

LAW ENFORCEMENT OFFICERS
STANDARDS AND TRAINING COMMISSION
MICKELSON CRIMINAL JUSTICE CENTER
Commission Conference Room
Pierre, SD
August 19, 2020

The South Dakota Law Enforcement Officers Standards and Training Commission meeting was called to order by Chairman Natvig on August 19, 2020, at the hour of 8:30 a.m. in the Amphitheater at the George Mickelson Criminal Justice Center in Pierre, South Dakota.

Roll call was taken with the following members responding: Andy Howe, Clay County Sheriff; Matt Burns, Sioux Falls Chief of Police; Tom Wollman, Lincoln County State's Attorney; Neil Fulton, USD School of Law Dean; Steve Allender, Rapid City Mayor; Gary Gaikowski, Sisseton-Wahpeton Chief of Police; Jason Ravensborg, Attorney General; Robert Perry, Special Agent, FBI; and Rick Miller, SD Highway Patrol Superintendent. Others present included David Natvig, Chairman; Chad Mosteller, Executive Secretary; Kim Knecht, Assistant Training Administrator; and Law Enforcement Training Staff. Commission Member Randall Rosenau, Lawrence County Commissioner was absent.

Following SDCL1-25(1), official meetings open to the public, time was allowed by Chairman Natvig for public comments. The floor was open for public comments of which there were none.

Chairman Natvig started the order of business with the review of the previous meeting's minutes.

- March 4, 2020 minutes of the South Dakota Law Enforcement Officers Standards and Training Commission was approved as reviewed on a **motion** by Commission Member Perry, **second** by Commission Member Burns.
- April 7, 2020 conference call minutes of the South Dakota Law Enforcement Officers Standards and Training Commission was approved on a **motion** by Commission Member Wollman **second** by Commission Member Allender.
- April 28, 2020 conference call minutes of the South Dakota Law Enforcement Officers Standards and Training Commission was approved on a **motion** by Commission Member Ravensborg **second** by Commission Member Wollman.
- May 21, 2020 conference call minutes of the South Dakota Law Enforcement Officers Standards and Training Commission was approved on a **motion** by Commission Member Miller **second** by Commission Member Burns.

The modified commission agenda to include an executive session regarding legal matters with counsel before the rules hearing was approved on a **motion** by Commission Member Howe, **second** by Commission Member Gaikowski, motion **approved**.

The following basic eligibility requests were presented to the commission:

Allen Robbennholt, Sioux Falls, was dismissed from the 169th Basic Certification Session. Robbennolt failed the PPCT practical and per academy policy was given one retest. Due to his failure on the practical retest, he was dismissed from the basic session. The dismissal prohibited him from being employed as a law enforcement officer. Allen was employed with the Gettysburg Police Department and his family resided in Sioux Falls. There was the stress of commuting and financial struggles in renting a home in Gettysburg and maintaining a home in Sioux Falls. He did struggle on other things during the training session. Allen would like to return to law enforcement and would plan to apply to agencies close to the Sioux Falls area. At the time Allen attended the Basic Certification Course, the session was instructed in three Phases, Non-Emergency Response, Emergency Response, and Investigations. The academy instruction has changed, and the phases are no longer applicable. Students are at the academy for one week, they return to their agencies for five weeks of on-line training and return to the academy for seven weeks to complete the on-hands training requirements. Staff would recommend Robbennolt attend the entire 13-Weeks of training. **Motion** by Commission Member Howe to reinstate Allen Robbennolt's eligibility to attend the basic training session, **second** by Commission Member Perry, motion **approved**.

Brad Westergard, Town of Hermosa, along with Town Marshal Jim Daggett, are before members requesting basic eligibility. Brad was dismissed from the 173rd Basic Session for academic failure and failure to complete course work as assigned. Brad was counseled several times on his continued failure to complete assignments. Brad was a good student, no disciplinary issues, the issue was on focus. Staff recommended Brad attend the entire 13-Week training session. The academy will be the same format as the 173rd session, one week at the academy, five weeks of on-line training, and back to the academy for seven weeks of hands-on training. **Motion** by Commission Member Perry to approve the basic eligibility request with the staff recommendation, **second** by Commission Member Allender, motion **approved**.

