box squads, we have stay-
16 at-home squads. We test our in-the-box squads. We
17 do notice tests on them. When we first started it,
18 we were looking at, what do we do to get the
19 officers from rally point to get them here up at the
20 [INAUDIBLE 4:21:30] whatever the mission calls for,
21 give them a good briefing so they're all on the same
22 page and they know exactly what the mission is at
23 hand and they can get there. We are looking at 30
24 minutes, right? Figuring the commands and all this.
25 Well, this last summer, we took that all the way

1 down to 12 to 15 minutes and that's 12 to 15 minutes
2 from the onset of the call to when we can get
3 officers to a rally point, gear, in the proper gear
4 for that mission, give good, solid briefings so they
5 know what's going on and then get them out to the
6 call and ready to leave. We've really stepped it up
7 and then had some good timing on those.

8 FRANK CLARKSON??: So one thing that we
9 discussed too in these -- during the testing is that
10 we discussed current trends with them, why we have
11 them. We have to do every squad. So with every
12 squad, we talk about the Rescue Task Force concept,
13 we reinforce that, if they had to deploy, convoy
14 operations, how they're going to get there. We
15 discuss kind of a maps for each or our critical
16 infrastructure. We discuss the Rescue Task Force
17 model and then we kind of throw up different
18 scenarios at them if they had to react to something,
19 how they're team element is set up, how they're
20 going to react to different situations and it's one
21 of the times we can get the group together and we
22 test our equipment too. We talk about the
23 [INAUDIBLE 4:22:43].

24 DEAN HENNESY: We have cadre. There's
25 only four of us in our section, our sergeant and the

1 three of us so we're kind of limited on manpower.
2 We have developed some cadre members that will come
3 out and they've gone through our instructor class,
4 train the trainer, if you will. Basic stuff with
5 these things. Usually, there's one of us with them
6 and we use them as a fourth rule to get the message
7 out, so to speak.

8 That's not only with just our department.
9 We have cadre from North Las Vegas, we have cadre
10 from Henderson, and NHP and I'm here to tell you,
11 NHP has been really good with us. They've helped us
12 out a lot and they seem to help us to help us with
13 these but those are the people who are the ones who
14 help get this message out.

15 As far as exercises and drills, what do we
16 do? We did - just did an exercise for City Hall
17 recently where we actually cleared out City Hall and
18 had some of their people be role players for us and
19 we did an assault on City Hall. We didn't train
20 just Metro for that. We actually brought in City
21 Marshals, we brought in North Las Vegas, Henderson
22 again, NHP, some school police, things like that.
23 We've got a video if you would like to watch that
24 works really well. Let me show you. This is what
25 we did.

1 FRANK CLARKSON: Well, I imagine a lot of
2 gunshots.

3 DEAN HENNESY: Gunshots. Thank you. We
4 had two assailants. The two assailants go through
5 this building. They basically take over City Hall
6 kind of is what the scenario was. They go up and
7 find the commissioners. And what we did during this
8 whole thing is all of our assault teams that came
9 in, North -- just Metro assault team -- we actually
10 integrated them with the other agencies so this
11 truly is not just a Las Vegas Metro program. We
12 headed it up. We kind of had the say on it but, for
13 the most part, everybody else is involved with it
14 and helps us out with this.

15 The realism that we put into it is to get
16 those officers the ability to function through
17 these. I liken it to when I was an MPO and I had my
18 very first trainee and we started out on the road
19 running cold. Okay. I don't know if anybody's ever
20 done it but, as you know, those trainees get very
21 focused, straightforward and [INAUDIBLE 4:25:05]
22 like you've done it a hundred times. It's - you're
23 very [INAUDIBLE 4:25:06] and it's a lot more
24 relaxing for you, I guess to say. So that's what we
25 do with them. We want to run through it and make it

1 as realistic as possible. This year's Rescue Task
2 Force, which we work with all the local fire
3 departments here in the Valley as well. We'd like
4 to get that pushed out, definitely statewide, if not
5 further. But that is a collaboration with the fire
6 departments here. We will actually take the fire
7 department into the situation even if the assailant
8 has not stopped yet. We have some protocols here in
9 place before it can be implemented but we are
10 getting them in there faster so we can save lives
11 which is the bottom line of what we do. You guys
12 are fairly well aware that protocols across the
13 country are usually the firemen are pulled short to
14 wait until SWAT comes in. It could take hours. We
15 don't want to do that. We looked at Aurora,
16 Colorado and a couple of other places and said, hey,
17 we need to get you guys in quicker. What can we do
18 to get you in there? We came up with this Rescue
19 Task Force.

20 FRANK CLARKSON??: And the reason for
21 these drills and exercises is to, one, these are
22 cadre. They're out there training the officers.
23 We're gauging our response time. We're gauging our
24 communication skills. We used our in-core and I-Op
25 channels for this to test the response, the

1 coordination working together. And the most
2 important thing, I think, is for a unified command.
3 We're really good at setting up ICS, especially in
4 law enforcement, but incorporating our medical
5 branch into the unified command or that ICS concept
6 and really getting a take on it. Like Officer
7 Hennesy had mentioned, they're really good at ICS
8 incidents. Every incident they go to is a mini-ICS.
9 So incorporating it, bringing it into the fold is
10 really dividends for us.

11 DEAN HENNESY: Okay. So our cadre course.
12 What do we do when we teach our cadres real quick,
13 real simple. We have a three-day course for them.
14 The first day, these are the things we work on.
15 Again, core team concepts. How do we work together
16 as a team? How do we work together as a unified
17 group to get in there and mitigate the incident. We
18 work on communication procedures, rally points, what
19 we expect at rally points, what we want them to look
20 for and how to properly perform one.

21 Again, mindset and response. It's all
22 about the mindset of it. We work on down officer
23 rescue and, again, active assailant as much as we
24 can. On that second day, we bring them back in and
25 we do more hand and arm signals, movement

1 formations, react to contacts, individual movement
2 techniques, things like that. The fire department
3 comes in and we do their hostile MCI or rescue task
4 force for us. MCA stands for mass casualty incident
5 so they're hostile mass casualty incident. We go
6 over the FD roles and what their policies are on
7 it. We work on that Rescue Task Force which we used
8 to call Force Pro. Now it's Rescue Task Force. And
9 then we go over some rally point procedures, what we
10 want them to do and how they do it.

11 On the third day, we bring them back in
12 and they have to teach all that back to us. We take
13 them into groups and they've got to show us that
14 they're proficient in it. They've got to show us
15 that we're all on the same message. One thing that
16 we say in MACTAC, it doesn't matter what color
17 uniform you're wearing. You can [INAUDIBLE 4:28:01]
18 and that's what we want. We want those tactics
19 standardized throughout the Valley. We'd love to
20 see it standardized throughout the state so we -- it
21 just doesn't matter. Everybody knows what
22 everyone's doing and I've got to handle something
23 and Mesquite's there and a guy from Laughlin and
24 maybe Nye County guy just happens to be there. We
25 can work tactically together and move in instead of

1 the whole dance of what are we going to do and how
2 are we going to do this and nobody knows what's
3 going on.

4 FRANK CLARKSON: So with the Cadre course
5 too, it gives us an extra force multiplier with all
6 the scenarios that we do, all the academy training
7 we do. I mean, the academy training is pretty
8 extensive so are some of the scenarios that we've
9 done and put them into different groups. We have
10 large academies that are coming through. I believe
11 we have a large academy is around 82 people right
12 now so we split them up in a couple of days but, if
13 it wasn't for that, our extra cadres, it would be
14 hard for us to get this done and we're able to send
15 our cadre out to help us with exercises because this
16 is drills. The squad level training is another
17 thing. We have cadre within each of our area
18 commands as a force multiplier and we're making sure
19 that they're receiving some type -- that same type
20 training, especially Task Force training in
21 partnership with our MD. So it's a huge resource
22 for us in our MACTAC session and I believe it's
23 cadre over in Northern as well so --

24 DEAN HENNESY: Yeah, a couple of years
25 ago, NHP hosted us to come up to Northern Nevada to

1 do some training for their guys. We also were
2 fortunate to have some outstanding NHPs up there to
3 join us. I believe some of them were from Stark,
4 from Reno, a couple of other places were there, Elko
5 and Ely were around there as well so they are coming
6 to do senior training as well so we have some cadre
7 members up there and NHP stays pretty well trained.
8 I know that they would like us to see us get back up
9 there and do some work for them but, as I said
10 before, I'd love to see this go statewide for sure
11 and, I mean, it wouldn't break my heart if the whole
12 Southwest region, to tell you the truth.

13 So we do these -- some of the attendees we
14 have our officers from each area command, we teach
15 officers from specialized units as well to come in
16 and work with it and then the other jurisdictions as
17 well as you see. Not only is the law enforcement on
18 our side but we have a real good working
19 relationship with the Nellis Air Force Base and the
20 Army Reserve Center. We have gone out and trained
21 with them. They are kind of on the same page with
22 us. Nellis does drills now to involve officers so
23 we come in and they will operate the same way we
24 will and they can get in that active assailant
25 formation with us and move through.

1 Now, on the other side, we teach all our
2 law enforcement people.

3 Everybody should know about this entire
4 department about this but we also go out and we will
5 teach to the public. We'll -- it's kind of our
6 community outreach thing. We do presentations to
7 large companies, pretty much anybody who wants them
8 and the reason behind this is, there is that 12-
9 minute gap between when these calls come in and law
10 enforcement can respond to them, that they have to
11 fend for themselves but we want to give them the
12 best chance to fend for themselves and prepare for
13 us to come and we want to give these presentations.
14 We tell them what the law enforcement means, what we
15 require of them and what we would like to see from
16 them. We let them know what we are going to be
17 doing so they're not put off by it, things like
18 that. We show them the run, hide, fight video which
19 I think is a fantastic video to show their people.

20 We talk about go bags. Go bags is
21 something that we need from those businesses, the
22 casinos here in town. MJ, Bellagio, any of them
23 down there. We all have go bags with them. They
24 know that, if we show up, they've got something to
25 give us so we have access to all kinds of places,

1 all their rooms, locations that we can get into,
2 maps of the area so that we can get through there
3 and handle it. It's gone very well. We're also
4 working on a mapping program and I'll let Sgt. talk
5 about that because that's kind of his baby and he's
6 done a real good job with that.

7 FRANK CLARKSON: So we're working with our
8 critical infrastructure so obviously that gambling
9 and the resorts are a big deal for us so we want --
10 if anyone's going to do a casino, the underbelly of
11 those things is almost impossible to understand so,
12 the go bags there definitely helped out. We were
13 ready for communication, had access to keys. I know
14 The Venetian and Plaza, for example, once provided
15 pathfinders to help strike teams or assault teams to
16 get in through that underbelly. If you make a
17 wrong turn, you could end up on a loading dock which
18 happened to me several times because it's messy so
19 having those maps and that stuff too but we're also
20 doing tabletop discussions with the infrastructure
21 because, if something happens, we just like, just
22 like we do presentations, we want to know that they
23 are ready for us and we are ready for them when the
24 time comes so, you know, that's part of that MACTAC
25 concept, the concept of what do but the tabletop

1 access helps. We also -- we have a mapping
2 program, the department, with several of our
3 properties and our [INAUDIBLE 4:32:55] parts so they
4 are reading the same maps that we have and we can
5 deploy and have our entry points labeled and located
6 and it's a seamless response as well.

7 So that's really the end of it. The whole
8 point is, we want our cadre, our officers, our
9 MACTAC section to spread as much as possible
10 because, really, if something happens anywhere in
11 Nevada, there's going to be a response from our
12 neighboring law enforcement agencies and partners to
13 help with the issue and it's great training. The
14 active assailant portion, Rescue, the flight
15 commands, the ICS portion of it so -- and without
16 our cadre, we [INAUDIBLE 4:33:46] so that in a
17 nutshell is MACTAC and hopefully we can push it out
18 and get back in to Northern Nevada and just kind of
19 incorporate new ideas and kind of see this thing
20 through.

21 DEAN HENNESY: Like we said, our vision is
22 to get this -- at least if we could get it -- if the
23 commission approves or like to get it into the
24 academies. We'd like to see it in a day or two in
25 the academies when they train them and then get it

1 pushed out throughout the whole state. That's it.
2 That's all I have.

3 [APPLAUSE]

4 RONALD PIERINI: Okay. We can go back on
5 the record, if we could. If any of the
6 commissioners would like to ask any questions or
7 make comment. One thing I'll tell you is that I
8 think one of the important things is that our POST
9 academies, we go through a one -- what, one-day with
10 active shooters or half a day. I'm not sure.
11 Whatever it may be, there's that training that's
12 given to the new cadets that are there but what we
13 need to do is the, I think, the sheriff's and chiefs
14 ought to do -- they do exactly what you're doing
15 throughout Nevada and that is that they can go to
16 the academy and they do a half a day or a day of
17 that training. If we don't do that every other year
18 at least, at a bare minimum, then we lose that kind
19 of information and I think that's really important
20 that we take that time for training and I think
21 that's an exceptional one there and, for up north,
22 we would like to participate with that for sure.

