

LAW ENFORCEMENT OFFICERS
STANDARDS AND TRAINING COMMISSION
Criminal Justice Training Center
Pierre, SD
Virtual/Teams Meeting
March 14, 2023

The South Dakota Law Enforcement Officers Standards and Training Commission meeting was called to order at 9:35 am on March 14, 2023, in the Commission Conference Room at the Mickelson Criminal Justice Training Center in Pierre, South Dakota.

Roll call was taken with the following members responding Jim Eschenbaum, Hand County Commissioner; Neil Fulton, USD School of Law Dean; Andy Howe, Clay County Sheriff; Marty Jackley, Attorney General; Rick Miller, SD Highway Patrol Superintendent; 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; Chad Mosteller, Acting Chairman; and Law Enforcement Training and DCI Staff. Commission Members, Steve Allender, Rapid City Mayor; Gary Gaikowski, Sisseton-Wahpeton Chief of Police; and Joan Pecora, Special Agent, FBI joined the meeting at 9:45am.

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

- Removal of a training waiver request by the Sioux Falls Police Department; and
- Removal of a basic eligibility request by the OST Department of Public Safety.

Motion by Commission Member Jackley to approve the amendments, **second** by Commission Member Eschenbaum, motion **approved**.

Acting Chairman Mosteller presided over today's meeting as Chairman Satterlee is out of state. A quorum was declared, and the order of business started with the Commission's approval of the previous minutes as presented on a **motion** by Commission Member Miller, **second** by Commission Member Howe, motion **approved**.

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

Business continued with the City of Sisseton's submission of proposed language for an administrative rule change. Executive Secretary Prim briefed members on the circumstance regarding the request. Sisseton Police Department requested an age waiver to allow an underage applicant be hired as a law enforcement officer. The applicant will graduate in May 2023 from the Lake Area Technical College Law Enforcement program. The police department has a staffing issue, and the age requirement would prevent the technical college applicant from being hired. Executive Secretary Prim advised that Law Enforcement Training has an articulation agreement with three technical colleges in the State. The agreement allows the written reciprocity and skills tests to be administered to students in the final semester of the Law Enforcement program. A graduate who successfully completes the written and skills testing is certifiable and becomes certified when hired by a law enforcement agency and is 21 years of age within two years of

graduation. The commission does not have the authority to waive the age limit. The requesting city of Sisseton is not a municipality of the third class (fewer than 500 population).

Acting Chairman Mosteller advised members of the options for members to consider regarding the proposed administrative rule consideration request:

- Choose to begin a rule process which is a time-intensive process, and would involve securing an attorney to handle the process;
- Choose not to move forward; and
- Table the request and review at a future date to allow Chairman Satterlee to be involved in the process.

Concluding discussion, a **motion** was made by Commission Member Wollman to table, informally have staff look at the issue, research what surrounding states and states across the country are doing, **second** by Commission Member Miller, motion **approved**. Law Enforcement Training will provide members a report regarding the issue.

Executive Secretary Prim presented the following training waiver requests. 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 Rapid City Police Department is requesting a suspension of continuing education training requirements for **Officer David Collins** who is currently on military deployment status. Officer Collins has been on military deployment since September 2015 and will continue to be on military deployment until April 2025. Staff recommendation is to waive the 2021; 2022; 2023; and 2024 cycles of continuing education requirements for Officer Collins. Officer Collins will be required to complete the continuing education requirements prior to performing any law enforcement powers upon his return to duties as a law enforcement officer. **Motion** by Commission Member Miller to waive the training request with follow up training when returning to duty, **second** by Commission Member Eschenbaum, motion **approved**.

The Edmunds County Sheriff's Office submitted a request to waive the required firearms qualification for **Deputy Daniel Hardison**. Deputy Hardison was unable to complete the yearly required handgun qualification due to a right shoulder injury. Deputy Hardison is currently on workman's compensation until April 2023. Staff recommendation is to waive the firearms qualification. **Motion** by Commission Member Eschenbaum to approve the firearms qualification waiver request for Deputy Daniel Hardison, **second** by Commission Member Miller, motion **approved**.

