

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
PEACE OFFICER STANDARDS AND TRAINING BOARD

-----  
In the Matter of the Proposed Amendments to the Rules  
Governing Education and Licensing of Law  
Enforcement Officers  
-----

OAH DOCKET NO. 8-9007-38401

VOLUME II

The above-entitled matter came on for hearing  
before Administrative Law Judges Eric Lipman and  
Suzanne Todnem, taken on the 16th day of November,  
2022, commencing at approximately 5:30 p.m., via  
Webex.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A P P E A R A N C E S

MINNESOTA POST BOARD AGENCY PANEL:

REBECCA GASPARD, Rules and Legislative  
Coordinator

KELLY McCARTHY, POST Board Chairperson

ERIK MISSELT, POST Board Executive Director

ANGIE ROHOW, Standards Coordinator

I N D E X

PAGE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AGENCY COMMENTS:

REBECCA GASPARD .....	136
CHAIRPERSON KELLY McCARTHY .....	139
ERIK MISSELT .....	142

PUBLIC COMMENTS:

CARLOS MARIANI .....	145
PAUL BOSMAN .....	151
RICHARD HODSDON .....	154
MARK SCHNEIDER .....	157

1 JUDGE TODNEM: Good evening,  
2 everyone, and welcome. Thank you for joining us  
3 for this public hearing in the Matter of the  
4 Proposed Amendments to Rules Governing the  
5 Education and Licensing of Law Enforcement  
6 Officers, OAH Docket Number 8-9007-38401. The  
7 Docket Number is important information, so please  
8 take a moment to take note of that number. Next  
9 slide, please.

10 My name is Suzanne Todnem and I am  
11 an Administrative Law Judge with the Office of  
12 Administrative Hearings. I, along with Judge Eric  
13 Lipman, will be presiding over this hearing. Next  
14 slide.

15 Tonight's hearing is about public  
16 participation. Your participation is essential to  
17 rulemaking. The collective wisdom of the public is  
18 essential to creating a better product and a better  
19 process. The public's wisdom does supplement the  
20 wisdom of the Agency, because the Agency is not the  
21 sole holder of information on this specialized  
22 topic. I want to thank you in advance for your  
23 time and participation in today's hearing. Next  
24 slide.

25 Judge Lipman and I will be looking

1 at three key questions. One, does the Agency have  
2 statutory authority to adopt the proposed rules?  
3 Number two, has the Agency complied with the  
4 Administrative Procedures Act? And three, are the  
5 proposed rules necessary and reasonable? Next  
6 slide.

7 So the roadmap for today's  
8 hearing. First, the Board will be making an  
9 affirmative presentation of facts, exhibits, brief  
10 remarks, and then it will be time for the public  
11 comments. Next slide.

12 Presenting on behalf of the Agency  
13 we have Chief Kelly McCarthy; Erik Misselt, the  
14 Executive Director. And also here in attendance we  
15 have Angie Rohow, the Standard's Coordinator, and  
16 Rebecca Gaspard, the Rules and Legislative  
17 Coordinator. Next slide.

18 The Agency's exhibits are  
19 available online and have been prefiled. At  
20 yesterday's hearing, they were offered into the  
21 record and they are received. You can feel free to  
22 view them at the website indicated or at the  
23 tinyurl address provided here on the slide. Next  
24 slide.

25 There are five ways to submit your

1 comments. You may offer oral comments tonight at  
2 this hearing. Oral comments were offered at  
3 yesterday's hearing as well. You can offer written  
4 comments electronically or by mail, U.S. Mail or by  
5 fax or through the eComments website. The  
6 eComments website is the preferred method. But all  
7 written comments are welcome. We will provide some  
8 instruction on how to submit eComments shortly.

9           To present an oral comment  
10 tonight, please indicate in the chat message that  
11 you would like to comment, or if you would like to  
12 comment and you are participating by phone you can  
13 press star 3 to indicate your interest. You will  
14 then be identified by the first six digits of your  
15 phone number, which is the area code and the  
16 exchange code. Your personalized number will not  
17 be made public. So again, please feel free to  
18 enter your interest in commenting in the chat  
19 messages.

20           The process that we would like you  
21 to follow once it is your turn to make a comment,  
22 please turn on your video camera. That is  
23 considered the etiquette for remote appearances.

24           We want to make sure that everyone  
25 is heard, so please limit your comments to five

1 minutes. If you would like to make additional  
2 comments after everyone has had a first  
3 opportunity, we would be happy to offer second or  
4 third opportunities to continue your comments if  
5 they have not been completed. Next slide.

6           So to recap, there are multiple  
7 ways to submit your comments. In addition to oral  
8 comments tonight, you can submit your written  
9 comments by the eComments website, by U.S. Mail or  
10 by fax. All comments are read and considered by  
11 both Judge Lipman and me. Next slide.

12           Additional tips for your oral  
13 comments tonight. Please state and spell your  
14 first and last name. We do have a court reporter  
15 recording this hearing, so please speak slowly and  
16 clearly so everyone can understand what your  
17 comments are. Please spell any technical terms or  
18 names that might not be familiar to everyone. And  
19 if using an acronym, please introduce the acronym  
20 by stating the full phrase.

21           So how to submit an eComment.  
22 You can go to the eComment website, which is, you  
23 can see on the slide  
24 [www.minnesotaoah.granicusideas.com](http://www.minnesotaoah.granicusideas.com). Once you go to  
25 that site, you will need to sign in under your

1 account or sign up for an account. It's just your  
2 email address and a password. The purpose of  
3 requiring an account is to ensure that you are you  
4 and not a robot.

5 I would like to note that public  
6 comments -- or comments are public data, so I  
7 recommend you not post anything that you would not  
8 want to the share widely with the public. Next  
9 slide.

10 So as you can see, signing up for  
11 eComments is an easy method to submit your comments  
12 to the public. Next slide.

13 Thank you. It's intended to be a  
14 seamless process and we encourage everyone to  
15 submit their public comments.

16 So the time limit for written  
17 comments is December 6. You will have 20 days  
18 after this hearing to submit any of your written  
19 comments by 4:30 p.m. This 4:30 p.m. deadline will  
20 be strictly adhered to, for fairness to all. I  
21 will emphasize the importance of the 4:30 deadline.  
22 If you submit your comment at 4:31, it will not be  
23 considered. So please don't wait until the last  
24 minute to make your comment.

25 And the second deadline to keep in



1 mind is the rebuttal period. Five business days  
2 after the initial 20-day comment period has ended  
3 you will have an opportunity to submit rebuttal  
4 comments. This is not a time to raise any new  
5 issues, but you may rebut anything that has already  
6 been entered into the record. And that deadline is  
7 December 13 at 4:30 p.m., 2022. Thank you. Next  
8 slide.