23 DEAN HENNESY: We'd love to help out.
24 Like I said, it's -- I tell it to the public when we
25 talk to them but it holds the same true to all of us

1 in law enforcement. This is not Las Vegas Metro is
2 Nevada. This is our Nevada. And we need to take
3 care of it and, if we get the public on the side and
4 know what to do and we get out law enforcement on
5 the same side, we're just ahead of the 8-ball, if
6 you will, so as far as when tragedy comes.

7 RON PIERINI: True.

8 FRANK CLARKSON: That's why we want to
9 push the Cadre as well because we talk about the use
10 of our cadre in our training. The cadre course
11 explains pretty much everything that we cover in our
12 one-day response training for our academy and it's
13 something that I think can easily be pushed into the
14 curriculum and I can tell you honestly, every time
15 we do the training for the academies, hands down,
16 they love it, especially the scenario at the end and
17 seeing how they react to the incidents so it's real
18 good stuff.

19 MICHAEL SHERLOCK??: Mr. Clarkson, just so
20 you know, I think -- I believe our staff's trying to
21 get you guys up in the spring. We'd like to have --
22 at least include the concepts in our academy after
23 you guys get up there so, get it up north.

24 FRANK CLARKSON: That's up to [INAUDIBLE
25 4:36:32]

1 RONALD PIERINI: Okay. Well, again, we
2 appreciate your time. Thank you very much.

3 FRANK CLARKSON: thank you, sir.

4 RONALD PIERINI: Okay. We're going to go
5 onto number 6 now. Discussion and public comment
6 and for possible action. Request from the Nye
7 County Sheriff's, a waiver pursuant to NAC 289.370,
8 of all running-related portions of the state
9 physical fitness examination which a peace officer
10 is required to pass to certify the commission -- by
11 the commission. And as pursuant to NAC-289.201 (c)
12 per Undersheriff Brent Moody.

13 The running portions of the state physical
14 fitness examination set out in NAC-289.205 includes
15 300 meter runs, 1.5 mile walk/run, and LG run. The
16 commission may vote to close a portion of the
17 meeting to consider the character, alleged
18 misconduct, professional competence and physical or
19 mental health of the person. If the commission goes
20 into a closed session, the commission will convene
21 a open session to delegate and to take action, if
22 any, on any other question waiver so, what we've got
23 here is we've got to ask -- oh, there you are. You
24 snuck up on me there, Sheriff.

25 SHERIFF WEHRLY: I did.

1 RONALD PIERINI: So you're going to be the
2 representative at this point?

3 SHERIFF WEHRLY: Well, I'm going to
4 formally ask for a waiver at this point. I am going
5 to ask for that waiver because he injured himself
6 when he was going through them. The fact that he is
7 a truly a first responder and so this board knows
8 that he is an Executive Position and I'd like to ask
9 for that waiver under 289.510 that says that any
10 administrator may ask or any portion of this chapter
11 to be waived and I'd also like to ask for it as a
12 reasonable accommodation for [INAUDIBLE 4:39:02]
13 and, at this point, I'd like to introduce Lisa
14 CHAMLEE:, Mr. Moody's or Undersheriff Moody's
15 attorney, who will present his case to you.

16 RONALD PIERINI: Okay. If you would like
17 to come up, we'd appreciate that. Would you say
18 your name, please?

19 LISA CHAMLEE: Thank you. Good afternoon.
20 I am perfectly retained counsel for Undersheriff
21 Brent Moody and I am here to present --

22 RONALD PIERINI: May we have your name,
23 please?

24 LISA CHAMLEE: Oh, Lisa Chamlee. I
25 apologize.

1 RONALD PIERINI: Thank you.

2 LISA CHAMLEE:: I'm here to present facts
3 and evidence and some legal argument in support of
4 Sheriff Wehrly's request for the waiver of certain
5 provisions of the POST certification for the
6 physical fitness requirements. What you have in
7 front of you that I just passed out to you is a
8 packet of information. You'll first see a resume
9 for Undersheriff Moody which highlights his
10 extensive background and experience in law
11 enforcement. As you will see, he has been employed
12 in various law enforcement positions for 41 years.
13 He was POST certified in both Alaska and Minnesota.

14 RONALD PIERINI: May I interrupt for a
15 second, please?

16 LISA CHAMLEE:: Yes.

17 RONALD PIERINI: Did you say that was in
18 Alaska and what was the other one?

19 LISA CHAMLEE:: Minnesota.

20 RONALD PIERINI: And do you have a
21 certificate there saying that he has a --

22 LISA CHAMLEE:: I do not. I don't but I
23 can present that to you if you would like me to get
24 that to you after the meeting today.

25 RONALD PIERINI: After the meeting. You

1 don't have it with you right now.

2 LISA CHAMLEE: I don't have it with me.

3 RONALD PIERINI: Okay.

4 LISA CHAMLEE: But I do see in the resume
5 and I have spoken to --

6 RONALD PIERINI: Okay. Just to make sure
7 that I'm clear on this then that the actual
8 certificate that you have is like a POST certified
9 academy that he went through?

10 LISA CHAMLEE: He was POST certified in
11 both Alaska and Minnesota. I believe that actually
12 in Minnesota he possesses a license to serve as a
13 peace officer. Now, my understanding is that,
14 after your certification to serve as a peace
15 officer, after it's been not used for five years,
16 you're no longer eligible to do what Nevada
17 recognizes as a lateral transfer so, Undersheriff
18 Moody is now -- he's been required to go through the
19 requirements under NAC, the chapter that I referred
20 to in my letter.

21 GARY SCHOFIELD: Mr. Chairman, can I ask a
22 question?

23 RONALD PIERINI: Yes, sir.

24 GARY SCHOFIELD: Gary Schofield, for the
25 record. In Alaska and Minnesota, he was POST

1 certified. Do you know the years?

2 LISA CHAMLEE: Well, I'm actually going to
3 get into testimony so you can ask my client about
4 those questions. He was first POST certified -- his
5 law enforcement career began in Minnesota. I think
6 he first began working as a law enforcement officer
7 in Minnesota in -- just a second -- in 1971, I want
8 to say. Well, I'll put him under oath and then you
9 can ask him those questions directly. I don't have
10 that information available to you. My primary
11 purpose for coming today is to present -- I have
12 presented to Sheriff Wehrly, I have two other
13 employees of the Nye County Sheriff's Office who are
14 going to testify and we have a unique set of facts
15 here in this case that would require that POST issue
16 a waiver of the running portions of the physical
17 fitness testing requirements. What you will see
18 after you hear the testimony of Undersheriff Moody
19 and Sheriff Wehrly is that he has a long history in
20 the career of law enforcement. He's highly
21 experienced. He is absolutely qualified to serve as
22 a peace officer in Nevada.

23 What you will also find, after you hear
24 his testimony, is that, in addition to the medical
25 documents that I've supplied to you with my briefs,

1 you'll hear testimony that he sustained an injury
2 while he was testing for POST, the physical fitness
3 requirements. It was in August of 2015 and so,
4 during this time, he was, I think, working in the
5 Sheriff's office beginning of mid-January 2015. He
6 was attending an academy and we will present
7 testimony too. I know that that was because Mr.
8 Jensen posed to me that he was not accepted into an
9 academy. In fact, he was. He attended the Silver
10 State Academy for about a week after he was unable
11 to entirely complete the physical testing portion of
12 the Silver State Academy so you're going to hear
13 some testimony about the injury that he sustained.

14 What you're going to hear today from our
15 witnesses is that, despite his injury, he has been
16 able to completely satisfy the essential functions
17 of his position. Sheriff Wehrly is going to testify
18 that, for the entire time that he has been the
19 undersheriff of the Nye County Sheriff's Office, he
20 has managed to fulfill every component of his job.
21 He has assisted in patrol, he has assisted in
22 investigations.

23 Now, I know that another issue that's come
24 up in my conversations with Mr. Jensen is that the
25 commission has proposed perhaps he can serve as a

1 civil administrator without a POST certification.
2 That is not going to enable him to satisfy the
3 essential requirements of his job. As you will see,
4 attached to my brief, his job description requires
5 that he assist with patrol, with investigations and
6 you will hear some testimony from the sheriff in
7 addition to the two other employees in the Sheriff's
8 office, that the Sheriff's office has undergone
9 quite a bit of change in its internal administration
10 and its chain of command and, as part of these
11 changes, what Sheriff Wehrly has attempted to do is
12 get -- she's eliminated a lot of mid-level
13 management so Undersheriff Moody is coming in not as
14 your typical undersheriff. He's not serving in, you
15 know, a large agency like Metro perhaps where an
16 undersheriff is basically sitting behind a desk, is
17 not getting out there and assisting in the field.
18 What we have is a very small Sheriff's office with
19 very limited resources but many problems. We have a
20 lot of violence in Nye County so Undersheriff Moody
21 has been hired specifically because of his
22 experience out in the field. He's also a medic.
23 That provides a valuable asset to the Nye County
24 Sheriff's Office and he is out there required as
25 part of his job to assist in patrol and in

1 investigations. You will hear testimony that he
2 goes out to serve search warrants. He acts as
3 backup.

4 Now, I understand that the commission
5 obviously has concerns that, you know, he can't
6 fulfill the physical fitness requirements here but
7 he's not going to be able to serve as a peace
8 officer. Let me assure you and you will hear
9 evidence today that he is never going to be placed
10 in a situation where he's going to have to be the
11 initial patrol deputy reporting to a call. He's
12 simply acting as a backup officer when needed and
13 you'll hear some evidence today that his presence
14 out in the field is absolutely essential to the
15 operations of the Sheriff's office.

16 RONALD PIERINI: I understand that but, if
17 I could just say, you look what each one of these
18 people who enter law enforcement as a career and
19 they go to the Academy. They know what's expected
20 from them to be able to get that certification. Is
21 that true?

22 LISA CHAMLEE: Yes, I would agree with
23 that.

24 RONALD PIERINI: And things that happened
25 in the past and then all of a sudden that doesn't

1 have that -- can't renew that because he's not able
2 to do that because of physical problems. Is that
3 what I'm hearing?

4 LISA CHAMLEE: He sustained an injury
5 while he was trying to meet the requirements for the
6 POST fitness test which precludes him from running.
7 And as you will see attached to my brief, there are
8 letters from two workers comp doctors. Now, I know
9 and I would like to bring to your attention the fact
10 that they released him to full duty, understanding
11 the specific requirements associated with his job.
12 You have another doctor, Dr. Reiner, a very
13 prominent doctor in Pahrump, Nevada who expressed
14 his opinion that Undersheriff Moody falls within the
15 auspices of the Americans with Disabilities Act so
16 what we are arguing here today is that, for the POST
17 commission to remain in compliance with the
18 Americans with Disabilities Act and additional
19 federal regulation, we are asking you to issue this
20 waiver. I mean, you've certainly given yourselves
21 the authority under NAC 289.370 to grant a waiver on
22 behalf of any administrator of an agency and we have
23 the Sheriff today. She's asking you to invoke that
24 discretion.

25 Now, I've reviewed the entire NAC chapter

1 289 in its entirety and there is no language in that
2 code that limits your authority to limit the scope
3 of the waiver. I've discussed with Mr. Jensen the
4 fact that we would be willing to submit to a very
5 limited waiver that would combine the certification
6 for POST strictly to when Sheriff Undersheriff Moody
7 is serving alongside with Sheriff Wehrly and if
8 Sheriff Wehrly were to leave office, then his POST
9 certification would be canceled. He has no interest
10 in going to any other law enforcement agency in the
11 state. He has no interest in working under any
12 other sheriff in the state. He only wants to work
13 with Sheriff Wehrly so that is -- it's an
14 alternative proposition that I would like to submit
15 to the commission.

16 RONALD PIERINI: Okay. Well, thank you.
17 What I should do is I should first ask the -- Mr.
18 Sherlock, if you would like to say anything or any
19 questions you may have or Mr. Jensen, would you like
20 to do that?

21 MIKE JENSEN: This is Mike Jensen for the
22 record. I definitely have a couple of questions.
23 I'm not sure how you prefer to proceed with this. I
24 know you have some witnesses where --

25 LISA CHAMLEE: I do.

1 MIKE JENSEN: -- there can be a potential
2 closed session.

3 LISA CHAMLEE: Yes.

4 MIKE JENSEN: I definitely have a few
5 comments and questions I would like to ask but I'm
6 not sure at this point if that makes sense or maybe
7 after all the information is presented that it might
8 be a more appropriate time to talk about this.

9 LISA CHAMLEE: I would tend to agree with
10 Mr. Jensen. I think that's probably appropriate. I
11 would like to present everything that we have today
12 and then, if the commission has any individual
13 questions of any of the witnesses or myself, we
14 would be more than happy to answer them.

15 So at this point, I think that I'm
16 probably going to have Undersheriff Moody come up
17 here and share information. I think we will
18 probably be getting into some confidential protected
19 health information. It might be appropriate perhaps
20 to make a motion to close the meeting at this
21 juncture.

