

COMMISSION MEETING MINUTES

COMMISSION ON LAW ENFORCEMENT STANDARDS AND TRAINING

ARKANSAS LAW ENFORCEMENT TRAINING ACADEMY

JULY 9, 2009

Chairman Harrison called the meeting to order at 10:06 A.M. Members present:

Chairman Bob Harrison  
Sheriff Butch Morris  
Chief David Millard  
Chief Kel Nicholson  
Dr. James Golden  
Mr. B. H. Reeves  
Mr. Carroll Lester  
Director Terry Bolton

Members Absent:

Yvonne Keaton/Martin  
Sheriff Danny Russell

Others present:

Don Barnes, Asst. Atty. General  
Deputy Director, Brian Marshall  
Fiscal Manager, Fred Starnes  
Commission Secretary, Sue Albritton  
Training Supervisor, Charles Ellis  
Chris Garner, Pulaski Co. Sheriff's Office  
Russ Bellamy, Jacksonville  
Jacob Sanders, AR Democrat Gazette  
Robert Newcomb, Attorney  
Jim Davis  
Jeana Fox-Davis  
Randell Homsley, Higginson Police Dept.  
Tracey Campbell, Little Rock, PD  
Pat Murphy, Harrison Police Department  
Colin Lillard, Harrison Police Department  
John Stafford, Ola Police Department  
Charles Campbell, Ola Police Department  
Wayne Damon, Ola Police Department  
J. W. Plouch, Bryant Police Department  
Mike Montgomery, Bryant Police Department

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James Allen, Bentonville Police Department  
Thomas Lewis, U of A Ft. Smith PD  
Kevin Thiele, U of A Ft. Smith PD  
Billy R. Geater, Brinkley Police Department  
Mark Brasseur, Brinkley Police Department  
Bobby Burnett, Brinkley Police Department  
Ezra Pierce, Sedgwick Police Department  
Tommie Pierce, Sedgwick  
J. Stanley Debow, Sedgwick Mayor  
Krystal Debow, Sedgwick Council

Chairman Harrison: It is 10:06 and I will call this meeting of the Commission on Law Enforcement Standards and Training to order. Is there someone here from the news media? I believe I saw the Democrat Gazette, welcome. Lets go ahead and accept the minutes of the last meeting. Is there a motion?

Comm. Morris: I will make that motion to accept the minutes.

Comm. Reeves: Second.

Chairman Harrison: Motion made and seconded to accept the minutes of the last meeting. All in favor, (All commissioners vote aye.) Any oppose? Motion passed. There are a couple things to mention. Commissioner David Millard, this is his last meeting. David has served one year as the President of the Municipal Police Association. We appreciate your service to the Commission. You have done an outstanding job and we hate to see you leave. We know you will have another meeting and someone will replace you and then they will have a seat on the Commission for one year. But David thank you for what you have done. We sincerely appreciate it. At this time I would like to mention since our last meeting the untimely death of Deputy Director Steve Farris. Steve was a vital part of ALETA and a life long law enforcement officer. This Commission would like to acknowledge today the commitment and contributions Steve Farris made to the law enforcement profession. May God continue to bless his family and in the future. The first item we have is, **ITEM I** At the April meeting the Commission voted to go forward with decertification for Jason Lindsey and Tom Owens. These two individuals were sent letters of notification and each received and signed for these letters. Neither of the former officers requested a hearing. They are now in need of a final decertification vote. Is there a motion?

Comm. Millard: I will make that motion.

Chairman Harrison: Do I hear a second?

Comm. Golden: I will second.

Chairman Harrison: Motion made and seconded. All in favor? (All commissioners voted aye.) Any opposing? None opposing, motion passed. Jason Lindsey and Tom Owens are decertified. **ITEM II** At the April meeting Marilyn Turner, Mark Fisher, and Amy Copeland were voted on to go forward with decertification. Each of these individuals was sent certified letters of notification. The addresses were verified but the letters were unclaimed. These individual's files are now in need to be "Red Flagged." Is there a motion to red flag these individuals?

Comm. Lester: So moved.

Comm. Golden: Second.

Chairman Harrison: Motion made and seconded, all those in favor, (All commissioners vote aye.) Any oppose? None opposing, motion passed. Marilyn Turner, Mark Fisher, and Amy Copeland's files are "Red Flagged." **ITEM III** Mr. James Oscar Gonzalez was originally scheduled for a decertification hearing July 9<sup>th</sup> but it was learned that he had been convicted of Sexual Assault Fourth Degree in Circuit Court on November 12, 2008. The Commission now needs to give a vote of automatic decertification.

Comm. Millard: I will make that motion.

Comm. Reeves: Second.

Chairman Harrison: Motion made and seconded, all those in favor, (All commissioners vote aye.) Any oppose? None opposing. James Oscar Gonzalez is decertified. **ITEM IV** Jim Davis was convicted of Domestic Battery 3rd Degree in 2005. Mr. Davis later had his record sealed and expunged. Mr. Davis is now seeking employment in law enforcement in Texas. Mr. Robert Newcomb is wishing to address the Commission in this matter. Mr. Newcomb, would you and Mr. Davis come forward? State your name for the record.

Mr. Newcomb: I am Robert Newcomb, an attorney from Little Rock, Arkansas.

Mr. Davis: I am Jim Davis.

Chairman Harrison: What I would like to do first is to hear from Standards on where Mr. Davis currently stands and then from the AG's Office.

Mr. Marshall: A simple answer, I'm not sure why we are here. To tell you the truth. This matter has been ongoing as far as Mr. Davis's certification since 2007. Mr.

Satkowski was the previous Deputy Director who dealt with it. I think there is information in your packet that describes what has been going on. I got involved when I received a letter and reiterated to TCLEOSE, our Texas counterpart, that Mr. Davis's status was that all of his certifications had expired. Because of the six months rule. And in addition to that because of the Domestic Battery, he was not eligible to be a law enforcement officer in the State of Arkansas. Mr. Barnes got involved when we received documents from Mr. Davis and his attorney at the time Mr. Lassiter. I forwarded those to Mr. Barnes for his interpretation, because I am not a lawyer. And I believe our opinion at the time was that he was not eligible because of the Domestic Battery conviction. Again, I am not sure why all this came about. Because to my knowledge no employment was sought in Arkansas. Therefore whether or not what his status is here in the State of Arkansas if he was seeking employment in Texas, I didn't see where that was pertinent. If they wanted to hire him, fine.

Chairman Harrison: At this point Brian, if TCLEOSE from Texas contacted CLEST, it would be that he has not been decertified by the Commission. It would be that he is not decertified by the Commission but just no longer a certified officer in the state of Arkansas. Would that be our response?

Mr. Marshall: Right now he is not certified. He lost all of his certification. But as far as the expungement, which again, I am not a lawyer, I am not sure of the validity of that. Because from the documents that I read, I think the Judge said it was sealed and thereby expunged. And I am not sure and maybe Don can answer this better whether or not this is actually an expungement. I don't know. But our answer to them would be that we can't make any decision whether or not he is certifiable as an officer because he has not been hired by any body and no paper work has been submitted. There are other minimum standards besides the domestic battery charge. Which would imply that there is a certain lack of character possibly. Which would also be something that would have to be looked at. So would he be certified, I don't know. I think he needs to apply for a job here in Arkansas and a background has to be run and then a decision could be made. I know the previous Deputy Director had made a comment on the F-4 that if he sought employment in the State of Arkansas the case would be presented to the Commission. So does that clarify what our position is?

Chairman Harrison: Can you expound further?

Mr. Barnes: Yes, when we first got this when the issue first arose, we did not have a copy of an expungement order, and therefore Brian and I said well if he were expunged, that would be a question. But we were since forwarded a copy of both and the order to seal signed by Judge Hanshaw. The expungement statute states that, in Arkansas Code 16-90-904 (Any individual who is eligible to have an offense expunged may file a uniform petition to seal records.) I understand that was what was filed. I have seen this both

called an order of expungement. The statute actually says a petition to seal. The order to seal in my opinion probably qualifies with the statute. Which says if you are eligible to be expunged, you file a petition to seal your records. The statute saying the records are sealed has an exception for a criminal justice agency who requests information about a prior conviction which has been expunged. There is clearly an exception for law enforcement agencies. I agree with Mr. Marshall right now Mr. Davis has not been decertified, he is not working in law enforcement so we cannot say he is certified or that he would be certified. That would be a question for the Commission. And even though--  
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Chairman Harrison: If he were seeking a position in law enforcement in the State of Arkansas.

Mr. Barnes: One reason for that I think that there is a section in the specifications that say good moral character. Even though he has been expunged, in my opinion, the Commission may still have to vote on whether a good moral character having been convicted and expunged of an offense. But he is not seeking employment in Arkansas right now that question is not before the Commission right now. Would we certify him? I don't know how we would answer Texas, to say if he would apply, we might certify him or we would certify him. It would be a decision for the Commission to make.

Chairman Harrison: Mr. Newcomb.

Mr. Newcomb: First Mr. Marshall wrote a letter on January 8<sup>th</sup> of this year to Mr. Davis which says, "Also because of the conviction for domestic battery you are ineligible to become a law enforcement officer in the State of Arkansas." And the issue is that Texas says unless he is eligible to become one in Arkansas, if he meets the other minimums, it is a reciprocity issue. Is he eligible? Arkansas Code 1690-902 which, has the effect of any expungement, and I guess this goes to the issue that Mr. Marshall raised and Mr. Barnes raised on the good moral character. The statute says, "Upon the uniform order to seal, there is no argument that that has happened in this case, the records of an individual's underlying conduct shall be deemed as a matter of law never to have occurred, and the individual may state that no such conduct ever occurred and no such records exist." So I think the issue that was brought up by Mr. Barnes and Mr. Marshall, you all could well look at the underlying conduct on the good moral character issue is precluded by the language of the statute, which says, "As a matter of law shall be deemed never to have occurred." All we are asking is that on a request from Texas is that he is eligible for certification in Arkansas if he meets the other minimum standards that any other individual has to meet. And that would be psychological, physical, high school diploma, and since he has been out of law enforcement for less than seven years, he wouldn't have to at this time, repeat the academy.