9                   After the rebuttal period has  
10 closed, Judge Lipman and I will issue a report  
11 within 30 days of the close of the record. There  
12 is a possibility that that 30 days will be  
13 extended. An extension is possible if, for  
14 example, there is a large number of comments or if  
15 there is something that has happened to our  
16 caseloads that would require additional time.  
17 Regardless, you can view the report online. There  
18 are two website addresses provided, a longer one or  
19 the tinyurl. Which is [tinyurl.com/oah-archive](https://tinyurl.com/oah-archive).  
20 Next slide.

21                   This is a reminder for a lobbyist.  
22 If you are a lobbyist, you are required to register  
23 and to make sure your registration is current.  
24 Next slide.

25                   So to make your oral comments this

1 evening, again, press star 3 if you are attending  
2 by phone, or let us know by entering a chat  
3 message. If you need any technical help, you can  
4 press star 0 and a team member will be available to  
5 help you. Next slide.

6                   Lastly, the deadlines are  
7 important, so please remember for initial written  
8 comments the deadline is December 6 at 4:30 p.m.  
9 And the deadline for rebuttal comments is December  
10 13 at 4:30 p.m. And please reference Docket Number  
11 8-9007-38401 to make sure that the comments get  
12 associated with the correct rulemaking. Next  
13 slide.

14                   And with that, I will turn it over  
15 to the Agency Panel for their presentation.

16                   MS. GASPARD: Thank you. So I  
17 will review the exhibits that we had posted. My  
18 name is Rebecca Gaspard, R-e-b-e-c-c-a  
19 G-a-s-p-a-r-d. I am the Rules and Legislative  
20 Coordinator for the Minneapolis Peace Officers  
21 Standards and Training Board, usually called the  
22 POST Board.

23                   Before we hear from Chief  
24 McCarthy, our POST Board Chair, and our Executive  
25 Director, Erik Misselt, I would like to review

1 those hearing exhibits that were filed with the  
2 Office of Administrative Hearings earlier. And as  
3 noted, these exhibits are posted on the Board's  
4 website.

5           The purpose of these exhibits is  
6 twofold, and that is to demonstrate the Board's  
7 legal authority to adopt the rules. And, secondly,  
8 to demonstrate that the Board has fulfilled the  
9 legal and procedural requirements in promulgating  
10 the rules.

11           As required under Minnesota Rule  
12 1400.2220, the exhibits are as follows: Exhibit A  
13 is the Request for Comments which was published in  
14 the August 3, 2020 State Register.

15           Exhibit B applies only to rules  
16 that were proposed in response to a petition.  
17 Which is not the case here.

18           Exhibit C is the proposed rules  
19 that were approved by the Revisor. And that is not  
20 the rules that we are considering -- it doesn't  
21 include the rule modifications that are under  
22 consideration.

23           Exhibit D is the Statement of Need  
24 and Reasonableness, also known as the SONAR.

25           Exhibit E is the letter that mails

1 that SONAR to the legislative reference library.

2 Exhibit F is the Notice to Adopt  
3 Rules With or Without a Hearing as was published in  
4 the June 20, 2022 State Register.

5 Exhibit G are certificates. G-1  
6 is the Certificate of Mailing the Notice of Intent  
7 to Adopt those Rules Without or With a Hearing,  
8 mailing that to the rulemaking list. And G-2 is  
9 the Certificate of Accuracy of the mailing list for  
10 that notice.

11 Exhibit H is the Certificate of  
12 Giving Additional Notice under the additional  
13 notice plan that was approved earlier by the  
14 Judges.

15 Exhibit I are those public  
16 comments that were received on the proposed rules.

17 Exhibit J doesn't apply, because  
18 the Board did not request approval to omit the rule  
19 text from the notice that was published in the  
20 State Register.

21 Exhibit K consists of nine --  
22 excuse me, eight exhibits that show the Boards  
23 compliance with other laws and rules that we are  
24 required to follow in adopting this rule.

25 So K-1 is the letter to Minnesota

1 Management and Budget, which is in compliance with  
2 Minnesota Statute Section 14.131. K-2 is the  
3 Certificate of Sending the Notice and Statement of  
4 Need and Reasonableness, that's the SONAR, to the  
5 legislators and to the legislative Coordinating  
6 Commission. That is in compliance with Minnesota  
7 Statute Section 14.116. K-3 are the letters that  
8 we are sending the notice and the SONAR to the  
9 legislators and to the legislative Coordinating  
10 Commission. K-4 is the Notice of Hearing that was  
11 sent to those persons who requested a hearing.  
12 K-5 is the Certificate of Mailing the Notice of  
13 Hearing to those folks who requested the hearing.  
14 K-6 is the Notice of Public Hearing Date Change  
15 that was published in the October 3, 2022 State  
16 Register. K-7 is the Certificate of Mailing the  
17 Notice of Public Hearing Date Change. And K-8 is  
18 the Certificate of Accuracy of the Mailing List for  
19 the Notice of the Public Hearing Date Change.

20 And I will turn this over to Chair  
21 McCarthy.

22 CHAIR McCARTHY: Good evening,  
23 everyone. And thank you, Rebecca. My name is  
24 Kelly McCarthy, K-e-l-l-y M-c-C-a-r-t-h-y. And I'm  
25 the current Chair of the POST Board.

1                   The Board itself is made up of 17  
2 members, including membership that represents  
3 elected officials, higher education, community  
4 members and law enforcement.

5                   The law enforcement representation  
6 on the Panel is nine licensed peace officers  
7 including the Superintendent of the BCA, police  
8 chiefs, officers, sheriffs and state troopers with  
9 over 200 years of experience between us. We are  
10 members of the Chiefs of Police Association,  
11 Sheriffs Association, MPPOA and the Minnesota State  
12 Patrol Troopers Association.

13                   POST Board staff are 15 members,  
14 seven of whom are former law enforcement with 175  
15 years of combined experience between them.

16                   So how did we get here and why are  
17 we here? Early in my appointment I looked up some  
18 dates. In December of 2019, I met with members of  
19 the legislature who voiced concern with me that the  
20 POST Board had not been terribly self-directed in  
21 the past and did not function like other regulatory  
22 boards. They wanted us to rely more on subject  
23 matter experts than just legislation.

24                   We had an audit done by an  
25 external Advisory Committee, and one of those

1 recommendations was to look at our scope and  
2 breadth of the rules particularly around standards  
3 of conduct.

