

1 STATE OF NEVADA

2 COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

3
4 A Regularly Scheduled Meeting of the Commission
5 on Peace Officer Standards and Training was held on Monday,
6 February 22nd, 2021 commencing at 10:03 a.m. at 5587 Wa Pai
7 Shone Avenue, Carson City, Nevada.

8
9 COMMISSIONERS:

10 Jason Soto, Chairman

11 Kelly McMahonill

Ty Trouten

12 Kevin McKinney

George Togliatti

13 Michael Allen

Tim Shea

14 Rhonda Adams

Russ Niel

15
16
17
18 STAFF:

19 Kathy Floyd, POST

20 Mike Jensen, Attorney General's Office

21 Mike Sherlock, POST F

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23 TRANSCRIBED BY: Janovia Harris

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1 PROCEEDINGS

2 CHAIRMAN SOTO: Good morning. Chief Jason Soto. I'm
3 going to call this meeting to order it. It is February 22nd,
4 2021 at 10:03 hours. I'm going to now turn this over real quick
5 to Kathy Floyd for information on legal postings and open
6 meetings compliances.

7 KATHY FLOYD: Good morning. This meeting has been posted
8 in compliance with NRS241.020. It's physically been posted at
9 the POST administration here Carson City, Carson City Sheriff's
10 Office in Carson City, Elko Police Department in Elko, Las Vegas
11 Metropolitan Police Department in Las Vegas and it's been
12 electronically posted at post.nv.gov and notice.nv.gov.

13 CHAIRMAN SOTO: Thank you very much. For now, I'll go
14 ahead and do a roll call. I'll start with myself. Jason Soto,
15 Reno PD, and onto the next Sheriff Mike Allen.

16 SHERIFF ALLEN: I'm here.

17 CHAIRMAN SOTO: Chief Ty Trouten.

18 CHIEF TROUTEN: Present.

19 CHAIRMAN SOTO: Chief Tim Shea.

20 CHIEF SHEA: I'm here.

21 CHAIRMAN SOTO: Chief Rhonda Adams. You on Chief Adams?

22 CHIEF ADAMS: Yes, I am. I didn't know if the phone was
23 saying that if it was an automated system or not. So
24 sorry.

25 CHAIRMAN SOTO: No worries. We got you. Chief Russ Niel.

1 CHIEF NIEL: Here.

2 CHAIRMAN SOTO: Director George Togliatti.

3 DIRECTOR TOGLIATTI: Here.

4 CHAIRMAN SOTO: Chief Kevin McKinney.

5 CHIEF MCKINNEY: Here.

6 CHAIRMAN SOTO: Chief Kelly McMahill Okay. All right. It
7 looks like everybody's here minus one, and we're going to go on
8 to Item Number 1, Discussion Public Com -- Oh, wait, no, I'm
9 sorry. We also have one recognized, from POST. So, we have Mike
10 Sherlock from POST and Kathy -

11 MIKE JENSEN: and Mike Jensen with the Attorney General's
12 office.

13 CHAIRMAN SOTO: Alright, so we got POST here. We're
14 covered. Item Number 1, Discussion, Public Comment, and For
15 Possible Action. Approval of minutes from the November 17th,
16 2020 regularly Scheduled POST Commission Meeting. Are there any
17 comments from that meeting from any of the commissioners? Any
18 public comments? Seeing as though there's none, I'm looking for
19 a motion to approve the minutes.

20 CHIEF MCKINNEY: I make a motion to approve the minutes
21 from the November 17, 2020 commission meeting.

22 CHAIRMAN SOTO: We have a motion from McKinney. Do I have a
23 second?

24 SHERIFF ALLEN: Mike Allen, I'll second.

1 CHAIRMAN SOTO: A motion and a second, all those in favor
2 say aye.

3 COMMISSIONERS: Aye.

4 CHAIRMAN SOTO: Opposed?

5 CHIEF MOLINA: Louis Molina.

6 CHAIRMAN SOTO: Thanks Chief, we got you. Okay. Motion
7 carries unanimously. Item Number 2 Executive Director Report.
8 I'm going to turn it over to Mr. Sherlock.

9 MIKE SHERLOCK: All right, just real quick, just a
10 quick, short update. Mike Sherlock for the record, what's going
11 on with POST, in our training division we are now in our third
12 Academy class since the beginning of the pandemic. Of course,
13 we're utilizing all the virus protocols that are recommended and
14 so far, knock on wood, we've only had one positive test. No
15 symptoms over the course of three Academy classes. Our goal is
16 to get these new officers through basic training and back to
17 their agencies and communities where they're needed most. Over
18 on training, we do have now scheduled management, supervisor,
19 and basic instructor development classes for the year. These
20 fill up quickly and can be found on our website. Again, our goal
21 is to get these scheduled and available, on a regular basis. We
22 really have seen demand increase in those areas and we're trying
23 to keep up. In the standard division with the pandemic and now
24 the legislative session we're seeing extreme delays in getting
25 our new regulations back, but hopefully those will come soon.

1 We'll be able to present them. We are currently sending out
2 notices of non-compliance for those officers who we show have
3 not completed their annual maintenance training. Right now,
4 believe it or not, we have about 240 officers statewide that we
5 show is out of compliance from about 15 different agencies. Now
6 you know the fact that we show that they're out of compliance
7 doesn't necessarily mean they haven't done the training. They
8 just haven't reported to us. Probably, the most frustrating for
9 us is we currently ask employing agencies to serve the non-
10 compliant employees. Just today we have a few of these back to
11 us, these serving of their noncompliance, where the agency says
12 they're unable to serve the employee. Frankly, if the employer
13 doesn't know where their peace officer employee is, I'm not sure
14 how POST can find them, but we're working on that at this point,
15 and hopefully we'll get there in terms of compliance. At this
16 point, we will likely look at the July meeting to address any
17 remaining out of compliance officers at that point. And of
18 course, we're taking into consideration the pandemic and those
19 sorts of things but, hopefully we'll get there. In terms of the
20 legislative session, we are tracking a whole host of bills. I
21 will try to keep the commissioners up to date on those bills
22 that directly affect POST, just for your own information in any
23 way. And that's about it for POST.

