

**MINUTES OF THE  
PEACE OFFICER STANDARDS  
AND TRAINING BOARD  
GRAND DAKOTA LODGE  
DICKINSON, NORTH DAKOTA  
AUGUST 17, 2016**

**MEMBERS PRESENT**

Paul Lies  
Steve Engen  
Dan Haugen  
John Klug  
Lyn James  
Sarah Warner  
Scott Thorsteinson  
Chad Kaiser

**MEMBERS ABSENT**

Jack Nybakken

**GUESTS**

Luke Olson  
Verlan Kvande  
Jeremy Grohs  
Kerri Lee  
Raymond Copeland  
Rick Richard  
Robert Opp  
Bill Brown  
Mike Reitan  
Rick Majerus  
Bruce Burkett  
Lila Thomas

**LEGAL COUNSEL**

Lori Mickelson

**ADMINISTRATIVE STAFF**

Duane Stanley  
Monica Sebastian

The meeting was called to order by Chairman Steve Engen at 9:03 a.m. Mountain time. Duane Stanley took the roll. All members except Jack Nybakken were present. It should be noted Chad Kaiser joined the meeting at 10:39 a.m. Mountain time.

**Secretary Report**

**Meeting Minutes**

Minutes were reviewed from the May 18, 2016, regular POST Board meeting.

## **Motion**

Scott Thorsteinson made a motion to approve the minutes from the May 18, 2016, regular POST Board meeting. Paul Lies seconded the motion. All in favor, motion carried.

## **Financial Report**

Duane Stanley provided documentation to Board members and gave a detailed financial report on POST Board activity from January 1, 2016, through August 16, 2016.

## **Motion**

Lyn James made a motion to approve the financial report from January 1, 2016, through August, 2016. John Klug seconded the motion. All in favor, motion carried.

## **Old Business**

### **Paul Meagher - Update**

At the December 9, 2015, POST Board meeting the POST Board received information from the UND Police Department requesting decertification of Officer Paul Meagher's peace officer license. On November 3, 2015, a search warrant was executed at the residence of Mr. Meagher. At the time of the search, Mr. Meagher was downloading child pornography. Mr. Meagher was subsequently arrested and charged with 10 C-Felony counts of Possession of Certain Materials Prohibited, NDCC12.1-27.2-04.1 regarding child pornography. Mr. Meagher was terminated from the UND Police Department but it should be noted his license is current through 12/31/18.

A motion was made that there was in fact a code of conduct violation and this did have a direct bearing upon the individual's ability to serve as a peace officer.

A Complaint and Notice of Hearing from the ND POST Board was sent to Mr. Meagher on February 1, 2016. The postal service records show that this documentation was served and received on February 4, 2016. At the time of the meeting the POST Board office had not received a response from Mr. Meagher. At the time of the August meeting, Mr. Meagher was considered to be in default. Mr. Meagher's license had been renewed and was current through 12-31-18

## **Motion**

Dan Haugen made a motion to revoke Paul Meagher's license. Scott Thorsteinson seconded the motion. All in favor, motion carried.

## **Travis Bateman – Update**

At the February 17, 2016, POST Board Meeting, Lt. Dan Haugen utilized a white board to provide a visual representation to Board members in regards to McKenzie County Deputy Travis Bateman being charged with Class C Felony Reckless Endangerment. On August 31, 2015, ND Highway Patrol Trooper Austin Hilzendeger was involved in a pursuit when a motorcycle failed to stop for Trooper Hilzendeger. Trooper Hilzendeger activated his lights and sirens and was heading south on Highway 85 after the motorcycle. Trooper Hilzendeger notified units of the Watford City Police Department and the McKenzie County Sheriff's Office. Mr. Bateman responded to the request of Trooper Hilzendeger. Mr. Bateman was heading towards Trooper Hilzendeger and the motorcycle on the same road. Upon review of the patrol car video it was clear that Mr. Bateman, upon observing Trooper Hilzendeger's vehicle, entered the opposite lane of traffic's shoulder so Mr. Bateman's patrol vehicle and Trooper Hilzendeger patrol vehicle were heading head on. It can be seen from another patrol vehicle behind Mr. Bateman's patrol vehicle that Trooper Hilzendeger was still following the motorcycle.

