

**MINUTES OF THE
PEACE OFFICER STANDARDS
AND TRAINING BOARD
COMFORT INN SUITES
BISMARCK, NORTH DAKOTA
MAY 8, 2019**

MEMBERS PRESENT

Jesse Jahner
Dan Haugen
Jason Ziegler
Sarah Warner
John Klug
Paul Lies
Tom Falk

MEMBERS ABSENT

Erik Dietrich
Lyn James

GUESTS

Calib Payne
Mitchell Slater
Nate Gustafson
Shelby Schlag
Roger Hutchinson
Jason Sundbakken
Dick Frederick
Devin Koppinger
Luke Olson
John Maritato
Mark Friese
Ryan Denis
Heith Janke
Chris Denis
Jerry Boyer
Kelly Leben
John Shorey
Corey Schlinger
Joseph Lordson
Joe Knowski

LEGAL COUNSEL

Mike Mahoney

ADMINISTRATIVE STAFF

Duane Stanley
Monica Sebastian

Chairman John Klug called the meeting to order at 1:00 p.m. Duane Stanley took the roll. All members except Erik Dietrich and Lyn James were present.

POST Board Hearing – Ryan Denis (19-004) 1:01 p.m.

The POST Board received information that West Fargo Police Officer Ryan Denis was arrested for Actual Physical Control (APC) on February 24, 2019.

Mr. Denis was charged with Actual Physical Control of a Motor Vehicle While Under the Influence of Alcohol, on February 24, 2019, in Cass County. Mr. Denis refused to submit to a chemical breath test. Mr. Denis subsequently pled guilty in Cass County Court in Case No. 09-2019-CR-891 to Actual Physical control, a Class B Misdemeanor.

The West Fargo Police Department initiated an internal investigation and demoted Mr. Denis from Sergeant to Patrol Officer, suspended his duty as a field-training officer and placed Mr. Denis on unpaid suspension for 15 days. Mr. Denis also had to comply with all court recommendations. The criminal sanction also included unsupervised probation until March 14, 2020.

His legal counsel Mark Friese, represented Mr. Denis. Mr. Friese and Mr. Denis had the opportunity to address the Board providing statements and answering any questions board members had regarding Mr. Denis' arrest and conviction.

West Fargo Police Chief Heith Jahnke and Deputy Chief Jerry Boyer also addressed the Board regarding the agencies position regarding Mr. Denis.

Motion

Dan Haugen made a motion that Ryan Denis did violate the Peace Officer Code of Conduct specifically 109-02-05-01(4c) and that Mr. Denis' conduct has 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. Sarah Warner seconded the motion. All in favor, motion carried.

There was discussion by board members regarding a possible sanction of Mr. Denis's peace officer license. Board members discussed the swift sanctions that the agency had already imposed on Mr. Denis.

Motion

Paul Lies made a motion to suspend Mr. Denis's Peace Officer License for fourteen days retroactive with West Fargo PD's suspension along with probation to run retroactive with his unsupervised probation until March 14, 2020, and that there be no other criminal violations or violations of the Peace Officer Code of Conduct. Tom Falk seconded the motion. All in favor, motion carried.

POST Board Hearing – Devin Koppinger (19-003) 1:23 p.m.

The POST Board received supporting documentation along with a termination form from the Renville County Sheriff's Department stating that Mr. Koppinger was terminated for cause for allegedly lying on time sheets/daily logs.

Mr. Koppinger had disciplinary action taken against him on January 8, 2019, and received four days suspension and was placed on probation for six months until June 14, 2019, for stating he had been working a Stone Garden detail when in fact he was not.

Mr. Koppinger was then terminated from the Renville County Sheriff's Department on March 7, 2019, after suspicion that he was fraudulently manipulating his daily logs to reflect he was working patrol hours while he was at home. Surveillance was conducted on Mr. Koppinger and Mr. Koppinger was observed, in direct violation of department policies and the Peace Officer Code of Conduct, fictitiously reporting he was on duty and patrolling the town of Glenburn while he was at home and not in service.

Renville County Sheriff Roger Hutchinson was present and addressed the Board regarding the investigation and termination of Mr. Koppinger.

