

STATE OF NEVADA

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COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

A Workshop and Regularly Scheduled Meeting of the Commission on Peace Officer Standards and Training was held on Tuesday, July 19, 2022 commencing at 10:00 a.m. at 5587 Wa Pai Shone Avenue, Carson City, Nevada.

COMMISSIONERS:

- Jason Soto, Chairman
- Tiffany Young
- Michael Allen
- Russ Niel
- George Togliatti
- Ty Trouten
- Jamie Prosser
- Kevin McKinney
- Robert Straube
- Tim Shea

STAFF:

- Kathy Floyd, POST F
- Mike Jensen, Attorney General's Office
- Mike Sherlock, POST F

TRANSCRIBED BY: Marsha Steverman-Meech

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ITEM: PAGE:

**I. PUBLIC COMMENT HEARINGS**

- 1. Call to order 9
- 2. Roll call of Commission Members 9
- 3. Public Comment Hearing on Proposed Regulations LCB File R078-21, R079-21, R052-22 AND R053-22. 10

**TOPICS**

A. LCB File R078-21 - Amend NAC 289.110 to reflect revisions to comply with requirements established in NRS 289.510(c)(1) Requirements for evaluations to be conducted during the recruitment and selection of peace officers, which must identify implicit bias on the part of a peace officer on the basis of race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression; 10

B. LCB File R079-21 - Amend NAC 289.230 to reflect revisions to comply with annual continuing education requirements established in NRS 289.510(c)(2) which requires all peace officers annually complete not less than 12 hours of continuing education in courses that address (1) Racial profiling (2) Mental health, including, without limitation, crisis intervention (3) The well-being of officers (4) Implicit bias recognition

(5) De-escalation (6) Human trafficking; and (7)

Firearms

11

C. LCB Rile R052-22 - Amend NAC 289.047 to read as follows:

(1) "Executive level position" means a position held by a peace officer in which the peace officer is: (a) The chief executive of an agency; or (b) Is acknowledged and affirmed by the chief executive of an agency to be in the direct line and immediately available and authorized to act as the chief executive of an agency during the absence of the chief executive. (2) As used in this section, "chief executive" means a person who is in charge of an entire agency.

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D. LCB File R053-22 - Amend NAC 289.270 to add: (1) The Commission will grant an executive certificate to an officer upon submission of proof satisfactory that the officer meets certain minimum requirements, including that the officer has (1) current basic, intermediate, advanced, supervisor and management certificates; or (2) current certificates from a certifying entity of the Federal Government or another state if the requirements for such certification are consistent with and not of a lower standard than the regulations for a current basic, intermediate, advanced, supervisor and management certificates; or (2) current certificates from a certifying entity of the Federal Government or another

1 state if the requirements for such certification are  
 2 consistent with and not of a lower standard than the  
 3 regulations for a current basic, intermediate, advanced,  
 4 supervisor and management certificate: or (3) training  
 5 and experience in another state that are consistent with  
 6 and not of a lower standard than the regulations for a  
 7 current basic, intermediate, advanced, supervisor and  
 8 management certificate.

9 (2) The Commission will grant an executive certificate  
 10 to an officer upon submission of proof satisfactory that  
 11 the officer has been elected or appointed to the  
 12 position of sheriff of a county or chief of a  
 13 metropolitan or city police department for at least 5  
 14 consecutive years. 12

15 **II. WORKSHOP** 15

16 1. Workshop on proposed regulation change.

17 THE PURPOSE OF THE HEARING IS TO SOLICIT COMMENTS FROM INTERESTED  
 18 PERSONS ON THE FOLLOWING TOPIC THAT MAY BE ADDRESSED IN FUTURE  
 19 PROPOSED REGULATIONS (THIS WORKSHOP HAS BEEN PREVIOUSLY NOTICED  
 20 PURSUANT TO THE REQUIREMENTS OF NRS CHAPTER 233B): 15

21 **TOPIC**

22  
 23 A. **NAC 289.190** Discussion regarding the establishment of a new  
 24 regulation pursuant to Assembly Bill 336. Proposed  
 25 language is: "The employing agency shall implement an

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annual behavior wellness program for each of its officers to aid in the preserving of the emotional and mental health of its officers and asserting conditions that may affect the performance of duties by its officers." 15

**2. PUBLIC COMMENT.** The Commission may not take action on any matter considered under this item until the matter is specifically included on an agenda as an action item. 21

**III. REGULARLY SCHEDULED MEETING AGENDA ITEMS 37**

1. Approval of minutes from the May 5, 2022 regularly scheduled meeting. 38

2. Executive Director's Report. 38

a. Training Division 38

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c. Administration. 42

3. The Commission to discuss and take possible action to adopt, amend, or repeal their regulations as follows:

A. LCB File R-78-21 - Amend NAC 289.110 to elect revisions to comply with requirements established in NRS 289.510(c)(1) Requirements for evaluations to be conducted during the recruitment and selection of peace officers, which must identify implicit bias on the part of a peace officer on the basis of race, color,

1 religion, national origin, physical or mental  
2 disability, sexual orientation or gender identity or  
3 expression;

47

4 B. LCB File R079-21 - Amend NAC 289.230 to reflect  
5 revisions to comply with annual continuing education  
6 requirements established in NRS 289.510(c) (2) which  
7 requires all peace officers annually complete not less  
8 than 12 hours of continuing education in courses that  
9 address (1) Racial profiling (2) Mental health,  
10 including, without limitation, crisis intervention (3)  
11 The well-being of officers (4) Implicit bias recognition  
12 (5) De-escalation (6) Human trafficking; and (7)

13 Firearms

48

14 C. LCB File R052-22 - Amend NAC 289.047 to read as  
15 follows: (1) "Executive level position" means a position  
16 held by a peace officer in which the peace officer is:  
17 (a) The chief executive of an agency; or (b) Is  
18 acknowledged and affirmed by the chief executive of an  
19 agency to be in the direct line and immediately  
20 available and authorized to act as the chief executive  
21 of an agency during the absence of the chief executive.  
22 (2) As used in this section, "chief executive" means a  
23 person who is in charge of an entire agency.

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1 D. LCB File R053-22 - Amend NAC 289.270 to add: (1) The  
2 Commission will grant an executive certificate to an  
3 officer upon submission of proof satisfactory that the  
4 officer meets certain minimum requirements, including  
5 that the officer has (1) current basic, intermediate,  
6 advanced, supervisor and management certificates; or (2)  
7 current certificates from a certifying entity of the  
8 Federal Government or another state if the requirements  
9 for such certification are consistent with and not of a  
10 lower standard than the regulations for a current basic,  
11 intermediate, advanced, supervisor and management  
12 certificate; or (3) training and experience in another  
13 state that are consistent with and not of a lower  
14 standard than the regulations for a current basic,  
15 intermediate, advanced, supervisor and management  
16 certificate.

17 (2) The Commission will grant an executive certificate  
18 to an officer upon submission of proof satisfactory that  
19 the officer has ben elected or appointed to the position  
20 of sheriff of a county of chief of a metropolitan or  
21 city police department for at least 5 consecutive years. 65

22 **The Commission to fully consider all written and oral**  
23 **comments received on these proposed regulations before**  
24 **taking any action.**  
25

- 1 4. The Commission to decide whether to continue the  
2 rulemaking process regarding the establishment of a new  
3 regulation pursuant to Assembly Bill 336. Proposed  
4 language is: "The employing agency shall implement an  
5 annual behavior wellness program for each of its  
6 officers to aid in the preserving of the emotional and  
7 mental health of its officers and asserting conditions  
8 that may affect the performance of duties by its  
9 officers." 72
- 10 5. Hearing pursuant to NAC 289.290(1)(e) on the revocation  
11 of Regina M. Joines (formerly with the Nevada Department  
12 of Corrections) Category III basic certificate based on  
13 a Gross Misdemeanor conviction of Sexual Abuse of  
14 Prisoner or Unauthorized Custodial Conduct by Employee  
15 (in violation of NRS 212.188(1) and (3)(b)). 73
- 16 6. Hearing pursuant to NAC 289.290(1)(i) on the revocation  
17 of Zachary E. Winningham's (formerly with the Henderson  
18 Police Department) Category I, II, and III basic  
19 certificates based on a Misdemeanor conviction for  
20 Domestic Battery, first offense. (in violation of NRS  
21 200.485(1)(A), 200.481(1)(A), 33.018, Henderson City  
22 Charter, Section 2.140. 76
- 23 7. Commission to decide whether to establish an exploratory  
24 workgroup to study and make recommendations for  
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improving our ability to recruit out of state laterals  
and reviewing the POST reciprocity process. 79

8. Public Comments

The Commission may not take action on any matter  
considered under this item until the matter is  
specifically included on an agenda as an action item. 83

9. Schedule upcoming Commission Meeting - 10:00 a.m.  
September 21, 2022 84

10. Adjournment 86

1

## PROCEEDINGS

2

3 SOTO: Order for July 19, 2022. For the record, the  
4 time is 10 a.m. dated July 19, 2022. I'm gonna turn it over  
5 to Kathy Floyd for information on legal postings and open  
6 meeting compliance.

7 FLOYD: The public comment notice, workshop notice and  
8 meeting agenda have been posted in compliance with NRS  
9 241.020. The meeting agenda was physically posted at the POST  
10 administration building and the Nevada state library in Carson  
11 City. The meeting agenda has been electronically posted at  
12 post.nv.gov, state of Nevada website at notice.nv.gov. The  
13 legislative website at leg.state.nv.gov and email to all spocs  
14 and admins on post listserve.

15 SOTO: Okay, thank you very much. I'll start with  
16 roll call. I'll start with myself. Uh, Jason Soto, POST  
17 Commission, and we'll just go around the room.

18 NIEL: Russ Niel, Deputy Chief Gaming Control Board

19 YOUNG: Tiffany Young, Community Member.

20 ALLEN: Mike Allen, Humboldt County Sheriff.

21 SHEA: Tim Shea, Boulder City Police.

22 TOGLIATTI: George Togliatti, Nevada Department of  
23 Public Safety.

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

25 TROUTEN: Ty Trouten, Elko Police Department.

1 PROSSER: Jamie Prosser, Las Vegas Metro Police  
2 Department.

3 MCKINNEY: Kevin McKinney, Carlin Police Department.

4 JENSEN: Mike Jensen, Attorney General's Office.

5 SHERLOCK: Mike Sherlock from POST.

6 FLOYD: Kathy Floyd from POST.

7 SOTO: We'll start off with public comment hearing  
8 will address proposed regulations, purpose of the hearing is  
9 to receive comments from all interested persons regarding the  
10 adoption, amendments and repeal of regulations pertaining to  
11 chapter 289, the Nevada administrative code, NAC, this public  
12 comment hearing has been previously noticed as required by NRS  
13 chapter 233B, item number A, post regulation file number R078-  
14 21 and turn this over to Mike Sherlock.

15 SHERLOCK: Thank you, Chief. Mike Sherlock for the  
16 record. So first let me remind the commissioners as to where  
17 we're at in terms of the public comment hearings. So in the  
18 rulemaking process, this is essentially the last stop prior to  
19 adoption. Each of these items that we're gonna invite public  
20 comment on have been included in at least workshop and at  
21 least one workshop, some of them two, um, and have been on  
22 previous commission agendas. This hearing is to solicit and  
23 allow for any comments related, uh, to the regulation change  
24 and to the language that has come back from LCB. Um, we will  
25 have, uh, an action item on the agenda for the meeting coming

1 up here in a moment. So just as a refresher, this first  
2 regulation change was a result of a bill coming out of the  
3 last legislative session. That bill required POST to mandate  
4 an evaluation to identify any implicit bias a person may have,  
5 uh, based on race, color, religion, national origin, physical,  
6 mental disability, sexual orientation, or gender identity, or  
7 exp -- expression. Um, this, uh, language, uh, coming back  
8 from LCB and based on the workshop, uh, simply meets the  
9 language, uh, from that particular bill, uh, and the  
10 commission may take comments on that bill now if you have any,  
11 Mr. Chairman.

12 SOTO: Okay. Do we have any public comments on item  
13 number A -- item A. Seeing there's none. Do we have any  
14 other comments from anybody on item number A? Seems though  
15 there's none, we're going to move on to item number B. Item  
16 B's proposed regulation file number R079-21. Again, I'm turn  
17 it over to Mr. Sherlock.

18 SHERLOCK: Thank you. Mike Sherlock for the record. The  
19 next regulation, uh, was similarly mandated by the last  
20 legislative session. This bill requires POST to include in  
21 the annual training regulation, a component -- a component  
22 under the mental health topic to include crisis intervention,  
23 um, and, uh, that was simply added to the language of our  
24 current regulation. Um, again, Mr. Chairman, the purpose here  
25 is to take any public comment that may be, uh, presented on

1 this issue at this time.

2 SOTO: Do we have any public comment on item number B  
3 proposed regulation? Do we have any comment from any of our  
4 commission? Seeing as though there is none, we are going to  
5 move on to item number C, uh, proposed regulation file number  
6 R052-22. Again, I'm gonna turn it over to Mr. Sherlock.

7 SHERLOCK: Thank you. Uh, Mike Sherlock again for the  
8 record. This next change was a result of a working group who  
9 had asked the commission for changes to the requirements for  
10 the executive certificate. I believe we had, uh, two  
11 workshops on this issue and -- and in addition to the -- to  
12 the working group meeting, um, this first change though  
13 changes the language under the POST definition of an executive  
14 level position to include those positions, the chief  
15 executive, that if -- executive of that agency designates to  
16 be, uh, executive level. Um, as you may recall, during the  
17 discussions that, uh, there was a desire to, uh, give some  
18 discretion to an agency in terms of what that executive level  
19 meant. Uh, this change simply allows the agencies that  
20 flexibility to name executive position that are not  
21 necessarily assigned to a specific rank or level within their  
22 agency, uh, but again, these changes were developed out of the  
23 comments and, uh, participation in the workshops, and we can  
24 take any comments on that.

25 SOTO: Okay. Any public comments? Seeing as though

1 there is none, I'm going to move on to item number D, proposed  
2 regulation file number R053-22. Again, I'm gonna turn it over  
3 to Mr. Sherlock.