As Mr. Bateman's patrol vehicle and Trooper Hilzendeger's patrol vehicle got near one another, the motorcycle, still in between the two vehicles, began to turn left to likely avoid a head on collision with Mr. Bateman's patrol vehicle. As the motorcycle turned left, Mr. Bateman also turned in the direction the motorcycle was turning until Mr. Bateman struck the motorcycle with his patrol vehicle, at which point both passengers were ejected from the motorcycle.

After medical attention was provided to the occupants of the motorcycle, Mr. Bateman was recorded via a body cam video shrugging his shoulders while making the statement "f\*cking idiot," referring to the occupant of the motorcycle.

A motion was made that Mr. Bateman violated the code of conduct, section c (To engage in conduct that is in violation of the criminal laws of the state or federal government or ordinances of a political subdivision of the state of North Dakota, whether or not the officer has been charged with or convicted of an offense) and his actions in fact have a direct bearing on his ability to perform peace officer duties.

A Complaint and Notice of Hearing was sent out May 9, 2016. Mr. Bateman did receive the notice. The POST Board received a response and request dated May 17<sup>th</sup>, 2016 for a hearing after the criminal trial and appeal were concluded.

There was a judgment of acquittal signed on June 24, 2016 and the case against Mr. Bateman was closed.

## **Motion**

Scott Thorsteinson made a motion to dismiss without prejudice. John Klug seconded the motion. Paul Lies voted no. All others voted yes. Motion carried.

## **Mike Nason - Update**

Duane Stanley relayed to board members that prior to the May 18, 2016, POST Board meeting, Mr. Stanley had spoken with Mike Nason's legal counsel Tom Dickson. Mr. Dickson asked if Mr. Stanley would relay to board members that they would like this matter tabled until the court process had taken its course. Mr. Stanley relayed that request. The overview of facts that were provided to the Board were taken in part from the affidavit of probable cause and are as follows. On October 3, 2014, Dustin Irwin was arrested and held at the Ward County Correctional Center. While Mr. Irwin was being held in Ward County his health deteriorated over the three days he was held. By the time of his transport to Burleigh County, Mr. Irwin was incoherent, urinating on himself, disoriented, and had to be physically loaded into the transport vehicle. Sheriff Steve Kukowski and Captain Michael Nason ultimately transported Mr. Irwin and were to meet up with a Burleigh County Deputy for an exchange with another prisoner. Upon the Burleigh County Deputy taking custody of Mr. Irwin, Mr. Irwin was transported directly to the hospital with emergency lights flashing and passed away a short time later. On February 16, 2016, Mr. Nason was charged with one count of Reckless Endangerment. There was discussion by board members as to where this case was in the court system along with tabling this item until the next POST Board meeting.

On July 7, 2016, an Order to Dismiss With Prejudice was signed by a North Central Judicial District judge.

## **Motion**

John Klug made a motion to dismiss without prejudice. Lyn James seconded the motion. Paul Lies voted no. All others voted yes. Motion carried.

## **Physical Fitness Requirements**

At the December 9, 2015 meeting, LETA Academy Director Lt. Dan Haugen and Lake Region Police Academy Director John Maritato addressed the Board relaying that the LETA in Bismarck and Lake Region State College have been having issues with individuals "academy shopping" since the physical fitness requirements vary or are administered differently from basic academy to basic academy. The physical fitness requirements for Lake Region State College are different than the requirements through the POST Board. Both academies are in agreement and asking that the CTA (Critical Task Assessment Obstacle Course) be utilized for all law enforcement academies to address the current and future issues of "academy shopping." There was discussion on providing more information at the February Board meeting.

At the February 17, 2016, POST Board meeting LETA Academy Director Lt. Dan Haugen addressed the Board and provided a video for Board members to watch regarding the CTA Obstacle Course.

At the May 18, 2016 Lt. Dan Haugen once again addressed the Board and provided further information regarding the physical fitness requirements and required equipment. Lt. Haugen presented the idea of the POST Board buying the equipment needed for the physical fitness requirements and renting or lending the equipment to Lake Region due to the current financial picture in the state reference budget reductions and the fact Lake Region may not be able to buy the equipment needed. There was discussion amongst POST Board members that this would not be a good idea to purchase equipment for a college that charges tuition to its police basic students and is ran similar to a private business entity.

It was asked that this be topic be placed on the August agenda for the Board to make a final decision on whether to move forward with this physical fitness issue.

