



Pete Ricketts, Governor

**REGULAR MEETING OF THE
POLICE STANDARDS ADVISORY COUNCIL
MAY 15, 2018**

I. CALL TO ORDER

Chairman Chief Tracy Wolf called the monthly meeting of the Police Standards Advisory Council to order at 9:06 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 Monday, May 7, 2018. Chief Tracy Wolf, Lieutenant Colonel Andrew Duis, Sheriff Larry Koranda, Mr. Matthew McCarthy and Sheriff Jerry Watson were present. Chief Timothy Larby was unable to attend.

II. APPROVAL OF APRIL 18, 2018 P.S.A.C. MINUTES

MOTION

Sheriff Koranda motioned to approve as presented. Sheriff Watson seconded the motion. Voting in favor; Chief Wolf, Lieutenant Colonel Duis, Sheriff Koranda, Mr. McCarthy, and Sheriff Watson.

Chief Bliemeister arrived at 9:10 AM.

III. ACADEMY REPORTS

A. Director – N.L.E.T.C.

Director Urbanek stated the 199th Basic Training Session was in week 2 with 47 students. 3 students still need to complete the physical tasks. 1 of the 3 sustained an injury during the tasks and was unable to complete them and one was a returning student.

The Governor's Office granted permission to advertise for the Deputy Director's position and I have received 16 applications for this vacancy. I mentioned in my interview last month that I would like the Council's voice in the hiring of the Deputy Director position because they fundamentally run the Council's academy here, the day-to-day operations and I think it would be helpful if someone on the Council could sit in on the interview process.



In the weeks between our graduation on the 13th and the start of our new class on the 7th we conducted a Firearms Instructor Course, an EVOC Instructor Course, Patrol Rifle Instructor Course, and a Defensive Tactics Instructor Course. Currently we are hosting a Jail Management course, which staff from Jail Standards puts on and we have an Advanced Crash Course. No courses were cancelled last month.

Tomorrow I will attend the LECC Conference to give a brief overview of LB791 and how it will impact agencies. Darrell was on the agenda for the Sheriff's meeting at 10:00 AM so I will attend that one, the Chief's meeting is at 10:00 also. Mr. Fisher asked me to extend his regret on not being here today, he planned to be here, but a family incident came up that he needed to tend to and that is why he will not be at the Conference tomorrow.

April 24th - 26th the Kaizen event for the Database Integration Project was held and we hope to have some completion on that. One of the big issues we are finding with it is that it involves money.

Ms. Urbanek questioned if, in the future, the Council preferred a day-to-day report of the Director's actions for the monthly meetings or if they would prefer a general summary of the highpoints. Members agreed a General Summary of the Director's doings would be fine.

B. Nebraska State Patrol

Captain Roby stated Camp 59 started Monday, May 7th with 17 cadets, there are currently 15.

NSP had a couple people attend the Below 100 Course Monday, May 7th.

Today we are doing physical testing for our next camp.

Towards the end of the month we have a three-day race course, an Open Environment Active Shooter Course that we are holding in Hastings that several people will be attending.

Sergeant Hagen is along today for the Firearms Instructor Certification agenda item.

IV. CRIME COMMISSION REPORT

Mr. Stolz reported in Mr. Fisher's absence stating LB791 passed and the Commission has been working on a couple things; the Truth in Hiring/ Truth in Firing portion where once the agency is ready to give a conditional offer of employment to a perspective employee, that employee must sign a waiver. We prepared one and put it on the Training Center Website under forms and I believe it will be on the Crime Commission Website as well. This will require the former agency to release his or her employment history once they receive the form. The waiver form is to be used for law enforcement candidate's previous law enforcement agencies in Nebraska.

The other thing that came out of LB791 is the Change in Status form must be submitted within 7 days; it's always been in rule and regulation, now it is statutory.

The other thing happening, once an officer is either fired or allowed to resign, in-lieu-of termination and it meets one of the criteria set out in 791, which is largely neglect of duty, incompetence or the incapacities or grounds under Title 79, Chapter 9, dishonesty, violation of code of ethics and so on. A report has to be filed with the Commission within 30 days.

