

**MINUTES OF THE
PEACE OFFICER STANDARDS
AND TRAINING BOARD
THE LAW ENFORCEMENT TRAINING ACADEMY (LETA)
BISMARCK, NORTH DAKOTA
FEBRUARY 15, 2017**

MEMBERS PRESENT

Chad Kaiser
Paul Lies
Dan Haugen
John Klug
Lyn James
Tom Falck
Scott Thorsteinson

ABSENT

Sarah Warner

GUESTS

Steve Engen
Todd Parisien

LEGAL COUNSEL

Mike Mahoney

ADMINISTRATIVE STAFF

Duane Stanley
Monica Sebastian

The meeting was called to order by Chairman John Klug at 1:02 p.m. with roll call. All members except Sarah Warner were present. It should be noted that Scott Thorsteinson was present through conference call.

Secretary Report

Meeting Minutes

Minutes were reviewed from the December 14, 2016, regular POST Board meeting.

Motion

Dan Haugen made a motion to approve the minutes from the December 14, 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, 2017, through February 15, 2017.

Motion

Chad Kaiser made a motion to approve the financial report from January 1, 2017, through February 15, 2017. Paul Lies seconded the motion. All in favor, motion carried.

Old Business

Regular Scheduled Meeting Date for August 16, 2017

At the December 14, 2016, regular POST Board meeting, the regular scheduled dates for 2017 were set up. A tentative date of August 16, 2017, was set as the regular scheduled meeting date with the option of changing because of NDPOA. The August 16, 2017 meeting date was confirmed with a start time of 1:00pm and will be held at the Radisson Motel in Bismarck ND.

Use of Force Disclaimer

At the December 14, 2016, regular POST Board meeting there was discussion amongst Board members on the questions that were being missed regarding the Use of Force test. Monica Sebastian was to set up a spreadsheet to keep track of the failed use of force tests, how many times an individual fails, and what questions were missed. Ms. Sebastian was to also put a notice/disclaimer on the Use of Force test explaining that after three failed attempts one has to wait a year before retaking the test.

The disclaimer has been put on the Use of Force test and a spread sheet has been set up to record the required data.

Adverse License Action Update – Nick Jones

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 and 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.

At the August 17, 2016, POST Board meeting a motion was made 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.

Another motion was made to start adverse action in accordance with NDCC 12-63-12.

Executive Secretary Duane Stanley informed the Board that the Findings of Fact, Conclusions of Law, and Order of Suspension were sent certified mail registered receipt to Mr. Jones on January 19, 2017 but the office has not heard anything back.

Adverse License Action Update – Wes Libner

Wes Libner, Fargo Police Department, 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.

A motion was made 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.

Another motion was made to start adverse action in accordance with NDCC 12-63-12.

Executive Secretary Duane Stanley informed the Board that the Findings of Fact, Conclusions of Law, and Order of Probation were sent certified mail registered receipt to Mr. Libner on January 19, 2017 but the office has not heard anything back.

Adverse License Action Update – Ross Walther

Ross 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.

A motion was made to revoke Mr. Walther's General Police Subjects and Firearms General instructor certification that had been granted through the ND POST Board. A Order of Revocation had been sent certified mail registered receipt September 21, 2016. A Petition for Reconsideration was received October 3rd, 2016 from Mr. Walther's legal counsel.

POST Board counsel Mike Mahoney relayed that he was in negotiations with Mr. Walther's legal counsel reference this matter..

New Business

2017 IADLEST Regional Meeting

Duane Stanley informed the Board that the 2017 IADLEST Regional Meeting will be held in Kansas City in March. The Board approved Mr. Stanley and Dan Haugen to attend the 2017 IADLEST Regional Meeting in March.

2017 IADLEST Conference

Duane Stanley informed the Board that the 2017 IADLEST National Conference will be held in Nashville, TN, in May 2017. The individuals that would like to attend the conference are Mike Mahoney, John Klug, Sarah Warner, Duane Stanley, and Monica Sebastian.

Motion

Chad Kaiser made a motion to send the five individuals to the 2017 IADLEST Conference in Nashville, TN. Paul seconded the motion. All in favor, motion carried.

POST Staff Approving Training

Duane Stanley asked the Board that discretion be given to him in approving rosters that were submitted late by the instructors instead of always having to come in front of the Board for review. The Board decided that if the roster was sent in within six months of the date the training was conducted, it would be up to the POST Board staff whether or not they would accept the training. This was specifically addressing the issue of an instructor failing to send in the PFN 9 class roster in the allotted time frame and not the fact that an officer may fail to sign the roster.

POST Board Criminal History Guidelines

Duane Stanley brought to the Boards attention the questions and concerns that have come up in regards to the language and timeline that is used in the current Criminal History Guidelines in regards to Board review of police officer candidates with a past drug history. The criminal history guideline states: "Has been convicted of **any** drug-related offense regardless of any deferred imposition of sentence or post-conviction reduction". There was lengthy discussion by Board members on possibly changing the length of time from conviction along with the various crimes and penalties etc. Ultimately the Board decided to leave the guidelines as written.

Background Check Letters – Handling III Information

Duane Stanley informed the Board that when agencies do a background check and a III is created and is attached to the licensing paperwork, once the licensing process is over per FBI guidelines, the POST Board staff will shred the III documentation. III information cannot be sent out through e-mail.

Marcy's Law Update

There had been a question raised at the last meeting on how Marcy's Law may impact a police officer in regards to the current Peace Officer Code of Conduct. After discussion by board members and legal counsel, the thought was that it doesn't fit /apply based on the current language in the Peace Officer Code of Conduct.