Lt. Dan Haugen addressed the Board asking that a deadline be set for the physical fitness requirements for all academies to go into effect. There was lengthy discussion on this topic by board members not wanting to drag this out any longer. It was relayed that this equipment purchase had been approved in Lake Region's upcoming budget. There was talk of having a start date of July 1, 2016. This led to discussion about starting August 1, 2016 to give time to purchase the equipment. There was continued discussion on the start dates of the basic academy classes around the state and which ones would be affected by the implementation of this standard. There was also debate over departments and hiring standards for physical fitness and how this may affect current hiring lists. Numerous scenarios were discussed and ultimately Board members stated they wanted this PT requirement implemented with a specific suspense date set.

### **Motion**

John Klug made a motion that the new physical fitness requirements utilizing the CTA Obstacle Course go into effect March 1, 2017, for all academies. Dan Haugen seconded the motion. All in favor, motion carried.

### **Adverse License Update**

#### **Mark Wallevand**

Mark Wallevand was charged with the following felony crimes: Promoting a Sexual Performance by a Minor (one count), Possession of Certain Materials Prohibited (five counts). Mr. Wallevand is not currently working for an agency but his peace officer license is current until December 31, 2016. A letter, along with a Complaint and Notice of Hearing from Executive Secretary Duane Stanley were sent certified mail, restricted delivery, to the address listed on the search warrant that had been executed at Mr. Wallevand's residence. There was no response from Mr. Wallevand. If the POST Board did not hear back from the Post Officer regarding Mr. Wallevand's whereabouts, the process will start for notification of adverse license action through publication in the newspapers.

On January 11, 2016, a Complaint and Notice of Hearing from the ND POST Board was sent to Mr. Wallevand stating that adverse action has been taken against him. As of the February 17, 2016, meeting, Mr. Wallevand has not responded or received the

paperwork. The postal service documentation indicated that the letter was not served or received by Mr. Wallevand. There was discussion to have Duane Stanley coordinate with the Fargo probation office to possibly work out service of the documents.

A Complaint and Notice of Hearing was ultimately served by Fargo Probation Supervisor Dan Seymour to Mr. Wallevand on February 25, 2016.

Mr. Wallevand was charged out and is in jail serving his sentence.

On June 14, 2016 Mr. Wallevand was served an Order of Revocation on his peace officer's license.

### **Jason Lux**

At the August 11, 2015, regular POST Board meeting, BCI Director and CJIS Board member Dallas Carlson provided the Board with an overview regarding Jason Lux and the reason Mr. Lux's CJIS access had been denied at the June 2, 2015, CJIS Board meeting. Mr. Lux, who worked for the LaMoure County Sheriff's Office, was denied CJIS access based on his past criminal history. Mr. Lux had attended Lake Region State College in 2013. Mr. Lux then went to work for the Ruby Police Department in May of 2013 through November 2013, the Pierce County Sheriff's Office from December 2013 to February 2015, and then the LaMoure County Sheriff's Office in February of 2015.

It should be noted that on May 12, 2016, the POST Board Office received a letter from State Radio Director Mike Lynk in reference to Mr. Lux being denied NCIC access. At the time Mr. Lux was hired, the POST Board's Administrative Rules stating "Must not be prohibited from access to national crime information center and criminal justice information sharing databases" were not in place. These came into effect in April of 2014. There was discussion by board members in reference to the fact that Mr. Lux doesn't meet the current minimum standards to be a licensed peace officer. Mike Lynk also addressed the Board and relayed how they were in the process of developing software for an automated process to communicate and share information.

At the May 18, 2016, POST Board meeting a motion was made that Jason Lux does not meet the license requirements regarding POST Board Rule 109-02-01-03(3): Must not have pled guilty to, pled nolo contendere to, or have been found guilty, in any state or federal court, of a felony offense. This motion was amended to POST Board Rule 109-02-01-03(10): Must not be prohibited from access to national crime information center and criminal justice information sharing databases.

Jason Lux was served a Complaint, and Notice of Hearing dated May 24, 2016 reference the adverse license action process.

Prior to the August meeting, Executive Secretary Duane Stanley received documentation from Mr. Lux dated June 3, 2016 requesting a hearing to contest the adverse license action complaint. This information was forwarded to POST Board legal counsel to make arrangements with the Office of Administrative Hearings.

