

LAW ENFORCEMENT OFFICERS
STANDARDS AND TRAINING COMMISSION
MICKELSON CRIMINAL JUSTICE CENTER
Commission Conference Room
Pierre, SD
July 18, 2018

The South Dakota Law Enforcement Officers Standards and Training Commission meeting was called to order by Chairman Gortmaker at the hour of 8:30 a.m. CST on July 18, 2018, in the Commission Conference Room of the George S. Mickelson Criminal Justice Center, Pierre, South Dakota.

Members present: Mike Leidholt, Hughes County Sheriff; Tom Wollman, Lincoln County State's Attorney; Randall Rosenau, Lawrence County Commissioner; Jo Vitek, Lake Area Technical Institute; Matt Burns, Sioux Falls Chief of Police; Steve Allender, Rapid City Mayor; Marty Jackley, Attorney General; and Robert Perry, Special Agent, FBI; Bryan Gortmaker, Chairman; and Chad Mosteller, Executive Secretary. Others present included Kim Knecht, Assistant Training Administrator; and Greg Williams, Advanced Training Coordinator. Commission Members David Lawrence, Chief of Police, Standing Rock Sioux Tribe; and Craig Price, Superintendent, SD Highway Patrol, were absent.

In accordance with SDCL1-25(1), official meetings open to the public, time was allowed by Chairman Gortmaker for public comments on the agenda items. No public comments were heard or received reference the agenda items.

Chairman Gortmaker declared a quorum present and started the order of business with the review of the previous meeting's minutes.

- February 27 - 28, 2018 minutes of the South Dakota Law Enforcement Officers Standards and Training Commission were approved as corrected on a **motion** by Commission Member Rosenau, **second** by Commission Member Vitek.

Advanced Training Coordinator, Greg Williams reviewed the updates to the current LES application and personal history form.

The following changes were made to the LES application and personal history statement:

- Type of application (reciprocity, reserve, or basic) was added to first page adjacent to Department;
- Second page #14. Vehicle Operator's License - License # column was added;
- Second page #16. Have you ever had your law enforcement certification suspended, edited to include language about dismissals or employment termination in other states;
- Second page #17. Have you unlawfully used any prescribed drug,added to ask about illegal drug use;
- Third page #21. Employment - column added for supervisor name and number.

The following changes were made to the Medical Verification of Physical Ability form;

- The examining physician will be required to initial Box 3 - Box 8 of the form.

Motion simultaneously by Commission Members Vitek and Burns to approve the LES and Medical form updates, **second** by Commission Member Rosenau, motion **approved**.

Grant requests were the next items of business:

The Sioux Falls Police Department submitted a \$7,140.00 request to host a *NRA Select-Fire Instructor Training* in September 2018. A survey conducted of agencies, indicated there is a void in this area of training within the State. A full auto gunfire requires practice and training to control in an accurate manner. This training will provide the necessary training not only in the act of controlling the gunfire, it will also provide the instruction regarding the appropriate use of fully automatic firearms. There is no minimum number required for attendance to hold the course, the maximum number would be 12 participants. **Motion** by Commission Member Leidholt to approve the NRA Select-Fire Instructor Training grant request with a minimum of eight participants, **second** by Commission Member Perry, motion **approved**.

A \$7,500.00 request to host a *Blue Warrior Tactics* class has been submitted by the Roberts County Sheriff's Office. The two-day session is a class to help law enforcement on the war on drugs. The September 2018 session will be taught by Ed VanBuren and Brian Gagye. VanBuren will instruct the Criminal and Drug interdiction. Gagye trains law enforcement in criminal psychology, drug smuggling, sex trafficking, etc. Minimum number is 15 attendees and maximum number of 45. **Motion** by Commission Member Wollaman to approve the Blue Warrior Tactics grant request with a minimum of 15 participants, **second** by Commission Member Rosenau, motion **approved**.

Cole Bernard, Sisseton Wahpeton Oyate Law Enforcement, and Gary Gaikowski, Sisseton/Wahpeton Agency Chief of Police, are before members requesting law enforcement officer certification eligibility. Bernard disclosed to staff he was dismissed from the Indian Police Academy in July of 2012 for violations of rules and regulations. Since then, Bernard has completed an AA degree from the North Dakota School of Science and a BA degree in criminal justice from Minnesota State University Moorhead. He has successfully completed all academic and skills portions of the 167th Basic 13-Week Certification Session. **Motion** by Commission Member Vitek to accept his eligibility for certification and receive his South Dakota Law Enforcement Officer certification, **second** by Commission Member Perry, motion **approved**.

