

LAW ENFORCEMENT OFFICERS  
STANDARDS AND TRAINING COMMISSION  
Amphitheatre - Criminal Justice Training Center  
Pierre, SD  
September 30, 2022

The South Dakota Law Enforcement Officers Standards and Training Commission meeting was called to order at 8:34 am on September 30, 2022, in the Amphitheatre at the Criminal Justice Training Center, Pierre, South Dakota.

Roll call was taken with the following members responding, Jim Eschenbaum, Hand County Commissioner; Neil Fulton, USD School of Law Dean; Gary Gaikowski, Sisseton-Wahpeton Chief of Police; Andy Howe, Clay County Sheriff; Rick Miller, SD Highway Patrol Superintendent; Joan Pecora, Special Agent, FBI; Jessica Quigley, Tea Chief of Police; Kathy Peterson, Rapid City; Jay Rasmussen, Sioux Falls; Mark Vargo, Attorney General; and Tom Wollman, Lincoln County State's Attorney. Others present included Hank Prim, Executive Secretary; Chad Mosteller, Chairman; and Law Enforcement Training and DCI Staff. Commission Member Steve Allender, Rapid City Mayor was absent.

The meeting opened with the approval of an agenda amendment, the addition of Rapid City Police Department training waiver requests, on a **motion** by Commission Member Eschenbaum, **second** by Commission Member Gaikowski, motion **approved**.

Following SDCL1-25-1, official meetings are open to the public. Time was allowed by Chairman Mosteller for public comments. The floor was open for public comments. There were no public comments and/or testimony on any of the agenda items.

Chairman Mosteller declared a quorum present and started the order of business with the Commission's approval of the previous minutes as presented in a **motion** by Commission Member Wollman. Commission Member Rasmussen noted the previous minutes did not include a motion and second regarding the canine team certifications. The **motion** was amended by Commission Member Wollman to include the motion and second reference the canine team certifications, **second** by Commission Member Rasmussen, motion **approved**.

Executive Secretary Prim presented the following reciprocity requests. All applicants have met the reciprocity rule requirement, 2:01:06:03.

**Kyle Ball**, Sioux Falls Police Department, completed the San Diego Regional Public Safety Training Institute regular basic course requirement in August 2017 and was issued the State of California certification in August 2018. There are no negative footnotes on his POST profile. Kyle was employed with the San Diego Police Department from 2017 - 2022. Staff reviewed the course content, and it is equivalent to our 520-hour session. The background check revealed no adverse information. Kyle completed the reciprocity exam in February 2022, and completed the reciprocity training week requirements in September 2022. **Motion** by Commission Member

Fulton to approve the reciprocity application for Kyle Ball, **second** by Commission Member Howe, motion **approved**.

**Randall Douvier**, South Dakota Highway Patrol, completed the basic training program at the Kansas Law Enforcement Training Center in June 2021. The course content was reviewed by staff and is equivalent to the 520-hour basic session. Douvier completed the reciprocity exam in May 2022. The background check revealed no adverse information. Douvier was terminated from the Newton Police Department. Douvier's termination was a combination of multiple issues, culminating in a potential lying situation. Kansas POST determined Douvier's actions was not a Kansas certification issue. A review of Douvier's internal investigation revealed the incident did not rise to the level of a certification issue. The reciprocity application was approved. Douvier attended and completed the September 2022 reciprocity training week. **Motion** by Commission Member Eschenbaum to approve Randall Douvier's reciprocity application, **second** by Commission Member Quigley, motion **approved**.

**Matthew Hess**, Spearfish Police Department, completed a 796-hour basic academy in 2000 and received State of California certification in 2002. Hess was issued Basic, Intermediate, and Advanced POST certificates. The California POST basic requirements, for the timeframe, were reviewed and the content is equivalent. The background check revealed no adverse information. Hess completed the reciprocity exam in July 2022. Hess was employed with the Riverside County Sheriff's Department from 1999 to 2001; the Hemet Police Department from 2001 to 2013; the Murrieta Police Department from 2013 to 2016; and the Riverside County District Attorney's Office from 2016 to 2022. Hess attended and completed the September 2022 reciprocity training week. **Motion** by Commission Member Miller to approve Matthew Hess's reciprocity application, **second** by Commission Member Eschenbaum, motion **approved**.