22 MIKE JENSEN: Mike Jensen, for the record.
23 Mr. Chairman, this is a little bit new territory,
24 especially for new members of the commission. It's
25 pretty unusual for the POST commission to close a

1 meeting. It's unlikely, well, if you would like,
2 Mr. Chairman, to talk about the requirements to
3 close a meeting, what has to happen. The open
4 meeting law does permit a closed session to occur
5 for consideration by a board of commission of the
6 physical health of an individual, in this case, in
7 conjunction with his request for a waiver of the
8 running components of the physical fitness
9 examination and so there's a provision for that to
10 occur. If the commission makes a motion and votes
11 to do that, to go in closed session, that might -
12 legal opinion may be a good idea given, you know,
13 that we are going to be talking about some sensitive
14 medical issues of an individual. Once that -- as
15 part of that motion, the commission is supposed to
16 indicate the scope of what's going to be talked
17 about in that closed meeting which, in this case,
18 would be the physical health of Mr. Moody in
19 relation to his waiver request and also state the
20 authority under which the meeting would be closed
21 which would be under the open meeting law under NRS
22 241 and this is .030 is the section that allows for
23 the meeting to be closed for that purpose and so
24 it's permitted if the commission wants to do that.

25 The other issue that would have to be

1 addressed is who would be permitted to be in the
2 closed session. The open meeting law generally
3 states that the individual that's being talked about
4 is to be allowed into the meeting with their
5 attorney and potentially a representative and that
6 the chairperson has the ability with the commission
7 to decide if anybody else would be permitted in the
8 meeting as well as those individuals and certainly
9 we would ask for input from Mr. Moody's attorney on
10 concerns about anyone that might be considered
11 beyond those three individuals.

12 To do a closed session, you have to put it
13 on the agenda and, as you've seen on this particular
14 agenda, we indicated that that may occur today. It
15 also requires that a notice be served on Mr. Moody
16 indicating that this could happen today and it's my
17 understanding that that occurred that he was given
18 notice. Is that correct?

19 LISA CHAMLEE: That's correct.

20 MIKE JENSEN: And does he have any problem
21 with us going into a closed session?

22 LISA CHAMLEE: No. He would prefer that.

23 MIKE JENSEN: And so that's essentially,
24 Mr. Chairman, and commission, how that works. And
25 there would have to be a motion to close the meeting

1 just for the consideration of those health issues.
2 Mr. Moody, you would be required to come back into
3 open session to discuss and deliberate any potential
4 waiver.

5 RONALD PIERINI: Okay. I'm going to ask
6 some of the commissioners, any comments or any
7 motion that you would like to make or any idea?

8 GARY SCHOFIELD: I'd like to make a
9 motion.

10 RONALD PIERINI: All right. Go ahead.

11 GARY SCHOFIELD: Mr. Gary Schofield, Las
12 Vegas Metropolitan Police Department. I make a
13 motion that, under NRS 241.030, the open meeting
14 law, that we close this session of the Nevada POST
15 Commission to consider the public physical health
16 issues concerning Mr. Moody and that that portion of
17 the hearing allow his attorney to be present with.

18 RONALD PIERINI: Thank you. All right.
19 Is there any second?

20 MULTIPLE VOICES: Second.

21 RONALD PIERINI: Thank you very much. And
22 do we have any other questions or anything like
23 that? Everybody okay with that?

24 I think one of the things that maybe I can
25 mention a little bit too is that we have the

1 attorney here for Mr. Moody and then we may have one
2 other person. Should I guess we talk a little bit
3 that if there are others that should be in there if
4 they're asking or go through the first motion first?
5 What would you think?

6 LISA CHAMLEE: We have no objection to
7 Sheriff Wehrly being present. She's certainly aware
8 of the medical facts that we're going to be going
9 into but anybody else I --

10 GARY SCHOFIELD: I'm going to make the
11 motion so my question for him concerns health trust.
12 By doing that, does Mr. Moody understand that his
13 HIPAA rights are being void for his sheriff, if he's
14 okay with that, then I'm okay with it. But I'd like
15 that on the record.

16 [INAUDIBLE 4:55:34]

17 LISA CHAMLEE: For the record, this is my
18 client, Undersheriff Brent Moody.

19 RONALD PIERINI: Mr. Moody.

20 BRENT MOODY: I am Brent C. Moody and I am
21 an undersheriff for Nye County.

22 [INAUDIBLE 4:55:58]

23 BRENT MOODY: I do not object to have
24 Sheriff Wehrly.

25 [INAUDIBLE 4:56:05]

1 RONALD PIERINI: So we have a motion and
2 we have a second and all in favor?

3 MULTIPLE VOICES: Aye.

4 RONALD PIERINI: All right. Anybody
5 opposed? All right. So carried. So what we have
6 to do at this point, if we could have everyone leave
7 the room, we would appreciate it except for these
8 two.

9 LISA CHAMLEE: Thank you.

10 [CLOSED MEETING 4:56:37 to 5:22:36]

11 [BREAK]

12 RONALD PIERINI: We're back on, please.
13 We're back in session. The recorder is on. Okay.
14 Lisa, did you want to say anything more?

15 LISA CHAMLEE: Yes.

16 RONALD PIERINI: I'm sure you do.

17 LISA CHAMLEE: I would like to -- I'm
18 sorry. One moment.

19 I'd like to --

20 RONALD PIERINI: Okay. This is going back
21 into the open session right now.

22 LISA CHAMLEE: Yes.

23 RONALD PIERINI: Okay. You understand
24 that.

25 LISA CHAMLEE: That's fine. And we are

1 fine with that.

2 RONALD PIERINI: Okay. Thank you. And we
3 do have our audience as well.

4 LISA CHAMLEE: What I'd like to do is
5 elicit some testimony. I don't know if you have to
6 put my client under oath or if that's necessary here
7 but I'd like to have him speak and I'll ask him some
8 questions about his qualifications, his experience
9 in law enforcement and I would also like to clarify
10 an error that I made in my previous statement to you
11 that his POST certification in Minnesota and Alaska
12 has expired. It was just brought to my attention
13 that he actually took measures to get that
14 reinstated prior to coming to Nevada so he does have
15 an active POST in both of those states. But my
16 understanding from the Sheriff Wehrly is that he is
17 going to have to go through an Academy because he
18 was not able to complete the run within 12 weeks so
19 resuming his position.

20 UNDERSHERIFF MOODY: Okay. Maybe I can
21 just clarify that a little bit. When I first moved
22 to Nevada and was asked to be undersheriff, we went
23 through a course on how to be a Sheriff, an
24 undersheriff that POST put on. At that time, I
25 discussed my certifications with Mr. Sherlock and

1 he was helpful in that regard. And one of the
2 things that I told him is that, really technically
3 speaking, I really hadn't had a five-year period. I
4 had worked for a week as a sworn officer doing an
5 audit for a law enforcement agency in Alaska and had
6 been on the payroll as a commissioned policeman for
7 about a week. He said, well, in that case, if I
8 accept that, you would have to go through a two-week
9 class and then complete your PT test within 11 weeks
10 and I said there is no way I can pass it a PT test
11 in 11 weeks so, rather than play a bunch of games, I
12 chose -- it wasn't anybody else's choice but my
13 choice to go to the full Academy and give me the
14 time to get into shape and to start, you know, going
15 after the test. So I just wanted to -- really
16 technically speaking, it didn't expire, okay, but I
17 didn't want to play games so I went on and, you
18 know, agreed to go to a full Academy and that was my
19 choice.

20 RON PIERINI: Okay.

21 LISA CHAMLEE: Any questions on those
22 statements? Okay.

23 Undersheriff Moody, how -- when were you
24 first POST certified and in what state?

25 UNDERSHERIFF MOODY: I was certified in

1 Minnesota in 1973.

2 LISA CHAMLEE: Okay. And how many years
3 did you work in law enforcement in Minnesota?

4 UNDERSHERIFF MOODY: 1969 to December of
5 '84.

6 LISA CHAMLEE: Okay. And when you
7 obtained your POST certification in Minnesota, can
8 you just describe to the members, some of the
9 physical fitness requirements that you were required
10 to complete and pass?

11 UNDERSHERIFF MOODY: Well, we went through
12 riot training, we went through defensive tactics and
13 it was a little different in those days than it is
14 now but nightstick work and body bags and grappling
15 and all the typical stuff that policemen do.

16 LISA CHAMLEE: Okay. And after you left
17 Minnesota, did you become POST-certified in Alaska?

18 UNDERSHERIFF MOODY: I did.

19 LISA CHAMLEE: Okay. And had to go
20 through some --

21 UNDERSHERIFF MOODY: That would have been
22 1984, right after I left Minnesota with a job in
23 [INAUDIBLE 5:35:08], Alaska so --

24 LISA CHAMLEE: Okay. And did you go
25 through the same type of testing that --

1 UNDERSHERIFF MOODY: No, actually, this
2 testing was for what they called an out-of-state
3 officer test and it was a two week thing, probably
4 very similar to what they do here in Nevada for
5 out-of-state officers but [INAUDIBLE 5:35:24].

6 LISA CHAMLEE: Okay. And so you were
7 POST-certified for how long in Alaska?

8 UNDERSHERIFF MOODY: Well, I left in '05,
9 2005. I went to Iraq.

10 LISA CHAMLEE: Okay. Now, can you
11 describe to the commission members some of the
12 training and experience, your qualifications, in
13 your 41-year career as a law enforcement officer?

14 RONALD PIERINI: Can I interrupt you just
15 for a second, please? I don't think we need to do
16 that but, what I do think is we need to have Mr.
17 Sherlock has done some kind of back, I think, some
18 information about his history and if he could share
19 that with us.

20 MICHAEL SHERLOCK: Yeah. I just first
21 would like to clarify what the regulation says. If
22 you're coming in on reciprocity, you have 16 weeks
23 to pass the PPFT, POST physical fitness test, 16
24 weeks from the date of hire.

25 In contrast of that, if you're coming in

1 as, not as a reciprocity, not as a lateral from
2 another state, you have one year to be certified,
3 which would include an Academy and PPFT and other
4 requirements so I just want to clear that up.

5 Now, one thing I do know, Mr. Moody did
6 initially inquire as to whether or not he was
7 eligible to come in as a reciprocity officer. We
8 did, in fact, I did advise him that, if you come in
9 as reciprocity in terms of the PPFT, you have 16
10 weeks to pass that PPFT, that physical fitness test.
11 In addition, we made inquiries to both Alaska and
12 Minnesota and -- to determine whether or not he was
13 eligible under reciprocity. If you understand
14 reciprocity, reciprocity applies only if you are
15 certified in another state or had been certified in
16 another state and employed as a peace officer within
17 the last 60 months, prior 60 months.

18 I don't have the numbers in front of me.
19 I did write down some as I left, what was notified
20 to us, both from Alaska and Minnesota. I know in
21 Alaska, they reported to us that Mr. Moody was
22 employed from 1984 to 1985, I believe. You may be
23 able to confirm that. He was not certified at that
24 time. He was again employed by an Alaska agency in
25 1988 and I don't know the period. I believe it was

1 still 1993. He was not certified at that point. He
2 was then again employed at another agency in Alaska,
3 '95, something like that. I don't remember the
4 month, at another agency, applied for and received
5 his Alaska certificate at that point. I can't
6 comment as to why there was no certificate prior to
7 that. He -- I believe he worked there and was
8 certified and employed because that's what's
9 required under our regulations until 2000, left
10 there, joined another department, still good
11 certificate and full-time peace officer employment
12 until 2005, clearly, way outside the 60 months.

13 We inquired into Mr. Moody's statement
14 that he went back and worked for one week at an
15 agency. Alaska POST reported to us that the one
16 week of employment was not law enforcement and did
17 not meet their standard for certification, that a
18 certificate is expired and it was not a full-time
19 peace officer position.

20 For that reason, Mr. Moody was not
21 eligible for reciprocity. Alaska or Minnesota is a
22 licensing agency. Our inquire to -- with them was
23 Mr. Moody had not worked there since the '80s, well
24 beyond the 60-month requirement that we have here in
25 Nevada. Apparently, Minnesota is a licensing

1 agency. If you pay your fees, the way they
2 explained it to us, your POST certificate remains
3 active as long as those fees are paid. I don't know
4 any of any other requirements on Minnesota but it
5 was not relevant to us because it's based on
6 employment as a peace officer within the last 60
7 months and so he was not eligible for reciprocity,
8 if that clarifies.

9 RONALD PIERINI: Thank you.

10 [OFF RECORD DISCUSSION]

11 MICHAEL SHERLOCK: And, again, this is
12 just was told to us. I don't have any knowledge,
13 personal knowledge. That's just what they provided
14 to us.

15 LISA CHAMLEE: Okay.

16 RONALD PIERINI: Lisa, I would think it
17 would be pretty fair for me to ask, to suggest, at
18 least, that we understand that he has a background
19 in law enforcement.

20 LISA CHAMLEE: Yes.

21 RONALD PIERINI: That's not going to fix
22 this problem that we're dealing with 100%.

23 LISA CHAMLEE: No, it's not.

24 RONALD PIERINI: But I do understand what
25 you're saying what his background is because of time

1 and for all the other things that we have to do and
2 we've got to move on.