24 CHAIRMAN SOTO: All right. Any comments from any
25 commissioners on the report? Any public comments? Okay. We're

1 going to move on to Item number 3, Discussion, Public Comment,
2 and for Possible Action Discussion on Hiring Certifying and
3 Annual Training Requirements for Command and/or Executive Level
4 Staff. I'm going to turn this over to Mike Sherlock for an
5 explanation.

6 MIKE SHERLOCK: Mike Sherlock for the record, So, this
7 seems to come up quite regularly. We have again, had a few
8 inquiries regarding the hiring, via our reciprocity, process of
9 command level staff for agencies. The biggest issue seems to be
10 the physical fitness test. And, at least in these agencies mind
11 the ability to bring on those who they believe to be the best
12 candidate, despite the fact that they can't pass the PPFT
13 physical fitness test. And of course, they don't want to send
14 them through a full basic Academy. I know in prior commissions
15 makeup, that the commission has been reluctant to forego in any
16 way the PPFT requirement. So as a result, I've often said that
17 if an agency truly believes that person is in necessity, one
18 option is to bring them in as a non-peace officer. That said,
19 our current certificate structure includes a requirement to
20 demonstrate the physical ability to complete those critical
21 tasks that were identified for each category of peace officer in
22 the state of Nevada. So, when we were looking at certification,
23 we were saying at the moment of certification, that peace
24 officer has the ability to handle those critical physical tasks.
25 If the commission is interested in creating a system or one

1 person must demonstrate that ability and receive a basic
2 certificate and another applicant doesn't have to demonstrate
3 that, then clearly that would be detrimental to the integrity of
4 our certification process. Now, I will say some States do have a
5 two-tier system. Though, if we went that way would certainly
6 increase staff workload and I would leave that to the commission
7 to consider, but understand, I believe that if we're, if we're
8 able to maintain the integrity, we would need a validation study
9 for critical tasks that make in the arena of command staff and
10 develop a test that, meets that validated study and at that
11 point, then we would need a certificate that is specific to
12 command staff and would prohibit that person from moving, say
13 from command staff to patrol at a different agency, which of
14 course is our issue right now. If we issue someone a basic
15 certificate, they can go work any position that's a peace
16 officer position in the state, and that's our concern from
17 staff's perspective. So, I know this was just something that
18 some had asked to have on the agenda for discussion, and I'll
19 leave kind of that background and leave it up to you Chief, for
20 any comments.

21 CHAIRMAN SOTO: Thank you, Mr. Sherlock yeah, I know
22 this is something that I know we've had discussions on in the
23 past and I think that there's some challenge, that has been
24 expressed by different agencies in terms of, really, it kind of
25 comes down to the state of policing today and all the change and

1 over the turnover that you're seeing at not only line level in
2 policing, but also in executive staff a lot of people moving
3 around and one specific case that was brought to my attention
4 was somebody who had a good 25 to 30 years in law enforcement,
5 but he didn't have the reciprocity because he had been dormant
6 for quite some time. We wanted to look at one of our agencies in
7 our state and there were some challenges there in terms of what
8 the requirements were. Now I'm not here to just to speak for or
9 against it. I'm just saying, I know that there's some challenge,
10 especially when you're talking about executive level positions.
11 To get them to go to an Academy or some type of setting like
12 that seems a little bit ridiculous when you've got 30 years of
13 exemplary service behind you. I just don't know what the answer
14 is. I thought I'd bring it to this board and see what their
15 thoughts were. And anybody wants to weigh in on that? Feel free.
16 Because I'm sure it's much different in a city setting than
17 maybe a rural setting or vice versa. So, I wanted to get some
18 thoughts of some of our commissioners to see what their thoughts
19 were on that.

20 SHERIFF ALLEN: This is Mike Allen for the record, I know
21 that even if I take a lateral entry level or a lateral
22 applicant, I still mandate that they pass the physical agility
23 part of the POST standards. Number one, we've all been in this
24 business now a long time and we've all seen those ones, people
25 that can barely get in and out of a car, and all of a sudden

1 what happens is now you're getting insurance claims levied
2 against you because they can't get in and out of the car because
3 of back issues or whatnot. So, I make sure they even can pass
4 the physical agility part of that. I'm just thinking, I guess
5 for myself, if I brought a command level person in, would I
6 expect that they be able to forego some of this. Academically, I
7 think is one thing, but I think the physical agility would be
8 something else. Just thinking off the top of my head right now,
9 would they be able to if they had to take some sort of
10 enforcement, make it through that, that type of activity? I
11 think, I don't have a problem with the academics as much as I do
12 as a physical part of the job.

13 CHIEF SHEA: Tim Shea here. From a person that came from
14 out of state and had to come here and take the physical agility
15 test, I don't think anybody's taken it. I was over 60 when I
16 took it and passed it. So, I'm not looking at it from the
17 standpoint of somebody who couldn't pass it, but somebody who
18 did, and as I look at executive positions around the country,
19 rarely have I ever seen a requirement that you pass our state's
20 entry-level test for line level police officer, when you're
21 going to be the chief of police. If you're going to get hired in
22 Oakland, California, I don't believe you have to go and run
23 around a track and do pushups and sit-ups. And, I think that we
24 should take a look at what we're really hiring and why would we
25 require someone who's going to run? Reno police department from

1 out of state have to run around a track because in most of these
2 departments, you're not going to see the chief of police out
3 there doing law enforcement activity and he's coming from a
4 place where he's been doing law enforcement activity, and it's
5 no different than an internal person who hasn't taken a physical
6 agility test in 35 years. So, why does the outside person have
7 to take it? And the inside person does not? I don't see what
8 value we get. We're looking for people to run agencies, not
9 people to go out and push patrol cars around on the street. And
10 I think, from a person has had to let people go from the process
11 because they couldn't, they missed a run by a second, one
12 second, it seems crazy to me that we dumped people out because
13 they couldn't do one thing at a hundred percent because there is
14 no way to have anything less than a hundred percent. Everything
15 must be a hundred percent.