Cody Seaboy, Sisseton Police Department, along with Chief of Police Jim Croymans, are present requesting certification eligibility. Seaboy had disclosed to staff members he did not successfully complete the 2015 and 2016 Police Officer Training Programs at the Indian Police Academy. He was dismissed for academic failure, no disciplinary issues were found. Seaboy has successfully completed all academic and skills portions of the 167th Basic 13-Week Certification Session. Chief Croymans advised it was probably his oversight that the information was not included on the LES application for certification. Seaboy is a good officer and has served his community well. Seaboy did not successfully complete the Indian Police Academy Training but his desire to become a police officer did not deter him from successfully completing the South Dakota basic certification training program to become a certified officer. A letter from the Mayor of Sisseton was received expressing his full support of Seaboy receiving the officer certification he has earned. **Motion** by Commission Member Vitek to accept his eligibility for certification and grant his South Dakota Law Enforcement certification, **second** by Commission Member Rosenau, motion **approved**.

OST Judicial Committee Chairman Stanley Little Whiteman, and **Robert Ecoffey**, OST Chief of Police, are before members seeking reciprocity eligibility. Ecoffey started his law enforcement career in 1975 and was actively involved in law enforcement until 2005. He was the training officer for OST. Ecoffey completed the South Dakota reciprocity training and was certified in 1985. Ecoffey has attended several training programs. Ecoffey completed the academic portion of the current reciprocity training week but did not demonstrate proficiency in the EVOC and firearms skills portion of the training. Ecoffey has not completed the reciprocity exam. **Motion** by Commission Member Jackley to accept the application for reciprocity eligibility and to complete the skills portion requirements, **second** simultaneously by LEOSTC

Commission Members Allender and Perry. Ecoffey advised members he is planning to take the exam in the near future. He will return for the week of EVOC training in the next basic training session, and complete the firearms qualification requirements. Ecoffey indicated he may not successfully complete the EVOC skills training, especially the backing portion of the skills, due to a neck injury as he has difficulty with flexibility. Members discussed the possibility of a waiver for the EVOC skills portion. The EVOC practical skills is a standard for officer certification. LET can offer to have an instructor assist with remedial training for the EVOC course. Chairman Little Whiteman commented that Ecoffey's flexibility and neck injury were going to be an issue when hired. OST was looking for an administrator/supervisor and not to have someone on patrol. Discussion resulted in the consideration of certification reinstatement of Ecoffey's South Dakota law enforcement certification. **Motion** by Commission Member Leidholt to reinstate Ecoffey's South Dakota certification upon completion of the firearms qualification requirement, **second** by Commission Member Allender, motion approved. Previous motion, made and seconded, was withdrawn.

The next item of business is the request for another opportunity at handgun qualification to obtain certification as a South Dakota law enforcement officer.

Samantha Pulse and Brooke Reindburn, Lake Area Tech graduates, are considered probationary reciprocity candidates until their reciprocity training is completed. They and Lake Area Tech are requesting to be given another opportunity to demonstrate proficiency in firearms before being removed as candidates for reciprocity certification. Both have successfully passed the written exam, EVOC and Use of Force practical skills, but have not successfully passed the firearms qualification or the subsequent requalification. Per the articulation agreement, a graduate must demonstrate in the skills test the same level of skills in the areas of firearms and EVOC (emergency vehicle operations course) as are required in the Basic Certification Course. Both individuals have been working with firearms instructors to improve their firearms proficiency. **Motion** by Commission Member Burns to allow one more opportunity to qualify, **second** by Commission Member Wollman, motion **approved**. Record will reflect Commission Member Vitek was recused.

Sgt, Chris Hall, Rapid City Police Department, is appearing before members on behalf of **Christopher Holbrook**. The Rapid City Police Department is requesting certification reinstatement for Holbrook. Holbrook's certification expired in March of 2012. Holbrook served as a Rapid City Police Department reserve officer and was hired in 1995 as a full-time officer. Holbrook was certified in December 1995 and worked for the department until he resigned in March 2010. He left the department in good standing and started his own business. Holbrook has completed the department seven-week police training program including ICS and CPR requirements. **Motion** by Commission Member Wollman to approve officer recertification for Christopher Holbrook, **second** by Commission Member Burns, motion **approved**.