4 To start that rules process, it  
5 was a collaborative and iterative process. There  
6 were 24 Advisory Committee meetings which reported  
7 to 10 Rules Committee meetings and 13 full Board  
8 meetings.

9 That Rules Advisory Committee is  
10 very diverse. There was an application process to  
11 be on the Committee. There is 20 members of the  
12 Committee and there are representatives from the  
13 faith community, higher ed., lawyers, current and  
14 former law enforcement with another 300 years of  
15 experience, citizen representatives and community  
16 organizations like the League of Minnesota Cities,  
17 Communities United Against Police Brutality, NAMI  
18 and so on.

19 We talk about the years of  
20 experience, and I think that's important so you  
21 know what went into the rules. But equally, if not  
22 more important, is the years we have ahead of us.  
23 I hopefully have a long career ahead of me, and I  
24 will be subject to these rules as a license holder.  
25 So this isn't an academic exercise for me. This is

1 the best way that we have to improve policing in  
2 Minnesota and restore trust in those communities  
3 that need it. And with that, I will turn it over  
4 to Executive Director Misselt.

5 MR. MISSELT: Thank you, Chief  
6 McCarthy. My name is Erik Misselt, spelled E-r-i-k  
7 M-i-s-s-e-l-t. And I'm the Executive Director for  
8 the Minnesota POST Board.

9 The proposed rules that are up for  
10 comment tonight primarily focus on the minimum  
11 selection standards for persons seeking licensure  
12 as a law enforcement officer in Minnesota and on  
13 the standards of conduct required of those persons  
14 as they become licensed.

15 In the interest of time, I will  
16 not be covering ground already addressed in the  
17 Statement of Need and Reasonableness or the SONAR  
18 regarding the reasons the Board has undertaken the  
19 review and updating of the rules governing their  
20 work at the Board.

21 The Board has received in excess  
22 of 1600 comments on the rules draft as published in  
23 June of 2022. After a thorough review of these  
24 comments and after much discussion, the Board  
25 expects to make modifications to the proposed rules



1 based on the comments and the suggestions received.  
2 These are identified in the proposed modifications  
3 to the draft rules which are posted on our website.

4           Because the Board wanted to ensure  
5 that there was adequate time to notice persons of  
6 these possible modifications the Board took two  
7 specific steps. First, we delayed and rescheduled  
8 the hearing to allow everyone time to consider  
9 possible modifications and to review the Board's  
10 response to the comments received.

11           Secondly, we explained this and  
12 provided access to the modifications as part of the  
13 notification about the hearing date change that was  
14 published in the State Register and sent to our  
15 licensees, the rulemaking notification list and  
16 persons and organizations included in the  
17 additional notice plan that was in fact approved  
18 this year by Judge Lipman and Judge Todnem.

19           We also provided access to the  
20 Board's preliminary response to the comments. The  
21 rule modifications and the preliminary response are  
22 also posted on the website.

23           We are very grateful for the input  
24 that we have already received in the possible rule  
25 changes and we are hopeful that you have all seen

1 and considered the draft rules and proposed  
2 modifications and we are looking forward to hearing  
3 your comments and suggestions.

4 Our Panel is ready to answer any  
5 clarifying questions you may have. If a question  
6 requires further consideration beyond what we can  
7 answer for you tonight, we may answer the question  
8 in our responses that are filed during the 20-day  
9 comment period which follows these hearings. Thank  
10 you.

11 MS. GASPARD: Thank you. Judge,  
12 that concludes the Panel's discussion.

13 JUDGE TODNEM: Thank you. Thank  
14 you, Ms. Gaspard, Mr. Misselt and Chief McCarthy.

15 MS. GASPARD: And, Judge, I  
16 believe you are muted.

17 JUDGE TODNEM: I shouldn't be.

18 CHAIR MCCARTHY: She was loud and  
19 clear on my end.

20 JUDGE TODNEM: Okay. I will just  
21 quick repeat that, in case there were others who  
22 were not able to hear me.

23 I just wanted to say thank you to  
24 the Agency Panel, Ms. Gaspard, Mr. Misselt and  
25 Chief McCarthy. Thank you so much.

1                   Now, it's time for public  
2 comments. I would like to encourage anyone and  
3 everyone here in attendance to indicate an interest  
4 in making any oral comments you would like. Right  
5 now, I see there is one person in the queue. So  
6 perhaps by the time this person is done, there will  
7 be additional members of the public who are  
8 interested in making a comment.

9                   So first we have Representative  
10 Carlos Mariani.

11                   CARLOS MARIANI: Good evening.  
12 And I hope that you can hear me and that you can  
13 see me.

14                   JUDGE TODNEM: Yes, we can hear  
15 you and see you. Thank you.

16                   CARLOS MARIANI: Very well. Thank  
17 you very much. Good evening, Judge, and good  
18 evening everyone else. I appreciate the  
19 opportunity to offer testimony this evening in  
20 support of the rule changes proposed by the POST  
21 Board.

22                   My name is Carlos Mariani,  
23 C-a-r-l-o-s M-a-r-i-a-n-i. I am a State  
24 Representative. I am also currently the Chair of  
25 the House Committee on Public Safety and Criminal

1 Justice Reform. My comments will be very brief.  
2 But hopefully that will still allow others to get  
3 in queue here.

4 The Public Safety and Criminal  
5 Justice Reform Committee of the House has direct  
6 policy and appropriation oversights -- oversight of  
7 the POST Board and regularly receives reports  
8 directly from that Board.

9 The House Committee, this  
10 Committee that I chair has worked earnestly to  
11 legislate for the transformation of the POST Board  
12 into what we believe is needed to advance public  
13 safety on the state of Minnesota, which is to  
14 transform itself into a strong, modern regulatory  
15 licensing board. We define that in part as a board  
16 that can independently inform by good research  
17 develop the standards that meet the needs to  
18 effectively advance public safety, and to do that  
19 while safeguarding the constitutional rights of the  
20 people of Minnesota.

21 We also -- and we are -- I can  
22 only speak for myself, I'm speaking for the entire  
23 Committee, but I apologize, I speak for myself, and  
24 what I believe is the will of the Committee is  
25 demonstrated by the legislation that we have passed

1 over the last four years.

2           We think that that modern  
3 regulatory licensing board is one that can  
4 powerfully hold its licensees accountable to those  
5 standards and one that can ensure that those  
6 standards and protections are universally observed  
7 across the state and followed.