16 CHAIRMAN SOTO: One of the challenges that was brought
17 to my attention in addition to some of the discussion that we've
18 had here today, and maybe Mr. Sherlock can shed some light on
19 it, is the time. So, if an agency goes with an outside hire and
20 he, or she doesn't meet reciprocity and we have to get them up
21 to speed, so to speak, the time to do that in an Academy setting
22 is pretty extensive, and are those same requirements in place
23 for an executive? I guess that's -

24 MIKE SHERLOCK: Mike Sherlock for the record, so, we're
25 talking two different things here. So, if they've been out of

1 policing for more than 60 months, it's as if they were never in
2 policing, right? So, they would have to go back to a basic
3 Academy under our current rules. In terms of the PPFT that's a
4 reciprocity issue where they must pass our physical readiness
5 test as part of the reciprocity. Understand they have to pass it
6 either way. You'd have to pass it inside of an Academy or
7 outside the Academy when you do reciprocity. So, there's two
8 things that I would say Chief Shea is the easiest way for me to
9 put this, is we have jurisdiction over those that exercise peace
10 officer powers. If this position is not exercising peace officer
11 powers, there's no reason for POST to get involved from my
12 perspective. On the other hand, understand that that our
13 certificates are a certificate that's issued, in terms of PPFT,
14 based on at the moment of that certificate, they have the
15 physical ability to complete the critical tasks that were
16 established in a validated study. I would just caution that. I
17 don't want to put us in a position where that validated study
18 doesn't apply, but again you could certainly create a two-tier
19 system if that's the way you want it to go. Which again, some
20 States do have. You talked about California. There is a physical
21 component in California for command staff, and it is different
22 than line level. That is true. But again, it's based on
23 validated studies for that position in terms of what those
24 critical physical tasks may be for that position. So, I'm
25 suggesting that if we went that way, we would have to do some

1 sort of validated study. Because again, if you issue someone a
2 basic certificate without completing those requirements, again,
3 I think it affects the integrity of our whole process, and we
4 won't know if that person moves from your deputy chief position
5 to a patrol officer in Elko, and yet they have not met that
6 physical, demonstrated that physical ability to complete the
7 critical task of a patrol officer say or CAT I. So, that's our
8 concern as staff is that we don't, in any way affect the
9 integrity of that certification process.

10 CHIEF SHEA: Yeah. I understand Mike. My deal is with
11 this is that all of these people that we have to hire in these
12 executive positions all have to go through medical screening and
13 the medical screening process can have some things placed into
14 it. The POST physical, the heart and lung physical, we take
15 every year is fairly extensive and it's two days, and they test
16 virtually everything. And I don't know where we gain anything
17 from a guy who's going to come and head an agency having to go
18 and run around a track versus that medical, because he's already
19 a police officer. At some time in his career, I would assume
20 he'd already passed a physical agility test to become a patrol
21 officer or deputy sheriff. Now, 30 years later, he's going to go
22 run an agency. He's got to take a physical fitness test. He's
23 already certified in another state, but a person in this state
24 who took the test 35 years ago doesn't, and he could be grossly
25 out of shape, and all he's going to get is a medical screening

1 by his hiring agency. So, I don't know why we need to keep it in
2 place for something that's going to go and run an agency.
3 They're not going to go and work patrol. I understand on patrol,
4 I don't have any issues with the patrol part of it, but
5 executive leadership I think is a whole different -- and we were
6 cutting out quite large numbers of people over this physical
7 agility test. I'm it's happened to me twice here trying to get
8 people.

9 CHIEF TROUTEN: Ty Trouten for the record, I understand
10 Chief Shea's concerns, but I think it's absolutely about the
11 executive leadership aspect. We preach nationally with law
12 enforcement about the need to stay in shape, the benefits of
13 stress reduction, the benefits for being able to handle the
14 tasks at hand and not resort higher uses of force. From my
15 perspective, I see it as a leadership issue and that's -- how do
16 you expect your rank and file, the guy who hasn't passed the PT
17 test in 35 years to give at any credence if they know that well,
18 once you reach a certain point, it's not even critical. I guess
19 I'm, on the other standpoint, I would love to see a yearly PT
20 requirement. Even if it's a graduated through age and so forth,
21 just to have that expectation. I also think back to a couple,
22 Items that were before this board and last roughly year where an
23 undersheriff was petitioning for an extension to meet the
24 requirements for the PT test, and it was because of they were
25 shorthanded. Well, when it was all said and done at 18 months,

1 that individual still couldn't do it because that individual had
2 not put forth any effort to prepare themselves to get in shape.
3 And so, I'm a firm believer that if you're going to be an
4 executive leader, you need to lead by example. I also think if
5 your dedication is to be that leader pay the price, it is not a
6 high standard on this physical fitness agility, or the entirety
7 of the test. So, if they can't do it on the physical side, I'm
8 not sure how they're going to do it on the mental or the
9 leadership side either. I guess I'm in favor of keeping it as
10 is.

11 MIKE SHERLOCK: Mike Sherlock for the record, and I may
12 have hijacked this into PPFT. Because, I think some of the
13 issues you had were more about the five-year issue.

14 CHAIRMAN SOTO: Well, it wasn't an issue. It was
15 something that was brought to the attention and here's where I'm
16 going, if I have interest in hiring outside of my own agency,
17 and I'm only bringing this up because it's happening more and
18 more. It just is. Around this nation it's happening more and
19 more, and if I bring somebody in from (inaudible) from another
20 jurisdiction and they don't have, or maybe they're six years out
21 and so they don't have that five-year. So, what you're saying is
22 they would have to have a new Academy under their belt to be
23 recognized as a peace officer in Nevada. So, then my question
24 is, if that's the case, can I, or anybody else as a chief or
25 sheriff, give them that training, I suppose, in a different type

1 of setting and not put them in a classroom for six months when I
2 need them in another capacity.

3 MIKE SHERLOCK: Mike Sherlock, for the record, so, we'd
4 have to look at that. Currently, there is no other way to do
5 that. It's a minimum of 480 hours, which is not high threshold
6 and I think the regulation requires that it'd be one continuous
7 program. So, currently there's probably a way to do that we
8 could have. That an agency could submit for certification and
9 in-house Academy that meets that current structure. Yes. It
10 would have to meet those minimum.