4 SHERLOCK: Thank you. Mike Sherlock for the record. This  
5 final hearing is also regarding the changes to the executive  
6 certificate for the POST. Uh, as I just mentioned, these  
7 changes came out of, uh, workshops and working group on the  
8 subject. This particular regulation change makes it possible  
9 for -- possible for those coming from out of state into  
10 command positions to obtain our executive if they had  
11 compatible training and certificates in that other state,  
12 substantially equivalent to ours. In addition, it recognizes  
13 or allows for obtaining of the certificate where the applicant  
14 has been a sheriff or police chief for five consecutive years.  
15 Uh, staff believes just does a good job of addressing those  
16 concerns and the comments made by the commissioners, um, and  
17 that's where this language was de -- derived from, and, uh, we  
18 have comments that'll help with the recruiting from out state  
19 and that sort of thing, uh, at the command level, and so we  
20 can take comments on that.

21 SOTO: All right. Do we have any public comments for  
22 item number D?

23 JOHNSON: Good morning, Commissioner. Aaron Johnson,  
24 Boulder City Police Department for the record. Uh, I do have  
25 a couple concerns about the new language for this, uh, uh,

1 executive level requirements. Um, as we get further into it,  
2 there's -- there's nothing that specifies the substitution  
3 for, uh, academic, um, education, uh, as a substitute for this  
4 management certificate or the, uh, first line supervisor  
5 certificate. Um, if -- if there was some language in there, I  
6 really -- I -- I wouldn't be too concerned about it, but, um,  
7 it leaves it pretty vague that if I have similar training, uh,  
8 and that would be similar to the management certificate, then  
9 how do I demonstrate that if I have a graduate degree or a --  
10 a graduate certificate from an credited institution, um, that  
11 to me would seem to suffice, uh, or -- or -- or carry over the  
12 academic requirements to meet that of the management  
13 certificate. The second, uh, concern I have is with the five  
14 years of consecutive service. Um, my question would be, does  
15 it really take five years of being a chief or a sheriff of an  
16 agency to demonstrate the ability to be an executive of that  
17 organization? Um, I would say probably more appropriately  
18 would be a three-year commitment if we've been in there for  
19 three years. And then I have a tough time with the -- the  
20 term consecutive. If a sheriff runs for four years, is not  
21 reelected the following year, uh, but win's another term or  
22 win's a second term, but it's not consecutive, now they have  
23 to start the clock all over again. So -- so in some cases you  
24 might be looking at nine years as the sheriff of a -- of a  
25 county as an executive, and -- and, uh, it -- it doesn't seem

1 to again, reflect, um, their ability. I mean, three years  
2 you've been through three budget cycles, you've been through  
3 three hiring processes, at least, you've been through probably  
4 three academies, you've been through three termination, three  
5 years of terminations, you've been through three years of --  
6 of demonstrating your ability to be an executive that would be  
7 seem to me be more appropriate. I don't know how the term, uh  
8 -- the -- the timeline of five years came up, but -- and I --  
9 I -- I apologize, I've been out of pocket for the last three  
10 months, but, um, I -- I -- I -- I -- I kind of missed that and  
11 tried to -- tried to read up on it, but I -- I don't -- I  
12 don't see where, um, that -- that -- that came up or how we  
13 came up with five years. Thank you.

14 SOTO: Any other public comments? Thank you for those  
15 comments. Uh, we're going to now move to and open a workshop.  
16 We'll now move to workshop regulation changes. The purpose of  
17 hearing is to solicit comments with interested persons on the  
18 following topic that may be addressed in future proposed  
19 regulations. This workshop has previously been noticed  
20 pursuant to requirements of NRS chapter in 233B. This  
21 workshop is intended to solicit discussion on assembly bill  
22 336, which requires an annual behavior wellness component as  
23 an annual requirement for certified officers. I'm gonna turn  
24 this over to Mike Sherlock for some background on this  
25 subject.



1           SHERLOCK: Thank you. Mike Sherlock for the record. So  
2 again, this work -- workshop is in response to AB336, which  
3 mandates that POST create a regulation to implement an annual  
4 behavior wellness component. So just a quick background on  
5 this bill, which, uh, I opposed, uh -- met, uh, several times  
6 with Assemblywoman Monroe-Moreno with -- with our specific  
7 concerns. Um, specifically the concerns putting POST in a --  
8 a position of creating, and our fear at the time, an arbitrary  
9 fitness for duty exam. Um, our staff took a look at this, um,  
10 and feel that a fitness for duty exam requires a trigger or a  
11 reason to, uh, mandate an officer to attend a fitness for  
12 duty, uh, type evaluation. Um, that said, um, they made some  
13 minor changes to the bill and went forward with the bill. Um,  
14 at the time we didn't, uh, seek an official opinion from the  
15 Attorney General's Office, um, as this was coming out of the  
16 legislature, and of course, the -- the LCD, uh, legal takes  
17 lead on that, um, um, I would add that though, we thought the  
18 requirement is problematic, we, of course, support officer  
19 wellness 100%, uh, staff, uh, certainly agrees with that. Um,  
20 so in light of that, we conducted survey across the country,  
21 again, just for a perspective for the commission, uh, as to  
22 this legislative, uh, mandate. There's only one state in the  
23 United States that requires, um, a, uh, mental health check in  
24 they're calling it and they do it, uh -- it's mandated every  
25 three to five years. It is, uh, confidential and deemed as a

1 check in only rather than using the language visit. Uh, their  
2 law in that state, uh, says that it must be confidential, uh,  
3 and of course the big part for us is it's fully funded by the  
4 legislature managed by POST. Um, any -- the only states with  
5 something even close, Illinois recommends an annual screening,  
6 they did not mandate it. Uh, Rhode Island, much like many  
7 states requires, uh, and -- and Nevada does too, requires a  
8 psych screening of any officer transferring from one agency to  
9 another. Uh, New Hampshire and another state recently, I  
10 think it was North Carolina, recently, empaneled a working  
11 group to study the possibility, uh, of mandating an annual  
12 behavioral health visit. Um, both concluded that, uh, such a  
13 mandate would -- mandate would not be possible, um, and  
14 mandatory visits require specific reason, that's what they  
15 determine in their States. Um, but all that said -- said, we  
16 still are mandated under this bill to create a regulation that  
17 requires a behavior health component. Uh, our concern again,  
18 was we wanted to make sure that any language that, uh, comes  
19 out of the commission both meets that legislative intent, uh,  
20 and mandate of course, but would also be flexible enough to  
21 allow agencies to continue with or develop programs that fit  
22 their needs or are currently in place. So this language  
23 example, uh, for this workshop, and again, it's just an  
24 example, would use the term behavior health program rather  
25 than specifically requiring a, uh, visit or using the term

1 visit, which we believe allows for flexibility. And frankly,  
2 we hope avoid some of those labor or legal issues, uh, with a  
3 mandated visit, uh, specifically, um -- so again, this  
4 workshop is to allow interest -- interesting parties to, uh,  
5 offer their input. Um, I do have, uh, two written, uh,  
6 responses that I can read into the record after you take, uh,  
7 comments from the public during the workshop.

8 SOTO: Um, one question I have. What -- what is the  
9 state, Mr. Sherlock, has the three-to-five-year check in you  
10 mentioned?

11 SHERLOCK: I believe it is Maryland that does that.

12 SOTO: All right. Uh, do we have any comments from  
13 commissioners on this is, uh, on this bill.

14 YOUNG: This, uh, Commissioner Young. I -- I'm just  
15 trying to understand what you just said. If I understand  
16 correctly, you're asked -- or we're looking at shifting  
17 language from visit to checkup.

18 SHERLOCK: Mike Sherlock for the record. No, I -- I -- I  
19 -- again, I -- I'm just saying that rather than use the word  
20 visit, we're using the word program, which encompasses visits,  
21 but allows that flexibility to -- and -- and -- and from our  
22 mindset, if you think about a program, it's more about officer  
23 wellness is our program. Instead of, you know, specifically  
24 saying a visit, then you take away from what the intent of  
25 that bill was, which is behavioral health. And so if you have

1 a program, you can concentrate on the behavioral health rather  
2 than concentrate on that visit and there's cost associated  
3 with all that kind of thing. So that's why we looked at the  
4 term program as maybe better fitting what this bill is  
5 requiring the commission to do.

6 YOUNG: And for the record, Commissioner Young. And it  
7 may be semantics, but I -- I guess, I'm concerned from a  
8 accountability standpoint, is that if you remove the word  
9 visit, do you in fact remove the visits?

10 SHERLOCK: Mike Sherlock for the record. I, uh,  
11 (inaudible) I -- I guess, I agree with you with semantics, uh,  
12 depending on what the definition of a visit is. Uh, we have  
13 some behavioral health that we know within agencies in Nevada  
14 that use, for instance, peer support type programs, where they  
15 go to role call or briefing, and so our intent was -- that may  
16 not be the officer visiting, but it's them visiting the  
17 officer. We wanna make sure that encompasses that. And by  
18 saying, visit, we don't want to cut that out. We don't want  
19 to cut what's already in place out, and that's -- that was  
20 some of our thinking also, uh, from that perspective.

21 TROUTEN: Ty Trouten for the record. I guess my concern  
22 with the word visit is there's always a tendency to move to  
23 the middles. And so what you would end up with is something  
24 that would be a visit with someone of minimal qualifications,  
25 which they're not provided, and sounds like variable

1 correction on the national front. You -- you really would be  
2 giving lip service to law without really accomplishing what  
3 the intent is. My thought and many agencies are the same.  
4 They have, um, mental health, wellness programs of several  
5 facets within their agencies, and I think to set the standard  
6 is that's the expectation rather than the yearly visit, uh,  
7 relating more to our requirement yearly physical. Uh, the  
8 chief complaint, I hear on the yearly physicals is the  
9 doctor's not diagnosing. The doctor's not prescribing.  
10 They're giving recommendations, will follow up with. I can  
11 see this mental health visit, if its relegated to that term,  
12 being limited to that and accomplishing none. I think POST  
13 should step up above that and work towards a program as the  
14 expectation.

15 SOTO: Any other comments from our commission? I  
16 just have one then, and maybe Mike you can answer my question.  
17 And that is if we move forward, am I correct in understanding  
18 that different agencies, they are all going to have a program  
19 that probably isn't uniform throughout the state but it's a  
20 program for their agency, correct?

21 SHERLOCK: That's correct.

22 SOTO: Okay. So, um, when these departments put together  
23 their -- their program, which would include the visit piece  
24 that Commissioner Young (inaudible), does that program then go  
25 to the POST commission for your oversight in looking at that

1 program, how is that going to roll out?

2 SHERLOCK: Mike Sherlock for the record. Again, I think,  
3 uh, we look at this as -- it is a compliance issue. Um, but  
4 again, we want that broad enough to allow agencies to continue  
5 with what they already have in place. So it would be simply  
6 us, uh, ensuring that AB336 was complied with. There is a  
7 behavioral health component requirement, and we'll add that.  
8 The bill makes no distinction. It is every certified officer  
9 in the state, so that includes CAT I's, CAT II's, and CAT  
10 III's. So it's a -- there is no exemptions for any certified  
11 officer, but, um, there's no provision for discipline, uh, as  
12 you would with, uh -- your -- your continuing education  
13 requirements, uh, but it is a compliance issue that we would  
14 look at, uh, from a broad perspective that they have something  
15 in place.

16 SOTO: Okay. So that to me is important for the  
17 commission is to make sure that we have some, some oversight  
18 and understanding (inaudible) this legislator (inaudible)  
19 direction. So, I'm comfortable with that personally, but  
20 that's my perspective. I just wanted to make sure the  
21 Commission have some oversight on that. Because you're right,  
22 every department has it really different for a bigger agency  
23 that has a lot more resources than it is for an agency that  
24 doesn't have as many resources. I'm sure there's some  
25 different approaches that will happen here. All right, do we

1 have any comment from -- any public comment from this  
2 workshop?

3 SOTO: All right. Do we have any comment from -- any  
4 public comments?

5 BANISTER: Hi there. Ali Banister for the record, Chief  
6 of Juvenile Services, and I'm here on behalf of the, um,  
7 Nevada Association of Juvenile Justice, the Chief's  
8 Association for -- for Juveniles. Um, we do -- from the  
9 Chief's Association standpoint, we do have concerns about the  
10 vagueness of the word program. Um, we also would request that  
11 the new regulations should define what visit consists of and  
12 what professional occu -- occupations can be used for the  
13 visit to maintain compliance with the regulations. We would  
14 suggest the new regulations include language regarding the  
15 confidentiality requirements and record retention for such  
16 visit that allows the provider to release information to each  
17 agency if the visit determines the officer is a danger to the  
18 community or to himself or herself. We would also suggest  
19 that each agency would then use their employees assistance  
20 program, fitness for duty program, or health insurance for any  
21 treatment necessary for the officer to return to duty. We  
22 would also request that the commission identify the  
23 consequences to the officer for not complete -- for not  
24 completing or refusing the yearly requirement.

