

LAW ENFORCEMENT OFFICERS  
STANDARDS AND TRAINING COMMISSION  
CRYSTAL ROOM - RAMKOTA HOTEL AND CONFERENCE CENTER  
Sioux Falls, SD  
November 4, 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. CST on November 4, 2015, in the Crystal Room of the Ramkota Hotel and Conference Center, 3200 West Maple Street, Sioux Falls, South Dakota.

Chairman Gortmaker asked for the roll call. The following Commissioners were present and responded to roll call: Robert Perry, Special Agent, FBI; Matt Burns, Sioux Falls Chief of Police; Steve Allender, Rapid City Mayor; Mike Leidholt, Hughes County Sheriff; Randall Rosenau, Lawrence County Commissioner; Jeff Holcomb, Southeast Technical Institute President; Tom Wollman, Lincoln County State's Attorney; Marty Jackley, Attorney General; Craig Price, Superintendent, SD Highway Patrol; Bryan Gortmaker, Chairman; Scott Rechtenbaugh, Executive Secretary; Kim Knecht, Assistant Training Administrator; Greg Williams, Basic Coordinator, and Diana Tibbs, 911 Coordinator.

Commission Member John Long, SSA BIA OJS, was absent.

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

- June 24, 2015 and September 22, 2015 minutes of the South Dakota Law Enforcement Officers Standards and Training Commission were approved on a **motion** by Commission Member Leidholt, **second** by Commission Member Wollman.

Introductions were made of newly appointed Members Steve Allender and Matt Burns. Allender was the former Rapid City Chief of Police and is the newly elected Mayor for the City of Rapid City and represents the South Dakota Municipal League. Allender replaces Ken Tracy.

Matt Burns is the newly appointed Sioux Falls Police Department Chief of Police. Burns is the person on the Standards Commission who is duly appointed, qualified and acting member of a municipal police department of this state. Burns replaces retired commission member Doug Barthel.

Hearing Officer Paul Bachand proceeded with the scheduled hearing in the matter of the certification of **Matthew Wetterling**, as a South Dakota law enforcement officer. This hearing is to consider the status of Wetterling's certification as a law enforcement officer in the State of South Dakota. It is to determine whether Wetterling received a suspended imposition of sentence for a misdemeanor involving moral turpitude; whether Wetterling engaged in conduct unbecoming of a law enforcement officer by filing nominating petitions for county sheriff falsely stating he was the circulator of those petitions; and whether Wetterling engaged in conduct unbecoming a law enforcement officer by violating his "last change agreement", which resulted in Wetterling's resignation from the Tea Police Department.

Matthew Wetterling is present without counsel. Kelly Marnette, Assistant Attorney General, is acting legal counsel for the State. Mike Hofeldt, Chief of Police, Menno Police Department, is also 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.

Commission members heard the opening and closing statements, 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 evidentiary portion of the hearing was concluded. Members entered into executive session on a **motion** by Commission Member Perry, **second** by Commission Member Rosenau to further discuss their consideration, motion **approved**.

Members moved out of executive session on a **Motion** by Commission Member Rosenau, **second** by Commission Member Leidholt. Proceedings resumed before the commission. **Motion** made by Commission Member Rosenau to revoke the South Dakota Law Enforcement certification for Matthew Wetterling, **second** by Commission Member Leidholt. Motion **approved** by verbal response in the affirmative by all members. **Action: 8-0 Aye** (Allender, Perry, Price, Leidholt, Jackley, Holcomb, Rosenau, and Burns). Record will reflect Commission Member Wollman was recused from the decision making.

Motion by Commission Member Leidholt to allow the Chairman to sign any Findings, Facts, and Conclusions on behalf of the commission, **second** by Commission Member Perry, motion **approved**.

Assistant Attorney General Marnette will prepare the Findings of Fact and Conclusions of Law. The hearing was concluded.

Hearing Officer Paul Bachand proceeded with the scheduled hearing in the matter of the certification of **Derek Palmer** as a South Dakota law enforcement officer. The hearing is held to determine whether Palmer should have his certification as a law enforcement officer reinstated following his consent to decertification. Palmer consented to decertification as a law enforcement officer in 2014, after admitting to marijuana use.

