

**SPECIAL MEETING MINUTES OF THE
PEACE OFFICER STANDARDS
AND TRAINING BOARD**

**LAW ENFORCEMENT TRAINING ACADEMY (LETA)
BISMARCK, NORTH DAKOTA**

OCTOBER 6, 2021

Members Present

Jesse Jahner
Jason Ziegler
Laurie Spitzer
Dan Haugen
Joe Cianni
Erik Dietrich
Lyn James
Steve Armstrong
Tom Falk

Members Absent

Guests

Jeramie Quam
Chad Kaiser
Donnell Preskey

Legal Counsel

Lori Mickelson
Mike Mahoney

It should be noted that Donnell Preskey and Chad Kaiser were present through the Teams platform.

Administrative Staff

Duane Stanley
Monica Sebastian

Chairman Dan Haugen called the meeting to order at 1:00 p.m. Duane Stanley took the roll. All members were present. It should be noted that Lyn James and Tom Falck called in and were present through the Teams platform.

Limited License (Criminal History) – Charlie Hardy (Pembina County SO)

Pembina County sent in limited license paperwork for Charlie Hardy. On Hardy's criminal history background, it stated he had an administrative discharge in lieu of prosecution.

After Board discussion, no motion was needed because Hardy didn't meet the minimum standards as required in the ND POST Board Administrative Rule.

Funding Request

The Stutsman County SO is asking for \$4,000 for a training titled Dakota Territory Sheriff's Conference. The training date is set for November 9-11, 2021.

There were questions by board members on what exactly the money would be utilized for.

Motion

Jesse Jahner made a motion to approve funding the Dakota Territory Sheriff's Conference in the amount for the one instructor. Laurie Spitzer seconded the motion. Dan Haugen voted no, all others voted yes. Motion carried. Since the POST Board Office has no idea what the amount will be to put in the contract, Donnell Preskey is to email Duane the amount for the instructor. Secretary Stanley relayed that the check would be made out to the Stutsman County Sheriff's Office.

Funding Request

The Dickinson Police Department is asking for \$77,500 for a training titled Northwestern School of Police Staff and Command. The training date is set for May 16 to July 29, 2021.

Motion

Jason Ziegler made a motion to approve funding the Northwestern School of Police Staff and Command for \$77,500. Steve Armstrong seconded the motion. All in favor, motion carried.

Changes to Administrative Rules

Mike Mahoney provided the Board with a document containing a summary of additional proposed rule changes. Mahoney went through each change for board review and discussion. Changes and discussion were had on the following:

109-01-01-02. Board Membership – Change #1 and #2 to state law enforcement center instead of highway patrol law enforcement training center pursuant to N.D.C.C. § 12-63-01.1

109-02-01-03. Minimum license requirements – Change #12 to read “Must be in good standing with all applicable law enforcement licensing authorities.”

109-02-01-03. Minimum license requirements – Added #13 to read “Must pass the use of force examination and meet the sidearm qualification standards.”

109-02-01-05. (4) (d) Agency's responsibility – Adds to (d) to read “Any other violation of law or rule of the board.”

109-02-02-04. Limited peace officer license – On #4 added in the last sentence the word “state” so it reads, “The individual shall obtain a limited license if the individual will

attend the basic full-time peace officer training course at the state law enforcement training academy.”

109-02-02-04. Limited peace officer license – Added #7 to read “An individual who has not been issued a limited license may not perform peace officer duties under this section. N.D.C.C.§12.1-13-04 makes impersonating a law enforcement officer a class A misdemeanor.”

109-02-02-04.1. Reserve peace officer license – Added the word requirement to read “The educational requirement is the reserve peace officer training course set by the board.”

109-02-02-05. Waiver of required training – Out of state and federal peace officers. Change this to read “109-02-02-05. Waiver of required training – reciprocity.”

109-02-02-05. Waiver of required training – reciprocity. In #1, #3 and #4 take out the word another and add any.

109-02-02-06.1 Reserve peace officer licensing examinations -In #3 remove sidearm and add the word weapon after duty.

109-02-02-13. Reinstatement of license. – Change the word who to individual in the first paragraph.

109-02-02-14. Inactive status – Change licensed peace officer to individual.

109-02-02-15. Continuing education requirements – In #1 make it applicable to peace officers.

109-02-02-15. Continuing education requirements – In #2 took out the words “three years” and add the sentence “If an officer fails to complete the required continuing education within the time period specified in this section, or the officer or the officer’s agency fails to submit a record of the officer’s approved continuing education to the board within the time period specified in this section, the officer’s license expires.