25 SOTO: Commissioner comments? Any other public comment?

1           SHERLOCK: Chief, I do have some written comments.  
2   (Inaudible) read those. Uh, Mike Sherlock for the record. We  
3   did, uh, solicit, uh, and have, uh, some inquiries, uh, from a  
4   couple who could not be here. The first, uh, is from Clark  
5   County, uh, Department of Administrative Services. Uh, these  
6   comments are by, uh, Joanna Jacob, who's the Government  
7   Affairs Manager with, uh, Clark County Department of  
8   Administrative Service. Uh, first comment, uh, is similar to,  
9   uh, Chief Banister's comments. Please consider changing the  
10   language from annual behavior wellness program for each of its  
11   off -- officers to annual behavioral wellness visit, uh,  
12   assembly bill 336 mandated POST to establish standards for a  
13   visit, not entire program. We respectfully request change to  
14   align with language used throughout assembly bill 336.  
15   Comment number two, please consider adopting specific  
16   standards for these visits. During the legislative session,  
17   Clark County raised concerns about whether these visits would  
18   be considered confidential and what type of visit would be  
19   required. It was clear from the AB336 hearings that the bill  
20   sponsor believed that these details would be deferred to the  
21   regulations to be developed by POST, specifically re -- we --  
22   -- we request that POST consider the following. Require the  
23   visit to be held confidential and only disclose to the  
24   employing agency risk management divi -- division if the  
25   provider find the employee pose a risk of harm to themselves



1 or to others. Define the record keeping requirements for each  
2 employing agency. Set the minimum standards for the visit  
3 described in assembly bill 336. We request that POST define  
4 which types of providers may conduct these visits may be  
5 conducted, uh, with specialized training specific to the  
6 mental health needs of peace officers working in multiple law  
7 enforcement settings, or as first responders. Uh, define  
8 whether the visit is mandatory, whether the peace officer may  
9 refuse to attend the examination, and if so, the employing  
10 agency responsibility upon receipt of that refusal. We  
11 appreciate POST attempt to accom -- accommodate for variance  
12 in local government programs statewide. However, setting  
13 specific, yet minimum standards in the areas noted above will  
14 help to promote consistency across all of our programs ensure  
15 against different levels of implementation across the state.  
16 We strongly encourage POST to consider addressing these issues  
17 and are willing to participate in further discussion along  
18 with our local government and colleagues. The second, uh,  
19 comment is from the, uh, Nevada association of counties. This  
20 is from Vincent, uh, Guthreau who's the executive director  
21 and, uh, Mr. Guthreau simply wishes to, um, state that they  
22 agree and support and concur with Clark County, uh, comments,  
23 which I just, uh, read into the record. Uh, Mr. Chairman, if  
24 it helps, uh, Mike Sherlock for the record. I made a couple  
25 comments on what they're asking. We do appreciate, uh, Clark

1 county's and -- and, uh, the, uh, association of county's  
2 comments. Um, staff would just add that, you know, an agency  
3 is welcome to establish by policy any of these things. Um, we  
4 are -- we would not prohibit Clark County from -- from  
5 establishing standards. I think that the -- there's some  
6 confusion in the bill. The bill says to establish standards  
7 for this requirement. Um, we were not funded nor do we  
8 believe it's feasible, or even possible to establish standards  
9 for a behavioral health visit. Uh, that's a very subjective,  
10 uh, issue, and -- and I'm not sure that the POST commission  
11 could create standards. In terms of confidentiality, staff  
12 agrees. The problem is, this bill requires a assessment as to  
13 the officer's ability to carry out the duties and -- and our  
14 issue with confidentiality there is if we have a regulation  
15 that says that confidential -- confidentiality is voided, when  
16 there's an imminent threat to life to themselves or others is  
17 not consistent with what the bill says. So that was some of  
18 our concerns there. The bill says to assess their ability.  
19 They might not be getting enough sleep that affects -- but in  
20 -- in a -- in a confidentiality situation, you wouldn't be  
21 able to release that to management or the agency. And so that  
22 was our issue with that. We do agree with the confidentiality  
23 component, but I'm not sure if it fits with what the bill is -  
24 - is stating, and that's why we went with the program that is  
25 in statute. That agencies can refer to in terms of what that

1 statutory requirement is, and the commission is supporting  
2 that, uh, through this regulation change. And that would just  
3 be staff's comments on -- on that issue in terms of the  
4 language of the -- the regulation.

5 SOTO: Thanks for that, Mr. Sherlock. Do we have any  
6 other comments? I think that my -- my -- my last take on this  
7 is I appreciate the input, um, from both of the letters and  
8 the in-person public comments because it gives us an idea of  
9 some of the concerns or some of the things we as a commission  
10 have to consider and more through specifically the  
11 confidentiality piece, always tricky when it comes to our  
12 profession and rightfully so. I know that a few agencies  
13 already have, including my own, already have some processes  
14 and systems in place that address that I'd certainly share  
15 that with our commission as we work through this. But this is  
16 unique, because we could be the first to really tackle this  
17 thing so. Thank you everybody for your comments and for your  
18 input on this. It certainly helps us be more effective at  
19 doing our jobs as a commission.

20 SHERLOCK: (inaudible). Just have one more comment for  
21 the record. Mike Sherlock. Uh, this bill goes into effect  
22 January of 2023. I took some heat recently at a judiciary  
23 committee meeting, uh, where they, uh, felt that we were  
24 dragging our feet on it. This bill is not, uh, effective  
25 until January 2023, so we are well within that timeframe there

1 (inaudible).

2 SOTO: No, I don't -- I don't -- I anticipate us  
3 having an effective process in place prior to January and I  
4 know we are not dragging our feet, but it is simply a  
5 complicated issue that we have to (inaudible) agencies  
6 throughout the state (inaudible). Any other comments or  
7 anything before we close this workshop?

8 YOUNG: This is Commissioner Young. And I don't mean  
9 to belabor the semantics issue, but I'm just -- I am just  
10 trying to understand, again, um, section one C2, it already  
11 states the standards for programs for the continued education  
12 of peace officers dot, dot, dot, right. Um, and then the  
13 conversation is around whether or not to change the word visit  
14 to programs, but it seems a bit redundant to state a wellness  
15 program if it's already saying that the standard for programs  
16 is already (inaudible). And -- and the reason why is that I,  
17 again, stating the fact that I have concerns around the  
18 accountability, so if the visit -- pretty much system policy  
19 and practice, if the word's not there, it doesn't happen,  
20 right, and then people can say, well, technically it wasn't  
21 there, so we don't have to do it. And so if you remove it,  
22 then where will it live? Will it live in a regulation? Will  
23 it live in an expectation, or will it be the autonomy of each  
24 law enforcement agency to decide whether or not they'll do it?  
25 That's where my questions and concerns are coming from. If

1 that makes sense.

2 SHERLOCK: Yeah, Mike Sherlock for the record. Just so  
3 you understand when -- when legislature looking at our, uh,  
4 289, for example, it's often -- I -- I know it's redundant to  
5 say programs, but -- but for an example, we -- under that same  
6 area, we have a requirement that officers attend, uh --  
7 dealing with, uh, animals class, they call that a program,  
8 just -- just so you understand why they say program there, um,  
9 where it lives is -- is statute. So our regulation will allow  
10 -- I -- I -- in my opinion, as staffs looking at this, that,  
11 uh, we allow agencies to interpret the visit that's mandated  
12 in the statute, uh, rather than in the regulation limiting  
13 those -- that flexibility. And that's kind of why we looked  
14 at program, but again, it's on the -- it's up to the  
15 commission (inaudible).

16 SHEA: Thank you for that. I'm -- I'm kind of confused on  
17 this. I'm reading the statute that the legislature passed.  
18 Looks like they've mandated that we have to develop standards.  
19 We have to trying not to develop standards, but we don't think  
20 develop these standards is actually possible. So while we're  
21 mandated to make standards, we can't make standards, so we're  
22 trying to figure out how to do something that isn't in  
23 conflict when it's called for in the statute. Am I missing  
24 something somewhere?

25 SHERLOCK: Yeah, Mike Sherlock for the record. So the

1 standard is that agencies will have a behavioral wellness  
2 program. That is the standard that the commission is  
3 developing, not -- not the standard to pass a psych exam, but  
4 a standard to dev -- if -- if the standard is you as a law  
5 enforcement agency shall have a behavioral wellness component.

6 SHEA: Okay.

7 SHERLOCK: In whatever language, so our interpretation  
8 (inaudible). And -- and I don't think that was ever the  
9 intent that we as a staff or commission establish what it  
10 means to pass a behavioral health visit.

11 SHEA: I'm just reading the statute. I -- again, I'm --  
12 because it says under NRS 289.510C, shall adopt regulations  
13 establishing minimum standards for the certification --  
14 decertification, recruitment, selection and training of peace  
15 officers, the regulations must establish. Then it goes down  
16 to subsection five, which is for subsection five, standards  
17 for an annual behavioral wellness visit for peace officers aid  
18 in the preserving, the emotional and mental health peace  
19 officer assessing conditions that may affect the performance  
20 of duties. They use standards twice. So we're first mandated  
21 under the current section to adopt -- shall adopt regulations  
22 establishing minimum standards for the certification  
23 (inaudible). Then it goes on later, it says under that  
24 subsection standards for an annual (inaudible). So our  
25 standard is you have to do it once a year and that's it.

1           SHERLOCK: Uh, yeah, Mike Sherlock for the record. I  
2 think, uh, that kind of lays out why we prefer the language of  
3 program rather than a visit. But yes, that is the POST  
4 standard that you -- that we're recommending that an agency  
5 establish a behavioral wellness program annually.

6           SHEA: So our standard is that you must establish the  
7 standard as an individual agency.

8           SOTO: (inaudible) program and then -- uh, for the record,  
9 Jason Soto. I think, and I'm just trying to help us all think  
10 through this 'cause I understand --

11          SHEA: Yes.

12          SOTO: -- (inaudible) is if you have -- if -- if every, uh  
13 -- well, every agency is mandated to have this program in  
14 place. My assumption would be that once the program's in  
15 place and our officer's -- personnel attend that program and  
16 go through this, whatever we want to call it, and we can come  
17 up with some language of what we want to call it, if there  
18 are, you know, individuals that, um, we have concerns over,  
19 then every program is going to have. It might not  
20 (inaudible). We should create, I mean, its policy, that all  
21 of us should create as agencies to where, and I don't know  
22 that we would be able to get around it. We have policy now  
23 where somebody if somethings brought to our attention on one  
24 of our officers, I'll use OIS as an example, he or she has to  
25 go through a certain protocol after that OIS, and if they are

1 not deemed fit for duty, we have processes in place in which  
2 how to address that. I would imagine it would be the same  
3 with this. It's just -- it's not an OIS, it's your annual  
4 part of this checkups. Does that help at all? Does that  
5 answer any your questions?

6 SHEA: Well, again, this -- and this is where I'm -- it  
7 goes again, smaller agencies, um, we don't have like my bigger  
8 agency, we had staff psychologists on the department, we had  
9 people like that. We had robust peer support programs. We  
10 have all these things in place. I see this as being tacked  
11 onto our annual heart and lung physical basically, you've  
12 gotta do this every year. Everybody's gotta go, and if they -  
13 - this was designed to be something along the lines, the  
14 suicide prevention program or something like that. That was  
15 the intent of the people that crafted the intent, other people  
16 who (inaudible) involved this. So what we have is an annual  
17 mental wellness assessment to make sure our people are healthy  
18 enough mentally and not go home at night and end their life,  
19 and we're trying to figure out what that -- that should really  
20 be a, how it should even be accomplished and (inaudible) if  
21 we're all doing it differently. So our standard is you have  
22 to do it annually.

23 SOTO: Yeah. It's a -- that's how I read it. And I -  
24 - and I agree with you. That's -- that's why I brought up the  
25 fact that it does look different for smaller agencies who



1 don't have somebody on staff or even a wellness program  
2 (inaudible). There's going to have to be some work to be  
3 done.

4 SHEA: Again, and by talking with folks about this, when  
5 this was going through, this was not a fitness for duty exam,  
6 it was supposed to be a (inaudible). It was supposed to a  
7 wellness assessment to assist the employee, not to go to the  
8 employer and say, this person shouldn't be out doing their  
9 job, but how do you not cross that line? And the results of  
10 these if, like, our physical we take, are not ours as an  
11 individual, they belong to the employer and why the doctor,  
12 when he does our physical cannot prescribe something to you,  
13 because he found something that hasn't be reported to your  
14 employer, who then decides what additional actions are gonna  
15 be taking place. We went through this recently where a  
16 substitute doctor for the company usually does this.

17 Basically said, oh, you're not good for duty and put him off.  
18 Then we found out they can't. It has to go employer, and the  
19 employer has to take action. So if this is the same as our  
20 heart and lung, then that's what we'd be looking at. That  
21 medical report would have to come to the employer and the  
22 employer take action. How long is it going to take to get  
23 that information from that doctor to the employer.

24 SOTO: Yeah. There's two sides too, depending on what  
25 that employee does, has this examination.

1 SHEA: It's not confidential.

2 SOTO: Yeah. There's some -- there's some tricky  
3 aspects to -- absolute.

4 SHEA: There's nothing from our heart and lung that's  
5 confidential, everything goes to the employer. These would be  
6 the same way, if they are handled the same way. If it's meant  
7 to be a confidential thing that you're doing on the wellness  
8 behalf of the employee, then we wouldn't be privy to the  
9 information.

10 MCKINNEY: Kevin McKinney for the record. I -- I would  
11 tend to further that confidentiality issue because if -- if --  
12 if it's totally confidential, how is the employer gonna find  
13 out if it was even done --

14 SHEA: Exactly.

15 MCKINNEY: -- if the assessment was even completed, if  
16 it's totally confidential.

17 SHEA: Exactly.

18 SHERLOCK: Mike Sherlock for the record. Just -- just --  
19 and -- and again, I think that the bill does not lend itself  
20 well to the idea confidentiality. That's just me from our  
21 readings. But I can tell you that, uh, in Maryland, that is  
22 the state that requires -- it's every three to five years.  
23 Um, they have to report to POST that it was done. That's it.  
24 There's no other information. And again, staff not -- does  
25 not want to get into that. We -- we would not recommend that

1 -- that the POST commission collect any type of that  
2 information. I'm just -- we're talking about confidentiality,  
3 uh, that's how they handle it there in that -- that state.  
4 And again, agencies can certainly have their own policy.  
5 Nothing POST currently has, or is being considered here, uh,  
6 from our perspective, would prohibit an agency from  
7 establishing their own wellness program.

8 SOTO: I guess, I'm going back to, I know some  
9 agencies, at least larger agencies in state have already  
10 crossed that bridge in terms of when this type of information  
11 comes in when it comes to wellness. I think its going to be  
12 imperative we share that information with smaller agencies  
13 too, so that they can kinda see how we've maneuvered those  
14 waters because they're all, they're unique, every single one  
15 of them is unique. They're not all the same.

16 SHEA: Tim Shea again, my thought again is trying to  
17 work through this, is that we have to develop some sort of  
18 standard, I can see us making standards that say something  
19 along the lines, I don't know how to say this properly, but  
20 that these exams are not entitled -- not intended to be  
21 fitness for duty. They are basically followed along the lines  
22 for annual heart and lung examination. I don't how to say  
23 that, but basically that's what they're supposed to be, they  
24 are wellness exam. These are not fitness for duty exams.  
25 When you go do these heart and lungs, we do get people that we

1 get a information on that we have to send a follow up to  
2 another doctor to then makes a determination on whether or not  
3 the person's physically fit to work, maybe a heart issue or  
4 something. So I don't know how to word this, but I think that  
5 was kind of the intent where we're going. You've got to have  
6 some standards, but we can't have one agency saying these are  
7 all confidential fitness for duty exams and the person next  
8 door saying, oh no, no, these are employer, uh, wellness  
9 examinations that we get the results of because I think that's  
10 (inaudible).