Chief Schmaderer of Omaha asked me last Friday how it coincided with the Loudermill hearings that are out there and it was a good question because quite honestly if a person is terminated from the agency they would have a right to that hearing. Maybe the Change in Status is at the conclusion of their employment.

I am working on a sample report for an agency that they would submit to the Commission if an officer was terminated or resigned in-lieu-of termination. LB791 requires it, but if we can help and make it simple as to what it would look like. I hope to have that out for use in a week or so. There was an emergency clause on this so it became effective April 23rd.

Chief Bliemeister stated based upon some events last week and input that I solicited from Tonya Peters, our legal Counsel, I would be more than happy to work with you as we have a real example of a report.

V. OLD BUSINESS

No old business

VI. NEW BUSINESS

A. Change-in-Status Form due to LB791

Director Urbanek briefly discussed the new form stating the changes were a result of LB791.

Chief Bliemeister stated the Change in rank Promotion vs. Demotion; demotion in most circumstances suggest some type of punitive action, but there are occasions where people take demotions for other reasons. Do we need to further parse out whether this was voluntary or involuntary or whether it was due to discipline or not?

Ms. Urbanek stated demotion to her meant the employee was still employed and 791 deals only with employment, is the way I would take it.

Chief Bliemeister stated you could voluntarily demote yourself. Don't want to work the third shift, I have the seniority to go back and work days. I don't want to run into an issue with the collective bargaining agreement where we will not release the components outside of some type of court order to surrounding discipline.

Members agreed Change in Rank should just be Current rank /New rank and not separate.

Mr. Stolz questioned the Racial/Ethnic Group, stating even the current form lists ethnicity labels such as black/white but yet in our database we capture it as African American, Hispanic, Native American, other, Asian Pacific, Caucasian. I would tend to think Caucasian is preferred over white.

Chief Bliemeister stated he felt it was an important question to ask.

Captain Roby stated they should fall under the NCIC clarification.

Mr. Stolz stated he would check with DAS Nebraska Equal Opportunity Employer. Accepted not in law enforcement position

Chief Bliemeister stated under Dismissal - Criminal Act there is often separation for an arrest, not a conviction, I think we should remove it and incorporate it in the first one under the new statute otherwise there might be some hesitation whether you need to submit the 30-day letter.

Sheriff Watson stated on the first page under Resignation, the second one is, "At request of Agency," to me is like a loophole.

The other concern I have is under Retirement. I'm not so certain it shouldn't have a box, In-Lieu-of termination with that following verbiage. Because people say, can I retire and then it is an easy out.

Mr. Stolz didn't believe the statute covered retirement.

Sheriff Watson responded there should be some options under Retirement.

Chief Bliemeister stated Retirement in-lieu-of termination.

Lieutenant Colonel Duis questioned what defined retirement. Eligibility, does every organization, every agency have an eligibility. If you don't track that retirement, nobody is ever going to quit, they are all going to retire. Because if you want to tag on retirement in lieu of termination, where is that line list the agency's responsibility to continue an investigation after somebody leaves because they won. I found out, so I'm eligible to retire, this afternoon they say hey we opened an IA case on you, I say, screw it I'm out of here, I'm done. I retire. Is the agency then responsible for continuing that on to determine whether it was in lieu of because as of right now, I don't think so? In a year from now I might say I would like to go to work for GIPD.

Mr. Stolz stated here is the thing that will happen on that, because of the conditional offer of employment, now I go back to your agency and say, I have this waiver from this guy, what can you tell me about him?

Lieutenant Colonel Duis stated there was an allegation that this happened but we never investigated it and he claimed it never happened and during the interview I said it never happened. They came across with this allegation, I did thirty years, I said I'm not going through this crap, I'm out of here.

Ms. Urbanek questioned if the former agency would have to keep that record? Because he is retired according to their records.

Lieutenant Colonel Duis stated that was his point, what is the obligation on that former agency? Unless you follow it through, it's simply an allegation. No different than an arrest. You are not going to fire somebody because they were arrested necessarily. You have to let that play out right?

