

LAW ENFORCEMENT OFFICERS
STANDARDS AND TRAINING COMMISSION
MICKELSON CRIMINAL JUSTICE CENTER
Amphitheater
Pierre, SD
December 10, 2020

The South Dakota Law Enforcement Officers Standards and Training Commission meeting was called to order on December 10, 2020, in the Amphitheater at the George Mickelson Criminal Justice Center in Pierre, South Dakota.

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

With a quorum present, Chairman Natvig called the meeting to order at 8:30 a.m.

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.

The minutes of the previous meetings September 29 and October 15, 2020, were approved on a **motion** by Commission Member Ravensborg, **second** by Commission Member Rosenau.

The first item of business for consideration is basic eligibility requests by Trent Knuppe, Myles Runyon, and Justin Mersier. All three individuals were dismissed from the 174th session due to dishonesty in the pursuit of academic excellence, which is covered under section 6, student discipline in the student handbook. Cheating will not be tolerated at the academy.

Knuppe along with Lt. Maunu is present requesting to have basic eligibility reinstated. Knuppe was honest about his actions, admitted that he did not agree with the assignment, and thought it was a waste of time. He did not want to spend the time doing an unnecessary assignment. The agency agreed that the dismissal by LET was very appropriate. Knuppe took immediate ownership and agreed his actions were not ethical. The SD Highway Patrol is asking Knuppe to be reinstated. LET had no other issues and has no problem with Knuppe returning to the academy.

Runyon and Tim Simonsen, Wagner Chief of Police, are present requesting basic eligibility reinstatement. Runyon was aware Knuppe was dismissed for the same action and had discussed this with his supervisor. Runyon indicated he did not understand the assignment well. His mentor had explained the assignments and supplied examples. Runyon did not come forward with his

actions until he was confronted by LET. He admitted he made a mistake, but denied it was due to laziness. Runyon called LET later with an apology and admitted being lazy. Chief Simonsen advised Runyon has done very well at the Police Department, he did not take ownership as he should and was an embarrassment. Simonsen is asking for a second chance for Runyon to redeem himself. LET has no problem with Runyon returning to the academy.

Mersier and Dave McNeil, Aberdeen Chief of Police are present requesting basic eligibility. Mersier came forward with the mistake he had made, was honest, and took responsibility for his actions. His actions were a result of being lazy, he knew what was expected and took the easy way out. Mersier had submitted a message to his mentor advising what he did and wanted to make it right. His mentor was ill and had not responded. Mersier then contacted LET to make it right. Mersier was the only one to come forward regarding his actions. McNeil apologized to all for the actions of his officer. Chief McNeil had a discussion with Mesier, he did not like the facts, but he felt there is redeemable value in that Mersier came forward with the mistake he made, was honest, and took responsibility for his actions. Meiser was given a 40-hour unpaid work suspension. Mesier was given several tasks, did all work assigned, and did not question his assignments. Mersier excelled in the department FTO program and McNeil advised he would continue to have Mersier with the department

Motion by Commission Member Ravensborg to move into executive session, **second** simultaneously by Commission Members Wollman and Rosenau. Members reconvened into open session on a **motion** by Commission Member Wollman, **second** by Commission Member Gaikowaski.

Motion made by Commission Member Roseanu to reinstate basic eligibility for Trent Knuppe to attend the next available training session designated by LET, **second** by Commission Member Howe, motion **approved**.

Motion made by Commission Member Roseanu to reinstate basic eligibility for Myles Runyon to attend the next available training session designated by LET, **second** by Commission Member Allender, motion **approved**.

Motion made by Commission Member Roseanu to reinstate basic eligibility for Justin Mersier to attend the next available training session designated by LET, **second** by Commission Member Allender, motion **approved**.

For the record - Commission Member Wollman wrestled with the eligibility reinstatement, is not in support of the laziness, cutting corners, incompetency, downplaying reports, is an integrity issue, a bad cop.