## **Jeremie Meisel**

At the August 11, 2015, POST Board meeting the POST Board received a termination form from the ND Highway Patrol for Jeremie Meisel. The termination form stated that Mr. Meisel resigned during an internal investigation and the ND Highway Patrol would like a POST Board review. Board member Lt. Dan Haugen provided an overview of the circumstances surrounding the resignation of Mr. Meisel and the fact the Burleigh County States Attorney Office had declined prosecution of the case after reviewing the BCI investigative reports. There was discussion by board members that what Mr. Meisel had done was outright dishonest. It was noted that Mr. Meisel's license is active until December 13, 2015. There was a motion made that there was a code of conduct violation specifically "e" regarding this incident. Another motion was made to initiate adverse action due to the code of conduct violations.

Mr. Stanley informed the Board that Mr. Meisel had requested a hearing and the case was moving forward and will be set for a hearing in the very near future.

On August 4, 2016, there was an administrative hearing held in reference to Mr. Meisel. At the conclusion of the hearing, the Administrative Law Judge asked the attorneys to file briefs. A decision will be made sometime after the ALJ receives and reviews the briefs.

## **New Business**

### **POST Board Training Funds Reference Current Budget Outlook**

Lt. Dan Haugen explained the funding process to Board members as it relates to the \$250,000 that has been utilized each biennium by the POST Board for training. The training funds that the POST Board grants to agencies received through the POST Board are filtered through the Highway Patrol's general fund appropriated budget. Due to the state's current budget outlook and the requested percentage cuts in state agencies, Lt. Haugen explained that the Highway Patrol had absorbed the various percentage reductions up until the most recent one. Lt. Haugen explained to the Board they would not be able to absorb the latest round of budget cuts which will total almost 10%. Lt. Haugen relayed that the \$250,000 that normally was requested for training this next biennium be reduced by 10%, making the training funds that will be available for training stand at \$225,000. The Board had no issue with this request and completely understood the situation state agencies are faced with. No motion was needed.

### **Funding Training Questions**

Executive Secretary Duane Stanley brought to the Board's attention the issue regarding the funding that the POST Board pays to agencies for training. In the agreement it states "The Host Agency will be limited to reserving no more than 25% of the allocated class size unless there are vacancies that other agencies are unable to fill."

An example was given showing were a host agency had fifty percent of the students in a course and the fact there is no real way of following up with this to see if it is abused due to the language in the contract along with the fact the office gets the PFN 9 after the course has been held. There was also discussion and examples of training that had been provided that were quite expensive from a cost per student training hour

perspective. This was relayed to Board members from an informational awareness position. No motion was needed.

### **Background checks**

West Fargo Police Department asked about setting up a main directory for background checks for individuals that apply with law enforcement agencies across the state.

The Board, although they liked the idea, wanted The POST Board to continue business as usual but asked that Executive Secretary Duane Stanley reach out to the MN POST Board to obtain more information from them. The Board was specific on the fact that they did not want another agency being a repository for background information for the POST Board. If this is something an agency wanted to do on their own that would be up to them but it would not be done in conjunction with the POST Board.

There was also concern about whether or not the administrative rules would have to be changed, what exact information could be stored according to our current open records laws, and third party consent.

No motion was needed.

### **Limited License Review (Raymond Copeland)**

The McLean County Sheriff's Office hired Raymond Copeland and upon conducting a criminal history check on Mr. Copeland showed an an assault charge from 2004. This was listed on the criminal history as an Article 15. McLean County Deputy Lt. Rick Richard was present and addressed the Board providing a very detailed out line of the process and the fact that this was a "Non-Judicial Commander's Intervention." Mr. Copeland was also present and answered questions reference this incident. It should be noted that Mr. Copeland washonorably discharged through the military and is CJIS approved through the State.

### **Motion**

Scott Thorsteinson made a motion to approve Raymond Copeland's limited license. Sarah Warner seconded the motion. All in favor, motion carried.

### **Training Certification Request**

Duane Stanley gave an overview and provided documentation to board members received from Lila Thompson, DOCR, stating she had attended a Behavioral Health Conference September 1-3, 2015, and never received the training hours for the approved course. Ms. Thompson had indicated she signed a roster. Administrative Officer Monica Sebastian emailed the coordinator of the conference and received a detailed reply that the rosters were left on the tables for the officers to sign and there were no rosters turned in with signatures.



### **Motion**

Scott Thorsteinson made a motion to deny the training for Lila Thomas. John Klug seconded the motion. All in favor, motion carried.