Minnehaha County Emergency Management has submitted a waiver of duty hours to be granted for two Minnehaha County reserve officers. The officers are missing hours in 2022 due to medical issues or military training. **Brandy Fahy** was unable to make her yearly 96-hour duty requirement for 2022 due to pregnancy. **Joanne Bartscher** was out of state on basic training for the South Dakota National Air Guard and unable to make the 96-hour duty requirement for 2022. Both officers are in good standing and have been active since returning to active duty. Executive Secretary Prim advised members per ARSD 2:01:09:03. *Required duty hours. A reserve law enforcement officer shall perform a minimum of 96 hours of duty each calendar year, or proportionate share thereof when an appointment is for less than an entire calendar year. A*

reserve law enforcement officer failing to perform the minimum hours required in a year is inactive and may not perform further duty as a reserve law enforcement officer until recertified by the commission. Staff recommendation to reinstate with a prorated duty requirement. **Motion** by Commission Member to approve with staff recommendation, **second** by Commission Member Wollman, motion **approved**.

The South Dakota Highway Patrol submitted a training request waiver for **Trooper Jon Peary** to be excused from all training requirements needed to remain a certified law enforcement officer. Trooper Peary has been on military leave since 2019. Staff recommendation is to waive the continuing education requirements for 2019; 2020; 2021; and 2022 cycles, and upon returning to duty as a law enforcement officer, Trooper Peary is to complete the 40-hour continuing education requirements prior to performing any law enforcement powers. **Motion** by Commission Member Eschenbaum to approve the waiver request with staff recommendation, **second** by Commission Member Jackley, motion **approved**. The record will reflect Commission Member Miller was recused.

SDSU Police Department submitted a request for **Officer Marc Rieger** to be excused from all training requirements needed to remain a certified law enforcement officer due to military leave. Officer Rieger is on military deployment from December 2022 to January 2024. Staff recommendation is to waive only the firearms qualification for 2023 and require Officer Rieger to meet all other continuing education requirements prior to performing any law enforcement powers upon his return to duties as a law enforcement officer. Rieger should have sufficient time to complete the continuing education requirement upon returning to duty. **Motion** by Commission Member to Howe to approve the request as recommend by staff, **second** by Commission Member Pecora, motion **approved**.

Members considered the following grant request. Executive Secretary Prim reviewed the grant funding budget status. There are monies remaining in FY23 for grant funding.

The USD Police Department is requesting financial assistance to host a Sex Crimes Investigations course. Chief Bryant Jackson, USD Police Department, is present to provide information and answer any questions regarding the grant request.

- *Sex Crime Investigations.* The course is designed to train patrol officers, newly appointed investigators, and experienced investigators in the proper investigation of sex crimes. The course has been developed to enhance the skills, knowledge, and abilities of the first responder as well as the criminal investigator. The 40-hour course will be conducted in July 2023. The training will be provided by the Southern Police Institute of the University of Louisville. The total fee request is \$10,000.00. Minimum enrollment for the course is 25 paid participants, the maximum enrollment for the course is 50 paid participants. The individual cost of tuition per participant is \$850.00. The total amount, if awarded, would be used to reduce the tuition cost per South Dakota (SD) officer attending the course. If 20 SD law enforcement officers attend the course, each officer's tuition could be reduced by \$500. This would reduce the cost per SD officer to \$350 for tuition. If 30 SD officers attend, the tuition cost would be equally applied. Assistant Training Administrator Knecht has been working with Jackson and the Southern Police Institute on the grant request. Staff recommendation is to approve the funding request.

Motion by Commission Member Eschenbaum to approve the grant request submitted by the USD Police Department, **second** by Commission Member Rasmussen, motion **approved**. The record will reflect Commission Member Fulton was recused.

