

**MINUTES OF THE
PEACE OFFICER STANDARDS
AND TRAINING BOARD
COMFORT INN SUITES
BISMARCK, NORTH DAKOTA
FEBRUARY 18, 2015**

MEMBERS PRESENT

Chad Kaiser
Paul Lies
Steve Engen
Mike Ferguson
Eric Pederson
Lyn James
Jack Nybakken
Sarah Warner

GUESTS

Alan Kok
Chis Bailey
Frank Senn
Monique Lopez
Larry Maize
Dustin Pekas
Chris Ray
Paul Olthoff
Dave Draovitch
Jacob Bratson
John Klug

ADMINISTRATIVE STAFF

Duane Stanley
Monica Sebastian

The meeting was called to order by Chairman Mike Ferguson at 1:07 p.m. with roll call. All members were present except Scott Thorsteinson. Chairman Ferguson had Board members give formal introductions of themselves for the benefit of the newest Board appointee Sheriff Paul Lies.

Secretary Report

Meeting Minutes

Minutes were reviewed from the December 10, 2014, regular POST Board meeting.

MEMBERS ABSENT

Scott Thorsteinson

LEGAL COUNSEL

Ken Sorenson

Motion

Chad Kaiser made a motion to approve the minutes from the December 10, 2014, regular POST Board meeting. Sarah Warner 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, 2015, through February 17, 2015.

Motion

Chad Kaiser made a motion to approve the financial report from January 1, 2015, through February 17, 2015. Lyn James seconded the motion. All in favor, motion carried.

Old Business

Limited License Approval

The Beulah Police Department came in front of the Board at the December 10, 2014, meeting asking for a limited license for Christopher Bailey. Mr. Bailey's criminal history background check came back showing there had been a domestic violence incident that occurred in 2012. In the paperwork reviewed by the Board, there was a court order showing a plea of guilty had been entered to the charge of Disorderly Conduct and an order deferring imposition of sentence. Mr. Bailey attended basic training in Minnesota in 2011. The Board made a motion to deny Mr. Bailey's limited license.

Mr. Bailey appealed the Board's decision and came back to address the Board at the February 18, 2015 meeting. Mr. Bailey provided additional documentation regarding counseling sessions that he had attended along with answering other questions from Board members..

Motion

Dan Haugen made a motion to approve Mr. Bailey's limited license. Steve Engen seconded the motion. There was discussion amongst the Board members. Dan Haugen revised his motion to approve Mr. Bailey's limited license with the stipulation that for a total of five years (two years after July) that no other criminal violations regarding Mr. Bailey come in front of the Board. Steve Engen seconded the motion. All in favor, motion carried.

Credit Card Use by POST Board and New Website through ITD

(Taken from the August 13, 2014 meeting) Chad Kaiser brought up that it would be more convenient and would speed up the process if the POST Board would accept credit/debit cards. Monica Sebastian contacted BNC National Bank and got some

information on credit/debit cards. Below are BNC National Bank fees that the POST Board would be required to pay.

Monthly fees would \$23.00.

Yearly fees would be \$129.00

There would be a batch fee of \$.25 daily each time the credit card payments were submitted.

There would be a one-time set up fee of \$5.00.

There would be a percent fee each time a credit/debit card was swiped through the machine.

The total fee would be approximately \$406.00 per year not including the batch fee and the percent charged for each time a debit/credit card is used.

There was also discussion on getting an updated website where everything could be submitted online regarding the hiring process, taking exams, ability to see course numbers, courses, download courses, and electronic submission of rosters.

Chad Kaiser made a motion to contact Bank of ND and get information regarding credit cards. Sarah Warner seconded the motion, all in favor, motion carried.

Chad Kaiser made a motion to contact ITD and get information on updating the POST Board website. Steve Engen seconded the motion. All in favor, motion carried”.

(Taken from the December 10,2014 meeting) Chairman Witkowski asked if there had been any follow up in regard to obtaining information from the Bank of ND in reference to the costs associated with credit card use. Monica Sebastian and Duane Stanley stated that the Bank of ND had been contacted and they in turn had provided the information but they did not have those numbers with them. Chairman Witkowski relayed this would be a convenient option but there would be some expense involved. Chairman Witkowski stated that he had heard Concealed Weapons was looking at using this process. Administrative staff stated that due to the cost, Concealed Weapons was using money orders.

At the February 18, 2015 meeting, Duane Stanley informed the Board of the fees from Bank of North Dakota that the POST Board would be required to pay.

Monthly fees would be \$11.30.

