

**LAW ENFORCEMENT OFFICERS
STANDARDS AND TRAINING COMMISSION
MICKELSON CRIMINAL JUSTICE CENTER
Pierre, SD
May 13, 2014**

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 May 13, 2014, in the Commission Conference Room at the George S. Mickelson Criminal Justice Center.

Roll call of members present included Bryan Gortmaker, Chairman; Dennis Falken, Brookings County Commission; Tom Wollman, Lincoln County State's Attorney; Ken Tracy, Mayor, City of Mitchell; Marty Jackley, Attorney General; Joe Weir, Special Agent, FBI; Doug Barthel, Sioux Falls Chief of Police; and Col. Craig Price, Superintendent, SD Highway Patrol. Others present included Scott Rechtenbaugh, Executive Secretary. Commission Members Jeff Holcomb, Southeast Tech President; John Long, SS Agent BIA OJS; and Mike Leidholt, Hughes County Sheriff were absent.

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

- March 19, 2014 minutes of the South Dakota Law Enforcement Officers Standards and Training Commission were approved on a **motion** by Commission Member Tracy, **second** by Commission Member Wollman, motion **approved**.

Hearing Officer Rob Anderson proceeded with the scheduled hearing in the matter of the certifiability of **Joseph Schneller** as a South Dakota law enforcement officer. This is an adversary hearing to determine whether Schneller possesses the requisite minimum standards for employment or certification as a law enforcement officer in the State of South Dakota. Mr. Schneller submitted an application for the office of county sheriff to Law Enforcement Training on March 24, 2014. Background check revealed Schneller voluntarily signed a consent of decertification form surrendering his law enforcement certification in 1999. Schneller was terminated from the Rapid City Police Department in 1998 following an investigation involving inappropriate use of force.

Joseph Schneller is present with counsel, Patrick Ginsbach. 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.

State Legislature adopted SDCL 23-3-43.1 requiring certification of qualification for county sheriff prior to the filing of a petition to seek that office. Any candidate for election to the office of county sheriff shall file with the county auditor by the last Tuesday of March of the election year a certification of qualification issued by the law enforcement officers standards commission that the candidate meets the qualifications provided in § 23-3-43. Any candidate who files an independent nominating petition shall file with the county auditor a certification of qualification by the first Tuesday after the first Monday of June.

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 evidence procedure of the hearing concluded at 10:35 a.m.

Chairman Gortmaker called a brief recess and members returned to session at 10:50 a.m. The commission members entered into executive session on a **motion** by Commission Member Falken, **second** by Commission Member Price, to further discuss their consideration.

Members moved out of executive session and back into regular session at 11:10 a.m. on a **motion** by Commission Member Tracy, **second** by Commission Member Barthel. **Motion** by Commission Member Price, the request of Joseph Schneller to be certified be denied based on sufficient information to deny certification, **second** by Commission Member Barthel, 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.

Hearing Officer Anderson proceeded with the scheduled hearing in the matter of the certifiability of Marlin Mousseau as a South Dakota law enforcement officer. This is an adversary hearing to determine whether Mousseau possesses the requisite minimum standards for employment or certification as a South Dakota law enforcement officer. Mousseau submitted an application for reciprocity certification in September 2013. Mousseau successfully passed the reciprocity exam and completed the required reciprocity training week in January 2014. Integrity issues reference previous employment as a BIA K9 handler and courtroom testimony were discovered. Mousseau was removed from his position as a police officer with the Yankton Agency, BIA Officer of Justice Services in November 2012. Mousseau provided false statements and/or documents to a federal magistrate judge regarding K-9 deployment logs.

Mr. Mousseau is present without legal counsel. 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.

The commission heard the testimony and considered the evidence presented by both parties. Upon conclusion of the testimony, questions and discussion, members entered into executive session on a **motion** by Commission Member Barthel, **second** by Commission Member Wollman to further discuss their consideration. Members moved out of executive session on a **motion** by Commission Member Barthel, **second** by Commission Member Falken. Proceedings resumed. **Motion** by Commission Member Price that the request of Marlin Mousseau for reciprocity certification be denied based on the fact of the commission finding sufficient information to deny the request, **second** by Commission Member Falken, 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.

