



Nevada Commission on Peace Officer
Standards and Training

PUBLIC COMMENT, WORKSHOP AND
REGULARLY SCHEDULED COMMISSION
MEETING

TUESDAY, JULY 19, 2022 @ 10:00 A.M.
COMMISSION ON POST
CLASSROOM #2
5587 WA PAI SHONE AVE.
CARSON CITY, NV

NOTICES

- A. NOTICE OF PUBLIC COMMENT HEARING – R078-21
- B. NOTICE OF PUBLIC COMMENT HEARING – R079-21
- C. NOTICE OF PUBLIC COMMENT HEARING – R052-22
- D. NOTICE OF PUBLIC COMMENT HEARING – R053-22
- E. NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATIONS
- F. REGULARLY SCHEDULED MEETING AGENDA



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
5587 Wa Pai Shone Avenue
Carson City, Nevada 89701
(775) 687-7678 FAX (775) 687-4911

STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the Adoption, Amendment and Repeal
Of
Regulations of the Commission on Peace Officer
Standards and Training**

PUBLIC COMMENT HEARING NOTICE: The Commission on Peace Officer Standards and Training (“Commission”) will be holding a Public Comment Hearing at **10:00 a.m. on Tuesday, July 19, 2022, at the POST Administrative Building, Classroom #2, 5587 Wa Pai Shone Ave., Carson City, NV 89701.** The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations that pertain to Chapter 289 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations.

Existing law requires the Peace Officer Standards and Training Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510)

Existing regulations require a person appointed to perform the duties of a peace officer, among other requirements, to have undergone a complete and documented investigation of his or her background which verifies that the person has good moral character and meets the minimum standards established by the Commission.

This regulation requires the background investigation to also include an evaluation to identify any implicit bias the person may have on the basis of race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2020 and clicking the link: <https://www.leg.state.nv.us/Register/2021Register/R078-21P.pdf> or by contacting Chief Kathy Floyd at kfloyd@post.state.nv.us or by telephone at 775-687-7678, ext. 3335 or going to the Nevada Commission on POST website at <https://post.nv.gov>.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and, in each case, must include:

(a) Both adverse and beneficial effects; and

(1) Adverse effects: None

(2) Beneficial effects: This regulation requires the background investigation to include an evaluation to identify any implicit bias the person may have on the basis of race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression. An agency will have this additional tool available to eliminate the hiring of people with bias issues.

(b) Both immediate and long-term effects:

(1) The immediate effects: None

(2) The long-term effects: None

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, adding to the requirements of the background of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

None

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

There are no federal regulations that regulate the same activity.

10. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not involve or establish fees.

11. For a temporary regulation, each address at which the text of the regulation may be inspected and copied.

N/A

Persons wishing to comment upon the proposed action of the Commission on Peace Officer Standards and Training (Commission on POST) may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Michael D. Sherlock, Executive Director, Commission on POST, 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the Commission on POST on or before 5:00 pm on June 29, 2022.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission on POST may proceed immediately to act upon any written submissions.

This Notice of Intent to Act Upon Regulations and the proposed regulation will be on file at the State Library, Archives and Public Records Administrator, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and regulations to be adopted, amended or repealed will be available at the Commission on POST Administrative Offices, 5587 Wai Pai Shone Avenue, Carson City, 89701, State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us>, the POST web site at <http://post.nv.gov> and the State of Nevada Department of Administration website at <https://notice.nv.gov>.

Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption

The Notice of Intent to Act Upon Regulations and the proposed regulation have been sent to all criminal justice agencies on the Commission on POST Listserv list and posted at the following locations:

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Carson City, NV 89701**

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**SEE ATTACHED COPIES OF THE PROPOSED
REGULATIONS**

**PROPOSED REGULATION OF THE PEACE OFFICERS’
STANDARDS AND TRAINING COMMISSION**

LCB File No. R078-21

April 6, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 289.510, as amended by section 1 of Assembly Bill No. 409, chapter 136, Statutes of Nevada 2021, at page 574.

A REGULATION relating to peace officers; requiring an evaluation to identify any implicit bias a person may have before the person is appointed as a peace officer; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Peace Officers’ Standards and Training Commission to adopt regulations establishing minimum standards for the certification, decertification, recruitment, selection and training of peace officers. (NRS 289.510, as amended by section 1 of Assembly Bill No. 409, chapter 136, Statutes of Nevada 2021, at page 574)

The existing regulations of the Commission require a person seeking to be appointed to perform the duties of a peace officer to undergo a background investigation regarding the person’s: (1) employment, criminal and financial history; (2) driving record; (3) education and military background; and (4) previous addresses of residence. The background investigation must also include a drug screening, psychological evaluation and lie detector test. (NAC 289.110) This regulation requires the background investigation to also include an evaluation to identify any implicit bias the person may have on the basis of race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression.

Section 1. NAC 289.110 is hereby amended to read as follows:

289.110 1. No person may be appointed to perform the duties of a peace officer unless he or she:

(a) Has undergone a complete and documented investigation of his or her background which verifies that the person has good moral character and meets the minimum standards established by the Commission;

(b) Is a citizen of the United States;

(c) Is at least 21 years of age at the time of the appointment;

(d) Has:

(1) Graduated from high school;

(2) Passed the General Educational Development Test or another high school equivalency assessment approved by the State Board of Education; or

(3) Passed a high school equivalency assessment approved by an appropriate authority in another state; and

(e) Has undergone a medical examination performed by a licensed physician who confirms in writing that no physical condition exists which would adversely affect his or her performance of the duties of a peace officer. The employing agency shall inform the examining physician of the specific functions required by the position to be filled.

2. The investigation of the background of a person required pursuant to subsection 1 must include, without limitation:

(a) An investigation of the current and past employment history of the person, including, without limitation, an examination of the duties that have been assigned to the person and any performance evaluations of the person;

(b) An inquiry into the criminal history of the person in the State of Nevada and in any other state where the person is known to have resided, which must include, without limitation, any warrants issued for the person and the submission of the person's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(c) An inquiry to the Department of Motor Vehicles and the appropriate entity in each other state in which the person is known to have resided regarding any driver's licenses the person has held and the driving record of the person;

(d) A financial history of the person;

(e) The educational background of the person;

(f) The history of any military service of the person;

(g) A history of each physical address where the person has resided;

(h) A drug screening test;

(i) A psychological evaluation; ~~and~~

(j) The use of a lie detector as defined in NRS 613.440 for a peace officer being appointed as a category I, category II or reserve peace officer ~~and~~; *and*

(k) An evaluation to identify any implicit bias the person may have on the basis of race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression.

3. The investigation of the background of a person required pursuant to subsection 1 may include the use of a lie detector as defined in NRS 613.440 for a peace officer being appointed as a category III peace officer.

4. A person may not be appointed to perform the duties of a peace officer if he or she has:

(a) Been convicted of a felony in this State or of any offense which would be a felony if committed in this State;

(b) Been convicted of an offense involving moral turpitude or the unlawful use, sale or possession of a controlled substance;

(c) A documented history of physical violence; or

(d) Resigned in lieu of termination or been terminated from any civil service employment for substantiated misconduct involving dishonesty, and has not been reinstated as a result of a judicial action or any available appeal or remedy relating to the resignation or termination, including, without limitation, any civil service appeal, direct administrative appeal or collective bargaining remedy. For purposes of this paragraph, “dishonesty” includes untruthfulness, deception, misrepresentation, falsification, and dishonesty by admission or omission.



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The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations.

Existing law requires the Peace Officer Standards and Training Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510)

The 81st Session of the Nevada Legislature enacted legislation to require that continuing education on the topic of mental health include, without limitation, training in crisis intervention. (NRS 289.510, as amended by section 1 of Assembly Bill No. 304, chapter 206, Statutes of Nevada 2021, at page 950) This regulation makes a corresponding change to the continuing education requirements of the Commission.

The addition of “crisis intervention” to the topic of mental health (see NRS 289.510) will ensure that this critical training is available to every law enforcement officer in Nevada annually.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2020 and clicking the link: www.leg.state.nv.us/Register/2020Register/R079-21P.pdf, by contacting Chief Kathy Floyd at kfloyd@post.state.nv.us or by telephone at 775-687-7678, ext. 3335 or going to the Nevada Commission on POST website at <https://post.nv.gov>.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and, in each case, must include:

(a) Both adverse and beneficial effects; and

- (1) Adverse effects: None
- (2) Beneficial effects: Adding crisis intervention to this regulation will ensure all peace officers are trained in this subject annually, an additional safety measure for peace officers and the public.

(b) Both immediate and long-term effects:

- (1) The immediate effects: None
- (2) The long-term effects: None

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, dealing with certification provisions of the annual continuing education of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

None

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

There are no federal regulations that regulate the same activity.

10. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not involve or establish fees.

11. For a temporary regulation, each address at which the text of the regulation may be inspected and copied.

N/A

Persons wishing to comment upon the proposed action of the Commission on Peace Officer Standards and Training (Commission on POST) may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Michael D. Sherlock, Executive Director, Commission on POST, 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the Commission on POST on or before 5:00 pm on June 29, 2022.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission on POST may proceed immediately to act upon any written submissions.

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**PROPOSED REGULATION OF THE PEACE OFFICERS’
STANDARDS AND TRAINING COMMISSION**

LCB File No. R079-21

April 6, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 289.510, as amended by section 1 of Assembly Bill No. 304, chapter 206, Statutes of Nevada 2021, at page 950.

A REGULATION relating to peace officers; requiring that a course of continuing education in mental health include, without limitation, training in crisis intervention; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, the Peace Officers’ Standards and Training Commission is required to adopt regulations requiring all peace officers annually to complete courses of continuing education on various topics, including the topic of mental health. The 81st Session of the Nevada Legislature enacted legislation to require that continuing education on the topic of mental health include, without limitation, training in crisis intervention. (NRS 289.510, as amended by section 1 of Assembly Bill No. 304, chapter 206, Statutes of Nevada 2021, at page 950) This regulation makes a corresponding change to the continuing education requirements of the Commission.

Section 1. NAC 289.230 is hereby amended to read as follows:

289.230 1. Except as otherwise provided in subsections 7 and 8, to maintain a basic certificate or reserve certificate, the officer must annually:

- (a) Satisfy the requirements of subsection 5; and
- (b) 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.

2. The employing agency shall ensure that its officers comply with the requirements of subsection 1. The employing agency shall notify each officer of the requirements of this section and the penalties set forth in subsection 4 for failure to comply with this section. After an officer completes the requirements of subsection 1, the employing agency shall submit to the Executive Director by any means approved by the Executive Director verification that the officer has completed those requirements. Verification must be submitted on or before December 31 of the year in which the officer was required to complete the requirements of subsection 1.

3. If the Executive Director has not received verification that an officer has completed the requirements of subsection 1 on or before December 31 of the year in which the officer was required to complete those requirements, the Executive Director shall notify the administrator of the employing agency that he or she has not received the verification required by subsection 2 and that if the verification is not received on or before March 1 following the year in which the officer was required to complete the requirements, the Executive Director will place the administrator on the agenda for the next scheduled meeting of the Commission to explain the delay in the submission of the verification. If the Executive Director has not received verification that an officer has completed the requirements of subsection 1 on or before March 1 following the year in which the officer was required to complete the requirements, the Executive Director shall place the administrator of the employing agency on the agenda for the next scheduled meeting of the Commission.

4. Upon the request of the Commission or its designee, the employing agency shall make available for inspection the records of all officers to verify that they have complied with the requirements of subsection 1. The Commission will notify each officer and his or her employing agency of any noncompliance. The Commission will suspend the certificate of any officer who does not complete the requirements of subsection 1 within 60 days after the date on which he or she received the notice of noncompliance. The Executive Director may temporarily reinstate the suspended certificate of an officer upon receiving documentation from the officer which demonstrates that he or she has complied with the requirements of subsection 1. The temporary reinstatement of the suspended certificate is effective upon the Executive Director's approval of the temporary reinstatement and expires on the date on which the Commission determines whether to reinstate the certificate. The Commission will reinstate the suspended certificate or temporarily reinstated certificate of an officer upon receiving documentation from the officer which demonstrates that he or she has complied with the requirements of subsection 1.

5. Except as otherwise provided in subsections 7 and 8, in addition to completing the continuing education required pursuant to subsection 1, an officer must:

(a) If the officer is authorized to use a firearm, at least biannually demonstrate a minimum level of proficiency in the use of each type of firearm he or she is authorized to use. An officer who does not demonstrate a minimum level of proficiency with the use of any type of firearm he or she is authorized to use may not carry or use that type of firearm until he or she participates in a remedial course established by the employing agency to ensure that the officer achieves and maintains a satisfactory level of proficiency.

(b) If the officer is authorized to use an impact weapon, chemical weapon, electronic incapacitating device or other less than lethal weapon, at least annually demonstrate a minimum

level of proficiency in the use of each such weapon or device he or she is authorized to use. An officer who does not demonstrate a minimum level of proficiency with the use of any such weapon may not carry or use that weapon until the officer participates in a remedial course established by the employing agency to ensure that the officer achieves and maintains a satisfactory level of proficiency.

(c) If the duties of an officer require him or her to use arrest and control tactics, demonstrate annually a minimum level of proficiency in the use of arrest and control tactics, including, without limitation, techniques related to applying handcuffs, taking down suspects, self-defense and retention of weapons.

(d) If the employing agency of the officer authorizes the use of a carotid restraint or lateral vascular neck restraint, demonstrate annually a minimum level of proficiency in those techniques.

(e) Review annually each policy of the employing agency which addresses the use of force in any situation in which the agency or the officer may become involved.

6. Each employing agency shall establish and provide the courses set forth in subsection 5 to its officers and establish the minimum level of proficiency that an officer must demonstrate in each course.

7. An officer:

(a) Who voluntarily leaves his or her employment as a peace officer for at least 4 consecutive months but not more than 60 consecutive months;

(b) Whose employment as a peace officer is terminated for any reason for at least 4 consecutive months but not more than 60 consecutive months;

(c) Who, during a period of continuous employment as a peace officer, is absent from his or her duties as a peace officer because of medical leave, military leave or other approved leave for at least 4 consecutive months; or

(d) Who is hired, rehired or reinstated on or after July 1 of a reporting year,

↳ must satisfy the requirements of paragraphs (b) to (e), inclusive, of subsection 5 and demonstrate a minimum level of proficiency in the use of each type of firearm he or she is authorized to use before commencing or resuming his or her duties as a peace officer.

8. An officer who instructs a course pursuant to subsection 5 is not required to comply with the requirements of subsection 5 to which the instruction applies if the officer:

(a) Instructs a course in the subject for which the officer is qualified and approved by the administrator of the officer's agency during each calendar year;

(b) Participates at least once every 3 years in a course of training for instructors that is approved by the Executive Director; and

(c) Demonstrates to the Commission or its designee at least once every 3 years proficiency in the subject that he or she instructs.

9. Each agency shall maintain documentation of the courses provided pursuant to subsection 5. Such documentation must include, without limitation, the qualifications of each instructor who provides training, a description of the training provided and a list on a form that has been approved by the Executive Director of each officer who completes the training.



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The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations.

Existing law requires the Peace Officer Standards and Training Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510)

This regulation (1) revises the definition of “executive level position” to mean a position held by a peace officer in which the peace officer is the chief executive of an agency or 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 the agency during the absence of the chief executive; and (2) defines “chief executive” to mean a person who is in charge of an entire agency.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

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4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and, in each case, must include:

(a) Both adverse and beneficial effects; and

(1) Adverse effects: None

(2) Beneficial effects: This definition is tied to the eligibility of the Executive certificate. In clarifying and specifying which positions are considered executive level, it can be utilized by agencies to aid in negotiations when hiring or promoting and used when determining salaries and compensation.

(b) Both immediate and long-term effects:

(1) The immediate effects: None

(2) The long-term effects: None

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, dealing with certification provisions of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

None

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

There are no federal regulations that regulate the same activity.

10. Whether the proposed regulation establishes a new fee or increases an existing fee.

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N/A

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NOTE: We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Commission on POST, in writing, at 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701, or call Chief Kathy Floyd at (775) 687-7678, Extension 3335, no later than five working days prior to the meeting.

**SEE ATTACHED COPIES OF THE PROPOSED
REGULATIONS**

**PROPOSED REGULATION OF THE PEACE OFFICERS’
STANDARDS AND TRAINING COMMISSION**

LCB File No. R052-22

May 20, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 289.510.

A REGULATION relating to peace officers; revising the minimum requirements for a peace officer to obtain an executive certificate; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Peace Officers’ Standards and Training Commission to adopt regulations establishing minimum standards for the certification and training of peace officers. (NRS 289.510) Existing regulations provide that the Commission will grant an executive certificate to a peace officer upon submission of proof that the peace officer, among other requirements, has at least 1 year of experience in an executive level position and a current assignment in an executive level position. (NAC 289.270) For the purpose of determining whether a peace officer satisfies this requirement for an executive certificate, existing regulations define “executive level position” to mean a position held by a peace officer in which the peace officer supervises two or more persons who hold management level positions and is in charge of an entire agency or a major division or bureau within an agency. (NAC 289.047) This regulation: (1) revises the definition of “executive level position” to mean a position held by a peace officer in which the peace officer is the chief executive of an agency or 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 the agency during the absence of the chief executive; and (2) defines “chief executive” to mean a person who is in charge of an entire agency.

Section 1. NAC 289.047 is hereby amended to read as follows:

289.047 **1.** “Executive level position” means a position held by a peace officer in which the peace officer ~~[supervises two or more persons who hold management level positions and]~~ 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 . ~~for a major division or bureau within an agency.~~*



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
5587 Wa Pai Shone Avenue
Carson City, Nevada 89701
(775) 687-7678 FAX (775) 687-4911

STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the Adoption, Amendment and Repeal
Of
Regulations of the Commission on Peace Officer
Standards and Training**

PUBLIC COMMENT HEARING NOTICE: The Commission on Peace Officer Standards and Training (“Commission”) will be holding a Public Comment Hearing at **10:00 a.m. on Tuesday, July 19, 2022, at the POST Administrative Building, Classroom #2, 5587 Wa Pai Shone Ave., Carson City, NV 89701.** The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations that pertain to Chapter 289 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations.

Existing law requires the Peace Officer Standards and Training Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510)

The update to the existing regulation will allow for executive level peace officers that are employed in Nevada through reciprocity to receive recognition by Nevada of their professional development certificates, an additional hiring incentive for Nevada Law Enforcement agencies. Additionally, the update of the existing regulation will also allow access to this Executive Certificate to executive positions based on years in service.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2020 and clicking the link: www.leg.state.nv.us/Register/2020Register/R053-22P.pdf, by contacting Chief Kathy Floyd at kfloyd@post.state.nv.us or by telephone at 775-687-7678, ext. 3335 or going to the Nevada Commission on POST website at <https://post.nv.gov>.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and, in each case, must include:

(a) Both adverse and beneficial effects; and

(1) Adverse effects: None

(2) Beneficial effects: The update to the existing regulation will allow for executive level peace officers that are employed in Nevada through reciprocity to receive credit for their professional certificates they obtained throughout their career, an additional hiring incentive and negotiation point for Nevada Law Enforcement agencies. Additionally, the update of the existing regulation will also allow access to this Executive Certificate to executive positions based on years in service.

(b) Both immediate and long-term effects:

(1) The immediate effects: None

(2) The long-term effects: None

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, dealing with certification provisions of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

None

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

There are no federal regulations that regulate the same activity.

10. Whether the proposed regulation establishes a new fee or increases an existing fee.

R053-22

This regulation does not involve or establish fees.

11. For a temporary regulation, each address at which the text of the regulation may be inspected and copied.

N/A

Persons wishing to comment upon the proposed action of the Commission on Peace Officer Standards and Training (Commission on POST) may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Michael D. Sherlock, Executive Director, Commission on POST, 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the Commission on POST on or before 5:00 pm on June 29, 2022.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission on POST may proceed immediately to act upon any written submissions.

This Notice of Intent to Act Upon Regulations and the proposed regulation will be on file at the State Library, Archives and Public Records Administrator, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and regulations to be adopted, amended or repealed will be available at the Commission on POST Administrative Offices, 5587 Wai Pai Shone Avenue, Carson City, 89701, State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us>, the POST web site at <http://post.nv.gov> and the State of Nevada Department of Administration website at <https://notice.nv.gov>.

Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption

The Notice of Intent to Act Upon Regulations and the proposed regulation have been sent to all criminal justice agencies on the Commission on POST Listserv list and posted at the following locations:

**Commission on POST Administrative Office
Carson City, NV 89701**

<http://post.nv.gov>

<http://notice.nv.gov>

<http://leg.state.nv.us>

NOTE: We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Commission on POST, in writing, at 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701, or call Chief Kathy Floyd at (775) 687-7678, Extension 3335, no later than five working days prior to the meeting.

**SEE ATTACHED COPIES OF THE PROPOSED
REGULATIONS**

**PROPOSED REGULATION OF THE PEACE OFFICERS’
STANDARDS AND TRAINING COMMISSION**

LCB File No. R053-22

May 10, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: § 1, NRS 289.510

A REGULATION relating to peace officers; revising the requirements for the granting of an executive certificate to a peace officer; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Peace Officers’ Standards and Training Commission to adopt regulations establishing minimum standards for the certification and training of peace officers. (NRS 289.510)

Existing regulations provide that 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 current basic, intermediate, advanced, supervisor and management certificates. (NAC 289.270) This regulation provides instead that 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; (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 or management certificate, as applicable; or (3) training and experience in another state that are consistent with and not of a lower standard than the regulations for a current basic, intermediate, advanced, supervisor or management certificate, as applicable, if that state does not issue an equivalent certification.

This regulation also provides that the Commission will grant an executive certificate to an officer upon submission of proof satisfactory to the Commission that the officer has been elected or appointed to the position of sheriff of a county or chief of a metropolitan or city police department for at least 5 consecutive years.

Section 1. NAC 289.270 is hereby amended to read as follows:

289.270 1. ~~The~~ *Except as otherwise provided in subsection 2, the* Commission will grant an executive certificate to an officer upon submission of proof satisfactory to the Commission that the officer meets the following minimum requirements:

(a) *One of the following:*

(1) A current basic certificate.

(2) *An equivalent current certificate from a certifying entity of the Federal Government or another state, if the requirements for the certification are consistent with and not of a lower standard than the provisions of NAC 289.200, as determined by the Commission.*

(3) *Training and experience in another state that are consistent with and not of a lower standard than the provisions of NAC 289.200, as determined by the Commission, if that state does not issue an equivalent certification.*

(b) *One of the following:*

(1) A current intermediate certificate.