If a wireless terminal would be used the terminal would be \$700-\$900 and then the monthly fees would be \$16.30.

There would be a 2-4% fee each time a credit/debit card was swiped through the machine.

There were concerns about the technology and being compatible with the terminals and credit card companies.

Lyn James spoke to the Board as a business owner and relayed her recommendation of not going with debit/credit cards and have individuals continue paying cash, check, or money order because the fees associated with the card use do not outweigh the benefit..

The Board decided to table the subject of credit/debit card usage.

Duane Stanley gave the Board an update reference upgrading the POST website. An estimate on updating the website would be around \$100,000.00 and that estimate was a very fluid estimate based on the limited information we could provide IT. The POST Board would not pay IT directly but would in turn pay an invoice issued by the consulting firm that the IT Division would hire to help with this project. Questions were posed about the possibility of fillable forms on the website. POST Board staff would check into this possibility and report back at the next meeting.

DRE Training Request for Training

At the December 18, 2014, meeting, Aaron Birst from the ND Association of Counties joined the meeting by conference call and provided the Board with an explanation as to why the proper paperwork for the September 29, 2014, Horizontal Gaze Nystagmus Workshop (DRE) class in Bismarck was not approved. Steve Engen made a motion to deny the training. Scott Thorsteinson seconded the motion. Chad Kaiser, Mike Ferguson, Dan Haugen, Jack Nybakken, and Sarah Warner voted no. Steve Engen, Scott Thorsteinson, Lyn James, and Les Witkowski voted yes. The vote was 5 no and 4 yes, motion was defeated and training was approved.

Duane Stanley brought to the Boards attention at the February 18, 2015, meeting that as of February 18, 2015 Mr. Birst still had not submitted the appropriate paperwork. The Board decided that if Mr. Birst does not get the rosters to the POST Board by Friday, February 20, 2015, that the rosters would not be accepted.

Monica Sebastian received an email from Mr. Birst on Thursday, February 19, 2015, with an email list of attending officers for the DRE training. Mr. Birst asked if Ms. Sebastian would send him a blank roster and he would fill it out. Ms. Sebastian sent Mr. Birst a blank roster on Monday, February 23, 2015, and as of Wednesday, February 25, 2015, she has not received the roster.

Training Providers

At the December 10, 2014, meeting Chairman Witkowski asked about the progress regarding training providers. (Taken from Aug. 13, 2014 meeting) "At the May 14, 2014, meeting, Chairman Witkowski handed out to board members a packet of information regarding the application process and guidelines as it relates to training provider guidelines. Chairman Witkowski asked that board members review these documents and provide feedback at the next board meeting. Chairman Witkowski asked for three POST Board members to create a subcommittee and go through the information he provided at the May 14, 2014, meeting to see if there were any changes needed. Steve Engen, Dan Haugen, and Chad Kaiser volunteered for the subcommittee".

Chairman Witkowski relayed to board members he felt it was prudent for the Board to be prepared for entities that want to apply to conduct training such as the Basic and to have guidelines in place when and if this occurs in the future. Chairman Witkowski emphasized the fact he would no longer be in this role and strongly suggested this be looked into. As of December 10, 2014, no action has been taken regarding this subcommittee.

As of February 18, 2015, no action has been taken regarding this subcommittee. Steve Engen, Dan Haugen, and Chad Kaiser indicated they will have information on this by the May 13, 2015, meeting.

New Hire Information on the POST Board Website

At the December 10, 2014, meeting, Chad Kaiser requested that there be a tab on the ND POST Board website that would contain information on the process for hiring a new employee. Monica Sebastian has this information on the website under the New Hire tab.

Use of Force Study Guide

At the December 10, 2014, meeting Chairman Witkowski provided the Board a brief overview reference the "Use of Force Study Guide". Lt. Mike Ferguson and Lt. Dan Haugen provided additional information and concerns about the use of this guide as it is verbatim to the Use of Force test that is administered to all new law enforcement officers. S/A Jeramie Quam, BCI, initially contacted POST Board member Lt. Mike Ferguson about a use of force study guide that a female individual had. The female had indicated she had gotten the guide from Lake Region. Due to the fact the guide was verbatim and had all the answers on it, the concern was that of cheating. Steve Engen relayed to board members how this is an integrity issue and should be followed up on if possible. Duane Stanley explained the process the office uses for sending out the use of force test when a weapons instructor requests one. Lt. Haugen also expressed concerns about the use of this "study guide".

Board members requested administrative staff create a statement for weapons instructors indicating it is a violation of the administrative rules to disseminate the test when they administer the test. Chairman Witkowski explained to board members the options available as stated in the administrative rules and century code.