Stephen Schmeltzer, Belle Fourche Police Department, and Marlyn Pomrenke, Belle Fourche Chief of Police are before members requesting basic reinstatement. Schmeltzer was dismissed from the 174th session due to failure of the TPR (Threat Pattern Recognition) practical and failure

of the TPR retest. Schmeltzer sustained a concussion during TPR class and missed some instruction. Schmeltzer was advised to take full advantage of the seven allowable days before retesting. Schmeltzer did not take the time offered to him and rushed into retaking the retest. Chief Pomrenke advised Schmeltzer needed to take more time to heal and study before testing, felt he rushed into testing and he was too impatient and wanted to get his certification on time. Schmeltzer was placed on administrative duties. LET staff is supportive of the reinstatement request and had zero issues with Schmeltzer throughout the academy.

Motion by Commission Member Wollman to approve the reinstatement request and LET to determine the flexibility of the TPR instruction/testing, **second** by Commission Member Ravnsborg, motion **approved**.

Captain Sitts, Rapid City Police Department, and **Kaleigh Crumb** are before members requesting Crumb's eligibility in the law enforcement basic certification session be reinstated and allow her to continue the process of becoming a certified law enforcement officer. Crumb was dismissed from the 174th session due to failure of the scenario evaluation and failure of the scenario evaluation retest. Captain Sitts stated Crumb is in the PTO phase and there are currently no issues. The police department has outlined various scenarios that she will be run through. The department plans to work with her and do whatever it takes to pass the scenarios. LET has no issues with Crumb to return to complete the two scenarios. **Motion** by Commission Member Gaikowski to reinstate Crumb's eligibility in the basic certification session, **second** by Commission Member Howe, motion **approved**.

Jason Dubbs, Box Elder Chief of Police, and **Jason Brown** are requesting basic eligibility to allow Brown to continue the process of becoming a certified officer. Brown was dismissed from the 174th basic session due to failure of a scenario evaluation and failure of a scenario evaluation retest. Brown has one scenario to complete. LET has no issues with Brown. The police department will conduct remediation of his exhibited deficiencies. **Motion** made by Commission Member Wollman to approve basic eligibility reinstatement and LET to have the flexibility to work in the appropriate class, **second** by Commission Member Rosenau, motion **approved**.

Members considered the following certification reinstatements requests.

Dennis Meyer and Captain Sitts, Rapid City Police Department are present requesting Meyer's certification reinstatement. Meyer completed the 320-hour basic officer certification course and received his law enforcement certification on November 17, 1978. Meyer was employed with the Huron Police Department from March 1978 until his retirement as Chief of Police in December 2017. His certification lapsed in December 2019. The Rapid City Police Department plans to hire Meyer as a part-time airport officer. Before his first shift, the police department will update his training in firearms, OC, Taser, CPR, and Domestic Violence. LET has no issues with the reinstatement request. **Motion** by Commission Member Ravnsborg to approve the certification reinstatement request pending training before his shift at the airport, **second** by Commission Member Gaikowski, motion **approved**.

Lt Tony Maunu, SD Highway Patrol, and **Brextyn Burnette** are requesting certification reinstatement. Burnette attended the 166th basic session and was certified on March 2, 2018. Burnette's certification expired in July 2020. Burnette was employed with the Sioux Falls police department from November 2017 until July 2018. Burnette is currently attending the 10 Week Highway Patrol Academy. LET has no issues with the reinstatement request, Burnette will receive all necessary required training in the 10 Week Highway Patrol Academy. **Motion** by Commission Member Ravensborg to approve the certification reinstatement for Brextyn Burnette, **second** by Commission Member Rosenau, motion **approved**.

Chairman Natvig called a short recess. The meeting reconvened with a quorum present and continued with the following reciprocity requests.