(2) *An equivalent current certificate from a certifying entity of the Federal Government or another state, if the requirements for the certification are consistent with and not of a lower standard than the provisions of NAC 289.240, as determined by the Commission.*

(3) *Training and experience in another state that are consistent with and not of a lower standard than the provisions of NAC 289.240, as determined by the Commission, if that state does not issue an equivalent certification.*

(c) *One of the following:*

(1) A current advanced certificate.

(2) An equivalent current certificate from a certifying entity of the Federal Government or another state, if the requirements for the certification are consistent with and not of a lower standard than the provisions of NAC 289.250, as determined by the Commission.

(3) Training and experience in another state that are consistent with and not of a lower standard than the provisions of NAC 289.250, as determined by the Commission, if that state does not issue an equivalent certification.

(d) *One of the following:*

(1) A current supervisor certificate.

(2) An equivalent current certificate from a certifying entity of the Federal Government or another state, if the requirements for the certification are consistent with and not of a lower standard than the provisions of NAC 289.255, as determined by the Commission.

(3) Training and experience in another state that are consistent with and not of a lower standard than the provisions of NAC 289.255, as determined by the Commission, if that state does not issue an equivalent certification.

(e) *One of the following:*

(1) A current management certificate.

(2) An equivalent current certificate from a certifying entity of the Federal Government or another state, if the requirements for the certification are consistent with and not of a lower standard than the provisions of NAC 289.260, as determined by the Commission.

(3) Training and experience in another state that are consistent with and not of a lower standard than the provisions of NAC 289.260, as determined by the Commission, if that state does not issue an equivalent certification.

(f) Six years of experience as a peace officer, including at least 1 year of experience in an executive level position and a current assignment in an executive level position.

(g) Two hundred hours of training in advanced management in addition to the training completed for the basic, intermediate, advanced, supervisor and management certificates.

(h) The applicant must present proof that the current assignment meets the criteria for an executive level position as set forth in NAC 289.047 by submitting a letter of recommendation with the application which is signed by the administrator of the agency. The letter must include an organizational chart which demonstrates the applicant's position within the agency and must describe the manner in which the applicant's current assignment meets the criteria for an executive level position as set forth in NAC 289.047.

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

3. In making a determination pursuant to subsection 1 ~~H~~ or 2, the Commission will review and consider each applicant individually.



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

5587 Wa Pai Shone Avenue
Carson City, Nevada 89701
(775) 687-7678 FAX (775) 687-4911

STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATIONS

The Commission on Peace Officer Standards and Training is proposing the adoption, amendment and repeal of regulations pertaining to Chapter 289 of the Nevada Administrative Code.

A workshop has been scheduled for **10:00 a.m. on Tuesday, July 19, 2022, at the POST Administrative Office, Classroom #2, 5587 Wa Pai Shone Ave., Carson City, NV.** The purpose of the workshop is to solicit comments from interested persons on the following general topic(s) that may be addressed in the proposed regulations:

TOPIC

NAC REGULATION

- A. Discussion regarding the establishment of a new regulation pursuant to Assembly Bill 336. Proposed language: *“The employing agency shall implement an 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.”*

NAC 289.190

A copy of all materials for the meeting may be obtained by contacting Kathy Floyd, Standards Division Chief, at (775) 687-7678, ext.3335, Commission on Peace Officer Standards and Training at 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701. A reasonable fee for copying may be charged.

This Notice of Workshop to Solicit Comments on Proposed Regulations has been sent to all listed meeting locations, all persons on the agency’s mailing list for administrative regulations, all Nevada law enforcement agencies, agency single points of contact and posted at the following:

POST Administrative Office, Carson City
Nevada State Library and Archives, Carson City

<http://post.nv.gov>

<http://notice.nv.gov>

<http://leg.state.nv.us>

Electronically Posted pursuant to NRS 241.020(4)

NOTE: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Commission on Peace Officer Standards and Training at 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701 or call Kathy Floyd at (775) 687-7678, Ext. 3335, no later than 2 working days prior to the meeting.



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STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF PUBLIC MEETING (NRS 241)

NOTICE IS HEREBY GIVEN THAT STARTING AT **10:00 A.M. ON TUESDAY, JULY 19, 2022**, THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING WILL HOLD A PUBLIC COMMENT, WORKSHOP AND REGULARLY SCHEDULED MEETING AT THE **POST ADMINISTRATIVE OFFICE, CLASSROOM #2, 5587 WA PAI SHONE AVE., CARSON CITY, NV 89701**.

The agenda will include the following items. The Commission, at their discretion, may take items out of order, combine two or more agenda items for consideration, and remove an item from the agenda or delay discussion relating to an item on the agenda at any time. A request to have an item on the agenda heard out of order shall be made to the Commission's secretary prior to the commencement of the meeting. Prior to the commencement or conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the Commission may refuse to consider public comment. See NRS 233B.126.

I. PUBLIC COMMENT HEARINGS

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

THE PURPOSE OF THE HEARING IS TO RECEIVE COMMENTS FROM ALL INTERESTED PERSONS REGARDING THE ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS PERTAINING TO CHAPTER 289 OF THE NEVADA ADMINISTRATIVE CODE (NAC) (THIS PUBLIC COMMENT HEARING HAS BEEN PREVIOUSLY NOTICED AS REQUIRED BY NRS CHAPTER 233B):

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;*

- 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*
- C. LCB File 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.*
- 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 certificate; or (3) training and experience in another state that are consistent with and not of a lower standard than the regulations for a current basic, intermediate, advanced, supervisor and management certificate. (2) The Commission will grant an executive certificate to an officer upon submission of proof satisfactory that the officer has been elected or appointed to the position of sheriff of a county or chief of a metropolitan or city police department for at least 5 consecutive years.*

II. WORKSHOP

- 1. Workshop on proposed regulation change.

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

TOPIC

NAC REGULATION

- A. Discussion regarding the establishment of a new regulation pursuant to Assembly Bill 336. Proposed language is: *“The employing agency shall implement an 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.”*

NAC 289.190

- 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.

III. REGULARLY SCHEDULED MEETING AGENDA ITEMS

1. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

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

2. **INFORMATION** Executive Director's report.

- a. Training Division
- b. Standards Division
- c. Administration

3. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

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

- 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;*
- 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*
- C. **LCB File 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.*
- 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 certificate; or (3) training and experience in another state that are consistent with and not of a lower standard than the regulations for a current basic, intermediate, advanced, supervisor and management certificate.
(2) The Commission will grant an executive certificate to an officer upon submission of proof satisfactory that the officer has been elected or appointed to the position of sheriff of a county or chief of a metropolitan or city police department for at least 5 consecutive years.*

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

4. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

The Commission to decide whether to continue the rulemaking process regarding the establishment of a new regulation pursuant to Assembly Bill 336. Proposed language is: *“The employing agency shall implement an 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.”*

5. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

Hearing pursuant to NAC 289.290(1)(e) on the revocation of Regina M. Joines (formerly with the Nevada Department of Corrections) Category III basic certificate based on a Gross Misdemeanor conviction of Sexual Abuse of Prisoner or Unauthorized Custodial Conduct by Employee (in violation of NRS212.188(1) and (3)(b)).

6. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

Hearing pursuant to NAC 289.290(1)(i) on the revocation of Zachary E. Winningham’s (formerly with the Henderson Police Department) Category I, II and III basic certificates based on a Misdemeanor conviction for Domestic Battery, first offense. (in violation of NRS 200.485(1)(A), 200.481(1)(A), 33.018, Henderson City Charter, Section 2.140)

7. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

Commission to decide whether to establish an exploratory workgroup to study and make recommendations for improving our ability to recruit out of state laterals and reviewing the POST reciprocity process.

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.

9. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

Schedule upcoming Commission Meeting – 10:00 a.m. September 21, 2022

10. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

Adjournment.

POSTED AT THE FOLLOWING LOCATIONS:

Commission on POST Administrative Office
Carson City, NV 89701
State Library, Archives and Public Records
100 Stewart Street, Carson City
<http://post.nv.gov>
<http://notice.nv.gov>
<http://leg.state.nv.us>

Pursuant to NRS 241.020(2)(c), a copy of supporting materials for the meeting may be obtained by contacting POST Standards Division, at (775) 687-7678, ext. 3335, Commission on Peace Officer Standards and Training at 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701.

NOTE: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Commission on Peace Officer Standards and Training at 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701 or call Kathy Floyd at (775) 687-7678, Ext. 3335, no later than 2 working days prior to the meeting.

PUBLIC COMMENT

1. Call to Order
2. Roll call of Commission Members

3. Public Comment Hearing on Proposed Regulations

TOPICS:

R078-21

R079-21

R052-22

R053-22



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
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NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the Adoption, Amendment and Repeal
Of
Regulations of the Commission on Peace Officer
Standards and Training**

PUBLIC COMMENT HEARING NOTICE: The Commission on Peace Officer Standards and Training (“Commission”) will be holding a Public Comment Hearing at **10:00 a.m. on Tuesday, July 19, 2022, at the POST Administrative Building, Classroom #2, 5587 Wa Pai Shone Ave., Carson City, NV 89701.** The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations that pertain to Chapter 289 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations.

Existing law requires the Peace Officer Standards and Training Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510)

Existing regulations require a person appointed to perform the duties of a peace officer, among other requirements, to have undergone a complete and documented investigation of his or her background which verifies that the person has good moral character and meets the minimum standards established by the Commission.

This regulation requires the background investigation to also include an evaluation to identify any implicit bias the person may have on the basis of race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2020 and clicking the link: <https://www.leg.state.nv.us/Register/2021Register/R078-21P.pdf> or by contacting Chief Kathy Floyd at kfloyd@post.state.nv.us or by telephone at 775-687-7678, ext. 3335 or going to the Nevada Commission on POST website at <https://post.nv.gov>.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and, in each case, must include:

(a) Both adverse and beneficial effects; and

(1) Adverse effects: None

(2) Beneficial effects: This regulation requires the background investigation to include an evaluation to identify any implicit bias the person may have on the basis of race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression. An agency will have this additional tool available to eliminate the hiring of people with bias issues.

(b) Both immediate and long-term effects:

(1) The immediate effects: None

(2) The long-term effects: None

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, adding to the requirements of the background of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

None

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

There are no federal regulations that regulate the same activity.

10. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not involve or establish fees.

11. For a temporary regulation, each address at which the text of the regulation may be inspected and copied.

N/A

Persons wishing to comment upon the proposed action of the Commission on Peace Officer Standards and Training (Commission on POST) may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Michael D. Sherlock, Executive Director, Commission on POST, 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the Commission on POST on or before 5:00 pm on June 29, 2022.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission on POST may proceed immediately to act upon any written submissions.

This Notice of Intent to Act Upon Regulations and the proposed regulation will be on file at the State Library, Archives and Public Records Administrator, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and regulations to be adopted, amended or repealed will be available at the Commission on POST Administrative Offices, 5587 Wai Pai Shone Avenue, Carson City, 89701, State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us>, the POST web site at <http://post.nv.gov> and the State of Nevada Department of Administration website at <https://notice.nv.gov>.

Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption

The Notice of Intent to Act Upon Regulations and the proposed regulation have been sent to all criminal justice agencies on the Commission on POST Listserv list and posted at the following locations:

**Commission on POST Administrative Office
Carson City, NV 89701**

<http://post.nv.gov>

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**SEE ATTACHED COPIES OF THE PROPOSED
REGULATIONS**

**PROPOSED REGULATION OF THE PEACE OFFICERS’
STANDARDS AND TRAINING COMMISSION**

LCB File No. R078-21

April 6, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 289.510, as amended by section 1 of Assembly Bill No. 409, chapter 136, Statutes of Nevada 2021, at page 574.

A REGULATION relating to peace officers; requiring an evaluation to identify any implicit bias a person may have before the person is appointed as a peace officer; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Peace Officers’ Standards and Training Commission to adopt regulations establishing minimum standards for the certification, decertification, recruitment, selection and training of peace officers. (NRS 289.510, as amended by section 1 of Assembly Bill No. 409, chapter 136, Statutes of Nevada 2021, at page 574)

The existing regulations of the Commission require a person seeking to be appointed to perform the duties of a peace officer to undergo a background investigation regarding the person’s: (1) employment, criminal and financial history; (2) driving record; (3) education and military background; and (4) previous addresses of residence. The background investigation must also include a drug screening, psychological evaluation and lie detector test. (NAC 289.110) This regulation requires the background investigation to also include an evaluation to identify any implicit bias the person may have on the basis of race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression.

Section 1. NAC 289.110 is hereby amended to read as follows:

289.110 1. No person may be appointed to perform the duties of a peace officer unless he or she:

(a) Has undergone a complete and documented investigation of his or her background which verifies that the person has good moral character and meets the minimum standards established by the Commission;

(b) Is a citizen of the United States;

(c) Is at least 21 years of age at the time of the appointment;

(d) Has:

(1) Graduated from high school;

(2) Passed the General Educational Development Test or another high school equivalency assessment approved by the State Board of Education; or

(3) Passed a high school equivalency assessment approved by an appropriate authority in another state; and

(e) Has undergone a medical examination performed by a licensed physician who confirms in writing that no physical condition exists which would adversely affect his or her performance of the duties of a peace officer. The employing agency shall inform the examining physician of the specific functions required by the position to be filled.

2. The investigation of the background of a person required pursuant to subsection 1 must include, without limitation:

(a) An investigation of the current and past employment history of the person, including, without limitation, an examination of the duties that have been assigned to the person and any performance evaluations of the person;

(b) An inquiry into the criminal history of the person in the State of Nevada and in any other state where the person is known to have resided, which must include, without limitation, any warrants issued for the person and the submission of the person's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(c) An inquiry to the Department of Motor Vehicles and the appropriate entity in each other state in which the person is known to have resided regarding any driver's licenses the person has held and the driving record of the person;

(d) A financial history of the person;

(e) The educational background of the person;

(f) The history of any military service of the person;

(g) A history of each physical address where the person has resided;

(h) A drug screening test;

(i) A psychological evaluation; ~~and~~

(j) The use of a lie detector as defined in NRS 613.440 for a peace officer being appointed as a category I, category II or reserve peace officer ~~and~~; *and*

(k) An evaluation to identify any implicit bias the person may have on the basis of race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression.

3. The investigation of the background of a person required pursuant to subsection 1 may include the use of a lie detector as defined in NRS 613.440 for a peace officer being appointed as a category III peace officer.

4. A person may not be appointed to perform the duties of a peace officer if he or she has:

(a) Been convicted of a felony in this State or of any offense which would be a felony if committed in this State;

(b) Been convicted of an offense involving moral turpitude or the unlawful use, sale or possession of a controlled substance;

(c) A documented history of physical violence; or

(d) Resigned in lieu of termination or been terminated from any civil service employment for substantiated misconduct involving dishonesty, and has not been reinstated as a result of a judicial action or any available appeal or remedy relating to the resignation or termination, including, without limitation, any civil service appeal, direct administrative appeal or collective bargaining remedy. For purposes of this paragraph, “dishonesty” includes untruthfulness, deception, misrepresentation, falsification, and dishonesty by admission or omission.



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
5587 Wa Pai Shone Avenue
Carson City, Nevada 89701
(775) 687-7678 FAX (775) 687-4911

STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the Adoption, Amendment and Repeal
Of
Regulations of the Commission on Peace Officer
Standards and Training**

PUBLIC COMMENT HEARING NOTICE: The Commission on Peace Officer Standards and Training (“Commission”) will be holding a Public Comment Hearing at **10:00 a.m. on Tuesday, July 19, 2022, at the POST Administrative Building, Classroom #2, 5587 Wa Pai Shone Ave., Carson City, NV 89701.** The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations that pertain to Chapter 289 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations.

Existing law requires the Peace Officer Standards and Training Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510)

The 81st Session of the Nevada Legislature enacted legislation to require that continuing education on the topic of mental health include, without limitation, training in crisis intervention. (NRS 289.510, as amended by section 1 of Assembly Bill No. 304, chapter 206, Statutes of Nevada 2021, at page 950) This regulation makes a corresponding change to the continuing education requirements of the Commission.

The addition of “crisis intervention” to the topic of mental health (see NRS 289.510) will ensure that this critical training is available to every law enforcement officer in Nevada annually.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2020 and clicking the link: www.leg.state.nv.us/Register/2020Register/R079-21P.pdf, by contacting Chief Kathy Floyd at kfloyd@post.state.nv.us or by telephone at 775-687-7678, ext. 3335 or going to the Nevada Commission on POST website at <https://post.nv.gov>.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and, in each case, must include:

(a) Both adverse and beneficial effects; and

- (1) Adverse effects: None
- (2) Beneficial effects: Adding crisis intervention to this regulation will ensure all peace officers are trained in this subject annually, an additional safety measure for peace officers and the public.

(b) Both immediate and long-term effects:

- (1) The immediate effects: None
- (2) The long-term effects: None

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, dealing with certification provisions of the annual continuing education of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

None

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

There are no federal regulations that regulate the same activity.

10. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not involve or establish fees.

11. For a temporary regulation, each address at which the text of the regulation may be inspected and copied.

N/A

Persons wishing to comment upon the proposed action of the Commission on Peace Officer Standards and Training (Commission on POST) may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Michael D. Sherlock, Executive Director, Commission on POST, 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the Commission on POST on or before 5:00 pm on June 29, 2022.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission on POST may proceed immediately to act upon any written submissions.

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Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption

The Notice of Intent to Act Upon Regulations and the proposed regulation have been sent to all criminal justice agencies on the Commission on POST Listserv list and posted at the following locations:

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**SEE ATTACHED COPIES OF THE PROPOSED
REGULATIONS**

**PROPOSED REGULATION OF THE PEACE OFFICERS’
STANDARDS AND TRAINING COMMISSION**

LCB File No. R079-21

April 6, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 289.510, as amended by section 1 of Assembly Bill No. 304, chapter 206, Statutes of Nevada 2021, at page 950.

A REGULATION relating to peace officers; requiring that a course of continuing education in mental health include, without limitation, training in crisis intervention; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, the Peace Officers’ Standards and Training Commission is required to adopt regulations requiring all peace officers annually to complete courses of continuing education on various topics, including the topic of mental health. The 81st Session of the Nevada Legislature enacted legislation to require that continuing education on the topic of mental health include, without limitation, training in crisis intervention. (NRS 289.510, as amended by section 1 of Assembly Bill No. 304, chapter 206, Statutes of Nevada 2021, at page 950) This regulation makes a corresponding change to the continuing education requirements of the Commission.

Section 1. NAC 289.230 is hereby amended to read as follows:

289.230 1. Except as otherwise provided in subsections 7 and 8, to maintain a basic certificate or reserve certificate, the officer must annually:

- (a) Satisfy the requirements of subsection 5; and
- (b) 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.

2. The employing agency shall ensure that its officers comply with the requirements of subsection 1. The employing agency shall notify each officer of the requirements of this section and the penalties set forth in subsection 4 for failure to comply with this section. After an officer completes the requirements of subsection 1, the employing agency shall submit to the Executive Director by any means approved by the Executive Director verification that the officer has completed those requirements. Verification must be submitted on or before December 31 of the year in which the officer was required to complete the requirements of subsection 1.

3. If the Executive Director has not received verification that an officer has completed the requirements of subsection 1 on or before December 31 of the year in which the officer was required to complete those requirements, the Executive Director shall notify the administrator of the employing agency that he or she has not received the verification required by subsection 2 and that if the verification is not received on or before March 1 following the year in which the officer was required to complete the requirements, the Executive Director will place the administrator on the agenda for the next scheduled meeting of the Commission to explain the delay in the submission of the verification. If the Executive Director has not received verification that an officer has completed the requirements of subsection 1 on or before March 1 following the year in which the officer was required to complete the requirements, the Executive Director shall place the administrator of the employing agency on the agenda for the next scheduled meeting of the Commission.

4. Upon the request of the Commission or its designee, the employing agency shall make available for inspection the records of all officers to verify that they have complied with the requirements of subsection 1. The Commission will notify each officer and his or her employing agency of any noncompliance. The Commission will suspend the certificate of any officer who does not complete the requirements of subsection 1 within 60 days after the date on which he or she received the notice of noncompliance. The Executive Director may temporarily reinstate the suspended certificate of an officer upon receiving documentation from the officer which demonstrates that he or she has complied with the requirements of subsection 1. The temporary reinstatement of the suspended certificate is effective upon the Executive Director's approval of the temporary reinstatement and expires on the date on which the Commission determines whether to reinstate the certificate. The Commission will reinstate the suspended certificate or temporarily reinstated certificate of an officer upon receiving documentation from the officer which demonstrates that he or she has complied with the requirements of subsection 1.

5. Except as otherwise provided in subsections 7 and 8, in addition to completing the continuing education required pursuant to subsection 1, an officer must:

(a) If the officer is authorized to use a firearm, at least biannually demonstrate a minimum level of proficiency in the use of each type of firearm he or she is authorized to use. An officer who does not demonstrate a minimum level of proficiency with the use of any type of firearm he or she is authorized to use may not carry or use that type of firearm until he or she participates in a remedial course established by the employing agency to ensure that the officer achieves and maintains a satisfactory level of proficiency.

(b) If the officer is authorized to use an impact weapon, chemical weapon, electronic incapacitating device or other less than lethal weapon, at least annually demonstrate a minimum

level of proficiency in the use of each such weapon or device he or she is authorized to use. An officer who does not demonstrate a minimum level of proficiency with the use of any such weapon may not carry or use that weapon until the officer participates in a remedial course established by the employing agency to ensure that the officer achieves and maintains a satisfactory level of proficiency.

(c) If the duties of an officer require him or her to use arrest and control tactics, demonstrate annually a minimum level of proficiency in the use of arrest and control tactics, including, without limitation, techniques related to applying handcuffs, taking down suspects, self-defense and retention of weapons.

(d) If the employing agency of the officer authorizes the use of a carotid restraint or lateral vascular neck restraint, demonstrate annually a minimum level of proficiency in those techniques.

(e) Review annually each policy of the employing agency which addresses the use of force in any situation in which the agency or the officer may become involved.

6. Each employing agency shall establish and provide the courses set forth in subsection 5 to its officers and establish the minimum level of proficiency that an officer must demonstrate in each course.