Tony Verchio, Training Manager, Pennington County Sheriff's Office, and **Blake Van Vrooman**, are present to request certification reinstatement. Van Vrooman's certification expired in February 2017. Van Vrooman attended the Basic and SD Highway Patrol Trooper academies and was certified in 2014. Van Vrooman was employed with the Highway Patrol until 2015; the Wyoming Department of Corrections as a correctional officer until 2016; and the SD Women's Prison as a correctional officer until 2018. Pennington County hired Blake in January 2018 as a correctional officer and a part-time non-benefited deputy. He will become a full-time deputy when he has met the eligibility requirements.

Van Vrooman has completed 160 hours of law enforcement specific continuing education including DV and the state firearms qualification course. **Motion** by Commission Member Allender to approve officer recertification for Blake Van Vrooman, **second** by Commission Member Perry, motion **approved**.

An update recommendation for the Radar/Lidar policy was provided to members by Waylon Eckert, Law LEOSTC

Enforcement Training instructor and D.A.R.E coordinator. The current radar policy recommends eight hours of classroom instruction. Lidar training is four additional hours. An additional 32-hours of field training is recommended to receive Radar/Lidar certification. An Operator Performance Report will be used to track the 32-hours of field training. Agencies that want to receive certification from Law Enforcement Training for a Radar/Lidar operator, can provide the form signed by a certified Radar/Lidar operator. Officers receiving the classroom instruction are qualified to operate Radar/Lidar but are not certified operators. It is recommended that an officer should not be allowed to operate a Radar/Lidar until they have been trained and have demonstrated the skills necessary to setup, test, and operate the equipment. The certification by Law Enforcement Training will verify this level of proficiency in the skills sets. Commission members had several questions and concerns. At the suggestion of Chairman Gortmaker, discussion and concerns will be continued at the next commission meeting.

The business portion of the meeting recessed at 9:50 a.m. The commission returned to session at 10:05 a.m. with a quorum present.

The commission proceeded with the scheduled hearing of **Jimmy Murphy**. Chairman Gortmaker turned the proceedings over to Hearing Office Paul Bachand. It was stated for the record this is the time and place for the hearing to consider the status of Murphy's certification as a law enforcement officer in the State of South Dakota. This will be an adversarial hearing to determine whether grounds exist for the revocation or suspension of Murphy's law enforcement certification. The hearing is held to determine whether Jimmy Murphy engaged in conduct unbecoming of a law enforcement officer based upon allegations in a complaint by Hamlin County State's Attorney John Delzer and/or the allegations contained in an amended complaint by Law Enforcement Training Administrator Chad Mosteller. If there is an adverse finding by the commission, they may, as a result of this hearing, revoke or suspended Murphy's SD law enforcement certification. The burden of proof, in this hearing is on the complainants, by clear and convincing evidence.

Jimmy Murphy is present with counsel Clint Sargent. Kelly Marnette, Assistant Attorney General, is acting legal counsel for the State. Murphy was advised of the hearing procedure. A stenographic transcription of the hearing will be made, and copies of this record will be available upon written request and tender of the cost thereof. See file for exhibits.

The hearing commenced with opening statements by both counsels, and continued with witness testimony, presentation of evidence and exhibits, cross-examination and questions by commission members and the hearing officer.

Members recessed for lunch at 12:05 p.m. and reconvened at 1 p.m. with all members present. The hearing reconvened with witness testimony, presentation of evidence and exhibits.

A short break was taken at 2:25 p.m. and returned to session at 2:35 p.m. with a quorum present. Hearing procedures continued with testimony, cross-examination, and questions by the hearing officer and commission members.

A break taken at 5:12 p.m. and back in session at 5:20 p.m. with all present. Upon conclusion of testimony, arguments by both parties, review of records, questions and discussion the evidentiary portion of the hearing concluded.

Members entered into executive session on a **motion** by Commission Member Burns, **second** by Commission Member Perry to further discuss their consideration, motion **approved**.

