



Pete Ricketts
Governor

STATE OF NEBRASKA
NEBRASKA COMMISSION ON LAW ENFORCEMENT AND CRIMINAL JUSTICE
Darrell Fisher
Executive Director

**REGULAR MEETING OF THE
POLICE STANDARDS ADVISORY COUNCIL
JULY 20, 2016**

I. CALL TO ORDER

Chairman Matthew McCarthy called the monthly meeting of the Police Standards Advisory Council to order at 9:00 AM. A current copy of the Nebraska Open Meetings Act was on hand and available for reference. Notice of the meeting was published in the Lincoln Journal Star on Saturday, July 9, 2016. Roll call of members; Mr. Matthew McCarthy, Sheriff Jerry Watson, Sheriff Larry Koranda, Chief Timothy Larby, Captain Genelle Moore, Lieutenant Colonel Thomas Schwarten, and Chief Tracy Wolf.

II. APPROVAL OF MAY 18, 2016 P.S.A.C. MINUTES

MOTION

Captain Moore motioned to approve the minutes as presented. Chief Timothy Larby seconded the motion. Voting in favor; Mr. McCarthy, Sheriff Watson, Sheriff Koranda, Chief Larby, Captain Moore, Lieutenant Colonel Schwarten, and Chief Wolf.

III. ACADEMY REPORTS

A. Director – N.L.E.T.C.

Mr. Muldoon reviewed the Director's Report.

Academy Inspections will be done in August; Deputy Director Urbanek will inspect the same classes as we have been doing the last couple of years in each of the academies; this year Arrest Search and Seizure. I would like to solicit one academy member from one of the three academies and one PSAC member to help me and that other member, inspect our own academy. If you would either let me know now or let me know by email.

I received an anonymous citizen complaint regarding the Village of McGrew, Nebraska that appointed a town marshal and they inquired if this person was certified. They were not.

A council member questioned if there would be any chance the 2 on the standby list would be able to start with the 50 students, if everybody passed the entrance test knowing that usually in week 4 there are a couple that bail out.

Mr. Muldoon stated in the motion made by the Council 2 months ago there could be no more than 50.

B. Deputy Director of Training – N.L.E.T.C.

Mrs. Urbanek stated graduation for the 193rd Basic Training Session was Friday, July 15, 2016 with 55 students, the largest amount of students ever. We started with 63. All students met the physical task testing prior to week 12.

We are in the second week of Reciprocity/Reactivation with 10 students – 4 students in Reactivation and 6 in Reciprocity; 1 of the Reactivation needs only to attend the onsite portion because they got injured during the last session. It went live on the 11th with Mr. Stolz's Legal being the first portion being conducted. Completion date is September 19th.

CAD Zone Training in August was cancelled due to low enrollment.

In June I attended the IADLEST Conference in Grand Rapids, Michigan. According to FLETC and DOJ Fitness Testing should be done as an entrance standard, which we do, you must adjust the norms based on the Bauer v. Holder/Lynch Case. The issue has always been it's been a different standard. The reality is, it's the same standard, 30%, for men and women. You would be in trouble if women only had to do 25% and men had to do 50% for age and gender.

FLETC uses physical testing as an exit standard but again, I believe that is more because their agency specific, they want to make sure that their agents have the physical capability to do the job.

The average should be 40% as this is the low end for average for the Cooper norms. Because courts upheld that it is reasonable for the public to expect for their public safety officers to be at least in average physical condition. From that standpoint we are on the very conservative end of the national level. The job specific tasks are tasks everyone has to do regardless of age and gender, if you are going to wear this gun and badge; you have to be able to do these things. He did tell us that you can have a disparity impact as long as you can provide it as a job necessity to be able to do it. Even if it has an 80% impact on a protected group, you can still have that particular task, as long as you can show there is no other way it can be done.

I felt pretty good about where we were in what we were doing. We are following the process the way it's been recommended. Our standards are a little lower when you compare it to the national average but at least we have an entrance standard.

I sat through an adult learning presentation; there was nothing new or different than what we are doing here. We are facing the same struggles.