11 SHERLOCK: Yeah, Mike Sherlock for the record. Just  
12 looking again at the bill. I mean, the -- the problem we've  
13 had from the beginning is the language of the bill  
14 specifically says, um, conditions that may affect the  
15 performance of duties of a peace officer. That -- that's a --  
16 that's a problem in terms of the federal definition of a  
17 fitness for duty exam. So, uh, again, our intent is to allow  
18 agencies to have their own flexibility and not put the POST  
19 commission in the position of mandating fitness for duty exams  
20 arbitrarily. Um, but again, at the same time, wellness is an  
21 issue, and, you know, we -- we want to establish that. And by  
22 the way, I talked to Michelle Freeman and somebody want --  
23 Moreno, uh -- Monroe Moreno at length about this, and yes, I  
24 know one intent was because of officer suicide. But the other  
25 end of that, looking at the language itself is to assess

1 officers, uh, but also to ensure that smaller agencies or  
2 other agencies in the state that currently do not have any  
3 behavioral wellness program, if there are any, but in their  
4 mind there were, that POST create a regulation that requires  
5 all agencies to have a behavioral health component. And --  
6 and so that was my take from the meetings with them, uh, at  
7 length.

8 SHEA: I guess what makes this difficult for me is  
9 this -- this is not reactive, normally ours are. Our fitness  
10 review exams seems, there all reactive. Joe's gone out and  
11 done something and now we've got to address it. This is  
12 preemptive and what in the world are preemptive standards. I  
13 have no idea, and I think every psychologist, if that is who  
14 you end up using, will have a different standard on a  
15 different day, depending on what's going on. So I think its  
16 going to be very difficult for us to address this and, I don't  
17 know, I'm still scratching my head figuring out how in the  
18 world we are going to accomplish this. And if it takes two  
19 hours -- I'm looking at our area, if it takes two hours per  
20 officer and metro has 4000 that have to go through in a year,  
21 where do those 8000 hours come from? Who in the world is  
22 going to do this? And then, you throw us into the mix, the  
23 little ones, and we are looking at, in our county, 7000  
24 officers that have to go get checked every year, somewhere,  
25 somehow, some way.

1           PROSSER: Jamie Prosser for the record. And I agree with  
2 you. However, the way this verbiage read -- I probably can  
3 tell you six different things we already do in our agency that  
4 will probably fit in as a behavioral wellness program. So I  
5 struggle with the idea that I can already say that we're doing  
6 it, however we need to do more. So if there was a standard  
7 that we need to meet, I don't know if we're meeting it.

8           SOTO: For the record, this is Jason Soto. I don't  
9 think we are meeting it for the state. I think that is part  
10 of the reason this was brought forward. There were no outlets  
11 for certain individuals in this profession in their agencies  
12 and, you know, not -- I'm not faulting any of the agencies,  
13 this is just something that is, uh, relevant and prominent in  
14 our profession and that is wellness. And that kind of goes  
15 back to what my interpretation of it was, and that is that  
16 there is many programs that we use now, a lot more than 2  
17 hours for our department, and we'd be happy to share that and  
18 then I think as a Commission we need to decide which ones are  
19 going to be the standards that we have to have in place. I  
20 think it's doable for small agencies.

21           SHEA: (inaudible) again, it's all -- so (inaudible)  
22 two standards, two -- two areas (inaudible) for those of us  
23 have been in this business for a long time. There are those  
24 where officers become self-destructive, but then the other  
25 side where they become obstruct, where they become violent

1 towards others, and they'll act out and do things to other  
2 people as they have this deterioration (inaudible). Those are  
3 the two things I think you have to identify, not only possibly  
4 cause harm to yourself, but the citizens have stopped being  
5 people and they react, and those of us (inaudible) you see  
6 that occurring. These are the two things I think we have to  
7 look for, so we're talking about emotion and mental health. I  
8 think that encompasses both things. We tend to think we have  
9 our self-help programs, our peer support, those things  
10 normally don't identify themselves. They only identify  
11 destructive tendencies for the officer toward themselves, and  
12 we just saw an example of this that just took place, and you  
13 all had one before I came down here, so where they are  
14 destructive towards other people and themselves.

15 SOTO: No, and I don't disagree with that comment, and  
16 I think that I could even expand upon that just based on my  
17 background and dealing with officers for over a century now.  
18 I think there might even be a few more where we'd have some  
19 sort of standard in place (inaudible). I appreciate the  
20 comments.

21 MCKINNEY: It seems to me like there -- there is -- needs  
22 to be almost a two-prong approach to this. One for the  
23 evaluation assessment of officers and then one for promotion  
24 of wellness. It -- it seems like we're kind of mixing the two  
25 in one bag. Uh, I'm not sure what the intent of the statute

1 is. To me, reading the statute, it seems like it's for the  
2 evaluation, not for the program to promote wellness. So I  
3 think we're kind, uh, trying to combine into one rather than  
4 fulfilling the -- the statute.

5 SOTO: I think that is certainly something we can  
6 certainly look at and decide on two separate components  
7 (inaudible) share with your agency (inaudible) that approach  
8 is taken with a lot of agencies already (inaudible).

9 MCKINNEY: Yeah. I -- I agree with you because, like you  
10 said, pretty coincident, we have an evaluation, then we allow  
11 them to participate in some sort of program counseling, peer  
12 support, whatever, uh, so what you do have is a two, it's a  
13 two-pronged approach.

14 SOTO: I think the big change, just when I read this,  
15 well, there was a time in all of our careers where there was  
16 only one event that would prompt that, normally, and that  
17 would be some type of OIS and an evaluation afterwards.  
18 Today, there's just a multitude of things that can prompt  
19 that, some of us recognize that and use that, and some of us  
20 just don't have the resources to do that. That's going to be  
21 the tricky part (inaudible) the entire state.

22 SOTO: Any other comments from any of our commission?  
23 Thank you all for that. Um, (inaudible) comments (inaudible)  
24 January 1<sup>st</sup> to date. We move on now to the meeting POST  
25 workshop, commission meeting. We'll start off with item



1 number one, discussion public comment and for possible action,  
2 approval of minutes from May 5th, 2022, regular -- regularly  
3 scheduled POST commission meeting. Do you have any public  
4 comments on that? Any comments from commissioners on that?  
5 Seeing as though there's none, I'm looking for motion to  
6 approve -- to approve the minutes.

7 ALLEN: Mike Allen. I'll make a motion to approve the  
8 minutes.

9 SOTO: Motion to second.

10 SHEA: Tim Shea. I'll second.

11 SOTO: Motion and second. All those in favor, say  
12 aye.

13 MEMBERS: Aye.

14 SOTO: Opposed. Motion carries unanimously. Item  
15 number two, information executive director report. Now, I'll  
16 turn this over to Mr. Sherlock for an update on POST activity.

17 SHERLOCK: Thank you, Chief. Mike Sherlock for the  
18 record. I'm -- I'm already losing my voice. I feel like I'm  
19 at a judiciary hearing or something. Um, just not too much  
20 going on. Basic training just started a new academy, uh,  
21 yesterday, uh, so if you see recruits in the hallway crying,  
22 just ignore them. Um, advanced training, uh, we just finished  
23 up the development of the Nevada supervisory leadership  
24 institute. Uh, we're pretty excited about that. Um, you  
25 know, too often POST is accused of simply creating training to

1 check a box for a certificate or -- or for promotion, that  
2 type of thing. Uh, giving -- given our limited resources, we  
3 -- we really have to strive to improve. I -- I think we're  
4 finally getting somewhere. SLI was important to us. As we  
5 don't really have a -- a program from -- for supervisor to  
6 lieutenant or to management, uh, transition, uh, in this  
7 state, uh, you know, we don't have a command college or other  
8 programs, uh, so we, uh, worked with California, frankly, but,  
9 uh, some of their good, uh -- some of the, uh, big developers  
10 of SLI happen to live up here in Northern Nevada, so that  
11 helps and (inaudible) aspect. This program, uh, would be a  
12 little bit different than our normal training programs, we'll  
13 take application. Uh, we strive to have, uh, in each class,  
14 uh, attendees from different regions of Nevada to share  
15 experiences. It'll be more of a modified in person  
16 facilitated type curriculum, uh, two or three days a month for  
17 four months total. So again, we're pretty excited. Um, uh,  
18 again, uh, California has a similar model that, uh, everybody  
19 across the country steals from, but, uh, even there, they have  
20 a two, three year waiting list to get into SLI. We hope to  
21 have that same interest here. We, uh, just updated and  
22 created new basic investigator class, that should be coming up  
23 on our website for signups. Um, we have a bunch of other  
24 advanced curriculum in development right now. Over in our  
25 standards area, um, we still have a lot of people out of

1 compliance for training, uh, for their annual training, uh,  
2 component. Really not sure how to move forward, uh, but we  
3 will have a meeting in September of the commission, uh, to  
4 address suspensions for non-compliance. Uh, we're at about 70  
5 people right now across the state, um, mostly from one agency,  
6 but, um, it's a problem and hopefully the commission will be  
7 able to address that in September. Uh, we're in the budget  
8 build, uh, time, uh, for the next, uh, biennium, you know.  
9 Again, not really sure where to go, which way the wind's  
10 blowing, but, um, we'll see what happens. We're, uh -- as I  
11 mentioned before, we are still being audited. Uh, we're --  
12 we're really hopeful that the audit will give us some  
13 ammunition in terms of budgeting and that kind of thing.  
14 Sounds like they really do intend to -- they recognize our  
15 issues with budget and that kind of thing we we're hoping  
16 that'll help, and that's coming from the governor's office.  
17 Uh, recently testified in front of the combined judici --  
18 judiciary committee. Uh, you may have heard us talk, it was  
19 not fun. Uh, let me just say I did my best to deflect the  
20 constant blows. You know, Sheriff Allen was there and he may  
21 have more to say, but, uh, we did our best (inaudible) on that  
22 one. Uh, one area that staff has been working on at the  
23 suggestion of some of the commissioners, um, is a physical  
24 readiness standard as an annual certifi -- certification  
25 requirement for future certificate recipients. Um, I can tell

1 you the trend around the country is to have a physical fitness  
2 or readiness standards for incumbents. Uh, I recently  
3 conducted a survey across the country through IADLEST and just  
4 for your own information here is what is going on, all, but a  
5 couple of states have a minimum, uh, entrance physical  
6 component or a cert -- certification physical component.  
7 Maryland requires an annual physical test, failure results and  
8 loss of certification. New Hampshire requires a fitness test  
9 every three years, which is also, uh, uh, a requirement of  
10 certification, um, and talking New Hampshire, their advice is,  
11 uh, at a minimum to make an annual rather than three years,  
12 uh, and all states, they never use a skilled passing score for  
13 gender or other classes. In other words, make it a readiness  
14 test, which is what we are, uh, today. Um, North Carolina  
15 just completed an extensive study and they're implementing an  
16 annual physical fitness requirement. Uh, based on that study,  
17 their study found, uh -- well, nearly every credible peer  
18 reviewed study has found officers are in poor shape. This  
19 condition impacts performance and health. Increases cost both  
20 from the perspective of -- of public trust, but also budget  
21 and annual requirements improve these areas. Also, agency  
22 concerns on these standards affecting staffing levels is  
23 unfounded. The study found annual physical fitness  
24 requirements do not cause a greater turnover for loss of  
25 personnel. Uh, Texas, and actually several other states

1 require agencies to have fitness standards. Uh, a lot, you  
2 may have seen Texas, DPS and, uh, some new mandates.  
3 California requires a test for certification, and when  
4 transferring from one agency to another, they just completed a  
5 pretty extensive JTA for that. Uh, I don't have all of 'em in  
6 front of me, but again, the trend is, uh, to go to an annual  
7 physical, uh -- Guam for an example, uh, and yes, Guam as part  
8 of the United States, implemented a physical readiness  
9 requirement that was retroactive, uh, and they lost a fair  
10 number of officers. Clearly, um, they have more flexibility  
11 than we would have here in -- in implementing that type of  
12 thing. Uh, our recommendation, moving forward, would make it,  
13 uh, for future certificate, uh, applicants. IACP just  
14 completed a lengthy study on officer wellness, and I think  
15 they are kicking out or just implemented a model program, uh,  
16 with the first one being Arizona. Uh, their conclusion is  
17 states must have a physical fitness component to their annual  
18 requirement. So all that said for once, it would be nice to  
19 see Nevada up with leading states on this issue. Um, it was  
20 one -- it is one legacy we can leave that benefits the  
21 officer, but also benefits the community. In the (inaudible)  
22 agency, nearly every peer reviewed and credible study has  
23 concluded that behavior of health wellness and physical health  
24 are not exclusive of each other and actually, it's the  
25 opposite that you cannot have one without the other. Um, in

1 any case, we'll have a workshop, uh, in the future on this  
2 issue, uh, again, coming from some of the commissioners, um,  
3 on -- on these, uh -- on this physical issue, uh -- physical  
4 fitness issue. Uh, one last thing, Mike Jensen has been with  
5 POST as the legal advisor since 1996, that's some 26 years,  
6 uh, for those bad on math. Uh, Mike has announced his  
7 retirement. Um, I can tell you for one, I truly will miss  
8 Mike -- Mike's advice, his assistance over my years here. His  
9 -- his historical knowledge and expertise related to all of  
10 POST operation is something that just cannot be replaced. Um,  
11 I just want to thank Mike for a service to our community and  
12 to POST, Mike tells me this will be his last meeting, but, uh,  
13 we're gonna have to get him back at some point for a parting  
14 gift, but, uh, Mike's put up with me for a long time and --  
15 and, uh, I really, uh, will miss him. So thank you Mike for  
16 everything you for everything you've done for the POST. Um,  
17 in the interest of time, (inaudible) answer and questions from  
18 the commission.

19 SOTO: Well, congratulations on your retirement. I  
20 thought you weren't going to say parting gift, I thought you  
21 were going to say party. Thank you for your service. It's  
22 been a pleasure working with you. The commission certainly  
23 really leaned on you heavily in the years, and we're going to  
24 miss you. Any -- does anybody -- any of the commission have  
25 any questions to our executive director on his report?