Mr. Koppinger was also present and addressed questions from the Board.

Motion

Jesse Jahner made a motion that Devin Koppinger did violate the Peace Officer Code of Conduct specifically 109-02-05-01(4e) and that Mr. Koppinger's conduct has a direct bearing on his ability to perform peace officer duties. Jason Ziegler seconded the motion. All in favor, motion carried.

Motion

Jesse Jahner made a motion to start adverse action in accordance with NDCC 12-63-12. Jason Zeigler seconded the motion. All in favor, motion carried.

There was discussion by board members regarding a possible sanction of Mr. Koppinger's Peace Officer License.

Motion

Dan Haugen made a motion to revoke Mr. Koppinger's Peace Officer License. Jason Ziegler seconded the motion. All in favor, motion carried.

POST Board Hearing – Casey Kapp (19-006) 1:44 p.m.

The POST Board Office was notified by the Burleigh County Sheriff's Department of an incident regarding Casey Kapp involving alcohol.

On February 5, 2019, a female contacted Central Dakota Dispatch requesting Burleigh County do a welfare check on Mr. Kapp.

The call was forwarded to Sgt. McLeish. Sgt. McLeish and Deputy Roehrich arrived at Mr. Kapp's resident. Mr. Kapp appeared to be under the influence of alcohol due to slurred speech, red bloodshot eyes, runny nose and appeared emotionally upset.

On February 6, 2019, Mr. Kapp arrived at work and an alcohol breath test was given to Mr. Kapp. The result was .051. Breath and urine samples were then tested at Sanford Health Occupational Medical Clinic, showing Mr. Kapp's breath alcohol content for the two samples were listed as .026 and .018.

The Burleigh County Sheriff's Department placed Mr. Kapp on a five day suspension along with a reduction in rank from Lieutenant to Detention Officer.

Burleigh County Major Gary Schaffer was present and provided testimony to the Board regarding this incident.

Motion

Dan Haugen made a motion that Casey Kapp did violate the Peace Officer Code of Conduct specifically 109-02-05-01(4a) and that Mr. Kapp's conduct has a direct bearing on his ability to perform peace officer duties. Sarah Warner 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. Sarah Warner seconded the motion. All in favor, motion carried.

There was discussion by board members regarding a possible sanction of Mr. Kapp's peace officer license.

Motion

Dan Haugen made a motion to suspend Mr. Kapp's Peace Officer License for six months started May 8, 2019, and that he commit no further code of conduct violations and as a condition of reinstatement, he appear in front of the Board if he wishes to re-activate his license. Tom Falk seconded the motion. All in favor, motion carried.

POST Board Hearing – Calib Poitra (19-002) 2:07 p.m.

The POST Board Office received a termination form from the Grand Forks County Sheriff's Office stating that Calib Poitra had been terminated for a violation of the Peace Officer Code of Conduct, specifically (4a).

On January 1, 2019, the Grand Forks Police Department informed the Grand Forks Sheriff's Office that one of their officers met with Mr. Poitra at 4 a.m. to return a debit card that Mr. Poitra had left downtown.

When the Grand Forks PD officer met with Mr. Poitra, he appeared to be intoxicated and was having difficulty walking. The Grand Forks PD officer was concerned that Mr. Poitra was scheduled to work later that morning and contacted the Grand Forks County Sheriff's Department to report the incident.

Grand Forks Sheriff's Office Captain Joel Lloyd had been assigned to conduct surveillance at Mr. Poitra's residence for the start of Mr. Poitra's shift. When Captain Lloyd arrived at Mr. Poitra's residence that morning, he observed Mr. Poitra's squad car parked behind his apartment complex and that his work vehicle was running. Captain Lloyd observed Mr. Poitra come out from the apartment complex, check in over the radio for his scheduled shift and begin walking back into the apartment. It should be noted that Mr. Poitra was dressed in blue jeans and a long sleeved shirt.

Mr. Poitra was approached by Grand Forks Sheriff's Deputies and questioned about the incident. Ultimately Mr. Poitra was transported to a location and given an Alco-Sensor breath test that registered .059

Mr. Poitra was present and addressed the Board regarding this incident. It should be noted that Mr. Poitra had a legal name change and went by Caleb Payne.