**Mark Lensing**, Sioux Falls Police Department, completed the 984-hour Orange County Sheriff's basic academy in 2002, and he was issued California POST certification in 2003. Mark has been issued his Basic, Intermediate, and Advanced certificates. There are no negative footnotes on his California POST profile. The California basic academy requirements were reviewed, and the course content is equivalent. The background check revealed no adverse content. Mark completed the reciprocity exam in February 2022. Mark was employed with the Orange Police Department from 2002 to 2022. Mark attended and completed the September 2022 reciprocity training week. **Motion** by Commission Member Fulton to approve Lensing's reciprocity application, **second** by Commission Member Rasmussen, motion **approved**.

**Jeffrey Schmidt**, Roberts County Sheriff's Office, completed the Law Enforcement Program at Alexandria Technical and Community College in May 2020. On July 7, 2020, he passed the PPOE [Professional Peace Officer Education] and completed the POST Board's examination requirements. Jeffrey is now eligible for a peace officer license. The background check revealed no adverse information. Jeffrey completed the reciprocity exam in August 2022. Jeffrey attended and completed the September 2022 reciprocity training week. **Motion** by Commission Member Gaikowski to approve the reciprocity application for Jeffrey Schmidt, **second** by Commission Member Eschenbaum, motion **approved**. The applicant must have completed a course of equivalent content no more than two years prior to the date of appointment. Schmidt completed

the law enforcement program in May 2020 and was employed by the Roberts Co SO in March 2022, meeting the two-year appointment requirement.

**Amber Twiss**, completed the FLETC Indian Country Police Officer Training Program in April 2020. The curriculum was reviewed, and the training content is equivalent. Amber was employed with the Oglala Sioux Tribe from 2018 to 2022. The background check revealed no adverse information. Amber completed the reciprocity exam in July 2022 and completed the September 2022 reciprocity training week. **Motion** by Commission Member Vargo to approve the reciprocity application for Amber Twiss, **second** by Commission Member Howe, motion **approved**.

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

- Canine Team **Michael Dale and K9 Sadie**, SD Highway Patrol, have met the requirements for Explosive Detection certification on July 21, 2022;
- Canine Team **Nicholas Campbell and K9 Jax**, OST Department of Public Safety, have met the requirements for Drug Detection certification on July 21, 2022;
- Canine Team **Garett Mastin and K9 Vito**, Rapid City PD have met the requirements for Drug Detection certification on July 21, 2022;
- Canine Team **Paul Smedsrud and K9 Tommy**, Sioux Falls PD, have met the requirements for Patrol Dog certification on July 28, 2022;
- Canine Team **Amanda Fox and K9 Rex**, Sioux Falls PD, have met the requirements for Patrol Dog certification on July 28, 2022;
- Canine Team **Nate Pepin and K9 Zane**, Mobridge PD, have met the requirements for Drug Detection certification on April 21, 2022;
- Canine Team **Christopher Schoepf and K9 Spike**, Rapid City PD, have met the requirements for Patrol Dog certification on July 28, 2022;
- Canine Team **Dylan Wilson and K9 Corona**, Yankton PD, have met the requirements for Patrol Dog certification on July 28, 2022; and
- Canine Team **Michael Jenkins and K9 Bee**, Kingsbury Co SO, have met the requirements for Drug Detection certification on August 7, 2022.

**Motion** by Commission Member Quigley to approve the canine certification listing as presented and reviewed, **second** by Commission Member Gaikowski, motion **approved**.

Business continued with the following certification reinstatement request:

**Darren Hall**, SD Highway Patrol, along with Major Jason Ketterling are before members requesting certification reinstatement. Darren was selected as a Highway Patrol recruit officer in March 1999. Darren attended the 1999 Recruit Training conducted from April to October, and completed all requirements and was certified on his graduation date. Darren was employed with the Highway Patrol from 1999 to 2012. Darren returned to the Highway Patrol from 2014 until 2018. In January 2020, Darren was hired part-time by the Highway Patrol as the Capitol Protective Services Supervisor and in September 2022, was moved to a sworn position within the Highway

Patrol. Darren's certification expired in June 2020. Staff recommendation, based upon Darren keeping current with continuing education requirements, the certification reinstatement request be granted. **Motion** by Commission Member Wollman to approve Darren Hall's certification reinstatement per staff recommendation, **second** simultaneously by Commission Members Vargo and Pecora, motion **approved**. The record will reflect Commission Member Miller was recused.

The Rapid City Police Department has submitted a request to suspend the 2022 training requirements for two officers until they are medically able to complete the training requirements, specifically the firearms qualification component:

Officer **Karen Bicskei** has a temporary medical condition, pregnancy, which will not allow her to perform the required handgun qualification for 2022. The doctor has advised she is not to be performing any firearms training due to her medical condition. The department has made reasonable light-duty accommodations for her until she is able to return to duty.