7. An officer:

(a) Who voluntarily leaves his or her employment as a peace officer for at least 4 consecutive months but not more than 60 consecutive months;

(b) Whose employment as a peace officer is terminated for any reason for at least 4 consecutive months but not more than 60 consecutive months;

(c) Who, during a period of continuous employment as a peace officer, is absent from his or her duties as a peace officer because of medical leave, military leave or other approved leave for at least 4 consecutive months; or

(d) Who is hired, rehired or reinstated on or after July 1 of a reporting year,

↳ must satisfy the requirements of paragraphs (b) to (e), inclusive, of subsection 5 and demonstrate a minimum level of proficiency in the use of each type of firearm he or she is authorized to use before commencing or resuming his or her duties as a peace officer.

8. An officer who instructs a course pursuant to subsection 5 is not required to comply with the requirements of subsection 5 to which the instruction applies if the officer:

(a) Instructs a course in the subject for which the officer is qualified and approved by the administrator of the officer's agency during each calendar year;

(b) Participates at least once every 3 years in a course of training for instructors that is approved by the Executive Director; and

(c) Demonstrates to the Commission or its designee at least once every 3 years proficiency in the subject that he or she instructs.

9. Each agency shall maintain documentation of the courses provided pursuant to subsection 5. Such documentation must include, without limitation, the qualifications of each instructor who provides training, a description of the training provided and a list on a form that has been approved by the Executive Director of each officer who completes the training.



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STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the Adoption, Amendment and Repeal
Of
Regulations of the Commission on Peace Officer
Standards and Training**

PUBLIC COMMENT HEARING NOTICE: The Commission on Peace Officer Standards and Training (“Commission”) will be holding a Public Comment Hearing at **10:00 a.m. on Tuesday, July 19, 2022, at the POST Administrative Building, Classroom #2, 5587 Wa Pai Shone Ave., Carson City, NV 89701.** The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations that pertain to Chapter 289 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations.

Existing law requires the Peace Officer Standards and Training Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510)

This regulation (1) revises the definition of “executive level position” to mean a position held by a peace officer in which the peace officer is the chief executive of an agency or 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 the agency during the absence of the chief executive; and (2) defines “chief executive” to mean a person who is in charge of an entire agency.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2020 and clicking the link: www.leg.state.nv.us/Register/2020Register/R052-22P.pdf, by contacting Chief Kathy Floyd at kfloyd@post.state.nv.us or by telephone at 775-687-7678, ext. 3335 or going to the Nevada Commission on POST website at <https://post.nv.gov>.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and, in each case, must include:

(a) Both adverse and beneficial effects; and

(1) Adverse effects: None

(2) Beneficial effects: This definition is tied to the eligibility of the Executive certificate. In clarifying and specifying which positions are considered executive level, it can be utilized by agencies to aid in negotiations when hiring or promoting and used when determining salaries and compensation.

(b) Both immediate and long-term effects:

(1) The immediate effects: None

(2) The long-term effects: None

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, dealing with certification provisions of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

None

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

There are no federal regulations that regulate the same activity.

10. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not involve or establish fees.

11. For a temporary regulation, each address at which the text of the regulation may be inspected and copied.

N/A

Persons wishing to comment upon the proposed action of the Commission on Peace Officer Standards and Training (Commission on POST) may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Michael D. Sherlock, Executive Director, Commission on POST, 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the Commission on POST on or before 5:00 pm on June 29, 2022.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission on POST may proceed immediately to act upon any written submissions.

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**SEE ATTACHED COPIES OF THE PROPOSED
REGULATIONS**

**PROPOSED REGULATION OF THE PEACE OFFICERS’
STANDARDS AND TRAINING COMMISSION**

LCB File No. R052-22

May 20, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 289.510.

A REGULATION relating to peace officers; revising the minimum requirements for a peace officer to obtain an executive certificate; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Peace Officers’ Standards and Training Commission to adopt regulations establishing minimum standards for the certification and training of peace officers. (NRS 289.510) Existing regulations provide that the Commission will grant an executive certificate to a peace officer upon submission of proof that the peace officer, among other requirements, has at least 1 year of experience in an executive level position and a current assignment in an executive level position. (NAC 289.270) For the purpose of determining whether a peace officer satisfies this requirement for an executive certificate, existing regulations define “executive level position” to mean a position held by a peace officer in which the peace officer supervises two or more persons who hold management level positions and is in charge of an entire agency or a major division or bureau within an agency. (NAC 289.047) This regulation: (1) revises the definition of “executive level position” to mean a position held by a peace officer in which the peace officer is the chief executive of an agency or 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 the agency during the absence of the chief executive; and (2) defines “chief executive” to mean a person who is in charge of an entire agency.

Section 1. NAC 289.047 is hereby amended to read as follows:

289.047 *1.* “Executive level position” means a position held by a peace officer in which the peace officer ~~[supervises two or more persons who hold management level positions and]~~ 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 . ~~for a major division or bureau within an agency.~~*



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STEVE SISOLAK
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NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the Adoption, Amendment and Repeal
Of
Regulations of the Commission on Peace Officer
Standards and Training**

PUBLIC COMMENT HEARING NOTICE: The Commission on Peace Officer Standards and Training (“Commission”) will be holding a Public Comment Hearing at **10:00 a.m. on Tuesday, July 19, 2022, at the POST Administrative Building, Classroom #2, 5587 Wa Pai Shone Ave., Carson City, NV 89701.** The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment and repeal of regulations that pertain to Chapter 289 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations.

Existing law requires the Peace Officer Standards and Training Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510)

The update to the existing regulation will allow for executive level peace officers that are employed in Nevada through reciprocity to receive recognition by Nevada of their professional development certificates, an additional hiring incentive for Nevada Law Enforcement agencies. Additionally, the update of the existing regulation will also allow access to this Executive Certificate to executive positions based on years in service.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2020 and clicking the link: www.leg.state.nv.us/Register/2020Register/R053-22P.pdf, by contacting Chief Kathy Floyd at kfloyd@post.state.nv.us or by telephone at 775-687-7678, ext. 3335 or going to the Nevada Commission on POST website at <https://post.nv.gov>.

4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and, in each case, must include:

(a) Both adverse and beneficial effects; and

(1) Adverse effects: None

(2) Beneficial effects: The update to the existing regulation will allow for executive level peace officers that are employed in Nevada through reciprocity to receive credit for their professional certificates they obtained throughout their career, an additional hiring incentive and negotiation point for Nevada Law Enforcement agencies. Additionally, the update of the existing regulation will also allow access to this Executive Certificate to executive positions based on years in service.

(b) Both immediate and long-term effects:

(1) The immediate effects: None

(2) The long-term effects: None

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, dealing with certification provisions of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

None

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law.

9. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

There are no federal regulations that regulate the same activity.

10. Whether the proposed regulation establishes a new fee or increases an existing fee.

R053-22

This regulation does not involve or establish fees.

11. For a temporary regulation, each address at which the text of the regulation may be inspected and copied.

N/A

Persons wishing to comment upon the proposed action of the Commission on Peace Officer Standards and Training (Commission on POST) may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Michael D. Sherlock, Executive Director, Commission on POST, 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the Commission on POST on or before 5:00 pm on June 29, 2022.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission on POST may proceed immediately to act upon any written submissions.

This Notice of Intent to Act Upon Regulations and the proposed regulation will be on file at the State Library, Archives and Public Records Administrator, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and regulations to be adopted, amended or repealed will be available at the Commission on POST Administrative Offices, 5587 Wai Pai Shone Avenue, Carson City, 89701, State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us>, the POST web site at <http://post.nv.gov> and the State of Nevada Department of Administration website at <https://notice.nv.gov>.

Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption

The Notice of Intent to Act Upon Regulations and the proposed regulation have been sent to all criminal justice agencies on the Commission on POST Listserv list and posted at the following locations:

**Commission on POST Administrative Office
Carson City, NV 89701**

<http://post.nv.gov>

<http://notice.nv.gov>

<http://leg.state.nv.us>

NOTE: We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Commission on POST, in writing, at 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701, or call Chief Kathy Floyd at (775) 687-7678, Extension 3335, no later than five working days prior to the meeting.

**SEE ATTACHED COPIES OF THE PROPOSED
REGULATIONS**

**PROPOSED REGULATION OF THE PEACE OFFICERS’
STANDARDS AND TRAINING COMMISSION**

LCB File No. R053-22

May 10, 2022

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: § 1, NRS 289.510

A REGULATION relating to peace officers; revising the requirements for the granting of an executive certificate to a peace officer; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Peace Officers’ Standards and Training Commission to adopt regulations establishing minimum standards for the certification and training of peace officers. (NRS 289.510)

Existing regulations provide that 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 current basic, intermediate, advanced, supervisor and management certificates. (NAC 289.270) This regulation provides instead that 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; (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 or management certificate, as applicable; or (3) training and experience in another state that are consistent with and not of a lower standard than the regulations for a current basic, intermediate, advanced, supervisor or management certificate, as applicable, if that state does not issue an equivalent certification.

This regulation also provides that the Commission will grant an executive certificate to an officer upon submission of proof satisfactory to the Commission that the officer has been elected or appointed to the position of sheriff of a county or chief of a metropolitan or city police department for at least 5 consecutive years.

Section 1. NAC 289.270 is hereby amended to read as follows:

289.270 1. ~~The~~ *Except as otherwise provided in subsection 2, the* Commission will grant an executive certificate to an officer upon submission of proof satisfactory to the Commission that the officer meets the following minimum requirements:

(a) *One of the following:*

(1) A current basic certificate.

(2) *An equivalent current certificate from a certifying entity of the Federal Government or another state, if the requirements for the certification are consistent with and not of a lower standard than the provisions of NAC 289.200, as determined by the Commission.*

(3) *Training and experience in another state that are consistent with and not of a lower standard than the provisions of NAC 289.200, as determined by the Commission, if that state does not issue an equivalent certification.*

(b) *One of the following:*

(1) A current intermediate certificate.

(2) *An equivalent current certificate from a certifying entity of the Federal Government or another state, if the requirements for the certification are consistent with and not of a lower standard than the provisions of NAC 289.240, as determined by the Commission.*

(3) *Training and experience in another state that are consistent with and not of a lower standard than the provisions of NAC 289.240, as determined by the Commission, if that state does not issue an equivalent certification.*

(c) *One of the following:*

(1) A current advanced certificate.

(2) An equivalent current certificate from a certifying entity of the Federal Government or another state, if the requirements for the certification are consistent with and not of a lower standard than the provisions of NAC 289.250, as determined by the Commission.

(3) Training and experience in another state that are consistent with and not of a lower standard than the provisions of NAC 289.250, as determined by the Commission, if that state does not issue an equivalent certification.

(d) *One of the following:*

(1) A current supervisor certificate.

(2) An equivalent current certificate from a certifying entity of the Federal Government or another state, if the requirements for the certification are consistent with and not of a lower standard than the provisions of NAC 289.255, as determined by the Commission.

(3) Training and experience in another state that are consistent with and not of a lower standard than the provisions of NAC 289.255, as determined by the Commission, if that state does not issue an equivalent certification.

(e) *One of the following:*

(1) A current management certificate.

(2) An equivalent current certificate from a certifying entity of the Federal Government or another state, if the requirements for the certification are consistent with and not of a lower standard than the provisions of NAC 289.260, as determined by the Commission.

(3) Training and experience in another state that are consistent with and not of a lower standard than the provisions of NAC 289.260, as determined by the Commission, if that state does not issue an equivalent certification.

(f) Six years of experience as a peace officer, including at least 1 year of experience in an executive level position and a current assignment in an executive level position.

(g) Two hundred hours of training in advanced management in addition to the training completed for the basic, intermediate, advanced, supervisor and management certificates.

(h) The applicant must present proof that the current assignment meets the criteria for an executive level position as set forth in NAC 289.047 by submitting a letter of recommendation with the application which is signed by the administrator of the agency. The letter must include an organizational chart which demonstrates the applicant's position within the agency and must describe the manner in which the applicant's current assignment meets the criteria for an executive level position as set forth in NAC 289.047.

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

3. In making a determination pursuant to subsection 1 ~~H~~ or 2, the Commission will review and consider each applicant individually.

**WORKSHOP TO SOLICIT COMMENTS ON
PROPOSED REGULATIONS**

WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATIONS

1. Workshop on proposed regulation change.

TOPIC

NAC REGULATION

- A. Discussion regarding the establishment of a new regulation pursuant to Assembly Bill 336. Proposed language: *“The employing agency shall implement an 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.”*

NAC 289.190

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.*

Assembly Bill No. 336–Assemblymen Monroe-Moreno
and Roberts

CHAPTER.....

AN ACT relating to peace officers; requiring the Peace Officers' Standards and Training Commission to adopt regulations establishing standards for an annual behavioral wellness visit for peace officers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Peace Officers' Standards and Training Commission and requires the Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.500, 289.510) This bill requires the Commission to adopt regulations establishing standards for an annual behavioral wellness visit for peace officers to aid in preserving the emotional and mental health of the peace officer and assessing conditions that may affect the performance of duties by the peace officer.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 289.510 is hereby amended to read as follows:
289.510 1. The Commission:

(a) Shall meet at the call of the Chair, who must be elected by a majority vote of the members of the Commission.

(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State.

(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:

(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;

(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance, which must require that all peace officers annually complete not less than 12 hours of continuing education in courses that address:

- (I) Racial profiling;
- (II) Mental health;
- (III) The well being of officers;
- (IV) Implicit bias recognition;



81st Session (2021)

- (V) De-escalation;
- (VI) Human trafficking; and
- (VII) Firearms.

- (3) Qualifications for instructors of peace officers; ~~and~~
- (4) Requirements for the certification of a course of training

~~H~~; and

(5) Standards for an annual behavioral wellness visit for peace officers to aid in preserving the emotional and mental health of the peace officer and assessing conditions that may affect the performance of duties by the peace officer.

(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.

(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.

(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.

(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.680, inclusive.

(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.

(i) Shall develop and approve a standard curriculum of certified training programs in crisis intervention, which may be made available in an electronic format, and which address specialized responses to persons with mental illness and train peace officers to identify the signs and symptoms of mental illness, to de-escalate situations involving persons who appear to be experiencing a behavioral health crisis and, if appropriate, to connect such persons to treatment. A peace officer who completes any program developed pursuant to this paragraph must be issued a certificate of completion.

2. Regulations adopted by the Commission:

(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children;

(c) Must require that all peace officers receive training in the handling of cases involving abuse, neglect, exploitation, isolation and abandonment of older persons or vulnerable persons; and



(d) May require that training be carried on at institutions which it approves in those regulations.

Sec. 2. This act becomes effective on January 1, 2023.



REGULARLY SCHEDULED MEETING



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

5587 Wa Pai Shone Avenue
Carson City, Nevada 89701
(775) 687-7678 FAX (775) 687-4911

STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF PUBLIC MEETING (NRS 241)

NOTICE IS HEREBY GIVEN THAT STARTING AT **10:00 A.M. ON TUESDAY, JULY 19, 2022**, THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING WILL HOLD A PUBLIC COMMENT, WORKSHOP AND REGULARLY SCHEDULED MEETING AT THE **POST ADMINISTRATIVE OFFICE, CLASSROOM #2, 5587 WA PAI SHONE AVE., CARSON CITY, NV 89701**.

The agenda will include the following items. The Commission, at their discretion, may take items out of order, combine two or more agenda items for consideration, and remove an item from the agenda or delay discussion relating to an item on the agenda at any time. A request to have an item on the agenda heard out of order shall be made to the Commission's secretary prior to the commencement of the meeting. Prior to the commencement or conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual the Commission may refuse to consider public comment. See NRS 233B.126.

I. PUBLIC COMMENT HEARINGS

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

THE PURPOSE OF THE HEARING IS TO RECEIVE COMMENTS FROM ALL INTERESTED PERSONS REGARDING THE ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS PERTAINING TO CHAPTER 289 OF THE NEVADA ADMINISTRATIVE CODE (NAC) (THIS PUBLIC COMMENT HEARING HAS BEEN PREVIOUSLY NOTICED AS REQUIRED BY NRS CHAPTER 233B):

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;*

- 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*
- C. LCB File 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.*
- 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 certificate; or (3) training and experience in another state that are consistent with and not of a lower standard than the regulations for a current basic, intermediate, advanced, supervisor and management certificate. (2) The Commission will grant an executive certificate to an officer upon submission of proof satisfactory that the officer has been elected or appointed to the position of sheriff of a county or chief of a metropolitan or city police department for at least 5 consecutive years.*

II. WORKSHOP

- 1. Workshop on proposed regulation change.

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

TOPIC

NAC REGULATION

- A. Discussion regarding the establishment of a new regulation pursuant to Assembly Bill 336. Proposed language is: *“The employing agency shall implement an 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.”*

NAC 289.190

- 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.

III. REGULARLY SCHEDULED MEETING AGENDA ITEMS

1. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

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

2. **INFORMATION** Executive Director's report.

- a. Training Division
- b. Standards Division
- c. Administration

3. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

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

- 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;*
- 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*
- C. **LCB File 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.*
- 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 certificate; or (3) training and experience in another state that are consistent with and not of a lower standard than the regulations for a current basic, intermediate, advanced, supervisor and management certificate. (2) The Commission will grant an executive certificate to an officer upon submission of proof satisfactory that the officer has been elected or appointed to the position of sheriff of a county or chief of a metropolitan or city police department for at least 5 consecutive years.*

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

4. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

The Commission to decide whether to continue the rulemaking process regarding the establishment of a new regulation pursuant to Assembly Bill 336. Proposed language is: *“The employing agency shall implement an 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.”*

5. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

Hearing pursuant to NAC 289.290(1)(e) on the revocation of Regina M. Joines (formerly with the Nevada Department of Corrections) Category III basic certificate based on a Gross Misdemeanor conviction of Sexual Abuse of Prisoner or Unauthorized Custodial Conduct by Employee (in violation of NRS212.188(1) and (3)(b)).

6. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

Hearing pursuant to NAC 289.290(1)(i) on the revocation of Zachary E. Winningham’s (formerly with the Henderson Police Department) Category I, II and III basic certificates based on a Misdemeanor conviction for Domestic Battery, first offense. (in violation of NRS 200.485(1)(A), 200.481(1)(A), 33.018, Henderson City Charter, Section 2.140)

7. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

Commission to decide whether to establish an exploratory workgroup to study and make recommendations for improving our ability to recruit out of state laterals and reviewing the POST reciprocity process.

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.

9. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

Schedule upcoming Commission Meeting – 10:00 a.m. September 21, 2022

10. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

Adjournment.

POSTED AT THE FOLLOWING LOCATIONS:

Commission on POST Administrative Office
Carson City, NV 89701
State Library, Archives and Public Records
100 Stewart Street, Carson City
<http://post.nv.gov>
<http://notice.nv.gov>
<http://leg.state.nv.us>

Pursuant to NRS 241.020(2)(c), a copy of supporting materials for the meeting may be obtained by contacting POST Standards Division, at (775) 687-7678, ext. 3335, Commission on Peace Officer Standards and Training at 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701.

NOTE: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Commission on Peace Officer Standards and Training at 5587 Wa Pai Shone Avenue, Carson City, Nevada 89701 or call Kathy Floyd at (775) 687-7678, Ext. 3335, no later than 2 working days prior to the meeting.

1. DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.

- a. Approval of minutes from the May 5, 2022, regularly scheduled meeting.

STATE OF NEVADA

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 Thursday, May 5 commencing at 10:00 a.m. at 5587 Wa Pai Shone Avenue, Carson City, Nevada.

COMMISSIONERS:

Chief Jason Soto, Chairman

Chief Kevin McKinney

Sheriff Michael Allen

Chief Tim Shea

Director George Togliatti

Chief Ty Trouten

Tiffany Young

Deputy Chief Jamie Prosser

Deputy Chief Russ Niel

STAFF:

Kathy Floyd, POST F

Mike Jensen, Attorney General's Office

Mike Sherlock, POST F

TRANSCRIBED BY: Marsha Steverman-Meech

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c. Administration - Update on status of rulemaking process for proposed revisions to NAC 289.047 and NAC 289.270 (requirements for executive certificate).	8
5. <u>DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION</u>	
Request from the Nye County Sheriff for the Commission to find that its statutes and regulations require the Commission to issue a basic certificate to a person whose peace officer certification is revoked in another state if the Commission finds the person meets the minimum standards for appointment found in NAC 289.110 and the person satisfactorily completes the	

1 requirements for certification found in NAC
2 289.200(1). The Commission may take action to
3 interpret its statutes and regulations regarding
4 issuance of a basic certificate to a person whose
5 peace officer certification is revoked in another
6 state. 11

7 6. DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION

8 Request from Carson City Sheriff's Office for a 6-
9 month extension pursuant to NRS 289.550 for their
10 employee Deputy Laura Eissinger to meet the
11 certification requirement. (Extension to expire
12 September 5, 2022). 40

13 7. DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION

14 Request from Clark County Park Police for a 6-month
15 extension pursuant to NRS 289.550 for their
16 employee Officer Jason Hoyos to meet the
17 certification requirement. (Extension to expire
18 November 16, 2022). 42

19 8. PUBLIC COMMENTS

20 *The Commission may not take action on any matter*
21 *considered under this item until the matter is*
22 *specifically included on an agenda as an action*
23 *item.* 43

24 9. DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION

25 Schedule upcoming Commission Meeting 43

10. DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION

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Adjournment.

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PROCEEDINGS

1

2 SOTO: Call this meeting to order. POST Commission
3 meeting is called to order for May 5, 2022. For the record
4 the time is 10:00 a.m. I wanna start this meeting off with an
5 introduction. We have a new commissioner with us, Ms. Tiffany
6 Young. I've had the pleasure of working with Tiffany for the
7 better half of the last decade. So welcome, and thank you for
8 your service and, we'll have a lot of work for you.

9 YOUNG: Thank you.

10 SOTO: I'm gonna turn it over first to Kathy Floyd for
11 information on legal postings and open meeting compliance.

12 FLOYD: The meeting agenda has been posted in
13 compliance with NRS 241.020. The meeting agenda was
14 physically posted here at the POST administration building and
15 the Nevada State library in Carson City. It has been
16 electronically posted at post.nv.gov., the State of Nevada
17 website at notice.nv.gov., the legislative website at
18 leg.state.nv.gov and emailed to all SPOC's and admins on the
19 post Listserv.

20 SOTO: Okay, thank you very much. I'LL start with
21 roll call, starting with myself, Jason Soto, Chairman, and I'm
22 gonna start around the room. I'll start over there on the
23 other end.