The next item for member consideration is a request for reciprocity eligibility. Rapid City Police Department Assistant Chief Scott Sitts, Training Sergeant Seth Walker, and **Officer Phillip Monk** are present. Phillip completed the Law Enforcement Emphasis program at Western Dakota Technical College in December 2022. Phillip's application for reciprocity was denied because he failed to meet the minimum requirement for certification per ARSD 2:01:02:01(10). *Has not unlawfully used any prescribed drug, controlled substance, or marijuana within one year before the time of application for certification.* Phillip's application was received in April 2022, and he had admitted to recreational marijuana usage in December 2021. Phillip was hired as a Community Service Officer with the Rapid City Police Department in July 2022. He was to be hired as an officer but was denied entrance to the academy due to the drug disclosure. Phillip has been an upstanding employee and hard worker with excellent reviews by his supervisors. It has been one year since the drug use and the agency is requesting Phillip be allowed to complete the reciprocity process. Staff recommended reinstate Monk's eligibility to be employed and be eligible to apply for reciprocity based on his honesty, candor, and demonstration of success with the Rapid City Police Department. **Motion** by Commission Member Howe to approve the request for reciprocity eligibility, **second** by Commission Member Rasmussen, motion **approved**.

The City of Faith has submitted a request for Chief of Police Michael Walters to be allowed to take the reciprocity exam. Chief Michael Walters, City Finance Officer Deb Brown, and Councilman Rick Trainer are present. Walters completed the BIA 16-week basic police training program at the Federal Law Enforcement Indian Police Academy in Artesia in 1995. Walters' employment history:

- Cheyenne River Law Enforcement May 1990 to September 2006;
- Rosebud PD September 2006 to September 2008;
- A position with Gage County, did not happen due to budget;
- Nebraska State Development Center;
- Neapco Welding in 2010;
- Moved back to South Dakota to truck and ranch;
- Walters Trucking January 2013 to October 2018;
- Thorstenson Trucking October 2018 to August 2021; and
- Hired by the City of Faith in May 2022

Per ARSD 2:01:06:03. Reciprocity... *The application must show that the person to be exempted from the training program has completed a course of equivalent content and quality in another jurisdiction no more than two years prior to the date of the appointment or has been employed within the prior two years as a certified law officer in another jurisdiction and has completed a course of equivalent content and quality.*

As presented by the City of Faith, Walters is an asset to the community of Faith and surrounding counties. Members of the City of Faith feel that based upon Walters' training and law enforcement experience, he should be allowed to take the reciprocity exam.

Walters does have law enforcement experience, but he has been out of law enforcement for 14 years, since 2008, it has been 27 years, since 1995, since he completed a basic academy training. Walters has never been a certified officer in the State South Dakota. He is beyond the two-year window for reciprocity eligibility. Staff recommendation is to deny the City of Faith's request for reciprocity eligibility and to have Walters attend the 13-week basic course. The commission retired into executive session on a **motion** by Pecora, **second** by Eschenbaum, motion **approved**. Acting Chairman Mosteller declared the commission out of executive session and reconvened into open session with a quorum present. **Motion** by Commission Member Allender to deny the eligibility request for reciprocity testing, **second** by Commission Member Wollman, motion **approved**.

The Commission advised, since the City of Faith is a municipality of the third class, the commission may extend the one-year temporary or probationary period for an additional year if a written request is received by the commission from the hiring agency prior to the expiration of the first year. This would give the City of Faith and Chief Walters time to make scheduling arrangements for coverage and complete the necessary tasks prior to attendance at the 13-week basic academy training.

Moody County Sheriff Troy Wellman and Alex Lawler are present to request 911 telecommunicator certification reinstatement. Alex attended the 56th 2-week basic session and was certified in October 2017. Alex was employed with the Moody County Sheriff's Office from July 2017 to November 2018. His certification lapsed in November 2020. Alex has worked as a paramedic; worked for the Minnehaha County Department of Human Services, and the Bishop Dudley Hospitality House. Sheriff Wellman advised Alex left the Moody County Sheriff's Office in good standing and was hired in June 2022 to continue in the role of dispatcher. He attended one week of training on the new 911 phone system and is a great . Staff recommendation is to reinstate his certification. Alex recently completed the NCIC full access and the Career Survival (liability/ethics) training session of the 911 two-week basic session. The training sessions are a requirement for certification reinstatement. **Motion** by Commission Member Eschenbaum to approve the certification reinstatement for Alex Lawler, **second** by Commission Member Miller, motion **approved**.

