

LAW ENFORCEMENT OFFICERS
STANDARDS AND TRAINING COMMISSION
Roosevelt Room - The Lodge
Deadwood, SD
April 12, 2023

The South Dakota Law Enforcement Officers Standards and Training Commission meeting was called to order at 9:00 am on April 12, 2023, in the Roosevelt Room at the Lodge in Deadwood, South Dakota.

Roll call was taken with the following members responding Steve Allender, Rapid City Mayor; Gary Gaikowski, Sisseton-Wahpeton Chief of Police; Jim Eschenbaum, Hand County Commissioner; Andy Howe, Clay County Sheriff; Rick Miller, SD Highway Patrol Superintendent; Joan Pecora, Special Agent, FBI; Kathy Peterson, Rapid City; Jessica Quigley, Tea Chief of Police; Jay Rasmussen, Sioux Falls; and Tom Wollman, Lincoln County State's Attorney. 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, and Marty Jackley, Attorney General were absent.

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

- The addition of a grant request; and
- Cancellation of the 9:30 am scheduled hearing.

Motion by Commission Member Allender to approve the agenda amendments, **second** by Commission Member Rasmussen, motion **approved**.

Chairman Satterlee declared a quorum present, and the order of business started with the Commission's approval of the previous minutes as presented on a **motion** by Commission Member Wollman, **second** by Commission Member Eschenbaum, motion **approved**.

Following SDCL 1-25-1, official meetings are open to the public. Time was allowed by Chairman Satterlee for public comments. The floor was open for public comments. Public comment was given by Mariangela Ellendorf.

Executive Secretary Prim presented the following training waiver request. Reference to ARSD rules 2:01:06:17. *Officers must complete 40 hours of training in a two-year period, and 2:01:06:17.03. The commission may waive the requirements if good cause exists for a waiver, including matters such as military service, illness, injury or an authorized leave of absence.*

The South Dakota Highway Patrol submitted a training request waiver for **Trooper Scott Longhofer** to be excused from all training requirements needed to remain a certified law enforcement officer. Trooper Longhofer has been on military leave since 2015. Staff recommendation is to waive the continuing education requirements and upon returning to duty as a law enforcement officer, Trooper Longhofer is to complete the 40-hour continuing education requirements prior to exercising any law enforcement powers. **Motion** by Commission Member Eschenbaum to approve the waiver request with the stipulation that upon returning to duty as a law enforcement officer, Trooper Longhofer is to complete the 40-hour continuing education requirements before exercising any law enforcement powers, **second** by Commission Member

Gaikowski, motion **approved**. The record will reflect Commission Member Miller was recused.

The next item for consideration is a request for telecommunicator certification reinstatement by Brown County Communications. Chief Deputy Jon Lemke, Brown County Sheriff's Office, is present for Logan Flack. Logan completed the 59th 911 Two-Week Basic Telecommunicator Certification session and received telecommunicator certification on October 5, 2018. Logan was employed with Brown County Communications from January 2018 to October 2020. Logan's certification lapsed in October 2022. Reference to ARSD rule 2:05:01:06:

Expiration of certification. Certification expires on the last day of the twenty-fourth calendar month following termination of employment. Upon petition the commission may waive any of the basic training program for recertification of a person whose certification has expired under this provision. The petitioner must prove that the petitioner remains capable of performing the duties of a 911 telecommunicator notwithstanding the expiration of certification.

Lemke advised Logan did not require much professional training to perform the duties of a 911 telecommunicator. He showed outstanding performance, is a quick learner, and has the skills to work through tough 911 calls. Staff supports the certification reinstatement request contingent upon the completion of the NCIC full access and Career Survival portions of the two-week basic telecommunicator session. **Motion** by Commission Member Howe to approve the certification reinstatement for Logan Flack contingent upon completion of the required training session, **second** by Commission Member Miller, motion **approved**.

Members considered the following grant request. Assistant Training Administrator Kim Knecht reviewed the cost of the currently approved grants and advised there are still monies remaining in FY23 for grant funding.

Pennington County Sheriff's Office is requesting financial assistance to host the following 24-hour training session. Jon Edwards, Training Coordinator, Pennington County Sheriff's Office, was present to answer member questions.

- *Homicide Investigation & Crime Scene Management.* The purpose of the training is to prepare officers to properly secure and manage homicide scenes and investigate homicides to ensure the successful prosecution of violent offenders. The training will be provided by Inside the Tape and will be conducted in September 2023. The vendor charges a flat rate of \$9,000.00 for a contracted course for unlimited participants.