24 SHEA: Tim Shea, Boulder City.

25 TOGLIATTI: George Togliatti, Department of Public

1 Safety.

2 YOUNG: Tiffany Young, Community Member.

3 NIEL: Russ Niel, State Gaming Control Board.

4 MCKINNEY: Kevin McKinney, Carlin Police Department.

5 TROUTEN: Ty Trouten Elko Police Department.

6 ALLEN: Mike Allen Humboldt County Sheriff's office.

7 PROSSER: Jamie Prosser, Las Vegas Metropolitan Police
8 Department.

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

10 SHERLOCK: Mike Sherlock from POST.

11 FLOYD: Kathy Floyd from POST.

12 SOTO: All right, thank you. So, we will get into,
13 let's see, item number 3, discussion, public comment and/or
14 possible action approval of minutes from the February 24,
15 2022, regularly scheduled POST Commission meeting. Do we have
16 any public comments on this? Any comments from the
17 Commissioners? Okay. Seeing as though there's none, I'm
18 looking for motion to approve the minutes.

19 TROUTEN: Ty Trouten, so moved.

20 SOTO: Motion, and a second.

21 PROSSER: Jamie Prosser, second.

22 SOTO: Motion and a second. All those in favor, say
23 aye.

24 MEMBERS: Aye.

25 SOTO: Opposed? Motion carried unanimously. Item

1 number 4 is an information executive director report. I'm
2 gonna turn it over to Mr. Sherlock for an update on POST.

3 SHERLOCK: Thank you Mr. Chairman. Mike Sherlock for the
4 record. Before I get started, can I just remind everyone to
5 identify yourself and speak up so Kathy doesn't have a
6 coronary issue when we get the transcript or when we get the
7 recording back, we can get minutes done. So just for a
8 reminder. We do have new equipment, so hopefully we're pretty
9 good, but sometimes she doesn't recognize whose voice is whose
10 and that kind of thing. So, I'll just quickly go through some
11 updates on POST staff activities in the training division.
12 Our academy is graduating in about 10 days. I think we have
13 30 graduates, thereabouts. We did recently update and change
14 our uniform requirements for future academy classes. The
15 update should prove to be slightly cheaper for the agencies,
16 but at the same time, have a more professional uniform
17 appearance allowing us to, you know -- giving us a tool to
18 work on those discipline command presence, public appearance
19 issues a little better. Over in advanced training, we have
20 basic instructor development, first line supervision, arrest
21 control instructor, and other classes scheduled in June.
22 Those can be found on our website. We are planning another
23 first line class late summer, also basic investigator,
24 background investigator soon, probably by fall. We continue
25 to develop a curriculum for a leadership track that really

1 basically fills the void for those transitioning from field
2 supervision to first line management so that area between
3 Sergeant and Lieutenant, uh, we're working on that now. We
4 hope to have that going in the near future, it'll be a non-
5 traditional type schedule for training and we hope to get that
6 going. Over in the standards division we continue work on all
7 the regs that the commission recently adopted, and actually
8 some going back all the way to 2019, where we completed all
9 the work of the Commission. Those regulations are essentially
10 codified but have yet to be published. And we're not real
11 sure if this is a residual effect from COVID, something like
12 that, but they are done from our perspective, but if you go to
13 the legislative website, and look at regulations they're not
14 on there yet. They haven't been published and we're working
15 on why they haven't done that. And it is usually a process.
16 We still have work to do on other legislative mandates from
17 last session, that are coming up. We are beginning to
18 research needs for the legislative mandate related to the
19 annual wellness visits, which goes into effect next year and
20 requires POST to adopt a regulation on that. We will likely
21 be putting out a survey to agencies to see what's already in
22 place. Staff goal is really to comply obviously with the
23 intent of that mandate without creating issues related to
24 current individual policy or individual agency policies, labor
25 issues, work comp, that kind of thing. So, we are working on

1 that now and we'll be presenting that in a workshop very soon,
2 I think. Also related to regulations after two workshops and
3 input from those that were interested, we created some
4 language related to that definition of the executive position
5 and requirements for the POST executive certificate. We truly
6 tried to incorporate the concerns of those who provided
7 feedback along with maintaining the intent of that certificate
8 itself and put some language together, this includes the
9 eligibility requirements, who is an executive and
10 consideration of command staff recruited from out of state.
11 That language is already over at LCB, they will put their sort
12 of fingerprints on it, and it'll be brought back to the
13 Commission for public comment, and at that time changes can be
14 made. You can adopt it, or, you know, not adopt that language
15 change, the language or whatever needs to be done. But we are
16 moving forward on that. The Governor's Finance Office is
17 conducting an audit of POST. I can say that and, you know, I
18 hate to be the whiner, but we've got some serious budget
19 issues that continue to plague us. Court assessment income is
20 well below our needs and well below historic averages for us.
21 Just to give you a sense, we ran out of money several times
22 already in the last three months. POST is a little different
23 than a general fund agency. It's kind of like having a
24 checkbook, right? We can't spend money unless the court
25 assessments are in the bank and when they're not in the bank,

1 we can't pay bills. And so that's kind of a new thing for us
2 to be this far, you know, in the hole. Going forward just
3 anecdotally, we are very concerned about our funding. I think
4 with going back two legislative sessions with Megan's law, and
5 now the decriminalization essentially of traffic citations for
6 those who can't pay their fines is likely to have a direct
7 impact on us. A vast majority of our court assessment funding
8 is from traffic citations. And if the courts can no longer
9 force people to pay their fines, we believe it may have an
10 impact on us. So, that said, as part of the audit process
11 we've provided several other ideas related to funding, and
12 we'll see how that goes. They've just pushed that -- not
13 pushed it back, but they want more time to consider our
14 proposals and we should have some final documents on that
15 audit in November. And again, remembering that we're in a
16 biennium the second year. The budget cycle begins in July.
17 So, in their minds we're already funded for next year. We'll
18 see if that's true or not. So, we are concerned about that.
19 Finally, you know, just because I know the Commission has
20 received emails on occasion from people that make complaints.
21 We -- you know, for some reason, people come to POST for
22 complaints and our general procedure is when we get a
23 complaint about operations of agencies, we generally refer
24 that back to the agency to deal with that as their procedures
25 and policies dictate. So, we're just out there, people see

1 POST and some people automatically just assume that we're some
2 sort of investigatory or, you know, have authority over
3 specific agencies and as you know, we're regulatory. So, I
4 just want to throw that out there. With that, that's pretty
5 much rounds up what's going on at POST currently, and I can
6 answer any questions Mr. Chairman, if anybody has any.

7 SOTO: All right, I'll turn it over to the Commission
8 first. Any of you have any questions or input for Mr.
9 Sherlock? Okay. The only input I have is, I know we've had
10 this discussion before in terms of the funding, for this
11 Commission. On one hand I'm glad that we're doing an audit so
12 we can at least bring these issues to light. I ask from, you,
13 Mike, is to just keep this Commission up to speed on what
14 those asks are, what those shortcomings are. I have a pretty
15 good idea because of conversations that you and I have had,
16 but we have to find a way to fund this so that it's that it's
17 flush and we're not trying to funnel money every month just to
18 keep operations going. So, we need to speak up and have some
19 influence on it, and I'd be happy to let them know just how
20 difficult it is to run an organization like this with limited
21 funds. All right. Anybody else have anything for Mr.
22 Sherlock? Okay, we'll on then to item number 5, discussion,
23 public comment and for possible action. This is a request
24 from Nye County Sheriff for the Commission to find that its
25 statutes and regulations require the Commission to issue the

1 basic certificate to a person whose peace officer
2 certification is revoked in another state. If the commission
3 finds a person meets the minimum standards for appointment
4 found at NAC 289.110, and the person satisfactorily completes
5 the requirements for certification found in NAC 289.200
6 subsection 1. Commission may take action to interpret its
7 statutes and regulations regarding issuance of a basic
8 certificate to a person whose peace officer certification is
9 revoked in another state. I'm gonna turn this over to Mike
10 Sherlock for background on this, and then we'll (inaudible).

11 SHERLOCK: Thank you, Mr. Chairman. Mike Sherlock for
12 the record. So, first, you know, let me give the Commission
13 some perspective on our processes and NDI in particular. So,
14 just so everyone has some history, Nevada was on the ground
15 floor of the national decertification index long before it was
16 en vogue nationally we participated. The idea now embraced
17 both nationally in our industry, but also politically was to
18 help states ensure that officers who were revoked due to
19 misconduct in one state could not simply avoid the background
20 issues in their state and move to another state. POST's
21 mission is to ensure the highest professional standards for
22 our peace officers. Today NDI has received an influx of
23 federal money to make improvements and move it to a standard
24 for all states. Today, most states both participate and make
25 entries into the national de-certification system. Nevada

1 POST serves as a gatekeeper and ensures those who have access
2 to NDI are actual Nevada law enforcement agencies who hire
3 Nevada peace officers for their use. A vast majority of
4 Nevada law enforcement agencies have access and do access NDI
5 in their hiring process. Nevada POST policy and procedure is
6 to check a new hire in the index, and again when an agency
7 applies for basic certificate for that new hire. Again, just
8 for reference post regulations require agencies to notify POST
9 of any status changes, including the hiring of a new officer
10 within 15 days of hiring that new officer. And at that time,
11 we would check them in the de-certification index, and then we
12 would check them again when they apply for their basic
13 certificate. This agenda item addresses that process. In
14 this case, Nevada POST received a notification, internally we
15 call that a PAR, Personnel Action Report, that Nye County had
16 hired a person for a peace officer position on January 7th of
17 this year. Based on our procedure, we checked NDI and
18 discovered the person with the name given was revoked in the
19 state of Oregon. Oregon's POST entity is DPSST, so Department
20 of Public Safety Standards and Training, their equivalent of
21 POST. As is our procedure we then confirm that the person
22 being hired was one in the same as one entered by the state of
23 Oregon. And we confirmed that it was the same person or
24 appeared to be. We further discovered via Oregon that they
25 had revoked the subject for excessive force and that they had

1 revoked him for the period of life. We then notified Nye
2 County on January 11, 2022, that their prospective peace
3 officer was revoked and prohibited from exercising peace
4 officer powers in Oregon. And we would be unable to certify
5 him here in Nevada. We then received information that Nye
6 County was aware of the revocation and would be moving ahead
7 with the hire. At some point I personally spoke to Captain
8 Boruchowitz on the issue. I again advised that we would be
9 unable to certify this person based on the revocation. We had
10 further discussions on the fact that staff had concluded the
11 applicant does not meet the minimum standards established in
12 our chapter 289. With that I believe Nye County is here to
13 present their arguments, and I don't want to presume anything.
14 So, perhaps after their argument we can clarify things from
15 staff's perspective at that point, Mr. Chairman.

16 SOTO: Okay. So, we have representation here. So, I am
17 going to turn it over to Nye County representation so that you
18 can give us your perspective on this.

19 RICHARDSON: Thank you. I'll start first, I'm Bradley
20 Richardson with the Nye County district attorney's office.
21 It's my honor to be here along with Sheriff Wehrly, Nye County
22 Sheriff's office, Captain David Boruchowitz, Nye County
23 Sheriff's office. We also have in the audience, Michael
24 Burke, who is a cadet and training in Nye County Sheriff's
25 office. By way of background, I'm wrapping up my 45th year

1 practicing law in the state of Nevada, and I'm just going to
2 be addressing sub paragraph 1 under 289.200 with regards to
3 the use of the word shall, and the meaning attributed to the
4 word shall. By way of background, I'll be very brief. I had
5 the honor of completing Las Vegas Metropolitan Police Academy
6 in the early seventies, and then I got the law school bug, and
7 since they didn't have a law school in Las Vegas I went to
8 Sacramento, California, and went to a jurist school of law
9 there. During my time in law school, because I had ties to
10 Nevada, came up to Carson City and worked for the court
11 drafting bench briefs for the justices. And during the school
12 year, I would do research for the younger California attorney
13 general on search and seizure issues. So, when I graduated
14 law school I took the Nevada bar, and an opportunity came up
15 to go back to Kansas, so I went back, took the Kansas bar and
16 went to work for the City of Overland Park, Kansas as police
17 legal advisor, assistant city attorney. We had a hundred
18 officers there and 90,000 people. It's grown since then.
19 Opportunity came to come back to Nevada, so I joined the Clark
20 County district attorney's office working for Robert Miller
21 and Rex Bell. I started out with the robbery, rapes and
22 murders, and ended up - had a capital murder conviction also,
23 but I ended up running the fraud division. At some point I
24 decided to go on private practice where I spent over 30 years,
25 the most recent was with a firm called Fennemore Craig, with

1 the six offices, including Reno, Las Vegas, and Phoenix, but
2 I've always continued to work and have an interest in law
3 enforcement and the struggles. And I have in the past on in-
4 service at Metro, on testifying at trial. So, I'm now
5 wrapping up my fifth year with Nye County and I've come back
6 to my first love, law enforcement. And I recognize that
7 things have gotten a heck of a lot harder than 40-50 years
8 ago. I feel -- I worry a lot for the young troops out there
9 right now. There's so many factors and challenges, working
10 against us, including lack of funding as Director Sherlock
11 alluded to, and those things need to be corrected through the
12 legislature. But in any event. So, I just recently got asked
13 to look at this issue with regard to interpretation of
14 289.200(1). And so what I did was I looked at case law in
15 Nevada when you have that consideration use of the term shall,
16 and what it means, and the statute -- the NAC itself says that
17 under subparagraph 1, the executive director shall order basic
18 certificate to any peace officer who meets the minimum
19 standards for appointment established pursuant to NAC 289.110
20 and has satisfactorily completed basic training course, passed
21 the state certification exam, physical fitness exam. And the
22 significance of that for me is that paragraph 1 says if
23 they've completed those requirements, the executive director
24 shall award a basic certificate, and Captain Boruchowitz can
25 discuss the fact that Michael Burke is on course to complete

1 all those requirements. I wanted to make sure I wasn't
2 overlooking anything, so I contacted a couple people that I
3 consider experts on the issue of de-certification, one is
4 Matthew Hoffman of Seattle University, a frequent lecturer on
5 these issues. And then I also spoke with Ronald Goldman, St.
6 Louis University, who also lectures on the issue of
7 decertification. I asked both of these gentlemen whether or
8 not a decertification in one jurisdiction would preclude
9 certification another and they said, no, it does not. You
10 know, the laws across all the jurisdictions in the country,
11 they vary. You have to look at their statutes, look at their
12 regulations, and then figure it out. And Matthew Hoffman's
13 done a survey of decertification rules in all the states. I
14 agree that NDI is a great tool for law enforcement, because
15 what it helps you do, helps you start your character and
16 fitness analysis. They will tip you off for something amiss
17 and you can analyze it. What we have under 289.200 are two
18 pathways, in my view for certification. Number one, I
19 consider the golden pathway where you go through the academy,
20 you get to know your department, your department gets to know
21 you, they check NDI. They do character and fitness analysis,
22 and if you complete their requirements, the executive director
23 shall award a basic certificate. Many years ago, I was
24 practicing criminal law for Clark County DA's office. I had a
25 judge tell me one time, Judge Delguy, Mr. Richardson, if you

1 wanna make your point, I only want one case. I do not want,
2 you know, a lengthy brief, numerous cases or miss-mash cases.
3 So, what I've done is I pulled a single case that I think
4 exemplifies the point that I'm making here. And I will
5 provide a copy to the director and to Chief Floyd. The case
6 is Gouge versus State, it's a 2012 case here in Nevada. Also,
7 by my background, during my years as an attorney, I had the
8 honor of arguing before the Nevada Supreme Court numerous
9 times, the ninth circuit and the federal courts of California
10 and Nevada. But words matter, they've always mattered. And
11 so anytime you're writing a brief or arguing a case, you have
12 to be careful about the words, but I thought Gouge versus
13 State was good because, in that case the appellate saw the
14 review of an order entered by me to the district court, which
15 denied his post-conviction -- petition for relief from
16 lifetime supervision, which was filed pursuant to Nevada by
17 statute 1760931. What the Nevada Supreme Court did was they
18 looked at the statute, and what they said was because the
19 statutory language of 1760931 used the word shall, the
20 district court did not have the discretion to deny the
21 petition of (inaudible). (Inaudible) met the statutory
22 requirements. So, the significance of this decision is that
23 if you meet the requirements of the provisions in the statute
24 and, our position, if you meet the requirements of the
25 provisions of 289.200 subparagraph 1, that the executive

1 director shall award a basic certificate for that peace
2 officer. So, I'm relying on Gouge versus State and, that
3 proposition that holding that rule of law. The Nye County
4 Sheriff's office has done a thorough background check.
5 They're aware of the de-certification, what happened in
6 Oregon. They did supply agenda backup material to address
7 what had been provided by POST with regard to Mr. Burke's
8 decertification. Captain Boruchowitz can address those
9 concerns, if any. I think another thing that's helpful here,
10 I went back and looked at the history about administrative
11 code 289.200, and what I learned was in the year of 1999, I do
12 have the full revision from that year, but I also have those
13 specific pages where they revise 289.200, and I have multiple
14 copies of that I'll provide the director and Chief Floyd with
15 several of these copies. Hang on. Is that -- I'm sorry, let
16 me make sure I got the right one. Yes. Okay. So, the
17 significance of the change in the year 1999 to administrative
18 code 289.200 is that subparagraph 1, the language was changed
19 from the committee will award a basic certificate to any peace
20 officer who meets the minimum standards for appointment
21 established pursuant to 289.110 and admit the other
22 qualifications. They changed it to the executive director
23 shall award a basic certificate to any peace officer who meets
24 the minimum standards for appointment. And through the years
25 there's been no change. It's interesting to note in 1999,

1 that subparagraph 2, they talked about peace officers deemed
2 to complete a course of training that is at least equivalent
3 to the basic training course for basic certification, if he's
4 certified in another state. So, in 2003 they amended the NAC
5 to change language in -- let me find that -- subparagraph 2,
6 whereas, and I'll provide copies to the director and to Chief
7 Floyd. Sorry I don't have more copies, but in 2003 they
8 amended 289.200 subparagraph 2, instead of saying a peace
9 officer is deemed to complete the course of training that is
10 at least equivalent to the basic training course or basic
11 certification, so on so forth, they changed it to read the
12 executive director may award a basic certificate that a peace
13 officer has previously been certified by the certifying entity
14 of another state or successfully completed a federal law
15 enforcement training center training program. So, the
16 significance of the changes in 2003, they didn't touch
17 subparagraph one, and what that's telling us is that there are
18 two pathways to a certification in Nevada. One is under
19 subparagraph one if you go through the academy and you're
20 vetted and you meet the other requirements, you shall be
21 awarded a basic certificate. The second paragraph says if
22 you've been certified in another jurisdiction, that's a
23 pathway to be awarded a peace officer certificate in Nevada.
24 So, there are two avenues. Michael Burke is pursuing an award
25 of peace officer certificate through subparagraph one. I

1 believe that the Gouge case is good authority that there's not
2 -- it's not -- there's no discretion whether or not he shall
3 be awarded, or he gets the certificate. He shall be awarded
4 if he meets the other requirements. And again, I wanted to
5 make sure I wasn't overlooking anything, so I talked with Mr.
6 Goldman and Mr. Hoffman to make sure 'cause their foremost
7 authorities on that, just to make sure I wasn't missing
8 anything. Finally, you know, in the five years I've been with
9 Nye County, I've had opportunity to attend a wonderful
10 conference in Winnemucca, the cops and prosecutor's conference
11 in October of 2018. But you know, what's apparent is the job
12 now is much harder than I ever had to do where the people that
13 graduated the academy had to do. There are multiple
14 challenges. There's no -- it's difficult to recruit. Funding
15 is an issue. I remember at Metro we were fortunate that we
16 recruited from around the country, so, we had officers from
17 other jurisdictions and my thought was, thank God I'm riding
18 with them because there were steadying hand, you know. You get
19 a jackpot, they're a calming influence. It's like easy. We
20 got this, but that meant so much to have an older seasoned
21 officer. And like I say, we have challenges now. The
22 pendulum has swung so far to the left. It, it, it's difficult
23 to do the job now. You're wearing a bullseye on your back.
24 You could be shot at. When I was at Metro, that patrol car
25 was not worried about getting assassinated or eating, you

1 know, during our break hour for lunch, not worried about
2 getting shot in the back. You don't have that security
3 anymore. And levels of officers on the street has fallen.
4 Why, because of these challenges and certain perceptions, but
5 the pendulum's over here, we will bring it back, but I'll get
6 off the soapbox there. But I just wanted to tell you that I'm
7 confident that the Gouge case is the rule in Nevada if you
8 meet the prerequisites of that paragraph certain action shall
9 occur. Action is compelled to provide the certificate in this
10 case. With all that being said, if you have any questions for
11 me, or you'd like to chat with Captain Boruchowitz on this
12 case, I'm very passionate about it. And, you know, I know
13 it's first blush. It's like, okay, well maybe there's, if you
14 know, it's like the scarlet letter if you've been de certified
15 in one state, it's a death knell. It's not, you have to look
16 at the circumstances about de-certification, their laws, our
17 laws, and so we don't deny people of good character, good
18 officers, good troop from joining a very honorable group of
19 officers here in the State of Nevada. We all got to look out
20 for each other, whether you're in Reno, Las Vegas, Winnemucca,
21 Elko, and the smaller jurisdictions. We all gotta look out
22 for each other. But I would hope that you would consider, you
23 know, what I've had to say about this case. I'm convinced
24 that, that is the law here and, Michael Burke should receive,
25 shall receive peace officer certificate at the conclusion of

1 the academy. Thank you.

2 SOTO: Thank you for that. Does anyone else on the
3 team want to present before I turn it back over to Mr.
4 Sherlock, Captain Boruchowitz or Sheriff Wehrly?

5 BORUCHOWITZ: I can just say something real quick. I'm
6 not gonna rehash what Deputy DA Richardson did or read from my
7 petition, but as you saw in our petition to you, Mr.
8 Sherlock's position to us is that Mr. Burke is not eligible
9 for certification based on subsection 2, which is the lateral
10 section and his position in his correspondence with us was
11 that, that disqualified him from certification even under
12 subsection 1. Clearly based on that language in our petition
13 that would mean anyone who expired five years are also being
14 eligible to go through a new academy. And one of the things
15 that, that we really take seriously, and this is that Oregon
16 requires the decertification of anyone terminated for any
17 reason in Oregon. So that would our -- if the interpretation
18 was the way it is, you could not hire anybody from Oregon who
19 was terminated for any reason, because they would be de
20 certified pursuant to Oregon law. We have done an extensive
21 background. We have interviewed many of the people that are
22 involved in this incident that is in the backup port before
23 you and our agency believes that Mr. Burke is qualified and
24 meets all of the standards and has complied with 100% of the
25 minimum requirements to become a peace officer. And upon

1 graduating the academy will have met all of those. And we're
2 simply asking that he be pursuant to subsection 1.