Kyle Brown is requesting eligibility to be certified as a law enforcement officer in the State of South Dakota. Brown's application for certification was denied in September 2020 for falsification of information. A hearing was held in December 2020. He misrepresented his high school graduation and GED information and lied to the Marshall County Sheriff regarding his education. Members upheld the ruling of the Executive Secretary regarding Brown's denial. According to Brown, he did not mean to mislead anyone; he made a terrible mistake. Previously, the Executive Secretary received correspondence from a former employer; the employer was uncomfortable with Brown being involved in law enforcement. The former employer recommended the commission not over-turn the previous ruling. Members reviewed the previous hearing, Findings of Fact and Conclusions of Law, and Order information. Staff recommendation is the Commission uphold the denial, it is a credibility and trustworthy issue. The commission retired into executive session on a **motion** by Pecora, **second** by Peterson, motion **approved**. Acting Chairman Mosteller declared the commission is out of executive session. Members reconvened into open session with a quorum present. **Motion** by Commission Member Howe to deny the eligibility request of Kyle Brown, **second** by Commission Member Eschenbaum, motion **approved**.

The following reciprocity requests were presented by Executive Secretary Prim:

LEOSTC

Michael Cristol, Box Elder Police Department, completed 1007 hours at the San Jose Police Academy and received State of California basic certification in December 2007. Cristol received Intermediate certification in 2008 and Advanced Certification in 2010. He was employed with the:

- San Jose Police Department from June 2006 to December 2012;
- Hayward Police Department from December 2012 to January 2020; and
- Brentwood Police Department from January 2020 to April 2022.

The background check revealed no adverse information. Cristol completed the reciprocity exam in January 2023 and attended the January - February 2023 reciprocity training week. Cristol did not demonstrate proficiency in EVOC and is scheduled to attend the April 2023 basic EVOC training week. **Motion** by Commission Member Eschenbaum to approve the reciprocity application contingent upon successful demonstration of proficiency in EVOC, **second** by Commission Member Peterson, motion **approved**.

David Dross, Pennington County Sheriff's Office, completed the basic certification course at Jefferson Parish Sheriff's Academy with 760.5 hours of training in 2018. Dross completed Correctional Officer certification in 2013. Louisiana POST has no record of any action taken against his certification. Since he has not had more than a five-year break in service, both certifications are still valid and in good standing. He was employed with the Jefferson Parish Sheriff's Office from May 2013 to September 2014 and April 2018 to March 2022. The background check revealed no adverse information. Dross completed the reciprocity exam in January 2023 and the January - February 2023 reciprocity training week. **Motion** by Commission Member Rasmussen to approve the reciprocity application for David Dross, **second** by Commission Member Howe, motion **approved**.

Brandon Fox, Butte County Sheriff's Office, completed the basic training course at the Lake Region State College in 2015 and is a licensed officer in the State of North Dakota. There were no issues or derogatory information concerning the applicant. Staff reviewed the course content, and it is equivalent to our 520-hour session. Fox was employed with the McKenzie County Sheriff's Office from January 2016 to April 2016. He was terminated from the Sheriff's Office in April 2016 for negligent discharge of a duty weapon. The internal investigation was reviewed and did not find it egregious. North Dakota POST did not find it a certification issue. Fox was subsequently employed by the Killdeer Police Department from August 2016 to October 2022. The background check revealed no adverse information. Fox completed the reciprocity exam in January 2023 and the January - February 2023 reciprocity training week. **Motion** by Commission Member Eschenbaum to approve the reciprocity application for Brandon Fox, **second** by Commission Member Pecora, motion **approved**.

Erik Kaldahl, Sioux Falls Police Department, completed the State of Illinois 560-hour Basic Recruit Training Course, passed the State certification exam, and was issued State certification in December 2019. His name does not appear on the Illinois office misconduct database. Staff reviewed course content, and it is equivalent to the 520-hour session. Eric was employed with the Champaign Police Department from 2019 to 2022. The background check revealed no adverse information. Eric completed the reciprocity exam in November 2022 and the January - February 2023 reciprocity training week. **Motion** by Commission Member Miller to approve the reciprocity application for Erik Kaldahl, **second** by Commission Member Wollman, motion **approved**.