3 LISA CHAMLEE: Okay.

4 RONALD PIERINI: So what I'm asking you
5 is, is there anything here anybody here that you
6 want to have come up and make any comments or do you
7 have any other thing that you want to do on that end
8 of it?

9 LISA CHAMLEE: I think I will have Sheriff
10 Wehrly come up and make a statement to the
11 commission --

12 RONALD PIERINI: Okay.

13 LISA CHAMLEE: -- unless there is anything
14 else you wanted to say?

15 UNDERSHERIFF MOODY: No.

16 LISA CHAMLEE: Okay. And I would just ask
17 the members to please look at his resume and see
18 that he has a lot of training and experience so I'm
19 not going to get into those specific questions.

20 RONALD PIERINI: Okay. Thank you.
21 Sheriff, would you like to come up?

22 LISA CHAMLEE: Sheriff Wehrly, you've been
23 acting as the Sheriff of Nye County since January of
24 2015. Correct?

25 SHERIFF WEHRLY: Yes.

1 LISA CHAMLEE: Okay. And can you explain
2 to the commission members how you came to select
3 Undersheriff Moody as your undersheriff and why?

4 SHERIFF WEHRLY: I have a selection
5 criteria and that criteria was that they must not
6 have worked for Nye County for five years, that they
7 had to have a squeaky clean background, and they had
8 to have a good to excellent law enforcement
9 background and I found that he met those
10 qualifications.

11 LISA CHAMLEE: Okay. So you were looking
12 for somebody that didn't have any ties, any biases,
13 about the operations within Nye County.

14 SHERIFF WEHRLY: Correct.

15 LISA CHAMLEE: And you've made a lot of
16 administrative changes within the Sheriff's office
17 since you took office. Isn't that correct?

18 SHERIFF WEHRLY: That's correct.

19 LISA CHAMLEE: Okay. Now, why did you
20 choose to make these changes and why is it important
21 to your application here today?

22 SHERIFF WEHRLY: Some of the changes I
23 made were made formally. Other changes I made were
24 because of the budget and the culture in Nye County
25 and I wanted to change that culture.

1 RONALD PIERINI: Again, I'd like to
2 interrupt. You know, this has nothing to do with
3 what we are dealing with, the health problems.

4 SHERIFF WEHRLY: I agree with you.

5 RONALD PIERINI: I think we've got to move
6 on.

7 LISA CHAMLEE: Okay. I --

8 RONALD PIERINI: I understand your
9 relationship and you've done - you hired him and you
10 like him and he's done a good job. I'm not
11 suggesting --

12 SHERIFF WEHRLY: Well, I think there's one
13 thing that you need to know, I did not know him
14 before I hired him.

15 RONALD PIERINI: Again, that's okay. I
16 don't care.

17 SHERIFF WEHRLY: I understand.

18 RONALD PIERINI: You know, that's fine.
19 We just have to move on.

20 LISA CHAMLEE: I want you -- but I want
21 the commission members to understand and I don't
22 want to speak for my - the people that are here to
23 speak to you, is that we are asking for this waiver
24 and it is critical to Undersheriff Moody being able
25 to satisfy the essential functions of his job. The

1 reason this is important and why I'm asking her
2 these questions is, she's eliminated, as I stated
3 earlier, mid-level management so the structure in
4 the chain of command within the Sheriff's office
5 requires that you have an undersheriff, unlike
6 larger agencies, where he's out on the street and
7 he's out assisting, serving search warrants, putting
8 himself in situations where the need for a POST
9 certification is critical. He's not going to be
10 able to do his job but, if you want to -- if you
11 don't want me to get into that line of questioning,
12 you'll accept my representations as fact and that's
13 fine. I'll move this along.

14 GARY SCHOFIELD: Okay. Mr. Chairman, Gary
15 Schofield, for the record. Counselor, on the
16 exhibit you presented us, it says class title,
17 undersheriff, County of Nye. Do you see that
18 exhibit?

19 LISA CHAMLEE: Yes.

20 GARY SCHOFIELD: Where did that come from?

21 LISA CHAMLEE: I obtained that from
22 Sheriff Wehrly.

23 SHERIFF WEHRLY: That came from HR.

24 GARY SCHOFIELD: Okay. From the HR from
25 Nye County?

1 SHERIFF WEHRLY: Yes. And that was
2 written for an undersheriff in 1991.

3 GARY SCHOFIELD: So this is -- okay.

4 SHERIFF WEHRLY: It has not been updated.

5 GARY SCHOFIELD: Ma'am, this is the
6 current job classification specifications for the
7 position of undersheriff for Nye County.

8 SHERIFF WEHRLY: Yes.

9 GARY SCHOFIELD: And it doesn't state
10 anything as has been asked before about category 1
11 police officer certification.

12 SHERIFF WEHRLY: That's very true.

13 GARY SCHOFIELD: Okay.

14 SHERIFF WEHRLY: At the time that was
15 written, it was written for a -- an officer that was
16 not POST certified. He became POST certified, I
17 believe, in 1993, according to POST records that I
18 was provided.

19 GARY SCHOFIELD: But just so I understand
20 as much within Nye County, is he an employee of Nye
21 County?

22 SHERIFF WEHRLY: Yes.

23 GARY SCHOFIELD: So he is an employee of
24 Nye County.

25 SHERIFF WEHRLY: Yes.

1 GARY SCHOFIELD: Okay. Thank you.

2 RONALD PIERINI: Thank you, Gary.

3 LISA CHAMLEE: Is Undersheriff Moody
4 required to have a POST certification according to
5 your job description, Sheriff Wehrly?

6 SHERIFF WEHRLY: Yes.

7 LISA CHAMLEE: And why is that?

8 SHERIFF WEHRLY: Because he takes my place
9 when I'm gone and he also backs up people in the
10 field on a regular basis as I do.

11 TROY TANNER: Troy Tanner for the record.
12 So you said that job description has to have a POST
13 certificate. Where is that job description?

14 SHERIFF WEHRLY: That job description does
15 not.

16 TROY TANNER: Oh, okay. So just your own
17 --

18 SHERIFF WEHRLY: I have not rewritten the
19 job description.

20 TROY TANNER: Okay.

21 SHERIFF WEHRLY: That's a 1991 job
22 description.

23 RONALD PIERINI: Have you read what our
24 regulations are under peace officer standards and
25 training and do you understand what our regulations

1 are --

2 SHERIFF WEHRLY: Absolutely.

3 RONALD PIERINI: -- and what is required?

4 You understand that?

5 SHERIFF WEHRLY: Yes.

6 RONALD PIERINI: Okay. Go ahead.

7 LISA CHAMLEE: Has Undersheriff Moody been
8 able to, after sustaining his injury, has he been
9 able to perform all the functions that he is
10 required to on the job?

11 SHERIFF WEHRLY: Yes, he has.

12 LISA CHAMLEE: And so he has continued
13 until his extension was elapsed, was he able to go
14 out and assist on patrol and investigations?

15 SHERIFF WEHRLY: Yes, he has.

16 LISA CHAMLEE: And you previously moved to
17 have the commission grant his six-month extension.
18 Correct?

19 SHERIFF WEHRLY: Yes, I did.

20 LISA CHAMLEE: Okay. Unless you have
21 anything else you want to offer in support of your
22 application, I think those conclude my questions.

23 RONALD PIERINI: All right. Thank you
24 very much. But I also want to get -- any other
25 commissioners like to have any other questions right

1 here dealing with this or are we moving on or what
2 do you think?

3 GARY SCHOFIELD: I have no other
4 questions. Gary Schofield, for the record, of the
5 Sheriff. Thank you for your testimony, ma'am.

6 SHERIFF WEHRLY: You're welcome.

7 RONALD PIERINI: Thank you very much.
8 Okay. What we're going to do right now is that
9 there may be some people in the audience that would
10 like to come up and make some comments.

11 LISA CHAMLEE: I do have two other
12 officers here that are here to talk about --

13 RONALD PIERINI: Oh, I'm sorry. I didn't
14 understand that.

15 LISA CHAMLEE: -- specific insinstances
16 where Undersheriff Moody has gone out to calls.

17 RONALD PIERINI: Just don't forget.
18 Please, don't -- what I'm saying is I understand he
19 does a good job out there on the street. That's
20 what we get. I understand that.

21 LISA CHAMLEE: Okay.

22 RONALD PIERINI: So if you're going to do
23 this, we've got to do it fairly fast.

24 LISA CHAMLEE: Okay.

25 RONALD PIERINI: Thank you.

1 LISA CHAMLEE: would like to have Sgt.
2 Eisenloffel come up and make a statement.
3 RONALD PIERINI: Please say your name.
4 SGT. MIKE EISENLOFFEL: Michael
5 Eisenloffel, sir.
6 RONALD PIERINI: And where do you work,
7 Sir?
8 SGT. MIKE EISENLOFFEL: I'm a detective
9 sergeant with the Nye County Sheriff's Department.
10 RONALD PIERINI: Go ahead please, Sir.
11 SGT. MIKE EISENLOFFEL: Thank you.
12 LISA CHAMLEE: When did you receive your
13 POST certification in Nevada?
14 SGT. MIKE EISENLOFFEL: I received it in
15 June of 2008.
16 LISA CHAMLEE: And how long have you been
17 employed with the Sheriff's office?
18 SGT. MIKE EISENLOFFEL: Since about a
19 year prior to that.
20 LISA CHAMLEE: Okay. And have you gone
21 out on calls with Undersheriff Moody since he's
22 begun working at the Sheriff's office?
23 SGT. MIKE EISENLOFFEL: Absolutely, very
24 many frequent calls of different varieties.
25 LISA CHAMLEE: Can you describe a few

1 instances where he's gone out to back you up on
2 calls or serving search warrants for the commission
3 members?

4 SGT. MIKE EISENLOFFEL: Absolutely. I
5 won't take much time but I would like to illustrate
6 with a couple or three or four examples.

7 One of them occurred July 24 of last year.
8 It was a homicide scene. Patrol officers came
9 across a dead body that was obviously there. A
10 homicide had occurred. It was an intentional act.
11 As myself and one -- only one other detective were
12 processing the scene, we needed someone to stay on
13 the outside and hold the perimeter. Our resources
14 are very limited. Undersheriff Moody voluntarily
15 took up that position to assist us. During this
16 time, the suspect actually showed up on the scene.
17 He was instrumental in obviously detaining that
18 suspect until we could have done -- investigated
19 further. That was a very, very important function
20 obviously.

21 Another example occurred in October of
22 last year. As you may or may not be familiar, the
23 outlining or the outlay of Nye County is very
24 remote, very remote area. Around midnight, I was in
25 the town of Beatty which is about 65 miles from

1 Pahrump. I was there all by myself and I was the
2 only sworn law enforcement officer on duty at that
3 time. I was dispatched to another town between
4 Pahrump and Beatty called Amargosa where, again,
5 there was nobody else on duty. It involved a rather
6 volatile call and I was dispatched to go to it by
7 myself. Nobody else was available at that time.
8 Again, a limited amount of resources we have.
9 Sheriff -- Undersheriff Moody was notified and
10 elected to get out of bed in the dead of night to
11 come back me up. It turned out to be that it
12 involved a felon, a possession of an illegal firearm
13 at that time. Undersheriff Moody, during the course
14 of that investigation, assisted me and he himself
15 took the individual into custody and transported him
16 to the jail in Pahrump which, again, is
17 approximately 45 to 50 miles away from where we were
18 at, a very volatile call and I couldn't have done it
19 without his assistance.

20 Another quick example involved a --

21 RONALD PIERINI: We get that. It's fine.
22 We've got to move on.

23 LISA CHAMLEE: Okay. And just one final
24 question. Since you have changed your POST
25 certification, that was in 2008, you said?

1 SGT. EISENLOFFEL: Yes, ma'am.

2 LISA CHAMLEE: Have you been required to

3 do any other physical fitness requirements?

4 SGT. EISENLOFFEL: No, ma'am.

5 LISA CHAMLEE: And you are still currently

6 POST certified in Nevada.

7 SGT. EISENLOFFEL: Yes, I am.

8 LISA CHAMLEE: Okay. That's it. Thank

9 you.

10 SGT. EISENLOFFEL: Thank you.

11 RONALD PIERINI: All right. Do you have

12 someone else?

13 LISA CHAMLEE: Det. Cox. And that will be

14 my last witness.

15 RONALD PIERINI: Your name, sir?

16 DET. ALEX COX: Det. Alex Cox.

17 RONALD PIERINI: And where do you work?

18 DET. ALEX COX: Nye County Sheriff's

19 office.

20 RONALD PIERINI: Okay.

21 LISA CHAMLEE: Can you describe for the

22 commission just a couple of examples where

23 Undersheriff Moody has acted out in the field to

24 assist you on backup or patrol or any calls?