8           We also feel very strongly that  
9 such a modern licensing board be properly equipped  
10 with the process and tools to identify early  
11 licensee conduct that departs from standards,  
12 particularly those designed to protect residents  
13 from harm, and to intervene early to help correct  
14 that conduct consistent with what citizens should  
15 expect as objective professional behavior that does  
16 its work while protecting the constitutional rights  
17 of all residents.

18           The rules proposed I believe are  
19 meant to achieve these vital goals. And I will  
20 briefly speak to one. It has been long established  
21 that racial supremacy groups in our nation are the  
22 largest domestic threat to peace. The January 6  
23 insurrection at the U.S. Capital I think opened the  
24 eyes of many, as it captured the fact that among  
25 the insurrectionists there were licensed peace

1 officers who took part in that violent action.

2           The current presidential  
3 administration and for years the FBI have  
4 recognized the threat that racial supremacists'  
5 ideology, organization and action poses to public  
6 safety, and also observed the presence of that in  
7 our nation's -- among our nation's rank and file  
8 peace officers.

9           We attempted at the State  
10 Legislature via statutory action to ban such  
11 affiliation with racial supremacy groups. However,  
12 the POST Board has, in my opinion, the statutory  
13 authority to establish this standard as a condition  
14 for licensure. I do believe it's appropriate for  
15 law enforcement subject matter experts, which is  
16 what we demand of and expect of the POST Board  
17 itself to be, to forward these kinds of proposals  
18 as a way to improve policing in our state.

19           I will close by saying that strong  
20 research has long observed that the effectiveness  
21 of our public safety systems are tied to the level  
22 of trust that regular citizens have in the conduct  
23 of individual peace officers as well as our police  
24 departments, our sheriff departments, our organized  
25 law enforcement units. The proposals before you

1 are meant to evoke that trust, to secure that  
2 trust. This is particularly important in our day  
3 and age. It always has been important. But it's  
4 particularly important in our day and age as our  
5 society continues to grow in its rich racial,  
6 cultural, linguistic, religious and other aspects  
7 of diversity, and as that that diversity at least  
8 currently sees very few connections with those that  
9 are populating our social institutions, including  
10 our law enforcement institutions.

11 I look forward to the day when all  
12 these institutions very strongly reflect the  
13 incredible diversity. But even then, this level of  
14 trust concerning the ability of law enforcement to  
15 observe the constitutional rights of all our  
16 residents particularly be free from physical harm  
17 is going to continue to be a really critical  
18 element of whether or not we will have a safer  
19 state or one that is less safe. I believe that  
20 these proposals before you have that goal in mind  
21 and I am real pleased to see the action of the POST  
22 Board.

23 I want to particularly acknowledge  
24 the difficult, in-depth conversations and opening  
25 of minds and engagement that that Board has been

1 about in preparing these proposals. I know it's  
2 difficult for any profession to be able to  
3 establish these kind of strong proposals of  
4 themselves. The human tendency I think is, hey,  
5 just trust me. And usually that works pretty well,  
6 but not at the systems level. Certainly not when  
7 it comes to speaking of standards. But I do want  
8 to acknowledge the openheartedness and the tough  
9 engagement particularly that our law enforcement  
10 representatives on our POST Board engaged in in  
11 exploring these issues and forwarding the proposals  
12 for us.

13 Judge and everyone else, thank you  
14 for this opportunity to share a few brief words  
15 here this evening.

16 JUDGE TODNEM: Thank you, Chair  
17 Mariani. Your comments are appreciated and noted.

18 Are there any other individuals  
19 wishing to comment? I do see we have one person in  
20 the queue, Mr. Paul Bosman or Bosman. I will call  
21 him here to comment.

22 But in the meantime, I want to  
23 quick make another call out to anyone else who  
24 would like to speak, indicate that interest in the  
25 chat or by pressing star 3 if you are attending by



1 phone.

2                   And with that, Mr. -- you know,  
3 I'm going to call you Paul, and you can tell me how  
4 to pronounce your last name.

5                   PAUL BOSMAN: Thank you, Your  
6 Honor. It's Paul Bosman. I'm chief counsel for  
7 Communities United Against Police Brutality.

8                   I appreciate the fact that the  
9 POST Board has gone from only removing people's  
10 licenses in the case of conviction of a felony to  
11 actually establishing a policy. And I'm glad we  
12 are here to talk about it. So I could not not  
13 comment.

14                   There are a couple of areas that I  
15 have some concern about that aren't part of the  
16 recent changes. And I want to talk about those.  
17 6700.0675E(2) waives psych evaluations for new  
18 officers upon transfer. The psych eval is, at  
19 least in the current format, largely limited to the  
20 history of people, you know, a battery of tests  
21 regarding areas that might concern an officer's  
22 work, and we do that before making someone an  
23 officer. But once they are moving, we are waiving  
24 right now a psych eval for a new officer that's  
25 transferred from another place.

1 I think that everyone would agree  
2 that law enforcement is stressful work, but  
3 sometimes does psychological damage to the people  
4 who are involved in it. And some folks handle that  
5 well and some not so well. So I think waiving the  
6 psych eval for transfers to a new place does not  
7 serve the state well. Does not serve the citizens  
8 well. And for that matter, does not serve the  
9 officers well who may have lost one position and  
10 taken another position as a result of some of the  
11 friction of the job. And this is a way to stop  
12 them and help them get help, as well as to make  
13 sure that the officers who are transferring from  
14 department to department are at least as safe as  
15 the new ones we are getting out of school. That's  
16 the first point.

17 The second point is 6700.1610,  
18 subpart 3 which gives non-law enforcement people  
19 who are reporting incidents that might affect  
20 people's licensure only 10 days to report.

21 I do a lot of work with folks who  
22 have negative interactions with the police and  
23 oftentimes it takes them a great deal of time just  
24 to deal with the stress, with the trauma of that  
25 negative interaction before they could possibly

1 make a report. And to be honest with you, it will  
2 take more than 10 days for most people to figure  
3 out where this reporting mechanism is with the POST  
4 Board. So I think that extending that -- you  
5 should not ask the lawyer who represents the folks  
6 who have been victims of police, but less than 90  
7 days is ludicrous. I would extend it farther than  
8 that.

9                   Finally, there is a change that I  
10 don't quite understand. Perhaps someone more  
11 knowledgeable can explain to me 6700.0700, 1, C  
12 where it strikes the requirement to submit to the  
13 screening in the earlier section 0675 as a  
14 requirement for licensure. It would seem that  
15 requiring people to submit to a required exam would  
16 only make sense. I'm not sure why that's stricken.

17                   But those are my comments. Once  
18 again, I appreciate the Board's effort and working  
19 with community members as well as law enforcement  
20 to come to this compromise. Thank you.