Members moved out of executive session and back into regular session on a **motion** by Commission LEOSTC

Member Rosenau. Proceedings resumed. Based upon deliberation, a **motion** was made by Commission Member Allender, I move that the law enforcement certification of Jimmy Murphy be revoked based on the clear and convincing evidence present and the fact that the allegations and assertions in the complaints have been approved, **second** by Commission Member Wollman. Motion **approved** by verbal response in the affirmative by all members. **Action: 8-0 Aye** (Wollman, Allender, Jackley, Perry, Burns, Vitek, Rosenau, and Leidholt).

Motion by Commission Allender to authorize the Chairman to sign the Findings of Fact, Conclusions of Law, and Order, **second** by Commission Member Leidholt, motion **carried**.

Assistant Attorney General Marnette will prepare the Findings of Fact, Conclusions of Law, and Order. The hearing proceedings were concluded at 6:35 p.m.

The business session of the meeting continued with the following reciprocity applications:

Kyle Zigan, Brandon Police Department, graduated from Bemidji State University in 2016 with a Bachelor of Science degree in Criminal Justice. There were no disciplinary actions and no derogatory information that would affect his ability to serve as a law enforcement officer. Zigan completed the Minnesota Peace Officer Licensing Exam in August 2017, and is eligible for a peace officer license. Zigan's background revealed no adverse information. Zigan successfully completed the reciprocity exam on March 5, 2018. Zigan has successfully completed the April reciprocity training week. **Motion** by Commission Member Perry to accept the reciprocity application for Kyle Zigan, **second** by Commission Member Rosenau, motion **approved**.

Lake Area Technical Institute students will complete the Law Enforcement Technology Program in May 2018. Per the Articulation Agreement between the SD Law Enforcement Officers Standards and Training Commission and Lake Area Technical Institute, the Standards and Training Commission agrees to administer to students in the final semester of the Law Enforcement program, a written reciprocity test and skills tests, or within two years of graduation. Nine students applied for reciprocity certification, six students passed the reciprocity exam, and four students have completed the reciprocity required skills testing. Two students (Samantha Pulse and Brooke Reidburn) did not pass the EVOC skills and firearms qualification requirements. Pulse and Reidburn attended and successfully completed the EVOC training week during the 167th Basic Certification session but failed the firearms skill retest requirement. **Motion** by Commission Member Leidholt to approve the four Lake Area students that have completed the reciprocity required skills testing, and approval of the two students upon completion of the firearms qualification requirement, **second** by Commission Member Perry, motion **approved**.

Kirk Buchholz, Pennington County Sheriff's Office, attended the Peace Officer Basic Academy in Douglas, WY completing 479 hours in April 2002. No disciplinary records were found. Buchholz left the Casper Police Department in May 2017 and was in good standing with POST when he left. The basic academy training combined with in-service training is equivalent to our basic 520-hour course. The background check revealed no adverse information. Buchholz completed the reciprocity exam in May 2018 and is scheduled to attend the September reciprocity training week. **Motion** by Commission Member Rosenau to approve the reciprocity application contingent upon the successful completion of the reciprocity training week, **second** by Commission Member Allender, motion **approved**.

Ethyn VanCamp, Charles Mix County Sheriff's Office, completed the Wisconsin Law Enforcement Officer Basic Training 520-Hour session in May of 2017 as part of an Associate Degree program at Northcentral Technical College, Wausau, WI. VanCamp was employed by the Wausau Police Department as a Community Service Officer from May - July 2017. VanCamp was hired by the SD Highway Patrol in November 2017. VanCamp completed the reciprocity exam in November 2017, and

entered the Highway Patrol recruit class as a reciprocity applicant. VanCamp withdrew from the recruit class on November 29, 2017. VanCamp is scheduled to complete the September one-week reciprocity training. **Motion** Commission Member Perry to approve the reciprocity application contingent upon the successful completion of the reciprocity training week, **second** by Commission Member Allender, motion **approved**.