Palmer 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.

Commission members heard the opening and closing statements, 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 evidentiary portion of the hearing was concluded. Members entered into executive session on a **motion** by Commission Member Leidholt, **second** by Commission Member Wollman to further discuss their consideration, motion **approved**.

Members moved out of executive session on a **Motion** by Commission Member Wollman, **second** by Commission Member Burns. Proceedings resumed before the commission. **Motion** made by Commission Member Wollman, based upon the evidence heard and the testimony given "I would make the motion to reinstate Derek Palmer's certification. Further, within that motion, I would ask that we direct Mr. Rechtenbaugh to remove his name from the National Database; and within that motion would condition that Mr. Palmer would need to complete the reciprocity process prior or upon employment from any agency of hire" (to complete the reciprocity week of training upon being hired), **second** by Commission Member Rosenau. Motion **approved** by verbal response in the affirmative by all members. **Action: 9-0 Aye** (Wollman, Allender, Perry, Price, Leidholt, Jackley, Holcomb, Rosenau, and Burns). The hearing proceedings were concluded.

If Palmer is hired within two years from September 2014 (the date he left employment), he must relate to hiring agency the requirements to come in compliance with the motion (needs to complete the reciprocity week of training). If he is hired beyond the two years after the date he left employment, he would have to petition the commission for certification.

Members recessed for lunch and reconvened at 12:15 p.m. with a quorum present.

Members continued the order of business with the appearance of **Brian Swenson**, Box Elder Police Department. Swenson along with Jason Dubbs, Box Elder Chief of Police, are before the Commission to request certification reinstatement. Swenson completed the Six-Week Basic certification program in 1992 and completed the State of Wisconsin law enforcement certification in 1995. He was employed by the Minnehaha County Sheriff's Office from 1991 - 1993; the Kohler Wisconsin Police Department from 1994 - 1995; the Elkhart Lake Wisconsin Police Department as a seasonal office in 1995; the Sheboygan Falls Wisconsin Police Department in 1995 - 1998; the Moody County Sheriff's Office 1998 - 2000; the Turner County Sheriff's Office 2000 - 2007; and the Lennox Police Department from 2007 - 2008. Swenson resigned from the Lennox Police Department in 2008. His certification expired in September 2010. In 2008 he entered into business for himself as a private investigator. He was also involved in loss prevention for various stores, and in 2014 he was the founding member of the South Dakota Organized Retail Crime Association.

Chairman Gortmaker asked Swenson to advise the commission on the circumstances and investigation in his leaving the Lennox Police Department. Swenson indicated he was going through a nasty divorce. His wife had made allegations to a relationship and an affair with the babysitter who was a juvenile at the time. Swenson advised the incident was not true, nothing happened. The individual was 16 years old at the time of the investigation, but was 15 years old at the time of the allegation. Swenson was also asked if he gave her (babysitter) a diamond ring or a ring. Swenson advised he did not give her (babysitter) a diamond ring or any ring. SA Satterlee conducted the investigation.

Chairman Gortmaker asked to table this request at this time until a complete review of the record can be conducted. The matter will be rescheduled at the next regular commission meeting.

**Casey Weston**, Oglala Sioux Tribe, and supervisor Sharon Rowland are before members requesting Weston be considered for reinstatement as a communications officer. Weston was certified as a telecommunicator in 2010. Her certification expired in December of 2012. Casey was hired as a 911 communications officer in January of 2015. Weston has completed NCIC recertification and Emergency Medical Dispatch training. Weston would be required to complete the Ethics and Liability portions of the two-week telecommunicator course for certification reinstatement. **Motion** by Commission Member Perry to approve reinstatement and complete the Ethics and Liability blocks of instruction when available, **second** by Commission Member Leidholt, **motion approved**.