11 CHAIRMAN SOTO: Similar to how we do a lateral Academy
12 now. It's not in that exact same Academy setting. It's more, in-
13 house specific to whatever agency it is that's hiring that
14 lateral, at least in the city of Reno, it is. And it's tailored
15 to those recruits that we're trying to get out in an expeditious
16 fashion.

17 MIKE SHERLOCK: Yeah. Again, Mike Sherlock record,
18 unless the commission changes it as long as it fits those. So,
19 it has to be a minimum 480 hours has to be continuous. They have
20 to pass for instance, the PPFT within 16 weeks. If it meets all
21 those things, yeah. You could create your own executive Academy
22 and handle it from that perspective without changing the current
23 regulations from our perspective.

24 CHAIRMAN SOTO: Any other input from any of our
25 commissions?

1 MIKE JENSEN: Can I just, this is Mike Jensen,
2 maybe just weigh in real quickly on this, because it is an issue
3 that's been around for a long time in terms of just dealing with
4 the physical standards. I was here when the bill was passed to
5 get the funding, to do the original validation study several
6 years ago. Prior to that, we, the commission had to borrow from
7 other States and we were in a pretty difficult position from a
8 legal defensibility standpoint. And that's what I would add to
9 this discussion. It's just that perspective of defensibility
10 when you, as a commission start to move away from the
11 validation, validation creates other ways to become certified.
12 It undermines it. And let me just give you an example. I mean
13 we're involved in litigation right now, with an individual down
14 in Las Vegas who doesn't believe that they should have to pass
15 the physical standards, and our validation study is a key piece
16 of evidence in that case, supporting the ability to have a
17 standard at the state level for physical standards for peace
18 officers. Where the arguments are, a lot of what you hear, which
19 are what? You have to run it a certain distance at this certain
20 time. That makes no sense. You don't do that out in the fields.
21 That doesn't relate to it. Well, the reality is when the
22 validation was done, it is related to it. I mean, the whole
23 standard is designed to be correlated to and predictive of,
24 that's the legal standard. The ability to do the, the essential
25 functions of a peace officer. That's what those standards are

1 designed for, even though it doesn't seem like it sometimes when
2 you say you have to do so many pushups or some other task. But
3 that is what it's designed for, to be able to show that you can
4 perform those at a minimum level. We're not talking about the
5 best out there. We're just talking, we had to set it at the
6 lowest level possible to be able to show that you can perform
7 the essential functions of a peace officer and I would just add
8 that to the extent that that you're looking at lessening it, or
9 even doing away with that when it comes to requiring someone who
10 might be doing peace officer duties, that's going to potentially
11 undermine your ability to uphold it. And all the other areas
12 that you can say it is critical, you know, to have those, those
13 standards for certification. So, I would just throw that out
14 there that from a legal standpoint, and, in addition to that,
15 you have liability issues outside of all the ADA and Title 7
16 stuff that goes along with validation. Being able to support if
17 you were sued under those statutes, you just have the idea of
18 what are our critical functions, and if you don't train officers
19 to be able to perform those, you can have just the liability on
20 a negligence, kind of a standard if you're not training to that
21 level or a civil rights standard, if it's like a deliberate
22 indifference to things that are critical. So, those are just my
23 couple of thoughts. This does come up and I totally understand
24 the concerns, not as well as you guys. You're the experts, but
25 they come up over the years and in the end, formally the outcome

1 has been that the validated standards are important enough to
2 maintain and to not start creating exceptions to those.

3 SHERIFF ALLEN: It's Mike Allen, for the record, I have
4 one question, for the Director or Mike Jensen. So, in order for
5 us to change any of these, if we had to, is that a BDR? Could we
6 even do this by anything?

7 MIKE SHERLOCK: Yeah. Most of it's regulatory.

8 MIKE JENSEN: Yeah. In terms of the answer to budgetary
9 questions, I can't really answer it, but if you change to a
10 different physical standard, the only way they could be valid
11 from a defensibility standpoint is to have a validation study
12 done or borrow from another state, which is a very low level of
13 defensibility, and I would hate to go back there. It's just an
14 uncomfortable place to be when you don't have the backing of a
15 good study to support it, and those do cost money.

16 MIKE SHERLOCK: Yeah. Mike Sherlock for the
17 record, they definitely do, and it depends what you're talking
18 about. Most of what we've been talking about is regulatory. So,
19 it is under your purview as the commission, whether it's the
20 number of hours and that kind of thing that we do currently,
21 that's a commission issue.

22 MIKE JENSEN: That's right. Yeah. In terms of the
23 reciprocity and the number of years at which it would cut off
24 and you'd have to go to a base. Those are all regulatory items
25 that can be changed through regulation.

1 CHAIRMAN SOTO: For the record Chief Soto, those are
2 all valid points, and that's important that we understand the
3 history of what we're talking about here. I was just looking
4 at, and I haven't been faced with this, but I know other chiefs
5 and sheriffs have, in terms of not bringing somebody in from,
6 somewhere else. It sounds like right now, there isn't a
7 mechanism in which we would be willing to lower whatever the
8 standards are that we have in place right now. I understand that
9 and I understand that Nevada POST is viewed in terms of being
10 ahead of the curve and not behind the curve, in terms of
11 maintaining and making certain that our officers are trained and
12 ready to hit the street when they meet those requirements. I
13 just wanted to see if there was a way where I, as a Chief of
14 Police, I wanted to bring somebody in, if I could find some type
15 of Academy. It just seems a little odd to me that I have a
16 30year veteran that's coming in and he's going to sit through an
17 Academy with a bunch of recruits for several months. Now, I'm
18 not saying that's right or wrong or indifferent. I'm just saying
19 it might pose a challenge. Sounds like there's a work around to
20 that, but it would have to meet the requirements that we have in
21 place for the basic certification. Any other comments from
22 anybody or questions?