### **Training Certification Request**

Chad Kaiser, Stutsman County Sheriff's Office, and Scott Edinger, Jamestown Police Department, attended a Edetech Sonar Training June 22-23, 2016. Mr. Kaiser contacted Administrative Officer Monica Sebastian the morning of June 22, 2016, and asked if they could get training hours. Ms. Sebastian stated if she could get the information by 10 a.m. she would approve the training. Ms. Sebastian never received any information that morning. It should be noted that this course has since been approved for POST Board continuing education hours

### **Motion**

Dan Haugen made a motion to deny the training for Chad Kaiser and Scott Edinger. Paul Lies seconded the motion. All in favor, motion carried.

### **MOI Instructor Waiver**

Mr. Worley had completed a two week instructor course in Georgia on March 26, 2004. There was debate amongst members about whether or not Mr. Worley should take the entire MOI course again due to the length of time that had passed since the initial instructor course had been taken.

### **Motion**

Scott Thorsteinson made a motion to approve the police subject's waiver for Phillip Worley as long as Mr. Worley takes the MOI refresher within three months from the August 17, 2016 meeting. John Klug seconded the motion. Paul Lies voted no. All others voted yes. Motion carried.

### **Firearms Instructor Waiver**

The Stark County Sheriff's Office, was asking for a Weapons Instructor waiver for Phillip Worley based on Mr. Worley's previous instructor experience in Georgia. Mr. Worley had completed a firearms instructor course in Georgia on August 27, 2009. There was once again lengthy debate about the time element and the fact that there have been new methods in weapons training since 2009.

### **Motion**

Dan made a motion to deny the firearms waiver. Sarah Warner seconded the motion. All in favor, motion carried.

### **MOI Instructor Waiver**

The Rolette County Sheriff's Office was asking for a waiver of MOI for Keith Benning based on his previous instructor experience in Illinois. Mr. Benning completed a forty hour instructor course in Illinois on May 5, 2006.

### **Motion**

Dan Haugen made a motion to approve the MOI police subject's waiver for Keith Benning as long as Mr. Benning takes the MOI refresher within three months from the August 17, 2016 meeting. John Klug seconded the motion. All in favor, motion carried.

### **MOI/Firearms Instructor Waiver**

The McKenzie County Sheriff's Office was asking for a waiver for Roger Brown, in reference to the two year licensed peace officer requirement in the administrative rules. Mr. Brown began employment with the McKenzie County Sheriff's Office March 23, 2015. Mr. Brown attended a MOI/Firearms Instructor Course through the Highway Patrol on July 11, 2016.

### **Motion**

Scott Thorsteinson made a motion to approve the MOI/Firearms Instructor certification for Roger Brown. Dan Haugen seconded the motion. Paul Lies voted no. All others voted yes. Motion carried.

### **MOI Instructor Waiver**

Jason Zeigler, Mandan Police Department, was asking for a waiver of MOI based on Mr. Zeigler's twenty six years of previous law enforcement and instructor experience in Florida.

### **Motion**

Dan Haugen made a motion to approve the MOI police subject's waiver. John Klug seconded the motion. Paul Lies voted no. All others voted yes. Motion carried.

At 10:21 Chairman Engen called a short recess.

At 10:33 the meeting was reconvened and called back to order.

### **Funding Request – Williams County**

The Williams County Sheriff's Office was asking for \$9,125.00 to host a Kaminsky Field Training Officer Seminar December 12-16, 2016. The training can be for up to 36 attendees.

## **Motion**

Scott Thorsteinson made a motion to fund \$9,125.00 for the Kaminsky Field Training Officer Seminar to be hosted by the Williams County Sheriff's Office with the stipulation that Williams County has no more than 25% of their officers attending the training and can fill the spots with their officers if not filled within 45 days of training. John Klug seconded the motion. All in favor, motion carried.

Chad Kaiser entered the meeting at 10:39 a.m. Mountain time

## **Funding Request – West Fargo Police Department**

The West Fargo Police Department was asking for \$5,500.00 to host the APTAC Field Training Officer Course that is scheduled for January 9-11, 2017. This training can be for up to 40 attendees.

## **Motion**

Lyn James made a motion to fund \$5,500.00 for an APTAC Field Training Officer Course to be hosted by the West Fargo Police Department with the stipulation that West Fargo has no more than 25% of their officers attending the training and can fill the spots with their officers if not filled within 30 days of training. Sarah Warner seconded the motion. Joh Klug voted no. All other voted yes. Motion carried.