109-02-02-15. Continuing education requirements – Take out #4 paragraph.

109-02-02-15. Continuing education requirements – In #3 add the sentence “This waiver request must come from the officer’s employing or appointing agency.”

109-02-02-15. Continuing education requirements - #5 take out the word many and add may.

109-02-02-16. License renewal – In #3 take out the word officer and add individual and take out the word peace and or reserve peace officer duties.

109-02-02-16. License renewal – in #5 take out the words an individual to read “If a peace officer fails to renew the license within one year after the expiration of the license, the individuals employing agency may apply to the board for a limited license.”

109-02-02-16. License renewal – Add to the last sentence in #6 to state “There are no waivers available for individuals whose peace officer license has been expired for more than three years.”

109-02-03-01. Sidearm authorization and qualification – Add the last sentence to read “Sidearm qualification requires passing a North Dakota POST approved sidearm qualification course.”

Secretary Stanley provided the Board with a document that had the current language of 109-02-03-02 and 109-02-03-04 and explained the current interpretation of those rules and the need to further define and clarify them as it relates to new officers and those already licensed.

109-02-03-02. Use of force examination and sidearm qualification - Add the words “for individuals not licensed in North Dakota.

109-02-03-02. Use of force examination and sidearm qualification for individuals not licensed in North Dakota. – In #2 took out the work ballistically.

After lengthy discussion and debate from board members and weapons instructors, the proposed draft of 109-03-03-02 read as follows:

109-02-03-02. Use of force examination and sidearm qualification weapons safety and proficiency examination for individuals not licensed in North Dakota.

The board shall establish and certify a ~~weapons safety and proficiency~~ sidearm qualification and use of force examination, including:

1. A written examination covering criminal and civil liability and North Dakota law on the use of force. A score of one hundred percent is necessary for successful completion of the written examination.
2. A North Dakota certified sidearm shooting course using the ~~peace~~ officer's duty weapon, duty equipment, and duty ammunition or ammunition ~~ballistically~~ of equivalent grain similar to the ammunition the ~~peace~~ officer carries on duty. Successful completion of the ~~weapons safety and proficiency portion of the~~ sidearm qualification examination requires a minimum score of seventy percent, and ~~the~~ demonstration of competence in sidearm skills, including the safe handling, loading, and unloading of the sidearm, as determined by a certified weapons instructor.
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 retaking the examination or sidearm qualification test.~~

An individual may attempt to qualify three times. Only one attempt may occur in any twelve-hour period. If those three attempts are unsuccessful, the individual must wait thirty days from the last unsuccessful attempt before retaking. After that period, the individual may attempt a single additional qualification. If the individual is unable to qualify, they may not attempt qualification for 365 days from the last unsuccessful attempt.

4. Only a North Dakota certified weapons instructor may administer the sidearm qualification weapons safety and proficiency, North Dakota law, and use of force examination or sidearm qualification.

Once again, after lengthy debate and discussion, the proposed draft of 109-02-03-04 read as follows:

109-02-03-04. Sidearm qualification required annually.

Every ~~peace~~ officer shall qualify with the ~~peace~~ officer's duty weapon each year as a license requirement.

1. Sidearm qualification requires successful completion of a North Dakota certified shooting course at least once during each calendar year. If ~~an~~ ~~peace~~ officer fails to qualify after three attempts at any certification course on three separate days by the end of the calendar year, the ~~peace~~ officer may not carry a duty weapon for thirty days during which time the officer no longer meets minimum license requirements. After thirty days, the officer may again attempt to qualify, however the officer's license remains suspended until the employing or appointing agency provides proof the officer successfully completes ~~completed~~ the sidearm qualification and pays the late sidearm qualification fee if required under these rules.

2. For ~~peace~~ officers employed by an agency who are not required to carry a sidearm in the performance of their duties, the ~~peace~~ officer's agency may apply to the board for a waiver of the sidearm qualification requirements.

~~3. Peace o~~Officers who have not successfully completed the annual sidearm qualification requirements for two consecutive years shall successfully complete both the written examination and a certified shooting course as a condition of licensing, license renewal, or license reinstatement. The peace officer shall also pay the sidearm qualification reinstatement fee required under these rules.

109-02-03-06. Criteria for a certified shooting course – In the first sentence take out ~~peace~~.

