

**MINUTES OF THE  
PEACE OFFICER STANDARDS  
AND TRAINING BOARD  
COMFORT INN  
BISMARCK, NORTH DAKOTA  
MAY 17, 2017**

**MEMBERS PRESENT**

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

**GUESTS**

Troy White Owl  
Matthew Johansen  
Chris Redman  
Dan Donlin  
Randy Ziegler  
Robyn Krile  
Scott Edinger  
Jason Ziegler  
Shawn Doble  
Kylan Klauzer  
Jeremy Moser

**LEGAL COUNSEL**

Mike Mahoney

**ADMINISTRATIVE STAFF**

Duane Stanley  
Monica Sebastian

The meeting was called to order by Chairman John Klug at 1:00 p.m. with roll call. All members were present. It should be noted that Paul lies entered the meeting directly after roll was called.

**POST Board Hearing 17-003 (Robyn Krile)**

Executive Secretary Duane Stanley provided Board Members with the documentation that had been supplied to the POST Board Office by the Bismarck Police Department in reference to the termination of Officer Robyn Kriel. A letter from the Bismarck PD to the POST Board stated in part: Ms. Krile was non-voluntarily terminated with the Bismarck Police Department on March 27, 2017. Bismarck Police Department sent a letter to the

POST Board on March 28, 2017, stating they believed Ms. Krile violated 109-02-05-01 the Peace Officer Code of Conduct.

The Bismarck Police Department was contacted by the Burleigh County State's Attorney's Office about an anonymous complaint to their office that called into question the credibility and integrity of a Bismarck Police Department officer. Burleigh County Senior Assistant State's Attorney Julie Lawyer requested to review all personnel files of sworn Bismarck Police Department employees. During Ms. Lawyer's review, she found documented incidents that led their office to conclude that Ms. Krile would not be a reliable witness and they would no longer be able to use her to testify in their court cases due to questions about her credibility and truthfulness.

Because of the findings and opinion of Burleigh County State's Attorney's Office, Ms. Krile was placed on administrative leave pending the initiation of her termination process.

Chairman Klug began the hearing process and provided an overview to board members. Bismarck Police Chief Dan Donlin was sworn in and provided the Board with a synopsis of events that ultimately led to the termination of Ms. Krile. Chief Donlin addressed questions that board members and POST Board legal counsel had. There was also discussion about the two letters of reprimand from the Bismarck Police Department to Ms. Krile. One was dated October 25, 2016, and the other was dated March 28, 2016

Ms. Krile, accompanied by her attorney Chris Redman, were present at the hearing. On rebuttal, Mr. Redman addressed the Board and provided testimony regarding the documentation brought against Mr. Krile and argued that there was no probable cause for the POST Board to initiate adverse license action.

### **Motion**

Dan Haugen made a motion that Robyn Krile did not commit a violation of the Peace Officer Code of Conduct 109-02-05-01. Scott Thorsteinson seconded the motion. All in favor, motion carried.

### **POST Board Hearing 17-004 (Ryan Thompson)**

Executive Secretary Duane Stanley provided board members documentation that the Grand Forks Sheriff's Department sent to the POST Board Office regarding Ryan Thompson. Present through conference call were Ryan Thompson and Mr. Thompson's legal counsel Peter Welte. Chairman Klug provided an overview of the incident where Mr. Thompson went to serve civil papers and arrest warrants on two subjects. On his way to the residence, Mr. Thompson contacted the property owner and asked who currently resided at the address. The property owner stated the individuals that Mr. Thompson was looking for were on the lease. Mr. Thompson and Deputy Nicole Dvorak arrived at the residence and an individual inside the residence told Mr. Thompson and Ms. Dvorak that they were welcome to come into the house. Mr. Thompson went downstairs and searched the residence where the individuals who had arrest warrant resided. A search was conducted of the residence. The individuals in question were not found at the home. While Mr. Thompson searched the residence, he

heard ringing in a purse and went into the purse to retrieve the ringing cell phone. As the search continued, a weapon alleged to be in plain view was taken into custody by Mr. Thompson.

Ultimately, Mr. Thompson received a letter of reprimand from the Grand Forks County Sheriff's Office on February 24, 2017, stating that Mr. Thompson knowingly violated the residents 4<sup>th</sup> Amendment right against illegal search and seizure. Mr. Thompson was suspended for five days without pay, which was later changed to three days.

Mr. Thompson had been wearing a body camera during this incident. The video of the incident had been provided to the POST Board. At this time, the Board viewed the video footage.

Mr. Thompson and his Attorney Peter Welte continued to be present through conference call as the video was played. Mr. Thompson was sworn in over the phone and provided testimony to the Board. There was discussion by board members relating to training issues as well as Mr. Thompson answering questions from the Board. At the conclusion of Mr. Thompson's testimony, Attorney Welte also provided comments in reference to the incident.