## **Funding Request – Williston Police Department**

The Williston Police Department was asking for \$5,500 for a Parcel and Bus Interdiction Training that is scheduled for August 28, 2016. This training can hold up to 40 attendees.

## **Motion**

Scott Thorsteinson made a motion to fund \$5,500 for the Parcel and Bus Interdiction Training with the stipulation that Williston has no more than 25% of their officers attending the training. Chad Kaiser seconded the motion. All in favor, motion carried.

## **Funding Request – Jamestown Police Department**

The Jamestown Police Department was asking for \$5,000.00 for the Now I Understand Life after Trauma Training that is scheduled for August 15, 2016. This training can hold up to 200 attendees.

There was discussion on another course that Jamestown Police Department wanted funding for and that more than 25% of the attendees were from Jamestown. Robert Opp stated that they filled the class with more than the 25% of their department attendees due to the language in the agreement because there were not enough attendees. The Board asked if the Jamestown Police Department could push the training back since it was such short notice and being it was good training ,there were a

lot of other conflicts going on at that time and it would more than likely have an effect on attendance. Mr. Opp was able to contact Chief Edinger and relayed to board members that should not be a problem.

### **Motion**

Chad Kaiser made a motion to fund \$5,000.00 for Now I Understand Life after Trauma Training. Scott Thorsteinson seconded the motion. All in favor, motion carried.

### **Funding Request – ND LETA**

The ND LETA was asking for two options to fund the Leadership in Police Organizations (LPO) Training that is scheduled for one week in February, March, and April 2017. The first option was asking for \$20,000.00 and the students attending would have to make up the difference. The second option was requesting \$35,000.00 and the students /and or agencies burden would be less.

### **Motion**

Scott Thorsteinson made a motion to fund \$35,000.00 for the LPO Training. Chad Kaiser seconded the motion. All in favor, motion carried. Dan Haugen abstained.

### **POST Board Review – Steve Engen**

Steve Engen removed himself from Chairman and appointed Dan Haugen as Acting Chair to address the POST board reviews involving Steve Engen and Allen Kluth.

Duane Stanley had provided all board members with documentation and correspondence received from Attorney Tom Dickson at the POST Board Office reference an interview that took place in Minot with Attorney Dickson's client Mike Nason. The POST Board had replied to Mr. Dickson's letter asking Mr. Dickson to provide a specific violation of the Peace Officer Code of Conduct as defined in Administrative code 109-02-05-01. In Mr. Dickson's response dated August 2, 2016, Mr. Dickson stated Rule 4(e) "to willfully lie..."

Here is a short synopsis of events in reference to what took place in Minot at the Maxson Law firm on July 12, 2016. Mr. Dickson, North Dakota State Jail Inspector Steve Engen, and ND BCI Special Agent Allen Kluth were to interview Mike Nason in regards to an inmate who had been housed at the Ward County Jail and subsequently passed away after being transported to the Burleigh County Sheriff's Office. S/A Kluth had begun to set up a video system to record the interview at which time Mr. Dickson stated the interview would not be recorded as agreed upon. S/A Kluth took down the video equipment. Mr. Dickson stated that he and Mr. Kluth had an agreement to not record the conversation. Mr. Kluth stated there was no agreement. Mr. Engen ultimately recorded the interview with his cell phone. Mr. Engen addressed the Board and explained the circumstances in regards to this interview that in fact there had been no agreement between Mr. Dickson, S/A Kluth, Steve Engen or Special Prosecutor Seymour Jordan not to make a recording of the interview. Board members had questions and comments about what Mr. Engen had specifically lied about as referred

to in Mr. Dickson's letter. There was also a question from Board members to confirm if there had been any agreement between the prosecutor and defense attorney not to record the interview. Mr. Engen stated he had specifically had this conversation with the prosecutor prior to the hearing and there had been no agreement not to record the interview.

### **Motion**

Scott Thorsteinson made a motion to dismiss this claim and take no action. Chad Kaiser seconded the motion. All in favor, motion carried. Steve Engen abstained.

### **POST Board Review – Allen Kluth**

Acting Chair Dan Haugen asked Duane Stanley to provide the background reference the complaint against S/A Allen Kluth.