3 SOTO: Thank you. Sheriff, do you have anything?

4 WEHRLY: Yes, we're only going on the subsection 1. We
5 have not -- he's not asking for reciprocity, so he doesn't
6 qualify for subsection 2. He's going through an academy per
7 subsection 1.

8 SOTO: Okay. I'm gonna turn it over to Mike Sherlock and
9 then go to the Commission.

10 SHERLOCK: Sure. Thank you, Mr. Chairman, Mike Sherlock
11 for the record. And I'm gonna turn to Mike here in a minute.
12 I just wanna give the Commission kind of a historical
13 perspective and make sure, you know, the Commission
14 understands how staff perceives these things. So, one, I
15 would say that we work under 289, which is a regulation. The
16 statute is the enabling statute, but we work under a
17 regulation that's developed by the commission. So, first let
18 me give you a sense of the issue. To my knowledge we have
19 never certified anyone who's a peace officer who perhaps,
20 peace officer powers have been revoked in another state in our
21 history that I am aware of, right. I would further say that
22 we have never had a situation where we have advised an agency
23 that their applicant is revoked in another state, and they've
24 asked us to certify them despite that. So, I hope everyone
25 can imagine that this is not an issue that frankly we even

1 contemplated, particularly in today's climate, but as to the
2 argument we understand that the prohibition of being revoked
3 in another state falls under the same subsection as
4 reciprocity applicant, but it also falls under the entire
5 section that deals with certification. That said staff has
6 historically looked at both, at the wording of the regulations
7 themselves, but also the intent of the commission. Chapter
8 289 also includes terms that read -- 289.290 reads under
9 subsection F that dealing with denial of certification, it
10 states as a reason that the failure to comply with standards
11 established in this chapter is a reason not to certify or deny
12 certification. Staff looks at 289.200 subsection 2B that
13 states that certification of the person is in the other state
14 has not been revoked or suspended is a standard within this
15 chapter, even if the specific wording is attributed only to
16 those seeking certification by reciprocity, the intent of the
17 commission is clear. Staff uses this section not only as
18 appropriate for reciprocity, but also instructed on any
19 applicant that has been a peace officer in another state where
20 they were certified and whether they failed to meet those
21 standards in that other state or had some misconduct that
22 caused certification to be revoked. We would not normally
23 anticipate an agency ignoring the revocation. And I
24 understand that that's not the case here necessarily, but
25 relitigating or looking at the revocation because it only

1 applies to reciprocity and then move them into another section
2 to get around that issue. And we just would not have
3 anticipated that even where 60 months had lapsed, which is a
4 separate section of reciprocity. We would agree with some of
5 the issues that POST in general allows discretion and the
6 interpretation of the minimum standards. As the Commission
7 knows, we recently had questions on things like what
8 constitutes a high school completion as part of the minimum
9 standards. And we encourage agencies to establish their own
10 understanding of what completion of high school is, but the
11 Commission does establish a minimum standard and the assertion
12 that all decisions are so solely within the agency's
13 discretion really undermines the whole mission or purpose of
14 the POST Commission. Clearly, there has to be, and there is a
15 limit to that discretion where it is obvious that the
16 applicant does not meet the standard. The commission is then
17 not bound to certify them. In this case, Oregon's final
18 record on the issue shows a sustained finding of his excessive
19 force and Oregon concluded that the facts warranted a
20 revocation for life. As you all understand, excessive force
21 is not simply a policy violation it is a constitutional issue
22 and staff believes there's no question in the authority of the
23 commission to deny such a certification. The fact that Nye
24 County did a background on this incident that apparently was
25 from seven years ago and concluded there was not a violation

1 cannot change the fact that Oregon's findings are final. So,
2 when you refer back to minimum standards, a documented and
3 sustained case of excessive force clearly violates the minimum
4 standard of prohibiting the hiring of someone with a
5 documented history of physical violence. That's exactly what
6 the Oregon revocation is. Staff would submit both the
7 revocation and the documented incident of excessive force is
8 clearly within the discretion of the commission to deny that
9 certification. So, with that, I think I'd move it over to
10 Mike and see if he can give us some further clarification on
11 the issue.

12 JENSEN: Sure. This is Mike Jensen for the record.
13 Just, Mike, I think Mr. Sherlock covered most of the things
14 that I would talk about; however, I have just a couple of
15 points first, being with regard to background with the
16 statutes and regs. I started representing the commission in
17 1996, at a time when the commission, the POST Commission was
18 still part of the Department of Public Safety DMV and Public
19 Safety, which has since separated. I was at the legislature
20 when the statute was written to establish POST and have been
21 here throughout the evolution of the regulations over the
22 years since that time, and so I have some experience with some
23 of the changes that you've talked about this morning. And, so
24 I appreciate that, but I would say that what I have to say is
25 in that context of having that background with these

1 particular regulations. I would start off by saying that the,
2 commission and Mr. Sherlock have not asked for a formal
3 attorney general opinion on this issue, that we do have a
4 process within our office to get a formal opinion, that
5 requires, you know, the, the drafting, the request, and then a
6 drafting of an opinion. It gets reviewed all the way up
7 through our chain of command and is issued. That hasn't
8 happened in this case and is certainly, or in this matter, and
9 is certainly available to the commission, if you want that;
10 however, I did take some time to look through informally, to
11 look at the statutes and regs to see if based on my
12 experience, and this is my experience and opinion alone,
13 whether or not the commission has the authority, and the
14 discretion to deny a certification, or if, as it's been
15 argued, the commission has no discretion when the word shall
16 is used in that particular regulation, that you have to
17 certify someone even in circumstances where they've been
18 revoked in another state for life for excessive force. And in
19 looking at those statutes and regulations again, I believe
20 that you could reasonably argue that the commission has the
21 authority to deny a certification for an individual who has
22 been revoked in another state for excessive force. And let me
23 just real quickly, I don't want to take a lot of time on this
24 and again, understand this was an informal preliminary review
25 of this matter. It's not the opinion of the Attorney

1 General's office, but in looking at this particular matter,
2 and the circumstances of this case, when you have a situation
3 where there is a lifetime revocation in another state you have
4 a final decision and in my experience, when you have a final
5 administrative decision from an entity like the POST
6 commissioned in Oregon, that carries the weight of being what
7 we call in the law, res judicata collateral estoppel, meaning
8 essentially that you don't get to go contest the underlying
9 facts at this point years later, that underlie that
10 revocation. The third point being in this particular matter
11 the revocation is based on uncontested facts involving the
12 excessive use of force by a peace officer. That's what the
13 final decision of that agency says. It's not contestable at
14 this point in time based on those legal principles. And so
15 when you look at that in the context of the commission's
16 statutes and regulations, you start with NRS 289, that sets
17 out the causes 289.290 that gives the commission authority to
18 establish regulations for the certification -- decertification
19 of officers and specifically talks about doing so in a way
20 that protects the interests of the citizens of Nevada, to
21 protect them in your oversight capacity as a commission. You
22 then look to the specific regulations that are the
23 commission's regulations, which there are a couple of
24 principles of statutory interpretation, I think are important
25 in this particular matter. The first is that the commission

1 has the authority to interpret its own regulations as long as
2 your interpretation is consistent with your enabling statute,
3 it's valid. Okay. And so, you have the ability to do that,
4 and not only do you have the ability to do that if you do so,
5 the court will give deference to that interpretation. Okay.
6 Meaning, they will defer to your expertise as chiefs and
7 sheriffs and others with interest in law enforcement on this
8 commission as to how you interpret your statutes and,
9 particularly in this case, your regulations. NAC 289.290,
10 which sets out the causes for refusal to certify, specifically
11 in section F says the failure to comply with the standards
12 established by the chapter. Okay. So, that's one of the
13 reasons that you could refuse to certify a particular
14 individual. Now, the section that's talked about this
15 morning, subsection 1 of 289.200, it specifically provides
16 that the individual first has to meet the minimum standards
17 for appointment. It doesn't say as determined by the agency;
18 it says they have to meet the minimum standards for
19 appointments. 289.110, then the commission has set out what
20 those minimum standards for appointment are when it comes to
21 appointing a peace officer. As has been discussed, one of the
22 things that is expected is that agencies will do thorough
23 background checks to determine the suitability of an
24 individual having good moral character, not having a
25 documented history of physical violence. Those are

1 specifically talked about in those minimum standards for
2 appointment. The commission, in my experience has never
3 relinquished and it retains the authority to interpret and
4 apply those standards in a way both consistent with its
5 statutes and regulations and its mission to protect the
6 citizens of the State of Nevada. So, I would say under those
7 appropriate circumstances, and as Mr. Sherlock pointed out,
8 this is a rare situation. I've been doing this over 25 years.
9 I've never seen an item come to the commission where an agency
10 has asked the commission to certify someone who's been revoked
11 in another state. This is an unusual circumstance, probably
12 was not contemplated at the time that the regs were drafted
13 and thought about that this would happen, but here we are --
14 here we are. So, based on that preliminary review and
15 principles of statutory interpretation I believe that the
16 commission could reasonably determine under the facts of this
17 case and its standards that those standards have not been
18 reasonably and appropriately interpreted and applied and
19 confirm the executive director's refusal to certify Mr. Burke.
20 Thank you.

21 SOTO: Do we have any further public comment? I'm
22 gonna turn it to the commission. Take comments from our
23 commission on this.

24 SHEA: Tim Shea. Things like this are always kind of
25 a dilemma. I've been in this business a very, very long time

1 and three different states now, and we've dealt with this
2 issue in one form or another quite a bit. The term rogue cops
3 became rather popular in the eighties when you'd find officers
4 that were in trouble in one state and would go to another and
5 we'd pick them up as laterals. From that came litigation. We
6 were involved with up in the Seattle area for a negligent
7 referral, which you should have told us some stuff about some
8 people you didn't, and we ended up hiring them and we were in
9 a mess. I'm sure you all remember some riots in South Los
10 Angeles that were caused by an arrest of a shoplifter who
11 (inaudible) and the scene of the guy in the intersection on
12 (inaudible) in his truck. It all started with an arrest of a
13 shoplifter where the cop was heavy handed, bounced the kid's
14 head off the hood of the car, got the neighborhood incensed
15 and they ended up with a riot. The people in New Jersey were
16 amazed that, that guy had been hired by LAPD because they had
17 gotten rid of him in New Jersey for the same kind of stuff,
18 but LAPD had no idea. So, when I look at, and I read through
19 the articles here, and this all happened back in 2007, 2008,
20 so it has nothing to do with the current climate or the people
21 looking for more transparency in its police, more of
22 accountable to the public. This was quite a while ago.
23 Oregon is a rather heavy labor state when it comes to police.
24 It's the home of people like (inaudible) which are well known,
25 law firm that deals with law enforcement officers, rights of

1 peace officers. It was interesting when I lived here that the
2 union didn't proceed with the arbitration. I read the
3 administrative law judges' review here from the Department of
4 Public Safety, so it looks like what you said, they terminated
5 for in an Oregon was based upon not 'cause he was terminated
6 was by his actions. The dilemma comes to me when it comes to
7 something like this and you brought up that there isn't been a
8 law review, so can the POST Commission act on what they feel,
9 or do we have to act on what is law? And that's where the
10 problem comes. And that's where my dilemma lies. I know what
11 I feel. I know what Tim Shea feels like, but what can the
12 commission do? Do we have to follow law? And then for what
13 is the clear law?

14 TROUTEN: Ty Trouten for the record. And I have a -- I
15 guess a little bit different concern. I don't think we ever
16 reached that point, and I will articulate it in this way. As
17 you noted in your letter, page 17, Sheriff Wehrly, that POST
18 relies upon the agencies to fill all the requirements,
19 including the backgrounds and doing the physicals, the
20 psychological evaluations and everything else. And I believe
21 that is critical. And I guess I should back up and say, I do
22 understand as you've articulated, we are all facing staff
23 shortages and a dearth of good, qualified applicants who want
24 to join this profession. Going back to the -- that there was
25 a background completed, as pointed out the Oregon revocation

1 for life is a matter of record. It is not up for
2 determination at that point. And I guess I would assert, and
3 I don't wish to demean your agency or your background
4 investigators, but that should have been an automatic
5 disqualification before it ever came to the level of POST and
6 this discussion of, well, they just go and recertify it will
7 be fine. I believe that the background while it's asserted,
8 that it was, I think at one time quoted as appropriate and
9 then thorough, but that the concerns are without merit. I
10 cannot agree with that. And so, I would say that this issue
11 really revolves around the fact that this candidate did not
12 have a background worthy of even getting to the point of
13 hiring. And so, you know, now it falls into our laps and
14 without, I guess advocating that this POST Commission Board
15 should detail every facet of how backgrounds are done and
16 specify exactly what is a thorough and complete background and
17 what are the disqualifying features and what are case by case
18 things. I do believe we're at the point where, like I said, I
19 think we do have the authority to make the decision that this
20 is not a person that we can grant a POST certificate to.

21 SHEA: Tim Shea again. That's kind of where I was
22 heading with you too. I feel the exact same way. I'm just
23 concerned over the powers of the POST Commission and do we
24 follow -- is there a clear cut law we follow, which you just
25 said right now, we really don't have a complete analysis of

1 the Attorney General's office or can we just go with something
2 like this because we're establishing policy for the future I
3 believe by the decision we make. While I agree the
4 investigation was done is absolutely immaterial. What's
5 material is the fact that Nevada Department of Public Safety
6 Standards and POST training revoked for life based upon what
7 they found to be excessive force of what it looks like and
8 gross negligence, I believe is the word the administrative law
9 judge used, and those facts are what the investigation
10 (inaudible) immaterial, what happened or didn't happen, what
11 the other deputies thought of or whatever is the materials,
12 what the state took action on. And my feeling is if you're
13 decertified in one state, you're decertified in every state,
14 that's the intent of decertification and many states have
15 passed laws specifically to that point to make sure that
16 happens. So, especially this day and age, I don't know in
17 good conscience, how you could do anything other than that. I
18 don't know how you can. You would be basically telling the
19 state of Oregon you're wrong. And from reading their paper, I
20 don't think they are, and even if I thought they were wrong
21 it's immaterial, the fact is it occurred, like you said, once
22 that occurred is the fact is it occurred.

23 TROUTEN: And I guess that's my point, perhaps not clear
24 enough, but to the, you know, your argument of the definition
25 of shall is essentially irrelevant. I take concern of the

1 fact that just with what we have before us here, this subject
2 does not be meet the minimum requirements, that there is some
3 fault that happened within that process, that the, every new
4 applicant is supposed to undergo and therefore it makes it all
5 irrelevant.

6 SOTO: Any other thoughts from Commission?

7 MCKINNEY: Kevin McKinney for the record. I believe this
8 Commission has a moral obligation to uphold the integrity of
9 the decertification index. I believe that if we fail to honor
10 Oregon's decertification that we'll be in a position where our
11 integrity is put to question. And I also believe that we
12 would be potential subjects to civil liability if we authorize
13 an excessive use of force and knowingly certify him, and then
14 we're in a position where he commits another excessive use of
15 force, I believe we could open ourselves up to a civil
16 liability there. I just think we have a moral obligation to
17 honor Oregon's. I feel that this applicant here could
18 potentially go to Oregon and appeal the decision or do that,
19 and then might have an opportunity to at that point to come to
20 Nevada. But I don't think we are in a position to override
21 what Oregon has decided. I don't think we can do that.

22 PROSSER: Jamie Prosser for the record. I agree in
23 agreement with most of what's being said. However, I am
24 curious since it was brought up that Oregon has a stricter
25 reporting category, I'd be interested to know from a legal

1 standpoint if this case had come through Nevada POST, if we
2 would have entered it into NDI. And I don't know if that's
3 possible to find out. But I also agree with getting more of a
4 legal background on that.

5 YOUNG: Tiffany Young for the record. As a community
6 member, as I sit here listening, because I read through all
7 the documents and I'm in agreement with all the statements
8 that have been held here. And I think foundationally for why
9 law enforcement exists, you know, community-oriented policing
10 at its core and a responsibility as a state. I think
11 systematically, it sounds like we as POST have an obligation,
12 one, to uphold a decision that's made by another law
13 enforcement agency. But additionally, we need to have some
14 clear clarification about roles and responsibility of what
15 we're legally obligated to do. But if we then make a
16 decision, as you said, that's contradictory to another
17 state's, right. Are we opening our doors for the floodgates
18 of challenges? And I would be concerned that if an individual
19 in another state has been deemed unsafe for the community,
20 then how can we morally say that they can be safe for our
21 community? And so, we have an obligation to the people. We
22 also have an obligation to law enforcement agencies, as well
23 as following whatever statutes have been put in place by the
24 state.

25 SOTO: Thank you. Anyone else?

1 ALLEN: Mike Allen for the record, Humboldt County
2 Sherriff. I would just agree with the rest of the
3 Commissioners on what they're saying. And I think you guys
4 brought up some excellent points and some of the things that
5 I've been thinking of myself on that. So, do you -- and I
6 think Mike, if I heard you correctly, you feel we do have the
7 authority, Mike Jensen, to not certify this individual.

8 JENSEN: Yes.

9 SOTO: So I have a couple of thoughts based off of all
10 the information that was brought forward today and where it
11 really sits with me in my, you know, quarter century in this
12 business, it goes back to a lot of the things that we're
13 talking about today, that's employee rights, things that have
14 to do with the termination of hopes and, executive goals and
15 responsibilities. And what's challenging about this
16 particular case is that whenever someone is terminated,
17 regardless of the agency, regardless of the state, at least as
18 far as I'm aware, there is a process in which that individual
19 has the ability to appeal that termination or that discipline
20 or whatever it may be. And here we're being asked to go, you
21 know, it's removed 15 years and we're being asked to look
22 beyond that. And the reality for me is you have to approach
23 that with, you know, when it occurs, that's your window,
24 that's your opportunity to appeal whatever it is that you
25 might not agree with. And I did read all the documents. I

1 read the specifics, and I also understand that we, as a POST
2 Commission have a responsibility. Decisions aren't always
3 easy that we make. And no, I absolutely agree that we have a
4 very difficult profession that we have to work through, and it
5 changes day to day sometimes, but that responsibility is, you
6 know, it's written. I do believe that we have the authority
7 as a Commission. I call it an authority, but I also couple it
8 with the responsibility to approve and deny certainly all
9 certifications. I just think it's important that I put that
10 on the record. I understand that every case is complicated,
11 and we wouldn't be sitting here today if this wasn't a
12 complicated -- at one point case, and I can appreciate that,
13 but I hope you can also appreciate what I'm saying and the
14 fact that I have a responsibility. We have a responsibility
15 as a commission. (Inaudible) part of that. I wasn't part of
16 that process. All I can digest is what I have in front of me.
17 I'd like to make that clear. Any other comments.

18 TOGLIATTI: George Togliatti for the record. I would
19 agree that it would be a lot easier for us if we had -- the
20 ranks were more clear cut, but to fall back to what Tiffany
21 had mentioned and everyone else I think it's pretty clear that
22 our responsibility -- there's only one decision we could make.
23 And we trusted the fact that we have this situation and the
24 decision made in Oregon with their investigation. I would
25 feel looking at it from my agency and the agencies I've worked

1 for that this matter probably would've made an (inaudible).
2 So, to sit here and go full background investigation presented
3 to us to make that decision isn't really possible. But I
4 would have to say that the allegation of excessive force is
5 not something that you can ignore and the fact that there was
6 a review by another state and the fact that it was going to be
7 revoked for life, that we would have to respect that. And I
8 can't take on the responsibility for the State of Nevada to
9 (inaudible).

10 SOTO: Any other comments? Okay. So let me make sure
11 I get this right. What I'm looking for then would be a motion
12 that the Commission has the authority to deny certification
13 based on the Oregon revocation.

14 TROUTEN: So, moved.

15 ALLEN: Mike Allen, I second.

16 SOTO: Motion and second. All of those in favor, say
17 aye.

18 MEMBERS: Aye.

19 SOTO: Opposed? Motion carries unanimously. Okay.

20 Item number 6. Discussion, public comment and possible
21 action. Request from Carson City Sheriff's Office for a 6-
22 month extension pursuant to NRS 289.550 for employee, Deputy
23 Laura Eissinger to meet the certification requirement.
24 Extension to expire September 5th, 2022.

25 SHERLOCK: (Inaudible). If I could apologize for the long

1 -- I told him to wait until --

2 FURLONG: I could yell.

3 SHERLOCK: Sheriff Furlong sat down, but they started
4 early.

5 JENSEN: Any revocation?

6 FURLONG: For the record, Sheriff Furlong. This is an
7 item to extend curricular provide for an extension for Deputy
8 Eissinger. She is attending the academy in July. Estimated
9 kickoff, and just for information I shared with Mr. Sherlock
10 earlier, Carson City has been gracious enough to afford us
11 many positions to avoid these complications in the future.
12 (Inaudible) before, but I appreciate the board's -- the
13 Commission's support.

14 SOTO: Thank you, sir.

15 SHERLOCK: Mr. Chairman, Mike Sherlock for the record.
16 Staff would recommend the extension in this particular case.

17 SOTO: So, we're looking for motion to approve the
18 extension of Deputy Eissinger.

19 SHEA: Tim Shea. I'll make a motion to extend.

20 SOTO: Motion, second?

21 PROSSER: Jamie Prosser, second.

22 SOTO: Motion and second. All those in favor, say
23 aye.

24 MEMBERS: Aye.

25 SOTO: Oppose? Motion carries unanimously.

1 FURLONG: See you out there.

2 SOTO: Item number 7, discussion, public comment for
3 possible action. Request from Clark County Park Police for 6-
4 month month extension pursuant to NRS 289.550 for their
5 employee Officer Jason Hoyos to meet certification
6 requirement. This extension is to expire November 16, 2022.
7 Do we have anybody from Clark County Park Police here?

8 SHERLOCK: No. Mr. Chairman, Mike Sherlock for the
9 record. They were unable to make it up. I did speak to the
10 Chief. This particular applicant is a reciprocity who's
11 completed all the requirements except for the physical, the
12 PPFT and, was injured during the year and is in the middle of
13 rehabbing his knee and should be able to complete it within
14 the time limits. So, staff would recommend the extension
15 based on the information.

16 SOTO: Okay. Do we have any other public comment on
17 this? Seeing that there's none looking for a motion to
18 approve the extension for Officer Hoyos.