21                   JUDGE TODNEM: Thank you,  
22 Mr. Bosman. We appreciate your comments.

23                   Again, I don't see anyone in the  
24 queue at this time. So if there are other people  
25 who would like to make a comment, I encourage you

1 to do so. The Board held two hearings because they  
2 are greatly interested in hearing public comments.  
3 Yesterday was the first day of the hearing and  
4 today now is the second day.

5 Again, please express your  
6 interest in the chat or press star 3 if you are  
7 attending by phone. I will make a couple more  
8 calls for any additional comments.

9 Okay, I do see one more here.  
10 Mr. Richard Hodsdon, if you would like to come  
11 forward.

12 RICHARD HODSDON: I am waiting for  
13 the video to start.

14 JUDGE TODNEM: Okay.

15 RICHARD HODSDON: Are you able to  
16 see that now?

17 JUDGE TODNEM: Not yet.

18 RICHARD HODSDON: I'm able to see  
19 myself. Now maybe you can see me.

20 JUDGE TODNEM: Yes, we can see you  
21 now. Thank you, Mr. Hodsdon.

22 RICHARD HODSDON: Thank you, Your  
23 Honor. For the record, my name is Richard Hodsdon,  
24 H-o-d-s-d-o-n. I am general counsel of the  
25 Minnesota Sheriffs' Association, a longtime lawyer

1 and prosecutor and the POST Board's first lawyer  
2 way back when.

3 I did testify yesterday and I'm  
4 not going to replot that ground. I simply want to  
5 have a thought or comment as to the testimony that  
6 was previously presented just a short time ago.  
7 Specifically the testimony of Representative  
8 Mariani. He generally has acknowledged that much  
9 of what he is supporting here through some of these  
10 POST Board rules are concepts or ideas that certain  
11 members of the Legislature sought to get adopted by  
12 legislation. They weren't able to convince members  
13 of the Legislature, the 201 Legislators of the  
14 wisdom of some of these provisions. And I think as  
15 you consider, you and Judge Lipman consider the  
16 reasonableness, that should bear great weight the  
17 fact that thoughtful, caring members of the  
18 Legislature felt that many of these areas were  
19 overreach, went too far, would inhibit recruitment  
20 and retention of police officers. All the  
21 testimony you have heard thus far I think spoke  
22 loudly as to why some of these items we've talked  
23 about in terms of First Amendment, Brady-Giglio and  
24 all the other topics that have been discussed have  
25 simply gone too far.

1                   And as many of those who testified  
2 yesterday no one in law enforcement testified that  
3 having racial extremists was a good idea. But we  
4 are still back to the fact that this rule as  
5 proposed doesn't specifically exclude people who  
6 are racial extremists. Only white extremists.  
7 Which starts to sound very much like some First  
8 Amendment issues. So a much broader view as we  
9 step back I would propose and suggest needs to be  
10 considered.

11                   With that, I don't have any other  
12 questions, unless you have any for me, Judge.

13                   JUDGE TODNEM: Thank you,  
14 Mr. Hodsdon. I just want to quick ask, you had  
15 mentioned that you would like Judge Lipman and I to  
16 consider the reasonableness of these proposed rules  
17 in light of the Legislature not passing  
18 legislation.

19                   Could you please clarify if you  
20 are talking about anything specifically or to  
21 rules, just to -- you had mentioned conceptually,  
22 the Legislature had talked about some of these  
23 things conceptually. So I just want to make sure I  
24 understand when you were referring to the  
25 reasonableness, are you referring to the rules just

1 generally or if there were certain specifics? You  
2 mentioned a couple of items.

3 RICHARD HODSDON: Sure, Your  
4 Honor. And one of the items that a prior testifier  
5 addressed was the idea of racial versus white  
6 extremists. So I'm directly responding to that.  
7 Which was part of the legislative package.

8 And to the extent other elements  
9 of these proposed rules were also introduced as  
10 part of the so-called police reform legislation, I  
11 think the argument is equally applicable to those.

12 JUDGE TODNEM: All right. Thank  
13 you. All right. I see that we have another  
14 commenter. Mr. Schneider. Mark Schneider.

15 Again, before we go to  
16 Mr. Schneider, I do want to put another call out  
17 for anyone interested in speaking, please indicate  
18 that interest in the chat messages or by pressing  
19 star 3 if you are attending by phone.

20 And with that, Mr. Schneider.

21 MARK SCHNEIDER: Good evening,  
22 Your Honor and participants. My name is Mark  
23 Schneider. M-a-r-k. Last name Schneider,  
24 S-c-h-n-e-i-d-e-r. I am general counsel at Law  
25 Enforcement Labor Services and I'm also

1 representing the Minnesota Police and Peace  
2 Officers Association as part of these proceedings.

3 I had the opportunity to sit  
4 through the hearing yesterday and the hearing this  
5 evening, and I hear common themes and goals of  
6 public safety, fairness and responsibility. And  
7 really that's what we are all seeking. And I'm not  
8 overstating that. We all want what is fair, we all  
9 want what is responsible. And the underlying goal  
10 and necessity is public safety.

11 Representative Mariani talked  
12 about preserving and honoring the constitutional  
13 rights of all of Minnesota's citizens. And I agree  
14 with him on that. It should be all citizens from  
15 all walks of life in all professions, including  
16 licensed peace officers.

17 I think we can all agree that what  
18 happened in May of 2020 was disheartening to say  
19 the least. It was despicable and disconcerting.  
20 But with that said, I would also like to comment  
21 that Mr. Butay yesterday indicated that there  
22 really aren't complaints or meritless complaints  
23 filed against police officers. And based on my  
24 experience here at LELS and otherwise and also  
25 prosecuting for various municipalities in the metro



1 area, I know there are individuals who have filed  
2 complaints against officers after they have been  
3 cited for an offense and after they have been  
4 arrested in order to mar and subject that officer  
5 to unfounded, unsubstantiated allegations while  
6 attempting to improve their position with  
7 particular criminal charges.

8           We talked about retention and  
9 recruitment yesterday. There was much discussion  
10 about that. And that really is an underlying  
11 concern I think for all of us. We want to make  
12 sure that we are retaining qualified, good cops and  
13 also recruiting qualified and good cops. And the  
14 rules as proposed will have the opposite effect.  
15 It is going to keep those who are well-qualified  
16 and who want and should be officers not only from  
17 applying for a licensed peace officer position,  
18 but, quite frankly, remaining in that profession.