Chairman Harrison: OK, Again from Standards, if TECLEOSE contacted you today, what would be your response? How would you respond?

Mr. Marshall: I think I would respond by saying that I would not have to restate that---but I think I would say we cannot make a judgment at this time. I don't know how you un-ring a bell. The event happened. And I think it would come out in a background and I think it would be perfectly eligible information for a law enforcement agency to get. And they would get it if it is sealed or not. And that would be part of a background investigation. And I –

Chairman Harrison: Would we not say that—I don't think we could address the issue if he is eligible for certification until he applies for a job in Arkansas.

Mr. Marshall: Exactly. That is exactly correct.

Chairman Harrison: So we wouldn't say whether he is eligible or ineligible.

Mr. Marshall: It is a different situation of a hypothetical question that we would get from somebody from out of state. Saying if we had no knowledge of an individual and they said would this person, if they met all the requirements, would they be eligible for a position? Well the answer to in that particular case would be yes; we know nothing about that person. We do know something about this person. Our answer I think would have to be qualified.

Mr. Bolton: Mr. Chairman, TECLEOSE sent us a letter in March of this year. I don't see it in my file a response to that. Brian I think we are missing your response to TECLEOSE to the March 16 letter.

Mr. Marshall: I have a letter to a trooper. I sent a Trooper Adams a letter in June of '08, but I guess it is not in the packet. And basically—

Mr. Bolton: They ask three questions in their letter.

Mr. Marshall: I think that is the one March 16<sup>th</sup>?

Mr. Bolton: Yes.

Mr. Marshall: They do ask three questions. I did not respond by letter. I telephoned Mr. Englert, the investigator. And basically wrote a note here saying I contacted him and consulted with the attorney general, he said he had a copy of the January 8<sup>th</sup> letter that I wrote to Mr. Davis. I told him we stand on that letter.

Chairman Harrison: So what were the three questions? You did not answer those questions?

Mr. Marshall: No, based on the interaction with Mr. Barnes, and the niceties of the situation, I called him up and told him we were at this point in time were standing by our letter that we had written before.

Mr. Bolton: And they had a copy of that letter?

Mr. Marshall: Yes, I asked him if he had a copy of that letter and he said yes he did.

Mr. Harrison: Could we not respond if TCLEOSE wanted an answer and say he was a law enforcement officer from this date to this date in the State of Arkansas. And leave it at that?

Mr. Marshall: We have done that.

Mr. Barnes: And that he was not decertified. He was certified and he has not been decertified.

Mr. Marshall: We have done that.

Mr. Newcomb: But I think if we, Mr. Marshall says he stands by that letter that says it is a matter of law, he says that because of the conviction of battery, you are ineligible to be a law enforcement officer in Arkansas. I think that, and I recognize that Mr. Marshall is not a lawyer, so I don't mean it that way. But I think that under the federal statute, which specifically says that if you have had your record expunged, it is not a conviction for the Brady Bill. And the Arkansas Statute, which says the underlying conduct, did not occur, as a matter of law did not occur, there might be other reasons, but I don't think that third degree battery conviction as stated by Mr. Marshall, disqualifies him as a matter of law in Arkansas.

Mr. Barnes: I have a response, which is, that when Mr. Marshall wrote that letter, we did not yet have a copy of the expungement order. And there is, in my opinion, there is a conflict between 16-90-902, which Mr. Newcomb correctly quoted and it says for the purposes, an expunged conviction shall be deemed as a matter of law never to have occurred. Then in 903 it says, "The custodian of the records shall not disclose the existence of such records or release such records except when requested by a criminal justice agency as defined in 12-12-1001 and the request is accompanied by a statement that the request is being made in conjunction with an application for employment with such an agency by the individual whose record has been sealed." So why would you have that exception that a law enforcement agency can get this record in connection with

the employment of that individual, if there is not some purpose relating to the conviction, which has been expunged?

Mr. Newcomb: That is—what I think it comes down to is the wording that Mr. Marshall used without having the expungement and not being a lawyer, that he is ineligible because of the conviction. Whether or not a law enforcement agency may chose not to hire because of that being there, just like any of you in law enforcement may get a background check on me, or someone else and disqualifying them on your own agency's standards. It doesn't mean that they are ineligible if the agency goes ahead and hires them. That is what the issue is here, that the statute, he is not ineligible as a matter of law because of the underlying conviction. I could have no conviction, and have conduct that you on the good moral character, you could say, you are not going to hire John, Mary or Jim on, but it does not mean that the Commission could say you are ineligible to be certified with that same conduct. I could have five speeding tickets. Little Rock might not hire me. Prescott might. And Prescott might not say it was a moral issue. Little Rock might say it is.

Mr. Bolton: Mr. Chairman, going back to the March letter, that 219-2 is that TCLEOSE's rules they are quoting there?

Mr. Marshall: I am sorry?

Mr. Bolton: 219-2 reciprocity for out of state officers and federal criminal investigators?

Mr. Marshall: Yes I see it.

Mr. Bolton: How can we ever answer the affirmative on two unless he is working here? I am asking that question so you all can explain to the Commission---

Mr. Newcomb: I haven't seen a copy of that letter so I cannot; answer something I have not seen. And I am not trying to avoid something. If you will give me a moment.

Mr. Bolton: It says be licensed or certified as a peace officer by a state post or state licensing authority. If that is a requirement for TCLEOSE, I don't see how we are going to help him with that.

Mr. Newcomb: I think you would have to honestly answer that no, because of the lapse of time. I would not have a problem because of the difference of the two state laws.

Mr. Bolton: In terms of the three questions that they asked, Is Mr. Davis currently licensed/certified as a peace officer in Arkansas? The answer to that would be, no. Has

Mr. Davis' license ever been, or is it currently surrendered or revoked? That would have to be answered no, with an explanation that it had expired after six months. And question number three, has Mr. Davis been appointed as a full-time, paid officer for at least twelve consecutive months with an agency in Arkansas? Am I assuming that at one point he worked longer than that at one point or another.

Mr. Newcomb: Yes, he was a fully certified officer who had met all of you all requirements for completion and twelve months service and continued service after that and there was never any decertification asked for.

Mr. Bolton: If we answered those three questions, like I just said, does that satisfy you?

Mr. Newcomb: I think the other thing is that, because, as Mr. Marshall said, the bell has been rung, I think you should clarify that now it has been brought to his attention and his record has been sealed and under the law, and I think Don would advise him, that doesn't constitute a conviction for disqualification for purposes.

Mr. Bolton: I think he could do that as far as is concerned to TCLEOSE.

Mr. Newcomb: Normally I would agree you Mr. Bolton, but Mr. Marshall, not with any malice, I am not saying trying to say there was any malice on his part, and I will get that out front, but he gave through lack of knowledge, because he is not a lawyer, and hasn't researched the federal law, and didn't have the sealing, just told them he is ineligible. Which is not exactly correct with the information that is now available to this board. And I can understand Mr. Marshall saying, I want guidance from the board because this is more that a ministerial issue. So I am not even faulting him for having us here today. But I think we need to clarify that he is not ineligible because of that conviction.

Mr. Barnes: But Robert, the questions that they asked us were, has he ever been certified for more that twelve months? And that would be yes. Has he been decertified, No. Is he currently certified, that is No. With the explanation that his certification has expired. To me that seems to answer what they want. But the question that has never been put to this Commission if Joe Blow, who is not currently certified, eligible to be certified? At least for the ten years that I have been representing this Commission. That is never been a question, even if someone is going out of state. Even if you are going out of state, you get hired by an agency there and they go through what ever they go through as far as reciprocity.

Mr. Newcomb: But Mr. Barnes, how many time have you had staff write another agency and say as a matter of law in Arkansas the person is ineligible to be certified because of a conviction? That now has been sealed. That is what happened in this case. Mr.

Marshall's own note says he told the investigator that he stands on the letter of January 8<sup>th</sup> of this year. Which ended with the paragraph that I read to the Commission. Which through, I hate to use the word ignorance, but I can't think of a nicer one right now, but he had give them erroneous information, not intentionally and not with malice, but a lack of complete knowledge. And consultation with the AG's Office.

Mr. Barnes: If we write a letter with the answers that Mr. Bolton just proposed, which are true, that ought to satisfy the people in Texas it looks to me.

Mr. Newcomb: What are we going to do if they say, wait a minute; you have already told us he is ineligible in Arkansas because of his conviction? Which is not accurate.

Chairman Harrison: If they confer with Mr. Marshall, he can say it has not gone to the Commission.

Mr. Newcomb: I am asking for the Commission to give guidance on that.

Chairman Harrison: An that is what I am trying to get now, to see if the Commission legally can do that and that is why I am conferring with our legal staff and then I want to see if the Commission has any questions.

Mr. Barnes: I don't know if I can tell you answer to "Can the Commission vote that he is eligible for certification even though he is not currently employed in law enforcement?" I don't know the answer to that and it has never been put to the Commission. I don't know if there is a statute----

Mr. Marshall: The important point is, he has to be hired first in the State of Arkansas.

Mr. Barnes: That is how the question comes to the Commission usually. I am saying that we have never been asked that before. I have looked at he Commission rules and it says, are you employed by a law enforcement agency? For starters.

Mr. Bolton: I have one another—

Mr. Newcomb: But getting back to, the Commission's staff, rightly or wrongly has told another agency in Arkansas he is ineligible because of this conviction. And that is not accurate. My 316 comment that we stand on that he is ineligible was an error, that is not the law in Arkansas. Just on that point, whether he is qualified on the other ones is different. I am not asking you prejudice that he is going to pass his psychological or if he is going to pass his physical. I don't think he can be disqualified like Mr. Marshall had said to Texas because of that conviction. Since it has been sealed and expunged.

Mr. Bolton: I have one other question. Does the Lautenburg Amendment come into play on a third degree battery?

Mr. Newcomb: Yes sir and Mr. Barnes, I think for a change he and I are going to agree, under the provisions of 18USC ---

Mr. Barnes: 921-33----

Mr. Newcomb: Once you have your rights, the Arkansas Expungement Statute under the Lautenburg says he is not convicted for federal purposes.