Lyn James made a motion to contact BCI and have BCI investigate and follow up on this issue and find out who the female is and where she received the guide. Sarah Warner seconded the motion. All in favor, the motion carried. Chairman Witkowski stated he would contact BCI and relay the request.

Chairman Witkowski contacted BCI and BCI had S/A Jeramie Quam start an investigation. Duane Stanley gave the Board an update on the investigation. The Board decided to table this discussion until the next meeting for a final report. The Board suggested that Lake Region State College be notified that BCI was investigating this issue and that a disclaimer be put on the use of force test that is handed out to weapons instructors. As of Monday, February 23, 2015, the disclaimer is on the use of force test.

Proposed LETA Updates

At the December 10, 2014, meeting, Colonel Mike Gerhart addressed the Board and briefly went over Phase I (driving track and shooting range) and went into detail explaining what Phase II entailed. Col. Gerhart explained that they are unable to meet

the current demands of law enforcement with the current facility which has 48 beds. Col. Gerhart provided statistics encompassing the last three years on how many law enforcement and correctional officers had been trained. Col. Gerhart went into the initial amounts of money requested, what was allocated, and the money required to complete the shooting range by July. The new law enforcement training academy will be able to house 90 officers, with 45 shared bathrooms, five classrooms instead of the three that the LETA currently has. The new LETA will take on a multi-disciplinary approach with a fire and EMS component. Col. Gerhart asked if the POST Board would support this project. Chairman Witkowski stated the POST board would support this project. There was discussion from Board members on obtaining support from the Association of Counties, and the League of Cities as well.

At the February 18, 2015 meeting, Duane Stanley provided the Board with a copy of the letter of support that was sent out to House Appropriations Chairman Blair Thoreson.

New Business

Limited License Approval

The Tioga Police Department is asking for a limited license for Monique Lopez. Ms. Lopez's criminal history background check came back showing there had been a Driving Under Suspension charge in 2013. Ms. Lopez originally pled guilty but provided documentation to the Board from California that all charges had been taken care of.

Motion

Dan Haugen made a motion to approve the limited license for Ms. Lopez. Steve Engen seconded the motion. All in favor, motion carried.

Limited License Approval

The Bismarck Police Department is asking for a limited license for Jacob Bratsch. Mr. Bratsch was charged with Discharging a Firearm within City Limits in December 2014. The outcome was a deferred imposition of sentence and fine. Mr. Bratsch addressed the Board and answered questions. Bismarck Police Chief Dan Donlin also addressed the Board and provided insight and support on behalf of Mr. Bratsch.

Motion

Steve Engen made a motion to approve the limited license for Mr. Bratsch. Chad Kaiser seconded the motion. All in favor, motion carried.

The Chairman called for a short recess. The meeting reconvened at 2:09.

POST Board Review

Tioga Police Department Officers Jeremy Johnson and Josh Nelson were out at a city dump shooting an AK47 while on duty. A complaint was filed from citizens on the neighboring golf course that bullets were ricocheting off of the golf course grounds.

Charges were filed and both were charged with one count of Reckless Endangerment, which is a Class C Felony. Duane Stanley provided the Board with the investigative reports along with other paperwork that had been sent to the POST Board Office. Tioga Police Chief Larry Maize addressed the Board reference this incident. Chief Maize answered numerous questions posed from Board members.

Motion

Steve Engen made a motion to table this until the next meeting and get an update from Chief Maize during that time. Lyn James seconded the motion. All in favor, motion carried.

Ward County Correctional Officer Basic Training

Ward County sent in a Correctional Officer Basic Training curriculum to be approved. Representatives from the Ward County sheriff's department were present to answer questions from Board members. Steve Engen explained to Board members that this was the same course that is taught at the LETA in Bismarck that the ND Department of Corrections teaches. Mr. Engen went on to explain the DOCR course has 32 separate lesson plans and that on initial review there were only 17 lesson plans w/ subject matter experts (SME's) listed. There was the concern of being consistent with training and the fact the remaining lesson plans and SME's were not yet identified.

Motion

Steve Engen made a motion to table the Ward County Correctional Officer Basic Training until all information is provided to the Board. Chad Kaiser seconded the motion. All in favor, motion carried.

Instructor Reinstatement

Duane Stanley provided the Board a letter from Steve Hunt asking that his instructor certification be reinstated. Mr. Hunt's instructor certification expired November 1, 2014. Mr. Hunt had been and is currently dealing with major medical /health issues. Mr. Hunt had taken the instructor refresher training February 2, 2015.

