

**MINUTES OF THE  
PEACE OFFICER STANDARDS  
AND TRAINING BOARD  
QUALITY INN (Meeting Room F)  
BISMARCK, NORTH DAKOTA  
MAY 12, 2021**

**MEMBERS PRESENT**

Tom Falck  
Dan Haugen  
Jason Ziegler  
Joe Cianni  
John Klug  
Erik Dietrich  
Jesse Jahner  
Paul Lies  
Lyn James

**GUESTS**

Jeremy Evers  
Joseph Kaufman  
Jason Sundbakken  
Dakotah Smith  
Shannon Lackey  
Jessica Sundheim  
Kelly Leben  
Casey Kapp  
Kevin Thorson

**ADMINISTRATIVE STAFF**

Monica Sebastian  
Duane Stanley

Chairman John Klug called the meeting to order at 1:00 p.m. Duane Stanley took the roll. All members were present for roll call except Lyn James. It should be noted that Lyn James joined the meeting at 1:02p.m. through the Teams platform. There were numerous other individuals present as guests through Teams or call in.

**POST Board Hearing – Dakotah Smith (21-001) 1:01 p.m.**

The ND POST Board received a non-voluntary termination from Williston PD on January 12, 2021, stating that on October 16, 2020, Dakotah Smith was involved in a physical altercation with a citizen at a bar in Williston.

**MEMBERS ABSENT**

**LEGAL COUNSEL**

Mike Mahoney

On October 16, 2020, Smith and some friends were at the American Legion in Williston ND. Smith was seated at the bar. The victim (victim #1) engaged in conversation with Smith regarding a fur coat Smith was wearing. Without warning, Smith grabbed the victim by the shirt and pushed the victim. The victim and Smith collided with a high-top table where the other victim (victim #2) was seated. Victim #2 was knocked from her seat and hit the back of her head on the floor.

Several off-duty police officers grabbed Smith and escorted him out of the bar. A Williston Police Department Officer showed up at the scene. Both victims wanted Smith charged for the assault.

Smith was charged in Williams County with Simple Assault (Class B Misdemeanor) and Disorderly Conduct (Class B Misdemeanor).

On May 11, 2021, Smith plead guilty to Disorderly Conduct (Class B Misdemeanor).

Chairman Klug opened the hearing providing a statement.

Dakota Smith was present and represented by legal counsel Kevin Chapman. Chapman addressed the Board and provided several documents to Executive Secretary Stanley to take as exhibits. These documents included an unsigned Misdemeanor Petition to Enter Plea of Guilty, a letter from the license addiction counselor who conducted the alcohol evaluation on Mr. Smith, along with military paperwork to include Mr. Smith's DD214.

After board discussion and comments, Mr. Smith also addressed the Board regarding this incident.

### **Motion**

Dan Haugen made a motion that Dakotah Smith did violate the Peace Officer Code of Conduct specifically 109-02-05-01(4c) and that Smith'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. Paul Lies seconded the motion. All in favor, motion carried.

There was discussion by board members regarding a possible sanction of Smith's peace officer license. Board members discussed suspension, probation, and anger management.

### **Motion**

Paul Lies made a motion to suspend Smith's license for fifteen days and one-year probation starting May 12, 2021, and that Smith does not violate the code of conduct or any criminal laws during that time period. Dan Haugen seconded the motion. All in favor, motion carried.

**POST Board Hearing – Kevin Thorson (21-003) 1:37 p.m.**

The ND POST Board received a non-voluntary termination from Bismarck PD on March 31, 2021, stating that Kevin Thorson failed expectations of his performance improvement plan. They also provided information to the POST Board that Thorson admitted to using a Schedule IV controlled substance (Xanax) without a prescription approximately four years ago. The allegations of theft that were unfounded.

Chairman Klug opened the hearing providing a statement. Kevin Thorson was present and sworn in. Executive Secretary Stanley provided the Board with an overview of the incident surrounding the use of the unprescribed controlled substance.

Thorson addressed the Board and answered questions.

**Motion**

Dan Haugen made a motion that Kevin Thorson did violate the Peace Officer Code of Conduct specifically 109-02-05-01(4c) and that Thorson's conduct has a direct bearing on his ability to perform peace officer duties.

Dan Haugen asked for a unanimous consent to change his motion. The consent was granted.

**Motion**

Dan Haugen made a motion that Kevin Thorson did violate the Peace Officer Code of Conduct specifically 109-02-05-01(4b) and that Thorson'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. Paul Lies seconded the motion. All in favor, motion carried.

There was discussion by board members regarding a possible sanction of Thorson's peace officer license. Board members discussed a letter of caution and probation.

**Motion**

Paul Lies made a motion for thirty days probation starting May 12, 2021. Jason Ziegler seconded the motion. All in favor, motion carried.

Executive Secretary Stanley asked if Joe Pagano was present through the Teams platform or call in since Pagano had responded to the office stating he would represent himself and call in. Hearing know response, the Chair moved on to the next hearing.

**Motion**

John Klug made a motion that Dan Haugen serve as chairman. Jason Ziegler seconded the motion. All in favor, motion carried.