19           We have seen floodgates of  
20 officers leaving agencies after what has happened  
21 and where things are at politically and otherwise.  
22 And these are not only agencies in the metro area.  
23 These are agencies throughout the state of  
24 Minnesota, small town communities, counties.  
25 Everybody is suffering the effects of rising crime

1 and concerns about public safety.

2 I would also like to just speak a  
3 little bit about my experience here at LELS in  
4 terms of investigation, arbitration and grievance  
5 process. I did talk yesterday about the interplay  
6 of PELRA and rules and that the Legislature has  
7 spoken under PELRA, the Public Employment Labor  
8 Relations Act, as to how specifically licensed  
9 peace officers' disciplinary matters should be  
10 handled. Likewise, the rules of the Bureau of  
11 Mediation Services deal with that issue.

12 There was much concern and  
13 discussion not only yesterday, but previously, that  
14 bad cops are getting off. They are not being  
15 disciplined, there is not oversight or sufficient  
16 oversight of these officers. But since 2016 of the  
17 cases that Law Enforcement Labor Services has dealt  
18 with from the period January 16 -- 2016, I'm sorry,  
19 to June of 2020, our members were involved in 635  
20 complaints of investigations. Officers were  
21 disciplined in 538 of those 635 instances. There  
22 was no discipline in 97 of those cases.

23 So just those statistics -- and  
24 again, we do not represent all officers in the  
25 state of Minnesota. And that is LELS does not. We

1 do not represent Minneapolis, St. Paul, the Duluth  
2 federations. There are other separate associations  
3 and federations.

4           The discipline that went to  
5 arbitration, of the 538 cases between January 2016  
6 and June of 2020 20 cases went to arbitration. Of  
7 those 20 cases 8 were terminations and the balance  
8 were other cases. So it's not a situation  
9 statewide where there is no discipline, no  
10 reckoning for actions of officers. And, quite  
11 frankly, the agencies throughout the state have  
12 done a good job in monitoring their officers in  
13 order to maintain the goals and the public trust of  
14 those particular communities, counties, cities and  
15 regions.

16           Another topic that was discussed  
17 yesterday and I think is really a problematic point  
18 in these rules is Brady-Giglio. What is  
19 Brady-Giglio? It's really an amorphous and  
20 ambiguous and, quite frankly, ever-changing concept  
21 or requirement. It's up to the county attorneys,  
22 the 87 county attorneys in the state of Minnesota  
23 to disclose exculpatory evidence. They are to make  
24 a determination and disclose to defendants and or  
25 their attorneys what evidence may be available that

1 would be exculpatory or in favor of the defendant.

2           Brady-Giglio disclosure is not an  
3 automatic bar to testimony. In fact -- and I think  
4 that is the attitude with the public, is that if  
5 you are a Brady-Giglio cop, you can't be a cop.  
6 But that's not the case. There is in camera review  
7 by a district court at the trial court level to  
8 determine whether or not that proposed or  
9 prospective exculpatory evidence should be  
10 admissible in that particular trial and only under  
11 certain circumstances.

12           But the underlying concern with  
13 Brady-Giglio in the state of Minnesota and more  
14 particularly with these rules and the reliance on  
15 these rules to the Brady-Giglio designation is that  
16 there is no consistent standard or procedure  
17 regarding Brady designations or disclosure.

18           I have talked to several county  
19 attorneys throughout the state regarding their  
20 Brady-Giglio designations, standards and  
21 disclosure, and they readily admit there is not one  
22 standard. In fact, I don't know if it's for a  
23 complete fact, but I would venture to guess, Your  
24 Honor, there are 87 different standards of  
25 disclosure and designation, or at least a

1 differentiation to some respect.

2           That's the problem here. If we  
3 are providing for either the standards of conduct  
4 or the examination standards for an applicant that  
5 provides for or requires if you are on a Brady list  
6 or if have been designated as a Brady-Giglio by the  
7 county attorney, you need to disclose that.

8           But the concern we have here  
9 constitutionally and by disparate treatment -- by  
10 way of example, I could be working in Hennepin  
11 County and that county attorney for some reason  
12 designated me a Brady officer. But if I was in the  
13 neighboring county or Carver County, Dakota County,  
14 Shakopee, I may not be designated as a Brady  
15 officer. That's the problem. If I worked in one  
16 county or municipality versus another county or  
17 municipality, I may or may not be a Brady officer.  
18 And it's not fair, just, reasonable or  
19 constitutional to put that burden on the applicant  
20 or on the licensee to make that disclosure or to  
21 have a prosecuting authority make that disclosure.  
22 It should not be part of the licensing or  
23 discipline process to the POST Board.

24           It is problematic to base a  
25 decision regarding licensing on applicants or

1 disciplining a licensee based on what the county or  
2 the officer works in. There needs to be Brady  
3 legislation and standards on a statewide basis in  
4 order to make them uniform, just and consistent.  
5 And that's only when it would be fair to  
6 incorporate those standards into a POST Board rule.

7           No one wants bad cops. But we  
8 want to encourage good applicants and licensees, as  
9 I discussed. After May 2020, the Legislature acted  
10 and the bill was passed and signed into law. And  
11 it's generally been called a Peace Officers or  
12 Police Officers Accountability Bill. And there  
13 were various statutes that were passed as part of  
14 that package. But the laws that were passed by our  
15 elected officials were the ban on neck restraints  
16 and choke holds, a ban on warrior style training,  
17 the enactment of the duty to intercede statute, the  
18 change in the arbitration rules that I touched upon  
19 yesterday, training regarding mental health and  
20 autism, and the Advisory Council for the POST  
21 Board. There was no legislation passed by either  
22 House or signed into law by the Governor directing  
23 or enabling the POST Board to promulgate many of  
24 the rules that are proposed and now under  
25 consideration by this Court.

1           The rules must be clear,  
2 reasonable, necessary and fair. And fair to  
3 everybody. There is due process, notice, knowing  
4 what is and is not prohibited or allowed, along  
5 with other constitutional issues that were talked  
6 about yesterday.

7           Specifically in reference to  
8 6700.0100, lines 1.2 to 1.8, the definition of  
9 discriminatory conduct. The modified rule would  
10 read -- and I'm just citing part of that rule, Your  
11 Honor -- that conduct which would lead an  
12 objectively reasonable person to doubt the actor's  
13 ability to perform the duties of a peace officer in  
14 a fair and impartial manner.

15           The Board recognized the infirmity  
16 of the previous proposed language. But the new  
17 proposed language in terms of doubting an actor's  
18 ability to perform the duties of a police officer  
19 is the same thing. They are trying to look at  
20 future conduct and predict future conduct.