19 PROSSER: Jamie Prosser moves.

20 SOTO: Motion. Can I get a second?

21 TROUTEN: (Inaudible) second.

22 SOTO: Motion and second. All of those in favor say
23 aye?

24 MEMBERS: Aye.

25 SOTO: Motion carries unanimously. Item number 8,

1 public comment. Commission may not take action on any matter
2 considered under this item until this matter is specifically
3 included on the agenda as an action item. Does anyone wish to
4 make a comment or address the Commission through public
5 comment? Okay. Item number 9, discussion, public comment and
6 possible action of scheduling of an upcoming meeting. I'm
7 going to turn this over to Mr. Sherlock (inaudible) date.

8 SHERLOCK: Thank you. Mike Sherlock for the record, Mr.
9 Chairman. So, staff is proposing July 26th. It's a Tuesday,
10 here at POST. This puts us the week after the July Sheriff's
11 and Chief's meeting in Ely, and a full week before hot August
12 nights where I think, Chief Soto might be busy, you know, and,
13 and gets us out all the traffic issues and that kind of thing
14 here at POST, if that's acceptable for the members, but,
15 we're trying to, you know, summer's a tough time, but we do
16 anticipate a rather large agenda for that July meeting, so
17 we're trying to find the best time and we're hoping that's
18 acceptable.

19 SOTO: Did you say July 26th?

20 SHERLOCK: July 26th, which is a Tuesday.

21 SOTO: (Inaudible) everybody?

22 SHEA: When is the Sheriffs and Chief's?

23 SHERLOCK: It's a week prior to that out in Ely.

24 TROUTEN: Ty Trouten for the record. Elko.

25 SHERLOCK: Oh, it's an Elko. Yeah, that's right. Sorry.

1 Sorry, Chief.

2 SHEA: Is there any way we can kind of tie these
3 together 'cause, you know, we have to fly up every other week.

4 SHERLOCK: Yeah, I understand. Mike Sherlock for the
5 record. So, as you guys know, years ago, we used to tie those
6 together, and it normally it's Ely in July or has been in
7 recent history. The problem for us was getting witnesses and
8 people that may be involved in revocation hearings out there.
9 You know, as particularly Ely, not so much in Elko, but so
10 we've moved away from having our meeting at that Eastern
11 Sheriff's and Chiefs, unfortunately.

12 SHEA: What I was getting at, Mike is could it be the
13 same week?

14 SHERLOCK: Oh, I see.

15 SHEA: Here, otherwise I got to go all the way back
16 south (inaudible) going back up.

17 SHERLOCK: Oh.

18 TROUTEN: So, if the Sheriff's and Chief's is Wednesday,
19 Thursday, could we do it on the Tuesday before? And then just
20 be easier for those of us from down south?

21 SHERLOCK: Sure. Mike Sherlock. So yeah, we can let --
22 let me look at the dates and I can put that -- Chief, I can
23 put that out in an email and see if everybody's good with
24 that. You know, the flip side of that is you guys coming all
25 the way back over here the same week that you're hosting, you

1 know, but I'll -- we'll put the dates out.

2 TROUTEN: So, for the record, Sheriff Narvaiza is
3 handling most of that.

4 SHERLOCK: You don't have to worry.

5 TROUTEN: But I will advise Tim that just be aware, you'd
6 probably be better to have it before, so you could fly to Reno
7 and then you're gonna have to rent a car and drive out, 'cause
8 there's no air service from Elko, it only goes to Salt Lake
9 and that rarely.

10 SHEA: Yeah. Driving, I'm from Elko, so it's just that
11 driving from Las Vegas to Elko and then back or flying up to
12 Reno and I have to rent a car to go there anyway. And I just
13 as soon come here and go from here to there. That's all.

14 SHERLOCK: Sure. And I we're probably okay with that.
15 I'll get an email out on the days then, and I'll get with the
16 Pam on Sheriffs and Chiefs.

17 TOGLIATTI: Schedule wise it's easier if we can.

18 SHEROLOCK: Okay.

19 TOGLIATTI: (Inaudible) one trip and I just -- I would've
20 probably drive the whole thing would be my plan.

21 SHEROLOCK: Right.

22 TOGLIATTI: Whatever.

23 SHERLOCK: In our little world here, Elko is a trip of
24 its own, so. But we'll get the dates and, I'll get that out
25 by email to everybody.

1 SOTO: All right. So, we don't have to take any
2 action on that. Let's see, item number 10, discussion, public
3 comment, possible action and adjourn for a motion to adjourn.

4 YOUNG: Motion.

5 SOTO: Got a motion, looking for a second.

6 UNIDENTIFIED: Second.

7 SOTO: Motion and second. All in favor to say, aye.

8 MEMBERS: Aye.

9 SOTO: Thank you all.

10 SHERLOCK: Thanks everyone.

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2. **INFORMATION** Executive Director's report.

- a. Training Division
- b. Standards Division
- c. Administration

3. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

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

- 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;*
- 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*
- C. **LCB File 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.*
- 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 certificate; or (3) training and experience in another state that are consistent with and not of a lower standard than the regulations for a current basic, intermediate, advanced, supervisor and management certificate. (2) The Commission will grant an executive certificate to an officer upon submission of proof satisfactory that the officer has been elected or appointed to the position of sheriff of a county or chief of a metropolitan or city police department for at least 5 consecutive years.*

4. DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.

The Commission to decide whether to continue the rulemaking process regarding the establishment of a new regulation pursuant to Assembly Bill 336. Proposed language is: *“The employing agency shall implement an 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.”*

Assembly Bill No. 336–Assemblymen Monroe-Moreno
and Roberts

CHAPTER.....

AN ACT relating to peace officers; requiring the Peace Officers’ Standards and Training Commission to adopt regulations establishing standards for an annual behavioral wellness visit for peace officers; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law creates the Peace Officers’ Standards and Training Commission and requires the Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.500, 289.510) This bill requires the Commission to adopt regulations establishing standards for an annual behavioral wellness visit for peace officers to aid in preserving the emotional and mental health of the peace officer and assessing conditions that may affect the performance of duties by the peace officer.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 289.510 is hereby amended to read as follows:
289.510 1. The Commission:

(a) Shall meet at the call of the Chair, who must be elected by a majority vote of the members of the Commission.

(b) Shall provide for and encourage the training and education of persons whose primary duty is law enforcement to ensure the safety of the residents of and visitors to this State.

(c) Shall adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. The regulations must establish:

(1) Requirements for basic training for category I, category II and category III peace officers and reserve peace officers;

(2) Standards for programs for the continuing education of peace officers, including minimum courses of study and requirements concerning attendance, which must require that all peace officers annually complete not less than 12 hours of continuing education in courses that address:

- (I) Racial profiling;
- (II) Mental health;
- (III) The well being of officers;
- (IV) Implicit bias recognition;



- (V) De-escalation;
- (VI) Human trafficking; and
- (VII) Firearms.

- (3) Qualifications for instructors of peace officers; ~~and~~
- (4) Requirements for the certification of a course of training

~~H~~; and

(5) Standards for an annual behavioral wellness visit for peace officers to aid in preserving the emotional and mental health of the peace officer and assessing conditions that may affect the performance of duties by the peace officer.

(d) Shall, when necessary, present courses of training and continuing education courses for category I, category II and category III peace officers and reserve peace officers.

(e) May make necessary inquiries to determine whether the agencies of this State and of the local governments are complying with standards set forth in its regulations.

(f) Shall carry out the duties required of the Commission pursuant to NRS 432B.610 and 432B.620.

(g) May perform any other acts that may be necessary and appropriate to the functions of the Commission as set forth in NRS 289.450 to 289.680, inclusive.

(h) May enter into an interlocal agreement with an Indian tribe to provide training to and certification of persons employed as police officers by that Indian tribe.

(i) Shall develop and approve a standard curriculum of certified training programs in crisis intervention, which may be made available in an electronic format, and which address specialized responses to persons with mental illness and train peace officers to identify the signs and symptoms of mental illness, to de-escalate situations involving persons who appear to be experiencing a behavioral health crisis and, if appropriate, to connect such persons to treatment. A peace officer who completes any program developed pursuant to this paragraph must be issued a certificate of completion.

2. Regulations adopted by the Commission:

(a) Apply to all agencies of this State and of local governments in this State that employ persons as peace officers;

(b) Must require that all peace officers receive training in the handling of cases involving abuse or neglect of children or missing children;

(c) Must require that all peace officers receive training in the handling of cases involving abuse, neglect, exploitation, isolation and abandonment of older persons or vulnerable persons; and



(d) May require that training be carried on at institutions which it approves in those regulations.

Sec. 2. This act becomes effective on January 1, 2023.



5. DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.

Hearing pursuant to NAC 289.290(1)(e) on the revocation of Regina M. Joines (formerly with the Nevada Department of Corrections) Category III basic certificate based on a Gross Misdemeanor conviction of Sexual Abuse of Prisoner or Unauthorized Custodial Conduct by Employee (in violation of NRS212.188(1) and (3)(b)).



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
5587 Wa Pai Shone Avenue
Carson City, Nevada 89701
(775) 687-7678 FAX (775) 687-4911

STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF INTENT TO REVOKE

June 8, 2022

Regina M. Joines
[REDACTED]

Dear Ms. Joines,

POST PIN #: 34699

Based upon documentation received by the Nevada Peace Officer Standards and Training Commission (the Commission) and in accordance with Nevada Administrative Code 289.290 and Nevada Revised Statute 241.033, you are hereby notified that the Commission has initiated action to revoke your Nevada peace officer certificate(s) that authorizes the holder to be employed as a peace officer in the state of Nevada.

I have included a copy of Nevada Administrative Code 289.290 for your convenience.

The Commission's regulations provide that a person's peace officer certificate(s) may be revoked pursuant to **NAC 289.290(1)(e) based on a conviction of, or entry of a plea of guilty, guilty but mentally ill or nolo contendere to a gross misdemeanor.** The conviction(s) which have led to this action are as follows:

Count I: Sexual Abuse of Prisoner or Unauthorized Custodial Conduct by Employee, a Gross Misdemeanor in violation of NRS 212.188(1) and (3)(b).

Case#: 21 CR 00256 1B

Dept No: II

Jurisdiction: First Judicial District Court of the State of Nevada in and for Carson City

You have the right to appear before the Commission to contest the revocation of your Nevada peace officer certificate(s) by providing written notice to the Commission within fifteen (15) days of the date of the hearing.

If you choose to appeal and answer the charges against you, the Commission may elect to sit as a whole or a number that is practicable at a hearing or designate an independent hearing officer to hear the matter. You will be given the opportunity to present evidence and cross-examine witnesses as applicable. If you wish, you may be represented by an attorney; however, this would be at your own expense.

EXHIBIT A

Written requests can be made to:

Nevada Commission on Peace Officer Standards and Training
ATTN: Director Sherlock
5587 Wa Pai Shone Ave.
Carson City, NV 89701

The Commission will determine whether your Nevada peace officer certification(s) should be revoked at the meeting listed below:

Date: July 19, 2022

Time: 10:00 a.m.

**Location: Commission on POST Administration Building, Classroom #2
5587 Wa Pai Shone Ave.
Carson City, Nevada 89701**

The hearing will cover the following: Whether your P.O.S.T. certificate(s) should be revoked, pursuant to **NAC 289.290 (1)(e), for the above-referenced gross misdemeanor conviction.**

You will be notified of the Commission's decision within 15 days after this hearing, or as soon thereafter as is practicable.

If you need additional information concerning this matter, contact Kathy Floyd at (775) 687-7678, ext. 3335.

Sincerely,



Kathy Floyd
Chief of Standards Division
Nevada Commission on Peace
Officer Standards and Training

cc: Senior Deputy Attorney General Michael Jensen
File

NAC 289.290 Denial, revocation, suspension and reinstatement of certificate. (NRS 289.510)

1. Each of the following constitutes cause for the Commission to revoke, refuse or suspend the certificate of a peace officer:

(a) Willful falsification of any information provided to obtain the certificate.

(b) A permanent or chronic physical or mental disability affecting the officer's ability to perform his or her full range of duties.

(c) Chronic drinking or drunkenness on duty.

(d) Addiction to or the unlawful use or possession of narcotics or other drugs.

(e) Conviction of, or entry of a plea of guilty, guilty but mentally ill or nolo contendere to, a gross misdemeanor. Upon criminal indictment or filing of a criminal complaint, suspension may be imposed.

(f) Failure to comply with the standards established in this chapter.

(g) Conviction of, or entry of a plea of guilty, guilty but mentally ill or nolo contendere to, a felony. Upon criminal indictment or filing of a criminal complaint, suspension may be imposed. Upon conviction or entry of a plea of guilty, guilty but mentally ill or nolo contendere, the certificate will be revoked.

(h) Conviction of a misdemeanor. If the employing agency recommends suspension or revocation following conviction of the employee for a misdemeanor, suspension or revocation may be imposed. In determining whether to suspend or revoke the certificate, the Commission will consider the type of conviction and other information provided by the agency indicating unprofessional conduct or similar undesirable activity by the officer that resulted in disciplinary action.

2. Denial, suspension or revocation procedures will not be considered by the Commission in cases where the employment of an officer is terminated for violations of the policies, general orders or similar guidelines of operation of the employing agency which do not constitute any of the causes for denial, suspension or revocation specified in subsection 1.

3. The employing agency shall notify the Commission any time that it becomes aware that one of its officers has been charged with a crime that could result in denial, suspension or revocation procedures. Upon receipt of information alleging any of the causes enumerated in subsection 1, the Commission will determine whether to pursue revocation or suspension of the certificate of the officer.

4. The Commission will notify the officer by certified mail at the officer's last known address of any pending revocation or suspension action and of the nature of the charges and the officer's right to appear and answer the charges. The officer shall, within 15 days after the date

on the certified mail receipt, respond in writing, notifying the Commission of his or her intended action with reference to the charges.

5. If the officer fails to notify the Commission within the specified time of his or her intention to appear in answer to the pending action, the Commission will:

(a) Consider the case on its own merits, using the statement from the head of the employing agency or the substantiated information derived from any independent investigation it deems necessary;

(b) Take no action pending the outcome of possible criminal action which may be filed against the officer; and

(c) Take no action pending the outcome of an appeal.

➔ The Commission's decision will be determined by a majority vote of the members of the Commission present.

6. When an officer notifies the Commission of his or her intention to appear and answer the charges pending against him or her, the Commission will elect to sit as a whole at a hearing or designate an independent hearing officer to hear the matter and make recommendations in writing to the Commission. The Commission will review the recommendations of any such hearing officer and arrive at a decision by majority vote of the members present.

7. The Commission will notify the officer of its decision within 15 days after the hearing.

8. An applicant for a certificate who has not been previously certified, but who would be subject to revocation for any cause set out in subsection 1, will not be granted a certificate.

9. If, upon receiving a written allegation that a peace officer is in violation of any provision of subsection 1 and that the facts and circumstances indicate that suspension rather than revocation would be in the best interests of the agency and law enforcement in general, the Commission will suspend the officer's certificate.

10. The Commission will provide each peace officer whose certificate is suspended with written notice of the suspension by certified registered mail. The suspension becomes effective 24 hours after receipt of the certified notice. The notice will contain a statement advising the officer of the right to a hearing.

11. Suspension of a certificate is not a bar to future revocation of the certificate and any prior suspensions may be considered as a factor if revocation is being considered by the Commission.

12. Five years after the revocation of a certificate, an officer may submit a written request to the Commission to allow him or her to reinstate his or her certificate. The Commission will schedule a hearing to consider whether to reinstate the officer's certificate. The Commission will

notify the agency that requested the revocation of the date and time of the hearing. After the hearing, the Commission will determine whether to reinstate the certificate. If the certificate is reinstated, the Commission may establish a probationary period during which any misconduct by the officer would result in revocation.

(Added to NAC by Peace Officers' Standards & Training Com., eff. 12-17-87; A 8-24-90; 4-28-94; A by Peace Officers' Standards & Training Comm'n by R102-99, 11-2-99; R003-07, 4-17-2008; R051-14, 10-24-2014)



STATE OF NEVADA

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

5587 Wa Pai Shone Avenue
CARSON CITY, NEVADA 89701
(775) 687-7678 FAX (775) 687-4911

STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

DECLARATION OF SERVICE

I, J. Anstedt 0113 1956, served the foregoing **Notice of Intent to Revoke**
Print name of the person serving this document

To Individual's Name: **Regina M. Joines**

at [REDACTED] on this

18 day of June, 2022.
Day Month Year

I declare under penalty of perjury that the forgoing is true and correct.

Executed on this 18 day of June, 2022.
Day Month Year

[Signature]
Signature of person serving the Notice

JOEL ANSTEDT 0113
Printed name of person serving the Notice

****RETURN THE SIGNED ORIGINAL OF THIS FORM TO POST WITHIN 15 DAYS****

EXHIBIT B

State of Nevada - POST

UPDATE - Personnel Action Report (PAR)

Post ID Number:

Last Name:

First Name:

MI:

Suffix:

Name Change?

Last Name:

First Name:

MI:

Suffix:

Address Change?

Street Address:

City:

State:

Zip Code:

County:

E-Mail:

Level Change? Line Supervisor Management Executive
 Part Time Full Time

Status Change? Deceased Retired Separated

NAC289.290 Notification (Cause For Commission Action)

Pursuant to NAC 289.290(3) "The employing agency shall notify the Commission any time that it becomes aware that one of its officers has been charged with a crime that could result in denial, suspension or revocation procedures. Upon receipt of information alleging any of the causes enumerated in subsection 1, the Commission will determine whether to pursue revocation or suspension of the certificate of the officer."

Does the above NAC apply? No Yes

****If you selected YES, ensure it is correct and provide details in the Comment field.****

Comments\Additional Information:

Effective Date:

Submitters Name:

Submitters Phone:

Submitters E-Mail:

EXHIBIT C

STATE OF NEVADA

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

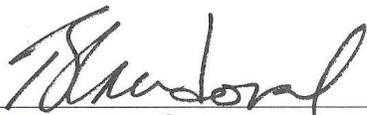
Hereby Awards the

Category III
Basic Certificate

To

Regina M. Joines

For having fulfilled all the requirements for Basic Certification
as prescribed by Nevada Administrative Code.



Governor



Executive Director

34699

POST ID No.

November 9, 2017

Date

1 AARON D. FORD
Attorney General
2 KELLI R. GALLIMORE (Bar No. 13428)
Senior Deputy Attorney General
3 State of Nevada
Office of the Attorney General
4 5420 Kietzke Lane, Suite 202
Reno, NV 89511
5 P: (775) 687-2103
F: (775) 688-1822
6 kgallimore@ag.nv.gov
Attorneys for Plaintiff

RECORDED & FILED
2021 OCT 26 AM 11:46
AUSREY R. LATT
BY AD DEPUTY

8 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR CARSON CITY

10 STATE OF NEVADA,

Case No. 21 CR 00256 1B

11 Plaintiff,

Dept. No. 2

12 vs. *MARI J*

13 REGINA JOINES,

14 Defendant.

15 **CRIMINAL INFORMATION**

16 The undersigned, AARON D. FORD, Attorney General of the State of Nevada, by and through
17 KELLI R. GALLIMORE, Senior Deputy Attorney General, in the name and by the authority of the State
18 of Nevada, inform the above-entitled Court that REGINA *MARI J* JOINES has committed the crime of one (1)
19 count of SEXUAL ABUSE OF PRISONER OR UNAUTHORIZED CUSTODIAL CONDUCT BY
20 EMPLOYEE, a gross misdemeanor, in violation of NRS 212.188(1) and (3)(b). All of the acts alleged
21 herein were committed on or between September 21, 2018, and September 21, 2019, by the above-named
22 Defendant, within Carson City, State of Nevada, in the following manner:

23 **COUNT I**

24 **SEXUAL ABUSE OF PRISONER OR UNAUTHORIZED**
25 **CUSTODIAL CONDUCT BY EMPLOYEE**
26 **A Gross Misdemeanor – NRS 212.188(1) and (3)(b)**

27 On or between September 21, 2018, and September 21, 2019, in Carson City, State of Nevada,
28 Defendant, REGINA *MARI J* JOINES, a correctional officer for the Nevada Department of Corrections, namely,
Warm Springs Correctional Center, did unlawfully and willfully engage in, with a prisoner in the lawful

1 custody or confinement of the Department of Corrections, unauthorized custodial conduct, to wit:
2 Defendant, employed by the State of Nevada at the time, kissed inmate [REDACTED] on the mouth and/or touched
3 his clothed genitals, pubic area, anus and/or buttocks, with the intent to abuse [REDACTED] or to arouse, appeal to
4 or gratify the sexual desires of Defendant and/or inmate [REDACTED]

5 All of which is contrary to the form, force, and effect of the statutes in such cases, made and
6 provided, and against the peace and dignity of the State of Nevada.

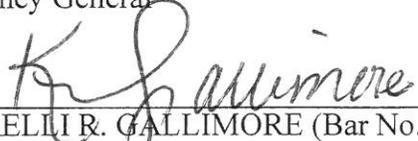
7 **AFFIRMATION PURSUANT TO NRS 239B.030**

8 The undersigned does hereby affirm that the preceding document, CRIMINAL INFORMATION,
9 filed in the First Judicial District Court, State of Nevada v. Regina Joines, does not contain the social
10 security number of any person.

11 DATED this 26th day of October, 2021.

12 AARON D. FORD
13 Attorney General

14 By:


15 KELLI R. GALLIMORE (Bar No. 13428)
16 Senior Deputy Attorney General
17 Attorney for the State of Nevada
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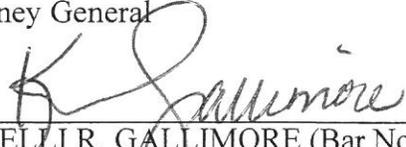
WITNESS LIST

Pursuant to NRS 173.045, the following people may be called as witnesses at trial.

1. Jarrett Zacharias, Office of the Inspector General, 5500 Snyder Avenue, Carson City, NV 89701
2. Harry Churchward, Office of the Inspector General, 5500 Snyder Avenue, Carson City, NV 89701
3. Jackson Hardy, Nevada Department of Corrections, 3301 E. 5th Street, Carson City, NV 89701
4. David Frobes, Nevada Department of Corrections, 3301 E. 5th Street, Carson City, NV 89701

RESPECTFULLY SUBMITTED this 26th day of October, 2021.