**Luke Black Bear**, Rosebud Police Department, and Chief Administrator Marlin Enno are present via telephone requesting law enforcement certification reinstatement for Officer Black Bear. Black Bear had previously worked with the Rosebud Police Department from 2000 - 2013. Black Bear completed the basic certification training in 2001. His certification lapsed in July of 2014. Officer Black Bear has completed the FLETC PPC course of fire, firearms safety briefing including off range safety instruction and home storage recommendations on October 27, 2015. Officer Black Bear is scheduled to attend Domestic Violence training on November 5, 2015. Staff recommendation is that Officer Black Bear attend the reciprocity week of training if the request for reinstatement is granted. **Motion** by Commission Member Burns to grant certification reinstatement pending the addition of the one week of training, **motion amended** to consider courses already taken if they are acceptable to the LET staff, **second** by Commission Member Rosenau, **motion approved**.

Members reviewed the following request from the SD Highway Patrol to re-instate the law enforcement certification of the following retired Highway Patrol personnel:

- Dan Mosteller - retired 06/08/2010 as Colonel after 27 years of service, cert. expired 6/2012;
- James (JC) Carpenter - retired 01/08/2008 as Major after 30 years of service, cert. expired 3/2010; and
- Chris Forster – retired 10/08/09 as a Sgt. after 24 years of service, cert. expired 10/2011.

During the 2014 legislative session, legislators expressed the desire to have armed security in and around the legislative chambers when legislature is in session. The SD Highway Patrol plans to hire former employees who have left the agency in good standing. These individuals will be plainclothes armed officers attached to the Capitol Protective Services Division. Their sole responsibility will be to provide a security presence in the legislative chambers during session. Col. Price advised members these former employees will be required to pass firearms qualification with their assigned weapon and will attend the SD Highway Patrol in-house academy and will receive training in the areas covered during the reciprocity training week. **Motion** by Commission Member Perry to approve all three retired SD Highway Patrol personnel and to complete training as required by LET, **second** by Commission Member Rosenau, **motion approved**. All retired personnel are required to complete the necessary paperwork and submit completed documents to Law Enforcement Training.

Randy Thaler, Charles Mix County Sheriff, is before members via telephone requesting **Tara Depaz Escobar** be given the opportunity to attend a Telecommunicators Certification Course within a year from her hiring date. Escobar has been rehired as a part-time telecommunicator for the Charles Mix County Sheriff's Office. Escobar was dismissed from the 46<sup>th</sup> Basic 911 Telecommunicator Certification course for academic failure in June of 2014. Escobar has been working at the Charles Mix County Sheriff's Office in a part-time jailor capacity since June of 2014. Thaler feels Escobar can do the job. He feels that being around law enforcement the past year, she has gained more knowledge in how to handle situations. He feels he sent her to the previous training course too quickly. **Motion** by Commission Member Leidholt to grant the reinstatement request to Escobar, **second** by Commission Member Wollman, **motion approved**.

Cheyenne River Law Enforcement Department has requested members consideration to return **Kari Baker** to the 911 Basic Certification training session. Baker was dismissed from the 46<sup>th</sup> Basic 911 Telecommunicators Certification course for academic failure. The department has rehired Baker as a dispatcher and feels she is capable to do the job and complete training. Baker became very anxious and irritable when it came time to take exams. Baker is now on medication for anxiety, is getting along better with co-workers, and feels she is capable of passing the basic telecommunications training exams. **Motion** by Commission Member Burns to allow Baker to reapply to attend the 911 Basic Certification course, **second** by Commission Member Perry, **motion approved**.

The next items before the commission for review and consideration were the following grant requests:

The **Sioux Falls Police Department** submitted a \$ 6,000.00 - \$ 7,500.00 grant request to host a three-day *NASRO (National Association of School Resource Officers) Advanced SRO (School Resource Officer) Course*. The class is offered on a per student basis but NASRO has quoted prices dependent upon the number of students. There are three different cost levels:

- 20 or fewer attendees cost is \$ 6,000.00;
- 21 - 25 attendees cost is \$ 6,875.00; and
- 26 - 30 attendees cost is \$ 7,500.00.