109-02-03-06. Criteria for a certified shooting course – In #6 take out the word ballistically and put same as or equivalent grain to read “The ammunition used when firing for qualification must be the same as or equivalent grain similar to the ammunition normally carried on duty.

109-02-03-07. Issuance, denial, or revocation of sidearm qualification – In #1 (a) took out the words written examination or the.

109-02-03-07. Issuance, denial, or revocation of sidearm qualification – In #2 took out the word ~~peace~~ and made it applicable to all officers.

109-02-03-07. Issuance, denial, or revocation of sidearm qualification – In #3 c, take out serial number and take out #f.

It was decided to put an asterisk on the PFN10 form with some type of statement/language that the officer was declaring that the sidearm listed on the form was their duty weapon.

109-02-04-02. Requirements for certification of law enforcement instructors – In #1 add the words general police and remove peace officer.

109-02-04-03. Certification duration – Add a new second sentence in the paragraph to read “The law enforcement instructor’s initial certification period will expire the same date as the instructor’s officer license. Subsequent instructor certification periods will run concurrent with the instructor’s three-year period.

109-02-04-03. Certification duration – In #3 add a period after the word renewal and add “If the instructor completes the MOI refresher long course and pays the late instructor renewal fee within six months of instructor certification expiration, the instructor certification is reinstated. Individuals not completing these requirements within six months of the expiration date must retake the entire MOI training to obtain their instructor certification.

109-02-04-03. Certification duration – Take out #4.

109-02-04-05. Requirements for weapons instructor certification – In #1 add North Dakota approved in the first sentence and then add the second sentence to read “In order to waive any of these requirements the applicant must make a personal appearance before the POST Board.

109-02-04-05. Requirements for weapons instructor certification – In #2 add North Dakota POST approved.

109-02-04-07.1 – Certified training provider and certified instructor denial, suspension, revocation, or imposition of probationary terms – In #1 add or certified instructor throughout to read “The board may deny, suspend, or revoke a training provider’s or certified instructor’s certification, or impose probationary conditions on the training provider or certified instructor, or suspend or revoke certification of a training course if the training provider or certified instructor:”

109-02-04-07.1 – Certified training provider and certified instructor denial, suspension, revocation, or imposition of probationary terms – In (1) #c add Fails

109-02-04-07.1 – Certified training provider and certified instructor denial, suspension, revocation, or imposition of probationary terms – In (2) #a add certified or certified instructor to read “A letter of censure to the certified training provider or certified instructor.

109-02-04-07.1 – Certified training provider and certified instructor denial, suspension, revocation, or imposition of probationary terms – In (2) #b add or certified instructor to read “Formal or informal probation for the certified training provider or certified instructor”

109-02-04-07.1 – Certified training provider and certified instructor denial, suspension, revocation, or imposition of probationary terms – In (2) #c add certified instructor or certified to read “Denial, denial or renewal, suspension, or revocation of the certification of the certified training provider, certified instructor or certified training course.

109-02-04-07.1 – Certified training provider and certified instructor denial, suspension, revocation, or imposition of probationary terms – Add #3 to read “The board shall notify in writing any certified training provider or certified instructor when the board denies, denies renewal of, suspends, or revokes certification. The notice must specify the basis of the denial, denial of renewal, suspension, or revocation of the certification. The certified training provider or certified instructor may request a hearing in accordance with North Dakota Century Code chapter 28-32.”

109-02-04-09. Application for Course Certification – On (4) #c take out peace and put an officer.

109-02-04-10. Notice of suspension, revocation, denial, or denial of renewal hearing – Take this section out.

109-02-05 Peace officer code of conduct and oath – take out the word peace.

109-02-05-01. Officer code of conduct – On (4) #b add at the end of the sentence “except as authorized or required for the lawful performance of the officer’s duties.”

109-02-05-01. Officer code of conduct – On (4) #e add willfully omit after willfully lie

109-02-05-01. Officer code of conduct- Add (4) #i To engage in inappropriate uses of force.

109-02-05-02 Peace officer oath – take out Peace officer so it just states Oath.

109-02-01-01. Definitions – Take out #14 (full time peace officer definition) completely

Motion

Jesse Jahner made a motion to accept Article 109-01 General Administration Rules as discussed. Jason Ziegler seconded the motion. All in favor, motion carried.

Executive Secretary Duane Stanley received an okay from the Board to post the proposed document on the website.

The meeting was adjourned at 4:18 p.m.