

**LAW ENFORCEMENT OFFICERS
STANDARDS AND TRAINING COMMISSION
MICKELSON CRIMINAL JUSTICE CENTER
Pierre, SD
June 24, 2015**

The South Dakota Law Enforcement Officers Standards and Training Commission meeting was called to order by Chairman Gortmaker at the hour of 9:00 a.m. on June 24, 2015, in the Commission Conference Room at the George S. Mickelson Criminal Justice Center.

Roll call of members present included Bryan Gortmaker, Chairman; Marty Jackley, Attorney General; Tom Wollman, Lincoln County State's Attorney; Ken Tracy, Mayor, City of Mitchell; John Long, SSA BIA OJS; Robert Perry, Special Agent, FBI; Doug Barthel, Sioux Falls Chief of Police; Mike Leidholt, Hughes County Sheriff; Col. Craig Price, Superintendent, SD Highway Patrol; and Randall Rosenau, Lawrence County Commissioner. Others present included Scott Rechtenbaugh, Executive Secretary; Kim Knecht, Assistant Training Administrator, Greg Williams, Basic Training Coordinator, and Diana Tibbs, 911 Coordinator. Commission Member Jeff Holcomb, President, Southeast Technical Institute, was absent.

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

- April 8, 2015 minutes of the South Dakota Law Enforcement Officers Standards and Training Commission were approved on a **motion** by Commission Member Wollman, **second** by Commission Member Rosenau.

Commission Member Ken Tracy was presented a plaque for his service and dedication on the Standards and Training Commission. This is the last meeting for Commissioner Tracy.

Concerns that officers are out working without training, certification, and no direct supervision has initiated a proposed rule amendment:

2:01:06:02. Temporary or probationary appointment. A person qualified under chapter 2:01:02 who has not completed the training program required by § 2:01:06:01 insertion of language or whose certification has expired under § 2:01:02:11, may be appointed on a temporary or probationary basis as a noncertified law enforcement officer (insertion of language) if the appointed person successfully completed the state qualifying firearms course, received training on the appointing agencies use of force or response to resistance policies and has provided the proof of completion to the Office of Law Enforcement Training. In municipalities of the third class, the commission may extend the one year temporary or probationary period for an additional year if a written request has been received by the commission from the hiring agency prior to the expiration of the first year.

Concluding commission discussion on when the training should be completed, and when an officer is able to work in a law enforcement capacity, the following change was made to the proposed rule amendment:

2:01:06:02. Temporary or probationary appointment. A person qualified under chapter 2:01:02 who has not completed the training program required by § 2:01:06:01 insertion of language or whose certification has expired under § 2:01:02:11, (insertion of new language) may not work in an enforcement capacity until the appointed person has successfully completed the state

qualifying firearms course and received training on the appointing agencies use of force or response to resistance. In municipalities of the third class

Discussion on how to track the information resulted in the suggestion to add a notation (check box) on the LES form (application for certification form) for completion of required training.

HB 115, passed during this legislative session, established confidential stress management services for emergency providers. Currently law enforcement officers in South Dakota must complete 40 hours of continuing education every two years to maintain their certification. It is proposed that two of the 40 hour continuing ed. be in the crisis intervention category. This proposal initiated an amendment to rule 2:01:06:17 (3):

Basic requirement for continuing education of officers. Beginning July 1, 2006, to maintain a basic certification, a law enforcement officer must complete 40 hours of training in a two-year period in the following areas: (insertion of the following language)

(3) At least two hours of training in crisis intervention or mental illness.

The two-hours of training would encompass recognizing symptoms of mental illnesses; learn to use de-escalation techniques to diffuse situations, and etc. Training will be modeled after NAMI (National Alliance on Mental Illness), the nation's leading voice on mental health. The category is broad, which will make it easier for Law Enforcement Training to track the required training.

Motion by Commission Member Long to approve the suggested language update and the removal of the previous proposed language, **second** by Commission Member Rosenau.