25 ALEX COX: Sure. While working on patrol

1 division, I responded to a physical domestic battery
2 in progress. Upon arrival, we had merely
3 encountered a combative subject. Undersheriff Moody
4 and Sgt. James McCray responded as backup. Sheriff
5 Moody and Sgt. McCray were able to subdue the
6 suspect and handcuff him and detain him. While
7 conducting my investigation, basically what
8 happened, the female was battered, the children were
9 being abused, I found methamphetamine, numerous
10 narcotics. Sheriff Moody, Undersheriff Moody used
11 force to help subdue the subject.

12 In another instance, patrol division had a
13 domestic battery call. The suspect had broken a
14 female victim's thumb and fled the scene.
15 Undersheriff Moody was involved in a 72-mile
16 pursuit, reference that suspect. At the end of the
17 pursuit, Undersheriff Moody helped back up a rookie
18 officer that Undersheriff Moody and the rookie
19 officer took the suspect into custody at that time.

20 LISA CHAMLEE: Okay.

21 RONALD PIERINI: Thank you very much.

22 LISA CHAMLEE: Thank you.

23 RONALD PIERINI: Okay. Are you done now?

24 LISA CHAMLEE: Yes.

25 RONALD PIERINI: Are you okay?

1 LISA CHAMLEE: I'm just going to give you
2 a few legal arguments.

3 RONALD PIERINI: Sure.

4 LISA CHAMLEE: As you have in your packet,
5 I also provided you, I think, Mr. Jensen did, points
6 and authorities, legal authority, that applies to
7 our application or Sheriff Wehrly's application.

8 The ADA requires, number 1, that the
9 covered individual has to qualify as having a
10 disability and it's our position today that
11 Undersheriff Moody is a protected individual under
12 the ADA because he has been diagnosed as a doctor,
13 by a doctor, Dr. Reiner, as having a disability.
14 It's impeded with his major life activities of
15 walking, bending, and, to a certain degree, for a
16 period of working. He has not been able to go out
17 on calls. He is not able to act as a peace
18 officer in the community so we would submit to you
19 that he meets definition number 1.

20 Quickly just citing to the Littlefield
21 case which is in my brief, the Littlefield court,
22 which is the federal court here in Southern Nevada,
23 held that, in that case, the NHP officer who was
24 terminated, did not -- the NHP decision to terminate
25 him on the basis of not meeting the binocular vision

1 violated the ADA and what's interesting in that
2 particular case and how it applies to this situation
3 is NHP was the employer there. NHP made the
4 decision that he did not meet the criteria to work
5 for their organization. This wasn't a POST
6 requirement that he have binocular vision. It was
7 an NHP requirement and so he was terminated and what
8 the court found in Littlefield is that NHP violated
9 that the employee had proven a prima facie case
10 which means you basically overcome the first legal
11 hurdle and the case is going to go to trial, that
12 NHP had violated the ADA by terminating this
13 individual because he did not meet that specific
14 blanket requirement that they have binocular vision
15 in both eyes.

16 Well, in this particular instance, you've
17 heard Sheriff Wehrly, she's actually submitted the
18 application to you to issue a waiver which is within
19 your discretion. It's within your authority. She
20 is submitting to you, and I have all of the
21 evidence in my brief here and we've presented
22 testimony, that he can satisfy the essential
23 functions of his job so, if you look at the
24 Littlefield case and also the other two cases, the
25 night circuit case, which -- give me just a minute

1 and I'll find it -- Bates, it's a night circuit case
2 which deals with the ADA and then also the US
3 Supreme Court court case, USA versus Etcha
4 Zabaugh??[5:56:13].

5 If you look at the test in those
6 particular cases, Undersheriff Moody meets the
7 requirements on -- for ADA protection and it would
8 be our position today that you should exercise your
9 discretion as you've given yourself under the NAC
10 section 289 to issue a waiver and we are happy to
11 enter into any negotiation, a contract that's
12 binding that limits the scope of that POST
13 certification only when he's serving under Sheriff
14 Wehrly and, if she were to leave office, he would
15 happily re-sign and he would submit that his POST
16 certification is no longer valid. And that pretty
17 much sums up our presentation.

18 I thank you for taking the time to listen.

19 RONALD PIERINI: Thank you.

20 Okay. What I would, again, is ask the
21 commissioners, any other questions, any comments,
22 you would like to make? Or Mr. Jensen or Mr.
23 Sherlock, would you like to say anything?

24 MR. JENSEN: Yeah. We've been on this item
25 a long time so I'll try to be really brief but I

1 just had a couple of legal issues to raise in terms
2 of this particular item that I wanted to bring it up
3 to the commission. Obviously because we are in an
4 open session and I'm not going to be sharing
5 attorney-client privilege material with you guys but
6 I wanted to lay out a couple of the principles that
7 are involved in an ADA claim like this that I think
8 are important and I appreciate the briefing that was
9 done and I would agree with the majority of the
10 things that were cited in that brief in terms of the
11 rules for determining whether someone has a
12 disability and whether someone is a qualified
13 individual with a disability which is I think is the
14 critical point in this particular matter is whether
15 or not Mr. Moody is a qualified person with a
16 disability which means that he can meet those
17 essential functions, not of his job. They are not
18 here asking him to be Undersheriff of Nye County.
19 It's the critical functions that a category 1 peace
20 officer is what this POST commission certifies
21 individuals to do. It also requires that the
22 individual coming before you meets the eligibility
23 requirements for the license or certification that
24 they are asking for.

25 In this particular case, you have heard

1 testimony that Mr. Moody has not attended a basic
2 training Academy yet and has not passed the state
3 certification exam yet and has only attempted the
4 state physical fitness exam and so, in terms of
5 determining whether or not he is a qualified
6 individual with a disability, you would take into
7 consideration whether he's met the eligibility
8 requirements for the certification which, if he
9 hasn't done those other two prongs, the basic
10 training course and the state certification exam, he
11 has not met the eligibility requirements yet for
12 certification and so I think that's an important
13 thing to bring up.

14 The other is the EEOC and the regulations
15 have specifically provided that licensing boards and
16 employers can have testing for job applications if
17 certain requirements are met. If your testing tends
18 to disqualify people with disabilities, your testing
19 has to be shown to be job-related, in this case,
20 related to the job's critical task of a category 1
21 peace officer and a business necessity so those are
22 the two elements, if you're going to have a test
23 like we do here in Nevada where you - we say to be
24 certified as a category 1 peace officer, you have to
25 pass a state -- we call it a physical fitness

1 examination. It's probably more accurately called a
2 job readiness test or examination but that, as long
3 as those elements are met and your test disqualifies
4 certain people with disability, it's still a valid
5 test and is something that a commission or board can
6 do and so, to the extent that there's an argument
7 being made that you can't have a test that
8 disqualifies people that are -- that have
9 disabilities, I would disagree with that. That is
10 allowed as long as you have a validated job-related
11 test and, in Nevada, we have a job-related validated
12 test for the physical fitness examination that we
13 have here in Nevada and I think it's important for
14 the commission to be aware of that. We provided the
15 executive summary of that testing that was done in
16 2009 and I think Mike can give you just a quick real
17 quick overview of that.

18 MICHAEL SHERLOCK: I can again and, again,
19 now that we're in public and I have my notes, maybe
20 I can be a little clearer but again, from the
21 commission standpoint, when we originally did our
22 current validated test, the goal of validating a
23 physical test is first and foremost to create a
24 standard that gives us the best chance of certifying
25 those who can successfully perform the essential

1 functions, including the critical task of the job
2 class for which they are to be certified.

3 I hope the commission understands that
4 what the commission does is we certify by job class
5 and, when a person meets the standards created by
6 this commission at that time of certification, we
7 issue the certificate. It's based on that day and
8 so we do that.

9 Of course, the second objective when POST,
10 the POST commission authorized the spending of money
11 to validate was to create a test that is defensible
12 from a legal standpoint. Obviously, Mike is our
13 legal expert so I won't speak to that but, from a
14 layman's term, that is one of the reasons that
15 we've created the validated test or had that done.

16 Again, our test was validated -- this
17 particular test was validated in 2009, 2010. It was
18 accomplished by the use of Hoffman and Associates
19 which is a well-respected expert in the area of
20 police and fire physical job-related tests. Prior
21 to that, we had the Cooper standard and a bifurcated
22 test out of Idaho that we knew would not satisfy
23 that legal standard.

24 Nevada to do this, to validate, surveys
25 were conducted regarding the physical aspects of the

1 job, including critical tasks. Critical tasks are
2 those activities that may be done, may not be done
3 everyday or be called repetitive but are
4 requirements of that job class. These surveys at
5 the time of the validation were vetted by
6 supervisors and managers of law enforcement agencies
7 across the state and compared to national norms to
8 validate those actual physical critical tasks.

9 The -- based on the - those critical task
10 job simulation tests were, which Mike spoke about
11 earlier, were developed. Those are the things that
12 Mike was talking about, pushing the car, chasing
13 someone, handcuffing someone, that kind of thing.
14 Based on those job simulation tests from those
15 surveys on critical tasks, the PPFT was developed.
16 The PPFT or the physical fitness test, our physical
17 tests that are meant to simulate the critical task
18 requirements and that's where our PPFT was
19 developed.

20 A couple of things about the PPFT. First,
21 it is one test. There are six components to our
22 PPFT but there is only one test. The entire test is
23 what we have validated. The test must be done in
24 three hours and it has to be done in certain orders.
25 That's what the validation is about. If you remove

1 any portion of that, which was our problem
2 originally with the Idaho test, the test is no
3 longer valid and it's not a validated test.

4 The last thing I really want to say about
5 it is, our exact test is used all over the country
6 now, either as a POST requirement or a hiring
7 requirement of an individual agency. I can tell you
8 that Wisconsin just completed a lengthy and very
9 expensive validation transportability study as of
10 this year. They require both a PT test and an
11 academy entrance test which is exactly ours and in a
12 transportability validation test, these experts look
13 at other state requirements across the country.
14 They determine whether the critical tasks are the
15 same for their job class in their state and whether
16 or not the test is defensible. What they
17 determined, at least in Wisconsin, if we can say
18 because they adopted Nevada's test is they felt at
19 that time that it was a good representation of the
20 critical tasks in their state and the defensibility
21 of that particular PPFT test so I just want the
22 commission to be aware that it is used across the
23 country. Many states use it. Wisconsin just
24 studied it and validated it again for their state
25 using our exact cutoff scores, exact test so I'll

1 leave it at but that's what our -- that's how our
2 PPFT came about.

3 RONALD PIERINI: Okay. Thank you, Mike.

4 LISA CHAMLEE: I'd like to respond just
5 briefly. We are not disputing that the physical
6 fitness requirements that the POST commission has
7 created here. We certainly agree that it is
8 necessary for patrol deputies, for people that are
9 coming in with very little experience who are going
10 to be first responders on a scene. That's not what
11 we are submitting to you.

12 What we're asking for and why I wanted to
13 get into the facts about Undersheriff Moody's prior
14 experience, the unique lack of resources that we
15 have in Nye County. You know, it's a very small
16 Sheriff's office. We have a lot of problems and so
17 this is a unique set of facts. You have a very
18 experienced undersheriff who is required to go out
19 there. It's not the same situation that would apply
20 to the standards namedd in your study here and Mr.
21 Jensen was gracious enough to provide me with a
22 copy. I did read that.

23 What my question to you is, you have the
24 Sheriff submitting to you here that Undersheriff
25 Moody performs the essential functions of his job so

1 I understand that POST level I certification applies
2 to all basic police officers. I know that there are
3 different levels here but he has got to have that
4 and why would the POST commission give themselves
5 the authority to grant a waiver? You've given
6 yourselves that authority. We're asking you to
7 exercise your authority and issue a limited waiver.
8 It would satisfy -- it would enable him to do his
9 job and it would ensure compliance with the ADA so
10 I'm not disputing what's in the study here. I agree
11 and my client and Sheriff Wehrly would agree that
12 it is absolutely necessary for patrol deputies to
13 have -- to meet those physical fitness requirements.

14 RONALD PIERINI: Okay. Thank you. Gary?

15 GARY SCHOFIELD: Gary Schofield for the
16 record. Counselor, I think that your arguments are
17 well put together. My question for you is, in your
18 letter to us on October 24, 2016, it says, you're
19 asking for a limited waiver. If I'm hearing you
20 right, what you want us to do is, are you asking us
21 to grant a category 1 POST certification?

22 LISA CHAMLEE: No. And I apologize.

23 GARY SCHOFIELD: What --

24 LISA CHAMLEE: -- if I have missed spoken.

25 What I'm asking for is a limited waiver of just the

1 running portions of the physical fitness test.

2 GARY SCHOFIELD: So then to follow me on
3 that. So then the next thing would be, it would be
4 up to the Silver State Academy or whatever police
5 Academy with that limited waiver from the commission
6 to put the individual, in this case, a distinguished
7 undersheriff of Nye County, through the training.
8 Is that what you're saying?

9 LISA CHAMLEE: Yes.

10 GARY SCHOFIELD: And if, during that
11 training, he does not complete the training
12 appropriately, would you be back in front of this
13 commission again?