Edwardo Lopez-Perez, Sioux Falls, is requesting his basic eligibility to be reinstated. Edwardo was dismissed from the 171st training session due to academic failure in November 2019. He failed the Phase III exam and the retest. Edwardo is before the commission a little before his one year to reapply to the commission for certification. Executive Secretary agreed to have him appear with the understanding he cannot apply until after November 2020. He did struggle academically with tests, but no other issues. The staff has no issues with eligibility reinstatement, the recommendation is Edwardo would need to attend the entire academy as there is no longer a Phase III. **Motion** by Commission Member Burns to approve the basic eligibility request with the staff recommendation, **second** by Commission Member Miller, motion **approved**.

Jon Werkmeister, Platte Police Department, is asking for eligibility to apply for the Basic Certification Training Session. Jon attended the 56th 911 Basic Telecommunicator Session. Jon was dismissed for academic failure. The staff does not oppose eligibility to apply for the basic training, there were no issues during the 911 session. Motion by Commission Member Howe to approve Werkmeister's request for eligibility to attend the basic training session, **second** by Commission Member Perry, motion **approved**.

The next items for member consideration are requests for certification reinstatement:

Austin Steiner, Sisseton-Wahpeton Oyate Police Department, has submitted a request for reinstatement of his law enforcement certification. Austin and Chief of Police Gary Gaikowski are present. Austin completed the 520-hour basic officer certification course and was certified in June 2016. Austin was employed with the Roberts County Sheriff's Office from May 2015 to May 2017. Austin's certification lapsed in January of 2019. Austin is currently employed with the Sisseton-Wahpeton Oyate Police Department working on the correctional side and will continue in that capacity until his certification can be reinstated. When hired as a full-time officer, the tribal requirement is the officer must be certified. Austin will attend the required training at the BIA Academy. The staff has no issues with the certification reinstatement. There are no criminal history issues. **Motion** by Commission Member Allender to approve Austin Steiner's certification reinstatement request with additional training recommended by Law Enforcement Training, **second** by Commission Member Fulton, motion **approved**. Action: **8-0 Aye** (Howe, Burns, Wollman, Fulton, Allender, Ravnsborg, Perry, and Miller). The record will reflect Commission Member Gaikowski was recused and did not enter any discussion or voting procedure.

The Butte County Sheriff's Office has submitted a letter requesting Jason March's officer certification to be reinstated. Butte County Deputy Tristan Clements and Jason are present. Jason completed the 520-hour basic officer certification course and received officer certification in August 2007. Jason was employed with the Fall River County Sheriff's Office from April 2007 to February 2014; with the Belle Fourche Police Department from February 2014 to September 2014; and with the Butte County Sheriff's Reserve from January 2016 to April 2017. Jason's certification lapsed in April 2019. Deputy Clements advised Jason has been actively attending training hours and has completed the firearms qualification in June 2020, Mental Health and Domestic Violence training in August 2020. The staff has no issues with the application for certification reinstatement and there are no criminal history issues. **Motion** by Commission Member Burns to approve Jason March's certification reinstatement request with requirements as set forth by Law Enforcement Training, **second** by Commission Member Miller, motion **approved**.

The 9:30 rules hearing was conducted. The rules process was started in March with the hearing set for April but was canceled due to the Covid-19 issues.

At the conclusion of the rules hearing a short break was taken and members entered executive session for legal matter discussion on a **motion** by Commission Member Wollman, **second** by Commission Member Burns, motion **approved**.

Members returned to regular session on a **motion** by Commission Member Perry, **second** by Commission Member Miller, and continued with a 911 Telecommunicator certification request.

Marshall County 911 Communications and Dallas Ford have submitted letters requesting Dallas be permitted to waive the 911 Two-Week Basic Academy and reinstate her 911 Telecommunicator certification. Dallas was grandfathered in on July 1, 1999 and did not have to attend training (has fulfilled minimum standards requirements for certification by virtue of experience and employment before October 1, 1999). Dallas attended the 15th 911 Two-Week Basic session and was certified on April 14, 20014. Dallas was employed as head dispatcher with the Butte County Sheriff's Office from 1998 - 2014. Dallas moved to Pierre in April 2014 and began working for the Central South Dakota Communications. Due to shift changes, she resigned from her position

and accepted a position with Fischer Rounds Insurance Company. Dallas' certification lapsed in September 2016. Dallas has accepted a part-time dispatching position with the Marshall County Sheriff's Office. The staff recommendation is to waive the Two-Week 911 basic training because of training and experience and attend the Career Survival (Ethics & Liability) and full access NCIC training during the 911 basic session. **Motion** by Commission Member Miller to waive the two-week training based on Law Enforcement Training's recommendation, **second** by Commission Member Fulton, motion **approved**.