Walworth County Sheriff Josh Boll and **Jonathan Waldner** are present before members seeking reinstatement of Waldner's SD Law Enforcement Officer Certification. Waldner resigned in good standing from the Spink County Sheriff's Office in May, 2010. Waldner's certification expired in May, 2012. Walworth County Sheriff's Office would like to hire him as a part-time officer. LET staff recommendation is that Waldner attend the reciprocity training week including the use of force simulator. **Motion** by Commission Member Leidholt to approve the certification reinstatement for Jonathan Waldner contingent upon completion of the requirements recommended by the LET staff, **second** by Commission Member Jackley, motion **approved**.

Wyatt Sabo, Harding County Sheriff, and **Jason Lindholm** are before members for the purpose of reinstatement of Lindholm's SD Law Enforcement Officer Certification. The Harding County Board of Commissioners has approved Sheriff Sabo to hire a part-time Deputy Sheriff so long as he/she is certified. Sheriff Sabo would like members to consider reinstating Lindholm's certification so he can assist him when needed. **Motion** by Commission Member Jackley for reinstatement to work with the LET staff to work out the requirements of the reciprocity training week, to cover all required topics including the use of force simulator, **second** by Commission Member Leidholt, motion **approved**.

Chairman Gortmaker called a brief recess and members returned to session at 9:53 a.m. with a quorum present.

Hearing Officer Tom Lee proceeded with the scheduled hearing in the matter of the status of **Josh Zambrano's** certification as a law enforcement officer in the State of South Dakota. This hearing is held to determine whether Zambrano engaged in conduct unbecoming as officer and whether Zambrano was discharged for cause from his employment as a law enforcement officer. Josh Zambrano is present with counsel, Brad Schreiber. Kelly Marnette, Assistant Attorney General, is acting legal counsel for the State.

The record will reflect a stenographic recording of the hearing will be made and copies of the recording will be available upon request. See file for exhibits.

Others present include Major Rick, SD Highway Patrol; Cody Jansen, SD Highway Patrol; Steve Brink, Davison County Sheriff; SA Guy Di Benedetto, DCI; and Attorney Robert Morris.

Commission members heard the opening and closing statements, witness testimony, and considered the evidence presented by both parties. Upon conclusion of the testimony and arguments by both parties, review of the records, questions and discussion, the evidential and argument portion of the hearing concluded at 10:50 a.m. Closing statements were given and members entered into executive session to further discuss their consideration on a **motion** by Commission Member Leidholt, **second** by Commission Member Rosenau.

Members are back in session at 12:10 p.m. on a **motion** by Commission Member Long, **second** by Commission Member Perry. **Motion** by Commission Member Leidholt (we) find by clear and convincing evidence that there has been conduct unbecoming an officer and certification is revoked effective today, June 24, 2015, **second** by Commission Member Rosenau, motion **approved**.

Assistant Attorney General Marnette will prepare Findings of Facts and Conclusions of Law. Commission members agreed to authorize the LEOSTC Chairman to have the authority to sign off on behalf of the commission for the Findings of Facts and Conclusions of Law. Hearing proceedings were concluded.

Members recessed for lunch and reconvened at 12:47 p.m. with quorum a present. Commission Members Perry and Jackley were called away.

Hearing Officer Anderson proceeded with the scheduled hearing in the matter of the status of **Cody Jansen's** certification as a law enforcement officer in the State of South Dakota. This hearing is held to determine whether Jansen engaged in conduct unbecoming of a law enforcement officer to wit: used improper restraint techniques while taking an individual to the ground, causing injury to the individual, or while on duty as a State Trooper used unnecessary and unreasonable force while taking an individual to the ground, causing injury to the individual.

Trooper Jansen is present with counsel, Robert Morris. Kelly Marnette, Assistant Attorney General, is present for the State. The record will reflect a stenographic recording of the hearing will be made and copies of the recording will be available upon request. See file for exhibits. Note - Commission Member Price is recused.

Commission members heard the opening and closing statements, witness testimony, and considered the evidence presented by both parties. Upon conclusion of the testimony and arguments by both parties, review of the records, questions and discussion, the evidential and argument portion of the hearing concluded at 2:35 p.m. Members entered into executive session to further discuss their consideration on a **motion** by Commission Member Barthel, **second** by Commission Member Wollman.