Noel Peterson, Box Elder Police Department, completed the POST 600-hour required course and skills training at the Colorado Springs Police Department Recruit Academy in 1999. Peterson's certification is valid per Colorado POST. He was employed with the Colorado Springs Police Department from 1999 to 2010; employed as an investigator with the Department of Revenue from 2010 to 2016; and a part-time deputy marshal with the Green Mountain Falls Marshall's Office from 2016 to 2021. The background check revealed no adverse information. Peterson completed the reciprocity exam in January 2023 and the January - February 2023 reciprocity training week. **Motion** by Commission Member Eschenbaum to approve the reciprocity application for Noel Peterson, **second** by Commission Member Miller, motion **approved**.

Christopher Pierson, Sioux Falls Police Department, completed the 560-hour Champaign Police Training Institute Basic Law Enforce Course on April 26, 2018 and received Illinois State certification on April 30, 2018. Pierson was employed with the Winnebago County Sheriff's Office from 2016 to 2018 and the Rockford Police Department from 2018 to 2022. The background check revealed no adverse information. Pierson completed the reciprocity exam in August 2022 and the January - February 2023 reciprocity training week. **Motion** by Commission Member Howe to approve the reciprocity application for Christopher Pierson, **second** by Commission Member Miller, motion **approved**.

Jenny Rea, Deadwood Police Department, completed a 484-hour Basic Law Enforcement Course at the North Dakota Law Enforcement Training Academy in 2018. Additional training hours were covered during in-service training. Rea was employed with the Dickinson Police Department from 2018 to 2022. The background check revealed no adverse information. Rea completed the reciprocity exam in October 2022 and the January - February 2023 reciprocity training week. **Motion** by Commission Member Jackley to approve the reciprocity application for Jenny Rea, **second** by Commission Member Peterson, motion **approved**.

Christopher Schiera, Game, Fish & Parks, completed the 720-hour Wisconsin Department of Justice Law Enforcement Training Basic Recruit Academy in May 2021. Chris was certified as a law enforcement officer in Wisconsin and remains certifiable. No disciplinary action has been taken against his certification. Schiera was employed by the Town of Oakland as a water patrol officer on Lake Ripley from May 2021 to September 2021. The background check revealed no adverse information. Schiera completed the reciprocity exam in April 2022 and the January - February 2023 reciprocity training week. **Motion** by Commission Member Rasmussen to approve the reciprocity application for Christopher Schiera, **second** by Commission Member Eschenbaum, motion **approved**.

Travis Valdez, Chamberlain Police Department, completed the Law Enforcement Program at Southeast Technical College in May 2021. The background check revealed no adverse information. Valdez completed the reciprocity exam in November 2022 and the January - February 2023 reciprocity training week. **Motion** by Commission Member Quigley to approve the reciprocity request for Travis Valdez, **second** by Commission Member Miller, motion **approved**.

Tyler Wheeler, Rapid City Police Department, completed a 924-hour California POST certified course at the Butte College Basic Law Enforcement Academy in 2013. Wheeler received State of California basic certification in 2015. Wheeler was employed with the San Joaquin County Sheriff's Office from 2011 to 2022. The background check revealed no adverse information. Wheeler completed the reciprocity exam in October 2022 and the January - February 2023

reciprocity training week. **Motion** by Commission Member Peterson to approve the reciprocity application for Tyler Wheeler, **second** by Commission Member Quigley, motion **approved**.

The following 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 following complaints.