Mr. Bolton: So you all are in agreement?

Mr. Barnes: I can read you the statute. It is 18 USC-921-33-B-2. "A person shall not be considered to be have been convicted of such a offense for the purposes of this chapter if the conviction has been expunged or set aside whereas if a person has been pardoned or has civil rights restored --- etcetera."

Mr. Newcomb: And this statute says his civil rights have been restored and is expunged. So that was a legitimate question in everybody's mind, Don, and Mr. Marshall before we got into reading all the federal statutes. Yes, without the expungement, it would disqualify him, Mr. Bolton. But with the expungement, he is not disqualified under the Lautenburg Amendment.

Mr. Bolton: And I want to clarify to the Commission, that is also different from our rules and regulations. Saying expungement on a felony would not help him any if it was a felony conviction.

Mr. Newcomb: But the rules—this is a misdemeanor, not a felony.

Mr. Bolton: I know, I am just clarifying that for the Commission.

Mr. Barnes: Back to Mr. Marshall's letter. It appears to me if they have written us a letter saying, answer these three questions, if we send them a letter subsequent to Mr. Marshall's letter saying no he has not been decertified, yes he was fully certified for twelve months in Arkansas and no he is not currently certified in Arkansas. That is what they have asked and if that is our reply, looks like that would satisfy their question. I suppose we could put a paragraph in there that says we have documents showing that he has a record of third degree battery, which is a misdemeanor, that has been expunged.

Mr. Bolton: Would that be what you are asking for?

Mr. Newcomb: You know, we could provide them a copy of it, if we hadn't had the bell rung, we might not be here, but Texas---

Mr. Bolton: I agree with Mr. Marshall, this information in a decent background investigation it would be uncovered anyway.

Mr. Newcomb: But it is a different issue anyway. They are going to discover five speeding tickets, some agencies would hire you, some wouldn't. But what he was telling them he could not be hired in Arkansas. Versus may or may not.

Mr. Marshall: In addition, he might very well not be allowed to work in Arkansas because if in fact some one did hire him in the State of Arkansas and we received the F-1, knowing what we know, and I called that agency and said listen, first of all what are you thinking and the next thing I would ask the Commission to hear a decertification request.

Mr. Newcomb: I think that gets into a whole different issue when the Arkansas law says the underlying conduct shall deem as a matter of law not to have occurred. I am not sure we want to go down that one.

Mr. Marshall: If it is available to law enforcement for background checks I don't see why it would not be available to a possible decertification hearing.

Chairman Harrison: I need to give the Commissioners an opportunity to give comments or questions before we proceed. Does anyone have any comments or questions?

Commissioner Lester: You sent a letter to Mr. Davis. You did not send a letter back to Texas answering any questions. The only contact you have had with Texas is this phone conversation with this one individual?

Mr. Marshall: Yes sir.

Commissioner Lester: Well it stands to reason in my mind that if we, you, send a letter as proposed by Mr. Bolton, that supersedes any phone conversation. And the problem solved.

Mr. Marshall: And answers the questions in the letter.

Mr. Barnes: Yes.

Mr. Bolton: I think with the addition of any information we have about the expungement, it would have to be in that letter.

Mr. Barnes: I think Mr. Davis had probably provided his expungement to the people of Texas. Am I right? They have already got it.

Mr. Newcomb: But Texas, he has provided that but Mr. Marshall had provided that he is not eligible and they do not know that Mr. Marshall didn't have the expungement records and I think that Mr. Bolton's comment that the earlier statement is not disqualified because of the conviction since it has been sealed.

Commissioner Morris: Can't we put that in the letter?

Mr. Bolton: That is up to you all.

Chairman Harrison: Can we legally do that?

Mr. Barnes: I think that is a matter of discretion with the Commission. That is the reason we suggested the Commission consider this. Can you do it and if you can do it, do you want to do it? I don't think there is a rule that says you can or cannot. I think the Commission has the discretion. It is like questions of good moral character. You put out a set of facts and the Commission will decide yes or no. Our specifications does not have a real hard, it just says good moral character. That is pretty vague. And the Commission has made these decisions based on its own discretion many times. This particular question, is someone eligible for certification, has never been put to the Commission.

Chairman Harrison: I don't think that is what we are asking. I think what we are asking is can he send a letter and clarify that he has not been decertified in the State of Arkansas and answer these questions in this letter.

Mr. Barnes: I think we can answer these questions without the Commission voting. But as I understand Mr. Newcomb's request---

Mr. Newcomb: My request goes one step further. He has told Texas' authority he stands by his letter that says Mr. Davis is disqualified in Arkansas, can't be certified in Arkansas because of his conviction. And that is not the law.

Mr. Bolton: Mr. Chairman, in the State of Texas does TCLECOSE certify people prior to employment?

Chairman Harrison: No. There is a testing processing there. You can apply and if you are accepted then you are given an opportunity to take the test or go to the academy.

Mr. Bolton: Mr. Davis at what point are you in, in that process?

Mr. Davis: I have applied to the Texas State Police and they are they are the ones who sent the letter to Mr. Marshall asking the questions. I since have since withdrawn my application with the Texas State Police and have dealt strictly TLECLOSE to find out where I stand with them as far as my eligibility goes. And they have communicated with me that until Arkansas says you are eligible, we cannot make you eligible in Texas.

Mr. Marshall: We can't say he is eligible. He needs to be hired by a department in the State of Arkansas.

Chairman Harrison: I don't think we can say he is ineligible.

Mr. Newcomb: You have already said, you all haven't, Mr. Marshall as the spokesperson, for the Commission, has said he is ineligible. And there is where our problem comes up.

Mr. Barnes: It looks to me the Commission could send a response to Texas, and answer these questions truthfully and then say the question of eligibility is not before us right now because he is not employed by an Arkansas law enforcement agency. That doesn't say he is ineligible.

Mr. Newcomb: But Don you have already, you have already had an official of the Commission, the Deputy Director say he is ineligible because of the conviction.

Mr. Barnes: But this is subsequent to that. And this is an answer to the specific questions they have put to the Commission.

Mr. Marshall: Don, are you completely satisfied that this is an expungement?

Mr. Barnes: Yes.

Mr. Marshall: There is no doubt about it?

Mr. Barnes: I have looked at the expungement statute and it appears to satisfy it. But my point is, section 902 says "the underlying conduct shall be deemed as a matter of law never to have occurred," but 903 says, "you shall not disclose the existence of such records or release such records except a criminal justice agency accompanied by a statement that the request is being made in conjunction with an application for employment." If it is of no legal effect as it says in 902, why do you have that exception in 903? I think there is a question in the statute as to where that applies for employment in a law enforcement agency. If it is of no legal effect, why would they put it in the next section and say no body can get this except a criminal justice agency for the purposes of employment?

Mr. Newcomb: It would be just like I can't go run ACIC and get traffic records; you all can for employment purposes. The statute doesn't disqualify me for traffic offences but you can use those in deciding whether to hire me. They could consider the conduct if they wanted to, but there is no legal affect that automatically precludes. Where the felony conviction does. You can have a felony record sealed. But you all's rules say that disqualifies you period.

Mr. Barnes: That is exactly what Mr. Marshall and I are saying, the underlying conduct can be considered by the Commission, even though it does not automatically disqualify him but they could consider that under their discretion, if he were properly before the Commission for employment by an Arkansas agency and renewal of his certification which had expired.

Mr. Newcomb: Mr. Marshall said it was a matter of law. That it is absolute. And that is where the error is.

Mr. Barnes: But the letter would supersede that in my opinion.

Mr. Newcomb: I think if it has what Mr. Bolton talked about in the earlier statement that his record has been expunged, under Arkansas law it is considered not to have occurred. Period.

Mr. Marshall: I don't think that is what is what Mr. Bolton was suggesting.

Mr. Newcomb: He had some language that it was satisfactory. Then we got away from it.

Mr. Bolton: I think with the expungement that conviction alone would not disqualify him in the State of Arkansas. Is that a fair statement?

Mr. Barnes: I would think so.

Mr. Bolton: The mere fact that that conviction having been expunged would not disqualify from being an officer in the State of Arkansas. That alone.

Mr. Marshall: I would feel remiss in not adding something to a paragraph in a letter like that that would say however, the behavior that took place that caused this originally would be something that would be a matter of question by a hiring agency and also by the Commission.

Mr. Bolton: And I would think that would also be true in Texas.

Mr. Newcomb: I would think that would be going a step further than the statute—I can go through and Mr. Marshall and I know of a case where somebody was hired and I think if you told the Sheriff you had a question about the person's background about a domestic that had been dismissed. If he still wanted to hire him he could, it doesn't disqualify him automatically.

Mr. Marshall: Based on that point, not the character that was displayed, but in this particular instance, you cannot UN-ring the bell. There was a conviction.

Mr. Newcomb: But there was not a conviction as a matter of law. The conduct is still there but not the conviction.

Mr. Bolton: Mr. Chairman, I think we have pretty well discussed it and we are going to do what ever the Commission tells us to do. And I think we should let the Commission tell us what to do. And that is what we will do.

Chairman Harrison: Any Commissioners have a recommendation or a motion as what we should do?

Commissioner Lester: Mr. Chairman, I would move that we direct the Office of Standards to answer by letter form the three questions posed by Texas in consultation with the AG's office.

Commissioner Millard: I will second that motion.

Chairman Harrison: Motion made and seconded. All those in favor, (All commissioners vote aye.) Any oppose? None opposing. Motion passed. Does that satisfy you Mr. Newcomb?

Mr. Bolton: We will forthwith do that Mr. Davis.

Mr. Newcomb: I am not sure; I don't know what Texas is going to say about, Well Mr. Marshall said he was ineligible in Arkansas and I don't know what is going to happen because of that statement. So we may or may not be back here or some place else.

Mr. Barnes: We will copy on the letter and you can tell us if you like it.

Chairman Harrison: Thank you sir. **ITEM V** Item number five. Officer Charles Campbell was a student in Basic Training Class 2009-B until he failed in the second week. Chief John Stafford wishes to address the Commission requesting a waiver of the "Twenty Four Month Rule" and allow Officer Campbell to return to the academy. Is Chief Stafford here? Come forward please. State your name for the record please.