Members considered the following requests for another opportunity at handgun qualification to obtain certification as a South Dakota law enforcement officer.

Alycia Kortan and Amanda Sonnenburg, Lake Area Tech graduates, are considered probationary reciprocity candidates until their reciprocity training is completed. Lake Area Tech grads Alycia and Amanda have submitted letters 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. They were only able to practice once at Lake Area Tech due to the Covid19 issue. Both individuals have been practicing improving their firearms proficiency. The staff recommendation is to grant the requests and allow one attempt to qualify. Should Alycia or Amanda fail the attempt to qualify, attendance in the basic training session would be required for officer certification.

Motion by Commission Member Burns approve staff recommendations and allow Alycia Kortan one more opportunity to qualify, **second** by Commission Member Wollman, motion **approved**.

Motion by Commission Member Allender to approve staff recommendation and allow Amanda Sonnenburg one more attempt to qualify, **second** by Commission Member Gaikowski, motion **approved**.

The SD Highway Patrol is requesting financial assistance to host the following grant. Lt. Tony Maunu is before members to present the grant and answer any questions members may have.

Basic Field Training Officer 40-hour seminar. The seminar will be provided by Kaminsky, Sullenberger & Associates, Inc., and will be conducted in December 2020. The purpose of the training is to prepare officers to provide field training utilizing the San Jose Model. The seminar maximum is 36 students, there is no minimum. If less than 36 students, the quoted fee will be adjusted. Agencies within the state utilize the FTO program for training officers and jailers. While the PTO model has proven successful in the training of some departments, the FTO model remains an efficient and proven program to produce competent professional law enforcement officers. The total cost of the seminar is estimated to be \$9,000.00. **Motion** by Commission Member Perry to approve the grant request, **second** by Commission Member Burns. Motion was **approved** by a verbal response in the affirmative by all members. **Action: 8-0 Aye** (Howe, Burns, Wollman,

Fulton, Allender, Ravensborg, Perry, and Gaikowski). The record will reflect Commission Member Miller was recused and did not enter any discussion or voting procedure.

Executive Secretary Mosteller reviewed the following denied applications:

Ty Wooden Knife, Rosebud Police Department. Wooden Knife's application to attend the 911 Telecommunicator training session was denied in January 2019. Wooden Knife did not meet the minimum standards of employment per administrative rule. Wooden Knife was charged with possession of marijuana, less than 2oz, and driving under suspension. The charge was within one year before the time of application for certification. Wooden Knife waited the one year until eligible to reapply. Staff would support the application. **Motion** by Commission Member Burns to approve Wooden Knife's application, **second** by Commission Member Allender, motion **approved**.

Alexis Smith, Sioux Falls Police Department. Smith applied in February 2020 for reciprocity certification as a Lake Area Technical student. Smith had consumed marijuana in June 2019. Smith did not meet the minimum standards per administrative rule. Smith's application was denied, and was not allowed to take the reciprocity exam. Smith waited the one year until eligible to reapply. Smith has been hired by the Sioux Falls Police Department and successfully passed the reciprocity exam in July 2020. Staff recommends the approval of the application. **Motion** by Commission Member Perry to approve Smith's application, **second** by Commission Member Fulton, motion **approved** by a verbal response in the affirmative by all members. **Action: 8-0 Aye** (Howe, Wollman, Fulton, Allender, Ravensborg, Perry Miller, and Gaikowski). The record will reflect Commission Member Burns was recused and did not enter any discussion or voting procedure.

Chairman Natvig called a brief recess and members returned to session with a quorum present.

The commission proceeded with the scheduled hearing of **Matthew Risetter**. Chairman Natvig turned the proceedings over to Hearing Officer Paul Bachand. It was stated for the record this is the time and place for the hearing to consider Risetter's appeal of his dismissal from the South Dakota Law Enforcement Basic Certification Course. This hearing is held to determine whether Matthew Risetter's conduct violated any restriction or rule established by the Law Enforcement Training Executive Secretary to administer or maintain order during the basic training course. Risetter was a student in the Basic Certification Course at the Law Enforcement Academy. On December 2, 2019, Risetter was required to report back to the academy to continue training, Risetter failed to report and did not contact anyone to explain his absence. Risetter was dismissed from the academy on December 4, 2019.