Jeffrey Kretlow, SD Highway Patrol, completed the 480 Hour Recruit Basic Training Course at the University of Illinois Police Training Institute, passed the state certification exam in March 2000, and was issued state certification. Kretlow is a certified law enforcement officer in the state of Illinois. He was employed with the McLean County Sheriff's Office from September 2000 to March 2020. A background check revealed no adverse information. Kretlow completed the reciprocity exam in October 2020. Kretlow is scheduled to attend the February 2021 reciprocity training week. **Motion** by Commission Member Wollman to approve the reciprocity request contingent upon completion of the reciprocity training week, **second** by Commission Member Ravensborg, motion **approved**.

Cody Fischer, Southeast Technical College graduate. Fischer completed the law enforcement program in May 2020. A background check revealed no adverse information. Fischer completed the reciprocity exam on October 2, 2020, and has completed the reciprocity skills training requirements. Fischer is eligible for certification upon being hired by a law enforcement agency within two years of graduation. **Motion** by Commission Member Gaikowski to approve the reciprocity request, **second** by Commission Member Allender, motion **approved**.

Alex Taggart, Southeast Technical College graduate. Taggart completed the law enforcement program in May 2020. A background check revealed no adverse information. Taggart completed the reciprocity exam on October 2, 2020, and has completed the reciprocity skills training requirements. Taggart is eligible for certification when hired by a law enforcement agency within two years of graduation. **Motion** by Commission Member Ravensborg to approve the reciprocity request, **second** simultaneously by Commission Members Allender and Rosenau, motion **approved**.

Executive Secretary Mosteller presented two new PSD Judge Candidates for the State of South Dakota.

- Officer Shannon Irish - Sioux Falls Police Department
 - Disciplines: Narcotic Detection; Explosive Detection; and Patrol Dog (Tracking and Apprehension)

- Officer Paul Smedsrud - Sioux Falls Police Department
 - Disciplines: Narcotic Detection and Explosives Detection

Both candidates have met all the South Dakota PSD State Standards requirements for this process:

- Must have a minimum of four years as an instructor
- Must pass PSD Judge written test (minimum 80% to pass)
- Must submit two research papers to an existing PSD Judge
- Must articulate proficiency and experience in the grading of police service dogs.
- Consideration will be taken as to the number of dogs graded and hours spent doing so, while under the guidance of a certified PSD Judge.
- Must present in an oral interview to SD PSD Judge Board

The Judge Board held interviews with both candidates and voted unanimously, 5-0, on both candidates recommending both in becoming new PSD Judges.

Motion by Commission Member Wollman to approve candidate Paul Smedsrud as a PSD Judge, **second** simultaneously by Commission Members Gaikowski and Rosenau, motion **approved**.

Motion by Commission Member Allender to approve candidate Shannon Irish as a PSD Judge, **second** by Commission Member Rosenau, motion **approved**.

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

- Canine Team Cody Nachreiner and K9 Spike, Sioux Falls PD, have met the requirements for Drug Detection certification on October 28, 2020;
- Canine Team Shannon Irish and K9 Bram, Sioux Falls PD, have met the requirements for Drug Detection certification on October 28, 2020;
- Canine Team Chad Westrum and K9 Robi, Sioux Falls PD, have met the requirements for Drug Detection certification on October 28, 2020;
- Canine Team Elijah Rupe and K9 Tusox, Flandreau PD, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team Dennis Maude and K9 Poli, Huron PD, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team Kyler Pekarek and K9 Reno, Yankton PD, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team Patrick Nolz and K9 Max, Yankton PD, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team Tayler Maertens and K9 Bono, Watertown PD, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team Joel Neuman and K9 Krome, Bon Homme County Sheriff's Office, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team Andrew Steen and K9 Thor, SD Highway Patrol, have met the requirements for Drug Detection certification on October 29, 2020;