Chief Stafford: John Stafford, City of Ola Police Department.

Mr. Campbell: Charles Campbell.

Chairman Harrison: Chief make your request.

Chief Stafford: Good morning, I would like to thank the Commission for the opportunity to allow us to speak on behalf of Officer Charles Campbell. First I would like to read a letter from the Mayor who was unable to attend today, and also speak myself after I read this letter. This letter reads, "To whom it may concern, this letter is in support of Officer Charles Campbell returning to the police academy. I would ask that the Commission give Officer Campbell another opportunity to attend and successfully complete the police academy. I have full confidence in Charles Campbell being able to further his law enforcement career and completing the police academy. The City of Ola has hired Charles Campbell because he is a hometown person and he is willing to serve his community in every aspect possible as a police officer. Ever since he took the position in Ola, I have seen him strive to be the best officer he can be. Since he and his family are from the town of Ola, he wants this community to be as safe as can be. Not only for his family but also for the community as a whole. I would have attended this meeting in person to show my full support for Officer Campbell but circumstances would not allow me to do so. This is why I have written this letter of support. I again on behalf of the City of Ola and the Ola Police Department would ask for your full consideration in allowing Charles Campbell in returning to the police academy. Sincerely, Mayor Jeff Black." Sir I would also like to address the Commission.

Chairman Harrison: Proceed.

Chief Stafford: In my nine year tenure with the Ola Police Department, I have seen an approximately a seventy-five percent turn over rate due to the officers using the City of Ola, as many other departments, as a stepping stone to get to the Police Academy and then leaving for higher paying jobs. Officer Campbell has been very dedicated and dependable since he first started as an Auxiliary Officer in May of 2008. And then was hired full time in September 22, 2008. Officer Campbell and his family have lived in Ola for fifteen years and he has served our country in the US Army and National Guard for over twenty-six years. I feel confident in Officer Campbell in his capabilities to perform his job duties. Officer Campbell attended ALETA Basic 2009-B but failed to maintain the grade level required. Officer Campbell told me since then he has studied very hard and feels confident that if he is give another chance he would do his very best to maintain the required grade and successfully graduate in the next class if he was permitted to return to the academy. Officer Campbell's year will be up on September 22, 2009 and the next available start date is September 27, 2009. So I would also ask the Commission if they

would consider extending the time frame from twelve months to eighteen months if the Commission chooses to give Officer Campbell a second chance.

Chairman Harrison: Is there any comments or questions from any of the Commissioners?

Comm. Nicholson: What week was it that he? Second?

Mr. Bolton: We have a test from the first week, is that right Charles?

Mr. Ellis: The first week was range week; the second week was the first week that written examinations were given.

Comm. Lester: And you did worse on the make up test?

Mr. Campbell: Yes sir.

Commissioner Nicholson: And the test was introduction to basic? Was that the subject?

Mr. Bolton: The subject matter of the test. It has to be the easiest week that you do, right Charles?

Mr. Ellis: The training during that week is Criminal Law, The Criminal Justice System and Report Writing and Criminal Law and Procedure and Ethics were the high points of the topics that week.

Chairman Harrison: Any further discussion from the commissioners? Questions?

Commissioner Lester: Mr. Campbell do you have any extenuating circumstances that would—

Mr. Campbell: Test anxiety.

Commissioner Lester: Pardon?

Mr. Campbell: Test anxiety. I just go blank sometimes when I get a test in front of me. That is all I can say.

Commissioner Millard: If you came back here it would be twelve weeks of this anxiety. And I know in '92 a long time ago, when I went through, accident investigation was considered the hardest. I don't think it has not gotten any easier.

Mr. Campbell: No sir it hasn't. I have been studying since I left. Everyday that I can, I have been studying. And trying to get over that mental block anxiety stage.

Chief Stafford: I would like to say that Officer Campbell, since he has come back, he has really been very sincere about returning and doing a better job. He was a leader in the military and many of us have to use spell check sometimes. Some things like the test we are working with him on to try and get calmed down when he takes the test. I just think he deserves a second test. He is a real asset to my department. Although he had some circumstances with the academy.

Chairman Harrison: Is there a motion?

Commissioner Nicholson: I will make a motion that we deny the request for the waiver.

Commissioner Lester: I will second.

Chairman Harrison: Motion made and seconded to deny the request of a waiver to reenter the academy. All those in favor, (All commissioners vote aye.) Any opposing? None opposing. Sorry Chief he will have to wait for twenty-four months. **ITEM VI** Item number six, former Officer Michelle Margaret Smith was employed by the Bentonville Police Department until she was dismissed on April 13, 2009 for the mishandling of various evidence and other department policies. Chief James Allen is requesting decertification of Ms. Smith. Chief make your request please sir.

Chief Allen: Thank you Mr. Commissioner. The main reason that we are recommending decertification is behavior that started about ten months ago. Officer Smith used a lot of sick leave. During that time she wrote some memos to her supervisors to the effect that, her immediate supervisor is Lt. Don Batchelder, she wrote a memo to Don, "To Goliath AKA Don from Michelle, AKA Goliath. There was some very bizarre behavior like that. On Monday February 23<sup>rd</sup> she had been on sick leave for almost two weeks. We got a call from her medical doctor to do a welfare check on her. He said she had been demonstrating some manic behavior and had stopped taking some prescribed psychiatric medications and was unable to sleep. She had made plans to distribute her personal belongings. We kept her on medical leave and she actually took FMLA and we keep her on that until she returned. The day she returned, I terminated her employment based on some issues involving her immediate job. Job performance lack. That was what we terminated her for. But I was concerned that with the behavior that we saw, that she would go to another law enforcement agency. Here is a young lady with a Masters degree, graduate of the Criminal Justice Institute, Crime Scene Processing Program and had been a certified officer when we hired her and a certified officer with us. I was concerned with these behaviors that could only be described as, that she would enter reemployment with another agency. Just real quickly, obviously if she wants a

hearing we will come back, but she has several times in front of other officers she has just broke down. She would call them to come visit her. One of the other lieutenants of the police department and another supervisors would go by and see her. She would talk about not being able to sleep. Her whole apartment was in disarray. She had written on the walls with magic markers. This is completely different from the employee we had hired ten years before. When we did a background investigation on her she was as far as we could find out an exemplary employee at the Jonesboro Police Department before we hired her. Something is happening. I can't give a medical diagnosis, but something is happening. And for the whole period of time she was on Family Medical Leave, we would actually pick her up because she was incapable of driving herself. And drive her to her psychiatrist. Who also asked that we keep an eye on her. He gave us his cell phone number in the case any issues would arise. It is for those reasons that I would ask for decertification.

Chairman Harrison: Is there any questions or comments from the Commissioner?

Commissioner Morris: I make a motion that we set it for decertification.

Commissioner Reeves: I second.

Chairman Harrison: Motion made and seconded that we set it for decertification for Michelle Smith, all those in favor, (all commissioners vote aye.) Any opposing? None opposing. Chief you will be informed when the date will be if she requests a hearing.

Chief Allen: Thank you Mr. Chairman and Commissioners.

Chairman Harrison: **ITEM VII** Item seven, Chief Kevin Thiele wishes to address the Commission in regard to Officer Thomas "Doug" Lewis. Mr. Lewis previously worked for the Russellville Police Department and before that was a Security Specialist in the United States Air Force. Chief Thiele is requesting a waiver of the "Seven Year Rule" for Mr. Lewis. Is Chief Thiele here? Come forward please. State your name for the record.

Chief Thiele: Chief Kevin Thiele, University Police Department, Ft. Smith.

Chairman Harrison: Chief you may address the Commission.

Chief Thiele: Thank you and first I would like to thank the Commission for giving us the opportunity to address this matter. Since I have been the Chief of the University Police Department at the U of A Ft. Smith, we have been striving to seek and recruit and retain the very best and most highly candidates we possibly could. For obvious reasons, institutional law enforcement has been thrust on the scene and we have to be at a state of

readiness, the highest state of readiness at any given time. To just reach out and get any given officer that would come along is not going to put us in that mold. So I have been looking for, trying to recruit highly qualified individuals with extensive law enforcement experience. The reason behind that is two fold. One, we need that type individuals working for us. The other part of it is being a small department there is a tremendous strain when we have to send one to the academy for twelve weeks. Unlike some colleges, the University of Arkansas Ft. Smith is seeing a high percentage increase in enrollment. We are absolutely in line for a very busy Fall and subsequent Spring semester. Thomas "Doug" Lewis comes to us with twelve years of law enforcement experience. When he applied for employment with our agency he had been separated from the law enforcement for seven years eleven months. When he got into law enforcement the first experience with law enforcement and first experience with an academy, he was a security police officer in the US Air Force. He is a decorated veteran and spent four years there. Immediately getting out of the military, separating from the military as a decorated veteran under honorable conditions, he sought and obtained employment with the Russellville Police Department. He spent eight years with the Russellville Police Department. Spent a number there in the criminal investigation division. He was a detective, received many letters of commendation there. In addition he also trained under the command of the CID Sergeant, others officers and he built curriculum while he was there. He also has amassed; he was very fervent in receiving additional training while he was in law enforcement. He has amassed 1250 hours of training. We are lucky to have Officer Lewis. I come before you today asking for a waiver of the "Seven Year Rule." Based on his extensive law enforcement experience. Frankly the burden that is placed on our department should we have to be without him for twelve weeks. What we would ask the Commission, in light of his experience and his circumstances, that he be granted the opportunity to attend a Refresher Course in lieu of the twelve-week academy.

Chairman Harrison: Standards has he been out like eight years and eight months?

Mr. Marshall: Eight years and seven months.

Chairman Harrison: Any comments or questions from the Commissioners?

Comm. Lester: What has he been doing since?

Chief Thiele: When he got out, and he may be able to speak for himself, he is here today, if you would like to hear from him.

Chairman Harrison: Come around please and state your name for the record.

Officer Lewis: Thomas Lewis. When I got out I moved back home with my wife so we could be close to our family. And I got into sales and spent some time in sales and wholesale sales.