Staff supports the grant training request. **Motion** by Commission Member Eschenbaum to approve the grant request, **second** by Commission Member Miller, motion **approved**.

Executive Secretary Prim presented the following certification reinstatement requests:

David Andrews, Law Enforcement Training. Andrews attended and completed the 152nd 520-hour basic certification course and received South Dakota Law Enforcement certification on May 31, 2013. Andrews was employed with the Wagner Police Department from July 2012 to August 2014, and the Minnehaha County Sheriff's Office from August 2014 to May 2017. Andrews' certification lapsed in June 2019. Andrews has been a Law Enforcement Training Adjunct Instructor from June 2017 to October 2022. Andrews was appointed a Special Assistant Attorney General in January

2023 with full authority and powers. Staff recommends certification reinstatement contingent upon completion of the medical verification of physical ability form. Andrews has attended continuing education training while employed with Law Enforcement Training. **Motion** by Commission Member Allender to approve the certification reinstatement for David Andrews contingent upon completion of the medical verification document, **second** by Commission Member Pecora, motion **approved**.

Nate Leuning, Division of Criminal Investigation. Assistant Director Chad Mosteller is present for Nate Leuning. Nate completed the South Dakota Highway Patrol Recruit Academy and received certification in August 1995. The South Dakota Highway Patrol recruit academy met the established certification requirements as set by the South Dakota Law Enforcement Officers Standards and Training Commission. Nate was employed with the South Dakota Highway Patrol from February 1995 to August 1997, and with the Division of Criminal Investigation from August 1997 to May 2018. Nate's certification lapsed in May 2020. Nate was appointed a Special Assistant Attorney General in March 2023 with full authority and powers. He will be completing the continuing education requirements. Staff is supportive of the certification reinstatement contingent upon completion of the medical verification physical ability form. **Motion** by Commission Member Pecora to approve the certification reinstatement for Nate Leuning contingent upon completion of the medical verification document, **second** by Commission Member Quigley, motion **approved**.

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

- Canine Team **Brandon Fisher and K9 Ringo**, Hand Co SO, have met the requirements for Drug Detection certification on March 30, 2023;
- Canine Team **Damon Griffith and K9 Oakley**, Wagner PD, have met the requirements for Drug Detection certification on March 30, 2023;
- Canine Team **Kory Kellen and K9 Heroes**, Deuel Co SO, have met the requirements for Drug Detection certification on March 30, 2023; and
- Canine team **Christopher Woods and K9 Davos**, Spearfish PD, have met the requirements for Drug Detection certification on March 30, 2023.

The City of Faith has submitted a request for a twelve-month extension for Michael Walters, Chief of Police, to allow Walters to make scheduling arrangements for coverage and to complete tasks before attending the 13-week basic academy session. Since the City of Faith is a municipality of the third class and has submitted a written request, the commission may extend the one-year temporary or probationary period for an additional year. **Motion** Commission Member Miller to grant the City of Faith the one-year probationary period extension, **second** by Commission Member Howe, motion **approved**.

Executive Secretary Prim briefed members regarding law enforcement officer minimum age change research.

Members were presented with a request from the City of Sisseton for a proposed Administrative Rule change at the March 14, 2023, commission meeting. The proposed rule language would lower the minimum age for law enforcement officer employment/certification from the current 21 years of age. Members requested Law Enforcement Training staff to research and provide a report regarding the issue. Executive Secretary Prim provided a research report relating to legal authorities

of the commission; a summary of findings and considerations of surrounding states; findings and details from states across the country; associated legal ramifications; cognitive development; maturity; technical college agreements; and current technical college employment numbers. Concluding the discussion, a **motion** was made by Commission Eschenbaum to leave the rule as stated of 21 years minimum age. Further discussion resulted in the withdrawal of the motion and members agreeing to table the issue.

Several complaints were reviewed by Commission Member Allender. Executive Secretary Prim determined the complaints did not warrant presentation to the full Commission. Commission Member Allender concurred with the Executive Secretary's decision and presented an overview of the complaints.