During this week we are conducting the Patrol Rifle Instructor Course, we adjusted the schedule to deal with the high temperatures and they are starting about 6:00 AM. We planned on using a contract instructor but they cancelled due to a family medical issue so Mark Stephenson is teaching the course.

During the regional IADLEST meeting we talked about down time in this basic class. If you were doing a basic class, it was an 8 hour block, but the reality was the student was only doing something with us for about an hour out of that day. In Wyoming they only pay them for that hour, the other 7 hours they are not on the clock. During this basic we had some students who had out-of-class time work; there were online classes they needed to take. They were submitting those out-of-class hours to their agencies to be paid for because it didn't happen in their 8-5 day. This basic I am going to send a letter to the agency administrators stating that during these times your student has access to computers and can take those courses so there is no need to pay them overtime as they will have their laptops in the classroom and they will be able to go to the computer lab to take the courses during the 8 - 5 day.

C. Nebraska State Patrol

Lieutenant Roby reported Jr. Law training was held June 13-17 for 37 girls and June 20-24 for 38 boys.

June 29th Carrier Enforcement had a Hazardous Material in-service here.

July 1st Camp 57 had guest day for their 19 cadets and found out where they would be stationed. They then took 2 weeks off and this is the first week back. This week began phase 3, beginning with Accident Investigation and next week they will start practicals with EMS involved in the practicals. Graduation will be held August 19th in Lincoln.

Instructor Development classes were held both last week and this week for NSP and outside agencies.

IV. CRIME COMMISSION REPORT

Executive Director Darrell Fisher stated the Auditor of Public Accounts completed their audit and report on the Crime Commission for the year ending December 31, 2015. We had the exit briefing with their staff on Monday, June 20th. It was my first audit so I don't have a frame of reference for these, but I'm told it went okay. There were seven findings, nothing of significance, other than we still have to fix our portal. Our portal is our ability to capture time and how to take resources to time and when it comes to grants, particularly the federal grants; they want us coding actual time worked to those grants. We have looked at other options for time and record keeping; most of those are so exorbitantly expensive the Crime Commission can't afford them. The primary software package is Kronos that starts at about \$250,000, so we are going to have to fix the portal or at least get our portal where we can capture time and allocate those to the grant.

We had some other minor findings that had to do with record keeping, inventory, and things like that but we will get those worked out.

The week of June 20th, the auditor also released a letter to the board of directors and also the Executive Director of Project Response, a non-profit organization in Auburn that provides services for a five county area of the victims of sexual assault so the report from the auditor's office found there were

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possible falsified documentation, as well as, supporting documentation for training in which the Executive Director was reimbursed for both travel and pay. The internal controls within the agency are also questionable as the Executive Director was reimbursed for travel either prior to or during the dates of travel so we have some issues down there. We don't believe it was Crime Commission funding that was actually part of the fraudulent activity, we believe it was DHHS funding but the Auditor's Office didn't dig specifically into that but they did turn the matter over to the Nemaha County Attorney for prosecution, we don't anticipate it being prosecuted the Executive Director has since resigned but it did force us into a situation where we needed to freeze the remainder of their 2015 funds. Every sub grantee, whether for a state grant or a federal grant, has what is called special conditions, those special conditions require them, once they are notified of possible fraudulent activities to notify the Crime Commission, as well as, the Department of Justice, they failed to do that, so we froze their funding and until such time as they can submit to us a remedial plan of action of how they plan to correct those deficiencies. We received a letter from the president from their board of directors but it was not a remedial action plan within the 14 days. The Crime Commission will deal with it on Friday morning.

Policies - The two model policies we spoke about in the preceding month's body worn camera and the eye witness id are scheduled for public hearing on Friday.

Revocations – We have six still pending but we are about to take care of three on Friday. One will be recommended for revocation as a voluntary surrender and two will be requested for dismissal. Leaving three and on Monday I received a voluntary surrender on another pending case so that will leave us with two revocation cases. One is here at the Training Center for review; the other is scheduled for hearing in November.