14 LISA CHAMLEE: Well, I don't know if the
15 POST has -- if the commission here has any authority
16 to order Silver State Academy to waive certain
17 parts of their Academy in the physical fitness
18 requirements. He cannot run. He cannot do any of
19 the running portions of the Academy so --

20 GARY SCHOFIELD: This commission does set
21 the standards for entry into different police
22 academies throughout the state of Nevada.

23 LISA CHAMLEE: Okay.

24 GARY SCHOFIELD: So as an individual that
25 runs one of those academies, then the other question

1 that I would ask you is, in your letter to us, it
2 says undersheriff is disabled under the ADA. I
3 don't want to go back into the closed session stuff
4 but that determination is not made by this
5 commission nor in the testimony before has it made
6 by Nye County.

7 LISA CHAMLEE: I agree.

8 GARY SCHOFIELD: Okay. And follow me
9 along that. It says Nevada POST commission is
10 required to provide a reasonable accommodation. We
11 are not the employer of the undersheriff.

12 LISA CHAMLEE: I agree with that. You are
13 not the employer but you have -- you are in a
14 position where you can issue a waiver that will
15 allow my client to receive the POST certification
16 which is necessary for him to continue his
17 employment so --

18 GARY SCHOFIELD: Would possibly allow him
19 because he would still have to make it through all
20 of the training that he needs to do, including any
21 defensive tactics training and not to get back into
22 the closed session again, there is a certain amount
23 of physicality that goes into that so somebody's
24 going to be accepting that risk but it's not the
25 commission. It would be --

1 LISA CHAMLEE: It would be the county.

2 GARY SCHOFIELD: -- Nye County.

3 LISA CHAMLEE: Yes.

4 GARY SCHOFIELD: Okay.

5 LISA CHAMLEE: And so to clarify, I guess
6 my request or sheriff's request for a waiver would
7 apply to any physical fitness requirements as part
8 of an Academy at Silver State.

9 MIKE JENSEN: This is Mike Jensen, for the
10 record. That isn't even an agenda item on the
11 agenda today.

12 LISA CHAMLEE: Well --

13 MIKE JENSEN: So --

14 RONALD PIERINI: Yeah, we're going way
15 ahead of ourselves on that.

16 MIKE JENSEN: Yeah.

17 RONALD PIERINI: Okay, does anybody else
18 have any questions? Any comment? All right. Thank
19 you.

20 LISA CHAMLEE: Okay. Thank you.

21 RONALD PIERINI: Now, it's, I think, time
22 for public comment. Is there anybody in the
23 audience that would like to make a comment on this
24 particular agenda item? Does anyone -- coming up.
25 Is there anybody else?

1 I want to make it real clear though is
2 that we need to do it very short and I want it to be
3 accurate. Okay? Thank you.

4 SHANE HODGE: Shane Hodge on behalf of the
5 public. I'd like to thank you and the fellow
6 commissioners in taking the time to speak with me
7 tonight. As you know, Sheriff Wehrly has submitted
8 a request to waive a portion of the physical fitness
9 requirements. I'm here to request the commission to
10 deny that. The basis for that denial is, last year,
11 this commission met on the same issue and an
12 extension was granted. That extension was set to
13 expire July 12, 2016 and that is in the meeting
14 notes from the commission and her communication
15 correspondence between the Sheriff and Mike
16 Sherlock.

17 On August 3 of this year, Undersheriff
18 Moody participated in a felony arrest. That is
19 outside of his extension period of time. I filed
20 an internal affairs complaint with the Nye County
21 Sheriff's Office, IA Investigator Sgt. Thomas
22 Klenczar. He responded in his finding saying that
23 Undersheriff Moody was a citizen assisting law
24 enforcement to effect an arrest.

25 That is extremely troublesome as, based

1 off of my feelings as well as many others, based off
2 if he was in possession of his influence of
3 authority, driving an unmarked unit, wearing a
4 badge, with weapon drawn.

5 Moving forward now, it is my request that
6 this be denied, again. I have spoken with Mike
7 Sherlock. I have submitted a request for records.
8 In that request for extension, Sharon Wehrly gave
9 the date of February 2 as Brent Moody's hire date.
10 I have a letter from the Nye County human resources,
11 an e-mail from them, saying that his hire date as
12 undersheriff and as a category 1 officer was January
13 12 so that information was given to the commission
14 as well as given into his employment personnel
15 action report as well. February 2 is the date that
16 Brent Moody was given his oath of office. That oath
17 is still in effect. She has yet not revoked that.
18 Sheriff Wehrly consistently says that Brent Moody is
19 certified in Alaska as a peace officer and he has
20 met reciprocity. I have a newspaper article back in
21 - I have spoken with Bob Griffis, the executive
22 director in Alaska. He states that Brent Moody has
23 not been certified in Alaska and his last date of
24 employment with Alaska was March 31 of 2005.

25 Back to what Mike Sherlock was talking

1 about earlier with regards to the employment in
2 Alaska, I have a letter that was submitted to the
3 Nye County Sheriff's Office regarding that -- those
4 dates that Brent Moody worked in Alaska.

5 We are, based on Alaska's record, Brent
6 Moody's Alaska police officer certification lapsed
7 on March 30, 2006, one year after his last
8 employment as a peace officer with the police
9 department. In speaking with Seward Police
10 Department, Chief Tom Clemons, which is that
11 question, the week period that he was employed in
12 Alaska, Mr. Moody, there was -- it is said that
13 there was no intent for Mr. Moody to perform the
14 duties of a police officer. He was hired to do
15 administrative duties. If not speaking with the
16 chief, the commission in Alaska would have no
17 knowledge of his employment.

18 Now, here we are a year later and this is
19 continuously, you know, gone on. He has violated
20 the extension by affecting a felony arrest on August
21 3. He is listed on the DA's report as a responding
22 officer, not as a civilian, as well as the
23 declaration of arrest. That should be extremely
24 troublesome and the Sheriff has now said that it's
25 an essential function for him to be certified as a

1 police officer. You've read his job description as
2 have I. Nowhere in that job description does it say
3 that he needs to be certified as a category 1
4 officer to effect his duties. He could be an
5 administrative personnel. He does not need to be
6 out in the street. It is not a necessity. They can
7 hire, reach out, hire other officers and promote
8 within but they -- he can work as an administrator
9 there. That leadership is still there. He -- that
10 doesn't mean he loses his job. It just means he is
11 not certified.

12 The physical fitness is a basic function
13 of any officer. Every officer here had to go
14 through that at one point. Any new officer has to
15 retake that physical fitness. If an officer needs
16 help and is out and there is a suspect hurting
17 another officer, he can't run after that to help
18 him. If that officer dies, that's -- where does the
19 liability land on that? Extremely -- it's extremely
20 troublesome that the audacity of the Sheriff to
21 continuously drag this out and quite frankly waste
22 the time of the commission.

23 RONALD PIERINI: Okay. Thank you very
24 much

25 SHANE HODGE: All right. Thank you for

1 your time.

2 RONALD PIERINI: Is there anything else
3 from the -- anybody here like to make a comment?
4 Okay. See none. Close that up and if I -- would like
5 to ask any of the commissioners, do you have any
6 questions or any comments you would like to make now
7 before we do our motion?

8 KEVIN MCKINNEY: I have a question for
9 Dir. Sherlock. Kevin McKinney, for the record.

10 Mr. Sherlock, you've been the Executive
11 Director for a year now and you were with the
12 commission or with the POST for several years prior
13 to that. Right?

14 MICHAEL SHERLOCK: That is correct, five
15 years prior to that.

16 KEVIN MCKINNEY: Have -- has this
17 commission or POST ever granted a certificate to an
18 applicant who was unable to pass the physical
19 fitness portion of the test?

20 MICHAEL SHERLOCK: No.

21 RONALD PIERINI: Anyone else like to make
22 a comment or question?

23 MIKE JENSEN: This is Mike Jensen, for the
24 record. I would just like to throw out a couple of
25 potential recommendations here to the commission on

1 this item. I think, given the information that has
2 been provided today that Mr. Moody hasn't met all of
3 the eligibility requirements for POST certification,
4 certainly one of the ways the commission could go is
5 to require him to hold off on this and require him
6 to go meet those other eligibility requirements
7 first and then come back and ask for this kind of a
8 waive later if he is able to do that.

9 Also, in the meantime, we heard some
10 testimony in closed session about limitations that
11 aren't clear in terms of his medical situation.
12 Certainly, I would hope, before the commission made
13 a decision on whether or not to give him a waiver
14 that you would have up-to-date information on
15 whether he can perform the essential functions of a
16 category 1 peace officer and we really haven't
17 received that information. I asked some questions
18 about whether he could do those job-critical tasks
19 but we don't really have any medical documentation
20 to support that so that, I would think, would be
21 something the commission might want to have before
22 making a decision on what to do.

23 And finally, if he is able to get to that
24 point potentially offering an opportunity to do the
25 job simulation testing that is provided for in the

1 validation study which, I think, the physical
2 standards were built off of.

3 RONALD PIERINI: Okay. Gary?

4 GARY SCHOFIELD: I would just like to say
5 couple of things for the record. Gary Schofield
6 again. Without a doubt, Undersheriff Moody has a
7 lengthy and distinguished career, Sir, so all that
8 being said, a couple of things that I would like us
9 to consider is the Minnesota POST and the Alaska
10 POST, I don't see anything in the record as to
11 formal documentation from them as to what exactly
12 was the certification. I mean, I'm looking at a
13 lengthy resume. It's a little hard to sort of look
14 at what I'm looking at is a POST certification, POST
15 certification, you know, when was it there at the
16 same time?

17 I do agree with what our counsel has said.
18 I'm a little disturbed as to I can't make a decision
19 without knowing county, making a decision on the
20 issue of disability and the reason for
21 accommodations because, without that final decision
22 being made, we are just making decisions based on
23 pieces of paper that are there.

24 And then, from Nye County as far as what
25 the job specifications are, that is an issue between

1 the sheriff in Nye County. Job specifications
2 change and job specifications come and go. We do
3 thousands of them in the size of our agency on a
4 routine basis based on new things that come up so
5 there's a couple of things that are troubling before
6 we make a final decision, either saying yes or no.

7 RONALD PIERINI: Okay. Anyone else who
8 would like to make a comment or have any questions?

9 Okay. We're going to look for a motion
10 and request from Nye County sheriff for the waiver,
11 whether or not they move forward or not so or
12 whatever we want to do as far as a motion so I am
13 looking for a motion if I could.

14 GARY SCHOFIELD: I'll make a motion that,
15 at this time, we hold the request by the Nye County
16 Sheriff, you know, if that's the right word. The
17 terms are down here, on a couple of things that we
18 need to have as a commission, research on the
19 Minnesota POST, research on Alaska POST, a final
20 decision in writing to us from Nye County from
21 whoever that authority is in Nye County has to what
22 they considered to be the duty status of an
23 undersheriff, that it would be brought back in front
24 of the commission if the sheriff so sees fit at that
25 time and those pieces of documents are in our

1 possession. That's my motion.

2 RONALD PIERINI: Can I have a second?

3 TROY TANNER: Troy Tanner, I second.

4 RONALD PIERINI: Okay. I would like to
5 ask any other questions or any kind of comments you
6 would like to make on that motion? Okay. All in
7 favor?

8 MULTIPLE VOICES: Aye.

9 RONALD PIERINI: Anybody opposed? So
10 carried. Thank you.

11 [DISCUSSION ABOUT THE GAME]

12 RONALD PIERINI: All right. So we're
13 going to go on to number 7 if we could. All right.
14 This is a discussion, public comment, and for
15 possible action. Request from the Southern Nevada
16 Adult Mental Health. The employee has a six-month
17 extension, passed a one-year requirement in order to
18 meet the requirements of certification for the
19 following employees.

20 I want to turn that over to Scott and, if
21 you can go ahead and give exactly which one of those
22 employees that are being questioned and also what we
23 are doing.

24 SCOTT JOHNSTON: Okay. Thank you, Mr.
25 Chairman. Scott Johnston, for the record.

1 The agency has requested 11 officers that
2 are listed here and I'll just go through the names.
3 Joel Akens, Brittany Bailey-Duan, Rebecca Breeland,
4 Russell Black. I'm probably not going to get this
5 one right -- Yucely Carvajal.

6 UNIDENTIFIED MALE: Carvajal.

7 SCOTT JOHNSTON: Robert Gomez, Corey
8 McKnight, Jerome Mitchell, Maurice Patterson,
9 Michael Powell, David Pratt, and Jeffrey Tyndall.

10 We had recently been notified that they
11 are withdrawing Mr. Gomez and Mr. Powell as they are
12 no longer employed with them and it's not an issue.

13 RONALD PIERINI: Okay. Thank you, Scott.
14 Is there anybody from the Southern Nevada Adult
15 Health?

16 DAVID JOSEPH: Yes.

17 RONALD PIERINI: Will you please come up,
18 please? And please state your name and the agency
19 and your rank. There you go.