Motion

Dan Haugen made a motion that Calib Payne did violate the Peace Officer Code of Conduct specifically 109-02-05-01(4a) and that Mr. Poitra's conduct has 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. Jesse Jahner seconded the motion. All in favor, motion carried.

There was discussion by board members regarding a possible sanction of Mr. Payne's peace officer license.

Motion

Jesse Jahner made a motion to suspend Mr. Payne's peace officer license for three months and place Mr. Payne on a 12 month probationary status, both starting May 8, 2019, and that Mr. Payne commit no further Peace Officer Code of Conduct violations. Jason Ziegler seconded the motion. All in favor, motion carried.

At 2:27p.m., Chairman Klug called for a short recess.

At 2:44p.m., Chairman Klug went back on record calling the meeting to order.

POST Board Hearing – Luke Olson (19-005) 2:41 p.m.

The POST Board Office received a termination form from Pembina County Sheriff's Office stating that Luke Olson was terminated for misrepresentation of facts while testifying.

On July 21, 2018, Mr. Olson made an arrest for Driving Under the Influence (DUI). During the booking process/Intoxilyzer testing, Mr. Olson left the booking area to grab his citation book.

On October 15, 2018, while under oath during a Suppression Motion hearing, Mr. Olson misrepresented facts while testifying. The defense attorney asked Mr. Olson a series of questions revolving around whether Mr. Olson left the booking room to retrieve his citation book. Mr. Olson stated he did not leave the room. Video surveillance was played in front of the Board that indicated Mr. Olson did in fact leave the room.

Mr. Olson was present, sworn in, and addressed the Board regarding this incident.

Motion

Dan Haugen made a motion that Luke Olson did violate the Peace Officer Code of Conduct specifically 109-02-05-01(4e) and that Mr. Olson's conduct has a direct bearing on his ability to perform peace officer duties. Jesse Jahner seconded the motion. Tom Falk and John Klug voted no, all others voted yes, motion carried.

Motion

Dan Haugen made a motion not to start adverse action in accordance with NDCC 12-63-12. Jason Zeigler seconded the motion. All in favor, motion carried.

POST Board Hearing – Richard Frederick (19-007) 3:24 p.m.

Richard Frederick did not qualify in 2018 with his duty weapon, which is a requirement of the POST Board to maintain a peace officer license. Mr. Frederick was present, sworn in and addressed the Board regarding his failure to qualify for 2018. When asked why he did not qualify in 2018, Mr. Frederick stated he tried qualifying four times in 2018 and was not able to do so. Mr. Frederick stated this was due to some health issues Mr. Frederick did eventually qualify April 16, 2019, for the year 2018, and did pay the \$100 late qualification fee.

Board members relayed to Mr. Frederick Administrative Rule 109-02-03-02 (3) that states “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 retaking the examination or sidearm qualification test”.

Mr. Frederick was then unsure of how many times he actually attempted to qualify.

There was discussion amongst board members and Mr. Frederick regarding who the weapons instructor was that conducted the testing and how the forms were filled out, specifically the failed attempts. There was lengthy discussion on how to best resolve the issue. Board members requested that POST Board staff audit the records of weapons instructor Larry Johnson and that POST Board Executive Secretary send a letter to Mr. Johnson detailing the proper process for recording failed attempts during a qualification shoot.

Motion

Paul Lies made a motion that Mr. Frederick did violate the Peace Officer Code of Conduct 109-02-05-01. Jesse Jahner seconded the motion. All in favor, motion carried. No other action was taken.

Limited License – Joseph Lordson (Devils Lake PD)

Devils Lake PD sent in limited license paperwork for Joseph Lordson. Mr. Lordson's criminal history background check showed he had a drug charge in 2008.

Motion

Dan Haugen made a motion to grant a limited license for Joseph Lordson. Tom Falk seconded the motion. All in favor, motion carried

Limited License Matter – Mitchel Slater (Rolette County SO)

Rolette County requested a limited license for Mitchel Slater on March 26, 2019. Mr. Slater was scheduled to attend ND Criminal and Traffic portions of the academy on April 8, 2019 but failed to show up at the scheduled time.