PSAC – There was a movement by a State Senator to attach two members to this group with the rank of Sergeant and below. We were not in favor of that, and thought it was dead in committee and all of a sudden she attached it to a bill that was being discussed on the floor so we scrambled and got permission from PRO to start pulling senators on the floor and talking about this while it was on debate and we were able to fend it off. This senator told me last month that she would bring this forward again for consideration and wanted to know if the Council would be willing to discuss it in August with members of the FOP and I said we would. The problem is we need some people from this body to come and discuss the matter.

V. OLD BUSINESS

A. Title 79, Chapter 11; Firearms Certification Standards

Mr. Stolz stated he, Director Muldoon and Deputy Director Urbanek; he went through the policy to try and harmonize it, changing all handguns to firearms and changed, Center to Training Center, the major changes were in section 007 where you see the addition of the Patrol Rifle Certification and Recertification. It is here for your review and approval. If you approve it today, I will start the process of getting the PRO checklist done on behalf of the Executive Director with a goal of getting it to the Governor's Policy and Research Office sometime in August to have a public hearing before the Crime Commission at its October meeting and then it should be ready to go and become administrative law in January 2017.

Chief Wolf had a few questions. On page 63, “similar target”, Mr. Stolz stated it was decided to only use “Q” target.

On page 69, questioned if the word “course” on the third paragraph prior to the new portion of the last sentence prior to a ninety (90) percent on the Council-approved, should be struck through.

On page 70, section 007.01 M. in order to be a rifle instructor, you have to have qualified as a handgun instructor. Members agreed to remove “including the Council-approved Annual Handgun Qualification Course”.

MOTION

Sheriff Watson motioned to approve of the current draft with the corrections as pointed out on page 69, 006.04 and page 70, section 007.01M, as in Mike. Chief Timothy Larby seconded the motion. Voting in favor; Sheriff Watson, Sheriff Koranda, Chief Larby, Captain Moore, Lieutenant Colonel Schwarten, Chief Wolf, and Mr. McCarthy.

VI. NEW BUSINESS

A. Audit of 2015 Continuing Education Hours

Mr. Muldoon had reviewed the findings of his survey during the Director’s report for the Council’s review. No recommendations or motion were necessary.

B. Professional Instructor Certification/Recertification

Mrs. Urbanek stated the Certification requests had been verified by the staff and would recommend approval based on the areas listed on each of their applications.

MOTION

Sheriff Koranda motioned to approve the academy instructors as listed:

Legal Recertification

Donald Kleine – Omaha Police Department

George Merithew – Omaha Police Department

General Certification

Derek Kermoade – Nebraska State Patrol

Professional Certification

Kenneth Fox – Omaha Police Department

Pamela Tierney – Nebraska State Patrol

Professional Recertification

Andrew BenSalah – Omaha Police Department

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Joy Citta – Lincoln Police Department
Robert Citta – Lincoln Police Department
Leigh Culver – Omaha Police Department
Dalton Forrest Jr. – Lincoln Police Department
Todd Groves – Lincoln Police Department
Kenner Hatfield – Omaha Police Department
Todd Hruza – Lincoln Police Department
Brad Hulse – Lincoln Police Department
Robert Hurley – Lincoln Police Department
William Koepke – Lincoln Police Department
Timothy Lasater – Omaha Police Department
Mary Lingelbach – Lincoln Police Department
Mayde McGuire – Lincoln Police Department
Grant Richards – Lincoln Police Department
Mario Robinson – Lincoln Police Department
Donald Scheinost Jr. – Lincoln Police Department
Jonathan Sundermeier – Lincoln Police Department
Randi Webb – N.L.E.T.C. as presented by Brenda Urbanek.

Lieutenant Colonel Schwarten seconded the motion. Voting in favor; Sheriff Koranda, Chief Larby, Captain Moore, Lieutenant Colonel Schwarten, Chief Wolf, Mr. McCarthy, and Sheriff Watson.

C. Waiver of Supervision Course In-Lieu-Of LPO
Marcos Lopez, Bellevue Police Department

Mr. Muldoon stated this type of request had been accepted straight across in the past in the area of Supervision.