Business continued with the next scheduled hearing. Hearing Officer Anderson advised the hearing is in the matter of certifiability of Brent Goehring as a South Dakota law enforcement officer. This is an adversary hearing to determine whether Goehring possesses the requisite minimum standards required to be employed or certified as a law enforcement officer. On or about May 10, 2005, Goehring was involved in a domestic altercation wherein Goehring slapped his 20 month old daughter and pushed his wife into a closet wall and held her there by her wrist. Goehring then grabbed a knife and state he was going to kill himself. Goehring was discharged from the USMC by reason of convenience of the government due to a personality disorder in February 2002. The basis for the recommendation was his diagnosis of chronic depression with a recent suicidal attempt by drug overdose and considered an ongoing danger to himself as supported by his diagnosis by Dr. Alfonso, psychiatrist, Mental Health Department of US Naval Hospital, Okinawa. Goehring's condition clearly indicated unsuitability for future military service and it was therefore recommended that he be immediately discharged. Goehring was accepted into the Minnesota West Community and Technical College at Worthington. Rolf Carlson,

licensed psychologist with Avera Worthington Specialty Clinic, conducted a psychological evaluation in December 2010 and it was determined Goehring did not pose a serious threat to the health or safety of himself or others.

Mr. Goehring is present without legal counsel. Kelly Marnette, Assistant Attorney General, is present for the State. Moody County Sheriff Troy Wellman is present. 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.

Upon conclusion of testimony, questions, review of exhibits and discussion, members entered into executive session at 12:25 p.m. on a **motion** by Commission Member Weir, **second** by Commission Member Wollman to further discuss their consideration. Proceedings resumed before the commission at 12:35 p.m. on a **motion** by Commission Member Tracy, **second** by Commission Member Falken. **Motion** by Commission Member Wollman to table this matter until Goehring receives a psychological evaluation conducted by Dr. Magnavito or a board certified psychologist. If he chooses his own psychologist, it would be the individual's expense, **second** by Commission Member Barthel, motion **approved**. This ended the hearing for today. Law Enforcement Training will help arrange the psychological evaluation.

Members recessed for lunch and reconvened at 1:17 p.m. and continued the order of business with the review and discussion of the DOC canine rules. Members had agreed at the February 19, 2014 meeting to have legal advisor Bachand contact LRC (Legislative Research Council) regarding the draft rules and work on statute grant authority. Bachand advised LRC has reviewed the rules and a couple modifications were made. Under the definitional section item (2) "Corrections service dog" included a reference to the item being unlawful for an inmate to possess as a result of state law or DOC rules. This same change is included in the rule "Standards for certification as a corrections canine team". DOC canines are only used in the walls of the penitentiary. DOC will administer the tests and skills similar to the NBTI (National Bloodhound Training Institute) recognized by the commission. **Motion** by Commission Member Barthel to move forward with the rules to LRC, **second** by Commission Member Falken, motion **approved**.

Business continued with the following reserve unit requests:

Flandreau Police Department, Chief of Police Jim Morey is present via telephone to request authorization to establish a reserve unit in and for the City of Flandreau. The unit would strictly adhere to the guidelines and rules set forth by the commission. The community has a Casino that brings concerts and gaming events, a Pow Wow is conducted every year, along with other community functions. The Flandreau City Council is in support of the establishment of a reserve unit. The reserve unit would assist the Police Department for community activities and would further relations between the public and law enforcement. **Motion** by Commission Member Bartel to approve the request to begin the reserve unit, **second** by Commission Member Falken, motion **approved**.

Whitewood Police Department, Chief of Police Robert Steenholdt and former Chief of Police Jerry Davidson appeared before the commission to request the re-instatement of a reserve unit. The commission approved a reserve unit for the City of Whitewood in July 2007. The unit was suspended in November 2011 by Chief Jerry Davidson. The unit would assist the Police Department with various community activities. The Whitewood City Council approves the re-instatement of the reserve program. Chief Steenholdt plans to start with five reserve officers. The unit will comply with the regulations set forth by the commission. **Motion** by Commission Member Jackly to approve the reserve unit re-instatement, **second** by Commission Member Tracy, motion **approved**.

Members considered the firearms qualification waiver request presented by the SDSU Police department. **Officer Marc Rieger** received deployment orders to active military duty. SDSU is requesting exemption regarding the annual law enforcement training firearms qualification. The exemption is requested to maintain Rieger's SD law enforcement certification while he is on active duty. Due to military deployment, Officer Rieger was unable to meet the firearms qualifications requirement for calendar year 2013. Officers who are granted the waiver must first complete the required qualification course before performing the duties of a law enforcement officer. **Motion** by Commission Member Wollman to approve the waiver request, **second** by Commission Member Weir, motion **approved**.