### **Motion**

Chad Kaiser made a motion that there was not a violation of the Peace Officer Code of Conduct 109-02-05-01. Scott Thorsteinson seconded the motion. Paul Lies voted no, all others voted yes. Motion was carried.

At 2:55 Chairman Klug called for a short break. At 3:05 the meeting was called back to order and went on the record.

### **Instructor Reinstatement – Matthew Ertelt**

Matthew Ertelt had sent a letter to the POST Board asking that they reinstate his instructor certification. Mr. Ertelt's instructor certification expired February 13, 2016. Mr. Ertelt took the MOI refresher on January 11, 2016, but never sent in his renewal paperwork.

### **Motion**

Paul Lies made a motion to deny Matthew Ertelt's instructor certification. Dan Haugen seconded the motion. Chad Kaiser, Tom Falck, and Sarah Warner voted no. All others voted yes. Motion carried.

### **Instructor Reinstatement – Kylan Klauzer**

Kylan Klauzer was present and addressed the Board. Mr. Klauzer sent a letter to the POST Board asking that they reinstate his instructor certification. Mr. Klauzer's instructor certification expired November 20, 2016. Mr. Klauzer took the MOI refresher August 8, 2016, but never sent in his renewal paperwork. There was discussion by Board members once again about accountability as an instructor and also discussion

from POST Board staff about the refresher course and the specific slides that cover the forms required to be sent in.

### **Motion**

Dan Haugen made a motion to deny Kylan Klauzer's instructor certification. Scott Thorsteinson seconded the motion. Chad Kaiser voted no. All others voted yes. Motion carried.

### **Instructor Reinstatement – Jeremy Moser**

Jeremy Moser was present and addressed the Board. Mr. Moser had sent a letter to the POST Board asking that they reinstate Mr. Moser's instructor certification. Mr. Moser's instructor certification expired August 2, 2015. Mr. Moser took the MOI refresher on July 16, 2015, and ultimately sent in the renewal form approximately four month's later on November 7, 2016. Since his instructor certification had expired his application was denied at that time.

### **Motion**

Dan Haugen made a motion to deny Jeremy Moser's instructor certification. Scott Thorsteinson seconded the motion. Chad Kaiser voted no. All others voted yes. Motion carried.

### **Secretary Report**

### **Meeting Minutes**

Minutes were reviewed from the February 15, 2017, regular POST Board meeting.

### **Motion**

Chad Kaiser made a motion to approve the minutes from the February 15, 2017, regular POST Board meeting. Sarah Warner seconded the motion. All in favor, motion carried.

### **Meeting Minutes**

Minutes were reviewed from the March 29, 2017, special POST Board meeting.

### **Motion**

Sarah Warner made a motion to approve the minutes from the March 29, 2017, special POST Board meeting. Chad Kaiser 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 financial activity from January 1, 2017, through May 17, 2017.

## **Motion**

Chad Kaiser made a motion to approve the financial report from January 1, 2017, through May 17, 2017. Lyn James seconded the motion. All in favor, motion carried.

## **Old Business**

### **Adverse License Action Update – Ross Walther**

Ross Walther, who was 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. An Order of Revocation had been sent certified mail registered receipt September 21, 2016. A Petition for Reconsideration was received October 3, 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.

On February 14, 2017, the POST Board Office received a letter from Mr. Walther's legal counsel withdrawing the Petition for Reconsideration.

Executive Secretary Duane Stanley informed the Board that the initial revocation letter that was sent to Mr. Walther stands and that Mr. Walther's instructor certification is revoked effective March 21, 2016.

### **POST Board Review – Michael Schmitz**

In the February 15, 2017, regular meeting, 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. The Board stated 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.

Mr. 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, were they submitted to the State's Attorney's Office.

Mr. Stanley informed the Board the Mr. Schmitz willingly surrendered his Peace Officer License to the McKenzie County Sheriff's Office and that an Order of Revocation will be drafted and going out in the near future.

### **Adverse License Action Update – Erica Nuwash**

Erica Nuwash took the use of force test three times and failed each time. Chief Charles Headley wrote a letter to the Board asking if they would reconsider Administrative Rule 109-02-03-02(3): A peace officer may not take the written examination or sidearm qualification test more than three times in any twelve month period. After the third unsuccessful attempt, the peace officer must wait one year before taking the examination or sidearm qualification test.

During the time Mr. Nuwash got hired and her limited license was denied she was in full uniform, carrying a weapon, and performing peace officer duties.