Chief Bliemeister stated statutorily I'm going to say they don't by practice depends on the agency. Because to Buck's point, we have recently within the last couple of years changed that to where we are finishing whether it is sustained or exonerated.

Mr. McCarthy stated if you put it on, you need to put it down below Retirement due to incapacity in a separate line so it never gets mixed up with the officer who retire honorably.

Lieutenant Colonel Duis stated the problem is when we start defining what is retirement and what is retiring honorably. Just because you have an allegation against me, I may be cleared of that. So I may be completely within my right to say that I retired.

Ms. Urbanek stated the former agency has to keep those things for at least five years.

Director Urbanek recapped the discussion stating she would check on the Racial/Ethnic Group Classification to make sure they are consistent with what it needs to be.

Change in Rank will only have Current Rank/New Rank.

Get rid of the Civilian Employee

Come up with a suggestion on how to capture retirement before termination.

Eliminate "At request of Agency"

On Dismissal, remove "Criminal Act."

Ms. Urbanek stated she would go over the proposals on the form, but primarily they have 7 days to send it in. If they are leaving employment because they have resigned for a reason or they have been dismissed for a reason and it falls under incapacity, incompetence, neglect of duty, or violation then you have to within 30 days send that in. Even though our Change in Status form doesn't tell you to right now, you still have to do that. Failure to comply is neglect of duty.

B. 2018 Firearms Instructor Course & Patrol Rifle Instructor Course

Director Urbanek stated this was requested to be put on the agenda by a couple Council members to discuss the new changes to Chapter 11 and the implementation of it.

Chief Wolf stated the big item I would like to discuss is making sure everybody is on the same page whether it be the Training Center, Lincoln, Omaha, or NSP when it comes to the qualification course that is being fired for the Instructor course or the Recertification course.

How it's scored, because it came up when I went through, if you are going to be over on time are you DQ'd on the whole course or are we just taking away one point for that shot because that is what came up on the range. I don't think it's addressed in Chapter 11, it doesn't get into the scoring. It gets into the percentage that you must obtain, which is 90% but it really doesn't talk about a scoring or the time for the Council approved course.

How it was administered the last time I went through was you could be on your last shot at the course and have them all in but on the last shot and if you were over by a fraction of a second, then you were DQ'd on the course. That was for the instructor course.

Chief Bliemeister stated following the last month's meeting he clarified it with the Lincoln firearms instructors and they do it the same way, they would have to redo it. I don't know how many opportunities each one would get.

Director Urbanek stated so Lincoln uses an automatic DQ on time.

Mr. Hayes, NLETC Firearms Instructor, stated students were allowed 4 opportunities in the weeklong school, in the Recertification school they technically got three, they don't shoot in portion in Recertification school so during the 8 hour course, they could do three or two and come back a week later and test.

Chief Wolf stated his class did a shoot-in during the class he was in.

Mr. Hayes stated he believed what he had said was, if you achieve the state handgun qualification standards, since it's the same course, you can count that as your state handgun qualification for the year, but not your state instructor qualification.

Chief Wolf stated Title 79, Chapter 11 §6.04 talks about you have to have a minimum score of 90% and that was the shoot-in.

Mr. Hayes stated that was correct, that was for the full-week course.

Ms. Urbanek asked Mr. Hayes to lay out the day of a Firearms Course for the Council.

Mr. Hayes stated students receive a disk of course information 30 days before the course. Currently the disk has information on Lesson Plan Development, Use of Tourniquets, new Chapter 11 and some other things that we want you to know so they can show up on the day of Recertification and we review the information on the disk, show them how to work the tourniquet, shoot the qualification, and take a written exam.

Ms. Urbanek asked you stated the students are offered 3 opportunities to shoot the course during the day. So if I don't shoot 90% the first time, I miss a time qualification, I shoot it again?