23 CHIEF MCKINNEY: Kevin McKinney for the record, I
24 remember several years back Claire Morris, who was a board
25 member, he had retired. He'd been out more than five years. He

1 came back, attended the full Academy. After he completed the
2 Academy, I spoke to him about it, and he did mention that it
3 felt like somewhat of a waste of time. Because there was a lot
4 of basic stuff that he had attended back in the seventies when
5 he was originally at the Academy. But by the same token, he
6 understood why they did it because in 30 years or maybe even
7 longer, quite a bit had changed and, if he had been out of
8 state, I believe he would have gained more value out of it. Out
9 of the Academy because of different Nevada law, different Nevada
10 practices, things like that. So, I think there is a necessity
11 for an out of state police officer to attend some sort of Nevada
12 Academy when they come here. I don't know if we have to attend
13 this. Again, I'm talking, I believe there could be some changes
14 or some give and take. I'm not sure if some of these categories
15 would really apply to an executive level position, but I think
16 there might be a workaround that we could probably achieve. As
17 far as the physical fitness part, I think that's a separate
18 argument regarding what Chief Soto brought up, but I'm seeing
19 more. I remember, I think it was 2015, the FBI instituted the
20 annual requirement to pass their physical fitness test
21 (inaudible). I know that's still going on. So, I'm thinking
22 that at some point in the future that may become mandatory, that
23 everybody passes it annually. So, I think it may be coming, I
24 don't know.

1 CHAIRMAN SOTO: Yeah. Chief Soto for the record, I
2 tend to agree with that. Like I said, I'm not arguing it one way
3 or another. Physical fitness portion, I understand that there's
4 a certain bar that we set in terms of conditioning. I think it's
5 important that we're all healthy. Chief Shea's made some valid
6 points as well, because it's kind of a weird standard if you
7 will, because you have some people that are certainly not as fit
8 as somebody that might be. It's just a weird way that we manage
9 that, but I understand that some of the restrictions we have in
10 terms of getting somebody else in. The part that I'm going to
11 put some more thought into and talk with some of our
12 commissioners, is that the academic piece, the 480 hours, that
13 we put forward. As McKinney was saying earlier is it's just
14 really different depending on whether you're a city chief,
15 whether you're an elected official. There's just different
16 things but, I agree if you're out of the business for 20, 30
17 years, there's probably a lot of things that you can learn by
18 getting some of that basic instruction. So, I know it's a
19 confusing subject and that's probably why it's been in front of
20 this commission before. But I thought it would be a good idea
21 that we bring it back to this discussion because we are seeing
22 so much shift and change and so much retirement occurring in our
23 profession. I think that we need to be a little bit progressive
24 in at least looking at this and seeing how we can benefit, so
25 I'll put this back on Mike Sherlock in the future is to look at,

1 just some type of, and maybe you and I can talk about some type
2 training for executives and maybe this is the 480 hours and they
3 do have to hit every category. But, I think there's a more
4 proficient way of doing it to where I don't lose out on some of
5 the benefits that I would have from somebody that I might need
6 at some capacity if they're not recognized as a peace officer
7 until that time.

8 MIKE SHERLOCK: And Chief, Mike Sherlock for the
9 record, what we could do also is survey other States and see
10 exactly how they handle this issue. I know there's different
11 ways that other States handle it. Some are just like us, but I
12 know others have a system to allow for that. And we can look at
13 what they do.

14 CHAIRMAN SOTO: And I respect the input that we got
15 from Jensen too. Like we've looked at this before and there's
16 liabilities. We have a way to defend that right now, and I don't
17 want to jeopardize that. That's if that's what we would have to
18 do, then I'm personally uninterested in it. I don't know about
19 the rest of the commissioners. But, I know that there's a way we
20 can meet those expectations. Any other comments from any of our
21 commissioners?

22 CHIEF SHEA: Tim Shea here, one thing I just thought of
23 as you were speaking is we do have the POST in lieu course,
24 that's online and of course that's for everybody, doesn't matter
25 what, perhaps there's something that could be done that would

1 make an executive POST and lieu course that you do online. I
2 know our reserve Academy is virtually all online. Now, maybe
3 there is something we can take a look at that would be more
4 appropriate to bring people in the level that Chief's talking
5 about.

6 MIKE SHERLOCK: Yeah, Mike Sherlock for the record, I
7 mean, it's certainly something we could look at. Again, I think
8 looking at whether what other States do could be instructive.
9 Again, I'm with Mr. Jensen. I think we have to be very careful
10 about a two-tiered system, but again, I'd be interested in what
11 other States do. Chief McKinney brought up Clair Morris, which
12 is a good example. He was out for six years, I believe, and he
13 came before the commission at that time and asked that to get
14 that waived and of course they didn't, which forced him to go
15 through the Academy. And just from our perspective here, when he
16 did that it was really good for the Academy class. Maybe it
17 wasn't great for him, but he became the leader of that class.
18 And by the way, I think Clair was 60 at the time in that range,
19 and he was the number one, physical fitness recruit for that
20 class, interestingly enough. I know you wish everybody, that
21 applied had that physical fitness, but just as an example, he
22 told us afterwards that he thought in a lot of ways as Chief
23 McKinney had mentioned, that it was good for him to go through,
24 and just to give you a little bit of history on that five-year
25 rule, that is a very generous rule. If you look across the

1 country most states are between two- and four-years maximum
2 outside of police work before you have to return to basic
3 training. So, it's a fairly generous rule, but I get with
4 today's world what's going on, and I think at the time when that
5 regulation was adopted the feeling was 60 months outside of
6 police work was long enough any more than that your knowledge
7 base is declined, and that's why they came up with the 60
8 months, but just to give you a perspective, other states it's
9 usually as much shorter than the 60 months we give.

10 CHAIRMAN SOTO: All right. Any other comments from any
11 of our commissioners on this? I appreciate the discussion and we
12 will continue discussion offline moving forward. Okay. Item -- I
13 should check. Do we have any other any comments from our
14 commissioners further, any public comments? Okay. Moving on Item
15 Number 4 Discussion Public Comment and for Possible Action.
16 Discussion and Update on Legislative Bill AB 111, which proposes
17 changes to the commission structure or operation. I'm going to
18 turn this over to Mr. Sherlock for an explanation/update. Thank
19 you.