Members are out of executive session and in regular session on a **Motion** by Commission Member Rosenau, **second** by Commission Member Long. **Motion** by Commission Member Wollman based upon the evidence presented and testimony provided, this board finds that while improper and in violation of highway patrol policies, Trooper Jansen's actions do not rise to the level of conduct unbecoming of an officer, **second** by Commission Member Leidholt, motion **approved**.

Assistant Attorney General Marnette will prepare Findings of Facts and Conclusions of Law. Commission members agreed to authorize the LEOSTC Chairman to have the authority to sign off on

behalf of the commission for the Findings of Facts and Conclusions of Law. Hearing proceedings were concluded and the Chair was returned to Gortmaker for the conclusion of the meeting's business.

Business continued with the following grant request:

Meade County Sheriff's Office submitted a request for \$9,500.00 to host a three day *Field Training Officer (FTO)* course in November, 2015. The program will be taught by the Institute of Police Technology and Management (ITPM) out of Florida. The course will accommodate a maximum size of 30 students or a minimum of 20 students. Law Enforcement Training has adopted the PTO concepts within the basic class and the President's Task Force has also recommended PTO as a model for agency training. Concluding discussion of the President's Task Force report and the two programs, FTO (Field Training Officer) and the PTO (Problem Based Officer) programs, members agreed to fund the Meade County grant request on a **motion** by Commission Member Long, **second** simultaneously by Commission Members Leidholt and Rosenau, motion **approved**.

A review of the FY 16 grant monies spent and remaining balance for 2016 was provided to members.

Executive Secretary Rechtenbaugh presented the following reciprocity requests:

Jacob Tweeten, Pennington County Sheriff's Office, completed the skills course at Hibbing Community College and passed the Minnesota Peace Officer Licensing exam. Tweeten is now eligible for a peace officer license. Tweeten's background check revealed no adverse information. Tweeten successfully completed the reciprocity exam on May 29, 2015, and is scheduled to attend the fall 2015 reciprocity training week. **Motion** by Commission Member Barthel to approve reciprocity certification contingent upon completion of the reciprocity training week and skills testing, **second** by Commission Member Wollman, motion **approved**.

Stefan Pluta, Department of Public Safety, Office of Homeland Security. Pluta is a retired Federal Bureau of Investigation Special Agent. He was employed with the Federal Bureau of Investigation from February 1988 - March 2013. Pluta was appointed as a Special Assistant Attorney General in February, 2015. A background check revealed no adverse information. Pluta successfully completed the reciprocity exam on June 11, 2015, and is scheduled to attend the fall 2015 reciprocity training week. **Motion** by Commission Member Leidholt to approve reciprocity certification for Stefan Pluta contingent upon completion of the reciprocity training week and skills testing, **second** by Commission Member Rosenau, motion **approved**.

The following Canine Teams have met the certification or recertification requirements:

- Canine Team **Terry Sorensen and K9 Copper**, DCI Reserve, have met the requirements for Scent Discriminatory Tracking certification on March 24, 2015;
- Canine Team **Marcos Glass and K9 Jackson**, Pennington County Sheriff's Office, have met the requirements for Patrol Dog certification on April 15, 2015;
- Canine Team **Jason LaHaie and K9 Xander**, Rapid City Police Department, have met the requirements for Patrol Dog certification on April 15, 2015;
- Canine Team **Michael Dale and K9 Raica**, SD Highway Patrol, have met the requirements for Patrol Dog certification on May 13, 2015;
- Canine Team **Thomas Barstad and K9 Neko**, Aberdeen Police Department, have met the requirements for Drug Detection Dog certification on June 11, 2015;
- Canine Team **Casey Urrutia and K9 Cali**, McCook County Sheriff's Office, have met the requirements for Drug Detection Dog certification on May 14, 2015;

- Canine Team Nathan Bowden and K9 Tusox, Flandreau Police Department, have met the requirements for Drug Detection Dog certification on June 12, 2015;
- Canine Team Chris Konrad and K9 Maggie, DCI, have met the requirements for Accelerant Detection certification on April 11, 2015;
- Canine Team Nicholas Butler and K9 Doerak, Sioux Falls Police Department, have met the requirements for Patrol Dog certification on June 9, 2015;
- Canine Team Shannon Irish and K9 Rio, Sioux Falls Police Department, have met the requirements for Patrol Dog certification on June 9, 2015;

Motion by Commission Member Rosenau to approve all Canine Team certifications, **second** by Commission Member Price, motion **approved**.