Mr. Hayes stated right now if you miss a time qualification, it is an instant DQ. So that would count as one of your tries for the Instructor course. Then you would have another opportunity to try for it. If you still didn't get it after the second attempt, you could have your third and final attempt or you

could come back within a week. From the old program to the new recertification program, the new program I have not been doing the shoot-in portion which used to be the State Handgun Qualification course to get in at a 90%. I haven't done that with the new course because it's the recertification.

Chief Wolf stated Chapter 11, §6.04, was for an Instructor and a Recertification Course. We did that so when students showed up and didn't have the skill level, they weren't accepted into the class.

Chief Bliemeister stated I suppose you could go under the assumption that at one particular time, because at one time they had already completed the Instructor 40-hour class, that they had qualified at the 90%.

Chief Wolf stated we have the Firearms Committee every three years, the day was lined out when you show up for the Firearms Instructor Recertification School, you have to shoot a 90% on the standard FBI Q and that's what we did, using the state qualification course. That just gets you into the course, says you are proficient enough to get into the course. I remember Joe saying, if you get them all in the box, he would count it toward the State Qualification. My biggest issue is just making sure that everybody is doing it the same, Lincoln, Omaha, State Patrol doing it that way, as it's outlined in the Rule and Regulation, that was the intention, but we never really got into the scoring cause that was the biggest question, time. How they are going to score according to time, is it a complete DQ, or is it just a drop and a shot. That was the biggest question.

Mr. Hayes handed out three-ring-binders to Council members and others and referred to the minutes in the first half of the binder, where the Council discussed and approved the course that was submitted to the Council, and as Chief Wolf stated we will need the Council's guidance and if you don't do it the letter that has been done on instant disqualification is how we would like this scored. But in the minutes you can see it states, a passing score is 90% of student rounds must be in the 8 ½" x 11" box. The student must also participate in and successfully complete all stages of the qualification course as instructed within the allotted time." Again, the way it's interpreted right now, if you don't get it within your time, it's a disqualification. That's where we would need to get some guidance as to how we would recommend scoring it if we didn't want to go to that.

Sheriff Koranda stated so you are interpreting it as one time as meeting each time segment. So if I miss one by a fraction of a second, I'm done. But out of 50 rounds, if 49 of them are within the time and the last one is a fraction of a second late I think that is only one missed shot, but you are disqualifying everything.

Mr. Hayes what I would say about that, I would ask the Council to keep in mind this is an instructor level course, so that's why we have more stringent penalties.

Chief Wolf stated my reason for bringing it up is when I came down and met with you, we discussed how the students hit the FBI Q, the instructors can shoot it in a smaller box which is the 8 ½ x 11 so I guess that was my assumption, that was our only change, we were shrinking the target, that's why I was surprised when the DQ came up with one shot over, cause generally most courses are, if you are over on that particular shot, you lose that round, just like if you have a malfunction and you still had two rounds you didn't get off, you lost those two rounds, you weren't DQ'd. That day, if you had a malfunction, you could move on. Well maybe I had a malfunction and that's what took my time over. How can you tell?

Mr. Hayes stated on the Instructor qualification at this time, is that factor in there, if a person has a malfunction and I allow them to reshoot that stage, if that malfunction contributed them to going over on time.

Chief Wolf questioned why that would be allowed because they could limp wrist it, thumb the slide, could have had a dirty gun when they showed up which can cause a malfunction.

Sheriff Watson stated the question here is, is it a DQ or not. I would like to know from NSP on your instructor qualifications, do you DQ them if they are not within the time?

Captain Roby stated the Patrol's standard was different, this is the Council approved standard for the NLETC, we know when we submit our standard to the PSAC board which gets approved, so our time standards can be all different. NSP does not DQ students for time standards.

Chief Bliemeister responded that the Lincoln Police Department did DQ for time standards.

Mr. Hayes stated that Omaha Police Department does not have an instant DQ for time.

Captain Roby stated our point with all this is you want to look at what your priority is with the instructor range program. Is it that they can go shoot lights out and have everyone stand there and watch them or can they teach somebody to shoot at a proficient level? Our idea is that they can stand up in front of them and teach at a proficient and safe level. So then shooting within the timeframe and within a two inch circle in the target isn't our main focus of our instructor.