- Canine Team **Cody Jansen and K9 Rex**, SD Highway Patrol, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team **Trent Heuertz and K9 Zeke**, SD Highway Patrol, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team **Bill Berry and K9 Loki**, SD Highway Patrol, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team **Brandon Miller and K9 Murph**, SD Highway Patrol, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team **Seth Bonnema and K9 Gina**, Brookings PD, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team **Craig Williams and K9 Newk**, Lake County Sheriff's Office, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team **Garrett Harmon and K9 Igor**, Chamberlain PD, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team **Manual Langstraat and K9 Arras**, Brookings County Sheriff's Office, have met the requirements for Drug Detection certification on October 29, 2020;
- Canine Team **Casey Urruita and K9 Askel**, McCook County Sheriff's Office, have met the requirements for Drug Detection certification on December 4, 2020;
- Canine Team **Jarrod Zaruba and K9 Dex**, Aberdeen PD, have met the requirements for Drug Detection certification on December 4, 2020; and
- Canine Team **Paul Sheldon and K9 Mack**, Jerauld County Sheriff's Office, have met the requirements for Patrol Dog certification on December 5, 2020.

Motion by Commission Member Ravensborg to approve the canine team certification listing as presented by the Executive Secretary, **second** by Commission Member Gaikowski, motion **approved**.

The commission proceeded with the scheduled hearing of **Kyle Brown**. Chairman Natvig turned the proceedings over to hearing officer Paul Bachand. It is stated for the record this is the time and place for the hearing to determine whether Brown possesses the requisite minimum standards of good moral character required to be employed or certified as a law enforcement officer. Brown provided false information on two South Dakota Law Enforcement Officer Applications and lied to Marshall County Sheriff Damian Bahr about his education.

Brown is present without counsel. Kelly Marnette, Assistant Attorney General, is acting counsel for the State. Hearing Officer Bachand advised Brown 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 and tender of the cost thereof. See file for exhibits.

Concluding opening statements, presentation of exhibits, testimony, questions, and closing statements, the evidentiary portion of the hearing concluded.

Commission members retired into executive session on a **motion** by Commission Member Allender, **second** simultaneously by Commission Members Ravensborg and Rosenau.

Members reconvened into open session. **Motion** by Commission Member Rosenau to uphold the denial for Kyle Brown, **second** by Commission Member Allender. Motion amended to authorize the Chairman to sign the Findings of Fact and Conclusions of law on behalf of the Commission. The motion was **approved** by a verbal response in the affirmative by all members. **Action 6-0 Aye** (Allender, Gaikowski, Howe, Ravensborg, Rosenau, and Wollman). This concluded the hearing proceedings.

Assistant Attorney General Marnette will prepare the Findings of Fact and Conclusions of Law.

The commission continued with the next scheduled hearing of Thomas Klein. The proceedings were turned over to Hearing Officer Paul Bachand. It was stated for the record this is the time and place for the hearing to determine whether Klein engaged in conduct unbecoming of a law enforcement officer, received a suspended imposition of sentence for a misdemeanor involving moral turpitude, and/or was discharged for cause from employment as a law enforcement officer. Klein was employed as a law enforcement with the Flandreau Police Department. While off duty, Klein physically assaulted an individual by grabbing her around the neck and pushing her to the floor. Klein was charged with Simple Assault Domestic and terminated by the Flandreau Police Department. Klein pled guilty to an amended charge of Disorderly Conduct and the Simple Assault Domestic charge was dismissed. Klein was granted a suspended imposition of sentence.

Klein is present with counsel Anthony Teesdale. Kelly Marnette, Assistant Attorney General, is acting counsel for the State. Hearing Officer Bachand advised Klein 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 and tender of the cost thereof. See file for exhibits.

The hearing commenced with opening statements by counsel, presentation of exhibits, witness testimony, and questions by members and the hearing officer.

Members recessed for lunch and moved into executive session on a **motion** by Commission Member Rosenau, **second** by Commission Member Howe to discuss a legal matter with counsel. Members were advised by the Hearing Officer not to discuss the case.