20 MIKE SHERLOCK: Mike Sherlock for the record, so,
21 several of you asked that we discuss AB 111 real quick. So, this
22 bill in the original form, at least from my perspective and
23 those who wanted it on the agenda is sought to remove some of
24 the authority of the commission. Obviously, I saw it as a
25 problem, but that being said to the credit of Speaker Frierson,

1 I was able to get with him over the course of a couple of days
2 at the end of last week. He has indicated he intends, and he's
3 actually given me authority to talk about this a little bit, but
4 he has indicated he intends to replace the bill with some
5 alternative language. The new language goes a different
6 direction. It preserves what I believe to be the intent of NRS
7 289 as it applies to the commission, and frankly, I think it
8 would probably be a good thing if this language comes through.
9 So, that's said, until we see the new language, I would just
10 suggest tabling this Item. I can keep the commission updated. I
11 expect to see new language very soon, and once we have that I'll
12 put it out to the commission, but that original bill, at least
13 from the word of Speaker Frierson is going to be replaced. And
14 so, I take him at his word, and I can get you guys updated as
15 that language is put into the replacement bill. I would just
16 leave it at that.

17 CHAIRMAN SOTO: Thanks for that update. Does anybody have
18 anything that they wanted to add to that?

19 SHERIFF ALLEN: Commissioner Allen, I don't know if this is
20 the right time to bring it up. I was going to say something that
21 public, but on some of these bills, especially the two-year
22 college degree, two-year military requirement that would
23 decimate rural law enforcement, and I think that's something
24 that we, as a commission or every opportunity that we need to
25 try to explain that to the legislators that this will not work

1 in Nevada. We did a survey within our own agency. There are 12%
2 of our score net would be able to stay. That's roughly I think
3 eight deputies that we have that way. I'm sure there would be a
4 grandfather clause, but that's how difficult it is for the rural
5 agencies to fill these types of positions with a college degree
6 or military experience. So, I just wanted to throw that out on
7 that bill.

8 MIKE SHERLOCK: Yeah. Mike Sherlock for the record, so, we are
9 trying to track some of these that, do affect like 289.110 that
10 would affect, and we'll try to keep the commission up to date on
11 what we see. I know you guys are also tracking them as they come
12 out, but some of it, we get specifically to POST some aren't,
13 but do affect the POST commission. So, we'll try to keep you
14 updated.

15 CHAIRMAN SOTO: And for the record Chief Soto, I can tell
16 you that's the main law enforcement statewide, independent city
17 departments, rural departments, we'd lose half our agency to
18 that. So, it's something that we're certainly tracking. And I
19 know that we've had discussions, we'll continue to lobby on
20 behalf of that not moving forward, but one thing that we can all
21 consider is, and I don't think we consider it enough as the
22 education you receive from POST when you get this job. To me,
23 that's classroom right there, and that's classroom time that
24 every single police officer or deputy in the state has to take
25 480 hours. So, maybe that's something that they consider to

1 continue with in terms of POST certification. But to me, that is
2 your peer officer's basic education So, we'll keep an eye on all
3 of that, and I appreciate the update on 111, and I appreciate
4 you having those discussions with Mr. Frierson. Any other
5 discussion on Item Number 4 from our commission?

6 CHIEF MCKINNEY: Kevin McKinney for the record, seeing
7 as how there might be some updates, should we make a motion to
8 table this then? Or does it need to be tabled because it's an
9 action Item, isn't it?

10 CHAIRMAN SOTO: Possible action? Yeah.

11 MIKE JENSEN: Mike Jensen for the record, it's a
12 possible action. So, I think you have the option of tabling it
13 or doing nothing.

14 CHAIRMAN SOTO: I suppose if you wanted to, we can make
15 a motion for an updated -- when is the next - May.

16 MIKE SHERLOCK: Mike Sherlock, Yeah. The session will
17 still be going on in May, but it's a tough thing during the
18 session, obviously. For us, for staff it's probably something
19 that we can keep individuals, the chairman updated on, moving
20 forward. I don't know what action would be taken either way, but
21 certainly it could be something I can keep the chairman updated
22 on, and we could agendize it for the next meeting either way.

23 CHAIRMAN SOTO: Okay. Thank you. All right. No public
24 comment on that. Moving on, we're going to get into Item Number
25 5, Discussion, Public Comment and for Possible Action Hearing

1 Pursuant to NAC 289.290 subsection 1G on the revocation of
2 Antonio Munoz Jr. Formally with the Las Vegas Metropolitan
3 Police Department Certification based on a felony conviction.
4 I'm going to turn it over to deputy AG, Mike Jensen.

5 MIKE JENSEN: Thank you, Mr. Chairman. Mike Jensen
6 for the record, we have two revocation hearings, I think on the
7 agenda, and this, the first of those two this morning. This
8 hearing is being held pursuant to NRS 289.510 that gives the
9 commission authority to adopt regulations that establish minimum
10 standards for certification and the certification of officers,
11 specifically the regulation that was adopted to create the
12 grounds for revocation is 289, NAC289.290, specifically section
13 1G that allows for revocation of a certificate upon entry, upon
14 conviction, entry of plea of guilty, guilty, but mentally ill or
15 Nolo Contendere to a felony. There are a number of exhibits that
16 all of you should have in your books related to this hearing,
17 and if it's okay with you, Mr. Chairman, I'll go through those
18 real real quickly and ask at the end that they'd be admitted
19 into the record for support of any action the commission takes
20 today. Starting off with exhibit A, that is the notice of
21 intent to revoke that the commission sent to Mr. Munoz. It
22 informs him of the commission's intended action to revoke his
23 basic certificate of the law that provides for that revocation
24 and the information about the conviction for which the
25 revocation would occur. It informs Mr. Munoz of the date and

1 time and location of this hearing and his right to appear and
2 present evidence and cross examine witnesses. It informed him of
3 the 15-day requirement that he's supposed to let the commission
4 know if he intends to appear and defend, and finally, the scope
5 of the hearing based on the revocation for a felony conviction.
6 It's my understanding that Mr. Munoz has not sent in a request
7 to POST commission to appear this morning at the hearing.
8 Exhibit B is an affidavit of service that shows that Mr. Munoz
9 was personally served with on January 20th, 2021 with this
10 notice, and this through that service complies with both the
11 open meeting law and notice requirements and the commission's
12 regulations with regard to notice if there's going to be a
13 potential revocation action. Exhibit C is the personnel action
14 report. It shows that Mr. Munoz's peace officer employment was
15 terminated effective June 6, 2017. Exhibit D is his basic
16 certificate. Exhibit E is the first of the court documents. It's
17 the amended information filed on May 7th of 2020. It charges Mr.
18 Munoz with reckless driving category B felony in violation of
19 NRS484B.653 and second count of performance of an act or neglect
20 of duty in willful or wanton disregard for the safety of persons
21 or property resulting in substantial bodily harm or death, a
22 category C felony in violation of NRS202.595, alleging that on
23 or about the 16th day of July, 2017, Mr. Munoz under the
24 reckless driving charge did willfully and unlawfully feloniously
25 drive a motor vehicle on interstate 15 and Sahara Avenue in