20 DAVID JOSEPH: All right. For the record,
21 I'm David Joseph. I'm the correctional sergeant for
22 Southern Nevada Department of Health. Just a little
23 back history, I suppose, on this. We -- the
24 facility itself was designed and opened as part of a
25 federal lawsuit. The only other facility that

1 provided these services in Nevada was Legacy
2 Crossing up until now. We created this from the
3 ground up so we started accepting clients in July.
4 The actual forensics specialist positions were not
5 created until October and we didn't get anybody pass
6 the physicals and backgrounds until the end of
7 October so, at that time, we only had I want to say
8 10 people and we had up to 20 clients were inmates.
9 It needs the safety of the building. We had to use
10 Silver State Law enforcement so we had officers
11 working on the floor while attending the Academy and
12 those guys have been absolutely wonderful, by the
13 way. They worked with us tremendously. They
14 created a category 3 program specifically tailored
15 for our needs and it was amazing for them to go
16 through that and do that for us.

17 We just -- we did everything that we
18 could. We worked with the Department of Corrections
19 and we've been trying to get guys through academies
20 and basically, up to this point, if we get the
21 extension granted for these 10, my hopes is to not
22 come back in front of you asking for anything else.
23 I'm hopeful that we get these guys through and we
24 are being proactive. We are doing this as well.
25 Some of them should be attending the next Academy

1 coming up in January.

2 RONALD PIERINI: You do realize, too, if I
3 may, that you only have 18 months at the very max.

4 DAVID JOSEPH: Yes, Sir.

5 RONALD PIERINI: Okay. You understand
6 that.

7 DAVID JOSEPH: Yes.

8 RONALD PIERINI: Okay. So hopefully you
9 can get all that done. Huh?

10 DAVID JOSEPH: Yes, Sir. I'm very
11 hopeful.

12 RONALD PIERINI: All right. Scott, do you
13 want to make any other comments or any other
14 questions?

15 SCOTT JOHNSTON: Yes, Scott Johnston, for
16 the record. Just call the attention to the
17 commissioners that, on each one of these employees,
18 their hire date was either in 2015 to 2016 and the
19 six-month extension passed the one-year requirement.
20 For most of them, it puts them well into 2017 which
21 is -- the sergeant had mentioned that they are
22 scheduled to attend the programs so that they -- all
23 of these people will meet the requirements and be
24 able to perform their duties with the agency.

25 RONALD PIERINI: Okay. Good.

1 DAVID JOSEPH: Yes. I've actually had
2 permission from my administration to send 10 to the
3 next Silver State Academy that starts in January
4 and, after that I finally gained permission from
5 the OCD guys of our services.

6 RONALD PIERINI: Well, I appreciate your
7 coming here and telling us that. I appreciate that
8 very much. That's something we require.

9 DAVID JOSEPH: Thank you.

10 RONALD PIERINI: All right. We are
11 looking for a motion.

12 TROY TANNER: Troy Tanner, for the record.
13 Why don't they have to do a pretest and [INAUDIBLE
14 6:26:41] That's not required for the PT before they
15 start attending?

16 DAVID JOSEPH: We had, Sir.

17 TROY TANNER: Okay.

18 DAVID JOSEPH: Yeah, we had to get
19 everything. That's why we're -- the position was
20 created October 1 legislatively, it was funded, and
21 we didn't actually get people employed until mid-,
22 like mid-, end of October, because of the
23 requirements.

24 TROY TANNER: Okay.

25 DAVID JOSEPH: The background checks and

1 everything. We had to set all of that up so --

2 TROY TANNER: Okay.

3 RONALD PIERINI: All right. Trying again
4 for a motion or any other comment? Maybe I should
5 do that first. No. Well, okay. Do I have a
6 motion? Gary, you are good at it, buddy. Just go
7 for it.

8 GARY SCHOFIELD: I've already made enough
9 motions today.

10 MICHELE FREEMAN: I have one quick
11 question, if I may.

12 RONALD PIERINI: Yes, please.

13 MICHELE FREEMAN: Michele Freeman. So
14 overall, how many people are off of this list? I'm
15 sorry, some of these came off. Correct?

16 DAVID JOSEPH: There's two.

17 UNIDENTIFIED MALE: Two.

18 DAVID JOSEPH: Gomez and Powell. So that
19 leaves 10 remaining.

20 MICHELE FREEMAN: Okay. So 10 people were
21 looking for extensions?

22 DAVID JOSEPH: That is correct.

23 MICHELE FREEMAN: Okay.

24 KEVIN MCKINNEY: I'm Kevin McKinney. And
25 you said you'll have 10 going to -

1 DAVID JOSEPH: Yes.

2 KEVIN MCKINNEY: Silver State. Is that
3 correct?

4 DAVID JOSEPH: The next Academy, yes. I'm
5 trying to be a little bit proactive in seeking this
6 many because I know I can only do it one time and I
7 know there's extenuating circumstances that can
8 occur. One of them, I just found out the other day
9 had some medical concerns as well but if I get the
10 extension granted, that should be of concern as
11 well.

12 MICHELE FREEMAN: I'll make a motion.

13 RONALD PIERINI: Please.

14 MICHELE FREEMAN: Michele Freeman, motion
15 to extend until -- what are we -- until January.

16 DAVID JOSEPH: Six months.

17 MICHELE FREEMAN: Okay. Six months. So
18 they would go into the January Academy extending it
19 for six months.

20 DAVID JOSEPH: Yes.

21 MICHELE FREEMAN: Got it. That's my
22 motion.

23 RONALD PIERINI: Thank you. Do I have a
24 second? Thank you. Any other questions, comments?
25 All in favor?

1 MULTIPLE VOICES: Aye.

2 RONALD PIERINI: Any opposed? So carried.

3 Thank you, Sir.

4 DAVID JOSEPH: Thank you.

5 RONALD PIERINI: Okay. We go to number 9,

6 huh?

7 MULTIPLE VOICES: 8.

8 RONALD PIERINI: I'm trying to push it.

9 Okay, guys?

10 [DISCUSSION ABOUT GAME SCORE.]

11 RONALD PIERINI: Okay, number 8 is
12 discussion, public comment and for a possible
13 action, request is from Esmerelda County Sheriff's
14 Office for employee Dallas Terry for a six-month
15 extension past the one-year requirement to August
16 10, 2017 in order to meet the requirements of
17 certification.

18 KEN ELGAN: Yeah.

19 RONALD PIERINI: Sure.

20 KEN ELGAN: Ken Elgan, Sheriff, Esmerelda
21 County. Yeah. Deputy Terry is enrolled in the
22 Academy class starting in January. His year expires
23 in February, no, November. So that's why we're
24 trying to get the extension so we can make sure we
25 get him into class.

1 RONALD PIERINI: Okay, sure.

2 KEN ELGAN: And I have two deputies going
3 with him and one other for the [INAUDIBLE 6:29:30].

4 RONALD PIERINI: All right.

5 GARY SCHOFIELD: Make a motion that we
6 approve this.

7 RONALD PIERINI: May I just interrupt just
8 for a second --

9 GARY SCHOFIELD: Oh, I'm sorry.

10 RONALD PIERINI: -- please, Gary.

11 GARY SCHOFIELD: I thought you wanted a
12 motion.

13 RONALD PIERINI: Scott, looking at you.
14 Are you okay with everything?

15 SCOTT JOHNSTON: Scott has no problem.

16 RONALD PIERINI: Okay. Gary, you're up.

17 GARY SCHOFIELD: I make a motion to
18 approve.

19 TROY TANNER: Troy tanner, I second.

20 GARY SCHOFIELD: Request for extension.

21 RONALD PIERINI: Thank you. All in favor?

22 MULTIPLE VOICES: Aye.

23 RONALD PIERINI: Anybody opposed? So
24 carried. Thank you.

25 [INAUDIBLE 6:29:55]

1 RONALD PIERINI: Hey, Sheriff Furlong, we
2 put that from number 9 to number 17. I'm sorry.

3 Okay. Number 9. Discussion, public
4 comment, and for possible action. Requester is the
5 Carson City Sheriff's Office for their employee,
6 Bruce Pendron? Is that how you say that?

7 SHERIFF FURLONG: Pendragon.

8 RONALD PIERINI: Okay. For a six-month
9 extension past the one-year requirement to April 2,
10 2017 in order to meet the requirements for
11 certification.

12 SHERIFF FURLONG: Right. Deputy
13 Pendragon was hired on October, let me see here,
14 date of hire October 2, 2015 and he was in the
15 Academy and was injured and released as a result of
16 those injuries and we anticipate him to go back into
17 the Academy. He is scheduled to attend the January
18 of 2017 academy.

19 RONALD PIERINI: Thank you. Scott, are we
20 okay?

21 SCOTT JOHNSTON: We are good on that.

22 RONALD PIERINI: All right. Does anybody
23 have questions or comments?

24 UNIDENTIFIED MALE: I don't have any
25 comments or questions. I make a motion to approve

1 the six-month extension.

2 RONALD PIERINI: Thank you, Chief. Do I
3 have a second?

4 MICHELE FREEMAN: Michele Freeman, second.

5 RONALD PIERINI: Thank you, Michele. All
6 in favor?

7 MULTIPLE VOICES: Aye.

8 RONALD PIERINI: Anybody opposed? So
9 carried. Thank you. Kenny?

10 UNIDENTIFIED MALE: The next one is --

11 RONALD PIERINI: Number 10 is --

12 UNIDENTIFIED MALE: What's that? There
13 you go.

14 RONALD PIERINI: Discussion, public
15 comment, possible action, requested by Carson City
16 Sheriff's office to employee Daniel Henneberger?

17 SHERIFF FURLONG: Got it.

18 RONALD PIERINI: Got it. All right, I got
19 that right. Okay. For a six-month extension past a
20 one-year requirement on April 2, 2017 in order to
21 meet the requirements for certification.

22 SHERIFF FURLONG: Daniel Henneberger, Dep.
23 Henneberger, was hired on October 23 of 2015 as a
24 result of a grant that we did by the chief. We had
25 over -- we had more officers than we anticipated.

1 We were fortunate. We got a school resource
2 officer program grant and, as a result of that, we
3 just were not capable of meeting the prescribed
4 period of time. We are anticipating him. He is
5 scheduled for the January of 2017 POST Academy.

6 RONALD PIERINI: Thank you, Kenny. Mr.
7 Scott? Are we okay?

8 SCOTT JOHNSTON: The staff's
9 recommendation is to approve.

10 RONALD PIERINI: Okay. Looking for a
11 motion?

12 TROY TANNER: Troy Tanner, make a motion
13 to approve.

14 RONALD PIERINI: Thank you, Chief. Do I
15 have a second?

16 MICHELE FREEMAN: Michele Freeman, second.

17 RONALD PIERINI: Thank you very much. All
18 in favor?

19 MULTIPLE VOICES: Aye.

20 RONALD PIERINI: Anybody opposed? So
21 Kerry. Thank you. We've got another one.

22 UNIDENTIFIED MALE: [INAUDIBLE 6:32:20]

23 RONALD PIERINI: Discussion, Public
24 comment, and probable action. Requested by Carson
25 City Sheriff's office, for employee Jeremy Garcia

1 for a six-month extension past a one-year
2 requirement to June 11, 2017, in order to meet the
3 requirements for certification. Kenny?

4 KENNY FURLONG: Deputy Garcia was hired on
5 December 11, 2015. He was anticipated to enter into
6 the Academy on October 10. However, due to a family
7 medical emergency, we were not able to meet that
8 schedule. The emergency was verified and
9 validated. He is scheduled to attend the January
10 2017 POST Academy.

11 RONALD PIERINI: Thank you, Sir. Scott?

12 SCOTT JOHNSTON: The staff has --
13 recommends approval.

14 RONALD PIERINI: Okay. Thank you.

15 TROY TANNER: Troy Tanner makes a motion
16 to approve.

17 RONALD PIERINI: Thank you, Troy.

18 MICHELE FREEMAN: Michele Freeman, second.

19 RONALD PIERINI: Thank you. All in favor?

20 MULTIPLE VOICES: Aye.

21 RONALD PIERINI: Anybody opposed? So
22 Kerry. Thank you, Kenny.

23 MULTIPLE VOICES: Thank you.

24 RONALD PIERINI: Number 12 is -- thank
25 you. Discussion, public comment and possible action

1 requested by Metropolitan Police Department for the
2 employee of Capt. Shawn Anderson, an executive
3 certificate. So do we have anybody from Las Vegas
4 here?

5 [INAUDIBLE 6:33:34]

6 RONALD PIERINI: I think I probably
7 should. Thank you. Okay, Gary?

8 GARY SCHOFIELD: Why can't I just
9 [INAUDIBLE 6:33:34]

10 RONALD PIERINI: Maybe we should start
11 probably first, Gary, before you do if you wouldn't
12 mind, Mr. Sherlock.

13 MICHAEL SHERLOCK: Certainly. We received
14 an application for the issuance of an executive
15 certificate for Capt. Shawn Anderson of the Las
16 Vegas Metropolitan Police Department. The staff
17 reviewed that application and found that it met all
18 the requirements and recommend issuing that
19 executive certificate.