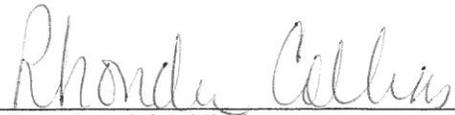
AARON D. FORD
Attorney General

By: 
KELLI R. GALLIMORE (Bar No. 13428)
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General of the State of Nevada, and that on this 26th day of October, 2021, I served a copy of the foregoing CRIMINAL INFORMATION by causing said document to be placed in the interdepartmental mail, addressed to:

Kenneth A. Stover, Esq.
Law Offices of Kenneth A. Stover
Attorney for Defendant
300 S. Arlington Avenue, Suite B
Reno. NV 89501



RHONDA COLLINS

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CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

Date: May 31 2022
Aubrey Rowlett, City Clerk and Clerk of the First Judicial District Court
of the State of Nevada, in and for Carson City.

By [Signature] Deputy
Per NRS 239 Sec. 6 the SSN may be may be redacted, but in no way affects the legality of the document.

REC'D & FILED

DEC 14 2021

Date

AUBREY ROWLATT
CLERK

By *[Signature]* Deputy

1 AARON D. FORD
Attorney General
2 KELLI R. GALLIMORE (Bar No. 13428)
Senior Deputy Attorney General
3 State of Nevada
Office of the Attorney General
4 5420 Kietzke Lane, Suite 202
Reno, NV 89511
5 P: (775) 687-2103
F: (775) 688-1822
6 kgallimore@ag.nv.gov
Attorneys for Plaintiff
7

8 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR CARSON CITY

10 STATE OF NEVADA,

Case No. *21 CR 00256 1B*

11 Plaintiff,

Dept. No. *II*

12 vs.

13 REGINA JOINES,

14 Defendant.

15 **GUILTY PLEA MEMORANDUM**

16 I, REGINA JOINES, by and through KENNETH A. STOVER, ESQ. and KELLI R.
17 GALLIMORE, Senior Deputy Attorney General, in and for AARON D. FORD, Attorney General of the
18 State of Nevada, hereby agree to plead guilty to SEXUAL ABUSE OF PRISONER OR
19 UNAUTHORIZED CUSTODIAL CONDUCT BY EMPLOYEE, a gross misdemeanor as defined by NRS
20 212.188(1) and (3)(b), and as more fully alleged in the Criminal Information filed herein.

21 My decision to plead guilty is based upon the plea agreement in this case which is as follows:

22 **CONSEQUENCES OF THE PLEA**

23 I understand that by pleading guilty I admit the facts which support all the elements of the offense
24 to which I now plead as set forth in the Criminal Information filed herein. I waive any defects with the
25 charge to which I am pleading.

26 I am entering this plea in order to avoid the possibility of a harsher penalty if this matter proceeds
27 to trial. Specifically, I understand that if this matter proceeds to trial as originally charged, I may be
28 convicted of Sexual Abuse of Prisoner or Unauthorized Custodial Conduct by Employee, a category "D"

1 felony, in violation of NRS 212.188(1) and (3)(a); Sexual Abuse of Prisoner or Unauthorized Custodial
2 Conduct by Employee, in violation of NRS 212.188(1) and (3)(b); and Furnishing a Portable
3 Telecommunications Device to Prisoner, a category "E" felony, in violation of NRS 212.165(1).

4 I understand that as a consequence of my plea of guilty to the charge of SEXUAL ABUSE OF
5 PRISONER OR UNAUTHORIZED CUSTODIAL CONDUCT BY EMPLOYEE, a gross misdemeanor
6 pursuant to 212.188(1) and (3)(b), I may be imprisoned in the county jail for a maximum term of not more
7 than 364 days, and/or a fine of not more than \$2,000.

8 I understand that the State, my counsel and I have agreed to the following: The State agrees to
9 recommend that I complete 48 hours of community service and pay a fine of \$1,500.00. I understand that
10 the law requires me to pay a \$25.00 Administrative Assessment Fee. In exchange for this guilty plea, the
11 State agrees to forego prosecution on the additionally charged category "D" felony and category "E"
12 felony. The State and I will jointly ask the Court to proceed to immediate sentencing. The State agrees not
13 to pursue any further charges or enhancements connected to this matter.

14 I further acknowledge that I have been advised that if I am not a United States citizen, pursuant to
15 Federal Immigration Law, conviction of this felony may result in deportation, revocation of resident alien
16 status, visa or work permit, denial of re-admission to the United States, and denial of naturalization should
17 I apply.

18 I understand that I am eligible for probation for the offense to which I am pleading guilty. I
19 understand that, except as otherwise provided by statute, the question of whether I receive probation is in
20 the discretion of the sentencing judge.

21 I understand that, if applicable, I may be ordered to make restitution to the victim of the offense to
22 which I am pleading guilty and to the victim of any related offense which is being dismissed or not
23 prosecuted pursuant to this agreement.

24 I understand that information regarding charges not filed, dismissed charges, or charges to be
25 dismissed pursuant to this agreement may be considered by the judge at sentencing.

26 I understand that if more than one sentence of imprisonment is imposed and I am eligible to serve
27 the sentences concurrently, the sentencing judge has the discretion to order the sentences served
28 concurrently or consecutively.

1 I have not been promised or guaranteed any particular sentence by anyone. I know that my
2 sentence is to be determined by the court within the limits prescribed by statute. I understand that if my
3 attorney or the State of Nevada or both recommend any specific punishment to the Court, the Court is not
4 obligated to accept the recommendation.

5 I understand that the Division of Parole and Probation may prepare a report for the sentencing
6 judge prior to sentencing. This report will include matters relevant to the issue of sentencing, including my
7 criminal history. This report may contain hearsay information regarding my background and criminal
8 history. My attorney and I will each have the opportunity to comment on the information contained in the
9 report at the time of sentencing. Unless the Deputy Attorney General has specifically agreed otherwise,
10 then the Deputy Attorney General may also comment on this report and its contents, including, but not
11 limited to, all facts and circumstances of this offense or of offenses.

12 I understand that if the State of Nevada has agreed to recommend a particular sentence or has
13 agreed not to present argument regarding the sentence, or has agreed not to oppose a particular sentence,
14 such agreement is contingent upon my appearance in court on the initial sentencing date and any
15 subsequent date if the sentencing is continued. I understand that if I fail to appear for the scheduled
16 sentencing date or I commit a new criminal offense prior to sentencing, the State of Nevada would regain
17 the full right to argue for any lawful sentence.

18 **WAIVER OF RIGHTS**

19 By entering my plea of guilty, I understand that I am waiving and giving up the following rights
20 and privileges:

21 1. The constitutional privilege against self-incrimination, including the right to refuse to
22 testify at trial, in which event the prosecution would not be allowed to comment to the jury about my
23 refusal to testify.

24 2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive
25 pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an
26 attorney, either appointed or retained. At the trial the State would bear the burden of proving beyond a
27 reasonable doubt each element of the offense charged.

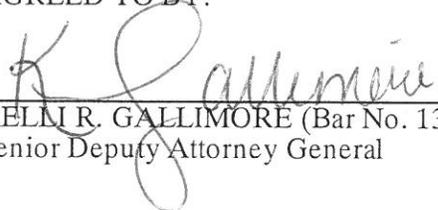
28 ///

1 My attorney has answered all my questions regarding this guilty plea and its consequences to my
2 satisfaction and I am satisfied with the services provided by my attorney.

3 DATED this 14 day of December, 2021.

4
5 
6 REGINA JOINES
Defendant

7 AGREED TO BY:

8 
9 KELM R. GALLIMORE (Bar No. 13428)
Senior Deputy Attorney General

Date 12-14-21

CERTIFICATE OF COUNSEL

I, the undersigned, as the attorney for REGINA JOINES, the Defendant named herein, and as an officer of the court hereby certify that:

1. I have fully explained to the defendant the allegations contained in the charges to which guilty or guilty but mentally ill pleas are being entered.

2. I have advised the defendant of the penalties for each charge and the restitution that the defendant may be ordered to pay.

3. All pleas of guilty offered by the defendant pursuant to this agreement are consistent with all the facts known to me and are made with my advice to the defendant and are in the best interest of the defendant.

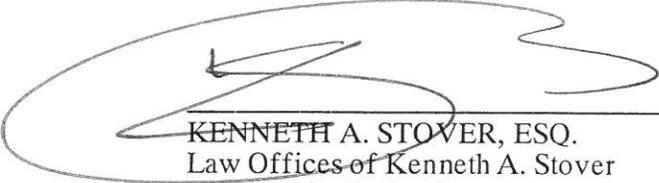
4. To the best of my knowledge and belief, the defendant:

(a) Is competent and understands the charges and the consequences of pleading guilty or guilty but mentally ill as provided in this agreement.

(b) Executed this agreement and will enter all guilty or guilty but mentally ill pleas pursuant hereto voluntarily.

(c) Was not under the influence of intoxicating liquor, a controlled substance or other drug at the time of the execution of this agreement.

DATED this 14th day of December, 2021.



KENNETH A. STOVER, ESQ.
Law Offices of Kenneth A. Stover
Attorney for Defendant
300 S. Arlington Avenue, Suite B
Reno, NV 89501
(775) 329-4554

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

Date: May 31, 2022
Aubrey Rowlett, City Clerk and Clerk of the First Judicial District Court of the State of Nevada, in and for Carson City.

By [Signature] Deputy
Per NRS 239 Sec. 6 the SSN may be may be redacted, but in no way affects the legality of the document.

RECORDED

2022 JAN -5 PM 2: 12

AUDREY BOHLERT
CLERK

BY *J. Higgins*

**In The First Judicial District Court of the State of Nevada
In and for Carson City**

STATE OF NEVADA,
Plaintiff,
vs.
REGINA MARI JOINES,
Defendant.

Case No.: 21 CR 00256 1B
Dept. No.: II

JUDGMENT OF CONVICTION

On the 14th day of December, 2021, the Defendant above-named appeared before this Court with her counsel, Kenneth Stover, and entered a plea of guilty to the crime of **Sexual Abuse of Prisoner or Unauthorized Custodial Conduct by Employee, a gross misdemeanor**, committed on or between September 21, 2018 and September 21, 2019, in violation of NRS 212.188(1) and (3)(b).

On the 4th day of January, 2022, the Defendant appeared before the Court for sentencing with her counsel, Kenneth Stover, and the State was represented by Kelli Gallimore. No sufficient legal cause was shown by the Defendant as to why judgment should not be pronounced against her. The Court adjudged the Defendant guilty of **Sexual Abuse of Prisoner or Unauthorized Custodial Conduct by Employee, a gross misdemeanor**.

The Court then sentenced the Defendant to time served and imposed a fine in the amount of One Thousand Five Hundred and No/100 (\$1,500.00) Dollars. The sentence was suspended and the Defendant placed on probation for a period not to exceed six (6) months or until the fines

1 and fees are paid. A \$25.00 administrative assessment fee and \$3.00 genetic marker fee were
2 imposed. The Defendant was ordered to report to the Fines and Fees Office immediately upon
3 release to pay and/or make arrangements to pay the fines/fees imposed upon her. The Court
4 enters judgment against the Defendant for the assessments and fees imposed. The Defendant
5 was given credit for 0 day(s) pre-sentence confinement time.
6

7 Dated this 4th day of January, 2022.

8
9 
10 _____
11 DISTRICT JUDGE
12

13 RECEIVED of _____, Sheriff of Carson City, State of
14 Nevada, on this ____ day of _____, _____, one _____.

15
16
17 _____
18 SHERIFF, CARSON CITY JAIL

19 By: _____
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CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

Date: May 5, 2022
Aubrey Rowlett, City Clerk and Clerk of the First Judicial District Court of the State of Nevada, in and for Carson City.

By [Signature] Deputy
Per NRS 239 Sec. 6 the SSN may be may be redacted, but in no way affects the legality of the document.

1 Case No.: 21 CR 00256 1B

2 Dept.No.: II

REC'D & FILED
2022 JAN 18 PM 12:52
AUBREY ROWLATT
CLERK
BY _____
DEPUTY

7 **IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
8 **IN AND FOR THE COUNTY OF CARSON**

10 THE STATE OF NEVADA,)
11)
12 Plaintiff,)
13)
14 vs.)
15 Regina Joines)
16)
17 Defendant.)

Case No. C21 CR 00256 1B
Command: Northern
File No.: C22-0145
Expiration Date: 01/04/2022

HONORABLE DISCHARGE

18 It appearing that the above-named defendant was placed on probation
19 under the authority of the Chief Parole and Probation Officer of the State
20 Of Nevada and it further appearing from the petition of said probation
21 officer that the period of such probation expires upon Judge's signature.

22 **IT IS HEREBY ORDERED** that said probationer be honorably discharged
23 from supervision and from any obligations in respect to the conditions of
24 said probation. Having satisfactorily complied with conditions of said
25 probation previously imposed by this Court, an honorable discharge is hereby
26 granted.

27 Dated this 18 day of January, 2022.

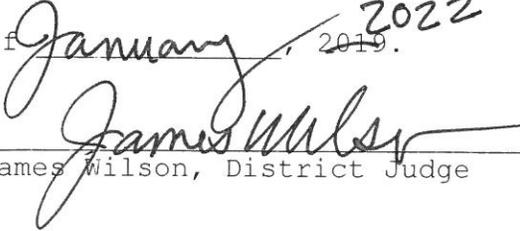
28 
James Wilson, District Judge

EXHIBIT H

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

Date: May 15, 2022
Aubrey Rowlett, City Clerk and Clerk of the First Judicial District Court of the State of Nevada, in and for Carson City.

By [Signature] Deputy
Per NRS 239 Sec. 6 the SSN may be redacted, but in no way affects the legality of the document.

6. DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.

Hearing pursuant to NAC 289.290(1)(i) on the revocation of Zachary E. Winningham's (formerly with the Henderson Police Department) Category I, II and III basic certificates based on a Misdemeanor conviction for Domestic Battery, first offense. (in violation of NRS 200.485(1)(A), 200.481(1)(A), 33.018, Henderson City Charter, Section 2.140)



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
5587 Wa Pai Shone Avenue
Carson City, Nevada 89701
(775) 687-7678 FAX (775) 687-4911

STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF INTENT TO REVOKE

June 8, 2022

Zachary E. Winningham

Dear Mr. Winningham,

POST PIN #: 35978

Based upon documentation received by the Nevada Peace Officer Standards and Training Commission (the Commission) and in accordance with Nevada Administrative Code 289.290 and Nevada Revised Statute 241.033, you are hereby notified that the Commission has initiated action to revoke your Nevada peace officer certificate(s) that authorizes the holder to be employed as a peace officer in the state of Nevada.

I have included a copy of Nevada Administrative Code 289.290 for your convenience.

The Commission's regulations provide that a person's peace officer certificate(s) may be revoked pursuant to **NAC 289.290(1)(i) based on a conviction of a misdemeanor crime of domestic violence as defined in 18 U.S.C § 921 (a)(33)**. The conviction(s) which have led to this action are as follows:

Count I: Battery Domestic Violence – a Misdemeanor in violation of NRS 200.481(1)(a), NRS 200.485 (1)(a), and NRS 33.018.

Case#: 21CR007569

Jurisdiction: Municipal Court of the City of Henderson in the County of Clark, State of Nevada

You have the right to appear before the Commission to contest the revocation of your Nevada peace officer certificate(s) by providing written notice to the Commission within fifteen (15) days of the date of the hearing.

If you choose to appeal and answer the charges against you, the Commission may elect to sit as a whole or a number that is practicable at a hearing or designate an independent hearing officer to hear the matter. You will be given the opportunity to present evidence and cross-examine witnesses as applicable. If you wish, you may be represented by an attorney; however, this would be at your own expense.

EXHIBIT A

Written requests can be made to:

Nevada Commission on Peace Officer Standards and Training
ATTN: Director Sherlock
5587 Wa Pai Shone Ave.
Carson City, NV 89701

The Commission will determine whether your Nevada peace officer certification(s) should be revoked at the meeting listed below:

Date: July 19, 2022

Time: 10:00 a.m.

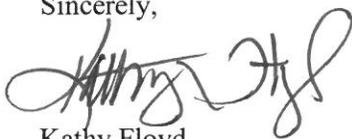
**Location: Commission on POST Administration Building, Classroom #2
5587 Wa Pai Shone Ave.
Carson City, Nevada 89701**

The hearing will cover the following: Whether you P.O.S.T. certificate(s) should be revoked, pursuant to **NAC 289.290 (1)(i), for the above-referenced misdemeanor conviction which constitutes a “misdemeanor crime of domestic violence” as defined in 18 U.S.C§ 921(a)(33).**

You will be notified of the Commission’s decision within 15 days after this hearing, or as soon thereafter as is practicable.

If you need additional information concerning this matter, contact Kathy Floyd at (775) 687-7678, ext. 3335.

Sincerely,



Kathy Floyd
Chief of Standards Division
Nevada Commission on Peace
Officer Standards and Training

cc: Senior Deputy Attorney General Michael Jensen
File

**APPROVED REGULATION OF THE PEACE OFFICERS
STANDARDS AND TRAINING COMMISSION**

LCB File No. R006-19

Filed December 30, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §1, NRS 289.510.

A REGULATION relating to peace officers; revising provisions governing the suspension, refusal or revocation of a certificate of a peace officer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Peace Officers' Standards and Training Commission to adopt regulations establishing minimum standards for the certification and training of peace officers. (NRS 289.510) Existing regulations authorize the Commission to suspend, refuse or revoke the certificate of a peace officer, if, among other circumstances, the peace officer: (1) is convicted of, or pleads guilty, guilty but mentally ill or nolo contendere to a felony or gross misdemeanor; or (2) is convicted of a misdemeanor. If the peace officer is convicted of a misdemeanor and the employing agency recommends the suspension or revocation, existing regulations authorize the Commission to revoke or suspend the certificate of the peace officer. (NAC 289.290) This regulation authorizes the Commission to suspend or revoke the certificate of the peace officer without a recommendation from the employing agency if the peace officer is convicted of a misdemeanor crime of domestic violence, as defined pursuant to federal law.

Section 1. NAC 289.290 is hereby amended to read as follows:

289.290 1. Each of the following constitutes cause for the Commission to revoke, refuse or suspend the certificate of a peace officer:

(a) Willful falsification of any information provided to obtain the certificate.

(b) A permanent or chronic physical or mental disability affecting the officer's ability to perform his or her full range of duties.

(c) Chronic drinking or drunkenness on duty.

(d) Addiction to or the unlawful use or possession of narcotics or other drugs.

(e) Conviction of, or entry of a plea of guilty, guilty but mentally ill or nolo contendere to, a gross misdemeanor. Upon criminal indictment or filing of a criminal complaint, suspension may be imposed.

(f) Failure to comply with the standards established in this chapter.

(g) Conviction of, or entry of a plea of guilty, guilty but mentally ill or nolo contendere to, a felony. Upon criminal indictment or filing of a criminal complaint, suspension may be imposed. Upon conviction or entry of a plea of guilty, guilty but mentally ill or nolo contendere, the certificate will be revoked.

(h) ~~{Conviction}~~ *Except as otherwise provided in paragraph (i), conviction* of a misdemeanor. If the employing agency recommends suspension or revocation following *the* conviction of the employee for a misdemeanor, suspension or revocation may be imposed. In determining whether to suspend or revoke the certificate, the Commission will consider the type of conviction and other information provided by the agency indicating unprofessional conduct or similar undesirable activity by the officer that resulted in disciplinary action.

(i) Conviction of a misdemeanor crime of domestic violence as defined in 18 U.S.C. § 921(a)(33). Following the conviction of the employee for such a misdemeanor, suspension or revocation may be imposed regardless of whether the employing agency recommends suspension or revocation.

2. Denial, suspension or revocation procedures will not be considered by the Commission in cases where the employment of an officer is terminated for violations of the policies, general orders or similar guidelines of operation of the employing agency which do not constitute any of the causes for denial, suspension or revocation specified in subsection 1.

3. The employing agency shall notify the Commission any time that it becomes aware that one of its officers has been charged with a crime that could result in denial, suspension or revocation procedures. Upon receipt of information alleging any of the causes enumerated in subsection 1, the Commission will determine whether to pursue revocation or suspension of the certificate of the officer.

4. The Commission will notify the officer by certified mail at the officer's last known address of any pending revocation or suspension action and of the nature of the charges and the officer's right to appear and answer the charges. The officer shall, within 15 days after the date on the certified mail receipt, respond in writing, notifying the Commission of his or her intended action with reference to the charges.

5. If the officer fails to notify the Commission within the specified time of his or her intention to appear in answer to the pending action, the Commission will:

(a) Consider the case on its own merits, using the statement from the head of the employing agency or the substantiated information derived from any independent investigation it deems necessary;

(b) Take no action pending the outcome of possible criminal action which may be filed against the officer; and

(c) Take no action pending the outcome of an appeal.

↳ The Commission's decision will be determined by a majority vote of the members of the Commission present.

6. When an officer notifies the Commission of his or her intention to appear and answer the charges pending against him or her, the Commission will elect to sit as a whole at a hearing or designate an independent hearing officer to hear the matter and make recommendations in writing to the Commission. The Commission will review the recommendations of any such hearing officer and arrive at a decision by majority vote of the members present.

7. The Commission will notify the officer of its decision within 15 days after the hearing.

8. An applicant for a certificate who has not been previously certified, but who would be subject to revocation for any cause set out in subsection 1, will not be granted a certificate.

9. If, upon receiving a written allegation that a peace officer is in violation of any provision of subsection 1 and that the facts and circumstances indicate that suspension rather than revocation would be in the best interests of the agency and law enforcement in general, the Commission will suspend the officer's certificate.

10. The Commission will provide each peace officer whose certificate is suspended with written notice of the suspension by certified registered mail. The suspension becomes effective 24 hours after receipt of the certified notice. The notice will contain a statement advising the officer of the right to a hearing.

11. Suspension of a certificate is not a bar to future revocation of the certificate and any prior suspensions may be considered as a factor if revocation is being considered by the Commission.

12. Five years after the revocation of a certificate, an officer may submit a written request to the Commission to allow him or her to reinstate his or her certificate. The Commission will schedule a hearing to consider whether to reinstate the officer's certificate. The Commission will notify the agency that requested the revocation of the date and time of the hearing. After the hearing, the Commission will determine whether to reinstate the certificate. If the certificate is reinstated, the Commission may establish a probationary period during which any misconduct by the officer would result in revocation.



STATE OF NEVADA

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

5587 Wa Pai Shone Avenue
CARSON CITY, NEVADA 89701
(775) 687-7678 FAX (775) 687-4911

STEVE SISOLAK
Governor

MICHAEL D. SHERLOCK
Executive Director

2022 JUN 21 11:03
CLARK COUNTY SHERIFF
RECEIVED

DECLARATION OF SERVICE

I, Joseph Lombardo, served the foregoing **Notice of Intent to Revoke**
Print name of the person serving this document

To Individual's Name: **Zachary E. Winningham**

at [REDACTED] on this

6th day of July, 2022
Day Month Year

I declare under penalty of perjury that the forgoing is true and correct.