1 Clark County, Nevada, with willful and wanton disregard for the
2 safety of persons or property. The driving the vehicle without
3 paying full of time and attention to his driving and/or failing
4 to exercise due care, and/or failing to drive in a careful and
5 prudent manner, which acts or neglect of duty proximately caused
6 the death or substantial bodily harm to two individuals. Count 2
7 is related to essentially the same factual allegations that led
8 to the substantial bodily harm or death of certain individuals
9 named in the information. Exhibit F is the guilty plea agreement
10 through which Mr. Munoz agreed to plead guilty to the two counts
11 and the amended information. Exhibit G is an exhibit to the
12 guilty plea agreements, the amended information again. Exhibit H
13 is the proof that Mr. Munoz has been convicted of both those
14 counts as charged in the amended information. He was sentenced
15 on count 1 to 19-48 months in Nevada Department of Corrections,
16 and on count 2 to 19-48 months in the Department of Corrections
17 to run concurrent to count 1. Both sentences were suspended. He
18 was placed on probation at that time with certain general and
19 special conditions of probation. Mr. Chairman, I ask that those
20 exhibits be admitted today for the record. The evidence in this
21 case shows that Mr. Munoz has been convicted of two felony
22 convictions. The commission's regulations provides upon
23 conviction for felonies, that persons certificate will or shall
24 be revoked. These are clearly some serious felony charges and
25 show a criminal conduct that's inconsistent with the judgment

1 and demeanor of a peace officer, and through these he's
2 disqualified himself from the position of a peace officer and
3 would recommend that his POST certificate be revoked.

4 CHAIRMAN SOTO: Okay. Thank you, Mr. Jensen. Any
5 comments from our commissioners, any public comment? Seeing as
6 though there's not we're looking for a motion to revoke Mr.
7 Munoz POST certificate.

8 CHIEF SHEA: Tim Shea, I'll make a motion to revoke.

9 CHAIRMAN SOTO: Motion from Tim Shea. Second?

10 CHIEF TROUTEN: I'll second.

11 CHAIRMAN SOTO: A second, all in favor, say aye. Aye,
12 aye. Opposed? Motion carries unanimously. Item Number 6,
13 Discussion, Public Comment and for Possible Action Hearing
14 Pursuant to NAC289.290 subsection 1G. The revocation of Boris
15 D. Santana formerly with the North Las Vegas police department
16 certification based on a gross misdemeanor conviction. And to
17 turn it over again to a deputy AG Mike Jensen.

18 MIKE JENSEN: Thank you, Mr. Chairman. Mike Jensen for the
19 record, Again, the revocation hearings being held under the two,
20 statute and regulation previous with the exception that this
21 case involves a gross misdemeanor as to a felony, which is NAC
22 289.290 section 1E would go through real quickly the exhibits
23 that you have in your book first is exhibit A, which again is
24 our normal notice of intent to revoke, informing Mr. Santana of
25 all of the rights that he has with regard to this hearing. One,

1 that there's going to be a hearing, the basis for the hearing,
2 the scope of the hearing, and his rights to appear, and it's my
3 understanding that Mr. Santana has not contacted the POST
4 Commission to let him let them know that he intends to appear
5 today, and I don't believe that he is here today. Exhibit B is
6 the United States Postal service certified mail documents. It
7 shows that the notice of intent to revoke was sent to Mr.
8 Santana's, last known address, and it was picked up by a person
9 at that address, on if I got the date for that here, on January
10 27th, 2021. Exhibit C is personnel action report that shows that
11 Mr. Munoz's peace officer employment was terminated effective
12 August 6th of 2020. Exhibit D and E are his basic certificates,
13 Category I and Category III basic certificates. Exhibit F is
14 the letter from the North Las Vegas Police Department that's
15 dated January 28, 2020, where they informed POST that there had
16 been felony and gross misdemeanor charges filed against Mr.
17 Santana, that involved the unlawful killing and possession of a
18 big game animal. Exhibit G is the criminal information that was
19 filed pursuant to a plea agreement. It charges Mr. Santana with
20 one count, a gross misdemeanor count of unlawful possession of a
21 big game animal, which is a gross misdemeanor in violation of
22 NRS 501.376 and for civil penalty purposes NRS 501.3855, which
23 is a provision dealing with the trophy elk. Count 1 alleges Mr.
24 Santana did willfully and unlawfully possess an elk, knowing
25 that the animal was unlawfully killed or under circumstances

1 that should have caused a reasonable person to know that the
2 animal has been killed. Again, in violation of those same
3 sections of the statute, including the civil penalty statute for
4 a trophy elk. Exhibit H is a memorandum of a plea agreement that
5 was filed on June 25th, 2020, in which he agreed to plead guilty
6 to that one count, that gross misdemeanor count, as the judgment
7 of conviction filed on November 3rd 2020 that shows Mr. Santana
8 was convicted of that gross misdemeanor. He was fined \$100 plus
9 the civil penalty of \$8,000. All of which was due on the date
10 that the sentencing took place. In this case, we have evidence
11 that shows that Mr. Santana was convicted of a serious gross
12 misdemeanor. Again, showing conduct inconsistent with the
13 judgment and conduct expected and required a peace officer, and
14 based on that would recommend that his POST certifications be
15 revoked.

16 CHAIRMAN SOTO: Okay. Do we have any comment from any of
17 our commissioners on this, any public comment? Seeing as though
18 there are none, I'm looking for a motion to revoke Boris D.
19 Santana's POST Certificate.