Rolette County Sheriff Nate Gustafson, and Deputy Mitchel Slater were at the meeting and addressed the Board regarding this incident. Sheriff Gustafson apologized to the Board stating there had been a miscommunication on the date of the academy.

Motion

Sarah Warner made a motion that Mitchel Slater attend the next available criminal and traffic portions of the academy. Jesse Jahner seconded the motion. All in favor, motion carried.

Firearms Instructor Waiver – John Shorey

John Shorey sent a letter to the ND POST Board asking if a waiver would be granted for a firearms instructor based on his previous training, education, and experience.

Mr. Shorey was present and answered questions from board members. Mr. Shorey was unable to explain or define to the satisfaction of board members what the exact curriculum was that was taken regarding his previous weapons instructor training.

Motion

Sarah Warner made a motion to deny John Shorey's request to become a ND POST certified firearms instructor. Paul Lies seconded the motion. All in favor, motion carried.

MOI Instructor Waiver – Greg Leveling (Lincoln PD)

Greg Leveling, Lincoln Police Department, sent a letter to the ND POST Board Office asking for a MOI waiver. The information that was received was from the Texas Commission on Law

Enforcement Personal Status Report stating in 1998 Mr. Leveling had a Basic Instructor Proficiency. There was no curriculum or documentation regarding the specific training that had been was taken.

Motion

Tom Falk made a motion to deny the MOI Instructor waiver for Greg Leveling because of insufficient data and supporting documentation. Paul Lies seconded the motion. All in favor, motion carried.

Extension of Basic Training – Ariel Zell (DOCR)

The ND POST Board received a letter from DOCR asking for an extension of basic training for Ariel Zell, who was scheduled for the June 2019 academy, to attend the September 2019 academy due to hardship on the agency.

Motion

Dan Haugen made a motion to grant an extension of basic training for Ariel Zell. Tom Falk seconded the motion. All in favor, motion carried.

Course Approval – SW Multi Correctional Center Correctional Officer Basic

SW Multi Correctional Center sent in a correctional officer basic curriculum for the ND POST Board to approve. Executive Secretary Duane Stanley relayed to board members that he went over the curriculum, communicated with DOCR on the specific course requirements and verified that SWMCC's course contained the required information.

Motion

Paul Lies made a motion to approve the SW Multi Correctional Center Correctional Officer Basic. Dan Haugen seconded the motion. All in favor, motion carried.

Meeting Minutes

Minutes were reviewed from the February 13, 2019, regular POST Board meeting.

Motion

Sarah Warner made a motion to approve the minutes from the February 13, 2019, regular POST Board meeting. Paul Lies seconded the motion. All in favor, motion carried. Tom Falk abstained.

Financial Report

Duane Stanley provided documentation to Board members and gave a detailed financial report on POST Board activity from January 1, 2019, through May 7, 2019.

Motion

Paul Lies made a motion to approve the financial report from January 1, 2019, through May 7, 2019. Jason Ziegler seconded the motion. All in favor, motion carried.

Old Business

Adverse License Action Updates – Bryton Dahl

On December 14, 2017, there was a POST Board hearing regarding Bryton Dahl. North Dakota court records show that Mr. Dahl had been charged in Williams County District Court with Corruption/Solicitation of a Minor, a Class C Felony, in Case No. 53-2017-CR-01165.

A motion was made that Bryton Dahl did violate the Peace Officer Code of Conduct, specifically 109-02-05-01(4c), and that Mr. Dahl's conduct has a direct bearing on his ability to perform peace officer duties.

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

The POST Board suspended Mr. Dahl's license until the criminal process is complete and at that time revisit the matter.

Mr. Dahl was found guilty by jury and a motion was filed to retry the case.

The motion was denied and a Judgement of Conviction was filed. Mr. Dahl was subsequently sentenced. Mr. Dahl's license did expire 12/31/17.

Motion

Sarah Warner made a motion to revoke Mr. Dahl's license. Paul Lies seconded the motion. All in favor, motion carried.

Adverse License Action Update – Richard Anderson

On August 15, 2018, there was a POST Board hearing regarding Richard Anderson. Mr. Anderson was charged in McLean County with Corruption of a Minor, a Class C Felony; Luring of a Minor by Computer or Other Electronic Means, a Class C Felony; Sexual Assault, a Class C Felony; and Indecent Exposure, a Class A Misdemeanor.