The course is a 24-hour block of instruction designed for any law enforcement officer working in an educational environment. The course will also provide additional skills and program for the experienced

School Resource Officer to identify and diffuse potentially dangerous situations on campus. NASRO will provide an experienced instructor to teach the course in June of 2016. Maximum class size is 30 attendees. The cost for this grant will fall in the next fiscal year. Sgt. Dave Osterquist, Sioux Falls Police Department, was available to answer any questions from commission members. **Motion** by Commission Member Leidholt to approve the request submitted by the Sioux Falls PD, **second** by Commission Member Price, motion **approved**. Minutes will reflect Commission Member Burns abstained from voting.

A request to host a three-day *Group Crisis Intervention and Individual (Peer Support) Class* taught by Dr. Daniel Clark, a licensed clinical psychologist working with the Washington State Patrol Department, was submitted by the Rapid City Police Department. There are two different cost levels for the three-day session:

- a 20 student class cost is \$ 7,200;
- a 50 student class cost is \$9,000;
- less than 20 students, contract can be terminated.

Don Hedrick, Rapid City Police Department provided a background on the requested training. Officers are frequently confronted with situations which affect their lives and careers. These challenges are not just physical but also the unseen emotional toll which wears on officers. Officers are left on their own to cope. The Rapid City Police Department has been working to educate and develop a Peer Support Team. This training would give the attendees a certification in both Group and Individual (Peer Support) Crisis Intervention. Attendees are provided the tools to defuse and support each other through crisis situations and to provide long term support. Attendees will gain the knowledge to recognize when a peer needs additional tools or help to cope with their situation. **Motion** by Commission Member Perry to approve the request submitted by the Rapid City Police Department, **second** by Commission Member Burns, motion **approved**.

Business continued with the appearance of Jo Vitek, Lake Area Technical Institute Law Enforcement Department Supervisor, and Karen Bellum, Dean of Academics. Lake Area Tech is before members seeking the approval for an articulation agreement to grant their Law Enforcement graduates the opportunity to take the reciprocity exam and to receive law enforcement certification through the reciprocity process.

Sioux Falls Southeast Tech and Rapid City Western Dakota Tech have law enforcement programs and both have indicated they are not opposed to Lake Area Tech starting this program. There are very few students from the northeast region enrolled in their campuses. The Watertown program will fill a void in northeast South Dakota. The program was launched in the fall of 2014, and started with 24 students. There are currently 16 students in the program scheduled to graduate in May of 2016.

Lake Area Tech has a stringent screening process including medical, background check, drug testing, agility/fitness testing, and psychological testing. Lake Area has incorporated the PTO (Police Training Officer) program, an instruction method of hands-on training. The program incorporates a version of the PBL (Problem Based Learning) method of teaching adapted for police and is in line with what LET does at the training academy. All adjunct instructors from Watertown have gone through the PTO training program. With the commission's approval, Lake Area Tech would also like to include the cost of the reciprocity exam fee and skills fee in with the Law Enforcement Program admittance fee. Lake Area would then cut a check to LET for graduates exam and skills fees. **Motion** by Commission Member Leidholt to approve an articulation agreement for Lake Area Technical Institute, **second** by Commission Member Holcomb, motion **approved**.

Executive Secretary Scott Rechtenbaugh presented the following applications for reciprocity certification:

**Robert Swanson**, Pennington County Sheriff's Office, successfully completed the clinical component of the professional peace officer education program at Hibbing Community College. Swanson met all the academic and POST requirements to take the licensing exam in June of 2014. Swanson passed the Peace Officer Licensing Examination in June 2015, completing the POST board's examination requirements and is now eligible for a peace officer license. Swanson successfully passed the reciprocity exam on October 7, 2015. His background revealed no adverse information. Swanson is scheduled to attend the next available reciprocity training week. **Motion** by Commission Member Perry to accept the reciprocity certification request contingent upon completion of the one-week reciprocity training, **second** by Commission Member Leidholt, motion **approved**.