20 GARY SCHOFIELD: Gary Schofield, Las Vegas
21 Metropolitan Police Department, deputy chief of
22 professional standards division. I highly recommend
23 that Capt. Shawn Anderson be given this certificate.
24 He is doing a solid job within the department and he
25 is in charge of our office of internal oversight

1 which does a lot of the work with officer-involved
2 shootings and the DOJ so he's well deserved.

3 RONALD PIERINI: Thank you, Gary. Looking
4 for a motion.

5 TROY TANNER: Troy Tanner, I make a
6 motion. Actually, Shawn is a real good friend of
7 mine so I really want to make this motion.

8 RONALD PIERINI: Okay.

9 MICHELE FREEMAN: Michele Freeman, second.

10 RONALD PIERINI: Thank you. And Gary,
11 you're going to --

12 GARY SCHOFIELD: [INAUDIBLE 6:34:40]

13 RONALD PIERINI: Thank you. All in favor?

14 MULTIPLE VOICES: Aye.

15 RONALD PIERINI: Any opposed? So carried.

16 Thank you. We've got the certificate here. He is
17 not here so maybe Gary can get that to him.

18 GARY SCHOFIELD: I will, wonderful.

19 RONALD PIERINI: Thank you. Okay. We are

20 now going to 13. Discussion, public comment and for

21 possible action, hearing pursuant to NAC

22 289.290(1)(e) and revocation of Solomon Coleman,

23 formerly Las Vegas Metropolitan Police Department,

24 certification based on gross misdemeanor, convicted

25 of capturing an image of a private area of another

1 person. The commission will decide whether to
2 revoke Mr. Coleman's category 1 basic certificate
3 and, Mike, it is yours.

4 MIKE JENSEN: Okay. Thanks. Mike Jensen,
5 for the record. This time and place set for the
6 revocation hearing for Mr. Coleman. Just a reminder
7 that the interest where working under is 289.510
8 that provides for the commission to adopt minimum
9 standards for certification and decertification of
10 officers in the NAC 289, 290 that authorizes the
11 commission to revoke, refuse, or suspend the
12 certificate of a peace officer, in this case, based
13 on a gross misdemeanor conviction.

14 There are a number of exhibits in each of
15 your binders or electronically in front of you and
16 I'll just briefly go through those and ask that they
17 be admitted and made a part of the record in support
18 of any action that the commission may take today
19 with regard to this item.

20 Exhibit A, you will see is the amended
21 notice of intent to revoke. This is a notice that
22 was sent to Mr. Coleman informing him of the
23 commission's intent to potentially revoke his peace
24 officer's certificate based on that count that was
25 described in the agenda item, capturing an image of

1 a private area of another individual, a gross
2 misdemeanor. It was filed here in District Court in
3 Clark County. He was advised of his ability to
4 attend this particular meeting to present any
5 evidence and examine and cross-examine any witnesses
6 and. He was required of the requirement to inform
7 the commission within 15 days of the letter of his
8 intended action and it is my understanding that he
9 has not communicated with the commission with regard
10 to the intended action. The scope of the hearing
11 today is to determine whether his POST certification
12 should be revoked for a gross misdemeanor
13 conviction.

14 Exhibit D is the service document showing
15 that Mr. Coleman was served with the notice of
16 potential revocation or intent to revoke on August
17 24, 2016.

18 Exhibit C is the personnel action report
19 showing that Mr. Coleman was involuntarily separated
20 from his employment as a peace officer and that was
21 effective in December of 2011 -- of 2013. Under the
22 comment section, it states that there was an
23 involuntary separation when he was arrested on a
24 felony and three gross misdemeanor charges.

25 Exhibit D is the certified copy of his

1 category 1 basic certificate which is at issue
2 today.

3 Exhibit E is the certified copy of the
4 indictment which shows that Mr. Coleman was charged
5 with two counts of oppression under color of office,
6 a gross misdemeanor, capturing an image of a private
7 area of another in violation of 201.210 and two
8 counts of open and gross lewdness, a gross
9 misdemeanor and finally with indecent exposure, a
10 gross misdemeanor in violation of 201.220.

11 Exhibit F is a certified copy of the
12 judgment of conviction showing that Mr. Coleman was
13 convicted of Count 2 which was capturing an image
14 of the private area of another person, a gross
15 misdemeanor. It provides the factual basis and his
16 complaint was that -- in the indictment was that Mr.
17 Coleman did then and there willfully and unlawfully
18 knowingly and an intentionally capturing an image of
19 a private area of another person to wit the name has
20 been excluded, because I believe it is a juvenile,
21 without their consent and under circumstances in
22 which that person had a reasonable expectation of
23 privacy by recording videos from that individual
24 cell telephone which included images of her exposed
25 breasts and genital areas. He was sentenced to six

1 months in the Clark County Detention Center. That
2 was suspended and he was placed on probation for an
3 indeterminate period, not to exceed two years, with
4 standard terms and conditions which include things
5 that disqualify him from being able to act as a
6 peace officer like having no association with
7 someone on probation or who has been convicted of a
8 felony.

9 The evidence shows Mr. Coleman was
10 convicted of that gross misdemeanor charge that
11 arose out of his activities as a peace officer in a
12 peace officer capacity. Clearly, these are serious
13 criminal activity that's inconsistent and
14 incompatible with him being placed in a position of
15 a peace officer and violates the public's trust that
16 is placed in peace officers and, based on that
17 evidence, I would recommend that Mr. Coleman's basic
18 certificate be revoked.

19 RONALD PIERINI: Again, the exhibits are
20 also accepted and I'd like to ask is there anybody
21 in the audience for Mr. Coleman or anybody accept
22 that are there to make a topic on it or talk about
23 it? Nobody? Okay. I'm seeing none.

24 All right. Do we have any comments or any
25 kind of questions that our commissioners have? All

1 right. I'm looking for motion.

2 UNIDENTIFIED MALE: I'll make a motion.

3 RONALD PIERINI: All right. Gary, would
4 you like to say anything? I'm sorry.

5 GARY SCHOFIELD: No. I'm just
6 representing the Las Vegas Metropolitan Police
7 Department. This is Gary Schofield, Deputy Chief.
8 We would recommend highly to the Commission that
9 this certification be revoked from this individual.

10 RONALD PIERINI: Okay. Thank you, Gary.

11 KEVIN MCKINNEY: Kevin McKinney. I'll
12 make a motion that we revoke his certification at
13 this time.

14 RONALD PIERINI: Thank you, Sir.

15 UNIDENTIFIED MALE: Second.

16 RONALD PIERINI: I have a second. All in
17 favor?

18 MULTIPLE VOICES: Aye.

19 RONALD PIERINI: Okay. So approved.

20 Thank you. One more to go.

21 MIKE JENSEN??: All right. I promise.

22 It's the last one.

23 RONALD PIERINI: Okay. We are on 14.

24 This is, again, discussion, public comment, and for
25 a possible action. Hearing pursuant to NAC 289.290

1 180, again, Saverio Scarlata. How do you say that?

2 UNIDENTIFIED MALE: I don't know.

3 RONALD PIERINI: S-A-V-E-R-I-O and then S-
4 C-A-R-L-A-T-I, II, formerly of the Mineral County
5 Sheriff's Office, certification based on a
6 misdemeanor convicted of false report by a peace
7 officer, public officer, I should say. The
8 commission is -- we will decide whether or not to
9 revoke his category 2 -- 1 basic certificate. Mike?

10 MIKE JENSEN: Mr. Chairman, again, we are
11 proceeding under the same authority that we stated
12 on the last item, interest 289.510 and 289 -- NAC
13 289.290. This is again a gross misdemeanor
14 conviction. The exhibits that I would present are
15 in your binders and I would present those today and
16 ask that they be admitted and made part of the
17 record in support of any action that might be taken
18 by the commission.

19 Exhibit A is amended notice of intent,
20 again, informing Mr. Scarlata of the -- this
21 intended action. At the time and place of this
22 particular hearing, the conviction that any action
23 be based on the legal requirement that he inform the
24 commission within 15 days of his intended action
25 which I understand there has been no communication

1 with the commission on the intent to appear today
2 and the scope of the hearing, his ability to present
3 a witness and cross-examine any witnesses.

4 Exhibit B is certified copy of the
5 declaration of service showing that he was served
6 with that notice of intent on October 19, 2016. The
7 commission, therefore, has complied with the legal
8 notice requirements.

9
10 Exhibit C is the personnel action report
11 showing that Mr. Scarlata was terminated from his
12 employment as a peace officer effective August 12,
13 2014.

14 Exhibit D is Mr. Scarlata's category 1
15 basic certificate.

16 Exhibit E is a certified copy of the
17 criminal complaint charging Mr. Scarlata with
18 unlawful taking of a controlled substance, a
19 category C felony, a false report by a public
20 officer, a gross misdemeanor, and violation of a
21 temporary restraining order for protection against
22 staling and harassment, a gross estimator.

23 Exhibit F is a certified copy of the court
24 information charging Mr. Scarlata with one count of
25 false report by a public officer, a gross

1 misdemeanor, in violation of NRS 197.130. In that
2 information, it alleges that Mr. Scarlata, on or
3 between the 2nd and 6th days of August of 2014 in
4 Mineral County and while employed as a Mineral
5 County Sheriff's Deputy, did knowingly make false or
6 misleading statements in an official report or
7 statement to which -- to wit that Mr. Scarlata did
8 report to his superiors and/or investigators from
9 the Department of Public Safety that he suspected
10 that an individual by the name of Madley Holts was
11 stealing prescription drugs of an inmate from the
12 Mineral County Jail which he knew to be false
13 statements.

14 Exhibit G is a certified copy of the
15 guilty plea agreement where Mr. Scarlata has agreed
16 to plead guilty pursuant to offer to making a false
17 report to a public officer, a gross misdemeanor.

18 Exhibit H is a certified copy of the
19 judgment of conviction showing that he was, in
20 fact, convicted of the offense of making a false
21 report by a public officer, a gross misdemeanor.
22 The court then sentenced Mr. Scarlata to
23 imprisonment in the Mineral County Jail for a term
24 of 364 days which was suspended, placed again on
25 probation, as the previous case, with the usual

1 terms and conditions including not misusing
2 prescription drugs or being in any establishments
3 where alcohol is served except for employment.

4 Mr. Chairman, I would ask that exhibits A
5 through H be admitted into evidence in support of
6 any action taken today.

7 RONALD PIERINI: They are accepted.

8 MIKE JENSEN: The evidence in this case
9 shows that Mr. Scarlata was convicted of a gross
10 misdemeanor by making a false report as a public
11 officer. Again, this is a very serious activity.
12 It appears that the activity occurred in his
13 capacity as a peace officer where he appears to be
14 making an allegation against a fellow officer about
15 stealing prescription drugs, very serious
16 allegations and conduct that he has been convicted
17 for and is a clear violation of the public's trust
18 in him as a peace officer and, based on the
19 information submitted, I would recommend his POST
20 certificate be revoked.

21 RONALD PIERINI: Thank you, Mr. Jensen.
22 Anybody in the audience that would like to make a
23 comment? Okay. Seeing none, looking for motion.

24 JAMES KETSAA: Jim Ketsaa for the record.
25 I make a motion that the POST Commission revoke.

1 RONALD PIERINI: Thank you, Sir. Second?

2 TROY TANNER: Troy Tanner, second. He
3 couldn't even finish his motion you're in such a -

4 JAMES KETSAA: I haven't even made a
5 motion all night and I get cut off.

6 RONALD PIERINI: All right. We can start
7 all over.

8 UNIDENTIFIED MALE: No.

9 RONALD PIERINI: I think we're all ready
10 to go. I apologize. My hearing is limited at best
11 and that's a long ways from me. Okay. All in
12 favor?

13 MULTIPLE VOICES: Aye.

14 RONALD PIERINI: Anybody opposed? So
15 carried. Public comments. Anybody out in the
16 audience that would like to make any type of
17 comments on any items that was decided, what we
18 have done on the items? Okay. Is he standing up to
19 come up and make a comment. No? Okay. Cool. All
20 right. How about we schedule for the next meeting.
21 Do we even have any ideas on that?

22 MICHAEL SHERLOCK: Chairman,
23 traditionally, we have a meeting late in February,
24 early March, considering that we may have continuous
25 of one agenda item. We are suggesting February 23.

1 We want to -- staff wants to make sure that we can
2 get a quorum and -- for that date so we will put
3 something out in an e-mail. Again, February or
4 March is usually up North at POST.

5 RONALD PIERINI: Okay. Thank you. Of
6 course, we'll notify -- we will get notified. And
7 actually we're going to find out what kind of agenda
8 we have too. That's always an important thing.

9 UNIDENTIFIED MALE: Will there be snow on
10 the ground and stuff:

11 RONALD PIERINI: Yes.

12 MICHAEL SHERLOCK: We hope so.

13 RONALD PIERINI: Okay. Discussion
14 probably coming for adjournment. Do I have anybody
15 that wants to make a motion to adjourn?

16 MIKE JENSEN: Make a motion to adjourn.

17 MICHELE FREEMAN: Second.

18 RONALD PIERINI: All right. Thank you.

19 [MEETING IS ADJOURNED AT 6:48.]

20 [END OF AUDIO]

21

22

23

24

25