1           ALLEN:       Mike Allen for the record. Thank you. I have  
2 a couple of things. First of all, want to congratulate Mike  
3 Jensen on his retirement. I think we go back 26 years when I  
4 first met you. He'd been a wealth of knowledge and support  
5 through -- throughout for me throughout my career as well, so  
6 I appreciate all that, Mike. Mike was involved heavily  
7 involved in -- in forfeitures for the state, seizures and  
8 forfeiture. I recently -- well, reasonably, probably six,  
9 eight months ago, um, reached out to a lot of question and he  
10 didn't hesitate to ask, but to follow up on the judiciary  
11 hearing that, uh, Director Sherlock brought up, one of my  
12 concerns and the reason why I showed up is it seems like there  
13 is a lack of understanding of the rural resources, and I don't  
14 know if, uh, Kevin McKinney can chime in here, but the use of  
15 the restraint chair in the jail is one of the main reasons why  
16 I went to that meeting and is before you could use that chair,  
17 according to the bill, is you have to have the -- the person  
18 who you want to place in the chair, um, medically evaluated.  
19 And in Humboldt county is, you know, how are we going to have  
20 somebody medically evaluated before we can place somebody in a  
21 chair. You -- we'd have to call the hospital hope that there  
22 is, uh, a emergency room doctor on staff that would be able to  
23 leave and come over and to evaluate this person to see if we  
24 can put him in the chair. Um, and I go back to my first  
25 physical arrest that I was involved in almost 40 years ago.

1 Um, and that person was destructive against himself. We had  
2 to put him at that time in a straight jacket and a helmet. and  
3 I think it's important that we get the message out to  
4 legislators that -- that we have to take into consideration of  
5 what each resource is or our community resources we have, um,  
6 available because -- and in the long run is who's gonna get  
7 hurt is that person who needs to go in the chair. And I don't  
8 know if -- if Elko county had a 24/7 medical staff on hand, we  
9 through the ARPA funds are finally getting at least, you know,  
10 um, five days a week, uh, covered, but it's a battle to get  
11 the commission to accept that we need more medical staff on  
12 hand, uh, for that. But in the future as I'm on my way out as  
13 well at the end of the year, um, I think that -- that we need  
14 to take, we, collectively as -- as a profession in law  
15 enforcement, we need to take into consideration what all of  
16 our resources are that we have in each individual county and  
17 how that can -- can, uh, damage the reputation of law  
18 enforcement as a whole.

19 MCKINNEY: I -- I can make a comment. Um, my concern  
20 that, uh, -- is that in Elko County, they -- they -- they --  
21 jail often requires us to -- to get a person medically clear  
22 to even enter the jail. When you have a violent subject who  
23 needs to be restrained, we're gonna have to take that violent  
24 person unrestrained to the hospital, where they pose a danger  
25 to medical staff. We're creating by doing that, we're



1 creating an issue, where we're endangering the emergency room  
2 personnel because we can't restrain them. It seems  
3 nonsensical to me.

4 SOTO: Thank you for that. Thank you for both of  
5 those comments. I do agree that we need to have a flow of  
6 information (inaudible) legislative decisions or some type of  
7 conduit to really explain to them some of the challenges we  
8 face when we remove some of these policies we currently have  
9 in place. There's got to be something that Mr. Sherlock can  
10 look into in terms of that flow of information because I agree  
11 it's not just that there's a multitude of issues where  
12 decisions are being made that have an effect on our  
13 profession. I don't know if everybody's rehearsed enough in  
14 terms of understanding what that is going to do (inaudible).  
15 I think that one of the things that we can utilize now is we  
16 have a couple of new members to our commission that can help  
17 us with some of that dialog and explanation that (inaudible)  
18 moving forward. There's several of us.

19 YOUNG: Uh, I have a question. Being new to the  
20 commission, but have we done any type of, like a gap analysis  
21 or asset or resource mapping that shows what happens in the  
22 rules compares to other places? Because that -- when we talk  
23 about the definition and terminology and language, as my  
24 fellow commissioners have said, it may not apply across all  
25 systems, and so we are speaking to the legislature, right? We

1 can speak in terms of language that we understand maybe around  
2 this table, but if there's not maybe a visual representation  
3 or some piece of map that shows this is what this looks like  
4 in Carlin compared to this is what this looks like in Reno and  
5 Sparks, something that will support and help kind of validate  
6 and fight that case when we're talking about access, and when  
7 we make decisions or the legislature makes decisions on behalf  
8 of each agency that it lands appropriately so that each agency  
9 can still be successful.

10 SHERLOCK: Yeah, Sherlock for the record. I -- I don't  
11 know that -- that even falls under our mission, but it sounds  
12 like a good project for Nevada Sheriff's and Chiefs. Um, but  
13 yeah, we -- that's not something that we would necessarily be  
14 involved in, uh, in terms of resources or budgeting or any of  
15 that thing, uh, type of thing. Yeah, I think you're right. I  
16 think it's important for the legislature having deal with them  
17 all the time. Uh, it would be nice if they had, you know,  
18 some -- something to fall back on that they understand.

19 SOTO: And -- and I can -- I can -- actually, in years  
20 past, we've had -- we've had -- certainly had that dialogue,  
21 we've had those relationships with the legislature. There's  
22 been a lot of changes over the course of the last 5 years  
23 where I think we need to dedicate some resources to that.  
24 Doesn't necessarily come from this commission, I think every  
25 agency can take a step into having those conversations, having

1 that dialogue to help them better understand the impacts that  
2 it can have on our profession or (inaudible).

3 SOTO: Any other questions, uh, any other input for  
4 Sherlock? Okay. I'm gonna move on to item number three,  
5 discussion, public comment and possible action. The commission  
6 to discuss and take action to adopt, amend or repeal the  
7 regulations as follows. Item A, LCB file R078-21 amend NAC  
8 289.110 to reflect revisions and to comply with the  
9 requirements with NRS 289.510 subsection C1 regarding  
10 inquiries into implicit bias for peace officer applicants.  
11 We'll turn this over to Mr. Sherlock for background on this.

12 SHERLOCK: Uh, Mike Sherlock for the record. Again, these  
13 were items that, uh, just heard from public comment hearings  
14 on, um -- and -- and on this, uh, first file R07-21, uh, staff  
15 would recommend that the commission adopt this, uh, change.  
16 And again, this is, uh, coming out the legislative amendment.

17 SOTO: Do we have any public comment on this? Do we  
18 have any comment from the commissioners? All right. Seeing  
19 as though there is none, looking for a motion to adopt the  
20 regulation changes to NAC 289.110.

21 YOUNG: Commissioner Young. I make a motion to adopt.

22 SOTO: A motion. Do I have a second.

23 SHEA: I'll second.

24 SOTO: A motion and a second. All those in favor, say  
25 aye.

1 MEMBERS: Aye.

2 SOTO: Opposed? Motion carries unanimously. Item  
3 number B, LCB file R079-21, amend NAC 289.230 to reflect  
4 revisions and to comply with requirements of NRS289.510  
5 subsection c 2 to include crisis intervention training as part  
6 of the annual requirements. Um, again, turn this over to Mike  
7 Sherlock for back up on this.

8 SHERLOCK: Uh, again, Mike Sherlock for the record. And  
9 we did have a public, uh, comment hearing on this one. I --  
10 one thing I didn't mention, and I will add that, uh, on this  
11 particular, uh, change I did, uh, work with, uh, Mr. Frierson  
12 now, um, on the language and I really appreciate what he was  
13 able to do. He changed the language, um, understood our  
14 issues and how it applies to what we do, and that's where the  
15 language came out, very simple language, uh, and, uh, we  
16 appreciate, uh, his help on that one. I mean staff would  
17 recommend that, uh, commission adopt these changes.

18 SOTO: Thank you for that. Do we have any public  
19 comment on this? Any comments from the commission? All  
20 right. I'm looking for a motion to adopt the regulation  
21 changes to NAC289.230.

22 TROUTEN: So moved.

23 SOTO: Can I get a second?

24 PROSSER: Second.

25 SOTO: All those in favor, say aye.

1 MEMBERS: Aye.

2 SOTO: Motion carries unanimously. Item number C, LCB  
3 file R052-221, amend NAC289.047 to reflect revisions to the  
4 definition of executive level position. I'm gonna turn this  
5 over to Mr. Sherlock for background on this.

6 SHERLOCK: Yeah, Mike Sherlock for the record. This, uh,  
7 particular, uh, change, uh, is, uh, simply the definition of  
8 an executive level position. Uh, that language came out of,  
9 uh, two workshops, and then we had a public comment hearing  
10 and staff, on this particular one, uh, would, uh, recommend,  
11 uh, adoption of this regulation change.

12 SOTO: Okay. Public comment on this? Any comment  
13 from the commission? All right, moving forward. Go ahead.

14 SHEA: Tim -- Tim Shea.

15 SOTO: Yes, sir.

16 SHEA: Uh, I disagree with this language. It is -- I  
17 believe that the state shouldn't be in the place -- mainly us  
18 -- determining and telling people who their executive staff  
19 is. And this is so restrictive that it would take a very  
20 large (inaudible) for another agency and basically with  
21 thousands of personnel and reduce it to about four to five. I  
22 believe that it should say something along the lines of  
23 executive level position means position held by a peace  
24 officer in, which the officer is a, the chief executive of an  
25 agency or B, is acknowledged and confirmed by the chief

1 executive of an agency to be in an executive level position as  
2 determined by their respective agency. In other words, the  
3 head of the agency determines who's executive staff is, we  
4 don't tell them who they are, they do, and I -- I just don't  
5 understand why we want to be so restrictive on who's handling  
6 the executive level positions. And I think I should have the  
7 ability to determine who my executive level positions are  
8 (inaudible).

9 SHERLOCK: Mike Sherlock for the record. So that's what  
10 we thought we did. Um, this language says that the current  
11 chief executive affirms that that person is executive level,  
12 is that not?

13 SHEA: And -- and to be in direct line and immediately  
14 available and authorized to act as chief executive of an  
15 agency during the absence of the chief executive. I suppose I  
16 could turn around and say, I could authorize everybody down to  
17 the rank Sergeant to fill in for me if I felt like it. But  
18 that's not what -- what -- what we were trying to say. So  
19 agencies should be free to determine who their executive staff  
20 is to fill those positions, not a qualifier that well you can  
21 fill in for me.

22 SHERLOCK: Mike Sherlock for the record. So this is an  
23 individual certificate. So we're not asking agencies to des -  
24 - designate a rank in -- as that direct, what we're saying is  
25 you're affirming to us, that person, that individual is -- we

1 give that to the agency head, we're not determining that,  
2 you're determining and telling us, and we don't care what  
3 their rank is, that that person is in your system an executive  
4 level position, and -- and the -- the -- as you recall, the  
5 workshops and -- and two of them, the issue was rank and POST  
6 deciding what that executive level position was. So our  
7 intent was to put that back on you for the individual, and we  
8 -- we -- that's how we see this language. That you tell us  
9 who the executive is.

10 SHEA: And this is Tim Shea again. I didn't interpret  
11 that way. In the direct line and immediately available, to my  
12 mind, it means that's the next person. If you have to go down  
13 through an org chart, that's not the correct line, it's those  
14 -- maybe other people. So if you go to that one sentence and  
15 just say to be in an executive level position as determined by  
16 their respective agency, doesn't that in fact do that without  
17 any conflicting or misinterpretable language, because again,  
18 direct line and immediately available means you're next.

19 SHERLOCK: Correct. Mike Sherlock for the record. So the  
20 challenge for staff as from the workshop, one of the comments  
21 or several of the comments were, you know, if you have a line  
22 officer, should we allow them the executive certificate simply  
23 because the chief says that that person is an executive level  
24 person. There's no easy way to -- to -- for us to establish  
25 that, and that's where this language came from, is try to, you

1 know -- try to add -- address that issue that came up, um, and  
2 that's a tough thing to do.

3         SHEA:         Again, I -- I understand Mike, but, and again,  
4 my -- my position is we shouldn't be making these exclusive  
5 qualifiers. They should be part of a career development  
6 program, and they should be helping our folks to move into  
7 these levels, not get the certificate after they've already  
8 gotten it. It's like, you're gonna be a doctor, you can't get  
9 a certificate to be a doctor until you're a doctor, but you  
10 can't become a doctor until you have a certificate. So  
11 instead of it being a career development program where we  
12 encourage our people to go out and get trained, educated, and  
13 moving up, we're saying, you gotta get them one of these  
14 exclusive positions as a qualifier, even to get this, and I'm  
15 saying, I don't have a problem with that, as long as I get to  
16 determine in my agency who those people are that move ahead.  
17 I determine who's gonna go the FBI national academy. I  
18 determine who's gonna go to Northwestern not a qualifier in  
19 the NAC or the NRS, you know. I prefer to leave it open so  
20 the agencies can determine who those people are. Again, 10  
21 years from now, as people debate what that direct line and  
22 immediately available mean, in my pea brain, it's the next  
23 person in line, because it's direct and immediate, not 3  
24 levels down..

25         ALLEN:         Mike Allen for the record. Um, so I do



1 remember when this -- this first passed the POST commission.  
2 Uh, at that time, my father-in-law might have been, again, the  
3 chair for the POST commission. We had a conversation about  
4 this. If -- if I remember right, what you're saying is  
5 exactly true. What the purpose of this executive certificate  
6 was for was for those people who have reached that exclusive  
7 position throughout their career and to be recognized through  
8 this POST certification. Now we have changed that meaning.  
9 So are -- should we look at another level below executive  
10 certificate to fall into what Commissioner Shea is saying or  
11 do we want to make it that exclusive position? And I -- I  
12 agree with the language myself that that's there. I think  
13 it's there, I think it's, you know, it's -- it's clear, I  
14 think it will apply to my agency to who anybody who I want to  
15 receive that executive level. But I think we're just putting  
16 too much on it and we're making it too broad of a statement to  
17 mean anything, which basically takes away from us who have  
18 made it to that -- that exclusive level as -- as he's saying.