The following items were presented for commission information and did not require any action by members.

Documentation has been received from Attorney Alvin Pahlke advising Mike Blom, Mellette County Sheriff, has completed the 12-hour South Dakota Public Safety DUI program held at and facilitated by Main Gate Counseling Services. Blom started the study on May 8, 2015 and completed all requirements on May 15, 2015. Blom was required by the commission at their April 8, 2015 meeting to complete the 12-hour study before attending the basic certification program and share the results of that program.

A Consent of Decertification form was received from Frederick Hein former Game, Fish and Parks employee.

In December 2014, President Obama signed an Executive Order establishing the President's Task Force on 21st Century Policing. The Executive Order directed the task force to prepare a report and recommendations to help communities and law enforcement agencies across the country to strengthen trust and collaboration, while continuing to reduce crime, to the President. The initial report was submitted to the President in March, 2015 and the final report released in May, 2015. Basic Coordinator Greg Williams reviewed LET's response to the Pillar 5 - Training and Education.

- 5.1 - Action Item: The training innovation hubs should develop replicable model programs that use adult-based learning and scenario-based training in a training environment modeled less like boot camp. Through these programs the hubs would influence nationwide curricula, as well as instructional methodology.

LET is interested in becoming one of the innovation hubs. An executive brief is being prepared for the Chiefs and Sheriffs. LET has already incorporated concepts into the academy using the problem based learning and PTO (Patrol Officer Training) and is slowly implementing several of IADLEST's model policy initiatives.

- 5.3 - Recommendation: Law enforcement agencies should provide leadership training to all personnel throughout their careers.

LET has worked with Lt. Erickson, SD Highway Patrol, in hosting two IACP LPO (Leadership in Police Organizations) training programs. LPO is recommended by name in the President's report. LET also offers the Ken Blanchard program on Situational Leadership II for Law Enforcement. It is recommended that LET put together some type of leadership committee.

- 5.6 - Recommendation: POSTs should make Crisis Intervention Training (CIT) a part of both basic recruit and in-service officer training.

The basic has eight hours of crisis intervention training. LET is planning to conduct another job task analysis with special emphasis on crisis intervention training needs. The analysis should be ready by next summer. Based on the report, the number of hours for crisis intervention training may increase.

- 5.7 - Recommendation: POSTs should ensure that basic officer training includes lessons to improve social interaction as well as tactical skills.

LET has implemented emotional intelligence and professional communication into the curriculum. These skills are a key part of the in-service.

- 5.9 - Recommendation: POSTs should ensure both basic recruit and in-service training incorporates content around recognizing and confronting implicit bias and cultural responsiveness.

The basic course has a class on Anti-Bias and Cultural Awareness. LET is looking at ways to improve this training. LET is working on a grant to hold one more train-the-trainer program.

- 5.13.1 - Action Item: The U.S. Department of Justice should support the development of broad Field Training Program standards and training strategies that address changing police culture and organizational procedural justice issues that agencies can adopt and customize to local needs.

The para-military style of police training and the reliance on FTO based training programs do not promote critical thinking or self-directed problem solving.

- 5.13.2 - Action Item: The U.S. Department of Justice should provide funding to incentivize agencies to update their Field Training Programs in accordance with the new standards.

The report names PTO as being the type of program to fully develop the 21st Century Police Officer. The basic academy has been modeled after this program. There are 96 PTOs and a dozen or so PTO train-the-trainers. In July, 2016 LET will be hosting a two-week PBL course. All agencies in South Dakota should consider adopting PTO.

There being no further business to come before the meeting body, the proceedings were concluded on a **motion** by Commission Member Rosenau, **second** by Commission Member Price. The next meeting will be on call of the chairman.

Approved November 4, 2015
Date

Bryan Gortmaker, Chairman LEOSTC

Scott Rechtenbaugh, Executive Secretary LEOSTC

Submitted By Recording Secretary