Chief Bliemeister questioned if Mr. Hayes was the person reviewing all the qualification material for all the academies. Mr. Hayes stated he eventually reviewed it, but was not the initial reviewer.

When you reviewed ours, NSP's, and OPD's, did you look at them with the lens knowing that OPD's and NSP's were not going to DQ, because I thought the standard was that it had to exceed.

Sheriff Koranda stated if ours is the minimum standard, I would say that those two agencies are not meeting our minimum standards.

Mr. Hayes stated when he reviews the material, he looks at Chapter 11, and it outlines what you have to have in the course, an 80% on the written and 90% on the qualification however it doesn't specifically say it has to be our qualification course. So if one of the agencies are doing 80% on the written exam whatever that exam is, based on their course content and their doing the 90% on the qualification whatever that qualification is then I consider them to be meeting our standards.

Sheriff Koranda stated 3 or 4 years ago when we had the issue with firearms where our Chapter said 70% and the Training Center was saying 90% then it was brought to the Council's attention.

Ms. Urbanek stated this just went into effect in January this year and 23 went through the course and 1 did not pass the full Firearms Instructor course. 24 were in the full Handgun Recertification course with 2 failures, but they still have time to come and recertify.

Chief Wolf stated another issue he had was the amount of time on the range. We started on the range after lunch and went till five, and that's all we did, was qualify. I thought that's why they rearranged it to something where you could get through the qualifications and move on to do more class instruction and give the guys time to teach facts.

Mr. Hayes stated we have 20 - 25 people on the course and you independently score their time and hits it takes a lot of time, however I don't know of any way to do it to ensure that everything is within time standard and hits are recorded properly other than doing it one at a time.

Chief Wolf stated they had done it for years; the safety officer calls it if he's over, blow your whistle.

Mr. Hayes said if it comes down to somebody being separated from training and the safety officer made the call, how comfortable are you with defending what was called on the line by the safety officer? Since I've taken over firearms I've been raked over the coals by everybody out there. I am more than open to changing things up or following any guidance you have for me, I'm just trying to think ahead for what might come up.

Ms. Urbanek stated what I am gathering from all of this is do we want to go to the automatic DQ for time on the scoring of the target. That's the first question I'm hearing, because right now we are. We've lost 2 people, but statistically I wouldn't suggest we hang our hat on 40 people for numbers.

The second question is how you actually run the course. Do you run it with the safety officer's and having the time or do you go protiming it down the line.

Chief Wolf had no objection to how Mr. Hayes ran his course, he was just making a suggestion.

Chief Bliemeister agreed and didn't think the operational component should be a part of this body. I think we have approved, doing so knowingly or not, NSP's, Omaha's, and LPD's so we got the current to operate under that assumption for 2018 because everybody has to bring their courses back in 2019 and we are already in May. I would say for the remainder of the 2018 year NLETC will continue to operate under an automatically review if you are over on time to where Omaha, NSP and that's the only 4 that have been submitted, correct?

Director Urbanek responded yes, SDLEA would need to do what we do.

Chief Bliemeister suggested to continue to operate how they have been and then in 2019 we strive for the consistency that is important.

Mr. Stolz questioned if the State Patrol would have numbers when you get to the timing aspect of it, where there is remediation? Do you ever capture the data for later use, for example, 15 Troopers went through and 2 didn't meet the time standards. Do you have any of that data?

Captain Roby questioned if the plan would be to try and write the time into the standard.

Mr. Stolz stated it was as approved by the Council that is why the rule and regulation was written like it was so you don't have to go back and redo the rule and regulation every time.

Sheriff Watson stated he personally felt the DQ was pretty stringent for not being in the time allotment. I think you need to be consistent in how you are scoring through whatever course it is when qualifying. We lose some good instructors with lots of experience and when they get up in years they might not shoot as straight but are you telling me they are not a good instructor because they can't shoot straight. I would like to see easing up a little bit on that and the outside parameters I have no problem in you taking that off your score and losing that round.