19 MCKINNEY: Kevin McKinney. (inaudible) I -- I would -- I  
20 would tend to disagree with, uh, Chief Shea. I -- I believe  
21 that the executive certificate is something you achieve after  
22 you obtain position. The management level certificate is what  
23 you would obtain as, uh, Sheriff Allen mentioned, the level  
24 below, executive. If you have a management certificate that -  
25 - that would make you a -- a midlevel manager, uh, and the

1 executive is for executive positions. I don't -- I don't see  
2 an issue with having this language in there. Uh, I believe  
3 the career advancement, you know, first line supervisor to  
4 management to executive is -- is a natural progression.

5 SHERLOCK: Uh, Mike Sherlock for the record. Just so you  
6 know, the staff will do what the commission wants. We look at  
7 the certificates as recognition of experience, training and  
8 position, and so the executive certificate is recognition that  
9 you've completed a certain amount of training and education,  
10 that you've gone through the promotion process and been  
11 promoted, and now you're acting in a position that needs the  
12 definition of executive level, and we give you -- that's how  
13 we currently look at it. Clearly, if the commission wants to  
14 go a different direction and take change that we staff, we  
15 staff would -- we can only do what --- what the design is.

16 PROSSER: So Jamie Prosser for the record. Um, I  
17 actually agree with Commissioner Shea because to me, the way  
18 this is written, it would only apply to Sheriff Lombardo,  
19 Undersheriff Darcy and potentially our three assistant  
20 sheriffs. However, it can get down to D, like we've talked  
21 about the workshop, I have not completed my intermediate, my  
22 advance, my supervisor, my management certificates, so I have  
23 captains that work for me that are eligible for an executive  
24 certificate based on that. Yet based on your proposal for  
25 this verbiage, I'm not eligible for it. So that's where I get

1 -- I -- I -- I agree that if he agree with the verbiage  
2 proposed, as far as saying that the chief -- the -- the  
3 sheriff should be able to say who his chief executive people  
4 are for the agency. And when we had the workshop, there was a  
5 lot of other agencies there who, um, smaller agencies that  
6 base their promotion on certificates, base their pay on  
7 certificates. I'm fortunate that doesn't happen in my  
8 department, but I would hate for us to cut out the potential  
9 for other agencies to continue achieving those promotions and  
10 pay rates.

11 SHERLOCK: Yeah, so Mike Sherlock for the record. So we  
12 would have to remove the connection of the executive  
13 certificate to other certificates.

14 SHEA: That's not what I was proposing, Mike. My --  
15 the language that was difficult for me is to be in the direct  
16 line. That to me, if you look at our org chart is direct  
17 line.

18 SHERLOCK: I understand.

19 SHEA: And immediately available. Immediately  
20 available is not that -- that hard, but the direct line is  
21 what's difficult, and if it's up to the agencies to determine,  
22 and I have no disagreement that you have to get this position  
23 for you to qualify. I just don't think it should be this  
24 number one and number two in a large agency of thousands of  
25 people or hundreds of people and only 2 can qualify and that's

1 all. I think it's what workshop was about, is -- is to open  
2 it a little bit so you aren't just the boss or number two guy,  
3 but if we just could massage the language a little bit for the  
4 intent, which the intent was to open it up a little bit and  
5 let the agencies determine that who those folks are then  
6 that's -- I -- I thought that was the intent.

7 SHERLOCK: Mike Sher -- Sherlock for the record. I agree.  
8 That -- that is what we took. Absolutely. Whether this  
9 language does that or not, that's the other issue, and -- and,  
10 you know, but (inaudible) --

11 SHEA: That's -- that's what I was talking about --  
12 that's what I was talking about when you have to be in the  
13 position, you can be number one or number two, and it should  
14 at least have the next level down in these larger agencies to  
15 be able to do that. When I was a bureau chief in the  
16 Sheriff's office, there was no restriction or certifications I  
17 could get the undersheriff and the sheriff. But under this  
18 language, I'm not so sure that would -- that would pertain.  
19 And for me, um, I have a commander soon to be a deputy chief  
20 title, but would the people below him be eligible for this?  
21 They're not in a direct line I guess, I don't know. That's  
22 where I get confused.

23 YOUNG: Commissioner Young. And yes, my word for  
24 today, semantics. But, uh, again, I -- so I -- I hear what  
25 you're saying. And my question is, is the issue that the

1 chief executive of an agency to be in direct line or is in  
2 direct line because those are two different statements. So  
3 from an org chart is in direct line would mean the people that  
4 are directly underneath that chief. Is this saying that that  
5 person by being given the executive level position or  
6 certificate can then be put in direct line of the opportunity  
7 to be immediately available and authorized to act upon or act  
8 as chief? And those are -- those are two different  
9 statements. So I'm just --

10 SHERLOCK: Yeah. Mike Sherlock for the record. And I --  
11 I -- I understand. The other thing I think the commission has  
12 to keep in mind is they're all intertwined, right? So if you  
13 change the regulation on executive to allow people that would  
14 normally be management forces staff to relook at management,  
15 and then if -- if management is broadened to first line, it  
16 forces the staff. Not that that's a bad thing, just  
17 understand the way the structure currently is a progression,  
18 and if you change that, it changes all of them. And -- and so  
19 that's why we're -- I would agree on this language. We -- we  
20 understood and we thought the, uh, interpretation of this  
21 would allow the chief -- chief executive to make that decision  
22 on who is an executive level position, but not affect the  
23 management certificate or the first line supervisor  
24 certificate, if that makes sense.

25 SHEA: I believe if you strike the word direct, that

1 might help. Executive to be in line and available and  
2 authorized to act as a chief executive. So take out  
3 immediately and direct that would loosen that language up a  
4 little bit so that (inaudible), otherwise, again, 10 years  
5 from now, I would think that this meant this my number two guy  
6 and that's it.

7 SHERLOCK: Yeah, Mike Sherlock for the record. Again,  
8 language has meaning. Ten years from now, I'd look at that  
9 and go, the brand-new guy not off probation, if the chief of  
10 police decides that they are in line, which everybody is and  
11 authorized, they can be chief. And that, and again, that's  
12 okay. Just understand what -- what language goes both ways.

13 TROUTEN: Ty Trouten for the record. I would also  
14 caution against moving it immediately available. The point  
15 being is that they're prepared. They are not well as soon as  
16 we get them through a leadership course or this and that when  
17 they could. They are prepared (inaudible). They have  
18 attended the leadership trainings, they have their education,  
19 all of these things. This is opening the game a little bit to  
20 allow other than just chief executive of each agency  
21 specifically without same time opening to anybody and  
22 everybody. And I've seen that with other certificates, as  
23 I've seen the approval of this. I've had questions about  
24 supervisor certificates looking at agencies, well who that  
25 person supervise. They're not supervisors. And we all know

1 that cops, they love semantics, and they'll quibble over  
2 words, every minute they can. I -- I'm comfortable with the  
3 language as is. I -- I think this a broadening to some extent  
4 without opening the flood gates (inaudible).

5 SHEA: What about changing available to capable?  
6 Because available and capable are two different things in my  
7 mind. Available means you're here, capable means you're --  
8 you have the ability to do something.

9 TROUTEN: I was thinking solely to not removing  
10 immediately.

11 SHEA: Yeah, (inaudible). immediately capable, which  
12 you have all the skills, you have all the training and  
13 background and ability to do the job. To me available means  
14 you're here. You're not on vacation, immediately available,  
15 which person's there right now. Something happened to me.  
16 He's there right now and can do it. Capable means a person  
17 has the background training skill and ability to do it and  
18 he's authorizing that. So, I'm capable and authorized. Is  
19 that what you're trying to say, Mike, with available?

20 SHERLOCK: Mike Sherlock for the record. The -- the  
21 important part is authorized there. Because remember, this is  
22 the definition of an executive level position. So I, you know  
23 -- you might have people that are capable, but they're not in  
24 an executive level position so. By saying authorized, that  
25 may move them -- that may -- that may be okay, I -- I -- I

1 suppose when you use capable with -- with authorized. There's  
2 a definition.

3 SOTO: I'm comfortable with the language as it reads,  
4 and I think there is enough discretion (inaudible). Not that  
5 I'm not listening to everybody in the room and understand the  
6 words and the definition of that specific word are different  
7 interpretations as to who's reading it, but I'm comfortable  
8 with the language. I think we've had discussion in terms of  
9 where we are at on this, and if we're not comfortable as a  
10 group, all of not (inaudible).

11 NIEL: Russ -- Russ Niel for the record. I'm also  
12 comfortable with the language as it is. I've discussed this  
13 with people and, uh, you know, in direct line, um, in my  
14 agency, there's three deputy chiefs, any one of us can fill in  
15 for the chief, um, at any given time. It doesn't have to go  
16 down seniority or where you operate out of north, south or  
17 whatever. Um, so I'm okay with that language and the term  
18 available, if you're not capable, you shouldn't be available  
19 to be in that position. So that goes -- that speaks to your  
20 training experience and the people you supervise. And with  
21 the chair, I agree, the language is just fine as it.

22 TOGLIATTI: George Togliatti for the record, uh, I  
23 think authorized takes care of all the problems. (inaudible)  
24 the direct line (inaudible) like semantics here, uh, I don't  
25 (inaudible) agencies (inaudible).



1 STRAUB: Rob Straub for the record. (inaudible)  
2 commissioner, uh, that chief (inaudible). So (inaudible). As  
3 the existing chief (inaudible).

4 SHERLOCK: Mike Sherlock for the record. Yeah -- yeah,  
5 and -- and I understand that completely. I -- I think that  
6 from our perspective though, it's not emetic. We used to use  
7 org charts, right? That is how we determine who fell in.  
8 This removes that requirement, and so if Joe Lombardo says,  
9 you're in direct line, you've complied with the -- regardless  
10 of what -- we don't see the org chart anymore. So if  
11 (inaudible) director Togliatti says, you know, you're --  
12 you're -- you are in direct line and eligible in an executive  
13 level position, you have met -- and in our mind, staff minds  
14 you've met the requirement of this regulation, and that's why  
15 we put it back on the chief executive, uh, from that  
16 perspective, uh, if that makes sense. Um --

17 PROSSER: (inaudible), you're -- you're saying exactly  
18 what we're saying, but to me it doesn't read that way. That's  
19 --

20 SHERLOCK: Right, and that's --

21 PROSSER: -- and to me, it still reads the number one and  
22 number two. You're saying exactly -- but if you -- I mean, if  
23 everyone wants to vote for that to stay that way and  
24 (inaudible) I think as agencies, we have to remember to ensure  
25 that we pass this along as we grow out of our agencies so that

1 the next people in line understand but that's not just the  
2 sheriff and the undersheriff.

3 STRAUB: Rob Straube for the record. Director Sherlock,  
4 quick question, just for my knowledge. When this is being  
5 submitted, who's doing the evaluation, just for my knowledge.  
6 As far as the direct line, who's doing that kind of checklist?  
7 Or are you relying on the chief executive?

8 SHERLOCK: So again, Mike Sherlock for the record. As you  
9 can see, the language here that the chief executive, as they  
10 currently do, sends a letter, but also includes the org chart  
11 to show that they're specific under the current regulation.  
12 This regulation says the chief executive sends a letter and  
13 says, this individual is in direct line and authorized to do  
14 my job if I'm not here and staff looks at (inaudible). We get  
15 the letter -- we don't -- staff doesn't determine whether or  
16 not it meets the definition of direct line, but rather whether  
17 or not the chief executive has determined that that individual  
18 is in direct line. And that's how we evaluate -- would  
19 evaluate that, we don't make that determination.

20 SHEA: Okay, Mike. T Shea. I have a question then.  
21 So no longer when you submit somebody for this executive  
22 level, you no longer require to submit an org chart?

23 SHERLOCK: Mike Sherlock for the record. (inaudible)  
24 correct. If -- if this regulation is adopted, that's  
25 correct.

1           SOTO:        I'll just make a comment based off of what  
2 comments that are made here because a lot of 'em make sense in  
3 terms of whoever that executive is in that agency. Really is  
4 the person that's going to say, who is or who isn't qualified.  
5 Now, depending on that agency, you might get a chief or a  
6 sheriff who doesn't -- that's not how he or she interprets it,  
7 and -- and it's kind what we have right now, because I can  
8 tell you that I have had situations in which I didn't have  
9 deputy chief available because of trainings or whatever it  
10 might be (inaudible) go, uh, one step below or somebody who's  
11 in charge. I'm -- I'm comfortable with that because of their  
12 training and their qualifications. We both (inaudible) will  
13 be able to use language to (inaudible) to make that direction  
14 and if they don't, maybe that's something that should be  
15 brought up (inaudible), certainly would have to build  
16 (inaudible).

17           SHERLOCK: Mike Sherlock. One -- one more reminder for  
18 record. Uh, this is the one certificate that must be approved  
19 by the commission. So the commission would see that at the  
20 time we presented to the commission for final approval.

21           SOTO:        So after all that comments, I'm looking for a  
22 motion to adopt the regulation changes to NAC 289.047. Can I  
23 get a motion?

24           ALLEN:       Mike Allen, I'll make the motion to adopt.

25           SOTO:        Motion granted, second?

1 NIEL: Russ Niel, I'll second.

2 SOTO: Motion to second. All those in favor, say aye.

3 MEMBERS: Aye.

4 SOTO: Opposed.

5 MEMBERS: Nay.

6 SOTO: Get any nays?

7 UNIDENTIFIED MALE: Three.

8 SOTO: Motion carries. Item D, LCB file R053-22 amend  
9 NAC 289.270 to reflect changes to requirements. The executive  
10 certificate requirements of NRS 289.510 subsection C1  
11 (inaudible).