Risetter is present without counsel. Kelly Marnette, Assistant Attorney General, is acting counsel for the State. Hearing Officer Bachand advised Risetter of the hearing procedure and due process. The record will reflect a stenographic transcription of the hearing will be made and copies of the transcript will be available upon request and tender of the cost thereof. See file for exhibits.

The hearing commenced with opening statements by both parties, continued with witness testimony, presentation of exhibits, questions by commission members, and the hearing officer. At the end of the questions and discussion, the evidentiary portion of the hearing concluded.

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

Members returned to the amphitheater and were called back out of the executive session by Chairman Natvig with all members present. **Motion** by Commission Member Miller to uphold the ruling of the Executive Secretary and authorize the Chairman to sign the Findings of Fact and Conclusions of Law, **second** by Commission Member Burns. Motion was **approved** by a verbal response in the affirmative by all members. **Action: 8-0 Aye** (Howe, Burns, Wollman, Fulton, Allender, Ravensborg, Perry, and Gaikowski). The hearing was concluded.

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

Aaron Bennett, Sioux Falls Police Department, completed the Hibbing Community College POST training. Bennett completed the POST Peace Officer Exam and POST Board's examination requirements in October 2019. Bennett is eligible to be licensed as a peace officer. Bennett's background revealed no adverse information. Bennett successfully completed the reciprocity exam on February 26, 2020 and the reciprocity classroom and skills requirements on June 26, 2020. **Motion** by Commission Member Gaikowski to approve the application for Aaron Bennett, **second** by Commission Member Miller, motion **approved**.

Bryce Finnegan, South Dakota Highway Patrol, completed the prescribed course of study in Basic Law Enforcement at the Nebraska Training Academy and received Nebraska law enforcement certification on August 4, 2017. Finnegan was employed with the Dixon County Sheriff's Office in 2016. Finnegan's background revealed no adverse information. Finnegan completed the reciprocity exam on June 10, 2020 and completed the reciprocity classroom and skills requirements on June 26, 2020. **Motion** by Commission Member Howe to approve the application for Bryce Finnegan, **second** by Commission Member Burns, motion **approved**.

Breanna Stickels, Box Elder Police Department, completed the prescribed course of study in Basic Law Enforcement at the Nebraska Training Academy and received Nebraska law enforcement certification on August 4, 2017. Stickels' was employed with the Gering Police Department from January 9, 2017, to November 14, 2019. Stickels' background revealed no adverse information. Stickels completed the reciprocity exam on June 2, 2020 and completed the reciprocity classroom and skills requirements on June 26, 2020. **Motion** by Commission Member Perry to approve the application for Breanna Stickels, **second** by Commission Member Fulton motion **approved**.

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

- Canine Team Stuart **Griffith and K9 Sem**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on May 8, 2020;

- Canine Team **Dennis Mez and K9 Doc**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on May 8, 2020;
- Canine Team **Donnie Farlee and K9 Beauty**, CRST Law Enforcement, have met the requirements for Drug Dog Detection certification on June 10, 2020.
- Canine Team **Roman Marrufo and K9 Iwan**, CRST Law Enforcement, have met the requirements for Drug Dog Detection certification on June 10, 2020;
- Canine Team **Michael Varilek and K9 Taz**, Corson County Sheriff's Office, have met the requirements for Drug Dog Detection certification on June 10, 2020;
- Canine Team **Michael Dale and K9 Sadie**, SD Highway Patrol, have met the requirements for Explosive Detection certification on June 13, 2020, and Patrol Dog certification on July 8, 2020;
- Canine Team **Andrew Steen and K9 Thor**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on June 12, 2020;
- Canine Team **Thomas Barstad and K9 Neko**, Aberdeen Police Department, have met the requirements for Drug Dog Detection certification on April June 1, 2020;
- Canine Team **Jordan Anderson and K9 Demi**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on June 25, 2020;
- Canine Team **Garrett Mastin and K9 Vito**, Rapid City Police Department, have met the requirements for Drug Dog Detection certification on June 25, 2020;
- Canine Team **Roan Reiman and K9 Max**, Rapid City Police Department, have met the requirements for Drug Dog Detection certification on June 25, 2020;
- Canine Team **Brandon Thompson and K9 Jary**, Rapid City Police Department, have met the requirements for Drug Dog Detection certification on June 25, 2020;
- Canine Team **Kory Kellen and K9 Heros**, Deuel County Sheriff's Office, have met the requirements for Drug Dog Detection certification on June 25, 2020;
- Canine Team **John Badker and K9 Shadow**, Mitchell Police Department, have met the requirements for Drug Dog Detection certification on July 15, 2020;
- Canine Team **Cody Trumm and K9 Sadie**, Watertown Police Department, have met the requirements for Drug Dog Detection certification on July 15, 2020; and
- Canine Team **Shane Johnson and K9 Ryker**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on July 15, 2020.