Chairman Harrison: Any other questions?

Commissioner Millard: What made you to decide to get back into law enforcement?

Officer Lewis: I was very intrigued number one, to be honest with you the company I was working for went under with the economy. They went out of business. Then I was very intrigued when I sat down and started looking at what I was going to do with my life. I felt like probably—I came home for the right reasons. But I left law enforcement and probably shouldn't have. And I was very intrigued with the idea of going into institutional law enforcement.

Chief Thiele: Sir, if I may add just briefly, one of the things that impressed me about Doug in his interview, obviously I am looking for people with extensive skill set. And improve the department and engage in the department. And bring a greater sense of—maybe a sense of establishment in what we are trying to there from all aspects. Which is training, recruitment, retention, we have worked very closely and one thing we have worked very closely. The one thing is I would not put and have not put Doug right to work without any kind of training. Obviously in institutional law enforcement we are not going to get the call volume that other agencies are going to get. We have to train intensively. We work closely with the Ft. Smith Police Department in training. We joined them in a number of joint exercises and will continue to do so. One of the other officers that I have recently hired has an extensive law enforcement background including the area of training. I have made him our training coordinator. He actually has Officer Lewis scheduled for training. But just to say again the skill set that Doug is bringing to the table will help each officer currently working there.

Chairman Harrison: Any comments or questions? Motion?

Commissioner Millard: I make a motion that we waive the Seven Year Rule and let Officer Lewis attend the Refresher Course.

Commissioner Morris: I second.

Chairman Harrison: We have a motion and a second, all those in favor, (All commissioners vote aye.) Any opposing? None opposing. Motion passed. Chief the Seven Year Rule will be waived. You can get with the academy to set up the scheduling of the Forty Hour Refresher.

Chief Thiele: Thank you gentleman.

Chairman Harrison: **ITEM VII** Item eight, Sheriff Pennington has asked that we pass it until October. **ITEM IX** Item nine, Mayor Randell Homsley wishes to address the Commission in regard to his ability to serve as a law enforcement officer while serving in the capacity as Mayor. Is mayor Homsley here? Come forward please. State your name for the record please.

Mayor Homsley: Thank you Mr. Chairman. I am Mayor Randell Homsley. Higginson, Arkansas. Actually I am asking for a waiver of the Twenty Four Month Rule. That is what me and Mr. Marshall has been going over—

Mr. Marshall: May I interrupt; in the packet that you have the second page is a letter from Mr. Satkowski that has been left out. I just wanted to make sure you got that.

Chairman Harrison: Mayor before you proceed let me ask Standards how you stand with their office at the present time.

Mr. Marshall: At this point and time he is not eligible to be a law enforcement officer in the State of Arkansas. I don't know if you want me to go before him and explain why. But I would be more than happy to.

Chairman Harrison: The Commission is going to have to vote the issue and I think they need to know before they vote.

Mr. Marshall: I didn't know if you wanted the Mayor to go first or not.

Chairman Harrison: If you would like for him to that is fine.

Mr. Marshall: Basically this started with—You should have a letter from Mr. Satkowski dated June 20<sup>th</sup> of '03. At that time Mayor Homsley was with the Higginson Police Department as a Full Time Officer for six months back in 1978. Then he was an Auxiliary for White County for seven months in 1995. Then he went to the Higginson Police Department as an Auxiliary in September of 1996 and ended in March of 1998. He sent a letter to Mr. Satkowski and Mr. Satkowski answered with the June 20<sup>th</sup> letter outlining basically what I have just told you. And ending with the page that I just passed out to you saying therefore you will be required to successfully complete an approved, at that time an One Hundred Hour Course to be a Part Time II Officer. And nothing came of that. There was no F-1 received or anything of that nature hiring him as a law enforcement officer in Higginson. The next thing we got—

Mayor Homsley: What was the date on that Mr. Marshall? Was that when Mr. Bird was my designated Chief?

Mr. Marshall: This was June 20<sup>th</sup> in 2003. And the letter was addressed to you. We received an F-1 from Mayor Homsley indicating that he was hired January 1, 2007. When it came to our attention that he had not had the proper training. I had a discussion with him over the telephone and I was told by him, that the January 1, 2007 date on the F-1 was incorrect. So I let him send me a new one I which he said he was hired May 1, 2007. We accepted that one and voided the other one. So that meant that he had until February 1<sup>st</sup> of '08 to get the proper training. He didn't do that so that was the reason I sent the letter Dated May 22, 2008. Basically as you probably read I explained all this to him and then said based on the above and the fact that an extension was not requested as required in the manual within the first twelve months of employment, you are not eligible to function as a law enforcement officer. The next thing I know we get an F-1 attempting to hire him I believe it was in March of '09. I sent him a letter on March 22, '08 explaining that he could not be an officer. And told him in the end he is not eligible to be a law enforcement officer until May 1, 2010. Which would be twenty-four months after the May 1, 2008 date when he should have had the training but didn't. The next thing I do is get a letter from Chief Ryan McAfee and it is not dated but I know it was after the March 20<sup>th</sup> '09 when I sent the letter. It indicated that I had some personal reason in denying Higginson the Mayor's services. That is when I wrote back by letter dated the 25<sup>th</sup> of March of '09 more fully explaining the whole process. And I think that is how we got to this particular point where the Mayor is appealing the "Twenty-Four Month Rule."

Chairman Harrison: Mayor is that what you are doing today? Requesting a waiver of the twenty-four month rule?

Mayor Homsley: Yes Mr. Chairman I will explain why.

Mr. Marshall: I don't mean to interrupt you again but I am going to. One thing I did leave out. Was that the Mayor did take the 100 Hour course last January and was apparently, in the letter to Mr. Bolton, and the Commission he stated, I did cease functioning as a police officer and Chief Deputy Jeremy Clark of White County was told by a Mr. Johnson of the Standards Office that all that was required of me was that I attend a Part Time II class, which I did in January. The problem with the statement by the Mayor is this man Jeremy Clark called and talked to Brian Johnson, who had no knowledge of the back and forth in this matter. And he did not mention the Mayor's name. He gave him a hypothetical question on an individual who he might want to hire, I guess, although they never hired him. The Mayor's name was never mentioned. I questioned Bryan Johnson on this and he was specific about it. So he had no idea about any of this. He was just referring to any one who was wanted to be a Law Enforcement

Officer Part Time II would have to take the Part Time II Course and then they would be eligible. I just wanted to mention that.

Chairman Harrison: So at the present time he is ineligible until May 1, 2010?

Mr. Marshall: Yes sir.

Mayor Homsley: Mr. Chairman, first I would like to address what he just said. First it was not a phone call to Mr. Johnson. Mr. Johnson just happened to come up to a Chief's meeting where Chief Deputy Jeremy Clark was at White County and it was according to him, it was specifically asked how my situation could be alleviated. And his answer at that time was, he needs to go to a Part time II Course. And that is when we made arrangements to get me into the first one we could possibly get into and that was January of 2009.

Chairman Harrison: But if he said that, it was incorrect, because you were ineligible until May 2010.

Mayor Homsley: Yes sir I understand that. My main question to the Commission is the Twenty-Four Month Rule. If I had taken a class, if I had come to the academy, I graduated this academy in 1978. If I had taken a class failed it or done something extremely out of the ordinary, to deserve being put off for twenty-four months, I could see that. I have never had a mark against me what so ever in my law enforcement career. I have a 1000 hours in this binder right here of law enforcement training and the Twenty Four Month Rule is what I am asking the Commissioners to look at. Like I said I can understand if I had failed in some way to complete something. The only way I failed was within the twelve-month probationary period. I didn't go back and receive the training that I should have received at that time. And I fully understand. After a twelve-month period law enforcement should shut someone down. And not allow them until they have training to get back in there. I don't think you should allow them twelve months of probationary time. But on the other hand, someone who has had training, and has never had any kind of mark on his record; I don't see why the twenty-four month rule waived. And that is my question to the commissioners.

Chairman Harrison: Any comments or questions from the commissioners?

Mr. Homsley: And I did completed the Part-Time II Course as he said in January with a 100 percent grade.

Commissioner Lester: I have just some questions, this is fascinating to me, having been a Mayor, there is a memo from the Chief saying you had been hired as a police officer by

the City Council on 2-26-09. How does that work? If you are the mayor, how did the City Council hire you to be a police officer?

Mayor Homsley: Let me explain that. In 2007 when I was elected as Mayor, I don't know how he got the January date on that, because there was nothing discussed—we have not had a police department since 1998. It was not taken out but it was just disbanded. We had no personnel to man it. The City Council and citizens wanted some type of enforcement around there. In March and April of 2007 we had a rash of home break ins. Burglaries and car thefts. The citizens were concerned and they all came to the city council and asked if there was anything we could do. We are a community with limited resources. I have a grant possibly now with COPS, which would allow me to hire a full time officer. But they asked since I had prior law enforcement, could I patrol the town? Now the answer that I got at first from the Municipal League, and also from the Attorney General's Office, was that the mayor of an incorporated city is a conservator of peace and has arrest powers within the city limits of an incorporated town. When they asked me if I could do it, according to everything I found out, I could. But I knew that I needed to send everything to Mr. Marshall everything he needed. I met all the minimum requirements for employment. I sent Mr. Marshall all the paper work that was needed. And we did everything by the book, the only thing we didn't by the book, was within one year, I didn't get the training. And it was never about a full time position. It was going to be a Part Time II position for the Mayor. There is an Arkansas Statute that allows council members and mayors, any one to be a volunteer police officer and or firemen with compensation. Does that answer your question? And as far as what you are asking, it works in the sense that when I put on a police hat I am working as a police officer. I am not the mayor. And it has worked very well.

Commissioner Millard: Mr. Marshall, maybe you can answer this, isn't it true, and I have Part Time and Auxiliary officers working for me. Doesn't the law say if you are a Part Time II Officer or Auxiliary Officer, you have to have a supervisor on duty?

Mr. Marshall: You have to have a supervisor available to you if you are an Auxiliary. Not a Part Time II.

Commissioner Millard: If you are the only law enforcement working in the town, could you work as an Auxiliary Officer or Part Time II?