Mr. McCarthy stated as a board, we have in some ways left Joe out to dry on this because we gave him all these standards but didn't tell him how to handle the over the time thing. I also agree with Sheriff Watson.

Ms. Urbanek agreed with Captain Roby's comment, the instructors have heard me say many times, are we teaching them how to drive really well or are we teaching them how to teach people to drive really well. Are we teaching them how to shoot really well and get a rock star shooter or are we teaching them how to teach other people. Because to me that is really the basis of what an instructor course is. When we get into a standard, there is a standard. The issue that we are having is this is a new standard with this time is the automatic DQ. In the past if you went over time, you dropped that round. The other thing that really hasn't come up is, the Patrol Rifle Instructor course for the past 8 years has used the automatic time as a disqualifier and to try to make the two programs consistent in how they were administered, and that's how this came in. So if this body would like the Training Center to go back to how it scored time standards, that's fine, we can do that, we just need the guidance.

Mr. Hayes stated with the full course I ran this year there were 23 students and 22 graduated. The exit standards removed students, not the entrance standards. The person removed was removed for missed rounds, not time. 13 attempted the recertification course with 11 passing. The 2 removed were both as a result of missed rounds.

Chief Wolf stated on the Academy approvals, he would like to see the Academy Firearms Instructor Manuals when they are submitted prior to the meeting when they are on the agenda.

MOTION

Chief Bliemeister motioned that all PSAC approved instructor classes for both handgun and rifle change the scoring to include if you miss on time it's not an automatic DQ, but you miss on that round. Sheriff Watson seconded the motion.

Brief discussion followed

Chief Bliemeister stated the last piece of discussion in his mind in practicality discerned which round missed, I think is going to be harder than what we are anticipating here.

Roll call vote; Chief Bliemeister – No, Lieutenant Colonel Duis – Yes, Sheriff Koranda – Yes, Mr. McCarthy – Yes, Sheriff Watson – Yes, Chief Wolf – Yes.

Director Urbanek stated beginning with our next Firearms Instructor Recertification and Firearms Instructor course there will be no automatic DQ for time.

Lieutenant Colonel Duis stepped out of the meeting at 10:46 AM.

C. ACADEMY INSTRUCTOR APPLICATION

PROFESSIONAL - Original

Kurt E. McClannan

Papillion Police Department (SDLEA)

MOTION

Chief Bliemeister motioned to approve Kurt McClannan's Academy Instructor Application. Chief Wolf seconded the motion. Voting in favor; Sheriff Koranda, Mr. McCarthy, Sheriff Watson, Chief Wolf, and Chief Bliemeister.

Lieutenant Colonel Duis returned at 10:46 AM.

PROFESSIONAL - Recertification

Grell, Alan L.

Lincoln Police Department

Hellmuth, Jason J.

Lincoln Police Department

MOTION

Sheriff Koranda motioned to approve the professional recertification's of Alan Grell of the Lincoln Police Department and Jason Hellmuth of the Lincoln Police Department as presented. Mr. McCarthy seconded the motion. Voting in favor; Lieutenant Colonel Duis, Sheriff Koranda, Mr. McCarthy, Sheriff Watson, and Chief Wolf. Chief Bliemeister - Abstained

VII. OTHER BUSINESS

A. Date, Time & Location of Next Meeting

June 20, 2018, 9:00; Library, Nebraska Law Enforcement Training Center,
3600 North Academy Road, Grand Island, Nebraska

Director Urbanek reviewed the letters in the information packet. I discussed the delay of application packets with Colonel Bolduc after the Crime Commission meeting last Friday and let him know that I understood his situation we then agreed to 14 days. By rule the Director can set aside the 30 days and 14 days seemed palatable so we are not rushing to make sure everything is good. The Patrol does an outstanding job with their backgrounds and things but we just need to make sure everything is squared away before we put our stamp of approval on them.

August 6th is the start date for SDLEA in LaVista. Director Wagner plans to have the test banks to the NLETC staff by June 1st for review.

Hearing no further business the meeting adjourned at 10:55 AM.

Respectfully submitted,



Kay Fielding,
Secretary to the Council