## **POST Board Hearing – Shannon Lackey (21-005) 2:10 p.m.**

The ND POST Board received a voluntary termination from Minot PD on February 27, 2021, stating that Shannon Lackey resigned upon the initiation of an internal investigation following an off-duty incident on February 26, 2021.

On February 26, 2021, Lackey arrived at the Bootlegz Bar in Minot, ND, intoxicated and was involved in a physical altercation with another female at the bar along with a male individual who tried to step in.

Video obtained from the bar shows Lackey punch a female on the back between the shoulder blades three times and then Lackey puts her arm around the head of the female pulling it into Lackey's body. During that altercation, a male individual was kicked in the groin by Lackey. Another male individual tried to intervene as he knew Lackey. At that point, Lackey slapped his phone out of his hand causing damage to the phone. None of the victims wanted to press charges against Lackey.

Chairman Haugen opened the hearing and read an opening statement. Lackey was present and was sworn in by the Chair.

Lackey provided testimony and answered questions from board members.

### **Motion**

Jesse Jahner made a motion that Shannon Lackey did violate the Peace Officer Code of Conduct specifically 109-02-05-01(4c) and that Lackey's conduct has a direct bearing on her ability to perform peace officer duties. Paul Lies seconded the motion. Erik Dietrich, Dan Haugen, Jason Ziegler, Lyn James and Tom Falck voted no. Joe Cianni, Jesse Jahner and Paul Lies voted yes. John Klug abstained. The motion did not carry due to a 5-3 vote.

Dan Haugen relinquished the chairman position back to John Klug.

Once again Stanley tried to determine if John Pagano was on the meeting through Teams or call-in. There was no response. After discussion with the Board and legal counsel, a decision was made to proceed with the hearing.

## **POST Board Hearing – John Pagano (21-004) 2:41 p.m.**

The POST Board received a voluntary termination from the Williston PD for John Pagano on December 11, 2020, stating Pagano was stopped and charged with a DUI and refusal of the chemical test the early morning of December 9, 2020. On March 4, 2021, Pagano plead guilty to a lesser charge of Reckless Driving (Class B Misdemeanor) and Pagano's license was revoked for a period of one hundred eighty days due to the refusal.

### **Motion**

Jesse Jahner a motion that John Pagano did violate the Peace Officer Code of Conduct specifically 109-02-05-01(4c) and Administrative Code 109-02-01-03 (6) and that Pagano's conduct has a direct bearing on his ability to perform peace officer duties. Dan Haugen 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. Dan Haugen seconded the motion. All in favor, motion carried.

There was discussion by board members regarding a possible sanction of Pagano's peace officer license. Board members discussed a period of probation along with suspension until Pagano had his drivers license reinstated since that is a minimum requirement to have a peace officer license.

## **Motion**

Jesse Jahner made a motion to suspend Pagano's license until such time Pagano makes an appearance in front of the Board providing proof that his driver's license is valid and that Pagano receive probation for one year starting May 12, 2021 and have no violations of criminal law or the Peace Officer Code of Conduct. Erik Dietrich seconded the motion. All in favor, motion carried.

## **OLD BUSINESS**

### **Shealeen Hillerson**

On April 4, 2020, the ND POST Board received a termination form and supporting documentation from Eddy County Sheriff's Office regarding Shealeen Hillerson.

On the termination report it stated that Hillerson was arrested for shoplifting at the Bismarck Target Store.

Executive Secretary Duane Stanley stated that a Pretrial Diversion Agreement had been signed March 9, 2021 and will be completed June 9<sup>th</sup>, 2021. The Board would revisit the matter at the next meeting.

### **Ryan Welsh**

The ND POST Board received communication from Sheriff Trey Skager that on July 10, 2020, Ryan Welsh was accused of committing the offenses of domestic violence (bodily injury) and unlawful imprisonment. Ultimately the domestic violence charge was dismissed and there was a Pre-Trial Diversion Agreement for Unlawful Imprisonment signed November 16, 2020 That agreement would be fulfilled May16,2021 if no further criminal violations occurred.

Executive Secretary Duane Stanley asked that the Board grant the authority for him to reinstate Wels's peace officer license if all conditions of the criminal case were met. This item would then be placed on the next regularly scheduled meeting for the Board to ratify what had taken place.

## **Motion**

Dan Haugen made a motion to give Executive Secretary Duane Stanley the authority to reinstated Ryan Welsh's license. Tom Falck seconded the motion. All in favor, motion carried.

## **Casey Kapp**

On February 5, 2019, a female contacted Central Dakota Dispatch requesting Burleigh County do a welfare check on Casey Kapp. On February 6, 2019, Kapp arrived at work and an alcohol breath test was given to Kapp. The results were .051. A hearing was held, and Kapp's peace officer license was suspended. As a condition of reinstatement, Kapp needed to appear in front of the Board if he wished to have his license reinstated.

Casey Kapp was present and provided a statement to the Board. Burleigh County Sheriff Kelly Leben was also present on Kapp's behalf and provided a statement of support.