21           We don't want a situation where we  
22 have a thought police through the POST Board where  
23 we think so-and-so is going to do this. We all  
24 know that we were all young once, we made stupid  
25 mistakes, but we have learned from those mistakes

1 and we've moved on and become adults that respect  
2 others and work with others and through the system.

3           Beyond that, Your Honor, in terms  
4 of the discriminatory conduct, there is no specific  
5 standard or definition in terms of what is an  
6 egregious act. What exactly is discriminatory  
7 conduct and how are we to discern that and give  
8 adequate notice to licensees or applicants that  
9 what they have done or what a psychologist thinks  
10 would prevent them from becoming a licensed peace  
11 officer?

12           Also, Your Honor, the rule at line  
13 3.1 to 3.2 talked about -- and this is the  
14 examination standards, but there is some similar  
15 language in the standards of conduct where the  
16 Board did amend Brady-Giglio impairment disclosure  
17 to a bullet point list of events or concerns or  
18 convictions that would lead to disclosure or  
19 disqualification. But again, the final bullet  
20 point talks about a Brady-Giglio disclosure.

21           The concerns with that bullet list  
22 are these: It talks about each applicant who is  
23 currently or previously licensed as a peace officer  
24 must disclose any disciplinary or court findings  
25 related to the applicant that involves those nine



1 bullet points.

2           The rule is not fair or just or  
3 constitutional. And the more appropriate language  
4 of that rule, Your Honor, would be a final  
5 disciplinary or a final court finding after the due  
6 process right of the applicant or the involved  
7 person are satisfied under the PELRA legislation or  
8 through the constitution and criminal justice  
9 system. And I'm talking about from the officer's  
10 standpoint, Your Honor.

11           The bullet point regarding  
12 mishandling of evidence or property, and it was  
13 touched upon a little bit yesterday. What about  
14 that mistake or where the officer gets called away  
15 to another call and forgets that bag of marijuana  
16 in his back pocket or her back pocket? That  
17 happens. They are busy. There are lots of  
18 important things going on. That should be  
19 qualified as an intentional mishandling of evidence  
20 or property that is after final disciplinary or  
21 final court findings.

22           Another issue, Your Honor, is that  
23 there is no process to contest an officer's  
24 placement on a Brady list. And I'm using the term  
25 Brady list loosely. Because many are of the

1 opinion that there are not such things as a Brady  
2 list. But we know there are designations and  
3 disclosures.

4           The rules, likewise, if an  
5 applicant is found to be disqualified to obtain a  
6 peace officers's license, the duty is on the CLEO  
7 to notify the POST Board. But the applicant is not  
8 given an opportunity to address that alleged  
9 disqualifying event or to a due process  
10 consideration to provide his or her point of view  
11 what happened and to ensure that there is complete  
12 and full information before the CLEO of that  
13 particular agency in order to determine whether  
14 there is actually a disqualifying event. So again,  
15 we are talking about due process and other  
16 constitutional considerations.

17           Throughout the rules there is  
18 reference, Your Honor, for reference at line 4.10,  
19 again, regarding prosecuting authorities and the  
20 law enforcement agency's requirement that there be  
21 disclosures of certain events and conduct and  
22 records and investigations. Again, we would submit  
23 that the reference to disciplinary -- or court  
24 findings should contain a qualifier or a final.  
25 But the bullet point third from the bottom talks

1 about unauthorized, unreasonable or excessive use  
2 of force.

3                   As we all know, words do matter.  
4 They all have meaning. By itemizing three,  
5 unauthorized, unreasonable or excessive, do those  
6 each have different meanings? Do they mean  
7 different things? The statute talks about  
8 reasonable force, unauthorized use of force. And  
9 it would be proper and reasonable under these rules  
10 to reference consistent language that would be  
11 consistent with statutes dealing with the use of  
12 force, the use of deadly force, and the affirmative  
13 defense as a justification for use of force.  
14 Again, by changing words, by using different words,  
15 it makes it difficult not only for the public but  
16 for the licensees and applicants to know what  
17 activity is prescribed or what they can and cannot  
18 do.

19                   Rule 6700.0675, the psychological  
20 screening. Again, it talks in terms of  
21 discriminatory conduct. And I will rely on my  
22 previous written comments, my comments before this  
23 Court, and also some post-hearing comments that we  
24 will be making.

25                   Now, the rule -- the standard of

1 conduct rule -- or minimum selection standards  
2 rule, Your Honor, talks in terms of convictions for  
3 various offenses. And that's at line 7.12 and  
4 beyond. Again, there is no time limit or  
5 prescription or period of time that the applicant  
6 needs to disclose or is required to disclose these  
7 disqualifying events or that these events would be  
8 disqualifiers. But just as in the impeachment  
9 rules of the Rules of Evidence there should be and  
10 I think reasonably should be a time limit on how  
11 far back the POST Board would look to applicants  
12 and/or licensees.

13                   And the reason I say that is that  
14 the Board has indicated that certain events or  
15 incidents will be disqualifiers. But now they are  
16 adding, for instance, theft at 9.1. Theft under  
17 Minnesota Statute Section 609.52 is a disqualifier.  
18 Except that misdemeanor theft of movable property  
19 valued at 500 or less is not an automatic  
20 disqualification.

21                   Line 9.14, a disqualifier would be  
22 a narcotics or a controlled substance law. And  
23 then it goes on to say excluding any non-felony  
24 marijuana offenses. But these truly, theft and use  
25 of narcotics or controlled substances are Brady

1 issues for licensed peace officers. And the reason  
2 thefts and the other incidents or offenses are  
3 listed and are important is because we want  
4 licensed peace officers who have obeyed the law or  
5 followed the law. Understanding that mistakes are  
6 made and people change, but to exclude non-felony  
7 marijuana offenses and theft cases, misdemeanor  
8 theft cases is not reasonable, rational or  
9 necessary.

10           The rule, Your Honor, at lines  
11 11.1 through 11.18 talks about sort of the factors  
12 we have already discussed in terms of disqualifying  
13 offenses, offenses that are going to trigger  
14 investigation by the Complaint Investigation  
15 Committee or the POST Board. And again, 11.16  
16 there should be a qualifier of intentional  
17 mishandling of evidence or property.