Motion by Commission Member Miller to approve the canine certification listing as amended, **second** by Commission Member Gaikowski, motion **approved**.

The following items were for commission information only and did not require any commission action by members:

Lake Area Tech students were administered the reciprocity exam by Agent Corey on May 7, 2020. Four students completed the Firearms, EVOC, and Use of Force skills requirements on June 16, 2020, and were issued a letter of eligibility for certification. The students will become certified upon being hired by an agency within two years of graduation. Two students failed firearms and appeared before members requesting another opportunity to demonstrate proficiency in firearms. One student failed EVOC skills and is required to attend the EVOC training week during the basic training session. The individual has chosen not to pursue it.

Members were provided copies of the February 2020 audit summaries conducted at LATI and STI.

A consent of decertification has been received from Kellen Weidner former Deputy with the Minnehaha County Sheriff's Office.

Law Enforcement Training has had new audio/video equipment installed in classroom A/B, classroom C/D, the computer lab, and in the commission conference room. The updated equipment will enhance learning and allow remote testimony. Cameras were also installed so students and staff can view the classroom remotely.

Executive Secretary Mosteller and Commission Member Burns briefed members on the new Sioux Falls remote academy. The academy is administered by Law Enforcement Training and will be taught the same curriculum as the traditional academy located in Pierre. The Sioux Falls class has 16 students, two from the Minnehaha County Sheriff's Office, one from the Moody County Sheriff's Office, one from the Flandreau Police Department, and 12 from the Sioux Falls Police Department. The training session began on August 16th and will graduate on November 13th.

Members recessed for lunch and returned to session with a quorum present

The commission proceeded with the scheduled hearing of **Michael Gibbs**. Chairman Natvig turned the proceedings over to Hearing Officer Paul Bachand. It was stated for the record this is the time and place for the hearing to determine whether Gibbs engaged in conduct unbecoming of a law enforcement officer or has been convicted of a misdemeanor involving moral turpitude, in violation of SDCL §23-3-35(3) and ARSD 2:01:11:01, based upon allegation contained in the complaint by Training Administrator Mosteller.

Gibbs is present without counsel. Kelly Marnette, Assistant Attorney General, is acting counsel for the State. Hearing Officer Bachand advised Gibbs of the hearing procedure and due process. The record will reflect a stenographic transcription of the hearing will be made and copies of the transcript will be available upon request and tender of the cost thereof. See file for exhibits.

The hearing commenced with opening statements by both parties, continued with witness testimony, presentation of exhibits, questions by commission members, and the hearing officer. At the end of the questions and discussion, the evidentiary portion of the hearing concluded.

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

Members returned to the amphitheater and were called back out of the executive session by Chairman Natvig with all members present. **Motion** by Commission Member Miller after a long deliberation and reviewing of information, we found that Michael Gibbs did indeed engage in conduct unbecoming of a law enforcement officer. We have chosen to suspend his law enforcement certificate until March 1, 2021. From now until that time, we ask Mr. Gibbs to provide us with psychological records/evaluations, by provide us, I mean Law Enforcement Training, Executive Secretary Mosteller. We ask you to continue counseling and any medication prescribed by a doctor, provide yourself for a fitness of duty evaluation with Dr. Belisle in Rapid City, all of this will be run through Mr. Mosteller. At the end of that date or after the March 1, 2021 date, Law Enforcement Training will assess all the information that was provided and then determine if all the conditions have been met. If Law Enforcement Training would like to have any additional things they would like seen done to ensure fitness for duty, we ask they offer that to you before the March 1, 2021 timeline. LET is to review and report any time after March 1, 2021. We also authorize the Chairman to sign the Findings of Fact and Conclusions of Law, **second** by Commission Member Allender. The motion was **approved** by a verbal response in the affirmative by all members. **Action: 8-0 Aye** (Howe, Burns, Wollman, Fulton, Allender, Ravensborg, Perry, and Gaikowski). The hearing was concluded.

There being no further business to come before the meeting body, the meeting was adjourned on a **motion** by Commission Member Miller, **second** by Commission Member Fulton, motion **carried**.

The next meeting is scheduled for September 29, 2020, at the Criminal Justice Training Center in Pierre.