12 SHERLOCK: Mike Sherlock for the record. I'll try not to  
13 open a can of worms here. But we did have one, uh, comment  
14 during the public comment, uh, hearing, I'll just address that  
15 for the commission real quick. In terms of the five  
16 consecutive years, uh, and looking at that, uh, the thought  
17 was with others involved that, um, in terms of sheriffs, for  
18 example, um, five years allows them for their community to  
19 assess them, and they're reelected. That's where the five  
20 years came from, to be honest with you. Um, in addition to  
21 that five years is clearly different than three years in terms  
22 of, uh, um, you know, budget cycle, all those things. So  
23 that's where the five year came, wasn't totally arbitrary.  
24 Uh, in terms of laterals from out of state, I believe was the  
25 question, uh, or the concern, um -- we're trying to address

1 the issue with, uh, hiring command staff from out of state  
2 that came up during the workshop and working groups. And one  
3 of the -- the issues with the current regulation was, uh,  
4 someone coming from Texas or wherever, had a executive  
5 certificate from that state and their requirements were every  
6 bit as stringent, if not more than ours, and yet we would not  
7 give them a management or -- or executives. So this simply,  
8 uh, removes that concern, uh, recognizes that training from  
9 out state and their accompli -- accomplishments out of state  
10 that are equal to ours, um, in the state of Nevada, and that's  
11 where that came from. So that would be a process for us to  
12 evaluate that other state to see if they have the same  
13 certificate. We already know what the arguments are about  
14 education and training. Again, the current structure of our  
15 certificates are about training, education and the position  
16 level. Some of that training is pertinent to Nevada. This is  
17 the Nevada POST Commission, you're working in the state of  
18 Nevada, we want to value and recognize Nevada POST  
19 accomplishments and that's where some of that comes from. But  
20 we now will open this up and allow recognition for those out  
21 of state, uh, people moving into the Nevada from and -- and  
22 from a command level perspective. And that's where the  
23 language, uh, was from.

24 TOGLIATTI: George Togliatti for the record. I  
25 noticed on the last page here, you talking about granting a

1 certificate you mention sheriff, county, there's no mention of  
2 the state law enforcement.

3 SHERLOCK: Mike Sherlock for the record. Um, no mention  
4 (inaudible) their current. Uh -- (inaudible). Yeah, yeah, I  
5 -- I would agree, director, uh, that could be a problem. Um,  
6 uh, from our perspective, we only have jurisdiction over  
7 Nevada. So, you know, uh, but makes sense.

8 MCKINNEY: Kevin McKinney. I agree it doesn't include any  
9 state agencies.

10 SHEA: Number two, it says the commission shall grant  
11 it grant an executive certificate to an officer upon  
12 submission of proof satisfactory that an officer has an  
13 elected or appointed to the position of sheriff of a county,  
14 of a chief or a metropolitan city or city police department.  
15 There's no way for a head of a state agency under sub, number  
16 two, (inaudible) state (inaudible) five years. So if you ran  
17 DPS for five years (inaudible).

18 SHERLOCK: True. Mike Sherlock for the record. That's  
19 true. That's what it says.

20 SHERLOCK: Sorry. (inaudible). Mike Sherlock for the  
21 record. Understand what that one pro -- provision is about,  
22 where we had some rural sheriffs that, um, their argument is  
23 that they were unable to attend training because of their  
24 rural location, and yet we -- we do not recognize their  
25 experience as a sheriff and, you know, been the sheriff for 10

1 years and they still can't get the executive certificate.

2 That was specifically to address that one issue.

3       JENSEN: For the record, Mike Jensen. Just kind of  
4 piggyback on that, I think if you look at the reg, this  
5 doesn't mean a state agency head can't get an executive  
6 certificate, it just means under this specific provision that  
7 just by position you can get an executive certificate. It  
8 would not include the state agency head under that. Whether  
9 that's right or wrong, that the way I read that. Whether  
10 that's a good policy I guess, not right or wrong. That's how  
11 I would read it, so.

12       TOGLIATTI: George Togliatti for the record. I think  
13 I'm going back, maybe it's not semantics, but it's just not  
14 it.

15       JENSEN: No, that's correct. Uh, but it's --

16       TOGLIATTI: (inaudible).

17       SHERLOCK: Well, Mike Sherlock for the record. I think  
18 what I would add to that is your position does not have to be  
19 POST certified. And so we would have to expand on that  
20 language even more to say, if you're the -- if you're a  
21 director, one of the exempt directors and you have a POST  
22 basic certificate, then you would be eligible for the  
23 executive -- executive certificate, see that.

24       TOGLIATTI: I'm gonna blame Tim Shea on this one. I'm  
25 just thinking 10 years in advance. I would say 10 years from

1 now, we may have a total different organization which would  
2 include, now we have Cannibus. There's gonna be some movement  
3 in place, to have their own investigative agency like Gaming.  
4 So I'm just thinking for the future put that State of Nevada  
5 or State agency in there makes a lot of sense.

6 SHERLOCK: Yeah, Mike Sherlock for the -- for the record.  
7 Staff's perspective is, you know, saying that someone has to  
8 have a certain amount of training for the certificate's not a  
9 bad thing in any case.

10 SHEA: Tim Shea for the record. It says will grant an  
11 executive certificate to an officer. So I assume definition  
12 of officer is somewhere in this section that identifies them  
13 as someone who has proper POST certifications. So if that  
14 definition of an officer's (inaudible) certifications, it  
15 would then include those people that work for the state that  
16 have that certification exclude those that do not because they  
17 would not meet the definition of officer.

18 SHERLOCK: Mike Sherlock for the record. Uh, Director  
19 Togliatti's position, for example, is an officer position. So  
20 there are officer positions that do not come under the  
21 jurisdiction of POST.

22 SOTO: I'll just weigh in with this. I'm comfortable  
23 with the language as it stands. I do, uh,, tend to, uh, agree  
24 with some of the views brought up by Togliatti and Shea in  
25 terms of maybe this Commission taking a look at adding some



1 additional language for some of these positions that may come  
2 to fruition in the future. Just to insulate our (inaudible)  
3 and our regulations. That's where I stand on it, if that  
4 means anything. Any other comments? Okay.

5 UNIDENTIFIED MALE: Mr. -- Mr. Chairman.

6 SOTO: Go ahead.

7 UNIDENTIFIED: Uh, now that we've adopted the language  
8 for executive certificate, uh, subsection H. Um, submitting a  
9 letter of recommendation signed by the agency, the letter must  
10 include the organizational chart, which demonstrates the  
11 applicant's position that has not been stricken. Thank you.

12 SHERLOCK: Yeah, Mike Sherlock for the record. Uh, Chief  
13 Floyd just pointed that out to me, but again, it's, uh, for  
14 record staff, they're looking at whether or not -- in terms of  
15 -- and we're back on the executive level, which (inaudible),  
16 but they're looking at whether or not it meets that language,  
17 uh, in terms of the chief executive designating that person.

18 SOTO: (inaudible) comments from anybody (inaudible).  
19 So I'm looking for a motion to adopt the regulation we have in  
20 front of us, changes to NAC 289.270. Do I have a motion?

21 SHEA: So I ask a point of clarification. Is this  
22 excluding the ability of -- like the head of the Nevada state  
23 police head department, public safety, they're excluded from  
24 being able to do this?

25 SHERLOCK: Mike Sherlock for the record. No, they're --

1 they're excluded from the -- from that subsection that allows  
2 the sheriff and chief to apply. They're not excluded from the  
3 certificate. They meet the requirements of the executive  
4 certificate, of course they can get the certificate. They're  
5 not excluded in any way, uh, (inaudible).

6 MCKINNEY: This would apply, say in my situation, where I  
7 was unable to go to FBI National Academy or to, you know, some  
8 sort of Northwestern and if I were the chief for five years, I  
9 would be eligible for my executive certificate. I mean, I --  
10 I don't think state executive would be in that position,  
11 normally, where they wouldn't able to attain the necessary  
12 training requirement that -- I think that's the intent of that  
13 section.

14 TROUTEN: Ty Trouten, just for the record. Clarifying.  
15 What you're saying is there's two paths for the executive  
16 certification. One, which, um, we've talked about ad nauseam,  
17 but then the second one, which is a catch all for more, uh,  
18 rural, smaller agencies that may not have the provisions to  
19 reach that. So state employees, county employees, state  
20 employees, whatever agency are still (inaudible) first, uh,  
21 subsection (inaudible), correct?

22 SHERLOCK: That's correct.

23 SOTO: Looking for a motion to adopt a regulation  
24 changes NAC 289.270. Looking for a motion. All right, any  
25 other discussions? Okay, we're gonna move on item number

1 four, discussion, public comment, and possible action. The  
2 commission decided whether to continue to rule making process  
3 regarding the establishment of new regulation pursuant to  
4 Assembly Bill 336. I'm going to turn this over to Mike  
5 Sherlock for information on this item.

6 SHERLOCK: Uh, Mike Sherlock for the record. Uh, again,  
7 this is, uh, dealing with the annual behavior -- behavior  
8 wellness visit, uh, uh, bill. Um, we've had a lot of  
9 discussion about the language, uh, the commission, and, uh,  
10 we'd be recommending that the commission, um, continue the  
11 rule making process on this particular item, um, we could go  
12 to another workshop to keep working on language. Um, again,  
13 based on some of the pressure from the legislature, I would,  
14 uh, remind the commission that, um, uh, this bill goes into  
15 effect in January, and I hate to go beyond that in terms of  
16 our process. The other option is to, uh, have the language  
17 that's been presented so far sent over to LCB, and it would  
18 come back to the commission for approval or changes at that  
19 point. Um, but in -- in any case, we'd be looking for, uh,  
20 the commission to continue the rule making on this particular  
21 (inaudible).

22 SOTO: I would suggest we continue the rule making  
23 process just based off of all the information we've received  
24 today and get back at it at the next scheduled meeting.  
25 Unless the commissioners have any thoughts (inaudible). So

1 I'll look for a motion to continue the rule making process on  
2 this proposed regulation.

3 TROUTEN: So moved.

4 SOTO: Motion. Can I get a second?

5 MCKINNEY: Kevin McKinney. I second.

6 SOTO: Motion to second. All those in favor, say aye.

7 MEMBERS: Aye.

8 SOTO: Opposed. Motion carries unanimously. Item  
9 number five, discussion, public comment and possible action.  
10 Hearing pursuant to NA -- NAC 289.290 subsection 1C on  
11 revocation of Regina M Joines formerly Nevada Department of  
12 Corrections. Category three basic certificate based on gross  
13 misdemeanor conviction, sexual abuse of prisoner or  
14 unauthorized custodial conduct by employee, violation of NRS  
15 212.188 subsection 1 and subsection 3b. I'm gonna turn this  
16 over Mike Jenson for presentation of this hearing information.

17 JENSEN: Thank you, Mr. Chairman. Uh, Mike Jensen for  
18 the record. This is the time that you stated for the  
19 commission to consider the potential revocation for the Regina  
20 Marie Joines. The hearing is going forward pursuant to a  
21 couple of different statutes and regulations, uh, NRS 289.510,  
22 which provides for the commission to adopt regulations and  
23 establishing minimum standard for certification and  
24 decertification of officers and NAC 289.290 which establishes  
25 the cause for the commission to revoke or suspend the

1 certificate of a peace officer. Specifically for this  
2 hearing, you're looking at a section that -- that is in the  
3 revised regulation, section 1E, which provides that a  
4 conviction for a -- a gross misdemeanor constitutes ground for  
5 revocation of a peace officers POST certification. Uh, in  
6 each of your packets, there are a number of exhibits that I  
7 would just briefly go through that would be presented at this  
8 hearing to support any action they provide the commission. In  
9 Exhibit A is the notice to intent revoke that's sent out to,  
10 uh, Ms. Joines. It show -- it informs her that commission has  
11 initiated action to revoke her basic certificate. Uh, it  
12 informs her of the law, provides information on the  
13 convictions on your staff revocation actions. Uh, the date,  
14 time, location of the hearing, the right to appear and present  
15 evidence and cross examine any witnesses. It also gives her -  
16 - discusses the legal requirement that she inform the  
17 commission that she intends to appear at -- at this particular  
18 action, uh, or at this particular hearing to contest the  
19 revocation. It's my understanding Ms. Joines has not notified  
20 the commission that she intends to appear this morning at this  
21 hearing to contest the revocation. Finally, it provides the  
22 scope of the hearing of which will look at whether or not her  
23 certificate should be revoked. Exhibit B is the declaration  
24 of service which shows that Ms. Joines was personally served  
25 with the notice on June 18, 2022. Which means the commission

1 has complied both with the commission regulations as well as  
2 open meeting requirements for notification if an action is  
3 taken to revoke a certificate. Exhibit C is the personnel  
4 action report. It shows that Ms. Joines employment was  
5 terminated and she separated from her agency, uh, effective  
6 September 21st of 2019. Exhibit D is a certified copy of the  
7 certificate, that's at issues at this hearing this morning.  
8 Exhibit E is the certified copy of the -- the, uh, court  
9 documents that form the basis for any action this morning.  
10 It's the Criminal Information. It was filed on October 26,  
11 2021 in Carson City, Nevada. It charges Ms. Joines with one  
12 count of sexual abuse of a prisoner, or as unauthorized  
13 custodial conduct by an employee, uh, gross misdemeanor in  
14 violation of NRS 212.188 (1) and (3)(b). The following  
15 factual actual allegation. Uh, it states that on or between  
16 September 21st, 2018 and September 21, 2019, in Carson City,  
17 uh, Regina Joines, a correctional for the Nevada Department of  
18 Corrections, namely the Warm Springs (inaudible) Correctional  
19 Center did unlawfully and willfully engage in with a prisoner  
20 in lawful custody or confinement of the Department of  
21 Corrections unauthorized custodial conduct to wit the  
22 defendant kissed an inmate on mouth and or touched his clothed  
23 genitals, pubic area (inaudible) to intent to abuse or arouse,  
24 appeal or gratify in sexual consent, desires with the  
25 defendant and or the inmate. And Exhibit F is a certified

1 copy of the guilty plea agreement, which filed December 14,  
2 2021. Which shows Ms. Joines agreed to plead guilty to that  
3 count of sexual abuse of a prisoner or unauthorized custodial  
4 conduct by an employee, a gross misdemeanor. Exhibit G is the  
5 judgment of conviction, which shows Ms. Joines on signed  
6 January 5th, uh, 2022 was convicted of that gross misdemeanor  
7 count. She was sentenced to time served and a fine of fifteen  
8 hundred dollars, which was suspended and she was placed on  
9 probation. Exhibit H is her honorable discharge for probation  
10 in January of 2022. The evidence that has been presented this  
11 morning shows that Ms. Joines was convicted of, uh, gross  
12 misdemeanor involving serious criminal conduct by her -- while  
13 acting in a peace officer capacity. It certainly constitutes  
14 a violation of the trust that's placed in our peace officers  
15 and is inconsistent with the judgment and demeanor of a peace  
16 officer, uh, and through that conduct and she has disqualified  
17 herself from the position of a peace officer. Staff would  
18 recommend that her certificate be revoked. As part of that,  
19 we -- I would ask that Exhibit A through H, Mr. Chairman, be  
20 admitted into the record to support any action taken by the  
21 commission this morning.