Mr. Homsley: He just said not a Part Time II, just an Auxiliary.

Commissioner Millard: OK.

Chairman Harrison: Any other questions or comments? Is there a motion?

Commissioner Morris: I make a motion that we not waive the rule.

Commissioner Nicholson: I second.

Chairman Harrison: Motion made and seconded, not to waive the twenty-four month rule, all those in favor, (All commissioner s vote aye.) Any opposing? None opposing. It will be May of 2010. Thank you sir. **ITEM X** Item ten, Chief Pat Murphy is wishing to address the Commission in regard to a waiver of the “Seven Year Rule” for Mr. Colin Lillard. Mr. Lillard has worked for the Flippin and Alpena Police Department as well as the Harrison Police Department. Mr. Lillard is returning to the Harrison Police Department after a seven year two month break from police service. Have a seat and please state your name.

Chief Murphy: Good morning, I am Pat Murphy, Chief of Police in Harrison. Thank you for hearing us today. We are asking for a waiver of the “Seven Year Rule” for one of our officers, Colin Lillard. He is sitting right here next to me. Colin has worked as an Arkansas police officer for seven years. In fact all of his law enforcement experience has been in Arkansas Law Enforcement. He started his career at Harrison Police Department in January 1996 and has a combined tenure with Harrison with six years of service. While at Harrison PD he worked approximately two years in criminal investigation division and four years in our patrol division. The remaining time as an Arkansas police officer was with the Flippin and Alpena Police Departments. As a Harrison Police Department Detective, Colin worked on varied cases from minor cases to major crimes against persons. His time as an investigator has afforded the opportunity to learn and comprehend and apply his knowledge of the law daily in the Arkansas Criminal Justice System. He maintained a high percentage of cases clearances and excelled in presenting his cases through the court system. His work both as a patrol officer and as a detective was outstanding and we were very fortunate as an agency to have him back as an officer. Colin has already completed our Field Training Program where he received high marks from our Field Training Officers. He is currently performing his duties as a mature and experienced professional police officer. Colin is a mature forty-year-old officer who has served the community as well. With excellence and professionalism with all the agencies that he has worked for. Colin has earned 834 hours of state recognized training that included an Instructor Certificate and Principles of Supervision from CJI. Colin has returned to the Harrison Police after a seven year-two month break in police service missing the cut off time allotment of attending the forty hour refresher course by a mere two months. With his experience and knowledge we feel that both our department and community would be better served if you approve our request and waive the “Seven Year Rule.” Harrison at the present time is a little bit short handed and in my opinion Colin is an excellent officer. He shows maturity and experience and him being gone for 12 weeks would create a hardship for us. I also assure you that Colin will receive a lot more training as his career goes forward. We believe in training at the Harrison Police

Department. And my prior experience before I came to Harrison was the last two years at my previous department, I was the training commander of my police department. I have given you all a packet that has a couple letters in it and some information and one of them is the letter that I sent to Mr. Bolton, which is basically what I have just explained to you. There is a letter here from Colin. Also one I think to take note of, is from the Arkansas State Police from J. R. Davenport who is the Area 3 Supervisor for the Crimes Against Children. He worked that caseload when he was a detective in our agency. He excelled in that work and she is very excited to have him back. And you can take a look at what she said about him. There is a letter from Sgt. Waldon, who works for our department and Colin works for him on his shift and he also served as his FTO for a brief period of time. And his Sergeant thinks he is ready to go. And Colin is working by himself right now on the street. The other information I have in here is the certificate he received when he went to the academy here in 1996. Some of the training records I have here, one of the things I think to note is, not only did he attend the academy back in 1996 he also went to the Auxiliary Reserve Academy that we offer in 1995, so his Basic Police Training has already been filled and I think just for the matter of two months ask that you waive the "Seven Year Rule" and let him attend a Forty Hour Refresher.

Chairman Harrison: Standards does your records reflect seven years and two months?

Mr. Marshall: Yes.

Chairman Harrison: Any comments or questions from any of the commissioners?

Commissioner Nicholson: I make a motion that we waive the Seven Year Rule.

Commissioner Morris: I second.

Chairman Harrison: Motion made and seconded to waive the Seven Year Rule, all in favor, (All commissioners vote aye.) Any opposing? None opposing, but he will be required to attend a Forty Hour Refresher.

Chief Murphy: Thank you for your time.

Chairman Harrison: **ITEM XI** Item eleven, Chief Stuart Thomas is requesting decertification of Ricky Lee Beckwith after the discovery that Beckwith had sent photos of himself over the internet to an officer posing as a fourteen-year old girl. LRPD Internal Affairs is here. Sergeant you are getting to be a regular here.

Sgt. Campbell: I am sergeant Tracy Campbell, with the Little Rock Internal Affairs Division. This was not my investigation; I am filling in for Sergeant Brandford who is not here this week. Basically what you have said, he sent pictures of his penis in

different stages to a person who was a White County Sheriff's Officer working under cover on Internet identifying himself as a fourteen year old girl. The only thing that I want to explain, because I know all this will come out in the actual hearing, is that on the time line. I believe this happened in December of 2007, when we were first made aware of it. Officer Beckwith was from October to December at Camp Shelby in Mississippi for military training. He was then stationed in Iraq for a year. When he came back in February 2009 is when we did our full investigation. He was terminated for his actions.

Chairman Harrison: Any comment or question from any of the Commissioners?

Comm. Lester: There has been no charges filed?

Sgt. Campbell: White County declined to press charges; I believe they said they did not have enough evidence on it. They forwarded all the information to us to handle internally.

Commissioner Nicholson: I make a motion that we set it for a decertification hearing.

Commissioner Millard: I second.

Chairman Harrison: Motion made and seconded, to set a decertification hearing. All those in favor, (All commissioners vote aye.) Any opposing? None opposing, motion passed. Sergeant you will be notified. **ITEM XII** Item twelve, the Tobacco Control Board has contacted the Attorney General's Office in regard to recent legislation regarding the Tobacco Control Board being designated as a law enforcement agency. J. R. Thomas is not here today and has requested that we waive this until October but I have asked Mr. Barnes to enlighten the Commission as to what they are asking for so you will have a little bit more information before the next meeting. Mr. Barnes.

Mr. Barnes: Commissioners you will notice that there are, the first thing in there is a statute concerns the Attorney General's Office. And our office hired, as you probably read in the papers, hired some security officers who were—the statute requires that we hire certified law enforcement officers. The Tobacco Control Department has field agents that have been specialized officers up to now. The second bill you see in there is their bill saying they are a law enforcement agency and that their officers are declared to be certified. What I have discussed with them is that we need to have some mechanism for accomplishing this because is not the way going from Specialized to Certified. Most of their agents are retired officers and have been through basic and were fully certified. And probably are within the seven year rule. I think two people have never been through basic. But they were made specialized before this statute was passed. So that is the issue. I don't want to ---

Chairman Harrison: The bill in here that is from the AG's Office is just for information?

Mr. Barnes: Yes, it is just for information. It is to contrast, that is what our office is doing. It is just to contrast the two things. And I think J. R. will want to address the Commission in October. I just wanted to explain that that is what is going on with this.

Chairman Harrison: Does Standards have any further information on what they are---

Mr. Bolton: Don, did you say they had two officers that are currently Specialized Officers that have never had training?

Mr. Barnes: They have never been through the full basic. They have had the Forty Hour Specialized.

Mr. Marshall: 110.

Mr. Barnes: 110 Hour, I'm sorry.

Mr. Bolton: And they are asking that they be certified as full time?

Mr. Barnes: It appears that they are. And that is my question, how do we accomplish that?

Chairman Harrison: You will have to tell us.

Mr. Barnes: I think I will wait until J. R. speaks to the Commission and see what his position is on this.

Mr. Marshall: I did have a conversation with J. R. and the best I can remember from the conversation, I told him if someone did not have the proper training to be a full time officer, they would have to get it.

Mr. Barnes: That is certainly one point of view.

Mr. Bolton: Is that not his point of view?

Mr. Barnes: I don't know.

Mr. Marshall: I thought he understood.

Mr. Barnes: I actually did not discuss that with him. I just discussed can you be there and he said we can't make it this week. But we would be glad to come in October.

Chairman Harrison: Any comments from any of the Commissioners? Item 12 is passed until October. **ITEM XII** Item thirteen, Chief Bill Geater states that he Brinkley Police Department has hired Bobby Burnett who was previously employed by the Holly Grove Police Department. Mr. Burnett failed academically while attending the academy. Holly Grove appealed his expulsion and was granted the request to attend the next class, which was 2009-B. Mr. Burnett did not enroll or attend as specified by the Commission. Chief Geater wishes to address the Commission in this matter and get Mr. Burnett enrolled in the academy in order that he may become a certified officer. Chief, come forward. State your name for the record please.

Chief Geater: Bill Geater.

Chairman Harrison: You may proceed.

Chief Geater: After the Commission suspended the two-year thing for Mr. Burnett, I was not aware that he was supposed to go to the next available class, the next class I guess it was. Of course I found this out after he came to Brinkley. He was working at Holly Grove. And I am under the impression that Ms. Lula Tyler, the Mayor did not carry through with the paper work to get Officer Burnett into the next class and for that reason we are asking you to allow him to go to the next class.

Chairman Harrison: Does Standards have any further information on this?

Mr. Marshall: The only information we have on this is the same as you. I thought the Commission was doing Holly Grove and Officer Burnett quite a favor the last time. We may waive the twenty-four month rule and give him the opportunity to go to the next class. That wasn't followed through. Now he is with another department. Now it is up to the Commissioners.

Chairman Harrison: Any questions or comments from any of the Commissioners?

Mr. Burnett: If I may? I was under the impression that I had a twenty-four month extension. That is what I was told by the Mayor, Ms. Tyler that came with me the last time. And I just recently found out that it was a waiver instead of an extension. Had I known, I probably would have got myself in the next class. By pushing her to do the paper work. I didn't know. Now that I am with the Brinkley Police Department I am trying to get into the next class if you all will grant me that, I will do my very best.