Training Certification Requests – Tyler Rintamaki/New Town PD

Tyler Rintamaki attended a Kaminsky and Sullenberger's Field Training Officer Course in April of 2015 and didn't send in his certificate within 30 days after training. There was discussion amongst the Board members about the current administrative rule that address's this issue along with discussion as to why it took so long for the officer to notice that it was not on their training record.

Motion

Chad Kaiser made a motion to deny training hours for Tyler Rintamaki who had attended the Kaminsky and Sullenberger's Field Training Officer Course. Paul Lies seconded the motion. All in favor, motion carried.

Training Certification Requests – EMR Course/Rolette County

Various deputies from Rolette County went to an EMR course in May of 2016. The instructor didn't fill out a roster and send it in for training hours. Prior to the meeting, POST Board staff did receive a completed roster.

Motion

Dan Haugen made a motion to approve training hours for the Rolette County deputies. Chad Kaiser seconded the motion. All in favor, motion carried.

Training Certification Requests – LOCKUP Training

Kylan Klauzer, Dickinson PD, and Chris Fix, Cass County Sheriff's Office, attended a LOCKUP training in Bismarck in September of 2014. The instructor never sent in a roster. There was discussion once again amongst the Board members in regards to the administrative rules that address this issue and the fact that this course had been taken over two years ago and officers were just now addressing the issue.

Motion

Paul Lies made a motion to deny training hours for Mr. Klauzer and Mr. Fix. Dan Haugen seconded the motion. All in favor, motion carried.

Chairman Klug paused the meeting for a short break at 2:05 p.m.. The meeting was called back to order at 2:12 p.m.

Funding Request

The McKenzie County Sheriff's Department is asking for \$7,500.00 for a Criminal Drug Interdiction and Concealment training. This training has been held in the same area of the state previously.

The Stutsman County Sheriff's Department is asking for \$6,375.00 for a Professional K9 Decoy training.

The Minot PD is asking for \$2,200.00 for a SWAT Basic training which had t-shirts listed in with supplies

The Bismarck Police Department is asking for \$5,500.00 for a Calibre Press Tactical Leadership training and \$5,500.00 for a Calibre Press Tactics in Traffic training.

Motion

Tom Falck made a motion to approve the Minot PD funding request, minus the expense of the t-shirts; the Stutsman County request; and the difference that the POST Board has in the funding account be split however Bismarck PD would like to use the funds. Paul Lies seconded the motion. All in favor, motion carried.

POST Board Review – Jodi Kirkwood/DOCR

Duane Stanley provided members of the Board documentation he received regarding Jodi Kirkwood from the Miles City, MT, Police Department. Ms. Kirkwood was charged with disorderly conduct on July 15, 2016. There was lengthy discussion by board members and legal counsel as to the new procedure the Board would like to follow as it relates to the adverse license action process and how it would follow statute more closely. It was decided that this would be the case to start with.

Motion

Dan Haugen made a motion that Jodi Kirkwood did violate 109-02-05-01(4c). Paul Lies seconded the motion. All in favor, motion carried.

POST Board Review – Michael Schmitz

Duane Stanley provided members of the Board the termination form and documentation from the McKenzie County Sheriff's Department regarding Michael Schmitz having evidence left in his vehicle. There was discussion on the fact the agency requested a "POST Board" review yet there was inadequate documentation sent in to allow a review/decision to be made. There was discussion among the Board members to change the termination form to ask that the agency supply supporting documentation to include reports/policy violations and to also have a box to check asking the agency whether or not the case has been presented to a prosecutor.

Duane Stanley was asked to send a letter to the McKenzie County Sheriff's Department asking them what policy violations if any had occurred based on their departments current policy manual. Mr. Stanley was also instructed to find out if the McKenzie County Sheriff's Office is planning on pursuing charges and if so, was it submitted to the State's Attorney's Office.

POST Board Review – David Klatt

Duane Stanley provided members of the Board the termination form and documentation received from the Dunn County Sheriff's Department regarding David Klatt marking on his time sheet that he was working when there were witnesses who stated he was not.

Motion

Tom Falck made a motion to seek out more information from the Dunn County Sheriff's Office along with the Dunn County State's Attorney's Office. Dan Haugen seconded the motion. All in favor, motion carried.

POST Board Review – Michael Lee

Duane Stanley provided members of the Board the termination form and supporting documentation received from The Grand Forks County Sheriff's Department regarding Michael Lee who had been in an altercation in a bar in Thompson, ND.

Motion

Dan Haugen made a motion that Michael Lee violated 109-02-05-01(4c). Paul Lies seconded the motion. Tom Falck recused himself. All in favor, motion carried.

Tom Falck left the meeting at 3:25 p.m.

Chairman John Klug explained to the Board that the next two items on the agenda were to be discussed in executive session. Chairman Klug provided the authority for going into executive session by citing N.D.C.C. § 44-04-19.1 and 44-04-19.2.

Paul Lies made a motion to move to executive session. Dan Haugen seconded the motion. All in favor, motion carried.

Present at the executive session were Chad Kaiser, Paul Lies, John Klug, Scott Thorsteinson, Lyn James, Dan Haugen, Mike Mahoney, Duane Stanley, Monica Sebastian. Executive Secretary Duane Stanley confirmed with the Board member calling in that there were no other individuals present in their respective location that could hear the executive session.

EXECUTIVE SESSION BEGINS AT 3:25 p.m.

Paul Lies made a motion to end the executive session. Lyn James seconded the motion. All in favor, motion carried.

EXECUTIVE SESSION ENDS AT 3:36 p.m.

Motion

Dan Haugen made a motion to dismiss adverse license action against Travis Paeper. Chad Kaiser seconded the motion. All in favor, motion carried.

The next special meeting will be held on March 29, 2017, at 2 p.m. Central Time.

At 4:09 p.m., Paul Lies made a motion to adjourn. Chad Kaiser seconded the motion. All in favor, motion carried.