## **Motion**

Paul Lies made a motion to reinstate Casey Kapp's license. Jesse Jahner seconded the motion. All in favor, motion carried.

## **NEW BUSINESS**

### **LETA Academy Size for June**

Dan Haugen explained to the Board that the June basic academy had approximately nine officers signed up to this point. Haugen explained the logistics and cost associated with running a basic academy class. Haugen asked Board members for support if he cancels the June basic academy if there are less than fifteen students signed up for the June academy and that those scheduled for June be allowed to attend the September basic training. Board members supported Haugen in his decision.

### **Use of Force Test given Electronically**

Executive Secretary Duane Stanley brought up to board members the use of force test that is being used and the issues that are being seen by having the same test for years. Stanley asked the Board for authority to look into utilizing an electronic format similar to how the POST test is currently administered. Lt. Haugen provided the Board with some insight as to how this process may work. The Board granted Stanley the authority to move forward in researching the best way to implement the use of force test electronically.

### **Course Approvals**

Executive Secretary Duane Stanley brought up to Board members the lack of information the POST Board is receiving regarding getting information in approving classes for agencies. The Board stated that the PFN8 form, a detailed course outline, curriculum/course content and instructor bios are needed to approve any training.

### **Limited License – Jeremy Evers (Rolette PD)**

The Rolette PD sent in paperwork to request a limited license for Jeremy Evers. Evers' criminal history background check showed he had been charged with a DUI in Minnesota in February of 2020. Due to the criminal history guidelines, the DUI issue was to be heard in front of the Board. Evers was present and answered questions from board members relating to

the incident in question. Rolette Chief of Police Joe Kaufman was also present and answered questions from the Board.

### **Motion**

Paul Lies made a motion to approve Jeremy Evers limited license. Dan Haugen seconded the motion. All in favor, motion carried.

### **Extension of Basic Training – Larry Morrow (Bowman County SO)**

Larry Morrow was scheduled to attend the full academy beginning June of 2021. Sheriff Frank Eberle sent a letter to the ND POST Board asking for an extension of basic training because of the hardship created for the department at that time.

### **Motion**

Tom Falck made a motion to grant the extension of basic training for Larry Morrow. Paul Lies seconded the motion. All in favor, motion carried.

### **Funding Request**

The Dunn County SO is asking for \$4,000 for a training titled Tracking for Patrol Dogs. The training date is set for June 6-8, 2021.

Dunn County Deputy Phil Wolf was on the call and Bismarck Police Officer Lyle Sinclair was present in person to answer questions from the Board regarding this training.

### **Motion**

Paul Lies made a motion to approve funding the Tracking for Patrol Dogs Training for \$4,000. Jason Ziegler seconded the motion. All in favor, motion carried.

### **Funding Request**

The Dunn County SO is asking for \$36,000 for a training titled SKIDDS/CATS and KATTS. The training date is set for September 13-17, 2021.

There was discussion from board members on the large amount requested and the option of other funding sources that could be contacted.

### **Motion**

Jesse Jahner made a motion to approve funding the SKIDDS/CATS and KATTS Training for \$16,000. Jason Ziegler seconded the motion. Dan Haugen and John Klug voted no. All others voted yes. Motion carried 7-2.

### **Meeting Minutes**

Minutes were reviewed from the February 10, 2021, regular meeting and the March 31, 2021, special meeting.

## **Motion**

Paul Lies made a motion to approve the February 10, 2021, regular meeting and the March 31, 2021, meeting minutes. Dan Haugen seconded the motion. All in favor, motion carried.

## **Financial Report**

Executive Secretary Stanley went over the details and explained the financial report from January 1, 2021, to May 11, 2021.

## **Motion**

Paul Lies made a motion to approve the financial report from January 1, 2021, to May 11, 2021. Dan Haugen seconded the motion. All in favor, motion carried.

## **Items from the Members**

Dan Haugen asked Board members if the POST Board will accept alternative forms because it is time consuming for agencies to fill in a PFN9 for online training when multiple individuals take the training on separate days. He suggested an excel spreadsheet with multiple dates and sent in monthly. There was discussion from board members and staff regarding the necessary information that is required on a form.

## **Motion**

Dan Haugen made a motion that the POST Board accept alternative forms that have the necessary information required by the Board for online training for the ND Highway Patrol and Fargo PD until review at the next POST Board meeting in August. Tom Falck seconded the motion. All in favor, motion carried.

Executive Secretary Duane Stanley asked Board members if they would mind having the POST Board meetings at the LETA in the future due to better set up and internet access/signal strength for the Teams platform. The Board had no issues with this. There was also discussion of holding the meetings at Ft. Lincoln State Park.

Mike Mahoney requested Board members respond back to the Executive Secretary if they will be in attendance in person or via call in for planning purposes.

Jesse Jahner brought up the progress regarding Reserve Officers and stated there will be more meetings to get the administrative rules and process set up.

## **Motion**

Paul Lies made a motion to adjourn the meeting. Jason Ziegler seconded the motion. The meeting was adjourned at 4:51 p.m.