Reference to ARSD 2:01:06:17:03. Waiver. Good cause exists for a waiver. *Good cause would include matters such as military service, illness, injury, or an authorized leave of absence.* **Motion** by Commission Member Rasmussen to approve the training requirements waiver for Officer Bicskei, **second** by Commission Member Pecora, motion **approved**.

Officer **Samantha Williams**, has the same request and the same protocol as Officer Bicskei. [*has a temporary medical condition, pregnancy, which will not allow her to perform the required handgun qualification for 2022. The doctor has advised she is not to be performing any firearms training due to her medical condition. The department has made reasonable light-duty accommodations for her until she is able to return to duty.*] Training waiver is recommended by staff. **Motion** by Commission Member Miller to approve the training requirements waiver for Officer Williams, **second** by Commission Member Peterson, motion **approved**.

The following is commission information only and does not require any commission action by members:

A voluntary consent of decertification was received by Evan Rolling former Vermillion PD officer. Due to a credibility issue; he surrendered certification in lieu of commission action.

A voluntary consent of decertification was received by Scott Salter former Chamberlain PD officer. Salter was arrested for assault and surrendered certification in lieu of commission action.

The EVOC track is being resurfaced. Members will receive a tour upon completion of the resurfacing.

A recess in the proceedings was taken.

Chairman Mosteller call the meeting to order. Business reconvened with a quorum present.

The commission proceeded with the scheduled hearing of **Amber Kelley**. Chairman Mosteller turned the proceedings over to Hearing Officer Ryan Vogel. It was stated for the records this is the time and place for the adversarial hearing to determine whether Amber Kelly possesses the

requisite minimum standards (good moral character) required to be employed or certified as a law enforcement officer, to wit: on or about between July 31, 2021, and August 11, 2021, while employed as a correctional officer at the Winner City Jail, Kelley participated in an inappropriate relationship with two inmates at the jail, including exchanging romantic and sexual text messages and phone calls with both inmates, and a video chat with one of the inmates where Kelley showed him her bare breasts, pursuant to SDCL 23-3-42 and ARSD 2:01:02:01.

Kelley is present without counsel. 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 upon request and tender of the cost thereof. See files for exhibits.

Concluding opening statements, presentation of exhibits, testimony, questions, and closing statements, the evidentiary portion of the hearing concluded. Members retired into executive session on a **motion** by Commission Member Gaikowski, second by Commission Member Miller, motion **approved**. Members reconvened into open session with a **motion** by Commission member Eschenbaum second by Commission Member Miller, motion **approved**.

**Motion** by Commission Member Miller - Amber Kelley does not possess good moral character for law enforcement certification, application should be denied, **second** by Commission Member Gaikowski. The motion **approved** by a verbal response in the affirmative by all members, **Action: 11-0 Aye** (Eschenbaum, Fulton, Gaikowski, Howe, Miller, Pecora, Peterson, Quigley, Rasmussen, Vargo, and Wollman). This concluded the hearing proceedings.

Members recessed for lunch and reconvened for the next scheduled hearing at 1:30 pm with a quorum present. Commission Members Vargo and Wollman were called away.

Commission Member Neil Fulton will serve as temporary Chairman. Chairman Mosteller is sequestered as a witness.

The commission proceeded with the scheduled hearing of **Jeffery Otto**. Temporary Chairman Fulton turned the proceedings over to Hearing Examiner Ryan Darling, Office of Hearing Examiners. This is an adversarial hearing to determine whether grounds exist for the revocation or suspension of Otto's law enforcement officer certification. The is held to determine whether Jeffery Otto engaged in conduct unbecoming of a law enforcement in violation of SDCL § 23-3-35(3) and ARSD 2:01:11:01, and 2:01:11:10, to wit: on or about November 2, 2020, while on duty as a Rapid City Police Officer, Otto engaged in racial profiling.

Otto is present with counsel Rex Hagg. 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 upon request and tender of the cost thereof. See files 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 Rasmussen motion **approved**.

Member reconvened into open session. **Motion** by Commission Member Howe, the Commission has not found clear and convincing evidence on conduct unbecoming of a law enforcement officer, **second** by Commission Member Eschenbaum, motion **approved**. **Action: 8-0 Aye** (Eschenbaum, Gaikowski, Howe, Miller, Pecora, Peterson, Quigley, and Rasmussen). Findings and Conclusions were waived. This concluded the hearing proceedings.

There being no further business to come before the meeting body, the meeting was adjourned at 6:20 pm on a **motion** by Commission Member Miller **second** by Commission Member Pecora, motion **carried**. The next meeting is scheduled for November 9, 2022, in conjunction with the LECC Conference/Training at the Sioux Falls Ramkota.

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