18           Likewise, we had originally  
19 commented and requested that the items at 11.6  
20 through 11.11, they do not reference the  
21 appropriate statute like 11.7 does, sexual  
22 harassment as defined in Minnesota Statute Section  
23 363A.03, subdivision 43. In order to allow notice  
24 or the opportunity for applicant licensees to be  
25 aware of what events are going to trigger review or

1 discipline, why not reference the obstructing legal  
2 process and the statutory terms? Why not reference  
3 fleeing by means other than a vehicle and the  
4 statute it refers to? Carrying a pistol while  
5 impaired by an intoxicating substance, there is a  
6 statute that should be referenced so that everyone  
7 is clear what the requirements are. What does it  
8 mean by impaired by an intoxicating substance? Is  
9 that under the influence? Is it something  
10 different than what the statute provides?  
11 Similarly, driving while impaired by an  
12 intoxicating substance, what is that standard? Why  
13 not reference Minnesota statute that deals with  
14 driving while impaired offenses in order to place  
15 everybody on notice and have fair opportunity to  
16 understand what is or is not prescribed.

17           Now, there was discussion about a  
18 licensee's obligation to report an arrest or  
19 criminal charge or any violation of standards of  
20 conduct to the Board and the officer's chief law  
21 enforcement officer within 10 days. And that's at  
22 line 12.5.

23           Reducing the time period to report  
24 to 10 days is not reasonable. The current  
25 requirement and time frame is 90 days. And that is

1 a reasonable time frame of 90 days. In 10 days,  
2 I've given the more onerous reporting requirements,  
3 the standards of conduct. If they continue, Your  
4 Honor, or if they are promulgated and enacted, the  
5 10-day time frame is not reasonable for a licensee.  
6 And I can represent that to the Court based on  
7 experience.

8 I represent officers before the  
9 POST Board, and until or unless an officer is  
10 notified -- an officer may not be notified of an  
11 Internal Affairs investigation, for instance, until  
12 20 days, 30 days, 10 days, whatever it is, after an  
13 incident, which may or may not trigger the  
14 mandatory reporting requirement under the POST  
15 Board rules. And if that 10 days passes, now all  
16 of a sudden that officer is opening him or herself  
17 up to a complaint in front of the POST Board  
18 because they did not report within that 10-day time  
19 frame. That is not reasonable or appropriate. And  
20 again, I would direct the Court's attention to  
21 6700.1610, subpart 2 again about the licensee  
22 reporting requirement. And that should remain at  
23 90 days.

24 JUDGE TODNEM: Mr. Schneider, I'm  
25 just going to interrupt briefly for a quick moment.

1 I don't see anyone else in the queue to speak. But  
2 I do want to renew the call out for any additional  
3 commenters. If I don't receive any more, then,  
4 Mr. Schneider, you may continue. But I do want to  
5 give an opportunity for other members of the public  
6 to provide oral comment at this time.

7 MARK SCHNEIDER: Thank you, Your  
8 Honor. And I know I have taken a fair amount of  
9 time this evening. But I just want to reiterate,  
10 if you have any questions or anybody else has  
11 questions, I would be happy to answer those. But  
12 the proposed rules as drafted are beyond the  
13 Board's authority, are not necessary and are not  
14 reasonable.

15 The issue should be returned to  
16 the POST Board and within its authority involve all  
17 stakeholders in the partnership with the POST Board  
18 to propose rules that are in compliance with state  
19 law, policies and training mandates. This is  
20 consistent with law. But that's what the POST  
21 Board's mission statement says, too, we are  
22 partners with our stakeholders in seeking and  
23 obtaining compliance with state policies and  
24 training and mandates.

25 Your Honor, we need to ensure that



1 all constitutional rights of all Minnesota  
2 residents are honored and fulfilled, and we are all  
3 willing to go back to the drawing board, so to  
4 speak, and come up with rules that are reasonable  
5 and that would fulfill and satisfy the concerns of  
6 all Minnesota residents. Thank you.

7 JUDGE TODNEM: Thank you,  
8 Mr. Schneider. I just have a quick question. You  
9 had mentioned that you would want to revisit these  
10 rules and make sure that all stakeholders were  
11 involved. Is there a particular group that you  
12 feel has not participated in this process?

13 MARK SCHNEIDER: What my point  
14 there was, Your Honor, is that initially the Board  
15 proposed -- made a first draft of proposed language  
16 and the horse was essentially out of the barn. And  
17 by that time it was more of a defensive and  
18 reviewed type scenario rather than being an actual  
19 participate -- or participant in what should be in  
20 the rule, how should the rule read, and what needs  
21 to be obtained or required as a result of the rule.

22 I know the first round of  
23 comments, Your Honor, the POST Board did make  
24 modifications that recognized deficiencies. But  
25 those modifications did not go far enough, as I

1 outlined here and in written comments.

2                   Likewise, Your Honor, I guess I  
3 would like one further comment would be, you know,  
4 the addition of the public assembly First Amendment  
5 activity policy has not been authorized by the  
6 legislature and is something the POST Board has  
7 taken on not -- or inconsistent with prior practice  
8 where the legislature has authorized or directed  
9 the POST Board to come up with various policies and  
10 such. So that would be another basis for the  
11 concern regarding the authority and the  
12 reasonableness and necessity of the rules.

13                   JUDGE TODNEM: Thank you,  
14 Mr. Schneider. All right, are there any other  
15 individuals wishing to comment at this time?  
16 Please indicate in the chat message or by pressing  
17 star 3 if you are attending by phone. Any other  
18 commenters? This is your opportunity. We welcome  
19 your comments. We encourage your comments. And  
20 last call for any comments.

21                   If you are having technical  
22 difficulties, you can send a chat indicating that  
23 as well or by pressing star 0 if you are on the  
24 phone.

25                   I will just check with

1 Ms. Gaspard. I do not see any other names in the  
2 queue, and I would just like to confirm with you.

3 MS. GASPARD: We don't have any  
4 other names in the queue.

5 JUDGE TODNEM: Okay. Then with  
6 that, I would just like to quick summarize and say  
7 thank you to everyone who participated and provided  
8 comments or attended this hearing.

9 Again, I will remind everyone of  
10 the deadlines. The 20-day comment period closes at  
11 4:30 p.m. on December 6th and rebuttal comments  
12 close on December 13 at 4:30 p.m. And with that,  
13 this hearing is adjourned. Thank you.

14

15 (The Hearing adjourned at 6:40 p.m.  
16 on Wednesday, November 16, 2022.)

17

18

19

20

21

22

23

24

25

## 1 REPORTER'S CERTIFICATE

2  
3  
4 I, Susan M. Strom, do hereby  
5 certify that the above and foregoing transcript,  
6 consisting of the preceding 51 pages is a correct  
7 transcript of my stenograph notes, and is a full,  
8 true and complete transcript of the proceedings to  
9 the best of my ability.

10  
11  
12  
13 Dated November 17, 2022

14  
15  
16 /s/Susan M. Strom  
17 Susan M. Strom  
18 Court Reporter