Mr. Stanley relayed to the Board that the circumstances for this complaint were in regards to the same incident that had just been reviewed and were as follows: Mr. Dickson, North Dakota State Jail Inspector Steve Engen, and ND BCI Special Agent Allen Kluth were to interview Mike Nason in regards to an inmate who had been housed at the Ward County Jail and subsequently passed away after being transported to the Burleigh County Sheriff's Office. S/A Kluth had begun to set up a video system to record the interview at which time Mr. Dickson stated the interview would not be recorded as agreed upon. S/A Kluth took down the video equipment. Mr. Dickson stated that he and Mr. Kluth had an agreement to not record the conversation. Mr. Kluth stated there was no agreement. Mr. Engen ultimately recorded the interview with his cell phone. Mr. Dickson had sent a letter to the POST Board dated August 2, 2016, stating that letter was also a formal complaint against S/A Kluth for "deceitful, fraudulent, and unprofessional surreptitious taping of the meeting in direct contravention of their agreement".

Duane Stanley read a memo dated August 8, 2016 that the POST Board Office received from S/A Kluth in regards to this matter. In the memo, S/A Kluth stated there had been no agreement between Mr. Dickson not to video record the interview.

### **Motion**

Scott Thorsteinson made a motion to dismiss this claim and take no action. Chad Kaiser seconded the motion. All in favor, motion carried. Steve Engen abstained.

### **POST Board Review – Zachary Brown**

Zachary Brown had been working on a limited license with the Mandan Police Department and was arrested for a residential burglary. The Mandan Police Department terminated Mr. Brown. At the time of the termination, Mr. Brown's limited license was no longer valid. No motion was needed.

## **POST Board Review – Nick Jones**

Duane Stanley provided all documentation to board members received from the Bismarck Police Department and gave an overview of the incident. Officer Nick Jones with the Bismarck Police Department, was involved in a vehicle accident where Mr. Jones hit a parked car on the night of April 20, 2016. According to witnesses, Mr. Jones appeared to be intoxicated. After hitting the parked car, Mr. Jones identified himself to the witness as a Bismarck Police Officer, got in his vehicle and left the scene. The Bismarck Police Department subsequently conducted an internal investigation. Mr. Jones was found to have violated the Bismarck Police Departments General Order 2601. Mr. Jones was charged with a Class B Misdemeanor, Reckless Driving. Mr. Jones was also charged with the infraction, Failing to Provide Immediate Notice of a Traffic accident, along with Failure to Maintain Liability Insurance on a Motor Vehicle.

### **Motion**

Dan Haugen made a motion that Mr. Jones did in fact violate the Peace Officer Code of Conduct, specifically 109-02-05-01 subsection 4(c) and this does have a direct bearing on his ability to perform peace officer duties. Paul Lies seconded the motion. All in favor, motion carried.

### **Motion**

Dan Haugen made a motion to start adverse action in accordance with NDCC 12-63-12. Paul Lies seconded the motion. There was some discussion by board members reference a possible sanction and the issue in regards to a possible firearms prohibition. The vote was taken. All in favor, motion carried.

## **POST Board Review – Wes Libner**

Duane Stanley provided an overview to the Board reference Wes Libner, Fargo Police Department. Mr. Libner was arrested for DUI on July 2, 2016, in Clay County MN. Mr. Libner subsequently resigned from Fargo Police Department. Mr. Libner's license is good until 12/31/18.

### **Motion**

Dan Haugen made a motion that Mr. Libner did in fact violate the Peace Officer Code of Conduct, specifically 109-02-05-01 subsection 4(c) and this does have a direct bearing on his ability to perform peace officer duties. Scott Thorsteinson seconded the motion. All in favor, motion carried.

### **Motion**

Scott Thorsteinson made a motion to start adverse action in accordance with NDCC 12-63-12. Chad Kaiser seconded the motion. All in favor, motion carried.

## **POST Board Review – Travis Paeper**

Duane Stanley provided an overview to the board reference Travis Paeper with the Sargent County Sheriff's Office. Mr. Paeper was arrested in Clay County Minnesota, on May 14, 2016 for disorderly conduct which occurred in a drinking establishment located in Dilworth, Minnesota.

### **Motion**

Dan Haugen made a motion that Mr. Paeper did in fact violate the Peace Officer Code of Conduct, specifically 109-02-05-01 subsection 4(c) and this does have a direct bearing on his ability to perform peace officer duties. Sarah Warner seconded the motion. All in favor, motion carried.