Motion

Steve Engen made a motion to reinstate Mr. Hunt's instructor certification based on a medical hardship. Chad Kaiser seconded the motion. All in favor, motion carried.

Instructor Reinstatement

Duane Stanley provided the Board a letter from Steve Mayer asking that his instructor certification be reinstated. Mr. Mayer's instructor certification expired on September 15, 2014. Mr. Mayer did receive an email from his Captain the end of August stating that Mr. Mayer's instructor certification needed to be renewed or it would expire. Mr. Mayer was on vacation at this time and when he opened the email, it was marked as read and was put at the bottom of his emails. When returning to work Mr. Mayer forgot to fill out

his renewal application. Mr. Mayer had taken the instructor refresher training January 24, 2015. Once again, board members discussed the importance of personal accountability along with the fact there are times when medical issues and other unforeseen circumstances do arise which would need to be reviewed by the Board.

Motion

Steve Engen made a motion to reinstate Mr. Mayer's instructor certification. Jack Nybakken seconded the motion. Steve Engen and Jack Nybakken voted yes to reinstate Mr. Mayer's instructor certification. Chad Kaiser, Paul Lies, Dan Haugen, Lyn James, and Sarah Warner voted no to reinstate Mr. Mayer's instructor certification. The motion was denied.

Request for Training Certification

The FBI had Human Trafficking training in Williston on January 27, 2015, that was not pre-approved. Monica Sebastian spoke with a representative from the FBI the Thursday before the training was to be held and informed them that if they can get Ms. Sebastian the course description, outline, instructor bios, and application by noon on Friday, she would approve the training. Ms. Sebastian never received the information. A roster was sent in by Williston Police Department with a list of officers who attended the Human Trafficking training. Ms. Sebastian sent the roster back stating that she did not think the training was approved but if it was to put the correct course number on the roster and resubmit the roster.

On February 10, 2015, Ms. Sebastian received an email from Bryan Snyder (FBI) asking what needs to be done to get credit for the Human Trafficking training that was put on in Williston. Ms. Sebastian stated that he would need to write a letter to the POST Board asking for approval. She stated that she would need the information by 2 p.m. on Tuesday, February 10, 2015, in order to meet the deadline for the closing of the agenda. Ms. Sebastian received an email from David Rogers from the FBI stating that he would not be able to get the information needed by the 2 p.m. deadline.

Motion

Dan Haugen made a motion to deny the Human Trafficking training. Lyn James seconded the motion. All in favor, motion carried.

Dan Haugen relayed to the Board that there was \$5942.94 remaining in the training fund. There were funding requests that had to be reviewed at this meeting that exceeded the dollar amount available.

Funding Request

The Bottineau County Sheriff's Department on behalf of ND CAWS was asking for \$2,260.00 for a STOP Domestic Violence Training in Bottineau.

Motion

Chad Kaiser made a motion to deny the STOP Domestic Violence Training. Sarah Warner seconded the motion. All in favor, motion carried.

Funding Request

The Cass County Sheriff's Department on behalf of ND CAWS was asking for \$6,575.00 for a ND Sexual Assault Evidence Collection Protocol and Investigations Training in Fargo.

Motion

Chad Kaiser made a motion to deny the ND Sexual Assault Evidence Collection Protocol and Investigations Training. Sarah Warner seconded the motion. All in favor, motion carried.

Funding Request

The Devils Lake Police Department was asking for \$7,500.00 for an Advanced ALICE Training in Devils Lake on March 19-20, 2015.

Motion

Chad Kaiser made a motion to partially fund the Advanced ALICE Training for \$1,483.97. Dan Haugen seconded the motion. All in favor, motion carried.

Funding Request

The Minot Police Department was asking for \$2,975.00 for a National Institute of Crime Prevention Domestic Violence Training in Minot this summer.

Motion

Lyn James made a motion to fully fund the National Institute of Crime Prevention Domestic Violence Training for \$2,975.00. Steve Engen seconded the motion. All in favor, motion carried.

Funding Request

The Watford City Police Department was asking for \$4,000.00 for an ALICE Training in Watford City April 6-7, 2015.

Motion

Chad Kaiser made a motion to partially fund the ALICE Training for \$1,483.97. Lyn James seconded the motion. All in favor motion carried.

Monica Sebastian has since received an email from Chief Art Walgren of the Watford City Police Department stating that because of shortage of staff the officers will need to work overtime so they will be cancelling the ALICE Training.