Chairman Harrison: Any questions from any of the Commissioners?

Mr. Marshall: You did attend the last meeting didn't you?

Mr. Burnett: Yes sir.

Commissioner Morris: Why did you leave Holly Grove?

Mr. Burnett: Lack of money.

Chief Geater: We pay a little better than Holly Grove.

Commissioner Nicholson: It is my intent at that time when I voted that we give him another opportunity whether it was with Holly Grove or whoever. And we were trying to help out Holly Grove. We waived the two-year rule and I make a motion that we continue that waiver from the point that we waived it and just—it wasn't necessarily the fact that he had to go to the very next class. It was the next available class. I doesn't matter to me when, we granted him the waiver so we might as well keep the waiver going.

Chairman Harrison: Is that your motion?

Commissioner Nicholson: It is kind of a confusing motion but—

Chairman Harrison: Motion made to grant the twenty-four month extension and that he be allowed to attend the next available academy.

Commissioner Nicholson: It was from the time period that we granted it—

Mr. Marshall: Just to clarify what you said at the last meeting was: "Chairman Harrison: We would waiving the twenty-four month rule and allow him to attend the next available class."

Chairman Harrison: When was that?

Mr. Marshall: That was our January meeting.

Chairman Harrison: Would he still not be eligible even though he changed agencies?

Mr. Marshall: He was still with Holly Grove up until June 9<sup>th</sup> of this year. And would have been eligible to go with Holly Grove to 2009-B. Had they put him in it. I just pointed out that the will of the Commission was that he go to the next available class not when he decided to go.

Commissioner Nicholson: I will withdraw my motion. If any one else will take that up.

Commissioner Millard: I really do believe there was some confusion because of the mayor. Even though he was here at the meeting. I am sure he heard everything that was said. Sometimes with your superiors over you, can confuse you. I will make a motion that as long as he goes to the next class to go ahead and let him go.

Mr. Bolton: Mr. Chairman, if that is the motion, I want to make sure they understand that. It is the NEXT available class.

Commissioner Millard: The next available class.

Commissioner Reeves: I will second that and if he doesn't make that he is history.

Chairman Harrison: Motion made and seconded to allow Bobby Burnett to attend the next basic. All those in favor, (All commissioners vote aye.) Any oppose? None opposing. Chief you will need to see the academy staff for the next date. **ITEM XIV** Item fourteen is a request from Sheriff Pennington to pass until October. **ITEM XV** Item fifteen, Mr. Russell Belamy wishes to address the Commission in regard to a Theft By Receiving Charge that was expunged in 1995. Have a seat please and state your name for the record.

Mr. Belamy: Russell Belamy.

Chairman Harrison: Make your request.

Mr. Belamy: First I would like to thank everyone for seeing me today. In 1995, actually the occurrence had happened prior 1995 that is when everything took place to my understanding and the best of my recollection. I was riding with a friend of mine who had evidently had stolen his father's pickup truck. It was unbeknownst to me. I had seen him driving this truck so many times before, so it was nothing out of the ordinary. He comes to drop me off at my grandparent's house where I lived at the time. And as we were leaving he said hey, will you take this inside? It was a duffle bag that he carried with him a lot of the time. He was picking up a couple of people and it was full of stuff. I said sure and took it in. Well, a couple days later the Sheriff's department showed up and come to find out, he had stolen his father's truck, he hadn't borrowed it. And in that bag was his father's cell phone. It was back in 1995 and it was a big old box type cell phone in a bag. And evidently it was over a certain dollar amount so they charged me with a felony. I did not understand the whole ins and outs of it because I was naïve. When I went to court, the attorney, who I had never met before, basically stated he was going to try to get my record sealed and expunged and everything and I was just going to go up there and he would handle everything. Well I went to see Judge Humphries, and they said a bunch of stuff and basically the said Mr. Bellamy I am going to put you on six months unsupervised probation. You pay a \$250 fine and after that six months we will

seal and expunge your record. Ever since then I have never been trouble and have been active in my community. I teach martial arts, I attended college. I go to church; I am a security supervisor at church. It has been my desire and will to be a police officer for many years. Financially I have not been able to do it. But my wife is now a medical doctor and we are able to handle that now. I have just wanted always to be a police officer and would like the opportunity.

Chairman Harrison: So your question to us is?

Mr. Bellamy: I have been told by the Jacksonville Police Department that if I would receive a letter of recommendation stating that because of my expunged record, I am still eligible for employment that I would be employed as long as I passed the polygraph and interview. I have already taken the Civil Service Test and passed the physical agility test. And know a few people who would really like for me to be on the department up there.

Chairman Harrison: Mr. Barnes, I am not sure that—

Mr. Barnes: Mr. Chairman, I am not either. Unfortunately I did not bring the Brady Bill Statute with me. I just brought the part concerning domestic violence and misdemeanors and expungement.

Mr. Marshall: I think our manual is fairly clear about this.

Mr. Barnes: I think a felony is a disqualifier under the Brady Bill. Even if it has been expunged. But I don't have the statute in front of me.

Mr. Marshall: In Regulation 1002, it says it doesn't matter if you have been pardoned or expunged, if you have been convicted of a felony you are ineligible.

Chairman Harrison: Does that answer your question?

Mr. Bellamy: I believe so. Thank you sir.

Chairman Harrison: Thank you sir. **ITEM XVI** Item number sixteen, Mr. Ezra Pierce has been employed by the City of Sedgwick since 2002 and has held the position of Constable for sixteen (16) years. After inquiries we made, it was determined that Mr. Pierce's certification was in question. Mr. Pierce is requesting the Commission review his records and make a determination of his qualifications. Is Mr. Pierce Here? Come forward please sir. State your name for the record please.

Mr. Pierce: Ezra Pierce.

Chairman Harrison: Standards, how does Mr. Pierce stand with your office at the present time?

Mr. Marshall: He is ineligible to be a law enforcement officer in the State of Arkansas. This came to our attention, we received a letter from a citizen inquiring basically and writing about a police officer in Sedgwick. I had a hard time locating you because it said Sedgwick Ezra Pierce. I couldn't find an Officer Sedgwick Pierce. I didn't realize that there was a town called Sedgwick. But I found it and they asked about your credentials to serve as chief. And about your credentials to run radar. So that is what brought it to our attention just a short time ago, back in the middle of June. So I looked at the file and in looking at it, he does not have the proper training as outlined in the letter. I believe you all have a copy of the letter that I wrote to Mayor Debow. And has not had the proper training. He was advised of this in June of 2002 in a F-9 form where he was refused radar certification. The last sentence by Mr. Satkowski is; Chief Pierce may reinstate his qualifications as a law enforcement officer by taking the Auxiliary, Part Time II 100 Hour Course by May 22, 0f '03. In looking at his file, he did not do that. In my conversation with him, I asked him if he had been running radar and he said he had. And that is a problem also. But basically he was sent another F-9 after the June date, in September he applied again and I guess he was denied. And it said no radar certificate will be issued until the Part Time II Class is completed by May 22, 2003. And it has never been completed.

Chairman Harrison: Mr. Pierce.

Mr. Pierce: My question was sir, I always understood if you were in police work you certification never went dead. That is the way I understood. That is what I always have been told. I have been a Constable for 16 years working in this same area. Which will be by my eighteenth year when I finish this term. And I understood that would keep my certification alive, the way I understood it. In fact Mr. House at one time, I brought this problem to him, and he said there is no problem here. I will make a phone call and I don't remember the man's name he said he called, and he said it would be straightened out. I heard nothing else about it after that.

Mr. Marshall: I know there is something in my file about Representative House but there is no follow up, no letters, nothing like that. There is just a comment about Mr. House calling. Back in 2002 I think.

Mr. Pierce: I think that is when it was.

Mr. Marshall: You have never been certified. You have never requested any kind of certification from our department.

Chairman Harrison: Mr. Pierce are you a Constable now?

Mr. Pierce: Yes.

Chairman Harrison: And requesting to be a police officer?

Mr. Pierce: No I am just requesting that this might be recognized sir.

Mr. Marshall: He took a Part Time II Class according to this, on—I am not even sure this is valid. Mr. Bolton do you have a better idea? Will you take a look at this? That is in 1997. In order to be certified, you have to request certification. Like when you attend a class, if you attend a radar class, you still can't run radar until you send in a request like you did. And you were denied because you did not have the proper training.

Mr. Pierce: There was a request before I took the training.

Mr. Marshall: That was prior to the time you were hired. That was more than three years before you were hired. So it was good for only three years. If in fact it was valid.

Mr. Bolton: This coincides with the date in his training record, Brian. But it is simply a certificate of attendance. That he successfully completed an Auxiliary Course that started in September of 1996 and ended in January 1997.

Mr. Marshall: He was not employed by Sedgwick, until more then three years after that date which invalidates that training. That is why Mr. Satkowski, when the Chief wrote for radar certification, he was told in that letter that you had to have the proper training before May 2003. And that was never accomplished. That we know of.

Mr. Pierce: I didn't know sir. But that was the time I went and talked to Mr. House. And he assured me it would be taken care of. It was a misunderstanding. I am ignorant of the law.

Mr. Marshall: We have no record of that. There is something in the file about Mr. House calling but there is no letters or anything to indicate. And I cannot imagine that Mr. Satkowski would have waived the requirement for training as he had stated in his letter twice. I think the problem here is the Commission has to decide whether or not they want to somehow facilitate him remaining in his position. I would think that to remedy this would be either he can't be an officer any longer because he didn't fulfill the requirements, or the Commission could decide that if he gets the proper amount of training, in such a period of time he then he can continue on.

Chairman Harrison: I am confused, is he a Constable? Is he wanting to function as a Constable?

Mr. Marshall: He is a Part Time II officer in Sedgwick, is what he is listed as. We have no record of him being a Constable.

Chairman Harrison: So he is wanting to be a Part Time II police officer. And he has not received the training.

Mr. Marshall: Exactly, and has—

Mr. Bolton: He received the training, but—

Mr. Marshall: He had it in early 1997, but it expired more than three years after that.

Mr. Pierce: I did not realize that there was a time limit on it with me being a Constable. I thought that keep it active.