22 SOTO: So admitted. Any public comments on this? Any  
23 comments from the commission? Seeing as though there are  
24 none, I'm looking for a motion to revoke the category 3 basic  
25 certificate for Regina M. Joines. Can I get a motion?

1 NIEL: Russ Niel, so moved.

2 SOTO: I have a motion, can I get a second?

3 TROUTEN: Ty Trouten, second.

4 SOTO: Motion and a second. All in favor, say aye.

5 MEMBER: Aye.

6 SOTO: Opposed? Motion carries unanimously. Moving  
7 on to item number six. Discussion, public comment and for  
8 possible action. Hearing pursuant to NAC 289.290 subsection  
9 1c on the revocation of Zachary E. Winningsham's, formerly  
10 with the Henderson Police Department category one, two and  
11 three basic certificate based on misdemeanor conviction,  
12 domestic battery, first offense violation of NRS 200.485  
13 subsection 1a 200.481 subsection 1A NRS33.018 and Henderson  
14 city charter section 2.140. Uh, and I'm turn this over to  
15 Mike Jensen for a presentation of this hearing.

16 JENSEN: Thank you, Mr. Chairman. This is the second of  
17 two, uh, today, since our final revocation hearing this  
18 morning. Again, this hearing is proceeding under the same two  
19 statute, and the regulation previously stated, NRS 289.510 and  
20 NAC 289.290, specifically under NAC 289.290, the section that,  
21 uh, proceeding this morning is section 1 I that provides based  
22 on a conviction for a misdemeanor of crime of domestic  
23 violence as defined by 18 USC Section 921(a) (33). There are a  
24 number of exhibits in your packet that are marked that I will  
25 go through quickly, Mr. Chairman and members of the committee.



1 Exhibit A is a notice of intent to revoke, again that sets out  
2 the basics for due process for Mr. Winningham. Uh, it informs  
3 him of the Commission's intent to revoke his certificate, of  
4 the law that provides for that revocation, the date, time, and  
5 location of the hearing and his right to appear and present  
6 evidence, cross examine. The legal requirements that he  
7 inform the commission if he intends to appear within 15 days  
8 of receiving that notice and the scope of the hearing, uh,  
9 which is that whether or not his POST certificate should be  
10 revoked for that misdemeanor crime of domestic violence  
11 conviction. It's my understanding, Mr. Winningham has not  
12 noticed the commission that he intends to appear today and  
13 contest this revocation . Exhibit B is the declaration of  
14 service showing Mr. Winningham was personally served with the  
15 notice of intent on July 6th of 2022, which complies both with  
16 the commission regulation notice requirements, as well as the  
17 meeting law requirements. Exhibit C is the personnel action  
18 report that shows that Mr. Winningham's peace officer  
19 employment was terminated effective May 12th, 2022. Exhibit D  
20 is the certified copy of his Category I, II, and III basic  
21 certificates which are in issue this morning. Exhibit E is  
22 the certified copy of the criminal complaint charging Mr.  
23 Winningham with two counts of battery constituting domestic  
24 violence, a misdemeanor in violation of NRS 200.481 (1) (a)  
25 200.485 (1) (a) and NRS 33.018 and also coercion, he was

1 originally charged with coercion as well, in violation of the  
2 Henderson Municipal Code. Exhibit F is the, uh, admonishment  
3 of rights that individuals who are, uh, charged with domestic  
4 battery are required to review and sign. Uh, it sets out the  
5 consequences of a domestic battery conviction, including, uh,  
6 the loss of the right to own or possess any firearm or have  
7 any control of a firearm and the requirement that he surrender  
8 any firearm that he has or transfer all of his firearms.  
9 Exhibit G is Henderson, Municipal Court sentencing order. It  
10 shows Mr. Winningham was convicted of battery constituting  
11 domestic violence on April 7th, 2022. He was sentenced to pay  
12 a fine and fee and attend domestic battery counseling  
13 surrender all of his firearms or sell those, have no contact  
14 with the victim and to jail sentence of 30 days with 28 days  
15 suspended, 48 hours of community service. Exhibit H is the  
16 judgment of conviction, which shows that he was in fact  
17 convicted for that battery constituting domestic violence.  
18 Exhibit I is the docket sheet that basically shows the  
19 evolution of criminal case through the court system. The  
20 evidence in this case shows that Mr. Winningham has been  
21 convicted battery constituting domestic violence, a  
22 misdemeanor. The evidence shows that that crime constitutes a  
23 misdemeanor crime of domestic violence as defined in federal  
24 law. Again, this is criminal conduct that is serious. It's a  
25 type of conduct that's inconsistent with judgment and

1 demeanor, uh, that we expect that peace officers. His  
2 conviction also has a federal conviction, uh, misdemeanor  
3 crime, domestic battery, prohibit him from owning or  
4 possessing any firearms, which is also inconsistent with him  
5 acting as a peace officer. Based on that evidence, uh, I  
6 would first ask that Exhibits A through I be admitted into  
7 evidence, uh, to support any action taken by the commission  
8 and recommend that Mr. Winningham's POST certificates be  
9 revoked.

10 SOTO: So admitted. Any comments from the public?  
11 Any comments from the commission? Seeing as though there are  
12 none, looking for a motion to revoke the category one, two,  
13 and three basic certificates for Zach E. Winningham.

14 SHEA: I'll make a motion to revoke those  
15 certificates.

16 SOTO: A motion, can I get a second?

17 MCKINNEY: Kevin McKinney. I'll second.

18 SOTO: Motion and second. All those in favor, say  
19 aye.

20 MEMBERS: Aye.

21 SOTO: Opposed? Motion carries unanimously. Moving  
22 on to on to item number seven, discussion, public comment, and  
23 or possible action, commission to decide whether to establish  
24 exploratory work to study and make recommendations for  
25 improving the ability to recruit out of state laterals and

1 reviewing the POST reciprocity process. I'm gonna turn this  
2 over to Mike Sherlock for explanation.

3 SHERLOCK: Uh, Mike Sherlock for the record. Uh, chief,  
4 uh, Tim Shea reached out and asked to have this added to the  
5 agenda. I would just say, staff has no problem doing what we  
6 can to help with recruiting, um, administering a work group or  
7 committee to -- to look at reciprocity and that type of thing,  
8 um, with that perhaps that Chief Shea could expand.

9 SHEA: Thank you, Mike. Tim Shea. Um, this -- after  
10 we did the, uh -- the work group that was put together to look  
11 at the executive certification process, I thought that another  
12 thing we possibly take a look at is, has our, um -- is our  
13 ability to recruit out of state laterals still appropriate in  
14 this day and age from when I went through the program some  
15 nine years ago, it -- was an interesting process. I don't  
16 know how much it's changed since then. For example, I don't  
17 know if the online used be call POST in lieu of test is still  
18 the same course, but it's an interesting course. Um, you take  
19 it online, you can take it, um, either belonging to an agency  
20 or I wasn't -- I didn't live here when I took it, I was still  
21 (inaudible) I did it over a weekend on my desk at work. I  
22 paid three hundred dollars and got a certificate from Nevada  
23 saying I took the POST in lieu course. There were some  
24 problems with the test. I called the person who, um,  
25 basically administrative lived in, um, Arizona and I spoke to

1 him at his house so. But, uh, for example, when you take the  
2 chapter quiz, as you missed a test question, you have no idea  
3 which one you missed. There's no way to know. So you don't  
4 know what you missed of the 10 or 12 questions, you just know  
5 you missed 1 or 2. The -- when you come here and you start  
6 the process once you're hired, it's a pretty difficult  
7 process, you, have a very small window for a physical agility  
8 test, whether that's appropriate or not to, it's something to  
9 think we should look at. We have medical assessments and we  
10 talk about physical fitness. Um, we're one of the very few  
11 states that actually have an annual medical fitness test that  
12 you get most states there's nothing. And I'm adding things on  
13 to my test, like, uh, ultrasound, checking your arteries and  
14 all this. So I don't know if the physical agility test is  
15 necessary or proper or improper, I really don't know. We did  
16 medical assessments. And the other thing I wanted to look at  
17 was our POST one certification test. On POST one  
18 certification test, you take at your agency and somebody  
19 proctors it, it's online. Um, the online test, there is no  
20 study guide for it. It is obviously off of someone's lesson  
21 plan. When that lesson plan occurred, when it was instructed,  
22 I (inaudible) is no state academy class that you go to for,  
23 like, two or three weeks, prepare yourself for this. You --  
24 you just take the test, and, um, someone sits in an office  
25 with you by your computer and watches you take it. So I just

1 thought it would be -- in this day and age, where we are  
2 seeing an increasingly difficult ability to hire people within  
3 the state, as there's just not enough people to fill our  
4 completed ranks. And if we don't have an enhanced ability to  
5 hire out of state laterals then what happens when we start  
6 feeding off each other, and we start taking people from each  
7 other to the detriment of the agency right next to us, and  
8 officers will start moving around a little more frequently. I  
9 came from an area where there's about 35 agencies within  
10 commuting distance. And people would move every few years  
11 'cause they're paying a little bit better their benefits would  
12 get a little bit better. And, uh, they were offered  
13 incentives to go there and stay for a couple of years. They  
14 might give a 5-thousand-dollar check if they stayed for two  
15 years or something like this. So my -- my idea was to sit  
16 down and see, put a work group together to make  
17 recommendations, to see if we are relevant still in this age  
18 of our process needed at -- at the state level to be adopted  
19 and changed. Agencies still have the ability of course with  
20 their own restrictions, their own qualifications, their own  
21 standards in the place, but those are just looking what as a  
22 state. And another thing that's kind interesting about this,  
23 we cannot give the physical agility test under lateral  
24 conditions, it must be done by somebody else does it by POST.  
25 But at the same time, it doesn't matter who proctors the test.

1 The written online test, anybody can proctor that. The  
2 physical agility test must be something done by somebody else,  
3 I believe for our County, I think it was you guys. It was  
4 silver states. They were the people (inaudible), now I  
5 believes the city of Marshalls, so I can't do it. I can only  
6 do the online POST I certification test. So that was idea ,  
7 that was my thought, (inaudible) to see where we are.

8 SOTO: Any other comments from any of our  
9 commissioners? Any public comment. Seeing as though there is  
10 none, I'm looking for a motion to direct staff to create a  
11 work group to explore (inaudible).

12 PROSSER: Jamie Prosser, so moves.

13 SOTO: Motion, and a second?

14 NIEL: Russ Niel, I'll second.

15 SOTO: Motion and a second. All those in favor, say  
16 aye.

17 MEMBERS: Aye.

18 SOTO: Opposed? Motion carries unanimously. Item  
19 number eight, public comments. Commission may not act on any  
20 matter considered under this item until the matter is  
21 specifically included on the agenda as action act, we have any  
22 public comment we do not. All right. Item number 9  
23 discussion, public comment and for possible action. Schedule  
24 the upcoming commission meeting. I'm gonna turn this over to  
25 Mike Sherlock.

1           SHERLOCK: Uh, Mike Sherlock for the record. Uh, I did,  
2 uh, speak to the chairman. Uh, we're proposing a September  
3 meeting. We normally don't have a September meeting. Mostly  
4 to deal with the suspensions, uh, related to non-compliance  
5 for continuing ed. Uh, we normally would do that in July at  
6 this meeting, uh, but there's an unusually high number of  
7 officers. We usually have six in July where it's 70 right  
8 now. Um, and that poses a problem for us. We're having, uh,  
9 trouble getting them notified or the agencies helping us  
10 getting them notified and that kind of thing and served with  
11 notices. But, uh -- so we're looking at September 10th at 10  
12 -- 10:00 a.m., uh, primarily to deal with suspensions, but it  
13 sounds like we probably have, uh, workshop that kinda thing  
14 too.

15           ALLEN:       So the 10th or the 21st? Tenth is a Saturday.

16           SHERLOCK: Oh, I'm sorry.

17           FLOYD:       Ten a.m. on the 21st.

18           SHERLOCK: Oh yeah. Sorry, September 21st at 10:00 a.m.

19           ALLEN:       And where at?

20           SHERLOCK: Here in Carson. Again, to deal with -- now,  
21 uh, we're hoping that it's primarily -- primarily one agency  
22 will, uh, assist us in getting their people into compliance  
23 and that may change, but, uh -- the number may change, but,  
24 uh, that's what we're looking at right now and that's our  
25 proposal.



1 SOTO: All right. We're looking for a motion to  
2 schedule the next meeting for September 21st, 2022 at 10:00  
3 a.m. here in Carson City. Motion to second.

4 TROUTEN: So moved.

5 SOTO: Motion, second?

6 ALLEN: Mike Allen, second.

7 SOTO: All those in favor, say aye.

8 MEMBERS: Aye.

9 SOTO: Motion carries unanimously and item number 10  
10 discussion, public comment, and for possible action. Looking  
11 for a motion to adjourn.

12 SHEA: Can -- can -- can I ask a question before we  
13 adjourn?

14 SOTO: Yes.

15 SHEA: What happens to the, uh, agenda item, we -- we  
16 didn't vote?

17 JENSEN: This is Mike Jensen for the record. I think it  
18 just -- nothing happens on it. So it'd have to be brought up  
19 again in future meeting if you want it to move forward.

20 SHEA: How is it brought forward again?

21 JENSEN: One of the commissioners could ask that it be  
22 put on -- on the agenda. A member of the public could ask that  
23 as well.

24 SHERLOCK: Mike Sherlock for the record. Understand that  
25 we are with the old record, the current regulation now. So we

1 have a new definition of what executive level is, but the  
2 requirements for the executive remain the same.

3 SHEA: Okay, I understand. Yes, sir.

4 TOGLIATTI: Uh, George Togliatti for the record. Uh,  
5 I would like to everybody know that our attorney, Mike Jensen,  
6 not only served POST for a bazillion years, he's also our  
7 primary senior AG for the department of public safety and has  
8 done a good job and will be missed so we appreciate  
9 (inaudible).

10 SOTO: He's got a bigger smile on his face. All  
11 right. I think we got it covered. I'm looking for a motion  
12 to adjourn.

13 ALLEN: Motion.

14 SHEA: This side of the table motion to adjourn.

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