MOTION

Captain Moore moved to grant the waiver of Supervision Course in Lieu of LPO for Marcos Lopez of the Bellevue Police Department. Sheriff Watson seconded the motion. Voting in favor; Chief Larby, Captain Moore, Lieutenant Colonel Schwarten, Chief Wolf, Mr. McCarthy, Sheriff Watson, and Sheriff Koranda.

D. Request to Host Supervision In-Lieu-Of NLETC
Sarpy County Sheriff's Office

Mr. Muldoon stated this would be Supervision for the Sarpy County Sheriff's Office and had been approved of in the past and after they teach the course, they will submit the names of the persons they want certificates for and at that time we will issue the certificates of this Council approved course. The Council has approved this in the past but that was before the Training Center added Fair and Impartial Policing to its Supervision Training.

Ms. Urbanek stated the standard has always been to meet or exceed what is done here. At what point does it really meet or exceed, when it's in the Basic or Supervision class? What I can vouch for in each

academy inspection is that every academy covers the mandatory job task as set forth by this body. However when it comes to content there are four very different and distinct contents delivered in the State of Nebraska. As it has been done in the past, NSP, OPD, and LPD each have their own training, but each wants to train others in their regional academies so to do so they will each have to do everything the way we do it. It really begs the question before the Metro academy of meets or exceeds.

The same thing can be said of this Supervision course, they say they cover it, I have no reason to doubt them, but with everything that is going on, you would think that Fair and Impartial Policing would be in bold in their course materials.

Lieutenant Colonel Schwarten stated the Legal section also was short by two hours from the Training Center's Supervision course.

Mr. Muldoon stated if it was approved today the way it was written, we would get a roster of the student's who took it and issue certificates.

Mr. Stolz stated you could make your motion to approve contingent upon Sarpy County demonstrating Fair and Impartial Policing was in fact covered in the curriculum.

MOTION

Chief Larby motioned to approve the course contingent upon verification that Fair and Impartial Policing is covered to equal standards as the Training Center has now. Captain Moore seconded the motion.

Discussion followed on reviewing the entire curriculum so the Council was sure it is meeting the minimum standards for the Supervision Course taught by the Training Center. Chief Larby amended his motion to read we need to have all curriculum outline for review for the Training Center to see if it meets or exceeds current standards and provided it does, certificates will be provided. Discussion followed. Chief Larby withdrew his motion and Captain Moore withdrew her second.

MOTION

Sheriff Watson motioned to table the request. Sheriff Koranda seconded the motion. Voting in favor; Captain Moore, Lieutenant Colonel Schwarten, Chief Wolf, Mr. McCarthy, Sheriff Watson, Sheriff Koranda, and Chief Larby.

E. Waiver of Management Course In-Lieu-Of NLETC

Lieutenant Gordon Downing - NSP

MOTION

Captain Moore motioned to grant the waiver of Management course In-Lieu-Of the Nebraska Law Enforcement Training Center Course that is offered for Lieutenant Gordon Downing, NSP. He would still need to take the online legal course offered through the Training Center taught by Mr. David Stolz. Voting in favor; Lieutenant Colonel Schwarten, Chief Wolf, Mr. McCarthy, Sheriff Watson, Sheriff Koranda, Chief Larby, Chief Larby, and Captain Moore.

VII. OTHER BUSINESS

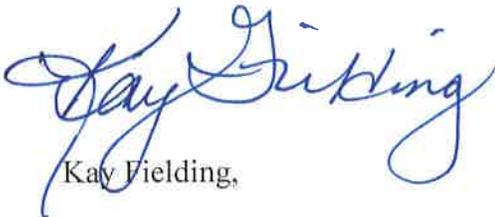
Mr. Muldoon asked an LPD or OPD member and an additional Council member who would be interested in helping with the Training Center's inspection to let him know.

A. Date, Time & Location of Next Meeting

August 7, 2016 at 9:00; Library, Nebraska Law Enforcement Training Center
3600 North Academy Road, Grand Island, Nebraska 68801

Hearing no further business, Chairman McCarthy ended the meeting at 10:41 AM.

Respectfully,



Kay Fielding,

Secretary to the Council