Executive Secretary Duane Stanley informed the Board that the Bowman County State's Attorney received a packet of information regarding Ms. Nuwash working as a peace officer without having a license. Due to a conflict of interest, the Bowman County State's Attorney forwarded the information to the Dunn County State's Attorney's Office for review.

### **Adverse License Action Update – Jodi Kirkwood**

At the February 15, 2017, regular POST Board meeting, Duane Stanley provided members of the Board documentation he received from the Miles City, MT, Police Department regarding Jodi Kirkwood. Ms. Kirkwood was charged with disorderly conduct on July 15, 2016. Ms. Kirkwood was found guilty in Montana District Court of Disorderly Conduct. On March 29, 2017 the POST Board conducted a hearing on the matter. A motion was made that Jodi Kirkwood did violate the Peace Officer Code of Conduct 109-02-05-01(4c). A motion was made to commence with adverse license action in accordance with NDCC 12-63-12

Mr. Stanley informed the Board that a complaint and notice of hearing dated April 4, 2017 was sent out and he has not heard back from Ms. Kirkwood. Ms. Kirkwood is now considered in default.

### **Adverse License Action Update – Michael Lee**

At the February 15, 2017, regular POST Board meeting, 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. On March 29, 2017 the POST Board conducted a hearing on the matter. A motion was made that Michael Lee did violate the Peace Officer Code of Conduct 109-02-05-01(4c). A motion was made to commence with adverse license action in accordance with NDCC 12-63-12.

Mr. Stanley informed the Board that a complaint and notice of hearing dated April 6, 2017 was sent out and he has not heard back from Mr. Lee. Mr. Lee is now considered in default.

### **Adverse License Action Update - 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 works 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 an individual "Must not be prohibited from access to national crime information center and criminal justice information sharing databases" were not in place. These rules came into effect 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.

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.

Duane Stanley informed the Board that an Order of Revocation dated May 10, 2017 had been sent to Mr. Lux.

## **New Business**

### **New TPO's**

Dan Haugen addressed the Board and explained that the individual TPO's that had been discussed and approved recently had been added into the ND POST Board TPO Manual. Mr. Haugen explained the places within the table of contents that had been changed as well as within the document itself. Mr. Haugen answered questions from Board members and once again provided an overview of the physical fitness requirements. The document was to be forwarded to Lake Region as soon as possible.

### **House Bill 1221**

Duane Stanley had provided documentation to Board members regarding the current language in House Bill 1221. Mr. Stanley and Mike Mahoney explained to Board members that the POST Board will need to come up with requirements on how police officers interact with confidential informants (CI's) regarding the new law that will go into effect.

### **Instructor Certification/Revocation/Re-application**

Duane Stanley mentioned to the Board that when the POST Board suspends/revokes an officer's instructor certification there is nothing in the rules as to when they can re-apply for their certification.

### **Updates to POST Board Forms**

Duane Stanley informed Board members that there are certain minimum requirements that have to be met in order for the Board to issue a limited/general license. Mr. Stanley and POST Board Legal Counsel discussed these changes. It was suggested to update the POST Board forms and have these minimum standards placed on the appropriate forms. There was also discussion about changing the termination form to address the fact that certain requirements, information, and questions need to be answered or met in order for the POST Board to review a specific case.

### **Funding Request**

The Jamestown Police Department is asking for \$11,700.00 for Calibre Press Street Survival training. Included in the \$11,700.00 request was an \$800.00 facility fee. This training is to be held August 28-29, 2017.

### **Motion**

Dan Haugen made a motion to approve \$10,900.00 for the Calibre Press Street Survival training. Scott Thorsteinson seconded the motion. All in favor, motion carried.

### **Funding Request**

The Grand Forks Police Department is asking for \$9,900.00 for Calibre Press Street Survival training. On the application, there was not a specific date set when the training would occur. There was discussion by Board members how they felt it important that if an agency is going to request training funds from the Board, they should be present and make the request in person. Administrative staff mentioned several times that representatives from the Grand Forks PD had left a contact phone# if the Board had any questions about the funding request. The Board once again stated how important it was to be present for the request.

### **Motion**

Dan Haugen made a motion to deny \$9,900.00 for the Calibre Press Street Survival training because this same course was just approved to be taught in Jamestown and had a date already set. Lyn James seconded the motion. All in favor, motion carried.

### **Funding Request**

The Grand Forks Sheriff's Department is asking for \$9,400.00 for the Calibre Press Ultimate Training Officer training. This training is to be held in the fall of 2017.

### **Motion**

Chad Kaiser made a motion to approve \$9,400.00 for the Calibre Press Ultimate Training Officer training. Dan Haugen seconded the motion. All in favor, motion carried.

At 4:50 p.m., Chad Kaiser made a motion to adjourn. Sarah Warner seconded the motion. All in favor, motion carried.