POST Board Review

On February 3, 2015, the Grand Forks Police Department submitted a packet of information including a cover letter to the POST Board regarding possible POST Board Rules Violations in reference to an incident regarding Officer April Prock.

On October 23, 2014, Ms. Prock was involved in a domestic disturbance that occurred in Marshall County, Minnesota at a private residence while off-duty with her boyfriend. Ms. Prock was listed as primary aggressor in this investigation. Ms. Prock was not charged criminally.

On October 28, 2014, the Grand Forks Police Department initiated an Administrative Internal Investigation to determine if Ms. Prock's actions during this domestic disturbance violated any Grand Forks Police Department's Directives.

On December 16, 2014, the Grand Forks Police Department sent a letter to the ND POST Board. The letter explained their investigation resulting in sustained allegations of Domestic Violence against Ms. Prock. Ms. Prock's actions during an off-duty domestic disturbance were found to be inconsistent with the Grand Forks Police Departments Code of Conduct and other Department Directives.

Motion

Dan Haugen made a motion that Ms. Prock did violate the ND POST Board Administrative Rules Code of Conduct 109-02-05-01, Section 4e: To willfully lie, provide false testimony, provide misleading information, or falsify written or verbal communications in reports when the information may be relied upon by the courts, state's attorneys, or other law enforcement officials. Steve Engen seconded the motion. All in favor, motion carried. Mike Ferguson abstained from voting.

There was discussion amongst the Board Members regarding probation through the ND POST Board and possible alcohol and anger management counseling. Steve Engen made a motion to issue a letter of reprimand to Ms. Prock. During further discussion, Ken Sorenson would assist with the drafting of this letter. Paul Lies seconded the motion. All in favor, motion carried. Mike Ferguson abstained from voting.

POST Board Review

The Grand Forks County Sheriff's Department submitted a letter to the POST Board regarding possible POST Board rules violation regarding James Myers.

On November 15, 2014, Mr. Myers was involved in an incident while deer hunting in rural Larimore, ND. Mr. Myers saw what appeared to be a deer in a corn field and took a shot. Mr. Myers approached the animal and observed it was a cow moose. Mr. Myers immediately called State Radio to report the incident to ND Game & Fish. The incident was investigated by the ND Game & Fish Department. Mr. Myers did plead

guilty to a Class B Misdemeanor (20.1-08-01) Killing Wrong Species or Sex. On January 2, 2015, Mr. Myers pled guilty and was assessed fine and court costs of \$225.00, which has been paid in full, and given a deferred imposition of sentence.

Motion

Chad Kaiser made a motion that Mr. Myers made a mistake, called the Game & Fish Department to report the incident, paid the fine, and has in fact committed a Code of Conduct violation which has no direct bearing on his ability to serve as a peace officer. Steve Engen seconded the motion. All in favor, motion carried.

IADLEST Conference 2015

Duane Stanley brought to the Boards attention that the IADLEST Conference will be held in San Antonio, Texas, May 31-June 3, 2015. Monica Sebastian, Duane Stanley, and Ken Sorenson are attending this conference.

Motion

Lyn James made a motion to fund half of Mr. Sorenson's expenses to attend the IADLEST Conference and fund up to two Board members if they would like to attend the conference. Sarah Warner seconded the motion. The deadline for board members to let Mr. Stanley know is March 1, 2015. All in favor, motion carried.

On February 24, 2015, Mike Ferguson expressed interest in attending the IADLEST Conference in Texas.

Chairman Ferguson provided an opportunity for a member roundtable by starting off himself asking about the number of officers that have not qualified for 2014. POST Board staff did not have the current figures but would bring them to the next scheduled meeting. Chairman Ferguson asked about the statement that was to be placed on the POST Board website in reference to tobacco compliance checks and the concern some officers thought it created with the Peace Officer Code of Conduct. Ken acknowledged he needed to write a statement. Chairman Ferguson asked Dan Haugen about follow up with Devils Lake reference TPO's and the new classes being considered for the basic curriculum. Mr. Haugen stated he would e-mail out TPO's to Board members. Mr. Haugen also talked about how it would be possible to add several new classes without extending the basic academy. Monica Sebastian did relay to the Board that during a break she was able to speak with IT and it wouldn't be an issue with fillable forms. Dan Haugen gave an overview of the LPO course that is currently being taught at the LETA and the pros and cons of a train the trainer program. Mr. Haugen also provided the Board with the per student cost (\$320.21) and per student hour cost (\$2.66).

Chad Kaiser made a motion to adjourn at 4:03 p.m. Sarah Warner seconded the motion. All in favor, motion carried.