Executed on this 6th day of July, 2022
Day Month Year

[Signature]
Signature of person serving the Notice
Joseph Lombardo
Printed name of person serving the Notice

****RETURN THE SIGNED ORIGINAL OF THIS FORM TO POST WITHIN 15 DAYS****

EXHIBIT B

3619

State of Nevada - POST

UPDATE - Personnel Action Report (PAR)

Post ID Number:

Last Name:

First Name:

MI:

Suffix:

Name Change?

Last Name:

First Name:

MI:

Suffix:

Address Change?

Street Address:

City:

State:

Zip Code:

County:

E-Mail:

Level Change? Line Supervisor Management Executive
 Part Time Full Time

Status Change? Deceased Retired Separated

NAC289.290 Notification (Cause For Commission Action)

Pursuant to NAC 289.290(3) "The employing agency shall notify the Commission any time that it becomes aware that one of its officers has been charged with a crime that could result in denial, suspension or revocation procedures. Upon receipt of information alleging any of the causes enumerated in subsection 1, the Commission will determine whether to pursue revocation or suspension of the certificate of the officer."

Does the above NAC apply? No Yes

****If you selected YES, ensure it is correct and provide details in the Comment field.****

Comments\Additional Information:

Effective Date:

Submitters Name:

Submitters Phone:

Submitters E-Mail:

EXHIBIT C

STATE OF NEVADA

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Hereby Awards the

Category I
Basic Certificate

To

Zachary E. Winningham

For having fulfilled all the requirements for Basic Certification
as prescribed by Nevada Administrative Code.

[Signature]

Governor

[Signature]

Executive Director

35978

POST ID No.

June 13, 2018

Date

STATE OF NEVADA

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Hereby Awards the

Category II
Basic Certificate

To

Zachary E. Winningham

For having fulfilled all the requirements for Basic Certification
as prescribed by Nevada Administrative Code.

[Signature]

Governor

[Signature]

Executive Director

35978

POST ID No.

June 13, 2018

Date

STATE OF NEVADA

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

Hereby Awards the

Category III
Basic Certificate

To

Zachary E. Winningham

For having fulfilled all the requirements for Basic Certification
as prescribed by Nevada Administrative Code.

[Signature]

Governor

[Signature]

Executive Director

35978

POST ID No.

June 13, 2018

Date

ORIGINAL

MUNICIPAL COURT OF THE CITY OF HENDERSON
IN THE COUNTY OF CLARK, STATE OF NEVADA

CITY OF HENDERSON, NEVADA,

Plaintiff,

vs.

ZACHARY EDWARD WINNINGHAM,

Defendant.

CRIMINAL COMPLAINT

CASE NO.

COUNT 1 - 21CR007119 (PCN 1)

COUNT 2 - 21CR00 (PCN)

COUNT 3 - 21CR00 (PCN)

Nicholas G. Vaskov, Esq., City Attorney

The defendant has committed the crimes of:

COERCION (Misdemeanor - Henderson Municipal Code 8.02.110)

BATTERY CONSTITUTING DOMESTIC VIOLENCE (Misdemeanor - NRS 200.481(1)(a), 200.485(1)(a), 33.018, Henderson City Charter, Section 2.140) within the City of Henderson, in the County of Clark, State of Nevada, in the manner following, that the said defendant, on or between November 5-7, 2021:

COUNT 1 - BATTERY CONSTITUTING DOMESTIC VIOLENCE

did willfully and unlawfully use force or violence against or upon the person of his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons or his minor child, to-wit: did grab [REDACTED] by the shoulder(s) and/or body and/or hands, all of which occurred in the area of [REDACTED]

COUNT 2 - COERCION

did intentionally and unlawfully compel another person to do or abstain from doing an act which the other person has a right to do or abstain from doing, to wit: did take a cellular phone from [REDACTED], which prevented her from immediately using it, all of which occurred in the area of [REDACTED]

COUNT 3 - BATTERY CONSTITUTING DOMESTIC VIOLENCE

did willfully and unlawfully use force or violence against or upon the person of his spouse, former spouse, any other person to whom he is related by blood or marriage, a person with whom he has had or is having a dating relationship, a person with whom he has a child in common, the minor child of any of those persons or his minor child, to-wit: did push [REDACTED] down stairs and/or to the floor and/or did push her into a wall and/or did hold her against a wall and/or did kiss her against her will, all of which occurred in the area of [REDACTED]

All of which is contrary to the form, force and effect of statutes in such cases made and provided and against the peace and dignity of the City of Henderson, State of Nevada.

I hereby certify that this report is a true copy of the original on file at the Henderson Municipal Court, Clark County, NV
Dated: 5/16/22
Court Clerk: CDS3

EXHIBIT E

Said Complainant makes this declaration on information and belief subject to the penalty of perjury.



Marc M. Schifalacqua, Esq.
Sr. Assistant City Attorney

Dated: November 18, 2021
CAO File #: 038880
PCN#: NVHP5156526C

I hereby certify that this report is a
true copy of the original on file at the
Henderson Municipal Court, Clark County, NV
Dated: 5 / 16 / 22
Court Clerk: CDS3

BATTERY/DOMESTIC VIOLENCE ADMONISHMENT OF RIGHTS (CONTINUED)

PENALTIES SECTION

FIRST OFFENSE WITHIN 7 YEARS (MISDEMEANOR):

At least 2 days, but not more than 6 months in the Henderson Detention Center; at least 48 hours, but not more than 120 hours of community service; a fine of not less than \$200.00, but not more than \$1,000.00, in addition to certain fees and assessments that are required by statute; and mandatory participation in weekly counseling sessions of not less than 1 ½ hours per week, for not less than 6 months, but not more than 12 months, at my expense.

SECOND OFFENSE WITHIN 7 YEARS (MISDEMEANOR):

At least 20 days, but not more than 6 months in the Henderson Detention Center if charged under NRS 200.485, or at least 10 days, but not more than 6 months in the Henderson Detention Center if charged under HMC 8.02.055; at least 100 hours, but not more than 200 hours of community service; a fine of not less than \$500.00, but not more than \$1,000.00, in addition to certain fees and assessments that are required by statute; and mandatory participation in weekly counseling sessions of not less than 1 ½ hours per week for 12 months, at my expense.

THIRD OFFENSE WITHIN 7 YEARS (CATEGORY B FELONY):

A category B felony punishable by a sentence of imprisonment in the Nevada State Prison for at least 1 year, but not more than 6 years; and a fine of not less than \$1,000, but not more than \$5,000, in addition to certain fees and assessments that are required by statute. A third offense is not probation able.

SPECIAL WARNINGS: PRIOR FELONY

Unless a greater penalty is provided pursuant to NRS 200.481, a person who has been previously convicted of a felony that constitutes domestic violence or a battery which constitutes domestic violence committed with the use of a deadly weapon, or a violation of the law of any other jurisdiction that prohibits the same or similar conduct, and who commits a battery which constitutes domestic violence pursuant to NRS 33.018 is guilty of a category B felony and shall be punished by imprisonment in the Nevada State Prison for at least 2 years, but not more than 15 years, and shall be further punished by a fine of not less than \$2,000, but not more than \$5,000, in addition to certain fees and assessments that are required by statute.

DEFENDANT'S INITIALS: ZEJ

DEFENDANT'S ATTORNEY'S INITIALS (if applicable): NM

I hereby certify that this report is a true copy of the original on file at the Henderson Municipal Court, Clark County, NV
Date: 5 / 16 / 22
CDS3

BATTERY/DOMESTIC VIOLENCE ADMONISHMENT OF RIGHTS (CONTINUED)

ALL DEFENDANTS MUST INITIAL EITHER #1 OR #2 BELOW - DO NOT INITIAL BOTH

W

1. I am represented by an attorney in this case. My attorney has fully discussed these matters with me and advised me about my legal rights. My attorney is N. muhamed, bar number: 15965.

2. I have declined to have an attorney represent me and I have chosen to represent myself. I have made this decision even though there are dangers and disadvantages in self-representation in a criminal case, including, but not limited to, the following:

- a) Self-representation is often unwise, and a defendant may conduct a defense to his or her own detriment;
b) A defendant who represents him/herself is responsible for knowing and complying with the same procedural rules as lawyers, and cannot expect help from the judge in complying with those procedural rules;
c) A defendant representing him/herself will not be allowed to complain on appeal about the competency or effectiveness of his or her representation;
d) The City is represented by experienced, professional attorneys who have the advantage of skill, training and ability;
e) A defendant unfamiliar with legal procedures may allow the prosecutor an advantage, may not make effective use of legal rights, and may make tactical decisions that produce unintended consequences;
f) The effectiveness of the defense may well be diminished by a defendant's dual role as attorney and accused; and
g) I understand that, as a consequence of my plea of guilty or nolo contendere, if I am not a citizen of the United States, I may, in addition to other consequences provided by law, be removed, deported or excluded from entry into the United States or denied naturalization..

DEFENDANT'S SIGNATURE

04/10/1983
DEFENDANT'S DATE OF BIRTH

04/07/2022
DATE

I HAVE REVIEWED THIS ADMONISHMENT WITH MY CLIENT AND AM SATISFIED THAT HE/SHE UNDERSTANDS THE RIGHTS HE/SHE IS WAIVING AND THE CONSEQUENCES OF HIS/HER PLEA OF GUILTY/NOLO CONTENDERE TO THIS DOMESTIC BATTERY CHARGE.

DEFENDANT'S ATTORNEY (if applicable)

15965
BAR NUMBER

Judge, Henderson Municipal Court



HENDERSON MUNICIPAL COURT: SENTENCING ORDER

CITY OF HENDERSON, Plaintiff

Case #: 21CR007569
DR #: 21-20812
DOMESTIC BATTERY / DUI
1ST Offense / 2nd Offense
OTHER (List Below):

Dept 1 Dept 2 Dept 3
I hereby certify that this report is a true copy of the original on file at the Henderson Municipal Court, Clark County, NV
Dated: 5/16/22
Court Clerk: GDS3
FILED
2022 APR -7 A 10:10

VS.

WINNINGHAM, ZACHARY E. Defendant)

Guilty; Nolo; Adjudication Stayed; Submitted on the Record,
Pending: Dismissal; Amendment to
Total Fines/AA Fees Imposed: \$305 Fines/Fees Suspended if compliant: \$
\$35 DB Assessment Fee \$60 Blood/Breath Test \$50 Time Payment Setup Fee Credit for Time Served: \$
Total Fines/Fees Due: \$340 Payments: \$ per month or fine due in full by beginning 04/07/22

Mail to: Henderson Municipal Court, PO Box 95050 - MS621, 243 Water Street, Henderson, NV 89009
On-line: https://www.cityofhenderson.com/government/departments/municipal-court

THE ABOVE REFERENCED DEFENDANT IS HEREBY SENTENCED TO THE FOLLOWING SENTENCING CONDITIONS

PROBATION / DIRECT SUPERVISION (See Agreement & Rules Form)
PROBATION / INDIRECT SUPERVISION
You must appear in person to Special Programs and Services (SPS), located at 243 Water Street, Lower Level, Henderson, NV immediately following court or upon the first business day following your release from custody. Failing to appear at the Special Programs and Services office, failing to comply with the court's order or receipt of a non-compliant report from any agency may result in immediate arrest for Probation Violation or a Bench Warrant issued for your arrest. You must report to Special Programs and Services as directed throughout the term of Supervision. You must provide correct contact information to Special Programs and Services and report any changes of that information immediately.
Probation / Supervision Expiration Date: 11/06/22

- DUI School
Victim's Impact Panel
Coroner's DUI Program
Ignition Interlock Device
Suspension of Registered Vehicles
Substance Use Counseling
DART Program
SCRAM Program
Drug Patch
AA / NA / GA
Coroner's Visitation Program
Conditions concurrent with case(s)
Domestic Violence Counseling
Surrender, Sell or Transfer Firearms
Anger Control/Management
Petit Larceny Class
8 Hour Drug & Alcohol Education Class
Trespassed from:
No contact with:
Restitution of \$
Compliance with Conditions on Case(s)
Jail sentence imposed: 30 days
Suspended/Pending: 28 days
Jail Time Served: 2 days
Balance of Jail Due: days
Converted to: House Arrest Com. Svc
House Arrest days (if qualifies)
Community Service 48 hours
No further arrests or criminal citations
No possession / use of alcohol
No possession / use of controlled substances including marijuana, unless a Nevada medical marijuana card is obtained
No Weapons
Submit to search of person, residence, vehicle, or property under your control, as instructed by SPS
Suspended jail consecutive to/concurrent with case(s)
Other:

** Separate order required

UNSUPERVISED / COURT ORDERED STATUS CHECKS UNSUPERVISED PARTICIPANTS: You must provide the Court completion certificates/documentation for court ordered programs on or before your return court date. For a list of approved classes/programs please refer to: https://www.cityofhenderson.com/government/departments/police/special-programs-and-services
Return Court Date: @ AM / PM Department 1 / 2 / 3
Appearance Required Appearance Not Required if compliant with ALL orders No return court date at this time

It is hereby ordered this 7th day of APRIL, 2022

Presiding Judge of the Henderson Municipal Court

EXHIBIT G

HENDERSON MUNICIPAL COURT
JUDGMENT OF CONVICTION

**ORIGINAL
DO NOT DESTROY**

WINNINGHAM, ZACHARY EDWARD

21CR007569 DOB: [REDACTED]

Fine Balance: \$0.00

Offense Date: 11/7/21 DR# 21-20812

ATTY: BECKER, MICHAEL L

DOMESTIC BATTERY, 1ST

CHANGED PLEA TO NOLO CONTENDERE

4/7/22 PLEA: CHANGED PLEA TO NOLO CONTENDERE/FOUND GUILTY
(NOTE: JUDGE BURR WAIVES HDC BOOKING ON THIS CHARGE AS DEFENDANT WAS
BOOKED/FINGERPRINTED/PROCESSED AND SERVED 12-HOUR HOLD ON COMPANION CASE
21CR007119)
Charge #1: DOMESTIC BATTERY, 1ST

FILED

Apr 07, 2022, 3:41 pm

4/7/22 STIPULATE TO FACTUAL BASIS

MUNICIPAL COURT
CITY OF HENDERSON
LMC CLERK

4/7/22 SENTENCED:
- 30 DAYS JAIL, SUSPEND 28 DAYS, 2 DAYS JAIL TIME SERVED
- \$200+105+35
- DOMESTIC BATTERY COUNSELING
- 48 HOURS COMMUNITY SERVICE
- PERMANENTLY SURRENDER, SELL OR TRANSFER FIREARM(S): SELL OR TRANSFER
FIREARM(S) TO A LICENSED FIREARM DEALER
- NO FURTHER ARRESTS/CITATIONS (ANY CRIMINAL CHARGE) FOR CASE DURATION
FINE DUE IN FULL: 4/7/22
ADMONISHMENT/SIGNED/WAIVED
INDIRECT SUPERVISION EXPIRATION DATE (7 MONTHS): 11/8/22
Charge #1: DOMESTIC BATTERY, 1ST

4/7/22 FINE/FORFEITURE: \$200 + 105 ADMINISTRATIVE ASSESSMENT + 35 DOMESTIC BATTERY
ASSESSMENT FEE \$340.00
Charge #1: DOMESTIC BATTERY, 1ST Receipt: 952560 Date: 04/07/2022

4/7/22 INDIRECT SUPERVISION ORDERED

4/7/22 COUNTER: 10.09.02

4/7/22 EVENT PARTICIPANTS:

Court Location: DEPARTMENT 3

Check In:

Judge: BURR, RODNEY T
Location: DEPARTMENT 3

Staff:

CRG - CLERK: Present
LMC - CLERK: Present
SCHIFALACQUA, MARC - DEPUTY CITY ATTORNEY: Present
ANDERLIK, ELIZABETH - DEPUTY CITY ATTORNEY: Present

Prosecutors:

Parties:

WINNINGHAM, ZACHARY EDWARD - DEFENDANT: Present
NAOMI MUHAMED #15965 FOR BECKER, MICHAEL L - Attorney for DEFENDANT: Present

4/7/22 FINE PAID IN FULL
Charge #1: DOMESTIC BATTERY, 1ST

"OFFICIAL RECORD"

This document reflects the judgment of conviction entered on
the records of the HENDERSON MUNICIPAL COURT.

DocuSigned by:

Rodney Burr

A86E854E1E3542E

Municipal Court Judge

I hereby certify that this report is a
true copy of the original on file at the
Henderson Municipal Court, Clark County, NV
Dated: 5/16/22
Court Clerk: [Signature] COS3

EXHIBIT H



HENDERSON MUNICIPAL COURT
DOCKET SHEET

WINNINGHAM, ZACHARY EDWARD
21CR007569 DOB: [REDACTED]

D3 BURR
DR# 21-20812

1 DOMESTIC BATTERY, 1ST [50235]

SENTENCED

Offense Date: 11/7/21 DR# 21-20812
ATTY: BECKER, MICHAEL L

OPEN
\$0.00

Table with 3 columns: Date / Time / Dept, Event, Event Result. Rows include dates from 12/6/21 to 4/7/22 with details on arraignment and sentencing.

Main docket table with columns: Date, Description, and Balance. Includes entries for case status notices, court dates, and witness filings.

EXHIBIT I



HENDERSON MUNICIPAL COURT
DOCKET SHEET

WINNINGHAM, ZACHARY EDWARD
21CR007569 DOB: [REDACTED]

D3 BURR
DR# 21-20812

1/19/22	EVENT PARTICIPANTS:	CRG
	Court Location: DEPARTMENT 3	
	Check In: Judge: BURR, RODNEY T Location: DEPARTMENT 3 Staff: CRG - CLERK: Present LMC - CLERK: Present ANDERLIK - DEPUTY CITY ATTORNEY: Present SIBBETT, RANDY - ALTERNATIVE SENTENCING DIVISION: Present Prosecutors: Parties: WINNINGHAM, ZACHARY EDWARD - DEFENDANT: Present MUHAMED, NAOM for BECKER, MICHAEL L - Attorney for DEFENDANT: Present	
2/3/22	NOT GUILTY PLEA MAINTAINED / BENCH TRIAL SET - SPEEDY TRIAL WAIVED APPEARANCE REQUIRED O/R RELEASE STANDS Charge #1: DOMESTIC BATTERY, 1ST	LMC
2/3/22	WAIVER OF JURY TRIAL - DOCUMENT SIGNED AND FILED	LMC
2/3/22	COUNTER: 10.20.18	LMC
2/3/22	COURT DATE SET: Event: TRIAL Date: 04/07/2022 Time: 10:00 am Judge: BURR, RODNEY T Location: DEPARTMENT 3	LMC
2/3/22	EVENT PARTICIPANTS: Court Location: DEPARTMENT 3 Check In: Judge: BURR, RODNEY T Location: DEPARTMENT 3 Staff: ANDERLIK, ELIZABETH - DEPUTY CITY ATTORNEY: Present BML6 - CLERK: Present LAY, MATTHEW - DEPUTY CITY ATTORNEY: Present LMC - CLERK: Present Prosecutors: Parties: WINNINGHAM, ZACHARY EDWARD - DEFENDANT: Present NAOMI MUHAMED #15965 FOR BECKER, MICHAEL L - Attorney for DEFENDANT: Present	LMC
4/7/22	PLEA: CHANGED PLEA TO NOLO CONTENDERE/FOUND GUILTY (NOTE: JUDGE BURR WAIVES HDC BOOKING ON THIS CHARGE AS DEFENDANT WAS BOOKED/FINGERPRINTED/PROCESSED AND SERVED 12-HOUR HOLD ON COMPANION CASE 21CR007119) Charge #1: DOMESTIC BATTERY, 1ST	LMC
4/7/22	STIPULATE TO FACTUAL BASIS	LMC



HENDERSON MUNICIPAL COURT
DOCKET SHEET

WINNINGHAM, ZACHARY EDWARD
21CR007569 DOB: [REDACTED]

D3 BURR
DR# 21-20812

4/7/22	SENTENCED: - 30 DAYS JAIL, SUSPEND 28 DAYS, 2 DAYS JAIL TIME SERVED - \$200+105+35 - DOMESTIC BATTERY COUNSELING - 48 HOURS COMMUNITY SERVICE - PERMANENTLY SURRENDER, SELL OR TRANSFER FIREARM(S): SELL OR TRANSFER FIREARM(S) TO A LICENSED FIREARM DEALER - NO FURTHER ARRESTS/CITATIONS (ANY CRIMINAL CHARGE) FOR CASE DURATION FINE DUE IN FULL: 4/7/22 ADMONISHMENT/SIGNED/WAIVED INDIRECT SUPERVISION EXPIRATION DATE (7 MONTHS): 11/6/22 Charge #1: DOMESTIC BATTERY, 1ST	LMC				
4/7/22	FINE/FORFEITURE: \$200 + 105 ADMINISTRATIVE ASSESSMENT + 35 DOMESTIC BATTERY ASSESSMENT FEE Charge #1: DOMESTIC BATTERY, 1ST Receipt: 952580 Date: 04/07/2022	RWH2	340.00	340.00		
4/7/22	INDIRECT SUPERVISION ORDERED	LMC				
4/7/22	COUNTER: 10.09.02	LMC				
4/7/22	EVENT PARTICIPANTS: Court Location: DEPARTMENT 3 Check In: Judge: BURR, RODNEY T Location: DEPARTMENT 3 Staff: CRG - CLERK: Present LMC - CLERK: Present SCHIFALACQUA, MARC - DEPUTY CITY ATTORNEY: Present ANDERLIK, ELIZABETH - DEPUTY CITY ATTORNEY: Present Prosecutors: Parties: WINNINGHAM, ZACHARY EDWARD - DEFENDANT: Present NAOMI MUHAMED #15965 FOR BECKER, MICHAEL L - Attorney for DEFENDANT: Present	LMC				
4/7/22	FINE PAID IN FULL Charge #1: DOMESTIC BATTERY, 1ST	LMC				
4/7/22	JUDGMENT OF CONVICTION FILED	LMC				
			340.00	340.00	0.00	0.00

7. **DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.**

Commission to decide whether to establish an exploratory workgroup to study and make recommendations for improving our ability to recruit out of state laterals and reviewing the POST reciprocity process.

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.

9. DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.

Schedule upcoming Commission Meeting – 10:00 a.m. September 21, 2022, in Carson City

10. DISCUSSION, PUBLIC COMMENT, AND FOR POSSIBLE ACTION.

Adjournment.