20 CHIEF TROUTEN: Ty Trouten for the record, I make the
21 motion to revoke the certificates of Boris D. Santana.

22 CHAIRMAN SOTO: I have a motion. Can I get a second?

23 SHERIFF ALLEN: Mike Allen with the second. Okay.

24 CHAIRMAN SOTO: I have a motion and a second, all those in
25 favor, say aye.

1 COMMISSIONERS: Aye, aye. Aye. Aye.

2 CHAIRMAN SOTO: Oppose? Motion carries unanimously.

3 Moving on to Item Number 7 Discussion Public Comment, and for
4 Possible Action Request from the state of Nevada taxicab
5 authority for six-month extension pursuant to NRS 289.550, for
6 their employee Raul Diaz to meet the certification requirements.
7 I'm going to turn this over to Mr. Sherlock.

8 MIKE SHERLOCK: Thank you, Mr. Chairman. Mike Sherlock
9 for the record, clearly the pandemic has affected many areas,
10 basic training included. Here, the taxicab authority has had
11 trouble finding the required basic training for their employee.
12 We have confirmed the Academy delays mentioned and, Chief
13 Aquino's letter and POST staff would recommend the granting of
14 the six-month extension for Diaz. This would give Mr. Diaz until
15 July 27th of 2021 to meet the requirements for the basic
16 certificate.

17 CHAIRMAN SOTO: All right. Any comments from the
18 commission?

19 CHIEF MCKINNEY: Kevin McKinney for the record, just a
20 question. It shows that the Academy was scheduled to start on
21 February 6th. Is he enrolled in that Academy? Do we know?

22 MIKE SHERLOCK: Mike Sherlock for the record, I spoke to
23 SSLEA. He is enrolled. I'm fairly certain that they did not
24 start on the 6th though. They are still having delays, but they
25 plan on getting it going very soon.

1 CHAIRMAN SOTO: Any other questions from any of our
2 commission, any public comments? Okay. Seeing as though there's
3 none, I'm looking for a motion regarding a six-month extension
4 to complete the certification requirements for Raul Diaz. Can I
5 get a motion?

6 SHERIFF ALLEN: Mike Allen, I'll make the motion to
7 grant the taxi-cab authority the six-month extension for Mr.
8 Diaz.

9 CHAIRMAN SOTO: Can I get a second?

10 CHIEF SHEA: Tim Shea, I'll second.

11 CHAIRMAN SOTO: Motion and a second, all those in favor,
12 say aye.

13 COMMISSIONERS: Aye. Aye.

14 CHAIRMAN SOTO: Opposed? Motion carries unanimously.
15 Item Number 8, Discussion Public Comment, and for Possible
16 Action Requests from the Esmeralda County Sheriff's department
17 for a six-month extension pursuant to NRS 289.550 for their
18 employee, Jacob Stritenberger to meet the certification
19 requirements. Do we have anything on this?

20 MIKE SHERLOCK: Yeah. Mike Sherlock for the record,
21 so, as outlined in Sheriff Elgan's letter, they have a Category
22 III employee who was injured on day one of the basic Academy at
23 the department of corrections. We know there have been limited
24 start days for Department of Corrections academies based on the
25 pandemic and also the recovery time for the injuries sustained.

1 So, the staff would recommend that the commission grant, the
2 six-month extension to Mr. Stritenberger, this would give Mr.
3 Stritenberger until July 22nd of 2021 to complete the
4 certificate requirements.

5 CHAIRMAN SOTO: Thank you, Mr. Sherlock. Any comments
6 from any of our commission?

7 CHIEF TROUTEN: Ty Trouten, and just a question on
8 this, do they have parameters or dates of expectancy that he's
9 going be able to complete by then?

10 MIKE SHERLOCK: Mike Sherlock for the record,
11 particularly because it's CAT III, but they are starting up
12 their academies again. So, I think there shouldn't be any
13 problem with completing that in this timeline.

14 CHAIRMAN SOTO: Any other questions from any of our
15 commission, any public comments? Seeing as though there's none,
16 I'm looking for a motion regarding the extension of time to
17 complete the certification six months for Jacob Stritenberger.
18 Can I get a motion?

19 CHIEF MCKINNEY: Kevin McKinney. I'll move we grant a
20 six-month extension for Jacob's Stritenberger.

21 CHAIRMAN SOTO: I have a motion.

22 CHAIRMAN SOTO: Can I get a second?

23 CHIEF TROUTEN: Ty Trouten, second.

24 CHAIRMAN SOTO: I have a motion and a second, all those
25 in favor, say aye. Aye.

1 COMMISSIONERS: Aye. Aye. Aye.

2 CHAIRMAN SOTO: Opposed? Motion carries unanimously.
3 Item Number 9, Public Comment. Do we have any public comments?
4 Seeing as though there is none, we'll move on to Item Number 10,
5 Discussion Public Comment and for Possible Action Scheduling of
6 Our Upcoming Meeting.

7 MIKE SHERLOCK: Mike Sherlock for the record, again,
8 with the pandemic and now the legislative session, it's been
9 very difficult to plan meetings. At this point we believe the
10 Law Enforcement Memorial will occur in person, I believe on May
11 13th. We traditionally have a meeting that same day as many of
12 the commissioners are here in town, and it's an opportunity to
13 do that, and considering that the legislative session is in
14 session. That said, at this point staff will monitor what's
15 going to happen with the Memorial and whether or not we'll have
16 an in-person Memorial and some of the other issues surrounding
17 the legislature. So, I would suggest that we not take a motion
18 for that date, and staff will keep you apprised of what's going
19 on. Hopefully, we can have it tentatively on May 13th.

20 CHAIRMAN SOTO: Okay. Any comments from any of our
21 commission on that? Moving on then. We'll keep an eye on that.
22 Item Number 11 Discussion Public Comment, and for Possible
23 Action Adjournment. I'm looking for a motion to adjourn.

24 SHERIFF ALLEN: Mike Allen I'll make a motion to
25 adjourn.

1 CHAIRMAN SOTO: Can I get a second?

2 CHIEF TROUTEN: Ty Trouten, second.

3 CHAIRMAN SOTO: I have a motion and second. All those in
4 favor, say aye. Aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN SOTO: Oppose? Motion carries unanimously.

7 Thank you all. Thank you everyone.

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