

LAW ENFORCEMENT OFFICERS
STANDARDS AND TRAINING COMMISSION
Conference Room 412 - Capitol Building
Pierre, SD
July 13, 2023

The South Dakota Law Enforcement Officers Standards and Training Commission meeting was called to order at 10:15 am on July 13, 2023, in Conference Room 412 at the Capitol Building in Pierre, South Dakota.

Roll call was taken with the following members responding: Gary Gaikowski, Sisseton-Wahpeton Chief of Police; Troy VanDusen, Codington County Commissioner; Andy Howe, Clay County Sheriff; Joan Pecora, Special Agent, FBI, Kathy Peterson, Rapid City; Jay Rasmussen, Sioux Falls; and Rick Miller, SD Highway Patrol Superintendent. Others present included Hank Prim, Executive Secretary; Dan Satterlee, Chairman; Law Enforcement Training and DCI Staff. Commission Members Neil Fulton, USD School of Law Dean; Steve Allender; Municipal League; and Jessica Quigley, Tea Chief of Police and were absent.

The meeting opened with the approval of the following agenda amendment:

- Based on member discussion at the July 12th meeting, add commission information reference the Agreed Disposition of Cases Protocol

Motion by Commission Member Rasmussen to approve the agenda modification, **second** by Commission Member Pecora, motion **approved**.

Roll call was taken again with the following members responding Gary Gaikowski, Sisseton-Wahpeton Chief of Police; Marty Jackley, Attorney General Troy VanDusen, Codington County Commissioner; Andy Howe, Clay County Sheriff; Joan Pecora, Special Agent, FBI; Kathy Peterson, Rapid City; Jay Rasmussen, Sioux Falls; Rick Miller, SD Highway Patrol Superintendent; and Tom Wollman, Lincoln County State's Attorney.

Chairman Satterlee declared a quorum present.

Chairman Satterlee opened the floor for public comments. There were no public comments and/or testimony on any of the agenda items.

Executive Prim provided members with an update regarding the discussion if investigative files would be public information under the Agreed Disposition of Contested Cases Protocol consideration, to wit:

SDCL Title 1, Chapter 1-27-1.16. Material relating to open meeting agenda item to be available--Exceptions--Violation as misdemeanor..... However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records,

or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26; and

Chapter 1-27-1.5. Certain records not open to inspection and copying.

The following records are not subject to §§ 1-27-1, 1-27-1.1, 1-27-1.3, and § 1-27-1.23:

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, if the records constitute a part of the examination, investigation, intelligence information, citizen complaint or inquiry, informant identification, or strategic or tactical information used in law enforcement training. This subdivision does not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person, and this subdivision does not apply to a 911 recording or a transcript of a 911 recording if the agency or a court determines that the public interest in disclosure outweighs the interest in nondisclosure. This law in no way abrogates or changes §§ 23-5-7 and 23-5-11 or testimonial privileges applying to the use of information from confidential informants.

Business proceeded with the scheduled hearing of **Jon Werkmeister**. Chairman Satterlee turned the proceedings over to Hearing Officer Ryan Vogel. It was stated for the record this is the time and place for the adversarial hearing to determine whether Werkmeister engaged in conduct unbecoming of a law enforcement officer, in violation of SDCL § 23-3-35(3) and ARSD 2:01:11:01, and 2:10:11:10, based upon the allegations contained in the Complaint by Hank Prim, Executive Secretary, Law Enforcement Training Officers Standards and Training Commission. The undersigned Complainant charges that Jon Werkmeister engaged in conduct unbecoming of a law enforcement officer, to wit: On or about April 2, 2023, Werkmeister, while on duty as a Charles Mix Deputy Sheriff, failed to render and/or summon medical aid for an inmate at the Charles Mix County Jail who was suffering seizures as a result of methamphetamine toxicity; in violation of SDCL § 23-3-35(3) and ARSD 2:01:11:01 and 2:01:11:10.

Werkmeister is present with counsel Tim Whalen. Kelly Marnette, Assistant Attorney General, is acting counsel for the State. 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. The commission retired into executive session on a **motion** by Commission Member Miller, **second** by Commission Member Peterson, motion **approved**.

Members reconvened into open session with a **motion** by Commission Member VanDusen, **second** by Commission Member Howe. **Motion** by Commission Member Miller after reviewing the facts and testimony it is not conduct unbecoming, **second** by Commission Member Wollman. Motion **approved** by a verbal response in the affirmative by all members. **Action: 9-0 Aye** (Gaikowski, Howe, Jackley, Miller, Pecora, Peterson, Rasmussen, VanDusen, and Wollman). Assistant Attorney General Ms. Marnette will prepare the Order. This concluded the hearing proceedings.

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 Jackley, motion **approved**.

The next meeting is scheduled for August 30, 2023, in conference room 414 in the Capitol Building.