The following canine teams have met the requirements of certification or recertification:

- Canine Team **Garrett Harmon and K9 Igor**, Chamberlain Police Department, have met the requirements for Drug Dog Detection certification on February 13, 2018.
- Canine Team **Matthew Hower and K9 Jary**, Rapid City Police Department, have met the requirements for Drug Dog Detection certification on March 6, 2018, and Patrol Dog certification on June 14, 2018.
- Canine Team **Deanna Johnson and K9 Dina**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on March 7, 2018.
- Canine Team **Donnie Farlee and K9 Beauty**, CRST Law Enforcement, have met the requirements for Drug Dog Detection certification on April 16, 2018.
- Canine Team **Roman Marrufo and K9 Iwan**, CRST Law Enforcement, have met the requirements for Drug Dog Detection certification on April 16, 2018.
- Canine Team **Stuart Griffith and K9 Sem**, SD Highway Patrol, have met the requirements for Drug Dog Detection on April 16, 2018.
- Canine Team **Michael Varilek and K9 Taz**, Corson County Sheriff's Office, have met the requirements for Drug Dog Detection on April 16, 2018.
- Canine Team **Chris Konrad and K9 Maggie**, Division of Criminal Investigation, have met the requirements for Accelerant Dog Detection on April 12, 2018.
- Canine Team **Brandon Neitzert and K9 Comrade**, Division of Criminal Investigation, have met the requirements for Accelerant Dog Detection certification on April 12, 2018.
- Canine Team **Derrek Puckett and K9 Chena**, OST Department of Public Safety, have met the requirements for Drug Dog Detection certification on April 16, 2018.
- Canine Team **Tom Barstad and K9 Neko**, Aberdeen Police Department, have met the requirements for Drug Dog Detection certification on April 16, 2018.
- Canine Team **Nicholas Campbell and K9 Jax**, OST Department of Public Safety, have met the requirements for Drug Dog Detection certification on April 16, 2018.
- Canine Team **Nate Pepin and K9 Zane**, Mobridge Police Department, have met the requirements for Drug Dog Detection certification on April 16, 2018.
- Canine Team **Pat Nolz and K9 Max**, Yankton Police Department, have met the requirements for Drug Dog Detection certification on May 7, 2018.
- Canine Team **Kyler Pekarek and K9 Reno**, Division of Criminal Investigation, have met the requirements for Accelerant Dog Detection certification on May 7, 2018.
- Canine Team **Nate Bowden and K9 Tusox**, Flandreau Police Department, have met the requirements for Drug Dog Detection certification on May 7, 2018.
- Canine Team **John Badker and K9 Shadow**, Mitchell Police Department, have met the requirements for Drug Dog Detection certification on May 7, 2018.

- Canine Team **Cody Nachreiner and K9 Spike**, Sioux Falls Police Department, have met the requirements for Drug Dog Detection certification on May 10, 2018, and Patrol Dog certification on June 22, 2018.
- Canine Team **Shannon Irish and K9 Rio**, Sioux Falls Police Department, have met the requirements for Patrol Dog certification on May 15, 2018, and Drug Dog Detection on July 12, 2018.
- Canine Team **Cody Trumm and K9 Sadie**, Watertown Police Department, have met the requirements for Drug Dog Detection certification on May 23, 2018.
- Canine Team **Kathleen Adams and K9 Kelly**, Spink County Sheriff's Office, have met the requirements for Drug Dog Detection certification on June 15, 2018.
- Canine Team **Jordan Anderson and K9 Reggie**, Hand County Sheriff's Office, have met the requirements for Drug Dog Detection certification on June 15, 2018.
- Canine Team **Levi Jensen and K9 Bobby**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on June 15, 2018.
- Canine Team **Denver Kvistad and K9 Ryker**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on June 15, 2018.
- Canine Team **Austin Schmitz and K9 Lennart**, Yankton Police Department, have met the requirements for Drug Dog Detection certification on June 15, 2018.
- Canine Team **Sean Doyle and K9 Stryker**, Rapid City Police Department, have met the requirements for Patrol Dog certification on June 14, 2018.
- Canine Team **Marcos Glass and K9 Jackson**, Rapid City Police Department, have met the requirements for Patrol Dog certification on June 14, 2018.
- Canine Team **Chad Westrum and K9 Robi**, Sioux Falls Police Department, have met the requirements for Drug Dog Detection certification on July 12, 2018.

Motion by Commission Member Vitek to approve the Canine Team certification listing as presented by the Executive Secretary, **second** by Commission Member Rosenau, motion **approved**.

The following item of business was for information only and did not require commission action by commission members:

A Consent of Decertification form was received from **Darci Gebers** former Deputy with the Lake County Sheriff's Office.

There being no further business to come before the meeting body, the meeting was adjourned on a **motion** by Commission Member Liedholt, **second** simultaneously by Commission Members Wollman and Vitek, motion **carried**.