The **Pennington County Sheriff's Office** submitted a grant request to host a *NSA Court Security* training session in October 2014. The NSA (National Sheriff's Association) Court Security is a two-day training session. The cost is either a \$3,800 flat fee if the class is less than 25 people or \$4,500 for a class of 25 or more people. The class size is limited to 30 attendees. The training will provide the tools to enhance awareness while transporting prisoners as well as the overall safety and security in the courtroom and the courthouse facility. **Motion** by Commission Member Falken to approve the grant request up to \$4,500, **second** by Commission Member Price, motion **approved**.

Executive Secretary Rechtenbaugh presented the following requests for reciprocity certification:

Brian M. Neumayer, Yankton Police Department. Neumayer completed the 14-Week requirements for peace officer certification in the State of Nebraska in August 2010. Neumayer was employed with the Howard County Sheriff's Office. He is in good standing and there are no pending complaints. Neumayer successfully completed the reciprocity exam on March 19, 2014. Neumayer completed the reciprocity training week requirements on April 4, 2014. **Motion** by Commission Member Barthel to approve reciprocity certification for Brian Neumayer, **second** by Commission Member Price, motion **approved**.

David Switzer, Pennington County Sheriff's Office. Switzer successfully completed a 680-hour basic law enforcement academy program at Modesto Junior College, Modesto, CA in May 1991. Switzer fulfilled the requirements for basic certification as prescribed in Title II of the California administrative code and was awarded a basic certificate in November 1994. Switzer successfully completed the reciprocity exam on April 3, 2014. Switzer is scheduled to attend the fall reciprocity training week. **Motion** by Commission Member Falken to approve reciprocity certification contingent upon completion of the reciprocity training week and skills testing, **second** by Commission Member Tracy, motion **approved**.

Adam Zishka, Minnehaha County Sheriff's Office. Zishka successfully completed a 640-hour Department of Public Safety Standards and Training Basic Police class in February 2010, and was issued his basic police certification by the State of Oregon in July 2010. Zishka currently holds Intermediate Police certification and is in good standing with the State of Oregon. Zishka successfully completed the reciprocity exam on May 6, 2014, and is scheduled to attend the fall reciprocity training week. **Motion** by Commission Member Weir to approve reciprocity certification contingent upon completion of the reciprocity training week and skills testing, **second** by Commission Member Price, motion **approved**.

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

- Canine Team **Jon Lohr and K9 Andor**, Sioux Falls PD, have met the requirements for Drug Detection Dog certification on February 25, 2014;
- Canine Team **Seth Bonnema and K9 Kysa**, Flandreau PD, have met the requirements for Drug Detection Dog certification on April 9, 2014;
- Canine Team **Shawn Hostler and K9 Buddy**, Brookings Co SO, have met the requirements for Accelerant Detection Dog certification on April 9, 2014;

- Canine Team Jason Foote and K9 Ares, Yankton PD, have met the requirements for Drug Detection Dog certification on April 4, 2014;
- Canine Team Patrick Nolz and K9 Grief, Yankton PD, have met the requirements for Drug Detection Dog certification on April 9, 2014;
- Canine Team Jason LaHaie and K9 Xander, Rapid City PD, have met the requirements for Drug Detection Dog certification on April 14, 2014; and
- Canine Team Sean Doyle and K9 Stryker, Rapid City PD, have met the requirements for Drug Detection Dog certification on May 1, 2014.

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

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

The Brookings Police Department had submitted a grant request for commission review at the March 19, 2014 meeting. The request was to host a *Less Lethal Instructor Course*. The vendor used for the course sells munitions only to people trained by them. Several larger South Dakota agencies would not attend due to purchasing from ALS only. Members agreed to table the grant request until more follow-up could be done with Lt. Collins at the Brookings PD. Executive Secretary Rechtenbaugh updated members reference the training request. This is the vendor the Brookings Police Department wants to go with and they will host the course and pay for the training out of Homeland Security funds.

During the February 19, 2014 meeting members discussed the minimum hours of training for a reserve officer to work independently. Members agreed to have the LET staff research other states working with reserve programs and report to the board. A copy of a reserve officer survey was distributed to members. Law Enforcement Training's reserve standards are consistent with other states. Members will further discuss the results of the survey at their next scheduled meeting.

A Drug Detection and Patrol Dog Canine Team Consent of Decertification has been received from Canine Handler Sean Doyle and K9 Magnum, Rapid City Police Department. Canine Magnum was retired August 14, 2013.

There being no further business to come before the meeting body, the proceedings were concluded on a **motion** by Commission Member Falken, **second** by Commission Member Jackley, motion **carried**.

Approved _____ August 19, 2014

Date


Bryan Gortmaker, Chairman LEOSTC


Scott Rechtenbaugh, Executive Secretary LEOSTC


Submitted By Recording Secretary