A motion was made that Richard Anderson did violate the Peace Officer Code of Conduct, specifically 109-02-05-01(4c), and that Mr. Anderson's conduct has a direct bearing on his ability to perform peace officer duties.

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

A motion was made to suspend Mr. Anderson's license until after the criminal process is complete and then revisit the case.

Mr. Anderson's sentencing is scheduled for May 21, 2019.

Adverse License Update – Cassy Larson

Cassy Larson was charged with Actual Physical Control of a Motor Vehicle While Under the Influence of Alcohol with a BAC of .08 or greater, on or about November 21, 2018, in Burleigh County. Ms. Larson submitted to a chemical breath test with the reported result being 0.197. Ms. Larson subsequently pled guilty in Burleigh County District Court to Actual Physical control, a Class B Misdemeanor.

A motion was made that Ms. Larson did violate the Peace Officer Code of Conduct. A motion was made to start adverse action and Ms. Larson's Peace Officer License was suspended for ten days followed by one year probation all starting February 13, 2019, along with providing documentation to the Board that she completed the recommendations made from the court ordered evaluation.

As of May 8, 2019, Ms. Larson has not sent in any documentation to the Board that she completed the recommendations made from the court ordered evaluation.

Adverse License Update – Kerry Komrosky

Kerry Komrosky was charged in Burleigh County court with Possession of a Controlled Substance with the intent to deliver (Class B Felony), Theft of Property (Class B Felony), Theft of Property (Class C Felony), and Possession of Drug Paraphernalia (Class A Misdemeanor). A motion was made that Mr. Komrosky did violate the Peace Officer Code of Conduct. A motion was made to start adverse action. A motion was made to suspend Mr. Komrosky's peace officer license until the outcome of the criminal matter is decided and the Board revisit the issue at that time.

Executive Secretary Stanley informed the Board that there was a Judgement of Conviction on file.

Motion

Paul Lies made a motion to revoke Kerry Komrosky's Peace Officer License. Tom Falk seconded the motion. All in favor, motion carried.

IADLEST Mileage Clarification

At the February 13, 2019, POST Board meeting the Board made a motion to pay for mileage to the 2019 IADLEST Conference in Milwaukee, Wisconsin, for those that would like to drive instead of fly. Executive Secretary Stanley wanted to clarify that mileage rate to be utilized was .58 cents per mile in state and .18 cents per mile out of state.

New Business

ACH Process

Executive Secretary Duane Stanley informed the Board that IT is implementing a new software program so agencies can submit POST Board forms and pay fees online. In order to do this,

the POST Board would need to switch from BNC bank, where the POST Board currently banks, to the Bank of ND.

Motion

Sarah Warner made a motion for the POST Board to switch banks from BNC Bank to Bank of ND. Jesse Jahner seconded the motion. All in favor, motion carried.

Member Information on Letterhead

Executive Secretary Stanley informed the Board that in the new IT software program, the program will automatically send out renewal notices. In the past, this was done via regular mail on POST Board letterhead. It was asked by the IT Division if a generic letter could go out without having the Board members names since the members change and IT would have to re-write a script each time to make this adjustment. All members approved and agreed upon this request. No motion was needed for this change.

It should be noted that Tom Falk left at 4:40 p.m.

Valley City Case Review (Warren Lindvold)

A verified complaint signed by attorney Cash Aaland was sent to the POST Board Office regarding the death of Warren Lindvold and the conduct of the arresting officers. The ND Bureau of Criminal Investigation investigated the death of Mr. Lindvold and forwarded the results to the State's Attorney's Office. The State's Attorney's Office did not find evidence to pursue charges against the arresting officers. It should be noted that the verified complaint along with the investigative reports were reviewed by board members.

Motion

Sarah Warner made a motion that no action be taken by the POST Board. Jason Ziegler seconded the motion. All in favor, motion carried.

Motion

At 4:50 p.m., Jesse Jahner made a motion to adjourn. Jason Ziegler seconded the motion. All in favor, meeting adjourned.