The State's counsel will review exhibits that were not supplied to counsel by Klein's counsel.

The meeting reconvened with a quorum present and continued with witness testimony and cross-examination.

A short break was taken. Members returned to session with a quorum present.

Upon the conclusion of testimony, cross-examination, questions, and closing statements, Members entered executive session on a **motion** by Commission Member Wollman, **second** by Commission Member Rosenau to further discuss their consideration.

Members moved out of executive session on a **motion** by Commission Member Howe and **second** by Commission Member Gaikowski. Proceedings resumed. A **motion** was made by Commission Member Wollman, the commission found by clear and convincing evidence as it relates to the suspended imposition of sentence involving a misdemeanor for moral turpitude and discharged for cause from employment, a one-year suspension starting with today's date, 12-10-2020, and also authorize the chairman to sign the Findings of Fact and Conclusions of Law on behalf of the commission, **second** by Commission Member Rosenau, motion **approved** by a verbal response in the affirmative by all members. **Action 6-0 Aye** (Allender, Gaikowski, Howe, Ravensborg, Rosenau, and Wollman).

The commission, having considered other alternatives, found that Klein's conduct warranted a one-year suspension of his law enforcement certification. Klein will be unable to act as a law enforcement officer until next year, 12-10-2021, he will also need to comply with the suspended imposition conditions. The hearing proceedings were concluded.

Assistant Attorney General Marnette will prepare the Findings of Fact and Conclusions of Law and Order.

Law Enforcement Training has received several calls concerning the mandatory yearly hours required for reserve officers. Administrative rule 2:01:09:03. Required duty hours, does not provide a waiver for a pandemic. It has become impossible for some agencies to complete the required hours because of COVID-19 policy restrictions. The emergency rule would be applied to this year only. Agencies will need to complete the mandatory hours in 2021. Agencies that reserves officers were unable to meet the hour requirements may provide Law Enforcement Training a letter, on agency letterhead, requesting this emergency waiver from the commission. The request must be for COVID-19 reasons. Commission members were in support of the emergency rule.

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

Adjustments will be made to the schedule of future basic certification courses. LET will continue to provide blended instruction, but the layout will be modified.

Weeks One - Three	Training at the Academy;
Weeks Four - Five	Online training;
Weeks Six - Seven	Training at the Academy;
Weeks Eight - Nine	Online training; and
Weeks Ten -Thirteen	Training at the Academy

The academy will remain at 13 weeks (520 hours). An adjustment to the flow of the curriculum is being made to incorporate the hands-on application of material throughout the academy rather than leaving the hands-on application to the end. This format allows for more student practice, student/instructor interaction, and feedback.

Presidential Executive Order 13929 on safe policing for safe communities. The order requires law enforcement entities to have specific language in their policies before they are eligible for federal grants. SD LET, according to the Executive Order, is designed by DOJ as the "credentialing body" for South Dakota. The compliance plan for South Dakota, without LET or the Commission overseeing agencies, is:

To be eligible for Federal grants and compliant with EO 13929 in 2021, the agency needs to attest to the following before January 31, 2021:

The applying agency maintains use of force policies that adhere to all applicable federal, state, and local laws.

The applying agency maintains use of force policies that prohibit the use of chokeholds, except in situations where the use of deadly force is allowed by law.

Once an agency confirms its policy has met the two requirements, the agency will submit a template on their letterhead to LET for review. A confirmation letter will be sent to the agency and LET will submit the agency to DOJ and COPS office as being compliant making the agency eligible for Federal grants. If an agency chooses not to comply, the agency will not be eligible to receive a COPS grant in the future.

There being no further business to come before the meeting body, the meeting was adjourned on a **motion** by Commission Member Wollman, **second** by Commission Member Rosneau, motion **approved**. The next meeting is scheduled for January 20, 2021.