Commissioner Reeves: Constables are elected. Is he an elected official at this time?

Mr. Marshall: He states that he has been an elected Constable since 1992.

Chairman Harrison: But he wants to be a Part Time II police officer.

Mr. Barnes: But there is a method now for certifying Constables.

Mr. Marshall: Only if they want to use ACIC or NCIC.

Mr. Barnes: If they take various training. For example if they want to carry a weapon they have to pass the firearms course.

Mr. Marshall: There is a Part Time II Course and then another twelve hours.

Mr. Barnes: There is a method to do that just for Constables. But apparently that is not what he is wants to do. He wants to be a Part Time II in Sedgwick, which is different.

Mr. Marshall: He wants to continue in what he thought he was. Which is a Part Time II Officer and Chief in Sedgwick. But he was advised in 2002 that if he did not receive the proper training by May of 2003, ----

Commissioner Nicholson: But he is not qualified unless he goes and receives the training right now?

Mr. Marshall: I would think at the very least--

Chairman Harrison: A one hundred twenty hour course.

Mr. Marshall: One hundred ten. And once you have that, if you will take the Court Security Class, the twelve hour Court Security Class, then that would keep you up to date as far as being—I am sorry—There is another ten hours of training you would need and you would satisfy the requirements for being a Constable also. But the important this is the Part Time II Class. It is just a matter of if that is what you want to do.

Chairman Harrison: Any further questions Mr. Pierce? Commissioners?

Commissioner Golden: Is the City of Sedgwick wholly inside your township?

Mr. Pierce: Yes sir it just close to the center of my township.

Chairman Harrison: Is there any action for the Commission to take? Standards has informed him of what he needs to do.

Mr. Barnes: What I hear is he needs to take the Part Time II Course. And so he needs to enroll. And there is no impediment to him enrolling in the Part Time II Course.

Chairman Harrison: Do you understand Mr. Pierce what is going to be required?

Mr. Pierce: I think I do, for me to take the Part Time II. That would be at the earliest possible time.

Mr. Marshall: Can I suggest that you put a time limit on it?

Chairman Harrison: Well, why?

Commissioner Nicholson: Why? He is not an officer right now.

Mr. Marshall: Well, I think I put in my letter that he is not eligible to be, that is true.

Chairman Harrison: Are you saying that you are informing what the regulations are and if he wants to be a Part Time II, he needs to attend the 110 hour course.

Mr. Marshall: Do you understand? You are not an officer right now. Do you understand that part?

Mr. Pierce: Yes sir.

Mr. Marshall: You are going to have to send us an F-4. I have already taken him off the books, but we will need an F-4.

Mr. Bolton: There is a limitation of what he can do. Until he gets that training.

Commissioner: He is still a Constable.

Mr. Marshall: we have nothing to do with that.

Mr. Bolton: He is still a Constable, if he is elected but there are some requirements. There is some additional training requirements other than being elected, in order for you to perform certain duties, even as a Constable. You are limited without some additional training in terms of ACIC and carrying a weapon also.

Mr. Barnes: And there is a Constables Association that I believe can help you with those requirements and how to get it.

Mr. Pierce: Yes sir I talked to the President of the Constables Association. And he informed me to let him know what we decided here.

Chairman Harrison: Thank you Mr. Pierce.

Mr. Marshall: Do you have any questions at all? Do you understand what they are saying?

Mr. Pierce: I think I do. Can I get your name and number where if I do run into some problems I can call you?

Chairman Harrison: Let the record reflect that no action was taken by the Commission on Item 16. **ITEM XVII** Chief Tony Coffman of the Bryant Police Department is requesting a waiver of the Seven Year Rule for Officer Michael Montgomery. Officers Montgomery had previously been employed by the Russellville and Benton Police Departments. Chief Coffman please come forward.

Lt. Plouch: I will apologize for Chief Coffman; he is on vacation with his family. I am Patrol Lt. J. W. Plouch of the Bryant Police.

Chairman Harrison: Proceed Lieutenant.

Lt. Plouch: I would like to thank the Commission for hearing our request today. This is one of the first times I have been here and the Bryant Police Department has been before the Commission making any kind of request. It is not something we do on a normal basis. Officer Michael Montgomery came to us in January of this year. I had the fortune of working with him when he worked for Benton, when he was a detective for Benton. We are asking that you waive the Seven Year Rule for the full academy. From his standards, Officer Montgomery went through the academy on two separate occasions. Once when he worked for Russellville in 1985 and again in 1995 when he worked for Benton PD. While he worked for Benton PD he was a detective at the Crime Scene Investigation Technician and a DRE, was an instructor with the Benton PD. Once he left Benton PD he went to work for an insurance company, Safeco, as an insurance investigator. Investigating insurance fraud. So he continued his investigations in insurance. Still doing case file and assisting law enforcement agencies following through in investigations for insurance fraud. After that he got out of doing insurance fraud and got into sales with a law enforcement equipment company selling vests and doing demos and tactical vest sales. He also was a part of ALS, which does less lethal technology stuff and was an instructor for them, providing less lethal instruction for law enforcement. He has been out for over seven years. In our eyes he technically hasn't been. I would like to say since January when he came to us, he had done our FTO Program, which is over 450 hours of instruction with an FTO. He has been updated on Racial Profiling and updated on Domestic Violence, Firearms Training and has also provided our detectives with some inside knowledge. He happened to be off on his week end off and in Branson, Missouri, we had a incident at a residence where there were some blood splatter stains and over the phone talked one of our detectives through that and how to read that and how to determine some case breaking stuff for that case. And was able to do that over the phone. Again I don't ask for this everyday, it is nothing we ask for, but I think he has proven himself with us and has shown us his knowledge is still there for the law enforcement. We would just like to see if you would offer him a waiver of the seven-year program.

Chairman Harrison: Standards how long do your records show he has been out?

Mr. Marshall: Just under eight years.

Lt. Plouch: May of '01 to January of 2009.

Chairman Harrison: Any questions or comments from the Commissioners?

Commissioner Morris: I make a motion that we waive the seven-year rule.

Commissioner Nicholson: I second.

Chairman Harrison: Motion made and seconded that we waive the seven-year rule. All those in favor, (All commissioners vote aye.) Any opposing? None opposing. Motion passed.

Commissioner Morris: And do a week refresher.

Chairman Harrison: Motion passed; see the academy for the forty-hour refresher. Thank you Lieutenant.

Lt. Plouch: Thanks to the Commission.

Chairman Harrison: **ITEM XVIII** Item eighteen at the January 2009 meeting the Commission voted to go forward with decertification of Deanna Brewer formerly of the Morrilton Police Department. Ms Brewer requested a hearing. A hearing was set for the April meeting but a continuance was requested. After a continuance was granted and further deliberation, Ms. Brewer voluntarily surrendered her law enforcement certification. A final decertification vote is needed by the Commission. Is there a motion to decertify Ms. Brewer?

Commissioner Reeves: I so move.

Commissioner Golden: Second.

Chairman Harrison: Motion made and seconded, all those in favor, (all commissioner vote aye.) Any oppose? None opposing. Deanna Brewer is decertified. The next is information from the Academy, that Training Supervisor Charles Ellis will present. Charles it is all yours.

Mr. Ellis: Thank you sir. What we are asking to do is the privilege of being able to change the Law Enforcement Refresher Course. Right now it is governed by Specification S-13. And the goal for the course is to be able to update the course by adding some new or expanding some topics. But in order to be able to do that we have only a forty-hour window of opportunity to work with for that class. The Specification mandates that training be done in seven areas. What I am asking to do is to change the specification by eliminating the last three of those specifications. That being, Latent Print Training, Interviews and Interrogations, and Methods to Increase Effectiveness of Court Room Presentations. Our goal is to update the course with some new and expanded training areas of Arkansas State Crime Lab, the collection of evidence and submission. Computer crimes including Internet Sexual Predator and Computer Fraud. And other classes on Domestic Violence and law enforcement resources and such. I prepared a copy of Specification 13. Under paragraph one, you see the highlighted text, it lists the mandated topics. I have entered the proposed change that would allow some

leeway that would allow us to make these changes and any future changes. I will ask you to take note that in the first couple sentences above the specification, it says the content of the course would be updated periodically. Again what I am asking for is just a change would allow us to make the update now and in the future.

Chairman Harrison: Any questions or comments from the Commissioners?

Commissioner Reeves: I move that we go forward with this.

Commissioner Golden: I second.

Chairman Harrison: Motion made and seconded to go forward with this. All those in favor, (All commissioners vote aye.) Any oppose? None opposing, motion passed.

Mr. Bolton: I have a question of Mr. Barnes. Can we not do this without going through the Administrative Procedures Act and in review of the Legislature and all of that? It is my understanding that we can, but I just want to make sure.

Mr. Barnes: Well, it is my understanding that we can. This is curriculum and I think the statute gives the Commission the discretion to do that. Unlike the regulations that we do adopt under the APA and I think specifications do not require that. However I had not seen that until I got here today. But I will take a look at that when I get back to my office and make sure on that. And I will get something to you on that.

Mr. Bolton: Thank you.

Chairman Harrison: Any other business for the Commission?

Mr. Marshall: I have just one question? Do you all want me to continue to bring, like, we will get requests for a waiver of the seven year rule, some of them, like this one from Harrison, that is so close, do you all want me to continue to bring those to you all or do you want me to make a decision on those?

Chairman Harrison: What do you all want to do?

Commissioner Nicholson: I say bring them.

Chairman Harrison: Seven years two months, you still want to hear them?

Commissioner Nicholson: I don't think we need to put any more on Standards to make that decision. If they appeal his decision, they would come to us any way. So we might as well go ahead and deal with it on the front end.

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Chairman Harrison: Is that OK with everyone?

Mr. Marshall: That is fine; I just wanted to make sure you didn't think we were bugging you with some petty things.

Mr. Bolton: I just want to make note of these two officers that had failed firearms training in Pocahontas and you voted to allow them to come back here and I just wanted you to be aware that one of them qualified with 80% and the other 81.4%.

Chairman Harrison: Any other business? Thank you for coming. We are adjourned.  
12:10 P. M.