**Gary Wright**, Marshall County Sheriff's Office. Wright completed the Law Enforcement Technology Program at Southeast Technical Institute in May 2015. Wright's background check revealed no adverse information. Wright successfully passed the reciprocity exam on October 20, 2015. Because of the articulation agreement between the SD Law Enforcement Officers Standards and Training Commission and Southeast Technical Institute, Wright only needs to demonstrate the skills testing in EVOC and Firearms. He must demonstrate the same level of skills in EVOC and Firearms as required in the Basic Certification Course. Wright is scheduled to attend the next available reciprocity skills testing. **Motion** by Commission Member Leidholt to approve reciprocity certification for Gary Wright contingent upon meeting the reciprocity skills requirement, **second** by Commission Member Burns, motion **approved**.

The order of business continued with canine team certification. The following teams have met the requirements of certification or recertification:

- Canine Team **Jon Lohr and K9 Andor**, Sioux Falls Police Department, have met the requirements for Patrol Dog certification on September 11, 2015.
- Canine Team **Grant VanVoorst and K9 Max**, Sioux Falls Police Department, have met the requirements for Patrol Dog certification on September 11, 2015.
- Canine Team **Kirk Ellis and K9 Thera-Dakota**, Watertown Police Department, have met the requirements for Drug Dog Detection certification on October 1, 2015.
- Canine Team **Chad Gamber and K9 Bono**, Watertown Police Department, have met the requirements for Drug Dog Detection certification on October 1, 2015.
- Canine Team **Christopher Koltz and K9 Blitz**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on October 1, 2015.
- Canine Team **John Lord and K9 Aros**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on October 1, 2015.
- Canine Team **Trent Heuertz and K9 Zeke**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on October 1, 2015.
- Canine Team **Zac Bader and K9 Karma**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on October 1, 2015.
- Canine Team **Austin Schmitz and K9 Lennart**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on October 1, 2015.
- Canine Team **Brian Swets and K9 Rocko**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on October 1, 2015.
- Canine Team **Matt Oxner and K9 Koda**, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on October 1, 2015.

- Canine Team Brian Biehl and K9 Zara, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on October 1, 2015.
- Canine Team Levi Jensen and K9 Bobby, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on October 1, 2015.
- Canine Team Dennis Mez and K9 Brix, SD Highway Patrol, have met the requirements for Drug Dog Detection certification on October 1, 2015.

**Motion** by Commission Member Rosenau to approve the Canine Team certifications as listed, **second** by Commission Member Holcomb, motion **approved**.

Col. Price, SD Highway Patrol, provided members an update regarding Trooper Zac Bader's condition. Trooper Bader suffered serious non-life threatening injuries when he was assaulted October 24<sup>th</sup> while making a traffic stop east of Rapid City. He suffered serious head and facial injuries in the assault. He is being moved from ICU to a hospital transition unit. He has undergone facial and jaw surgery, but still has a long road to recovery facing many surgeries and hospital stays.

Lincoln County States Attorney Tom Wollman was asked to discuss the Giglio (credibility of law enforcement officers in court) and Brady (requires the prosecutor to turn over to the criminal defense any material that might help in the defense) issues from a prosecutors point of view.

It is the prosecutor's responsibility to determine what should be turned over to the criminal defense. The prosecutor has "prosecutorial immunity" but the agencies do not. It is the agencies responsibility to disclose credibility information to the prosecutors. The prosecutors then are required to disclose to the criminal defense attorneys information which will then be used to attempt to impeach law enforcement witnesses. One of the difficulties with the credibility information is that it is not consistently provided by each law enforcement agency to the local prosecutors. Wollman asked Training Administrator Rechtenbaugh to look to other states if they maintain a list/database of officer's who have credibility issues; who can have access to the list/database; and what the states are doing in the handling of this issue. The use of such lists/databases would assist both the investigator and prosecutor in fulfilling the discovery requirement. There was discussion on the possibility of having Law Enforcement Training set up a database, maintain it, organize it, and process it.

There being no further business to come before the meeting body, the meeting adjourned on a **motion** by Commission Member Wollman, **second** by Commission Member Leidholt. The next meeting will be on call of the chairman.

Approved \_\_\_\_\_ Date January 27, 2016

  
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 Bryan Gortmaker, Chairman LEOSTC

  
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 Scott Rechtenbaugh, Executive Secretary LEOSTC

  
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 Submitted By Recording Secretary