- Complaint #220066 - An individual alleging harassment by an officer. Officer not certified and no longer in law enforcement.
- Complaint #220068 - Sexual exploitation of a minor by an officer. The officer is not certified and is no longer in law enforcement. Executive Secretary issued a conduct unbecoming finding against officer and was barred from law enforcement employment.
- Complaint #220074 - Allegation that a county deputy used unnecessary force against an inmate at the jail. Unfounded, not a certification issue.
- Complaint #220075 - A county deputy, while off-duty, was arrested for shooting a charging dog when visiting a friend, the friend's relative reportedly was in the line of fire. Charges dismissed, not a certification issue.
- Complaint #220079 - Alleges police departments used unnecessary force. Complaint unfounded.
- Complaint #220080 - Allegation a police officer exhibited unbecoming conduct while off-duty. Officer reprimanded by agency, not a certification issue.
- Complaint #220081 - Allegation a county deputy mistreated an animal. Deputy reprimanded by agency, not a certification issue.
- Complaint #220085 - Allegation an officer committed perjury during a federal court hearing. Complaint unfounded, not a certification issue.
- Complaint # 220086/220087 - Allegation that a county sheriff refused to return seized property after charges against the complainant were dismissed, and a county deputy arrested the complainant without probable cause. Not a certification issue.
- Complaint #220088 - An officer and wife engaged in a domestic disturbance. Resolved, not a certification issue.
- Complaint #220089 - Allegation a deputy failed to investigate suspicious and criminal activity. An issue between brothers, not a certification issue.

- Complaint #220090 - A county deputy engaged in conduct unbecoming during the execution of a search warrant. Not a certification issue.
- Complaint #220091 - An off-duty officer arrested for DUI, refused to do tests, not a certification issue.
- Complaint #220094 - Allegation a county deputy might have acted inappropriately toward a young female individual at a day care operated by the deputy's wife. Could not disclose specific information. Comments were unsubstantiated. Unfounded, not a certification issue.
- Complaint #220095 - Allegation an officer used unnecessary force when arresting a subject. Not a certification issue.
- Complaint #230001 - Use of force, allegation an individual received unexplained injuries during a call handled by a police officer. Not a certification issue.
- Complaint #230002 - Allegation that members of a police department failed to properly investigate a call for service. Not a certification issue.
- Complaint #230005 - Allegation an officer lied during his grand jury testimony and another officer failed to conduct a proper internal investigation. Unfounded, not a certification issue.
- Complaint #230007 - Allegation an officer strangled a trainee. Personnel issues, LET determined it did not rise to level of a crime, not a certification issue.
- Complaint #230008 - Allegation members of a police department mishandled a felony traffic stop. LET determined it did not rise to a certification issue.
- Complaint #230010 - An off-duty county deputy was arrested for simple assault – domestic. Not a certification issue.

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

A voluntary consent of decertification was received by Joseph Larson, former Sioux Falls PD officer. Larson was found guilty of unnecessary use of force and surrendered certification in lieu of commission action.

A Western Dakota Technical College audit was presented to members for their review. Continued updates will be presented to commission members. Law Enforcement Training has not received any documentation from Western Dakota Technical College referencing the remedy of deficiencies outlined in the non-compliance notice.

A recess on the proceedings was taken.

Chairman Satterlee called the meeting to order, and business reconvened with a quorum present.

Business proceeded with the scheduled hearing of **Jacob Puckett**. 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 Puckett was properly dismissed from the Basic Certification Course because Puckett's conduct violated any restriction or rule established by the executive secretary to administer or maintain order during the basic training course and/or whether Puckett engaged in conduct which would be grounds for revocation or suspension of certification if he were certified, to wit: On or about April 13, 2022, while attending the basic certification course, Puckett failed to complete the scenario reports. Puckett claimed to have completed them but was caught trying to complete the reports in the computer lab. Puckett was untruthful with the executive secretary and other law enforcement training staff about whether he had completed the reports as he claimed, pursuant to SDCL 23-3-42 and ARSD 2:01:06:14 and/or 2:01:11:01 and 2:01:11:10.

Puckett is present without counsel. Brent Kempema, Deputy 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 transcripts will be available upon request and tender of the cost thereof. See file for exhibits.

Opening statements, presentation of exhibits, and testimony were heard.

Concluding continued testimony, questions, and closing statement, the evidentiary portion of the hearing concluded.

Members recessed for lunch and retired into executive session on a **motion** by Commission Member Gaikowski, **second** by Commission Member Rasmussen, motion **approved**.

Members reconvened into open session with a quorum present on a **motion** by Commission Member Eschenbaum, **second** by Commission Member Rasmussen, motion **approved**.

Motion by Commission Member Pecora that Jacob Puckett failed to meet the preponderance of the evidence to overturn the dismissal from Law Enforcement Training, the commission is upholding the law enforcement standard dismissal, **second** by Commission Member Wollman, motion **approved**. 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 Rasmussen, motion **carried**.

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