### **Motion**

Chad Kaiser made a motion to start adverse action in accordance with NDCC 12-63-12. Lyn James seconded the motion. All in favor, motion carried.

## **POST Board Review – Jeremy Grohs**

The Bureau of Criminal Investigation received a letter August 1, 2016 from Burke County Commissioner, Debbie Kuryn, regarding concerns she has received about the actions of Sheriff Jeremy Grohs and how this reflects poorly on Burke County and law enforcement as a whole. Also contained with the letter were several affidavits regarding Jaime Combs, and individual who is currently on the 24/7 Sobriety Program along with several local newspaper articles. Duane Stanley had provided Board members with the content of this mailing to Board members to review prior to the meeting.

In this letter, Sheriff Grohs' fiancé at the time, Jaimie Combs, was on the 24/7 program. There were concerns that this created a conflict of interest since Sheriff Grohs was running the program and monitoring Ms. Combs while she was on the program. There were allegations that Sheriff Grohs was altering the test results when a positive BAC was detected.

There were other allegations that Sheriff Grohs did not violate Ms. Combs when he should have regarding the 24/7 program and Sheriff Grohs did not serve warrants that were issued on Ms. Combs in a timely fashion. Also included in the letter were allegations that Sheriff Grohs physically assaulted Ms. Combs and that the report filed by the deputy would not be forwarded properly. There was also a concern over a signed affidavit by Sheriff Grohs that stated Ms. Combs had a positive BAC of .09, an odor of alcohol could be detected and Sheriff Grohs allowed Ms. Combs to drive to Minot. There was another issue addressed in the letter that Sheriff Grohs had used his position as Sheriff in order to gain access to visit Mr. Combs other than designated visiting hours while she was incarcerated at the Ward County Jail.

Sheriff Grohs was present and addressed the Board. Sheriff Grohs stated they're had been issues in the past that commissioners had brought up and the relationship with Ms. Combs had since ended. Sheriff Grohs provided explanations surrounding the

various issues involving the testing and administration of the 24/7 Sobriety program as it related to Ms. Combs. Sheriff Grohs provided an explanation on how Sheriff Grohs utilized HGN in reference to determining alcohol use. Sheriff Grohs would alternate topics and explanations surrounding the 24/7 Sobriety Program, staff issues with current employees which were being addressed, discussions with the Burke County States Attorney and interactions with the Burke County Commission. There were questions and discussion from board members in reference to the use of HGN. Duane Stanley followed up by explaining that the current ND 24/7 Program Guidelines do not mention the use of HGN in determining a pass or fail when using twice a day breath testing. There was continued discussion by Board members on making a request to the Director of BCI to consider an investigation into these matters.

### **Motion**

Dan Haugen made a motion to request the Bureau of Investigation look into the accusations against Mr. Grohs. Scott Thorsteinson seconded the motion. All in favor, motion carried.

### **POST Board Review – Ross Walther**

Duane Stanley provided the Board with the paperwork from the BCI investigation that had been conducted in regards to Ross Walther. Mr. Walther, who is a licensed peace officer and instructor through the POST Board, had his concealed weapons instructor certification revoked by the state. In a past board meeting, the Board had requested that anytime a licensed peace officer has their concealed weapons instructor certification revoked, they be informed of the situation and review the circumstances surrounding the incident. Upon review, it was found that Mr. Walther had issues with integrity and the fact the course was not being taught within the guidelines provided by Concealed Weapons, a department within the Bureau of Criminal investigation.

### **Motion**

Dan Haugen made a motion to revoke Mr. Walther's General Police Subjects and Firearms General instructor certification that had been granted through the POST Board. Paul Lies seconded the motion. All in favor, motion carried.

Chairmen Engen asked members of the audience if they had any issues they would like to bring forth to the Board. Benson County Sheriff Steve Rohrer addressed the Board and talked about the process to become licensed again after an individual's license has expired. Sheriff Rohrer thought the time frame listed in the current administrative rules should be looked at. Sheriff Rohrer suggested that instead of having to go through the entire basic training again an individual should be able to take classes and get caught up on training. The Board provided a history of why these rules and laws were put into place was due to the fact the profession is rapidly changing with technology and that new state laws come into effect every two years from the legislative session.

Chairman Engen conducted a round table with members of the board and administrative staff.



At 12:18 p.m., Chad Kaiser made a motion to adjourn. Sarah Warner seconded the motion. All in favor, motion carried.