- Complaint #220039 - Allegation an officer physically abused his son. Unfounded, not a certification issue.
- Complaint #220051 - Conduct unbecoming, allegation that officers improperly investigated a possible sexual assault. Not handled to family satisfaction. Not a certification issue.
- Complaint #220057 - Allegation an officer unnecessarily shot a charging dog while doing a standby/civil assist. Not a certification issue.
- Complaint #220002 - Allegation that members of law enforcement agencies continuously harass the complainant. Mental health issue, not a certification issue.
- Complaint #220060 - Conduct unbecoming, an officer engaged in a physical altercation, drunk and off-duty, at a city function. Not a certification issue.
- Complaint #220063 - A police chief entered a home without permission while doing a welfare check, individual was given the wrong address. Not a certification issue.
- Complaint #220069 - Conduct unbecoming. A county sheriff failed to properly investigate an assault. LET determined the officer's actions did not rise to the level of conduct unbecoming, not a certification issue.
- Complaint #220072 - Conduct unbecoming. A county sheriff advised a subject wanted by a local police department to speak to a lawyer before speaking with anyone. County sheriff is no longer in law enforcement.

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

- Canine Team **John Sully and K9 Toska**, Yankton Sioux Law Enforcement, have met the requirements for Drug Detection certification on October 13, 2022;
- Canine Team **Joel Neuman and K9 Krome**, Bon Homme Co SO, have met the requirements for Drug Detection certification on October 13, 2022;
- Canine Team **Josh Olson and K9 Luna**, SD Highway Patrol, have met the requirements for Drug Detection certification on October 24, 2022;
- Canine Team **Deanna Johnson and K9 Rava**, SD Highway Patrol, have met the requirements for Drug Detection certification on October 24 2022;

- Canine Team **Manuel Langstraat and K9 Arras**, Brookings Co SO, have met the requirements for Patrol Dog certification on November 23, 2022;
- Canine Team **Shannon Irish and K9 Bram**, Sioux Falls PD, have met the requirements for Patrol Dog certification on November 23, 2022;
- Canine Team **Eric Peterson and K9 Drago**, SD Highway Patrol, have met the requirements for Patrol Dog certification on November 23, 2022;
- Canine Team **Michael Dale and K9 Sadie**, SD Highway Patrol, have met the requirements for Patrol Dog certification on November 23, 2022;
- Canine Team **Jarrold Zaruba and K9 Dex**, Aberdeen PD, have met the requirements for Drug Detection certification on November 16, 2022;
- Canine Team **Brandon Thompson and K9 Jary**, Rapid City PD, have met the requirements for Drug Detection certification on October 13, 2022;
- Canine Team **Paul Sheldon and K9 Mack**, Jerauld Co SO, have met the requirements for Patrol Dog certification on December 10, 2022;
- Canine Team **Alex Hansen and K9 Laya**, Watertown PD, have met the requirements for Drug Detection certification on October 13, 2022;
- Canine Team **Logan Crown and K9 Sadie**, Watertown PD, have met the requirements for Drug Detection certification on October 13, 2022; and
- Canine Team **Paul Sheldon and K9 Mack**, Jerauld Co SO, have met the requirements for Drug Detection certification on February 17, 2023.

Motion by Commission Member Pecora to approve the canine certification listing as presented, **second** by Commission Member Wollman, motion **approved**.

Newly appointed DCI Assistant Director of Administrative Operations, Tiffany Stoesser was introduced to members. Tiffany served as the Director of the DCI State Forensic Lab.

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

Executive Secretary Prim briefed members on Western Dakota Technical College's non-compliance notice. During the most recent audit, review of documentations, student interviews, and meeting with the technical college staff, four areas in the college program were identified as deficient. The deficiencies demonstrate non-compliance with the articulation agreement:

- Deficiency 1: Submitting inaccurate/false reports;
- Deficiency 2: Presenting students for testing, prior to final program semester;
- Deficiency 3: Failure to record and report required retention information; and
- Deficiency 4: Instructor credential records.

As authorized by the articulation agreement, each deficiency could qualify as a basis for the program to be placed on at-risk status and a one-year probationary period. Law Enforcement

Training is requesting Western Dakota Technical College voluntarily remedy the deficiencies by providing written documentation no later than May 1, 2023, outlining their corrective action plan.

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 Eschenbaum, motion **carried**. The next meeting is scheduled for April 12, 2023, in conjunction with the Sheriff's/Chief's Conference/Training at The Deadwood Lodge.